



MEMORANDUM

TO: Planning Commission
FROM: Travis Parker, Planning Director
DATE: April 4, 2018
SUBJECT: Lakewood Zoning Amendments – Housing and Mixed Use

In August 2017, the Lakewood Development Dialogue process began with a joint session of Lakewood City Council and Planning Commission. Following that meeting, the Lakewood Development Dialogue portion of LakewoodTogether.org went live the second week of September. Since that time, the site has had over 10,700 visitors and 494 participants have registered. 260 participants have visited the housing related pages in that time.

Three public open houses were hosted by Staff and Planning Commission members between September 20 and September 27. Over 70 people attended one or more of the open houses with most providing feedback on one or more areas. At a study session on October 25, the Planning Commission directed staff to examine 23 possible changes to the ordinance.

These possible changes were addressed in six study sessions over three months. Planning Commission met on November 15th to discuss Mixed Use, November 29th to discuss Building Design, December 13th to discuss site design, January 10th to discuss parking and January 24th to discuss housing. Additionally, City Council held a joint study session with the Planning Commission on December 4th to receive an update on the Lakewood Development Dialogue discussion.

In these study sessions, staff presented research on the topic areas, as well as recommendations for possible changes to the ordinance. At the February 14th summary study session staff presented follow-up research findings, and the Planning Commission decided on a series of recommendations to address development topics in Lakewood.

The recommendations that follow are the result of Planning Commission discussion, which was informed by staff research and recommendations. For this topic, staff reviewed Lakewood's current and past approaches to housing, those of other municipalities, census data, and academic research. The memo presented for this study session is available on the [Lakewood Development Dialogue webpage](#).

HOUSING

Small Lot Single-Family Residential District

Staff reviewed developments throughout the city in which lot size for homes is smaller than dictated by R-2 (Two-Family and Small Lot Residential) and R-1-6 (Small Lot Residential) zoning. Currently, patio homes and smaller scale homes are technically allowed in the R-1 and R-2 residential districts, however their development in those zones is impractical because minimum lot size requirements make them less viable than other options.

The M-N (Mixed Use Neighborhood) zones were specifically written to promote dense single-family development such as patio and smaller scale homes, as well as communal living (i.e. multiple homes on a single lot sharing common space). In these zone districts, there is no minimum lot width or size, however residential uses are subject to setbacks, a maximum height, and open space requirements. There are a wide variety of permitted land uses in these districts, and single-family homes are often less logical than other uses, from a developer's perspective.

Examples of smaller lots in new Lakewood developments are as follows:

Solterra – Zoned PD/M-E-S

- Allows for attached and detached units
 - Interior lots vary in size from 3,820 to 4,863 square feet;
 - Corner lots are generally larger between 5,200 and 9,100 square feet
- Allows for attached units
 - Interior lots vary in size, however smallest lot is 1,145 square feet
 - Corner lots are generally larger, between 1,463 and 1,932 square feet

Sheridan Station – Zoned M-N-T

- Allows for attached units
 - Interior lots vary in size from 612 to 643 square feet;
 - Corner lots are generally larger, between 700 and 900 square feet
- Allows for duplex and fourplex at the corners
 - Corner duplex lots are generally 1,711 square feet
 - Corner fourplex lots are generally 2,003 square feet

Eaton Street Townhomes – Zoned R-MF

- Allows for attached units
 - Interior lots vary in size, however smallest lot is 925 square feet
 - Corner lots vary in size however the largest corner lot is 1,995 square feet

Amendment to Articles 3, 4, and 5

1. Add R-0 "Varying Lot Residential" zone district (Article 3)
2. Add R-0 to Use Table (Article 4)
3. Add R-0 zone district, for single family homes without lot width or size minimums and multiple homes on a single lot. (Article 5)

University and College Definitions

In recent years, Colorado Christian University (CCU) rezoning and redevelopment efforts have resulted in CCU acquiring several properties outside of the main campus area, apparently to assist with accommodating future growth. Specifically, several residential rental properties along South Cody Court were acquired by CCU. These properties are zoned Two-Family and Small Lot Residential (R-2) and allow for duplex uses. As these duplex rental properties transitioned from the previous owners to CCU, notice was provided to the lessees that the existing leases would not be renewed. These properties were then leased to new residents by CCU.

