



PLANNING COMMISSION A G E N D A

September 2, 2021

Notice is hereby given of a **Public Meeting** to be held before the City of Wheat Ridge Planning Commission on September 2, 2021 at 7:00 p.m.

This meeting will be conducted as a virtual meeting and in person at 7500 W. 29th Avenue, Municipal Building, if allowed to meet on that date per COVID-19 restrictions. Members of the Planning Commission and City staff will be physically present at the Municipal building for this meeting if allowed by health guidelines. The public may participate in these ways:

1. Provide comment in advance at www.wheatridgespeaks.org (comment by noon on September 1)
2. Virtually attend and participate in the meeting through a device or phone:
 - [Click here to join and provide public comment](#) (create a Zoom account to join)
 - Or call 1-669-900-6833 with Meeting ID 844 8733 5080 **and Passcode: 274312**
3. View the meeting live or later at www.wheatridgespeaks.org, Channel 8, or YouTube Live at <https://www.ci.wheatridge.co.us/view>
4. Attend in person (meeting will be in-person unless prohibited by COVID-19 restrictions).

-
1. **CALL THE MEETING TO ORDER**
 2. **ROLL CALL OF MEMBERS**
 3. **PLEDGE OF ALLEGIANCE**
 4. **APPROVE THE ORDER OF THE AGENDA**
 5. **APPROVAL OF MINUTES – June 17, 2021 and August 19, 2021**
 6. **PUBLIC FORUM (This is the time for any person to speak on any subject not appearing on the agenda. Public comments may be limited to 3 minutes.)**

(continued on next page)

7. PUBLIC HEARING *

- A. **Case No. WS-21-03**: an application filed by Storybuilt for approval of a major subdivision with 26 townhome lots in the Mixed Use-Neighborhood (MU-N) zone district and located at 5725-5785 West 38th Avenue.
- B. **Case No. ZOA-21-02**: an ordinance amending Chapter 26 of the Wheat Ridge Code of Laws regarding outdoor recreational equipment on private property

8. NEW BUSINESS

- A. Upcoming Dates
- B. Project and Development Updates

9. OLD BUSINESS

10. ADJOURNMENT

* Public comment is welcome during any public hearing item. The standard procedure for a public hearing is as follows:

- a. Staff presentation
- b. Applicant presentation – if applicable
- c. Public comment – time may be limited at the discretion of the Chair, often to 3 minutes
- d. Staff/applicant response
- e. Close public hearing
- f. Commission discussion and decision

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.



**PLANNING COMMISSION
Minutes of Meeting
June 17, 2021**

1. CALL THE MEETING TO ORDER

The meeting was called to order by Chair LARSON at 7:02 p.m. This meeting was held in person and virtually, using Zoom video-teleconferencing technology. As duly announced and publicly noticed, the City previously approved this meeting format in order to continue with normal business amid the COVID-19 pandemic and the related public emergency orders promulgated by the State of Colorado and the Wheat Ridge City Council. Before calling the meeting to order, the Chair stated the rules and procedures necessitated by this virtual meeting format.

2. ROLL CALL OF MEMBERS

Commission Members Present: Kristine Disney
Will Kerns
Ari Krichiver
Daniel Larson
Janet Leo
Scott Ohm
Jahi Simbai

Commission Members Absent: Melissa Antol

Staff Members Present: Lauren Mikulak, Planning Manager
Scott Cutler, Senior Planner
Mark Westberg, Engineering Projects Supervisor
Tammy Odean, Recording Secretary

3. PLEDGE OF ALLEGIANCE

4. APPROVE ORDER OF THE AGENDA

It was moved by Commissioner OHM and seconded by Commissioner SIMBAI to approve the order of the agenda. Motion carried 7-0.

5. APPROVAL OF MINUTES – May 20, 2021

It was moved by Commissioner OHM and seconded by Commissioner DISNEY to approve the minutes of May 20, 2021, as written. Motion carried 5-0-2 with Commissioners KERNs and SIMBAI abstaining.

6. **PUBLIC FORUM** (This is the time for any person to speak on any subject not appearing on the agenda.)

**Frank Cefaratti, resident
3605 Dudley Street**

Mr. Cefaratti commented on the fenced off Town Center Park near 4100 Wadsworth and mentioned he would like help with the blighted area.

Commissioner LARSON closed the public forum.

7. **PUBLIC HEARING**

- A. **Case No. WS-21-01**: an application filed by Frank Cefaratti for approval of a 2-lot major subdivision with right-of-way dedication in the Mixed Use-Commercial (MU-C) zone district and located at 4100 Wadsworth Boulevard.

Mr. Cutler gave a short presentation regarding the major subdivision 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 SIMBAI was curious as to what development will occur on the new lot of this subdivision.

Mr. Cutler mention there is a site plan under staff review for Lot 2 currently and will be a multi-family site.

Commissioner SIMBAI also asked about the new street and if there is room for expansion.

Mr. Cutler explained that the street will be upgraded to a full width City street and this is due to the 52 feet of dedication which will allow for additional amenities.

Commissioner OHM asked if driving north to the existing 44th and Vance from said property is possible.

Mr. Cutler mentioned it is not allowed currently due to a barricade. Mr. Westberg added that the temporary barrier was due to a grade difference making it impassable, but the City hopes to make the connection in the future.

Commissioner OHM inquired about fire access to the multi-family units.

Ms. Mikulak explained there are other routes that can be taken by the fire trucks and there were no objections to this subdivision plat by the Fire Department.

Commissioner OHM also asked about the comment on Wheat Ridge Speaks and the alley and loading areas to the existing commercial building to the south.

Mr. Cutler clarified that the only improvements for this project are along the subject site boundaries and will not affect the parking or loading areas on other adjacent properties and will actually make for better connectivity.

Commissioner KERNS asked how the City is going to pursue completing this street.

Ms. Mikulak explained this dedication of right-of-way appears to be an island within a mega block of 38th to 44th and Upham to Wadsworth. The ultimate goal is to achieve a better street grid incrementally over time, because there currently is not one in this area. She acknowledged that it will take many years to achieve that goal.

Commissioner LARSON wondered if there will be an adequate number of parking spaces on the site and if the east/west easement will be widened.

Mr. Cutler said the east/west easement will be upgraded as part of future development along the site. Ms. Mikulak added that any development will meet development standards for the zone district and there will be both on street and off-street parking.

Commissioner SIMBAI commented on a gap in the fence east of Vance Street and wondered if the access will continue.

Frank Cefaratti, applicant
3605 Dudley Street

Mr. Cefaratti explained there are neighbors who cut through the fence and he mentioned he plans to beautify it to make it look better and it will remain and connect to all other sidewalks. He also clarified that the easements will be widened for better access for fire trucks.

There was no Public Comment.

It was moved by Commissioner OHM and seconded by Commissioner LEO to recommend approval of a major subdivision with right-of-way dedication on property located at 4100 Wadsworth Boulevard and zoned Mixed Use-Commercial (MU-C) for the following reasons:

1. All requirements of the subdivision regulations (Article IV) of the zoning and development code have been met.
2. All agencies can provide services to the property with improvements installed at the developer's expense.

With the following conditions:

1. The applicant shall pay the required fees-in-lieu of parkland dedication at time of building permit if residential development occurs.
2. The developer shall enter into a Subdivision Improvement Agreement with the City at the time of recordation of the subdivision plat.
3. Minor corrections to the plat labelling and symbology as requested by the Engineering Division shall be made prior to recordation of the plat mylar.

Commissioner KERNS commented that he feels there is a need for more pedestrian access on the east side of the property.

Commissioner OHM is happy the applicant is working with the City to have more pedestrian access and would like to see conversations for long-term connectivity.

Commissioner SIMBAI appreciates the current and future planning happening on this site.

Commissioner LARSON said he initially had concerns about this project, but sees it is an important piece of the plan for the City.

Motion carries 7-0.

- B. Case No. ZOA-21-01:** a code amendment modifying Chapter 26 of the Wheat Ridge Code of Laws concerning the floodplain regulations.

Mr. Westberg gave a short presentation regarding the revision to the Floodplain Regulations.

Commissioner KRICHIVER asked what the enforcement mechanism is with the current regulation and what the penalty will be.

Mr. Westberg explained that if the changes are not made, then the City is still obligated to enforce the regulation and there would be a citation given, it would be the Flood Districts regulation being cited, instead of the City's regulation. Ms. Mikulak mentioned the enforcement process itself would not change, just the

citation. Mr. Westberg said he did not know what the penalty will be, but similar to other things that are illegal and unlawful.

Commissioner KRICHIVER feels this amendment will affect the unhoused people of Wheat Ridge and asked if there is a plan to get them to a safe place.

Ms. Mikulak explained that the City has recently hired a Homeless Navigator and there are more resources currently in the City and County than ever before and there will be more discussions about homelessness in the future at City Council.

Commissioner KRICHIVER asked about the phrase that “structures were prohibited except in locations expressly permitted by Floodplain Administrator and having adequate sanitation and facilities and flood evacuation plans” and wondered if there are currently any plans to build said facilities and is there an evacuation plan.

Mr. Westberg said the phrase was intended to address and allow one specific place in Denver where camping is already allowed. He would not be inclined to allow camping to happen in a floodplain.

Commissioner SIMBAI asked about the difference of ministerial vs. discretionary approvals and if the public will have any options.

Ms. Mikulak explained the difference in approval types. She noted that when the code outlines a ministerial approval process, a public hearing invites discretion and it not only exposes the City to liability but also creates false expectations for the public.

Commissioner OHM asked why the ordinance included the tragic story of a drowning.

Ms. Mikulak explained it is just part of the preamble explaining why the code amendment is needed but it will not be codified into the Municipal Code.

Commissioner OHM also inquired if there is a statement in the Code saying if trees can be cut down if in the floodplain.

