

CITY COUNCIL MINUTES

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

January 8, 2018

Mayor Starker 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	Zachary Urban	Janeece Hoppe	George Pond
Kristi Davis	Tim Fitzgerald	Larry Mathews	Leah Dozeman

Also present: City Clerk, Janelle Shaver; City Treasurer, Jerry DiTullio; City Attorney, Jerry Dahl; City Manager, Patrick Goff; Police Chief Daniel Brennan;; Community Development Director, Ken Johnstone; other staff, guests and interested citizens.

APPROVAL OF Minutes of the Council Meetings of November 13, 2017, November 27, 2017 and December 11, 2017 and the Study Session Notes of November 20, 2017 and December 4, 2017

There being no objections, the minutes of the regular meetings of November 13, 2017, November 27, 2017 and December 11, 2017 and the Study Session Notes of November 20, 2017 and December 4, 2017 were approved as published.

PROCLAMATIONS AND CEREMONIES

Wheat Ridge High School Poms 4A State Champions

Mayor Starker welcomed the Wheat Ridge High School Poms team to the dais. Councilmember Hoppe read congratulations to the team for winning the 4A state championship. Coaches Caitlin Orms and Brittany Griffin were present with the team. Ms. Orms spoke about the duties and training for the team. They will be going to Nationals in Florida February 1-5.

CITIZENS RIGHT TO SPEAK

Dorothy Archer (WR) addressed the 35ft height allowance in R1-C. She talked about how Council is not listening to the citizens. A suggested moratorium was ignored. She reported that Edgewater has changed their height limit to 25 ft. She has grave concerns. Council has not addressed Zone 1 or Zone 2 and they have ignored 100 signatures. She pointed out this a small area. To the assertion that we have to change so people will move here, she noted that houses in District 1 have no problem selling; people from north Denver are coming here because they are sad at what's happening to them. Council needs to know this issue isn't going to go away.

Mark Bowman (WR) requested the city address accessory dwelling units at a study session in the near future. Englewood is having this discussion and 88% of the people who have participated in their discussion support ADU's. Our City should look at what other cities are doing.

Bob Brazell donated his time to Michale Illo.

Michael Illo (WR) commented on the study session about height limits for houses. People were well-informed and it was clear what people wanted – to preserve their property values, lifestyle, access to sunlight, etc. He mentioned the 100 signatures in support of a 25 ft limit for houses in their district. He explained that 25 ft is enough to accommodate a 2-story structure, and noted the Planning Director expressed willingness to compromise. He pointed out several flaws with the survey:

- It had not one question specific to R1-C neighborhoods.
- It was not verifiable, i.e. anyone from anywhere could fill out the survey.
- People could take the survey multiple times.

He doesn't believe the legislative process should be based in information that is not verifiable and is irrelevant. He suggested the process needs to continue so that real citizen concerns can be addressed.

APPROVAL OF AGENDA

1. CONSENT AGENDA

- a) Motion to approve payment to Faris Machinery Company of Commerce City, CO, for one 2018 Elgin Pelican Mechanical Street Sweeper with options in a total amount not to exceed \$199,705 [*funds from 2018 Fleet Replacement account and street sweeper grant (\$75K) from Regional Air Quality Council*]
- b) Resolution 07-2018 – a resolution granting approval to the Longs Peak Metropolitan District to include additional parcels within its boundaries and to provide service to those parcels [*parcels from previous Jeffco animal shelter*]
- c) Resolution 05-2018 – a resolution of the Wheat Ridge City Council expressing support for the Dream Act of 2017 [*request from Metro Mayors Caucus*]
- d) Resolution 04-2018 – a resolution approving an Intergovernmental Agreement between the City of Wheat Ridge and the City of Lakewood concerning Forensic Crime Lab and Analyst Services in the amount of \$71,200 [*annual renewal; 2018 savings for this arrangement = \$34,955*]
- e) Resolution 06-2018 – a resolution approving the 2018 Police Recruit Training Agreement to provide Law Enforcement Academy Training for six Wheat Ridge Police Recruits at the Combined Regional Academy [*\$36K; budgeted*]

Councilmember Pond introduced the Consent Agenda.

Motion by Councilmember Pond to approve the Consent Agenda items a) thru e); seconded by Councilmember Hoppe.

Councilmember Mathews asked to pull Items b) and c).

Motion to approve Items a), d) and e) carried 8-0.

Councilmember Pond read a description of Item b) and moved its approval; seconded by Councilmember Duran.

Mr. Mathews asked when staff knew that Clear Creek Crossing was going to be a hospital. Mr. Goff said that was not germane to the Metropolitan District. The ODP will be discussed with a later agenda item.

The motion to approve Item b) carried 8-0.

Councilmember Pond read an explanation of Item c) and moved its approval; seconded by Councilmember Mathews.

Councilmember Mathews voiced that he is opposed to becoming involved in matters of national and international politics. As with the Paris Accords, he doesn't believe it is appropriate for the City Council to speak for the whole City on such issues.

Councilmember Duran said she thinks it's extremely important for the City to show support for the Dream Act. She would like to see resources on the City website and she thinks it's important to show unity and that we stand together as a City and a Council.

The motion to approve Item c) carried 7-1, with Councilmember Mathews voting no.

