



CITY COUNCIL AGENDA MEMORANDUM

To: Mayor and City Council
 From: George Di Ciero, City and County Manager
 Prepared by: Charles Ozaki, Deputy City and County Manager
 Greg Demko, Finance Director

<i>Meeting Date</i>	<i>Agenda Category</i>	<i>Agenda Item #</i>
August 23, 2005	Council Business	9 (c)

Agenda Title:	1. Public Hearing on Proposed Ordinance No. 1816, Creating a Local Improvement District for the Arista Project; and Following and Subject to the Results of the Public Hearing, 2. Consideration of Proposed Ordinance No. 1816 On Second and Final Reading
Summary	
<ul style="list-style-type: none"> • The Broomfield Urban Transit Village – Arista project is a mixed use retail, commercial and residential development with an urban, transit and pedestrian orientation designed to work with RTD’s Fastracks program. • The developer of the Arista project has petitioned Broomfield to create a local improvement district (LID). • Local Improvement Districts are authorized by the Broomfield Home Rule Charter and Chapter 14-08 of the Broomfield Municipal Code. • Local Improvement Districts are districts created to make local improvements using revenue generated from within the local area benefiting from the improvement. • The LID would have the authority to establish a 0.2% sales tax within its boundary. • The boundary of the LID is proposed to be the current ownership of Park 36 Investment, LLC, whose General Manager is Tim Wiens. This includes the southern part of the Arista project including the new Event Center. • Additional properties may be proposed to be added at a later date. It is the intent of the developer to eventually include the entirety of the Arista development within the LID. • The structure and legal foundation of the proposed LID are similar to those of the Flatiron Improvement District which provides transit services in the Flatiron Crossing District (The Zip). • The City Council will serve as the Board of Directors for the LID. • The LID sales tax is estimated to generate approximately \$360,578 per year at build out of the project. • Ordinance No. 1816 will create the LID. • If Ordinance No. 1816 is approved, an election of property owners within the district would then be scheduled for November 1, 2005. There is one property owner at this time. 	
Prior Council Action	
<ul style="list-style-type: none"> • The Broomfield Urban Transit Village RTD and Park 36 PUD Plans, Final Plats and associated subdivision agreements, vested rights agreement, and reimbursement and development agreement were approved by City Council in 2001. • On May 24, 2005 Council approved the Broomfield Urban Village – Arista- PUD plan following a public hearing. • On June 28, 2005, the Council approved a final subdivision plat and subdivision agreement for the Arista Project. • On June 28, 2005, Council also approved Ordinances adopting an Urban Renewal Plan for the area and providing the first steps to potentially fund an events center. • Resolution No. 2005-117 was approved on August 9, 2005. This resolution establishes the process by which the election will be conducted. 	
Financial Considerations	
The development and proposed district are consistent with Broomfield’s adopted Long Range Financial Plan.	
City Council Priorities	
The proposed action items address the following City Council priorities: Implement transit oriented development in Broomfield that works in conjunction with Fastracks; Explore and pursue Gaylord type conference center; and Proactively protect Broomfield’s assets.	
Alternatives	
Reject the formation of the Local Improvement District or approve the District with a lower sales tax rate.	
Proposed Actions/Recommendations	
That Ordinance No. 1816 be adopted on second and final reading and ordered finally published by title.	

ARISTA PROJECT SUMMARY

The Broomfield Urban Transit Village – Arista project is a mixed use retail, commercial and residential development with an urban, transit and pedestrian orientation designed to work with RTD's Fastracks program.

The Arista project is comprised of approximately 200 acres with 2.1 million square feet of residential, commercial and retail properties. The mix of uses in Arista creates the potential for the development to produce substantial net revenues for Broomfield. The primary source of revenues will be sales tax generated from a new retail center and from the property values created from new construction.

In addition the project includes the Broomfield Urban Renewal Authority (BURA) financed 6,000 seat event center/arena. The Broomfield Event Center will be host to professional sporting events as well as concerts, ice shows, special shows and large meetings and gatherings.