Mr. Westberg answered no, trees are not addressed in this floodplain part of the Code.

In response to a question from Commissioner DISNEY about a damaged house in the floodplain being rebuilt, Mr. Westberg explained the language should be floodway (as opposed to floodplain) and if the damage of a home reaches 51% of its value the code does not allow the house to be rebuilt.

Commissioner DISNEY expressed her opinion that there is a need for this ordinance in the City of Wheat Ridge.

Commissioner LEO asked if the Floodplain is also called the 100-year Floodplain.

Mr. Westberg explained that Floodplain, 100-year Floodplain and Special Flood Hazard Area all refer to the same thing and mean there is 1% chance of that area being flooded. He explained the different between this and the floodway.

Commissioner LEO asked if Code Enforcement are the enforcers of the Floodplain Code.

Ms. Mikulak said it is primarily Code Enforcement and maybe the Police who will enforce this code. She noted that the Police Department's approach is to try to educate and find solutions for individuals instead of penalizing them.

Commissioner LEO asked if there is a difference between somebody sleeping in a Floodplain without a tent as opposed to with a tent.

Mr. Westberg said he would look into it to clarify.

Commissioner KERNS asked what this amendment changes.

Mr. Westberg said it mimics the regulation from the Mild High Flood District in the City's regulations. This will ease the process to enforce should it become necessary.

Commissioner LARSON asked why this variance process will move from the Board of Adjustment (BOA) to the Building Code Advisory Board.

Ms. Mikulak explained that the BOA does not have the technical expertise when processing a floodplain permit and it will clean up the process. He also explained that a floodplain variance is a different process than the kind of variance described in the zoning code which the BOA is more accustomed to reviewing.

Commissioner LARSON then asked about the Clear Creek Index and wondered where it ends.

Mr. Westberg said the Clear Creek index goes all the way to the Platte River, but for the City ends just east of Marshall Street.

Commissioner KRICHIVER asked for clarification that the women who drowned in a floodplain was not in Wheat Ridge.

Mr. Westberg concurred and mentioned the District is trying to get all Jurisdictions to amend their Codes to incorporate floodplain regulations in them for consistency.

Citizen's Forum

No one wished to speak.

It was moved by Commissioner Disney and seconded by Commissioner LEO to recommend approval of a Code amendment modifying Chapter 26 of the Wheat Ridge Code of Laws concerning the regulation of Floodplains.

Commissioner KRICHIVER pointed out there is a regulation that exists in MHFD regulations, and the local amendment won't change the enforcement of a camping ban. He added the amendment does not address the underlying issue of why people are setting up tents and make-shift structures in floodplains. He was happy to hear that City Council is setting up resources and paying attention to the unhoused people in the City. He would like to see services in place for these unhoused people.

Motion carries 5-2 with Commissioners KERNs and KRICHIVER voting against.

8. OLD BUSINESS

9. NEW BUSINESS

A. Upcoming Dates

Ms. Mikulak mentioned there will be no Planning Commission meetings in July.

B. Project and Development Updates

Ms. Mikulak said that the City is currently halfway through the Lutheran Master Plan process and she mentioned the 2nd meeting on June 10 included 50 people participating. She added that August 2 will be Public Meeting # 3 and September 22 will be Public Meeting # 4 and there will also be Study Sessions with City Council and Planning Commission with adoption in October.

Ms. Mikulak also let the Commission know that staff continues to be busy with the review process for building permits and is in the process of hiring a Plan Reviewer to help. In response to a question, she noted that in 2012 there was 146 building permits reviewed compared to 372 permits in 2020.

There was then discussion about the hybrid meeting format and how well they seem to work for the public and staff to participate.

In answer to a question about Town Center Park, Ms. Mikulak gave some background on public parks and how the use of federal funds protects parks. Once the Wadsworth widening project is complete, then the Parks and Recreation

Department will be able to make decisions about the future of Town Center Park near 41st & Wadsworth.

10. ADJOURNMENT

It was moved by Commissioner SIMBAI and seconded by Commissioner DISNEY to adjourn the meeting at 9:02 p.m. Motion carried 7-0.

Dan Larson, Chair

Tammy Odean, Recording Secretary

DRAFT



**PLANNING COMMISSION
Minutes of Meeting
August 19, 2021**

1. CALL THE MEETING TO ORDER

The meeting was called to order by Chair LARSON at 7:03 p.m. This meeting was held in person and virtually, using Zoom video-teleconferencing technology. As duly announced and publicly noticed, the City previously approved this meeting format in order to continue with normal business amid the COVID-19 pandemic and the related public emergency orders promulgated by the State of Colorado and the Wheat Ridge City Council. Before calling the meeting to order, the Chair stated the rules and procedures necessitated by this virtual meeting format.

2. ROLL CALL OF MEMBERS

Commission Members Present: Melissa Antol
 Kristine Disney
 Will Kerns
 Daniel Larson
 Scott Ohm
 Jahi Simbai

Commission Members Absent: Ari Krichiver
 Janet Leo

Staff Members Present: Lauren Mikulak, Planning Manager
 Tammy Odean, Recording Secretary

3. PLEDGE OF ALLEGIANCE

4. APPROVE ORDER OF THE AGENDA

It was moved by Commissioner SIMBAI and seconded by Commissioner DISNEY to approve the order of the agenda. Motion carried 6-0.

5. PUBLIC FORUM (This is the time for any person to speak on any subject appearing on the agenda.)

No one wished to speak at this time and public forum was closed. After the Lutheran Legacy Campus presentation, the Commissioners waived the rules for letting a member of the community speak because the resident was having issues connecting to the Zoom Virtual Meeting.

Everett Coleman, Resident
9395 W 38th Avenue

Mr. Coleman said he was an advocate for the land itself where Lutheran Hospital currently sits. He mentioned he values agriculture and is part of Regenerate Wheat Ridge. He would like to see gardens similar to Happiness Gardens at this site along with more open space.

6. NEW BUSINESS

A. Study Session – Lutheran Legacy Campus Master Plan Update

Jay Renkens, MIG
518 17th St., Ste. 630, Denver

Mr. Renkens gave a thorough update on the Lutheran Legacy Campus Master Plan process. He summarized public feedback received to date, shared market and traffic analysis, and described three conceptual land use plans as well as the respective public reactions to each concept.

In response to a question from Commissioner LARSON, Ms. Mikulak explained that this Master Plan is an amendment to the Comprehensive Plan and a guiding document for this specific area. The next step of the process after the Master Plan is completed is the property will be put on the market and the future developer will be given the Plan to see what the City expects. She added that the next item the Commission will see regarding the Lutheran Legacy Campus, will most likely be a zone change for a mixed-use or planned development district.

Commissioner DISNEY made an observation that the 3 Concepts are paying the most attention to the east, west and southern sides of the campus as being low density and the north side is higher density. She explained that her concerns lie with the community to the north and the possibility of increased cut-through traffic. She agrees more with Concept A, with the exception of flipping the Civic and the Multi-Family Uses and she would like to see more park spaces or agricultural concepts. She prefers to see nonresidential uses along 38th Avenue. Commissioner DISNEY added she is very impressed with this process and the attention City Staff has given to its importance. She is also grateful that Lutheran is engaging in this process. She shared observations on the August public meeting.

Commissioner OHM asked for the peak hour and total traffic counts to be explained.

Mr. Renkens confirmed that the table shared in the slides showed the traffic volumes at the AM and PM peaks which is specific to the 1 hour in the morning and 1 hour in the evening with the highest traffic volume. It does not show traffic counts for the full day.

Commissioner OHM also had concerns about the addition families being added to the community and children trying to get to school. He would like to see better sidewalk connections to the schools in the area. His other concerns are the location of transit access and the parks being too small in this area, particularly the narrow open space at the northeast side in Concept C. He also added he appreciates the time and effort being put into this process.

Commissioner ANTOL is curious about how the 3 Concepts were created and what the Comprehensive Plan's projection is for the needs of the City; for example, what the demand is for apartments compared to townhomes.

Mr. Renkens clarified that prioritizing the different types of housing is not a part of this scope, but the absorption of different housing types is within the scope, adding that the market analysis looked at a 10–15-year absorption.

Commissioner ANTOL inquired how the housing will get distributed.

Ms. Mikulak explained that the Comp Plan is dated 2009 and predates a lot of the demographic shifts in the City and changes in the housing market. It calls for protecting the character of established neighborhoods and channeling growth to more appropriate areas. She added that City Council has adopted policy documents that call for diversification of the housing stock and vacancy rates are currently very low across all types of housing. Ms. Mikulak stated that the City fills confident showing this much residential is appropriate for the community and area needs; the City wants the Master Plan to be realistic.

Commissioner ANTOL would rather see a Concept with more open space/park area because she feels there is a deficit of open space in this area, and it would enhance the heritage of Wheat Ridge.

Commissioner SIMBAI commented that he envisioned a mini downtown with density and commercial uses on the edge and more open in the middle. He reiterated the need for the site to be a destination in the heart of the City.

Ms. Mikulak explained that there is not a lot of demand and/or acreage to fill the edge with more intense uses and it is not politically the most realistic, despite it being a very traditional urban design.

Commissioner OHM said it is very important to buffer the existing neighborhoods, and this is a unique site and should be mixed-use at the high spot in the center which will have some good views.

Commissioner LARSON asked about the potential of reusing the hospital building.

Mr. Renkens explained that the north tower is fairly new and great for reuse, but the rest of the hospital is less likely to be reused.

**Steve Chyung, SCL (joined by Zoom)
8300 W. 38th Ave., Wheat Ridge**

Mr. Chyung mentioned that the north tower accounts for about 1/3 of the total square footage of the hospital and it is new space. He added the challenge will be finding the infrastructure to support the north tower because it is tied to the Central Utility Plant (CUP).

