

ITEM NO	
MEETING DATE	
STAFF	
ADMINISTRATIVE	HEARING

#### **STAFF REPORT**

**PROJECT:** Kechter Crossing Subdivision, First Replat, Final Development

Plan, #PDP130005

**APPLICANT:** Meritage Homes

c/o Northern Engineering 200 South College Avenue Fort Collins, CO 80524

**OWNER:** Meritage Homes

6892 South Yosemite Court Centennial, CO 80112

#### PROJECT DESCRIPTION:

This is a request to replat two lots (Lots Four and Five of Block Four) and Common Area B for the purpose of saving a large mature tree. As currently platted, the existing tree would preclude the construction of two homes on two existing lots. These two lots are located immediately south of the existing house on Kadenwood Drive. By replatting, the tree can remain undisturbed and the two affected lots are relocated to the west along Coppervein Street. The replat includes an adjustment in the common area boundary so that the tree remains within the common area and not within the boundary of any individual lot.

Kechter Crossing Subdivision contains 76 single family lots on 29 acres and was originally platted and approved in Larimer County in 2012. In December of 2012, the subdivision was annexed into the City of Fort Collins. The parcel is located south of Kechter Road approximately 1,600 feet east of Timberline Road and is zoned L-M-N, Low Density Mixed-Use Neighborhood.

**RECOMMENDATION:** Approval

#### **EXECUTIVE SUMMARY:**

Kechter Crossing was approved in Larimer County and did not include measures to protect a significant Cottonwood tree and a Red Tail Hawk nest site. The replat allows the subdivision to achieve compliance with Section 3.4.1(N), which specifically protects the raptor nest . Further it is in compliance with the applicable land use and development standards of the L-M-N, Low Density Mixed-Use Neighborhood zone district of Article Four. Finally, it is in compliance with the applicable General Development standards of Article Three.

#### **COMMENTS:**

#### 1. **Background:**

The surrounding zoning and land uses are as follows:

N: County FA-1; Existing single family (Blehm Subdivision)

S: County FA-1; Vacant – under plan review in Larimer County for single family

E: L-M-N; Vacant – City of Fort Collins Land Bank Parcel

W: County FA-1; Existing single family home

Kechter Crossing was approved by Larimer County in August of 2012. Per the Intergovernmental Agreement between Larimer County and the City of Fort Collins, the subdivision was approved in the County in order to implement their Transfer of Density Units program as the subject site has been designated as a density units receiving area. This agreement allows the County to implement their program but also allows the City to annex an approved County subdivision but only when the necessary one-sixth perimeter becomes contiguous with the municipal boundary.

At the time Kechter Crossing was approved in Larimer County, August of 2012, the Subdivision was not contiguous to the City of Fort Collins boundary.

The City of Fort Collins annexed the abutting parcel to the east (City of Fort Collins Land Bank Parcel) in September of 2012 thus making Kechter Crossing contiguous with the municipal boundary on its entire eastern boundary.

The City then annexed Kechter Crossing in December of 2012 and placed it into the L-M-N, Low Density Mixed-Use Neighborhood district.

In early 2013, during the overlot grading of the subdivision, the developer's project manager discovered and reported to the City the existence of a pair of hawks nesting in a large mature tree. City Environmental and Forestry officials inspected the site and confirmed the hawks, the nest and the value of the tree. Since the tree straddled the side lot line between two lots, and since any reasonable excavation and construction of

homes on these lots would imperil the tree and hawks nest, the applicant agreed to replat the two affected lots.

The purpose of the replat is to vacate the two lots by placing them and the tree into a reconfigured common area and create two new lots to the west fronting on a different street and where there are no environmental conflicts.

#### 2. Fossil Creek Reservoir Area Plan:

Kechter Crossing Subdivision is located within Fossil Creek Reservoir Area Plan adopted jointly between the City of Fort Collins and Larimer County in 1998. The Plan states:

According to the "Land Use Framework Plan,"

"The land uses and densities proposed in the Plan are consistent with City Plan. The Fossil Creek Reservoir Area Plan is considered a part of the future urban area of the Fort Collins. The Plan provides for a mix of urban and estate lots, with a general transition for higher densities near Harmony Road to lower densities near the reservoir." (Page11.)

