

BOARD OF COUNTY COMMISSIONERS FOR  
ADAMS COUNTY, STATE OF COLORADO

RESOLUTION AUTHORIZING SALE OF EASEMENTS AND SALE OF A PORTION OF  
THE METZGER FARM PROPERTY FOR STREET IMPROVEMENTS

**Resolution No. 2014-011**

WHEREAS, Adams County voters approved an Open Space Sales Tax on November 2, 1999, to be used in accordance with Resolution 99-1; and

WHEREAS, the City of Westminster was awarded three grants totaling \$1,502,500 and used a portion of their direct shareback from the Open Space Sales Tax program for the acquisition of the Metzger Farm property, located to the East of Lowell Boulevard between 120<sup>th</sup> and 124<sup>th</sup> Avenues; and

WHEREAS, the City of Westminster acquired the Metzger Farm property in 2006 and developed it into a publically accessible open space with the understanding that improvements to adjacent roadways would be necessary in the future; and

WHEREAS, the City of Westminster and the City and County of Broomfield are working on a joint project to widen Lowell Boulevard and create proper turning movements at 120<sup>th</sup> Avenue and 124<sup>th</sup> Avenue, and the Colorado Department of Transportation is making improvements to 120<sup>th</sup> Avenue (collectively referred to as “street improvements adjacent to the Metzger Farm property”), all of which require additional right-of-way from the Metzger Farm property; and

WHEREAS, Certificates of Participation (“certificates”) were sold by the Broomfield-Westminster Open Space Foundation, Inc. to assist with financing the property; and

WHEREAS, the certificates maintained certain restrictions to prevent the sale of the full fee interest in these areas until the certificates are paid back; and

WHEREAS, the City of Westminster desires to sell permanent and temporary easements now in order to facilitate street improvements adjacent to the Metzger Farm property and pay back the certificates; and

WHEREAS, the City of Westminster desires to transfer the full fee interest in the easement areas after the certificates have been paid back; and

WHEREAS, Resolution 99-1 requires Board of County Commissioners’ approval prior to the sale, lease, trade, conveyance, or issuance of an exclusive license or permit on any land or interests acquired with the revenues of the Open Space Sales Tax; and

WHEREAS, the City of Westminster has requested the Board of County Commissioners’ approval to sell permanent and temporary easements now and the full fee interest in the easement areas after the certificates have been paid back to facilitate these roadway improvements; and

WHEREAS, Adams County will receive 14% of the proceeds of the easement sale, an amount equal to the percentage of total project costs that were contributed by the Open Space Sales Tax grant program to the acquisition of the property in 2006; and

WHEREAS, Adams County's proceeds will be returned to the Open Space Sales Tax fund to be redistributed through the grant program.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners, County of Adams, State of Colorado, that the City of Westminster is now authorized to sell permanent and temporary easements to pay back the certificates; and

BE IT FURTHER RESOLVED, by the Board of County Commissioners, County of Adams, State of Colorado, that the City of Westminster is authorized to sell full fee interest in the easement areas for street improvements adjacent to the Metzger Farm property, after the certificates have been paid back.

Upon motion duly made and seconded the foregoing resolution was adopted by the following vote:

Henry \_\_\_\_\_ Aye  
Tedesco \_\_\_\_\_ Aye  
Hansen \_\_\_\_\_ Aye

Commissioners

STATE OF COLORADO     )  
County of Adams         )

I, Karen Long, County Clerk and ex-officio Clerk of the Board of County Commissioners in and for the County and State aforesaid do hereby certify that the annexed and foregoing Order is truly copied from the Records of the Proceedings of the Board of County Commissioners for said Adams County, now in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, at Brighton, Colorado this 6<sup>th</sup> day of January, A.D. 2014.

