



Buffalo Highlands: History and Park/Open Space Issues

January 2022

Introduction and Purpose

- To present the history of Buffalo Highlands and a summary of the land entitlement and legal documents that have been involved in its development that have shaped the current subdivision.
- To explore some options to update code language and processes in the future for private parks.





Site and Surroundings



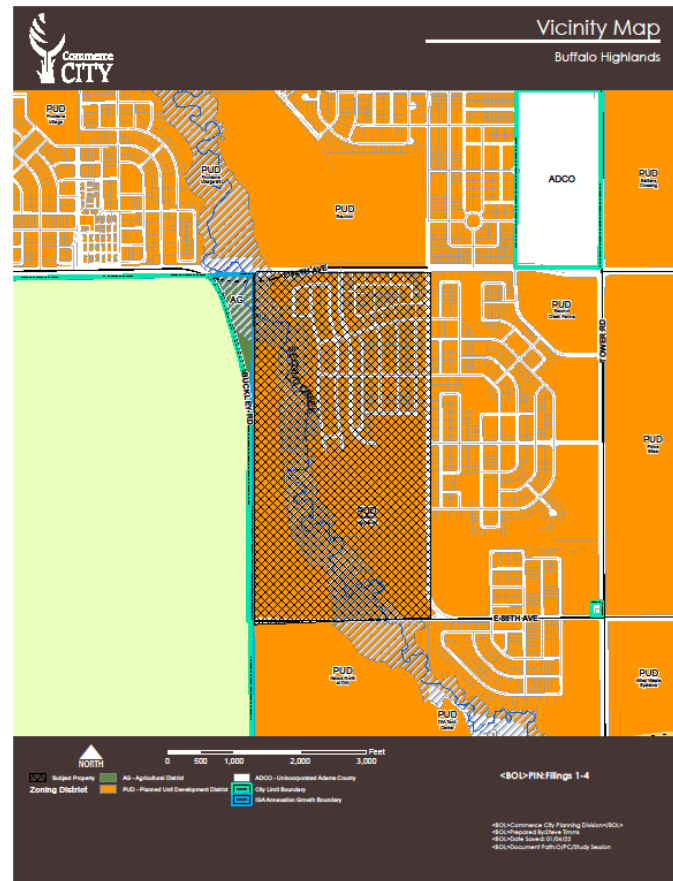
Site and Surroundings

- Current zoning: PUD (Planned Unit Development)- Approved in 2004. Approved prior to the City's current LDC and Comprehensive Plan.
- Land uses: Single-Family and Duplex Residential, Second Creek Floodplain and City Owned Parcel.
- Site size: Approximately 316 Acres
 - North: Reunion development with future High School and Community Park
 - East: Second Creek Farms development
 - South: Nexus North development
 - West: Rocky Mountain National Wildlife Refuge



Site and Surroundings

- Vicinity Map:



Owner and Developer History

- Property has changed ownership over several decades:
 - Broncucia Family
 - Buffalo Highlands LLC
 - Stratus Development- acquires the development in 2014. Stratus will sell to the two builders.



Builder History

- There have been two identified builders in Buffalo Highlands:
 1. Lennar Homes and
 2. Meritage Homes
- Both have active home models that are being constructed.

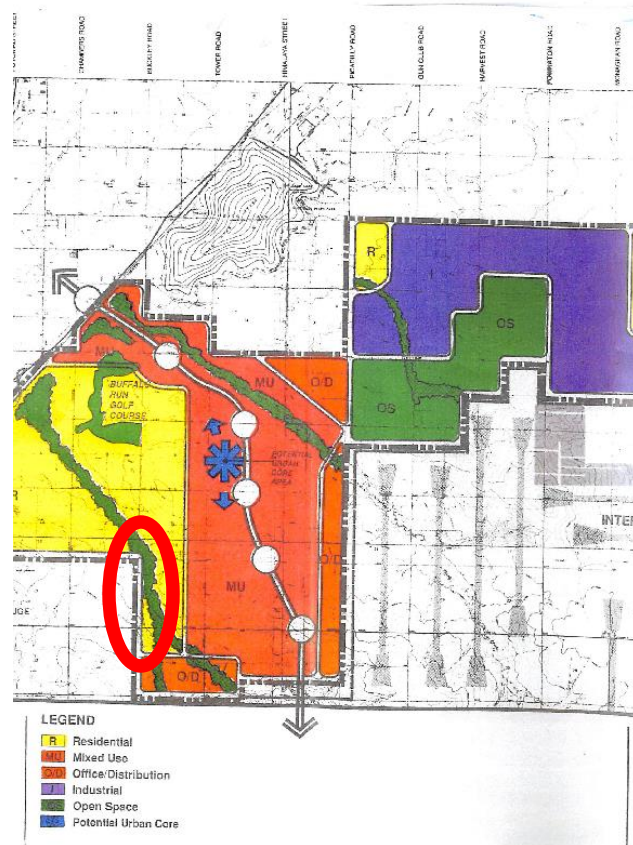


City Regulatory History



Early Master Plans

- In 1992, City Council approved the New Lands Comprehensive Plan which helped to guide future development in this area.
- Property was identified as residential and open space (no separate classification for parks).



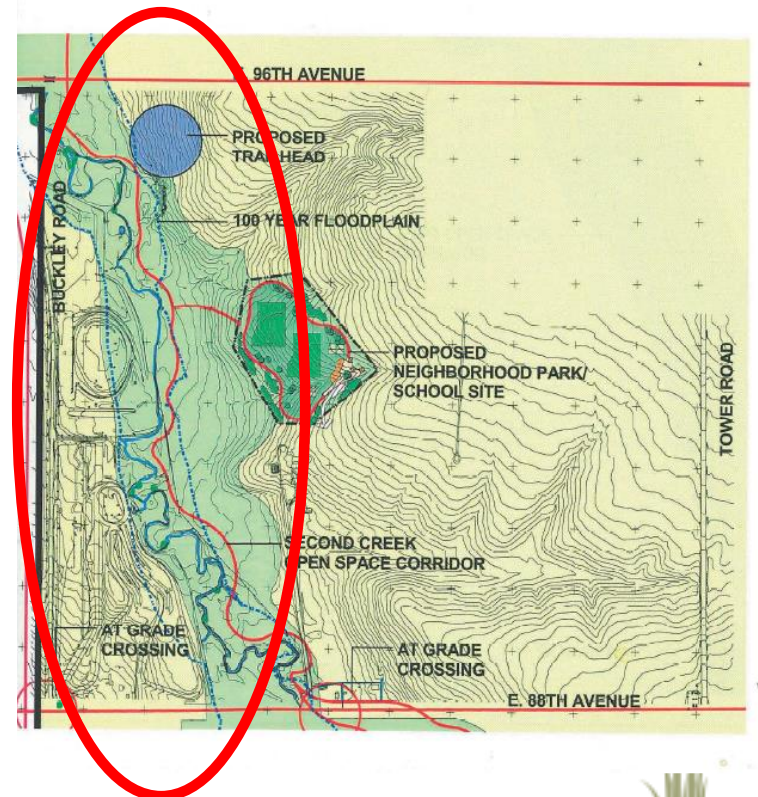
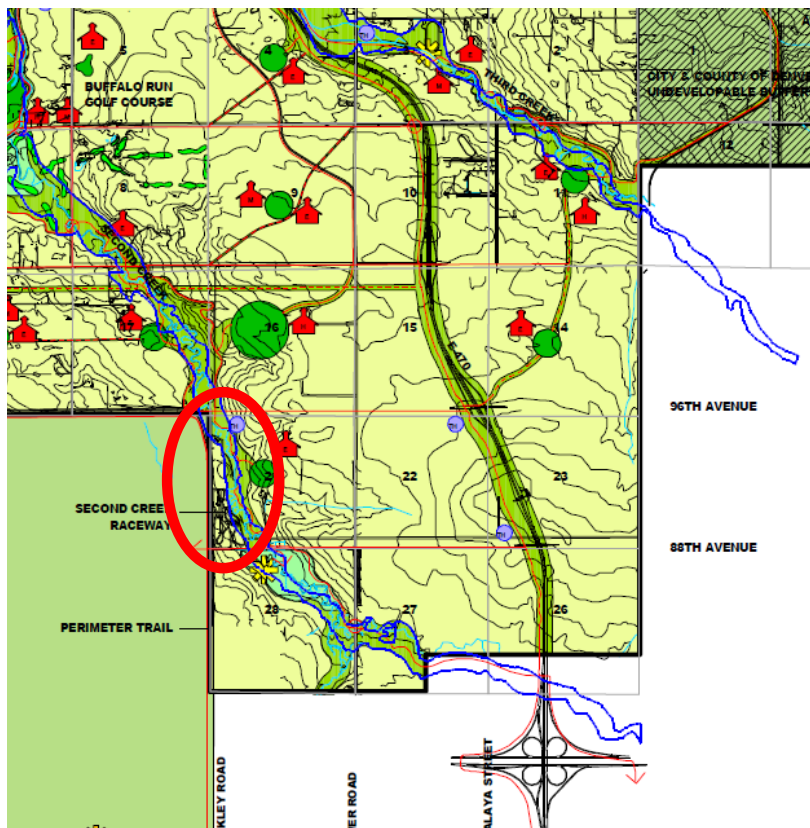
Early Master Plans

- In 1999, City Council approved the Prairieways Action Plan which provided the location for future City parks, schools, and public trail corridors through the floodplains/open space.



