

STUDY SESSION NOTES
CITY OF WHEAT RIDGE, COLORADO
City Council Chambers 7500 W. 29th Avenue

March 4, 2013

Mayor DiTullio called the Study Session to order at 6:30 p.m. Council members present: Davis Reinhart, Bud Starker, Joyce Jay, Mike Stites, Joseph DeMott, and Tracy Langworthy.

Absent: George Pond, Kristi Davis

Also present: City Clerk, Janelle Shaver; Treasurer, Larry Schulz; City Attorney, Jerry Dahl; City Manager, Patrick Goff; Police Chief, Daniel Brennan; Community Development Director, Ken Johnstone; Public Works Director, Tim Paranto; staff and interested citizens.

PUBLIC COMMENT ON AGENDA ITEMS

Tom Slattery of Wheat Ridge United Neighborhoods spoke on height and density limits. At the neighborhood meeting it was stated this was to apply to 38th Avenue only, now we see it's for the whole City. This is bait and switch. ~ The City has yet to prove that it can develop the areas that have already been exempted from the charter restrictions. The Cabela's property is a good example. ~ He stated the charter limits are there because the public took this issue to a referendum and won. Then, by citizen initiative, the height and density restrictions were added to the charter. It was felt necessary for the protection of this City. ~ He noted that western cities, large and small, all want to have massive development. The fact is there is no water to support this kind of development. No one wants to accept it, but at least the newspapers are starting to raise questions. ~ He also thinks that if any group wants to repeal any element of the charter it needs to go door-to-door with a petition and get people's consent – not come to Council and have Council put it on the ballot.

Nancy Snow had an initial request to be able to sit at the table during the discussion of height and density, and participate in the discussion as a representative of United Neighborhoods. She expressed frustration that ordinary citizens are given 3 minutes to speak and then have to just sit there, while WR2020, that is not part of the Council, has been invited and will participate in the discussion. The Mayor asked that she finish her remarks, and that Council would have to waive its rules at the proper time.

Mrs. Snow's remarks on height and density included the following:

- WR2020 met with her to learn the history of the height and density charter changes.
- She asked if someone would please admit that this push for increased height and density is primarily for 2 pieces of property – one on 38th near Chase and another at 33rd & Ames. Why would you change the charter for 2 pieces of property?

- The exceptions passed by the voters were for Urban Renewal areas only, but now you want to remove limits for the entire city.
- She adamantly opposes Council putting this on the ballot. It's an unfair advantage. Citizens went door-to-door with petitions to get the height and density limits on the ballot. She doesn't mind if it gets on the ballot, but when she met with the WR2020 committee they intimidated her that they already had the votes on Council to put it on the ballot. Please be more evenhanded. WR2020 has a lot more money than average citizens, and they can get it passed.
- How would this improve the City? Every study shows that multi-family housing costs the City money. Also, inviting more multi-family housing is not in line with the Neighborhood Revitalization Strategy which said we already have too many apartments and too much multi-family.

Jesse Hill addressed Open Meetings. He supports anything that can make government more open. He is concerned that the yearly planning retreat has no minutes but is often cited by staff and Council. ~ He hopes WR will be open to the business of marijuana -- no more than state law allows, but allow for expansion.

Eugene Shirley spoke on W 38th Ave. He thinks it's a waste of money and urged Council to go to the public. He had a drivers' test recently and mentioned the reverse back-in parking to his tester. That instructor said it was a safety hazard.

Kelly Brooks spoke on behalf of many WR2020 board members. They think the City should regulate height and density through the zoning process - not the charter. As an architect and father he wants to see us attract more diverse commercial offerings and first-rate architecture. The WR2020 Board is ready to help educate the people.

Jeff Faine moved to Wheat Ridge last May and has become a member of WR 2020. He's spoken with several real estate developers around the state who say they won't come to WR because of the height and density limitations. They take their projects and money elsewhere. He encouraged Council to adopt policies that help us move forward.

APPROVAL OF AGENDA

Mr. DeMott asked for consensus to allow WR United Neighbors to sit at the table and participate in the discussion of height and density limits. No one objected.

1. Wheat Ridge 2020 Updates ~ Britta Fisher
 - a. Height and Density Charter Discussion

Background: The Wheat Ridge 2020 Board of directors passed a resolution in 2012 to support the full removal of height and density restrictions from the Wheat Ridge City Charter and to support regulation of height and density through the zoning code, which is considered "best practice". Additionally the Board gave direction to its staff to conduct

education and outreach to the community in support of the removal of the height and density restrictions from the Wheat Ridge City Charter.