PUBLIC HEARINGS AND ORDINANCES ON SECOND READING

2. Resolution 01-2018— A resolution approving a sixty-three lot Subdivision Plat for property zoned Mixed Use Neighborhood (MU-N) at 11818 W. 52nd Avenue (Case No. WS-17-01/Hance Ranch)

The applicant is requesting approval of a sixty-three lot subdivision plat for the 3.91 acre parcel for the purpose of building sixty-three townhomes.

Councilmember Mathews introduced Resolution 01-2018

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

Staff Presentation ~ Meredith Reckert

- Ms. Reckert began with an explanation of what a subdivision does (defines property lines and allows the City to evaluate ROW and civil documents for traffic and drainage) and what it does not do (change zoning or permitted uses, or examine site design or building placement).
- She entered into the record the case file and packet material, the zoning ordinance and subdivision regulations, the Comprehensive Plan and the contents of the digital presentation.

- The proposed subdivision will create 63 town home lots with eight tracts.
- Because more than five lots are proposed City Council is the final authority.
- The Planning Commission has heard the case and recommends approval.
- A neighborhood meeting is not required for a subdivision plat.
- The property is bounded by 52nd Avenue (N), Taft Court (W) and Tabor Street (E).
- The property of 3.91 acres was previously an alpaca farm.
- The property was rezoned in 2016. The northern plot (the subject of this application) was zoned Mixed Use Neighborhood to encourage a medium density mixed use development that would allow both commercial and residential.
- The south parcel is now zoned MU-Commercial TOD, but it not under consideration.
- With an aerial map, Ms. Reckert described adjacent land uses and highlighted the various infrastructure upgrades that have been done in anticipation of commuter rail coming to the area (realignment of Tabor to the south, a traffic signal at Tabor & Ridge Road, and construction of Taft Court between Ridge Road and 52nd).
- Slides of the area were presented and described.
- She went through the steps that have already been completed: rezoning from R-1 to MU-N and MU-C TOD in 2016; administrative approval of the Concept Plan in March 2017; and approval of the two-lot subdivision by City Council last June. Following approval of the plat tonight, the next steps will be administrative approval of the Site Development Plan and building permits.
- The purpose of this Plat is not to review specific site details, but rather to confirm property boundaries, access, easements, etc.
- Each townhome will have a separate parcel. Eight tracts are being dedicated:
 - Tract A provides access from Taft Ct and 51st Ave, and interior circulation.
 - Tract B in the middle is for landscaping, including walking paths.
 - Tracts C and D along 51st Avenue are detention ponds.
- Primary access to the development will be from Taft at 51st Ave. There will be no direct access to Tabor Street a condition added by the Planning Commission.
- There are east/west pedestrian connections to public streets.
- There will be public streets on all sides of the development, except for Taft Ct which was built as an RTD improvement.
- All streets will have separated sidewalks, tree lawns and on-street parking.
- All agencies can serve the parcels with improvements installed at the developer's expense.
- Public Works has reviewed the drainage plan. Drainage flows southeast to the detention ponds on 51st Ave., which release into a public storm system in Tabor St.
- Parks Department is asking for a fee of \$127,000. It must be paid before the plat is recorded.
- At a public hearing on Dec 7 the Planning Commission made recommendations.
- She reviewed the staff recommendations that are listed in the motion.

Public Comment

Mike Childers (Arvada) was sworn in by the Mayor. He serves on the board of a nearby HOA. He urged the City to seriously review these documents to make sure we are not overpopulating this piece of property. The area already has issues. An auto repair shop was built recently on 52nd Avenue and inadequate parking was provided –

forcing cars to be parked on 52nd Avenue. He has concerns about the safety of people pulling out onto to 52nd Avenue. He suggested this design looks to have fairly narrow streets and doesn't provide parking for anyone other than the owners. He implored the City to take steps to ensure we are not developing something that won't be attractive – when other more spacious and accommodating developments are available.

Council Questions

Councilmember Mathews noted that \$127K will be paid to the Parks Department, but wondered what green space would be on site. Ms. Reckert testified the minimum requirement for a mixed use development with a single use is 15% total landscaped area, with 75% usable space. That is being done by providing the walking paths.

Councilmember Davis shared concerns about traffic on 52nd as expressed by the Planning Commission and asked if the City is doing anything proactively to slow traffic? Mark Westberg testified that 2E dollars for this area have already been prioritized by the City. 52nd is at or near the top of the list. It is a collector street with only two lanes now; the plan for the future is to have three lanes from Tabor to Ward Road. Our side will have detached sidewalks. When pressed about slowing traffic, he noted it's a short section of street. They are looking at bike lanes or off-street parking or both that may help slow traffic. There is a signal at Ward Road that people will be coming to. They have consulted with partners of Jefferson County and Arvada to see what they are willing to do on the north side. Arvada has been responsive; the County has not. The concern is safety for foot traffic to the school.

Councilmember Urban asked about parking requirements. Ms. Reckert testified that each unit will have two parking spaces in garages - which exceeds the minimum requirement of one space. There will also be about 50 additional spaces on the adjacent street frontages of Taft, Tabor, 51st, and 52nd. These four streets will be standard width and should not be affected by the on-street parking.

Councilmember Duran inquired about the concern of drainage. Mr. Westberg testified there is a large amount of offsite drainage across 52nd to provide for storm events.

The applicant was invited to speak. **Noah Nemmers** of Baseline Engineering Corporation of Golden was sworn in. His firm represents the applicant. He had nothing to offer and there were no questions for him.

