



**PLANNING COMMISSION  
A G E N D A  
January 15, 2009**

**Notice is hereby given of a Public Meeting to be held before the City of Wheat Ridge Planning Commission on January 15, 2009, at 7:00 p.m., in the City Council Chambers of the Municipal Building, 7500 West 29th Avenue, Wheat Ridge, Colorado.**

*Individuals with disabilities are encouraged to participate in all public meetings sponsored by the City of Wheat Ridge. Call Heather Geyer, Public Information Officer at 303-235-2826 at least one week in advance of a meeting if you are interested in participating and need inclusion assistance.*

- 1. CALL THE MEETING TO ORDER**
- 2. ROLL CALL OF MEMBERS**
- 3. PLEDGE OF ALLEGIANCE**
- 4. APPROVE THE ORDER OF THE AGENDA (Items of new and old business may be recommended for placement on the agenda.)**
- 5. APPROVAL OF MINUTES – December 18, 2008**
- 6. PUBLIC FORUM (This is the time for any person to speak on any subject not appearing on the agenda. Public comments may be limited to 3 minutes.)**
- 7. PUBLIC HEARING**
  - A. Case No. ZOA-08-07 (continued from December 18, 2008): An ordinance amending Chapter 26 concerning amendments to development plans.**
  - B. Case No. ZOA-08-08 (continued from December 18, 2008): An ordinance amending Chapter 26 concerning City-initiated rezonings.**
- 8. OTHER ITEMS**
  - A. Resolution Designating a Public Place for Posting of Notices of Public Meetings**
  - B. Postponement of Case No. WPA-08-02**
- 9. ADJOURNMENT**



**PLANNING COMMISSION  
Minutes of Meeting  
December 18, 2008**

**1. CALL THE MEETING TO ORDER**

The meeting was called to order by Chair BRINKMAN at 7:00 p.m. in the City Council Chambers of the Municipal Building, 7500 West 29<sup>th</sup> Avenue, Wheat Ridge, Colorado.

**2. ROLL CALL OF MEMBERS**

Commission Members Present:

Anne Brinkman  
Jim Chilvers  
John Dwyer  
Dick Matthews  
Davis Reinhart  
Jerry Scezney  
Kim Stewart  
Steve Timms

Staff Members Present:

Ken Johnstone, Community  
Development Director  
Meredith Reckert, Senior Planner  
Jeff Hirt, Planner II  
Ann Lazzeri, Recording Secretary

**3. PLEDGE OF ALLEGIANCE**

**4. APPROVE THE ORDER OF THE AGENDA**

It was moved by Commissioner MATTHEWS and seconded by Commissioner DWYER to approve the agenda as presented. The motion passed unanimously.

**5. APPROVAL OF MINUTES – November 20, 2008**

It was moved by Commissioner MATTHEWS and seconded by Commissioner STEWART to approve the minutes of November 20, 2008 as presented. The motion passed 6-0 with Commissioners REINHART and TIMMS abstaining.

**6. PUBLIC FORUM** (This is the time for any person to speak on any subject not appearing on the agenda.)

There was no one to address the Commission at this time.

## 7. PUBLIC HEARING

- A. **Case Nos. WZ-08-08 (rescheduled from December 4, 2008 due to lack of quorum):** An application filed by Coors Brewing Company to establish zoning of Agricultural-One (A-1) for land recently annexed into the City of Wheat Ridge generally located west of Lot 9 of Cabela's/Coors Subdivision, north of Clear Creek and south of State Highway 58 at Indiana Street extended.

The case was presented by Meredith Reckert. She entered all pertinent documents into the record and advised the Commission there was jurisdiction to hear the case. Staff recommended approval because there would be no detrimental impact on properties in the area.

Chair BRINKMAN asked if there were members of the public who wished to address this matter. The applicant was present and indicated his agreement with the staff report from the audience. No other individuals were present to address the Commission. The public hearing was closed.

**It was moved by Commissioner STEWART and seconded by Commissioner DAVIS to recommend approval of Case No. WZ-08-08, a request for approval of A-1 zoning for vacant property recently annexed to the City located west of Lot 9 of the Cabela's/Coors Subdivision, north of Clear Creek and south of Highway 58, at Indiana Street extended for the following reasons:**

1. **Zoning must be in place within 90 days of annexation.**
2. **There will be no detrimental impact on properties in the area due to the A-1 zoning.**

**The motion passed 8-0.**

- B. **Case No. ZOA-08-09:** An ordinance amending Chapter 26, Article VIII concerning floodplain administrator decision-making authority and floodplain development standards.

The case was presented by Jeff Hirt. He entered all pertinent documents into the record and advised the Commission there was jurisdiction to hear the case. He reviewed the staff report and digital presentation. Staff recommended approval of the draft ordinance.