Commissioner LARSON asked if an issue is being created by trying to reuse medical buildings with a different use, and if it will be appealing to others.

Ms. Mikulak said the City is not trying to get rid of anything; some of the buildings would be perfect for potentially a new City Hall facility. She added that developers would welcome building that are already built. None of the concepts rely on existing buildings nor preclude them from staying.

Commissioner LARSON asked how civic space is defined and if there is the potential for office space after the pandemic.

Mr. Renkens said there are many definitions of a civic campus including but not limited to a plaza space, flexible amphitheater, a large central park or all of the above. Ms. Mikulak added it could be a cultural gathering or performing arts area or more traditional government or municipal function. Mr. Renkens said there is potential for office space and the office community would like amenities nearby in a site such as this.

Commissioner KERNS said this is going to be an asset to the community and thought highly of Concept A but would switch the Civic and Multi-family areas. He likes the park space in Concept B and the main street proposed in Concept C surrounded by the retail. He wondered if the blue house and chapel could become part of the Civic area. Commissioner KERNS also had concerns about sidewalk connectivity to different areas in the community including schools and would like to see more transportation access onto 32nd Avenue which could mean another signal on 32nd Avenue. He recognized that

connecting the street grid may not be popular among neighbors but would help to distribute traffic.

Commissioner OHM also wondered if Rocky Mountain Ditch will continue to have pedestrian crossings.

Mr. Renkens said the plan assumes they remain, but it's up to the developers.

7. OLD BUSINESS

A. Upcoming Dates

Ms. Mikulak informed the Commission that the upcoming Planning Commission schedule has several land use cases and code amendments to hear and expects to utilize both meetings in September and October.

10. ADJOURNMENT

It was moved by Commissioner OHM and seconded by Commissioner ANTOL to adjourn the meeting at 8:42 p.m. Motion carried 6-0.

Dan Larson, Chair

Tammy Odean, Recording Secretary

HOW TO PARTICIPATE IN PUBLIC MEETINGS

In March 2020, to help control the spread of the COVID-19 virus, the City of Wheat Ridge began conducting virtual meetings for City Council, Planning Commission and other boards. Virtual meetings encourage public participation as usual while also keeping the community, elected officials, staff and residents safe while continuing to conduct important City business.

Starting in June 2021, the City returned to in-person public meetings and also retained the option for virtual public participation. The City will continue using this hybrid meeting format for the City Council and Planning Commission; this means that public meetings will continue to be virtually accessible and will also be held in-person if allowed by public health guidelines on the respective meeting date. This guide describes the various ways in which the public may participate in public meetings.

1. TO COMMENT IN ADVANCE

- Click this link: www.wheatridgespeaks.org
- Use Wheat Ridge Speaks to review agendas and staff reports and to submit written comment.
- For City Council meetings on Wheat Ridge Speaks:
 - You may submit comments at any time until noon on the day of the meeting.
 - For public hearings related to development or zoning, content will be posted about 10 days in advance.
 - For all other agenda items, content will be posted about 4 days in advance.
- For Planning Commission meetings on Wheat Ridge Speaks:
 - You may submit comments until noon the day before the meeting.
 - Content will be posted about 10 days in advance.

2. TO COMMENT VIRTUALLY DURING THE LIVE MEETING (by web or phone)

Join the live meeting through the web link or phone number (with access code) provided on the calendar on the City's website and provided on the top of all meeting agendas. Find the calendar at www.ci.wheatridge.co.us/calendar

- You will be joined into the meeting and automatically muted.
- When public comment is invited, all participants will be unmuted and called upon by last name. (For example, the Mayor or meeting Chair may say: "Now is the time for public comment. All members of the public will be unmuted. Please mute yourself or keep background noise to a minimum. If your last name begins with A through F, you may now speak.")
- Please only join via the Zoom web or phone meeting if you intend to participate. If you wish to simply view the meeting, see option 4 below.

3. TO COMMENT IN PERSON

- Confirm that local health guidelines allow the meeting to be held in-person. The meeting format will be described on the City's calendar at www.ci.wheatridge.co.us/calendar
- When you arrive, sign up on the roster to speak on a specific agenda item.
- Review these tips for commenting during a public meeting or hearing: <https://bit.ly/WRPublicHearings>

4. TO VIEW THE MEETING LIVE OR LATER

The meeting will be live streamed and archived for viewing at:

- www.wheatridgespeaks.org (watch here to follow along with the agenda packet)
- Channel 8 on your Comcast feed
- YouTube Live www.ci.wheatridge.co.us/view

HELPFUL TIPS FOR A GOOD VIRTUAL MEETING EXPERIENCE

- If joining through the web, log on 5 minutes before the start of the meeting, since some online products require downloads and installation.
- State your name when you speak.
- Turn off nearby cell phones, if you are using a computer to connect.
- Please use a headset or earbuds.
- **Only** have the virtual meeting application open on your computer. If you are running other programs like email or have additional websites open in your browser, it will interfere with your ability to hear or see the information. Close all other applications and windows when participating.
- Please limit distractions when possible. Be aware of background noise.
- Video streaming is a relatively new technology. Some things to be mindful of when connecting with your computer/tablet or smart phone.
 - If your computer/tablet or smart phone is older than 2015 it is recommended that you use a landline/standard telephone to dial into the virtual meeting number to ensure that you can hear the meeting clearly.
 - Internet service minimum needs to be 40-50 Mbps for best results with a virtual meeting.
 - Depending on the Internet speed and service in your neighborhood, the most reliable way to participate in the meeting is to call the phone number provided, rather than joining the meeting through the web link.

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

REVIEW DATES: September 2, 2021 (Planning Commission) /September 13, 2021 (City Council)

CASE MANAGER: Scott Cutler

CASE NO. & NAME: WS-21-03 / Judy Townhomes

ACTION REQUESTED: Request for approval a major subdivision with 26 townhome lots.

LOCATION OF REQUEST: 5725-5785 W. 38th Avenue

APPLICANT/OWNER (S): Storybuilt (Storybuilt West 38th LLC and Storybuilt 5785 West 38th LLC)

APPROXIMATE AREA: 54,999 square feet (1.2626 acres)

PRESENT ZONING: Mixed Use – Neighborhood (MU-N)

PRESENT LAND USE: Single-family

ENTER INTO RECORD:

(X) CASE FILE & PACKET MATERIALS (X) SUBDIVISION REGULATIONS
(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

Case No. WS-21-03 is an application for a major subdivision on property located at 5275 and 5785 W. 38th Avenue. The applicant is proposing to subdivide the existing three lots into 26 townhome lots in a total of four buildings, plus two tracts. Given the total number of lots, this request is a major subdivision, which requires Planning Commission to make a recommendation to City Council who is the final authority for approval.

The purpose of a subdivision plat is not to review specific site plan details, but rather to confirm appropriate lot configuration, access, rights-of-way, easements, and utility service to the site in order to create developable parcels for land uses that are already permitted by the underlying zoning. The plat will allow each townhome in the development to be owned separately.

A site plan for the townhome development has been found approvable by the Community Development Department. Civil construction documents are under review and are nearing approval. These documents are not reviewed by Planning Commission or City Council as part of the subdivision application. Townhomes are a permitted use by right in the Mixed Use – Neighborhood (MU-N) zone district, and review of site plan and construction documents is administrative. Staff has found that all requirements of the MU-N zone district have been met, including site design, landscaping, and architecture, making the site plan application approvable. The purpose of the plat is to create lots lines that will enable individual ownership of the townhomes.

II. EXISTING CONDITIONS

The site is located at the northwest corner of W. 38th Avenue and Eaton Street (*Exhibit 1, Aerial*). The site is 54,999 square feet (1.2626 acres) in size and contains three total lots:

- 5725 W. 38th Avenue (two lots): contains a single-family home built in 1933
- 5785 W. 38th Avenue (one lot): contains a single-family home built in 1936

The property is zoned Mixed Use-Neighborhood (MU-N), as are most of the properties on the 38th Avenue corridor having been subject to a legislative rezoning of the corridor in 2012 (*Exhibit 2, Zoning*). Properties to the north along Eaton Street are zoned Residential-One A (R-1A) and to the northeast, Residential-Three (R-3). A small strip to the west of the site is zoned Neighborhood Commercial (NC) but is actually part of the InCarnation development that includes a shared pedestrian pathway connecting W. 38th Avenue to the neighborhood to the north.

III. PROPOSED SUBDIVISION PLAT

Plat Document

The proposed plat document consists of two pages (*Exhibit 3, Judy Townhomes*). The first page includes a legal description of the property; signature blocks for the owners, City, surveyor and County; and standard declarations and notes. The second page includes the plat map and data table which shows the proposed property lines and easements.

Lot Configuration

The subdivision creates 26 townhome lots across 4 buildings, which will allow the developer to sell the units individually. It also creates two tracts: 1) Tract A which is a 6.5-foot wide strip of land along the Eaton Street frontage to allow for the construction of public improvements and dedication of right of way, and 2) Tract B which contains all of the common areas for the development including alleys, pedestrian pathways, open space and buffers, public utilities, and access easements.

New development on the site are required to comply with the MU-N development standards including setbacks/build-to, building height, architecture/materials, open space, parking, and lighting. The MU-N zone district does not have minimum lot size or width requirements, but is limited by the overall Charter density limits of 21 units/acre. After right-of-way dedication the total site size is 1.2383 acres, which allows a total of 26 dwelling units on the site. The townhome use is permitted by the underlying zoning and compatible with the nearby multifamily development and surrounding commercial uses on 38th Avenue. The site also exceeds the minimum setback requirements on the north side for townhomes adjacent to single-family uses.