Councilmember Mathews asked about the zoning for the individual units. Ms. Reckert said they will be town homes, they are zoned MU-N and each would be occupied by one family. Councilor Mathews expressed concern that these units may not remain as single-family. Mr. Johnstone said the zoning code defines a household unit and a family; it can be a group related by birth or three unrelated individuals and the same rules will apply here. Enforcement is done on a complaint basis.

Councilmember Urban asked how Tract B will be maintained. Ms. Reckert said that will be done by the homeowners association. The units will face Tract B. Ms. Reckert confirmed that the property had previously been subdivided into multiple residential lots.

Motion by Councilmember Mathews to approve Resolution No. 01-2018, a resolution approving a sixty-three lot Subdivision Plat for property zoned Mixed Use Neighborhood (MU-N) at 11818 W. 52nd Avenue (Case No. WS-17-01/Hance Ranch) for the following reasons:

1. City Council has conducted a proper public hearing meeting all public notice requirements as required by Section 26-109 and 26-407 of the Code of Laws.
2. The requested subdivision has been reviewed by the Planning Commission, which has forwarded its recommendation for approval.
3. All requirements of the subdivision regulations have been met.
4. The proposed plat will facilitate redevelopment of the site consistent with the zone change and Concept Plan.
5. Utility districts can serve the property with improvements installed at the developer's expense.

With the following conditions:

1. A Subdivision Improvement Agreement (SIA) be executed with required security prior to recordation of the subdivision plat.
2. The developer shall pay parks fees at the time of plat recording in the amount of \$127,362.
3. The Homeowners' Association covenants shall be reviewed and approved by Staff prior to issuance of a building permit.
4. There shall be no access from Tract A to Tabor Street.

seconded by Councilmember Duran.

Mayor Starker closed the public hearing.

The motion carried 8-0

3. Resolution 02-2018 – A resolution approving a six-lot Subdivision Plat for property zoned Residential-Two (R-2) at 2850 and 2880 Teller Street (Case No. WS-17-02/Teller Street)

The request is for approval of a six-lot subdivision plat that is in accordance with the R-2 zone district regulations; it will create six new single-family home sites.

Councilmember Duran introduced Resolution 02-2018.

Councilmember Hoppe announced that she has personal and extensive knowledge of this project. She has discussed this with the City Attorney and they have decided it would be prudent for her to recuse herself. There being no objection to her recusal, Councilmember Hoppe left the Council Chambers at 8:04pm.

Staff Presentation ~ Meredith Reckert

- Ms. Reckert entered into the record the case file and packet material, the subdivision regulations and the contents of the digital presentation.

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

- Ms. Reckert testified that all posting and notification requirements had been met.
- She reported that six lots is considered a major subdivision and requires City Council approval. Planning Commission has recommended approval and a neighborhood meeting is not required.
- The property currently has 2 parcels and totals 1.4 acres. The northern parcel is vacant; the southern parcel has a single family home that will be demolished.
- The intent is to accommodate single family houses.
 - All the new lots are at least 9,000 sf in size – required for single family.
 - 12,500 sf is required for a duplex; these lots will not accommodate duplexes.
- The property is surrounded by R-2 zoning, but the area is primarily an established single family neighborhood, with a few duplexes and some horse properties
- The interior lots will use a single private drive accessed from Teller Street.
- An interior hammerhead will accommodate emergency vehicle turnaround; the fire department has approved this design.
- Tract A in the SE corner will include some detention improvements.
- Teller Street is not wide enough to accommodate the required curb, gutter and 5 ft sidewalk, so the City is requesting a 1½ ft dedication for Teller and Public Works is asking for fees in lieu of construction of public improvements since there are no sidewalks to the north or south of this property.
- All agencies can serve the property with improvements installed by the developer.
- Public Works has reviewed and approved the drainage report.
- The Parks Department will require \$12K in lieu of parkland dedication.
- She reviewed the Planning Commission recommendations and conditions.
- A previous easement providing rear access to the property adjacent to the NW parcel has been extinguished, so no condition is necessary related to that.

Berin Jacob Wachsmann (WR), the applicant, introduced himself. He had no comments and there were no questions of him.

Council Questions

- Councilmember Fitzgerald had a minor questions about the setback related to the house on 29th. It is fine.
- Councilmember Mathews asked why this isn't being rezoned to R-1. Ms. Reckert explained it wasn't necessary: Single family is allowed in R-2, and these lots are too small to ever build any kind of duplex. Upper stories could not be rented out.
- Councilmember Urban asked about marketing individual lots. Mr. Wachsmann said the lots can't be sold until the platting is approved. They will either sell the subdivision or build it out – whatever makes the most financial sense at the time.
- Councilmember Mathews asked about parking accommodations. Ms. Reckert said if there is street parking, two onsite spaces are required. If there is no street parking they need four spaces, which is often a 2-car garage and two pads in the driveway.
- Councilmember Duran confirmed there are no issue with emergency vehicles.

- Councilmember Duran asked about the value of the homes. Mr. Wachsmann said it would depend on market value. A number of homes in the area have sold recently for \$750K; new construction has sold for higher. They envision the end users as families; they didn't do duplexes because they don't want to increase density. It's a low density neighborhood, and they want to keep the country feel.

Mayor Starker closed the public hearing.

