

AGENDA
REGULAR MEETING OF THE CITY COUNCIL
CITY OF LAKEWOOD, COLORADO
VIRTUAL MEETING
JANUARY 11, 2021
7:00 P.M.

To watch the Council meeting live, please use either one of the following links:

City of Lakewood Website: <https://www.Lakewood.org/CouncilVideos>

or

Lakewood Speaks: <https://lakewoodspeaks.org/>

Phone Number for Public Comment: 1-253-215-8782

Webinar ID: 953 1566 5659

(press # after entering the webinar id then press # once more to join the meeting)

Press *9 to Request to Speak

(You will be prompted when to speak. After speaking, you can hang up or hold to speak
on a different agenda item)

Press *6 to Unmute

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ITEM 1 – CALL TO ORDER

ITEM 2 – ROLL CALL

ITEM 3 – PLEDGE OF ALLEGIANCE

ITEM 4 – RESOLUTION 2021-2 – APPOINTING THE MAYOR PRO TEM OF THE CITY COUNCIL OF THE CITY OF LAKEWOOD

ITEM 5 – PUBLIC COMMENT

A Public Comment Roster is available immediately inside the Council Chambers. Anyone who would like to address the Council on any matter other than an agenda item will be given the opportunity after signing the roster. Speakers should limit their comments to three minutes.

ITEM 6 – EXECUTIVE REPORT

CITY MANAGER

CONSENT AGENDA
ORDINANCES ON FIRST READING

(Ordinances are on first reading for notice and publication
only; public hearings are held on second reading)

**ITEM 7 – [RESOLUTION 2021-3](#) – APPOINTING A MEMBER TO THE BUDGET AND
AUDIT BOARD**

**ITEM 8 – [RESOLUTION 2021-4](#) – APPOINTING AND REAPPOINTING MEMBERS TO
THE LAKEWOOD ADVISORY COMMISSION**

**ITEM 9 – [RESOLUTION 2021-5](#) – DESIGNATING THE PUBLIC PLACE FOR POSTING
NOTICES OF PUBLIC MEETINGS DURING 2021 PURSUANT TO C.R.S. 24-6-402**

**ITEM 10 – [ORDINANCE O-2021-1](#) – MODIFICATION TO OFFICIAL DEVELOPMENT
PLAN (ODP) TO LEGISLATIVELY REZONE LAND LOCATED AT 2301 S. MCINTYRE
ST., LAKEWOOD, CO 80465, COUNTY OF JEFFERSON, STATE OF COLORADO.**

**ITEM 11 – [ORDINANCE O-2021-2](#) – AUTHORIZING THE SALE OF THE WESTLAND
TOWN CENTER PARKING LOT IN ACCORDANCE WITH THAT CERTAIN OPTION
CONTRACT ENTERED INTO AS OF JUNE 16, 1992, BETWEEN THE CITY OF
LAKEWOOD AND THE OWNERS OF THE WESTLAND MALL/WESTLAND TOWN
CENTER**

ITEM 12 – APPROVING MINUTES OF CITY COUNCIL MEETINGS

City Council Meeting	August 24, 2020
City Council Meeting	September 28, 2020
City Council Meeting	October 12, 2020

END OF CONSENT AGENDA

RESOLUTIONS

**ITEM 13 – [RESOLUTION 2021-6](#) – ESTABLISHING RESIDENTIAL DWELLING UNIT
ALLOCATIONS FOR 2021 AND ASSIGNING ALLOCATIONS TO POOLS PURSUANT
TO CHAPTER 14.27 OF THE LAKEWOOD MUNICIPAL CODE**

ITEM 14 – [GENERAL BUSINESS](#)

**MOTION TO EXTEND EMERGENCY DECLARATION: I MOVE TO EXTEND THE
DECLARATION OF DISASTER IN THE CITY OF LAKEWOOD COLORADO
RESULTING FROM THE CORONAVIRUS/COVID-19 PANDEMIC, PURSUANT TO**

SECTION 1.27 OF THE LAKEWOOD MUNICIPAL CODE, ORIGINALLY DECLARED BY PROCLAMATION OF THE LAKEWOOD CITY MANAGER ON MARCH 17, 2020, EXTENDED BY MAJORITY VOTE OF THE CITY COUNCIL ON MULTIPLE OCCASIONS, AND BY THIS MOTION EXTENDED AGAIN UNTIL JANUARY 25, 2021, UNLESS EARLIER EXTENDED OR TERMINATED BY THE CITY COUNCIL

ITEM 15 – MAYOR AND CITY COUNCIL REPORTS

- A. MAYOR
- B. MAYOR PRO TEM
- C. COUNCIL MEMBERS

ITEM 16 – ADJOURNMENT

STAFF MEMO

DATE OF COUNCIL MEETING: JANUARY 11, 2021 / AGENDA ITEM NO. 4

To: Mayor and City Council

From: Bruce Roome, City Clerk, 303-987-7081

Subject: **A RESOLUTION APPOINTING THE MAYOR PRO TEM**

SUMMARY STATEMENT: Each year a Mayor Pro Tem is selected to serve as the Mayor when the Mayor is unavailable.

BACKGROUND INFORMATION: The City of Lakewood home rule charter, section 2.4, states that the City Council shall select a Mayor Pro Tem from among its members for a term and in a manner determined by the City Council.

City Council's Policy 01.2 states that one member of City Council is chosen each year, at the first regular City Council meeting in January, to serve as Mayor Pro Tem. The term of the Mayor Pro Tem is one (1) year.

BUDGETARY IMPACTS: No budgetary impacts.

STAFF RECOMMENDATIONS: Staff recommends appointment of the Mayor Pro Tem at the January 11, 2021 Council meeting.

ALTERNATIVES: The Charter does not offer any alternatives.

PUBLIC OUTREACH: This item was promoted through the regular communication channels for an item coming before City Council.

NEXT STEPS: There will not be next steps unless the Mayor Pro Tem is not appointed.

ATTACHMENTS: Resolution 2021-2

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Gregory D. Graham, Deputy City Attorney

2021-2

A RESOLUTION

APPOINTING THE MAYOR PRO TEM OF THE CITY COUNCIL OF THE CITY OF LAKEWOOD

BE IT RESOLVED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. _____ is hereby appointed Mayor Pro Tem of the City Council of the City of Lakewood, Colorado, commencing January 1, 2021, and ending December 31, 2021.

INTRODUCED, READ AND ADOPTED by a vote of ____ for and ____ against at a virtual regular meeting of the Lakewood City Council held on January 11, 2021 at 7 o'clock p.m.

Adam Paul, Mayor

ATTEST:

Bruce Roome, City Clerk

APPROVED AS TO FORM:

Gregory D. Graham, Deputy City Attorney

STAFF REPORT

DATE OF MEETING: JANUARY 11, 2021 / AGENDA ITEM NO. 7

To: Mayor and City Council

From: Bruce Roome, City Clerk, 303-987-7081

Subject: **A RESOLUTION APPOINTING A MEMBER TO THE BUDGET AND AUDIT BOARD**

SUMMARY STATEMENT: Resolution appointing a member to the Budget and Audit Board for a three-year term.

BACKGROUND INFORMATION: The Screening Committee held interviews on December 17, 2020 and wishes to recommend the appointment of the below individual to the Budget and Audit Board.

Adoption of this resolution will officially appoint Marlin McDaniel to the Budget and Audit Board, to serve a three-year term which began on January 1, 2021 and will end on December 31, 2023.

FINANCIAL IMPACTS: No budgetary impacts.

STAFF RECOMMENDATIONS: Approval

ALTERNATIVES: None

PUBLIC OUTREACH: This item was promoted through the regular communication channels for an item coming before City Council.

NEXT STEPS: Upon approval of the Resolution by City Council – members of this commission will receive orientation with the commission.

ATTACHMENTS: Resolution 2021-3

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Gregory D. Graham, Deputy City Attorney

2021-3

A RESOLUTION

APPOINTING A MEMBER TO THE BUDGET AND AUDIT BOARD

BE IT RESOLVED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. The following individual is hereby appointed to the Budget and Audit Board to fill a three-year term which commenced on January 1, 2021, and will end on December 31, 2023:

Marlin McDaniel, a Lakewood resident

INTRODUCED, READ AND ADOPTED by a vote of ____ for and ____ against at a virtual regular meeting of the Lakewood City Council held on January 11, 2021, at 7 o'clock p.m.

Adam Paul, Mayor

ATTEST:

Bruce Roome, City Clerk

APPROVED AS TO FORM:

Gregory D. Graham, Deputy City Attorney

STAFF MEMO

DATE OF COUNCIL MEETING: JANUARY 11, 2021 / AGENDA ITEM NO. 8

To: Mayor and City Council

From: Bruce Roome, City Clerk, 303-987-7081

Subject: **A RESOLUTION APPOINTING AND REAPPOINTING MEMBERS TO THE LAKEWOOD ADVISORY COMMISSION**

SUMMARY STATEMENT: Appointing one member to an unexpired three-year term, and reappointing five members to new three-year terms, to the Lakewood Advisory Commission.

BACKGROUND INFORMATION: The Screening Committee held interviews on December 17, 2020, and wish to recommend the appointment or reappointment of the below individuals to the Lakewood Advisory Commission.

Adoption of the resolution will appoint Diane Rhodes to the Lakewood Advisory Commission to serve an unexpired three-year term which began on January 1, 2019, and will end on December 31, 2021.

Adoption of the resolution will also reappoint Roger Freeman, Andrea Gelfuso-Goetz, Roberto Gurza, Kate McBride, Chris Rivard to the Lakewood Advisory Commission to serve separate three-year terms that began on January 1, 2021, and will end on December 31, 2023.

FINANCIAL IMPACTS: No fiscal impact.

STAFF RECOMMENDATIONS: Approval

ALTERNATIVES: None

PUBLIC OUTREACH: This item was promoted through the regular communication channels for an item coming before City Council.

NEXT STEPS: Upon approval of the Resolution by City Council, members of this commission will orientation and continue serving with the commission.

ATTACHMENTS: Resolution 2021-4

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Gregory D. Graham, Deputy City Attorney

2021-4

A RESOLUTION

APPOINTING AND REAPPOINTING MEMBERS TO THE LAKEWOOD ADVISORY COMMISSION

BE IT RESOLVED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. The following individuals are hereby reappointed to the Lakewood Advisory Commission, each to fill separate three-year terms which commenced on January 1, 2021, and will end on December 31, 2023:

Roger Freeman, a Lakewood resident
Andrea Gelfuso-Goetz, a Lakewood resident
Roberto Gurza, a Lakewood resident
Kate McBride, a Lakewood resident
Chris Rivard, a Lakewood resident

SECTION 2. The following individual is hereby appointed to the Lakewood Advisory Commission to fill an unexpired three-year term which commenced on January 1, 2019 and will end on December 31, 2021:

Diane Rhodes, a Lakewood resident

INTRODUCED, READ AND ADOPTED by a vote of ____ for and ____ against at a virtual regular meeting of the Lakewood City Council held on January 11, 2021 at 7 o'clock p.m.

Adam Paul, Mayor

ATTEST:

Bruce Roome, City Clerk

APPROVED AS TO FORM:

Gregory D. Graham, Deputy City Attorney

STAFF MEMO

DATE OF COUNCIL MEETING: JANUARY 11, / AGENDA ITEM NO. 9

To: Mayor and City Council

From: Bruce Roome, City Clerk, 303-987-7081

Subject: **DESIGNATING THE PUBLIC PLACE FOR POSTING NOTICES OF PUBLIC MEETINGS DURING 2021 PURSUANT TO C.R.S. 24-6-402**

SUMMARY STATEMENT: City Council shall designate a public place for posting notices of public meetings during.

BACKGROUND INFORMATION: One of the requirements of C.R.S. 24-6-402(2)(c) is the designation of a public place for posting notices of public meetings, in order to meet the requirement of “full and timely” notice of meetings.

BUDGETARY IMPACTS: No budgetary impacts.

STAFF RECOMMENDATIONS: Staff recommends designating that such public place for posting purposes shall be located within the lobby/atrium of the Lakewood Civic Center, 480 South Allison Parkway and published on the City’s official website.

ALTERNATIVES: City Council designates an alternative public place for posting notices of public meetings during 2021.

PUBLIC OUTREACH: This item was promoted through the regular communication channels for an item coming before City Council.

NEXT STEPS: Next steps would be to implement the designated public place for posting notices of public meetings during 2021.

ATTACHMENTS: Resolution 2021-5

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Gregory D. Graham, Deputy City Attorney

2021-5

A RESOLUTION

DESIGNATING THE PUBLIC PLACE FOR POSTING NOTICES OF PUBLIC MEETINGS DURING 2021 PURSUANT TO C.R.S. 24-6-402

WHEREAS, C.R.S. 24-6-402(2)(c) requires the designation of a public place for posting notices of public meetings in order to meet the requirement of “full and timely” notice of meetings; and

WHEREAS, it is hereby determined that such public place for posting purposes shall be located within the lobby/atrium of the Lakewood Civic Center, 480 South Allison Parkway, and published on the City’s official website, the exact manner and means of posting to be implemented by the City Manager or designee, and such posting place shall be used for “local public bodies” as defined under C.R.S. 24-6-402(2)(c).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. The lobby/atrium area within the Lakewood Civic Center, 480 South Allison Parkway, and the City’s official website, are hereby designated as the public places for the posting of notices of meetings in 2020, pursuant to C.R.S. 24-6-402(2)(c). The exact manner and means of said posting shall be implemented by the City Manager or designee.

INTRODUCED, READ AND ADOPTED by a vote of ____ for and ____ against at a virtual regular meeting of the Lakewood City Council held on January 11, 2021 at 7 o’clock p.m.

Adam Paul, Mayor

ATTEST:

Bruce Roome, City Clerk

APPROVED AS TO FORM:

Gregory D. Graham, Deputy City Attorney

STAFF MEMO

DATE OF COUNCIL MEETING: JANUARY 11, 2021 / AGENDA ITEM NO. 10

To: Mayor and City Council

From: Travis Parker, Director of Planning, 303-987-7908

Subject: **SOLTERRA CENTRE ODP MODIFICATION NO. 1**

SUMMARY STATEMENT: The City of Lakewood is proposing a legislative rezoning request to modify the existing Solterra Centre ODP to add single-family and duplex residential units as permitted uses, to prohibit multi-family residential uses and commercial storage facilities for the subject property and to limit the total number of units to 950 residential units. The zoning for the property will remain Planned Development with the base zone district Mixed-Use Employment Suburban (PD/M-E-S).

BACKGROUND INFORMATION: On September 28, 2020, City Council approved a modification to the development agreement for Solterra Centre that acknowledged the existing vested rights to develop the property and agreed on a path for the developer to provide information on future permits for purposes of counting units against residential growth limits. The developer also agreed to allow the City to modify the ODP to add single-family and duplex residential units as permitted uses.

The Planning Commission held a public hearing on November 18, 2020 and approved Resolution MO-20-001, which adopted the Findings of Fact and Order with a recommendation that City Council approve the legislative rezoning request. The role of the City Council is to review the Planning Commission recommendation to make a final determination on the application.

BUDGETARY IMPACTS: No budgetary impacts.

STAFF RECOMMENDATIONS: Staff recommends approval of the ODP modification.

ALTERNATIVES: City Council can approve or deny the ODP modification. The development agreement between City Council and the developer does not allow additional changes to the ODP or zoning beyond those included.

PUBLIC OUTREACH: This meeting has been noticed through the regular City channels.

NEXT STEPS: If approved, the ODP would become effective 45 days after certified.

ATTACHMENTS: Attachment 1 – Ordinance O-2021-1
Attachment 2 – Planning Commission Staff Report and Attachments
Attachment 3 – Planning Commission Resolution
Attachment 4 – Planning Commission Minutes

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Gregory D. Graham, Deputy City Attorney

0-2021-1

AN ORDINANCE

MODIFICATION TO OFFICIAL DEVELOPMENT PLAN (ODP) TO
LEGISLATIVELY REZONE LAND LOCATED AT 2301 S. MCINTYRE ST.,
LAKEWOOD, CO 80465, COUNTY OF JEFFERSON, STATE OF COLORADO

BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. An application by the City of Lakewood, Applicant, in ODP Modification Case MO-20-001, and upon a recommendation of approval by the Lakewood Planning Commission following a duly noticed public hearing on November 18, 2020, Lakewood Zoning Maps are hereby amended to include the Solterra West ODP Modification No. 1 as part of the Planned Development (PD/M-E-S) zone district the land described in Exhibit A attached hereto and made a part hereof; and

SECTION 2. The Mayor and City Clerk are hereby authorized and directed to certify the within and foregoing approval and record with the Clerk and Recorder of Jefferson County a certified copy of this Ordinance and the Developer's Agreement attached thereto, pursuant to the effective date thereof, and upon satisfaction of the conditions for recording relating to the property described in Exhibit A.

SECTION 3. This Ordinance shall take effect forty-five (45) days after final publication.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a virtual regular meeting of the Lakewood City Council on the 11th day of January, 2021; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 14th day of January, 2021; set for public hearing to be held on the 25th day of January, 2021, read, finally passed and adopted by the City Council on the ____ day of January, 2021 and, signed by the Mayor on the ____ day of January, 2021.

Adam Paul, Mayor

ATTEST:

Bruce Roome, City Clerk

APPROVED AS TO FORM:

Gregory D. Graham, Deputy City Attorney

Exhibit ALEGAL DESCRIPTION

TWO PARCELS OF LAND BEING PORTIONS OF THE WEST HALF OF SECTION 25, AND THE EAST HALF OF SECTION 26, TOWNSHIP 4 SOUTH, RANGE 70 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOGETHER WITH PORTIONS OF SOUTH MCINTYRE STREET AND WEST YALE AVENUE, ALL IN THE COUNTY OF JEFFERSON, CITY OF LAKEWOOD, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL A

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 26;

THENCE ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 26 SOUTH $00^{\circ}33'33''$ EAST A DISTANCE OF 660.05 FEET TO THE NORTH LINE OF THE SOUTH HALF OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 25, AND THE POINT OF BEGINNING;

THENCE ALONG SAID NORTH LINE NORTH $89^{\circ}12'02''$ EAST, A DISTANCE OF 346.74 FEET TO THE CENTERLINE OF SOUTH MCINTYRE STREET AS DESCRIBED IN WARRANTY DEED RECORDED AT RECEPTION NO. 86086083 IN THE OFFICIAL RECORDS OF THE CLERK AND RECORDER'S OFFICE SAID COUNTY AND THE BEGINNING OF A NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 1135.83 FEET, THE RADIUS POINT OF SAID CURVE BEARS SOUTH $67^{\circ}45'59''$ EAST;

THENCE DEPARTING SAID NORTH LINE ALONG SAID CENTERLINE THE FOLLOWING THREE (3) COURSES:

1. SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $27^{\circ}39'51''$, AN ARC LENGTH OF 548.41 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 1291.85 FEET, THE RADIUS POINT OF SAID CURVE BEARS NORTH $83^{\circ}30'47''$ EAST;
2. SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $01^{\circ}59'54''$, AN ARC LENGTH OF 45.06 FEET;
3. SOUTH $12^{\circ}44'21''$ EAST, A DISTANCE OF 1430.42 FEET TO THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 25 AND THE CENTERLINE OF SOUTH MCINTYRE STREET AS DEPICTED ON THE SPRINGFIELD GREEN RECORDED AT RECEPTION NO. 86040993 IN SAID OFFICIAL RECORDS;

THENCE ALONG SAID LAST DESCRIBED CENTERLINE THE FOLLOWING FOUR (4) COURSES:

1. SOUTH $12^{\circ}44'19''$ EAST, A DISTANCE OF 486.05 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 804.85 FEET;
2. SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $24^{\circ}15'23''$, AN ARC LENGTH OF 340.74 FEET;
3. SOUTH $36^{\circ}59'42''$ EAST, A DISTANCE OF 935.31 FEET;

4. SOUTH 37°00'05" EAST, A DISTANCE OF 402.21 FEET TO THE CENTER LINE OF SOUTH MCINTYRE STREET AS DESCRIBED IN SPECIAL WARRANTY DEED RECORDED AT RECEPTION NO. 2014088411 IN SAID OFFICIAL RECORDS;

THENCE ALONG SAID CENTERLINE OF SOUTH MCINTYRE STREET SOUTH 37°00'05" EAST, A DISTANCE OF 963.19 FEET TO THE CENTERLINE OF WEST YALE AVENUE AS DEPICTED ON RED ROCKS BUSINESS PARK FILING NO. 1 RECORDED AT RECEPTION NO. 83077584 IN SAID OFFICIAL RECORDS, AND THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 25;

THENCE ALONG SAID CENTERLINE AND SAID SOUTH LINE SOUTH 89°09'11" WEST, A DISTANCE OF 932.96 FEET TO THE SOUTHEASTERLY PROLONGATION OF THE CENTERLINE OF RED ROCKS BUSINESS DRIVE AS DEPICTED ON SAID RED ROCKS BUSINESS PARK FILING NO. 1;

THENCE ALONG SAID SOUTHEASTERLY PROLONGATION AND SAID CENTERLINE THE FOLLOWING FOUR (4) COURSES:

1. NORTH 13°50'53" WEST, A DISTANCE OF 94.77 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 495.00 FEET;
2. NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 50°25'14", AN ARC LENGTH OF 435.60 FEET;
3. NORTH 64°16'07" WEST, A DISTANCE OF 163.81 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 700.01 FEET;
4. NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39°20'34", AN ARC LENGTH OF 480.67 FEET TO THE NORTHEASTERLY PROLONGATION OF THE NORTHWESTERLY BOUNDARY OF LOT 4, BLOCK 3, SAID RED ROCKS BUSINESS PARK FILING NO. 1;

THENCE DEPARTING SAID CENTERLINE, ALONG SAID NORTHEASTERLY PROLONGATION, THE BOUNDARY OF SAID LOT 4 AND LOT 5, SAID BLOCK 3, THE FOLLOWING FOUR (4) COURSES:

1. SOUTH 65°03'54" WEST, A DISTANCE OF 377.04 FEET
2. SOUTH 30°50'49" EAST, A DISTANCE OF 327.00 FEET;
3. NORTH 89°09'11" EAST, A DISTANCE OF 225.02 FEET;
4. SOUTH 00°34'13" EAST, A DISTANCE OF 400.32 FEET TO THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 25;

THENCE ALONG SAID SOUTH LINE, SOUTH 89°09'11" WEST, A DISTANCE OF 532.03 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 26;

THENCE ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 26, SOUTH 89°55'40" WEST, A DISTANCE OF 350.44 FEET TO THE EASTERLY RIGHT-OF-WAY

OF C-470 AS DESCRIBED IN RULE AND ORDER RECORDED AT RECEPTION NO. 89108308 OF SAID OFFICIAL RECORDS;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY THE FOLLOWING FIVE (5) COURSES:

1. NORTH 02°39'14" WEST, A DISTANCE OF 106.96 FEET;
2. NORTH 11°22'53" WEST, A DISTANCE OF 194.35 FEET;
3. NORTH 11°22'07" WEST, A DISTANCE OF 195.41 FEET;
4. NORTH 11°21'40" WEST, A DISTANCE OF 54.88 FEET;
5. NORTH 11°17'37" WEST, A DISTANCE OF 1,954.22 FEET TO THE EASTERLY BOUNDARY OF TRACT A OF SAID RED ROCKS BUSINESS PARK FILING NO. 1;

THENCE CONTINUING ALONG SAID EASTERLY RIGHT-OF-WAY ALONG SAID EASTERLY BOUNDARY THE FOLLOWING THREE (3) COURSES:

1. NORTH 14°18'17" EAST, A DISTANCE OF 27.59 FEET;
2. NORTH 09°43'51" EAST, A DISTANCE OF 74.17 FEET;
3. NORTH 16°45'53" WEST, A DISTANCE OF 238.59 FEET TO THE SOUTHERLY CORNER OF PARCEL 295C AS DESCRIBED IN SAID LAST DESCRIBED RULE AND ORDER AND THE BEGINNING OF A NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 7601.93 FEET, THE RADIUS POINT OF SAID CURVE BEARS NORTH 82°41'01" EAST;

THENCE CONTINUING ALONG SAID EASTERLY RIGHT-OF-WAY NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 07°06'23", AN ARC LENGTH OF 942.88 FEET TO THE NORTHEAST CORNER OF SAID PARCEL 295C, THE SOUTHEAST CORNER OF PARCEL NO. 263B AS DESCRIBED IN RULE AND ORDER RECORDED AT RECEPTION NO. 88070874 OF SAID OFFICIAL RECORDS AND THE BEGINNING OF A NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 7,601.94 FEET, THE RADIUS POINT OF SAID CURVE BEARS NORTH 89°46'31" EAST;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY AND ALONG SAID PARCEL 295C THE FOLLOWING TWO (2) COURSES:

1. NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05°07'51", AN ARC LENGTH OF 680.74 FEET;
2. NORTH 04°54'22" EAST, A DISTANCE OF 212.36 FEET TO THE NORTHEAST CORNER OF SAID PARCEL 295C AND THE NORTH LINE OF THE SOUTH HALF OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SAID SECTION 26, AND A POINT HEREINAFTER REFERRED TO AS **POINT "A"**;

THENCE ALONG SAID NORTH LINE NORTH 89°43'17" EAST, A DISTANCE OF 845.47 FEET TO THE **POINT OF BEGINNING**.

CONTAINING AN AREA OF 158.105 ACRES, (6,887,062 SQUARE FEET), MORE OR LESS.

PARCEL B

A PARCEL OF LAND BEING A PORTION OF THE SOUTH HALF OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 4 SOUTH, RANGE 70 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT SAID HEREIN DESCRIBED **POINT "A"**;

THENCE ALONG THE NORTH LINE OF THE SOUTH HALF OF THE NORTH HALF OF SAID NORTHEAST QUARTER, SOUTH 89°43'17" WEST, A DISTANCE OF 375.89 FEET TO THE **POINT OF BEGINNING**;

THENCE DEPARTING SAID NORTH LINE, SOUTH 05°04'25" WEST, A DISTANCE OF 251.04 FEET;

THENCE SOUTH 02°43'28" WEST, A DISTANCE OF 230.58 FEET;

THENCE NORTH 21°06'57" WEST, A DISTANCE OF 213.67 FEET;

THENCE NORTH 32°33'56" WEST, A DISTANCE OF 331.81 FEET TO SAID NORTH LINE;

THENCE ALONG SAID NORTH LINE, NORTH 89°43'17" EAST, A DISTANCE OF 288.74 FEET TO THE **POINT OF BEGINNING**.

CONTAINING AN AREA OF 1.403 ACRES, (61,105 SQUARE FEET), MORE OR LESS.

TOTAL COMBINED AREA FOR PARCELS A AND B IS 159.508 ACRES, (6,948,167 SQUARE FEET), MORE OR LESS.



PLANNING COMMISSION STAFF REPORT

REZONING CASE NO. MO-20-001

CASE NAME: Solterra Centre ODP Modification No. 1

REPORT DATE: November 4, 2020

PC DATE: November 18, 2020

ADDRESS OF REZONING:

2301 S. McIntyre St.
Lakewood, CO 80228

APPLICANT/PROPERTY OWNER:

Travis Parker, Planning Director for
Kathy Hodgson, City Manager
City of Lakewood
480 S. Allison Pkwy.
Lakewood, CO 80226

REQUEST: The request is to modify the existing Solterra Centre ODP to add single-family and duplex residential units as permitted uses, to prohibit multi-family residential uses and commercial storage facilities for the subject property and to limit the total number of units to 950 residential units. The zoning for the property will remain Planned Development with the base zone district Mixed-Use Employment Suburban (PD/M-E-S).

CITY STAFF:

Development Review Planning
Development Review Engineering
Property Management

Kara Mueller, Project Planner
Ben Mehmen, Project Engineer
Spencer Curtis, Right-of-Way Agent

STAFF RECOMMENDATION:

That the Planning Commission recommends that the City Council approve Case No. MO-20-001.

Kara Mueller, Project Planner
Planning – Development Assistance

Paul Rice, Manager
Planning – Development Assistance

CONTENTS OF THE REPORT:

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SUMMARY OF REQUEST

The City Council at a public hearing on September 28, 2020 adopted Ordinance O-2020-25 that approved an addendum to the Development Agreement for Solterra Centre Official Development Plan (ODP) regarding vested rights. The Development Agreement sets forth the terms and conditions upon which the vested rights of the property owner may be divested, whether pursuant to City action or initiated measure. On July 12, 2019, pursuant to initiated measure, an ordinance known as the Strategic Growth Initiative (chapter 14.27 of the Municipal Code) became effective, which intended to limit growth in the number of housing units in the City. In order to clarify the relationship between the Development Agreement and the Initiated Measure, the City and property owner entered into an addendum to the Development Agreement. One of the provisions of this addendum is that the Solterra Centre ODP be modified to add single-family and duplex residential units as permitted uses and to prohibit multifamily residential uses and commercial storage facilities for the subject property and to limit the total number of units to 950 residential units. The zoning for the property will remain Planned Development with the base zone district Mixed-Use Employment Suburban (PD/M-E-S). The PD zoning will abide by the Solterra Centre ODP and Solterra Centre ODP Modification No.1.

As depicted in Figure 1 below, the subject site is in the Rooney Valley south of West Alameda Parkway, east of South Rooney Road and C-470, north of West Yale Avenue and west of South McIntyre Street. This area is identified in the Lakewood Comprehensive Plan as part of the Rooney Valley Growth Area.



Figure 1 – Aerial Image

PROCESS – REQUIRED CITY APPROVALS

Overview: The purpose of the ODP modification request is to add single-family and duplex residential units as permitted uses and to prohibit multifamily residential uses and commercial storage facilities for the subject property and to limit the total number of units to 950 residential units. The property is currently zoned PD/M-E-S, which does not allow for single-family or duplex uses.

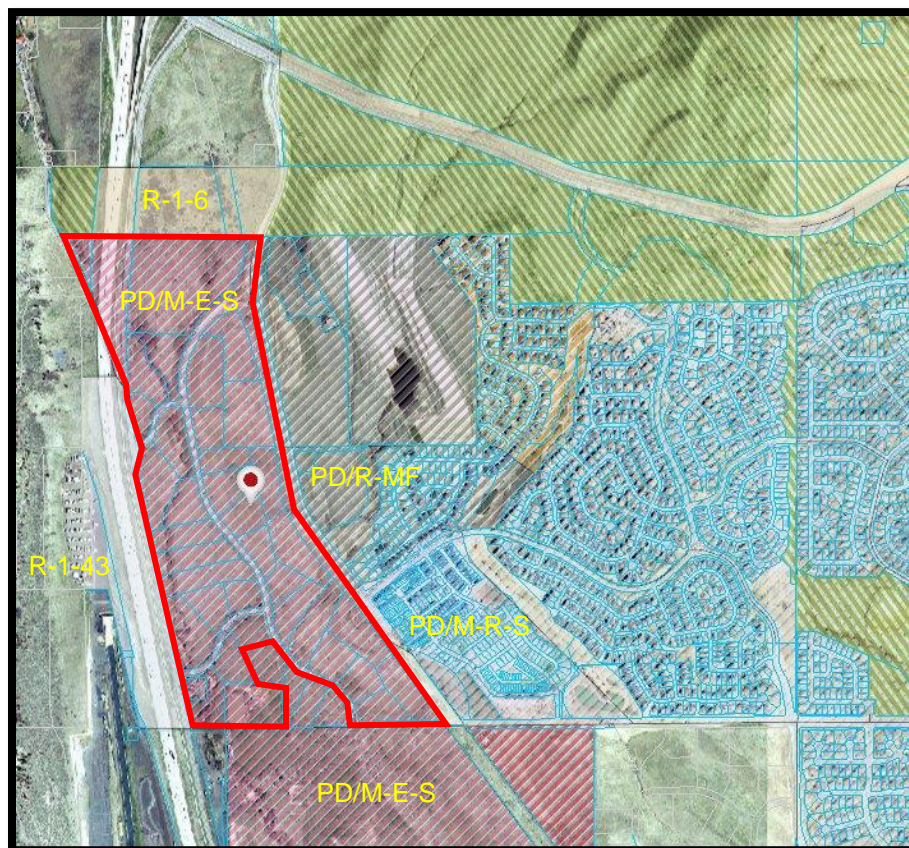


Figure 2 – Zoning

This ODP modification is a legislative zoning and therefore a neighborhood meeting and public notice is not required. There is an Intergovernmental Agreement (IGA) between the City and Town of Morrison and this property is within the IGA boundary. The IGA requires that a Joint Planning Commission review land use decision within the IGA boundary. However, since this land use decision is a legislative zoning the decision will be reviewed by the City Planning Commission. Therefore, this ODP modification requires a public hearing with the Lakewood Planning Commission and a public hearing with the Lakewood City Council. The Planning Commission reviews the rezoning request at a public hearing and then make its recommendation to City Council. The City Council will review the Planning Commission recommendation, meeting minutes, staff report, and then hold a second public hearing, after which they will make a final decision on the ODP modification application.

If the ODP modification application is approved, a 45-day referendum period is required. If there is no referendum, the Solterra Centre ODP Modification No. 1 will be recorded with the Jefferson County Clerk & Recorder.

Plans: All ODP modification applications are required to include an ODP modification sheet(s). The Solterra Centre ODP Modification No. 1 is included as Attachment B to this staff report.

ZONING AND LAND USE

	North	South	East	West
Adjacent Zoning Designation	Small Lot Residential (R-1-6)	Planned Development/Mixed-Use Employment Suburban (PD/M-E-S)	Planned Development/Residential Multifamily (PD/R-MF) & Planned Development/Mixed-Use Residential Suburban (PD/M-R-S)	One Acre Residential (R-1-43)
Adjacent Land Uses	Open space	Vacant	Single-Family Detached and Attached Dwelling Units (Townhomes)	South Rooney Road, C-470 and Hogback

(See Figure 1 - Aerial Image and Figure 2 - Zoning)

Existing Conditions: The existing site is vacant. Currently there are final plats and major site plans under review with the City for Planning Areas 1-3 of the Solterra Centre ODP for townhome development, which is allowed under the existing and proposed zoning. The overall site is approximately 160.4 acres in size. Rooney Gulch runs along the western portion of the property.

Access to the site will be via internal streets that connect to South Rooney Road, South McIntyre Street and West Yale Avenue. The site has several drainage ways and slopes from northeast to southwest.

AGENCY REVIEW AND NOTIFICATION

There was no agency review with this ODP Modification. All future development proposals will be reviewed by the following agencies: Mile High Flood District, West Metro Fire Protection District, Consolidated Mutual Water Company, Green Mountain Sanitation District, Xcel Energy, Comcast, CenturyLink, Big Sky Metropolitan District, Jefferson County Public Schools, Jefferson County, Town of Morrison, Lakewood Police Department, and Lakewood Community Resources.

PROJECT ANALYSIS

Overview: The City Council approved an addendum to the existing Development Agreement for Solterra Centre in order to resolve the relationship between vesting that was granted on the subject property in 2009 with the original Solterra Centre ODP and the new Strategic Growth Initiative. The addendum to the Development Agreement for Solterra Centre requires that the Solterra Centre ODP is modified to effectively decrease the number of allowed residential units to 950 and to permit single-family and duplex units while prohibiting multifamily units and commercial storage uses. The Lakewood Comprehensive Plan and Plan Rooney Valley support mixed-use and medium density residential uses on the subject property. Plan Rooney Valley defines medium density residential as encompassing a variety of residential development types, including higher-density single-family development, duplexes, townhomes, and condominiums/apartments, accessory dwelling units and the like. Densities are anticipated to range from eight (8) to a maximum not to exceed twelve (12) dwelling units per acre. This density aligns with development of single-family, duplex and townhome units. While the development of single-family and duplex uses is not required, the ODP modification will allow for a greater mix of

residential uses and product than can currently be developed on the property. This proposed ODP modification will aid in maintaining the balance of uses that are comparable with the surrounding existing and proposed land uses.

This property is located within the Mixed-Use Area of the Rooney Valley Growth Area. While the current development proposals are for residential development, this rezoning effectively allows for lower density residential while still retaining commercial and office capability. Therefore, making the proposed rezoning consistent with the growth area map meeting the goals of the Comprehensive Plan.

