

IMAGEL

RESOLUTION #R- 35-2004

A RESOLUTION AUTHORIZING THE PROVISION OF WATER SERVICE OUTSIDE OF THE LOVELAND CITY LIMITS TO THE HIDDEN VALLEY ESTATES III PROPERTY, THE WILD VALLEY NORTH PROPERTY, THE WENNINGER PROPERTY, AND THE JAMES A. WILD CHILDREN'S TRUST PROPERTY PURSUANT TO LOVELAND MUNICIPAL CODE SECTIONS 13.04.070 AND 13.04.080

WHEREAS, City Code Section 13.04.070 provides that the City's Water Utility may not extend its water main trunk lines or water main extensions to provide water service to areas outside the City, not already being served, unless the City Council approves the extension; and

WHEREAS, City Code Section 13.04.080 provides that no new water taps are permitted outside the City unless approved by the City Council; and

WHEREAS, the City's Water Utility has recently received a written request from Scott Charpentier of Backbone Investments LLC ("Backbone"), on behalf of Backbone and the owners of three additional properties, for water service to be provided outside of the City to their respective properties; and

WHEREAS, Backbone is the owner of the property legally described in Exhibit "A," attached hereto and incorporated herein by reference ("Hidden Valley Estates III Property"); and

WHEREAS, Gregory Wild is the owner of the property legally described in Exhibit "B," attached hereto and incorporated herein by reference ("Wild Valley North Property"); and

WHEREAS, Fred Wenninger is the owner of the property legally described in Exhibit "C," attached hereto and incorporated herein by reference ("Wenninger Property"); and

WHEREAS, the James A. Wild Children's Trust is the owner of the property legally described in Exhibit "D," attached hereto and incorporated herein by reference ("James A. Wild Children's Trust Property"); and

WHEREAS, these four properties are currently located outside the Loveland city limits in unincorporated Larimer County; and

WHEREAS, Backbone is working with the Larimer County Rural Land Use Center to develop the Hidden Valley Estates III Property in unincorporated Larimer County as a "Rural Land Use Plan" ("RLUP") to be known as the Hidden Valley Estates III RLUP; and

WHEREAS, Gregory Wild is working with the Larimer County Rural Land Use Center to develop the Wild Valley North Property in unincorporated Larimer County as a RLUP to be known as the Wild Valley North RLUP; and

✓
CITY OF LOVELAND
500 E 3RD ST #230
LOVELAND, COLORADO 80537

WHEREAS, Fred Wenninger and the James A. Wild Children's Trust have filed applications with the Larimer County Rural Land Use Center to develop their respective properties in unincorporated Larimer County as RLUP projects; and

WHEREAS, while the City Council would not normally authorize outside of the City water service for these properties, the Council is persuaded to do so for the reasons set forth in a letter dated April 8, 2004 from James D. Reidhead, the Director of the Larimer County Rural Land Use Center, a copy of which letter is attached as Exhibit "E" and incorporated herein by reference; and

WHEREAS, the Council is, however, only willing to authorize outside water service to the properties so long as the conditions set forth in this Resolution are satisfied prior to the requested water service being provided.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That the Council hereby authorizes, pursuant to City Code Section 13.04.070, the extension of the needed water trunk lines and water main extensions and, pursuant to City Code Section 13.07.080, the granting of the requested water taps, in order to provide water service to the properties, provided the following applicable conditions precedent are satisfied:

- A. Before any metered water tap is installed within the Hidden Valley Estates III Property, the City and the owner of the Hidden Valley Estates III Property must enter into a water service agreement on such terms and conditions as are acceptable to the City Manager and in a form approved by the City Attorney, and which agreement shall provide, at a minimum, that the rates set by the City for such water service to the Hidden Valley Estates III Property shall be rates which cover all of the City's capital, operational, and maintenance costs as they may exist now or in the future to provide water service to the Hidden Valley Estates III Property, to maintain the water distribution system, and to replace the system in the future, and it shall be for one (1) metered water tap for the entrance feature to the Hidden Valley Estates III Property and one (1) tap per buildable lot requiring City water that is approved and platted for the Hidden Valley Estates III Property through the Larimer County RLUP process, but in no event shall it be for more than ten (10) metered water taps, which number shall include the metered water tap for the entrance feature; and
- B. Before any metered water tap is installed within the Wild Valley North Property, the City and the owner of the Wild Valley North Property must enter into a water service agreement on such terms and conditions as are acceptable to the City Manager and in a form approved by the City Attorney, and which agreement shall provide, at a minimum, that the rates set by the City for such water service to the property shall be rates which cover all of the City's capital, operational, and

