



**PLANNING COMMISSION
A G E N D A
July 1, 2010**

Notice is hereby given of a Public Meeting to be held before the City of Wheat Ridge Planning Commission on July 1, 2010, 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 – June 3, 2010**
- 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 HEARINGS**
 - A. Case No. ZOA-10-03: An ordinance amending Articles II and VI of Chapter 26 concerning accessory buildings on properties with commercial and industrial zoning.**
- 8. OTHER ITEMS**
 - A. Mixed Use Zone District Project Update**
- 9. ADJOURNMENT**



PLANNING COMMISSION

Minutes of Meeting

June 3, 2010

1. CALL THE MEETING TO ORDER

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

2. ROLL CALL OF MEMBERS

Commission Members Present:

Anne Brinkman
Alan Bucknam
Marc Dietrick
John Dwyer
Dick Matthews
George Pond
Steve Timms

Commission Members Absent:

Dean Gokey

Staff Members Present:

Meredith Reckert, Sr. Planner
Sarah Showalter, Planner II

3. PLEDGE OF ALLEGIANCE

4. APPROVE THE ORDER OF THE AGENDA

It was moved by Commissioner DWYER and seconded by Commissioner BUCKNAM to approve the order of the agenda. The motion carried 7-0.

5. APPROVAL OF MINUTES – May 20, 2010

It was moved by Commissioner BUCKNAM and seconded by Commissioner DWYER to approve the minutes of the May 20, 2010 meeting as presented. The motion carried 6-0 with Commissioner DIETRICK 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 present who wished to address the Commission at this time.

7. PUBLIC HEARING

- A. **Case No. ZOA-10-01:** An ordinance amending Article VII of Chapter 26 concerning off-premise identification signs, community event/sponsorship banners, and signs in the public right-of-way.

This case was presented by Sarah Showalter. She entered all pertinent documents into the record and informed the Commission there was jurisdiction to hear the case. She reviewed the staff report and digital presentation.

Commissioner POND asked how size criteria was developed. Ms. Showalter replied that sizes were determined primarily on actual requests and determining a size that would fit best with them and similar future requests. Staff was reticent to set a standard that would allow any large commercial sites in the city to put up off-premise signs, so the size for major activity centers was intended for large, regional shopping centers only. Master sign plans for developments would be reviewed by Planning Commission.

Commissioner BUCKNAM asked if staff had consulted with the Jefferson County School District regarding size and duration of banners. Ms. Showalter explained that school properties were not part of the original ordinance and it might be a good idea to consult with the school district regarding time and size limitations. Private schools are exempt.

Commissioner BRINKMAN expressed concern about time limitations for banners and stated that she believed that the 7-acre requirement should be reduced. She also recommended considering lowering the 150-acre requirement.

Ms. Reckert reminded the Commission that businesses and quasi-public uses are allowed to have one banner at all times.

Commissioner TIMMS asked if the city attorney had reviewed the language in the amendment as it relates to Colorado Revised Statutes. Ms. Showalter stated that the city attorney did review the language but would make sure he also reviewed it in light of CRS statutes.

Commissioner TIMMS expressed concern that exceptions for signs in the public right-of-way could turn into becoming the norm. Ms. Showalter stated that while most jurisdictions have no criteria for this situation, Wheat Ridge has a set of specific criteria in the proposed code to restrict these types of signs so that they are only allowed in limited circumstances.

Commissioner DWYER expressed concern that criteria seemed to be developed based on actual situations and not necessarily on all the possible scenarios that could arise in the future. He also asked why highway signage is not allowed for urban renewal areas. Ms. Showalter explained that it was an attempt to reduce the

amount of highway signs. Ms. Reckert also explained that any business within ¼ mile of a freeway is allowed a 50-foot sign in the current code.

Commissioner BUCKNAM suggested removing the words “wood or metal” in describing material used in a pole supporting a sign. The type of pole material should not be designated.

Commissioner POND asked if the ordinance allows for variances. Ms. Showalter stated there is language in the master sign plan that allows flexibility for Planning Commission to make exceptions to the standards.

Commissioner MATTHEWS expressed concern about acreage criteria. When there is only one site in the entire city that meets those criteria, it is getting close to quasi-judicial. He suggested that there should be at least two or three sites that would meet that criteria.

