

**Agenda for the  
Regular Meeting of the  
Englewood City Council  
Monday, April 16, 2012  
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 April 2, 2012.
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.)
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.)

Council Response to Public Comment
8. Communications, Proclamations, and Appointments.
  - a. A resolution appointing Catherine Townley to the Planning and Zoning Commission.

Please note: If you have a disability and need auxiliary aids or services, please notify the City of Englewood (303-762-2405) at least 48 hours in advance of when services are needed.
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9. Consent Agenda Items.
  - a. Approval of Ordinances on First Reading.
  - b. Approval of Ordinances on Second Reading.
  - c. Resolutions and Motions.
    - i. Recommendation from the Public Works Department to approve, by motion, a contract for Asphalt Crack Sealing 2012. Staff recommends awarding the contract to the lowest acceptable bidder, Avery Asphalt, Inc., in the amount of \$27,580. **Staff Source: Dave Henderson, Engineering/Capital Projects Administrator and Brad Hagan, Streets Maintenance Manager.**
10. Public Hearing Items.
  - a. A Public Hearing to gather input on Council Bill No. 20, a proposed bill for an ordinance amending the Unified Development Code to establish the Mixed Use High Density Residential and Limited Office Zone District and the related zoning change (Medical Sub-area 3).
  - b. A Public Hearing to gather input on Council Bill No. 21, a proposed bill for an ordinance amending the Unified Development Code to establish the Neighborhood Preservation Overlay Zone District and the related zoning change (Medical District Sub-area 2).
11. Ordinances, Resolutions and Motions
  - a. Approval of Ordinances on First Reading.
    - i. Council Bill No. 17 – Recommendation from the Utilities Department to adopt a bill for an ordinance amending and clarifying the language of Title 12-1D-5 of the Englewood Municipal Code pertaining to “Charges for Turning Water On and Off”. **Staff Source: Stewart H. Fonda, Director of Utilities.**
    - ii. Council Bill No. 22 – Recommendation from the Finance Department to adopt an emergency bill for an ordinance authorizing the issuance of General Obligation Water Refunding and Improvement Bonds Series 2012. **Staff Source: Frank Grylewicz, Director of Finance and Administrative Services.**
    - iii. Council Bill No. 23 – Recommendation from the Finance Department to adopt an emergency bill for an ordinance authorizing the issuance of Storm Water Enterprise Revenue Refunding Bonds Series 2012. **Staff Source: Frank Grylewicz, Director of Finance and Administrative Services.**

- iv. Council Bill No. 24 – Recommendation from the Community Development Department to adopt a bill for an ordinance approving the Denver Seminary Planned Unit Development (PUD) Amendment 3 adding Financial Institution with Drive-Through Service to the Table of Allowed Uses. Staff further recommends that Council set a public hearing on May 7, 2012 to gather input on this matter. **Staff Source: Brook Bell, Planner II.**
- b. Approval of Ordinances on Second Reading.
- c. Resolutions and Motions.
  - i. Recommendation from Finance Department to approve a resolution authorizing a supplemental appropriation for the 2011 budget. **Staff Source: Frank Gryglewicz, Director of Finance and Administrative Services.**
  - ii. Recommendation from the Utilities Department to approve, by motion, a contract for the McLellan Reservoir Outlet Pipe Project. Staff recommends awarding the contract to the lowest acceptable bidder, Diaz Construction Group, in the amount of \$116,250. **Staff Source: Stewart H. Fonda, Director of Utilities.**
  - iii. Recommendation from the Utilities Department to approve, by motion, the purchase of water meters and electronic remote transmitters. Staff recommends purchasing the equipment from National Meter and Automation, Inc. in the amount of \$99,563.56 in conjunction with Denver Water's purchase to ensure the best quantity price. **Staff Source: Stewart H. Fonda, Director of Utilities.**
- 12. General Discussion.
  - a. Mayor's Choice.
  - b. Council Members' Choice.
    - i. NLC Economic Development Seminar in Manhattan Beach, CA
- 13. City Manager's Report.
- 14. City Attorney's Report.
- 15. Adjournment.

RESOLUTION NO. \_\_\_\_\_  
SERIES OF 2012

A RESOLUTION APPOINTING CATHERINE TOWNLEY TO THE PLANNING AND ZONING COMMISSION FOR THE CITY OF ENGLEWOOD, COLORADO.

WHEREAS, the Englewood Planning and Zoning Commission makes recommendations to City Council regarding the master plan, the comprehensive zoning ordinance, proposed subdivisions as well as capital improvements; and

WHEREAS, there is a vacancy on the Englewood Planning and Zoning Commission; and

WHEREAS, Catherine Townley was previously named as an alternate to the Englewood Planning and Zoning Commission; and

WHEREAS, Council wishes to express its gratitude for the volunteerism and service that this individual wishes to bestow upon the City;

WHEREAS, the Englewood City Council desires to appoint Catherine Townley to the Englewood Planning and Zoning Commission;

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

Section 1. Catherine Townley is hereby appointed to the Englewood Planning and Zoning Commission. Catherine Townley's term will be effective immediately and shall expire February 1, 2016.

ADOPTED AND APPROVED this 16th day of April, 2012.

ATTEST:

\_\_\_\_\_  
Randy P. Penn, Mayor

\_\_\_\_\_  
Kerry Bush, Deputy City Clerk

I, Kerry Bush, Deputy City Clerk for the City of Englewood, Colorado, hereby certify the above is a true copy of Resolution No. \_\_\_\_\_, Series of 2012.

\_\_\_\_\_  
Kerry Bush, Deputy City Clerk

## COUNCIL COMMUNICATION

<b>Date:</b> April 16, 2012	<b>Agenda Item:</b> 9 c i	<b>Subject:</b> Award Contract for Asphalt Crack Sealing 2012
<b>Initiated By:</b> Department of Public Works		<b>Staff Source:</b> Dave Henderson, Engineering/Capital Projects Administrator Brad Hagan, Streets Maintenance Manager

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

- On February 13, 2012, Public Works Staff discussed Street maintenance needs with City Council at a Study Session.
- On March 5, 2012, City Council approved Resolution 46, Series 2012 appropriating an additional \$334,000 for Street Maintenance in 2012.

### RECOMMENDED ACTION

Staff recommends that City Council award, by motion, a contract to the lowest acceptable bidder, **Avery Asphalt, Inc.**, in the amount of **\$ 27,580.00**, for **Asphalt Crack Sealing 2012**; authorizing the Director of Public Works to execute the contract.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

Public Works staff performed a detailed inventory of the entire City to rate the condition of our 121 centerline mile (340 lane mile) Englewood street system. The data assisted us in developing a recommended plan addressing pavement surface treatment needs for the next five years. Staff presented a proposed "2012 Five-Year Paving Plan" to City Council in February. The plan recommends various surface treatments for streets depending upon the present condition. Council appropriated an additional \$334,000 to the 2012 Road and Bridge account of the Public Improvement Fund, supplementing the original \$750,000 appropriation.

Asphalt Crack Sealing is a major maintenance component of the 2012 Five-Year Paving Plan. The data we collected through our inventory indicates the need for Crack Sealing as many streets as possible as soon as possible. We have identified 438 blocks that could benefit from crack sealing this year. Sealing cracks in asphalt is our first line of defense in keeping moisture out of the pavement and sub-grade.

In-house staff prepared bid documents and specifications for the project. A list of 120 high priority blocks was prepared (see attached map). Staff limited the contractors' scope of work to residential streets for this project. Street Division staff will continue to pour cracks in 40-60 blocks with in-house crews. Our crews will concentrate on the busier arterial and collector streets. There are a number of different products available for sealing cracks, many with proprietary formulas. Evaluating the different materials and writing a specification to assure we will have an acceptable

Evaluating the different materials and writing a specification to assure we will have an acceptable product will require additional careful research. Staff determined that it is in our best interest to provide the contractor with the material that our Street Division has been using for many years. This will assure us that the product will perform as expected, and will eliminate the contractor markup for materials. We "piggy back" our direct purchase for crack sealing material from a large contract bid by the City of Colorado Springs.

Staff intends to seal as many streets as our approved budget and time will allow. The contract is structured to pay by the pound of material installed. If bids are favorable and the selected contractor is performing well, we may exercise our option to extend the contract. Crack pouring operations are most effective when pavement temperatures are low and cracks are more open, typically in the spring and fall.

The low bidder, Avery Asphalt, has not previously worked for the City of Englewood. Staff has evaluated the references submitted with the bid and finds their experience and qualifications acceptable.

### FINANCIAL IMPACT

Five bids were received and opened on April 4, 2012 as detailed in the attached Bid Tabulation.

Estimated Construction costs for the 2012 project are as follows:

Construction contract (NORAA Concrete Construction)	<b>\$ 27,580.00</b>
Material cost for City Supplied Crack Sealant material (55,000 lb)	28,600.00
15% Contingency for additional material or work (Spring 2012 Season)	<u>8,820.00</u>
 Total Estimated 2012 Spring Season Construction Cost	 \$ 65,000.00

The total available in the 2012 Road & Bridge account in the Public Improvement Fund is as follows:

Original appropriation	\$ 750,000
Supplemental appropriation	334,000
Carry over from 2011 (reserved for Union Ave. Paving and contingency)	<u>233,442</u>
	\$1,317,442

Anticipated 2012 expenditures are as detailed below:

Overlay (in-house)	\$ 660,000
Crack Seal (in-house)	30,000
Union Ave. paving	175,000
On-going operations and contingency	120,000
Contract Crack Seal (this project)	<u>65,000</u>
	\$1,050,000

The balance of \$ 267,442 is available for additional contract Crack Sealing, additional in-house Overlay, or contract Cape Seal. Staff will recommend a course of action after evaluating the performance of this contract.

**LIST OF ATTACHMENTS**

Map  
Bid Tabulation  
Contract Form

CITY OF ENGLEWOOD -- PUBLIC WORKS DEPT  
**2012 Crack Sealing**



North  
 Revised: March 13, 2012

<b>Legend</b>	Total Blocks (approximate)
	Crack Sealing 120
Note: Typical city block = 660 ft x 32 ft	

**City of Englewood Bid Tabulation Sheet**

Bid Opening: April 4, 2012 2:00 PM MDT

**Apparent Low Bidder**

ITEM: ITB-12-011 2012 Asphalt Pavement Crack Sealing Project

Contractor	Bid Bond Y/N	SOQ Y/N	Receipt of Addendum Y/N	Total Base Bid	Exceptions:
Foothills Paving & Maintenance Inc.					
15485 W 44th Ave Ste C					
Golden, CO 80403					
Michael Horn, President (303) 462-5600	Y	Y	Y	<b>\$60,950.00</b>	
Precise Striping LLC					
7371 Ivy St					
Commerce City, CO 80022					
Troy Beer, President (303) 462-2800	Y	Y	Y	<b>\$39,700.00</b>	
A-1 Chipseal Company					
2001 W 64th Ln					
Denver, CO 80221					
Daniel Gryzmala, VP (303) 464-9267 X276	Y	Y	Y	<b>\$76,130.00</b>	
Coatings, Inc.					
5903 Lamar St					
Arvada, CO 80003					
Richard Miller, President (303) 423-4303	Y	Y	Y	<b>\$52,390.00</b>	
Avery Asphalt, Inc.					
860 E 68th St					
Denver, CO 80229					
Andrew Avery, VP (719) 417-0110	Y	Y	Y	<b>\$27,580.00</b>	

## CONTRACT

### CITY OF ENGLEWOOD, COLORADO

THIS CONTRACT and agreement, made and entered into this 16<sup>th</sup> day of April, 2012, by and between the City of Englewood, a municipal corporation of the State of Colorado hereinafter referred to as the "City", and Avery Asphalt, Inc., whose address is 860 East 68<sup>th</sup> Avenue, Denver, CO 80229, ("Contractor"), commencing on the 15<sup>th</sup> day of March, 2012, and continuing for at least ten (10) days thereafter the City advertised that sealed proposals would be received for furnishing all labor, tools, supplies, equipment, materials and everything necessary and required for the 2012 Asphalt Pavement Crack Sealing Project.

WHEREAS, proposals pursuant to said advertisement have been received by the Mayor and City Council and have been certified by the Director of Public Works to the Mayor and City Council with a recommendation that a contract for work be awarded to the above named Contractor who was the lowest reliable and responsible bidder therefore, and

WHEREAS, pursuant to said recommendation, the Contract has been awarded to the above named Contractor by the Mayor and City Council and said Contractor is now willing and able to perform all of said work in accordance with said advertisement and his proposal.

NOW THEREFORE, in consideration of the compensation to be paid and the work to be performed under this contract, the parties mutually agree as follows:

- A. Contract Documents: It is agreed by the parties hereto that the following list of instruments, drawings and documents which are attached or incorporated by reference constitute and shall be referred to either as the Contract Documents or the Contract and all of said instruments, drawings, and documents taken together as a whole constitute the Contract between the parties hereto and they are as fully a part of this agreement as if they were set out verbatim and in full:

- Invitation to Bid
- Contract (this instrument)
- Insurance
- Technical Specifications
- Special Provision
- Street/Avenue List
- Street/Avenue Map

- B. Scope of Work: The Contractor agrees to and shall furnish all labor, tools, supplies, equipment, materials and everything necessary for and required to do, perform and complete all the work described, drawn, set forth, shown and included in said Contract Documents.
- C. Terms of Performance: The Contractor agrees to undertake the performance of the work under this Contract within **ten (10) days** from being notified to commence work by the Director of Public Works and agrees to fully complete said work by May 31, 2012, plus such extension or extensions of time as may be granted by the Director of Public Works in accordance with the provisions of the Contract Documents and Specifications.
- D. Indemnification: The city cannot and by this Agreement/Contract does not agree to indemnify, hold harmless, exonerate or assume the defense of the Contractor or any other person or entity, for any purpose. The Contractor shall defend, indemnify and

save harmless the City, its officers, agents and employees from any and all claims, demands, suits, actions or proceedings of any kind or nature including Worker's Compensation claims, in any way resulting from or arising out of this Agreement/Contract: provided, however, that the Contractor need not indemnify or save harmless the City, its officers, agents and employees from damages resulting from the sole negligence of the City's officers, agents and Employees.

- E. Termination of Award for Convenience: The City may terminate the award at any time by giving written notice to the Contractor of such termination and specifying the effective date of such termination, at least thirty (30) days before the effective date of such termination. In that event all finished or unfinished service, reports, material (s) prepared or furnished by the Contractor after the award shall, at the option of the City, become its property. If the award is terminated by the City as provided herein, the Contractor will be paid that amount which bears the same ratio to the total compensation as the services actually performed or material furnished bear to the total services/materials the successful firm agreed to perform under this award, less payments of compensation previously made. If the award is terminated due to the fault of the Contractor the clause relating to termination of the award for cause shall apply.
- F. Termination of Award for Cause: If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations or if the Contractor shall violate any of the covenants, agreements or stipulations of the award, the City shall have the right to terminate the award by giving written notice to the Contractor of such termination and specifying the effective date of termination. In that event, all furnished or unfinished services, at the option of the City, become its property, and the Contractor shall be entitled to receive just, equitable compensation for any satisfactory work documents, prepared completed or materials as furnished.

Notwithstanding the above, the Contractor shall not be relieved of the liability to the City for damages sustained by the City by virtue of breach of the award by the Contractor and the City may withhold any payments to the Contractor for the purpose of set off until such time as the exact amount of damages due the City from the Contractor is determined.

- G. Terms of Payment: The City agrees to pay the Contractor for the performance of all the work required under this contract, and the Contractor agrees to accept as his full and only compensation therefore, such sum or sums of money as may be proper in accordance with the price or prices set forth in the Contractor's proposal attached and made a part hereof, the total estimated cost thereof being **Twenty Seven Thousand, Five Hundred Eighty dollars(\$27,580.00)**
- H. Appropriation of Funds: At present, **\$27,580.00** has been appropriated for the project. Notwithstanding anything contained in this Agreement to the contrary, the parties understand and acknowledge that each party is subject to Article X, § 20 of the Colorado Constitution ("TABOR"). The parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, notwithstanding anything in this Agreement/Contract to the contrary, all payment obligations of the City are expressly dependent and conditioned upon the continuing availability of funds beyond the term of the City's current fiscal period ending upon the next succeeding December 31. Financial obligations of the City payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made

available in accordance with the rules, regulations, and resolutions of the City and applicable law. Upon the failure to appropriate such funds, this Agreement shall be deemed terminated. The City shall immediately notify the Contractor or its assignee of such occurrence in the event of such termination.

- I. Assignment: Contractor shall not, at any time, assign any interest in this Agreement or the other Contract Documents to any person or entity without the prior written consent of the City specifically including, but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law). Any attempted assignment which is not in compliance with the terms hereof shall be null and void. Unless specifically stated to the contrary in any written consent to an Assignment, no Assignment will release or discharge the Assignor from any duty or responsibility under the Contract Documents.
- J. Contract Binding: It is agreed that this Contract shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, assigns, and successors.
- K. Contractors Guarantee: The Contractor shall guarantee that work and associated incidentals shall remain in good order and repair for a period of one (1) year from all causes arising from defective workmanship, and to make all repairs arising from said work causes during such period without further compensation. The determination of the necessity for the repair or replacement of said work, and associated incidentals or any portion thereof, shall rest entirely with the Director of Public Works whose decision upon the matter shall be final and obligatory upon the Contractor.

#### **VERIFICATION OF COMPLIANCE WITH C.R.S. 8-17.5-101 ET.SEQ. REGARDING HIRING OF ILLEGAL ALIENS**

**(a) Employees, Contractors and Subcontractors:** Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor shall not contract with a subcontractor that fails to certify to the Contractor that the subcontractor will not knowingly employ or contract with an illegal alien to perform work under this Contract. [CRS 8-17.5-102(2)(a)(I) & (II).]

**(b) Verification:** Contractor will participate in either the E-Verify program or the Department program, as defined in C.R.S. 8-17.5-101 (3.3) and 8-17.5-101 (3.7) respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this public contract. Contractor is prohibited from using the E-Verify program or the Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed.

**(c) Duty to Terminate a Subcontract:** If Contractor obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, the Contractor shall:

(1) notify the subcontractor and the City within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

(2) terminate the sub-contract with the subcontractor if, within three days of receiving notice required pursuant to this paragraph the subcontractor does not stop

employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with the illegal alien.

**(d) Duty to Comply with State Investigation:** Contractor shall comply with any reasonable request of the Colorado Department of Labor and Employment made in the course of an investigation by that the Department is undertaking pursuant to C.R.S. 8-17.5-102 (5).

**(e) Damages for Breach of Contract:** The City may terminate this contract for a breach of contract, in whole or in part, due to Contractor's breach of any section of this paragraph or provisions required pursuant to C.R.S. 8-17.5-102. Contractor shall be liable for actual and consequential damages to the City in addition to any other legal or equitable remedy the City may be entitled to for a breach of this Contract under this Paragraph.

**IN WITNESS WHEREOF, the parties hereto have executed this Contract the day and year first written above.**

CITY OF ENGLEWOOD

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

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

ATTEST: \_\_\_\_\_

City Clerk

\_\_\_\_\_  
Contractor (print company name )

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

(Signature)

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

\_\_\_\_\_  
(Print name and Title )

STATE OF \_\_\_\_\_ )

) ss.

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of \_\_\_\_\_, the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
NOTARY

## COUNCIL COMMUNICATION

<b>Date:</b> April 16, 2012	<b>Agenda Item:</b> 10 a	<b>Subject:</b> Ordinance Amending Title 16 of the Englewood Municipal Code 2000 Pertaining to the Establishment of a MU-R-3-C Zone District; Elimination of the M-O-1 Overlay Zone District; and the Subsequent Amendment of the Official Zoning Map to Rezone Portions of Medical District Sub-area 3 from MU-R-3-B to MU-R-3-C, and from MU-R-3-B/M-O-1 to M-1
<b>Initiated By:</b> Community Development Department		<b>Staff Source:</b> John Voboril, Long Range Planner II

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Council made economic development a top Council goal in early 2006, and has continued to reaffirm this goal as a top priority as recently as January of this year. The Englewood Downtown and Medical District Small Area Plan was created to help the City promote economic development in areas deemed appropriate for high intensity commercial, medical, and residential development, and protect adjacent residential neighborhoods from inappropriately scaled development. After first focusing on Medical District areas of change with the adoption of the new Medical Zone Districts in 2008, City Council and the Planning and Zoning Commission turned their focus to zoning reforms in adjacent residential neighborhoods.

The following is a chronology of City Council meetings related to Medical District sub-area 3:

- December 6, 2010**     Public Hearing on Englewood Downtown and Medical District Small Area Plan Amendments to Goal and Objectives
- December 20, 2010**     Adoption of Englewood Downtown and Medical District Small Area Plan Amendments to Goals and Objectives by Resolution
- December 12, 2011**     Medical District Sub-area 3 PZC Recommendations Study Session
- April 2, 2012**             Council Bill No. 20 First Reading

### RECOMMENDED ACTION

Community Development recommends that City Council hold a public hearing on Council Bill No. 20, an ordinance amending the Unified Development Code to establish the MU-R-3-C Mixed Use High Density Residential and Limited Office Zone District and the related zoning change to the Official Zoning Map rezoning portions of Medical District Sub-area 3 from MU-R-3-B to MU-R-3-C Mixed Use High Density Residential and Limited Office Zone District, and portions of Medical District Sub-area 3 from MU-R-3-B/M-O-2 to M-1 Mixed Use Medical, Office, and High Density Residential Zone District, as shown in exhibit A.

## BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

In their analysis of Medical District Sub-area 3, Planning and Zoning Commission members recognized that the area bordered by Pearl Street on the west, and the Clarkson-Emerson alley on the east, consisted predominantly of multi-unit residential and limited office uses, and that existing single unit homes in this area are predominantly investor-owned. The Commission's recommendations for Medical District Sub-area 3 include allowing the hospitals to redevelop hospital-owned properties just north of Girard Avenue; preventing further hospital expansion north of these hospital-owned properties; and undertaking zoning reforms that seek to encourage redevelopment of investor-owned properties at a scale appropriate for the neighborhood. A set of community stakeholders meetings were held to assess the feelings of residents and property owners concerning appropriate development standards for future development in Medical District Sub-area 3, which were incorporated into the goals and objectives of the Englewood Downtown and Medical District Small Area Plan.

Community Development staff and Planning and Zoning Commission members worked through the regulatory details of what would later develop into the MU-R-3-C Zone District in a series of four study sessions held in the winter and spring months of 2011. The concepts developed by staff and the Planning and Zoning Commission were shared with City Council at the December 12<sup>th</sup>, 2011 study session:

1. Remove Museum/Cultural as an allowed land use
2. Remove Overnight, In-patient Hospital Facility as an allowed land use
3. Remove Parking Structure and Surface Parking as allowed *principal* land uses
4. Retain Out-patient Clinic as an allowed land use
5. Retain Medical Laboratory as an allowed land use
6. Add Massage Therapy as an allowed land use
7. Lower maximum height limit from 60 to 40 feet
8. Remove floor area ratio limitation
9. Institute a maximum office/medical facility building size of 30,000 SF, the same size as existing apartment buildings in sub-area 3
10. Reduce side setbacks for office/medical and multi-unit residential from 15 to 5 feet
11. Remove driveway location requirement for multi-unit residential development
12. Remove land area per residential unit requirement in favor of regulating density through maximum height limit and minimum off-street parking standards
13. Reduce minimum lot size for office/medical development from 24,000 SF to 6,000 SF

Public hearings were held by the Planning and Zoning Commission on the proposal to amend Title 16 of the Unified Development Code to include a Mixed Use High Density Residential and Limited Office Zone District (MU-R-3-C), and the subsequent proposal to amend the Official Zoning Map to

rezone portions of Medical District Sub-area 3 from MU-R-3-B to MU-R-3-C, and from MU-R-3-B/M-O-2 to M-1 was held on March 6<sup>th</sup>, 2012. The Planning and Zoning Commission made a formal motion to recommend approval of the Unified Development Code amendments creating the MU-R-3-C Zone District, and amendments to the Official Zoning Map to rezoning portions of Medical District Sub-area 3 under ownership of the hospital from MU-R-3-B/M-O-2 to M-1 Mixed Use Medical, Office, and High Density Residential Zone District, while rezoning the remaining portions of Medical District Sub-area 3 from MU-R-3-B to the new MU-R-3-C Mixed Use High Density Residential and Limited Office Zone District.

At first reading for Council Bill No. 20 on April 2<sup>nd</sup>, 2012, the ordinance was amended to clarify subsection 16-6-1 C. (3)(a) regarding the maximum floor area for an office building. Section 16-11-2 defines "floor area" as follows:

The sum of the areas of the several floors of the structure, as measured by the exterior faces of the walls, including fully enclosed porches and the like as measure by the exterior limits thereof, but excluding:

- (A) Garage space which is in the basement of a building or, in the case of garage space accessory to a dwelling, is at grade;
- (B) Basement and cellar areas devoted exclusively to uses accessory to the operation of the structure; and
- (C) Areas elsewhere in the structure devoted to housing mechanical equipment customarily located in the basement or cellar such as heating and air conditioning equipment, plumbing, electrical equipment, laundry facilities, and storage facilities.

The ordinance has been amended to use the current "floor area" definition.

## **FINANCIAL IMPACT**

No direct financial costs are anticipated from the adoption of the proposed amendments.

## **LIST OF ATTACHMENTS**

Planning and Zoning Commission Public Hearing Minutes, March 6<sup>th</sup>, 2012  
Planning and Zoning Commission Public Hearing Findings of Fact, March 6<sup>th</sup>, 2012  
Proposed Bill for Ordinance

**CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION  
REGULAR MEETING  
March 6, 2012**

**Minutes and audio are available at:**  
<http://www.englewoodgov.org/Index.aspx?page=152>

**I. CALL TO ORDER**



The regular meeting of the City Planning and Zoning Commission was called to order at 7:04 p.m. in the City Council Chambers of the Englewood Civic Center, Chair Knoth presiding.

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

Absent: Harbaugh

Staff: Alan White, Community Development Director  
John Voboril, Long Range Planner  
Nancy Reid, Assistant City Attorney

**II. APPROVAL OF MINUTES**

February 22, 2012



Roth moved:

Fish seconded: TO APPROVE THE FEBRUARY 22, 2012 MINUTES

Chair Knoth asked if there were any modifications or corrections.

There were none.

AYES: Bleile, Roth, Knoth, Fish, King, Brick, Kinton

NAYS: None

ABSTAIN: Welker

ABSENT: Harbaugh

Motion carried.

### **III. PUBLIC HEARINGS**



#### **CASE #2012-01, Amendment of UDC to Establish a NPO (Neighborhood Preservation Overlay) Zone District**

Brick moved:

Welker seconded: TO OPEN CASE #2012-01

AYES: Bleile, Roth, Welker, Knoth, Fish, King, Brick, Kinton

NAYS: None

ABSTAIN: None

ABSENT: Harbaugh

Motion carried.

Mr. Voboril presented background information on the Englewood Downtown and Medical District Small Area Planning process to date.

Summary of the neighborhood Preservation Overlay:

Prohibits the following land uses:

- Hospital
- Clinic
- Laboratory
- Office, type 1 (general)
- Office, type 2 (limited)
- Parking facility or structure, principal use
- Parking area, surface, principle use
- Conversions of single unit houses to office use

Limits the number of attached residential units to two per 50 feet of lot frontage.

Allows the existing multi-unit apartment buildings to be redeveloped at existing densities.



#### **Public Testimony**

Testimony was heard from 8 citizens.



Bleile moved:

Welker seconded: TO CLOSE CASE #2012-01

AYES: Bleile, Roth, Welker, Knoth, Fish, King, Brick, Kinton

NAYS: None  
ABSTAIN: None  
ABSENT: Harbaugh

Motion carried.

The Commission called a 10 minute recess. The meeting reconvened with all members of the Commission previously in attendance.

Welker moved:

Brick seconded: TO AMEND THE ORIGINAL MOTION TO INCLUDE A 40 FOOT HEIGHT RESTRICTION IN THE OVERLAY DISTRICT.

AYES: Bleile, Roth, King, Brick, Welker  
NAYS: Fish, Kinton, Knoth  
ABSTAIN: None  
ABSENT: Harbaugh

Motion carried.

Brick moved:

Fish seconded: THAT CASE #2012-01 AMENDMENTS TO TITLE 16: UNIFIED DEVELOPMENT CODE OF THE ENGLEWOOD MUNICIPAL CODE RELATED TO THE CREATION OF NEIGHBORHOOD PRESERVATION OVERLAY DISTRICT REGULATIONS BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION FOR ADOPTION WITH THE FOLLOWING AMENDMENT:

1. *Include a 40 foot height restriction.*



Mr. Fish stated in looking at Section 5 of Roadmap Englewood and at the overlay characteristics provided by Staff that are intended to preserve the existing character and balance of land use, when the mature residential neighborhood appears to be the main reason for this, I don't find that anywhere in Roadmap Englewood. To overlay something like this over this diverse area would not only be not in compliance with what Englewood wants to see but believes it would damage the properties and take away rights.

Mr. Brick said on page 85, Section 5: Housing, of Roadmap Englewood 2003, it says "The City of Englewood recognizes the value of home ownership and the property improvements and is committed to increasing the home ownership levels in the City, as well as assisting current homeowners with home improvements. Understanding Housing in

Englewood requires looking beyond housing type to housing tenure and maintenance. About two thirds of Englewood homes are single family dwellings of which 85% are owner-occupied. Of the one third that are multi-family homes, less than 3% are owner-occupied. Taken together, 50% of Englewood homes are occupied by their owners. Nationally, about 66% of homes are owner-occupied. The City is committed to increasing Englewood owner-occupancy rates to more closely reflect national rates." Goal #2 states "Improve the quality of the City's existing housing stock"; under Objective 2.1 it states "Encourage home ownership, property improvement, and house additions". In the Medical District Small Area Plan Goal A, Medical Area Sub-area 2, Objective 2A.1 states "Reduce the number of single unit rental homes through conversion to home ownership". By establishing the Overlay you are inducing home ownership.

Mr. Welker stated he feels some of tonight's discussion is premature in that the boundaries of this district were really the intention of the third part of the public hearing tonight. He stated that an NPO District as an overlay is an advancement in the types of discussions the Commission has had that have been either been to one extreme, downzoning, or to the other extreme, opening the area up to mixed-use on a grander scale. While over time this area may evolve into being a denser, more commercial type of district based on pressure from ownership and use of adjoining properties the north two blocks are kind of a transition between strict single family homes and commercial development. Putting them in an overlay district that allows them to be kept as is, which is primarily single family homes or duplexes, is appropriate. He doesn't feel the bugs are worked out of the paperwork just yet. It would have been better if this issue had gone through the steps that were omitted; a Planning and Zoning study session and either a neighborhood meeting or a study session in which the public attended.

Mr. Kinton said he concurs there are still many issues left to work out.

Mr. Roth stated there are too many issues to work out. There are too many potential takings. As it is would be pretty fair target for a legal challenge. The non-conforming issues need to be addressed. He is not comfortable with making current conforming uses non-conforming.

Mr. Bleile quoted a sentence from one of Director White's letters which he said he feels sums up the Planning and Zoning Commission superbly: "The role of zoning in the context of planning a neighborhood is to have a stabilizing and predictable effect on development patterns in the context of approved plans and visions for future development". He stated creating an overlay is a great idea; the intent was good. The issue needs to be vetted out more. Areas south of Girard between Girard and Floyd are vastly different than they are north of Floyd.

Mr. King said he not opposed to an overlay. This area is fairly diverse and that may be the only way to go. The Planning and Zoning Commission has a fiduciary responsibility to the entire community. Otherwise, we would just allow everybody to zone their properties

whatever they wanted or would have no zoning at all. Non-conforming use is complicated. He supports going to an R-2 north of Floyd, other two areas not so sure. He doesn't like potentially taking away rights from people. The issue is just too vague.

Mr. Knoth stated he is against down zoning.

AYES: Brick  
NAYS: Bleile, Roth, Welker, Knoth, King, Fish, Kinton  
ABSTAIN: None  
ABSENT: Harbaugh

Motion failed.

Bleile moved:

Kinton seconded: THAT CITY COUNCIL ALLOW THE PLANNING AND ZONING COMMISSION THE OPPORTUNITY TO SCHEDULE ADDITIONAL STUDY SESSIONS TO WORK OUT THE DETAILS BEFORE THIS ISSUE IS PLACED BACK ON THE CALENDAR FOR ANOTHER PUBLIC HEARING.

AYES: Brick, Bleile, Roth, Welker, King, Fish, Kinton  
NAYS: Knoth  
ABSTAIN: None  
ABSENT: Harbaugh

Motion passed.

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**CASE #2012-02, Amendment of UDC to Establish MU-R-3-C Zone District**



Welker moved:

Fish seconded: TO OPEN CASE #2012-02

AYES: Roth, Welker, Fish, King, Brick, Kinton  
NAYS: Bleile, Knoth  
ABSTAIN: None  
ABSENT: Harbaugh

Motion carried.

Mr. Voboril presented background information on the Englewood Downtown and Medical District Small Area Planning process to date.

Summary of MU-R-3-C Zone District:

- Remove Museum/Cultural as an allowed land use.
- Remove Overnight, In-patient Hospital Facility as an allowed land use.
- Remove Parking Structure and Surface parking as allowed ***principal*** land uses.
- Retain Out-patient Clinic as an allowed land use.
- Retain Medical Laboratory as an allowed land use.
- Add Massage Therapy as an allowed land use.
- Lower maximum height limit from 60 to 40 feet.
- Remove floor area ratio limitation.
- Institute a maximum office/medical facility building size of 30,000 SF, the same size as existing apartment buildings in Sub-area 3.
- Reduce side setbacks for office/medical and multi-unit residential from 15 to 5 feet.
- Remove driveway location requirement for multi-unit residential development.
- Remove land area per residential unit requirement in favor of regulating density through maximum height limit and minimum off-street parking standards.
- Reduce minimum lot size for office/medical development from 24,000 to 6,000 SF.



**Public Testimony**

Testimony was taken from one citizen.



Welker moved:

Bleile seconded: TO CLOSE CASE #2012-02

AYES: Bleile, Roth, Welker, Knoth, Fish, King, Brick, Kinton

NAYS: None

ABSTAIN: None

ABSENT: Harbaugh

Motion carried.

A motion was made that failed for lack of a second.



King moved:

Welker Seconded: CASE #2012-02, AMENDMENTS TO THE OFFICIAL ZONING MAP TO REZONE AN AREA OF THE CITY MU-R-3-C BE RECOMMENDED FOR

*APPROVAL TO CITY COUNCIL WITH A FAVORABLE  
RECOMMENDATION FOR ADOPTION WITH THE FOLLOWING  
CORRECTIONS TO THE STAFF REPORT:*

1. *Page 4, #5 should read MU-R-3-C, not MU-R-3-B.*
2. *Page 4, #6 should read Section 16-6-1(C)(1), not Section 16-6-1(E)(1)*

Mr. Fish said he has reviewed the materials provided by Staff. There has been minimal public input other than to the process, but not to the substance of this motion. He stated he has reviewed the tables and finds the idea of an MU-R-3-C zone district compelling, but some of the proposed tables seem to be in conflict. The Commission did a lot of work to put together the MO-1 overlay for good reason and considering the intent of the third case tonight he is troubled by the removal of that.

Mr. Brick stated in Section 7 of Roadmap Englewood under Business Employment that in Goal 1, Objective 1.2 it states "Actively engage in attracting new businesses to the City". In Goal 5, Objective 5.1 it states "Encourage the development of mixed-use projects in order to achieve a vibrant community". Objective 5.2 states "Increases the value and appeal of Englewood's retail and industrial corridors in order to stimulate economic growth".

Mr. Welker stated even though the Planning and Zoning Commission did not specifically discuss MU-R-3-C this is a fitting classification for the use of the area that it is proposed. He stated he has no problem with changing the area zoned MO-1 to M-1 because of what M-1 allows.

Mr. Kinton finds that the designation of an MU-R-3-C zone district reasonable.

Mr. Roth stated he has concerns changing the MO-1 to M-1, however the area is small enough he doesn't believe there would be room to build a 145 foot building on that section of land.

Mr. King said this is another unique area but this area is also highly, densely populated with units and other uses and is very concentrated. It definitely needs to be set aside from the adjoining neighborhoods as the Commission has discussed many times in the past.

AYES: Bleile, Roth, Welker, Knoth, King, Brick, Kinton  
NAYS: Fish  
ABSTAIN: None  
ABSENT: Harbaugh

Motion carried.

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**CASE #ZON2012-004, Amendment of Official Zoning Map Adopting NPO Zone District for portions of Medical District Sub-Area 2 and Medical District Sub-Area 3 from MU-R-3-B to MU-R-3-C and M-1**

Welker moved:

Roth seconded: TO OPEN CASE #ZON2012-004

AYES: Roth, Welker, Fish, King, Brick, Kinton

NAYS: Bleile, Knoth

ABSTAIN: None

ABSENT: Harbaugh

Motion carried.

Mr. Voboril presented background information on Medical District Sub-areas 2 and 3 Planning process to date.

Summary of Case No. ZON2012-004

- Amendment of the Official Zoning Map adopting NPO Zone District for portions of Medical District Sub-area 2.
- Amendment of the Official Zoning Map Rezoning portions of Medical District Sub-area 3 from MU-R-3-B to MU-R-3-C and M-1

**Public Testimony**

There was no public testimony.



Roth moved:

Welker seconded: TO CLOSE CASE #ZON2012-004

AYES: Bleile, Roth, Welker, Knoth, Fish, King, Brick, Kinton

NAYS: None

ABSTAIN: None

ABSENT: Harbaugh

Motion carried.

Several motions were made that were either withdrawn or died for a lack of a second.



Welker moved:

Bleile seconded: *CASE #ZON2012-004, AMENDMENTS TO THE OFFICIAL ZONING MAP BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION FOR ADOPTION WITH THE FOLLOWING AMENDMENT:*

- 1. The area discussed as Sub-area 2 Overlay District be exempted from this approval and the area be remanded to the Planning and Zoning Commission for clarification.*



Mr. Fish stated the proposed MU-R-3-C zone district is appropriate for the area as it promoted potential business improvement, which is one of the goals of Roadmap Englewood. He does not object to the height restrictions.

Mr. Brick votes yes because it clarifies Goal 5.1 of Section 7 of Roadmap Englewood, which states "Encourage the development of mixed-use projects in order to achieve a vibrant community".

Mr. King stated he felt the stakeholders in this area were very favorable of this plan and it could make sense for this area.

AYES: Bleile, Roth, Welker, Knoth, Fish, King, Brick, Kinton  
NAYS: None  
ABSTAIN: None  
ABSENT: Harbaugh

Motion carried.

#### **IV. PUBLIC FORUM**



There was no further public comment.

#### **V. ATTORNEY'S CHOICE**



Ms. Reid had nothing further to report.

#### **VI. STAFF'S CHOICE**



Director White stated the March 20<sup>th</sup> meeting will be a Public Hearing on Denver Seminary PUD Amendments to allow a bank drive-thru.

**VII. COMMISSIONER'S CHOICE**



Mr. Brick, Mr. Welker, Mr. Bleile, Mr. Fish and Mr. Knoth commented on tonight's meeting.

The meeting adjourned at 11:00 p.m.

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Barbara Krecklow, Recording Secretary



2. **THAT** notice of the Public Hearing was published in the *Englewood Herald* on February 17, 2012 and was on the City's website from February 15<sup>th</sup> through 27<sup>th</sup>, and again from February 28<sup>th</sup> through March 6, 2012 with a corrected case number.
3. **THAT** residents, property owners, and business owners having personal interests within and one block beyond the original Downtown and Medical District study area boundaries were invited to participate as community stakeholders in the Medical District Phase II stakeholder meeting planning process.
4. **THAT** community stakeholder meetings were held on April 1, 15, and 27, 2010 in order to gather feedback on stakeholder preferences for zoning reform strategies that were later incorporated into amendments to the Englewood Downtown and Medical District Area Plan.
5. **THAT** the Planning and Zoning Commission held four study sessions to develop conceptual zoning reforms that were used by staff to develop the new MU-R-3-C base zone district.
6. **THAT** notification letters were sent to all residents and property owners within 1000 feet of the affected area on February 23, 2012.
7. **THAT** all testimony received from staff members and the public has been made part of the record of the Public Hearing.
8. **THAT** the goal of the new MU-R-3-C zone regulations is to allow property owners more regulatory flexibility and protect neighboring residential property owners and residents from inappropriately-scaled development.
9. **THAT** the proposed amendments related to the creation of a MU-R-3-C Zone District are consistent with the goals and objectives of Roadmap Englewood: The 2003 Englewood Comprehensive Plan and the Englewood Downtown and Medical District Small Area Plan.
10. **THAT** the proposed Amendments related to the creation of a MU-R-3-C Zone District should be adopted as part of Title 16: Unified Development Code of the Englewood Municipal Code.

### **CONCLUSIONS**

1. **THAT** the Public Hearing on the Amendment of the Unified Development Code establishing the MU-R-3-C Mixed Use High Density Residential District and Limited Office Zone 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 February 17, 2012 and was on the City's website from February 15<sup>th</sup> through February 27<sup>th</sup>, and again February 28<sup>th</sup> through March 6, 2012 with a corrected case number.
3. **THAT** notification letters were sent to all residents and property owners within 1000 feet of the affected area on February 23, 2012.
4. **THAT** all testimony received from staff members and the public has been made part of the record of the Public Hearing.
5. **THAT** the goal of the new MU-R-3-C zone regulations is to allow property owners more regulatory flexibility and protect neighboring residential property owners and residents from inappropriately-scaled development.
6. **THAT** the proposed amendments related to the creation of a MU-R-3-C Zone District are consistent with the goals and objectives of Roadmap Englewood: The 2003 Englewood Comprehensive Plan and the Englewood Downtown and Medical District Small Area Plan.
7. **THAT** the proposed Amendments related to the creation of a MU-R-3-C Zone District should be adopted as part of Title 16: Unified Development Code of the Englewood Municipal Code.

### **DECISION**

**THEREFORE**, it is the decision of the City Planning and Zoning Commission that Case #2012-02, Amendment to the Official Zoning map to rezone an area of the City 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 March 6, 2012, by Mr. King, seconded by Mr. Welker, which motion states:

*CASE #2012-02, AMENDMENTS TO THE OFFICIAL ZONING MAP TO REZONE AN AREA OF THE CITY MU-R-3-C BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION FOR ADOPTION WITH THE FOLLOWING CORRECTIONS TO THE STAFF REPORT:*

1. *Page 4, #5 should read MU-R-3-C, not MU-R-3-B.*
2. *Page 4, #6 should read MU-R-3, not MU-R-B and Section 16-6-1(C)(1), not Section 16-6-1(E)(1)*

AYES: Knoth, Roth, Welker, King, Brick, Bleile, Kinton  
NAYS: Fish  
ABSTAIN: None  
ABSENT: Harbaugh

Motion carried.

These Findings and Conclusions are effective as of the meeting on March 6, 2012.

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

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Chad Knoth, Chair

**CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION**

<b>IN THE MATTER OF CASE #ZON2012-004,</b>	)	
<b>FINDINGS OF FACT, CONCLUSIONS</b>	)	
<b>AND RECOMMENDATIONS RELATING</b>	)	
<b>TO THE AMENDMENT TO THE OFFICIAL</b>	)	
<b>ZONING MAP TO REZONE AREAS OF THE</b>	)	<b>FINDINGS OF FACT AND</b>
<b>CITY</b>	)	<b>CONCLUSIONS OF THE</b>
	)	<b>CITY PLANNING AND</b>
	)	<b>ZONING COMMISSION</b>
	)	
	)	
<b>INITIATED BY:</b>	)	
<b>COMMUNITY DEVELOPMENT</b>	)	
<b>DEPARTMENT</b>	)	
<b>1000 ENGLEWOOD PARKWAY</b>	)	
<b>ENGLEWOOD, CO 80110</b>	)	

Commission Members Present:   Bleile, Fish, King, Knoth, Roth, Welker, Kinton, Brick, Townley

Commission Members Absent:   Harbaugh

This matter was heard before the City Planning and Zoning Commission on March 6, 2012 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 amendment to the Official Zoning map which were incorporated into and made a part of the record of the Public Hearing.

After considering the statements of the witnesses, 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 Amendments to the Official Zoning Map to Rezone an area of the City 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 February 17, 2012 and was posted on the City's website from February 15<sup>th</sup> through February 27<sup>th</sup>, and again February 28<sup>th</sup> through March 6, 2012 with a corrected case number.

3. **THAT** residents, property owners, and business owners having personal interests within and one block beyond the original Downtown and Medical District study area boundaries were invited to participate as community stakeholders in the Medical District Phase II stakeholder meeting planning process.
4. **THAT** community stakeholder meetings were held on April 1, 15 and 27, 2010 in order to gather feedback on stakeholder preferences for zoning reform strategies that were later incorporated into amendments to the Englewood Downtown and Medical District Area Plan.
5. **THAT** over the course of a four month period in early 2011, Planning and Zoning Commission members held a series of four study sessions focused on each aspect of the existing MU-R-3-B zoning requirements in Medical District sub-area 3 in order to identify changes.
6. **THAT** a neighborhood meeting was held on July 23, 2011 to discuss options for the 3200 block of Sherman Street and the 3200, 3300 and portions of the 3400 block of South Grant.
7. **THAT** City Council held two study sessions with Community Development staff to select a Neighborhood Preservation Overlay Zone District as the preferred option for the 3200 block of Sherman Street and the 3200, 3300 and portions of the 3400 block of Grant Street, as well as the zoning reforms for Sub-area 3 as recommended by the Planning and Zoning Commission.
8. **THAT** notification letters were sent to all residents and property owners within 1000 feet of the affected area on February 23, 2012.
9. **THAT** the Neighborhood Preservation Overlay Zone District (NPO) as supplementary zoning regulations to the underlying MU-R-3-B Mixed Use Medium to High Density Residential and Limited Office Zone District for the 3200 block of South Sherman Street, the 3200 and 3300 blocks of South Grant Street, and the MU-R-3-B zoned portions of the 3400 block of South Grant Street, all within Medical District Sub-area 2, is consistent with the goals and objectives of Roadmap Englewood: The 2003 Englewood Comprehensive Plan.
10. **THAT** the proposed action would rezone the first 100 feet north of Girard Avenue between Pearl and Clarkson Street, and the first 225 feet north of Girard Avenue between Clarkson Street and the Clarkson-Emerson Street alley, which include, hospital-owned properties to M-1 Medical.

11. **THAT** the proposal to rezone an area of the City generally bounded by South Pearl Street, East Floyd Avenue, the South Clarkson-Emerson Street alley and East Girard Avenue from MU-R-3-B (Mixed Use Medium to High Density Residential and Limited Office Zone District) to MU-R-3-C (Mixed Use High Density Residential and Limited Office Zone District), and from MU-R-3-B/MO-1 (Mixed Use Medium to High Density Residential and Limited Office Zone District/Medical Overlay) to M-1 (Mixed Use Medical, Office, and High Density Residential Zone District), all within Medical District Sub-area 3, is consistent with the goals and objectives of Roadmap Englewood: The 2003 Englewood Comprehensive Plan.
12. **THAT** the proposal to rezone portions of Medical District Sub-area 2 and 3 should be adopted as an amendment to the Official Zoning Map of the City of Englewood.

### CONCLUSIONS

1. **THAT** the Public Hearing on the Amendments to the Official Zoning Map to Rezone an area of the city 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 February 17, 2012 and was posted on the City's website from February 15<sup>th</sup> through February 27<sup>th</sup>, and February 28<sup>th</sup> through March 6, 2012 with a corrected case number.
3. **THAT** notification letters were sent to all residents and property owners within 1000 feet of the affected area on February 23, 2012.
4. **THAT** all testimony received from staff members and has been made part of the record of the Public Hearing
5. **THAT** the Neighborhood Preservation Overlay Zone District (NPO) as supplementary zoning regulations to the underlying MU-R-3-B Mixed Use Medium to High Density Residential and Limited Office Zone District for the 3200 block of South Sherman Street, the 3200 and 3300 blocks of South Grant Street, and the MU-R-3-B zoned portions of the 3400 block of South Grant Street, all within Medical District Sub-area 2, is recommended not to be adopted as an amendment to the Official Zoning Map of the City of Englewood, that further study is needed.
6. **THAT** the proposed action would rezone the first 100 feet north of Girard Avenue between Pearl and Clarkson Street, and the first 225 feet north of Girard Avenue between Clarkson Street and the Clarkson-Emerson Street alley, which include, hospital-owned properties to M-1 Medical.

7. **THAT** the proposal to rezone an area of the City generally bounded by South Pearl Street, East Floyd Avenue, the South Clarkson-Emerson Street alley and East Girard Avenue from MU-R-3-B (Mixed Use Medium to High Density Residential and Limited Office Zone District) to MU-R-3-C (Mixed Use High Density Residential and Limited Office Zone District), and from MU-R-3-B/MO-1 (Mixed Use Medium to High Density Residential and Limited Office Zone District/Medical Overlay) to M-1 (Mixed Use Medical, Office, and High Density Residential Zone District), all within Medical District Sub-area 3, is recommended to be adopted as an amendment to the Official Zoning Map of the City of Englewood.

### **DECISION**

**THEREFORE**, it is the decision of the City Planning and Zoning Commission that Case #ZON2012-004, Amendment to the Official Zoning map to rezone an area of the City should be referred to the City Council with the recommendation which follows.

The decision was reached upon a vote on a motion made at the meeting of the City Planning and Zoning Commission on March 6, 2012, by Mr. Welker, seconded by Mr. Bleile, which motion states:

*CASE #ZON2012-004, AMENDMENTS TO THE OFFICIAL ZONING MAP BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION FOR ADOPTION WITH THE FOLLOWING AMENDMENT:*

- 1. The area discussed as Sub-area 2 Overlay District be exempted from this approval and the area be remanded to the Planning and Zoning Commission for clarification.*

AYES: Fish, Knoth, Roth, Welker, King, Bleile, Brick, Kinton, Harbaugh  
NAYS: None  
ABSTAIN: None  
ABSENT: None

Motion carried.

These Findings and Conclusions are effective as of the meeting on March 6, 2012.

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

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Chad Knoth, Chair

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2012

COUNCIL BILL NO. 20  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN ORDINANCE AMENDING TITLE 16, OF THE ENGLEWOOD MUNICIPAL CODE 2000 PERTAINING TO ESTABLISHMENT OF A M-U-R-3-C ZONE DISTRICT; ELIMINATING THE M-O-1 OVERLAY ZONE DISTRICT, AND THE AMENDMENT OF THE OFFICIAL ZONING MAP TO REZONE PORTIONS OF THE MEDICAL DISTRICT SUB-AREA 3.

WHEREAS, the Englewood Unified Development Code (UDC) was adopted in 2004, as the first comprehensive zoning code update since 1985; and

WHEREAS, the Englewood City Council made economic development a top Council goal; and

WHEREAS, the Medical Zone and Overlay District Amendments to the Unified Development Code (UDC) rezones property to establish more development-friendly regulations in the immediate vicinity of Swedish Medical Center and Craig Hospital to take advantage of development interest in the area; and

WHEREAS, the Englewood Planning and Zoning Commission conducted a Public Hearing and recommended approval of these amendments at its March 6, 2012 Meeting;

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, pursuant to Title 16, Chapter 1, Section 8, of the Englewood Municipal Code 2000, the rezoning of certain parcels as shown on the attached Exhibit A, and amending the Official Zone District Map to reflect those rezonings.

Section 2. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 3, Section 1, Subsections A and B, of the Englewood Municipal Code 2000 to read as follows:

**16-3: ZONE DISTRICTS**

**16-3-1: General Provisions.**

A. *Establishment of Base Zoning Districts.* The following base zoning districts are hereby established:

<b>TABLE 16-3-1.1: BASE ZONING DISTRICTS</b>	
<b>Name</b>	<b>Description</b>
<b>Residential One Dwelling Unit Districts</b>	
<b>R-1-A</b>	<b>A large lot size, one dwelling unit residential district</b>
<b>R-1-B</b>	<b>A medium lot size, one dwelling unit residential district</b>
<b>R-1-C</b>	<b>A small lot size one dwelling unit residential zone district</b>
<b>Residential One and Multi-Dwelling Unit Districts</b>	
<b>R-2-A</b>	<b>A low-density one and multi-dwelling unit residential zone district</b>
<b>R-2-B</b>	<b>A medium-density one and multi-dwelling unit residential zone district</b>
<b>Mixed-Use Residential/Limited Office-Retail Districts</b>	
<b>MU-R-3-A</b>	<b>A low-density residential and limited office zone district</b>
<b>MU-R-3-B</b>	<b>A medium to high density residential and limited office zone district</b>
<b><u>MU-R-3-C</u></b>	<b><u>A high density residential and limited office zone district</u></b>
<b>Mixed-Use Medical Districts</b>	
<b>M-1</b>	<b>A mixed-use medical, office, and high density residential zone district</b>
<b>M-2</b>	<b>A mixed-use medical, office, high density residential and limited retail zone district</b>
<b>Mixed-Use Commercial Districts</b>	
<b>MU-B-1</b>	<b>A mixed-use central business zone district</b>
<b>MU-B-2</b>	<b>A general arterial business zone district</b>
<b>TSA</b>	<b>A mixed-use district intended for land uses adjacent to light rail transit stations</b>
<b>Industrial Districts</b>	
<b>I-1</b>	<b>A light industrial zone district</b>
<b>I-2</b>	<b>A general industrial zone district</b>
<b>Special Purpose Districts</b>	
<b>PUD</b>	<b>Planned Unit Development</b>

B. *Relationship of Base Districts to Overlay Districts.* Lands within the City may be classified into one of the base zoning districts, as described above, and may also be classified as an overlay district (See, for example, Chapter 16-4 EMC, "Flood Plain Overlay District.") An overlay district is a land use classification that lies over the base zoning allowing for additional uses and development standards different from the base zoning. Where the property is classified in an overlay district as well as a base zoning district, then the regulations governing development in the overlay district shall apply in addition to the regulations governing development in the underlying district. In the event of an express conflict between the standards governing a base district and those governing an overlay district, the standards governing the overlay district shall control.

<b>TABLE 16-3-1.2: OVERLAY DISTRICTS</b>	
<b>Name</b>	<b>Description</b>
<b>M-O-1</b>	A medical overlay district covering a portion of the MU R-3-B base residential zone district.
<b>M-O-2</b>	A medical overlay district covering a portion of the R-2-B base residential zone district.

C. *Compliance with District Standards.* No building or structure shall be erected, converted, enlarged, reconstructed, or altered for use, nor shall any land, building, or structure be used or changed, except in accordance with the zoning district regulations of this Chapter 16-3 EMC, the use regulations of Chapter 16-5 EMC, the development standards of Chapter 16-6 EMC, and all other applicable regulations of this Title.

Section 3. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 3, Section 2 "District Characteristics" and Title 16, Chapter 3, Section 2, Subsection D, "Residential Districts" of the Englewood Municipal Code 2000 to read as follows:

**16-3-2: District Characteristics.**

One of the goals of the City is to encourage a variety of housing types to meet the needs of differing income levels and varying household structures. The regulations for these districts are designed to stabilize and protect the essential characteristics of the districts, to allow for certain conditional and limited uses that are controlled by specific limitations governing the impact of such uses, and to promote a compatible neighborhood environment.

**[EDITORS NOTE: 16-3-2(A)(B) and (C) remain unchanged.]**

D. Special Purpose Districts.

1. PUD: Planned Unit Development District. The PUD district is intended as an alternative to conventional land use regulations. The PUD district combines use, density, design, and Zoning Site Plan considerations into a single process, and substitutes procedural protections for many of the substantive requirements of this Title. Designation of a PUD district shall comply with the procedural requirements of Section 16-2-7 EMC.

2. ~~M-O-1: Medical Overlay District. This overlay district covers a portion of the MU R-3-B base residential zone district, that retains the base district permitted land uses and residential density requirements, but substitutes Medical Zone District lot dimension, parking, and landscaping requirements in support of medical district development.~~
  
32. M-O-2: Medical Overlay District. This overlay district covers a portion of the R-2-B base residential zone district and allows a property the option to develop under R-2-B regulations or under M-2 regulations when it is included as part of a larger adjacent M-2 zoned site with street frontage on Hampden Avenue. Retail use shall be prohibited in the M-O-2 overlay district.

Section 4. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 5, Section 1, Subsection C, Table of Allowed Uses, of the Englewood Municipal Code 2000, to read as follows:

16-5-1: Table of Allowed Uses.

[EDITORS NOTE: 16-5-1(A) and (B) remain unchanged.]