Current regulations lack flexibility with regard to fences in the floodplain. Additionally, the title of city engineer would be removed and replaced with the current title of director of Public Works and Floodplain Administrator.

There was discussion about breakaway fences. Mr. Hirt stated that his understanding was the fences would be anchored and then lay flat if hit by debris. The fences would not add to flood debris. Staff recommended that any fence in the floodplain must still obtain a Class I exception permit, but it would be at the Floodplain Administrator's discretion as to whether or not it must be elevated one foot above base flood elevation or of breakaway design.

Chair BRINKMAN asked if there were members of the public who wished to address this matter. Hearing no response, she closed the public hearing.

**It was moved by Commissioner MATTHEWS and seconded by Commissioner REINHART to recommend approval of the proposed ordinance amending Article VIII of Chapter 26 concerning floodplain administrator decision-making authority and floodplain development standards. The motion passed 8-0.**

**C. Case No. ZOA-08-06: An ordinance amending Chapter 26 concerning zoning district boundary discrepancies and interpretations.**

The case was presented by Jeff Hirt. He entered all pertinent documents into the record and advised the Commission there was jurisdiction to hear the case. He reviewed the staff report and digital presentation. Staff recommended approval for reasons outlined in the staff report. The ordinance proposes amendments to how the Code addresses properties with multiple zone district boundaries or zone district boundary discrepancies. There are numerous properties in the city that contain multiple zoning district boundaries or have zone district boundary discrepancies. These situations present substantial challenges to developing or redeveloping the properties.

In response to a question from Commissioner DWYER concerning the rationale for removing these decisions from the Board of Adjustment, Mr. Hirt stated that the administrative option would take less time than going through the Board of Adjustment process and there would still be adequate oversight. If a neighbor wants to appeal an administrative decision, the appeal would go before the City Council.

Commissioner DWYER commented that he is familiar with the problems caused by split zoning and expressed appreciation to the staff for drafting an ordinance to better address these situations.

There was discussion about the proposed provision for the Community Development Director to administratively amend the zoning map if the adjustment does not extend the zone district boundary more than 50 feet. Mr. Hirt stated that staff could take a closer look at some of the split zone lots in the city to see how the 50 foot limit would apply.

There was also discussion about how staff arrived at the 50 foot maximum for an administrative zone district boundary adjustment. The Commission concluded that 50 feet was an appropriate number to stay within the limits of a minor administrative adjustment.

Chair BRINKMAN asked if there were members of the public who wished to address this matter. Hearing no response, she closed the public hearing

**It was moved by Commissioner DWYER and seconded by Commissioner MATTHEWS to recommend approval of the proposed ordinance amending Chapter 26 of the Code of Laws concerning zoning district boundary discrepancies and interpretations. The motion passed 8-0.**

**D. Case NO. ZOA-08-07 (to be continued to January 15, 2009): An ordinance amending Chapter 26 concerning amendments to development plans.**

**It was moved by Commissioner MATTHEWS and seconded by STEWART to continue Case No. ZOA-08-07, an ordinance amending Chapter 26 concerning amendments to development plans to the January 15, 2009 Planning Commission public hearing. The motion passed 8-0.**

**E. Case No. ZOA-08-08 (to be continued to January 15, 2009): An ordinance amending Chapter 26 concerning City-initiated rezonings.**

**It was moved by Commissioner DWYER and seconded by Commissioner REINHART to continue Case No. ZOA-08-08, an ordinance amending Chapter 26 concerning City-initiated zone changes to the January 15, 2009 Planning Commission public hearing. The motion passed 8-0.**

## **8. ADJOURNMENT OF REGULAR MEETING**

**It was moved by Commissioner REINHART and seconded by Commissioner STEWART to adjourn the regular meeting to study session at 7:58 p.m. The motion passed 8-0.**

Because the next scheduled meeting of the Planning Commission falls on New Year's Day, the next meeting will be held on January 15, 2009.

## 9. STUDY SESSION

The study session was convened at 8:03 p.m.

Policy recommendations on several short term zoning code amendments are requested by staff from the Planning Commission prior to bringing them forward in ordinance form. These amendments include (1) extended stay lodging; (2) planned development amendments; (3) city-initiated rezonings; (4) accessory buildings on commercial property; (5) residential density; and (6) residential zone district development standards.

