



PLANNING COMMISSION REGULAR MEETING

November 20, 2024 - 7:00 PM

Town Board Chambers, 301 Walnut Street, Windsor, CO 80550

To view Planning Commission meeting broadcasts, visit

www.windsorgov.com/MeetingsOnDemand.

AGENDA

A. CALL TO ORDER

1. Roll Call
2. Review of Agenda by the Board and Addition of Items of New Business to the Agenda for Consideration
3. Public Invited to be Heard
Individuals wishing to participate in Public Invited to be Heard (non-agenda item) are requested to sign up on the form provided in the foyer of the Town Board Chambers. When you are recognized, step to the podium, state your name and address then speak to the Town Board.

Individuals wishing to speak during the Public Invited to be Heard or during Public Hearing proceedings are encouraged to be prepared and individuals will be limited to three (3) minutes. Written comments are welcome and should be given to the Town Clerk prior to the start of the meeting.

B. CONSENT CALENDAR

1. Approval of the August 7, 2024, Planning Commission Regular Meeting Minutes - L. Richardson, Assistant Town Clerk
2. Approval of the August 21, 2024, Planning Commission Regular Meeting Minutes - L. Richardson, Assistant Town Clerk

C. BOARD ACTION

1. Public Hearing - An Ordinance Amending Chapters 14-17 of the Town of Windsor Municipal Code Concerning Land Use - Planning Department
 - Legislative action
 - Staff presentation: Sandra Mezzetti, Senior Planner
2. Recommendation to Town Board - An Ordinance Amending Chapters 14-17 of the Town of Windsor Municipal Code Concerning Land Use - Planning Departments
 - Legislative action
 - Staff presentation: Sandra Mezzetti, Senior Planner

D. COMMUNICATIONS

1. Communications from Planning Commission
2. Communications from Town Board Liaison
3. Communications from Staff

E. ADJOURN

The Town of Windsor will make reasonable accommodations for access to Town services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call (970) 674-2400 by noon on the Thursday prior to the meeting to make arrangements.



MEMORANDUM

Date: November 20, 2024
To: Planning Commission
From:
Re: Approval of the August 7, 2024, Planning Commission Regular Meeting Minutes - L. Richardson, Assistant Town Clerk
Item #: B.1.

Background / Discussion:

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

CC:

Attachments:

1. 08.07.24 PC Draft Minutes - Final Draft



Planning Commission Regular Meeting

August 7, 2024 - 7:00 PM

Town Board Chambers, 301 Walnut Street, Windsor, CO 80550

To view Planning Commission meeting broadcasts, visit

www.windsorgov.com/MeetingsOnDemand.

MINUTES

A. CALL TO ORDER

Chairman Reddick called the meeting to order at 7:01 p.m.

1. Roll Call

Present:

Chairman Reddick
Vice-Chair Nader
David Hassard
Jordan Spight
John Neal

Absent:

Nathan Kinney
Ben Kirch

Also Present:

Town Board Liaison Hallett
Kim Emil, Deputy Town Attorney
Carlin Malone, Chief Planner
Kyra Mckinley, Visual Media Coordinator
Laura Richardson, Assistant Town Clerk

2. Review of Agenda by the Board and Addition of Items of New Business to the Agenda for Consideration

Planning Commissioner Nader moved to approve the agenda as presented, Planning Commissioner Hassard seconded the motion. Roll call on the vote resulted as follows; Yeas - Timothy Reddick, David Hassard, Maxwell Nader, Jordan Spight, John Neal; Nays - None; Motion Passed.

3. Public Invited to be Heard

Chairman Reddick opened the meeting up for public comment on any non-agenda item, to which there were none.

B. CONSENT CALENDAR

1. Approval of the July 17, 2024, Planning Commission Regular Meeting Minutes - K. Frawley, Town Clerk

Planning Commissioner Nader moved to approve the consent calendar, Planning Commissioner Spight seconded the motion. Roll call on the vote resulted as follows; Yeas - Timothy Reddick, David Hassard, Maxwell Nader, Jordan Spight, John Neal; Nays - None; Motion Passed.

Jason Hallett, Town Board Liaison, gave a statement to the Planning Commission.

"Mr. Chair, for the record, I would like to disclose that I am a sitting member of the Town Board and that I am here in my capacity as a nonvoting liaison to the Planning Commission. Although I will be present during all public hearings tonight, I will not be giving my opinion or participating in any of the discussions. I will not let tonight's proceedings influence or affect my review of these matters when they come before the Town Board. I will make my decision at the Town Board level based only on the evidence presented during the Town Board public hearings."

C. BOARD ACTION

1. Public Hearing - South Gate 8th (Aims Windsor) Annexation to the Town of Windsor and Establishment of Zoning - Michael Millsapps, Aims Community College, owner representative/applicant; Megan Walter, Sunny Civil, applicant's engineer/representative

Executive Summary

Mike Millsapps of Aims Community College, owner/petitioner/applicant, represented by Megan Walter of Sunny Civil, filed a Petition to Annex 4.13 acres of property to the Town of Windsor and establish zoning of GC (General Commercial). The subject property is the last portion of unincorporated Weld County within the South Gate Business Park Subdivision area, located north of US Highway 34, south of South Gate Drive. The annexation is a logical extension of the Town Limits because it is within the Town's GMA (Growth Management Area), complies with Colorado Revised Statutes, the Town's Comprehensive Plan with its Future Land Use Plan, including the Future Land Use US Highway 34 Area Plan, and Goals and Policies; as well as the Town's Municipal Code.

Staff is recommending that the Planning Commission forward to the Town Board a recommendation of approval of the annexation and establishment of zoning, subject to any Planning Commission and staff comments being addressed.

Carlin Malone, Chief Planner, presented to the Planning Commission.

Chairman Reddick opened the meeting up for public comment, to which there were none.

Chairman Reddick opened the meeting up for Planning Commission comments and questions. Commissioner Nader requested clarification on the zoning establishment to which Carlin Malone, Chief Planner, provided.

Planning Commissioner Nader moved to close the public hearing, Planning Commissioner Neal seconded the motion. Roll call on the vote resulted as follows; Yeas - Timothy Reddick, David Hassard, Maxwell Nader, Jordan Spight, John Neal; Nays - None; Motion Passed.

2. Recommendation to Town Board - South Gate 8th (Aims Windsor) Annexation to the Town of Windsor and Establishment of Zoning - Michael Millsapps, Aims Community College, owner representative/applicant; Megan Walter, Sunny Civil, applicant's engineer/representative

Please refer to public hearing item material.

Planning Commissioner Nader moved to forward a recommendation of approval to the Town Board of the South Gate 8th (Aims Windsor) Annexation to the Town of Windsor Including the Establishment of the General Commercial Zoning. Planning Commissioner Neal seconded the motion. Roll call on the vote resulted as follows; Yeas - Timothy Reddick, David Hassard, Maxwell Nader, Jordan Spight, John Neal; Nays - None; Motion Passed.

D. COMMUNICATIONS

1. Communications from Planning Commission

Chairman Reddick clarified to the Planning Commission that the presentation for future agenda item regarding the cell tower would be given at the next meeting for both the Planning Commission to ask questions and public comment to be heard.

2. Communications from Town Board Liaison

Kim Emil, Deputy Town Attorney, advised that she will not be present at the next Planning Commission meeting, however, Daniel Money, Town Attorney, would be.

3. Communications from Staff

Jason Hallett, Town Board Liaison, provided an update regarding the Town Board District 4 vacancy and creation of a Charter Committee.

E. ADJOURN

Upon a motion duly made, the meeting was adjourned at 7:26 p.m.

Laura Richardson, Assistant Town Clerk



MEMORANDUM

Date: November 20, 2024
To: Planning Commission
From:
Re: Approval of the August 21, 2024, Planning Commission Regular Meeting Minutes - L. Richardson, Assistant Town Clerk
Item #: B.2.

Background / Discussion:

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

CC:

Attachments:

1. 08.21.24 PC Draft Minutes



Planning Commission Regular Meeting

August 21, 2024 - 7:00 PM

Town Board Chambers, 301 Walnut Street, Windsor, CO 80550

To view Planning Commission meeting broadcasts, visit
www.windsorgov.com/MeetingsOnDemand.

MINUTES

A. CALL TO ORDER

Chairman Reddick called the meeting to order at 7:03 p.m.

1. Roll Call

Present:

Chairman Reddick
Vice-Chair Nader
Nathan Kinney
David Hassard
Ben Kirch
Jordan Spight
John Neal

Also Present:

Town Board Liaison Hallett
Scott Ballstadt, Planning Director
Daniel Money, Town Attorney
Carlin Malone, Chief Planner
Sandra Mezzetti, Senior Planner
Kim Lambrecht, Senior Planner
Scott Pearson, Transportation Engineer - via Zoom
Benjamin Bodiker, Creative Services Supervisor
Laura Richardson, Assistant Town Clerk

2. Review of Agenda by the Board and Addition of Items of New Business to the Agenda for Consideration

Planning Commissioner Kirch moved to approve the agenda as presented, Planning Commissioner Hassard seconded the motion. Roll call on the vote resulted as follows; Yeas - Timothy Reddick, David Hassard, Nathan Kinney, Ben Kirch, Maxwell Nader, Jordan Spight, John Neal; Nays - None; Motion Passed.

3. Public Invited to be Heard

Chairman Reddick opened the meeting up for public comment on any non-agenda item, to which there were none.

