

STUDY SESSION NOTES

CITY OF WHEAT RIDGE, COLORADO

City Council Chambers 7500 W. 29th Avenue

June 6, 2016

Mayor Joyce Jay called the Study Session to order at 6:31 p.m.

Council members present: Janeece Hoppe, Monica Duran, Kristi Davis, Tim Fitzgerald, George Pond, Zachary Urban, and Larry Mathews

Absent: Genevieve Wooden

Also present: City Clerk, Janelle Shaver; City Attorney, Jerry Dahl; City Manager, Patrick Goff; Community Development Director, Ken Johnstone; Administrative Services Director, Heather Geyer; other staff and interested citizens

PUBLIC COMMENT ON AGENDA ITEMS

Herb Schillereff (WR) commented that citizens recently voted down the narrowing of 38th Ave and a lot of planning is being done without knowing what citizens want or will fund. Businesses have survived on 38th for many years with 4 lanes. He cautioned against overbuilding and oversupplying when the buyers aren't there – as happened with Lakeside shopping center where a lot of businesses went bankrupt. More information about cost is needed if Council plans to narrow the street. He asked Council to keep it plain, keep it four lanes, and give citizens a chance to vote on it.

Bob Brazell (WR) shared his experience with the ADU meetings. The first one, which he thinks wasn't well advertised, was attended by those who have something to gain. He left the second meeting because new attendees weren't given the opportunity to say if they supported duplexes in their neighborhood or not. Staff reported it was agreed at the last meeting to have them, now let's decide how to build them. He doesn't think 150-300 people give an accurate idea of what 31,000 people wants. He believes if ADU's are approved it will lower the property values of many to profit a few. People locate in R-1 districts for a reason; changing the rules after the fact would be unfair and reprehensible.

Julie Clark (WR) just found out about this issue; she is here to listen to the discussion.

David Bozley (WR) recently learned of this ADU issue being considered. He grew up in a suburban/agrarian neighborhood, and that's why he moved here. He's concerned; he doesn't see ADU's promoting better growth for the City, and may even be a detriment.

Sharon Schillereff (WR) gave support for Mr. Urban's 4-lane design option for 38th Ave, and favors it becoming a ballot measure.

Russell L. Mayer (WR) asked if after the ADU regulations are drafted, will there be a public meeting to let people comment? Mr. Goff said that would be addressed during the staff presentation.

Vivian Vos (WR) noted that the restriping of 38th Ave was to be a trial and thinks five years is not a trial. The report says sales tax is up from Upham to Sheridan since 2010, but she believes it should report Wadsworth to Sheridan to compare apples to apples. Speeding and volume are reported as unchanged, but she thinks the side streets like Pierce should be studied as well. She suggested speeds will be down due to narrowing, the resultant congestion, and navigational difficulties due to planters and parked cars. She believes it's important to know why accidents occurred. She supports having a couple ballot questions on this.

Britta Fisher (WR) thanked businesses for the increase in sales tax revenue, those involved in Cre8 Your 38, and the City for all the different methods that are being used to hear from people. Events have been a big part of getting people to the corridor. She invited everyone to the Criterium and Brewfest this Sunday from 9am-7pm.

John Genova (WR) feels Cre8 Your 38 was a valid process. He's surprised that Mr. Urban submitted a 4/5 lane design consideration because it is against the process results. He sees this as telling the people they wasted their time. The Cre8 people voted overwhelming for a complete street retrofit with 3 lanes and 8 ft sidewalks. Mr. Urban's design shouldn't be given any consideration; it was submitted from a privileged position and all the 4-lanes designs were discarded early in the process because it wasn't going to fit and it goes counter to creating a slower-paced, walkable downtown. He thinks more homework is needed – such as surveying and discussion with property owners to get their buy-in -- before this goes on the ballot.

