

Final Report to:
The City Council of Cherry Hills Village
June 7, 2005

The Vision

for Parks, Trails, Recreation, Historic Preservation and Open Space

2005 to 2020



**Make no small plans for they have no
magic to stir the soul.... *Daniel Burnham 1893***

Contents

Chapter 1	The Vision Protecting and Preserving our Treasures	5
	The Mission of the Blue Ribbon Panel	6
	Recommendations (Executive Summary)	7
	Map of Cherry Hills Village Parks and Trails	11
	Map of Scenic Treasures and View Corridors	12
Chapter 2	Policy Subcommittee Report	13
	Protect and Maintain the Treasures Engage Land Planning Consultant Involve Citizens Update Ordinances and Policies	
Chapter 3	Inventory Subcommittee Report	18
	Criteria for Selection of Scenic Treasures Features of Value Preservation Needs The High Line Canal Trail and Corridor Blackmer Common and the Surrounding Watershed Three Pond Park Little Dry Creek East/West Wetlands Trail and View Corridor Street View Corridors Active Parks and Recreation Equestrian Opportunities	
Chapter 4	Funding Subcommittee Report	26
	Public Funding Sources and Acquisition Opportunities Bond Measure and Mill Levy Public and Private Charitable Funding Sources	

A.	The Charge to the BRP and Mission Statement Resolution 2-2004 Formation of the Blue Ribbon Panel Mission Statement 7-28-04	Appendix Page1 3
B.	Participants Resolution 9-2004 Appointment of the Blue Ribbon Panel Blue Ribbon Panel members (contact information)	4 5
C.	Experts Consulted Land use planners, public policy experts, volunteer experts with relevant experience	6
D.	Articles written about BRP	8
E.	Citizen Survey Citizen survey sent out in the Village Crier Survey results	12 14
F.	Background Materials for Policies Report <i>Because they are voluminous, the following documents are on file w/the City Manager.</i>	
	<u>View Protections</u>	
	Preservation of Scenic Areas and Viewsheds - NH Office of Energy & Planning	19
	View Plane Ordinance - City of Denver, CO	27
	Identify and Protect Scenic Vistas and View Sheds - Scenic America	38
	Ridgeline Protection Ordinance - Town of Castle Rock, CO	40
	View Zoning - Boulder County, CO	55
	<u>Land Development Options</u>	
	Lot widths, setbacks, open space development, overlay zoning, greenways. Van Buren County	57
	<u>Lot Coverage and Building Regulations</u>	
	Building Coverage – Woodside, CA and Bedford, NY	60
	Height Regulations - Chagrin Falls, OH	63
	<u>Fences, walls and berms</u>	
	Fences, Walls, Gates, Pylons and Berms – Woodside, CA	64
	Construction of Berms - Cherry Hills Village, CO	72
	<u>Sense of Community/Rural character</u>	
	Preserve Rural Character – Ashby, MA and Richmond, WY	73

<u>Wetlands</u>	
Environmental Planning for Wetlands – Summit County, CO	76
<u>Trees</u>	
Community Trees - Iowa State University	81
Tree Ordinance – Bedford, NY	85
<u>Floodplain Management</u>	
Floodplain Management – Muncie, IN	89
<u>Park and Recreation Boards</u>	
Parks, Trails and Recreation Commission - Greenwood Village	99
Parks and Recreation Advisory Board – Westminster, CO	107
<u>Dog area</u>	
Standards for Dog Exercise Areas – Arlington County, VA	111
<u>Equestrian Policies</u>	
Trails Etiquette - Greenwood Village, CO	116
<u>Neighboring Municipalities</u>	
Meeting notes from conversation with Director of Greenwood Village’s Parks, Trails and Recreation Department	118
<u>Citizen Participation</u>	
Civic Participation in Land Use Planning	122
Town of Dunn (WI) Land Use Plan and Open Space Preservation	126
G. Background Materials for Inventory Report	
Map of CHV (see Executive Summary)	
H. Background Materials for Funding Report	
Letter from Cheryl Kuechenmeister – December 29, 2004	130
Arapahoe County Open Space – Resolution No 030381	131
Westlaw - 489 Alternatives to Donating a Conservation Easement	147
New Estate Tax Relief for Land under Conservation Easement -Tax Notes March 1998	155
CRS 38-30.5-102: Conservation Easements	169
CRS 38-30.5-104: Creation of Conservation Easements	171
CRS 39-22-522: Credit Against Conservation Easements	176
Technical Assistance Services for Conservation Finance Measures – Colorado Trust for Public Lands (TPL)	179
Public and private grant sources	180
Colorado Coalition of Land Trusts - Member Listing	181
Conservation Options 101 Cherry Hills Village – TPL	187
Conservation Trust Funds Memo- from TPL to Cherry Hills Village	191
Conservation Trust Fund Overview – Department of Local Affairs Colorado	193
GOCO Overview – Great Outdoors Colorado	195

Transferable Development Rights and Their Application in Colorado	
– The Colorado Lawyer, March 2005	197
Colorado Constitution Article XXXVII, Section 3	204

I. The minutes of BRP Committee Meetings are on file with the City Manager

Chapter 1

“...the earth is common ground and... gradually the idea is taking form that the land must be held in safekeeping...that one generation is to some extent responsible to the next.” E.B. White



The Vision

Protecting the Treasures of Cherry Hills Village

The legacy of open space in Cherry Hills Village is our present source of inspiration and creates in us all a responsibility to protect and preserve our meadows, trails, wetlands and mountain vistas. Citizens of Cherry Hills Village take great pleasure in our unique natural assets that the parks, trails and treasured views represent. The natural landscape of our community is diminishing. The Blue Ribbon Panel's Vision is to build on the Village's historical strength of a unique semi-rural character, and to preserve and acquire open space, parks and trails, and to protect vistas for greater public access and enjoyment. The exclusion from South Suburban presents a rare opportunity to engage the entire community in partnerships, planning, and resource acquisition and allocation to protect and enhance what we value most and wish to pass on to future generations. The consequences of our actions today will be the harbor for our hope and a continuing source of inspiration for our future.

The Mission

City of Cherry Hills Village Blue Ribbon Panel

The Blue Ribbon Panel (BRP) has been an advisory body to the City Council of Cherry Hills Village in 2004-2005. The mission of the Panel is to make recommendations to the City Council regarding protection and enhancement of open space, trails, parks, recreation opportunities, and historic preservation.

Achievement of the following objectives will promote the Panel's Vision:

1. Promote accessibility and connectivity by:
 - a. Analyzing properties to ensure protection in perpetuity of current trails and open spaces and evaluating properties for future strategic acquisitions.
 - b. Making current and future parks and trails more connected within and throughout the Village.
 - c. Connecting Village trails with those of surrounding communities.
 - d. Building on the connectivity of the High Line Canal.
 - e. Acquiring open spaces adjacent to trails and the Canal.
2. Preserve and maintain open vistas from public lands in appropriate scale to the natural surroundings and contiguous properties by:
 - a. Preserving "lines of sight" throughout the Village.
 - b. Restricting elements that create unnatural barriers or inhibit pass-through views.
 - c. Supporting property owners in planning and making decisions consistent with this Vision.

RECOMMENDATIONS (Executive Summary)

The rural nature of Cherry Hills Village is changing as many of the large tracts of land are subdivided and developed. Density is increasing. Distant views are at risk of being obscured by buildings, landscape, fences and berms.