Britta Fisher began the WR2020 presentation with a 10 minute video promoting repeal of the height and density limits for the entire City. She thanked the City for its participation in the video for Channel 8

Primary Tools for Standards

Britta had **Ken Johnstone** review with the Council what the development policies are and how to attract quality development. He spoke on the two main tools we have for standards:

- 1) The Architectural and Site Design Manual (ASDM), updated in 2012, applies to commercial, industrial, and multi-family development; and
- 2) The MU-N zoning regulations as they relate to height and density.

Both have:

- architectural standards with lists of permitted primary and accent materials;
- provisions for variety in materials;
- provisions for variety in vertical and horizontal applications;
- height limitations;
- buffering and screening requirements;
- landscaping standards;
- Transition provisions including:
 - Set-back requirements based on height and the building footprint related to adjacent single and two-family housing;
 - Step-backs for additional stories next to residential (tiering);
 - Maximum of 4 stories within 100' of a residential property.

Ken reiterated that zoning and changing to zoning regulations are very important and that the public hearing process is essential.

Follow-up from Council Direction

Britta reviewed that at a study session in May 2012 Council gave WR2020 direction to prepare community education and a campaign about height and density. Their Encourage Development Committee formed a sub-committee on height and density. The WR2020 board's position is that height and density should be regulated by the zoning code, not the charter. WR2020 partnered with the City on the video.

Past Direction from Voters

After explaining how the height and density limits came into the charter Britta detailed some past votes. In 2008 WR voters turned down (by 355 votes) a measure to remove height and density limits from the charter. In 2009 the voters passed (by 380 votes) 2A and 2B which removed height and density limits in certain urban renewal areas on I-70, Wadsworth and Kipling.

Hindrance to Development

The new Town Center Apartments happened because of the charter changes. Britta referenced the Ulfig property at 33rd and Ames that sits idle and can't be developed due to the height and density limits. The Ulfig brothers report warnings from developers outside the community to stay away from Wheat Ridge because of our restrictions. It's hard to tell how much business we've lost due to these limits.

Grant from the National Realtors Association

Britta mentioned that WR2020 has gotten a grant from the National Association of Realtors to poll WR residents about height and density. That poll will be coming out in the next couple of weeks. They will use that information to finalize some messages when they roll out their advanced academy – a workshop on height and density and how to speak about it. Since 2009 WR2020 has turned out over 100 Planning Academy graduates and they believe there are people they can reach.

How City Council Can Help

Britta invited Council to participate by letting them know what their constituents are saying and asking, and let her know what expressions they might wish they had better words for. They want to partner with the City to overcome the sentiment of mistrust that may be out there.

Tom Slattery mentioned that, to his knowledge, the apartments at 33rd and Ames have no off-street parking. He suggested that if WR2020 thinks they have the support for this they should hit the bricks and go door-to-door and get signatures.

Nancy Snow said she cringes when people tell her they are going to educate her.

- She told about how on a number of occasions the City has bought/built parks next to multi-family developments. She thinks that apartments should provide their own amenities.
- On density: She said 21 units per acre is actually quite a lot. Recently in northwest Denver there was a proposal for a project for 16 units per acre and the neighbors were screaming bloody murder. Arvada may have more, but she doesn't think people really like that much density.
- Regarding distrust: When voters passed the exceptions for certain corridors they were told there would be public input on each individual development. Instead the mixed use zone was created and now a 122' building is possible. That's not Wheat Ridge.
- Regarding the public process: Once properties are zoned to mixed use, the development process leaves no oversight for City Council. Staff controls it. The public thinks Council has some say over the layout, etc., but it doesn't. The public process has concerns.

Britta noted that the public process is during the rezoning phase. Ken explained that the first public input is for the Comprehensive Plan. Then there are public meetings and a public hearing for the rezoning -- when Council makes the decision. Council realized at some point the public process needs to stop and it becomes administrative. Council also recognized that at some point developers need minimal risk if they are going to make an investment. In the case of the MU-N zone, the site-plan review is administrative. The standards are specific and detailed so when Council approves an MU re-zoning they know there is going to be high quality standards that the community expects.

The Mayor left the meeting at 7:35pm and Mr. Reinhart assumed the chair.

