

**Agenda for the  
Regular Meeting of the  
Englewood City Council  
Monday, November 15, 2010  
7:30 pm**



Englewood Civic Center - Council Chambers  
1000 Englewood Parkway  
Englewood, CO 80110

1. Call to Order.
2. Invocation.
3. Pledge of Allegiance.
4. Roll Call.
5. Consideration of Minutes of Previous Session.
  - a. Minutes from the Regular City Council Meeting of November 1, 2010.
6. Recognition of Scheduled Public Comment. (This is an opportunity for the public to address City Council. Council may ask questions for clarification, but there will not be any dialogue. Please limit your presentation to five minutes.)
  - a. Recognition of the 2011 Englewood Calendar Artists.
    - Malik Sapp, a 2<sup>nd</sup> Grader at Clayton Elementary School.
    - Cherokee Davis, a 2<sup>nd</sup> Grader at Clayton Elementary School.
    - Destiny Berumen, a 12<sup>th</sup> Grader at Colorado's Finest Alternative High School.
    - Nathaniel Gravagno, a 2<sup>nd</sup> Grader at Cherrelyn Elementary School.
    - Curt O'Connor, a 3<sup>rd</sup> Grader at Cherrelyn Elementary School.
    - Paola Hercules-Flamenco, a 2<sup>nd</sup> Grader at Cherrelyn Elementary School.
    - Nailea Acevedo Nevarez, a 4<sup>th</sup> Grader at Bishop Elementary School.
    - Ashlyn Moore, a 4<sup>th</sup> Grader at Clayton Elementary School.
    - Katrina Jimenez, a 5<sup>th</sup> Grader at Clayton Elementary School.
    - Mario Cross, a 5<sup>th</sup> Grader at Clayton Elementary School.
    - Ella Perez, a 2<sup>nd</sup> Grader at Charles Hay Elementary School.
    - Madison Castro, a 4<sup>th</sup> Grader at All Souls School.
    - Tess Bray, a 7<sup>th</sup> Grader at St. Anne's Episcopal School.
    - Juliauna Nuckolls, a 2<sup>nd</sup> Grader at Bishop Elementary School.

- b. Presentation by Ben Tomkins and youth involved in the Strings Attached program.
  - c. Fire Chief Mike Pattarozzi will present Fire Medic Dan Sekavec and Driver-Operator-Engineer Chris Wood with a Medal of Valor for their actions in a water rescue. Other firefighters involved in the rescue will receive a Distinguished Service Award.
  - d. Sharan Wilson from Freedom Service Dogs will speak to Council regarding the Festival of the Bastardino and use Pirates Cove for the Doggie Dip.
7. Recognition of Unscheduled Public Comment. (This is an opportunity for the public to address City Council. Council may ask questions for clarification, but there will not be any dialogue. Please limit your presentation to three minutes. Time for unscheduled public comment may be limited to 45 minutes, and if limited, shall be continued to General Discussion.)
- Response to Public Comment.
8. Communications, Proclamations, and Appointments.
- a. E-mail from Kenneth Bronson advising of his resignation from the Election Commission.
  - b. Letter from Charles Carter advising of his resignation from the Englewood Housing Authority
9. Consent Agenda Items.
- a. Approval of Ordinances on First Reading.
  - b. Approval of Ordinances on Second Reading.
    - i. Council Bill No. 44, authorizing a license for the City Ditch Crossing Agreement and a Temporary Construction Easement to the First Church of Christ, Scientist at 3701 South Logan Street for the replacement of electrical lines and installation of Bollard lights crossing over the City Ditch.
    - ii. Council Bill No. 45, approving a lease agreement with Englewood Schools pertaining to the Duncan School Building.

- c. Resolutions and Motions.
  - i. Recommendation from the Library Department to approve a resolution authorizing implementation of its 2010 Winter Food for Fines program from Monday, November 29 through Sunday, December 12, 2010. **STAFF SOURCE: Hank Long, Director of Library Services.**
  
- 10. Public Hearing Items. (No Public Hearing Scheduled)
  
- 11. Ordinances, Resolutions and Motions
  - a. Approval of Ordinances on First Reading.
    - i. Council Bill No. 47 – Recommendation from the Community Development Department to adopt a bill for an ordinance authorizing amendments to Title 16: Unified Development Code of the Englewood Municipal Code pertaining to Landscaping and Screening. Staff also requests that Council schedule a Public Hearing for December 6, 2010 to gather public input on the proposed amendments. **STAFF SOURCE: Brook Bell, Planner II.**
    - ii. Council Bill No. 48 – Recommendation from the Community Development Department to adopt a bill for an ordinance authorizing the sale of 2215 West Wesley Avenue, 3395 West Grand Avenue, 4744 South Galapago Street, 3102 West Radcliff Drive, 2159 West Vassar Avenue, and 3115 South Acoma Street all funded through the Neighborhood Stabilization Program Grant. **STAFF SOURCE: Harold J. Stitt, Senior Planner.**
  - b. Approval of Ordinances on Second Reading.
  - c. Resolutions and Motions.
    - i. Recommendation from the Community Development Department to adopt a resolution establishing a new line of credit for the Housing Rehabilitation Enterprise Fund. **STAFF SOURCE: Harold J. Stitt, Senior Planner.**
  
- 12. General Discussion.
  - a. Mayor's Choice.
  - b. Council Members' Choice.
    - i. A resolution recommending a moratorium on the enforcement of violations of provisions of the Englewood Municipal Code pertaining to parking and storage of oversized vehicles in residential areas.

13. City Manager's Report.
14. City Attorney's Report.
15. Adjournment

**From:** Ken  
**Sent:** Tuesday, November 02, 2010 12:09 PM  
**To:** Lou Ellis  
**Subject:** Election Commission

Hello,

Sorry I have not gotten a hold of you sooner.

I am working in Las Vegas these days and am sorry to say I have to resign from my position.

Best wishes,

Ken Bronson

NOV  
13 ~~May~~ - 2010

Dear Dawn

I've just got back from one more long day at the V.A. Medical Center. Dawn, as you know, I've had three major surgeries in the past five yrs and in consultation with Dr's at the V.A., I now expect several more challenges. For the foreseeable future various health issues will take a disproportionate amount of my time.

With this in mind, I feel it best that I resign from the E.H.A. Board of Commissioners. I know you will want to move quickly to fill this vacancy, so I will make my resignation effective ~~6-13-2010~~ <sup>2-11-2011</sup>.

I extend my best wishes to you and every member of your excellent staff. Dawn, thank you for your positive leadership and for the many contributions you have made to the lives of all of us in public housing. I wish you and your staff continued success.

-over-

I also want to give my sincerest best wishes to the Commissioners of the E. H. A. I believe the City of Englewood is extremely fortunate in the high calibre of the Men and women who serve on this board, in particular, and others throughout our city. It has been a pleasure to have been their associate for the past six yrs.

Respectfully .

## BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
 SERIES OF 2010

COUNCIL BILL NO. 44  
 INTRODUCED BY COUNCIL  
 MEMBER WILSON

AN ORDINANCE AUTHORIZING A "LICENSE - CITY DITCH CROSSING AGREEMENT" AND A "TEMPORARY CONSTRUCTION EASEMENT" TO FIRST CHURCH OF CHRIST, SCIENTIST FOR THE REPLACEMENT OF ELECTRICAL LINES AND INSTALLATION OF BOLLARD LIGHTS CROSSING OVER THE CITY DITCH.

WHEREAS, the Englewood City Council accepted a Grant of a City Ditch Easement from the First Church of Christ, Scientist at 3701 South Logan by the passage of Ordinance No. 61, Series of 1998 to clarify the location of the City Ditch; and

WHEREAS, Ordinance No. 61, Series of 1998 was mutually beneficial in that the easement allowed the City to pipe the City Ditch and improve water flow and in turn stabilize the church's front concrete porch which was being undermined by ditch seepage; and

WHEREAS, the First Church of Christ, Scientist wishes to install and maintain replacement electrical lines and Bollard lights over the existing license crossing the City of Englewood's Right-of-Way for the City Ditch at the approximate location of 3701 South Logan; and

WHEREAS, the License Agreement will allow the First Church of Christ, Scientist to install and maintain electrical lines and bollard lights in the existing Right-of-Way to provide access to a small portion of it's property without trespassing through adjoining property; and

WHEREAS, the City will maintain the City's Right-of-Way and the right to install, repair, remove or relocate the City Ditch at any time deemed necessary; and

WHEREAS, the First Church of Christ, Scientist assumes full and strict liability for any and all damages of every nature to persons or property caused in connection with the crossing requested by the First Church of Christ, Scientist; and

WHEREAS, the City reserves the right to make full use of the property in the operation of the City Ditch; and

WHEREAS, the Englewood Water and Sewer Board reviewed and recommended City Council approval of the License-City Ditch Crossing Agreement and Temporary Construction Easement at their September 21, 2010 meeting;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, AS FOLLOWS:

Section 1. The License-City Ditch Crossing Agreement and Temporary Construction Easement First Church of Christ, Scientist for the replacement of electrical lines and the addition of Bollard lights crossing over the City Ditch, attached hereto as "Exhibit 1," is hereby accepted and approved by the Englewood City Council.

Section 2. The Director of Utilities and Chairman of the Englewood Water and Sewer Board are authorized to sign the License-City Ditch Crossing Agreement and Temporary Construction Easement for and on behalf of the City of Englewood, Colorado.

Introduced, read in full, and passed on first reading on the 1st day of November, 2010.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 5th day of November, 2010.

Published as a Bill for an Ordinance on the City's official website beginning on the 3rd day of November, 2010 for thirty (30) days.

Read by title and passed on final reading on the 15<sup>th</sup> day of November, 2010.

Published by title in the City's official newspaper as Ordinance No. \_\_\_\_, Series of 2010, on the 19<sup>th</sup> day of November, 2010.

Published by title on the City's official website beginning on the 17<sup>th</sup> day of November, 2010 for thirty (30) days.

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James K. Woodward, Mayor

ATTEST:

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Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. \_\_\_\_, Series of 2010.

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Loucrishia A. Ellis

LICENSE - CITY DITCH CROSSING AGREEMENT

THIS LICENSE AGREEMENT, made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, ~~19~~, by and between the CITY OF ENGLEWOOD, a municipal corporation of the State of Colorado, herein referred to as "City", and First Church of Christ, Scientist herein referred to as "Licensee".

WITNESSETH: The City without any warranty of its title or interest whatsoever, hereby authorizes Licensee, its successor, assigns, to install a 4 Ballard Lights and electrical Wiring over the City's rights-of-way for the City Ditch, described as a parcel of land situated in the Wynetka Heights Subdivision of Section 3, Township 5 South Range 68 West of the 6<sup>th</sup> P.M., County of Arapahoe, State of Colorado described as follows: A 25 FOOT WIDE DITCH, LOCATED IN LOTS 41 THROUGH 48, BLOCK 4 OF WYNETKA HEIGHTS SUBDIVISION, THE EAST RIGHT-OF-WAY BEING 16 FEET EAST OF AND THE WEST RIGHT-OF-WAY BEING 9 FEET WEST OF AND PARALLEL TO THE CENTERLINE OF SAID DITCH

The above-described parcel contains 0.102 Acres, more or less.

1. Any construction contemplated or performed under this License shall comply with and conform to standards formulated by the Director of Utilities of the City and such construction shall be performed and completed according to the plans, consisting of one sheet, a copy of which is attached hereto and made a part hereof.

2. The Licensee shall notify the City's Director of Utilities at least three (3) days prior to the time of commencement of the construction of, or any repairs made to, Licensee's Property Surrounding The City's Easement \_\_\_\_\_ so that the City may, in its discretion, inspect such operations.

3. Within thirty (30) days from the date of the commencement of construction of said Replacement and addition of 4 Ballard Lights and Electrical Wiring the Licensee shall complete such construction, place and maintain permanent, visible markers, of a type and at such locations as designated by the City's Director of Utilities, referring to the centerline of the installation and shall clear the crossing area of all construction debris and restore the area to its previous condition as near as may be reasonable. In the event the planing of the centerline markers and the clearing and restoration of the crossing area is not completed within the time specified, the City may complete the work at the sole expense of the Licensee.

4. The City shall have the right to maintain, install, repair, remove or relocate the City Ditch or any other of its facilities or installations within the City's rights-of-way, at any time and in such manner as the City deems necessary or convenient. The City reserves the

exclusive right to control all easements and installations. In the event the 4 Ballard Lights & Wiring should interfere with any future use of the City's rights-of-way by the City, the Licensee shall, upon request and at its sole expense, relocate, rearrange, or remove its installations so as not to interfere with any such use.

5. Any repair or replacement of any City installation made necessary, in the opinion of the City's Director of Utilities because of the construction of the 4 Ballard Lights and Electrical Wiring or other appurtenant installation thereof, shall be made at the sole expense of the Licensee.

6. The stipulation and conditions of this License shall be incorporated into contract specifications if the construction herein authorized is to be done on a contract basis.

7. The rights and privileges granted in this License shall be subject to prior agreements, licenses and/or grants, recorded or unrecorded, and it shall be the Licensee's sole responsibility to determine the existence of said documents or conflicting uses or installations.

8. The Licensee shall contact and fully cooperate with the City's personnel and the construction shall be completed without interference with any lawful, usual or ordinary flow of water through the City Ditch. Licensee shall assume all risks incident to the possible presence of such waters, or of storm waters, or of surface waters in the City Ditch.

9. All trenches or holes within the City's rights-of-way shall be backfilled and tamped to the original ground line in layers not to exceed six (6) inches loose measure to a compaction of ninety percent (90%) Standard Proctor Maximum Density.

10. Licensee, by acceptance of this License, expressly assumes full and strict liability for any and all damages of every nature to person or property caused by water from the ditch leaking through the ditch banks or pipeline at the point or points where the Licensee performs any work in connection with the crossing provided by this License. The Licensee assumes all responsibility for maintenance of the installation.

11. Licensee shall indemnify and save harmless the City, its officers and employees, against any and all claims, damages, actions or causes of action and expenses to which it or they may be subjected by reason of said 4 Ballard Lights and Electrical Wiring being within and across and under the premises of the City or by reason of any work done or omission made by Licensee, its agents or employees, in connection with the construction, replacement, maintenance or repair of said installation.

12. It is expressly agreed that in case of Licensee's breach of any of the within promises, the City may, at its option, have specific performance thereof, or sue for damages resulting from such breach.

13. Upon abandonment of any right or privilege herein granted, the right of Licensee to that extent shall terminate, but its obligation to indemnify and save harmless the City, its officers and employees, shall not terminate in any event.

In granting the above authorization, the City reserves the right to make full use of the property involved as may be necessary or convenient in the operation of the water works plant and system under the control of the City.

In granting the above authorization, the City reserves the right to make full use of the property involved as may be necessary or convenient in the operation of the water works plant and system under control of the City.

IN WITNESS WHEREOF this instrument has been executed as of the day and year first above written.

CITY OF ENGLEWOOD

By: \_\_\_\_\_  
Stewart H. Fonda  
Director of Utilities  
City of Englewood

By: \_\_\_\_\_  
Chairman  
Englewood Water and Sewer Board

The undersigned officer of First Church of Christ, Scientist has read the foregoing License and agrees for an on behalf of said First Church of Christ, Scientist that it will accept and will abide by all the terms and conditions thereof.

LICENSEE:

First Church of Christ, Scientist

Notary: \_\_\_\_\_

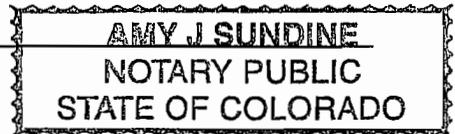
By: \_\_\_\_\_

Title: Maintenance Engineer

My commission expires:

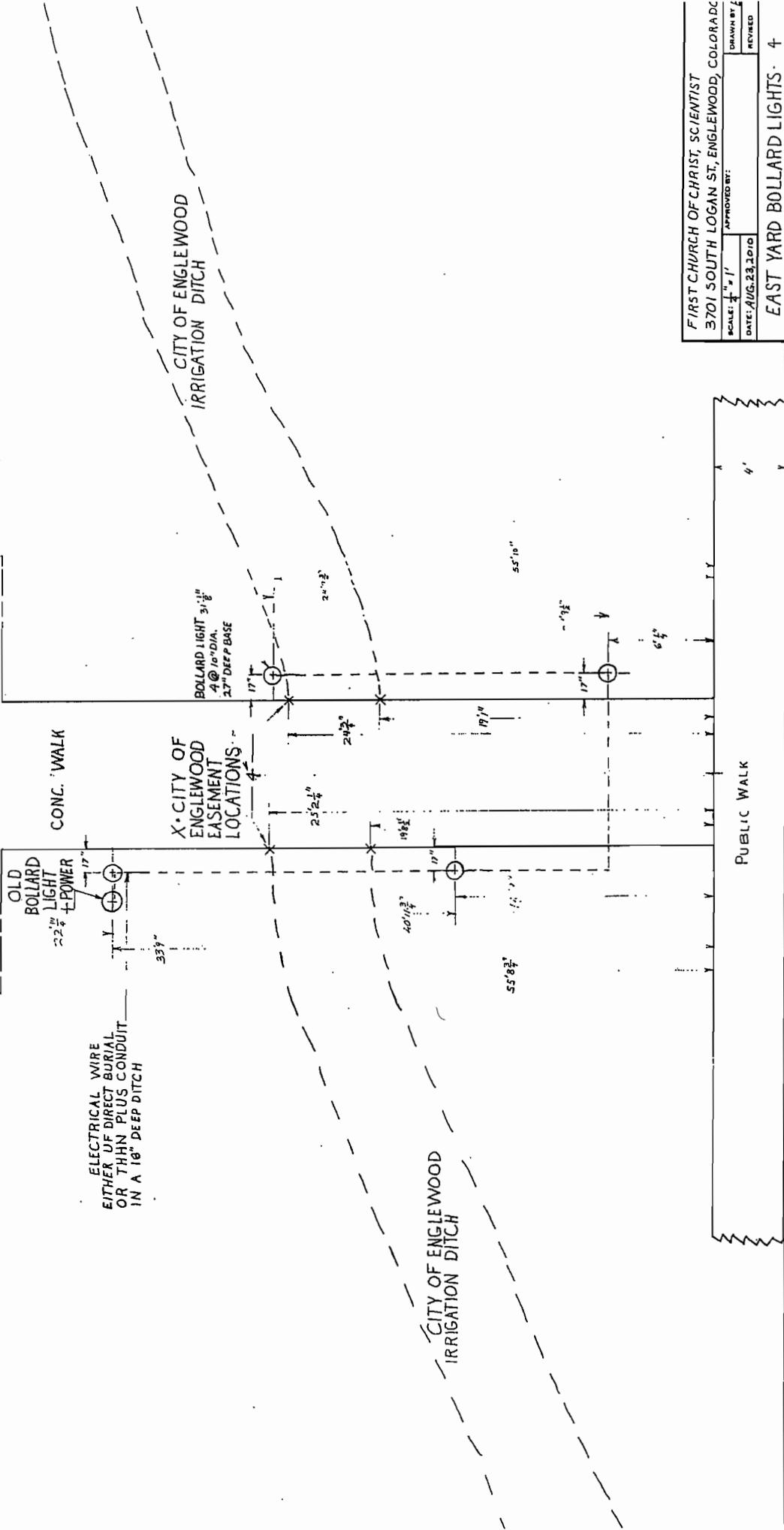
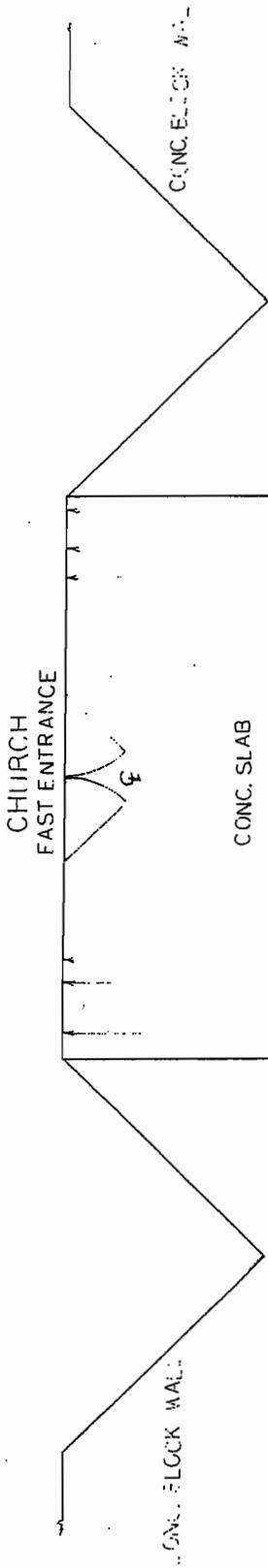
Address: 3701 S. Logan St.