Kim Calomino (WR) encouraged Council to pursue ADU's. She sees it as a small solution to the problem of affordable housing, aging in place and multi-generational living. She suggested we ask Consolidated Mutual why they need separate taps, which will add significant cost. ~ On 38th Ave, the strong consensus was for full reconstruction. She objects to Mr. Urban's 4/5 lane option being considered. It had no public process; it's not fair and makes for a skewed process. She suggested one sales tax package to pay for all our infrastructure needs as she believes multiple ballot questions (sales tax, plus questions on 38th Ave) will not pass. She believes there's still the possibility for 12 citizens to blow a hole in the whole thing by demanding a vote on street width. She encouraged Council to talk to them and see what they're willing to do.

Carol Mathews (WR) read a portion of the Code about the purpose of the R-1 zone and outlined reasons why ADU's are not appropriate in R-1. They are contrary to the "high quality, safe, quiet, stable, low-density" nature of R-1; they would re-populate our single family neighborhoods with multi-resident rental properties; additional cars would crowd the neighborhood atmosphere of the streets and affect access for fire trucks, ambulances, and snow plows; enforcement is unlikely. She suggested that City planners are following ideas on creative financing from the Urban Land Institute.

Ms. Mathews announced she was extending her remarks beyond three minutes by using time donated from others speakers. Mayor Jay ruled she could not extend her remarks because she hadn't declared it at the beginning of her time.

John Clark (WR) remarked that the road diet was meant to be a trial and now six years and over \$1M later it still looks like it does. Voters rejected 2B in 2014 by 60 to 40; that wasn't listened to. In 2015 a scientific citizen survey revealed a majority of citizens don't want the road diet; that wasn't listened to. Cre8 your 38th came about; 300-900 people participated; he went to the meetings. 75% of those people want the complete \$10M+ reconstruction; but that's not being listened to. Council should listen to them and respect the process of Cre8 Your 38. He asked Council to put a cost on it and let the people vote on it. Then be done; we have other things to do in this City.

APPROVAL OF AGENDA

1. Staff Reports

a. Medical Marijuana Testing Facilities Licensing ~ Kathy Franklin & Heather Geyer

- There have been some recent changes in state law regarding medical marijuana testing. This use is not addressed in our current Code.
- We have one marijuana testing facility. They have applied for a medical marijuana testing license. Three other parties are interested.
- The purpose of the testing is to test the plants for pesticides, molds, and other contaminants.
- The proposed ordinance will put our Code in compliance with state law by defining and authorizing 1) the licensing of medical marijuana testing facilities in the City, and 2) the licensing of co-located medical and retail marijuana testing facilities.
- Council also has the choice to make no changes in the Code, to ban some or all marijuana testing facilities, to put limitations on the facilities, or to consider other options that may come forward.

Discussion followed.

Councilmember Urban had concerns that licensing might be seen as validating or providing oversight for the testing; wording in the ordinance indicates as much. Mr. Goff agreed, but noted the business license is only about the business aspect of the operation; the testing must follow state guidelines. Mr. Dahl can address this. Ms. Franklin noted this is the most highly regulated portion of the marijuana industry. Mr. Johnstone read from the act that the state is the licensing body related to the activities.

Councilmember Fitzgerald noted this is to test for contamination so we should be for it.

Councilmember Davis supports it as a colocation operation, with no transporting of marijuana. Mr. Johnstone reported that wouldn't work due to current regulations; it has to be an independent location. It was clarified the "colocation" requirement refers to collocating retail and marijuana testing facilities. ~ While we do have a cap on retail and medical facilities for growing and sales, there is no cap on the number of testing facilities.

Councilmember Hoppe questioned how many of these testing facilities do we want in our community.

Councilmember Pond noted these are laboratory facilities that provide high paying jobs; he doesn't see them as an issue. He thinks it's important to have good testing infrastructure throughout the state and he doesn't perceive any impact different from any other type of laboratory facility.

Mr. Goff noted we had three "retail" testing facilities at one time, but currently have only one. A cap is an option, but they don't seem to be proliferating.

There being no objection, staff will bring forward an ordinance to allow medical marijuana testing at collocated testing facilities and have no caps [on numbers] at this time.

2. Accessory Dwelling Units ~ Ken Johnstone & Lisa Ritchie

Mr. Johnstone presented some background on the issue and gave highlights from the two public meetings that were held on April 12 and May 10.

