

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 19

DATE: August 17, 1999

STAFF: Tom Shoemaker

SUBJECT:

First Reading of Ordinance No. 141, 1999, Authorizing the Conveyance of a 2.18 Acre Parcel to Huntington Hills of Colorado, LLC, in Exchange for Approximately 20 Acres of Natural Area Property Near Mail Creek and Fossil Creek.

RECOMMENDATION:

Staff and the Natural Resources Advisory Board recommend adoption of the Ordinance on First Reading.

FINANCIAL IMPACT:

The exchange of land does not have a direct financial impact. The consolidated land area of approximately 30 acres will be incorporated into the City's Natural Area system. Future management of the property will be the responsibility of the City and will be borne by existing funding in the Natural Areas Program.

EXECUTIVE SUMMARY:

This Ordinance authorizes a land exchange between the City of Fort Collins and Huntington Hills of Colorado, LLC. As a result of the exchange, Huntington Hills will continue to own a 12-acre parcel of land to be developed as the 7th filing of the Huntington Hills development. The City will own a 30-acre parcel of land along Fossil Creek and Mail Creek that will be incorporated into the Natural Areas System. The exchange provides for the consolidation of natural areas along the creeks, enables a wider buffer zone between development and the creeks, and facilitates future plans for public trails, environmental interpretation, and habitat enhancement in the vicinity. The agreement also provides for appropriate street and utility easements for the future development of the land retained by Huntington Hills.

BACKGROUND:

The City of Fort Collins has entered into a contractual agreement with Huntington Hills of Colorado, LLC for the exchange of land owned by the City for property owned by Huntington Hills. The agreement is contingent on approval by the City Council. The purpose of the agreement is to redefine the land area to be developed in the future as Huntington Hills Filing 7 in order to achieve greater development setbacks from Mail Creek and Fossil Creek and to consolidate a larger contiguous area of public natural area in the vicinity. The agreement also provides for appropriate

street and utility easements to facilitate the future development of the land retained by Huntington Hills, if final approval is granted by the Planning and Zoning Board. The agreement is the result of over a year's planning and negotiation between City staff, Huntington Hills, and the prospective developer, Andover Development Group.

The area of the proposed land exchange is in the southeast quadrant of Fort Collins, east of College Avenue, in the area between Mail Creek and Fossil Creek (see map). The area is adjacent to the City's site for the future Fossil Creek Community Park. The land is currently undeveloped, but has been included as part of two large developments that have been underway since the early 1980's - Huntington Hills and Oak-Cottonwood Farm (generally known as Miramont). Protection of the stream corridors of Mail Creek and Fossil Creek was not an important issue during the early planning of these developments, but has assumed greater importance over the past several years as the community has stressed the importance of natural areas protection and the City has developed both land acquisition and regulatory programs to achieve greater protection of stream corridors and other natural areas.

The concept of the land exchange was introduced by Natural Resources staff about a year ago when prospective developers began the conceptual review process for two adjacent parcels of land located between Mail Creek and Fossil Creek - Parcel J of Huntington Hills and Parcel L of Miramont. Early in the review process, it became apparent that there would be significant conflicts between the development proposals as they had previously been approved at the Overall Development Plan stage and the community's current expectations for resource protection along stream drainages. For example, the Huntington Hills project anticipated development as close as 50 feet to Fossil Creek and the Miramont project anticipated development within 75 feet of Mail Creek and the construction of a bridge and local street connection across Mail Creek. The Land Use Code would protect at least a 100-foot setback from both streams.

After conceptual review comments were received, the prospective developers of the Miramont parcel indicated their interest in selling the property to the City at a very reasonable price. Staff contacted the Huntington Hill developers to explore their interest in reconfiguring their development parcel in order to achieve greater levels of natural area protection along both stream corridors. Staff asked them if the City acquired the Miramont parcel, would the Huntington Hills developer then be willing to exchange a portion of their land in order to achieve greater setbacks from Fossil Creek. The concept was enthusiastically received, and the developer, Andover Development Group, prepared its development application using a revised parcel definition that consolidated the residential density in a smaller land area and moved the development farther away from Fossil Creek. Their development proposal reduced the area of development land from approximately 24 acres to 12 acres and increased the setback along both creeks to a minimum of 175 feet and more than 300 feet in many areas. In addition, the negotiation process led to an agreement in which the City would exchange 2.18 acres of land for 19.66 acres.