Comprehensive Plan - The primary document for guiding land use decisions is the *Lakewood 2025: Moving Forward Together Comprehensive Plan*. The Comprehensive Plan is a long-range plan that looks 10 years into the future. It is a policy document that provides guidance to City Council, Planning Commission, City staff, residents, businesses, and developers to make informed decisions about the current and future needs of the community. The Comprehensive Plan is available on the City's website under the following URL:

<http://www.lakewood.org/CommunityPlans/>

The purpose of the Comprehensive Plan is to identify and articulate the residents' values and goals to help the community achieve its desired future through a vision statement, guiding principles, goals and actions steps. The City's Vision Statement is articulated on pages 3-5 & 3-6 of the Comprehensive Plan and it is intended to set a direction for the future of Lakewood rather than being simply a prediction.

The Comprehensive Plan has a Land Use Vision Map (Map 3-d, page 3-21) that indicates Growth Areas, Neighborhood and Community Activity Areas. The Growth Areas are intended to accommodate the vast majority of the employment, retail and residential growth anticipated for the City. This property is located within the Rooney Valley Growth Area and is designated for Mixed-Use. The growth area summary for the Rooney Valley Growth Area is that it will most likely develop with a mix of residential types throughout the area with some office and support uses developed adjacent to the C-470 highway between Alameda Parkway and Morrison Road.

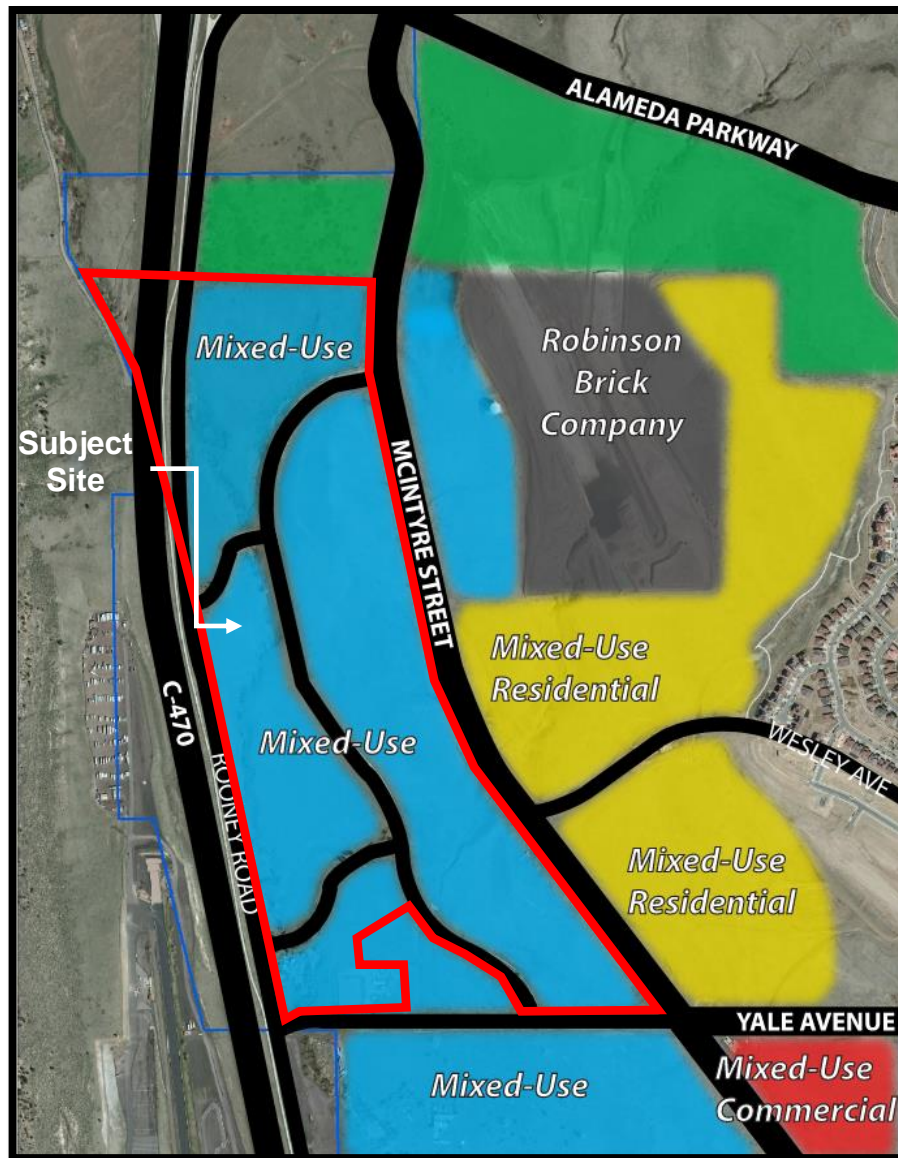


Figure 3 – Rooney Valley Growth Area
Land Use Map

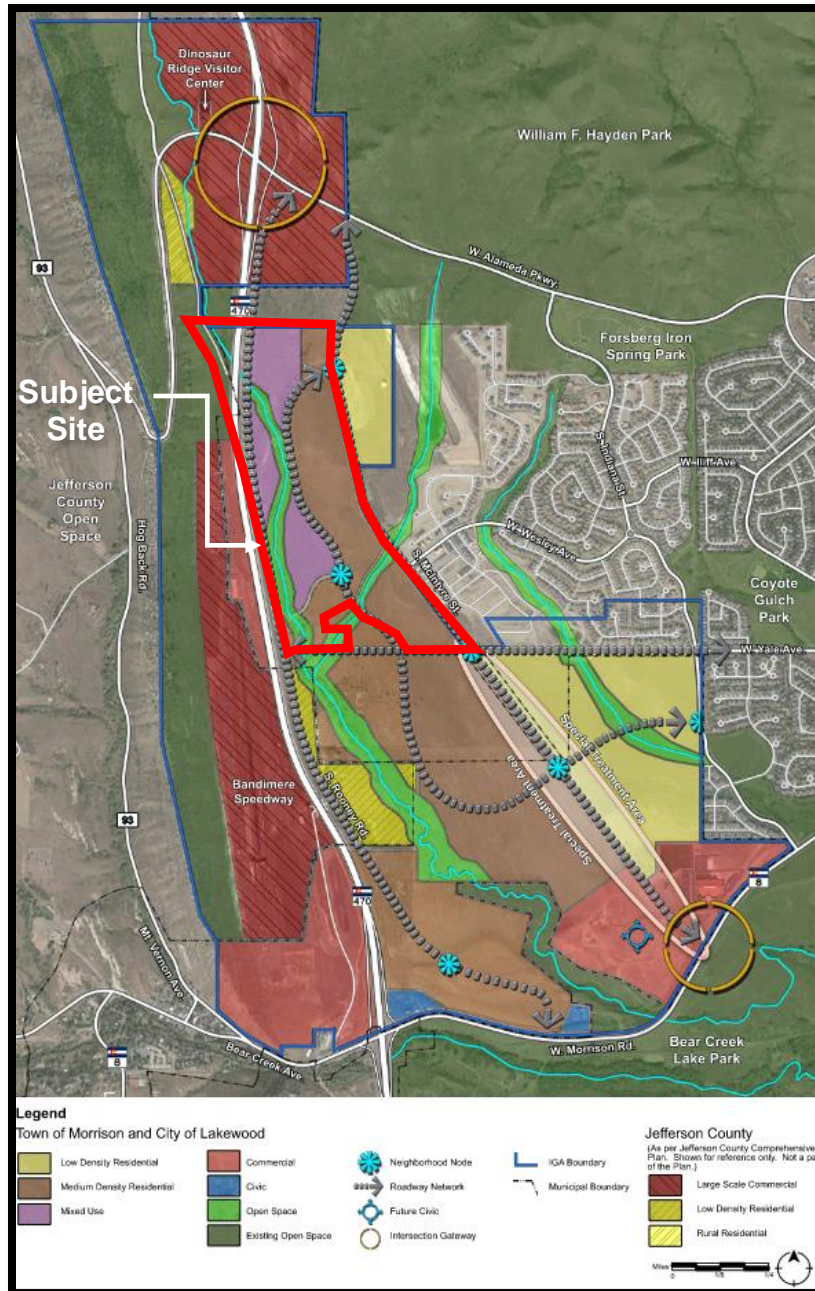


Figure 4 – Plan Rooney Valley Development Framework Map

Staff has evaluated the rezoning proposal and found that it is consistent with the Comprehensive Plan Growth Area Land Use Map. The rezoning proposal will maintain the character of the property and area while maintaining a balance of residential land uses and density within the Rooney Valley Growth Area. The existing Solterra Centre ODP and base zone district M-E-S allows for commercial and office uses. Currently, there are commercial and light industrial uses proposed in Jefferson County to the north of the subject property and around the C-470/Alameda intersection. Most of the properties within the Rooney Valley Growth Area are proposed to be developed as residential uses even though the Comprehensive Plan calls for Mixed-Use, Mixed-Use Residential and Mixed-Use Commercial. Modifying the existing ODP will allow for a greater variety of lower density residential uses and lower the overall number of residential units for the

property and the Rooney Valley as a whole. With commercial development proposed in Jefferson County at the C-470/Alameda interchange and South McIntyre Street/Morrison Road intersection, the residential uses within the Rooney Valley Growth Area will aid in maintaining a balance and mix of uses within the Rooney Valley as envisioned by the Comprehensive Plan.

Lakewood Zoning Ordinance: The Lakewood Zoning Ordinance provides information about zone district standards, specific development regulations and the planning process. As stated in Article 3 - Zone Districts:

- The PD district is intended to permit the planning and development of substantial parcels of land which are suitable in location and character for the uses proposed and are suitable to be developed as a unified and integrated project in accordance with detailed development plans.
- The M-E district is intended to provide for office and campus development, with ancillary retail and residential uses along arterial and collector streets. The district may also act as a buffer between higher intensity mixed-use districts and adjacent residential neighborhoods. The district provides for medium to high-density employment opportunities, as well as educational and institutional campuses. Employment uses are key components of this district, and are required in certain instances where the parcel and/or district is of a certain size; and

The proposed addition of single-family and duplex uses, and the prohibition of multifamily and commercial storage uses will not hinder the original vision for the Solterra Centre development. As medium density residential (townhome units) and commercial and office uses are still permitted.

Review Criteria: The review criteria for legislative zoning requests are outlined in Section 17.2.3.3.B of the Lakewood Zoning Ordinance. Staff's analysis of the rezoning request against these standards is provided below in Section A.

A. Conformance with Standards for Rezoning Criteria §17.2.3.3.B:

1. The legislative zoning affects a large number of properties and the proposed rezoning is not applicable only to a specific individual or readily identifiable group.

This legislative zoning affects a large number of properties held by one entity (property owner); however, the property owner and City have agreed that this zoning change promotes the goals of the City in limiting the number of residential units and providing a larger range of lower density residential uses. Therefore, this legislative zoning affects the Rooney Valley and City by aiming to meet the intentions of the Strategic Growth Initiative.

2. The legislative zoning is prospective in nature and reflects public policy of a permanent or general character impacting the City on a scale greater than at the individual property level.

This legislative zoning is prospective in nature as the owner has not indicated a desire to develop single-family or duplex units and reflects public policy of the Strategic Growth Initiative by decreasing the number of allowable residential units on the property and honoring the vested rights that exist on the property.

3. It would be inefficient, cumbersome, and unduly burdensome on the resources of the City to rezone the potentially affected properties in a quasi-judicial manner on a site-by-site basis.

As part of the addendum to the Development Agreement for Solterra Centre per O-2020-25 the City is to initiate the rezoning proposal. It is the City's desire to add lower density residential uses and lower the number of allowable residential units. The addendum to the Development Agreement serves to clarify the relationship between vested rights on the property and the Strategic Growth Initiative.

4. The proposed legislative zoning promotes the purposes of this Zoning Ordinance.

The proposed rezoning will support the purpose and intent of the Zoning Ordinance as follows:

- Public health, safety and welfare of the citizens of the City of Lakewood will be improved because it will provide an opportunity for lower density development that is adjacent to the Rooney Gulch.
- The desire to add single-family and duplex dwelling units and prohibit multifamily units will provide potential for a greater mix of residential units, while removing the density that could occur with multifamily units.
- A range of housing types to meet the current and future needs of the citizens will be supported because the current zoning would only afford development of townhomes and multifamily units.
- Decreasing the number of residential units allowed for Solterra Centre will put less burden on infrastructure in the Rooney Valley and will potentially allow for more open space.
- Better integration with surrounding land uses as the ODP Modification adds single-family and duplex uses, like what has been constructed within the Solterra development to the east.
- Implementing the vision, goals and recommendations of the Comprehensive Plan by providing quality development that is compatible in form with surrounding uses.
- Accommodating a mixture of residential uses while retaining the ability to develop commercial and office uses within the Rooney Valley Growth Area.

5. The proposed legislative zoning promotes implementation of the Comprehensive Plan.

- The proposed ODP modification is compatible with the existing surrounding land uses that include townhome, duplex and detached single-family units.
- The proposed ODP modification is compatible with the land uses envisioned in the Comprehensive Plan. This modification is to the residential unit types and density allowed. Commercial and office uses are still permitted effectively allowing for a mix of uses on the property that meets the intent of the Rooney Valley Growth Area and Plan Rooney Valley.
- The proposed rezoning will support the community's guiding principles, goals and actions steps by:
 - Goal I-GA16 – Provide additional residential and new mixed-use opportunities in the Rooney Valley Growth Area.
 - Insure that the Rooney Valley has a proper mix of retail, office and mixed-use

developments, and a range of residential products.

- There are currently commercial proposals within Jefferson County surrounding the C-470/Alameda interchange and approximately 40 acres of mixed-use zoned property at the northwest corner of the South McIntyre Street and Morrison Road intersection. This ODP modification will allow for a greater range of residential housing types while limiting multifamily within the Rooney Valley.

In summary, the proposed rezoning will not negatively affect the Rooney Valley Growth Area goal or action steps because a mix of uses will still be permitted on the property. The addition of lower density housing types will aid in providing an opportunity for a mix of housing types within the Rooney Valley, where currently the zoning on several of the vacant properties within the City only allow for townhome and multifamily development.

FINDINGS OF FACT AND ORDER

Based upon the information and materials within this staff report, staff supports the ODP Modification request. Therefore, City of Lakewood staff recommends that the Planning Commission find that:

- A. The City of Lakewood is proposing to modify the existing Solterra Centre ODP for the property located at 2301 S. McIntyre St. pursuant to the approved addendum to the Development Agreement for Solterra Centre per City Ordinance O-2020-25; and
- B. The zoning for the property will remain Planned Development (PD) with the base zone district Mixed-Use Employment Suburban (M-E-S). The PD zoning will abide by the Solterra Centre ODP and Solterra ODP Modification No. 1; and
- C. Notice of the Public Hearing was not required or provided for this City initiated rezoning (ODP modification) per Section 17.2.2.3.B of the Lakewood Zoning Ordinance; and
- D. The proposed legislative zoning affects a large number of properties and the proposed rezoning is not applicable only to a specific individual or readily identifiable group; and
- E. The proposed legislative zoning is prospective in nature and reflects public policy of a permanent or general character impacting the City on a scale greater than at the individual property level; and
- F. The proposed legislative zoning would be inefficient, cumbersome, and unduly burdensome on the resources of the City to rezone the potentially affected properties in a quasi-judicial manner on a site-by-site basis; and
- G. The proposed legislative zoning promotes the purposes of the Zoning Ordinance; and
- H. The proposed legislative zoning promotes implementation of the Comprehensive Plan;

AND

The Planning Commission adopts the findings of fact and order, A through H, as presented in this staff report and recommends that the City Council **APPROVE** ODP Modification Case No. MO-20-001.

cc: Case File- MO-20-001
Travis Parker, Applicant

SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN

LOCATED IN SECTIONS 25 & 26, TOWNSHIP 4 SOUTH, RANGE 70 WEST OF THE SIXTH PRINCIPAL MERIDIAN
CITY OF LAKEWOOD, COUNTY OF JEFFERSON, STATE OF COLORADO.

SHEET 1 OF 4

LEGAL DESCRIPTION:

A parcel of land lying in the West One-Half (W½) of Section 25 and the East One-Half (E½) of Section 26, Township 4 South, Range 70 West of the 6th Principal, City of Lakewood, County of Jefferson, State of Colorado, being more particularly described as follows:

Said parcel being all of that land described in RED ROCKS BUSINESS PARK OFFICIAL DEVELOPMENT PLAN, the plat of which is recorded in ODP Book 29, Page 36, at Reception No. 82050855, of the records of the Jefferson County Clerk and Recorder; EXCEPT Lots 4, 5, 6, and 7, Block 3, RED ROCKS BUSINESS PARK FILING NO. 1, the plat of which is recorded in Plat Book 74, Pages 12, 13, and 14, at Reception No. 83077584, of said records;

TOGETHER WITH all those vacated rights-of-way as shown and platted on SPRINGFIELD DOWNS FILING NO. 1, the plat of which is recorded in Plat Book 61, Pages 50 & 51, at Reception No. 80004356, of said records, and being vacated by Ordinance O-82-173, recorded at Reception No. 83055117 of said records;

TOGETHER WITH all of that land described in LAKEWOOD WEST OFFICIAL DEVELOPMENT PLAN, the plat of which is recorded in ODP Book 33, Page 11, at Reception No. 83074563, of said records, EXCEPT AREA A of said LAKEWOOD WEST OFFICIAL DEVELOPMENT PLAN;

TOGETHER WITH a parcel of land lying in said W½; Beginning at the Southwest corner of said W½, said corner being in common with a platted corner of said RED ROCKS BUSINESS PARK OFFICIAL DEVELOPMENT PLAN; thence N 89°21'39" E along the South line of said W½, a distance of 532.00 feet, more or less, to a platted corner of said RED ROCKS BUSINESS PARK OFFICIAL DEVELOPMENT PLAN; thence N 00°21'45" W along a westerly line of said RED ROCKS BUSINESS PARK OFFICIAL DEVELOPMENT PLAN, a distance of 400.00 feet; thence S 89°21'39" W along a southerly line of said RED ROCKS BUSINESS PARK OFFICIAL DEVELOPMENT PLAN, a distance of 532.00 feet; thence S 00°21'45" E along a easterly line of said RED ROCKS BUSINESS PARK OFFICIAL DEVELOPMENT PLAN, a distance of 400.00 feet, more or less, to the Point of Beginning, said parcel containing an area of 4.9 acres, more or less;

Said parcel containing an area of 169.4 acres, more or less.

General Notes:

ODP History note: The purpose of this ODP is to modify the existing said RED ROCKS BUSINESS PARK OFFICIAL DEVELOPMENT PLAN, in addition the ODP is adding AREAS B & C of said LAKEWOOD WEST OFFICIAL DEVELOPMENT PLAN and the metes & bounds parcel described in that instrument recorded at Reception No. F0133899.

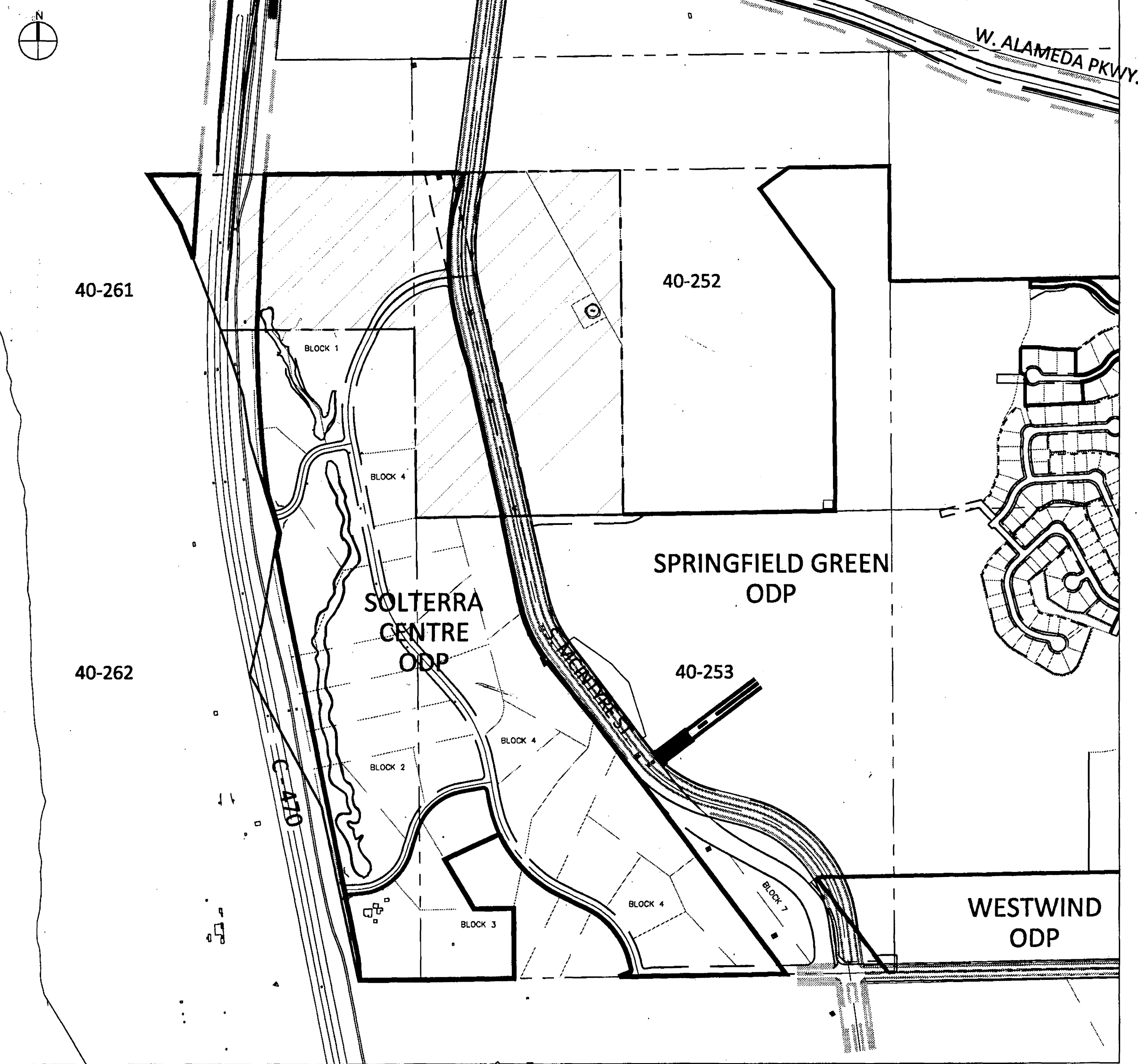
The intent of the ODP is to also include the lands excluded in the original RED ROCKS BUSINESS PARK OFFICIAL DEVELOPMENT PLAN described as those rights-of-way as dedicated and shown on the plat of SPRINGFIELD DOWNS FILING NO. 1, the plat of which is recorded in Plat Book 61, Page 50, at Reception No. 80004356.

OWNER'S CERTIFICATE
SIGNED THIS 11th DAY OF September, 2009.
CDN RED ROCKS L.P., A COLORADO LIMITED PARTNERSHIP
1199 WEST HASTINGS STREET, #200
VANCOUVER, BRITISH COLUMBIA, CANADA V6E 3T5
BY David Mindell
DAVID MINDELL, GENERAL PARTNER
NOTARY CERTIFICATE
COUNTY OF Arapahoe, STATE OF COLORADO
THE FOREGOING WAS ACKNOWLEDGED AND SIGNED BEFORE ME THIS 11th DAY OF September, 2009.
MY COMMISSION EXPIRES 6-14-11
BY Jennif E. Mills
NOTARY PUBLIC

OWNER'S CERTIFICATE
SIGNED THIS 28th DAY OF August, 2009.
JERRY H. CRISPE
2845 FIG STREET
LAKEWOOD, COLORADO 80228
BY Jerry H. Crispe
NOTARY CERTIFICATE
COUNTY OF Jefferson, STATE OF COLORADO
THE FOREGOING WAS ACKNOWLEDGED AND SIGNED BEFORE ME THIS 28th DAY OF August, 2009.
MY COMMISSION EXPIRES 6-14-2011
BY Jennif E. Mills
NOTARY PUBLIC

OWNER'S CERTIFICATE
SIGNED THIS 11th DAY OF September, 2009.
TEEFAM COLORADO LAND COMPANY, L.P.
6507 EL MONTEVIDEO
P.O. BOX 1695
RANCHO SANTA FE, CALIFORNIA 92067
BY Ross J. Turner
ROSS J. TURNER, GENERAL PARTNER
NOTARY CERTIFICATE
COUNTY OF Arapahoe, STATE OF COLORADO
THE FOREGOING WAS ACKNOWLEDGED AND SIGNED BEFORE ME THIS 11th DAY OF September, 2009.
MY COMMISSION EXPIRES 6-14-11
BY Jennif E. Mills
NOTARY PUBLIC

VICINITY MAP: SCALE 1" = 500'



SHEET INDEX:

- 1 COVER SHEET / LEGAL / SIGNATURES
- 2 PROCEDURES AND PLANNING AREAS
- 3-4 PROCEDURES AND DEVELOPMENT STANDARDS

FLEXIBILITY STATEMENT:

THE GRAPHIC DRAWINGS CONTAINED WITHIN THIS MASTER PLAN ARE INTENDED TO DEPICT GENERAL LOCATIONS AND ILLUSTRATE CONCEPTS OF THE TEXTURAL PROVISIONS OF THIS MASTER PLAN. IN GRANTING PLAT APPROVAL, THE CITY STAFF MAY ALLOW MINOR VARIATIONS FOR THE PURPOSE OF ESTABLISHING:

- A. FINAL ROAD ALIGNMENTS
- B. FINAL CONFIGURATION OF LOT AND TRACT SIZES AND SHAPES
- C. FINAL BUILDING ENVELOPES
- D. FINAL ACCESS AND PARKING LOCATIONS
- E. LANDSCAPING ADJUSTMENTS
- F. STORMWATER FACILITIES

PROJECT TEAM:

APPLICANT / DEVELOPER
CARMA LAKEWOOD, LLC
188 INVERNESS DRIVE WEST, SUITE 150
ENGLEWOOD, COLORADO 80112
303.790.6594
303.706.9453 (FAX)
CONTACT: CHRIS BREMNER

PLANNER / LANDSCAPE ARCHITECT
STUDIOINSITE, LLC
3457 RINGSBY COURT, UNIT 223
DENVER, COLORADO 80216
303.433.7100
303.433.4301 (FAX)
CONTACT: CHRIS GEDDES

CIVIL ENGINEER / SURVEYOR
JANSEN STRAWN
1165 S. PENNSYLVANIA ST., SUITE 120
DENVER, COLORADO 80210
303.561.3333
303.561.3339 (FAX)
CONTACT: THOMAS C. JANSEN, PE

APPROVALS

PLANNING COMMISSION
APPROVED BY THE CITY OF LAKEWOOD PLANNING COMMISSION THIS 3RD DAY OF JUNE, 2009.
CHAIR: Richard Urbanowski
SECRETARY: George Brown III

CITY COUNCIL
APPROVED BY THE CITY OF LAKEWOOD CITY COUNCIL THIS 13th DAY OF JULY, 2009.
MAYOR: Bob Murphy
CITY CLERK: Margy Greer

RECORDERS CERTIFICATE:

ACCEPTED FOR FILING IN THE OFFICE OF THE JEFFERSON COUNTY CLERK AND RECORDER, AT GOLDEN, COLORADO, ON THIS 11th DAY OF December, 2009 AT 4:01 O'CLOCK P.M.
Pam Anderson
JEFFERSON COUNTY CLERK AND RECORDER;
BY: Susan J. Francis
DEPUTY CLERK

SOLTERRA CENTRE ODP

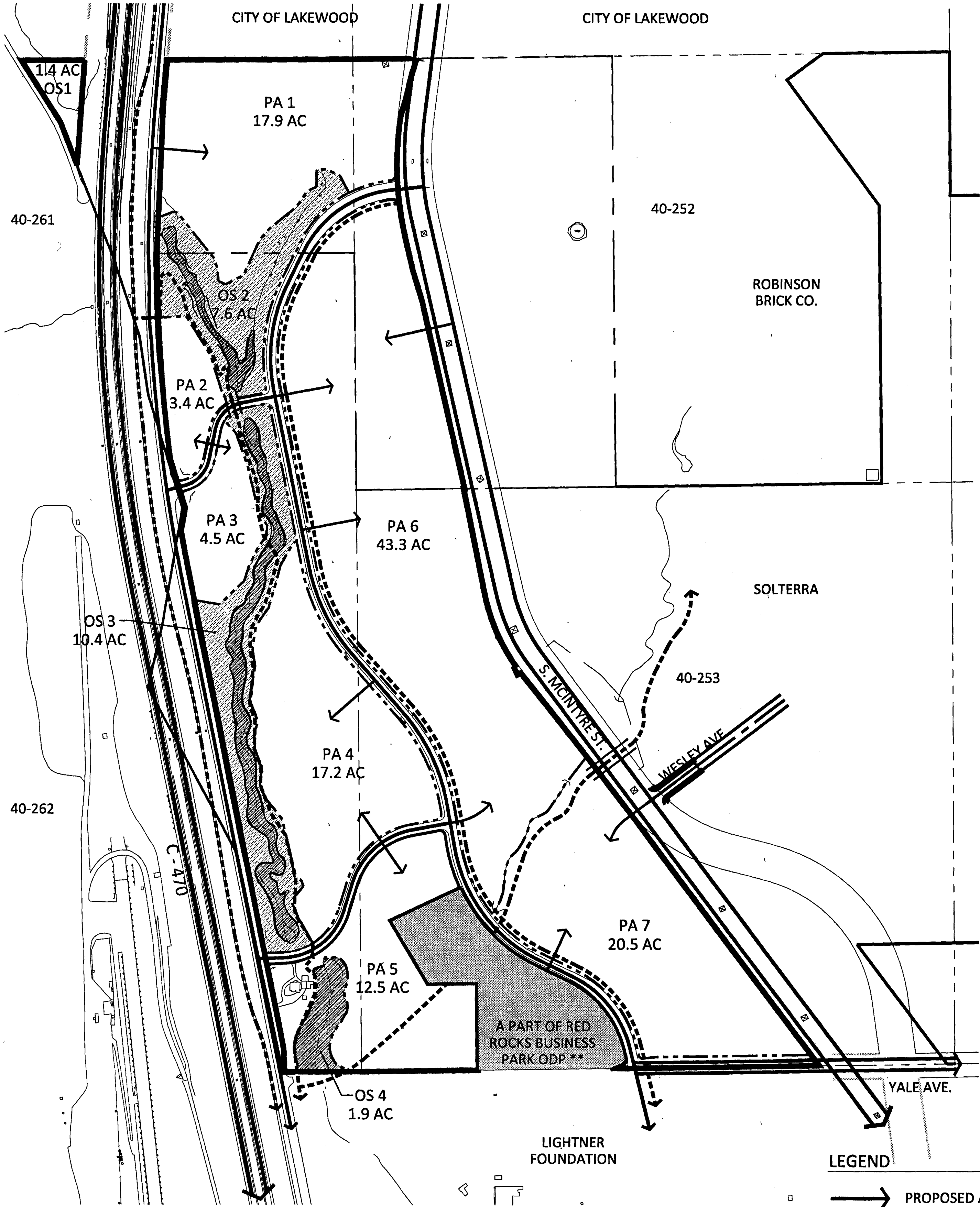
Applicant / Developer:	Carma Lakewood, LLC	RZ-09-003	QS - ID 40 - 252
Planner / Landscape Architect:	studioINSITE, LLC.	ORD-2009-28	QS - ID 40 - 253
Engineer / Surveyor:	Jansen Strawn		QS - ID 40 - 261
Date of Approval:	NA		QS - ID 40 - 262
Date of Revision:	NA		
Solterra Centre Official Development Plan (ODP)			

SOLTERRA CENTRE ODP
SHEET 1 OF 4

SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN

LOCATED IN SECTIONS 25 & 26, TOWNSHIP 4 SOUTH, RANGE 70 WEST OF THE SIXTH PRINCIPAL MERIDIAN
CITY OF LAKEWOOD, COUNTY OF JEFFERSON, STATE OF COLORADO.

SHEET 2 OF 4



Section I Development Regulations

A. Permitted Land Uses

- Mixed-Use: All uses permitted in Retail, Office, Agriburbia™ and Residential as defined below.
- Retail, including, but not limited to: retail, wholesale, sales, support and service businesses, restaurants, taverns, hotels, rental and repair facilities not requiring a service yard (for the long term storage of heavy equipment and materials).
- Office, including, but not limited to: business, professional, hospitals, institutional, and research and development.
 - Institutional Uses Definition: Public or non-profit uses such as government offices; schools, universities, or colleges; places of worship; community centers; event and venue developments; museums; public and safety uses; training institutions; health care centers; libraries; and child care centers.
 - Research and Development Definition: Research and development activities will occur primarily within an enclosed structure with minimal outdoor storage. Intended uses involve application of research knowledge and activity as part of the manufacturing process or operations. Production activities can include research, development, or evaluation of products, plans, or designs. Limited outdoor testing is allowed. Other research and development support uses include warehouse, office, research institutions and technology incubators.
- Agriburbia™: Agriburbia™ is centered on an agrarian concept where traditional suburban landscaping and open space is replaced with orchards, vineyards, and other perennial crops for the benefit of the neighborhood, local businesses, and surrounding communities. Agriburbia™ is a trademarked term - for more information contact the TSR Group at (303)458.8554 or visit www.agriburbia.com for detailed resources and information.
- Residential, including: 20 du/acre maximum densities. May include single-family attached, multi-family, live/work units, residential health care, and assisted living facilities.
 - Live/Work Unit Definition: A structure where products, services, craft works and/or other artworks allowed are created or provided, and in which a dwelling unit is provided. The dwelling unit portion of the Live/Work Structure, if provided, shall contain at least four hundred (400) square feet of gross floor area.
- Accessory uses are all uses that are accessory to the principle structure, including: garages, parking structures, swimming pools, patios/decks, public transportation facilities, utility facilities, telecommunications facilities, home occupations, agricultural uses that support any principal use, and other uses customarily incidental and accessory to permitted uses and necessary for the operation thereof, including related support uses designed to serve the permitted uses.

B. Prohibited Uses

- This Official Development Plan prohibits the use of the following:
- Adult business;
 - Adult entertainment;
 - Pawnshop;
 - RV/car dealerships;
 - Mobile homes, trailers;
 - Detached single-family homes;
 - Jails and prisons;
 - Halfway houses for criminal offenders;
 - Homeless shelters;
 - Golf courses;
 - Video game parlors as primary uses;
 - Drive-in movie facilities.

C. Use Determinations

Uses not listed in the Official Development Plan may be allowed if determined by the Director to be similar in character and operation, and having the same or lesser impact as uses which are allowed.

PLANNING AREA (PA)	USES	GROSS ACREAGE	% TOTAL SITE	MAX FLOOR AREA (NON-RES)	REQ. OPEN SPACE (AC)	MAX. BUILDING HEIGHT	MAX. DU/AC * (RES)	MAX. DU
PA1	RETAIL/OFFICE	17.9	10.6%	615,000	3.6	65'		0
PA2	RETAIL/OFFICE	3.4	2.0%	70,000	0.7	65'		0
PA3	RETAIL/OFFICE	4.5	2.7%	90,000	0.9	65'		0
PA4	MIXED-USE	17.2	10.2%	700,000	3.4	80'	20 MF	344
PA5	MIXED-USE	12.5	7.4%	525,000	2.5	80'	20 MF	250
PA6	MIXED-USE	43.3	25.6%	1,150,000	8.7	65'	20 MF	626
PA7	MIXED-USE	20.5	12.1%	850,000	4.1	80'	20 MF	410
OS1		1.4	0.8%		1.4			
OS2		7.6	4.5%		7.6			
OS3		10.4	6.1%		10.4			
OS 4		1.9	1.1%		1.9			
ROW		28.8	17.0%					
		169.4	100.0%	4,000,000	45.2			1,630

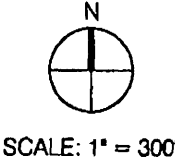
* Per individual development project
** Retail uses will comprise a maximum of 15% of the total allowable development density for Solterra Centre. This 15% will be applied for each of the Planning Areas. However, additional retail densities for each Planning Area may exceed 15% of the allowable development density provided that an associated reduction in the remaining non-residential uses within the subject Planning Area of four (4) times the additional retail square footage is applied to the development.