maintenance costs as they may exist now or in the future to provide water service to the Wild Valley North Property, to maintain the water distribution system, and to replace the system in the future, and it shall be for one (1) metered water tap per buildable lot requiring City water that is approved and platted for the Wild Valley North Property through the Larimer County RLUP process, but in no event shall it be for more than nine (9) metered water taps; and

- C. Before any metered water tap is installed within the Wenninger Property, the City and the owner of the Wenninger Property must enter into a water service agreement on such terms and conditions as are acceptable to the City Manager and in a form approved by the City Attorney, and which agreement shall provide, at a minimum, that the rates set by the City for such water service to the Wenninger Property shall be rates which cover all of the City's capital, operational, and maintenance costs as they may exist now or in the future to provide water service to the Wenninger Property, to maintain the water distribution system, and to replace the system in the future, and it shall be for one (1) metered water tap per buildable lot requiring City water that is within the buildable area identified in Exhibit "C-1" and is approved and platted for the Wenninger Property through the Larimer County RLUP process, but in no event shall it be for more than eight (8) metered water taps; and
- D. Before any metered water tap is installed within the James A. Wild Children's Trust Property, the City and the owner of the James A. Wild Children's Trust Property must enter into a water service agreement on such terms and conditions as are acceptable to the City Manager and in a form approved by the City Attorney, and which agreement shall provide, at a minimum, that the rates set by the City for such water service to the James A. Wild Children's Trust Property shall be rates which cover all of the City's capital, operational, and maintenance costs as they may exist now or in the future to provide water service to the James A. Wild Children's Trust Property, to maintain the water distribution system, and to replace the system in the future, and it shall be for one (1) metered water tap per buildable lot requiring City Water that is approved and platted for the James A. Wild Children's Trust Property through the Larimer County RLUP process, but in no event shall it be for more than eight (8) metered water taps; and
- E. Before water service will be provided to the Hidden Valley Estates III Property, the Wild Valley North Property, the Wenninger Property, or the James A. Wild Children's Trust Property, or to any portions of them, the City's water rights requirements in Title 19 of the City Code and all fees required under the City Code (as amended from time to time), such as water tap and system impact fees, and all amounts required to be paid under the applicable water service agreement, must be satisfied and paid; and
- F. The water distribution system to be built upon the Hidden Valley Estates III Property, the Wild Valley North Property, the Wenninger Property, and the James

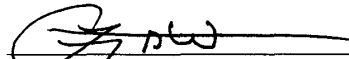
A. Wild Children's Trust Property shall be built in accordance with all City standards and requirements applicable to water distribution systems built within the City and must be dedicated to the City in the same manner as are water distribution systems built by developers within the City; and

G. Before water service will be provided to the Hidden Valley Estates III Property, the Wild Valley North Property, the Wenninger Property, or the James A. Wild Children's Trust Property, the property receiving the service must have received final and unappealable approval by Larimer County as an RLUP as currently authorized in the Larimer County Land Use Code.

Section 2. That this Resolution shall be effective as of the date of its adoption.

Dated this 20TH day of April, 2004.