In past years, the livability of Cherry Hills Village has predominantly been preserved by relying on private property held in undeveloped acreage. Large parcels of land, such as the Kent Denver School, and other privately owned properties, provide our community with its sense of open space. Without careful action by the Village, so much of what citizens' treasure about the Village could easily disappear quickly.

The Blue Ribbon Panel makes the following recommendations to City Council that are necessary to Support the “Vision”:

RECOMMENDATION # 1

Move rapidly to protect and enhance lands, trails, and long distance views that have been identified as Scenic Treasures in this report. Make these Scenic Treasures the basis of the Village's land use master plan.

The map following the Executive Summary indicates the Scenic Treasures that must be preserved. These include but are not limited to:

- The High Line Canal Trail corridor
- Blackmer Common
- Three Pond Park
- Little Dry Creek
- The East-West Wetlands Trail corridor
- View corridors from Quincy Road, Colorado Blvd., Holly Street and Cherry Lane Drive

RECOMMENDATION # 2

Contract with an outside land use consultant with specialized experience to help the Village achieve its Vision to preserve our semi-rural atmosphere, protect public lands and trails, maintain long-range views, and update the Village’s master plan.

“When played out over the next 10 to 20 years, will the Village’s policies shape our community in a manner consistent with citizen expectations?” BRP

Many of the Village’s ordinances are not as protective as state-of-the-art ordinances being used in other communities around the country. In some instances, Cherry Hills Village has no ordinances to achieve aspects of our Vision such as maintaining the long-distance views and the Village’s sense of openness. To achieve our goals, we recommend the Village evaluate and update our ordinances.

The Blue Ribbon Panel recommends that the Village, with citizen input, engage land use consultant with state-of-the-art experience. The consultant should be asked to work with the Village and citizens to update ordinances consistent with the recommendations of this report.

RECOMMENDATION # 3

Incorporate our citizen-identified “features of value” into updated and improved regulations, ordinances, and an open space conservation policy to ensure these key features are recognized and valued in all Village planning decisions.

Thinking into the future, preservation of long-distance views and the Village’s sense of openness will bring enduring value to all properties in the Village. For public lands to maintain their distinct characteristics, some regulation of adjoining properties may be necessary.

Other communities studied by the Blue Ribbon Panel (BRP) have adopted ordinances that could both enhance the characteristics of the Village while at the same time allowing continued development. This balance is critical in preserving the character of the Village while encouraging continued investment by homeowners.

RECOMMENDATION # 4

Form a citizens' advisory committee to work with the City Council and staff on issues related to the implementation of this report.

Citizens in Cherry Hills Village have formed a non-profit organization dedicated to open space preservation; however our community's success cannot rely solely on the efforts of one non-profit organization.

Communities successful at open-space preservation have shown that the combined efforts of Village government and citizen committees, non-profit organizations, open space preservation experts and private investors play invaluable roles. More citizens should be included in this discussion.

RECOMMENDATION # 5

Develop a plan for preserving and acquiring lands and trails, easements or development rights that contribute to the unique quality of life in the Village.

Because of the limited remaining opportunities to preserve natural land in the Village, the BRP recommends that steps be taken to develop an acquisition and preservation opportunity assessment in concert with the Village Master Plan. These properties and trails, when acquired and/or preserved, will enhance the Village as a whole.

RECOMMENDATION # 6

Establish a land preservation and acquisition fund from existing and new sources.

Earmark General Fund dollars to initiate this fund

To ensure the Vision for Cherry Hills Village becomes reality, create a preservation and acquisition fund. Such a fund will enable the Village to act decisively when open space becomes available, as well as fund the long-term maintenance of parks, trails and natural lands. Once the Village has dedicated funds available, the monies can be used to leverage additional funding from alternative sources.

Secure new funding sources

In order to have the capacity to preserve vistas and open space, the BRP recommends that the City Council assess the feasibility of asking the voters to approve a bond measure. The proceeds from the sale of bonds would be used to preserve the critical open space, trails, natural areas, and scenic views of the Village. This assessment should take place in the next two months so that it may be placed on the ballot in either November of 2005 or in 2006.

Pursue additional revenue sources

In addition to a public measure, pursue additional revenue sources for the fund. Other available funding sources include: certificates of participation; grants from public agencies; privately-based resources (donations, conservation easements and grants); and combinations of these.

SUMMARY

The Blue Ribbon Panel thanks the City Council of Cherry Hills Village and the Parks and Trails Committee for pursuing a vision to enhance our open space, trails and parks. The above recommendations are a summary of the findings, research and discussions that took place within the Blue Ribbon Panel. We encourage you to read further to more fully understand the thoughts and recommendations of the Panel.

We remain committed to this endeavor and look forward to discussing this document with the Council.

"We have not inherited the world from our forefathers. We have borrowed it from our children." Old Proverb

Chapter 2

“When we see land as a community to which we belong, we may begin to use it with love and respect.” Aldo Leopold

POLICY SUBCOMMITTEE REPORT AND RECOMMENDATIONS

The rural nature of Cherry Hills Village is changing as many of the large tracts of land have been subdivided and developed. Density is increasing. Distant views are at risk of being obscured by buildings, fences and berms.

In past years, the livability of Cherry Hills Village has predominantly been preserved by relying on private property held in undeveloped acreage. Parcels of land, such as the Kent Denver School, St. Mary’s Academy, the Cherry Hills Country Club, and other privately owned properties provide our community with a sense of open space. Without careful action by the Village, so much of what citizen’s treasure about the Village could easily disappearquickly. The Policy Subcommittee recommends as follows:

Move rapidly to protect and maintain lands in Cherry Hills Village identified in this report as Scenic Treasures.

Initiate immediate action to:

- protect important view sheds and sight lines
- buffer and protect the High Line Canal Trail, watersheds and other areas
- extend strategic trail linkages, as land becomes available
- educate citizens regarding the future uncertainty of water in the High Line Canal
- use state-of-the-art land planning tools such as conservation easements
- develop a clear understanding of costs and secure a plan to fund them
- consider adopting a View Shed Ordinance similar to the one adopted in Denver in the 1950s which protects strategic views of the mountains from the State Capitol, Washington Park, City Park, etc.

Contract with a land use consultant to help the Village achieve its Vision to preserve our semi-rural atmosphere, protect public lands, maintain long-range views, and update the Village’s master plan.

A land use consultant, with extensive national experience, did a preliminary evaluation of Cherry Hills Village’s ordinances in the fall of 2004. Many of the Village’s ordinances are not as protective as state-of- the-art ordinances in place around the country. In some instances, Cherry Hills Village has no ordinances to

achieve aspects of our Vision. City Council has taken important steps to begin this updating process. To achieve our goals, we recommend the Village continue to evaluate and update our ordinances.

The specialized nature of land use and open space planning is beyond the expertise of our committee of citizen volunteers, the Blue Ribbon Panel recommends that the Village, with citizen input, engage a specialized land use consultant. City Council has already taken steps to address important staffing needs in maintaining parks, trails and open space, but there is a further need for specialized expertise in land use planning. This consultant can work with the City Council, the Mayor and the City Manager, and with interested citizens, to develop appropriate ordinances consistent with the recommendations of this report. This consultant can advise the Village's public policy makers and staff about ways to realistically and rapidly implement the recommendations in this report.

