

MEMORANDUM

TO: City Council

FROM: Greg George, Community Services Director
Chip Taylor, Transportation Engineering Division Manager

DATE: March 16, 2004

SUBJECT: Aspen Knolls PUD – Request for condemnation

I. ATTACHMENT

- A. Aspen Knolls, Real Property Acquisition Request for Condemnation, prepared by Landmark Engineering LTD., dated March 16, 2004 (white binder under separate cover).

II. EXECUTIVE SUMMARY

A. Previous City Council action:

- 1. January 6, 2004:** This request to condemn property owned by the Ray W. Hein Family Trust and the Ray W. Hein Family Trust and Ray W. Hein Family Investment Company was on the January 6, 2004 City Council agenda, along with a request to condemn property owned by Sam Jr. and Tami Gurule. Prior to considering the agenda item the request to condemn the property owned by Sam Jr. and Tami Gurule was removed from the agenda due to the developer having reach an agreement to purchase the needed easement.

At the conclusion of the discussion on the request to condemn the Hein property, City Council continued the hearing and directed those representing the Hein properties and the developer of Aspen Knolls to continue to negotiate. City Council asked for a report back to Council on January 20, 2004.

- 2. January 20, 2004:** On January 20, 2004, City Council continued the matter again and directed City staff and the applicant to revise the request so that the

land areas being considered for condemnation would allow roadway improvements meeting City standards.

- B. Key Issue:** The land areas included in this request for condemnation would allow improvements to South Taft Avenue in compliance with all City street standards.
- C. Proposed improvements to South Taft Avenue:** Consistent with City standards, the improvements to South Taft Avenue would include two 12 foot wide travel lanes in each direction extending south from the northerly boundary of the Aspen Knolls PUD, through the intersection of South Taft Avenue and 28th Street SW, then tapering back to the existing 2 lane County road approximately 300 feet north of the existing bridge. At the north end of the project, the 12 foot wide travel lanes would taper back to the existing 11 foot wide lanes.

The roadway section would include curb and gutter, on-street bike lanes, and a detached sidewalk along the entire frontage of Aspen Knolls PUD. A right turn lane would be provided for northbound traffic on South Taft Avenue turning eastbound onto 28th Street SW. A left turn lane would also be provided for northbound traffic on South Taft Avenue turning westbound onto 28th Street SW. A left turn lane would be provided for southbound traffic on South Taft Avenue turning east into the main entrance to the Aspen Knolls PUD. A right turn lane would also be provided for northbound traffic on South Taft Avenue turning eastbound onto 23rd Street SW. A left turn lane would be provided for northbound traffic on South Taft Avenue turning west onto 23rd street SW. All left and right turn lanes would meet City street standards.

South of 28th Street SW, new curb and gutter would be provided on the east side of South Taft Avenue for a distance of approximately 380 feet to the beginning of the taper back to 2 lanes. A northbound on-street bike lane would also be provided in the area south of 28th Street SW, but no sidewalk would be provided adjacent to the Hein property.

III. CONDEMNATION FINDINGS AND ANALYSIS

City of Loveland Resolution #R-53-2001 requires that City staff make the findings below in any recommendation to City Council concerning the authorization of its powers of eminent domain.

- A.** *There is sufficient public purpose to justify the acquisition by eminent domain.*

Response: The roadway improvements to South Taft Avenue are depicted on the Transportation Master Plan and would serve local and regional transportation needs.

- B.** *The eminent domain proceedings are not being commenced primarily to advance a private interest or private use.*

Response: As stated in the previous finding, the roadway improvements are consistent with the adopted Transportation Master Plan. These improvements to South Taft Avenue would have to be made eventually to accommodate anticipated increases in traffic unassociated directly with the Aspen Knolls PUD.

- C. *The developer has considered, and presented to the City, alternative designs for the project to alleviate or minimize the need for the proposed easement or right-of-way.*

Response: The applicant has explored design alternatives to minimize the need for right-of-way and easements. These alternatives were discussed in detail at the January 20, 2004 City Council meeting. At that meeting City Council directed City staff and the applicant to revise the legal description for the requested condemnation to include enough land area to allow the street improvements to meet City standards.

- D. *The developer has pursued all reasonable options to obtain the easements and/or rights-of-way by private agreement and those efforts have been unsuccessful.*

Response: The developer has described in detail their efforts in trying to acquire the necessary rights-of-way and easements. The information and negotiation logs are provided in Attachment A, under separate cover (white binder).

- E. *The improvements for which the easements or rights-of-way are needed will be utilized by more than one person, partnership or other entity and are necessary to connect the proposed development with existing infrastructure, such as transportation, water, sewer, stormwater, or other utilities.*

Response: These roadway improvements are needed to connect the Aspen Knolls PUD to existing improvements to the north currently in the City of Loveland. These improvement would be used by the general public using Taft Avenue as a major north/south arterial.

- F. *The developer has entered into an agreement with the City, satisfactorily in form and substance to the City Manager and City Attorney, that sets forth the parties' respective rights and obligations related to the eminent domain proceedings, including, without limitation, a provision obligating the developer to pay all costs of the property acquisition, including all City costs related to said proceedings.*

Response: The developer and the City will enter into an agreement satisfactory to the City Attorney if the condemnation action is authorized by City Council.

- G. *The improvements for which the easements or rights-of-way are needed have been identified on an adopted public infrastructure master plan, or are otherwise defined as a City capital improvement which may be financed, in part, by capital expansion fees as set forth in the Loveland Municipal Code.*

Response: These improvements are necessary to bring South Taft Avenue up to the standards applicable to the street classification shown on the City's Transportation Master Plan.

V. RECOMMENDED CONDITIONS

If City Council authorizes the use of eminent domain as requested by the applicant, then City staff recommends that any such authorization be subject to the following condition:

Engineering Division

1. For purposes of all preliminary development plan reviews within the Aspen Knolls General Development Plan, the ACF maximum traffic volumes on 23rd Street SW, east of South Taft Avenue, shall not exceed 95 vehicles per hour per lane for the entire GDP. In addition, access to 23rd Street SW from the Aspen Knolls GDP shall be limited to one (1) connection via Douglas Avenue.