Englewood, CO. 80110



My Commission Expires May 29, 2014

Phone: \_\_\_\_\_



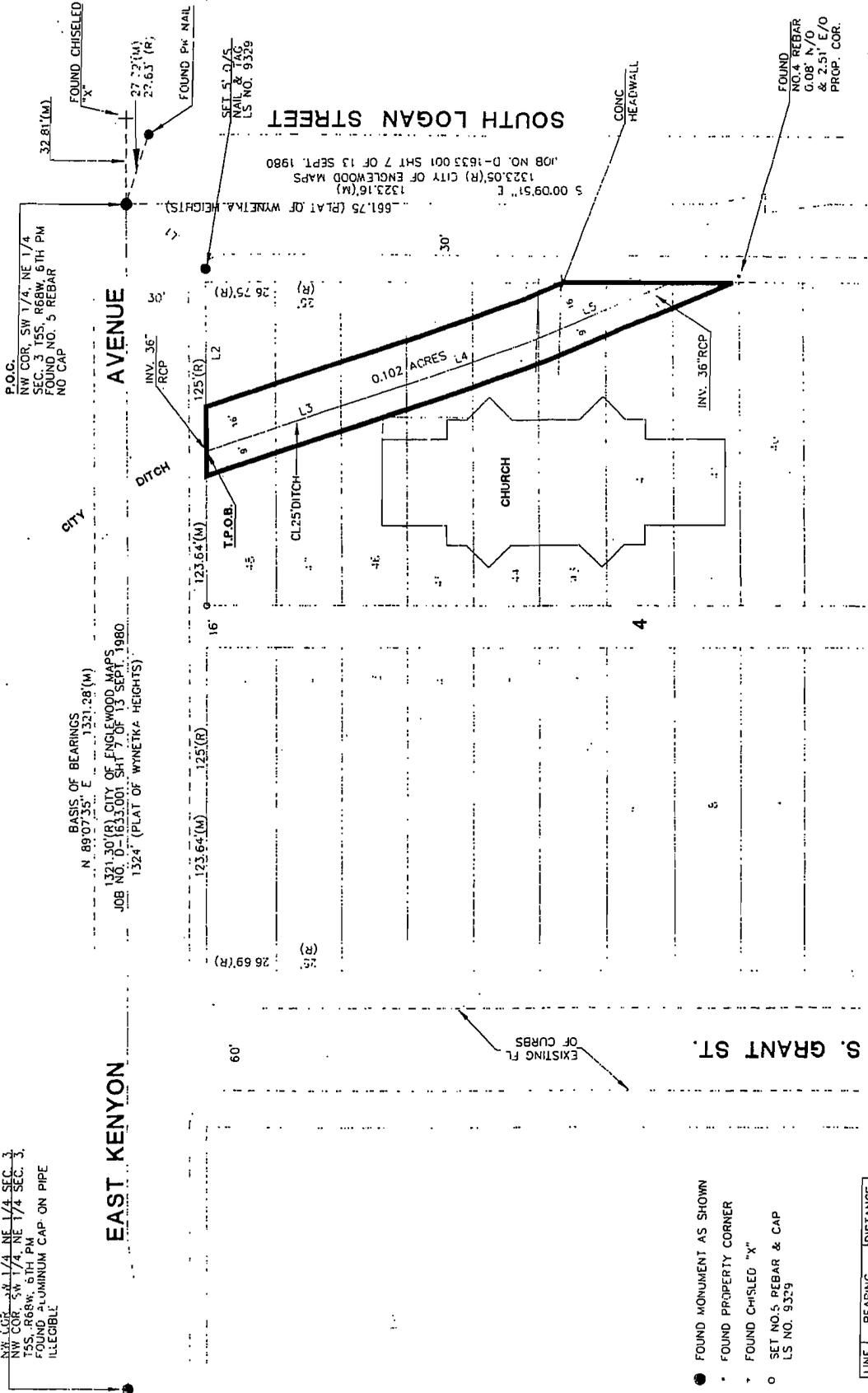
FIRST CHURCH OF CHRIST, SCIENTIST  
 3701 SOUTH LOGAN ST, ENGLEWOOD, COLORADO  
 SCALE: 1/4" = 1'  
 DATE: AUG. 23, 2010  
 APPROVED BY: \_\_\_\_\_  
 DRAWN BY: \_\_\_\_\_  
 REVIEWED: \_\_\_\_\_  
 EAST YARD BOLLARD LIGHTS - 4  
 DRAWING NO.

# LAND SURVEY PLAT

OF  
 A PORTION OF WYNETKA HEIGHTS SUBDIVISION  
 BEING A PART OF THE N 1/2 OF THE SW 1/4 OF THE NE 1/4 OF SECTION 3,  
 TOWNSHIP 5 SOUTH, RANGE 68 WEST, OF THE SIXTH PRINCIPAL MERIDIAN,  
 CITY OF ENGLEWOOD, ARAPAHOE COUNTY, STATE OF COLORADO  
 SHEET 2 OF 2

NW COR. SW 1/4, NE 1/4 SEC. 3,  
 T5S, R68W, 6TH PM  
 FOUND ALUMINUM CAP ON PIPE  
 ILLEGIBL

BASIS OF BEARINGS  
 N 89°07'35" E 1321.28'(M)  
 1321.30'(R) CITY OF ENGLEWOOD MAPS  
 JOB NO. D-1633.001, SH 7 OF 13 SEPT. 1980.  
 1324' (PLAT OF WYNETKA HEIGHTS)



- FOUND MONUMENT AS SHOWN
- \* FOUND PROPERTY CORNER
- † FOUND CHISELED "X"
- SET NO. 5 REBAR & CAP  
L.S. NO. 9329

LINE	BEARING	DISTANCE
L1	S 44°28'52" W	42.69'
L2	S 89°07'35" W	64.39'
L3	S 18°30'16" E	90.50'
L4	S 201°13'59" W	41.96'
L5	S 23°16'25" W	54.67'

**RM**

ROCKY MOUNTAIN CONSULTANTS, INC.  
 CIVIL AND ENVIRONMENTAL ENGINEERING • PLANNING

8301 E. Prentice Ave.  
 Suite 101  
 Englewood, CO 80111  
 (303) 741-6888

DESIGNED BY: VR  
 CHECKED BY: DP  
 NO. I  
 DATE 7/11/88

DESCRIPTION  
 CHANGE O. AUR  
 DRAWN BY: VR

## TEMPORARY CONSTRUCTION EASEMENT

This Temporary Construction Easement (the Temporary Easement) is entered into this \_\_\_ day of \_\_\_\_\_, 2010 by and between the City of Englewood, Colorado, a municipal corporation of the state of Colorado, acting by the through its Water and Sewer Board (Grantor) and First Church of Christ, Scientist, Englewood, CO, 3701 S. Logan St., Englewood, CO, 80110 (Grantee).

WHEREAS, The City of Englewood owns a right-of-way for the City Ditch, a carrier ditch (City Ditch ROW) which is located as described on Exhibit A.

WHEREAS, First Church of Christ, <sup>scientist</sup> desires to install # 4 Ballard Lights and Wiring within the City Ditch ROW pursuant to a license between the parties.

NOW, THEREFORE, In consideration of the mutual covenants of the parties, more particularly hereinafter set forth, the adequacy and sufficiency of which are hereby acknowledged, it is agreed as follows:

1. Temporary Construction Easement. Englewood (as Grantor) hereby grants to First Church of Christ, Scientist (as Grantee), its successors, assigns, contractors, and sub-contractors, a non-exclusive temporary construction easement through, over, under and across the City Ditch ROW for the installation of # 4 Ballard Lights and Their Wiring pursuant to a license agreement (the Project).
2. Term of Easement. The Project will begin no sooner than Sept. 15, 2010 and will be completed no later than \_\_\_\_\_. Completion of the Project will be deemed to have occurred upon inspection and approval of the Project by Grantor and this Temporary Easement will be deemed to have terminated upon such completion.
3. Access. Grantee shall have the temporary non-exclusive right to enter the City Ditch ROW for any reasonable purpose necessary or prudent for the construction of the Project subject to the following restrictions: 1) normal working hours shall be consistent with CDOT construction hours, Monday through Friday and 2) the operation of equipment and heavy trucks will be permitted on the Englewood City Ditch ROW only during normal working hours.

4. Restoration. Upon completion of the Project, Grantee will perform such restoration and regrading as is necessary or prudent to restore the surface area of the City Ditch ROW to its original condition.
5. Indemnification. Grantee, to the extent permitted by the laws and constitution of the State of Colorado, hereby agrees to be liable and hold harmless the City of Englewood, its employees, tenants, and guests from any and all claims, causes of action, and liability which may occur as a result of the negligent or wrongful acts of Grantee in the construction of the Project, including the cost of defending against such claims.
6. Liability. Grantee hereby acknowledges that it understands that there is water flow in the City Ditch from April 1 to November 1 of each year and that it will assume liability for any damage to adjoining property caused by water flow resulting from damage to the City Ditch caused by the Grantee's construction activities.
7. Insurance. Grantee shall maintain in full force and effect a valid policy of insurance for the Project in the amount of \$600,000.00 property coverage and \$600,000.00 liability coverage. Grantee further agrees that all its employees, contractors and sub-contractors working on the Project shall be covered by adequate Workers Compensation insurance.
8. Assignment. This Temporary Construction Easement is assignable only with the written permission of Englewood, which permission will not unreasonably withheld, conditioned or delayed.

IN WITNESS WHEREOF, the parties hereto have executed this temporary construction Easement on the date and day first written above.

In granting the above authorization, the City reserves the right to make full use of the property involved as may be necessary or convenient in the operation of the water works plant and system under control of the City.

IN WITNESS WHEREOF this instrument has been executed as of the day and year first above written.

CITY OF ENGLEWOOD

By: \_\_\_\_\_  
Stewart H. Fonda  
Director of Utilities  
City of Englewood

By: \_\_\_\_\_  
Chairman  
Englewood Water and Sewer Board

The undersigned officer of First Church of Christ, Scientist has read the foregoing License and agrees for an on behalf of said First Church of Christ, Scientist that it will accept and will abide by all the terms and conditions thereof.

LICENSEE:

First Church of Christ, Scientist

Notary: \_\_\_\_\_

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

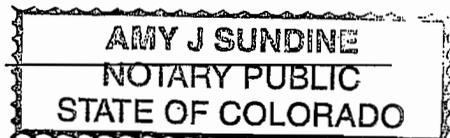
Title: Maintenance Engineer

Address: 3701 S. Logan St.

Englewood, CO. 80110

Phone: \_\_\_\_\_

My commission expires:



My Commission Expires May 29, 2014

CHURCH  
EAST ENTRANCE

CONC. BLOCK WALL

CONC. ELEVATOR WALL

CONC. SLAB

CONC. WALK

X-CITY OF  
ENGLEWOOD  
EASEMENT  
LOCATIONS

CITY OF ENGLEWOOD  
IRRIGATION DITCH

CITY OF ENGLEWOOD  
IRRIGATION DITCH

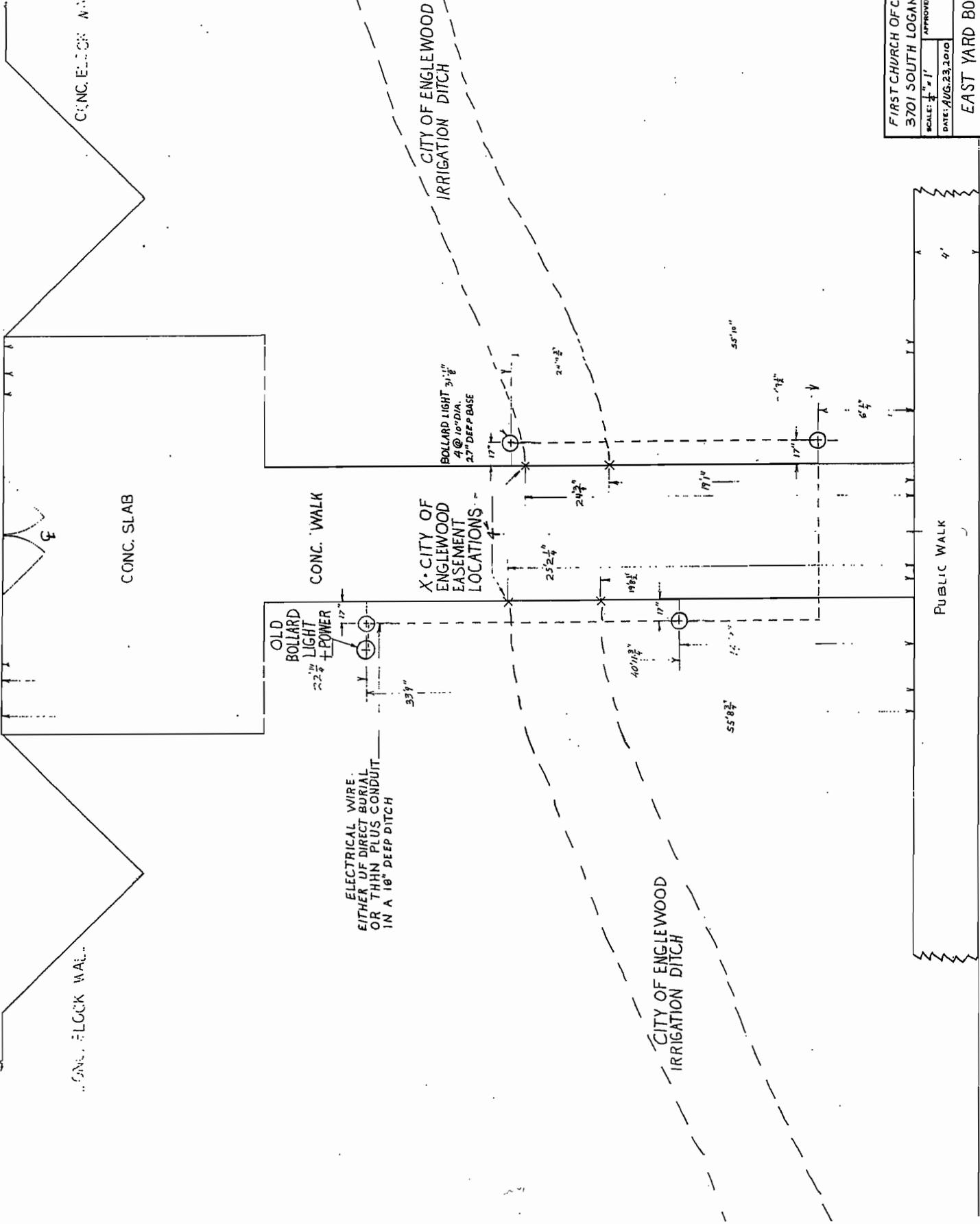
PUBLIC WALK

SOUTH LOGAN STREET

OLD  
BOLLARD  
LIGHT  
+ POWER

ELECTRICAL WIRE  
EITHER OF DIRECT BURIAL  
OR THIN PLUS CONDUIT  
IN A 18" DEEP DITCH

BOLLARD LIGHT 31 1/2"  
4 @ 10" DIA.  
27" DEEP BASE



FIRST CHURCH OF CHRIST, SCIENTIST	
3701 SOUTH LOGAN ST, ENGLEWOOD, COLORADO	
SCALE: 1/4" = 1'	APPROVED BY:
DATE: AUG. 23, 1910	DRAWN BY:
	REVISED:
EAST YARD BOLLARD LIGHTS - 4	
	DRAWING NO.