Early Master Plans

- Prairieways Action Plan. Plan identified 2nd Creek open space corridor and neighborhood public park and school site.



Updated Comp Plan and LDC

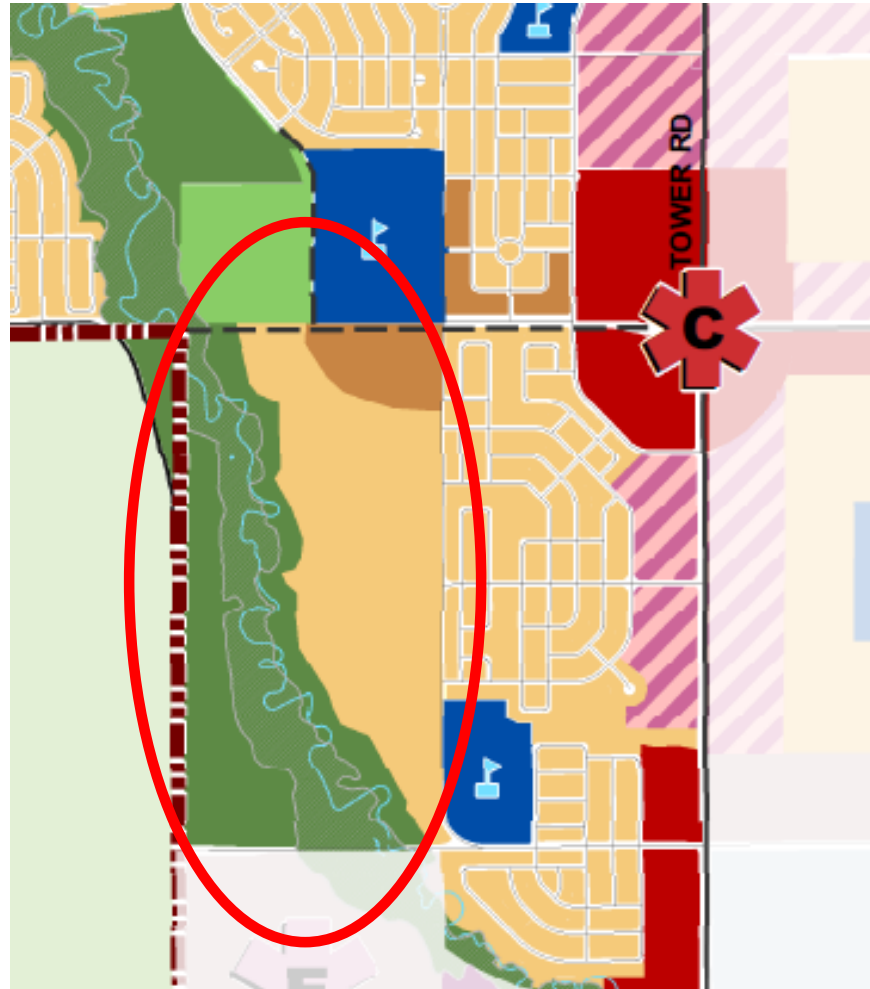
- In 2009, City Council approved an updated zoning code for the City, called the Land Development Code (LDC).
- In 2010, City Council approved an updated Comprehensive Plan for the City which included, among other items, a future land use map, of how the area would ideally develop over time.
- The Buffalo Highlands PUD did not change as a result of the LDC or Comp Plan adoption. While the PUD did not change, the standards of the LDC have been applied to subsequent development.



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Updated Comp Plan and LDC

- Future Land Use Map
- Comp Plan classification for Buffalo Highlands was based on the underlying Buffalo Highlands zoning and vision for the area.



Private Parks and Public Parks

- Within Commerce City there are both:
 1. Public parks/open space (City owned) and
 2. Private parks/open space (HOA or Metro District owned).
- New residential developments must provide a public park or open space or provide a cash-in-lieu fee. The location of the public parks is determined by the City's various Master Plans.
- All new residential development must currently provide a minimum of 3% of usable land in the form of private parks or open space.



Private Parks and Public Parks

- Language from LDC (Sec. 21-6270) (*floodplains not included in calculation, drainage areas are*):
 - (1) **General Requirements.** At least three percent of all usable land in residential developments shall be set aside as private parks or open space for the use and enjoyment of the inhabitants of such development. For purposes of this section, “usable land” shall mean all land in the subdivision (including private streets and oil and gas sites) except floodplains, public right-of-way dedications, commercial sites, industrial sites, public school sites, public library sites, police station sites, fire station sites, and public parks, trails, and recreation facilities. Private parks shall comply with the design standards contained in article VII of this land development code.



Buffalo Highlands History



Pre-Annexation

- The property originally contained an old farmhouse along E. 88th Avenue, one oil and gas well site, two racetracks (Second Creek Raceway and Rocky Mountain Speedway) and an industrial equipment rental company (Wagner Equipment Co).
- E. 96th Avenue did not exist, and Buckley Road was the main access point to the development.