Motion by Councilmember Duran to approve Resolution No. 02-2018 – A resolution approving a six-lot Subdivision Plat for property zoned Residential-Two (R-2) at 2850 and 2880 Teller Street (Case No. WS-17-02/Teller Street) for the following reasons:

1. City Council has conducted a proper public hearing meeting all public notice requirements as required by Section 26-109 and 26-407 of the Code of Laws.
2. The requested subdivision has been reviewed by the Planning Commission, which has forwarded its recommendation for approval.
3. The proposed lots meet or exceed the R-2 zone district regulations.
4. All requirements of the subdivision regulations have been met.
5. Utility districts can serve the property with improvements installed at the developer's expense.

With the following conditions:

1. A Subdivision Improvement Agreement be executed whereby all private infrastructure improvements are in place prior to issuance of building permits for individual lots.
2. The developer pay parks fees at the time of plat recording in the amount of \$12,486.45.
3. The Homeowners' Association covenants be reviewed and approved by Staff.

seconded by Councilmember Davis.

Councilmember Urban asked if the other conditions suggested by Planning Commission had been addressed. Ms. Reckert said they had, and are not needed for the motion.

The motion carried 7-0.

Councilmember Hoppe returned to the Chambers at 8:21pm.

4. Council Bill 20-2017: (Ordinance 1632) – An ordinance approving a Radio Tower Space License Agreement between the City of Wheat Ridge and DMR Networks, Inc.

At the November 27 regular meeting, Council approved on first reading Council Bill No. 20-2017, an ordinance approving a radio tower space license agreement for the North Table Mountain site. At that meeting, staff indicated that amendments concerning

indemnification and insurance would be drafted for second reading. The public hearing that was originally scheduled for December 11, 2017 was continued until January 8, 2018 to allow the time necessary to craft the required amendments.

Councilmember Hoppe introduced Council Bill 20-2017

Mayor Starker opened the public hearing.

City Clerk Shaver had previously assigned Ordinance 1632 to this bill.

Staff Presentation ~ City Attorney, Jerry Dahl

Mr. Dahl went through the indemnification language and pointed out the changes. Insurance language was also addressed.

Chief Brennan added that this will provide a good radio system for the City.

Mayor Starker closed the public hearing.

Motion by Councilmember Hoppe to approve Council Bill 20-2017 – an ordinance approving a Radio Tower Space License Agreement between the City of Wheat Ridge and DMR Networks, Inc. on second reading and that it take effect 15 days after final publication; seconded by Councilmember Duran; carried 8-0.

5. Resolution 03-2018 – A Resolution approving a Special Use Permit to allow a major automotive repair facility on property zoned Commercial-One (C-1) located at 11072 W. 44th Ave. and 4380 Pierson Street (Case No. Sup-17-04/Subapros)

The applicant is requesting approval of a Special Use Permit (SUP) to open a major automotive repair facility – a use that is not a use by right for property zoned C-1

Councilmember Dozeman introduced Resolution 03-2018.

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

Staff Presentation ~ Ken Johnstone

Mr. Johnstone explained the SUP would have been granted administratively, but a written objection to the SUP was received, which triggered the public hearing.

- The entire frontage of the property between Pierson and Parfet faces 44th Avenue.
- There are multiple parcels, but have been under one ownership for some time. It has been a commercial pump company since the 1970's. The property is for sale.
- Subapros, a Subaru service business that currently operates in unincorporated Jefferson County, is under contract to purchase the property with the intent to open a major auto repair facility.
- Minor auto repair is a use by right in this district; major auto repair is not.
- The new Fruitdale Lofts are just to the east and Prospect Park is nearby to the west.
- Surrounding properties are also zoned C-1, which allows for office, general business, retail sales and service. There is some R-2 in the area. The 44th ave

corridor has mostly commercial uses, but areas to the north and south are primarily zoned residential, with some agricultural zones mixed in.

- With an aerial photo he explained how the existing buildings will be used.
 - Some of the uses will be minor auto repair.
 - No new buildings will be added.
 - Some parking lot surface and landscaping improvements are planned.
 - The main shop, with several bay doors, will be close to 44th Avenue.
 - The body shop will be in the middle – not adjacent to any neighbors.
 - The minor uses will be located at the rear of the property next to neighbors.
 - A residential style building in the rear is set up for office space.
 - Eye-level photos were explained.
 - He went through the differences in the code for major and minor auto repair. Major auto repair requires a Special Use Permit.
 - A neighborhood meeting was held; nine neighbors attended; notes are in the packet.
 - No outside agencies or city departments expressed concerns.
 - Letters of objections(in the packet) were received and had three primary concerns:
 - 1) Drainage into adjacent properties;
 - 2) Pollution and environmental waste; and
 - 3) Lack of adherence to the City's Comprehensive Plan and the Fruitdale Subarea Plan (and compatibility with surrounding uses).
- He explained those issues and how they will be addressed.
- 1) Since there will be no new construction a review of drainage is not triggered; it is an historical condition we can't ask them to address.
 - 2) It is presumed that the property will be managed in accordance with applicable environmental laws. The paint booth and handling of oil are things the City can oversee with the building code. Bigger environmental concerns are not regulated at the local level; it's more state and federal.
 - 3) Regarding the Comprehensive Plan – it is primarily consulted for rezonings – not Special Use Permits; it is an advisory document only, not a regulatory document.
- He went through the staff recommendations and the list of conditions that are listed in the motion.

Public Comment

Elizabeth Smith (WR) is a resident of Fruitdale. She spoke about it as a protected corridor and listed the recommendations of the Fruitdale Subarea Plan. It is to be an agriculture themed area.

