



CITY PLANNING COMMISSION AGENDA

**THURSDAY, DECEMBER 18, 2014
8:30 A.M.**

**CITY HALL COUNCIL CHAMBERS
107 NORTH NEVADA AVENUE
COLORADO SPRINGS, CO 80903**

CITY PLANNING COMMISSION MEETING PROCEDURES

MEETING ORDER:

The City Planning Commission will hold its regular meeting on **Thursday, December 18, 2014 at 8:30 a.m.** in the City Hall Council Chambers at 107 North Nevada Avenue, Colorado Springs, Colorado.

The Consent Calendar will be acted upon as a whole unless a specific item is called up for discussion by a Planning Commissioner, a City staff member, or a citizen wishing to address the Planning Commission.

When an item is presented to the Planning Commission the following order shall be used:

- City staff presents the item with a recommendation;
- The applicant or the representative of the applicant makes a presentation;
- Supporters of the request are heard;
- Opponents of the item will be heard;
- The applicant has the right of rebuttal;
- Questions from the Commission may be directed at any time to the applicant, staff or public to clarify evidence presented in the hearing.

VIEW LIVE MEETINGS:

To inquire of current items being discussed during the meeting, please contact the Planning & Development Team at 719-385-5905, tune into local cable channel 18 or live video stream at www.springsgov.com.

CITY PLANNING COMMISSION COMPREHENSIVE PLAN AND REVIEW CRITERIA

COMPREHENSIVE PLAN:

The City Planning Commission uses the Comprehensive Plan as a guide in all land use matters. The Plan is available for review in the Land Use Review Office, located at 30 S. Nevada Avenue, Suite 105. The following lists the elements of the Comprehensive Plan:

- Introduction and Background
- Land Use
- Neighborhood
- Transportation
- Natural Environment
- Community Character and Appearance
- 2020 Land Use Map
- Implementation

The Comprehensive Plan contains a land use map known as the 2020 Land Use Map. This map represents a framework for future city growth through the year 2020, and is intended to be used with the Comprehensive Plan's goals, policies, objectives and strategies. It illustrates a desired pattern of growth in conformance with Comprehensive Plan policies, and should be used as a guide in city land use decisions. The Comprehensive Plan, including the Land Use Map, may be amended from time to time as an update to city policies.

APPLICATION REVIEW CRITERIA:

Each application that comes before the Planning Commission is reviewed using the applicable criteria located in the *Appendix* of the Planning Commission Agenda.

CITY PLANNING COMMISSION APPEAL INSTRUCTIONS

In accordance with Chapter 7, Article 5, Part 906 (B) (1) of the City Code, "Any person may appeal to the City Council any action of the Planning Commission or an FBZ Review Board or Historic Preservation Board in relation to this Zoning Code, where the action was adverse to the person by filing with the City Clerk a written notice of appeal. The notice of appeal shall be filed with the City Clerk no later than ten (10) days after the action from which appeal is taken, and shall briefly state the grounds upon which the appeal is based."

Accordingly, any appeal relating to this Planning Commission meeting must be submitted to the City Clerk (located at 30 S. Nevada Avenue, Colorado Springs, CO 80903) by:

Monday, December 29, 2014

A **\$176** application fee and a justification letter specifying your specific grounds of appeal shall be required. The appeal letter should address specific City Code requirements that were not adequately addressed by the Planning Commission. City Council may elect to limit discussion at the appeal hearing to the matters set forth in your appeal letter.

CITY PLANNING COMMISSION MEETING AGENDA THURSDAY, DECEMBER 18, 2014

1. Approval of the Record of Decision (minutes) for the November 20, 2014 City Planning Commission Meetings
2. Communications
3. Consent Calendar (Items A- B.3) Page 7
4. New Business Calendar (Items 4.A – 4.C)..... Page 32
 Appendix – Review Criteria..... Page 71

CONSENT CALENDAR		
ITEM NO.	PROJECT DESCRIPTION	PAGE NO.
<p>ITEM NO.: A CPC ZC 14-00129 (Quasi-Judicial)</p> <p>PARCEL NO.: 5300000658</p> <p>PLANNER: Meggan Herington</p>	<p>Request by Golden West Power Partners, LLC for approval of a zone change for 7.71 acres from R1-6000 (Single-Family Residential) to PF (Public Facilities) to accommodate a future expansion of the Jackson Fuller Substation. The property is located south of Woodmen Road, south of Rolling Thunder Way and directly south and adjacent to the existing substation property.</p>	7
<p>ITEM NO.: B.1 CPC MP 87-00381- A13MN14</p> <p>ITEM NO.: B.2 CPC PUZ 14-00101</p> <p>ITEM NO.: B.3 CPC PUP 05-00139- A1MJ14 (Quasi-Judicial)</p> <p>PARCEL NO.: 5500000381</p> <p>PLANNER: Meggan Herington</p>	<p>Request by NES, Inc. on behalf of Marksheffel-Woodmen Investments, LLC for consideration of the following development applications:</p> <ol style="list-style-type: none"> 1. An amendment to the Banning Lewis Ranch Master Plan that would allow for re-allocation and re-orientation of land uses and street layout changes for the portion of the Banning Lewis Ranch area known as Bradley Ranch. 2. A change of zoning from PUD/AO/SS (Planned Unit Development with Airport and Streamside Overlays) to PUD/AO/SS (Planned Unit Development with Airport and Streamside Overlays). 3. An amendment to the Bradley Heights PUD Concept Plan allowing a mix of residential, commercial, school and park uses. <p>The subject property consists of 529 acres and is located at the southwest corner of Bradley Road and Marksheffel Road.</p>	17

NEW BUSINESS CALENDAR		
ITEM NO.	PROJECT DESCRIPTION	PAGE NO.
ITEM NO.: 4.A CPC A 14-00010 ITEM NO.: 4.B CPC ZC 14-00011 ITEM NO.: 4.C CPC CP 14-00012 (Legislative) PARCEL NO.: 5316000014 PLANNER: Meggan Herington	<p>Request by Drexel, Barrell & Company on behalf of Dublin Towne Centre, LLC for consideration of the following development applications:</p> <ul style="list-style-type: none"> A. Annexation of the 8.66-acre Dublin Towne Centre property into the City of Colorado Springs. B. The establishment of an Intermediate Business District with Airport Overlay (C-5/AO) zone district. C. The Dublin Towne Centre Concept Plan that proposes commercial land use on five pad sites with a new public street and private internal access. <p>The property is located southeast of the Dublin Boulevard and Marksheffel Road intersection and consists of 8.66 acres.</p>	32

CONSENT CALENDAR

CITY PLANNING COMMISSION AGENDA

ITEM NO: A

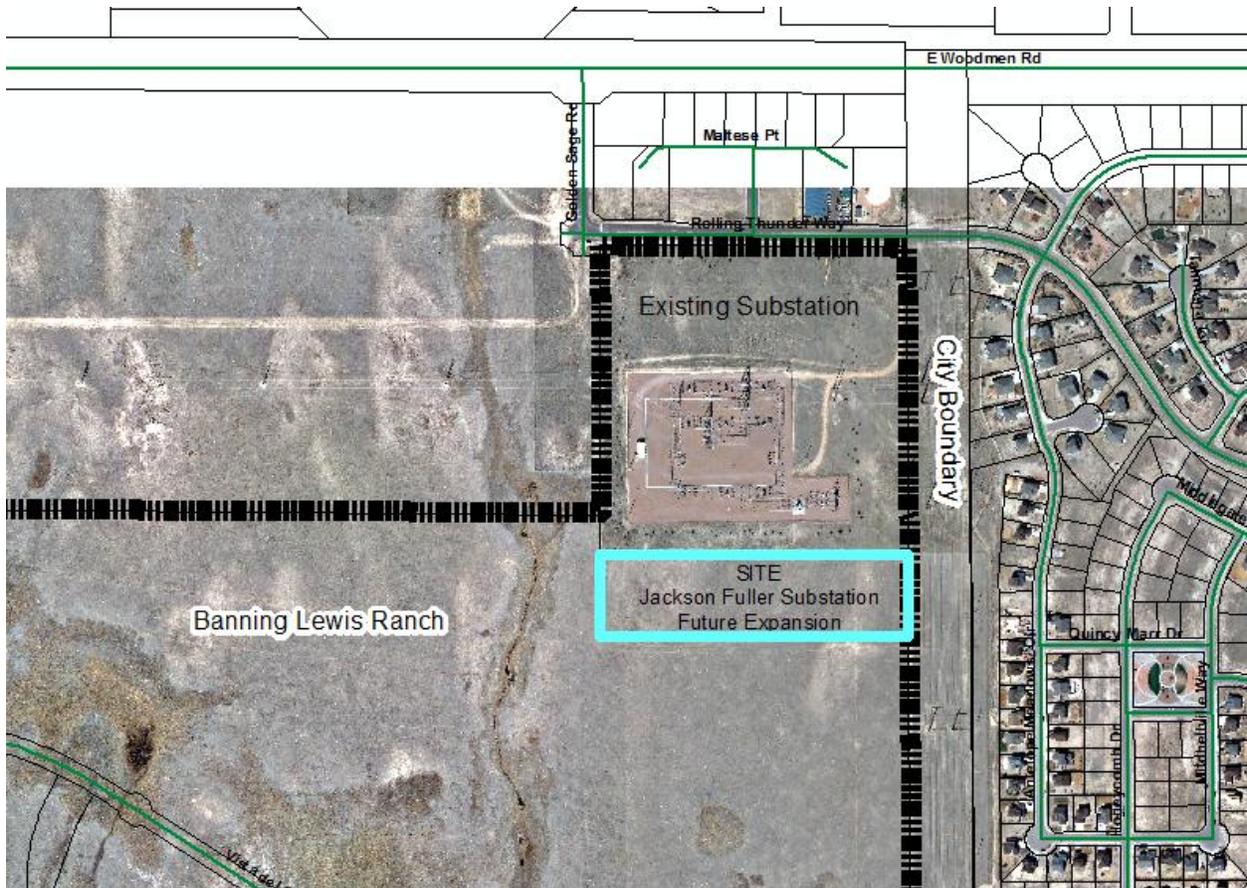
STAFF: MEGGAN HERINGTON

FILE NO: CPC ZC 14-00129 - QUASI-JUDICIAL

PROJECT: "PF" ZONING FOR FUTURE EXPANSION OF THE JACKSON FULLER SUBSTATION

APPLICANT: GOLDEN WEST POWER PARTNERS, LLC

OWNER: GOLDEN WEST POWER PARTNERS, LLC



PROJECT SUMMARY:

1. Project Description: This project includes a change of zoning from R1-6000 (Single-Family Residential) to PF (Public Facilities). The rezoning request will facilitate the future expansion of the Jackson Fuller Substation, a city-owned electric substation. The current property owner, Golden Hills Power, LLC, will deed the property to Colorado Springs Utilities contingent on the approval of the zone change. **(FIGURE 1)** The real estate transaction is being facilitated by CSU and our Real Estate Services Division. No action related to the real estate transaction is required or necessary by the City Planning Commission.

The property is 7.71 acres and is located in the northeastern corner of the Banning Lewis Ranch, south of Woodmen Road and south of Rolling Thunder Way.

2. Applicant's Statement: **(FIGURE 2)**
3. Planning and Development Department's Recommendation: Approval of the application.

BACKGROUND:

1. Site Address: Not applicable.
2. Existing Zoning/Land Use: R1-6000 (Single-Family Residential)/Vacant.
3. Surrounding Zoning/Land Use:
North: PF (Public Facilities)/Existing Jackson Fuller Electric Substation.
South: R1-6000 (Single-Family Residential)/Vacant.
East: Unincorporated El Paso County/230 Foot-Wide Utility Transmission Line ROW
West: R1-6000 (Single-Family Residential)/Vacant.
4. Comprehensive Plan/Designated 2020 Land Use: The existing land use is General Residential. That classification will be updated to Major Institutional if the rezoning request is approved.
5. Annexation: Banning Lewis Ranch #2 (1988)
6. Master Plan/Designated Master Plan Land Use: Banning Lewis Ranch Master Plan
7. Subdivision: Unplatted.
8. Zoning Enforcement Action: None.
9. Physical Characteristics: The site is vacant with no significant vegetation or natural features.

STAKEHOLDER PROCESS AND INVOLVEMENT: No public notice or distribution was deemed necessary. The site was posted and postcards sent for notice of the public hearing. The application was required by, and coordinated with, Colorado Springs Utilities.

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

1. Design and Development Issues: None. No significant issues or concerns have been identified.

The zone change will facilitate the future expansion of the existing Jackson Fuller Electric Substation. The existing substation is 29 acres, was developed in 1997, and is currently owned by Colorado Springs Utilities. This additional property will be deeded to Colorado Springs Utilities contingent on the approval of the rezoning.

There is no plan for development at this time. This substation is utilized by a number of different electric providers. There is currently a large wind project in unincorporated El Paso

County driving the need for the larger site. There are several utility providers that will be tying into this substation due to its adjacency to several utility line corridors in the area.

Zone change requests are reviewed based upon the zone change criteria found in City Code Section 7.5.603.B. Further, zone changes to Public Facilities are reviewed based upon the establishment and development of a PF zone using the criteria found in City Code Section 7.3.402.A.

It is the finding of the Land Use Review Division that the zone change meets the zone change criteria found in City Code Section 7.5.603.B and 7.3.402.A.

2. Conformance with the City Comprehensive Plan:

Comprehensive Plan 2020 Land Use Map: The 2020 Land Use Map identifies this area as a “General Residential”. That will be updated to “Major Institutional” if the request is approved.

The following City Comprehensive Plan goals, objectives and policy statements apply to this project:

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

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

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

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

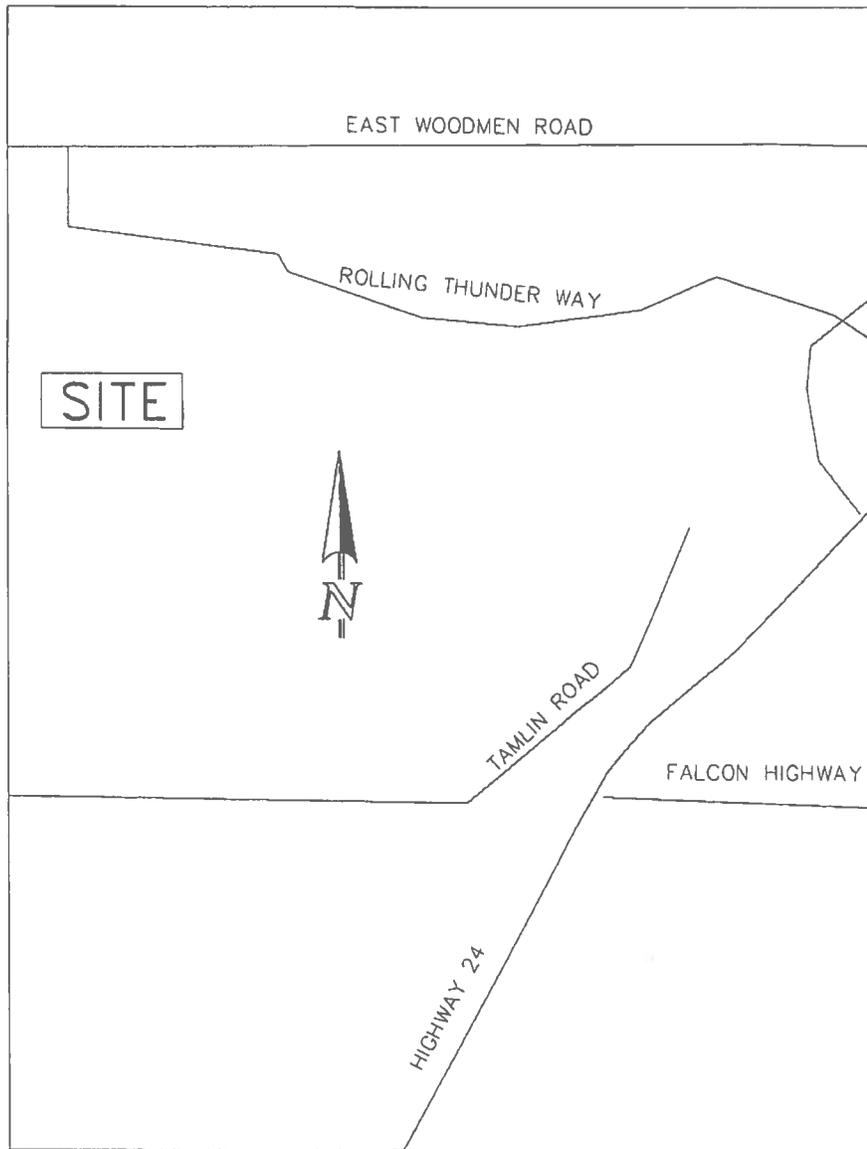
The substation and the expansion are located at an integral connection point for a number of electric service providers. The future expansion will accommodate the needed expansion of the electrical load and new types of electric generation.

It is the finding of the Land Use Review Division that the zone change is consistent with the City’s Comprehensive Plan.

