

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

August 13, 2018
7:00 p.m.

Individuals with disabilities are encouraged to participate in all public meetings sponsored by the City of Wheat Ridge. Call Sara Spaulding, Public Information Officer, at 303-235-2877 at least one week in advance of a meeting if you are interested in participating and need inclusion assistance.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL OF MEMBERS

APPROVAL OF Council Minutes of July 23, 2018 and Study Session Notes of July 16, 2018

PROCLAMATIONS AND CEREMONIES

CCCMA Trailblazer Award – Heather Geyer

- Second Public Input Opportunity for the 2019 Budget

CITIZENS' RIGHT TO SPEAK

- a. Citizens, who wish, may speak on any matter not on the Agenda for a maximum of 3 minutes and sign the PUBLIC COMMENT ROSTER.
- b. Citizens who wish to speak on an Agenda Item, please sign the GENERAL AGENDA ROSTER.
- c. Citizens who wish to speak on a Public Hearing item, please sign the PUBLIC HEARING ROSTER before the item is called to be heard.
- d. Citizens who wish to speak on Study Session Agenda Items, please sign the STUDY SESSION AGENDA ROSTER.

APPROVAL OF AGENDA

1. CONSENT AGENDA

- a. Motion to approve payment to Kaiser Permanente for August 2018 Membership Billing in the amount of \$191,451.47 and September Membership Billing in the amount of \$202,189.30
- b. Resolution 42-2018 – approving a Memorandum of Understanding between the Wheat Ridge Police Department , the Golden Police Department, and the 1st Judicial District Attorney’s Office, for the establishment of a Body-Worn Camera Program

PUBLIC HEARINGS AND ORDINANCES ON SECOND READING

2. Council Bill 22-2018 – creating a new Section 26-643 of the Wheat Ridge Code of Laws prohibiting the use of Freestanding Emergency Room Facilities
3. Council Bill 19-2018 – approving the rezoning of property located at 4288 Youngfield Street from Neighborhood Commercial (N-C) to Mixed Use-Neighborhood (NU-N) (Case No. WZ-18-12/Copper Forest)
4. Council Bill 20-2018 – approving the rezoning of property located at 6701 West 44th Avenue from Commercial-One (C-1) to Mixed Use-Neighborhood (NU-N) (Case No. WZ-18-14/Potrykus)
5. Council Bill 21-2018 – adopting a new Section 2-9 of the Wheat Ridge Code of Laws concerning the Retention of Interest Earned on Escrow Accounts held by the City

ORDINANCES ON FIRST READING

6. Council Bill 23-2018 – vacating any interest held by the City of Wheat Ridge in a portion of Miller Street, a Public Roadway, adjacent to 5185 Miller Street (Case No. WV-18-01/Roush Industries)
7. Council Bill 24-2018 – extinguishing any rights or interest held by the City in a Slope Easement PE-55A associated with Taft Court, a Public Roadway
8. Council Bill 25-2018 – vacating any interest held by the City in a portion of Ridge Road, a Public Roadway

DECISIONS, RESOLUTIONS AND MOTIONS

9. Resolution 48-2018 – approving the Consolidated Service Plan for the Yarrow Gardens Metropolitan District
10. Resolution 49-2018 – giving notice of and calling for a Special Municipal Election to be held November 6, 2018 and submitting a Ballot Question authorizing the City to provide High Speed Internet Services

DECISIONS, RESOLUTIONS AND MOTIONS cont.

11. Resolution 50-2018 – giving notice of and calling for a Special Municipal Election to be held November 6, 2018 and submitting a Ballot Question authorizing the City to retain revenues in connection with 2016 Ballot Question 2E

CITY MANAGER'S MATTERS

CITY ATTORNEY'S MATTERS

ELECTED OFFICIALS' MATTERS

ADJOURNMENT

CITY COUNCIL MINUTES

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

July 23, 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

Zachary Urban	Monica Duran	Tim Fitzgerald	Kristi Davis
Larry Mathews	Leah Dozeman	George Pond	Janeece Hoppe

Also present: City Clerk, Janelle Shaver; City Attorney, Gerald Dahl; City Manager, Patrick Goff; Community Development Director, Ken Johnstone; Public Works Director, Scott Brink; other staff, guests and interested citizens.

APPROVAL OF City Council Minutes of July 9, 2018 and Study Session Notes of June 18 and July 2, 2018

There being no objections, the City Council Minutes of July 9, 2018 and Study Session Notes of June 18, 2019 and July 2, 2018 were approved as corrected.

CITIZENS' RIGHT TO SPEAK

Chris Lewis (Evergreen) was contacted by users of the Anderson baseball field to see if he would be is interested in offering a proposals for the new lighting, since the proposed lighting was not viewed as adequate for their level of play. Upon contacting the Parks Director he was told it was a sole source bid and not available to anyone else. He advised Council that sole source bidding is a very bad idea because there is no competition. Open bidding saves the City money. He is interested in offering a bid, but if the Director keeps it locked down, there is no point. Council should know they are not doing themselves any favors this way.

Elizabeth Capritta (WR) spoke against scraping houses and three-story houses. Hers is a third generation Wheat Ridge home. They consider WR a small town and like to that way. Two stories is acceptable, but three-stories with a flat roof is going to ruin our city.

Carolyn Pearce (WR) has lived here 41 years. They don't like the box houses coming in like they are doing in north Denver. We don't need that in WR. We have beautiful homes that have character. Please don't let them ruin our city. There needs to be some

restrictions to keep them from building right up to the 5 foot line and taking out the yards. Neighborhoods are being ruined. We voted you in to protect us; please do that.

Dorothy Archer (WR) is concerned with the representatives of our City doing rezoning for the benefit of developers. In District I it has been easy to buy a property, scrape it, and build 35 feet tall. Even with the 35ft bulk plane this is not a house. She asked again that this issue be brought to a study session and done correctly. Elected officials are to represent the citizens. When neighborhoods are allowed to change the way they are, something is wrong. We are not being represented. She referenced drawings submitted recently by Tom Slattery and an article she gave Council last meeting describing how homes in Wheat Ridge are in high demand, and people are looking for ranch homes. Why are you not protecting that? Why aren't two stories adequate? She directed Council again to look at the duplex at 33rd & Teller that is 27 feet with a sloped roof. It is very nice.

Michael Epton (WR) recommended the bulk plane protections for District I be extended to District II. People are concerned about the coming of oversized houses that don't fit the character of the neighborhood. Besides the 15ft bulk plane limits, they would like to see a height restriction similar to Golden, Edgewater and Lakewood – who all have a 30ft height limit. Many prefer 27ft; he would like something under 30ft. He asked that someone on Council make a motion to study enacting a height limit of something under 30ft and extending the 15ft bulk plane to District II.

Michael Griffith (WR) expressed concern about security along the Carnation Parade route. He would like to see city vehicles parked at intersections along the parade route to prevent entry by weaponized vehicles or people with medical emergencies. He said the City of Breckenridge did this last month. If not this year, maybe next year.

APPROVAL OF AGENDA

Mr. Dahl explained that during the Executive Session at the end of the meeting he would provide legal advice. Following that he would ask Council to reconvene into open session to take action giving staff direction on dealing with excess revenue obligations. Councilmember Mathews asked if the matter could be discussed openly – rather than in executive session. Mr. Dahl said it could, if that is Council's pleasure.

PUBLIC HEARING AND ORDINANCES ON SECOND READING

1. Council Bill 17-2018 – An Ordinance approving the rezoning of property located at 9800 W. 38th Avenue from Residential-One (R-1) to Planned Residential Development (PRD) and for approval of an Outline Development Plan (ODP) (Case No. WZ-18-9/Laudick)

The change in zoning is requested to allow for increased residential density and the development of 8 duplexes (16 units) on the 1.28 acre parcel that is vacant and unplatted. The ODP depicts building locations and footprints, circulation, parking, building height and landscaping.

Councilmember Pond introduced Council Bill 17-2018.

City Clerk Shaver assigned Ordinance 1646.

Mayor Starker swore in the speakers.

Staff Presentation – Meredith Reckert

Ms. Reckert entered into the records the case file and packet materials, the zoning ordinance, the comprehensive plan, and the contents of the digital presentation.

- She recited the two step process for rezoning to a planned development.

Mayor Starker opened the public hearing.

- Ms. Reckert identified the location of the property with overhead maps and photos. It has 275 feet of frontage on 38th Ave. and 140 feet of frontage on Johnson St.
- The property slopes to the south and is bordered on the south by a drainage way that empties into Lena Gulch via a City-owned inlet on the west side of Johnson.
- The property is surrounded by parkland to the west, R-1 single family to the south and southeast, R-2A duplexes to the east, and R-2 to the north that contains single family and duplexes.
- Ms. Reckert highlighted the contents of the 2-page ODP.
 - A private drive would separate the two rows of residences, with access points at the northeast corner onto 38th and on the west side onto Johnson St.
 - Eight units to front onto 38th Ave, eight units to front south onto open space.
 - Parking: All units to have a 2-car garage that opens onto the private drive.
 - Overflow parking: 2 on-site spaces near the 38th Ave entrance, 4 on-site spaces just off Johnson Street, and 3 on-street spaces. [ODP identifies Visitor Parking as minimum 4 on-site spaces and off street parking created along Johnson St.].
 - Southern border of the property to be open space to provide for drainage.
 - Sidewalks: A 5ft sidewalk on the south side of the interior drive and an east/west sidewalk along the south side of the southern units.
- Drainage will run NE to SW to mimic the historic flow. An underground detention structure will be built on the south side of the property to move water under Johnson St. and ultimately to Lena Gulch.
- Public Works has reviewed the project and concluded that traffic from this site will not impact the neighborhood.
- The current R-1 zoning allows low density single family; the PRD proposes 8 duplexes (16 units). Both zones allow pets and in-home occupations.
- Ms. Reckert explained three reasons for the request for PRD:
 - There is a provision in the zoning code that if a property is over 1 acre, and is not being rezoned to Mixed Use or Industrial, it has to go to a planned development.

- The 20 foot grade change on the property is deemed to be a challenge.
- A PRD will allow the applicant to craft specific development standards.
-
- Ms. Reckert related that this property is difficult to rezone.
 - The applicant lowered his request from 23 units down to 16 and broke them into separate duplexes (not row houses). Heights are limited, and some specific roof designs are required.
 - Mixed Use would allow 21 units per acre and not all the commercial uses allowed in MU are appropriate for this property.
 - Proximity to arterial streets makes low density residential questionable.
- Ms. Reckert outlined further differences in the current and proposed standards.
 - PRD can allow architectural standards for design and materials; R-1 cannot.
 - There would be no flat roofs, and there will be a 30% masonry requirement on the sides of the buildings that face public ROW or the open space (south units). R-1 could not require this.
 - Building heights can be 35ft in R-1 and PRD, but the applicant has restricted the south units to be designed as 2-stories only.
 - Setback requirements: R-1 requires 30ft front setbacks; this PRD proposes 15ft front setback from the plat boundary.
 - Density: R-1 allows 3.6 units per acre; this proposal is for 12 units per acre.
- If the zone change and ODP are approved, the next step would be application for a Specific Development Plan and plat to be approved only by Planning Commission.
- A neighborhood meeting was held on March 7. 15 neighbors attended. Two comment letter were received and are in the packet.
- All agencies can serve the property. The applicant must pay for infrastructure.
- Planning Commission heard this case and recommended approval.
- Ms. Reckert went through the zoning criteria.
 - Development of this property will promote health, safety and welfare and result in no adverse effects. The property is under-utilized and has had weed and dumping violations. This development will have a positive effect on the neighborhood aesthetically and for property values.
 - All agencies can serve the property when adequate infrastructure is provided.
 - Has there been a change in character that would encourage redevelopment?
 - While abutting neighborhoods are well established, commercial redevelopment has occurred at Kipling Ridge and at 26th & Kipling. Kipling carries 39K+ cars a day; 38th Ave. carries 13K+ cars per day. The City is invested in the Kipling Corridor; federal funds were used for the Kipling Trail.
- Based on increased traffic and development in the Kipling corridor, staff determines this property is less desirable for low density residential use. Additionally the PRD zoning provides a transition between 38th Ave. and the properties to the south and south-east.
- Regarding consistency with Comp Plan goals, objectives and policies:
 - This site is classified as "Neighborhood"
 - Everitt Middle School, Discovery Park and the Rec Center are anchors for this property.
 - The 38th & Kipling intersection is identified as a community commercial center.

- Duplexes will support the commercial uses and have convenient access to area recreational amenities.
- Other goals this will meet are: new housing choices, improving underutilized property, eliminating maintenance issues, and possibly be a catalyst for other improvements.
- Ms. Reckert entered into the record a legal protest that was filed this afternoon in the City Clerk's office. The 10 letters were verified to be a valid representation of 20% of the property owners within 100 feet of the development as required in Section 5.10 of the City Charter.
- Due to the legal protest 6 votes of Council will be required to approve the rezoning.

Applicant

Nathan Laudick (Arvada), the engineer and developer of the project, thanked the staff and the neighbors. He suggested a deal where no one is happy might be a good deal. He went through the various changes he made to try to satisfy neighborhood concerns.

- lowered the density from 23 units to 16 units, and changed from connected townhomes to separated duplexes.
- He will require 30% masonry and sloped roofs. There will be no flat roofs allowed.
- With the 35 foot height limits the neighbors to the east will still be able to see over the roofs of both rows of units.
- He stated that 16 units is the lowest he can go and remain financially viable. Real estate agents he has talked to don't think four \$1M houses would sell here.

Public Comment

[All speakers except Jane Harvey, Idella Lewis, Donald Barnes and Evan Smith live in the neighborhood of the property proposed for rezoning.]

Don MacDougall (W. 37th) has lived south of this property since the 1960's. He used this and the property to the east to pasture his horses. In 2008 the owner of this property was told by the City that her property was designated as blight. She had many trees removed, including fruit trees. The City said it wasn't good enough, so she had all the trees cut down. Mr. MacDougall thinks the fruit trees were not blight, but a vacant plot is. The fences were removed so it could not be used as pasture. This development will change the ambiance of the neighborhood, and he is concerned about traffic.

Margaret Nelson (W. 37th) lives adjacent to this property, and doesn't think her comments before Planning Commission were represented very well. Her point is she was driven out of her home of 30 years in Denver due to the destruction of the neighborhood around her. She's been here 2 ½ years and spent considerable money upgrading her house. She knows if this type of zoning establishes a foothold in the neighborhood her home will only be worth the land it's on. She understands this property has to be developed, but doesn't want this high density.

Douglas Linder (Johnson St) has lived on Johnson for 15 years. He worries that if this rezoning is granted it will be the foothold to have this start happening all over Wheat

Ridge. Will every little piece of land around the city that folks want to develop become high density, and eventually becoming rentals?

Eloise Newell (34th Drive) read a letter from her neighbor, Pat Rausch, objecting to this rezoning because the increased traffic will impact the neighborhood and be a safety issue for the park. ~ Ms. Newell is concerned about congestion and safety for the school children who walk in the area. Kipling is already a nightmare three hours in the morning and three hours in the evening. She goes to Wadsworth to get on I-70. As a teacher for 35 years she's also concerned about more traffic next to the park where kids play.

Theodosia Fedak (Miller St.) supports the protest and gave her minutes to Fran Singer.

Lourdes Weingardt (Independence C.) moved here from N Denver 8 years ago because of what was happening with scraping, the building of monster houses, noise, congestion and lack of parking. She doesn't want that to happen here. She hopes Council will not support changing this from R-1 to something more dense - that could be scraped and then become even more dense in the future.

Jane Harvey lives in District IV and works at the Historic Park. She is against scraping and building big boxes. The Historical Society is working on a report on all the old homes in Wheat Ridge that were built before 1920.

Donald Barnes (Allison Ct) added his concerns about increased density and traffic. He also questioned if the setbacks on 38th Ave. are adequate if the road ever needs to be widened; the future should be considered. He believes the R-1 zone should remain.

Delaine Novak (38th Ave) lives directly across from the proposed exit onto 38th. She doesn't believe there's been a true traffic study for the area. The speed of people coming down from the east is bad. There needs to be a real study. Pulling out onto 38th is already bad during rush hour. Also, buildings so tall and so close to the street will make snow and black ice very dangerous. All the ambulances that travel here will be compromised by 3-story buildings that block the sun on the hill and prevent melting. Also, the noise from the ambulances will not be a very good quality of life for the residents.

Jerry Wade (W. 37th Ave) lives just south of this property. He walks both sides on this issue. Nobody wants change, but he thinks it's unrealistic to expect this won't be developed. With the concessions, he doesn't have an issue with it, compared to what it could be.

Evan Smith (Teller St) and his wife are new to WR. They moved here from N Denver to get away from the development; their home became surrounded by large houses that overshadowed it. Council should consider what height and spacing (from the road and between houses) do to a community. Lawns are important. In his experience, the 30% brick doesn't do much to blend with the surrounding neighborhood.

Warren Butler (W. 36th) has lived in the house he was raised in since 1999. He's seen changes in the neighborhood since 1958, but still thinks 16 units is too many. While 38th and Kipling, unfortunately, can probably both hold more traffic, two cars per unit is

32 more cars a day coming out onto 38th – which already has issues. Traffic will go elsewhere (37th, Independence, Holland) and impact those folks. He also has issues with only 6 visitor parking spaces, which will also impact the neighborhood and the park.

Guy Stanfield (W 37th) and **Henry & Becky Lewthwaite** gave their time to Ihor Figlus.

Fran Singer (36th Ave) said this is a perfect example of why Wheat Ridge was created – its residents didn't want to be part of the sprawl that was happening in Denver.

- Wheat Ridge residents should always be concerned about plans that try to bring in high density development that impacts the unique, less-urban character of our community.
- She reminded Council the Comprehensive Plan continuously refers to the need to maintain the balance between redevelopment in the corridors and preserving the character of its neighborhoods. There is no evidence the nearby neighborhood was considered; the developer was approved to put 23 units on a "single family" parcel.
- Every parcel and every neighborhood is different, so the focus should not be about what's allowable, but what's reasonable and beneficial for the area to be impacted.
- These neighbors are not anti-growth or anti-development for this parcel. They are concerned about unit density. She noted that Iris Court to the east has 5 duplexes (10 units) on a parcel about the same size. 16-23 units is out of character both for the neighborhood and for the multi-family development next door. The density of Iris Court would be far more acceptable.
- She suggested the staff plan made several unsubstantiated conclusion about the benefit of this development – such as stating this is a transition to the Kipling Corridor. The conclusion that this a good thing is faulty. Not one benefit to the neighborhood was identified -- only to future inhabitants, the developer and some businesses nearby.
- No balancing criteria was provided in the report. This neighborhood has successfully transitioned with Kipling for 48 years without this development.
- A critical element missing is a traffic report – which would address existing neighborhood traffic, Discovery Park traffic (which is greater than anticipated), and the rumored redevelopment of the Apple Ridge Café property. Johnson and other area streets were not designed for this much traffic; the safety concerns are real.
- This proposal has a general lack of integration with the existing neighborhood and should not be approved.

Ihor Figlus (W 36th) told Council the proposal in not in conformance with the Comprehensive Plan, which labels this parcel are "neighborhood" – not buffer or for revitalization. The number one priority of the Comp Plan is preservation of established neighborhoods. He read the definition of a stable neighborhood.

- Contrary to the report, changing the zoning of this property will create adverse effects on the adjacent neighborhood; the neighborhood believes this zone change is not warranted because it will create more traffic and have an adverse effect.
- He informed Council that data from the County shows that 38th & Johnson has 4 times the accidents as neighboring streets, but no one told them that.
- He went through the zoning criteria and pointed out how and why they are not met.

- This proposal does not bring the property into compliance with the Comp Plan. 2. The property is not within a commercial or recreational zone. 3. There have been no changes in the area that warrant this change; the commercial area to the west has always been commercial.
- He displayed a graphic that illustrated how the proposed lot size is drastically smaller than any lots to the north, south or east. This is not transition; it's blight.
- The applicant claims these will be starter homes. Starter homes don't fit in this area and they will bring a detrimental effect to area property values.
- He objected to this development having no driveways and almost no extra parking. There is no proposal to widen Johnson St, which isn't wide enough to accommodate this much new traffic and already has its own problems.
- Shade on 38th Ave will prevent ice/snow melt on the hill -- causing more accidents.

Odarka Figlus (34th & Miller) agrees with the neighbors. They've worked hard on this; there's a lot at stake here for them and for the city as a whole.

- It's important to look at what fits with, and helps preserve, the unique character of each neighborhood as called for in the Comprehensive Plan.
- Putting high density residential between low density and even lower density, and calling it a buffer, makes no sense. It sounds like spot zoning.
- Everything around this is zoned straight residential. There is no Planned Residential Development in the area. There's no reason the applicant could not have come in with a normal subdivision proposal.
- This developer didn't come from 23 units down to 16; he went from 5 units up to 16. This is a typical ploy -- ask for more than you want so when you come down it looks pretty good. But it's not pretty good because the infrastructure is not there.
- She asked Council to vote against this. She believes there are errors in the zoning document the applicant is presenting and he has not met the criteria. It's his responsibility to show how the criteria is met. Simply saying "This is beneficial," without providing any background is not sufficient. Anyone can make things up.
- Sincere testimony from the neighborhood clearly shows there are problems.
- To say "Single family won't work here," is false. Single family is being built all over; there is a need for it.
- The slope of the property is not a challenge -- it's an asset. This whole area is filled with houses built on sloped properties; it's part of the neighborhood's character.
- Putting in starter homes will not magically lift the housing values in the area.
- There are too many questions and unresolved issues; there's been no fulfillment of the obligation to show that criteria is being met.
- She reminded Council that state statutes say it is reasonable to turn down a rezoning to preserve neighborhood character and neighborhood density.

Council questions

Councilmember Fitzgerald asked Ms. Reckert about the parking. The 2 garages spaces per unit are all there is; there are no driveways. Prices of these homes? The applicant wasn't sure, but thinks \$475K to low \$500K. He said these aren't starter homes.

Councilmember Mathews asked about ownership. The applicant said when it's platted there would be property lines splitting the units.

Councilmember Pond asked for a summary of the density of adjacent properties. Per Ms. Reckert, R-1 is usually 3-4 units/acre; R-2 is 6-7. R-2A has a bit smaller lots (9-10 units/acre); Iris Court has a dedicated public street and they were granted a waiver and it is narrower than standard. R-3 is 12-14 units/acre. Regarding why no traffic study was done, Ms. Reckert said they don't have much on that – just general classifications. Johnson Street will be widened and the developer will be responsible for curb, gutter and sidewalk on the east side of Johnson – which will provide some on-street parking.

Councilmember Mathews described how Iris Court doesn't have enough parking and this site doesn't either. It's hard to justify this density in an R-1 neighborhood.

Councilmember Duran asked if the setbacks on 38th Ave were adequate. Ms. Reckert said it depends on what you consider adequate. Mixed Use zones allow even less than 15 feet. The buffer along 38th Ave is proposed to be 15 feet. Commercial setbacks can be zero. She also had no information on plans for Apple Ridge Café.

Councilmember Dozeman asked about the irrigation ditch.

- The applicant said the water rights were sold to Consolidated Mutual. The ditch is used as a backwash to clear debris from the line. He will tie it into a storm sewer on 38th.
- Regarding accidents on Johnson, Mr. Goff said he couldn't comment. He has texted the Police Chief.
- Mr. Johnstone said that based on Public Works' requirements, a traffic study was not triggered – only estimates of trip generation. The local streets were found to be adequate to handle the new traffic from 16 duplex units. He explained the math of it.
- Ms. Reckert added that the Police Department expressed no concerns about the projected numbers for added traffic.

Councilmember Urban asked about drainage. Ms. Reckert noted that at the Outline stage minimal information is given about that; it's mostly a concept plan. She indicated on the map where the detention area would be. The applicant said there would be arched underground chambers under the four guest parking spaces next to Johnson St.

Councilmember Davis asked for a comparison between this development and the recently approved development on Yarrow. Per Ms. Reckert, the Yarrow development is 89 units on 4.5 acres. This is 16 units on 1.2 acres. This is less dense.

Councilmember Dozeman asked how binding the architectural standards are – specifically related to flat roofs. Ms. Reckert said they are very binding. Any deviation would require a zone change.

Councilmember Urban asked how the private drive will be maintained. That has not been discussed since it is not a public street. An HOA would have to take care of the

drive and the drainage. The applicant said that a private drive was selected because a public street would take up too much property. He added that the fire department has signed off on this development. One fire hydrant will be installed at a place to be determined by the fire department.

Councilmember Dozeman asked about parking, specifically how much parking Johnston Street can provide. Ms. Reckert explained that single family requires four on-site spaces if there is no on-street parking, two if there is. Requirements for a PRD are somewhat less. In this development each unit will have two spaces – which will be in the garage; there are 6 extra spaces (for guests of the 16 units); there will also be 3 spaces available on Johnson Street.

Councilmember Davis asked about the County accident figures. Ms. Figlus said the accidents information is available on the Jefferson County website in a large database. Mr. Goff said the Chief has responded that he doesn't think 38 & Johnson is a very accident prone intersection.

Councilmember Mathews said he doesn't like the idea of these houses using Discovery Park for their parking.

Mayor Starker closed the public hearing.

Motion by Councilmember Pond to approve Council Bill 17-2018, an ordinance approving the rezoning of property located at 9800 W. 38th Avenue from Residential-One (R-1) to Planned Residential Development (PRD) and for approval of an Outline Development Plan on second reading and that it take effect 15 days after final publication; seconded by Councilmember Hoppe.

Councilmember Mathews commented that setback all along 38th Ave are 35 to 50 feet. Even the duplexes on Iris Court are set back more than 15 feet. This does not fit the character of the neighborhood.

Councilmember Duran said she has more questions than answers now – about safety, the neighborhood, and the future of Apple Ridge Café. She will be voting no.

Councilmember Fitzgerald said this is difficult because the people in the audience are his constituents. He believes this to be a case of something being half good and half bad. He doesn't think there's enough parking, but thinks this is a good use for this property. He doesn't think it's reasonable to expect that this property will have much lower density. He will grit his teeth and vote for this.

Councilmember Davis appreciates the folks who came in and people who think this will happen to their neighborhoods. However, this is what was approved for the Yarrow Court apartments. Some neighbors do think their voices were heard and changes were made. Regarding respecting the neighborhood and conforming, she noted duplexes are

right next to this, the roofs will be slanted, and the view of the people on Iris Street is being respected. Parking is always an issue, so she feels that's tough to regulate. She doesn't think it's reasonable to expect that anyone would buy a \$1M house there. She compared this to the recently approved development on Yarrow. She thinks the developer has made enough concessions. She will support this.

Councilmember Pond will support this. He thinks the criteria have been met, and he doesn't think traffic is an issue. He is concerned about parking, but it's not a big enough reason to vote against this. He thinks the developer has made adequate concessions and has been more responsive to neighborhood issues than other proposals that have come to Council. He agrees this is a difficult sight and hopes traffic and parking can be addressed further during the process.

Councilmember Dozeman thinks the developer has made concessions for the neighbors and done a good job at gathering neighborhood input. She'd rather see residential here than commercial. She elaborated on the importance of attracting young families with school aged children. She wants to see this space developed so she will support this.

The motion failed 5-3, with Councilmembers Mathews, Urban and Duran voting no.

ORDINANCES ON FIRST READING

2. Council Bill 22-2018 – An Ordinance creating a new Section 26-643 of the Wheat Ridge Code of Laws prohibiting the use of Freestanding Emergency Room Facilities.

This ordinance revises the Code of Laws to prohibit freestanding emergency room facilities throughout the City.

Councilmember Davis introduced Council Bill 22-2018.

Motion by Councilmember Davis to approve Council Bill 22-2018, an ordinance creating a new Section 26-643 of the Wheat Ridge Code of Laws prohibiting the use of Freestanding Emergency Room Facilities on first reading, order it published; public hearing set for Monday, August 13, 2018, at 7:00 p.m. in City Council Chambers, and that it take effect immediately upon Council adoption, seconded by Councilmember Mathews; carried 8-0.

3. Council Bill 21-2018 – An Ordinance adopting a new Section 2-9 of the Wheat Ridge Code of Laws concerning the Retention of Interest Earned on Escrow Accounts held by the City.

This code amendment will allow the City to retain interest earned on escrow accounts that are mandated by the Code of Laws for various purposes.

Councilmember Hoppe introduced Council Bill 21-2018.

Motion by Councilmember Hoppe to approve Council Bill 21-2018 an ordinance adopting a new Section 2-9 of the Wheat Ridge Code of Laws concerning the Retention of Interest Earned on Escrow Accounts held by the City on first reading, order it published, public hearing set for Monday, August 13, 2018, at 7:00 pm in City Council Chambers, and that it take effect 15 days after final publication; seconded by Councilmember Duran; carried 8-0.

DECISIONS, RESOLUTIONS AND MOTIONS

4. Resolution No. 47-2018 – A Resolution to support of the recommendation to create RTD Youth and Low-Income Passes and Low Income Program for Families

This resolution supports RTD's creation of a Youth Pass (70% discount) for ages 13-19, an Under 12 Pass (free when accompanied by a paying rider), and a Low Income Pass (40% discount).

Councilmember Dozeman introduced Item 4.

There was no staff presentation, no public comment, no questions, and no discussion.

Motion by Councilmember Dozeman to approve Resolution No. 47-2018, a resolution to support of the recommendation to create RTD Youth and Low-Income Passes and Low Income Program for Families, seconded by Councilmember Pond; carried 8-0.

5. Resolution No. 46-2018 – A Resolution endorsing Statewide Transportation Sales Tax Solution.

A coalition of organizations from across the state of Colorado are advocating for a 0.62% increase in the state's sales tax rate to increase revenue for transportation projects. The Let's Go, Colorado campaign is collecting the necessary signatures to include a question on the November 2018 ballot. This resolution endorses the proposed ballot question.

Councilmember Fitzgerald introduced Item 5.

Staff presentation – Mr. Goff had nothing to add -- noting that the Council had been briefed on this at last week's study session. He did say that if this passes the City could potentially receive \$1.1M to use for transportation purposes.

No one from the public spoke and there was no discussion.

Motion by Councilmember Fitzgerald to approve Resolution No. 46-2018, a resolution endorsing statewide transportation sales tax; seconded by Councilmember Duran; carried 6-2, with Councilmembers Mathews and Dozeman voting no.

CITY MANAGER'S MATTERS

none

CITY ATTORNEY'S MATTERS

Mr. Dahl reviewed for Council the number of votes required by the Charter to pass various things.

- All ordinances require a majority vote of the entire Council (5 votes).
- Rezoning with a legal protest require 6 votes of Council.
- Sale of city-owned property requires 6 votes.
- Sale of parkland requires a unanimous vote of Council.

ELECTED OFFICIALS' MATTERS

Larry Mathews noted that 21-hour per day testing with three trains will begin on the G Line. ~ He also commented on Governor Hickenlooper's executive order to bring California's emission laws into Colorado. He encouraged folks to do their own research on this. LEV's (Low Emission Vehicles) i.e. electric cars, may not produce emissions as they drive, but the power plants to service them do.

Leah Dozeman reminded everyone the 49th Carnation Festival is the 2nd weekend of August. Royalty includes Countess Amanda Weaver of Five Fridges Farm and Count Griff Worth, former WRHS principal. The Grand Marshall will be SCL Lutheran Medical Center and the Lutheran Foundation.

Kristi Davis related a great community event in which over 20 neighbors got together over a recent weekend to help an elderly woman in District II take care of her yard -- weeding and planting flowers with donated soil and plants. A missionary group also mows weekly. She thanked all who helped.

Larry Mathews added that his wife attended the Performance in the Park for children last week. She was greatly impressed with the performance, the turnout, and the enthusiasm. He thanked the staff member that manages these and encouraged everyone to take advantage of these Performances in the Park.

Clerk Shaver reminded everyone that Thursday, August 7 is National Night Out. The Police Department will have things going on here at City Hall, but she also related that National Night Out was originally started to get folks together with their neighbors by turning their porch lights on, putting luminaires on their walk or porch, and going outside and meeting their neighbors to promote neighborliness, safety, etc.

Zachary Urban congratulated the Police on their great lip-sync performance.

Mayor Starker thanked all the people who showed up tonight with a lot of passion and thoughtful reflection about what happens in their community. It is uncomfortable to sit on the dais and listen to the diversity of opinion, but it is very healthy. Elected officials have an obligation to listen to and consider all the angles and all the facts.

ADJOURN TO EXECUTIVE SESSION

1. Excess Revenue Obligations under TABOR

Mr. Dahl explained that the intended purpose of having an Executive Session was to inform Council about a court case in El Paso County that relates to the decision Council will need to make about excess revenue from 2E. While the bulk of the discussion and any action would take place in open session, he believes the Executive Session is really not necessary. If Council agrees we could proceed without the Executive Session.

There was consensus to have the TABOR revenue discussion in open session.

Mr. Dahl referenced a memo from Mr. Goff related to the Taxpayer Bill of Rights (TABOR).

- If a city takes in more money than anticipated with a new tax, it is required to return it to the citizens or seek voter approval to retain it.
- In this case, in fiscal year 2017 the City collected \$457,931 more than estimated.

Mr. Dahl explained three options the City has:

- 1) Have a question on the November ballot asking the voters to allow the City to keep the excess revenue
- 2) Refund the excess revenue by some "reasonable" method – such as a temporary property tax reduction, a sales tax holiday, free admission to the Rec Center, or simply sending a check to residents for approximately \$14.72.
- 3) Do nothing and wait for the Court of Appeals to decide on the El Paso case.
 - This wouldn't be decided for at least a year.
 - If the City waits, and is sued, and loses, the City would have to refund the money with a 10% penalty, interest and attorney's fees.

Questions and discussion followed.

A ballot question could divide the money equally between the four 2E projects or disperse it proportionally based on the percentage of 2E funds per project in the original ballot question or put it towards the project that needs it the most – such as the hook ramps.

Applying the excess revenue to the 2E projects would pay down the bonds sooner.

Councilmember Hoppe received consensus to have an ordinance prepared for a ballot question to ask the voters if the City could retain excess 2E revenue, and further that two alternatives be provided – one splitting the money evenly between the four projects, and another distributing the money proportionally to the 2E projects based on their size.

Mr. Dahl advised that it would be unwise to try to pay for the cost of the ballot question out of the excess revenue.

ADJOURNMENT

The meeting adjourned at 10:18 pm.

Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON August 13, 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.

STUDY SESSION NOTES
CITY OF WHEAT RIDGE, COLORADO
City Council Chambers 7500 W. 29th Avenue
July 16, 2018

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

Councilmembers present: Monica Duran, Tim Fitzgerald, Zachary Urban, Larry Mathews, Leah Dozeman, and George Pond

Absent: Kristi Davis (excused), Janeece Hoppe (excused)

Also present: City Clerk, Janelle Shaver; City Manager, Patrick Goff; Chief of Police, Daniel Brennan; Public Works Director, Scott Brink; other staff, guests and interested citizens.

CITIZEN COMMENT ON AGENDA ITEMS none

1. Let's Go, Colorado Transportation Funding Campaign --

Sen. Rachel Zenzinger (SD19 Arvada) and
Jake Martin (Campaign Mgr for Let's Go, Colorado)

Sen. Zenzinger explained the Let's Go, Colorado campaign is a private coalition of organizations from across the state that are promoting a 0.62% increase in the state sales tax rate to provide funding for roads. They are collecting signatures to get this on the November ballot. She is a volunteer; Mr. Martin is the paid campaign manager.

Since 1991 roads have been funded by a \$0.22/gallon gas tax. Statistics include:

- In 1991 the state had 3M people (\$126 per driver) with \$1.00 of purchasing power. Today's purchasing power is \$0.54, road resurfacing is up 120% and the cost of a gallon of gas is up 120% (while the gas tax has remained the same).
- Fuel efficiency is up and we receive 18% less revenue for transportation. Electric and hybrids also pay less tax.\
- Population has grown 164% to now 3.5M people. (We spend only \$69 per driver.)
- Miles of highway are up 17%. (We need more roads to alleviate the congestion.)
- We have a \$1B per year shortfall and \$9B in projects waiting to be funded.
- 88% of the lane miles in the state are local.

Why a sales tax? Other options were explored: vehicle registration, income tax, fuel tax, squeezing more money out of the state budget, gas tax.

- Gas tax – We would have to double it; there's no appetite for that. It's not a good long term solution.

- Vehicle registration -- We already have among the highest registration fees in the nation, and this doesn't include tourists.
- General Fund -- Kicks the can down the road. The General Fund goes for other priorities so those would be cut. Not reliable year after year. Education is very needy.
- Sales tax -- Most voters said they would like to do this. The small amount adds up over time and it includes tourists.

A 0.62% sales tax increase would raise \$767M the first year, and sunset in 20 years.

- 45% State Highway Fund CDOT (for large projects)
- 40% split evenly between cities and counties -- 20% each
- 15% Multimodal Options Fund

State projects for Wheat Ridge would include the I-70 Kipling interchange (\$68M)

The first year Wheat Ridge would get \$1.184M. City would have complete control of how to spend the funds (street repaving, potholes, matching funds, new intersections, lane widening, shoulders, bridge work, sidewalks, bike lanes, transit projects).

The state's Multimodal Fund typically has \$10M per year. With the new funds it will be opened up so locals can have access to some of it for local multimodal projects.

This is similar to HB1242 in 2017 which did not pass the legislature.

This year's SB1 did dedicate one time funds of \$500M to transportation this year, \$150M next year, and \$50M a year after that -- from the General Fund.

Discussion followed.

Councilmember Dozeman had questions about SB1. Sen. Zenzinger explained.

Councilmember Mathews asked if there have been any studies on CDOT's efficiency since 1991. Sen. Zenzinger stated CDOT efficiency has improved; its overhead has decreased. No, this is not based on "per lane mile".

- Not all new population are drivers; why is "spending per driver" used? Those numbers came from the state.
- Of the current gas tax and license registration, how much goes to roads vs other expenditures, such as RTD? RTD is not part of CDOT, but they can apply for grants. CDOT does give \$10M/yr to multimodal projects.

Councilmember Duran asked how the percentage for cities and counties is calculated.

- The formula is based on several things -- lane miles, car registrations, figures by city, the same formula that has been used for 25 years.
- The 45% for CDOT, paired with existing funds, will fund much of the wish list.
- The 20%/20% split achieves better parity. Right now it's 18%/22%.
- The 15% Multimodal Fund is new.

Councilmember Pond asked if there would be bonding against the sales tax, and if the cities would benefit from that. Sen. Zenzinger said the state can't address its Tier 1

projects unless it uses the revenue for bonding. There will be \$6B worth of bonding capacity over 20 years. Cities can do bonding if they want to.

For the ballot a list of state priorities will be in the Blue Book for voters to see.

This is being done through the HUTF (Highway Users Tax Fund) so the funds will be dedicated to transportation only.

Councilmember Fitzgerald asked about the figures for WR's yearly share.

Councilmember Urban asked how accountability and efficiency by the locals would be done. Mr. Martin said the coalition's main concern was local flexibility, as everyone's needs are different. He suggested accountability would be with the public. Sen. Zenzinger added that HUTF does have some rules and criteria. Also, federal funds will continue to be distributed through planning organizations; they do oversight.

Councilmember Dozeman asked if bicycle registration had been considered. No.

Sen. Zenzinger said the legislature and the coalition looked at ownership tax, but it's a local tax so CML and CCI were strongly against that; it wouldn't have provided enough money to be able to share with cities and counties; and it doesn't include tourists.

Councilmember Dozeman asked what was being asked of the Council. Mr. Martin said individual support and a resolution.

Mayor Starker lobbied in favor of this effort.

There was consensus to approve a resolution of support.

2. Discussion on Wheat Ridge 50th Anniversary celebration activities - Heather Geyer and Sara Spaulding

Sara Spaulding, Communications Manager, reported on planning efforts to date.

- She, Heather Geyer and some other staff members have started planning the year-long celebration for 2019. The list of ideas is in the Council packet.
- They are in the process of forming a citizen committee for input on how to incorporate the celebration with existing events around the city, and planning a gala at the Rec Center scheduled for March 2, 2019.
- They have started getting historic photos from residents.
- A Facebook page has been created -- "Celebrate WR50".

Commander Jim Lorentz reported on things the police department is doing.

• WRPD Commemorative Badge

He passed around a copy of the commemorative badge that has been approved. It is a replica of the very first department badge worn by the first Police Chief, Jack Bramble. Officers interested in wearing the badge during the year can purchase one. They will not be available to the public.

• Restoration of Unit 1

The first police car is a 1969 Ford Galaxy that Jack Bramble purchased right off the lot at Johnnie Harper Ford. The City still has it. It is being restored and should be ready for anniversary functions in 2019.

Ms. Spaulding reported they are researching the creation of large number "50" for photo ops.

50th Anniversary Seal and Logo

Ms. Spaulding referenced the draft drawings of a celebratory seal and a logo for the marketing brand. Council input is desired.

Discussion followed.

Councilmember Dozeman remarked there isn't much mention of the Wheat Ridge Historical Society. She encouraged reaching out to them because they have an entire library of articles and memorabilia. They are a rich resource.

Councilmember Duran suggested reaching out to the WR Fire Department. They have their original truck.

For Councilmember Mathews, the badges will cost \$72.50 to those officers who choose to wear them, and they can keep them. They will be authorized for daily wear during that year. They will not be available to the public. Unit #1 is being stored at the evidence building.

Councilmember Urban suggested something that looks ahead to the next 50 years – such as planting 50 oak trees, so that residents 50 years from now can see how we celebrated.

Councilmember Pond said he supports the efforts and the logos.

Consensus votes were taken for the logos:

For the seal (1st page) A=1 vote B=5 votes

For the marketing banner logo (2nd page) A=3 B=3 C=0 Mayor Starker voted for B.

If Council has any other ideas they are welcome. And let them know of anyone who would like to participate.

Councilmember Dozeman noted that the Grange's WR Fire Department museum is just about finished.

Commander Lorentz reported that PD will also be striking a new challenge coin for this.

3. 2017 Code Enforcement Strategies/TLC update – Chief Brennan, Jim Lorentz

Commander Lorentz referenced the information that had been provided in the staff report and said he didn't want to repeat it. He added:

- PD is happy with the way code enforcement is going since changing to the administrative citation model in 2008. Several cities in Colorado have borrowed our model and adapted it to their city.
- We have 10 neighborhoods and 7 corridors that qualify as TLC areas. We've had success using carrots rather than sticks to get people on board.
- We've added hotel/motel inspection, greenbelt assessments, and dumpster days as proactive programs.

Councilmember Urban asked how to better deal with problem properties that go on and on. Commander Lorentz explained that we have to give people due process – it's in the Constitution. We have steps of warning, citation, and ultimately doing the abatement and sending them the bill. He also noted that when a new problem arises on the same property, the due process has to start all over.

Mr. Goff added that the City Attorney is meeting with staff this Friday to look at how to add teeth to the code for problem properties.

