

**DATE:** May 4, 2010  
**STAFF:** Matt Day, Daylan Figgs  
Lindsay Kuntz

**AGENDA ITEM SUMMARY**  
FORT COLLINS CITY COUNCIL

**16**

**SUBJECT**

First Reading of Ordinance No. 056, 2010, Authorizing Conveyance of Non-Exclusive Drainage Easement on City Property to Provincetowne, LLC.

**EXECUTIVE SUMMARY**

In 2006, the City of Fort Collins conveyed a permanent drainage easement to KB Home Colorado on City property. This City-owned property is a future neighborhood park for the benefit of the Provincetowne P.U.D. Filing Three Development (the "Development"). The City of Fort Collins Park Planning and Development Department is ready to develop the park, now known as Water's Way Neighborhood Park. The design of the Park requires the alignment of the easement granted in 2006 to move farther south and cross a portion of Pelican Marsh Natural Area. Staff is requesting City Council approve the conveyance of a new permanent drainage easement reflecting the new alignment to the owner of the Development, which is now Provincetowne, LLC. The 2006 easement will be terminated when the new easement is granted.

**BACKGROUND / DISCUSSION**

An easement granted to KB Home Colorado in 2006 included 30,771 square feet of drainage area across a City-owned future park site, located between Eden Ridge Court and Bellewood Court in the Development. The purpose of the easement was for the benefit of the Development in accordance with the approved utility, storm drainage, and other related plans associated with the approval of the Development in 2006. The Park Planning and Development Department now plans to develop the park site, known as Water's Way Neighborhood Park. During the design of Water's Way Park, it became evident the original drainage easement would not function as needed. The requested drainage easement for the Development and the park will now cross the southern portion part of the Park and continue south across a portion of Pelican Marsh Natural Area.

The new easement alignment and construction of the drainage features will require the removal of an abandoned irrigation canal currently running across a portion of the park site. To offset the loss of habitat along the irrigation canal, wetlands will be created as part of this project and will be located on Pelican Marsh Natural Area.

To move the location of the drainage easement for the development, the City needs to convey a new drainage easement to the owner of the Development and terminate the existing easement granted in 2006. KB Home Colorado sold the Development to Provincetowne, LLC. Staff has notified Provincetowne, LLC of the proposed change to the drainage area.

Natural Resources staff has reviewed the plan for the drainage easement alignment and has determined there will not be any negative impacts to the Natural Area property as a result of the new easement.

**FINANCIAL IMPACT**

KB Homes Colorado compensated the City of Fort Collins in 2006 for the drainage easement granted for the benefit of the development. Since the design for the new park has created the need to realign the existing drainage easement, staff will not request additional compensation from the owner of the Development for the new easement.

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**SUSTAINABILITY: ECONOMIC, ENVIRONMENTAL AND SOCIAL IMPACTS**

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Conveyance of the new easement area will facilitate the development of Water's Way Neighborhood Park for the use by citizens in the surrounding neighborhoods. The new easement area will also create additional wetland on the City's Pelican Marsh Natural Area.

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**STAFF RECOMMENDATION**

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Staff recommends adoption of the Ordinance on First Reading.

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**BOARD / COMMISSION RECOMMENDATION**

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Staff presented the proposal to the Land Conservation and Stewardship Board (LCSB) at its April 14, 2010 meeting. The LCSB recommended by unanimous vote, that Council authorize the conveyance of the drainage easement as recommended by staff.