Commissioner MATTHEWS asked how regulations apply to bus benches on public rights-of-way. Ms. Showalter explained that the sign code has specific regulations for bus benches that would not be changed. Public Works Department works with RTD on these issues.

It was moved by Commissioner TIMMS and seconded by Commissioner BUCKNAM to divide the question and vote on the following issues separately: (1) Off-Premise Identification Signs; (2) Community Event/Sponsorship Banners; and (3) Signs in the Public Right-of-Way. The motion passed 7-0.

Commissioner TIMMS expressed concern about the balance between community aesthetics and the rights of businesses to advertise in an effective way. It is important to be flexible but he was not sure if the ordinance adequately addresses the issues. He stated that he would not support numbers 1 and 3. He agreed with Commissioner POND that pole sign regulations could result in more monument signs that are more permanent.

It was moved by Commissioner BRINKMAN and seconded by Commissioner DWYER to recess the meeting at 8:05 p.m. The motion carried 7-0.

(The meeting was reconvened at 8:15 p.m.)

- Off-premise identification signs were discussed.

Commissioner POND stated that the flexibility allowed through master sign plans lessen his concern about acreage criteria.

Commissioner BRINKMAN expressed concern about the arbitrary nature of acreage designations. Commissioner BUCKNAM shared her concern. He would be more comfortable if there were a map or listing of multiple sites where this designation would be applicable.

Commissioner DWYER expressed similar reservations as Commissioners BRINKMAN and BUCKNAM. The entire first section seems targeted to a very limited number of places. He would like to see this matter studied further.

It was moved by Commissioner TIMMS and seconded by Commissioner DWYER to deny the amendment to Article VII, Chapter 26 of the Wheat Ridge Code of Laws regarding off-premise identification signs. The motion carried 5-2 with Commissioners BRINKMAN and POND voting no.

- Community Event/Sponsorship Banners were discussed.

Commissioner BUCKNAM stated that he would be in favor of this item with the condition that staff consult with the School District to create appropriate size, time and event restrictions for banners placed on district property and to include the District's recommendations regarding final specifications. This would allow the District to better meet its needs.

Ms. Showalter commented that any modifications made as a result of discussions with the School District could be added to the proposed ordinance before it goes before City Council for discussion.

It was moved by Commissioner BUCKNAM and seconded by Commissioner DWYER to recommend approval of the amendment to Article VII, Chapter 26 of the Wheat Ridge Code of Laws regarding community event/sponsorship banners with the following condition: In order to allow the Jefferson County School District to meet their needs, and to maximize the opportunity to generate awareness of school programs, events and sponsorship opportunities, staff must consult with the Jefferson County School District to create appropriate size, time and event restrictions or banners placed on School District property and include the School District's recommendation in any final specifications regarding the same. The motion carried 7-0.

- Signs in the public right-of-way was discussed.

Commissioner BUCKNAM asked what would happen with existing pole signs in the right-of-way. Ms. Showalter stated that they would be legal nonconforming signs.

It was moved by Commissioner DWYER and seconded by Commissioner BRINKMAN to approve the amendment to Article VII, Chapter 26 of the

Wheat Ridge Code regarding signs in the public right-of-way as written. The motion carried 5-2 with Commissioners TIMMS and DIETRICK voting no.

8. CLOSE PUBLIC HEARING

Chair MATTHEWS closed the public hearing at 8:26 p.m.

It was moved by Commissioner DWYER and seconded by Commissioner POND to adjourn the regular meeting to study session. The motion carried 7-0.

The regular meeting was adjourned to study session at 8:28 p.m.

9. STUDY SESSIONS

A. Mixed Use Zoning (continued from 5-20-10)

Staff started an update and discussion on the second draft of mixed use zoning at the 5-20-10 meeting. Since there was not sufficient time to finish the discussion, it was continued to this meeting.

Staff requested discussion and feedback from the Commission on the following items:

1. Auto-oriented uses
2. Gas stations and build-to requirements
3. Mixed use requirements for mixed large sites over five acres.
4. Residential transitions: height restrictions
5. Development review process: fully administrative
6. Parking maximums
7. Provisions for nonconforming properties

There was agreement that it makes sense to keep gas stations as a conditional use in MU-C interstate. Where gas stations are allowed, "build-to" can be met through a combination of a perimeter wall and a canopy. There was some uncertainty about leaving gas stations as non-permitted use in TOD areas. There was general discussion about whether all of 38th Avenue, or just certain nodes, should be designated MU-N.