D. Transfer of Densities

Up to twenty percent (20%) of non-residential and/or residential density may be transferred from one Planning Area to another, resulting in the increase of such transferred density in the 'receiving' Planning Area, and a resulting decrease of such transferred density in the 'sending' Planning Area, so long as the Maximum Floor Area for the entire development is not exceeded, not including any modifications approved under the minor amendment process. Written consent is required from owners of both the 'receiving' and 'sending' Planning Areas. A density transfer shall be processed per the zoning ordinance. Written notice of the application shall be provided at the applicant's expense to all owners of property adjacent to both the 'sending' and 'receiving' Planning Areas, disregarding public rights-of-way. If a written objection to the application is filed with the Director within ten (10) days of notification, the applications shall be referred to the Planning Commission in accordance with the Zoning Ordinance, or as may be amended. If no objection is filed then the Director may approve the application.

Overall development density of a Planning Area may increase up to twenty percent (20%) if a new traffic study is provided that justifies the increase. Such increase in density is subject to administrative review and approval by the Director. Written notification of the application shall be provided at the applicant's expense to all owners of property adjacent to the Planning Area, disregarding public rights-of-way. If a written objection to the application is filed with the Director within ten (10) days of notification, the application shall be referred to the Planning Commission in accordance with the Zoning Ordinance, or as may be amended. If no objection is filed then the Director may approve the application.

** This property is governed by Red Rocks Business Park ODP at Reception No. 82050855



LEGEND

- PROPOSED ACCESS
- PROPOSED BIKE TRAILS
- PLANNING AREA BOUNDARIES
- PROPERTY BOUNDARY
- GRADE-SEPARATED BIKE CROSSING

SOLTERRA CENTRE ODP

Applicant / Developer:	Carma Lakewood, LLC	RZ-09-003	QS - ID 40 - 252
Planner / Landscape Architect:	studioINSITE, LLC.	ORD-2009-28	QS - ID 40 - 253
Engineer / Surveyor:	Jansen Strawn		QS - ID 40 - 261
Date of Approval:	NA		QS - ID 40 - 262
Date of Revision:	NA		
Solterra Centre Official Development Plan (ODP)			SOLTERRA CENTRE ODP
			SHEET 2 OF 4

SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN

LOCATED IN SECTIONS 25 & 26, TOWNSHIP 4 SOUTH, RANGE 70 WEST OF THE SIXTH PRINCIPAL MERIDIAN
CITY OF LAKEWOOD, COUNTY OF JEFFERSON, STATE OF COLORADO.

SHEET 3 OF 4

E. Open Space Requirements

In addition to those open space areas described in OS1 - OS4, a minimum of twenty percent (20%) of the total area of each individual Planning Area shall be devoted to open air recreation or other usable open space (public or quasi-public). In conditions that Planning Areas consist of two (2) or more distinct developments, each of the developments shall devote a minimum of twenty percent (20%) of the total area to open air recreation of other usable open space. Residential uses such as multi-family, residential health care, or assisted living facilities shall provide 55% open space, of which 35% shall be useable open space.

F. Existing Uses

Any non-conforming use or structure may continue to be used in the capacity existing at the time of this major modification as long as no improvements to or expansion of the structure exceed the existing building square footage, at the time of this major modification, by more than 20%. At such event that the structure is vacated for a period greater than 180 days or demolished, the use and/or structure will be subject to the uses defined in this ODP.

G. Building Setback and Separation Standards

Land Use	Max. Density	Minimum Setbacks (as defined from the property/parcel line)*								
		Front / Street			Side		Rear			
		Principal Structure	Attached Garage	Detached Garage	Principal Structure	Accessory Structure	Principal Structure	Alley Loaded Garage	Detached Garage	Accessory Structure
Residential	20 DU/AC	25'	18**	18****	15'	5'	20'	5'	5'	5'
Office		0'***			0'	5'	0'			5'
Retail		0'***			0'	5'	0'			5'
Mixed-Use		0'***			0'		0'			

- * Front and non-primary front are measured from back of curb of adjacent street.
** As measured from back of sidewalk to garage door.
*** As measured from back of sidewalk to building facade.
**** As measured from the back sidewalk to building facade - must be located behind the principal structure.

Section II GENERAL PROVISIONS

A. Intent

The Solterra Centre development project will update the existing Red Rocks Business Park ODP and land uses to reflect the growth of western Lakewood, the importance of the Centre to the City as a gateway along C-470, and to respect the natural elements of the Centre in the site's future development. Solterra Centre is intended to serve as a destination for suitable business, event and venue development at what is the western gateway to the City of Lakewood.

The development of Solterra Centre will be generally organized around two primary features of the site today: the natural ridgeline near its eastern edge and the natural drainage way near its western edge. Development is intended to protect and enhance the drainage way as an open space amenity for the region, while buildings will be located to frame - rather than detract from - the natural topography. It is anticipated that, given the importance of the site and visibility within both the local and regional context, the Centre may be a hub for one or more significant mixed-use campuses.

The Project will be undertaken in phases which will depend on a number of factors - however, it is generally anticipated that development will commence in the northern portions of the Centre, with subsequent phases likely progressing to the south. The development program is anticipated to accommodate a mix of office, retail, Agriburbia™, and residential uses. The Joint Project Review Committee (JPRC) and owners/developers of Solterra Centre will consider development plans from the NAIOP-Colorado Chapter 7th Annual Rocky Mountain Real Estate Challenge in the development of Solterra Centre. These final feasibility assessment and development plan recommendations are on file in the City of Lakewood Planning Office.

B. Provisions

This Official Development Plan includes the following provisions:

- Section I: General Provisions
Section II: Administration, Review, Approval, Amendment, Appeal Process, and Authority
Section III: Development Regulations

C. Applicability

1. The Official Development Plan shall apply to all real property described by the legal description contained herein, to be known as Solterra Centre. The property is generally bounded by the C-470 frontage road to the west, the extension of the West Yale Avenue centerline to the south, South McIntyre Street to the east, and City of Lakewood property to the north. Modifications to this ODP may be made per the Lakewood Zoning Ordinance, as may be amended, or as otherwise stated within this ODP.

2. These Standards shall be applied to new development, redevelopment, or exterior modifications including, but not limited to, building additions, façade improvements, or landscaping improvements within the ODP.

D. Relationship to Other Regulations

All development of the property shall be in conformance with this Official Development Plan and other site-specific project approvals granted in connection with or pursuant to this Official Development Plan (including, but not limited to, the Development Agreements), and shall be subject to other City regulations only to the extent that they do not conflict with this Official Development Plan or any standard, plat, or plan established hereunder or other related agreements between the City and the Developer.

E. Vesting

Approval of this Site Specific Development Plan creates a vested property right pursuant to Section 24-68-101, et Seq., C.R.S., and Article 18 of the City of Lakewood Zoning Ordinance. Vesting for a specified time period will be created by a separate development agreement subject to City Council approval.

F. Definitions

- City:**
"City" shall mean the City of Lakewood.
- Design Review Committee, or DRC:**
The organization created by the Developer as further defined in Section III A. here following.
- Director:**
The Director as designated by the Lakewood City Manager (or his/her designee).
- Developer:**
"Developer" shall mean only CDN Canada Development, Inc. and TeeFam Colorado Land Co. any of their affiliates who are Owners and which CDN Canada Development, Inc. and TeeFam Colorado Land Co. so designate. Developer shall also mean any other entity or person, whether or not an Owner, which CDN Canada Development, Inc. and TeeFam Colorado Land Co. specifically so designate with respect to all or any portion of the Property.
- DRC Design Standards and Guidelines:**
The DRC Design Standards and Guidelines are a specific and comprehensive set of design standards and guidelines to be adopted by the Developer separately from this Official Development Plan to govern the development of Solterra Centre.
- Entertainment Uses:**
Public, non-profit or commercial uses such as cinemas and cinema complexes; theaters; concert halls; performing art centers; night clubs; music halls; and dance halls. Not included are drive-in movie facilities.
- Event and Venue Development:**
A venue for organized event and/or community activities, either open-air or interior space, that may accommodate such uses as a fairgrounds, farmer's market, performance, or other similar activities.

8. Height:

The height of a building shall be the vertical distance measured from the average grade at the building to the highest point of the coping of a flat roof, the deck line of a mansard roof, the highest point of the highest gable of a pitched or hipped roof, or the highest point of any other type of roof. The height of a building shall not include mechanical equipment, screening for mechanical equipment, spires, chimneys and antennae.

9. Hillside Development:

Hillside development is not allowed and shall be defined as development on hillsides with natural slopes over 30% in slope, tops of ridges and rock outcroppings.

10. Intergovernmental Agreement (IGA):

Agreement between the Town of Morrison and City of Lakewood executed on May 5, 2000.

11. Joint Project Review Committee (JPRC):

Committee formed through the IGA consisting of three (3) members from the Town of Morrison and three (3) members from the City of Lakewood.

12. Joint Project Review Committee (JPRC) Coordinators:

Individual appointed by the Town and/or the individual appointed by the City pursuant to Section 2.03 of the IGA to represent the Town and the City, respectively, on the Project Management Team.

13. Mixed-Use Campus:

Any land uses mentioned herein which may consist of a grouping of buildings and other facilities.

14. Official Development Plan:

The "Official Development Plan" shall mean this document and the maps attached hereto, as the same may be amended as provided herein.

15. Open Space or Landscaped Areas:

- Open space areas or landscaped areas include:
 - Walkways, pedestrian paths, open plazas and malls, concourses, passageways, terraces, drainage ways and detention/retention facilities, playgrounds, improved rooftops and similar structures specifically designed for active and passive recreational use and which are not designed to be used by motor vehicles except for emergency and service purposes so long as they are designed for a dual open space use.
 - Areas used for design purposes, such as planted or landscaped areas, flower beds, and planters.
- Open space areas or landscaped areas do not include:
 - Unused or leftover portions of a property which are capable of being developed and which are specifically used for storage or reserved for future expansion, or outdoor areas which are developed for use as a storage area.
 - Motor vehicle uses such as parking lots, roads, or service areas, at, above, or below ground level. Landscaping over underground parking, or on a deck above structured parking, however, will be included.

16. Open Space - Usable:

- Usable open space includes:
 - A landscaped area with a minimum dimension of five (5) linear feet and a minimum area of 200 sq. ft., to be used for active and/or passive recreational activities.
 - Common or 'public' yards or areas.
 - Private yards, patios, porches, decks, roof gardens or balconies, with a minimum dimension of five (5) linear feet and a minimum area of 35 sq. ft.
 - Club houses, swimming pools, tennis, or other courts (a club house is considered a recreational amenity and therefore may be counted as usable open space).
 - Shade or shelter structures, seating, tables, grills, and similar equipment or forms which support the informal use of open space as gathering places.
 - Community gardens.
 - Ponds, drainage ways, detention/retention areas, and wetlands including floodplains and floodways which are developed as amenities with landscaping and paths; and located so that they are either physically or visually accessible from residential or office units. The Director will decide whether to allow part or all of these areas to count toward the usable open space requirement depending on the quality of the open space amenity and the amount of usable open space provided in other parts of the development.

17. Owner:

"Owner" shall mean any person or entity who from time to time owns any portion of the Property.

18. Phase I Final Development Plan (FDP):

The JPRC Coordinators shall refer to the Design Review Committee (DRC) for development review and determination under this ODP that includes site planning, building massing, architecture, landscape architecture, lighting, street, park and/or plaza design, and signage proposals shall be made prior to public hearing before the Joint Project Review Committee (JPRC) on all Phase I FDPs. A Phase I FDP submittal incorporates all applicable elements of a 'Site Plan' submittal per the Lakewood Zoning Ordinance, sign parameters and other additional requirements of this ODP, all requirements of the May 5, 2000 Intergovernmental Agreement (IGA), as may be amended, between the Town of Morrison and City of Lakewood, the Joint Rooney Valley Master Plan, and the Joint Rooney Valley Development Standards.

19. Recreational Uses:

Public, non-profit, or commercial uses such as health clubs; recreation centers; indoor or outdoor swimming pools; gymnasiums; bowling alleys; pool halls; ice skating rinks; skateboard parks; multi-use parks with bike, rollerblading and running paths and areas for informal field sports; and smaller unlighted outdoor facilities such as basketball courts and tennis courts.

20. Required Parking Structure or Lot:

A structure or surface lot provided for parking required by the ODP for the parking needs of specific users, or otherwise assigned to those uses above and beyond those needs.

21. Temporary Display of Goods:

The display of items for sale on movable and/or demountable display furniture, located immediately adjacent to the tenant which sells such items. By way of example but not limitation, such displays may include clothing racks, vegetable and/or fruit bins, and book shelving. Displays and display furniture shall be allowed in the R.O.W., with City permission, immediately adjacent to the tenant space only during the hours of operation, and during special events such as street fairs and farmer's markets.

22. Tenant:

An occupant at Solterra Centre that leases space from the Developer and/or Owner(s) of the property at Solterra Centre.

23. Tree Lawn:

An area between the sidewalk and curb within which street trees and other landscaping components such as turf or other groundcovers are planted. Tree lawns are considered to be continuous planting strips.

Section III ADMINISTRATION, REVIEW, APPROVAL, AMENDMENT AND APPEAL PROCESS

A. Design Review Committee Review Procedures

- Establishment of the Design Review Committee

A Design Review Committee (DRC) shall be established to review and approve all proposed development within the boundaries of this ODP. DRC Design Standards and Guidelines shall be established prior to time of final plat or completion of a Phase I FDP on the Solterra Centre ODP land area. The DRC shall consist of three (3) voting persons (at least one licensed architect, one person with experience in land planning, and a representative of the Developer). Until such time that the Developer may elect in writing to relinquish such rights, the Developer shall appoint all voting members of the DRC, and may remove and replace any such members as it deems appropriate. After expiration or termination of the Developer's appointment rights, appointments shall be made by the entity to whom the Developer has transferred the largest portion of its property within the Solterra Centre. If the Developer has transferred all of its interest in the property within the Solterra Centre, and no entity owns more than 10% of the non-residential land (measured by site area) within the Centre, then the responsibility to the DRC shall be transferred to an organization generally representative of property owners within the district at that time. If no such organization exists or can be formed, appointments to the DRC shall become the responsibility of the Director.

The term of office of the members of the DRC shall be for one year and shall run from the first day of January each year, through the last day of December. In the event of resignation, death, incapacitation or temporary absence of a member, the Developer may appoint a successor member, or temporary successor. Members of the DRC may serve as long as reappointment occurs.

- Review with Owner

Upon the receipt of a complete set of the materials and information described above, the Design Review Committee shall meet with the Owner or his/her designee to discuss such materials and information and any necessary changes which the Design Review Committee requires prior to its review and approval of a Final Development Plan.

- Decisions

The Design Review Committee shall exercise its best judgment to see that all improvements for each Planning Area conform and harmonize with requirements contained in this document and with existing structures and site developments as to external design, quality, type of construction materials, color, siting, height, grade and finished ground elevation, landscape, lighting, plaza, park, open space, pedestrian ways, and street design.

It is recognized that many different situations exist within the Solterra Centre development that may require flexibility in the application of the DRC Design Standards and Guidelines and JPRC requirements and standards to a project site. Each site shall be considered on its own merits and attributes, by constraints which are specific to each site, and in consideration of this ODP Intent Statement, DRC Design Standards and Guidelines, IGA, Joint Rooney Valley Master Plan, Joint Rooney Valley Development Standards, and the broader goals within the development.

Within 30 calendar days after review with the Owner, receipt of referral comments and review of all materials and information, the Design Review Committee shall give its recommendation for approval, conditional approval or rejection of the Final Development Plan based upon this Official Development Plan and the development regulations set forth herein and in the DRC Design Standards and Guidelines.

- Reply Commitment

The Design Review Committee shall reply to all Phase I Final Development Plan submittals of drawings made in accordance herewith in writing within thirty (30) days of receipt thereof. If no decision is rendered within 30 calendar days of a completed application, or if no time extension has been mutually accepted by the applicant and the Design Review Committee, then the matter shall be referred to the JPRC to fulfill the DRC function.

B. DRC, JPRC and City Review Procedures

- This Official Development Plan establishes the general design objectives for the required, and more specific, design standards and guidelines that shall be separately created by the Developer. The ODP also establishes the review body (DRC) and the general Final Development Plan review requirements and process for development of the property. Detailed process and procedures for the JPRC and JPRC Coordinators can be found in the May 5, 2000 IGA.
- The DRC, JPRC, and JPRC Coordinators shall have responsibility for the review and approval of Phases I, II, and III Final Development Plan submittals (per the IGA) which relate to site planning, architectural design, landscape design, lighting, and signage/graphic design of a proposed development, redevelopment, or renovation of any improvement within Solterra Centre; and the design of elements encroaching into the R.O.W. and public space, including any street amenities, park, plaza, and open space improvements. The City will have final determination on all R.O.W. encroachments.
 - Preliminary Application (Pre-application) Procedures
 - The applicant shall meet with the DRC and then schedule a preliminary application meeting with the JPRC Coordinators to introduce the project to the reviewing entities, and to receive DRC and JPRC pre-application information relative to the requirements, fees, and procedures to be followed in the DRC and JPRC approval process. Applicants are to provide written correspondence from the DRC that they have met prior to scheduling the pre-application meeting with the JPRC Coordinators.
 - A pre-application will be submitted by the applicant for review and comment by the JPRC Coordinators and DRC.
 - Following the pre-application review, but prior to filing a formal application, the applicant shall meet with residents and property owners in the vicinity of the site in accordance with neighborhood referral guidelines developed by the JPRC Coordinators.
 - Upon receiving comments from the JPRC Coordinators and DRC on the submittal, the applicant shall submit a Phase I FDP to the JPRC for referral to the DRC with all of the required submittal documents established by the pre-application review. These will include those documents required by this ODP, the IGA, and any additional requirements of the JPRC Coordinators and DRC.

SOLTERRA CENTRE ODP

Applicant / Developer:	Carma Lakewood, LLC	RZ-09-003	QS - ID 40 - 252
Planner / Landscape Architect:	studioINSITE, LLC.	ORD-2009-28	QS - ID 40 - 253
Engineer / Surveyor:	Jansen Strawn		QS - ID 40 - 261
			QS - ID 40 - 262

Date of Approval:	NA	SOLTERRA CENTRE ODP SHEET 3 OF 4
Date of Revision:	NA	
Solterra Centre Official Development Plan (ODP)		

SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN

LOCATED IN SECTIONS 25 & 26, TOWNSHIP 4 SOUTH, RANGE 70 WEST OF THE SIXTH PRINCIPAL MERIDIAN
CITY OF LAKEWOOD, COUNTY OF JEFFERSON, STATE OF COLORADO.

SHEET 4 OF 4

2. Administrative Review

Following the pre-application review and neighborhood meeting, the Owner shall submit a DRC-approved formal Phase I FDP application to the JPRC Coordinators. Following receipt of the application for approval, the JPRC Coordinators shall perform an administrative review of the Phase I FDP.

Following completion of the administrative review of the Phase I FDP, the JPRC Coordinators shall refer the FDP to the City Planning Commission and the Town Board of Trustees for its administrative review. Each body shall have the opportunity to seek public comment on the FDP and to provide comments to the JPRC.

3. Review and Action

The JPRC shall take action at a public hearing to review and approve, approve with conditions, or reject a Phase I Final Development Plan (FDP) and all other ODP requirements, criteria, or components within thirty (30) business days following the public hearing, except as described in Section 2.05.7 of the IGA.

The scope of review of the design and aesthetic related items in the Phase I FDP shall be limited to determining whether the DRC was thorough in its considerations, and reasonably adhered to the General Development Design Objectives, IGA, Joint Rooney Valley Master Plan, Joint Rooney Valley Development Standards, and DRC Design Standards and Guidelines separately adopted as required by this ODP.

Phases II and III FDP are administrative and require both the DRC and JPRC Coordinators approvals. See IGA for detailed procedures and submittal requirements.

The presumption established by the approval by the DRC and JPRC is that the City may deny approval of the building permit application on the basis of non-compliance with this ODP, only upon a finding of substantial evidence of material non-compliance with the ODP and/or its design standards, error of procedure, or omission by the DRC and JPRC which threatens the public health, safety and welfare with respect to objective ODP requirements, and not upon a finding based on differing aesthetic judgments.

4. Building Permits

The City shall not approve or issue any building permit unless it is accompanied by a letter of DRC and JPRC Final Development Plan approval, which letter shall establish a presumption of conformance with the applicable provisions of this Official Development Plan and with the design standards, guidelines and plans and other standards and requirement established hereunder. While all approvals are a precondition of receiving a building permit, it does not, in of itself, convey, or imply conveyance, of building permit approval.

5. Effective Date

A Final Development Plan shall become effective as of the approval date of a Phase III FDP, or the date a decision in favor of the Owner is rendered on an appeal.

6. School land dedication or fees in lieu of school land dedication for public education will be assessed according to the formula established by the City of Lakewood in Ordinance O-97-5, or in accordance with the then in effect regulations. Applicable fees will be calculated and assessed for new residential units within the Solterra Centre at the time of building permitting of those residential units.

7. Neighborhood Parkland dedication requirements for this development will be satisfied by the preservation of the parcels designated as OS2, OS3, and OS4 as shown in this ODP with the trails completed. The Community Parkland needs (if any) of this development shall be satisfied by a fee-in-lieu of land dedication. The fee shall be determined and due at the time of building permit issuance for residential units in accordance with the then in effect regulations.

Continued maintenance and ownership of the trails and open space corridors within this ODP shall be the responsibility of the Fossil Ridge Commercial Metropolitan District, with an easement dedicated to public use committed over the designated Neighborhood Parkland and trail areas. Bike paths within the Rooney Gulch Open Space areas OS2-4 will be maintained by the Fossil Ridge Commercial Metropolitan District.

8. Deemed Compliance

Where prior written consent of approval of the DRC and JPRC is required hereunder with respect to construction, installation or location of any building or other improvements, then the same shall be conclusively deemed to have been constructed, installed and located in compliance with this Official Development Plan unless a legal action shall be commenced objecting hereto within thirty (30) days of the completion of such construction, installation or location.

D. Design Objectives

1. Joint Rooney Valley Development Standards

This Document sets forth standards which recognize and protect the environmental, geographic, historic, and visual qualities of the Rooney Valley. The standards are intended to promote the general health, safety and welfare of the area by encouraging environmentally-sensitive development within the Rooney Valley. In addition to those development standards listed below, all developments are to also abide by the Joint Rooney Valley Development Standards which purpose is to implement the goals of the Joint Rooney Valley Master Plan.

2. General Development Design Objectives

It is the intent of this Section that the following qualitative statements serve as general objectives to guide the development of a more specific and comprehensive set of design standards and guidelines to be adopted by the Developer separately from this Official Development Plan and to be known as the DRC Design Standards and Guidelines. Beyond the stated General Development Design Objectives described herein, the development of the site shall also follow those standards as described in the Joint Rooney Valley Master Plan and the Joint Rooney Valley Development Standards.

a. General Site Objectives

- Provide an adaptable and interconnected transportation system that encourages alternative modes of transportation, disperses traffic both within the property and to adjacent properties, and provides streets that accommodate multiple transportation modes including motor vehicles, transit, bicycles, and pedestrians.
- Arrange employment, retail, service, residential, and open space uses to be compatible with one another and other outside influences on the property.
- Develop the property in a manner that respects the natural character of the site, including the ridge lines, steep slopes, major drainage ways, and views to and from the property from outlying areas. The development of individual parcels within the property, and the connections of each parcel to its adjacent parcels, shall follow in the most efficient manner possible the natural course of the land.
- Design early phases of development so as to promote long term quality and character and to respect the quality and character of adjacent development.

b. Site Design and Landscape Architecture Objectives

- Locate, screen, and/or buffer storage, delivery and refuse areas to minimize the view from streets, adjacent lots, and public parks and plazas.
- Minimize the negative impacts (including excessive heat absorption, glare, vehicular noise, and exhaust) of parking areas and parking structures on streets, public parks and plazas, and adjoining development. Mitigate the views, and reduce the scale of large parking lots.
- Improve the efficiency of large parking areas by allowing multiple uses to share parking spaces, curb cuts, and circulation drives.
- Consider the comfort, compatibility with the overall site design, convenience and safety for users and pedestrians in parking lot design.
- Orient buildings and entrances to the public open spaces in order to create an effective relationship between usable open space and buildings; to give hierarchy to the natural topography; to focus activity toward the public realm; to conceal adjacent surface parking lots; and to promote pedestrian activity, safety and comfort.
- Enhance the quality of the project, reinforce building function and form, and create usable open space through the landscape treatment of exterior spaces.
- Use water conserving and native plant materials wherever feasible.
- Preserve natural site features such as trees, major drainage ways and topography where feasible.
- Establish parking space and circulation criteria that promote safety, protection of value, and ease of operation of parking facilities.
- Locate, integrate and control the number, design, and/or position of wireless towers and transmission components, satellite dish antennae, and other telecommunications equipment.
- Hillside development shall not be allowed.

c. Architectural Objectives

- Create buildings that, individually and/or collectively, provide human scale and interest through the use of varied forms, materials, details, and/or colors.
- Provide architecturally finished and detailed elevations for all exposures of the building, the primary facade (typically the street- or open space-facing elevation) having an appropriate architectural expression.
- Provide a primary building entrance facing or clearly visible from public sidewalks or open space networks.
- Use durable materials, particularly in the ground-level facade of the building. Consider the use of stone, precast concrete, cast stone, and/or brick materials that reflect the natural surroundings of the site.
- Minimize the use of highly reflective glass.
- Maximize the transparency of ground floor street- and open space-facing commercial facades.
- Promote harmonious transitions in scale and character between buildings, particularly where use and density changes occur.
- Provide building scale, form and orientation appropriate to the nature and context of the surrounding Planning Area(s).

d. Plant Material

- Use of indigenous and xeric species is encouraged. Selection of plant species shall comply with Article 15 of the City of Lakewood Zoning Ordinance, or as may be amended.
- Plant species shall vary and shall include deciduous and coniferous trees and deciduous and coniferous shrubs.

e. Lighting

- Create lighting appropriate in scale, style, material, and illumination to the development.
- Minimize the impact of lighting on adjacent residential neighborhoods.
- Private street, site, and parking lot lighting shall be a maximum height of twenty (20) feet (as measured from grade level to the top of the light fixture), and shall use downcast, shielded fixtures.
- Lighting of pedestrian areas shall be a maximum height of twelve (12) feet (as measured from grade level to the bottom of the fixture head), and shall use downcast, shielded fixtures.

f. Fences and Walls

- Fences shall conform to the Joint Rooney Valley Master Plan and Joint Rooney Valley Development Standards or as may be amended in the future.
- Fences that are adjacent to public areas (parks, open space or street right-of-way) shall be installed by the builder and shall be maintained, but not altered, by the lot owner.
- Fencing shall be allowed along open space and buffers, subject to the approved Phase I-III FDPs and approval by the DRC.
- Where fencing is installed by either the developer or builder, the location shall be shown on the landscape plans and construction plans and will include who is responsible for the installation and maintenance.
- Promote the design of fences and walls compatible in scale, character, materials, and color to the development; and to maintain a high level of quality established by the development's site design, landscaping, and architecture.

g. Retaining Walls

- Retaining walls shall be constructed of natural materials or DRC approved alternative (no wood or concrete walls) and shall be a maximum of five (5) feet in height (measured vertically from finished grade at the bottom of the wall to the top of the natural material).
- Each retaining wall shall be separated by a minimum horizontal distance that is equal to the height of the tallest wall.
- Each retaining wall shall be setback a minimum distance from the property line equal to the height of the closest wall.
- All terraces between walls shall be landscaped.
- Where these walls are developer installed, they shall be shown on the landscape plans and construction plans and will include who is responsible for the installation and maintenance.
- Walls higher than thirty inches (30") (exposed height) are structural walls and shall be designed by a professional engineer and approved by the City Engineer prior to construction. These structures shall be placed outside all sight distances, sight triangles, easements or rights-of-way, and placed a minimum of two feet (2') past the public walk (unless formal permission is granted by the affected entities or jurisdiction).

h. Signage

- A Comprehensive Sign Plan will be submitted and approved in accordance with the IGA and Joint Rooney Valley Development Standards or as may be amended in the future.
- Sign materials and colors shall be compatible with the character of the area. Quality materials and components shall be utilized including, but not limited to, natural wood, stone and brick.
- No signs shall blink, flash, rotate or revolve.
- All signs shall conform to the approved Comprehensive Sign Plan. Any sign not addressed shall revert to the regulations of the City of Lakewood Sign Code in effect at the time of sign permit application. Permits shall be obtained from the City of Lakewood, prior to the erection of any sign.
- All proposed signs shall be approved by the DRC prior to applying for a permit.
- All signs shall be placed on private property or where approved by the City in street rights-of-way. No project signs or neighborhood entry signs shall be allowed on City park and/or City open space properties.

3. Public Improvement Agreement:

A Public Improvement Agreement (PIA) between the City of Lakewood and the property owner will be entered into with this Solterra Centre ODP. Preliminary Street Construction Plans for the entire Solterra Centre development, meeting the requirements of the approved Final Traffic Study, will be required with any Final Plat or JPRC Phase I FDP submittal. Access and maintenance of detention and water quality features will be evaluated and determined with each final plat and JPRC Phase I FDP for property within this Solterra Centre ODP.

E. Required Submittals/Records of Determination

Submittals made to the DRC and JPRC for Phase I - III FDP approvals shall be in accordance with those identified in Section 2.07 of the IGA. Approval of each successive Phase is incumbent on the approval of the preceding Phase by both the DRC and the JPRC, and DRC approval is required prior to the approval of the JPRC.

F. Modifications to the FDP

Modifications to an approved Final Development Plan are per Section 2.05(8) of the IGA.

G. Non-Liability

Neither the DRC, nor any member, employee or agent thereof shall be liable to any Owner, the City, or any tenant or anyone submitting plans for approval, or to any other party by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval, disapproval, or failure to approve such plans or for any other action in connection with it or their duties hereunder. Likewise, anyone submitting plans to the Design Review Committee for approval, by submitting such plans, or any person or entity when he, she or it becomes an Owner, agrees that he, she or it will not bring any legal action or suit to recover damages against the DRC, or any of its members, employees or agents of the Developer.

SOLTERRA CENTRE ODP			
Applicant / Developer: Carma Lakewood, LLC		RZ-09-003	QS - ID 40 - 252
Planner / Landscape Architect: studioINSITE, LLC.		ORD- <u>2009-28</u>	QS - ID 40 - 253
Engineer / Surveyor: Jansen Strawn			QS - ID 40 - 261
			QS - ID 40 - 262
Date of Approval: NA		SOLTERRA CENTRE ODP	
Date of Revision: NA			
Solterra Centre Official Development Plan (ODP)			
		SHEET 4 OF 4	

ZONE DISTRICT SUMMARY



M-E-S

Mixed Use - Employment - Suburban

The M-E-S district is intended to provide for office and campus development, with ancillary retail and residential uses along arterial and collector streets. The Suburban context reflects a more auto-oriented environment, and allows for a limited amount of parking to be provided between adjacent public streets and the development.

The official Zoning Ordinance is available online: www.lakewood.org/zoning

Building Setbacks

Front

(measured from edge of existing or future public improvements.)

Minimum: 10 feet

Maximum: 85 feet

Side

Minimum: 5 feet

Rear

Minimum: 10 feet

Build-to-Zone Requirement¹

40%

Height Requirements²

Minimum: None

Maximum: 60 feet

Open Space

Minimum: 20%

Non-Residential Building Footprint

Maximum: None

¹The Build-to-Zone requirement is the percentage of lot width that must contain a portion of a building within the front setback range.

²Subject to height transition when adjacent to residential zoning, see [17.5.3.4](#).

Retail Allowed per Business

Maximum: None

Residential Density

Minimum: None

Maximum: None

Surface Parking Lot Locations Allowed

- Between building and public street
- Behind rear plane of a building
- To the side of a building

<p>Permitted Land Uses</p> <p>Permitted as a use by right.</p>	<div> <div> Attached Dwelling Unit Multifamily Group Home (1-8 client residents) Group Residential Facility Club, Lodge, or Service Organization Day Care Facility, Adult or Child Emergency Medical Facility Fitness or Athletic Facility, Private Gallery or Studio Hotel Manufacturing, Light Office Parking, Stand-Alone, Structured Personal Service Restaurant Retail </div> <div> Community Building Convention or Exposition Center Park Religious Institution School, Public or Private School, Vocational or Trade Transportation Facility, Public University or College Utility Facility, Minor Home Business, Major Wireless Communications Facility Stealth New Freestanding Structure ≤ 60 ft. in height </div> </div>
<p>Limited Land Uses</p> <p>Permitted as a use subject to compliance with any supplemental standards identified in Section 17.4.3.</p>	<div> <div> Accessory Dwelling Unit Animal Care Contractor Shop Motor Vehicle Rental Parking, Stand-Alone, Surface </div> <div> Apiaries Community Garden Temporary Use, Short-term </div> </div>
<p>Special Land Uses</p> <p>Permitted with a special use permit, subject to compliance with Section 17.4.3.</p>	<div> <div> Bar Entertainment Facility, Indoor Vehicle Dispatch Facility Hospital Utility Facility, Major </div> <div> Temporary Use, Long-term Wind-Powered Electric Generator, Freestanding Wireless Communications Facility, > 60 ft. in Height </div> </div>
<p>Accessory Land Uses</p> <p>Only permitted as accessory to a permitted use, subject to compliance with Section 17.4.3.</p>	<div> <div> Horticulture Construction or Sales Trailer Outdoor Display Home Business, Minor </div> <div> Satellite Dish Antenna Solar Collection System Wireless Communications Facility, Existing Structures Building Facade Mounted Roof Mounted Other Freestanding Support Structure </div> </div>

O-2020-25

AN ORDINANCE

APPROVING AN ADDENDUM TO THE DEVELOPMENT AGREEMENT FOR
SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN REGARDING VESTED
RIGHTS

WHEREAS, the City and the Owner entered into that certain Development Agreement for Solterra Centre Official Development Plan Regarding Vested Rights, recorded December 11, 2009, in the real property records of Jefferson County, Colorado, at Reception No. 2009124458 (the "Development Agreement"), which encumbers the certain real property described therein (the "Property") and establishes vested property rights for a period of twenty-five (25) years from the date thereof; and

WHEREAS, section 3 of the Development Agreement sets forth the terms and conditions upon which the vested property rights of the Owner may be divested, whether pursuant to City action or initiated measure; and

WHEREAS, on July 12, 2019, pursuant to initiated measure, an ordinance, known as the Strategic Growth Initiative (the "Initiated Measure") and codified at Chapter 14.27 of the Lakewood Municipal Code, became effective, which Initiated Measure is intended to limit growth in the number of housing units in the City, through an annual building permit allocation process; and

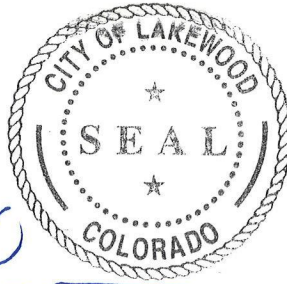
WHEREAS, in order to clarify the relationship between the Development Agreement and the Initiated Measure, the City and the Owner now desire to enter into an Addendum to the Development Agreement.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado:

SECTION 1. The Addendum to Development Agreement for Solterra Centre Official Development Plan attached hereto is approved.

SECTION 2. Effective Date. This Ordinance shall take effect thirty (30) days after publication following signature.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a virtual regular meeting of the Lakewood City Council on the 24th day of August, 2020; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 27th day of August, 2020; set for public hearing to be held on the 28th day of September, 2020; read, finally passed and adopted by the City Council on the 28th day of September, 2020; and signed by the Mayor on the 29th day of September, 2020.