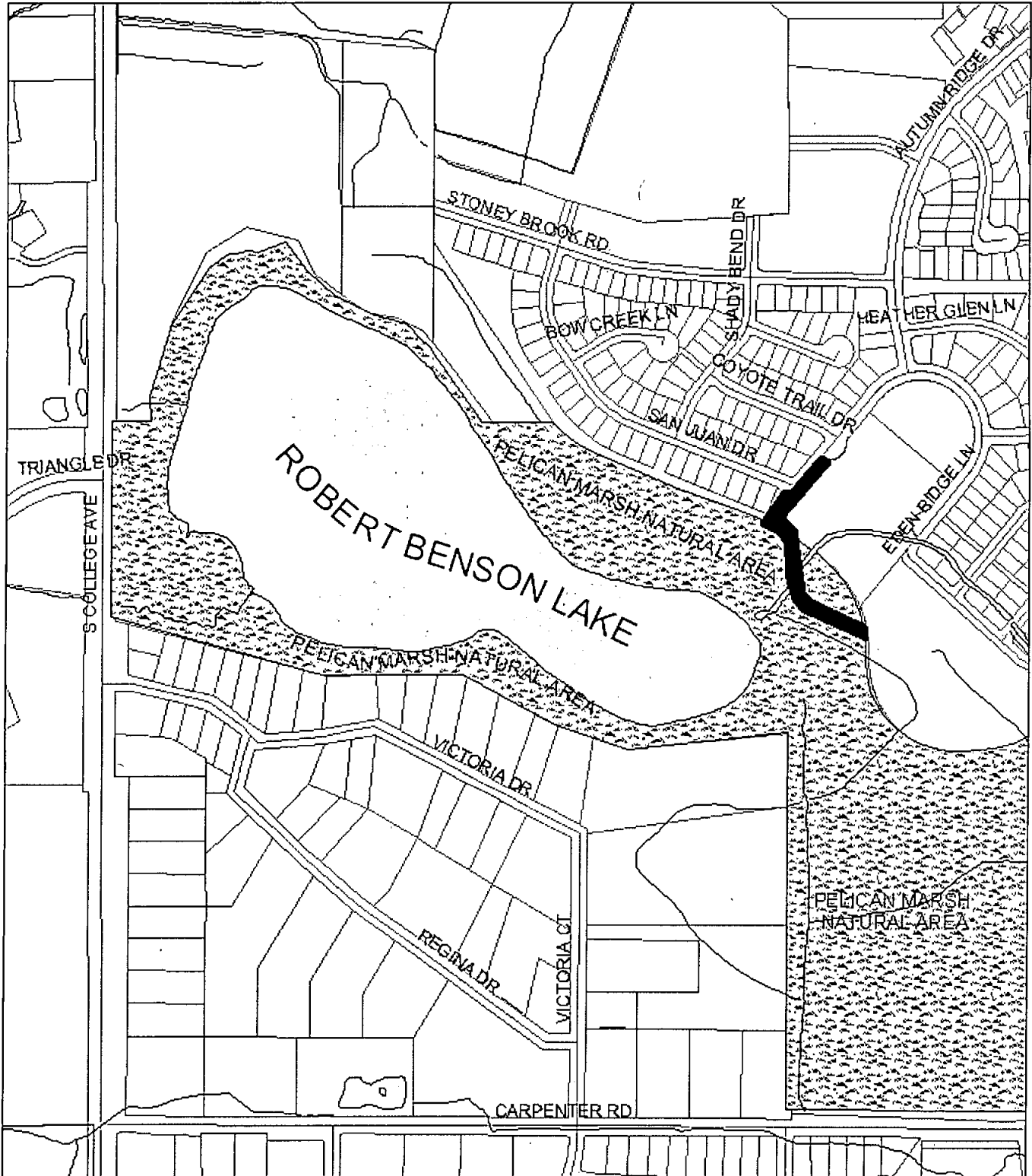
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**ATTACHMENTS**

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1. Location map
2. Land Conservation and Stewardship Board Minutes, April 14, 2010 meeting
3. Existing Easement and Proposed Easement Detail

# Conveyance of Drainage Easement To Provincetowne West LLC Location Map



 Drainage Easement Conveyance Location



**Land Conservation & Stewardship Board – Meeting Minutes  
Wednesday, April 14, 2010**

**Excerpt: Pelican Marsh – Drainage Easement for Parks**

- Sears: Matt Day, Landscape Architect from Park Planning and Development, has been the project manager on the Pelican Marsh dam project, which is completed. Matt is building the neighborhood park adjacent to Pelican Marsh which will serve as the Natural Areas trail head to Pelican Marsh. The park design calls for a drainage easement across the Pelican Marsh Natural Area.
- Day: We brought, to the February LCSB meeting, the Robert Benson dam improvements and now we would like to bring the Board updates of the park that we are working on which is adjacent to Pelican Marsh.
- Kuntz: There is an existing easement that was granted to the Provincetowne Development by Parks. When the easement was granted to the Developer they compensated the City for that easement and use. The development has been sold to a new owner. Since the development of the park requires the existing easement be located in a different location, we need to vacate the existing easement and grant another easement to the new developer in the new location. The City is not asking for additional compensation from the developer since it was previously

Stanley recommends to City Council for approval of the Pelican Marsh drainage easement and that no further compensation would be required because this is a swap. Germany second. It was unanimously approved.

paid for.



