

**Staff Report**

City Council Study Session Meeting  
May 16, 2022

**Subject:** Presentation of Land Use Approvals and Options to Provide City Council with a Greater Role in Development Related Decisions

**Prepared By:** John McConnell, AICP, Interim Planning Manager  
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**Recommended City Council Action:**

Receive a presentation on land use approval types and provide direction to Staff on options to provide City Council with a greater role in development related decisions.

**Summary Statement:**

- An Information Only Staff Report was provided to City Council on April 18, 2022, describing land use approval types, authority established under Westminster Municipal Code (W.M.C.), a list of upcoming development applications, and information on prior administrative approvals that allowed two projects currently under construction.
- This presentation will include potential options for City Council to consider to ensure awareness of development related decisions.
- Feedback is requested from City Council on a preferred option to address concerns relative to the approval process for future development applications.

**Fiscal Impact:**

\$0 in expenditures.

**Source of Funds:**

Not applicable.

**Policy Issue(s):**

Does City Council wish to receive a presentation on land use approvals and consider potential options to ensure greater awareness of development applications?

**Alternative(s):**

City Council could choose not to receive this presentation. This alternative is not recommended due to comments received expressing a desire to revisit the approval authorities for land development applications.

**Background Information:**

Staff understands City Council has interest in revisiting the approval authorities for land development applications. Staff appreciates the concern given that only about 4.7 percent of the City's land area is available for development and thus a high degree of care should be exercised with the remaining land inventory to ensure projects support the City's Vision as a City of beautiful, safe, well-maintained neighborhoods and destinations with a vibrant, diverse economy, rich and resilient environment, and a strong sense of community and belonging. The built environment is one of the ways vision attainment is manifested, and the built environment establishes a presence within and around neighborhoods that shape the perception of residents, visitors, and businesses in the community. A separate Study Session presentation will further discuss the City's Comprehensive Plan (the Plan) and the proposed update to the Plan.

**Formation of Land Use Entitlements**

The Plan establishes the City's policies on topics such as land use, housing, transportation, urban design, and parks to support a well-balanced buildout of the City over the next several decades. The Plan establishes allowed land uses and, in the case of residential

uses, it further identifies maximum allowed densities while with commercial uses, the Plan establishes intensities by means of floor-area-ratio (FAR), which is a measurement of allowed building size relative to the size of the parcel. Only City Council has the authority to enact the Plan.

Westminster is unique in requiring mandatory compliance with the Plan, which is not something required by most neighboring jurisdictions. As W.M.C. formally establishes the Plan compliance requirement, a procedure must be in place to allow consideration of amendments to the Plan. When a development proposal does not meet the Plan, W.M.C. provides the option to request an amendment to the Plan. After a Staff review process and neighborhood outreach, a request for an amendment is presented to the Planning Commission for a recommendation and then to City Council, which has the sole authority to approve such an amendment.

After the Plan establishes allowed land uses for a site, zoning is the next layer of regulation. Zoning is more specific than the Plan with numerical standards such as lot sizes, setbacks, and allowed building heights. Development sites two acres and above are required to zone to Planned Unit Development (PUD) or Specific Plan District (SPD), thus leaving only a small amount of the City with conventional zones representing general use categories such as residential, commercial, or industrial. Roughly two-thirds of the City's land area is zoned PUD while only one percent is SPD, specifically Downtown Westminster and Westminster Station. Requests to amend zoning, similar to Plan Amendments, go through a Staff review and neighborhood outreach, are then presented to the Planning Commission for a recommendation, and finally to City Council, which has the sole authority to approve a change in zoning.

Nearly all new developments in Westminster are PUD and, as such, a Preliminary Development Plan (PDP) is required. A PDP is the regulating plan for a PUD and contains parameters for the site such as allowed uses, setbacks, building height, access locations, and public land dedication (PLD). Essentially, a PDP acts as a unique zoning district for individual properties or unified developments. Typically, rezoning and PDP are considered concurrently to help decision makers understand how the zoning will be applied to a specific property, and therefore the Staff review, neighborhood outreach, and consideration of the PDP are done jointly. Planning Commission makes a recommendation and City Council has the sole authority to approve creation of a PDP.