STAFF RECOMMENDATION:

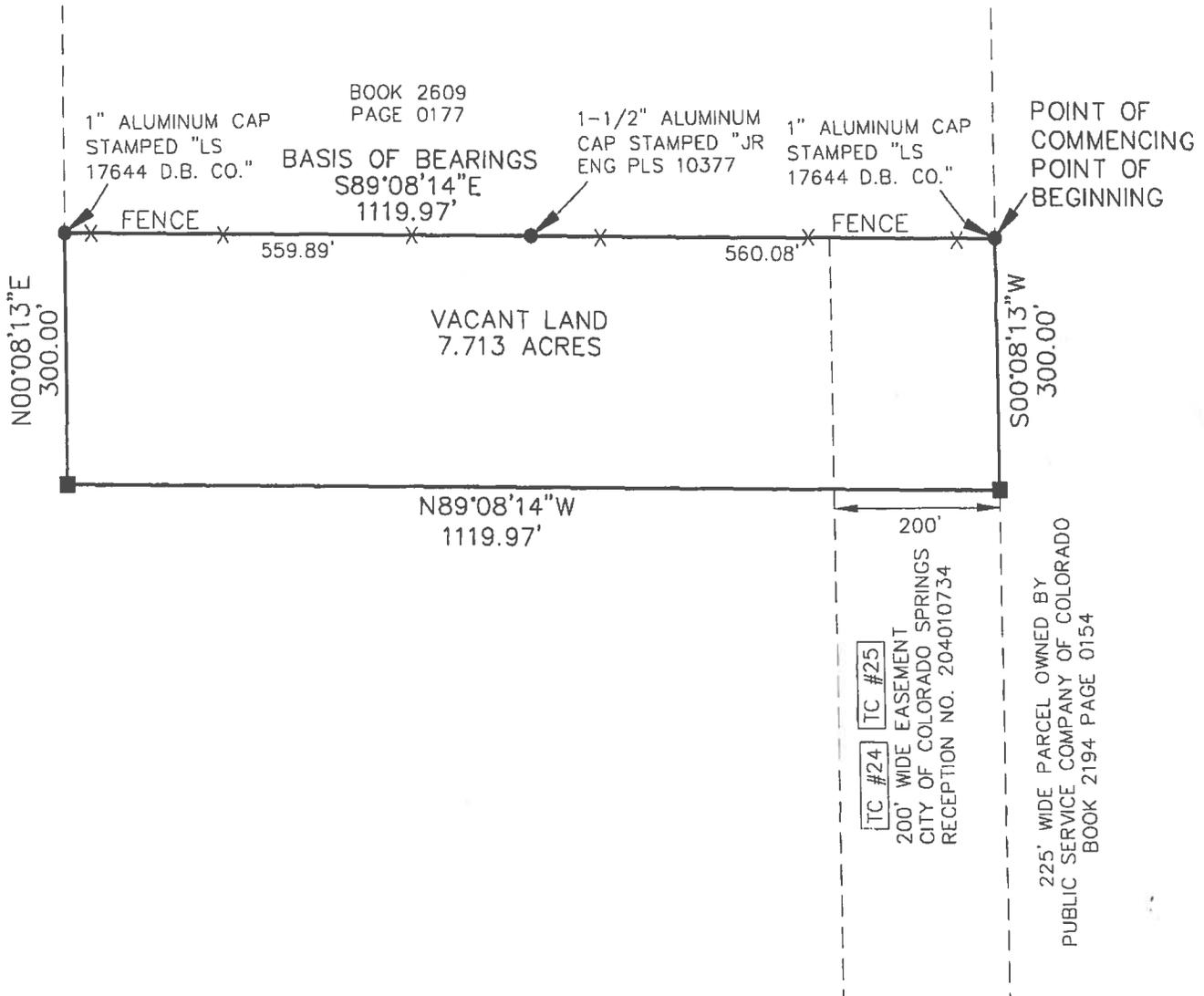
Item No: A CPC ZC 14-00129 – Change of Zone District

Approve the change of zoning district from R1-6000 (Single-Family Residential) to PF (Public Facilities), based upon the finding that it complies with the review criteria of City Code Sections 7.5.603.B and 7.3.402.A.



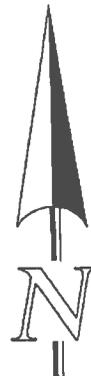
VICINITY MAP
NOT TO SCALE

FIGURE 1



LEGEND

- MONUMENT AS NOTED
- 1-1/2" ALUMINUM SURVEYORS CAP
 STAMPED "CCES LLC PLS 30118" SET
- * NOT PART OF THIS PLAT



SCALE: 1" = 200'

FIGURE 1



6385 Corporate Drive, Suite 101 (719) 785-0790
Colorado Springs, Colorado 80919 (719) 785-0799 (fax)

JOB NO. 2366.10-10
NOVEMBER 12, 2014
PAGE 1 OF 1

LEGAL DESCRIPTION: REZONE LEGAL

A PARCEL OF LAND BEING A PORTION OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BASIS OF BEARINGS: THE SOUTHERLY BOUNDARY OF PARCEL OF LAND DESCRIBED IN A DOCUMENT RECORDED IN BOOK 2609 AT PAGE 0177 RECORDS OF EL PASO COUNTY, COLORADO, BEING MONUMENTED BY A NO. 4 REBAR WITH 1" ALUMINUM CAP STAMPED "LS 17644, D.B. CO." AS DEPICTED ON A LAND SURVEY PLAT DEPOSITED UNDER RECEPTION NO. 205900052, ASSUMED TO BEAR S89°08'14"E, A DISTANCE OF 1119.97 FEET

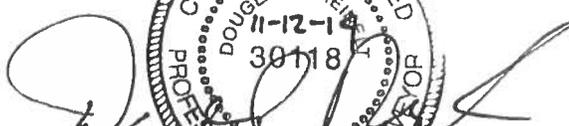
COMMENCING AT THE SOUTHEASTERLY CORNER OF A PARCEL OF LAND DESCRIBED IN A DOCUMENT RECORDED IN BOOK 2609 AT PAGE 0177 RECORDS OF EL PASO COUNTY, COLORADO, SAID POINT BEING ON THE WESTERLY BOUNDARY OF A PARCEL OF LAND DESCRIBED IN A DOCUMENT RECORDED IN BOOK 2194 AT PAGE 0154, SAID POINT BEING THE POINT OF BEGINNING;

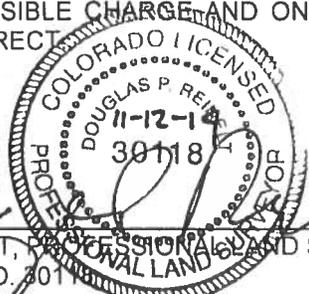
THENCE S00°08'13"W ON THE WESTERLY BOUNDARY OF SAID PARCEL DESCRIBED IN BOOK 2194 AT PAGE 0154 A DISTANCE OF 300.00 FEET;
THENCE N89°08'14"W, A DISTANCE OF 1119.97 FEET;
THENCE N00°08'13"E, A DISTANCE OF 300.00 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL OF LAND DESCRIBED IN BOOK 2609 AT PAGE 0177;
THENCE S89°08'14"E, ON THE SOUTHERLY BOUNDARY OF SAID PARCEL DESCRIBED IN BOOK 2609 AT PAGE 0177, A DISTANCE OF 1119.97 FEET TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 7.713 ACRES.

LEGAL DESCRIPTION STATEMENT:

I, DOUGLAS P. REINELT, A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, IS CORRECT.


DOUGLAS P. REINELT, PROFESSIONAL LAND SURVEYOR
COLORADO P.L.S. NO. 30118
FOR AND ON BEHALF OF CLASSIC CONSULTING,
ENGINEERS AND SURVEYORS, LLC



Nov 12, 2014
DATE



November 21, 2014

Project Statement

1. A clear description of the proposed zone change:

Golden West Power Partners, LLC, a subsidiary of NextEra Energy Resources, LLC ("NextEra") is requesting a zone change for a 7.71 acre parcel of land that lies directly south and adjacent to the currently existing Jackson Fuller Substation. The request is to change the parcel zoning from Single Family Residential (R16000) to Public Facility (PF) to facilitate future expansion plans for the Jackson Fuller Substation. The parcel will be given to Colorado Springs Utilities (CSU) once the rezoning is complete.

2. A justification based on the review criteria why the proposed zone change should be approved

1. *The action will not be detrimental to the public interest, health, safety, convenience or general welfare.* The rezone from R16000 to PF would not be detrimental to public interest, health, safety, convenience or general welfare. The future use of the parcel is consistent with the current use of adjacent properties (electric substation and transmission lines). The parcel is located sufficiently far enough from existing properties that if, in the future, the adjacent substation is expanded onto the property, it will pose no safety or health risks. Any future development or construction will have to be approved by the City of Colorado Springs and will have to comply with the City's rules and regulations. Currently the land is vacant.
2. *The proposal is consistent with the goals and policies of the Comprehensive Plan.* The proposal is consistent with and conforms to the City of Colorado Springs Comprehensive Plan.

As far as land use relationships, the land pattern is completely compatible with existing and proposed adjacent land uses. The Jackson Fuller Substation sits on 29 acres of land and has been in place since approximately 1997. It distributes electricity to thousands of the City's residents. The parcel herein considered for rezoning will be used by CSU for future expansions to meet the electricity needs of Colorado Springs. Until those expansions take place, the parcel will act as a buffer between the current substation and properties to the south. As currently planned, future land uses in the area take expansion of the substation and additional transmission lines into and out of the substation into consideration. There are already easements in place for future transmission lines adjacent to the substation and future residential plans in the area are buffered sufficiently to minimize any disturbances and eliminate health risks.

The land use for the parcel considered herein conforms to the plans and policies of Colorado Springs Utilities. As previously mentioned, the parcel will be given to CSU to

support future expansion needs and to provide a buffer from the adjacent property. Any future build out of the Jackson Fuller Substation onto the parcel will be subject to the submittal and approval from the City of a development plan.

The current and future City transportation plans are compatible with this rezoning. Traffic to and from the substation is minimal and is via a dirt road off of Rolling Thunder Way. The Jackson Fuller Substation is a secure fenced and locked facility and access to the property is limited for security and safety reasons. Any future build out of the property will comply with State and local air quality plans and will take transportation impacts into consideration.

The current land use of the parcel complies with the City's environmental master plan criteria. For the immediate future, the parcel will act as a buffer between the substation and the adjacent property. Eventually, CSU could decide to install infrastructure on the property to increase the capacity of the substation and keep up with the electricity needs of the City of Colorado Springs and El Paso County. If and when that occurs, CSU will submit a development plan to the City for approval. Any expansion will comply with City floodplain, drainage, noise, habitat, geologic, etc. rules and regulations, as required.

There should be no (or next to no) negative fiscal impact to the City, CSU or the community attributable to this rezoning. As previously mentioned, Golden West Power Partners will be giving this property to CSU in exchange for their cooperation with interconnecting to the substation. This zone change proposal is compliant with the fiscal master plan criteria, as well as other goals and policies of the Comprehensive Plan, thus should be approved.

3. *Where a master plan exists, the proposal is consistent with such plan or an approved amendment to such plan. Master plans that have been classified as implemented do not have to be amended to be considered consistent with a zone change request.* This zone change proposal is consistent with the Falcon/Peyton Small Area Master Plan (SAMP). The change accommodates future development of the Woodmen Road and Colorado Springs Boundary areas. The parcel is located in an area that is setback from current and future residential development. Additionally, future substation expansion, if it occurs, will help support the electricity needs of local residents.

The proposal is also consistent with the general policies of the SAMP. Current land use for the parcel is to act as a buffer between the Jackson Fuller Substation and the adjacent properties. The future land use will be consistent with the area, where there is the existing substation and several transmission lines that serve community residents. The rezoning of the parcel considered herein will help ensure adequate electric utility services are available, especially as the area continues to grow and new residential developments get built. There will be a future need for more electric utilities to serve the community.

As noted above, the proposal will not impact traffic or transportation infrastructure in the area, nor will it impact the water supply. There is no wastewater associated with the

parcel or potential future development plans. There are currently no environmental constraints or fire hazards on the property. Future plans on the parcel will take into consideration all master plan policies and comply with all rules and regulations, as required.

This request for a zone change for a 7.71 acre parcel of land from Single Family Residential (R16000) to Public Facility (PF) should be approved. The proposal is consistent with the goals and policies of the Comprehensive Plan and is consistent with the Falcon/Peyton Small Area Master Plan. Additionally, the action will not be detrimental to the public interest, health, safety, convenience or general welfare.

CITY PLANNING COMMISSION AGENDA

ITEM NOS: B.1-B.3

STAFF: MEGGAN HERINGTON

FILE NO(S):

CPC MP 87-00381-A13MN14 – QUASI-JUDICIAL

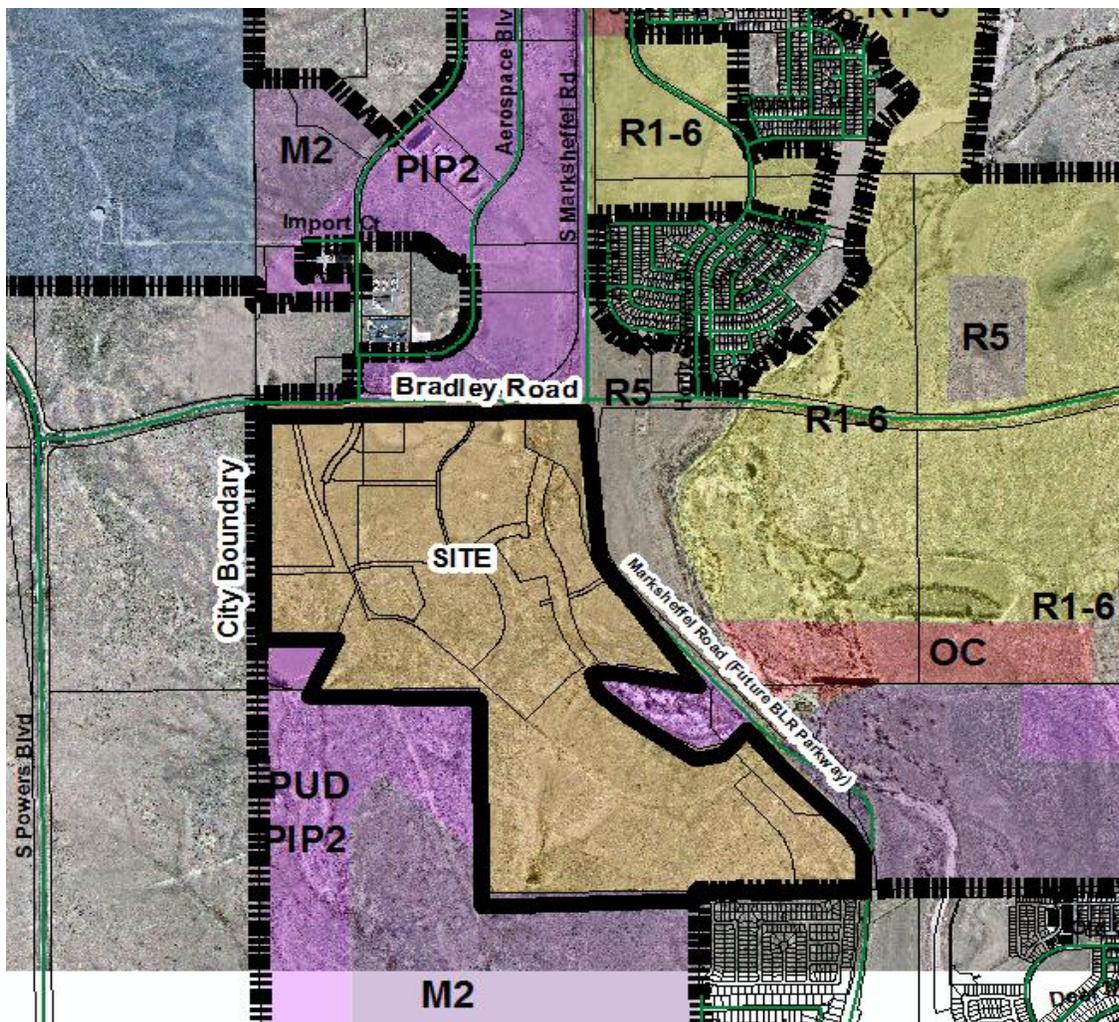
CPC PUZ 14-00101 – QUASI-JUDICIAL

CPC PUP 05-00139-A1MJ14 – QUASI-JUDICIAL

PROJECT: BANNING LEWIS RANCH – BRADLEY HEIGHTS

APPLICANT: NES, INC.

OWNER: MARKSHEFFEL-WOODMEN INVESTMENTS, LLC



PROJECT SUMMARY:

1. Project Description: This project includes concurrent applications for a minor amendment to the Banning Lewis Ranch Master Plan, PUD zone change and PUD concept plan amendment for a 529.45-acre property known as Bradley Heights, located at the southwest corner of the Bradley Road and Marksheffel Road intersection in the southern portion of Banning Lewis Ranch.

The minor master plan amendment proposes to change the land use of approximately 138 acres by eliminating the industrial land uses from the area and reconfiguring the commercial, residential, school and park areas.

Rezoning will change the 529.45 acres from PUD/SS/AO (Planned Unit Development with Streamside and Airport Overlay) to a new PUD/SS/AO (Planned Unit Development with Streamside and Airport Overlay), to allow a mix of residential, commercial and school/park uses, eliminating the previous industrial uses from the PUD zoning.

The PUD concept plan illustrates the development of the 529.45 acres as a mix of multi-family, commercial, single-family residential, school, and park uses. **(FIGURE 1)**

2. Applicant's Project Statement: **(FIGURE 2)**
3. Planning and Development Team's Recommendation: Staff recommends approval of the applications with one condition of approval on the master plan amendment.

BACKGROUND:

1. Site Address: No address is available.
2. Existing Zoning/Land Use: The 529.45 acres is vacant
3. Surrounding Zoning/Land Use:
North: PIP-2/Vacant
South: PIP-2 & M-2/Vacant
East: R-5 & M-2/ Vacant
West: Unincorporated El Paso County/Vacant
4. Comprehensive Plan/Designated 2020 Land Use: The 2020 Land Use Map illustrates several designations for this property. A section of the northwest corner is "Commercial Center", a large middle section of the property is "General Residential" and there is a small section of "Community Activity Center in the southeastern corner. That map will be updated based in the newly proposed master plan uses.
5. Annexation: The property was annexed in 1988 as part of Colorado Center #1 Addition.
6. Master Plan/Designated Master Plan Land Use: The property is part of the Banning Lewis Ranch Master Plan. The land use designations are industrial, residential, multi-family residential, commercial, school, and park. Only the industrial land use is being eliminated from the Master Plan. Other uses are being relocated and reconfigured.
7. Subdivision: The property is not platted
8. Zoning Enforcement Action: None
9. Physical Characteristics: The property is vacant, contains largely native grasses, and has moderate rolling slopes.