ROBERT BENSON RESERVOIR

FUTURE  
PARK  
SITE

OFFSITE  
DRAINAGE

OLD  
IRRIGATION  
DITCH

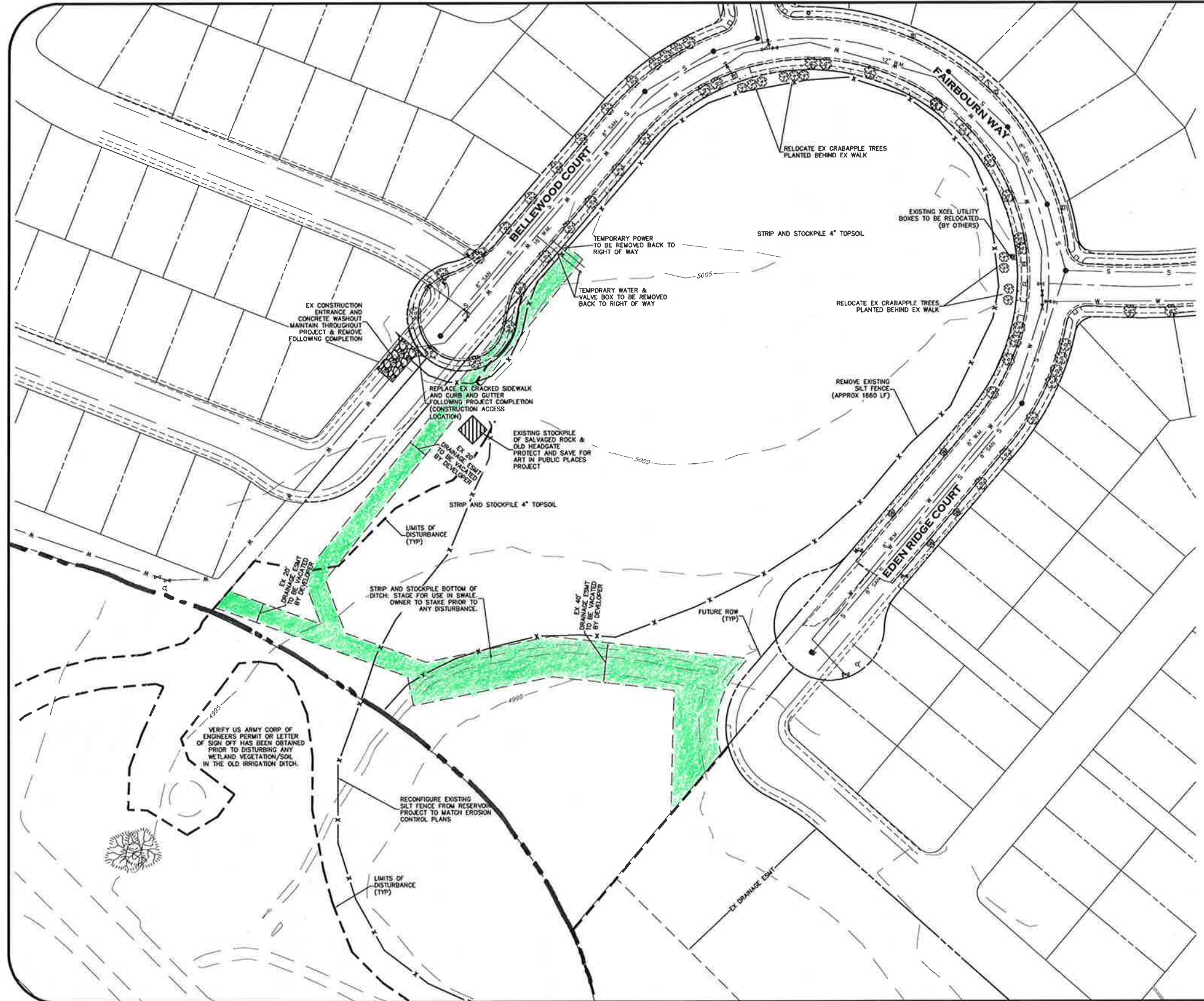
ROBERT BENSON  
RESERVOIR  
OUTLET CHANNEL

PELICAN MARSH NATURAL AREA

COLLEGE AVE

LEMAY

CARPENTER ROAD



Demolition Notes

1. CONTRACTOR SHALL COORDINATE WITH THE OWNER'S REPRESENTATIVE TO REVIEW AND APPROVE THE LIMITS OF CONSTRUCTION. CONTRACTOR IS RESPONSIBLE FOR THE STAKING OF THE LIMITS OF CONSTRUCTION PRIOR TO THE INITIAL SITE MEETING.
2. PROTECT FEATURES AND AREAS NOT MARKED FOR DEMOLITION. LIMIT THE SITE USE TO THE DELINEATED AREAS.
3. PROMPTLY REPORT ANY HIDDEN CONDITIONS TO THE OWNER'S REPRESENTATIVE.
4. THE SITE SURVEY WAS PROVIDED BY THE CITY OF FORT COLLINS SURVEYING DEPT. WALLY MUSCOT 281 N. COLLEGE AVE. FORT COLLINS, CO 80524 (970) 221-7335
5. CONTRACTOR IS RESPONSIBLE TO FIELD VERIFY ALL UTILITIES.