C. Table of Allowed Uses.

TABLE 16-5-1.1: TABLE OF ALLOWED USES																		
P = PERMITTED USE C = CONDITIONAL USE A = ACCESSORY USE T = TEMPORARY USE L = LIMITED USE																		
C-A = ACCESSORY USE APPROVED CONDITIONALLY L-A = ACCESSORY USE APPROVED WITH LIMITED USE PROCEDURE																		
Use Category	Use Type	Residential								Non-Residential						Additional Regulations		
		R 1 A	R 1 B	R 1 C	R 2 A	R 2 B	MUR 3 A	MUR 3 B	MUR 3 C	M 1	M 2 MO 2	M U 1	M U 2	T S A	I 1		I 2	
<b>RESIDENTIAL USES</b>																		
Group Living	Group living facility, large/special							C	C	<u>C</u>	C	C	P	P			16-5-2.A.1	
	Group living facility, small	P	P	P	P	P	P	P	P	<u>P</u>	P	P	P	P	P		16-5-2.A.1	
	Small treatment center							C	C	<u>C</u>	C	C	P	P			16-5-2.A.1	
Household Living	Live/work dwelling										P	P	P		P	L	L	16-5-2.A.2
	Manufactured home park															P		16-5-2.A.3
	Multi-unit dwelling				P	P	P	P	<u>P</u>	P	P	P	P	P				16-5-2.A.4 16-6-1.C.4
	One-unit dwelling	P	P	P	P	P	P	P	<u>P</u>	P	P							16-5-2.A.5 16-5-2.A.6
	One-unit dwelling on a small lot	P	P	P	P	P	P	P	<u>P</u>	P	P							16-5-2.A.6
	Boarding or				C	C	C	C	<u>C</u>	C	C							16-5-2.A.7

	rooming house																
<b>PUBLIC/INSTITUTIONAL USES</b>																	
Animal Shelter	Not-for-profit animal shelter															P	P
Emergency Temporary Shelter	Housing shelter, food shelter						C							C			
Government and City	All other buildings and facilities not specified under the Public/Institutional Uses category	P	P	P	P	P	P	P	<u>P</u>	P	P	P	P	P	P	P	P
Library	Public									P	P	P	P	P			
Museum/Cultural	All uses						P	P		P	P	P	P	P			
Park and Open Space	Athletic field	C	C	C	C	C	C	C	<u>C</u>					C	P	P	
	Community garden	C	C	C	C	C	C	C	<u>C</u>	C	C			C			
	Park	P	P	P	P	P	P	P	<u>P</u>	P	P	P	P	P	P	P	
Religious Assembly	Religious institutions and associated accessory uses	P	P	P	P	P	P	P	<u>P</u>	P	P	L	L	L	L	L	
School	Education institution	P	P	P	P	P	P	P	<u>P</u>	P	P	P	P	C			
Telecommunication Facility (See Chapter 16-7, "Telecommunications," for applicable use-related guidelines and standards)	Alternative tower structure	P	P	P	P	P	P	P	<u>P</u>	P	P	P	P	P	P	P	
	Antenna (microwave antenna, sectorized panel antenna, whip antenna)	P	P	P	P	P	P	P	<u>P</u>	P	P	P	P	P	P	P	

	Tower structure	C	C	C	C	C	C	C	C	<u>C</u>	C	C	C	C	C	P	P		
Transportation Facility	RTD maintenance facility														P	P			
	Transit center														P				
Utility Facility (not including Telecommunication Facility)	Major utility facility															P	P	16-5-2.B.1	
	Minor utility facility (as a principal use of land)	C	C	C	C	C	C	C	C	<u>C</u>	C	C	C	C	C	C	C		
<b>COMMERCIAL USES</b>																			
Adult Use	All types as defined in Chapter 16-11														P		P	16-5-2.C.1	
Agricultural Use	Greenhouse/nursery, raising of plants, flowers, or nursery stock																P	P	16-5-2.C.2
Animal Sales and Service	Animal shelter																P	P	
	Kennel/day care													L			P	P	
	Pet store (live animal sale)										P	P	P	P	P	P	P		
	Small animal veterinary hospital or clinic										L	L	P	C	P	P			

Assembly	Assembly hall or auditorium, hall rental for meetings or social occasions											P	P	P	C	P	P		
	Membership organization (excluding adult use)											P	P	P	C	P	P		
Dependent Care	Dependent care center (less than 24-hour care, any age)	C	C	C	C	C	P	P	<u>P</u>	P	P	P	P	P	C			16-5-2.C.7	
Entertainment/ Amusement: Indoor	Amusement establishment											C	C	C	C	C	C		
	Hookah Lounge											P	P	P		P	P		
	Physical fitness center/spa											P	P	P	P	P	P		
	Theater and performance /concert venue, not including adult entertainment													P	P	P	P	P	
Entertainment/ Amusement: Outdoor	General outdoor recreation													C		C	C		

Financial Institution	Check cashing facility											P		P		P	P		
	Financial institution, with drive-through service													L		P	P		
	Financial											P	P	P	P	P	P		

	institution, without drive-through service																	
Food and Beverage Service	Brewpub									P	P	P	P	P	P			
	Caterer									P		P		P	P			
	Microbrewery												P	P	P			
	Restaurant, bar, tavern with or without outdoor operations									P	P	P	P	P	P			
	Restaurant, with drive-through service											L		P	P			
	Take out and delivery only									P		P		P				
Medical/Scientific Service	Clinic							P	<u>P</u>	P	P	P	P	P	P			
	Hospital							P		P		P		P	P			
	Laboratory (dental, medical or optical)						P	P	<u>P</u>	P	P	P	P	P	P			

Medical Marijuana	Medical Marijuana Center									P	P	P		P	P			<u>16-5-2.C.13</u> <u>16-5-4.C.1.f</u>
	Medical Marijuana Optional Premises Cultivation Operation									A	A	A		P	P			<u>16-5-2.C.13</u> <u>16-5-4.C.1.f</u>
	Medical Marijuana Infused Products Manufacturer									A	A	A		P	P			<u>16-5-2.C.13</u> <u>16-5-4.C.1.f</u>

Office	Office, type 1 (general)							P	<u>P</u>	P	P	P	P	P	P	P			
	Office, type 2 (limited)						P	P	<u>P</u>	P	P	P	P	P	P	P	16-5-2.C.8		
Retail Sales and Service (Personal Service)	Crematorium															C			
	Dry cleaner, drop-off site only									P	P	P	P	P	P				
	Instructional service									P		P	P	P	P				
	Massage therapy								<u>P</u>	P	P	P	P	P	P				
	Mortuary									P		P							
	Personal care									P	P	P	P	P	P				
	Service: photography studio and photo lab, upholstery, printer, locksmith, tailor										P	P	P	P	P				
	Tattoo and body-piercing establishment														P	P			
	Temporary employment business														C	C	16-5-2.C.11		
Retail Sales and Service (Repair and Rental)	Equipment rental											L		P	P				
	Repair shop (not including auto)									P	P	P	P	P	P				
Retail Sales and Service (Sales)	Antique store									P	P	P	P	P	P				
	Art gallery									P	P	P	P	P	P				
	Auction house											P		P	P				

	Buy-back, second-hand, thrift, consignment stores, Large										P		P		P	P		
	Buy-back, second-hand, thrift, consignment stores, Small										P	P	P		P	P		
	Convenience store										P		P	P	P	P		
	Grocery/specialty food store										P	P	P	P	P	P		
	Internet sales location										P		P		P	P		
	Liquor store										P	P	P	P	P	P		
	Pawnbroker														P	P	16-5-2.C.10	
	Retail sales, general merchandise										P	P	P	P/C	P	P	For TSA, P if ≤20,000 sq. ft., C if > 20,000 sq. ft. of gross le floor area	
School	Trade or business school										P	P	P	C	P	P	16-5-2.C.12	
Studio	Radio/television broadcasting studio, recording/film studio										P		P		P	P		
Vehicle and Equipment	Automobile pawnbroker												P		P	P	16-5-2.C.10	

	Automotive sales, rental											L			P	P	16-5-2.C.3
	Automotive service and repair, including body or fender work														P	P	16-5-2.C.4
	Automotive service and repair, not including body or fender work											L			P	P	16-5-2.C.4
	Automotive service station (gasoline facility)											L			P	P	16-5-2.C.5
	Car wash, auto detailing											L			L	L	16-5-2.C.6; 16-5-2.C.4
	Commercial storage of operable vehicles														P	P	16-5-2.C.3
	Fuel dispensing											L			P	P	
	Parking facility, structure (operable vehicles), principal use						C	C		C	C	L	L	C	P	P	16-5-2.C.3 16-5-2.C.14
	Parking area, surface (operable vehicles), principal use						C	C		C	C	L	L	C	P	P	16-5-2.C.9 16-5-2.C.3
	Recreational vehicles and boats, sales or rental												L		P	P	
Visitor	Bed and									P	P			P			



	salvage yard																		
	Commercial incinerator																C		
	Hazardous waste handling															C	C	16-5-2.D.2	
	Recycling operation, all processing occurs within enclosed structure															P	P	16-5-2.D.5	
	Recycling operation, some or all processing occurs outside an enclosed structure															C	C	16-5-2.D.5	
	Sanitary service																	C	
	Waste transfer station (not including hazardous waste)															C	C		

**ACCESSORY USES – See Section 16-5-4 for additional regulations**

Home Care Accessory Uses (Accessory to Principal One-Unit Dwelling Uses Only)	Adult dependent care	C-A	A	A	A	A	A	A	<u>A</u>	A	A							
	Family child care home	C-A	A	A	A	A	A	A	<u>A</u>	A	A							
	Infant/toddler home	C-A	A	A	A	A	A	A	<u>A</u>	A	A							
	Large child care home		L-A	L-A	L-A	L-A												
Other Accessory Uses	Caretaker's quarter									A	A	A	A		A	A		
	Dormitory												A		A	A		
	Home occupation		A	A	A	A	A	A	<u>A</u>	A	A			A				16-5-4.C.1
	Minor utility facility (as	L-A	<u>L-A</u>	L-A														

	accessory use of land)																		
	Parking area (surface)					A	A	A	<u>A</u>	A	A	A	A	A	A	A	A	16-5-4.C.2	
	Parking garage									A	A			A					
	Satellite dish antenna	A	A	A	A	A	A	A	<u>A</u>	A	A	A	A	A	A	A	A	16-5-4.C.3	
	Service units or facility							A	<u>A</u>	A	A			A			16-5-4.C.4		
	Swimming pool	A	A	A	A	A	A	A	<u>A</u>	A	A	A	A	A	A	A	A	16-5-4.C.5	
	Wholesale sales and distribution									A	A	A	A				16-5-4.C.6		
<b>TEMPORARY USES – See Section 16-5-5 for additional regulations</b>																			
	Car wash	T	T	T	T	T	T	T	<u>T</u>	T	T	T	T	T	T	T	T	T	T
	Expansion or replacement of existing facilities	T	T	T	T	T	T	T	<u>T</u>	T	T	T	T		T	T		T	T
	Farmers market										T	T	T	T	T	T			
	Food Vendor Carts									T	T	T	T	T	T	T			
	Mobile storage (with or without building permit)	T	T	T	T	T	T	T	<u>T</u>	T	T	T	T	T	T	T		T	T
	Real estate sales or leasing office (also model homes)	T	T	T	T	T	T	T	<u>T</u>	T	T	T	T	T	T	T		T	T
	Outdoor Sales (e.g., tent sales, parking lot sales, seasonal sales, windshield repair, sales											T	T	T	T	T	T		

	from retail vendor carts, etc.)																		
	Special event (e.g., carnival, bazaar, fair)	T	T	T	T	T	T	T	<u>I</u>	T	T	T	T	T	T	T		T	T
	Tents, canopies	T	T	T	T	T	T	T	<u>I</u>	T	T	T	T	T	T	T		T	T
<b>USES NOT MENTIONED</b>		See 16-5-1.B for procedures and criteria for approving unlisted uses, including unlisted accessory and temporary uses.																	

Section 5. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 5, Section 2, of the Englewood Municipal Code 2000, to read as follows:

**16-5-2: Use-Specific Standards.**

**[EDITORS NOTE: 16-5-2(A) and (B) remain unchanged.]**

*C. Commercial Uses.*

**[EDITORS NOTE: 16-5-2(C)(1) and (C)(7) remain unchanged.]**

8. Office.

a. *Office. Type 2 (Limited).*

(1) In the MU-R-3-A, ~~and MU-R-3-B~~, and MU-R-3-C districts, this includes administrative and professional offices where the following activities are prohibited:

- (a) Sale of goods or merchandise;
- (b) On-site storage of materials or equipment, except incidental to office operation;
- (c) On-site storage of materials, equipment, or vehicles;
- (d) On-site parking of business vehicles during non-business hours; and
- (e) On-site dispatch of personnel or equipment.

Section 6. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 6, Section 1, of the Englewood Municipal Code 2000, to read as follows:

**16-6-1: Dimensional Requirements.**

**[EDITORS NOTE: 16-6-1(A) remain unchanged.]**

B. *Summary Table of Dimensional Requirements for Principal Uses and Structures.* All principal structures and uses shall be subject to the intensity and dimensional standards set forth in the following Table 16-6-1.1. These standards may be further limited by other applicable sections of this Title. Additional regulations for the residential districts, and special dimensional regulations related to lot area, setbacks, height, and floor area are set forth in the subsections immediately following the table. Rules of measurement are set forth in subsection 16-6-1.A EMC. Dimensional requirements for accessory structures are set forth in subsection 16-6-1.I EMC.

**TABLE 16-6-1.1. SUMMARY OF DIMENSIONAL REQUIREMENTS FOR PRINCIPAL STRUCTURES**

	Min Lot Area (sq ft)	Max FAR	Max Lot Coverage (%)	Min Lot Width (ft)	Max Height (ft)	Minimum Setbacks (ft)		
						Front	Each Side [1] & [2]	Rear
<b>R-1-A District</b>								
One-Unit Dwelling	9,000	None	35	75	32	25	7	20
One-Unit Dwelling on a Small Lot [5]	6,000 [4]	None	40	50	32	25	5	20
All Other Allowed Uses	24,000	None	35	200	32	25	25	25
<b>R-1-B District</b>								
One-Unit Dwelling	7,200	None	40	60	32	25	5	20
One-Unit Dwelling on a Small Lot [5]	6,000 [4]	None	40	50	32	25	5	20
All Other Allowed Uses	24,000	None	40	200	32	25	25	25
<b>R-1-C District</b>								
One-Unit Dwelling	6,000	None	40	50	32	25	5	20
One-Unit Dwelling on a Small Lot [5]	4,500 [4]	None	35	37	32	25	3	20
All Other Allowed Uses	24,000	None	40	200	32	25	25	25
<b>R-2-A District</b>								
One-Unit Dwelling	6,000	None	40	50	32	25	5	20
One-Unit Dwelling on a Small Lot [5]	4,000	None	35	40	32	25	3	20
Multi-Unit Dwelling (Maximum 2 units)	3,000 per unit	None	40	25 per unit [4]	32	25	5	20
All Other Allowed Uses	24,000	None	60	200	32	25	25	25
<b>R-2-B District</b>								
One-Unit Dwelling	6,000	None	40	50	32	25	5	20
One-Unit Dwelling on a Small Lot [5]	4,000	None	35	40	32	25	3	20
Multi-Unit Dwelling (Maximum Units Based on Lot Area & Lot Width)	3,000 per unit	None	60	25 per unit [4]	32	25	5	20
All Other Allowed Uses	24,000	None	60	200	32	25	25	25

**TABLE 16-6-1.1. SUMMARY OF DIMENSIONAL REQUIREMENTS FOR PRINCIPAL STRUCTURES**

	Min Lot Area (sq ft)	Max FAR	Max Lot Coverage (%)	Min Lot Width (ft)	Max Height (ft)	Minimum Setbacks (ft)		
						Front	Each Side [1] & [2]	Rear
<b>MU-R-3-A District</b>								
One-Unit Dwelling	6,000	None	40	50	32	25	5	20
One-Unit Dwelling on a Small Lot [5]	4,000	None	35	40	32	25	3	20
Multi-Unit Dwelling (Maximum Units Based on Lot Area & Lot Width)	3,000 per unit	None	60	25 per unit [4]	32	25	5	25
Private Off-Street Parking Lots	12,000	None	70	None	n/a	25	15	15
Office, Limited	15,000	1.5 (Excluding the gross floor area of parking structures)	50	None	32	25	15	25
All Other Allowed Uses	24,000	None	60	200	32	25	25	25
<b>MU-R-3-B District (See Additional Regulations Following the Table)</b>								
One-Unit Dwelling	6,000	None	40	50	32	15	5	20
One-Unit Dwelling on a Small Lot [5]	4,000	None	35	40	32	25	3	20
Multi-Unit Dwelling (Maximum Units Based on Lot Area & Lot Width)	2-4 units: 3,000 per unit; Each additional unit over 4 units: 1,000 per unit [4]	None	75	None	2-4 units: 32 More than 4 units: 60	15	2-4 units: 5 More than 4 units: 15	25
Office, Limited	24,000	1.5 (Excluding the gross floor area of parking structures)	75	None	60	15	15 [3]	25
All Other Allowed Uses	24,000 [4]	None	75	None	60	15	15	25
<b>MU-R-3-C District (See Additional Regulations Following the Table)</b>								
<u>One-Unit Dwelling</u>	<u>6,000</u>	<u>None</u>	<u>40</u>	<u>50</u>	<u>32</u>	<u>15</u>	<u>5</u>	<u>20</u>
<u>One-Unit Dwelling on a Small Lot [5]</u>	<u>4,000</u>	<u>None</u>	<u>35</u>	<u>40</u>	<u>32</u>	<u>15</u>	<u>3</u>	<u>20</u>

**TABLE 16-6-1.1. SUMMARY OF DIMENSIONAL REQUIREMENTS FOR PRINCIPAL STRUCTURES**

	Min Lot Area (sq ft)	Max FAR	Max Lot Coverage (%)	Min Lot Width (ft)	Max Height (ft)	Minimum Setbacks (ft)		
						Front	Each Side [1] & [2]	Rear
<u>Multi-Unit Dwelling</u>	<u>6,000</u>	<u>None</u>	<u>75</u>	<u>None</u>	<u>40</u>	<u>15</u>	<u>5</u>	<u>20</u>
<u>Office, Limited</u>	<u>6,000</u>	<u>None</u>	<u>75</u>	<u>None</u>	<u>40</u>	<u>15</u>	<u>5</u>	<u>20</u>
<u>All Other Allowed Uses</u>	<u>24,000</u> <u>[4]</u>	<u>None</u>	<u>75</u>	<u>None</u>	<u>40</u>	<u>15</u>	<u>5</u>	<u>20</u>
<b>MU-B-1 District (See Additional Regulations Following the Table)</b>								
Live/Work Dwelling	None	None	None	None	100	0 and no more than 5 feet	0	5
Multi-Unit Dwelling [4]	None	None	None	None	100	0 and no more than 5 feet	0	5
All Other Allowed Uses	None	None	None	None	100	0 and no more than 5 feet	0	5
<b>MU-B-2 District (See Additional Regulations Following the Table)</b>								
Multi-Unit Dwelling [4]	None	None	None	None	60	0 and no more than 5 feet	0	5
All Other Allowed Uses	None	None	None	None	60	0 and no more than 5 feet	0	5
<b>TSA District</b>								
<i>Please refer to Section 16-6-14 EMC, of this Chapter and the applicable Station Area Design Standards and Guidelines for intensity and dimensional standards.</i>								
<b>I-1 AND I-2</b>								
All Allowed Uses Except Manufactured Home Parks	None	2:1	None	None	None	Where a building abuts upon, adjoins, or is adjacent to a residential zone district, minimum setbacks of 10 ft on all sides are required, except as required in Section 16-6-7.K, "Screening Requirements."		
Manufactured Home Parks	See Section 16-5-2.A.3, above.							

**TABLE 16-6-1.1: SUMMARY OF DIMENSIONAL REQUIREMENTS FOR PRINCIPAL STRUCTURES**

	Min Lot Area (sq ft)	Max FAR	Max Lot Coverage (%)	Min Lot Width (ft)	Max Height (ft)	Minimum Setbacks (ft)		
						Front	Each Side [1] & [2]	Rear

**Notes to Table:**

[1] The minimum side setback stated in this table for one-unit attached and multi-unit dwellings shall apply to the entire dwelling structure, and not to each individual dwelling unit located in the structure.

[2] The minimum side setback standard for principal residential dwellings in the residential (R) zone districts, as stated in this Table, shall apply to such dwellings that existed on the Effective Date of this Title. However, principal residential dwellings existing on the Effective Date of this Title, and which as of that date are not in compliance with the minimum side setback standards established in this Table, shall not be considered nonconforming structures due solely to the dwelling's noncompliance with the minimum side setback. Such dwellings are "grandfathered," and shall be considered legal, conforming structures for the purposes of sale and development under this Title and other City building and safety regulations. See Section 16-9-3 (Nonconforming Structures), below.

[3] The minimum separation between principal buildings located on the same or adjoining lots, whether or not the lots are under the same ownership, shall be fifteen feet (15').

[4] See Section 16-6-1.C for additional dimensional standards appropriate to the zone district.

[5] Small lot of record on or before February 23, 2004.

**TABLE 16-6-1.1a: SUMMARY OF DIMENSIONAL REQUIREMENTS FOR PRINCIPAL STRUCTURES LOCATED WITHIN MEDICAL ZONE DISTRICTS AND OVERLAYS**

	Min Lot Area (sq ft)	Max Lot Coverage (%)	Min Lot Width (ft)	Max Height (ft)	Max Retail Gross Floor Area (sq ft)	Minimum Setbacks (ft)						
						Front	Front Upper Story Setback Above 60 Feet	Side Adjacent Street [1] & [2]	Side Adjacent Alley [1] & [2]	Side Adjacent Side [1] & [2]  (Lots fronting Hampden, Jefferson, or the 3500 blocks of Eogan and Clarkson)	Side Adjacent Side [1] & [2]  (Lots fronting all other streets)	Rear
M-1 and M-2 Districts/M-O-1 and M-O-2 Overlay (See Additional Regulations Following the Table)												
Live/Work Dwelling	6,000 [4]	None	None	32	10,000 [4]	0 and no more than 10	NA	0 and no more than 10	5	0	5	5 [4]
One-Unit Dwelling	6,000	40	50	32	NA	15	NA	5	5	5	5	20
One-Unit Dwelling on a Small Lot [5]	4,000	35	40	32	NA	15	NA	3	3	3	3	20
All Other Allowed Uses	6,000 [4]	None	None	Height Zone 1: 145 Height Zone 2: 60 Height Zone 3: 32 [4]	10,000 [4]	0 and no more than 10	20 [4]	0 and no more than 10	5	0	5	5 [4]

**Notes to Table:**

[1] The minimum side setback stated in this table for one-unit attached and multi-unit dwellings shall apply to the entire dwelling structure, and not to each individual dwelling unit located in the structure.

[2] The minimum side setback standard for principal residential dwellings in the residential (R) zone districts, as stated in this Table, shall apply to such dwellings that existed on the Effective Date of this Title. However, principal residential dwellings existing on the Effective Date of this Title, and which as of that date are not in compliance with the minimum side setback standards established in this Table, shall not be considered nonconforming structures due solely to the dwelling's noncompliance with the minimum side setback. Such dwellings are "grandfathered," and shall be considered legal, conforming structures for the purposes of sale and development under this Title and other City building and safety regulations. See Section 16-9-3 (Nonconforming Structures), below.

[3] The minimum separation between principal buildings located on the same or adjoining lots, whether or not the lots are under the same ownership, shall be fifteen feet (15').

[4] See Section 16-6-1.C for additional dimensional standards appropriate to the zone district.

[5] Small lot of record on or before February 23, 2004.

C. *Additional Dimensional and Development Standards*

1. Multi-Unit Development Standards in R-2-A, R-2-B, MU-R-3-A, ~~and MU-R-3-B~~ and MU-R-C Districts.
  - a. *Applicability.* The following standards apply to all multi-unit dwellings constructed or converted after the effective date of this Section.
  - b. Multi-unit dwellings existing on the effective Date of this Section and which as of that date are not in compliance with standards established by this Section, shall not be considered nonconforming due solely to the dwelling's noncompliance with the standards of this Section. Such dwellings are "grandfathered," and shall be considered legal, conforming structures for the purposes of sale and development under this Title.
  - c. *Property having rear alley access.*
    - (1) Minimum lot width shall be 25 feet per unit.
    - (2) Driveway access from the public street shall be prohibited, except for:
      - (a) Corner lots where garage, carport or parking pad may be accessed from the side street.
      - (b) Dwellings with four (4) or more units may have one driveway accessing the street.
    - (3) Parking pads within the front yard or front setback shall be prohibited.
  - d. *Property without rear alley access.*
    - (1) Minimum lot width shall be 30 feet per unit.
    - (2) Garages, carports and parking pads shall be off-set behind the front building line of each unit by a minimum of 5 feet.
    - (3) Minimum separation between driveways or parking pads of attached units shall be 20 feet.
    - (4) Maximum driveway and/or parking pad width within front yard or front setback shall be 10 feet per unit.
    - (5) The maximum garage door width on the front facade of the structure shall be 9 feet per unit.
    - (6) A parking pad may be located in the front yard or front setback only when a garage or carport is not provided.
    - (7) An opaque fence or wall shall be provided between driveways or parking pads on adjacent properties.
    - (8) Units that provide attached garages behind the rear building line of the principal structure may reduce the principal structure's rear setback to 10 feet.
    - (9) It is recognized that because of the wide variety of multi-unit development options, the City Manager or designee may on a case-by-case basis consider minor deviations to d (2)

through (7) above, whenever such deviations are more likely to satisfy the intent of this subsection.

2. *MU-R-3-B District.*

- a. The minimum lot area standards set forth in Table 16-6-1.1 apply to parcels of land containing less than forty-three thousand five hundred sixty (43,560) square feet (1 acre). Parcels of land containing forty-three thousand five hundred sixty (43,560) square feet (1 acre) or more may be developed at a density of one (1) unit per one thousand eighty-nine (1,089) square feet.
- b. The minimum lot area standards set forth in Table 16-6-1.1 for "office limited" and "all other allowed uses" shall not apply to an existing structure converted to accommodate an allowed nonresidential principal use on a lot having less than twenty-four thousand (24,000) square feet, provided the allowed conversion complies with district residential design standards and required off-street parking and landscaping requirements.

3. *MU-R-3-C District.*

- a. The maximum office building floor area (as defined in 16-11-2 EMC) is limited to no more than 30,000 square feet.

34. *Residential Use in MU-B-1 and MU-B-2 Districts.*

- a. Dwelling units may be incorporated into the same building as the commercial use (not as a stand-alone use)
- b. The commercial use occupies the majority of the ground floor of the building, and is directly accessible from an adjacent public street or sidewalk.

45. *MU-B-2 District.*

- a. Relief from front setback requirements set forth in Table 16-6-1.1 may be provided in the situations listed below conditioned on the establishment of a strong development edge along the front property line.
  - (1) Addition to an existing building.
  - (2) Commercial lots with more than two hundred fifty (250) feet of commercial zoning and lot depth.
  - (3) Drive-thru uses.
  - (4) Outside dining.

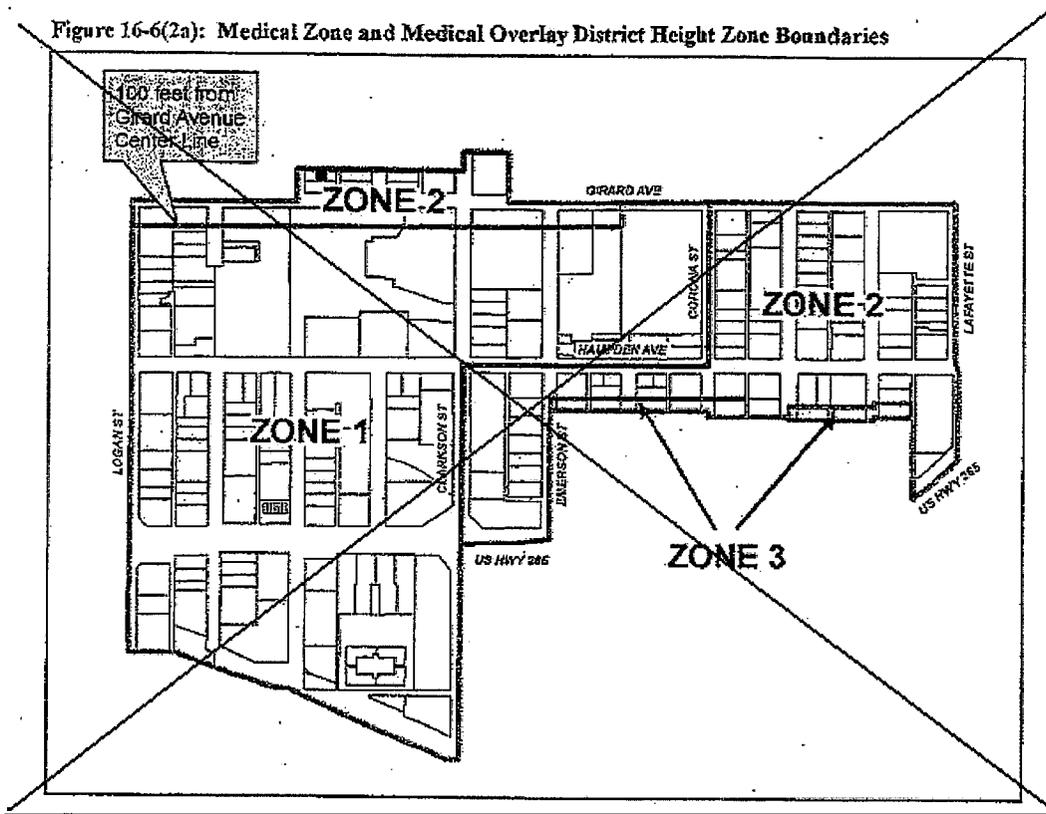
56. *M-1, M-2, ~~M-O-1~~ and M-O-2 Districts.*

- a. *Minimum Lot Size Exemption:*

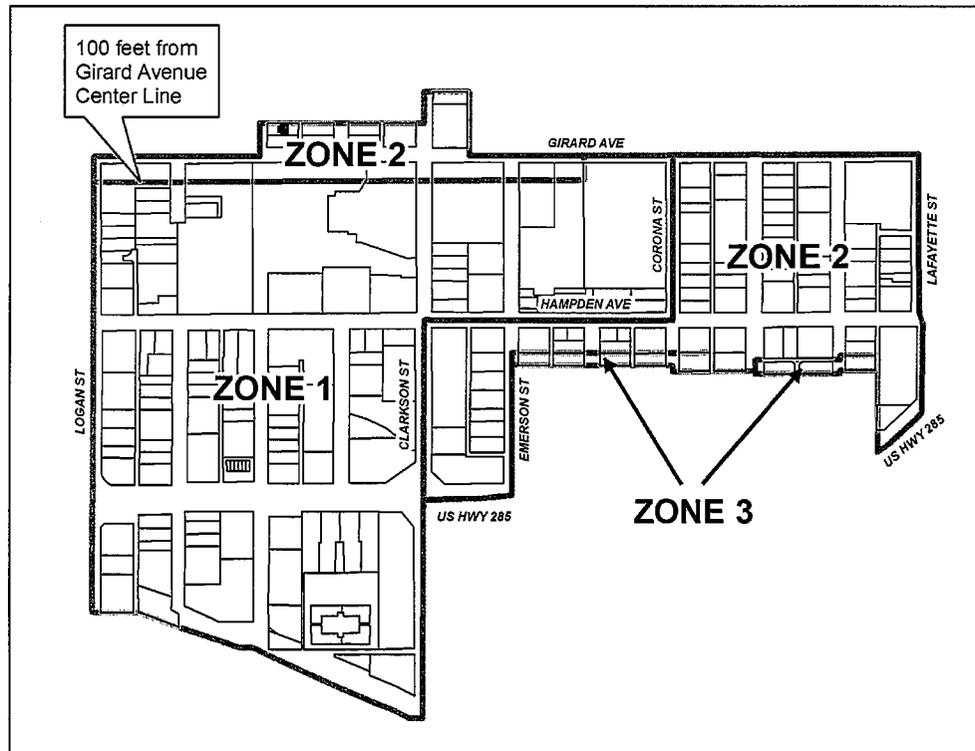
Lots less than 6,000 square feet in size in existence on the effective date of this title are exempt from the minimum lot size requirements.

- b. *Height Zones.*

Height Zone boundaries are depicted in Figure 16-6 (2a).



**Figure 16-6(2a): Medical Zone and Medical Overlay District Height Zone Boundaries**



c. *Maximum Retail Gross Floor Area Exemption:*

Properties directly adjacent on two sides to an arterial street and a collector street as classified by the Department of Public Works are exempt from the maximum retail gross floor area restriction.

Figure 16-6(2b): Properties Exempt from the Max. Retail Gross Floor Area Requirement (Gray)

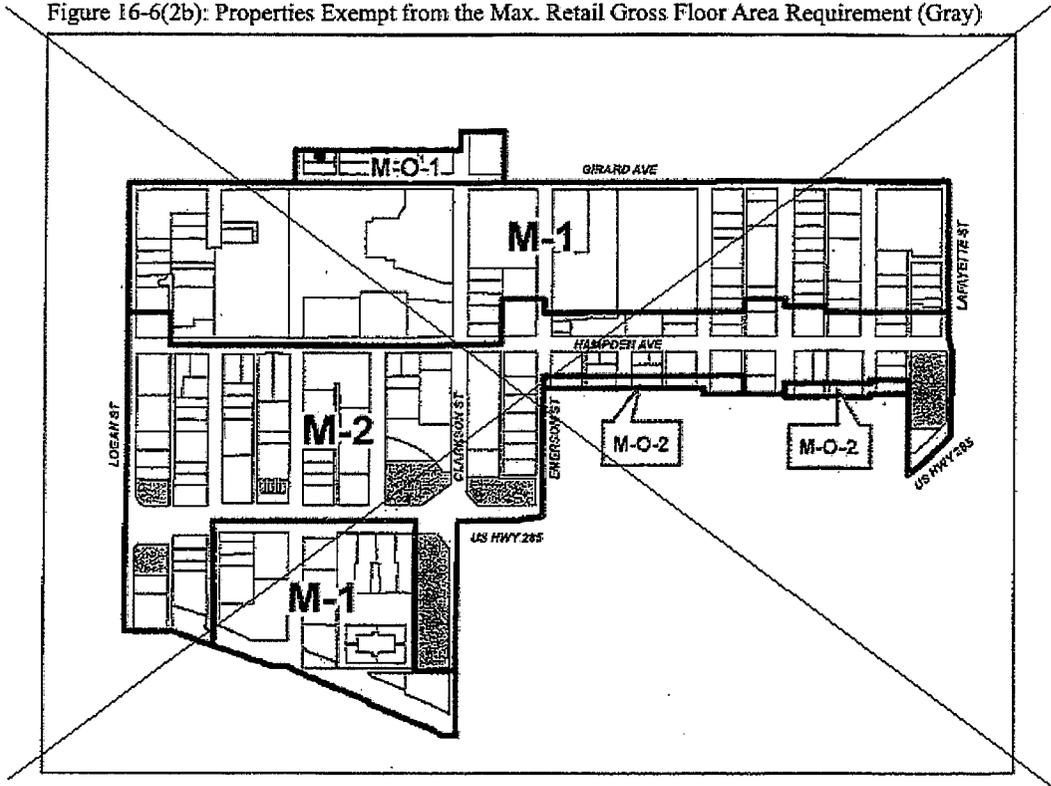
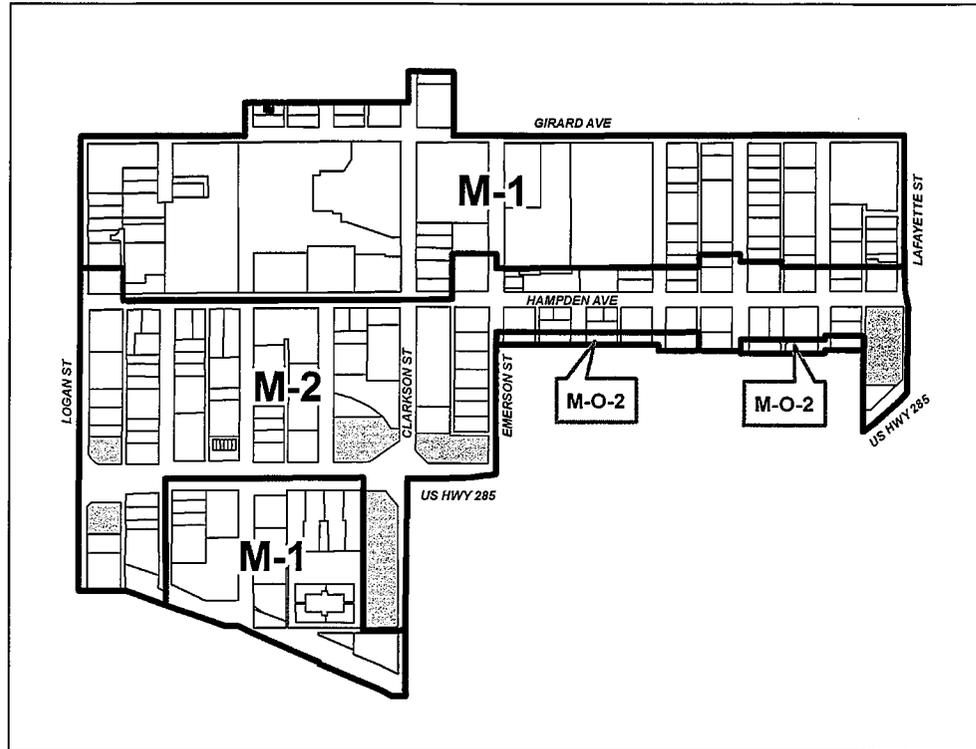


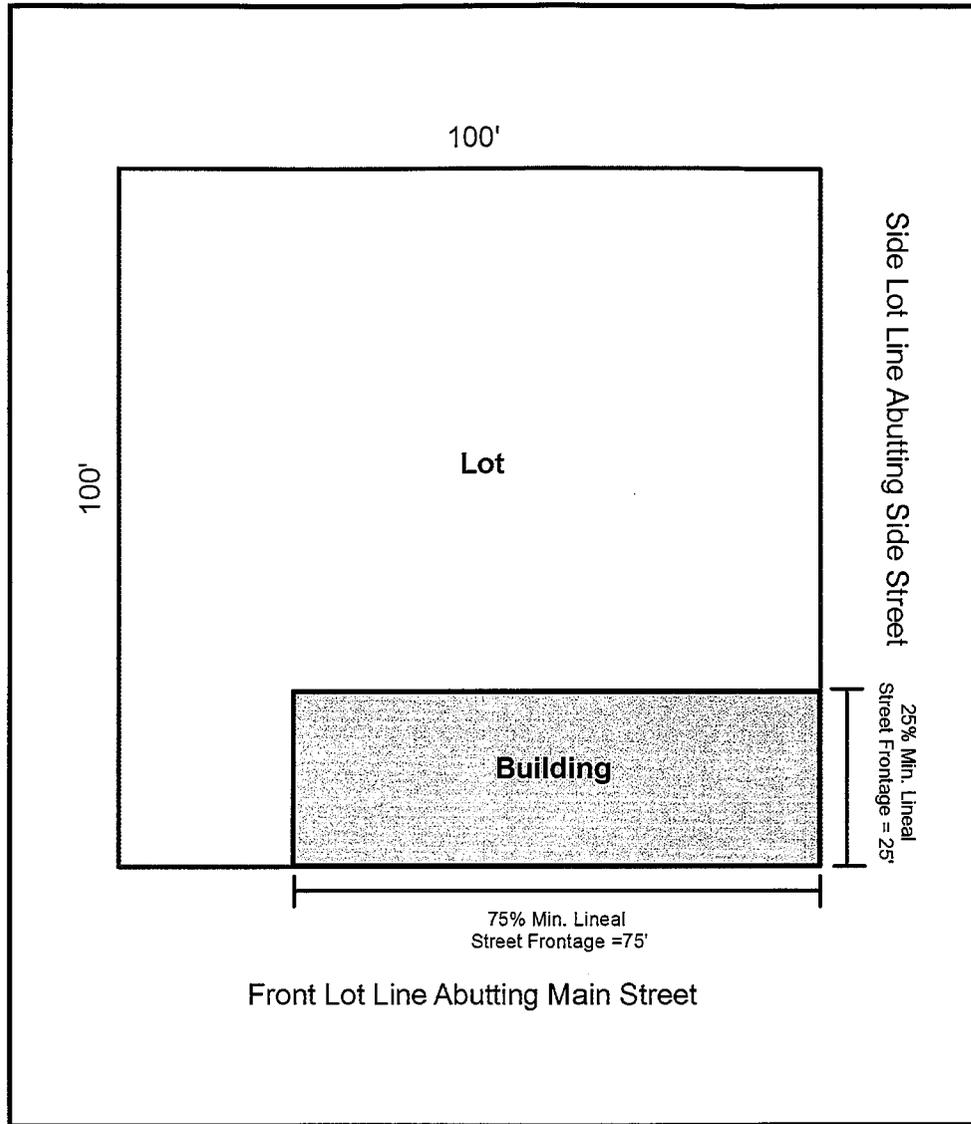
Figure 16-6(2b): Properties Exempt from the Max. Retail Gross Floor Area Requirement (Gray)



d. *Minimum Lineal Street Frontage:*

1. Building frontages are required to cover a minimum distance of 75% of the length of the front lot line, measured adjacent to and parallel with the front lot line.
2. Building frontages are required to cover a minimum distance of 25% of the length of the side lot line abutting a street, measured adjacent to and parallel with the side lot line.

Figure 16-6(2c): Minimum Lineal Street Frontage Example: 100x100' Lot

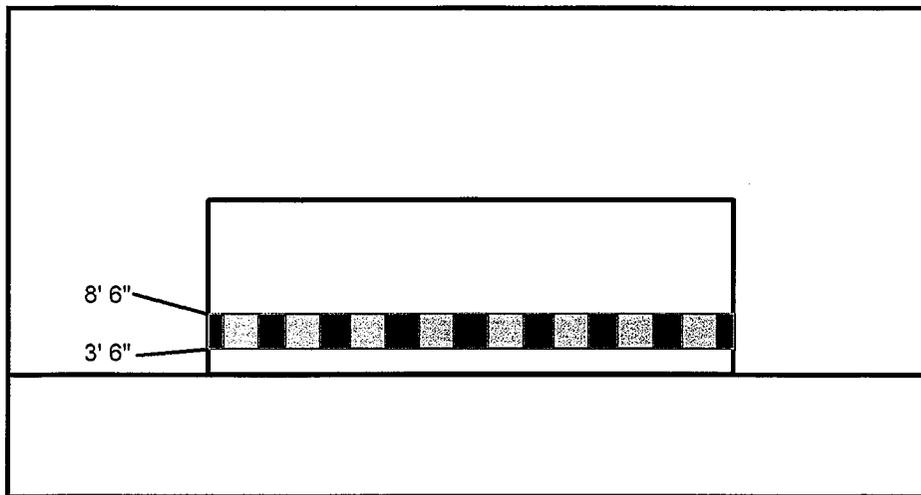


e. Zone of Transparency:

New construction and additions of ground floor retail space fronting on a public street, shall incorporate transparent glass for a percentage of the lineal street frontage of the first floor. These windows shall be a minimum of five feet (5') high and mounted not more than three feet six inches (3'6") high above the interior floor level for a total height of eight feet six inches (8'6").

1. A 60% minimum building lineal zone of transparency measured adjacent to and parallel with the front lot line is required.
2. A 25% minimum building lineal zone of transparency measured adjacent to and parallel with the side lot line fronting a public street is required.

Figure 16-6(2d): Zone of Transparency



f. Required Building Entrances:

All buildings shall have a primary ground floor entrance fronting a public street.

g. Setback Requirements:

1. Minimum side setback may be reduced to 0 feet to conform with an adjacent structure's 0 foot rear or side setback.
2. Minimum rear setback may be reduced to 0 feet for lots less than 100 feet deep.
3. Open air balconies may extend 10 feet into the upper story front setback.
4. Relief from front setback requirements set forth in table 16-6-1.1 may be provided for outside dining areas on the establishment of a strong development edge along the front property line.

**[EDITORS NOTE: 16-6-1(D) through (F) remain unchanged.]**

G. *Bulk Plane Requirements.*

1. Intent. The bulk plane requirements in this subsection are intended to ensure that new residential development, including additions and expansions of existing dwellings, provides adequate light and privacy to neighboring properties. In addition, the bulk plane requirements are intended to assure greater design compatibility in terms of building mass and scale within Englewood neighborhoods.
2. Applicability and Exceptions.
  - a. *Applicability.* Except as exempt by this subsection, the bulk plane requirements in this subsection shall apply to:
    - (1) All new residential development subject to the Residential Design Standards and Guidelines in Section 16-6-10.B. EMC;

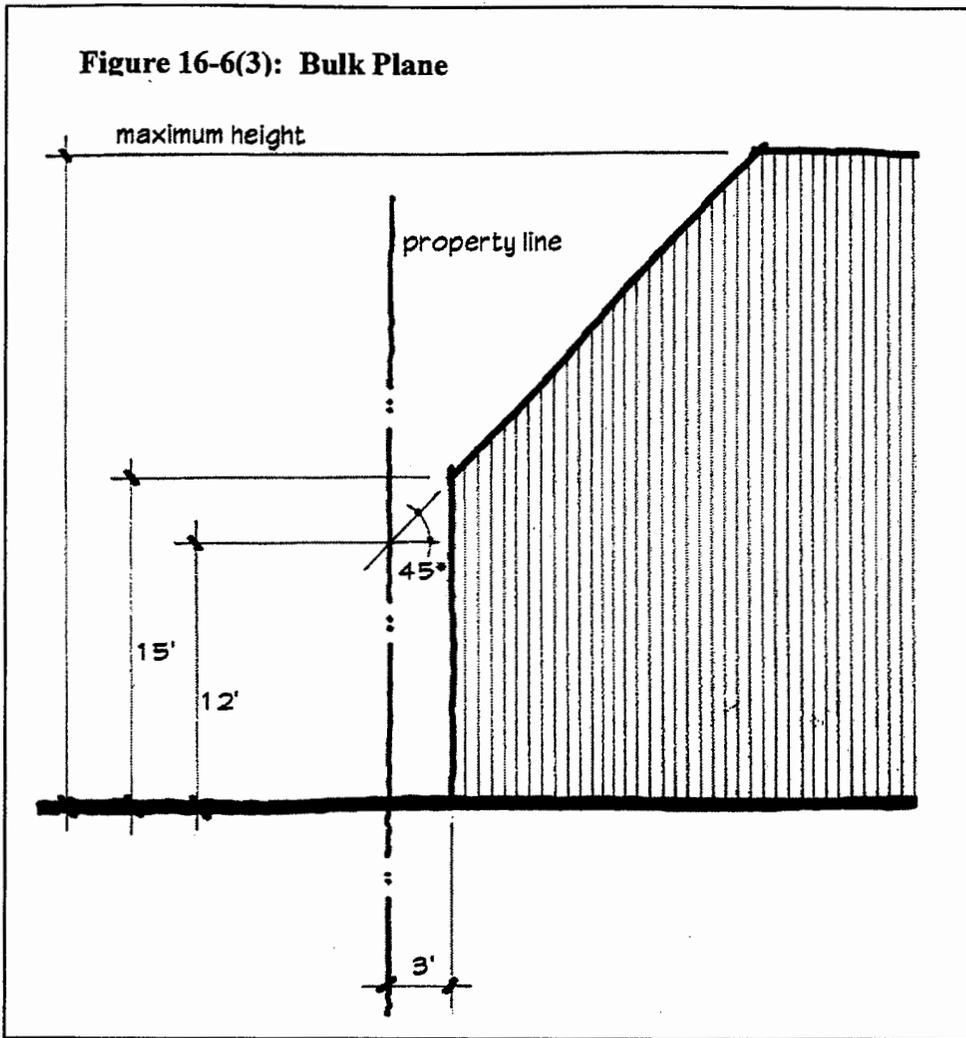
- (2) All new residential development on legal, nonconforming lots that have lot widths less than the minimum required by the applicable zone district; and
- (3) All new residential development on small lots.

b. *Exceptions.*

- (1) The bulk plane requirements in this subsection shall not apply to new residential development in the MU-B-1, MU-B-2, M-1, M-2, ~~M-O-1~~, M-O-2, or TSA districts. The bulk plane requirements in this subsection shall not apply to structures or portions of structures exempt from the maximum height limits, as specified in subsection 16-6-1.E.1 EMC.
- (2) Dormers with window(s) may partially protrude through the bulk plane defined below for a maximum cumulative length of fifteen (15) linear feet, measured horizontally at the point of intersection with the bulk plane, and provided the vertical height of a dormer window does not extend above the height of the ridgeline of the roof surface from which the dormer protrudes.
- (3) Eaves may extend up to twenty-four inches (24") into the bulk plane, provided it does not project further into a side setback than the maximum projection allowed by 16-6-1:F5(b)(1). The extension shall be measured horizontally from the building wall to the furthest extent of the eave.
- (4) Gutters may extend into the bulk plane, regardless of whether the eave projects into the bulk plane.

3. Bulk Plane Requirements. Except as specifically excepted in subsection G.2, above, no part of any structure subject to these bulk plane requirements (including air conditioner, elevator penthouses, and other mechanical equipment) shall project through the following defined bulk planes, which define a building envelope for the subject lot:

- a. A horizontal line that is located directly above the side lot line and which passes through a point twelve feet (12') above the midpoint of such side lot line; and
- b. The intersecting lines that extend over the lot at a pitch of 12:12 (45-degree angle) from the horizontal lines defined in paragraph (a) above.



*Commentary to Figure 16-6(3) [above]: The shaded portion of the illustration above depicts the defined bulk plane, which must contain the entire dwelling structure (with limited exceptions for projecting dormers and chimneys). The bulk plane is measured at a forty-five degree ( $45^{\circ}$ ) angle from a horizontal line located directly above each side lot line and which passes through a point twelve feet (12') above the midpoint of such side lot line. The fifteen feet (15') vertical height shown in the illustration indicates the point where the bulk plane in this example inclines toward the center of the lot, accounting for a three foot (3') side setback required in several of the residential zone districts.*

**[EDITORS NOTE: 16-6-6(H) and (I) contain no changes and are therefore not included here]**

Section 7. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 6, Section 3, Subsection F- "Vehicle Access and Circulation" of the Englewood Municipal Code 2000 to read as follows:

**16-6-3: Streets and Vehicle Access and Circulation.**

**[EDITORS NOTE: 16-6-3(A) through (E) remain unchanged.]**

F. *Vehicle Access and Circulation.*

1. **Access to Public Roads.** All new lots shall have direct or indirect access to a dedicated public street, through one (1) or more access points approved by the City. In addition to direct access to a dedicated public street, access may be provided through private streets or through alleys.
  - a. No back-out driveways from any type of use shall be permitted onto an arterial street.
  - b. No back-out driveways or back-out parking spaces from multi-unit residential on sites with alley access, commercial, or industrial uses shall be permitted onto a public street. This requirement shall not prohibit back-out driveways or parking spaces onto an alley.
2. **Traffic Impact Analysis.** A traffic impact analysis (TIA) shall be required with applications for development review and approval when trip generation during any peak hour is expected to exceed one hundred (100) vehicles, based on traffic generation estimates when trip generation during any peak hour is expected to exceed one hundred (100) vehicles, based on traffic generation estimates of the Institute of Transportation Engineers' Generation Manual (or any successor publication). The City may also require a TIA for:
  - a. Any project that proposes access to a street with level of service (LOS) "D" or below;
  - b. Any application for a rezoning;
  - c. Any case where the previous TIA for the property is more than two (2) years old;
  - d. Any case where increased land use intensity will result in a fifteen percent (15%) or greater increase in traffic generation; and
  - e. Any case in which the traffic engineer determines that a TIA should be required because of other traffic concerns that may be affected by the proposed development.
  - f. When access points are not defined or a Zoning Site Plan is not available at the time the TIA is prepared, additional studies may be required when a Zoning Site Plan becomes available or the access points are defined.
3. **New Intersections and Curb-Cuts.**
  - a. *General Rules.* The number of intersections and curb-cuts on streets and highways shall be minimized consistent with the basic needs of ingress and egress. Intersections and curb-cuts shall be designed to provide the greatest safety for both pedestrians and motorists.
  - b. *Driveways, Residential.*
    - (1) **One-Unit and Multi-Unit Dwellings Containing Up to Three (3) Units.**
      - (a) The width of any driveway leading from the public street to a one-unit dwelling, or multi-unit dwelling containing up to three (3) units shall not exceed twenty feet (20') at its intersection with the street.
      - (b) See also Section 16-6-1C.4 EMC, "Multi-Unit Development Standards in R-2-A, R-2-B, MU-R-3-A, and MU-R-3-B, and MU-R-3-C Districts," for additional driveway standards that apply to multi-unit dwellings on properties with or without alley access.

- (c) See also Section 16-6-10.B. EMC, "Residential Design Standards and Guidelines," for additional driveway standards that apply to new residential development, including substantial expansions or alterations of existing dwellings, in the R-1, R-2, and R-3 zone districts.
- (2) Multi-Unit Dwellings Containing Four (4) or More Units.
    - (a) The width of any entrance driveway to a multi-unit dwelling containing four (4) or more units shall not exceed twenty-five feet (25') at its intersection with the street, unless the applicant can demonstrate that additional width is required to adequately accommodate anticipated driveway volumes.
    - (b) In new multi-unit developments not located within MU-R-3-C, M-1, M-2, M-O-1, and M-O-2 districts containing ten (10) or more units, vehicular access shall be spaced no closer than twenty-five feet (25') to any adjacent property line. However, the City may reduce this setback requirement to permit a single vehicular access point that can serve two (2) adjacent properties or where compliance with these requirements would deny vehicular access to a property.
- c. *Driveways, Nonresidential.* The location and size of driveways leading from the public street to a nonresidential or mixed-use building is subject to the following conditions:
    - (1) No portion of any driveway shall be closer than forty feet (40') to the curb line of an intersecting street, or closer than ten feet (10') from a fire hydrant, catch basin, or end of curb radius at corners.
    - (2) In new non residential developments not located within MU-R-3-C, M-1, M-2, M-O-1 and M-O-2 districts, vehicular access shall be spaced no closer than twenty-five feet (25') to any adjacent property line. However, the City may reduce this setback requirement to permit a single vehicular access point that can serve two (2) adjacent properties or where compliance with these requirements would deny vehicular access to a property.
    - (3) Only one (1) access per street frontage shall be permitted, unless a Zoning Site Plan or traffic impact analysis shows, and the City agrees, that additional access points are required to adequately accommodate driveway volumes and that additional access will not be detrimental to traffic flow.
    - (4) The width of any entrance driveway shall not exceed thirty feet (30') measured along its intersection with the property line.

Section 8. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 6, Section 6, "Fences and Retaining Walls" of the Englewood Municipal Code 2000 to read as follows:

**16-6-6: Fences and Retaining Walls.**

**[EDITORS NOTE: 16-6-6(A) through (E) remain unchanged.]**

F. *Fence Standards.*

- 1. Permitted Fence Location, Class, and Height by Zone District. It shall be unlawful for any person to erect a fence or for any property owner to allow a person to erect a fence that does not

conform to the standards enumerated in this Section and the standards for all zoned districts, as described in Tables 16-6-6.1 thru 16-6-6.4:

**TABLE 16-6-6.2: FENCE STANDARDS FOR RESIDENTIAL DISTRICTS**

Zone District	Fence Location	Permitted Fence Class	Permitted Maximum Height (in feet)	Additional Requirements	
R-1-A R-1-B R-1-C R-2-A R-2-B	FRONT SETBACK: a. Solid Construction b. Open Construction	1, 4 2, 3, 4, 5, 6	3 4	<ul style="list-style-type: none"> <li>Fences in a front yard shall not interfere with or obstruct visibility within a required sight distance triangle.</li> </ul>	
MU-R-3-A MU-R-3-B MU-R-3-C	FRONT SETBACK: a. Solid Construction b. Open Construction: i. Residential ii. Nonresidential	1, 4 2, 3, 4, 5, 6 1, 2 4, 5, 6	3 4 6 4		
R-1-A R-1-B R-1-C R-2-A, R-2-B, MU-R-3-A, MU-R-3-B MU-R-3-C	SIDE SETBACK/FENCES BEHIND THE FRONT SETBACK LINE: Solid and/or Open Construction	1, 2, 3, 4, 5, 6	6, except as noted in Additional Requirements		<ul style="list-style-type: none"> <li>Fences in a side yard shall not interfere with or obstruct visibility within a required sight distance triangle.</li> </ul>
R-1-A R-1-B R-1-C R-2-A, R-2-B, MU-R-3-A, MU-R-3-B MU-R-3-C	REAR SETBACK: Solid and/or Open Construction	1, 2, 3, 4, 5, 6	6, except as noted in Additional Requirements		<ul style="list-style-type: none"> <li>Fences in a rear yard shall not interfere with or obstruct visibility within a required sight distance triangle.</li> </ul>

**TABLE 16-6-6.3: FENCE STANDARDS FOR BUSINESS DISTRICTS**

<b>Zone District</b>	<b>Fence Location</b>	<b>Permitted Fence Class</b>	<b>Permitted Maximum Height (in feet)</b>	<b>Additional Requirements</b>
M-1, M-2, M-O-1, M-O-2, MU-B-1, MU-B-2, TSA	AREA WITHIN 15 FEET OF FRONT PROPERTY LINE:			Fences in a front yard shall not interfere with or obstruct visibility within a required sight distance triangle. • A combination fence may be permitted where a solid masonry base shall have a maximum height of three (3) feet, and decorative metal material built on top of that base shall have a maximum height of three (3) feet and shall be at least 75% open.
	a. Solid Construction	1, 4, 5	3	
	b. Open Construction	1, 2, 4, 5	3	
		2	6	
	AREA BEYOND 15 FEET OF FRONT PROPERTY LINE	1, 2, 3, 4, 5, 6, 7	6	

**[EDITORS NOTE: Table 16-6-6.4 and the remainder of 16-6-6 remain unchanged.]**

Section 9. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 6, Section 7, "Landscaping and Screening" of the Englewood Municipal Code 2000 to read as follows:

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

**[EDITORS NOTE: 16-6-7 (A) through (D) remain unchanged.]**

**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	40	The area, (excluding driveway, parking areas, walkways and public sidewalks) bounded by the front façade 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>3</sup>	50	1/100	30
Multi-Unit dwelling (2 to 4 units)	40			1/625 <sup>3</sup>	50	1/100	30
Multi-unit dwelling (more than 4 units)	25			1/625 <sup>3</sup>	50	1/100	30
Non-Residential Uses	25			1/625 <sup>3</sup>	50	1/100	30
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 façade 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
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> 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.

**[EDITORS NOTE: 16-6-7 (E)(3) through 16-6-7(I) remain unchanged.]**

Section 10. 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 11. 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 12. 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 13. 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 14. Penalty. The Penalty Provision of Section 1-4-1 EMC shall apply to each and every violation of this Ordinance.

Introduced, read in full, amended and passed on first reading on the 2<sup>nd</sup> day of April, 2012.

Published as amended by Title as a Bill for an Ordinance in the City's official newspaper on the 6<sup>th</sup> day of April, 2012.

Published as amended as a Bill for an Ordinance on the City's official website beginning on the 4th day of April, 2012 for thirty (30) days.

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Randy P. Penn, Mayor

ATTEST:

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Kerry Bush, Deputy City Clerk

I, Kerry Bush, Deputy 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, amended, read in full, and passed on first reading on the 2nd day of April, 2012.