Councilmember Urban asked about notifying neighbors of legal steps that are being taken even though the property may still look bad. Chief Brennan said the CSO always follows up with the reporting party – but not the whole neighborhood. The idea behind the TLC programs is to get neighbors together and that is one way to keep them informed.

Councilmember Mathews suggested maybe we should let the court system know that we would like some teeth back in the system. The Chief noted that care must be taken not to taint the court process.

Chief Brennan addressed the employment challenges for code enforcement over the last 2 ½ years.

- We are currently on our third hiring process. 3 of the 7 position are vacant.
- It takes a certain personality of officer to be a CSO.
- Our CSO's have 3 functions: code enforcement, animal control and parks enforcement.
- It's also been hard getting seasonal park rangers. Other cities are having this problem too.
- Two of our CSO's have gone on to become officers.

Chief Brennan asked if Council was ok with the staff recommendation to look at native grasses and artificial turf that some people are installing instead of live grass. There was consensus to explore that issue to see if code changes are needed.

4. Crime Update - Daniel Brennan

Chief Brennan advised up front that crime is up nationally (particularly violent crimes) and in Colorado violent crime and property crimes are up. In WR we have seen

increases in violent crime, property crimes and assaults (aggravated, simple, and sexual).

The Chief went through a Power Point presentation. Major points included:

- Type 1 Crimes (Violent & Property Crimes) were up in 2017 for the 3rd year in a row. Almost half of those are theft.
- He noted that a change in the definitions of assault and crimes vs the elderly have resulted in an increase in numbers.
- Sex assaults are up. Most are by persons who know the victim; a good number are by residents, patients or staff at LMC or other facilities. Only 4 were by strangers.
- Motor vehicle theft is up (326 in 2017)
- The number of violent crimes in WR increased by 100 offenses from 2016.
- The top 5 locations for Type 1 Violent Crimes were LMC 69, American Motel 64, King Soopers 43, Kipling Village 37, Safeway 37.
- 67 cases of elder abuse in 2017 (over half were financial abuse – theft, etc.)
- Type II Crimes had been trending down, but were up last year. (Domestic Disturbance is when no crime can be proven.)
- The most prevalent Type II Crimes are Domestic Disturbance (387), Domestic Violence (332), 1st Deg. Criminal Trespass (318), Vandalism (313), and Drug-related Violations (284).
- Offenses involving Domestic Violence increased 26% in 2017.
- Arrests for Alcohol were up, while offenses related to Meth, Marijuana, Heroin and Rx Drugs were down.
- In 2017 there were 41,633 calls for service, 13,110 case reports, 4,018 traffic summons, 1,906 arrests 1,754 traffic accidents. All of these numbers are down from 2016.
- We weren't fully staffed last year. Traffic citations were down because we had to pull traffic staff on to criminal cases. By end of year should be full strength.
- Response times for all levels of priority are about the same (5 minutes for Priority 1).

Questions followed.

- The Chief reviewed the difference between Domestic Violence and Domestic Disturbance.
- Increased training for officers in dealing with mental health issues has been positive and has changed response approaches in some cases.
- Coverage at the hospital is contracted at \$40/hour. Lutheran reimburses the City.
- How to deal with the area of the American Motel is an ongoing challenge. The Chief elaborated on some efforts that have been tried.
- The Chief gave some tips for the public on ways to decrease crime.

5. 2017 Cannabis Update – Daniel Brennan

Chief Brennan gave a Power Point presentation on marijuana in the community -- 2017.

In schools

- Arrests up 6%, but charges decreased by 3% (i.e. more arrests, but fewer charges per arrest). Drug and alcohol incidents are about the same as 2016.
- No alcohol related charges at the high school last year --all were marijuana related. 81% were for possession of marijuana; 19% were for drug paraphernalia. No other charges for controlled substances. 3 more marijuana arrests (34) in our schools.
- The School Resource Officers taught 81 classes on drug awareness and marijuana. The SRO's also attended 52 hours of training related to drugs and mental health.
- Charges related to controlled substances were normal.

In the community

- 19 juveniles arrested for drugs and alcohol. Alcohol went from 7 to 13; Marijuana went from 12 to 6; 1 was for DUI/DUD.
- 308 adults arrested for drugs and alcohol.
 - Does not include arrests made by the West Metro Drug Task Force
 - Top charges were controlled substances (127; 72% methamphetamine, but cocaine is on the rise) and DUI/DUID/DWAI (103)
- There were a number of tips about home grows, but all came into compliance. No marijuana was seized and no arrests were made.
- 12 drivers were arrested for driving under the influence of marijuana. This was 10% of the DUI's.

At marijuana facilities

- 68 calls for service at dispensaries, which is an increase of 10%.
- 33% calls were alarms; 31% suspicious activity. Both types are a very small percentage of all calls for service in those two categories.
- About 1/3 of the calls for service were to Best Colorado Meds.
- Overall: 5 were burglaries; 4 were thefts; 3 were disturbances; no robberies.

Heroin in the community

- Heroin-related arrests were down from 50 to 28. Getting people in treatment seems to be helping.
- There were 167 calls for service referencing heroin (down slightly).
- 10 known heroin overdoses and 1 known death due to heroin.

Methamphetamine in the community

- There were 494 calls for service referencing meth (about the same as 2016).
- There were 115 meth-related arrests (down slightly)
- There were 2 known meth overdoses and no known deaths due to meth.

Council comments and questions followed.

- Related to the greenbelt -- Chief Brennan stated that homeless camps are not a significant issue; it's remained about the same. Commander Lorentz noted that

sleeping there may be attractive, but it's not a good place to camp because there are no close resources (water, food, etc.) to accommodate living there.

- Per the Chief, a more frequent complaint is bicyclists who speed in the greenbelt and put walkers at risk.
- PD has been dealing with people parking campers/RVs at Prospect Park and others.
- Marijuana facilities are doing a better job at making their disposed marijuana unusable so that their trash bins are not a magnet.
- Meth labs in houses are down. Most street meth comes from Mexico because it is cheaper to make down there.

6. Exemption from SB 05-152 Broadband – Patrick Goff

In 2005, the Legislature enacted Senate Bill 152, which prohibits local governments from providing services for cable TV, telecommunications, and high speed internet, either directly or indirectly, unless authorized by the electorate.

SB 152 has been interpreted by some as prohibiting local governments from providing a wide spectrum of services, including such things as:

- Internet service in city libraries, parks and community centers;
- Leveraging government infrastructure and partnering with private businesses to provide affordable and high speed internet services throughout the community; and
- Direct provision of broadband services by municipal government where needed.

A voter approved exemption from SB 152 would restore local independence and the ability for the City to evaluate all possibilities for next generation broadband services in the City of Wheat Ridge.

Since the passage of SB 152, voters in 92 towns and cities and at least 25 counties have overwhelmingly approved measures to allow their local government to decide whether to offer broadband services to their residents.

Mr. Goff addressed the issue. Councilmember Fitzgerald requested this discussion.

Tim Fitzgerald spoke in favor of doing this.

- He believes it's time to get rid of this law, but that's not in our power. We can opt out.
- It would give us leverage with the cable companies.
- The current law benefits the cable companies.
- Our neighboring cities have all passed this. It would provide us with the opportunity to partner with other cities in the future.

Discussion followed.

There was consensus to have the City Attorney prepare a ballot question for November.

7. Staff Report(s)

- 1) Mr. Goff reported that the group Together Colorado has requested that RTD create a Youth Pass (70% discount) for ages 13-19, an Under 12 Pass (free if accompanied by a paying rider) and a Low Income Pass. RTD is seeking letters of support. There was consensus to support this.
- 2) The School district wants to meet with us for dinner or coffee. Following discussion there was consensus to schedule a meeting that accommodates both schedules.

8. Elected Officials' Report(s) There were no reports

ADJOURNMENT: The Study Session adjourned at 9:02 p.m.

Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON August 13, 2018

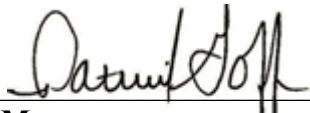
Tim Fitzgerald, Mayor pro tem

REQUEST FOR CITY COUNCIL ACTION**TITLE: SECOND OPPORTUNITY FOR PUBLIC INPUT ON THE 2019 BUDGET**

- ☐ PUBLIC HEARING
☐ BIDS/MOTIONS
☐ RESOLUTIONS

- ☐ ORDINANCES FOR 1ST READING
☐ ORDINANCES FOR 2ND READING

QUASI-JUDICIAL: ☐ YES☒ NO

Administrative Services Director

City Manager**ISSUE:**

The process for the development of the 2019 budget is underway. An important phase of this process is offering the public opportunities to provide input to City Council prior to the presentation of the 2019 proposed budget. This public input opportunity at this meeting is the second of two; the first opportunity for public input was held during the regular City Council meeting on Monday, July 9, 2018. Members of the public will also have the opportunity to provide input on the proposed budget at the public hearing. The proposed 2019 Budget is scheduled for public hearing and adoption on Monday, October 8, 2018.

PRIOR ACTION:

No prior action was necessary on this item.

FINANCIAL IMPACT:

There is no financial impact on this item.

BACKGROUND:

Each year, the City invites the public to provide input on the budget prior to the budget being presented to City Council. This community engagement practice is in line with best practices used by local governments across the country and endorsed by the Government Finance

Officers' Association (GFOA). Staff includes a summary of all feedback received from these public input meetings in the presentation of the proposed budget to City Council.

The 2019 Budget is scheduled to be presented to the Mayor and City Council on Monday, September 17, 2018. Following review and direction from City Council, the public hearing and adoption of the proposed 2019 Budget is scheduled for Monday, October 8, 2018. The proposed budget will be available online on the City website prior to the September 17th meeting. A copy of the proposed budget will also be available in the City Clerk's Office for review. The public is invited to provide input on the proposed 2019 Budget at the September 17th and October 8th meetings.

RECOMMENDATIONS:

No recommendation on this item is necessary.

RECOMMENDED MOTION:

No formal action by City Council is necessary at this time.

REPORT PREPARED/REVIEWED BY:

Heather Geyer, Administrative Services Director

Patrick Goff, City Manager

REQUEST FOR CITY COUNCIL ACTION

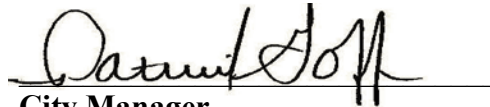
TITLE: MOTION TO APPROVE PAYMENT TO KAISER PERMANENTE FOR AUGUST 2018 MEMBERSHIP BILLING IN THE AMOUNT OF \$191,451.47 AND SEPTEMBER MEMBERSHIP BILLING IN THE AMOUNT OF \$202,189.30

☐ PUBLIC HEARING
☒ BIDS/MOTIONS
☐ RESOLUTIONS

☐ ORDINANCES FOR 1ST READING
☐ ORDINANCES FOR 2ND READING

QUASI-JUDICIAL: ☐ YES ☒ NO


Administrative Services Director


City Manager

ISSUE:

For 2018, the City offers employees two medical plans through Kaiser Permanente; a High Deductible plan and Deductible HMO Plan. Both plans are also offered as COBRA protection for former employees who choose to enroll. August billing is in the amount of \$191,451.47 and September billing is in the amount of \$202,189.30 which requires City Council approval.

PRIOR ACTION:

Approval of August 2018 and September 2018 Kaiser bills.

FINANCIAL IMPACT:

While monthly costs vary depending on the number of employees and dependents enrolled, for 2018 these costs will average around \$195,000 per month. The August and September 2018 bills are for active and COBRA membership billing. Monthly bills over \$75,000 will be brought to City Council for approval.

BACKGROUND:

Kaiser Permanente has been the City of Wheat Ridge's medical plan provider for several years. Based on the City's shift to two deductible plans and a robust wellness program, Kaiser plan

renewals have been minimal compared to the market the past two years.

RECOMMENDATIONS:

It is our recommendation to pay the August and September 2018 Kaiser bills.

RECOMMENDED MOTION:

“I move to pay the August 2018 Kaiser bill in the total amount of \$191,451.47 and September 2018 Kaiser bill in the total amount of \$202,189.30.”

Or,

“I move to deny the payment of the August 2018 Kaiser bill in the amount of \$191,451.47 and September 2018 Kaiser bill in the amount of \$202,189.30 for the following reason(s)
_____.”

REPORT PREPARED/REVIEWED BY:

Heather Geyer, Administrative Services Director

Patrick Goff, City Manager

ATTACHMENTS:

1. 2018 August Kaiser Bill
2. 2018 September Kaiser Bill



Kaiser Permanente
Membership Administration
P.O. Box 203009
Denver, CO 80220-9009

CITY OF WHEAT RIDGE
CITY OF WHEAT RIDGE ACTIVES
ATTN: CHRISTINE JONES
7500 W 29TH AVE
WHEAT RIDGE, CO 80033-8001

GROUP-BILLGROUP-REGION: 00181-01-16

Invoice Creation Date: July 02, 2018

Bill Period Dates: 08/01/2018-08/31/2018
Invoice Number: 0021506649
Bill Date: 07/02/2018
Amount Due: \$382,325.78
PLEASE PAY BY: 07/31/2018

Please send payments only to the following address:

Kaiser Permanente
Membership Administration
Kaiser Permanente
PO BOX 711697
Denver, CO 80271-1697

For Billing Inquiry:
TABITHA MARIE LEE - CSCC
Phone: 866-868-7220

Please mail all membership changes to:

Kaiser Permanente
Membership Administration
P.O. Box 203009
Denver, CO 80220-9009

Or, send membership changes to either:

Fax: 866-311-5974
Email: csc-den-roc-group@kp.org

Did you know you could process your membership changes online at kaiserpermanente.org?

GROUP-BILLGROUP-REGION: 00181-01-16 (RETURN THIS PORTION WITH YOUR PAYMENT)

CITY OF WHEAT RIDGE
ATTN: CHRISTINE JONES
7500 W 29TH AVE
WHEAT RIDGE, CO 80033-8001

Invoice Number: 0021506649
Bill Period Date: 08/01/2018
Please pay this amount: \$382,325.78
Payment must be received by: 07/31/2018

Provide Billing Unit number(s) on check and make it payable to:

Kaiser Permanente
PO BOX 711697
Denver, CO 80271-1697

Amount Paid:

187,322.59

16001810000010000000000002150664908012018071810000000382325780000000000000001

ATTACHMENT 1



Kaiser Permanente
Membership Administration
P.O. Box 203009
Denver, CO 80220-9009

CITY OF WHEAT RIDGE
CITY OF WHEAT RIDGE - COBRA
ATTN: CHRISTINE JONES
7500 W 29TH AVE
WHEAT RIDGE, CO 80033-8001

GROUP-BILLGROUP-REGION: 00181-02-16

Invoice Creation Date: July 02, 2018

Bill Period Dates: 08/01/2018-08/31/2018
Invoice Number: 0021506650
Bill Date: 07/02/2018
Amount Due: \$9,931.61
PLEASE PAY BY: 07/31/2018

Please send payments only to the following address:
Kaiser Permanente
Membership Administration
Kaiser Permanente
PO BOX 711697
Denver, CO 80271-1697

For Billing Inquiry:
TABITHA MARIE LEE - CSCC
Phone: 866-868-7220

Please mail all membership changes to:
Kaiser Permanente
Membership Administration
P.O. Box 203009
Denver, CO 80220-9009

Or, send membership changes to either:
Fax: 866-311-5974
Email: csc-den-roc-group@kp.org

Did you know you could process your membership changes online at kaiserpermanente.org?

GROUP-BILLGROUP-REGION: 00181-02-16 (RETURN THIS PORTION WITH YOUR PAYMENT)

CITY OF WHEAT RIDGE
ATTN: CHRISTINE JONES
7500 W 29TH AVE
WHEAT RIDGE, CO 80033-8001

Invoice Number: 0021506650
Bill Period Date: 08/01/2018
Please pay this amount: \$9,931.61
Payment must be received by: 07/31/2018

Provide Billing Unit number(s) on check and make it payable to:
Kaiser Permanente
PO BOX 711697
Denver, CO 80271-1697

Amount Paid:

4,128.89

160018100000200000000000021506650080120180718100000000993161000000000000009



Kaiser Permanente
Membership Administration
P.O. Box 203009
Denver, CO 80220-9009

CITY OF WHEAT RIDGE
CITY OF WHEAT RIDGE ACTIVES
ATTN: CHRISTINE JONES
7500 W 29TH AVE
WHEAT RIDGE, CO 80033-8001

GROUP-BILLGROUP-REGION: 00181-01-16

Invoice Creation Date: August 02, 2018

Bill Period Dates: 09/01/2018-09/30/2018
Invoice Number: 0021616670
Bill Date: 08/02/2018
Amount Due: \$404,923.69
PLEASE PAY BY: 08/31/2018

Please send payments only to the following address:

Kaiser Permanente
Membership Administration
Kaiser Permanente
PO BOX 711697
Denver, CO 80271-1697

For Billing Inquiry:
TABITHA MARIE LEE - CSCC
Phone: 866-868-7220

Please mail all membership changes to:

Kaiser Permanente
Membership Administration
P.O. Box 203009
Denver, CO 80220-9009

Or, send membership changes to either:

Fax: 866-311-5974
Email: csc-den-roc-group@kp.org

Did you know you could process your membership changes online at kaiserpermanente.org?

GROUP-BILLGROUP-REGION: 00181-01-16 (RETURN THIS PORTION WITH YOUR PAYMENT)

CITY OF WHEAT RIDGE
ATTN: CHRISTINE JONES
7500 W 29TH AVE
WHEAT RIDGE, CO 80033-8001

Invoice Number: 0021616670
Bill Period Date: 09/01/2018
Please pay this amount: \$404,923.69
Payment must be received by: 08/31/2018

Provide Billing Unit number(s) on check and make it payable to:

Kaiser Permanente
PO BOX 711697
Denver, CO 80271-1697

Amount Paid: \$198060.42

ATTACHMENT 2

16001810000010000000000002161667009012018081810000000404923690000000000000007



Kaiser Permanente
Membership Administration
P.O. Box 203009
Denver, CO 80220-9009

CITY OF WHEAT RIDGE
CITY OF WHEAT RIDGE - COBRA
ATTN: CHRISTINE JONES
7500 W 29TH AVE
WHEAT RIDGE, CO 80033-8001

GROUP-BILLGROUP-REGION: 00181-02-16

Invoice Creation Date: August 02, 2018

Bill Period Dates: 09/01/2018-09/30/2018
Invoice Number: 0021616671
Bill Date: 08/02/2018
Amount Due: \$10,489.56
PLEASE PAY BY: 08/31/2018

Please send payments only to the following address:

Kaiser Permanente
Membership Administration
Kaiser Permanente
PO BOX 711697
Denver, CO 80271-1697

For Billing Inquiry:
TABITHA MARIE LEE - CSCC
Phone: 866-868-7220

Please mail all membership changes to:

Kaiser Permanente
Membership Administration
P.O. Box 203009
Denver, CO 80220-9009

Or, send membership changes to either:

Fax: 866-311-5974
Email: csc-den-roc-group@kp.org

Did you know you could process your membership changes online at kaiserpermanente.org?

GROUP-BILLGROUP-REGION: 00181-02-16 (RETURN THIS PORTION WITH YOUR PAYMENT)

CITY OF WHEAT RIDGE
ATTN: CHRISTINE JONES
7500 W 29TH AVE
WHEAT RIDGE, CO 80033-8001

Invoice Number:	0021616671
Bill Period Date:	09/01/2018
Please pay this amount:	\$10,489.56
Payment must be received by:	08/31/2018

Provide Billing Unit number(s) on check and make it payable to:

Kaiser Permanente
PO BOX 711697
Denver, CO 80271-1697

Amount Paid: \$4128.88

1600181000002000000000000216166710901201808181000000001048956000000000000000

REQUEST FOR CITY COUNCIL ACTION

TITLE: RESOLUTION NO. 42-2018 – A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE WHEAT RIDGE POLICE DEPARTMENT, THE GOLDEN POLICE DEPARTMENT, AND THE 1ST JUDICIAL DISTRICT ATTORNEY’S OFFICE, FOR THE ESTABLISHMENT OF A BODY-WORN CAMERA PROGRAM

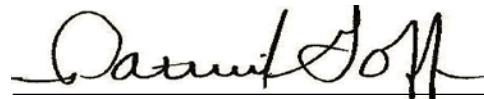
☐ PUBLIC HEARING
☐ BIDS/MOTIONS
☒ RESOLUTIONS

☐ ORDINANCES FOR 1ST READING
☐ ORDINANCES FOR 2ND READING

QUASI-JUDICIAL:

☐ YES☒ NO

Chief of Police



City Manager

ISSUE:

The Wheat Ridge Police Department (WRPD) and the Golden Police Department (GPD) jointly applied for Bureau of Justice Assistance (BJA) grant funding to implement a Body-Worn Camera (BWC) program for each agency. The funding was approved, with Wheat Ridge listed as the primary award recipient. As such, Wheat Ridge is responsible for the primary administration of grant funds, and will act as a “pass through” agency, to transfer a portion of the funding to Golden. The 1st Judicial District Attorney’s Office will consult and provide suggestions to both Wheat Ridge and Golden regarding policy development, system selection, and data retention specifications. A Memorandum of Understanding (MOU) between Wheat Ridge, Golden, and the 1st Judicial District Attorney’s Office is required by the BJA as a condition of grant funding.

PRIOR ACTION:

The Police Department began a BWC pilot program in 2015, with favorable results. On October 16, 2017, a staff report was presented to City Council seeking authorization to accept this grant. City Council reached a consensus to have the department accept the grant and move forward with implementing a BWC program.

FINANCIAL IMPACT:

There are direct and indirect financial obligations for this grant. The grant will cover the costs of the cameras, docking/charging stations, and storage costs. Indirect costs are the responsibility of each agency and for the police department consisting primarily of training, a Records Management Specialist (RMS) position, and workstation. The RMS position was approved in the 2018 budget. The table below summarizes the total estimated costs for the next five years:

COSTS	2018	2019	2020	2021	2022
Hardware and Evidence.com	\$62,729	\$37,992	\$37,992	\$37,992	\$37,992
RMS Salary & Benefits (New Position)	\$56,000	\$57,680	\$59,410	\$61,193	\$63,028
Training	\$9,836	\$9,836	0	0	0
Workstation	\$4,000	0	0	0	0
TOTAL	\$132,565	\$105,508	\$97,402	\$99,185	\$101,020
Grant Pays	\$62,729	\$37,992	0	0	0
City Cost	\$69,836	\$67,516	\$97,402	\$99,185	\$101,020

BACKGROUND:

The Wheat Ridge Police Department has a genuine and vested interest in fostering an environment of trust with the community. The use of BWC by law enforcement has the potential to demonstrate transparency to the community, to document evidence, and to deter unprofessional, illegal and inappropriate behaviors by both law enforcement and the public. It also comes with challenges in training personnel, additional work requirements, new evidentiary and retention requirements, and adhering to open records laws.

The department launched a pilot program for the use of BWC in 2015. Due to the success of that pilot program, the Wheat Ridge Police Department partnered with the Golden Police Department in 2017 and applied for BJA grant funding for a full BWC program. The application was approved, and a presentation was given to City Council on October 16, 2017, seeking direction on the acceptance of the grant. City Council reached a consensus to accept the grant. City Council later approved hiring an additional RMS in 2018, whose duties include managing the video created by this program.

Over subsequent months, program managers from both WRPD and GPD have worked to complete the various requirements governing the award of federal funding. A written Memorandum of Understanding for services provided between the Wheat Ridge Police Department, the Golden Police Department, and the 1st Judicial District Attorney's Office is one such requirement of the Bureau of Justice Assistance, and includes:

- a. a statement requiring coordination of all grant-related activities through WRPD;
- b. a statement requiring abidance by all program parameters by all parties;
- c. a statement requiring adherence to all terms, conditions, and requirements of any grant award received;
- d. the utilization of a BWC Program Director;
- e. adherence to all BWC program deadlines and budgetary requirements;

- f. a stipulation that each agency will support and participate in financial audits; and
- g. a stipulation that each agency will be responsible for its own liability incurred as a result of participation in the MOU.

All of the elements listed above are included in this Memorandum of Understanding to ensure compliance with BJA standards.

RECOMMENDATIONS:

It is recommended that the City Council approve the Memorandum of Understanding between the Wheat Ridge Police Department, the Golden Police Department, and the 1st Judicial District Attorney's Office, for the implementation of a Body-Worn Camera program.

RECOMMENDED MOTION:

"I move to approve Resolution No. 42-2018, a resolution approving a Memorandum of Understanding between the Wheat Ridge Police Department, the Golden Police Department, and the 1st Judicial District Attorney's Office, for the establishment of a Body-Worn Camera program."

Or,

"I move to postpone indefinitely Resolution No. 42-2018, a resolution approving a Memorandum of Understanding between the Wheat Ridge Police Department, the Golden Police Department, and the 1st Judicial District Attorney's Office, for the establishment of a Body-Worn Camera program, for the following reason(s)_____."

REPORT PREPARED/REVIEWED BY:

T. R. Wardell, Commander

Daniel Brennan, Chief of Police

Patrick Goff, City Manager

ATTACHMENTS:

1. Resolution No. 42-2018
2. Memorandum of Understanding between the Wheat Ridge Police Department, the Golden Police Department, and the 1st Judicial District Attorney's Office, for the implementation of a Body-Worn Camera program
3. Staff Report dated October 16, 2017
4. Staff Report dated August 6, 2018

CITY OF WHEAT RIDGE, COLORADO
RESOLUTION NO. 42
Series of 2018

TITLE: A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE WHEAT RIDGE POLICE DEPARTMENT, THE GOLDEN POLICE DEPARTMENT, AND THE 1ST JUDICIAL DISTRICT ATTORNEY'S OFFICE, FOR THE ESTABLISHMENT OF A BODY-WORN CAMERA PROGRAM

WHEREAS, the City of Wheat Ridge, Colorado (the "City"), acting through its City Council ("Council"), is a home rule municipality with statutory and constitutional authority to enact ordinances and enter into agreements for the protection of the public health, safety and welfare; and

WHEREAS, pursuant to C.R.S. § 29-1-203, the City is authorized to enter into cooperative agreements with other governmental entities to provide and receive certain functions and services; and

WHEREAS, the Wheat Ridge Police Department has proposed a memorandum of understanding with the City of Golden and the First Judicial District Attorney's Office to establish their mutual obligations, desires and goals in pursuing and using grant funding to establish body-worn camera ("BWC") programs and policies in the City's respective law enforcement agencies; and

WHEREAS, the Council finds that the use of BWC by law enforcement has the potential to demonstrate transparency to the community, to document evidence, and to deter unprofessional, illegal and inappropriate behaviors by both law enforcement and the public; and

WHEREAS, the Council therefore desires to approve the proposed MOU to facilitate the funding and implementation of BWC programs and policies in the respective jurisdictions, consistent with any grant funding awarded for such purpose; and

WHEREAS, Section 14.2 of the Wheat Ridge Home Rule Charter authorizes the Council, acting by resolution or ordinance, to enter into contracts or agreements with other governmental units for the furnishing and receiving of commodities and services.

NOW, THEREFORE, BE IT RESOLVED by the Wheat Ridge City Council, that:

The attached Memorandum of Understanding between the First Judicial District Attorney's Office, the City of Wheat Ridge and the City of Golden for the Implementation of Body Worn Camera Programs is hereby approved. The Mayor and City Clerk are authorized to execute the same.

DONE AND RESOLVED this ____ day of _____, 2018.

Bud Starker, Mayor

ATTEST:

Janelle Shaver, City Clerk

Memorandum

TO: Mayor Bud Starker and City Council

FROM: Daniel Brennan, Chief of Police

DATE: July 30, 2018

SUBJECT: Staff Report: Body-Worn Cameras

The purpose of this staff report is to update City Council on the body-worn camera (BWC) grant. In October 2017, City Council directed the police department to accept federal grant funding and move forward with the implementation of a body-worn camera (BWC) program. A number of conditions were attached to the award by the Bureau of Justice Assistance (BJA), each of which was required prior to the release of federal funds:

- Approval of department policy governing the use of BWC
- Approval of the submitted budget narrative
- A memorandum disclosing any pending applications
- Attendance at a national and regional training conference
- A current System for Award Management registration
- A signed Memorandum Of Understanding (MOU) between the cities of Wheat Ridge, Golden, and the 1st Judicial District Attorney's Office

Since that time, police department personnel tasked with the implementation of this project have worked diligently to satisfy each of these requirements. All have been completed and approved by the BJA, with the exception of the signed MOU, the final item on the list.

In addition, the police department has taken the following steps to prepare for the impending implementation of the BWC project:

- An additional Records Management Specialist has been hired to alleviate the anticipated increased workload of managing digital images.
- The assigned Program Manager and Records Management Specialist from both the Wheat Ridge and Golden police departments, as well as a representative from the District Attorney's Office, attended a national Body-Worn Camera conference in Washington, D.C.
- The Training and Technical Assistance group of the BJA traveled to the District Attorney's Office and presented additional training on the implementation and management of BWC programs.

Ongoing communications between the city Purchasing Department and Axon, the preferred distributor, have also taken place. Both the cities of Wheat Ridge and Golden are members of NPP.org, a nationwide government purchasing agency that compiles RFPs from prospective vendors. Axon currently has the award for governmental purchasing agreements for Body-Worn

Staff Report Body Worn Cameras

July 30, 2018

Page 2 of 2

Cameras, and it is anticipated that, upon the release of funds, the equipment may be purchased without further delay.

I anticipate implementing the BWC program no later than the first quarter of 2019. Staff is in the process of developing a curriculum to train officers on the BWC policy, case law, Colorado Open Record Laws, and training on the use of the cameras, downloading and storing video, and requirements to access BWC video.

DB

MEMORANDUM OF UNDERSTANDING
BETWEEN THE FIRST JUDICIAL DISTRICT ATTORNEY'S OFFICE,
THE CITY OF WHEAT RIDGE, AND THE CITY OF GOLDEN
FOR THE IMPLEMENTATION OF
BODY WORN CAMERA PROGRAMS

This Memorandum of Understanding (MOU) is made and entered into this _____ day of _____, 2018, by and between the First Judicial District Attorney's Office, Colorado ("DAO"), the City of Wheat Ridge, Colorado ("Wheat Ridge") and the City of Golden, Colorado ("Golden"). Both Wheat Ridge and Golden are home rule cities and Colorado municipal corporations. For purposes of this MOU, each Party may be referred to as a "Party" or collectively as "Parties".

WITNESSETH

WHEREAS, the agencies of the First Judicial District have a documented history of collaboration among governmental and community agencies working to better the community by eradicating crime, advocating for victims, and holding offenders accountable; and

WHEREAS, the use of Body-Worn Cameras ("BWC") by law enforcement has the potential to demonstrate transparency to the community; to document evidence; and to deter unprofessional, illegal, and inappropriate behaviors by both law enforcement and the public; and

WHEREAS, this MOU memorializes the Parties' cross-agency collaboration and commitment to the successful implementation of BWC programs in Wheat Ridge and Golden.

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

Section 1. Party Obligations

The Wheat Ridge Police Department ("WRPD"): WRPD will act as primary award recipient for grant funding; responsible for all financial monitoring, audit requirements, and reporting requirements set forth in any relevant award special conditions and post-award instructions. Consistent with any terms and conditions of any grant funding received, WRPD will act as a pass-through entity to the Golden Police Department ("GPD"), and will issue a sub-award to GPD, in order for that agency to procure and implement its own BWC program. WRPD has assigned a BWC Program Director at the rank of Commander to oversee implementation of the program in the WRPD. WRPD intends to commit personnel and resources as necessary for a planned implementation model based on best practices guidance, consistent with available appropriations and funding.

The Golden Police Department (GPD): Consistent with any terms and conditions of any grant funding, GPD will act as a sub-recipient of grant funds received by WRPD. GPD will adhere to all reporting requirements, financial monitoring, and audit requirements set forth in any relevant award special conditions and post-award instructions, providing required information to WRPD within required timelines. GPD has assigned a BWC Program Director at the rank of Captain to

ATTACHMENT 2

oversee implementation of the program in the GPD. GPD will support grant proposal(s) by the WRPD, and commits to assist the WRPD in carrying out the goals and objectives of any grant funding

WRPD and GPD mutual obligations:

1. Coordinate all grant-related activities through WRPD.
2. Abide by all program parameters defined by any grant awarded WRPD or GPD.
3. Adhere to all terms, conditions and requirements of any grant awarded WRPD or GPD, from the application process through the use and implementation of the funds.
4. Utilize a BWC Program Director who will be responsible for guiding the agencies through BWC program implementation and management within each agency for the duration of the grant period.
5. Adhere to BWC program deadlines established by each agency.
6. Follow all applicable budgetary requirements.
7. Support and participate in any required financial audits.

Commented [CB1]: I think this means BWC Program Director, as that term is used above – doesn't it?
If this is really intended to be a different – additional person (other than the BWC Program Director), please feel free to re-insert this.

Commented [CB2]: I struck this language because I do not think it is needed – Section 3 above already covers grant compliance generally. It now goes without saying that any term or condition or requirement of the grant will be followed.

First Judicial District Attorney's Office (DAO): The DAO will consult and provide suggestions to the WRPD and GPD, as WRPD and GPD establish their respective policies, system selection, and retention specifications. The DAO is committed to including the following key provisions in each respective agency's BWC program policy:

- Recording protocols: when to activate & deactivate camera; when recording is required, discretionary, and prohibited
- Data retention periods for evidentiary recorded data
- Method of storage and tagging of evidentiary video
- Method for documenting chain of custody & preserving integrity of videos
- Accessibility of the video to prosecutors and method for release of videos as discovery in accordance with the Colorado Rules of Criminal Procedure
- Whether officer whose BWC recorded the event is authorized to review the recording in context of the ensuing investigation
- The need to document the existence of the BWC recording in written reports as well as when/why it was not activated or turned on/off
- Importance of recordings not taking the place of a thorough investigation and well-written report

As requested, the DAO will assist WRPD and GPD in the review of training curriculum and by providing training to officers related to the BWC Program.

Section 2.

Each Party agrees to be responsible for its own liability incurred as a result of its participation in the MOU. In the event any claim is litigated, each Party will be responsible for its own expenses of litigation or other costs associated with such litigation. The Parties intend that nothing herein

shall be deemed or construed as a waiver by any Party of any rights, immunities, limitations, or protections afforded to them under the Colorado Governmental Immunity Act (§ 24-10-101, C.R.S., et seq.), as now or hereafter amended, or otherwise available at law or equity.

Section 3.

The terms of this MOU shall commence on the effective date first written above and it shall terminate upon the promulgation by WRPD and GPD of their policies and procedures for the BWC Program or on December 21, 2019, whichever shall first occur.

Section 4.

By entering into this MOU, the Parties do not intend to create any obligations, express or implied, other than those set out herein; further, this MOU is not intended to and shall not create in the public or any individual member of the public, a third party beneficiary relationship, nor authorize any person not a party to this MOU to maintain suit for personal injuries or property damage pursuant to the terms, conditions or provisions of this MOU.

Section 5.

This MOU is subject to, and shall be interpreted and performed under, the laws of the State of Colorado. For any dispute requiring court action concerning this MOU venue shall be the Jefferson County District Court for the First Judicial District of Colorado.

Section 6.

The waiver of any breach of a term, provision or requirement of the MOU shall not be construed or deemed as waiver of any subsequent breach of such term, provision, requirement, or of any other term, provision, or requirement. The sole and exclusive remedy for any breach of this MOU shall be termination, and none of the Parties shall be entitled to recover damages, costs or attorney fees.

Section 7.

All direct and indirect financial obligations of any Party under this MOU are subject to the annual appropriation of funds by such Party's governing body. No provision of this MOU will be or interpreted: (a) to directly or indirectly obligate any Party to make any payment in any fiscal year in excess of amounts appropriated by any Party for such fiscal year; or (b) as creating a debt or multiple fiscal year direct debt or other financial obligation whatsoever of any Party within the meaning of Article X, Section 20 of the Colorado Constitution or any other constitutional or statutory limitation or provision.

Section 8.

Each Party represents that all procedures necessary to authorize such Party's execution of this MOU have been performed, and that the person signing for such Party has been authorized to do so.

CITY OF WHEAT RIDGE

Bud Starker, Mayor

Date

ATTEST:

Janelle Shaver, City Clerk

CITY OF GOLDEN

Marjorie Sloan, Mayor

Date

ATTEST:

Monica Mendoza, City Clerk

FIRST JUDICIAL DISTRICT ATTORNEY'S OFFICE

Peter Weir, District Attorney

Date

Memorandum

TO: Mayor Jay and City Council

VIA: Patrick Goff, City Manager

FROM: Daniel Brennan, Chief of Police

DATE: October 16, 2017

SUBJECT: Body Worn Camera Grant

ISSUE

In April 2017, the Wheat Ridge and Golden Police Departments submitted an application for the “2017 Body Worn Camera Policy and Implementation Program” grant through the U.S. Department of Justice, Office of Justice Programs. The grant announcement contained language expressing a desire for collaborative grant submissions, or grants with more than one agency. The announcement indicated collaborative grants would be given stronger consideration. Staff reached out to the Jefferson County Sheriff’s Office (JCSO), and the Lakewood and Golden Police Departments to determine their interest in pursuing a collaborative grant. The Golden Police Department was the only agency that expressed interest in the grant at that time.

On September 30, 2017, the department received official notification from the Department of Justice, Office of Justice Programs that the Wheat Ridge and Golden Police Departments had received a grant award.

FINANCIAL IMPACT

The estimated funding for this two-year collaborative grant is \$458,130. This amount includes \$172,500 in direct costs (grant funding) from the federal government and \$285,630 in indirect costs paid for by the grant applicants (Golden and Wheat Ridge). The direct costs will pay for the equipment (115 cameras, storage costs, and licenses) for both agencies. The grant pays for the first two years of costs, including storage costs and licenses. This equates to \$105,000 for Wheat Ridge (70 cameras @\$1,500 each).

Indirect costs include the costs for positions necessary to operate and manage a body-worn camera program, training on grant reporting procedures and a workstation for a Records Management Specialist position. For Wheat Ridge, these indirect costs include the costs (salary and benefits) for one Records Management Specialist (a new position), and five-percent of the salary and benefit costs of a command level position to oversee the project.

At the conclusion of the two-year grant cycle, the department would be responsible for assuming the equipment, storage, licensing and maintenance costs; and the continued costs associated with the positions necessary to manage the program. The table below identifies the funding sources and totals for the next five years:

COSTS	2018	2019	2020	2021	2022
Hardware and Evidence.com	\$62,729	\$37,992	\$37,992	\$37,992	\$37,992
RMS Salary & Benefits (New Position)	\$56,000	\$57,680	\$59,410	\$61,193	\$63,028
Training	\$9,836	\$9,836	0	0	0
Workstation	\$4,000	0	0	0	0
TOTAL	\$132,565	\$105,508	\$97,402	\$99,185	\$101,020
Grant Pays	\$62,729	\$37,992	0	0	0
City Cost	\$69,836	\$67,516	\$97,402	\$99,185	\$101,020

The hardware and Evidence.com include the costs associated with purchasing the cameras, docking stations for the devices, the assurance plan, licensing and a storage plan. The Taser Assurance Plan allows the department to upgrade BWCs every 2.5 years, and provides a warranty for the cameras if they discontinue functioning due to wear or breakage for five years. Staff is proposing utilizing the Evidence.com storage ten-terabyte plan versus purchasing a standalone server to handle media storage or the unlimited data storage plan. The unlimited storage plan would cost approximately \$66,000 per year.

The Records Management Specialist is a non-exempt position found in Salary Grade 50, which has a salary range of \$38,000 to \$55,000. Benefit costs are approximately 40% of the employee salary. The table above includes salary and benefits with a 3% increase factored in annually.

Costs for training, a workstation and associated technology will be absorbed within the current department budget.

BACKGROUND

The department began a pilot BWC program in 2015 to evaluate body-worn cameras. A limited number of cameras were purchased for use by the Crash and Traffic Team (CATT), patrol officers and Community Service Officers (CSOs). During the course of the pilot program, the scope of the program was narrowed to the CATT team. Based on our analysis of the program and feedback from participants, the department's Management Team was in favor of moving forward with a BWC program.

During the 2016 Budget Preparation discussion, the Police Department presented information to city council on the costs for body-worn cameras. At the end of the staff presentation, city council directed staff to explore any opportunities for federal grants specific to body-worn cameras and submit a grant.

In 2016, the department submitted a grant application to the Department of Justice, Office of Justice Programs for the "Body Worn Camera Policy and Implementation Program" to acquire body worn cameras for uniformed police officers. The department was not selected for the grant; however, staff was provided with feedback from its grant application that would make a subsequent grant request stronger.

In 2017, the grant announcement contained language encouraging the submission of collaborative grant applications. The department reached out to the Jefferson County Sheriff's Office and the Lakewood and Golden Police Departments. The Arvada Police Department had already decided to not pursue BWC's at this time. The Golden Police Department was the only

agency interested in pursuing a federal grant. The grant application was submitted in April 2017.

The department received notification from the Department of Justice, Office of Justice Programs that our joint grant application had been accepted and a grant award was forthcoming. The next step in the process is to officially accept the grant award.

The Golden Police Department has advised staff of their desire to move forward with the BWC grant. Staff is requesting direction from City Council on whether to accept this grant or not. Accepting the grant comes with the acknowledgement that the city and police department will commit funding to maintain a BWC program for the foreseeable future.

Both departments recognized the need for additional personnel to manage and operate the BWC program. This includes needed research and training at startup, maintaining and inventorying BWC equipment, managing video downloads, handling open records requests and preparing video evidence for release to the District Attorney's Office and other entities who request evidentiary items, and responding to public records requests. The records management specialist position will also prepare reports, submit grant deliverables and coordinate the grant with Bureau of Justice personnel.

While the department has an existing policy on BWCs, the grant requires both departments to work with community stakeholders on the development of a policy. The challenges with policy development center around privacy issues such as when the camera is turned on or off, establishing storage guidelines for recorded video, having processes in place to redact video to protect the privacy of victims and others, and having a process in place to notify the public when they are being recorded. The department's current policy addresses all of these issues. The department keeps all recordings in accordance with the Colorado Municipal Records Retention Schedule.

RECOMMENDATION

Impartiality, fairness, voice and transparency are important factors for law enforcement agencies to have in order to be successful in building trusting relationships within the community and providing quality public safety services to their communities. While BWCs are not the entire answer in addressing community concerns about the fair enforcement of the law, these cameras do provide additional information that can be used to address community concerns. The department's current pilot program has been successful in clearing patrol officers from allegations of misconduct, provided enhanced documentation of evidentiary value in certain cases, and has also identified deficiencies in training that have been used to increase the competencies and skills of all officers.

Staff recommends City Council consensus to accept this federal grant to purchase body-worn cameras and to continue to provide funding to maintain this program.