Larry D. Walsh, Mayor


City Clerk

APPROVED AS TO FORM:

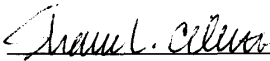

City Attorney, *Asst.*

EXHIBIT A
HIDDEN VALLEY ESTATES III PROPERTY

Legal Description of a tract of land being a portion of Section 5, Township 5 North, Range 69 West of the 6th Principal Meridian, Larimer County, Colorado and considering the South line of the Southeast Quarter of said Section 5 to bear North 89°08'49" East and with all bearings contained herein relative thereto;

Beginning at the South One Quarter Corner of said Section 5; thence along the West line of the Southwest Quarter of the Southeast Quarter of said Section 5 North 02°15'52" East 1373.15 feet to the Southwest Corner of the Northwest Quarter of the Southwest Quarter of said Section 5; thence along the West line of said Northwest Quarter of the Southeast Quarter North 02°17'06" East 1371.93 feet to the Southwest Corner of the Southwest Quarter of the Northeast Quarter of said Section 5; thence along the West line of said Southwest Quarter of the Northeast Quarter North 02°17'02" East 1351.95 feet more or less to the Southeast Corner of the Northeast Quarter of the Northwest Quarter of said Section 5; thence along the South and West and North lines of said Northeast Quarter the following three courses and distances; South 89°31'01" West 1290.41 feet; thence North 01°21'14" East 1398.69 feet; thence South 89°34'40" East 1311.72 feet to the North Quarter Corner of said Section 5; thence along the North line of the Northeast Quarter of said Section 5 South 89°33'18" East 701.47 feet; thence departing said North line South 02°17'06" West 1367.80 feet; thence South 00°06'54" West 2200.21 feet; thence South 04°35'16" East 1890.18 feet to the Northwest Corner of Nemaqua Hills Central First Filing (a Planned Unit Development); said point also being a point on the South line of the Southeast Quarter of said Section 5; thence departing said Nemaqua Hills Central First Filing and along said South line South 89°08'49" West 1011.01 feet to the POINT OF BEGINNING.

The above described parcel contains 140.013 acres more or less.

EXHIBIT B
WILD VALLEY NORTH
PROPERTY

Wild Property
Legal Description

The Southwest ¼ of the SW ¼ of Section 32, Township 6 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado; and

The Northwest ¼ of the NW ¼ of Section 5, Township 5 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado; and

The Southwest ¼ of the NW ¼ of Section 5, Township 5 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado; and

The Southeast ¼ of the NW ¼ of Section 5, Township 5 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado.

EXHIBIT C
WENNINGER PROPERTY

Subj: **LEGAL**
Date: 3/24/2004 1:11:22 PM Mountain Standard Time
From: office@landmarkltd.com
To: lahlawyer@aol.com

That portion of the East one half of Section 8 and the Northeast Quarter of Section 17, Township 5 North, Range 69 West of the 6th Principal Meridian, County of Larimer, State of Colorado being more particularly described as follows:

Beginning at the Southeast Corner of said Section 8 and considering the South line of the Southeast Quarter of said Section 8 as bearing North 89°08'01" West and with all bearings contained herein relative thereto; thence along said South line North 89°08'01" West 1321.17 feet to the Southeast Corner of the Southwest Quarter of the Southeast Quarter of said Section 8; said point being monumented by a 2-inch diameter aluminum cap in monument box stamped E,1/16S8,S17,1998 LS16415; thence continuing along said South line North 89°08'01" West 328.00 feet to the Southeast Corner of that certain parcel of land described in Quit Claim deed recorded in Book 1698 at Page 619, records of said County; thence departing said South line and along the Easterly line of said Quit Claim deed, North 02°20'56" East 583.89 feet more or less to the approximate centerline of the Loudon Ditch; thence continuing along the Easterly line of said Quit Claim deed the following courses and distances; North 02°20'56" East 779.16 feet; thence North 03°27'58" West 266.95 feet; thence North 26°51'59" East 200.00 feet; thence North 28°51'56" East 100.69 feet; thence North 08°11'29" East 37.36 feet; thence North 55°41'49" East 102.77 feet to a point on the West line of that certain parcel of land described in deed, recorded under Reception No. 96075234; thence along said West line South 13°42'49" West 25.84 feet to the TRUE POINT OF BEGINNING of said Reception No. 96075324; thence along the Easterly line of said Reception No. North 55°51'59" East 88.00 feet; thence North 12°51'59" East 182.53 feet to a point on the West line of the Amended Plat of Namaqua Hills; thence along said West line the following courses and distances; North 03°35'06" East 150.96 feet to the Southwesterly Corner of that certain parcel of land