Pre-Annexation

- Photo of Original Development



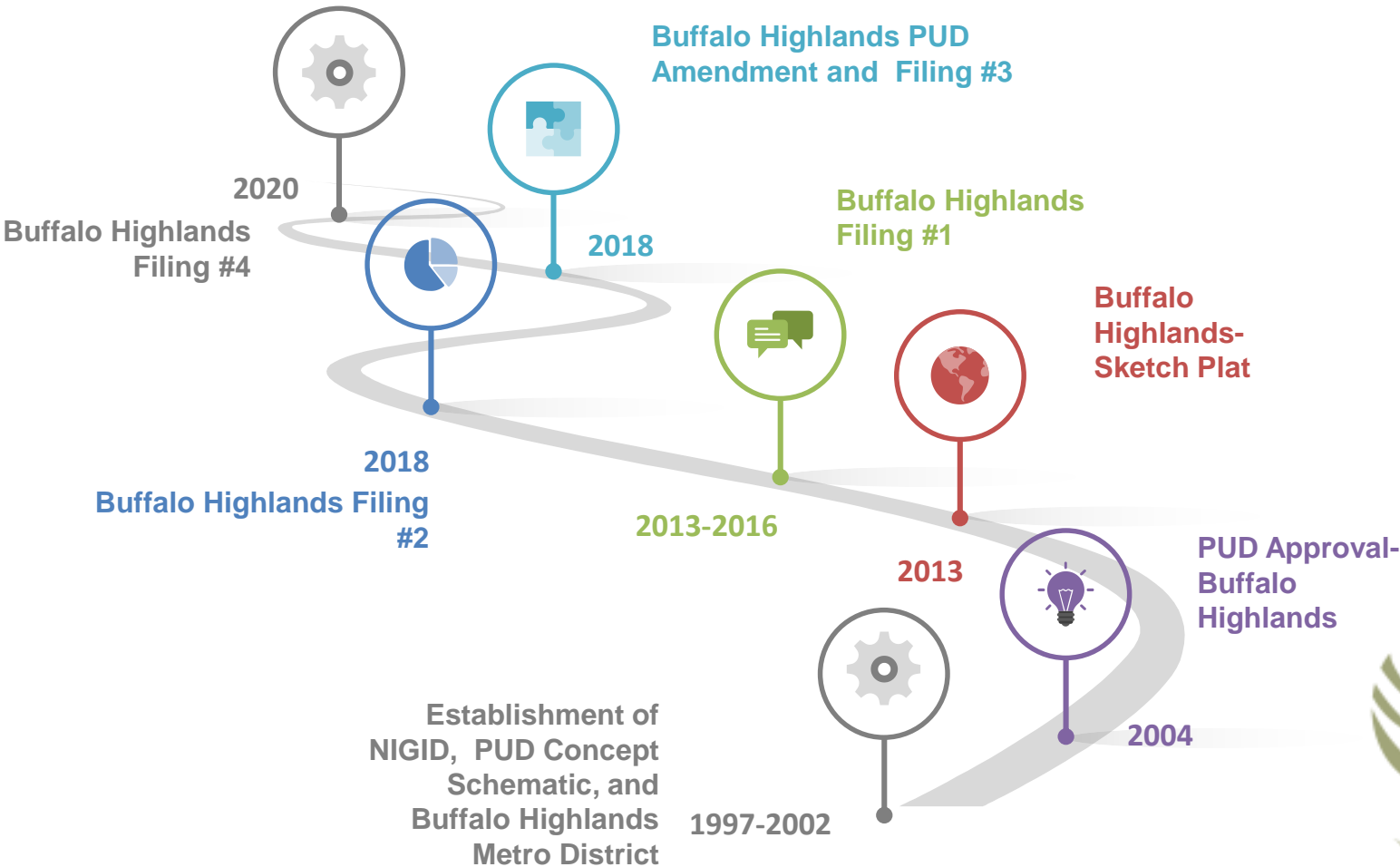
Annexation

- In 1989, via Cases AN-104-89 and Z-512-89, City Council approved the annexation and zoning of this property to (at the time) a Preliminary Planned Unit Development (PUD) zone district.
- This zone district was not a full entitlement (did not allow future uses until another PUD was established).
- The existing uses (Racetracks and Wagner Rental were allowed to continue).

Land Use Approvals Prior to Buffalo Highlands Construction

- **Z-512-89-91A** City Council approved a temporary use to operate a asphalt batch plant on the property (Western Paving) for 3 years as a part of DIA construction.
- **Z-512-89-91A-93** An application to request the extension of the temporary use for an asphalt batch plant for 25 years (Western Paving).
- **Z-512-89-94** City Council approved the extension of Conditional Use Permit (CUP)'s for both racetracks and Wagner Equipment Co. on the property for 5 years.
- **Z-512-89-94-96** City Council approved a CUP for an asphalt batch plant (Asphalt Paving Co) for 3 years (E-470 construction).
- **Z-512-89-94-97** City Council approved a 5 year extension for the Rocky Mountain National Speedway to expire in 2004.
- **Z-512-89-91-94-99** City Council approved the extension of a CUP for the equipment rental company (Wagner Equipment Co) for 5 years.
- **Z-512-89-94-99** City Council approved a 5 year extension for the Second Creek Raceway to expire in 2004.
- **CU-68-04** City Council approved a 1 year extension for Rocky Mountain National Speedway (expired 2005).
- **CU-69-04** City Council approved a 1 year extension for Colorado Motorsports Council (expired 2005).

Buffalo Highlands Entitlement Milestones



NIGID, PUD Concept Schematic, and Metro District Formation.

NIGID, PUD Concept Schematic Review, and Metro District Formation

1997-2002

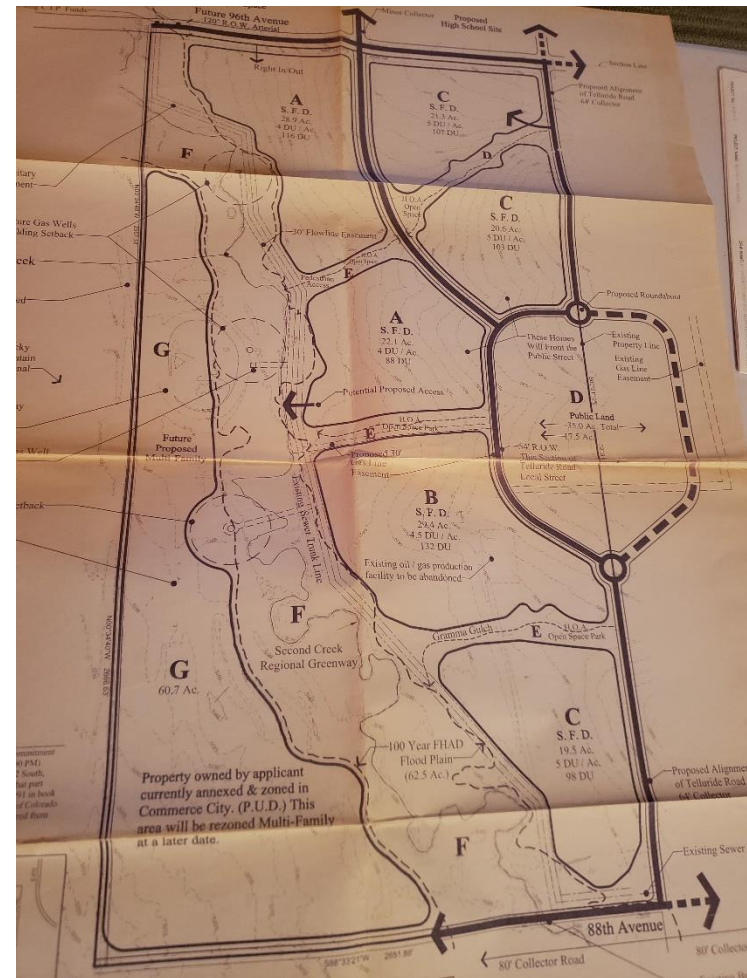
The Northern Range General Improvement District (NIGID) was formed to create water infrastructure for development. The PUD Concept Schematic was reviewed by City Council (non binding) and in 2002, the Buffalo Highlands Metro District was established.

1997-2002



2001 - PUD Concept Schematic

Concept Schematic shows Single-family residential to the east, multi-family to the west, a joint school/public park site bisecting Telluride Street, and open space corridors through the development.



PUD Zoning Approval

2004

Approval of Buffalo Highlands PUD

City Council approved the Buffalo Highlands PUD in 2004 laying out various land uses for the development. Private parks and open space are not specifically called out within the PUD.