County Clerk and ex-officio Clerk of the Board of County Commissioners  
Karen Long:



By:



Deputy



Parks & Community Resources Department  
Adams County Regional Park  
9755 Henderson Road, Brighton, CO 80601  
PHONE 303.637.8000 FAX 303.637.8015

## MEMORANDUM

TO: Keisha Hirsch, Executive Assistant to the BoCC

FROM: Shannon McDowell, Open Space Program Manager

RE: Sale of a portion of Westminster's Metzger Farm property

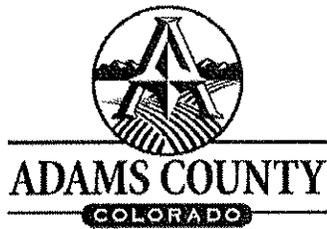
DATE: December 26, 2013

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Keisha:

Enclosed are copies of the resolution, staff summary, and request from Westminster to sell a portion of the Metzger Farm property. Please put this on the agenda for the next public hearing.

Let me know if there is anything else you need. Thank you!



### STAFF SUMMARY

DEPARTMENT/NAME/PHONE: Regina Elsner, Parks Department, 303.637.8072 *RE*

THROUGH: Shannon McDowell, *SM* 303.637.8039 and Rick Anderson, *RA* 303.637.8006, Parks

SUBJECT: Sale of a Portion of Metzger Farm originally purchased with Open Space Sales Tax Funds

BACKGROUND: In three consecutive grant cycles in 2003-2004, the City of Westminster was awarded a total of \$1,502,500 for the purchase of 152 acres of property at the intersection of Lowell Boulevard and 120<sup>th</sup> Avenue. The land was purchased to protect the historic Metzger Farm and is owned by the Broomfield-Westminster Open Space Foundation (the Foundation). In 2010, additional grant funds were awarded to make improvements to the site to open it to the public as a historic and open space amenity.

At the time of purchase, the City of Westminster was aware that future improvements to Lowell Boulevard between 120<sup>th</sup> Avenue and 124<sup>th</sup> Avenue would be necessary and a small portion of the property along these thoroughfares would have to be taken for road improvements. Broomfield and Westminster are currently ready to make those improvements to Lowell Boulevard, which include widening of Lowell Boulevard and improvements to create proper turning movements between Lowell Boulevard and 120<sup>th</sup> and 124<sup>th</sup> Avenues. In addition, CDOT is currently making improvements to 120<sup>th</sup> Avenue that also affect the property.

In accordance with Resolution 99-1 establishing the Open Space Sales Tax, Westminster is required to have the BoCC review and approve any transfer of land or interests. As such, Westminster is requesting review and approval to sell a Permanent Easement and a Temporary Easement to enable the necessary roadway improvements. If approved, approximately 2.4 acres of the property along Lowell Boulevard and 120<sup>th</sup> and 124<sup>th</sup> Avenues will be transferred from the Foundation to Westminster via a Permanent Easement. An additional 0.1 acres extending just beyond the Permanent Easement will be transferred via a Temporary Easement. Maps of both the Permanent and Temporary Easements can be found attached to the request letter submitted by Westminster.

Westminster engaged an appraiser to value the Permanent Easement, which was valued at less than the original purchase price. Due to Westminster City Code Section 13-5-4, the property will be transferred back to the City and the Foundation will be paid the full original purchase price for that portion of the property, or \$166,519.20. No funds will be transferred for the

Temporary Easement as the property will be returned to its open space character. Currently, the property is being transferred as an easement due to the debt obligations on the property. It is the intent of the Foundation and Westminster to fully transfer the ownership of the Permanent Easement to Westminster at such time as the debt financing will allow. For this reason, the Permanent Easement is valued at full property value and not at a diminished easement value.

**COST & SOURCE OF FUNDING:** Approving this transaction will not cost the County any funds. As is the precedent, at the direction of the BoCC, Westminster may be required to return 14% of the \$166,519.20 to the Open Space grant fund as this portion of the funds came from the grant fund originally.

**TIMING:** Approval for this transfer has been received by all other required parties. Westminster would like to break ground on this as soon as possible with early December being their target.