- ADU's are intended to be a secondary use, and only on a single family lot.
- There are things that can be done to assure it is a secondary use independent from the main house (e.g. basement, above garage, only one extra unit, limit number of people).
- Denver, Lakewood, Arvada and Jeffco allow them in some form, and with varying regulations. They serve a variety of purposes.
- The outreach meetings were designed to build on each other. 75 attended the first public meeting. It was educational; information was presented; survey conducted at meeting and online to gauge community interest. (See packet information.) 75% supported ADU's in some fashion; 50% said they wanted to build one.
- At the second meeting staff didn't ask if people supported ADU's, which was established at the first meeting, rather what people wanted for restrictions, e.g. architectural compatibility, height limitations, parking regulations (contextual solution).
- What have adjacent communities learned?
 - Jeffco has had ADU's for 10 years. Initially both units had to be family. That was too limiting and cumbersome with deed restrictions.
 - Arvada: In 12 years 103 ADU's have been built
 - Lakewood has had six in three years,
 - Jeffco has had an uptick since they've removed the family restrictions.

More work is needed. Next step is to the Planning Commission, then back to Council for more substantive discussion. Public hearings would follow. Staff doesn't think more public meetings are needed as there isn't much more new to say to people.

Discussion followed.

- Councilmember Davis: How will we enforce this? Mr. Johnstone: Building permit would require that one unit be occupied by owner; a deed restriction would be critical; suggest a registration program tied to the C.O. (certificate of occupancy).
- Councilmember Fitzgerald: Survey was taken by people who are interested in this, so isn't truly reflective of community support. He had questions about limiting the number vs use by right. Mr. Johnstone said if we have a good regulatory program in

place he recommends discretionary review rather than a Special Use Permit. He did suggest a cap on the number of occupants. Mr. Fitzgerald has real concerns about the ability to enforce this.

- Councilmember Hoppe listed the staff recommendations in the packet.
 - Occupancy: one unit, owner occupied
 - Number of people limited
 - Registration program
 - Architecturally compatible
 - Minimizing the size; one story, or two story of over garage
 - Parking requirements on a case by case basis.
 - Size: Maximum lot coverage already exists; might increase it a little for an ADU.
 - Zones: Only with single family homes or in MU-N; not with duplex or multi-family
- Councilmember Hoppe brought up Airbnb's. How will we regulate ADU's as rentals, and what about lodgers' tax? Mr. Johnstone said they will continue to monitor the Airbnb's; it hasn't reached a place where we need to regulate it yet.
- Mr. Johnstone suggested a minimum of 30 days rental so they don't become hotels.
- Councilmember Duran: Height limits? Mr. Johnstone said new units would be 1-story; above garage is 2-story. How to handle existing illegal ADU's? Mr. Johnstone: It has to be fact based for the history of the property; is it reasonable?
- Ms. Duran feels this is a big change for the community and would like more workshops and outreach. Mr. Johnstone isn't sure the public will be interested in the drafting of technical language. Ms. Duran noted the public meetings are not to tell people things but to listen to them. Discussion followed.
- Councilmember Mathews noted District 4 has lots of rentals and rental enforcement problems. He read aloud the purpose of the R-1 zone: "To provide high quality, safe, quiet and stable low-density residential neighborhoods, and to prohibit activity of any nature which are incompatible with the low-density residential character." People buy R-1 houses because that's what they want. If they wanted a duplex, they would buy a duplex. He doesn't think we should pull the rug out from under people. We can't enforce the regulations we have now. He elaborated. How will we enforce this?
- Mr. Goff agreed we should have a rental registration and inspection program.
- Councilmember Urban believes lot size is an issue as it relates to neighbors and that some lots are too small to have ADU's. Mr. Johnstone doesn't think a maximum lot size is workable since we have a wide variety of lot sizes. That would be challenging. He believes set back requirements would be enough. Mr. Urban would like to see a minimum lot size.
- Councilmember Pond supports ADU's but doesn't think it's urgent. He thinks all the concerns are legitimate and discussion should continue. He noted that in the R-1 zone foster care and group homes are uses by right.
- Councilmember Fitzgerald supports moving forward, but would support ADU's for family only -- not as rentals. He noted the cost of a water tap alone (maybe \$30,000) could be a limiting factor.