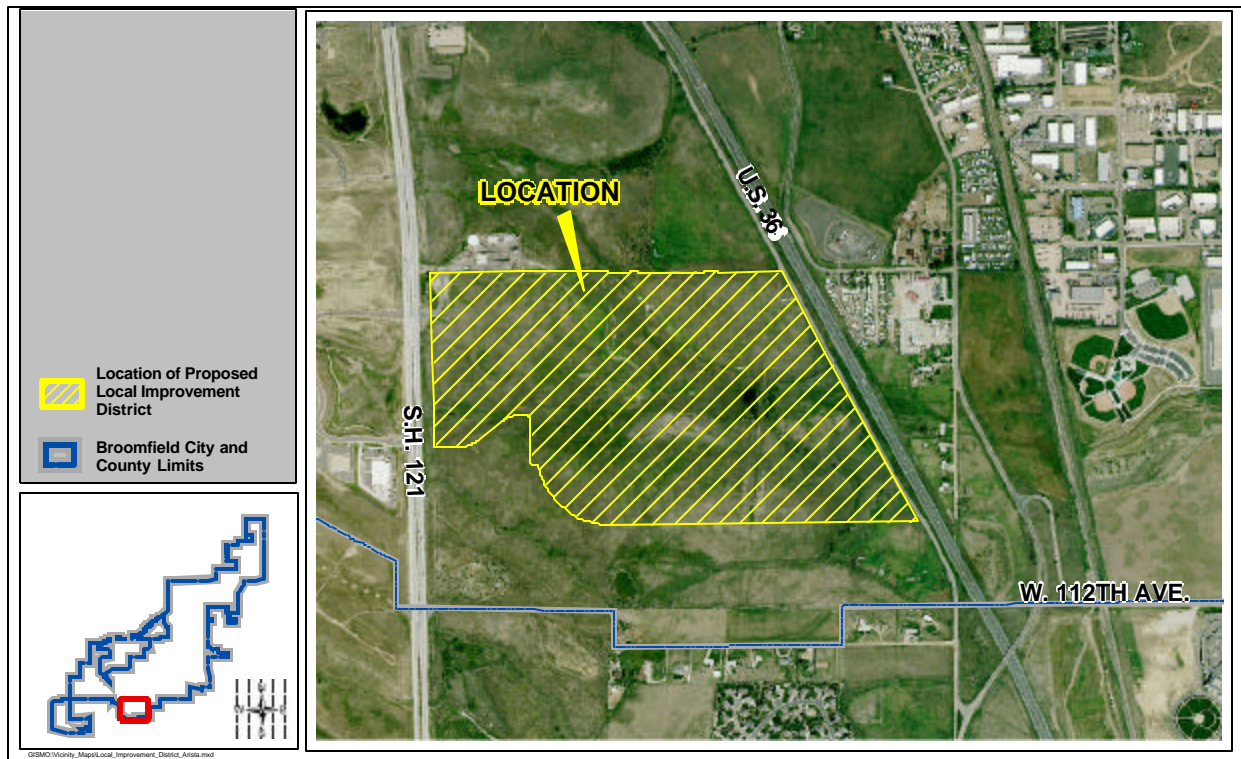
LOCAL IMPROVEMENT DISTRICTS

Local Improvement Districts are authorized under Section 15 of the Broomfield Home Rule Charter and Chapter 14-08 of the Broomfield Municipal Code. The provisions within the Municipal Code prescribe the process by which districts are formed and expanded, generally administered, and funded. As proposed, the City Council would serve as the board of the LID. Therefore, budgets, debt issuance and other matters related to the LID will need approvals by the City Council as the district is formed and operated. Even if a separate board were appointed, City Council would need to approve the budget, debt issuance and other operational matters similar to the process with the current Flatiron Improvement District.

Local Improvement Districts are districts created to make local improvements using revenue generated from within the local area benefiting from the improvement.

The Municipal Code prescribes that Local Improvement Districts are to be considered by the City Council upon the receipt of a petition from at least 50 percent of the property owners within the proposed district boundary. In this case, the sole property owner of 100 percent of the property within the proposed boundary, Park 36 Investment LLC, represented by General Manager Tim Wiens, has petitioned for the formation of the Arista Local Improvement District (see Attachment 1). The proposed boundaries of the district are highlighted on the map below. Additional properties can be included into the district at a later date upon submittal of a petition by the property owner and approval by the City Council.

It is the intent of the developer of the Arista project to petition for inclusion of additional property as it is acquired.