- Per City Code, SUP's are discretionary and should have no detrimental effect on the general health, welfare and convenience of those living in the area. Subapros and the City acknowledge this use will cause more noise, traffic, and odor that they name as "negative externalities", but conclude that because they will be indoor activities, it is not a detriment.
 - The buildings, large metal sheds that aren't insulated, will produce noise.
 - Repair bay door will be open – especially in the summer.
 - The lube, oil and tire facility will be immediately adjacent to three neighboring homes, with only a fence as a buffer.

- Run-off will contain numerous substances that the wholesale pipe/pump supply place did not have.
- An SUP requires that the use will not create impacts greater than what is allowed in the existing zoning. The sheer size of this facility dwarfs other auto uses in the area.
- Staff and the Planning Commission contend that since there are already automotive uses in the area – one more won't matter. The neighbors disagree. If this goes in there will be automotive uses on three of four corners; the neighbors feel they are getting surrounded by an automotive ghetto – when they are in Fruitdale, an historic area near a park and the greenbelt.
- Code states the use must be in harmony and compatible with the character of the surrounding neighborhood. It's not compatible with the park, Fruitdale Lofts, Parkside, and individual homes - or with what the Fruitdale area is supposed to be.
- She asked why the Comprehensive Plan is so important if we aren't going to pay attention to it.
- She read from page 30 of the Comprehensive Plan a description of the small neighborhood businesses recommended for 44th & Parfet.
- She read the City's goals for the Fruitdale area, and submitted that approval of this use furthers none of those goals. Neither does it advance what people want to see in the area.

Julie Rochel (WR) lives behind this property. She said all the questions from the neighborhood meeting were addressed, except for her concern that the entire parking lot of this business drains onto her property. This is detrimental to the animals she has on her land. To now have a variety of automotive fluids draining onto her property is not fair to her. She is opposed to this.

Tom Parchman (WR) told Council the neighbors are thrilled about the Fruitdale Subarea Plan and he hopes the Council, as representatives of the people, will look at these important policies established in the Plan. Although this property is zoned Commercial, the surrounding neighborhood is residential – not industrial, not commercial. Council's approval of this use is discretionary, and he encouraged Council to build Fruitdale into the enclave the important policies said it should be.

Mayor Starker swore in additional speakers.

Bryce Purchase (WR) lives next to where the offices will be. While he is a proud Subaru driver, he is concerned about the body shop. There is already a body shop directly across the street – which will mean double the odor. He asked that the property line labeled 106 feet be reviewed because it is wrong. It come onto his property much further than indicated. He believes the new owners will improve the property, but he is concerned about more odor and property lines.

Peter Kula (Denver), the applicant, addressed the neighbors' concerns.

- He doesn't think his business will cause the impact that is being expressed.
- Their business is currently at 49th & Ward Road and is zoned C-3. They want to move from unincorporated Jeffco into Wheat Ridge.

- They want to improve the property with landscaping, fencing, paving and painting.
- The steel buildings will be insulated for sound deadening.
- Most of their business will be on 44th Avenue resulting in minimal impact to the side and rear neighbors. Interior parking with continued fencing will protect the neighbors.
- Aesthetically, the improvements will improve the appearance of the area.
- Regarding anticipated odors and noise, he noted that the Jefferson County Health Dept has very strict standards for noise levels; those have been researched and they will be compliant. Air standards and EPA requirements will also guide their paint operation. The paint booth will be a minimal part of their business.
- They are a good neighbor where they are, and they want to be a good neighbor here.
- They want to stay in Wheat Ridge. Most of their employees live in Wheat Ridge, and theirs is a family owned and operated business.

Melissa Lawrence (WR) moved here 2 ½ years ago. She shared that they have a close, loving neighborhood; they support each other. Her concerns are environmental, and the noise and light pollution that will affect their homes and the park where children play. She read a prepared statement listing negative effects of this land use: added particles of dirt, rubber, metal, oil, grease, transmission fluid and increased exhaust particles in the air; these substances flowing into our storm sewers; negative impact to the nearby park, waterway and classified wetlands which house protected migratory birds and other wildlife; noise, light and environmental pollution; the burning of waste oil by Subapro is not a clean process and will impact the neighbors; the chemicals in an auto body shop are various; neurological pollutants are found in some auto body paint.

Mayor Starker declared a break at 9:07pm.

The meeting resumed at 9:14pm.

Council questions

Councilmember Pond asked if approving this SUP would allow the same use with different buildings. Mr. Johnstone said it would be on a case by case basis because conditions for an SUP's are fairly site-specific. This could be handled administratively, but specific language could be added at this time to prevent that.

Councilmember Davis appreciates getting the property upgraded, but also appreciates the neighbors' concerns about pollutants.

- Mr. Kula explained how sand pits are used to filter automotive drainage, but they have no plans for that at this time. They have a sand pit where they are now, and it doesn't get used.
- Fluids in the main shop will be handled with pigmat or floor-dry.
- Subaru's generally don't leak on the ground.
- The parking along 44th Ave will be the holding/staging area.
- He explained where activities will occur, noting how fluids won't be near the neighbors. Auto parts and auto body parts do not leak.

- Construction of a sand pit for the entire facility would be cost prohibitive, and really not necessary. He noted the oversight by the Fire Department, Jeffco Health and Safety, and lots of rules that have to be followed. Mitigation is chosen by what's feasible, what's economical and what is absolutely required.

Councilmember Duran asked about land uses next to their existing location.