Regarding mixed use requirements, there was general agreement that "mixed use" really means a mix of uses. It was suggested that there should be a notification period and neighborhood meeting for developments over ten acres.

It was agreed that it makes sense to keep parking maximums. There should be requirements for bicycle parking.

B. Commercial Accessory Structures

There was agreement that shipping containers would be allowed in industrial zones but must be screened. Shipping containers would not be allowed in commercial zones. Small sheds up to 120 square feet would be allowed on commercial properties. It was recommended that they do not have to be consistent with the primary building materials. Types of building material should be flexible rather than restrictive. Maximum height should be twelve feet. Sloped roofs could be recommended but not required. Sloped roofs are mainly a concern in residential zone districts, but not commercial or industrial.

10. ADJOURNMENT

It was moved by Commissioner DWYER and seconded by Commissioner BRINKMAN to adjourn the study session at 10:25 p.m. The motion carried 7-0.

Dick Matthews, Chair

Ann Lazzeri, Secretary

MEETING DATE: July 1, 2010

**TITLE: AN ORDINANCE AMENDING ARTICLES II AND VI OF CHAPTER 26
CONCERNING ACCESSORY STRUCTURES ON PROPERTIES WITH
COMMERCIAL OR INDUSTRIAL ZONING**

CASE NO. ZOA-10-03

PUBLIC HEARING

CODE CHANGE ORDINANCE

Case Manager: Sarah Showalter

Date of Preparation: June 24, 2010

SUMMARY:

The attached ordinance proposes an amendment to the zoning code to allow the construction of accessory buildings and structures on properties with commercial or industrial zoning.

Currently, the zoning code does not allow any property within a commercial or industrial zone district to construct an accessory building, such as a storage shed or garage. The proposed code amendment would allow accessory structures on such properties, subject to regulations regarding size, placement, maximum number, and design/screening. The proposals in the attached ordinance represent input from a study session with Planning Commission on June 3, 2010.

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

BACKGROUND:

Chapter 26 of the Wheat Ridge Municipal Code does not allow any property with commercial or industrial zoning to have an accessory structure on site. This provision has been in place since 2001. There are several commercial and industrial property owners in Wheat Ridge who have expressed interest in building an accessory building, most often to meet storage needs. Currently, the only option for such owners is to receive a Temporary Use Permit, which lasts for a period of one year only.

There are some commercial and industrial properties in the city that already have legal nonconforming or illegal accessory structures, often shipping containers, on their property. A provision in the code allowing for accessory structures in commercial and industrial zones would provide a viable, legal option for property owners to construct accessory buildings.

Several jurisdictions in the Denver metro area allow for accessory structures on commercial and

industrial properties. Of 12 local municipalities researched by staff, 11 allowed for accessory buildings within commercial and industrial districts. Most jurisdictions include regulations on the size, maximum number, placement, and design of accessory structures to ensure that they do not dominate a property or have an aesthetic impact on neighboring properties and adjacent streets.

RATIONALE FOR AMENDMENT

The intent of the attached ordinance is to provide a viable option for property owners in industrial and commercial zone districts to build accessory structures on their property. The proposed ordinance would set minimum standards for accessory buildings to ensure that they are appropriately placed and designed and that they do not have a negative visual impact on the surrounding area. Enabling the construction of accessory structures in commercial and industrial districts would meet the needs of many existing and future businesses in the City, and was a recommended code amendment based on the Neighborhood Revitalization Strategy (NRS).

The proposed regulations include the following items:

- Size limit: the total floor area of all accessory structures may not exceed 50% of the floor area of the primary structure. In no case may an individual accessory structure exceed 500 SF.
- Max number: 1 for commercial districts; 2 for industrial districts
- Location: May only be located in the required rear or side yard areas (not allowed in side yard areas adjacent to a public right-of-way).
- Required setbacks: 5' side; 10' rear
- Minimum required building separation: per building code
- Maximum height: 12'
- Materials: the structure must have materials that are architecturally compatible with the primary structure
- Storage units/shipping containers:
 - Not allowed in commercial districts
 - Maximum of 1 allowed in industrial districts, but must be screened by a wall or opaque fence that is at least as tall as the unit (maximum of 8 feet tall)

The proposed ordinance would also allow the option to construct a small accessory structure – 120 square feet or less – that would not be required to have materials compatible with the primary structure. These structures could be composed of any material except metal and would allow a business owner to keep a small shed for storage on their property.

