



Agenda Memorandum

Agenda Item – 3.D.

City Council Study Session March 6, 2023



Strategic Priority 3: Shared Sense of Community

Foster equitable opportunities that help residents feel at home and connected in their community and empowered to live their best lives.



Strategic Priority 4: Quality of Life

Ensure that Westminster offers a diverse range of amenities and activities for residents, businesses and visitors that honor the city's history and support the arts, parks, recreation, open spaces, and libraries.



Strategic Priority 5: Robust Infrastructure

Provide safe and equitable access to core services and amenities by safeguarding, maintaining and improving the city's water, wastewater, stormwater, mobility and roadway systems.

Subject: Presentation of the Proposed City Council Concept Plan Review Process: Update and Next Steps

Prepared By: John McConnell, AICP; Interim Planning Manager

Recommended City Council Action:

Receive a presentation regarding the background and status of the proposed City Council concept plan review process and provide direction to Staff regarding next steps to revise or replace the current draft Ordinance to incorporate elements of the City and County of Broomfield's concept plan review public meeting process.

Summary Statement:

- City Council received a presentation on May 16, 2022 regarding land use approval types and potential options to ensure that City Council is aware of development related decisions.
- As a result of the May 16th discussion, Staff prepared a Resolution for City Council consideration on August 8, 2022 directing the City Manager to refer all Official Development Plans (ODPs) for multi-family development to City Council for approval, thus removing the administrative approval authority on such ODPs.

- As an additional follow-up to the May 16th discussion, Staff prepared an Ordinance amending Westminster Municipal Code (W.M.C.) to establish a development plan concept review process to route major projects to City Council during the pre-application process before an applicant prepares detailed plans for a technical review submittal. The Ordinance amendment incorporated the new process into the existing pre-application process with the intent of providing City Council the opportunity to learn about projects at this initial stage and, if desired, provide comments to the applicant team in the form of a referral response.
- The first reading of the amendment, Councillor's Bill No. 49, occurred on October 10, 2022 and passed by a vote of 5 to 2.
- At the following Study Session on October 17, 2022, City Council instructed Staff to review the amendment and propose modifications to better emulate the City and County of Broomfield's (Broomfield) concept plan review process.
- The intent of this Study Session is to discuss Staff's further research into Broomfield's process, most specifically the public engagement aspect, and seek City Council's direction on how this may be translated to the City of Westminster's system.

Fiscal Impact:

\$0 in expenditures

Source of Funds:

Not applicable

Policy Issue(s):

1. Does City Council wish to receive a presentation regarding the background and status of the proposed City Council concept plan review Ordinance and provide direction to Staff regarding next steps to revise or replace the current Councillor's Bill No. 49 to incorporate elements of Broomfield's concept plan review public meeting process?
2. Should City Council instruct Staff to create an online public input forum for residents to provide input on development pre-applications subject to City Council concept plan reviews?
3. Should City Council choose to require concept plan reviews for pre-applications subject to administrative approval?

Alternative(s):

City Council could choose not to receive this presentation and not provide Staff with direction. Staff does not recommend this alternative because City Council stated that it wishes to implement a concept plan review process like that of Broomfield and, in addition, instructed Staff to review Councillor's Bill No. 49 and propose modifications to better match Broomfield's concept plan review process.

Background Information:

On May 16, 2022, Staff presented City Council with potential options to respond to an interest expressed by City Council in being more aware of future development projects, see Attachment 1. Through this discussion, City Council generally indicated support for establishing a concept plan review process similar to that being used in Broomfield. As a result, Staff created a process that could be incorporated into the existing Westminster pre-application process that includes a City Council referral review of the concept plans at the pre-application stage. This was intended to allow City Council the opportunity to learn about projects and identify concerns early in the process so that Staff and/or the applicant team may make changes to address concerns identified prior to the project entering a more detailed technical review.

An Ordinance was written that generally emulated the Broomfield Ordinance, but functioned as an extension of Westminster's pre-application process, which does not currently incorporate a public meeting or public input. Staff did not recommend inclusion of Broomfield's public hearing component primarily to avoid the possibility of City Council reviewing concept plans in a manner that could taint future quasi-judicial consideration of development plans. First reading of the Ordinance occurred on October 10, 2022 and passed by a vote of 5 to 2 with Councillors Nurmela and Ezeadi opposed, see Attachments 2 and 3.