- Mr Kula said west of them is a landscaping contractor; south includes insurance, medical and dental offices; south of that is Kaiser; the north side is train tracks; the east side is Ward Road. There is residential across the train tracks.
- Waste oil will be collected and burned in the winter in a waste oil burner. Those burners have been EPA approved since 1980; it's a very strict process. There is no odor.
- Recycling would involve a large truck coming in to remove the oil and driving it to another location(s). They chose to burn the waste oil on site and use it to heat the property. It saves energy and never leaves the property, thereby reducing the risk of spillage.
- How will the property to the south be protected? Mr. Johnstone said it's very flat – they haven't looked at what to do so he doesn't know if there are options. City stormwater regulations and the state stormwater discharge permit are not triggered in this case because they are not touching the site improvements. He said if Council thinks this new use is a concern the staff can explore potential conditions for that. He cautioned he is unsure of options, and doesn't want to overpromise at this point.

Councilmember Hoppe received confirmation that the applicant doesn't currently own this property, and that long term storage of cars for restoration will probably be in the northern section of the parking lot on the east side of the main building behind the 6-foot fence.

Councilmember Urban asked if installation and use of the waste oil burner is a use by right in C-1, or is enabled by the SUP. Mr. Johnstone testified it would be an allowed use in the zone as long as it is compliant with the building code. Additionally,

- Mr. Kula informed that the "major auto repair" designation was needed to allow them to rebuild engines, replace transmissions, and have the paint operation.
- Regarding what chemicals would escape this property as a major repair vs minor repair, Mr. Kula explained that the paint booth is a significant trigger for that, however there are strict regulations and the chemicals are very different (more water soluble and less toxic) than even five years ago. Paint booths have a multi-layer filtration systems that is required and regulated by the Fire Dept, the Health Dept and the EPA. He also noted that the business to the north, "Reflections", is a full-time auto body and paint facility that does it every day, whereas their painting would be intermittent and less frequent.

Councilmember Mathews asked about hazmat inspections. Mr. Kula explained that the Fire Dept is the most frequent and main (initial) inspector. They ensure there is an adequate number of fire extinguishers and that there is correct isolation of chemicals in appropriate cabinetry. Unresolved problems would be reported to the Health Dept, the

EPA or OSHA. Mr. Mathews asked what would trigger an inspection by the EPA. Mr. Kula said he wasn't sure – maybe a large spill, but they've never had that experience.

Councilmember Dozeman asked about acquisition and opening. Mr. Kula said acquisition is scheduled for Wednesday and their opening is scheduled for March 1. The power is good, but dated. A number of electrical and other upgrades are needed, along with the installation of insulation. ~ Mr. Johnstone informed her that other automotive businesses in the area are a mix of uses by right and Special Use Permits.

Mayor Starker closed the public hearing.

Motion by Councilmember Dozeman to approve resolution 03-2018 – a resolution approving a Special Use Permit to allow a major automotive repair facility on property zoned Commercial-One (C-1) located at 11072 W. 44th Ave. and 4380 Pierson Street for the following reasons:

1. City Council has conducted a proper public hearing that meets all public notice requirements as required by Section 26-109 of the Code of Laws.
2. The proposed Special Use Permit has been reviewed by the Community Development Department, which has forwarded its recommendation of approval.
3. The proposed Special Use Permit has been found to comply with the "criteria for review" in Section 26-114-D of the Code of Laws.

With the following conditions:

1. Landscaping improvements along the W. 44th Avenue frontage and at the corner with Pierson Street will be required before a certificate of occupancy may be issued, including:
 - a. A four-foot fence along the north property line to screen the parking area,
 - b. Irrigation and plant material in the existing ±800-square foot bed at the northwest corner, and
 - c. Maintenance of the existing ±800-square foot bed at the northeast corner and along the east property line.
2. Pursuant to Section 26-502.E. 12.j of the Wheat Ridge Code of Laws, no parking area shall be used for the sale, storage, repair of, dismantling or servicing of any vehicles, equipment materials or supplies; vehicles stored in excess of seventy-two (72) hours for the purpose of being repaired must be screened from view from adjacent streets and properties by a six-foot-high solid fence.
3. The Special Use Permit shall be granted to the applicant, SubaPros, and shall not be transferred or assigned.

seconded by Councilmember Mathews.

Councilmember Fitzgerald announced he would be voting no because this is not compatible with the recommendations of the Fruitdale Subarea Plan, and it doesn't comply with the 2005 NRS recommendations. We have too many automotive

businesses. They do not add class to our city and make it hard for us to attract higher class businesses.

Councilmember Hoppe will vote no because this is not compatible with the guiding and visionary documents for the area. The City has invested quite a bit into this corridor.

Councilmember Duran will vote no because she is looking at the bigger picture for that area and listening to the citizens.

Councilmember Mathews always struggles with property rights vs neighborhood rights, but finds the distinction between major and minor auto repair to be somewhat arbitrary. He noted a business across the street has this exact same use. He will support this.

Councilmember Urban believes that the distinction between major and minor use is also about the amount of investment by the owner. A minor auto repair business would be a use by right, while this applicant has committed to investing a major amount of money and effort into making this a secure and environmentally friendly site. He thinks this applicant will be a better neighbor than what could possibly come as a use by right.

Councilmember Pond believes the vision for Fruitdale is a journey. It's also important to him that this property is zoned C-1 and has a long list of allowed uses by right; he doesn't care what adjacent neighbors are zoned. He believes the fact that this applicant is using existing buildings makes this special use a transitional use in the journey of the Fruitdale area. He will not support this unless there is stronger wording that guarantees continued use of the existing buildings.

