



**PLANNING COMMISSION
LEGISLATIVE ITEM STAFF REPORT**

MEETING DATE: November 19, 2020

TITLE: AN ORDINANCE REPEALING AND REENACTING SECTION 26-609 OF THE WHEAT RIDGE CODE OF LAWS CONCERNING ACCESS TO PUBLIC STREETS AND MAKING CONFORMING AMENDMENTS

CASE NO. ZOA-20-07

PUBLIC HEARING

CODE CHANGE ORDINANCE

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Date of Preparation: November 6, 2020

SUMMARY:

Section 26-609 requires all new development to have access to public streets. It outlines several stipulations for residential and nonresidential access. The code section does not reflect current development patterns, so the proposed amendment repeals and reenacts this section and updates cross references. The purpose of the amendment is to provide more specificity for commercial and industrial land uses, more flexibility for residential land uses, and more detailed guidance overall. The overarching goal is to ensure that access and circulation designs support logical and high quality site plans.

Notice for this public hearing was provided as required by the Wheat Ridge Code of Laws (“Code”).

BACKGROUND:

Current Code

Section 26-609 of the code describes how development must gain access to public streets. It requires the following:

- All development must have access to a public street.
- Access can be direct access to the street or via easement or private roadway of at least 25 feet in width.
- Private roadways or easements may serve no more than four (4) dwelling units.
- For nonresidential uses in residential zone districts, private roadways or easements may serve no more than 10,000 square feet of gross floor area.
- For commercial and industrial uses, private roadways or easements are permitted with review and approval by the Community Development Director and Fire District

Portions of this code section are cross-referenced in the subdivision regulations, with references to public and private streets appearing in definitions in several articles of the zoning code.

The four (4) dwelling unit limitation is a vestige from the City's original zoning code. The City's first code had a limitation of three (3) units which was later increased to four (4). The reason for this limitation was likely not simply to limit density, but to limit developers from building substandard private streets which was a more common practice decades ago. Additionally, the limitation was in place during a time when development in Wheat Ridge was predominantly single-family detached units. The City did not see any large scale market rate multifamily development between the 1980s and 2016. Likewise, the zoning code was not originally written to acknowledge attached single family units; the term "townhome" did not appear in the code until 2010 when the mixed use zone districts were written.

The City's historic overreliance on Planned Development zoning has provided a mechanism by which private streets can be utilized for more units through the planned development review process. Over the last 20 years, the 4-unit limitation has been enforced by policy to refer only to single family *detached* units based on the original context of the code. To interpret otherwise would have been exclusionary zoning.

Proposed Code

An update to this code section is overdue as the City's reliance on planned developments has been diminishing over the past decade. The less dependent the City is on planned developments or case-by-case zoning, the more tools we need in the code to ensure high quality development across the City as a whole. In June 2020, the 4-unit private drive limitation was a point of discussion in the context of a proposed Planned Residential Development. The issue was moot as a planned development allows such proposals, but the discussion highlighted an important point: street and circulation designs should *abet* logical and high quality design, and such provisions related to access are not the appropriate tool by which to regulate density or land use. Zoning (permitted uses and development standards) dictate permitted use and density.

In consultation with the City Attorney's office, staff has since prioritized this code update to provide better clarity for decision makers, applicants, and the public. The current language in Section 26-609, allows, in short, wide discretion in the approval of access for commercial and industrial developments, but it does not include any specific considerations. Conversely, for residential uses, the code is limiting and does not address multifamily or townhome contexts. The zoning code needs to reflect our current infill reality with more specificity for commercial and industrial land uses, more flexibility for residential land uses, and more detailed guidance overall.

The proposed code reflects current and best practice by outlining a series of specific considerations to be applied in the context of all types of development when determining how property accesses the public road network. The City currently has and will retain sole discretion over whether a property has access to streets through public or private roadways. The code adds specificity by itemizing the following considerations by which such design and decision is made:

- Maintenance,
- Design,
- Emergency/fire access,

- Merits of alternate designs,
- Land use (number of units or size of nonresidential),
- Block length,
- Impact on existing street network, and
- Bicycle and pedestrian facilities.

Conforming amendments are necessary in several code sections. In the current code, the provisions of Section 26-609 (access to public streets) are only partially duplicated in the subdivision regulations, so the latter is now updated to simply reference Section 26-609. Equally problematic, the current code has inconsistent street-related definitions in three separate articles of the zoning code (Articles I, IV, and XI); this ordinance fixes the issue by replicating definitions from Article XI (mixed use code) in other sections.

Recommendation and Next Steps

In practice, the City’s Development Review Team reviews all site designs and access configurations. This team includes over 15 staff members from the Planning Division, Building Division, Engineering Division, Economic Development, Public Works, and several fire districts; it includes the City Engineer and Community Development Department.

Review of and revisions to access and circulation are often among the first and most robust discussions. The City’s codes related to access need to better complement the overriding intent of the zoning and subdivision regulations: to promote efficient circulation; improve connectivity; accommodate safe movement of vehicles, bicycles, pedestrians; and minimize the number of curb cuts. The proposed code amendment will provide staff and decision makers a better basis to make review comments and to ensure safe, logical, and high quality access and circulation.

As noted above, City Council discussed this code section in the context of a planned development earlier in the year, and subsequently the City Attorney’s office worked with staff to update the code to provide better clarity. The Planning Commission’s recommendation will be forwarded to City Council after a November 19 public hearing. This ordinance is scheduled for a first reading at City Council on December 14 and scheduled for public hearing at City Council on January 11.

RECOMMENDED MOTION:

“I move to recommend approval of the proposed ordinance repealing and reenacting Section 26-609 of the Wheat Ridge Code of Laws concerning access to public streets and making conforming amendments.”

Exhibit:

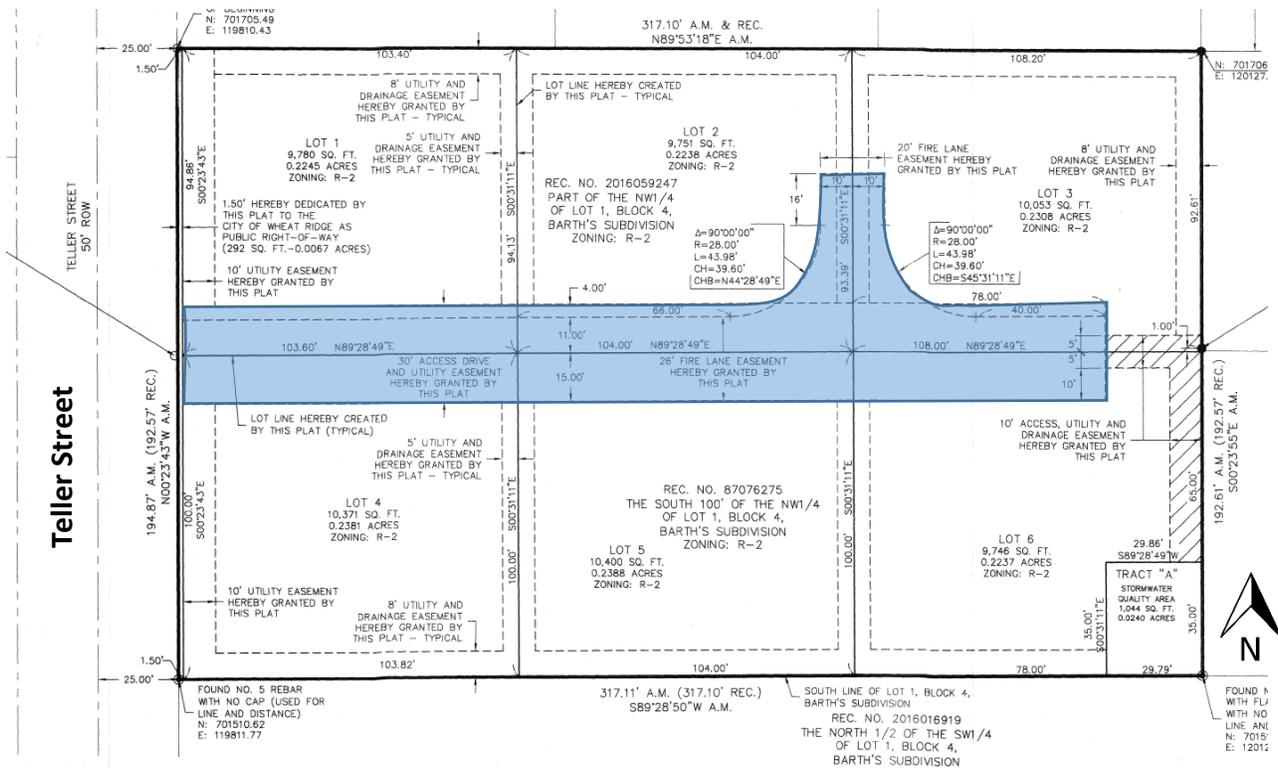
1. Proposed Ordinance
2. Examples

Exhibit 2 – Examples

Nearly every development in Wheat Ridge—old and new—provides a different case study for a conversation about access. The following three examples demonstrate the wide range of possibilities for private and public access to the road network. Every development is unique and a code that supports good planning but allows flexibility is important.

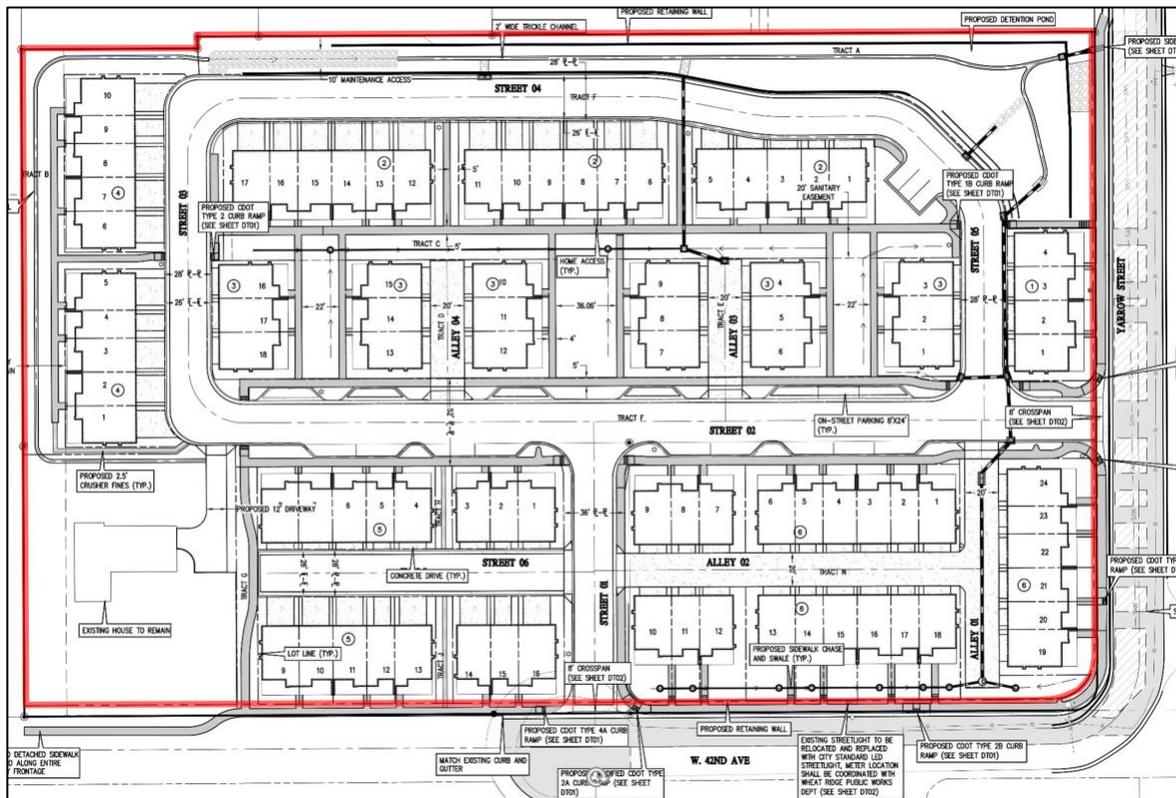
Example 1 –

Teller Subdivision Filing No. 1 was approved in 2017, creating six (6) lots for six (6) detached single family homes at 2822 Teller Street. An access easement for a shared private drive is shaded in blue. Because of the current 4-unit limitation on private drives, only the eastern four (4) lots can utilize the shared drive, and the subdivision includes a plat note requiring the western two (2) lots to have direct access off of Teller Street. This results in three (3) separate curb cuts on Teller along a relatively short frontage. In addition, the maintenance of the private drive is shared among only four (4) homeowners instead of six (6). The lot layout meets the zoning, but a shared drive among all six (6) lots would have improved the streetscape with fewer curb cuts and fewer garages oriented to the street, and would have resulted in better economy of scale with shared maintenance costs.



Example 2 –

Yarrow Gardens is a townhome development which was rezoned, platted, and site planned from 2016 to 2018. The site is organized around a private loop road, portions of which resemble alleys or driveway, and portions of which appear more street-like with on-street parking and sidewalks. It does not make sense for the City to own or maintain streets in a project of this size or with this looped design which is disconnected from the overarching street grid. In this case, the City approved a metro district, and the district is responsible for maintenance and plowing of the roadways. This project is one of several townhome projects for which private drives make sense. The proposed code amendment may not have resulted in any changes to this design but would have provided better guidance through the entitlement process.



Example 3 –

The Clear Creek Crossing development will include a mixture of public and private roadway facilities. Clear Creek Drive and W. 40th Avenue are dedicated as public rights-of-way with sidewalks, street lights. Central to the circulation plan is a loop road that functions as the local street network between planning areas (shown as the dashed white line). That loop road will be privately owned. This allows more flexibility in its alignment as SDPs are submitted for each planning area. It also allows the development to remove snow from this major interior drive more frequently than the City would otherwise plow a local street. Minimum design requirements are provided in the projects zoning documents, and it will still comply with engineering and fire district requirements. A metro district is in place to maintain these kinds of improvements.

This arrangement is permitted by the current code, and common for developments of this size. The proposed code mirrors the process and considerations that were made in determining the design of roadways. If the City had determined it important for any other segment to be public, the proposed code would be more clear in providing that sole discretion.