The proposed Arista Local Improvement District would levy a 0.2% sales tax within its boundaries. The proceeds of this levy can be used for transportation, parking or other local improvements. At this time, it is proposed that the sales tax proceeds be used for the provision of parking in the project, largely to serve the Event Center. In all likelihood, it will be proposed that the LID enter into an agreement with the Park 36 Metropolitan District to pledge its revenues towards a bond issuance by the Park 36 Metropolitan District for parking facilities. It would take a future approval of the City Council, acting as the LID board, for this to occur.

It is estimated that, at build-out, the 0.2% sales tax, with approximately 763,000 square feet of retail development in the project, would generate annual revenues of approximately \$360,578.

As previously noted, the use of these sales tax proceeds will need to be approved by the City Council on an annual basis through a budgeting process.

CITY COUNCIL PRIORITIES

Implementing transit oriented development (TOD) in Broomfield that works in conjunction with Fastracks is a City Council priority. Arista is a major project in the TOD area along US 36. Constructing a Broomfield event center/arena and providing adequate parking will help to anchor the east end of the Arista TOD.

Exploring and pursuing a Gaylord type hotel and conference center is a City Council priority. The Broomfield Event Center will also provide a few features of what a Gaylord type conference center would provide, such as a large exposition and performance

space. It is anticipated that a Gaylord type of hotel and conference center will continue to be explored for location within Broomfield.

Proactively protecting Broomfield's retail and commercial assets is a City Council priority for 2005. The Broomfield Events Center will bring more people to the US 36 commercial and retail corridor and will boost the customer base for the various businesses, as it is anticipated that restaurants in the Flatirons area will be frequented by events center customers. The event center will also provide a marketing opportunity for Broomfield businesses.

LONG RANGE FINANCIAL PLAN

The Arista project is planned to be developed with a mixed use of commercial, retail and residential properties. The retail component of the development is planned for 762,902 square feet; commercial development for 231,499 square feet and 1,200 to 1,400 residences with a projected population of 2,800 is also planned. Applying these parameters to Broomfield's Long Range Financial Plan results in a potential 1.45 ratio when the project is complete.

ORDINANCE NO. 1816

If approved Ordinance No. 1816 will create the Arista Local Improvement District in conformity with State Statutes, Section 15 of the Broomfield Home Rule Charter and Chapter 14-08 of the Broomfield Municipal Code.

McGEADY SISNEROS, P. C.
ATTORNEYS AT LAW

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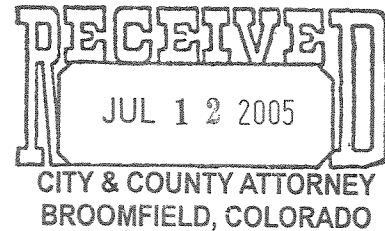
MARYANN M. McGEADY
DARLENE SISNEROS
MARY JO DOUGHERTY
MEGAN BECHER
VALERIE D. BROMLEY
RUSSELL W. DYKSTRA
KATHRYN S. KANDA
JACQUELINE C. MURPHY
GEORGE M. ROWLEY

SPECIAL COUNSEL
KENNETH M. KOPROWICZ
ANNE K. LAPORTA

July 12, 2005

VIA HAND DELIVERY

Tami Yellico, Esq.
Deputy City and County Attorney
City and County of Broomfield
One DesCombes Dr.
Broomfield, CO 80020



Re: Proposed Arista Local Improvement District

Dear Tami:

Enclosed please find the Petition for Organization of Arista Local Improvement District (“LID”), which has been signed by the owner of the property within the proposed LID and is hereby submitted for consideration by the City and County of Broomfield. The proposed Schedule of Events for organizing the LID anticipates that this matter will be placed on the City Council agenda for first reading on July 26, 2005.

If you have any questions or require additional information, please do not hesitate to contact us. We look forward to working with you on this project and appreciate your assistance.

Very truly yours,

McGEADY SISNEROS, P.C.

Kathy Kanda

Enclosure

cc: Edward J. Walsh (w/encl.)
Paul Benedetti (w/encl.)
Timothy D. Wiens (w/encl.)
Daniel M. Minzer (w/encl.)
Edward Barsocchi (w/encl.)
Saranne K. Maxwell (w/encl.)
David P. Hostetler (w/encl.)
Deborah D. McCoy (w/encl.)
Ann Finn (w/encl.)