ATTEST:

Ben Goldstein, Interim City Clerk

Adam Paul, Mayor

APPROVED AS TO FORM:

Timothy P. Cox, City Attorney

Chapter 14.27

RESIDENTIAL GROWTH LIMITATIONS

Sections:

- 14.27.010 Purpose/Intent.**
- 14.27.020 Implementation/Exceptions.**
- 14.27.030 Administration of this Chapter.**
- 14.27.040 General Provisions.**
- 14.27.050 Available Allocations.**
- 14.27.060 Establishment of Allocation Pools.**
- 14.27.070 Schedule of Allocation Periods.**
- 14.27.080 Applications.**
- 14.27.090 Issuance of Allocations.**
- 14.27.100 Banking of Allocations.**
- 14.27.110 Excess and Unused Allocations.**
- 14.27.120 Failure to Use Allocations; Penalties.**
- 14.27.130 Building Permit Approvals.**
- 14.27.140 Mandatory Review.**
- 14.27.150 Severability Clause.**
- 14.27.160 Authority to Continue.**
- 14.27.170 Definitions.**

14.27.010 Purpose/Intent.

- A. Establish a building permit management system that limits residential growth in the City of Lakewood to no greater than one (1) percent per annum, which will assure the preservation of its unique environment and exceptional quality of life;
- B. Encourage redevelopment of blighted and distressed areas;
- C. Encourage preservation of larger open space parcels;
- D. Assure that such growth proceeds in an orderly and timely manner and does not exceed the availability of public facilities and urban services;
- E. Avoid degradation in air and water quality;
- F. Avoid increases in crime and urban decay associated with unmanaged growth;
- G. To allow mitigation of the effects of past and future growth on infrastructure and schools. (Citizen Initiative-Special Election 07-02-2019).

14.27.020 Implementation/Exceptions.

The provisions of this chapter shall apply to the issuance of building permits for all new dwelling units within the City of Lakewood except:

- A. Structures located, or to be located, upon land that is designated “blighted.”
- B. Structures located, or to be located, upon land located on a campus owned by a college or university, including, but not limited to, Colorado Christian University and Rocky Mountain College of Art and Design, and which are used to house only college or university students, staff, or faculty.
- C. A dwelling unit may be replaced with another dwelling unit without obtaining an allocation, provided that the replacement unit is located on the same parcel, tract, or lot.
- D. Mobile homes in operating mobile home parks may be removed and replaced with another mobile home without obtaining an allocation.

E. Industrial or commercial construction, unless such industrial or commercial construction includes structures which, in whole or in part, are to be occupied as a dwelling. (Citizen Initiative-Special Election 07-02-2019).

14.27.030 Administration of this Chapter.

A. Planning Commission may recommend and City Council may adopt rules as necessary to administer this chapter.

B. Calculations performed in the administration of this chapter shall be rounded downward for all partial numbers. (Citizen Initiative-Special Election 07-02-2019).

14.27.040 General Provisions.

A system of managing the issuance of residential building permits in the city is established with the following general provisions:

A. Allocation Required for a Building Permit. Except as otherwise provided in this chapter, an allocation is required as a condition precedent to the issuance of a building permit which will result in the creation of a new dwelling unit. For structures containing more than one dwelling unit, one allocation for each dwelling unit in the structure is required as a condition precedent to issuance of a building permit for such structure.

B. Maximum Allocations. The city shall not grant more than forty (40) allocations to a development in a calendar year except upon a finding after hearings held upon reasonable notice to the public - pursuant to the provisions of Lakewood municipal code 17.2.2.3 applicable to initial zoning and rezoning - that such accumulation of allocations will not prejudice the allocation process; and:

1. That there is an unmet community need for such development; or
2. That insufficient applications have been submitted to exhaust the allocations available and such allocations are available for distribution in the current calendar year.

C. Residential development projects may be specifically exempted from this chapter according to either of the following procedures:

1. Residential developments may be exempted by the adoption by the electors of the City of Lakewood at a regular or special election of an initiated or referred ordinance enacting such an exemption. Such election shall be held according to the applicable provisions of the Lakewood City Charter, with any expenses covered by the applicant requesting the exemption.

2. City Council may upon a finding of compliance with the below-listed criteria grant an exemption from the specific provisions of this chapter for a residential development within the city. City Council's action shall be by ordinance, shall include two public hearings, and shall occur following public hearing and recommendation by Planning Commission. Planning Commission's hearing and recommendation, and City Council's hearing and decision on the requested exemption shall follow the hearing and notice procedures in section 17.2.2.3 of Lakewood municipal code. City Council may grant an exemption from the provisions of this chapter upon a finding that all of the following criteria, as may be applicable, are met:

- a. That the residential project requesting an exemption is a multifamily "senior housing project" which is and will remain housing for individuals over the age of 55; and

- b. That the project requesting an exemption demonstrates compliance with Lakewood Comprehensive Plan and any applicable neighborhood plan(s); and

c. A senior housing project developed based upon an exemption granted shall not be converted to another residential use without first having secured an allocation for each dwelling to be so converted, according to the provisions of this chapter.

D. Period of Validity. Allocations are only valid and can be used only from the date of issue through the last day of the allocation period for which they are issued, at which time they expire, unless a part of an approved banking plan.

E. Use of Allocations. An allocation is used by applying for and being issued a building permit or setting up a mobile home, as applicable. Unused allocations are those for which a building permit has not been issued, or a mobile home not set up, during the period for which the allocation is valid.

F. Surrender of Allocations. Allocations which a recipient does not expect to use during the period for which they are valid may be voluntarily surrendered without penalty at any time up until 30 days prior to the end of that allocation period. Allocations which are surrendered at least 30 days prior to the expiration of the allocation period shall be added to the number of available allocations for the next allocation period in the same calendar year for the same allocation pool, or to the year-end pool, as appropriate. Allocations in the year end pool may not be surrendered.

G. Transferability. Allocations are site specific and not transferable to other developments. Allocations are issued to a specific building lot, and may only be transferred within a development to other lots which are under the same ownership as the holder of the allocation. Allocations may be transferred with the conveyance of a lot. (Citizen Initiative-Special Election 07-02-2019).

14.27.050 Available Allocations.

A. In January of each year City Council shall determine by resolution the number of allocations which will be available for issuance and use during that year. The annual resolution shall assign a sufficient number of allocations directly for satisfaction of a previously exempted project(s) whose banking plan(s) included a Planning Commission recommendation for commitment of future allocations, if City Council approves such commitment. The resolution shall then assign those remaining available allocations to the "open pool," "hardship pool," "affordable/low income pool," and "surplus pool," and determine the number of allocations within each such pool as will be available for the respective allocation periods.

B. The total number of allocations available for issuance and use during each calendar year shall be equal to one percent of the number of dwelling units which are estimated to exist in the city on December 31 of the prior calendar year. The number of allocations available for issuance for 2018 will be based on figures from the City of Lakewood and the US Census statistics (152,590 residents divided by 2.27 = 67,220) and thus 672 allocations for new dwelling units will be available in 2018.

C. The number of dwelling units which exist in the city on December 31 of the prior year shall be estimated as follows:

1. Begin with the number of dwelling units in the city which existed at the beginning of the previous calendar year.
2. Add the number of new dwelling units for which building permits were issued during the previous calendar year which required an allocation for issuance.
3. Add the number of allocations secured by, or assigned to, previously exempted projects or dwellings during the previous calendar year.

4. Add the number of dwelling units added to the city by reason of annexations during the previous calendar year. (Citizen Initiative-Special Election 07-02-2019).

5. Subtract the number of dwelling units which were destroyed (and not replaced within 12 months), abandoned or otherwise ceased to be used as such during the prior calendar year.

6. Subtract the number of dwelling units for which building permits had previously been issued, but which expired in the previous year without issuance of a certificate of occupancy. (Citizen Initiative-Special Election 07-02-2019).

14.27.060 Establishment of Allocation Pools.

For the purpose of administration of this chapter City Council hereby creates the following described allocation pools:

A. Open Pool. The open pool is created for all developments within the city that do not otherwise qualify to request allocations.

B. Hardship Pool. The hardship pool is created for distribution of allocations by City Council upon a finding that a hardship or unusual circumstance exists which merits relief. All developments otherwise eligible to apply for allocation in general may participate in the hardship pool. Allocations are awarded as requests are granted by City Council, and not as of a specified allocation date.

C. Affordable/Low Income Housing Pool. The affordable/low income housing pool is created for distribution of allocations for residential projects creating dwelling units for households earning up to 120 percent of area median income.

D. Surplus Pool. The year-end pool is created for the purpose of distributing unused and excess allocations which are available as of November 1 of each calendar year. All developments otherwise eligible to apply for allocation in general may participate in the surplus pool. (Citizen Initiative-Special Election 07-02-2019).

14.27.070 Schedule of Allocation Periods.

A. For all calendar years, the open pool will have two allocation periods which occur from January 1 through May 31, and from June 1 through October 31.

B. For all calendar years, the hardship pool will have an allocation period from January 1 to October 31.

C. For all calendar years, the affordable/low income housing pool will have one allocation period from January 1 through May 31. Excess allocations in the pool at the conclusion of the allocation period will be transferred to the open pool for the allocation period beginning on June 1.

D. The surplus pool allocation period will occur from November 1 through December 31. (Citizen Initiative-Special Election 07-02-2019).

14.27.080 Applications.

A. Applications for allocations shall be on a form provided by the city. A separate application submitted by the property owner is required for each allocation period. Except as provided otherwise, complete applications must be submitted to the city at least seven calendar days prior to the beginning of the allocation period for which the application is made. Applications may not be submitted more than 210 days before the beginning of the applicable allocation period. Applications for excess allocations may be made at any time that excess allocations are available, but prior to the last 30 calendar days of any allocation period.

B. Eligibility. To apply for allocations, a development must have completed all steps otherwise necessary to apply for and receive a building permit including the requisite zoning

and subdivision approval, but not including the preparation of building construction plans. Site development review, if necessary, need not be complete prior to applying for allocations, although a pre-submittal conference and review of the site plan by staff must be completed, with an indication that approval of the concept may be achieved.

C. Allocation requests within a development under common ownership shall be combined and treated as a single application. Lots in such developments which are held in separate ownership shall be treated as separate applications.

D. No applicant shall request allocations in excess of the lesser of: The available number of allocations in the appropriate pool in that allocation period, or the available number of lots or units in the subject development. (Citizen Initiative-Special Election 07-02-2019).

14.27.090 Issuance of Allocations.

A. Open Pool. For each respective allocation period in the open pool, one allocation will automatically be issued to each applicant if sufficient allocations are available. The remainder of requests is then tallied, and available allocations are distributed on a pro-rata basis to applicants based upon their requested number.

B. Hardship Pool. Hardship pool allocations are distributed by the City Council at their discretion upon request from an applicant, and subject to a finding that all of the following conditions exist:

1. That the issuance of an allocation is necessary to prevent undue hardship on the applicant; and
2. That the issuance of an allocation(s) will not adversely affect the public interest or the purposes of this chapter; and
3. Allocations are available in the hardship pool; and
4. That the requested allocation and the resulting building permit would be proper and in accordance with all of the ordinances and regulations of the City of Lakewood, excepting the provisions of this chapter.

C. Affordable/Low Income Housing Pool. Allocations assigned to the “affordable/low income” housing pool shall only be available for use by qualifying projects in the initial allocation period of each year. Any excess allocations in the affordable/low income housing pool at the end of the initial allocation period of the year will be transferred to the open pool for distribution pursuant to subsection (A) above.

1. In addition to the application requirements, allocations from the affordable/low income housing pool will contain documentation in a form acceptable to the city attorney of the provisions that will be put in place to assure that rental units created by affordable/low income housing pool allocations will remain available to households making up to 120 percent of area median income for a period of at least 15 years after completion of construction, or assurances that the initial sale of the dwelling units created by the affordable/low income housing pool allocations will be by a bona fide, “arms-length sale” to individual households making no more than 120 percent of area median income, and at an initial sales price that is reasonably calculated to allow an otherwise qualified buyer to obtain a loan for the purchase of the dwelling unit with a down payment of no more than 20 percent of the sale price.

2. If the number of affordable/low income housing pool allocations requested does not exceed the number assigned by City Council, the allocations will be distributed in the same manner as the open pool. However, if the number of allocations requested exceeds the number of allocations available in the affordable/low income housing pool, the applications will be presented to Planning Commission for review. The Planning Commission will award the affordable/low income housing pool allocations to those proposed dwelling units serving the households with the lowest area median income. In such circumstances, no building permit

shall be issued based upon any preference pool allocations until 16 days after the Planning Commission has issued a decision. Any aggrieved party may appeal the Planning Commission decision to City Council. Applicants for allocations from the affordable/low income housing pool may amend the application submitted to change from the affordable/low housing pool to the open pool, at any time prior to the beginning of the allocation period.

D. Surplus Pool. All unused open pool and hardship pool allocations which remain on November 1 of each year will be available in the surplus allocation pool. One allocation will automatically be issued to each applicant if sufficient allocations are available. The remainder of requests is then tallied, and available allocations are distributed on a pro rata basis to applicants based upon their requested number. Allocations which are unclaimed during the surplus pool or which are due to expire will be assigned by the City Council. Acquisition of the final remaining allocation by a banking plan for a specific project during the surplus pool shall trigger the expiration of the banking plan at the end of the first allocation period in the following year.

E. Insufficient Allocations. Except as noted above, if there are insufficient allocations available to issue at least one allocation to each applicant for a particular allocation period due to demand, a lottery shall be held to determine the recipients of the allocations. Those applicants who are unable to obtain an allocation during that particular allocation period will be given first preference to receive an allocation in the following allocation period in the same pool if a timely application is filed.

F. Following the issuance of allocations, staff shall present a report to Planning Commission and City Council summarizing the results of the allocation period. (Citizen Initiative-Special Election 07-02-2019).

14.27.100 Banking of Allocations.

Notwithstanding any other provisions of this chapter, the period of validity of an allocation may be extended through, and the allocation may be used in subsequent allocation periods upon approval by the city as provided in this section. The process of extending the period of validity of allocations in this section is as follows:

A. Banking of allocations will be permitted in the following circumstances only:

1. The Director of Planning shall approve an application for banking of allocations for residential projects of forty (40) units or fewer if the number of units to be banked corresponds to that found in an entire building or buildings in the project, and if the allocations are proposed to be used within the same calendar year as the initial award of allocation.

2. The Planning Commission may approve a banking plan for multifamily projects of forty (40) units or fewer for the purpose of banking beyond the end of a calendar year, upon a finding that building configuration, site constraints, or infrastructure phasing reasonably require that a larger increment of the development be built at one time.

3. The Planning Commission may approve a banking plan for residential projects of forty (40) units or fewer upon a finding that building configuration, site constraints, or infrastructure phasing reasonably require that a larger increment of the development be built at one time.

B. Application for banking of allocations for projects over forty (40) units shall be made at the time of the allocation application. The application shall set forth a banking plan which includes the total number of dwelling units in the project, the number of allocations sought to be banked, the time period during which the validity of allocations is proposed for extension, and the reason therefore.

C. For applications submitted under subsection (A)(2) or (A)(3) of this section, the Planning Commission shall determine at a hearing upon reasonable notice to the public has been posted, whether the requested banking is appropriate as provided in this section.

D. A nonrefundable fee shall be assessed in conjunction with each approved multiyear banking plan to cover the city's cost of the administering banking plans. The fee shall be set by City Council by resolution and shall be based upon the number of dwelling units in the approved banking plan. The fee shall be payable on a pro rata (per unit) basis at the time of distribution of allocations to the banking plan. Failure to pay any installment of the fee within 30 days of distribution of allocations to the banking plan shall cause a forfeiture of such allocations.

E. A decision of the Planning Commission or the Director of Planning with respect to an application to bank allocations may be appealed to the City Council.

F. Requests for banking of allocations beyond the end of the calendar year of the application shall be subject to the following conditions:

1. The maximum number of years in which allocations may be acquired pursuant to any banking plan of allocations shall be five. All allocations acquired within the banking period must be used during this time period.

2. The maximum number of allocations that may be in the bank at any one time during the banking program shall not exceed the total number of allocations available in the city in the first year of approval of said banking.

3. Banking plans will be approved only for a number of units which correspond to that found in an entire building or buildings in the project.

4. Subject to City Council's annual distribution of allocations, Planning Commission may recommend a commitment of future allocations to an approved banking plan project. Such commitment shall not bind City Council's action, but shall serve to be an indication of support for a specific project.

G. Surrendered or forfeited allocations distributed to an approved banking plan from calendar years prior to the year during which they are surrendered or forfeited shall be deemed to have expired and shall not be available for distribution. Surrendered or forfeited allocations distributed to an approved banking plan in the same calendar year in which they are surrendered or forfeited shall be made available for redistribution in accordance with the applicable provisions of this chapter.

H. The Planning Commission, may, upon a show of good cause, approve an extension of up to one year to an existing banking plan, to allow use of the banked allocations. The holder of the allocations may not acquire further allocations during the period of such extension.

I. For the purpose of defining the total number of available allocations, the total number of dwelling units in the city shall not include banked allocations which have not received building permits.

J. An applicant banking allocations within the same calendar year, shall notify the Director of Planning in writing within ten days after the allocations are granted of the number of allocations being banked and the reasons therefore.

K. The annual reports to Planning Commission and City Council pertaining to the administration of this chapter shall include information regarding the number of banked allocations approved in the current year, used in the current year, and the total number of banked allocations by individual project.

L. Approval of a "banking plan" shall not constitute a "vested right" to develop the project. (Citizen Initiative-Special Election 07-02-2019)

14.27.110 Excess and Unused Allocations.

A. Excess allocations in the open pools will be used to supplement other approved banking plans.

B. Excess allocations which have not been issued at the end of the allocation period and unused allocations will be added to the available number of allocations for the next allocation period in the same calendar year for the same pool, or to the surplus pool, as appropriate. (Citizen Initiative-Special Election 07-02-2019).

14.27.120 Failure to Use Allocations; Penalties.

A. Failure to use an allocation which is not part of an approved banking plan during the period for which it is issued, without surrendering it at least 30 days prior to the expiration of the allocation period for which it has been issued, shall cause the holder of such allocation to be ineligible to receive allocations for a period of one year from the last day that the unused allocation is valid. This penalty may be waived by the Planning Commission for good cause.

B. Failure to use an allocation which is part of an approved banking plan during the period of the banking plan, without surrendering it at least 60 days prior to the expiration of the period of the banking plan, shall cause the holder of such allocation to be ineligible to receive allocations for a period of two years from the last day that the unused allocation is valid. This penalty may be waived by the Planning Commission for good cause.

C. Use of an dwelling unit constructed by reason of an allocation from the affordable/low income housing pool in a manner inconsistent with the affordability criteria listed in this chapter, or contrary to the assurances provided pursuant to such section, including, without limitation the initial sale of a dwelling unit at a price that exceeds the maximum price contemplated in such section, shall cause the holder of such allocation to be ineligible to receive further allocations for a period of three years from the date of the violation. This penalty may be waived by the Planning Commission for good cause. (Citizen Initiative-Special Election 07-02-2019).

14.27.130 Building Permit Approvals.

All building permit applications will be reviewed within fifteen working days after submission of a complete application. At the end of the building permit review period, either a building permit will be made available for issuance or reasons will be given to the grantee why the permit cannot be issued, in which case the grantee has twenty work days in which to submit all required corrections. If the corrections are not completed in the time and manner required, the building permit application and related allocation are void unless reinstated by the city manager upon a finding that a longer increment of time would be reasonable. (Citizen Initiative-Special Election 07-02-2019).

14.27.140 Mandatory Review.

City Council shall review this chapter once every five years or as needed. City Council may temporarily reduce the 1% limit at will. Should City Council determine an increase in allocations is needed, Council must send such requested increase to the voters of Lakewood. (Citizen Initiative-Special Election 07-02-2019).

14.27.150 Severability Clause.

If any part, section, sentence or clause of this chapter shall for any reason be questioned in any court and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this chapter. Any such part, section, sentence

or clause shall not be taken to affect or prejudice in any way the remaining part or parts of this chapter. (Citizen Initiative-Special Election 07-02-2019).

14.27.160 Authority to Continue.

Any building permit that has gone through the processes necessary to secure a building permit, including, but not limited to, rezoning and subdivision, and was legally and formally applied for prior to adoption of this chapter, may be continued without obtaining an allocation. (Citizen Initiative-Special Election 07-02-2019).

14.27.170 Definitions.

The following terms are defined for purposes of this chapter:

A. Allocation. “Allocation” means a right, granted by the city pursuant to this chapter, to make application for a building permit to build one dwelling unit. An allocation is not a guarantee of receiving approval for a building permit. Approval of the building permit itself will occur through the established building permit review process

B. Allocation Pools. “Allocation pools” mean separate categories of developments as described in this chapter which are created for the purpose of distributing available allocations.

C. Area Median Income. “Area median income” (AMI) means the median annual household income for Jefferson County, as adjusted by household size, and published annually by the United States Department of Housing and Urban Development.

D. Building Permit. “Building permit” means a permit issued pursuant to the provisions of the Lakewood Municipal Code.

- Building permits shall be allocated in accordance with the provisions of this chapter such that those issued shall result in no more than a one-percent annual increase in the number of dwelling units.

E. Development. “Development” means the entire plan to construct or place one or more dwelling units on a particular parcel or contiguous parcels of land within the city including, but not limited to, a subdivision approval, a planned unit development, and a mobile home park.

F. Dwelling Unit. One or more habitable rooms constituting a unit for permanent occupancy, with facilities for eating, sleeping, bathing, that occupies a structure or a portion of a structure.

G. Excess Allocations. “Excess allocations” means allocations which are available for issuance from a particular allocation pool and period, but which have not been issued by reason of lack of demand.

H. Good Cause. “Good cause,” when used as a basis for relief from timely compliance with specifically referenced provisions of this chapter, means the existence of unanticipated circumstances which are beyond the control of the property owner and which prevented timely compliance with the referenced provisions of this chapter. “Good cause” shall not include delays which are reasonably expected in the development process, including, but not limited to, preparation of plans or a securing of financing. The existence of “good cause”, and availability of relief by reason thereof, shall be determined after a public hearing conducted by the Planning Commission. A party aggrieved by the decision of the Planning Commission on such issue may, within 15 days of the date of the decision thereon by the Planning Commission, apply to the City Council for a review of said decision by filing a request for review with the city clerk. The City Council shall, within 30 days of receipt of the review request, and based upon the record alone as certified to Council by the Planning Commission, decide to uphold, deny, or modify the decision of the Planning Commission

I. Lottery. "Lottery" shall mean a drawing held by the city to select applicants which will receive an allocation through a process based upon random chance. Each applicant in a lottery shall be treated equally regardless of the number of allocation requests.

J. Pro-rata. "Pro-rata" means the issuing of allocations to applicants in the same proportion that the total number of available allocations bears to the total number of requested allocations, as modified and elaborated in this chapter. For example, if applications for twice the number of allocations were received than the number available, each applicant would be granted approximately one-half the number requested.

K. Set-up. "Set-up", when used in connection with mobile homes, means the process of setting up a mobile home for the purpose of occupancy as a residence including by way of example, connection to utilities and installation tie-downs.

L. Unused Allocation. "Unused allocation" means an allocation which has been issued but for which a building permit has not been issued or a mobile home set-up, as applicable, during the period for which the allocation is valid. (Citizen Initiative-Special Election 07-02-2019).



2009124458

12/11/2009 04:01:30 PM 7 Page(s)

Jefferson County, Colorado

R \$36.00

D \$0.00

AGR

**DEVELOPMENT AGREEMENT
FOR SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN
REGARDING VESTED RIGHTS**

THIS DEVELOPMENT AGREEMENT (this "Agreement"), is made as of DECEMBER 10, 2009 (the "Effective Date"), by and between CDN RED ROCKS, L.P., a Colorado limited partnership, and TEEFAM COLORADO LAND COMPANY, L.P., a California limited partnership, and Jerry H. Crispe (collectively, the "Owners"), and the CITY OF LAKEWOOD, COLORADO, a municipal corporation of the State of Colorado (the "City").

Recitals

A. Owners own real property consisting of approximately 169.4 acres, located within the City, as described on Schedule 1 attached hereto (the "Property").

B. On JULY 13, 2009, the City approved a Site Specific Development Plan for the Property, known as the *Solterra Centre Official Development Plan* ("ODP").

C. The Site Specific Development Plans ordinance found in Article 18 of Title 17 of the City's Municipal Code (the "Vested Rights Ordinance"), and the Vested Property Rights Statute found in Sections 24-68-101, et seq. of the Colorado Revised Statutes in effect as of the Effective Date (the "Vested Rights Statute"), provide for the establishment of vested property rights in order to advance the purposes stated therein, and authorize the City to enter into development agreements with landowners providing for the vesting of property development rights for a period of greater than three (3) years.

D. It is the desire of the Parties to cause the development rights of the Property created under the ODP to vest as more particularly set forth herein.

NOW, THEREFORE, considering the foregoing recitals and in consideration of the mutual promises and covenants hereinafter set forth, the Owners and the City agree as follows:

Agreement

1. Vested Rights. The ODP constitutes an approved "Site Specific Development Plan" (as defined in the Vested Rights Ordinance and the Vested Rights Statute) and creates vested property rights to develop the Property in the manner contemplated by the Site Specific Development Plan. Subsequent approvals in connection with the development contemplated by the Site Specific Development Plan, if and when properly approved in due course by the City, shall likewise be vested for the balance of the Term (as defined below).

2. Term. The term of the statutory vested rights shall be twenty-five (25) years, commencing on the effective date of ordinance O-2009-30 approving this Agreement (the "Term"). In accordance with Section 17-18-7 of the Vested Rights Ordinance, the Term is

DEVELOPMENT AGREEMENT
FOR SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN
REGARDING VESTED RIGHTS

warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of the commercial development, economic factors and market conditions.

3. Remedies; Referendum.

Any zoning or land use action by the City or pursuant to an initiated measure which would alter, impair, prevent, diminish, impose a moratorium on development or otherwise delay the development or use of the Property as set forth in the Site Specific Development Plan, except (i) with the consent of the Owners; or (ii) upon the discovery of natural or man-made hazards on or in the immediate vicinity of the Property, which hazards could not reasonably have been discovered at the time of the ODP approval, and which hazards, if uncorrected, would pose a serious threat to the public health, safety and welfare; shall entitle Owners to an action for injunction or specific performance and/or monetary damages for those items set forth in Any action that deprives, revokes, diminishes or impairs the vested rights provided herein shall entitle Owners to an action for injunction or specific performance and/or monetary damages as set forth in C.R.S. 24-68-105; provided, however, that Owners agree to first pursue specific performance, and if granted, shall have no right to pursue damages; and only if a court denies specific performance shall Owners be entitled to pursue damages. Adoption of this Agreement is subject to referendum pursuant to the Vested Rights Statute. In the event such a referendum is filed and succeeds in overturning City Council's approval of Ordinance O-2009-30, the vested rights created under this Agreement shall be null and void, provided, however, that none of the development rights for the Property or approvals granted to owners under the ODP shall be affected thereby.

4. Counterparts; Electronic Delivery. This Agreement may be executed in counterparts, all such counterparts will constitute the same agreement and the signature of any party to any counterpart will be deemed a signature to, and may be appended to, any other counterpart. Executed copies hereof may be delivered by telecopier or e-mail and upon receipt will be deemed originals and binding upon the parties hereto, regardless of whether originals are delivered thereafter.

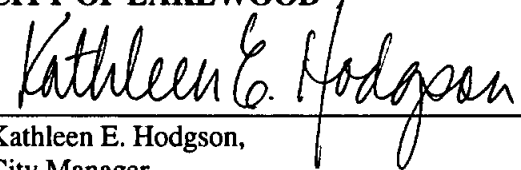
IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first above written.

ATTEST:


Margy Greer, City Clerk

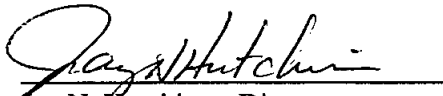


CITY OF LAKEWOOD


Kathleen E. Hodgson,
City Manager

DEVELOPMENT AGREEMENT
FOR SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN
REGARDING VESTED RIGHTS

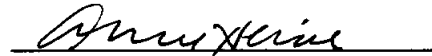
RECOMMENDED AND APPROVED:



Jay N. Hutchison, Director
Department of Planning and Public Works



Kit Botkins, Director
Department of Community Resources



Anne Heine, City Engineer
Department of Public Works

APPROVED AS TO FORM:

 3

Timothy P. Cox,
Office of the City Attorney

DEVELOPMENT AGREEMENT
FOR SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN
REGARDING VESTED RIGHTS

CDN RED ROCKS, L.P., a Colorado
limited partnership

By: CDN Canada Development Inc., its
general partner

4

By: [Signature]

Name: DAVID MINDELL

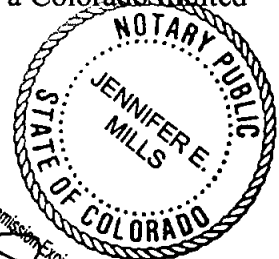
Title: PRESIDENT, GENERAL PARTNER

Arapahoe)
Colorado) ss.

The foregoing instrument, was acknowledged before me this 11th day of September, 2009, by David Mindell, as President, GP of CDN Canada Development Inc., general partner of CDN Red Rocks, L.P., a Colorado limited partnership.

Witness my hand and official seal.

My commission expires: 6-14-11



[Signature]
Notary Public

[Signatures continued on following page]

DEVELOPMENT AGREEMENT
FOR SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN
REGARDING VESTED RIGHTS

TEEFAM COLORADO LAND COMPANY,
L.P., a California limited partnership

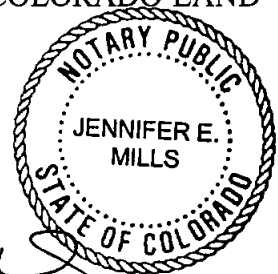
By: [Signature]
Ross J. Turner, General Partner

STATE OF Colorado)
COUNTY OF Arapahoe) ss.

The foregoing instrument was acknowledged before me this 11th day of September, 2009, by Ross J. Turner, as general partner of TEEFAM COLORADO LAND COMPANY, L.P., a California limited partnership.

Witness my hand and official seal.

My commission expires: 6-14-11



[Signature]
Notary Public My Commission Expires 06-14-2011

[Signatures continued on following page]

DEVELOPMENT AGREEMENT
FOR SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN
REGARDING VESTED RIGHTS

Jerry H. Crispe

By: Jerry H. Crispe, owner

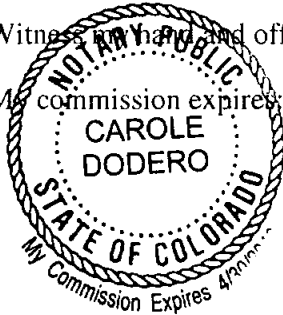
By: *Jerry H. Crispe*
Name: JERRY H. CRISPE
Title: _____

COLORADO)
) ss.
ARAPAHOE)

The foregoing instrument was acknowledged before me this 8th day of JULY, 2009, by JERRY H. CRISPE, as _____ as owner.

Witness my hand and official seal.

My commission expires 4/30/2010



Carole Dodero
Notary Public

[Signatures continued on following page]

SCHEDULE 1

(Legal description of the Property)

1

Property:

A parcel of land lying in the West One-Half (W½) of Section 25 and the East One-Half (E½) of Section 26, Township 4 South, Range 70 West of the 6th Principal, City of Lakewood, County of Jefferson, State of Colorado, being more particularly described as follows:

Said parcel being all of that land described in RED ROCKS BUSINESS PARK OFFICIAL DEVELOPMENT PLAN, the plat of which is recorded in ODP Book 29, Page 36, at Reception No. 82050855, of the records of the Jefferson County Clerk and Recorder; **EXCEPT** Lots 4, 5, 6, and 7, Block 3, RED ROCKS BUSINESS PARK FILING NO. 1, the plat of which is recorded in Plat Book 74, Pages 12, 13, and 14, at Reception No. 83077584, of said records;

TOGETHER WITH all those vacated rights-of-way as shown and platted on SPRINGFIELD DOWNS FILING NO. 1, the plat of which is recorded in Plat Book 61, Pages 50 & 51, at Reception No. 80004356, of said records, and being vacated by Ordinance O-82-173, recorded at Reception No. 83055117 of said records;

TOGETHER WITH all of that land described in LAKEWOOD WEST OFFICIAL DEVELOPMENT PLAN, the plat of which is recorded in ODP Book 33, Page 11, at Reception No. 83074563, of said records, **EXCEPT** AREA A of said LAKEWOOD WEST OFFICIAL DEVELOPMENT PLAN;

TOGETHER WITH a parcel of land lying in said W½; Beginning at the Southwest corner of said W½, said corner being in common with a platted corner of said RED ROCKS BUSINESS PARK OFFICIAL DEVELOPMENT PLAN; thence N 89°21'39" E along the South line of said W½, a distance of 532.00 feet, more or less, to a platted corner of said RED ROCKS BUSINESS PARK OFFICIAL DEVELOPMENT PLAN; thence N 00°21'45" W along a westerly line of said RED ROCKS BUSINESS PARK OFFICIAL DEVELOPMENT PLAN, a distance of 400.00 feet; thence S 89°21'39" W along a southerly line of said RED ROCKS BUSINESS PARK OFFICIAL DEVELOPMENT PLAN, a distance of 532.00 feet; thence S 00°21'45" E along a easterly line of said RED ROCKS BUSINESS PARK OFFICIAL DEVELOPMENT PLAN, a distance of 400.00 feet, more or less, to the Point of Beginning, said parcel containing an area of 4.9 acres, more or less;

Said parcel containing an area of 169.4 acres, more or less.

RECORDED
JUL 1 1993
JUL 1 1993
JUL 1 1993

**ADDENDUM TO
DEVELOPMENT AGREEMENT
FOR SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN
REGARDING VESTED RIGHTS**

This ADDENDUM TO DEVELOPMENT AGREEMENT FOR SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN REGARDING VESTED RIGHTS (this “**Addendum**”) is entered into by and between CDN RED ROCKS, L.P., a Colorado limited partnership (“**Owner**”), and the CITY OF LAKEWOOD, a Colorado home rule municipal corporation (the “**City**”), effective as of the latest date set forth in the signature blocks below (the “**Effective Date**”).

RECITALS

A. The City and Owner entered into that certain Development Agreement for Solterra Centre Official Development Plan Regarding Vested Rights, recorded December 11, 2009, in the real property records of Jefferson County, Colorado, at Reception No. 2009124458 (the “**Development Agreement**”), which encumbers the certain real property described therein (the “**Property**”) and establishes vested property rights for a period of twenty-five (25) years from the date thereof.

B. Section 3 of the Development Agreement sets forth the terms and conditions upon which the vested property rights of the Owner may be divested, whether pursuant to City action or initiated measure.

C. On July 12, 2019, pursuant to initiated measure, an ordinance, known as the “Strategic Growth Initiative” (the “**Initiated Measure**”) and codified at Chapter 14.27 of the Lakewood Municipal Code, became effective, which intends to limit growth in the number of housing units in the City through an annual building permit allocation process.

D. In order to clarify the relationship between the Development Agreement and the Initiated Measure, the Owner and the City now desire to enter into this Addendum.

ADDENDUM

NOW, THEREFORE, in consideration of the Recitals, the Development Agreement and the mutual agreements set forth herein, the sufficiency of which is hereby acknowledged, the City and Owner hereby agree as follows:

1. Defined Terms. All capitalized terms used but not defined in this Addendum will have the meanings set forth for such terms in the Development Agreement. All terms that are defined in this Addendum and used in any provisions added to the Development Agreement pursuant to this Addendum have the meanings set forth for such terms in this Addendum.

2. Applicability. The only real property subject to and encumbered by this Addendum is the Property, which is legally described in the Development Agreement.

3. Addendum. The Development Agreement is hereby supplemented by the following:

(a) No Limit on Permit Issuance. Notwithstanding any provision contained in the Initiated Measure, the City acknowledges and agrees that the Initiated Measure will not in any way operate as a limitation on the issuance of any permits for the construction of any residential units (“**Permits**”) within the Property.

(b) No Discretionary Process. Under no circumstance will any Permits be subjected to any discretionary process of the City, including but not limited to the process set forth in Lakewood Municipal Code Section 14.27.040(B). Without limiting the generality of the foregoing, the City reaffirms the right of Owner, in its sole discretion, to request and receive Permits at such time(s) as market conditions allow, and the City further acknowledges and agrees that, so long as Owner or other applicant has complied with all City zoning or building code requirements for the issuance of the same, the City shall issue such Permits in the normal course of business, without delay.