"FC-LUF-3 – Mixed-Use Neighborhoods. These neighborhoods will consist of a mix of housing types near parks, schools, and a neighborhood center. The density will be a minimum overall average of either 3 or 5 units per acre, with an overall maximum of 8 dwelling units per acre, and maximum of 12 units per acre for any single phase. This residential classification will required design and development standards agreed upon by both Larimer County and the City of Fort Collins." (Page 16.)

Kechter Crossing is shown on the Land Use Framework Plan as being designated "Mixed-Use Neighborhood." The Subdivision was zoned into the Low Density Mixed-Use Neighborhood district upon annexation. Therefore, the proposed Replat continues to comply with the adopted sub-area plan.

#### 3. Article Four – Applicable L-M-N Zone District Standards:

#### A. Section 4.5(B)(2)(a)1. – Permitted Uses

Single family detached dwellings are a permitted land use within the L-M-N zone district, subject to administrative review.

#### B. Section 4.5(D)(1)(a) – Density

Since two existing lots are simply be relocated to front on another street, there is no gain or loss of lots. The density of the subdivision does not deviate from the density that was established through the County approval process and then annexed into the City. The density of 2.62 dwelling units per gross acre remains in compliance with the Fossil Creek Reservoir Area Plan.

#### C. Sections 4.5(D)(2)(3) – Mix of Housing and Neighborhood Centers

As mentioned, Kechter Crossing was reviewed and approved in Larimer County whose applicable land use, subdivision and development codes do not contain standards that address a required mix of housing types or the establishment of a neighborhood center. The County approval created a vested right to develop according to the parameters of the recorded plan. The City of Fort Collins, upon annexation, is therefore prohibited from taking measures to violate this vesting. Staff does not interpret the Land Use Code or the I.G.A. with the County to consider the subject Replat as a sufficient enough change to the original plan as to allow the City to implement development standards that are not consistent with the codes of Larimer County.

#### D. Sections 4.5(D)(5)(6) – Facing Uses and Small Neighborhood Parks

As with the aforementioned sub-section, Staff does not interpret the Land Use Code or the I.G.A. with the County to consider the subject Replat as a sufficient enough change to the original plan as to allow the City to implement development standards that are not consistent with the codes of Larimer County. Please note, however, that the Subdivision contains four small common areas which are roughly equivalent to private parks required by the L-M-N standards.

#### E. Section 4.5(E)(1) – Streets and Blocks

Again, as with the aforementioned sub-section, Staff does not interpret the Land Use Code or the I.G.A. with the County to consider the subject Replat as a sufficient enough change to the original plan as to allow the City to implement development standards that are not consistent with the codes of Larimer County. Please note, however, that the local street system provides for a north-south street that will share the property line with the parcel to the east and that this street connects to the south. Further, there are three east-west streets that connect to both parcels to the east and west.

#### 4. Article Three Applicable General Development Criteria:

#### A. Section 3.2.1(C)(1) – Landscaping and Tree Protection – General Standard

The two replatted lots and Common Area B will continue to be landscaped in a manner that is consistent with the approved plan. For the two lots, this means there will be one street tree per lot located in the parkway. For the common area, the tract will be landscaped with trees, shrubs and turf to a degree that is consistent with the approved plan.

#### B. Section 3.2.1(F) – Tree Protection and Replacement

The large mature Cottonwood tree has been evaluated by the City Forester and is considered significant and will now be protected by being within a common area that is .92 acre in size. Lots have been re-designed to minimize disturbance to this tree in accordance with the standard.

#### C. Section 3.3.1 – Plat Standards

Kechter Crossing Filing Two complies with the requirements for a legal subdivision of land. The two lots front on a public street with the proper dedication of public right-of-way and easements for utilities. Also, drainage and emergency access easements have been provided as required by the City's Stormwater Utility and the Poudre Fire Authority.

#### D. Section 3.3.2 – Development Improvements

The City of Fort Collins and Larimer County have jointly adopted a common set of development standards for projects located within the City's Growth Management Area. Referred to as the Larimer County Urban Area Street Standards, this common set of rules and regulations ensures that as County developments are constructed, they will, upon annexation, be at a level consistent with the City standards. This allows the public improvements to be accepted by the City for ownership and maintenance.

