



**LAND USE APPLICATION  
SUMMARY SHEET  
CHANGE OF ZONE**

Planner: Diana Aungst Hearing Date: October 20, 2015  
Case Number: COZ15-0001  
Applicant: Weld 34, LLC c/o EnviroTech Services  
Request: Change of Zone from the A (Agricultural) Zone District to the I-2 (Industrial) Zone District  
Legal Description: Lot B RE-4866 being part NW4 Section 18, T5N, R67W and the N2 NW4 Section 18, T5N, R67W of the 6th P.M., Weld County, CO  
Location: East of and adjacent to County Road 13 and south of and adjacent to U.S. Highway 34  
Acres: +/- 136.55 acres Parcel #: 0957-18-2-00-039 and 0957-18-2-00-052

**POSSIBLE ISSUES SUMMARIZED FROM APPLICATION MATERIALS**

The Department of Planning Services' staff has received referral responses with comments from the following agencies:

- Town of Windsor, referral dated June 12, 2015
- Town of Johnstown, referral dated July 6, 2015
- Reorganized Farmers Ditch Company, referral dated June 1, 2015
- City of Greeley – Planning Department, referral dated June 12, 2015
- Weld County Department of Planning Services - Engineer, referral dated June 10, 2015
- Weld County Department of Public Health and Environment, referral dated June 15, 2015

Department of Planning Services' staff has received referral responses without comments from the following agencies:

- Town of Garden City, referral dated June 1, 2015
- Colorado Parks and Wildlife, referral dated June 16, 2015
- Weld County Zoning Compliance, referral dated May 18, 2015
- Windsor-Severance Fire Protection District, referral dated May 28, 2015
- State of Colorado, Division of Water Resources, referral dated June 3, 2015
- Weld County Department of Public Works – Access, referral dated June 15, 2015

The Department of Planning Services' staff has not received responses from the following agencies:

- Larimer County
- City of Loveland
- Hill and Brush Ditch Company
- City of Greeley Water Department
- Weld County School District RE-5J
- Great Western Railway
- Loveland and Greeley Canal
- Big Thompson Conservation District
- State of Colorado Department of Transportation



**CHANGE OF ZONE  
ADMINISTRATIVE RECOMMENDATION**

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*THE DEPARTMENT OF PLANNING SERVICES' STAFF RECOMMENDS THAT THIS REQUEST BE APPROVED FOR THE FOLLOWING REASONS:*

1. The submitted materials are in compliance with the application requirements of Section 23-2-50 of the Weld County Code.
2. The submitted materials are in compliance with Section 23-2-30 of the Weld County Code, as follows:
  - A. Section 23-2-30.A.1. - That the proposal is consistent with Chapter 22 of the Weld County.

Section 22-2-80 A. I.Goal 1. states, "Promote the location of industrial uses within municipalities, County Urban Growth Boundary areas, Intergovernmental Agreement urban growth areas, growth management areas as defined in municipalities' comprehensive plans, the Regional Urbanization Areas, Urban Development Nodes, along railroad infrastructure or where adequate services are currently available or reasonably obtainable."

The proposed Change of Zone is located south of and adjacent to U.S. Highway 34 and east of CR 13. The Great Western Rail bisects this northwestern corner of the site and adequate services are considered reasonably obtainable. There is a residence on this property which is served with public water from the City of Greeley and a septic system. Future development on the site may require upsizing of the water line and a possible change in use of the water tap. If approved this Change of Zone will provide a "shovel-ready" industrial site where primary job providers would be able to develop due to zoning, infrastructure and services in place or reasonably obtainable.

Section 22-6-20 ECON.Policy 3.1. states, "County activities and regulation should protect the rights of private property owners and the public health, safety and welfare, recognizing that these basic rights and protections allow the free market to prosper and grow the local economy."

The applicant is requesting a Change of Zone to I-2 Industrial in accordance with the Change of Zone process outlined in the Weld County Code. This industrial zone contributes to the growth of the local economy.