Ken verified that if height and density restrictions were removed from the charter, each zone district would still have its own set of limits. Those limits would be the standards, but are subject to change of the Code

- Most zone districts have the 35' residential and 50' commercial height limits.
- The Multi-Use Zones however have some variance.
 - MU-Commercial allows for 4-6 stories;
 - MU-TOD (Transit Oriented District) allows for 6-8 stories;
 - MU-Neighborhood maintains the 35' residential and 50' commercial limits.
 - These limits can be changed if any City Council chose to amend the Code.

b. Proposal for Implementation of 38th Ave. Revitalization Plan - Britta Fisher

Britta Fisher listed the projects for 2013:

- Banner and Lights Program (Sheridan to Harlan; overhead banner pole; replacement/addition of lights as budget allows) \$16,400
- Website and social media \$18,000
- Marketing Campaign materials \$18,000
- Special District feasibility study \$22,000
- Ongoing Items (Support for Leadership Committee) \$17,000
- Project management
 - Coordination with City Staff on strategy and implementation \$7,600
 - Meeting costs, supplies, refreshments \$1,000

The proposed payment schedule is \$34,000 in April, \$33,000 in July and another draw of \$33,000 at a later date.

The Leadership Committee is working on moving forward with implementing additions to 38th Avenue. She noted the City has budgeted a separate \$100,000 for the banner poles.

Mrs. Jay received consensus to support WR2020 moving forward as presented.

2. Amendment 64 Marijuana – Gerald Dahl, City Attorney

Mr. Dahl outlined the areas that need to be addressed subsequent to the passage of Amendment 64. They are primarily retail marijuana sales and marijuana clubs.

The state legislature will be coming up with regulations for licensing and sales by this summer. Municipalities will still have a role in determining the zoning side of the issue (e.g. how many? Where? How close to each other?). Until a state statute is established the City has the following choices:

- No action
- Moratorium
- Develop local regulations
- Address private marijuana clubs
- Prohibition

Mr. Dahl has developed a moratorium ordinance (in the packet) for retail sales of marijuana and marijuana clubs, if Council wishes to do that. He noted it should probably include grow operations and he can add that.

While he isn't necessarily promoting a moratorium he pointed out that it does buy time and gives the City the opportunity to examine what they want without dealing with ongoing situations.

Mr. Goff said staff recommends the moratorium and noted that neighboring cities including Arvada, Lakewood and Westminster are doing moratoriums.

Discussion and questions from Council included the following issues/info:

- How retail sales and clubs will fit with existing medicinal marijuana shops (Currently medical marijuana clubs and hookah bars are allowed in certain zone districts)
- Distance limitations from schools, etc. (currently 1000 ft from schools, residential or childcare facilities, and drug/alcohol treatment centers)
- What is a club and how do we currently regulate them?
- Dealing with "grow" operations
- The timeline of a moratorium (effective until November is suggested)
- An Emergency Ordinance requires a majority vote of a quorum
- Right now grow operations are only allowed in conjunction with and adjacent to a medicinal dispensary. No stand-alone grow operations.

- Infusion operations may operate separately from a dispensary on a wholesale basis. It's a separate class allowed in the same zone districts
- The distance from schools overlaps jurisdictions.
- Medical marijuana outlets must be ¾ of a mile apart.
- A moratorium will allow us to watch things develop elsewhere

There was consensus to proceed with the moratorium ordinance at the next meeting.

3. Open Meetings Laws – Gerald Dahl, City Attorney

Mr. Dahl reviewed with Council some key aspects of the Open Meetings Law and certain issues of the Open Records Act – primarily email.

He reminded them all to avoid the "Reply All" function. The definition of a "quorum" includes an electronic quorum. Once they start processing information [with email replies involving 3 or more councilmembers] they are "conducting an electronic meeting" – which should be "open", but the public is not able to attend. He stated Council has done well in this area and encouraged their continued good behavior. ~ Secondly, emails on behalf of public business are open records. There are some exceptions: correspondence with a constituent, the nature of which the constituent expects confidentiality.

4. Elected Officials' Report(s)

Bud Starker asked if the Council's yearly retreat is publicly noticed. It is.

Davis Reinhart reported contact from CML encouraging us to oppose SB-162, which would take away local control and dictate how we do our inspections. With Council's permission he will call Sen. Cheri Jahn and ask her to oppose it. SB-162 would require the City to use certain unionized employees for certain jobs – specifically, requiring the City to use journeyman plumbers as inspectors. It was quickly agreed that this is a home rule issue. Mr. Reinhart will make the call to Sen. Jahn.

The Study Session adjourned at 8:30 pm.


 Janelle Shaver, City Clerk