50 25 0 50 100  
SCALE: 1" = 50'

No.	Revision/Issue	Date

Firm Name and Address

Park Planning & Development  
215 North Mason Street  
Fort Collins, Colorado 80522

tel 970 221 6300  
fax 970 221 6566  
www.fortcollins.gov

Project Name and Address

**WATER'S WAY PARK**

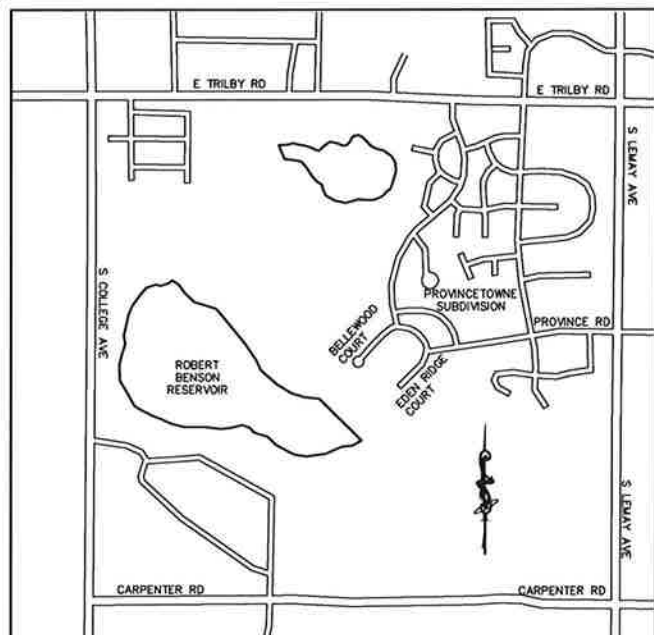
EXISTING CONDITIONS & DEMOLITION PLAN

Project	Sheet
Date 02/10/10	C-3
Scale 1"=50'	

CALL UTILITY NOTIFICATION  
CENTER OF COLORADO  
**811**  
CALL 2-BUSINESS DAYS IN ADVANCE  
BEFORE YOU DIG, GRADE, OR EXCAVATE  
FOR THE MARKING OF UNDERGROUND  
MEMBER UTILITIES.

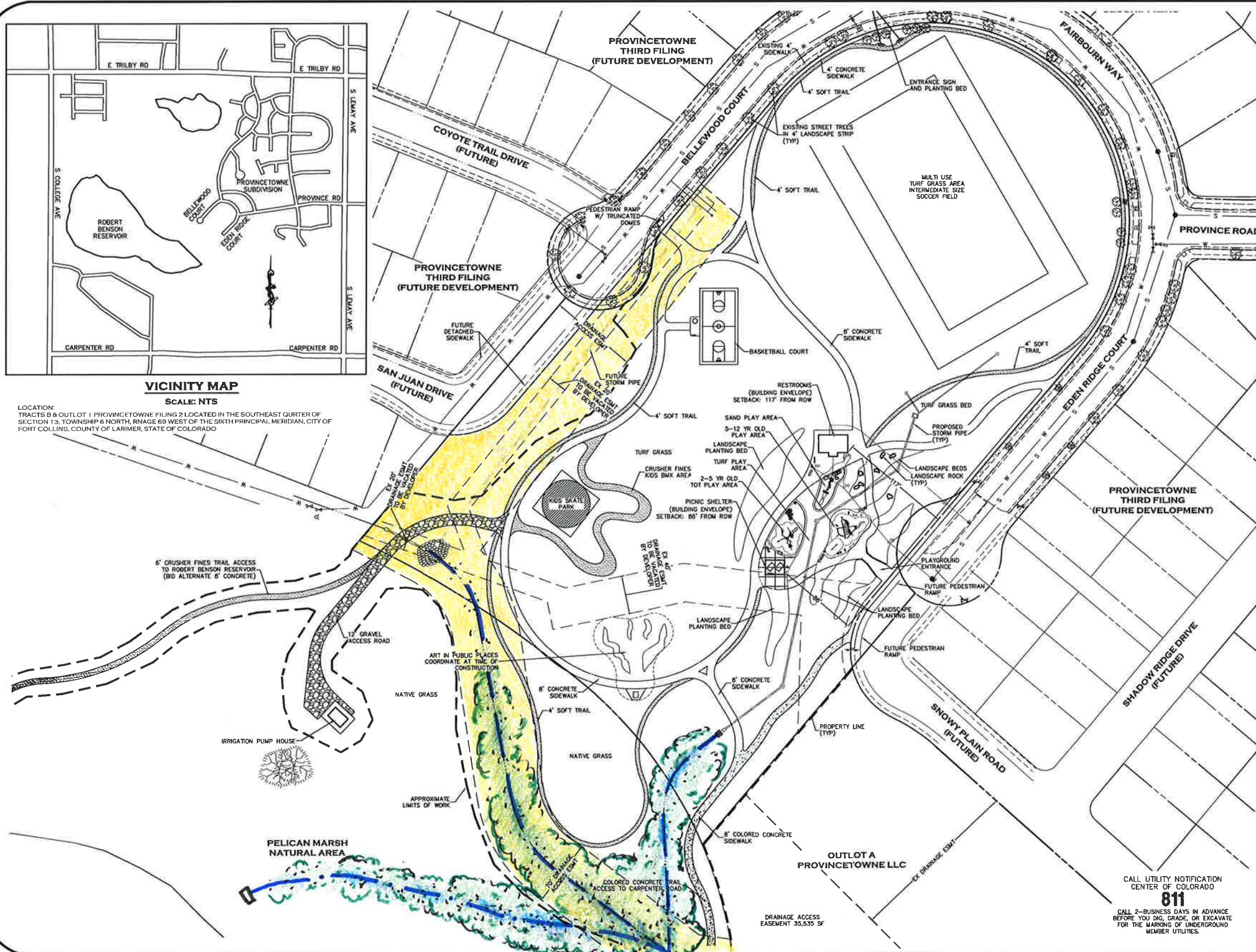
VERIFY US ARMY CORP OF ENGINEERS PERMIT OR LETTER OF SIGN OFF HAS BEEN OBTAINED PRIOR TO DISTURBING ANY WETLAND VEGETATION/SOIL IN THE OLD IRRIGATION DITCH.