During the development review process, the natural areas protection elements of the plan received strong support from surrounding neighborhoods and from the Planning and Zoning Board. Certain transportation elements of the project were, however, controversial. Partly to address City natural resource concerns, the developer proposed eliminating the local street connection into Miramont across Mail Creek on Highcastle Drive. Instead, the local street connection was proposed as an extension of Roma Valley Drive to Fossil Creek Parkway, using the existing bridge across Mail

Creek. Many residents of Miramont expressed a strong preference for eliminating the street connection entirely, or keeping the original street configuration.

The development proposal for 224 multi-family units on 12 acres received preliminary approval from the Planning and Zoning Board on April 1, 1999. The change in the proposed street configuration was approved by City Council in May 1999. The final development proposal is expected to be considered by the Planning and Zoning Board later this fall.

Although the land exchange was conceived and negotiated during the development planning and review process, it is not contingent on any development approval. The City acquired the Miramont parcel on August 11, 1999 and Huntington Hills will complete the land exchange even if the current development proposal is not approved by the City.

If the land exchange is approved by Council, the consolidated parcel will be incorporated into the City's natural area system. The land area has important values because it protects the stream corridor and is part of a larger system of parks and natural areas in the immediate vicinity. The parcels are located adjacent to the 100-acre Fossil Creek Community Park site and to privately-owned natural area that was protected as part of the Fossil Creek Meadows development. Collaborative planning and management by Natural Resources, Parks, and the Homeowners Association will improve the habitat value of the land and stream corridors, and will provide opportunities for habitat enhancement and restoration of degraded site environmental interpretation, community involvement with neighborhoods and the nearby Werner Elementary School, and public access via the Fossil Creek Trail system. Natural Resources staff expects to complete a habitat restoration project on the City's property within the next two years and the City has commitments of \$15,000 each in cost sharing for the project from Huntington Hills, Andover Development Group, and Miramont.

The proposed land exchange was reviewed in detail with the Natural Resources Advisory Board. On February 3, 1999, the Board unanimously recommended approval of the land exchange.

ORDINANCE NO. 141, 1999
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CONVEYANCE OF A 2.18 ACRE PARCEL TO
HUNTINGTON HILLS OF COLORADO, LLC, IN EXCHANGE
FOR APPROXIMATELY 20 ACRES OF NATURAL AREA PROPERTY
NEAR MAIL CREEK AND FOSSIL CREEK

WHEREAS, the City has acquired a 12-acre site in the vicinity of the proposed Huntington Hills Seventh Filing residential development in the City of Fort Collins; and

WHEREAS, the site contains a 2.18-acre parcel that City staff has determined is not critical to the conservation of the natural area along Mail Creek and Fossil Creek, and which is desired by the developer of Huntington Hills Seventh Filing, Huntington Hills of Colorado, LLC ("Huntington"), and is more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, in exchange for the conveyance of the Property, Huntington has agreed to convey to the City approximately 20 acres of additional natural area (the "New Property") in the same vicinity, which property includes part of Mail Creek and is adjacent to the City's Fossil Creek Park, and has been determined by City staff and the Natural Resources Advisory Board to have substantial natural area value; and

WHEREAS, the acquisition of the New Property will further the policy objectives of providing neighborhood scale natural areas, stream corridor protection, enhancement of degraded sites, and integration with parks and schools; and

WHEREAS, City staff has negotiated an agreement with Huntington pursuant to which Huntington would convey to the City the New Property in exchange for the Property, subject to the reservation of easements required for the development of Huntington Hills Seventh Filing, which agreement is on file in the Office of the City Clerk (the "Agreement"); and

WHEREAS, Section 23-111 of the City Code authorizes the City Council to sell interests in real property owned in the name of the City, provided that the City Council first finds, by ordinance, that such sale or other disposition is in the best interests of the City.

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the exchange of the Property for the New Property, in accordance with the Agreement, is in the best interest of the City.

Section 2. That the Mayor is authorized to execute such documents of conveyance as are necessary for the City to sell and convey the Property to Huntington on the terms and conditions described in the Agreement and in this Ordinance.

Introduced, considered favorably and ordered published this 17th day of August, A.D. 1999,
and to be presented for final passage on the 7th day of September, A.D. 1999.