---

Kerry Bush

**Legal Description for a Rezoning of Portions of Medical District Sub-area 3 from MU-R-3-B to MU-R-3-C**

That part of the SE quarter of Section 34, and the SW quarter of Section 35, Township 4 South, Range 68 West of the 6th P.M., situated within the City of Englewood, Arapahoe County, Colorado, more particularly described as follows:

Beginning at the intersection of the centerlines of East Floyd Avenue and South Pearl Street; then easterly a distance of 829.25 feet to the extended centerline of the north-south alley of Block 44, Evanston Broadway Addition; thence southerly a distance of 420 feet along the centerline of the north-south alley of Block 44, Evanston Broadway Addition; thence westerly a distance of 8 feet to the southeast corner of Lot 16, Block 44, Evanston Broadway Addition; thence westerly a distance of 135 feet along the south line to the southwest corner of said lot; thence westerly a distance of 30 feet to the centerline of South Clarkson Street; thence southerly a distance of 125 feet along the centerline of South Clarkson Street; thence westerly a distance of 30 feet to the southeast corner of Lot 30, Block 1, West View Addition; then westerly a distance of 125 feet along the south line of Lot 30, Block 1, West View Addition to the southwest corner of said lot; thence westerly a distance of 16 feet to the southeast corner of Lot 21, Block 1, West View Addition; thence westerly a distance of 125 feet along the south line of Lot 21, Block 1, West View Addition to the southwest corner of said lot; thence westerly a distance of 60 feet to the southeast corner of Lot 30, Block 2, West View Addition; thence westerly a distance of 125 feet along the south line of Lot 30, Block 2, West View Addition to the southwest corner of said lot; thence westerly a distance of 16 feet to the southeast corner of Lot 21, Block 2, West View Addition; thence westerly a distance of 125 feet along the south line of Lot 21, Block 2, West View Addition to the southwest corner of said lot; thence westerly a distance of 30 feet to the centerline of South Pearl Street; thence northerly a distance of 547.7 feet to the centerlines of East Floyd Avenue and South Pearl Street, the point of beginning.

**Legal Description for a Rezoning of Portions of Medical District Sub-area 3 from MU-R-3-B/M-O-1 to M-1**

That part of the SE quarter of Section 34, and the SW quarter of Section 35, Township 4 South, Range 68 West of the 6th P.M., situated within the City of Englewood, Arapahoe County, Colorado, more particularly described as follows:

Beginning at the intersection of the centerlines of East Girard Avenue and South Pearl Street; thence easterly a distance of 825 feet to the intersection of the centerlines of East Girard Avenue and the extended north-south alley of Block 44, Evanston Broadway Addition; thence northerly a distance of 255 feet along the centerline of the north-south alley of Block 44, Evanston Broadway Addition; thence westerly a distance of 8 feet to the northeast corner of Lot 17, Block 44, Evanston Broadway Addition; thence westerly a distance of 135 feet along the north line of Lot 17, Block 44, Evanston Broadway Addition to the northwest corner of said lot; thence westerly a distance of 30 feet to the South Clarkson Street centerline; thence southerly a distance of 125 feet along the centerline of South

Clarkson Street; thence westerly a distance of 30 feet to the northeast corner of Lot 29, Block 1, West View Addition; thence westerly a distance of 125 feet along the north line of Lot 29, Block 1, West View Addition to the northwest corner of said lot; thence westerly a distance 16 feet to the northeast corner of Lot 22, Block 1, West View Addition; thence westerly a distance of 125 feet along the north line of Lot 22, Block 1, West View Addition to the northwest corner of said lot; thence westerly a distance of 60 feet to the northeast corner of Lot 29, Block 2, West View Addition; thence westerly a distance of 125 feet along the north line of Lot 29, Block 2, West View Addition to the northwest corner of said lot; thence westerly a distance of 16 feet to the southeast corner of Lot 21, Block 2, West View Addition; thence westerly a distance of 125 feet along the south line of Lot 21, Block 2, West View Addition to the southwest corner of said lot; thence westerly a distance of 30 feet to the centerline of South Pearl Street; thence southerly a distance of 130 feet to the intersection of the centerlines of East Girard Avenue and South Pearl Street, the point of beginning.

F-10-F-01874



Area Proposed for new MU-R-3-C  
Mixed Use Multi-unit Residential and  
Limited Office Zone District

Area Proposed to be  
Rezoned to M-1 Medical

**LEGEND**

-  Proposed Rezoning Boundaries
-  Subarea Boundary

*City of Englewood, Colorado*  
*Englewood Medical District*  
*Small Area Plan:*  
*Proposed Sub-area 3 Rezoning*  
 March 2012

## COUNCIL COMMUNICATION

<b>Date:</b> April 16, 2012	<b>Agenda Item:</b> 10 b	<b>Subject:</b> Ordinance Amending Title 16 of the Englewood Municipal Code Pertaining to the Establishment of a Neighborhood Preservation Overlay Zone District (NPO) and the Subsequent Amendment of the Official Zoning Map to Rezone Portions of Medical District Sub-area 2 from MU-R-3-B to MU-R-3-B/NPO
<b>Initiated By:</b> Community Development Department		<b>Staff Source:</b> John Voboril, Long Range Planner II

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Council made economic development a top Council goal in early 2006, and has continued to reaffirm this goal as a top priority as recently as January of this year. The Englewood Downtown and Medical District Small Area Plan was created to help the City promote economic development in areas deemed appropriate for high intensity commercial, medical, and residential development, and protect adjacent residential neighborhoods from inappropriately scaled development. After first focusing on Medical District areas of change with the adoption of the new Medical Zone Districts in 2008, City Council and the Planning and Zoning Commission turned their focus to zoning reforms for adjacent residential neighborhoods.

The following is a chronology of City Council meetings related to Medical District Sub-area 2:

- December 6, 2010**     Public Hearing on Englewood Downtown and Medical District Small Area Plan Amendments to Goal and Objectives
- December 20, 2010**     Adoption of Englewood Downtown and Medical District Small Area Plan Amendments to Goals and Objectives by Resolution
- March 10, 2011**         Medical District Zoning Reform Process Study Session
- June 20, 2011**         Analysis of Rezoning Alternatives for the 3200 Block of Sherman Street, and the 3200, 3300, and a Portion of the 3400 Block of Grant Street Study Session
- July 18, 2011**         City Council/Planning and Zoning Commission Joint Study Session on Medical District Sub-area 2
- August 15, 2011**         Sub-area 2 Rezoning Schedule Based on Traditional Planning Process Study Session
- December 12, 2011**     Medical District Sub-area 2 Overlay and Rezoning Options Study Session

**January 17, 2012** Medical District Sub-area 2 Overlay and Rezoning Options Study Session

**April 2, 2012** Council Bill No. 21 First Reading

## **RECOMMENDED ACTION**

Community Development recommends that City Council hold a public hearing on Council Bill No. 21, an ordinance amending the Unified Development Code to establish the Neighborhood Preservation Overlay Zone District and the related zoning change to the Official Zoning Map establishing the Neighborhood Preservation Overlay Zone District as supplemental regulations to the underlying MU-R-3-B zone district for the 3200 blocks of Sherman Street, the 3200 and 3300 blocks of Grant Street, and portions of the 3400 block of Grant Street, as shown in Exhibit A.

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

At the beginning of the Medical District Phase II planning process, Planning and Zoning Commission members envisioned Girard Avenue as a natural boundary between areas of residential stability north of Girard, and areas that should remain open for potential change south of Girard. Commission members envisioned rezoning the 3400 blocks of Logan and Grant Streets to M-1 Medical, while pursuing zoning reforms for the portions of sub-area 2 north of Girard Avenue that would prevent hospital expansion, limit the size of office uses, lower maximum building height, and encourage the selective replacement of single family rental properties with new multi-unit residential development.

Based on public testimony at the December 6<sup>th</sup>, 2010 City Council public hearing on amendments to the Englewood Downtown and Medical District Small Area Plan goals and objectives, changes were made to the proposed goals and objectives that sought to protect single and two-unit uses in sub-area 2 by rezoning to an R-1 or R-2 zone district. In early 2011, City Council requested Community Development staff to present a timeline and process for approving zoning changes for Medical District sub-area 2, which were presented at a March, 2011 Council study session. At this time, Council directed staff to begin developing zoning alternatives for the area. Zoning alternatives were presented to Council at the June 20<sup>th</sup> Council study session, and later presented to stakeholders at a neighborhood meeting held on July 23<sup>rd</sup>, 2011. Council also invited Planning and Zoning Commissioners to attend the July 18<sup>th</sup>, 2011 study session to discuss differences concerning the direction for Medical District sub-area 2. Another City Council study session was held on August 15<sup>th</sup> to take a second look at a rezoning process timeline. The proposed timeline allowed staff and Planning and Zoning Commission an opportunity to develop a zoning proposal for sub-area 2 that would take into account the range of concerns expressed by neighborhood stakeholders, the Planning and Zoning Commission, and City Council.

In response to this direction, Community Development staff developed the concept of the Neighborhood Preservation Overlay from national best practices and case studies. The Neighborhood Preservation Overlay recognizes a community desire to preserve the existing balance of land uses in mature neighborhoods by placing a new set of regulations that prevent changes in land use (i.e. replacement of single unit properties with multiple unit properties or office) while allowing replacement of an existing land use type with the same land use type at similar densities subject to provisions of the underlying zoning district (i.e. replacing an existing multi-unit residential development with a new multi-unit residential development). The overlay strategy offers the advantages of causing less confusion to the public, providing a greater measure of fairness to owners

of existing multi-unit residential property owners, and reducing the number of unintended nonconformities.

Community Development staff presented the Neighborhood Preservation Overlay to Planning and Zoning Commission in the November 22<sup>nd</sup>, 2011 study session. Planning and Zoning Commission members were divided on the merits of the proposal and so ultimately made a motion for a recommendation to Council to allow the existing MU-R-3-B zoning to remain in place with the caveat that over night, inpatient hospital use be removed from portions of sub-area 2 north of Girard Avenue.

Upon review of the Planning and Zoning Commission's recommendation, as well as the testimony of neighborhood stakeholders, City Council decided at the December 12<sup>th</sup>, 2011 Council study session to continue working closely with staff to refine the Neighborhood Preservation Overlay proposal. At the January 17<sup>th</sup>, 2012 City Council study session, Council made final decisions to limit new residential units to two units rather than four units, and to not allow for conversions of existing single unit homes for use as offices.

The key highlights of the Neighborhood Preservation Overlay are outlined below:

The following land uses are prohibited:

- Hospital
- Clinic
- Laboratory
- Office, type 1 (general)
- Office, type 2 (limited)
- Parking facility or structure, principal use
- Parking area, surface, principle use
- Conversions of single unit houses to office use
- Multi-unit dwellings, except for two-unit dwellings

Existing multi-unit apartment buildings are allowed to be redeveloped at existing densities and at current dimensional standard conditions (heights, setbacks, etc.).

## **FINANCIAL IMPACT**

No direct financial costs are anticipated from the adoption of the proposed amendments.

## **LIST OF ATTACHMENTS**

Planning and Zoning Commission Public Hearing Minutes, March 6<sup>th</sup>, 2012  
Planning and Zoning Commission Public Hearing Findings of Fact, March 20<sup>th</sup>, 2012  
Proposed Bill for Ordinance

**CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION  
REGULAR MEETING  
March 6, 2012**

**Minutes and audio are available at:**  
<http://www.englewoodgov.org/Index.aspx?page=152>

**I. CALL TO ORDER**



The regular meeting of the City Planning and Zoning Commission was called to order at 7:04 p.m. in the City Council Chambers of the Englewood Civic Center, Chair Knoth presiding.

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

Absent: Harbaugh

Staff: Alan White, Community Development Director  
John Voboril, Long Range Planner  
Nancy Reid, Assistant City Attorney

**II. APPROVAL OF MINUTES**

February 22, 2012



Roth moved:

Fish seconded: TO APPROVE THE FEBRUARY 22, 2012 MINUTES

Chair Knoth asked if there were any modifications or corrections.

There were none.

AYES: Bleile, Roth, Knoth, Fish, King, Brick, Kinton

NAYS: None

ABSTAIN: Welker

ABSENT: Harbaugh

Motion carried.

### **III. PUBLIC HEARINGS**



#### **CASE #2012-01, Amendment of UDC to Establish a NPO (Neighborhood Preservation Overlay) Zone District**

Brick moved:

Welker seconded: TO OPEN CASE #2012-01

AYES: Bleile, Roth, Welker, Knoth, Fish, King, Brick, Kinton

NAYS: None

ABSTAIN: None

ABSENT: Harbaugh

Motion carried.

Mr. Voboril presented background information on the Englewood Downtown and Medical District Small Area Planning process to date.

Summary of the neighborhood Preservation Overlay:

Prohibits the following land uses:

- Hospital
- Clinic
- Laboratory
- Office, type 1 (general)
- Office, type 2 (limited)
- Parking facility or structure, principal use
- Parking area, surface, principle use
- Conversions of single unit houses to office use

Limits the number of attached residential units to two per 50 feet of lot frontage.

Allows the existing multi-unit apartment buildings to be redeveloped at existing densities.



#### **Public Testimony**

Testimony was heard from 8 citizens.



Bleile moved:

Welker seconded: TO CLOSE CASE #2012-01

AYES: Bleile, Roth, Welker, Knoth, Fish, King, Brick, Kinton

NAYS: None  
ABSTAIN: None  
ABSENT: Harbaugh

Motion carried.

The Commission called a 10 minute recess. The meeting reconvened with all members of the Commission previously in attendance.

Welker moved:

Brick seconded: TO AMEND THE ORIGINAL MOTION TO INCLUDE A 40 FOOT HEIGHT RESTRICTION IN THE OVERLAY DISTRICT.

AYES: Bleile, Roth, King, Brick, Welker  
NAYS: Fish, Kinton, Knoth  
ABSTAIN: None  
ABSENT: Harbaugh

Motion carried.

Brick moved:

Fish seconded: THAT CASE #2012-01 AMENDMENTS TO TITLE 16: UNIFIED DEVELOPMENT CODE OF THE ENGLEWOOD MUNICIPAL CODE RELATED TO THE CREATION OF NEIGHBORHOOD PRESERVATION OVERLAY DISTRICT REGULATIONS BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION FOR ADOPTION WITH THE FOLLOWING AMENDMENT:

1. *Include a 40 foot height restriction.*



Mr. Fish stated in looking at Section 5 of Roadmap Englewood and at the overlay characteristics provided by Staff that are intended to preserve the existing character and balance of land use, when the mature residential neighborhood appears to be the main reason for this, I don't find that anywhere in Roadmap Englewood. To overlay something like this over this diverse area would not only be not in compliance with what Englewood wants to see but believes it would damage the properties and take away rights.

Mr. Brick said on page 85, Section 5: Housing, of Roadmap Englewood 2003, it says "The City of Englewood recognizes the value of home ownership and the property improvements and is committed to increasing the home ownership levels in the City, as well as assisting current homeowners with home improvements. Understanding Housing in

Englewood requires looking beyond housing type to housing tenure and maintenance. About two thirds of Englewood homes are single family dwellings of which 85% are owner-occupied. Of the one third that are multi-family homes, less than 3% are owner-occupied. Taken together, 50% of Englewood homes are occupied by their owners. Nationally, about 66% of homes are owner-occupied. The City is committed to increasing Englewood owner-occupancy rates to more closely reflect national rates." Goal #2 states "Improve the quality of the City's existing housing stock"; under Objective 2.1 it states "Encourage home ownership, property improvement, and house additions". In the Medical District Small Area Plan Goal A, Medical Area Sub-area 2, Objective 2A.1 states "Reduce the number of single unit rental homes through conversion to home ownership". By establishing the Overlay you are inducing home ownership.

Mr. Welker stated he feels some of tonight's discussion is premature in that the boundaries of this district were really the intention of the third part of the public hearing tonight. He stated that an NPO District as an overlay is an advancement in the types of discussions the Commission has had that have been either been to one extreme, downzoning, or to the other extreme, opening the area up to mixed-use on a grander scale. While over time this area may evolve into being a denser, more commercial type of district based on pressure from ownership and use of adjoining properties the north two blocks are kind of a transition between strict single family homes and commercial development. Putting them in an overlay district that allows them to be kept as is, which is primarily single family homes or duplexes, is appropriate. He doesn't feel the bugs are worked out of the paperwork just yet. It would have been better if this issue had gone through the steps that were omitted; a Planning and Zoning study session and either a neighborhood meeting or a study session in which the public attended.

Mr. Kinton said he concurs there are still many issues left to work out.

Mr. Roth stated there are too many issues to work out. There are too many potential takings. As it is would be pretty fair target for a legal challenge. The non-conforming issues need to be addressed. He is not comfortable with making current conforming uses non-conforming.

Mr. Bleile quoted a sentence from one of Director White's letters which he said he feels sums up the Planning and Zoning Commission superbly: "The role of zoning in the context of planning a neighborhood is to have a stabilizing and predictable effect on development patterns in the context of approved plans and visions for future development". He stated creating an overlay is a great idea; the intent was good. The issue needs to be vetted out more. Areas south of Girard between Girard and Floyd are vastly different than they are north of Floyd.

Mr. King said he not opposed to an overlay. This area is fairly diverse and that may be the only way to go. The Planning and Zoning Commission has a fiduciary responsibility to the entire community. Otherwise, we would just allow everybody to zone their properties

whatever they wanted or would have no zoning at all. Non-conforming use is complicated. He supports going to an R-2 north of Floyd, other two areas not so sure. He doesn't like potentially taking away rights from people. The issue is just too vague.

Mr. Knoth stated he is against down zoning.

AYES: Brick  
NAYS: Bleile, Roth, Welker, Knoth, King, Fish, Kinton  
ABSTAIN: None  
ABSENT: Harbaugh

Motion failed.

Bleile moved:

Kinton seconded: THAT CITY COUNCIL ALLOW THE PLANNING AND ZONING COMMISSION THE OPPORTUNITY TO SCHEDULE ADDITIONAL STUDY SESSIONS TO WORK OUT THE DETAILS BEFORE THIS ISSUE IS PLACED BACK ON THE CALENDAR FOR ANOTHER PUBLIC HEARING.

AYES: Brick, Bleile, Roth, Welker, King, Fish, Kinton  
NAYS: Knoth  
ABSTAIN: None  
ABSENT: Harbaugh

Motion passed.

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#### **CASE #2012-02, Amendment of UDC to Establish MU-R-3-C Zone District**



Welker moved:

Fish seconded: TO OPEN CASE #2012-02

AYES: Roth, Welker, Fish, King, Brick, Kinton  
NAYS: Bleile, Knoth  
ABSTAIN: None  
ABSENT: Harbaugh

Motion carried.

Mr. Voboril presented background information on the Englewood Downtown and Medical District Small Area Planning process to date.

Summary of MU-R-3-C Zone District:

- Remove Museum/Cultural as an allowed land use.
- Remove Overnight, In-patient Hospital Facility as an allowed land use.
- Remove Parking Structure and Surface parking as allowed ***principal*** land uses.
- Retain Out-patient Clinic as an allowed land use.
- Retain Medical Laboratory as an allowed land use.
- Add Massage Therapy as an allowed land use.
- Lower maximum height limit from 60 to 40 feet.
- Remove floor area ratio limitation.
- Institute a maximum office/medical facility building size of 30,000 SF, the same size as existing apartment buildings in Sub-area 3.
- Reduce side setbacks for office/medical and multi-unit residential from 15 to 5 feet.
- Remove driveway location requirement for multi-unit residential development.
- Remove land area per residential unit requirement in favor of regulating density through maximum height limit and minimum off-street parking standards.
- Reduce minimum lot size for office/medical development from 24,000 to 6,000 SF.



**Public Testimony**

Testimony was taken from one citizen.



Welker moved:

Bleile seconded: TO CLOSE CASE #2012-02

AYES: Bleile, Roth, Welker, Knoth, Fish, King, Brick, Kinton

NAYS: None

ABSTAIN: None

ABSENT: Harbaugh

Motion carried.

A motion was made that failed for lack of a second.



King moved:

Welker Seconded: CASE #2012-02, AMENDMENTS TO THE OFFICIAL ZONING MAP TO REZONE AN AREA OF THE CITY MU-R-3-C BE RECOMMENDED FOR

*APPROVAL TO CITY COUNCIL WITH A FAVORABLE  
RECOMMENDATION FOR ADOPTION WITH THE FOLLOWING  
CORRECTIONS TO THE STAFF REPORT:*

1. *Page 4, #5 should read MU-R-3-C, not MU-R-3-B.*
2. *Page 4, #6 should read Section 16-6-1(C)(1), not Section 16-6-1(E)(1)*

Mr. Fish said he has reviewed the materials provided by Staff. There has been minimal public input other than to the process, but not to the substance of this motion. He stated he has reviewed the tables and finds the idea of an MU-R-3-C zone district compelling, but some of the proposed tables seem to be in conflict. The Commission did a lot of work to put together the MO-1 overlay for good reason and considering the intent of the third case tonight he is troubled by the removal of that.

Mr. Brick stated in Section 7 of Roadmap Englewood under Business Employment that in Goal 1, Objective 1.2 it states "Actively engage in attracting new businesses to the City". In Goal 5, Objective 5.1 it states "Encourage the development of mixed-use projects in order to achieve a vibrant community". Objective 5.2 states "Increases the value and appeal of Englewood's retail and industrial corridors in order to stimulate economic growth".

Mr. Welker stated even though the Planning and Zoning Commission did not specifically discuss MU-R-3-C this is a fitting classification for the use of the area that it is proposed. He stated he has no problem with changing the area zoned MO-1 to M-1 because of what M-1 allows.

Mr. Kinton finds that the designation of an MU-R-3-C zone district reasonable.

Mr. Roth stated he has concerns changing the MO-1 to M-1, however the area is small enough he doesn't believe there would be room to build a 145 foot building on that section of land.

Mr. King said this is another unique area but this area is also highly, densely populated with units and other uses and is very concentrated. It definitely needs to be set aside from the adjoining neighborhoods as the Commission has discussed many times in the past.

AYES: Bleile, Roth, Welker, Knoth, King, Brick, Kinton  
NAYS: Fish  
ABSTAIN: None  
ABSENT: Harbaugh

Motion carried.

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**CASE #ZON2012-004, Amendment of Official Zoning Map Adopting NPO Zone District for portions of Medical District Sub-Area 2 and Medical District Sub-Area 3 from MU-R-3-B to MU-R-3-C and M-1**

Welker moved:

Roth seconded: TO OPEN CASE #ZON2012-004

AYES: Roth, Welker, Fish, King, Brick, Kinton

NAYS: Bleile, Knoth

ABSTAIN: None

ABSENT: Harbaugh

Motion carried.

Mr. Voboril presented background information on Medical District Sub-areas 2 and 3 Planning process to date.

Summary of Case No. ZON2012-004

- Amendment of the Official Zoning Map adopting NPO Zone District for portions of Medical District Sub-area 2.
- Amendment of the Official Zoning Map Rezoning portions of Medical District Sub-area 3 from MU-R-3-B to MU-R-3-C and M-1

**Public Testimony**

There was no public testimony.



Roth moved:

Welker seconded: TO CLOSE CASE #ZON2012-004

AYES: Bleile, Roth, Welker, Knoth, Fish, King, Brick, Kinton

NAYS: None

ABSTAIN: None

ABSENT: Harbaugh

Motion carried.

Several motions were made that were either withdrawn or died for a lack of a second.



Welker moved:

Bleile seconded:

*CASE #ZON2012-004, AMENDMENTS TO THE OFFICIAL ZONING MAP BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION FOR ADOPTION WITH THE FOLLOWING AMENDMENT:*

- 1. The area discussed as Sub-area 2 Overlay District be exempted from this approval and the area be remanded to the Planning and Zoning Commission for clarification.*



Mr. Fish stated the proposed MU-R-3-C zone district is appropriate for the area as it promoted potential business improvement, which is one of the goals of Roadmap Englewood. He does not object to the height restrictions.

Mr. Brick votes yes because it clarifies Goal 5.1 of Section 7 of Roadmap Englewood, which states "Encourage the development of mixed-use projects in order to achieve a vibrant community".

Mr. King stated he felt the stakeholders in this area were very favorable of this plan and it could make sense for this area.

AYES: Bleile, Roth, Welker, Knoth, Fish, King, Brick, Kinton

NAYS: None

ABSTAIN: None

ABSENT: Harbaugh

Motion carried.

#### **IV. PUBLIC FORUM**



There was no further public comment.

#### **V. ATTORNEY'S CHOICE**



Ms. Reid had nothing further to report.

#### **VI. STAFF'S CHOICE**



Director White stated the March 20<sup>th</sup> meeting will be a Public Hearing on Denver Seminary PUD Amendments to allow a bank drive-thru.

**VII. COMMISSIONER'S CHOICE**



Mr. Brick, Mr. Welker, Mr. Bleile, Mr. Fish and Mr. Knoth commented on tonight's meeting.

The meeting adjourned at 11:00 p.m.

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Barbara Krecklow, Recording Secretary

**CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION**

**IN THE MATTER OF CASE #2012-01, )  
FINDINGS OF FACT, CONCLUSIONS )  
AND RECOMMENDATIONS RELATING ) FINDINGS OF FACT AND  
TO THE UNIFIED DEVELOPMENT CODE ) CONCLUSIONS OF THE  
AMENDMENTS FOR THE CREATION OF ) CITY PLANNING AND  
A NEW OVERLAY ZONE DISTRICT (NPO) ) ZONING COMMISSION  
NEIGHBORHOOD PRESERVATION OVERLAY )  
)  
)  
)  
**INITIATED BY: )  
COMMUNITY DEVELOPMENT )  
DEPARTMENT )  
1000 ENGLEWOOD PARKWAY )  
ENGLEWOOD, CO 80110 )****

Commission Members Present: Fish, King, Knoth, Roth, Welker, Kinton, Brick, Bleile, Townley

Commission Members Absent: Harbaugh

This matter was heard before the City Planning and Zoning Commission on March 6, 2012 in the City Council Chambers of the Englewood Civic Center.

Testimony was received from staff and the public. 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 witnesses, 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 Amendments for the creation of a new overlay zone district (NPO Neighborhood Preservation Overlay) 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 February 17, 2012 and was on the City's website from February 15<sup>th</sup> through 27<sup>th</sup>, and again from February 28<sup>th</sup> through March 6, 2012 with a corrected case number.
3. **THAT** residents, property owners, and business owners having personal interests within and one block beyond the original Downtown and Medical District study area boundaries were invited to participate as community stakeholders in the Medical District Phase II stakeholder planning process.
4. **THAT** community stakeholder meetings were held on April 1, 15 and 27, 2010 in order to gather feedback on stakeholder preferences for zoning reform strategies that were later incorporated into amendments to the Englewood Downtown and Medical District Small Area Plan.
5. **THAT** City Council requested Community Development staff to present a range of down-zoning options at a neighborhood meeting held on July 23, 2011 based on previous directions given by stakeholders documented in the goals and objectives of the Englewood Downtown and Medical District Small Area Plan.
6. **THAT** City Council debated the Neighborhood Preservation Overlay Zone District option through a series of study sessions. However, the Planning and Zoning Commission has not had an adequate opportunity to consider this option for Sub-area 2.
7. **THAT** notification letters were sent to all residents and property owners within 1000 feet of the affected area on February 23, 2012.
8. **THAT** all testimony received from staff members and the public has been made part of the record of the Public Hearing.
9. **THAT** the proposed amendments related to the creation of a Neighborhood Preservation Overlay District are not consistent with the goals and objectives of Roadmap Englewood: The 2003 Englewood Comprehensive Plan and the Englewood Downtown and Medical District Small Area Plan.
10. **THAT** the proposed Amendments related to the creation of a Neighborhood Preservation Overlay District should not be adopted as part of Title 16: Unified Development Code of the Englewood Municipal Code.

### **CONCLUSIONS**

1. **THAT** the Public Hearing on the Unified Development Code Amendments for the creation of a new overlay zone district (NPO Neighborhood Preservation Overlay)

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 February 17, 2012 and was on the City's website from February 15<sup>th</sup> through 27<sup>th</sup>, and again from February 28<sup>th</sup> through March 6, 2012 with a corrected case number.
3. **THAT** notification letters were sent to all residents and property owners within 1000 feet of the affected area on February 23, 2012.
4. **THAT** all testimony received from staff members and the public has been made part of the record of the Public Hearing.
5. **THAT** the creation of an overlay district covering a portion of the MU-R-3-B base residential zone district is intended to:
  - a. Preserve the existing character and balance of land uses within a mature residential neighborhood area;
  - b. Ensure that existing multi-unit developments will retain rights to redevelop at existing residential density levels and current dimensional standards; and
  - c. Ensure that existing single unit homes may only be developed as similar single and two unit development.
6. **THAT** all uses permitted in the underlying MU-R-3-B zone district would be permitted, except the following uses would be prohibited:
  - a. Hospital
  - b. Clinic
  - c. Laboratory
  - d. Office, type 1, (general)
  - e. Office, type 2, (limited)
  - f. Parking facility, structure, principal use
  - g. Parking area, surface, principal use
  - h. Conversions as described in Section 16-6-1-C(2)(b)
  - i. Multi-unit dwellings, except two unit dwellings
7. **THAT** the following additional provisions apply to any Neighborhood Preservation Overlay:
  - a. Limitation on Number of Units for New Multi-unit Residential Developments. A maximum of two (2) residential units per fifty (50) feet of lot frontage are allowed for new multi-unit residential developments replacing existing single and two (2) unit structures.

b. Any multi-unit structure in existence at the time of the effective date of the ordinance creating this overlay district shall be considered a legal non-conforming use. Should any such structure be destroyed or intentionally be demolished by more than 60% of its value, the structure shall be allowed to be reconstructed with the same number of units and in its previous location on the lot, regardless of whether or not the requirements of the underlying zone district are met, including but not limited to maximum lot area, maximum height, minimum setbacks, parking and landscaping. Maximum lot coverage may be increased to 80%.

c. All other non-conforming uses and/or structures are subject to the non-conforming regulations of the UDC.

8. **THAT** the proposed amendments related to the creation of a Neighborhood Preservation Overlay District are not consistent with the goals and objectives of Roadmap Englewood: The 2003 Englewood Comprehensive Plan and the Englewood Downtown and Medical District Small Area Plan and the Englewood Downtown and Medical District Small Area Plan.
9. **THAT** the proposed Amendments related to the creation of a Neighborhood Preservation Overlay District should not be adopted as part of Title 16: Unified Development Code of the Englewood Municipal Code but should be remanded to the Planning and Zoning Commission for further study.
10. **THAT** the overlay could potentially take away people's property rights.
11. **THAT** the issue was not given the time to go through the normal process of a study session and a means to receive public input.
12. **THAT** the overlay has the potential to address the various issues and interests in Sub-area 2, but there are still many issues that need to be worked out.
13. **THAT** the Commission is concerned about making current conforming uses non-conforming.

### **DECISION**

**THEREFORE**, it is the decision of the City Planning and Zoning Commission that Case #2012-01 Unified Development Code Amendments for the creation of Neighborhood Preservation Overlay District Regulations should be referred to the City Council without 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 March 6, 2012, by Mr. Brick, seconded by Mr. Fish, which motion states:

*CASE #2012-01 AMENDMENTS TO TITLE 16: UNIFIED DEVELOPMENT CODE OF THE ENGLEWOOD MUNICIPAL CODE RELATED TO THE CREATION OF NEIGHBORHOOD PRESERVATION OVERLAY DISTRICT REGULATIONS BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION FOR ADOPTION WITH THE FOLLOWING AMENDMENT:*

- 1. Include a 40 foot height restriction.*

AYES: Brick  
NAYS: Fish, Knoth, Roth, Welker, King, Bleile, Kinton  
ABSTAIN: None  
ABSENT: Harbaugh

Motion failed.

These Findings and Conclusions are effective as of the meeting on March 6, 2012.

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

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Chad Knoth, Chair

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2012

COUNCIL BILL NO. 21  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN ORDINANCE AMENDING TITLE 16, OF THE ENGLEWOOD MUNICIPAL CODE 2000 PERTAINING TO THE ESTABLISHMENT OF A NEIGHBORHOOD PRESERVATION OVERLAY ZONE DISTRICT, AND AMENDMENT OF THE OFFICIAL ZONING MAP TO REZONE PORTIONS OF THE MEDICAL DISTRICT SUBAREA 2.

WHEREAS, the Englewood Unified Development Code (UDC) was adopted in 2004, as the first comprehensive zoning code update since 1985; and

WHEREAS, the Englewood City Council made economic development a top Council goal; and

WHEREAS, the Medical Zone and Overlay District Amendments to the Unified Development Code (UDC) rezones property to establish more development-friendly regulations in the immediate vicinity of Swedish Medical Center and Craig Hospital to take advantage of development interest in the area; and

WHEREAS, there are certain areas near the Medical Centers which wish to be excluded from consideration for rezoning as medical related zones to preserve the current zoning of the neighborhood and enhance that preservation with an overlay district; and

WHEREAS, after numerous neighborhood meetings, and meetings with City Council the Community Development Department recommended the establishment of a Neighborhood Preservation Overlay Zone and the application of that zone in the 3200 block of South Sherman Street and the 3200, 3300 and portions of the 3400 blocks of South Grant Street in the City of Englewood; and

WHEREAS, the Englewood Planning and Zoning Commission conducted a Public Hearing and recommended that this Overlay Zone should not be established at this time.

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, pursuant to Title 16, Chapter 1, Section 8, of the Englewood Municipal Code 2000, the rezoning of certain parcels with an overlay zone as shown on the attached Exhibit A, and amending the Official Zone District Map to reflect those rezonings.

Section 2. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 3, Section 1, Subsection B, "Relationship of Base Zoning Districts to Overlay" of the Englewood Municipal Code 2000 to read as follows:

**16-3: ZONE DISTRICTS**

[EDITORS NOTE: 16-3-1(A) remain unchanged.]

**16-3-1: General Provisions.**

B. *Relationship of Base Districts to Overlay Districts.* Lands within the City may be classified into one of the base zoning districts, as described above, and may also be classified as an overlay district (See, for example, Chapter 16-4 EMC, "Flood Plain Overlay District.") An overlay district is a land use classification that lies over the base zoning allowing for additional uses and development standards different from the base zoning. Where the property is classified in an overlay district as well as a base zoning district, then the regulations governing development in the overlay district shall apply in addition to the regulations governing development in the underlying district. In the event of an express conflict between the standards governing a base district and those governing an overlay district, the standards governing the overlay district shall control.

<b>TABLE 16-3-1.2: OVERLAY DISTRICTS</b>	
<b>Name</b>	<b>Description</b>
<b>M-O-1</b>	A medical overlay district covering a portion of the MU-R-3-B base residential zone district.
<b>M-O-2</b>	A medical overlay district covering a portion of the R-2-B base residential zone district.
<b><u>NPO</u></b>	<u>A neighborhood preservation overlay district covering a portion of the MU-R-3-B base residential zone district.</u>

C. *Compliance with District Standards.* No building or structure shall be erected, converted, enlarged, reconstructed, or altered for use, nor shall any land, building, or structure be used or changed, except in accordance with the zoning district regulations of this Chapter 16-3 EMC, the use regulations of Chapter 16-5 EMC, the development standards of Chapter 16-6 EMC, and all other applicable regulations of this Title.

Section 3. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 3, Section 2 "District Characteristics" and Title 16, Chapter 3, Section 2, Subsection D, "Special Purpose Districts" by the addition of a new Paragraph 4, of the Englewood Municipal Code 2000 to read as follows:

**16-3-2: District Characteristics.**

One of the goals of the City is to encourage a variety of housing types to meet the needs of differing income levels and varying household structures. The regulations for these districts are designed to stabilize and protect the essential characteristics of the districts, to allow for certain

conditional and limited uses that are controlled by specific limitations governing the impact of such uses, and to promote a compatible neighborhood environment.

**[EDITORS NOTE: 16-3-2(A) through (C) remain unchanged.]**

D. Special Purpose Districts.

1. PUD: Planned Unit Development District. The PUD district is intended as an alternative to conventional land use regulations. The PUD district combines use, density, design, and Zoning Site Plan considerations into a single process, and substitutes procedural protections for many of the substantive requirements of this Title. Designation of a PUD district shall comply with the procedural requirements of Section 16-2-7 EMC.
2. M-O-1: Medical Overlay District. This overlay district covers a portion of the MU-R-3-B base residential zone district, that retains the base district permitted land uses and residential density requirements, but substitutes Medical Zone District lot dimension, parking, and landscaping requirements in support of medical district development.
3. M-O-2: Medical Overlay District. This overlay district covers a portion of the R-2-B base residential zone district and allows a property the option to develop under R-2-B regulations or under M-2 regulations when it is included as part of a larger adjacent M-2 zoned site with street frontage on Hampden Avenue. Retail use shall be prohibited in the M-O-2 overlay district.
4. NPO: Neighborhood Preservation Overlay District. An overlay district covering a portion of the MU-R-3-B base residential zone district that is intended to preserve the existing character and balance of land uses within a mature residential neighborhood area. Existing multi-unit developments retain rights to redevelop at existing residential density levels and subject to all other MU-R-3-B zone district dimensional standards. Existing single unit homes may only be redeveloped as similar single and two unit developments.

Section 4. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 5, Section 2, by the addition of a new Paragraph E, of the Englewood Municipal Code 2000, to read as follows:

**16-5-2: Use-Specific Standards.**

**[EDITORS NOTE: 16-5-2(A) through (D) remain unchanged.]**

E. *Neighborhood Preservation Overlay Uses.*

1. Prohibited Uses. The following uses are prohibited:
  - a. Hospital.
  - b. Clinic.

- c. Laboratory.
  - d. Office, type 1, (general).
  - e. Office, type 2, (limited).
  - f. Parking facility, structure, and principal use.
  - g. Parking area, surface, principal use.
  - h. Conversions as described in Section 16-6-1(C)(2)(b) EMC.
  - i. Multi-unit dwelling, except for two-unit dwellings.
2. Prohibited Conditional Uses. The following Conditional Uses are prohibited:
- a. Group living facility, large/special.
  - b. Small treatment center.
  - c. Boarding or rooming house.
3. Limitation on Number of Units for New Multi-unit Residential Developments. A maximum of two (2) residential units per fifty feet (50') of lot frontage are allowed for new multi-unit residential developments replacing existing single and two unit structures.
4. Any multi-unit structure in existence at the time of the effective date of the ordinance creating this overlay district (insert date) shall be considered a legal conforming use. Should any such structures be destroyed or intentionally be demolished by more than sixty percent (60%) of its value, the structure shall be allowed to be reconstructed with up to a ten percent (10%) increase or the same number of units in its previous location on the lot, regardless of whether or not the requirements of the underlying zone district are met, including but not limited to minimum lot area, maximum lot coverage, maximum height, minimum setbacks, parking and landscaping. Maximum lot coverage may be increased to eighty percent (80%).
5. All other non-conforming uses and/or structures are subject to the non-conforming regulations of the Unified Development Code.

Section 5. 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 6. 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 7. 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 8. 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 9. Penalty. The Penalty Provision of Section 1-4-1 EMC shall apply to each and every violation of this Ordinance.

Introduced, read in full, amended and passed on first reading on the 2nd day of April, 2012.

Published as amended by Title as a Bill for an Ordinance in the City's official newspaper on the 6th day of April, 2012.

Published as amended as a Bill for an Ordinance on the City's official website beginning on the 4th day of April, 2012 for thirty (30) days.

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Randy P. Penn, Mayor

ATTEST:

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Kerry Bush, Deputy City Clerk

I, Kerry Bush, Deputy 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, amended, read in full, and passed on first reading on the 2nd day of April, 2012.

---

Kerry Bush

**Legal Description for Portions of Medical District Sub-area 2 Establishing  
Neighborhood Preservation Overlay Zone District (NPO)**

That part of the SE quarter of Section 34, Township 4 South, Range 68 West of the 6th P.M., situated within the City of Englewood, Arapahoe County, Colorado, more particularly described as follows:

Beginning at the intersection of the centerlines of East Floyd Avenue and South Sherman Street; thence westerly along the centerline of East Floyd Avenue a distance of 163 feet to the intersection of the centerline of East Floyd Avenue and the extended centerline of the north-south alley of Block 6, Rose Addition; thence northerly a distance of 660 feet to the intersection of the centerline of East Eastman Avenue and the extended centerline of the north-south alley of Block 6, Rose Addition; then easterly a distance of 652 feet to the intersection of the centerline of East Eastman Avenue and the extended centerline of the north-south alley of Block 8, Rose Addition; then southerly a distance of 1,800 feet; thence westerly a distance of 8 feet to the southeast corner of Lot 18, Block 8, Premier Addition; thence westerly a distance of 125 feet along the south line of Lot 18, Block 8, Premier Addition to the southwest corner of said lot; thence westerly a distance of 60 feet to the east line of Lot 30, Block 7, Premier Addition; then westerly a distance of 125 feet to the west line of Lot 30, Block 7, Premier Addition; then westerly a distance of 8 feet to the centerline of the north-south alley of Block 7, Premier Addition; thence northerly a distance of 1,140 feet to the centerline of East Floyd Avenue and the extended centerline of the north-south alley of Block 2, Premier Addition; thence westerly a distance of 163 feet to the intersection of the centerlines of East Floyd Avenue and South Sherman Street, the point of beginning.

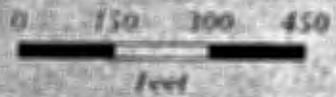


*City of Englewood, Colorado*  
*Englewood Medical District Small Area Plan:*  
*Proposed Sub-area 2*  
*Neighborhood Preservation Overlay (NPO)*

**LEGEND**

-  Neighborhood Preservation Overlay Boundary
-  Subarea Boundary

March 2012



## COUNCIL COMMUNICATION

<b>Date</b> April 16, 2012	<b>Agenda Item</b> 11 a i	<b>Subject</b> Ordinance Changes for 12-1D-5 pertaining to Charges for turning Water On and Off
<b>INITIATED BY</b> Utilities Department	<b>STAFF SOURCE</b> Stewart H. Fonda, Director of Utilities	

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Ordinance No. 9, Series of 1980 – provided a charge for services when water is turned on or off.

### RECOMMENDED ACTION

The Water and Sewer Board, at their January 10, 2012 meeting, recommended Council approval of an Ordinance amending Title 12-1D-5, Municipal Code 2000 pertaining to charges for turning water on and off.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The purpose of Ordinance No. 9, Series 1980 was to provide for costs when the Water Department must excavate the street to turn water off and on in the event that the Utilities Department turns water off for non-payment and it is unlawfully turned on again, or if the waterway controlling the service line is not readily accessible for turn off due to non-payment.

Sometime between 1980 and 1991 the language in section 12-1D-5 was transposed due to a typographical error. The original Ordinance No. 9, Series of 1980 reads "...costs shall also include excavation and street cut permits." It was noted that since 1991 the passage has read, "...costs shall exclude excavation and street cut permits." The City Clerk's office has determined that there is no record that Ordinance No. 9, Series of 1980 has been amended in any way to provide for this change.

Staff and the Englewood Water and Sewer Board wish to correct this error to the Englewood Municipal Code 12-1D-5 EMC pertaining to "Charges for Turning Water On and Off," to reflect, "...costs shall also include excavation and street cut permits."

### FINANCIAL IMPACT

None.

### LIST OF ATTACHMENTS

Water and Sewer Board Minutes from January 10, 2012  
Proposed Bill for an Ordinance

**ENGLEWOOD WATER & SEWER  
BOARD MEETING**

**JANUARY 10, 2012**

Meeting began 5:00 p.m.

 **Roll Call.**

**Present:** Clyde Wiggins, Chuck Habenicht, Tom Burns, Wayne Oakley, Kells Waggoner, Randy Penn, Linda Olson, Jim Woodward, Stewart Fonda, Cathy Burrage.

**Absent:** Higday, Lay

**1. MINUTES OF THE NOVEMBER 8, 2011 MEETING**

The Board approved the minutes of the November 8, 2011 meeting.

 **Motion:** Recommend approval of the November 8, 2011 Water and Sewer Board minutes.

**Moved:** Chuck Habenicht, **Seconded:** Waggoner

Board approved unanimously.

**EXECUTIVE SESSION:**

**Recesses at 5:03 p.m.**

**2. DAVID HILL – WATER ATTORNEY. WATER LITIGATION ISSUES.**

Linda Olson entered at 5:08 p.m.

Reconvened at:5:26 p.m.

 **RESUME REGULAR WATER BOARD MEETING. 5:35 P.M.**

 **3. GUEST: CHRIS SHULTZ – CDM.**

Chris Shultz of CDM discussed the ultra-violet project at the Allen Filter Plant.

 Tom Brennan, Utilities Engineer, discussed the resulting Layton Avenue closure for the duration of the year-long project.

 **4. GUEST: JOHN GALLAGHER – RED OAK CONSULTANTS. FEE ADJUSTMENT.**

John Gallagher of Red Oak Consultants appeared before the Board to request a fee adjustment for a recent fee study.

**Motion:** Water Board recommends City Manager approval of an additional \$32,500 to Red Oak Consultants for extra work on a rate study.

**Moved:** Waggoner, **Seconded:** Linda Olson.

Motion passed unanimously.

 **5. GUEST: JED DIXON – 4435 S. ELATI ST - HIGH WATER BILL AT RENTAL PROPERTY.**

Mr. Jed Dixon appeared to appeal to the Board for an adjustment on a water bill on his rental property at 4435 S. Elati St.

Stu offered to see if sprinkler system is leaking when turned on in spring. Will send someone out from Utilities Department to monitor for leak.

Staff was directed to average past bills of the same time period and of last bills, which would be an adjustment to 39,000 gallons, and adjust the bill. Utilities staff will check the sprinkler system in the spring.



**6. LICENSE AGREEMENT FOR 900 W. QUINCY AVE.**

The Board received a request for a License Agreement for access to the back of their property at 900 W. Quincy Ave.

The License Agreement will be conditional upon the City Attorney's conditions, adjacent resident's approval and an approved and signed License Agreement.

Board can grant approval after conditions met.



**7. ORDINANCE CHANGES FOR 12-1d-5 – CHARGES FOR TURNING WATER ON AND OFF.**

The Board received a copy of a proposed ordinance correcting verbage on Ordinance Amending Title 12-1d-5 regarding charges for turning water on and off.

**Motion:** Recommend Council approval correcting verbage on Ordinance Amending Title 12-1d-5 regarding charges.

**Moved:** Tom Burns, **Seconded:** Jim Woodward.

Motion passed unanimously.



**8. IMPACT OF DENVER EXCHANGES AND STORAGE ON CHATFIELD.**

The Board received a copy of a memo from the City of Englewood to Eric Laux, Scot Fitzgerald and Tim Carey of the Corps of Engineers regarding the impact of Denver exchanges and storage on Chatfield outflows. This is an informational item.



**9. TELEWORKS.**

John Bock appeared to discuss the capabilities of the proposed Teleworks system. The Teleworks contract is for \$103,000.

**Motion:** The Water and Sewer Board recommends Council approval of the Teleworks contract in the amount of \$103,000.

**Moved:** Linda Olson, **Seconded:** Jim Woodward.

Motion passed unanimously.

Meeting adjourned at 6:40 p.m.

Respectfully submitted,

Cathy Burrage  
Recording Secretary

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2012

COUNCIL BILL NO. 17  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN ORDINANCE AMENDING AND CLARIFYING THE LANGUAGE REGARDING TITLE 12-1D-5 OF THE ENGLEWOOD MUNICIPAL CODE 2000, PERTAINING TO CHARGES FOR TURNING WATER ON AND OFF.

WHEREAS, this Section was amended by the passage of Ordinance No. 9, Series of 1980, to provide a charge for services when water is turned on or off at the request of the customer; and

WHEREAS, Ordinance No. 10, Series of 1996 amended this Section of the Englewood Municipal Code relating to the actual costs charged; and

WHEREAS, one word was written incorrectly but was not amended with the passage of Ordinance No. 10, Series of 1996; and

WHEREAS, the City wishes to clarify the actual wording and intent of the original Ordinance which includes the costs of excavation and street cut permits when the City is required to access a water main under this Section of the Englewood Municipal Code; and

WHEREAS, the Englewood Water and Sewer Board recommended approval of this Ordinance at their January 10, 2012 meeting;

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 12, Chapter 1D, Section 5, of the Englewood Municipal Code 2000, to read as follows:

**12-1D-5: - Charges for Turning Water On and Off.**

The City is authorized to charge fifteen dollars (\$15.00) for services rendered when a customer service representative visits a premises to turn off the water for non-payment. The City is authorized to charge five dollars (\$5.00) for services rendered when a customer service representative visits a premises to deliver a turn-off notice. If water which has been turned off at the curb box by the City is unlawfully turned on again or is caused to be turned on by the user, or if the waterway controlling the service is not readily accessible, the service may be cut off at the main by the City and, before the water shall be turned on again, the user desiring the same on said premises shall pay the cost and expense of turning said service off and on, and said cost shall ~~exclude~~ also include excavation and street cut permits.

Section 2. 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 3. 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 4. 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 5. 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 6. 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 16th day of April, 2012.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 20th day of April, 2012.

Published as a Bill for an Ordinance on the City's official website beginning on the 18th day of April, 2012 for thirty (30) days.

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Randy P. Penn, Mayor

ATTEST:

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Kerry Bush, Deputy City Clerk

I, Kerry Bush, Deputy 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 16th day of April, 2012.

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Kerry Bush

## COUNCIL COMMUNICATION

<b>Date:</b> April 16, 2012	<b>Agenda Item:</b> 11 a ii	<b>Subject:</b> An Emergency Bill for an Ordinance Authorizing The Issuance of General Obligation Water Refunding and Improvement Bonds Series 2012
<b>Initiated By:</b> Finance and Administrative Services Department		<b>Staff Source:</b> Frank Gryglewicz, Director

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council has not taken formal action regarding the issuance of these General Obligation Water Refunding and Improvement Bonds, but the subject was discussed with City Council at the study session on April 9, 2012.

### RECOMMENDED ACTION

Staff recommends Council approve the attached bill for an ordinance authorizing the issuance of General Obligation Refunding and Improvement Bonds.

The citizens gave approval to issue general obligation bonds for Water Fund improvements at the November 4, 1997 election and the City has not issued all of the bonds.

- The following parameters of the new issue include:
- The aggregate principal amount of the 2012 Bonds will not exceed \$9.170 million; and
- The final maturity of the Bonds will not be later than December 15, 2032; and
- The net effective interest rate on the Bonds will not exceed 4.00 percent; and
- The maximum annual debt service on the Bonds, combined with other outstanding general obligation bonds authorized by the Ballot Issue Authorization shall not exceed \$1.3 million annually; and
- The present value savings of the refunding bonds will be at least three (3) percent of the aggregate amount of the bonds being refunded.

A portion of the funds received from the sale of these bonds will be used to refund the City's General Obligation Water Bonds, Series 2004 of which \$1,970,000 in aggregate principal is outstanding and bear interest rates between 3.75 and 4.75 percent per annum. The refunding currently produces \$141,583 in savings, a savings of 7.69 percent.

The remainder of the proceeds from the sale of these bonds will be used for improvements to the City's Water Fund, including an ultra violet disinfection system.

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

The City of Englewood received approval to issue general obligation debt for Water Fund capital projects in 1997. The voters approved issuing up to \$15.1 million. The majority of the funds have not been used but City staff has identified a number of projects that can be funded by issuing the authorized bonds.

It should be noted that taxes are not anticipated to be used for servicing this debt. The debt will be serviced from revenues collected by the Water Fund.

This bill for an ordinance is being passed by emergency ordinance so the bonds can be issued as quickly as possible to reduce the possibility of increased interest rates as well as possibly inducing more investor interest in purchasing the bonds.

## **FINANCIAL IMPACT**

This action should not have a direct impact on the City's financial condition, as the debt service requirements are funded by revenues collected by the Water Fund. The current outstanding debt service will be reduced, resulting in a savings to customers of the City's Water Fund.

## **LIST OF ATTACHMENTS**

Proposed bill for an ordinance

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2012 \_\_\_\_\_

COUNCIL BILL NO. 22  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN ORDINANCE OF THE CITY OF ENGLEWOOD AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION WATER REFUNDING AND IMPROVEMENT BONDS, SERIES 2012, TO REFUND OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY AT A LOWER INTEREST RATE AND TO FINANCE THE CONSTRUCTION OF IMPROVEMENTS TO THE CITY'S WATER SYSTEM; AUTHORIZING THE LEVY OF PROPERTY TAXES, IF NECESSARY, TO PAY SUCH BONDS; PROVIDING THE FORM OF THE BONDS AND OTHER DETAILS IN CONNECTION THEREWITH; APPROVING DOCUMENTS RELATING TO THE BONDS AND DECLARING AN EMERGENCY.

WHEREAS, the City of Englewood, Colorado is a municipal corporation duly organized and operating as a home rule city under Article XX of the Constitution of the State of Colorado and the Charter of the City (unless otherwise indicated, capitalized terms used in this preamble shall have the meanings set forth in Section 1 of this Ordinance); and

WHEREAS, pursuant to Section 104 of the Charter, the City is authorized to issue general obligation bonds for any public capital purpose, subject to obtaining voter approval of a ballot question authorizing such bonds; and

WHEREAS, pursuant to Section 106 of the Charter, the City may issue refunding bonds by ordinance, without an election, for the purpose of paying outstanding bonds of the City; and

WHEREAS, pursuant to Article X, Section 20 of the State Constitution (TABOR) refinancing bonded debt at lower interest rates does not require voter approval in advance under the terms and provisions of TABOR; and

WHEREAS, at an election on November 4, 1997, the following ballot question (the "Ballot Issue Authorization") was approved by a majority of the eligible electors of the City voting on the Ballot Issue Authorization:

SHALL THE CITY OF ENGLEWOOD DEBT BE INCREASED \$15,100,000.00 WITH A REPAYMENT COST OF \$25,300,000 AND SHALL THE CITY OF ENGLEWOOD'S TAXES BE INCREASED \$1,300,000 ANNUALLY FOR THE PAYMENT OF SUCH DEBT, ALL FOR THE PURPOSE OF FINANCING THE CONSTRUCTION OF IMPROVEMENTS TO THE CITY'S WATER SYSTEM AND THE PURCHASE OF WATER PROCESSING EQUIPMENT INCLUDING ALL NECESSARY AND APPURTENANT FACILITIES, BY THE ISSUANCE AND PAYMENT OF GENERAL OBLIGATION BONDS PAYABLE FROM SUCH CITY FEES, TAXES OR OTHER REVENUES AS THE CITY COUNCIL MAY DETERMINE, WHICH BONDS SHALL BE SUBJECT TO REDEMPTION, WITH OR WITHOUT PREMIUM, AND BE ISSUED AT SUCH MAXIMUM INTEREST RATE, DATED AND

SOLD AT SUCH TIME OR TIMES AT SUCH PRICES (AT, ABOVE, OR BELOW PAR) AND IN SUCH MANNER AND CONTAINING SUCH TERMS NOT INCONSISTENT HEREWITH, AS THE CITY COUNCIL MAY DETERMINE, WHICH AUTHORIZATION SHALL INCLUDE AUTHORIZATION TO REFUND SUCH BONDS WITHOUT ADDITIONAL VOTER APPROVAL; AND IN CONNECTION THEREWITH IF DETERMINED BY THE CITY COUNCIL (I) SHALL THE CITY'S AD VALOREM PROPERTY TAXES BE INCREASED IN ANY YEAR IN AN AMOUNT SUFFICIENT TO PAY THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON SUCH BONDS WHEN DUE, WITHOUT LIMITATION AS TO RATE OR AMOUNT OR ANY OTHER CONDITION, AND (II) SHALL THE REVENUES FROM SUCH TAXES AND ANY EARNINGS THEREON AND FROM THE INVESTMENT OF THE PROCEEDS OF SUCH BONDS CONSTITUTE A VOTER-APPROVED REVENUE CHANGE?; and

WHEREAS, pursuant to such authorization, the City previously issued its "City of Englewood, Colorado, General Obligation Water Bonds, Series 2004" of which \$1,970,000 in aggregate principal amount maturing on and after January 1, 2015 are currently outstanding and bear interest at rates between 3.750% and 4.750% per annum (the "Refunded Bonds"); and

WHEREAS, the Refunded Bonds are subject to redemption prior to maturity at the option of the City, in whole or in part, on January 1, 2014 upon payment of par plus accrued interest to the redemption date, without redemption premium; and

WHEREAS, pursuant to such authorization, the City also previously issued its "City of Englewood, Colorado, General Obligation Water Bonds, Series 2009" in the aggregate principal amount of \$2,615,000, which bonds are not expected to be refunded with the proceeds of the Bonds; and

WHEREAS, the City has authorized but unissued debt from the Ballot Issue Authorization in the amount of \$9,430,000, which amount is available for the purpose of constructing improvements to the City's water system; and

WHEREAS, Stifel, Nicolaus & Company, Incorporated, of Denver, Colorado, has presented a proposal to the City to issue general obligation water bonds for the purposes of (i) financing the construction of improvements to the City's water system, and (ii) advance refunding the Refunded Bonds, and the Council has determined that the negotiated sale of the Bonds to said company is to the best advantage of the City; and

WHEREAS, a portion of the net proceeds derived from the sale of the Bonds, together with other legally available funds of the City if necessary, will be irrevocably deposited with the Bank and placed into a special fund and trust account for the purpose only of paying the principal of and interest due and payable on the Refunded Bonds on and prior to the Call Date; and

WHEREAS, the principal of and interest on the Refunded Bonds are payable at UMB Bank, n.a. (as successor in interest to American National Bank), in Denver, Colorado, or its successor, as paying agent; and

WHEREAS, the City has received and there are available to the members of the Council, forms of the Preliminary Official Statement, the Bond Purchase Agreement, the Escrow Agreement and the Paying Agent Agreement; and

WHEREAS, the Council desires to authorize the issuance and sale of the Bonds and, as provided in Title 11, Article 57, Part 2, Colorado Revised Statutes, delegate authority to the Sale Delegate to make .

certain determinations regarding the Bonds to be set forth in the Sale Certificate in accordance with the provisions of this Ordinance.

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

Section 1. **Definitions.** The following terms shall have the following meanings as used in this Ordinance:

“*Ballot Issue Authorization*” means the ballot question quoted and defined as such in the preambles hereto approved at the election held November 4, 1997 by City voters, and pursuant to which, in addition to other bond issues, the Refunded Bonds were issued.

“*Bank*” means UMB Bank, n.a., a national banking association duly organized and existing under the laws of the United States of America which has full and complete trust powers and is a qualified institution under the Public Deposit Protection Act of the State.

“*Bond Account*” means the account established by the provisions hereof to account for the moneys for which a separate tax levy is made, or legally available moneys are applied, to satisfy the obligations of the Bonds. The Bond Account shall be a subsidiary account of the appropriate fund or account of the City and separately accounted for by the City in accordance with the provisions hereof.