RECONFIGURE EXISTING SILT FENCE FROM RESERVOIR PROJECT TO MATCH EROSION CONTROL PLANS



**VICINITY MAP**  
SCALE: NTS

LOCATION:  
TRACTS B & OUTLOT 1, PROVINCETOWNE FILING 2, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 6 NORTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO



**General Notes**

- LAYOUT NOTES:  
1. CONTRACTOR SHALL NOTIFY OWNER'S REPRESENTATIVE FOR APPROVAL OF FORM WORK FOR SIDEWALKS, WALLS AND HEADERS. CONTRACTOR SHALL NOT POUR ANY CONCRETE PRIOR TO APPROVAL OF FORM WORK BY OWNER'S REPRESENTATIVE.  
2. IF THE CONTRACTOR DISCOVERS A DIMENSION WHICH APPEARS INCORRECT, HE/SHE SHALL NOTIFY THE OWNER'S REPRESENTATIVE AS SOON AS POSSIBLE TO DISCUSS THE ISSUE. DO NOT PROCEED WITH WORK IN THAT PARTICULAR AREA UNTIL THE CONTRACTOR AND THE OWNER'S REPRESENTATIVE HAVE COME TO AN AGREEMENT FOR THE DESIRED SOLUTION.  
3. CONTRACTOR'S WORK WITHIN THE RIGHT OF WAY SHALL CONFORM TO THE CURRENT CITY OF FORT COLLINS DESIGN AND CONSTRUCTION CRITERIA, STANDARDS AND SPECIFICATIONS FOR STREETS, SIDEWALKS, ALLEYS AND OTHER PUBLIC WAYS. CONTRACTOR'S WORK IS SUBJECT TO THE CITY OF FORT COLLINS STREET REPAIR AND RECONSTRUCTION STANDARDS AND GUIDELINES.  
4. ALL WORK PERFORMED WITHIN THE R.O.W. SHALL BE SUBJECT TO CITY INSPECTION BY THE ENGINEERING DEPARTMENT. CONTRACTOR SHALL CONTACT THE CITY OF FORT COLLINS ENGINEERING DEPARTMENT PRIOR TO ANY WORK WITHIN THE R.O.W.  
5. COORDINATE CORE AREA IMPROVEMENTS WITH OWNER'S REPRESENTATIVE. LAYOUT PLAY STRUCTURES WITH THE SAFETY FALL ZONES PRIOR TO CONSTRUCTION OF THE SIDEWALKS, CURBS AND HEADERS.  
6. SEE SHEET S-2 FOR DETAILED SURFACING AT CORE AREA.