Comments from the Commission included:

- Communication should be initiated with the hotel/motel community regarding proposed changes regarding extended stay lodging. The definition of the land use should clearly be distinguished from other similar uses.
- Approval in writing for proposed Planned Development amendments should be required from approximately 25% of the property owners, in addition to the owner requesting an amendment.
- Agreed with city-initiated rezoning concept as presented including eliminating size thresholds and allowing this process to any zone district.
- Agreed that more flexibility for accessory buildings is desirable with limitations and architectural standards. Additionally, the possibility of using the Planned Building Group process to accomplish this goal was discussed.
- Agreed to move forward with matching city charter density requirements within the PRD and PMUD zone districts. Architectural standards are very important when considering residential density.
- Agreed that staff should take a comprehensive approach to modifying residential development standards, not just setbacks.

## 10. ADJOURNMENT OF STUDY SESSION

The study session was adjourned at 9:53 p.m.

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Anne Brinkman, Chair

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Ann Lazzeri, Secretary

**MEETING DATE: January 15, 2009**

**TITLE: AN ORDINANCE AMENDING CHAPTER 26 CONCERNING  
AMENDMENTS TO DEVELOPMENT PLANS IN PLANNED  
ZONING DISTRICTS**

**CASE NO. ZOA-08-07**

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PUBLIC HEARING  
 RESOLUTION

CODE CHANGE ORDINANCE  
 STUDY SESSION ITEM

Case Manager: Jeff Hirt

Date of Preparation: January 8, 2009

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**SUMMARY:**

The attached ordinance proposes amendments to the procedures for amending planned developments as set forth in Section 26-311 of the Code of Laws. Specifically, the consent required from property owners in the planned development to submit an application for any type of amendment. The changes can be briefly summarized as follows:

- Eliminating required consent from *all* property owners in the entire planned development for any property owner to make application for any type of amendment proposed.
- Requiring written authorization of 25 percent of the property owners in a planned development to make application for any type of outline development plan amendment proposed. Outline development plan amendments are those that are more significant in nature and require the same process as the original approval.
- Requiring only written authorization from the property owner where the amendment is being proposed for any type of final development plan amendment. Final development plan amendments are less significant in nature and generally do not impact the character of the development plan, and are administrative approvals.

Notice for this public hearing was provided as required by the Code of Laws.

## **BACKGROUND:**

Planned developments are essentially individual zone districts, each with their own unique set of characteristics including development standards, uses, and architectural standards. As stated in Section 26-301A of the Code of Laws, the intent is to provide “greater flexibility and innovation in land development based on a comprehensive, integrated plan”.

Once a planned development is approved, including the required outline and final development plans, any variation from the approved plans typically requires an amendment to the development plan. Some planned developments provide some flexibility to vary from approved standards, but many that are already approved do not have this built in to adapt to changing conditions over time. There are two types of planned development amendments set forth in the code – outline development plan and final development plan amendments.

### **Outline Development Plan (ODP) Amendments**

These amendments are processed the same as the original approval required – which is essentially the same process as a rezoning. Any proposed amendment that exceeds the limitations set forth in Section 26-311B requires this process – including any increase in authorized floor areas, changes in the allowable uses, decreases in setbacks, alterations to required buffering, and increases in height to any structures.

### **Final Development Plan (FDP) Amendments**

FDP amendments may be approved administratively without a required public hearing(s). These types of proposed amendments are generally minor in nature and must stay under the limitations for an outline development plan amendment as described above. Examples of final development plan amendments include changes in landscaped areas and changes to architectural details that do not impact the overall character of the development.

*In order for any property owner in a planned development to apply for either type of amendment, consent from all property owners in the planned development is required. There are a significant number of approved planned developments throughout the city (see Exhibit 1). Many of these have multiple properties with multiple property owners that have changed hands through time. For instance, the 44<sup>th</sup> Industrial Park planned development has over 20 different property owners, not including all of the condominiumized units.*

## **RATIONALE FOR AMENDMENT**

Market conditions change and property owners change within approved planned developments over time. For instance, the site plan and uses that may have been approved in a planned development 20 years ago may not reflect current market conditions for a specific property. Typically, in order to make improvements to a property in a planned development that do not adhere to the strict guidelines in the planned development an amendment is required. With the required consent from all property owners, this becomes problematic for those planned developments that have fragmented ownership.

Staff is not proposing any changes to the outline or final development plan amendment procedures.



For outline development plans, there would still be the required neighborhood meeting where property owners within 600 feet are notified and required public hearings as if the application was a new rezoning request – including all the necessary posting, publishing, and mailing requirements to property owners in the vicinity. Final development plans would still be an administrative approval as long as the application stays within the limitations set forth in Section 26-311C.

The rationale behind the 25 percent approval for ODP amendments from property owners in the planned development is to require a general approval of the request before making application so some level of consensus is established prior to the public hearing stages. Reducing the consent required from 100 percent to 25 percent will present less of a burden on the applicant to proceed with the request.