Thinking into the future, preservation of long-distance views and the Village's sense of openness will bring enduring value to all properties in the Village. For public lands to maintain their distinct characteristics, some regulation of adjoining properties may be necessary, especially in the case of view corridors.

A review and revision of the Village's Master Plan is in order. Such a plan can and should provide the framework to implement the Vision. The Village has changed in many ways in the twelve years since the last official update of the Master Plan. Revision of the Master Plan consistent with the Vision of this report and with the direction of City Council will provide the roadmap for successful open space planning and preservation.

The BRP researched planning tools used by other communities with successful track records in preserving open space, trails and scenic vistas. The good news is that many tools are available, particularly if a community is creative and persistent in their application.

Information from other communities addressing similar issues is contained in the Appendix.

Analyze the feasibility of acquiring lands that offer unique and important contributions to the quality of life in the Village.

To acquire the kinds of lands described in this report, Cherry Hills Village must develop a budget and an acquisition strategy for lands that suddenly become available. The Village also needs a strategy for lands where longer-term planning is possible.

The Panel recommends that Cherry Hills Village take steps to further clarify costs and funding mechanisms to achieve citizen goals for open space preservation and acquisition. Because properties can go on the market at any time, the Village

must evaluate both the necessity and the feasibility of a bond measure to enable Council to acquire strategic properties -- which otherwise, are likely to be lost.

Because of the limited remaining opportunities to acquire land in the Village, coupled with per acre costs, the Panel recommends that steps be taken to understand voters' willingness to support a bond or other funding measure. For further discussion of funding issues and options, please refer to Chapter 4 of this report.

Form a citizens advisory committee to work with the City Council and staff on issues related to the implementation of this report.

Citizens in Cherry Hills Village have formed a non-profit organization dedicated to open space preservation; however our community's success cannot rely solely on the efforts of one non-profit organization.

Communities successful at open-space preservation have shown that the combined efforts of Village government and citizen committees, non-profit organizations, open space preservation experts and private investors play invaluable roles. More citizens should be included in this discussion.

A citizens advisory committee can serve as conduit for public input from the citizens to Council and can inform the public through articles in the Village Crier newsletter and the Cherry Hills Village website. Such two-way communication is essential to the Village's ability to achieve the Vision. The committee can use email to send targeted information to citizens who have indicated they want to be kept informed about Cherry Hills Village's open spaces. (The Parks and Trails Committee already has an extensive email list, which could be used as a base).

This group can also facilitate regular talks with adjoining municipalities, including Greenwood Village, Englewood, Denver and others, regarding issues of mutual interest, including lessons learned from effective ordinances and possibilities for shared maintenance agreements.

The Blue Ribbon Panel recommends that the Mayor, City Council and the City Staff conduct a town meeting to present the findings of the BRP and further educate members of the community about the opportunities and challenges facing community open lands and open space preservation in the Village.

Adopt public policies needed to achieve the Vision for the future of our parks, trails, open space and historic sites.

The policies subcommittee of the BRP began its task by asking, "what communities in the U.S. have been successful in preserving open space?" Subcommittee members had

phone conversations with organizations including Colorado Open Lands (COL); the Colorado Trust for Public Lands (TPL); current and former executives at Great Outdoors Colorado (GOCO); and others around the country. We also conducted internet research, and interviewed people in communities with open space preservation programs (see Appendix).

The strongest message we received was the importance of building strong coalitions. Whether they are public sector/private sector relationships; citizen and non-profit collaborations; enlisting the assistance of the municipality next door; working with interest groups -- communities with successful track records in land preservation have effective coalitions working together.

Catalogued below are many ideas that have been raised by citizens of Cherry Hills Village in support of the Vision for the future of our parks, trails and open spaces.

1. Aggressively research, adopt and enforce proven policies that protect and enhance:
 - a. lines of sight to preserve scenic view corridors, retain the natural landscape, sense of openness, and semi-rural character
 - b. the sense of CHV as a community
 - c. preserve continuity through trail and park connections in the Village
 - d. building and fence setbacks
 - e. restricted lot coverage
 - f. historic landmarks and treasures
 - g. habitats (provisions for wildlife, water and environmental corridors)
 - h. mature trees
 - i. public safety, including sanitation
 - j. freedom from light-pollution (seasonal and otherwise)
 - k. views towards mountains inhibited by berms, solid fences, trees planted too close to the street, or other elevation changes, and use setback requirements where mountain views will be blocked and consider power line placement underground to enhance views.
 - l. open space dedication (in CHV currently 7.5% some communities require up to 10%)

- m. ordinance reviews that address development of natural property and redevelopment of existing properties
- n.. pocket parks
- o. a conservation easement policy in CHV
- p. implementation of an Overlay View Protection District (OVPD) (Such a district can detail special restrictions and standards tailored to the specific areas identified for view protection.)

The BRP recognizes that many of the above items deal with private property. By working with private property owners, and enhancing the Village's ordinances, the above strategies could help to implement and preserve the Vision described in this report.

2. Place Blackmer Common in a conservation easement to ensure that it will remain public. This would involve identifying a suitable land trust partner (for example: South Metro Land Conservancy, Colorado Open Lands, or other) to hold a conservation easement on Blackmer Common. Land trust partners typically require an endowment to fund the monitoring of the terms of the easement over time.
3. Evaluate opportunities for the use of conservation easements to protect views, specific lands, trails, and to maintain "a sense of community".
4. Enhance communication with Village residents, for example: post notices with clearly described messages, use targeted computer lists of citizens who ask to be notified about specific topics, arrange earlier posting of Council meeting agendas and seek new ways to engage citizens in a two-way dialogue.
5. Update the Master Plan for CHV by April 2006 and regularly every 5 years thereafter. Provide a clear statement in the CHV Master Plan about goals for preservation of scenic vistas, and incorporate specific policies into the zoning ordinance, subdivision regulations and site plan review regulations that will enhance the aesthetic qualities that define the community and make it unique.
6. Utilize expert land conservation organizations and consultants who can assist our community as we implement our Vision for open space preservation. Time is of the essence. Cherry Hills Village should use the capacity and knowledge of these experts and organizations before it is too late.

Chapter 3

***“Many eyes go through the meadow, but few see the flowers in it”
Ralph Waldo Emerson***

INVENTORY SUBCOMMITTEE REPORT AND RECOMMENDATIONS

Preservation and Enhancement of Scenic Treasures

The BRP’s mission is to make recommendations to preserve and enhance our community’s assets for future generations. To accomplish this mission, the Panel followed a logical process of consulting with experts, studying demographics, surveying citizens, and creating an inventory all of the trails, open spaces, vistas and other areas of concern in the community. Then the Panel created a map, reflecting the scenic characteristics of our community. The map shows where the Blue Ribbon Panel has indicated features of value and the Scenic Treasures critical to our Vision of the future of Cherry Hills Village.

I. Criteria for Selection of Scenic Treasures

To determine what Scenic Treasures are most important in Cherry Hills, the Panel took an inventory of the significant features that we enjoy. We also reviewed the detailed work of the Village’s existing Parks and Trails Committee (a group of citizen volunteers) and studied our citizen survey results. As we completed the inventory, key features stood out. These features are listed below and indicated through different colors on the map on page 12 of this report.

Features of Value

*Scenic vistas;
Open spaces;
Scenic trails;
Wetlands, wildlife habitats and natural features; and
Trail connectivity.*

A. Scenic Vistas

Recognizing and preserving the visual quality of our community is the fundamental principle of the Panel’s recommendations. Special vistas and views of fields and other natural areas contribute significantly to quality of life and add to the value of property in our community.

