



**TOWN OF MILLIKEN  
PLANNING COMMISSION  
AGENDA MEMORANDUM**

<b>To:</b> Chairman Woodcock and Planning Commissioners <b>From:</b> Martha Perkins, Community Development Director <b>Via:</b> Kent Brown, Town Administrator		<b>Public Hearing Date:</b> April 1, 2015	
Agenda Item #	Action: x	Discussion:	Information:
<b>Agenda Title:</b> Public hearing/meeting for review and recommend approval of a Coordinated Planning Agreement with Weld County.			
<b>Staff Recommendation:</b> Staff recommends approval by the Planning & Zoning Commission.			

**PURPOSE**

To consider a request from Weld County to adopt a Coordinated Planning Agreement.

**BACKGROUND INFORMATION**

On Tuesday March 24 2015, the Mayor and Town Staff met with the County of Weld to discuss the adoption of a Coordinated Planning Agreement (CPA). The County is asking all of the municipal governments to participate in a similar agreement.

The CPA requires County staff to provide the Town of Milliken with notice of any pending land use application within a 3 mile radius of the town's boundaries. The County staff must be provided a referral notice within 21 days or less. The referral shall include at least one copy of the written land use development proposal and a preliminary County staff summary of the case. This referral process encourages cooperation between Weld County and the Town of Milliken regarding the development of land while serving the public's health, safety, general welfare, and property rights. In addition, the Town will receive notice that allows for the Town to annex additional property if appropriate.

The Planning & Zoning Commission has already reviewed quite a few of the County's referrals this year regarding land use development applications. If the Town does not respond within 28 days, then the County proceeds with its land use development approval process.

The proposed Coordinate Planning Agreement is attached.

**STAFF RECOMMENDATION**

Staff recommends that the Planning and Zoning Commission approve the County of Weld's Coordinated Planning Agreement (CPA).

**PLANNING AND ZONING COMMISSION APPROVAL**

The Planning & Zoning Commission recommends that the Town of Milliken's Board of Trustees approve the County of Weld's Coordinated Planning Agreement.

**COORDINATED PLANNING AGREEMENT  
BETWEEN THE TOWN / CITY OF MILLIKEN, COLORADO, AND WELD COUNTY,  
COLORADO**

This Coordinated Planning Agreement ("CPA") is made and entered into effective as of the \_\_\_\_ day of \_\_\_\_\_, 2015, A.D., between the Board of County Commissioners of the County of Weld, State of Colorado, whose address is 1150 O Street, Greeley, CO 80631, hereinafter called the "COUNTY," and the Town of Milliken, a Colorado municipal corporation, whose address is 1101 Broad Street, Milliken Colorado, hereinafter called the "MUNICIPALITY." The COUNTY and MUNICIPALITY are hereinafter sometimes referred to individually as "party" and collectively as "the parties."

**RECITALS**

A. COUNTY exercises governmental authority regulating land use, growth and development within the unincorporated areas of Weld County, Colorado, which areas include lands surrounding MUNICIPALITY; and

B. MUNICIPALITY exercises governmental authority with respect to land use, growth, and development within its municipal boundaries and regarding its annexations, and has demonstrated the capability of providing municipal services and facilities (including water and sewer services based on the municipality's code and/or other municipal service policies) within the THREE (3) MILE AREA, as defined herein; and

C. Title 29, Article 20 of the Colorado Revised Statutes, grants broad authority to local governments to plan for and regulate development and the use of land within their respective jurisdictions, accomplishing such activities through public processes that respect, protect, and promote private property rights; and

D. Title 29, Article 20 of the Colorado Revised Statutes, authorizes and encourages local governments to cooperate and contract with each other for the purpose of planning and regulating the development of land by the joint and coordinated exercise of planning, zoning, subdivisions, building, and related regulatory powers; and

E. Pressures for growth and development in MUNICIPALITY and COUNTY indicate that the joint and coordinated exercise by COUNTY and MUNICIPALITY of their respective planning, zoning, subdivision, building and related regulatory powers in such areas will best promote the objectives stated in this CPA; and

F. This CPA adheres to the objectives and Policies of the Weld County Comprehensive Plan, set forth in Section 22-2-40 of the Weld County Code and, in particular, UD.Goal 2., which encourages the establishment of intergovernmental agreements concerning growth areas with each municipality in Weld County.