# LAND SURVEY PLAT

OF  
 A PORTION OF WYNETHA HEIGHTS SUBDIVISION  
 BEING A PART OF THE N 1/2 OF THE SW 1/4 OF THE NE 1/4 OF SECTION 3,  
 TOWNSHIP 5 SOUTH, RANGE 68 WEST, OF THE SIXTH PRINCIPAL MERIDIAN,  
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 SHEET 2 OF 2

NW COR. SW 1/4, NE 1/4 SEC. 3,  
 T5S, R68W, 6TH PM  
 FOUND ALUMINUM CAP ON PIPE  
 ILLEGIBLE

BASES OF BEARINGS  
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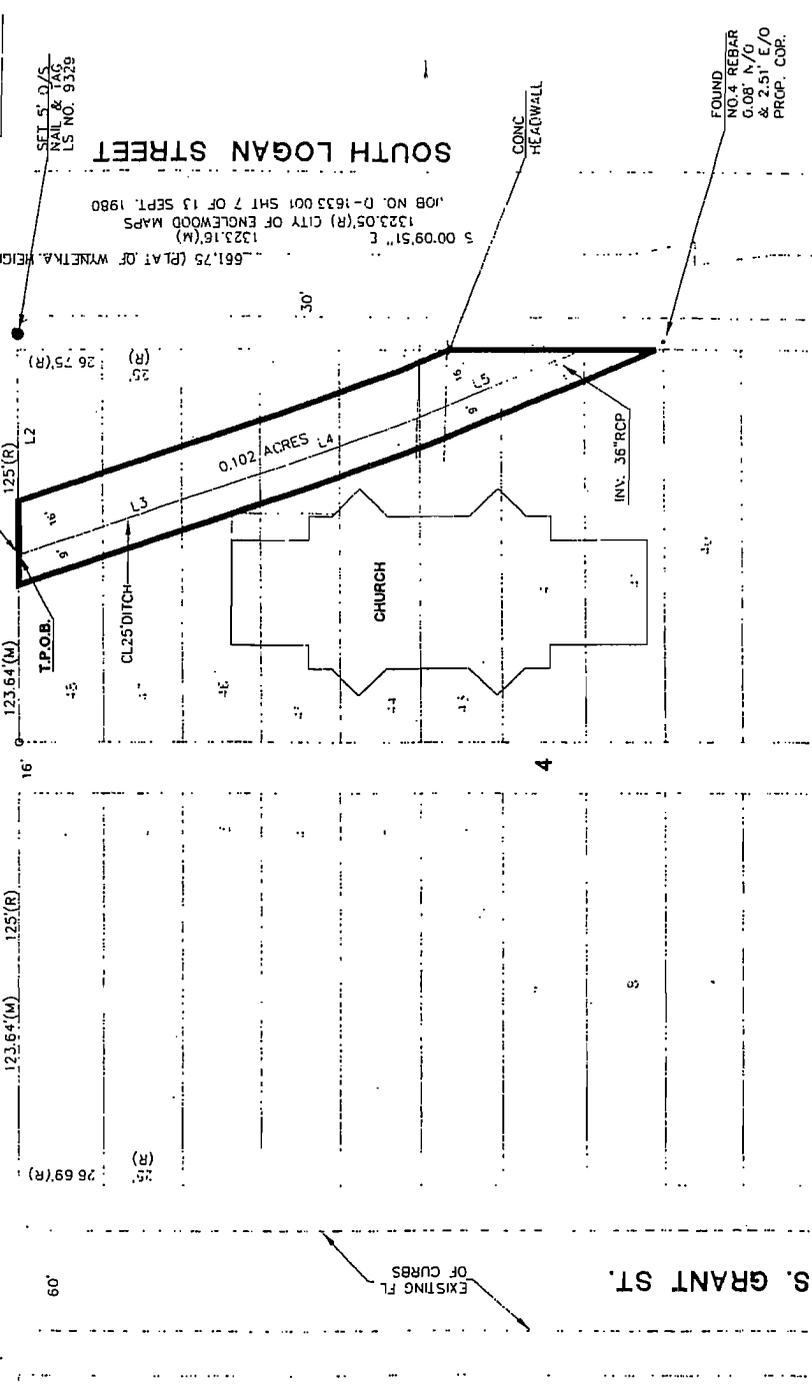
P.O.C.  
 NW COR. SW 1/4, NE 1/4  
 SEC. 3 T5S, R68W, 6TH PM  
 FOUND NO. 5 REBAR  
 NO CAP

EAST KENYON

AVENUE

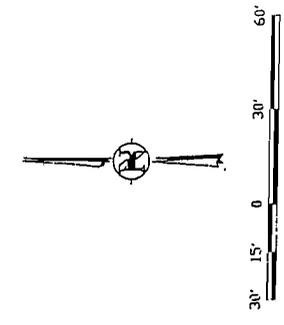
SOUTH LOGAN STREET

S. GRANT ST.



- FOUND MONUMENT AS SHOWN
- FOUND PROPERTY CORNER
- \* FOUND CHISELED "X"
- SET NO. 5 REBAR & CAP  
 LS NO. 9329

LINE	BEARING	DISTANCE
L1	S 44°28'52" W	42.69'
L2	S 89°07'35" W	64.39'
L3	S 18°32'16" E	90.50'
L4	S 201°3'59" W	41.96'
L5	S 23°16'25" W	54.67'



SCALE: 1" = 30'

1323.05'(R) CITY OF ENGLEWOOD MAPS  
 JOB NO. D-1633.001 SHT 7 OF 13 SEPT. 1980

661.75 (PLAT OF WYNETHA HEIGHTS)  
 1323.16'(M)  
 S 00°09'51" E

FOUND  
 NO. 4 REBAR  
 0.08" N/O  
 & 2.51" E/O  
 PROP. COR.

SE COR. SW 1/4, NE 1/4  
 SEC. 3 T5S, R68W, 6TH PM  
 FOUND NO. 5 REBAR  
 NO CAP

**RMC**  
 ROCKY MOUNTAIN CONSULTANTS, INC.  
 CIVIL AND ENVIRONMENTAL ENGINEERING + PLANNING  
 6301 E. Prentice Ave.  
 Englewood, CO 80111  
 (303) 741-6000

DESIGNED BY: *WR*  
 CHECKED BY: *DP*  
 DRAWN BY: *WR*

REVISIONS

NO.	DESCRIPTION	DATE
1	CHANGE CL. AUG.	7/11/98

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2010

COUNCIL BILL NO. 45  
INTRODUCED BY COUNCIL  
MEMBER WILSON

AN ORDINANCE APPROVING A “LEASE AGREEMENT” BETWEEN THE CITY OF ENGLEWOOD AND SCHOOL DISTRICT NO. 1, ARAPAHOE COUNTY [ENGLEWOOD SCHOOLS] FOR THE LEASE OF THE DUNCAN SCHOOL BUILDING LOCATED AT 4800 SOUTH PENNSYLVANIA STREET.

WHEREAS, the Englewood City Council passed Ordinance No. 35, Series of 1978, which was an intergovernmental agreement between the City and Englewood Schools for the lease of Duncan School property for park and recreational purposes; and

WHEREAS, the Englewood City Council passed Ordinance No. 51, Series of 2007 authorizing a Contract for Deed for the purchase of Duncan Park located at 4846 South Pennsylvania Street between the City of Englewood and Arapahoe County School District No. 1 [Englewood Schools]; and

WHEREAS, the Englewood City Council authorizing an Intergovernmental Agreement regarding the 2007 grant of Arapahoe County Open Space between Arapahoe County and the City of Englewood, Colorado for Duncan Park Acquisition by the passage of Ordinance No. 8, Series 2008; and

WHEREAS, the Englewood City Council supported the Great Outdoors Colorado grant application for Duncan Park planning funding by the passage of Resolution No. 75, Series 2010; and

WHEREAS, the Englewood Parks and Recreation Director, the Englewood Schools Superintendent and All Souls School Business Manager discussed the potential lease agreements that would accommodate All Souls extending their lease and remaining on site until June 30, 2011 at the City Council Study Session in September 2010; and

WHEREAS, the passage of this Ordinance authorizes the “Lease Agreement” between the City of Englewood and School District No. 1, Arapahoe County [Englewood Schools] for the lease of the Duncan School Building located at 4800 South Pennsylvania Street to the School District.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, AS FOLLOWS:

Section 1. The City Council of the City of Englewood, Colorado, hereby authorizes and approves the “Lease Agreement” for the lease of Duncan School Building to School District No. 1, Arapahoe County [Englewood Schools], attached hereto as Exhibit A.

Section 2. The Mayor and the City Clerk are authorized to sign and attest said “Lease Agreement” for and on behalf of the City of Englewood, Colorado.

Introduced, read in full, and passed on first reading on the 1st day of November, 2010.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 5th day of November, 2010.

Published as a Bill for an Ordinance on the City's official website beginning on the 3<sup>rd</sup> day of November, 2010 for thirty (30) days.

Read by title and passed on final reading on the 15<sup>th</sup> day of November, 2010.

Published by title in the City's official newspaper as Ordinance No. \_\_\_\_, Series of 2010, on the 19<sup>th</sup> day of November, 2010.

Published by title on the City's official website beginning on the 17<sup>th</sup> day of November, 2010 for thirty (30) days.

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James K. Woodward, Mayor

ATTEST:

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Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. \_\_\_\_, Series of 2010.

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Loucrishia A. Ellis

LEASE AGREEMENT

THIS LEASE is entered into as of the \_\_\_\_ day of \_\_\_\_\_ 2010, by and between Lessor, CITY OF ENGLEWOOD, Colorado, a Colorado municipal Corporation, 1000 Englewood Parkway, Englewood, Colorado, and SCHOOL DISTRICT NO. 1, ARAPAHOE COUNTY whose address is 4101 South Bannock Street, Englewood, Colorado, ("Lessee").

WITNESSETH:

1. PREMISES: In consideration of the payment of rent and the keeping and performance of the covenants and agreements by the Lessee hereinafter set forth, the Lessor hereby leases unto Lessee the following described premises, hereafter referred to as the "Premises":

That building situated in the City of Englewood, County of Arapahoe, State of Colorado, with an address of 4800 South Pennsylvania Street, Englewood, Colorado, and more known as the Duncan School Building

2. LEASE TERM: Lessee's right to possession and occupancy of the Premises shall be for the following term(s):

- a) Initial Term: The initial term of this Lease shall commence on January 1, 2011 and shall run through June 30, 2011 (the "Term").
- b) Renewal Term: There shall be no renewal of this lease.
- c) Holdover: If Lessee shall remain in possession of the Premises, and continue to pay Rent without written agreement as to such possession, then Lessee shall be regarded as a tenant from month-to-month at a monthly rental, payable in advance, equal to the last monthly installment hereunder, and subject to all the terms and conditions of this Lease.
- d) Early Termination: Notwithstanding the foregoing, Lessee retains the right to terminate this Lease, provided that lessee has given Lessor not fewer than six (6) months written notice of such termination. Lessor shall correspondingly have the right to terminate this Lease upon six (6) months written notice to Lessee.

3. RENT: Rent for the Initial Term shall be one-half of the amount received from any sublessee. Any expenses incurred that are the responsibility of the Lessor under this Agreement, and resolved by the Lessee shall be deducted from the amount owed the Lessor prior to monthly payment. Supporting documentation of any such deduction shall be submitted with reduced payment.

- a) Rent Payable in Monthly Installments: Rent during the Term shall be payable in monthly installments on the 15<sup>th</sup> of each calendar month during said term (the "Rent"), such amount being payable at the office of Lessor at

1000 Englewood Parkway, Englewood, Colorado 80110, attn: Jerrell Black without notice or demand.

4. USE: The terms hereunder set forth the permitted and prohibited uses of the Premises by Lessee during the term(s) of this Lease.
  - a) Permitted Use. Lessee agrees to use the Premises as a day-care center. If parents of children attending this day-care center consistently abuse the traffic patterns and parking regulations, Lessee agrees to warn the parent(s) and Lessee or sublessee will take appropriate corrective action.
  - b) Prohibited Conduct on the Premises. Lessee further agrees as follows:
    - (i) To use the Premises for no purpose prohibited by the laws of the United States or the State of Colorado, or the ordinances of the City of Englewood, and for no improper or questionable purpose whatsoever;
    - (ii) Not to permit any disorderly conduct, noise or nuisance whatsoever about the Premises, the building in which they are located, or on the grounds, having a tendency to annoy, disturb, or interfere with the conduct of business in any portion of the building not leased or upon the grounds.
    - (iii) To use the facility only for uses permitted by the zoning of the City of Englewood.
    - (iv) Not to permit the Premises, or the walls or floors thereof, to be endangered by overloading, or the Premises to be used for any purpose, which would render the insurance thereon void or the insurance risk more hazardous.
5. UTILITIES: Lessor and Lessee agree as follows with respect to the provision and payment of utility services to the Premises:
  - a) Lessee will pay for heat and electricity, water, sewer and janitorial service for the Premises. Lessor will provide such services continuously throughout the term of this Lease:
  - b) Lessee will pay the expense of bringing telephone service and removal of said service to the Premises, and will pay for installation of its own telephone and its own telephone bills.
6. ASSIGNMENT AND SUBLETTING. Except for the existing leasehold interest of All Souls Catholic Church, Lessee agrees to sublet no part of the Premises, or to assign this Lease or any interest therein without the prior written approval of Lessor, which approval shall not be unreasonably withheld.
7. LESSOR'S RIGHT OF ENTRY. Lessee shall allow Lessor, at any reasonable hour of the day, and upon reasonable notice to Lessee, to enter onto the Premises, so long as it does not threaten the safety and welfare of Lessee's clients served on the Premises.

8. INSURANCE/INDEMNITY OBLIGATIONS. Lessor and Lessee covenant and agree as follows:

(a) Lessee Insurance. Lessee shall carry public liability insurance covering bodily injury and property damage, the bodily coverage to be not less than \$500,000 per person and \$5,000,000 per occurrence; and the property damage coverage to be not less than \$10,000/\$20,000; and to make Lessor, its directors, officers, employees and agents as additional insureds under its policy or policies of liability insurance, and to provide Lessor with a Certificate of Insurance.

(b) Lessor Insurance. Lessor shall maintain fire and physical hazard insurance on the Premises, building and grounds.

(c) Lessee will take all necessary precautions, including adoption and compliance with all reasonable and customary fire prevention and safety measures to avoid property damage and bodily injury. Lessee shall give notice to Lessor in case of destruction or substantial damage to the Premises by fire and other casualty. In the event of fire or other physical hazard damage, Lessee may terminate this lease with no further obligation.

(d) Reimbursement Obligations. Lessee agrees to reimburse Lessor for any expense incurred by it in repairing any damage to the Premises caused by Lessee, its directors, officers, employees, agents, invitees or clients. Correspondingly, Lessor agrees to reimburse Lessee or any expense incurred by it in repairing any damage to the Premises caused by Lessor, its director, officers, employees, agents, contractors or invitees.

9. MAINTENANCE AND REPAIRS. The parties' respective obligations with respect to maintenance and repair of the Premises are allocated as set forth below:

a) Acceptance of Premises. Lessee accepts the Premises in "as is" condition, without warranty, express or implied, as to merchantability, title, condition, or fitness for any purpose. Lessee will not hold Lessor responsible for any defect in or changes in conditions affecting the Premises or for any damage to the Premises unless such changes or damages are due to the negligence or willful misconduct of the Lessor.

b) General Maintenance and Repair Obligations.

(i) Lessee shall remain responsible for maintaining, repairing or replacing (as needed) all structural defects and all air conditioning, heating, electrical and plumbing main distribution systems.

(ii) Lessee is responsible for maintaining the Premises and each part thereof in an attractive, good, safe and operating condition. Lessee shall keep the sidewalks leading from the building to the curbs in good and safe condition and free of ice, snow and obstructions.

(iii) Lessee shall keep the Premises free of trash, junk and debris. In the temporary keeping and the timely disposal of all waste or refuse, Lessee shall do so in a manner so as not to contribute to water or air pollution.

(iv) Lessee shall be responsible for maintaining all interior leased space as applicable to this Lease including, but not limited to, replacement of light bulbs, fluorescent lighting tubes, and ballasts for fluorescent lighting fixtures.

10. ALTERATIONS TO THE PREMISES:

- a) Lessor Approval Required. Lessee will not make or permit any alterations or additions to the Premises or place any additional structures, facilities or equipment on the Premises without Lessor's prior written approval, which approval shall not be unreasonably withheld. Lessee shall submit plans for minor remodeling to the Lessor for approval. Lessor agrees to act on such request for approval within 45 days of submission of such plans.
- b) No Liens. Lessee will keep the Premises free of all liens and/or claims to be placed on the Premises due to Lessee's conduct, for whatever reason, to be removed within 30 days after Lessee has knowledge of such lien.
- c) Restoration Repair. Upon termination or cancellation of this Lease, Lessee shall restore or replace any portion of the Premises damaged or otherwise affected by such alterations, additions, structures, facilities, or equipment, unless such restoration repair was waived by Lessor at the time approval was given for any such addition or alteration.
- d) Bond at Lessor's Option. At Lessor's option, exercisable prior to the effective date of any such alteration, addition, structures, facilities or equipment, or any time thereafter, Lessor may require the Lessee to post bond in favor of Lessor with a reputable bond company or otherwise provide security satisfactory to Lessor in an amount sufficient to cover Lessor's estimation of the costs of such restoration or repair.

11. SURRENDER OBLIGATIONS. At the expiration of the Lease, lessee will surrender and deliver up the Premises in as good order and condition as when the same were entered upon, loss by fire, inevitable accident and ordinary wear excepted. It is further agreed that at the expiration of this Lease, Lessee shall surrender and deliver up the Premises peaceably to Lessor, and if Lessee shall remain in possession after termination of this lease, Lessee shall be deemed guilty of a forcible detainer of the Premises under state law, and shall be subject to eviction and removal in accordance with Colorado statute.