B. Open Spaces

The Panel considered the various forms of open space (scenic roads, intimate open space along a creek bed, open meadow, mountain vistas seen across fields, etc.). Through this work, open space has been defined as a three-dimensional concept that includes all the space above the surface of the earth which is not occupied by structures.

C. Scenic Trails

The panel identified key *Blue Ribbon Trails* that tie our “island” to the larger metropolitan area system of parks and trails. These *Blue Ribbon Trails* comprise important linear open spaces linking the larger public and private open space lands, private clubs, schools and external trail access points. These particular trails were identified, in part, because of the frequency of use, connectivity and scenic enjoyment.

D. Wetlands, Wildlife Habitats and Natural Areas

The Panel has identified the historic drainages, wetlands areas, and other waterways as having significant value in part because of their attraction for wildlife and native vegetation. Many of these waterways and natural features (essentially lands that are not seriously disturbed by human activity) may contain native species not commonly found in an urban setting.

E. Trail Connectivity

The Panel recognizes that our “island” is a linchpin in the recreational and wildlife corridor between Cherry Creek and Chatfield State Parks. The significance of our geography mandates that we increase internal trail connections and external connections to neighboring recreational trails for easy recreational travel.

II. Preservation of Scenic Treasures

Scenic Treasures are specific geographic areas of great public interest because of the recreational and visual enjoyment they provide the public. The Panel recognizes the strategic importance of private property in this report. A high degree of Village cooperation with and respect for any and all landowners is vital to preservation of the scenic treasures listed below.

Identification of Scenic Treasures. Identifying these areas involved careful review of Blue Ribbon Trails, resident survey results, and a listing of the cherished views. We also studied the areas of remaining open space in the Village. Almost all of the Scenic Treasures are along a Blue Ribbon Trail and contain many of the features of value previously discussed.

A. The High Line Canal

The High Line Canal is the backbone of our entire system. This is “the primary destination point of the system” as evident through the strong and consistent use of this historic trail.

1. **Blackmer Common and the Surrounding Watershed.** The experience of walking the canal South of Quincy, past the privately owned pond and nature preserve, and then Southwest along Blackmer Common and the Kent Denver property is the highlight of our Village. This area has so many unique features and provides a very special recreational opportunity
2. **Three Pond Park and Its Surrounds.** Our community treasures Three Pond Park and the watershed area to the South of the park. This area contains all of the features the Panel hopes to preserve and protect in the Village.

RECOMMENDATIONS:

#1 Partner with Kent Denver to support efforts to ensure much of that property is retained in its natural state.

#2 Protect Blackmer Common as undeveloped, uncultivated open space, which is protected into perpetuity.

#3 Initiate a partnership with landowners buffering the Canal, Three Pond Park and Blackmer Common to create a plan to secure the preservation of undeveloped private open-space surrounding these Scenic Treasures.

#4 Modify Village building ordinances to address berms, fence heights and setbacks from the Canal and the height and footprint of residences or other buildings. Ensure that solid fencing will never be allowed along the Canal trail.

#5 Actively partner with other communities along the High Line Canal and with the Denver Water Board to preserve water flow.

B. Little Dry Creek

Little Dry Creek is an exceptional opportunity to enhance our parks and trail system. This area contains valuable internal and external connections that would greatly enhance recreational opportunities in the Village. The area contains many of the features of value as indicated on the attached map including natural features, exceptional wildlife habitat, historic water drainages and wetlands.

Description. In Cherry Hills Village, the south end of the trail begins at Belleview in Woodie Hollow Park. The Trail follows Little Dry Creek through Woodie Hollow Park north to the end of South Vine Way. If segments in this area can be acquired, there would be a continuous off-street trail to connect to trail #2043 traveling all the way to Quincy. Placing a trail along the northern part of Little Dry Creek becomes problematic here because Little Dry Creek runs through Cherry Hills Country Club and then through some highly developed neighborhoods. However, the value of a trail continuing along Clarkson St. where Little Dry Creek crosses is immense.

Crossing Clarkson at Kenyon Street allows connection to a well developed Englewood trail which continues on under all major streets, including Broadway, all the way to the new Englewood City Center, a commercial/residential/arts complex that also has a major Light Rail Stop. In addition, a passage over Santa Fe is planned by Englewood. This would allow external connectivity from Cherry Hills Village to the Mary Carter Greenway along the Platte River into Downtown Denver and South to Chatfield Reservoir.

RECOMMENDATIONS

#1 Share the Blue Ribbon Panel's Vision for the development of this trail and its many needed linkages with surrounding landowners.

#2 Establish a landowner's task force empowered to plan how this trail network can be completed.

#3 Compensate, when necessary, landowners for authorizing easements or land donations/dedications along this trail.

#4 Partner with Greenwood Village to develop an underpass under Belleview (the Village's Parks and Trails Committee has been working on this and Greenwood Village's Parks Committee may incorporate this project into their 2006 budget).

#5 Work with Urban Drainage to remedy the area of serious erosion along Little Dry Creek.

C. The East/West Wetlands Trail and View Corridor

As a scenic treasure, this trail and view corridor captures much of the historic beauty of our Village. The BRP recommends that this area be developed to create an internal sense of openness in the Village, to improve connectivity and to buffer Kent Denver and Blackmer Common.

Description. The two arms that form the eastern portion of this trail originate on Holly at Chenango and Pond Road. One arm begins along the existing trail on Pond Road; the other (further south) on existing trails #4952 and #4954. These two arms lead to, and converge on the High Line Canal and the open spaces at Blackmer Common. The Pond Road link exists, though a portion of it is over a private road and is currently dependent on the good will of the owner. The trails #4952 and #4954 exist, though about half of it exists as an on-street trail. There are potential opportunities along both links for open space protections. From John Meade Park the trail continues along Quincy and at the West end of the Village connects into the proposed northern end of the Little Dry Creek trail.

RECOMMENDATIONS

#1 Develop a task force, to include landowners, to recommend how this trail can be developed as a wide swath of open space that sweeps through the historic drainage areas in the Village.

#2 Establish a trail connection from trail #4634 through the open field on the north of the Glenmoor golf course and at the south end of Monroe Lane, to connect with the East-West trail #4526 leading to John Meade Park.

#3 Foster a coalition of governmental entities to support the building of a University overpass or underpass to connect the East and West sides of our Village.

D. Quincy, Holly Street and Colorado Blvd. Mountain View Corridors

These corridors expose breathtaking views of the Rocky Mountains through open fields and add dramatically to the daily experience of citizens and others.

Description: Quincy Mountain View Corridor

--First is the open space west of Holly and south of Quincy. These fields provide long views of two succeeding mountain backdrops, a spectacular view of Pikes Peak for ¼ mile between 5350 E. Quincy and South Dahlia and an exceptional view of the mountains directly to the west.

--The second area encompasses the large hay fields of Kent as seen along Quincy and from Colorado Blvd. This open space and the views afforded are a scenic respite in our Village. This scenic area and its expansive views of Pikes Peak to the southwest and the Front Range directly west are seen more frequently than any other scenic area in the Village.

--The third area is the open space and western views at John Meade Park.