The rationale behind eliminating required consent from other property owners in the planned development to make application for a FDP amendment is that the application represents a request that is minor in nature, and having such consent required may be onerous for a property owner looking to make minor improvements in a planned development.

It is important to note that staff has left the language in that addresses other circumstances where the amendment may have an impact on the planned development. Specifically, where the amendment affects “the provisions for access, drainage, utilities and/or circulation, affected property owners must consent to the application for amendment in writing” per Section 26-311A. Additionally, note that staff has not suggested any changes to the provisions that allow variances to single and two family properties in planned developments without processing an amendment.

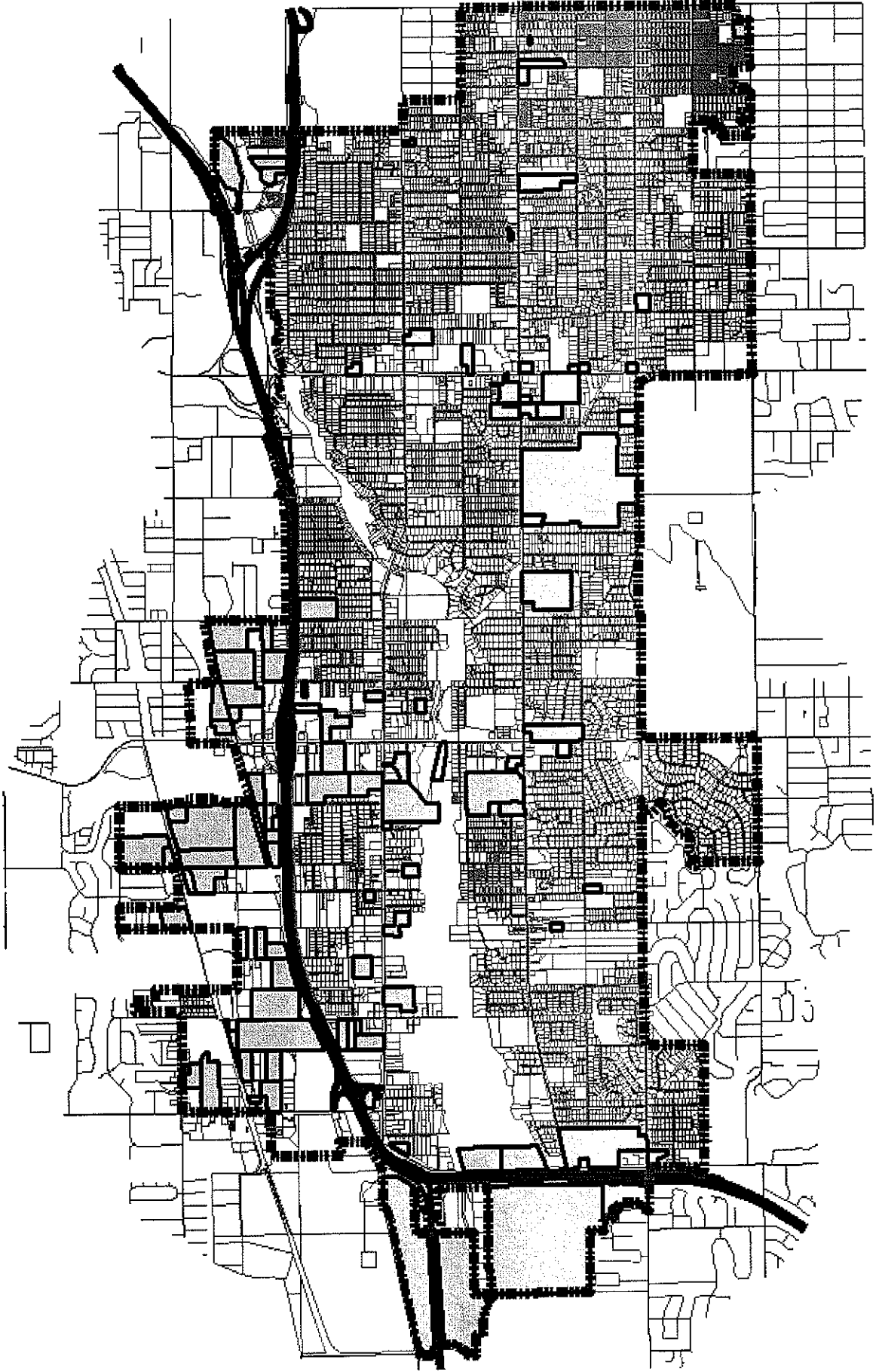
**RECOMMENDED MOTION:**

“I move to recommend approval of the proposed ordinance amending Chapter 26 concerning amendments to development plans.”