12. ADDITIONAL PROVISIONS: The Lessor and Lessee further agree that:

- a) Termination on Account of Damage to Premises. If the Premises become untenable on account of damage by fire, flood or act of God, the Lessee may terminate the Lease and be released from its obligations thereunder.
- b) Abandonment of Premises. If the Premises are left vacant, and any part of the Rent be unpaid, the Lessor may, without being obligated to do so and without terminating this Lease, retake possession of the Premises and rent the same for such rent and upon such terms and conditions as Lessor may think best, making such changes and repairs as may be required, giving credit for the amount of rent so received, less all expenses of such change and repairs, and the Lessee shall be liable for the balance of rent herein reserved until the expiration of the term of this Lease.
- c) Remedies upon Default. If the rent above reserved, or any part thereof, shall be in arrears, or if default shall be made in any of the covenants and agreements herein contained, to be kept by Lessee, after reasonable notice of such default and an opportunity for Lessee to cure such default, it shall be lawful for Lessor to declare the term ended and to repossess the Premises in accordance with state law.
- d) Insolvency. If Lessee becomes insolvent, or is declared bankrupt, Lessor may declare this Lease ended and all rights of the Lessee hereunder shall thereupon terminate.
- e) Lease Amendments. Modifications to the terms of this lease shall be effective only if reduced to writing and signed by both Lessor and Lessee.
- f) Applicable Law. Colorado law shall govern this Lease.
- g) Counterparts. This Lease may be executed in counterparts, all of which together shall constitute one Lease.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year first written above.

LESSOR:  
CITY OF ENGLEWOOD, Colorado

Attest:

\_\_\_\_\_  
City Clerk –  
Loucrishia A. Ellis

By: \_\_\_\_\_  
Mayor - James K. Woodward

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

LESSEE:  
SCHOOL DISTRICT NO. 1  
ARAPAHOE COUNTY

Attest:

\_\_\_\_\_  
Secretary -  
Board of Education

By: \_\_\_\_\_  
President, Board of Education  
4101 South Bannock Street  
Englewood, Co. 80110

Dated: \_\_\_\_\_

## COUNCIL COMMUNICATION

<b>Date:</b> November 15, 2010	<b>Agenda Item:</b> 9 c i	<b>Subject:</b> Englewood Public Library's "Winter Food for Fines" Program
<b>Initiated By:</b> Library Department		<b>Staff Source:</b> Hank Long, Director of Library Services

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

The Library has sponsored this popular program since 1990, and each year the City Council has continually voiced its support. In 2003, the annual Food for Fines program was expanded to twice a year at the request of the Library Board, and subsequently approved by City Council, for two weeks during the summer as well as two weeks between Thanksgiving and Christmas as a way to mitigate the increase in Overdue Library Fines and as a way to encourage the timely return of EPL materials so that they can be used by more people. The two weeks of the *Summer Food for Fines* program covers the last week of the public school year and the first week of vacations, a time during which students and teachers are cleaning out their desks and lockers in preparation for the summer break and numerous overdue Library materials are located, whereas the two weeks of the *Winter Food for Fines* program traditionally covers the period in between the Thanksgiving and Christmas holidays. Historically, each of these two biannual events raises an average of \$1,500 to \$2,000 in donated non-perishable food items for the InterFaith Community Services food bank.

### RECOMMENDED ACTION

The Library Department recommends City Council approve a resolution authorizing the Library Department to implement its *2010 Winter Food for Fines* program from Monday, November 29 through Sunday, December 12, 2010.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

For the past 20 years, the Englewood Public Library has provided its "Food for Fines" program as a way for those patrons with fines on their overdue EPL materials to "pay" them off through the donation of non-perishable food items that are, in turn, forwarded to InterFaith Community Services for their "food bank" distribution to financially disadvantaged families in the Englewood area. Following 2003's increase in maximum Overdue Fines from \$2 to \$5, the Library Board requested that the number of food items required to pay off a single Overdue charge also be increased beginning with the 2004 Winter Food for Fines program, e.g. it now takes two food items to cancel out the late charges (not lost or damaged charges) on one overdue item. These food items must be presented to the Library Staff at the Circulation Desk in order for the fines to be cleared from the patron's computer record. This program has been warmly received and supported by the public since its inception, and Library patrons now look forward to it as a way of helping others while relieving their own financial obligations. Thus, the program presents a positive image of the Library and the City and is a "win-win" situation for everyone involved.

## **FINANCIAL IMPACT**

Since its 1990 inception, this program has raised an *estimated* \$41,700 in donated non-perishable food items to assist families in need in the Englewood area.

The money that the Library collects each month in "late charges" (i.e. charges on books and other EPL items returned past their original "due date" and past the 3 day "grace period") goes to the City's General Fund. These revenues traditionally drop about 50% during each of the Library's two-week Food for Fines programs, but the loss is more than offset by the "good will" this program generates among Library patrons and by getting the Library materials back on the shelves so that others can use them.

## **LIST OF ATTACHMENTS**

Resolution

RESOLUTION NO. \_\_\_\_\_  
SERIES OF 2010

A RESOLUTION AUTHORIZING THE ENGLEWOOD PUBLIC LIBRARY TO IMPLEMENT THE ANNUAL "WINTER FOOD FOR FINES" PROGRAM FROM MONDAY, NOVEMBER 29, 2010 THROUGH SUNDAY, DECEMBER 12, 2010.

WHEREAS, the Englewood Public Library has sponsored a "Food for Fines" program since 1990; and

WHEREAS, the "Food for Fines" program allows patrons with overdue fines to "pay" them off through the donation of non-perishable food items; and

WHEREAS, the food items are then forwarded to the InterFaith Community Services for their "food bank" distribution to financially disadvantaged families in the Englewood area; and

WHEREAS, the program is a benefit to the community in that the disadvantaged are assisted; the air cleared with respect to fines; and the City receives its library materials back and the program presents a positive image of the Library and the City.

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

Section 1. The Englewood City Council hereby authorizes the Englewood Public Library's implementation of the annual "Winter Food For Fines" program from November 29, 2010 through December 12, 2010. The collected food will then be forwarded to the InterFaith Community Services for distribution to financially disadvantaged families in the Englewood area.

ADOPTED AND APPROVED this 15th day of November, 2010.

ATTEST:

\_\_\_\_\_  
James K. Woodward, Mayor

\_\_\_\_\_  
Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk for the City of Englewood, Colorado, hereby certify the above is a true copy of Resolution No. \_\_\_\_\_, Series of 2010.

\_\_\_\_\_  
Loucrishia A. Ellis, City Clerk

## COUNCIL COMMUNICATION

<b>Date:</b> November 15, 2010	<b>Agenda Item:</b> 11 a i	<b>Subject:</b> Amendment to Title 16: Unified Development Code related to Landscaping and Screening Regulations
<b>Initiated By:</b> Community Development Department		<b>Staff Source:</b> Brook Bell, Planner II

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Council conducted a Study Session on the topic of landscape regulations on July 26, 2010, where Council concurred with staff's plan to schedule a Planning and Zoning Commission Public Hearing on proposed Title 16 amendments to the Landscaping and Screening Regulations.

### PREVIOUS PLANNING COMMISSION ACTION

Staff has been working with the Planning and Zoning Commission on draft amendments to replace the landscape section of the Unified Development Code (UDC) in its entirety. Following the July 26, 2010 Council Study Session, the Planning and Zoning Commission conducted a Public Hearing on August 17, 2010 to consider the proposed amendments to Title 16: Unified Development Code. No members of the public attended the hearing. Following discussion, the Commission voted 7 to 0 (2 absent) to forward the proposed amendments to City Council with a favorable recommendation for adoption.

### RECOMMENDED ACTION

Recommendation from the Community Development Department to adopt a bill for an ordinance authorizing amendments to Title 16: Unified Development Code of the Englewood Municipal Code, repealing in its entirety 16-6-7: Landscaping and Screening, and enacting 16-6-7: Landscaping and Screening in its place. Staff also requests that Council schedule a Public Hearing for December 6, 2010 to gather public input on these proposed amendments.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The landscape regulations in the current UDC have remained relatively unchanged since 1998. With the majority of the City's redevelopment occurring on smaller infill properties, portions of the current regulations were determined to be ineffective in relation to the City's goals for future development.

Staff and the Planning Commission have reviewed various landscape treatments within the metro area to evaluate their relative success in achieving environmental and aesthetic goals. Staff and

Planning Commission's work on amendments to the landscape regulations focused on the following principles.

- Emphasize quality of landscaping and materials, rather than quantity of landscaped area.
- Locate required landscaping where it is most visible to the public and most effective in achieving its purpose.
- Provide greater flexibility for landscape solutions and encourage variety in the landscape.
- Allow maximum use of the property while minimizing visual impacts off-site.
- Offer alternative methods of compliance and expand fee-in-lieu options where appropriate.

Based on these principles, highlights of proposed amendments to the landscape regulations are summarized below.

### **Residential Zone Districts**

- Replace landscape requirement within the public right-of-way with requirement for a percentage of landscaping to be located between the structure and street. Enhances landscape within the public realm without increasing overall landscape requirement.
- Provide 100% credit for all landscaping instead of current 50% credit for landscape in public right-of-way.

Please note that these proposed amendments do not effect or change regulations in Title 16: Unified Development Code pertaining to driveway or parking pad surface materials.

### **Commercial and Medical Zone Districts**

- For commercial uses in business zone districts, reduce required landscape area from 15%, to 10% of the site. Creates equity for all properties in business zone districts.
- Create incentive for sidewalk tree grates. Makes tree grates count as 150 square feet of landscape.
- Replace landscape requirement within the public right-of-way with requirement for a percentage of property's landscaping to be located between the structure and street.
- Allow fee-in-lieu option to off-set 50% of site's required landscape area. Fee-in-lieu option not permitted between the principal structure and street, or for parking lots.

### **Industrial Zone Districts**

- Reduce the required landscape area from 15%, to 8%-10% depending on property size. Require minimum 8 foot wide "street perimeter buffer" along all frontages with minimum plant densities. Once "buffer" requirements are met, fee-in-lieu option may be utilized for remainder of landscape requirement. Maximizes use of site while minimizing visual impacts.

### **Parking Lots**

- Reduce minimum width of landscape area required for screening parking lots from streets and alleys. Require greater density of planting within the buffer.
- Provide incentive for masonry walls and metal fences in conjunction with plantings. Creates a high quality diverse landscape along street, while maximizing use of the site.

### **All Zone Districts**

- Reduce amount of allowable non-living landscape from 35% to 30%. Increase living landscape from 65% to 70%. No change in overall required landscape area.

- New incentives for alternative landscape materials: masonry walls, metal fences, water features, rooftop gardens, flowering perennials, and tree grates. Provides greater flexibility and encourages variety in the landscape.
- Provide options for compliance. Applicant chooses which option best fits site.

### **Fee-in-lieu**

The proposed amendments expand the fee-in-lieu option for most commercial, industrial, and multi-unit residential uses. The fee-in-lieu option may be utilized by an applicant if the City determines that an alternative compliance landscape plan is not practical or feasible. In such cases, the applicant may opt to pay a fee based on the square footage shortfall of the total required landscape area.

The fee-in-lieu per square foot amount is set by Council on a periodic basis by separate Council action. The Community Development Department is currently reviewing its overall fee schedule, including the landscape fee-in-lieu amount. The last update to the fee-in-lieu amount was in 2004. The Planning Commission supports raising the fee amount to present day landscape costs. Any proposed changes to the fee schedule will be presented to Council for consideration at a future date.

### **Landscape Manual**

If proposed amendments to the Landscape regulations are adopted, a supplemental Landscape Manual will be produced for distribution to the public. The user friendly Manual and associated worksheets will simplify the requirements for each zone district. The Manual will also provide supplemental reference material not appropriate for inclusion in the UDC.

## **CONCLUSION**

The proposed amendments to UDC Landscaping and Screening regulations emphasize quality of landscaping rather than quantity, while locating the landscaping where it is most effective. Furthermore, the amendments provide greater flexibility and encourage variety in the landscape while allowing maximum use of properties through alternative methods of compliance and expanded fee-in-lieu options.

## **FINANCIAL IMPACT**

No financial impacts are anticipated from the adoption of the proposed amendments.

## **LIST OF ATTACHMENTS**

Staff Report – August 17, 2010  
Planning and Zoning Commission Minutes – August 17, 2010  
Planning and Zoning Commission Findings of Fact - Case No. 2008-04  
Bill for an Ordinance



C I T Y O F E N G L E W O O D  
C O M M U N I T Y D E V E L O P M E N T

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**TO:** Planning and Zoning Commission  
**THRU:** Alan White, Community Development Director  
**FROM:** Brook Bell, Planner II  
**DATE:** August 17, 2010  
**SUBJECT:** Case # 2008-04: Amendments to Unified Development Code 16-6-7  
Landscaping and Screening

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**RECOMMENDATION:**

Community Development Department requests that the Planning and Zoning Commission review, take public testimony, and forward to City Council a recommendation for adoption of proposed amendments to Title 16: Unified Development Code (UDC) related to landscaping and screening.

**BACKGROUND:**

Staff has been working with the Planning and Zoning Commission on draft amendments to replace the landscaping and screening section of the UDC (16-6-7) in its entirety. The landscape regulations in the current UDC have remained relatively unchanged since 1998. With the majority of the City's redevelopment occurring on smaller infill properties, portions of the current regulations were determined to be ineffective in relation to the City's goals for the future development.

Staff and the Planning Commission have reviewed various landscape treatments within the metro area to evaluate their relative success in achieving environmental and aesthetic goals. The Planning and Zoning Commission's work on amendments to the landscape regulations focused on the following principles.

- Emphasize quality of landscaping and materials, rather than quantity of landscaped area.
- Locate required landscaping where it is most visible to the public and most effective in achieving its purpose.
- Provide greater flexibility for landscape solutions and encourage variety in the landscape.
- Allow maximum use of the property while minimizing visual impacts off-site.

- Offer alternative methods of compliance and expand fee-in-lieu options where appropriate.

Based on these principles, proposed amendments to the landscape regulations were presented and refined at several Planning and Zoning Commission study sessions.

### **ANALYSIS:**

Highlights of the proposed amendments are summarized below.

#### **Residential Zone Districts**

- Replace landscape requirement within the public right-of-way with requirement for a percentage of property's landscaping to be located between the principal structure and street. Would enhance landscape within the public realm without increasing overall landscape requirement.
- Provide full credit for all landscaping. Current UDC only provides credit for 50% of landscape in public right-of-way.

#### **Commercial and Medical Zone Districts**

- For commercial uses in business zone districts, reduce required landscape area from 15%, to 10% of the site. Creates equity for commercial uses not located on South Broadway.
- Create incentives for sidewalk tree grates. Change would make tree grates count as 150 square feet of landscaping.
- Replace landscape requirement within the public right-of-way with requirement for a percentage of property's landscaping to be located between the principal structure and street. Same as in residential zone district.
- Allow fee-in-lieu option to off-set 50% of site's required landscape area. Do not allow fee-in-lieu option between the principal structure and the curb, or for screening parking lots.

#### **Parking Lots**

- Reduce minimum width of landscape area required for screening parking lots from streets and alleys. Require greater density of planting within the buffer.
- Provide incentive for masonry walls and decorative metal fences in conjunction with plantings. Creates a high quality, diverse landscape along the street while maximizing potential use of the site.

#### **Industrial Zone Districts**

- Reduce the required landscape area from 15%, to 8%-10% depending on size of property. Require minimum 8 foot wide "street perimeter buffer" along all street frontages with minimum plant material densities. Once "buffer" requirements are met, fee-in-lieu option may be utilized for the remainder of landscape requirement. Would maximize use of site while minimizing visual impacts.

**All Zone Districts**

- Reduce amount of allowable non-living landscape from 35% to 30%. Increase living landscape from 65% to 70%. No increase in overall requirement.
- Include incentives for alternative landscape materials: masonry walls, metal fences, water features, rooftop gardens, flowering perennials, and tree grates. Provides greater flexibility and encourages more variety in the landscape.
- Provide options for compliance. Applicant chooses which option best fits site.

**PROPOSED AMENDMENTS:**

Based on the guiding principles outlined above, along with Planning and Zoning Commission study session consensus on draft amendments, Staff recommends that the attached amendments replace the landscape and screening section of the current UDC (16-6-7) in its entirety.

**ATTACHMENTS:**

Proposed Amendments to UDC Section 16-6-7 Landscaping and Screening

**CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION  
REGULAR MEETING  
August 17, 2010**

**I. CALL TO ORDER**



The regular meeting of the City Planning and Zoning Commission was called to order at 7:01 p.m. in the Council Chambers of the Englewood Civic Center, Chair Knoth presiding.

Present: Bleile, Roth, Welker, Knoth, Fish, Brick, Calonder  
Kinton (alternate)

Absent: King, Krieger

Staff: Alan White, Community Development Director  
Brook Bell, Planner II  
Nancy Reid, Assistant City Attorney

**II. APPROVAL OF MINUTES**

August 3, 2010



Welker moved:

Fish seconded: TO APPROVE THE AUGUST 3, 2010 MINUTES

Chair Knoth asked if there were any modifications or corrections.

There were none.

AYES: Roth, Welker, Knoth, Fish, Brick, Calonder

NAYS: None

ABSTAIN: Bleile

ABSENT: King, Krieger

Motion carried.

**III. PUBLIC HEARING**



**CASE #2008-04: Amendments to the Uniform Development Code 16-6-7  
Regarding Landscaping and Screening Standards**

Roth moved:

Bleile seconded: THE PUBLIC HEARING ON CASE #2008-04 BE OPENED

AYES: Bleile, Brick, Knoth, Roth, Welker, Calonder, Fish  
NAYS: None  
ABSTAIN: None  
ABSENT: King, Krieger

Motion carried.

 Mr. Bell, Planner II with the City of Englewood, was sworn in. He stated the issue before the Commission tonight is CASE #2008-04, which is proposed amendments to the Englewood Municipal Code related to landscaping and screening standards for new development and redeveloping properties. The proposed amendments will replace Section 16-6-7 Landscaping and Screening in its entirety. He stated he had already submitted for the record the Staff Report and Proof of Publication that notice of the public hearing was published in the *Englewood Herald* on July 30, 2010 and was also on the City's website from July 28<sup>th</sup> through August 17<sup>th</sup>, 2010.

The Community Development Department is requesting that the Commission review the proposed Ordinance, take public testimony and forward to City Council a recommendation for approval of the proposed Ordinance.

