

DATE: April 17, 2012
STAFF: Rick Richter, Randy Maizland
Lindsay Kuntz

AGENDA ITEM SUMMARY
FORT COLLINS CITY COUNCIL

13

SUBJECT

Second Reading of Ordinance No. 032, 2012, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary to Construct Public Improvements in Connection with the North College Avenue Roadway Improvement Project - Vine to Conifer.

EXECUTIVE SUMMARY

The North College Avenue Improvement Project – Vine to Conifer is a road improvement project that extends from Vine Drive on the south to the intersection of Hickory Street on the north. In 2010, Ordinance No. 085, 2010, authorized the use of eminent domain proceedings to acquire the necessary property interests for the Project. All property interests were secured for construction to move forward. While relocating existing utilities for the upcoming road work, City staff determined that additional right-of-way area containing approximately .011 acres is needed on one parcel to accommodate a realignment of a planned pedestrian bridge. City staff has contacted the affected property owner who is open to working with the City on the new acquisition. Since the Project is located on a Colorado Department of Transportation (CDOT) facility and the Project is partially funded by CDOT, this acquisition must follow the same eminent domain procedures used in the previous acquisitions for the Project. This Ordinance was unanimously adopted on First Reading on April 3, 2012.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS

1. Copy of First Reading Agenda Item Summary - April 3, 2012
(w/o attachments)

DATE: April 3, 2012
STAFF: Rick Richter, Randy Maizland,
Lindsay Kuntz

AGENDA ITEM SUMMARY
FORT COLLINS CITY COUNCIL

15

SUBJECT

First Reading of Ordinance No. 032, 2012, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary to Construct Public Improvements in Connection with the North College Avenue Roadway Improvement Project - Vine to Conifer.

EXECUTIVE SUMMARY

The North College Avenue Improvement Project – Vine to Conifer (the “Project”) is a road improvement project that extends from Vine Drive on the south to the intersection of Hickory Street on the north. In 2010, City Council passed Ordinance No. 085, 2010, authorizing the use of eminent domain proceedings to acquire the necessary property interests for the Project. All property interests were secured for construction to move forward. While relocating existing utilities for the upcoming road work, City staff determined that additional right of way area containing approximately .011 acres is needed on one parcel to accommodate a realignment of a planned pedestrian bridge. City staff has contacted the affected property owner who is open to working with the City on the new acquisition. Since the Project is located on a Colorado Department of Transportation (“CDOT”) facility (State Highway 287) and the Project is partially funded by CDOT, this acquisition must follow the same eminent domain procedures used in the previous acquisitions for the Project. It is required that City staff obtain authorization to use eminent domain proceedings for this additional acquisition since it was not included in Ordinance No. 085, 2010.

BACKGROUND / DISCUSSION

The purpose of the Project is to improve the safety, operations and aesthetics between Vine Drive and the Hickory/Conifer intersection. The project includes storm drainage utilities, curb, gutter and roadway paving, redefinition and consolidation of driveways, bike lanes and sidewalks, new streetscape and other necessary improvements.

The area of the additional acquisition needed for the Project is located on a property at 742 North College Avenue. The City has already acquired a small area of fee simple property and a temporary construction easement from the owner of this property. The fee simple acquisition was located on the southern portion of this property to accommodate a pedestrian bridge to be built over the Lake Canal ditch. There is an existing City-owned 8” water line running parallel to College along the frontage of this parcel which also crosses the ditch. It was discovered through potholing that the planned pedestrian bridge foundation would be in conflict with the water line. City Engineering staff obtained a quote from the Project contractor to relocate the water line. The quoted price was a minimum of \$106,000. A cost estimate was also prepared for shifting the bridge to the east ten feet rather than relocating the water line. This would require the acquisition of additional fee simple area from the property owner. The estimate for this option came out to be approximately \$35,000 which included the cost of acquisition and additional construction costs. The decision was made to pursue acquiring the additional property and realign the pedestrian bridge.