**INTERESTED AND/OR INVOLVED PARTIES:** Parks and Community Resources Department, Open Space Advisory Board, City of Westminster

**STATUTORY REQUIREMENTS, IF ANY:** Compliance with Resolutions 99-1 and 2004-1.

**AGENCIES, DEPARTMENTS, OFFICE COORDINATED WITH:** Open Space Program, City of Westminster

**BOCC OPTIONS:** Approve the sale of the Permanent and Temporary Easements; Reject the sale of the Permanent and Temporary Easements

**REQUIRED/RECOMMENDED ACTION:** Staff recommends the Permanent and Temporary Easements be approved for the roadway improvements on Lowell Boulevard, 120<sup>th</sup> Avenue, and 124<sup>th</sup> Avenue. These improvements will improve access to the Metzger Farm, potentially allowing more citizens to enjoy this open space amenity. In addition, the improvements being made along Lowell and the Neissen Channel will directly benefit the property's open space amenities by constructing sidewalks and a pedestrian underpass under Lowell. These additions will greatly improve the connectivity of this site to other open space amenities.

Staff also recommends that the BoCC request that 14% of the purchase price (\$166,519.20) be returned by the City to the grant fund. This property will no longer be in open space use and should no longer benefit from Open Space Tax funds. Returning these funds to the Open Space Grant fund will allow future grant projects access to these funds for parks and open space projects. The amount staff recommends requesting to be returned is \$23,312.69.



## WESTMINSTER

November 18, 2013

Adams County Commissioners  
4430 S. Adams County Parkway  
5th Floor, Suite C5000A  
Brighton, CO 80601-8204

City of Westminster  
Office of the  
City Manager

4800 West 92nd Avenue  
Westminster, Colorado  
80031

303-658-2400  
FAX 303-706-3921

Re: Sale of Interest in Land- Request for Approval

Per Resolution 99-1, The City of Westminster ("Westminster") requests your review of a proposed sale of property interest at Metzger Farm, which is located at 12080 Lowell Boulevard in Westminster, Colorado. Adams County awarded three grants to the City of Westminster in 2003 and 2004 totaling \$1,502,500. These funds were used towards the total purchase price of \$10.5 million for the property. More recently, Adams County awarded a grant of \$345,000 that was used to construct improvements on the site. In addition, Westminster uses a portion of the 30% share back funds it receives from Adams County towards the annual debt payment for Metzger Farm. The property is owned by the Broomfield-Westminster Open Space Foundation which is controlled by a Board of Directors made up of the Mayors, City Managers, and two Council members from both the City and County of Broomfield and the City of Westminster along with one at-large member from outside of the communities.

The City of Westminster and the City and County of Broomfield ("Broomfield") have entered into an Intergovernmental Agreement for the design, construction, maintenance and sharing of costs for widening and improving Lowell Boulevard between 120<sup>th</sup> Avenue and 124<sup>th</sup> Avenue to a four lane arterial roadway and for City Park Channel ("Lowell IGA"). The Lowell Boulevard Improvement Project ("Lowell Project") includes adding medians, two vehicular lanes on the east side of Lowell Boulevard, a bike lane, an 8-foot concrete sidewalk, improved landscaping, a pedestrian underpass beneath Lowell Boulevard, a pedestrian crossing of Nissen Channel, drainage improvements, and the burying of utilities. Some of these improvements will encroach on the Metzger Farm Open Space ("Metzger"). The Colorado Department of Transportation ("CDOT") is also completing intersection improvements that include adding double left turns from West 120th Avenue to Lowell Boulevard to the north and south. Existing utilities along the north edge of the intersection will be buried, and new free standing traffic signal poles will be placed (CDOT Project). Some of these improvements will also encroach on Metzger. The Lowell and CDOT Project elements along with the proposed permanent and temporary easements are depicted on Attachment 1.

An area of property along the western and southwest edges of Metzger that includes land: 1) between 120<sup>th</sup> Avenue and 124<sup>th</sup> Avenue, generally 2,555 feet long and varying between 43.5 feet and 33 feet in width adjacent to the existing Lowell Boulevard right-of-way; 2) 28.5 feet long and 10 feet in width along 124th Avenue; and 3) 106.5 feet

long and 15 feet in width along 120th Avenue is needed for the Lowell and CDOT Projects pursuant to the terms of the Lowell IGA, for use as right of way and for utilities. The total area needed for these purposes is 2.4 acres. A permanent Right of Way and Utility Easement from the Broomfield-Westminster Open Space Foundation ("Foundation") to the City of Westminster has been approved for these purposes ("Permanent Easement") and is referred to as the Permanent Easement in Attachment 1. Westminster plans to permit and oversee CDOT to construct the right turn lane at the corner of Lowell Blvd. and 120th Avenue on a small portion of the Permanent Easement that is labeled as CDOT Permit area on the attachment.