The landscape regulations in the current Unified Development Code (UDC) have remained relatively unchanged since about 1998. With the majority of the City's redevelopment occurring on smaller in-fill type properties, portions of the current Code were determined to be less than effective in relation to the City's goals for future development.

In drafting the amendments the Commission has focused on the following principles:

1. Emphasize quality of landscaping and materials, rather than quantity of landscaped area.
2. Locate required landscaping where it is most visible to the public.
3. Provide greater flexibility for different landscape solutions while encouraging variety.
4. Allow maximum use of the property while minimizing visual impacts.
5. Offer alternative methods of compliance and fee-in-lieu options where appropriate.

Based on these principles, proposed amendments to the landscape regulations were presented to the Commission on several occasions. At the last study session a nearly complete draft was reviewed. The final edits have been made and a copy of the proposed amendments was included in the meeting packet.

He offered to answer any questions the Commission might have.

Mr. Welker asked Staff if the landscape manual reflects the proposed changes. Mr. Bell said the City currently does not have a landscape manual. He said Staff uses a landscape worksheet, a sample of a landscape schedule and a recommended tree list. Plans are to update the landscape worksheet and then follow up with a landscape manual that has the nuts and bolts of the Ordinance but is more user friendly. The landscape worksheet is very helpful and will be amended to work with the new Code. Mr. Welker asked if it was possible for Staff to bring a worksheet to a future meeting. Mr. Bell said certainly.

Mr. Roth asked for clarification on what triggers the new amendments. He provided several examples. Mr. Bell said he was correct. The proposed development has to result in an increase of floor area by both 15% or more and 500 square feet or more.

Chair Knoth thanked Mr. Bell for his presentation.

Bleile moved:

Roth seconded: THE PUBLIC HEARING ON CASE #2008-04 BE CLOSED

AYES: Bleile, Brick, Knoth, Roth, Welker, Calonder, Fish

NAYS: None

ABSTAIN: None

ABSENT: King, Krieger

Motion carried.



Welker moved:

Calonder seconded: *CASE #2008-04, AMENDMENTS TO TITLE 16: UNIFIED DEVELOPMENT CODE OF THE ENGLEWOOD MUNICIPAL CODE, REPLACING SECTION 16-6-7 IN ITS ENTIRETY, RELATED TO LANDSCAPING AND SCREENING STANDARDS FOR NEW DEVELOPMENT AND FOR REDEVELOPING PROPERTIES, BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION FOR ADOPTION.*

Mr. Bleile said "Job well done". The landscape amendments were extremely important, at least to this Commission, and the City is better off for it. The Commission put in a lot of hours, but Mr. Bell must have put it more hours than we could begin to count. Several thanked Mr. Bell for a job well done.

Mr. Welker said he believes the Ordinance is well written and commends Mr. Bell, other Staff members and his fellow commissioners for getting it through. He said he doubts Council will have issues with it. Mr. Bell said Ms. Langon did a lot of the work also. Mr. Bleile stated he would thank her in person when he sees her.

Mr. Brick said he feels the amendment strikes a good balance between the opportunity to add development and growth to the City of Englewood while preserving the environment and landscape in the City and maintaining the aesthetic qualities of Englewood, which is very important, as well as economic development.

Mr. Welker said he believes it also addresses some of the common sense issues that previous codes have not in that it puts landscaping in the forefront where it does the best good for the public and the way people see the City and minimizes the back lot areas as far as required landscaping.

Mr. Roth noted a typo on page 14; Staff will correct. He said he feels the Ordinance is a big improvement from what the City had before. He said he is still not totally sold on the idea of requiring trees in the Commercial District; it will be interesting to see how that plays out. He said he feels the Commission should recommend to Council to set the fee-in-lieu schedule high enough to discourage its use rather than making it the most economical way out of a situation.

Ms. Reid said normally fees are set by Resolution from time to time.

Mr. Welker said he did not believe that issue needed to be a part of the amendments. Ms. Reid suggested a separate motion be made after finishing with the current motion.

AYES: Bleile, Brick, Knoth, Roth, Welker, Calonder, Fish  
NAYS: None  
ABSTAIN: None  
ABSENT: King, Krieger

Mr. Fish stated the proposed Ordinance is a great improvement and is business friendly.

Mr. Roth voted yes and quoted from Roadmap Englewood: 2003 Englewood Comprehensive Plan Section 7:

Goal 3, Obj. 3-2: Provide a safe, healthy, and attractive business environment;  
Goal 3, Obj. 3-3: Recognize the complementary effects between the physical appearance of both commercial districts and the surrounding residential areas; and  
Goal 5, Obj. 5-2: Increase the value and appeal of Englewood's retail and industrial corridors in order to stimulate economic growth.

Motion carried.

Roth moved:

Calonder seconded: TO RECOMMEND TO CITY COUNCIL TO SET THE FEE-IN-LIEU AMOUNT HIGH ENOUGH TO DISCOURAGE IT'S USE.

Chair Knoth asked Staff if they had a certain dollar number in mind. Mr. Bell said at least \$3.00 per square foot. The fee is currently at \$1.50 per square foot and it costs about \$1.50 per square foot to put rock down on top of weed barrier. It costs a lot more to do irrigation and turf or shrub beds with trees. When you average in that 70% of your landscape needs to be living, not just rock, that's why it raises it considerably. When Staff does take this issue to Council he will provide a breakout of how Staff arrived at a number in terms of a non-living number and a living number and justification as to what the final number ends up being. He said the fee has been \$1.50 as long as he can remember.

Chair Knoth asked if Staff could provide the Commission with that information when it became available. Mr. Bell said he would be happy to provide the Commission with the information.

Mr. Roth stated the fee needs to be high enough so that it's not the cheaper alternative. Mr. Bell said as it stands right now it would be the cheaper alternative. He said to keep in mind the fee-in-lieu is not eligible for parking lot landscaping or screening or landscaping between the principle structure and the curb.

Mr. Welker asked if the fee-in-lieu applies to just area. Mr. Bell said it counts mainly for area. The actual wording states it applies to the landscape area shortfall.

Mr. Fish asked what the purpose of fee-in-lieu is; is it to discourage landscaping or provide an alternative when a situation is difficult? Mr. Bell said it is to provide an alternative when the situation is difficult, which does happen and more so on existing properties. The applicant has to exhibit that they have tried to do some other type of alternative compliance prior to going the fee-in-lieu route. Mr. Fish said he did not disagree with Mr. Roth, but is not sure he wants a motion that says in it specifically that we are trying to discourage the use. Mr. Roth said that is what we've done with this Ordinance by making the prerequisites. Mr. Calonder said maybe it's implied for it to be discouraged. Mr. Fish said he feels the number should be raised, but didn't want the motion to say discouraged. Chair Knoth said the motion is saying the Commission would like the fee to be looked at.

Ms. Reid asked Mr. Fish if he was asking for a friendly amendment. Mr. Fish said he was not, he was just commenting on it. Mr. Brook said as far as alternatives for compliance, Staff sees the fee-in-lieu as typically the last alternative to be considered. He read the language from the amendments: "Only after it has been determined by the City that an alternative compliance plan is not practical or feasible, a fee-in-lieu equivalent may be considered".

Mr. Welker stated he was comfortable the issue has been addressed and had no problem with making a recommendation that simply says it should be high enough, but doesn't want the Commission to set the number and that certainly should not be in the Ordinance. He said if Mr. Fish doesn't think the Commission should make the motion he could vote against it.

AYES: Bleile, Brick, Knoth, Roth, Welker  
NAYS: Fish, Calonder  
ABSTAIN: None  
ABSENT: King, Krieger

Motion carried.

**IV. PUBLIC FORUM**



There was no public present.

**V. DIRECTOR'S CHOICE**



Director White thanked the Commission for all their hard work on the Landscape regulations and for the acknowledgment of Brook's hard work. He did a great job. He said thank you to Brook.

**VI. STAFF'S CHOICE**



Mr. Bell thanked the Commission for their work on the landscape regulations and also thanked Tricia Langon for her work on the Amendments.

Tentative Schedule: September 8 (Wednesday): Public Hearing – Flood Plain Amendments

Mr. Bell distributed a letter from a citizen regarding the Kent Place redevelopment. He noted there was also another letter included in the meeting packet.

He stated Staff will be moving ahead to City Council with the Landscape Amendments and subsequently with the fee-in-lieu discussion. Also, Staff will be following up with the Commission regarding the revised landscape worksheet as well as the landscape manual when completed.

**VII. ATTORNEY'S CHOICE**



Ms. Reid had nothing further to report.

**VIII. COMMISSIONER'S CHOICE**



Mr. Roth stated he saw an A-frame sandwich board sitting on the sidewalk along Broadway advertising a garage sale.

Mr. Bleile asked Staff if they knew when the Kent Place redevelopment would be coming forward. Mr. Bell said there has been no formal application submitted to date. He noted the

Commission is being copied on materials received by Staff that are addressed directly to the Commission.

Mr. Bleile apologized to the Commission for missing the last few meetings. He confirmed he is as committed as he has ever been to the Commission.

Mr. Welker said since the last meeting on LED signs he has been noticing them as he drives around. He noted Littleton has quite a number of them; they are not huge signs but they do direct your attention.

Chair Knoth thanked everyone for showing up at the Boards and Commissions Appreciation Night on August 9<sup>th</sup>. Director White said he thought the Planning and Zoning Commission had the best showing of all Commissions.

The meeting adjourned at 7:30 p.m.

Barbara Krecklow, Recording Secretary

# CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION

IN THE MATTER OF CASE #2008-04,	)	
FINDINGS OF FACT, CONCLUSIONS	)	
AND RECOMMENDATIONS RELATING	)	FINDINGS OF FACT AND
TO THE UNIFIED DEVELOPMENT CODE	)	CONCLUSIONS OF THE
LANDSCAPING AND SCREENING	)	CITY PLANNING AND
AMENDMENTS	)	ZONING COMMISSION
	)	
INITIATED BY:	)	
COMMUNITY DEVELOPMENT	)	
DEPARTMENT	)	
1000 ENGLEWOOD PARKWAY	)	
ENGLEWOOD, CO 80110	)	

Commission Members Present: Bleile, Calonder, Brick, Knoth, Roth, Welker, Fish

Commission Members Absent: King, Krieger

This matter was heard before the City Planning and Zoning Commission on August 17, 2010 in the City Council Chambers of the Englewood Civic Center.

Testimony was received from staff. The Commission received notice of Public Hearing, the Staff Report, and a copy of the proposed amendments to Title 16 Unified Development Code which were incorporated into and made a part of the record of the Public Hearing.

After considering the statements of the witness, and reviewing the pertinent documents, the members of the City Planning and Zoning Commission made the following Findings and Conclusions.

## FINDINGS OF FACT

1. **THAT** the Public Hearing on the Unified Development Code Landscaping and Screening Amendments was brought before the Planning Commission by the Department of Community Development, a department of the City of Englewood.
2. **THAT** notice of the Public Hearing was published in the *Englewood Herald* on July 30, 2010 and was on the City's website from July 28<sup>th</sup> through August 17<sup>th</sup>.
3. **THAT** the Staff report was made part of the record.
4. **THAT** the amendments are designed to replace the existing landscaping and screening section of the Unified Development Code (Section 16-6-7) in its entirety.

5. **THAT** the landscape and screening regulations in the current Unified Development Code have remained relatively unchanged since 1998.
6. **THAT** the current regulations were determined to be ineffective in relation to the City's goals for future development.

### CONCLUSIONS

1. **THAT** the Public Hearing on the Unified Development Code Landscaping and Screening Amendments was brought before the Planning Commission by the Department of Community Development, a department of the City of Englewood.
2. **THAT** notice of the Public Hearing was published in the *Englewood Herald* on July 30, 2010 and was on the City's website from July 28<sup>th</sup> through August 17<sup>th</sup>.
3. **THAT** the amendments are designed to replace the existing landscaping and screening section of the Unified Development Code (Section 16-6-7) in its entirety.
4. **THAT** the landscape and screening regulations in the current Unified Development Code have remained relatively unchanged since 1998.
5. **THAT** the current regulations were determined to be ineffective in relation to the City's goals for future development.
6. **THAT** the amendments are consistent with Roadmap Englewood: 2003 Englewood Comprehensive Plan Section 7, Goal 3, Objective 3-2 and 3-3 and Goal 5, Objective 5-2.

### DECISION

**THEREFORE**, it is the decision of the City Planning and Zoning Commission that Case #2008-04 Landscaping and Screening Amendments should be referred to the City Council with a favorable recommendation.

The decision was reached upon a vote on a motion made at the meeting of the City Planning and Zoning Commission on August 17, 2010, by Mr. Welker, seconded by Mr. Calonder, which motion states:

*CASE #2008-04, AMENDMENTS TO TITLE 16: UNIFIED DEVELOPMENT CODE OF THE ENGLEWOOD MUNICIPAL CODE, REPLACING SECTION 16-6-7 IN ITS ENTIRETY, RELATED TO LANDSCAPING AND SCREENING STANDARDS FOR NEW DEVELOPMENT AND FOR REDEVELOPING PROPERTIES, BE*

*RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE  
RECOMMENDATION FOR ADOPTION.*

AYES: Bleile, Brick, Knoth, Roth, Welker, Calonder, Fish  
NAYS: None  
ABSTAIN: None  
ABSENT: King, Krieger

Motion carried.

These Findings and Conclusions are effective as of the meeting on August 17, 2010.

**BY ORDER OF THE CITY PLANNING & ZONING COMMISSION**

-----  
Chad Knoth, Chair

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2010

COUNCIL BILL NO. 47  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN ORDINANCE REPEALING TITLE 16, CHAPTER 6, SECTION 7, AND REENACTING A NEW TITLE 16, CHAPTER 6, SECTION 7, ENTITLED LANDSCAPING AND SCREENING AND AMENDING TITLE 16, CHAPTER 11, SECTION 2(B) OF THE ENGLEWOOD MUNICIPAL CODE 2000.

WHEREAS, the landscape regulations in the current Englewood Unified Development Code have remained relatively unchanged since 1998; and

WHEREAS, with the majority of the City's redevelopment occurring on smaller infill properties, portions of the current regulations were determined to be ineffective in relation to the City's goals for future development; and

WHEREAS, the proposed amendments to the Unified Development Code Landscaping and Screening regulations emphasize quality of landscaping rather than quantity, while locating the landscaping where it is most effective; and

WHEREAS, the amendments provide greater flexibility and encourage variety in the landscape while allowing maximum use of properties through alternative methods of compliance and expanded fee-in-lieu options;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, AS FOLLOWS:

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes the repeal, in its entirety, Title 16, Chapter 6, Section 7, of the Englewood Municipal Code 2000 and reenacting a new Title 16, Chapter 6, Section 7 entitled Landscaping and Screening to read as follows:

**16-6-7: Landscaping and Screening.**

A. Purpose. The City recognizes the aesthetic, ecological, and economic value of landscaping. This Section establishes landscape standards for new development and redeveloping properties in order to enhance, improve, protect and preserve the appearance, character, and value of such properties and their surrounding neighborhoods. This Section is further intended to:

1. Enhance the aesthetic appearance of development in the City by providing standards for the quality, quantity, maintenance and function of landscaping;
2. Promote a sustainable ecological environment by enhancing air and water quality, reducing erosion and stormwater runoff, and reducing the effects of noise, heat and glare generated by development;
3. Protect public health, safety, and welfare by screening incompatible land uses, preserving the integrity of neighborhoods, and enhancing pedestrian and vehicular traffic and safety.

4. Preserve and enhance the City's urban landscape.

B. Applicability.

1. This Section shall apply when an application is made for any of the following:

- a. A building permit for a new principal structure;
- b. A building permit for existing principal structure(s) that results in an increase of the gross floor area by both fifteen percent (15%) or more and five hundred (500) square feet or more;
- c. A zoning site plan permit for construction of a new off-street parking area or the expansion of an existing off-street parking area by both twenty percent (20%) or more and two (2) or more parking spaces;
- d. A building permit for the renovation, remodeling or expansion of an existing residential structure that results in the use of such structure being changed to a non-residential use.

2. Existing Landscaping. Existing uses or lots shall not be deemed nonconforming solely because of the lack of landscaped area or landscape material in the minimum amount required by this Chapter, provided:

- a. The landscaped area and material existed on the effective date of this Section;
- b. The landscaped area and material are not thereafter reduced in area or size below the minimum amount required by this Section.

C. Landscape Plan.

1. Landscape Plan Required. A landscape plan shall be required to ensure that proposed landscape improvements are in compliance with the standards and requirements of this Chapter.

a. Applicability. A landscape plan shall be required for a building permit or zoning site plan permit submitted for any development identified in subsection 16-6-7(B) EMC, "Applicability".

b. Plan Requirements.

(1) One-Unit and Multi-Unit Residential Uses With Up to Four Units. Landscape plans shall be designed in accordance with this Chapter and prepared to standards outlined in the City of Englewood Landscape Manual.

(2) All Other Uses. Landscape plans shall be designed in accordance with this Chapter and contain a signed seal (stamp) of a licensed Colorado Landscape Architect, Engineer or Architect. Plans shall be submitted to standards outlined in the City of Englewood Landscape Manual.

2. Landscape Plan Waiver. Where an applicant can show that existing landscaping meets or exceeds the total landscaping required by this Section, the City Manager or designee may waive submittal of a landscape plan.

3. Revisions to Landscape Plans. Landscaping may be revised prior to final landscape inspection provided a revised landscape plan is submitted and the:

- a. Landscape area and material quantities are not reduced below the minimum requirements of this Chapter, and
  - b. Substituted plant materials are of the same general type (i.e. tree, or shrub, groundcover) and have the same general characteristics (i.e. mature height, spread) as the plants being replaced.
4. Final Landscape Inspection. The City shall conduct a landscape inspection for substantial compliance with requirements of this Chapter as part of the final inspection for a building permit or zoning site plan permit subject to requirements of subsection 16-6-7(B) EMC, "Applicability".