50 25 0 50 100  
SCALE: 1" = 50'

No.	Revision/Issue	Date

Firm Name and Address  
**City of Fort Collins**  
Park Planning & Development  
215 North Mason Street  
Fort Collins, Colorado 80522  
Tel 970 221 6360  
Fax 970 221 6566  
www.cityoffortcollins.gov

Project Name and Address  
**WATER'S WAY PARK**  
715 FAIRBOURNE WAY  
FORT COLLINS, CO 80525  
**SITE PLAN**

Project	Sheet
Date 02/10/10	S-1
Scale 1"=50'	

CALL UTILITY NOTIFICATION CENTER OF COLORADO  
**811**  
CALL 2-BUSINESS DAYS IN ADVANCE BEFORE YOU DIG, GRADE, OR EXCAVATE FOR THE MARKING OF UNDERGROUND MEMBER UTILITIES.

ORDINANCE NO. 056, 2010  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AUTHORIZING THE CONVEYANCE OF NON-EXCLUSIVE DRAINAGE  
EASEMENT ON CITY PROPERTY TO PROVINCETOWNE, LLC

WHEREAS, the City is the owner of two parcels of real property located in Fort Collins, Colorado, identified in County records as parcel number 96134-29-909, to be known as Water's Way Neighborhood Park (the "Park Property") and 96134-00-929, known as Pelican Marsh Natural Area (the "Natural Area Property"); and

WHEREAS, in 2006, the City granted a permanent drainage easement across the Park Property (the "Conveyed Easement") to KB Home Colorado, Incorporated for the benefit of its development, Provincetowne P.U.D. Filing Three (the "Development"); and

WHEREAS, the City is ready to develop the Park Property and would like to realign the Conveyed Easement Area to facilitate the planned improvements; and

WHEREAS, City staff has proposed a new drainage easement which will cross the Park Property, as well as, the Natural Area Property, as described on Exhibit "A", attached and incorporated herein (the "New Easement Area"); and

WHEREAS, the alignment of the New Easement Area will require that a new easement (the "New Easement") be granted to the owner of the Development which is now Provincetowne, LLC (the "Developer") ; and

WHEREAS, the City will vacate the Conveyed Easement since it will no longer be needed by the Developer; and

WHEREAS, the City was compensated \$10,475 in 2006 for the Conveyed Easement; and

WHEREAS, the City will not seek additional compensation since the City's development of the Park Property caused the need for the New Easement; and

WHEREAS, City staff has identified no negative impacts to the City resulting from the grant of the New Easement or vacation of the Conveyed Easement; and

WHEREAS, Section 23-111(a) of the City Code provides that the City Council is authorized to sell, convey, or otherwise dispose of any and all interests in real property owned in the name of the City, provided that the Council first finds, by ordinance, that such sale or other disposition is in the best interest 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 New Easement on the City Property to Provincetowne, LLC as provided herein is in the best interest of the City.



Section 2. That the Mayor is hereby authorized to execute such documents as are necessary to convey the New Easement to Provincetowne, LLC on terms and conditions consistent with this Ordinance, together with such additional terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City, including, but not limited to, any necessary changes to the legal descriptions 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 4th day of May, A.D. 2010, and to be presented for final passage on the 18th day of May, A.D. 2010.

\_\_\_\_\_  
Mayor

ATTEST:

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

Passed and adopted on final reading on the 18th day of May, A.D. 2010.

\_\_\_\_\_  
Mayor

ATTEST:

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

EXHIBIT A

DESCRIPTION OF AN OFFSITE DRAINAGE EASEMENT LOCATED ON THE CITY OF FORT COLLINS PROPERTY TO BE DEDICATED TO PROVINCETOWNE WEST, LLC

An Offsite Drainage Easement located in the southeast quarter of Section 13 Township 6 North Range 69 West of the Sixth Principal Meridian, City Of Fort Collins, Larimer County, Colorado, a portion of the said easement is also located in Outlot I of the Plat of Provincetowne P.U.D. Filing No. 2, a plat of record with the Clerk and Recorder of the said Larimer County, a portion of the said easement is also located in that certain Tract of Land as described in a Decree Quieting Title recorded February 12, 1996 at Reception No. 96010201 records of the said Clerk and Recorder, being more particularly described as follows;

Considering the east line of the southeast quarter of the said Section 13 as bearing North 00 degrees 10 minutes 59 seconds East between a 3.25" Aluminum Cap Monument at the southeast corner and a 3.25" Aluminum Cap Monument at the east quarter corner of Section 13, based upon G.P.S. observations and the City of Fort Collins coordinate system, and with all bearings contained herein relative thereto;