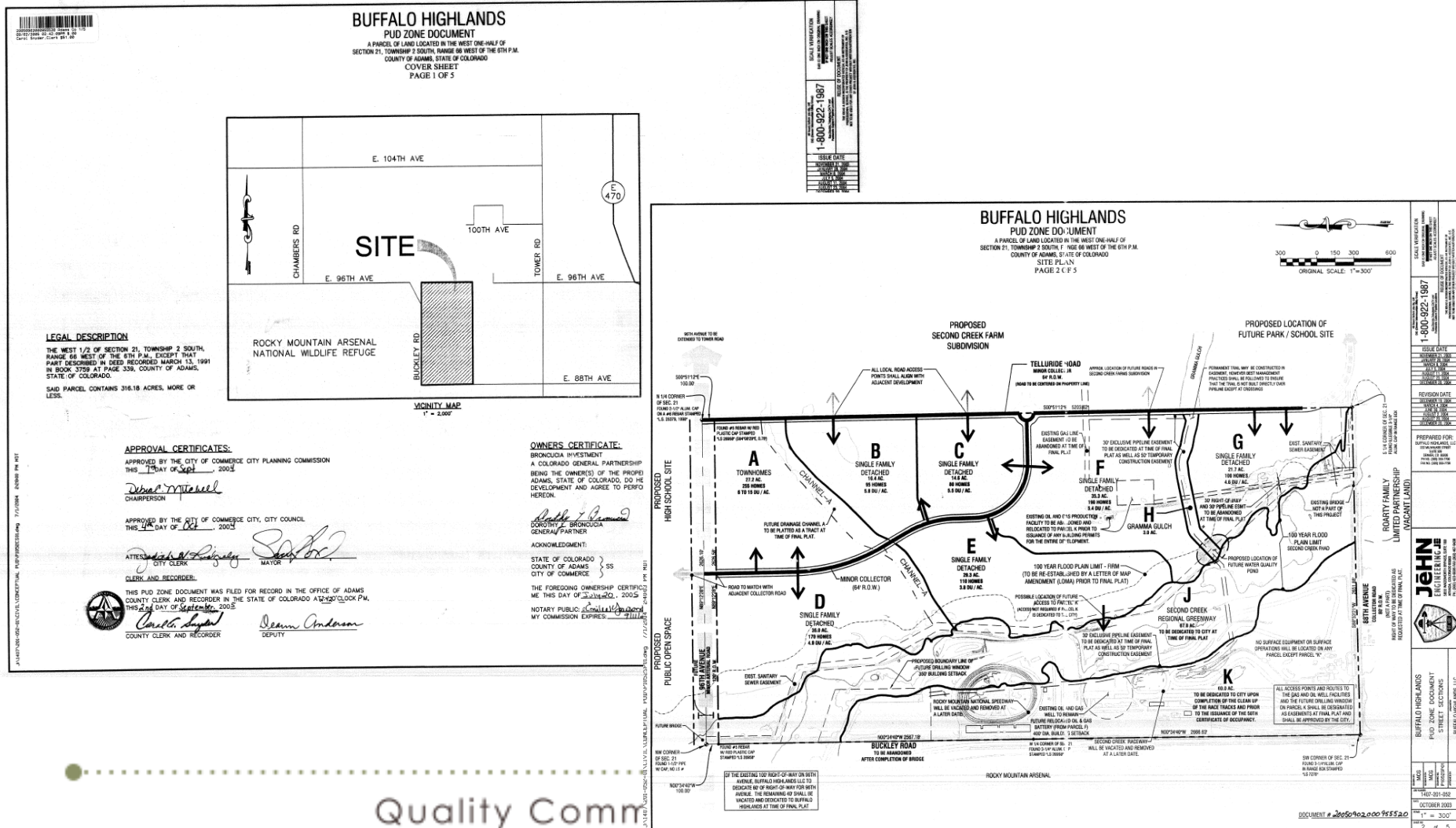
2004

Buffalo Highlands PUD Zone District

- This PUD laid out four different areas for the overall 316 acre property.

Zoning Area	Size	Use
A	Approximately 27 acres	Multi-Family Residential
B-G	Approximately 159 acres	Single-Family Residential
H and J	Approximately 70 acres	Second Creek Floodplain and Trail
K	Approximately 60 acres	City use

Copy of Approved PUD from 2004



2004 School/Park Site Agreement

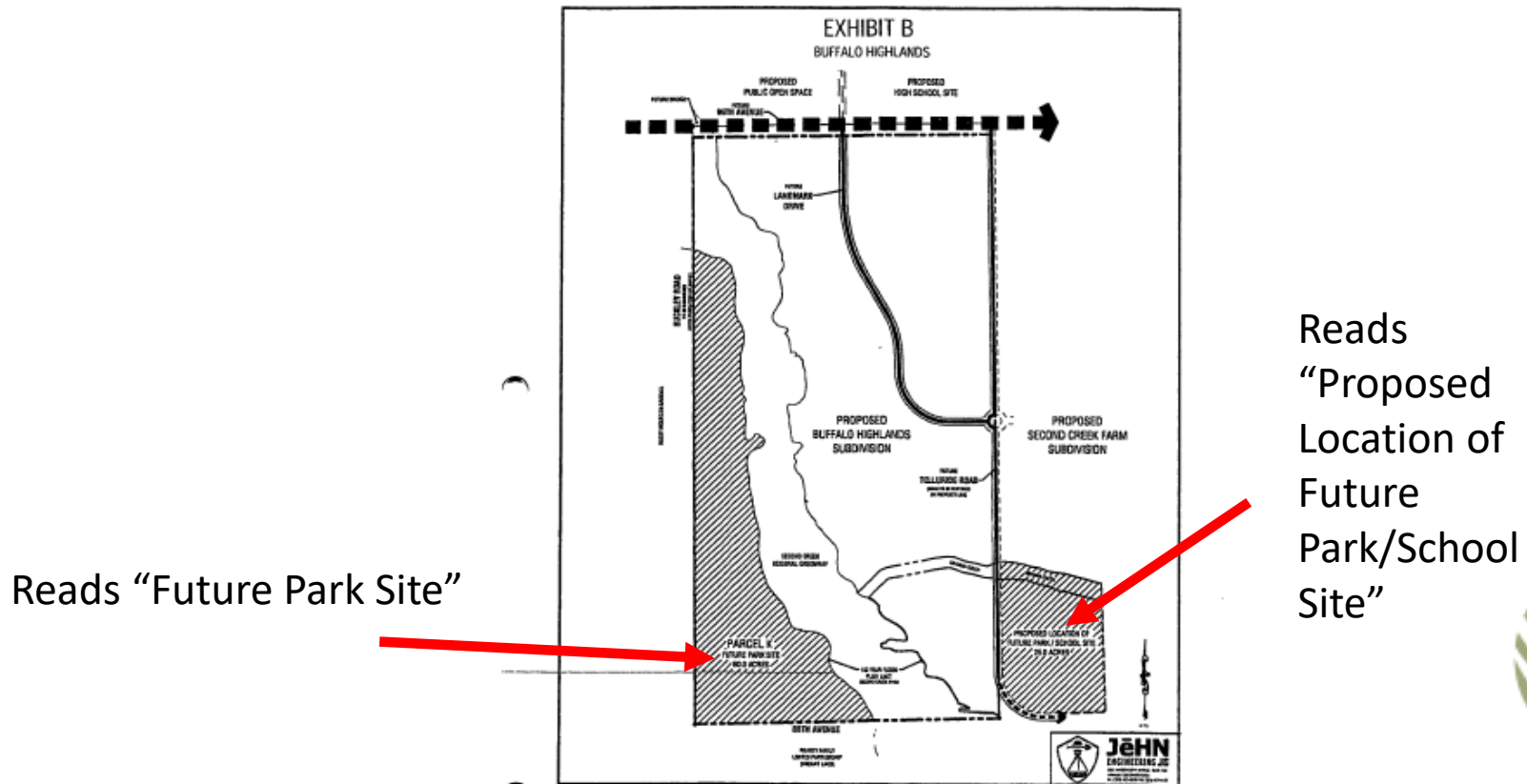
- A city/developer agreement was executed in 2004 to address the school and public park location.
- Traditionally, a public school and neighborhood park site are located within each mile section of development (Buffalo Highlands and Second Creek Farms). Because of the location of Telluride Street, the school and park site were moved slightly east to the Second Creek Farms development.
- The agreement is silent in regards to private parks, although Parcel K is called out to be a park.
- Prairieways Action Plan identified Parcel K to be developable land.



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School/Park Site

- Agreement between City and Developer (dated 12/20/04)



Updated Agreement- 2013

- The City entered into several financial agreements with the developer to assist with the construction of E. 96th Avenue and to update and consolidate the prior agreements (2004 and 2011) into one document.
- The amount of the City loan to the metro district was \$5,500,000.
- The metro district began work on the cleanup and restoration of Parcel K.

Updated Agreement- 2013

- Reaffirms dedication of a clean Parcel K to the City for use as a park or open space. Dedication to occur at same time as completion of E. 96th Avenue.
- Metro District/developer would also dedicate Parcel J –Second Creek Floodplain to City.
- These dedications would cover all public park dedications and fees-in-lieu.



Updated Agreement- 2013

- The development could not occur without the construction of E. 96th Avenue between Buckley Road and Tower Road.
- Metro District paid off the City's loan when it issued bonds.
- The discussions one year ago were regarding whether or not the developer was obligated to dedicate additional land for a future City-owned park site. With dedication of Parcel K, the developer had already met its obligation.



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Parcel K Cleanup

- The Metro District was assigned responsibility for the remediation and restoration of Parcel K.
- They had to remove all remnants of the former race track sites and associated debris, regrade and re-vegetate the site, and address any remaining issues with the Environmental Assessments.
- Redesign and restore the Second Creek Floodplain.
- Prevent illegal dumping on the property.



2013-Sketch Plat

2013

Sketch Plat Application- Entire Development

Buffalo Highlands LLC submitted a sketch plat for the entire Single Family portion of Buffalo Highlands. This sketch plat included a smaller private park and a central larger park. Sketch plats are neither approved nor denied, but rather comments provided so that the applicant can incorporate these into a final plat application.