STAKEHOLDER PROCESS AND INVOLVEMENT:

The public process included posting the site and sending postcards to 138 property owners within 1,000 feet. A majority of surrounding properties are currently vacant. There are two residential neighborhoods in the area that are within unincorporated El Paso County. Staff did not receive any comments from neighboring property owners.

Staff also sent the plans to the standard internal and external review agencies for comments. All comments received from the review agencies have been addressed. Commenting agencies included Colorado Springs Utilities, City Engineering, City Traffic, City Fire, City Parks, Police, E-911, Airport, and the Widefield School District.

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

1. Review Criteria / Design & Development Issues:

Minor Master Plan Amendment

The property is part of the Banning Lewis Ranch Master plan. The minor amendment removes 44.5 acres of industrial uses and replaces the use with 34.5 acres of residential at 3.5 – 7.99 dwelling units per acre and 10 acres of commercial use. The other changes to the master plan only shift and adjust use types; 28.28 acres of commercial to residential, 30.21 acres of school to residential and 35.18 acres of residential to school. No new uses are introduced. A total of 138.27 acres are impacted by the change. An exhibit outlining the change area is attached as **FIGURE 3**.

PUD (Planned Unit Development) Rezone

The property was previously zoned PUD in 2006. That PUD ordinance called out specific uses and acreage for each use and use related conditions of record. Because the industrial use is being eliminated, the property needs to be rezoned from PUD/SS/AO (Planned Unit Development with Streamside Overlay and Airport Overlay) to a new PUD/SS/AO (Planned Unit Development with Streamside Overlay and Airport Overlay).

The proposed zoning ordinance will allow the following uses, densities and building heights specific to this PUD ordinance:

- Commercial - 436,563 square feet maximum building area, 50 foot maximum building height
- Residential - 3.5 – 7.99 dwelling units per acre, 35 foot maximum building height
- Multi-Family - 12 – 24.99 dwelling units per acre, 45 foot maximum building height
- School
- Parks

PUD Concept Plan

The concept plan looks very similar to the master plan amendment. It illustrates parcels and acreage for each use type along with major points of access. The concept plan's residential maximum is 2,830 units and the commercial maximum building area is 436,563 square feet. The permitted uses are commercial, school, parks, residential (3.5 – 7.99 dwelling units per acre) and multi-family (12 – 24.99 dwelling units per acre).

City Code Section 7.3.605 outlines the requirements and review criteria for a PUD concept plan. The PUD concept plan document is not required to show specific landscaping, screening and buffering, lighting or other site design aspects. That type of detail is specific to a development plan. Any future request for building permits will require the submission of a PUD development plan, which will be reviewed administratively per City Code Section 7.3.606.

Drainage/Platting Issue

There is a note on the concept plan that no lots can be platted until the Jimmy Camp Creek Drainage Basin Planning Study is approved by City Council. This stipulation is part of the Banning Lewis Ranch Annexation Agreement and the subsequent settlement agreement. That study is currently under review by city staff and is moving through a public process and being presented to the Drainage Board at their December meeting. Staff will continue to review development plans and plats while waiting for the study to be approved. Again, no plats will be signed until the study is complete and approved by the City.

Utilities

There are several notes on the concept plan related to the provision of utilities. There is an intergovernmental agreement with Colorado Springs Utilities and Colorado Center Metropolitan District for provision of water and wastewater. Colorado Springs Utilities does not have service lines in the area. Therefore, the intergovernmental agreement will be utilized on an interim basis in order to allow Colorado Center to supply utility services until such a time that Colorado Springs Utility infrastructure is available in the area.

2. Conformance with the City Comprehensive Plan:

Comprehensive Plan 2020 Land Use Map: The 2020 Land Use Map illustrates several designations for this property. A section of the northwest corner is "Commercial Center", a large middle section of the property is "General Residential" and there is a small section of "Community Activity Center in the southeastern corner. That map will be updated based with the newly proposed master plan uses.

Strategy N 203b: Achieve Balanced Mix of Land Uses.

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

Policy LU 301: Promote a Mixed Land Use Pattern.

Policy N 302: Promote Development of Mixed-use Neighborhoods – Provide residents the choice of walking, bicycling or driving to parks, schools, work, shopping, places of worship and transit stops in their own and other neighborhoods.

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

It is the finding of the Land Use Review Division that the minor amendment to the Banning Lewis Ranch Master Plan, the Bradley Heights PUD zone change and PUD Concept Plan will substantially conform to the City Comprehensive Plan 2020 Land Use Map and the Plan's goals and objectives.

3. Conformance with the Area's Master Plan:

The property is part of the Banning Lewis Ranch Master plan. The minor amendment removes 44.5 acres of industrial uses and replaces the use with 34.5 acres of residential at 3.5 – 7.99 dwelling units per acre and 10 additional acres of commercial use. The other changes to the master plan only shift and adjust use types. A total of 138 acres are impacted by the changes. No new uses are introduced.

There is significant industrial zoned property in the immediate area. Eliminating 44.5 acres of industrial uses from the master plan will not have a large impact.

It is the finding of the Land Use Review Division that the proposal is in compliance with the Banning Lewis Ranch Master Plan, as proposed to be amended.

STAFF RECOMMENDATION:

ITEM NO.: B.1 CPC MP 87-00381-A13MN14 – MINOR MASTER PLAN AMENDMENT

Approve the amendment to the Banning Lewis Ranch Master Plan Amendment, based upon the finding that the amendment meets the review criteria for master plan amendments as set forth in City Code Section 7.5.408 with the following condition of approval:

1. The comprehensive document for the Banning Lewis Ranch master plan as a whole must be updated prior to final approval, including an update to the Banning Lewis Ranch Comprehensive Land Use Table.

ITEM NO.: B.2 CPC PUZ 14-00101 – CHANGE OF ZONING TO PUD

Approve the zone change from PUD/SS/AO (Planned Unit Development with Streamside and Airport Overlay) to PUD/SS/AO (Planned Unit Development with Streamside and Airport Overlay) based upon the findings that the change of zoning request complies with the three (3) criteria for granting of zone changes as set forth in City Code Section 7.5.603 and the criteria for the establishment and development of a PUD zone as set forth in City Code Section 7.3.603.

ITEM NO. : B.3 CPC PUP 05-00139-A1MJ14 – BRADLEY HEIGHTS PUD CONCEPT PLAN

Approve the Bradley Heights PUD Concept Plan based upon the findings that the PUD concept plan meets the review criteria for PUD concept plans as set forth in City Code Section 7.3.605.



6385 Corporate Drive, Suite 101 (719)785-0790
Colorado Springs, Colorado 80919 (719)785-0799(Fax)

JOB NO. 2266.00-05
JULY 27, 2009
PAGE 1 OF 2

LEGAL DESCRIPTION: OVERALL

A PARCEL OF LAND BEING A PORTION OF SECTIONS 9, 10 AND 15, TOWNSHIP 15 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE NORTH-SOUTH CENTERLINE OF SECTION 9, TOWNSHIP 15 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO, BEING MONUMENTED AT BOTH ENDS BY A 3/4" ALUMINUM CAP STAMPED "PLS 10377", IS ASSUMED TO BEAR S00°19'23"E, A DISTANCE OF 5252.20 FEET.

COMMENCING AT THE SOUTH QUARTER CORNER OF SECTION 9, TOWNSHIP 15 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO, SAID POINT BEING THE POINT OF BEGINNING;

THENCE N00°19'23"W, ON THE NORTH-SOUTH CENTERLINE OF SAID SECTION 9, A DISTANCE OF 3638.24 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF BRADLEY ROAD FORMERLY KNOWN AS NEW DRENNAN ROAD, AS DESCRIBED IN A DOCUMENT RECORDED IN BOOK 5307 AT PAGE 1472;

THENCE ON SAID SOUTHERLY RIGHT OF WAY LINE, THE FOLLOWING FIVE (5) COURSES:

1. N89°30'18"E, A DISTANCE OF 1015.30 FEET TO A POINT OF CURVE;
2. ON THE ARC OF A CURVE TO THE RIGHT HAVING A DELTA OF 21°02'22", A RADIUS OF 150.00 FEET AND A DISTANCE OF 55.08 FEET TO A POINT ON CURVE;
3. N89°30'18"E, A DISTANCE OF 312.30 FEET TO A POINT ON CURVE;
4. ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS S21°32'04"E, HAVING A DELTA OF 21°02'22", A RADIUS OF 150.00 FEET AND A DISTANCE OF 55.08 FEET TO A POINT OF TANGENT;
5. N89°30'18"E, A DISTANCE OF 1791.76 FEET;

THENCE S00°28'56"E, A DISTANCE OF 500.21 FEET;
THENCE S61°09'32"E, A DISTANCE OF 502.99 FEET;
THENCE S30°00'41"E, A DISTANCE OF 439.21 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF MARKSHEFFEL BOULEVARD AS DESCRIBED IN A DOCUMENT RECORDED IN BOOK 5120 AT PAGE 92;

THENCE ON SAID WESTERLY RIGHT OF WAY LINE, THE FOLLOWING THREE (3) COURSES:

1. S00°30'37"E, A DISTANCE OF 150.61 FEET TO A POINT ON CURVE;
2. ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS N89°31'09"E, HAVING A DELTA OF 42°07'35", A RADIUS OF 1705.00 FEET AND A DISTANCE OF 1253.59 FEET TO A POINT ON CURVE;
3. S42°37'52"E, A DISTANCE OF 1453.45 FEET TO A POINT ON THE NORTHERLY BOUNDARY OF DETENTION POND PHASE I, AS DESCRIBED IN A DOCUMENT RECORDED IN BOOK 5661 AT PAGE 1398;

THENCE ON THE BOUNDARY OF SAID DETENTION POND PHASE I, THE FOLLOWING FIFTEEN (15) COURSES:

1. N79°27'09"W, A DISTANCE OF 921.08 FEET;
2. S87°25'21"W, A DISTANCE OF 172.11 FEET;
3. N33°41'28"W, A DISTANCE OF 54.92 FEET;
4. S89°25'13"W, A DISTANCE OF 100.00 FEET;
5. S57°32'12"W, A DISTANCE OF 149.56 FEET;
6. S13°55'21"E, A DISTANCE OF 144.18 FEET;
7. S31°10'08"E, A DISTANCE OF 76.66 FEET;
8. S65°07'35"E, A DISTANCE OF 116.30 FEET;
9. S53°48'20"E, A DISTANCE OF 133.60 FEET;
10. S48°45'35"E, A DISTANCE OF 677.74 FEET;

11. S63°51'00"E, A DISTANCE OF 586.75 FEET;
12. N74°16'51"E, A DISTANCE OF 279.69 FEET;
13. S54°47'11"E, A DISTANCE OF 150.44 FEET;
14. S42°37'52"E, A DISTANCE OF 1127.04 FEET;
15. S86°36'51"E, A DISTANCE OF 483.94 FEET TO A POINT ON CURVE, SAID POINT BEING ON SAID WESTERLY RIGHT OF WAY LINE OF SAID MARKSHEFFEL BOULEVARD;

THENCE ON SAID WESTERLY RIGHT OF WAY LINE, ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS S53°38'33"W, HAVING A DELTA OF 38°23'31", A RADIUS OF 1495.00 FEET AND A DISTANCE OF 1001.75 FEET TO A POINT ON CURVE, SAID POINT BEING ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 15 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN;

THENCE S89°21'45"W, ON SAID SOUTH LINE, A DISTANCE OF 1927.46 FEET TO THE CENTER QUARTER CORNER OF SAID SECTION 15;

THENCE S89°21'23"W, ON THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 15, A DISTANCE OF 2633.85 FEET TO THE WEST QUARTER CORNER OF SAID SECTION 15;

THENCE N00°28'36"W, ON THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 15, A DISTANCE OF 2637.35 FEET TO THE NORTHWEST QUARTER CORNER OF SAID SECTION 15;

THENCE S88°57'55"W, ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, A DISTANCE OF 2037.41 FEET TO THE SOUTHEASTERLY CORNER OF A PARCEL OF LAND DESCRIBED IN A DOCUMENT RECORDED UNDER RECEPTION NO. 97149924;

THENCE ON THE BOUNDARY OF SAID PARCEL OF LAND, THE FOLLOWING FOUR (4) COURSES:

1. N21°53'06"E, A DISTANCE OF 786.43 FEET;
2. S89°40'36"W, A DISTANCE OF 795.00 FEET;
3. S00°19'24"E, A DISTANCE OF 638.00 FEET TO A POINT ON CURVE;
4. ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS S05°43'53"W HAVING A DELTA OF 17°15'57", A RADIUS OF 1207.50 FEET AND A DISTANCE OF 363.88 FEET TO A POINT ON SAID SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9;

THENCE S88°57'55"W, ON SAID SOUTH LINE, A DISTANCE OF 458.19 FEET TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 529.446 ACRES.

LEGAL DESCRIPTION STATEMENT:

I, DOUGLAS P. REINELT, A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, IS CORRECT.

DOUGLAS P. REINELT, PROFESSIONAL LAND SURVEYOR
COLORADO P.L.S. NO. 30118
FOR AND ON BEHALF OF CLASSIC CONSULTING
ENGINEERS AND SURVEYORS

DATE

BRADLEY HEIGHTS

PROJECT STATEMENT

September 2014

Revised November 24, 2014

Bradley Heights is a 529 acre parcel located in the southwest portion of the Banning Lewis Ranch Master Plan. The property has been zoned PUD with a mixed use PUD Concept Plan (PUP), but the conditions of approval have not been completely resolved. This series of applications will amend a portion of the PUD Concept Plan (PUP). An “administrative change” to the Master Plan will adjust the land use designations to reflect more closely the City standard classifications as they relate to residential density ranges.

Access and Circulation. Bradley Heights is bounded on the north by Bradley Road (Principal Arterial); on the east by Marksheffel Road (Principal Arterial); on the south by industrially zoned and planned land currently owned by Ultra Resources, Inc.; and on the west by land currently under planning design within the jurisdiction of El Paso County. There are two planned full movement access points to Bradley Road, one of which is the extension south of Foreign Trade Zone Boulevard (proposed Collector A within the project). Two additional accesses to Bradley Road – right in/right out accesses - are planned west of Bradley Heights Drive to serve a commercially designated parcel and a residential parcel. A second Collector road (Collector B) will access Bradley Road; it will generally parallel Bradley Heights Drive. These Collectors will intersect and connect to a third collector (Collector C) in the south central portion of the Plan. This third collector will distribute traffic to Marksheffel Road.

One full movement access, other than the Collector, is planned to Marksheffel Road.

Land Use. The specific land use changes proposed by this amendment are to the north and northwest portions of the Bradley Heights project area. The northwestern corner of the site will change from industrial land use to commercial (10 acres) and to residential with a density of 3.5 – 7.99 units per acre (34.5 Acres). This land use change eliminates industrial use from Bradley Heights and replaces it with viable land uses. Justification for this change is that the general area around Bradley Heights has an over abundance of planned industrial land use for which there is no market, either now or in the reasonable future. The owners of Bradley Heights retain over 150 acres of vacant industrially planned and zoned land north of Bradley Heights.

The change to the northern portion of the Bradley Heights site is from commercial to a mix of commercial and residential. The proposed residential density is 3.5 – 7.99 units per acre. The

revised commercial parcel will be 10 acres in size. The proposed commercial will provide supporting neighborhood services to the Bradley Heights community.

Entry level single family housing product is planned for the two residential parcels that are the subject of this amendment. Existing major utility corridors border the westerly residential parcel providing trail opportunities that will link neighborhoods and the proposed school site to the south. The easterly residential parcel also provides school access via trails. Both of these parcels are designed to minimize land devoted to yards in an effort to minimize water demand and to reflect current market desires. Builder clients have provided market direction. The Development Plan to follow this submittal package will detail the design of these two parcels.

A minor adjustment to the commercial parcel at the northeast portion of the site has been proposed. This parcel is owned by Circle Drive Baptist Church. The Church is actively planning a church facility on this site, therefore the site has been designated Commercial/Church on the Bradley Heights PUP Plan.

Schools and Parks. Bradley Heights is located within Widefield School District #3. This District is unique in the State in that it is both a school district and a park district. The District provides Park services including facilities and programs. The applicant has met with the District #3 staff to discuss both the location and the amount of Park/School dedication. The District is in the process of an overall evaluation of land and facility needs, but has indicated that the amount and location of schools and parks shown on the Bradley Heights PUD generally meets their current needs. A 35 acre school/park site, a 5 acre neighborhood park are shown on the PUD Concept Plan (PUP). Additional District review may indicate a reduction in the size of the 35 acre site.

There are four major trail corridors within the Bradley Heights PUD (PUP).

- A 30 foot Tier One Trail tract is shown parallel to Bradley Road on the south side of the road right-of-way.
- A trail corridor along Jimmy Camp Creek will run north/south through the property. Site specific design at the north end through planned commercial property will connect this trail to the east/west trail along Bradley Road.
- A 50 foot gas line easement runs generally north/south from Bradley Road to the southern end of the PUD. This easement will be developed as a trail connecting to the Bradley Road Trail at the northwest portion of the property.
- A trail will be included in a 100 foot electric easement that generally follows the western property line.