(c) Required Notice. On or before November 1 of each calendar year, Owner shall submit to the City a written notice setting forth the number of residential units for which Owner intends to seek Permits in the subsequent calendar year. Such number shall be thenceforth deemed a limitation on the total number of residential units for which Owner will seek Permits in such subsequent year. In the event Owner fails to submit such written notice, Owner’s application for Permits will be subject to the City’s standard allocation process for residential units pursuant to Chapter 14.27 of the Lakewood Municipal Code. As of the date of this Addendum, Owner anticipates that it will require Permits for the construction of approximately 150 residential units per year, commencing in 2022, for a residential project containing 879 residential townhouse units; however, the anticipated rate of units constructed per year is an estimate and intended for illustrative purposes only.

(d) City Issuance of Building Permits. The City shall determine, in its sole discretion, at the time of Owner’s application for Permit(s) and following the City’s receipt of the notice set forth in Section A.3(c) above, whether the residential units permitted by such Permits will: (1) be debited from the annual pool of allocations established pursuant to Lakewood Municipal Code Section 14.27.050 for the year in which Owner intends to construct the subject residential units; (2) be debited from one or more pools of allocations for building permits for residential units established for years prior or subsequent to the year in which Owner intends to construct the subject residential units; or (3) be issued, in the year for which such Permits are requested, pursuant to such other means as may be determined by the City at the time of submittal of such application. Under no circumstance will the City’s determination that insufficient allocations are available to issue such Permits bar the issuance of such Permits upon request.

(e) Specific Land Uses. The City and Owner agree that, following the approval of this Addendum and in any event prior to December 31, 2020, the City will commence processing an amendment to the Solterra Centre Official Development Plan, recorded December 11, 2009 in the real property records of Jefferson County, Colorado at Reception No. 2009124455 (the “**ODP**”) in order to add attached or detached single-family and duplex residential homes as a use by right in any Planning Areas in the Property in which any commercial or residential land use is allowed (the “**ODP Amendment**”). The City and Owner agree that, conditioned upon and following the City’s approval of the ODP Amendment:

(i) No more than 950 residential units may be built within the Property.

(ii) Multi-family residential uses and commercial storage facilities are prohibited within the Property. “Multi-family residential uses” shall not be interpreted to include townhouse units, or any other type of attached residential units that do not share a common entrance.

Except as expressly set forth in this Section A.3(e), the ODP remains in full force and effect. Following approval of the ODP Amendment, the use restrictions and limitations set forth in this Section A.3(e) shall survive any repeal or amendment of Chapter 14.27 of the Lakewood Municipal Code.

(f) Limitation on ODP Amendment. No other changes, modifications, or amendments to the ODP will be included in or authorized by the ODP Amendment described in Section A.3(e), and the Owner does not in any way waive its right to challenge any changes, modifications, or amendments affecting the ODP other than the above-referenced ODP Amendment.

4. Binding Effect. This Addendum runs with the land and shall be binding upon the Owner and its successors and assigns in interest thereto.

5. Ratification. Except as addressed in this Addendum, the Development Agreement is affirmed and ratified in each and every particular. In the event of any inconsistency or conflict between this Addendum and the Development Agreement, the provisions of this Addendum shall control. In the event of any inconsistency between this Addendum and the ODP, this Addendum shall control.

6. Electronic Disposition; Counterparts. The parties acknowledge and agree that the original of this Addendum, including the signature page, may be scanned and stored in a computer database or similar device, and that any printout or other output readable by sight, the reproduction of which is shown to accurately reproduce the original of this Addendum, may be used for any purpose as if it were the original, including proof of the content of the original writing. This Addendum may be executed in any number of counterparts, each of which shall be

deemed to be an original and all such counterparts taken together shall be deemed to constitute one and the same instrument.

7. Authority. The parties represent and warrant that they have taken all actions necessary to legally authorize the undersigned signatories to execute this Addendum on behalf of the parties and to bind the parties to its terms.

[Remainder of page intentionally blank – signatures follow]

IN WITNESS WHEREOF, the parties have executed this Addendum as of the Effective Date.

CITY OF LAKEWOOD

ATTEST:

Kathleen E. Hodgson, City Manager

Michele Millard, City Clerk

Attestation Date

Approved as to form:

Recommended and approved as to content:

Timothy P. Cox, City Attorney

Travis Parker, Director
Planning Department

Jay N. Hutchison, Director
Department of Public Works

CDN RED ROCKS, L.P., a Colorado
limited partnership

By: _____
Name: _____
Title: _____

STATE OF COLORADO)
CITY AND) ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this _____ day of _____,
20__, by _____, as _____ of CDN Red Rocks,
L.P., a Colorado limited partnership.

Witness my hand and official seal.
My commission expires: _____

Notary Public

Address

RESOLUTION OF CITY OF LAKEWOOD PLANNING COMMISSION

On November 18, 2020 the Lakewood Planning Commission reviewed ODP Modification Case No. MO-20-001 to modify the Solterra Centre Official Development Plan (ODP) for the property located at 2301 S. McIntyre St. The zoning on the property will remain Planned Development (PD) with the base zone district Mixed-Use Employment Suburban (M-E-S).

Motion was made by COMMISSIONER ____ and seconded by COMMISSIONER ____ to recommend APPROVAL by City Council, which passed by a vote of _ to _. The roll having been called, the vote of the Lakewood Planning Commission was as follows:

Alex Bartlett
Johann Cohn
Alan Heald
Cathy Kentner
Dale Miller
Rhonda Peters
Theresa Stone

FINDINGS OF FACT AND ORDER

The Planning Commission finds that:

- A. The City of Lakewood is proposing to modify the existing Solterra Centre ODP for the property located at 2301 S. McIntyre St. pursuant to the approved addendum to the Development Agreement for Solterra Centre per City Ordinance O-2020-25; and
- B. The zoning for the property will remain Planned Development (PD) with the base zone district Mixed-Use Employment Suburban (M-E-S). The PD zoning will abide by the Solterra Centre ODP and Solterra ODP Modification No. 1; and
- C. Notice of the Public Hearing was not required or provided for this City initiated rezoning (ODP modification) per Section 17.2.2.3.B of the Lakewood Zoning Ordinance; and
- D. The proposed legislative zoning affects a large number of properties and the proposed rezoning is not applicable only to a specific individual or readily identifiable group; and
- E. The proposed legislative zoning is prospective in nature and reflects public policy of a permanent or general character impacting the City on a scale greater than at the individual property level; and
- F. The proposed legislative zoning would be inefficient, cumbersome, and unduly burdensome on the resources of the City to rezone the potentially affected properties in a quasi-judicial manner on a site-by-site basis; and
- G. The proposed legislative zoning promotes the purposes of the Zoning Ordinance; and
- H. The proposed legislative zoning promotes implementation of the Comprehensive Plan; and

AND

The Planning Commission adopts the findings of fact and order, A through H, as presented in this staff report and recommends that the City Council **APPROVE** Modification Case No. MO-20-001.

Alan Heald, Chair

Theresa Stone, Secretary of the Planning Commission

CERTIFICATION

I, AARON SCHULTZ, Secretary to the City of Lakewood Planning Commission, do hereby certify that the foregoing is a true copy of a resolution duly adopted by the Lakewood Planning Commission at a Public Hearing held in Lakewood, Colorado, on the 18th day of November, 2020 as the same appears in the minutes of said meeting.

November 18, 2020

Date approved

Aaron Schultz, Secretary to the
Planning Commission

RESOLUTION OF CITY OF LAKEWOOD PLANNING COMMISSION

On November 18, 2020 the Lakewood Planning Commission reviewed ODP Modification Case No.

MO-20-001 to modify the Solterra Centre Official Development Plan (ODP) for the property located at 2301 S. McIntyre St. The zoning on the property will remain Planned Development (PD) with the base zone district Mixed-Use Employment Suburban (M-E-S).

Motion was made by COMMISSIONER COHN and seconded by COMMISSIONER MILLER to recommend APPROVAL by City Council, which passed by a vote of 6 to 0. The roll having been called, the vote of the Lakewood Planning Commission was as follows:

Alex Bartlett	(Absent)
Johann Cohn	Aye
Alan Heald	Aye
Cathy Kentner	Aye
Dale Miller	Aye
Rhonda Peters	Aye
Theresa Stone	Aye

FINDINGS OF FACT AND ORDER

The Planning Commission finds that:

- A. The City of Lakewood is proposing to modify the existing Solterra Centre ODP for the property located at 2301 S. McIntyre St. pursuant to the approved addendum to the Development Agreement for Solterra Centre per City Ordinance O-2020-25; and
- B. The zoning for the property will remain Planned Development (PD) with the base zone district Mixed-Use Employment Suburban (M-E-S). The PD zoning will abide by the Solterra Centre ODP and Solterra ODP Modification No. 1; and
- C. Notice of the Public Hearing was not required or provided for this City initiated rezoning (ODP modification) per Section 17.2.2.3.B of the Lakewood Zoning Ordinance; and
- D. The proposed legislative zoning affects a large number of properties and the proposed rezoning is not applicable only to a specific individual or readily identifiable group; and
- E. The proposed legislative zoning is prospective in nature and reflects public policy of a permanent or general character impacting the City on a scale greater than at the individual property level; and
- F. The proposed legislative zoning would be inefficient, cumbersome, and unduly burdensome on the resources of the City to rezone the potentially affected properties in a quasi-judicial manner on a site-by-site basis; and
- G. The proposed legislative zoning promotes the purposes of the Zoning Ordinance; and
- H. The proposed legislative zoning promotes implementation of the Comprehensive Plan; and

AND

The Planning Commission adopts the findings of fact and order, A through H, as presented in this staff report and recommends that the City Council **APPROVE** Modification Case No. MO-20-001, subject to the following recommendations:

1. Require that planning areas 1, 2, and 3 of the Solterra Centre ODP include non-residential uses in addition to residential uses;
2. Provide a notice of a public hearing to adjacent property owners subject to the mailed notification requirements for a quasi-judicial rezoning in section 17.2.2.3.B of the Lakewood Zoning Ordinance prior to the City Council public hearing; and
3. Remove an option to provide fees in lieu of land dedication to satisfy the requirements for school land dedication.

Alan Heald, Chair

Theresa Stone, Secretary of the Planning Commission

CERTIFICATION

I, AARON SCHULTZ, Secretary to the City of Lakewood Planning Commission, do hereby certify that the foregoing is a true copy of a resolution duly adopted by the Lakewood Planning Commission at a Public Hearing held in Lakewood, Colorado, on the 18th day of November, 2020 as the same appears in the minutes of said meeting.

November 18, 2020
Date approved

Aaron Schultz, Secretary to the Planning Commission

**LAKEWOOD PLANNING COMMISSION
REGULAR MEETING
MINUTES
November 18, 2020**

COMMISSIONERS PRESENT:

Johann Cohn
Alan Heald
Cathy Kentner
Dale Miller
Rhonda Peters
Theresa Stone

STAFF PRESENT:

Paul Rice, Manager, Planning-Development Assistance
Kara Mueller, Planner
Aaron Schultz, Secretary to the Planning Commission

Following are the minutes of the November 18, 2020 Lakewood Planning Commission Special Meeting. A permanent set of these minutes is retained in the office of the City Clerk.

Minutes are not a verbatim transcription, but rather an attempt by the Secretary to capture the intent of the speakers.

ITEM 1: CALL TO ORDER

ITEM 2: ROLL CALL

The roll having been called, a quorum was declared and the following business was conducted:

ITEM 3: CASE MO-20-001 – 2301 S MCINTYRE ST. SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN MODIFICATION NO. 1

COMMISSIONER HEALD provided information about providing public comment during the online meeting.

KARA MUELLER, Planner, provided the staff presentation for case MO-20-001 – 2301 S. McIntyre St.

COMMISSIONER STONE stated she wanted to see additional public input before deciding on the request. She inquired whether Council provided staff with any direction for public outreach. She inquired about the decrease in number of units and whether any of the new units would be affordable or would have incentives to create affordable housing. She stated that the public might not understand that an Official Development Plan (ODP) modification was a rezoning.

MS. MUELLER stated that the number of units would decrease from 1,630 to 950 units. She stated an ODP was not intended to prohibit uses and the modification would allow additional unit types including single-family and duplex. She stated that affordable housing was not required, but that the Zoning Ordinance contained affordable housing incentives.

PAUL RICE, Manager, Planning - Development Assistance, stated notification requirements for a legislative rezoning were found in the Zoning Ordinance. He stated that Council discussed ODP changes in a public setting with public input but there was not a required neighborhood meeting.

COMMISSIONER COHN inquired whether this was a rezoning that changes the zoning or just modifies the ODP and inquired about whether there had been previous cases where uses were added to a zone district that did not previously allow them.

MS. MUELLER stated that neither the current ODP nor the base zoning of Mixed-Use Employment Suburban (M-E-S) allowed single-family or duplex units. She stated that the proposed ODP modification would alter the zoning to allow previously prohibited uses (single-family and duplex) and reduce the number of units. She stated that the ODP could be changed to allow uses without changing the base zone district.

COMMISSIONER COHN stated that Plan Rooney Valley noted three different planning areas impacting the area under the Solterra Centre ODP, but that the changes are consistent with the plan. He inquired whether ordinance O-2020-25 adopted by City Council authorizing an addendum to the Development Agreement for Solterra Centre ODP was broad enough to capture the intent of the modification.

MS. MUELLER stated that the addendum contained more information about the intent of the modification, and that the ODP modification restated this information from the development agreement for ease of use when referencing the document in the future.

COMMISSIONER COHN inquired about the proximity of residential uses to the C-470 highway and Bandimere Speedway. He inquired about existing infrastructure at the site and the transmission lines along South McIntyre Street.

BRIAN CONNOLLY, Property Owner Representative and attorney with Otten Johnson Robinson Neff + Ragonetti, stated that the original vision for the site included an office park, but demand office has not materialized. He stated that residential uses are permitted in the area. He stated that existing decaying infrastructure would be replaced and relocated as the area is replatted, but that the transmission lines would remain.

MS. MUELLER stated that the transmission lines were major transmission lines and that Public Service Company had a large utility easement in the location of the transmission lines.

COMMISSIONER COHN stated that the area lacked a supermarket and that a supermarket would be permitted with the current zoning.

MR. CONNOLLY stated grocery stores choose to locate based on the number of residences within a given radius, and that the Rooney Valley had a lot of open space. He stated that more residences might lead to a grocery store, but that there were other sites in the valley that might be better suited for grocery stores.

COMMISSIONER MILLER stated his interest in addressing the food desert in the Rooney Valley. He stated that he understood the lack in interest for commercial uses and inquired why the planning area was not modified to encourage commercial use.

MS. MUELLER stated that land for commercial uses had been reserved within unincorporated Jefferson County and that could serve as a location for a grocery store.

COMMISSIONER MILLER stated that it appeared that the City of Lakewood was relying on outside entities to provide services for Lakewood residents and that omitting commercial uses was not consistent with the Comprehensive Plan. He stated that despite intent to include a mix of uses, the area would be primarily housing. He inquired about commercial uses in Solterra.

MR. CONNOLLY stated that the property in question was separate from the area traditionally considered as Solterra. He stated that commercial uses were permitted and would be built if it could be supported by the market.

COMMISSIONER KENTNER stated that she had concerns regarding the notification requirements for a legislative rezoning and inquired about notification requirements for a quasi-judicial rezoning.

MS. MUELLER stated that the notification requirements include property owners and tenants within 500 feet and registered neighborhood organizations within one half mile. She stated that there would be 322 properties representing 140 property owners/tenants including vacant lots, and three (3) neighborhood organizations. She provided a map of the area.

COMMISSIONER KENTNER stated that she did not think it would have been burdensome to provide notice to the neighborhood to demonstrate neighborhood support. She stated that the modification would allow a mix of uses, but no longer require it. She inquired whether the request for an addendum intended to clarify the vested rights under the Residential Growth Limitation Ordinance and inquired about recommending to Council that the modification include a commercial, retail, and office requirement as required under the current ODP and base zone district.

MS. MUELLER stated that the addendum was an agreement between the developer and City Council, and that a legislative rezoning was a method to enact the agreed upon changes.

MR. CONNOLLY stated that provision 3F of the addendum precludes the City Council from making additional changes to the ODP and an approval of changes beyond the request would be in breach of the agreement. He stated that the vested rights include the entire property and allowed mixed-use including residential in planning areas 1-3.

MS. MUELLER stated that the base M-E-S zone district allowed residential uses and was not subject to the maximum 50% residential requirement as formal development applications were submitted prior to the zoning change to limit multifamily residential uses in M-E-S zone.

COMMISSIONER KENTNER stated she would like to see the existing land development application dates and stated that rights were vested with the ODP and not the base zone district. She inquired how the base zone district could be vested after the ODP.

MR. CONNOLLY stated that the vested rights agreement vests the ODP as a site-specific development plan, and to the extent the ODP overlaid the base zone district, the underlying zone district standards would be encompassed within the vested rights.

COMMISSIONER KENTNER stated that the standards of the underlying zone district were not vested and that the plan calls for non-residential uses. She stated that Council might not agree with their recommendation, but that the Commission could amend the recommendation and inquired about the process for doing so.

MS. MUELLER stated that the Commission could amend the recommendation.

COMMISSIONER PETERS inquired about school land uses in the area and about the acreage that would be dedicated for schools, and if the land was memorialized in the ODP.

MS. MUELLER stated that the Jefferson County School District had requested land as opposed to fees in the subject and adjacent properties. She provided a vicinity map. She stated that the agreement was not memorialized in the ODP but that the developer was aware that the school district required a land dedication.

MR. CONNOLLY stated that he had not been involved in agreements with the school district.

COMMISSIONER PETERS stated that she would like the ODP modification to remove an option for fees in lieu of land dedication and that the need for a school was well known.

MS. MUELLER stated that the school district determines whether land or fees were required and staff implemented their request as a project moved through the development process.

COMMISSIONER PETERS stated that not requiring commercial development in the area was not consistent with the Comprehensive Plan. She stated that a lack of public input could create a bad precedent. She inquired about the setbacks from the overhead utility easement and whether there would be residential development near the overhead utilities.

MR. CONNOLLY stated that there was no setback from the easement.

MS. MUELLER stated that the easement was generally the width of the street from backs of curb on South McIntyre Street, with the utility poles located in the center median. She stated that Xcel would not allow development within the easement, that the easement extends

beyond the arms of the utility poles, open space often abuts the easement, and there were required building setbacks from the back of curb of the street.

COMMISSIONER PETERS inquired about public transportation in the planning area. She inquired whether a rezoning would have required the input from the school district to determine whether land or fees in lieu were desired.

MR. RICE stated that service to the Rooney Valley was reduced after the introduction of the light rail and a subsequent service study, and that he did not believe RTD had plans to increase service in the Valley.

MS. MUELLER stated that the school district provided input on a more site-specific level, and the school district told staff what the school district would require. She stated that Jefferson County School District would also require land an adjacent development in Jefferson County, Red Rocks Ranch.

MR. RICE stated that a recommendation should allow the school district to decide.

COMMISSIONER PETERS stated that she felt strongly that land should be required as the area was isolated and land could be sold by the school district in the future and was worth more than fees.

COMMISSIONER COHN inquired whether additional metro districts were desired. He stated that he understood the ODP modification to be a conciliation between the Residential Growth Limitation Ordinance and state law regarding vested rights.

MR. CONNOLLY stated that no additional metro districts were desired and confirmed Commissioner Cohn's understanding of the request.

COMMISSIONER HEALD stated that he believed the purpose of an ODP and Plan Rooney Valley to be a balance of land uses to create a productive city. He stated that the proposed modification appears to shift focus to residential uses without considering the balance of uses. He stated that balance included schools and stated that from his experience, a grocery store would locate where residences are planned, not only where they already exist.

COMMISSIONER COHN stated that there was a metro-wide housing shortage that additional units might mitigate. He stated that he could not speak to noise from Bandimere Speedway, but that noise from C-470 could be mitigated, and proximity to a highway was an advantage for homes. He stated few immediately adjacent residents could explain low public comment. He stated that he did not know whether the Commission would be able to influence retailers, but that there was still an opportunity to allow retail.

COMMISSIONER STONE stated that she is generally supportive of the modification but stated her concern that notification was not sent and that it was not made clear that the modification was a legislative rezoning. She stated wanted additional public input and inquired about

avenues to solicit public feedback. She recommended changing finding C to include a recommendation for additional public engagement.

COMMISSIONER HEALD stated that the legislative rezoning was not a process that fit the request exactly and asked for guidance in modifying the findings of fact and order.

MR. RICE stated that if the Commission disagrees with findings provided by staff, the findings proposed by staff could be modified or added to, or the findings could be denied.

COMMISSIONER KENTNER asked COMMISSIONER STONE for clarification on her request for additional public input.

COMMISSIONER STONE stated she believed the expectation of the Commission was to say whether they agreed with the decision, but that if the City was obligated move forward and Council would ultimately decide.

COMMISSIONER KENTNER stated that it would have been beneficial for the Commission to hear the ODP modification prior to the agreement of vested rights as additional rights were being requested.

MS. MUELLER stated that the agreement precluded amendments to the requested ODP modification and included single-family and duplex uses and removed multi-family, which had been requested by Council and initiated by the City.

COMMISSIONER KENTNER stated that a specific residential developer had a desire to build residential uses, but that did not mean there was no desire to build commercial developments.

COMMISSIONER PETERS stated that it was incumbent on the elected and appointed officials to encourage partnerships to create a mix of uses, and that the move to lower density was desirable but the lack of commercial development was undesirable.

COMMISSIONER COHN stated that additional public notification may not lead to more public comment. He stated that commercial development included economic development beyond planning and noted that City Council would also hold a public hearing.

COMMISSIONER HEALD inquired how the City would achieve a balance of uses and attract commercial development.

MR. RICE stated that economic development could be a topic of discussion for the upcoming Planning Commission retreat. He stated that development was cyclical and that though there was not a current demand for commercial uses, there may be other opportunities for commercial uses elsewhere in the valley.

COMMISSIONER MILLER stated that the reduction in density spread out a smaller number of units over a greater area, but that denser development could allow for fewer units with space for commercial development.

COMMISSIONER HEALD stated that he wanted to see the homes built but did not want to see commercial uses diminished.

COMMISSIONER PETERS stated that she would support an amendment to recommend setting aside land for commercial uses and that land dedication be required for schools.

MR. RICE stated that the purpose of the staff report was to analyze the request and provide recommendations for findings for the Commission. He stated that the Commission could adopt the findings from the staff report or the findings could be modified or replaced.

The Commission discussed the wording of the facts of finding and recommendations for a motion and the process for including the Commission's amendments in a motion.

COMMISSIONER KENTNER clarified the intent recommending Council require commercial.

COMMISSIONER COHN stated that he was unsure of the authority of the Planning Commission regarding requiring uses.

COMMISSIONER MILLER reiterated the recommendations including requiring school land dedication and commercial uses, and that the request for notification could be satisfied with the City Council public hearing.

COMMISSIONER STONE made a recommendation to modify language in the finding regarding notification requirement.

COMMISSIONER PETERS stated her desire to utilize strong language in the request, and that the Commission was generally supportive of reduced density but not supportive of eliminating the requirement for commercial uses and inquired whether a minimum 50% commercial uses could be required while allowing single-family and duplex.

MR. RICE stated that the request for a change in allowed uses could not be changed by the Commission. He stated that the Commission could approve with or without recommendations, deny, or ask for more information, but changing the request before the Commission was not under their purview. He stated that if the Commission is not satisfied with the request, they could recommend denial of the request.

COMMISSIONER MILLER clarified that City Council was not required to follow the recommendation of the Commission.

The Commission discussed the provision in the current zoning ordinance requiring a maximum of 50% residential uses in the Mixed-Use Employment Suburban (M-E-S) zone district.

MR. RICE stated that the ODP and the legislative rezoning providing a base zone district of M-E-S for the development area predated the 50% requirement.

COMMISSIONER STONE stated that the language in finding F regarding notifications was the language in the zoning ordinance and retracted an earlier request that the language in finding

F be modified. She inquired about recommending incentives for commercial development to City Council as opposed to requirements.

The Commission discussed possible modifications to the findings and recommendations regarding public notice requirements and the procedure for making the proposed amendments.

COMMISSIONER COHN made a MOTION to adopt the findings of fact and order, A through H, as presented in the staff report and recommends that the City Council APPROVE Modification Case No. MO-20-001 as amended.

The motion was SECONDED by COMMISSIONER MILLER.

COMMISSIONER KENTNER made a MOTION to amend the recommendations to City Council provided in the staff report to include a recommendation to require that planning areas 1, 2, and 3 of the Solterra Centre ODP require non-residential uses in addition to allowed residential uses.

The motion was SECONDED by COMMISSIONER MILLER.

The Commission was in consensus that each amendment receive a roll call vote.

VOTE TAKEN –

Five Ayes – Commissioners HEALD, KENTNER, MILLER, PETERS, and STONE.

One Nay – Commissioner COHN

MOTION PASSED

COMMISSIONER STONE made a MOTION to amend the recommendations to City Council provided in the staff report to include a space and a forum for public comment on the request.

The motion was SECONDED by COMMISSIONER KENTNER.

COMMISSIONER COHN stated that he believed the existing requirement for a public hearing before City Council was adequate and did not believe additional comments would be received.

COMMISSIONER PETERS inquired whether the intent was for a neighborhood meeting or an additional public hearing.

COMMISSIONER STONE stated that having multiple public forums was beneficial to encouraging comment and that she wanted to clarify that an ODP modification is a type of rezoning and that this should be clearly stated.

COMMISSIONER KENTNER offered a friendly amendment to replace “include a space and a forum for public comment on the request” with “provide a notice of a public hearing to adjacent property owners subject to the mailed notification requirements for a quasi-judicial rezoning in Section 17.2.2.3.B of the Lakewood Zoning Ordinance prior to the City Council public hearing.” The friendly amendment was accepted by the motion maker and second.

MR. RICE stated that staff would include the statement that the modification was a legislative rezoning in the mailed notice.

VOTE TAKEN –

Four Ayes – Commissioners HEALD, KENTNER, PETERS, and STONE.

Two Nays – Commissioners COHN and MILLER

MOTION PASSED

COMMISSIONER PETERS made a MOTION to amend the recommendations to City Council provided in the staff report to recommend they remove an option to provide fees in lieu of land dedication to satisfy the requirements for school land dedication.

The motion was SECONDED by COMMISSIONER HEALD.

VOTE TAKEN –

Six Ayes – Commissioners COHN, HEALD, KENTNER, MILLER, PETERS and STONE

No Nays

MOTION PASSED unanimously.

The Commission discussed how to provide a notice prior to the public hearing before Council.

MR. RICE stated that he would approach the Director for guidance with the mailed notice.

The Commission restated the original motion on the floor with approved amendments stating:

The Planning Commission adopts the findings of fact and order, A through H, as presented in the staff report and recommends that the City Council APPROVE Modification Case No. MO-20-001 subject to the following recommendations:

1. Require that planning areas 1, 2, and 3 of the Solterra Centre ODP include non-residential uses in addition to residential uses;
2. Provide a notice of a public hearing to adjacent property owners subject to the mailed notification requirements for a quasi-judicial rezoning in Section 17.2.2.3.B of the Lakewood Zoning Ordinance prior to the City Council public hearing; and
3. Remove an option to provide fees in lieu of land dedication to satisfy the requirements for school land dedication.

VOTE TAKEN –

Six Ayes – Commissioners COHN, HEALD, KENTNER, MILLER, PETERS and STONE

No Nays

MOTION PASSED unanimously.

ITEM 4: APPROVAL OF MINUTES OF THE JUNE 3, 2020 PLANNING COMMISSION SPECIAL MEETING

COMMISSIONER STONE made a MOTION to approve the minutes of the June 2, 2020 Planning Commission Special Meeting.

The motion was SECONDED by COMMISSIONER HEALD.

VOTE TAKEN –

Six Ayes – Commissioners COHN, HEALD, KENTNER, MILLER, PETERS and STONE
No Nays

MOTION PASSED unanimously.

ITEM 5: GENERAL BUSINESS

MR. RICE stated that staff would be preparing a draft calendar with dates and topics for a series of short presentations to be provided to the Commission in December.

COMMISSIONER COHN inquired about the Intergovernmental Agreement (IGA) between the City of Lakewood and the City of Morrison.

MS. MUELLER provided an update to the Commission on the Rooney Valley IGA and stated that through disconnections, the Town of Morrison no longer has jurisdiction in the majority of the Rooney Valley and Lakewood no longer has jurisdiction on the West side of C-470. She stated that there may need to be a conversation between the Town of Morrison and City of Lakewood regarding whether the IGA was still warranted.

COMMISSIONER PETERS inquired about the cost-sharing provision in the IGA for sales tax-revenue on Morrison properties within the Rooney Valley and stated that she was aware of a lawsuit between the City of Lakewood and Town of Morrison.

MS. MUELLER stated that she was not aware of the specifics for any litigation.

COMMISSIONER HEALD had stated that he was aware of litigation but had not received an update and asked that staff provide a copy of the amended IGA.

ADJOURNMENT

Meeting adjourned at 10:33 PM.

Date Approved

Aaron Schultz, Secretary
to the Planning Commission

STAFF MEMO

DATE OF MEETING: JANUARY 11, 2021 / AGENDA ITEM NO. 11

To: Mayor and City Council

From: Robert Smith, Economic Development Director, 303-987-7732

Subject: **ORDINANCE O-2021-2 SALE OF THE CITY-OWNED WESTLAND TOWN CENTER PARKING LOT TO RCG VENTURES I, LLC PER EXISTING OPTION CONTRACT**

SUMMARY STATEMENT: RCG Ventures, I, LLC (“RCG”), the current owner of the Westland Town Center and successor in interest to an Option Contract, is wishing to exercise their option to purchase the City-owned Westland Town Center parking lot (“Parking Lot”) for the pre-determined price of one million dollars (\$1,000,000).

BACKGROUND INFORMATION: The City of Lakewood (the “City”) owns the 21.54-acre Parking Lot at the Westland Town Center located at 10425-10755 West Colfax Avenue (identified by Parcel ID 39-333-11-002 & 39-334-11-026). In 2016, RCG acquired the Westland Town Center property (identified by Parcel ID 39-334-11-021 & 39-334-11-027), which includes the Lowe’s building and retail strip. The adjacent former Sears property (identified by Parcel ID 39-333-11-003), is now owned by Seritage Growth Properties.

- In the 1960s, the above properties, generally between Colfax & 17th Avenues and Owens & Miller Streets, were developed into the Westland Mall and included some additional retail pad sites.
- For the better part of three decades, the Westland Mall played a top tier role in the commercial success of Lakewood. By the late 1980s/early 1990s, the properties were caught up in a rapid downturn in the economy.
- In the early 1990s, with greatly declining sales, high vacancy and the deterioration of buildings, the City worked with the owner of the retail center to convert the Westland Mall into the Westland Town Center. In the process, the City acquired ownership of the Parking Lot for public parking through a “friendly” condemnation that infused approximately \$5M into the project. Since that time, responsibilities for the maintenance and insurance of the Parking Lot have been with the owners of the adjacent retail property.
- For the two decades following, the Westland Town Center again played a significant role in Lakewood’s commercial success. However, by the late 2010s, the property was struggling to maintain commercial viability.

The City entered into numerous agreements (approved by City Council Ordinances and Resolutions) with the owners of the retail center to facilitate the redevelopment in the 1990s. Some of those agreements strictly limit the use of the City-owned parcel to a parking lot for the use of the adjacent retail properties. Another one of those agreements was an Option Contract, which gave the owners of the Westland Town Center the option to buy back the Parking Lot from the City for the greater of the remaining balance of the Sales Tax and Revenue Bonds (“Bonds”) or one million dollars (\$1,000,000), whichever is greater. The Bonds (which were issued to finance the acquisition and improvement of the Parking Lot) were paid off in 2012, so therefore, since then, the pre-determined price of the Parking Lot has been the one million dollars (\$1,000,000). The City has executed various estoppel certificates over the years representing to successors in ownership, including RCG, that the Option Contract was and remains valid.

With their purchase of the Westland Town Center, RCG are the successors in interest to all of the previously executed agreements. RCG has notified the City that it wishes to exercise their rights under Option Contract and purchase the Parking Lot, reuniting it with their property and greatly enhancing the opportunities for re-use or redevelopment of the whole area. Despite the commitments made under the Option Contract, sale of City-owned property requires the approval of the City Council via Ordinance.

BUDGETARY IMPACTS: In alignment with the Option Contract, the City will receive one million dollars (\$1,000,000) as the pre-determined purchase price for the Parking Lot. Additionally, the currently tax-exempt, city-owned property, will be subject to property tax.

STAFF RECOMMENDATIONS: Staff recommends approving Ordinance O-2021-2

ALTERNATIVES: If this Ordinance is not approved, the sale would not take place, and the City would retain ownership of the Parking Lot under the various agreements, requiring the property to be used solely for pedestrian and vehicular access and parking for the Westland Town Center. According to RCG, this would make redevelopment or reuse of the Westland Town Center impractical, and RCG would have to decide whether to accept the Council's decision or take other action.

PUBLIC OUTREACH: Proper notice of this Council consideration of O-2021-2 was given.

ATTACHMENTS: Ordinance O-2021-2
Parking Lot Option Contract
Property Map

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Gregory D. Graham, Deputy City Attorney

AN ORDINANCE

AUTHORIZING THE SALE OF THE WESTLAND TOWN CENTER PARKING LOT IN ACCORDANCE WITH THAT CERTAIN OPTION CONTRACT ENTERED INTO AS OF JUNE 16, 1992, BETWEEN THE CITY OF LAKEWOOD AND THE OWNERS OF THE WESTLAND MALL/WESTLAND TOWN CENTER

WHEREAS, in the early 1990s, the Westland Mall, located on the north side of Colfax Avenue between Miller and Owens Streets in Lakewood, Colorado (the "Westland Mall"), was suffering from declining sales, high vacancy rates and building deterioration;

WHEREAS, the City of Lakewood (the "City") worked with the then-owners of the Westland Mall (the "Westland Owners") to convert the retail center into the "Westland Town Center" by redeveloping the property;

WHEREAS, to support the redevelopment process, the Lakewood City Council agreed to infuse approximately \$5,000,000 into the project by acquiring the parking lot of the Westland Mall/Westland Town Center (the "Westland Parking Lot") via a "friendly" condemnation and compensating the Westland Owners in that amount;

WHEREAS, as part of the City's acquisition of the Westland Parking Lot, the City and the Westland Owners entered into various agreements, including a contract executed June 16, 1992, attached hereto as Exhibit A (the "Option Contract"), which provided the Westland Owners with the option to re-acquire the Westland Parking Lot for \$1,000,000;

WHEREAS, the current owner of the Westland Town Center, RCG Ventures, I, LLC ("RCG"), has notified the City that it has chosen to exercise its option to re-acquire the Westland Parking Lot in accordance with the provisions of the Option Contract;

WHEREAS, pursuant to the City's home rule charter, the sale of City-owned real property must be accomplished by ordinance;

WHEREAS, approval of this ordinance on first reading is intended only to confirm that the City Council desires to comply with the Lakewood Municipal Code by setting a public hearing to provide City staff and the public an opportunity to present evidence and testimony regarding the proposal; and

WHEREAS, approval of this ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies the proposal.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. The sale of the Westland Parking Lot to RCG in accordance with the provisions of the Option Contract is hereby approved.

SECTION 2. The City Manager is hereby authorized to take all actions necessary to complete the sale of the Westland Parking Lot to RCG.

SECTION 3. This ordinance shall take effect thirty (30) days after final publication.

SECTION 4. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a regular meeting of the Lakewood City Council on the 11th day of January, 2021; published by title in the Denver Post and in full on the City of Lakewood's website at www.lakewood.org, on the ____ day of _____, 2020; set for public hearing to be held on the 25th day of January, 2021; read, finally passed and adopted by the City Council on the ____ day of _____, 2021; and signed by the Mayor on the ____ day of January, 2021.