B. CONSENT CALENDAR

1. Approval of the August 7, 2024, Planning Commission Regular Meeting Minutes - L. Richardson, Assistant Town Clerk

Chairman Reddick moved the approval of the August 7, 2024 Minutes to the next Planning Commission Regular meeting due to required edits to the minutes.

Jason Hallett, Town Board Liaison, gave a statement to the Commission.

"Mr. Chair, for the record, I would like to disclose that I am a sitting member of the Town Board and that I am here in my capacity as a nonvoting liaison to the Planning Commission. Although I will be present during all public hearings tonight, I will not be giving my opinion or participating in any of the discussions. I will not let tonight's proceedings influence or affect my review of these matters when they come before the Town Board. I will make my decision at the Town Board level based only on the evidence presented during the Town Board public hearings."

C. BOARD ACTION

1. Public Hearing - Wireless Telecommunication Facility (Tower) Site location within the General (GC) Commercial Zone District, Municipal Code Section 16-5-40(k)(3) - Jacoby Farm Subdivision 5th Filing, Tract A, 301 17th Street - Cary St Onge, Windsor CAS1 LLC, property owner; and Tom Wilderson, Tower Engineering Professionals, applicant

Executive Summary

The applicant, Mr. Thomas Wilkerson, on behalf of Vertical Bridge, future tower owner, has submitted two applications to the Town:

1. Telecommunication tower location (site plan)
2. Conditional Use Permit – to exceed the fifty-foot (50') height limit for a telecommunications tower.

Staff has reviewed the two applications in accordance with review criteria set forth in Section 16-5-40 of the Town's Municipal Code for the telecommunications facility location and review criteria set forth in Section 14-2-130 of the Town's Municipal Code for a Conditional Use Permit concerning the telecommunication height of a seventy-five-foot (75') telecommunications tower, which exceeds the fifty-foot (50') height limit. Both applications comply with the requirements set forth in the Land Use Code.

Therefore, staff is recommending the Planning Commission forward to the Town Board the following recommendations, also included in the recommendation section at the conclusion of this memorandum.

1. Approval of the telecommunications tower location based on the application satisfying all applicable telecommunications review criteria requirements set forth in Section 16-5-40 of the Town's Municipal Code.
2. Approval of the Conditional Use Permit based on the application satisfying all applicable conditional use permit criteria requirements set forth in Section 14-2-130 of the Town's Municipal Code, subject to the telecommunications tower location approval.

Under federal law, a local government may not "materially inhibit" the provision of wireless service, including the ability of providers to improve service or densify their network. Local governments are preempted from regulating wireless facilities based on the environmental or health effects of EMF (Electromagnet Field) or RMF (Radio Frequency) emissions. Items for review and consideration include:

- Location – Where the facility is located
- Aesthetic – What it looks like
- Height – How tall is necessary

Sandra Mezzetti, Senior Planner, and Craig Schuenemann, Applicant Representative, presented to the Planning Commission. Chairman Reddick put Craig Schuenemann on reserve for further comments or questions.

Brandon Ditman, Attorney with Wilson Williams Feldman Ditman, presented to the Planning Commission.

Chairman Reddick opened the meeting for public comment.

Karen Argys, 1669 Stoll Drive, spoke against the item, on the topics of the applicants' diligence of notification to the public, the great horned owls and the quality of reception in the area. Stormy Kuik and Dan Kuik, 1637 Stoll Drive, requested the Planning Commission vote against the item and asked that the Planning Commission consider the Comprehensive Plan for Windsor when looking at the location of the cell tower and spoke about the property values, health concerns and current cell phone coverage. Kristine Jopski, 371 Stoll Drive, spoke against the item and referenced the Town's written code section 16-5-40. Sara Twombly, 1675 Stoll Drive, spoke against the item and noted health risks and concern for wildlife.

Chairman Reddick opened the meeting for Planning Commission discussion. Commissioner Hassard inquired about property ownership, to which Nicholas Constatine and Craig Schuenemann, Applicant Representatives, addressed. Commissioner Hassard also spoke about the landscape of the location, the proposed fencing of the site and set back requirements. Craig Schuenemann and Nicholas Constatine responded to Commissioner Hassard's questions and comments.

Chairman Reddick asked questions regarding the aesthetics of the tower, to which Craig Schuenemann and Nicholas Constatine answered.

Planning Commissioner Kirch moved to close the public hearing, Planning Commissioner Neal seconded the motion. Roll call on the vote resulted as follows; Yeas - Timothy Reddick, David Hassard, Nathan Kinney, Ben Kirch, Maxwell Nader, Jordan Spight, John Neal; Nays - None; Motion Passed.

2. Recommendation to Town Board - Wireless Telecommunications Facility (Tower) Site Location within the General Commercial (GC) Zone District, Municipal Code Section 16-5-40(k)(3) - Jacoby Farm Subdivision 5th Filing, Tract A, 301 17th Street - Cary St Onge, Windsor CAS1 LLC, property owner; Tom Wilkerson, Tower Engineering Professionals, applicant

Please refer to information included with the public hearing item.

Sandra Mezzetti, Senior Planner, addressed the Planning Commission.

Planning Commissioner Nader moved to forward a recommendation of approval to the Town Board of the Wireless Telecommunications Facility (Tower) Site Location within the General Commercial (GC) Zone District, Municipal Code Section 16-5-40(k)(3) - Jacoby Farm Subdivision 5th Filing, Tract A, 301 17th Street, Planning Commissioner Kirch seconded the motion. Roll call on the vote resulted as follows; Yeas - Timothy Reddick, Nathan Kinney, Ben Kirch, Maxwell Nader, Jordan Spight, John Neal; Nays - David Hassard; Motion Passed.

3. Public Hearing - Request for a Conditional Use Permit (Height), Municipal Code Section 14-2-130, to allow a seventy-five-foot (75') high Wireless Telecommunication Tower within the General Commercial (GC) Zone District - Jacoby Farm Subdivision 5th Filing, Tract A, 301 17th Street - Cary St Onge, Windsor CAS1 LLC, property owner; and Tom Wilkerson, Town Engineering Professionals, applicant

Please refer to information included with the public hearing item for the Wireless Telecommunication Facility (Tower) Site Location

No additional presentation was given on this item.

Chairman Reddick opened the meeting up for public comment. Karen Argys, 1669 Stoll Drive, asked the Planning Commission to deny the cell phone tower and spoke about the great horned owls and trail usage. Stormy Kuik, 1637 Stoll Drive, spoke against the item and noted the current height requirements and cell phone coverage. Heidi Schreck, 364 Windshire Drive, spoke about the great horned owls.

Chairman Reddick opened the meeting for Planning Commission discussion. Commissioner Spight requested clarification on the setback requirement and inquired about the Verizon cell tower height, to which Scott Ballstadt, Director of Planning, Sandra Mezzetti, Senior Planner and Craig Schuenemann and Nicholas Constantine, Applicant Representatives, answered. Commissioner Kirch asked about additional carriers using the cell tower, to which Craig Schuenemann answered. Commissioner Neal inquired about radio frequency levels, to which Chairman Reddick responded. Commissioner Hassard asked questions about the height and co-locating of the tower, to which Craig Schuenemann responded.

Planning Commissioner Kirch moved to close the public hearing , Planning Commissioner Hassard seconded the motion. Roll call on the vote resulted as follows; Yeas - Timothy Reddick, David Hassard, Nathan Kinney, Ben Kirch, Maxwell Nader, Jordan Spight; Nays - John Neal; Motion Passed.

4. Recommendation to Town Board - Request for a Conditional Use Permit (Height), Municipal Code Section 14-2-130, to allow a seventy-five-foot (75') high Wireless Telecommunication Tower within the General Commercial (GC) Zone District - Jacoby Farm Subdivision 5th Filing, Tract A, 301 17th Street - Cary St Onge, Windsor CAS1 LLC, property owner; Tom Wilkerson, Town Engineering Professionals, applicant

Please refer to information included with the public hearing item for the Wireless Telecommunication Facility (Tower) Site Location

Planning Commissioner Nader moved to forward a recommendation of approval to the Town Board for the Request for a Conditional Use Permit (Height), Municipal Code Section 14-2-130, to allow a seventy-five-foot (75') high Wireless Telecommunication Tower within the General Commercial (GC) Zone District - Jacoby Farm Subdivision 5th Filing, Tract A, 301 17th Street, Planning Commissioner Kinney seconded the motion. Roll call on the vote resulted as follows; Yeas - Timothy Reddick, Nathan Kinney, Ben Kirch, Maxwell Nader, Jordan Spight, John Neal; Nays - David Hassard; Motion Passed.

5. Public Hearing - Lone Tree Annexation to the Town of Windsor and Establishment of Zoning - Kevin S. Woods (City Manager, City of Thornton), Owner: Jason Pierce (Thornton Water Project Director), Applicant/Representative

Executive Summary

Kevin S. Woods, City Manager, City of Thornton, owner/petitioner/applicant, represented by Jason Pierce, Thornton Water Project Director, filed a Petition to Annex 51.389 acres of property (known as the Lone Tree property) to the Town of Windsor. The subject property is the topic of the 2023 Second Intergovernmental Agreement (IGA) between the City of Thornton and the Town of Windsor, which was implemented to coordinate future waterline and road improvements within the Town's Growth Management Area. The IGA set conditions and criteria for the annexation of the property, which Thornton has complied with. The designation of Recreation and Open Lands (ROL) zoning was also part of the IGA.