REQUEST FOR CITY COUNCIL ACTION**TITLE: COUNCIL BILL NO. 22-2018 – AN ORDINANCE CREATING A NEW SECTION 26-643 OF THE WHEAT RIDGE CODE OF LAWS PROHIBITING THE USE OF FREESTANDING EMERGENCY ROOM FACILITIES**

- ☒ PUBLIC HEARING
☐ BIDS/MOTIONS
☐ RESOLUTIONS

- ☐ ORDINANCES FOR 1ST READING (7/23/2018)
☒ ORDINANCES FOR 2ND READING (8/13/2018)

QUASI-JUDICIAL:

☐ YES☒ NO

City Attorney



City Manager

ISSUE:

This ordinance revises the Wheat Ridge Code of Laws to prohibit freestanding emergency room facilities throughout the City.

PRIOR ACTION:

The Council adopted a moratorium on new freestanding emergency rooms to enable the staff and council to review the city's regulatory options. The moratorium was extended to August 27, 2018. On June 18, City Council directed that an ordinance be brought forth prohibiting this use throughout the City.

FINANCIAL IMPACT:

The potential loss of license, permit, application and similar fees associated with applications for freestanding emergency room (ER) facilities is nominal.

BACKGROUND:

Freestanding ERs continue to increase in number and popularity. In Colorado, the number of freestanding ERs rose from two in 2012 to at least 35 by mid-2016. These facilities provide emergency medical treatment and care similar to a hospital-based ER. Ambulances deliver to these freestanding facilities and many offer more sophisticated on-site services – such as radiology and lab services – than urgent care facilities. These types of facilities continue to be unregulated by the state.

Freestanding ERs likely generate land use impacts that are more akin to hospitals than to other medical facilities, such as clinics, doctor's offices and urgent-care facilities. Unlike these other types of medical facilities, freestanding ERs accommodate ambulance and other emergency-vehicle traffic and they are often open 24/7. They produce light, noise, glare and traffic beyond that of a non-emergent medical care facility. It is therefore appropriate to study and evaluate whether the City's existing zoning regulations adequately address freestanding ER facilities.

In the past, there have been media stories on freestanding ERs and patient confusion between freestanding ERs and urgent care facilities. Because freestanding ERs are not currently licensed or regulated by the state, patients may also be uninformed about the relative costs, benefits, advantages and disadvantages of visiting a freestanding ER versus a hospital-based ER. It was therefore appropriate for Council to study and evaluate whether the City should enter the licensing arena specific to these facilities and adopt some local licensing requirements for them.

The Council has the authority to prohibit this use throughout the City. The attached ordinance does so.

RECOMMENDATIONS:

Council options include:

1. Approve the ordinance as presented on second reading
2. Approve the ordinance on second reading with amendment(s)
3. Postpone consideration of the ordinance indefinitely
4. Extend the temporary moratorium

Staff recommends approving the ordinance as presented.

RECOMMENDED MOTIONS:

"I move to approve Council Bill No. 22-2018 - an ordinance creating a new section 26-643 of the Wheat Ridge Code of Laws prohibiting the use of freestanding emergency room facilities, on second reading and that it takes effect immediately upon Council adoption."

Or,

"I move to postpone indefinitely Council Bill No. 22-2018 – an ordinance creating a new section 26-643 of the Wheat Ridge Code of Laws prohibiting the use of freestanding emergency room facilities for the following reason(s) _____."

REPORT PREPARED/REVIEWED BY:

Gerald Dahl, City Attorney

Kenneth Johnstone, Community Development Director

Patrick Goff, City Manager

ATTACHMENTS:

1. Council Bill No. 22-2018

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER DAVIS
Council Bill No. 22
Ordinance No. _____

Series 2018

**TITLE: AN ORDINANCE CREATING A NEW SECTION 26-643 OF
THE WHEAT RIDGE CODE OF LAWS PROHIBITING THE
USE OF FREESTANDING EMERGENCY ROOM FACILITIES**

WHEREAS, the City of Wheat Ridge ("City") is a home rule municipality operating under a charter adopted pursuant to Article XX of the Colorado Constitution and vested with the authority by that article and the Colorado Revised Statutes to enact laws to govern and regulate the use of land within its territory; and

WHEREAS, pursuant to this authority, the Wheat Ridge City Council ("Council") previously adopted local land use regulations, codified as Chapter 26 of the Wheat Ridge Code of Laws ("Code"); and

WHEREAS, City staff has previously interpreted the City's current zoning regulations as permitting freestanding emergency room facilities to locate within the Mixed Use-Commercial and Planned Hospital Development zone districts only; and

WHEREAS, the Council found that freestanding emergency room facilities may cause land use impacts that are different than those caused by other detached health care facilities due to the extended hours that emergency facilities may be open; and

WHEREAS, approximately two years ago, in response to the increase in the number and popularity of freestanding emergency room facilities over the past several years, the Council determined that it was necessary and desirable to examine the City's zoning laws and business licensing regulations governing freestanding emergency room facilities; and

WHEREAS, additionally, the Council and City staff held a reasonable belief that the state legislature might adopt statewide legislation governing freestanding emergency room facilities that could potentially affect the desired parameters of local regulations on the topic, during either the last few legislative sessions; and

WHEREAS, as a result, by and through the adoption of Ordinance No. 1595, the Council previously acted to impose a one-year moratorium on the submission, acceptance, processing, and approval of all applications and requests for a permit, license, land use approval or other approval for any freestanding emergency room facility; and

WHEREAS, the Council and City staff learned that it was unlikely that the state legislature will adopt such legislation during the current session; and

WHEREAS, the Council therefore found it prudent and desirable to extend the moratorium, to permit the careful study and evaluation of various local regulatory options with an expectation that such regulations would operate without an additional state regulatory gloss; and

WHEREAS, the Council has now determined that it is in the best interests of the safety, health and welfare of the citizens of Wheat Ridge to prohibit the use of freestanding emergency room facilities within the City.

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

Section 1. Findings. The above and foregoing findings are hereby incorporated by this reference as specific findings and determinations of the Council.

Section 2. Chapter 26 of the Wheat Ridge Code of Laws is amended by the adoption of a new section 26-643 as follows:

Sec. 26-643. – Freestanding Emergency Room Facilities.

- A. For purposes of this Section, *freestanding emergency room facilities* shall mean and include a medical facility that is not physically attached to a hospital facility that has the capability of providing medical care and services to patients with emergency medical conditions in a manner similar to emergency rooms located within hospitals. Features of a freestanding emergency room facility may include, but are not limited to, expanded hours of operation, drive-lanes or vehicle bays to accommodate ambulance arrivals and departures, board-certified emergency physicians, board-certified emergency nurses, on-site lab and imaging capabilities and similar equipment, services and treatments not commonly available in urgent-care facilities.
- B. The use of freestanding emergency room facilities, as defined in this Section, is strictly prohibited in all zone districts within the City.

Section 3. The “Table of Uses – Commercial and Industrial Districts” Chart set forth in Section 26-204 of the Wheat Ridge Code of Laws, regarding “zone district use schedule,” is hereby amended by inserting a new row in the appropriate alphabetical order concerning freestanding emergency room facilities as follows:

Table of Uses – Commercial and Industrial Districts						
Uses	Notes	NC	RC	C-1	C-2	I-E
Freestanding emergency room facilities						

Section 4. The “Permitted Uses” Chart set forth in Section 26-1111 of the Wheat Ridge Code of Laws, concerning permitted uses in mixed-use zone districts, is hereby amended by inserting a new row in the appropriate alphabetical order concerning freestanding emergency room facilities as follows:

Permitted Uses				
Use Group	MU-C	MU-C Interstate	MU-C TOD	MU-N
Freestanding emergency room facilities	NP	NP	NP	NP

Section 5. The moratorium on the submission, acceptance, processing, and approval of all applications and requests for a permit, license, land use approval or other approval for any freestanding emergency room facility imposed by Ordinance 1595 and extended by Ordinance 1616 and Ordinance 1634 is hereby repealed, upon the effective date of this ordinance.

Section 6. Effective Date. This Ordinance shall take effect upon adoption and signature by the Mayor and City Clerk, as permitted by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 8 to 0 on this 23rd day of July, 2018, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge and Public Hearing and consideration on final passage set for August 13, 2018, at 7:00 o'clock p.m., in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of _____ to _____, this _____ day of _____, 2018.

SIGNED by the Mayor on this _____ day of _____, 2018.

Bud Starker, Mayor

ATTEST:

Janelle Shaver, City Clerk

Approved As To Form

Gerald E. Dahl, City Attorney

First Publication: July 26, 2018
Second Publication:
Wheat Ridge Transcript
Effective Date:

REQUEST FOR CITY COUNCIL ACTION

TITLE: COUNCIL BILL NO. 19-2018 – AN ORDINANCE APPROVING THE REZONING OF PROPERTY LOCATED AT 4288 YOUNGFIELD STREET FROM NEIGHBORHOOD COMMERCIAL (N-C) TO MIXED USE-NEIGHBORHOOD (MU-N) (CASE NO. WZ-18-12/COPPER FOREST)

- ☒ PUBLIC HEARING
☐ BIDS/MOTIONS
☐ RESOLUTIONS

- ☐ ORDINANCES FOR 1ST READING (07/09/2018)
☒ ORDINANCES FOR 2ND READING (08/13/2018)

QUASI-JUDICIAL: ☒ YES☐ NO
Community Development Director
City Manager**ISSUE:**

The applicant is requesting approval of a zone change from Neighborhood Commercial (N-C) to Mixed Use-Neighborhood (MU-N) for property located at 4288 Youngfield Street.

The proposed rezoning area includes one parcel, the total size of which is approximately 1.38 acres.

PRIOR ACTION:

Planning Commission heard the request at a public hearing on June 21, 2018 and recommended approval. The staff report and meeting minutes from the Planning Commission meeting are attached.

FINANCIAL IMPACT:

The proposed zone change is not expected to have a direct financial impact on the City. Fees in the amount of \$998.00 were collected for the review and processing of Case No. WZ-18-12.

BACKGROUND:

The property is located at the northeast corner of 42nd Avenue and Youngfield Street, directly east of the Interstate 70 and Highway 58 interchange. The property is currently zoned Neighborhood Commercial (N-C), which allows a limited range of commercial uses, such as office, general business, retail sales, and service establishments, which are oriented towards the local community and neighborhood.

The structure on the property was originally built in 2001 as a model home for a log home builder. The property was purchased in 2015 by the current owner, who converted the log home into several small office spaces. The owner has applied for this zone change request in order to operate a wine and beer bar to help make the property more financially sustainable. Because of the limitations on rezoning to other commercial zone districts that would allow this type of business (such as Commercial-One), the infeasibility and inapplicability of a planned development, and this property's location along Youngfield Street between Interstate 70 and lower intensity residential and commercial uses, Mixed Use-Neighborhood (MU-N) is being recommended as the most appropriate straight zone district for this request.

If the zone change is approved, and the applicant intends to operate any alcohol related use from the facility, a liquor license will need to be obtained by working with the City Clerk's Office, to obtain approval of the Liquor License Authority through a public hearing.

Surrounding Land Uses

The subject property is zoned Neighborhood Commercial (N-C), and surrounding properties include a variety of commercial and agricultural zoning designations. To the east, along 42nd Avenue are two properties zoned Restricted Commercial (R-C), which is a slightly more permissive commercial zone district than the subject property's N-C zoning. These properties are home to the Jefferson County Head Start, and a small specialty retail establishment. To the south, along Youngfield Street is a property zoned Commercial-One (C-1), which allows for an array of regionally-serving retail, office, service, and commercial establishments. An irrigation supply company currently utilizes this C-1 property. To the west and southeast is zoned Agricultural-One (A-1). These areas are occupied by Interstate 70 and Highway 58 to the west, and single-family and vacant properties to the southeast. To the northeast is an area of Agricultural-Two (A-2), which is primarily single-family homes, but also contains some commercial operations, such as dog kennels.

Current and Proposed Zoning

Neighborhood Commercial is the City's most restrictive commercial zone district and typically appears on local streets and at transitions between light commercial uses and established residential neighborhoods. The proposed zone district, MU-N, provides for smaller-scale, neighborhood-serving commercial services and is similar to the existing N-C zone district. One significant difference between the existing and proposed zone districts is in the treatment of residential uses. In the N-C zone district, residential uses are permitted on a very limited basis per section 26-626 of the city code.

In addition, MU-N allows a slightly expanded and more contemporary list of permitted commercial uses. The zone change would allow the property to be used residentially, commercially, or for a mix of residential and commercial. The zone change would also allow the property owner to convert the structure into a wine and beer bar, which is the current intent of the rezoning, as bars are not permitted in N-C, but are permitted in MU-N.

RECOMMENDED MOTION:

“I move to approved Council Bill No. 19-2018, an ordinance approving the rezoning of property located at 4288 Youngfield Street from Neighborhood Commercial (N-C) to Mixed Use-Neighborhood (MU-N), on second reading and that it take effect 15 days after final publication 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 requested rezoning has been reviewed by the Planning Commission, which has forwarded its recommendation of 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.”

Or,

“I move to deny Council Bill No. 19-2018, an ordinance approving the rezoning of property located at 4288 Youngfield Street from Neighborhood Commercial (N-C) to Mixed Use-Neighborhood (MU-N), on second reading for the following reasons:

- 1.
- 2.
3. ”

REPORT PREPARED/REVIEWED BY:

Zack Wallace Mendez, Planner II

Lauren Mikulak, Planning Manager

Kenneth Johnstone, Community Development Director

Patrick Goff, City Manager

ATTACHMENTS:

1. Council Bill No. 19-2018
2. Planning Commission staff report with attachments
3. Planning Commission hearing minutes

**CITY OF WHEAT RIDGE
INTRODUCED BY COUNCIL MEMBER DOZEMAN
COUNCIL BILL NO. 19
ORDINANCE NO. _____
Series of 2018**

TITLE: AN ORDINANCE APPROVING THE REZONING OF PROPERTY LOCATED AT 4288 YOUNGFIELD STREET FROM NEIGHBORHOOD COMMERCIAL (N-C) TO MIXED USE-NEIGHBORHOOD (MU-N) (CASE NO. WZ-18-12 / COPPER FOREST)

WHEREAS, Chapter 26 of the Wheat Ridge Code of Laws establishes procedures for the City's review and approval of requests for land use cases; and,

WHEREAS, Barbara McEahern of Copper Forest LLC has submitted a land use application for approval of a zone change to the Mixed Use-Neighborhood (MU-N) zone district for property located at 4822 Youngfield Street; and,

WHEREAS, the City of Wheat Ridge has adopted a comprehensive plan—*Envision Wheat Ridge*—which calls for a neighborhood buffer along Youngfield Street south of 44th Avenue, encouraging transitions and buffers between high intensity uses and corridors and lower intensity uses; and,

WHEREAS, the City of Wheat Ridge Planning Commission held a public hearing on June 21, 2018 and voted to recommend approval of rezoning the property to Mixed-Use-Neighborhood (MU-N) ,

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

Section 1. Upon application by Barbara McEahern for approval of a zone change ordinance from Neighborhood Commercial (N-C) to Mixed Use-Neighborhood (MU-N) for property located at 4288 Youngfield Street, and pursuant to the findings made based on testimony and evidence presented at a public hearing before the Wheat Ridge City Council, a zone change is approved for the following described land:

BEGINNING AT A POINT ON THE WEST LINE OF THE EAST 1/2 OF THE SOUTHWEST 1/4, WHICH IS 302.87 FEET SOUTH OF 0°10' EAST OF THE WEST 1/16TH CORNER ON CENTER LINE OF SECTION 20, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE 6TH P.M.; THENCE NORTH 89°50' EAST 334.35 FEET; THENCE SOUTH 0°10' EAST 204.53 FEET; THENCE SOUTH 89°50' WEST 334.35 FEET TO SAID WEST LINE OF THE EAST 1/2 OF THE SOUTHWEST 1/4; THENCE NORTH 0°10' WEST 204.53 FEET TO THE POINT OF BEGINNING,

EXCEPT THAT PORTION OF SAID LAND HERETOFORE CONVEYED TO THE DEPARTMENT OF HIGHWAYS, STATE OF COLORADO, DESCRIBED IN DEED RECORDED FEBRUARY 18, 1966 IN BOOK 1853 AT PAGE 781, COUNTY OF JEFFERSON, STATE OF COLORADO.

Section 2. Vested Property Rights. Approval of this zone change does not create a vested property right. Vested property rights may only arise and accrue pursuant to the provisions of Section 26-121 of the Code of Laws of the City of Wheat Ridge.

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

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

Section 5. Effective Date. This Ordinance shall take effect 15 days after final publication, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 7 to 0 on this 9th day of July, 2018, ordered it published with Public Hearing and consideration on final passage set for **Monday, August 13, 2018 at 7:00 o'clock p.m.**, in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado, and that it takes effect 15 days after final publication.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of _____ to _____, this _____ day of _____, 2018.

SIGNED by the Mayor on this _____ day of _____, 2018.

Bud Starker, Mayor

ATTEST:

Janelle Shaver, City Clerk

Approved as to Form

Gerald Dahl, City Attorney

1st publication: July 12, 2018

2nd publication:

Wheat Ridge Transcript:

Effective Date:

**CITY OF WHEAT RIDGE
PLANNING DIVISION STAFF REPORT**

TO: Planning Commission **MEETING DATE:** June 21, 2018

CASE MANAGER: Zack Wallace Mendez

CASE NO. & NAME: WZ-18-12 / Copper Forest

ACTION REQUESTED: Approval of a zone change from Neighborhood Commercial (N-C) to Mixed Use-Neighborhood (MU-N).

LOCATION OF REQUEST: 4288 Youngfield Street

APPLICANT (S): Barbara McEahern, owner of Copper Forest LLC

OWNER (S): Copper Forest LLC

APPROXIMATE AREA: 60,113 square feet (1.38 acres)

PRESENT ZONING: Neighborhood Commercial (N-C)

COMPREHENSIVE PLAN: Neighborhood Buffer

ENTER INTO RECORD:

(X) CASE FILE & PACKET MATERIALS	(X) COMPREHENSIVE PLAN
(X) ZONING ORDINANCE	(X) DIGITAL PRESENTATION

Location Map



Site

JURISDICTION:

All notification and posting requirements have been met; therefore, there is jurisdiction to hear this case.

I. REQUEST

The applicant and current owner of the property has submitted this application requesting approval of a zone change from Neighborhood Commercial (N-C) to Mixed Use-Neighborhood (MU-N).

II. EXISTING CONDITIONS/PROPERTY HISTORY

The subject property is located at 4288 Youngfield Street. The property is approximately 1.38 acres in size and located at the northwest corner of Youngfield Street and 42nd Avenue. The property currently contains one structure, which was originally built in 2001 as a model home for a log cabin builder. The current owner purchased the property in 2015 and converted the structure into a series of small offices. The structure and parking lot take up much of the western half of the property, while the eastern half of the lot is vacant with the exception of some vegetation (*Exhibit 1, Aerial*).

Prior to the construction of the log home, the property was zoned Agricultural-Two (A-2). The property was rezoned to Restricted Commercial-One (RC-1) in October 2000 for the purpose of constructing the model home. The RC-1 zone district became the Neighborhood Commercial (N-C) zone district during an update to Chapter 26 of the Code of Laws in 2001.

The property to the south of the subject property is zoned Commercial-One (C-1) and is home to an irrigation supply company, which operates under a special use permit granted in 2014. Further south, and to the southeast are properties zoned Agricultural-One (A-1) containing single-family homes. The vacant A-1 parcel at the southwest corner of 42nd Avenue and Xenon Street has an active land use application proposing a zone change to Planned Commercial Development. Properties to the east are zoned Restricted Commercial (RC) containing the Jefferson County Head Start and a specialty retail establishment. To the east/northeast along Xenon Street are properties zoned Agricultural-Two (A-2) containing single-family homes and some agricultural activities. Also in this area are two dog related establishments, both operating under Special Use Permits, and both being day care/kennel facilities. Finally, property to the west and north is zoned A-1 and contains the right-of-way for Youngfield Street and I-70. The I-70/Highway 58 interchange is directly west of this property (*Exhibit 2, Zoning Map*).

III. PROPOSED ZONING

The applicant is requesting the property be rezoned to Mixed Use-Neighborhood, a zone district intended to provide medium density mixed-use development. In addition to residential and office uses, it allows for a range of neighborhood-serving commercial and retail uses. Youngfield Street is classified by the City as a Minor Arterial roadway. This designation may lend the property to be considered for the more intensive Mixed Use-Commercial (MU-C) zone district, which is meant for major commercial corridors. Additionally, the property's proximity to I-70 may also mean the MU-C Interstate zone district is an appropriate zone district for the property. However, given the proximity to single-family residential uses on Xenon Street, and some separation between the subject property and the more intensive commercial corridor further south on Youngfield Street, Staff feels the MU-N zone

district is a more appropriate transitional zone district for this site than the MU-C or MU-C Interstate designations.

The current zone district for the property, Neighborhood Commercial (N-C), was established to accommodate a limited range of commercial uses, such as office, general business, retail sales, and service establishments, which are oriented towards the local neighborhood.

The applicant intends to rezone the property in order to operate a beer and wine bar from the premises (*Exhibit 3, Applicant Request*). This use is not permitted in the N-C zone district, but is permitted in the MU-N zone district. Despite this specific difference in allowable uses, the N-C and MU-N zone districts generally allow for a similar range of neighborhood-scale commercial uses. If redevelopment were to happen in the future, the MU-N zoning would allow residential uses on the property as well, while the N-C zoning does not.

The following table compares the existing and proposed zoning for the property, with standards for new development or major additions. In terms of permitted uses, MU-N allows commercial uses at a similar intensity of the existing N-C zoning. In terms of residential uses, MU-N is more flexible because the N-C zone district would not otherwise allow the property to convert to a residential use.

	CURRENT ZONING Neighborhood Commercial (N-C)	PROPOSED ZONING Mixed Use-Neighborhood (MU-N)
Uses	Allows a limited range of commercial uses including office, general business, retail sales, and service establishments	Allows residential, commercial or mixed use – includes multi-family and live/work facilities, excludes outdoor storage
Architectural Standards	Contemporary Overlay ASDM standards apply, including high quality architecture, standards related to articulation, variation, materials, and transparency.	Mixed-Use standards apply, including high quality architecture, standards related to articulation, variation and materials.
Max. Building Height	35'	35' if the building has residential use 50' for all other uses
Max. Lot coverage	80%	90% for mixed use 85% for single use
Min. Landscaping	20%	10% for mixed use 15% for single use
Build-to Area	0-20' along front property line	0-12' along Youngfield and 42 nd Avenue
Setbacks	Rear: 10' plus 5' per story after the 1 st Side: 0' if nonflammable or 5' per story	Side: 0' Rear: 5'

IV. ZONE CHANGE CRITERIA

Staff has provided an analysis of the zone change criteria outlined in Section 26-112.E. The applicant has also provided responses to the zone change criteria, found in *Exhibit 4*. The Planning Commission shall base its recommendation in consideration of the extent to which the following criteria have been met:

- 1. The change of zone promotes the health, safety, and general welfare of the community and will not result in a significant adverse effect on the surrounding area.**

The change of zone will not result in adverse effects on the surrounding area. The rezoning would allow a similar range of neighborhood-oriented commercial uses on the site as is currently allowed under the N-C zoning, while allowing the owners to operate a beer and wine bar from the premises.

While the MU-N zone district will expand use options by allowing for residential uses, these are generally considered to be less intensive than commercial uses. Based on the existing character of and land use patterns along Youngfield Street, the MU-N zone district is more appropriate than N-C in terms of land use and intensity. For that reason, the zone change should not have an adverse effect on the surrounding area.

The MU-N zoning is expected to add value to the subject property and also to the surrounding community. The mixed use development standards will support compatibility between future redevelopment and existing land uses. The subject site serves as a transition between commercial activity and the residential neighborhood to the northeast.

Staff concludes that this criterion has been met.

2. Adequate infrastructure/facilities are available to serve the types of uses allowed by the change of zone, or the applicant will upgrade and provide such where they do not exist or are under capacity.

Infrastructure currently serves the property, and all responding agencies have indicated they can serve the property. In the event that the current utility capacity is not adequate for a future use, the property owner/developer would be responsible for utility upgrades.

Staff concludes that this criterion has been met.

3. The Planning Commission shall also find that at least one (1) of the following conditions exists:

a. The change of zone is in conformance, or will bring the property into conformance, with the City of Wheat Ridge comprehensive plan goals, objectives and policies, and other related policies or plans for the area.

The property is classified as a Neighborhood Buffer in *Envision Wheat Ridge*, the City's 2009 comprehensive plan (*Exhibit 5, Comprehensive Plan*). *Envision Wheat Ridge* states that these areas are intended to function as a buffer between low-intensity residential uses and higher intensity commercial corridors and uses. The plan also states that these neighborhood buffers will transition from a mix of residential (both single and multi-family) and small-scale commercial uses traditional to areas with higher intensity uses.

This zone change request supports the comprehensive plan and subarea plan by enabling investment in the property transitioning from Youngfield and the I-70/Highway 58 interchange into the low-intensity neighborhood, which features some small-scale commercial businesses further east along 42nd Avenue, further buffering the residential uses along Xenon Street. As noted above, the property may be eligible for one of several mixed use zone districts based on its location, but MU-N is the most appropriate based on the surrounding land uses and consistency with the comprehensive.

Staff concludes that this criterion has been met.

- b. The existing zone classification currently recorded on the official zoning maps of the City of Wheat Ridge is in error.**

Staff has not found any evidence of an error with the current N-C zoning designation as is appears on the City zoning maps.

Staff concludes that this criterion is not applicable.

- c. A change of character in the area has occurred or is occurring to such a degree that it is in the public interest to encourage redevelopment of the area or to recognize the changing character of the area.**

Staff finds no evidence of significant changes in the area. The zone change request from N-C to MU-N neither responds to nor results in notable change of character.

Staff concludes that this criterion is not applicable.

- d. The proposed rezoning is necessary in order to provide for a community need that was not anticipated at the time of the adoption of the City of Wheat Ridge comprehensive plan.**

The proposed rezoning does not relate to an unanticipated need.

Staff concludes that this criterion is not applicable.

Staff concludes that the criteria used to evaluate zone change support this request.

V. NEIGHBORHOOD MEETING

Prior to submittal of an application for a zone change, the applicant is required to hold a neighborhood input meeting in accordance with the requirements of section 26-109.

A meeting for neighborhood input was held on May 2, 2018. Three members of the public attended the meeting in addition to the applicant and staff. Some concerns were raised regarding traffic, the proximity of a bar to the Jefferson County Head Start school, and potential future allowed uses in the MU-N zone district. The concerns and the discussion from the meeting are summarized in the meeting summary (*Exhibit 7, Neighborhood Meeting Notes*).

VI. AGENCY REFERRAL

All affected service agencies were contacted for comment on the zone change request and regarding the ability to serve the property. Specific referral responses follow:

Wheat Ridge Public Works Department: No comments.

Wheat Ridge Building Division: No objection.

Wheat Ridge Police Department: Provided no comments.

Jeffco Head Start: Letter received objecting to a specific land use within the MU-N zone district.

Staff Note: Per Wheat Ridge liquor license regulations the presence of the Head Start will not prohibit the issuance of a license for beer and wine sales.

Valley Water District: No objection.

Fruitdale Sanitation District: No objection.

Arvada Fire Protection District: No objection.

Xcel Energy: No objection.

Century Link: No objection.

VII. STAFF CONCLUSIONS AND RECOMMENDATION

Staff concludes that the proposed zone change promotes the health, safety and general welfare of the community and will not result in a significant adverse effect on the surrounding area. Staff further concludes that utility infrastructure adequately serves the property, and the applicant will be responsible for upgrades, if needed in the future. Finally, Staff concludes that the zone change is consistent with the goals and objectives of the Comprehensive Plan by providing a transition between the heavily travelled Interstate 70 and Youngfield Street, both of which serve major commercial centers in the immediate vicinity, and the low-intensity residential and commercial uses found along 42nd Avenue and Xenon Street.

Because the zone change evaluation criteria support the zone change request, staff recommends approval of Case No. WZ-18-12.

VIII. SUGGESTED MOTIONS

Option A:

“I move to recommend APPROVAL of Case No. WZ-18-12, a request for approval of a zone change from Neighborhood Commercial (N-C) to Mixed Use-Neighborhood (MU-N) for property located at 4288 Youngfield Street, for the following reasons:

1. The proposed zone change will promote the public health, safety, or welfare of the community and does not result in an adverse effect on the surrounding area.
2. Utility infrastructure adequately services the property.
3. The proposed zone change is consistent with the goals and objectives of the City’s Comprehensive Plan.
4. The zone change will provide additional opportunity for reinvestment in the area.
5. The criteria used to evaluate a zone change support the request.”

Option B:

“I move to recommend DENIAL of Case No. WZ-18-12, a request for approval of a zone change from Neighborhood Commercial (N-C) to Mixed Use-Neighborhood (MU-N) for property located at 4288 Youngfield Street, for the following reasons:

- 1.
2. ...”

EXHIBIT 1: AERIAL

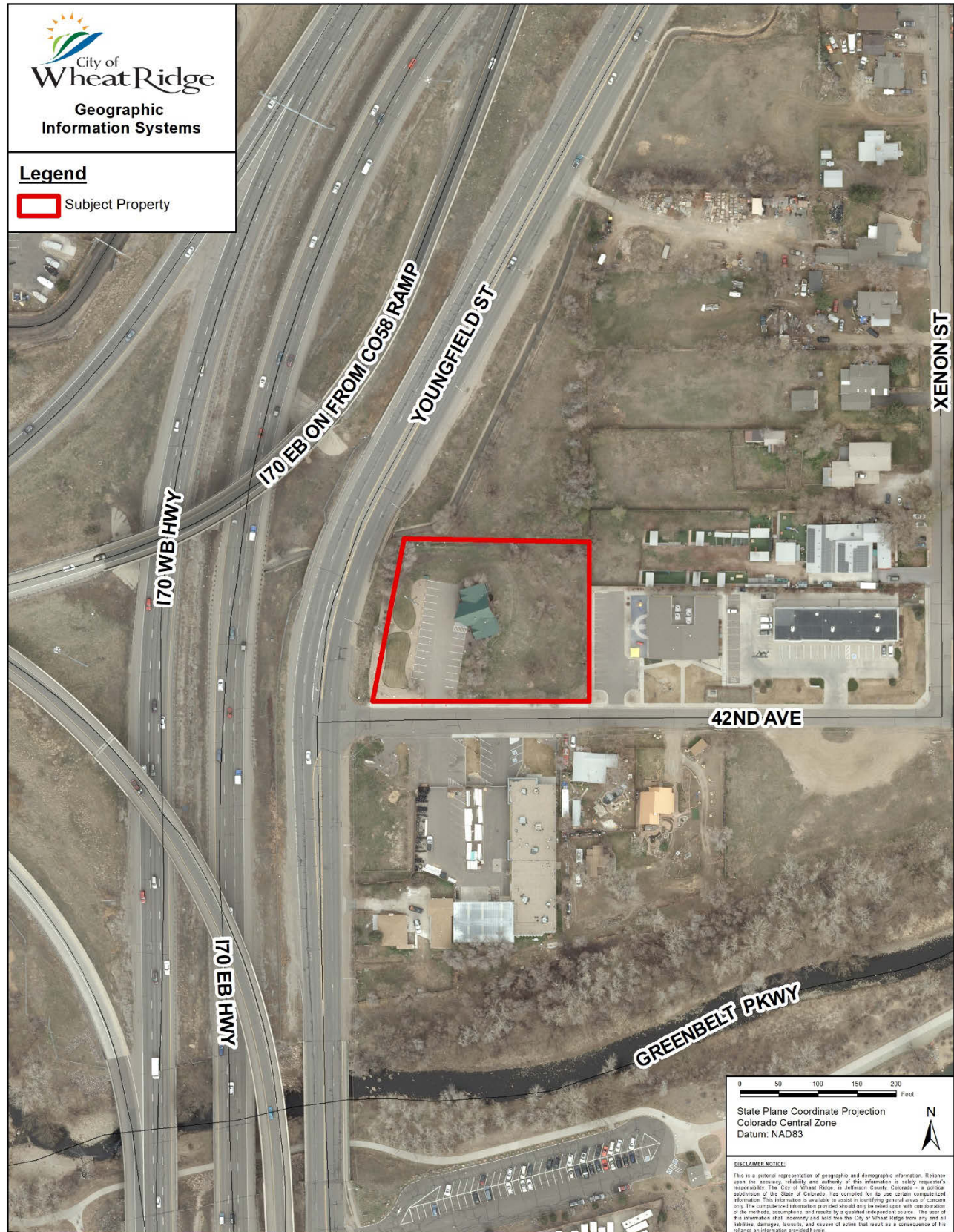


EXHIBIT 2: ZONING MAP

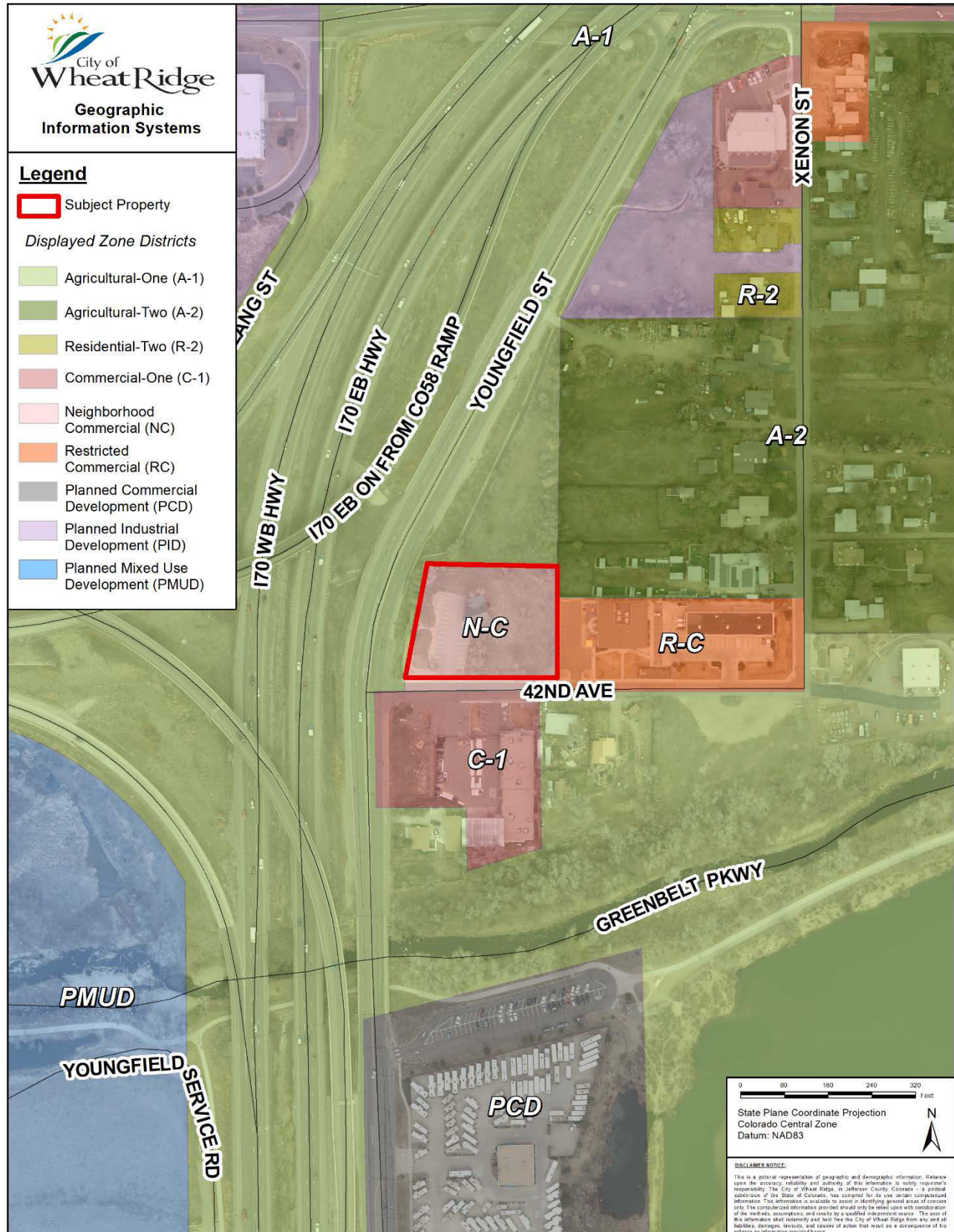


EXHIBIT 3: APPLICANT REQUEST

Written Request and Description of the Proposal

I, Barbara McEahern, owner of the property located at 4288 Youngfield Street, Wheat Ridge, would like to request to change the current zoning from 'Neighborhood Commercial' (NC) to 'Mixed-Use Neighborhood' (MU-N).

I would like to keep the existing log cabin on the property and turn it into a wine and beer taphouse. I will own the business with a partner, Mike Mulvaney. After a long adventure-filled day on the slopes, skiers flood into alpine bars to laugh, share stories and re-live their snow day. We aspire to bring that apres-ski mountainous retreat to Wheat Ridge with the **Copper Forest Taphouse**. Our customers will be immersed in a sophisticated mountain retreat for a relaxing, stress-free wine and beer drinking experience. We will offer local Colorado brews and wine for customers along with smoked meat meals from a food truck. We will have a large deck off the back of the taphouse featuring a firepit, pergola with lights and heaters for year-round outdoor enjoyment. We will have tables and chairs throughout the first and second floors of the building and a large bar on the main floor. There will be a wine tasting and private party room with an old world feel. Games such as pool, shuffleboard and cards will be available for entertainment and TVs will be located throughout the cabin.

With the current zoning of NC, we are unable to have an establishment that serves beer and wine. With a zoning of MU-N, we are able to have this type of business. We are not opening a "bar". This will not be a rowdy "get drunk" establishment. We will provide an atmosphere conducive for after-work meetings, date nights or friendly get-togethers. We are looking to attract patrons who appreciate good local brews and wines, who like to play games such as shuffleboard and pool or watch a sporting event on one of our multiple TVs. Again, we are striving to provide a comfortable gathering atmosphere.

EXHIBIT 4: APPLICANT RESPONSES TO ZONE CHANGE CRITERIA

Zone Change Review Criteria

1. The change of zone promotes the health, safety, and general welfare of the community and will not result in a significant adverse effect on the surrounding area.
 - a. The property located at 4288 Youngfield Street is the only property along Youngfield Street between 44th Avenue and 48th Avenue that is zoned Neighborhood Commercial (NC). It is the most restrictive zoning and does not allow for a business to expand that might be located there. All connecting properties around the location are zoned commercial and therefore the new zoning will not result in a significant adverse effect on the surrounding area. Since other commercial businesses already exist, the new zoning of Mixed Use Neighborhood (MU-N) will continue to promote the health, safety, and general welfare of the community.
2. Adequate infrastructure/facilities are available to serve the types of uses allowed by the change of zone, or the applicant will upgrade and provide such where they do not exist or are under capacity.
 - a. The applicant will maintain the current log cabin structure that is located at 4288 Youngfield Street. The structure already houses offices for 3 businesses and will therefore continue to have adequate infrastructure/facilities to serve the types of uses allowed by a MU-N zoning. Upgrades will be made to the land to allow for additional parking spaces needed to accommodate and complement a zone change.
3. At least one (1) of the following conditions exists:
 - a. The change of zone is in conformance, or will bring the property into conformance with, the City of Wheat Ridge comprehensive plan goals, objectives and policies, and other city-approved policies or plans for the area.
 - b. The existing zone classification currently recorded on the official zoning maps of the City of Wheat Ridge is in error.
 - c. A change of character in the area has occurred or is occurring to such a degree that it is in the public interest to encourage redevelopment of the area or to recognize the changing character of the area.
 - i. Over the last 50 years, the community of the Applewood neighborhood has expanded and improved exponentially. I-70 and Hwy 58, two major thoroughfares, were added and changed much of the character of the property lining Youngfield Street. It went from Agriculture to Commercial in the form of restaurants, strip malls, fast food establishments, and other small businesses. Rezoning the property at 4288 Youngfield Street to MU-N will be in alignment with the current character of the immediate surrounding area.
 - d. The proposed rezoning is necessary in order to provide for a community need that was not anticipated at the time of the adoption of the City of Wheat Ridge comprehensive plan.

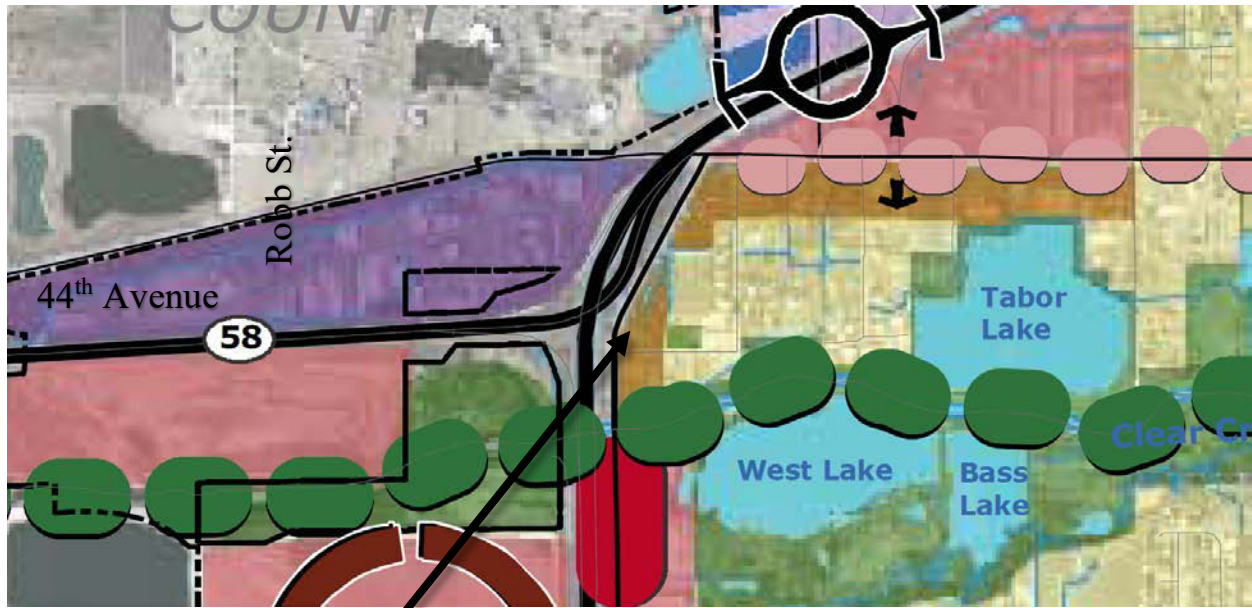
Justification for Zone Change

1. The need for a zone change:
 - a. The applicant would like to take the existing log cabin on the property located at 4288 Youngfield Street and turn it into a wine and beer taphouse, while maintaining the structure. The current zoning does not allow for the serving of wine and beer that is not brewed on the premises.
2. Present and future effect on the zone districts, development and physical character of the area:
 - a. Present effects will remain the same and be aligned with the other properties located along the same street. This portion of Wheat Ridge is in an urban renewal zone and development of this area is ongoing. Since we are keeping the current structure, the physical character will remain the same for our property and surrounding properties.
 - b. Future effects will be aligned with surrounding properties if the applicant sells the business. There would be a possibility that the current structure would be taken down and replaced with another structure. However, the new zoning is similar to the other properties lining Youngfield Street so any new structure would maintain the current physical character of the neighborhood.
3. Access to the area, traffic patterns and impact of the requested zone:
 - a. A single entry/exit access on 42nd Avenue to the property will be expanded to 2 entry/exit points from 42nd Avenue. Traffic patterns will remain the same. There will be some impact on traffic entering Youngfield Street from 42nd Avenue. However, it was discussed at the neighborhood meeting that with or without our rezoning, traffic is already congested at certain times of the day at this 3-way cross section. If necessary, we would agree to put a “no left turn” sign from the property onto 42nd Avenue heading east to deter traffic from entering the neighborhood.
4. Availability of utilities:
 - a. Since we are not building a new structure, we are just improving an existing structure, there will not be any need for additional utilities to come to the property.
5. Present and future effect on public facilities and services, such as fire, police, water, sanitation, roadways, parks, schools, etc:
 - a. Public facilities, such as police, water, sanitation, roads, parks and schools, will remain the same as they have since 2002 when the structure was built.
 - b. The applicant will reach out to the fire department once the zone change has been approved to ask about the requirements of a possible sprinkler system.
6. Discuss the relationship between the proposal and adopted land and/or policies of the city:
 - a. The City of Wheat Ridge is currently trying to beautify blighted areas within the city. The neighborhood at 44th and Youngfield Street/Ward Road is one of these areas. Before purchasing the property at 4288 Youngfield Street, there was a log home business housed within the current structure. The business was failing and soon to be abandoned. The applicant purchased the property in March of 2015 and turned the structure into an office complex with 9 offices. Unfortunately, with the high property taxes on this property, the applicant is unable to make a profit as an office. Therefore the applicant had the idea to create a business that would complement the log cabin structure and fit within the character of the neighborhood. A wine and beer taphouse with a “Colorado feel” fits perfectly in this location. Employees of the neighboring businesses along with residents

of nearby homes will all benefit from an upscale, sophisticated mountain retreat for a relaxing, stress-free wine and beer drinking experience.