Also necessary for the expansion of Lowell Boulevard are two temporary construction easements ("Temporary Construction Easements") for changes in grade and disturbance to vegetation. One temporary construction easement is from the Foundation to Broomfield ("Broomfield Construction Easement") shown in Attachment 1. The second temporary construction easement is from the Foundation to CDOT ("CDOT Construction Easement") also depicted in Attachment 1. The Broomfield Construction Easement adjoins the Permanent Easement and covers the area adjacent to the widened Lowell Blvd. and areas on Metzger where the new trail and bridge over the Nissen channel will be constructed and extends 250 feet onto Metzger at the Nissen Channel. The CDOT Construction Easement adjoins the Permanent Easement and covers an additional 10 feet to 17 feet width of land on Metzger in the 150 feet immediately in the vicinity of Lowell Blvd. and 120th Avenue intersection. The area for this easement does not exceed 0.1 acres. Both temporary easements have been approved by the Foundation.

ERO Resources Corporation was hired by Broomfield Capital Improvement staff to review environmental impacts of the proposed Lowell Project. The construction requires the removal of approximately 20 trees and creates wetland impacts totaling 0.30 acres in the vicinity of the Nissen drainage channel. The Lowell Project will provide replacement trees and comply with Army Corps requirements for wetland mitigation. The intent is to complete the wetland mitigation on Metzger. The area impacted by the Temporary Construction Easements will be revegetated and returned to its current open space character.

The Intergovernmental Agreement by and between the City and County of Broomfield and the City of Westminster Providing for the Acquisition, Financing, Ownership, Operation and Maintenance of the Metzger Property ("Metzger IGA"), signed in 2005, contemplates that Westminster may acquire from the Foundation a portion of the westernmost border of Metzger for the Lowell Project. The Metzger IGA further states that the Foundation shall be reimbursed for said portion of the Property and the base rental payments for each party shall be adjusted proportionately. The value of the Permanent Easement based on the original purchase price is \$166,519.20 or \$69,586 per acre. The City hired an appraiser to provide the current fair market value of the property. The appraiser provided a value of \$53,143 per acre or \$127,171.19 for the permanent easement. Westminster City Code Section 13-5-4 requires reimbursement to the Open Space Fund at the current fair market value of the affected property at the time of its conversion, or the cost of that land at the time of its original acquisition, whichever is higher. Since the original purchase price is higher, \$166,519.20 will be

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transferred to the Foundation based on charging 100% of the value of the easement. The Foundation is not charging any amount for either temporary easement because the temporary easement to Broomfield provides improvements that benefit the property, including a sidewalk and bridge connection over the channel for the trail. The temporary easement to CDOT will fall within the Permanent easement to Westminster and the Temporary Easement to Broomfield.

The use of this portion of Metzger Farm for the purposes of widening Lowell Boulevard was contemplated during the purchase of the property in 2006. The property will benefit from the underpass under Lowell that will be constructed as part of this project along with the new sidewalk along the east side of Lowell and the bridge crossing of the Nissen channel on Metzger. We ask for your consideration of this proposed sale of easements to facilitate this project. Please let us know what further information we can provide.