New language in the proposed ordinance is bold and highlighted. Deleted language is strike-through and highlighted.

RECOMMENDED MOTION:

“I move to recommend approval of the proposed ordinance amending Articles II and VI of Chapter 26 concerning accessory structures on properties with commercial or industrial zoning.

Exhibits:

1. Proposed Ordinance
ZOA-10-03/ Accessory Structures

EXHIBIT 1: PROPOSED ORDINANCE

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER _____
COUNCIL BILL NO. _____
ORDINANCE NO. _____
Series 2010

TITLE: AN ORDINANCE AMENDING ARTICLES II AND VI OF CHAPTER 26 CONCERNING ACCESSORY BUILDINGS ON PROPERTIES WITH COMMERCIAL OR INDUSTRIAL ZONING.

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 there is a need to allow for accessory buildings and structures on properties with commercial or industrial zoning.

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

Section 1: Section 26-204 of the Code is amended to read:

Sec. 26-204. Zone district use schedule.

A. The following schedule of permitted and special uses allowed within the various zone districts is hereby adopted and declared to be a part of this Code and may be amended in the same manner as any other part of this Code. In each zoning district, any uses not expressly permitted (P) or allowed as a special use (S), or as an accessory use (S) shall be deemed to be excluded. The director of community development shall render the final administrative decision concerning the scope, application and meaning of the terms in this section.

B. The director of community development has authority to determine that a use not specifically listed as permitted, allowed as a special use or an accessory use should be so permitted or allowed on the basis of its being similar to a listed use, compatible in character and impact with other uses in the zone district, consistent with the intent of the district, and which would not be objectionable to nearby property by reason of odor, dust, fumes, gas, noise, radiation, heat, glare, vibration, traffic generation, parking needs, outdoor storage or use, or is not hazardous to the health and safety of surrounding areas through danger of fire or explosion. The director's decision may be appealed to the board of adjustment.

C. Upon application or on its own initiative, the city council may by ordinance add to the uses listed for a zone district, conforming to the conditions set forth in the following special findings:

1. Such use is appropriate to the general physical and environmental character of the district to which it is proposed to be added, and
2. Such use does not create any more hazard to or alteration of the natural environment than the minimum amount normally resulting from the other uses permitted in the district to which it is added, and
3. Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences or more traffic hazards than the minimum amount normally resulting from the other uses permitted in the district to which it is proposed to be added, and
4. Such use is compatible with the uses existing and permitted in the district to which it is proposed to be added at the time of adoption.

TABLE INSET:

Commercial and Industrial District Accessory Uses	Notes
Accessory buildings and structures	See § 26-625
Electric transmission or other public utility lines and poles, irrigation channels, storm drainage and water supply facilities	
Food services	Primarily for the occupants of a building containing a permitted use when located within the same building
Residential uses in commercial zones	See § 26-626
Outside storage or display	See § 26-631

Key:
 P = Permitted Principal Uses S = Special Uses
 (Ord. No. 2001-1215, § 1, 2-26-01; Ord. No. 1273, § 2, 1-13-03; Ord. No. 1274, § 2, 1-13-03; Ord. No. 1288, §§ 1, 2, 5-12-03; Ord. No. 1301, §§ 2-4, 7-28-03; Ord. No. 1302, §§ 4-6, 7-28-03; Ord. No. 1313, § 10, 10-27-03; Ord. No. 1322, § 1, 5-10-04; Ord. No. 1348, § 1, 7-11-05; Ord. No. 1370, § 1, 8-28-06; Ord. No. 1375, §§ 1, 2, 10-24-06; Ord. No. 1387, § 2, 6-11-07; Ord. No. 1413, §§ 2, 3, 6-9-08)

Section 2: Section 26-625 of the Code is amended to read:

Sec. 26-625. Accessory **buildings and structures**.