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described in deed, recorded under Reception No. 97001100; thence along the Southerly, Easterly, and Northerly lines of said Reception No. 97001100 the following courses and distances; North 86°14'16" East 105.28 feet; thence North 03°28'23" East 92.70 feet; thence North 78°32'38" West 83.94 feet to the Northwesterly corner of said Reception No. 97001100; thence continuing along the Westerly line of the Amended Plat of Namaqua Hills the following courses and distances; North 13°57'52" East 131.39 feet; thence North 02°41'30" West 87.18 feet; thence North 06°40'06" East 50.07 feet; thence North 06°40'08" East 72.12 feet to the TRUE POINT OF BEGINNING; thence South 85°09'14" East 92.59 feet; thence North along said Amended Plat of Namaqua Hills and the West line of Amended Namaqua Hills Third Subdivision the following course and distance; North 11°29'57" East 506.91 feet to the Southerly most point of that certain parcel of land described in deed, recorded in Book 2003, Page 914; thence departing said Amended Namaqua Hills Third Subdivision and along the West line of said Book 2003, Page 914 North 00°00'58" East 808.59 feet to a point on the Southwesterly line of Namaqua Hills Central Subdivision; thence along said Southwesterly line North 39°14'04" West 177.84 feet; thence North 41°16'04" West 91.02 feet; thence North 36°42'04" West 601.47 feet; thence North 47°45'04" West 201.10 feet; thence North 23°41'04" West 147.88 feet; thence North 20°41'04" West 87.08 feet; thence North 02°20'04" West 21.74 feet to a point on the North line of the Northeast Quarter of said Section 8; thence along said North line South 89°03'16" West 1010.92 feet to the North One Quarter Corner of said Section 8; thence along the North-South centerline of said Section 8 South 01°34'09" East 2541.02 feet to the Center One Quarter Corner of said Section 8; thence continuing along said North-South centerline South 01°33'52" East 2341.87 feet to a point on the centerline of the Loudon Ditch; thence along said centerline the following courses and distances; South 18°14'35" East 123.93 feet; thence South 23°23'11" East 92.10 feet; thence South 35°37'50" East 206.83 feet to the beginning of a tangent curve concave to the Northeast having a central angle of 75°13'08" and a radius of 72.50 feet; thence Southeasterly along the arc of said curve 95.18 feet to the end of said curve; thence tangent from said curve North 69°09'18" East 19.08 feet; thence North 87°27'03" East 76.06 feet to the beginning of a tangent curve concave to the Northwest having a central angle of 52°

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01'21" and a radius of 62.00 feet; thence Northeasterly along the arc of said curve 56.29 feet to the end of said curve; thence tangent from said curve North 35°25'39" East 57.92 feet; thence North 18°57'30" East 104.70 feet; thence North 38°48'07" East 66.49 feet; thence North 08°38'28" East 80.65 feet to the beginning of a tangent curve concave to the West having a central angle of 52°02'54" and a radius of 80.00 feet; thence Northwesterly along the arc of said curve 72.67 feet to the end of said curve; thence tangent from said curve North 43°24'29" West 67.40 feet to the beginning of a tangent curve concave to the East having a central angle of 53°08'33" and a radius of 59.50 feet; thence Northwesterly along the arc of said curve 55.19 feet to the end of said curve; thence tangent from said curve North 09°43'43" East 120.45 feet to the beginning of a tangent curve concave to the Southeast having a central angle of 92°25'21" and a radius of 29.00 feet; thence Northeasterly along the arc of said curve 46.78 feet to the end of said curve; thence tangent from said curve South 77°50'26" East 50.61 feet; thence South 52°39'18" East 37.22 feet; thence departing said centerline North 01°34'03" West 4,000.12 feet; thence North 88°25'57" East 400.00 feet; thence South 01°34'03" East 1,424.27 feet; thence South 65°32'08" East 583.70 feet; to the TRUE POINT OF BEGINNING.