Attached residential development (single-attached dwellings such as townhomes) requires the following configurations, which this development meets: 1) buildings may contain no more than 8 side-by-side units, and 2) for units adjacent to public streets, front doors shall be located on the façade that faces the public right-of-way. Through review of the site plan and subdivision, staff has determined both requirements are met.

Easements

Several easements are created by this plat to allow adequate infrastructure and access:

- Tract B contains a blanket public utility easement for wet and dry utilities.
- The alleys contain a 25- to 26-foot wide emergency access and private access easement.
- Sanitary sewer and water easements are shown on the plat and will be granted by separate document.
- The existing City of Wheat Ridge permanent easement along the 38th Avenue frontage will remain as-is. This easement acts as right-of-way and allows the City to maintain its sidewalk and other improvements. It has been in place since 2001.

Public Improvements

The developer will construct public improvements within the dedicated right-of-way on Eaton Street, shown as Tract A, upgrading the existing frontage with a 5-foot attached sidewalk and curb/gutter. The improvements along W. 38th Avenue are existing and will not be modified, except the relocation of the existing wall. This decorative screening wall along the frontage will shift slightly south to better accommodate street facing entrances to the townhome units along that frontage.

A Subdivision Improvement Agreement (SIA) will ensure all improvements in the public right-of-way and other on-site improvements necessary for the site to function, such as utilities and drive aisles, are in place prior to any future Certificate of Occupancy. The SIA dictates construction and maintenance responsibilities as well as the timing of permit issuance relative to completion of the public improvements.

Parkland Dedication

The subdivision regulations include a parkland dedication requirement for all residential development based on the assumption that additional residents in the City will impact the demand for parks and open space. The site is located in an Urban Renewal area, so the fee is \$2,021.62 per residential unit paid at time of building permit issuance. Credit is given for the two single-family homes, so fees are required for the addition of 24 new units.

IV. AGENCY REFERRALS

All affected service agencies were contacted for comment on the subdivision plat regarding the ability to serve the property. Specific referral responses follow.

Wheat Ridge Engineering Division: The plat is approvable. Civil Construction documents are under review and must be approved prior to construction or issuance of building permits.

Wheat Ridge Building Division: No comments at this time. Any future development will be required to obtain building permits that will be reviewed for compliance with current building codes.

West Metro Fire Protection District: No remaining comments on the plat. The applicant will submit building permits to West Metro for review.

Wheat Ridge Sanitation District: No remaining comments.

Wheat Ridge Water District: No comments. Applicant to set up service and obtain approval from Denver Water.

Xcel Energy: No remaining comments. Applicant to work with Xcel to establish service.

Century Link: No concerns.

Comcast: No concerns.

V. STAFF CONCLUSIONS AND RECOMMENDATIONS

Staff has concluded that the proposed subdivision plat results in a logical lot layout, including the proposed right-of-way dedication. Staff further concludes that the subdivision plat complies with the standards in Article IV of Chapter 26 of the City Code (subdivision regulations) and that all utility agencies can serve the property. The plat provides for development of a land use that is permitted by the underlying zoning. For these reasons, staff recommends approval of the subdivision plat.

VI. SUGGESTED MOTIONS

Option A:

“I move to recommend APPROVAL of Case No. WS-21-03, a request for approval of a major subdivision on property located at 5725 and 5785 W. 38th Avenue and zoned Mixed Use – Neighborhood (MU-N) for the following reasons:

1. All requirements of the subdivision regulations (Article IV) of the zoning and development code have been met.

2. All agencies can provide services to the property with improvements installed at the developer's expense.

With the following conditions:

1. The applicant shall pay the required fees-in-lieu of parkland dedication at time of building permit.
2. The developer shall enter into a Subdivision Improvement Agreement and a Lot Sale Restriction Covenant Agreement with the City at the time of recordation of the subdivision plat.

Option B:

"I move to recommend DENIAL of Case No. WS-21-03, a request for approval of a major subdivision on property located at 5725 and 5785 W. 38th Avenue and zoned Mixed Use – Neighborhood (MU-N), for the following reasons:

1. ..."

EXHIBIT 1: AERIAL (2018)

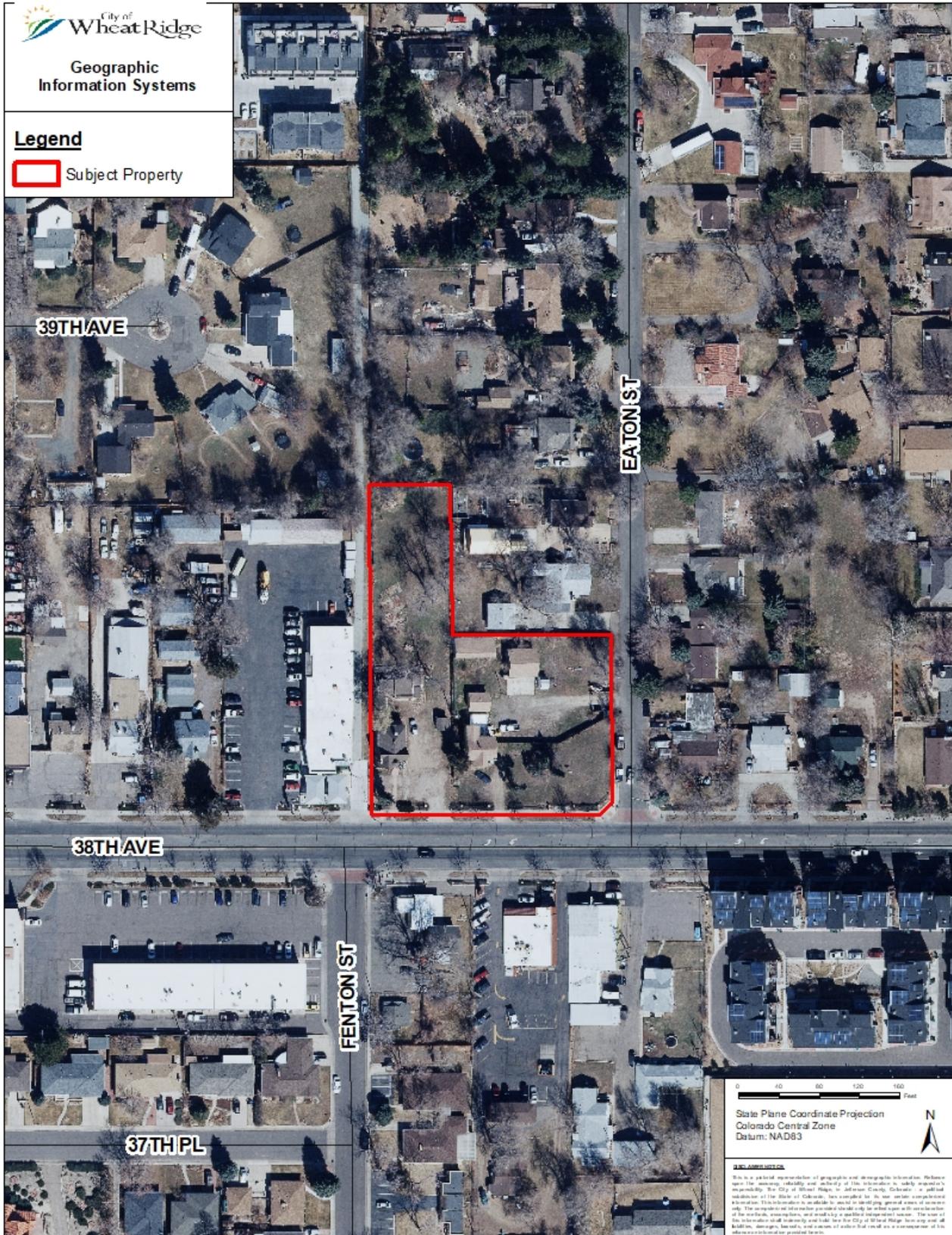
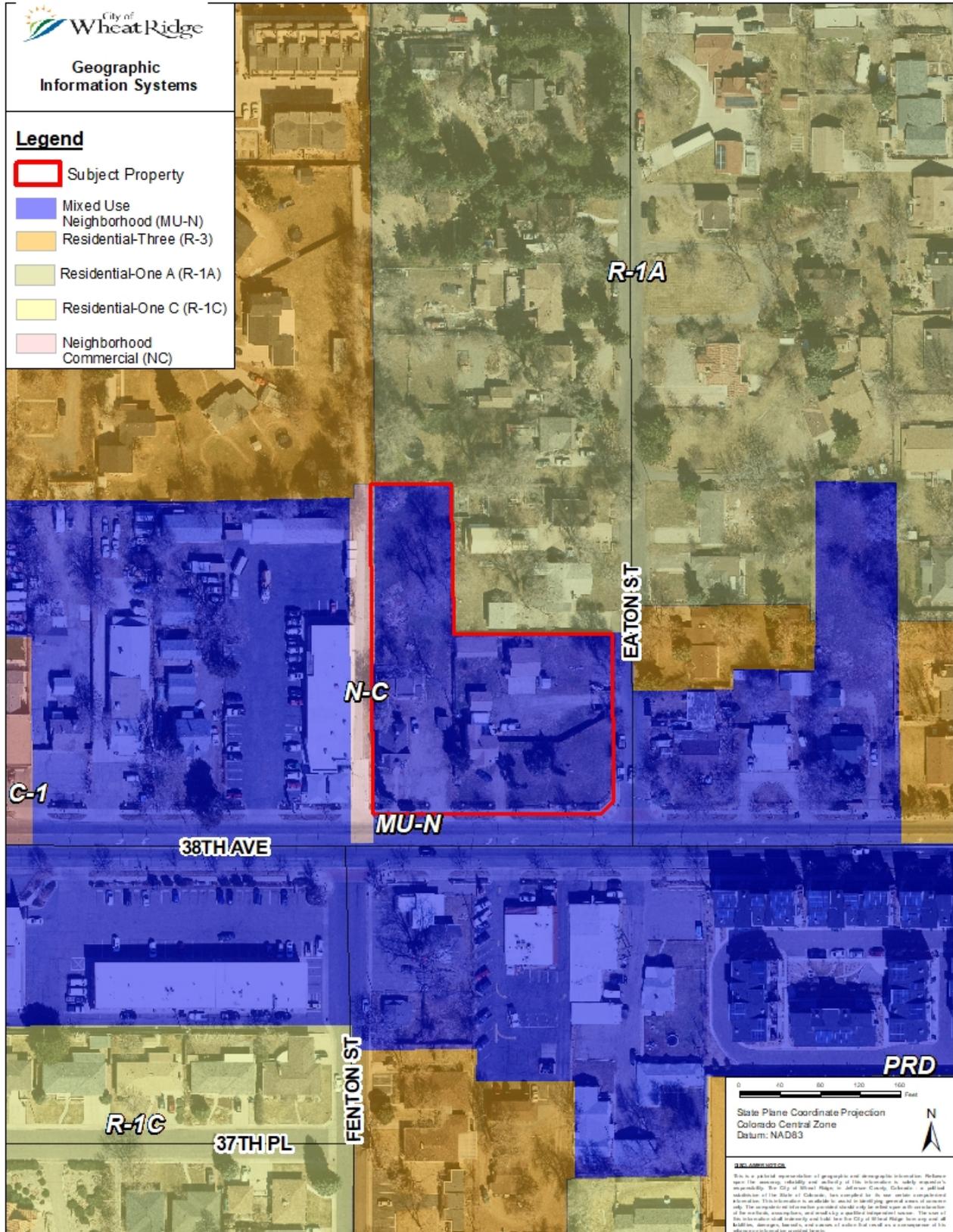