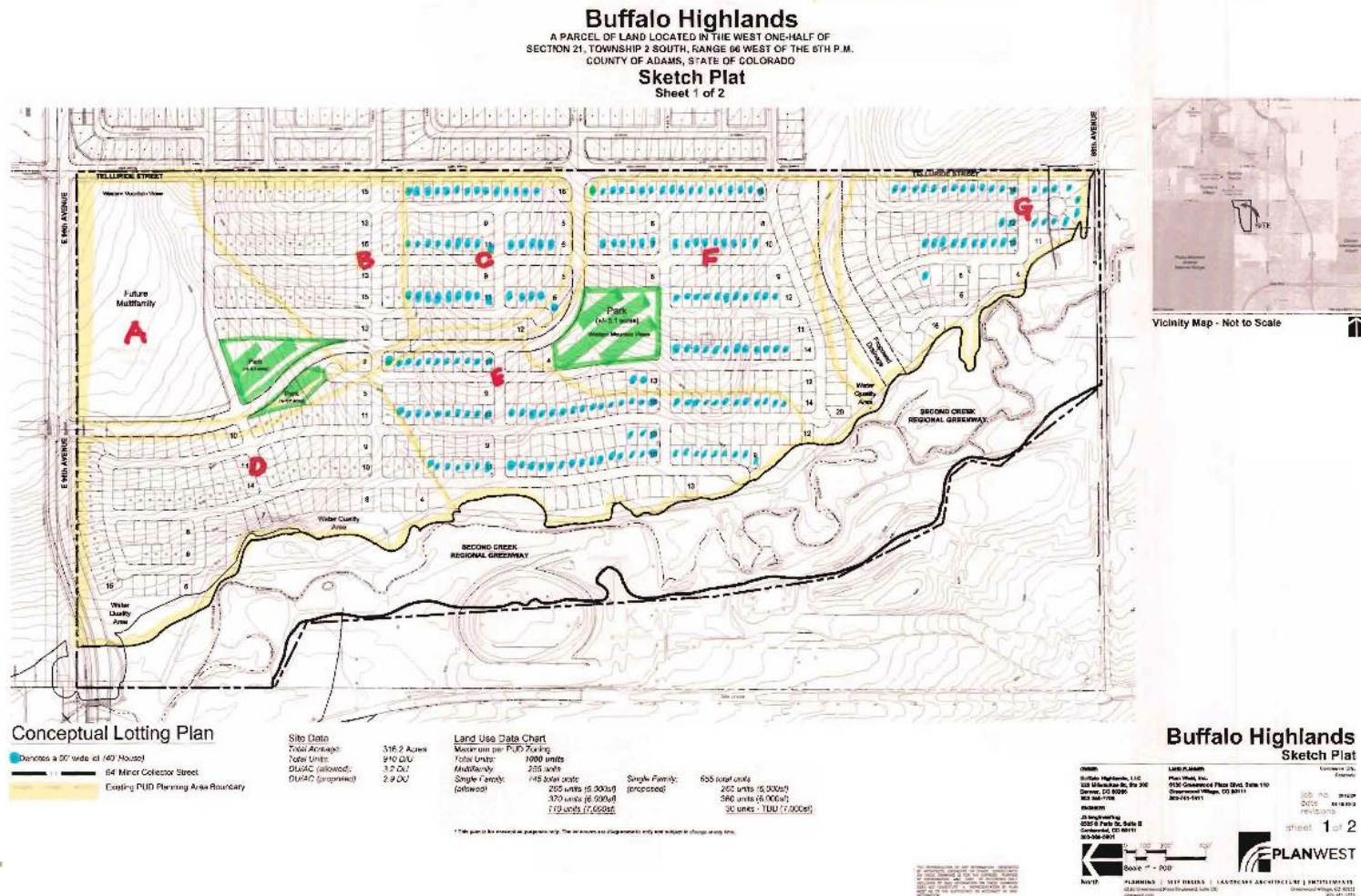


2013 (S-604-13)



2013- Sketch Plat

- Image of Sketch Plat with Private Parks



2013-Filing #1-Part 1

2013

Filing #1 Initial Application

Buffalo Highlands LLC submitted an application for a Final Plat for Filing #1 for 100 lots and 16 tracts for landscaping and open space. While the plat went through the final reviews and posting and notice period, it was never recorded at the request of the developer; therefore the approval lapsed.

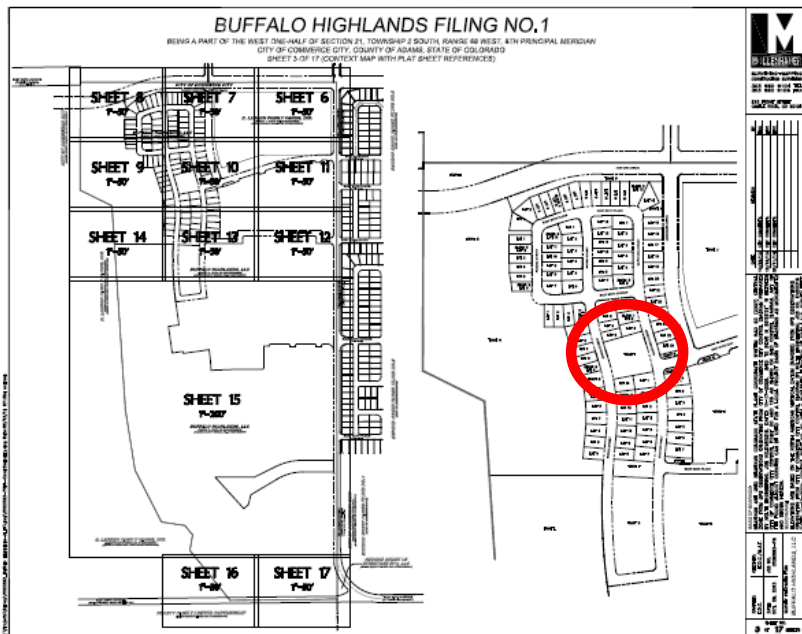


2013 (S-604-13-13)



2013- Filing #1- Part 1

- Image of Filing #1 (with private park) with Tract Table (not recorded and lapsed).



TRACT USE SUMMARY TABLE:

TRACT	USE	OWNER	MAINTAINED BY	AREA ACRES	AREA SQ. FT.
A	LANDSCAPING	BHMD	HOA	0.267	11,653
B	LANDSCAPING	BHMD	HOA	0.063	2,745
C	LANDSCAPING	BHMD	HOA	0.077	3,338
D	LANDSCAPING	BHMD	HOA	0.064	2,802
E	LANDSCAPING	BHMD	HOA	0.105	4,568
F	PARK	BHMD	HOA	0.437	19,035
G	OPEN SPACE, DRAINAGE, UTILITIES	CCC	BHMD	19.368	843,685
H	OPEN SPACE, DRAINAGE, UTILITIES	CCC	BHMD	1.332	58,008
I	PARK	BHMD	HOA	1.054	45,897
J	FUTURE DEVELOPMENT	OWNER2	OWNER2	22.043	960,221
K	FUTURE DEVELOPMENT	OWNER	OWNER	17.288	753,066
L	FUTURE DEVELOPMENT	OWNER	OWNER	116.593	5,078,810
M	OPEN SPACE, DRAINAGE, UTILITIES	CCC	BHMD	4.110	179,030
N	FUTURE DEVELOPMENT	OWNER	OWNER	40.006	1,742,676
O	FUTURE DEVELOPMENT	OWNER	OWNER	2.506	109,174
P	LANDSCAPING	BHMD	HOA	0.867	37,754

2015-Filing #1-Part 2

2015

Filing #1 Secondary Application

Stratus Development has now submitted an updated subdivision application. This application no longer has the large private park in the center of the development. After reviewing and working with the applicant for some time, this application was considered inactive and not approved.

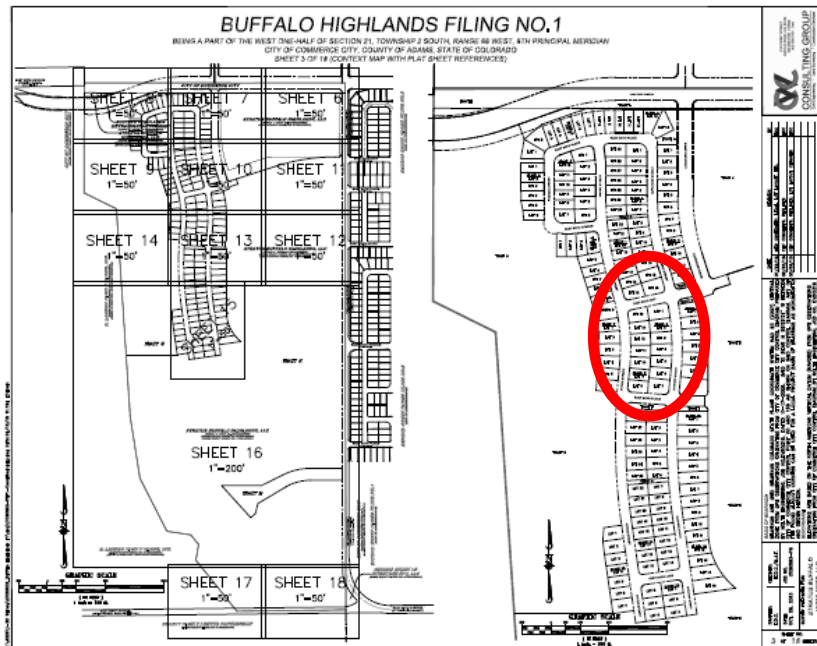


2015 (S-604-13-13-15)



2015- Filing #1- Part 2

- Image of Filing #1 (with private park removed) with Tract Table (not approved).