The above described tract of land contains 105.205 acres more or less and is subject to all easements, agreements and rights-of-way of record.

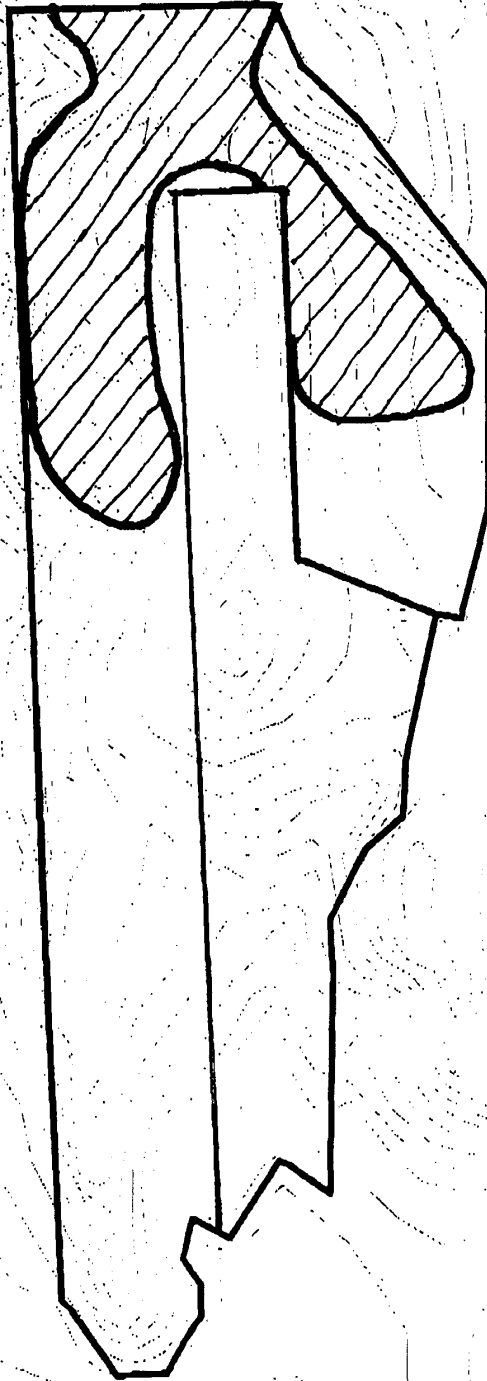
Ellen Jackson
Landmark Engineering Ltd.
3521 West Eisenhower Blvd.
Loveland, Colorado 80537
Email: office@landmarkltd.com
Ph: 970-667-6286
Fax: 970-667-6298

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EXHIBIT C-1

Wenninger Conceptual Rural Land Plan

8 single-family
residential units
to be located
within this area.



John 4/8/04



1" = 600'

EXHIBIT D
JAMES A. WILD CHILDREN'S TRUST PROPERTY

**Trust Property
Legal Description**

The Northwest $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 5, Township 5 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado; and

The Northeast $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 5, Township 5 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado; and

The Southeast $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 5, Township 5 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado; and

A portion of land located in the Southeast $\frac{1}{4}$ of Section 6, Township 5 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado being more particularly described as follows: beginning at the Northeast corner of the Southeast $\frac{1}{4}$ of said Section 6; thence North 88 29' West 1,125 feet; thence South 0 38' West 1,410.5 feet M/L to the northerly line of that certain parcel of land described at the Larimer County Clerk and Recorder's Office in Reception No. 87047962; thence South 89 50' 01" East 1125 feet M/L to the East line of said Section 6; thence North 0 36' East 1,410.5 feet along the east line of said Section 6 to the Point of Beginning.