“*Bond Counsel*” means (a) as of the date of issuance of the Bonds, Kutak Rock LLP, and (b) as of any other date, Kutak Rock LLP or such other attorneys selected by the City with nationally recognized expertise in the issuance of municipal bonds.

“*Bond Obligation*” means, as of any date, the principal amount of the Bonds Outstanding as of such date.

“*Bond Purchase Agreement*” means the Bond Purchase Agreement, pursuant to which the City is to agree to sell and the Underwriter is to agree to purchase the Bonds at the prices and on the terms set forth therein.

“*Bonds*” and “*Series 2012 Bonds*” means the Bonds authorized by the Section hereof titled “Authorization and Purpose of Bonds.”

“*Business Day*” means any day other than (a) a Saturday or Sunday or (b) a day on which banking institutions in the State are authorized or obligated by law or executive order to be closed for business.

“*Charter*” means the home rule Charter of the City.

“*Call Date*” means the date or dates on which the Refunded Bonds shall be called for optional prior redemption as established in the Sale Certificate.

“*City*” means the City of Englewood, Colorado, and any successor thereto.

“*Code*” means the Internal Revenue Code of 1986, as amended. Each reference to a section of the Code herein shall be deemed to include the United States Treasury Regulations proposed or in effect thereunder and applicable to the Bonds or the use of proceeds thereof, unless the context clearly requires otherwise.

“*Council*” means the City Council of the City.

“County” means Arapahoe County, Colorado.

“Dated Date” means the original dated date for the Bonds as established in the Sale Certificate.

“Defeasance Securities” means bills, certificates of indebtedness, notes, bonds or similar securities which are direct, non callable obligations of the United States of America or which are fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, to the extent such investments are Permitted Investments.

“DTC” means The Depository Trust Company, New York, New York, and its successors in interest and assigns.

“DTC Blanket Letter of Representations” means the letter of representations from the City to DTC to induce DTC to act as securities depository for the Bonds.

“Enabling Laws” means the Charter; Article 56 of Title 11, Colorado Revised Statutes; and Part 2 of Article 57 of Title 11, Colorado Revised Statutes.

“Escrow Account” means, in connection with the Bonds, the account established and designated as such in the section hereof entitled “Escrow Account; Payment of Refunded Bonds” to be maintained by the Bank in accordance with the Escrow Agreement and the provisions hereof.

“Escrow Agreement” means the Escrow Agreement dated as of the Dated Date, between the City and the Bank.

“Event of Default” means any of the events specified in the Section hereof titled “Events of Default.”

“Improvement Project” means any purpose for which proceeds of the Bonds may be expended under the Enabling Laws and the Ballot Issue Authorization, including, but not limited to, the payment of costs of issuance of the Bonds.

“Interest Payment Date” means each January 1 and July 1, commencing January 1, 2013, or such other dates as established in the Sale Certificate for payment of interest on the Bonds.

“Official Statement” means the final Official Statement relating to the Bonds.

“Ordinance” means this Ordinance, including any amendments or supplements hereto.

“Outstanding” means, as of any date, all Bonds issued and delivered by the City, except the following:

- (a) any Bond cancelled by the City or the Paying Agent, or otherwise on the City’s behalf, at or before such date;
- (b) any Bond held by or on behalf of the City;
- (c) any Bond for the payment or the redemption of which moneys or Defeasance Securities sufficient to meet all of the payment requirements of the principal of, premium, if any, and interest on such Bond to the date of maturity or prior redemption thereof, shall have theretofore been deposited in trust for such purpose in accordance with the Section hereof titled “Defeasance”; and

- (d) any lost, apparently destroyed, or wrongfully taken Bond in lieu of or in substitution for which another bond or other security shall have been executed and delivered.

“*Owner*” means the Person or Persons in whose name or names a Bond is registered on the registration books maintained by the Paying Agent pursuant hereto.

“*Paying Agent*” means the Bank and its successors in interest or assigns approved by the City.

“*Paying Agent Agreement*” means an agreement between the City and the Paying Agent concerning the duties and obligations of the Paying Agent with respect to the Bonds.

“*Permitted Investments*” means any investment in which funds of the City may be invested under the Charter and the laws of the State at the time of such investment.

“*Person*” means a corporation, firm, other body corporate, partnership, association or individual and also includes an executor, administrator, trustee, receiver or other representative appointed according to law.

“*Preliminary Official Statement*” means the Preliminary Official Statement prepared in connection with the sale and issuance of the Bonds.

“*Principal Payment Date*” means January 1, or such other date or dates of each year as established in the Sale Certificate for payment of principal of the Bonds.

“*Project Account*” means the account established by the provisions hereof for the purpose of paying the costs properly attributable to the Improvement Project. The Project Account shall be a subsidiary account of the appropriate fund or account of the City, and separately accounted for by the City in accordance with the provisions hereof.

“*Record Date*” means, if the Interest Payment Date is on the first day of the month, the fifteenth day of the month immediately preceding the month (whether or not such day is a Business Day) in which such Interest Payment Date occurs and, if the Interest Payment Date is on the fifteenth day of the month, the first day of the month (whether or not such day is a Business Day) in which such Interest Payment Date occurs.

“*Refunded Bond Ordinance*” means the ordinance of the City authorizing the issuance of the Refunded Bonds.

“*Refunded Bond Requirements*” means the principal of and interest due in connection with the Refunded Bonds up to the Call Date, as set forth in the Escrow Agreement.

“*Refunded Bonds*” means the maturities of the City of Englewood General Obligation Bonds, Series 2004, as later determined by the Sale Delegate and identified in the Sale Certificate as the Refunded Bonds.

“*Refunded Bonds Paying Agent*” means UMB Bank, n.a. (as successor in interest to American National Bank), in Denver, Colorado, as paying agent for the Refunded Bonds, or any successor thereto.

“*Refunding Project*” means the advance refunding of the Refunded Bonds and the payment of the costs of issuance of the Bonds.

“*Sale Certificate*” means the certificate executed by the Sale Delegate under the authority delegated pursuant to this Ordinance, including but not limited to the Sections hereof titled “Bond Details;” “Redemption of Bonds Prior to Maturity;” “Escrow Account; Payment of Refunded Bonds;” and “Approval of Related Documents.”

“*Sale Delegate*” means the Director of Finance and Administrative Services of the City or, in the event such person is unavailable, the City Manager.

“*State*” means the State of Colorado.

“*Tax Letter of Instructions*” means the Tax Letter of Instructions, dated the date on which the Bonds are originally issued and delivered to the City by Bond Counsel, as such instructions may be superseded or amended in accordance with their terms.

“*Underwriter*” means Stifel, Nicolaus & Company, Incorporated, of Denver, Colorado.

**Section 2. Authorization and Purpose of Bonds.** Pursuant to and in accordance with the Enabling Laws and the Ballot Issue Authorization, the City hereby authorizes, and directs that there shall be issued, the “City of Englewood, Colorado, General Obligation Water Refunding and Improvement Bonds, Series 2012” for the purpose of providing funds for the Improvement Project and/or the Refunding Project. The caption for the Bonds also shall include “Series 2012 Bonds” or “Series 2013 Bonds” depending on the actual date of issuance of the Bonds

**Section 3. Bond Details.**

(a) **Registered Form, Denominations, Dated Date and Numbering.** The Bonds shall be issued in fully registered form, shall be dated as of the Dated Date, and shall be registered in the names of the Persons identified in the registration books maintained by the Paying Agent pursuant hereto. The Bonds shall be issued in denominations of \$5,000 in principal amount or any integral multiple thereof. The Bonds shall be consecutively numbered, beginning with the number one, preceded by the letter “R.”

(b) **Maturity Dates, Principal Amounts and Interest Rates.** The Bonds shall mature on the Principal Payment Date of the years and in the principal amounts, and shall bear interest at the rates per annum (calculated based on a 360-day year of twelve 30-day months) set forth in the Sale Certificate.

(c) **Accrual and Dates of Payment of Interest.** Interest on the Bonds shall accrue at the rates set forth in the Sale Certificate from the later of the Dated Date or the latest Interest Payment Date (or in the case of defaulted interest, the latest date) to which interest has been paid in full and shall be payable on each Interest Payment Date.

(d) **Delegation for Sales Certificate.** The Council hereby delegates to the Sale Delegate for a period of one year from the date of adoption of this Ordinance the following (which shall be set forth in the Sale Certificate for the Bonds):

- (i) the Refunded Bonds that shall be part of the Refunding Project;
- (ii) the Dated Date of the Bonds;
- (iii) the Principal Payment Date;

- (iv) the Interest Payment Date;
- (v) the aggregate principal amount of the Bonds, identifying that portion of which is attributable to the Improvement Project and that portion of which is attributable to the Refunding Project;
- (vi) the price at which the Bonds will be sold pursuant to the Bond Purchase Agreement;
- (vii) the amount of principal of the Bonds maturing in any particular year and the respective interest rates borne by the Bonds;
- (viii) the Bonds which may be redeemed at the option of the District, the dates upon which such optional redemption may occur, and the prices at which such Bonds may be optionally redeemed;
- (ix) the principal amounts, if any, of Bonds subject to mandatory sinking fund redemption and the years in which such Bonds will be subject to such redemption; and
- (x) the Call Date.

(e) ***Sale Parameters.*** The authority delegated to the Sale Delegate by this Section shall be subject to the following parameters:

- (i) the aggregate principal amount of the Bonds shall not exceed \$9,170,000;
- (ii) the final maturity of the Bonds shall be no later than December 15, 2032;
- (iii) the net effective interest rate on the Bonds shall not exceed 4.00%;
- (iv) the maximum annual debt service on the Bonds, when combined with the annual debt service for other outstanding general obligation bonds issued pursuant to, or representing general obligation bonds refunding bonds issued pursuant to, the Ballot Issue Authorization shall not exceed \$1,300,000; and
- (v) in the event that the Bonds are issued for the purpose of funding the Refunding Project, the present value savings as a percentage of the aggregate principal amount of the Refunded Bonds shall be at least three percent (3%) computed based upon the arbitrage yield for the Bonds allocable to the Refunding Project to the date of delivery of the Bonds, assuming semi-annual compounding.

(f) ***Manner and Form of Payment.*** Principal of each Bond shall be payable to the Owner thereof upon presentation and surrender of such Bond at the principal office of the Paying Agent in the city identified in the definition of Paying Agent in the Section hereof titled "Definitions" or at such other office of the Paying Agent designated by the Paying Agent for such purpose. Interest on each Bond shall be payable by check or draft of the Paying Agent mailed on each Interest Payment Date to the Owner thereof as of the close of business on the

corresponding Record Date; provided that interest payable to any Owner may be paid by any other means agreed to by such Owner and the Paying Agent that does not require the City to make moneys available to the Paying Agent earlier than otherwise required hereunder or increase the costs borne by the City hereunder. All payments of the principal of and interest on the Bonds shall be made in lawful money of the United States of America.

(g) **Book-Entry Registration.** Notwithstanding any other provision hereof, the Bonds shall be delivered only in book entry form registered in the name of Cede & Co., as nominee of DTC, acting as securities depository of the Bonds and principal of and interest on the Bonds shall be paid by wire transfer to DTC; provided, however, if at any time the Paying Agent determines, and notifies the City of its determination, that DTC is no longer able to act as, or is no longer satisfactorily performing its duties as, securities depository for the Bonds, the Paying Agent may, at its discretion, either (i) designate a substitute securities depository for DTC and reregister the Bonds as directed by such substitute securities depository; or (ii) terminate the book entry registration system and reregister the Bonds in the names of the beneficial owners thereof provided to it by DTC. Neither the City nor the Paying Agent shall have any liability to DTC, Cede & Co., any substitute securities depository, any Person in whose name the Bonds are reregistered at the direction of any substitute securities depository, any beneficial owner of the Bonds or any other Person for (A) any determination made by the Paying Agent pursuant to the proviso at the end of the immediately preceding sentence or (B) any action taken to implement such determination and the procedures related thereto that is taken pursuant to any direction of or in reliance on any information provided by DTC, Cede & Co., any substitute securities depository or any Person in whose name the Bonds are reregistered.

#### Section 4. Redemption of Bonds Prior to Maturity.

(a) **Optional Redemption.** The Bonds shall be subject to redemption at the option of the City, in whole or in part, and if in part in such order of maturities as the City shall determine and by lot within a maturity on such dates as set forth in the Sale Certificate. The Council hereby delegates to the Sale Delegate the authority to determine the dates on which the Bonds shall be subject to optional redemption and the redemption price or prices at which such redemption may be made.

(b) **Mandatory Sinking Fund Redemption.** All or any principal amount of the Bonds may be subject to mandatory sinking fund redemption by lot on the Principal Payment Date of the years and in the principal amounts specified in the Sale Certificate, at a redemption price equal to the principal amount thereof (with no redemption premium), plus accrued interest to the redemption date. The Council hereby delegates to the Sale Delegate the authority to determine the principal amounts and dates on which the Bonds shall be subject to mandatory sinking fund redemption.

(c) **Redemption Procedures.** Notice of any redemption of Bonds shall be given by the Paying Agent in the name of the City by sending a copy of such notice by first class, postage prepaid mail, not less than 30 days prior to the redemption date, to the Owner of each Bond being redeemed. Such notice shall specify the number or numbers of the Bonds so to be redeemed (if redemption shall be in part) and the redemption date. If any Bond shall have been duly called for redemption and if, on or before the redemption date, there shall have been deposited with the Paying Agent in accordance with this Ordinance funds sufficient to pay the redemption price of such Bond on the redemption date, then such Bond shall become due and payable at such redemption date, and from and after such date interest will cease to accrue thereon. Failure to deliver any redemption notice or any defect in any redemption notice shall

not affect the validity of the proceeding for the redemption of Bonds with respect to which such failure or defect did not occur. Any Bond redeemed prior to its maturity by prior redemption or otherwise shall not be reissued and shall be cancelled.

**Section 5. Security for the Bonds.**

(a) ***General Obligations.*** The Bonds shall be general obligations of the City and the full faith and credit of the City are pledged for the punctual payment of the principal of and interest on the Bonds. The Bonds shall not constitute a debt or indebtedness of the County, the State or any political subdivision of the State other than the City.

(b) ***Levy of Ad Valorem Taxes.*** For the purpose of paying the principal of and interest on the Bonds when due, respectively, the Council shall annually determine and certify to the Board of County Commissioners of the County, a rate of levy for general ad valorem taxes, without limitation as to rate or amount, on all of the taxable property in the City, sufficient to pay the principal of and interest on the Bonds when due, respectively, whether at maturity or upon earlier redemption.

(c) ***Application of Proceeds of Ad Valorem Taxes.*** The general ad valorem taxes levied pursuant to subsection (b) of this Section, when collected, shall be deposited in the Bond Account and shall be applied solely to the payment of the principal of and interest on the Bonds and for no other purpose until the Bonds, including principal and interest, are fully paid, satisfied and discharged.

(d) ***Appropriation and Budgeting of Proceeds of Ad Valorem Taxes.*** Moneys received from the general ad valorem taxes levied pursuant to subsection (b) of this Section in an amount sufficient to pay the principal of and interest on the Bonds when due, respectively, are hereby appropriated for that purpose, and all amounts required to pay the principal of and interest on the Bonds due, respectively, in each year shall be included in the annual budget and appropriation ordinance to be adopted and passed by the Council for such year.

(e) ***Use or Advance of Other Legally Available Moneys.*** Nothing herein shall be interpreted to prohibit or limit the ability of the City to use legally available moneys to pay all or any portion of the principal of or interest on the Bonds. If and to the extent such other legally available moneys are used to pay the principal of or interest on the Bonds, the City may, but shall not be required to, (i) reduce the amount of taxes levied for such purpose pursuant to subsection (b) of this Section or (ii) use proceeds of taxes levied pursuant to subsection (b) of this Section to reimburse the fund or account from which such other legally available moneys are withdrawn for the amount withdrawn from such fund or account to pay the principal of or interest on the Bonds. If the City selects alternative (ii) in the immediately preceding sentence, the taxes levied pursuant to subsection (b) of this Section shall include amounts sufficient to fund the reimbursement.

(f) ***Certification to County Commissioners.*** It is hereby declared that, if the City does not otherwise determine and certify to the Board of County Commissioners of the County a rate of levy for general ad valorem property taxes as required by this Section, the foregoing provisions of this Section shall constitute a certificate from the Council to the Board of County Commissioners of the County showing the aggregate amount of ad valorem taxes to be levied by the Board of County Commissioners of the County from time to time, as required by law, for the purpose of paying the principal of and interest on the Bonds when due.

(g) ***Deposit of Moneys to Pay Bonds with, and Payment of Bonds by Paying Agent.*** No later than three Business Days immediately preceding each date on which a payment of principal of or interest on the Bonds is due, the City, from moneys in the Bond Account, shall deposit moneys with the Paying Agent in an amount sufficient to pay the principal of and interest on the Bonds due on such date. The Paying Agent shall use the moneys so deposited with it to pay the principal of and interest on the Bonds when due.

**Section 6. Form of Bonds.** The Bonds shall be in substantially the form set forth in Appendix A hereto with such changes thereto, not inconsistent herewith, as may be necessary or desirable and approved by the officials of the City executing the same (whose manual or facsimile signatures thereon shall constitute conclusive evidence of such approval). All covenants, statements, representations and agreements contained in the Bonds are hereby approved and adopted as the covenants, statements, representations and agreements of the City. Although attached as appendices for the convenience of the reader, Appendix A is an integral part of this Ordinance and are incorporated herein as if set forth in full in the body of this Ordinance.

**Section 7. Execution of Bonds.** The Bonds shall be executed in the name and on behalf of the City with the manual or facsimile signature of the Mayor, shall bear a manual or facsimile of the seal of the City and shall be attested by the manual or facsimile signature of the City Clerk of the Council, all of whom are hereby authorized and directed to prepare and execute the Bonds in accordance with the requirements hereof. Should any officer whose manual or facsimile signature appears on the Bonds cease to be such officer before delivery of any Bond, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes. When the Bonds have been duly executed, the officers of the City are authorized to, and shall, deliver the Bonds to the Paying Agent for authentication. No Bond shall be secured by or titled to the benefit of this Ordinance, or shall be valid or obligatory for any purpose, unless the certificate of authentication of the Paying Agent has been manually executed by an authorized signatory of the Paying Agent. The executed certificate of authentication of the Paying Agent upon any Bond shall be conclusive evidence, and the only competent evidence, that such Bond has been properly authenticated and delivered hereunder.

**Section 8. Registration of Bonds in Registration Books Maintained by Paying Agent.** The Paying Agent shall maintain registration books in which the ownership, transfer and exchange of Bonds shall be recorded. The person in whose name any Bond shall be registered on such registration book shall be deemed to be the absolute owner thereof for all purposes, whether or not payment on any Bond shall be overdue, and neither the City nor the Paying Agent shall be affected by any notice or other information to the contrary.

**Section 9. Transfer and Exchange of Bonds.** The Bonds may be transferred or exchanged at the principal office of the Paying Agent in the city identified in the definition of Paying Agent in the Section hereof titled "Definitions" or at such other office of the Paying Agent designated by the Paying Agent for such purpose for a like aggregate principal amount of Bonds of other authorized denominations of the same maturity and interest rate, upon payment by the transferee of a reasonable transfer fee established by the Paying Agent, together with any tax or governmental charge required to be paid with respect to such transfer or exchange and any cost of printing bonds in connection therewith. Upon surrender for transfer of any Bond, duly endorsed for transfer or accompanied by an assignment duly executed by the Owner or his or her attorney duly authorized in writing, the City shall execute and the Paying Agent shall authenticate and deliver in the name of the transferee a new Bond. Notwithstanding any other provision hereof, the Paying Agent shall not be required to transfer any Bond (i) which is scheduled to be redeemed in whole or in part between the Business Day immediately preceding

the mailing of the notice of redemption and the redemption date or (ii) between the Record Date for any Interest Payment Date and such Interest Payment Date.

**Section 10. Replacement of Lost, Destroyed or Stolen Bonds.** If any Bond shall become lost, apparently destroyed, stolen or wrongfully taken, it may be replaced in the form and tenor of the lost, destroyed, stolen or taken Bond and the City shall execute and the Paying Agent shall authenticate and deliver a replacement Bond upon the Owner furnishing, to the satisfaction of the Paying Agent: (a) proof of ownership (which shall be shown by the registration books of the Paying Agent), (b) proof of loss, destruction or theft, (c) an indemnity to the City and the Paying Agent with respect to the Bond lost, destroyed or taken, and (d) payment of the cost of preparing and executing the new Bond.

**Section 11. Creation of Bond Account; Funding of Refunding Project.**

(a) **Creation of Accounts.** There is hereby established the Bond Account and the Project Account. The foregoing accounts shall be maintained by the City in accordance with the provisions of this Ordinance.

(b) **Initial Credits to Accounts.** Upon payment to the City of the purchase price of the Bonds in accordance with the Bond Purchase Agreement, the Bonds shall be delivered to, or as directed by, the Underwriter and the proceeds received by the City from the sale of the Bonds, together with legally available moneys of the City available for such purpose, shall be applied as a supplemental appropriation by the City, as follows:

(i) to the Bond Account, the accrued interest on the Bonds from the dated date thereof to the date of issuance, if any; and

(ii) in the event that Bonds are issued to fund the Refunding Project, to the Escrow Account for payment of the Refunded Bond Requirements in accordance with the report of a certified public accountant as required by the provisions hereof; and

(iii) in the event that Bonds are issued to fund the Improvement Project, to the Project Account, the remaining proceeds of the Bonds.

**Section 12. Escrow Account; Payment of Refunded Bonds.**

(a) **Establishment and Maintenance of Escrow Account.** There is hereby established a special account designated as the "Refunded Series 2004 Bonds Escrow Account," which shall be maintained in accordance with the provisions hereof and of the Escrow Agreement. The Escrow Account shall be maintained in an amount at the time of the initial deposits therein and at all times subsequently at least sufficient, together with the known minimum yield to be derived from the initial investment and any temporary reinvestment of the deposits therein or any part thereof in Defeasance Securities to pay the Refunded Bond Requirements. Except as may be otherwise provided in the Escrow Agreement, the City shall have no right or title to the moneys credited to or held in the Escrow Account, and such title shall be and is hereby transferred to the Bank in trust for the payment of the Refunded Bond Requirements pursuant to the Escrow Agreement. Moneys shall be withdrawn by the Bank from the Escrow Account on the Call Date to permit the payment without default of the Refunded Bond Requirements. If for any reason the amount in the Escrow Account shall at any time be insufficient for the purpose hereof, the City shall forthwith from the first moneys available

therefor deposit in such account such additional moneys as shall be necessary to permit the payment in full of the Refunded Bond Requirements.

(b) **Call of Refunded Bonds.** Subject to the issuance of the Bonds, the Council does hereby declare its intent to exercise on behalf of and in the name of the City its option to redeem or pay and cancel all of the Refunded Bonds on the Call Date, which is the earliest date on which the Refunded Bonds can be called and redeemed. The Council hereby authorizes the Sale Delegate to determine the Call Date and to irrevocably instruct the Bank to give or cause to be given a notice of refunding, defeasance and redemption of the Refunded Bonds.

**Section 13. Investments.** Proceeds of the Bonds delivered to the City pursuant to the Section hereof titled "Creation of Accounts; Initial Credits to Accounts," moneys on deposit in the Bond Account and any moneys held by the Paying Agent with respect to the Bonds shall be invested in Permitted Investments, provided that the investment of such moneys shall be subject to any applicable restrictions set forth in the Tax Letter of Instructions and in the "Tax Compliance Certificate" or similar certificate delivered by the City in connection with the issuance of the Bonds that describes the City's expectations regarding the use and investment of proceeds of the Bonds and other moneys and the use of the Improvement Project.

**Section 14. Various Findings, Determinations, Declarations and Covenants.** The Council, having been fully informed of and having considered all the pertinent facts and circumstances, hereby finds, determines, declares and covenants with the Owners of the Bonds that:

(a) voter approval of the Ballot Issue Authorization was obtained in accordance with all applicable provisions of law;

(b) it is in the best interest of the City and its residents that the Bonds be authorized, sold, issued and delivered at the time, in the manner and for the purposes provided in this Ordinance;

(c) the issuance of the Bonds will not cause the City to exceed its debt limit under applicable State law;

(d) the DTC Blanket Letter of Representations entered into with DTC will govern the book entry registration system for the Bonds; and

(e) the issuance of the Bonds and all procedures undertaken incident thereto are in full compliance and conformity with all applicable requirements, provisions and limitations prescribed by the Charter, the Colorado Constitution and laws of the State, including the Enabling Laws and the Ballot Issue Authorization, and all conditions and limitations of the Enabling Laws, the Ballot Issue Authorization and other applicable law relating to the issuance of the Bonds have been satisfied.

**Section 15. Federal Income Tax Covenants.** For purposes of ensuring that the interest on the Bonds is and remains excluded from gross income for federal income tax purposes, the City hereby covenants that:

(a) **Prohibited Actions.** The City will not use or permit the use of any proceeds of the Bonds or any other funds of the City from whatever source derived, directly or indirectly, to acquire any securities or obligations and shall not take or permit to be taken any other action or actions, which would cause any Bond to be an "arbitrage bond" within the meaning of

Section 148 of the Code, or would otherwise cause the interest on any Bond to be includible in gross income for federal income tax purposes.

(b) ***Affirmative Actions.*** The City will at all times do and perform all acts permitted by law that are necessary in order to assure that interest paid by the City on the Bonds shall not be includible in gross income for federal income tax purposes under the Code or any other valid provision of law. In particular, but without limitation, the City represents, warrants and covenants to comply with the following rules unless it receives an opinion of Bond Counsel stating that such compliance is not necessary: (i) gross proceeds of the Bonds and the Improvement Project will not be used in a manner that will cause the Bonds to be considered "private activity bonds" within the meaning of the Code; (ii) the Bonds are not and will not become directly or indirectly "federally guaranteed"; and (iii) the City will timely file an Internal Revenue Service Form 8038-G with respect to the Bonds, which shall contain the information required to be filed pursuant to Section 149(e) of the Code.

(c) ***Tax Letter of Instructions.*** The City will comply with the Tax Letter of Instructions delivered to it on the date of issuance of the Bonds, including but not limited by the provisions of the Tax Letter of Instructions regarding the application and investment of Bond proceeds, the use of the Improvement Project, the calculations, the deposits, the disbursements, the investments and the retention of records described in the Tax Letter of Instructions; provided that, in the event the Tax Letter of Instructions are superseded or amended by new Tax Letter of Instructions drafted by, and accompanied by an opinion of, Bond Counsel stating that the use of the new Tax Letter of Instructions will not cause the interest on the Bonds to become includible in gross income for federal income tax purposes, the City will thereafter comply with the new Tax Letter of Instructions.

(d) ***Designation of Bonds as Qualified Tax Exempt Obligations.*** The City hereby designates the Bonds as qualified tax exempt obligations within the meaning of Section 265(b)(3) of the Code. The City covenants that the aggregate face amount of all tax exempt governmental obligations defined in Section 141 of the Code or qualified 501(c)(3) bonds defined in Section 145 of the Code issued by the City, together with governmental entities which derive their issuing authority from the City or are subject to substantial control by the City, are not expected to be more than \$10,000,000 during the calendar year in which the Bonds are issued. The City recognizes that such tax exempt obligations include notes, leases, loans and warrants, as well as bonds. The City further recognizes that any bank, thrift institution or other financial institution that owns the Bonds will rely on the City's designation of the Bonds as qualified tax exempt obligations for the purpose of avoiding the loss of 100% of any otherwise available interest deduction attributable to such institution's tax exempt holdings.

**Section 16. Defeasance.** Any Bond shall not be deemed to be Outstanding hereunder if it shall have been paid and cancelled or if Defeasance Securities shall have been deposited in trust for the payment thereof (whether upon or prior to the maturity of such Bond, but if such Bond is to be paid prior to maturity, the City shall have given the Paying Agent irrevocable directions to give notice of redemption as required by this Ordinance, or such notice shall have been given in accordance with this Ordinance). In computing the amount of the deposit described above, the City may include the maturing principal of and interest to be earned on the Defeasance Securities. If less than all the Bonds are to be defeased pursuant to this Section, the City, in its sole discretion, may select which of the Bonds shall be defeased.

**Section 17. Events of Default.** Each of the following events constitutes an Event of Default:

(a) **Nonpayment of Principal or Interest.** Failure to make any payment of principal of or interest on the Bonds when due.

(b) **Breach or Nonperformance of Duties.** Breach by the City of any material covenant set forth herein or failure by the City to perform any material duty imposed on it hereunder and continuation of such breach or failure for a period of 60 days after receipt by the City Attorney of written notice thereof from the Paying Agent or from the Owners of at least 10% of the aggregate amount of the Bond Obligation, provided that such 60-day period shall be extended so long as the City has commenced and continues a good faith effort to remedy such breach or failure.

(c) **Bankruptcy or Receivership.** An order of decree by a court of competent jurisdiction declaring the City bankrupt under federal bankruptcy law or appointing a receiver of all or any material portion of the City's assets or revenues is entered with the consent or acquiescence of the City or is entered without the consent or acquiescence of the City but is not vacated, discharged or stayed within 30 days after it is entered.

**Section 18. Remedies for Events of Default.**

(a) **Remedies.** Upon the occurrence and continuance of any Event of Default, the Owners of not less than 25% of the aggregate amount of the Bond Obligation, including, without limitation, a trustee or trustees therefor may proceed against the City to protect and to enforce the rights of the any Owners under this Ordinance by mandamus, injunction or by other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction: (i) for the payment of interest on any installment of principal of any Bond that was not paid when due at the interest rate borne by such Bond; (ii) for the specific performance of any covenant contained herein; (iii) to enjoin any act that may be unlawful or in violation of any right of any Owner of any Bond; (iv) for any other proper legal or equitable remedy; or (v) any combination of such remedies or as otherwise may be authorized by applicable law; provided, however, that acceleration of any amount not yet due on the Bonds according to their terms shall not be an available remedy. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of Bonds then Outstanding.

(b) **Failure To Pursue Remedies Not a Release; Rights Cumulative.** The failure of any Owner of any Outstanding Bond to proceed in accordance with subsection (a) of this Section shall not relieve the City of any liability for failure to perform or carry out its duties under this Ordinance. Each right or privilege of any such Owner (or trustee therefor) is in addition and is cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any Owner shall not be deemed a waiver of any other right or privilege of such Owner.

**Section 19. Amendment of Ordinance.**

(a) **Amendments Permitted Without Notice to or Consent of Owners.** The City may, without the consent of or notice to the Owners of the Bonds, adopt one or more ordinances amending or supplementing this Ordinance (which ordinances shall thereafter become a part hereof) for any one or more or all of the following purposes:

(i) to cure any ambiguity or to cure, correct or supplement any defect or inconsistent provision of this Ordinance;

- (ii) to subject to this Ordinance or pledge to the payment of the Bonds additional revenues, properties or collateral;
- (iii) to institute or terminate a book entry registration system for the Bonds or to facilitate the designation of a substitute securities depository with respect to such a system;
- (iv) to maintain the then existing or to secure a higher rating of the Bonds by any nationally recognized securities rating agency; or
- (v) to make any other change that does not materially adversely affect the Owners of the Bonds.

(b) ***Amendments Requiring Notice to and Consent of Owners.*** Except for amendments permitted by subsection (a) of this Section, this Ordinance may only be amended (i) by a ordinance of the City amending or supplementing this Ordinance (which, after the consents required therefor, shall become a part hereof); and (ii) with the written consent of the Owners of at least 66-2/3% of the Bond Obligation; provided that any amendment that makes any of the following changes with respect to any Bond shall not be effective without the written consent of the Owner of such Bond: (A) a change in the maturity of such Bond; (B) a reduction of the interest rate on such Bond; (C) a change in the terms of redemption of such Bond; (D) a delay in the payment of principal of or interest on such Bond; (E) a reduction of the Bond Obligation the consent of the Owners of which is required for an amendment to this Ordinance; or (F) the establishment of a priority or preference for the payment of any amount due with respect to any other Bond over such Bond.

(c) ***Procedure for Notifying and Obtaining Consent of Owners.*** Whenever the consent of an Owner or Owners of Bonds is required under subsection (b) of this Section, the City shall mail a notice to such Owner or Owners at their addresses as set forth in the registration books maintained by the Paying Agent and to the Underwriter, which notice shall briefly describe the proposed amendment and state that a copy of the amendment is on file in the office of the City for inspection. Any consent of any Owner of any Bond obtained with respect to an amendment shall be in writing and shall be final and not subject to withdrawal, rescission or modification for a period of 60 days after it is delivered to the City unless another time period is stated for such purpose in the notice mailed pursuant to this subsection.

**Section 20. Appointment and Duties of Paying Agent.** The Paying Agent identified in the Section hereof titled "Definitions" is hereby appointed as paying agent, registrar and authenticating agent for the Bonds unless and until the City removes it as such and appoints a successor Paying Agent, in which event such successor shall automatically succeed to the duties of the Paying Agent hereunder and its predecessor shall immediately turn over all its records regarding the Bonds to such successor. The Paying Agent shall agree to perform all duties and to take all actions assigned to it hereunder in accordance with the terms hereof.

**Section 21. Approval of Related Documents.** The Council hereby ratifies and approves the distribution and use in connection with the offering of the Bonds of the Preliminary Official Statement and an Official Statement relating to the Bonds; and for a period of one year following the adoption of this Ordinance, the Sale Delegate is authorized to execute the Sale Certificate and the Bond Purchase Agreement. The appropriate officers and officials of the City are hereby authorized and directed to execute an undertaking to facilitate compliance with Securities and Exchange Commission Rule 15c2-12 (17 C.F.R. § 240.15c2-12), the Paying Agent Agreement,

the Escrow Agreement, a "Tax Compliance Certificate" or similar certificate describing the City's expectations regarding the use and investment of proceeds of the Bonds and other moneys and the use of the Improvement Project, an Internal Revenue Service Form 8038-G with respect to the Bonds and all other documents and certificates necessary or desirable to effectuate the issuance or administration of the Bonds, the investment of proceeds of the Bonds and the transactions contemplated hereby.

**Section 22. Events Occurring on Days That Are Not Business Days.** Except as otherwise specifically provided herein with respect to a particular payment, event or action, if any payment to be made hereunder or any event or action to occur hereunder which, but for this Section, is to be made or is to occur on a day that is not a Business Day, such payment, event or action shall instead be made or occur on the next succeeding day that is a Business Day with the same effect as if it was made or occurred on the date on which it was originally scheduled to be made or occur.

**Section 23. Limitation of Actions.** In accordance with Section 11-57-212, Colorado Revised Statutes, no legal or equitable action can be brought with respect to any legislative acts or proceedings in connection with the authorization of the Bonds more than 30 days after the authorization of such securities.

**Section 24. Ordinance is Contract with Owners of Bonds and Irrepealable.** After the Bonds have been issued, this Ordinance shall be and remain a contract between the City and the Owners of the Bonds and shall be and remain irrepealable until all amounts due with respect to the Bonds shall be fully paid, satisfied and discharged and all other obligations of the City with respect to the Bonds shall have been satisfied in the manner provided herein.

**Section 25. Headings.** The headings to the various sections and subsections to this Ordinance have been inserted solely for the convenience of the reader, are not a part of this Ordinance and shall not be used in any manner to interpret this Ordinance.

**Section 26. Severability.** It is hereby expressly declared that all provisions hereof and their application are intended to be and are severable. In order to implement such intent, if any provision hereof or the application thereof is determined by a court or administrative body to be invalid or unenforceable, in whole or in part, such determination shall not affect, impair or invalidate any other provision hereof or the application of the provision in question to any other situation; and if any provision hereof or the application thereof is determined by a court or administrative body to be valid or enforceable only if its application is limited, its application shall be limited as required to most fully implement its purpose.

**Section 27. Repeal of Inconsistent Ordinances, Resolutions, Bylaws, Rules and Orders.** All ordinances, resolutions, bylaws, rules and orders, or parts thereof, that are inconsistent with or in conflict with this Ordinance, are hereby repealed to the extent of such inconsistency or conflict.

**Section 28. Ratification of Prior Actions.** All actions heretofore taken (not inconsistent with the provisions of this Ordinance, the Enabling Laws or the Ballot Issue Authorization) by the Council or by the officers and employees of the City directed toward the issuance of the Bonds for the purposes herein set forth are hereby ratified, approved and confirmed.

**Section 29. Emergency Declaration and Effective Date.** The Council has been advised that in order for the City to secure the low interest rates currently present in the market and avoid a possible increase in such rates, it is necessary to issue the Bonds as soon as possible. Therefore, for said reason, the Council declares that this ordinance is necessary for the immediate

preservation of public property, health, peace, or safety and an emergency exists. This Ordinance shall be effective immediately upon final passage and be published within seven days after publication following final passage

Introduced, read in full, and passed on first reading as an emergency ordinance on the 16th day of April, 2012.

Published by Title as an Emergency Bill for an Ordinance in the City's official newspaper on the 20<sup>th</sup> day of April, 2012.

Published as an Emergency Bill for an Ordinance on the City's official website beginning on the 18th day of April, 2012 for thirty (30) days.

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Randy P. Penn, Mayor

ATTEST:

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Kerry Bush, Deputy City Clerk

I, Kerry Bush, Deputy City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of an Emergency Bill for an Ordinance, introduced, read in full, and passed on first reading on the 16th day of April, 2012.

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Kerry Bush



principal of and interest on this bond shall be made in lawful money of the United States of America.

This bond is part of an issue of general obligation water refunding and improvement bonds of the City designated the City of Englewood, Colorado, General Obligation Water Refunding and Improvement Bonds, Series 2012, issued in the principal amount of \$ \_\_\_\_\_ (the "Bonds"). The Bonds have been issued pursuant to, under the authority of, and in full conformity with, the Charter, the Constitution and the laws of the State, including, in particular, Part 2 of Article 57 of Title 11, Colorado Revised Statutes (collectively, the "Enabling Laws"); pursuant to authorization by a majority of the registered electors of the City voting in an election duly called and held on November 4, 1997; and pursuant to an ordinance adopted by the City Council of the City. THE ORDINANCE CONSTITUTES THE CONTRACT BETWEEN THE REGISTERED OWNER OF THIS BOND AND THE CITY. THIS BOND IS ONLY EVIDENCE OF SUCH CONTRACT AND, AS SUCH, IS SUBJECT IN ALL RESPECTS TO THE TERMS OF THE ORDINANCE, WHICH SUPERSEDES ANY INCONSISTENT STATEMENT IN THIS BOND.

The Bonds have been issued by the City for the purpose of providing funds for the Improvement Project and the Refunding Project described in the Ordinance. The Bonds are general obligations of the City and the full faith and credit of the City are pledged for the punctual payment of the principal of and interest on the Bonds. For the purpose of paying the principal of and interest on the Bonds when due, respectively, the Council in the Ordinance has covenanted annually, to the extent legally available moneys are not otherwise applied, to determine and certify to the Board of County Commissioners of Arapahoe County, a rate of levy for general ad valorem taxes, without limitation as to rate or amount, on all of the taxable property in the City, sufficient to pay the principal of and interest on the Bonds when due, respectively, whether at maturity or upon earlier redemption.

[The redemption provisions from Section 4 of the Ordinance and the Sale Certificate shall be set forth herein.]

Notice of any redemption of Bonds shall be given by the Paying Agent in the name of the City by sending a copy of such notice by first class, postage prepaid mail, not more than 60 days nor less than 30 days prior to the redemption date, to the Owner of each Bond being redeemed. Such notice shall specify the number or numbers of the Bonds so to be redeemed (if redemption shall be in part) and the redemption date. If any Bond shall have been duly called for redemption and if, on or before the redemption date, there shall have been deposited with the Paying Agent in accordance with the Ordinance funds sufficient to pay the redemption price of such Bond on the redemption date, then such Bond shall become due and payable at such redemption date, and from and after such date interest will cease to accrue thereon. Failure to deliver any redemption notice or any defect in any redemption notice shall not affect the validity of the proceeding for the redemption of Bonds with respect to which such failure or defect did not occur. Any Bond redeemed prior to its maturity by prior redemption or otherwise shall not be reissued and shall be cancelled.

The Paying Agent shall maintain registration books in which the ownership, transfer and exchange of Bonds shall be recorded. The person in whose name this bond shall be registered on

such registration books shall be deemed to be the absolute owner hereof for all purposes, whether or not payment on this bond shall be overdue, and neither the City nor the Paying Agent shall be affected by any notice or other information to the contrary.

This bond may be transferred or exchanged at the principal office of the Paying Agent in Denver, Colorado, or at such other office of the Paying Agent designated by the Paying Agent for such purpose for a like aggregate principal amount of Bonds of other authorized denominations (\$5,000 or any integral multiple thereof) of the same maturity and interest rate, upon payment by the transferee of a reasonable transfer fee established by the Paying Agent, together with any tax or governmental charge required to be paid with respect to such transfer or exchange and any cost of printing bonds in connection therewith. Upon surrender for transfer of any Bond duly endorsed for transfer or accompanied by an assignment duly executed by the Owner or his or her attorney duly authorized in writing, the City shall execute and the Paying Agent shall authenticate and deliver in the name of the transferee a new Bond. Notwithstanding any other provision of the Ordinance, the Paying Agent shall not be required to transfer any Bond (a) which is scheduled to be redeemed in whole or in part between the Business Day immediately preceding the mailing of the notice of redemption and the redemption date; or (b) between the Record Date for any Interest Payment Date and such Interest Payment Date.

The Ordinance may be amended or supplemented from time to time with or without the consent of the registered owners of the Bonds as provided in the Ordinance.

It is hereby certified that all conditions, acts and things required by the Charter, the Constitution and laws of the State, including the Enabling Laws, and the ordinances of the City, to exist, to happen and to be performed, precedent to and in the issuance of this bond, exist, have happened and have been performed, and that neither this bond nor the other bonds of the issue of which this bond is a part exceed any limitations prescribed by the Charter, the Constitution or laws of the State, including the Enabling Laws, or the ordinances of the City.

This bond shall not be entitled to any benefit under the Ordinance, or become valid or obligatory for any purpose, until the Paying Agent shall have signed the certificate of authentication hereon.

IN WITNESS WHEREOF, the City Council of the City has caused this bond to be executed with the signature of its Mayor and attested by the signature of its City Clerk, and has caused the seal of the City to be impressed or imprinted hereon, all as of the date set forth below.

[CITY SEAL]

THE CITY OF ENGLEWOOD

By \_\_\_\_\_  
Mayor

Attest:

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

**CERTIFICATE OF AUTHENTICATION**

This bond is one of the bonds of the issue described in the within mentioned Ordinance.

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

UMB BANK, N.A., as Paying Agent

By \_\_\_\_\_  
Authorized Signatory

**APPROVING LEGAL OPINION**

Set forth below is a true copy of the approving legal opinion of Kutak Rock LLP, delivered on the date on which the Bonds were originally issued: [The form of legal opinion of Bond Counsel shall be set forth here.] I, the undersigned City Clerk of the City of Englewood, Colorado, do hereby certify that the foregoing approving opinion of Kutak Rock LLP, Denver, Colorado, is a true and complete copy of a manually executed and dated copy thereof on file in the official records of the City.

By (facsimile signature) \_\_\_\_\_  
City Clerk

**ASSIGNMENT**

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

\_\_\_\_\_

(Please print or typewrite name and address of Transferee)  
(Tax Identification or Social Security No.)

the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

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

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed:

\_\_\_\_\_  
Signature(s) must be guaranteed by a national bank or trust company or by a brokerage firm having a membership in one of the major stock exchanges.

**TRANSFER FEE MAY BE REQUIRED**

## COUNCIL COMMUNICATION

<b>Date:</b> April 16, 2012	<b>Agenda Item:</b> 11 a iii	<b>Subject:</b> An Emergency Bill for an Ordinance Authorizing The Issuance of Storm Water Enterprise Revenue Refunding Bonds Series 2012
<b>Initiated By:</b> Finance and Administrative Services Department		<b>Staff Source:</b> Frank Gryglewicz, Director

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council has not taken any formal action regarding the issuance of these refunding bonds, but the subject was discussed with City Council at the study session on April 9, 2012.

### RECOMMENDED ACTION

Staff recommends Council approve the attached bill for an ordinance authorizing the issuance of Storm Water Enterprise Revenue Refunding Bonds, Series of 2012. The proceeds from the sale of these bonds will be used to refinance the City's Storm Water Enterprise Revenue Bonds, Series 2001 to lower interest rates.

This emergency bill for ordinance authorizes the issuance of the bonds, provides for the form of the bonds and other details in connection to the issuance of the bonds.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

In 2001, the City of Englewood approved the issuance of \$1.675 million in Storm Water Revenue Bonds. The City of Englewood used the bond proceeds for improvements to the City's Storm Water system. Currently, \$1,030,000 in aggregate principal is outstanding and bear interest at rates between 4.90 and 5.50 percent. The aggregate principal of the refunding bonds shall not exceed \$1.1 million, the final maturity will not extend beyond December 31, 2021, and the net effective interest rate will not exceed 3.25 percent.

City staff believes it is in the best interest of the City to refinance this debt to lower interest rates. This will reduce debt service payments and reduce the fees charged to citizens for the waste water system. The estimated present value savings is \$107,825 and the percentage savings of the refunded bonds is 10.47 percent.

This bill for an ordinance is being passed by emergency ordinance so the bonds can be issued as quickly as possible to reduce the possibility of interest rate changes as well as possibly inducing more investor interest in purchasing the bonds.

### FINANCIAL IMPACT

This action should not have a direct impact on the City's financial condition, as the debt service requirements are funded by fees collected from Storm Water users but it should reduce the fees citizens pay in the future.

### LIST OF ATTACHMENTS

Proposed bill for an ordinance

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2012

COUNCIL BILL NO. 23  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN ORDINANCE OF THE CITY OF ENGLEWOOD, ACTING BY AND THROUGH ITS STORM WATER ENTERPRISE, AUTHORIZING THE ISSUANCE OF STORM WATER ENTERPRISE REVENUE REFUNDING BONDS, SERIES 2012, TO REFUND OUTSTANDING BONDS OF THE CITY AT A LOWER INTEREST RATE; PROVIDING THE FORM OF THE BONDS AND OTHER DETAILS IN CONNECTION THEREWITH; APPROVING DOCUMENTS RELATING TO THE BONDS AND DECLARING AN EMERGENCY.

WHEREAS, the City of Englewood, Colorado is a municipal corporation duly organized and operating as a home rule city under Article XX of the Constitution of the State of Colorado and the Charter of the City (unless otherwise indicated, capitalized terms used in this preamble shall have the meanings set forth in Section 1 of this Ordinance); and

WHEREAS, as codified in Title 12, Chapter 5 of the Municipal Code, the City has established its Storm Water Enterprise; and

WHEREAS, the Storm Water Enterprise constitutes a "water activity enterprise" within the meaning of the Title 37, Article 45.1, C.R.S., and a government owned business which is authorized to issue its own revenue bonds and which receives under 10% of annual revenue in grants from all Colorado state and local governments combined; and

WHEREAS, pursuant to Section 105 of the Charter the City may issue revenue bonds as provided for municipalities by State statute and revenue bonds for a storm water enterprise are permitted under Title 31, Article 35, Part 4, C.R.S. and Title 37, Article 45.1, C.R.S.; and

WHEREAS, pursuant to Section 106 of the Charter, the City may issue refunding bonds by ordinance, without an election, for the purpose of paying outstanding bonds of the City; and

WHEREAS, pursuant to Article X, Section 20 of the State Constitution (TABOR) refinancing bonded debt at lower interest rates does not require voter approval in advance under the terms and provisions of TABOR; and

WHEREAS, the City, acting by and through its Storm Water Enterprise, previously issued its "Storm Water Enterprise Revenue Bonds, Series 2001" of which \$1,030,000 in aggregate principal amount are currently outstanding and bear interest at rates between 4.90% and 5.50% per annum; and

WHEREAS, the Series 2001 Bonds are subject to redemption prior to maturity and the option of the City, in whole or in part, on December 1, 2011 and on any date thereafter upon payment of par plus accrued interest to the redemption date, without redemption premium; and

WHEREAS, the principal of and interest on the Series 2001 Bonds are payable at UMB Bank, n.a. (as successor in interest to American National Bank), in Denver, Colorado, or its successor, as paying agent; and

WHEREAS, the Stifel, Nicolaus & Company, Incorporated, of Denver, Colorado, has presented a proposal to the City to refund the Series 2001 Bonds on a current basis through the issuance of Storm Water Enterprise Revenue Refunding Bonds, Series 2012, and the Council has determined that the negotiated sale of the Bonds to said company is to the best advantage of the City; and

WHEREAS, net proceeds derived from the sale of the Bonds, together with other legally available funds of the City expected to comprise moneys within the reserve account securing the payment of the Series 2001 Bonds, will be immediately applied to the payment of the Series 2001 Bonds of the Call Date or irrevocably deposited with the Bank and placed into a special fund and trust account for the purpose only of paying the principal of and interest due and payable on the Series 2001 Bonds on the Call Date; and

WHEREAS, the City has received and there are available to the members of the Council, forms of the Preliminary Official Statement, the Bond Purchase Agreement, the Escrow Agreement and the Paying Agent Agreement; and

WHEREAS, the Council desires to authorize the issuance and sale of the Bonds and, as provided in Title 11, Article 57, Part 2, C.R.S., delegate authority to the Sale Delegate to make certain determinations regarding the Bonds to be set forth in the Sale Certificate in accordance with the provisions of this Ordinance.

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

**Section 1. Definitions.** The following terms shall have the following meanings as used in this Ordinance:

*"Bank"* means UMB Bank, n.a., a national banking association duly organized and existing under the laws of the United States of America which has full and complete trust powers and is a qualified institution under the Public Deposit Protection Act of the State.

*"Bond Account"* means a special account of the City designated as the "Storm Water Enterprise 2012 Bond Account," created by this Ordinance for the purpose of paying the principal of, premium if any, and interest on the Bonds, including the Interest Subaccount and the Principal Subaccount.

*"Bond Counsel"* means (a) as of the date of issuance of the Bonds, Kutak Rock LLP, and (b) as of any other date, Kutak Rock LLP or such other attorneys selected by the City with nationally recognized expertise in the issuance of municipal bonds.

*"Bond Obligation"* means, as of any date, the principal amount of the Bonds Outstanding as of such date.

*"Bond Purchase Agreement"* means the Bond Purchase Agreement, pursuant to which the City is to agree to sell and the Underwriter is to agree to purchase the Bonds at the prices and on the terms set forth therein.

*"Bonds"* and *"Series 2012 Bonds"* means the Bonds authorized by the Section hereof titled "Authorization and Purpose of Bonds."

“*Business Day*” means any day other than (a) a Saturday or Sunday or (b) a day on which banking institutions in the State are authorized or obligated by law or executive order to be closed for business.

“*Call Date*” means the date or dates on which the Series 2001 Bonds shall be called for optional prior redemption as established in the Sale Certificate.

“*Capital Improvements*” means the acquisition of land, easements, facilities and equipment (other than ordinary repairs and replacements), and the construction or reconstruction of improvements, betterments and extensions, for use by or in connection with the Storm Water System which, under Generally Accepted Accounting Principles for governmental units as prescribed by the Governmental Account Standards Board, are properly chargeable as capital items.

“*Certified Public Accountant*” means an independent certified public accountant within the meaning of § 12-2-115, C.R.S., and any amendment thereto, licensed to practice in the State of Colorado.

“*Charter*” means the home rule Charter of the City.

“*City*” means the City of Englewood, Colorado, acting by and through its Storm Water Enterprise.

“*Code*” means the Internal Revenue Code of 1986, as amended. Each reference to a section of the Code herein shall be deemed to include the United States Treasury Regulations proposed or in effect thereunder and applicable to the Bonds or the use of proceeds thereof, unless the context clearly requires otherwise.

“*Combined Maximum Annual Principal and Interest Requirements*” means, with respect to the Bonds or an issue of Parity Lien Bonds for which such term is used, an amount equal to the maximum amount required to be paid in any single current or future calendar year as the principal of (including any mandatory sinking fund requirements) and interest on Outstanding Bonds or Parity Lien Bonds, respectively, excluding any such bonds which have been defeased pursuant to the terms of the authorizing documents. For purposes of calculating the Combined Maximum Annual Principal and Interest Requirements in any calendar year of final maturity of the Bonds or an issue of Parity Lien Bonds, respectively, there shall be subtracted from the final principal payment for said bonds any cash or the present value of any investments deposited in a reserve fund or account established pursuant to the authorizing documents which are properly allocable to said bonds.

“*Council*” means the City Council of the City.

“*County*” means Arapahoe County, Colorado.

“*C.R.S.*” means the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

“*Dated Date*” means the original dated date for the Bonds as established in the Sale Certificate.

“*Defeasance Securities*” means bills, certificates of indebtedness, notes, bonds or similar securities which are direct, non callable obligations of the United States of America or which are fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, to the extent such investments are Permitted Investments.

“*DTC*” means The Depository Trust Company, New York, New York, and its successors in interest and assigns.

“*DTC Blanket Letter of Representations*” means the letter of representations from the City to DTC to induce DTC to act as securities depository for the Bonds.

“*Enabling Laws*” means the Charter; Title 12, Chapter 5 of the Municipal Code; Title 37, Article 45.1, C.R.S.; Title 31, Article 35, Part 4, C.R.S.; and Title 11, Article 57, Part 2, C.R.S.

“*Escrow Account*” means the account, if necessary, established and designated as such in the section hereof entitled “Payment of Refunded Bonds” to be maintained by the Bank in accordance with the Escrow Agreement and the provisions hereof.

“*Escrow Agreement*” means the Escrow Agreement dated as of the Dated Date, between the City and the Bank.

“*Event of Default*” means any of the events specified in the Section hereof titled “Events of Default.”

“*Fiscal Year*” means the 12 months commencing January 1 of any year and ending December 31 of said year.

“*Gross Revenue*” means all income and revenues directly or indirectly derived by the City from the operation and use of the Storm Water Enterprise, including without limitation, any rates, fees and charges for the services furnished by, or the use of, the Storm Water Enterprise, and all income attributable to any past or future dispositions of property or rights or related contracts, settlements or judgments held or obtained in connection with the Storm Water Enterprise or its operations, and including investment income accruing from moneys held to the credit of the Storm Water Enterprise Fund; provided however, that there shall be excluded from Gross Revenue any moneys borrowed and used for providing Capital Improvements; any money and securities, and investment income therefrom, in any refunding fund, escrow account or similar account pledged to the payment of any bonds or other obligations; and any moneys received as grants or appropriations from the United States, the State of Colorado or other sources, the use of which is limited or restricted by the grantor or donor to the provision of Capital Improvements or for other purposes resulting in the general unavailability thereof, except to the extent any such moneys shall be received as payments for the use of the Storm Water System, services rendered thereby, the availability of any such service or the disposal of any commodities therefrom.

“*Interest Payment Date*” means each June 1 and December 1, commencing December 1, 2012, or such other dates as established in the Sale Certificate for payment of interest on the Bonds.

“*Interest Subaccount*” means a subaccount of the Bond Account reaffirmed by the provisions hereof for the purpose of paying the interest on the Bonds.

“*Municipal Code*” means the City of Englewood Municipal Code, as amended.

“*Net Revenue*” means the Gross Revenue after deducting the Operation and Maintenance Expenses.

“*Official Statement*” means the final Official Statement relating to the Bonds.

“*Operation and Maintenance Expenses*” means all reasonable and necessary current expenses of the City, paid or accrued, for operating, maintaining and repairing the Storm Water System, including without limitation legal and overhead expenses of the City directly related to the administration of the

Storm Water Enterprise, insurance premiums, audits, charges of depository banks and paying agents, professional services, salaries and administrative expenses, labor and the cost of materials and supplies for current operation; provided however, that there shall be excluded from Operation and Maintenance Expenses any allowance for depreciation, payments in lieu of taxes or franchise fees, legal liabilities not based on contract, expenses incurred in connection with Capital Improvements, payments due in connection with any bonds or other obligations, and charges for the accumulation of reserves.

“*Ordinance*” means this Ordinance, including any amendments or supplements hereto.

“*Outstanding*” means, as of any date, all Bonds issued and delivered by the City, except the following:

- (a) any Bond cancelled by the City or the Paying Agent, or otherwise on the City’s behalf, at or before such date;
- (b) any Bond held by or on behalf of the City;
- (c) any Bond for the payment or the redemption of which moneys or Defeasance Securities sufficient to meet all of the payment requirements of the principal of, premium, if any, and interest on such Bond to the date of maturity or prior redemption thereof, shall have theretofore been deposited in trust for such purpose in accordance with the Section hereof titled “Defeasance”; and
- (d) any lost, apparently destroyed, or wrongfully taken Bond in lieu of or in substitution for which another bond or other security shall have been executed and delivered.

“*Owner*” means the Person or Persons in whose name or names a Bond is registered on the registration books maintained by the Paying Agent pursuant hereto.

“*Parity Lien Bonds*” means one or more series of additional bonds, notes, interim securities or other obligations issued by the City pursuant to the Section hereof entitled “Additional Bonds,” having a lien on the Net Revenue which is on a parity with the lien of the Bonds.

“*Parity Reserve Amount*” means, as of any date on which it is calculated with respect to any issue of Parity Lien Bonds, the least of (a) 10% of the principal amount of said Parity Lien Bonds, (b) the maximum annual debt service in any calendar year on said Parity Lien Bonds or (c) 125% of the average annual debt service on said Parity Lien Bonds.

“*Paying Agent*” means the Bank and its successors in interest or assigns approved by the City.

“*Paying Agent Agreement*” means an agreement between the City and the Paying Agent concerning the duties and obligations of the Paying Agent with respect to the Bonds.

“*Permitted Investments*” means any investment in which funds of the City may be invested under the Charter and the laws of the State at the time of such investment.

“*Person*” means a corporation, firm, other body corporate, partnership, association or individual and also includes an executor, administrator, trustee, receiver or other representative appointed according to law.

*“Preliminary Official Statement”* means the Preliminary Official Statement prepared in connection with the sale and issuance of the Bonds.

*“Principal Payment Date”* means December 1, or such other date or dates of each year as established in the Sale Certificate for payment of principal of the Bonds.

*“Principal Subaccount”* means a subaccount of the Bond Account reaffirmed by the provisions hereof for the purpose of paying the principal of and premium, if any, on the Bonds.