Councilmember Dozeman expressed mixed feelings on this. She supports private property rights, but the NRS designates this area as an Orchard District and this use doesn't fit that. She believes the applicant will be a great neighbor and has addressed the neighbors' concerns. She sees the distinction between major and minor auto repair as small. She will support this.

Councilmember Pond suggested the addition of a further condition that would prevent new development on this property under this Special Use Permit. Discussion followed. Mr. Dahl offered potential wording.

Motion by Councilmember Pond to amend the main motion with an additional Condition #4 stating that no new buildings may be constructed on this site, but building renovation of existing structures will be permitted; seconded by Councilmember Mathews.

There was brief discussion clarifying that façade replacement and new signage would be allowed under this amendment.

The motion to amend carried 7-1, with Councilmember Fitzgerald voting no.

The main motion carried 5-3, with Councilmembers Fitzgerald, Hoppe and Duran voting no.

ORDINANCES ON FIRST READING

6. Council Bill 01-2018 – An Ordinance approving the rezoning of property located on the west side of interstate-70, between approximately 34th Avenue and Clear Creek from Planned Commercial Development (PCD) to Planned Mixed Use Development (PMUD) (Case No. WZ-16-07/Clear Creek Crossing)

Evergreen Devco, Inc. purchased 109 acres of undeveloped property on the west side of I-70 and south of Clear Creek in December 2016 with the articulated intent of building a development of mixed-use commercial, entertainment, residential and a major employer.

Evergreen has applied for a rezoning of this property from the current Planned Commercial Development (PCD) to a Planned Mixed Use Development (PMUD) designation. The PCD focused on retail uses. The desire for a PMUD is to allow a development with a much broader mix of residential, employment, retail, hotel, restaurant and entertainment uses, including a hospital campus.

The applicant is also requesting approval of an Outline Development Plan (ODP), supported by a Vision Book that establishes the intended design and architectural themes and materials, as well as a Design Pattern Book that includes the more substantive development regulations.

Councilmember Fitzgerald introduced Council Bill 01-2018.

Motion by Councilmember Fitzgerald to approve Council Bill 01-2018 an ordinance approving the rezoning of property located on the west side of interstate-70, between approximately 34th Avenue and Clear Creek from Planned Commercial Development (PCD) to Planned Mixed Use Development (PMUD) (Case No. WZ-16-07/Clear Creek Crossing) on first reading, order it published, public hearing set for Monday, February 12, 2018 at 7 p.m. in City Council Chambers, and that it take effect 15 days after final publication, seconded by Councilmember Pond;

Councilmember Urban stated that prior to this meeting he spoke briefly with representatives of Lutheran Medical Center about the moratorium on free standing emergency rooms. As a natural outflow of that conversation the topic of this case about Clear Creek Crossing developed. He informed them of the quasi-judicial nature of this case and that he can only consider material presented at the public hearing. He thought it proper and important to disclose this brief conversation, but does not think it will impact or weigh on his decision making abilities regarding this case.

Councilmember Mathews noted this is a major surprise -- a major change from retail to direct competition with our existing hospital, Lutheran, that has been a major component of our community for at least 100 years. He thinks more study is necessary on the impacts of how this would affect our community. He would like it tabled.

Councilmember Hoppe noted that Council was always told there would be a large employment area in the development, followed by quick service, entertainment and

residential/hotel. This is not a surprise – we just didn't know who the mayor employer was because the developer was under contract to not tell the Council who it was. She doesn't appreciate the assumption that Council is being hoodwinked by our staff.

Councilmember Duran doesn't think fingers are being pointed to anyone on staff. Since it has been revealed that it will be a hospital she thinks more discussion is necessary and she would like it on a study session so questions and concerns can be addressed.

Councilmember Pond appreciates the questions, but doesn't think it's proper to discuss this outside a public hearing. He thinks questions can be answered with that process.

Councilmember Urban asked why this didn't go to the Planning Commission first. Mr. Goff stated that Mr. Johnstone typically prefers to go to Planning Commission first, but because of the nature of the project and its size and the proposed use, staff thought it best to get it before City Council first so they would be aware of this use.

Councilmember Mathews stated he resents the implication that he was trying to use the term "hoodwinked". He asked if a hospital was in the initial use. Mr. Goff said he fully understands the concern and consulted Mr. Dahl about the possibility of a study session first. Because an application was submitted on December 14, 2016 it became quasi-judicial. At that time a hospital was not planned, but this project has evolved for years. At the time of the application Evergreen asked if the City could be as flexible as possible about the uses. The City worked through that – noting that until June of 2017 Walmart was a potential tenant. Following that the City worked with Evergreen on the Vision Book, the Design Book and other allowed uses for the zoning. Not until recently did the City find out that the employment use was a hospital and that the developer had been under a confidentiality agreement. In the past, when it was a Cabella's project, the City met with Councilmember two at a time to inform them of dates that weren't ready for the public. Now, since this is quasi-judicial, that is not available – nor is a study session or an executive session. He wanted to get the information to the Council as soon as possible, so the public hearing process was chosen as the next step.

Councilmember Davis agreed with Councilmember Pond about proceeding with 1st reading, but thinks there is a lot of discussion that needs to happen.

Councilmember Dozeman supports proceeding with the hearing process, but thinks rezoning it as a hospital is a very different conversation than what has been happening with the public. We went to the public and asked for funding for hook ramps under the guise of retail and housing. She suggested that had the public known this project was going to be a major hospital site that could cannibalize from a long standing, high-quality member of our community, she doesn't think the funding would have been approved. She's interested in what this conversation will produce.