On May 23, 2023, the Town Clerk accepted the subject annexation petition. On June 12, 2023, the Town Board approved Resolution 2023-23 concerning the acceptance of the annexation petition, initiating the annexation proceedings (attached for reference), per Colorado Revised Statutes (C.R.S.). Subsequently, after reviewing the annexation petition, map and supporting information, and determining the application was complete, Staff forwarded a resolution to the Town Board setting public hearing dates for Planning Commission and Town Board meetings, for the annexation and establishment of zoning. Resolution 2024-46 was approved on July 8, 2024 (attached for reference).

Staff is recommending that the Planning Commission forward to the Town Board a recommendation of approval of the annexation and establishment of zoning, subject to any Planning Commission and Staff comments being addressed.

Kim Lambrecht, Senior Planner, presented to the Planning Commission.

Chairman Reddick opened the meeting up for public comment. Karen Reynolds, 33673 County Road 13, and Kurt Hartshorn, 33681 County 13, spoke about future road development. Kate Graves, 6649 County Road 1, questioned the need of the annexation and asked that road construction be separate.

Chairman Reddick opened the meeting up for Planning Commission discussion. Commissioner Spight inquired about the future road location, to which Scott Ballstadt, Director of Planning, answered. Commissioner Nader commented that the road development was necessary. Commissioner Neal asked for clarification on what would happen if the annexation was not approved, to which Scott Ballstadt responded. Chairman Reddick inquired about the IGAs and zoning, to which Scott Ballstadt and Kim Lambrecht, Senior Planner, responded. Commissioner Nader inquired about the right of way process, to which Scott Ballstadt answered.

Planning Commissioner Kirch moved to close the public hearing, Planning Commissioner Neal seconded the motion. Roll call on the vote resulted as follows; Yeas - Timothy Reddick, David Hassard, Nathan Kinney, Ben Kirch, Maxwell Nader, Jordan Spight, John Neal; Nays - None; Motion Passed.

6. Recommendation to Town Board - Lone Tree Annexation to the Town of Windsor and Establishment of Zoning - Kevin S. Woods (City Manager, City of Thornton), Owner; Jason Pierce (Thornton Water Project Director), Applicant/Representative

Please refer to the information and attachments found in the previous Public Hearing item.

Planning Commissioner Kirch moved to forward a recommendation of approval to the Town Board for the Lone Tree Annexation to the Town of Windsor and Establishment of Zoning. Planning Commissioner Hassard seconded the motion. Roll call on the vote resulted as follows; Yeas - Timothy Reddick, David Hassard, Nathan Kinney, Ben Kirch, Maxwell Nader, Jordan Spight, John Neal; Nays - None; Motion Passed.

D. COMMUNICATIONS

1. Communications from Planning Commission

Chairman Reddick asked if work sessions were still able to be considered, to which Scott Ballstadt, Director of Planning, responded.

2. Communications from Town Board Liaison

Jason Hallett, Town Board Liaison, updated the Planning Commission on the Harvest Festival, Senate Bill 24-1-31, the ad hoc charter committee progress and the budget.

3. Communications from Staff

Sandra Mazzetti, Senior Planner, provided an update that the Windsor Housing Authority broke ground on the Jacoby Meadows Senior Housing Apartments. Daniel Money, Town Attorney, commended the Planning Commission on how the meeting was ran.

E. ADJOURN

Upon a motion duly made, the meeting was adjourned at 9:25 pm.

Laura Richardson, Assistant Town Clerk



MEMORANDUM

Date: November 20, 2024
To: Planning Commission
From: Sandra Mezzetti, Senior Planner
Re: Public Hearing - An Ordinance Amending Chapters 14-17 of the Town of Windsor Municipal Code Concerning Land Use - Planning Department
Item #: C.1.

Background / Discussion:

Executive Summary

Chapters 14 through 17 of the Town's Municipal Code, which collectively make up the Town's Land Use Code, were updated in February 2024. Recent state house bills require the need to update several sections within the code, described herein. Additionally, there is a need to amend some areas to address corrections or clarifications to resolve ongoing issues with the current code.

The Town Board held a work session on October 21, 2024, where they received an overview of the proposed code amendments and directed staff to move forward with the public hearings for the amendments.

Town Board discussion.

The Town Board asked staff about the house bill concerning Accessory Dwelling Units and if an HOA could prohibit ADUs. Staff stated that under the current legislation, an HOA could not prohibit them as a use. An ADU would still need to meet all applicable state and local ordinances.

This memorandum summarizes the proposed changes and reasons behind those changes. The draft code sections are attached for review, in ordinance format. Below is an overview of the sections proposed for updates, in order by chapter and section number:

Section 1	§14-1-110. – Effective date. (Clerical error)
Sections 2, 4 & 5	§14-2-10(a), (h) and §14-2-120. – These sections remove the public hearing requirement for a vacation of easement.
Section 3	§14-2-10(c) – Inactive applications. (Clerical error)
Section 6	Chapter 14, Article V – Definitions. • Clarifies definition of front building corner of a principal structure and front yard • Modifies the definition of family to align with C.R.S. sections. (HB24-1007)
Sections 7 & 8	§15-7-10 – Supplementary regulations and §15-7-30 – Procedure. Modifies land use application terminology from previous code to current code.
Section 9	Table 16-3-10(a). – Accessory Building Location Requirements. Clarifies front lot line language.
Section 10	§16-3-20. – Home Occupations. Clarification and eliminates conflicting language, codifies a land use application requirement.
Section 11	§16-3-40. – Accessory dwelling units. Modifies to align with C.R.S. sections. (HB24-1152)
Section 12	§17-1-30. Lots. – Double Frontage. Defining, clarifying section.

The land use code amendments by section are included in the ordinance and below, in their entirety, illustrating proposed deletions, and added language.

Section 1: §14-1-110. – Effective date.

Clarifying language added that was inadvertently omitted and shall read as follows:

The provisions of this Code became effective thirty (30) days after adoption. Development plans approved under previous regulations that received vested property rights through a site-specific development plan shall be valid for the duration of that vested property right provided that all terms and conditions of the site-specific development plan **are met**.

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Sections 2: §14-2-10 – Table 14-2-10(a) - Vacation of Town right-of-way.

Table amended to remove or Town Easement

Vacation of Town ROW or Town Easement	Saved to this PC Sec. 14-2- 120			R		D*
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Section 3: §14-2-10(c) – Inactive applications.

Clarifying language added and shall read as follows:

Inactive Applications. If the applicant fails to submit requested additional or revised application materials within one hundred eight **eighty** (180) days of the request, the Director may declare the application withdrawn.

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Sections 4: §14-2-10 – Table 14-2-10(h) - Vacation of Town right-of-way.

Table amended to add Town and remove or Easement.

Vacation of Town ROW or Easement	☒	☒	☒	Abutting
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Section 5: §14-2-120 – Vacation of right-of-way/easement.

Clarifying language and removing public hearing requirement for easement vacations.

Clarifying language was added separately for Right-of-Way vacation and Easement vacations. Additional language added removing the public hearing requirement to easement vacations.

(a) **Right-of-way.** The vacation of right-of-way or easement application process is used to vacate unnecessary rights-of-way. The vacation of right-of-way shall be in accordance with C.R.S. § 43-2-301, et seq. Only the following types of right-of-way may be vacated by the Town:

(1) Right-of-way-owned by the Town.

(b) **Easements.** Only the following types of easements may be vacated by the Town:

(1) **Easements that have been dedicated to the Town for the benefit of the Town and other parties and are no longer required.**

(2) **Easements may be vacated by resolution or by plat.**

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Section 6: Chapter 14, Article V, Definitions:

- Definition of Family.

The definition of family was modified to align with State House Bill 24-1007 – Prohibit Residential Occupancy Limits. The bill prohibits local governments from enacting or enforcing residential occupancy limits based on familial relationship while allowing local governments to implement residential occupancy limits based on demonstrated health and safety standards such as international building code standards, fire code regulations, or Colorado department of public health and environment wastewater and water quality

standards. Therefore, the language in the new definition eliminates restrictions on marital status, blood relationship and the number of unrelated persons.

Family is defined as:

- An individual living alone
- Individuals living together in a single dwelling unit and sharing common living, sleeping, cooking and eating facilities

• **Definition for “Front building corner” of a principal structure and “Front yard”.**

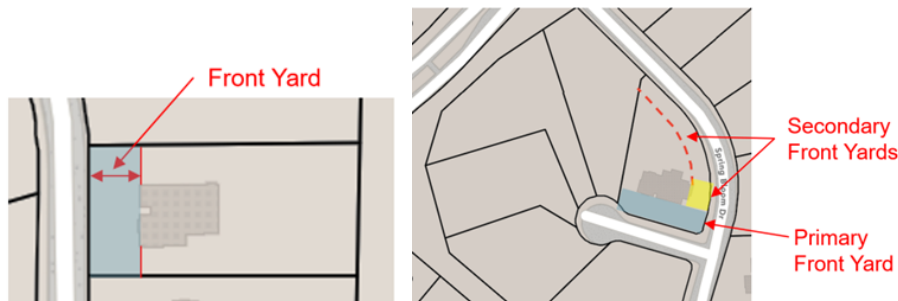
The existing definition of *front building corner of a principal structure* was clarified so the language is easy to understand. Language within the Accessory Structures section of the code pertaining to “*Primary Front*” and “*Secondary Front*” was duplicated and added to this section for consistency. Additionally, language pertaining to an uncommon situation where two secondary fronts exist was added. This will allow the Director to make a determination pertaining to the location of a rear yard, if this situation is to occur.