D. Landscaping Requirements.

1. General Standards. Landscape requirements shall include two (2) components: required landscape area, and required landscape materials. Both the quantity of landscape area and quantity of landscape materials shall be met.
  - a. Minimum Required Landscaped Area. Required Landscaped Area (RLA) shall be determined by zone district requirements as demonstrated in Tables 16-6-7.3 thru 16-6-7.5 EMC below. Driveways, off-street parking areas, and public sidewalks shall not count toward Required Landscaped Area.
  - b. Minimum Dimensions. Any area included in calculations toward the minimum Required Landscaped Area shall have a minimum dimension of three feet (3') on any side.
  - c. When calculations for the required number of trees or shrubs result in a fractional number, the requirement shall be rounded up to the next higher whole number.
  - d. Landscaped areas may include a combination of living and non-living materials as described in subsections 2 and 3 below.
  - e. Landscaping materials installed within an abutting public right-of-way shall count toward the abutting property's landscape requirement.
  - f. Landscaped areas shall be protected from vehicular traffic by concrete curbing or other devices acceptable to the City that prevent vehicular access upon these areas. This requirement shall not apply to single unit and multi-unit residential development up to four (4) units.
  - g. All areas not included in Required Landscaped Area calculations shall be protected by permanent erosion control and shall not exceed maximum lot coverage requirements of the District.
  - h. Water Conservation (Xeriscape) Principles. The City encourages xeriscape, or water conservation principles in meeting the requirements of this Chapter. Xeriscape principles include the use of mulches, native and adapted lower water-demand plants, limited turf areas, and efficient watering methods; resulting in significantly lower water-use and decreased maintenance.
  - i. The City of Englewood encourages landscape designs that facilitate water quality and detention of storm drainage. Landscaped areas utilized for stormwater quality and detention may be counted toward required landscaped area.

- i. Multiple-Zoned Properties. When a property is composed of more than one (1) zone district, the City Manager or designee may utilize landscape requirements of the more restrictive zone, or the larger zone, whichever best satisfies the intent of this Section.
2. Living Plant Material Standards. Living plant material includes trees, shrubs, perennials, turf, and/or ground covers. Annual plants may be installed, but shall not be used to fulfill the living plant material requirements of this Section.
- a. Prohibited Species and Materials.
- (1) Plant materials with thorns, spines, seedpods, or fruits are prohibited within ten feet (10') of public sidewalks or streets.
- (2) Noxious Weeds. All plants listed on the Colorado Noxious Weed List shall be prohibited from being planted in the City.
- (3) The following tree species shall be prohibited from being planted in the City:
- (a) Box Elder (Acer Negundo),  
 (b) Cottonwood (female Populus Deltoides),  
 (c) Russian Olive (Elaeagnus Angustifolia), and  
 (d) Siberian Elm (Ulmus Pumila).
- b. Minimum Plant Size and Requirements.

<b>TABLE 16-6-7.1 MINIMUM PLANT SIZE AND REQUIREMENTS</b>		
<u>Plant Material</u>	<u>Minimum Size</u>	<u>Additional Requirements</u>
<u>Trees</u>	<u>2.5" caliper deciduous</u> <u>6 foot tall evergreen</u>	<ul style="list-style-type: none"> <li><u>Trees shall be of a species that normally grow to a mature height of at least fifteen feet (15') in the Denver metropolitan area. A list of appropriate trees is available in the City of Englewood Landscape Manual.</u></li> <li><u>Clump or multi-stem trees shall be considered as a unit; that is, as one (1) tree.</u></li> <li><u>Trees shall be planted a minimum of four feet (4') from any public sidewalk or curb.<sup>1</sup></u></li> <li><u>Evergreens shall not be planted in the public right-of-way</u></li> </ul>
<u>Shrubs</u>	<u>5 gallon</u>	
<u>Turf</u>	<u>Established within sixty (60) days of planting</u>	<ul style="list-style-type: none"> <li><u>Turf areas shall be planted in species normally grown as permanent lawns in the Denver metropolitan area.</u></li> <li><u>Grass areas may be sodded, plugged, sprigged, or seeded, except that solid sod shall be used in swales or other areas subject to erosion.</u></li> </ul>
<u>Ground Cover, Ornamental Grasses, and Perennials</u>	<u>1 gallon</u>	

<sup>1</sup>The City Manager or designee may consider a smaller minimum distance on a case by case basis when an approved tree species and appropriate root barrier system is approved.

3. Non-Living Material Standards. Non-living, durable materials commonly used in landscaping, may be used to fulfill up to thirty percent (30%) of the total landscape area requirement.
- a. Landscape materials such as mulches and rock shall be contained within landscape areas by methods that prevent the migration of such materials into pedestrian or vehicular areas.
- b. Permitted Materials and Standards
- (1) Mulch. Minimum mulch depth shall be three inches (3"). The following materials are permitted:
- (a) Wood.
- (b) Synthetic mulch material which is designed, dimensioned, textured, and colored to look like natural wood mulch and approved by the City Manager or designee. Synthetic mulch material shall not be permitted within the public right-of-way.
- (2) Rock, including boulders, rocks, and stones.
- (a) All rock used in landscaped areas shall be a minimum of three-eighths (3/8") inches in size, and be installed to a minimum depth of three (3") inches, or as necessary to adequately cover the area.
- (3) Hard Surface Materials. Decorative colored or patterned paved surfaces and brick pavers may be included in the form of walkways or patios through landscaped areas and may be counted as non-living landscaped areas. However, driveways, off-street parking areas, and all asphalt, non-patterned or non-colored concrete shall not be considered as landscaped areas.
- (4) Water features and ponds. Natural and man-made features may be used.
- (5) Artificial Turf. Artificial turf may be installed and maintained to effectively simulate the appearance of a well-maintained lawn and shall count toward a site's non-living landscape requirement.
- (a) Additional Standards. The use and installation of artificial turf shall:
- i. Be in accordance with all applicable requirements for drainage and water quality and not be installed on slopes greater than 6.6%.
- ii. Not be permitted within the public right-of-way.
- iii. Be of a type known as cut pile infill and shall be manufactured from polypropylene, polyethylene, or a blend of polypropylene and polyethylene fibers.
- iv. Be installed over a compacted and porous road base material and shall be anchored at all edges and seams. Seams shall be glued and not sewn.
- c. Prohibited Materials.

(1) No artificial trees, shrubs, turf, or plants shall be used to fulfill the living material requirements of this Section.

(2) The use of indoor or outdoor plastic or nylon carpeting or other materials as artificial turf or natural turf shall be prohibited.

4. Irrigation. Irrigation for all landscaping required by this Chapter shall be by an automatic irrigation system. This requirement may be waived for one-unit residential uses when a hose attachment is provided within one hundred feet (100') of any landscaped area.

5. Credit for Existing Trees.

a. Credit towards the tree planting requirements by preserving existing trees may be allowed as outlined in the following schedule:

<u>Existing Trees</u>	<u>Allowed Tree Credit</u>
<u>1 tree, 2.5" to 6" caliper</u>	<u>1</u>
<u>1 tree, greater than 6" to 12" caliper</u>	<u>2</u>
<u>1 tree, greater than 12" to 18" caliper</u>	<u>3</u>

b. The following conditions must be met in order for tree credits to apply:

(1) Each existing tree shall be in a healthy and growing condition; dead limbs and branches shall be pruned.

(2) Should any tree for which credit is received under the provisions of this subsection die at any time, the owner shall, within ninety (90) days, replace the tree with an equal number of trees for which credit was given. Each replacement tree shall be of the equivalent species or a tree which will obtain the same height, spread and growth characteristics. Each replacement tree shall have a minimum caliper of two and one-half inches (2½ ") when planted.

(3) No credit shall be given for prohibited species as listed in Subsection 16-6-7(D)(2)(a)(3) EMC above.

6. Installation of Landscaping - Time of Completion.

a. The City shall not issue a Certificate of Occupancy for any building or use to which this Chapter applies until landscaping has been installed in accordance with the approved landscape plan.

b. In extenuating circumstances, such as adverse weather, where occupancy is requested prior to completion of landscaping, the owner shall enter into an agreement with the City guaranteeing that the required landscaping shall be completed within one hundred eighty (180) days or a date specified by the City. The City may require adequate financial security to assure completion of installation after occupancy.

7. Maintenance and Replacement

a. Minimum Requirement. No landscape shall be removed below the minimum requirements of this Section.

b. Maintenance. All landscaping shall be maintained in a neat, clean, and healthy condition. Maintenance shall include proper pruning, mowing of lawns, weeding, removal of litter, fertilizing, replacement of dead plants, and irrigation of all live landscaping.

(1) The owner and agent of a property shall be responsible for the ongoing maintenance of landscaped areas and irrigation systems on the property and on that portion of the public right-of-way between the curb line and the adjoining property line. See Section 11-5-5 EMC, "Property Owner's Responsibility for Public Right-of-Way".

(2) The City shall not be responsible for the maintenance of landscaping or irrigation systems installed in public right-of-way, nor shall the City be responsible for the replacement of landscaping or irrigation systems that must be removed during the repair or maintenance of utilities or other public improvements in the public right-of-way.

c. Replacement. Any landscape element, installed to meet requirements of this Section that dies or is otherwise removed shall be replaced with plant material of a similar variety and size within one hundred eighty (180) days. All replacement plants shall conform to the City's current landscaping standards.

#### 8. Landscaping and Utility Facilities.

a. All water meter pits and/or water valve boxes shall be maintained at finished ground level and provision shall be made to insure that they remain at grade, visible, and readily accessible for easy operation, maintenance, and repair.

b. At maturity, a minimum clearance of three feet (3') shall be required between all trees, shrubs and/or landscaping features and the following: (1) fire department sprinkler connections, (2) fire hydrants and/or alarm notification devices, and (3) gas or electric meters.

c. Trees shall be planted so that at maturity they do not interfere with overhead utility lines.

#### 9. Landscaping and Visibility.

a. Landscaping shall not obstruct the visibility of pedestrians and vehicular traffic at intersections, points of ingress and egress, or within sight distance triangles.

(1) No landscaping that exceeds three feet (3') in height above the grade of the adjacent street or alley shall be allowed in such areas, except for single trunk trees that are of such size and so spaced that no visible obstruction and/or traffic hazard is created.

### E. Minimum Landscape Requirements.

#### 1. Landscaping Standards in Residential (R) Zone Districts.

a. Applicability. Landscaping requirements of this Section shall apply in all R-1, R-2, and R-3 zone districts.

b. Landscaping Requirements. The minimum Required Landscaped Area and Plant Material quantities in residential zone districts shall be determined by Table 16-6-7.3 EMC.

**TABLE 16-6-7.3: MINIMUM LANDSCAPE REQUIREMENTS IN RESIDENTIAL ZONES**

Uses	Required Landscaped Area (RLA) (% of site)	Principal Structure to Curb <sup>1, 2</sup>	Side Yards and Rear Yard	Trees			Shrubs	
				Minimum Tree Quantity (Per sq. ft. of RLA)	Minimum % of Trees between Principal Structure and Curb	Minimum Shrub Quantity (Per sq. ft. of RLA)	Minimum % of Shrubs between Principal Structure and Curb	
One-Unit dwelling	<u>40</u>	The area, (excluding driveway, parking areas, walkways and public sidewalks) bounded by the front facade of the principal structure, side property lines, and the curb shall be landscaped.	The remainder of any Required Landscaped Area (RLA) requirement may be provided within side or rear yards.	<u>1/625<sup>3</sup></u>	<u>50</u>	<u>1/100</u>	<u>30</u>	
Multi-Unit dwelling (2 to 4 units)	<u>40</u>			<u>1/625<sup>3</sup></u>	<u>50</u>	<u>1/100</u>	<u>30</u>	
Multi-unit dwelling (more than 4 units)	<u>25</u>			<u>1/625<sup>3</sup></u>	<u>50</u>	<u>1/100</u>	<u>30</u>	
Non-Residential Uses	<u>25</u>			<u>1/625<sup>3</sup></u>	<u>50</u>	<u>1/100</u>	<u>30</u>	
Private Off-street Parking Lots								

See Section 16-6-7(F) EMC

<sup>1</sup> Corner lots. Corner lots shall also landscape the area between the side edge of the principal structure and the curb, exclusive of driveways, parking areas, walkways and public sidewalks. In addition to the minimum tree quantity above, corner lots shall provide one tree per seventy-five linear feet (75') along the side lot line exclusive of driveways.

<sup>2</sup> Exceptions for area between public sidewalk and curb:

- areas greater than three feet (3') wide shall be landscaped with living material.
- areas less than three feet (3') wide may be landscaped with living or non-living material.

<sup>3</sup> When the Required Landscaped Area is less than one thousand two-hundred and fifty (1,250) square feet, a minimum of two (2) trees shall be required.

2. Landscaping Standards for Commercial (MU) and Medical (M) zone districts.

- a. Applicability. Landscaping standards of this Section shall apply in all MU-B-1, MU-B-2, M-1, M-2, M-O-1, and M-O-2 zone districts.
- b. Landscaping Requirements. The minimum landscaping requirements in commercial and medical zone districts shall be determined by Table 16-6-7.4 EMC.

**TABLE 16-6-7.4: MINIMUM LANDSCAPE REQUIREMENTS IN COMMERCIAL AND MEDICAL ZONES**

Use	Required Landscaped Area (% of site)	Principal Structure to Curb <sup>1,2,3</sup>	Side Yards and Rear Yard	Trees		Shrubs	
				Minimum Tree Quantity (Per sq. ft. of RLA)	Minimum % of Trees between Principal Structure and Curb	Minimum Shrub Quantity (Per sq. ft. of RLA)	Minimum % of Shrubs between Principal Structure and Curb
Residential 1 - 4 Dwelling Units	25 <sup>6</sup>	The area, (excluding driveway, parking areas, walkways and public sidewalks) bounded by the front facade of the principal structure, side property lines, and the curb shall be landscaped.	The remainder of any Required Landscaped Area (RLA) requirement may be provided within side or rear yards.	1/625 <sup>4</sup>	50	1/100	40
Residential Multi-Unit Dwelling (>4 units)	20 <sup>5,6</sup>			1/625 <sup>4</sup>	50	1/100	40
Commercial Single Use	10 <sup>5,6</sup>			1/325 <sup>4</sup>	50	1/50	40
Commercial Mixed Use (two or more land uses on site)	10 <sup>5,6</sup>			1/325 <sup>4</sup>	50	1/50	40

See Section 16-6-7(F) EMC

<sup>1</sup> Corner lots. Corner lots shall also landscape the area between the side edge of the principal structure and the curb, exclusive of driveways, parking areas, walkways and public sidewalks. In addition to the minimum tree quantity above, corner lots shall provide one tree per seventy-five linear feet (75') along the side lot line exclusive of driveways.

<sup>2</sup> Exceptions for area between public sidewalk and curb:

- areas greater than three feet (3') wide shall be landscaped with living material.
- areas less than three feet (3') wide may be landscaped with living or non-living material.

<sup>3</sup> If non-paved area between the principal structure and the curb is not large enough to accommodate the minimum percent of trees, then trees in approved tree grates are required, provided a five feet (5') clear space for pedestrians is maintained. See Table 16-6-7.9 EMC for incentives.

<sup>4</sup> When the Required Landscaped Area is less than six-hundred and twenty-five (625) square feet, a minimum of two (2) trees shall be required.

<sup>5</sup> Fee-in-Lieu may be used to off-set up to fifty percent (50%) of the Required Landscape Area, but shall not be utilized for area between the principal structure and the curb. See Section 16-6-7(H)(3) EMC.

<sup>6</sup> Alternative Compliance methods as detailed in Section 16-6-7(H) EMC may be utilized.

3. Landscaping Standards for Industrial (I) Zone Districts.

- a. Applicability. Landscaping standards of this Section shall apply in all I-1 and I-2 zone districts.
- b. Minimum Area Requirements. The minimum landscaping requirements in industrial zone districts shall be determined by Table 16-6-7.5 EMC.
- c. Required Landscaping. The percentage of required landscaped area shall be met by first fulfilling the Street Perimeter Buffer requirement of Table 16-6-7.5 EMC. After the Street Perimeter Buffer requirement is met, the remaining Required Landscaped Area may be fulfilled by options identified in Section 16-6-7(3)(c)(2) EMC, below.

**TABLE 16-6-7.5: MINIMUM LANDSCAPE REQUIREMENTS IN INDUSTRIAL ZONES**

<u>Properties/Uses</u>	<u>Required Landscaped Area (RLA) (% of site)</u>	<u>Street Perimeter Buffer</u>		<u>Site</u>	
		<u>(See 16-6-7(3)(c)(1) EMC for additional requirements)</u>		<u>Minimum Tree Quantity (Per sq. ft. of RLA)</u>	<u>Minimum Shrub Quantity (Per sq. ft. of RLA)</u>
		<u>Minimum Tree Quantity (per linear feet of street frontage)</u>	<u>Minimum Shrub Quantity (Per linear feet of street frontage)</u>		
<u>Properties Less than 43,560 square feet</u>	<u>10</u>	<u>1/30</u>	<u>1/5</u>	<u>1/300</u>	<u>1/50</u>
<u>Properties 43,560 square feet or Greater</u>	<u>8</u>	<u>1/30</u>	<u>1/5</u>	<u>1/300</u>	<u>1/50</u>
<u>Water, Wastewater Treatment and Other Similar Large-Scale Public Facilities.</u>	<u>8<sup>1</sup></u>	<u>1/30</u>	<u>1/5</u>	<u>1/300</u>	<u>1/50</u>

<sup>1</sup>Where compliance to district landscape requirements may not be feasible or practical, an alternative compliance plan may be submitted.

(1) Street Perimeter Buffer.

- (a) All industrially zoned properties shall provide a minimum eight feet (8') landscaped buffer along all street frontages, exclusive of driveways, walkways, public sidewalks, and structures. Street perimeter buffers are not required along public alleys.
- (b) The street perimeter buffer shall be measured from the back of sidewalk (or curb if no sidewalk exists). The buffer may include private property and/or public right-of-way. For properties with detached sidewalks the buffer shall be measured from the back of sidewalk or as determined by the City Manager or designee.
- (c) Fee-in-lieu shall not apply to the Street Perimeter Buffer.
- (d) When the landscaped area of the Street Perimeter Buffer exceeds the Required Landscaped Area no additional landscaped area shall be required, provided requirements for the minimum quantity of trees and shrubs are met.