PLANNING AND BUILDING SERVICES DIVISION

EXHIBIT E

Rural Land Use Center
P.O. Box 1190
Fort Collins, Colorado 80522-1190
(970) 498-7686
Fax (970) 498-7716
<http://www.larimer.org/rluc/index.htm>

April 8, 2004

Loveland City Council
500 E. Third Street
Loveland, Colorado 80537

Re: Support of request for City of Loveland water for the Hidden Valley Estates III Rural Land Use Plan (RLUP) and other RLUP projects in the Hidden Valley/Devil's Backbone area.

Dear City Council Members:

The purpose of this letter is to express support for the request to provide City of Loveland water for the Hidden Valley Estates III RLUP (HVIII) development project. HVIII received preliminary approval from the Larimer County Board of Commissioners on Monday, December 15, 2003. This request follows on the heels of similar commitments for city water: In the summer of 2002 the City of Loveland agreed to provide domestic water for the Hidden Valley Estates RLUP and Hidden Valley Estates II RLUP development projects.

The conservation-oriented development of this critical area has been a true collaborative effort involving many private and public individuals and agencies. As an example, Backbone Investments, LLC—owners of two RLUP projects, Hidden Valley Estates II and III—has authorized its consulting engineers, TST, Inc., to develop a domestic water master plan for roughly 739 acres of land in the Hidden Valley/Devil's Backbone area that have been or will be developed using Larimer County's Rural Land Use Process. Approximately 515 acres of this assembly is located within the City of Loveland Growth Management Area (GMA). The chart below indicates the current status of the projects—please see the attached map:

RLUP Project Name	Acres	Probable Number of New Taps	Rural Land Use Process Status	Date
Hidden Valley Estates II	194	12*	Rec'd Final Approval	12/10/04
Hidden Valley Estates III	140	10**	Rec'd Prelim Approval	12/15/04
James A. Wild Trust	140	8	In Process	---
(Greg) Wild Valley North	160	9	BCC Hearing/Prelim App	4/12/04
(Fred) Wenninger	105	8	In Process	---
Totals	739	47		

* Approved by Loveland City Council in summer of 2002.

** Project has 9 proposed residential sites—additional tap requested for projects' entry water feature.

Loveland City Council

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April 8, 2004

Due to some uncertainty as to the exact amount of land in the Hidden Valley area that will ultimately be brought through the Rural Land Use Process with a need for domestic water from this system, the water master plan has been designed to accommodate the domestic water needs of up to 50 residences in the valley. The number of water taps being requested by Mr. Charpentier for his RLUP projects and those of his neighbors in the valley is 47.

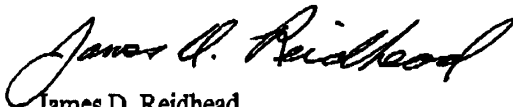
There is an important additional aspect of the land-use situation for the valley. The original Hidden Valley Estates RLUP project is comprised of roughly 228 acres and 13 residential lots, as well as access and land for the Devil's Backbone public trailhead and parking area, which is now up and running. However, in November 2002 and January 2003, the City of Loveland purchased the majority of this project (roughly 194 acres), including eleven of the residential lots, as part of its open space program. This change in use has changed the amount of city water needed for development in the valley.

As was the case for the first two RLUP projects, the ability to use City of Loveland water contributes greatly to the viability of these low-density projects because:

- Water supply is on site with the likelihood of affordable infrastructure costs; and
- Water supply is reliable and of high quality (especially compared to domestic wells—an option available through the RLUP).