- b. The current zoning of Neighborhood Commercial (NC) is the most restrictive zoning for a business. In order to create the wine and beer taphouse, a new zoning of Mixed Use Neighborhood (MU-N) is needed. With a NC zoning, a brewery is allowed on the property. However, the applicant does not want to brew beer or make wine, they just want to sell the products. The NC zoning will not allow for this. Changing the zoning will enhance the value of the property and allow for a business that can support the expensive property taxes. The applicant believes the relationship with the policies of the city will be improved and aligned with a zone change.

EXHIBIT 5: COMPREHENSIVE PLAN



Subject Property

Neighborhoods

see Chapter 3 Criteria for different Neighborhood types



Neighborhood Buffer Area



Employment



Mixed-Use Commercial



Parks and Open Space



EXHIBIT 6: SITE PHOTOS



View of the subject property looking northeast from the intersection of 42nd Avenue and Youngfield Street.



View of the eastern, unimproved, portion of the property. The main building can be seen to the left.



View of the Youngfield Street frontage looking north from 42nd Avenue.



View of the 42nd Avenue frontage looking east from Youngfield Street.

EXHIBIT 7: NEIGHBORHOOD MEETING

Meeting Date: May 2, 2018

Attending Staff: Zack Wallace Mendez, Planner II

Location of Meeting: 4288 Youngfield Street

Property Address: 4288 Youngfield Street

Property Owner(s): Copper Forest, LLC

Property Owner(s) Present? Yes, Barb McEahern

Applicant: Copper Forest, LLC

Applicant Present? Yes, Barb McEahern

Existing Zoning: Neighborhood Commercial (N-C)

Existing Comp. Plan: Neighborhood Buffer

Existing Site Conditions:

The site is located on the northeast corner of W. 42nd Avenue and Youngfield Street. The property is approximately 60,113 square feet (1.38 acres) and contains a commercial building built in 2001, according to the Jefferson County Assessor. The building is a log cabin which is currently used as office space, though originally it was a model home. There is a parking lot in the front of the building and a large meadow and wooded area buffering the building from the properties to the east and north.

The property is zoned Neighborhood Commercial (NC). To the east along W. 42nd Avenue are two properties zoned Restricted Commercial (RC) which contain a school and an office/warehouse building. The property across the street to the south is zoned Commercial-One (C-1) and contains an irrigation supply business. Across Youngfield Street to the west is Interstate-70. Properties to the north and east are zoned Agricultural-One (A-1) or Agricultural-Two (A-2) and contain residential uses, and some associated agricultural uses such as dog kennels.

Applicant/Owner Preliminary Proposal:

The applicant has proposed to operate a taphouse in the log cabin, serving beer and wine. They have proposed minor modifications to the property, including adding parking, building a deck on the back of the log cabin, building an ADA ramp, paving an area for a food truck, and building a storage shed in the northeast corner. The interior would need to be modified to build a bar, accessible restrooms, and a game room, but the majority of the space would remain untouched. Additional landscaping would be added to the property, providing additional screening and creating shaded areas in the backyard. In order to accomplish this goal, the applicant has requested a zone change.

The following is a summary of the neighborhood meeting:

- In addition to the applicant and staff, the applicant's business partner was in attendance. Three members of the public attended the neighborhood meeting.
- Staff discussed the site and its zoning.
- The applicant described their history with the building, and their plans for the building.
- The applicant and members of the public were informed of the process for a zone change.
- The members of the public were informed of their opportunity to make comments during the process and at the public hearings.

The following issues were discussed regarding the zone change request:

- There was concern raised regarding the proximity of a bar to the Jefferson County Head Start school, and if they would even be able to obtain a liquor license.
Staff noted that in 2012 the City adopted an Ordinance that removed certain types of alcohol sales from the typical prohibited 500-foot radius, including beer and wine sales, which the applicant is proposing. Staff noted that any further liquor licensing questions should be directed towards the City Clerks Office.
Additionally, the applicant added that the tentative hours of operation for the taphouse would only minimally overlap with the hours of the school.
- There was concern raised about traffic in the area, the members of the public who attended the meeting stated their desire for a stoplight at 42nd Avenue and Youngfield Street, no parking along 42nd Avenue, and no left turns out of the property towards Xenon Street.
Staff noted that for a traffic signal to be installed, the intersection must meet certain traffic warrants. Additionally, parking is typically permitted along all City streets, however the Planning Division Staff member was unable to answer if the Public Works Department would consider no parking along 42nd Avenue due to its substandard width and lack of curb, gutter, and sidewalk.
The applicant stated they would be willing to put up a no left turn sign in an attempt to prevent their patrons from exiting the property and driving up Xenon Street to 44th Avenue. The neighbors stated other businesses in the area have done that, and they hope the taphouse will too.
- The applicant stated they desire to build a deck for their patrons to enjoy. Questions were raised regarding any associated music and noise.
The applicant stated there would be no loud music played outside, and even inside it would be limited to background music.
- One neighbor stated that the current owner and applicant seems trustworthy and has good intentions, but has concerns about changing the zoning and what future property owners might be able to do with the property.
The concern was noted, and it was re-emphasized that while the applicant has a specific use in mind, the zone change is to a zone district that has a similar, albeit slightly more permissive use chart than is currently allowed on the property, and future owners would not be bound to the taphouse idea.

Aside from the three neighbors at the meeting, staff received no comment from others in the area regarding the proposal.

Mr. Metzger said he is working with the City and Xcel to bury the power lines.

Commissioner VOS asked to have the lighting in the project explained.

Mr. Cutler explained the symbols and letters across the bottom of page 5 of the SDP explain the types of lights being used. These will include pedestrian and street lighting and it will show the exact specs for each light.

Mr. Metzger added there will be interior LED parking lights and new street lighting along Youngfield Street which will also be LED.

Commissioner BUCKNAM asked if West Metro Fire's concerns have been addressed.

Mr. Cutler said the West Metro Fire issues have been resolved, there are just a few outstanding comments from Public Works comments that need to be answered, but nothing that will change the plan.

It was moved by Commissioner VOS and seconded by Commissioner PETERSON to APPROVE Case No. WZ-18-10, a request for approval of an amendment to the Specific Development Plan for property located at 3244 and 3298 Youngfield Street, for the following reasons:

- 1. The Proposal is consistent with the City's guiding documents including the I-70/Kipling Urban Renewal Plan.**
- 2. The proposed SDP is consistent with the approved ODP document and the Architectural and Site Design Manual.**
- 3. The Criteria used to evaluate the SDP have been met.**

With the following condition:

- 1. The applicant shall continue working with utility and service providers, including the Fire District, to meet all applicable requirements.**

Motion passed 6-0.

- B. Case No. WZ-18-12:** An application filed by Copper Forest, LLC for approval of a zone change from Neighborhood Commercial (NC) to Mixed Use-Neighborhood (MU-N) for property located at 4288 Youngfield Street.

Mr. Wallace Mendez gave a short presentation regarding the Zone Change and the application. He entered into the record the contents of the case file, packet materials, the zoning ordinance, and the contents of the digital presentation. He stated the public notice and posting requirements have been met, therefore the Planning Commission has jurisdiction to hear this case. Mr. Wallace Mendez also

entered into the record a letter from Jefferson County Head Start regarding their concern about the specific use for this property.

Commissioner PETERSON asked if the existing businesses will remain when the Tap House opens.

Mr. Wallace Mendez said he did not think so, but will defer the question to the applicant.

Commissioner PETERSON then asked about Section 26-1105 of the code, Building Placement and Orientation. He mentioned the building has a Youngfield Street address, but the driveway is off 42nd Avenue and this has placed a lot of concern in the neighborhood and with Jefferson County Head Start. He asked if an entrance can be established on Youngfield Street and the 42nd Avenue entrance be taken away, perhaps as a condition of approval.

Mr. Wallace Mendez explained Youngfield Street falls under the jurisdiction of the Colorado Department of Transportation (CDOT), and a right-of-way permit would need to be applied for and granted by CDOT in order to allow access from Youngfield Street. The City can't guarantee CDOT would allow this access point, especially given that 42nd Avenue is so close by, and provides an alternative access point. Staff was unsure this was a realistic condition of approval that could be met. Mr. Wallace Mendez added that if the Commission felt strongly about this, a more appropriate condition would be to ask the applicant to apply for a CDOT access permit, but not mandate access from Youngfield Street. Mr. Cutler added he believes this section of the code is related to pedestrian access to the building, not vehicular access to the parking lot.

Discussion then continued about access to and from the site.

Commissioner DORSEY asked about a fence to isolate the subject property from the Jefferson County Head Start property. He mentioned he would like to see it as a condition of the motion if approved.

Mr. Wallace Mendez said this would be a part of the site plan.

Commissioner VOS asked for definition of tap house and brewing at a tap house.

Mr. Wallace Mendez said the applicant does not plan on brewing any beer at this site. He explained that the phrase "tap house" is being used by the owners as part of the Copper Forest name, and does not relate to any City definitions. This type of business being proposed for the site is considered a bar by the City.

Commissioner BUCKNAM added there may be some confusion and a tap room is usually found in a brewery for tasting. He does not believe there will be a tap room in this facility.

Commissioner VOS asked about the overgrowth of landscaping to the east of the property and wondered if it will be cleaned up by the property owner of the City.

Mr. Wallace Mendez deferred that question to the applicant.

Commissioner LEO asked exactly where the Head Start School is in relation to the said property.

Mr. Wallace Mendez said the school is directly to the east.

Commissioner BUCKNAM asked who the property owner to the north of said property belongs to.

Mr. Wallace Mendez it belongs to CDOT.

Commissioner BUCKNAM asked if a brewery could be built if the property remains Neighborhood Commercial (NC).

Mr. Wallace Mendez said a microbrewery requires a Special Use Permit in the NC zone district.

Commissioner BUCKNAM wanted the difference of Mixed Use-Neighborhood and Mixed Use-Commercial explained.

Mr. Wallace Mendez said that in terms of intensity MU-N is less intense and would be more appropriate for a neighborhood buffer.

Commissioner BUCKNAM asked if the applicant wants to pursue another use how would the height in the MU-N zone district be applied.


Mr. Wallace Mendez said that if there is any residential component the height limit is 35 feet, if strictly commercial then 50 feet is the limit.

Commissioner Peterson asked about the proposed 2nd entrance/exit point to the property.

Mr. Wallace deferred this question to the applicant and said is the City has not approved a secondary access point on 42nd Avenue. If the applicant would like to make that request it would be reviewed during the Site Plan process.

Barbara McEahern, applicant
4288 Youngfield Street, Wheat Ridge

Ms. McEahern gave a little history about when the property was purchased and mentioned that her and her husband's business, Radiant Property Management, is



located in the building along with several other tenants. She explained the office rental rates don't cover the property taxes, utilities and other expenses for this site, but maintaining the integrity and character of the log cabin is very important to her. After brain storming other options with her business partner, they came up with the idea of a tap house that would offer Colorado beers and wines. She explained the name "Tap House" comes from the taps behind the bar for the wine and beers. Some other questions she can't answer yet because their plans are on hold, pending the final outcome of this zone change request. Ms. McEahern explained one thought for the 2nd entrance to the site is for when the parking lot is expanded and the drive would go around the building to have a drive in and drive out points. She also mentioned that 30 dead trees at the rear of the property have been removed and the plan is to bring in more trees to make the landscaping look better. There is no plan for a restaurant, but they would like to have a food truck. She also explained there will be minimal overlap for the hours of operation with the Head Start School. She also mentioned they plan on putting up a fence in between the school's property and the Tap House. There will also be a shed constructed for storage and a trash enclosure.

Commissioner VOS asked about the deck on the east side of the building and wondered why it would not be on the west side where the view is.

Ms. McEahern explained there is more room on the east side as well as less noise from the highway. She also said the landscaping will be redone and much nicer to look at from the deck.

Commissioner VOS also questioned Staff about the shed, she thought out door storage was not allowed in MU-N zone districts.

Mr. Wallace Mendez explained that items stored out in the open is considered outdoor storage; items stored in a shed is not considered outdoor storage.

Commissioner VOS wanted confirmation there would not be tenant spaces in the building along with the Tap House. She also questioned a bar being able to cover property taxes and utilities as opposed to the current use. Commissioner VOS also asked if the food truck food will be allowed in the establishment.

Ms. McEahern explained all the tenant leases are up at the end of January 2019 and the only office space will be for the Tap House. She also explained that the Tap House will only need to sell on average 56 drinks a day to cover the property taxes. She also added food will be allowed in the establishment from the food truck.

Commissioner VOS asked how big the deck will be.

Ms. McEahern explained she has not thought that far ahead, but big enough for outdoor seating and a fire pit. She added there will still be a large buffer between the cabin and the Head Start School.

Commissioner LARSON asked what the next step in the process is for the applicant if the zone change is approved.

Mr. Wallace Mendez said it will be a site plan which is administratively reviewed.

Commissioner LARSON also asked about the food truck being moved on and off the site.

Ms. McEahern said there are regulations that the food truck has to follow and will be separate from the Tap House.

Commissioner LARSON asked where the trash will be located and if the signage will be changed.

Ms. McEahern said the trash will be enclosed and there will be no new signage, as they plan on using the existing sign cabinets already in place on the property.

Commissioner BUCKNAM asked Ms. McEahern if she has considered the impact on traffic even from the nearby Greenbelt bike path.

Ms. McEahern said she will welcome the bicycle and pedestrian traffic from the Greenbelt and there will be bike racks in front of the Tap House.

Mr. Wallace Mendez, in response to traffic questions, added there are currently traffic counters being set up at 42nd Avenue and Xenon Streets for another development and the Public Works Department will assess the results to determine what actions may be appropriate to mitigate traffic impacts on the local neighborhoods in the area.

**Gail Perryman, Head Start Director
5150 Allison Street, Arvada**

Ms. Perryman mentioned she has concerns with a liquor establishment being next to the Head Start School and the start time for the Tap House. She explained the School's parking lot separates the school and the cabin property and some of the students do not get picked up until 5:30p.m. Ms. Perryman would like to see a fence put up on the property line. She also has a concern about traffic issues.

**Matt Martin, DBC Irrigation Supply
12750 West 42nd Avenue**

Mr. Martin said he has concerns with traffic at 42nd and Youngfield and the possibility of people parking in his business' parking lot and leaving cars overnight.

Courtney Hartman, Jefferson County Attorney's Office
100 Jefferson County Parkway, Golden

Ms. Hartman fundamentally thinks it is not a good idea to have a bar next to a school. She would like to see the trash be located on the Northwest side of the property and she would like the site plan and special use permit process clarified.

Mr. Wallace Mendez explained that if the rezone is approved, a site plan will be required, and that is reviewed administratively. He also explained that if there was not going to be a rezone then the applicant would have to apply for a Special Use Permit for a microbrewery (which would require production onsite). If there is any opposition during the Special Use Permit process, then the request will be forwarded to City Council for review and final decision. Mr. Wallace Mendez also explained that the applicant will also have to apply for a liquor license which requires a public hearing process. If the Tap House were to ever change ownership then the new owner will have to apply for a liquor license.

Other Public concerns addressed by staff:

- Potential conditions of approval (Hours of operation and fence)

Mr. Wallace Mendez explained that hours of operation would probably be addressed during the liquor license process, but a fence separating the school and Tap House could be added as a condition to the motion.

- Traffic study results

Mr. Wallace Mendez said he wasn't positive when the 42nd and Xenon traffic study results will be available, but it will be sometime before July 9.

- Parking lot concerns

Mr. Wallace Mendez said within the restaurant category there is a minimum of 4 spaces per every 1000 square feet to a maximum of 10 spaces per every 1000 square feet. Staff will make sure the site plan complies with these parking regulations. He also said that if patrons are parking on other properties then the police department can be called because it is considered trespassing.

Mr. Cutler mentioned that ADA spaces will be added and will meet the requirement.

- Trash location

Mr. Wallace Mendez said staff would have to look at the mixed use code sections and have a conversation with the applicant on the placement of the

building. Mr. Cutler added the code says trash does need to be enclosed and cannot be visible from the street.

Commissioner VOS ask if the applicant and the Head Start School have had a conversation.

Ms. McEahern responded no.

Commissioner VOS also recommended to Mr. Martin that his business put up No Parking signage and chains across the entrance of his parking lot, during off business hours. She also asked staff about a traffic survey being done at Youngfield.

Mr. Wallace Mendez said that would be a question for Public Works.

Commissioner PETERSON asked about having a no parking zone on 42nd Avenue.

Mr. Wallace Mendez had a conversation with Public Works about this issue and because it is a public street then no parking zone cannot be enforced; the police department can enforce parking laws if driveways are being blocked. He also explained that if safety issues arise due to parking on the street then Public Works can identify if No Parking signs or other solutions would be adequate at that location.

Commissioner PETERSON asked about the drop off/pickup times at the school and how many children attend.


Ms. Perryman said there are 64 maximum children allowed at the school and there are 15 minute staggered drop off and pickup times.

Commissioner PETERSON did not feel the traffic study currently in process will provide good evidence for the traffic coming and going to the Tap House. He feels the City can't control the traffic on Xenon or 42nd from going to or coming from the Tap House.

Mr. Wallace Mendez added if the applicant wants to put up a no left turn sign coming out of their driveway it is their prerogative but the City cannot enforce it.

Commissioner VOS said she would like the applicant and the Head Start School to have a conversation for good relations between property owners if the zone change is approved.

Commissioner BUCKNAM thinks this MU-N zone change will be a good choice for this neighborhood and will give the property more flexibility in the future.



It was moved by Commissioner LARSON and seconded by Commissioner LEO to recommend APPROVAL of Case No. WZ-18-12, a request for approval of a zone change from Neighborhood Commercial (NC) to Mixed Use-Neighborhood (MU-N) for property located at 4288 Youngfield Street, for the following reasons:

1. The Proposed zone change will promote the public health, safety, or welfare of the community and does not result in an adverse effect on the surrounding area.
2. Utility infrastructure adequately services the property.
3. The proposed zone change is consistent with the goals and objectives of the City's Comprehensive Plan.
4. The zone change will provide additional opportunity for reinvestment in the area.
5. The criteria used to evaluate a zone change support the request.

With the following condition:

1. Add to site plan the installation of a 6-foot barrier fence of appropriate height between the Head Start School and the subject property to limit access to the school ground and mitigate noise.

Motion Carried 5-1 with Commissioner PETERSON voting against.

-
- C. Case No. WZ-18-14:** An application filed by RJP Investment Trust for approval of a zone change from Commercial-One (C-1) to Mixed Use-Neighborhood (MU-N) for property located at 6701 West 44th Avenue.

Mr. Wallace Mendez gave a short presentation regarding the Zone Change and the application. He entered into the record the contents of the case file, packet materials, the zoning ordinance, and the contents of the digital presentation. He stated the public notice and posting requirements have been met, therefore the Planning Commission has jurisdiction to hear this case.

Commissioner VOS wanted to confirm that Commercial Zone Districts can allow residential uses, but Residential Zone Districts cannot allow commercial uses.


Mr. Wallace Mendez generally agreed, but clarified. Residential uses in commercial zone districts are very limited and subject to very specific location and size limitations. General commercial uses are prohibited in residential zone districts, with the exception of home occupations, in which someone operates a small business from their home. This, again, has a list of criteria that must be followed, and is limited in nature.

REQUEST FOR CITY COUNCIL ACTION

TITLE: COUNCIL BILL NO. 20-2018 – AN ORDINANCE APPROVING THE REZONING OF PROPERTY LOCATED AT 6701 WEST 44TH AVENUE FROM COMMERCIAL-ONE (C-1) TO MIXED USE-NEIGHBORHOOD (MU-N) (CASE NO. WZ-18-14/POTRYKUS)

- ☒ PUBLIC HEARING
☐ BIDS/MOTIONS
☐ RESOLUTIONS

- ☐ ORDINANCES FOR 1ST READING (07/09/2018)
☒ ORDINANCES FOR 2ND READING (08/13/2018)

QUASI-JUDICIAL: ☒ YES☐ NO
Community Development Director
City Manager**ISSUE:**

The applicant is requesting approval of a zone change from Commercial-One (C-1) to Mixed Use-Neighborhood (MU-N) for property located at 6701 W. 44th Avenue.

The proposed rezoning area includes one parcel, the total size of which is slightly less than half an acre. At this time the intent of the zone change is to allow the current tenant, an insurance agent, to live and work on the property.

PRIOR ACTION:

Planning Commission heard the request at a public hearing on June 21, 2018 and recommended approval. The staff report and meeting minutes from the Planning Commission meeting are attached.

FINANCIAL IMPACT:

The proposed zone change is not expected to have a direct financial impact on the City. Fees in the amount of \$881.25 were collected for the review and processing of Case No. WZ-18-14.

BACKGROUND:

The property is located on the north side of 44th Avenue at Otis Street. The property is zoned Commercial-One (C-1) which allows a wide range of commercial uses, such as office, general business, retail sales, and service establishments, which are oriented towards the community or entire region.

The primary structure on the property was originally built in 1910 and functioned as a house until 1982. In 1982 the property was rezoned from Residential-Three (R-3) to Commercial-One (C-1) and converted into a commercial structure. The property currently operates as an insurance office.

Surrounding Land Uses

The site is zoned Commercial-One (C-1), and surrounding properties include a variety of commercial and residential zoning designations and land uses. To the east and west along 44th Avenue are properties zoned C-1, Restricted Commercial (R-C), and Neighborhood Commercial (N-C), containing a variety of retail and service establishments including, but not limited to car wash, gas station, bar, hair salons, insurance agencies, and medical offices. To the southwest of the subject property are two parcels that were rezoned to Mixed Use-Neighborhood (MU-N) in 2013. North of the subject property, removed from 44th Avenue is a residential area zoned Residential-Two (R-2) and Residential-Three (R-3), with primarily single-family homes and some duplexes and low-scale multi-family properties. To the south of 44th Avenue is a residential neighborhood zoned R-2, which predominately consists of single-family homes.

Current and Proposed Zoning

The proposed zone district, MU-N, is a less intensive commercial zone district because it limits or disallows several of the larger scale and auto-oriented uses which are permitted in current C-1 zoning. A significant difference between the proposed MU-N and the existing C-1 is the treatment of residential uses. In the C-1 zone district, residential uses are permitted on a very limited basis per section 26-626 of the city code. Existing residential uses may continue, but because the subject property was previously converted entirely to a commercial use, it cannot be converted back to a residential use under the current C-1 zoning.

Unlike in Commercial-One, residential uses are permitted with fewer restrictions than the ancillary residential uses permitted under C-1. If the zone change is approved the property could be utilized purely as a commercial property, purely as a residential property, or as a mix of the two. The current owner is pursuing the zone change in order to allow his current tenant the ability to run her small business from the property, while also living there. Live/work arrangements are permitted in MU-N. Because of the limits on commercial uses in residential zone districts, and the limits on residential uses in commercial zone districts, the MU-N is the only appropriate straight zone district.

At this time, the applicant is not proposing any new development or modifications to the site. If the property is redeveloped in the future under the proposed MU-N zoning, an administrative site plan review would be required to confirm that proposed development meets the standards of the mixed use zone district.

RECOMMENDED MOTION:

“I move to approve Council Bill No. 20-2018, an ordinance approving the rezoning of property located at 6701 W. 44th Avenue from Commercial-One (C-1) to Mixed Use-Neighborhood (MU-N) on second reading and that it take effect 15 days after final publication 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 requested rezoning has been reviewed by the Planning Commission, which has forwarded its recommendation of 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.”

Or,

“I move to deny Council Bill No. 20-2018, an ordinance approving the rezoning of property located at 6701 W. 44th Avenue from Commercial-One (C-1) to Mixed Use-Neighborhood (MU-N) on second reading for the following reasons:

- 1.
- 2.
3. ”

REPORT PREPARED/REVIEWED BY:

Zack Wallace, Planner II

Lauren Mikulak, Planning Manager

Kenneth Johnstone, Community Development Director

Patrick Goff, City Manager

ATTACHMENTS:

1. Council Bill No. 20-2018
2. Planning Commission staff report with attachments
3. Planning Commission hearing minutes

**CITY OF WHEAT RIDGE
INTRODUCED BY COUNCIL MEMBER URBAN
COUNCIL BILL NO. 20
ORDINANCE NO. _____
Series of 2018**

**TITLE: AN ORDINANCE APPROVING THE REZONING OF
PROPERTY LOCATED AT 6701 WEST 44TH AVENUE FROM
COMMERCIAL-ONE (C-1) TO MIXED USE-NEIGHBORHOOD
(MU-N) (CASE NO. WZ-18-14 / POTRYKUS)**

WHEREAS, Chapter 26 of the Wheat Ridge Code of Laws establishes procedures for the City's review and approval of requests for land use cases; and,

WHEREAS, Robert Potrykus has submitted a land use application for approval of a zone change to the Mixed Use-Neighborhood (MU-N) zone district for property located at 6701 West 44th Avenue; and,

WHEREAS, the City of Wheat Ridge has adopted a comprehensive plan—*Envision Wheat Ridge*—which calls for a mix of land uses along W. 44th Avenue by virtue of it being designated a neighborhood commercial corridor; and,

WHEREAS, the City of Wheat Ridge Planning Commission held a public hearing on June 21, 2018 and voted to recommend approval of rezoning the property to Mixed-Use-Neighborhood (MU-N) ,

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

Section 1. Upon application by Robert Potrykus for approval of a zone change ordinance from Commercial-One (C-1) to Mixed Use-Neighborhood (MU-N) for property located at 6701 W. 44th Avenue, and pursuant to the findings made based on testimony and evidence presented at a public hearing before the Wheat Ridge City Council, a zone change is approved for the following described land:

A PART OF BLOCK 7, LAKE VIEW SUBDIVISION AND THE SW 1/4 OF THE NW 1/4 OF SECTION 24, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE 6TH P.M., BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 24, THENCE N 90 DEGREES 00 MINUES 00 SECONDS E ON AN ASSUMED BEARING ALONG THE EAST-WEST CENTERLINE OF SAID SECTION 24, A DISTANCE OF 256.50 FEET; THENCE N 00 DEGREES 15 MINUTES 42 SECONDS W, A DISTANCE OF 30.00 FEET TO THE TRUE POINT OF BEGINNING, WHICH POINT IS ON THENORTHELY RIGHT OF WAY LINE OF WEST 44TH AVENUE; THENCE CONTINUING N 00 DEGREES 15 MINUES 42 SECONDS W, A DISTANCE OF 140.55 FEET TO A POINT 140.00 FEET

SOUTH OF THE SOUTHERLY RIGHT OF WAY LINE OF WEST 44TH PLACE; THENCE S 81 DEGREES 51 MINUTES 20 SECONDS E, PARALLEL WITH SAID SOUTHERLY RIGHT OF WAY LINE A DISTANCE OF 75.53 FEET TO A POINT ON THE EAST LINE OF THE WEST 331.50 FEET OF BLOCK 7, LAKEVIEW SUBDIVISION; THENCE S 00 DEGREES 15 MINUTES 43 SECONDS E, A DISTANCE OF 140.36 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF WEST 44TH AVENUE; THENCE N 90 DEGREES 00 MINUTES 00 SECONDS W, ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 75.53 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING, ACCORDING TO THE RECORDED PLAT THEREOF, COUNTY OF JEFFERSON, STATE OF COLORADO.

Section 2. Vested Property Rights. Approval of this zone change does not create a vested property right. Vested property rights may only arise and accrue pursuant to the provisions of Section 26-121 of the Code of Laws of the City of Wheat Ridge.

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

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

Section 5. Effective Date. This Ordinance shall take effect 15 days after final publication, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 7 to 0 on this 9th day of July, 2018, ordered it published with Public Hearing and consideration on final passage set for **Monday, August 13, 2018 at 7:00 o'clock p.m.**, in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado, and that it takes effect 15 days after final publication.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of ___ to ___, this ___ day of ___, 2018.

SIGNED by the Mayor on this ___ day of ___, 2018.

Bud Starker, Mayor

ATTEST:

Janelle Shaver, City Clerk

Approved as to Form

Gerald Dahl, City Attorney

1st publication:

2nd publication:

Wheat Ridge Transcript:

Effective Date:

**CITY OF WHEAT RIDGE
PLANNING DIVISION STAFF REPORT**

TO: Planning Commission **MEETING DATE:** June 21, 2018

CASE MANAGER: Zack Wallace Mendez

CASE NO. & NAME: WZ-18-14 / Potrykus

ACTION REQUESTED: Approval of a zone change from Commercial-One (C-1) to Mixed Use-Neighborhood (MU-N).

LOCATION OF REQUEST: 6701 W. 44th Avenue

APPLICANT (S): Robert Potrykus, Trustee of RJP Investment Trust

OWNER (S): RJP Investment Trust

APPROXIMATE AREA: 19,602 square feet (0.45 acres)

PRESENT ZONING: Commercial-One (C-1)

COMPREHENSIVE PLAN: Neighborhood Commercial Corridor

ENTER INTO RECORD:

(X) CASE FILE & PACKET MATERIALS	(X) COMPREHENSIVE PLAN
(X) ZONING ORDINANCE	(X) DIGITAL PRESENTATION

Location Map



Site

JURISDICTION:

All notification and posting requirements have been met; therefore, there is jurisdiction to hear this case.

I. REQUEST

The applicant and current owner of the property has submitted this application requesting approval of a zone change from Commercial-One (C-1) to Mixed Use-Neighborhood (MU-N).

II. EXISTING CONDITIONS/PROPERTY HISTORY

The subject property is located at 6701 W. 44th Avenue. The property is approximately 0.45 acres in size and located on the north side of 44th Avenue, at Otis Street. The property currently contains one structure, constructed in 1910 as a house, per Jefferson County records (*Exhibit 1, Aerial*). The City's original zoning map indicates this property was zoned Residential-Three (R-3) at the time of incorporation in 1969. This zoning remained in place until July 1982, when City Council approved a rezoning of the property from R-3 to Commercial-One (C-1). City permit records indicate that in October 1982, permits were pulled to convert the residence into a commercial structure.

The properties adjacent to the subject property to the east along the north side of 44th Avenue are also zoned Commercial-One (C-1). Restricted Commercial (RC) zoned properties can be found along 44th Avenue to the west and south/southeast of the subject property. Also south of the property are two parcels which were rezoned to Mixed Use-Neighborhood (MU-N) in 2013. Approximately two blocks from the subject property in either direction are properties zoned Neighborhood Commercial (NC). Moving north and south, away from 44th Avenue, are residential neighborhoods, mostly zoned Residential-Two (R-2). While a few duplexes can be found in this residential area, single-family homes are the dominant housing type. To the north and northwest of the subject property are a few multi-family residential properties, zoned Residential-Three (R-3) (*Exhibit 2, Zoning Map*).

III. PROPOSED ZONING

The applicant is requesting the property be rezoned to Mixed Use-Neighborhood, a zone district intended to provide medium density mixed-use development. In addition to residential and office uses, it allows for a range of neighborhood-serving commercial and retail uses. MU-N zoning is intended for "neighborhood main streets," such as 44th Avenue and 38th Avenue.

The property is currently zoned Commercial-One (C-1). The C-1 zone district was established to accommodate a wide range of commercial uses, such as office, general business, retail sales, and service establishments, which are oriented towards the community or entire region.

The applicant intends to rezone the property so he can offer the space as a location for a small business owner to both live and work. The applicant stated that he has received many requests for the property to be a live-work location (*Exhibit 3, Applicant Letter*). The desire for live-work arrangements has been noted in several previous zone change requests within this eastern portion of 44th Avenue.

The property owner is not contemplating any redevelopment at this time. However, if the zone change is approved and in the future development is proposed for this property, Mixed Use development

standards will apply. The following table compares the existing and proposed zoning for the property, with standards for new development or major additions. In terms of permitted uses, MU-N allows commercial uses at a lesser intensity than the existing C-1 zoning, in addition to also allowing residential uses.

	CURRENT ZONING Commercial-One (C-1)	PROPOSED ZONING Mixed Use-Neighborhood (MU-N)
Uses	Allows a wide range of commercial uses including office, general business, retail sales, and service establishments.	Allows residential, commercial or mixed use – includes multi-family and live/work facilities, excludes outdoor storage.
Architectural Standards	Traditional Overlay ASDM standards apply, including high quality architecture, standards related to articulation, variation, materials, and transparency.	Mixed-Use standards apply, including high quality architecture, standards related to articulation, variation and materials.
Max. Building Height	50'	35' if the building has residential use 50' for all other uses
Max. Building coverage	80%	90% for mixed use 85% for single use
Min. Landscaping	20%	10% for mixed use 15% for single use
Build-to Area	0-12' along front property line	0-12' along front property line
Setbacks Side Rear	0 feet if nonflammable or 5 feet per story 10 feet plus 5 feet per story	<i>Side setback (adjacent to commercial):</i> 0 feet <i>Rear setback (adjacent to duplex):</i> 10 feet for the first 2 stories, additional 5 feet for each additional story. Must be landscaped.

IV. ZONE CHANGE CRITERIA

Staff has provided an analysis of the zone change criteria outlined in Section 26-112.E. The Planning Commission shall base its recommendation in consideration of the extent to which the following criteria have been met:

1. The change of zone promotes the health, safety, and general welfare of the community and will not result in a significant adverse effect on the surrounding area.

The change of zone will not result in adverse effects on the surrounding area. The rezoning would allow a less intensive range of commercial uses than the current C-1 zoning, and encourage more neighborhood-oriented businesses. The proposed zone change is not out of character with 44th Avenue and the array of businesses and residences located in the vicinity of the subject property, and thus should not have an adverse effect on the surrounding area.

The MU-N zoning is expected to add value to the subject property and also to the surrounding community. The mixed use development standards will support compatibility between future redevelopment and existing land uses.

Based on the small size of the property, many of the more intensive permitted uses in MU-N zone district are likely unrealistic (such as multifamily uses or larger commercial uses).

Staff concludes that this criterion has been met.

- 2. Adequate infrastructure/facilities are available to serve the types of uses allowed by the change of zone, or the applicant will upgrade and provide such where they do not exist or are under capacity.**

Infrastructure currently serves the property, and all responding agencies have indicated they can serve the property. In the event that the current utility capacity is not adequate for a future use or development, the property owner/developer would be responsible for utility upgrades.

Staff concludes that this criterion has been met.

- 3. The Planning Commission shall also find that at least one (1) of the following conditions exists:**

- a. The change of zone is in conformance, or will bring the property into conformance, with the City of Wheat Ridge comprehensive plan goals, objectives and policies, and other related policies or plans for the area.**

West 44th Avenue is a primary east-west thoroughfare in the City, is classified as a minor arterial, and is predominantly commercial in character. *Envision Wheat Ridge*, the City's 2009 comprehensive plan, identifies this corridor as a Neighborhood Commercial Corridor. This designation envisions a corridor with a broad mix of activities, including small-scale, pedestrian-friendly mixed-use retail, commercial businesses, and residential, with a focus on promoting a compatible mix of uses to supply daily services and meet the needs of adjacent residential areas. A stated goal in the comprehensive plan is to promote reinvestment in property and to promote a mix of neighborhood supporting uses, including residential and commercial.

As such, this zone change request supports the comprehensive plan by enabling investment in the property and by aligning the zoning with the City's mixed use goals for this corridor.

Staff concludes that this criterion has been met.

- b. The existing zone classification currently recorded on the official zoning maps of the City of Wheat Ridge is in error.**

Staff has not found any evidence of an error with the current C-1 zoning designation as it appears on the City zoning maps.

Staff concludes that this criterion is not applicable.

- c. A change of character in the area has occurred or is occurring to such a degree that it is in the public interest to encourage redevelopment of the area or to recognize the changing character of the area.**

Staff finds no evidence of significant changes in the area. The zone change request from C-1 to MU-N neither responds to nor results in notable change of character.

Staff concludes that this criterion is not applicable.

- d. **The proposed rezoning is necessary in order to provide for a community need that was not anticipated at the time of the adoption of the City of Wheat Ridge comprehensive plan.**

The proposed rezoning does not relate to an unanticipated need.

Staff concludes that this criterion is not applicable.

Staff concludes that the criteria used to evaluate zone change support this request.

V. NEIGHBORHOOD MEETING

Prior to submittal of an application for a zone change, the applicant is required to hold a neighborhood input meeting in accordance with the requirements of section 26-109.

A meeting for neighborhood input was held on May 16, 2018. There were no neighbors in attendance.

VI. AGENCY REFERRAL

All affected service agencies were contacted for comment on the zone change request and regarding the ability to serve the property. Specific referral responses follow:

Wheat Ridge Public Works Department: No comments.

Wheat Ridge Sanitation District: No objection.

West Metro Fire Protection District: No objection.

Century Link: No objection.

Xcel Energy: No objection.

VII. STAFF CONCLUSIONS AND RECOMMENDATION

Staff concludes that the proposed zone change promotes the health, safety and general welfare of the community and will not result in a significant adverse effect on the surrounding area. Staff further concludes that utility infrastructure adequately serves the property, and the applicant will be responsible for upgrades, if needed in the future. Finally, Staff concludes that the zone change is consistent with the goals and objectives of the Comprehensive Plan by promoting a mix of uses along a neighborhood commercial corridor.

Because the zone change evaluation criteria support the zone change request, staff recommends approval of Case No. WZ-18-14.

VIII. SUGGESTED MOTIONS

Option A:

"I move to recommend APPROVAL of Case No. WZ-18-14, a request for approval of a zone change from Commercial-One (C-1) to Mixed Use-Neighborhood (MU-N) for property located at 6701 W. 44th Avenue, for the following reasons:

1. The proposed zone change will promote the public health, safety, or welfare of the community and does not result in an adverse effect on the surrounding area.
2. Utility infrastructure adequately services the property.
3. The proposed zone change is consistent with the goals and objectives of the City's Comprehensive Plan and consistent with the character of 44th Avenue.
4. The zone change will provide additional opportunity for reinvestment in the area.
5. The criteria used to evaluate a zone change support the request."

Option B:

"I move to recommend DENIAL of Case No. WZ-18-14, a request for approval of a zone change from Commercial-One (C-1) to Mixed Use-Neighborhood (MU-N) for property located at 6701 W. 44th Avenue, for the following reasons:

- 1.
2. ..."

EXHIBIT 1: AERIAL



EXHIBIT 2: ZONING MAP

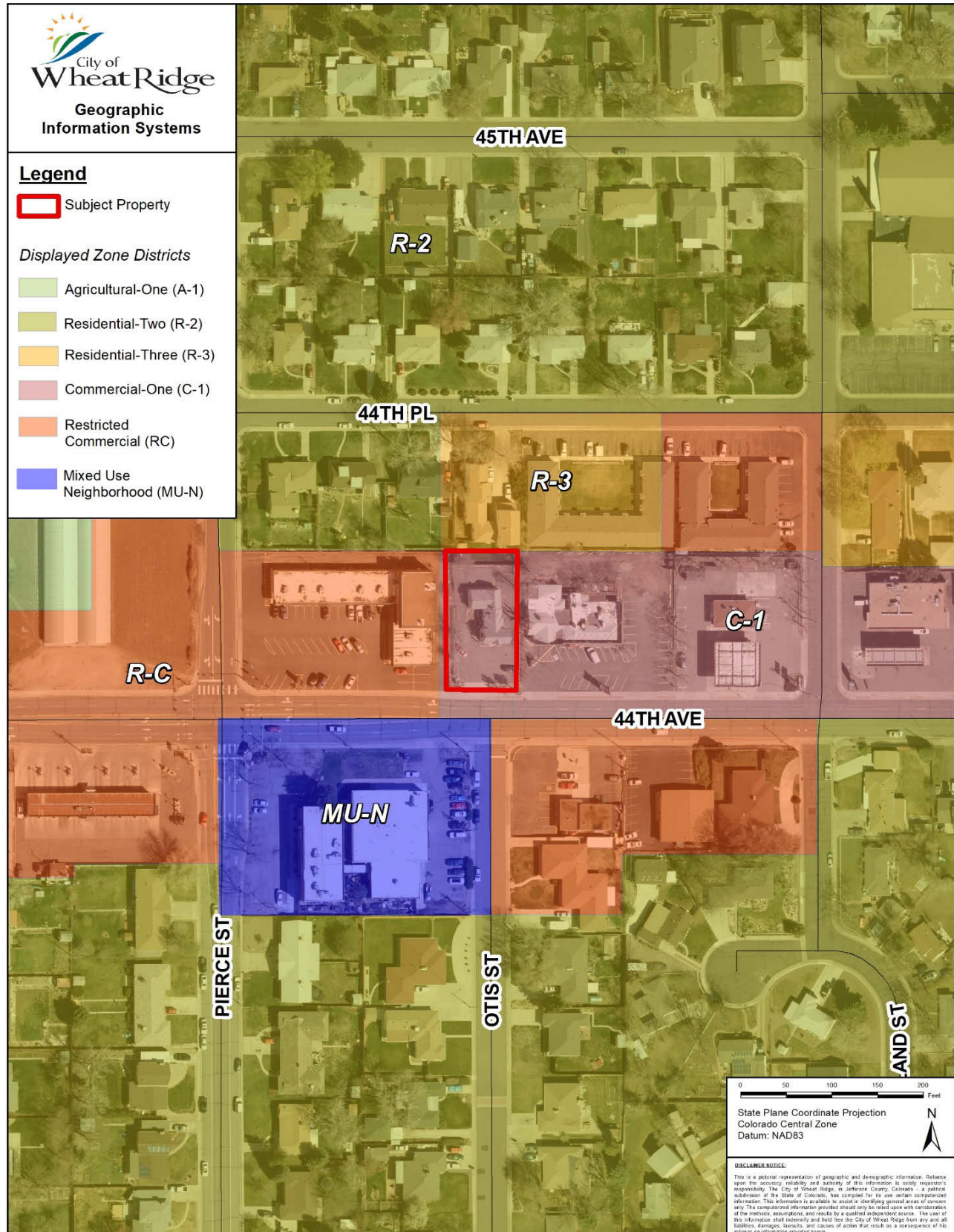


EXHIBIT 3: APPLICANT LETTER

To: City of Wheat Ridge
From: Robert and Deborah Potrykus, Trustees, RJP Investment Trust
Date: April 18, 2018
Re: ZONING CHANGE REQUEST – 6701 W 44th Ave, Wheat Ridge, CO.