**PETITION FOR ORGANIZATION OF
ARISTA LOCAL IMPROVEMENT DISTRICT**

TO THE CITY COUNCIL IN ITS CAPACITY AS THE BOARD OF COUNTY
COMMISSIONERS OF THE CITY AND COUNTY OF BROOMFIELD, COLORADO:

The undersigned presents this Petition for the organization of a local improvement district (“District”), pursuant to and in accordance with Part 6 of Article 20 of Title 30, Colorado Revised Statutes, Chapter XV of the Broomfield Home Rule Charter and Chapter 14-08, Title 14 of the Broomfield Municipal Code, and in support of the Petition states:

1. The undersigned constitutes owners of more than fifty percent (50%) of the area of the proposed District and not less than fifty percent (50%) of the land owners in the proposed District.
2. Attached hereto as **Exhibit A** is the legal description of the boundaries of the proposed District.
3. The proposed name of the District is “Arista Local Improvement District” in the City and County of Broomfield, Colorado.
4. The proposed District will have all powers and authorities necessary to provide within the District any local improvement which the City and County of Broomfield is authorized to provide under its home rule charter and without limitation the power to levy a sales tax, in accordance with the provision of Part 6 of Article 20, Title 30, Colorado Revised Statutes, and Chapter 14-08, Title 14 of the Broomfield Municipal Code.
5. A general description of the facilities and improvements to be designed, constructed, installed, or purchased by the proposed District includes, but is not limited to, a public parking facility together with other street and transportation improvements and services.
6. The proposed District lies wholly within the City and County of Broomfield, Colorado, and shall first obtain the consent of any other existing special district providing the same improvements prior to constructing such improvements.
7. The cost of the proposed facilities and improvements is estimated in an amount not exceed Thirty-Five Million Dollars (\$35,000,000).
8. Each of the undersigned does hereby consent to the inclusion in said proposed District of any and all lands owned by the undersigned located within said proposed District.

WHEREFORE, Petitioner prays that the City Council of the City and County of Broomfield, Colorado, will adopt such resolutions and/or ordinances as may be necessary or proper for the organization of said District and for the submission to the electors of the proposed District at the next regular or special election the submission of the proposition of issuing revenue bonds or creating other obligations including, but not limited to, intergovernmental agreements with other governmental entities or any question or questions necessary to implement the provisions of Section 20 of Article X of the Colorado Constitution as applied to the proposed District.

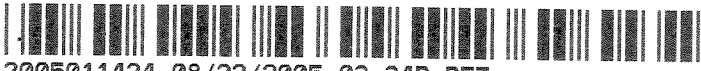


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3 of 7 R 0.00 D 0.00 City&Cnty Broomfield

PARK 36 INVESTMENT, LLC, a Colorado
limited liability company

A handwritten signature in black ink, appearing to read "Tim Wiens", written over a horizontal line.

Timothy D. Wiens, General Manager



2005011424 08/22/2005 03:34P PET
4 of 7 R 0.00 D 0.00 City&Cnty Broomfield

EXHIBIT A

Legal Description



EXHIBIT A2
PARK 36
1 OF 3

A PARCEL OF LAND LOCATED IN THE NORTHWEST ONE-QUARTER OF SECTION 2, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF BROOMFIELD, STATE OF COLORADO, ALSO BEING PART OF THE BROOMFIELD URBAN TRANSIT VILLAGE FILING NO. 3 (RECEPTION NO. 2003002761) AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE WEST LINE OF THE NORTHWEST ONE QUARTER OF SAID SECTION 2 AS BEARING SOUTH 00°16'33" WEST AS MONUMENTED ON THE NORTH BY A 2 1/2 INCH ALUMINUM CAP IN A DIRT HOLE AND ON THE SOUTH BY A 3 1/4 INCH ALUMINUM CAP ON NUMBER 5 REBAR STAMPED "1997 LS 13155", WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

COMMENCING AT THE NORTHWEST CORNER OF SECTION 2, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN; THENCE S00°16'33"W A DISTANCE OF 2655.44 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 3 ALSO BEING THE POINT OF BEGINNING;

THENCE DEPARTING SAID WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 2 S00°11'01"E A DISTANCE OF 15.00 FEET;
THENCE DEPARTING THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3 N89°35'49"E A DISTANCE OF 1349.91 FEET TO A POINT OF THE WESTERLY RIGHT-OF-WAY LINE OF US HIGHWAY 36;
THENCE ALONG SAID WESTERLY RIGHT-OF-WAY THE FOLLOWING TWO (2) COURSES:

- 1) S28°42'03"E A DISTANCE OF 731.25 FEET;
- 2) S28°43'44"E A DISTANCE OF 1498.61 FEET;


THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY LINE S89°20'25"W A DISTANCE OF 2415.23 FEET TO A POINT ON THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3;

THENCE ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3 N00°11'01"W A DISTANCE OF 0.19 FEET;

THENCE DEPARTING THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3 897.83 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 89°27'51", A RADIUS OF 575.00 FEET AND A CHORD WHICH BEARS N44°27'22"W A DISTANCE OF 809.36 FEET;

THENCE N00°16'33"E A DISTANCE OF 327.34 FEET;
THENCE N89°43'27"W A DISTANCE OF 150.00 FEET;.

JUNE 16, 2005

 **MARTIN / MARTIN**
CONSULTING ENGINEERS

12499 WEST COLFAX AVE.
P.O. BOX 151500
LAKEWOOD, CO 80215
303.431.6100
FAX 303.431.4028

THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION.

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EXHIBIT A2
PARK 36
2 OF 3

THENCE 181.51 FEET ALONG THE ARC OF A TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 40°00'00", A RADIUS OF 259.50 FEET, AND A CHORD WHICH BEARS S70°16'33"W A DISTANCE OF 177.85 FEET;
THENCE S50°16'33"W A DISTANCE OF 204.39 FEET;
THENCE 181.51 FEET ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 40°00'00", A RADIUS OF 260.00 FEET, AND A CHORD WHICH BEARS S70°16'33"W A DISTANCE OF 177.85 FEET;
THENCE N89°43'27"W A DISTANCE OF 170.72 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF STATE HIGHWAY 121 (WADSWORTH PARKWAY);
THENCE ALONG THE EASTERLY LINE OF WADSWORTH PARKWAY THE FOLLOWING THREE (3) COURSES:
1) THENCE N01°15'24"W A DISTANCE OF 298.87 FEET;
2) THENCE N01°16'23"W A DISTANCE OF 365.07 FEET;
3) THENCE N01°22'38"W A DISTANCE OF 657.89 FEET;
THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY N89°31'48"E A DISTANCE OF 709.42 FEET;
THENCE N89°32'56"E A DISTANCE OF 692.75 FEET TO THE POINT OF BEGINNING.


SAID PARCEL CONTAINS 5,753,602 SQUARE FEET (132.09 ACRES) MORE OR LESS.

PREPARED BY BRIAN DUMMER, P.E.
FOR AND ON BEHALF OF
MARTIN/MARTIN, INC.
12499 WEST COLFAX AVENUE
LAKEWOOD, COLORADO 80215
JUNE 16, 2005