**TABLE 16-6-7.6: LANDSCAPING REQUIREMENTS FOR OFF-STREET PARKING AREAS**

<u>Location or Size of Lot</u>	<u>Landscape Required</u>	<u>Minimum Landscape Width or Area</u>	<u>Trees per Linear foot (L.F.) of Landscape or Area</u>	<u>Required Landscape Elements</u>	<u>Additional Regulations or Exceptions</u>				
<b>Perimeter of Parking Lot</b>									
<u>Abutting Street</u>	<u>Yes</u>	<u>6'</u>	<u>One 2-1/2" Caliper Street Tree per 30 L.F.</u>	<p>Minimum two of the following Continuous Landscape Elements</p> <table border="1"> <tr> <td><u>At Maturity 30" Min.-36" Max. Ht. Shrubs at 3' O.C.</u></td> <td><u>Min. of two Rows of Perennials/Groundcover at 18" O.C., or Sodded Turf</u></td> <td><u>30" Min.-36" Max. Ht. Masonry Wall or Decorative Metal Fence<sup>1</sup></u></td> </tr> </table>	<u>At Maturity 30" Min.-36" Max. Ht. Shrubs at 3' O.C.</u>	<u>Min. of two Rows of Perennials/Groundcover at 18" O.C., or Sodded Turf</u>	<u>30" Min.-36" Max. Ht. Masonry Wall or Decorative Metal Fence<sup>1</sup></u>	<u>16-6-7(F)(2)(a)(6) (Wall/Fence Incentives &amp; Requirements)</u>	
<u>At Maturity 30" Min.-36" Max. Ht. Shrubs at 3' O.C.</u>	<u>Min. of two Rows of Perennials/Groundcover at 18" O.C., or Sodded Turf</u>	<u>30" Min.-36" Max. Ht. Masonry Wall or Decorative Metal Fence<sup>1</sup></u>							
<u>Abutting Alley, Rear, or Side Lot Lines</u>	<u>Yes<sup>2</sup></u>	<u>5' for Head-in Parking<sup>3</sup>, 3' for Parking Aisle</u>	<u>None Required</u>	<p>Minimum one of the following Continuous Landscape Elements</p> <table border="1"> <tr> <td><u>At Maturity 30" Min.-36" Max. Ht. Shrubs at 3' O.C.</u></td> <td><u>30" Minimum Height Masonry Wall or Decorative Metal Fence<sup>1,3</sup></u></td> </tr> </table>	<u>At Maturity 30" Min.-36" Max. Ht. Shrubs at 3' O.C.</u>	<u>30" Minimum Height Masonry Wall or Decorative Metal Fence<sup>1,3</sup></u>			
<u>At Maturity 30" Min.-36" Max. Ht. Shrubs at 3' O.C.</u>	<u>30" Minimum Height Masonry Wall or Decorative Metal Fence<sup>1,3</sup></u>								
<b>Interior of Parking Lot</b>									
<u>Applies to 20+ Parking Spaces or &gt;6000 S.F. Lot. Provide Islands or Strip</u>	<u>Yes</u>	<u>6' Wide 90° Island, or 110 S.F. Angled Island</u>	<u>One 2" Caliper Tree per Stall Length</u>	<p>Minimum one of the following Continuous Landscape Elements. Non-living Materials Allowed if Min. Plant Requirements Below are Met.</p> <table border="1"> <tr> <td><u>One 5 Gal. Shrub per 30 S.F. of Island</u></td> <td><u>One Perennial/Groundcover per 4 S.F. of Island</u></td> </tr> </table> <p>Minimum 1 of the following Continuous Landscape Elements. Non-living Materials Allowed if Min. Plant Requirements Below are Met.</p> <table border="1"> <tr> <td><u>One 5 Gal. Shrub per 50 S.F. of Island</u></td> <td><u>One Perennial/Groundcover per 6 S.F. of Island</u></td> </tr> </table>	<u>One 5 Gal. Shrub per 30 S.F. of Island</u>	<u>One Perennial/Groundcover per 4 S.F. of Island</u>	<u>One 5 Gal. Shrub per 50 S.F. of Island</u>	<u>One Perennial/Groundcover per 6 S.F. of Island</u>	<u>Does not Apply to Outdoor Display for Automotive Sales.</u>
<u>One 5 Gal. Shrub per 30 S.F. of Island</u>	<u>One Perennial/Groundcover per 4 S.F. of Island</u>								
<u>One 5 Gal. Shrub per 50 S.F. of Island</u>	<u>One Perennial/Groundcover per 6 S.F. of Island</u>								

<sup>1</sup> Wood fences permitted if a minimum of fifteen feet (15') from property lines adjacent to streets.

<sup>2</sup> Landscape area not required along the portions of side lot lines where the abutting property contains an existing structure located within three feet (3') of the property line.

<sup>3</sup> If a wall or fence is utilized, the minimum depth of the landscape area may be reduced to three feet (3').

- a. Perimeter Landscaping. In all zone districts except for industrial, the perimeter of off-street parking areas shall be landscaped regardless of lot size or number of parking spaces.
- (1) Perimeter landscaping shall be continuous except for driveways or sidewalks accessing parking area.
  - (2) The width of perimeter landscaping abutting a street shall be measured from the back of sidewalk (or curb if no sidewalk exists). The landscape area may include private property and/or public right-of-way.
  - (3) Perimeter landscaping abutting a street shall include trees with a minimum canopy height of seven feet (7') above grade at maturity.
  - (4) Walls or fences abutting a street shall have at least three feet (3') of living plant material on the street side of the wall or fence, except:
    - (a) Decorative metal fences may be located within one foot (1') of the sidewalk if the fence is at least fifty percent (50%) open.
    - (b) Up to twenty-five percent (25%) of the total length of a solid masonry wall may be located within one foot (1') of the sidewalk.
  - (5) Decorative metal fencing or masonry walls need not be continuous through perimeter landscape areas; however, other continuous landscape elements shall be present where the fence/wall is absent.
  - (6) Incentive for Masonry Walls/Decorative Metal Fences. Each linear foot of wall and/or fence abutting a street shall be credited as per Table 16-6-7.9 EMC "Incentives for Alternate Landscape Materials". Credit for fences/walls may not be used to reduce size or plant requirements in perimeter or interior parking lot landscape areas. An encroachment agreement shall be required if the fence/wall is within the public right-of-way.
  - (7) Landscape elements shall be located such that vehicle overhangs do not interfere with plantings, walls, or fences.
- b. Interior Landscaping. In all zone districts except for industrial, the interior of off-street parking areas shall be landscaped if the lot contains twenty (20) or more parking spaces or is more than six-thousand square feet (6,000 sf) in area.
- (1) Interior landscaping of parking areas shall include either landscape islands or landscape strips as described below.
    - (a) One (1) landscape island for every ten (10) parking spaces (no more than ten (10) continuous spaces without an island). Each island shall extend the length of the parking stall(s). Landscape island width shall be measured from the backs of curbs; or,
    - (b) A continuous landscape strip dividing opposing parking stalls with the minimum width measured from the backs of curbs. The landscape strip shall extend the width of all opposing parking stalls.

(c) Landscape islands and strips may also include non-living landscape materials if the minimum plant requirements are met. Use of walkable surfaces through landscape strips or at island edges is encouraged.

3. Landscaping in off-street parking areas shall count towards the total required landscaped area (RLA).
4. Fee-in-lieu alternative shall not apply to landscape requirements for parking areas.
5. All landscaping/fencing in off-street parking areas shall comply with sight distance requirements of the Unified Development Code of the Englewood Municipal Code.

G. Screening Requirements. These screening requirements are intended to physically buffer and visually shield adjacent land uses that are not fully compatible. Screening is intended to effectively shield adjacent properties from any adverse impacts of the subject development.

1. Applicability. All new development shall provide sufficient screening according to this subsection. Screening requirements shall be in addition to this Section's landscaping requirements.
2. Landscaping in screening areas shall count towards the total required landscaped area (RLA).
3. Fee-in-lieu alternative shall not apply to screening requirements.
4. All screening areas shall comply with sight distance requirements per Traffic Engineer.
5. Minimum Screening Requirements.
  - a. Screening shall be required between the following adjacent land uses and/or zone districts per Table 16-6-7.7 EMC.

**TABLE 16-6-7.7: SCREENING REQUIREMENTS**

<u>Screening Between Use or District</u>	<u>Location of Screening</u>	<u>Minimum Screening Width</u>	<u>Trees per L.F. of Landscape Area</u>	<u>Required Landscape Elements (Ht. = Height) (O.C. = On Center)</u>
<u>Nonresidential Use (1) and Residential Use</u>	<u>Abutting Rear and Side Lot Lines.</u> <sup>2, 3, 4, 5, 6</sup>	<u>5'</u>	<u>One 2" Caliper Deciduous or 6' Ht. Evergreen Tree per 30 L.F.</u>	<u>Minimum 1 of the Following Options</u>
<u>&gt; 4 Multi-Unit Residential Use<sup>1</sup> Abutting &lt;4 Unit Residential Use</u>				<u>At Maturity 6' Ht. Shrubs at 6' O.C., 6' Ht. Solid Fence</u>
<u>Industrial Use<sup>1</sup> and Commercial Use</u>	<u>Abutting Rear and Side Lot Lines.</u> <sup>2, 3, 4, 5</sup>	<u>5'</u>	<u>None</u>	<u>Minimum 1 of the Following Options</u>
<u>Industrial Use<sup>1</sup> and Residential Use</u>	<u>Abutting Rear and Side Lot Lines.</u> <sup>2, 3, 5, 6</sup>	<u>5'</u>	<u>One 2½" Caliper Deciduous or 6' Ht. Evergreen Tree per 30 L.F.</u>	<u>At Maturity 6' Ht. Shrubs at 6' O.C., 6' Ht. Solid Fence</u>
				<u>At Side Lot Line 6' Ht. Solid Fence</u>
<u>Industrial Use<sup>1</sup> and Public/Institutional Uses except for: Animal Shelters, Telecommunication, Transportation, or Utility Facilities</u>	<u>Abutting Rear and Side Lot Lines.</u> <sup>2, 3, 5</sup>	<u>5'</u>	<u>One 2½" Caliper Deciduous or 6' Ht. Evergreen Tree per 30 L.F.</u>	<u>Rear Lot Line 6' Ht. Solid Fence. If alley exists, 3' Ht. Solid Fence or at Maturity 3' Ht. Shrubs at 3' O.C.,</u>
				<u>At Side Lot Line 6' Ht. Solid Fence</u>

<sup>1</sup> Use responsible for screening at the time of development. <sup>2</sup> Behind the required front setback. <sup>3</sup> If adequate screening exists on the abutting property at the time of development, additional screening may not be required by City Manager or Designee. <sup>4</sup> Screening not required on a side lot line adjacent to a public street or on a rear lot line adjacent to an alley. <sup>5</sup> Screening not required along side or rear lot line where the structure on either property is within three feet (3') of the side or rear lot line. <sup>6</sup> Screening not required if the Residential Use is a Nonconforming Use.

b. Screening of Utility Facilities, Loading Areas, Outdoor Storage, Storage Yards, Trash Collection/Compaction Areas, and Rooftop Mechanical Equipment/Flues.

- (1) Applicability. The screening standards in the following Table 16-6-7.8 EMC shall apply to:  
(1) all utility facilities visible from public or private streets, except for small scale public utility equipment commonly found in public right-of-ways or easements; and (2) to all loading areas, outdoor storage, storage yards, trash collection/compaction areas, and rooftop mechanical equipment/flues.
- (2) The screening standards in Table 16-6-7.8 EMC shall not apply to areas located on sites with four or fewer residential units, or areas that are only visible from lots with industrial uses, (i.e. side or rear lot lines between two industrial uses).

**TABLE 16-6-7.8: SCREENING OF UTILITY FACILITIES, LOADING AREAS, OUTDOOR STORAGE, STORAGE YARDS, TRASH COLLECTION/COMPACTION AREAS, AND ROOFTOP MECHANICAL EQUIPMENT/FLUES**

<u>Type of Facility</u>	<u>Screening Requirement</u>
<u>Utility Facilities</u>	<ul style="list-style-type: none"> <li>• <u>Utility facilities shall be fully screened from public or private streets; except for, small scale public utility equipment commonly found in public right-of-ways or easements.</u></li> <li>• <u>Within a minimum 6-foot wide area, a minimum of one (1) continuous row of shrubs (minimum 6 feet tall at maturity) planted at a minimum spacing of 6 feet on center, and 2 1/2" caliber deciduous or 6' height evergreen trees planted at an average of one tree every 30 linear feet.</u></li> <li>• <u>An opaque fence or wall as tall as the facility, but no taller than the zone district maximum, may be utilized in lieu of the landscape screening above.</u></li> </ul>
<u>Truck Parking and Loading Areas</u>	<ul style="list-style-type: none"> <li>• <u>Within a minimum 6-foot wide area, a minimum of one (1) continuous row of shrubs (minimum 6 feet tall at maturity) planted at a minimum spacing of 6 feet on center, and 2 1/2" caliber deciduous or 6' height evergreen trees planted at an average of one tree every 30 linear feet.</u></li> <li>• <u>An opaque fence or wall at least 6 feet in height, but no taller than the zone district maximum, may be utilized in lieu of the landscape screening above.</u></li> </ul>
<u>Outdoor Storage, Storage Yard for Vehicles, Equipment, Material, and/or Supplies</u>	<ul style="list-style-type: none"> <li>• <u>All such areas shall be screened from view from all property lines and adjacent rights-of-way by an opaque fence or wall at least 6 feet in height, but no taller than the zone district maximum.</u></li> <li>• <u>The fence height may exceed the zone district maximum where the difference in grade between the right-of-way and the outdoor storage area makes a taller fence necessary to effectively screen the area.</u></li> <li>• <u>A landscaped earth berm may be used instead of, or in combination with a required fence or wall.</u></li> <li>• <u>If such areas are covered, then the covering shall include at least one of the predominant exposed roofing colors on the principal structure.</u></li> </ul>
<u>Trash Collection/Compaction Areas for Non-Residential Uses, or Residential Uses of 5 or More Units</u>	<ul style="list-style-type: none"> <li>• <u>Each such area shall be incorporated into the overall design of the principal structure on the site, and shall be located in the rear of the site at least 20 feet from any abutting residential uses, or if that is not feasible, then on the sides of the lot at least 5 feet from any abutting property.</u></li> <li>• <u>No such area shall be located within 5 feet of any street, public sidewalk, internal pedestrian way, or residential use. No such area shall be located within 25 feet of the main entrance to the principal structure of any abutting property.</u></li> <li>• <u>Each such trash collection area shall be screened from view from all property lines by an opaque fence or wall at least 6 feet in height, but no taller than the zone district maximum. The access to this enclosure shall be screened with an opaque gate. Screening fences and walls (not including gates) shall incorporate at least one of the predominant materials and one of the predominant colors used in the principal structure.</u></li> </ul>

Rooftop Mechanical  
Equipment/Flues

- Rooftop mechanical equipment and appurtenances shall be screened so that they are not visible from adjacent public streets or adjacent properties less than two hundred feet (200') away when viewed from five feet (5') above grade level. Screening enclosures shall use at least one (1) of the predominant materials used in the facades of the principal structure and one of the predominant colors used in the principal structure. All air conditioning compressors shall be completely screened. All rooftop and wall vents and flues extending above the top of the nearest parapet shall be painted with one of the predominant colors used in the principal structure. Any rooftop equipment generating off-site noise shall also be baffled or otherwise attenuated to direct unavoidable noise upward or away from adjacent residential uses such that noise levels do not exceed those prescribed in 6-2-5(F) EMC.

6. It is recognized that because of the wide variety of types of developments and configurations associated with them, the City may grant minor deviations whenever such deviations are more likely to satisfy the intent of this section.

#### H. Alternative Methods of Compliance.

1. Purpose. It is recognized that because of the wide variety of development configurations, the City Manager or designee may on a case-by-case basis consider minor deviations to this subsection whenever such deviations are more likely to satisfy the intent of these regulations. Alternative compliance is a process that allows modifications to existing regulations due to unique site conditions. In cases where the percentage of required landscaping or compliance with other standards may not be practical or feasible, the applicant may submit an alternative compliance landscape plan.

2. Alternative Compliance Landscape Plan Criteria. The City Manager or designee may review and approve the proposed plan if the alternative is consistent with the general intent and purpose of this Section. The proposed alternative compliance plan shall include information that substantiates the reasons for the requested modification. In addition, the City may approve the alternative compliance plan if it determines the proposed plan will more adequately comply with the intent of this section, or if it determines that one of the following conditions exist regarding the subject property:

- a. The strict application of these standards is not possible due to unique site conditions such as location of structures, configuration of the lot, topography, existing landscaping; or
- b. Safety considerations are involved such as site distance, pedestrian circulation; or
- c. The property has space limitations that exist as a result of the location of existing structures, paved areas, and other built features.

3. Fee-In-Lieu.

- a. Applicability. Fee-in-lieu shall apply only to development, redevelopment, renovation, remodel, or expansion in the following zone districts and/or to the following uses: MU-B-1, MU-B-2, I-1, I-2, commercial and more than four multi-unit dwellings uses in the M-1, M-2, M-0-1, M-0-2, zone districts and nonresidential uses in the MU-R-3-A and MU-R-3-B zone districts. Within these zone districts, fee-in-lieu shall not be eligible for:

- (1) Landscape requirements for Off-street Parking Lots or Screening between Uses or Districts.

- (2) Landscape requirements between the principle structure and curb.

- (3) The Street Perimeter Buffer in industrial zone districts.

- b. Amount of Fee-In-Lieu/Accounting. Only after it has been determined by the City that an alternative compliance plan is not practical or feasible, a fee-in-lieu equivalent may be considered. The fee-in-lieu shall be based on a fee amount set by Council and calculated based on the square footage shortfall of the total required

landscaped area. The fee shall be paid to the City and an accounting shall be made for landscaping and beautification of areas as determined by the City.