At the October 17, 2022 Study Session, City Council's direction was that the Ordinance should incorporate the public engagement component Broomfield employs in its concept review process. City Council instructed Staff to review the draft and propose modifications to better emulate Broomfield's concept review process. Staff understands that the primary objective of City Council is to ensure there is a public meeting component to provide the opportunity for the following:

1. Applicants to present to City Council;
2. The public to comment on concept plans; and
3. City Council to provide direct feedback to applicants on concept plans.

The Broomfield Concept Plan Review Process

Community Development (CD) and the City Attorney's Office (CAO) Staff have met with their counterparts from Broomfield. Staff from both departments gained critical insight into Broomfield's concept review process, especially the public meeting component.

The Broomfield concept review process only applies to Planned Unit Development (PUD) zoned properties. PUD projects that may be approved administratively are not subject to the concept plan review process.

A project subject to this process is required to have proposed plans made publicly available on Broomfield's website for a 30-day period for review and comment by the public, Broomfield's Land Use Review Commission, and the Broomfield Council. The City and County Manager may also, at their discretion, require the review of any concept plan at a public meeting of the Broomfield Council. There are certain categories of development that the City and County Manager may administratively exempt from the entire process. These include development concepts that:

1. Include ten or fewer dwelling units;

2. Provide for no more than two additional nonresidential building sites or the development of less than 5,000 square feet of nonresidential building;
3. Contain a use that is in conformity with the master plan;
4. The City and County Manager determines will not result in significant traffic, visual, noise, odor, or other impact on neighboring properties;
5. Represents a change in use of less than 10 percent of the land area incorporated within the plan; or
6. Does not propose development requiring significant deviation from the Broomfield code or administrative policy.

The Broomfield Council typically accommodates concept reviews at specially called Study Sessions, which may be held on the first Tuesday of each month. Concept reviews may also be accommodated at regularly scheduled Study Sessions, which are held on the third Tuesday of each month. Each concept review is populated as an agenda item on its respective Study Session agenda. Written notice of the meeting and sign postings on the subject properties are done in accordance with Broomfield's codified notification requirements for public hearings. An agenda memo is prepared by Broomfield Staff that includes a detailed interdepartmental Staff review of the proposal, including the identification of key issues. At the Study Session, Broomfield's Mayor introduces the concept review by title of application and brief description, identifies the general location of the project, and outlines the following meeting process that takes place subsequently:

1. Staff presentation: summary of application;
2. Applicant presentation;
3. Comments from Broomfield's Land Use Review Commission and other interested advisory boards;
4. Public comment;
5. Applicant final comments; including answering questions from public comment;
6. Questions and comments from the Broomfield Council.

No official action is taken by the Broomfield Council in conjunction with the concept plan reviews. According to Broomfield Staff, the entire process from application submittal to Study Session takes approximately nine weeks. In 2021, Broomfield Council reviewed 22 concept plans. This was a result of a high volume of interest in multi-family residential development during this period. In 2022, Broomfield Council conducted a total of six concept plan reviews, two of which were held at the same Study Session.

Broomfield staff provided Westminster staff with the following two concept plan review recordings for

review and analysis:

- Skyestone Mixed Use Concept Review: [City Council Study Session - March 01, 2022 \(broomfield.org\)](#)
- Hansen's Corner Kum & Go Gasoline Station and Convenience Store Concept Review: [City Council Study Session - May 17, 2022 \(broomfield.org\)](#)

Westminster's Current Pre-application Process

Westminster instituted its current pre-application review process in early 2016. It was a part of the broader implementation of development review process improvements recommended in a City Council-initiated third-party audit of CD completed in 2015. Among other things, the audit identified that developers found it difficult, time consuming, and costly to navigate the initial stages of a development proposal. At the time, the City required an administrative concept review process that involved multiple rounds of semi-technical review cycles taking up to 10 weeks to complete. In many cases, fatal issues that precluded a project's ability to advance were found at later stages in the review process after much time and money had been expended by the applicant.