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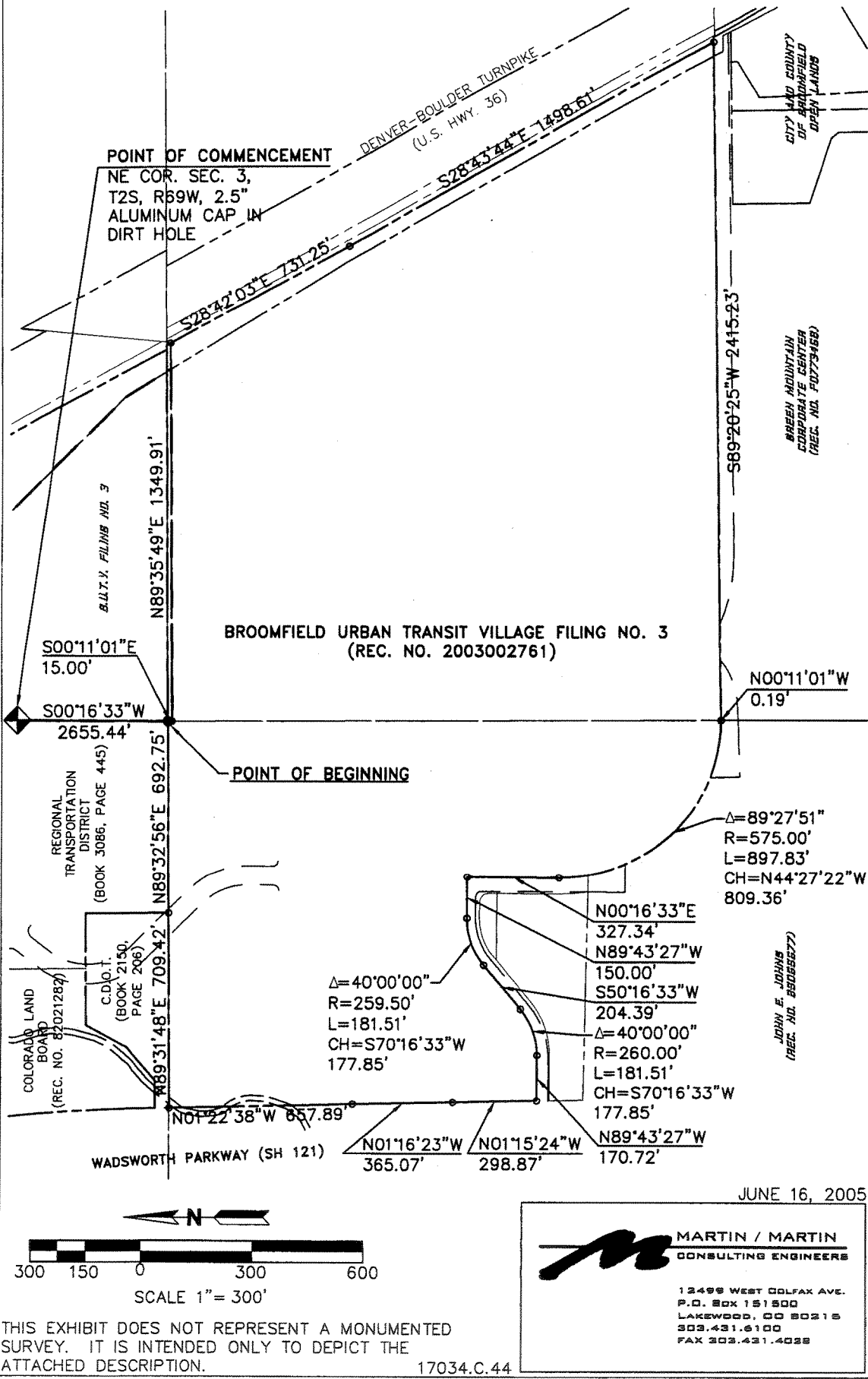
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3 OF 3

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JUNE 16, 2005

ORDINANCE NO. 1816

AN ORDINANCE ORGANIZING THE ARISTA LOCAL IMPROVEMENT DISTRICT IN THE CITY AND COUNTY OF BROOMFIELD

WHEREAS, the City and County of Broomfield, State of Colorado (the “City and County”) is a political subdivision of the State, a body corporate and politic, a home-rule city and county pursuant to Article XX of the State Constitution and a city and county pursuant to Sections 10, 11, 12 and 13 of Article XX of the State Constitution (the “Constitutional Amendment”); and

WHEREAS, Section 15.1 of the Home Rule Charter of the City and County (the “Charter”) provides the City and County with the power to create a local improvement district (“LID”) to construct local improvements of every character; and

WHEREAS, Section 15.2 of the Charter provides that the City and County may create a LID on petition by owners of more than fifty percent (50%) of the area of the proposed LID, provided that such majority shall include not less than fifty percent (50%) of land owners in the proposed LID; and

WHEREAS, Section 14-08-050 of the City and County Municipal Code (“Code”) provides the City and County with the power to impose a sale tax throughout a LID for the purpose of funding transportation services or improvements; and

WHEREAS, a Petition for the Organization of Arista Local Improvement District (“Arista LID”) in the City and County was filed with the Clerk and Recorder pursuant to the applicable provisions of Part 6 of Article 20, Title 30, C.R.S., and Chapter 14-08, Title 14 of the Code; and

WHEREAS, the Petition was signed by the owners of more than fifty percent (50%) of the area of the proposed Arista LID, which majority includes not less than fifty percent (50%) of land owners in the proposed Arista LID; and

WHEREAS, it is proposed that the Arista LID have all powers and authorities necessary to provide any public improvement which the City and County is authorized to provide under the Charter, including transportation services and improvements, within the Arista LID, including without limitation the power to levy sales tax to pay all or a portion of the cost of any such public improvements constructed or transportation services provided and for the operation and maintenance of such improvements, in accordance with the applicable provisions of Part 6 of Article 20, Title 30, C.R.S., and Chapter 14-08, Title 14 of the Code; and

WHEREAS, such Petition fully complied with the applicable requirements of Part 6, Article 20, Title 30, C.R.S., and Chapter 14-08, Title 14 of the Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY AND COUNTY OF BROOMFIELD, COLORADO:

Section 1. FINDINGS AND DECLARATIONS. The City Council hereby finds, determines, and declares that (i) the Petition for Organization of Arista Local Improvement District has been duly and properly signed by the owners of more than fifty percent (50%) of the area of the proposed Arista LID and not less than fifty percent (50%) of the land owners in the proposed Arista LID; (ii) the proposed services and improvements to be provided by the Arista LID will confer a benefit within the Arista LID, (iii) the costs of such services and improvements will not be excessive, and (iv) the imposition of a sales tax throughout the Arista LID is necessary for the purpose of funding the services and improvements to be provided by the Arista LID.

Section 2. CITY COUNCIL'S EXERCISE OF POWERS GRANTED TO BOARD OF COUNTY COMMISSIONERS. Pursuant to Section 2-04-010 of the Municipal Code, the City Council exercises the powers of the board of county commissioners provided for in the general laws of the state, and to that end, this Ordinance and the hearing conducted therefor conform with the provisions of Part 6 of Article 20, Title 30, C.R.S., regarding organization of a local improvement district.

Section 3. SUFFICIENCY OF PETITION. The City Council further finds, determines, and declares that (i) the Petition for Organization of the Arista LID complies fully with all of the applicable requirements of Part 6 of Article 20 of Title 30, C.R.S., and Chapter 14-08, Title 14 of the Code, (ii) the allegations of such petition are true and in conformance with law, and (iii) the adoption of an ordinance establishing the Arista LID and authorizing the provision of the proposed improvements and services will confer a benefit within the Arista LID.

Section 4. ORGANIZATION OF THE DISTRICT. The "Arista Local Improvement District" is hereby duly established and organized and shall have all powers and authorities necessary to provide any public improvement which the City and County is authorized to provide under the Charter, including transportation services and improvements, within the Arista LID, including without limitation the power to levy sales tax to pay all or a portion of the cost of any such public improvements constructed or transportation services provided and for the operation and maintenance of such improvements, in accordance with the applicable provisions of Part 6 of Article 20, Title 30, C.R.S., and Chapter 14-08, Title 14 of the Code.

Section 5. BOUNDARIES OF THE DISTRICT. The boundaries of the Arista LID shall be as set forth in Exhibit A attached hereto and incorporated herein by reference.

Section 6. BOARD OF DIRECTORS. The District shall be governed by a board of directors comprised of the City Council, which shall perform its duties in accordance with the applicable provisions of Part 6 of Article 20, Title 30, C.R.S., and Chapter 14 of the Code.

Section 7. FILING OF ORDINANCE. This ordinance shall be submitted to the Division of Local Government in the Colorado Department of Local Affairs.

Section 8. EFFECTIVE DATE. This ordinance shall be effective seven days after publication following final passage.

INTRODUCED AND APPROVED after first reading on August 9, 2005, and ordered published in full.

INTRODUCED A SECOND TIME and approved on August 23, 2005, and further ordered published.



THE CITY AND COUNTY OF BROOMFIELD,
COLORADO

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City & County Attorney

First Publication: **August 13, 2005**

Second Publication: **August 31, 2005**

EXHIBIT A
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THENCE ALONG THE EASTERLY LINE OF WADSWORTH PARKWAY THE FOLLOWING THREE (3) COURSES:


- 1) THENCE N01°15'24"W A DISTANCE OF 298.87 FEET;
- 2) THENCE N01°16'23"W A DISTANCE OF 365.07 FEET;
- 3) THENCE N01°22'38"W A DISTANCE OF 657.89 FEET;

THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY N89°31'48"E A DISTANCE OF 709.42 FEET;
THENCE N89°32'56"E A DISTANCE OF 692.75 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 5,753,602 SQUARE FEET (132.09 ACRES) MORE OR LESS.

PREPARED BY BRIAN DUMMER, P.E.
FOR AND ON BEHALF OF
MARTIN/MARTIN, INC.
12499 WEST COLFAX AVENUE
LAKEWOOD, COLORADO 80215
JUNE 16, 2005

JUNE 16, 2005



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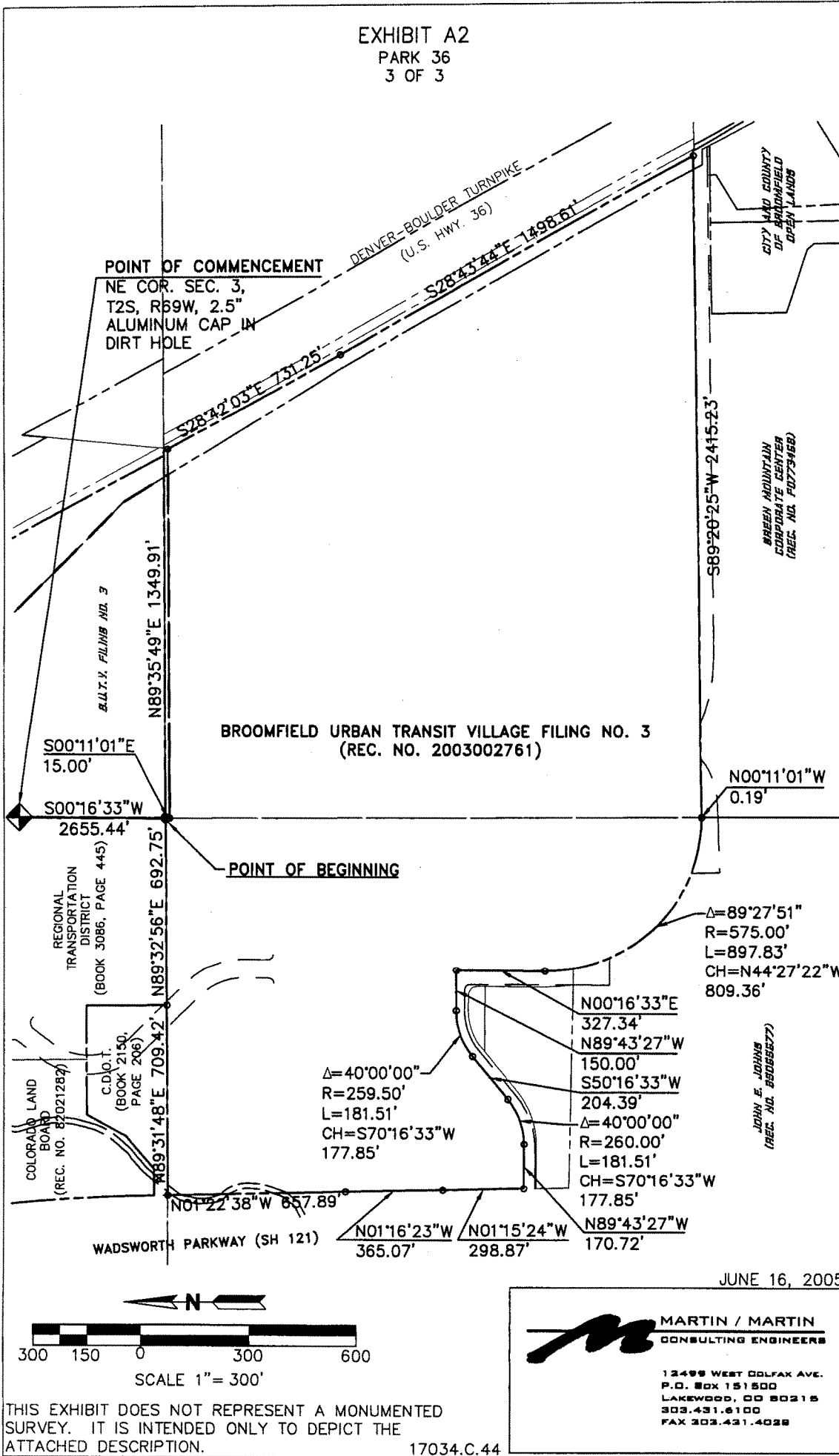
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EXHIBIT A2

PARK 36
3 OF 3

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