Councilmember Hoppe received consensus to direct staff to continue to do research on ADU's and look for opportunities for citizen input through district meetings and online surveys before drafting the code, then moving to public meetings.

Clerk Shaver distributed to Council copies of a petition she received that was submitted to code enforcement. The petition, with pictures, is from neighbors of a duplex at 38th & Hoyt that is allegedly being used as more than a duplex.

A recess was taken from 8:16pm to 8:25pm.

3. Cre8 Your 38 Design Options ~ Mark Westberg

Metrics -- Mr. Westberg began with an update on the metrics.

- 2015 Sales Tax: Upham to Sheridan corridor collections are increasing faster than Citywide collections
- Speeds: West of Upham: down considerably
East of Kendall: down
East of Chase: about the same, down slightly
- Volume (since 2012 restriping)
West of Upham – consistent with minor fluctuations
East of Kendall – dropped, then trending slightly upward
East of Chase – trended downward for 1 ½ years; trending upward since
- Vehicles per day (comparing pre-striping through Fall 2015)
West of Upham (5 lanes) - consistent (17K vpd)
East of Kendall (3 lanes) - mostly down; Fall 2015 almost back up to pre-striping (slightly over 16K vpd)
East of Chase (5 lanes) – mostly down, but trending up; Fall 2015 above pre-striping (about 19K vpd)
- Accidents since 2012: No noticeable trends; summer 4 months same; other months numbers seem related to amount of snowfall

2011 Traffic Study – Other traffic questions

Growth -- The study assumed a 15% growth to 2035. 2011 was less than 16,960 per day; 2035 just over 19,190 per day. Did not identify maximum capacity.

Level of Service (LOS) --

In 2035, with 4 lanes, LOS remains A & B, except Pierce LOS C

In 2035, with 3 lanes, LOS remains A & B, except Pierce LOS C

Predictions --

- Travel time impact for am/pm peak hours
Eastbound – 19 sec/34 sec Westbound – 23/99 seconds
- Impact of speed reduction -- 45mph to 35mph would add 38 seconds
- Some diversion anticipated; other routes not as attractive; other routes have capacity, particularly 44th Ave

Outcomes --

- Growth – 3 lanes section is well below future
- Travel time - some delays as anticipated
- Diversion – potentially some diversion as anticipated
- Corridor is performing as expected and consistent with 2011 study
- Some impacts acceptable to achieve Main Street

Miscellaneous

- Bus pullouts – Some may be removed depending on the scope of the project.
- Wads. double turn lanes? – Not due to increased traffic; they reduce green time.
- 800 feet before merge required at Upham Street and will continue to be evaluated.

Councilmember Urban's design

- All lanes 10 feet
- Restriping to 4/5 lanes > existing curbs remain
- Streetscape includes 6' sidewalk'; 4" amenity zones; minimum width for trees; includes trees, planters, and lights; some ROW required

Retrofit options

- 3 travel lanes
- 5-ft sidewalks
- Potentially disconnected amenity zones
- On-street parking around High Court
- Includes trees, planters and lights
- No bike lanes
- Requires ROW or easements at driveways
- Stormwater capacity reduced by 1/2

Retrofit Option 1

- Amenity islands sloped toward street
- Difficult to connect – over 4" elevation change
- Stormwater capacity reduced by 1/2; may need to add inlets; some maintenance issues

Retrofit Option 2

- Amenity islands sloped towards the sidewalk
- Could connect with sidewalk chase; short chases solid, long chases as grates; removal of curb and gutter
- Cost estimated \$300/foot

Mr. Westberg outlined an option for the south side of 38th near High Court using the spaces that were built for on-street parking. This option would extend the existing sidewalks out into the (previous) parking areas, just to the flowline, thereby creating amenity zones that slope toward the street. There would likely be no effect on stormwater capacity.

Mr. Westberg closed with information about what Council needed to decide and a ballot timeline. If Council wants to proceed this needs to move quickly.