In the case of Kechter Crossing, all public improvements have been reviewed and evaluated and approved per the Larimer County Urban Area Street Standards. The Development Agreement and financial securities have now been assigned to the City as the public entity that will be inspecting, accepting and ultimately maintaining all public improvements.

#### E. Section 3.4.1(N)(5) – Redtail and Swainson's Hawk Nest Sites

The large mature Cottonwood Tree with the active raptor nest will be preserved and placed within a re-designed Common Area B. This area will contain .92 acre. The distance from the base of the tree to the boundaries of the tract ranges from 600 to 900 feet.

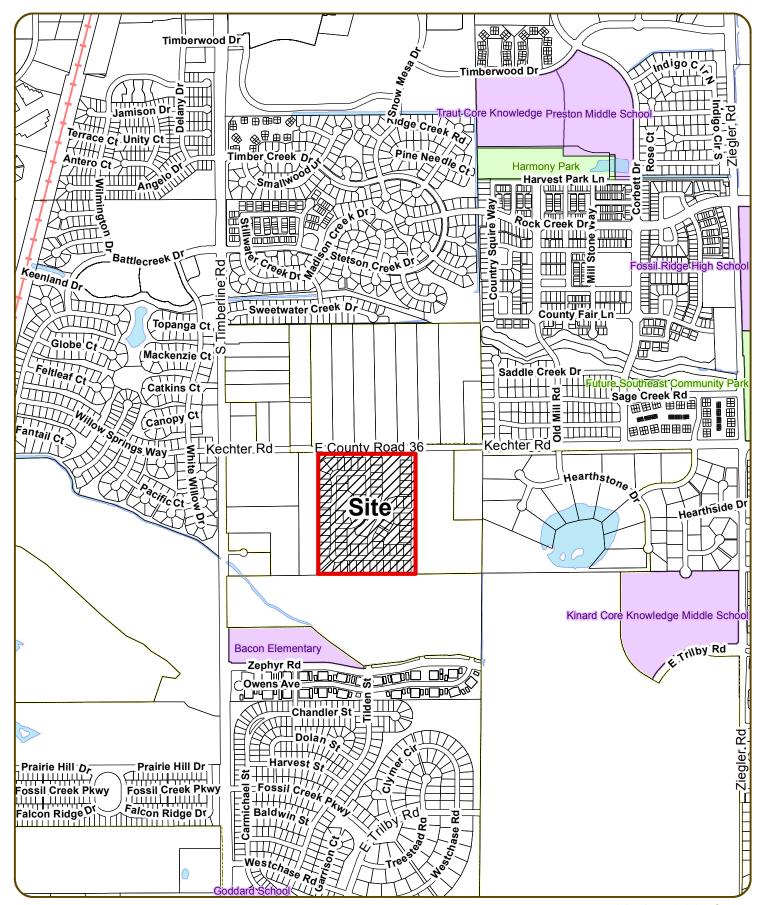
#### 5. Conclusion and Findings of Fact:

In evaluating the request for a P.D.P for Kechter Crossing Filing Two, Staff makes the following findings of fact:

- A. Kechter Crossing was originally approved in Larimer County and then annexed into the City of Fort Collins per the Intergovernmental Agreement between the two jurisdictions. The public improvements were evaluated and approved in accordance with the Larimer County Urban Area Street Standards which are standards that have been jointly adopted by both the City and the County.
- B. The P.D.P. is in compliance with the Fossil Creek Reservoir Area Plan.
- C. The P.D.P is in compliance with the applicable land use and development standards of the Low Density Mixed-Use Neighborhood zone district of Article Four.
- D. The P.D.P. is in compliance with the applicable General Development Standards of Article Three.
- E. In particular, the P.D.P. now achieves compliance with Section 3.4.1(N)(5), standards for protection during construction for Red Tail and Swainson's Hawk Nest Sites, whereas it did not when reviewed and approved while under the jurisdiction of Larimer County.

#### **RECOMMENDATION:**

Staff recommends approval of Kechter Crossing Second Filing, Project Development Plan, #PDP130005.