**NOW THEREFORE**, for and in consideration of the mutual promises and undertakings herein set forth, the parties agree as follows:

1. **PURPOSES AND OBJECTIVES.** The purpose of this CPA is to establish procedures and standards pursuant to which the parties will move toward greater coordination in the exercise of their land use and related regulatory powers within unincorporated areas surrounding MUNICIPALITY. The objectives of such efforts are to accomplish the type of development in such areas which best protects the health, safety, prosperity, and general

welfare of the inhabitants of the parties and to achieve maximum efficiency and economy in the process of development. However, any action taken pursuant to this CPA that pertains to any land within MUNICIPALITY, for incorporated areas, and within COUNTY, for unincorporated areas, is subject to exclusive final approval by the governing body of MUNICIPALITY or COUNTY, respectively.

2. **DEFINITIONS.** For the purposes of this CPA the following terms shall be defined as set forth herein:

2.1 **DEVELOPMENT.** Any land use requiring regulatory approval by the elected governing body of the applicable party in the THREE (3) MILE AREA, except for an amendment to a plat or a down-zoning, neither of which creates any additional lots, and except for a Recorded Exemption or Subdivision Exemption. Existing agricultural uses, which are lawful uses, either as uses-by-right under the Weld County Code, or as legally existing non-conforming uses, are also exempt from the definition of "DEVELOPMENT."

2.2. **THREE (3) MILE AREA.** *The area as defined by Colorado Revised Statutes, C.R.S. 31-12-105.1.E.*

3. **PLANNING COORDINATION.** This CPA is intended to be a Comprehensive Development Plan adopted and implemented pursuant to C.R.S. § 29-20-105(2). Following the execution of this CPA by both parties, applications to COUNTY for DEVELOPMENT within the THREE (3) MILE AREA shall be processed and determined in accordance with the following:

3.1 **Referral.** COUNTY shall refer all proposals for DEVELOPMENT within the THREE (3) MILE AREA to MUNICIPALITY for its review and recommendation. Such referral shall include at least a copy of the written DEVELOPMENT proposal and preliminary COUNTY staff summary of the case. COUNTY shall allow not less than twenty-one (21) days for MUNICIPALITY to review the referral and furnish its recommendations to COUNTY staff prior to formulation of the COUNTY staff recommendation. If the MUNICIPALITY does not respond within such time, COUNTY staff may proceed with its recommendation, but any comment or recommendation from MUNICIPALITY received on or before the Thursday immediately preceding the meeting of the Board of County Commissioners or Planning Commission when the matter shall be considered shall be transmitted to the Board or Commission. If the MUNICIPALITY submits no comment or recommendation, COUNTY may assume it has no objection to the proposal. If MUNICIPALITY submits recommendations, COUNTY shall either include within its written decision the reasons for any action taken contrary to the same or furnish such reasons to MUNICIPALITY by a separate writing. MUNICIPALITY shall be given notice of, and may appear and be heard at any hearing or other proceeding at which COUNTY shall consider a DEVELOPMENT subject to the foregoing referral process.

3.2 **Development Within THREE (3) MILE AREA.** Upon receipt of any proposal for DEVELOPMENT within the THREE (3) MILE AREA then currently eligible for voluntary annexation to MUNICIPALITY, COUNTY shall, in writing, at time of a pre-application with the Department of Planning Services, notify the proponent of the opportunity for annexation. The Director of Planning Services shall, in writing, notify MUNICIPALITY's mayor and his or her designee of the proposal. MUNICIPALITY shall have twenty-one (21) days sixty (60) days following contact by the proponent, which shall be documented in writing (with a copy of COUNTY), to notify COUNTY in writing

that MUNICIPALITY and the applicant have agreed to the terms of a pre-annexation agreement. COUNTY shall not process any application until the completion of said twenty-one (21) sixty (60) days, or until COUNTY receives notification from the MUNICIPALITY that a pre-annexation agreement between MUNICIPALITY and the applicant will not be pursued, whichever occurs sooner. If no such notification is received by COUNTY during said twenty-one (21) sixty (60) days, processing of the application shall continue by COUNTY to completion.

**3.3 Mutuality of Impact Consideration.** The parties recognize that decisions by one party regarding development may impact property outside of its jurisdiction. The parties agree that jurisdictional boundaries shall not be the basis for giving any greater or lesser weight to those impacts during the course of deliberations.