In addition, a future trail connection to the east to the Jimmy Camp Drainage will be located with site specific subdivision design. This connection will provide a looped trail throughout the Bradley Heights project that connects with the proposed school/park and with one of the neighborhood parks.

Utilities. Currently, electric and gas trunk facilities are available at the site. An electric substation (Big Johnson Substation) is one of the land uses in the PUD Concept Plan. City water and sewer service will need to be extended to the site, which will happen over time per agreement with CSU that includes triggers and escrow provisions. In the interim, water and wastewater will be provided by the Colorado Center Metropolitan District. This District has capacity, and has facilities in the immediate vicinity which can serve the property. The details of how water and sewer service will be provided are covered in an IGA between CSU and Colorado Center and the developer.

Drainage. Jimmy Camp Creek flows through the property, generally along the eastern edge of the ownership adjacent to Marksheffel Road. On-site drainage improvements, including a detention pond are currently in place. The Jimmy Camp Creek DBPS is currently under redesign, but since local improvements are in place, the timing of the DBPS should not negatively affect development of Bradley Heights.

Metropolitan District. The Bradley Heights Metropolitan District has been created. The District has the responsibility to construct infrastructure and to provide maintenance.

MASTER PLAN REVIEW CRITERIA

The Bradley Heights Master Plan Amendment to the Banning Lewis Ranch Master Plan conforms to the following review criteria:

- * The proposed land use master plan or the amendment conforms to the policies and strategies of the Comprehensive Plan.
- * The master plan promotes a development pattern characterizing a mix of mutually supportive and integrated residential and nonresidential land uses with a network of interconnected streets and good pedestrian and bicycle connections.
- * The land use pattern is compatible with existing and proposed adjacent land uses and protects residential neighborhoods from excessive noise and traffic infiltration.
- * Housing types are distributed so as to provide a choice of densities and types.
- * Land uses are buffered by buffers or transitions in land use intensity.

- * Land uses conform to the definitions contained in section 7.5.410 of this part.
- * Recreational and educational uses are sited and sized to conveniently service the proposed population of the master plan area and the larger community.
- * The proposed school sites meet the location, function and size needs of the school district.
- * The land use master plan conforms to the adopted plans and policies of Colorado Springs Utilities.
- * The master development drainage plan conforms to the applicable drainage basin planning study and the drainage criteria manual.
- * The land use master plan has a logical hierarchy of the arterial and collector streets with an emphasis on the reduction of through traffic in residential neighborhoods and improves connectivity, mobility choices and access to jobs, shopping and recreation.
- * The design of the streets and multiuse trails minimizes the number of uncontrolled or at grade trail crossings of arterials.
- * Anticipated trip generation does not exceed the capacity of existing or proposed major roads.
- * The land use master plan utilizes floodplains and drainage ways as greenways for multiple uses including conveyance of runoff, wetlands, habitat, trails, recreational uses, utilities and access roads when feasible.
- * The Bradley Heights Metropolitan District has been established and will provide specified services to this area

ZONE CHANGE REVIEW CRITERIA

1. The action will not be detrimental to the public interest, health, safety, convenience or general welfare. ***This Zone Change reaffirms an action previously approved for this site. The previous Council approval was based on this finding.***
2. The proposal is consistent with the goals and policies of the Comprehensive Plan. ***This Zone Change implements the Master Plan as proposed to be amended.***
3. Where a master plan exists, the proposal is consistent with such plan or an approved amendment to such plan. ***This Zone Change implements the Master Plan as proposed to be amended.***

CONCEPT PLAN REVIEW CRITERIA (PUP)

The PUD Concept Plan (PUP) is essentially a small area Master Plan for a portion of the larger Banning Lewis Ranch Master Plan. Although the Review Criteria below were not designed for a PUD PUP, responses to the criteria that apply have been provided.

1. Will the proposed development have a detrimental effect upon the general health, welfare and safety or convenience of persons residing or working in the neighborhood of the proposed development? **No.**
2. Will the proposed density, types of land uses and range of square footages permit adequate light and air both on and off site? **Yes. *This Concept Plan is for a mix of mutually supportive residential and non-residential land uses. Implementation of this Concept Plan will create a community.***
3. Are the permitted uses, bulk requirements and required landscaping appropriate to the type of development, the neighborhood and the community? **Yes. *This criterion is will be addressed in more detail with the PUD Development Plan.***
4. Are the proposed ingress/egress points, traffic circulation, parking areas, loading and service areas and pedestrian areas designed to promote safety, convenience and ease of traffic flow and pedestrian movement both on and off the site? **Yes. *Within the context of the PUP, overall circulation is unchanged from the existing Master Plan, with the exception that Bradley Heights Drive has been re-classified as a Collector Street to facilitate economical School District #3 bussing policy.***
5. Will the proposed development overburden the capacities of existing streets, utilities, parks, schools and other public facilities? **No, *as evidenced by City department reviews.***
6. Does the proposed development promote the stabilization and preservation of the existing properties in adjacent areas and surrounding residential neighborhoods? ***This criterion does not apply- there are no surrounding residential neighborhoods.***
7. Does the concept plan show how any potentially detrimental use to use relationships (e.g. commercial use adjacent to single family homes) will be mitigated? Does the development provide a gradual transition between uses of differing intensities? ***Residential land use is proposed adjacent to single family residential land use. Buffering will occur on the Commercial property. Buffering details will be provided on site specific Development Plans.***
8. Is the proposed concept plan in conformance with all requirements of this Zoning Code, the Subdivision Code and with all applicable elements of the Comprehensive Plan? **Yes.**

PROJECT SUMMARY:

1. Project Description: This project includes concurrent applications for annexation, zoning, and a concept plan for 8.66 acres located at the southeast corner of Marksheffel Road and Dublin Boulevard.

Zoning will establish a C-5/AO (Intermediate Business with Airport Overlay) zone for the property. The associated concept plan illustrates six potential commercial pad sites ranging in size from 0.7 acres to 1.1 acres. A new public road along with private road access is also illustrated. **(FIGURE 1)**

2. Applicant's Project Statement: **(FIGURE 2)**
3. Planning and Development Department's Recommendation: Staff recommends approval of the applications with conditions and technical modifications.

BACKGROUND:

1. Site Address: The site is currently addressed as 6465 Marksheffel Road.
2. Existing Zoning/Land Use: The property is currently in unincorporated El Paso County. A rural residential land use is assigned to the property and there is an existing mobile home.
3. Surrounding Zoning/Land Use:
North: PUD/Banning Lewis Ranch, Single-Family and PBC (Future Commercial)
South: Unincorporated El Paso County/Mobile Home
East: Unincorporated El Paso County/Single-Family
West: PUD/Single-Family
4. Comprehensive Plan/Designated 2020 Land Use: There is no 2020 Land Use designation because it is not yet within the City.
5. Annexation: The property is not yet annexed.
6. Master Plan/Designated Master Plan Land Use: There is no existing or planned master plan for this property.
7. Subdivision: The property is not platted.
8. Zoning Enforcement Action: None
9. Physical Characteristics: There is an existing mobile home on the property and no significant vegetation.

STAKEHOLDER PROCESS AND INVOLVEMENT:

The public process included posting the site and sending postcards to 103 property owners within 500 feet. One email was received by an adjacent property owner concerned if a future use would be a gas station. No other comments were received.

Staff also sent the plans to the standard internal and external review agencies for comments. Commenting agencies included Colorado Springs Utilities, City Engineering, City Traffic, City Fire, City Finance, Police and E-911, and the Colorado Springs Airport.

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

1. Review Criteria / Design & Development Issues:

Annexation

The request is to annex the property into the municipal limits of the City of Colorado Springs and develop commercial pad sites. The 8.66 acres is part of the enclave known informally as Toy Ranches, and contiguous on two sides to the municipal limits of the City of Colorado Springs. Therefore, the property is eligible for annexation. Because the property is less than ten acres, there is no master plan requirement, only annexation, zoning and concept plan. A development plan will be required in the future for the new structures.

A Fiscal Impact Analysis (FIA) is required for all annexation requests and is completed by the City Budget Office. The FIA was completed on June 15, 2014. The FIA states that there are minimal identifiable marginal costs of providing services to this development, as the surrounding infrastructure and roadways are already being maintained by the City as they fall within the service area of surrounding parcels. The result of the FIA is a positive cumulative cash flow for the City during the 10-year timeframe. **(FIGURE 3)**

The draft annexation agreement is attached as **FIGURE 4**. Because the property is adjacent to a fast growing part of the City, and the infrastructure is developing, there are a number of off-site requirements outlined in the agreement including right-of-way dedications and improvements to Dublin Boulevard to facilitate a new intersection of Mountain Dale Drive. There is also a cost recovery filed for Dublin Boulevard that will need to be paid with future platting, as well as traffic signal contributions. The standard Police and Fire service fees will be collected.

C-5/AO Zoning

The zoning request is to zone the 8.66-acre property C-5/AO (Intermediate Business with Airport Overlay). This will allow future development of any allowed or conditional uses in this district including a mix of commercial as well as multi-family. There is a ten-acre PBC (Planned Business Center) property at the northwest corner of Dublin Boulevard and Marksheffel Road, and significant residential development in the area. It is appropriate to establish a commercial node to serve the abundant residential development growing in the area. The proposed zone also fosters a mix of land uses, brings neighborhood services to the area, and is in conformance with the review criteria for zone changes found in City Code Section 7.5.603.

Concept Plan

The concept plan illustrates six future commercial pad sites ranging in size from 0.7 acres to 1.1 acres. There is a large gas easement that runs along the eastern boundary of the site that is designated as a 1.3 acre landscape and buffer tract that provides an excellent buffer to the large rural properties to the east. There is also a proposed north-south public road. This road will temporarily dead-end at the southern property line and will be extended south as other properties annex. Currently, there are three properties directly south that are beginning the annexation process and will have access to Dublin Boulevard via this new public road named Mountain Dale Drive.

City Code Section 7.5.501 outlines the requirements and review criteria for a concept plan. The concept plan document is not required to show specific landscaping, screening and buffering, lighting or other site design aspects. That type of detail is specific to a development plan. Any future request for building permits will require the submission of a development plan, which will be reviewed administratively per City Code Section 7.5.502.

2. Conformance with the City Comprehensive Plan:

Comprehensive Plan 2020 Land Use Map: Since the property is not located within the City, it is not indicated with a land use on the 2020 Land Use Map; however, property will be included on the map as a continuation of the “Community Activity Center” that is shown on adjacent city properties at this corner.

Policy CIS 202: Annexation will be a Benefit to the City of Colorado Springs
Evaluate proposed annexations to determine if the request is a benefit to the City.

Policy LU 201: Promote a Focused, Consolidated Land Use Pattern

Locate new growth and development in well-defined contiguous areas in order to avoid leapfrog, scattered land use patterns that cannot be adequately provided with City services.

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

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

Policy LUM 213: Potential Annexation Areas

Utilize the Potential Annexation Area designation for areas that are likely to be incorporated by the City.

Objective LU 3: Develop A Mix of Interdependent, Compatible, and Mutually Supportive Land Uses.

Over the past several decades, the location and design of development have created a pattern of isolated, disconnected, single-purpose land uses. An alternative to this type of land use pattern is one that integrates multiple uses, shortens and reduces automobile trips, promotes pedestrian and bicycling accessibility, decreases infrastructure and housing costs, and in general, can be provided with urban services in a more cost-effective manner.

Policy LU 301: Promote a Mixed Land Use Pattern

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

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

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

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

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

It is the finding of the Land Use Review Division that the Dublin Towne Centre annexation, zoning and concept plan will substantially conform to the City Comprehensive Plan 2020 Land Use Map and the Plan's goals and objectives.

3. Conformance with the Area's Master Plan:
There is no master plan for this area.

STAFF RECOMMENDATION:

ITEM NO.: 4.A CPC A 14-00010 – ANNEXATION

Approve the Dublin Towne Centre Annexation, based upon the findings that the annexation complies with all of the Conditions for Annexation Criteria as set forth in City Code Section 7.6.203 with the following condition of approval:

1. The final annexation agreement signed by the owners must be submitted to staff prior to scheduling the City Council Hearing.
2. The inclusion into the Southeastern Colorado Water Conservancy district shall be completed prior to recordation of the annexation plat.

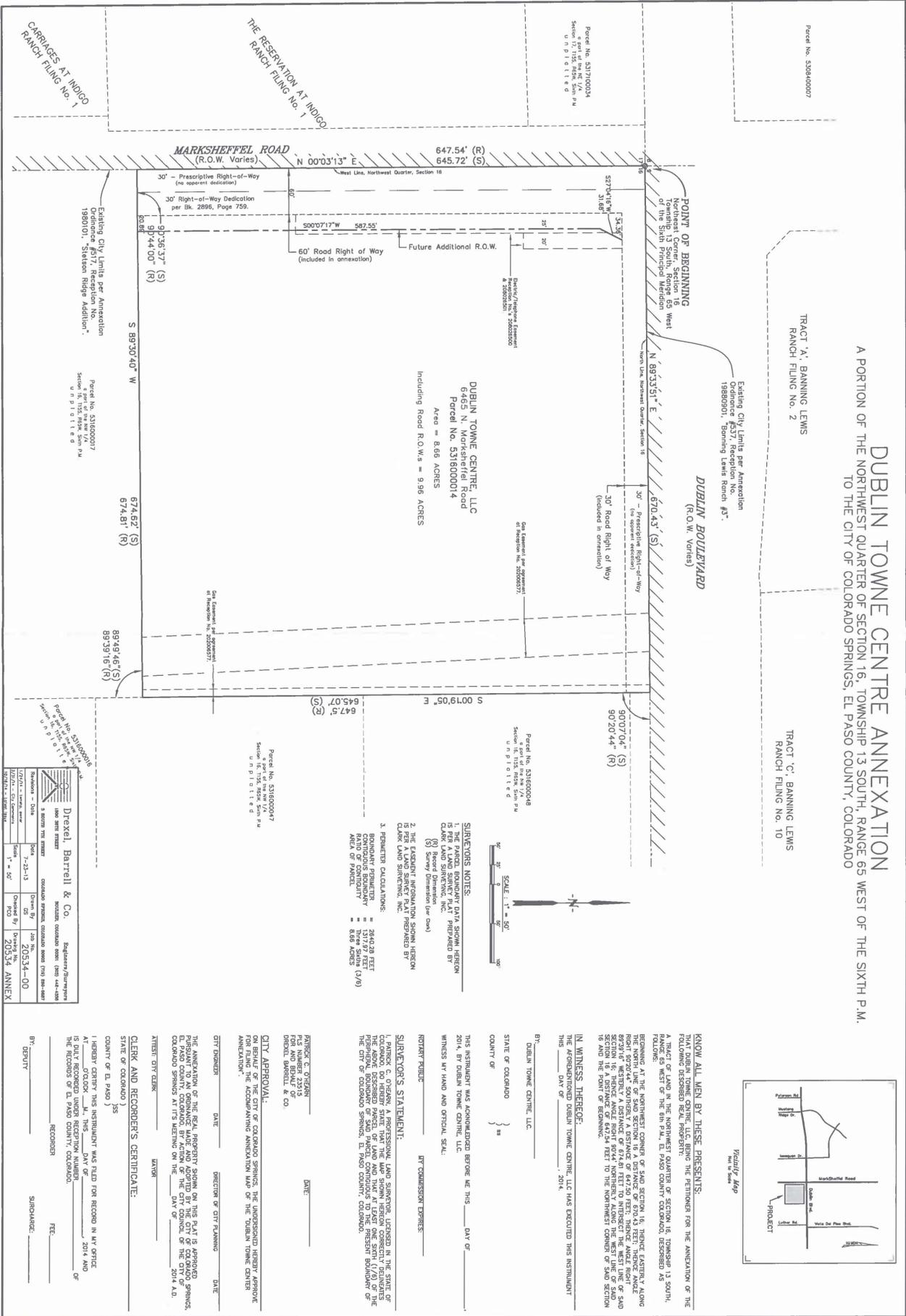
ITEM NO.: 4.B CPC ZC 14-00011 – ESTABLISHMENT OF THE C-5 ZONE

Approve the establishment of the C-5/AO (Intermediate Business with Airport Overlay) zone district, based upon the findings that the zoning request complies with the three (3) criteria for granting of zone changes as set forth in City Code Section 7.5.603(B).

ITEM NO. : 4.C CPC CP 14-00012 – DUBLIN TOWNE CENTRE CONCEPT PLAN

Approve the Dublin Towne Centre Concept Plan based upon the findings that the concept plan meets the review criteria for concept plans as set forth in City Code Section 7.5.501 with the following Technical Modifications:

1. Add AO (Airport Overlay) to the zoning information.
 2. Graphically add the location of the wastewater main.
 3. Add a note to the concept plan that states "Dublin Towne Centre is subject to a cost recovery agreement for Dublin Boulevard as required in the annexation agreement."
 4. Dimension the 20-foot wide segment of right-of-way to be dedicated to the City on the western edge of the property.
 5. Call out the correct width of the collector road to include on-street parking on one side.
-



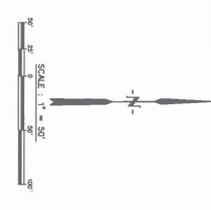
DUBLIN TOWNE CENTRE ANNEXATION
 A PORTION OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE SIXTH P.M.
 TO THE CITY OF COLORADO SPRINGS, EL PASO COUNTY, COLORADO

TRACT 'A', BANNING LEWIS
 RANCH FILING NO. 2

TRACT 'C', BANNING LEWIS
 RANCH FILING NO. 10

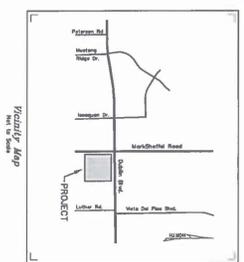
Eating City Limits per Annexation
 Ordinance #637, Reception No.
 19880901, Banning Lewis Ranch #3.

