



Agenda Memorandum

Agenda Item – {{section.number}}.C.

City Council Meeting
September 9, 2024



Strategic Priority 3: Community Health and Safety

Invest in innovative and collaborative approaches to provide a continuum of services that preserve, promote, and protect the health, safety, and environment of Westminster



Strategic Priority 4: Economic Vitality

Promote and support a resilient economy that attracts and retains a diversity of businesses, workers, and industries, expands living wage jobs, and diversifies the City's tax base

Subject: First Reading of Councillor's Bill No. 30 Re: Regulation of Ground Water Use Upon Certain Property within the City of Westminster Near 88th Avenue and Lowell Boulevard

Prepared By: Heather Otterstetter, Senior Engineer

Recommended City Council Action:

1. Pass Councillor's Bill No. 30 on first reading to prohibit withdrawal or use of ground water in the area where residual ground water contamination exists from the former Shaw Heights Dry Cleaners Site, located at 3681 W 88th Avenue, Westminster, Colorado.
2. Contingent upon approval of Councillor's Bill 30 on second reading, authorize the Acting City Manager to execute an Intergovernmental Agreement with the Colorado Department of Public Health and Environment whereby the City of Westminster agrees to not approve requests to use ground water from within the contamination area.

Summary Statement:

- This is the first reading of Councillor's Bill No. 30 to control and regulate ground water use in the area where residual ground water contamination exists from the former Shaw Heights Dry Cleaners Site located at 3681 W 88th Avenue, Westminster, Colorado.

- This ordinance is required as a first step prior to execution of an Intergovernmental Agreement (IGA) with the Colorado Department of Public Health and Environment (CDPHE) that would prohibit ground water use near 88th Avenue and Lowell Boulevard.
- A dry-cleaning facility was located at the northwest corner of 88th Avenue and Lowell Boulevard from 1965 to 1992 and has since discontinued operation.
- In 2019, impacts to subsurface soil and ground water were discovered during a Phase I and Phase II Environmental Site Assessment (ESA) as part of a real estate transaction involving the property.
- Since 2021, the current property owner has been working with the Hazardous Materials and Waste Management Division of the CDPHE to investigate and remediate the impacted soil and ground water on site.
- The CDPHE has approved a Conditional Closure on the case for this property that would allow for the property to be developed. However, certain restrictions must be enacted on all properties within the designated area before the case may be closed and the property is released for development.
- Other than minimal Staff time, there is no cost to the City.

Fiscal Impact:

\$0 in expenditures

Source of Funds:

Not applicable

Policy Issue(s):

Should City Council pass the ordinance and authorize execution of the IGA with the CDPHE that would prohibit the withdrawal or use of groundwater from within the designated area?

Alternative(s):

City Council could choose to deny the ordinance and not authorize execution of the IGA. Staff does not recommend this alternative as CDPHE will not issue a Conditional Closure for this property without the IGA. It is beneficial to the City for a Conditional Closure to be issued that will allow the property to be developed. The remaining low-level contamination does not pose a threat to future residents. Approval of the IGA does not incur cost to the City and allows the property to be developed.

Background Information:

A dry-cleaning facility was located in a shopping center at the northwest corner of 88th Avenue and Lowell Boulevard from 1965 to 1992. The shopping center was razed in 1999 and acquired by a developer who annexed the property into the City and platted it as the Alpine Vista Subdivision in 2004. Since that time, several residential properties have been constructed in the area. Future

development of the remaining property is contingent upon closure through the CDPHE.

The Phase I ESA indicated that a dry-cleaning facility had formerly been located on the property. As a result, a Phase II ESA was conducted, which included collecting soil and ground water samples for laboratory analysis. The laboratory analytical results indicated that the soil and ground water were impacted with chemicals typical of a dry-cleaning facility.

Since 2021, the property owner has been working with the Hazardous Materials and Waste Management Division of the CDPHE to investigate and remediate the impacted soil and ground water on-site through excavation and injection of zero-valent iron. Additional sampling has shown that the soil above the ground water table has been remediated. Low-level (residual) amounts of contamination remain in the ground water above the CDPHE's cleanup goal. However, the injected zero-valent iron will continue to remediate the remaining contamination for the next five to ten years.

The CDPHE has approved the property for Conditional Closure on the case but requires an Environmental Covenant, Deed Restriction, or other form of agreement for all portions of the property with residual contamination that exceeds the CDPHE's cleanup goals. Per the CDPHE, "Closure in this context means that remediation and ground water monitoring may cease and an Environmental Covenant is placed on the property." Since the City owns right-of-way and public land in the area of residual contamination, an IGA is required between the City and CDPHE that would prohibit the withdrawal or use of ground water from within the area.

The City's Strategic Priority of Community Health and Safety and the City's Strategic Priority Economic Vitality are both met by prohibiting the withdrawal or use of ground water from an area that contains low level residual contamination, while simultaneously enabling the development of property within that same area near the intersection of 88th Avenue and Lowell Boulevard.

Respectfully submitted,

Jody Andrews

Jody L. Andrews
Acting City Manager

Attachments:

Attachment 1 – Councillor's Bill No. 30 for an Ordinance Regulating Ground Water Use Upon Certain Property within the City

Attachment 2 – IGA Between the State of Colorado Dept of Public Health & Environment and the City Regarding Westminster Ordinance No. 4264