The previous lessees of the South Cody Court units and other neighborhood residents have taken issue that the leases were not renewed when CCU became the new owner of the South Cody Court properties. The tenants and neighbors allege that CCU is illegally expanding operations into a residential neighborhood, because “student living units” are not permitted in residential zones. They believe that this exclusion precludes CCU from owning student living units outside of the campus.

For its part, CCU cites the long-standing principle that zoning regulations concern the use of land and the impact that use has on nearby properties, however does not regulate based on ownership. There appears to be no dispute that the properties on S Cody Court can be legally used as residential units, nor is there any dispute that the owners of the duplex properties can lease them to anyone including CCU students. The question is whether the City can prohibit a particular type of owner—a university—from using property for the same purpose that an individual, private corporation, or real estate trust could use the property for, when the impact of the use would appear to be the same regardless of ownership.

Similarly, while the university definition does allow CCU to build offices, cafeterias, libraries, and many other uses as a part of its campus, the definition does not automatically change the status of an existing office, cafeteria, library, or other use that it may purchase in another part of the City, outside the main campus. The buildings on Cody Court were legal duplexes with tenants prior to being owned by the university and they remain legal duplexes with tenants under CCU ownership. CCU does not have the right to replace these homes with other campus uses that are not otherwise allowed in R-2 zoning, however at the same time, zoning cannot legally prohibit CCU from continuing an allowed use.

Amendment to Article 13

1. Amend definition of University/College to clarify issue of university housing in residential zone districts (Article 13)

Recommendation

1. Continue joint taskforce to discussions to assist in resolving town and gown issues

School Fees

As a part of development obligations, Jefferson County School District requires cash-in-lieu or the dedication of land when additional population is generated by residential development. In Lakewood, the current ratio is four acres per 1,000 people (which is prorated to estimate of additional population, based on the table below). For situations in which cash-in-lieu of land fees are assessed, the city previously based fees on fair-market value of the land area (acreage) for the development proposed. However, in 2012, Lakewood established a per-unit cap for in-lieu fees based on \$400 per person, as shown in the table below.

Dwelling Unit Type	People per Unit	Per-Person Cap	Per-Unit Cap
Single Family Detached	3.25		\$1,300
Single Family Attached	2.50	\$400	\$1,000
Multi-Family	2.00		\$800

This system worked well at the time it was instated. However, increased demand for land in Lakewood in recent years has driven up land value, rendering the cap on cash-in-lieu of land fees disadvantageous for the city and Jefferson County Schools.

Staff reviewed school fees and land-dedication among other metro-area municipalities to and proposed a new determination, based on square footage of dwelling units. This square footage assessment aims to more accurately assess the number of people living in a home by using total area, rather than generalizing by dwelling-unit type. Public Use Microdata (derived from Census data) showed that generally, there is one person per 500 square feet in multi-family buildings. It also protects against especially high fees for small lots in high-demand areas, where high land value does not reflect the population growth resulting from dwelling units being built.

With that, staff proposes that the city charge a school fee of \$1,000 per 500 square feet of dwelling unit area or \$2 per square foot. This equates to a land value of \$250,000 per acre. The calculation for school fee and land dedication is below.

$\{(\$1,000 \text{ per } 500 \text{ sf } [=1 \text{ person}]) * 1,000 \text{ people} =\} \$1 \text{ million} / 4 \text{ acres} = \$250,000$

Additionally, staff recommends the allowance of waivers of this fee for income-restricted units, so as not to discourage development of affordable housing. The fee should be adjusted annually to reflect area land values.

Amendment to Title 14, Chapter 14

1. Amend the procedure for determination of cash-in-lieu of land fee

Accessory Dwelling Units

Around Colorado, municipalities are increasingly permitting Accessory Dwelling Units (ADUs) as they offer opportunities to allow more people to live in neighborhoods without altering area character. ADUs are often favored by multi-generational households, or homeowners seeking additional income using their own property.

In Lakewood, ADUs are allowed as a limited use in most zone districts, provided they meet a series of supplemental standards. Standards include a minimum lot size of 9,000 square feet, regardless of zone district, and a maximum size of 700 square feet of gross floor area. Other standards regulate height, provision of parking, owner occupancy, and design requirements.