DUBLIN TOWNE CENTRE, LLC
 6145 N. MARKSHEFFEL ROAD
 FORT COCKS, CO. 80824
 Area = 866 ACRES
 Including Road R.O.W.s = 9.96 ACRES



- SURVEYOR'S NOTES:**
1. THE PARCEL BOUNDARY DATA SHOWN HEREON IS PER A LAND SURVEY PLAT PREPARED BY [Name] (S) Survey Dimension (See Deed)
 2. THE EXISTENT REGULATION SHOWN HEREON IS PER [Name] (S) Survey Dimension (See Deed)
 3. PERMETER CALCULATIONS:
 2842.29 FEET
 1317.97 FEET
 2788.50 FEET (3/8)

Drexel, Barratt & Co. Engineers/Surveyors 1000 North Front Street Suite 200 Colorado Springs, Colorado 80901 (719) 594-8888 www.drexelbarratt.com	Registration No. 20534-00 License No. 20534-00 License Expiration Date 12/31/2014
Project No. 20534-00 Date 12-23-14 Drawing No. 20534-00 Drawing Date 12-23-14 Drawing By [Name] Checked By [Name] PLOD 20534-00	Registration No. 20534-00 License No. 20534-00 License Expiration Date 12/31/2014



KNOW ALL MEN BY THESE PRESENTS, THAT DUBLIN TOWNE CENTRE, LLC, BEING THE PETITIONER FOR THE ANNEXATION OF THE FOLLOWING DESCRIBED REAL PROPERTY, TO THE CITY OF COLORADO SPRINGS, EL PASO COUNTY, COLORADO, DESCRIBED AS FOLLOWS:

BEING AT THE NORTHWEST CORNER OF SAID SECTION 16, THENCE EASTERLY ALONG THE NORTH LINE OF SAID SECTION 16 A DISTANCE OF 670.43 FEET, THENCE SOUTHERLY ALONG THE WEST LINE OF SAID SECTION 16 A DISTANCE OF 674.61 FEET TO INTERSECT THE WEST LINE OF SAID SECTION 16, A DISTANCE OF 674.61 FEET TO THE NORTHWEST CORNER OF SAID SECTION 16 AND THE POINT OF BEGINNING.

IN WITNESS WHEREOF, THE PETITIONER DUBLIN TOWNE CENTRE, LLC HAS EXECUTED THIS INSTRUMENT THIS _____ DAY OF _____, 2014.

BY: _____
 DUBLIN TOWNE CENTRE, LLC
 STATE OF COLORADO } ss
 COUNTY OF _____ }
 COUNTY OF _____ }
 THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2014, BY DUBLIN TOWNE CENTRE, LLC.
 WITNESS MY HAND AND OFFICIAL SEAL.

 NOTARY PUBLIC DIT COMMISSION EXPIRES: _____

SURVEYOR'S STATEMENT:
 I, PATRICK C. O'NEAL, A PROFESSIONAL LAND SURVEYOR, LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE LAND SHOWN HEREON CORRECTLY Delineates THE PERIPHERAL BOUNDARY OF SAID PARCEL CONTAINED TO THE PRESENT BOUNDARY OF THE CITY OF COLORADO SPRINGS, EL PASO COUNTY, COLORADO.

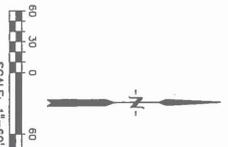
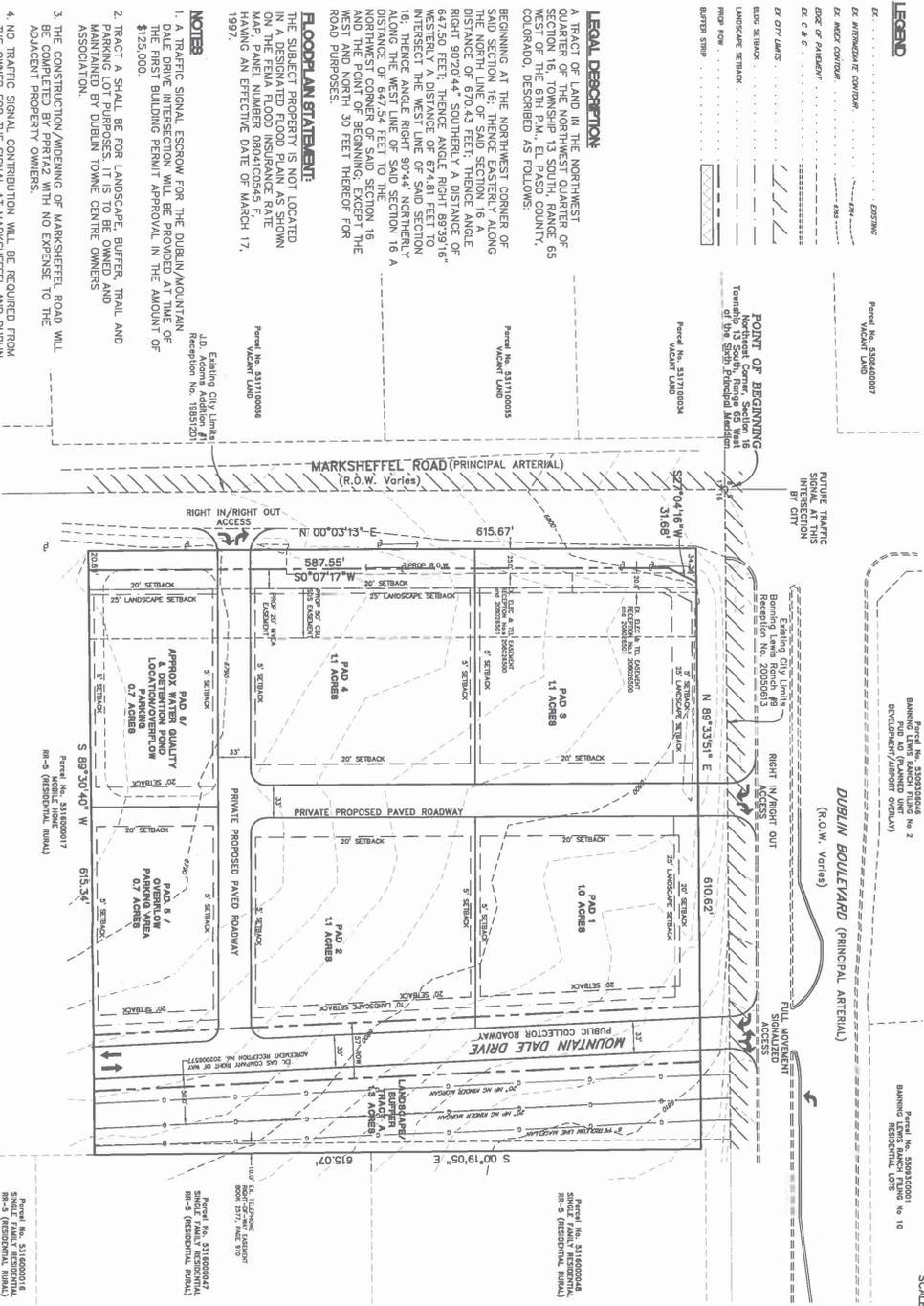
CITY APPROVAL:
 ON BEHALF OF THE CITY OF COLORADO SPRINGS, THE UNDERSIGNED HEREBY APPROVE ANNEXATION OF _____ PARCELS AND PARCELS OF THE DUBLIN TOWNE CENTRE.

CITY ENGINEER _____ DATE _____
 DIRECTOR OF CITY PLANNING _____ DATE _____

CLERK AND RECORDER'S CERTIFICATE:
 I, _____ (COUNTY OF EL PASO) _____
 HEREBY CERTIFY THIS INSTRUMENT WAS FILED FOR RECORD IN MY OFFICE OF EL PASO COUNTY, COLORADO, ON _____, 2014 A.D., AT _____ O'CLOCK _____ OF THE DAY OF _____, 2014 A.D.
 THE RECORDS OF EL PASO COUNTY, COLORADO.

ATTEST: CITY CLERK _____ DATE _____
 RECORDER _____
 BY: _____ DEPUTY _____
 SINCERELY, _____

DUBLIN TOWNE CENTRE CONCEPT PLAN 6465 N. MARKSHEFFEL ROAD COLORADO SPRINGS, COLORADO



SITE DATA:

PROPOSED LOT AREA: 8.66 ACRES
 ZONING: EXISTING - RR-5 (RESIDENTIAL RURAL - COUNTY); PROPOSED - C-5 (INTERMEDIATE BUSINESS)
 PROPOSED LAND USE: COMMERCIAL / MFR
 MAXIMUM IMPERVIOUS COVERAGE: 90%
 ADDRESS: 6465 N. MARKSHEFFEL RD., COLORADO SPRINGS, CO 80817
 TAX SCHEDULE #: 53160-00-014
 MAXIMUM BUILDING HEIGHT: 45 FT
 MAXIMUM COMMERCIAL SQUARE FOOTAGE: 15,000 SF / PAD
 MINIMUM BUILDING SETBACKS REQUIRED:
 - WHEN ADJACENT TO A RESIDENTIAL ZONE, THE SETBACK WILL BE THE SAME AS THE RESIDENTIAL ZONE
 20 FT (FRONT)
 5 FT (SIDE)
 20 FT (REAR)
 PARKING SPACES REQUIRED: 300 SPACES
 COMMERCIAL: (1:200)
 HANDICAP SPACES: (1:25) 7 SPACES
 LANDSCAPE SETBACKS REQUIRED:
 DUBLIN BLVD (MAJOR ARTERIAL) 25 FT
 MARKSHEFFEL RD (MAJOR ARTERIAL) 25 FT
 MINOR ARTERIAL 20 FT
 NON-ARTERIAL RD 10 FT
CURRENT OWNER/APPLICANT
 DUBLIN TOWNE CENTRE, LLC
 1400 S. WASHINGTON ST., SUITE 100
 COLORADO SPRINGS, CO 80900-0069
 TEL: (719) 475-7474
BEZONING NOTE
 THE EXISTING LOT IS ZONED RR-5 (EL PASO COUNTY) AND IS PROPOSED TO BE REZONED AS C-5 (CITY OF COLORADO SPRINGS)
PHASING
 UNKNOWN. CONCEPT PLAN IS NOT FOR PRELIMINARY PLATTING PURPOSES.

FILE # CPC 14-00012
 FILE # CPC A 13-00010
 FILE # CPC 2C 14-00011

<p>PREPARED BY: DREXEL, BARBELL & CO. 1500 SOUTH WASHINGTON STREET COLORADO SPRINGS, COLORADO 80905 PHONE: (719) 475-7474 FAX: (719) 475-7475 WWW.DREXELBARBELL.COM</p>		<p>CLIENT: DUBLIN TOWNE CENTRE, LLC 6465 N. MARKSHEFFEL ROAD COLORADO SPRINGS, CO 80817 CONTACT: ROBERT C. BIRBA</p>
<p>ISSUE DATE: 07/07/14 LATEST ISSUE: 09/09/14</p>	<p>DESIGNED BY: GCL DRAWN BY: GCL CHECKED BY: TMD FILE NAME: 2013-01-01</p>	<p>PROJECT NO: 2013-01-01 DRAWING NO: 01</p>
<p>DUBLIN TOWNE CENTRE CONCEPT SITE PLAN</p>		
<p>DRIVING SCALE: HORIZONTAL: 1"=60' VERTICAL: N/A</p>		
<p>CP1</p>		
<p>SHEET: 1 OF 1</p>		

FIGURE 1



LEGAL DESCRIPTION

A TRACT OF LAND IN THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6th P.M., EL PASO COUNTY COLORADO, DESCRIBED AS FOLLOWS:

Engineers/Surveyors

Boulder
Colorado Springs
Grand Junction
Steamboat Springs

3 S 7th Street
Colorado Springs, CO 80905

719 260-0887
719 260-8352 Fax

BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 16; THENCE EASTERLY ALONG THE NORTH LINE OF SAID SECTION 16 A DISTANCE OF 670.43 FEET; THENCE ANGLE RIGHT 90°20'44" SOUTHERLY A DISTANCE OF 647.50 FEET; THENCE ANGLE RIGHT 89°39'16" WESTERLY A DISTANCE OF 674.81 FEET TO INTERSECT THE WEST LINE OF SAID SECTION 16; THENCE ANGLE RIGHT 90°44' NORTHERLY ALONG THE WEST LINE OF SAID SECTION 16 A DISTANCE OF 647.54 FEET TO THE NORTHWEST CORNER OF SAID SECTION 16 AND THE POINT OF BEGINNING; EXCEPT THE WEST AND NORTH 30 FEET THEREOF FOR ROAD PURPOSES. AND FURTHER EXCEPTING THAT PORTION THEREOF AS DESCRIBED AND CONVEYED IN DEED RECORDED FEBRUARY 16, 1977 IN BOOK 2896 AT PAGE 759.



Drexel, Barrell & Co.

January 3, 2014

City of Colorado Springs Land Use Review
Attn: Larry Larsen, Senior Planner
30 S. Nevada Ave., Suite 105
Colorado Springs, CO 80903

Engineers/Surveyors

Boulder
Colorado Springs
Grand Junction
Steamboat Springs

3 S 7th Street
Colorado Springs, CO 80905

719 260-0887
719 260-8352 Fax

RE: Project Statement – Dublin Towne Centre Annexation/Zone Change/Concept Plan

Dear Mr. Larsen:

Description

The land owner, Dublin Towne Centre, LLC, wishes to annex into Colorado Springs and rezone the following approximate 8.66 acre tract of land located at 6465 North Marksheffel Road. The property is currently located in El Paso County with City limits directly north and west of the property.

Justification

Annexation of the property will result in a logical and orderly extension of the City of Colorado Springs and services provided. Existing City limits are located along the north and west limits of the property. The zone change accommodates general commercial uses that are of moderate intensity emphasizing individual pad sites which in some cases will be located near established residential zoning. The 2020 City Land Use Map shows planned Community Activity Center adjacent to the property within the City limits at this major intersection of Marksheffel Road and Dublin Boulevard.

Potential Issue List

Site access from Marksheffel Road directly to the subject property will likely not be allowed due to the roadway classification and proximity to the intersection. The owner respectfully requests a right-in/right-out and a full-movement signalized access from the city on the north end of the property along Dublin Boulevard.

Utility extensions to the site will be made from existing CSU wastewater, water, natural gas and electric facilities located within Dublin Boulevard.

Land use compatibility with the adjacent large lot (5 acres) Toy Ranches area to the east may be an issue. Dublin Towne Centre proposes a buffer strip and access drive along the easterly property boundary to provide for separation between the proposed development and the existing residential properties.

Dublin Towne Centre – Project Statement
January 3, 2014
Page 2

We trust you find our application and request for the Annexation, Zoning and Concept Plan for Dublin Towne Centre acceptable. We look forward to working with the City in processing the application and submittal. Please call if you have any questions or require any additional information.

Respectfully,
Drexel, Barrell & Co.

A handwritten signature in black ink, appearing to read "Tim McConnell". The signature is fluid and cursive, with a large, stylized initial "T" and "M".

Tim McConnell, P.E.
Associate, Regional Manager

TO: Larry Larsen, Senior Planner

FROM: Nina Vetter, Senior Analyst

DATE: June 15, 2014

SUBJECT: Dublin North Annexation - Fiscal Impact Analysis

A copy of the fiscal impact analysis for the Dublin North Annexation is attached. At the request of the Planning Department, the Budget Office prepared a fiscal impact analysis estimating the City General Fund and Public Safety Sales Tax (PSST) Fund revenue and expenditures attributable to the Dublin North development for the period 2014-2023.

The fiscal review criteria of the City Code states city costs related to infrastructure and service levels shall be determined for a ten-year time horizon for only the appropriate municipal funds.

The methodology used for the fiscal impact analysis is a case study approach, where a mini-budget process is undertaken in which City units are asked to project the increased marginal cost of providing services to the development for 2014-2023. The Budget Office estimates the city revenue, as outlined in the Revenue Notes, stemming from the development.

The Draft Annexation Agreement provides for specific fees for fire protection and police protection, includes public land dedication for parks, and includes standard provisions that all street and/or traffic improvements and traffic control devices should be paid by the Owner.

Most departments indicated that there were minimal identifiable marginal costs of providing services to this development, as the surrounding infrastructure and roadways are already being maintained by the City as they fall within the service area of surrounding parcels. The Fire, Police, Streets and Traffic Engineering Divisions identified marginal increases in operational costs to service the area.

The result of the fiscal impact analysis is a positive cumulative cashflow for the City during the 10-year timeframe.

The Summary of Expenditures and Revenues is attached. Also, the Expenditure and Revenue Notes are attached that provide the methodology for calculating the expenditures and revenues.