- Front building corner of a principal structure **refers to** each of the two (2) corners of the widest portion of the foundation of the principal structure that face and **run** parallel to the right-of-way line/**property line** which defines the front yard (see front yard).

• **Definition for front yard.**

Clarifying language has been added to better define *front building corner* of a principal structure and front yard.

- Front yard refers to the area between the right-of-way line/property line and the nearest part of a building’s foundation. This area extends across the width of the lot, running from one side of the property line to the other side of the property line.
- For a corner lot, the front yard shall include the space between both front right-of-way lines/property lines and the nearest part of a building’s foundation.
- a. Primary front lot line.
- b. Secondary front lot line.
- c. Two secondary front lot lines



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Section 7: §15-7-10 – Large Retail Establishments - Supplementary regulations

Clarifying language - removed the term “qualified commercial”.

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Section 8: §15-7-30 – Large Retail Establishments - Procedure.

Clarifying language - removed the term “qualified commercial”.

.....

Section 9: §16-3-10 and Table 16-3-10(a). – Accessory Buildings and Location Requirements.

Clarification to front yard.

Consistent with the definition of front yard, the language pertaining to the front lot line was modified to include an uncommon situation where two secondary front lot lines may exist. This will allow the Director to make a determination pertaining to the location of a rear lot line, if this situation is to occur. An accessory building could be a shed or other structure over 120 s.f. in size, which requires a permit. An accessory structure may be a structure for habitable space, such as a workshop.

It is important to note that an accessory structure permit alone does not allow an Accessory Dwelling Unit (ADU) use. An ADU must be approved through an ADU application and approval process. Therefore, an accessory structure could be an ADU, so long as the homeowner received an ADU approval through the Town, per Section 16-3-40.

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Section 10: §16-3-20. – Home Occupations.

Clarification and eliminates conflicting language, codifies a land use application requirement.

Removed the zoning reference “in any Single-Family Residential Zoning District”.

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Section 11: §16-3-40. – Accessory dwelling units.

The language in this section was modified to align with C.R.S. sections, including State House Bill 24-1007, pertaining to prohibiting a local government from enacting or enforcing residential occupancy limits.

State House Bill 24-1152, Accessory Dwelling Units, states that local governments must allow accessory dwelling units (ADUs). The Town’s ADU ordinance needed minimal changes to adhere to HB24-1152.

HB24-1152 highlights the following:

- Removal of compliance with restrictive covenants. Homeowner’s Associations cannot prohibit ADUs.
- Parking requirements. Parking can be required when no on-street parking is allowed, or on-site parking is not provided at the time of application. Garage spaces cannot be required.
- Revised the owner occupancy requirement – owner must reside on the property at the time of the ADU application and at the time of the recordation of the ADU with the applicable county.
- Removal of limitation on garage space ADUs.
- Types of accessory dwelling units – Type II & Type III (ADUs located within a single-family dwelling) - local governments cannot put limitations on occupancy (except for building/fire codes, public health, utility capacity).
- May require ADU applicant to reside on the property at the time of recordation of the ADU with the county.
- Revised the procedure for ADU approval to administrative only, especially the grievance process - it cannot require a public hearing process.

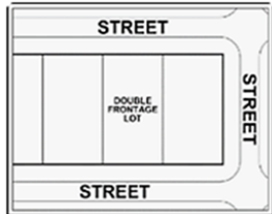
Those modifications included occupancy limitations and when additional parking can or cannot be required. Parking can be required when on-street parking in the area of the proposed ADU is prohibited and when on-site parking for the ADU is not available. If on-street parking is available, the local government cannot require additional parking for the ADU.

.....

Section 12: §17-1-30. Lots. – Double Frontage.

This section was modified to add a definition of what double frontage lot means, as well as what it does not mean (corner lot). This section already prohibited the creation of double fronted lots; however, it allowed for some exceptions when no other possibility was available. This exception was being utilized as an opportunity to disregard the intent of the code rather than solve a design solution. There has never been an intent to allow double frontage lots, as these lots are inefficient and undesirable for homeowners. Therefore, the exception portion of this language is proposed to be eliminated. As stated, a double frontage lot is not a corner lot. It is also not a lot that is situated between a street and an alley.

Double frontage lot means any lot which abuts two or more streets other than a corner lot, which abuts two intersecting streets. Double frontage lots for single family dwellings, duplexes, multiplexes, and townhomes shall not be permitted.



Notifications

Notification of the land use code update was in accordance with the Town Code, requiring notification at least ten (10) days prior to the public hearing:

- November 08, 2024 – Notice posted to Town’s website
- November 08, 2024 – Legal ad published in newspaper, Greeley Tribune

Land Use Code Update Schedule

- Town Board public hearing to consider the Planning Commission recommendation and first reading of the ordinance on November 25, 2024.
- Town Board public meeting and second reading of the ordinance on December 09, 2024.

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

Staff recommends that the Planning Commission forward to the Town Board a recommendation of approval of the ordinance amending Chapters 14, 15, 16 and 17, subject to any Planning Commission comments being addressed.

CC:

Attachments:

1. Staff Powerpoint PC 11.20.24



An Ordinance Amending Land Use Codes Chapters 14, 15, 16, and 17

Planning Commission ~ November 20, 2024

*Sandra Mezzetti, Senior Planner
Planning / Community Development*



Overview – Land Use Code Amendments

❖ §14-1-110. – Effective Date

Clarifying language added that was inadvertently omitted and shall read as follows:

- The provisions of this Code became effective thirty (30) days after adoption.
Development plans approved under previous regulations that received vested property rights through a site-specific development plan shall be valid for the duration of that vested property right provided that all terms and conditions of the site-specific development plan **are met**.

❖ §14-2-10. – Table 14-2-10(a) – Vacation of Town ROW.

- Table amended to remove *or Town Easement*

Saved to this PC

Vacation of Town ROW or Town Easement	<u>Sec. 14-2-</u> <u>120</u>			R		D*
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Overview – Land Use Code Amendments

❖ §14-2-10(c). – Inactive Applications.

- Clarifying language added and shall read as follows:
Inactive Applications. If the applicant fails to submit requested additional or revised application materials within one hundred ~~eight~~ **eighty** (180) days of the request, the Director may declare the application withdrawn.

❖ §14-2-10. – Amending Table 14-2-10(h) – Vacation of Town ROW. Clarifying language

- Table amended to add ***Town*** and remove ***or Easement***

Vacation of Town ROW or Easement	☒	☒	☒	Abutting
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Overview – Land Use Code Amendments

❖ §14-2-120. – Vacation of right-of-way/easement. Clarifying language and removing public hearing requirement for easement vacations.

Clarifying language added separately for Right-of-Way vacation and Easement vacations. Additional language added removing the public hearing requirement to easement vacations.

- (a) **Right-of-way.** The vacation of right-of-way or easement application process is used to vacate unnecessary rights-of-way. The vacation of right-of-way shall be in accordance with C.R.S. § 43-2-301, et seq. Only the following types of right-of-way may be vacated by the Town:
 - (1) Right-of-way-owned by the Town.
- (b) **Easements.** Only the following types of easements may be vacated by the Town:
 - (1) **Easements that have been dedicated to the Town for the benefit of the Town and other parties and are no longer required.**
 - (2) **Easements may be vacated by resolution or by plat.**



Overview – Land Use Code Amendments

❖ Chapter 14, Article V - Definitions.

Clarifying language to align with requirements outlined in recently passed state legislation, **HB24-1007**, prohibits residential occupancy limits based on familial relationship.

- Family is defined as:
 - An individual living alone
 - Individuals living together in a single dwelling unit and sharing common living, sleeping, cooking and eating facilities



Overview – Land Use Code Amendments

❖ Chapter 14, Article V - Definitions.

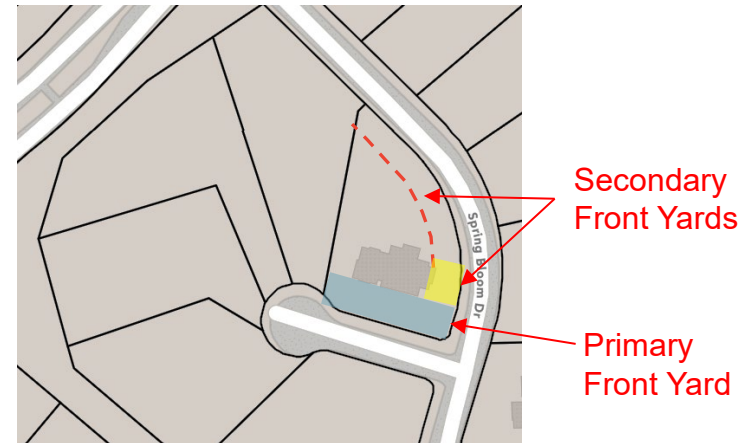
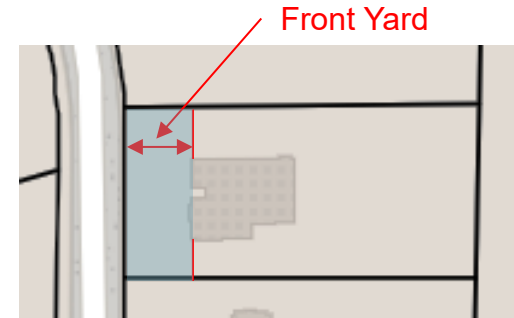
Clarifying language has been added to better define *front building corner of a principal structure* and *front yard*.