Please accept this Zoning Change Request for the subject property on behalf of RJP Investment Trust – from Commercial “C-1” to *Mixed Use-Neighborhood “MU-N.”*

Justification:

This property is a small home zoned commercial, that is used as an office but is capable of supporting a small business owner who may desire to use same as a live and work location. The home has full kitchen and bathroom/shower facilities (recently installed and modernized). Pictures sent to planner Zachary Wallace Mendez.

This change requested will promote the health, safety and welfare of the community and not result in any significant adverse effect.

Many requests have been made by the current and other prospective tenants for this property to be able to live and work within this facility. Numerous ‘homes’ have been converted to commercial and specifically MU-N along 44th Ave in Wheat Ridge. This type of property is consistent with that use and classification. Properties directly across the street from the subject property are zoned as MU-N.

Full utilities are available to and utilized by the subject property. No changes will occur with effect on public facilities and services.

At a minimum, the change of zone is in conformance or will bring the property in conformance with the City of Wheat Ridge comprehensive plan goals, objectives and policies and other city approved policies and plans for the area.

In accordance with Section 26-114 of the Wheat Ridge Municipal Code, the zoning change request will have no detrimental effect given the change to MU-N classification, will have a medium density effect (less effect than its current C-1 Commercial classification) allowing for neighborhood serving commercial and retail uses as well as residential and civic land uses – so a small business owner may work and live at the subject property. The current physical and operational characteristics of the subject property already meet the current zoning classification of C-1 and the change request will have no change, or less effect, on current utilities, traffic and/or other similar neighborhood impact. The current architectural design of the subject property meets the zoning change request fit for a neighborhood, consistent with the adjacent neighborhood (homes) and consistent with the neighborhood businesses along

44th Avenue in Wheat Ridge. There is no change in the current structure of the subject property and no anticipated redevelopment at this time.

Criteria for review. The community development director or city council shall base its decision in consideration of the extent to which the applicant demonstrates the following criteria been met:

- [1.] The special use will not have a detrimental effect upon the general health, welfare, safety and convenience of persons residing or working in the neighborhood.
- [2.] The special use will not create or contribute to blight in the neighborhood by virtue of physical or operational characteristics.
- [3.] The special use will not create adverse impacts greater than allowed under existing zoning for the property.
- [4.] The special use will not result in undue traffic congestion or traffic hazards, or unsafe parking, loading, service or internal traffic conflicts to the detriment of persons whether on or off the site.
- [5.] The property is appropriately designed, including setbacks, heights, parking, bulk, buffering, screening and landscaping, so as to be in harmony and compatible with the character of the surrounding areas and neighborhood, especially with adjacent properties.
- [6.] The special use will not overburden the capacities of the existing streets, utilities, parks, schools and other public facilities and services.
- [7.] There is a history of compliance by the applicant and/or property owner with Code requirements and prior conditions, if any, regarding the subject property.
- [8.] The application is in substantial compliance with the applicable standards set forth in the Architectural and Site Design Manual.

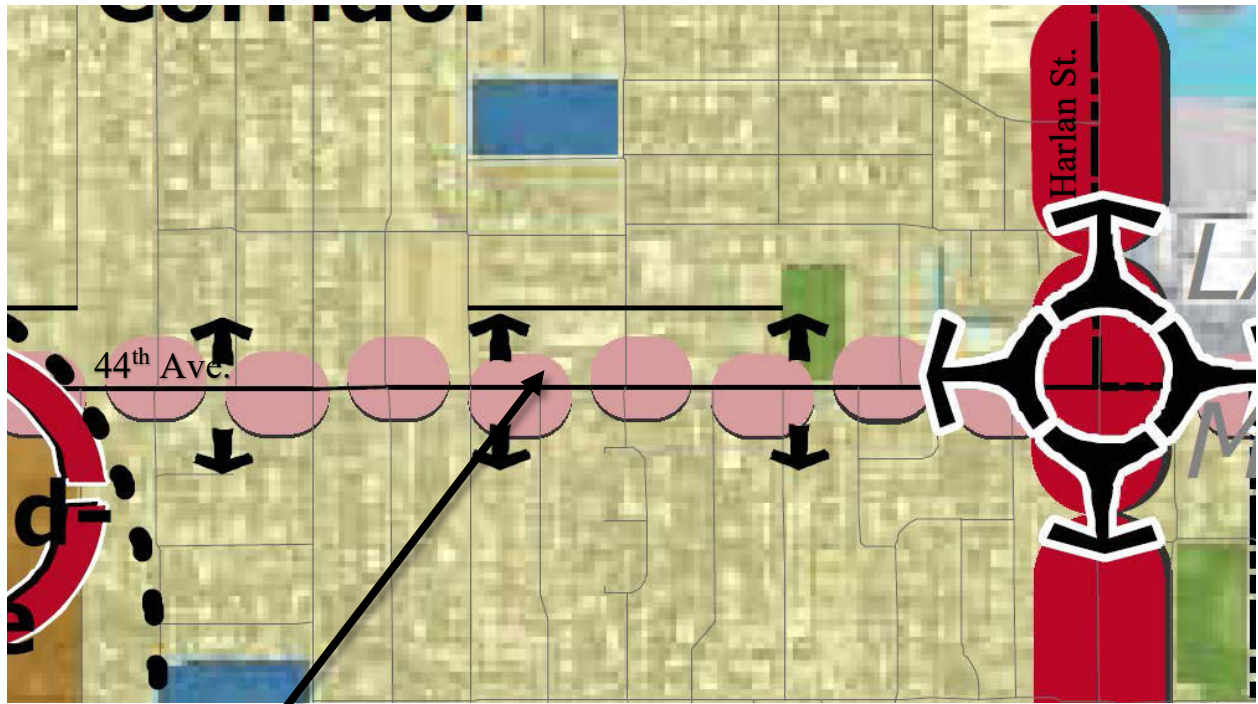
Please advise if any questions or if you need additional information. We appreciate your time and attention.

Thank you.

**Robert and Deborah Potrykus
Trustees of the RJP Investment Trust
Owner of 6701 W 44th Ave., Wheat Ridge, CO.**

720-261-0860

EXHIBIT 4: COMPREHENSIVE PLAN



Subject Property

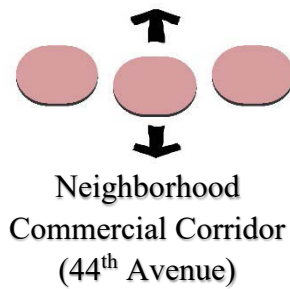
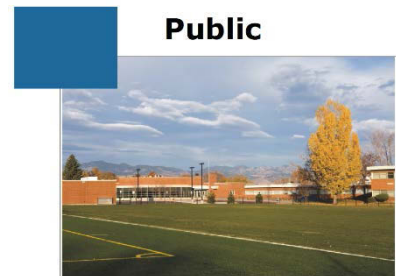
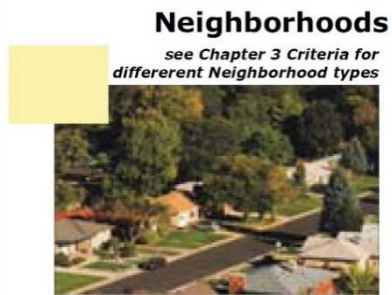
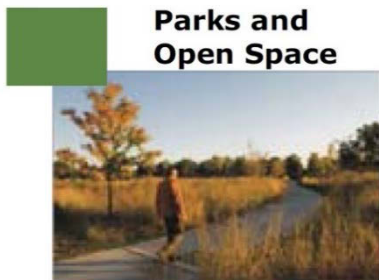


EXHIBIT 5: SITE PHOTOS



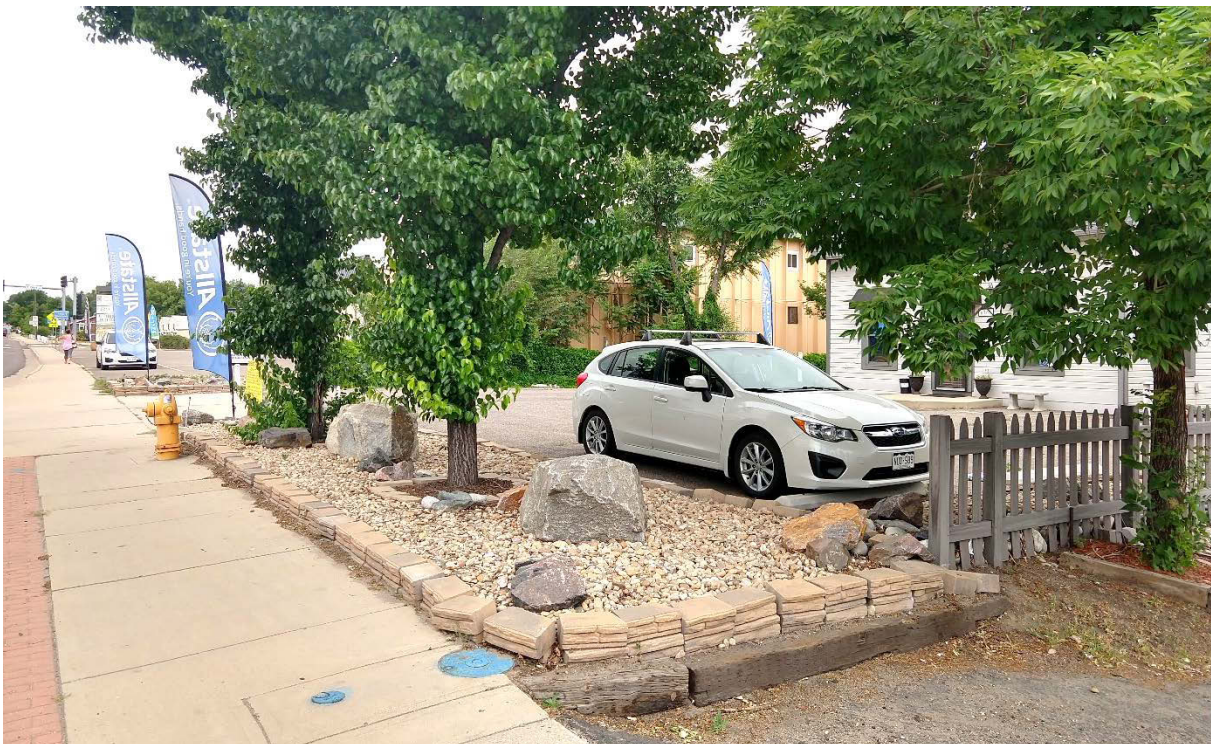
View of the subject property looking north from 44th Avenue.



View of the subject property (left) and the 44th Avenue frontage.



Looking northeast into the property from near the western boundary of the property.



Looking northwest into the property from near the eastern boundary of the property.

It was moved by Commissioner LARSON and seconded by Commissioner LEO to recommend APPROVAL of Case No. WZ-18-12, a request for approval of a zone change from Neighborhood Commercial (NC) to Mixed Use-Neighborhood (MU-N) for property located at 4288 Youngfield Street, for the following reasons:

1. The Proposed zone change will promote the public health, safety, or welfare of the community and does not result in an adverse effect on the surrounding area.
2. Utility infrastructure adequately services the property.
3. The proposed zone change is consistent with the goals and objectives of the City's Comprehensive Plan.
4. The zone change will provide additional opportunity for reinvestment in the area.
5. The criteria used to evaluate a zone change support the request.

With the following condition:

1. Add to site plan the installation of a 6-foot barrier fence of appropriate height between the Head Start School and the subject property to limit access to the school ground and mitigate noise.


Motion Carried 5-1 with Commissioner PETERSON voting against.

- C. Case No. WZ-18-14:** An application filed by RJP Investment Trust for approval of a zone change from Commercial-One (C-1) to Mixed Use-Neighborhood (MU-N) for property located at 6701 West 44th Avenue.

Mr. Wallace Mendez gave a short presentation regarding the Zone Change and the application. He entered into the record the contents of the case file, packet materials, the zoning ordinance, and the contents of the digital presentation. He stated the public notice and posting requirements have been met, therefore the Planning Commission has jurisdiction to hear this case.

Commissioner VOS wanted to confirm that Commercial Zone Districts can allow residential uses, but Residential Zone Districts cannot allow commercial uses.

Mr. Wallace Mendez generally agreed, but clarified. Residential uses in commercial zone districts are very limited and subject to very specific location and size limitations. General commercial uses are prohibited in residential zone districts, with the exception of home occupations, in which someone operates a small business from their home. This, again, has a list of criteria that must be followed, and is limited in nature.



Commissioner BUCKNAM asked if the property boundary to the north contains part of the property to the north, due to the relationship of the fence and asked if it could affect the zone change.

Mr. Wallace Mendez said that the parcel lines on the City's maps come from the Jefferson County Assessor's office, and represent taxable parcels and should not be used to determine legal lot line locations. While the maps are typically a bit off, Mr. Wallace Mendez did agree that a rather large portion of the property to the north appeared to be within the limits of the subject property. It is possible that previous owners had a handshake agreement to utilize that portion of the property, or a similar situation. In any case, Mr. Wallace Mendez said that the zone change will apply to the boundary of the legal description for the subject property.

Robert Potrykus, applicant
1410 Carr Street, Lakewood

Mr. Potrykus gave a brief description of this property he has owned since 2013 and said some of his tenants would like it to be live/work property and that is why he is asking for the Mixed-Use zone change.

Commissioner LEO asked if anybody is living there now.

Mr. Potrykus said nobody lives there at the moment. The current tenant, an Allstate Insurance agent, has inquired about a live/work arrangement.

Mr. Wallace Mendez added he forgot to mention that the structure was originally built as a home in 1910, but converted to a commercial structure in the 1980's.


Commissioner VOS confirmed if MU-N would allow 35 feet for residential and 50 feet for commercial, and how parking would fit on the site.

Mr. Wallace Mendez said it would be unlikely the site could support a 5 story (approximately 50 foot tall) commercial building, as it is unlikely a parcel this size could support the amount of parking a building like that would require. With regards to residential parking, a minimum of 1 space per unit with maximum of 2.5 spaces is allowed.

Commissioner BUCKNAM asked if there could be underground parking.

Mr. Wallace Mendez said yes, underground parking is allowed. He added that it is expensive and the Code does have standards for such structures that would need to be followed.

Commissioner VOS asked if landscaping would be required.



Mr. Wallace Mendes said if the property is redeveloped then it would have to follow the landscaping requirements.

It was moved by Commissioner LEO and seconded by Commissioner VOS to recommend APPROVAL of Case No. WZ-18-14, a request for approval of a zone change from Commercial-One (C-1) to Mixed Use-Neighborhood (MU-N) for property located at 6701 West 44th Avenue, for the following reasons:

- 1. The Proposed zone change will promote the public health, safety, or welfare of the community and does not result in an adverse effect on the surrounding area.**
- 2. Utility infrastructure adequately services the property.**
- 3. The proposed zone change is consistent with the goals and objectives of the City's Comprehensive Plan and consistent with 44th Avenue.**
- 4. The zone change will provide additional opportunity for reinvestment in the area.**
- 5. The criteria used to evaluate a zone change support the request.**

Motion carried 6-0.

8. OLD BUSINESS

9. NEW BUSINESS

10. ADJOURNMENT

It was moved by Commissioner DORSEY and seconded by Commissioner PETERSON to adjourn the meeting at 9:20 p.m. Motion carried 6-0.

Alan Bucknam, Chair

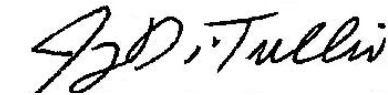
Tammy Odean, Recording Secretary

REQUEST FOR CITY COUNCIL ACTION**TITLE: COUNCIL BILL NO. 21-2018 – AN ORDINANCE ADOPTING
A NEW SECTION 2-9 OF THE WHEAT RIDGE CODE OF
LAWS CONCERNING THE RETENTION OF INTEREST
EARNED ON ESCROW ACCOUNTS HELD BY THE CITY**

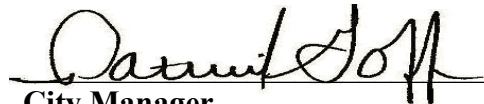
- ☒ PUBLIC HEARING
☐ BIDS/MOTIONS
☐ RESOLUTIONS

- ☐ ORDINANCES FOR 1ST READING (07/23/2018)
☒ ORDINANCES FOR 2ND READING (08/13/2018)

QUASI-JUDICIAL:

☐ YES☒ NO

City Treasurer



City Manager

ISSUE:

City Treasurer DiTullio has determined that there is a significant cost associated with City staff receiving and administering monies deposited into multiple escrow accounts for various purposes mandated by the Code of Laws. Exact accounting and record keeping of each small escrow account and interest earned thereon would be extremely burdensome and impractical for City staff to reasonably achieve. This code amendment will allow the City to retain interest on such escrow accounts. Treasurer DiTullio has reviewed the ordinance and supports the code change. Additionally, the treasurer also recommends that all future escrow documents clearly state that escrow funds are not paid interest.

PRIOR ACTION:

The City Treasurer advised City Council of this issue at a previous City Council meeting and the City Attorney received consensus from City Council at the July 9 regular meeting to bring forward an ordinance for approval.

FINANCIAL IMPACT:

The current escrow accounts with the City are estimated to generate approximately \$3,000 of interest annually.

BACKGROUND:

City Treasurer DiTullio has been transferring funds to the local government investment pool, CSAFE, to earn a more competitive interest rate on taxpayers' funds, including escrow accounts. The Treasurer has raised the question to the City Attorney if the City is legally required to pay interest on escrow accounts. The City Attorney has determined the answer is no.

The City should not be required to track or provide accounting for interest earned on multiple and small escrow accounts. Such retained interest will compensate the City, in part, for its cost of escrow account administration.

This code amendment applies to escrow held and maintained by the City under the Code of Laws, including, but not limited to the following:

- (1) Commercial or industrial projects (Sec 5-45)
- (2) Permits for work in the public ways, streets and sidewalks (Sec 21-20 and 21-52)
- (3) Enhanced sales tax incentive program (Sec 22-82)
- (4) Business development zone program (Sec. 22-92)
- (5) Landscaping (Sec 26-502)

RECOMMENDED MOTION:

"I move to approve Council Bill No. 21-2018, an ordinance adopting a new section 2-9 of the Wheat Ridge Code of Laws concerning the retention of interest earned on escrow accounts held by the City, on second reading, and that it take effect 15 days after final publication."

Or,

"I move to postpone indefinitely Council Bill No. 21-2018, an ordinance adopting a new section 2-9 of the Wheat Ridge Code of Laws concerning the retention of interest earned on escrow accounts held by the City, for the following reason(s): _____."

REPORT PREPARED/REVIEWED BY:

Jerry DiTullio, City Treasurer

Jerry Dahl, City Attorney

Patrick Goff, City Manager

ATTACHMENTS:

1. Council Bill No. 21-2018

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER HOPPE
Council Bill No. 21
Ordinance No. _____
Series 2018

TITLE: AN ORDINANCE ADOPTING A NEW SECTION 2-9 OF THE WHEAT RIDGE CODE OF LAWS CONCERNING THE RETENTION OF INTEREST EARNED ON ESCROW ACCOUNTS HELD BY THE CITY

WHEREAS, the City of Wheat Ridge ("City") is a home rule municipality operating under a charter adopted pursuant to Article XX of the Colorado Constitution and vested with the authority by that article and the Colorado Revised Statutes to enact laws to govern and regulate the development of land and the construction and design of public and private improvements within its territory; and

WHEREAS, pursuant to this authority, the Wheat Ridge City Council ("Council") previously adopted regulations, codified within the Wheat Ridge Code of Laws ("Code"), including the requirement that escrow accounts be established from time to time; and

WHEREAS, the Council determines that there is a significant cost associated with City staff receiving and administering monies deposited into escrow accounts for various purposes mandated by the Code and by the City staff executing its duties enumerated with the Code; and

WHEREAS, exact accounting and record keeping of each small escrow account and interest earned would be extremely burdensome and impractical for City staff; and

WHEREAS, the Council further determines that the City staff should not be required to track or provide accounting for interest earned on escrow accounts; and

WHEREAS, the Council has now determined that it is in the best interests of the safety, health and welfare of the citizens of Wheat Ridge to retain interest earned on escrow accounts held by the City.

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

Section 1. Findings. The above and foregoing findings are hereby incorporated by this reference as specific findings and determinations of the Council.

Section 2. Chapter 2 of the Wheat Ridge Code of Laws is amended by the adoption of a new section 2-9 as follows:

Sec. 2-9. – Retention of Interest Earned on Escrow Accounts.

(a) Legislative Findings. The City Council hereby finds and determines:

- (1) There is a significant cost associated with City staff receiving and administering monies deposited into escrow accounts for various purposes mandated by the Code of Laws and by the City Manager and his or her delegates executing their duties enumerated with the Code of Laws.
- (2) Exact accounting and record keeping of each small escrow account and interest earned thereon would be extremely burdensome and impractical for City staff to reasonably achieve.
- (3) The City should not be required to track or provide accounting for interest earned on escrow accounts.
- (4) The City should retain any interest that may be earned while monies are held in escrow accounts.
- (5) Such retained interest will compensate the City, in part, for its costs of escrow account administration.

(b) Applicability. This Section applies to escrow held and maintained by the City under the Code of Laws, including, but not limited to the following:

- (1) Commercial or industrial projects (Sec 5-45)
- (2) Permits for work in the public ways, streets and sidewalks (Sec 21-20 and 21-52)
- (3) Enhanced sales tax incentive program (Sec 22-82)
- (4) Business development zone program (Sec. 22-92)
- (5) Landscaping (Sec 26-502)

(c) Interest Retained. Any interest earned by the City on escrow accounts held and maintained by the City shall be retained by the City. There shall be no expectation that the City return or provide accounting for said interest.

Section 3. Effective Date. This Ordinance shall take effect fifteen (15) days after final publication, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 8 to 0 on this 23rd day of July, 2018, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge and Public Hearing and consideration on final passage set for **August 13, 2018, at 7:00 p.m.**, in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of _____ to _____, this _____ day of _____, 2018.

SIGNED by the Mayor on this _____ day of _____, 2018.

Bud Starker, Mayor

Janelle Shaver, City Clerk

Approved As To Form

Gerald E. Dahl, City Attorney

First Publication: July 26, 2018
Second Publication:
Wheat Ridge Transcript
Effective Date:

REQUEST FOR CITY COUNCIL ACTION

TITLE: COUNCIL BILL NO. 23-2018 – AN ORDINANCE VACATING ANY INTEREST HELD BY THE CITY OF WHEAT RIDGE IN A PORTION OF MILLER STREET, A PUBLIC ROADWAY, ADJACENT TO 5185 MILLER STREET (CASE NO. WV-18-01/ROUSH INDUSTRIES)

- ☐ PUBLIC HEARING
☐ BIDS/MOTIONS
☐ RESOLUTIONS

- ☒ ORDINANCES FOR 1ST READING (08/13/2018)
☐ ORDINANCES FOR 2ND READING (09/10/2018)

QUASI-JUDICIAL: ☒ YES

☐ NO


Community Development Director


City Manager

ISSUE:

The applicant is requesting approval of a right-of-way vacation for a remnant section of right-of-way formerly used for Miller Street. The right-of-way section requested for vacation was abandoned as a thoroughfare in the early 2000s when Miller street was rerouted to the east.

PRIOR ACTION:

Planning Commission heard the request at a public hearing on July 19, 2018 and recommended approval. The staff report and meeting minutes from the Planning Commission meeting will be included with the ordinance for second reading.

FINANCIAL IMPACT:

The proposed vacation is not expected to have a direct financial impact on the City. Fees in the amount of \$725.00 were collected for the review and processing of Case No. WV-18-01.

BACKGROUND:

The property located at 5185 Miller Street is bisected by a remnant section of right-of-way formerly used for Miller Street. The reason for the remnant is based on a series of plats that were

approved when this land area was part of Arvada and the property to the east (Arvada Ridge Market Place) was entitled for redevelopment. During the redevelopment of the Arvada Ridge site, a new roadway was platted to the east of the Miller Street alignment. Through traffic was shifted to that new roadway (still called Miller Street), and it provides access to the shopping center and apartments within the City of Arvada, as well as to the industrial properties within the City of Wheat Ridge. The City of Wheat Ridge annexed the entirety of the new Miller Street in 2004. A southerly portion of the former Miller Street was vacated in 2006. The subject property adjacent to 5185 Miller Street is the only remnant portion of right-of-way that still currently exists.

The applicant requesting this action currently leases the building at 5185 Miller Street and is requesting the vacation so they can have better control over who parks within this section of right-of-way. As public right-of-way the public can park within this area. The proximity of the abandoned right-of-way to the property access point onto Miller Street has caused safety issues for the applicant in their daily use of the site.

The Public Works Department has requested that a drainage and utility easement be maintained over the entirety of the right-of-way proposed to be vacated. Dedication of this easement will be written into the vacation ordinance and, if approved, happen simultaneously with the vacation. Creation of a utility easement is standard protocol when remnant right-of-way is vacated. Valley Water District has also requested an exclusive easement to access and maintain their water main, which the applicant is actively working on and will be required to have in place prior to the public hearing.

RECOMMENDED MOTION:

“I move to approve Council Bill No. 23-2018, an ordinance vacating any interest held by the City of Wheat Ridge in a portion of Miller Street, a public roadway, adjacent to 5185 Miller Street on first reading for the sole purpose of ordering it published and for a public hearing set for Monday, September 10, 2018 at 7 pm in City Council Chambers, and, if adopted, that it take effect 15 days after final publication.”

REPORT PREPARED/REVIEWED BY:

Zack Wallace, Planner II

Lauren Mikulak, Planning Manager

Kenneth Johnstone, Community Development Director

Patrick Goff, City Manager

ATTACHMENTS:

1. Council Bill No. 23-2018

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER _____
COUNCIL BILL NO. 23
ORDINANCE NO. _____
Series 2018

TITLE: AN ORDINANCE VACATING ANY INTEREST HELD BY THE CITY OF WHEAT RIDGE IN A PORTION OF MILLER STREET, A PUBLIC ROADWAY, ADJACENT TO 5185 MILLER STREET (CASE NO. WV-18-01/ROUSH INDUSTRIES)

WHEREAS, the City of Wheat Ridge holds public rights-of-way in trust for the public and the landowners abutting such rights-of-way; and

WHEREAS, the Miller Street right-of-way between Ridge Road and West 52nd Avenue was realigned pursuant to dedication on the Arvada Ridge plat recorded on December 14, 2004; and

WHEREAS, Miller Street between Ridge Road and West 52nd Avenue was reconstructed to the new alignment in 2006; and

WHEREAS, a portion of right-of-way from the now obsolete Miller Street alignment is unneeded for public roadway purposes; and

WHEREAS, a drainage and utility easement shall be retained by the City of Wheat Ridge over the entirety of the right-of-way proposed for vacation; and

WHEREAS, pursuant to the authority granted by C.R.S. §§ 31-15-702(1)(a)(I) and 43-2-301 et seq., the Council of the City of Wheat Ridge, Colorado, has determined that the nature and extent of the public use and the public interest to be served is such as to warrant the vacation of this area; and

WHEREAS, the portion of the Miller Street right-of-way to be vacated and which is the subject of this ordinance is more fully described on **Exhibit A** attached hereto and fully incorporated herein by this reference; and

WHEREAS, no property abutting said public roadway will be left without an established public road or private-access easement connecting said land with another established public road.

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

Section 1. Vacation. To the extent of any City interest therein, the following portion of the Ridge Road right-of-way is hereby vacated, the same being no longer required for public use and the public interest will be served by such vacation, as more particularly described on the attached **Exhibit A**.

Section 2. Severability, Conflicting Ordinances Repealed. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 3. Recording. This Ordinance shall be filed for record with the office of the Jefferson County Clerk and Recorder.

Section 4. Effective Date. This Ordinance shall take effect fifteen (15) days after final publication, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of ____ to ____ on this 13th day of August, 2018, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge, and Public Hearing and consideration on final passage set for September 10, 2018 at 7:00 p.m., in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of ____ to ____, this ____ day of _____, 2018.

SIGNED by the Mayor on this ____ day of _____, 2018.

Bud Starker, Mayor

ATTEST:

Janelle Shaver, City Clerk

Approved as to Form

Gerald E. Dahl, City Attorney

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

Published:
Wheat Ridge Transcript and www.ci.wheatridge.co.us

Exhibit A

Legal description:

A PORTION OF MILLER STREET RIGHT-OF-WAY TO BE VACATED, A PORTION OF LAND BEING IN THE EAST ONE-HALF OF SECTION 16, TOWNSHIP 3 SOUTH RANGE 69 WEST OF THE 6TH PRINCIPLE MERIDIAN, CITY OF WHEAT RIDGE, COUNTY OF JEFFERSON, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 16, WHENCE THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 16 BEARS S 00°12'11" E, FORMING THE BASIS OF BEARING FOR THIS DESCRIPTION;

THENCE S 00°12'11" E, ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER A DISTANCE OF 72.51 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING S 00°12'11" E A DISTANCE OF 146.55 FEET TO A POINT OF THE NORTH LINE OF THE ROCKY MOUNTAIN BOTTLING SUBDIVISION; THENCE S 89°33'02" W ALONG SAID NORTH LINE A DISTANCE OF 30.00 FEET; THENCE N 00°12'11" W A DISTANCE OF 219.20 FEET; THENCE N 00°12'53" W A DISTANCE OF 119.50 FEET; THENCE 195.14 FEET ALONG AN ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A CENTRAL ANGLE OF 17°44'49", A RADIUS OF 630.00 FEET AND A CHORD WHICH BEARS S 09°05'23" W A DISTANCE OF 194.36 FEET TO THE POINT OF BEGINNING,

SAID PARCEL OF LAND CONTAINING 6299.7 SQ.FT. \ 0.14 ACRES MORE OR LESS

EXHIBIT RIGHT OF WAY TO BE VACATED

N 714994.36
E 109156.25

NE COR
SE 1/4, NE 1/4
SEC. 16, T3S, R69W
FND. 3 1/4" BRASS CAP
IN RANGE BOX PLS 19003

EAST LINE SW 1/4, NE 1/4
SEC. 16, T3S, R69W
140.64' S072°53'E
1315.92'

N0012°53'W

119.50'

N0012°11'W

219.20'

S89°33'02"W
30.00'

BASIS OF BEARING
1317.66'
S072°11'E
EAST LINE NW 1/4, SE 1/4
SEC. 16, T3S, R69W

SE COR
NW 1/4, SE 1/4
SEC. 16, T3S, R69W
FND. 3 1/4" ALUM. CAP
IN RANGE BOX PLS ILLEGIBLE
N 712360.80
E 109165.85

R=630.00'
L=195.14'
CD=194.36'
CB=N9°05'23"W
Δ= 17°44'49"

P.O.C.
NE COR
NW 1/4, SE 1/4
SEC. 16, T3S, R69W
FND. 3 1/4" ALUM. CAP
IN RANGE BOX PLS 22564

REC. # F1466962

NOTE:
THE CITY OF WHEAT RIDGE HEREBY
RESERVES A DRAINAGE AND UTILITY
EASEMENT OVER THE ENTIRETY OF THE
PORTION OF MILLER STREET
RIGHT-OF-WAY PROPOSED
FOR VACATION.

PORTION OF MILLER STREET TO BE VACATED
0.14 ACRES \ 6289.7 SQ.FT.

LOT 84
ROCKY MOUNTAIN BOTTLING SUB.
REC. # 200615165

MILLER STREET (R69W) F2143596


R=500.00'
L=72.40'
CD=271.59'
Δ=18°31'28"



1" = 60'

REQUEST FOR CITY COUNCIL ACTION**TITLE: COUNCIL BILL NO. 24-2018 – AN ORDINANCE EXTINGUISHING ANY RIGHTS OR INTEREST HELD BY THE CITY IN A SLOPE EASEMENT PE-55A ASSOCIATED WITH TAFT COURT, A PUBLIC ROADWAY**

- | | |
|---|---|
| <input type="checkbox"/> PUBLIC HEARING | <input checked="" type="checkbox"/> ORDINANCES FOR 1 ST READING (08/13/2018) |
| <input type="checkbox"/> BIDS/MOTIONS | <input type="checkbox"/> ORDINANCES FOR 2 ND READING (08/27/2018) |
| <input type="checkbox"/> RESOLUTIONS | |

QUASI-JUDICIAL: ☐ YES ☒ NO
Director of Public Works
City Manager**ISSUE:**

The City of Wheat Ridge holds in trust for the public a slope easement designated PE-55A (“Easement”) along the easterly side of Taft Court for the purpose of maintaining a roadway embankment. A landowner wishes to develop the area of land lying east of Taft Court that includes the embankment currently encumbered by the Easement. To allow development of the land the Easement must be extinguished.

PRIOR ACTION:

Acceptance of the Easement reassignment from RTD to the City of Wheat Ridge on July 23, 2018.

FINANCIAL IMPACT:

None. Extinguishment of the Easement will benefit the City by removing the responsibility of embankment maintenance.

BACKGROUND:

On June 23, 2011 the City of Wheat Ridge and the Regional Transportation District (“RTD”) entered into an Intergovernmental Agreement (“IGA”) for the Gold Line (currently referred to as the “G-Line”) Commuter Railway project (the “Project”). Section 6.2 of the IGA states that RTD

will design and construct Taft Court as part of the Ward Road Station access and street grid system of the Project. During the design process it was determined that due to elevation differences between the proposed Taft Court roadway and the adjacent property to the east, an embankment would need to be constructed along the easterly side of Taft Court to support the roadway. Because the embankment would encroach onto a strip of privately-owned land lying along the east side of Taft Court, an easement would need to be acquired from the underlying landowner.

On December 12, 2012 RTD acquired a slope easement designated PE-55A (“Easement”) from the underlying landowner to allow for construction of the Taft Court roadway embankment by the RTD contractor. The owner of the underlying land now wishes to develop the land within the Easement area, and during the course of development will be importing sufficient fill material to the site to negate further need of the Easement. It is recommended that the Easement be extinguished by the City in order to allow the owner to fully develop the property.

RECOMMENDATION:

Staff recommends approval of the attached ordinance.

RECOMMENDED MOTION:

“I move to approve Council Bill No. 24-2018, an ordinance extinguishing any rights or interest held by the City in a Slope Easement PE-55A associated with Taft Court, on first reading, order it published, public hearing set for Monday, August 27, 2018, at 7 p.m. in City Council Chambers, and that it take effect 15 days after final publication.”

Or,

“I move to postpone indefinitely Council Bill No. 24-2018, an ordinance extinguishing any rights or interest held by the City in a slope easement PE-55A associated with Taft Court for the following reason(s) _____.

REPORT PREPARED/REVIEWED BY:

Dave Brossman, Development Review Engineer

Scott Brink, Public Works Director

Patrick Goff, City Manager

ATTACHMENTS:

1. Council Bill No. 24-2018
2. Exhibit A
3. Reference Map

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER _____
COUNCIL BILL NO. 24
ORDINANCE NO. _____
Series 2018

**TITLE: AN ORDINANCE EXTINGUISHING ANY RIGHTS OR
INTEREST HELD BY THE CITY IN A SLOPE EASEMENT
ASSOCIATED WITH TAFT COURT, A PUBLIC ROADWAY**

WHEREAS, the City of Wheat Ridge holds a slope easement designated PE-55A along the easterly side of Taft Court in trust for the public; and

WHEREAS, a landowner wishes to develop the area of land lying immediately east of Taft Court, said land being encumbered by Slope Easement PE-55A; and

WHEREAS, upon development of the land lying immediately east of Taft Court, sufficient fill material will be imported to the site so as to negate the original purpose for Slope Easement PE-55A; and

WHEREAS, pursuant to the authority granted by C.R.S. §§ 31-15-702(1)(a)(I) and 43-2-301 et seq., the Council of the City of Wheat Ridge, Colorado, has determined that the nature and extent of the public use and the public interest to be served is such as to warrant the removal and extinguishment of the slope easement; and

WHEREAS, the Slope Easement PE-55A to be extinguished and which is the subject of this ordinance is more fully described on **Exhibit A** attached hereto and fully incorporated herein by this reference.

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

Section 1. Extinguishment. To the extent of any City rights or interest therein, Slope Easement PE-55A is hereby removed, terminated, and extinguished, the same being no longer required for public use and the public interest will be served by such removal and extinguishment, as more particularly described on the attached **Exhibit A**.

Section 2. Severability, Conflicting Ordinances Repealed. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 3. Recording. This Ordinance shall be filed for record with the office of the Jefferson County Clerk and Recorder.

Section 4. Effective Date. This Ordinance shall take effect fifteen (15) days after final publication, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of ____ to ____ on this 13th day of August, 2018, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge, and Public Hearing and consideration on final passage set for August 27, 2018 at 7:00 p.m., in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of ____ to ____, this ____ day of _____, 2018.

SIGNED by the Mayor on this ____ day of _____, 2018.

Bud Starker, Mayor

ATTEST:

Janelle Shaver, City Clerk

Approved as to Form

Gerald E. Dahl, City Attorney

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

Published:
Wheat Ridge Transcript and www.ci.wheatridge.co.us

EXHIBIT "A"
PERMANENT EASEMENT NO. PE-55A
Date: April 30, 2018
DESCRIPTION

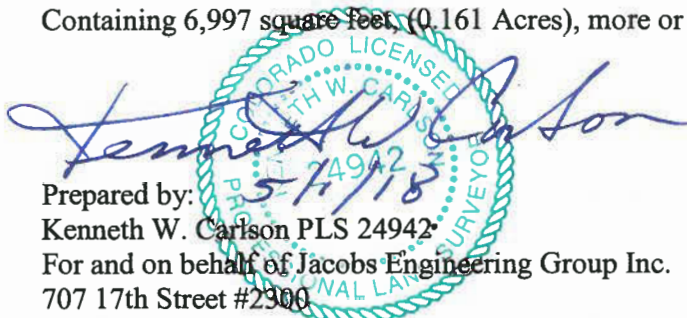
Parcel No. PE-55A of the RTD Gold Line Corridor Commuter Rail Project, being a portion of Lots 17 through 24 inclusive, HANCE'S SUBDIVISION recorded July 20, 1953 in the Jefferson County Clerk and Recorder's Office, located in the Southeast Quarter of Section 17, Township 3 South, Range 69 West of the Sixth Principal Meridian, City of Wheat Ridge, Jefferson County, Colorado, being more particularly described as follows:

COMMENCING at the Southeast Sixteenth Corner of said Section 17 (a found 3"aluminum cap in range box stamped "SURVEY MARKER MERRICK LAND COR SE 1/16 SEC17"), WHENCE the South Sixteenth Corner of said Section 17 and Section 16 of said township and range (a found 3"aluminum cap stamped "SURVEY MARKER MERRICK LAND COR S1/16 SEC17/16") bears N89°27'32"E a distance of 1323.26 feet (basis of bearing – assumed);
THENCE N26°18'05"E a distance of 596.22 feet to the westerly line of said Lot 24, and the POINT OF BEGINNING;

THENCE N00°01'24"E coincident with the westerly line of said HANCE'S SUBDIVISION a distance of 759.55 feet;
THENCE N89°30'24"E coincident with the northerly line of said Lot 17 a distance of 15.00 feet;
THENCE S00°01'24"W coincident with a line 15.00 feet easterly of and parallel with said westerly line a distance of 320.00 feet;
THENCE N89°58'36"W a distance of 10.00 feet;
THENCE S00°01'24"W coincident with a line 5.00 feet easterly of and parallel with said westerly line a distance of 439.68 feet;
THENCE N89°59'38"W a distance of 5.00 feet to the POINT OF BEGINNING.

Containing 6,997 square feet (0.161 Acres), more or less.

Prepared by:
Kenneth W. Carlson PLS 24942
For and on behalf of Jacobs Engineering Group Inc.
707 17th Street #2300
Denver, CO 80202



The basis of bearing in the City of Wheat Ridge coordinate system is N89°08'13"E a distance of 1323.26 feet.

N89°30'24"E 15.00'

HANCE'S SUBDIVISION
BOOK 12 PAGE 10
7-20-1953

WARD ROAD STATION

-POINT OF COMMENCEMENT

Southeast Sixteenth Corner Sec. 17, T3S,
R69W, 6th P.M. (a found
3" Aluminum cap in range box stamped
"SURVEY MARKER MERRICK LAND COR
SE1/16 SEC 17")

South Sixteenth Corner Sec. 17 and
Sec. 16 T3S, R69W, 6th P.M.
(a found 3" Aluminum cap stamped
"SURVEY MARKER MERRICK LAND COR
S1/16 SEC 17/16")

N89°27'32"E 1323.26'
(Basis of Bearing – assume

The basis of bearing in the City of Wheat Ridge coordinate system is N89°08'13"E a distance of 1323.26 feet.

This exhibit does not represent a
monumented survey and is intended only
to depict the attached property description.

PARCEL
AREA = 6,997 SQ. FT.
0.161 ACRES ±

JACOBS ENG. PROJECT NO.				WVXV7416	
CLIENT PROJECT NO.				072120	
REVISION DESCRIPTION				-	
DRAWN	DAM	DATE	11-17-2017	SCALE	1"=60'

JACOBS®

707 17th Street, Suite 2400, Denver CO 80202
(303) 820-5240 Fax (303) 820-4842

THIS MATERIAL AND ANY ASSOCIATED ELECTRONIC DATA WAS
PREPARED BY JACOBS ENGINEERING GROUP FOR THE PROJECT
INDICATED. ANY REUSE OR MODIFICATION WITHOUT THE WRITTEN
CONSENT OF JACOBS ENGINEERING GROUP SHALL BE AT THE SOLE
RISK OF THE USER.