Unlike PUDs that have a PDP as the regulating plan, SPD zoned properties are subject to a Specific Plan. Specific Plans are currently in place for Downtown Westminster and Westminster Station. Specific Plans can only be enacted by City Council and are much more detailed than a PDP with prescriptive provisions for architecture, design, and a greater focus on the public realm including street frontages and park or plaza spaces. Enactment of a SPD essentially entitles all of the land area within the SPD to the provisions of the Specific Plan. In the case of the Downtown SPD, City Council has an additional opportunity to consider the land uses and merits of a project by means of the Purchase and Sale Agreements (PSA) that City Council authorizes in its role as WEDA Board since the City is the land owner for the Downtown. PSA approval occurs prior to development approvals, thus ensuring consideration of the project merits prior to future entitlements. Amendments to Specific Plans may only be approved by a review by Planning Commission and final approval by City Council.

An Official Development Plan (ODP) is a detailed plan for developing a site. An ODP will show design details such as building design, parking areas, landscape areas, and stormwater management. An ODP that is consistent with an approved PDP and that does not request exceptions from the City's design standards may be approved administratively if it is a residential development under 10 acres or a commercial development under 20 acres. ODPs above these acreage thresholds are taken to the Planning Commission for approval. Existing provisions in the W.M.C. provide that the City Manager may elect to refer any ODP to the Planning Commission and City Council for their consideration at a public hearing. With this provision in place it is possible, should City Council choose, to enact a policy under which the City Manager refers ODPs for City Council consideration without the need to amend the W.M.C. by ordinance.

Once a PDP and/or ODP is in place, they continue to exist perpetually once they are vested by means of development on the parcel. Over the course of time, projects change to respond to changing needs of the site, the neighborhood, and/or to provide opportunities for economic development, housing, or other needs. W.M.C. establishes standards and procedures for processing PDP and ODP amendments.

PDP and ODP amendments are generally divided into two broad categories. First are minor amendments that involve less than 10 percent change in area for a particular land use, or 10 percent or less change in density, setbacks, height, or which otherwise are not deemed as a significant change by the City Manager. These minor amendments may be approved by the City Manager, however, existing W.M.C. allows the City Manager to refer minor amendments to the Planning Commission and City Council for their consideration. Major amendments are those generally involving adding land uses not previously approved or 10 percent or greater changes in area for a land use, density, setbacks, or height. Major amendments to PDPs require final approval of the City Council while major amendments to ODPs require final approval of the Planning Commission.

Attachment 1 further illustrates the various development approval types reviewed above and Attachment 2 delineates those actions vested with the Planning Commission and City Council.

#### Options for City Council Consideration

Staff appreciates the desire of City Council to be more engaged with the development process and believes this interest will support quality development in support of the City's Vision. As described above, the establishment of land uses and changes to land uses is firmly vested with City Council by means of the Plan, Plan Amendments, zoning/rezoning, and PDP process. Should City Council desire a greater role in the review of development applications, the following potential options are proposed for further consideration:

1. Reinstitute the Residential Service Commitment Competition. This option would restore the previous Competition for Service Commitments or create a new, more streamlined version that is open year-round. As demand for Service Commitments continued to decline, proposed developments were no longer using the full allocation. Attachment 3 shows the history of Service Commitment sales from 1999 to 2021. To ensure quality development, City Council removed the former Service Commitment Competition by unanimous vote (7-0) on February 28, 2018 to replace it with changes to the residential design standards to

better support multi-modal transportation, water conservation, and clean energy as well as Code changes to establish evaluation criteria for requests for Plan Amendments.