Councilmember Mathews stated he supports having this move forward, but wanted to make sure the public is aware of the nuance of what is happening – that Council was not aware a hospital was going to be proposed, and that there be timely and thorough discussion and full disclosure to the citizens. A sign for a rezoning hearing on that property would be seen by no one and he'd support anything the City can do to publicize this issue.

Councilmember Duran said her vote to support 1st reading is only a vote to have the conversation and to foster transparency.

Mr. Dahl reminded Council that approving 1st Reading is only granting the due process that the applicant is entitled to and has no bearing on how a councilmember may vote at the public hearing. He advised that at 2nd reading the public hearing could be continued for additional hearings. He thanked Council for reserving their thoughts about the ultimate project.

Councilmember Urban asked what Council's capacity at the hearing, or prior to the hearing, will be to ask for additional information. Mr. Dahl said that would be appropriate if it is apart from the motion for 1st Reading.

The motion carried 7-1, with Councilmember Urban voting no.

7. Council Bill 02-2018 - An Ordinance extending the Temporary Moratorium of the submission, acceptance, processing, and approval of applications and requests for a permit, license land use approval or other approval for a Freestanding Emergency Room Facility

In April of 2017 the Council adopted a one-year moratorium on the submission, acceptance, processing and approval of applications and requests related to freestanding emergency room facilities. This ordinance extends the moratorium period for an additional 120 days, to and including August 27, 2018.

Councilmember Davis introduced Council Bill 02-2018.

Motion by Councilmember Davis to approve Council Bill 02-2018 - an ordinance extending the Temporary Moratorium of the submission, acceptance, processing, and approval of applications and requests for a permit, license land use approval or other approval for a Freestanding Emergency Room Facility on first reading, order it published, public hearing set for Monday, January 22, 2018 at 7 p.m. in City Council Chambers, and that it take effect 15 days after final publication, seconded by Councilmember Duran, carried 8-0.

8. Council Bill 03-2018 - An ordinance amending Chapter 7 of the Wheat Ridge Code of Laws regarding Elections to ensure consistency and compatibility with the Colorado Municipal Election Laws

This ordinance would delete those sections of the Code which are adequately covered and governed by state law in C.R.S. 31-10-101 et seq., also known as the "Colorado Municipal Election Code," as well as related portions of Title 1, C. R. S. This ensures consistency and compatibility with state law, and also removes the need to amend the City Code every time there is a change in these sections of the state law.

Councilmember Urban introduced Council Bill 03-2018.

Motion by Councilmember Urban to approve Council Bill 03-2018 – an ordinance amending Chapter 7 of the Wheat Ridge Code of Laws regarding Elections to ensure consistency and compatibility with the Colorado Municipal Election Laws, on first reading, order it published, public hearing set for Monday, January 22, 2018 at 7:00 p.m. in City Council Chambers, and that it take effect upon adoption and signature of the Mayor and City Clerk, seconded by Councilmember Mathews; carried 8-0.

CITY MANAGER'S MATTERS

CITY ATTORNEY'S MATTERS

ELECTED OFFICIALS' MATTERS

Treasurer DiTullio noted that ballot issue 2E set a maximum of \$3.7M in revenue the City could collect in the first year of 2E. Due to the extra revenue that was taken in because of the hail storm, the 2017 revenue looks to be about \$300K over that amount. Council will have to ask the voters what to do with that money. A study session to discuss options is suggested. ~ He reported meeting with representatives of the Department of Local Affairs about their program Colorado Resiliency Framework dealing with way for cities to be sustainable with their budgets. Because Wheat Ridge uses priority based budgeting they would like to use Wheat Ridge as a case study.

Clerk Shaver announced that this year's application process for boards and commissions has begun. It would be helpful if board members who want to reapply and any new applicants could send their applications in as soon as possible. The deadline is January 31. Applications are available on the City website, and information is also available on Channel 8.

Janeece Hoppe reported hearing from a couple citizens who support the tree replacement program. She suggested Council consider this as a free service to citizens to be paid for with extra funds – should the voters approve spending it.

Zachary Urban

Motion by Councilmember Urban to direct the City Treasurer to provide an economic analysis of the sales and use tax for the area from 32nd to 42nd, from Allison to Dudley; seconded by Councilmember Duran.

There was a question about the purpose of this information. Councilmember Urban stated it would provide information about a concentrated existing medical facility that could be compared and contrasted with a new medical facility. Treasurer DiTullio said he would compile three years of data surrounding Lutheran Hospital, adjacent medical facilities and other sales tax generating businesses in that area. Discussion followed.

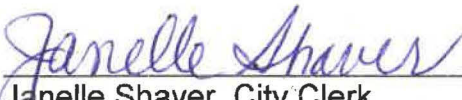
When the discussion crept into the merits of a scheduled rezoning case Mr. Dahl recommended termination of the conversation.

The motion carried 6-2, with Councilmembers Fitzgerald and Davis voting no.


Mayor Starker thanked citizens for coming to speak on the various issues, congratulated the WRHS Poms for taking state two years in a row, and announced the passing of lifelong Wheat Ridge resident and former City Council member Kent Davis.

The City Council Meeting adjourned at 10:50 pm.

ADJOURN to Special Study Session


Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON February 12, 2018


Tim Fitzgerald, 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.