The owner of the property was contacted with the new proposal and has not raised any objections to the additional acquisition. Since the Project is located on a Colorado Department of Transportation (“CDOT”) facility (State Highway 287) and the Project is partially funded by CDOT, all aspects of the Project, including property acquisitions, must comply with procedures for federally funded projects. The acquisitions for this Project conform to the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 as Amended (Public Law 91-646). In accordance with these regulations, the City must inform property owners about the possible use of eminent domain and their rights pursuant to Colorado Statute in the official Notice of Intent Letter. The authorization from City Council is needed prior to sending this information to property owners. This letter is the first official step in the acquisition phase and happens prior to the appraisals.

City staff notified the affected property owner by certified mail of this request to Council for authorization of the use of eminent domain proceedings prior to first reading of this Ordinance. During recent conversations, the owner has indicated a willingness to work with the City on this new acquisition.

FINANCIAL / ECONOMIC IMPACTS

Overall Project

In 2005, Fort Collins voters approved a 1/4 cent sales tax to fund capital projects – Building on Basics (BOB). One of the transportation projects funded through this package is “North College Avenue Improvements Phase 2 – Vine Drive to Conifer.” This project is the next phase of the improvements that were initially funded through the Building Community Choices (BCC) capital plan, which expired in 2005. The BCC program funded improvements from Jefferson to Vine Drive.

Anticipated Funding Sources:

- City Funds/BOB: \$4,780,000
- Residual funds from Northern Colorado Truck Route Relocation Project: \$1,800,000
- State/Federal funds: \$1,549,000
- Urban Renewal Authority (URA) funds: \$2,700,000
(The timing and exact amount of URA funds is contingent upon URA Board approval and revenue generated within the plan area.)

Complete cost estimate: \$10.8 million (estimate does not include medians or edge improvements north of Conifer Street)

Additional Acquisition

City Engineering staff obtained a quote from the Project contractor to relocate the water line. The quoted price was a minimum of \$106,000. A cost estimate was also prepared for shifting the bridge to the east ten feet rather than relocating the water line. This would require the acquisition of additional fee simple area from the property owner. The estimate for this option came out to be approximately \$35,000 which included the cost of acquisition and additional construction costs. After evaluating the two options, City staff's decision was to pursue acquiring additional property to shift the pedestrian bridge further to the east and avoid the water line.

ENVIRONMENTAL IMPACTS

With the project adjacent to a state facility and having federal dollars as part of the overall project budget, several environmental assessments were conducted along this section of North College as required by CDOT. Assessments evaluating the project's impacts to air quality, noise pollution, hazardous waste, lead based paint, threatened or endangered species, wetlands, archaeology, paleontology, historic bridges, and history were conducted. A majority of the assessments resulted in no mitigation necessary. The hazardous waste and lead based paint investigations did prompt additional examination to determine appropriate mitigation for the existing contaminants within the project limits. Due to the existence of contaminated soils at one property, a permanent easement, as opposed to ROW, will be purchased at the request of CDOT. Additional mitigation to address remaining contaminants will be performed during the construction phase of the project.

No environmental concerns were identified within the area of the property affected by this additional acquisition.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

PUBLIC OUTREACH

City staff has held numerous public meetings in 2010, 2011 and early 2012. These meetings began in the conceptual phase of the project to include public input as to what improvements were most desirable in the area. City staff has also met with individual property and business owners in the area to discuss the Project and any concerns related to the upcoming improvements. City staff has also been present at a number of North Fort Collins Business Association Meetings to present the Project and discuss the planned changes in the area. City staff has also specifically discussed the realignment of the pedestrian bridge with the owner of the property affected by this new acquisition.