GENERAL FUND FISCAL IMPACT ANALYSIS
 SUMMARY OF EXPENDITURES AND REVENUE FOR DUBLIN NORTH

	EXPENDITURES										
	Projected 2014	Projected 2015	Projected 2016	Projected 2017	Projected 2018	Projected 2019	Projected 2020	Projected 2021	Projected 2022	Projected 2023	
<u>Total Salaries, Operating and Capital Outlay</u>											
Police	1,500	1,545	1,591	1,639	1,688	1,739	1,791	1,845	1,900	1,957	
Fire	28	27	28	28	28	28	28	28	28	28	
Public Works - Streets	1,201	1,237	1,274	1,312	1,352	1,392	1,434	1,477	1,521	1,637	
Public Works - Transportation Engineering	1,093	1,126	1,159	1,194	1,230	1,267	1,305	1,344	1,384	1,426	
Public Works - City Engineering	0	0	0	0	0	0	0	0	0	0	
Public Works - Transit	0	0	0	0	0	0	0	0	0	0	
Parks, Recreation and Cultural Services	0	0	0	0	0	0	0	0	0	0	
TOTAL EXPENDITURES	3,822	3,935	4,053	4,174	4,298	4,426	4,558	4,694	4,834	5,048	
REVENUES											
Property Taxes	0	0	206	418	431	444	457	471	485	499	
Specific Ownership Taxes	0	0	24	49	50	42	53	55	57	58	
Road & Bridge Revenue	0	0	8	16	17	17	18	18	19	19	
Sales Tax Revenue (Residential Uses)	0	336	682	703	724	745	768	791	815	839	
Sales and Use Tax Revenue (Building Materials)	4,840	4,840	0	0	0	0	0	0	0	0	
Miscellaneous Revenue	0	5,407	10,814	11,138	11,472	11,817	12,171	12,536	12,912	13,300	
General Fund Sub-Total	4,840	10,583	11,734	12,324	12,694	13,065	13,467	13,871	14,288	14,715	
<u>Public Safety/Sales Tax Fund</u>											
Sales Tax Revenue (Residential Uses)	0	67	136	141	145	149	154	158	163	168	
Sales and Use Tax Revenue (Building Materials)	968	968	0	0	0	0	0	0	0	0	
Public Safety Sales Tax Fund Sub-Total	968	1,035	136	141	145	149	154	158	163	168	
TOTAL REVENUE	5,808	11,618	11,870	12,465	12,839	13,214	13,621	14,029	14,451	14,883	
REVENUE SURPLUS/DEFICIT (Total Rev. less Total Exp.)											
ANNUAL	1,986	7,683	7,817	8,291	8,541	8,788	9,063	9,335	9,617	9,835	
CUMULATIVE	1,986	9,669	17,486	25,778	34,319	43,107	52,169	61,504	71,122	80,957	

FIGURE 3

REVENUE NOTES

Dublin North Phase 7 Annexation

General Fund/Public Safety Sales Tax Fund Fiscal Impact Analysis, 2014-2023

General Fund

PROPERTY TAX:

It is assumed property taxes will be collected in the year 2016 based upon beginning construction in 2014 because of the time lag associated with placing assessed value onto the assessment rolls. The 2016 revenue is calculated by multiplying the City mill levy of 4.279 mills by the projected increase in City assessed valuation resulting from the proposed development. This assumes there is no change in the residential assessment ratio of 7.96%. The cumulative assessed valuation includes a 3% annual increase in market values.

SPECIFIC OWNERSHIP TAX:

The Specific Ownership Tax revenue is calculated at 11.70% of property tax revenues. This is based on the 2012 actual City specific ownership tax revenues as a percent of property tax revenue.

ROAD & BRIDGE REVENUE:

The Road & Bridge Revenue is calculated at 3.85% of the property tax revenues. This is based on the 2012 actual City road & bridge revenues as a percent of property tax revenue.

SALES AND USE TAX:

The revenue calculation assumes the existing General Fund tax rate and existing collection practices. Projections include sales tax revenue from the personal consumption by the population projected to reside in Dublin North Phase 7 and the sale of building materials used in the projected construction of the households in the development.

The Sales Tax Revenue for Residential Uses is calculated by determining the average household income per unit and the percentage of income spent on taxable consumption. The average household income per unit is calculated based upon an "affordability" calculation, which assumes 10% down, 30-year mortgage @ 4%, and a 28% income/Principal and Interest ratio. The percentage of income spent on taxable consumption is 33.2%, which is an estimate from the U.S. Department of Commerce Consumer Expenditure Surveys. It also assumes that 75% of consumption by the new residents will be within the City and that 60% of the consumption by these residents is new to the City (in other words, 60% of residents moved from outside City limits). Also, it assumes there is a one-year construction/revenue collection lag. Projections include a 3% annual increase for inflation.

The Sales Tax Revenue for Building Materials is calculated based on sales taxable materials at 40% of the value of residential property.

MISCELLANEOUS REVENUE:

The Miscellaneous Revenue is based on per capita multipliers for the following categories: Admissions Tax; State Cigarette Tax; HUTF; Charges for Services; Fines and Forfeits, Utilities Surplus, as these revenues are impacted by a change in population. Revenues were calculated using direct and per capita multiplier approaches. The Miscellaneous Revenue includes a 3% annual increase. Also, it assumes there is a one-year construction/revenue collection lag.

Public Safety Tax Fund

SALES AND USE TAX:

The revenue calculation assumes the existing PSST rate and existing collection practices. Projections include sales tax revenue from the personal consumption by the population projected to reside in Dublin North Phase 7 and the sale of building materials used in the projected construction of the households in the development.

The Sales Tax Revenue for Residential Uses is calculated by determining the average household income per unit and the percentage of income spent on taxable consumption. The average household income per unit is calculated based upon an “affordability” calculation, which assumes 10% down, 30-year mortgage @ 4%, and a 28% income/Principal and Interest ratio. The percentage of income spent on taxable consumption is 33.2%, which is an estimate from the U.S. Department of Commerce Consumer Expenditure Surveys. It also assumes that 75% of consumption by the residents will be within the City and that 60% of the consumption by these residents is new to the City (in other words, 60% of residents moved from outside City limits). Also, it assumes there is a one-year construction/revenue collection lag. Projections include a 3% annual increase for inflation.

The Sales Tax Revenue for Building Materials is calculated based on sales taxable materials at 40% of the value of residential property.

EXPENDITURE NOTES:

Dublin North Annexation

General Fund/Public Safety Sales Tax (PSST) Fund Fiscal Impact Analysis, 2014-2023

POLICE:

As part of the Annexation Agreement, the Annexor will pay \$677 per gross acre of the annexed area as the Owner's share of the capital cost of a new police station and initial equipment purchase required to service this annexation. The addition of 22 residential units is only projected to have a small marginal impact to the operational cost of police services (\$1,500-\$1,957 annually).

FIRE:

As part of the Annexation Agreement, the Annexor will pay \$1,631 per gross acre of the entire annexed area as their share of the capital cost of a new fire station and initial apparatus required to service this annexation. The only additional, operational, identifiable marginal costs of providing service to the annexed area are fuel, medical supplies and maintenance (~\$28 annually).

PUBLIC WORKS – STREETS, TRAFFIC ENGINEERING, CITY ENGINEERING:

There are no associated storm sewers, creeks or other drainage improvements on this annexation and therefore no impact on City Engineering. There will be some costs associated with street signs and streetlights, as well as roadway maintenance (~\$2,294- \$3,063 annually).

PUBLIC WORKS -TRANSIT:

There are currently no transit services in this area. There are no current plans to expand transit services to this area within the next ten years, thus there are no identifiable marginal costs within the next ten years.

PARKS:

As part of the Annexation Agreement, the Annexor will pay the fee-in-lieu of park land dedication (which is \$1,781 per residential unit for densities less than 8 units per acre and \$1,264 per residential unit for densities greater than 8 units per acre per the City's Subdivision Code). The fee will be held in the Public Space and Development Fund for future park development in this area.

DUBLIN TOWNE CENTRE ANNEXATION ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT, dated this ____ day of _____, 2014, is between the City of Colorado Springs, Colorado, a home rule city and Colorado municipal corporation ("City"), and Dublin Towne Centre, LLC, a Colorado limited liability company ("Owner" or "Property Owner").

I. INTRODUCTION

The Owner own all of the real property located in El Paso County, Colorado, identified and described on the legal description attached as Exhibit A (the Property).

The growth of the Colorado Springs metropolitan area makes it likely that the Property will experience development in the future. The Owner will be required to expend substantial amounts for installation of infrastructure needed to service the Property and, therefore, desires to clarify Owner's obligations for installation of or payment for any off-site infrastructure or improvements and with regard to the City's agreements with respect to provision of services to the Property and cost recoveries available to Owner. Subject to the terms and conditions set forth in this Agreement, both the City and Owner wish to annex the Property into the City to ensure its orderly development. In consideration of the mutual covenants contained in this Agreement, the receipt and sufficiency of which are acknowledged by each of the parties, the City and Owner agree as follows.

II. ANNEXATION

The Owner has petitioned the City for annexation of the Property as set forth in Exhibit A. The annexation will become effective upon the final approval by the City Council and the recording of the annexation plat and annexation ordinance with the El Paso County Clerk and Recorder.

All references to the Property or to the Owner' Property are to the Property described in Exhibit A except as otherwise indicated.

III. LAND USE

The Dublin Towne Centre Concept Plan for the Property has been proposed and submitted to the City for approval. Owner will comply with the approved Concept Plan or an amended Concept Plan approved in accord with applicable provisions of the Code of the City of Colorado Springs 2001, as amended or recodified ("City Code").

IV.
ZONING

A. Zoning. The Planning and Development Department of the City agrees to recommend that the initial zone for the Owner' Property shall be Intermediate Business with Airport Overlay (C-5/AO) upon annexation. Owner acknowledge a and understand that the City Council determines what an appropriate zone is for the Property, and this recommendation does not bind the Planning Commission or City Council to adopt a C-5/AO zone for the Property.

B. Change of Zoning. A change of zone request shall conform to the Concept Plan, as approved or as amended by the City in the future. Rezoning in accord with the zones reflected on the Concept Plan will occur prior to actual development of the site.

V.
PUBLIC FACILITIES

A. General. As land is annexed into the City it is anticipated that land development will occur. In consideration of this land development the City requires public facilities and improvements to be designed, extended, installed, constructed, dedicated and conveyed as part of the land development review and construction process. Public facilities and improvements are those improvements to property which, after being constructed by the Owner and accepted by the City, shall be maintained by the City or another public entity. Generally, the required public facilities and improvements and their plan and review process, design criteria, construction standards, dedication, conveyance, cost recovery and reimbursement, assurances and guaranties, and special and specific provisions are addressed in Chapter 7, Article 7 of the City Code (the "Subdivision Code"). Public facilities and improvements include but are not necessarily limited to: 1.) Utilities for water, wastewater, fire hydrants, electric, gas, streetlights, telephone and telecommunications (Refer to Section VI. Utilities of this Agreement.); 2.) Streets, alleys, traffic control, sidewalks, curbs and gutters, trails and bicycle paths; 3.) Drainage facilities for the best management practice to control, retain, detain and convey flood and surface waters; 4.) Arterial roadway bridges; 5.) Parks; 6.) Schools; and 7.) Other facilities and improvements warranted by a specific land development proposal.

It is understood that all public facilities and improvements shall be under the provisions of the Chapter 7, Article 7 of the City Subdivision Code, unless otherwise specifically provided for under the terms and provisions of this Agreement. Those specifically modified public facilities and improvements provisions are as follows:

B. Metropolitan Districts. N/A

C. Streets and Traffic Control. Unless agreed to elsewhere in this Agreement the Owner agrees to construct, at the Owner' expense, those street and/or traffic improvements adjacent to or within the Property. These improvements shall also include mutually acceptable dedications of right-of-way and easements, and extension of streets and right-of-way. The provisions of City Code §§ 7.7.706 (Reimbursements) and 7.7.1001-1006 (Arterial Roadway Bridges) are excluded. City participation or reimbursement for Arterial Streets and Arterial Bridges within the Property will not be allowed.

1. On-Site or Adjacent Streets

- a. Marksheffel Road: 20-feet of road right-of-way is required to be dedicated for Marksheffel Road improvements. There are no construction responsibilities for Marksheffel as this is a PPRTA 2 project. The 20-feet of right-of-way will be dedicated to the City with the each applicable final plat.
- b. Dublin Boulevard: Road improvements to Dublin Boulevard to facilitate the design of the full movement intersection to the north-south public collector street (Mountain Dale Drive) are the responsibility of the property owner. Those design modifications include design and construction of a full movement median, and construction and design of the left turn lane with 100-feet of stacking.
- c. Public Collector Street (Mountain Dale Drive)
There is a north-south public collector street shown on the eastern portion of the site. City Traffic Engineering is requiring this public roadway for access to future developing properties to the south.

This road will be constructed to collector status with parking and is the responsibility of the developer through the site to be stubbed out at the southern property line. The road right-of-way will be dedicated to the City with each applicable final

subdivision plat.

2. Off-Site Streets: None

3. Traffic Control Devices. Owner shall pay for installation of traffic and street signs, striping, and traffic control devices, and permanent barriers, together with all associated conduit for all streets within or contiguous to the Property as determined necessary by the City and in accord with uniformly applied criteria set forth by the City. Traffic signals will be installed only after the intersection warrants signals, as outlined in the Manual on Uniform Traffic Control Devices in use at the time or another nationally accepted standard. Once the intersection meets the outlined criteria, the City will notify the Owner in writing and the Owner will install the traffic signal within one hundred eighty (180) days after receipt of that notice. The Owner will be responsible for all components of the traffic signal, except the City will supply the controller equipment and cabinet (Owner will reimburse the City for its reasonable costs of the equipment and cabinet).

a) The owner is specifically responsible for a contribution to the signal at the intersection of Dublin Boulevard and the public collector street (Mountain Dale Drive). The contribution requirement to the signal is \$125,000 to be paid at the time of the first building permit approval. The City shall install said signal.

b) The owner shall not be responsible for any contribution, payment, installation, or otherwise, to the contiguous or abutting Marksheffel and Dublin intersection signalization.

4. Street Cost Recovery. Owner shall pay for existing improvements to Dublin Boulevard to MREC Oakwood Colorado Ranch LLC. The current (2014) cost shall be calculated at \$154.06 per lineal foot of Right of Way along Dublin Boulevard adjacent to the annexation. This annexation has 610.62 feet of frontage giving a total of \$94,073.95 due at the time of recordation of the first subdivision plat. This cost is subject to an inflation factor commencing on January 1, each year, in the amount of \$11.85 per foot.

D. Drainage. A Master Development Drainage Plan shall be prepared and submitted by the Owner to the City and approved by the City Engineer. Final Drainage Reports and Plans shall be prepared and submitted by the Owner to the City and approved by the City Engineer, prior to recording subdivision plats. Owner shall comply with all drainage criteria, standards, policies and ordinances in effect at the time of development, including but not limited to the payment of any drainage,

arterial bridge and detention pond fees and the reimbursement for drainage facilities constructed. Owner shall be responsible for conformance with the Sand Creek Drainage Basin Planning Study.

- a) An easement will be dedicated with the first subdivision plat for the construction of the SWQ pond in the SW corner of the site.

E. Parks

Any future residential uses are subject to standard parks fees.

F. Schools

Any future residential uses are subject to standard parks fees.

G. Improvements Adjacent to Park and School Lands. Streets and other required public improvements adjacent to park and school lands dedicated within the Property will be built by the Owner without reimbursement by the City or the School District.

VI.
UTILITY SERVICES

A. Colorado Springs Utilities' (CSU) Services: CSU's water, non-potable water, wastewater, electric, streetlight, and gas services ("Utility Service" or together as "Utility Services") are available to eligible customers upon connection to CSU's facilities or utility systems on a "first-come, first-served" basis, provided that (among other things) the City and CSU determine that the applicant meets all applicable City ordinances and regulations, and applicable CSU tariff requirements and regulations for each application for Utility Service. In addition, the availability of Utility Services is contingent upon the terms detailed herein and the dedication of public rights-of-way, private rights-of-way, or easements that CSU determines are required for the extension of any proposed Utility Service from CSU system facilities that currently exist or that may exist at the time of the proposed extension.

Owners shall ensure that the connection and/or extension of Utility Services to the Property are in accord with all codes and regulations in effect at the time of Utility Service connection and/or extension, including but not limited to CSU's tariffs, rules, and policies, City ordinances, resolutions, and policies, and Pikes Peak Regional Building Department codes. Further, as specified herein below, Owners acknowledge responsibility for the costs of any extensions or utility system improvements that are necessary to provide Utility Services to the Property or to ensure timely development of integrated utility systems serving the Property and areas outside the Property as determined by CSU.

CSU's connection requirements may require the Owners to provide a bond(s), or to execute a Revenue Guarantee Contract or other CSU-approved guarantee for the extension of any Utility Service before CSU authorizes the extension of Utility Services and/or other utility systems improvements, and/or any request for service connection to the Property by Owners. Owners acknowledge that such connection requirements shall include Owners' payment of all applicable development charges, recovery-agreement charges, advance recovery-agreement charges, aid-to-construction charges and other fees or charges applicable to the requested Utility Service, and any costs CSU incurs to acquire additional service territory for the Utility Service to be provided, including those costs specified in paragraph C below.

Because recovery agreement charges, advance recovery-agreement charges, and aid-to-construction charges may vary over time and by location, Owners are responsible for contacting CSU's Customer Contract Administration at (719) 668-8111 to ascertain which fees or charges apply to the Property.

Owners acknowledge that annexation of the Property does not imply a guarantee of water supply, wastewater treatment system capacity, or any other Utility Service supply or capacity, and CSU does not guarantee Utility Service to the Property until such time as permanent service is initiated. Accordingly, no specific allocations or amounts of Utility Services, facilities, capacities or supplies are reserved for the Property or Owners upon annexation, and the City and CSU make no commitments as to the availability of any Utility Service at any time in the future.

B. Dedications and Easements: Notwithstanding anything contained in Section XI of this Agreement to the contrary, Owners, at Owners' sole cost and expense, shall dedicate by plat and/or convey by recorded document, all property (real and personal) and easements that CSU determines are required for all utility-system facilities necessary to serve the Property or to ensure development of an integrated utility system, including but not limited to, any access roads, gas regulation or electric substation sites, electric transmission and distribution facilities, water storage reservoir/facility sites, and wastewater or water pump station sites. CSU shall determine the location and size of all property necessary to be dedicated or otherwise conveyed.