The revised design standards require that development proposals meet ALL the minimum requirements listed and commit to a specified number of elective requirements. Each elective requirement was assigned a certain number of points and a total number of points were required to be met. This total was equal to the previous 5-year average of the projects that were awarded Service Commitments in the former Competition. Like the former Competition process, the developer still has the flexibility to choose which electives work best for their concept. This change was made to ensure that each new development maintained the same level of design quality that past Competition awardees committed to. This change also created a new process where exceptions to minimum design standards can only be approved by City Council action, whereas previously Staff would negotiate deviations from minimum design requirements through the PUD process.

Staff recognizes the change made in 2018 no longer provides City Council with a "preview" of future projects and this was potentially detrimental to City Council's familiarity with pending projects. To allow such a preview, Staff has identified another option, see #2 below.

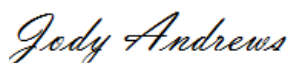
2. Establish a development concept review. This option would route major projects to City Council at the beginning of the development process, before an applicant spends substantial amounts on detailed architectural and engineering plans, to provide City Council with a concept level review. The focus of concept review would be on proposed land uses, building scale and bulk, and a review of anticipated impacts such as water or transportation infrastructure. Should City Council support the project concept, then a detailed submittal would be made with detailed design plans for review by Staff and/or the Planning Commission. The Cities of Broomfield and Thornton engage this type of process. This option would not change existing authority of City Council as the final approver of land uses by means of Plan Amendments, rezoning, and establishment of PDPs, but would supplement it with concept review of specific development projects. City Council could provide Staff with direction on which types of projects it would like to see through a development concept review process.
3. Establish authority of City Council to review and approve certain ODPs. Though City Council has the sole authority to establish or change a land use designation in the Plan, zoning, and PDP approval processes, Staff understands that sometimes ODP approval may occur much later than prior City Council approvals of these items. Sometimes this results in a situation where one City Council entitled a project, but the ODP approval and construction does not occur until a later City Council is in office. Staff is always sensitive to changing priorities as expressed through the City Vision and Strategic Plan, noting that this concern must be balanced with property rights and the City's exposure to legal challenges. Thresholds would need to be identified for the types of ODPs that could be elevated for City Council approval. Suggested thresholds may include residential developments of five or more units or commercial developments of 50,000 square feet or greater, in lieu of an acreage threshold. This change could be made either by establishing a policy whereby the City Manager refers ODPs to Planning Commission and City Council under existing W.M.C., thus allowing immediate action without the need to develop an ordinance for City Council's consideration. Alternatively, City Council could direct Staff to bring forward an ordinance based on the preferred thresholds for the type of ODPs it would like to have approval authority over.

Each of the three options above would be expected to lengthen the development approval process. An additional eight to twelve weeks, or generally two to three months, would be anticipated to be added to the approval process to receive Planning Commission recommendation and City Council action for projects that may otherwise be administratively approved. This additional time would be required for agenda memo creation, required notification in the newspaper, and sign posting.

Reinstituting a residential Service Commitment Competition similar to the former program would potentially add up to a year to the development process. However, if this were City Council's direction, Staff could develop and recommend a more efficient version that accomplishes the same goals. While there is no desire to speedily buildout the City, there may also be opportunity costs if meritorious developments do not occur that support other goals for housing affordability, job creation, or which facilitate replacement of abandoned or obsolete buildings with new uses. This added time should be considered given related concerns expressed regarding the difficulty of the City's development process.

The City's Strategic Plan priorities of Shared Sense of Community, Quality of Life, and Robust Infrastructure are supported through the planned discussion on the type and nature of development approvals and options to provide City Council with a greater role in development related decisions.

Respectfully submitted,



Jody L. Andrews  
Interim City Manager

**ATTACHMENTS:**

Description	Upload Date	Type
<a href="#">Attachment 1: Approval Types, Approving Authority and W.M.C. references</a>	4/28/2022	Attachment
<a href="#">Attachment 2: Planning Commission and City Council Authorities</a>	4/28/2022	Attachment
<a href="#">Attachment 3: Service Commitments Sold, 1999-2021</a>	4/28/2022	Attachment
<a href="#">Attachment 4: Land Use Approvals and Options Presentation Slides</a>	5/10/2022	Attachment