Commencing at the southwest most corner of the said Outlot I of the Plat of Provincetowne P.U.D. Filing No. 2 the southwest most corner is also the TRUE POINT OF BEGINNING of this description;

THENCE along the northwesterly line of the said Outlot I, North 40 degrees 13 minutes 34 seconds East for a distance of 145.43 feet to the southerly line of the additional Road Right of Way as declared in City of Fort Collins Ordinance No 169, 2006;

THENCE along the said southerly line, along a non-tangent curve to the left having a radius of 78.00 feet a central angle of 53 degrees 24 minutes 17 seconds and an arc length of 72.70 feet, being subtended by a chord of North 66 degrees 55 minutes 43 seconds East for a distance of 70.10 feet;

THENCE continuing along the said additional Right of Way, and its northeasterly extension and along the southeasterly Right of Way of Bellewood Court as dedicated on the said Plat of Provincetowne P.U.D. Filing No. 2, North 40 degrees 13 minutes 34 seconds East for a distance of 307.50 feet;

THENCE leaving the said southeasterly Right of Way, South 49 degrees 46 minutes 26 seconds East for a distance of 53.86 feet;

THENCE South 37 degrees 52 minutes 17 seconds West for a distance of 441.60 feet;

THENCE along a non-tangent curve to the right having a radius of 155.00 feet a central angle of 34 degrees 43 minutes 49 seconds and an arc length of 93.95 feet, being subtended by a chord of South 25 degrees 56 minutes 27 seconds East for a distance of 92.52 feet;

THENCE South 08 degrees 34 minutes 32 seconds East for a distance of 168.83 feet;

THENCE along a curve to the left having a radius of 85.00 feet a central angle of 44 degrees 22 minutes 26 seconds and an arc length of 65.83 feet, being subtended by a chord of South 30 degrees 45 minutes 45 seconds East for a distance of 64.20 feet;

THENCE South 52 degrees 56 minutes 58 seconds East for a distance of 163.08 feet;

THENCE South 82 degrees 15 minutes 31 seconds East for a distance of 32.92 feet to the southwesterly line of Outlot A of the Plat of Provincetowne Filing Three, a plat of record with the said Clerk and Recorder;

THENCE along the said southwesterly line, along a non-tangent curve to the right having a radius of 450.00 feet a central angle of 09 degrees 02 minutes 23 seconds and an arc length of 71.00 feet, being subtended by a chord of South 05 degrees 17 minutes 00 seconds East for a distance of 70.92 feet;

THENCE leaving the said southwesterly line, non-tangent from the previous curve, North 82 degrees 15 minutes 31 seconds West for a distance of 68.81 feet;

THENCE North 52 degrees 56 minutes 58 seconds West for a distance of 179.54 feet;

THENCE along a curve to the right having a radius of 155.00 feet central angle of 44 degrees 22 minutes 26 seconds and an arc length of 120.04 feet, being subtended by a chord of North 30 degrees 45 minutes 45 seconds West for a distance of 117.07 feet;

THENCE North 08 degrees 34 minutes 32 seconds West for a distance of 168.83 feet;

THENCE along a curve to the left having a radius of 85.00 feet a central angle of 53 degrees 48 minutes 32 seconds and an arc length of 79.83 feet, being subtended by a chord of North 35 degrees 28 minutes 48 seconds West for a distance of 76.93 feet;

THENCE North 62 degrees 23 minutes 04 seconds West for a distance of 69.15 feet to the southwesterly extension of the said northwesterly line of Outlot I;