- *Front building corner of a principal structure* **refers to** each of the two (2) corners of the widest portion of the foundation of the principal structure that face and **run** parallel to the right-of-way line/**property line** which defines the front yard (see front yard).

Overview – Land Use Code Amendments

❖ Chapter 14, Article V - Definitions.

- *Front yard* refers to the area between the right-of-way line/property line and the nearest part of a building's foundation. This area extends across the width of the lot, running from one side property line to the other side property line.
 - For a corner lot, the front yard shall include the space between both front right-of-way lines/property lines and the nearest part of a building's foundation.
 - a) Primary front lot line.
 - b) Secondary front lot line.
 - c) Two Secondary front lot lines





Overview – Land Use Code Amendments

❖§15-7-10. – Large Retail Establishments – Supplementary Regulation.

Clarifying language - removed the term “*qualified commercial*”.

❖§15-7-30. – Large Retail Establishments – Procedure.

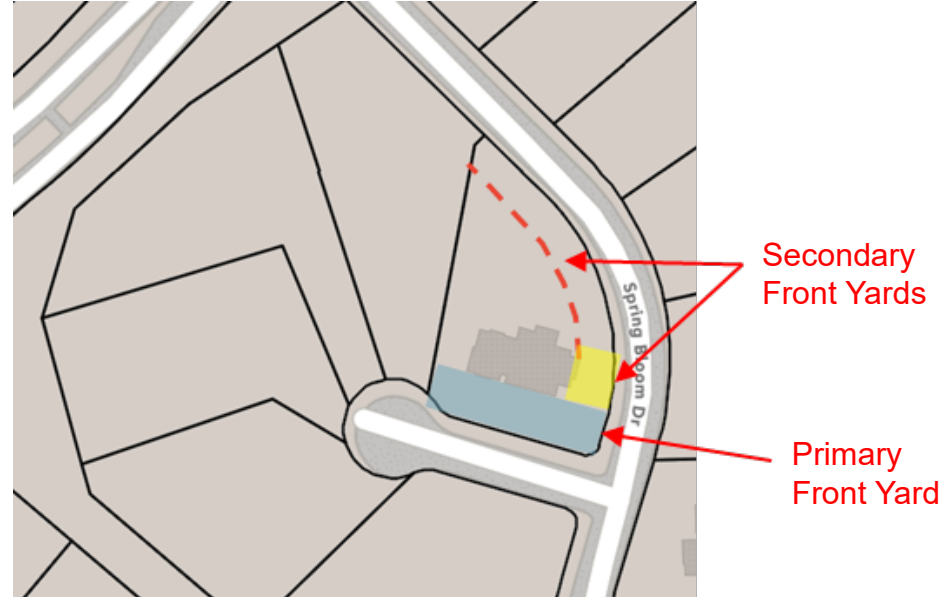
Clarifying language - removed the term “*qualified commercial*”.

Overview – Land Use Code Amendments

❖ §16-3-10. – Accessory Buildings.

Clarification to the front yard:

- Language pertaining to the front setbacks was modified to include an uncommon situation where two secondary front yard property lines may exist.
- Allows the Director to make the determination pertaining to the rear yard location.



Overview – Land Use Code Amendments

❖§16-3-20. – Home Occupations. Clarifying language.

Removed the zoning reference *“in any Single Family Residential Zoning District”*.

- b) Home occupations shall be permitted as an accessory use of any dwelling unit whether or not authorized as a named accessory use by this Code, if the following conditions are met and continuously exist:
 - 7) Condensed language regarding sale, display or distribution of merchandise.
- c) Added language requiring applicants applying for a home occupation to provide property owner or landlord authorization when the dwelling unit is not owned by the home occupation applicant.

Overview – Land Use Code Amendments

❖§16-3-40. – Accessory Dwelling Units.

Clarifying language added to align with requirements outlined in recently passed state legislation, **HB24-1152**, regarding accessory. Specific areas of change include:

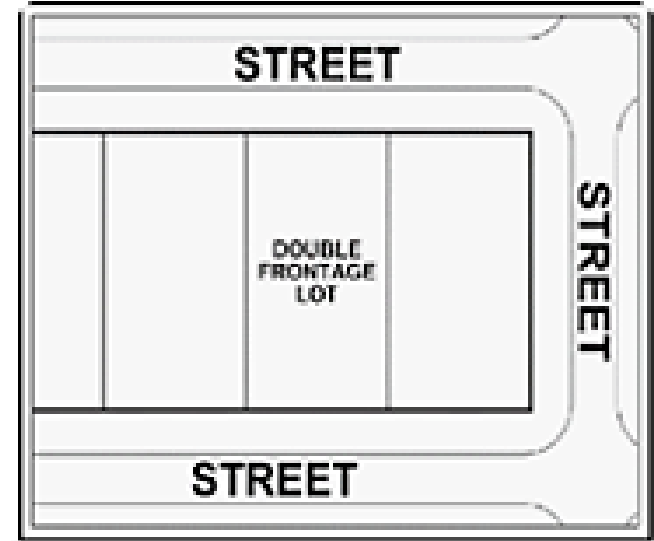
- Removal of compliance with restrictive covenants.
- Parking requirements
- Revised the owner occupancy requirement – owner must reside on the property at the time of the ADU application.
- Removal of limitation on garage space dwelling units
- Types of Accessory Dwelling Units – Type II & Type III (ADUs located within a single-family dwelling), remove reference to occupancy type
- Requires ADU applicant to reside on the property at the time of recordation of the ADU with the county.
- Revised the procedure for ADU approval, especially the grievance process.

Overview – Land Use Code Amendments

❖§17-1-30. – Lots – Double Frontage

- Clarifying language added regarding the definition of a double frontage lot
- Removed language pertaining to exceptions previously allowed.

Double frontage lot means any lot which abuts two or more streets other than a corner lot, which abuts two intersecting streets. Double frontage lots for single family dwellings, duplexes, multiplexes, and townhomes shall not be permitted.





Notification & Next Steps

Notification of public hearings in accordance with Town Code:

- Advertisement in Greeley Tribune on November 08, 2024.
- Posted on Town website on November 08, 2024.

Public Hearing / Meeting Schedule:

- Planning Commission public hearing and recommendation to Town Board ~ November 20, 2024.
- Town Board public hearing and first reading of ordinance ~ November 25, 2024.
- Town Board public meeting and second reading of ordinance ~ December 09, 2024.



Staff Recommendation & Record

Staff recommends that the Planning Commission forward to the Town Board a recommendation of approval of the ordinance amending Chapters 14, 15, 16, and 17, subject to any Planning Commission comments being addressed.

Staff requests that the following be entered into the record:

- Ordinance
- Staff memorandum and supporting documents
- Public testimony during the public hearing

Land Use Code Amendments proposed:

- **Chapter 14:** §14-1-110. – Effective date - Language Clarification
§14-2-10(a) &(h) – Vacation of ROW - Language Clarification
§14-2-10(c)- Inactive Applications - Language Clarification
§14-2-120 – Vacation of ROW - Language Clarification
Article V, Definitions – Align with legislative updates – Language Clarification
- **Chapter 15:** §15-7-10 & §15-7-30 – Large Retail Establishment – Language Clarification
- **Chapter 16:** §16-3-10 – Accessory Buildings and Locations
§16-3-20 – Home Occupations – Language Clarification
§16-3-40 – ADUs – Align with legislative updates
- **Chapter 17:** §17-1-30 - Double Frontage – Language Clarification



Questions / Thank you

*Planning Commission
November 20, 2024*



MEMORANDUM

Date: November 20, 2024
To: Planning Commission
From: Sandra Mezzetti, Senior Planner
Re: Recommendation to Town Board - An Ordinance Amending Chapters 14-17 of the Town of Windsor Municipal Code Concerning Land Use - Planning Departments
Item #: C.2.

Background / Discussion:

Please refer to the information provided with the public hearing item.

Financial Impact:

Relationship to Strategic Plan:

Recommendation:

Staff recommends that the Planning Commission forward to the Town Board a recommendation of approval of the ordinance amending Chapters 14, 15, 16 and 17, subject to any Planning Commission comments being addressed.

CC:

Attachments:

1. DRAFT Ord - Land Use Code Update

TOWN OF WINDSOR

ORDINANCE NO. 2024-xxxx

AN ORDINANCE AMENDING PORTIONS OF THE LAND USE CODE IN CHAPTERS 14-17 OF THE WINDSOR MUNICIPAL CODE

WHEREAS, the Town of Windsor (“Town”) is a Colorado home rule municipality with all powers and authority vested by Colorado law; and

WHEREAS, the Town has deemed it to be in the best interests of the health, safety and welfare of the residents of Windsor to keep the content of the Windsor Municipal Code (“Code”) current by making certain corrections and amendments from time to time; and

WHEREAS, the Town created and adopted the Windsor Land Use Code consisting of Chapters 14, 15, 16 and 17 of the Code; and

WHEREAS, amendments to the Code are necessary to align with both current practices and recent state legislation; and

WHEREAS, the Town of Windsor desires to amend certain portions of the Land Use Code; and

WHEREAS, the Town intends that all previously enacted and adopted provisions pertaining to the Windsor Land Use Code shall remain intact as adopted unless expressly amended herein; and

WHEREAS, the amendment of the foregoing codes serves to promote the public health, safety and welfare of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF WINDSOR, COLORADO, AS FOLLOWS:

Section 1. Code Sec. 14-1-110 concerning Effective date is hereby amended and shall read as follows:

Sec. 14-1-110.- Effective date.