Description: South Colorado Blvd. Entry Corridor

Those traveling Colorado Blvd, south of Mansfield into Cherry Hills Village, enjoy outstanding views to east and west of Three Pond Park and private natural wetlands areas. The road and on-street trail culminate at Quincy with an exceptional vista of Pikes Peak to the South through the pastoral fields of Kent Denver.

Description: Holly Street Corridor

Like the other corridors, Holly Street is widely used, contains an on street trail and affords sweeping western views to the mountains through natural open spaces.

Description: Cherry Lane Drive Vista

The vista of the Front Range from Dahlia Street looking west along Cherry Lane Drive is dramatic, private and endangered. This area meets the definition of distinctive area primarily due to this vista, but also it is a habitat for foxes, geese, coyote, hawks, owls and many other native species.

RECOMMENDATIONS

#1 Restrict the construction of solid walls along the west side of Colorado Blvd. and the West side of Holly Street.

#2 Maintain the rural feel of the streets (no curbs and gutters).

#3 Devise options to reduce non-local through traffic.

#4 Preserve these scenic view corridors through adoption of new regulations and zoning to address fences, landscaping, building height and setbacks, and berm limits.

III. Active Parks and Recreation

The BRP concluded that it is important and necessary to develop a Village Center as a central location for the citizens and community to gather. Without a neighborhood retail center or recreation center, community gathering in our Village is mostly limited to school activities, trail activities, and private gatherings.

Such a gathering place could include the following elements:

- Public meeting and/or function space,
- Coffee shop,
- Ping pong tables,
- Basketball area,
- Picnic areas,
- Playground areas,
- Open fields for “pickup games.”

In addition, the BRP supports the idea of activities such as a Saturday farmers' market in this expanded Village Center area. The BRP supports the Village in their efforts to continue to develop its current location at the corner of Quincy and Meade Lane into such a Village Center. This Village Center would facilitate citizen interaction, pride and community spirit. It is important that this be accomplished with citizen involvement.

Playing Fields

After review of the survey results and much discussion, the BRP has concluded that the construction and maintenance of additional playing fields within the Village is not necessary and would not be a good use of our limited resources. There are a large number of existing fields within and immediately adjacent to the community. These include, without limitation, the fields at Cherry Hills Village Elementary, Kent Denver School, St. Mary's Academy, West Middle School, Magna Charta Park and Thomas Jefferson High School. To create additional playing fields within the Village would require the purchase of a significant parcel of land and then require significant ongoing maintenance. Therefore, the BRP recommends that the Village negotiate any desired usage and the terms thereof with the current owners of the existing playing fields.

Recreation Center

With the exclusion from South Suburban, Cherry Hills Village has adopted a policy that allows the citizens of the Village to be reimbursed for the non-resident portions of the fees charged to them for their use of area municipal recreation centers. Because of this, developing our own recreation center would be unnecessary and impractical. CHV does not have the space or the resources for this kind of project.

Pocket Parks

We recommend that the Village support community efforts to create "Pocket Parks" in our neighborhoods. These would be local gathering areas for neighborhood use. By nature they would be small areas which could have any of the following characteristics: open space - natural fields which give a rural feel, places for children to play, habitat for wildlife, small playgrounds, or picnic areas.

We envision these areas to be neighborhood driven. Where neighborhood associations exist, the association could own and maintain these areas. The Village could joint venture with citizens of any given area to develop small, open areas within their neighborhood. Examples of neighborhoods where small, communal open spaces already exist are as follows:

Cherry Hills Farm

Buell Property (with Buell Lake and other small areas)

Cherry Hills Park and Sunset Drive
Cherry Lane Drive neighborhood

Since there is little communal play area in the Village, the BRP recommends supporting neighborhood efforts to establish small playgrounds in these areas or on other lands, if deemed valuable to the neighborhoods.

Equestrian Opportunities

The Village's semi-rural nature is perpetuated in part by use of our trails and open spaces by equestrians. The Panel recommends that the Village encourage this desirable use by preserving and improving existing equestrian spaces and connections between them and developing new opportunities for equestrian uses. We suggest that the Village request assistance from the equestrian community in assessing current trails and open spaces. All trails and open spaces designated for equestrian use should be analyzed for safety and ease of use. Some trails could, with minor modifications, be made more animal friendly. The Village is encouraged to seek guidance from the equestrian community in formulating policies and regulations that enable equestrians and other trail and open space users to co-exist in a safe and horse-friendly environment. There is a need for educational information, including public signage, on how to safely share our trails and open spaces with equestrians and non-equestrians alike. The panel suggests that the Village partner with the equestrian community to work on these objectives in keeping with the Village's Master Plan. Our community will lose a significant asset if equestrians are not encouraged to remain active users of our trails and open spaces.

RECOMMENDATIONS

#1 Partner with the current owners of existing play fields within and around the Village for limited use options.

#2 Build upon efforts to develop the Village Center as a central gathering area for citizens to gather, incorporating the following elements: coffee shop, public meeting and/or function space, mini recreational area, picnic areas, playground areas and open fields for "pickup games."

#3 Support neighborhood efforts to establish small playgrounds, if deemed valuable by those neighborhoods.

#4 Preserve and improve existing equestrian spaces and connections between them, including to Greenwood Village, and develop new opportunities; utilize the equestrian community for assistance in developing equestrian related policies and regulations which implement the Villages' Master Plan.

Chapter 4

“We simply need that wild country available to us, even if we never do more than drive to its edge and look in. For it can be a means of reassuring ourselves of our sanity as creatures, a part of the geography of hope.” Wallace Stegner

FUNDING SUBCOMMITTEE REPORT AND RECOMMENDATIONS

Funding: What Will The Vision Cost and How Will We Fund It?

To implement the Vision, current funding sources have been analyzed and we conclude that new funding sources must be developed. It will be necessary to create a blend of public, private charitable and individual funding and support, crafted to meet both short-term and long-range goals.

Summary of findings

The single most critical step we can take to ensure the Vision for Cherry Hills becomes reality is to create a preservation and acquisition fund. Such a fund would enable the Village to act decisively when open space becomes available. Once the Village has funds available, many options for preserving open space become available.

While the Panel has considered and discussed many sources of funding that can support the short-range and longer-term goals that City Council may adopt, the Panel is struck by the urgency of the Village’s immediate situation of rapidly dwindling open space and recreational opportunities on land within the Village, with no significant and dependable source of public funds for preserving these opportunities. “The City may have as much as \$500,000 per year [from funds that in previous years were paid to South Suburban Parks and Recreation District] for capital improvement projects, tax reduction or open space acquisition. This will depend on factors such as assessed value, interest rates, and actual availability of the monies. Clearly this is just an estimate and does not represent a promise that in the funds will be available or actually used for open space acquisitions”.¹

Our most significant and sizable investment in our future must be made now. Therefore, we recommend that the Village and citizens investigate additional

¹ Cheryl Kuechenmeister, CHV City Manager, email 3-17-05, in response to a question from the BRP: “What public funds, if any, is CHV likely to have each year for the next 6-10 years to contribute to the preservation of open space?”

funding. Because any increase in mill levy will need voter approval, this process needs to happen immediately in preparation for the November 2005 election.

Acquisition and Funding Sources

Funding and acquisition sources include: public measures (tax based funds, general obligation bonds and certificates of participation as well as grants from public agencies); privately based resources (donations, conservation easements and grants); and combinations of the two (joint ventures and partnership agreements premised on participation by both public entities and individual or charitable contributions/grants as well as publicly-approved, private agreements such as transfers of development rights).