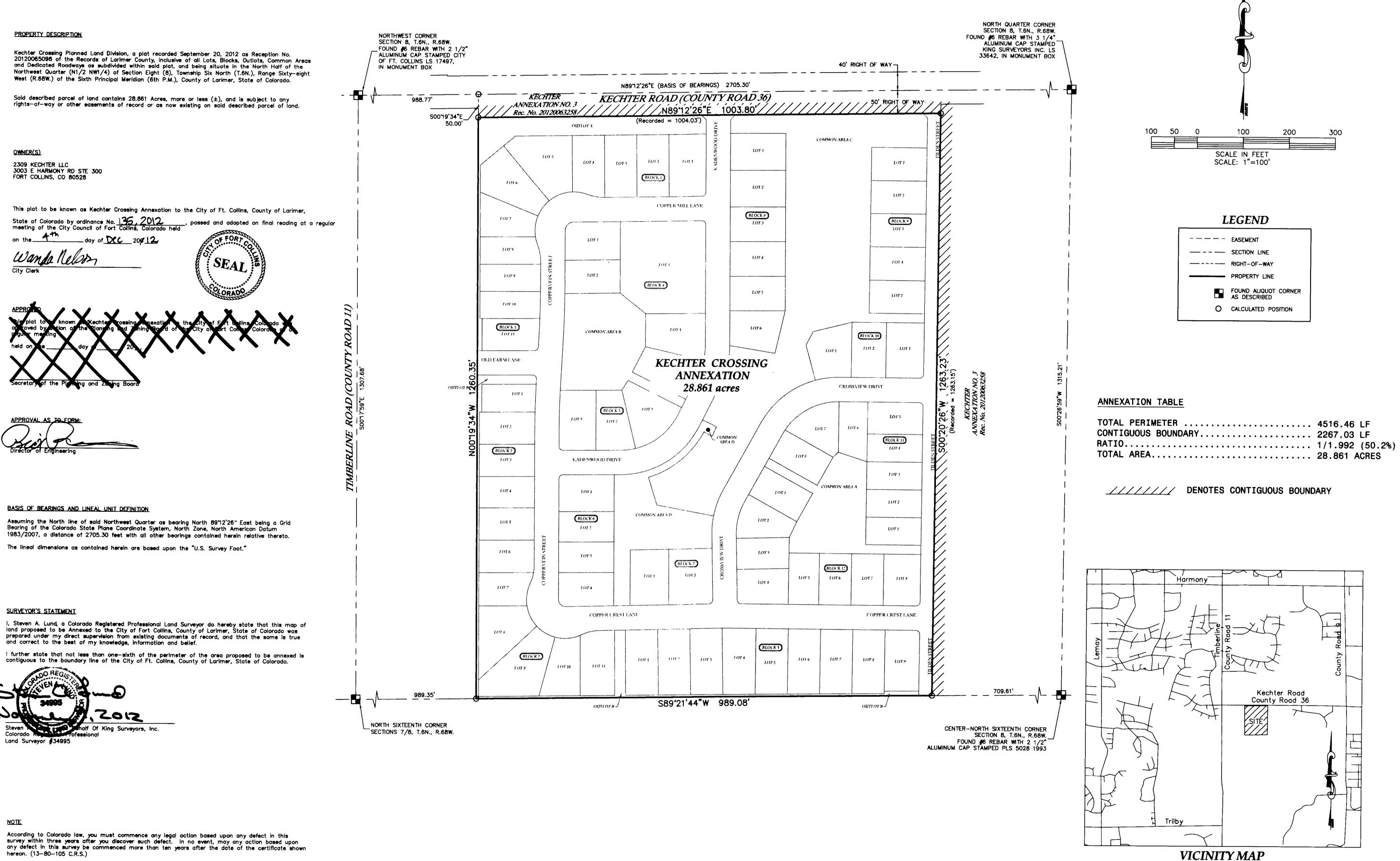


1 inch = 1,000 feet



### KECHTER CROSSING ANNEXATION TO THE CITY OF FORT COLLINS

An Annexation of the Kechter Crossing Planned Land Division, Situate In The North Half Of The Northwest Quarter Of Section 8, Township 6 North, Range 68 West Of The 6th P.M., County Of Larimer, State Of Colorado