Thank you for your time,

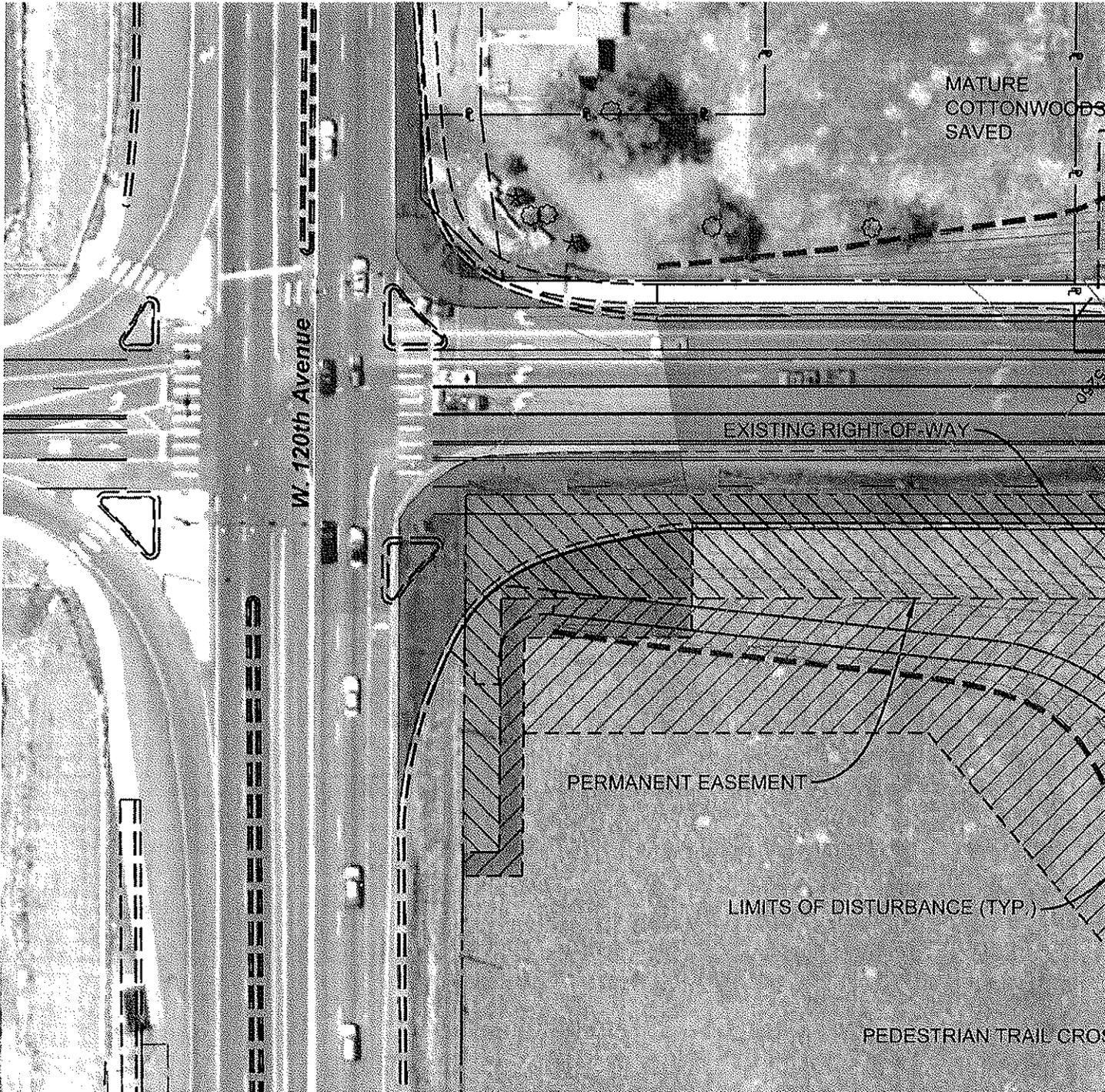


J. Brent McFall  
City Manager

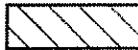
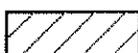
CC: John Carpenter, Director of Community Development

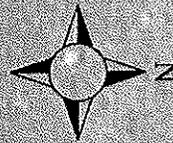
Attachment: Map Depicting Easements

Casey 7:42:00 PM P:\12-019-01\_Lowell Boulevards - Broadfield\Exhibit\Lowell Improvements-ROW\12019 Easement Plan\01.dgn  
1/15/2013 CDOT-DefaultPrinter VB:rsnikola DN



LEGEND

-  PERMANENT EASEMENT
-  TEMPORARY CONSTRUCTION EASEMENT
-  CDOT PERMIT AREA
-  CDOT TEMPORARY EASEMENT
-  PAVEMENT WIDENING OR RECONSTRUCTION