ATTACHMENTS

1. Project Location Map
2. Pedestrian Bridge Detail

COPY

COPY

COPY

COPY

ORDINANCE NO. 032, 2012
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE ACQUISITION BY EMINENT DOMAIN PROCEEDINGS OF
CERTAIN LANDS NECESSARY TO CONSTRUCT PUBLIC IMPROVEMENTS
IN CONNECTION WITH THE NORTH COLLEGE AVENUE ROADWAY
IMPROVEMENT PROJECT - VINE TO CONIFER

WHEREAS, the North College Avenue Roadway Improvement Project (the “Project”) is currently under construction; and

WHEREAS, the Project involves the construction of curbs, gutters, driveway, bike lanes, sidewalks, streetscape, and other necessary improvements; and

WHEREAS, the Project will improve the safety, operations, and aesthetics of North College between Vine Drive and the Hickory/Conifer intersection; and

WHEREAS, it is necessary for the City to acquire certain property rights hereinafter described on Exhibit “A” attached hereto and incorporated herein by this reference, for the purpose of constructing the Project; and

WHEREAS, the City will negotiate in good faith for the acquisition of said property rights from the owner thereof; and

WHEREAS, the acquisition of the property rights is desirable and necessary for the construction of the Project, is in the City’s best interest and enhances public health, safety, and welfare; and

WHEREAS, the acquisition of such property rights may, by law, be accomplished through eminent domain.

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

Section 1. That the City Council hereby finds and determines that it is necessary in the public interest to acquire the property rights described on Exhibit “A” for the purpose of the Project.

Section 2. That the City Council hereby authorizes the City Attorney and other appropriate officials of the City to acquire said property rights for the City by eminent domain proceedings.

Section 3. The City Council hereby finds, in the event that acquisition by eminent domain of the property rights described in this Ordinance is commenced, that immediate possession is necessary for the public health, safety and welfare.

Introduced, considered favorably on first reading, and ordered published this 3rd day of April, A.D. 2012, and to be presented for final passage on the 17th day of April, A.D. 2012.

Mayor

ATTEST:

Interim City Clerk

Passed and adopted on final reading on the 17th day of April, A.D. 2012.

Mayor

ATTEST:

Interim City Clerk

EXHIBIT "A"

PROJECT NUMBER: AQC M455-079

PARCEL NUMBER: 106A

Project Code: 16489

Date: March 20, 2012

A tract or parcel of land No. 106A of the City of Fort Collins, State of Colorado, Project No. AQC M455-079 containing 0.011 acres, more or less, being a portion of the property described in the records of the Larimer County Clerk & Recorder as Lot 1, Block 1 of the Will Subdivision, located in the SW 1/4 of Section 1, Township 7 North, Range 69 West, of the 6th Principal Meridian, in the City of Fort Collins, County of Larimer, State of Colorado, said tract or parcel being more particularly described as follows:

Commencing at a point, whence the SW corner of said Section 1 (a 3 1/4" Brass Cap in a Range Box - PLS 25372), bears S07°41'19"W, a distance of 468.78 feet, said point being on the easterly right-of-way line of N. College Avenue (US 287), also being the TRUE POINT OF BEGINNING;

1. Thence S41°53'54"E, a distance of 18.54 feet;
2. Thence S00°38'34"W, a distance of 71.58 feet to the south line of said Lot 1, Block 1 of the Will Subdivision;
3. Thence along said south line, S89°21'26"E, a distance of 6.50 feet;
4. Thence N00°38'34"E, a distance of 68.52 feet;
5. Thence N48°03'44"W, a distance of 25.33 feet, more or less, to the TRUE POINT OF BEGINNING.

The above described tract or parcel of land contains 481 sq. ft. (0.011 acres), more or less.

Basis of Bearings: Bearings are based on the west line of the SW 1/4 of Section 1, Township 7 North, Range 69 West, of the 6th Principal Meridian, bearing N00°38'34"E. The SW corner of said Section 1 is a 3 1/4" Brass Cap in a Range Box - PLS 25372, and the W1/4 corner of said Section 1 is 3" Aluminum Cap in a Range Box - PLS 20123.