RTD Gold Line Corridor Commuter Rail
Wheat Ridge, Jefferson County, Colorado
SE1/4 Section 17, T3S R69W, 6th P.M.

TITLE:

Parcel No. PE-55A

REVISION:

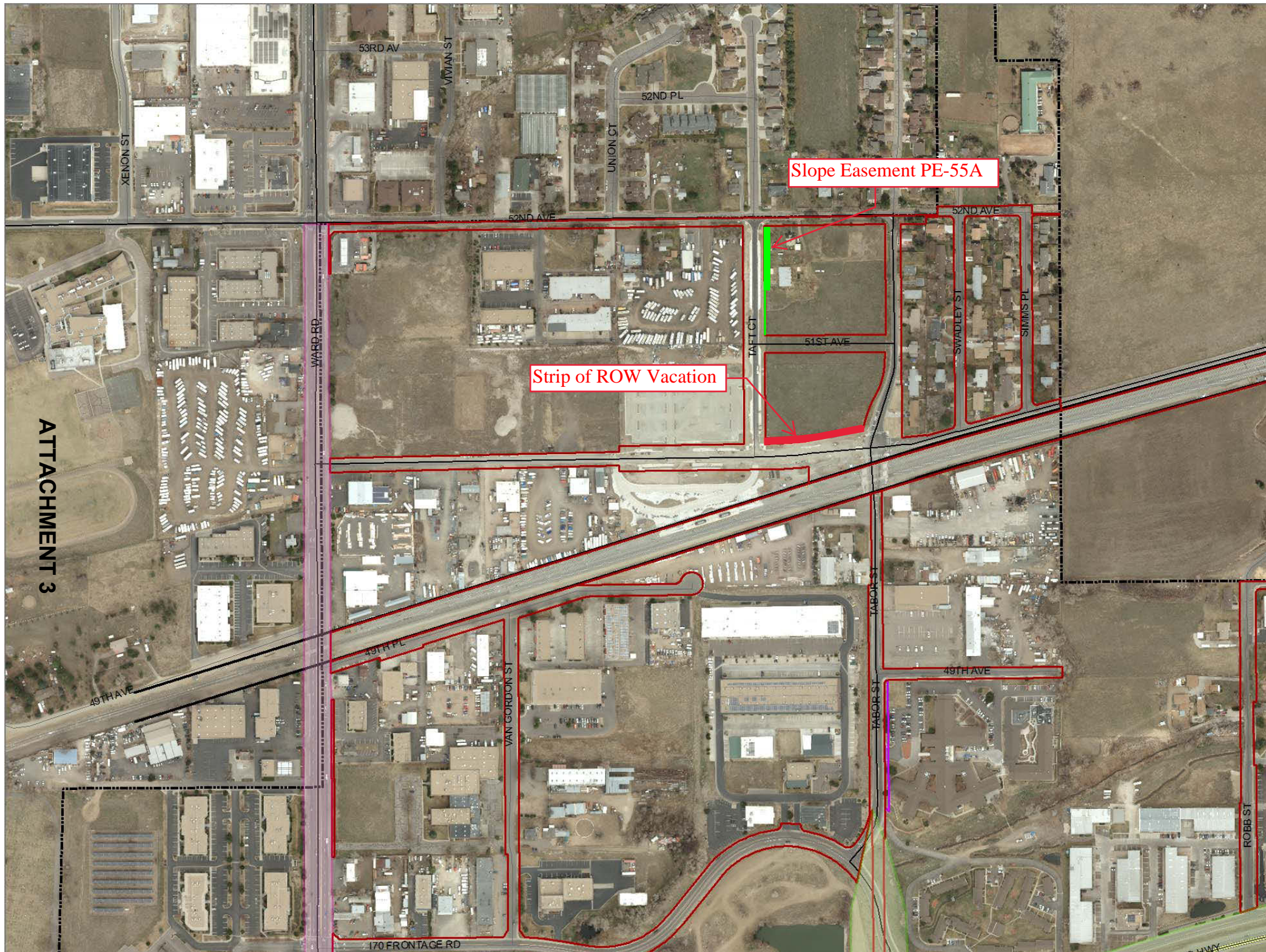
DRAWING NO.

PE-55A.DWG

SHEET NO.

1 OF 1

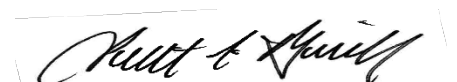
ATTACHMENT 3





REQUEST FOR CITY COUNCIL ACTION**TITLE: COUNCIL BILL NO. 25-2018 – AN ORDINANCE VACATING ANY INTEREST HELD BY THE CITY IN A PORTION OF RIDGE ROAD, A PUBLIC ROADWAY**

- | | |
|---|---|
| <input type="checkbox"/> PUBLIC HEARING | <input checked="" type="checkbox"/> ORDINANCES FOR 1 ST READING (08/13/2018) |
| <input type="checkbox"/> BIDS/MOTIONS | <input type="checkbox"/> ORDINANCES FOR 2 ND READING (08/27/2018) |
| <input type="checkbox"/> RESOLUTIONS | |

QUASI-JUDICIAL: ☐ YES ☒ NO**Director of Public Works****City Manager****ISSUE:**

The City of Wheat Ridge holds rights-of-way in trust for the public. The Ridge Road right-of-way (“ROW”) acquired by the Regional Transportation District (“RTD”) is excessively wide just west of Tabor Street; the current street standards can be met within a narrower ROW width. A strip of ROW approximately 20 feet in width, along the north side of Ridge Road between Tabor Street and Taft Court, has been deemed to be excessive and unnecessary by Public Works.

PRIOR ACTION:

Acceptance of a Quit Claim Deed from RTD to the City of Wheat Ridge on July 23, 2018.

FINANCIAL IMPACT:

None. The ROW is currently owned and maintained by the City of Wheat Ridge.

BACKGROUND:

On July 23, 2011 the City of Wheat Ridge and RTD entered into an Intergovernmental Agreement (“IGA”) for the Gold Line (currently referred to as the “G-Line”) Commuter Railway project (the “Project”). Section 6.2 of the IGA states that RTD will design and construct W. 50th Place (now renamed to Ridge Road) between Tabor Street and Ridge Road as part of the Ward Road Station access and street grid system of the Project. The IGA between the City and RTD states the City agrees to take ownership of the improvements associated with the Project once

constructed, which includes the public ROW acquired to construct and maintain said improvements.

During the course of the Project, RTD acquired ROW along Ridge Road they deemed necessary at the time to provide adequate access to the Ward Road Station. However, subsequent to the construction of the public improvements along Ridge Road it has been determined that the amount of ROW acquired was excessive. A strip of ROW approximately 20 feet in width along the north side of Ridge Road, between Tabor Street and Taft Court, could be vacated and returned back to the adjacent landowner without any adverse impact to the City.

RECOMMENDATION:

Staff recommends approval of the attached ordinance.

RECOMMENDED MOTION:

“I move to approve Council Bill No. 25-2018, an ordinance vacating any interest held by the City in a portion of Ridge Road, on first reading, order it published, public hearing set for Monday, August 27, 2018, at 7 p.m. in City Council Chambers, and that it take effect 15 days after final publication.”

Or,

“I move to postpone indefinitely Council Bill No. 25-2018, an ordinance vacating any interest held by the City in a portion of Ridge Road for the following reason(s) _____.”

REPORT PREPARED/REVIEWED BY:

Dave Brossman, Development Review Engineer

Scott Brink, Public Works Director

Patrick Goff, City Manager

ATTACHMENTS:

1. Council Bill No. 25-2018
2. Exhibit A
3. Area Map

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER _____
COUNCIL BILL NO. 25
ORDINANCE NO. _____
Series 2018

**TITLE: AN ORDINANCE OF THE CITY OF WHEAT RIDGE
VACATING ANY INTEREST HELD BY THE CITY IN A
PORTION OF RIDGE ROAD, A PUBLIC ROADWAY**

WHEREAS, the City of Wheat Ridge holds public rights-of-way in trust for the public and the landowners abutting such rights-of-way; and

WHEREAS, Ridge Road between Tabor Street and Taft Court was recently constructed; and

WHEREAS, a portion of right-of-way along the northerly side of Ridge Road is unneeded for public roadway purposes; and

WHEREAS, pursuant to the authority granted by C.R.S. §§ 31-15-702(1)(a)(I) and 43-2-301 et seq., the Council of the City of Wheat Ridge, Colorado, has determined that the nature and extent of the public use and the public interest to be served is such as to warrant the vacation of this area; and

WHEREAS, the portion of the Ridge Road right-of-way to be vacated and which is the subject of this ordinance is more fully described on **Exhibit A** attached hereto and fully incorporated herein by this reference; and

WHEREAS, no property abutting said public roadway will be left without an established public road or private-access easement connecting said land with another established public road.

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

Section 1. Vacation. To the extent of any City interest therein, the following portion of the Ridge Road right-of-way is hereby vacated, the same being no longer required for public use and the public interest will be served by such vacation, as more particularly described on the attached **Exhibit A**.

Section 2. Severability, Conflicting Ordinances Repealed. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 3. Recording. This Ordinance shall be filed for record with the office of the Jefferson County Clerk and Recorder.

Section 4. Effective Date. This Ordinance shall take effect fifteen (15) days after final publication, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of ____ to ____ on this 13th day of August, 2018, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge, and Public Hearing and consideration on final passage set for August 27, 2018 at 7:00 p.m., in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of ____ to ____, this ____ day of _____, 2018.

SIGNED by the Mayor on this ____ day of _____, 2018.

Bud Starker, Mayor

ATTEST:

Janelle Shaver, City Clerk

Approved as to Form

Gerald E. Dahl, City Attorney

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

Published:
Wheat Ridge Transcript and www.ci.wheatridge.co.us

EXHIBIT A

PARCEL DESCRIPTION

A PARCEL OF LAND SITUATED IN THE RIGHT-OF-WAY OF WEST RIDGE ROAD, BEING LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF WHEAT RIDGE, COUNTY OF JEFFERSON, STATE OF COLORADO.

BASIS OF BEARINGS: BASIS OF BEARINGS: THE NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, AS MONUMENTED BY A 2" ID PIPE WITH A 3-1/4" INCH ALUMINUM CAP IN A RANGE BOX STAMPED "PLS 13212" AT THE EAST QUARTER CORNER OF SAID SECTION 17 (COWR PT NO. 12209) AND A NO. 6 REBAR WITH A 2-1/2" INCH ALUMINUM CAP IN A RANGE BOX STAMPED "PLS 27609" AT THE CENTER QUARTER CORNER OF SAID SECTION 17 (COWR PT. NO. 12109) TO BEAR SOUTH 89°11'07" WEST, A DISTANCE OF 2646.95 FEET WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT SAID EAST QUARTER CORNER OF SECTION 17:

THENCE S 89°11'07" W ALONG SAID NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 17 A DISTANCE OF 1058.53 FEET;

THENCE S 00°18'02" E A DISTANCE OF 789.48 FEET TO THE SOUTHWEST CORNER OF SAID HANCE'S SUBDIVISION AND THE POINT OF BEGINNING;

THENCE ALONG THE LINE COMMON OF SAID SUBDIVISION AND NORTHERLY RIGHT-OF-WAY OF WEST RIDGE ROAD THE FOLLOWING FOUR (4) COURSES:

- 1) N 89°40'56" E A DISTANCE OF 86.44 FEET;
- 2) N 84°17'24" E A DISTANCE OF 70.28 FEET;
- 3) N 84°38'08" E A DISTANCE OF 40.16 FEET;
- 4) N 79°41'52" E A DISTANCE OF 158.91 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 400.00 FEET, A DELTA ANGLE OF 4°00'44", AND AN ARC LENGTH OF 28.01 FEET, WHOSE CHORD BEARS S 09°51'42" W A DISTANCE OF 28.00 FEET;

THENCE S 83°20'19" W A DISTANCE OF 236.40 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 755.00 FEET, A DELTA ANGLE OF 5°50'12", AND AN ARC LENGTH OF 76.91 FEET, WHOSE CHORD BEARS S 86°16'13" W A DISTANCE OF 76.88 FEET TO A POINT OF TANGENCY;

THENCE S 89°16'38" W A DISTANCE OF 36.27 FEET;

THENCE N 00°18'02" W A DISTANCE OF 20.83 FEET TO THE **POINT OF BEGINNING**;

SAID DESCRIBED PARCEL CONTAINS 7,067 SQ. FT. MORE OR LESS;

ALL LINEAL DISTANCE UNITS ARE REPRESENTED IN U.S. SURVEY FEET.

SURVEYOR'S STATEMENT

I, AARON ALVIN DEMO, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO DO HEREBY STATE THAT THIS EASEMENT DESCRIPTION WAS PREPARED UNDER MY PERSONAL SUPERVISION AND CHECKING, AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, BELIEF, AND IN MY PROFESSIONAL OPINION, AND THAT IT IS NOT A MONUMENTED LAND SURVEY.

AARON ALVIN DEMO, PROFESSIONAL LAND SURVEYOR
COLORADO PLS NO. 38285
FOR AND ON BEHALF OF BASELINE ENGINEERING CORP.

BASELINE ENGINEERING CORP.
4007 SOUTH LINCOLN AVE, SUITE 405
LOVELAND, COLORADO 80537



EXHIBIT A

CENTER 1/4 CORNER SEC. 17, T3S, R69W
FOUND NO. 6 REBAR WITH 2-1/2"
ALUMINUM CAP MARKED "PLS 27609"
WHEAT RIDGE NO. PT. 12109

POINT OF COMMENCEMENT
EAST 1/4 CORNER SEC. 17, T3S, R69W,
FOUND 2" PIPE WITH 3-1/4" ALUMINUM CAP
MARKED "PLS 13212"
WHEAT RIDGE PT. NO. 12209

BASIS OF BEARINGS

WEST 52ND AVENUE

1058.53'

(60' ROW)

S 89°11'07" W 2646.95'
NORTH LINE OF THE SE 1/4 OF SEC. 17

NORTHWEST CORNER LOT 1,
HANCE'S SUBDIVISION REPLAT NO. 1
MODIFIED STATE PLANE
N 713,601.47
E 104,113.77

LINE TABLE		
LINE #	BEARING	LENGTH
L1	N 89°40'56" E	86.44'
L2	N 84°17'24" E	70.28'
L3	N 84°38'08" E	40.16'
L4	N 79°41'52" E	158.91'
L5	S 83°20'19" W	236.40'
L6	S 89°16'38" W	36.27'
L7	N 00°18'02" W	20.83'

LOT 1

CURVE TABLE					
CURVE #	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C1	28.01'	400.00'	4°00'44"	S 09°51'42" W	28.00'
C2	76.91'	755.00'	5°50'12"	S 86°16'13" W	76.88'

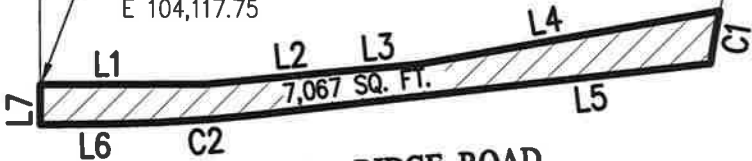
WEST 51ST AVENUE

(63' ROW)

HANCE'S SUBDIVISION
REPLAT NO. 1
REC. NO. 2017076231

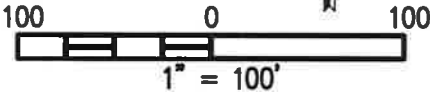
LOT 2

POINT OF BEGINNING
SOUTHWEST CORNER LOT 2,
HANCE'S SUBDIVISION REPLAT NO. 1
MODIFIED STATE PLANE
N 712,842.00
E 104,117.75



WEST RIDGE ROAD
(VARIES ROW)

TABOR STREET
(ROW VARIES)



NOTE: THIS EXHIBIT DOES NOT REPRESENT A
MONUMENTED LAND SURVEY, IT IS INTENDED ONLY
TO DEPICT THE ATTACHED LEGAL DESCRIPTION.

BASELINE

Engineering · Planning · Surveying

4007 S. LINCOLN AVENUE, SUITE 405 • LOVELAND, COLORADO 80537
P. 970.353.7600 • F. 866.679.4864 • www.baselinencorp.com

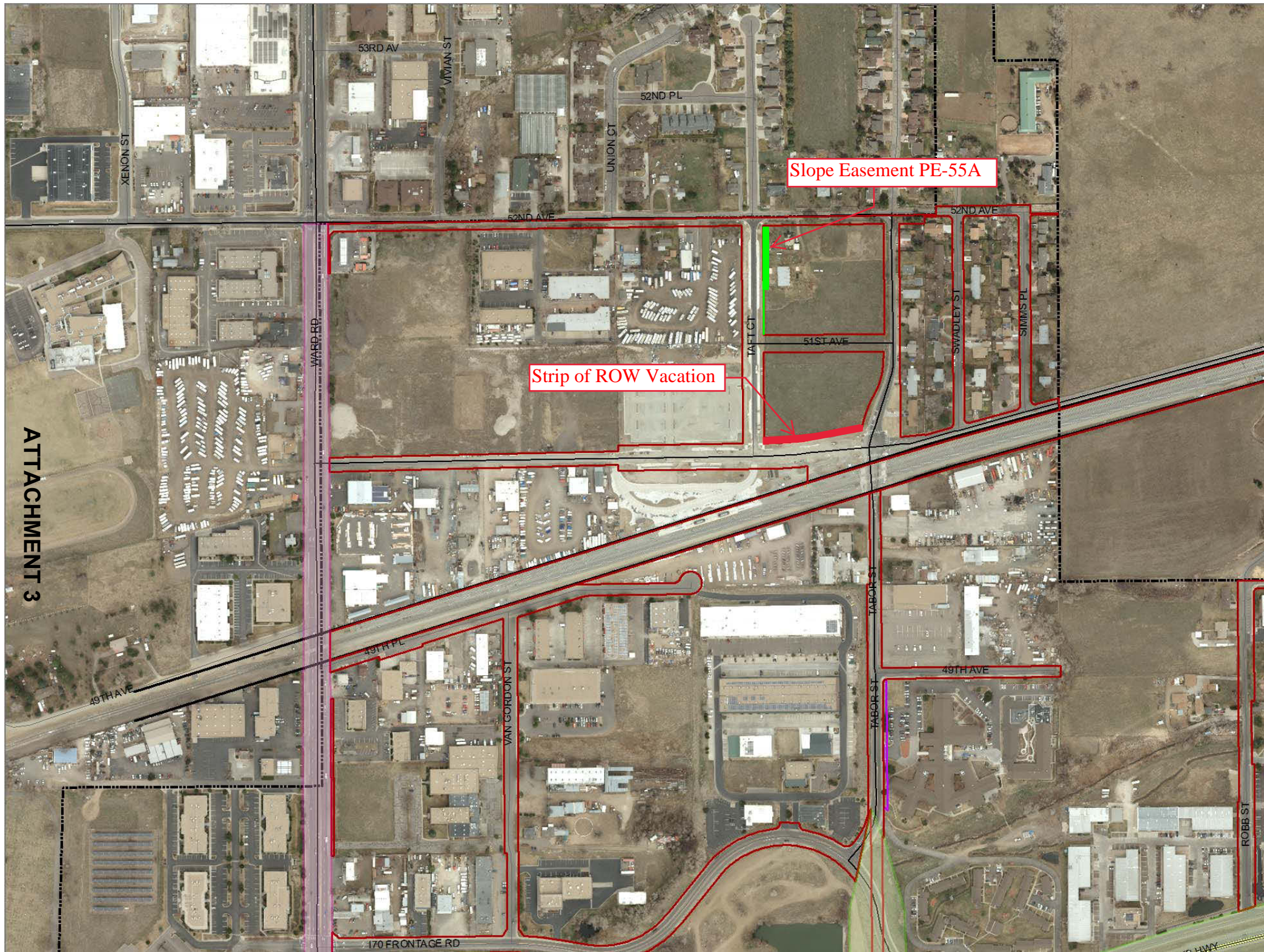
HRE DEVELOPEMENT LLC

CITY OF WHEAT RIDGE

RIGHT-OF-WAY VACATION

JEFFERSON COUNTY

DESIGNED BY	DEW	INITIAL SUBMITTAL	01/12/18
DRAWING SIZE	8.5" X 14"	SURVEY FIRM	SURVEY DATE
JOB NO.	CO-3206H	DRAWING NAME	3206H-VACATION EXHIBIT.dwg
CHECKED BY	AAD	SHEET	2 OF 2



Slope Easement PE-55A

Strip of ROW Vacation

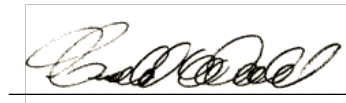


REQUEST FOR CITY COUNCIL ACTION**TITLE: RESOLUTION 48-2018 - A RESOLUTION APPROVING THE CONSOLIDATED SERVICE PLAN FOR THE YARROW GARDENS METROPOLITAN DISTRICT**

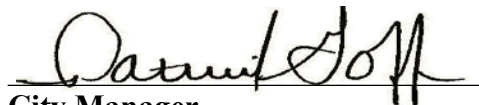
- ☐ PUBLIC HEARING
☐ BIDS/MOTIONS
☒ RESOLUTIONS

- ☐ ORDINANCES FOR 1ST READING
☐ ORDINANCES FOR 2ND READING

QUASI-JUDICIAL:

☐ YES☒ NO

City Attorney



City Manager

ISSUE:

The City Council is asked to approve the service plan for the Yarrow Gardens Metropolitan District, a taxing district to be used to finance certain improvements for a residential development. Service plan approval is the means by which the City oversees the creation of such districts, which are ultimately approved for formation by the district court.

PRIOR ACTION:

The Council received a presentation by the project developer at a study session, during which the developer described the purposes for creation of the district.

FINANCIAL IMPACT:

No financial impacts on the City. The district would be authorized to impose a mill levy on the properties within the District for the purpose of supporting bonds for construction of improvements and for the purpose of maintaining them.

BACKGROUND:

Metropolitan districts are commonly used by developers to finance the construction and maintenance of facilities needed for the project, including roads, sidewalks, drainage, lighting and utilities. This proposed district would be for such purposes. The state statute allows private

property owners to form such districts upon approval by the district court. The City has authority to review and approve, approve with conditions or disapprove the service plan, which details what services will be provided by the district, and by what financing tools (mill levy, bonds, etc.). The attached service plan does this. The City Council's approval of the service plan is a required precondition to the district court's approval of the formation of the district.

RECOMMENDATION:

Staff recommends approval of the resolution.

RECOMMENDED MOTION:

"I move to approve Resolution No 48-2018, a resolution approving the Consolidated Service Plan for the Yarrow Gardens Metropolitan District."

Or,

"I move to postpone indefinitely Resolution No 48-2018, a resolution approving the Consolidated Service Plan for the Yarrow Gardens Metropolitan District, for the following reason(s): _____"

REPORT PREPARED BY:

Gerald Dahl, City Attorney
Patrick Goff, City Manager

ATTACHMENTS:

1. Resolution 48-2018
2. Service Plan

CITY OF WHEAT RIDGE, COLORADO
RESOLUTION NO. 48
Series of 2018

**TITLE: A RESOLUTION APPROVING THE CONSOLIDATED
SERVICE PLAN FOR THE YARROW GARDENS
METROPOLITAN DISTRICT**

WHEREAS, the Yarrow Gardens Metropolitan District (“District”) is being organized pursuant to the Colorado Special District Act §§ 32-1-101, *et seq.*, C.R.S.; and

WHEREAS, the District has submitted the District’s Service Plan for City Council approval (the “Service Plan”); and

WHEREAS, the Service Plan provides for the District’s provision and financing of public improvements and services for the development of a residential project within the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Wheat Ridge, Colorado, as follows:

1. The above and foregoing recitals are incorporated herein by reference and are adopted as findings and determinations of the City.
2. The City further finds and determines that all applicable requirements of §§ 32-1-202(2), 32-1-203(2) and 32-1-204.5, C.R.S. relating to the submittal and requirements of the Service Plan and the consideration thereof by the City, have been met.
3. Based upon the Service Plan, the City hereby determines as follows:
 - The Service Plan meets the requirements of § 32-1-202 (2), C.R.S. regarding the contents thereof.
 - The Service Plan meets the requirements of §32-1-203(2) as follows:
 - The Service Plan demonstrates a sufficient existing and projected need for the provision of organized service within the District’s boundaries.
 - Without the District, the existing service in the area is inadequate to serve the services proposed to be provided within the District’s boundaries.
 - The District is capable of providing economical and sufficient service to the area within its proposed boundaries.

- The area included within the District's boundaries and financing mechanisms contemplated in the Service Plan have, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.
4. Pursuant to § 32-1-204.5(1), C.R.S., the City does hereby approve the Service Plan as submitted to the City on June 22, 2018.
 5. A certified copy of this Resolution shall be attached to the Service Plan as Exhibit H, filed in the records of the City, and the Petition for the organization of the District shall be required to comply with all other filings required by law.
 6. All resolutions or parts thereof in conflict with the provisions hereof shall be and the same are hereby repealed.

DONE AND RESOLVED this 13th day of August 2018.

By: _____
Bud Starker, Mayor

ATTEST:

Janelle, Shaver, City Clerk

**SERVICE PLAN
FOR YARROW GARDENS METROPOLITAN DISTRICT**

Prepared
By:

White Bear Ankele Tanaka & Waldron, Professional Corporation
2154 E. Commons Avenue, Suite 2000
Centennial, Colorado 80122

Approved _____, 2018

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LIST OF EXHIBITS

EXHIBIT A	Legal Description of District
EXHIBIT B	District Boundary Map
EXHIBIT C	City of Wheat Ridge Vicinity Map
EXHIBIT D	Proof of Ownership
EXHIBIT E	Intergovernmental Agreement between the District and the City of Wheat Ridge
EXHIBIT F	Pro Forma Capital Plan
EXHIBIT G	Pro Forma Financial Plan

I. INTRODUCTION

A. Purpose and Intent.

The purpose of the District will be to provide all or a portion of Public Improvements as further defined and described in this Service Plan (within and without the District's boundaries as will be determined by a District's Board to be in the best interest of the District and in accordance with the Service Plan), for the benefit of the residents and taxpayers located within the Project. The primary purpose of the District will be to finance the construction of these Public Improvements and have authorization as is necessary to own, operate and maintain Public Improvements not otherwise transferred to the another public entity. The District shall also be authorized, but not required, to provide covenant enforcement and design review services in accordance with state statute. Upon completion to City standards, the District will convey to the City such Public Improvements as are constructed by the District in accordance with the Approved Development Plan. The District is an independent unit of local government, separate and distinct from the City, and, except as may otherwise be provided for by State or local law or this Service Plan, their activities are subject to review by the City only insofar as they may deviate in a material matter from the requirements of the Service Plan.

B. Need for the District.

The Project is not presently served with the facilities and/or services proposed to be provided by the District, nor does the City nor any other special district have any plans to provide such services within a reasonable time and on a comparable basis. There are currently no other governmental entities, including the City, located in the immediate vicinity of the District that considers it desirable, feasible or practical to undertake the planning, design, acquisition, construction, installation, relocation, redevelopment and financing of the Public Improvements needed for the Project. The District is therefore necessary in order for the Public Improvements required for the Project to be provided in the most economic manner possible. Approval of this Service Plan shall not indicate, implicitly or expressly, that any land use applications now on file with the City or any land use applications filed in the future will be approved by the City.

C. Objective of the City Regarding Service Plan.

The City's objective in approving the Service Plan for the District is to authorize the District to provide for the planning, design, acquisition, demolition, construction, installation, relocation and redevelopment of the Public Improvements from the proceeds of Debt to be issued by the District and to further authorize the District for the continued ownership, operation and maintenance of certain of the Public Improvements. All Debt is expected to be repaid by taxes imposed and collected for no longer than the Maximum Debt Mill Levy Imposition Term and at a tax mill no higher than the Maximum Debt Mill Levy, and/or repaid by Fees as limited by Section IV.A.7. Debt which is issued within these parameters will insulate property owners from excessive tax and Fee burdens to support the servicing of the Debt and will result in a timely and reasonable discharge of the Debt.

This Service Plan is intended to establish financial constraints and requirements associated with the District that are not to be violated under any circumstances. The primary

purpose is to provide for the Public Improvements and services associated with development and regional needs.

The District shall be authorized to finance the Public Improvements that can be funded from Debt to be repaid from Fees and/or tax revenues collected from a mill levy which shall not exceed the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term. It is the intent of this Service Plan to assure to the extent possible that no property bear an economic burden that is greater than that associated with the Maximum Debt Mill Levy in amount and that no property bear an economic burden for Debt that is greater than that associated with the Maximum Debt Mill Levy Imposition Term in duration even under bankruptcy or other unusual situations. Generally, the cost of Public Improvements that cannot be funded within these parameters are not costs to be paid by the District.

II. DEFINITIONS

In this Service Plan, the following terms shall have the meanings indicated below, unless the context hereof clearly requires otherwise:

Approved Development Plan: means a development plan, subdivision improvement plan, or other process established by the City (including but not limited to approval of a final plat, minor development plat or site plan) for identifying, among other things, Public Improvements necessary for facilitating development for property within the Service Area, as approved by the City pursuant to the City Code, and as may be amended pursuant to the City Code from time to time.

Board: means the board of directors of the District.

City: means the City of Wheat Ridge, Colorado.

City Council: means the City Council of the City of Wheat Ridge, Colorado.

Debt: means bonds, notes or other multiple fiscal year financial obligations for the payment of which the District has pledged to impose an *ad valorem* property tax mill levy.

District: means Yarrow Gardens Metropolitan District.

District Boundaries: means the boundaries of the District as described in the District Boundary Map.

District Boundary Map: means the map attached hereto as **Exhibit B**, describing the boundaries of the District.

End User: means any owner, or tenant of any owner, of any platted Taxable Property within the District for which a certificate of occupancy has been issued who is a resident homeowner, renter, commercial property owner, or commercial tenant. By way of illustration, a resident homeowner, renter, commercial property owner, or commercial tenant is an End User. The business entity that constructs homes or commercial structures is not an End User.

Fees: means any fee imposed by the District for services, programs or facilities provided by the District, as described in Section IV.A.7. below.

Financial Plan: means the Financial Plan described in Section V which sets forth the expected plan for (i) how the Public Improvements are to be financed; (ii) how the Debt is expected to be incurred; and (iii) the estimated operating revenue derived from property taxes for the first budget year. Such Financial Plan may be adjusted by the District board of directors in the future as is necessary to accommodate phasing or other financial or development considerations so long as any such adjustment does not exceed either the Maximum Debt Mill Levy or the Maximum Debt Mill Levy Imposition Term.

Maximum Debt Mill Levy: means the maximum mill levy the District is permitted to impose for payment of Debt as further set forth in Section V.C below, including adjustments to the Maximum Debt Mill Levy as are permitted under Section V.C.

Maximum Debt Mill Levy Imposition Term: means the maximum term for imposition of a debt service mill levy on a particular property as set forth in Section V.D below.

Project: means the development or property commonly referred to as Yarrow Gardens.

Public Improvements: means a part or all of the improvements authorized to be planned, designed, acquired, constructed, installed, relocated, redeveloped and financed as generally described in the Special District Act, except as specifically limited in Section IV below, to serve the future taxpayers and inhabitants of the Service Area as determined by the Board of the District.

Service Area: means the property within the District Boundaries.

Service Plan: means this service plan for the District approved by City Council.

Service Plan Amendment: means an amendment to the Service Plan approved by City Council in accordance with the City Code and applicable state law.

Special District Act: means Section 32-1-101, et seq., of the Colorado Revised Statutes, as amended from time to time.

State: means the State of Colorado.

Taxable Property: means real or personal property within the Service Area subject to ad valorem taxes imposed by the District.

III. BOUNDARIES PROPOSED LAND USE/POPULATION PROJECTIONS/ ASSESSED VALUATION

The area of the District Boundaries includes approximately 6 acres. A legal description of the District Boundaries is attached hereto as **Exhibit A**. A District Boundary Map is attached hereto as **Exhibit B**. A vicinity map is attached hereto as **Exhibit C**. It is anticipated that a District's boundaries may change from time to time as it undergoes inclusions and exclusions

pursuant to Section 32-1-401, et seq., C.R.S., and Section 32-1-501, et seq., C.R.S., subject to the limitations set forth in Section IV below.

The assessed valuation of the Service Area as of the date of this Service Plan is approximately One Hundred and Sixteen Thousand Dollars (\$116,000) for purposes of this Service Plan and, at build out, is expected to be sufficient to reasonably discharge the Debt under the Financial Plan. The population of the District at build-out is estimated to be approximately 205 people. The projected build-out for the Service Area is set forth in the pro forma Financial Plan attached hereto as **Exhibit G**.

Approval of this Service Plan by the City does not imply approval of the development of a specific area within the Service Area of the District, nor does it imply approval of the number of residential units identified in this Service Plan or any of the exhibits attached thereto, unless the same is contained within an Approved Development Plan.

IV. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES

A. Powers of the District and Service Plan Amendment.

The District shall have the power and authority to provide the Public Improvements and related ownership, operation and maintenance services within and without the boundaries of the District as such power and authority is described in the Special District Act, and other applicable statutes, common law and the Constitution, subject to the limitations set forth herein.

1. Operations and Maintenance Limitation. The purpose of the District is to plan for, design, acquire, construct, install, relocate, redevelop and finance the Public Improvements. The District shall dedicate the Public Improvements to the City or other appropriate jurisdiction in a manner contemplated under the Approved Development Plan and other rules and regulations of the City and applicable provisions of the City Code. The District shall be authorized, but not obligated, to own, operate and maintain Public Improvements not otherwise dedicated to the City or other public entity.

2. Fire Protection Limitation. The District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain fire protection facilities or services, unless such facilities and services are provided pursuant to an intergovernmental agreement with the City. The authority to plan for, design, acquire, construct, install, relocate, redevelop or finance fire hydrants and related improvements installed as part of the water system shall not be limited by this provision. The Project will obtain its fire protection and emergency response services from the City.

3. Construction Standards Limitation. The District will ensure that Public Improvements constructed by the District are designed and constructed in accordance with the standards and specifications of the City and of other governmental entities having proper jurisdiction, including the Colorado Department of Health, and other applicable local, state or federal agencies.

4. Inclusion Limitation. The District shall not include within its boundaries any property outside the Service Area without the prior written consent of the City.

5. Overlap Limitation. The District shall not consent to the organization of any other district organized under the Special District Act within the Service Area which will overlap the boundaries of the District unless the aggregate mill levy for payment of Debt of such proposed districts will not at any time exceed the Maximum Debt Mill Levy of the District.

6. Total Debt Issuance Limitation. The District shall not issue Debt in excess of Six Million Dollars (\$6,000,000). Debt that is issued for the purpose of refunding outstanding District Debt shall not be counted against such \$6,000,000 debt limitation, provided, however, that if the aggregate principal amount of the refunding Debt exceeds the outstanding aggregate principal amount of the refunded Debt, the increase in principal amount shall be counted against such debt limitation.

7. Fee Limitation. The District may impose and collect Fees as a source of revenue for repayment of debt, capital costs, and/or for operations and maintenance. No Fee related to repayment of Debt shall be authorized to be imposed upon or collected from Taxable Property owned or occupied by an End User. Notwithstanding any of the foregoing, the restrictions in this definition shall not apply to any Fee imposed upon or collected from Taxable Property for the purpose of funding operation and maintenance costs of the District, including the establishment of a reserve fund for future repairs or replacement costs.

8. Consolidation Limitation. The District shall not file a request with any Court to consolidate with another Title 32 district, without the prior written consent of the City.

9. Bankruptcy Limitation. All of the limitations contained in this Service Plan, including, but not limited to, those pertaining to the Maximum Debt Mill Levy, Maximum Debt Mill Levy Imposition Term and the Fees have been established under the authority of the City to approve a Service Plan with conditions pursuant to Section 32-1-204.5, C.R.S. It is expressly intended that such limitations:

(a) Shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a Service Plan Amendment; and

(b) Are, together with all other requirements of Colorado law, included in the “political or governmental powers” reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the “regulatory or electoral approval necessary under applicable nonbankruptcy law” as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

Any Debt, issued with a pledge or which results in a pledge, that exceeds the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term, shall be deemed a material modification of this Service Plan pursuant to Section 32-1-207, C.R.S. and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the City as part of a Service Plan Amendment.

10. Service Plan Amendment Requirement. This Service Plan has been designed with sufficient flexibility to enable the District to provide required services and facilities under evolving circumstances without the need for numerous amendments. To the extent

permitted by law, the District may seek formal approval from the City of modifications to this Service Plan which are not material, but for which the District may desire a written amendment and approval by the City. Such approval may be evidenced by any instrument executed by the City Manager, City Attorney, or other designated representative of the City as to the matters set forth therein and shall be conclusive and final.

B. Preliminary Engineering Survey.

The District shall have authority to provide for the planning, design, acquisition, construction, installation, relocation, redevelopment, maintenance and financing of the Public Improvements within and without the boundaries of the District. An estimate of the costs of the Public Improvements which may be planned for, designed, acquired, constructed, installed, relocated, redeveloped, maintained or financed was prepared based upon a preliminary engineering survey and estimates derived from the preliminary zoning on the property in the Service Area and is approximately Two Million Two Hundred Eighty Two Thousand Eight Hundred and Ninety Eight Dollars (\$2,282,898). The Capital Plan attached hereto as **Exhibit F** includes a description of the type of capital facilities to be developed by the District, an estimate of the cost of the proposed facilities, and a pro forma capital expenditure plan correlating expenditures with development. The actual Public Improvements to be constructed will be determined by the Approved Development Plan, notwithstanding the Capital Plan, and are necessary and for the benefit of all homeowners, residents and property owners within the District in order to provide for a coordinated system of Public Improvements for the development of the Project.

All of the Public Improvements constructed by the District will be designed in such a way as to assure that the Public Improvements standards will be compatible with those of the City and shall be in accordance with the requirements of the Approved Development Plan. All construction cost estimates are based on the assumption that construction conforms to applicable local, State or Federal requirements.

C. Other Powers.

The District shall also have the following authority:

a. Service Plan Amendments. To amend the Service Plan as needed, subject to the appropriate statutory procedures and City Code.

b. Phasing, Deferral. Without amending this Service Plan, to defer, forego, reschedule, or restructure the financing and/or construction of certain improvements and facilities, to better accommodate the pace of growth, resource availability, and potential inclusions of property within the District.

c. Additional Services. Except as specifically provided herein, to provide such additional services and exercise such powers as are expressly or impliedly granted by Colorado law.

D. Facilities to be Constructed and/or Acquired.

The District proposes to provide and/or acquire Public Improvements necessary and for the benefit of the Project, and all residents, property owners and homeowners of the District as are set forth in the Approved Development Plan. A pro forma Capital Plan in **Exhibit F**, attached hereto, provides a general description and preliminary engineering survey, as appropriate, of the currently forecasted on-site and/or off-site improvements and estimated costs.

Notwithstanding anything herein to the contrary, the District shall have the authority to enter into any intergovernmental agreements deemed necessary to effectuate the long-term plans of the District without further approval from the City. In addition, the District shall have the authority to seek electorate authorization to effectuate all purposes set forth in this Service Plan in order to comply with all applicable constitutional and statutory requirements.

V. FINANCIAL PLAN

A. General.

The District shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment of the Public Improvements by and through the proceeds of Debt to be issued by the District. The Financial Plan for the District shall be to issue such Debt as the District can reasonably pay within the Maximum Debt Mill Levy Imposition Term from revenues derived from the Maximum Debt Mill Levy, Fees and other legally available revenues. A pro forma Financial Plan is attached hereto as **Exhibit G**, which provides preliminary projections demonstrating that the District can reasonably discharge the proposed Debt, consistent with the requirements of the Special District Act. The total Debt that the District shall be permitted to issue shall not exceed Six Million Dollars (\$6,000,000) and shall be permitted to be issued in amounts and on a schedule in such year or years as the District, in its discretion, determines is necessary to serve development as it occurs and can be issued within the parameters established herein. All bonds and other Debt issued by the District may be payable from any and all legally available revenues of the District, including, but not limited to, general ad valorem taxes and Fees. The District will also rely upon various other revenue sources authorized by law. These will include the power to assess Fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(1), C.R.S., as amended from time to time.

B. Maximum Voted Interest Rate and Maximum Underwriting Discount.

The interest rate on any Debt is expected to be the market rate at the time the Debt is issued. In the event of a default, the proposed maximum interest rate on any Debt is not expected to exceed eighteen percent (18%). The proposed maximum underwriting discount will be five percent (5%). Debt, when issued, will comply with all relevant requirements of this Service Plan, State law and Federal law as then applicable to the issuance of public securities.

C. Maximum Debt Mill Levy.

The “Maximum Debt Mill Levy” shall be the maximum mill levy a District is permitted to impose upon the taxable property within such District for payment of Debt, and shall be determined as follows:

1. For the portion of any aggregate Debt which exceeds fifty percent (50%) of the District's assessed valuation, the Maximum Debt Mill Levy for such portion of Debt shall be Sixty (60) mills less the number of mills necessary to pay unlimited mill levy Debt described in Section V.C.2 below; provided that if, on or after January 1, 2018, changes are made in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement; the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2018, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

2. For the portion of any aggregate Debt which is equal to or less than fifty percent (50%) of the District's assessed valuation, either on the date of issuance or at any time thereafter, the mill levy to be imposed to repay such portion of Debt shall not be subject to the Maximum Debt Mill Levy and, as a result, the mill levy may be such amount as is necessary to pay the Debt service on such Debt, without limitation of rate.

3. For purposes of the foregoing, once Debt has been determined to be within Section V.C.2 above, such that the District is entitled to pledge to its payment an unlimited ad valorem mill levy, such District may provide that such Debt shall remain secured by such unlimited mill levy, notwithstanding any subsequent change in such District's Debt to assessed ratio. All Debt issued by the District must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law.

To the extent that the District is composed of or subsequently organized into one or more subdistricts as permitted under Section 32-1-1101, C.R.S., the term "District" as used herein shall be deemed to refer to the District and to each such subdistrict separately, so that each of the subdistricts shall be treated as a separate, independent district for purposes of the application of the definitions and limitations herein.

D. Maximum Debt Mill Levy Imposition Term.

The District shall not impose a levy for repayment of any and all Debt (or use the proceeds of any mill levy for repayment of Debt) on any single property developed for residential uses which exceeds forty (40) years after the year of the initial imposition of such Debt mill levy unless a majority of the Board of the District imposing the mill levy are residents of the District and have voted in favor of a refunding of a part or all of the Debt and such refunding will result in a net present value savings as set forth in Section 11-56-101, C.R.S.; et seq., as may be amended from time to time.