9/13/2012 2011249ANX

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PROJECT #: 2011249

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## KECHTER CROSSING PLANNING LAND DIVISION FILING TWO

A REPLAT OF LOTS 4 & 5, BLOCK 4 AND COMMON AREA B, KECHTER PLANNING LAND DIVISION, LOCATED IN THE NORTH HALF OF SECTION 8, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO

#### STATEMENT OF OWNERSHIP AND SUBDIVISION

Know all persons by these presents, that the undersigned owner(s) of the following described land: A tract of land located in the North Half of Section 8, Township 6 North, Range 68 West of the 6th Principal Meridian, City of Fort Collins, County of Larimer, State of Colorado being more particularly described as follows:

#### Lots 4 & 5, Block 4 and Common Area B, Kechter Crossing Planing Land Division

The above described area contains 58,375 square feet or 1.340 acres more or less and is subject to all easements and rights-of-way now on record or existing.

For themselves and their successors in interest (collectively "Owner") have caused the above described land to be surveyed and subdivided into lots, tracts and streets as shown on this Plat to be known KECHTER CROSSING PLANNING LAND DIVISION FILING TWO (the "Development"), subject to all easements and rights-of-way now of record or existing or indicated on this Plat. The rights and obligations of this Plat shall run with the land.

#### CERTIFICATE OF DEDICATION:

The Owner does hereby dedicate and convey to the City of Fort Collins, Colorado (hereafter "City"), for public use, forever, a permanent right-of-way for street purposes and the "Easements" as laid out and designated on this Plat; provided, however, that (1) acceptance by the City of this dedication of Easements does not impose upon the City a duty to maintain the Easements so dedicated, and (2) acceptance by the City of this dedication of streets does not impose upon the City a duty to maintain streets so dedicated until such time as the provisions of the Maintenance Guarantee have been fully satisfied. The streets dedicated on this Plat are the fee property of the City as provided in Section 51-23-107 C.R.S. The City's rights under the Easements include the right to install, operate, access, maintain, repair, reconstruct, remove and replace within the Easements public improvements consistent with the intended purpose of the Easements; the right to install, maintain and use gates in any fences that cross the Easements; the right to use the Easements with suitable markers; and the right to permit other public utilities to exercise these same rights. Owner reserves the right to use the Easements for purposes that do not interfere with the full enjoyment of the rights hereby granted. The City is responsible for maintenance of its own improvements and for repairing any damage caused by its activities in the Easements, but by acceptance of this dedication, the City does not accept the duty of maintenance of the Easements, or of improvements in the Easements that are not owned by the City. Owner will maintain the surface of the Easements in a sanitary condition in compliance with any applicable weed, nuisance or other legal requirements.

Except as expressly permitted in an approved plan of development or other written agreement with the City, Owner will not install on the Easements, or permit the installation on the Easements, of any building, structure, improvement, fence, retaining wall, sidewalk, tree or other landscaping (other than usual and customary grasses and other ground cover). In the event such obstacles are installed in the Easements, the City has the right to require the Owner to remove such obstacles from the Easements. If Owner does not remove such obstacles, the City may remove such obstacles without any liability or obligation for repair and replacement thereof, and charge the Owner the City's costs for such removal. If the City chooses not to remove the obstacles, the City will not be liable for any damage to the obstacles or any other property to which they are attached.

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My commission expires:

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#### Notary Public

#### OWNER: KECHTER CROSSING HOMEOWNERS ASSOCIATION, INC.

	Ву:	
STATE OF COLORADO )		

#### SS CONTRACTOR ADMINISTRA

#### COUNTY OF LARIMER )

The foregoing instrument was acknowledged before me this	day of	, 20	, by	
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#### Witness my hand and official seal

#### My commission expires:

#### Notary Public

#### MAINTENANCE GUARANTEE

The Owner hereby warrants and guarantees to the City, for a period of two (2) years from the date of completion and first acceptance by the City of the improvements warranted hereunder, the full and complete maintenance and repair of the improvements to be constructed in connection with the Development which is the subject of this Plat. This warranty and guarantee is made in accordance with the City Land Use Code and/or the Transitional Land Use Regulations, as applicable. This guarantee applies to the streets and all other appurtenant structures and amenities lying within the rights-of-way, Easements and other public properties, including, without limitation, all curbing, sidewalks, bike paths, drainage pipes, culverts, catch basins, drainage ditches and landscaping. Any maintenance and/or repair required on utilities shall be coordinated with the owning utility company or department.