Public Funding Sources and Acquisition Opportunities

Tax-based public financing measures are derived from new taxes (which would require voter approval) or allocations from current tax funds. Many of these funding sources currently available to the Village are not likely, in and of themselves, to produce significant reserves for open space acquisition, and certainly would not yield immediate resources adequate to commit to purchase of properties or conservation easements, although they could be used as a resource in joint venture and partnership opportunities, discussed later in this report.

Current Revenue Sources in Cherry Hills Village

Though not necessarily dedicated to public open space/preservation/recreation purposes at this time, current revenue sources in the Village, are:

1. **Mill Levy** - The current mill levy on Village property for open space and recreational purposes is 7.134. This is paid to South Suburban Recreation District (“South Suburban”) through calendar year 2005. In 2004, based upon taxes paid in 2003, this produced about \$1.6 million in revenue to South Suburban.² At this time it is difficult to project what revenues will be available beginning January 1, 2006 as a result of Cherry Hills Village’s exclusion from South Suburban Parks and Recreation District.

² Effective January 1, 2005 CHV is excluded from the District. This means that “during 2005, [residents] will continue to pay the full mill levy to South Suburban. This is due to the fact that taxes are collected in arrears, meaning that the taxes [residents] pay in 2005 are actually 2004 taxes. [However,] in 2006, [residents] will pay a portion of the mill levy to South Suburban to cover the outstanding general obligation debt that was approved when the Village was still a part of the District. This portion of the mill levy will continue to be collected by the District until the outstanding debt is paid in full in 2019. The amount will be set annually based on the Village’s proportionate share of the District’s assessed value. Also in 2006, the portion of the mill levy not collected by the District will be collected by the Village for park and recreation purposes [or reduction in property taxes or purchase of open space]. This measure was voted on and approved by the residents of Cherry Hills Village in November of 2002.” (See letter dated December 29, 2004 from Cheryl M. Kuechenmeister, Village Manager, to CHV residents, see Appendix) It is important to note, however, that beginning in 2006 the portion of the mill levy to be retained by CHV will be reduced by whatever amount is court ordered as payment for South Suburban physical assets within CHV, a part of the exclusionary process. CHV has appealed the current court-ordered payment of about \$9.66 million. (See Kuechenmeister letter.)

2. **Sales Tax** - The Village's current sales tax is 3.5%, payable on tangible personal property and services. The sales tax generated \$471,001 in revenues in 2004 and was distributed to the General Fund. Sales tax in the Village is a low revenue source due to the small number of retail/commercial establishments and low volume of sales within Village boundaries. This revenue source could be larger if there is increased commercial development (made possible, in part, by rezoning certain properties). Increased commercial development and anticipated higher volumes of sales taxes are long-term planning issues.

3. **Use Tax** - Cherry Hills Village's current use tax is 3.0%, collected on automobiles at the time of registration. The use tax generated \$863,820 in revenues in 2004. These revenues are distributed to the General Fund.

4 **Conservation Trust Fund** - The Colorado State Constitution, as amended in 1992, states that 40% of the net proceeds of the Colorado Lottery are allotted to the Conservation Trust Fund (CTF) for distribution to municipalities, counties and other eligible entities for parks, recreation and open space purposes. (Colo. Const., Art. XXVII, sec.3.) CTF is one of three funds established to accomplish these goals. The other two funds are the Great Outdoors Colorado Trust Fund (GOCO) grant program and funding for the State Parks program. The Department of Local Affairs distributes Conservation Trust Fund (CTF) monies from net Lottery proceeds to over 425 eligible local governments: counties, cities, towns, and eligible Title 32 special districts that provide park and recreation services in their service plans.

Funding can be used for the acquisition, development, and maintenance of new conservation sites or for capital improvements or maintenance for recreational purposes on any public site. CHV received approximately \$27,000 from this source in 2004. The funding from year to year has been relatively stable and is tied directly to the state lottery income. The CTF monies will be automatically distributed to CHV every year until 2009 (when this program is scheduled to "sunset" (terminate).

5. **Arapahoe County Open Space Program** - Beginning January 1, 2004, Arapahoe County was authorized by a vote of county residents to collect a 0.25% sales tax for preservation, enhancement and protection of open space within the county. This tax will continue through December 31, 2013.

Share-back funds from Arapahoe County: The county returns to CHV, on a per capita basis, funds received from collected sales and use taxes. CHV has

received about \$82,491.22 from this program to date. These funds are placed in CHV's Parks and Recreation Fund (30) to be used for specific purposes as outlined in Arapahoe County resolution no. 030381.³

Eligible projects must:

- a. Preserve urban and rural open space and natural areas
- b. Protect lands that preserve water quality in rivers, lakes and streams
- c. Provide, maintain and improve neighborhood parks, open space, sports fields, picnic facilities and biking, walking and multi-use trails
- d. Protect wildlife habitat and corridors
- e. Protect views, vistas and ridgelines
- f. Preserve agricultural and ranch lands
- g. Enhance and maintain designated heritage areas

Grant Program in Arapahoe County: The County also has a grant program that is funded from this sales tax. Eligible entities may apply for two grants each year up to \$250,000 each and must provide at least 25% matching funds. The grant projects must also meet the specific purposes outlined above.

6. Land dedication - This is a non-tax-based public measure to increase open space. Currently Cherry Hills Village requires that 7.5% of the gross area of any property within the Village that is subdivided be dedicated to open space, or that money be paid to the Village in lieu of the land dedication. This resource should be maximized to ensure that the Village is receiving an equitable amount of land as development occurs, to help maintain the open rural feeling of the Village, and that Cherry Hills Village receives a reasonable amount of money in lieu of any land dedications. The Village should work with the developer to insure that the land that is dedicated is both desirable and placed so that it enhances views and preserves the semi-rural feel of the Village.

Revenues from some of the above sources potentially could benefit parks, trails and open space opportunities within Cherry Hills Village either on an on-going "pay as you go" basis or on a limited, project-by-project basis. Some revenues certainly could be dedicated as matching or "partnership" dollars for specific projects funded through grants from private foundations or other public agencies. However, the foregoing sources of revenue are not sufficient to meet the Village's compelling and immediate need for funds to acquire open space. Current land prices within the Village approximate \$750,000 for one acre and slide to \$500,000 per acre for large parcels of property.

Additional Revenue Sources Recommended by Panel In order to have the capacity to acquire land as part of a village-wide plan for preservation and enhancement of open space and recreational opportunities, Cherry Hills Village needs to create (as soon as possible) a fund capable of responding to current real estate market conditions. .

³ Open Space & Trails Advisory Board, Resolution no. 030381, June 17, 2003, Arapahoe County Commissioners.

1. General Obligation Bonds.

Upon issuance, bond funds would be immediately available to the Village for the purchase of real property meeting criteria for acquisition established by the City Council. The Panel believes this public source of funds is the Village's only option for meeting the urgent need to preserve and protect the remaining open space within Cherry Hills Village and is the quickest method for developing a responsive capacity of the Village to acquire land. To illustrate the impact of a bond measure, debt service on \$25 million bond for 15 years at 5.2% interest would be \$2.32 million annually. This would amount to a mill levy of 8.8 based on current assessed property values. (As noted above, the current mill levy paid to South Suburban is 7.134.)

The Panel recommends that the Village assess the feasibility of a bond measure to acquire land. Specifically the Village needs to understand the cost per person of various bond levels and the specific elements of a park, trail and open space program that have the greatest community support. In addition, it is in the best interest of the Village to survey residents prior to placing any measure on the ballot.