E. Debt Repayment Sources.

The District may impose a mill levy on taxable property within its boundaries as a primary source of revenue for repayment of debt service and for operations and maintenance. The District may also rely upon various other revenue sources authorized by law. At the District's discretion, these may include the power to assess Fees, rates, tolls, penalties, or charges as provided

in Section 32-1-1001(l), C.R.S., as amended from time to time. In no event shall the debt service mill levy in the District exceed the Maximum Debt Mill Levy or the Maximum Debt Mill Levy Imposition Term, except pursuant to an intergovernmental agreement between a District and the City.

F. Security for Debt.

The District shall not pledge any revenue or property of the City as security for the indebtedness. Approval of this Service Plan shall not be construed as a guarantee by the City of payment of any of the District's obligations; nor shall anything in the Service Plan be construed so as to create any responsibility or liability on the part of the City in the event of default by the District in the payment of any such obligation.

G. TABOR Compliance.

The District will comply with the provisions of TABOR. In the discretion of the Board, a District may set up other qualifying entities to manage, fund, construct and operate facilities, services, and programs. To the extent allowed by law, any entity created by a District will remain under the control of the District's Board.

H. District's Operating Costs.

The estimated cost of planning services, engineering services, legal services and administrative services, together with the estimated costs of the District's organization and initial operations, are anticipated to be One Hundred Thousand Dollars (\$100,000), which will be eligible for reimbursement from Debt proceeds.

In addition to the capital costs of the Public Improvements, the District will require operating funds for administration and to plan and cause the Public Improvements to be constructed and maintained. The first year's operating budget is estimated to be Fifty Thousand Dollars (\$50,000) which is anticipated to be derived from property taxes and other revenues. The Financial Plan attached hereto at **Exhibit G** contemplates a mill levy of approximately eight (8) mills for purposes of funding the operational budget, which may be supplemented by the District at its discretion through the imposition of additional property taxes or Fees, rates, tolls, or charges as permitted hereunder.

VI. ANNUAL REPORT

A. General.

The District shall be responsible for submitting an annual report to the City Clerk at the City's administrative offices no later than September 1st of each year following the year in which the Order and Decree creating the District has been issued. The annual report shall reflect activity and financial events of the District through the preceding December 31st (the "Report Year").

B. Reporting of Significant Events.

The annual report shall include information as to any of the following:

1. A narrative summary of the progress of the District in implementing its service plan for the Report Year.
2. Except when an exemption from audit has been granted for the report year under the Local Government Audit Law, the audited financial statements of the District for the Report Year including a statement of financial condition (i.e. balance sheet) as of December 31 of the report year and the statement of operations (i.e. revenues and expenditures) for the Report Year.
3. Unless disclosed within a separate schedule to the financial statements, a summary of the capital expenditures incurred by the District in development of public facilities in a Report Year, as well as any capital improvements or projects proposed to be undertaken in the five (5) years following the report year.
4. Unless disclosed within a separate schedule to the financial statements, a summary of the financial obligations of the District at the end of the report year, including the amount of outstanding indebtedness, the amount and terms of any new District indebtedness or long-term obligations issued in the Report Year, the amount of payment or retirement of existing indebtedness of the District in the Report Year, the total assessed valuation of all taxable properties within the District as of January 1 of the Report Year, and the current mill levy of the District pledged to debt retirement in the Report Year.
5. The District's budget for the calendar year in which the annual report is submitted.
6. A summary of residential and commercial development which has occurred within the District for the report year.
7. A summary of all fees, charges and assessments imposed by the District as of January 1 of the Report Year.
8. The name, business address and telephone number of each member of the Board and its chief administrative officer and general counsel, together with the date, place and time of the regular meetings of the Board.

VII. DISSOLUTION

Upon an independent determination of the City Council that the purposes for which the District was created have been accomplished, the District agrees to file a petition in the appropriate District Court for dissolution, pursuant to the applicable State statutes. In no event shall a dissolution occur until the District has provided for the payment or discharge of all of its outstanding indebtedness and other financial obligations as required pursuant to State statutes.

VIII. DISCLOSURE TO PURCHASERS

The District will use reasonable efforts to assure that all developers of the property located within the District provides written notice to all purchasers of property in the District regarding the Maximum Debt Mill Levy, as well as a general description of the District's authority to impose and collect rates, Fees, tolls and charges. The form of notice shall be filed with the City prior to the initial issuance of the Debt of the District and shall be recorded on the Service Area.

IX. INTERGOVERNMENTAL AGREEMENT

The form of the intergovernmental agreement, relating to the limitations imposed on the District's activities, is attached hereto as **Exhibit E**. The District shall approve the intergovernmental agreement in the form attached as **Exhibit E** at their first Board meeting after their organizational election. The City Council shall approve the intergovernmental agreement in the form attached as **Exhibit E** at the public hearing approving the Service Plan.

X. CONCLUSION

It is submitted that this Service Plan for the District, as required by Section 32-1-203(2), C.R.S., establishes that:

1. There is sufficient existing and projected need for organized service in the area to be serviced by the District;
2. The existing service in the area to be served by the District is inadequate for present and projected needs;
3. The District is capable of providing economical and sufficient service to the area within its proposed boundaries; and
4. Adequate service is not, and will not be, available to the area through the City or county or other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis.
5. The facility and service standards of the District are compatible with the facility and service standards of the City within which the special districts are to be located and each municipality which is an interested party under Section 32-1-204(1), C.R.S.
6. The proposal is in substantial compliance with a master plan adopted pursuant to Section 30-28-108, Colorado Revised Statutes;
7. The proposal is in compliance with any duly adopted City, regional or state long-range water quality management plan for the area.
8. The creation of the District is in the best interests of the area proposed to be served.

EXHIBIT A

Legal Description of the District

DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE 6TH P.M., CITY OF WHEAT RIDGE, COUNTY OF JEFFERSON, STATE OF COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 23, BEING A FOUND 3-1/4" DIAMETER BRASS CAP AND ALUMINUM MONUMENT IN RANGE BOX, MARKED "CITY OF WHEAT RIDGE PLS 13212", WHENCE THE SOUTH QUARTER CORNER OF SAID SECTION, BEING A FOUND 3-1/4" DIAMETER BRASS CAP AND ALUMINUM MONUMENT IN RANGE BOX, MARKED "CITY OF WHEAT RIDGE PLS 13212", IS ASSUMED TO BEAR SOUTH 00°10'11" EAST, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE SOUTH 68°54'09" WEST A DISTANCE OF 732.50 FEET TO THE WESTERLY RIGHT-OF-WAY OF YARROW STREET AND THE **POINT OF BEGINNING**;

THENCE ALONG SAID WESTERLY RIGHT-OF-WAY SOUTH 00°13'43" EAST A DISTANCE OF 386.23 FEET;

THENCE ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT 23.53 FEET, HAVING A RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 89°52'14" AND WHICH CHORD BEARS SOUTH 44°42'40" WEST A DISTANCE OF 21.29 FEET;

THENCE SOUTH 89°39'02" WEST A DISTANCE OF 618.95 FEET;

THENCE NORTH 00°15'42" WEST A DISTANCE OF 394.56 FEET;

THENCE NORTH 89°40'58" EAST A DISTANCE OF 104.15 FEET;

THENCE NORTH 00°15'42" WEST A DISTANCE OF 7.00 FEET;

THENCE NORTH 89°40'58" EAST A DISTANCE OF 530.00 FEET TO THE POINT OF BEGINNING.

SAID DESCRIBED PARCEL OF LAND CONTAINS 253,373 SQ. FT. OR 5.8250 ACRES, MORE OR LESS.

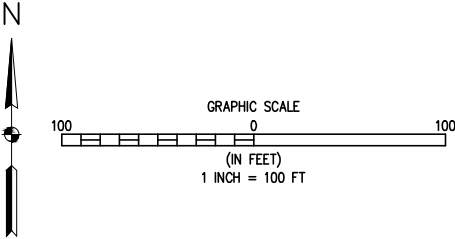
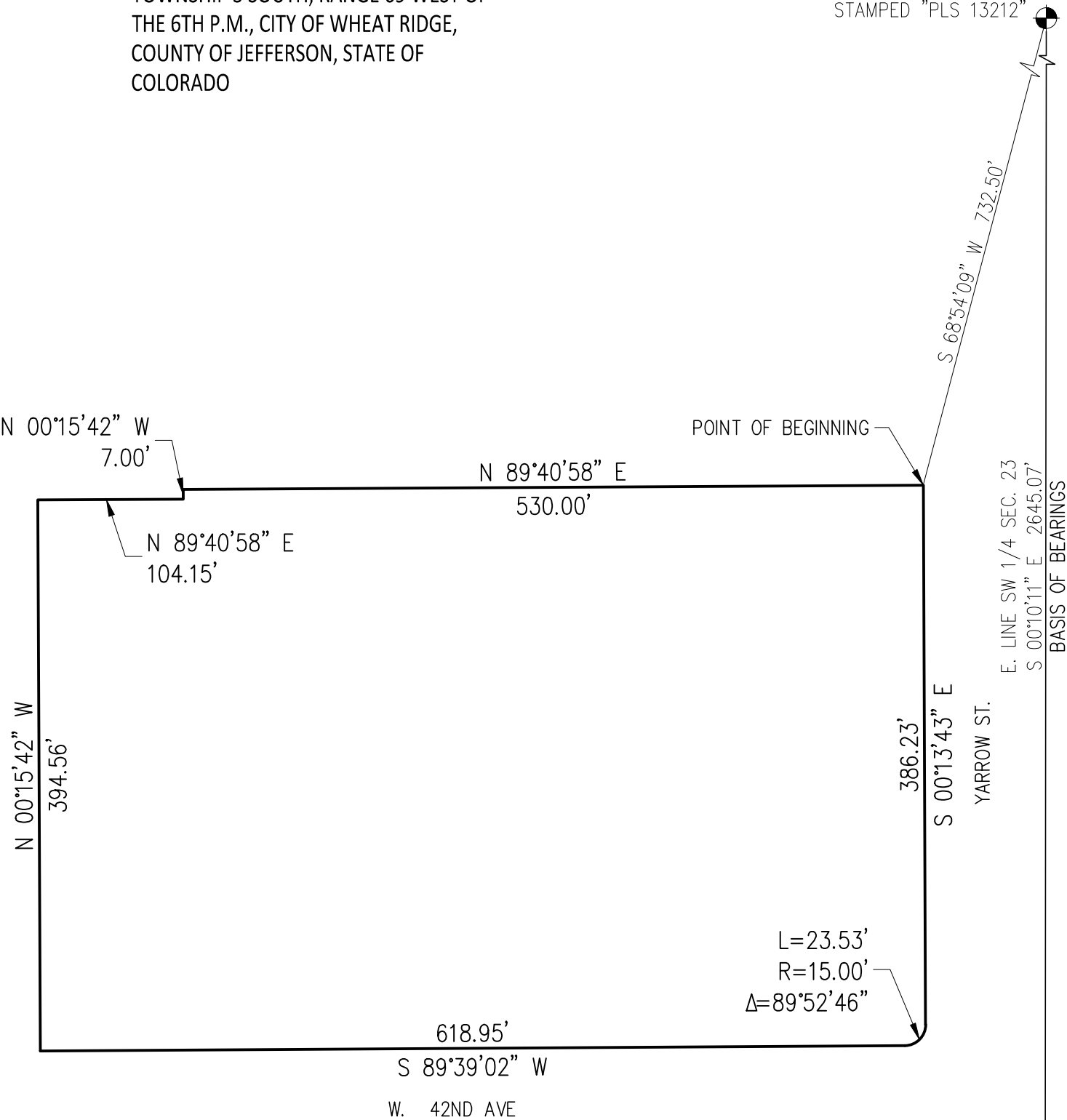
EXHIBIT B

District Boundary Map

EXHIBIT A

A PARCEL OF LAND LOCATED IN THE
SOUTHWEST QUARTER OF SECTION 23,
TOWNSHIP 3 SOUTH, RANGE 69 WEST OF
THE 6TH P.M., CITY OF WHEAT RIDGE,
COUNTY OF JEFFERSON, STATE OF
COLORADO

POINT OF COMMENCEMENT
CENTER QUARTER COR SEC. 23, T3S, R68W
3-1/4" BRASS CAP
STAMPED "PLS 13212"



SOUTH QUARTER COR SEC. 23, T3S, R69W
FOUND 3-1/4" BRASS CAP
MARKED "CITY OF WHEAT RIDGE PLS 13212"

NOTE: THIS EXHIBIT DOES NOT
REPRESENT A MONUMENTED SURVEY.
IT IS INTENDED ONLY TO DEPICT THE
ATTACHED PROPERTY DESCRIPTION

BASELINE

Engineering - Planning - Surveying

4007 S. LINCOLN AVENUE, SUITE 405 • LOVELAND, COLORADO 80537

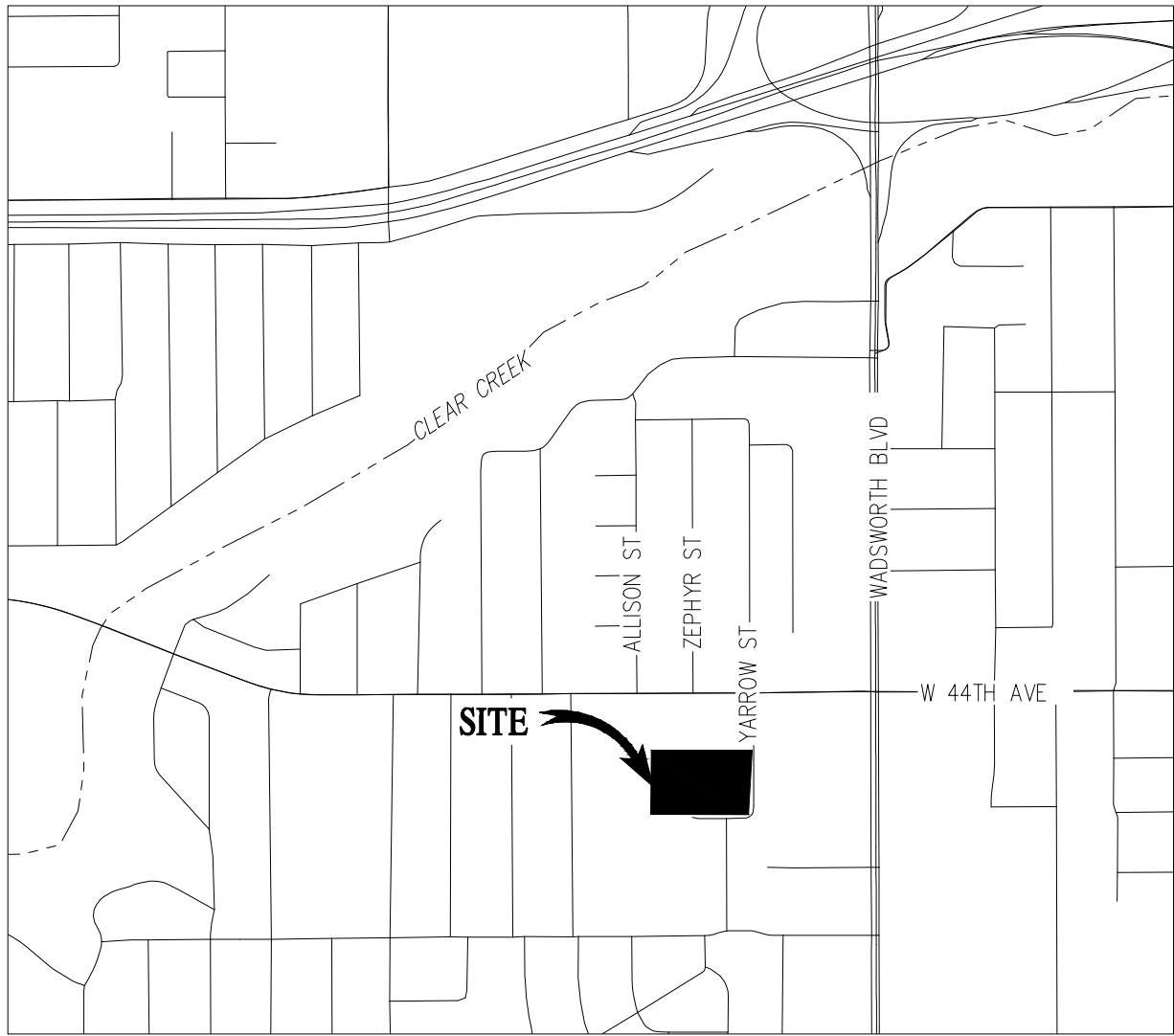
P. 970.363.7800 • F. 866.679.4884 • www.baselinecorp.com

YARROW GARDENS SUBDIVISION METROPOLITAN DISTRICT	
CITY OF WHEAT RIDGE	JEFFERSON COUNTY
PARCEL DESCRIPTION	

DESIGNED BY	MBR	INITIAL SUBMITTAL	06-20-18
DRAWING SIZE	8.5" X 14"	SURVEY FIRM	BEC
DRAWN BY	MBR	JOB NO.	C03285
CHECKED BY	AAD	DRAWING NAME	3285_Boundary Exhibit.dwg
		SHEET	OF

EXHIBIT C

City of Wheat Ridge Vicinity Map



VICINITY MAP
1" = 1000'


SHEET OF	DRAWING NAME 3285_Vicinity Map Exhibit.dwg	JOB NO. 003285	BASELINE 08/01/17	SHEET FROM 08/01/17	DRAWING SIZE 8.5" X 11"	INITIAL SUBMITTAL 06/20/2018	YARROW GARDENS METRO DISTRICT				REVISION	DESCRIPTION	PREPARED BY	DATE	DESIGNED BY MR
															DRAWN BY MR
															CHECKED BY MU
										 Engineering • Planning • Surveying					
										1850 FORD STREET • GOLDEN, COLORADO 80401 P: 303.940.9866 • F: 303.940.9859 • www.baselinecorp.com					

EXHIBIT D

Proof of Ownership

Property Information

Home (/) / PIN/Schedule Number (/propertyRecordsSearch/Pin) / **Property Information**

Property Information

Sales ()

History ()

 Help

PIN/Schedule

300024670

Owners

EFG-YARROW LLC

AIN/Parcel ID

39-233-00-004

Property Address

7955 W 42ND AVE
WHEAT RIDGE, CO 80033

Property Class

1212 Single Family Residential

Mailing Address

4601 DCT BLVD
DENVER, CO 80237

Legal Description

 Help

Subdivision

No Subdivision on Record

Parcel Map

Map (<http://www.co.jefferson.co.us/assr/pdf/pmap39-233.pdf>)

Interactive Map

Aspin (<https://gis.jeffco.us/webmaps/aspin/index.html?query=Parcels,SCH,024670>)

Interactive Map

jMap (<https://gis.jeffco.us/webmaps/jmap/index.html?query=Parcel,SCH,024670>)

Block	Lot	Tract/Key	Section	Township	Range	QSection	Land SQFT	Land Acres
						Total	57,064	1.31

Property Information

Home (/) / PIN/Schedule Number (/propertyRecordsSearch/Pin) / **Property Information**

Property Information

Sales ()

History ()

 Help

PIN/Schedule

300024674

Owners

EFG-YARROW LLC

AIN/Parcel ID

39-233-00-005

Property Address

4255 YARROW ST
WHEAT RIDGE, CO 80033

Property Class

0000 Vacant Land

Mailing Address

4601 DCT BLVD
DENVER, CO 80237

Legal Description

 Help

Subdivision

No Subdivision on Record

Parcel Map

Map (<http://www.co.jefferson.co.us/assr/pdf/pmap39-233.pdf>)

Interactive Map

Aspin (<https://gis.jeffco.us/webmaps/aspin/index.html?query=Parcels,SCH,024674>)

Interactive Map

jMap (<https://gis.jeffco.us/webmaps/jmap/index.html?query=Parcel,SCH,024674>)

Block	Lot	Tract/Key	Section	Township	Range	QSection	Land SQFT	Land Acres
						Total	196,891	4.52

EXHIBIT E

Intergovernmental Agreement between District and City of Wheat Ridge

INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF WHEAT RIDGE, COLORADO
AND YARROW GARDENS METROPOLITAN DISTRICT

THIS INTERGOVERNMENTAL AGREEMENT (the “Agreement”) is made and entered into as of this ____ day of _____, 2018, by, between and among the CITY OF WHEAT RIDGE, Colorado (“City”), and YARROW GARDENS METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivisions of the State of Colorado (the “District”). The City and the District are each referred to herein as a “Party” and collectively referred to herein as the “Parties”.

RECITALS

WHEREAS, the District was organized to provide those services and to exercise powers as are more specifically set forth in the Service Plan for Yarrow Gardens Metropolitan District, approved by the City on August 13, 2018 (“Service Plan”); and

WHEREAS, the Service Plan requires that the District approve this Agreement at its first meeting after its organizational election; and

WHEREAS, the City and the District have determined it to be in the best interests of their respective taxpayers, residents and property owners to enter into this Agreement; and

WHEREAS, all defined terms set forth herein shall have the same meaning as set forth in the Service Plan.

NOW, THEREFORE, in consideration of the covenants and mutual agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

COVENANTS AND AGREEMENTS

1. Operations and Maintenance. The District shall dedicate the Public Improvements to the City or other appropriate jurisdiction in a manner contemplated under the Approved Development Plan and other rules and regulations of the City and applicable provisions of the City Code. The District shall be authorized, but not obligated, to own, operate and maintain Public Improvements not otherwise dedicated to the City or other public entity.

2. Construction Standards. The District will ensure that Public Improvements constructed by the District are designed and constructed in accordance with the standards and specifications of the City and of other governmental entities having proper jurisdiction, including the Colorado Department of Health, and other applicable local, state or federal agencies.

3. Inclusion and Exclusion of Property. The District shall not include within its boundaries any property outside the Service Area without the prior written consent of the City.

4. Total Debt Issuance. The District shall not issue Debt in excess of Six Million Dollars (\$6,000,000). Debt that is issued for the purpose of refunding outstanding District Debt shall not be counted against such \$6,000,000 debt limitation, provided, however, that if the aggregate principal amount of the refunding Debt exceeds the outstanding aggregate principal amount of the refunded Debt, the increase in principal amount shall be counted against such debt limitation.

5. Debt Issuance Limitation. The District shall not be authorized to incur any indebtedness until such time as the District has approved and executed this Agreement.

6. Bankruptcy. All of the limitations contained in this Service Plan, including, but not limited to, those pertaining to the Maximum Debt Mill Levy, Maximum Debt Mill Levy Imposition Term and the Fees have been established under the authority of the City to approve a Service Plan with conditions pursuant to Section 32-1-204.5, C.R.S. It is expressly intended that such limitations:

(a) Shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a Service Plan Amendment; and

(b) Are, together with all other requirements of Colorado law, included in the “political or governmental powers” reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the “regulatory or electoral approval necessary under applicable nonbankruptcy law” as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

Any Debt, issued with a pledge or which results in a pledge, that exceeds the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term, shall be deemed a material modification of this Service Plan pursuant to Section 32-1-207, C.R.S. and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the City as part of a Service Plan Amendment.

7. Dissolution. Upon an independent determination of the City Council that the purposes for which the District was created have been accomplished, the District agrees to file a petition in the appropriate District Court for dissolution, pursuant to the applicable State statutes. In no event shall a dissolution occur until the District has provided for the payment or discharge of all of its outstanding indebtedness and other financial obligations as required pursuant to State statutes.

8. Disclosure to Purchasers. The District will use reasonable efforts to assure that all developers of the property located within the District provides written notice to all purchasers of property in the District regarding the Maximum Debt Mill Levy, as well as a general description of the District’s authority to impose and collect rates, Fees, tolls and charges. The form of notice shall be filed with the City prior to the initial issuance of the Debt of the District and shall be recorded on the Service Area.

9. Annual Report. The District shall be responsible for submitting an annual report to the City Clerk at the City’s administrative offices by no later than September 1st of each

year following the year in which the Order and Decree creating the District has been issued. The annual report shall reflect activity and financial events of the District during the Report Year.

10. Maximum Debt Mill Levy. The “Maximum Debt Mill Levy” shall be the maximum mill levy a District is permitted to impose upon the taxable property within such District for payment of Debt, and shall be determined as follows:

(a) For the portion of any aggregate Debt which exceeds fifty percent (50%) of the District’s assessed valuation, the Maximum Debt Mill Levy for such portion of Debt shall be Sixty (60) mills less the number of mills necessary to pay unlimited mill levy Debt described in Section V.C.2 below; provided that if, on or after January 1, 2018, changes are made in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement; the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2018, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

(b) For the portion of any aggregate Debt which is equal to or less than fifty percent (50%) of the District’s assessed valuation, either on the date of issuance or at any time thereafter, the mill levy to be imposed to repay such portion of Debt shall not be subject to the Maximum Debt Mill Levy and, as a result, the mill levy may be such amount as is necessary to pay the Debt service on such Debt, without limitation of rate.

(c) For purposes of the foregoing, once Debt has been determined to be within Section V.C.2 above, such that the District is entitled to pledge to its payment an unlimited ad valorem mill levy, such District may provide that such Debt shall remain secured by such unlimited mill levy, notwithstanding any subsequent change in such District’s Debt to assessed ratio. All Debt issued by the District must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law.

To the extent that the District is composed of or subsequently organized into one or more subdistricts as permitted under Section 32-1-1101, C.R.S., the term “District” as used herein shall be deemed to refer to the District and to each such subdistrict separately, so that each of the subdistricts shall be treated as a separate, independent district for purposes of the application of the definitions and limitations herein.

11. Notices. All notices, demands, requests or other communications to be sent by one Party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the address or by courier delivery, via United Parcel Service or other nationally recognized overnight air courier service, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To the District: Yarrow Gardens Metropolitan District
2154 East Commons Avenue, Suite 2000

Centennial, Colorado 80122
Attn: Kristen D. Bear, Esq.
Phone: (303) 858-1800
Fax: (303) 858-1801
kbear@wbapc.com

To the City: City of Wheat Ridge
7500 W. 29th Ave.
Wheat Ridge, Colorado 80033
Attn: Patrick Goff, City Manager
Phone: (303) 235-2805
pgoff@ci.wheatridge.co.us

With a copy to: Murray Dahl Kuechenmeister & Renaud LLP
710 Kipling Street, Suite 300
Lakewood, Colorado 80215
Attn: Gerald Dahl
(303) 493-6670
gdahl@mdkrlaw.com

All notices, demands, requests or other communications shall be effective upon such personal delivery or 1 business day after being deposited with United Parcel Service or other nationally recognized overnight air courier service or 3 business days after deposit in the United States mail. By giving the other party hereto at least 10 days written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address.

12. Amendment. This Agreement may be amended, modified, changed, or terminated in whole or in part only by a written agreement duly authorized and executed by the Parties hereto and without amendment to the Service Plan.

13. Assignment. No Party hereto shall assign any of its rights nor delegate any of its duties hereunder to any person or entity without having first obtained the prior written consent of all other Parties, which consent will not be unreasonably withheld. Any purported assignment or delegation in violation of the provisions hereof shall be void and ineffectual.

14. Default/Remedies. In the event of a breach or default of this Agreement by any Party, the non-defaulting Parties shall be entitled to exercise all remedies available at law or in equity, specifically including suits for specific performance and/or monetary damages. In the event of any proceeding to enforce the terms, covenants or conditions hereof, the prevailing Party/Parties in such proceeding shall be entitled to obtain as part of its judgment or award its reasonable attorneys' fees.

15. Governing Law and Venue. This Agreement shall be governed and construed under the laws of the State of Colorado and venue shall be in the District Court in and for the county in which the Districts are located.

16. Inurement. Each of the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

17. Integration. This Agreement constitutes the entire agreement between the Parties with respect to the matters addressed herein. All prior discussions and negotiations regarding the subject matter hereof are merged herein.

18. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the District and the City any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the District and the City shall be for the sole and exclusive benefit of the District and the City.

19. Severability. If any covenant, term, condition, or provision under this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provision contained herein, the intention being that such provisions are severable.

20. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document.

21. Paragraph Headings. Paragraph headings are inserted for convenience of reference only.

22. Defined Terms. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Service Plan.

[Remainder of Page Intentionally Left Blank. Signature Pages to Follow].

IN WITNESS WHEREOF, this Agreement is executed by the City and the District as of the date first above written.

YARROW GARDENS METROPOLITAN DISTRICT ATTEST:

President
Printed Name: _____

Secretary
Printed Name: _____

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel for the District

CITY OF WHEAT RIDGE, COLORADO

ATTEST:

By: _____
Mayor

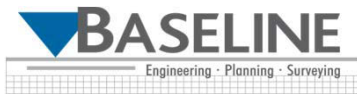
By: _____
Its: _____

APPROVED AS TO FORM: _____

City Attorney

EXHIBIT F

Pro Forma Capital Plan



PROJECT NAME: Yarrow Gardens Townhomes
PROJECT NUMBER: 3285
CALCULATED BY: Ejl
CHECKED BY: MMU
DATE: 6/21/2018

Yarrow Gardens Conceptual Engineer's Estimate of Probable Cost Summary

Onsite Improvements

Street Improvements	\$454,869.50
Grading	\$204,750.00
Stormwater & Drainage	\$154,285.04
Sanitary Sewer	\$142,102.10
Water	\$283,343.75

Subtotal: \$1,239,350.39

Mobilization (5%):	\$61,967.52
Design And Legal Cost (10%):	\$123,935.04
Contingency (25%):	\$309,837.60
City of Wheatridge Fees (10%):	\$123,935.04

Onsite Total: \$1,859,025.59

Offsite Public Improvements

42nd Street Improvements	\$70,258.14
Yarrow Street Improvements	\$113,130.73
Erosion Control	\$2,390.00
Grading	\$4,895.00
Sanitary Improvements	\$5,178.70
Water Improvements (includes 42nd Ave and Yarrow Street)	\$86,728.75

Subtotal \$282,581.32

Mobilization (5%):	\$14,129.07
Design And Legal Cost (10%):	\$28,258.13
Contingency (25%):	\$70,645.33
City of Wheatridge Fees (10%):	\$28,258.13

Offsite Total: \$423,871.97

Site Total: \$2,282,897.56

Notes: Estimate is based on a draft of construction plans dated January, 2018. Quantities are conceptual and subject to change. All unit costs were obtained from previous contractor pricing and are for information only. Estimate does not include landscaping, irrigation, or overexcavation quantities.



PROJECT NAME: **Yarrow Gardens Townhomes**
 PROJECT NUMBER: 3285
 CALCULATED BY: EJI
 CHECKED BY:
 DATE: 6/21/2018

Onsite Street Improvements	Quantity	Unit	Unit Price	Total Cost
CONCRETE ALLEY PAVING - 6" CONCRETE	1,160	SY	\$39.50	\$45,820.00
CONCRETE ALLEY - 12" SUBGRADE PREPARATION	1,160	SY	\$2.50	\$2,900.00
CONCRETE DRIVEWAYS	1,236	SY	\$39.50	\$48,822.00
STREET 01 CURB AND GUTTER	336	LF	\$16.25	\$5,460.00
STREET 02 - STREET 05 CURB AND GUTTER	2,622	LF	\$16.25	\$42,607.50
STREET 06 CURB AND GUTTER	390	LF	\$16.25	\$6,337.50
ALLEY 03 CURB AND GUTTER	21	LF	\$16.25	\$341.25
ALLEY 04 CURB AND GUTTER	21	LF	\$16.25	\$341.25
FULL DEPTH ASPHALT PAVING - 5" PER GEOTECH REPORT	4,430	SY	\$21.00	\$93,030.00
ASPHALT ROADS - 12" SUBGRADE PREPARATION	4,430	SY	\$2.50	\$11,075.00
STREET LIGHTS	9	EA	\$6,000.00	\$54,000.00
CURB RAMPS	14	EA	\$1,320.00	\$18,480.00
MID BLOCK RAMP	3	EA	\$1,321.00	\$3,963.00
CONCRETE SIDEWALK	14,524	SF	\$8.00	\$116,192.00
SIGNAGE	10	EA	\$350.00	\$3,500.00
STRIPING	1	LS	\$2,000.00	\$2,000.00

Onsite Street Improvements Subtotal: \$454,869.50

42nd Street Improvements	Quantity	Unit	Unit Price	Total Cost
VERTICAL CURB AND GUTTER	327	LF	\$24.75	\$8,093.25
CURB AND GUTTER DEMOLITION	153	LF	\$4.13	\$633.54
ASPHALT DEMOLITION (2" MILLING)	503	SY	\$16.41	\$8,254.23
FULL DEPTH ASPHALT DEMOLITION	195	SY	\$7.10	\$1,385.81
ASHPALT OVERLAY	503	SY	\$9.00	\$4,527.00
ASPHALT SAWCUT	311	LF	\$4.65	\$1,445.73
CONCRETE SIDEWALK	1,993	SF	\$8.00	\$15,944.00
SIDEWALK DEMOLITION	28	SY	\$18.29	\$519.57
FULL DEPTH ASPHALT PAVING - 5" PER GEOTECH REPORT	750	SY	\$20.00	\$15,000.00
ASPHALT ROADS - 12" SUBGRADE PREPARATION	750	SY	\$2.50	\$1,875.00
CURB RAMPS	4	EA	\$1,320.00	\$5,280.00
8' CONCRETE CROSSPAN	208	SF	\$6.25	\$1,300.00
STREET LIGHTS	1	EA	\$6,000.00	\$6,000.00

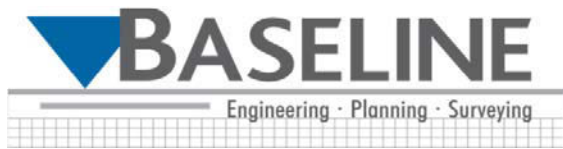
42nd Street Improvements Subtotal \$70,258.14



PROJECT NAME: **Yarrow Gardens Townhomes**
 PROJECT NUMBER: 3285
 CALCULATED BY: EJI
 CHECKED BY:
 DATE: 6/21/2018

Yarrow Street Improvements	Quantity	Unit	Unit Price	Total Cost
VERTICAL CURB AND GUTTER	755	LF	\$24.75	\$18,686.25
CURB AND GUTTER DEMOLITION	405	LF	\$4.13	\$1,672.48
8' ASPHALT PATCH FOR WATERLINE	581	SY	\$20.00	\$11,620.00
FULL DEPTH ASPHALT DEMOLITION	321	SY	\$7.10	\$2,276.23
ASPHALT DEMOLITION (2" MILLING)	1,766	SY	\$16.41	\$28,980.06
ASHPALT OVERLAY	1,766	SY	\$9.00	\$15,894.00
ASPHALT SAWCUT	1,168	LF	\$4.65	\$5,432.58
CONCRETE SIDEWALK	2,145	SF	\$8.00	\$17,160.00
SIDEWALK DEMOLITION	75	SY	\$18.29	\$1,371.61
FULL DEPTH ASPHALT PAVING - 5" PER GEOTECH REPORT	271	SY	\$20.00	\$5,420.00
ASPHALT ROADS - 12" SUBGRADE PREPARATION	271	SY	\$2.50	\$677.50
CURB RAMPS	2	EA	\$1,320.00	\$2,640.00
8' CONCRETE CROSSPAN	208	SF	\$6.25	\$1,300.00

Yarrow Street Improvements Subtotal \$113,130.73



PROJECT NAME: **Yarrow Gardens Townhomes**

PROJECT NUMBER: 3285

CALCULATED BY: EJJ

CHECKED BY:

DATE: 6/21/2018

	Quantity	Unit	Unit Price	Total Cost
Onsite Grading	Quantity	Unit	Unit Price	Total Cost
RETAINING WALL NON-STRUCTURAL (APPROX. FF QTY AND DOES NOT INCLUDE POND)	890	FF	\$25.00	\$22,250.00
RETAINING WALL STRUCTURAL**	3,650	FF	\$50.00	\$182,500.00
Onsite Grading Subtotal:				\$204,750.00

** QUANTITY DOES NOT INCLUDE FOOTER AND WALL THICKNESS. STRUCTURAL ENGINEER TO DESIGN AND DETERMINE EXACT QUANTITIES AND UNIT PRICE.



PROJECT NAME: **Yarrow Gardens Townhomes**
PROJECT NUMBER: 3285
CALCULATED BY: Ejl
CHECKED BY:
DATE: 6/21/2018

Offsite Erosion Control	Quantity	Unit	Unit Price	Total Cost
VEHICLE TRACKING PAD	0	EA	\$2,225.00	\$0.00
CONCRETE WASHOUT	1	EA	\$350.00	\$350.00
ROCK SOCKS	8	EA	\$5.00	\$40.00
OUTLET PROTECTION	0	EA	\$3.00	\$0.00
EROSION CONTROL MAINTENANCE DURING CONSTRUCTION	1	LS	\$2,000.00	\$2,000.00

Offsite Erosion Control Subtotal: \$2,390.00

Offsite Grading	Quantity	Unit	Unit Price	Total Cost
FINE GRADE FOR ASPHALT PAVING	9,790	SF	\$0.50	\$4,895.00

Offsite Grading Subtotal: \$4,895.00



PROJECT NAME: **Yarrow Gardens Townhomes**
 PROJECT NUMBER: 3285
 CALCULATED BY: EIJ
 CHECKED BY:
 DATE: 6/21/2018

Stormwater & Drainage Improvements

	Quantity	Unit	Unit Price	Total Cost
TYPE C INLET (VALLEY INLET AND CURB INLET INCLUDED)	1	EA	\$3,950.00	\$3,950.00
TYPE 13 INLET (VALLEY OR CURB)	6	EA	\$3,950.00	\$23,700.00
5' STORM MANHOLE	2	EA	\$4,500.00	\$9,000.00
ADJUST MANHOLE RIMS TO GRADE	2	EA	\$625.00	\$1,250.00
18" RCP	456	LF	\$70.00	\$31,920.00
TRICKLE CHANNEL	1,021	LF	\$43.00	\$43,903.00
SPILLWAY ("TYPE M" RIPRAP)	40	CY	\$60.00	\$2,400.00
CONCRETE HEADWALL for 18" RCP	2	EA	\$2,500.00	\$5,000.00
RIPRAP	113	CY	\$28.00	\$3,162.04
CURB CHASE	10	EA	\$1,000.00	\$10,000.00
OUTLET STRUCTURE	1	LS	\$20,000.00	\$20,000.00
Storm Subtotal:				\$154,285.04

Onsite Sanitary Sewer Improvements

	Quantity	Unit	Unit Price	Total Cost
4' SANITARY MANHOLE	15	EA	\$4,000.00	\$60,000.00
ADJUST MANHOLE RIMS TO GRADE	15	EA	\$625.00	\$9,375.00
8" PVC SANITARY MAIN LINE	1,524	LF	\$45.00	\$68,593.50
CONNECT TO EXISTING	1	LS	\$2,000.00	\$2,000.00
PRESSURE TEST MAINS	1,524	LF	\$1.40	\$2,133.60
Onsite Sanitary Sewer Subtotal:				\$142,102.10

Yarrow Street Sanitary Sewer Improvements

	Quantity	Unit	Unit Price	Total Cost
4' SANITARY MANHOLE	1	EA	\$3,500.00	\$3,500.00
ADJUST MANHOLE RIMS TO GRADE	1	EA	\$625.00	\$625.00
8" PVC SANITARY MAIN LINE	23	LF	\$45.00	\$1,021.50
PRESSURE TEST MAINS	23	LF	\$1.40	\$32.20
Offsite Sanitary Sewer Subtotal:				\$5,178.70



PROJECT NAME: **Yarrow Gardens Townhomes**
 PROJECT NUMBER: 3285
 CALCULATED BY: EIJ
 CHECKED BY:
 DATE: 6/21/2018

Onsite Water Improvements

	Quantity	Unit	Unit Price	Total Cost
8" PVC WATER MAIN LINE	1,715	LF	\$60.00	\$102,900.00
8"x 6" TEE	6	EA	\$700.00	\$4,200.00
8" TEE	3	EA	\$750.00	\$2,250.00
8" BEND	7	EA	\$600.00	\$4,200.00
8" PLUG W/ BLOWOFF	1	EA	\$1,500.00	\$1,500.00
8" GATE VALVE	10	EA	\$1,800.00	\$18,000.00
FIRE HYDRANT ASSEMBLY	6	EA	\$7,400.00	\$44,400.00
ADJUST VALVES TO GRADE	10	EA	\$475.00	\$4,750.00
CONNECT TO EXISTING	1	EA	\$1,000.00	\$1,000.00
CONNECT TO EXISTING W/ 8"x8" TEE	1	EA	\$1,000.00	\$1,000.00
WATER TESTING	1,715	LF	\$1.25	\$2,143.75
WATERLINE LOWERINGS	4	EA	\$3,000.00	\$12,000.00
1-1/2" IRRIGATION TAP	1	EA	\$85,000.00	\$85,000.00

Onsite Water Subtotal: \$283,343.75

Watermain Improvements in Yarrow St. and 42nd Ave. Northward to 44th

	Quantity	Unit	Unit Price	Total Cost
8" PVC WATER MAIN LINE	967	LF	\$60.00	\$58,020.00
8" 45 DEG. BEND	2	EA	\$600.00	\$1,200.00
CONNECT TO EXISTING W/ 6"x8" TAPPING SLEEVE AND SADDLE	1	EA	\$1,200.00	\$1,200.00
CONNECT TO EXISTING W/ 12"x8" TAPPING SLEEVE AND SADDLE	1	EA	\$1,200.00	\$1,200.00
8" GATE VALVE	2	EA	\$1,800.00	\$3,600.00
RECONNECT SERVICES	7	EA	\$900.00	\$6,300.00
WATER TESTING	967	LF	\$1.25	\$1,208.75
FIRE HYDRANT ASSEMBLY	2	EA	\$7,000.00	\$14,000.00

Offsite Water Subtotal: \$86,728.75

Dry Utility Coordination

	Quantity	Unit	Unit Price	Total Cost
Dry Utility	1	LS	\$25,000.00	\$25,000.00

Dry Utility Subtotal: \$25,000.00

EXHIBIT G

Pro Forma Financial Plan

YARROW GARDENS METROPOLITAN DISTRICT

Development Projection at 55.277 (target) District Mills -- SERVICE PLAN

Series 2028, G.O. Bonds, Pay & Cancel Refg of (proposed) Series 2018 + New Money, Assumes Investment Grade, 100x, 30-yr. Maturity