Adam Paul, Mayor

ATTEST:

Bruce Roome, City Clerk

APPROVED AS TO FORM:

Gregory D. Graham, Deputy City Attorney

EXHIBIT A
Ordinance O-2021-2

OPTION CONTRACT

THIS OPTION CONTRACT is entered into effective as of the ____ day of _____, 199__, between the City of Lakewood, a municipal corporation of the State of Colorado ("Lakewood") and CenterMark Properties, Inc. a Missouri corporation ("CenterMark").

WITNESSETH:

WHEREAS, Lakewood is the owner of that certain real property located in the City of Lakewood, Colorado as are more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "Lakewood Property"); and

WHEREAS, CenterMark is the owner of that certain real property located in the City of Lakewood, Colorado, as more particularly described on Exhibit B attached hereto and incorporated herein by this reference (the "Westland Town Center"); and

WHEREAS, Lakewood has acquired the Lakewood Property by eminent domain proceedings;

WHEREAS, Lakewood, CenterMark and Sears Roebuck and Company have entered into a First Amendment to the Amended and Restated Construction, Operating and Reciprocal Easement Agreement (the "First Amendment") pursuant to which, among other things, Lakewood has granted certain rights to the use of the Lakewood Property in consideration for the assumption of certain obligations by CenterMark; and

WHEREAS, CenterMark desires to obtain from Lakewood and Lakewood is willing to grant to CenterMark an option to buy the Lakewood Property from Lakewood on the terms and conditions set forth in this Contract (the "Option").

NOW, THEREFORE, in consideration of the premises and the following mutual covenants and agreements, the parties hereto hereby agree as follows:

**ARTICLE I
THE OPTION**

1.01 **Grant of Option.** Lakewood hereby grants to CenterMark the right and option to purchase the Lakewood Property from Lakewood upon and subject to the terms and conditions set forth in this Contract. The sale of the Lakewood Property shall include the interest of Lakewood as fee simple owner of the Lakewood Property in: (i) any rights-of-way, easements, improvements, structures and other property rights appurtenant to the Lakewood Property, (ii) any right, title and interest in adjoining or adjacent streets, roads, or rights-of-way and vacated alleys, appurtenant to the Lakewood Property, and (iii) any and all contracts rights, agreements, rights of use, permits, licenses or other benefits which are appurtenant to, or for the benefit of, the Lakewood Property.

1.02 **Statement of Intent.** Lakewood and CenterMark expect that the Lakewood Property shall remain the property of the City for the term of this Option and CenterMark has no present intent to exercise the Option.

1.03 **Consideration for Option.** This Option is granted as additional consideration for, and as an inducement to CenterMark to enter into, the First Amendment. Lakewood hereby acknowledges and confesses the adequacy and sufficiency of the consideration received by it for granting the Option.

1.04 **Term and Exercise of Option.** Unless sooner exercised or unless earlier terminated by the other provisions of this Contract, this Contract and the Option to buy the Lakewood Property granted hereby shall terminate at 5:00 p.m. Mountain Standard Time June 15, 2082. At any time prior to expiration of the Option, CenterMark may exercise the Option to purchase the Lakewood Property by delivering written notice of exercise of the Option to Lakewood in accordance with the provisions of Section 9.11 of this Contract. Notwithstanding the preceding sentence, the Option may not be exercised prior to six months following the stated maturity date of the Bonds (as defined in Section 1.05(a) below) unless the City shall have received an opinion, dated the date of the exercise of the Option, of an attorney or firm of attorneys of nationally recognized standing in the field of municipal financing agreed upon by CenterMark and the City, to the effect that exercise of the Option will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds. CenterMark shall not exercise the Option if such exercise would cause the interest on the Bonds to lose its exclusion from gross income for federal income purposes.

1.05 **Exercise Price.** The consideration payable by CenterMark to Lakewood shall be the greater of the following:

a. The outstanding principal balance at the time of exercise of the Option of any municipal bonds (the "Bonds") issued by Lakewood to provide the funds required for performance of its obligations to (i) reimburse CenterMark for costs of construction of public improvements on the Lakewood Property and at the Westland Town Center (the "Public Improvements") plus and (ii) finance the cost of acquisition of the Lakewood Property, together with all interest accrued but unpaid under the Bonds and any and all costs and expenses, including attorneys fees reasonably anticipated to be incurred in connection with payment or defeasance of the Bonds, or

b. \$1,000,000.

The parties agree that the initial principal balance of the Bonds will be an amount equal to the actual funding by Lakewood to CenterMark for acquisition of the Public Improvements and the Lakewood Property (anticipated to be approximately \$10,000,000) regardless of whether the actual funding is derived from a larger bond issue or a series of bonds.

ARTICLE II TERMS OF PURCHASE

The following provisions shall apply to the purchase of the Lakewood Property pursuant to this Agreement.

2.01 **Right of Purchase.** On the Closing Date, as hereinafter defined, CenterMark shall purchase from Lakewood, and Lakewood shall sell and convey to CenterMark, the Lakewood Property in accordance with the terms and conditions contained in this Article.

2.02 **Purchase Price.** The purchase price to be paid by CenterMark to Lakewood at closing shall be the price described in Section 1.04 of this Contract.

2.03 **Payment of Purchase Price.** Subject to the full and timely performance by Lakewood hereunder, the purchase price for the Lakewood Property shall be payable to Lakewood by CenterMark on the Closing Date by certified check or cashier's check or wire transfer.

2.04 **Closing and Closing Date.** The transaction shall be closed at the offices of the Title Insurance Company providing title insurance in accordance in Section 3.01 below on or before the expiration of forty-five (45) days after the exercise of the Option by CenterMark as set forth in Section 1.03 above. If the parties are unable to agree on a Closing Date, the Closing Date shall be determined by CenterMark.

ARTICLE III TITLE INFORMATION AND CONVEYANCE

3.01 **Evidence of Title.** On or before thirty (30) days prior to closing, Lakewood shall furnish to CenterMark, at Lakewood's expense, a current commitment for an owner's title insurance policy in an amount equal to the purchase price (the "Title Commitment") from a title insurance company (the "Title Insurance Company") reasonably acceptable to CenterMark. Lakewood shall cause the Title Insurance Company to furnish CenterMark copies of instruments shown of record in the office of the clerk and recorder of Jefferson County, Colorado, as affecting title to the Lakewood property or listed as exceptions to title in the Title Commitment (the "Exceptions"). The Title Commitment, together with any copies of instruments which comprise the Exceptions constitute the title documents (the "Title Documents"). Lakewood shall cause the Title Insurance Company to deliver to CenterMark copies of instruments listed as exceptions no later than five (5) calendar days after CenterMark's receipt of the Title Commitment. Lakewood shall have the title insurance policy delivered to CenterMark as soon as practicable after closing and pay the premium at closing.

3.02 **Title.**

a. **Title Review.** CenterMark shall have the right to inspect the Title Documents. The Title Documents shall be satisfactory to CenterMark in all material respects. If the Title Documents reveal any matters which are objectionable to CenterMark, CenterMark shall notify Lakewood of such objection in writing. Written notice by CenterMark of unmerchantability of title or of any other unsatisfactory title conditions shown by the Title Documents shall be signed by or on behalf of CenterMark and given to Lakewood on or before twenty (20) calendar days after the receipt of Title Documents or within ten (10) calendar days after receipt by CenterMark of any Title Documents or endorsements adding new Exceptions to the Title Commitment together with a copy of the Title Documents adding new Exceptions to title. If Lakewood does not receive CenterMark's notice by the date(s) specified above, CenterMark shall be deemed to have accepted the condition of title as disclosed by the Title Documents as satisfactory.

b. **Matters Not Shown by the Public Records.** Lakewood shall deliver to CenterMark at least twenty (20) days prior to closing, true copies of all leases and surveys in Lakewood's possession pertaining to the Lakewood Property and shall disclose to CenterMark all easements, liens or other title matters not known by the public records of which Lakewood has actual knowledge. CenterMark shall have the right to inspect the Lakewood Property to determine if any third party has any right in the Lakewood Property not shown by the public records (such as an unrecorded easement, unrecorded lease, of boundary line discrepancy). Written notice of any unsatisfactory conditions disclosed by Lakewood or revealed by such inspection shall be signed by or on behalf of CenterMark and given to the Seller on or before five (5) days prior to closing. If Lakewood does not receive CenterMark's notice by said date, CenterMark shall be deemed to have accepted title subject to such rights, if any, of third parties of which CenterMark has actual knowledge.

c. **Right to Cure.** If Lakewood receives notice of unmerchantability of title or any other unsatisfactory title conditions as provided in subparagraphs (a) or (b) above, Lakewood shall use reasonable

efforts to correct said unsatisfactory title conditions within thirty (30) days following delivery of notice thereof. In addition, if the objection to title arises from a lien securing a monetary obligation of Lakewood or a grant or conveyance of an interest by Lakewood in violation of Section 5.02 with respect to the Lakewood property ("Lakewood Encumbrances"), Lakewood shall cause such objection to title to be removed at or prior to the closing. If Lakewood fails to correct said unsatisfactory title conditions within such thirty (30) days period, CenterMark shall have the right to terminate this contract, provided, however, CenterMark may, by written notice received by Lakewood prior to expiration of the Option Period, waive objection to said unsatisfactory title conditions. Notwithstanding the foregoing, Lakewood shall have no obligation to undertake any cure of an objection to title other than a Lakewood Encumbrance. Lakewood may use the proceeds from the sale of the Lakewood Property at closing to satisfy any title objections based upon monetary encumbrances, including, without limitation, the Lakewood Encumbrances.

3.03 **Conveyance.** Subject to due exercise of the option and compliance with the other terms and conditions hereunder by CenterMark, Lakewood shall convey the Lakewood Property to CenterMark at closing upon payment of the Purchase Price to Lakewood in accordance with Section 4.02 below. Conveyance shall be made by special warranty deed. The title to the Lakewood Property at the time of conveyance shall be transferred subject to (a) easements, rights-of-way, restrictions, covenants, liens and other encumbrances of record as of the date of closing, other than the Lakewood Encumbrances, and (b) those matters approved by CenterMark, or to which CenterMark did not object, pursuant to the provisions of Section 3.02 of this agreement. The allowable exceptions to titles described in clauses (a) and (b) of this section are referred to herein as the "Permitted Exceptions".

ARTICLE IV CLOSING

4.01 **Conditions Precedent to Closing.** If the Option is exercised, CenterMark's obligation to purchase the Lakewood Property shall be conditioned upon satisfaction prior to closing of the following condition:

a. The Title Commitment (as modified and/or endorsed pursuant to Article III above) shall be satisfactory to CenterMark in form and substance. The Title Commitment shall be deemed satisfactory to CenterMark provided that there are no exceptions to title other than the Permitted Exceptions.

b. All representations and warranties of Lakewood in this Contract shall be true and correct as of the Closing Date.

4.02 **Closing.** At closing the following shall occur:

a. CenterMark shall deliver to Lakewood the purchase price in the form of a cashier's check, certified funds or wire transfer, as adjusted by closing costs and prorations, if any.

b. Lakewood shall deliver to CenterMark a duly executed acknowledged special warranty deed conveying title to the Lakewood Property to CenterMark free and clear of all liens and encumbrances except for the Permitted Exceptions.

c. CenterMark and Lakewood shall execute and deliver to each other or for the benefit of the Title Insurance Company, as appropriate, such other documents as may be reasonably requested by the other party or the Title Insurance Company to facilitate or effectuate the conveyance contemplated by this Contract.

ARTICLE V COVENANTS AND AGREEMENTS OF LAKEWOOD

5.01 **CenterMark's Access to Property.** Lakewood covenants and agrees that from and after the date of Lakewood's execution hereof, CenterMark and its agents and/or employees may enter upon the Lakewood Property for the purpose of making surveys, engineering studies, soil tests, obtaining topographical information and for similar information concerning the Lakewood Property; provided, however, that such activities shall not be conducted in a manner which unreasonably restricts public access to the Lakewood Property. CenterMark hereby agrees to indemnify, defend and hold Lakewood harmless from (a) any claims of any nature against Lakewood arising from CenterMark's activities on the Lakewood Property, and (b) any mechanic's liens which might be filed against the Lakewood Property by reason of any of such activities of CenterMark on such properties.

5.02 **Lakewood's Use of the Property Prior to Closing Date.** From and after the date of Lakewood's execution hereof, Lakewood shall not grant or convey any easement, lease, encumbrance, license, permit or any other legal or beneficial interest in or to the Lakewood Property, without the prior written consent of CenterMark which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Lakewood may grant or convey, without CenterMark's prior written consent, any of the foregoing title encumbrances so long as they are terminable upon closing of the Option or are customary easements for utility services.

5.03 **Delivery of Materials to CenterMark.** Lakewood hereby covenants and agrees to make available to CenterMark, at no expense to CenterMark, from time to time during the term of this Option, any and all engineering studies, zoning information, soil investigations and reports, water and sewer studies, topographic maps, platting and other materials in Lakewood's possession or control concerning the Lakewood Property. Lakewood makes no representations or warranties of any nature concerning the accuracy, validity of suitability for CenterMark's use of any such information furnished to CenterMark.

ARTICLE VI REPRESENTATIONS AND WARRANTIES OF LAKEWOOD

6.01 **Representations and Warranties.** Lakewood hereby represents and warrants to CenterMark as follows:

a. Lakewood is a municipality and governmental entity duly organized and validly existing under the laws of the State of Colorado. Lakewood has the authority to enter into this Contract and to consummate the transactions contemplated hereby. The making and performance of this Contract and the agreements and other instruments required hereunder to be executed by Lakewood have been, or on the Closing Date will have been, duly authorized by all necessary municipal and other governmental action and will not violate any provision of the City Charter or any other City laws, ordinances and regulations, or violate any provision of any license, permit, loan or other type of agreement to which the Lakewood is or will be subject.

b. When executed and delivered, this Contract will constitute a legal and binding obligation of Lakewood, and will be valid and enforceable against Lakewood in accordance with the terms hereof except that (i) the enforcement of certain rights and remedies created by this Contract is subject to bankruptcy, insolvency, reorganization and similar laws of general application affecting the rights and remedies of parties, and (ii) the enforceability of any particular provision of this Contract under principles of equity or the availability of equitable remedies, such as specific performance, injunctive relief, waiver or other equitable remedies is subject to the discretion of courts of competent jurisdiction.

c. The consummation by Lakewood of the transactions contemplated by this Contract will not result in a breach of any material term or provision of, or constitute a material default under, any other agreement or instrument to which Lakewood is a party and there are no conditions, obligations, or judicial or regulatory orders which prevent, prohibit or constrain the City's ability to perform under this Contract.

6.02 **Closing Certificates.** If requested by CenterMark, Lakewood shall, on the Closing Date, execute a certificate stating that, to the best of its knowledge and belief, Lakewood has performed all of, and there exists no non-performance or breach in respect of, any of the foregoing representations and warranties.

ARTICLE VII REPRESENTATIONS AND WARRANTIES OF CenterMark

7.01 **Representations and Warranties.** CenterMark hereby represents and warrants to Lakewood as follows:

a. CenterMark is a corporation duly organized, validly existing and in good standing under the laws of the State of Missouri. CenterMark has corporate power to enter into this Contract and to consummate the transactions contemplated hereby. The making and performance of this Contract and the agreements and other instruments required hereunder to be executed by CenterMark have been, or on the Closing Date will have been, duly authorized by all necessary corporate action and by all required action by the shareholders of the CenterMark and will not violate any provision of the Articles of Incorporation or Bylaws of the CenterMark or violate any provision of any license, permit, loan or other type of agreement to which the CenterMark is or will be subject.

b. When executed and delivered, this Contract will constitute a legal and binding obligation of CenterMark, and will be valid and enforceable against CenterMark in accordance with the terms hereof except that (i) the enforcement of certain rights and remedies created by this Contract is subject to bankruptcy, insolvency, reorganization and similar laws of general application affecting the rights and remedies of parties, and (ii) the enforceability of any particular provision of this Contract under principles of equity or the availability of equitable remedies, such as specific performance, injunctive relief, waiver or other equitable remedies is subject to the discretion of courts of competent jurisdiction.

c. The consummation by CenterMark of the transactions contemplated by this Contract will not result in a breach of any material term or provision of, or constitute a material default under, any other agreement or instrument to which the CenterMark is a party.

7.02 **Closing Certificates.** If requested by Lakewood, CenterMark shall, on the Closing Date, execute a certificate stating that, to the best of its knowledge and belief, CenterMark has performed all of, and there exists no non-performance or breach in respect of, any of the foregoing representations and warranties.

ARTICLE VIII DEFAULT: REMEDIES

8.01 **Default.** Time is of the essence hereof, and if any payment or any other condition hereof is not made, tendered or performed as herein provided, the party who has failed to make or tender payment or

performance as required under this Contract shall be deemed to have defaulted under this Contract and the provisions of this Article shall apply.

8.02 **CenterMark's Failure to Close.** If CenterMark exercises the Option but wrongfully fails to close in accordance with the terms of this Contract, Lakewood shall have the remedies of specific performance, damages or both, in addition to any other rights at law for breach of this Contract by CenterMark.

8.03 **Lakewood's Failure to Close.** If CenterMark exercises the Option and Lakewood fails to close in accordance with this Contract, CenterMark shall have the remedies of specific performance, damages or both in addition to any other rights at law for breach of this Contract by Lakewood.

8.04 **Other Remedies.** The remedies described in this Article are in addition to, and not in lieu of, any other remedies the CenterMark or Lakewood may have at law or in equity by reason of the default of the other party.

ARTICLE IX PROVISIONS OF GENERAL APPLICATION

9.01 **Recordation.** Neither Lakewood nor CenterMark shall record this Contract without the consent of the other party. If either party records this Contract without the consent of the other party, such recordation shall be deemed a material breach of this Contract. CenterMark shall have the right to record a memorandum of option setting forth the principal terms of this Contract if it so desires. Upon request by CenterMark, Lakewood shall execute a memorandum of option reasonably acceptable to Lakewood to facilitate recording thereof by CenterMark.

9.02 **Commissions.** CenterMark hereby represents that no brokerage commission or other compensation is due to any real estate broker, agent, or salesman by reason of CenterMark's entry into or performance of this Contract. CenterMark agrees to indemnify, defend and hold Lakewood harmless against any and all claims based in whole or in part on any act of CenterMark for commissions, fees, or other compensation made by any real estate broker, agent, or salesman as the result of the sale of the Lakewood Property by Lakewood to CenterMark contemplated hereby.

Lakewood hereby represents that no brokerage commission or other compensation is due to any real estate broker by reason of Lakewood's entry into or performance under this Contract. Lakewood agrees to indemnify, defend and hold CenterMark harmless against any and all claims based in whole or in part on any act of Lakewood for commissions, fees, or other compensation made by any real estate broker, agent, or salesman as the result of the sale of the Lakewood Property by Lakewood to CenterMark contemplated hereby.

9.03 **Risk of Loss.** In the event any of the Lakewood Property is substantially damaged by fire, flood or other casualty between the date of exercise of the Option and Closing Date, this Contract may, at the option of the CenterMark, be declared null and void.

9.04 **Condemnation.** In the event that any portion of the Lakewood Property shall be taken in condemnation or under the right of eminent domain after CenterMark's exercise of the Option for the Lakewood Property and before the Closing Date for the sale of the Lakewood Property to CenterMark, the obligation of CenterMark to purchase the Lakewood Property, at the option of CenterMark, may either: a) be declared null and void and all funds deposited or paid by CenterMark, shall then immediately be returned to CenterMark; or b) continued with respect to the Lakewood Property with an abatement in purchase price for the Lakewood Property based on the reduced value from the condemnation.

9.05 **Further Instruments.** Each party hereto shall from time to time execute and deliver such further instruments as the other party or its counsel may reasonably request to effectuate the intent of this Contract.

9.06 **Governing Law.** The parties hereto hereby expressly agree that the terms and conditions hereof, and the subsequent performance hereunder, shall be construed and controlled by the laws of the State of Colorado.

9.07 **Headings.** Article and Section headings used in this Contract are for convenience of reference only and shall not affect the construction of any provision of this Contract.

9.08 **Compliance With Laws, Ordinances and Regulations.** In performing the obligations, covenants and conditions of this Contract, Lakewood and CenterMark shall comply with all applicable laws, ordinances and regulations.

9.09 **Entire Agreement -- Alteration or Amendment.** The entire agreement of the parties is set forth in this Contract and in the First Amendment and the parties are not bound by any agreements, understandings, conditions, or inducements otherwise than are expressly set forth and stipulated hereunder and thereunder. No change, alteration, amendment, modification or waiver of any of the terms or provisions hereof shall be valid unless the same is in writing and signed by the parties.

9.10 **Assignment.** This Contract shall be binding upon, and shall inure to the benefit of, Lakewood and CenterMark and their respective successors and assigns. CenterMark may assign its rights under this Contract only to a purchaser of all or substantially all of CenterMark's interest in the property commonly known as the Westland Town Center and CenterMark may not sell all or substantially all of CenterMark's interest in the Westland Town Center without assignment of this Contract. CenterMark shall promptly notify Lakewood of any such assignment. Lakewood may assign its rights under this Contract to any municipal or quasi-municipal or other governmental agency or organization in connection with the transfer of the Lakewood Property to such entity. Lakewood shall promptly notify CenterMark of any such assignment. Except for the assignment rights set forth in this section, neither party may assign its rights under this Contract without the express written consent of the other party.

9.11 **Notices.** All notices provided for hereunder shall be deemed given and received when (a) personally delivered during business hours on a business day or (b) two days after the same is deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed to the applicable party at the address indicated below for such party, or as to each party, at such other address as shall be designated by such party in a written notice to the other party:

TO CenterMark:

James F. Dausch
Sr. Vice President
CenterMark Properties, Inc.
611 Olive Street
St. Louis, Missouri 63101-1797

WITH A COPY TO:

CenterMark Properties, Inc.
611 Olive Street
St. Louis, Missouri 63101-1797
Attn: General Counsel

TO Lakewood:

City of Lakewood
445 South Allison Parkway
Lakewood, Colorado 80226

Attention: City Manager

WITH A COPY TO:

Gorsuch, Kirgis, Campbell, Walker and Grover
1401 - 17th Street, Suite 1100
Denver, CO 80202
Attention: Lakewood City Attorney

9.12 **Nonbusiness Day.** If the Closing Date is to occur on a holiday or other nonbusiness day, or if any period of time set forth in this Contract expires on a holiday or other nonbusiness day, then such Closing Date or expiration date shall be the next business day.

9.13 **Survival; Condition Precedent.** The agreements, representations, covenants and warranties on the part of Lakewood and CenterMark contained in this Contract or any amendment or supplement hereto shall survive the Closing and delivery of deed for the Lakewood Property and shall not be merged thereby.

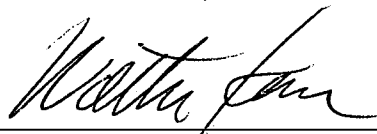
9.14 **Attorneys' Fees.** If any legal action or other proceeding is brought for the enforcement of this Contract, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Contract, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it may be entitled.

9.15 **Municipal Rights and Duties.** Nothing contained in this Contract is intended or shall be construed to affect any rights, duties, interests or property of Lakewood in its municipal capacity but only the proprietary interests of Lakewood as fee simple owner of the Lakewood Property.

IN WITNESS WHEREOF, the parties hereto have caused this Option Contract to be executed and delivered as of the day and year first above written.

LAKEWOOD:

CITY OF LAKEWOOD, COLORADO

By: 
Walter C. Kane, City Manager

CENTERMARK:

CENTERMARK PROPERTIES, INC., a Missouri corporation


By: 
William E. Grafstrom, Chairman mg

STATE OF COLORADO)
) ss.
COUNTY OF JEFFERSON)

The foregoing instrument was acknowledged before me this 16th day of June, 1992 by Walter C. Kane, as City Manager of the City of Lakewood, Colorado.

Witness my hand and official seal.

My commission expires: My Commission Expires
December 3, 1994


Notary Public
Address: 445 S. Allison Parkway
Lakewood Co. 80226

STATE OF COLORADO)
) ss.
COUNTY OF JEFFERSON)

The foregoing instrument was acknowledged before me this 16th day of June, 1992 by William E. Grafstrom, as Chairman of CenterMark Properties, Inc.

Witness my hand and official seal.

My commission expires: My Commission Expires
December 3, 1994

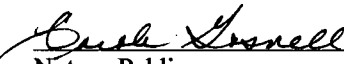
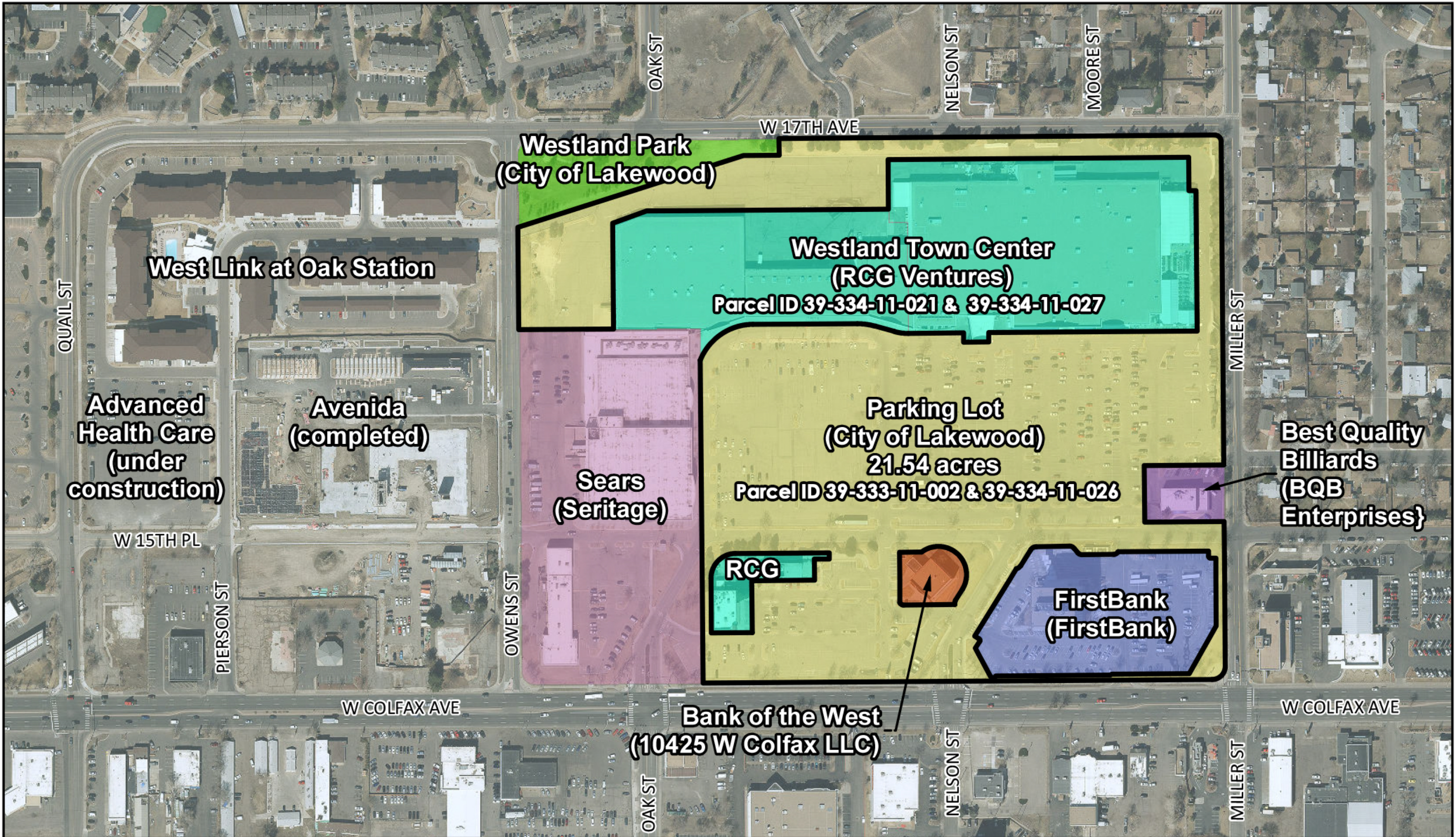

Notary Public
Address: 445 S. Allison Parkway
Lakewood Co. 80226

EXHIBIT A

Lakewood Property
(Legal Description to be Inserted Later)



WESTLAND PARKING LOT



**MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF LAKEWOOD**

7:00 P.M

August 24, 2020

Minutes are not a verbatim transcription, but rather an attempt to capture the intent of the speaker by the City Clerk.

ITEM 1 – CALL TO ORDER

Mayor Paul called the **VIRTUAL MEETING** to order at 7:00 p.m.

ITEM 2 – ROLL CALL

Those present were: Mayor Adam Paul, Presiding

Charley Able
Sharon Vincent
Dana Gutwein
Mike Bieda
David Skilling
Anita Springsteen
Barb Franks
Ramey Johnson
Jacob LaBure

Absent: Karen Harrison

Others in attendance: Kathy Hodgson, City Manager, Ben Goldstein, Deputy City Manager, and Tim Cox, City Attorney

Full and timely notice of this City Council meeting had been given and a quorum was present.

ITEM 3 – PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited, and there was a moment for silent prayer.

ITEM 4 – PUBLIC COMMENT

Brenda Bronson – Lakewood Resident – She stated that she wanted the City to replace its inclusive signage across the City.

Jack Lyons – Lakewood Resident – He expressed his concern with a comment made by City Council regarding the Lakewood Police Department.

Christopher Armen – Lakewood Resident – He stated that inclusivity was an important issue to him. He stated that he wanted the City to replace its inclusive signage across the City.

Kathryn Costanza – Lakewood Resident – She stated that she appreciated that the Lakewood Police Department is dedicating resources to a criminal diversion program. She asked what would qualify someone for enrollment in the program. She stated that the diversion program should have less discretion to prevent implicit racial bias.

Unknown – He stated his concern regarding the drafting and enforcement of law. He stated that individuals in the foster care system are more likely to be arrested. He stated that Council should consider this going forward and look to provide individuals in foster care with more support.

ITEM 5 – EXECUTIVE REPORT

Kathy Hodgson, City Manager, gave her executive report:

- She stated that Clements Community Center will reopen August 31, 2020.
- She stated that Green Mountain Recreation Center will reopen September 8, 2020.
- She stated that Charles Whitlock Recreation Center will reopen September 21, 2020.
- She stated that a variety of programs will be available to residents in the fall.
- She stated that the Annual Trail Running Series will be returning this year.
- She directed Council to utilize the Direct Response program for all requests for information and to utilize the existing City Council forms.

ITEM 20 was moved by Mayor Paul

ITEM 20 – GENERAL BUSINESS

MOTION TO EXTEND EMERGENCY DECLARATION – I MOVE TO EXTEND THE DECLARATION OF DISASTER IN THE CITY OF LAKEWOOD COLORADO RESULTING FROM THE CORONAVIRUS/COVID-19 PANDEMIC, PURSUANT TO SECTION 1.27 OF THE LAKEWOOD MUNICIPAL CODE, ORIGINALLY DECLARED BY PROCLAMATION OF THE LAKEWOOD CITY MANAGER ON MARCH 17, 2020, EXTENDED BY MAJORITY VOTE OF THE CITY COUNCIL ON MULTIPLE OCCASIONS, AND BY THIS MOTION EXTENDED AGAIN UNTIL SEPTEMBER 28, 2020, UNLESS EARLIER EXTENDED OR TERMINATED BY THE CITY COUNCIL

Council member Skilling made a motion to adopt the Motion to Extend Emergency Declaration. It was seconded.

Public Comment: None.

Council Discussion:

Council member Franks – She asked if the City needed to remain in a state of emergency to match the State’s emergency declaration and to be eligible to receive funds to help with the COVID-19 pandemic.

Tim Cox, City Attorney – He stated that the City would likely remain under a state of emergency so long as the State’s emergency declaration remained in effect. He stated that the City is required to remain in a state of emergency to be eligible for federal funds.

Council member Johnson – She asked if it could be possible for Council to adopt an ordinance allowing for virtual meetings without needing the emergency declaration.

Cox – He stated that staff evaluated Council’s ability to meet virtually previously in March 2020. He stated that Council was unable to meet without an emergency declaration but passed an ordinance to allow for virtual meetings under certain circumstances later that same month.

Johnson – She asked if Council could meet virtually without the emergency declaration.

Cox – He stated that so long as Council met the terms of the ordinance that they could meet virtually.

Vote on Motion to Extend Emergency Declaration:

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN		X
ABLE	X		FRANKS	X	
VINCENT	X		JOHNSON	X	
GUTWEIN	X		LABURE	X	
BIEDA	X		HARRISON	ABSENT	
SKILLING	X				
			TOTAL	9	1

The motion passed.

CONSENT AGENDA

City Clerk Michele Millard read the Consent Agenda into the record. The Consent Agenda consists of Item 6 to 12, inclusive.

ITEM 6 – RESOLUTION 2020-27 – APPOINTING AND REAPPOINTING MEMBERS TO THE BOARD OF APPEALS

ITEM 7 – RESOLUTION 2020-28 – APPOINTING AND REAPPOINTING MEMBERS TO THE JUDICIAL REVIEW COMMISSION

ITEM 8 – RESOLUTION 2020-29 – REAPPOINTING A MEMBER TO THE VICTIM ASSISTANCE COMPENSATION BOARD

ITEM 9 – RESOLUTION 2020-30 – APPOINTING MEMBERS TO THE LAKEWOOD ADVISORY COMMISSION

ITEM 10 – ORDINANCE O-2020-24 – AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE 2020 CITY OF LAKEWOOD ANNUAL BUDGET IN THE AMOUNT OF \$366,486 AND AUTHORIZING THE EXPENDITURE OF GRANT FUNDS FROM THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO ASSIST THE CITY OF LAKEWOOD IN PILOTING A LAW ENFORCEMENT ASSISTED DIVERSION PROGRAM THROUGH THE LAKEWOOD POLICE DEPARTMENT IN PARTNERSHIP WITH JEFFERSON COUNTY PUBLIC HEALTH AND THE COMMUNITY CONNECTIONS CENTER

ITEM 11 – ORDINANCE O-2020-25 – AUTHORIZING AN ADDENDUM TO DEVELOPMENT AGREEMENT FOR SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN

ITEM 12 – APPROVING MINUTES OF CITY COUNCIL MEETINGS

City Council Meeting
City Council Special Meeting

June 8, 2020
June 1, 2020

A motion was made by Council member Skilling to approve Council Minutes, order all ordinances introduced on first reading to be published into the Denver Post Newspaper for public hearing set for dates included in the ordinances, and to adopt resolutions, all of which are included in the Consent Agenda Items, for the record and introduced by the Deputy City Clerk. It was seconded.

Public Comment: None.

Council Discussion:

Council member Able – He thanked the boards and commissions nominees for their interest in serving the City.

Skilling – He stated that he and Council member Franks were going to present a few amendments on Ordinance O-2020-25 on its second reading.

Johnson – She stated that she supported Ordinance O-2020-24. She asked how long the pilot program would last and how it may be funded going forward.

Mayor Paul – He thanked the boards and commissions nominees for their interest in serving the City.

Vote on Consent Agenda:

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN	X	
ABLE	X		FRANKS	X	
VINCENT	X		JOHNSON	X	
GUTWEIN	X		LABURE	X	
BIEDA	X		HARRISON	ABSENT	
SKILLING	X				
			TOTAL	10	0

The motion passed.

END OF CONSENT AGENDA

ITEM 13 – CITIZEN-INITIATED ORDINANCE – AN ORDINANCE ADOPTING REGULATIONS GOVERNING THE OPERATION OF RETAIL MARIJUANA STORES AND RETAIL MARIJUANA CULTIVATION FACILITIES IN THE CITY OF LAKEWOOD AND MAKING CORRESPONDING AMENDMENTS TO CERTAIN SECTIONS OF LAKEWOOD MUNICIPAL CODE, CHAPTER 5.51 CONCERNING MEDICAL MARIJUANA BUSINESSES

Cox – He stated that Item 13 originated as a citizen-initiated petition. He stated that City Clerk Michele Millard made a final determination of sufficiency of the signatures collected. He stated that the ordinance would permit the regulation of retail marijuana stores and collection facilities in the City. He stated that Lakewood currently on permits medical marijuana facilities to operate within the City. He stated that if Council approves the ordinance that it will become law. He stated that if Council moves to deny the petitioned ordinance that the issue will be given to the voters instead.