The Owner shall maintain said improvements in a manner that will assure compliance on a consistent basis with all construction standards, safety requirements and environmental protection requirements of the City. The Owner shall also correct and repair, or cause to be corrected and repaired, all damages to said improvements resulting from development-related or building-related activities. In the event the Owner fails to correct any damages within thirty (30) days after written notice thereof, then said damages may be corrected by the City and all costs and charges billed to and paid by the Owner. The City shall also have any other remedies available to it as authorized by law. Any damages which occurred prior to the end of said two (2) year period and which are unrepaired at the termination of said period shall remain the responsibility of the Owner.

#### REPAIR GUARANTEE:

In consideration of the approval of this final Plat and other valuable consideration, the Owner does hereby agree to hold the City harmless for a five (5) year period, commencing upon the date of completion and first acceptance by the City of the improvements to be constructed in connection with the development which is the subject of this Plat, from any and all claims, damages, or demands arising on account of the design and construction of public improvements of the property shown herein: and the Owner furthermore commits to make necessary repairs to said public improvements, to include, without limitation, the roads, streets, fills, embankments, ditches, cross pans, sub-drains, culverts, walls and bridges within the right-of-way. Easements and other public properties, resulting from failures caused by design and/or construction defects. This agreement to hold the City harmless includes defects in materials and workmanship, as well as defects caused by or consisting of settling trenches, fills or excavations.

Further, the Owner warrants that he/she owns fee simple tirle to the property shown hereon and agrees that the City shall not be liable to the Owner or his/her successors in interest during the warranty period, for any claim of damages resulting from negligence in exercising engineering techniques and due caution in the construction of cross drains, drives, structures or buildings, the changing of courses of streams and rivers, flooding from natural creeks and rivers, and any other matter whatseever on private property. Any and all monetary liability occurring under this paragraph shall be the hability of the Owner. I further warrant that I have the right to convey said land according to this Plat.

#### NOTICE OF OTHER DOCUMENTS:

All persons take notice that the Owner has executed certain documents pertaining to this Development which create certain rights and obligations of the Development, the Owner and/or subsequent Owners of all or portions of the Development site, many of which obligations constitute promises and covenants that, along with the obligations under this Plat, run with the land. The said documents may also be amended from time to time and may include, without limitation, the Development Agreement, Site And Landscape Covenants, Final Site Plan, Final Landscape Plan, and Archivectural Elevations, which documents are on file in the office of the clerk of the City and should be closely examined by all persons interested in purchasing any portion of the Development site.

#### ATTORNEY'S CERTIFICATION

I bereby certify that this Subdivision Plat has been duly executed as required pursuant to Section 2.2.3(C)(3)(a) through (e) inclusive of the Land Use Code of the City of Fort Collins and that all persons signing this Subdivision Plat on behalf of a corporation or other entity are duly authorized signatories under the laws of the State of Colorado. This Certification is based upon the records of the Clerk and Recorder of Larimer County. Colorado as of the date of execution of the Plat and other information discovered by me through reasonable inquiry and is limited as authorized by Section 2.2.3(C)(3)(f) of the Land Use Code.

# Address: Registration No.:

NOTICE

ALL RESPONSIBILITIES AND COSTS OF OPERATION, MAINTENANCE AND RECONSTRUCTION OF THE PRIVATE STREETS AND/OR DRIVES LOCATED ON THE PRIVATE PROPERTY THAT IS THE SUBJECT OF THIS PLAT SHALL BE BORNE BY THE OWNERS OF SAID PROPERTY, EITHER INDIVIDUALLY, OR COLLECTIVELY, THROUGH A PROPERTY OWNERS' ASSOCIATION, IF APPLICABLE, THE CITY OF FORT COLLINS SHALL HAVE NO OBLIGATION OF OPERATION, MAINTENANCE OR RECONSTRUCTION OF SUCH PRIVATE STREETS AND/OR DRIVES NOR SHALL THE CITY HAVE ANY OBLIGATION TO ACCEPT SUCH STREETS AND/OR DRIVES AS PUBLIC STREETS OR DRIVES.