The current pre-application review process replaced the former concept review process with a much more efficient system. An applicant is only required to submit a completed application, draft site plan, project narrative, and draft architectural renderings or representative photos. Once the application is deemed complete, a team of cross-departmental Staff provide a high-level review of all documents submitted over the course of approximately one week. Once the review is complete, the entire review team meets with the applicant team either virtually or in person to go over all the review comments and answer the applicant team's questions. The project Planner wraps up the process by providing the applicant with a written summary of the Staff review including detailed instructions on next steps in the process should the applicant decide to advance the project to technical review. The entire process from start to finish typically takes about three weeks. Currently, there is no fee associated with this review. Staff has received a great deal of positive feedback from applicants regarding how efficient, detailed, and informative the process is.

Westminster's pre-application review process does not currently accommodate a public input process that incorporates resident or City Council comments. Public input is essential to the success of developments, and this is not intended to discount the value of such input for development proposals. However, Staff has observed over time that some projects do not advance into the technical review process and those that do typically evolve significantly between the pre-application review and the technical review. Currently, the W.M.C. requires neighborhood notification either in the form of mailed notice to adjacent property owners or a project meeting that the applicant holds with the public. The neighborhood notification process takes place after the first round of technical review, which is the point where a project is at a stage that demonstrates substantial compliance with W.M.C., has the greatest potential to advance and, most importantly, when public input can provide a high value to the applicant in terms of making reasonable adjustments that accommodate resident concerns.

Staff Recommendation

Staff supports pre-applications being reviewed and discussed by City Council at a Study Session. The Broomfield concept plan review meetings incorporate statements made by the Broomfield Mayor and City and County Attorney confirming that the proceedings are advisory only and will have no impact on quasi-judicial decisions made at a future public hearing for the final development approval. This helps alleviate concerns regarding future quasi-judicial consideration of development plans. Although the Broomfield regulatory system is substantially different from Westminster's, Staff believes that critical elements of Broomfield's concept plan review process can be integrated into Westminster's regulatory processes.

It is recommended that City Council instruct Staff to create a new W.M.C. amendment intended to replace Councillor's Bill No. 49 approved on first reading on October 10, 2022. The new amendment would closely imitate the Broomfield concept plan review code section by including provisions that allow certain development proposals to be reviewed by City Council at a Study Session. The concept plan review process would follow this general outline:

1. Staff performs pre-application review and meets with applicant in accordance with existing procedures.
2. Upon completion of the pre-application review process, any project not subject to administrative approval will be required to be reviewed by City Council at its next available Study Session.
3. The City Manager may refer any pre-application review to City Council at the City Manager's discretion.
4. Public notification will be in accordance with current W.M.C. requirements including mailed notice and property sign postings.
5. Staff will prepare a brief agenda memo including the plan documents submitted by the applicant, Staff's review comments on submittal documents, and the pre-application review summary provided to the applicant.
6. City Council will conduct the review in the same manner as Broomfield:
 - a. Staff presentation: summary of application
 - b. Applicant presentation
 - c. Comments from the Planning Commission and other interested advisory boards
 - d. Public comment
 - e. Applicant final comments; including answering questions from public comment
 - f. Questions and comments from City Council
 - g. Conclude review

Staff estimates that City Council may review up to 12 concept plans each year based on the past two years of pre-application review trends. This number assumes City Council will only review concepts that are not subject to administrative approval and will require the approval of the Planning Commission or City Council at a future public hearing. If City Council would like to accommodate concept plan reviews for all pre-applications, the average may be about 27 per year.

Policy Considerations: Pros and Cons

Staff recognizes and supports the benefits gained from the implementation of the concept plan review process. Applicants seeking future quasi-judicial approvals can gain critical insight into City Council concerns at the initial stages of the planning process. This will afford the opportunity to adjust or abandon concepts prior to incurring significant costs associated with the preparation of technical plans, reviews and revisions, and public hearings. Additionally, it will provide nearby property owners and occupants an opportunity to voice their opinions directly to the applicant and City Council at a public meeting. However, there are some impacts that the process creates that are worth consideration:

- The concept plan review process will extend the length of time it takes for an applicant to receive initial feedback and direction on their development proposal. Staff anticipates the concept plan review process will take a minimum of nine weeks. This includes three weeks for the standard pre-application review process and an additional six weeks for the addition of the concept plan review at a Study Session. If City Council chooses to incorporate the 30-day online public comment component similar to Broomfield, it could add up to four additional weeks for a total of 13. Other factors may contribute to the anticipated timeframe such as full agendas and Monday holidays. Staff appreciates that there is a desire to keep Study Session agendas manageable, hence if there are many pending business items this may require additional time. As noted above, this time frame is similar to the timeframe of the Broomfield concept plan review process.
- The concept plan review process will cause an application to incur some additional costs. These include a concept plan review fee and meeting notification costs. Section 11-1-6, W.M.C. still contains fees originally established for the City's pre-audit concept review. These fees are based on the size of the property and range from a minimum of \$350 to \$550 or more. Staff recommends keeping this fee system in place to accommodate the new concept plan review process. However, City Council may direct Staff to amend the W.M.C. to establish a different fee structure. For comparison, Broomfield charges a flat fee of \$500 for concept plans containing 10 acres or more and \$200 for a concept plan for less than 10 acres.
- Meeting notification would be required in accordance with Section 11-5-13, W.M.C. which requires mailed notice to owners and occupants of all properties within a 1,000-foot radius and the posting of signs on the subject property at the expense of the applicant. The exact costs associated with this effort can vary greatly depending on number of letters and signs required by W.M.C. If the application is subject to future quasi-judicial approval by City Council, this notification process would be required a total of three times including the concept plan review Study Session, Planning Commission hearing, and the City Council hearing.
- If City Council chooses to include a 30-day online public comment component similar to Broomfield, the City will need to obtain appropriate software and related services to accommodate this. Staff inquired into the service that Broomfield employs. According to the vendor, original setup and licensing fees for Broomfield were approximately \$42,500 plus annual recurring fees of approximately \$40,000. Actual costs for Westminster may vary

depending on the exact scope of services needed. Other vendors may offer similar services at reasonable costs, and additional research into such alternatives would be needed to advise City Council.

Policy Questions for City Council:

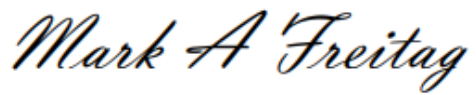
1. Does City Council wish to incorporate public comment via the website during the concept review process?
 - a. If City Council chooses to require this component, Staff requests that it be phased into the process at a later date to allow the City time to acquire appropriate software and other technology needed to facilitate public input electronically.
2. Does City Council wish to review projects that may be administratively approved in addition to those that require Planning Commission or City Council approval?
 - a. This option would include all pre-application reviews.
 - b. The types of projects that are subject to a pre-application review include new development sites, new buildings on existing development sites, and major additions to existing buildings, whether they are subject to administrative review or legislative review.
 - c. Pre-application reviews are not required for minor projects such as minor building additions that minimally affect the site, façade changes to existing buildings, tenant finishes, or changes of use.
3. Would City Council prefer to authorize the City Manager, at the City Manager's sole discretion, to decide which concept reviews are presented to City Council at a Study Session like Broomfield?

Next Steps

After City Council provides direction, Staff would communicate the upcoming policy change to development stakeholders such as the Westminster Chamber of Commerce, Home Builders Association, and others who frequently do business with the City in order to assist in planning revised timelines for future development projects. Staff will immediately take steps to replace Councillor's Bill No. 49 with a new, concise W.M.C. amendment to establish the process that is expected. This would typically take four to six weeks, and Staff will work with the City Manager's Office to identify the most efficient result. Depending on the direction received from City Council, further review with CAO may be necessary to determine the most appropriate path from a legal perspective.

The City's Strategic Plan priorities of Shared Sense of Community, Quality of Life, and Robust Infrastructure are supported through further engagement in the development process by City Council, with the opportunity to engage applicants in the initial stages of the development review process, accept public comment, and provide feedback to ensure proposed projects align with the City Vision and Strategic Plan.

Respectfully submitted,

A handwritten signature in cursive script, reading "Mark A Freitag". The ink is dark blue or black, and the signature is written in a fluid, connected style.

Mark A. Freitag
City Manager

Attachments:

Attachment 1 CCSS 5.16.22

Attachment 2 CCM 10.10.22

Attachment 3 CBno49