TRACT USE SUMMARY TABLE:

TRACT	USE	OWNER	MAINTAINED BY	AREA ACRES	AREA SQ.FT.
A	LANDSCAPING	BHMD	HOA	0.267	11,653
B	LANDSCAPING	BHMD	HOA	0.063	2,745
C	LANDSCAPING	BHMD	HOA	0.077	3,338
D	LANDSCAPING, PEDESTRIAN	BHMD	HOA	0.102	4,456
E	LANDSCAPING, PEDESTRIAN	BHMD	HOA	0.081	3,508
F	LANDSCAPING	BHMD	HOA	0.152	6,639
G	OPEN SPACE, DRAINAGE, UTIL.	CCC	CCC	32.876	1,432,058
H	OPEN SPACE, DRAINAGE, UTIL.	CCC	CCC	1.332	58,008
I	LANDSCAPING	BHMD	HOA	0.087	3,804
J	FUTURE DEVELOPMENT	OWNER	OWNER	22.043	960,221
K	FUTURE DEVELOPMENT	OWNER	OWNER	158.560	6,906,889
L	LANDSCAPING	BHMD	HOA	0.797	34,754
M	OPEN SPACE, DRAINAGE, UTIL.	CCC	BHMD	4.110	179,030



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2016-Filing #1-Part 3

2016

Filing #1 Third Application

Stratus Development once again submits a subdivision application for Filing #1 (165 lots and 13 tracts). This application is eventually approved in 2016. There is minimal open space tract land in this Filing. **The Development Agreement states that the 3% of private park/open space land will be based on the total development, rather than individual filings.**

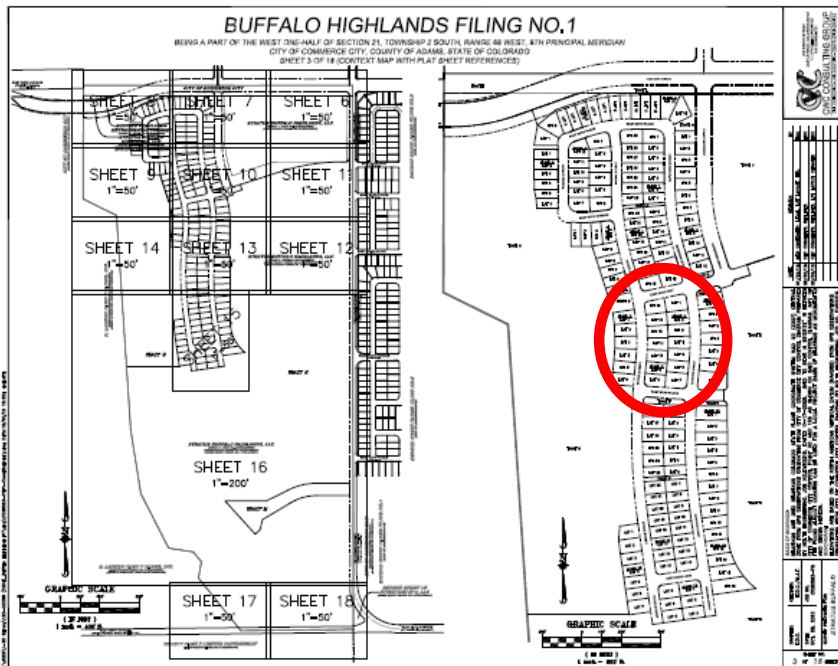


2016 (S-604-13-13-15-16)



2016- Filing #1- Part 3

- Image of Filing #1 (with private park removed) with Tract Table (plat approved and recorded)



TRACT USE SUMMARY TABLE:

TRACT	USE	OWNER	MAINTAINED BY	AREA ACRES	AREA SQ. FT.
A	LANDSCAPING	BHMD	HOA	0.267	11,653
B	LANDSCAPING	BHMD	HOA	0.063	2,745
C	LANDSCAPING	BHMD	HOA	0.077	3,338
D	LANDSCAPING, PEDESTRIAN	BHMD	HOA	0.102	4,456
E	LANDSCAPING, PEDESTRIAN	BHMD	HOA	0.081	3,508
F	LANDSCAPING	BHMD	HOA	0.152	6,639
G	OPEN SPACE, DRAINAGE, UTIL.	CCC	CCC	32.876	1,432,058
H	OPEN SPACE, DRAINAGE, UTIL.	CCC	CCC	1.332	58,008
I	LANDSCAPING	BHMD	HOA	0.087	3,804
J	FUTURE DEVELOPMENT	OWNER	OWNER	22.043	960,221
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L	LANDSCAPING	BHMD	HOA	0.797	34,754
M	OPEN SPACE, DRAINAGE, UTIL.	CCC	BHMD	4.110	179,030



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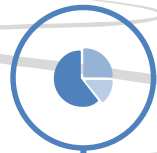
2016- Filing #1- Part 3

- Since the Development Agreement/ Public Improvement Agreement speaks to the entire project and not each filing, a park was not required to be a part of Filing #1.



2018-Filing #2

2018 (S-689-18)



2018

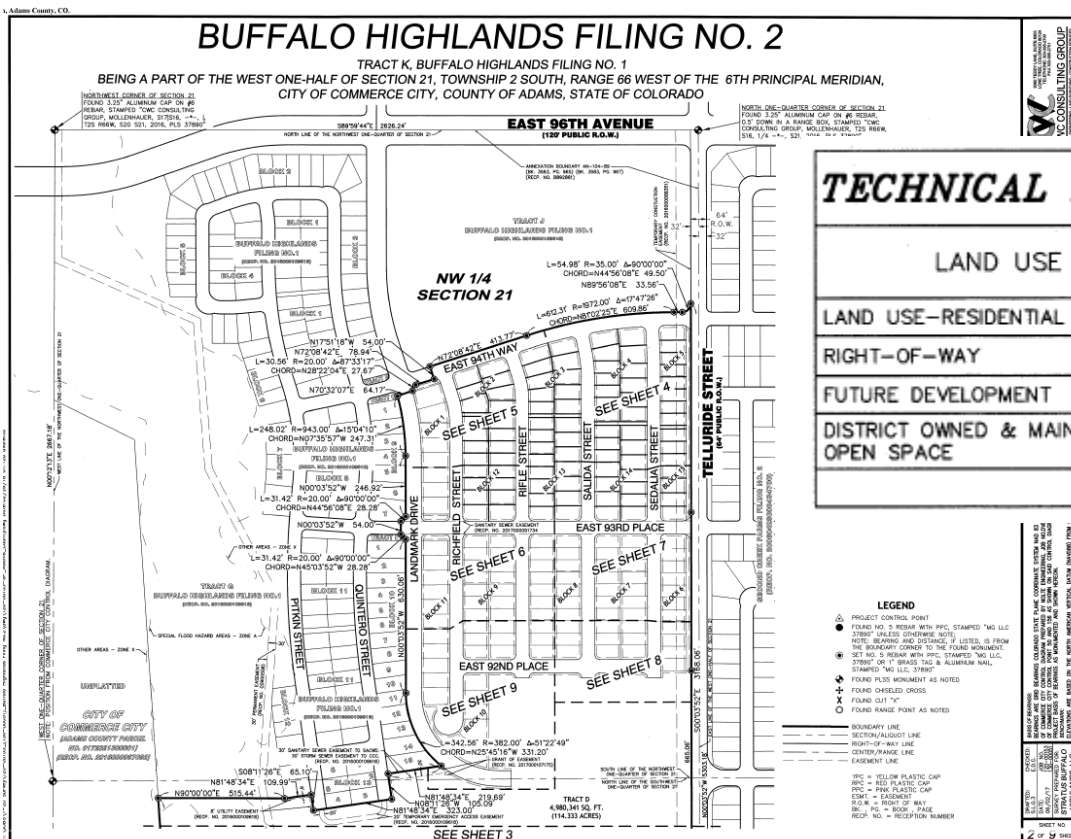
Filing #2 (S-689-18)

Stratus Development submits a 2nd Filing for 184 lots and 10 HOA tracts. **The Development Agreement states that the 3% of private park/open space land will be based on the total development, rather than individual filings.**



2018- Filing #2

- Image of Filing #2 with Technical Data Table (plat approved and recorded).