Mayor

ATTEST:

City Clerk

Passed on final reading this 7th day of September, A.D. 1999

Mayor

ATTEST:

City Clerk

LEGAL DESCRIPTION

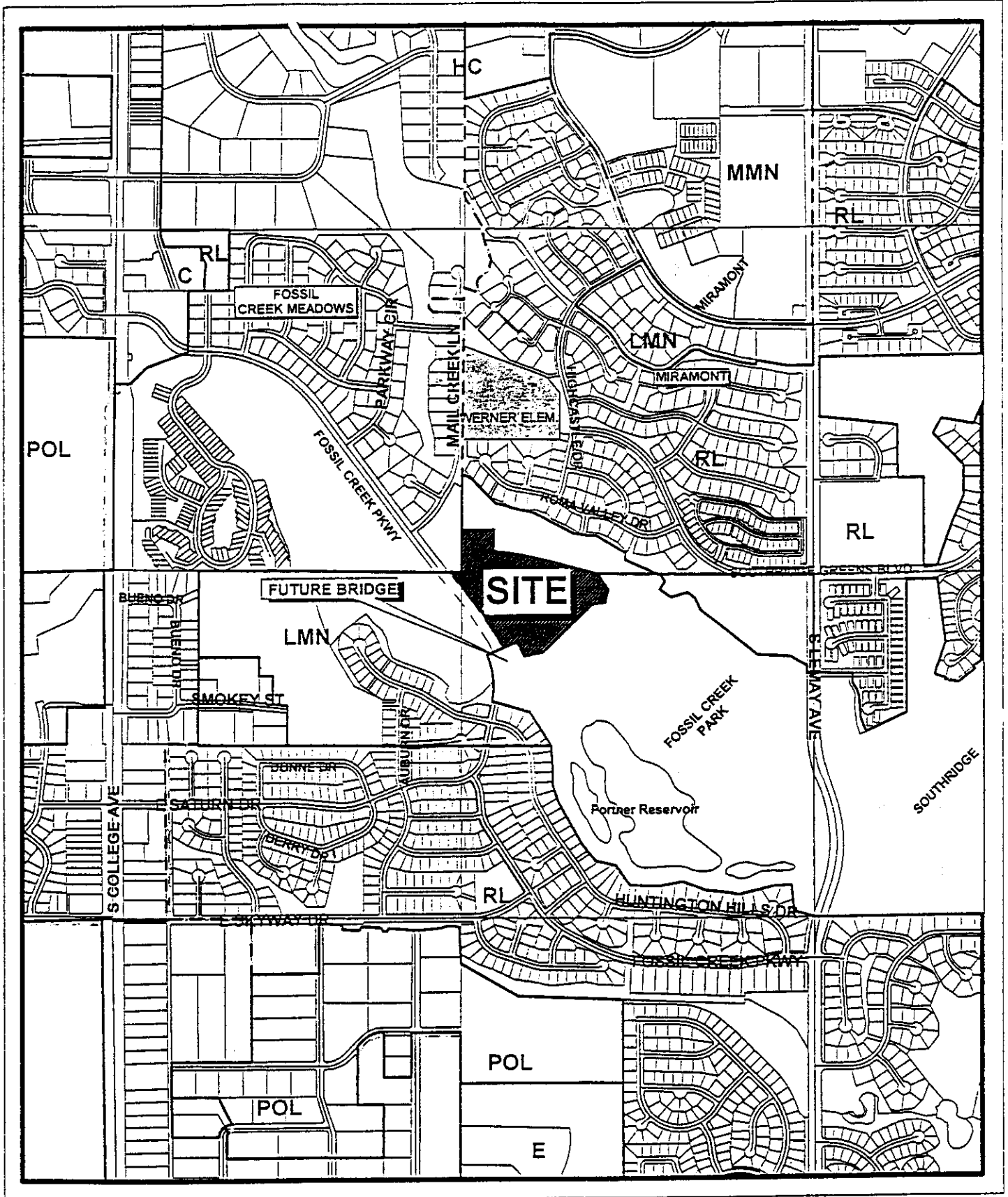
PARCEL 1
OAKFARM TO CITY
CITY TO HUNTINGTON HILLS

A PARCEL OF LAND LOCATED IN SECTION 1, T6N, R69W OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF LARIMER, STATE OF COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH QUARTER CORNER OF SAID SECTION 1, SAID POINT BEING MARKED BY A #6 REBAR WITH A 3/4" ALUMINUM CAP STAMPED PLS 17502; AND CONSIDERING THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 1 TO HAVE AN ASSUMED BEARING OF S89°06'20"E, (EAST END OF SAID LINE BEING MARKED BY A #6 REBAR WITH A 3/4" ALUMINUM CAP STAMPED PLS 20123) WITH ALL OTHER BEARINGS RELATIVE THERETO;