EXHIBIT 2: ZONING MAP



**EXHIBIT 3:
JUDY TOWNHOMES**

Attached as an 11x17 document on the following page.

JUDY TOWNHOMES

BEING A PORTION OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 24, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF WHEAT RIDGE, COUNTY OF JEFFERSON, STATE OF COLORADO
SHEET 1 OF 2

OWNER'S CERTIFICATE

WE, STORYBUILT WEST 38TH, LLC, A COLORADO LIMITED LIABILITY COMPANY AND STORYBUILT 5785 WEST 38TH, LLC, A COLORADO LIMITED LIABILITY COMPANY, BEING THE OWNERS OF REAL PROPERTY CONTAINING 1.2626 ACRES DESCRIBED AS FOLLOWS:

BLOCK 29, STEWART GARDENS, TOGETHER WITH TRACTS 27 AND 28, STEWART GARDENS, EXCEPT THE NORTH 150 FEET THEREOF, COUNTY OF JEFFERSON, STATE OF COLORADO, EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE CITY OF WHEAT RIDGE BY DEED RECORDED APRIL 9, 1991 UNDER RECEPTION NO. 910229085, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PORTION OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 24, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF WHEAT RIDGE, COUNTY OF JEFFERSON, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER (SW ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION 24, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN;

THENCE NORTH 87°24'20" EAST, A DISTANCE OF 665.55 FEET TO A POINT ON NORTHERLY RIGHT OF WAY LINE OF WEST 38TH AVENUE, SAID POINT BEING THE SOUTHWEST CORNER OF SAID BLOCK 29, STEWART GARDENS AND THE POINT OF BEGINNING;

THENCE DEPARTING THE NORTHERLY RIGHT OF WAY LINE OF SAID WEST 38TH AVENUE, ALONG THE WEST LINE OF SAID BLOCK 29, STEWART GARDENS, NORTH 00°16'53" WEST, A DISTANCE OF 329.99 FEET TO THE NORTHEAST CORNER OF SAID BLOCK 29, STEWART GARDENS; THENCE DEPARTING SAID WEST LINE OF BLOCK 29, STEWART GARDENS, SOUTH 89°59'57" EAST, ALONG THE NORTH LINE OF SAID BLOCK 29, STEWART GARDENS, A DISTANCE OF 80.00' TO THE NORTHWEST CORNER OF SAID BLOCK 29, STEWART GARDENS; THENCE DEPARTING SAID NORTH LINE OF BLOCK 29, STEWART GARDENS, ALONG THE EAST LINE OF SAID BLOCK 29, STEWART GARDENS, SOUTH 00°16'53" EAST, A DISTANCE OF 149.99 FEET; THENCE DEPARTING SAID EAST LINE OF BLOCK 29, STEWART GARDENS, SOUTH 89°59'41" EAST, A DISTANCE OF 160.00 FEET TO A POINT ON THE EAST LINE OF BLOCK 27 OF SAID STEWART GARDENS; SAID LINE ALSO BEING THE WEST RIGHT OF WAY LINE OF EATON STREET; THENCE ALONG SAID EAST LINE OF BLOCK 27, STEWART GARDENS AND THE WEST RIGHT OF WAY LINE OF EATON STREET, SOUTH 00°16'53" EAST, A DISTANCE OF 160.00 FEET; THENCE DEPARTING SAID EAST LINE OF BLOCK 27, STEWART GARDENS AND THE WEST RIGHT OF WAY LINE OF EATON STREET, SOUTH 44°52'47" WEST, A DISTANCE OF 28.21 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF WEST 38TH AVENUE AND THE SOUTH LINE OF BLOCK 27, STEWART GARDENS; THENCE ALONG SAID NORTHERLY RIGHT OF WAY LINE OF WEST 38TH AVENUE AND THE SOUTH LINE OF BLOCK 27, BLOCK 28, AND BLOCK 29, STEWART GARDENS NORTH 89°59'57" WEST, A DISTANCE OF 220.00 FEET TO THE SOUTHWEST CORNER OF SAID BLOCK 29, STEWART GARDENS AND THE POINT OF BEGINNING.

CONTAINING 54,999 SQUARE FEET OR 1.2626 ACRES OF LAND, MORE OR LESS.

HAVE LAID OUT, SUBDIVIDED AND PLATTED SAID LAND AS PER THE DRAWING HEREON CONTAINED UNDER THE NAME AND STYLE OF "JUDY TOWNHOMES", A SUBDIVISION OF A PART OF THE CITY OF WHEAT RIDGE, COLORADO AND BY THESE PRESENTS DO DEDICATE TO THE CITY OF WHEAT RIDGE AND THE PUBLIC THOSE PORTIONS OF REAL PROPERTY SHOWN AS RIGHT-OF-WAY, AND DO FURTHER DEDICATE TO THE CITY OF WHEAT RIDGE AND THOSE MUNICIPALLY OWNED AND/OR MUNICIPALLY FRANCHISED UTILITIES AND SERVICES THOSE PORTIONS OF REAL PROPERTY SHOWN AS EASEMENTS FOR THE CONSTRUCTION, INSTALLATION, OPERATION, MAINTENANCE, REPAIR AND REPLACEMENT FOR ALL SERVICES. THIS INCLUDES BUT IS NOT LIMITED TO TELEPHONE AND ELECTRIC LINES, GAS LINES, WATER AND SANITARY SEWER LINES, HYDRANTS, STORM WATER SYSTEMS AND PIPES, DETENTION PONDS, STREET LIGHTS AND ALL APPURTENANCES THERETO.

FOR: STORYBUILT WEST 38TH, LLC, A COLORADO LIMITED LIABILITY COMPANY

BY: MICHAEL PADAVIC, ITS MANAGER

FOR: STORYBUILT 5785 WEST 38TH, LLC, A COLORADO LIMITED LIABILITY COMPANY

BY: MICHAEL PADAVIC, ITS MANAGER

NOTARY ACKNOWLEDGMENTS

STATE OF _____)
) SS.
COUNTY OF _____)

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS ____ DAY OF _____, 20____, BY _____

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

ADDRESS OF NOTARY: _____

STATE OF _____)
) SS.
COUNTY OF _____)

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS ____ DAY OF _____, 20____, BY _____

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

ADDRESS OF NOTARY: _____

DEED OF TRUST HOLDER

THE UNDERSIGNED, AS LEGAL HOLDER OF THE DEED OF TRUST RECORDED ON JULY 13, 2020 AT RECEPTION NUMBER 2020081845, OF THE RECORDS OF THE JEFFERSON COUNTY COLORADO CLERK & RECORDER, HEREBY CONSENTS TO THE WITHIN PLAT.

SIGNED THIS ____ DAY OF _____, 20 ____.

FOR: ALPINE BANK

BY:

NOTARY ACKNOWLEDGMENT

STATE OF _____)
) SS.
COUNTY OF _____)

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS ____ DAY OF _____, 20____, BY _____

NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

ADDRESS OF NOTARY: _____



VICINITY MAP
Not to scale

ACCEPTANCE ACKNOWLEDGMENT

THE CITY OF WHEAT RIDGE, COLORADO, HEREBY ACCEPTS THE DEDICATION AND CONVEYANCE TO THE CITY OF THOSE LOTS, TRACTS, EASEMENTS AND OTHER INTERESTS IN REAL PROPERTY DEVOTED ON THIS PLAT AS BEING DEDICATED TO THE CITY FOR PUBLIC PURPOSES.

MAYOR

ATTEST

CITY CLERK

DATE

PLANNING COMMISSION CERTIFICATION

RECOMMENDED FOR APPROVAL THIS ____ DAY OF _____, 20____, BY THE WHEAT RIDGE PLANNING COMMISSION.

CHAIRPERSON

CITY CERTIFICATION

APPROVED THIS ____ DAY OF _____, 20____, BY THE WHEAT RIDGE CITY COUNCIL.

