

**“Past, Present and Future of Lowry Vista”
By Councilwoman Marcia Johnson, Denver District 5**

For well over a year, the *Glendale Cherry Creek Chronicle* has printed stories about the Lowry Vista landfill parcel. I appreciate the *Chronicle* providing me with an opportunity to clarify some recurring issues which seem to have become distorted.

Let me first provide you with some of the history and geography on this 74.5 acre site. The parcel in question was once known as Operable Unit 2 (or OU2) on the former Lowry Air Force Base, and was used as a landfill for base-related waste. If you head east from Quebec Street on Alameda, you will see the parcel to your left as you pass the Windsor Gardens community. Lowry Vista is also bounded by an apartment complex to the west, the Westerly Creek dam and its wetlands to the north, and a golf course to the east.

In 1994, the Lowry Air Force Base closed, and the Cities of Denver and Aurora formed the Lowry Redevelopment Authority (LRA) to handle the development of the property. In 2005, the Air Force decided it wanted to transfer its remaining 720 acres at Lowry, including the landfill, golf course, wetlands and other parcels scattered around the former base. This was an all-or-nothing deal, but transferring the landfill to the LRA was problematic since any land it owns will revert to the City when the LRA sunsets.

800 Acres of Promised Open Space

The 1993 Lowry Reuse Plan called for 738 acres of the 1,866 acre base to be private and public open space. Today, Lowry has 790 acres of open space in use or in development – 52 more acres than originally laid out in the reuse plan, *not including the landfill*.

The Reuse Plan intended for the existing golf course to incorporate the landfill. Landfills need to be capped to protect water run-off from leeching into the buried debris and entering the water supply. The golf course needed a cap sufficient to support a sprinkler system for turf. The LRA fought for an irrigable cap for years to ensure the fulfillment of its Reuse Plan, but the Air Force chose a less expensive method that would not allow any irrigation or penetration. Since the golf course would not pay for a deeper cap on its own, Plan A had to be scrapped.

In an effort to keep the landfill as open space, the LRA turned to the City of Denver’s Parks & Recreation department. But Parks could not legally accept the responsibility for monitoring and possibly remediating a landfill. Our City Charter protects taxpayers by preventing the City from acquiring unfunded liabilities - for instance, a landfill.

The \$10 “Sweetheart” Deal

When things don’t go as planned, you need a new plan.

The Air Force had hired Lowry Assumption, an affiliate of IRG Redevelopment I, to clean up the remaining soils and groundwater at the base in 2004. With its prior involvement in Lowry’s clean up and its expertise in the development of brownfield sites, the LRA eventually asked IRG

to take over the landfill. Without any guarantee that it could develop the land, IRG accepted the landfill and all its associated maintenance costs and environmental liabilities. Changes to the existing condition of the landfill can only happen with the approval of the Colorado Department of Public Health & Environment (CDPHE), which monitors all of the remediation activity that takes place at Lowry.

So how much has IRG paid for the landfill? Records say \$10. There is a common legal phrase: “*Ten dollars and other good and valuable considerations.*” \$10 is often used as a nominal figure when an undisclosed amount or no money at all changes hands, to signal an agreement between both parties. The Air Force appraised the landfill as a liability with a negative value, not an asset. It was a piece of land that no one wanted, and it was initially transferred to a willing party for next to nothing.

If IRG is ever granted the permissions necessary to develop the site, they will pay \$250,000 to the LRA - a figure that some might still characterize as an exceptional value. This is a similar agreement to other land transfers around Lowry, where developers do not pay for their land until they know they can do something with it. I don't know how the LRA and IRG arrived at this figure, but know that it will cost millions more to make the landfill ready for development.

Dangerous Nuclear Waste

Just how polluted is the landfill? I have heard allegations that nuclear waste was dumped in the landfill on Alameda. Environmental investigations of the former landfill began in 1983, overseen by CDPHE, using federal EPA guidelines. Over one thousand samples from the groundwater, soil, surface water and sediments have been collected and analyzed. CDPHE reports that radiation levels at Lowry Vista actually match the background radiation that we along the Front Range live with every day. CDPHE's primary concern is the safety of residents, and I trust in their findings and judgment.

Zoning for a Million Dollar Pay-off

I have also heard assertions about “back room deals” where the City agreed to zone the landfill in exchange for money. IRG's affiliate LAC was hired to remediate any contaminated soil at the former Lowry Air Force Base through 2015. To protect Denver and you, the taxpayer, the City requested one million dollars - an insurance policy against any contamination that may be discovered after LAC's contract expires in 2015. These funds go directly into the City's “Lowry AFB Remediation Fund” and cannot be spent in any other way.