Council Questions

- Grates are \$300 per foot
- Full reconstruction plan is \$7.5 to 9.75M. Retrofit is \$4.5 to 6.75M
- No cost estimate was prepared for Mr. Urban's design

- The cost to remove any of this after it's built would be about 60% of cost to construct.
- The length of the project is Upham to Harlan.
- Street width designation is part of the equation if the entire corridor is done, or if more than 250 feet is narrowed.
- Projected traffic increases for 2040 are similar to 2035.
- Wadsworth traffic: 85% is commuter; 15% is local.
- Regarding the Green space, Mr. Goff stated the City has a Memorandum of Understanding (MOU) with the school for use of it. Staff is in discussions with the school about future development of that area as a civic space. Negotiations will continue but they've given support for moving forward with construction.
- Councilmember Mathews expressed concern about cash flow issues if doing 38th Ave and Wadsworth Blvd at same time. Mr. Goff advised that anything over a couple million dollars for 38th Ave will need another revenue source. Mr. Goff and Mr. Westberg provided some detail on funding and the timeline for Wadsworth.
 - Mr. Goff suggested if a tax for 38th Ave passed this November, monies would start being collected and set aside; construction maybe starting in fall 2017.
 - Council may want to consider a tax for filling the Wadsworth gap; we don't want to lose a \$25M grant.
- Councilmember Fitzgerald doesn't want the Cre8 people to think they've wasted their time and they voted for a complete rebuild. Since the retrofit would cost about the same and isn't the complete vision, he'd rather go with the complete rebuild. He recognizes the ability of a few to block the whole project based on flowline, but he thinks the full rebuild best completes the vision.
- Councilmember Davis favors the complete rebuild, but thinks it's a big price tag. She supports putting it on the ballot. She respects Cre8 Your 38, but noted there are lots of other projects in the city. She said we need to have the amount, and if it fails we need to commit to what will happen next.
- Councilmember Duran respects the people who devoted time to Cre8 Your 38; they favored a complete rebuild and we should honor that. She noted there were some 4 lane designs and she prefers two ballot questions so citizens have a choice. She also believes if this fails we should return to the 4/5 lane road.
- Councilmember Urban spoke in favor of including the 4/5 lane design concept as a choice for voters so that a final decision gets made.
- Councilmember Mathews had questions about driveway consolidation, the cost of the islands, and the length of the project. He believes Mr. Urban's design will have considerable cost savings which could be used for ROW acquisitions for amenities. He noted that traffic can be slowed by other means than narrowing the street to 3 lanes.

Councilmember Pond proposed a potential option he and Councilmember Hoppe worked on that has amenity zones, a main street with 3 travel lanes, that's phased in, that has a reasonable price tag, that's a retrofit, and avoids the street width designation fight. He distributed and explained a drawing of the plan which illustrates:

- 1) The West End Development (apartments) at 38th and Upham
- 2) "The Green" - civic space on the grounds of Stevens Elementary

- 3) An amenity zone in the street (less than 250 feet) on the N side of 38th in front of WR Cyclery, Fran's Café, and Bizarre Hair
- 4) Sidewalks and curb consolidation from Upham to Pierce on both sides
- 5) Bike lanes with street planters (along the N side of 38th, Upham to Pierce, and the east side of Pierce southward past 37th Ave)
- 6) Raised crosswalks with corner enhancements at the intersections of Upham, High Ct, Reed, Quay and Pierce
- 7) Amenities behind the flowline on the S side of 38th between Upham and High Ct

Councilmember Hoppe distributed a motion asking for consensus to move forward with one ballot question on 38th Ave, "and direct staff and the City Attorney to draft the ballot question to include:

1. Repaving and restriping 38th Ave to 3 lanes, Sheridan to Wadsworth, where it is currently 3 lanes.
2. Redeveloping the green space in front Stevens Elementary to include an outdoor amphitheater and a gathering space.
3. Add amenity zones up to 250 feet (without moving the curb and gutter over 250 feet), Pierce to Upham.
4. Build out amenities to the flow line on the south side of the street, High Ct. to Upham.
5. Repair and add sidewalks, corner enhancements, raised cross walks, and planters where needed for traffic buffers, Pierce to Upham.
6. Add new lighting, matching benches, trash cans, and public art, Pierce to Upham.
7. Work with property owners to consolidate long curb cuts, Harlan to Wadsworth.
8. Add lighting, benches and trash cans, and corner enhancements and planters for traffic buffers where appropriate, Pierce to Harlan.
9. Project to be financed with .25% of one cent sales tax increase for 3 years not to exceed 4.5 Mill any addition funds above 4.5 Mill within the 3 years sunset will go into the CIP budget.