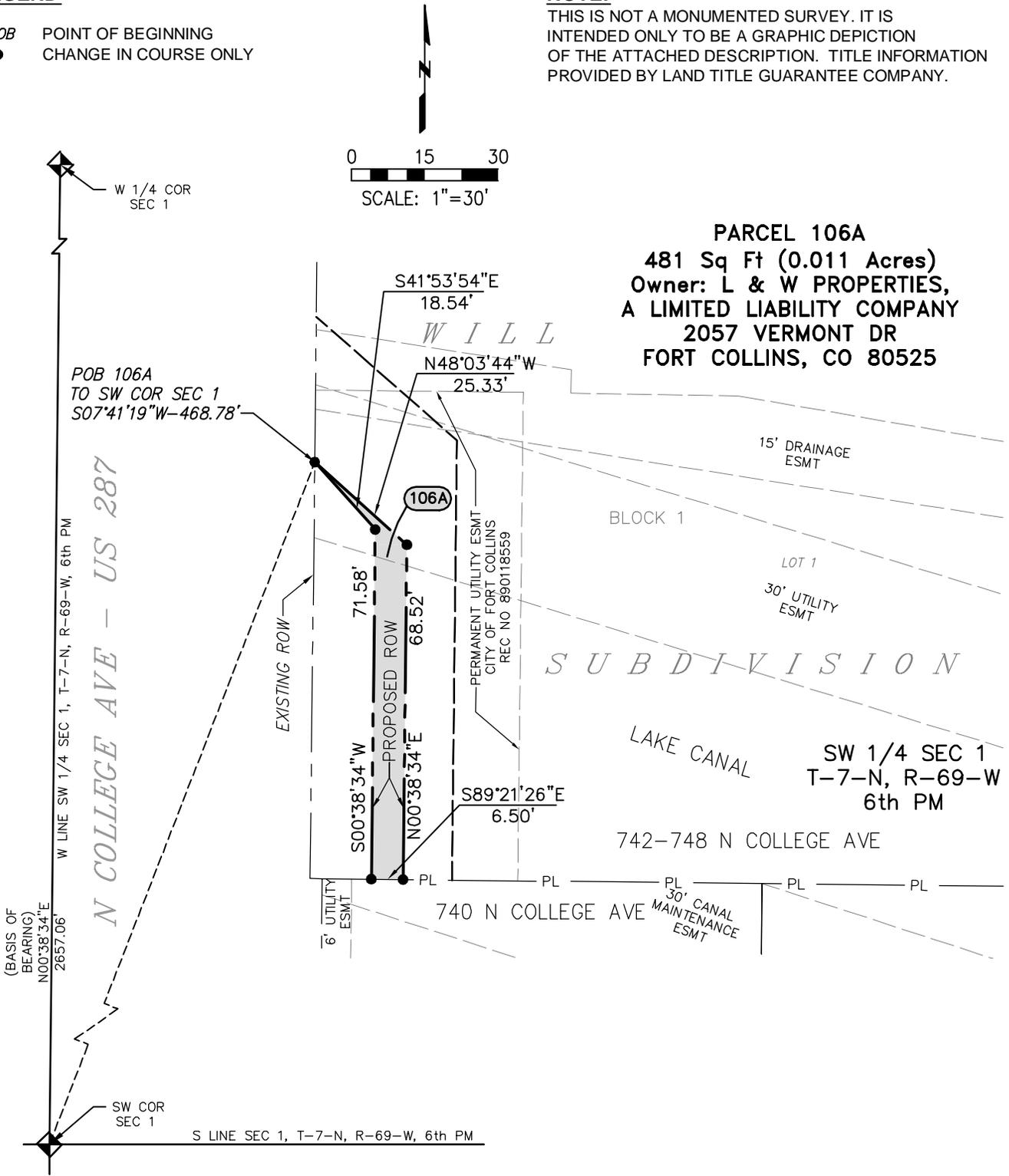
Prepared for and on behalf of the
City of Fort Collins
Micheal L. Bouchard, PLS #24941
Farnsworth Group, Inc.
3538 JFK Parkway, Suite 3
Fort Collins, CO 80525

LEGEND

- POB POINT OF BEGINNING
- CHANGE IN COURSE ONLY

NOTE:

THIS IS NOT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO BE A GRAPHIC DEPICTION OF THE ATTACHED DESCRIPTION. TITLE INFORMATION PROVIDED BY LAND TITLE GUARANTEE COMPANY.