#### APPROVED AS TO FORM, CITY NGINEER

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City Engineer		

By the City Engineer of the City of Fort Collins, Colorado this \_\_\_\_\_day of \_\_\_\_\_\_ A.D., 20\_\_\_\_.

#### By the Director of Planning the City of Fort Collins, Colorado this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 2

#### Director of Planning

#### NOTES:

PLANNING APPROVAL

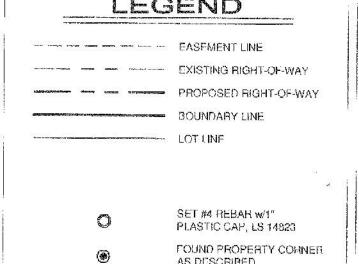
- 1) The Basis of Bearings is the South line of Common Area B; Kechter Crossing Planning Land Division as bearing South 89°40'26° Hast (assumed bearing).
- 2) The lineal unit of measurement for this play is U. S. Survey Feet.
- 3) The Development Agreement for Kechter Crossing Planned Land Division remains in effect with this replat.

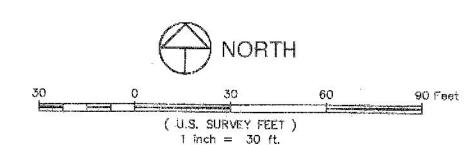
#### SURVEYOR'S STATEMENT

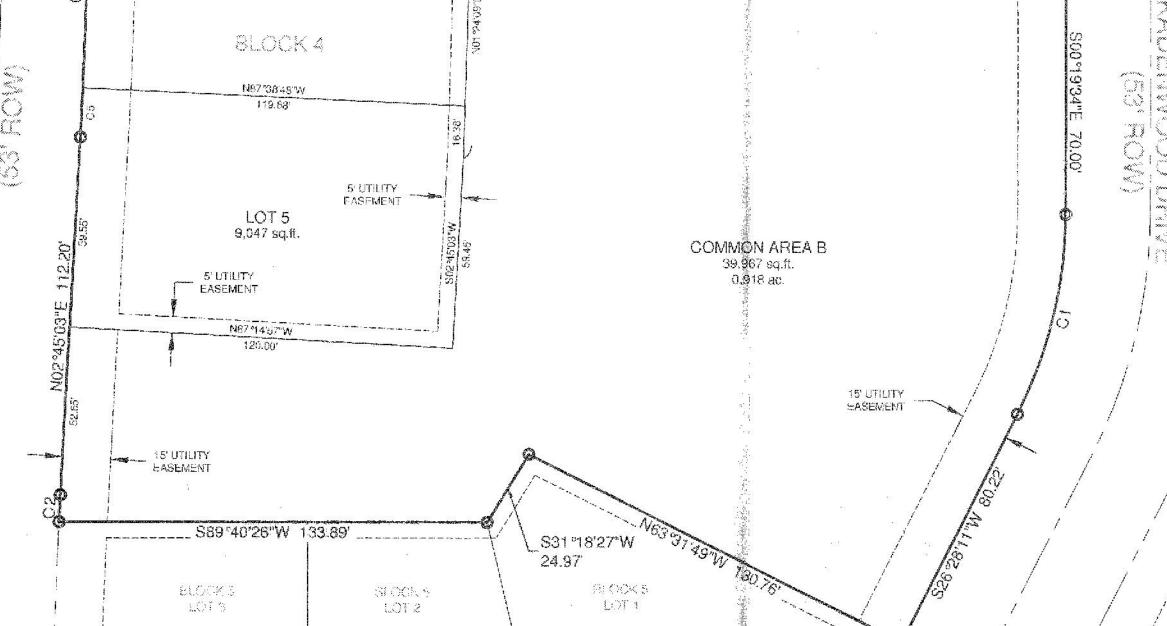
I, Gerald D. Gilliland, a Colorado Registered Professional Land Surveyor do hereby state that this Subdivision Plat was prepared from an actual survey under my personal supervision, that the monumentation as indicated hereon were found or set as shown, and that the foregoing plat is an accumant representation thereof, all this to the best of my knowledge, information and belief.

#### Gerald D. Gilliland Colorado Registered Professional Land Surveyor No. 14823









RULT # 2656

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