Owners shall provide CSU all written, executed conveyances prior to platting or prior to the development of the Property as determined by CSU. Owners shall pay all fees and costs applicable to and/or associated with the platting of the real property to be dedicated to the City, and all fees and costs associated with the conveyance of real property interests by plat or by separate instrument, including but not limited to, Phase 1 and Phase 2 - environmental assessments, 'closing' costs, title policy fees, and recording fees for any deeds, permanent or temporary easement documents, or other required documents. Dedicated and/or deeded properties and easements are not, and shall not be, subject to refund or

reimbursement and shall be deeded or dedicated to the City free and clear of any liens or encumbrances, with good and marketable title and otherwise in compliance with City Code § 7.7.1802.

Further, all dedications and conveyances of real property must comply with the City Code, the City Charter, and any applicable CSU policies and procedures, and shall be subject to CSU's environmental review. Neither the City nor CSU has any obligation to accept any real property interests. All easements by separate instrument shall be conveyed using CSU's then-current Permanent Easement Agreement form without modification or as approved by CSU.

If Owners, with prior written approval by CSU, relocate, require relocation, or alter any existing utility facilities within the Property, then the relocation or alteration of these facilities shall be at the Owners' sole cost and expense. If CSU determines that Owners' relocation or alteration requires new or updated easements, Owners shall convey those easements prior to relocating or altering the existing utility facilities using CSU's then-current Permanent Easement Agreement form without modification or as approved by CSU. CSU will only relocate existing gas or electric facilities during time frames and in a manner that CSU determines will minimize outages and loss of service.

C. Extension of Utility Facilities by CSU: Subject to the provisions of this Article, including sections A and B above, and all applicable CSU tariffs, rules, regulations, and standards, CSU will extend electric and gas service to the Property if CSU determines that there will be no adverse effect to any Utility Service or utility easement. Owners shall cooperate with CSU to ensure that any extension of gas or electric facilities to serve the Property will be in accord with CSU's Line Extension and Service Standards.

1. Natural Gas Facilities: If prior to annexation any portion of the Property is located outside CSU' gas service territory, then upon annexation, CSU will acquire the gas service territory within the Property from the then-current gas service provider. Accordingly, Owners shall be solely responsible for all costs and expenses, including but not limited to attorneys' fees that CSU incurs due to any Colorado Public Utilities Commission ("CPUC") filings made or arising from annexation of the Property. Owners shall support and make any CPUC filings necessary to support CSU's filings to the CPUC.
2. Electric Facilities: CSU, in its sole discretion, may require Owners to enter into a Revenue Guarantee Contract for the extension of any electric service or facilities, including any necessary electric transmission or substation facilities. If any portion of the Property is located outside CSU's electric service territory, then upon annexation, CSU will acquire the electric service territory within the

Property that is not served by CSU from the then-current electric service provider in accord with C.R.S. §§ 40-9.5-201 *et seq.*, or 31-15-707, and Owners shall be solely responsible for all costs and fees, including but not limited to attorneys' fees, that CSU incurs as a result of or associated with the acquisition of such electric service territory. Accordingly, Owners agree to pay the then-current electric service provider, directly, for the costs associated with CSU's acquisition of the electric service territory as specified in C.R.S. §§ 40-9.5-204 (1) (a) and 40-9.5-204 (1) (b) within 30 days of receipt of an invoice for such costs. Owners also agree to pay CSU for the costs associated with CSU's acquisition of the electric service territory as specified in C.R.S. §§ 40-9.5-204 (1) (c) and 40-9.5-204 (1) (d) within 30 days of receipt of an invoice for such costs.

Further, Owners acknowledge sole responsibility for the costs that CSU incurs in the conversion of any overhead electric lines to underground service and the removal of any existing electric distribution facilities (overhead or underground) that were previously installed by the then-current electric service provider. These costs shall be paid by Owners concurrent with the execution of a contract between the Owners and CSU that obligates Owners to reimburse CSU for such conversion or removal of existing electrical facilities.

3. Water and Wastewater Facilities by CSU: The Owners shall pay any advance recovery-agreement charges, or other fees or charges that are not currently approved by CSU for the Property, but which may become applicable as a result of any on-site or off-site water or wastewater system facilities that CSU or other developers may design and construct in order to ensure an integrated water or wastewater system supplying the Property. Additionally, the Owners shall be subject to cost recovery for the engineering, materials and installation costs incurred by CSU in its design, construction, upgrade or improvement of any water pump stations, water suction storage facilities, water transmission and distribution pipelines, or other water system facilities and appurtenances and any wastewater pump stations or treatment facilities, wastewater pipeline facilities, or other wastewater collection facilities and appurtenances that CSU, in its sole discretion, determines are necessary to serve the Property.

D. Water and Wastewater System Extensions by Owners: Owners must extend, design, and construct all potable and non-potable water system facilities and appurtenances, and all wastewater collection system facilities, wastewater pump stations, and any water or wastewater service lines to and within the Property at Owners' sole cost and expense in accord with all applicable CSU tariffs, rules, regulations, including CSU's Line Extension and Service Standards, and all City ordinances and regulations in effect at the time of each specific request for water or wastewater service. Consistent with City Code 7.7.1102 (B), Owners shall complete

the design, installation and obtain preliminary acceptance of such utility facilities prior to CSU's approval of Owners' water and wastewater service requests.

Owners shall be solely responsible for all costs and fees associated with engineering, materials, and installation of all water system facilities and appurtenances, and all wastewater collection facilities and appurtenances, whether on-site or off-site, that are necessary to serve the Property or to ensure development of an integrated water or wastewater system serving the Property and areas outside the Property as determined by CSU. Further, Owners acknowledge that CSU may require that such water or wastewater system facilities be larger than necessary to serve the Property itself and may require the Owners to participate with other development projects on a fair-share, pro rata basis in any necessary off-site system facilities improvements. In the event CSU requires such water and wastewater systems to be larger than necessary to serve the Property itself, then Owner may seek reimbursement as provided in CSU's Utilities Rules and Regulations.

The plans, specifications and construction of the water facilities and appurtenances, and the wastewater facilities and appurtenances are each subject to CSU's inspection and written acceptance, and CSU shall make the final determination as to the size, location, point(s) of connection and the required appurtenances of the system facilities to be constructed. No work shall commence on any proposed water or wastewater extension facilities until CSU provides written approval of Owners' water or wastewater construction plans and copies of such approved plans are received by CSU's Planning and Engineering Department. Owners may only connect newly-constructed facilities to CSU's existing water or wastewater system upon CSU's inspection and written acceptance of such facilities.

As part of any development plan submittal for the Property, Owners acknowledge that a Preliminary Utility Plan, Wastewater Master Facility Report, Hydraulic Grade Line Request Form, and Hydraulic Analysis Report (as determined by CSU) are required and must be completed and approved by CSU.

The water distribution system facilities must meet CSU's criteria for quality, reliability and pressure. The water distribution system shall ensure capacity, pressure and system reliability for both partially completed and fully completed conditions and the static pressure of the water distribution system shall be a minimum of 60 psi. Also, to ensure the protection of public health and to maintain compliance with state regulatory requirements, the detailed plans for all customer-owned, non-potable water distribution systems, including irrigation systems, must be approved by CSU.

Further, Owners recognize that the extension of water system facilities may affect the quality of water in CSU's water system. Consequently, Owners acknowledge responsibility for any costs that CSU determines necessary to incur in order to maintain water quality in its system as a result of Owners' water system extensions, including but not limited to, the cost of any lost water, materials and labor from pipeline-flushing maintenance activities, temporary pipeline loop extensions, or other appurtenances and measures that CSU determines are necessary to minimize pipeline flushing and to maintain water quality (Water-quality Maintenance Costs). Owners shall reimburse CSU for such Water-quality Maintenance Costs within thirty (30) days of receipt of an invoice for such costs.

E. Limitation of Applicability: The provisions of this Agreement set forth the requirements of the City and CSU in effect at the time of the annexation of the Property. These provisions shall not be construed as a limitation upon the authority of the City or CSU to adopt different ordinances, rules, regulations, resolutions, policies or codes which change any of the provisions set forth in this Agreement so long as these apply to the City generally and are in accord with the then-current tariffs, rates, regulations and policies of CSU. Subject to the provisions of the Article of this Agreement that is labeled "WATER RIGHTS", CSU's tariffs, policies, and/or contract agreements, as may be modified from time to time, shall govern the use of all Utilities Services, including but not limited to, groundwater and non-potable water for irrigation use by the Owners for the Owners' exclusive use.

F. Southeastern Colorado Water Conservancy District: Notice is hereby provided that upon annexation the property is subject to subsequent inclusion into the boundaries of the Southeastern Colorado Water Conservancy District ("District") pursuant to C.R.S. § 37-45-136 (3.6) as may be amended, and the rules and procedures of that District and shall be subject thereafter to a property tax mill levy for the purposes of meeting the financial obligations of the District.. The Owner acknowledges that water service for the Property will not be made available by CSU until such time as the Property is formally included within the boundaries of the District. The Owner shall be responsible for taking all actions necessary for inclusions of the Property into the boundaries of the District, including but not limited to, any action required to obtain consent for inclusion into the District from the Bureau of Reclamation.

VII. WATER RIGHTS

As provided in the Special Warranty Deed and Irrevocable Consent to the Appropriation, Withdrawal and Use of Groundwater ("Deed"), which is attached to this Agreement and hereby incorporated by reference, Owners grant to the City, all right, title and interest to any and all groundwater underlying or appurtenant to and

used upon the Property, and any and all other water rights appurtenant to the Property (collectively referred to as “the Water Rights”), together with the sole and exclusive right to use the Water Rights and all rights of ingress and egress required by the City to appropriate, withdraw and use the Water Rights. The Deed conveying the Water Rights shall be executed by the Owners concurrently with this Agreement and shall be made effective upon the date of the City Council’s final approval of the annexation of the Property. The Deed shall be recorded concurrent with the recording of the annexation plat and annexation ordinance at the El Paso County Clerk and Recorder’s office.

Furthermore, pursuant to C.R.S. § 37-90-137(4), as now in effect or hereafter amended, on behalf of Owner and all successors in title, Owner irrevocably consents to the appropriation, withdrawal and use by the City of all groundwater underlying or appurtenant to and used upon the Property.

In the event the City chooses to use or further develop the Water Rights that have been conveyed, Owners agree to provide any and all easements required by the City prior to the construction and operation of any City well or water rights related infrastructure on the Property. Wells constructed by the City outside the Property may withdraw groundwater under Owners’ Property without additional consent from Owners.

Upon annexation of the Property, any wells or groundwater developed by Owners prior to annexation will become subject to CSU’s applicable tariffs, Rules and Regulations, and rates as amended in the future. Owners’ uses of groundwater shall be subject to approval by the City and CSU, and shall be consistent with CSU’s standards, tariffs, policies, and the City’s ordinances, resolutions and policies for the use of groundwater now in effect or as amended in the future. Notwithstanding the foregoing, subject to the approval of City Council, Owner shall be permitted to continue using the existing well on the Property and withdrawing and using the groundwater consistent with the terms and conditions of the Colorado Division of Water Resources Well Permit No. 102032-A until such time as CSU’s water supply system is extended to the Property as determined by CSU. At that time, the Owner shall: (1) disconnect the well and connect to CSU’s water supply system in accordance with CSU’ Water Line Extension and Service Standards; (2) plug and abandon the well in accordance with all applicable regulations; and (3) provide notice of such abandonment to CSU. If after connection to the CSU’s water supply system the Owner desires to continue use of the well exclusively for nonpotable irrigation purposes in accordance with Well Permit No. 102032-A, then the Owner shall provide CSU with prior written notification of such nonpotable irrigation use and provisions (2) and (3) herein shall not apply, provided however, that Owner makes such modification as necessary to comply with CSU’s cross-connection requirements and receives CSU’s written confirmation that such

nonpotable use complies with CSU's cross-connection requirements. No commingling of well and CSU's potable water supply will be permitted. City Council approval of the annexation ordinance consenting to the terms of this paragraph is a condition precedent to this annexation of the Property.

VIII.
FIRE PROTECTION

The Owner acknowledges that the Property is located within the boundaries of the Falcon Fire Protection District (the "Fire District") and is subject to property taxes payable to the Fire District for its services. The Owner further acknowledges that, after annexation of the Property to the City, the Property will continue to remain within the boundaries of the Fire District until such time as the Property is excluded from the boundaries of the Fire District. After annexation of the Property to the City, fire protection services will be provided by the City through its Fire Department and by the Fire District unless and until the Property is excluded from the Fire District. After annexation, the Property will be assessed property taxes payable to both the City and the Fire District until such time as the Property is excluded from the boundaries of the Fire District.

The Owner understands and acknowledges that the Property may be excluded from the boundaries of the Fire District under the provisions applicable to special districts, Article 1 of Title 32 C.R.S., and as otherwise provided by law. Upon request by the City, the person who owns the Property at the time of the City's request agrees to apply to the Fire District for exclusion of the Property from the Fire District. The Owner understands and acknowledges that the Owner, its heirs, assigns and successors in title are responsible for seeking any exclusion from the Fire District and that the City has no obligation to seek exclusion of any portion of the Property from the Fire District.

IX.
FIRE PROTECTION FEE

The Owner agree to pay a fee of \$1631.00 per gross acre of the entire annexed area as their share of the capital cost of a new fire station and the initial apparatus purchase required to service this annexation as well as adjacent areas of future annexation. The Fire Protection fee shall be paid prior to recordation of the Annexation. The City agrees as future annexations occur within the service area of the proposed fire station the Owner of future annexations will be required to pay a per-acre fee to the City for the capital improvements to the fire station.

X.
POLICE SERVICE FEE

The Owner agrees to pay a fee of \$670.00 per gross acre of the entire annexed area as Owner's share of the capital cost of a new police station and the initial equipment purchase required to service this annexation as well as adjacent areas of future annexation. The Police Service fee shall be paid prior to recordation of the Annexation. The City agrees as future annexations occur within the service area of the proposed police station the Owner of future annexations will be required to pay a per-acre fee to the City for the capital improvements to the police station.

XI.
PUBLIC LAND DEDICATION

Owner agrees that all land dedicated or deeded to the City for municipal or utility purposes, including park and school sites, shall be platted and all applicable development fee obligations paid.

Owner agrees that any land dedicated or deeded to the City for municipal or utility purposes, including park and school sites, shall be free and clear of liens and encumbrances. All fees that would be applicable to the platting of land that is to be dedicated to the City (including park and school land) shall be paid by Owner. Fees will be required on the gross acreage of land dedicated as of the date of the dedication in accord with the fee requirements in effect as of the date of the dedication. All dedications shall be platted by the Owner prior to conveyance, unless otherwise waived by the City.

In addition, any property dedicated by deed shall be subject to the following:

- A. All property deeded to the City shall be conveyed by General Warranty Deed.
- B. Owner shall convey the property to the City within 30 days of the City's written request.
- C. Any property conveyed to the City shall be free and clear of any liens and/or encumbrances.
- D. All property taxes levied against the property shall be paid by the Owner through the date of conveyance to the City.
- E. An environmental assessment of the property must be provided to the City for review and approval, unless the City waives the requirement of an assessment. Approval or waiver of the assessment must be in writing and signed by an authorized representative or official of the City.

XII.
SPECIAL PROVISIONS

- A. Airport: An Avigation Easement or proof of previous filing (book/page or reception number) is required with or prior to the recordation of the final subdivision plat.
- B. Banning Lewis Ranch Annexation Agreement. This Property is adjacent to Banning Lewis Ranch property; as such, the City has certain obligations under the Banning Lewis Ranch Annexation Agreement (“BLR Agreement”), as recorded in Book 5557, beginning on Page 405, with respect to annexing the Property. Therefore Owner and City agree that, because the Property is adjacent to the Banning Lewis Ranch property, Owner will be subject to any fees the City is obligated to pass through to adjacent property Owner under the BLR Agreement including, but not limited to, the following:
1. Off-Site Construction of the Banning-Lewis Parkway Fee. Owner agrees to pay a \$95.55 per acre fee as an equitable contribution for Owner’s fair share portion of the benefit Owner will receive from the Banning-Lewis Parkway (“Banning-Lewis Parkway Fee”). This per acre fee is based upon the traffic analysis which was prepared by a traffic professional using ITE Manual methods and identifies a direct traffic impact on the Banning-Lewis Parkway. The City will not record the certified copies of the annexation map and annexation ordinance and the annexation will not be effective unless and until the Banning-Lewis Parkway Fee has been remitted to the City.
 2. Construction of the Banning Lewis Ranch Radio Repeater Station. Owner agrees to pay an \$11.69 per acre fee (“Banning Lewis Ranch Repeater Station Fee”) as an equitable contribution for Owner’s portion of the benefit Owner will receive from the radio repeater station. The Banning Lewis Ranch Radio Repeater Station fee will be due prior to recordation of the annexation plat and this Agreement. The City will not record the certified copies of the annexation map and annexation ordinance and the annexation will not be effective unless and until the Banning Lewis Repeater Station Fee has been remitted to the City.

XIII.
ORDINANCE COMPLIANCE

Owner will comply with all tariffs, policies, rules, regulations, ordinances, resolutions and codes of the City which now exist or are amended or adopted in the future, including those related to the subdivision and zoning of land, except as expressly modified by this Agreement. This Agreement shall not be construed as a limitation upon the authority of the City to adopt different tariffs, policies, rules, regulations, ordinances, resolutions and codes which change any of the provisions set forth in this Agreement so long as these apply to the City generally.

XIV.
ASSIGNS AND DEED OF TRUST HOLDERS

Whereas used in this Agreement, the term "the Owner" or "Property Owner," shall also mean any of the heirs, executors, personal representatives, transferees, or assigns of the Owner and all these parties shall have the right to enforce and be enforced under the terms of this Agreement as if they were the original parties hereto. Rights to specific refunds or payments contained in this Agreement shall always be to the Owner unless specifically assigned to another person.

Owner affirmatively states that there exist no outstanding deeds of trust or other similar liens or encumbrances against the Property.