**Exhibits:**

1. Planned Development Citywide Map
2. Proposed Ordinance

**EXHIBIT 1: PLANNED DEVELOPMENT CITYWIDE MAP**



# EXHIBIT 2: PROPOSED ORDINANCE

CITY OF WHEAT RIDGE, COLORADO  
INTRODUCED BY COUNCIL MEMBER \_\_\_\_\_  
Council Bill No. \_\_\_-2008  
Ordinance No. \_\_\_\_\_

Series of 2008

**TITLE:** AN ORDINANCE AMENDING CODE OF LAWS SECTION 26-311 OF CHAPTER 26 CONCERNING AMENDMENTS TO DEVELOPMENT PLANS IN PLANNED ZONING DISTRICTS(CASE NO. ZOA-08-07)

WHEREAS, the City Council of the City of Wheat Ridge is authorized by the Home Rule Charter and the Colorado Constitution and statutes to enact and enforce ordinances for the preservation of the public health, safety and welfare; and

WHEREAS, the City Council of the City of Wheat Ridge finds that the proposed amendments provide a useful tool to encourage redevelopment in current and future planned developments; and

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE, COLORADO:

**Section 1:** Section 26-311 of the Code is amended to read:

**Sec. 26-311. Amendments to development plans.**

A. The procedures and requirements for amending an approved development plan (outline or final) shall be the same as prescribed for original approval, except as provided for under subsection (C) below. All applications for amendment to an outline development plan must be approved in writing by at least 25 percent of the all owners of real property contained within the area originally approved by the outline development plan, unless specific alternative provisions have been approved by city council as part of the unified control agreement.<sup>1</sup> All applications for amendment to a final development plan must be approved in writing by only the property owner for the property where the amendment is being requested all owners of real property and owners of interest contained within the parcel or phase of the planned development where the amendment is being requested. Amendments may be initiated by any property owner within an approved development plan or by the city in accordance with Section 26-311. If the amendment affects the provisions for access, drainage, utilities and/or circulation, affected property owners must consent to the application for amendment in writing.<sup>2</sup>

1 NOTE: At the direction of the Planning Commission, we have revised this language as shown for outline development plans. Final development plan amendments are administrative and generally do not effect the character of the planned development, therefore we suggest eliminating consent from other property owners in the planned development for these types of amendments.

2 NOTE: We suggest keeping this statement in to cover any relevant easements or agreements (access, utilities, drainage, etc) that may affect adjacent property.

B. *Outline development plan amendments.* Amendments to the underlying outline development plan are required and will be processed the same as prescribed for original approval if any one (1) of the following is proposed:

1. Increase in the gross floor area of structures beyond the authorized maximum allowed on the approved outline development plan.
2. Proposed land uses are not permitted on the approved outline development plan.
3. Increase in density or intensity of use.
4. Decrease in perimeter setbacks.
5. Reduction in required buffer areas.
6. Increase in height of any structures.

C. *Final development plan changes.* A final development plan may vary from the approved outline development plan so long as the thresholds for an outline development plan amendment are not met as set forth in subsection B above. Variations include, but are not limited to, re-orienting buildings and parking lots, changes in landscaping areas, changes in architectural details, changes to interior setbacks and similar changes that do not affect neighboring properties or the overall character of the development. At no time can approval of a final development plan result in any increase beyond a maximum development standard or any decrease below a minimum development standard listed on the outline development plan. If any of these conditions occurs, the outline development plan must be amended as described in subsection B. Once a final development plan is recorded, any amendment requested that complies with the limitations of this subsection B shall be processed in the manner prescribed for original approval.

D. Any changes or revisions to an outline or final development plan which are approved, either administratively or by city council action, must be recorded with the Jefferson County Recorder as amendments to the original recorded development plan subject to the deadline provisions of subsection 26-308.D.4.d.

E. *Variances.* Variances to the strict application of development standards established by an outline development plan may be requested only for properties within single- and two-family planned residential developments, following the applicable administrative or non-administrative variance process as prescribed in section 26-115.

(Ord. No. 2001-1215, § 1, 2-26-01; Ord. No. 1319, § 1, 4-12-04; Ord. No. 1383, § 6, 5-14-07)

**MEETING DATE: January 15, 2009**

**TITLE: AN ORDINANCE AMENDING CHAPTER 26 CONCERNING  
CITY-INITIATED ZONE CHANGES**

**CASE NO. ZOA-08-08**

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PUBLIC HEARING  
 RESOLUTION

CODE CHANGE ORDINANCE  
 STUDY SESSION ITEM

Case Manager: Jeff Hirt

Date of Preparation: January 8, 2009

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**SUMMARY:**

The attached ordinance proposes amendments to the procedures for city-initiated zone changes as set forth in Section 26-113 of the Code of Laws. Specifically, the applicability of the procedure relative to the current size limitations and restrictions on what type of zone change the process may be used for. The changes can be briefly summarized as follows:

- Removing the restriction that in order to be eligible for this process, the subject property(s) must be at least 5 separate parcels or 5 acres in area.
- Removing the restriction that the process may only be used for a zone change to a less intensive zone district.