Staff should work with the city attorney to be sure that the design stays within the charter limitations and does not trigger a street width designation."

Council response included:

- Councilmember Fitzgerald will reluctantly support this; he prefers reconstruction.
- Councilmember Duran will not support putting this on the ballot. It was just presented 10 minutes ago and it doesn't give voters a choice.
- Councilmember Mathews had a question about amenity zones – particularly the one in front of Fran's Café. Councilmember Hoppe advised the parking space would remain; the amenity zone would be south of the existing curb with a patio there. Mr. Mathews noted that is designated as a bike lane. Ms. Hoppe clarified that the bike lane would end there and people could access WR Cyclery right there. Mr. Westberg noted staff hasn't had time yet, but will figure some of these details out.
- Councilmember Davis wants to set it up with a clear answer. She worries about two ballot questions and getting two no's, sticker shock by the voters, affecting projects from the DIRT task force, and what to do if it fails.

- Councilmember Urban suggested an accompanying resolution determining what will happen if this ballot measure passes, and what will happen if it fails. He's concerned about incremental narrowing of the corridor to avoid the charter. His preference is to give voters a choice.
- Councilmember Pond clarified this is not intended to circumvent the charter and explained the term "bulb-out" is just meant to described "enhanced corners".
- Councilmember Fitzgerald read some draft ballot wording crafted by the City Attorney; he thinks no one will vote for that.
- There followed questions and exchanges about where the amenities will be; consistency of design vs contextual treatment; designing each property individually ignores Cre8 Your 38; cost to undo this; the amenity zone in front of Fran's is the only one in the street and it is less than 250 ft; Councilmember Pond's diagram is just a template that can be adjusted; circumventing the Charter by avoiding street width designation and the legal protest. Councilmembers Pond and Hoppe defended the new diagram and offered explanations.
- Councilmember Urban noted we're asking for tax money to make improvements on school district property. Mr. Goff said the MOU with the school allows the City to use the property and serve alcohol on it. The school district has indicated they are interested in working with us, but want to maintain ownership. We don't yet know the cost of developing the Green feature.
- Councilmember Davis doesn't see this as avoiding the street width designation – it's just making it as uncomplicated as possible.

Councilmember Hoppe read the consensus again. The consensus was 4-3 in favor of proceeding with the new plan.

Councilmember Davis received consensus for a plan declaring that if the ballot language fails we come up with a plan for 4 lanes -- a plan of what it would go to. Councilmember Duran was firm that such a resolution confirm a return to 4/5 lanes, with details on the amenities to be worked out. Councilmember Davis also wants to assure citizens that amenities will be included and said what it reverts back to can be discussed. More discussion followed. Cost was brought up. Mr. Goff advised they will work that out with the attorney and Council can fine tune what will happen and how many lanes it will be.

- Councilmember Mathews received confirmation from Councilmember Pond that this option is not throwing out the Cre8 Your 38 designs.

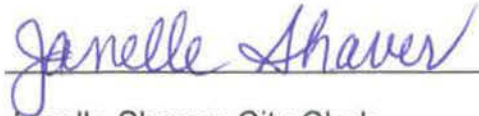
4. Elected Officials' Reports

Zach Urban reminded folks he's having a District II neighborhood meeting tomorrow night at Trinity Church (46th & Newland) at 6:00pm. He looks forward to seeing everyone.

City Clerk Janelle Shaver informed voters that they should be getting their primary election ballots in the mail soon. Those ballots can be mailed in or brought to the ballot drop box at City Hall. There is also a ballot box in the front lobby of City Hall.

ADJOURNMENT

The Study Session adjourned at 10:38 p.m.



Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON June 27, 2016



George Pond, Mayor Pro Tem