The provisions of this Code became effective thirty (30) days after adoption. Development plans approved under previous regulations that received vested property rights through a site-specific development plan shall be valid for the duration of that vested property right provided that all terms and conditions of the site-specific development plan **are met**.

Section 2. Code Sec. 14-2-10 is hereby amended by amending Table 14-2-10(a), and Table 14-2-10(a) shall read as follows:

.....

Table 14-2-10(a) Land Use Application Procedures

Application Type	Code Section	Neighborhood meeting	Concept Review Meeting	Decision Maker				Vote
				Director	PC	TB	BOA	
Accessory Dwelling Unit	Sec. 14-2-100		☐	D			A*	
Annexation	Sec. 14-2-30	☒	☐	R	R*	D*		S
Appeals	Sec. 14-2-180			Refer to section 14-2-180				S
Code Amendment	Sec. 14-2-190			R	R*	D*		S
Comprehensive Plan Amendment	Sec. 14-2-200							
Conditional Use Permit	Sec. 14-2-130		☐	R	R*	D*		M
Conditional Use Permit Oil and Gas, Gravel Mining	Sec. 14-2-130	☒	☐	R	R*	D*		M
Height Modification	Sec. 14-2-160		☐	R	R*	D*		M
Master Plan	Sec. 14-2-40	☒	☐	R	R*	D*		M
Non-Regulated Land Transfer	Sec. 14-2-50							
Rezoning	Sec. 14-2-70	☒	☐	R	R*	D*		S
Sign Permit	Sec. 14-2-170			D			A*	
Site Plan — Major	Sec. 14-2-90		☐	D		A*		
Site Plan — Minor	Sec. 14-2-90		☐	D		A*		
Subdivision, Major — Final	Sec. 14-2-60		☐	R	R*	D*		M
Subdivision, Major — Preliminary	Sec. 14-2-60		☐	R	D*	A*		M
Subdivision — Minor	Sec. 14-2-60		☐	D		A*		
Substantial Change Hearing	Sec. 14-2-20		☐	R	R*	D*		M
Telecommunications	Sec. 14-2-110		☐	D 1			A*	
Vacation of Town ROW or Town Easement	Sec. 14-2-120			R		D*		M
Variance	Sec. 14-2-150		☐	R			D*	S
Variance, Minor	Sec. 14-2-140		☐	D			A*	
Vested Property Rights	Sec. 14-2-210			R		D*		M

<u>1 Director may refer to PC/TB per Sec. 16-5-40(j) to be reviewed as a Conditional Use Permit</u>	R = Recommendation
☒ = Required	D = Decision Maker
☐ = May be required by Director	* = Public hearing required
PC = Planning Commission	A = Appeal of Decision
TB = Town Board	S = Super Majority Vote Required (Ordinances require majority on 1st reading, super majority on 2nd reading)
BoA = Board of Adjustment	M = Majority Vote Required

.....

Section 3. Code Sec. 14-2-10(c) concerning Inactive Applications is hereby amended and shall read as follows:

- (c) Inactive Applications. If the applicant fails to submit requested additional or revised application materials within one hundred ~~eight~~ **eighty** (180) days of the request, the Director may declare the application withdrawn.

Section 4. Code Sec. 14-2-10 is hereby amended by amending Table 14-2-10(h), and Table 14-2-10(h) shall read as follows:

Table 14-2-10(h) Public Notice Requirements					
	Posted	Published	Mailed	Distance	Timing
Annexation	☒	☒	☒	500'	See Sec. 14-2-30
Appeals	☒	☒	☒	500'	10 days
Code Amendment		☒			10 days
Comprehensive Plan Amendment	☒ *	☒	☒ *	500'	15 days
Conditional Use Permit	☒	☒	☒	500'	10 days
Conditional Use Permit Oil & Gas, Gravel Mining	☒	☒	☒	500'	10 days
Height Modification	☒	☒	☒	500'	10 days
Land Use Amendment	☒	☒	☒	500'	15 days
Master Plan	☒	☒	☒	500'	10 days
Neighborhood Meeting		☒	☒	500'	10 days
Rezoning	☒	☒	☒	500'	15 days
Subdivision, Major - Final Plat	☒	☒	☒	500'	10 days

Subdivision, Major - Preliminary Plat	☑	☑	☑	500'	10 days
Substantial Change Hearing	☑	☑	☑	500'	10 days
Vacation of Town ROW or Easement	☑	☑	☑	Abutting	10 days
Variance	☑	☑	☑	300'	15 days
Variance, Minor	☑	☑	☑	300'	See Sec. 14-2-140(d)
Vested Property Rights	☑	☑	☑	500'	15 days

Section 5. Code Sec. 14-2-120 is hereby amended to remove public hearing requirements for easement vacations, and shall read as follows:

- (a) ~~Eligibility~~ **Right-of-way**. The vacation of right-of-way ~~or easement~~ application process is used to vacate unnecessary ~~easements and rights-of-way~~. The vacation of right-of-way ~~or easement~~ shall be in accordance with C.R.S. § 43-2-301, et seq. Only the following types of right-of-way ~~and easements~~ may be vacated by the Town:
- (1) Right-of-way-owned by the Town.
 - ~~(2) Easements dedicated for the benefit of the Town, including easements dedicated for the benefit of the Town and other parties.~~
- (b) **Easements**. Only the following types of easements may be vacated by the Town:
- (1) **Easements that have been dedicated to the Town for the benefit of the Town and other parties and are no longer required.**
 - (2) **Easements may be vacated by resolution or by plat.**
- ~~(b)~~ (c) **Review Criteria**.
- (1) The right-of-way or easement being vacated is not needed in the short or long term.
 - (2) If necessary, the right-of-way or easement will be replaced. To replace the right-of-way or easement, the vacation application shall be accompanied by a development application which proposes a new right-of-way or easement.
 - (3) The applicant is relocating all public facilities or utilities within the right-of-way or easement.
 - (4) The public and surrounding properties will not be negatively impacted by the vacation.
- ~~(c)~~ (d) **Recording**. Once approved the vacation shall be recorded by the Town, in the office of the applicable county clerk and recorder.

Section 6. Chapter 14, Article V of the Code is hereby amended and shall read as follows:

ARTICLE V – Definitions

.....

Family means an individual living alone, or ~~either of the following groups~~ **individuals** living together in a single dwelling unit and sharing common living, sleeping, cooking and eating facilities.:

- ~~(1) Any number of persons related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship, unless such number is otherwise specifically limited in this Code; or~~
- ~~(2) Any unrelated group of persons consisting of (i) not more than four (4) persons; or (ii) not more than two (2) unrelated adults and their related children, if any.~~
- ~~(3) This definition shall not include individuals living in small group living facilities as defined in this Code.~~

Front building corner of a principal structure ~~refers to~~ **means** each of the two (2) corners of the widest portion of the foundation of the principal structure that face and ~~are~~ **run** parallel to the right-of-way line/**property line** which defines the front yard (see front yard).

Front yard ~~means-refers to~~ the horizontal space **area** between the nearest foundation of a building ~~to the right-of-way line/property line and the nearest part of a building's foundation. This area extends across the width of the lot, running from one side property line to the other side property line. that right-of-way line/property line, extending to the side lines of the lot, and measured as the shortest distance from that the front corners of the foundation to the right-of-way line. For a corner lot, the front yard of a corner lot shall include the space between both front right-of-way lines/property lines and that yard which contains the front lot line marking the boundary between the right-of-way lines the nearest part of a building's foundation. the lot and the shorter of the two (2) abutting street segments, except as otherwise specified by deed restrictions, and usually, but not always, that portion of the yard which is situated in front of the building elevation that contains the building address.~~

- a. **Primary front lot line.** The principal front lot line refers to the lot line on a property where the primary building entrance faces the street and/or the primary building is addressed from that street frontage.
- b. **Secondary front lot line.** The secondary front lot line refers to all front lot lines other than the principal front lot line.
- c. **Two Secondary front lot lines – Rear yard determination.** In the case of two secondary front lot lines where there must be a determination on the location of a rear yard, the Director shall be the decision maker.

.....

Section 7. Code Sec. 15-7-10 concerning Supplementary regulations is hereby amended and shall read as follows:

Sec. 15-7-10. - Supplementary regulations.

No large retail establishment occupying more than fifty thousand (50,000) square feet of gross leasable area (GLA), as defined by this Code, shall be approved for construction or occupancy unless such establishment has been determined by the Town Board to be in compliance with this Division, including subsequent amendments thereto. In addition to the foregoing, no large retail establishment occupying more than fifty thousand (50,000) square feet of GLA shall be approved for construction or occupancy unless such establishment has obtained ~~approval of a qualified commercial site plan~~ approval by the Town Board in accordance with the requirements and standards set forth in this Code.

The Design Criteria and Procedures set forth in this Section, shall not apply to Large Entertainment Establishments located within a Commercial Corridor Plan area, or governed by design standards contained within any Intergovernmental Agreement or any area governed by specific site plan development standards.

For the purposes of this Section, Large Entertainment Establishments shall be defined as any facility, the primary purpose of which is devoted to recreational or entertainment uses, such as showing motion pictures or the presentation of dramatic, musical or live performances or containing amusement facilities such as bowling, billiards, and video arcades.

Section 8. Code Sec. 15-7-30 concerning large retail establishments procedure is hereby amended and shall read as follows:

Sec. 15-7-30. - Procedure.