Public Comment:

Jim Otton – Lakewood Resident – He stated that he was concerned that the ordinance did not prohibit the size of a recreational marijuana facility. He stated that it would be possible for large marijuana mega stores could begin opening in empty lots without legislative intervention. He stated that marijuana's costs outweigh any possible tax revenue that the operations may bring in. He stated that he was concerned that marijuana lounges may eventually become a reality in the City as they emerged in neighboring communities. He stated that retail marijuana sales provide covers for other criminal activities. He stated that THC concentrations in marijuana continue to rise which may encourage addiction. He stated that several mental disorders and physical impacts associated with marijuana have also been identified and that treatment is costly. He stated that he desired Council to speak out on the issue. He stated that Council member Johnson will also be holding a summit discussing marijuana in September 2020.

A motion was made by Council member Skilling to approve the CITIZEN-INITIATED ORDINANCE. It was seconded.

Council Discussion:

Council member Bieda – He stated that he supported sending the ballot measure to the voters to decide. He stated that voters have voted down similar ballot issues in the past.

Able – He stated that he supported sending the ordinance to the voters as a ballot issue.

Johnson – She stated that the ballot issue was originated from the marijuana industry. She stated that the petitioners did not have permission to petition in some of the locations they visited. She stated that the ballot title does not properly encapsulate the issue. She stated that the petition is the most recent push from the marijuana industry to expand their profits.

Council member Springsteen – She stated that she supported sending the ordinance to the voters. She stated that she was concerned with the lobbying associated with the industries involved.

Mayor Paul – He stated that the previous ballot measure to legalize recreational marijuana was initiated by Council. He stated that he encouraged residents to conduct further research and conversation into the issue. He stated that he supported sending the ordinance to the voters.

Gutwein – She stated that she supported sending the ordinance to the voters. She stated that she did not feel comfortable overriding a previous ballot measure.

Vote on CITIZEN-INITIATED ORDINANCE:

	AYES	NAYS		AYES	NAYS
PAUL		X	SPRINGSTEEN		X
ABLE		X	FRANKS		X
VINCENT		X	JOHNSON		X
GUTWEIN		X	LABURE		X
BIEDA		X	HARRISON	ABSENT	
SKILLING		X			
			TOTAL	0	10

The motion failed.

----- OR -----

ITEM 14 – RESOLUTION 2020-31 – CALLING A SPECIAL MUNICIPAL ELECTION FOR NOVEMBER 3, 2020, TO SUBMIT TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF LAKEWOOD A CITIZEN-INITIATED ORDINANCE REGARDING RETAIL MARIJUANA BUSINESSES

Cox – He stated that Item 14 was to schedule an election based on the time frames discussed in the City's code. He stated that Item 15 authorizes the City to coordinate an election with Jefferson County.

A motion was made by Council member Skilling to approve the Resolution 2020-31. It was seconded.

Public Comment: None.

Council Discussion: None.

Vote on Resolution 2020-31:

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN	X	
ABLE	X		FRANKS	X	
VINCENT	X		JOHNSON	X	
GUTWEIN	X		LABURE	X	
BIEDA	X		HARRISON	ABSENT	
SKILLING	X				
			TOTAL	10	0

The motion passed.

ITEM 15 – RESOLUTION 2020-32 – APPROVING PARTICIPATION BY THE CITY OF LAKEWOOD IN A COORDINATED ELECTION TO BE CONDUCTED ON NOVEMBER 3, 2020, BY THE JEFFERSON COUNTY CLERK AND RECORDER

A motion was made by Council member Skilling to approve the Resolution 2020-32. It was seconded.

Public Comment: None.

Council Discussion: None.

Vote on Resolution 2020-32:

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN	X	
ABLE	X		FRANKS	X	
VINCENT	X		JOHNSON	X	
GUTWEIN	X		LABURE	X	
BIEDA	X		HARRISON	ABSENT	
SKILLING	X				
			TOTAL	10	0

The motion passed

RESOLUTIONS

ITEM 16 – RESOLUTION 2020-33 – AUTHORIZING A SECOND ROUND OF FUNDING FOR THE COVID-19 IMPACT GRANT PROGRAM IN THE AMOUNT OF \$375,000

A motion was made by Council member Skilling to approve the Resolution 2020-33. It was seconded.

Public Comment: None.

Council Discussion:

Able – He asked if Council would be provided an accounting of what each applicant used the funds for.

Hodgson – She stated that nonprofits are required to report how they used the grant funding. She stated that there were over \$600,000 in requests in the first round of funding. She stated that if the Resolution is approved that organizations will be able to submit their applications to a group to review the requests. She stated that the top-rated requests are the organizations that will receive funding.

Able – He stated that the organizations that received funding have aided many Head Start Program families.

Skilling – He stated that the first round of applications were required to use funding for addressing the direct impact of COVID-19.

Council member LaBure – He asked when the applications for the next round of funding would open.

Emily Andrews, Lakewood Resource Development Supervisor – She stated that staff would be ready to accept applications within two days. She stated that applicants will also be asked if they have spent previously granted funds, and why they have not if they select no.

Vote on Resolution 2020-33:

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN	X	
ABLE	X		FRANKS	X	
VINCENT	X		JOHNSON	X	
GUTWEIN	X		LABURE	X	
BIEDA	X		HARRISON	ABSENT	
SKILLING	X				
			TOTAL	10	0

The motion passed

ITEM 17 – CONTINUED RESOLUTION 2020-23 – AUTHORIZING ALLOCATIONS FOR 533 VAN GORDON STREET, LAKEWOOD, CO 80228 MAY BE CONTINUED TO SEPTEMBER 28, 2020

A motion was made by Council member Skilling to CONTINUE Resolution 2020-23 to September 28, 2020. It was seconded.

Public Comment: None.

Council Discussion:

Able – He asked if Council will have the second quarter allocation report by September 28th.

Hodgson – She stated that Council will have the report by the next hearing.

Vote to CONTINUE Resolution 2020-33 to September 28, 2020:

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN	X	
ABLE	X		FRANKS	X	
VINCENT	X		JOHNSON	X	
GUTWEIN	X		LABURE	X	
BIEDA	X		HARRISON	ABSENT	
SKILLING	X				
			TOTAL	10	0

The motion passed

ORDINANCES ON SECOND READING AND PUBLIC HEARINGS

ITEM 18 – ORDINANCE O-2020-22 – CONCERNING THE REFUNDING OF A PORTION OF CERTAIN OUTSTANDING CERTIFICATES OF PARTICIPATION, SERIES 2006A, AND THE FINANCING OF RENOVATIONS TO THE FOX HOLLOW GOLF COURSE IRRIGATION SYSTEM; AND AN ANNUALLY RENEWABLE LEASE/PURCHASE AGREEMENT BETWEEN U.S. BANK NATIONAL ASSOCIATION, SOLELY IN ITS CAPACITY AS TRUSTEE, AND THE CITY, AS LESSEE; APPROVING THE FORMS OF CERTAIN RELATED DOCUMENTS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH; AUTHORIZING A SUPPLEMENTAL BUDGET APPROPRIATION OF UP TO \$5,925,000; PROVIDING OTHER MATTERS RELATING THERETO; AND FURTHER, DECLARING AN EMERGENCY

Public Comment: None.

A motion was made by Council member Skilling to approve the Ordinance O-2020-22. It was seconded.

Council Discussion:

Bieda – He asked if the original presentation included the Lakewood Link facility as collateral.

Brett Berninger, Family Services Manager – He stated that Charles Whitlock Recreation Center, Wilbur Rogers Center, and Clements Community Center were used as collateral on a previous project. He stated that the Lakewood Link Recreation Center could also now be used as collateral.

Michael Lund, Financial Advisor with Stifel – He stated that there were some restrictions placed on the golf course. He stated that banks do not place much value on golf courses as a leased asset as they are not essential to the City's operations.

Cory Kalanick, Legal Consultant with Sherman & Howard – He stated that the collateral would need to be equivalent to the value of the lease. He stated that the Lakewood Link was equal in value to the lease.

Bieda – He asked if the income generated by the Lakewood Link acts as collateral for the loan.

Kalanick – He stated that was correct. He provided an overview of the leasing process.

Able – He stated that Fox Hollow was operated using an enterprise fund. He asked how the Lakewood Link, which is operated utilizing the City's general fund, could be utilized as collateral for a facility operating on an enterprise fund.

Kalanick – He stated that his firm worked through the collateral legal issues with the City.

Able – He asked for further clarification.

Cox – He stated that the primary restriction on enterprise funds cannot get more than 10% of revenue from non-enterprise sources.

Able – He stated that he was concerned that there was a possibility for a general fund property to cover the debts of an enterprise fund property if it were to ever go into forfeiture.

Kalanick – He stated that in the event of forfeiture, the lender would have access to the collateral property through the end of the agreement in 2024 and then would return it to the City.

Mayor Paul – He stated that similar properties connected to enterprise funds use general fund properties as collateral. He stated that posing the question on the use of collateral prior to the meeting would have made it easier to gather information on the issue.

Able – He stated that he was concerned with the collateral process in all instances. He stated that he did not think of the question until the current meeting and would still like to have an answer.

Mayor Paul – He stated that City staff worked diligently on the issue and that any issues with the process would have been identified.

Able – He stated that he would like further clarification on the issue.

Cox – He stated that he had reached out to Greg Graham, Deputy City Attorney for further clarification. He stated that he was only aware on the revenue restrictions for enterprise funds.

Kalanick – He stated that he did not believe that there were any threats to the facility's enterprise status.

Hodgson – She stated that Holly Björklund, Chief Financial Officer is present at the meeting as well. She stated that the collateral practice is standard in Jefferson County as well.

Bieda – He stated that the issue focused on pledging an asset of the City to pay the enterprise's own debt. He stated that the lease payments that are the collateral, and not the facility itself. He stated that he would have appreciated a presentation on the issue for further clarification as well.

Able – He thanked Council member Bieda for the clarification.

Hodgson – She stated that Council should reach out in advance if the posted presentation raises any questions. She stated that staff is more than willing to provide further clarification to Council when it is needed.

Vote on Ordinance O-2020-22:

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN		X
ABLE	X		FRANKS	X	
VINCENT	X		JOHNSON	X	
GUTWEIN	X		LABURE	X	
BIEDA	X		HARRISON	ABSENT	
SKILLING	X				
TOTAL				9	1

The motion passed

ITEM 19 – ORDINANCE O-2020-23 – AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE 2020-2021 CITY OF LAKEWOOD ANNUAL HEAD START GRANT IN THE AMOUNT OF \$96,669 IN FUNDS DISTRIBUTED BY THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, ADMINISTRATION FOR CHILDREN AND FAMILIES, FROM OFFICE OF HEAD START

Public Comment: None.

A motion was made by Council member Skilling to approve the Ordinance O-2020-23. It was seconded.

Council Discussion: None.

Vote on Ordinance O-2020-23:

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN	X	
ABLE	X		FRANKS	X	
VINCENT	X		JOHNSON	X	
GUTWEIN	X		LABURE	X	
BIEDA	X		HARRISON	ABSENT	
SKILLING	X				
TOTAL				10	0

The motion passed

ITEM 20 – GENERAL BUSINESS

Council Discussion:

Council member Vincent – She asked when Council was required to remain neutral on upcoming ballot issues.

Cox – He stated that the Fair Campaign Practices Act restricts public entities and officials from advocating on upcoming ballot issues. He stated that once the ballot title has been set that the restrictions of the Act take effect. He stated that there are several steps that the ballot issue goes through until the ballot title has been set.

Michele Millard, City Clerk – She stated that staff could create a timeline for Council's reference. She stated that the ballot's content would be approved on September 4, 2020.

Cox – He stated that staff will also update a dos and don'ts memo for Council's reference.

Mayor Paul – He stated that Council could advocate for the issue but could not do so by expending City resources. He stated that there was a process for Council to formally announce its position on a ballot issue as well. He asked how virtual meetings would be accounted for regarding definitions on expenditures.

Cox – He stated that there are new ways in which the outcomes of elections can be influenced. He stated that there were restrictions on the use of City resources for the purpose of advocating for or against ballot issues or candidates. He stated that Council can use its ordinary resolution process to formally advocate or argue against a ballot issue. He stated that Council and staff are permitted to speak out on ballot issues so long as it is outside of their official capacity within the City. He stated that at a previous Council meeting, a Council member demonstrated support for a candidate. He stated that a hearing officer could not quantify the City's expenditures for the time the council member advocated for the candidate. He urged Council to take extra caution when addressing ballot issues, as any utilization of City funds to do so would likely lead to a lengthy legal process.

Johnson – She stated that her upcoming public seminar on marijuana did not utilize any City resources or funds.

Vincent – She stated that she did not mean the question to be directed.

CITY COUNCIL AGENDA ITEM REQUEST FOR CONSIDERATION #1

LaBure – He stated that Lakewood previously had signage acknowledging that the City was building an inclusive community. He stated that given the current state of the world that it would be in Council's best interest to ensure that the signs are restored. He stated that the signage could be a catalyst to encourage further Council discussions on building inclusivity in the City going forward.

Gutwein – She stated that the messaging from the signs has resonated within the community. She stated that the inclusive message is even more important given recent events in the world and country. She stated that she hopes that the signage leads to further discussion on the issue of inclusivity. She stated that she did not believe it would require a significant cost to replace the signs.

Hodgson – She stated that the signs were replaced with several different models of new signage. She stated that the original 13 signs were over 20 years old and were a result of a National League of Cities campaign. She stated that to replace the signs that the City anticipated a total cost of \$2,000. She stated that the City would produce the new signs in-house and replaced by staff. She stated that a placard could also be placed on the signs, although it would be costlier and that the signage would be smaller as a result and would require contactor assistance.

Mayor Paul – He stated that the signs were replaced as a result of a City-wide rebranding several years ago. He stated that the removal of the signs was likely an unintended consequence of the rebranding. He stated that he and Council member Gutwein met with former Mayor Steve Burkholder who spearheaded the campaign. He stated that it may also be helpful to invite the community to refresh the saying as well.

Able – He stated that he supported the effort to reimplement the signage. He stated that he believed that the cost to replace the signs outweighed the potential for the signage to encourage future discussions on building an inclusive community.

Johnson – She stated that she supported sending the issue to the Lakewood Advisory Commission for further discussion. She stated that she was concerned in supporting the issue given recent budget concerns. She stated that she supported allowing the community to provide input on the issue.

Bieda – He stated that he believed Lakewood was an inclusive community. He stated that the diversity of the community has increased since the 1950s and 1960s. He stated that he did not believe that the community needed to be reminded that the City was an inclusive community and that it was excessive. He stated that Council previously approved a way in which to welcome visitors to the City and that the signs were no longer needed.

Springsteen – She stated that she supported any means to encourage inclusivity. She stated that true inclusivity would require further reforms to public policy and policing within the City. She stated that she supported acting against the use of ketamine in the City's police department. She stated that she supported making further attempts at including all of the residents in the City.

Gutwein – She thanked everyone for their participation in the conversation. She stated that discussions of inclusivity could not start and stop with the replacement of the signage.

LaBure – He stated that he supported the replacement of the signage as well as broader conversations on how to approach inclusivity moving forward.

Skilling – He asked if Council would be voting to act or reaching consensus to move the consideration forward. He asked what the next steps in the process would look like.

Cox – He stated that the items are introduced to see if there was interest in bringing the issue forward as an action issue in the future. He stated that consensus would likely be enough to move the issue forward.

Hodgson – She stated that the signs are part of the usual duties of Public Works staff and would not require a formal Council action to implement. She stated that she was unsure of a time frame given the department's staffing issues, but the department's priorities could be shifted. She asked if the signs would be placed in the same locations and if the wording would be the same on the signage.

Mayor Paul – He stated that he supported the replacement of the signage. He stated that the signage may need a refresh and would be a part of a larger discussion on how to reinforce the message behind the signage.

Hodgson – She asked how Council would like staff to design and replace the signs. She asked Council what they would prefer the wording to be, the size, and location.

Franks – She asked if Council members Gutwein and LaBure were receptive to coming back to Council with reaching out to the community and bringing Council back a plan to reimplement the signage.

Hodgson – She stated that the Planning Department presented a new signage plan to Council that included removing the inclusive signs. She stated that she was hesitant to move forward without further direction to avoid any miscommunication.

Skilling – He stated that there are still details that need to be figured out. He stated that staff should bring forward a resolution and that Council members Gutwein and LaBure could work alongside staff to determine a plan moving forward. He stated that there was consensus to bring the signs back and that there were possibilities to change the signs further in the future.

There was consensus from Council to follow Council member Skilling's proposal.

CITY COUNCIL AGENDA ITEM REQUEST FOR CONSIDERATION #2

Johnson – She stated that her request for Council consideration was centered on the usage of illegal fireworks and utilizing the Lakewood Advisory Commission to determine solutions to the issue.

Skilling – He stated that he supported sending LAC an assignment to further research the issue. He stated that he would rather provide the assignment without a list of questions as is currently proposed.

Johnson – She stated that the list was not inclusive. She stated that the list of questions was a starting point for topics LAC could be considered.

LaBure – He stated that he supported giving the assignment to LAC. He stated that he had been contacted more on the firework issue than any other issue since he joined City Council.

There was consensus to send the assignment to the Lakewood Advisory Commission.

CITY COUNCIL AGENDA ITEM REQUEST FOR CONSIDERATION #3

Able – He stated that a constituent approached him regarding recent ethics concerns on City Council. He stated that a previous Council had created a City Council Code of Conduct, but Council did not have a code of ethics. He stated that he believed that the City would benefit from the increased transparency that a Code of Ethics would bring.

Mayor Paul – He asked if it would be possible for Council as a body to determine a Code of Ethics rather than a single ad-hoc committee.

Able – He stated that he believed that the process would be more efficient in an ad-hoc committee as it would also allow increased participation from the community. He stated that he was open to how Council wanted to approach the issue.

Bieda – He stated that he was supportive of Council member Able's request. He asked for further clarification on the difference between Council's existing Code of Conduct and the proposed Code of Ethics.

Able – He stated that the Code of Conduct was designed to regulate how Council conducted itself in public meetings and appearances. He stated that the Code of Ethics would allow for a greater level of transparency on Council. He stated that the transparency should help to build greater public trust in Council.

Bieda – He asked if there was a way to implement the Code of Ethics within the Code of Conduct so that it was one, single document. He stated that Council could evaluate ethics rules of other municipalities as a starting point.

Able – He stated that the documents could be combined. He stated that he desired to complete the project before he leaves office.

Franks – She stated that other municipalities offer a baseline for a Code of Ethics which may help to expedite the process.

LaBure – He stated that the City of Denver has stringent ethics rules that the City currently lacks. He stated that he supported the request.

Cox – He stated that there are several municipalities that the City should look at for guidance. He stated that the City adopted a Code of Ethics derived from provisions of current state law. He stated that the ethics rules only address financial matters and not to the current scope of Council member Able's request.

Gutwein – She stated that she supported the request.

Able – He stated that his request was not firmly rooted in one individual process but in concept.

Hodgson – She stated that discussions on a Code of Ethics could be discussed at the upcoming 2021 Annual Planning Session.

Skilling – He stated that he supported holding a discussion on the issue at the 2021 Annual Planning Session. He stated that the session would not allow for public comment.

Able – He stated that he did not believe that there was not enough time at the Annual Planning Session to resolve the issue. He stated that the time frame to wait for the Annual Planning Session would be too long.

Mayor Paul – He asked how the request would work inside of City Manager Kathy Hodgson's current workload.

Hodgson – She stated that staff would only need to provide a support role to Council. She stated that the decision remains ultimately with Council.

Mayor Paul – He asked if there was consensus to move forward with the request. He asked if Council member Able wanted to proceed with a committee composed of a Council member from each ward.

Able – He stated that he preferred that one Council member from each ward be placed on the committee. He stated that he preferred that the committee be composed of an odd number of members to prevent deadlocks. He stated that Mayor Paul could also serve on the committee to offer guidance and advice.

Mayor Paul – He stated that Council could find consensus to move forward with the issue and figure out the logistics for the committee later. He stated that he would like to be involved as he was elected to represent the whole of the City.

CITY COUNCIL AGENDA ITEM REQUEST FOR CONSIDERATION #4

Gutwein – She stated that Council set the addressing of homelessness as a top priority. She stated that homelessness continues to become more severe within the City. She

asked what the City and County's plans are to address homelessness. She stated that the best way to proceed would be to host a City Council Study Session to receive an update on all the efforts ongoing to address homelessness. She stated that she wanted to see the City continue progress on its efforts to address the issue.

Mayor Paul – He stated that Council's greatest ability is to lobby organizations with more resources to address the issue. He stated that an update from staff could be helpful on the issue before creating a Study Session.

Johnson – She stated that she believed Jefferson County and several cities were involved in a homelessness task force. She stated that she believed that there was property being evaluated for use as a homeless shelter. She asked for reports on Denver's shelter capacities and functions. She stated that there are several locations in Denver that still have availability. She stated that homelessness is increasingly more complex and Lakewood could look to other municipalities for guidance on the issue.

LaBure – He stated that the issue will require a metro area-wide solution. He stated that the issue continues to grow due to COVID-19. He stated that many day shelters are currently closed due to COVID concerns. He stated that he would be interested in receiving updates from staff on the issue in the future. He stated that he believed it would be beneficial for the City to invest in the issue. He stated that Council should look to engage organizations in helping the City to address the problem.

Mayor Paul – He stated that an update would be a good start to addressing the issue going forward.

Able – He stated that the issue has been long discussed by Council. He stated that he supported Council taking a greater stand on the approach. He stated that Council and the City need to take initiative on the issue. He stated that the City appears to have initial success with its implementation of Homeless Navigators.

Mayor Paul – He stated that he believes Lakewood has led neighboring communities in addressing the issue. He stated that once Council sees how much the City has done to address the issue it may change its perspective.

Hodgson – She stated that there is a quarterly meeting with the Jefferson County Board of Commissioners will feature updates from various cities on homelessness. She stated that the City has spent \$370,000 in COVID funds to address the issue. She stated that the role of the recently hired Homeless Navigators has grown increasingly more important in the wake of COVID. She stated that she would be happy to provide an update to City Council on the issue.

LaBure – He stated that he believed the City has done a great job addressing the issue. He stated that there are several components of the issue that the City could help to address.

Gutwein – She stated that she appreciates the work done by the City to address the issue. She stated that she did not intend for the request to appear as if the City was not doing enough to address the issue.

ITEM 21 – MAYOR AND CITY COUNCIL REPORTS

Mayor Paul and City Council Members reported their attendance at previous meetings and events and announced upcoming neighborhood meetings and events.

ITEM 22 – ADJOURNMENT

There being no further business to come before City Council, Mayor Paul adjourned the meeting at 11:03 p.m.

Respectfully submitted,

Bernadette Y. Salazar, Deputy City Clerk



**MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF LAKEWOOD**

7:00 P.M

September 28, 2020

Minutes are not a verbatim transcription, but rather an attempt to capture the intent of the speaker by the City Clerk.

ITEM 1 – CALL TO ORDER

Mayor Paul called the **VIRTUAL MEETING** to order at 7:00 p.m.

ITEM 2 – ROLL CALL

Those present were: Mayor Adam Paul, Presiding

Charley Able
Sharon Vincent
Dana Gutwein
Mike Bieda
David Skilling
Anita Springsteen
Barb Franks
Ramey Johnson
Jacob LaBure
Karen Harrison

Absent: None.

Others in attendance: Kathy Hodgson, City Manager, Ben Goldstein, Deputy City Manager, and Tim Cox, City Attorney

Full and timely notice of this City Council meeting had been given and a quorum was present.

ITEM 3 – PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited, and there was a moment for silent prayer.

ITEM 4 – PROCLAMATION – NATIONAL CYBER SECURITY AWARENESS MONTH

Mayor Paul – Thanked the City's IT Department for bringing the proclamation forward. He stated that the Federal Government of the United States, the US Department of Homeland Security, the Multistate Sharing and Awareness Center, and the National Security Alliance all recognize October as National Cybersecurity Awareness Month and

that all citizens are encouraged to visit their corresponding websites and participate in the Stop, Think, Connect campaign.

ITEM 5 – PUBLIC COMMENT

None.

ITEM 6 – EXECUTIVE REPORT

Kathy Hodgson, City Manager, gave her executive report:

- She congratulated the Lakewood Police Department on receiving two grants. She stated that the department was awarded the \$82,987.04 Speed and Safety Enforcement Grant and the \$70,000 Pedestrian Safety Campaign grant. She thanked Sergeant Brian Lovejoy for his work applying for the grants.
- She stated that the City received 69 applicants for the City Clerk position and narrowed the search to 7 applicants and hopes the position will be filled by the end of 2020. She stated that Deputy City Manager Ben Goldstein will be serving as the interim City Clerk during the transition.
- She stated that Jefferson County has approved the City's second half of the \$12.3 million dollars that it received through the CARES Act.
- She stated that the City has had 3 cases of COVID-19.
- She stated that golf revenue is up 26% from 2019 figures. She stated that rounds purchased through August is up 24.4% and playable days are only up 3.7%.

ITEM 17 was moved by Mayor Paul

ITEM 17 – GENERAL BUSINESS

MOTION TO EXTEND EMERGENCY DECLARATION – I MOVE TO EXTEND THE DECLARATION OF DISASTER IN THE CITY OF LAKEWOOD COLORADO RESULTING FROM THE CORONAVIRUS/COVID-19 PANDEMIC, PURSUANT TO SECTION 1.27 OF THE LAKEWOOD MUNICIPAL CODE, ORIGINALLY DECLARED BY PROCLAMATION OF THE LAKEWOOD CITY MANAGER ON MARCH 17, 2020, EXTENDED BY MAJORITY VOTE OF THE CITY COUNCIL ON MULTIPLE OCCASIONS, AND BY THIS MOTION EXTENDED AGAIN UNTIL OCTOBER 12, 2020, UNLESS EARLIER EXTENDED OR TERMINATED BY THE CITY COUNCIL

Council member Skilling made a motion to extend the Emergency Declaration. It was seconded.

Council member Johnson – She asked how much more money Lakewood anticipates to receive from the remaining state funding.

Hodgson – She stated that she was unsure if more funding would be given to the City from the County. She stated that she is unsure of any additional funding that the City may

receive from Jefferson County. She stated that if the County is unable to spend its funding by the end of the year that it may give more funds to Cities.

Johnson – She asked if Congress was deliberating a new aid package that entailed trillions of dollars.

Hodgson – She stated that she was not aware of the newest negotiations.

Mayor Paul – He stated that City Council continued to work with its federal partners to relay the needs of the City forward. He stated that no one was sure of the extent of federal support.

Johnson – She asked if the City was guaranteed the money that was committed to it from the County.

Hodgson – She stated that was correct.

Mayor Paul – He stated that per the Executive Report that the remaining CARES Act funds from the County were recommitted to the City.

Hodgson – She reiterated that there are a lot of moving parts in the equation. She stated that one of the most prolific rumors is the extension of the date in which all CARES Act dollars need to be spent. She stated that if additional funding sources are identified that the City will pursue them.

Johnson – She asked if the funding sources discussed were from the County and not from Congress.

Hodgson – She stated that the funds are primarily being distributed from the County but if Congress intended to distribute additional funding that she would update Council.

Vote on the Emergency Declaration extension:

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN		X
ABLE	X		FRANKS	X	
VINCENT	X		JOHNSON		X
GUTWEIN	X		LABURE	X	
BIEDA	X		HARRISON	X	
SKILLING	X				
TOTAL				9	2

The motion passed.

CONSENT AGENDA

Deputy City Clerk Bernadette Salazar read the Consent Agenda into the record. The Consent Agenda consists of Item 7 to 12, inclusive.

ITEM 7 – RESOLUTION 2020-34 – APPROVING THE 2021 OPERATING PLAN AND 2021 BUDGET FOR THE LAKEWOOD-WEST COLFAX BUSINESS IMPROVEMENT DISTRICT

ITEM 8 – RESOLUTION 2020-35 – APPROVING THE 2021 OPERATING PLAN, 2021 BUDGET, AND RE-APPOINTMENT NOMINATIONS TO THE BOARD OF DIRECTORS FOR THE ALAMEDA CORRIDOR BUSINESS IMPROVEMENT DISTRICT

ITEM 9 – RESOLUTION 2020-36 – AUTHORIZING THE AMENDMENT OF THE CITY OF LAKEWOOD EMPLOYEES MONEY PURCHASE PENSION PLAN AND TRUST AGREEMENT

ITEM 10 – RESOLUTION 2020-37 – ADOPTING THIRD AMENDMENT TO CITY OF LAKEWOOD DEFERRED COMPENSATION PLAN AND TRUST AGREEMENT

ITEM 11 – RESOLUTION 2020-38 – AUTHORIZING THE AMENDMENT OF THE CITY OF LAKEWOOD POLICE MONEY PURCHASE PENSION PLAN AND TRUST AGREEMENT

ITEM 12 – APPROVING MINUTES OF CITY COUNCIL MEETINGS

City Council Meeting
City Council Special Meeting

June 22, 2020
July 13, 2020

A motion was made by Council member Skilling to approve Council Minutes, and to adopt resolutions, all of which are included in the Consent Agenda Items, for the record and introduced by the Deputy City Clerk. It was seconded.

Public Comment:

None.

Council Discussion:

None.

Vote on Consent Agenda:

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN	X	
ABLE	X		FRANKS	X	
VINCENT	X		JOHNSON	X	
GUTWEIN	X		LABURE	X	
BIEDA	X		HARRISON	X	
SKILLING	X				
			TOTAL	11	0

The motion passed.

END OF CONSENT AGENDA

RESOLUTIONS

ITEM 13 – RESOLUTION 2020-39 – APPROVING A CHAPTER 14.27 BLIGHT DESIGNATION PURSUANT TO CHAPTER 14.27 OF THE LAKEWOOD MUNICIPAL CODE FOR PROPERTIES LOCATED AT 5910 W 14TH AVENUE AND 1395 GRAY STREET, 1390 HARLAN STREET, AND 1385 GRAY STREET IN LAKEWOOD, COLORADO

Robert Smith, Economic Development Director – He stated that Resolution 2020-7 lays out the definition of Blight for Chapter 14.27 for Urban renewal areas in the City and for property owners outside of those areas. He stated that the applicants were aware of all elements present in the resolution to properly define a property as blighted. He stated that there are three single family homes and an apartment building with accessory storage units that are currently nominated for the blighted definition. He stated that the properties are adjacent to the existing West Colfax urban renewal area and to the 40 West Art Line. He stated that the properties are also within the Colorado State Enterprise Zone, Federal Opportunity Zone, the Community Development Block Grant Area, and the Lower Income Housing Census Tract. He stated that the blight definition will not change the zoning of each property. He stated that the public comment left on Lakewood Speaks by four residents showed that all four residents did not support the resolution.

Elyse Dinnocenzo, Principal Land Planning Representative – She provided a blight study summary for the properties on Gray, Harlan, and 14th Avenue. She provided a background of her work in blighted areas in Idaho Springs and Golden. She stated that the properties are all adjacent to Lakewood's highest crime area on West-Colfax. She stated that the properties at 1390 Harlan Street, 1395 Gray Street, and 1385 Gray Street were zoned as single family development with accessory structures and that the property at 5910 W 14th Avenue was zoned as a multi family residence. She stated that the

methodology followed to conduct the blight study was based on the Golden Urban Renewal Authority (GURA) blight studies. She stated that the GURA blight studies followed *Colorado Revised Statute 32-25-103(2)* and rely on a list of physical conditions per blight factor and the finding of significant blight factor presence and provided a summary of the factors present in the properties. She stated that the parcels met seven blight factors which included slum, deteriorated, or deteriorating structures, unsanitary or unsafe conditions, deterioration of site or other improvements, unusual topography or inadequate public improvements or utilities, existence of conditions that endanger life or property by fire or other causes, buildings that are unsafe or unhealthy for persons to live or work in, and the existence of health, safety or welfare factors requiring high levels of municipal services. She stated that the study's recommended that the properties be identified as blighted.

Chad Mulliniks, Property Owner – He stated that the properties were obtained for redevelopment in 2018/2019 prior to the implementation of the Strategic Growth Initiative. He stated that he believes the proposed development for the property aligns with the intent of the Residential Growth Limitations to encourage redevelopment of blighted and distressed areas. He stated that the owners desired a justice-oriented and equity-based development on the properties. He stated that the development would feature a mixed-income development that would include a mix of building types and sizes. He stated that he and his wife are supporting the development largely on their own.

Public Comment: None.

Council Discussion:

Council member Vincent – She stated that if the properties were not designated as blighted that there was little hope any other property in Lakewood could successfully be designated as blight. She stated that the neighborhood and several churches are in favor of its redevelopment.

Council member LaBure – He stated that it was not Council's objective to blight as many areas as possible. He stated that this property would benefit from the designation. He stated that he supported the designation and Chad Mulliniks' work within his neighborhood.

Council member Skilling – He stated that there was a concern for blighted properties being used differently from their original purpose. He stated that this did not appear to be the case, but stated that he supported requiring that the property to remain a mixed-income development to earn the designation and locking the designation to the current ownership.

Mullinicks – He stated that he has been involved in several properties that were mixed-income and welcomed Council to come and tour them.

Mayor Paul – He stated that Council member Skilling's question was centered on if Council should require that the property remain mixed-income to be granted the blight designation.

Mullinicks – He stated that he is focused on a mixed-income development. He stated that he was open to further suggestions on the property as well.

Council member Franks – She thanked staff and the applicants for the in-depth information. She stated that there is a process issue for the blight designation given the significant cost to obtain allocations to redevelop the property without any proper assurances that they will obtain them going forward.

Council member Gutwein – She thanked staff and the applicants for the information they provided. She stated that it would be difficult to argue that the properties are not blighted and are inside of a designated property zone. She stated that she supported the development. She stated that she supported a mixed-income and equity-based development in the City and encouraged similar developments going forward. She stated that she was disappointed with the public comment submitted prior to the start of the meeting and stated that the area was in significant need of redevelopment.

Council member Harrison – She stated that she supported the blight designation as well. She stated that she supported a deed restriction that required a separate 10% for low-income and veterans in the future.

Council member Johnson – She stated that she spoke to neighbors that lived near the properties who were unaware of the proposed blight designation. She stated that the residents nearby also stated that the properties were also still occupied. She asked if there was a record of the calls made to Code Enforcement regarding the properties and the results of the visits. She stated that it appears that the City is encouraging the development of blight and that property owners should be encouraged to care for their properties. She stated that the blight designation would permit the applicant to circumvent the Strategic Growth Initiative that would allow for more development to take place against the will of the voters. She asked how many units the developer intended to build on the property. She asked how the development would address crime, sewer issues, and traffic. She stated that she would not support the designation.

Mayor Paul – He stated that the entitlements would not change on the property.

Mullinicks – He stated the redevelopment of the property fell directly into the intent of the voters who passed the Strategic Growth Initiative.

Council member Able – He stated that he was conflicted on his support for the program. He stated that it was the responsibility of the property owner to maintain the property they own but the property was in dire need of repair. He stated that he was concerned that the property owner may not proceed as promised with the development that they were

concerned. He stated that other property owners have attempted to circumvent the Strategic Growth Initiative utilizing the process.

Council member Springsteen – She stated that the area that surrounds the property has been the subject of gentrification in recent years. She stated that the intent of the owners was to profit on the property. She stated that the property would not properly combat gentrification in the area. She stated that blighting the property would cause significant issues to the neighbors as well. She stated that the proposal was an attempt to circumvent the Strategic Growth Initiative. She stated that she believed that Code Enforcement was being utilized as a political tool. She asked how many properties Elyse Dinnocenzo had determined were not blighted previously and who enlisted her services.

Mayor Paul – He stated that Council was not present to vilify the applicants. He stated that Code Enforcement was not being utilized as a political tool and that they addressed calls as they came in.

Council member Bieda – He stated that he believed that the owner can move forward with his intention without a blight designation. He stated that it was Council's obligation to abide by the Strategic Growth Initiative. He stated that he did not support the designation.