Notice for this public hearing was provided as required by the Code of Laws.

## **BACKGROUND:**

In order to understand the scope of the proposed changes, it is important to explain the two different types of zone changes in the current Code of Laws as it relates to a city-initiated zone change.

### **Private Rezoning (Section 26-112)**

This is the most common rezoning request handled by the Community Development Department. This procedure may be initiated by any applicant with consent from the property owner. The main difference between this procedure and the city-initiated rezoning procedure is with regards to the applicability – private rezonings for property over 1 acre or to any nonresidential zone district must be to a planned development. With this are the requirements for an outline and final development plan, along with the corresponding documents and public hearings.

### **City-Initiated Rezoning (Section 26-113)**

This procedure is not commonly used, due in large part because of the large size limitations and restrictions on what zone district(s) may be utilized. The process is very similar to that of a private rezoning, including utilizing the same review criteria in the decision-making process, a required neighborhood meeting, and the legal protest provision. The main difference is that under the current code, the process may only be used for large area, multiple property rezonings and only to less intensive zone districts. Specifically, properties that are either at least 5 acres in total size or 5 separate parcels. The rezoning process may only be used for “downzonings”, such as from industrial to commercial, or commercial to residential.

### **Legal Protests**

The Code of Laws provides for legal protests for both private rezonings and city-initiated zone changes. This process basically states that if the owners of 20 percent or more of property on one side within 100 feet of the subject property file a written protest, a super majority (3/4) vote of city council is required to pass the zone change, as opposed to a simple majority. Staff is not proposing to eliminate any of these provisions.

### **History**

This section of the Code of Laws was adopted in 1996 with the general intent to restrict the allowance for “upzonings” to higher density residential zone districts on a citywide basis as part of any city-initiated rezoning process.

A city-initiated “downzoning” was approved in 1996. The Panorama Park neighborhood (33<sup>rd</sup> and Fenton vicinity) was subject to a mass rezoning that rezoned properties with existing single family homes from R-3 to R-1C and duplex properties from R-3 to R-2. Vacant R-3 properties and existing properties with multi-family dwellings were not included. Roughly 330 properties were involved. Property owners were able to “opt out” of this process if they wished.

Another mass rezoning was undertaken in 1998 which impacted properties generally bounded by Parfet and Miller and W. 38<sup>th</sup> and W. 41<sup>st</sup> Avenues. 115 properties were rezoned from R-3 to R-1B and R-1C based on lot size. Again, property owners were able to “opt out” of the process. Both of these mass rezoning efforts were initiated by the Council representatives from those districts with concurrence from City Council.

Related to the intent of this regulation as adopted in 1996, in 2001 Section 26-117.C was adopted with regards to the assembly of land for multi-family development. Specifically, this section restricts the ability for an applicant to consolidate two or more lots that are zoned R-3 or R-3A for the purposes of multifamily development, unless the predominant adjacent land uses are existing multifamily. Staff is currently evaluating this provision for a potential amendment but has not arrived at any specific recommendation at this time.

### **RATIONALE FOR AMENDMENT**

City-initiated rezonings can be a proactive way to encourage private sector redevelopment and implement subarea plans. There are many properties, particularly along the city's commercial corridors (e.g., Wadsworth, Kipling, 38<sup>th</sup> Ave, 44<sup>th</sup> Ave) and within adopted subarea plans that do not have zoning in place to accommodate desirable redevelopment. A private rezoning process typically takes a minimum of 6 months with little certainty as to the outcome of the process. The prospect of an applicant having to go through this process presents substantial challenges for the city to implement this redevelopment as set forth in the adopted Neighborhood Revitalization Strategy (NRS) and other subarea plans.

As the city is trying to encourage both nonresidential and residential investment, removing the restriction that a city-initiated zone change may only be to a less intensive zone district will provide a tool for the nonresidential element if the city wished to utilize it. The proposed amendment would allow the city to initiate a rezoning to any zone district with this process. Additionally, removing the size restriction would allow the city to focus not just on large areas and multiple properties – but on smaller scale sites in need of redevelopment.