All retail establishments of more than fifty thousand (50,000) square feet of GLA shall require **site plan approval by the Town Board** ~~approval of a qualified commercial site plan~~ and shall not be eligible for administrative approval.

Section 9. Table 16-3-10(a) concerning accessory building location requirements is hereby amended and shall read as follows:

- (a) Permit required. Accessory buildings which are larger than one hundred twenty (120) square feet in area, as measured around the perimeter of the building, or which exceed ten (10) feet in height, as measured as the vertical distance from the ground level adjacent to the structure to the highest point of the roof surface, shall require a building permit. All other accessory buildings shall not require a building permit unless otherwise required by this Code.
- (b) Setbacks. All accessory buildings shall conform to the setback requirements of the zoning district in which the building is located.
- (c) Other Requirements. All accessory buildings shall conform to the visibility requirements of this Code and the open space requirements of the zoning district in which the building is located, and shall be generally compatible and not detrimental to the surrounding neighborhood.
- (d) Location Requirements. The location of all accessory buildings shall be in conformance with Table 16-3-10(a).

Table 16-3-10(a) Accessory Building Location Requirements			
Type		Relative to Primary Front Lot Line ³	Location Relative to Secondary Front Lot Line ⁴
Large Accessory Building ¹		Shall be located no closer to a principal front lot line than the front façade of the primary building	Shall be located no closer to a secondary front lot line than the front corner of the primary building
Small Accessory Building ²	Non- Residential Property	Shall be located no closer to a principal front lot line than the front façade of the primary building	Shall be located no closer to a secondary front lot line than the front corner of the primary building
	Residential Property	Shall be located no closer to a principal front lot line than the front façade of the primary building	Shall be located no closer to a secondary front lot line than the front corner of the primary building, unless located behind a solid fence which is at least 5' in height.
¹ Large accessory building, in accordance with Chapter 14, Article V, means an accessory building which is greater than 120 square feet in size or greater than ten feet in height. ² Small accessory building, in accordance with Chapter 14, Article V, means an accessory building which is 120 square feet or less in size and 10 feet or less in height. ³ Primary front lot line, in accordance with Chapter 14, Article V, means, in the case of lots with more than one (1) street frontage, the principal front lot line refers to the lot line on a property be street to which the where the primary building entrance of the principal building faces the street and/or the primary building is addressed from the street frontage or to which the building is addressed shall be considered the principal front line. All front lot lines other than the principal shall be considered secondary front lot lines. ⁴ Secondary front lot line, in accordance with Chapter 14, Article V, means-refers to all front lot lines other than the principal front lot lines shall be considered secondary front lot lines. In the case of two secondary front lot lines where there must be a determination on the location of a rear yard, the Director shall be the decision maker.			

Section 10. Code Sec. 16-3-20 concerning Home occupations is hereby amended and shall read as follows:

Sec. 16-3-20. Home occupations.

- (a) Intent. The intent of this Section is to provide for limited business uses within dwellings when such uses will clearly not alter the character or appearance of the residential neighborhood. Telecommuting, as defined in this Code, is exempt from home occupation registrations.
- (b) Home occupations shall be permitted as an accessory use of any dwelling unit ~~in any Single-Family Residential Zoning District~~, whether or not authorized as a named accessory use by this Code, if the following conditions are met and continuously exist:

- (1) Home occupations shall be incidental and secondary to the residential purpose of the dwelling unit, and occupational activity shall be harmonious with the residential use.
- (2) The exterior appearance of the dwelling and lot shall not be altered, nor shall any home occupation within the dwelling be conducted in a manner which would cause the premises to differ from its residential character.
- (3) Home occupations shall not alter the exterior appearance by the use of colors, materials, construction or lighting, or by the emission of sounds, noises, dust, odors, fumes, smoke or vibrations detectable outside the dwelling.
- (4) There shall be no advertising display or signage or other indications of a home occupation on the premises.
- (5) All persons carrying on the home occupation must be regular inhabitants of the dwelling unit, with not more than one (1) additional noninhabitant employee or co-worker per home occupation.
- (6) The total square footage devoted to home occupations shall not exceed either twenty-five percent (25%) of the total floor area of the dwelling unit or five hundred (500) square feet, whichever is less, and in no event shall more than fifty percent (50%) of the total square footage of any building on the property be used for storage of materials, inventory or equipment related to the home occupation.
- (7) There shall be no sale, display or distribution of merchandise which requires customers to visit the property to transact business. ~~On-site retail or wholesale transactions cannot be the primary activity of the home occupation. All such sales must remain incidental and secondary to the home occupation.~~
- (8) Home occupations may be conducted within the dwelling which shall be the principal building and use on the lot, as long as the home occupation is in compliance with the square footage requirement identified in Subsection (6) above.
- (9) In the event a home occupation involves tutoring or instruction, no more than two (2) students may be present at the dwelling unit at any one (1) time without prior approval of a conditional use grant in accordance with Sec. 14-2-130.
- (10) In the event a home occupation involves child care, the number of children cared for at the dwelling unit at any one (1) time shall be limited to the lawful number permitted by the rules and regulations for the day care homes then in effect and issued by the Department of Social Services of the State. The home occupation of child care shall be exempt from the square footage conditions as set forth in Subsection (6) above.
- (11) Vehicular traffic flow associated with the home occupation shall not adversely affect traffic flow and parking in the surrounding residential area.
- (12) There shall be no exterior storage of material and/or equipment used as part of the home occupation on the property.
- (13) The use of utilities shall be limited to that normally associated with the use of the property for residential purposes. Electrical or mechanical equipment that creates audible interference in radio receivers or visual or audible interference in television

receivers or causes fluctuations in line voltage outside the dwelling unit shall be prohibited.

- (14) Home occupations shall not be transferable to alternate locations or persons.
- (15) Activities conducted and buildings, equipment and material used or stored in coordination with the home occupation shall comply with all building and fire codes, as adopted by the Town.
- (c) Prior to the establishment of any home occupation, an application for such home occupation shall be registered with the Planning Department. Such application shall include the name and address of the persons conducting the home occupation, ~~and~~ a description of said occupation **and property owner or landlord authorization, when unit is not owned by home occupation applicant.** Upon completion of an application and verification by the Town that said home occupation meets the provisions identified in this Section, staff shall issue to the property a copy of the approved home occupation registration. There shall be no fee for the registration of the home occupation set forth herein.
- (d) If the Town determines that the use does not meet all of the requirements of a home occupation, then the home occupation application shall be refused, and the use shall either be brought into full compliance with the provisions of this Chapter for home occupation registrations, or the use shall be abandoned and all operations ceased.
- (e) Revocation. In the event any activities associated with a home occupation registration no longer meet the provisions of this Chapter for home occupation registrations, this noncompliance may result in revocation of the Town's approval of the home occupation, denial of building permits and/or certificates of occupancy, injunctive relief prohibiting use of the property and other remedies available to the Town under this Code and other applicable laws of the State.
- (f) All home occupations lawfully in existence at the time of the adoption of this Section shall be allowed to continue at their present levels of activity and in their present form, and, if hereafter changed, those home occupations must conform to the requirements of this Section.

Section 11. Code Sec. 16-3-40 concerning Accessory dwelling units is hereby amended and shall read as follows:

Sec. 16-3-40. Accessory dwelling units.

- (a) Statement of intent. The intent of this Section is to provide for accessory dwelling uses in areas within which single-family detached residential uses are permitted, while protecting the public health, safety and welfare through reasonable limitations on size, occupancy, density and parking associated with such uses, **in accordance with C.R.S. Sec. 29-35-102 and Sec. 29-35-103.**
- (b) General provisions. Accessory dwelling units shall be permitted as an accessory use in conjunction with all single-family detached dwellings in all zoning districts which permit single-family dwelling units as a permitted use, subject to the following conditions:
 - (1) Compliance with development standards and building codes. Every accessory dwelling unit shall meet the same development standards applicable to the principal dwelling unit. In addition, every accessory dwelling unit shall meet all applicable municipal codes,

building codes, residential codes, fire codes and property maintenance codes. The application of these codes may render some property ineligible for accessory dwelling unit approval.

- ~~(2) Compliance with restrictive covenants. If the parcel upon which an accessory dwelling unit is proposed falls within the jurisdiction of a homeowners' association or similar covenant-based property owners' association, the requirements of this Section shall be considered minimum requirements. Any such association shall have the right to lawfully adopt more stringent standards for accessory dwelling units, including the outright prohibition of accessory dwelling units, for any parcel within the regulatory authority of such association.~~
- (23) **Parking.** ~~One (1) off-street parking space shall be required for an accessory dwelling unit, which parking space shall be in addition to any parking otherwise required for the principal dwelling unit. The parking space required under this Section may be established in tandem with other required parking spaces.~~ **Parking for an accessory dwelling unit shall comply with C.R.S. Sec. 29-35-103(3)(a) and (b):**
- a. **No parking space(s) shall be required so long as there is an existing parking space available for designation, including a driveway, garage, tandem parking, other off-street parking space, or on-street parking is available.**
 - b. **Where on-street parking is prohibited, on-site parking is unavailable, and parking is required as of January 1, 2024 for the primary dwelling unit, at least one (1) parking space shall be provided.**

The parking space required under this Section shall be paved with asphalt or concrete.