Vincent – She stated that the neighborhood has dealt with significant blight issues and that the neighborhood requested further mixed-use developments. She stated that it was not her intent to support excessive blighting.

LaBure – He stated that his intent to support the blight designation was not politically driven. He stated that Code Enforcement cannot be blamed for enforcing the rules that are created by City Council. He encouraged Council to ride with Lakewood Police Department to understand the issues that the neighborhood is afflicted by.

A motion was made by Council member Skilling to approve the Ordinance O-2020-24. It was seconded.

Skilling – He stated that Council should address the process for blight if it needs to do so, he believed it was important to implement restrictions on the development. He stated that he supported requiring that the property be developed as mixed-use to ensure the property is properly developed.

The motion and second to approve the Ordinance O-2020-24 was withdrawn.

A motion was made by Council member Skilling to approve the Resolution R-2020-39. It was seconded.

Johnson – She stated that she would like further clarification on why Code Enforcement did not want to visit the property. She stated that the area needed development, but she did not support moving forward on additional high-density housing.

Harrison – She stated that Council could not walk back its intent to encourage the redevelopment of blighted properties as outlined in the Strategic Growth Initiative. She reiterated her support for the designation.

Able – He stated he believed the project could proceed with allocations. He stated that he would not support the project.

Springsteen – She stated her concern with how poor residents have been addressed. She asked where the current residents of the homes would go if the property were to be redeveloped. She asked again if the applicants had conducted a study that found that a property was not blighted.

Mayor Paul – He stated that those concerns could have been submitted prior to the meeting.

Skilling – He stated that he would encourage an amendment to require that the property stay under the same owner and be developed in 5 years. He stated that he would also support an amendment that would require mixed use if the blight designation was approved.

LaBure – He stated that he was willing to move forward with a motion.

Smith – He stated that the 5-year requirement is already attached to the resolution and would not need to be included as an amendment.

Council member Skilling made a motion to amend Resolution 2020-39 require a mixed-use component on the development. It was seconded.

Gutwein – She asked how Council will define the mixed-use component.

Tim Cox, City Attorney – He stated that he did not believe that the ordinance provided for the restrictions on use that were suggested by Council member Skilling. He stated that he was unsure that Council could place further limitations outside of those discussed in the City's current ordinances.

Franks - She stated that the proposed amendment would be for the current owner and that they would need to develop under the current owner or have a total of five years to complete the project.

Cox – He stated that language was satisfactory. He stated that his concern stemmed from mandating zoning usage on the property since the owners did not know of those zoning limitations prior to applying.

Franks – She stated that there was a process issue that Council would need to address regarding the blight ordinance outside of the meeting to address the concerns Council had in ensuring that developers follow through with their intended use for the property.

Bieda – He stated that the concerns City Attorney Cox brought forward were another reason to deny the request.

Council member Skilling made a motion to amend the original amendment to state that the applicant would be required to develop the property in five years and under the same owner. It was seconded.

Vote on the amendment to Resolution 2020-39:

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN		X
ABLE		X	FRANKS	X	
VINCENT	X		JOHNSON	X	
GUTWEIN	X		LABURE	X	
BIEDA	X		HARRISON	X	
SKILLING	X				
			TOTAL	9	2

The motion passed

Mayor Paul – He stated that the further restrictions and process issues Council attempted to address could be evaluated by the Development Dialogue Committee going forward. He asked for any other amendments before voting on the Resolution.

Cox – He stated that Council would need to make a motion to adopt the resolution as amended.

Council member Skilling made a motion to adopt Resolution 2020-39 as amended. It was seconded.

Vote on Resolution 2020-39 as amended:

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN		X
ABLE		X	FRANKS		X
VINCENT	X		JOHNSON		X
GUTWEIN	X		LABURE	X	
BIEDA		X	HARRISON	X	
SKILLING	X				
			TOTAL	6	5

The motion passed

ITEM 14 – CONTINUED RESOLUTION 2020-23 – AUTHORIZING ALLOCATIONS FOR 533 VAN GORDON STREET, LAKEWOOD, CO 80228

Paul Rice, Planning Manager – He shared a presentation on 533 Van Gordon Street and the allocation process. He shared a history of building permits issued from 2014-2019 for all properties in Lakewood. He provided estimates for the number of dwelling units from 2010-2019 based on permits issued by the City. He stated that on average three new jobs were created for each residential unit that was built. He stated that the previous housing study conducted ended in 2015, but was extended to accommodate 2016-2019's development data. He stated that the new data determined that the study found that an average of 2.5 jobs were created per each new development. He stated that there are currently 192 allocations remaining for the year.

Public Comment:

Matt – He stated that he did not have enough time to provide public comment for the previous item on the agenda. He stated that it would be beneficial to have more time to share comment.

Kathryn Costanza – Lakewood Resident – She stated there is a need for affordable housing in Ward 1. She stated that there is no impact on anyone's residential views from the construction of the property. She stated that there is already limited parking in the area already and that Council would need to address that issue moving forward. She stated that the allocations be utilized for inclusionary zoning and for mixed use zoning. She stated that recent luxury home developments have not improved the needs for affordable housing in the area.

Janet Draper – Lakewood Resident – She stated that she was attempting to pool her time with other residents to share comment on the issue.

Council Discussion:

Able – He stated that for the allocations to be approved that there must be an unmet need. He stated that he agreed that there was an unmet need for affordable housing in the area. He stated that there was not a need for market need housing. He stated that he had some concerns with job numbers that were presented. He stated that the job data was an estimate based on previous years of employment data. He stated that the data did not appear to grow substantially over previous years. He stated that traffic was likely to worsen in the area if the development were to go through.

Johnson – She stated that she was unclear on whether a public hearing was ever held for the property. She stated that all 13 comments provided on Lakewood Speaks were in opposition to the development. She stated that the Planning Commission is creating a new Neighborhood Vision plan that could alter how development is approached in the area. She stated that water, sewer, infrastructure, and traffic impacts would need to be considered moving forward. She stated that residential developments in the Union

corridor continue to take land away from commercial developments. She stated that she did not believe that there was an unmet need in the area for another high-rise residential building in the area. She stated that the housing study may not consider the impacts of COVID now and in the future. She stated that there may be better developments that would consider the impacts of COVID.

Bieda – He stated that members of the public are having issues entering the meeting

Skilling – He stated that Council should extend public comment due to the issues the public is having. He stated that this is the first banking plan that Council has reviewed. He stated that the development does not stem from Council, but from the landowner itself. He stated that the heart of the issues is if there is an unmet community need that the development addresses. He stated that he did not believe there was an immediate need met.

Springsteen – She stated that staff promised to share a presentation on the issue. She stated that the public has pooled time and that public comment needs to be extended on the issue.

Public Comment:

David Wiechmann – Lakewood Resident – He stated that he needed City staff to share the presentation he provided. He played a presentation that presented opposition to the banking plan at 533 Van Gordon Street. He stated that there was not a pressing community need for the development.

Council Discussion:

Gutwein – She asked for clarification on the residential growth cap, particularly concerning the distribution of allocations not utilized in a year. She stated that allocations were still available.

Cox – He stated that the ordinance requires Council to determine if the banking plan would prejudice the allocation process in its implementation and met an unmet community need or if insufficient allocations were distributed to exist those available in the current year.

Rice – He stated that the applicant has proposed to limit the number of allocations requested per year to 78 over 5 years. He stated that the plan provided sufficient allocations for other developments in the City.

Cox – He stated that there could not be more than 40 units per year unless it could be proven that it would not prejudice the allocation process. He stated projects would need to demonstrate an unmet public need, and that there would not be insufficient allocations for the calendar year.

Rice – He stated that was correct.

Gutwein – She asked if the development was not permitted to utilize all allocations in a calendar year.

Cox – He stated that the wording of the ordinance states that developments have not exhausted all allocations in the calendar year.

Gutwein – She asked what prejudicing the allocation process entailed.

Travis Parker, Planning Director – He stated that it meant that there were remaining allocations for the calendar year that were not applied for. He stated that meant that if the application did not exist all of the allocations in a calendar year that it met one of the requirements.

Gutwein – She reiterated her question regarding prejudicing the allocation process.

Parker – He stated that the issue has not been defined in depth.

Gutwein – She suggested the Development Dialogue Committee address the issue going forward.

Cox – He stated the standard requires that the allocation applications not prejudice the process. He stated that without a written definition, that Council had wide authority to determine what may prejudice the allocation process.

Gutwein – She stated that there were currently only 88 homes currently available for sale in Lakewood under \$300,000. She stated that it is unbelievably difficult for younger residents to attempt to purchase homes in Lakewood. She stated that a recent Pulse poll found that 91% of respondents believed that the price of housing was a problem that needed to be addressed and 74% are afraid of losing housing. She stated that she did not believe that there was adequate housing in the City. She stated that commercial real estate has suffered due to COVID-19. She stated that commercial property could not be built on the property anyway due to its current zoning. She stated that she believed there was an unmet community need for the property. She asked what the process is for developers to build under banking plans.

Able – He stated that banking would not be applicable to this project. He stated that the housing study stated that the housing type least in demand in Lakewood was multifamily housing. He said that there was not an unmet need or enough allocations available to build the development.

Bieda – He stated that the first threshold is for Council to find that there is no prejudice to the allocation system. He stated that it is impossible for Council to determine the impact to the process five years into the future. He stated that the average price of a home in Denver is \$650,000. He stated that Lakewood's homes are far more affordable than other neighboring communities.

Gutwein – She stated that the costs she provided were for apartments and condos for sale in the City. She stated that single family housing costs were substantially higher in Lakewood.

Blovodovich – He stated that the site plan exists as the development began before the Strategic Growth Initiative was implemented. He stated that traffic studies were conducted previously and that the study found that there were no required changes to the infrastructure around the development. He stated that utilities were also aware of the development and stated that they would be able to sufficiently meet the needs of the development. He stated that the Lakewood Comprehensive Plan deemed the property the best fit for high density housing. He stated that the development is not outside of the zoning requirements from the property. He stated that the housing study found that there is a need for the development. He stated that the developers have collected data that found that high density residential properties are in demand. He stated that with an increase of apartments that apartments in the City will also become more affordable. He stated that changes in lifestyle that come with COVID-19 have pushed individuals toward Lakewood to become closer to its amenities and that high-density housing contributes to some of the goals listed in the growth ordinance. He stated that he did not believe the property was part of the Union neighborhood plan. He stated that purchasing homes was far from affordable and that the housing market fluctuates. He stated that the developer would also move forward with additional community engagement.

Springsteen – She stated that an increase of apartment complexes would not bring down the price of homes. She stated that she did not believe that high density housing would not increase open space and Council should listen to the voters on the issue.

Council member Vincent made a motion to call the question. It was seconded.

Vote to call the question:

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN	X	
ABLE		X	FRANKS		X
VINCENT	X		JOHNSON	X	
GUTWEIN		X	LABURE	X	
BIEDA		X	HARRISON	X	
SKILLING		X			
			TOTAL	6	5

The motion passed.

A motion was made by Council member Skilling to approve the Resolution 2020-23. It was seconded.

Skilling – He stated that there could be prejudice toward the process given the uncertainty regarding allocations in 5 years.

Mayor Paul – He thanked the applicant for their time. He stated that the process was lengthy and that the developers were welcome to make their case before Council. He stated that he supported the development with its proximity to high density employment corridors.

Vote on Resolution 2020-23:

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN		X
ABLE		X	FRANKS		X
VINCENT		X	JOHNSON		X
GUTWEIN	X		LABURE	X	
BIEDA		X	HARRISON	X	
SKILLING		X			
			TOTAL	4	7

The motion failed.

ORDINANCES ON SECOND READING AND PUBLIC HEARINGS

ITEM 15 – ORDINANCE O-2020-24 – AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE 2020 CITY OF LAKEWOOD ANNUAL BUDGET IN THE AMOUNT OF \$366,486 AND AUTHORIZING THE EXPENDITURE OF GRANT FUNDS FROM THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO ASSIST THE CITY OF LAKEWOOD IN PILOTING A LAW ENFORCEMENT ASSISTED DIVERSION PROGRAM THROUGH THE LAKEWOOD POLICE DEPARTMENT IN PARTNERSHIP WITH JEFFERSON COUNTY PUBLIC HEALTH AND THE COMMUNITY CONNECTIONS CENTER

Public Comment:

Kathyn Costanza – Lakewood Resident – She stated that she supported the program. She stated that she was concerned that the choice for diversion was left up to an officer. She stated that there were other methods to avoid any bias being involved in the process.

Council Discussion:

Sergeant Jon Alesch – He stated that the decision to enroll an individual in the diversion program will be made by the state. He stated the largest decision is if the individual wants to be placed into the program. He stated that the program is voluntary, and the victim must also agree to the enrollment as well. He stated that the department would like to see as many individuals diverted as possible with the resources provided. He stated that the

program was evaluated to ensure that it did not impact the bottom line of the City. He stated that the grant is awarded on a yearly basis and is eligible for three yearly renewals depending on the success of the program. He stated that the funding source is confident that the funds for the grant will be available for multiple years. He stated that if the program was found to be successful that the police department would seek out funds from the City and from other grant sources. He stated other pilot programs across the state were able to receive funds past the original funding date. He stated that the department seeks to serve 20 individuals in its first year. He stated that there would be two civilian case managers hired to manage the program. He stated that the new positions would be fully funded by the grant and would receive support from other police staff. He stated that there were 39 other jurisdictions that have similar programs across the United States.

A motion was made by Council member Skilling to approve Ordinance O-2020-24. It was seconded.

Mayor Paul – He thanked Sergeant Alesch and the Lakewood Police Department for their work.

Vote on Ordinance O-2020-24:

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN	X	
ABLE	X		FRANKS	X	
VINCENT	X		JOHNSON	X	
GUTWEIN	X		LABURE	X	
BIEDA	X		HARRISON	X	
SKILLING	X				
			TOTAL	11	0

The motion passed

ITEM 16 – ORDINANCE O-2020-25 – AUTHORIZING AN ADDENDUM TO DEVELOPMENT AGREEMENT FOR SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN

Council Discussion:

Skilling – He stated that the ordinance was initially presented as a resolution before being changed to an ordinance. He stated that the original development plan accounted for multifamily, attached single family, and commercial. He stated that the original development agreement states that the City would not impede on the development. He stated that there are very few vested development agreements that still exist within the City. He stated that one of the recommendations was to exempt building permits from the property from the Strategic Growth Initiative, but that it did not have basis. He stated that

the amendment would not exempt the development from the allocations in the SGI, that the multifamily development would be reduced by 40%, no storage units could be built on the property, and a further prohibition on multifamily buildings. He stated that in exchange that the developer would be able to build further single-family homes. He stated that Council should vote on the addendum to then go to the Planning Commission for review as well.

Public Comment:

Brian Connoly – CDN Red Rocks Representative – He stated that staff requested that the developer bring the addendum forward to subject the property to the SGI. He stated that the developer worked directly with City staff and the Ward 4 Council members to reach an agreement.

Council Discussion:

Able – He thanked Council members Franks and Skilling for their work on the addendum. He stated that vested rights remove the ability for future Councils to provide input on development. He thanked City staff and the developer for working together on the issue.

Gutwein – She thanked Council members Franks and Skilling for their work.

A motion was made by Council member Skilling to approve the Ordinance O-2020-25. It was seconded.

Vote on Ordinance O-2020-25:

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN		X
ABLE	X		FRANKS	X	
VINCENT	X		JOHNSON		X
GUTWEIN	X		LABURE	X	
BIEDA		X	HARRISON	X	
SKILLING	X				
TOTAL				8	3

The motion passed

ITEM 17 – GENERAL BUSINESS

Mayor Paul moved Motion To Extend Emergency Declaration after Item 6 on the agenda.

Mayor Paul – He stated that he had received several inquiries regarding a requested investigation from a Council member. He asked if there was a staff member that could provide an update to Council.

Hodgson – She stated that someone could provide an update. She asked if Council would prefer the update in writing or at a meeting.

Mayor Paul – He stated that the report could be delivered in writing.

ITEM 18 – MAYOR AND CITY COUNCIL REPORTS

Mayor Paul and City Council Members reported their attendance at previous meetings and events and announced upcoming neighborhood meetings and events.

ITEM 19 – ADJOURNMENT

There being no further business to come before City Council, Mayor Paul adjourned the meeting at 12:01 a.m., Tuesday, September 29, 2020.

Respectfully submitted,

Bernadette Y. Salazar, Deputy City Clerk



**MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF LAKEWOOD**

7:00 P.M

October 12, 2020

Minutes are not a verbatim transcription, but rather an attempt to capture the intent of the speaker by the City Clerk.

ITEM 1 – CALL TO ORDER

Mayor Paul called the **VIRTUAL MEETING** to order at 7:00 p.m.

ITEM 2 – ROLL CALL

Those present were: Mayor Adam Paul, Presiding

Anita Springsteen
Dana Gutwein
David Skilling
Jacob LaBure
Charley Able
Sharon Vincent
Mike Bieda
Ramey Johnson
Barb Franks
Karen Harrison

Absent: None.

Others in attendance: Kathy Hodgson, City Manager, Tim Cox, City Attorney

Full and timely notice of this City Council meeting had been given and a quorum was present.

ITEM 3 – PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited, and there was a moment for silent prayer.

ITEM 4 – PUBLIC COMMENT

Tom Keith – Ward 5 – He talked about the weather, COVID-19 and the Sustainability Plan.

John Cantaluco – Ward 1 – He stated his support of the CRASH rocketry club. He had been with the club for about 13 years. He encouraged Council to keep the rocket club at Bear Creek Lake Park.

Doc Palmeira – Ward 5 – He spoke about an article that he read about real estate and a list of the best places to live that. He was surprised that Lakewood was not on the list. He also spoke in support of launching rockets at Bear Creek Lake Park.

John Jameson – Not a Lakewood Resident – He spoke in support of the rocket club at Bear Creek Lake Park.

Matt Morgan – Ward 4 – He stated he was the Vice President of the Colorado Rocketry Association of Space Hobbyist (CRASH). He urged Council to support rocketry at Bear Creek Lake Park.

Terry McCreary – Not a Lakewood Resident – He spoke in support of rocketry at Bear Creek Lake Park.

Matt Boyles – Denver Resident – He stated he was the President of CRASH and urged Council to support rocketry at Bear Creek Lake Park.

ITEM 5 – EXECUTIVE REPORT

Kathy Hodgson, City Manager, gave her executive report:

- She talked about Senate Bill 217, mandatory body camera program for the Police Department, and said a committee was put together consisting of the Police Department, IT Department, Finance Department and Human Resources Department. The goal was to have the program done by March 2022.
- Interviews have started for a new City Clerk.
- Public Works received a Class 6 rating in FEMA's program for floodplain management.
- She gave the current/new updates regarding Community Resources and recreation centers.

ITEM 11 moved by Mayor Paul.

ITEM 11 - GENERAL BUSINESS

MOTION TO EXTEND EMERGENCY DECLARATION – I MOVE TO EXTEND THE DECLARATION OF DISASTER IN THE CITY OF LAKEWOOD COLORADO RESULTING FROM THE CORONAVIRUS/COVID-19 PANDEMIC, PURSUANT TO SECTION 1.27 OF THE LAKEWOOD MUNICIPAL CODE, ORIGINALLY DECLARED BY PROCLAMATION OF THE LAKEWOOD CITY MANAGER ON MARCH 17, 2020, EXTENDED BY MAJORITY VOTE OF THE CITY COUNCIL ON MULTIPLE OCCASIONS, AND BY THIS MOTION EXTENDED AGAIN UNTIL OCTOBER 26, 2020, UNLESS EARLIER EXTENDED OR TERMINATED BY THE CITY COUNCIL

Council member Skilling made a motion to extend the Emergency Declaration. It was seconded.

Vote on motion:

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN		X
ABLE	X		FRANKS	X	
VINCENT	X		JOHNSON	X	
GUTWEIN	X		LABURE	X	
BIEDA	X		HARRISON	X	
SKILLING	X				
			TOTAL	10	1

The motion passed.

CONSENT AGENDA ORDINANCES ON FIRST READING

Deputy City Clerk Bernadette Salazar read the Consent Agenda into the record. The Consent Agenda consists of Items 6 through 9, inclusive.

ITEM 6 – RESOLUTION 2020-40 – APPOINTING A MEMBER TO THE BOARD OF APPEALS

ITEM 7 – RESOLUTION 2020-41 – APPOINTING MEMBERS TO THE LAKEWOOD ADVISORY COMMISSION

ITEM 8 – RESOLUTION 2020-42 – REAPPOINTING A MEMBER TO THE NOXIOUS WEED LOCAL ADVISORY BOARD

ITEM 9 – RESOLUTION 2020-43 – APPOINTING AND REAPPOINTING MEMBERS TO THE VICTIM ASSISTANCE COMPENSATION BOARD

A motion was made by Council member Skilling to adopt resolutions, all of which are included in the Consent Agenda Items, for the record and introduced by the Deputy City Clerk. It was seconded.

Public Comment: None.

Council Discussion:

Council member Able – He spoke about the Screening Committee and the different applicants for the various boards.

Vote on Consent Agenda:

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN	X	
ABLE	X		FRANKS	X	
VINCENT	X		JOHNSON	X	
GUTWEIN	X		LABURE	X	
BIEDA	X		HARRISON	X	
SKILLING	X				
TOTAL				11	0

The motion passed.

END OF CONSENT AGENDA

ITEM 10 – 1st PUBLIC HEARING/ORDINANCE O-2020-26 – ADOPTING A REVISED BUDGET FOR THE YEAR 2020 FOR THE CITY OF LAKEWOOD, COLORADO, AND FURTHER ADOPTING THE ANNUAL BUDGET FOR THE CITY FOR THE FISCAL YEAR BEGINNING ON THE FIRST DAY OF JANUARY, 2020, AND ENDING ON DECEMBER 31, 2020, ESTIMATING THE AMOUNT OF MONEY NECESSARY TO BE RAISED BY LEVYING TAXES FOR THE YEAR 2020, TO DEFRAID THE COSTS OF MUNICIPAL GOVERNMENT OF THE CITY OF LAKEWOOD, COLORADO, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2021 AND ENDING DECEMBER 31, 2021, AND ESTIMATING THE AMOUNT OF MONEY TO BE DERIVED FROM OTHER REVENUE SOURCES, SETTING FORTH THE APPROPRIATIONS FOR EACH FUND

Holly Bjorklund, Chief Financial Officer, gave a PowerPoint presentation on the revised 2020 budget and the 2021 budget. She talked about the proposed 2020 revised budget and the 2021 budget, total City budget, general fund and TABOR fund, the Lakewood Reinvestment Authority and the next steps.

She showed graphs of the 2021 revenue by fund and the 2021 expense by department. She talked about budget realities; General Fund challenges, General Fund Revenue/Expenditure Gap, and evaluating and adjusting financial approach for an established City of Lakewood.

She showed a graph of the 2021 General Fund revenue, sales tax revenue by industry – August 2020, General Fund revenues projected through 2025, General Fund expenses, 2021 General Fund expense by department, and General Fund Balance Usage.

She spoke about TABOR Funds and showed a graph of the funds that were refunded to the citizens and retained by the City. She talked about the TABOR Fund projects and the General Fund impact.

Robert Smith, Director of Economic Development, gave a PowerPoint presentation on the Lakewood Reinvestment Authority (LRA) 2020 Revised Budget and the 2021 Proposed Budget. He showed pictures and talked about some of the projects that would be completed in 2020.

Public Comment: none.

A motion was made by Council member Skilling to order Ordinance O-2020-26 to be published in the Denver Post with 2nd Public Hearing set for October 26, 2020. It was seconded.

Council comments:

Council member Gutwein – She had questions regarding the slash facility and why it was not included in the revised budget.

Hodgson – She stated they were still looking for a site for the slash facility and may be partnering with Jefferson County.

Gutwein – She asked what other capital projects were cut from the budget.

Jay Hutchinson, Director of Public Works – He stated they will create a comprehensive list for the next meeting. He stated a few projects that were cut.

Council member Springsteen – She asked if TABOR Funds could be used to purchase body cameras for the Police Department.

Bjorklund – She stated that yes TABOR could be used for the equipment fee. The concern was TABOR would not cover the ongoing cost or staffing costs.

Vote on motion:

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN	X	
ABLE	X		FRANKS	X	
VINCENT	X		JOHNSON	X	
GUTWEIN	X		LABURE		X
BIEDA	X		HARRISON	X	
SKILLING	X				
TOTAL				10	1

The motion passed.

ORDINANCES ON SECOND READING AND PUBLIC HEARINGS

THERE ARE NO SECOND READING ORDINANCES.

ITEM 11 – GENERAL BUSINESS

Mayor Paul moved Motion To Extend Emergency Declaration after Item 5 on the agenda.

Gutwein – She provide an update on the inclusive community signs and stated that the signs were being put back up where they were originally posted.

ITEM 12 – MAYOR AND CITY COUNCIL REPORTS

Mayor Paul and City Council Members reported their attendance at previous meetings and events and announced upcoming neighborhood meetings and events.

ITEM 13 – ADJOURNMENT

There being no further business to come before City Council, Mayor Paul adjourned the meeting at 9:30 p.m.

Respectfully submitted

Bernadette Y. Salazar, Deputy City Clerk



STAFF MEMO

DATE OF CITY COUNCIL MEETING: JANUARY 11, 2021 / AGENDA ITEM NO. 13

To: Mayor and City Council

From: Travis Parker, Director of Planning – 303-987-7908

Subject: **RESOLUTION ESTABLISHING RESIDENTIAL DWELLING UNIT ALLOCATIONS FOR 2021 AND ASSIGNING SUCH ALLOCATIONS TO POOLS PURSUANT TO THE RESIDENTIAL GROWTH LIMITATION ORDINANCE (MUNICIPAL CODE CHAPTER 14.27)**

SUMMARY STATEMENT:

Chapter 14.27 – *Residential Growth Limitation* of the Municipal Code requires that allocations available for issuance and use during each calendar year be established and that such allocations be assigned to pools. Both actions are required to occur by resolution of the City Council each January. This resolution includes both actions and City Council's approval is requested.

BACKGROUND INFORMATION:

In July 2019 the voters adopted the *Residential Growth Limitation* ordinance. The ordinance contains a formula to determine the number of residential allocations equivalent to 1% growth in the number of dwelling units for the coming year. The ordinance also gives the City Council discretion to reduce that number if desired and to distribute the allocations available among various pools.

The *Residential Growth Limitation* includes a provision for certain projects to proceed without allocations pursuant to Section 14.27.160 *Authority to Continue*. In Resolution 2020-8, City Council expressed its intent to reduce allocations over three years (2020, 2021 and 2022) to prevent the dwelling units that do not require allocations pursuant to *Authority to Continue* from causing total growth to exceed 1%.

At the time of Resolution 2020-8, the number of potential units to which *Authority to Continue* applied was 840. That number has since been reduced by 105 units that did not meet the building permit issuance deadline within the *Authority to Continue* provision. The number has been increased 202 units by City Council's approval related to White Fence Farm. The resulting total units eligible to proceed without allocations pursuant to the *Authority to Continue* provision is 937 ($840 - 105 + 202 = 937$).

The maximum number of allocations City Council could have authorized for 2020 was 693. Of those, 184 were actually utilized (105 built and 79 banked). This resulted in 509 fewer units in 2020 than the 1% growth rate would have allowed ($693 - 184 = 509$).

To prevent the 1% growth rate from being exceeded due to the dwelling units that may proceed under *Authority to Continue*, 428 *Authority to Continue* units remain to be accounted for ($937 - 509 = 428$). Dividing that number between 2021 and 2022 suggests a reduction in 2021 of available allocations of 214 ($428 \div 2 = 214$).

Based on the growth formula in 14.27.050.B and C, the maximum number of allocations the City Council could authorize for 2021 is 701. Reducing that number to account for *Authority to Continue* units as discussed above would result in 2021 allocations being 480 ($701 - 214 = 487$).

In November, City Council approved an agreement to allow vested projects to continue without having to compete for allocations in the normal process. The City has received notification from Brookfield of intent to build 63 new housing units in a project with vested rights. Instead of lowering the overall allocations, staff recommends reserving these 63 allocations in the hardship pool to be used for the project.

STAFF RECOMMENDATION:

Staff has received applications for 98 open pool 2021 allocations to date. Of 480 allocations, staff recommends assigning 250 allocations to the open pool, 174 allocations to the affordable pool, and 63 allocations to the hardship pool for the use of Brookfield Residential.

BUDGETARY IMPACTS:

No budgetary impacts are anticipated from this resolution.

PUBLIC OUTREACH:

The normal communication channels have been used to provide notice for the meeting during which this resolution will be considered.

NEXT STEPS:

Implementation of the resolution if it is approved by City Council.

ATTACHMENTS: Resolution 2021-6

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Gregory D. Graham, Deputy City Attorney

2021-6

A RESOLUTION

ESTABLISHING RESIDENTIAL DWELLING UNIT ALLOCATIONS FOR 2021 AND
ASSIGNING ALLOCATIONS TO POOLS PURSUANT TO CHAPTER 14.27 OF THE
LAKEWOOD MUNICIPAL CODE

WHEREAS, Chapter 14.27 of the Lakewood Municipal Code ("LMC") creates a building permit management system using allocations for new dwelling units;

WHEREAS, subsection A of LMC Section 14.27.050 requires the City Council to determine the number of allocations available for the current calendar year and assign such allocations to one of three "pools": the "open pool," the "hardship pool," and the "affordable/low income pool;"

WHEREAS, subsections B and C of LMC Section 14.27.050 establish the formula for determining the number of allocations to be created each year, and based on that formula, 701 allocations could be created in 2021;

WHEREAS, Section 14.27.140 authorizes the City Council to temporarily reduce the 1% limit at will;

WHEREAS, City Council has previously indicated its intent to reduce the available allocations in 2020, 2021 and 2022 to prevent the dwelling units allowed to proceed without allocations pursuant to Section 14.27.160 *Authority to Continue* from causing total dwelling unit growth to exceed 1% (annualized);

WHEREAS, 428 dwelling units that can be constructed without allocations pursuant to *Authority to Continue* must be accounted for in 2021 and 2022;

WHEREAS, 701 allocations determined by subsections B and C of LMC Section 14.27.050 minus 214 (half of the number above) allocations determined to be eliminated at the discretion of City Council equals 487 allocations available in 2021; and

WHEREAS, as of December 31, 2020, the City has received application for 98 open pool allocations and none for the hardship or affordable/low income pool, which is less than the total number of allocations to be created; and

WHEREAS, as of December 31, 2020, the City has received notification of 63 anticipated housing units in projects with vested rights.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. The creation of 487 housing allocations is hereby authorized for use in 2021.

SECTION 2. 250 allocations are hereby assigned to the Open Pool, 174 allocations to the Affordable/Low Income Housing Pool, and 63 allocations to the Hardship Pool for Brookfield Residential LLC.

SECTION 3. This Resolution shall become effective immediately upon adoption.

INTRODUCED, READ AND ADOPTED by a vote of ____ for and ____ against at a virtual regular meeting of the Lakewood City Council held on January 11, 2021 at 7 o'clock p.m.

Adam Paul, Mayor

ATTEST:

Bruce Roome, City Clerk

APPROVED AS TO FORM:

Gregory D. Graham, Deputy City Attorney



**PROCLAMATION OF THE CITY MANAGER OF THE CITY OF LAKEWOOD,
COLORADO DECLARING A STATE OF DISASTER AS A RESULT OF THE NOVEL
CORONAVIRUS (COVID-19)**

WHEREAS, on January 31, 2020, the United States Department of Public Health and Human Services Secretary declared a public emergency for the novel coronavirus (COVID-19) beginning on January 27, 2020; and

WHEREAS, on March 10, 2020, Colorado Governor Jared Polis declared a State of Disaster Emergency as the number of identified COVID-19 cases in Colorado increased, and announced numerous emergency measures to protect public health and safety; and

WHEREAS, the Jefferson County Department of Public Health has informed the City of Lakewood that the number of confirmed cases of COVID-19 in Jefferson County continues to increase; and

WHEREAS, the cost and magnitude of responding to and recovery from the impact of the COVID-19 Pandemic may be far in excess of the City's available resources; and

WHEREAS, declaration of a local disaster emergency will assist and permit access to local emergency funds and Federal and State assistance, and will allow adjustments to policies, procedures, and ordinances to ensure the public's health and welfare; and

WHEREAS, it is appropriate and in the interests of the public health and safety of the City and its residents to rapidly address community spread of COVID-19 and subsequent cascading impacts, such as economic distress, and to further protect the health and safety of the public by declaring a state of disaster in the City of Lakewood; and

WHEREAS, the situation is sufficiently serious that it has become necessary for the City Manager to declare a state of disaster within the City of Lakewood pursuant to Chapter 1.27 of the Lakewood Municipal Code, and to exercise the City Manager's emergency powers set forth therein; and

WHEREAS, I have reviewed the situation, consulted with City of Lakewood Department Directors and the Jefferson County Director of Public Health, and verified the existence of the state of disaster cited below, and the necessity for me to take immediate, extraordinary action as outlined in this Proclamation.

**NOW, THEREFORE, I, KATHLEEN E. HODGSON, AS CITY MANAGER OF THE
CITY OF LAKEWOOD, COLORADO, DO PROCLAIM AND ORDER AS FOLLOWS:**

SECTION 1. DECLARATION OF STATE OF DISASTER

A. Based on my review of the present circumstances and my consultations with City of Lakewood Department Directors, the Jefferson County Director of Public Health and the Director of the Colorado Department of Public Health and Environment, I have determined that a state of disaster exists requiring and authorizing me to exercise any or all of the emergency powers vested in me as City Manager by Lakewood Municipal Code Chapter 1.27 as described in this Proclamation. The issuance and execution of this Proclamation declaring a state of disaster shall automatically empower me as the City Manager to exercise any and all of the disaster and emergency powers and shall activate all relevant portions of the Emergency Plan and Management System. Nothing in this Proclamation shall be construed to limit or reduce the authority or powers available to the City Manager pursuant to Chapter 1.27, and all provisions of Chapter 1.27 shall remain in full force and effect regardless of whether those provisions are referenced herein.

B. I will be exercising the authority provided in Chapter 1.27 through the mechanisms identified therein, including through the promulgation of such regulations as I deem necessary to protect life and property and preserve critical resources, through the issuance of emergency orders, proclamations and other enactments and through the use and direction of City personnel, services and equipment and such additional acts necessary for the management of the state of disaster.

C. Pursuant to Lakewood Municipal Code section 1.27.071, it is unlawful for any person to violate or to knowingly fail to obey any order or regulation made or issued pursuant to that Chapter. Penalties for violations of any order or regulation promulgated by the City Manager or for violations of any provision of Chapter 1.27 shall be as set forth in Section 1.27.120 of the Lakewood Municipal Code.

SECTION 2. DISTRIBUTION OF DECLARATION OF STATE OF DISASTER

Once issued, this Proclamation shall be properly published and disseminated to the public and filed with the City Clerk and the City Council. A copy of this Proclamation shall be forwarded to the Colorado Division of Emergency Management and the Department of Local Affairs.

SECTION 3. DURATION OF DECLARATION OF STATE OF DISASTER.

Pursuant to LMC Section 1.27.060(D), the state of disaster declared by this Proclamation shall remain in effect until the City Manager declares by Proclamation that the threat of danger has passed or that the disaster conditions no longer exist, suggesting that the City Manager has the authority to declare a state of disaster of indefinite duration. However, Section 1.27.060(D) further provides that a declaration of a state of disaster cannot extend beyond seven days, unless a majority of the City Council approves a longer duration. Inasmuch as the COVID-19 disaster will obviously extend well beyond seven days, the City Manager intends to ask the City Council to vote, at its next meeting, to declare the state of disaster to continue indefinitely. In making the ultimate determination as to whether the danger has passed or the disaster conditions no longer exist, the City Manager may consider such factors as whether the state of Colorado's declaration of disaster has been terminated.

SIGNED THIS 17th DAY OF March

BY:

Kathleen E. Hodgson

Kathleen E. Hodgson, City Manager
City of Lakewood, Colorado

ATTEST:

Michele Millard

Michele Millard, City Clerk
City of Lakewood, Colorado