I. Incentives for Alternative Landscape Materials.

**TABLE 16-6-9 : INCENTIVES FOR ALTERNATIVE LANDSCAPE MATERIALS**

<b><u>Alternative Landscape Material</u></b>	<b><u>Unit of Measurement for Alternative Material</u></b>	<b><u>Equivalent to Unit of Standard Material</u></b>
<u>Masonry Wall or Decorative Metal Fence.</u>	<u>1 Linear Feet</u>	<u>3 Square Feet of RLA</u>
<u>Englewood Standard Fence</u>	<u>1 Linear Feet</u>	<u>6 Square Feet of RLA</u>
<u>3' Minimum Height Green Screen with Vines.</u>	<u>1 Linear Feet</u>	<u>3 Square Feet of RLA</u>
<u>Water Feature</u>	<u>1 Square Feet</u>	<u>1 Square Feet of RLA</u>
<u>Rooftop Gardens</u>	<u>1 Square Feet</u>	<u>0.5 Square Feet of RLA</u>
<u>One Gallon Perennial or Groundcover</u>	<u>4 Plants</u>	<u>1 Five Gallon Shrub</u>
<u>City Approved Tree Grate with Minimum 2-1/2" Cal. Street Tree Between Principal Structure and Curb</u>	<u>1 Tree Grate. Not to Exceed 1 Grate per 25 Linear Feet of Lot Frontage</u>	<u>150 Square Feet of RLA</u>

Section 2. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 11 Section 2(B), “*Definition of Words, Terms, and Phrases*” of the Englewood Municipal Code 2000 by inserting in alphabetical order to read as follows:

**16-11-2: Definition of Words, Terms, and Phrases.**

B. Definition of Words, Terms, and Phrases.

Denver Metropolitan Area: The area defined within the Denver Regional Council of Governments (DRCOG), Metropolitan Planning Organization (MPO) Boundary.

Section 3. Grandfather Clause. Existing uses or lots shall not be deemed nonconforming solely because of the lack of landscaped area or landscape material in the minimum amount required by this Chapter, provided that the landscaped area and material existed on the effective date of this Chapter, and the landscaped area and material are not thereafter reduced in area or size below the minimum amount required by this Section.

Section 4. Safety Clauses. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Englewood, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 5. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance or its application to other persons or circumstances.

Section 6. Inconsistent Ordinances. All other Ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 7. Effect of repeal or modification. The repeal or modification of any provision of the Code of the City of Englewood by this Ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purposes of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 8. Penalty. The Penalty Provision of Section 1-4-1 EMC shall apply to each and every violation of this Ordinance.

Introduced, read in full, and passed on first reading on the 15<sup>th</sup> day of November, 2010.

Published by title in the City's official newspaper on the 19<sup>th</sup> day of November, 2010.

Published as a Bill for an Ordinance on the City's official website beginning on the 17th day of November, 2010 for thirty (30) days.

ATTEST:

\_\_\_\_\_  
James K. Woodward, Mayor

\_\_\_\_\_  
Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 15th day of November, 2010.

\_\_\_\_\_  
Loucrishia A. Ellis

## COUNCIL COMMUNICATION

<b>Date:</b> November 15, 2010	<b>Agenda Item:</b> 11 a ii	<b>Subject:</b> An Ordinance Authorizing the Sale of 2215 West Wesley Avenue, 3395 West Grand Avenue, 4744 South Galapago Street, 3102 West Radcliff Drive, 2159 West Vassar Avenue, and 3115 South Acoma Street Funded through the Neighborhood Stabilization Program Grant
<b>Initiated By:</b> Community Development Department		<b>Staff Source:</b> Harold J. Stitt, Senior Planner

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council approved Resolution 34 Series of 2009 authorizing staff to apply to the Department of Local Affairs, Colorado Division of Housing, for a portion of Arapahoe County's allocation of the Federal Neighborhood Stabilization Program funds (NSP1).

City Council approved Ordinance 37, Series of 2009 authorizing the execution of a contract for NSP1 grant funding between the State of Colorado Department of Local Affairs and the City of Englewood.

City Council approved Ordinance 49, Series of 2009 authorizing the purchase of ten unidentified single-family vacant foreclosed properties located in the eligible census tracts throughout the City of Englewood to fulfill the NSP1 contract with the Colorado Department of Local Affairs.

City Council approved Ordinance 15, Series of 2010 authorizing the sale of 2198 W. Adriatic Pl, 2335 W. Baltic Pl, 2010 W. Baltic Pl, 4819 S. Delaware St, and 4681 S Decatur St #226 funded through the NSP1 grant

City Council approved Ordinance 27, Series of 2010 authorizing an amendment to the NSP1 contract budget to purchase up to three additional unidentified single-family vacant foreclosed properties located in the eligible census tracts throughout the City of Englewood to fulfill the NSP1 contract with the Colorado Department of Local Affairs.

### RECOMMENDED ACTION

Staff recommends that Council approve a bill for an ordinance authorizing the sale of six single family residences located at 2215 West Wesley Avenue, 3395 West Grand Avenue, 4744 South Galapago Street, 3102 West Radcliff Drive, 2159 West Vassar Avenue and 3115 South Acoma Street.

## **BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED**

In 2008, the Federal government passed the Housing and Economic Recovery Act (HERA). HERA appropriated \$3.92 billion nationally for the Neighborhood Stabilization Program (NSP1) to support the acquisition, rehabilitation, or demolition of foreclosed and abandoned properties. The Colorado Department of Local Affairs through the Division of Housing received a total \$37.9 million in NSP1 funds.

In March, the Community Development Department submitted an application to the State as authorized for NSP1 funding for Project Rebuild. Project Rebuild was awarded \$1,253,379.00 by the State Housing Board in July to purchase, rehabilitate, and sell foreclosed single-family properties in eligible census tracts located throughout the City of Englewood. In September, Council approved entering into an agreement with the State for NSP1 funding.

The NSP1 contract requires the purchase, rehabilitation, and resale of a maximum thirteen homeownership units. Currently six homes located at 2215 West Wesley Avenue, 3395 West Grand Avenue, 4744 South Galapago Street, 2159 West Vassar Avenue and 3115 South Acoma Street have been purchased and are in various stages of being rehabbed. All six properties will soon be available to sell to eligible owner/occupied buyers.

Section 72 of the Home Rule Charter requires that real property may be sold, but only by ordinance, not using the emergency provision. Each property acquired for Project Rebuild will be brought before Council as soon as possible to receive approval to sell each property to eligible buyers. This will maximize the marketing efforts. This process will expedite the subsequent sale and closing of the property.

If an offer to purchase any of these homes is received from any City employee, their family members, or any business in which a City employee has a financial interest, such offer will be submitted to the Englewood City Council for approval.

## **FINANCIAL IMPACT**

Existing Community Development staff has the required expertise to sell the properties to eligible buyers. All selling expenses will be covered by funds provided by the NSP1 grant. At this time, all proceeds from the sale of each property will be reimbursed to the State of Colorado as program income as required by the contract until all houses are sold or the program expires March 10, 2013.

## **LIST OF ATTACHMENTS**

Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2010 \_\_\_\_\_

COUNCIL BILL NO. 48  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN ORDINANCE APPROVING THE SALE ON THE OPEN MARKET OF SIX PROPERTIES WHICH WERE PURCHASED AND REHABILITATED WITH FUNDS FROM THE NEIGHBORHOOD STABILIZATION PROGRAM GRANT AND THE LTAR FUND.

WHEREAS, the Englewood City Council approved Resolution No. 34, Series of 2009 authorizing the City to apply to the Department of Local Affairs, Colorado Division of Housing for a portion of Arapahoe County's allocation of the Federal Neighborhood Stabilization Program funds (NSP1); and

WHEREAS, the City Council approved Ordinance No. 37, Series of 2009 authorizing the execution of a contract for Neighborhood Stabilization Program grant funding between the State of Colorado Department of Local Affairs and the City of Englewood; and

WHEREAS, the City Council approved Ordinance No. 49, Series of 2009 authorizing the purchase of ten (10) unidentified, single-family, vacant, foreclosed properties located in the eligible census tracts throughout the City of Englewood to fulfill the NSP1 contract with the Colorado Department of Local Affairs; and

WHEREAS, the City Council approved Ordinance No. 27, Series of 2010, authorizing an amendment to the NSP1 contract budget to purchase up to three (3) additional unidentified single family, vacant, foreclosed properties located in the eligible census tracts throughout the City of Englewood to fulfill the NSP1 Contract with the Colorado Department of Local Affairs; and

WHEREAS, six such properties are almost ready to be sold to private parties who will secure their own financing; and

WHEREAS, if an offer to purchase is received from any City employee, their family members, or any business in which a City employee has a financial interest, such offer will be submitted to the Englewood City Council for approval;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, AS FOLLOWS:

Section 1. Approval is hereby given for the sale on the open market of six properties which were purchased and rehabilitated with funds from the Neighborhood Stabilization Program Grant and the LTAR Fund. Said properties will be sold to private parties who shall secure their own financing.

Section 2. The following properties are authorized to be sold on the open market:

1. 2215 West Wesley Avenue
2. 3395 West Grand Avenue
3. 4744 South Galapago Street
4. 3102 West Radcliff Drive
5. 2159 West Vassar Avenue
6. 3115 South Acoma Street

Section 3. The sale of these properties shall require the purchaser to agree as follows:

1. All households being served must qualify under the terms of the NSP1 Grant.
2. The purchasing household will undergo a minimum of 8 hours of HUD approved homeownership counseling.
3. The purchasing household must occupy the property as a principal residence for a minimum of five years.

Section 4. The sale price shall be equal to or less than the costs to acquire and redevelop the home.

Section 5. The sale proceeds will be reimbursed to the NSP1 funds and the LTAR funds upon the rehabilitation and sale of the foreclosed properties.

Section 6. The Mayor and the City Clerk are authorized to execute the proper form of deed for the conveyance of these properties pursuant to Section 72 of the Englewood City Charter.

Introduced, read in full, and passed on first reading on the 15<sup>th</sup> day of November, 2010.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 19th day of November, 2010.

Published as a Bill for an Ordinance on the City's official website beginning on the 17th day of November, 2010 for thirty (30) days.

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James K. Woodward, Mayor

ATTEST:

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Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 15th day of November, 2010.

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Loucrishia A. Ellis

## COUNCIL COMMUNICATION

<b>Date:</b> November 15, 2010	<b>Agenda Item:</b> 11 c i	<b>Subject:</b> Resolution Establishing a Line of Credit for the Housing Rehabilitation Enterprise Fund
<b>Initiated By:</b> Community Development Department		<b>Staff Source:</b> Harold J. Stitt, Senior Planner

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council approved Ordinance 23, Series 1999 assuming all of the assets and liabilities of the Rehabilitation Program from the Englewood Housing Authority. Council also approved Resolution 33, Series of 2000, Resolution 77, Series of 2003, and Resolution 72, Series 2006 authorizing an agreement establishing lines of credit for the continuance of the Housing Rehabilitation Fund with three additional one-year line of credit extensions to be negotiated.

Also approved was Ordinance 26, Series of 1999 establishing the Housing Rehabilitation Fund and Ordinance 31, Series of 2003 creating the City of Englewood Housing Rehabilitation Enterprise Fund.

### RECOMMENDED ACTION

To approve a resolution establishing a new line of credit with US Bank for \$250,000 to support the activities of the Housing Rehabilitation Enterprise Fund and to authorize the City Manager or designee to negotiate three additional one-year periods that will not increase the amount of the line of credit.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The City created the Housing Rehabilitation Loan Program in 1977 to preserve the existing housing stock in the City and to address the problems of low-income families with the financing of major repairs. The Program was administered through the Englewood Housing Authority until early 1999 when the City established the Housing Rehabilitation Fund and assumed all of the assets and liabilities of the Rehabilitation Program.

A major component of the success of the program is the support from the banking community. Since 1977 various lines of credit totaling over \$7.1 million have been extended to the Fund from various local banks.

The 2010 request is for an additional \$250,000 guidance line from US Bank to be disbursed for one year to support the rehab program. This amount is in addition to the current outstanding debt owed to US Bank of \$802,570. In addition, \$688,069 is owed to Vectra Bank from past lines of credit. The Vectra Bank line of credit has expired.

The proposed initial fixed interest rate offered by US Bank is 3.18%. The interest rate is fixed, but new advances from the guidance line are subject to quarterly adjustments based on a formula using the prime rate. All loans are approved at a fixed rate to be repaid over a 20-year maximum term. Additional one-year guidance line periods will need to be negotiated annually by the City Manager or designee for the next three years in order to continue the program at its current level of service.

At the completion of each rehabilitation project, the individual loan is secured by a Promissory Note and Deed of Trust (usually a second mortgage) recorded on the homeowner's property. The City Manager's designee (the Director of Community Development) signs a note from the Fund to the bank plus issues an Assignment of Deed thereby fully collateralizing each loan using the homeowner's property as security. Each homeowner makes monthly payments to the Fund and the Fund then passes these payments through to the bank. An additional collateral account equal to 5% of the outstanding balance of the amount drawn from the guidance line is required to be held on deposit at US Bank. The current account balance is \$39,099 and Fund 46 is available to fund the account as needed.

**FINANCIAL IMPACT**

Existing Community Development staff administers the Housing Rehabilitation Fund. No additional administrative monies will be required. The outstanding debt of the Housing Rehabilitation Fund will be increased by the amount of the guidance line used, up to a maximum additional amount of \$250,000, which will take the total US Bank debt up to \$1,052,570.

**LIST OF ATTACHMENTS**

Resolution

RESOLUTION NO. \_\_\_\_\_  
SERIES OF 2010

A RESOLUTION APPROVING A NEW LINE OF CREDIT WITH U. S. BANK NATIONAL ASSOCIATION (U.S. BANK) FOR \$250,000 TO SUPPORT THE ACTIVITIES OF THE HOUSING REHABILITATION ENTERPRISE FUND AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE THREE ADDITIONAL ONE-YEAR EXTENSIONS FOR THIS LINE OF CREDIT THAT WILL NOT INCREASE THE TOTAL AMOUNT OF THIS LINE OF CREDIT.

WHEREAS, Englewood City Council approved Ordinance 23, Series of 1999, assuming all of the assets and liabilities of the Rehabilitation Program from the Englewood Housing Authority; and

WHEREAS, Englewood City Council approved Ordinance 26, Series of 1999, establishing the Housing Rehabilitation Fund and Ordinance 31, Series of 2003, creating the City of Englewood Housing Rehabilitation Enterprise Fund; and

WHEREAS, Englewood City Council also approved Resolution 33, Series of 2000, and Resolution No. 77, Series 2003, and Resolution No. 72, Series 2006, authorizing an agreement establishing a line of credit for the continuance of the Housing Rehabilitation Fund with three additional one-year line of credit extensions; and

WHEREAS, U.S. Bank has shown an interest in participating in the program with the Fund;

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

Section 1. Englewood City Council hereby authorizes the City Manager to sign a new line of credit with U.S. Bank for a total of \$250,000 to support the activities of the Housing Rehabilitation Enterprise Fund.

Section 2. Englewood City Council hereby authorizes the City Manager to negotiate terms for three additional one-year periods so long as the extensions do not increase the total amount of the line of credit authorized by this Resolution.

ADOPTED AND APPROVED this 15<sup>th</sup> day of November, 2010.

ATTEST:

\_\_\_\_\_  
James K. Woodward, Mayor

\_\_\_\_\_  
Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk for the City of Englewood, Colorado, hereby certify the above is a true copy of Resolution No. \_\_\_\_\_, Series of 2010.

\_\_\_\_\_  
Loucrishia A. Ellis, City Clerk

RESOLUTION NO. \_\_\_\_\_  
 SERIES OF 2010

A RESOLUTION RECOMMENDING TO THE CITY MANAGER OF THE CITY OF ENGLEWOOD, COLORADO THE ESTABLISHMENT OF A TEMPORARY SUSPENSION OR MORATORIUM ON THE ENFORCEMENT OF SELECT PROVISIONS OF THE ENGLEWOOD MUNICIPAL CODE 2000, PERTAINING TO PARKING AND STORAGE REGULATIONS FOR RESIDENTIAL DISTRICTS, TITLE 11, CHAPTER 6, SECTION 2, FOR A PERIOD OF SIX MONTHS.

WHEREAS, at a public meeting there were complaints concerning the prohibition of commercial vehicles over 7,000 pounds empty weight parking on private property in a residential zone district; and

WHEREAS, the Englewood City Council wishes to review the appropriateness of maintaining the restrictions on parking oversized vehicles on private property in residential districts of the City; and

WHEREAS, the moratorium would temporarily stop enforcement of 11-6-2(B)(1) EMC relating to the parking of any vehicle with an empty weight in excess of seven thousand (7,000) pounds (70 C.W.T.) on private property in residential areas; and

WHEREAS, such a moratorium will not suspend enforcement of 11-6-2(B)(1) EMC relating to public property in a residential area or 11-6-2(C)(3) EMC prohibiting more than one (1) commercial vehicle on property in any residential zone; and

WHEREAS, the City Council finds that a six month moratorium or temporary suspension of the enforcement of certain provisions of the Englewood Municipal Code 2000 pertaining to these parking regulations is necessary to begin review of these parking regulations;

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

Section 1. The City Council of the City of Englewood, Colorado recommends the City Manager establish a moratorium or temporary suspension on the enforcement of the Englewood Municipal Code 2000 pertaining to the prohibition on parking a commercial vehicle with an empty weight of over seven thousand (7,000) pounds (70 C.W.T.) on private property in a residential area from November 15, 2010 to May 15, 2011.

Section 2. This moratorium shall not apply to any part of the Englewood Municipal Code except for the following section:

11-6-2(B)(1)	relating to parking of one (1) oversized commercial vehicle on <u>private property</u> during the six (6) month moratorium.
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Section 3. The City Council finds the provisions of this Resolution are temporary in nature and are intended to be replaced by subsequent legislative enactment so that the moratorium or temporary suspension as specified in this Resolution should terminate on May 15, 2011.

ADOPTED AND APPROVED this 15th day of November, 2010.

ATTEST:

\_\_\_\_\_  
James K. Woodward, Mayor

\_\_\_\_\_  
Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk for the City of Englewood, Colorado, hereby certify the above is a true copy of Resolution No. \_\_\_\_\_, Series of 2010.

\_\_\_\_\_  
Loucrishia A. Ellis, City Clerk