*“Pro Rata Portion”* means when used with respect to a required credit to the Principal Subaccount or the Interest Subaccount, the dollar amount derived by dividing the amount of principal or interest to come due on the next principal or interest payment date by the number of monthly credits required to be made prior to such payment date.

*“Record Date”* means, if the Interest Payment Date is on the first day of the month, the fifteenth day of the month immediately preceding the month (whether or not such day is a Business Day) in which such Interest Payment Date occurs and, if the Interest Payment Date is on the fifteenth day of the month, the first day of the month (whether or not such day is a Business Day) in which such Interest Payment Date occurs.

*“Refunded Bond Ordinance”* means the ordinance of the City authorizing the issuance of the Series 2001 Bonds.

*“Refunded Bond Requirements”* means the principal and interest due in connection with the Series 2001 Bonds until paid and cancelled in accordance with their terms or called for redemption, paid and cancelled on the Call Date.

*“Refunded Bonds Paying Agent”* means UMB Bank, n.a. (as successor in interest to American National Bank), in Denver, Colorado, as paying agent for the Series 2001 Bonds, or any successor thereto.

*“Refunding Project”* means the advance refunding of the Series 2001 Bonds and the payment of the costs of issuance of the Bonds.

*“Required Reserve Amount”* means, as of any date on which it is calculated, the least of (a) 10% of the principal amount of the Outstanding Bonds, (b) the maximum annual debt service in any calendar year on the Outstanding Bonds or (c) 125% of the average annual debt service on the Outstanding Bonds.

*“Reserve Account”* means a special account of the City designated as the “Storm Water Enterprise 2012 Reserve Account,” created by this Ordinance for the purpose of paying, if necessary, the principal of, premium if any, and interest on the Bonds.

*“Sale Certificate”* means the certificate executed by the Sale Delegate under the authority delegated pursuant to this Ordinance, including but not limited to the Sections hereof titled “Bond Details,” “Redemption of Bonds Prior to Maturity” and “Approval of Related Documents”.

*“Sale Delegate”* means the Director of Finance and Administrative Services of the City or, in the event such person is unavailable, the City Manager.

*“Series 2001 Bonds”* means the Storm Water Enterprise Revenue Bonds, Series 2001, which as of the date of this Ordinance are outstanding in the principal amount of \$1,030,000.

“*State*” means the State of Colorado.

“*Storm Water Enterprise*” means the Storm Water Enterprise as established by City Ordinance No. 20, Series 1993, as said ordinance may be amended from time to time.

“*Storm Water Enterprise Fund*” means the Storm Drainage Fund of the City which accounts for the financial activity of the Storm Water Enterprise.

“*Storm Water System*” means all of the City’s storm water facilities including without limitation interests in real and personal property now owned or hereafter acquired whether situated within or without the City boundaries and all present or future improvements, extensions, enlargements, betterments, replacements and additions thereto.

“*Subordinate Lien Bonds*” means one or more series of additional bonds, notes, interim securities or other obligations issued by the City pursuant to the Section hereof entitled “Additional Bonds,” having a lien on the Net Revenue which is subordinate or junior to the lien of the Bonds.

“*Tax Letter of Instructions*” means the Tax Letter of Instructions, dated the date on which the Bonds are originally issued and delivered to the City by Bond Counsel, as such instructions may be superseded or amended in accordance with their terms.

“*Underwriter*” means Stifel, Nicolaus & Company, Incorporated, of Denver, Colorado.

**Section 2. Authorization and Purpose of Bonds.** Pursuant to and in accordance with the Enabling Laws, the City hereby authorizes, and directs that there shall be issued, the “Storm Water Enterprise Revenue Refunding Bonds, Series 2012” for the purpose of providing funds for the Refunding Project. The caption for the Bonds also shall include “Series 2012 Bonds” or “Series 2013 Bonds” depending on the actual date of issuance of the Bonds

**Section 3. Bond Details.**

(a) **Registered Form, Denominations, Dated Date and Numbering.** The Bonds shall be issued in fully registered form, shall be dated as of the Dated Date, and shall be registered in the names of the Persons identified in the registration books maintained by the Paying Agent pursuant hereto. The Bonds shall be issued in denominations of \$5,000 in principal amount or any integral multiple thereof. The Bonds shall be consecutively numbered, beginning with the number one, preceded by the letter “R.”

(b) **Maturity Dates, Principal Amounts and Interest Rates.** The Bonds shall mature on the Principal Payment Date of the years and in the principal amounts, and shall bear interest at the rates per annum (calculated based on a 360-day year of twelve 30-day months) set forth in the Sale Certificate.

(c) **Accrual and Dates of Payment of Interest.** Interest on the Bonds shall accrue at the rates set forth in the Sale Certificate from the later of the Dated Date or the latest Interest Payment Date (or in the case of defaulted interest, the latest date) to which interest has been paid in full and shall be payable on each Interest Payment Date.

(d) **Delegation for Sales Certificate.** The Council hereby delegates to the Sale Delegate for a period of one year from the date of adoption of this Ordinance the following (which shall be set forth in the Sale Certificate for the Bonds):

- (i) the Dated Date of the Bonds;
- (ii) the Principal Payment Date;
- (iii) the Interest Payment Date;
- (iv) the aggregate principal amount of the Bonds;
- (v) the price at which the Bonds will be sold pursuant to the Bond Purchase Agreement;
- (vi) the amount of principal of the Bonds maturing in any particular year and the respective interest rates borne by the Bonds;
- (vii) the Bonds which may be redeemed at the option of the District, the dates upon which such optional redemption may occur, and the prices at which such Bonds may be optionally redeemed;
- (viii) the principal amounts, if any, of Bonds subject to mandatory sinking fund redemption and the years in which such Bonds will be subject to such redemption; and
- (ix) the Call Date.

(e) **Sale Parameters.** The authority delegated to the Sale Delegate by this Section shall be subject to the following parameters:

- (i) the aggregate principal amount of the Bonds shall not exceed \$1,100,000;
- (ii) the final maturity of the Bonds shall be no later than December 31, 2021;
- (iii) the net effective interest rate on the Bonds shall not exceed 3.25%; and
- (iv) the present value savings as a percentage of the aggregate principal amount of the Series 2001 Bonds shall be at least three percent (3%) computed based upon the arbitrage yield for such series of Bonds to the date of delivery of the Bonds, assuming semi-annual compounding.

(f) **Manner and Form of Payment.** Principal of each Bond shall be payable to the Owner thereof upon presentation and surrender of such Bond at the principal office of the Paying Agent in the city identified in the definition of Paying Agent in the Section hereof titled "Definitions" or at such other office of the Paying Agent designated by the Paying Agent for such purpose. Interest on each Bond shall be payable by check or draft of the Paying Agent mailed on each Interest Payment Date to the Owner thereof as of the close of business on the corresponding Record Date; provided that interest payable to any Owner may be paid by any other means agreed to by such Owner and the Paying Agent that does not require the City to make moneys available to the Paying Agent earlier than otherwise required hereunder or increase the costs borne by the City hereunder. All payments of the principal of and interest on the Bonds shall be made in lawful money of the United States of America.

(g) **Book-Entry Registration.** Notwithstanding any other provision hereof, the Bonds shall be delivered only in book entry form registered in the name of Cede & Co., as nominee of DTC, acting as securities depository of the Bonds and principal of and interest on the Bonds shall be paid by wire transfer to DTC; provided, however, if at any time the Paying Agent determines, and notifies the City of its determination, that DTC is no longer able to act as, or is no longer satisfactorily performing its duties as, securities depository for the Bonds, the Paying Agent may, at its discretion, either (i) designate a substitute securities depository for DTC and reregister the Bonds as directed by such substitute securities depository; or (ii) terminate the book entry registration system and reregister the Bonds in the names of the beneficial owners thereof provided to it by DTC. Neither the City nor the Paying Agent shall have any liability to DTC, Cede & Co., any substitute securities depository, any Person in whose name the Bonds are reregistered at the direction of any substitute securities depository, any beneficial owner of the Bonds or any other Person for (A) any determination made by the Paying Agent pursuant to the proviso at the end of the immediately preceding sentence or (B) any action taken to implement such determination and the procedures related thereto that is taken pursuant to any direction of or in reliance on any information provided by DTC, Cede & Co., any substitute securities depository or any Person in whose name the Bonds are reregistered.

#### Section 4. Redemption of Bonds Prior to Maturity.

(a) **Optional Redemption.** The Bonds shall subject to redemption at the option of the City, in whole or in part, and if in part in such order of maturities as the City shall determine and by lot within a maturity on such dates as set forth in the Sale Certificate. The Council hereby delegates to the Sale Delegate the authority to determine the dates, if any, on which the Bonds shall be subject to optional redemption and the redemption price or prices at which such redemption may be made.

(b) **Mandatory Sinking Fund Redemption.** All or any principal amount of the Bonds may be subject to mandatory sinking fund redemption by lot on the Principal Payment Date of the years and in the principal amounts specified in the Sale Certificate, at a redemption price equal to the principal amount thereof (with no redemption premium), plus accrued interest to the redemption date. The Council hereby delegates to the Sale Delegate the authority to determine the principal amounts and dates on which the Bonds shall be subject to mandatory sinking fund redemption.

(c) **Redemption Procedures.** Notice of any redemption of Bonds shall be given by the Paying Agent in the name of the City by sending a copy of such notice by first class, postage prepaid mail, not less than 30 days prior to the redemption date, to the Owner of each Bond being redeemed. Such notice shall specify the number or numbers of the Bonds so to be redeemed (if redemption shall be in part) and the redemption date. If any Bond shall have been duly called for redemption and if, on or before the redemption date, there shall have been deposited with the Paying Agent in accordance with this Ordinance funds sufficient to pay the redemption price of such Bond on the redemption date, then such Bond shall become due and payable at such redemption date, and from and after such date interest will cease to accrue thereon. Failure to deliver any redemption notice or any defect in any redemption notice shall not affect the validity of the proceeding for the redemption of Bonds with respect to which such failure or defect did not occur. Any Bond redeemed prior to its maturity by prior redemption or otherwise shall not be reissued and shall be cancelled.

Section 5. Security for the Bonds; Flow of Funds.

(a) *Pledge of Net Revenues.* The Net Revenue is hereby pledged to the payment of the Bonds. The Bonds shall constitute an irrevocable and first lien upon the Net Revenue, but not necessarily an exclusive such lien. In accordance with Section 11-57-208, C.R.S., upon the issuance of the Bonds, the Net Revenues shall immediately be subject to the lien of the pledge stated herein without any physical delivery, filing, or further act.

(b) *Flow of Funds.* Immediately upon the issuance of the Bonds, all Gross Revenue then held by the City shall be credited to the Storm Water Enterprise Fund. Thereafter, the City shall credit to the Storm Water Enterprise Fund all Gross Revenue immediately upon receipt. The City shall pay from the Storm Water Enterprise Fund all Operation and Maintenance Expenses as they become due and payable. After such payment or the allocation of Gross Revenue to such payment, the City shall apply the Net Revenue in the following order of priority:

FIRST, to the credit of the Interest Subaccount, the amounts required by the Section hereof entitled "Creation of Accounts," and to the credit of any other bond account or subaccount hereafter established for the payment of interest on Parity Lien Bonds issued in accordance with the Section hereof entitled "Additional Bonds;"

SECOND, to the credit of the Principal Subaccount, the amounts required by the Section hereof entitled "Creation of Accounts," and to the credit of any other bond account or subaccount hereafter established for the payment of the principal of, and premium if any, on Parity Lien Bonds issued in accordance with the Section hereof entitled "Additional Bonds;"

THIRD, to the credit of the Reserve Account, the amounts required by the Section hereof entitled "Creation of Accounts," and to the credit of any other account hereafter established as a reserve account for Parity Lien Bonds issued in accordance with the Section hereof entitled "Additional Bonds;"

FOURTH, to the credit of any other fund or account hereafter established for the payment of the principal of, premium if any, and interest on Subordinate Lien Bonds, including any sinking fund, reserve fund or similar fund or account established therefor, the amounts required by the ordinance or other enactment authorizing issuance of the Subordinate Lien Bonds; and

FIFTH, to the credit of any other fund or account as may be designated by the City, to be used for any lawful purpose, any moneys remaining in the Storm Water Enterprise Fund after the payments and accumulations set forth in FIRST through FOURTH hereof.

(c) *Maintenance of Rates and Coverage.* The City hereby covenants that it will establish, maintain, enforce and collect rates, fees and charges for services furnished by or the use of the Storm Water System to create Gross Revenue each Fiscal Year sufficient to pay Operation and Maintenance Expenses and to create Net Revenue in an amount: (a) equal to not less than 115% of the amount necessary to pay when due the principal of and interest on the Bonds and any Parity Lien Bonds coming due during such Fiscal Year; and (b) to make up any deficiencies in the Reserve Account and any reserve account established for Parity Lien Bonds. In the event that the Gross Revenue at any

time is not sufficient to make such payments, the City shall increase such rates, fees and charges to an extent which will ensure the payments and accumulations required by this Ordinance.

(d) **Bonds Do Not Constitute a Debt.** All of the Bonds, together with the interest thereon and any premium due in connection therewith, shall be payable only out of: (i) the Bond Account; or (ii) if necessary, the Reserve Account. The Owners may not look to any general or other fund of the City for the payment of the principal of, premium if any, and interest on the Bonds, except the funds and accounts pledged thereto by this Ordinance, and the Bonds shall not constitute a debt or an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation; nor shall they be considered or held to be general obligations of the City.

**Section 6. Form of Bonds.** The Bonds shall be in substantially the form set forth in Appendix A hereto with such changes thereto, not inconsistent herewith, as may be necessary or desirable and approved by the officials of the City executing the same (whose manual or facsimile signatures thereon shall constitute conclusive evidence of such approval). All covenants, statements, representations and agreements contained in the Bonds are hereby approved and adopted as the covenants, statements, representations and agreements of the City. Although attached as appendices for the convenience of the reader, Appendix A is an integral part of this Ordinance and are incorporated herein as if set forth in full in the body of this Ordinance.

**Section 7. Execution of Bonds.** The Bonds shall be executed in the name and on behalf of the City with the manual or facsimile signature of the Mayor, shall bear a manual or facsimile of the seal of the City and shall be attested by the manual or facsimile signature of the City Clerk of the Council, all of whom are hereby authorized and directed to prepare and execute the Bonds in accordance with the requirements hereof. Should any officer whose manual or facsimile signature appears on the Bonds cease to be such officer before delivery of any Bond, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes. When the Bonds have been duly executed, the officers of the City are authorized to, and shall, deliver the Bonds to the Paying Agent for authentication. No Bond shall be secured by or titled to the benefit of this Ordinance, or shall be valid or obligatory for any purpose, unless the certificate of authentication of the Paying Agent has been manually executed by an authorized signatory of the Paying Agent. The executed certificate of authentication of the Paying Agent upon any Bond shall be conclusive evidence, and the only competent evidence, that such Bond has been properly authenticated and delivered hereunder.

**Section 8. Registration of Bonds in Registration Books Maintained by Paying Agent.** The Paying Agent shall maintain registration books in which the ownership, transfer and exchange of Bonds shall be recorded. The person in whose name any Bond shall be registered on such registration book shall be deemed to be the absolute owner thereof for all purposes, whether or not payment on any Bond shall be overdue, and neither the City nor the Paying Agent shall be affected by any notice or other information to the contrary.

**Section 9. Transfer and Exchange of Bonds.** The Bonds may be transferred or exchanged at the principal office of the Paying Agent in the city identified in the definition of Paying Agent in the Section hereof titled "Definitions" or at such other office of the Paying Agent designated by the Paying Agent for such purpose for a like aggregate principal amount of Bonds of other authorized denominations of the same maturity and interest rate, upon payment by the transferee of a reasonable transfer fee established by the Paying Agent, together with any tax or governmental charge required to be paid with respect to such transfer or exchange and any cost of printing bonds in connection therewith. Upon surrender for transfer of any Bond, duly endorsed for transfer or accompanied by an assignment duly executed by the Owner or his or her attorney duly authorized in writing, the City shall execute and the Paying Agent shall

authenticate and deliver in the name of the transferee a new Bond. Notwithstanding any other provision hereof, the Paying Agent shall not be required to transfer any Bond (i) which is scheduled to be redeemed in whole or in part between the Business Day immediately preceding the mailing of the notice of redemption and the redemption date or (ii) between the Record Date for any Interest Payment Date and such Interest Payment Date.

**Section 10. Replacement of Lost, Destroyed or Stolen Bonds.** If any Bond shall become lost, apparently destroyed, stolen or wrongfully taken, it may be replaced in the form and tenor of the lost, destroyed, stolen or taken Bond and the City shall execute and the Paying Agent shall authenticate and deliver a replacement Bond upon the Owner furnishing, to the satisfaction of the Paying Agent: (a) proof of ownership (which shall be shown by the registration books of the Paying Agent), (b) proof of loss, destruction or theft, (c) an indemnity to the City and the Paying Agent with respect to the Bond lost, destroyed or taken, and (d) payment of the cost of preparing and executing the new Bond.

**Section 11. Creation of Accounts.**

(a) **Reaffirmation of Storm Water Enterprise Fund.** There is hereby reaffirmed the Storm Water Enterprise Fund.

(b) **Bond Account.** There is hereby established the Bond Account of the Storm Water Enterprise Fund, which shall be maintained by the City in accordance with the provisions of this Ordinance. Moneys in the Bond Account shall be used solely for the purpose of paying the principal of, premium if any, and interest on the Bonds. There shall be deposited with the Paying Agent not less than the Business Day prior to each Interest Payment Date and Principal Payment Date, respectively (i) an amount from the Interest Subaccount which is sufficient to pay the interest on the Bonds due on such Interest Payment Date and (ii) an amount from the Principal Subaccount which is sufficient to pay the principal of and premium, if any, due on the Bonds on such Principal Payment Date.

(i) **Interest Subaccount.** The Interest Subaccount shall be used to pay the interest on Bonds. On or before the last day of each month, commencing in the month next succeeding the date of issuance of the Bonds, the City shall credit to the Interest Subaccount, from the Net Revenue and any interest income to be credited to the Interest Subaccount pursuant to the terms hereof, an amount equal to the Pro Rata Portion of the interest to come due on the Bonds on the next succeeding Interest Payment Date.

(ii) **Principal Subaccount.** The Principal Subaccount shall be used to pay the principal of and premium, if any, on the Bonds. On or before the last day of each month, commencing in the month next succeeding the date of issuance of the Bonds, the City shall credit to the Principal Subaccount, from the Net Revenue and any interest income to be credited to the Principal Subaccount pursuant to the terms hereof, an amount equal to the Pro Rata Portion of the principal coming due on the Bonds on the next succeeding Principal Payment Date.

(c) **Reserve Account.** There is hereby established the Reserve Account of the Storm Water Enterprise Fund, which shall be maintained by the City in accordance with the provisions of this Ordinance. Moneys in the Reserve Account shall be used, if necessary, only to prevent a default in the payment of the principal of, premium if any, or interest on

the Bonds, and the Reserve Account is hereby pledged to the payment of the Bonds. In the event the amounts credited to the Bond Account are insufficient to pay the principal of, premium if any, or interest on Bonds when due, the City shall transfer from the Reserve Account to the appropriate subaccount or subaccounts of the Bond Account an amount which, when combined with moneys in the subaccount or subaccounts, will be sufficient to make such payments when due.

- (i) *Maintenance of Reserve Account.* The Required Reserve Amount shall be funded and maintained in cash or Permitted Investments. The Reserve Account shall be maintained in the amount of the Required Reserve Amount until such time as the amount credited thereto, when combined with moneys in the Bond Account, will be sufficient to pay the principal of, premium if any, and interest on all of the Bonds, at which time such moneys may be applied for such purpose. If at any time the amount of the Reserve Account is less than the Required Reserve Amount, then the City shall deposit to the Reserve Account from the Net Revenue, amounts sufficient to bring the amount credited to the Reserve Account to the Required Reserve Amount. Such deposits shall be made as soon as possible after such use, but in accordance with and subject to the limitations of the Section hereof entitled "Security for Payment of Bonds; Flow of Funds."
- (ii) *Valuation and Interest Income.* Moneys credited to the Reserve Account which are invested in Permitted Investments shall be valued at fair market value and marked to market at least once per year. Additionally, the investment of moneys credited to the Reserve Account shall be subject to the covenants and provisions of the Section hereof entitled "Federal Income Tax Covenants." Except to the extent otherwise required by such Section, so long as the amount of the Reserve Account is equal to the Required Reserve Amount, all interest income from the investment or reinvestment of moneys credited to the Reserve Account shall be credited to the Interest Subaccount and/or the Principal Subaccount, as may be determined by the City; provided that if the amount of the Reserve Account is less than the Required Reserve Amount, then such interest income shall be credited to the Reserve Account. The amount on deposit to the Reserve Account shall never exceed the amount of the Required Reserve Amount.

**Section 12. Initial Credit of Bond Proceeds.** Upon payment to the City of the purchase price of the Bonds in accordance with the Bond Purchase Agreement, the Bonds shall be delivered to, or as directed by, the Underwriter and the proceeds received by the City from the sale of the Bonds, together with legally available moneys of the City available for such purpose, shall be applied as a supplemental appropriation by the City for the payment of the costs of issuance of the Bonds and as provided in the Section hereof entitled "Payment of Refunded Bonds" for payment of the Refunded Bond Requirements.

**Section 13. Payment of Refunded Bonds.**

- (a) *Immediate Payment and Cancellation of Refunded Bonds.* In the event that (i) the date of delivery of the Bonds occurs on a date which permits the irrevocable deposit of the gross amount necessary for the payment and cancellation of the Series 2001 Bonds on the Call Date into the bond account for the Series 2001 Bonds established with the Refunded Bonds Paying Agent and (ii) the Refunded Bonds Paying Agent reaffirms the

amount which is necessary for the payment and cancellation of the Series 2001 Bonds on the Call Date, the net proceeds of the Bonds shall be applied for such purpose.

(b) ***Establishment and Maintenance of Escrow Account.*** In the event that the net proceeds of the Bonds are not deposited with the Refunded Bonds Paying Agent as set forth in paragraph (a) of this Section, there is hereby established a special account designated as the "Series 2001 Bonds Escrow Account," which shall be maintained in accordance with the provisions hereof and of the Escrow Agreement. The Escrow Account shall be maintained in an amount at the time of the initial deposits therein and at all times subsequently at least sufficient, together with the known minimum yield to be derived from the initial investment and any temporary reinvestment of the deposits therein or any part thereof in Defeasance Securities to pay the Refunded Bond Requirements. Except as may be otherwise provided in the Escrow Agreement, the City shall have no right or title to the moneys credited to or held in the Escrow Account, and such title shall be and is hereby transferred to the Bank in trust for the payment of the Refunded Bond Requirements pursuant to the Escrow Agreement. Moneys shall be withdrawn by the Bank from the Escrow Account on the Call Date to permit the payment without default of the Refunded Bond Requirements. If for any reason the amount in the Escrow Account shall at any time be insufficient for the purpose hereof, the City shall forthwith from the first moneys available therefor deposit in such account such additional moneys as shall be necessary to permit the payment in full of the Refunded Bond Requirements.

(c) ***Call of Refunded Bonds.*** Subject to the issuance of the Bonds, the Council does hereby declare its intent to exercise on behalf of and in the name of the City its option to redeem or pay and cancel all of the Series 2001 Bonds on the Call Date. The Council hereby authorizes the Sale Delegate determine the Call Date and to irrevocably instruct the Bank to give or cause to be given a notice of refunding, defeasance and redemption of the Series 2001 Bonds.

**Section 14. Investments.** Proceeds of the Bonds delivered to the City pursuant to the Section hereof titled "Initial Credit of Bond Proceeds," moneys on deposit in the Bond Account and the Reserve Account, and any moneys held by the Paying Agent with respect to the Bonds shall be invested in Permitted Investments, provided that the investment of such moneys shall be subject to any applicable restrictions set forth in the Tax Letter of Instructions and in the "Tax Compliance Certificate" or similar certificate delivered by the City in connection with the issuance of the Bonds that describes the City's expectations regarding the use and investment of proceeds of the Bonds.

**Section 15. Various Findings, Determinations, Declarations and Covenants.** The Council, having been fully informed of and having considered all the pertinent facts and circumstances, hereby finds, determines, declares and covenants with the Owners of the Bonds that:

- (a) it is in the best interest of the City and its residents that the Bonds be authorized, sold, issued and delivered at the time, in the manner and for the purposes provided in this Ordinance;
- (b) the issuance of the Bonds will not cause the City to exceed its debt limit under applicable State law;
- (c) the DTC Blanket Letter of Representations entered into with DTC will govern the book entry registration system for the Bonds; and

(d) the issuance of the Bonds and all procedures undertaken incident thereto are in full compliance and conformity with all applicable requirements, provisions and limitations prescribed by the Charter, the Colorado Constitution and laws of the State.

**Section 16. Additional Covenants and Agreements.** The City hereby further irrevocably covenants and agrees with each and every Owner that so long as any of the Bonds remain Outstanding:

(a) **Competent Management.** The City shall employ competent management personnel for the Storm Water System and will continue to operate and manage the Storm Water System in an efficient and economical manner in accordance with all applicable laws, rules and regulations.

(b) **Maintenance of Records and Accounts.** The City shall keep proper books of record and accounts showing complete and correct entries of all transactions relating to the funds and accounts referred to herein and in such manner that the Gross Revenue and the Net Revenue may at all times be readily and accurately determined.

(c) **Alienation of Property.** The City will not sell or alienate any of the property constituting any part or all of the Storm Water System in any manner or to any extent as might reduce the security provided for the payment of the Bonds, but the City may sell any portion of such property which shall have been replaced by other similar property of at least equal value, or which shall cease to be necessary for the efficient operation of the Storm Water System; provided however, that the proceeds of any such sale of property shall be included as part of the Gross Revenue.

(d) **Payment for Use and Services.** The City will promptly render bills for services furnished by or the use of the Storm Water System, shall use all legal means to assure prompt payment thereof, shall take such action as may be necessary to make delinquent rates, fees and charges of the Storm Water System a lien upon the real property served.

(e) **Audits.** At least once a year in the time and manner provided by law, the City will cause an audit to be performed of the records relating to the revenues and expenditures of the Storm Water System. Such audit may be made part of and included within the general audit of the City, and made at the same time as the general audit. In addition, at least once a year in the time and manner provided by law, the City will cause a budget to be prepared and adopted. Copies of the budget and the audit will be filed and recorded in the places, time and manner provided by law.

(f) **Insurance.** The City will carry such forms of insurance on insurable Storm Water System property as would ordinarily be carried by utilities having similar properties of equal value, such insurance being in such amounts as will protect the Storm Water System and its operation. In the event of any loss or damage to the Storm Water System, or in the event part or all of the Storm Water System is taken by the exercise of a power of eminent domain, the insurance proceeds or the condemnation award shall be used for restoring, replacing or repairing the property lost, damaged or taken, and the remainder thereof, if any, shall be considered as Gross Revenue; provided however, that if the City Council determines that the operation of the Storm Water System and the security for the Bonds will not be adversely affected thereby, the City Council may determine not to restore, replace or repair the property lost, damaged or taken and all of the insurance proceeds or condemnation award shall be considered as Gross Revenue.

(g) **Surety Bonds.** Each District official or other person having custody of any funds derived from the operation of the Storm Water System, or responsible for the handling of such

funds, shall be fully bonded at all times, which bond shall be conditioned upon the proper application of said funds.

(h) **Enterprise Status.** The City has established, and covenants to continue to maintain, the Storm Water System as an "enterprise" within the meaning of Article X, Section 20 of the Colorado Constitution, and as a "water activity enterprise" within the meaning of Title 37, Article 45.1, C.R.S.; provided, however, after calendar year 2012 the City may disqualify the Storm Water System as an "enterprise" in any year in which said disqualification does not materially, adversely affect the enforceability of the covenants made pursuant to this Ordinance. In the event the Storm Water System is disqualified as an enterprise and the enforceability of the covenants made pursuant to this Ordinance are materially, adversely affected, the City covenants to immediately take all actions necessary to (i) qualify the Storm Water System as an enterprise within the meaning of Article X, Section 20 of the Colorado Constitution and (ii) permit the enforcement of the covenants made herein.

(i) **Protection of Security.** The City, its officers, agents and employees, shall not take any action in such manner or to such extent as might prejudice the security for the payment of the principal of and interest on the Bonds and any other securities payable from the Net Revenue according to the terms thereof. No contract shall be entered into nor any other action taken by which the rights of the Owners might be prejudicially and materially impaired or diminished.

**Section 17. Federal Income Tax Covenants.** For purposes of ensuring that the interest on the Bonds is and remains excluded from gross income for federal income tax purposes, the City hereby covenants that:

(a) **Prohibited Actions.** The City will not use or permit the use of any proceeds of the Bonds or any other funds of the City from whatever source derived, directly or indirectly, to acquire any securities or obligations and shall not take or permit to be taken any other action or actions, which would cause any Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code, or would otherwise cause the interest on any Bond to be includible in gross income for federal income tax purposes.

(b) **Affirmative Actions.** The City will at all times do and perform all acts permitted by law that are necessary in order to assure that interest paid by the City on the Bonds shall not be includible in gross income for federal income tax purposes under the Code or any other valid provision of law. In particular, but without limitation, the City represents, warrants and covenants to comply with the following rules unless it receives an opinion of Bond Counsel stating that such compliance is not necessary: (i) gross proceeds of the Bonds will not be used in a manner that will cause the Bonds to be considered "private activity bonds" within the meaning of the Code; (ii) the Bonds are not and will not become directly or indirectly "federally guaranteed"; and (iii) the City will timely file an Internal Revenue Service Form 8038-G with respect to the Bonds, which shall contain the information required to be filed pursuant to Section 149(e) of the Code.

(c) **Tax Letter of Instructions.** The City will comply with the Tax Letter of Instructions delivered to it on the date of issuance of the Bonds, including but not limited by the provisions of the Tax Letter of Instructions regarding the application and investment of Bond proceeds, the calculations, the deposits, the disbursements, the investments and the retention of records described in the Tax Letter of Instructions; provided that, in the event the Tax Letter of Instructions are superseded or amended by

new Tax Letter of Instructions drafted by, and accompanied by an opinion of, Bond Counsel stating that the use of the new Tax Letter of Instructions will not cause the interest on the Bonds to become includible in gross income for federal income tax purposes, the City will thereafter comply with the new Tax Letter of Instructions.

(d) **Designation of Bonds as Qualified Tax Exempt Obligations.** The City hereby designates the Bonds as qualified tax exempt obligations within the meaning of Section 265(b)(3) of the Code. The City covenants that the aggregate face amount of all tax exempt governmental obligations defined in Section 141 of the Code or qualified 501(c)(3) bonds defined in Section 145 of the Code issued by the City, together with governmental entities which derive their issuing authority from the City or are subject to substantial control by the City, are not expected to be more than \$10,000,000 during the calendar year in which the Bonds are issued. The City recognizes that such tax exempt obligations include notes, leases, loans and warrants, as well as bonds. The City further recognizes that any bank, thrift institution or other financial institution that owns the Bonds will rely on the City's designation of the Bonds as qualified tax exempt obligations for the purpose of avoiding the loss of 100% of any otherwise available interest deduction attributable to such institution's tax exempt holdings.

**Section 18. Additional Bonds.**

(a) **No Superior Lien Bonds.** No bonds, notes, interim securities or other obligations shall be issued payable from the Net Revenue and having a lien thereon which is superior to the lien of the Bonds.

(b) **Parity Lien Bonds.** The City may issue Parity Lien Bonds if:

- (i) As of the date of issuance of the Parity Lien Bonds the City is in substantial compliance with all of the covenants of this Ordinance;
- (ii) As of the date of issuance of the Parity Lien Bonds the City is current in the accumulation of all amounts required to be then accumulated in the Bond Account and the Reserve Account; and
- (iii) For any 12 month period during the 18-month period immediately preceding the date of issuance of such Parity Lien Bonds, the Net Revenue is sufficient to pay an amount representing not less than 150% of the Combined Maximum Annual Principal and Interest Requirements for the Outstanding Bonds, Outstanding Parity Lien Bonds, if any, and the Parity Lien Bonds proposed to be issued. For purposes of such test, if there has been adopted a schedule of increases in rates, fees and charges during the preceding 18-month period, the Net Revenue may be increased for those months in which such increase was not in effect for the 12 month period in which such calculation is made by adding to the actual revenues for such period an estimated sum equal to 100% of the estimated increase in revenues which would have been realized during said period had such increase been in effect for the entire 12-month period (the requirement set forth in this subparagraph (iii) shall not apply to any Parity Lien Bonds issued for the purpose of refunding less than all of the Outstanding Bonds); and

- (iv) The ordinance, indenture or other document providing for the issuance of the Parity Lien Bonds must provide for a reserve account, which is established in the amount of the Parity Reserve Amount, and a bond account for the Parity Lien Bonds; the bond account must be established and maintained on substantially the same terms and contain substantially the same provisions as set forth in this Ordinance.

A written certificate by the Director of Finance and Administrative Services of the City that the conditions set forth in paragraphs (i), (ii) and (iii) above have been met shall conclusively determine that such conditions have been met in accordance with the terms hereof.

- (c) **Subordinate Lien Bonds.** So long as no Event of Default shall have occurred and be continuing, nothing herein shall prevent the City from issuing Subordinate Lien Bonds.

**Section 19. Defeasance.** Any Bond shall not be deemed to be Outstanding hereunder if it shall have been paid and cancelled or if Defeasance Securities shall have been deposited in trust for the payment thereof (whether upon or prior to the maturity of such Bond, but if such Bond is to be paid prior to maturity, the City shall have given the Paying Agent irrevocable directions to give notice of redemption as required by this Ordinance, or such notice shall have been given in accordance with this Ordinance). In computing the amount of the deposit described above, the City may include the maturing principal of and interest to be earned on the Defeasance Securities. If less than all the Bonds are to be defeased pursuant to this Section, the City, in its sole discretion, may select which of the Bonds shall be defeased.

**Section 20. Events of Default.** Each of the following events constitutes an Event of Default:

- (a) **Nonpayment of Principal or Interest.** Failure to make any payment of principal of or interest on the Bonds when due.
- (b) **Breach or Nonperformance of Duties.** Breach by the City of any material covenant set forth herein or failure by the City to perform any material duty imposed on it hereunder and continuation of such breach or failure for a period of 60 days after receipt by the City Attorney of written notice thereof from the Paying Agent or from the Owners of at least 10% of the aggregate amount of the Bond Obligation, provided that such 60-day period shall be extended so long as the City has commenced and continues a good faith effort to remedy such breach or failure.
- (c) **Bankruptcy or Receivership.** An order of decree by a court of competent jurisdiction declaring the City bankrupt under federal bankruptcy law or appointing a receiver of all or any material portion of the City's assets or revenues is entered with the consent or acquiescence of the City or is entered without the consent or acquiescence of the City but is not vacated, discharged or stayed within 30 days after it is entered.

**Section 21. Remedies for Events of Default.**

- (a) **Remedies.** Upon the occurrence and continuance of any Event of Default, the Owners of not less than 25% of the aggregate amount of the Bond Obligation, including, without limitation, a trustee or trustees therefor may proceed against the City to protect and to enforce the rights of the any Owners under this Ordinance by mandamus,

injunction or by other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction:

- (i) for the payment of interest on any installment of principal of any Bond that was not paid when due at the interest rate borne by such Bond;
- (ii) for the specific performance of any covenant contained herein;
- (iii) to enjoin any act that may be unlawful or in violation of any right of any Owner of any Bond;
- (iv) for any other proper legal or equitable remedy; or
- (v) any combination of such remedies or as otherwise may be authorized by applicable law; provided, however, that acceleration of any amount not yet due on the Bonds according to their terms shall not be an available remedy.

All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of Bonds then Outstanding.

(b) ***Failure To Pursue Remedies Not a Release; Rights Cumulative.*** The failure of any Owner of any Outstanding Bond to proceed in accordance with subsection (a) of this Section shall not relieve the City of any liability for failure to perform or carry out its duties under this Ordinance. Each right or privilege of any such Owner (or trustee therefor) is in addition and is cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any Owner shall not be deemed a waiver of any other right or privilege of such Owner.

**Section 22. Amendment of Ordinance.**

(a) ***Amendments Permitted Without Notice to or Consent of Owners.*** The City may, without the consent of or notice to the Owners of the Bonds, adopt one or more ordinances amending or supplementing this Ordinance (which ordinances shall thereafter become a part hereof) for any one or more or all of the following purposes:

- (i) to cure any ambiguity or to cure, correct or supplement any defect or inconsistent provision of this Ordinance;
- (ii) to subject to this Ordinance or pledge to the payment of the Bonds additional revenues, properties or collateral;
- (iii) to institute or terminate a book entry registration system for the Bonds or to facilitate the designation of a substitute securities depository with respect to such a system;
- (iv) to maintain the then existing or to secure a higher rating of the Bonds by any nationally recognized securities rating agency; or
- (v) to make any other change that does not materially adversely affect the Owners of the Bonds.

(b) *Amendments Requiring Notice to and Consent of Owners.* Except for amendments permitted by subsection (a) of this Section, this Ordinance may only be amended (i) by a ordinance of the City amending or supplementing this Ordinance (which, after the consents required therefor, shall become a part hereof); and (ii) with the written consent of the Owners of at least 66-2/3% of the Bond Obligation; provided that any amendment that makes any of the following changes with respect to any Bond shall not be effective without the written consent of the Owner of such Bond: (A) a change in the maturity of such Bond; (B) a reduction of the interest rate on such Bond; (C) a change in the terms of redemption of such Bond; (D) a delay in the payment of principal of or interest on such Bond; (E) a reduction of the Bond Obligation the consent of the Owners of which is required for an amendment to this Ordinance; or (F) the establishment of a priority or preference for the payment of any amount due with respect to any other Bond over such Bond.

(C) *Procedure for Notifying and Obtaining Consent of Owners.* Whenever the consent of an Owner or Owners of Bonds is required under subsection (b) of this Section, the City shall mail a notice to such Owner or Owners at their addresses as set forth in the registration books maintained by the Paying Agent and to the Underwriter, which notice shall briefly describe the proposed amendment and state that a copy of the amendment is on file in the office of the City for inspection. Any consent of any Owner of any Bond obtained with respect to an amendment shall be in writing and shall be final and not subject to withdrawal, rescission or modification for a period of 60 days after it is delivered to the City unless another time period is stated for such purpose in the notice mailed pursuant to this subsection.

**Section 23. Appointment and Duties of Paying Agent.** The Paying Agent identified in the Section hereof titled "Definitions" is hereby appointed as paying agent, registrar and authenticating agent for the Bonds unless and until the City removes it as such and appoints a successor Paying Agent, in which event such successor shall automatically succeed to the duties of the Paying Agent hereunder and its predecessor shall immediately turn over all its records regarding the Bonds to such successor. The Paying Agent shall agree to perform all duties and to take all actions assigned to it hereunder in accordance with the terms hereof.

**Section 24. Approval of Related Documents.** The Council hereby ratifies and approves the distribution and use in connection with the offering of the Bonds of the Preliminary Official Statement and an Official Statement relating to the Bonds; and for a period of one year following the adoption of this Ordinance, the Sale Delegate is authorized to execute the Sale Certificate and the Bond Purchase Agreement. The appropriate officers and officials of the City are hereby authorized and directed to execute an undertaking to facilitate compliance with Securities and Exchange Commission Rule 15c2-12 (17 C.F.R. § 240.15c2-12), the Paying Agent Agreement, the Escrow Agreement, a "Tax Compliance Certificate" or similar certificate describing the City's expectations regarding the use and investment of proceeds of the Bonds and other moneys, an Internal Revenue Service Form 8038-G with respect to the Bonds and all other documents and certificates necessary or desirable to effectuate the issuance or administration of the Bonds, the investment of proceeds of the Bonds and the transactions contemplated hereby.

**Section 25. Events Occurring on Days That Are Not Business Days.** Except as otherwise specifically provided herein with respect to a particular payment, event or action, if any payment to be made hereunder or any event or action to occur hereunder which, but for this Section, is to be made or is to occur on a day that is not a Business Day, such payment, event or action shall instead be made or occur on the next succeeding day that is a Business Day with the same effect as if it was made or occurred on the date on which it was originally scheduled to be made or occur.

**Section 26. Limitation of Actions.** In accordance with Section 11-57-212, C.R.S., no legal or equitable action can be brought with respect to any legislative acts or proceedings in connection with the authorization of the Bonds more than 30 days after the authorization of such securities.

**Section 27. Ordinance is Contract with Owners of Bonds and Irrepealable.** After the Bonds have been issued, this Ordinance shall be and remain a contract between the City and the Owners of the Bonds and shall be and remain irrepealable until all amounts due with respect to the Bonds shall be fully paid, satisfied and discharged and all other obligations of the City with respect to the Bonds shall have been satisfied in the manner provided herein.

**Section 28. Headings.** The headings to the various sections and subsections to this Ordinance have been inserted solely for the convenience of the reader, are not a part of this Ordinance and shall not be used in any manner to interpret this Ordinance.

**Section 29. Severability.** It is hereby expressly declared that all provisions hereof and their application are intended to be and are severable. In order to implement such intent, if any provision hereof or the application thereof is determined by a court or administrative body to be invalid or unenforceable, in whole or in part, such determination shall not affect, impair or invalidate any other provision hereof or the application of the provision in question to any other situation; and if any provision hereof or the application thereof is determined by a court or administrative body to be valid or enforceable only if its application is limited, its application shall be limited as required to most fully implement its purpose.

**Section 30. Repeal of Inconsistent Ordinances, Resolutions, Bylaws, Rules and Orders.** All ordinances, resolutions, bylaws, rules and orders, or parts thereof, that are inconsistent with or in conflict with this Ordinance, are hereby repealed to the extent of such inconsistency or conflict.

**Section 31. Ratification of Prior Actions.** All actions heretofore taken (not inconsistent with the provisions of this Ordinance, the Enabling Laws or the Charter) by the Council or by the officers and employees of the City directed toward the issuance of the Bonds for the purposes herein set forth are hereby ratified, approved and confirmed.

**Section 32. Emergency Declaration and Effective Date.** The Council has been advised that in order for the City to secure the low interest rates currently present in the market and avoid a possible increase in such rates, it is necessary to issue the Bonds as soon as possible. Therefore, for said reason, the Council declares that this ordinance is necessary for the immediate preservation of public property, health, peace, or safety and an emergency exists. This Ordinance shall be effective immediately upon final passage and be published within seven days after publication following final passage

Introduced, read in full, and passed on first reading as an emergency ordinance on the 16th day of April, 2012.

Published by Title as an Emergency Bill for an Ordinance in the City's official newspaper on the 20<sup>th</sup> day of April, 2012.

Published as an Emergency Bill for an Ordinance on the City's official website beginning on the 18th day of April, 2012 for thirty (30) days.

\_\_\_\_\_  
Randy P. Penn, Mayor

ATTEST:

\_\_\_\_\_  
Kerry Bush, Deputy City Clerk

I, Kerry Bush, Deputy City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of an Emergency Bill for an Ordinance, introduced, read in full, and passed on first reading on the 16th day of April, 2012.

\_\_\_\_\_  
Kerry Bush

APPENDIX A

FORM OF BOND

UNITED STATES OF AMERICA  
STATE OF COLORADO

CITY OF ENGLEWOOD, COLORADO  
Acting By and Through Its

STORM WATER ENTERPRISE

STORM WATER ENTERPRISE REVENUE BOND, SERIES 2012

No. R \_\_\_ \$ \_\_\_\_\_

<b>Interest Rate</b>	<b>Maturity Date</b>	<b>Original Dated Date</b>	<b>CUSIP</b>
_____ %			293065 _____

REGISTERED OWNER: Cede & Co.  
Tax Identification Number: 13-2555119

PRINCIPAL SUM: \*\*DOLLARS\*\*

The City of Englewood, Colorado, a duly organized and validly existing home-rule municipality of the State of Colorado, for value received, hereby promises to pay to the order of the registered owner named above, or registered assigns, the principal sum stated above on the maturity date stated above, with interest on such principal sum from the original dated date stated above at the interest rate per annum stated above (calculated based on a 360-day year of twelve 30-day months), payable on \_\_\_\_\_ and \_\_\_\_\_ of each year, commencing \_\_\_\_\_. Capitalized terms used but not defined in this bond shall have the meaning assigned to them in the Ordinance of the City authorizing the issuance of the Bonds.

The principal of and interest on this bond is payable to the registered owner hereof upon presentation and surrender of this bond at the principal operations office of UMB Bank, n.a., as paying agent, in Denver, Colorado, or at such other office of the Paying Agent designated by the Paying Agent for such purpose. Interest on this bond is payable by check or draft of the Paying Agent mailed on the Interest Payment Date to the registered owner hereof as of the [fifteenth day of the month immediately preceding] [first day of] the month (whether or not such day is a Business Day) in which the Interest Payment Date occurs; provided that, interest payable to the registered owner of this bond may be paid by any other means agreed to by such registered owner and the Paying Agent that does not require the City to make moneys available to the Paying Agent earlier than otherwise required under the Ordinance or increase the costs borne by the City under the Ordinance; provided further, that, so long as Cede & Co. is the registered owner of this bond, the principal of and interest on this bond shall be paid by wire transfer to Cede & Co. Any payment of principal of or interest on this bond that is due on a day that is not a

Business Day shall be made on the next succeeding day that is a Business Day with the same effect as if made on the day on which it was originally scheduled to be made. All payments of principal of and interest on this bond shall be made in lawful money of the United States of America.

This bond is part of an issue of general obligation refunding bonds of the City designated the City of Englewood, Colorado, Storm Water Revenue Refunding Bonds, Series 2012, issued in the principal amount of \$\_\_\_\_\_ (the "Bonds"). The Bonds have been issued pursuant to, under the authority of, and in full conformity with, the Charter, the Constitution and the laws of the State, including, in particular, Part 2 of Article 57 of Title 11, Colorado Revised Statutes (collectively, the "Act"); and pursuant to an ordinance adopted by the City Council of the City. THE ORDINANCE CONSTITUTES THE CONTRACT BETWEEN THE REGISTERED OWNER OF THIS BOND AND THE CITY. THIS BOND IS ONLY EVIDENCE OF SUCH CONTRACT AND, AS SUCH, IS SUBJECT IN ALL RESPECTS TO THE TERMS OF THE ORDINANCE, WHICH SUPERSEDES ANY INCONSISTENT STATEMENT IN THIS BOND.

The principal of, premium if any, and interest on this Bond are payable only out of: (a) a special account designated as the "Bond Account," into which the City covenants and agrees to deposit, from the revenues derived from the operation of the water facilities comprising the Storm Water Enterprise after deduction of operations and maintenance costs (the "Net Revenue"), amounts sufficient to pay the principal of and interest on the Bonds when the same become due and payable; and (b) if necessary, a special account designated as the "Reserve Account," all as more particularly set forth in the Bond Ordinance. The Bonds shall constitute an irrevocable and first lien upon the Net Revenue, but not necessarily an exclusive such lien. Subject to expressed conditions, obligations in addition to the Bonds of this issue may be issued and made payable from the Net Revenue having a lien thereon subordinate and junior to the lien of the Bonds of this issue or, subject to additional expressed conditions, having a lien on the Net Revenue on a parity with the lien of the Bonds of this issue, in accordance with the provisions of the Bond Ordinance.

[The redemption provisions from Section 4 of the Ordinance and the Sale Certificate shall be set forth herein.]

Notice of any redemption of Bonds shall be given by the Paying Agent in the name of the City by sending a copy of such notice by first class, postage prepaid mail, not more than 60 days nor less than 30 days prior to the redemption date, to the Owner of each Bond being redeemed. Such notice shall specify the number or numbers of the Bonds so to be redeemed (if redemption shall be in part) and the redemption date. If any Bond shall have been duly called for redemption and if, on or before the redemption date, there shall have been deposited with the Paying Agent in accordance with the Ordinance funds sufficient to pay the redemption price of such Bond on the redemption date, then such Bond shall become due and payable at such redemption date, and from and after such date interest will cease to accrue thereon. Failure to deliver any redemption notice or any defect in any redemption notice shall not affect the validity of the proceeding for the redemption of Bonds with respect to which such failure or defect did not occur. Any Bond redeemed prior to its maturity by prior redemption or otherwise shall not be reissued and shall be cancelled.

The Paying Agent shall maintain registration books in which the ownership, transfer and exchange of Bonds shall be recorded. The person in whose name this bond shall be registered on such registration books shall be deemed to be the absolute owner hereof for all purposes, whether or not payment on this bond shall be overdue, and neither the City nor the Paying Agent shall be affected by any notice or other information to the contrary.

This bond may be transferred or exchanged at the principal office of the Paying Agent in Denver, Colorado, or at such other office of the Paying Agent designated by the Paying Agent for such purpose for a like aggregate principal amount of Bonds of other authorized denominations (\$5,000 or any integral multiple thereof) of the same maturity and interest rate, upon payment by the transferee of a reasonable transfer fee established by the Paying Agent, together with any tax or governmental charge required to be paid with respect to such transfer or exchange and any cost of printing bonds in connection therewith. Upon surrender for transfer of any Bond duly endorsed for transfer or accompanied by an assignment duly executed by the Owner or his or her attorney duly authorized in writing, the City shall execute and the Paying Agent shall authenticate and deliver in the name of the transferee a new Bond. Notwithstanding any other provision of the Ordinance, the Paying Agent shall not be required to transfer any Bond (a) which is scheduled to be redeemed in whole or in part between the Business Day immediately preceding the mailing of the notice of redemption and the redemption date; or (b) between the Record Date for any Interest Payment Date and such Interest Payment Date.

The Ordinance may be amended or supplemented from time to time with or without the consent of the registered owners of the Bonds as provided in the Ordinance.

It is hereby certified that all conditions, acts and things required by the Charter, the Constitution and laws of the State, including the Act, and the ordinances of the City, to exist, to happen and to be performed, precedent to and in the issuance of this bond, exist, have happened and have been performed, and that neither this bond nor the other bonds of the issue of which this bond is a part exceed any limitations prescribed by the Charter, the Constitution or laws of the State, including the Act, or the ordinances of the City.

This bond shall not be entitled to any benefit under the Ordinance, or become valid or obligatory for any purpose, until the Paying Agent shall have signed the certificate of authentication hereon.

IN WITNESS WHEREOF, the City Council of the City has caused this bond to be executed with the signature of its Mayor and attested by the signature of its City Clerk, and has caused the seal of the City to be impressed or imprinted hereon, all as of the date set forth below.

[CITY SEAL]

THE CITY OF ENGLEWOOD

By \_\_\_\_\_  
Mayor

Attest:

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

**CERTIFICATE OF AUTHENTICATION**

This bond is one of the bonds of the issue described in the within mentioned Ordinance.

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

UMB BANK, N.A., as Paying Agent

By \_\_\_\_\_  
Authorized Signatory

**APPROVING LEGAL OPINION**

Set forth below is a true copy of the approving legal opinion of Kutak Rock LLP, delivered on the date on which the Bonds were originally issued: [The form of legal opinion of Bond Counsel shall be set forth here.] I, the undersigned City Clerk of the City of Englewood, Colorado, do hereby certify that the foregoing approving opinion of Kutak Rock LLP, Denver, Colorado, is a true and complete copy of a manually executed and dated copy thereof on file in the official records of the City.

By (facsimile signature) \_\_\_\_\_  
City Clerk

**ASSIGNMENT**

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

\_\_\_\_\_

(Please print or typewrite name and address of Transferee)  
(Tax Identification or Social Security No.)

the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

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

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed:

\_\_\_\_\_  
Signature(s) must be guaranteed by a national bank or trust company or by a brokerage firm having a membership in one of the major stock exchanges.

**TRANSFER FEE MAY BE REQUIRED**

## COUNCIL COMMUNICATION

<b>DATE:</b> April 16, 2012	<b>AGENDA ITEM:</b> 11 a iv	<b>SUBJECT:</b> Ordinance Adopting Denver Seminary Planned Unit Development (PUD) Amendment 3
<b>INITIATED BY:</b> Kent Place Regency, LLC. 8480 East Orchard Road, Suite 6900 Greenwood Village, Colorado 80111		<b>STAFF SOURCE:</b> Brook Bell, Planner II

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

There has been no previous Council action concerning the proposed Denver Seminary PUD Amendment 3. Council approved the original Denver Seminary PUD on September 20, 2004 by Ordinance Number 52, Series of 2004; Amendment 1 was approved on February 23, 2007, by Ordinance 9, Series of 2007; and Amendment 2 was approved on June 20, 2008, by Ordinance 26, Series of 2008.

### PREVIOUS PLANNING COMMISSION ACTION

The Planning and Zoning Commission considered Denver Seminary PUD Amendment 3 at a Public Hearing conducted on March 20, 2012. The Commission considered testimony and voted 9 - 0 to forward the proposed Amendment 3 to City Council with a favorable recommendation for adoption with the following conditions:

1. All approved conditions and requirements established under the Denver Seminary PUD, Denver Seminary PUD - Amendment 1, and Denver Seminary PUD - Amendment 2 shall apply unless amended by Amendment 3.
2. That a Financial Institution with Drive-Through Service use shall be limited to Lot 3 per the Site Plan.
3. That the Financial Institution with Drive-Through Service shall be limited to two drive-through lanes.

### RECOMMENDED ACTION

Staff recommends adoption of a proposed bill for an ordinance approving the Denver Seminary PUD Amendment 3 and setting May 7, 2012 as the date for Public Hearing to consider public testimony on the amendment.

## BACKGROUND

The subject property is an 11.41 acre site at the northwest corner of South University Boulevard and East Hampden Avenue (US 285). The site was occupied by a seminary for more than 40 years. In 2004 it was rezoned by Council upon a request by JVF, LLC from R-3-B residential zoning to Planned Unit Development. The rezoning allowed 350 for-sale residential units and up to 65,000 square feet of retail space.

In December 2005, JVF, LLC transferred ownership of the site to Continuum Partners, LLC. In February of 2007, Continuum Partners requested and received approval of Amendment 1 which included:

- A reduction in retail area and related parking ratios
- Modification of building configurations to increase efficiency.
- A change in turn-lane configuration.

Following approval of Amendment 1, Continuum demolished all but one building on the site and constructed sound walls on the west and north boundaries.

In June of 2008, Continuum Partners requested and received approval of Amendment 2 which included:

- Creation of three building envelopes in which an allowed use or activity may occur provided all PUD dimensional requirements are met.
- The addition of Single-unit Residential, Two-unit Residential, and Hotel uses to the Table of Allowed Uses.
- An increase in the permitted retail/commercial space.
- A decrease in the permitted number of residential units.
- Dormer restrictions on structures along west property line.

Amendment 2 acknowledged the need for flexible development options.

In July of 2010, Continuum Partners proposed a new concept for a retail development that included:

- An increase in the permitted retail/commercial space.
- Changes to the Table of Allowed Uses including the addition of Fuel Dispensing and the removal of Residential uses.

The neighborhood did not support the proposed concept and a formal PUD amendment application for the proposed concept was not submitted.

In November of 2010, Continuum Partners presented another development concept to Staff that maintained residential uses and included approximately 58,000 square feet of retail uses. The proposed concept complied with the dimensional and use requirements of the approved PUD as amended.

In December of 2010, Continuum partnered with Regency Centers forming Kent Place Regency, LLC to develop the retail portion of the site. Ownership of the residential portion of the site was transferred to Kent Place Associates, LLC for future development of the residential portion of the site.

In June of 2011, Kent Place Regency, LLC submitted plans for the first construction permit on the retail portion of the site. The retail portion of the site includes:

- A small grocery market on Lot 1, of 30,000 square feet plus a 10,000 square feet second story mezzanine.
- Two single story retail buildings (A and B) on Lot 2, with 8,960 square feet and 4,800 square feet.
- A 4,344 square feet bank on Lot 3.

In March of 2012 building permit applications for the market and two single story retail buildings were approved. Construction of utilities, street improvements, retaining walls, grading, and storm water detention for the retail portion of the site is substantially complete.

### **AMENDMENT 3 OVERVIEW**

In November of 2011, Kent Place Regency, LLC desired to include a drive-through teller lane and a drive-through ATM lane in conjunction with the proposed bank on Lot 3. The approved PUD as amended allows a Financial Institution without Drive-Through Service; however, the addition of a Financial Institution with Drive-Through Service requires a PUD amendment application pursuant to the same procedures under which the original plans were approved.

The focus of Amendment 3 is to add Financial Institution with Drive-Through Service to the Table of Allowed Uses. Amendment 3 proposes no changes to the PUD's building envelopes, setbacks, building height, parking, drainage, landscaping, and signage requirements. A detailed site plan, landscape plan, and building elevations have been included in the PUD amendment application. The proposed bank building elevations are compatible with the grocery market and retail building elevations that have been approved. If Amendment 3 is approved, the applicant will be required to construct the project per the proposed site plan and elevations.

### **FINANCIAL IMPACT**

The proposed 4,344 square feet bank on Lot 3 will generate approximately \$11,000 in one-time use tax and building permit fees. As the property transitions from vacant to developed, additional property tax revenues would also be generated.

### **LIST OF ATTACHMENTS**

Staff Report (March 20, 2012)  
Planning and Zoning Commission Minutes (March 20, 2012)  
Planning and Zoning Commission Findings of Fact  
Proposed Bill for an Ordinance



CITY OF ENGLEWOOD  
COMMUNITY DEVELOPMENT

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**TO:** Planning and Zoning Commission  
**THRU:** Alan White, Community Development Director ✓  
**FROM:** Brook Bell, Planner II ✓  
**DATE:** March 20, 2012

**SUBJECT:** Case ZON2012-001 - Public Hearing  
Denver Seminary Planned Unit Development Amendment 3

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**APPLICANT:**

Kent Place Regency, LLC.  
8480 East Orchard Road, Suite 6900  
Greenwood Village, Colorado 80111

**PROPERTY OWNERS:**

Kent Place Regency, LLC.  
Kent Place Investors, LLC  
8480 East Orchard Road, Suite 6900  
Greenwood Village, Colorado 80111

**PROPERTY OWNER (Adjacent):**

Kent Place Associates, LLC  
210 University Boulevard, Suite 700  
Denver, Colorado 80206

**PROPERTY ADDRESS:**

3495 South University Boulevard

**REQUEST:**

The applicant has submitted an application to amend the Denver Seminary Planned Unit Development (PUD) which was first approved by City Council on September 20, 2004 as Ordinance Number 52, Series of 2004; with Amendment 1 approved on February 23, 2007, by Ordinance 9, Series of 2007; and Amendment 2 approved on June 20, 2008, by Ordinance 26, Series of 2008.