2018-Filing #3 and PUD Amendment



2018 (Z-772-01-04-18 and S-727-19)

2018

PUD Amendment and Filing #3

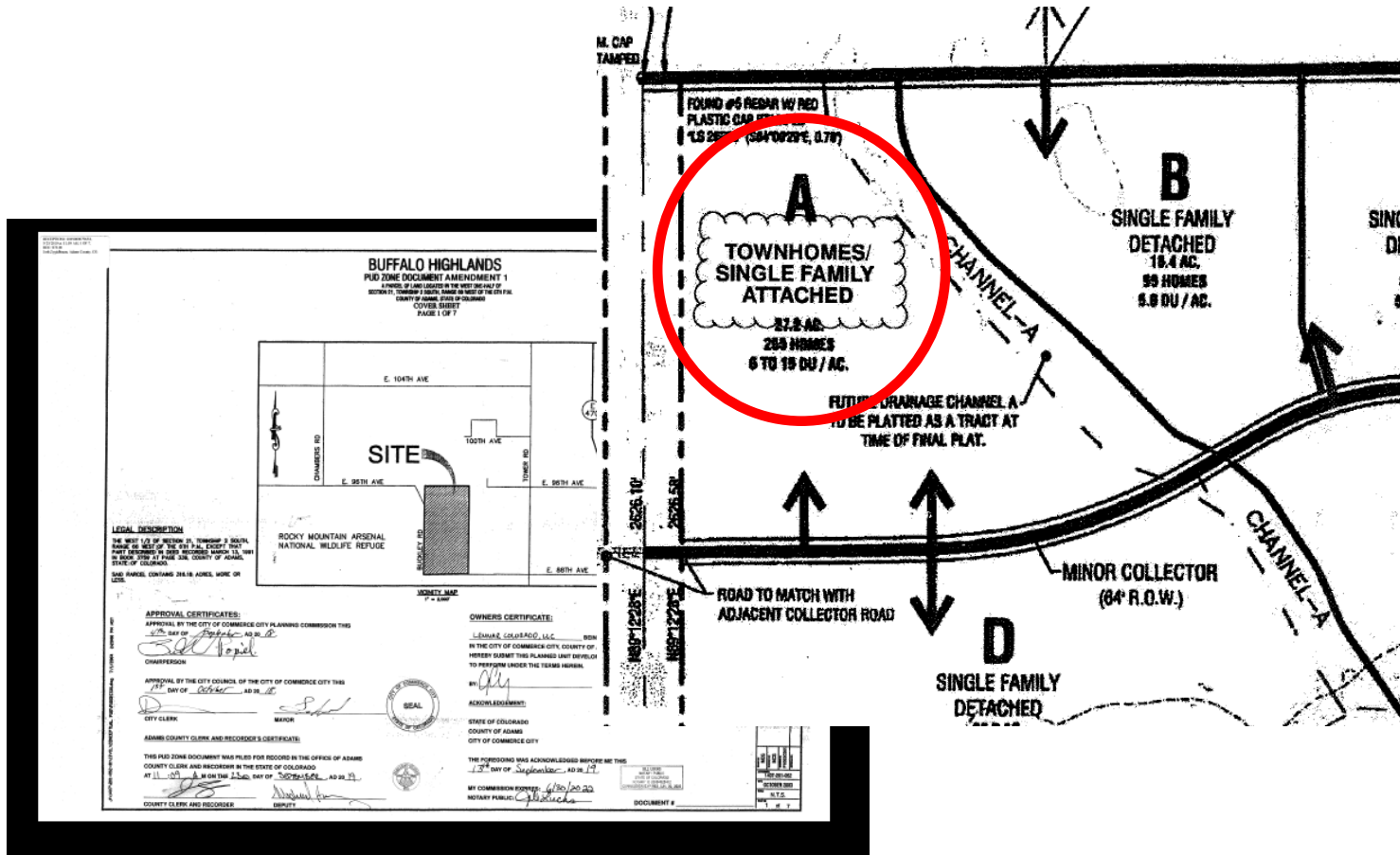
Lennar Homes submits a zoning amendment to allow duplexes as a part of the development, rather than townhomes. This amendment is approved by City Council. Likewise, a subdivision for this area, (Filing #3), is approved allowing for 164 residential lots and 8 open space tracts including a private park.



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2018- PUD Amendment

Copy of Approved PUD Amendment – Area A updated to allow duplexes, instead of Townhomes.



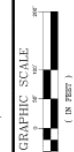
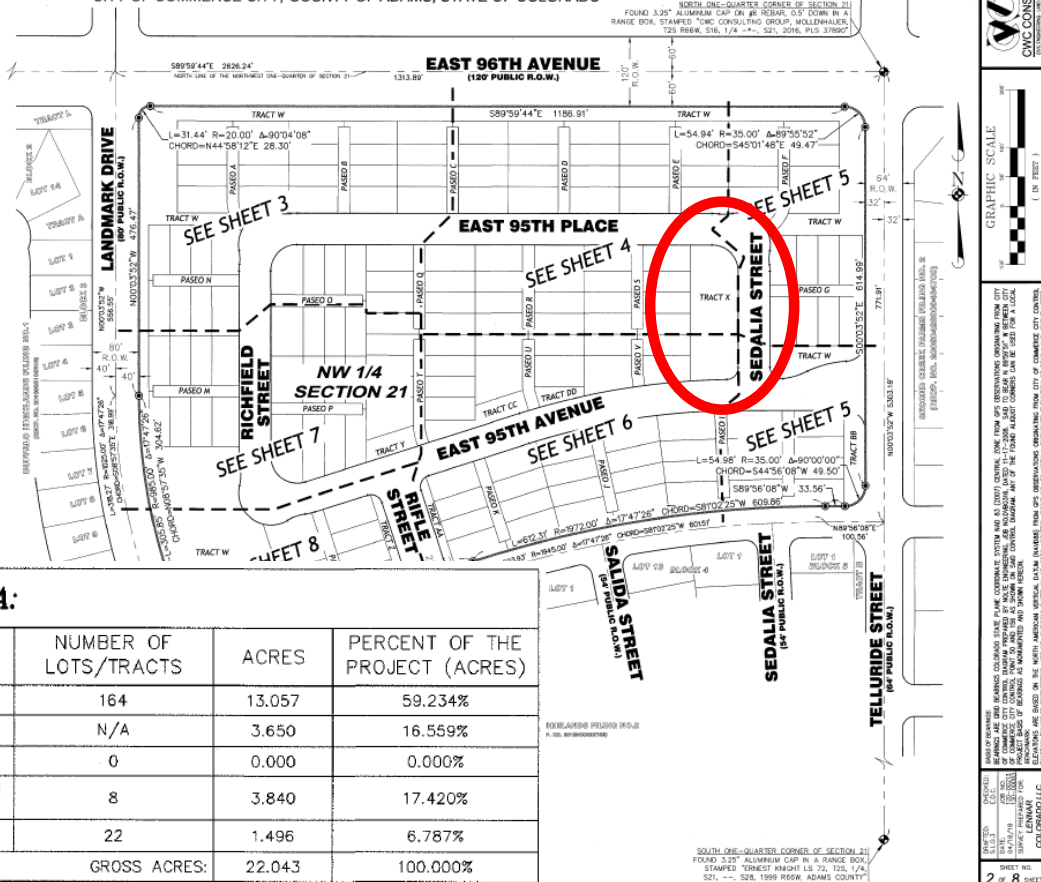
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2018- Filing #3

Image of Filing #3 with Technical Data Table (approved and recorded). Private park included within Filing.

BUFFALO HIGHLANDS FILING NO. 3

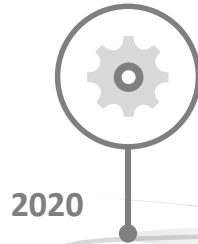
TRACT J, BUFFALO HIGHLANDS FILING NO. 1
BEING A PART OF THE WEST ONE-HALF OF SECTION 21, TOWNSHIP 2 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN,
CITY OF COMMERCE CITY, COUNTY OF ADAMS, STATE OF COLORADO



NOTICE: THE CITY OF COMMERCE CITY, COLORADO, HAS REVIEWED THE PLAT AND FINDS IT TO BE IN ACCORDANCE WITH THE CITY OF COMMERCE CITY, COLORADO, ORDINANCES AND RESOLUTIONS. THE CITY OF COMMERCE CITY, COLORADO, HAS REVIEWED THE PLAT AND FINDS IT TO BE IN ACCORDANCE WITH THE CITY OF COMMERCE CITY, COLORADO, ORDINANCES AND RESOLUTIONS. THE CITY OF COMMERCE CITY, COLORADO, HAS REVIEWED THE PLAT AND FINDS IT TO BE IN ACCORDANCE WITH THE CITY OF COMMERCE CITY, COLORADO, ORDINANCES AND RESOLUTIONS.