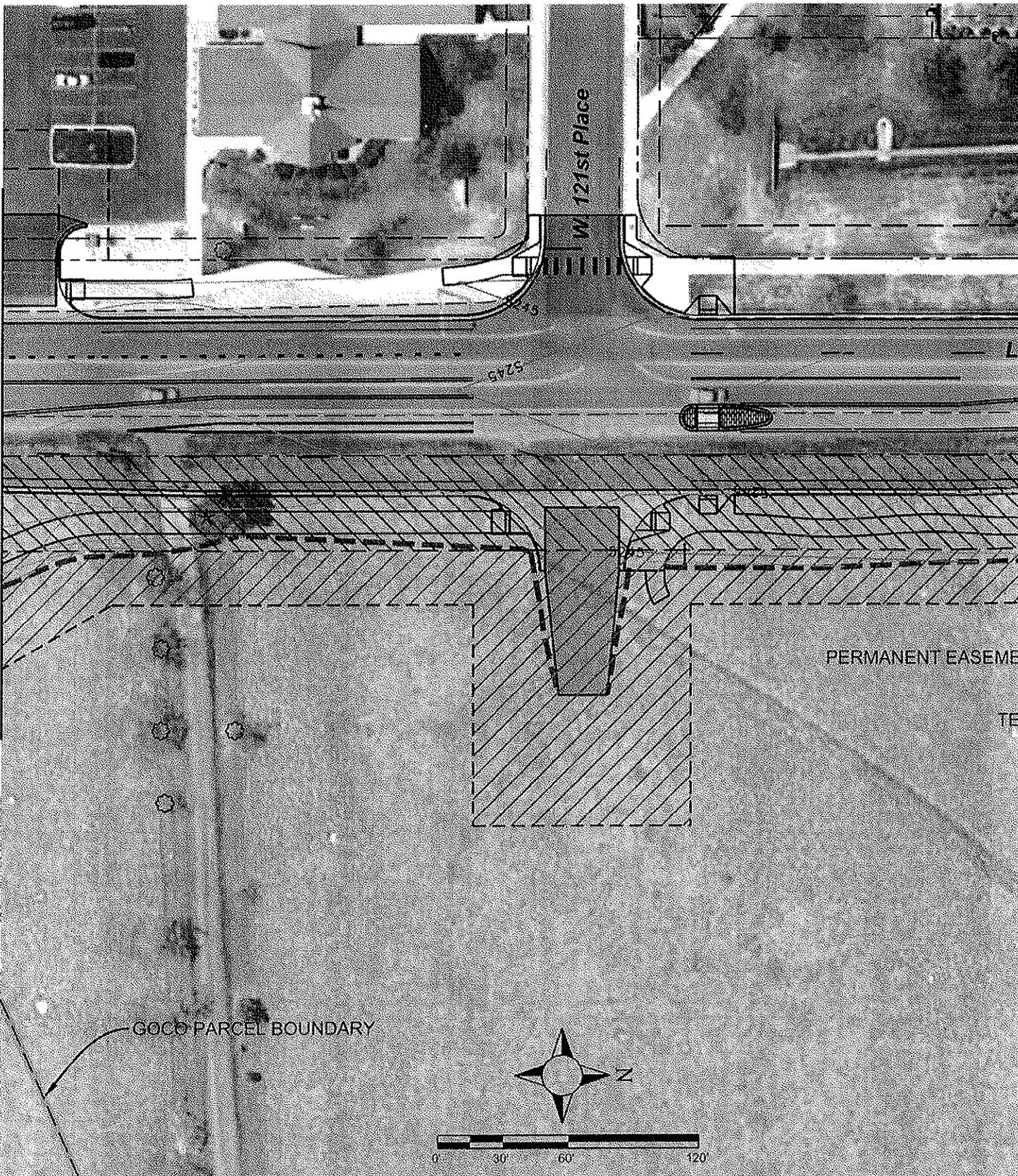


TEMPORARY CONSTRUCTION EASEMENT

LOWELL BOUL

MATCH LINE SHEET 1

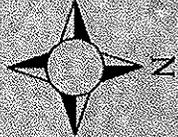
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CDOT - Design & Construction  
CDOT - Design & Construction



