

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 7

DATE: April 21, 2009

**STAFF: Daylan Figgs
Brian Pederson**

SUBJECT

Second Reading of Ordinance No. 031, 2009, Authorizing the Conveyance to Urban Development Partners, LLC of a Non-Exclusive Drainage Easement and a Non-Exclusive Maintenance Access Easement on the City Owned Gustav Swanson Natural Area Property.

RECOMMENDATION

Staff recommends adoption of this Ordinance on Second Reading.

EXECUTIVE SUMMARY

Urban Development Partners, LLC is proposing to build an industrial/office development on approximately 7.6 acres situated on the north and south sides of Vine Drive, approximately 1/4 mile east of College Avenue. The portion on the south side of Vine Drive is located at 213 East Vine Drive and is adjacent to the Gustav Swanson Natural Area. This Ordinance, unanimously adopted on First Reading on March 24, 2009, authorizes storm drainage related easements on the Gustav Swanson Natural Area.

ATTACHMENTS

1. Copy of First Reading Agenda Item Summary - March 24, 2009.
(w/o original attachments)

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 11

DATE: March 24, 2009

STAFF: Daylan Figgs
Brian Pederson

COPY

SUBJECT

First Reading of Ordinance No. 031, 2009, Authorizing the Conveyance to Urban Development Partners, LLC of a Non-Exclusive Drainage Easement and a Non-Exclusive Maintenance Access Easement on the City Owned Gustav Swanson Natural Area Property.

RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

At its March 11, 2009 meeting, the Land Conservation and Stewardship Board reviewed the plans for the easements and recommends approval of the easements by City Council.

COPY

FINANCIAL IMPACT

No negative financial impact is expected from this action.

As required by the City's Natural Areas and Open Lands Easement Policy and the Natural Areas General Resource Protection and Restoration Standards, the applicant has agreed to pay \$3,873 in total compensation to the City's Natural Areas Program for the easements and initial restoration. The fee includes the \$500 application fee, which has been received.

EXECUTIVE SUMMARY

Urban Development Partners, LLC is proposing to build an industrial/office development which is commonly known as the Inverness Innovation Park. The development is planned to include four buildings on approximately 7.6 acres situated on the north and south sides of Vine Drive, approximately 1/4 mile east of College Avenue.

The portion of the proposed development on the north side of Vine Drive encompasses the property at 500 East Vine Drive, which was the former home of a Waste Management Company operation. The portion on the south side of Vine Drive is located at 213 East Vine Drive. The south parcel is adjacent to the Gustav Swanson Natural Area.

BACKGROUND

Gustav Swanson Natural Area was acquired in 1955 by Utilities in connection with the land acquired for the old power plant site. The proposed project area is located on the northern portion of the property between the existing railroad bed, an Xcel natural gas facility, the Poudre River, and existing development along Vine Drive. Vegetation found in this area is dominated by non native vegetation (smooth brome, reed canary grass) and contains an abundance of leafy spurge and Russian Olive (State List B noxious plants). Also found on the site are two small ponds, the Coy Ditch, and a narrow riparian zone along the Poudre River. While situated in close proximity to nearby commercial related development, Gustav Swanson provides important wildlife habitat along the Poudre River within this urban setting.

The applicant's property historically drained to the Poudre River. The natural path for historical flows was constrained by the construction of the Coy Ditch, which is partially situated on the City's property. Since the City's Gustav Swanson Natural Area property is situated between the applicant's property and the river, the applicant needs to obtain the requested storm drainage related easements to construct the proposed commercial development.

The applicant's engineer has presented several alternatives regarding the most effective way to handle storm water drainage from the proposed development. The alternatives include two options for piping the drainage across the Gustav Swanson Natural Area to the river, directing the storm water drainage into the Coy Ditch, and retaining the storm water on the applicant's site within an infiltration based detention pond.

The infiltration based detention pond was recommended by the applicant's engineer. The City's Utilities Department has evaluated this option and feels it is viable based on the current level of engineering available for consideration. The detention pond will be designed to retain a 100 year flood event and slowly release the collected storm water back into the ground without directing the water onto neighboring properties. However, in the event of two closely timed precipitation events which combined exceed the 100 year storm design, storm water will flow through the pond back into the historic floodway that crosses Gustav Swanson Natural Area and into the Poudre River. The potential for this series of events is the reason for the drainage related easements on the Gustav Swanson Natural Area.

To help direct floodwater to the river through a structure designed to withstand high flow rates, an existing spillway found within the drainage easement area will be modified. This includes removal of existing rock rip rap and lowering the spillway elevation approximately one foot. Rock rip rap will be replaced, covered with soil and planted to native vegetation. The construction activities would be limited to the proposed non-exclusive drainage easement encompasses approximately 3,039 square feet. Access to the site will be limited to the 12,149 square foot non-exclusive maintenance access easement.

If the easements are granted, the Grantee will have the limited right to use the access easement on the property for future maintenance, replacement, and repairs of the spillway improvements, as necessary. The easement would require that any such future access or maintenance activities be coordinated and supervised through the City's Natural Resources Department. It would also provide for repair and restoration of any damage which might be caused by future access and repair activities.