PARCEL 106A
481 Sq Ft (0.011 Acres)
Owner: L & W PROPERTIES,
A LIMITED LIABILITY COMPANY
2057 VERMONT DR
FORT COLLINS, CO 80525

Farnsworth
GROUP
 3538 JFK PARKWAY, SUITE 3
 FORT COLLINS, CO. 80525
 (970) 266-1066 / (970) 266-1075 Fax

EXHIBIT A
PARCEL 106A
 LOT 1, BLOCK 1, WILL SUBDIVISION
 SW 1/4 SECTION 1, T-7-N, R-69-W OF THE 6TH PM
 CITY OF FORT COLLINS, LARIMER COUNTY, COLORADO

Project No: 0081370.05
 Drawn by: jaf
 Approved: MLB
 Date: 03/20/12
 Revised:
2 of 2

PROJECT NUMBER: AQC M455-079
TEMPORARY EASEMENT NUMBER: TE-106 REV
Project Code: 16489
Date: March 20, 2010

A temporary easement No. TE-106 REV of the City of Fort Collins, State of Colorado, Project No. AQC M455-079 containing 0.035 acres, more or less, being a portion of the property described in the records of the Larimer County Clerk & Recorder as Lot 1, Block 1 of the Will Subdivision, located in the SW 1/4 of Section 1, Township 7 North, Range 69 West, of the 6th Principal Meridian, in the City of Fort Collins, County of Larimer, State of Colorado, said temporary easement being more particularly described as follows:

Commencing at a point, whence the SW corner of said Section 1 (a 3 1/4" Brass Cap in a Range Box - PLS 25372), bears S07°41'19"W, a distance of 468.78 feet, said point being on the easterly right-of-way line of N. College Avenue (US 287), also being the TRUE POINT OF BEGINNING;

1. Thence S48°03'44"E, a distance of 25.33 feet;
2. Thence S00°38'34"W, a distance of 68.52 feet to the south line of said Lot 1, Block 1 of the Will Subdivision;
3. Thence along said south line, S89°21'26"E, a distance of 10.00 feet;
4. Thence N00°38'34"E, a distance of 90.00 feet;
5. Thence N48°38'39"W, a distance of 38.30 feet to a point on the easterly right-of-way line of N. College Avenue (US 287);
6. Thence along said right-of-way line, S00°38'34"W, a distance of 29.75 feet, more or less, to the TRUE POINT OF BEGINNING.

The above described temporary easement contains 1,512 sq. ft. (0.035 acres), more or less.

The purpose of the above described temporary easement is for the construction of roadway improvements along N. College Avenue (US 287).

Basis of Bearings: Bearings are based on the west line of the SW 1/4 of Section 1, Township 7 North, Range 69 West, of the 6th Principal Meridian, bearing N00°38'34"E. The SW corner of said Section 1 is a 3 1/4" Brass Cap in a Range Box - PLS 25372, and the W1/4 corner of said Section 1 is 3" Aluminum Cap in a Range Box - PLS 20123.