THENCE N00°26'32"E, 250.19 FEET ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 1;
THENCE S89°04'59"E, 115.29 FEET;
THENCE S00°55'01"W, 23.01 FEET;
THENCE S89°33'28"E, 77.41 FEET;
THENCE S00°26'32"W, 136.81 FEET;
THENCE S89°04'59"E, 287.05 FEET;
THENCE S00°55'01"W, 25.50 FEET;
THENCE S89°04'59"E, 226.56 FEET;
THENCE S75°55'13"E, 126.88 FEET;
THENCE S57°18'36"E, 53.76 FEET;
THENCE S89°07'15"E, 63.82 FEET;
THENCE S49°26'13"E, 12.50 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 1;
THENCE N89°06'20"W, 948.05 FEET ALONG THE SAID SOUTH LINE OF SECTION 1 TO THE POINT OF BEGINNING.

TOTAL AREA OF SAID DESCRIBED PARCEL 1 IS 2.18 ACRES MORE OR LESS AND IS SUBJECT TO ANY CONDITIONS, EASEMENTS OR RIGHTS-OF-WAY OR RECORD OR THAT NOW EXIST ON THE GROUND.

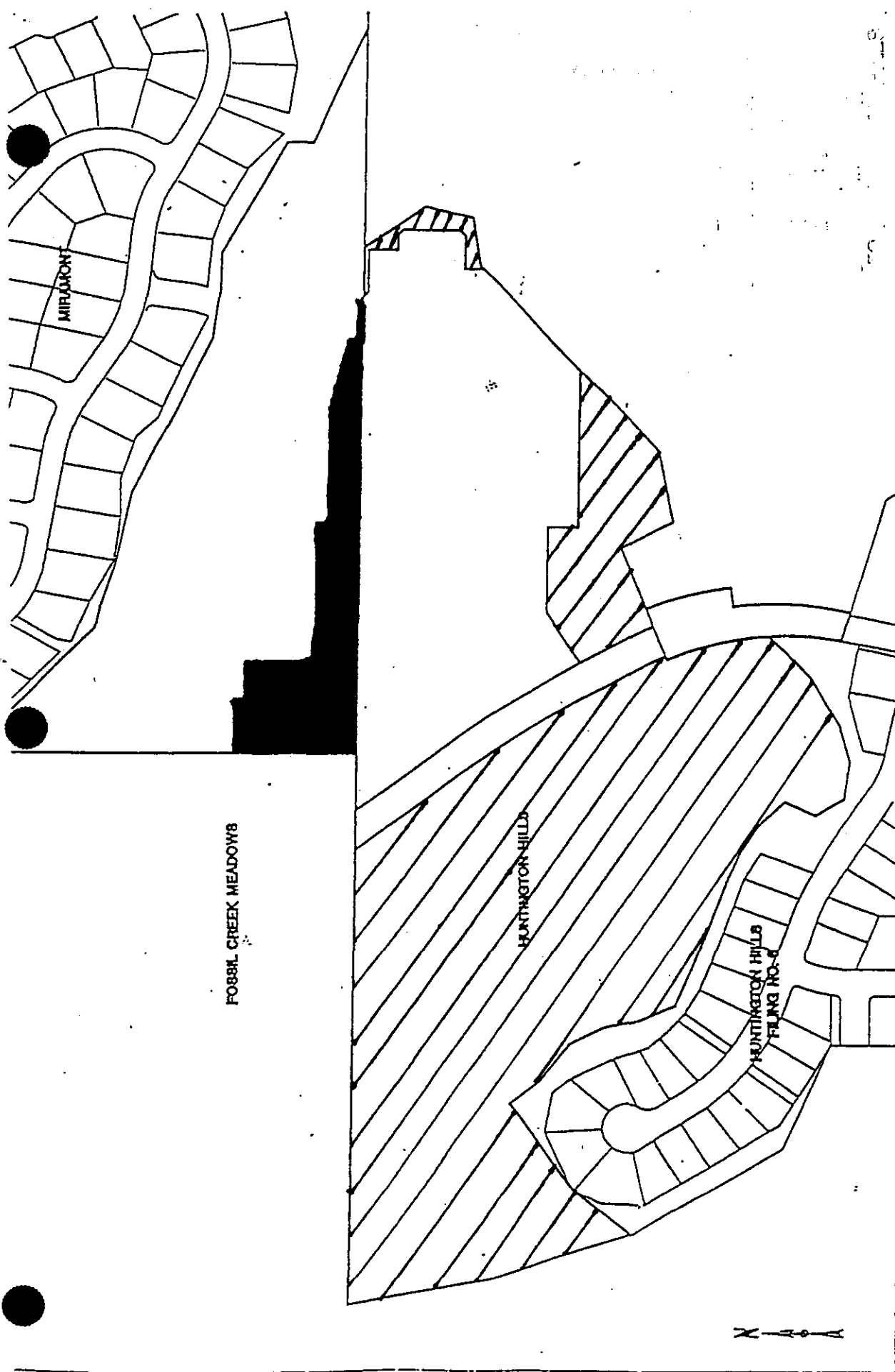




Vicinity Map
11-81R Huntington Hills, 7th Filing
Preliminary P.U.D.

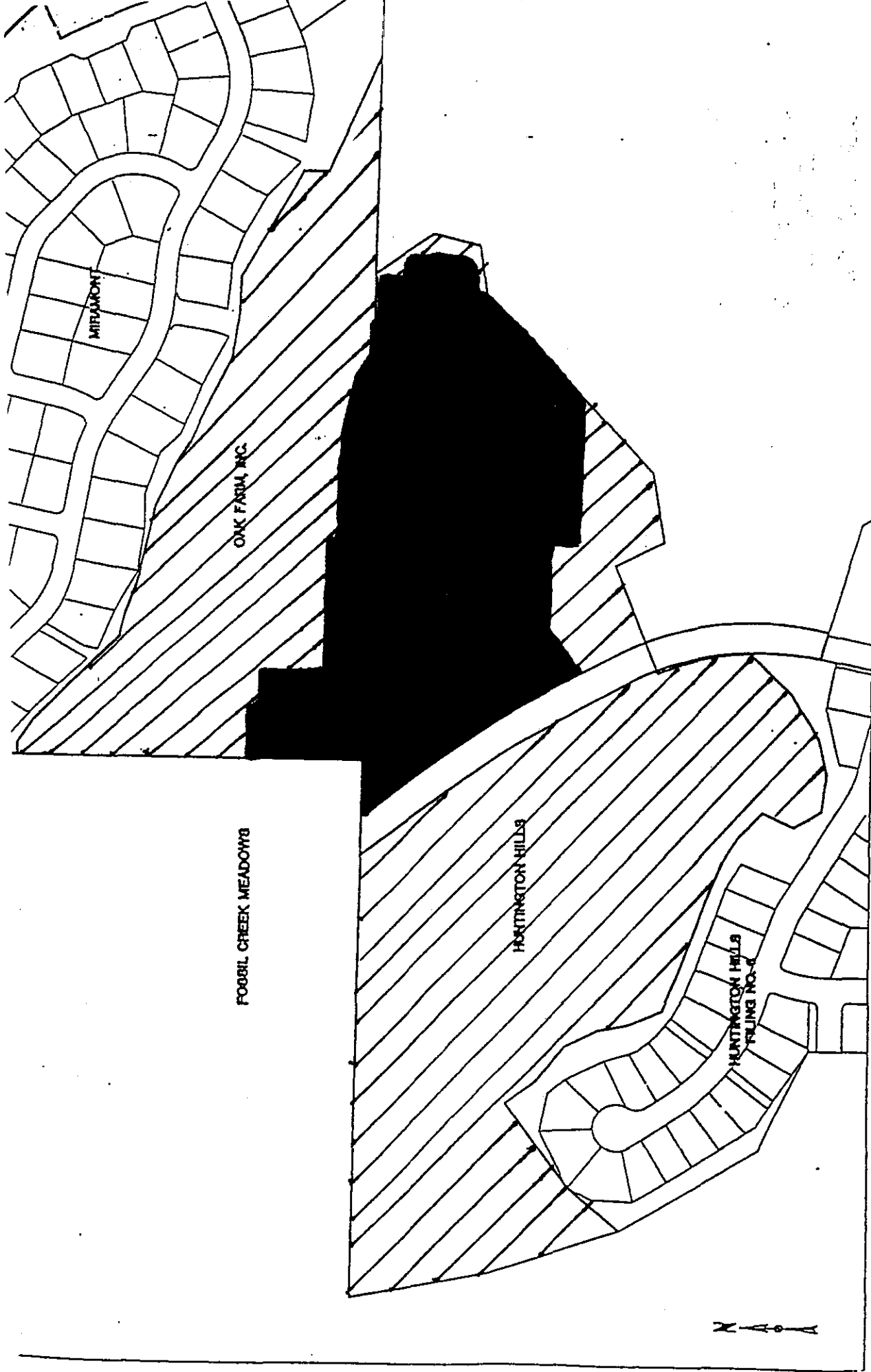
02/17/99

1" = 1000'