Lakewood first permitted ADUs in 2013. Since that time, only eight accessory dwelling units have completed the permitting process in the city. This rate demonstrates a relatively low demand for ADU construction in Lakewood, quelling concerns about density-related issues resulting from ADUs.

To allow a greater proportion of Lakewood homeowners to benefit from ADUs, as well as increase cost-effective housing stock, supplemental standards for ADUs should be modified. Lot size minimums should be removed, as ADUs are already subject to primary structure dimensional standards and site design requirements, therefore regulating their relationship to the lot and primary dwelling structure. Additionally, the 700-square foot gross floor area maximum is unnecessarily restrictive for properties with large homes and large open spaces.

Amendments to Article 4

1. Remove minimum lot size for ADUs (Article 4)
2. Alter maximum gross floor area to 40% of primary structure gross floor area or 700 square feet, whichever is greater and remove the one bedroom per ADU limitation (Article 4)

MIXED USE

Descriptions of Mixed Use Districts

There is no universal concept or definition of mixed-use, however mixed-use zoning allows for a range of land uses to occur in a single building, a city block, or an entire neighborhood. As discussed as part of the Lakewood Development Dialogue process, the pre-2012, zoning ordinance described zones that allowed buildings with multiple uses and had distinct rules and incentives for these buildings. Our current zoning ordinance is more holistic in that it applies mixed use in terms of neighborhoods and sub-areas within neighborhoods. Uses are permitted in a zone, either individually or within the same building.

Article 3, Section 17.3.4.2 describes the “general intent” of each of the mixed-use districts. These zone district descriptions include language like “intended to,” “generally,” “typical uses include,” and “may” to indicate aspirational statements for what the districts are intended to accomplish. These statements are intended to help users of the code understand the difference between districts and the vision for the resulting developments, however the intent statements of this Section do not constitute enforceable regulations. Rather they provide the reasoning and intent behind the creation of the regulations.

Article 4 provides the specific use permissions within each of the mixed-use zones. Uses are permitted in a number of ways in this article. Some uses are permitted outright without any conditions. Other uses are permitted provided certain conditions are met. Still other uses are only permitted as an accessory to other permitted uses. Other uses either require a special use permit from the Planning Commission or are prohibited altogether. Use permissions for mixed use in our code were set to allow the flexibility for many individual uses to be built in areas that were previously homogenous in an attempt to move those areas further toward our vision for mixed use areas.

Some people have identified confusion between the aspirational language of Article 3, in terms of what the mixed-use areas are intended to be, and the use permissions of Article 4 as they apply to individual properties. For example, in the Mixed-Use-Employment (M-E) district, the description says that the “district is intended to provide for office and campus development, with ancillary retail and residential uses along arterial and collector streets.” However, in order to achieve that goal in a mixed-use area, multiple buildings, *each of individual use*, must be allowed in close proximity.

Finally, the definition of mixed use in the ordinance is incorrect and misleading. As noted earlier, the way in which the term mixed use is used has fundamentally changed, however many of the definitions, including this one, were brought forward from the old ordinance unchanged. Therefore, the current definition of mixed use in Article 13 conflicts with its usage throughout the code and contributes to much of the confusion.

Staff recommends the following code changes to remove discrepancies between intent language and regulations:

Amendments to Article 3, 4, and 13

1. Add a statement to clarify the purpose of the mixed-use district descriptions (Article 3)
2. Amend use table to change multi-family in the M-E district to a limited use (Article 4)
3. Amend the definition of mixed-use (Article 13)

Complete Neighborhood Plan

To ensure successful mixed-use areas, the Planning Commission directed staff to develop a “Complete Neighborhood Plan” for a pilot area. This pilot plan will then serve as a foundation to apply the complete neighborhoods concept to other mixed-use areas in the City.

A complete neighborhood concept recognizes that a neighborhood needs to have the appropriate mix of uses to meet the daily needs of a diversity of residents. The concept encourages community-wide benefits to support a strong community fabric. The concept has been used in several cities including Portland, Oregon. The City of Lakewood utilized the complete neighborhood concept in developing the Sheridan Station 20-Minute Neighborhood Implementation Strategy that was adopted by Planning Commission.