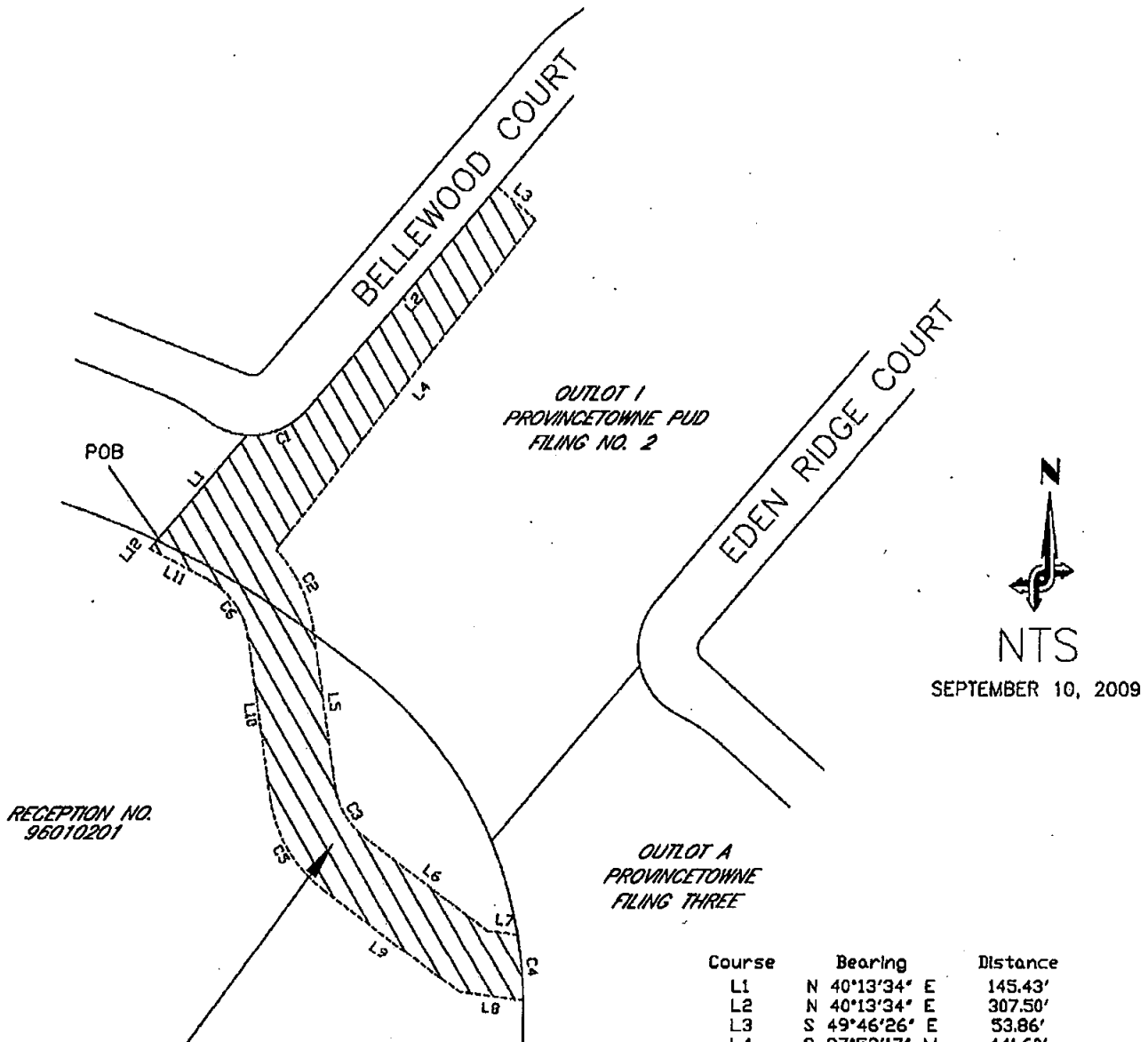
THENCE along the said extended line, North 40 degrees 13 minutes 34 seconds East for a distance of 11.84 feet to the point of beginning. Containing 77,124 square feet (1.771 acres) more or less.

I hereby state that the above description was prepared by me and is true and correct to the best of my professional knowledge, belief and opinion. The description is based upon previously recorded plats and deeds and not upon a actual field survey.

WALLACE C. MUSCOTT COLORADO P.L.S. 17497  
P.O. BOX 580 FORT COLLINS, CO 80522



# LOCATION SKETCH CITY TO PROVINCETOWNE WEST, LLC



NTS

SEPTEMBER 10, 2009

Course	Bearing	Distance
L1	N 40°13'34" E	145.43'
L2	N 40°13'34" E	307.50'
L3	S 49°46'26" E	53.86'
L4	S 37°52'17" W	441.60'
L5	S 08°34'32" E	168.83'
L6	S 52°56'58" E	163.08'
L7	S 82°15'31" E	32.92'
L8	N 82°15'31" W	68.81'
L9	N 52°56'58" W	179.54'
L10	N 08°34'32" W	168.83'
L11	N 62°23'04" W	69.15'
L12	N 40°13'34" E	11.84'

Curve	Radius	Length	Delta
C1	78.00'	72.70'	53°24'17"
C2	155.00'	93.95'	34°43'49"
C3	85.00'	65.83'	44°22'26"
C4	450.00'	71.00'	9°02'23"
C5	155.00'	120.04'	44°22'26"
C6	85.00'	79.83'	53°48'32"

THIS SKETCH AND THE AREAS SHOWN DEPICT THE ATTACHED PROPERTY DESCRIPTION ONLY, AND DO NOT REPRESENT A MONUMENTED BOUNDARY SURVEY.

K:\SURV\PROJ\P&R\PROV\DWG