-  - Huntington Hills to City
-  - City to Huntington Hills



— Combined Development Parcel

— Combined Natural Area

- Sally Craig: Aren't they allowed with a variance from the water board? *Yes, but it's hard to get a variance.*
- Donovan: The idea of real estate disclosure is fine, landlords should be required to explain the danger.
- Harness: There was discussion about trying to do that a different way, maybe something on the utility bill.
- Ohlson: People have a right to know, renters shouldn't be second class citizens.
- Friedman: Renters often don't have or want to spend the money for insurance of any kind, especially flood insurance. You can look around and not even be aware that you are in a flood plain. There should be some kind of disclosure, not voluntary, but not realtor based. The City needs to take the lead in informing people.
- Donovan: We should recommend no development in the 100-year flood plain.
- Miller: We've been on record in the past, including no City owned facilities in floodplains.
- Murphy: Rick and Randy are looking at this intently. I'm glad to hear we will have a presentation. We're going to have to rely on Rick and Randy to let us know when we need to chime in.
- Friedman: We should encourage the committee to dig its heels in the ground and have resolve, and not let the construction community sway their opinion. Anyone building in a flood plain incurs a huge cost to society.
- Harness: Any future comments can be e-mailed to me.

Land Use Code Revisions, Tom Shoemaker

Tom Shoemaker stated that he is here tonight to answer questions and receive feedback. He would also like to get a final recommendation from the board. Shoemaker and the Board reviewed the document page by page.

Don Rodriguez made the following motion: *Move that we support the Land Use Code revisions as brought forth today.*

Kelly Ohlson made a friendly amendment, with which Rodriguez agreed, that the following issues be addressed: 1) concerns about larger buffers, 2) acknowledge the large amount of compromises and collaborative efforts that occurred, 3) acknowledge and thank staff for the work that went into this document.

The amended motion passed unanimously.

Tom Shoemaker thanked the board for their efforts, and stated that this product would not have been as good without their effort.



Fossil Creek/Huntington Hills Land Acquisition, Tom Shoemaker

Tom Shoemaker stated that he worked hard to get the costs of this proposal down, and now strongly recommends the Board endorse this project.

The previous price of \$313,000 has been reduced to \$150,000, of which Parks will pay \$35,000. We will be going into the project with \$75,000 for restoration.

Bill Miller made the following motion: *Move that we recommend the Natural Resources Department go forward with the acquisition of the Fossil Creek Natural Area, as per the revised proposal.*

The motion passed unanimously.

Natural Area Regulations, Tom Shoemaker

Tom Shoemaker reviewed changes made to the Natural Areas Regulations since the board last reviewed them.

- #5 Removed the word "over" in reference to flying kites.
- #6 Throwing objects – tried to capture that is referring to man made objects.
- #9 Horses – Clarified that the 10-foot limit is flexible in instances of imminent danger and safety considerations.
- #17 New addition: Reckless or unsafe behavior by equestrians is not acceptable.
- #18 New addition: No depositing or scattering of cremated remains (human or animal) without a permit.

Phil Friedman will attend the Council Study session Tuesday, February 9, 1999.
Tom Shoemaker stated these changes weren't necessary for enforcement, but they do clear up potential misunderstandings.

Natural Area Philosophies Postponed

Review Future Agenda Items:

<u>March 17, 1999:</u>	Meadow Springs Ranch Update Floodplain Task Force
<u>April 7, 1999:</u>	River Corridor Plan

Committee Reports

Solid Waste Committee

The Solid Waste Committee held a meeting February 3, 1999. The discussion focused around the need to move on from the districting issue. This will be an opportunity to look at some new issues over the next couple years. Dan Sherman, from the Larimer County Recycling Center, attended the meeting. Susie Gordon stated he is very