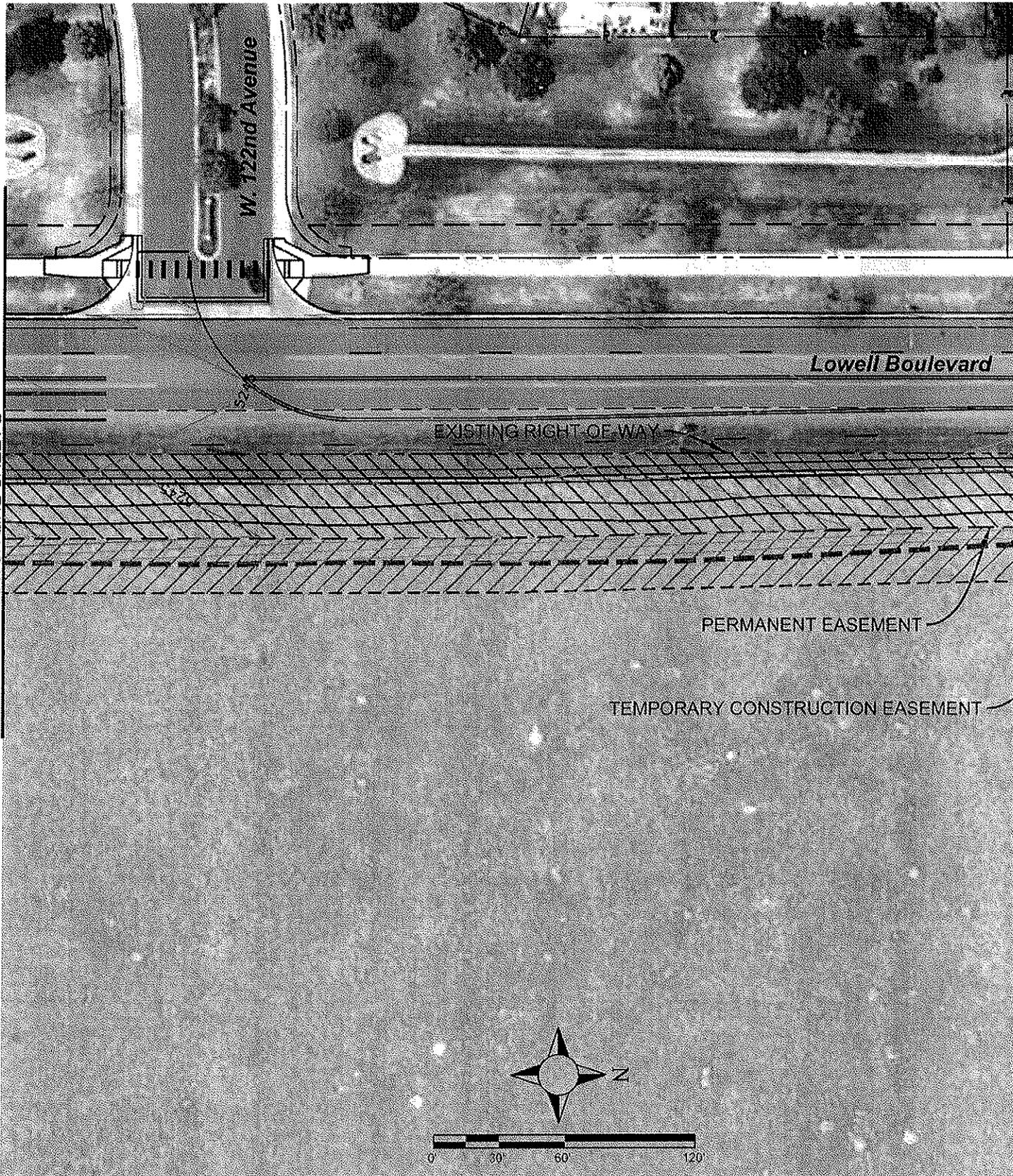
W 121st Place

PERMANENT EASEMENT

GOCB PARCEL BOUNDARY



LOWELL BOULEVARD IM



MATCH LINE SHEET 2

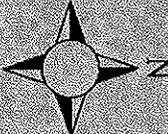
W. 122nd Avenue

Lowell Boulevard

EXISTING RIGHT OF WAY

PERMANENT EASEMENT

TEMPORARY CONSTRUCTION EASEMENT



LOWELL BOULEVARD IM