- (34) **Accessory dwelling unit size and configuration.** Except as modified in Subsection (5) below, the living space of the accessory dwelling unit shall be no larger than the living space of the principal dwelling unit on the subject lot or parcel, and shall not in any event exceed nine hundred fifty (950) square feet. No accessory dwelling unit shall be less than five hundred (500) square feet, and all accessory dwelling units shall be designed and configured as either studio, one-bedroom or two-bedroom units. Square footage calculations, as contained herein, exclude any related garage, porch or similar area.
- (45) **Unit size exception.** The limitations of Subsection (4) above shall not apply to accessory dwelling units located within the footprint of an existing home as long as the living space of the accessory dwelling unit is not larger than fifty percent (50%) of the entire principal dwelling unit, including the basement. For example, if a home has one thousand (1,000) square feet of living space within the basement, an accessory dwelling unit could be established in this space if the principal dwelling also contains at least one thousand (1,000) square feet of living space.
- ~~(6) Unit occupancy. No more than three (3) persons shall occupy an accessory dwelling unit.~~
- (57) **Number of accessory dwelling units per lot or parcel.** Only one (1) accessory dwelling unit shall be allowed for each lot or parcel.
- (68) **Owner occupancy at time of application submittal.** The property owner, as reflected in the books and records of the County Clerk and Recorder, must **reside on the parcel at the time of application submittal for an** ~~occupy either the principal dwelling unit or~~

accessory dwelling unit. In the case of a corporation, limited liability company, trust or other owner entity, owner occupancy by a natural person **at the time of accessory dwelling unit application submittal** shall be established by resolution or other formal declaration by the entity.

(79) Existing development on lot.

- a. Certificate of occupancy required. A single-family dwelling shall exist as the principal use on the lot or parcel, or shall be constructed in conjunction with the accessory dwelling unit. A certificate of occupancy for an accessory dwelling unit will only be granted after a certificate of occupancy has been granted to the principal dwelling unit on the lot or parcel.
 - b. Legal nonconformity. Nothing herein shall be construed to render lawful any dwelling unit in use which, at the time of its establishment, was not lawful. Nothing herein shall require adherence to the requirements of this Section as applied to any dwelling unit which, at the time of its establishment, was lawful, unless such dwelling unit is proposed for expansion, modification or use different than that taking place at the time of the adoption of this Section.
 - c. Utility service requirements. With the exception of telephone, television, electrical and Internet service, accessory dwelling units must be served through the utility services of the principal dwelling unit and shall not have separate services.
 - ~~d. Limitations on garage space accessory dwelling units. Garage space dedicated for use in conjunction with an accessory dwelling unit shall not exceed two hundred fifty (250) square feet.~~
 - d. Prohibited accessory dwelling units. Mobile homes, travel trailers and recreational vehicles shall be prohibited for use as an accessory dwelling unit.
 - e. Minimum lot size. No accessory dwelling unit shall be permitted on a lot or parcel consisting of less than six thousand (6,000) square feet.
- (c) Types of accessory dwelling units. The following designations shall identify three (3) distinct types of accessory dwelling units:
- (1) Type I: An accessory dwelling unit which is detached from the principal dwelling unit and considered a separate dwelling unit under the Residential Code.
 - (2) Type II: An accessory dwelling unit located inside a single-family dwelling ~~whose occupants and the occupants of the principal dwelling unit do not live together as a single household unit~~. Type II accessory dwelling units typically have a separate access from the principal dwelling unit. In this case, both the accessory dwelling unit and the principal dwelling unit to which it is accessory are considered separate dwelling units under the Residential Code.
 - (3) Type III: An accessory dwelling unit located inside a single-family dwelling ~~whose occupants and the occupants of the principal dwelling unit live together as a single household unit~~ and which is not locked off from the principal dwelling unit. In this case, the accessory dwelling unit and principal dwelling unit shall be considered part of one (1) dwelling unit under the Residential Code.

- (d) Design-related limitations, provisions. Each accessory dwelling unit proposed for any location shall be approved in the form of a site plan, which shall, in addition to any other required contents, contain the following:
- (1) Design. To preserve the appearance of the single-family dwelling, accessory dwelling units shall be designed in the following manner:
 - a. The design of the accessory dwelling unit shall be compatible with the design of the principal dwelling unit by use of similar style, exterior wall materials, window types, door and window trims, roofing materials and roof pitch and colors.
 - b. If the entrance to the accessory dwelling unit is visible from an adjacent street, it shall be designed in a manner as to be clearly subordinate to the entrance of the principal dwelling.
 - c. Windows which face an adjoining residential property shall be designed to protect the privacy of neighbors.
 - (2) Outdoor areas. The site plan shall provide accessible outdoor space and landscaping for both the accessory dwelling unit and the principal dwelling unit. The parking area required under Sec. 16-3-40(b)(23) shall be paved with asphalt or concrete.
- (e) Home occupations. Home occupations may take place within any accessory dwelling unit approved or lawful pursuant to this Section. However, home occupations taking place in any accessory dwelling unit shall comply with the requirements of Sec. 16-3-30.
- (f) Recorded declaration of restrictions required. As a condition of accessory dwelling unit approval and condition of any building permit issued for or within an accessory dwelling unit, the property owner shall record a declaration of restrictions with the clerk and recorder of the county in which the property is located. Such declaration of restrictions shall be in the form approved and maintained by the Zoning Official, and shall state that:
- (1) The declarant ~~(at least one [1], if more than one[1])~~ shall reside on the property and such property shall be the primary and permanent dwelling place of the declarant, excluding temporary absences and temporary stays elsewhere, and said property shall be ~~and remain~~ the declarant's place of legal residence **at the time an application is submitted**.
 - (2) Ownership of the accessory dwelling unit shall not be transferred separately from the principal dwelling unit, nor shall the lot or parcel upon which the accessory dwelling unit is situated be subdivided.
 - (3) The accessory dwelling unit shall be restricted to the approved size, and shall not be expanded. Any modification of the approved accessory dwelling unit site plan shall first be approved by the Town.
 - (4) The certificate of occupancy for the accessory dwelling unit shall be in effect only so long as a principal dwelling remains on the property.
 - (5) If the accessory dwelling unit is approved as Type III, the accessory dwelling unit shall not be locked off from the principal dwelling unit unless, prior to such action, the property owner has applied for and received approval for a change of designation to a Type II accessory dwelling unit.
 - (6) The above restrictions are binding upon any successor in ownership of the property.

- (7) Noncompliance with the declaration of restrictions may subject both the owner of the property and any accessory dwelling unit occupants to criminal prosecution and civil remedies, including but not limited to injunctive relief. The owner of the property shall be liable for all Town expenses associated with civil remedies sought by the Town in association with the declaration of restrictions. The failure of the Town to pursue civil or criminal remedies shall not be deemed a waiver of any violations or noncompliance.
 - (8) The declaration of restrictions shall lapse upon removal of the accessory dwelling unit. To affect this intent, and upon verification of such removal, the Town shall execute documentation confirming release of the deed restriction. The property owner shall record the Town-executed documentation releasing the declaration of restrictions. The property owner shall pay all required recording fees, and shall provide satisfactory written evidence that such recording was successfully completed.
 - (9) The declaration of restrictions shall be perpetual and constitute covenants running with the land. The declaration of restrictions shall be binding upon the property owner, and the heirs, successors and assigns of the property owner and all persons claiming under them.
 - (10) Neither the declaration of restrictions, nor any of the specifics set forth or incorporated therein, shall be amended, terminated or modified in any way without the written consent of the Town, filed with the clerk and recorder of the county in which the property is located.
- (g) Procedure for accessory dwelling unit approval. The approval of each accessory dwelling unit shall be governed by the following procedures:
- ~~(1) The property owner shall file an application for approval with the Planning Department upon such forms as may be approved by the Zoning Official. Upon completion of Planning Department review, the Zoning Official shall either approve the application as presented, deny the application as presented or approve the application with conditions. The Zoning Official shall base the determination and any conditions upon the express requirements and limitations of this Article.~~
 - ~~(2) Any applicant aggrieved by the Zoning Official's determination pursuant to this Section shall have a right to appeal as provided in Sec. 14-2-180.~~
 - ~~(3) The determination of the appeal body pursuant to this Section shall be deemed final agency action for purposes of judicial review.~~

Section 12. Code Sec. 17-1-30(j) concerning double frontage lots is hereby amended and shall read as follows:

Sec. 17-1-30. Lots.

.....

- (j) Double Frontage. **Double frontage lot means any lot which abuts two or more streets other than a corner lot, which abuts two intersecting streets.** Double frontage lots for single family dwellings, duplexes, multiplexes, and townhomes shall not be permitted. ~~except where essential to provide separation of residential properties from arterial streets or~~

~~commercial uses, or to overcome specific disadvantage of topography and orientation. Such double frontage lots shall incorporate a Type A bufferyard along the rear frontage in accordance with the landscape standards of this Code. The bufferyard shall be located in a tract owned and maintained by a homeowner's association or metropolitan district.~~

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Section 13. Severability. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 14. Repealer. All orders, resolutions, or ordinances in conflict with this Ordinance are hereby repealed, only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

Introduced, passed on first reading, and ordered published this ____ day of _____ 2024.

TOWN OF WINDSOR, COLORADO

Julie Cline, Mayor

ATTEST:

Karen Frawley, Town Clerk

[Seal]

Introduced, passed on second reading, and ordered published this ____ day of _____ 2024.

TOWN OF WINDSOR, COLORADO

Julie Cline, Mayor

ATTEST:

Karen Frawley, Town Clerk

[Seal]