The earliest opportunity to have this matter considered is November 2005. As such the Panel recommends that Cherry Hills Village take immediate steps to investigate this option.

The Trust for Public Land ("TPL") has developed a phased approach to the assessment, development and implementation of a public finance measure. TPL's services are offered at reasonable costs when coupled with funds from other partner-donors. Please see Appendix H, page 179 for details of TPL's expertise and phased approach to assessing and supporting a public finance measure. The Panel recommends that TPL be utilized in this process.

2. Certificates of Participation.

Along with public financing of Cherry Hills Village's open space-viewshed-recreation acquisition objectives by means of issuance of a bond and increase in mill levy to service the debt, Certificates of Participation are a municipal financing tool used to raise money for such things as capital building and acquisition of land. However, when Certificates of Participation are used, the municipality does not incur a debt obligation, as is the case with the issuance of bonds. Certificates of Participation are secured only by the municipality's yearly appropriations, not by long-term debt of the municipality. For instance, property tax revenues received as a result of the Village's exclusion from South Suburban

Parks and Recreation District could provide a revenue stream to fund the certificates. These instruments are sold to investors at a specified rate of return.

3. Public and Private Charitable Funding Sources

In the long-term, Cherry Hills Village must seek and blend a variety of public and private funding sources in order to achieve the Panel's recommended courses of action. Many grant programs require matching dollars, so partnering with various organizations will be critical for continued success.

Private and public grant sources.

Grant monies and donations from both public and private charitable organizations and foundations are especially accessible for project-specific requests in which a funder is one of several partners, and the recipient can demonstrate meaningful local commitment of funds. In this light, some of the Village's revenues may be needed to leverage private and public grants. Examples of private and public grant sources are listed in the Appendix.

Great Outdoors Colorado Trust Fund (GOCO)

Established in 1992, Great Outdoors Colorado Trust Fund (GOCO) receives its funding solely through Lottery revenues. GOCO uses proceeds to fund open space, local parks and recreation, state parks, wildlife protection, and environmental projects. More than \$338.8 million has been distributed to GOCO through the end of 2003 through the following grant categories: *Legacy Initiative projects*: Legacy projects are of regional or statewide significance. They are large-scale, multi-year projects. *Local Government grants*: Competitive grants are awarded to counties, municipalities and special districts to acquire, establish, expand, and enhance park, outdoor recreation and environmental education facilities. *Open Space grants*: Competitive grants are awarded to non-profit land conservation organizations, local governments, Colorado State Parks and the Colorado Division of Wildlife for projects that protect land and natural areas. *Wildlife grants*: GOCO funds efforts to preserve and protect Colorado's wildlife through the Colorado Division of Wildlife. *Trails grants*: Projects that build, enhance, maintain or expand trails around the state receive GOCO funding through the Colorado State Trails Program. *Planning & Capacity Building grants*: These competitive grants help develop plans to preserve or enhance open space, parks and outdoor recreation or to help build the capacity of organizations to do so. The Village has not yet applied for a GOCO grant.

Land preservation organizations, public land trusts.

Charitable organizations recognized by the IRS as tax exempt under section 501(c)(3), that are committed to conservation, preservation and enhancement of open space can provide valuable assistance to Cherry Hills Village. Grant monies

and donations from these organizations can help fund the Village's planning phases as well as analysis and support of public finance measures. Funds from these sources also could be utilized for acquisition of open space, view corridors and recreational opportunities and for monitoring easements in gifting conditions on land donated to the Village. The Village must actively seek the assistance of and partnership with these organizations in order to achieve its goals. Many of these organizations also provide information and counseling resources to land owners considering conservation easements and land donations as part of their estate and tax planning. (See Appendix for listing of some of these organizations, and for additional details of assistance available through Colorado Trust for Public Lands on public finance measures.)

4. Individual, Family Based and other Not-for Profit Funding and Planning Tools

Many individuals, trusts, family foundations and not-for-profit organizations are committed to preserving and enhancing open space and conservation values related to privately owned land. This commitment can be encouraged and rewarded by taking advantage of certain tax and estate planning benefits, and emphasizing benefits which a not-for-profit organization can receive by transferring a conservation easement to the Village or a land preservation organization. Methods for achieving the landowner's specific needs are numerous and include transfers of all rights to a property by donation, and transfers of conservation easements by gift, by sale or by a combination of the two (for example through a charitable remainder trust).⁴ Acquisition of land by donation and/or conservation easement will form the bedrock for important site-specific projects within Cherry Hills Village.

Land donations.

Landowners may want to preserve or protect a significant aspect of their property. Land donations can be outright, immediate gifts with or without reservation of a life estate for the donor. Land also can be donated by testamentary gifting or through a trust. Donations must meet the Village's approved objectives prior to acceptance by the Village.

Transfer of Development Rights (TDR)

The use of Transfer of Development Rights (TDR) is typically applied in urban settings and involves valuation of land based on density entitlement, also known as floor area ratio (FAR). Reallocation of existing density based on zoning entitlements can serve the interests of the community as a whole. TDR could be used in Cherry Hills Village to balance the needs of various property owners with the public interest. For example, Parcel A (a 10-acre site located along a major

⁴ "Alternatives to Donating a Conservation Easement," Joan B. DI Cola, *Estate Planning*, 31 Est. Plan. 489, October 2004.

view corridor and public open space) is zoned for 5 homes, a 2:1 acre to density/home ratio. The owner of Parcel B (a 2-acre home site) would like to build two homes on the site. Citizens of the Village have expressed strong interest in maintaining the 10-acre site as open space. Through the use of TDR, and with owner agreement and Village approval, the owner of Parcel B could purchase some of the development rights (density entitlement) of one of the home sites on Parcel A, thereby increasing the density on Parcel B to 2 home sites of 1-acre each. Although the density increases on Parcel B, it is reduced on Parcel A and the net average of homes allowed in the Village is unchanged while open space and view corridors are enhanced and benefit the entire community.

Conservation easements

It is hoped that this measure will provide some of the most significant private support of Cherry Hills Village's long-range plans for increased open space and viewsheds. "Conservation easements are voluntary restrictions on the use of land negotiated by the landowner and the organization chosen by the landowner to 'hold' (enforce) the easement. The purpose of a conservation easement is to protect some aspect of the land that has a conservation value."⁵

In addition to protecting property in a natural state, conservation easements can be attractive to property owners because they can provide potential tax benefits. In order to qualify for a federal income tax deduction, an easement must be donated in perpetuity. It must also be given to a qualified organization such as a land trust or historic society or a public agency (i.e., a charitable organization exempt under section 501(c)(3) of the federal Internal Revenue Code or a governmental entity). And the easement must be given exclusively for conservation purposes. Further, in Colorado, the property owner can also receive a credit against his or her state income tax.

The Internal Revenue Code allows tax deductions in five resource categories. These are:

- 1) public recreation and/or education;
- 2) significant natural habitat;
- 3) scenic enjoyment;
- 4) historic preservation; and
- 5) pursuant to Federal, State, or local government conservation policy.