XV.
RECORDING

This Agreement shall be recorded with the Clerk and Recorder of El Paso County, Colorado, and constitute a covenant running with the land. This Agreement shall be binding on future assigns of the Owner and all other persons who may purchase land within the Property from the Owner or any persons later acquiring an interest in the Property. Any refunds made under the terms of this Agreement shall be made to the Owner and not subsequent purchasers or assigns of the Property unless the purchase or assignment specifically provides for payment to the purchaser or assignee and a copy of that document is filed with the City.

XVI.
AMENDMENTS

This Agreement may be amended by any party, including their respective successors, transferees, or assigns, and the City without the consent of any other party or its successors, transferees, or assigns so long as the amendment applies only to the property owned by the amending party. For the purposes of this article,

an amendment shall be deemed to apply only to property owned by the amending party if this Agreement remains in full force and effect and shall not apply to property owned by any non-amending party.

Any amendment shall be recorded in the records of El Paso County, shall be a covenant running with the land, and shall be binding on all persons or entities presently possessing or later acquiring an interest in the property subject to the amendment unless otherwise specified in the amendment."

XVII.
HEADINGS

The headings set forth in the Agreement for the different sections of the Agreement are for reference only and shall not be construed as an enlargement or abridgement of the language of the Agreement.

XVIII.
DEFAULT AND REMEDIES

If either Owner or City fails to perform any material obligation under this Agreement, and fails to cure the default within thirty (30) days following notice from the non-defaulting party of that breach, then a breach of this Agreement will be deemed to have occurred and the non-defaulting party will be entitled, at its election, to either cure the default and recover the cost thereof from the defaulting party, or pursue and obtain against the defaulting party an order for specific performance of the obligations under this Agreement and, in either instance, recover any actual damages incurred by the non-defaulting party as a result of that breach, including recovery of its costs and reasonable attorneys' fees incurred in the enforcement of this Agreement, as well as any other remedies provided by law.

XIX.
GENERAL

Except as specifically provided in this Agreement, City agrees to treat Owner and the Property in a non-discriminatory manner relative to the rest of the City. In addition, any consent or approval required in accord with this Agreement from the City shall not be unreasonably withheld, conditioned or delayed. City agrees not to impose any fee, levy or tax or impose any conditions upon the approval of development requests, platting, zoning or issuance of any building permits for the Property, or make any assessment on the Property that is not uniformly applied throughout the City, except as specifically provided for and identified in this Agreement or the City Code. If the annexation of the Property or any portion of the

Property is challenged by a referendum, all provisions of this Agreement, together with the duties and obligations of each party, shall be suspended, pending the outcome of the referendum election. If the referendum challenge to the annexation results in the disconnection of the Property from the City, then this Agreement and all its provisions shall be null and void and of no further effect. If the referendum challenge fails, then Owner and City shall continue to be bound by all terms and provisions of this Agreement.

XX.
SEVERABILITY

If any provision of this Agreement is for any reason and to any extent held to be invalid or unenforceable, then neither the remainder of the document nor the application of the provisions to other entities, persons or circumstances shall be affected.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals
the day and year first written above.

CITY OF COLORADO SPRINGS

BY: _____
PRESIDENT OF THE CITY COUNCIL

ATTEST:

BY: _____
CITY CLERK

APPROVED AS TO FORM:

BY: _____
CITY ATTORNEY

DRAFT

DRAFT

EXHIBIT A
LEGAL DESCRIPTION

DRAFT

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY:

LEGAL DESCRIPTION OF INITIALLY ZONED C-5/AO PROPERTY:

LEGAL DESCRIPTION OF REMAINING PROPERTY FOR FUTURE ZONING
C5/AO OR PLANNED UNIT DEVELOPMENT:

APPENDIX

Development Application Review Criteria

7.3.402.A – PF ZONE DISTRICT

A. PF - Public Facilities: The public facilities zone district is provided for land which is used or being reserved for a governmental purpose by the City of Colorado Springs, El Paso County, the State of Colorado, the Federal government or a public utility. Generally, the existing or proposed use is a unique governmental or utility service or a governmental function. The term, public facility, may be used to describe the existing or future use or the character of the ownership of the land. For the purpose of this section utility transmission, distribution or collection line rights of way or easements and drainage rights of way or easements are not required to be designated as public facilities.

Approval of the request requires a determination that a public need exists and the use and location are compatible with adjacent land uses. When necessary to make this determination, conditions regarding setbacks from adjacent uses or property lines, landscaping, screening, access, and the placement and size of signs and amount of parking may be approved with the establishment of the zone district. A development plan shall be approved before any building permits may be issued or before construction of any public facility or utility may begin.

Uses allowed in this zone are limited to governmental functions or utility services provided by the City of Colorado Springs, El Paso County, the State of Colorado, the Federal government or a public utility and to private facilities which perform traditional government functions such as jails and halfway houses. These uses are not typically permitted or conditional uses in other zone districts. Specific uses are listed in a table in section [7.3.203](#) of this article. Development standards such as lot size, setbacks, and maximum height are determined at the time of zoning or development plan review. Development standards listed in a table in section [7.3.204](#) of this article shall apply to the development of a public facility zone district.

PUD ZONE CHANGE REVIEW CRITERIA:

7.3.603: ESTABLISHMENT AND DEVELOPMENT OF A PUD ZONE:

- A. A PUD zone district may be established upon any tract of land held under a single ownership or under unified control, provided the application for the establishment of the zone district is accompanied by a PUD concept plan or PUD development plan covering the entire zone district which conforms to the provisions of this part.
- B. An approved PUD development plan is required before any building permits may be issued within a PUD zone district. The PUD development plan may be for all or a portion of the entire district. The review criteria for approval of the PUD concept plan and approval of a PUD development plan are intended to be flexible to allow for innovative, efficient, and compatible land uses. (Ord. 03-110, Ord. 12-68)

7.3.605: PUD PLAN REVIEW CRITERIA:

Substantial compliance with the criteria is necessary for the approval of the PUD plan. The Director may determine that certain criteria are not applicable based on the characteristics of the individual project. PUD plans shall be reviewed based on the following review criteria:

- A. Is the proposed development pattern consistent with the Comprehensive Plan, the 2020 Land Use Map, and all applicable elements of the Comprehensive Plan (including the Intermodal Transportation Plan and the Parks, Recreation and Trails Master Plan)?
- B. Are the proposed uses consistent with the primary and secondary land uses identified in the 2020 Land Use Map of the Comprehensive Plan, as amended?
- C. Is the proposed development consistent with any City approved Master Plan that applies to the site?
- D. Is the proposed development consistent with the intent and purposes of this Zoning Code?
- E. Does the development pattern proposed within the PUD concept plan promote the stabilization and preservation of the existing or planned land uses in adjacent areas and surrounding residential neighborhoods?
- F. Does the development pattern proposed within the PUD concept plan provide an appropriate transition or buffering between uses of differing intensities both on site and off site?
- G. Does the nonresidential development pattern proposed within the PUD concept plan promote integrated activity centers and avoid linear configurations along roadways?
- H. Are the permitted uses, bulk requirements and required landscaping appropriate to and compatible with the type of development, the surrounding neighborhood or area and the community?
- I. Does the PUD concept plan provide adequate mitigation for any potentially detrimental use to use relationships (e.g., commercial use adjacent to single-family homes)?
- J. Does the PUD concept plan accommodate automobile, pedestrian, bicycle and transit modes of transportation as appropriate, taking into consideration the development's primary function, scale, size and location?
- K. Does the PUD concept plan include a logical hierarchy of perimeter and internal arterial, collector and local streets that will disperse development generated vehicular traffic to a variety of access points and ways, reduce through traffic in adjacent residential neighborhoods and improve resident access to jobs, transit, shopping and recreation?
- L. Will streets and drives within the project area be connected to streets outside the project area in a way that minimizes significant through traffic impacts on adjacent residential neighborhoods, but still improves connectivity, mobility choices and access to jobs, shopping and recreation?
- M. Does the PUD concept plan provide safe and convenient vehicle and pedestrian connections between uses located within the zone district, and to uses located adjacent to the zone district or development?
- N. Will adequately sized parking areas be located to provide safe and convenient access, to avoid excessive parking ratios and avoid excessive expanses of pavement?
- O. Are open spaces integrated into the PUD concept plan to serve both as amenities to residents/users and as a means for alternative transportation modes, such as walking and biking?
- P. Will the proposed development overburden the capacities of existing or planned streets, utilities and other public facilities?
- Q. Are the areas with unique or significant natural features preserved and incorporated into the design of the project? (Ord. 03-110; Ord. 03-190, Ord. 12-68)

MASTER PLAN REVIEW CRITERIA:

7.5.408: REVIEW CRITERIA:

Master plans and major and minor amendments to approved master plans shall be reviewed for substantial conformance with the criteria listed below. Minor amendments are not subject to review criteria in subsection F of this section.

A. Comprehensive Plan: The Comprehensive Plan and the 2020 Land Use Map are the context and the benchmark for the assessment of individual land use master plans. The proposed land use master plan or the amendment conforms to the policies and strategies of the Comprehensive Plan. The proposed land use pattern is consistent with the Citywide perspective presented by the 2020 Land Use Map.

B. Land Use Relationships:

1. The master plan promotes a development pattern characterizing a mix of mutually supportive and integrated residential and nonresidential land uses with a network of interconnected streets and good pedestrian and bicycle connections.
2. Activity centers are designed so they are compatible with, accessible from and serve as a benefit to the surrounding neighborhood or business area. Activity centers also vary in size, intensity, scale and types of uses depending on their function, location and surroundings.
3. The land use pattern is compatible with existing and proposed adjacent land uses and protects residential neighborhoods from excessive noise and traffic infiltration.
4. Housing types are distributed so as to provide a choice of densities, types and affordability.
5. Land use types and location reflect the findings of the environmental analysis pertaining to physical characteristics which may preclude or limit development opportunities.
6. Land uses are buffered, where needed, by open space and/or transitions in land use intensity.
7. Land uses conform to the definitions contained in article 2, part 2 of this Zoning Code.

C. Public Facilities:

1. The land use master plan conforms to the most recently adopted Colorado Springs parks, recreation and trails master plan.
2. Recreational and educational uses are sited and sized to conveniently service the proposed population of the master plan area and the larger community.
3. The proposed school sites meet the location, function and size needs of the school district.

4. The land use master plan conforms to the adopted plans and policies of Colorado Springs Utilities.
5. Proposed public facilities are consistent with the strategic network of long range plans.
6. The master development drainage plan conforms to the applicable drainage basin planning study and the drainage criteria manual.

D. Transportation:

1. The land use master plan is consistent with the adopted intermodal transportation plan. Conformity with the intermodal transportation plan is evidence of compliance with State and local air quality implementation and maintenance plans.
2. The land use master plan has a logical hierarchy of arterial and collector streets with an emphasis on the reduction of through traffic in residential neighborhoods and improves connectivity, mobility choices and access to jobs, shopping and recreation.
3. The design of the streets and multiuse trails minimizes the number of uncontrolled or at grade trail crossings of arterials and collectors.
4. The transportation system is compatible with transit routes and allows for the extension of these routes.
5. The land use master plan provides opportunities or alternate transportation modes and cost effective provision of transit services to residents and businesses.
6. Anticipated trip generation does not exceed the capacity of existing or proposed major roads. If capacity is expected to be exceeded, necessary improvements will be identified, as will responsibility, if any, of the master plan for the construction and timing for its share of improvements.

E. Environment:

1. The land use master plan preserves significant natural site features and view corridors. The Colorado Springs open space plan shall be consulted in identifying these features.
2. The land use master plan minimizes noise impacts on existing and proposed adjacent areas.
3. The land use master plan utilizes floodplains and drainageways as greenways for multiple uses including conveyance of runoff, wetlands, habitat, trails, recreational uses, utilities and access roads when feasible.
4. The land use master plan reflects the findings of a preliminary geologic hazard study and provides a range of mitigation techniques for the identified geologic, soil and other constrained natural hazard areas.

F. Fiscal:

1. A fiscal impact analysis and existing infrastructure capacity and service levels are used as a basis for determining impacts attributable to the master plan. City costs

related to infrastructure and service levels shall be determined for a ten (10) year time horizon for only the appropriate municipal funds.

2. The fiscal impact analysis demonstrates no adverse impact upon the general community and the phasing of the master plan is consistent with the adopted strategic network of long range plans that identify the infrastructure and service needs for public works, parks, police and fire services.
3. The cost of on site and off site master plan impacts on public facilities and services is not borne by the general community. In those situations where the master plan impacts are shown to exceed the capacity of existing public facilities and services, the applicant will demonstrate a means of increasing the capacity of the public facilities and services proportionate to the impact generated by the proposed master plan. Mitigation of on site and off site costs may include, but is not limited to, planned expansions to the facilities, amendments to the master plan, phasing of the master plan and/or special agreements related to construction and/or maintenance of infrastructure upgrades and/or service expansions. Any special agreements for mitigation of on site and off site impacts for public improvements, services and maintenance are shown to be workable and supported by financial assurances. Preexisting and/or anticipated capacity problems not attributable to the master plan shall be identified as part of the master plan review.
4. Special agreements for public improvements and maintenance are shown to be workable and are based on proportional need generated by the master plan.
5. Any proposed special districts are consistent with policies established by the City Council. (Ord. 84-221; Ord. 87-38; Ord. 91-30; Ord. 94-107; Ord. 97-109; Ord. 01-42; Ord. 02-51)

7.5.501 (E): CONCEPT PLAN REVIEW CRITERIA:

- D. Concept Plan Review Criteria: A concept plan shall be reviewed using the criteria listed below. No concept plan shall be approved unless the plan complies with all the requirements of the zone district in which it is located, is consistent with the intent and purpose of this Zoning Code and is compatible with the existing and proposed land uses surrounding the site.
1. Will the proposed development have a detrimental effect upon the general health, welfare and safety or convenience of persons residing or working in the neighborhood of the proposed development?
 2. Will the proposed density, types of land uses and range of square footages permit adequate light and air both on and off the site?
 3. Are the permitted uses, bulk requirements and required landscaping appropriate to the type of development, the neighborhood and the community?
 4. Are the proposed ingress/egress points, traffic circulation, parking areas, loading and service areas and pedestrian areas designed to promote safety, convenience and ease of traffic flow and pedestrian movement both on and off the site?
 5. Will the proposed development overburden the capacities of existing streets, utilities, parks, schools and other public facilities?
 6. Does the proposed development promote the stabilization and preservation of the existing properties in adjacent areas and surrounding residential neighborhoods?
 7. Does the concept plan show how any potentially detrimental use-to-use relationships (e.g., commercial use adjacent to single-family homes) will be mitigated? Does the development provide a gradual transition between uses of differing intensities?
 8. Is the proposed concept plan in conformance with all requirements of this Zoning Code, the Subdivision Code and with all applicable elements of the Comprehensive Plan? (Ord. 94-107; Ord. 01-42; Ord. 03-157; Ord. 09-78)

7.5.603 (B): ESTABLISHMENT OR CHANGE OF ZONE DISTRICT BOUNDARIES:

- B: A proposal for the establishment or change of zone district boundaries may be approved by the City Council only if the following findings are made:
1. The action will not be detrimental to the public interest, health, safety, convenience or general welfare.
 2. The proposal is consistent with the goals and policies of the Comprehensive Plan.
 3. Where a master plan exists, the proposal is consistent with such plan or an approved amendment to such plan. Master plans that have been classified as implemented do not have to be amended in order to be considered consistent with a zone change request.
 4. For MU zone districts the proposal is consistent with any locational criteria for the establishment of the zone district, as stated in article 3, "Land Use Zoning Districts", of this Zoning Code. (Ord. 94-107; Ord. 97-111; Ord. 01-42; Ord. 03-157)

7.6.203: CONDITIONS FOR ANNEXATION:

To assist the City Council in its decision, each proposal for annexation shall be studied to determine whether:

- A. The area proposed to be annexed is a logical extension of the City's boundary;
- B. The development of the area proposed to be annexed will be beneficial to the City. Financial considerations, although important, are not the only criteria and shall not be the sole measure of benefit to the City;
- C. There is a projected available water surplus at the time of request;
- D. The existing and projected water facilities and/or wastewater facilities of the City are expected to be sufficient for the present and projected needs for the foreseeable future to serve all present users whether within or outside the corporate limits of the City;
- E. The annexation can be effected at the time the utilities are extended or at some time in the future;
- F. The City shall require as a condition of annexation the transfer of title to all groundwater underlying the land proposed to be annexed. Should such groundwater be separated from the land or otherwise be unavailable for transfer to the City, the City, at its discretion, may either refuse annexation or require payment commensurate with the value of such groundwater as a condition of annexation. The value of such groundwater shall be determined by the Utilities based on market conditions as presently exist;
- G. All rights of way or easements required by the Utilities necessary to serve the proposed annexation, to serve beyond the annexation, and for system integrity, shall be granted to the Utilities. Utilities, at the time of utility system development, shall determine such rights of way and easements;

- H. If the proposed annexation to the City overlaps an existing service area of another utility, the applicant shall petition the PUC (Public Utilities Commission) or other governing authority to revise the service area such that the new service area will be contiguous to the new corporate boundary of the City.

After the foregoing have been studied in such depth as the City Council shall require, the City Council in its discretion may annex or not annex the proposed area. In the event the City Council chooses to annex, it may require a contemporary annexation agreement specifying the installation and the time of installation of certain public and utility improvements, both on site and off site, that are required or not required under this Subdivision Code. City Council may specify such other requirements, as it deems necessary. In the event the City Council chooses not to annex, utilities shall not be extended unless Council is assured that an agreement for annexation can be enforced, and that the remaining provisions of this section for annexation subsequent to extension of utilities have been met. (Ord. 96-44; Ord. 01-42)