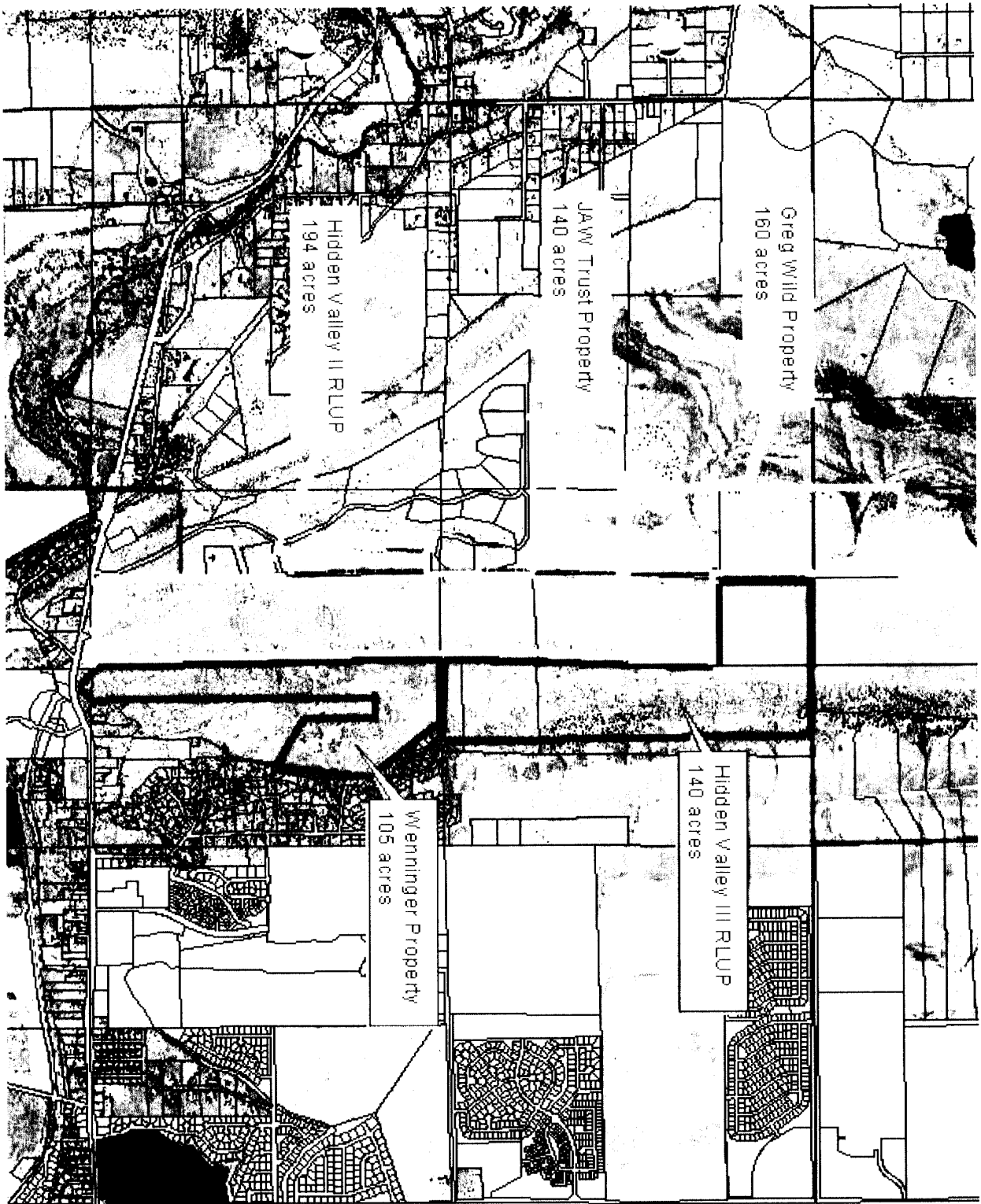
We look forward to working with the City of Loveland in this complex and challenging land-preservation effort. Thank you for your consideration and support.

Sincerely,



James D. Reidhead
Director

cc: Larimer County Board of Commissioners
Mr. Don Williams, Loveland City Manager
Ms. K-Lynn Cameron, Larimer County Open Lands Director
Ms. Sharon Citino, Loveland Assistant City Attorney
Ms. Jeannine Haag, Larimer County Attorney
Mr. Brian Hayes, Loveland Open Space Manager
Mr. Frank Lancaster, Larimer County Manager
Mr. Larry Timm, Larimer County Planning Director
Backbone Investments, LLC
Mr. Greg Wild
Mr. Fred Wenninger
Ms. Kitty Wild



Greg Wild Property
180 acres

JAW Trust Property
140 acres

Hidden Valley II RLUP
194 acres

Hidden Valley III RLUP
140 acres

Wenninger Property
105 acres