**RECOMMENDATION:**

The Department of Community Development recommends that the Planning and Zoning Commission review the Denver Seminary PUD Amendment 3 and forward a recommendation for approval to City Council with the following conditions:

1. All approved conditions and requirements established under the Denver Seminary PUD, Denver Seminary PUD - Amendment 1, and Denver Seminary PUD - Amendment 2 shall apply unless amended by Amendment 3.

**LEGAL DESCRIPTION:**

Lots 1, 2, and 3, Kent Place First Filing Second Amendment, and Lot 2 Kent Place First Filing First Amendment

**ZONE DISTRICT:**

Denver Seminary Planned Unit Development, as Amended.

**PROPERTY LOCATION AND SURROUNDING LAND USE:**

The subject property of this PUD amendment is located at the northwest corner of South University Boulevard and East Hampden Avenue. Land to the north and west of the subject property is within the City of Englewood. Adjoining land to the north is zoned R-1-A Residential Single Dwelling Unit District and contains detached single-unit dwellings. Adjoining land to the west is zoned MU-R-3-B Mixed-Use Residential/Limited Office-Retail District and contains an attached single-unit dwelling development known as Kent Village. Land to the east of the site, across South University Boulevard, is within unincorporated Arapahoe County and is zoned R-2 (County zoning designation). Land south of the site is within Cherry Hills Village and is zoned R-1 and R-3A (Cherry Hills Village zoning designation). Land within these areas contains residential detached single-unit dwellings.

**PUD AMENDMENT PROCEDURE:**

As stated in Sections E1b and E2b of the original Denver Seminary PUD District Plan Development Standards, major modifications to the District Plan and site plan amendments may only be made pursuant to the same procedures under which the original plans were approved. Therefore a pre-application neighborhood meeting, City review and public hearings before the Planning and Zoning Commission and City Council are required.

**BACKGROUND:**

The Planned Unit Development is a rezoning process that establishes specific zoning and site planning criteria to meet the needs of a specific development proposal that may not be accommodated within existing zoning development regulations. A PUD rezoning provides the opportunity for unified development control for multiple properties or multiple uses.

The Denver Seminary PUD is an 11.41 acre site previously occupied by a theological seminary for more than forty years. The site was the subject of a rezoning application by JVF, LLC. The rezoning was approved by Council on September 20, 2004 as Ordinance Number 52, Series of 2004. The property was transferred from JVF, LLC to Continuum Partners, LLC in December of 2005.

In February of 2007, Continuum Partners requested and received approval of Amendment 1 which included:

- A reduction in retail area and related parking ratios.
- Modification of building configurations and associated building envelopes.
- A change in turn-lane configuration to mitigate intersection conflicts identified by Colorado Department of Transportation.

Following approval of Amendment 1, Continuum demolished all but one building on the site and constructed sound walls on the west and north boundaries.

In June of 2008, Continuum Partners requested and received approval of Amendment 2 which included:

- Creation of three building envelopes in which an allowed use or activity may occur provided all PUD height, setback, bulk plane, and floor area requirements are met.
- Added Single-unit Residential, Two-unit Residential, and Hotel uses to the Table of Allowed Uses.
- An increase in the permitted retail/commercial space to 75,000 square feet from 51,500 square feet.
- A decrease in the permitted number of residential units from 350 to 300.
- Dormer restrictions on structures along west boundary (as negotiated with Kent Village)

Amendment 2 acknowledged the need for flexible development options by establishing the three development envelopes.

In July of 2010, Continuum Partners proposed a new concept for a retail development that included:

- An increase in the permitted retail/commercial space to 125,000 square feet from 75,000 square feet.
- Changes to the Table of Allowed Uses including the addition of Fuel Dispensing use and the removal of Residential uses.

Continuum Partners then conducted the required PUD Pre-application Neighborhood Meeting where the public did not support the proposed concept. A formal PUD amendment application for the proposed concept was not submitted.

In November of 2010, Continuum Partners presented another development concept to Staff that maintained residential uses and included approximately 58,000 square feet of retail uses. The proposed concept complied with the dimensional and use requirements of the approved PUD as amended, and did not require a new amendment. Continuum met informally with neighborhood representatives to obtain feedback on the proposed concept.

In December of 2010, Continuum then partnered with Regency Centers forming Kent Place Investors, LLC and subsequently Kent Place Regency, LLC to develop the retail portion of the site. The residential portion of the site was subdivided and transferred to Kent Place Associates, LLC for future development of the residential portion of the site.

In June of 2011, Kent Place Regency, LLC submitted plans for the first construction permit on the retail portion of the site. The retail portion of the site includes:

- A small grocery market on Lot 1, of 30,000 square feet plus a 10,000 square foot second story mezzanine.
- Two single story retail buildings (A and B) on Lot 2, with 8,960 square feet and 4,800 square feet.
- A 4,344 square feet bank on Lot 3.

Since June of 2011, site plans and building elevations for the grocery market and two single story retail buildings have been approved. Building permit applications for the market and two single story retail buildings are currently under review. Off-site utility and street improvements to US Highway 285 and University Boulevard (including the required traffic signal) are substantially complete. The on-site retaining wall, utilities, grading, and storm water detention are also substantially complete.

In November of 2011, Kent Place Regency, LLC indicated they desired to include a drive-through teller lane and a drive-through ATM lane in conjunction with the proposed bank on Lot 3. The approved PUD as amended allows a Financial Institution *without* Drive-Through Service; however, the addition of a Financial Institution *with* Drive-Through Service requires a PUD amendment application pursuant to the same procedures under which the original plans were approved.

#### **NEIGHBORHOOD MEETING SUMMARY:**

Pursuant to the Denver Seminary PUD amendment procedure, the applicant conducted a neighborhood meeting on January 12, 2012, prior to submitting the application for Amendment 3 on January 24, 2012. Notice of the pre-application meeting was mailed to property owners and occupant of property within 1000 feet of the site. The notification area included properties within Englewood, as well as Cherry Hills Village, Denver, and unincorporated Arapahoe County. Neighborhood meeting notes are attached to this report (See Exhibit B).

#### **CITY DEPARTMENT AND DIVISION REVIEW:**

The Amendment 3 PUD District Plan and Site Plan were reviewed by the City's Development Review Team (DRT) on February 7, 2012. Identified issues were addressed by the applicant and the final Denver Seminary PUD Amendment 3 packet was submitted on February 15, 2012.

#### **OUTSIDE AGENCY COMMENTS:**

Preliminary plans of the proposed Denver Seminary PUD Amendment 3 were referred to Arapahoe County, the City and County of Denver, Cherry Hills Village, Tri-County Health and the Colorado Department of Transportation (CDOT) for review and comment. CDOT comments and the applicant's responses are attached as Exhibits D-F. Comments from Tri-County Health and the applicant's response are attached as Exhibit G-H. Arapahoe County comments are attached as Exhibit I. If any other formal comments are received before the public hearing, Staff will present them during the hearing. Cherry Hills Village and the City of Denver did not provide comments.

**ANALYSIS:**

Unless modified through this Amendment 3 application, all conditions and requirements of the PUD as amended remain in effect.

**Permitted Uses:**

The following addition to the Table of Allowed Uses is proposed:

- *Financial Institution with Drive-Through Service.* Please note that currently, the category "Financial Institution without Drive-Through Service" is permitted. Adding "Financial Institution with Drive-Through Service" as an allowed use does not add "drive through" to all the other uses in the table. In other words, this particular PUD Amendment is for a specific drive-through use and "drive-through" is not transferrable to other uses. Any other uses for which a drive-through is contemplated must go through the formal PUD Amendment process (unless it's another bank).

**Phasing:** The retail development including the proposed bank with drive-through service is anticipated to be done in phases with a completion of the project by the end of 2012.

**Envelope Plan:**

Amendment 3 does not propose any changes to the Envelope Plan; however, the applicant's proposed site plan and elevations (PUD sheets 5-8) provide a more detailed proposal for Envelope 3 than the previous PUD amendment. If Amendment 3 is approved, the applicant will be required to construct the project per the proposed site plan and elevations.

**Setbacks:** A setback is the minimum distance a structure must be located from an adjacent property line. Amendment 3 does not propose any changes to the setbacks and the location of the proposed structures comply with the existing PUD.

**Building Height:** All building heights in the PUD are based on United States Geological Survey (USGS) elevations. The most restrictive building height limit in the existing PUD's Envelope 3 is 5,432 feet (USGS). The proposed bank building height is 5,426.20 feet at its highest point, which complies with the existing PUD.

**Parking:** Amendment 3 does not propose any changes to the existing PUD parking requirements. The parking ratio for retail use is 4 spaces per 1,000 square feet; therefore 18 spaces are required for the proposed bank. 27 parking spaces are provided which meets the existing PUD requirement. The bicycle parking ratio remains unchanged, and the proposed bank meets the requirement with 2 bicycle spaces.

**Traffic:** Amendment 3 proposes no changes to the site's access/entry points. The project will meet all State, City and County development requirements. The applicant's traffic engineer, Fox Tuttle Transportation Group, provided a letter with the application (Exhibit C) regarding the increase in the proposed bank's building square footage from 3,800 square feet to 4,344 square feet. The approved traffic study anticipated a 3,800 square foot bank. The increase in square footage and any associated traffic impacts are addressed in the Fox

Tuttle letter (Exhibit C), associated referral response from CDOT (Exhibit D), and subsequent correspondence (Exhibits E & F). CDOT and the City Traffic Engineer reviewed the correspondence in Exhibits C through F, and concurred that the proposed increase in square footage has a minor net effect on site traffic impacts.

**Drainage:** Drainage and grading concepts remain as approved in the existing PUD.

**Landscaping:** No landscaping amendments are proposed. The proposed landscape plan complies with the requirements of the existing PUD.

**Fencing and Signage:** No fencing or signage amendments are proposed. The proposed signage for the bank complies with the requirements of the existing PUD.

**SUMMARY:**

Community Development considers the proposed PUD Amendment 3 to be a relatively minor request. Amendment 3 proposes no changes to the PUD's building envelopes, setbacks, building height, parking, drainage, landscaping, and signage requirements. The inclusion of a detailed site plan, landscape plan, and building elevations provides the City and community with greater certainty as to what will be developed. The proposed bank building elevations are compatible with the grocery market and retail building elevations that have been approved. If Amendment 3 is approved, the applicant will be required to construct the project per the proposed site plan and elevations.

The focus of Amendment 3 is to add Financial Institution with Drive-Through Service to the Table of Allowed Uses. The existing PUD allows Financial Institution without Drive-Through Service as a permitted use. The proposed amendment would simply allow drive-through lanes for a financial institution. In terms of hours of operation, noise, odors, and business characteristics, the proposed bank has potentially less impacts than other uses that are permitted by the existing PUD. Additionally, any impacts associated with the drive-through lanes are mitigated by the positioning of the drive-through canopy and the proposed landscaping.

**PLANNED UNIT DEVELOPMENT CONSIDERATIONS:**

Amendments to the Denver Seminary Planned Unit Development are addressed under the same procedure as the original PUD application. Therefore the Commission must determine if the modifications proposed in Amendment 3 meet District Plan and Site Plan criteria as established in the PUD Ordinance. Consideration at this time is made only to the modifications addressed in Amendment 3.

**PUD District Plan**

The District Plan sets forth the zoning regulations under which the proposed amendments will occur.

1. *The PUD District Plan is, or is not, in conformance with the District Plan requirements and the Comprehensive Plan.*

Amendment 3 is in conformance with District Plan requirements and does not alter the Comprehensive Plan objectives for housing, cultural arts and business and employment identified in the original PUD.

2. *All required documents, drawings, referrals, recommendations, and approvals have been received.*

All appropriate documents concerning Amendment 3 have been received. All future documents and drawings associated with a building permit application shall be reviewed for compliance by the Development Review Team.

3. *The PUD District Plan is consistent with adopted and generally accepted standards of development in the City of Englewood.*

The Amendment 3 District Plan remains consistent with accepted development standards established by the City of Englewood.

4. *The PUD District Plan is substantially consistent with the goals, objectives, design guidelines, policies and any other ordinance, law or requirement of the City.*

Amendment 3 conforms to all other ordinances, laws and requirements of the City.

5. *When the PUD District Plan is within the Englewood Downtown Development Authority (EDDA) area, the Plan is consistent with the EDDA approved designs, policies and plans.*

Not applicable.

#### PUD Site Plan

The Site Plan sets forth the site planning and design parameters under which the proposed amendments will occur.

1. *The PUD Site Plan is, or is not, in conformance with the District Plan requirements.*

The building envelopes, setbacks, building height, parking, drainage, landscaping, and signage proposed in Amendment 3 are in conformance with the District Plan requirements.

2. *All required documents, drawings, referrals, recommendations, and approvals have been received.*

All required site plan materials have been received. All future documents and drawings associated with a building permit application shall be reviewed for compliance by the Development Review Team.

3. *The PUD Site Plan is consistent with adopted and generally accepted standards of development of the City of Englewood.*

Amendment 3 is consistent with development standards set forth in the District Plan.

4. *The PUD Site Plan is substantially consistent with the goals, objectives and policies and/or any other ordinance, law or requirement of the City.*

The proposed PUD Site Plan presented in Amendment 3 is in substantial conformance with all other ordinances, laws and requirements of the City.

**ATTACHMENTS:**

- Exhibit A: Denver Seminary PUD Amendment 3
- Exhibit B: Neighborhood Meeting Summary - January 12, 2012
- Exhibit C: Fox Tuttle Transportation Group - Letter dated January 19, 2012
- Exhibit D: CDOT Region 6 - Email dated February 1, 2012
- Exhibit E: Fox Tuttle Transportation Group - Letter dated February 16, 2012
- Exhibit F: Regency Centers - Email dated February 17, 2012
- Exhibit G: Tri-County Health Department - Letter dated February 9, 2012
- Exhibit H: Regency Centers - Letter dated February 29, 2012
- Exhibit I: Arapahoe County (Engineering) comments dated February 10, 2012

**Denver Seminary PUD Amendment  
Neighborhood Meeting  
Denver First Church – Fellowship Hall, 3800 East Hampden Avenue  
January 12, 2012**

Attendees: Approximately 39 (see attached sign-in sheets)

Applicant Presentation

1. Frank Cannon of Kent Place Regency, LLC, went over the agenda for the evening and introduced the development team.
2. Eric Chekal of Kent Place Regency, LLC provided an update on the status of the project:
  - Forum (owner of the multi-family residential portion of the PUD) was not able to attend tonight. Forum is not an applicant in this PUD Amendment: however, Forum is working on the architecture of their buildings and anticipates presenting elevations to the City and steering committee in the next 60 days.
  - The existing Seminary building will likely be demolished beginning in February.
  - Traffic signal will be tested in January, not sure when they will activate.
  - Waterline and other infrastructure is complete Site work is currently on hold for weather, site is fenced.
  - Described "fresh fare" grocery concept. Will be 40,000 sf, typical grocery store is 80,000 sf.
  - Grocery store elevations have been approved by the City. Elevations for Retail A & B buildings have been submitted for review.
  - A Building Permit application has been submitted for the grocery store and is under review. Anticipate that grocery store construction will begin in late February.
  - Anticipates that construction of Retail A & B will begin in April.
3. Al Colussi of Klipp Architects discussed the plans for the commercial portion of the site.
  - As the master planned his goal was to bring some unity to the site.
  - The grocery store was situated to hide its service functions behind a wall and solid roll-up door.
  - Parking ratios were kept to a minimum and the parking lot is much lower than the street. Wide sidewalks will be provided.
  - The residential building wraps the commercial building. The residential parking is below the residential building.
  - Mr. Colussi showed 3D images of the commercial buildings wrapped by the residential.
  - Retail Building A will have 3-4 tenants with possible outdoor seating. The elevated patio for Retail A is a good gathering place.
4. Frank Cannon of Kent Place Regency, LLC provided information on the proposed PUD Amendment for a bank with a drive-through operation.
  - The bank is proposed with one drive-up teller lane and one drive-up 24hr ATM lane.

- Of the bank's teller transactions approximately 80% of the transactions occur inside the bank and 20% occur at the drive-up teller.
- Of the bank's ATM transactions approximately 45% of the transactions occur at the ATM inside the bank and 55% occur at the drive-up ATM.
- Mr. Cannon reviewed the PUD Amendment process and anticipated schedule.

#### 5. Public Comment

The public asked questions and provided comments. The comments from the public varied between questions about the overall Kent Place project as well as the drive-through bank. The applicant responded to the questions and comments (*in italics*). Key issues were: (not in any order)

#### Traffic

- How will the bank drive-through affect traffic patterns? *Mr. Cannon went over the traffic patterns.*
- Will car lights from the drive-through shine into the neighborhood? *When cars are at the drive-through canopy they will be facing west with lights pointed towards the proposed residential portion of the project. As cars approach the drive-through their lights will be shielded by a landscaped berm to the east and landscape plantings to the north.*
- Does the traffic study take into account a drive-through bank? *Yes, the original approved traffic study took a 3,800 square foot drive-through bank into account. An addendum is being prepared to account for the increase in square footage of the proposed 4,344 square foot drive-through bank.*

#### Bank

- If you eliminate the drive-through, is a stand-alone bank viable? *No, Chase Bank will not locate there without a drive-through. The other banks we pursued had the same need for a drive-through.*
- How often will armored cars come to the bank? *We can't answer that question for security purposes.*
- How many customers will the bank have per day? *The applicant did not have an estimate on-hand for this size of bank at this exact location.*
- Does the drive-through have an attendant in the main bank or at the canopy? *The teller servicing the drive-through will be located in the main bank rather than the canopy.*
- The neighbor who lives directly north of the proposed drive-through bank spoke in support of the drive-through bank as he believes it will have fewer impacts than other uses that would be allowed by the existing PUD.

#### Overall Kent Place Development

- Concern for the aesthetics of the street light associated with the traffic signal. *The street light associated with the traffic signal is a standard for this type of application. We are currently looking into alternatives for shielding and lower wattage fixtures.*
- Will the grocery store have a bank inside of it? *Currently, the fixture plan for the grocery store building permit does not have a bank shown.*

- Will the grocery store be open 24 hours per day? *That has not been determined yet.*
  - Do you have elevations of the west side of the residential development yet? *The developer of the residential portion of the project is currently working on various building elevation alternatives.*
  - How many trucks will come on to the site per day? *Approximately three semi-trucks and additional smaller delivery vehicles.*
  - Do you have signed leases yet on retail buildings A & B? *Not at this time, but there is a lot of interest and we are speaking with high quality tenants that we think will be the best fit.*
  - Will the sidewalk on the east side of University Blvd. continue to Hampden Ave.? *The sidewalk on the east side of University Blvd. will extend from East Floyd Ave. southward to the bus stop and cross walk directly east of the Kent Place entrance from University.*
6. City staff outlined the PUD process and next steps. City staff contact information was provided

**MEMORANDUM**

**To:** Eric Chekal, Regency Centers  
**From:** Steve Tuttle, P.E., PTOE  
**Date:** January 19, 2012  
**Project:** Kent Place  
**Subject:** Bank Use Trip Generation Addendum

Per our discussions, we understand that the bank use proposed in the Kent Place development is planned to be a 4,344 square foot (SF) drive-in bank facility. This represents a larger use than previously analyzed in the Kent Place Traffic Impact Study, prepared by Fox Higgins, dated June 29, 2011. The purpose of this memorandum is to document the proposed change within the context of the traffic study assumptions and with respect to the site trip generation.

The Kent Place Traffic Impact Study assumed a 3,800 SF drive-in bank. Per ITE trip generation rates for this use and internal trip factors, it was estimated that the bank use would generate 479 daily automobile trips on a typical weekday, with 40 trips occurring in the AM peak hour (22 in, 18 out) and 83 trips occurring in the PM peak hour (42 in, 41 out). Note that the original traffic study had assumed a drive-in bank facility vs. a walk-in only bank.

With the change to 4,344 SF and using the same ITE trip rates and methodology, the bank use is estimated to generate 547 daily, 46 AM (26 in, 20 out), and 95 PM (48 in, 47 out) automobile trips. The net result is 6 additional AM peak hour trips (+4 in, +2 out) and 12 additional PM peak hour automobile trips (+6 in, +6 out). This results in less than one vehicle per cycle at the adjacent signalized intersections. The impact of these additional trips is negligible in terms of operational impacts.

I hope that the contents of this memorandum are helpful to you. If you have any questions, please feel free to give me a call.

SGT/

Attachments:  
Trip Generation Table 2 - Original and Revised



**Table 2. Trip Generation Estimate - Original Bank Use (3,800 SF)**

Land Use	Size	Unit	Internal Trip Factor*	Average Daily Trips				A.M. Peak Hour Trips				P.M. Peak Hour Trips			
				Rate	Total	In	Out	Rate	Total	In	Out	Rate	Total	In	Out
ITE 850 - Supermarket	40.018	1,000 SF	0.85	102.24	3478	1739	1739	3.59	122	74	48	10.50	357	182	175
ITE 814 - Specialty Retail Center	11.36	1,000 SF	0.85	44.32	428	214	214	1.00	10	6	4	2.71	26	11	15
ITE 932 - High-Turnover (Sit-Down) Restaurant	2.4	1,000 SF	0.85	127.15	259	130	129	11.52	24	12	12	11.15	23	14	9
ITE 912 - Drive-In Bank	3.8	1,000 SF	0.85	148.15	479	240	239	12.35	40	22	18	25.82	83	42	41
ITE 220 - Apartment	300	D.U.	0.85	6.65	1696	848	848	0.51	130	26	104	0.62	158	103	55
<b>Totals:</b>					<b>6340</b>	<b>3170</b>	<b>3170</b>		<b>326</b>	<b>140</b>	<b>186</b>		<b>647</b>	<b>352</b>	<b>295</b>

**Table 2. Trip Generation Estimate - Modified Bank Use (4,344 SF)**

Land Use	Size	Unit	Internal Trip Factor*	Average Daily Trips				A.M. Peak Hour Trips				P.M. Peak Hour Trips			
				Rate	Total	In	Out	Rate	Total	In	Out	Rate	Total	In	Out
ITE 850 - Supermarket	40.018	1,000 SF	0.85	102.24	3478	1739	1739	3.59	122	74	48	10.50	357	182	175
ITE 814 - Specialty Retail Center	11.36	1,000 SF	0.85	44.32	428	214	214	1.00	10	6	4	2.71	26	11	15
ITE 932 - High-Turnover (Sit-Down) Restaurant	2.4	1,000 SF	0.85	127.15	259	130	129	11.52	24	12	12	11.15	23	14	9
ITE 912 - Drive-In Bank	4.344	1,000 SF	0.85	148.15	547	274	273	12.35	46	26	20	25.82	95	48	47
ITE 220 - Apartment	300	D.U.	0.85	6.65	1696	848	848	0.51	130	26	104	0.62	158	103	55
<b>Totals:</b>					<b>6408</b>	<b>3204</b>	<b>3204</b>		<b>332</b>	<b>144</b>	<b>188</b>		<b>659</b>	<b>358</b>	<b>301</b>

\* Applies a 15% reduction in retail trips to account for multi-use trips (trips where a retail patron visits more than one retail use in one trip); applies a 15% non-auto use for residential trips to account for residents of the apartments on site who walk to retail uses, drive to retail uses, and/or stop at one or more site uses on their way into or out of the site (and do not create a unique, external vehicle trip)

**Brook Bell**

---

**From:** Allen, Kirk  
**Sent:** Wednesday, February 01, 2012 3:39 PM  
**o:** Brook Bell  
**Cc:** Ladd Vostry; Sheehan, Bradley  
**Subject:** CDOT Ref # 006712 for SH 285, Englewood Case # ZON2012-001

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**STATE OF COLORADO**

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**DEPARTMENT OF TRANSPORTATION**

Region 6 Traffic  
Access/Utilities Permits  
Roadside Advertising  
2000 South Holly Street  
Denver, Colorado 80222  
303-757-9531 FAX 303-757-9886  
1 February 2012

Brook Bell  
City of Englewood, Comm. Dev.  
1000 Englewood Parkway  
Englewood, CO 80110

**RE: KENT PLACE ACCESS PERMIT REVISION**

Dear Brook Bell,

The Colorado Department of Transportation does not object to the increase in size of the drive in bank (ITE 912) from 3800 sq. ft. to 4344 sq. ft. It should be noted, however, that the increase in the drive in bank trip generation shall be absorbed by the currently permitted adt. This may be accomplished by either reducing the traffic generation by one of the other permitted uses or adjusting the internal capture based on observation.

Please contact me with any questions or concerns and thank you for including CDOT in your planning process.

Sincerely,

Kirk Allen  
Colorado Department of Transportation  
Region 6 Access Manager



## MEMORANDUM

**To:** Kirk Allen  
Colorado Department of Transportation Region 6 Access

**From:** Steve Tuttle, P.E., PTOE

**Date:** February 16, 2011

**Project:** Kent Place

**Subject:** Access Permit Revision

We have reviewed the February 1, 2012 letter that you provided to the City of Englewood in response to the proposed increase in the drive-through bank site (3,800 to 4,333 sq. ft) within the Kent Place development. Within the context of your letter and to follow up on the Bank Use Trip Generation Addendum letter provided by Fox Tuttle (dated January 19, 2012), we would like to clarify the volume of anticipated additional site trips that will be incurred at the Hampden Ave. (US 285) access and subject to the provisions of the CDOT Access Permit.

The existing Access Permit specifies a PM-peak volume of 195 vehicles per hour. Using the same trip generation and distribution assumptions discussed in detail in the traffic impact study and addendum letter, it is estimated that the increased bank size will result in one additional inbound trip and one additional outbound trip at the Hampden Blvd. access in the PM peak hour. Thus, the anticipated increase represents 1% of the total permitted access volume. Given that we feel that the original traffic study internal capture assumptions were conservatively low, we feel that these additional trips can be absorbed within the currently permitted access volume without restudy and/or adjustment (reapplication) of the Access Permit.

If additional changes to the land use plan are proposed that would increase the site trip generation estimates and potentially affect the Hampden access driveway totals, it is understood that these changes will need to be addressed similarly at that time. Please let me know if you have any questions or would like to discuss.

SGT/

**Brook Bell**

---

**From:** Chekal, Eric |  
**Sent:** Friday, February 17, 2012 12:55 PM  
**To:** Brook Bell; Ladd Vostry  
**Cc:** Steve Tuttle  
**Subject:** FW: Kent Place Access Permit  
**Attachments:** 10025\_access permit-bank use.pdf

Brook

The attached memo and the email below from CDOT should close the loop. Please let me know if you have any questions or need anything else.

Eric

**From:** Allen, Kirk |  
**Sent:** Friday, February 17, 2012 8:33 AM  
**To:** Steve Tuttle  
**Cc:** Chekal, Eric  
**Subject:** RE: Kent Place Access Permit

Steve,

Thank you for the clarification and the commitment to address potential trip generation changes as they arise. I do concur with your analysis.

Thanks,

**Kirk Allen**

R-6 Access Permit Manager

Colorado DOT

2000 S. Holly Street

Denver, CO 80222

303) 757-9531

**From:** Steve Tuttle  
**Sent:** Friday, February 17, 2012 8:11 AM  
**To:** Allen, Kirk  
**Cc:** 'Chekal, Eric'  
**Subject:** Kent Place Access Permit

Kirk:

Please review the attached memo and let me know if you concur and/or if anything else is needed at this point.

This information should be helpful for the developer and City as the project moves forward and the remaining pads/units are built out.

Thanks,  
Steve

*Steve Tuttle, P.E., PTOE*

*Fox Tuttle Transportation Group, LLC*

*P.O. Box 19768*

*Boulder, CO 80308-2768*

*Phone: 303-652-3571*

*Fax: 303-374-6347*

*Mobile: 303-875-2280*



February 9, 2012

Mr. Brook Bell  
Planner II  
City of Englewood  
Community Development Department  
Englewood, Colorado 80110

RE: ZON2012-001, Denver Seminary Planned Unit Development - Third Amendment  
TCHD Case #2662

Dear Mr. Bell:

Thank you for the opportunity to review and comment on the third amendment to the Denver Seminary Planned Unit Development (PUD).

Tri-County Health Department (TCHD) promotes community planning that makes it easy for people to choose healthy behaviors. An example of a healthy behavior would be regular physical activity, such as walking, which helps prevent heart disease, diabetes, and other serious health conditions. We applaud the architectural character statement of the PUD, which encourages physical activity by future residents and visitors by emphasizing the importance of the pedestrian realm.

While this amendment would allow for a new use that would generate what is estimated to be only a modest increase in automobile trips through the development, the design of the intersection at South University Boulevard could be improved to ensure pedestrian and cyclist safety. We would like to offer the following comments related to ways that the applicant can ensure the creation of a healthy community:

1. Consider re-aligning the angled crosswalks at the intersection of South University Boulevard and E. Girard Place so that they are designed to function the same way as those proposed at the intersection of E. Girard Place and the as-yet unnamed street that runs north/south. Angled ramps send pedestrians into the intersection rather than directing them squarely into the crosswalk. Reducing the radii of the two corners will also encourage drivers to reduce their speed as they enter the development, further ensuring the safety of pedestrian.
2. Consider the inclusion of a small pedestrian refuge area in the median at the east/west crossing of South University Boulevard. A refuge, combined with the proposed crosswalk, will provide a safe waiting space for travelers who are unable to cross the entire width of the street before automobile traffic resumes.

Again, thank you for this opportunity to review and provide comments on the Denver Seminary Planned Unit Development-Third Amendment. If you have any questions, please don't hesitate to contact me.

Sincerely,

Elizabeth Kay Marchetti, AICP  
Built Environment Policy Coordinator

CC: Carol MacLennan, Warren Brown, Hope Dalton, Vanessa Richardson, Laura DeGolier

February 29, 2012

Mr. Brook Bell, AICP  
Planner II  
City of Englewood  
1000 Englewood Parkway  
Englewood, CO 80110

RE: Kent Place PUD Amendment – Tri-County Health Department Response

Dear Brook,

Thank you for forwarding the Tri-County Health Department (TCHD) letter to us for a response. While we appreciate their recognition of the architect's intent to "emphasize the importance of the pedestrian realm" and that there will "only be a modest increase in automobile trips through the development" we do wish to respond to the two listed comments.

1. The radius of the curb returns at the intersection of E. Girard Place and University Boulevard were designed based on City of Englewood standards which are based on the road classifications and the type and size of vehicle that may access the site; fire trucks, moving trucks, delivery trucks, etc. The city standards call for this type of 45 degree ramp because the radius size and sidewalk configuration do not allow for two 90 degree ramps at the intersection. In response to reduced vehicle speeds, when vehicles enter the development they will encounter a landscaped drive lane which leads to a pedestrian friendly internal intersection. This drive lane configuration with landscaping, a narrowing drive lane, accent paved cross walks and two buildings close to the road will result in traffic calming.
2. The cross walk on the south side of the E. Girard Place and University Boulevard intersection has been designed to direct pedestrian traffic to the receiving ramp on the east side of the intersection and does not cross a raised median therefore there is not a location for a pedestrian refuge.

In addition the improvements that TCHD speaks of revising are not part of the PUD Amendment request and are located off of the proposed bank site. These improvements (handicap ramps, curb returns, street medians) have actually already been permitted and constructed in the field.

Please let me know if there are any additional requests associated with this submittal or if you have any questions.

Sincerely,

Regency Centers

Eric A. Chekal  
Senior Project Manager



ARAPAHOE COUNTY  
PROTECT. CONNECT. ENJOY.

EXHIBIT I

February 10, 2012

Brook Bell, Planner II  
City of Englewood  
Community Development  
1000 Englewood Parkway  
Englewood, CO 80110

**RE: Planned Unit Development (PUD) Amendment (Kent Place Development)  
City of Englewood Case No.: ZON2012-001  
Arapahoe County outside referral #O12-007**

Dear Mr. Bell,

The Arapahoe County Public Works and Development – Engineering Services Division (Staff) values the continued coordination between our jurisdictions regarding the Kent Place Development. The purpose of this letter is to inform you that Staff has no comments on the subject referral at this time. However, Staff would appreciate that this coordination continues with any future revisions that could impact operations to our shared infrastructure.

Please also note that the Arapahoe County Planning Division may follow with their comments under a separate document.

Thank you again for including Arapahoe County in your process and for the opportunity to respond. If you have any questions, please feel free to contact our department.

Sincerely

Irene Valenzuela, PE  
Engineer III

Cc: Charles V. Haskins, Engineering Services Division, Division Manager  
Larry Nimmo, Field Operations Administrator, City of Englewood  
Outside Referral Engineering File  
IV RDR

6924 South Lima Street | Centennial, CO 80112  
720-874-6500 Main | 720-874-6611 Fax | 720-874-6574 TDD | www.co.arapahoe.co.us

Building 720-874-6600	Engineering 720-874-6500	Support Services 720-874-6500	Transportation 720-874-6500	Planning 720-874-6650	Road and Bridge 720-874-6820
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**CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION  
REGULAR MEETING  
March 20, 2012**

**Minutes and audio are available at:**  
<http://www.englewoodgov.org/Index.aspx?page=152>

**I. CALL TO ORDER**



The regular meeting of the City Planning and Zoning Commission was called to order at 7:06 p.m. in the City Council Chambers of the Englewood Civic Center, Chair Knoth presiding.

Present: Bleile, Roth, King, Welker, Knoth, Fish, Brick, Kinton, Harbaugh  
Townley (alternate)

Absent: None

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

**II. APPROVAL OF MINUTES**

March 6, 2012



Roth moved:

Bleile seconded: TO APPROVE THE MARCH 6, 2012 MINUTES

Chair Knoth asked if there were any modifications or corrections.

There were none.

AYES: Bleile, Roth, Welker, Knoth, Fish, King, Brick, Kinton  
NAYS: None  
ABSTAIN: Harbaugh  
ABSENT: None

Motion carried.



Fish moved:

Bleile seconded: TO APPROVE THE FINDINGS OF FACT FOR CASES #2012-01,  
#2012-02 and #ZON2012-004

Chair Knoth asked if there were any modifications or corrections.

There were none.

AYES: Bleile, Roth, Welker, Knoth, Fish, King, Brick, Kinton  
NAYS: None  
ABSTAIN: Harbaugh  
ABSENT: None

Motion carried.

### **III. PUBLIC HEARING**



CASE #ZON2012-001, DENVER SEMINARY PLANNED UNIT DEVELOPMENT  
AMENDMENT NO. 3

Bleile moved:

Roth seconded: TO OPEN CASE #ZON2012-001

AYES: Bleile, Roth, Welker, Knoth, Fish, King, Brick, Kinton, Harbaugh  
NAYS: None  
ABSTAIN: None  
ABSENT: None

Motion carried.

Mr. Bell was sworn in and presented the case. He stated Amendment No. 3 would add Financial Institution with a Drive-Through Service to the Table of Allowed Uses.

#### APPLICANT TESTIMONY



Mr. Frank Cannon of Continuum Partners was sworn in and gave a PowerPoint slide show.

Mr. Erik Chekal of Regency Centers was sworn in and answered the Commission's questions.

#### DISCUSSION POINTS:

- How many lanes are being requested
- Is this a new bank branch or a relocation
- New traffic signal and reconfigured intersection at University and Hampden
- Stacking of vehicles on-site
- Traffic flow

- On-site parking
- On-site grade differences
- Screening of headlights
- Detention area
- Number of exits onto University Boulevard
- Interaction between pedestrians and vehicles
- Other potential permitted uses for the site

#### PUBLIC TESTIMONY



Testimony was received from:

John Binder. He suggested the Commission consider limiting the PUD to one drive-up and one ATM lane.

Martha Kirkpatrick. She stated she has been involved with the Kent Place redevelopment for the past two years and felt a bank was the most logical solution, the best use of space and the least impactful on the neighborhood. She stated she had received sufficient information and communication regarding the proposed change. The Developer has made a very thoughtful and win win situation for both the development, the neighbors and the community.

Michael Sares. He said for all the reasons Martha stated he is also in favor in this change to the PUD. He felt other uses, such as a restaurant, would be a much worse option. He said he feels the Kent Place redevelopers have done their best not only to accede to the community regarding the lighting but also even in terms of the landscaping. He said he has been very pleased and is in favor of the change.

Bleile moved:

King seconded: TO CLOSE CASE #ZON2012-001

AYES: Bleile, Roth, Welker, Knoth, Fish, King, Brick, Kinton, Harbaugh

NAYS: None

ABSTAIN: None

ABSENT: None

Motion carried.



Welker moved:  
Bleile seconded:

CASE #ZON2012-001, DENVER SEMINARY PLANNED UNIT DEVELOPMENT AMENDMENT NO. 3 BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION FOR ADOPTION WITH THE FOLLOWING AMENDMENTS:

- *All approved conditions and requirements established under the Denver Seminary PUD, Denver Seminary PUD - Amendment No. 1, and Denver Seminary PUD - Amendment No. 2 shall apply unless amended by Amendment No. 3.*
- *That a Financial Institution with Drive-Through Service use shall be limited to Lot 3 per the Site Plan.*
- *That the Financial Institution with Drive-Through Service shall be limited to two drive-through lanes.*

Mr. Fish said Amendment No. 3 is in compliance with the PUD District Plan and the PUD Site Plan; it is a good option.

Mr. Welker said he likes the evolution of the project and a bank is a better use than other possibilities. He said he feels there will be minimal impact to the neighborhood.

Mr. Kinton stated he feels the bank is the best use possible for the site.

Mr. Harbaugh stated he feels a bank is a good use for the property.

Mr. Bleile said it is a good plan and the developer has done a phenomenal job of working with the community. He stated he appreciated the public speaking out on the project.

Mr. King appreciated the positive, and no negative, comments from the public.

AYES: Bleile, Roth, Welker, Knoth, Fish, King, Brick, Kinton, Harbaugh  
NAYS: None  
ABSTAIN: None  
ABSENT: None

Motion carried.

#### **IV. PUBLIC FORUM**



There was no public comment.

**V. ATTORNEY'S CHOICE**



Ms. Reid had nothing further to report.

**VI. STAFF'S CHOICE**



Director White stated the April 3<sup>rd</sup> and 17<sup>th</sup> meeting discussion will be Sign Code Amendments. He provided an anticipated timeline to finalize the Sign Code Amendments.

**VII. COMMISSIONER'S CHOICE**



Mr. Harbaugh announced he will be resigning from the Commission effective immediately. He thanked the members and said his time on the Commission has been enjoyable.

Mr. Fish said he was sorry to see Mr. Harbaugh go.

Mr. Bleile stated several pipe bombs exploded in his area of town and asked Staff to follow-up and report back at the next meeting.

Mr. Roth said he found the letter from Tri-County Health interesting.

Mr. Brick said if money could be secured he would like to see the pedestrian refuge area recommended in Tri-County's letter built.

The meeting adjourned at 8:30 p.m.

---

Barbara Krecklow, Recording Secretary

**CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION**

**IN THE MATTER OF CASE #ZON2012-001 )**  
**FINDINGS OF FACT, CONCLUSIONS )**  
**AND RECOMMENDATIONS FOR ) FINDINGS OF FACT AND**  
**AMENDMENT NO. 3 TO THE DENVER ) CONCLUSIONS OF THE**  
**SEMINARY PLANNED UNIT DEVELOPMENT ) CITY PLANNING AND**  
**) ZONING COMMISSION**  
**)**  
**)**  
**INITIATED BY: )**  
**Kent Place Regency, LLC. )**  
**8480 E Orchard Road, Suite 6900 )**  
**Greenwood Village, Colorado 80111 )**

Commission Members Present: Brick, Fish, Knoth, Roth, King, Bleile, Welker, Harbaugh, Kinton, Townley

Commission Members Absent: None

This matter was heard before the City Planning and Zoning Commission on March 20, 2012, in the City Council Chambers of the Englewood Civic Center.

Testimony was received from Staff, the applicant and the public. The Commission received notice of Public Hearing, Certification of Posting, Staff Report and supplemental information from Staff, which were incorporated into and made a part of the record of the Public Hearing.

After considering statements of the witnesses, 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 Englewood Estates Planned Unit Development was approved as Ordinance No. 52, Series of 2004; with Amendment No. 1 approved on February 23, 2007, by Ordinance 9, Series of 2007; and Amendment No. 2 approved on June 20, 2008, by Ordinance 26, Series of 2008.
2. **THAT** the request for Amendment No. 3 to the Denver Seminary Planned Unit Development was filed by Kent Place Regency, LLC on January 24, 2012.

3. **THAT** Public Notice of the Public Hearing was given by publication in the Englewood Herald on March 2, 2012 and was on the City's website from February 27, 2012 through March 20, 2012.
4. **THAT** the property was posted as required, said posting setting forth the date, time, and place of the Public Hearing.
5. **THAT** pursuant to the Denver Seminary PUD amendment procedure, the applicant conducted a neighborhood meeting on January 12, 2012.
6. **THAT** notice of the neighborhood meeting was mailed to property owners and occupants of property within 1000 feet of the site.
7. **THAT** the Amendment No. 3 PUD District Plan and Site Plan was reviewed by the City's Development Review Team (DRT) on February 7, 2012. Identified issues were addressed by the applicant and the final Denver Seminary PUD Amendment No. 3 packet was submitted on February 15, 2012.
8. **THAT** Planner Bell testified the request is for Amendment No. 3 to the Denver Seminary Planned Unit Development. Mr. Bell testified to the criteria the Commission must consider when reviewing an amendment to a PUD application. Mr. Bell further testified that Staff recommends approval of the amendment.
9. **THAT** Amendment No. 3 will add Financial Institution with Drive-Through Service to the Table of Allowed Uses for the Denver Seminary Planned Unit Development.

## **CONCLUSIONS**

1. **THAT** the application was filed by Kent Place Regency, LLC. seeking approval for Denver Seminary Planned Unit Development Amendment No. 3.
2. **THAT** proper notification of the date, time, and place of the Public Hearing was given by publication in the official City newspaper, posting on the City's website and by posting of the property for the required length of time.
3. **THAT** all testimony received from staff members, the applicant and the public has been made part of the record of the Public Hearing.
4. **THAT** the request meets the criteria for an amendment.
5. **THAT** the Denver Seminary Planned Unit Development Amendment No. 3 is in conformance with Roadmap Englewood: 2003 Englewood Comprehensive Plan.

6. **THAT** Amendment No. 3 is in compliance with the PUD District Plan and the PUD Site Plan.
7. **THAT** Amendment No. 3 will have minimal impact on the surrounding neighborhoods and is the best use of space for the site.
8. **THAT** a Financial Institution with Drive-Through Service use shall be limited to Lot 3 per the Site Plan.
9. **THAT** the Financial Institution with Drive-Through Service shall be limited to two drive-through lanes.

**DECISION**

**THEREFORE**, it is the decision of the City Planning and Zoning Commission that the application filed by Kent Place Regency, LLC. for Denver Seminary Planned Unit Development Amendment No. 3 be recommended to City Council for approval.

The decision was reached upon a vote on a motion made at the meeting of the City Planning and Zoning Commission on March 20, 2012, by Mr. Welker, seconded by Mr. Bleile, which motion states:

*CASE #ZON2012-001, DENVER SEMINARY PLANNED UNIT DEVELOPMENT AMENDMENT NO. 3 BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION FOR ADOPTION WITH THE FOLLOWING CONDITIONS:*

- *All approved conditions and requirements established under the Denver Seminary PUD, Denver Seminary PUD - Amendment No. 1, and Denver Seminary PUD - Amendment No. 2 shall apply unless amended by Amendment No. 3.*
- *That a Financial Institution with Drive-Through Service use shall be limited to Lot 3 per the Site Plan.*
- *That the Financial Institution with Drive-Through Service shall be limited to two drive-through lanes.*

AYES: King, Knoth, Roth, Bleile, Fish, Welker, Harbaugh, Kinton, Brick  
 NAYS: None  
 ABSTAIN: None  
 ABSENT: None

The motion carried.

These Findings and Conclusions are effective as of the meeting on March 20, 2012.

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

---

Chad Knoth, Chair

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2012

COUNCIL BILL NO. 24  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN ORDINANCE AUTHORIZING THE DENVER SEMINARY PLANNED UNIT DEVELOPMENT (PUD) AMENDMENT NO. 3.

WHEREAS, the Englewood City Council approved the Denver Seminary Planned Unit Development with the passage of Ordinance No. 52, Series of 2004; and

WHEREAS, the Englewood City Council approved the Denver Seminary Planned Unit Development Amendment No. 1 with the passage of Ordinance No. 9, Series of 2007; and

WHEREAS, the Englewood City Council approved the Denver Seminary Planned Unit Development Amendment No. 2 with the passage of Ordinance No. 26, Series of 2008; and

WHEREAS, Kent Place Regency, LLC filed an application for an amendment to the 2004 Planned Unit Development; and

WHEREAS, this Amendment No. 3, proposes no changes to the general character of the development of residential and limited retail uses; and

WHEREAS, the key change to the original PUD as proposed in this Amendment is:

- Addition of Financial Institution with Drive-Through Service to the Table of Allowed Uses.

WHEREAS, pursuant to Denver Seminary PUD District Plan – Development Standards E.1.b., major modifications to the P.U.D. District Plan must be approved pursuant to the same limitations and requirements by which such Plan was originally approved; and

WHEREAS, the Englewood Planning and Zoning Commission held a Public Hearing on March 20, 2012, reviewed the Amendment of the Planned Unit Development and recommended approval of this Denver Seminary Planned Unit Development Amendment No. 3:

- All approved conditions and requirements established under the Denver Seminary PUD, Denver Seminary PUD – Amendment 1, and Denver Seminary PUD – Amendment 2 shall apply unless amended by Amendment 3.
- That a Financial Institution with Drive-Through Service use shall be limited to Lot 3 per the Site Plan.

- That the Financial Institution with Drive-Through Service shall be limited to two drive-through lanes.

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

Section 1. The Englewood City Council has reviewed the Amendment No. 3 to the Denver Seminary Planned Unit Development and finds that the P.U.D. amendment is in conformance with the approved Planned Unit Development requirements.

Section 2. The Englewood City Council finds that all required documents, drawings, referrals, recommendations and approvals have been received.

Section 3. The Englewood City Council finds that the amended P.U.D. District Plan and site plan are consistent with adopted and generally accepted standards of development within the City.

Section 4. The amended P.U.D. site plan is substantially consistent with the goals, objectives and policies and/or any other ordinance, law or requirement of the City.

Section 5. The City Council of the City of Englewood, Colorado hereby approves Amendment No. 3 to the Planned Unit Development for the Denver Seminary, attached hereto as Exhibit A.

Section 6. Pursuant to Article V, Section 40, of the Englewood Home Rule Charter, the City Council has determined that Exhibit A, attached to this Ordinance shall not be published because of its size. A copy of Exhibit A, is available in the Office of the Englewood City Clerk.

Introduced, read in full, and passed on first reading on the 16th day of April, 2012.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 20th day of April, 2012.

Published as a Bill for an Ordinance on the City's official website beginning on the 18th day of April, 2012 for thirty (30) days.

---

Randy P. Penn, Mayor

ATTEST:

---

Kerry Bush, Deputy City Clerk

I, Kerry Bush, Deputy 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 16th day of April, 2012.

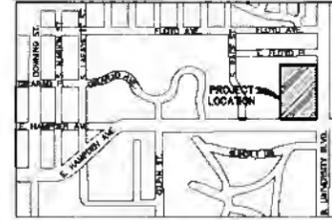
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Kerry Bush

# DENVER SEMINARY PLANNED UNIT DEVELOPMENT (DISTRICT PLAN) AMENDMENT 3

## ENGLEWOOD, COLORADO

VICINITY MAP NOT TO SCALE



### BACKGROUND

THE SUBJECT PROPERTY IS AN 11.41 ACRE SITE AT THE NORTHWEST CORNER OF THE INTERSECTION OF EAST HAMPDEN AVENUE AND SOUTH UNIVERSITY BOULEVARD. THE SITE HAS BEEN OWNED AND UTILIZED FOR MORE THAN 40 YEARS BY THE DENVER SEMINARY. THE DENVER SEMINARY HAS OUTGROWN THE CAMPUS AND HAS RELOCATED TO A NEW SITE. THE SITE WAS ZONED R-3 HIGH-DENSITY RESIDENCE DISTRICT AT THE TIME THE ORIGINAL PLANNED UNIT DEVELOPMENT APPLICATION WAS SUBMITTED. THE SITE IS CURRENTLY ZONED DENVER SEMINARY PUD, AMENDMENT 2, APPROVED ON JULY 28, 2008.

### ARCHITECTURAL CHARACTER

IT IS THE INTENT OF THIS DEVELOPMENT TO ATTRACT SOPHISTICATED, DISCRIMINATING HOMEOWNERS TO AN URBAN YET INTIMATELY SCALED MIXED-USE VILLAGE OF VARIOUS SIZED BUILDINGS CREATING A PEDESTRIAN ORIENTED EUROPEAN ATMOSPHERE. BY STRATEGICALLY PLANNING A MIXTURE OF VARIOUS SIZED RETAIL AND RESIDENTIAL BUILDINGS IN THE CENTER OF THE ELEVEN ACRE SITE TO GAIN DRAMATIC VIEWS TO THE SURROUNDING MOUNTAINS AND NEARBY DOWNTOWN, THEN SURROUNDING THEM WITH A NARROW GATED PRIVATE ACCESS ROAD, AND USING THE REMAINDER OF THE SITE TO POSITION LOW SCALED RETAIL AND TOWNHOUSES, A VARIETY OF INTIMATELY SCALED PEDESTRIAN ENVIRONMENTS WILL BE CREATED. PLACED PROMINENTLY AT THE CORNER OF UNIVERSITY BOULEVARD AND HAMPDEN AVENUE, AN APPROPRIATELY SCALED GROUP OF 1 AND 2 STORY RETAIL BUILDINGS SERVED BY HEAD-IN PARKING, WILL SHIELD THE BUSY INTERSECTION AND DEFINE A QUIET, PEDESTRIAN ORIENTED STREET REMINISCENT OF A EUROPEAN VILLAGE. A VARIETY OF SMALL RETAIL SHOPS, SERVICES AND DINING ESTABLISHMENTS (SEE ALLOWED USE TABLE BELOW) TARGETED PRIMARILY TO THE RESIDENTS OF THE PROJECT WILL JOIN A SMALL BANK (BANK DRIVE-THROUGH) AND FINANCIAL OFFICES TO MAKE UP THE VILLAGE "STREET".

CRITICALLY IMPORTANT TO DEFINE THE ATMOSPHERE OF THE DEVELOPMENT, ONLY APPROPRIATE HIGH QUALITY MATERIALS WILL BE USED IN ALL THE BUILDINGS. THE PRIMARILY STUCCO BUILDINGS WILL BE BLENDED WITH MASONRY ACCENTS, ATTRACTIVE LIGHT FIXTURES, THOUGHTFULLY SHIELDED TO MINIMIZE ILLUMINATION IMPACT ON SURROUNDING NEIGHBORHOODS WILL HELP CREATE THE PEDESTRIAN FEEL. ALONG GARDENS AND OPEN SPACES ACCESSED BY PAVED WALKWAYS TO BE EXPERIENCED BY THE HOMEOWNERS. THE INDIVIDUAL UNITS WILL BE LARGE AND AIRY AND AS OPEN TO VIEWS AS POSSIBLE WITH EXPANSIVE WINDOWS TO CONTRAST THE STUCCO EXTERIORS. STEEPLY SLOPING ROOFS WITH PROJECTING CORNICES WILL COMPLEMENT THE EUROPEAN FEEL TO THE ARCHITECTURE TAKING CLUES FROM THE UNIVERSITY OF DENVER AND NEARBY RESIDENTIAL COMMUNITIES.

THE SPECIFIC DESIGN, MATERIALS, AND COLORS TO BE INCORPORATED IN THE BUILDINGS WILL NOT BE DETERMINED UNTIL DETAILED ARCHITECTURAL DRAWINGS HAVE BEEN PREPARED. THE PREPARATION OF SUCH DETAILED ARCHITECTURAL DRAWINGS IS AN EXPENSIVE AND TIME-CONSUMING PROCESS THAT IS NOT LIKELY TO BE UNDERTAKEN UNTIL THE PROPOSED PUD AMENDMENTS HAVE BEEN FINALLY APPROVED BY THE CITY. APPLICANT SHALL SUBMIT SPECIFIC DESIGN ELEVATIONS, LIST OF PRIMARY MATERIALS AND A COLOR BOARD FOR THE EXTERIOR OF THE BUILDINGS AT LEAST 30 DAYS PRIOR TO THE ISSUANCE OF THE FIRST BUILDING PERMIT FOR THE PROJECT.

### CONSTRUCTION SCHEDULE

THE FIRST PHASE WILL INCLUDE 1 OR MORE RETAIL BUILDINGS, SURFACE PARKING TO SERVE THEM WHILE MAINTAINING USE OF THE EXISTING AUDITORIUM BUILDING. SUBSEQUENT PHASES WILL DEMOLISH THE REMAINING EXISTING BUILDINGS AND COMPLETE THE RETAIL BUILDINGS AND 1 OR MORE "TOWN" HOUSE BUILDINGS AS WELL AS THE REMAINING TOWERS AND ADDITIONAL PARKING TO SERVE THEM. IT IS ANTICIPATED THAT PHASE 1 CONSTRUCTION MAY COMMENCE AS EARLY AS MARCH 2008 AND THAT COMPLETION OF ALL PHASES OF THE PROJECT IS EXPECTED TO OCCUR NO LATER THAN DECEMBER 31, 2012.

### PUD DEVELOPMENT SUMMARY

THE APPLICANT PROPOSES TO DEVELOP UP TO 300 RESIDENTIAL UNITS AND UP TO 75,000 SQUARE FEET OF RETAIL/OFFICE SPACE. THE RETAIL/OFFICE COMPONENT IS PROPOSED FOR THE SOUTHEAST CORNER OF THE PROPERTY ON BOTH SIDES OF THE STREET WITH ALL PARKING LOCATED EITHER IN A DEDICATED STRUCTURED GARAGE, A DEDICATED PARKING LOT, OR IN DIAGONAL HEAD-IN SURFACE PARKING SPACES. THE RETAIL/OFFICE BUILDINGS WILL SCREEN THE SURFACE PARKING.

### METROPOLITAN DISTRICT SUMMARY

IT IS ANTICIPATED THAT ONE OR MORE TITLE 32 METROPOLITAN DISTRICTS MAY BE ORGANIZED FOR PURPOSES OF FACILITATING FINANCING AND CONSTRUCTION OF THE PUBLIC IMPROVEMENTS TO THE PROPERTY (THE "DISTRICT"). UPON ORGANIZATION, THE DISTRICT SHALL ALSO BE RESPONSIBLE FOR CERTAIN OPERATIONS AND MAINTENANCE OF THE PROPERTY, INCLUDED BUT NOT LIMITED TO PUBLIC IMPROVEMENTS THAT ARE CONSTRUCTED BY THE DISTRICT AND NOT SUBSEQUENTLY DEDICATED TO A PUBLIC OR GOVERNMENTAL ENTITY (THE "PROJECTS"). THE DISTRICT SHALL BE REQUIRED TO OPERATE AND MAINTAIN THE PROJECTS, OR CAUSE THE PROJECTS TO BE OPERATED AND MAINTAINED, AT STANDARDS (I) REQUIRED TO PROVIDE ACCESSIBLE AND SAFE PUBLIC IMPROVEMENTS, (II) REQUIRED TO MEET STANDARDS ESTABLISHED FOR FACILITIES OF THE CITY, AND (III) AT A FIRST-CLASS LEVEL INCLUDING, WITH RESPECT TO THE PUBLIC PARKING FACILITIES, LIGHTING, SECURITY AND RE-PAVING. NOTHING HEREIN OR IN ANY RESOLUTIONS OF THE CITY SHALL BE INTERPRETED TO REQUIRE THE CITY TO UNDERTAKE RESPONSIBILITY FOR OPERATION AND MAINTENANCE OF THE PROJECTS AND ALL AUTHORIZING DOCUMENTATION REGARDING THE DISTRICT SHALL BE CONSISTENT WITH THE REQUIREMENTS FOR OPERATIONS AND MAINTENANCE AS STATED HEREIN.

### PUD DISTRICT PLAN-DEVELOPMENT STANDARDS

A. GENERAL REGULATIONS. UNLESS OTHERWISE PROVIDED FOR IN THIS PUD OR AN AMENDMENT THERETO, THE PROVISIONS, STANDARDS, REGULATIONS, AND PROCEDURES PERTINENT TO AN APPLICATION FOR THE DEVELOPMENT OF LAND WITHIN THIS PUD ZONE DISTRICT SHALL COMPLY WITH THE REQUIREMENTS OF THE MU-R-3-B ZONE DISTRICT OF THE CITY OF ENGLEWOOD AND RELATED ZONING REGULATIONS IN PLACE AT THE TIME SUCH APPLICATION IS FILED WITH THE CITY. B. PERMITTED PRINCIPAL USES. THE TABLE BELOW SHALL CONTROL THE USES WITHIN THE PUD ZONE DISTRICT. A "P" IN THE CELL FOLLOWING THE USE TYPE INDICATES THAT THE USE TYPE IS PERMITTED BY RIGHT IN THE DENVER SEMINARY PUD ZONE DISTRICT. A BLANK CELL INDICATES THAT THE USE TYPE IS PROHIBITED IN THE PUD.

UNLESS OTHERWISE PROVIDED, THE FOLLOWING USE CATEGORIES AND TYPES SHALL HAVE THE SAME MEANINGS AS SUCH USE TERMS BY THE SAME NAMES CONTAINED IN TITLE 16 OF THE ENGLEWOOD MUNICIPAL CODE. PERMITTED USES ARE SUBJECT TO ALL OTHER APPLICABLE REGULATIONS OF TITLE 16 - UNIFIED DEVELOPMENT CODE.