ATTEST

CITY CLERK

MAYOR

COMMUNITY DEVELOPMENT DIRECTOR

BASIS OF BEARINGS

BASIS OF BEARINGS: THE WEST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, BEING MONUMENTED AT THE NORTHWEST CORNER BY A 3" BRASS CAP STAMPED P.L.S. 26603 AND AT THE SOUTHWEST CORNER BY A 3.25" BRASS CAP STAMPED P.L.S. 13212, IS ASSUMED TO BEAR SOUTH 00°16'05" EAST A DISTANCE OF 1318.90 FEET WITH ALL BEARINGS HEREON BEING RELATIVE THERETO.

STATEMENT OF ACCURACY

THE GEODETIC POINT COORDINATE DATA SHOWN HEREIN HAS BEEN DERIVED FROM THE NAD 83 HARN STATE PLANE COLORADO CENTRAL FIPS 0502 COORDINATE SYSTEM, AND HAS A HORIZONTAL ACCURACY CLASSIFICATION OF 0.07 U.S. SURVEY FEET AT THE 95% CONFIDENCE LEVEL, AS DEFINED IN THE GEOSPATIAL POSITIONING ACCURACY STANDARDS OF THE FEDERAL GEODETIC CONTROL SUBCOMMITTEE (FGDC—STD—007.2—1998).

SHEET INDEX

SHEET 1— COVER SHEET

SHEET 2— PLAN VIEW

GENERAL NOTES

- ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
- THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY POWER SURVEYING CO., INC. FOR INFORMATION REGARDING BOUNDARY, EASEMENTS AND TITLE, POWER SURVEYING CO., INC. RELIED UPON THE FOLLOWING TITLE COMMITMENT ISSUED BY LAND TITLE GUARANTEE COMPANY:
COMMITMENT No. ABC70646516.2, WITH AN EFFECTIVE DATE OF APRIL 26, 2021 AT 5:00 P.M.
- FLOOD ZONE DESIGNATION: THE SUBJECT PROPERTY LIES WITHIN ZONE X (MINIMAL FLOOD HAZARD) AS SHOWN ON FEMA F.I.R.M. MAP 08059C0218F, WITH AN EFFECTIVE DATE OF FEBRUARY 5, 2014.
- FIELD SURVEY COMPLETION DATE: DECEMBER 20, 2019.
- THE SUBJECT PROPERTY CONTAINS 54,999 TOTAL SQUARE FEET OR 1.2626 ACRES OF LAND, MORE OR LESS.
- ALL DISTANCES FOR THIS PLAT ARE SHOWN USING (GROUND) MODIFIED STATE PLANE MEASUREMENTS (U.S. SURVEY FEET ROUNDED TO THE NEAREST 0.01') CONSISTENT WITH THE CURRENT CITY DATUM.
 - THE CURRENT CITY DATUM COORDINATE SYSTEM USED IS A GROUND-BASED MODIFIED FORM OF THE NAD83/92 STATE PLANE COORDINATE SYSTEM, COLORADO CENTRAL ZONE 0502.
 - VERTICAL DATUM USED IS THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).
 - GROUND TO GRID COMBINED SCALE FACTOR IS 0.99974780300, SCALED FROM BASE POINT PHAC1 (PERMANENT HIGH ACCURACY CONTROL POINT #1) HAVING THE FOLLOWING NAD83/92 STATE PLANE COORDINATES: PHAC1-NORTHING: 1701258.75, EASTING: 3118217.58, ELEVATION: 5471.62 FEET
- UTILITY EASEMENTS: EASEMENTS ARE HEREBY GRANTED ON PRIVATE PROPERTY AS SHOWN ON THE PLAT. THESE EASEMENTS ARE DEDICATED FOR THE INSTALLATION, MAINTENANCE AND REPLACEMENT OF ELECTRIC, GAS, TELEVISION CABLE, DRAINAGE AND TELECOMMUNICATIONS FACILITIES. PERMANENT STRUCTURES AND WATER METERS SHALL NOT BE PERMITTED WITHIN SAID UTILITY EASEMENTS.
- EMERGENCY ACCESS, PRIVATE ACCESS AND UTILITY EASEMENT: THE OWNER, HIS SUCCESSORS AND ASSIGNS, GRANTS LIMITED RIGHTS AND PRIVILEGES TO ACCESS AND TO FREE MOVEMENT THROUGH THOSE AREAS INDICATED AS "EMERGENCY ACCESS, PRIVATE ACCESS AND UTILITY EASEMENT", AS ILLUSTRATED UPON THIS PLAT. SUCH GRANT OF EASEMENT SHALL BE LIMITED TO THE OWNERS, TENANTS, CUSTOMERS AND GUESTS OF THE OWNERS AND SHALL FURTHERMORE GRANT EMERGENCY VEHICULAR ACCESS, AND THE PLACEMENT AND MAINTENANCE OF UTILITIES.
- STORMWATER DRAINAGE EASEMENT: THE STORMWATER DETENTION/WATER QUALITY AREA SHOWN HEREIN AS A "STORMWATER DETENTION EASEMENT" SHALL BE MAINTAINED BY THE OWNERS, ANY SUBSEQUENT OWNERS, THEIR HEIRS, SUCCESSORS, AND ASSIGNS. IN THE EVENT THAT SUCH CONSTRUCTION AND MAINTENANCE IS NOT PERFORMED BY SAID OWNERS, THE CITY OF WHEAT RIDGE SHALL HAVE THE RIGHT TO ENTER SUCH AREA AND PERFORM NECESSARY WORK, THE COST OF WHICH SAID OWNER, HEIRS, SUCCESSORS, AND ASSIGNS AGREES TO PAY. NO BUILDING OR STRUCTURE SHALL BE CONSTRUCTED WITHIN THE STORMWATER DRAINAGE EASEMENT AND NO CHANGES OR ALTERATIONS AFFECTING THE HYDRAULIC CHARACTERISTICS OF SAID STORMWATER WATER QUALITY AREA SHALL BE MADE WITHOUT THE APPROVAL OF THE COMMUNITY DEVELOPMENT DIRECTOR.
- TRACT B IS A NON-BUILDABLE TRACT AND IS FULLY ENCLUMBERED BY A BLANKET PUBLIC UTILITY EASEMENT.
- THE ENTIRE SUBJECT PROPERTY IS CURRENTLY ZONED "MU-N", AS SHOWN ON THE CURRENT ZONING MAP OF THE CITY OF WHEAT RIDGE, WITH AN EFFECTIVE DATE OF FEBRUARY 26, 2021.
- INDIVIDUAL TOWNHOUSE LOTS SHALL NOT BE DEVELOPED FOR ANY PURPOSE OTHER THAN TOWNHOMES. THIS IS PER SECTION 26-411.A.C.2.

SURVEYOR'S NOTE

"PER COLORADO REVISED STATUTES SEC. 38-51-106 (L), ALL LINEAL UNITS DEPICTED ON THIS LAND SURVEY PLAT ARE U.S. SURVEY FEET. ONE METER EQUALS 39.37 DIVIDED BY 12 U.S. SURVEY FEET ACCORDING TO THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY."

SURVEYOR'S CERTIFICATE

I, RICHARD B. GABRIEL, DO HEREBY CERTIFY THAT THE SURVEY OF THE BOUNDARY OF "JUDY TOWNHOMES" WAS MADE BY ME OR UNDER MY DIRECT SUPERVISION AND TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, IN ACCORDANCE WITH ALL APPLICABLE COLORADO STATUTES, CURRENT REVISED EDITION AS AMENDED, THE ACCOMPANYING PLAT ACCURATELY REPRESENTS SAID SURVEY.

RICHARD B. GABRIEL, P.L.S.
COLORADO LICENSE NO. 37929
FOR AND ON BEHALF OF POWER SURVEYING COMPANY, INC.
6911 Broadway
Denver, CO 80221
(303) 702-1617
www.powersurveying.com

COUNTY CLERK AND RECORDER'S CERTIFICATE

ACCEPTED FOR RECORDING IN THE OFFICE OF THE COUNTY CLERK AND RECORDER OF JEFFERSON COUNTY AT GOLDEN, COLORADO THIS ____ DAY OF _____, 20 ____.