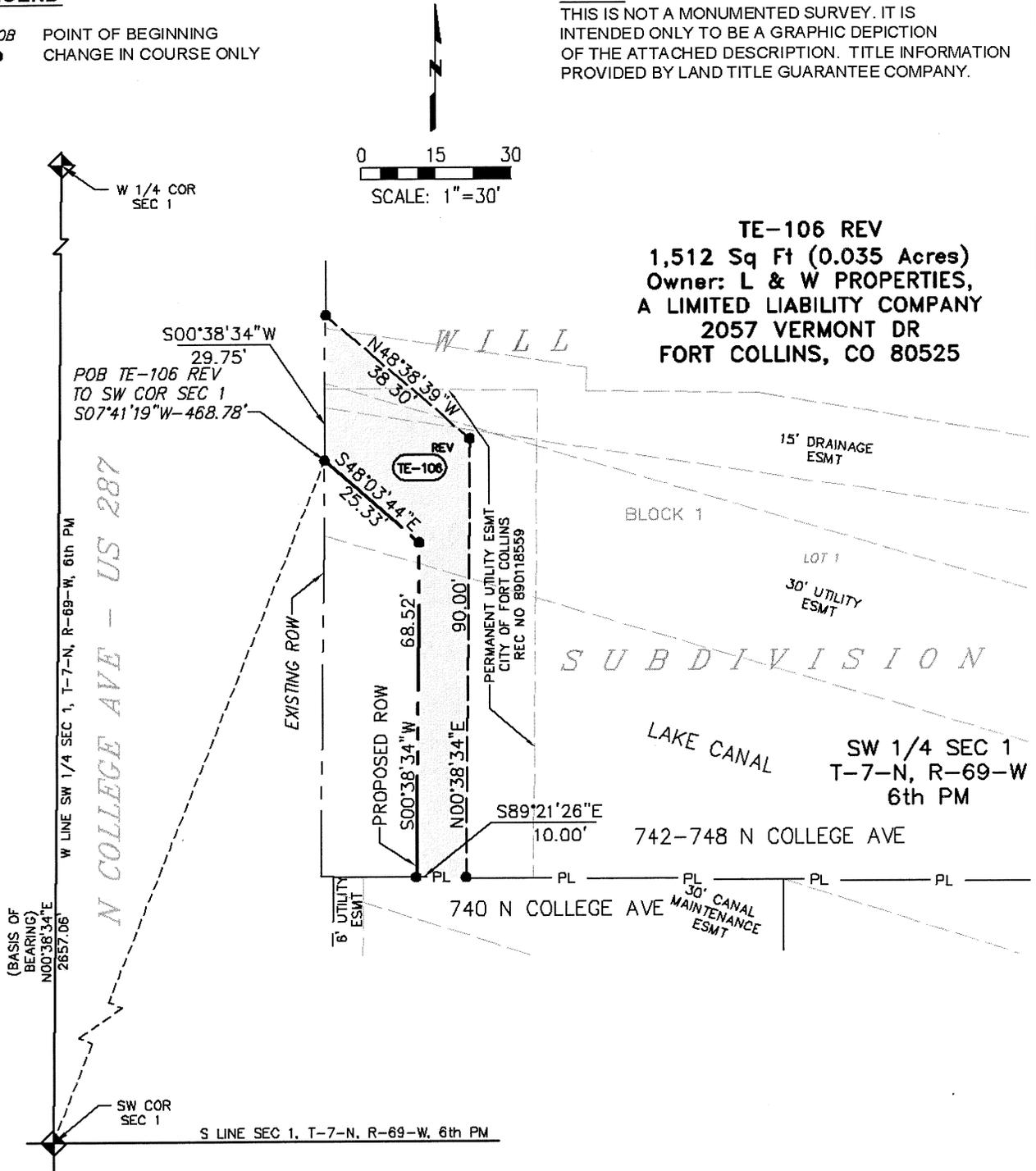
Prepared for and on behalf of the
City of Fort Collins
Micheal L. Bouchard, PLS #24941
Farnsworth Group, Inc.
3538 JFK Parkway, Suite 3
Fort Collins, CO 80525

LEGEND

POB POINT OF BEGINNING
 ● CHANGE IN COURSE ONLY

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TE-106 REV
 1,512 Sq Ft (0.035 Acres)
 Owner: L & W PROPERTIES,
 A LIMITED LIABILITY COMPANY
 2057 VERMONT DR
 FORT COLLINS, CO 80525

Farnsworth
 GROUP
 3538 JFK PARKWAY, SUITE 3
 FORT COLLINS, CO. 80525
 (970) 266-1066 / (970) 266-1075 Fax

EXHIBIT A
 TEMPORARY EASEMENT NO. TE-106 REV
 LOT 1, BLOCK 1, WILL SUBDIVISION
 SW 1/4 SECTION 1, T-7-N, R-69-W OF THE 6TH PM
 CITY OF FORT COLLINS, LARIMER COUNTY, COLORADO

Project No:	0081370.05
Drawn by:	jaf
Approved:	MLB
Date:	03/20/12
Revised:	
2 of 2	