DENVER SEMINARY PUD TABLE OF ALLOWED USES

USE CATEGORY	USE TYPE	PUD
RESIDENTIAL USES	GROUP LIVING	
	GROUP LIVING FACILITY, LARGE/SPECIAL	
	GROUP LIVING FACILITY, SMALL	
HOUSEHOLD LIVING	LIVE/WORK DWELLING	
	MANUFACTURED HOME PARK	
	MULTI-UNIT DWELLING	P
	ONE-UNIT ATTACHED DWELLING	P
	ONE-UNIT DETACHED DWELLING ON A SMALL LOT	P
	TWO-UNIT DWELLING	P

PUBLIC/INSTITUTIONAL USES	NOT-FOR-PROFIT ANIMAL SHELTER	
ANIMAL SHELTER	HOUSING SHELTER, FOOD SHELTER	
EMERGENCY TEMP. SHELTER	ALL OTHER BUILDINGS AND FACILITIES NOT SPECIFIED UNDER THE PUBLIC/INSTITUTIONAL USES CATEGORY	
GOVERNMENT AND CITY		
LIBRARY		
MUSEUM/CULTURAL		
PARK AND OPEN SPACE	ATHLETIC FIELD	P
	COMMUNITY GARDEN	P
	PARK	P
PUBLIC ART	PUBLIC ART/ENTRY FEATURE	P
RELIGIOUS ASSEMBLY	RELIGIOUS INSTITUTIONS AND ASSOCIATED ACCESSORY USES	
SCHOOL	EDUCATION INSTITUTION	P
TELECOMMUNICATION FACILITY	ALTERNATIVE TOWER STRUCTURE	P
	ANTENNA/MICROWAVE ANTENNA/SECTORIZED PANEL & WMP ANTENNA	P
	TOWER STRUCTURE	P
TRANSPORTATION FACILITY	RTO MAINTENANCE FACILITY	
	TRANSIT CENTER	P
UTILITY FACILITY	MAJOR UTILITY FACILITY	
	MINOR UTILITY FACILITY (AS A PRINCIPAL USE OF LAND)	
COMMERCIAL USES		
ADULT USE	ALL TYPES	
AGRICULTURAL USE	GREENHOUSE/NURSERY, RAISING OF PLANTS, FLOWERS, OR NURSERY STOCK	
ANIMAL SALES AND SERVICE	ANIMAL SHELTER	
	KENNEL/DAY CARE	
	PET STORE (LIVE ANIMAL SALE)	
	SMALL ANIMAL VETERINARY HOSPITAL OR CLINIC	
ASSEMBLY	ASSEMBLY HALL OR AUDITORIUM, HALL RENTAL FOR MEETINGS OR SOCIAL OCCASIONS	P
	MEMBERSHIP ORGANIZATION (EXCLUDING ADULT USE)	
DEPENDENT CARE	DEPENDENT CARE CENTER (LESS THAN 24-HOUR CARE, ANY AGE)	P
ENTERTAINMENT/AMUSEMENT-INDOOR	AMUSEMENT ESTABLISHMENT	
	PHYSICAL FITNESS CENTER/SPA	P
	THEATER, PERFORMANCE/CONCERT VENUE, NOT INC. ADULT ENT.	P
	GENERAL OUTDOOR RECREATION	
ENTERTAINMENT/AMUSEMENT-OUTDOOR		
FINANCIAL INSTITUTION	CHECK CASHING FACILITY	
	FINANCIAL INSTITUTION, WITH DRIVE-THROUGH SERVICE	P
	FINANCIAL INSTITUTION, WITHOUT DRIVE-THROUGH SERVICE	P
FOOD AND BEVERAGE SERVICE	CATERING	P
	RESTAURANT, BAR, TAVERN WITH OR WITHOUT OUTDOOR OPERATIONS	P
	RESTAURANT WITH DRIVE-THROUGH SERVICE	P
	TAKE OUT AND DELIVERY ONLY	P
MEDICAL/SCIENTIFIC SERVICE	CLINIC	P
	TREATMENT FACILITY	P
	HOSPITAL	P
	LABORATORY (DENTAL, MEDICAL OR OPTICAL)	P
OFFICE	OFFICE, TYPE 1 (GENERAL)	P
	OFFICE, TYPE 2 (LIMITED)	P
RETAIL SALES AND SERVICE (PERSONAL SERVICE)	CREATING/REPAIR	P
	DRY CLEANER, DROP-OFF SITE ONLY	P
	INSTRUCTIONAL SERVICE	P
	MASSAGE THERAPY	P
	MORTUARY	P
	PERSONAL CARE	P
	SERVICE: PHOTOGRAPHY STUDIO AND PHOTO LAB, UPDRESSERY, PRINTER, LOCKSMITH, TAILOR	P
	TATTOO AND BODY-PIERCING ESTABLISHMENT	P
	TEMPORARY EMPLOYMENT BUSINESS	P
RETAIL SALES AND SERVICE (REPAIR AND RENTAL)	REPAIR SHOP (NOT INCLUDING AUTO)	P
RETAIL SALES AND SERVICE (SALES)	ANTIQUITY STORE	P
	ART GALLERY	P
	AUTHORITY	P
	BUT-BACK SHOP, SECOND HAND, THRIFT, CONSIGNMENT	P
	CONVENIENCE STORE	P
	GROCERY/SPECIALTY FOOD STORE (INCLUDING ALL SALES OF PREPARED FOOD FOR ON & OFF SITE CONSUMPTION)	P
	FLORIST STORE	P
	PAWN BROKER	P
	RETAIL SALES, GENERAL MERCHANDISE	P
SCHOOL	TRADE OR BUSINESS SCHOOL (INCLUDING EXISTING SEMINARY USE)	P
STUDIO	RADIO/TELEVISION BROADCASTING STUDIO/RECORDING/FILM STUDIO	P
VEHICLE AND EQUIPMENT	AUTOMOBILE PARKING/REPAIR	P
	ALTERNATIVE SALES, RENTAL	P
	AUTOMOTIVE SERVICE/REPAIR, INCLUDING BODY OR FENDER WORK	P
	AUTOMOTIVE SERVICE/REPAIR, NOT INCLUDING BODY OR FENDER WORK	P
	AUTOMOTIVE SERVICE STATION (GASOLINE FACILITY)	P
	CAR WASH, AUTO DETAILING (UNDERGROUND FACILITY ONLY)	P
	COMMERCIAL STORAGE OF OPERABLE VEHICLES	P
	FUEL DISPENSING	P
	PARKING FACILITY, STRUCTURE (OPERABLE VEHICLES), PRINCIPAL USE	P
	PARKING AREA, SURFACE (OPERABLE VEHICLES), PRINCIPAL USE	P
	RECREATIONAL VEHICLES AND BOATS, SALES OR RENTAL	P
VISITOR ACCOMMODATION	BED AND BREAKFAST	P
	HOTEL (SEE HOTEL D.S.)	P
WHOLESALE	SALES AND DISTRIBUTION	P
MANUFACTURING/INDUSTRIAL USES		
INDUSTRIAL SERVICE	INDUSTRIAL SERVICE, LIGHT	P
	INDUSTRIAL SERVICE, HEAVY	P
MANUFACTURING, INCLUDING PROCESSING, FABRICATION, OR ASSEMBLY	MANUFACTURING, LIGHT	P
	MANUFACTURING, HEAVY	P
WAREHOUSE/STORAGE	FUEL STORAGE	P
	MINI-STORAGE FACILITY	P
	MOVING AND STORAGE	P
	OUTDOOR STORAGE	P
	STORAGE YARD FOR VEHICLES, EQUIPMENT, MATERIAL, AND/OR SUPPLIES	P
	WAREHOUSING AND/OR STORAGE	P
WASTE/SALVAGE	AUTOMOBILE WRECKING/SALVAGE YARD	P
	COMMERCIAL INCINERATOR	P
	HAZARDOUS WASTE HANDLING	P
	RECYCLING OPERATION, ALL PROCESSING OCCURS WITHIN ENCLOSED STRUCTURE	P
	RECYCLING OPERATION, SOME OR ALL PROCESSING OCCURS OUTSIDE AN ENCLOSED STRUCTURE	P
	SANITARY SERVICE	P
	WASTE TRANSFER STATION (NOT INCLUDING HAZARDOUS WASTE)	P
ACCESSORY USES		
HOME CARE ACCESSORY USES (ACCESSORY TO PRINCIPAL ONE-UNIT DWELLING USES ONLY)	ADULT DEPENDENT CARE	P
	FAMILY CHILD CARE HOME	P
	INFANT/TODDLER HOME	P
	LARGE CHILD CARE HOME	P
	CARETAKER'S QUARTER	P
	CLUBHOUSE/COMMONS BUILDING	P
	DORMITORY	P
	GUEST ACCOMMODATION FOR USE BY VISITORS TO RESIDENTIAL AREA (SEE PUD-4 FOR DETAIL)	P
	HOME OCCUPATION	P
	KENNEL/ANIMAL DAY CARE	P
	MINOR UTILITY FACILITY (AS ACCESSORY USE OF LAND)	P
	PARKING AREA (SURFACE)	P
	PARKING GARAGE	P
	SATELLITE DISH ANTENNA	P
	SERVICE UNITS OR FACILITY	P
	STORAGE (FOR MAINTENANCE AND RECREATION)	P
	SWIMMING POOL	P
	TENNIS COURT	P

TEMPORARY USES	
CAR WASH	P
EXPANSION OR REPLACEMENT OF EXISTING FACILITIES	P
FARMERS MARKET	P
FOOD VENDOR CARTS	P
MOBILE STORAGE (WITH OR WITHOUT BUILDING PERMIT)	P
REAL ESTATE SALES OR LEASING OFFICE (ALSO MOBILE HOMES)	P
OUTDOOR SALES (E.G., TENT SALES, PARKING LOT SALES, SEASONAL SALES, WINDSHIELD REPAIR, SALES FROM RETAIL VENDOR CARTS, ETC.)	P
SPECIAL EVENT (E.G., CARNIVAL, BAZAAR, FAIR)	P
TENTS, CANOPIES	P

C. UNLISTED USE PROCEDURES FOR APPROVAL OF USES NOT LISTED IN THE ABOVE TABLE OF ALLOWED USES SHALL BE GOVERNED BY TITLE 16 PROVISIONS FOR UNLISTED USES.

D. DEVELOPMENT STANDARDS THE DEVELOPMENT WILL BE IMPLEMENTED AS A MIXED-USE VILLAGE INCORPORATING RETAIL, OFFICE (COMMERCIAL) AND RESIDENTIAL TYPE USES.

1. MAXIMUM BUILDING HEIGHT: SEE PUD-3 AND PUD-4 FOR BUILDING HEIGHT SUMMARY.  
2. BULK PLANE: SEE PUD-4 FOR LANDSCAPE GUIDELINES. DEVELOPER TO PROVIDE LANDSCAPE DESIGN PLANS FOR AREA ADJACENT TO WEST PROPERTY LINE TO KENT VILLAGE ASSOCIATION AND RECEIVE COMMENTS (NOT APPROVAL) FROM KENT VILLAGE ASSOCIATION.

3. MAXIMUM RESIDENTIAL UNITS: 300 (HOTEL: 1 ROOM=1 UNIT)  
4. MAXIMUM TOTAL RETAIL/OFFICE (COMMERCIAL) USE GROSS SALABLE FLOOR AREA SHALL NOT EXCEED 75,000 SQUARE FEET. THE MAXIMUM TOTAL OFFICE USE GROSS LEASABLE FLOOR AREA SHALL NOT EXCEED 37,000 SQUARE FEET, EXCLUSIVE OF OFFICE SPACE ESTABLISHED WITHIN ANY RETAIL SPACES AND RELATED TO THE MANAGEMENT OF SUCH RETAIL OPERATION.

5. PARKING: SEE PUD-2 FOR PARKING GUIDELINES.  
6. SIGNAGE: SEE PUD-2 FOR SIGNAGE / FENCING GUIDELINES.

7. FENCES AND WALLS: SEE PUD-2 FOR SIGNAGE / FENCING GUIDELINES.  
8. LANDSCAPING: SEE PUD-4 FOR LANDSCAPE GUIDELINES. DEVELOPER TO PROVIDE LANDSCAPE DESIGN PLANS FOR AREA ADJACENT TO WEST PROPERTY LINE TO KENT VILLAGE ASSOCIATION AND RECEIVE COMMENTS (NOT APPROVAL) FROM KENT VILLAGE ASSOCIATION.

E. MODIFICATIONS: THE FOLLOWING MODIFICATION PROCEDURES ARE CONSISTENT WITH PUD MODIFICATION PROCEDURES OF TITLE 16 ZONING REGULATIONS (AS MODIFIED BELOW), UNDER WHICH THE PUD APPLICATION WAS SUBMITTED.

1. DISTRICT PLAN: THE TERMS, CONDITIONS, THE ADOPTED PUD DISTRICT PLAN AND DOCUMENTS MAY BE CHANGED AND/OR AMENDED IN WHOLE OR IN PART AS FOLLOWS:

- a. MINOR MODIFICATIONS TO THE PUD DISTRICT PLAN: THE CITY MANAGER OR DESIGNEE MAY APPROVE MINOR MODIFICATIONS IN THE LOCATION, SIZING AND HEIGHT OF STRUCTURES OR FACILITIES IF REQUIRED BY ENGINEERING OR OTHER CIRCUMSTANCES NOT FORESEEN AT THE TIME THE PLANNED UNIT DEVELOPMENT DISTRICT PLAN WAS APPROVED SO LONG AS NO MODIFICATION VIOLATES ANY STANDARD OR REGULATION SET FORTH IN SECTION 16-4-15 - ZONING REGULATIONS.
- b. MAJOR MODIFICATIONS TO THE PUD DISTRICT PLAN: MAJOR MODIFICATIONS MAY BE MADE TO THE APPROVED PLANNED UNIT DEVELOPMENT DISTRICT PLAN PURSUANT TO THE SAME LIMITATIONS AND REQUIREMENTS BY WHICH SUCH PLANS AND DOCUMENTS WERE ORIGINALLY APPROVED.

2. SITE PLAN:

- a. MINOR MODIFICATIONS TO PUD SITE PLAN: THE CITY THROUGH THE DEVELOPMENT REVIEW TEAM MAY AUTHORIZE MINOR DEVIATIONS FROM THE PUD SITE PLAN WHEN SUCH DEVIATIONS APPEAR NECESSARY IN LIGHT OF TECHNICAL OR ENGINEERING CONSIDERATIONS. MINOR DEVIATIONS SHALL NOT BE PERMITTED IF ANY OF THE FOLLOWING CIRCUMSTANCES RESULT:
  - 1) A CHANGE IN THE CHARACTER OF THE DEVELOPMENT; OR
  - 2) A CHANGE IN THE PERMITTED LAND USES; OR
  - 3) A CHANGE IN THE GENERAL LOCATION OF LAND USES; OR
  - 4) AN INCREASE IN THE MAXIMUM HEIGHT OF ANY BUILDING OF MORE THAN FIVE PERCENT (5%) EXCEPT THAT FOR BUILDINGS GREATER THAN 100 FEET IN HEIGHT, SUCH INCREASE SHALL NOT EXCEED TWO PERCENT (2%); OR
  - 5) AN INCREASE IN THE NUMBER OF DWELLING UNITS, OR IN THE RATIO OF THE GROSS FLOOR AREA OF STRUCTURES TO THE LAND AREA, OR INCREASES IN THE PROPOSED GROSS FLOOR AREA WITHIN ANY PARTICULAR LAND USE OF MORE THAN TWO PERCENT (2%); OR
  - 6) A REDUCTION IN THE SETBACKS FROM PROPERTY LINES; OR
  - 7) AN INCREASE OF MORE THAN TWO PERCENT (2%) IN GROUND COVERAGE BY STRUCTURES OR SURFACE PARKING; OR
  - 8) A REDUCTION BY MORE THAN TWO PERCENT (2%) IN THE LAND AREA DESIGNATED FOR LANDSCAPING; OR
  - 9) A REDUCTION IN THE RATIO OF OFF-STREET PARKING AND LOADING SPACE TO GROSS FLOOR AREA OR NUMBER OF DWELLING UNITS IN STRUCTURES; OR
  - 10) A CHANGE AFFECTING THE ACCESS FROM AND THROUGH PUBLIC RIGHTS OF WAY; PROVIDED, HOWEVER, THAT CURB CUT LOCATIONS MAY SHIFT UNLESS SPECIFICALLY ESTABLISHED BY THE DISTRICT PLAN.
- b. SITE PLAN AMENDMENTS: ALL PUD SITE PLANS APPROVED AND RECORDED MAY ONLY BE AMENDED PURSUANT TO THE SAME PROCEDURE AND SUBJECT TO THE SAME LIMITATIONS AND REQUIREMENTS BY WHICH SUCH PLANS WERE APPROVED.

### AGENCY CONTACT LIST

AGENCY	CONTACT	PHONE
ARCHITECTURE AND CIVIL ENGINEERING		
CLC ASSOCIATES, INC.	8480 E ORCHARD ROAD, SUITE 2000 GREENWOOD VILLAGE, COLORADO 80111	(303) 770-5600
TRANSPORTATION ENGINEER		
FOX HIGGINS TRANSPORTATION GROUP	P.O. BOX 19768 BOULDER, COLORADO 80308	(303) 442-3571
DEVELOPER		
KENT PLACE REGENCY, LLC.	8480 E ORCHARD ROAD, SUITE 0900 GREENWOOD VILLAGE, COLORADO 80111	(303) 300-5300
KENT PLACE ASSOCIATES, LLC	210 UNIVERSITY BLVD., SUITE 700 DENVER, COLORADO 80208	(303) 501-8810

### SITE DATA

TOTAL SITE SQUARE FOOTAGE	497,011 S.F.
RESIDENTIAL USES	UP TO 805,000 S.F.
RETAIL/OFFICE (COMMERCIAL USES)	UP TO 75,000 S.F.
LANDSCAPE/OPEN SPACE	PER GUIDELINES ON PUD-2
DEDICATED PUBLIC RIGHT OF WAY LANDSCAPE	PER GUIDELINES ON PUD-2
BUILDING HEIGHTS	SEE PUD-3 & PUD-4

### SURVEYED LEGAL DESCRIPTION

LOTS 1, 2 & 3, TRACTS A, B & C; KENT PLACE FIRST FILING SECOND AMENDMENT AND LOT 2; KENT PLACE FIRST FILING FIRST AMENDMENT; CITY OF ENGLEWOOD, COUNTY OF ARAPAHOE, STATE OF COLORADO

### SHEET INDEX

PUD-1	DISTRICT PLAN	PUD-5	SITE PLAN (LOT 3)
PUD-2	PROJECT GUIDELINES	PUD-6	UTILITY PLAN (LOT 3)
PUD-3	PROPOSED SITE PLAN	PUD-7	LANDSCAPE PLAN (LOT 3)
PUD-4	BULK PLANE SECTIONS	PUD-8	BUILDING ELEVATIONS (LOT 3)
		PUD-9	PHOTOMETRIC PLAN (LOT 3)
		PUD-10	SURVEY SHEET

### SIGNATURES

APPROVED FOR KENT PLACE REGENCY, LLC.

SIGNATURE \_\_\_\_\_ TITLE \_\_\_\_\_ DATE \_\_\_\_\_  
STATE OF COLORADO  
COUNTY OF \_\_\_\_\_  
THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20 \_\_\_\_\_ BY \_\_\_\_\_ AS \_\_\_\_\_ OF \_\_\_\_\_

MY COMMISSION EXPIRES: \_\_\_\_\_  
NOTARY PUBLIC \_\_\_\_\_  
ADDRESS \_\_\_\_\_

APPROVED FOR KENT PLACE INVESTORS, LLC.

SIGNATURE \_\_\_\_\_ TITLE \_\_\_\_\_ DATE \_\_\_\_\_  
STATE OF COLORADO  
COUNTY OF \_\_\_\_\_  
THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20 \_\_\_\_\_ BY \_\_\_\_\_ AS \_\_\_\_\_ OF \_\_\_\_\_

MY COMMISSION EXPIRES: \_\_\_\_\_  
NOTARY PUBLIC \_\_\_\_\_  
ADDRESS \_\_\_\_\_

APPROVED FOR THE CITY OF ENGLEWOOD

PLANNING AND ZONING COMMISSION CHAIRPERSON \_\_\_\_\_ DATE \_\_\_\_\_

PLANNING AND ZONING COMMISSION RECORDING SECRETARY \_\_\_\_\_ DATE \_\_\_\_\_

MAYOR OF ENGLEWOOD \_\_\_\_\_ DATE \_\_\_\_\_

ATTESTED  
THE FOREGOING APPROVAL WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20 \_\_\_\_\_ BY \_\_\_\_\_ AND \_\_\_\_\_

CITY CLERK \_\_\_\_\_  
CLERK AND RECORDER'S OFFICE \_\_\_\_\_  
THIS PLANNED UNIT DEVELOPMENT IS ACCEPTED FOR FILING IN THE OFFICE OF THE CLERK AND RECORDER OF ARAPAHOE COUNTY, COLORADO, AT \_\_\_\_\_ O'CLOCK, M., THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_\_

RECEPTION NUMBER \_\_\_\_\_ BOOK NUMBER \_\_\_\_\_ PAGE NUMBER \_\_\_\_\_

CLERK AND RECORDER \_\_\_\_\_ BY: DEPUTY \_\_\_\_\_

DISTRICT PLAN  
DENVER SEMINARY PUD-AMENDMENT 3  
DRAWN BY: JJA DATE: 1/20/12 SHEET: PUD-1  
CHECKED BY: DJM PROJECT#: 11-0050

regency centers  
CLC ASSOCIATES  
8480 E ORCHARD RD SUITE 2000 GREENWOOD VILLAGE COLORADO 80111  
ARCHITECTURE ENGINEERING PLANNING LANDSCAPE ARCHITECTURE LAND SURVEYING  
DENVER SEMINARY AMENDMENT 3 PLANNED UNIT DEVELOPMENT ENGLEWOOD, COLORADO



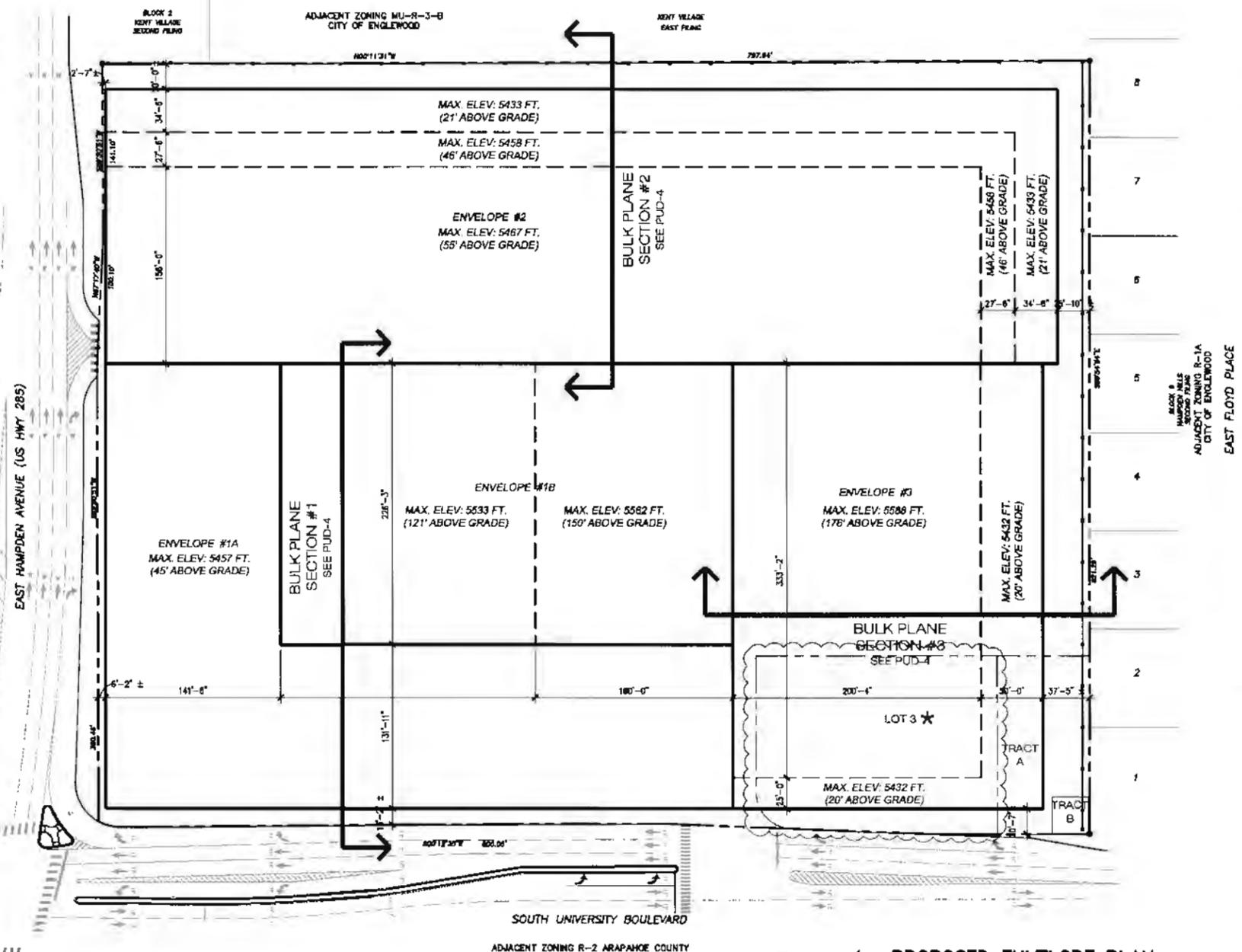
No.	Revisions	Date	By	Chk
3	AMENDMENT 3	05/20/12	JJA	DJM
2	AMENDMENT 2	01/17/08	SB	DF
1	AMENDMENT 1	11/13/06	RS	DF



**CLC ASSOCIATES**  
 8480 E. OSBORN RD  
 SUITE 3000  
 GREENWOOD VILLAGE  
 COLORADO 80111  
 P 303 770 5600  
 F 303 770 8344  
 CLCASSOC.COM

ARCHITECTURE  
 ENGINEERING PLANNING  
 LANDSCAPE ARCHITECTURE  
 LAND SURVEYING

DENVER SEMINARY  
 AMENDMENT 3  
 PLANNED UNIT DEVELOPMENT  
 ENGLEWOOD, COLORADO



- NOTES:
1. MAXIMUM HEIGHT: MAXIMUM HEIGHT MEASUREMENTS ARE BASED ON USGS ELEVATIONS.
  2. FIRST FLOOR ELEVATION: THE FIRST FLOOR ELEVATIONS FOR EACH BUILDING VARY AND ARE SUBJECT TO MODIFICATION BY THE PROPERTY OWNER DUE TO DEVELOPMENT OF FINAL GRADING PLANS.
  3. ON RESIDENTIAL TOWER BUILDINGS, NO BUILDING SHALL EXTEND BEYOND THE MAXIMUM BUILDING ENVELOPE EXCEPT FOR FIRST FLOOR TERRACES, UPPER FLOOR BALCONIES (8 FT. PROJECTION ALLOWED) AND MISCELLANEOUS FEATURES SUCH AS DECORATIVE CORNICES, GUTTERS, AND DOWNSPOUTS. BUILDING HEIGHTS ARE INCLUSIVE OF ALL PERMANENT STRUCTURES SUCH AS ELEVATOR PENHOUSES, PARAPET WALLS, STAIRWAY ENCLOSURES, ANTENNAS, ROOFTOP MECHANICAL & PLUMBING EQUIPMENT AND THEIR ASSOCIATED SCREEN WALLS & ARCHITECTURAL ROOF AND FIREPLACE CHIMNEY FEATURES.
  4. ON 'ROW/TOWN' HOUSE BUILDINGS, NO BUILDING OR BALCONIES SHALL EXTEND BEYOND THE SOUTH & WEST PROPERTY LINE BULK PLANS EXCEPT FOR FIRST FLOOR PRIVATE TERRACES, DORMERS WITH WINDOWS, FIREPLACE CHIMNEYS AND MISCELLANEOUS VENTS, FLUES, ETC.
  5. ANY CELLULAR TELEPHONE EQUIPMENT PLACED ON ANY STRUCTURE MAY ONLY BE INCORPORATED UTILIZING 'STEALTHY' DESIGN TECHNIQUES.
  6. ENCLOSURES OF TERRACES AND/OR BALCONIES ASSOCIATED WITH RESIDENTIAL BUILDINGS IN THE PUD SHALL BE LIMITED AS SET FORTH IN THIS NOTE 6. FOR PURPOSES OF SUCH LIMITATIONS, A "TERRACE" IS AN EXTERIOR SPACE CONNECTED TO A ROOFTOP UNIT OR A UNIT ON THE FIRST FLOOR OF A RESIDENTIAL BUILDING; AND A "BALCONY" IS AN EXTERIOR SPACE CONNECTED TO ANY UNIT OTHER THAN A FIRST FLOOR OR ROOFTOP UNIT AND A "BALCONY" MAY BE EITHER INSET OR PROJECTING FROM THE BUILDING EXTERIOR. FOR BOTH "TERRACES" AND "BALCONIES", NO CEILING OR ROOFTOP SHALL BE PERMITTED WITH RESPECT TO ANY RESIDENTIAL BUILDING.
    - (a) FOR "TERRACES" CONNECTED TO 'ROW/TOWN' HOUSE BUILDINGS, NO PERMANENT VERTICAL STRUCTURE OF ANY KIND SHALL BE PERMITTED THAT EXTENDS MORE THAN 42 INCHES ABOVE THE LOWEST ELEVATION OF THE TERRACE.
    - (b) FOR "TERRACES" CONNECTED TO RESIDENTIAL TOWER BUILDINGS, NO PERMANENT VERTICAL STRUCTURE OF ANY KIND SHALL BE PERMITTED THAT EXTENDS MORE THAN 6 FEET ABOVE THE LOWEST ELEVATION OF THE TERRACE EXCEPT FOR TRELLISES DESIGNED AS PART OF THE BUILDING.
    - (c) FOR "BALCONIES" NO VERTICAL STRUCTURE OF ANY KIND SHALL BE PERMITTED THAT EXTENDS MORE THAN 42 INCHES ABOVE THE FLOOR OF THE BALCONY."
  7. ROOF TOP MECHANICAL EQUIPMENT SHALL BE SCREENED BEHIND BUILDING PARAPET WALLS AND GABLE & MANSARD ROOFS
  8. TOWER AT RETAIL CENTER BUILDING 2 TO BE + 20' ABOVE BUILDING ROOF

\* REFER TO SHEETS PUD-5 THROUGH PUD-9 FOR ADDITIONAL DETAIL

1. PROPOSED ENVELOPE PLAN  
 SCALE: 1"=50'-0"

**PROPOSED ENVELOPE PLAN**  
 DENVER SEMINARY PUD-AMENDMENT 3

(300) CORNER OF HAMPDEN AVENUE & UNIVERSITY BOULEVARD, ENGLEWOOD, COLORADO

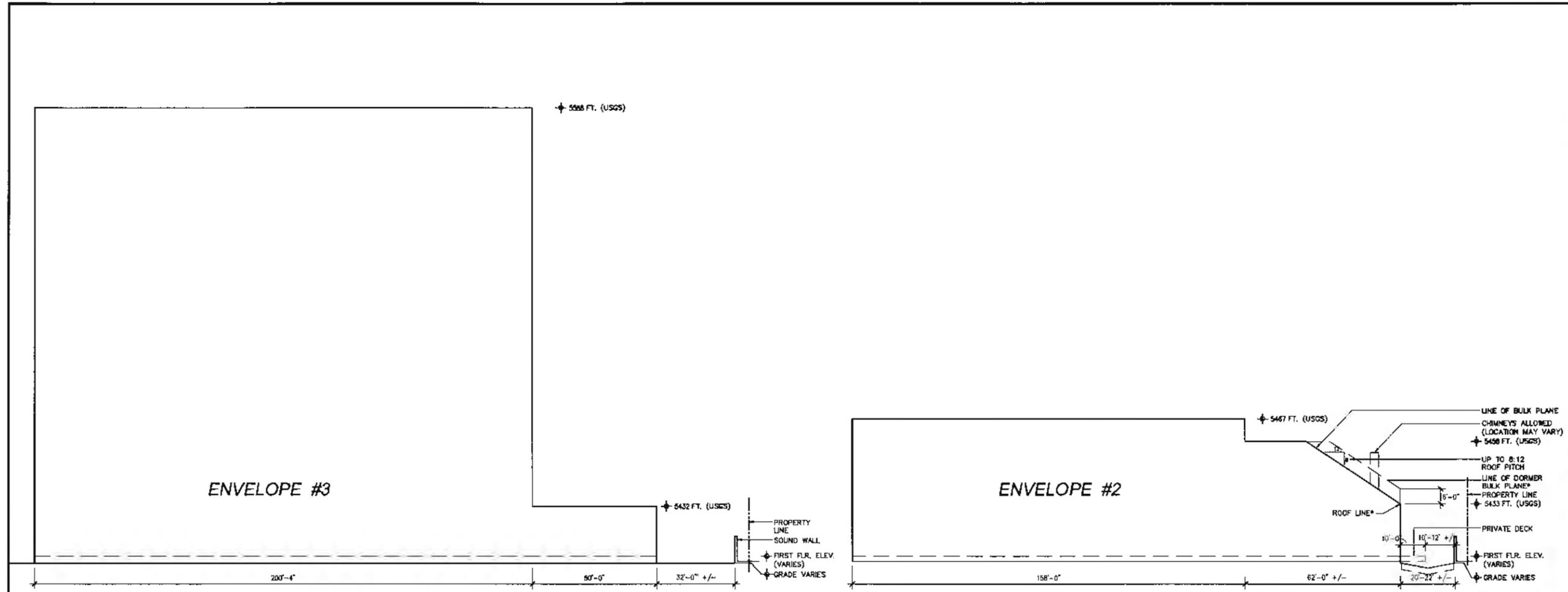
DRAWN BY: JJA DATE: 1/20/12 SHEET:  
 CHECKED BY: DJM PROJECT#: 11-0050 PUD-3

No.	Revisions	Date	By	Chk.
3	AMENDMENT 3	03/20/12	JJA	DJM
2	AMENDMENT 2	01/17/08	JB	DF
1	AMENDMENT 1	11/13/04	RS	DF



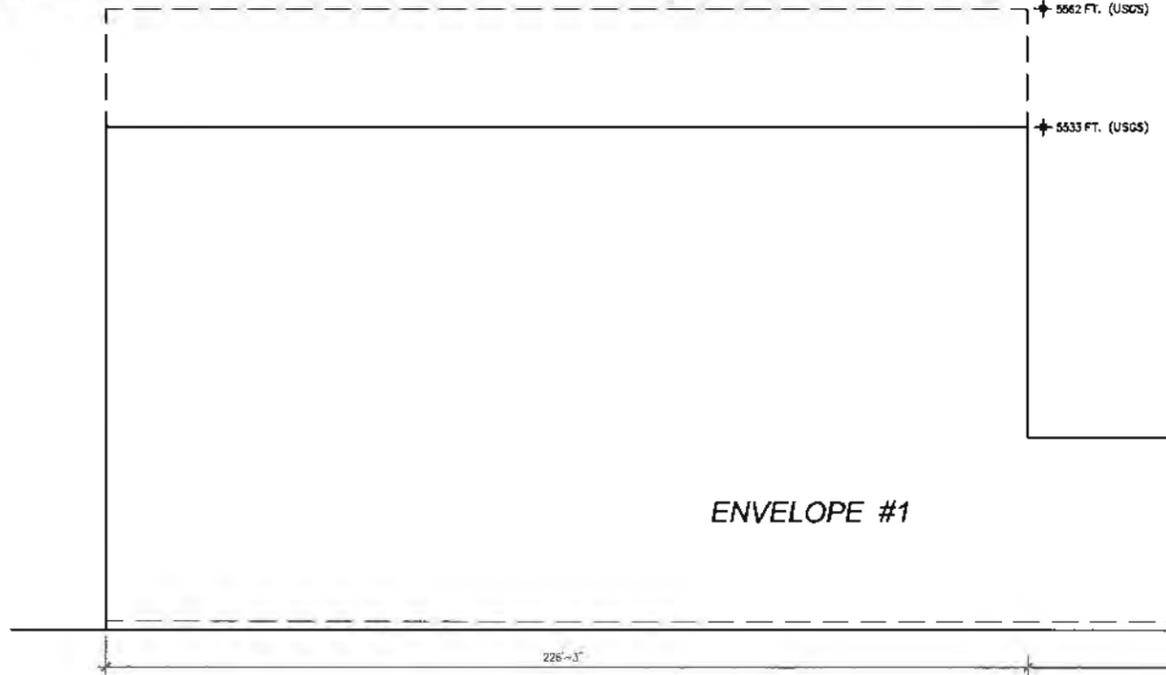
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 F 303 770 2348  
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 ENGINEERING PLANNING  
 LANDSCAPE ARCHITECTURE  
 LAND SURVEYING

DENVER SEMINARY  
 AMENDMENT 3  
 PLANNED UNIT DEVELOPMENT  
 ENGLEWOOD, COLORADO



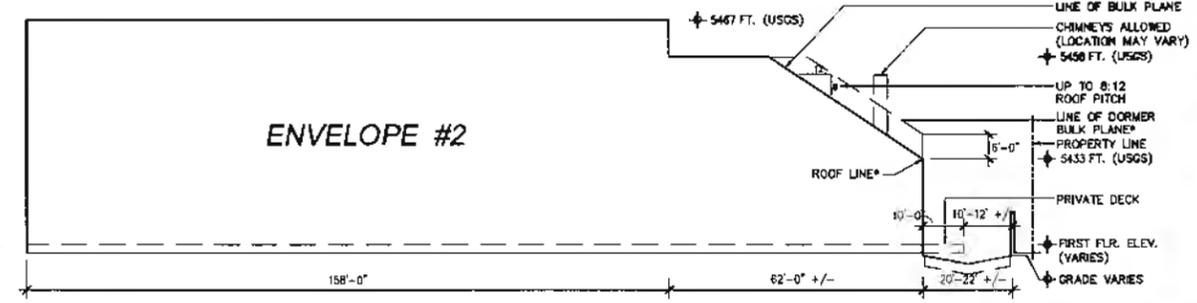
**BULK PLANE SECTION #3**

SCALE: 1"=20'-0"



**BULK PLANE SECTION #2**

SCALE: 1"=20'-0"



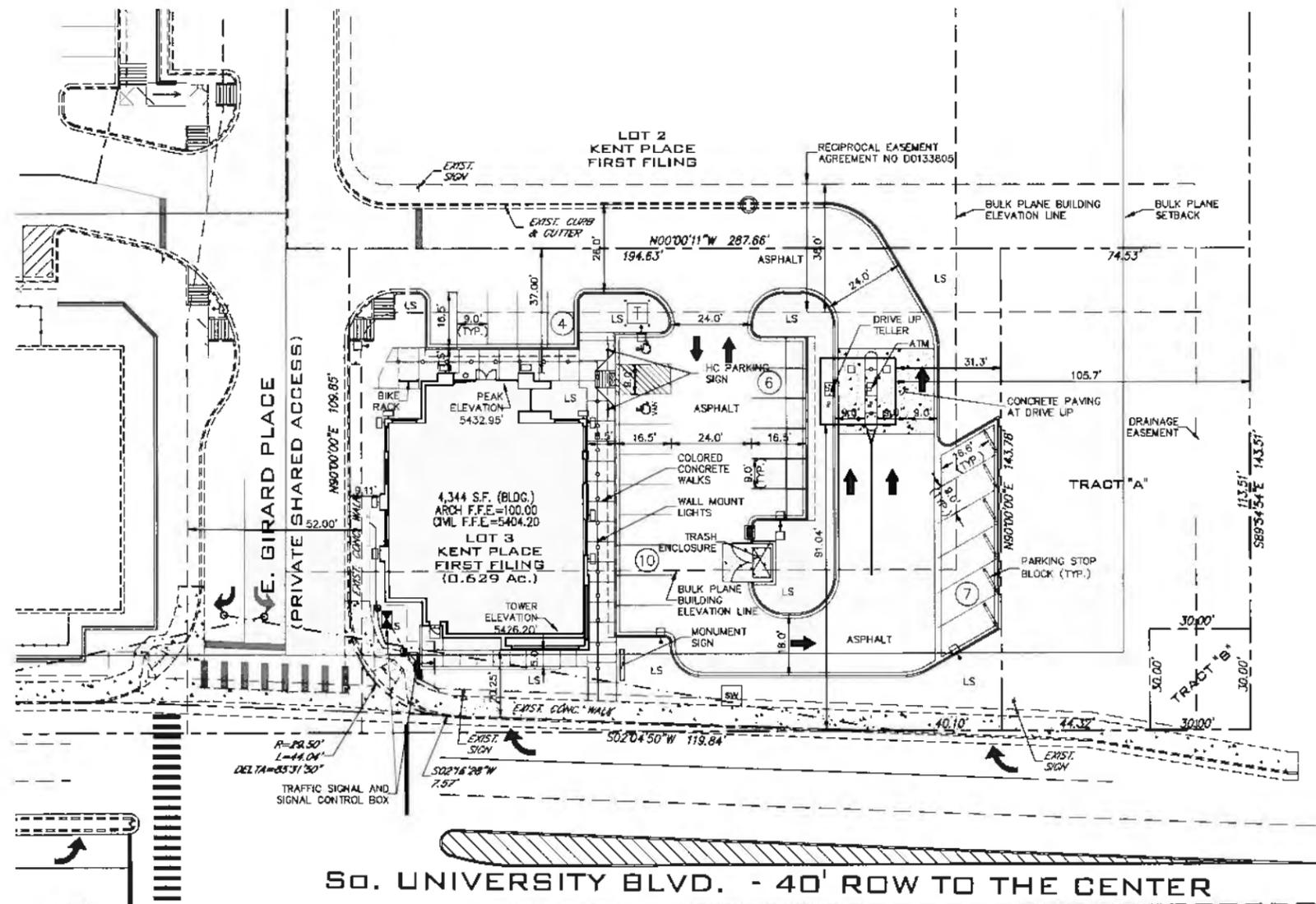
\*NOTE-DORMERS SHALL NOT CONTAIN OCCUPIABLE SPACE WITHIN THE DORMER BULK PLANE AREA. DORMERS MAY COVER 50% OF INDIVIDUAL ROOF SURFACES AND MAY NOT BE CONTINUOUS. MAXIMUM WIDTH OF THE DORMER TO BE 8'-0".

**ENVELOPE #1**

**BULK PLANE SECTION #1**

SCALE: 1"=20'-0"

BULK PLANE SECTIONS		
DENVER SEMINARY PUD-AMENDMENT 3		
<small>(S)Y CORNER OF HAMPOSH AVENUE &amp; UNIVERSITY BOULEVARD ENGLEWOOD, COLORADO</small>		
DRAWN BY: JJA	DATE: 1/20/12	SHEET:
CHECKED BY: DJM	PROJECT: 11-0050	PUD-4



**LEGEND**

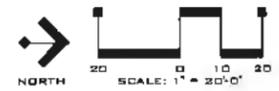
- PROPERTY LINE
- ==== PROPOSED CURB AND GUTTER
- EXISTING CURB AND GUTTER
- ===== PROPOSED CONCRETE SIDEWALK
- ⊕ PROPOSED HANDICAP PARKING STALL
- PROPOSED HC ACCESS ROUTE
- ③ PROPOSED PARKING COUNT PER ROW
- PROPOSED LINE OF SIGHT
- ▭ HEAVY DUTY CONCRETE

No.	Revisions	Date	By	Chk
3	AMENDMENT 3	03/20/12	JJA	DJM
2	AMENDMENT 2	01/07/08	JR	DF
1	AMENDMENT 1	11/13/04	RS	DF



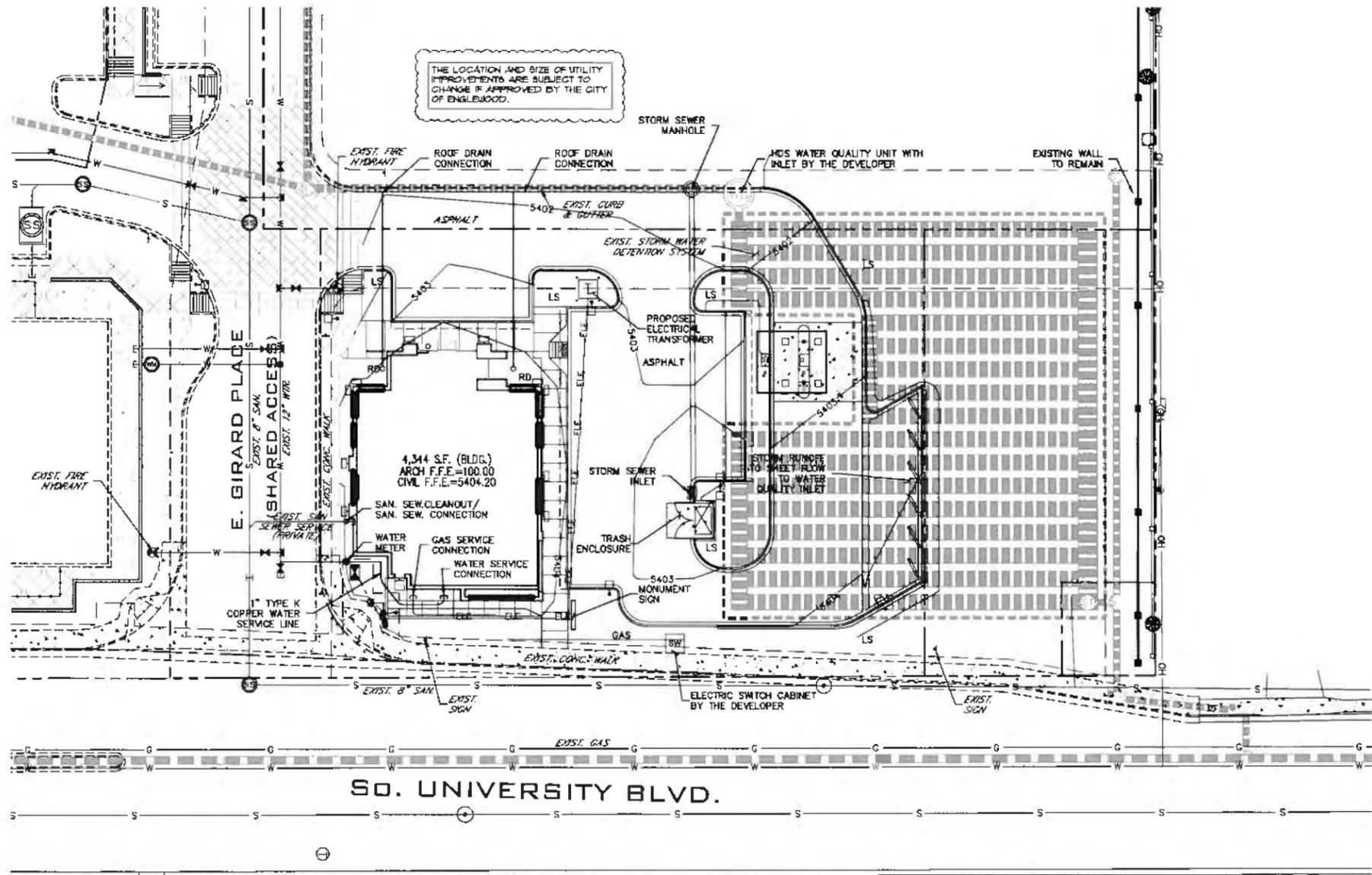
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 LANDSCAPE ARCHITECTURE  
 LAND SURVEYING



<b>SITE PLAN (LOT 3)</b> DENVER SEMINARY PUD-AMENDMENT 3		
<small>DWG. COVER OF HAMPSHIRE AVENUE &amp; UNIVERSITY BOULEVARD</small>		
DRAWN BY: JJA	DATE: 1/20/12	SHEET:
CHECKED BY: DJM	PROJECT#: 11-0050	<b>PUD-5</b>

DENVER SEMINARY  
 AMENDMENT 3  
 PLANNED UNIT DEVELOPMENT  
 ENGLEWOOD, COLORADO



THE LOCATION AND SIZE OF UTILITY IMPROVEMENTS ARE SUBJECT TO CHANGE IF APPROVED BY THE CITY OF ENGLEWOOD.

**LEGEND**

- PROPERTY LINE
- ==== PROPOSED CURB AND GUTTER
- ===== EXISTING CURB AND GUTTER
- PROPOSED STORM SEWER
- EXISTING STORM SEWER
- S----- PROPOSED SANITARY LINE
- S----- EXISTING SANITARY SEWER
- WTR----- PROPOSED WATER SERVICE LINE
- WTR----- EXISTING WATER LINE
- PROPOSED GAS SERVICE LINE
- PROPOSED ELECTRIC LINE
- ⊕ EXISTING FIRE HYDRANT
- PROPOSED SITE LIGHTING
- RD ROOF DRAIN
- ⊞ PROPOSED TRANSFORMER

No.	Revisions	Date	By	Chk
3	AMENDMENT 3	03/20/12	JJA	DJM
2	AMENDMENT 2	08/17/08	JB	DF
1	AMENDMENT 1	11/13/06	RS	DF



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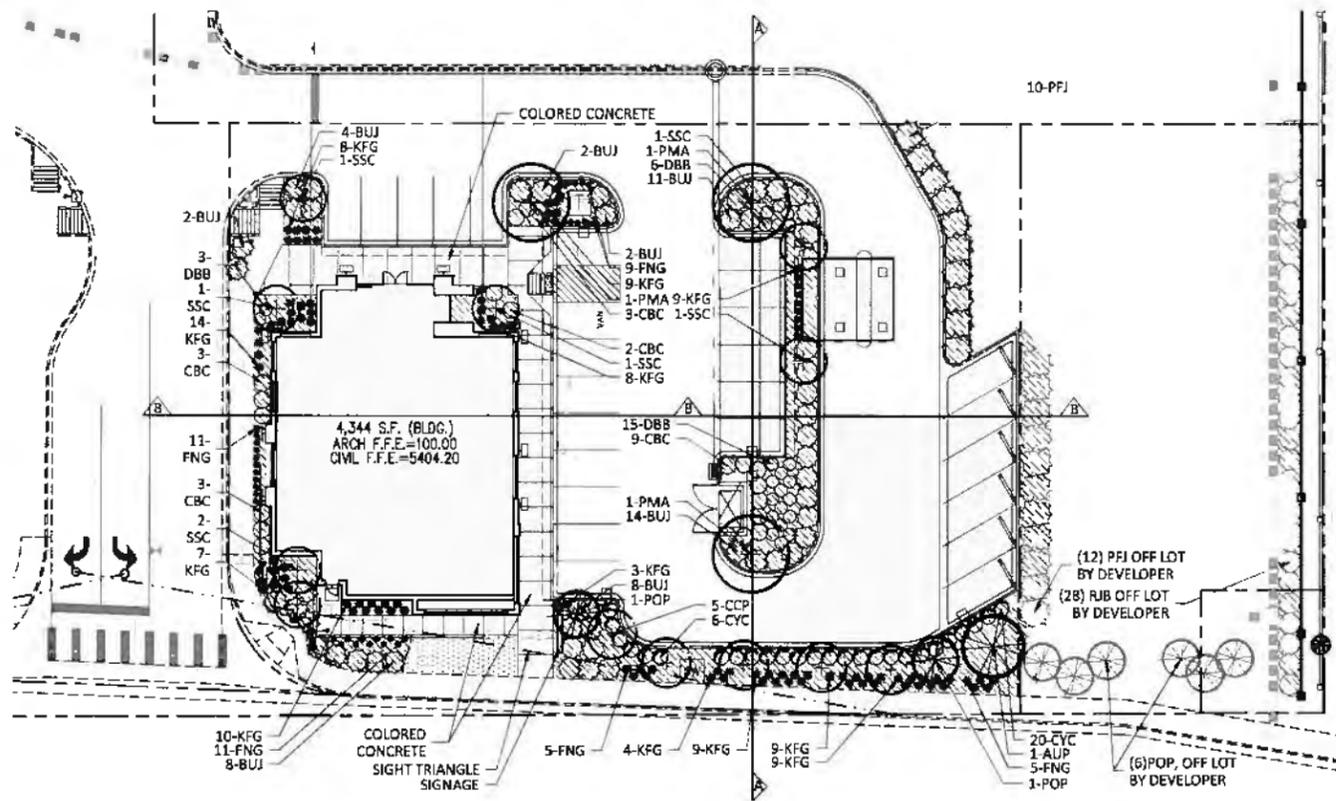


**UTILITY PLAN (LOT 3)**  
 DENVER SEMINARY PUD-AMENDMENT 3

OWNER: OWNER OF HANCOCK AVENUE & UNIVERSITY BOULEVARD, ENGLEWOOD, COLORADO

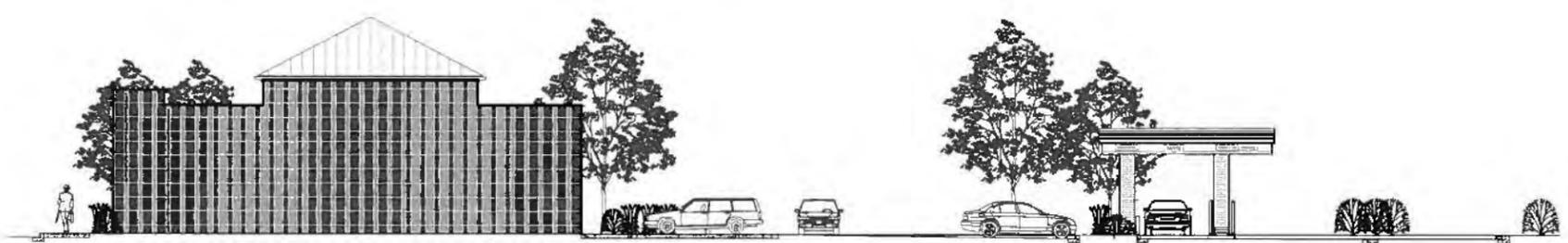
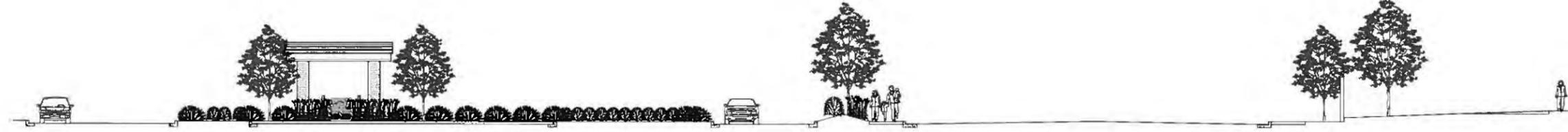
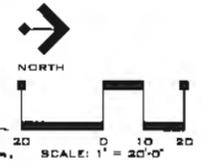
DRAWN BY: JJA	DATE: 1/20/12	SHEET: PUD-6
CHECKED BY: DJM	PROJECT#: 11-0050	

DENVER SEMINARY  
 AMENDMENT 3  
 PLANNED UNIT DEVELOPMENT  
 ENGLEWOOD, COLORADO



- LEGEND**
- SOD
  - STONE COBBLE MULCH
  - EDGER

PLANT SCHEDULE		INSTALLED SIZE	
QUAN.	SYM. COMMON/BOTANICAL NAME		
<b>DECIDUOUS TREES</b>			
3	PMA PATMORE ASH <i>Fraxinus pennsylvanica</i> 'Patmore'	2.5' GAL. SINGLE TRUNK	FULL CROWN, B&B, STAKED SPECIMEN QUALITY
<b>EVERGREEN TREES</b>			
1	AUP AUSTRIAN PINE <i>Pinus nigra</i>	6' HT.	FULL FORM, B&B, SPECIMEN QUALITY, GUYED
2	POP PONDEROSA PINE <i>Pinus ponderosa</i>	6' HT.	FULL FORM, B&B, SPECIMEN QUALITY, GUYED
<b>ORNAMENTAL TREES</b>			
5	CCP CHANTICLEER PEAR <i>Pyrus calleryana</i> 'Chanticleer'	2.5' GAL. SINGLE TRUNK	STRAIGHT TRUNK, B&B, SPECIMEN QUALITY, STAKED
7	SSC SPRING SNOW CRABAPPLE <i>Malus sp.</i> 'Spring Snow'	2.5' GAL. SINGLE TRUNK	STRAIGHT TRUNK, B&B, SPECIMEN QUALITY, STAKED
<b>EVERGREEN SHRUBS</b>			
50	BUJ BUFFALO JUNIPER <i>Juniperus sabina</i> 'Buffalo'	5 GAL. 18"-24" SPREAD	
20	CBC CORAL BEAUTY COTONEASTER <i>Cotoneaster dammeri</i> 'Coral Beauty'	5 GAL. 18"-24" HT.	
26	CYC CRANBERRY COTONEASTER (HEDGE) <i>Cotoneaster apiculatus</i>	5 GAL. 18"-24" HT.	
10	PFJ PFITZER JUNIPER <i>Juniperus chinensis</i> 'pfitzenana'	7 GAL. 18"-24" HT.	
<b>DECIDUOUS SHRUBS</b>			
24	DBB DWARF BURNING BUSH <i>Euonymus alata</i> 'Compacta'	5 GAL. 18"-24" HT.	
<b>ORNAMENTAL GRASSES</b>			
100	KFG KARL FOERSTER FEATHER REED <i>Calamagrostis australis</i> 'Karl Foerster'	5 GAL. ESTABLISHED	
31	FNG DWARF FOUNTAIN GRASS <i>Pennisetum alopecuroides</i> 'Homech'	5 GAL. ESTABLISHED	MATURE HT. 24"
<b>OFF LOT BY DEVELOPER</b>			
<b>EVERGREEN TREES</b>			
6	POP PONDEROSA PINE <i>Pinus ponderosa</i>	6' HT.	FULL FORM, B&B, SPECIMEN QUALITY, GUYED
<b>EVERGREEN SHRUBS</b>			
12	PFJ PFITZER JUNIPER <i>Juniperus chinensis</i> 'pfitzenana'	7 GAL. 18"-24" HT.	
<b>DECIDUOUS SHRUBS</b>			
28	DBB REDLEAF JAPANESE BARBERRY <i>Barberis thunbergii</i> 'Atropurpurea'	5 GAL. 18"-24" HT.	



**SITE DATA**

TOTAL SITE AREA:	27,402 SF (.62 ACRES)
LANDSCAPE AREA	
REQUIRED:	8,851 S.F.
PROVIDED:	7,516 S.F. (.17 ACRES)
INCLUDES 1,853 S.F. OF COLORED CONCRETE WALK	
TREES REQUIRED:	11
PROVIDED:	18
1 TREE / 325 S.F.	
SHRUBS REQUIRED:	55
PROVIDED:	270
1 TREE / 325 S.F.	
DOES NOT INCLUDE TREES AND SHRUBS OFF LOT BY DEVELOPER.	
TREES BETWEEN PRINCIPAL STRUCTURE AND CURB REQUIRED:	9
PROVIDED:	10
SHRUBS BETWEEN PRINCIPAL STRUCTURE AND CURB REQUIRED:	61
PROVIDED:	114

**NOTE:**  
AN AUTOMATIC UNDERGROUND IRRIGATION SYSTEM DESIGNED TO SUPPLY WATER TO ALL TURF, SHRUBS, GRASSES, PERENNIALS AND TREES LOCATED WITHIN THE PROJECT AREA SHALL BE SUPPLIED AND INSTALLED THROUGH DESIGN BUILD. THE SYSTEM SHALL MAKE USE OF DRIP, TRICKLE, SUBTERRANEAN AND OTHER WATER CONSERVING IRRIGATIONS METHODS.