Not surprisingly, some of the above categories coincide with those this Panel has identified as "Features of Value" characteristics which make a property one that is worth protecting. The categories listed above which our Scenic Treasures are most likely to fall under, or those features which our Scenic Treasures are most

⁵ "New Estate Tax Relief for Land Under Conservation Easement," C. Timothy Lindstrom and Stephen J. Small, Tax Notes, March 2, 1998.

likely to demonstrate are those having significant natural habitat and offering scenic enjoyment. (The latter category would especially apply to properties adjacent to trails because they are enjoyed by trail users.)

Within the last few years, conservation easements have come under closer scrutiny by the IRS to make certain they do indeed demonstrate conservation values; as one conservation easement appraiser noted, “The line between protecting someone’s backyard and protecting something with real conservation value can be a thin one.”

A local government with a stated conservation of open spaces policy which is consistent with federal and state standards and which identifies particular properties as being those which a governmental entity would like to preserve, can almost certainly help a property (which meets one or more of the other criteria) qualify for a conservation easement.

The properties recommended in this report as Scenic Treasures can serve both as the basis for updating the parks and trails portion of the Village’s Master Plan and as the basis for a Village policy which will help lend support to potential conservation easements

Conservation easements are transfers of a landowner’s rights in perpetuity. Colorado recognizes conservation easements for the purposes of “retaining or maintaining . . . land, water, airspace, or water rights, including improvements, predominantly in a natural, scenic, or open condition, or for wildlife habitat, or for agricultural, horticultural, wetlands, recreational, forest, or other use or condition consistent with the protection of open land, environmental quality or life-sustaining ecological diversity, or appropriate to the conservation and preservation of buildings, sites, or structures having historical, architectural, or cultural interest or value.”⁶

In order to receive income or estate tax benefits, the donor must convey the conservation easement to a qualified recipient (either a governmental entity or a charitable organization exempt under section 501(c)(3) of the federal Internal Revenue Code).⁷ The credit available against state income tax is “one hundred percent of the first one hundred thousand dollars of the fair market value of the donated portion of such conservation easement in gross when created, and forty percent of all amounts of the donation in excess of one hundred thousand dollars . . .” up to a maximum credit of \$260,000 per donation. Credit not needed to offset current income taxes can be carried over for up to 20 succeeding income tax years and the donor can sell unused tax credit to other taxpayers.⁸

The easements are monitored and managed by either the governmental agency as

⁶ Colorado Revised Statutes, 38-30.5-102.

⁷ Colorado Revised Statutes, 39-22-522 and 38-30.5-104(2).

⁸ Colorado Revised Statutes, 39-22-522.

recipient of the easement, or by a charitable land preservation organization. Conditions of the easement or gift that are important for the Village to scrutinize include retained rights of the landowner (the “residual estate”) including ingress/egress rights and physical areas or space excluded from the easement. Generally, it is not necessary to the validity of the easement that the public have physical access to the property covered by the easement.

Trail Easements

Cherry Hills Village currently has a policy concerning development of recreational easements within the Village. (See Sec. 17-5-60. Recreation easements.) This policy does not address funding issues or requirements of developers.

Use Agreements, Leases and Long Term Payouts

The Village can contract for the right to use privately held property for specific purposes and lengths of time, with or without an option to buy provision. The Village also can contract to purchase a property with payments spread over several years.

Land preservation organizations

Many of these 501(c)(3) organizations provide information and counseling resources to land owners considering conservation easements and land donations as part of their estate and tax planning.

To the extent that each person can feel like a naturalist, the old excitement of the untrammelled world will be regained. I offer this as a formula of re-enchantment to invigorate poetry and myth: mysterious and little known organisms live within walking distance of where you sit. Splendor awaits in minute proportions.

Edward O. Wilson

Chapter 5 Appendices

A.	The Charge to the BRP and Mission Statement	Appendix Page1
	Resolution 2-2004 Formation of the Blue Ribbon Panel	3
	Mission Statement 7-28-04	
B.	Participants	
	Resolution 9-2004 Appointment of the Blue Ribbon Panel	4
	Blue Ribbon Panel members (contact information)	5
C.	Experts Consulted	
	Land use planners, public policy experts, volunteer experts with relevant experience	6
D.	Articles written about BRP	8
E.	Citizen Survey	
	Citizen survey sent out in the Village Crier	12
	Survey results	14
F.	Background Materials for Policies Report	
	<i>Because they are voluminous, the following documents are on file w/the City Manager.</i>	
	<u>View Protections</u>	
	Preservation of Scenic Areas and Viewsheds - NH Office of Energy & Planning	19
	View Plane Ordinance - City of Denver, CO	27
	Identify and Protect Scenic Vistas and View Sheds - Scenic America	38
	Ridgeline Protection Ordinance - Town of Castle Rock, CO	40
	View Zoning - Boulder County, CO	55
	<u>Land Development Options</u>	
	Lot widths, setbacks, open space development, overlay zoning, greenways. Van Buren County	57
	<u>Lot Coverage and Building Regulations</u>	
	Building Coverage – Woodside, CA and Bedford, NY	60
	Height Regulations - Chagrin Falls, OH	63
	<u>Fences, walls and berms</u>	
	Fences, Walls, Gates, Pylons and Berms – Woodside, CA	64
	Construction of Berms - Cherry Hills Village, CO	72
	<u>Sense of Community/Rural character</u>	
	Preserve Rural Character – Ashby, MA and Richmond, WY	73

<u>Wetlands</u>	
Environmental Planning for Wetlands – Summit County, CO	76
<u>Trees</u>	
Community Trees - Iowa State University	81
Tree Ordinance – Bedford, NY	85
<u>Floodplain Management</u>	
Floodplain Management – Muncie, IN	89
<u>Park and Recreation Boards</u>	
Parks, Trails and Recreation Commission - Greenwood Village	99
Parks and Recreation Advisory Board – Westminster, CO	107
<u>Dog area</u>	
Standards for Dog Exercise Areas – Arlington County, VA	111
<u>Equestrian Policies</u>	
Trails Etiquette - Greenwood Village, CO	116
<u>Neighboring Municipalities</u>	
Meeting notes from conversation with Director of Greenwood Village’s Parks, Trails and Recreation Department	118
<u>Citizen Participation</u>	
Civic Participation in Land Use Planning	122
Town of Dunn (WI) Land Use Plan and Open Space Preservation	126
G. Background Materials for Inventory Report	
Map of CHV (see Executive Summary)	
H. Background Materials for Funding Report	
Letter from Cheryl Kuechenmeister – December 29, 2004	130
Arapahoe County Open Space – Resolution No 030381	131
Westlaw - 489 Alternatives to Donating a Conservation Easement	147
New Estate Tax Relief for Land under Conservation Easement -Tax Notes March 1998	155
CRS 38-30.5-102: Conservation Easements	169
CRS 38-30.5-104: Creation of Conservation Easements	171
CRS 39-22-522: Credit Against Conservation Easements	176
Technical Assistance Services for Conservation Finance Measures – Colorado Trust for Public Lands (TPL)	179
Public and private grant sources	180
Colorado Coalition of Land Trusts - Member Listing	181
Conservation Options 101 Cherry Hills Village – TPL	187
Conservation Trust Funds Memo- from TPL to Cherry Hills Village	191
Conservation Trust Fund Overview – Department of Local Affairs Colorado	193
GOCO Overview – Great Outdoors Colorado	195

Transferable Development Rights and Their Application in Colorado	
– The Colorado Lawyer, March 2005	197
Colorado Constitution Article XXXVII, Section 3	204

I. The minutes of BRP Committee Meetings are on file with the City Manager