Section 22-6-20 E. ECON.Policy 5.1. states, 1. "The County should encourage an adequate supply of both services and land suitable for industrial development and redevelopment."

An additional 137 acres of industrial zoned land provides opportunities for businesses to locate close to rail and road infrastructure. Additionally, there are services available or reasonably obtainable.

Section 22-2-30 B. states, "Urban development is characterized by designated areas for residences, retail, offices, services and other uses that are primarily located along major roadways, at major intersections and in subdivisions designed to accommodate these more intense uses. It relies on higher levels of services and infrastructure. Urban development patterns typically include a mix of residential, commercial, industrial and civic land uses in a compact transportation-oriented form. Larger areas of pavement for roadways, plazas and parking lots often accompany these uses. Industrial uses in urban areas vary from heavy industry and manufacturing to manufacturing combined with research and development, which is less obtrusive and disruptive to surrounding properties. Frequently the heavier industrial uses are segregated into areas around the perimeter of communities and linked to major transportation networks. Light industry and manufacturing may also be at the perimeters, but they are more often integrated into the community."

The intersection of CR 13 and U.S. Highway 34 is a major intersection and is designed to accommodate urban development. The mix of uses in the area is typical of urban development. The proposed Change of Zone is for I-2 Industrial uses which may be considered light industry and manufacturing which could be integrated into the community.

Section 22-2-70 D. I.Goal 4. states, "All new industrial development should pay its own way."

The applicant will be responsible for covering all costs for all on-site and any applicable off-site improvements associated with this use, as required through the Improvements Agreement.

Section 22-2-80 C. I.Goal 3. states, "Consider how transportation infrastructure is affected by the impacts of new or expanding industrial developments."

The proposed Change of Zone is located south of adjacent U.S. Highway 34 and east of CR 13. The Great Western Rail bisects this northwestern corner of the site. Improvements for CR 13 and U.S. Highway 34 are proposed due to the approval of the Martin Marietta asphalt and concrete batch plant. It is unknown what type of uses will be on this site however, staff is requiring a traffic impact study with land use applications that have significant traffic so it can be determined if additional improvements to the intersection are required.

Section 22-2-80 G. I.Goal 7. states, "Recognize the importance of railroad infrastructure to some industrial uses."

Since there is rail on the site this may attract users who could benefit from this infrastructure.

Section 22-3-60. F. T.Goal 6. States, "Encourage the continued use of rail corridors for future rail-related transportation uses."

The Great Western Rail bisects that is located on this site this northwestern corner of the site and due to the location of the rail it is likely that proposed uses could benefit from this infrastructure.

Section 22-6-20 E.3. ECON.Policy 5.3. states, "Recognize and support existing railroad infrastructure."

The northwest corner of this site has the Great Western Rail tracks on it therefore potential users may utilize this rail.

Section 22-6-20 E.2. ECON.Policy 3.2. states, "Ensure that County land use policies and regulations are structured so as not to impede economic prosperity and growth."

The County's land use policies allow for a request of a Change of Zone. The regulations are of the Weld County Code are written to allow property owners to request to change the zoning on their properties.

Section 22-6-20 E. ECON.Goal 5. states, "Recognize and promote specific places and resources in the County that can uniquely support economic development."

This Change of Zone will add to the land suitable for industrial development and support economic development of the County. I-2 Industrial zoning allows a wide-range of uses that are available to businesses.

- B. Section 23-2-30.A.2. - The uses which would be allowed on the subject property by granting the Change of Zone will be compatible with the surrounding land uses.

Any proposed use in the I-2 Industrial Zone District will require either a Site Plan Review (if a Use by Right) or a Use by Special Review Permit. The land to the east of the site is a low-density residential subdivision (Indianhead Subdivision) which is zoned Agricultural. Due to the close proximity of low-density residential staff is recommending screening and buffering between the I-2 development and the low-density residential uses adjacent to the site.

The Department of Planning Services has received 59 letters from the surrounding property owners concerning this Change of Zone request. The letters outline concerns of incompatibility between the I-2 (industrial) zone and the adjacent residential low-density subdivision.

The Town of Windsor and the City of Greeley submitted referral agency comments both dated June 12, 2015, which state that this development is inconsistent with the existing 2008 Windsor/Greeley Intergovernmental Agreement (IGA) and that the proposal is incompatible with the vision that the Town of Windsor and the City of Greeley have developed for this area. The Town of Johnstown submitted referral agency comments dated July 6, 2015 in the form of Resolution 2015-08 opposing this Change of Zone based on the incompatibility with the with the Town of Johnstown Comprehensive Plan as this property is designate for commercial uses in the Town of Johnstown Comprehensive Plan. The Resolution also states that the industrial uses would negatively impact the Indianhead residential subdivision.

- C. Section 23-2-30.A.3. - That adequate water and sewer service can be made available to the site to serve the uses permitted within the proposed zone district.

According to the referral comments from the Department of Public Health and Environment and the application materials the water to the site will be provided by the City of Greeley. Sewage disposal will be handled by an on-site wastewater treatment system (septic system). Septic systems will be evaluated at time of Site Plan Review and prior to the issuance of a building permit.

- D. Section 23-2-30.A.4. - Street or highway facilities providing access to the property are adequate in size to meet the requirements of the proposed zone districts.

The current access points are not changing with this Change of Zone application. The subject property has accesses from CR 13 to the residence, ag, and oil and gas. The application

materials are not proposing any development on the site and there is one residence on the parcels with the remainder of the land being used for agricultural purposes. When development is proposed for the site the roads, access points, and/or intersection may require improvements.

- E. Section 23-2-30.A.5. - In those instances where the following characteristics are applicable to the rezoning request, the applicant has demonstrated compliance with the applicable standards:
- 1) Section 23-2-30.A.5.a. – The proposed Change of Zone is not located within an Overlay District or in a Special Flood Hazard Area.
  - 2) Section 23-2-30.A.5.b. – The Weld County Sand and Gravel Resources Map does not identify this area to have any aggregate resources. According to the *Mineral Resource Statement* there may be some gravel layers present on this upland surface but the overburden limits their value as a resource. The most likely areas for extract will be confined to the narrow strip north of the river where the overburden is thinnest. The Big Thompson River is approximately 1.25 miles south of and 110 feet lower than this property.
  - 3) Section 23-2-30.A.5.c. – The soils do not have any limitations for construction. The site consists of 77% Wiley-Colby complex with slopes of 1%-3%, and 18% Nunn clay loam with slopes of 0%-1%.

This recommendation is based, in part, upon a review of the application materials submitted by the applicant, other relevant information regarding the request, and responses from referral entities.

The Change of Zone from the A (Agricultural) Zone District to the I-2 (Industrial) Zone District is conditional upon the following:

1. Prior to recording the plat:
  - A. Submit documentation from Little Thompson Water District indicating that water service is available. (Department of Public Health and Environment)
  - B. All septic systems located on the property shall have appropriate documentation from the Weld County Department of Public Health & Environment. The Environmental Health Division of the Weld County Department of Public Health & Environment was unable to locate a septic permit for the existing residence. Any existing septic system which is not currently documented/permitted through the Weld County Department of Public Health & Environment will require a Statement of Existing Evaluation prior to the issuance of the required documentation/permit. In the event the system is found to be inadequate, the system must be brought into compliance with current OWTS regulations. (Department of Public Health and Environment)
2. The plat shall be amended to delineate the following:
  - A. All pages of the plat shall be labeled COZ15-0001. (Department of Planning Services)
  - B. The plat shall adhere to Section 23-2-50.C. and D. of the Weld County Code. (Department of Planning Services)
  - C. County Road 13 is a paved road and is designated on the Weld County Road Classification plan as an arterial road, which requires 140 feet of right-of-way at full buildout. The applicant shall verify and delineate on the map the future and existing right-of-way. If the existing right of way cannot be verified it shall be dedicated. All setbacks shall be measured from the edge of future right-of-way. This road is maintained by Weld County. (Department of Planning Services - Engineer)

- D. The applicant shall indicate specifically on the plat any right of way and/or easements and indicate whether they are dedicated, private, or deeded and label with recorded document, book and page and/or reception number to provide adequate access to the parcel. (Department of Planning Services - Engineer)
  - E. Show and label the approved accesses with the access permit number (#AP15-00268) on the plat. (Department of Public Works)
3. The following notes shall be delineated on the Change of Zone plat:
- A. The Change of Zone allows for I-2 (Industrial) uses which shall comply with the I-2 (Industrial) Zone District requirements as set forth in Chapter 23 - Article III - Division 4 of the Weld County Code. (Department of Planning Services)
  - B. The operation shall comply with all applicable rules and regulations of the State and Federal agencies and the Weld County Code. (Department of Planning Services)
  - C. Any future structures or uses on site must obtain the appropriate zoning and building permits. (Department of Planning Services)
  - D. If determined to be required by either the Director of the Department of Planning Services or the Weld County Board of Commissioners in the course of processing a Site Plan Review or a Use by Special Review Permit screening and/or buffering appropriate to the proposed use may be installed between the residential properties to the east and west. The screening and buffering may vary in size and density depending on the use or uses proposed (Department of Planning Services)
  - E. A detailed Traffic Impact Study may be required with each Site Plan Review application. Offsite roadway and/or intersection improvements may be required. (Department of Planning Services)
  - F. The owner, and its heirs, successors, or assigns, agrees to notify adjacent property owners within 500 feet of the boundary of the parent parcels at the time of initial submittal of any land use application (Site Plan Review, Use by Special Review, etc.). (Department of Planning Services)
  - G. Should noxious weeds exist on the property, or become established as a result of the proposed development, the applicant/landowner shall be responsible for controlling the noxious weeds, pursuant to Chapter 15, Articles I and II, of the Weld County Code. (Department of Planning Services – Engineer)
  - H. The historical flow patterns and runoff amounts will be maintained on the site. (Department of Planning Services – Engineer)
  - I. Screening and/or buffering between the residential properties to the east and west is required at the time any land use application is submitted (Site Plan Review, Use by Special Review, etc.). The screening and buffering will vary in size and density depending on the use or uses proposed. (Department of Planning Services)
  - J. A detailed Traffic Impact Study may be required with each Site Plan Review application. Offsite roadway and/or intersection improvements may be required. (Department of Planning Services)

- K. The owner, and its heirs, successors, or assigns, agrees to notify adjacent property owners within 500 feet of the boundary of the parent parcels at the time of initial submittal of any land use application (Site Plan Review, Use by Special Review, etc.). (Department of Planning Services)
- L. Water service shall be obtained from the City of Greeley or Little Thompson Water District. (Department of Public Health and Environment)
- M. The parcels are not served by a municipal sanitary sewer system. Sewage disposal shall be by septic systems designed in accordance with the regulations of the Colorado Department of Public Health and Environment, Water Quality Control Division and the Weld County Code in effect at the time of construction, repair, replacement, or modification of the system. (Department of Public Health and Environment)
- N. Language for the preservation and/or protection of the absorption field shall be placed on the plat. The note shall state; Activity or use on the surface of the ground over any part of the OWTS must be restricted to that which shall allow the system to function as designed and which shall not contribute to compaction of the soil or to structural loading detrimental to the structural integrity or capability of the component to function as designed. (Department of Public Health and Environment)
- O. During development of the site, all land disturbances shall be conducted so that nuisance conditions are not created. If dust emissions create nuisance conditions, at the request of the Weld County Health Department, a fugitive dust control plan must be submitted. (Department of Public Health and Environment)
- P. If land development creates more than a 25-acre contiguous disturbance, or exceeds 6 months in duration, the responsible party shall prepare a fugitive dust control plan, submit an air pollution emissions notice, and apply for a permit from the Colorado Department of Public Health and Environment. (Department of Public Health and Environment)
- Q. Weld County's "Right to Farm" as provided in Appendix 22-E of the Weld County Code shall be placed on any recorded plat. (Department of Public Health and Environment)
- R. A stormwater discharge permit may be required for a development/redevelopment /construction site where a contiguous or non-contiguous land disturbance is greater than or equal to one acre in area. Contact the Water Quality Control Division of the Colorado Department of Public Health and the Environment at [www.cdphe.state.co.us/wq/PermitsUnit](http://www.cdphe.state.co.us/wq/PermitsUnit) for more information. (Department of Public Health and Environment)
- S. Building permits shall be obtained prior to the construction of any new building. A plan review is required for each building. Plans shall bear the wet stamp of a Colorado registered architect or engineer. Two complete sets of plans are required when applying for each permit. (Department of Building Inspection)
- T. Each new building will require an engineered foundation based on a site-specific geotechnical report or an open-hole inspection performed by a Colorado registered engineer. Engineered foundations shall be designed by a Colorado registered engineer. (Department of Building Inspection)
- U. Buildings, structures shall conform to the requirements of the various codes adopted at the time of permit application. Currently the following has been adopted by Weld County: 2012 International Building Code; 2012 International Mechanical Code; 2012 International Plumbing Code; 2012 International Energy Code; 2006 International Fuel Gas Code; the 2012 International Plumbing Code; 2014 National Electrical Code; 2003 ANSI 117.1 Accessibility Code and Chapter 29 of the Weld County Code. (Department of Building Inspection)

- V. Building Permits issued on the proposed lots will be required to adhere to the fee structure of the Countywide Road Fee Impact Program. (Department of Planning Services)
- W. Building Permits issued on the proposed lots, will be required to adhere to the fee structure of the County Facility Fee and Drainage Impact Fee program. (Department of Planning Services)
- X. Necessary personnel from the Weld County Departments of Planning Services, Public Works, and Public Health and Environment shall be granted access onto the property at any reasonable time in order to ensure the activities carried out on the property comply with the Conditions of Approval and Development Standards stated herein and all applicable Weld County regulations. (Department of Planning Services)
- Y. RIGHT TO EXTRACT MINERAL RESOURCES STATEMENT: Weld County has some of the most abundant mineral resources, including, but not limited to, sand and gravel, oil, natural gas, and coal. Under title 34 of the Colorado Revised Statutes, minerals are vital resources because (a) the state's commercial mineral deposits are essential to the state's economy; (b) the populous counties of the state face a critical shortage of such deposits; and (c) such deposits should be extracted according to a rational plan, calculated to avoid waste of such deposits and cause the least practicable disruption of the ecology and quality of life of the citizens of the populous counties of the state.

Mineral resource locations are widespread throughout the County and person moving into these areas must recognize the various impacts associated with this development. Often times, mineral resource sites are fixed to their geographical and geophysical locations. Moreover, these resources are protected property rights and mineral owners should be afforded the opportunity to extract the mineral resource.

- Z. WELD COUNTY'S RIGHT TO FARM: Weld County is one of the most productive agricultural counties in the United States, typically ranking in the top ten counties in the country in total market value of agricultural products sold. The rural areas of Weld County may be open and spacious, but they are intensively used for agriculture. Persons moving into a rural area must recognize and accept there are drawbacks, including conflicts with long-standing agricultural practices and a lower level of services than in town. Along with the drawbacks come the incentives which attract urban dwellers to relocate to rural areas: open views, spaciousness, wildlife, lack of city noise and congestion, and the rural atmosphere and way of life. Without neighboring farms, those features which attract urban dwellers to rural Weld County would quickly be gone forever.

Agricultural users of the land should not be expected to change their long-established agricultural practices to accommodate the intrusions of urban users into a rural area. Well-run agricultural activities will generate off-site impacts, including noise from tractors and equipment; slow-moving farm vehicles on rural roads; dust from animal pens, field work, harvest and gravel roads; odor from animal confinement, silage and manure; smoke from ditch burning; flies and mosquitoes; hunting and trapping activities; shooting sports, legal hazing of nuisance wildlife; and the use of pesticides and fertilizers in the fields, including the use of aerial spraying. It is common practice for agricultural producers to utilize an accumulation of agricultural machinery and supplies to assist in their agricultural operations. A concentration of miscellaneous agricultural materials often produces a visual disparity between rural and urban areas of the County. Section 35-3.5-102, C.R.S., provides that an agricultural operation shall not be found to be a public or private nuisance if the agricultural operation alleged to be a nuisance employs methods or practices that are commonly or reasonably associated with agricultural production.

Water has been, and continues to be, the lifeline for the agricultural community. It is unrealistic to assume that ditches and reservoirs may simply be moved "out of the way" of residential development. When moving to the County, property owners and residents must realize they cannot take water from irrigation ditches, lakes, or other structures, unless they have an adjudicated right to the water.



Weld County covers a land area of approximately four thousand (4,000) square miles in size (twice the size of the State of Delaware) with more than three thousand seven hundred (3,700) miles of state and County roads outside of municipalities. The sheer magnitude of the area to be served stretches available resources. Law enforcement is based on responses to complaints more than on patrols of the County, and the distances which must be traveled may delay all emergency responses, including law enforcement, ambulance, and fire. Fire protection is usually provided by volunteers who must leave their jobs and families to respond to emergencies. County gravel roads, no matter how often they are bladed, will not provide the same kind of surface expected from a paved road. Snow removal priorities mean that roads from subdivisions to arterials may not be cleared for several days after a major snowstorm. Services in rural areas, in many cases, will not be equivalent to municipal services. Rural dwellers must, by necessity, be more self-sufficient than urban dwellers.

People are exposed to different hazards in the County than in an urban or suburban setting. Farm equipment and oil field equipment, ponds and irrigation ditches, electrical power for pumps and center pivot operations, high speed traffic, sand burs, puncture vines, territorial farm dogs and livestock, and open burning present real threats. Controlling children's activities is important, not only for their safety, but also for the protection of the farmer's livelihood. (Department of Planning Services)

4. Upon completion of Conditions of Approval 1. and 2. above, the applicant shall submit one (1) paper copy or one (1) electronic copy (.pdf) of the plat for preliminary approval to the Weld County Department of Planning Services. Upon approval of the plat the applicant shall submit a Mylar plat along with all other documentation required as Conditions of Approval. The Mylar plat shall be recorded in the office of the Weld County Clerk and Recorder by Department of Planning Services' Staff. The plat shall be prepared in accordance with the requirements of Section 23-2-50.C. and D. of the Weld County Code. The Mylar plat and additional requirements shall be submitted within one-hundred-twenty (120) days from the date of the Board of County Commissioners resolution. The applicant shall be responsible for paying the recording fee.
5. The Change of Zone plat map shall be submitted to the Department of Planning Services' for recording within one-hundred-twenty (120) days of approval by the Board of County Commissioners. With the Change of Zone plat map, the applicant shall submit a digital file of all drawings associated with the Change of Zone application. Acceptable CAD formats are .dwg, .dxf, and .dgn (Microstation); acceptable GIS formats are .shp (Shape Files), ArcInfo Coverages and ArcInfo Export files format type is .e00. The preferred format for Images is .tif (Group 4) (Group 6 is not acceptable).
6. In accordance with Weld County Code Ordinance 2005-7 approved June 1, 2005, should the plat not be recorded within the required one-hundred-twenty (120) days from the date the Board of County Commissioners resolution a \$50.00 recording continuance charge shall added for each additional 3 month period.