The regrettable payment schedule in this agreement has given some people the impression that money has been or will be exchanged for zoning. It was structured so that IRG could make payments to coincide with their anticipated cash flow when their properties undergo redevelopment. One of those properties is the landfill. But even if the landfill never gets zoned, IRG will still have paid the City one million dollars, in total, by 2015. Let me assure you that the Denver City Council is the only entity that can approve zoning, and **zoning in this City will not be bought or sold.**

To further clarify the separation of zoning on Lowry Vista from any money being paid to the City, I asked the City Attorney's office to rewrite a component of the agreement. It will now read that the last payment to the City must be paid before the final date in the original agreement, 2015. All reference to the zoning of Lowry Vista was removed.

Urban Drainage's Objection

In November of this year, the Urban Drainage & Flood Control District sent a letter to the Denver Planning department, requesting that the City reject the proposed General Development Plan (GDP) for the Lowry Vista site. Urban Drainage is the local agent of the US Army Corps of Engineers, who built and owns the adjacent Westerly Creek Dam.

Both the Army Corps and Urban Drainage's concerns are with "Phase 2" of Lowry Vista's development plan. The GDP most recently submitted to the City for review includes plans for a second phase of development within the boundaries of a *probable maximum* floodplain.

As a member of the Urban Drainage board of directors, I told IRG that I could not support the GDP application for Phase 2, given the objection to this aspect of the plan. IRG has since agreed to withdraw all plans for Phase 2 development from their GDP application. Urban Drainage agrees that development on the rest of the parcel, Phase 1, does not infringe on the floodplain. Urban Drainage, along with numerous other state and local agencies, will have a voice in the final approval or disapproval of the Lowry Vista GDP.

What's Next?

I strongly believe in the merits of a free enterprise system, and in individual property rights. If you bought a piece of vacant land, would you want to be told it must remain vacant forever? The City doesn't do that to any property owner, be it a corporation or an individual. In my 6 years on City Council, no property has been completely denied the ability to build. Instead, Council uses zoning as a tool to shape the form that appropriate development will take.

The potential development at Lowry Vista is moving forward, slowly. As the only adjacent homeowners to the site, I requested that IRG have extensive discussions with Windsor Gardens' residents. IRG has held a series of focus groups at Windsor Gardens over the last couple of years, and has also presented its plans and received input at neighborhood meetings around Lowry, Park Forest, and the Twin Lakes area. The process has been public, and many concessions have already been made on the part of the developer. Perhaps even more will be made as the process continues to move forward.

Right now, the City is reviewing the General Development Plan for Lowry Vista. This is a basic plan for the infrastructure on the site, such as roads, sewers, etc. There is already a Metro District in place, so only property owners within the Lowry Vista development, not Denver taxpayers, are saddled with the cost of the new infrastructure. The City and other reviewing entities will request changes to the GDP before it can be approved. After that, IRG will probably file zoning applications, which is when City Council officially weighs in.

There are dissenting views and genuine concerns that surround any development, and Lowry Vista is no exception. The increasing density along the Alameda corridor is transforming the eastern edge of the city into an extension of Denver's urban character. Lowry Vista will add to this change, and traffic in the area will undoubtedly be affected. But increasing density from Cherry Creek to Aurora could put Alameda on the radar for mass transit. Additionally, higher density mixed-use communities allow people to live, work and shop within a smaller space, meaning fewer car trips per person.

The future of the wildlife in the region is another valid concern. The wetlands adjacent to the landfill are protected by the Environmental Protection Agency (EPA) for wildlife habitat, so the herds of deer and birds you see in the area today will still have a home. As it exists right now, most wildlife cannot access the fenced-off landfill.

It is the responsibility of my colleagues and me to consider what types of development are appropriate in a given area. Councilmembers must carefully weigh citizen input - between those who vocally dislike a project and those of the often "silent majority." Some people may prefer to do their shopping a little bit closer to home; some people may prefer to have an easier way to access the Westerly Creek wetlands and dam; and yes, some people may prefer things to stay exactly as they are.

I want to make my role in this situation perfectly clear. I am not an agent of IRG, of the LRA, nor of the City's Planning department. I work for the citizens of District 5, and I will continue to do my best to accurately represent their interests.

I want to hear your voice. Please email me with your thoughts - both positive and negative - on this potential development: Marcia.johnson@denvergov.org.