A. *Purpose and scope.* The purpose of this section is to allow accessory buildings that are incidental and subordinate to the principal use and structure on a property and to set forth standards that help to minimize adverse impacts of these buildings on adjacent property. The purpose of this section is also to allow flexibility to construct accessory buildings on challenging **residential** properties relative to size and existing physical improvements while minimizing adverse impacts on surrounding properties. **The terms building and structure are used interchangeably in this section and all regulations herein apply to buildings and structures, irrespective of the term used.**

B. *Applicability.* All accessory buildings **on residentially-zoned property** shall be subject to the provisions set forth in this section, and those in sections 26-205 to **26-214-26-220 (residential and agricultural** (zone district regulations). In the event of a conflict between the accessory building standards in this section and any other requirements of this Code, this section shall control.

C. *Accessory building standards* **for residential and agricultural zone districts**

1. *General standards.*

a. *Location.*

- i. No accessory building shall be located on a vacant lot devoid of any primary or main building.
- ii. No accessory building shall be located within any platted or recorded easement or over any utility, except as otherwise expressly agreed to in writing by the city or utility provider, as applicable.

b. *Size and height.* The size and height of accessory buildings shall be as set forth in the residential **and agricultural zone district regulations, as applicable,** in sections 26-205 to 26-214.

c. *Miscellaneous provisions.*

- i. *Metal accessory building restriction.* Metal accessory buildings over one hundred twenty (120) square feet are not permitted in any residential zoning district. Frame-built

residential accessory structures over one hundred twenty (120) square feet in size may be allowed to have metal siding as long as the material has a textured wood grain appearance similar to horizontal clapboard. Vertically placed vinyl-clad siding is not allowed.

- ii. *Buildings housing animals.* Any building that houses animals, except a residence, shall be setback a minimum of fifteen (15) feet from property lines and at least thirty (30) feet from a residential structure on an adjacent property, except as otherwise specified in any zone district.
- iii. *Gates and guard houses.* Gates and guard houses are only allowed as part of an approved planned development.
- iv. *Dwelling unit restriction.* Except as otherwise expressly allowed, no dwelling unit shall be located in any accessory.

2. *Major and minor accessory buildings.* Major and minor accessory buildings shall be as defined in sections 26-205 to Section 26-214 based on size and height.

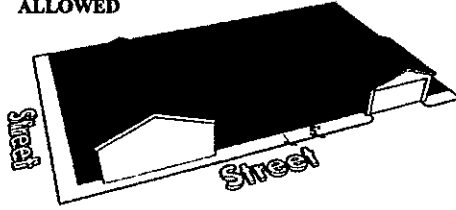
3. *Allowable setback encroachments for accessory buildings.* Accessory buildings may encroach into required setbacks as set forth below:

a. *Front yards and side and rear yards abutting public streets.* Where an existing principal building that lawfully existed at the time of the adoption or amendment of this section encroaches into a required front yard setback or a required side or rear yard setback abutting a public street, an accessory building may encroach into the required setback as follows, provided that there shall be no encroachment into the minimum sight distance triangle as set forth in subsection 26-603.B:

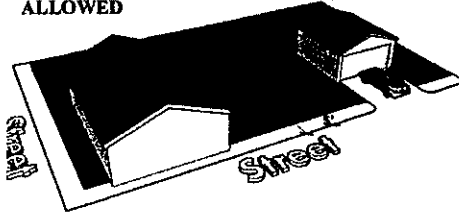
- i. *Detached garages and carports.* Detached garages and carports may build in line with the nonconforming principal building, as long as the detached garage is located behind the front or street-facing facade of the principal building, except as follows:
 - a) Where the garage door or main vehicular access is located parallel to the street, the setback cannot be between five (5) feet and eighteen (18) feet. The purpose of this regulation is to allow setback encroachments where there will be not be the possibility of vehicles parked in the driveway in conflict with public rights-of-way. (See Figure 26-625.1)

Figure 26-625.1: Allowed Setback Encroachments, Detached Garages

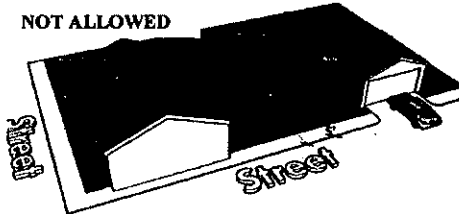
ALLOWED



ALLOWED



NOT ALLOWED



- b) Where the garage door or main vehicular access is located perpendicular to the street, the detached garage or carport may be built in line with the principal building. The purpose of this regulation is to allow setback encroachments where there will be not be the possibility of vehicles parked in the driveway in conflict with public rights-of-way.
- c) Where the garage door or main vehicular access is located parallel to and accessed off of an arterial street, the detached garage may not encroach into the required setback.
- d) The community development director may require modified setbacks in these instances where there may be potentially hazardous conditions.

ii. *All other accessory buildings.* Accessory buildings that do not have any vehicular access may build in line with the nonconforming principal structure in front yards and side and rear yards abutting public streets, as long as the accessory building is located behind the front or street-facing facade of the principal structure.