The current city-initiated zone change provisions do not require property owner consent for the application, or for approval of the request. For example, the two rezoning examples above did not require property owner consent. Section 26-113.B.1.c requires that all property owners in the proposed zone change area must be notified at least 15 days prior to the hearing. It is important to note however that there is a legal protest provision where if more than 20 percent of the property owners in the proposed zone change area file a written objection, the approval requires a  $\frac{3}{4}$  vote by city council to be approved, rather than a simple majority. Additionally, if more than 20 percent of the property owners adjacent to the proposed change (within 100 feet) file a written objection, the same  $\frac{3}{4}$  vote is required.

Staff is not proposing to change either the current property owner consent or legal protest provisions for this process. We have however suggested adding language clarifying that property owner consent on the application is not required with a city-initiated rezoning.



**RECOMMENDED MOTION:**

“I move to recommend approval of the proposed ordinance amending Chapter 26 concerning city-initiated zone changes.”

**Exhibits:**

1. Proposed Ordinance

# EXHIBIT 1: PROPOSED ORDINANCE

CITY OF WHEAT RIDGE, COLORADO  
INTRODUCED BY COUNCIL MEMBER \_\_\_\_\_  
Council Bill No. \_\_\_-2008  
Ordinance No. \_\_\_\_\_

Series of 2008

TITLE: AN ORDINANCE AMENDING CODE OF LAWS SECTION 113 OF  
CHAPTER 26 CONCERNING CITY INITIATED ZONE CHANGES  
(CASE NO. ZOA-08-08)

WHEREAS, the City Council of the City of Wheat Ridge is authorized by the Home Rule Charter and the Colorado Constitution and statutes to enact and enforce ordinances for the preservation of the public health, safety and welfare; and

WHEREAS, the City Council of the City of Wheat Ridge finds that the proposed amendments provide a useful tool to encourage redevelopment as outlined in the adopted Neighborhood Revitalization Strategy and adopted subarea plans; and

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE, COLORADO:

**Section 1:** Section 26-113 of the Code is amended to read:

**Sec. 26-113. City-initiated rezoning.**

A. *Applicability.* This rezoning procedure applies to ~~city-wide and large-area, multiple-property rezonings initiated by city council. Applications for city-initiated rezonings may be made with or without consent from affected property owners. City-initiated rezonings may be to any zone district. In the event of a city-initiated zone change to a planned development district, the procedures in Section 26-308 shall be followed for the outline and final development plan, excluding the required authorization from property owners. In the event of an amendment to a planned development district, the procedures set forth in Section 26-311 shall be followed, excluding the required authorization from property owners.~~ To be eligible for this procedure, ~~large-area, multiple-property rezoning must include at least five (5) separate ownership parcels or at least five (5) acres in total combined area. Large-area, multiple-property rezoning is permitted under this section only in order to rezone property to a less intensive (lower) zone category; for example, from Commercial One (C-1) to Restricted Commercial (RC), or from Residential Three (R-3) to Residential One (R-1). Rezoning to any agricultural zone district from any other zone district shall not be considered a rezoning to a less intensive zone category.~~

1 NOTE: This statement clarifies the current code provisions for property owner consent with city-initiated zone changes, as this is not clearly spelled out but implied with Section 26-113.B.1.c below.  
ZOA-08-08/City-Initiated Zone Changes

B. *Procedure and notice:*

1. *General.* The city council may, at a regular or special meeting, initiate this rezoning procedure by adoption of a resolution setting forth the general area of the proposed rezoning, stating the intended purpose and objectives to be achieved by the rezoning, and referring the matter to the planning commission for a public hearing and recommendation.

a. Prior to any public hearing before the planning commission, the city shall be required to hold a neighborhood meeting according to the requirements of section 26-109A. (See section 26-109A. for requirements).

b. *City-wide rezoning:* Where a city-wide or comprehensive rezoning has been initiated by the council, notice shall include publication of a public hearing notice in a newspaper of general circulation at least fifteen (15) days prior to the date of the public hearing, which notice shall include a description of the proposed rezoning and a map which illustrates the geographic extent of the proposed rezoning.

c. ~~All other city-initiated rezonings~~ *Large area, multiple property rezoning:* A ~~city-initiated large area, multiple property~~ rezoning shall, in addition to the newspaper notice required by subsection ~~b~~ <sup>a</sup> ~~above~~ of this paragraph, be noticed by certified mail notice sent to all owners of record of real property included within the area to be rezoned at least fifteen (15) days prior to the date of public hearing.

2. *Planning commission action.* The planning commission shall hear and consider any evidence or statement presented by city staff or by any person in attendance at the hearing. The planning commission shall make a recommendation to city council to approve, approve with modifications or deny the rezoning proposal. The commission's recommendation shall be based upon the facts presented in the public hearing in consideration of the criteria for review specified in section 26-112 ~~D~~(d).