**3.4 Referrals to County.** MUNICIPALITY shall refer proposals for DEVELOPMENT which lie within 500 feet of any property in unincorporated Weld County to COUNTY for its review and recommendation. Such referral shall include at least a copy of the written DEVELOPMENT proposal. MUNICIPALITY shall allow not less than twenty-one (21) days for COUNTY to review same and furnish its recommendations to MUNICIPALITY. If COUNTY submits no comment or recommendation MUNICIPALITY may assume it has no objection to the proposal. If COUNTY submits recommendations, MUNICIPALITY shall either include within its written decision the reasons for any action taken contrary to the same or furnish such reasons to COUNTY by a separate writing. Where the DEVELOPMENT is proposed as part of an annexation of more than 10 acres, the provisions of this section shall be deemed satisfied by compliance by MUNICIPALITY with the notice and impact report provisions of the most current version of the Municipal Annexation Act then in effect. COUNTY shall be given notice of, and may appear and be heard at any hearing or other proceeding at which MUNICIPALITY shall consider a DEVELOPMENT subject to the foregoing referral process.

**4. IMPLEMENTATION OF CPA.** Following the mutual execution of this CPA, each party shall promptly enact and implement such amendments to its existing regulations as may be necessary to give effect to the provisions of Section 3. Each party shall have sole and exclusive discretion to determine such measures and any new ones enabling it to perform this CPA. Each party's land use regulations as referred to herein are ordinances whose amendment requires certain formalities, including notice and public hearings. The mutual covenants in this section and elsewhere to implement this CPA promptly are given and received with mutual recognition and understanding of the legislative processes involved, and such covenants shall be liberally construed in light thereof.

**5. ESTABLISHMENT OF COMMON DEVELOPMENT STANDARDS.** MUNICIPALITY and COUNTY shall, within one (1) year of the effective date of this CPA, attempt to agree to establish common development standards within designated areas, which may include areas within MUNICIPALITY's boundaries and/or within the THREE (3) MILE AREA. Common development standards should include, but not be limited to, roadways (types, widths, horizontal design, access and spacing) and drainage (on-site, off-site, discharge, easements, and regional facilities).

6. **MISCELLANEOUS PROVISIONS.**

6.1 **Severability.** Should any one or more sections or paragraphs of this CPA be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this CPA, the intention being that the various sections and paragraphs are severable; provided, however, that the parties shall then review the remaining provisions to determine if the CPA should continue, as modified, or if the CPA should be terminated.

6.2 **Termination.** This CPA shall continue in effect for a period of one year from the date first written above, and shall be renewed automatically thereafter for successive one (1) year periods. Notwithstanding the foregoing, however, either party may terminate this CPA by giving at least twelve (12) months' written notice thereof to the other party.

6.3 **Amendment.** This CPA may be amended only by a writing executed by the parties and adopted according to the same procedures as the original adoption (requiring the written consent of the amendment by both parties and compliance with the procedures detailed in Sections 6.4 and 6.5 of this CPA).

6.4 **Adoption by MUNICIPALITY.** MUNICIPALITY shall at public hearing(s) consider this CPA for adoption upon published notification. MUNICIPALITY shall provide a complete record of such public hearing(s) to COUNTY for review prior to the start of COUNTY's adoption process detailed in Section 6.5, below.

6.5 **Adoption by COUNTY.** COUNTY shall, upon published notification consider this CPA for adoption and amendment to Chapter 19 of the Weld County Code. In the course of such adoption process, COUNTY shall review the complete record of the public hearing(s) held by MUNICIPALITY wherein it considered this CPA for adoption. The effective date of this CPA shall be its effective date of amendment to the Weld County Code.

6.6 **Reserved Rights.** Nothing herein shall be construed to limit any procedural or substantive rights afforded a party under law respecting the matters that are the subject of this CPA, including without limitation any rights of referral, participation or judicial review related to any land use or development procedure or approval of the other party, which rights are hereby reserved to each party.

6.7 **Enforcement.** Either party may enforce this CPA by an action for specific performance, declaratory and/or injunctive relief, or other equitable relief. The parties agree the remedies for enforcement hereof are limited to non-monetary relief, and each party hereby waives any right to seek damages for any violation of this CPA. No other person or entity shall have any right to enforce the provisions of this CPA.