D. Accessory building standards for commercial and industrial zone districts

1. General standards.

a. Location.

- i. No accessory building shall be located on a vacant lot devoid of any primary or main building.
- ii. No accessory building shall be located within any platted or recorded easement or over any utility, except as otherwise expressly agreed to in writing by the city or utility provider, as applicable.
- iii. Accessory buildings shall only be located in the side or rear yard. Accessory buildings may not be located in side yards that abut a public right-of-way.

b. Maximum number.

- i. In commercial zone districts, a maximum of one accessory building shall be allowed.
- ii. In industrial zone districts, a maximum of two accessory buildings shall be allowed.

c. **Size.** The total floor area of all accessory structures on a single property may not exceed 50 percent of the floor area of the primary structure located on that property. In no case may a single accessory structure exceed 500 square feet in floor area.

d. **Setbacks.**

- i. The required side yard setback shall be a minimum of five feet.
- ii. The required rear yard setback shall be a minimum of 10 feet.

e. **Height.** The maximum height of any accessory structure shall be twelve (12) feet.

c. **Materials.** The accessory structure shall have exterior materials that are architecturally compatible with the primary structure, with the following exceptions:

- i. An accessory structure that is 120 square feet or less. Such accessory structures may not be constructed of metal, but are allowed to have metal siding as long as the material has a textured wood grain appearance similar to horizontal clapboard. Vertically placed vinyl-clad siding is not allowed.
- ii. On industrial zoned properties only, one or both of the allowable accessory structures may be industrial shipping containers or storage units that do not have exterior materials compatible with the primary structure. Such containers must be screened from view of adjacent properties and streets by an opaque wall or fence that is at least as tall as the container and that does not exceed eight (8) feet in height.

E. Accessory buildings in Planned Development Districts.

1. Accessory buildings shall only be allowed in a Planned Development District if accessory structures are expressly permitted in the approved Outline Development Plan. All standards for accessory buildings in a Planned Development District shall be established in the approved Outline Development Plan.

(Ord. No. 1448, § 5, 8-24-09)

Section 3: Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Wheat Ridge, that it is promulgated for the health, safety and welfare of the public and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 4: Severability; Conflicting Ordinances Repealed. If any section, subsection or clause of the ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of the ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 5: Effective Date. This Ordinance shall take effect fifteen days after final publication, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of ___ to ___ on this ___ day of ___, 2010, ordered it published with Public Hearing and consideration of final passage set for _____, 2010 at 7:00 p.m., in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado, and that it takes effect 15 days after final publication

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of ___ to ___, this ___ day of _____, 2010.

SIGNED by the Mayor on this _____ day of _____, 2010.

Jerry DiTullio, Mayor

ATTEST:

Michael Snow, City Clerk

Approved As To Form

Gerald E. Dahl, City Attorney

First Publication: _____
Second Publication: _____
Wheat Ridge Transcript: _____
Effective Date: _____

Memorandum

TO: Planning Commission

THROUGH: Ken Johnstone, Community Development Director

FROM: Sarah Showalter, Planner II

DATE: June 25, 2010 (for July 1st Planning Commission Meeting)

SUBJECT: Mixed Use Zone Districts - Project Update

Since our last study session on the topic of mixed use zoning, held June 3rd, staff held a study session with City Council and made significant progress finalizing Draft 3, which should be released for public review on July 2nd. We would like to follow-up on a few items that will be in Draft 3 and update the Planning Commission on the conversation about legislative rezoning that staff had with City Council at their June 21st study session.