3. *City council action.* Upon receipt of the planning commission's recommendation, the city council shall hold a public hearing on the proposal. The hearing conducted on second reading of the proposed rezoning ordinance shall satisfy this requirement. Notice of the hearing shall be the same as for the planning commission hearing; however, publication of the ordinance on first reading, together with ~~any~~ the required map, shall meet the newspaper publication requirement. The city council, in addition to consideration of the planning commission record, shall hear additional evidence and testimony presented and either approve, approve with modifications, or reject the ordinance. The city council shall base its decision upon all evidence presented, with due consideration of the criteria for review set forth under section 26-112.D.

In the event of a protest against such change of zone, signed by the owners of twenty (20) percent or more of the area:

1. Of the property included within the proposed change; or
2. Of those immediately adjacent to the rear or any side of the property, extending one hundred (100) feet from the property; or
3. Of those directly opposite across the street from the property, extending one hundred (100) feet from the street frontage of such opposite property, such change shall not become effective except by the favorable vote of three-fourths (3/4) of the entire city council. Where land within the area

proposed for change, or adjacent or opposite land, as defined above, is owned by the City of Wheat Ridge, such property shall be excluded in computing the required twenty (20) percent, and owners of non-city land within the one-hundred-foot limit, as defined above, shall be considered adjacent or opposite despite such intervening city land. The written protest to such change shall be submitted to the city council no later than the hearing on the proposed rezoning.  
(Ord. No. 2001-1215, § 1, 2-26-01; Ord. No. 1316, § 2, 1-12-04)



## Memorandum

**TO:** PLANNING COMMISSION

**THROUGH:** Ken Johnstone, Community Development Director

**FROM:** Kathy Field, Administrative Assistant

**DATE:** January 9, 2009

**SUBJECT:** Resolution Designating a Public Place for the Posting of Notices of Public Meetings

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Pursuant to legislative amendments to the Colorado Open Meeting Law as Section 24-6-402(2)(c), Planning Commission is to annually designate at its first meeting for each calendar year a public place for the posting of notices for meeting. By properly designating a place for posting meeting notices, a public entity will be deemed to have given full and timely notice of any meeting so long as notice thereof was posted as the designated place at least twenty-four hours in advance thereof.

Attached is Resolution 01, Series of 2009, which identifies the bulletin board in the lobby of the Municipal Building as the designated place for posting of meeting notices.

### Attachment

1. Resolution 01, 2009

**CITY OF WHEAT RIDGE PLANNING COMMISSION  
RESOLUTION NO. 01  
Series of 2009**

**A RESOLUTION ESTABLISHING A DESIGNATED PUBLIC  
PLACE FOR THE POSTING OF MEETING NOTICES AS  
REQUIRED BY THE COLORADO OPEN MEETINGS LAW**

WHEREAS, the Planning Commission of the City of Wheat Ridge, Colorado, deems it in the public interest to provide full and timely notice of all of its meetings; and

WHEREAS, the Colorado state legislature amended the Colorado Open Meetings Laws, Section 24-6-401, *et seq.*, C.R.S. to require all "local public bodies" subject to the requirements of the law to annually designate at the local public body's first regular meeting of each calendar year, the place for posting notices of public hearings no less than twenty-four hours prior to the holding of the meeting; and

WHEREAS, "local public body" is defined by Section 24-6-402(1)(a) to include "any board, committee, commission, authority, or other advisory, policy-making, rule-making, or formally constituted body of any political subdivision of the state and any public or private entity to which a political subdivision, or an official thereof, has delegated a governmental decision-making function but does not include persons on the administrative staff of the local public body".

**NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Wheat Ridge, Colorado, that:**

1. The City's official bulletin board for legal notices located in the lobby of the Municipal Building shall constitute the designated public place for the posting of meeting notices as required by the Colorado Open Meetings Law.
2. The Community Development Director or his designee shall be responsible for posting the required notices no later than twenty-four (24) hours prior to the holding of the meeting.
3. All meeting notices shall include specific agenda information, where possible.

**DONE AND RESOLVED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2009.**

\_\_\_\_\_  
CHAIR, PLANNING COMMISSION

ATTEST:

\_\_\_\_\_  
Secretary to the Planning Commission  
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## Memorandum

**TO:** Planning Commission

**THROUGH:** Ken Johnstone, Community Development Director

**FROM:** Kathy Field, Administrative Assistant

**DATE:** January 9, 2009

**SUBJECT:** Postponement of Case No. WPA-08-02

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The following case will not be presented at the January 15<sup>th</sup> Planning Commission meeting as published in the Wheat Ridge Transcript on January 8. Once rescheduled, it will be published again.

**Case No. WPA-08-02:** A resolution adopting an amendment to the City of Wheat Ridge Comprehensive Plan.