Ecological impacts to the Natural Area from the drainage improvements will be minimal. All vegetation impacted by access to and construction of the spillway will be restored as outlined in the Resource Protection Standards. Further, Urban Development Partners, LLC has proposed to restore a portion of Gustav Swanson outside of the access and permanent easement to enhance resource values found within the 200-foot buffer zone along the Poudre River. Efforts will focus on removing non native species of grasses and forbs and replacing them with a native mix of grasses, forbs, trees, and shrubs. Site selection was based on the proximity to the easement area, the need to increase habitat values within the 200-foot river buffer and along the south edge of West Coy Pond, and the opportunity to enhance the view shed of the project area when viewed from the existing trail system on the south bank of the Poudre River (See Attachment 3).

The easements request was approved at the Land Conservation and Stewardship Board Meeting held on March 11, 2009.

ATTACHMENTS

1. Location Map.
2. Land Conservation and Stewardship Board minutes, March 11, 2009.
3. Drainage Easement Site Plan.

COPY

COPY

ORDINANCE NO. 031, 2009
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CONVEYANCE TO URBAN DEVELOPMENT PARTNERS, LLC OF
A NON-EXCLUSIVE DRAINAGE EASEMENT AND A NON-EXCLUSIVE
MAINTENANCE ACCESS EASEMENT ON THE CITY OWNED GUSTAV SWANSON
NATURAL AREA PROPERTY

WHEREAS, the City owns a certain parcel of real property located in the City of Fort Collins, Larimer County, Colorado, known as the Gustav Swanson Natural Area (the "City Property"); and

WHEREAS, Urban Development Partners, LLC ("UDP") is proposing the development of a commercial office and industrial properties business park, which is presently referred to as the Inverness Innovation Park (the "Development"), on private land adjacent to the northern boundary of the City Property (the "UDP Property"); and

WHEREAS, the City Property is situated between the UDP Property and the Poudre River; and

WHEREAS, UDP has represented to City staff that the drainage plan for the Development will retain 100% of storm water on the UDP Property under conditions up to 100 year flood levels; and

WHEREAS, UDP desires to deliver excess storm water from the Development across the City Property to the Poudre River; and

WHEREAS, UDP has requested a 3,039 square foot Non-Exclusive Drainage Easement for construction of a spillway, and a 12,149 square foot Non-Exclusive Maintenance Access Easement across a portion of the City Property; and

WHEREAS, the proposed easements are shown and described on Exhibit "A", attached and incorporated herein by this reference (the "Easements"); and

WHEREAS, the proposed spillway would be constructed with rip rap material rather than concrete or other material that would be aesthetically incompatible with the Natural Area; and

WHEREAS, the proposed spillway will be covered with soil and seeded to further enhance the appearance of the structure and compatibility with the Natural Area; and

WHEREAS, UDP will repair any damage and restore any areas disturbed by the construction or access to the construction area; and

WHEREAS, City staff has determined the Easements would not adversely impact the City's use of the City Property as a natural resource; and

WHEREAS, UDP has agreed to pay \$3,873, which includes a \$500 application fee, to the City Natural Resources Department for the easements and initial restoration; and

WHEREAS, the City reserves the right to require additional storm water management improvements if further review of the Development indicates additional storm water improvements are necessary; and

WHEREAS, at its regular meeting on March 11, 2009, the Land Conservation and Stewardship Board reviewed the proposed Easements and recommended the City Council grant them; and

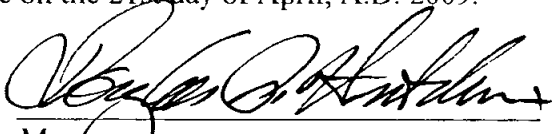
WHEREAS, Section 23-111(a) of the City Code authorizes the City Council to sell, convey, or otherwise dispose of any and all interests in real property owned by the City, provided the City Council first finds, by ordinance, that such sale or other disposition is in the best interests of the City.

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

Section 1. That the conveyance of the Easements to Urban Development Partners, LLC, as set forth herein, is in the best interests of the City.

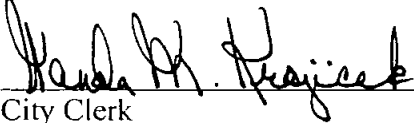
Section 2. That the Mayor is hereby authorized to execute such documents as are necessary to convey the Easements on terms and conditions consistent with this Ordinance, along with such additional items and conditions as the City Manager, in consultation with the City Attorney, determines to be necessary or appropriate to protect the interests of the City, including, but not limited to, any necessary changes to the legal description of the Easements, as long as such changes do not materially increase the size or change the character of the Easements.

Introduced, considered favorably on first reading, and ordered published this 24th day of March, A.D. 2009, and to be presented for final passage on the 21st day of April, A.D. 2009.



Mayor

ATTEST:



City Clerk

Passed and adopted on final reading on the 21st day of April, A.D. 2009.

Mayor

ATTEST:

City Clerk