	< < < < < < Residential > > > > > >						< Platted/Developed Lots >					
	Mkt Value		As'ed Value*		As'ed Value			District	District	District		
	Biennial		@ 7.20%		@ 29.00%		Total	D/S Mill Levy	D/S Mill Levy	S.O. Taxes	Total	Total
	Reasses'mt	Cumulative	of Market	Cumulative	of Market	Assessed	[55.277 Target]	Collections	Collected	Facility Fees	Available	
YEAR	Res'l Units	@ 6.0%	Market Value	(2-yr lag)	Market Value	(2-yr lag)	Value	[55.277 Cap]	@ 98%	@ 6%	Collections	Revenue
2017	0		0		\$0		\$0		0	\$0	\$0	\$0
2018	0		0		873,200		0	55.277	0	0	0	0
2019	19		8,906,640	0	1,674,700	0	0	55.277	0	0	0	0
2020	36	534,398	26,864,617	0	1,590,900	253,228	253,228	55.277	13,718	823	0	14,541
2021	34		43,747,375	641,278	0	485,663	1,126,941	55.277	61,048	3,663	0	64,711
2022	0	2,624,843	46,372,218	1,934,252	0	461,361	2,395,613	55.277	129,774	7,786	0	137,560
2023	0		46,372,218	3,149,811	0	0	3,149,811	55.277	170,630	10,238	0	180,868
2024	0	2,782,333	49,154,551	3,338,800	0	0	3,338,800	55.277	180,868	10,852	0	191,720
2025	0		49,154,551	3,338,800	0	0	3,338,800	55.277	180,868	10,852	0	191,720
2026	0	2,949,273	52,103,824	3,539,128	0	0	3,539,128	55.277	191,720	11,503	0	203,223
2027	0		52,103,824	3,539,128	0	0	3,539,128	55.277	191,720	11,503	0	203,223
2028	0	3,126,229	55,230,053	3,751,475	0	0	3,751,475	55.277	203,223	12,193	0	215,416
2029	0		55,230,053	3,751,475	0	0	3,751,475	55.277	203,223	12,193	0	215,416
2030	0	3,313,803	58,543,857	3,976,564	0	0	3,976,564	55.277	215,416	12,925	0	228,341
2031	0		58,543,857	3,976,564	0	0	3,976,564	55.277	215,416	12,925	0	228,341
2032	0	3,512,631	62,056,488	4,215,158	0	0	4,215,158	55.277	228,341	13,700	0	242,042
2033	0		62,056,488	4,215,158	0	0	4,215,158	55.277	228,341	13,700	0	242,042
2034	0	3,723,389	65,779,877	4,468,067	0	0	4,468,067	55.277	242,042	14,523	0	256,564
2035	0		65,779,877	4,468,067	0	0	4,468,067	55.277	242,042	14,523	0	256,564
2036	0	3,946,793	69,726,670	4,736,151	0	0	4,736,151	55.277	256,564	15,394	0	271,958
2037	0		69,726,670	4,736,151	0	0	4,736,151	55.277	256,564	15,394	0	271,958
2038		4,183,600	73,910,270	5,020,320	0	0	5,020,320	55.277	271,958	16,317		288,276
2039			73,910,270	5,020,320	0	0	5,020,320	55.277	271,958	16,317		288,276
2040		4,434,616	78,344,886	5,321,539	0	0	5,321,539	55.277	288,276	17,297		305,572
2041			78,344,886	5,321,539	0	0	5,321,539	55.277	288,276	17,297		305,572
2042		4,700,693	83,045,579	5,640,832	0	0	5,640,832	55.277	305,572	18,334		323,906
2043			83,045,579	5,640,832	0	0	5,640,832	55.277	305,572	18,334		323,906
2044		4,982,735	88,028,314	5,979,282	0	0	5,979,282	55.277	323,906	19,434		343,341
2045			88,028,314	5,979,282	0	0	5,979,282	55.277	323,906	19,434		343,341
2046		5,281,699	93,310,013	6,338,039	0	0	6,338,039	55.277	343,341	20,600		363,941
2047			93,310,013	6,338,039	0	0	6,338,039	55.277	343,341	20,600		363,941
2048		5,598,601	98,908,614	6,718,321	0	0	6,718,321	55.277	363,941	21,836		385,778
2049			98,908,614	6,718,321	0	0	6,718,321	55.277	363,941	21,836		385,778
2050		5,934,517	104,843,131	7,121,420	0	0	7,121,420	55.277	385,778	23,147		408,924
2051			104,843,131	7,121,420	0	0	7,121,420	55.277	385,778	23,147		408,924
2052		6,290,588	111,133,718	7,548,705	0	0	7,548,705	55.277	408,924	24,535		433,460
2053			111,133,718	7,548,705	0	0	7,548,705	55.277	408,924	24,535		433,460
2054		6,668,023	117,801,742	8,001,628	0	0	8,001,628	55.277	433,460	26,008		459,467
2055			117,801,742	8,001,628	0	0	8,001,628	55.277	433,460	26,008		459,467
2056		7,068,104	124,869,846	8,481,725	0	0	8,481,725	55.277	459,467	27,568		487,035
2057			124,869,846	8,481,725	0	0	8,481,725	55.277	459,467	27,568		487,035
2058		7,492,191	132,362,037	8,990,629	0	0	8,990,629	55.277	487,035	29,222		516,258
	89	89,149,060							11,067,800	664,068	0	11,731,868

[*] RAR @ 7.96% thru 2017

YARROW GARDENS METROPOLITAN DISTRICT

Development Projection at 55.277 (target) District Mills -- SERVICE PLAN

Series 2028, G.O. Bonds, Pay & Cancel Refg of (proposed) Series 2018 + New Money, Assumes Investment Grade, 100x, 30-yr. Maturity

YEAR	Net Available for Debt Svc	Series 2018 \$3,550,000 Par [Net \$2.551 MM] Net Debt Service	Ser. 2028 \$5,505,000 Par [Net \$1.951 MM] Net Debt Service	Total Net Debt Service	Funds on Hand* Used as Source	Annual Surplus	Surplus Release @ to \$550,500	Cumulative Surplus \$550,500 Target	Senior Debt/ Assessed Ratio	Senior Debt/ Act'l Value Ratio	Cov. of Net DS: @ 55.277 Target	Cov. of Net DS: @ 55.277 Cap
2017	\$0					n/a		\$0	n/a	n/a	0%	0%
2018	0					n/a		0	n/a	n/a	0%	0%
2019	0	\$0		0		0		325,000	1402%	12%	0%	0%
2020	14,541	0		0		14,541	0	339,541	315%	8%	0%	0%
2021	64,711	0		0		64,711	0	404,252	148%	8%	0%	0%
2022	137,560	177,500		177,500		(39,940)	0	364,312	113%	8%	78%	78%
2023	180,868	177,500		177,500		3,368	0	367,680	106%	7%	102%	102%
2024	191,720	187,500		187,500		4,220	0	371,899	106%	7%	102%	102%
2025	191,720	187,000		187,000		4,720	0	376,619	100%	7%	103%	103%
2026	203,223	201,500		201,500		1,723	0	378,342	100%	7%	101%	101%
2027	203,223	200,250		200,250		2,973	0	381,315	93%	6%	102%	102%
2028	215,416	214,000	\$0	214,000	375,000	(373,584)	0	7,731	93%	6%	101%	101%
2029	215,416	[Refd by Ser. '28]	201,850	201,850		13,566	0	21,297	138%	9%	107%	107%
2030	228,341		225,200	225,200		3,141	0	24,439	138%	9%	101%	101%
2031	228,341		225,000	225,000		3,341	0	27,780	130%	9%	102%	102%
2032	242,042		239,800	239,800		2,242	0	30,022	130%	9%	101%	101%
2033	242,042		239,000	239,000		3,042	0	33,063	123%	8%	101%	101%
2034	256,564		253,200	253,200		3,364	0	36,428	122%	8%	101%	101%
2035	256,564		251,800	251,800		4,764	0	41,192	114%	8%	102%	102%
2036	271,958		270,400	270,400		1,558	0	42,750	114%	8%	101%	101%
2037	271,958		268,200	268,200		3,758	0	46,508	106%	7%	101%	101%
2038	288,276		286,000	286,000		2,276	0	48,784	105%	7%	101%	101%
2039	288,276		288,000	288,000		276	0	49,059	98%	7%	100%	100%
2040	305,572		304,800	304,800		772	0	49,831	96%	7%	100%	100%
2041	305,572		300,800	300,800		4,772	0	54,603	89%	6%	102%	102%
2042	323,906		321,800	321,800		2,106	0	56,710	87%	6%	101%	101%
2043	323,906		321,800	321,800		2,106	0	58,816	80%	5%	101%	101%
2044	343,341		341,600	341,600		1,741	0	60,557	78%	5%	101%	101%
2045	343,341		340,400	340,400		2,941	0	63,498	71%	5%	101%	101%
2046	363,941		359,000	359,000		4,941	0	68,439	69%	5%	101%	101%
2047	363,941		361,600	361,600		2,341	0	70,780	62%	4%	101%	101%
2048	385,778		383,800	383,800		1,978	0	72,758	59%	4%	101%	101%
2049	385,778		384,800	384,800		978	0	73,736	53%	4%	100%	100%
2050	408,924		405,400	405,400		3,524	0	77,260	49%	3%	101%	101%
2051	408,924		404,800	404,800		4,124	0	81,384	43%	3%	101%	101%
2052	433,460		428,800	428,800		4,660	0	86,044	39%	3%	101%	101%
2053	433,460		431,400	431,400		2,060	0	88,104	33%	2%	101%	101%
2054	459,467		458,400	458,400		1,067	0	89,172	29%	2%	100%	100%
2055	459,467		458,800	458,800		667	0	89,839	23%	2%	100%	100%
2056	487,035		483,600	483,600		3,435	0	93,275	19%	1%	101%	101%
2057	487,035		486,800	486,800		235	0	93,510	13%	1%	100%	100%
2058	516,258		515,800	515,800		458	93,968	0	8%	1%	100%	100%
	11,731,868	1,345,250	10,242,650	11,587,900		(231,032)	93,968					

[AMay0218 18nrspA]

[AMay0218 28ig18nA]

[*] Assumes \$325K Deposit @ Closing (tbd).

YARROW GARDENS METROPOLITAN DISTRICT

Operations Revenue and Expense Projection



YEAR	Total Assessed Value	Oper'n's Mill Levy	Total Collections @ 98%	S.O. Taxes Collected @ 6%	Total Available For O&M	Total Mills
2017						
2018	0	5.000	0	0	0	60.277
2019	0	5.000	0	0	0	60.277
2020	253,228	5.000	1,241	74	1,315	60.277
2021	1,126,941	5.000	5,522	331	5,853	60.277
2022	2,395,613	5.000	11,739	704	12,443	60.277
2023	3,149,811	5.000	15,434	926	16,360	60.277
2024	3,338,800	5.000	16,360	982	17,342	60.277
2025	3,338,800	5.000	16,360	982	17,342	60.277
2026	3,539,128	5.000	17,342	1,041	18,382	60.277
2027	3,539,128	5.000	17,342	1,041	18,382	60.277
2028	3,751,475	5.000	18,382	1,103	19,485	60.277
2029	3,751,475	5.000	18,382	1,103	19,485	60.277
2030	3,976,564	5.000	19,485	1,169	20,654	60.277
2031	3,976,564	5.000	19,485	1,169	20,654	60.277
2032	4,215,158	5.000	20,654	1,239	21,894	60.277
2033	4,215,158	5.000	20,654	1,239	21,894	60.277
2034	4,468,067	5.000	21,894	1,314	23,207	60.277
2035	4,468,067	5.000	21,894	1,314	23,207	60.277
2036	4,736,151	5.000	23,207	1,392	24,600	60.277
2037	4,736,151	5.000	23,207	1,392	24,600	60.277
2038	5,020,320	5.000	24,600	1,476	26,076	60.277
2039	5,020,320	5.000	24,600	1,476	26,076	60.277
2040	5,321,539	5.000	26,076	1,565	27,640	60.277
2041	5,321,539	5.000	26,076	1,565	27,640	60.277
2042	5,640,832	5.000	27,640	1,658	29,298	60.277
2043	5,640,832	5.000	27,640	1,658	29,298	60.277
2044	5,979,282	5.000	29,298	1,758	31,056	60.277
2045	5,979,282	5.000	29,298	1,758	31,056	60.277
2046	6,338,039	5.000	31,056	1,863	32,920	60.277
2047	6,338,039	5.000	31,056	1,863	32,920	60.277
2048	6,718,321	5.000	32,920	1,975	34,895	60.277
2049	6,718,321	5.000	32,920	1,975	34,895	60.277
2050	7,121,420	5.000	34,895	2,094	36,989	60.277
2051	7,121,420	5.000	34,895	2,094	36,989	60.277
2052	7,548,705	5.000	36,989	2,219	39,208	60.277
2053	7,548,705	5.000	36,989	2,219	39,208	60.277
2054	8,001,628	5.000	39,208	2,352	41,560	60.277
2055	8,001,628	5.000	39,208	2,352	41,560	60.277
2056	8,481,725	5.000	41,560	2,494	44,054	60.277
2057	8,481,725	5.000	41,560	2,494	44,054	60.277
2058	8,990,629	5.000	44,054	2,643	46,697	60.277
			1,001,122	60,067	1,061,189	

YARROW GARDENS METROPOLITAN DISTRICT
Development Projection -- Buildout Plan (updated 4/23/18)

YEAR	Residential Development										Residential Summary											
	<u>ST1</u>					<u>ST2</u>					<u>ST3</u>											
	Incr/(Decr) in Finished Lot		# Units	Price	Market Value	Incr/(Decr) in Finished Lot		# Units	Price	Market Value	Incr/(Decr) in Finished Lot		# Units	Price	Market Value	Total Residential	Total SFD	Value +/- of Platted & Developed Lots				
	# Lots	Value @	Completed	Inflated @		# Lots	Value @	Completed	Inflated @		# Lots	Value @	Completed	Inflated @		Market	Res'l Units	Facility Fees	Adjustment ¹	Adjusted Value		
	Devel'd	10%	20 target	2%		Devel'd	10%	37 target	2%		Devel'd	10%	32 target	2%		Devel'd	10%	32 target	2%	Market Value	Res'l Units	@ \$0/unit
2017	0	0		\$419,000	0	0	0		\$464,000	0	0	0		\$495,000	0	\$0	0	0	0	0	0	0
2018	6	251,400		419,000	0	7	324,800		464,000	0	6	297,000		495,000	0	0	0	0	0	0	873,200	
2019	8	83,800	6	427,380	2,564,280	15	371,200	7	473,280	3,312,960	13	346,500	6	504,900	3,029,400	8,906,640	19	0	0	0	801,500	
2020	6	(83,800)	8	435,928	3,487,421	15	0	15	482,746	7,241,184	13	0	13	514,998	6,694,974	17,423,579	36	0	0	0	(83,800)	
2021	0	(251,400)	6	444,646	2,667,877	0	(696,000)	15	492,401	7,386,008	0	(643,500)	13	525,298	6,828,873	16,882,758	34	0	0	0	(1,590,900)	
2022	0	0	0	453,539	0	0	0	0	502,249	0	0	0	0	535,804	0	0	0	0	0	0	0	
2023	0	0	0	462,610	0	0	0	0	512,293	0	0	0	0	546,520	0	0	0	0	0	0	0	
2024	0	0	0	471,862	0	0	0	0	522,539	0	0	0	0	557,450	0	0	0	0	0	0	0	
2025	0	0	0	481,299	0	0	0	0	532,990	0	0	0	0	568,599	0	0	0	0	0	0	0	
2026	0	0	0	490,925	0	0	0	0	543,650	0	0	0	0	579,971	0	0	0	0	0	0	0	
2027	0	0	0	500,744	0	0	0	0	554,523	0	0	0	0	591,571	0	0	0	0	0	0	0	
2028	0	0	0	510,759	0	0	0	0	565,613	0	0	0	0	603,402	0	0	0	0	0	0	0	
2029	0	0	0	520,974	0	0	0	0	576,926	0	0	0	0	615,470	0	0	0	0	0	0	0	
2030	0	0	0	531,393	0	0	0	0	588,464	0	0	0	0	627,780	0	0	0	0	0	0	0	
2031	0	0	0	542,021	0	0	0	0	600,233	0	0	0	0	640,335	0	0	0	0	0	0	0	
2032	0	0	0	552,862	0	0	0	0	612,238	0	0	0	0	653,142	0	0	0	0	0	0	0	
2033	0	0	0	563,919	0	0	0	0	624,483	0	0	0	0	666,205	0	0	0	0	0	0	0	
2034	0	0	0	575,197	0	0	0	0	636,973	0	0	0	0	679,529	0	0	0	0	0	0	0	
2035	0	0	0	586,701	0	0	0	0	649,712	0	0	0	0	693,120	0	0	0	0	0	0	0	
2036	0	0	0	598,435	0	0	0	0	662,706	0	0	0	0	706,982	0	0	0	0	0	0	0	
2037	0	0	0	610,404	0	0	0	0	675,960	0	0	0	0	721,122	0	0	0	0	0	0	0	
	20	(0)	20		8,719,578	37	0	37		17,940,152	32	0	32		16,553,247	43,212,977	89	0		0	0	

[1] Adj to actual/prelim. AV

SOURCES AND USES OF FUNDS

**YARROW GARDENS METROPOLITAN DISTRICT
GENERAL OBLIGATION BONDS, SERIES 2018A
55.277 (target) Mills
Non-Rated, 100x, 30-yr. Maturity
(Full Growth + 6.00% Bi-Reassessment Projections)
[Preliminary -- for discussion only]**

Dated Date	12/01/2018
Delivery Date	12/01/2018

Sources:

Bond Proceeds:	
Par Amount	3,550,000.00
	3,550,000.00

Uses:

Project Fund Deposits:	
Project Fund	2,550,500.00
Other Fund Deposits:	
Capitalized Interest Fund	532,500.00
Cost of Issuance:	
Other Cost of Issuance	142,000.00
Other Uses of Funds:	
Deposit to Surplus Fund (New)	325,000.00
	3,550,000.00

BOND SUMMARY STATISTICS

**YARROW GARDENS METROPOLITAN DISTRICT
GENERAL OBLIGATION BONDS, SERIES 2018A
55.277 (target) Mills
Non-Rated, 100x, 30-yr. Maturity
(Full Growth + 6.00% Bi-Reassessment Projections)
[Preliminary -- for discussion only]**

Dated Date	12/01/2018
Delivery Date	12/01/2018
First Coupon	06/01/2019
Last Maturity	12/01/2048
Arbitrage Yield	5.000000%
True Interest Cost (TIC)	5.000000%
Net Interest Cost (NIC)	5.000000%
All-In TIC	5.308080%
Average Coupon	5.000000%
Average Life (years)	23.204
Weighted Average Maturity (years)	23.204
Duration of Issue (years)	13.705
Par Amount	3,550,000.00
Bond Proceeds	3,550,000.00
Total Interest	4,118,750.00
Net Interest	4,118,750.00
Bond Years from Dated Date	82,375,000.00
Bond Years from Delivery Date	82,375,000.00
Total Debt Service	7,668,750.00
Maximum Annual Debt Service	383,250.00
Average Annual Debt Service	255,625.00
Underwriter's Fees (per \$1000)	
Average Takedown	
Other Fee	
Total Underwriter's Discount	
Bid Price	100.000000

Bond Component	Par Value	Price	Average Coupon	Average Life	Average Maturity Date	PV of 1 bp change
Term Bond due 2048	3,550,000.00	100.000	5.000%	23.204	02/13/2042	5,502.50
	3,550,000.00			23.204		5,502.50

	TIC	All-In TIC	Arbitrage Yield
Par Value	3,550,000.00	3,550,000.00	3,550,000.00
+ Accrued Interest			
+ Premium (Discount)			
- Underwriter's Discount			
- Cost of Issuance Expense		-142,000.00	
- Other Amounts			
Target Value	3,550,000.00	3,408,000.00	3,550,000.00
Target Date	12/01/2018	12/01/2018	12/01/2018
Yield	5.000000%	5.308080%	5.000000%

SOURCES AND USES OF FUNDS

**YARROW GARDENS METROPOLITAN DISTRICT
GENERAL OBLIGATION REFUNDING & IMPROVEMENT BONDS, SERIES 2028
Pay & Cancel Refunding of (proposed) Series 2018 + New Money
55.277 (target) Mills**

**Assumes Investment Grade, 100x, 30-yr. Maturity
(Full Growth + 6% Bi-Reassessment Projections)
[Preliminary -- for discussion only]**

Dated Date	12/01/2028
Delivery Date	12/01/2028

Sources:

Bond Proceeds:	
Par Amount	5,505,000.00
Other Sources of Funds:	
Funds on Hand*	375,000.00
	5,880,000.00

Uses:

Project Fund Deposits:	
Project Fund	1,950,725.00
Refunding Escrow Deposits:	
Cash Deposit	3,440,000.00
Other Fund Deposits:	
Capitalized Interest Fund	18,350.00
Debt Service Reserve Fund	243,400.00
	261,750.00
Cost of Issuance:	
Other Cost of Issuance	200,000.00
Delivery Date Expenses:	
Underwriter's Discount	27,525.00
	5,880,000.00

[*] Estimated balances (tbd).

BOND SUMMARY STATISTICS

YARROW GARDENS METROPOLITAN DISTRICT
GENERAL OBLIGATION REFUNDING & IMPROVEMENT BONDS, SERIES 2028
Pay & Cancel Refunding of (proposed) Series 2018 + New Money
55.277 (target) Mills
Assumes Investment Grade, 100x, 30-yr. Maturity
(Full Growth + 6% Bi-Reassessment Projections)
[Preliminary -- for discussion only]

Dated Date	12/01/2028
Delivery Date	12/01/2028
First Coupon	06/01/2029
Last Maturity	12/01/2058
Arbitrage Yield	4.000000%
True Interest Cost (TIC)	4.034656%
Net Interest Cost (NIC)	4.000000%
All-In TIC	4.293988%
Average Coupon	4.000000%
Average Life (years)	22.704
Weighted Average Maturity (years)	22.704
Duration of Issue (years)	14.741
Par Amount	5,505,000.00
Bond Proceeds	5,505,000.00
Total Interest	4,999,400.00
Net Interest	5,026,925.00
Bond Years from Dated Date	124,985,000.00
Bond Years from Delivery Date	124,985,000.00
Total Debt Service	10,504,400.00
Maximum Annual Debt Service	759,200.00
Average Annual Debt Service	350,146.67
Underwriter's Fees (per \$1000)	
Average Takedown	
Other Fee	5.000000
Total Underwriter's Discount	5.000000
Bid Price	99.500000

Bond Component	Par Value	Price	Average Coupon	Average Life	Average Maturity Date	PV of 1 bp change
Term Bond due 2058	5,505,000.00	100.000	4.000%	22.704	08/15/2051	9,578.70
	5,505,000.00			22.704		9,578.70

	TIC	All-In TIC	Arbitrage Yield
Par Value	5,505,000.00	5,505,000.00	5,505,000.00
+ Accrued Interest			
+ Premium (Discount)			
- Underwriter's Discount	-27,525.00	-27,525.00	
- Cost of Issuance Expense		-200,000.00	
- Other Amounts			
Target Value	5,477,475.00	5,277,475.00	5,505,000.00
Target Date	12/01/2028	12/01/2028	12/01/2028
Yield	4.034656%	4.293988%	4.000000%

BOND DEBT SERVICE

YARROW GARDENS METROPOLITAN DISTRICT
GENERAL OBLIGATION REFUNDING & IMPROVEMENT BONDS, SERIES 2028
Pay & Cancel Refunding of (proposed) Series 2018 + New Money
55.277 (target) Mills
Assumes Investment Grade, 100x, 30-yr. Maturity
(Full Growth + 6% Bi-Reassessment Projections)
[Preliminary -- for discussion only]

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
06/01/2029			110,100	110,100	
12/01/2029			110,100	110,100	220,200
06/01/2030			110,100	110,100	
12/01/2030	5,000	4.000%	110,100	115,100	225,200
06/01/2031			110,000	110,000	
12/01/2031	5,000	4.000%	110,000	115,000	225,000
06/01/2032			109,900	109,900	
12/01/2032	20,000	4.000%	109,900	129,900	239,800
06/01/2033			109,500	109,500	
12/01/2033	20,000	4.000%	109,500	129,500	239,000
06/01/2034			109,100	109,100	
12/01/2034	35,000	4.000%	109,100	144,100	253,200
06/01/2035			108,400	108,400	
12/01/2035	35,000	4.000%	108,400	143,400	251,800
06/01/2036			107,700	107,700	
12/01/2036	55,000	4.000%	107,700	162,700	270,400
06/01/2037			106,600	106,600	
12/01/2037	55,000	4.000%	106,600	161,600	268,200
06/01/2038			105,500	105,500	
12/01/2038	75,000	4.000%	105,500	180,500	286,000
06/01/2039			104,000	104,000	
12/01/2039	80,000	4.000%	104,000	184,000	288,000
06/01/2040			102,400	102,400	
12/01/2040	100,000	4.000%	102,400	202,400	304,800
06/01/2041			100,400	100,400	
12/01/2041	100,000	4.000%	100,400	200,400	300,800
06/01/2042			98,400	98,400	
12/01/2042	125,000	4.000%	98,400	223,400	321,800
06/01/2043			95,900	95,900	
12/01/2043	130,000	4.000%	95,900	225,900	321,800
06/01/2044			93,300	93,300	
12/01/2044	155,000	4.000%	93,300	248,300	341,600
06/01/2045			90,200	90,200	
12/01/2045	160,000	4.000%	90,200	250,200	340,400
06/01/2046			87,000	87,000	
12/01/2046	185,000	4.000%	87,000	272,000	359,000
06/01/2047			83,300	83,300	
12/01/2047	195,000	4.000%	83,300	278,300	361,600
06/01/2048			79,400	79,400	
12/01/2048	225,000	4.000%	79,400	304,400	383,800
06/01/2049			74,900	74,900	
12/01/2049	235,000	4.000%	74,900	309,900	384,800
06/01/2050			70,200	70,200	
12/01/2050	265,000	4.000%	70,200	335,200	405,400
06/01/2051			64,900	64,900	
12/01/2051	275,000	4.000%	64,900	339,900	404,800
06/01/2052			59,400	59,400	
12/01/2052	310,000	4.000%	59,400	369,400	428,800
06/01/2053			53,200	53,200	
12/01/2053	325,000	4.000%	53,200	378,200	431,400
06/01/2054			46,700	46,700	
12/01/2054	365,000	4.000%	46,700	411,700	458,400
06/01/2055			39,400	39,400	
12/01/2055	380,000	4.000%	39,400	419,400	458,800
06/01/2056			31,800	31,800	
12/01/2056	420,000	4.000%	31,800	451,800	483,600
06/01/2057			23,400	23,400	
12/01/2057	440,000	4.000%	23,400	463,400	486,800
06/01/2058			14,600	14,600	
12/01/2058	730,000	4.000%	14,600	744,600	759,200
	5,505,000		4,999,400	10,504,400	10,504,400

SUMMARY OF BONDS REFUNDED

YARROW GARDENS METROPOLITAN DISTRICT GENERAL OBLIGATION REFUNDING & IMPROVEMENT BONDS, SERIES 2028 Pay & Cancel Refunding of (proposed) Series 2018 + New Money 55.277 (target) Mills

**Assumes Investment Grade, 100x, 30-yr. Maturity
(Full Growth + 6% Bi-Reassessment Projections)
[Preliminary -- for discussion only]**

Bond	Maturity Date	Interest Rate	Par Amount	Call Date	Call Price
5/2/18: Ser 18 NR SP, 5.00%, 100x, 55.277mls, 6% BiRE:					
TERM48	12/01/2029	5.000%	40,000.00	12/01/2028	100.000
	12/01/2030	5.000%	55,000.00	12/01/2028	100.000
	12/01/2031	5.000%	60,000.00	12/01/2028	100.000
	12/01/2032	5.000%	75,000.00	12/01/2028	100.000
	12/01/2033	5.000%	80,000.00	12/01/2028	100.000
	12/01/2034	5.000%	95,000.00	12/01/2028	100.000
	12/01/2035	5.000%	100,000.00	12/01/2028	100.000
	12/01/2036	5.000%	120,000.00	12/01/2028	100.000
	12/01/2037	5.000%	130,000.00	12/01/2028	100.000
	12/01/2038	5.000%	150,000.00	12/01/2028	100.000
	12/01/2039	5.000%	160,000.00	12/01/2028	100.000
	12/01/2040	5.000%	185,000.00	12/01/2028	100.000
	12/01/2041	5.000%	195,000.00	12/01/2028	100.000
	12/01/2042	5.000%	220,000.00	12/01/2028	100.000
	12/01/2043	5.000%	235,000.00	12/01/2028	100.000
	12/01/2044	5.000%	265,000.00	12/01/2028	100.000
	12/01/2045	5.000%	275,000.00	12/01/2028	100.000
	12/01/2046	5.000%	310,000.00	12/01/2028	100.000
	12/01/2047	5.000%	325,000.00	12/01/2028	100.000
	12/01/2048	5.000%	365,000.00	12/01/2028	100.000
			3,440,000.00		

ESCROW REQUIREMENTS

YARROW GARDENS METROPOLITAN DISTRICT
GENERAL OBLIGATION REFUNDING & IMPROVEMENT BONDS, SERIES 2028
Pay & Cancel Refunding of (proposed) Series 2018 + New Money
55.277 (target) Mills
Assumes Investment Grade, 100x, 30-yr. Maturity
(Full Growth + 6% Bi-Reassessment Projections)
[Preliminary -- for discussion only]

Dated Date	12/01/2028
Delivery Date	12/01/2028

5/2/18: Ser 18 NR SP, 5.00%, 100x, 55.277mls, 6% BiRE

Period Ending	Principal Redeemed	Total
12/01/2028	3,440,000.00	3,440,000.00
	3,440,000.00	3,440,000.00

REQUEST FOR CITY COUNCIL ACTION

TITLE: RESOLUTION 49-2018 - A RESOLUTION GIVING NOTICE OF AND CALLING FOR A SPECIAL MUNICIPAL ELECTION TO BE HELD NOVEMBER 6, 2018 AND SUBMITTING A BALLOT QUESTION AUTHORIZING THE CITY TO PROVIDE HIGH SPEED INTERNET SERVICES

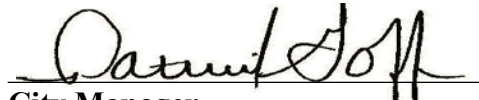
- ☐ PUBLIC HEARING
☐ BIDS/MOTIONS
☒ RESOLUTIONS

- ☐ ORDINANCES FOR 1ST READING
☐ ORDINANCES FOR 2ND READING

QUASI-JUDICIAL:

☐ YES☒ NO

City Attorney



City Manager

ISSUE:

In 2005, the Colorado General Assembly enacted Senate Bill 05-152, which prohibits local governments, such as the City of Wheat Ridge, from providing cable television services, telecommunication services, or high-speed internet services, either directly or indirectly, unless such services are authorized by the electorate. This resolution will submit the following language to the Wheat Ridge voters on the November 6, 2018 ballot:

“SHALL THE CITY OF WHEAT RIDGE, WITHOUT INCREASING TAXES BY THIS MEASURE, AND TO RESTORE LOCAL AUTHORITY THAT WAS DENIED TO LOCAL GOVERNMENTS BY THE COLORADO GENERAL ASSEMBLY AND FOSTER A MORE COMPETITIVE MARKETPLACE, BE AUTHORIZED TO PROVIDE HIGH-SPEED INTERNET, INCLUDING IMPROVED HIGH BANDWIDTH SERVICES, TELECOMMUNICATIONS SERVICES, AND/OR CABLE TELEVISION SERVICES TO RESIDENTS, BUSINESSES, SCHOOLS, LIBRARIES, NON-PROFIT ENTITIES AND OTHER USERS OF SUCH SERVICES EITHER DIRECTLY OR INDIRECTLY WITH

**PUBLIC OR PRIVATE SECTOR PARTNERS, AS EXPRESSLY PERMITTED BY
ARTICLE 27, TITLE 29 OF THE COLORADO REVISED STATUTES”**

PRIOR ACTION:

Consensus was reached by City Council at the July 16 study session to bring forward a resolution to submit this ballot question to November 6, 2018 ballot.

FINANCIAL IMPACT:

The City will participate in a coordinated election with Jefferson County to submit this ballot question to Wheat Ridge voters. The approximate cost to include this question on the ballot is between \$10,000 and \$20,000.

BACKGROUND:

SB 152 has been interpreted by some as prohibiting local governments from providing a wide spectrum of services, including such things as internet service in city libraries, parks and community centers; leveraging government infrastructure and partnering with private businesses to provide affordable and high speed internet services throughout the community; and direct provision of broadband services by municipal government where needed.

A voter approved exemption from SB 152 would restore local independence and the ability for the City to evaluate all possibilities for next generation broadband services in the City of Wheat Ridge. Since the passage of SB 152, voters in 92 towns and cities and 23 counties have overwhelmingly approved measures to allow their local government to decide whether to offer broadband services to their residents.

RECOMMENDATION:

Staff recommends approval of the resolution.

RECOMMENDED MOTION:

“I move to approve Resolution No 49-2018, a resolution giving notice of and calling for a special municipal election to be held November 6, 2018 and submitting a ballot question authorizing the City to provide high speed internet services.”

Or,

“I move to postpone indefinitely Resolution No 49-2018, a resolution giving notice of and calling for a special municipal election to be held November 6, 2018 and submitting a ballot question authorizing the City to provide high speed internet services, for the following reason(s): _____”

REPORT PREPARED BY:

Gerald Dahl, City Attorney

Patrick Goff, City Manager

ATTACHMENTS:

1. Resolution 49-2018

CITY OF WHEAT RIDGE, COLORADO
RESOLUTION 49
Series of 2018

TITLE: A RESOLUTION GIVING NOTICE OF AND CALLING FOR A SPECIAL MUNICIPAL ELECTION TO BE HELD NOVEMBER 6, 2018 AND SUBMITTING A BALLOT QUESTION AUTHORIZING THE CITY TO PROVIDE HIGH SPEED INTERNET SERVICES

WHEREAS, the Home Rule Charter for the City of Wheat Ridge, Section 2.2 requires that a special election shall be called by resolution or ordinance of the City Council no less than 60 days in advance of such special election; and

WHEREAS, the Council is authorized to refer questions to the voters by the Home Rule Charter and by CRS 31-11-111; and

WHEREAS, the Council desires to give notice of and call a special election to be held on the same date as and coordinated with the general election on November 6, 2018.

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

Section 1. Special election called.

Pursuant to the Wheat Ridge City Charter Sections 2.2 and 6.3, and CRS 31-10-501 and 31-11-111, the City hereby gives notice of and calls a Special Municipal Election to be held November 6, 2018 for the purpose of referring the Ballot Question set forth in Section 2 to the voters of the City in the manner set forth below:

Date: November 6, 2018

Qualifications of persons entitled to vote: 18 years of age registered to vote

Section 2. Ballot question referred to voters.

Ballot Question and Title:

“SHALL THE CITY OF WHEAT RIDGE, WITHOUT INCREASING TAXES BY THIS MEASURE, AND TO RESTORE LOCAL AUTHORITY THAT WAS DENIED TO LOCAL GOVERNMENTS BY THE COLORADO GENERAL ASSEMBLY AND FOSTER A MORE COMPETITIVE MARKETPLACE, BE AUTHORIZED TO PROVIDE HIGH-SPEED INTERNET, INCLUDING IMPROVED HIGH BANDWIDTH SERVICES, TELECOMMUNICATIONS SERVICES, AND/OR CABLE TELEVISION SERVICES TO RESIDENTS, BUSINESSES, SCHOOLS, LIBRARIES, NON-PROFIT ENTITIES AND OTHER

USERS OF SUCH SERVICES EITHER DIRECTLY OR INDIRECTLY WITH PUBLIC OR PRIVATE SECTOR PARTNERS, AS EXPRESSLY PERMITTED BY ARTICLE 27, TITLE 29 OF THE COLORADO REVISED STATUTES”

Section 3. **Effective Date.** This Resolution shall take effect upon adoption and signature by the Mayor.

DONE AND RESOLVED this _____ day of _____ 2018.

Bud Starker, Mayor

ATTEST:

Janelle Shaver, City Clerk

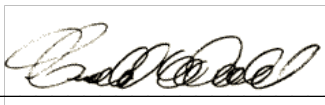
REQUEST FOR CITY COUNCIL ACTION

TITLE: RESOLUTION 50-2018 - A RESOLUTION GIVING NOTICE OF AND CALLING FOR A SPECIAL MUNICIPAL ELECTION TO BE HELD NOVEMBER 6, 2018 AND SUBMITTING A BALLOT QUESTION AUTHORIZING THE CITY TO RETAIN REVENUES IN CONNECTION WITH 2016 BALLOT QUESTION 2E

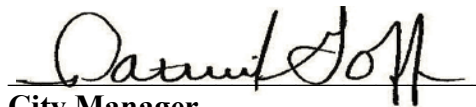
- ☐ PUBLIC HEARING
☐ BIDS/MOTIONS
☒ RESOLUTIONS

- ☐ ORDINANCES FOR 1ST READING
☐ ORDINANCES FOR 2ND READING

QUASI-JUDICIAL:

☐ YES☒ NO

City Attorney



City Manager

ISSUE:

The City included a question on the November 2016 ballot to increase debt by up to \$33,000,000 and increase the City's sales and use tax rate by ½ per dollar for 12 years or when \$38,500,000 is raised for the "Investing 4 the Future" infrastructure projects. The required TABOR election notice was provided to all voters, which provided, among other information, an estimate of \$3,700,000 as the amount the tax increase would generate in 2017. The actual amount of new tax revenue received by the City in 2017 was \$4,157,931, which is \$457,931 over the TABOR allowed amount.

Consensus was reached by City Council to refer a question to the November 6, 2018 ballot asking voters to allow the City to keep the excess revenue and temporary tax rate. This resolution will submit the following language to the Wheat Ridge voters on the November 6, 2018 ballot:

"SHALL THE CITY OF WHEAT RIDGE BE ENTITLED TO RETAIN ALL REVENUES FROM THE 2016 VOTER-APPROVED BALLOT QUESTION 2E "INVESTING 4 THE FUTURE" ½ CENT PER DOLLAR SALES AND USE TAX

RATE INCREASE, AND TO CONTINUE TO COLLECT THE TAX AT THE ½ CENT PER DOLLAR RATE AND EXPEND SAID REVENUES INCLUDING ANY INTEREST AND INVESTMENT INCOME THEREFROM, UNTIL REVENUES FROM SUCH TAX INCREASE REACH \$38.5 MILLION OR DECEMBER 31, 2028, WHICHEVER OCCURS FIRST,

IN THE FOLLOWING WAYS DIRECTED BY THE VOTERS IN 2016:

- ANDERSON PARK IMPROVEMENTS;
- WADSWORTH BOULEVARD RECONSTRUCTION – 35TH AVENUE TO INTERSTATE-70;
- WHEAT RIDGE – WARD COMMUTER RAIL STATION AREA;
- CLEAR CREEK CROSSING – MIXED-USE DEVELOPMENT SITE ON THE WEST SIDE OF I-70 AT 38TH AND YOUNGFIELD;

WITHOUT REFUNDING ANY AMOUNT FOR EXCEEDING THE REVENUE ESTIMATES IN THE ELECTION NOTICE MAILED TO VOTERS IN 2016?

PRIOR ACTION:

Consensus was reached by City Council at the July 23 study session to bring forward a resolution to submit this ballot question to November 6, 2018 ballot.

FINANCIAL IMPACT:

The City will participate in a coordinated election with Jefferson County to submit this ballot question to Wheat Ridge voters. The approximate cost to include this question on the ballot is between \$10,000 and \$20,000.

BACKGROUND:

The “underestimate clause” is a provision of the Taxpayer’s Bill of Rights (TABOR) that states if a new tax brings in more revenue in its first year than projected in an election notice, the taxing entity must refund the excess money and change the rate of the tax to match the actual revenue amount. A government may seek voter approval to keep the excess revenues and keep the tax rate the same.

RECOMMENDATION:

Staff recommends approval of the resolution.

RECOMMENDED MOTION:

“I move to approve Resolution No. 50-2018, a resolution giving notice of and calling for a special municipal election to be held November 6, 2018 and submitting a ballot question authorizing the City to retain revenues in connection with 2016 Ballot Question 2E.”

Or,

“I move to postpone indefinitely Resolution No. 50-2018, a resolution giving notice of and calling for a special municipal election to be held November 6, 2018 and submitting a ballot question authorizing the City to retain revenues in connection with 2016 Ballot Question 2E, for the following reason(s): _____”

REPORT PREPARED BY:

Gerald Dahl, City Attorney

Patrick Goff, City Manager

ATTACHMENTS:

1. Resolution 50-2018

CITY OF WHEAT RIDGE, COLORADO
Resolution 50
Series of 2018

TITLE: A RESOLUTION GIVING NOTICE OF AND CALLING FOR A SPECIAL MUNICIPAL ELECTION TO BE HELD NOVEMBER 6, 2018 AND SUBMITTING A BALLOT QUESTION AUTHORIZING THE CITY TO RETAIN REVENUES IN CONNECTION WITH 2016 BALLOT QUESTION 2E

WHEREAS, the Home Rule Charter for the City of Wheat Ridge, Section 2.2 requires that a special election shall be called by resolution or ordinance of the City Council no less than 60 days in advance of such special election; and

WHEREAS, the Council is authorized to refer questions to the voters by the Home Rule Charter and by CRS 31-11-111; and

WHEREAS, the Council desires to give notice of and call a special election to be held on the same date as and coordinated with the general election on November 6, 2018.

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

Section 1. Special election called

Pursuant to the Wheat Ridge City Charter Sections 2.2 and 6.3 and CRS 31-10-501 and 31-11-111, the City hereby gives notice of and calls a Special Municipal Election to be held November 6, 2018 for the purpose of referring the Ballot Question set forth in Section 2 to the voters of the City in the manner set forth below:

Date: November 6, 2018

Qualifications of persons entitled to vote: 18 years of age registered to vote

Section 2. Ballot question referred to voters

Ballot Question and Title:

“SHALL THE CITY OF WHEAT RIDGE BE ENTITLED TO RETAIN ALL REVENUES FROM THE 2016 VOTER-APPROVED BALLOT QUESTION 2E "INVESTING 4 THE FUTURE" ½ CENT PER DOLLAR SALES AND USE TAX RATE INCREASE, AND TO CONTINUE TO COLLECT THE TAX AT THE ½ CENT PER DOLLAR RATE AND EXPEND SAID REVENUES INCLUDING ANY INTEREST AND INVESTMENT INCOME THEREFROM, UNTIL REVENUES

FROM SUCH TAX INCREASE REACH \$38.5 MILLION OR DECEMBER 31, 2028, WHICHEVER OCCURS FIRST,

IN THE FOLLOWING WAYS DIRECTED BY THE VOTERS IN 2016:

- ANDERSON PARK IMPROVEMENTS;
- WADSWORTH BOULEVARD RECONSTRUCTION – 35TH AVENUE TO INTERSTATE-70;
- WHEAT RIDGE – WARD COMMUTER RAIL STATION AREA;
- CLEAR CREEK CROSSING – MIXED-USE DEVELOPMENT SITE ON THE WEST SIDE OF I-70 AT 38TH AND YOUNGFIELD;

WITHOUT REFUNDING ANY AMOUNT FOR EXCEEDING THE REVENUE ESTIMATES IN THE ELECTION NOTICE MAILED TO VOTERS IN 2016?

_____ YES

_____ NO

Section 3. **Effective Date.** This Resolution shall take effect upon adoption.

DONE AND RESOLVED this ____ day of _____, 2018.

Bud Starker, Mayor

ATTEST:

Janelle Shaver, City Clerk