JEFFERSON COUNTY CLERK AND RECORDER

BY: _____
DEPUTY CLERK

Case History

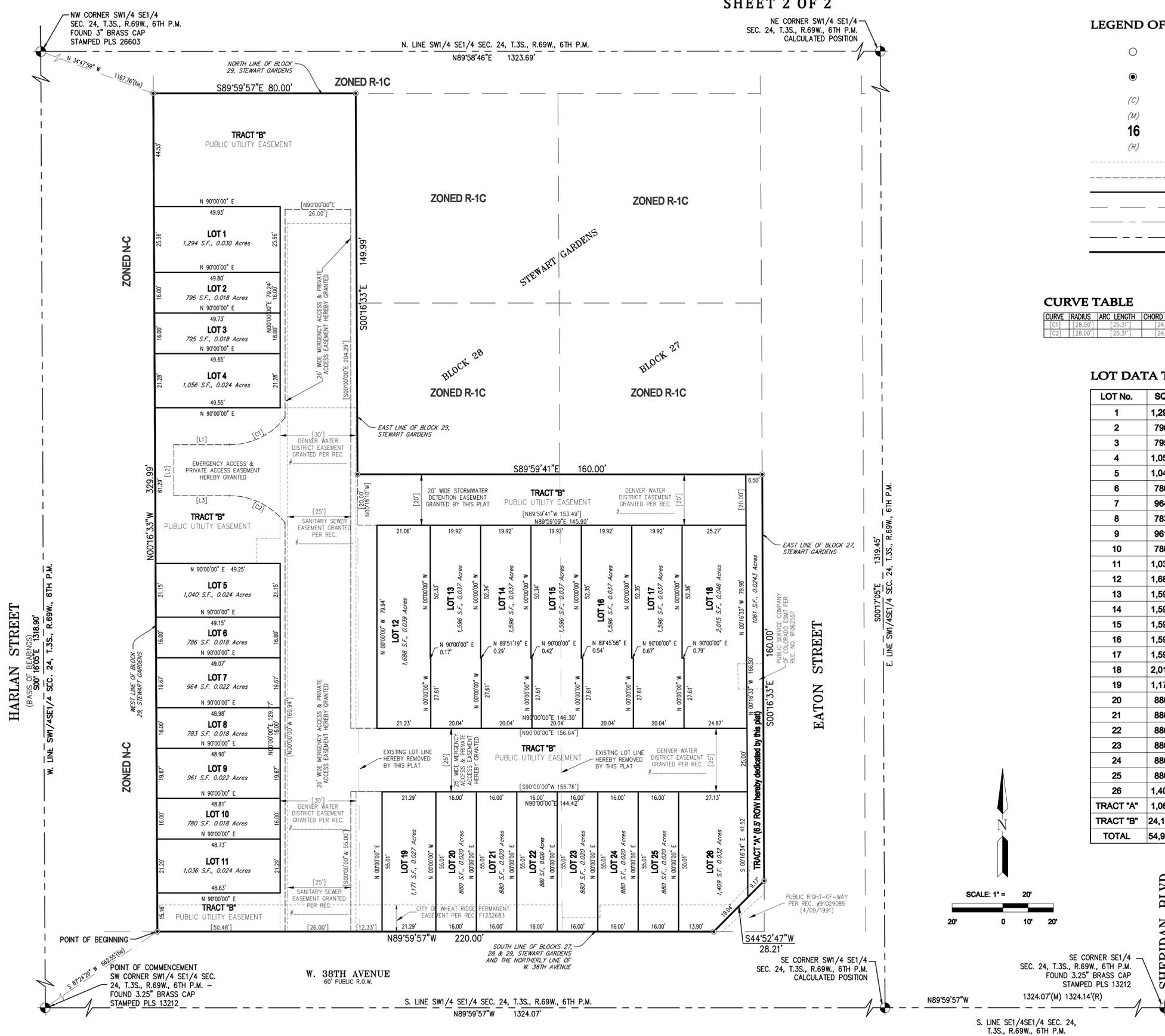
WS-21-03 (PLAT) & WSP-21-03 (SITE PLAN)

COVER SHEET

<p>POWER Surveying Company, Inc. Established 1988 6911 Broadway Denver, CO 80221 PH: 303-702-1617 FAX: 303-702-1488 www.powersurveying.com</p>	TYPE OF SUBMITTAL:	PRELIM PLAT
	PREPARATION DATE:	MAY 20, 2021
	REVISION DATE:	JUNE 30, 2021
	REVISION DATE:	
	REVISION DATE:	
JOB NO. 501-21-129	21-129 PLAT.dwg	
SHEET 1 OF 2		

JUDY TOWNHOMES

BEING A PORTION OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 24, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF WHEAT RIDGE, COUNTY OF JEFFERSON, STATE OF COLORADO
SHEET 2 OF 2



LEGEND OF SYMBOLS & ABBREVIATIONS

- MONUMENT FOUND, AS NOTED
- SET REBAR & 1-1/2" DIAMETER YELLOW PLASTIC CAP, PLS 37929, TYPICAL UNLESS NOTED OTHERWISE
- (C) CALCULATED
- (M) MEASURED
- 16 LOT NUMBER
- (R) RECORD
- EXISTING RECORD EASEMENT LINE
- EASEMENT LINE (DIMENSIONED IN BRACKETS [])
- NEW LOT LINE HEREBY CREATED BY THIS PLAT
- ADJOINING PARCEL OR LOT LINE
- CENTER LINE
- PUBLIC LANDS SURVEY SECTION LINE
- PLAT BOUNDARY LIMITS

CURVE TABLE

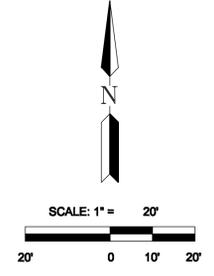
CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
(C1)	28.00'	25.31'	24.46'	S 64°06'24" W	S1°47'12"
(C2)	28.00'	25.31'	24.46'	S 64°06'24" E	S1°47'12"

LINE TABLE

LINE	BEARING	DISTANCE
(L1)	N 90°00'00" W	22.00'
(L2)	S 00°00'00" E	20.00'
(L3)	N 90°00'00" E	22.00'

LOT DATA TABLE

LOT No.	SQ. FT.	ACREAGE	OWNERSHIP
1	1,294 s.f.	0.0298 ac.	private
2	796 s.f.	0.0183 ac.	private
3	795 s.f.	0.0183 ac.	private
4	1,056 s.f.	0.0242 ac.	private
5	1,040 s.f.	0.0239 ac.	private
6	786 s.f.	0.0180 ac.	private
7	964 s.f.	0.0221 ac.	private
8	783 s.f.	0.0180 ac.	private
9	961 s.f.	0.0221 ac.	private
10	780 s.f.	0.0179 ac.	private
11	1,036 s.f.	0.0238 ac.	private
12	1,688 s.f.	0.0388 ac.	private
13	1,596 s.f.	0.0366 ac.	private
14	1,596 s.f.	0.0366 ac.	private
15	1,596 s.f.	0.0366 ac.	private
16	1,596 s.f.	0.0366 ac.	private
17	1,596 s.f.	0.0366 ac.	private
18	2,015 s.f.	0.0463 ac.	private
19	1,171 s.f.	0.0269 ac.	private
20	880 s.f.	0.0202 ac.	private
21	880 s.f.	0.0202 ac.	private
22	880 s.f.	0.0202 ac.	private
23	880 s.f.	0.0202 ac.	private
24	880 s.f.	0.0202 ac.	private
25	880 s.f.	0.0202 ac.	private
26	1,409 s.f.	0.0323 ac.	private
TRACT "A"	1,061 s.f.	0.0243 ac.	public street dedication
TRACT "B"	24,104 s.f.	0.5534 ac.	public use, utilities
TOTAL	54,999 s.f.	1.2626 ac.	



PLAN VIEW

TYPE OF SUBMITTAL:	PRELIM PLAT
PREPARATION DATE:	APRIL 19, 2021
REVISION DATE:	JUNE 30, 2021
REVISION DATE:	
REVISION DATE:	
JOB NO. 501-21-129	21-129 PPLAT.dwg

POWER
Surveying Company, Inc.
Established 1948
9811 Broadway, Denver, CO 80221
PH: 303-702-1617
FAX: 303-702-1488
www.powerurveying.com

Legend

 Subject Property

39TH AVE

EATON ST

38TH AVE

FENTON ST

37TH PL

0 40 80 120 160 Feet

State Plane Coordinate Projection
Colorado Central Zone
Datum: NAD83



DISCLAIMER
This is a pictorial representation of geographic and demographic information. Reference to the accuracy, reliability, and validity of this information is solely intended to be made by the City of Wheat Ridge, in Jefferson County, Colorado, a political subdivision of the State of Colorado, has compiled it. It does not constitute a professional statement. This information is to be used for general informational purposes only. The user should not rely on this information as a basis for any action. The user should consult with a professional engineer, architect, or other qualified professional to determine the accuracy, reliability, and validity of this information. The user should also consult with the City of Wheat Ridge for any and all building, design, and construction codes that may apply to the use of this information. The user should also consult with the City of Wheat Ridge for any and all other information that may be required for the use of this information.



**PLANNING COMMISSION
FLOODPLAIN REGULATIONS STAFF REPORT**

MEETING DATE: September 2, 2021

TITLE: AN ORDINANCE AMENDING CHAPTER 26 OF THE WHEAT RIDGE CODE OF LAWS REGARDING OUTDOOR RECREATIONAL EQUIPMENT ON PRIVATE PROPERTY

CASE NO. ZOA-21-02

PUBLIC HEARING

CODE CHANGE ORDINANCE

Case Manager: Lauren Mikulak

Date of Preparation: August 18, 2021

SUMMARY:

In 2020, many public recreational facilities were closed for extended periods of time due to the COVID-19 pandemic. The purchase of personal recreational equipment was on the rise, including everything from trampolines to basketball hoops, swimming pools to swing sets. With the increased prevalence and scale of personal recreation equipment on private residential property, City Council directed staff to review the applicable codes and policies in the City and in neighboring communities.

Study sessions with City Council were conducted on June 7 and August 9, 2021. Based on the increase in personal recreational equipment in the past year and also based on a specific homemade half pipe that exceeds 1000 square feet in size in a residential backyard, City Council directed staff to amend the code. The policy intent is to allow for reasonable, common sense enjoyment of recreational equipment in residential yards.

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

BACKGROUND:

Current Code & Policy in Wheat Ridge

For residential uses, there are many possible kinds of accessory recreational uses and play equipment including but not limited to in-ground pools, above-ground pools, hot tubs, playsets, tree or play houses, basketball hoops, trampolines, obstacle/ninja courses, skate park equipment, lemonade stands, goals and nets, bounce houses, and movie screens. Some of these are more permanent in nature and some more portable.

The building code has explicit requirements related to pools but specifically exempts play structures from permit requirements. Section 5-76 of the municipal code amends section 105.2 of

the International Building Code (IBC) and exempts from permitting the following types of recreational improvements:

- playhouses less than 120 square feet,
- above ground pools that are less than 24 inches in depth and not greater than 5,000 gallons, and
- swings and other playground equipment accessory to detached one- and two-family dwellings.