2020-Filing #4



2020

Filing #4 (S-731-19)

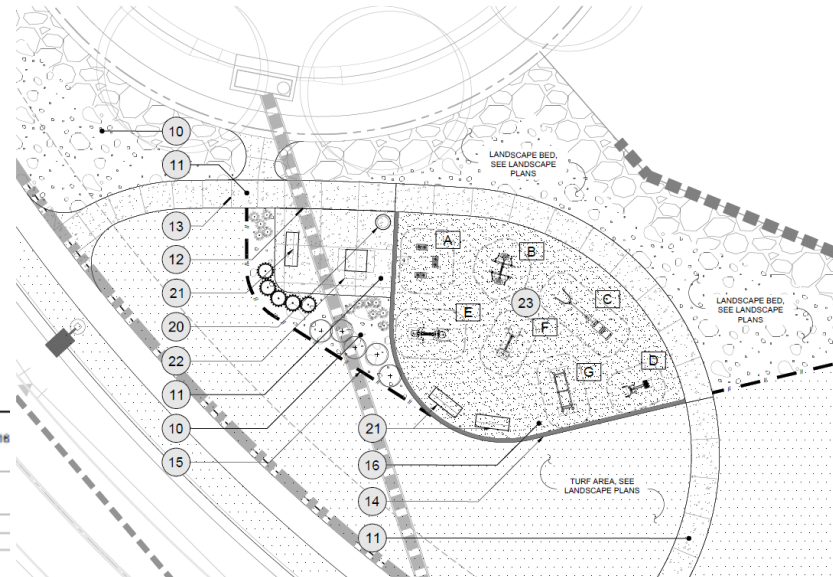
Stratus Development submits the final Plat for Buffalo Highlands. This plat is approved in 2020 and contains 304 lots with 18 private tracts, including a small private park.



Image of Filing #4 with Technical Data Table (approved and recorded). Small private park included within Filing.



Landscape, Picnic and Fitness Amenities South of Richfield Street.



Present Condition

- Now that the subdivision is under construction with homes being occupied, residents have expressed the following concerns:
 - 1) The developer and/or builder has not dedicated enough land for parks and open space;
 - 2) There is no usable private park (or public parks) for families;
 - 3) That the builders have stated incorrect information to prospective buyers; and
 - 4) That the date of any future City park(s) construction in the area is unknown, hurting this particular community, but also the City at large.



Present Condition – Concern #1

- *Concern #1: The developer and/or builder has not dedicated enough land for parks and open space.*
- Staff has reviewed the language of the LDC, the PUD Zone Document, the various development agreements, and the tract sizes. Staff has determined that the developer has dedicated the minimum 3% of usable land for private parks and open space.

Present Condition – Concern #1

- Open Space/Private Park Table By Filing:

	Residential Development (acres)	Open Space/Private Park Tracts (sf)	Open Space/Private Park Tracts (acres)	Percent of Private Open Space/Park in Filing for Buildable Area
Filing #1	22.026	70,897 sf	1.628	6.88%
Filing #2	25.303	72,576 sf	1.666	6.18%
Filing #3	14.553	167,270 sf	3.84	20.88%
Filing #4	46.867	159,821 sf	3.669	7.26%
Total	108.749		10.803	9.04%

Present Condition – Concern #1

- Total developable acres = 108.749 and divide that by 3% to obtain minimum private open space/park = 3.26247 acres.
- Developer is providing 10.803 acres of open space/private HOA park area.
- Therefore, they are meeting their minimum threshold by the Land Development Code.

Present Condition- Concern #2

- *Concern #2: There is no usable private park for families:*
- The developer has chosen not to provide a “traditional” private park with large playground or small ball field for this development. Instead, they have chosen to provide open space (perimeter and interior), additional trails with benches, tot lot, and adult fitness area. These features are acceptable under the LDC Sec. 21-7401.



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Present Condition- Concern #3

- *Concern #3: The builders have stated incorrect information to prospective buyers.*
- City staff has no purview of the marketing statements or communications by a private business or homebuilder. City staff encourages and welcomes any prospective property buyer to check in with the City as to future development or land uses before real estate transactions occur.

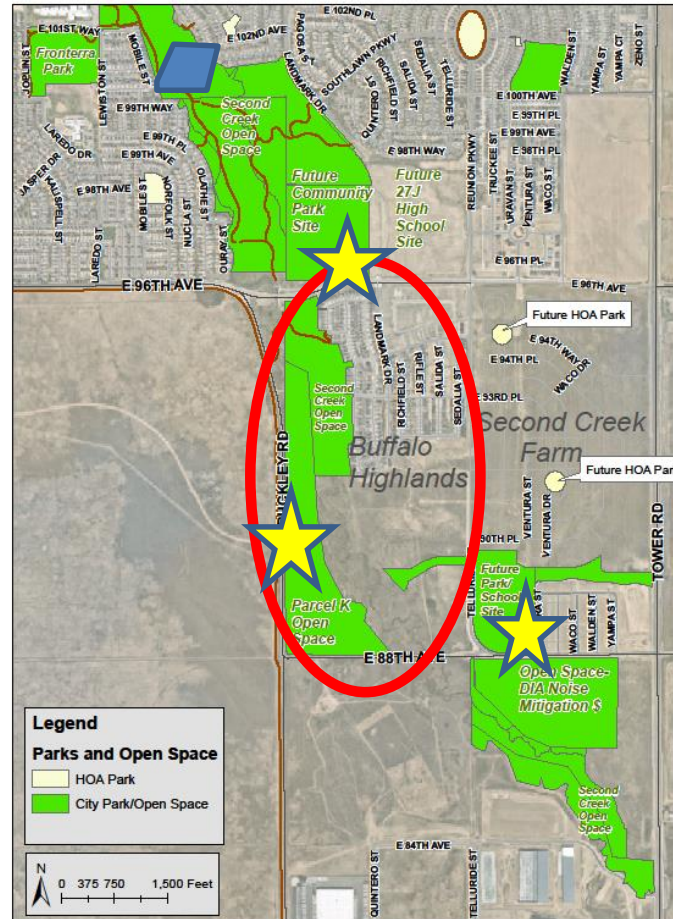
Present Condition- Concern #4

- *Concern #4: That the date of any future City park(s) construction in the area is unknown.*
- The City does follow a master CIP(Capital Improvement Projects) plan that lays out the future construction of city projects over a certain time frame.
- The Second Creek Farms Neighborhood Park Site, the Parcel K Site, and the Second Creek/Reunion Community Park Sites are currently not on this list but will be analyzed as part of the Parks, Recreation, and Golf Master Plan Update (starting this year).



Future Public (City) Parks and (City) Open Space in Area.

Starred area represent future parks and potential open space programmed areas



Parks, Rec, and Golf Master Plan Update

- As part of the City's master plan updates, the Parks, Rec, and Golf Master Plan update will be starting in March 2022 and would be finalized around the end of the year.
- Everyone in the community can be involved and can check the website for updates:
<https://www.c3gov.com/government/city-charter-master-plans/comprehensive-plan>
- This involvement is a critical way to help evaluate activation of Open Space area and future City park amenities.
- In addition, a presentation will be made to City Council in the 1st quarter of 2022 via a study session, about the Second Creek joint School/Park Site.



Future City Actions



Future City Actions

- Staff is assessing the following revisions to various policies and regulations to ensure meaningful community assets are provided for current and future residents: (City has not committed to any yet)
 1. Update the LDC to separate open space from private park requirements.
 2. Update the LDC to verify if 3% is still the appropriate amount for today's residential lots or should it be more.
 3. Update the LDC to require a traditional private park of a certain size or containing certain amenities for developments larger than a certain size or number of lots.
 4. For PUDs, place language reaffirming traditional private parks in the development.
 5. Update language regarding sketch plats that large or substantial changes require another sketch plat for review.
 6. Require a minimum size and minimum dimension for any park site based on type of park.
 7. Require written assurance at PUD approval that commits to a schedule for park completion.



Questions and Discussion