**IN WITNESS WHEREOF**, the parties have executed this CPA effective as of the date first above written.

ATTEST:  
CLERK OF THE BOARD  
Donald Warden

BOARD OF COUNTY  
COMMISSIONERS OF  
WELD COUNTY, COLORADO

\_\_\_\_\_  
Deputy Clerk to the Board  
, Chairman

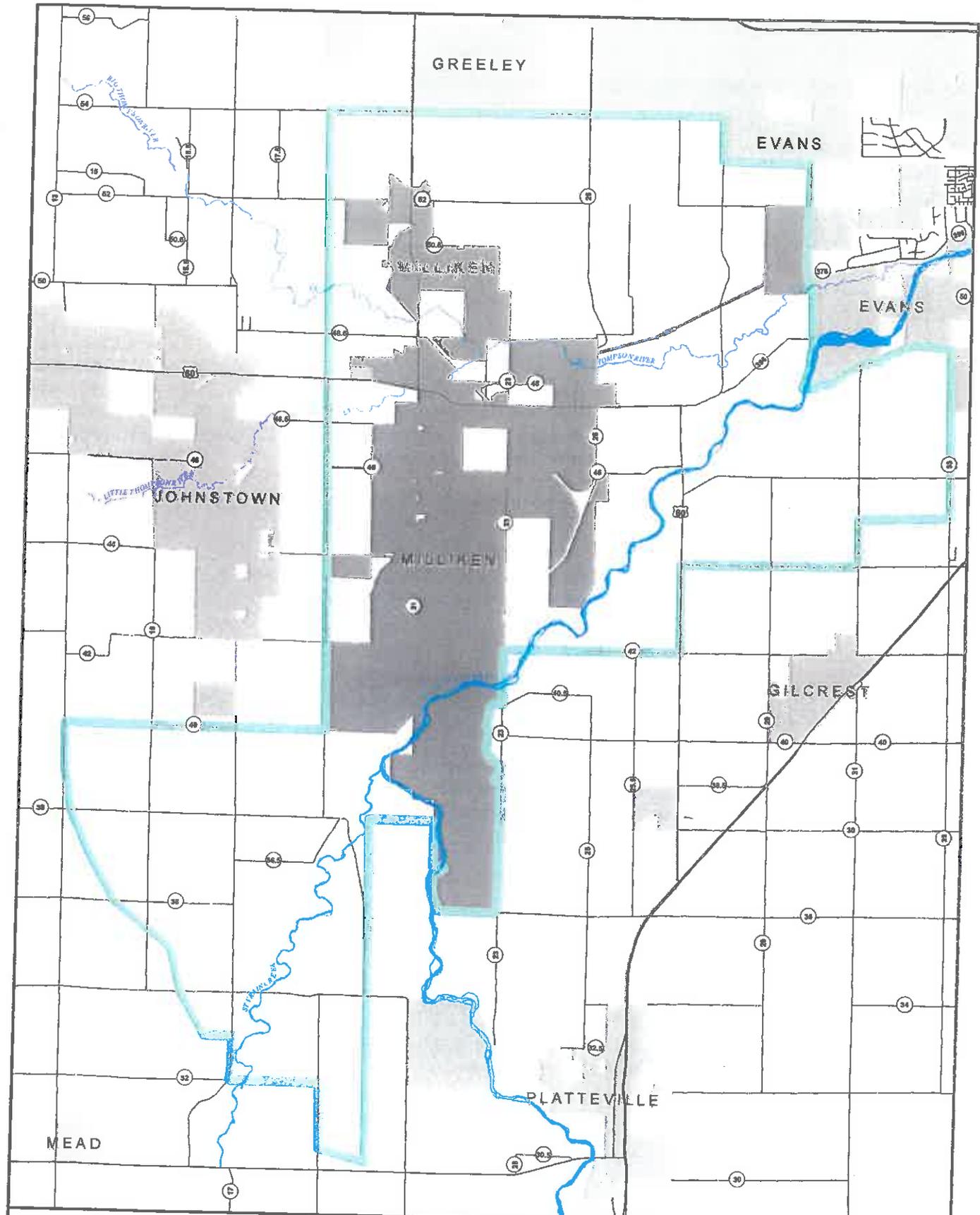
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ATTEST:

MUNICIPALITY  
TOWN / CITY OF

\_\_\_\_\_  
Cheryl Powell, Town / City Clerk  
Mayor

\_\_\_\_\_  
Milt Tokunaga



**MILLIKEN / WELD CPA**



-  Rivers
-  Millike/Weld CPA Boundary
-  Municipal Boundary
-  Milliken Municipal Boundary