The zoning code (Chapter 26 of the municipal code) offers less clarity when it comes to play equipment. The code provides definitions for buildings and structures, but there are no references specifically to personal recreational equipment, either permanent or portable. For many years, the code has been interpreted in this way:

- pools and hot tubs (above and in-ground) which require building permits are subject to setbacks, and
- other play equipment (those not enclosed to the ground, not designed for permanent occupancy, and devoid of utilities) are exempted from zoning regulations.

In 2020, with the increase in personal recreational equipment, this approach was formalized in a written policy to provide consistent interpretation and enforcement.

Code and Policy in Other Communities

The approach in Wheat Ridge is similar to that in other communities. Recent conversation with staff in Lakewood, Edgewater, and Golden confirm similar approaches. These communities, like Wheat Ridge, distinguish pools and hot tubs from other types of recreational equipment and most of them apply setbacks. This common treatment of pools and hot tubs is, in part, because these amenities are also addressed by specific building codes (the International Swimming Pool and Spa Code – ISPPSC), and they require building permit review.

Other communities have seen a similar increase in personal recreational equipment over the last year, but Lakewood, Edgewater, and Golden have not (to date) regulated them. They have only a couple minor provisions that are related to the topic:

- The Lakewood zoning code allows regulations of any structure taller than 10 feet, but they have not interpreted that to apply to playground equipment and tree houses. The Lakewood code does expressly prohibit play equipment in the front yard of a home-based daycare.
- Golden specifically does not regulate anything less than 200 square feet, an exception that captures most play equipment.

Otherwise, there are no codes specific to accessory recreational uses.

The zoning code in Denver takes a slightly different approach; it is more direct and prescriptive on the topic of play equipment. Denver’s classification of detached accessory structures has more categories than Wheat Ridge, some of which specifically include recreational equipment:

- playhouses are categorized as “completed enclosed structures,” and
- pools, hot tubs, recreational and play facilities, and outdoor fireplaces are classified as “open structures.”

Both categories are subject to setback, height, and size requirements as well as overall size limitations (no more than 10% of the lot area or 1000 square feet). An “other” category is used to

capture other types of structures. Basketball hoops are specifically exempted in the code and allowed in any setback (front, side or rear). Of note, none of these standards apply to temporary or portable equipment.

Proposed Code Amendment

After two study sessions during the summer of 2021, City Council consensus included the following:

- to amend the code to regulate recreational equipment and structures on residential property;
- to distinguish between temporary and permanent equipment/structures;
- to utilize the accessory structure standards as a guideline, with consideration for setbacks, height, coverage, and size; and
- to apply the amended requirements to existing recreational equipment.

Staff is proposing to augment two existing code sections:

- Define a new term for “recreational equipment” in Section 26-123, and
- Amend Section 26-625 (accessory buildings and structures) to provide supplementary regulations specific to recreational equipment, specifically:
 - Codify the existing policy related to pools and hot tubs whereby setback and lot coverage applies.
 - Codify exemptions for small or temporary recreational equipment.
 - Codify regulations for larger and permanent recreational equipment.

The proposed code amendment establishes 120 square feet as the size threshold for recreational equipment that would be exempted from zoning regulations. This threshold is consistent with the building code which exempts from building permits “one-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area is not greater than 120 square feet” (Section 5-76).

For equipment or structures that would be regulated, staff is proposing a straightforward set of development standards. Because minor accessory structure standards vary slightly depending on the zone district, standards for recreational equipment are proposed to be relatively consistent in all zone districts. The upper size limit is proposed to be 400 square feet based on review of various equipment (see attachment 1). This is also the upper limit for minor accessory structures in most residential zone districts (the range is 200-400 sf). The upper height limit is proposed to be 12 feet which strikes a balance between between minor (10 feet) and major (15 feet) accessory structures.

The proposed code includes an amortization schedule by which any existing equipment out of compliance would be required to comply with this code section. Based on Council policy direction and staff resources, enforcement would occur on a complaint basis.

Recommendation and Next Steps

Staff is recommending approval of the code amendment. The ordinance has been scheduled for first reading on September 13, 2021 and public hearing at City Council on September 27.

RECOMMENDED MOTION:

“I move to recommend approval of a code amendment modifying Chapter 26 of the Wheat Ridge Code of Laws regarding outdoor recreational equipment on private property.”

Exhibit:

1. Sample recreational equipment by size
2. Ordinance to amend Chapter 26 Floodplain Regulations

ATTACHMENT 1

Sample recreational equipment by size



Trampolines often range from 8 to 16 feet in diameter. This image shows a common 14-foot diameter which is 153 square feet in size. Depending on portability and size, trampolines may or may not be subject to zoning.



This children's playset is 9.5 feet tall and 150 square feet. Based on its size and relative permanence, this would be subject to zoning standards; its size and height would be permitted; it would need to meet setbacks as well.



Most portable skate equipment is smaller in size; the modular system shown above and below can be configured in a variety of ways. Based on portability and size, this would not be subject to zoning standards.



This larger children's playset is 12 feet tall and 375 square feet. It too would be subject to zoning standards and would be permitted by the proposed regulations if it meets setbacks.



This ramp is 3 feet tall and 104 square feet. Again, based on portability and size, this would not be subject to zoning standards.



This obstacle course would not be permitted in a residential yard under the proposed code because it would exceed height and size allowances.

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER _____
COUNCIL BILL NO. __
ORDINANCE NO. _____
SERIES 2021

**TITLE: AN ORDINANCE AMENDING CHAPTER 26 OF THE WHEAT
RIDGE CODE OF LAWS REGARDING OUTDOOR
RECREATIONAL EQUIPMENT ON PRIVATE PROPERTY**

WHEREAS, the City of Wheat Ridge is a home rule municipality having all powers conferred by Article XX of the Colorado Constitution; and

WHEREAS, the City Council has exercised these powers by the adoption of Chapter 26 of the Wheat Ridge Code of Laws (the "Code") concerning zoning and development; and

WHEREAS, the City Council wishes to allow for reasonable, common sense enjoyment of recreational equipment in residential yards; and

WHEREAS, the City Council has observed the need to establish reasonable size limits for private outdoor recreational equipment.

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

Section 1. Section 26-115 (Variance) of the Code of Laws is amended as follows:

C. *Variances:*

1. *Administrative variances fifty (50) percent or less:* The director of community development is empowered to decide upon applications for administrative variances from the strict application of any of the "development standards" pertaining to zone districts in article II and sections 26-501 (Off-street parking), ~~and~~ 26-502 (Landscaping requirements), ~~and~~ 26-603 (Fencing), **26-625 (Accessory buildings and structures)**, and Article VII (Signage) of this chapter, which apply throughout the various zone district regulations and in other situations which may be specifically authorized in the various sections, without requirement of a public hearing, under the following conditions:

[...]

3. *Variances of more than fifty (50) percent:* The board of adjustment is empowered to hold public hearings to hear and decide only upon appeals for variances from the strict application of the development standards pertaining to zone districts in article II, sections 26-501, 26-503, 26-603, **26-625** or article VII of this chapter.

Section 2. Section 26-123 (Definitions) of the Code of Laws is amended to add the following term in the appropriate alphabetical location:

Recreational Equipment. Play apparatus such as swing sets, pools, hot tubs, play houses, goals, nets, ramps, trampolines and similar equipment or structures designed for private recreational uses and which may or may not have a permanent location on the ground. This excludes at-grade courts, such as for basketball or racquet sports.

Section 3. Section 26-625 (Accessory buildings and structures) of the Code of Laws is amended by the addition of a new subsection F:

F. *Accessory Recreational Equipment.* Recreational equipment is permitted in addition to minor and major accessory structures on residential properties subject to the following:

1. All in-ground pools, above-ground pools, and hot tubs shall be subject to the accessory building setback requirements of the underlying zone district; however, setbacks shall not apply to those pools which are otherwise exempted from building permit by Chapter 5. The size of the pool or hot tub shall dictate whether it is subject to the major or minor setback requirements. Any pool or hot tub exceeding the minor accessory structure size shall be subject to the major accessory structure setback. The size of the pool or hot tub is limited by the ability of the lot to comply with the overall coverage requirements for the underlying zone district provided in Article II.
2. Any recreational equipment or structure which is 120 square feet in size or less is exempt from zoning development standards.
3. Any recreational equipment or structure which is essentially temporary is exempt from zoning development standards.
4. Any recreational equipment or structure which is more than 120 square feet and is essentially permanent shall be subject to the following standards:
 - a. Maximum size: the total floor area of all recreational equipment or structures may not exceed 400 square feet or the underlying lot coverage, whichever is more restrictive.
 - b. Maximum height: 12 feet
 - c. Minimum side and rear setbacks: 5 feet
 - d. Minimum front setback: subject to the front setback for the underlying zone district.
5. For the purpose of this subsection F, permanence shall be determined at the sole discretion of the Community Development Director in consideration of the size, portability, deconstructability, and presence of utilities. As examples only,

recreational equipment that is essentially temporary may include portable goals, portable playsets, portable playhouses, portable nets, portable skate park equipment, yard games, bounce houses, portable movie screens, and above ground trampolines. Recreational equipment that is essentially permanent may include playsets, tree houses, in-ground trampolines, and skate park equipment.

6. All nonconforming recreational equipment or structures existing prior to the effective date of this ordinance, shall be brought into conformance with these provisions on or before April 15, 2022.

Section 4. 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 5. 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 ___ day of _____, 2021, 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 _____ at 7:00 p.m., as a virtual meeting and in City Council Chambers, 7500 W. 29th Avenue, if allowed to meet in person on that date per COVID-19 restrictions, 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 _____ 2021.

SIGNED by the Mayor on this ___ day of _____ 2021.

Bud Starker, Mayor

ATTEST:

Steve Kirkpatrick, City Clerk

Approved as to Form

Gerald Dahl, City Attorney

1st publication:
2nd publication:
Wheat Ridge Transcript:
Effective Date: