

CITY COUNCIL MINUTES

CITY OF WHEAT RIDGE, COLORADO
7500 WEST 29TH AVENUE, MUNICIPAL BUILDING

April 10, 2017

Mayor Jay called the Regular City Council Meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

ROLL CALL OF MEMBERS

Monica Duran	Genevieve Wooden	Zachary Urban	Janeece Hoppe
Kristi Davis	George Pond	Tim Fitzgerald	Larry Mathews

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

APPROVAL OF Minutes of the City Council Meeting of March 27, 2017 and Notes of the Study Session of March 20, 2017 and April 3, 2017

Councilmember Davis asked that the minutes [of March 27] be changed to reflect that all absent councilmembers were excused. Clerk Shaver reported she had received no notice of absence from Councilmember Pond. She will check.

There being no objections, the Minutes of the Council Meeting of March 27, 2017 and the Notes of Study Sessions March 20, 2017 and April 3, 2017 were approved as published.

PROCLAMATIONS AND CEREMONIES

CITIZENS' RIGHT TO SPEAK

Herb Schillereff (WR) expressed that he thinks it's about time that 38th Ave go to a vote of the people. This has dragged on too long. It's dangerous, people want their street back and the businesses need the traffic.

Al Gallo (WR) said he and his wife moved here recently from the Tennyson area to get away from congestion. He thinks 38th Ave is awesome and needs to be built on.

HeMargie Seyfer (WR) invited everyone to the Kite Flight Festival on April 29, the last Saturday in April at Anderson Park. The Police use this as an outreach to the Latino community. Police will be inspecting car seats and replacing any that are unsafe. She thanked the City for sponsoring the event by providing craft materials for 150 children and 15 nice kites for give-aways. She listed some of the many activities including a landing of Flight for Life and awards from sponsors Compass Construction and 1st Bank.

Bob Brazell (WR) urged Council to put the restriping of 38th Ave on the ballot. He understands it would only cost about \$750K to restripe it back and end this nightmare once and for all. Council shouldn't be afraid to let the people who hired them tell them what they want. Quit wasting time and money and let the people decide.

John Clark (WR) reported three upcoming retirements at Wheat Ridge High School -- two assistant principals and Principal Griff Wirth. He praised Mr. Wirth for his vision, heart and constant involvement. The present school board has forced him out. We've let this school board destroy our schools here in Wheat Ridge -- starting with closing Martensen and now threatening to close four more feeder schools. They have annihilated our schools. Of all the issues we deliberate about, we have to keep our schools great. Someone needs to stand up to the school board.

APPROVAL OF AGENDA

Motion by Councilmember Urban to hear Item 4 first, due to the attendance of so many staff members; second by Councilmember Duran; carried 8-0.

PUBLIC HEARINGS AND ORDINANCES ON SECOND READING

4. Council Bill 07-2017 -- An Ordinance amending various provisions of Article 1 of Chapter 22 of the Wheat Ridge Code of Laws concerning City Sales and Use Tax, and Section 11-68 of the Wheat Ridge Code of Laws, concerning proration of the Annual Liquor License Occupation Tax

This ordinance includes two sets of tax code updates that are intended to simplify the City's tax code and make it more business-friendly.

- Implementation of standardized definitions developed by municipal tax professionals, the business community and the Colorado General assembly.
- Miscellaneous revisions for efficiency, clarity, and consistency.

Councilmember Urban introduced Council Bill 07-2017.

City Clerk Shaver assigned Ordinance No. 1620.

Mayor Jay opened the public hearing.

There was no staff presentation. Heather Geyer noted that attorney Geoff Wilson (who explained the ordinance at the Study Session), sales tax supervisor Kathy Franklin, the City Treasurer and she were present and available to answer any questions.

There were no questions from Council and no public comment.

Mayor Jay closed the public hearing

Motion by Councilmember Urban to approve Council Bill 07-2017, an ordinance amending various provisions of Article 1 of Chapter 22 of the Wheat Ridge Code of Laws concerning city sales and use tax, and Section 11-68 of the Wheat Ridge Code of Laws, concerning proration of the annual liquor license occupation tax, on second reading, and that it takes effect fifteen (15) days after final publication; seconded by Councilmember Duran; carried 8-0.

1. Council Bill 05-2017 – An Ordinance amending Chapter 26 of the Wheat Ridge Code of Laws concerning the Regulation of Small-Scale Alcohol Production Facilities (Case NO. ZOA-17-01)

Our zoning code is silent with respect to alcohol production facilities. Small brewery operations have been handled on a case-by-case basis by classifying them as light industrial or restaurant uses. This ordinance will provide clarity for staff and potential businesses

Councilmember Mathews introduced Council Bill 05-2017.

City Clerk Shaver assigned Ordinance No. 1617.

Mayor Jay opened the public hearing.\

Staff presentation

Ken Johnstone highlighted the reasons for the ordinance.

- These types of businesses have flourished in Colorado. We've had some inquiries, so it makes sense to have some regulations for the future.
- They would be Special Uses in commercial districts and the larger operations would be allowed only in industrial zones.
- Facilities in commercial areas would have to have tasting rooms or tap rooms.
- The production limits for Micro and Macro breweries follow industry standards and what other cities are doing. (Note: The limit for microbreweries is 15K barrels/year; Rickoli's produces less than 1K barrels/year.

Councilmember Urban asked about the disparity in allowance for 15K barrels of beer, but only 15K gallons of wine. Mr. Johnstone indicated those are the standards used by the respective industries, and noted that wine is likely consumed in smaller quantities.

Mayor Jay closed the public hearing

Motion by Councilmember Mathews to approve Council Bill 05-2017, an ordinance amending Chapter 26 of the Wheat Ridge Code of Laws concerning the regulation of small-scale alcohol production facilities, on second reading, and that it takes effect fifteen (15) days after final publication, seconded by Councilmember Fitzgerald; carried 8-0.

2. Council Bill 06-2017 –An Ordinance amending Chapter 26 of the Wheat Ridge Code of Laws concerning the Regulation of Site Design Standards for Site Grading, Retaining Walls and Stormwater Facilities (Case No. ZOA-17-02)

Our zoning code does not address site grading, stormwater facilities, and retaining walls. This ordinance establishes reasonable minimum standards for their design.

Councilmember Duran introduced Council Bill 06-2017. She also noted that this ordinance is not expected to have a financial impact on the City.

City Clerk Shaver assigned Ordinance No. 1618.

Mayor Jay opened the public hearing.

Staff presentation

Ken Johnstone explained and illustrated with pictures how the ordinance would provide regulatory tools that would result in more aesthetically pleasing site plans.

- We currently we have no aesthetic design regulations for storm water facilities, including retaining walls and grading.
- The Planning Commission has reviewed the ordinance and recommends approval.
- The regulations are not over burdensome to developers, since we have so many infill projects.
- There are requirements by local, state and federal laws.
- These facilities are often above ground.
- There are technical requirements that dictate size and function
- Designs can vary – earthen, concrete, and integrated.

Regulatory approach includes

1. Meet the City's drainage standards
2. Codifies planting requirements
3. Visible concrete structures need some treatment
4. Gradual slopes – 4:1 or less
5. Plantings on edge of embankment

He showed examples of bad, and good design that is more aesthetically pleasing.

Public policy goals for grading and retaining walls

- Minimize visual impact of walls in public places
- Encourage use of smaller walls and higher quality materials
- Ensure that grade are maintainable and transition logically to adjacent properties and public streets
- Maintain flexibility and avoid a prescriptive approach.

Walls will be pedestrian scaled, meet applicable building codes and provide landscaping. Grading will be appropriate for adjacent ROW or property, have slopes of 4:1 or less and have rolling transition grades.

The regulations would also be added to the Architectural and Site Design Manual.

Council questions

Councilmember Mathews expressed support for anything that eliminates bare concrete drains and walls, and reflects our rural atmosphere. Mr. Johnstone advised staff will recommend materials that make the most sense.

Councilmember Urban inquired if the design standards will affect any City projects. Mr. Johnstone said we will be following the same standards and should be thinking about this. A materials pallet is being developed right now for Clear Creek Crossing. Regarding whether new standards would make City projects cost more (ex: retaining walls at Wadsworth & Clear Creek) Mr. Johnstone said that would be a balancing act.

Councilmember Pond commented the City should follow the standards we set for others.

There was no public comment.

Mayor Jay closed the public hearing

Motion by Councilmember Duran to approve Council Bill 06-2017, an ordinance amending Chapter 26 of the Wheat Ridge Code of Laws concerning the regulation of site design standards for site grading, retaining walls and stormwater facilities, on second reading, and that it takes effect fifteen (15) days after final publication, seconded by Councilmember Hoppe carried 7-1, with Councilmember Urban voting no.

3. Council Bill 03-2017 – An Ordinance approving the rezoning of property located at 4255 Yarrow Street from Residential-Two (R-2) to Mixed Use Neighborhood (MU-N) (Case No. WZ-16-08/Envirofinance Group)

The purpose of the rezoning is to modify and expand the list of permitted uses and to simplify the review and approval process for future development on the property.

Councilmember Davis introduced Council Bill 03-2017.

City Clerk Shaver assigned Ordinance No. 1619.

Mayor Jay opened the public hearing and swore in the speakers.

Staff presentation

Meredith Reckert entered into the record the comprehensive plan, the zoning ordinance, the case file and packet materials, and the contents of the digital presentation. She testified that all posting and notification requirements had been met.

Existing conditions and request

- Rezoning to MU-N will modify the list of uses, and modify the review process.
- The property is 4.52 acres and contains greenhouses built in the 1940's.
- The property is contaminated due to prior uses and will have to be remediated.
- The property is surrounded by R-2 zoning that is predominately single family, with C-1 to the north (including commercial, medical office and a new assisted living

facility), R-3 (apartments) to the east, Happiness Gardens on the west, single family to the south, and Wilmore Davis Elementary School to the southwest.

- R-2 (current zoning) allows for single and two family residential, a 35' height limit, maximum lot coverage of 40%, and 25' minimum front setbacks.
- MU-N allows 21 residential units per acre and commercial uses (office, service, retail, and restaurant); encourages higher density; and has development standards, a 35' height limit for residential, and a 50' height limit for commercial. Maximum lot coverage is 85%-90% and the minimum front setback is 0'-20'.
- If the property is mitigated, it will be mitigated to state standards for residential.

Staff analysis of the zoning criteria

- The property is adjacent to the 44th Ave Corridor, which the Comprehensive Plan lists as neighborhood commercial corridor.
- The property, designated as Neighborhood, is on the edge of the Wadsworth Subarea Plan which suggests medium high density (up to 21 units per acre).
- Staff believes this application is consistent with the goals and objectives of the City guiding documents and that the criteria supports the zone change.
- Staff believes the MU-N zone will promote public health, safety and welfare; will add value by redevelopment; will offer an appropriate transition with adjacent land uses; and may be a catalyst for other improvements in the area.
- Staff has determined that local streets are adequate to support the MU-N, but will look at the possibility of the need for a signal at 44th & Yarrow.
- All public agencies can serve the property, with upgrades at the owner's expense.

Zoning process

- A neighborhood meeting was held last December; 10 attended; traffic from the development was a concern, as well as transition between the development and Happiness Gardens
- Planning Commission recommended approval 4-1.
- There are no concerns from City departments; site plan review will be done by staff.
- Approval of the Specific Development Plan will be done by staff. If a plat is required there would be a public hearing.

Staff recommends approval with two conditions:

- 1) Additional traffic information be submitted at site plan review
- 2) City continues to work with applicant regarding interface with Happiness Gardens

Council questions

Councilmember Duran: The single family house to the south is a different owner and will remain. What steps will be taken to protect the neighbors during soil remediation? State and federal regulations will apply.

Councilmember Pond asked why the recommended conditions weren't in the motion. Staff will get that language.

Councilmember Mathews asked why so many uses were necessary, as this is not on 44th Avenue? Due to timing, the applicant prefers mixed use. Staff believes some low level commercial uses would be appropriate.

Councilmember Fitzgerald asked if 749 traffic passes per day will degrade 44th Ave or affect the Wadsworth Plan. Mr. Westberg testified that capacity is not an issue. 44th has 11-14K cars a day, but can handle up to 20K. The majority of traffic back-ups on 44th and Wadsworth should improve when Wadsworth gets redone. This development shouldn't affect anything that's happening on Wadsworth.

Councilmember Wooden's questions about the history of the property were deferred to the applicant.

Councilmember Hoppe noted the zoning would allow 94 units, but the developer is only building 70. ~ She inquired about the shade impact to Happiness Gardens. Ms. Reckert noted the mature spruce trees already there make some shade. There will be a 30 foot setback. Parks & Recreation staff take equipment to Happiness Gardens through the greenhouse site. They don't think it will be a problem. They will work with the applicant to ensure good function for Happiness Gardens. ~ Any plan for buffers adjacent to the school were deferred to the applicant. That would be considered with site plan review.

Councilmember Davis found that R-3 and R-3A are applicable, and noted that PRD was discussed at the Planning Commission level. She understands it is faster to do Mixed Use, doesn't feel commercial is appropriate, and asked how much extra time a PRD would take. Ms. Reckert thought a couple of months. She testified that the extra documentation required for PRD would not change traffic volume, but would show buffers and entrances. The applicant had a choice and preferred Mixed Use.

Ms. Reckert testified that due to more staff review steps a PRD has more fees.

Councilmember Mathews inquired about the uncertainty of traffic volume given the multiple options for use. Ms. Reckert said there can be no restrictions on use. Mr. Johnstone added that staff review will consider the actual use.

Mr. Goff advised that the MU-N zoning was added by a previous Council to make the process faster, cheaper, and more predictable for the developer.

Councilmember Wooden confirmed adjacent land uses on 44th

Applicant

Cameron Bertron (Denver) represents the owner. His firm specializes in properties that require remediation. He gave reasons why he believes this project will be beneficial to the neighborhood and the community, and answered questions from Council.

- Property owners have entered a plan with the state for voluntary clean-up to residential standards. The higher density is necessary financially.
- Past owners have proposed redevelopment of the property but they believe they have the right mix.
- They will meet with neighbors to make sure their questions get answered as work goes on.

- MU-N is preferred because it allows the highest and best use. It has design standards, setbacks and open space requirements. Traffic counts will have to be addressed.
- Commercial development is unlikely since the assisted living facility went in.
- The state (CDPHE) will always have the final say on the site plan. It's best to allow a level of flexibility until the amount of remediation is known and completed. Without that, they can't make any level of commitment for use.
- History: The first greenhouses were built in the 1930's for carnations. In the 1970's it was converted to a landscaping greenhouse, which ceased to use the 84 concrete beds. A majority of the pesticide contamination occurred during the carnation days. Most recently it was leased to organic tomato growers. Having no active user for two years has led to dilapidation, the stripping of materials and use by the homeless.
- There are some underground issues related to fuel tanks.
- He doesn't think the property has ever been listed, but there have been some pending contracts for sale during the last two years.
- This is a small sized project for their company. (They redeveloped the old St. Anthony's site and the ARCO site.)

Mayor Jay closed the public hearing

There was brief discussion about how to include conditions.

Motion by Councilmember Davis to approve Council Bill 03-2017, an ordinance approving the rezoning of property located at 4255 Yarrow Street from Residential-Two (R-2) to Mixed Use Neighborhood (MU-N), on second reading, and that it takes effect fifteen (15) days after final publication, for the following reasons:

1. City Council has conducted a proper public hearing meeting all public notice requirements as required by Section 26-109 of the Code of Laws.
2. The requested rezoning has been reviewed by the Planning Commission, which has forwarded its recommendation for approval.
3. The requested rezoning has been found to comply with the "criteria for review" in Section 26-112-E of the Code of Laws.

with the following conditions:

1. Additional traffic information be submitted at site plan review, including consideration of a traffic signal at 44th Avenue and Yarrow Street.
2. The City continue working with the applicant regarding interface with Happiness Gardens.
3. The City continue to work on the review of possible additional access points from the streets into the development.

seconded by Councilmember Pond.

Councilmember Urban suggested using the wording of the condition as stated in the Planning Commission minutes:

“Additional traffic information be submitted at the time of administrative site plan review to determine whether the installation of a traffic signal at the corner of 44th and Yarrow is warranted. If it is warranted, the applicant will be responsible for the proportional share of the cost of such signal installation.”

Councilmember Davis agreed to the substitution of the Planning Commission language for condition #1. The second agreed.

Councilmember Davis asked Mr. Bertron to let her help with the neighborhood meeting.

Further discussion included a question about the effects of the Wadsworth project on this area; confirmation that without the added condition no traffic study would be required; and an opinion that the criteria have been met.

The motion, with revised wording for Condition #1, carried 8-0.

CITY MANAGER'S MATTERS

Patrick Goff announced that the Police Department accreditation hearing would be tomorrow at 5pm in Council Chambers. If anyone wants to provide testimony to the accreditation board they are welcome to come. ~ He alerted Council to watch for an email tomorrow announcing the new anchor tenant for Wheat Ridge Corners (38th & Wadsworth). ~ He noted that applications are still being accepted for the Mayor's Environmental Sustainability Committee. Applications are available on the City website.

CITY ATTORNEY'S MATTERS

none

ELECTED OFFICIAL'S MATTERS

Janelle Shaver noted that the Easter egg hunt was extremely well attended.

Monica Duran invited everyone to join the Wheat Ridge Grange in celebrating its 110th birthday with a Community Night on Thursday, April 20 from 7:00-8:30pm at the Grange (3850 High Court). There will be an ice cream social, a history on the Grange, honoring of Wade Hammond, and entertainment. It is free and everyone is invited and welcome.

Zach Urban encouraged folks to come to the Grange celebration on April 20.

George Pond thanked everyone who came to the coffee he and Councilmember Fitzgerald had. They'll be having another one in the future.

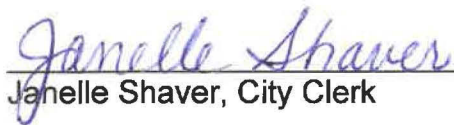
Kristi Davis asked if the traffic study for tonight's rezoning will study speed on Yarrow Street. Mr. Goff will check.

Genevieve Wooden noted that the study session next Monday will include a panel consisting of Ali Lasell (Jeffco School Board), Karen Quambeck (Achievement Director for WR elementary schools), Griff Wirth (WRHS principal), Jeff Gomez (Everitt Middle School principal), and two elementary school principals. There will be an update from the Wheat Ridge Education Alliance and then it will be opened up as a panel discussion.

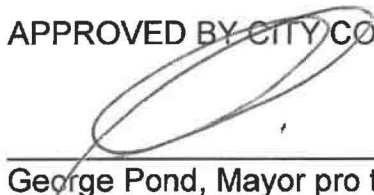
Joyce Jay reported that the Arvada/WR Kiwanis provided 6,000 eggs for the Easter egg hunt and that the last Coffee with the Mayor was well attended.

ADJOURNMENT

The City Council Meeting was adjourned at 9:05 p.m.


Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON APRIL 24, 2017


George Pond, Mayor pro tem

The preceding Minutes were prepared according to §47 of Robert's Rules of Order, i.e. they contain a record of what was *done* at the meeting, not what was *said* by the members. Recordings and DVD's of the meetings are available for listening or viewing in the City Clerk's Office, as well as copies of Ordinances and Resolutions.