Mixed Use Requirements for Large Sites

At the June 3rd study session, staff requested input from Planning Commission on a requirement in Draft 2 that required mixed use development for sites 5 acres and larger. The mixed use task force expressed concern that this was too restrictive and could potentially preclude development that the city might like to see on certain sites (even if the development was all one use, such as office), and could also make leasing difficult over the life of a project. The task force encouraged staff to either remove the provision or at least expand the size cut-off to sites larger than 5 acres, perhaps larger than 10 acres.

After much consideration on this topic, staff decided to remove the requirement for mixed use for large sites (of any size) for the following reasons:

- The approach of the code has been to incentivize, and not require, mixed use. Draft 3 has three primary incentives for mixed use development that we believe will be effective, including reductions in open space, a 2-story height bonus, and exemptions from drive-thru separation requirements.
- It could be very difficult to enforce mixed use requirements, especially over the long term. Many large mixed use developments will be split into smaller parcels. For example, for a two-parcel site: if one parcel had office use developed on it as a first phase of development, then the second parcel would only be able to have a non-office use. Staff had difficulty figuring out how this could be enforced, especially over several years. Deed restrictions or other legal methods to ensure mixed use within the same development could be complicated to administer and could ultimately make the leasing of certain buildings very difficult.

- Finally, given the possibility of legislative rezoning in some areas (see more below on this topic), staff thinks it is important to retain flexibility for sites that currently do not have mixed use requirements.

Public Input Process

Based on input received from the Planning Commission on June 3rd, staff added a few opportunities for public comment on large development sites. The following items will be incorporated in Draft 3, for sites over 10 acres only:

- **Neighborhood Meeting:** there will be a neighborhood meeting prior to submittal of the concept plan for property owners within a 600' radius (to follow the process of the current neighborhood meeting requirement in the zoning code).
- **Public Comment Period:** after a concept plan is submitted, everyone within a 300' radius will receive written notification that the plan is available for review at the Community Development Department. The public will have a 15-day period to review the development proposal and submit comments. A sign with this information will also be posted on site for the 15 days, so that others have the opportunity to view the plans and comment.

These provisions for public input were presented to City Council at the June 21st Study Session and staff received positive feedback from City Council.

Legislative Rezoning Process

In meetings held earlier this year with property owners in areas prioritized for mixed use redevelopment, staff included information on the possibility of city-initiated, or legislative, rezonings. In some areas, particularly the Wadsworth corridor, property owners expressed significant interest. Staff made it clear to property owners that the mixed use code would be written and adopted as a first step, with any legislative rezonings occurring as a separate process with further property-owner input.

Currently, we hope to have the new code adopted by early September. Given this timeline, staff proposed the following process to move forward with potential legislative rezonings to City Council:

- **38th Avenue:** no immediate action at this time. Community Development will be conducting a Subarea Plan for 38th between Sheridan and Wadsworth this fall. The findings in the plan can help inform what areas of the corridor – whether it is the whole stretch, or just certain nodes – make the most sense for possible legislative rezoning.
- **Kipling corridor:** no immediate action at this time. Renewal Wheat Ridge (RWR) is completing its strategic planning. Kipling is one of its priority areas, so planning staff recommends waiting to move forward with any city-initiated rezoning until there are more concrete plans from RWR for this area.
- **Wadsworth corridor (between 38th and 44th Aves):** hold a meeting with property owners in September, after adoption of the code, to show them the final version of the code and have a conversation about the potential advantages of legislative rezoning. After the meeting, owners would have a set period – most likely one month – to ask questions and let staff know their interested in being rezoned by the city. After that input is received, staff would propose a rezoning map to City Council at a study session in the fall.

- **TOD area:** owners in this portion of the city are generally supportive of the new zoning, at least in the long term. There is at least one major land owner interested in city-initiated rezoning, and potentially others. Staff proposes meeting with the owners in this area in September and following a process similar to that for Wadsworth, depending on owner input received.

City Council was supportive of the above proposals and gave staff approval to move forward with meetings on Wadsworth and the TOD area after adoption of the code.

Next Steps/Code Adoption

Draft 3 should be released for public review on July 2nd. Staff will forward copies of Draft 3 to Planning Commission as well. The intent is that this is the last draft, with most content in its final form. Staff will use July to finalize the ordinance and has tentatively set the following schedule for adoption of the mixed use code:

- August 5th: Planning Commission Public Hearing
- August 23rd: City Council First Reading
- September 13th: City Council Second Reading/Public Hearing