**LANDSCAPE PLAN (LOT 3)  
DENVER SEMINARY PUD-AMENDMENT 3**

(NAD) CORNER OF HANCOCK AVENUE & UNIVERSITY BOULEVARD, ENGLEWOOD, COLORADO

DRAWN BY: JJA	DATE: 1/20/12	SHEET:
CHECKED BY: DJM	PROJECT#: 11-0050	PUD-7

**regency centers**

No.	Revisions	Date	By	Chk
3	AMENDMENT 3	02/20/12	JJA	DJM
2	AMENDMENT 2	07/17/08	JB	DF
1	AMENDMENT 1	11/13/06	RS	DF

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LANDSCAPE ARCHITECTURE  
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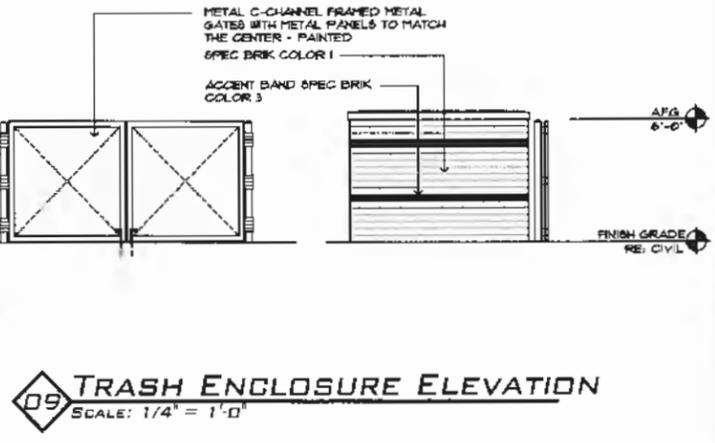
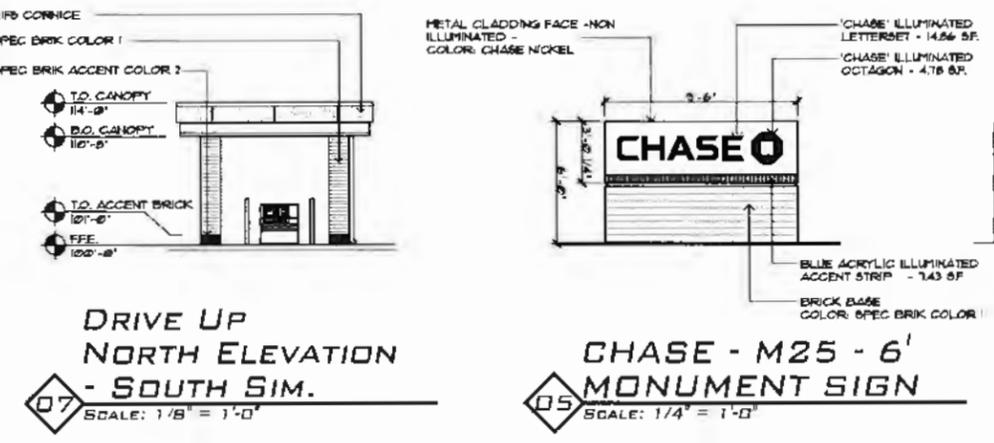
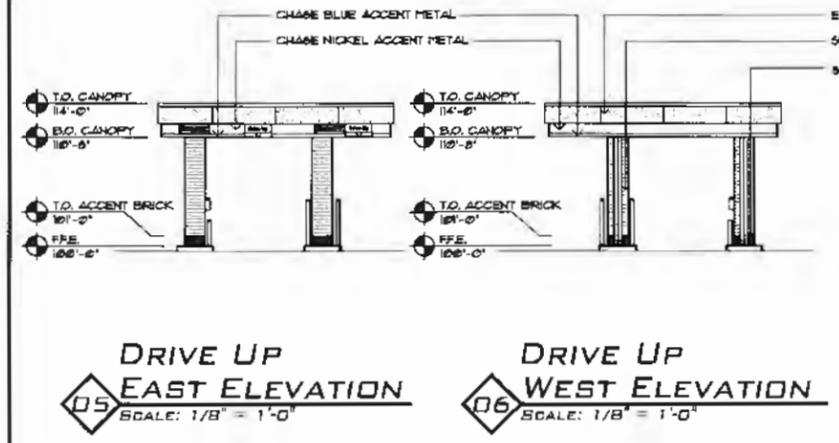
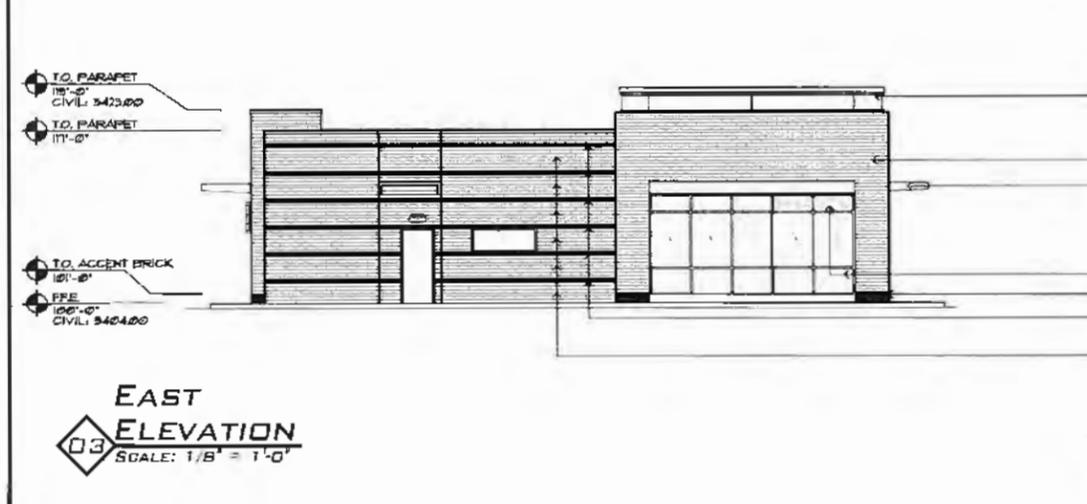
**DENVER SEMINARY  
AMENDMENT 3  
PLANNED UNIT DEVELOPMENT  
ENGLEWOOD, COLORADO**

No.	Revisions	Date	By	CHK
3	AMENDMENT 3	05/20/12	JJA	DJM
2	AMENDMENT 2	01/17/08	RS	DF
1	AMENDMENT 1	11/13/06	RS	DF



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**BUILDING ELEVATIONS (LOT 3)**  
 DENVER SEMINARY PUD-AMENDMENT 3

ONE CORNER OF HARPOUN AVENUE & UNIVERSITY BOULEVARD, ENGLEWOOD, COLORADO

DRAWN BY: JJA DATE: 1/20/12 SHEET: PUD-8  
 CHECKED BY: DJM PROJECT#: 11-0050

DENVER SEMINARY  
 AMENDMENT 3  
 PLANNED UNIT DEVELOPMENT  
 ENGLEWOOD, COLORADO

**PATRIOT SMALL** (Various reflectors are produced by U.S. Patent No. 6,464,318)



**DESCRIPTION** - One-piece, die-cast aluminum in a rectangular, non-regular shape with mounting arm cast as an integral part of the housing. All hardware is stainless steel or chrome-plated steel.

**DOOR FRAME** - The Patriot Small has a door frame that is cast as an integral part of the housing. An integral door hinge allows easy "pop-out" access. Door frame may be cast in either of two positions: door frame facing out or door frame facing in.

**REFLECTOR DISTRIBUTION PATTERNS** - The Patriot Small is available with a wide variety of reflector patterns including Type II (Type II-A, Type II-B, and Type II-C) and Type III (Type III-A and Type III-B). All reflectors are die-cast, anodized aluminum. Reflector patterns are distributed by design drawings external to this document.

**LEADERSHIP** - The Patriot Small is available with a tempered clear glass lens. A one-piece stainless steel door frame allows the lens to be cast aluminum door frame.

**SOCKETS** - Potable, medium base sockets are supplied on Empire 150 watt H10 and 100 watt. Potable in Empire like sockets are supplied on 75, 250, and 300 watt H10 fixtures. All H10 sockets are factory powered with a disconnect plug for the ballast, and are pre-wired. The Compact Fluorescent fixture features a one-piece thermoplastic socket.

**LIGHT SOURCES** - Fluorescent (F), Metal Halide, High Pressure Sodium or single or double Compact Fluorescent lamps. A clear H10 lamp is included as standard. A standard 4100K CFL lamp is supplied as standard.

**BALLASTS** - H10 high power factor ballasts, designed for 30% operation. Optional 100 Watt Compact ballast includes supply wiring plus modular clips for easy ballast wiring and a replaceable ballast tray Compact.

**LUMINAIRE DIMENSIONS - Pivotal Detail**

Height	Width	Depth
1.0	1.8	1.2
2.7	2.7	1.2
7.7	2.7	1.2
2.0	2.0	1.2
2.2	2.2	1.2

**LUMINAIRE WEIGHTS - Pivotal Detail**

Model	Weight (lbs)
PT16	3.919
PT18	4.236
PT20	4.553
PT22	4.870

**DESCRIPTION**

674 Luminaire Wall Mount fixture. Horizontal in-line base with a vertical lens and is ADA compliant. Design options, such as perforated metal, anodized, and powder coat finish, are available.

**DESCRIPTION** - The 674-WP Series is a wall-mounted luminaire. It features a horizontal in-line base with a vertical lens and is ADA compliant. Design options, such as perforated metal, anodized, and powder coat finish, are available.

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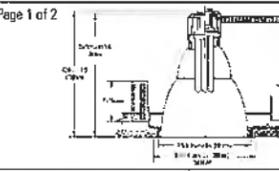
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**Calculate CFL Open Downlight 8022**



**DESCRIPTION** - The Calculate CFL Open Downlight 8022 is a recessed downlight fixture. It features a triple tube vertical lamp and a 3/8" aperture. The fixture is designed for use in a variety of applications, including commercial and residential.

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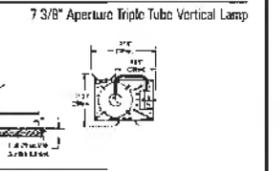
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**Calculate Compact Fluorescent Lensed Downlight 8098**



**DESCRIPTION** - The Calculate Compact Fluorescent Lensed Downlight 8098 is a recessed downlight fixture. It features a triple tube vertical lamp and a lensed aperture. The fixture is designed for use in a variety of applications, including commercial and residential.

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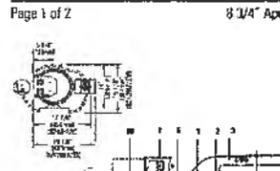
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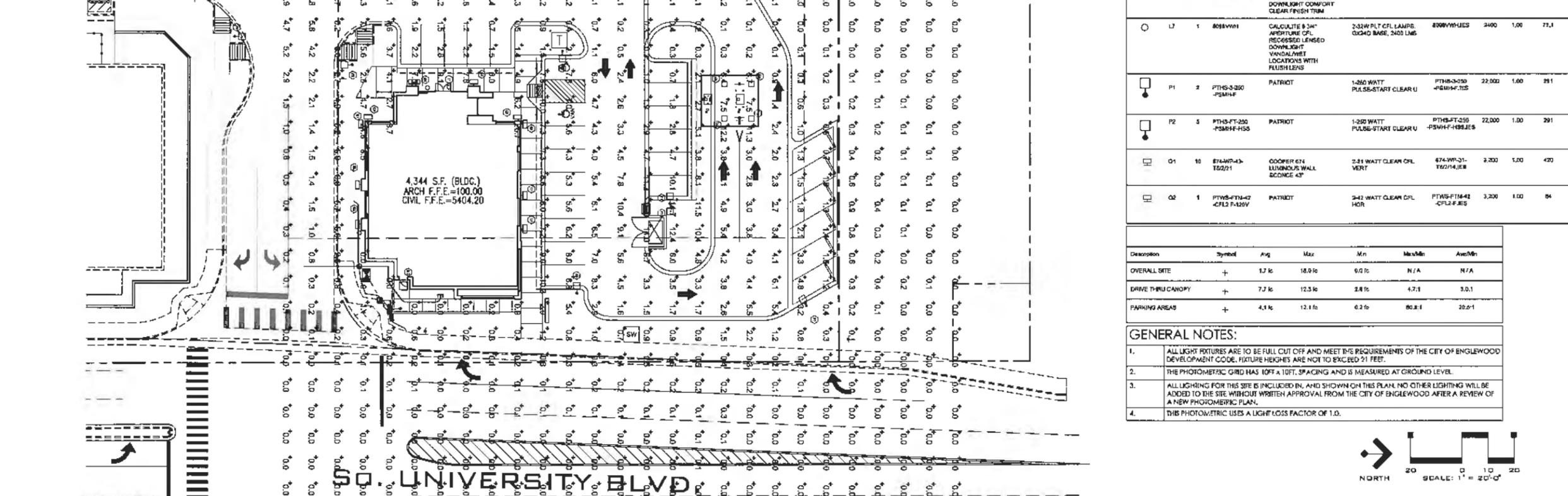
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**PHOTOMETRIC PLAN (LOT 3) DENVER SEMINARY PUD-AMENDMENT 3**

Description	Symbol	Avg	Max	Min	Max/Min	Ave/Min
OVERALL SITE	+	1.7 fc	18.0 fc	0.0 fc	N/A	N/A
DRIVE THRU CANOPY	+	7.7 fc	12.3 fc	2.8 fc	4.7:1	3.0:1
PARKING AREAS	+	4.1 fc	12.1 fc	0.2 fc	60.8:1	20.5:1

**GENERAL NOTES:**

- ALL LIGHT FIXTURES ARE TO BE FULL CUT OFF AND MEET THE REQUIREMENTS OF THE CITY OF ENGLEWOOD DEVELOPMENT CODE. FIXTURE HEIGHTS ARE NOT TO EXCEED 21 FEET.
- THE PHOTOMETRIC GRID HAS 10' FT. SPACING AND IS MEASURED AT GROUND LEVEL.
- ALL LIGHTING FOR THIS SITE IS INCLUDED IN, AND SHOWN ON THIS PLAN. NO OTHER LIGHTING WILL BE ADDED TO THE SITE WITHOUT WRITTEN APPROVAL FROM THE CITY OF ENGLEWOOD AFTER A REVIEW OF A NEW PHOTOMETRIC PLAN.
- THIS PHOTOMETRIC USES A LIGHT LOSS FACTOR OF 1.0.

**PHOTOMETRIC PLAN (LOT 3) DENVER SEMINARY PUD-AMENDMENT 3**

DRAWN BY: JJA DATE: 1/20/12 SHEET: PUD-9

CHECKED BY: DJM PROJECT#: 11-0050

**regency centers**

**LIGHTOLIER**

**CLC ASSOCIATES**

8480 E. ORCHARD RD  
SUITE 2000  
GREENWOOD VILLAGE  
COLORADO 80121  
P: 303.770.5849  
D: 303.770.5849  
CLC@CLC.COM

ARCHITECTURE  
ENGINEERING PLANNING  
LANDSCAPE ARCHITECTURE  
LAND SURVEYING

**DENVER SEMINARY  
AMENDMENT 3  
PLANNED UNIT DEVELOPMENT  
ENGLEWOOD, COLORADO**

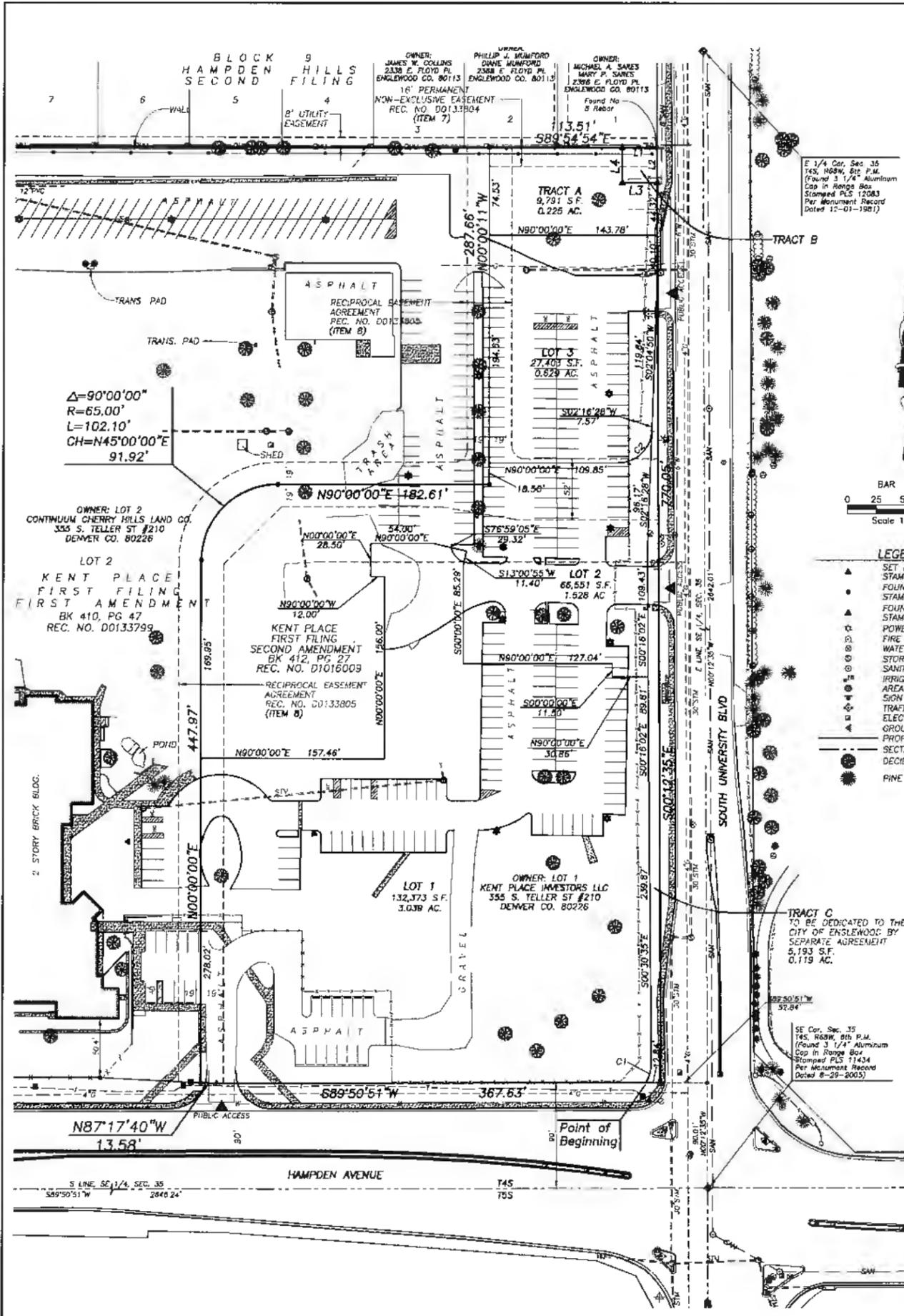
PHOTOMETRIC PLAN (LOT 3)  
DENVER SEMINARY PUD-AMENDMENT 3

DRAWN BY: JJA DATE: 1/20/12 SHEET: PUD-9

CHECKED BY: DJM PROJECT#: 11-0050

# ALTA / ACSM SURVEY

LOTS 1, 2 AND 3 AND TRACTS A AND C, KENT PLACE FIRST FILING, SECOND AMENDMENT  
PART OF THE SOUTHEAST QUARTER OF SECTION 35,  
TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN  
CITY OF ENGLEWOOD, COUNTY OF ARAPAHOE, STATE OF COLORADO



LINE TABLE

LINE	BEARING	LENGTH
L1	S89°54'54"E	30.00'
L2	S00°12'35"E	30.00'
L3	N69°54'54"W	30.00'
L4	N00°12'35"W	30.00'

CURVE TABLE

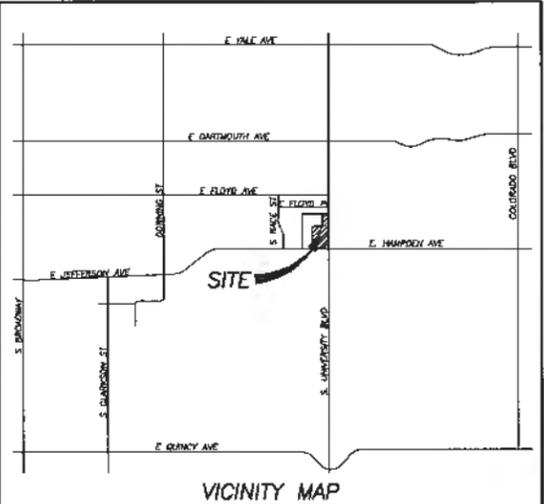
CURVE	RADIUS	LENGTH	CHORD	BEARING	DELTA
C1	35.50'	18.83'	18.61'	N14°41'22"E	30°23'53"
C2	29.56'	44.04'	40.06'	(147°14'05"E	85°31'50"

**TITLE POLICY NOTES - POLICY NO. 27-031-06-109591**

- ITEMS 1-2 - STANDARD TITLE POLICY NOTES.
- ITEM 3 - ORDINANCE NO. 52, SERIES OF 2004 RECORDED SEPTEMBER 29, 2004 AT RECEPTION NO. B4171853, AMENDMENT NO. 1 RECORDED MARCH 5, 2007 AT RECEPTION NO. B7022878 AND AMENDMENT NO. 2 RECORDED JULY 15, 2008 AT RECEPTION NO. B8080504 (AFFECTS PROPERTY)
- ITEM 4 - DENVER SEMINARY PLANNED UNIT DEVELOPMENT (DISTRICT PLAN) MAPS RECORDED NOVEMBER 19, 2004 AT RECEPTION NO. B4202226 AND RE-RECORDED MAY 16, 2007 AT RECEPTION NO. B7062100 AND JULY 29, 2008 AT RECEPTION NO. B8085213. (AFFECTS PROPERTY)
- ITEM 5 - ITEM DELETED.
- ITEM 6 - INCLUSION OF LAND IN THE KENT PLACE METROPOLITAN DISTRICT NO. 2 RECORDED JANUARY 25, 2008 AT RECEPTION NO. B8010258, AMENDING ORDER AND DECREE RECORDED JUNE 2, 2008 AT RECEPTION NO. B8062394 AND DECEMBER 23, 2010 AT RECEPTION NO. 133420. (AFFECTS PROPERTY)
- ITEM 7 - STORM WATER LINE EASEMENT AGREEMENT RECORDED DECEMBER 23, 2010 AT RECEPTION NO. D0133804. (SHOWN ON SURVEY)
- ITEM 8 - RECIPROCAL EASEMENT AGREEMENT RECORDED DECEMBER 23, 2010 AT RECEPTION NO. D0133805. (SHOWN ON SURVEY)
- ITEM 9 - PLAT OF KENT PLACE FIRST FILING, SECOND AMENDMENT RECORDED FEBRUARY 15, 2011 IN BOOK 412 AT PAGE 27, RECEPTION NO. D1016009. (AFFECTS PROPERTY)
- ITEM 10 - COVENANTS, CONDITIONS, RESTRICTIONS AND LIEN RIGHTS BUT OMITTING ANY COVENANTS OR RESTRICTIONS SET FORTH IN THE DOCUMENT RECORDED DECEMBER 23, 2010 AT RECEPTION NO. 133806. (AFFECTS PROPERTY)
- ITEM 11 - THE FOLLOWING MATTERS SHOWN ON SURVEY PREPARED BY VIGIL LAND CONSULTANTS, JOB NO. 10061, DATED DECEMBER 3, 2010:  
(a) FENCE LINES TRaversing THE LAND AND NOT CORRESPONDING WITH LOT LINES, AS SHOWN THEREON.  
(b) RIGHT OF OTHERS IN AND TO PARKING AS EVIDENCED BY SHARED PARKING SHOWN THEREON.  
(c) EASEMENTS AND RELATED IMPROVEMENTS TO SAME, SHOWN ON THE SURVEY BUT NOT LYING WITHIN A FOUND RECORDED EASEMENT.
- ITEM 12 - MEMORANDUM OF RIGHT OF FIRST REFUSAL RECORDED MARCH 18, 2011 AT RECEPTION NO. 1026386. (AFFECTS PROPERTY)
- ITEM 13 - LEASE FROM KENT PLACE REGENCY, LLC, TO DILLON COMPANIES, INC. RECORDED MARCH 18, 2011 AT RECEPTION NO. 1026387. (AFFECTS PROPERTY)
- ITEM 14 - DEED OF TRUST RECORDED MARCH 18, 2011 AT RECEPTION NO. 1026388. (AFFECTS PROPERTY)
- ITEM 15 - FINANCING STATEMENT RECORDED MARCH 18, 2011 AT RECEPTION NO'S 1026389 AND 1026390. (AFFECTS PROPERTY)
- ITEM 16 - RECIPROCAL EASEMENT AGREEMENT RECORDED MARCH 18, 2011 AT RECEPTION NO. 1026391. (AFFECTS PROPERTY)
- ITEM 17 - DEVELOPMENT AGREEMENT RECORDED MARCH 18, 2011 AT RECEPTION NO. 1026392. (AFFECTS PROPERTY)
- ITEM 18 - NOTE: PENDING SUCH TIME AS THE ADDITIONAL IMPROVEMENTS CONTEMPLATED UPON INSURED PREMISES SHALL BE COMMENCED, LIABILITY UNDER THE POLICY IS LIMITED TO \$4,672,261.00 SAID SUM HAVING BEEN REPRESENTED AS THE PRESENT VALUE OF THE PROPERTY, BUT AS AND WHEN THE ERECTION OF SUCH ADDITIONAL IMPROVEMENTS SHALL BE COMMENCED, LIABILITY HEREUNDER SHALL INCREASE, AS THE IMPROVEMENTS PROGRESS, IN THE AMOUNT OF THE COST THEREOF, UP TO THE FACE AMOUNT OF THE POLICY.

**NOTES**

- NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
- BASIS OF BEARINGS IS THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 35, BEING S89°50'51"W AND MONUMENTED AS SHOWN.
- THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY VIGIL LAND CONSULTANTS INC. TO DETERMINE OWNERSHIP, EASEMENTS OF RECORD, OR ANY ENCUMBRANCE WHICH MAY AFFECT THIS SURVEY. FOR INFORMATION REGARDING EASEMENTS, RIGHTS-OF-WAY AND OTHER ENCUMBRANCES SHOWN ON THIS PLAT, VIGIL LAND CONSULTANTS, INC. RELIED UPON TITLE POLICY BY FIDELITY NATIONAL TITLE INSURANCE COMPANY, FILE NO. F228484, POLICY NO. 27-031-06-109591, DATED MARCH 18, 2011.
- THIS PROPERTY DOES NOT LIE IN A 100-YEAR FLOOD PLAIN, IT FALLS IN ZONE X ACCORDING TO FLOOD INSURANCE RATE MAP COMMUNITY PANEL NUMBER 080050165 J, DATED AUGUST 16, 1995.
- THIS PROPERTY IS ZONED PUD-8.
- VIGIL LAND CONSULTANTS INC. DOES NOT ASSUME RESPONSIBILITY FOR THE LOCATION OF BURIED UTILITIES. THE UTILITIES SHOWN WERE PLOTTED FROM MAPS PROVIDED BY THE SERVICING ENTITY AND FIELD VERIFIED ABOVE GROUND WHERE VISIBLE.
- COMMUNICATIONS CABLES SUCH AS TELEPHONE AND CABLE TV MAY EXIST ON OR NEAR THIS PROJECT. MAPS WERE NOT AVAILABLE FROM THE SERVICING ENTITY FOR THESE UTILITIES.
- COLORADO LAW REQUIRES ANYONE DIGGING, GRADING OR EXCAVATING TO OBTAIN A FIELD LOCATE OF ALL BURIED UTILITIES PRIOR TO CONSTRUCTION.



**LEGAL DESCRIPTION**

LOTS 1, 2 AND 3 AND TRACTS A AND C, KENT PLACE FIRST FILING, SECOND AMENDMENT, TOGETHER WITH THOSE RIGHTS IN AND TO TRACT B AS GRANTED IN EASEMENT AGREEMENT RECORDED MARCH 18, 2011 AT RECEPTION NO. 1026385, CITY OF ENGLEWOOD, COUNTY OF ARAPAHOE, STATE OF COLORADO.

**SURVEY CERTIFICATION**

I HEREBY CERTIFY TO REGENCY CENTERS CORPORATION, (i) REGENCY CENTERS, L.P. (ii) KENT PLACE REGENCY, LLC, A DELAWARE LIMITED LIABILITY COMPANY (iii) DILLON COMPANIES, INC., A KANSAS CORPORATION (iv) KENT PLACE INVESTORS, LLC, A COLORADO LIMITED LIABILITY COMPANY (SELLER), AND (v) FIDELITY NATIONAL TITLE INSURANCE COMPANY, AS FOLLOWS:

- THIS SURVEY WAS PERFORMED ON APRIL 4, 2011 UNDER MY DIRECT SUPERVISION.
- THIS SURVEY WAS PERFORMED ON THE GROUND AND IS A CORRECT REPRESENTATION OF THE SUBJECT PROPERTY AND THAT THIS DRAWING CORRECTLY SHOWS THE LOCATION OF ALL BUILDINGS, STRUCTURES, UTILITIES AND OTHER IMPROVEMENTS AND THE LOCATION OF ALL LOT LINES, WATER COURSES AND WATER BODIES AND MOVEMENTS.
- THERE ARE NO VISIBLE EASEMENTS, RIGHTS-OF-WAY, OR ENCROACHMENTS ACROSS SAID PROPERTY, NO EASEMENTS OR RIGHTS-OF-WAY OF WHICH THE UNDERSIGNED HAS BEEN ADVISED, AND NO PARTY WALLS OR ENCROACHMENTS UPON ADJOINING PROPERTY, STREETS OR ALLEYS OR UPON ANY EASEMENTS BY AND OF SAID BUILDINGS, STRUCTURES, OR OTHER IMPROVEMENTS UPON THE PROPERTY HEREIN DESCRIBED EXCEPT AS SHOWN THEREON.
- THE SURVEYED LANDS ABUT HAMPDEN AVENUE AND S. UNIVERSITY BLVD, WHICH ARE PUBLIC ROADS WHICH PROVIDE INGRESS AND EGRESS TO THE SUBJECT PROPERTY.
- THE UNDERSIGNED HAS REVIEWED THE TITLE COMMITMENT PROVIDED BY FIDELITY NATIONAL TITLE INSURANCE COMPANY (POLICY NO. 27-031-06-109591) AND (a) THE MATTERS AFFECTING TITLE THAT CAN BE LOCATED HAVE BEEN SHOWN HEREON, AND (b) THE PROPERTY DESCRIBED IN SAID POLICY AND THE PROPERTY AS DEPICTED AND MEASURED ON THE SURVEY ARE ONE AND THE SAME PROPERTY.
- THE SUBJECT PARCEL APPEARS TO FALL WITHIN FLOOD ZONE X PER THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S FLOOD INSURANCE RATE MAP NO. 080050165 J, REVISED AUGUST 16, 1995.

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2011 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1-4, 6, 8, 10, 11(a), 11(b), 13 AND 14 OF TABLE A THEREOF, THE FIELD WORK WAS COMPLETED ON APRIL 4, 2011.

DATE: \_\_\_\_\_  
JOHN G. VIGIL, PLS NO. 26806



**SURVEY SHEET**  
DENVER SEMINARY PUD-AMENDMENT 3

DRAWN BY: MJL DATE: 2/10/12 SHEET: PUD-10

CHECKED BY: JGV PROJECT#: 10061

**Vigil Land Consultants**  
480 Yuma Street ■ Denver, Colorado 80204  
Off: (303) 436-9233 ■ Fax: (303) 436-9235

regencycenters

NO.	REV.	DATE	BY	CHK
1		11/19/08	JP	
2	AMENDMENT 2	07/17/08	JP	
3	AMENDMENT 3	01/26/12	MJL	



GLC ASSOCIATES  
6480 E. LINCOLN RD  
SUITE 1000  
DENVER, CO 80221  
P: (303) 730-9400  
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GLC@GLC.COM

ARCHITECTURE  
ENGINEERING PLANNING  
LANDSCAPE ARCHITECTURE  
LAND SURVEYING

DENVER SEMINARY  
AMENDMENT 3  
PLANNED UNIT DEVELOPMENT  
ENGLEWOOD, COLORADO

## COUNCIL COMMUNICATION

<b>Date:</b> April 16, 2010	<b>Agenda Item:</b> 11 c i	<b>Subject:</b> Resolution for a year-end supplemental appropriation to the 2011 Budget
<b>Initiated By:</b> Finance and Administrative Services Department		<b>Staff Source:</b> Frank Gryglewicz, Director

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council has not discussed this supplemental or transfer specifically but approved the 2011 Budget and Appropriations Ordinances on final reading on October 18, 2010.

### RECOMMENDED ACTION

Staff recommends City Council approve the attached resolution authorizing a supplemental appropriation to the 2011 Budget for the following funds:

### SOURCES AND USES OF FUNDS

#### GENERAL FUND:

##### SOURCE OF FUNDS:

Reimbursement from State - Wildland Fires	\$69,000
Unreserved/Undesignated Fund Balance	<u>\$129,000</u>
<b>Total Sources of Funds</b>	<b>\$198,000</b>

##### USE OF FUNDS:

Fire Department -Unanticipated Overtime	\$77,000
Contingency - Leave Cashouts for Retiring Employees	\$63,000
Debt Service - QECB Debt Payments	\$23,000
Transfer Out to Employee Benefits Fund	<u>\$35,000</u>
<b>Total Uses of Funds</b>	<b>\$198,000</b>

#### EMPLOYEE BENEFITS FUND:

##### SOURCE OF FUNDS:

Transfer In From the General Fund	\$35,000
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##### USE OF FUNDS:

Funds Available	\$35,000
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**COMMUNITY DEVELOPMENT FUND (ART SHUTTLE):**

**SOURCE OF FUNDS:**

Reimbursement from the Regional Transportation District \$10,000

**USE OF FUNDS:**

Unanticipated Fuel Costs \$10,000

**SERVICECENTER FUND:**

**SOURCE OF FUNDS:**

Funds Availabe \$200,000

**USE OF FUNDS:**

Transfer Out to the Capital Equipment Replacement Fund \$200,000

**CAPITAL EQUIPMENT REPLACEMENT FUND:**

**SOURCE OF FUNDS:**

Transfer In From the ServiCenter Fund \$200,000

**USE OF FUNDS:**

Funds Available \$200,000

**BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED**

The supplemental appropriations for 2011 are presented for Council's consideration at this time because total expenditures for the year are often not fully known until all expenditures are paid, which is often months after year-end.

**FINANCIAL IMPACT**

- The General Fund's reserves will decrease \$129,000.
- The ServiCenter Fund will have a \$200,000 reduction in funds available

**LIST OF ATTACHMENTS**

Proposed Resolution

RESOLUTION NO. \_\_\_\_\_  
SERIES OF 2012

A RESOLUTION APPROVING A SUPPLEMENTAL APPROPRIATION TO THE 2011  
BUDGET AND TRANSFER BETWEEN FUNDS.

WHEREAS, the City of Englewood is required by City Charter to ensure that expenditures do not exceed legally adopted appropriations; and

WHEREAS, the 2011 Budget was submitted and approved by the Englewood City Council in October 2010; and

WHEREAS, this supplemental appropriation to the 2011 Budget is due to total expenditures for the year not being fully known until all expenditures are paid, which is often months after year-end and therefore not appropriated at the time the 2011 Budget was prepared;

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

Section 1. The Budget for the City of Englewood, Colorado, is hereby amended for the year ending 2011, as follows:

**2011 SUPPLEMENTAL APPROPRIATION**

**GENERAL FUND**

**SOURCE OF FUNDS:**

Reimbursement from State – Wildland Fires	\$ 69,000
Unreserved/Undesignated Fund Balance	<u>\$129,000</u>
Total Sources of Funds	\$198,000

**USE OF FUNDS:**

Fire Department Unanticipated Overtime	\$ 77,000
Contingency – Leave Cashouts for Retiring Employees	\$ 63,000
Debt Service – QECCB Debt Payments	\$ 23,000
Transfer Out to Employee Benefits Fund	<u>\$ 35,000</u>
Total Use of funds	\$198,000

**EMPLOYEE BENEFITS FUND**

**SOURCE OF FUNDS:**

Transfer In From the General Fund	\$ 35,000
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**USE OF FUNDS:**

Funds Available	\$ 35,000
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**COMMUNITY DEVELOPMENT FUND (ART SHUTTLE)**

**SOURCE OF FUNDS:**

Reimbursement from RTD \$ 10,000

**USE OF FUNDS:**

Unanticipated Fuel Costs \$ 10,000

**SERVICECENTER FUND**

**SOURCE OF FUNDS:**

Funds Available \$200,000

**USE OF FUNDS:**

Transfer Out to the Capital Equipment Replacement Fund \$200,000

**CAPITAL EQUIPMENT REPLACEMENT FUND**

**SOURCE OF FUNDS:**

Transfer In From the ServiCenter Fund \$200,000

**USE OF FUNDS:**

Funds Available \$200,000

Section 2. The City Manager and the Director of Finance and Administrative Services are hereby authorized to make the above changes to the 2011 Budget for the City of Englewood.

ADOPTED AND APPROVED this 16<sup>th</sup> day of April, 2012.

ATTEST:

\_\_\_\_\_  
Randy P. Penn, Mayor

\_\_\_\_\_  
Kerry Bush, Deputy City Clerk

I, Kerry Bush, Deputy City Clerk for the City of Englewood, Colorado, hereby certify the above is a true copy of Resolution No. \_\_\_\_\_, Series of 2012.

\_\_\_\_\_  
Kerry Bush, Deputy City Clerk

## COUNCIL COMMUNICATION

<b>Date</b> April 16, 2012	<b>Agenda Item</b> 11 c ii	<b>Subject</b> Approval of the McLellan Reservoir Outlet Pipe Project
<b>INITIATED BY</b> Utilities Department	<b>STAFF SOURCE</b> Stewart H. Fonda, Director of Utilities	

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

The original McLellan pump station and pipe line was constructed in 1964.

### RECOMMENDED ACTION

The Englewood Water Board, at their March 13, 2012 meeting, recommended Council approval of the McLellan Reservoir Outlet Pipe Project to the lowest acceptable bidder, Diaz Construction Group, in the amount of \$116,250.00.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The McLellan Reservoir outlet pipe is connected to the pump station and is necessary for filling and draining water from the reservoir to the S. Platte River and City Ditch. The proposed replacement section is on the east side of Santa Fe near the McLellan spillway.

Over time, corrosive soil contributed to conditions that caused the steel pipe failure. Other areas of this line have been replaced, with this being the last known leaking section. The replacement section is 12' to 15' deep, and will require special equipment due to the depth and dewatering that will be necessary for crossing Dad Clark Gulch.

### FINANCIAL IMPACT

Request for bids were received from 9 vendors for 530 linear feet of 30" steel pipe with an outside diameter of 30-3/8" with tar coating. Bids received were:

Diamond Contracting Corp.	\$206,433.00
American West Construction.	\$187,905.00
Backhoe Services LLC	\$159,751.00
C & L Water Solutions Inc.	\$158,947.00
T. Lowell Construction	\$134,000.00

Northern Colorado Constructors Inc.	\$127,845.00
Iron Woman Construction	\$120,468.40
Redline Pipeline	\$118,875.00
Diaz Construction Group LLC	\$116,250.00

The Utilities Engineer has reviewed the bids and finds Diaz Construction Group the acceptable low bidder in the amount of \$116,250.00.

**LIST OF ATTACHMENTS**

Water and Sewer Board Minutes from March 13, 2012  
Excerpt from Water and Sewer Board Minutes from April 10, 2012  
Bid Tabulation Sheet

**WATER & SEWER BOARD  
MINUTES  
TUESDAY, MARCH 13, 2012**

**Roll Call.**

**Present:** Clyde Wiggins, Jo Lay, Chuck Habenicht, Tom Burns, Wayne Oakley, Kells Waggoner, John Moore, Randy Penn, Linda Olson, Jim Woodward, Stewart Fonda , Cathy Burrage

Absent/Excused:

-  1. MINUTES OF THE FEBRUARY 14, 2012 MEETING. (ATT. 1)

Motion: Approve the Minutes of the February 14, 2012 Water and Sewer Board meeting.

Moved: Habenicht                      Seconded: Lay

Motion passed unanimously.

Motion: To go into executive session.

Moved: Waggoner                      Seconded: Lay

EXECUTIVE SESSION -- DISCUSSION OF WATER LITIGATION WITH THE WATER ATTORNEY PURSUANT TO CRS24-6-402-4(b).

Motion: Moved to resume the regular Water and Sewer Board meeting.

Moved: Waggoner                      Seconded: Lay

Meeting resumed at 5:47 p.m.

\*\*\*\*

-  2. McLELLAN RESERVOIR OUTLET PIPE. (ATT. 2)

Tom Brennan appeared to discuss the recommended lowest acceptable bid from Diaz Construction Group, in the amount of \$116,250.00. The bid is for the McLellan Reservoir outlet pipe that is connected to the pump station for filling and draining water from the reservoir to the S. Platte River and City Ditch. Bids were received from 9 vendors for 530 linear feet of 30" steel pipe with an outside diameter of 30-3/8" with tar coating.

Motion: To recommend Council approval of the McLellan Reservoir Outlet Pipe Project to Diaz Construction Group in the amount of \$116,250.00.

Moved: Penn                      Seconded: Oakley

Motion passed unanimously.

 3.            TOM BRENNAN – UV ELECTRICAL OVERAGES. (ATT. 3)

Tom Brennan, Englewood Utilities Engineer, appeared to discuss additional engineering services that will be required for the UV Disinfection Design Project, adding \$63,329.54 to the contract.

Motion: To approve an additional \$63,329.54 to be budgeted for electrical overages for the UV Disinfection Design Project. Information only.

 4.            1997 WATER CONSERVATION MASTER PLAN. (ATT. 4)

The Board received and discussed the 1997 Water Conservation Master Plan.

Board received Council's goals that show that the Water Conservation Board is moving forward. Starting mid-April and end mid-September. Work with Colorado Water Conservation Board. Biggest issue is conversion to meters. Bonds and grants were discussed. Overhead storage roofs, Allen Plant roof, two major water mains, UV project. Able to do additional distribution pipe every year. Metering was discussed.

 5.            MEMO FROM JOHN BOCK DATED MARCH 8, 2012 - REPLIES TO BOARD REQUESTS. (ATT. 5)

The Board received a memo dated March 8, 2012 addressed board requests for additional information on records of properties changing hands for meter conversion, publishing information on the EMAP Program for meter conversions and the meter for the King Soopers remodel.



5. ARTICLE FROM THE DENVER POST – “PROPOSALS COULD MEAN BIG CHANGE FOR COLORADO WATER.” (ATT. 6)

The Board received an article from the February 4, 2012 Denver Post, “Proposals could mean big change for Colorado water.”

6. UNSCHEDULED VISITORS. No unscheduled visitors.

7. OTHER.

Elect Vice Chairman

Waggoner nominated chuck                      seconded: Randy Penn

Motion approved.

Adjourned 6:48 p.m.

**WATER & SEWER BOARD  
MINUTES  
TUESDAY, APRIL 10, 2012**

**Roll Call.**

**Present:** Clyde Wiggins, Jo Lay, Chuck Habenicht, Tom Burns, Wayne Oakley, Kells Waggoner, John Moore, Linda Olson, Jim Woodward, Stewart Fonda , Cathy Burrage

**Absent/Excused:** Penn



**1. MINUTES OF THE MARCH 13, 2012 MEETING.**

**Motion:** Approve the Minutes of the March 13, 2012 Water and Sewer Board meeting.

**Moved:** Burns      **Seconded:** Habenicht

**Abstain:** Woodward

Motion passed unanimously.

**City of Englewood Bid Tabulation Sheet**

Bid Opening: February 7, 2012 2:00 PM MST

ITEM: ITB-12-001 McLellan Reservoir Outlet Pipe Project

														Aparent Low Bidder
Contractor	Bid Bond Y/N	Receipt of Addendum 1 & 2 Y/N	Statement of Qualifications Y/N	Construct & Maintain Dewatering System Lump Sum	Removal of 30" Steel Pipe 530 LF	Install 30" PVC Pipe w/ Fittings 530 LF	Install 2" Air Relief and Manhole 1 ea	Remove/Reset 8' Chain Link Fence Lump Sum	Reset 12' X 4' Steel Single Gate Lump Sum	Furnish and Install 3 Rail Vinyl Fence Lump Sum	Vehicle Tracking Control Pad Lump Sum	Mobilization Lump Sum	Total Bid	Exceptions:
Diaz Construction Group LLC														
528 Raleigh														
Denver, CO 80204														
Luis Diaz 303-883-3961	Y	Y	Y	\$ 7,500.00	\$ 5,300.00	\$ 79,500.00	\$ 8,500.00	\$ 1,200.00	\$ 1,700.00	\$ 2,300.00	\$ 2,750.00	\$ 7,500.00	\$ 116,250.00	
Diamond Contracting Corp														
18300 W Hwy 72 Ste 2														
Arvada, CO 80007														
Jim Creevey 303-456-7666	Y	Y	Y	\$ 10,518.00	\$ 45,580.00	\$ 128,790.00	\$ 7,954.00	\$ 729.00	\$ 151.00	\$ 3,497.00	\$ 2,807.00	\$ 6,407.00	\$ 206,433.00	Bidder Entered total bid of \$206,415.00
Backhoe Services LLC														
PO Box 182														
Elbert, CO 80106														
Michael Peterson 303-817-0130	Y	Y	Y	\$ 5,000.00	\$ 44,451.10	\$ 94,249.90	\$ 5,300.00	\$ 400.00	\$ 150.00	\$ 550.00	\$ 2,650.00	\$ 7,000.00	\$ 159,751.00	
American West Construction LLC														
PO Box 12530														
Denver, CO 80212-0530														
Paul Snyder 303-455-0838	Y	Y	N	\$ 16,200.00	\$ 12,190.00	\$ 120,840.00	\$ 5,400.00	\$ 3,300.00	\$ 875.00	\$ 1,500.00	\$ 1,200.00	\$ 26,400.00	\$ 187,905.00	
Northern Colorado Constructors Inc														
9075 WCR 10														
Ft Lupton, CO 80621														
Chris Zadel 303-857-1754	Y	Y	Y	\$ 4,800.00	\$ 1,855.00	\$ 103,880.00	\$ 6,500.00	\$ 1,600.00	\$ 160.00	\$ 1,000.00	\$ 1,700.00	\$ 6,350.00	\$ 127,845.00	
T. Lowell Construction Inc														
3211 South I-25														
Castle Rock, CO 80109														
Tim Lowell 303-688-2330	Y	Y	Y	\$ 4,000.00	\$ 15,900.00	\$ 92,750.00	\$ 8,100.00	\$ 960.00	\$ 280.00	\$ 900.00	\$ 1,500.00	\$ 9,610.00	\$ 134,000.00	
Redline Pipeline														
19126 Shadowood Dr														
Monument, CO 80132														
Nathan Conley 719-481-5777	Y	Y	Y	\$ 12,500.00	\$ 3,180.00	\$ 73,670.00	\$ 21,000.00	\$ 400.00	\$ 275.00	\$ 1,600.00	\$ 2,250.00	\$ 4,000.00	\$ 118,875.00	
C & L Water Solutions Inc														
12249 Mead Way														
Littleton, CO 80125														
Chystalla Larson 303-791-2521	Y	Y	Y	\$ 9,177.00	\$ 4,240.00	\$ 129,320.00	\$ 9,288.00	\$ 2,570.00	\$ 550.00	\$ 1,102.00	\$ 950.00	\$ 1,750.00	\$ 158,947.00	
Iron Woman Construction														
5680 Emerson St														
Denver, CO 80216														
Shaun Egan 303-399-5534	Y	Y	Y	\$ 34,418.41	\$ 5,257.60	\$ 60,218.60	\$ 13,686.52	\$ 614.20	\$ 210.40	\$ 988.27	\$ 742.26	\$ 4,332.14	\$ 120,468.40	

## COUNCIL COMMUNICATION

<b>Date</b> April 16, 2012	<b>Agenda Item</b> 11 c iii	<b>Subject</b> Water Meter and ERT Purchase
<b>INITIATED BY</b> Utilities Department	<b>STAFF SOURCE</b> Stewart H. Fonda, Director of Utilities	

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Council approved the 2005 meter purchase in the amount of \$76,785.10 at their March 21, 2005 meeting. Council approved the 2006 meter purchase in the amount of \$51,331.40 at their May 15, 2006 meeting. Council approved the 2009 meter purchase in the amount of \$114,140 at their February 2, 2009 meeting. Council approved the 2010 meter purchase in the amount of \$46,601.10 at their March 9, 2010 meeting. Council approved the 2011 meter purchase in the amount of \$69,145.00 at their May 2, 2011 meeting.

### RECOMMENDED ACTION

The Water and Sewer Board, at their February 14, 2012 meeting, recommended approval by motion for the purchase of water meters and electronic remote transmitters (ERTs) from National Meter and Automation, Inc. in the amount of \$99,563.56.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The Utilities Department purchases water meters needed for an entire year by requesting one large bid proposal for additional cost savings. The Utilities Department is converting the metering system to the ITRON Automatic Meter Reading System. All meters and registers purchased will be compatible with the ITRON System. A portion of these meters will be resold to Englewood customers for new installations as part of the flat-rate-to-meter conversion process. Some of the meter stock will be used to replace inactive or poorly functioning meters and to convert existing meters to the ITRON system.

A portion of the 2012 order is electronic remote transmitters (ERT's) for updating existing residential meters, enabling meter readers to obtain meter readings using radio frequencies. This improves accuracy, and at the same time, is a labor saving device

### FINANCIAL IMPACT

Englewood's meter and ERT order is being placed in conjunction with Denver Water Board's Contract #12770A and #12772A for the best quantity price. The purchase order is based on a previous bid by Denver Water. Meters and ERTs will be purchased from National Meter & Automation for the amount of \$99,563.56 for meters and ERTs. Of this amount, approximately \$20,000 will be resold to Englewood customers for flat-rate to meter conversions.

There is money budgeted for these meters in the 2012 Budget.

### LIST OF ATTACHMENTS

Quote from National Meter and Automation, Inc.  
Water and Sewer Board Minutes from February 14, 2012



# C I T Y   O F   E N G L E W O O D

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## MEMORANDUM

TO: John Bock, Administration Manager

FROM: Randy Pierce, Field Services Coordinator Utilities

DATE: January 18, 2012

SUBJECT: 2012- Request for purchase of new water meters and meter parts.

- A) Sale of meters for new accounts and accounts switching from flat rate water to metered water.
- B) Maintenance and updates of existing metered accounts.

Englewood was able to attach to the Denver Water Departments Bid Prices, Contract Number 12770A and 12772A, for their January 5, 2010 bid.

- The effective contract period for the prices is February 1, 2010 through January 31, 2013.
- Attached is the confirmation from National Meter and Automation dated January 04.2012.

NOTE: The City of Englewood has converted the metering system to ITRON AMR. All registers /ERT will be the ITRON AMR SYSTEM.

I have combined both the Sale and Maintenance meters/parts along with the Itron equipment for easier inventory control.

**NATIONAL**  
METER AND AUTOMATION, INC.

7220 S Fraser St, Centennial, CO 80112 Tel: (303) 339-9100 Fax: (303) 649-1017

Mr. Randy Pierce  
City of Englewood  
Water Department  
Englewood, Colorado 80110

January 4, 2012

Dear Randy,

As per your request National Meter & Automation, Inc. is pleased to offer an extension of all pricing for Badger Water Meters, Registers, and Itron 60W ERT Modueles.

As you know, this is the same pricing that Denver Water has had. This pricing was originally established in January of 2010. This means that the City of Englewood will have enjoyed the same competitive pricing with no increases for three years.

This pricing will remain firm thru 12/31/2012.

I look forward to working with the City of Englewood for the upcoming year for your water meter and Itron needs.

Thank you,

Noel Frakes  
President/CEO

# NATIONAL

METER AND AUTOMATION, INC.

7220 S Fraser St, Centennial, CO 80112 Tel: (303) 339-9100 Fax: (303) 649-1017

Mr. Randy Pierce  
City of Englewood  
Water Department  
Englewood, CO 80110

January 13, 2012

Dear Randy:

Per the email request please find the following pricing. As discussed this is the same pricing as last year, with the exception of 1 1/2" & 2" Disc meter bodies. I have elected to give you the same pricing on those as when City of Englewood last purchased which was 2007.

Meter Bodies

80 – M25 5/8x3/4 Badger: \$46.35 ea  
224 – M35 3/4' Badger: \$68.19 ea  
6 – M70 1" Badger: \$88.35 ea  
1 – M120 1 1/2" Badger Disc: \$375.00  
1 – M170 2" Badger Disc: \$523.90 ea

Registers:

94 – M25 Encoder registers: \$80.00 ea  
300 – M35 Encoder registers: \$80.00 ea  
6 – M70 Encoder registers: \$80.00 ea  
40 – M120 Encoder registers: \$96.00 ea  
40 – M170 Encoder registers: \$96.00 ea  
5 – M160 Encoder registers, (turbo): \$126.00 ea  
5 – M200 Encoder registers, (turbo): \$126.00 ea

End Points

410 – 60WP Itron ERT's: \$93.20 ea

Full freight allowed  
Terms: Net 30 Days

Thank you,

Noel Frakes  
President/CEO

## Meter Request 2012

	Model	Size	Unit Price	Request	Total	
1	Badger Meter Body	M25	5/8"	\$46.35	80	\$3,708.00
2	Badger Meter Body	M35	3/4"	\$68.19	224	\$15,274.56
3	Badger Meter Body	M70	1"	\$88.35	6	\$530.10
4	Badger Meter Body	M120	1.5"	\$375.00	1	\$375.00
5	Badger Meter Body	M170	2"	\$523.90	1	\$523.90
6	Itron Encoder Register	M25	5/8"	\$80.00	94	\$7,520.00
7	Itron Encoder Register	M35	3/4"	\$80.00	300	\$24,000.00
8	Itron Encoder Register	M70	1"	\$80.00	6	\$480.00
9	Itron Encoder Register	M120	1.5"	\$96.00	40	\$3,840.00
10	Itron Encoder Register	M160	1.5" T	\$126.00	5	\$630.00
11	Itron Encoder Register	M170	2"	\$96.00	40	\$3,840.00
12	Itron Encoder Register	M200	2" T	\$126.00	5	\$630.00
13	Itron End Points / ERT	60WP		\$93.20	410	\$38,212.00

**Total      \$99,563.56**

# ENGLEWOOD WATER & SEWER

## MINUTES

TUESDAY, FEBRUARY 14, 2012

### Roll Call.

**Present:** Clyde Wiggins, Jo Lay, Chuck Habenicht, Tom Burns, Wayne Oakley, Kells Waggoner, Randy Penn, Linda Olson, Jim Woodward, Stewart Fonda (Not voting), Cathy Burrage (Not voting).

**Absent/Excused:** John Moore.

### 1. MINUTES OF THE JANUARY 10, 2012 MEETING.

**Motion:** Approve the Minutes of the January 10, 2012 Water and Sewer Board meeting.

**Moved:** Habenicht, **Seconded:** Oakley

Motion passed unanimously.

### 2. JEFF COVINGTON – 4757 S. CLARKSON ST.

Mr. Jeff requested a reduction and reimbursement for his mother's flat rate account at 4757 S. Clarkson St.

**Motion:** To deny Mr. Covington's request for a reduction or rebate on the amount of the flat rate account at 4757 S. Clarkson St.

**Moved:** Waggoner, **Seconded:** Habenicht.

Motion passed unanimously.



3. DENNIS GAMEROS – 3125 S. LOGAN ST.

Mr. Dennis Gameros requested a reduction on his bill based on the fact that he was on a trip from July 13 to August 18, 2012. He requested a \$10.81 refund.

**Motion:** To deny the request for a reduction in the bill for 3125 S. Logan St.

**Moved:** Waggoner, **Seconded:** Oakley.

Motion passed unanimously.



4. WATER METER PURCHASE.

The Utilities Department requested approval for the purchase of water meters and electronic remote transmitters. The remote transmitters will be used for converting the metering system to the ITRON Automatic Meter Reading System. A portion of the meters and transmitters will be resold to Englewood customers for new installations as part of the flat-rate-to-meter conversion process. Some of the stock will be used to replace inactive or poorly functioning meters.

**Motion:** To recommend Council approval by motion for the purchase of water meters and electronic remote transmitters (ERTs) from National Meter and Automation, Inc. in the amount of \$99,563.56.

**Moved:** Habenicht, **Seconded:** Penn.

Motion passed unanimously.



5. 900 W. QUINCY – CURB CUT REQUIREMENTS. (ATT. 5)

The Board received a copy of a memo from Rick Kahm, Director of Public Works, dated January 26, 2012 regarding curb cut requirements for a City Ditch access point. This is an information only item.



6. WATER CONSERVATION PLAN DISCUSSION. (ATT. 6)

Mr. Fonda, Director of Utilities discussed his memo dated February 8, 2012 regarding a proposed water conservation plan. Stu also reviewed upcoming projects.



7. METER PIT AND SERVICE LINE INSTALLATION. (ATT. 7)

Mr. Bill McCormick, Operations Superintendent for Utilities, appeared to discuss hiring plumbers to install meter pits and service lines during the summer. This will facilitate increasing the amount of water mains replaced each year.



6. UNSCHEDULED GUESTS.

Ryan Laird appeared as an unscheduled guest. A memo, authored by Ryan Laird titled "Subsidized Bonds Financial Analysis," was given to the Board.

The meeting adjourned at 6:10 p.m.

Respectfully submitted,

Cathy Burrage  
Recording Secretary