Staff has identified the following process to develop a Complete Neighborhood Plan for a pilot area.

Identification of the Pilot Area

City staff has identified the Union Boulevard corridor as a pilot area for a Complete Neighborhood Plan. The Union Boulevard Corridor contains several million square feet of office space, as well as many hospitality and retail facilities. Recently two new residential developments were constructed in the corridor area. The Union Corridor also includes the St. Anthony Medical Campus and the Federal Center light rail station.

The Union Boulevard corridor has a number of opportunities for redevelopment including numerous surface parking lots and older industrial and warehouse buildings adjacent to the St. Anthony Medical Campus. The light rail station is an impetus for development in the area.

Numerous prior planning efforts for the area have been undertaken. These efforts will be useful when analyzing and studying the area. The Comprehensive Plan contains a land use map for the area that will provide a solid starting point. The Federal Center/Union Boulevard Corridor Connectivity Plan provides recommendations for improved connectivity through the area and includes recommendations for pedestrian and bicycle connectivity. Safe pedestrian and bicycle connectivity is one goal of a complete neighborhood. The Union Boulevard Corridor Urban Design Plan was developed to establish a sense of place and create a consistent and identifiable character for the Union Boulevard corridor.

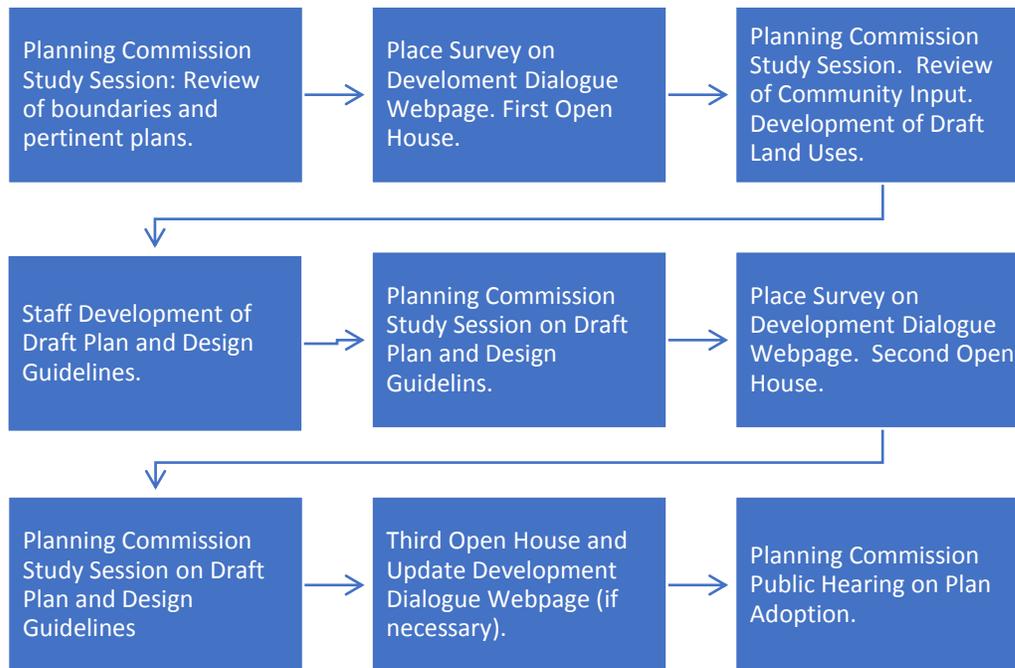
Boundaries of the Pilot Area

The project boundaries are generally US 6 to the north, Alameda Avenue to the south, the western edge of the Federal Center to Van Gordon Street on the west. Based on input from the Planning Commission and the community, these boundaries may be refined.

Planning Process

The planning process for plan development will include public outreach including, at a minimum, two public open houses and community outreach through the Development Dialogue webpage. Staff anticipates two to three study sessions with Planning Commission. The planning process will take approximately eight to ten months to complete. A tentative planning process is outlined in the following flowchart.

Tentative Process: Union Boulevard Corridor Complete Neighborhood Plan



Expected Outcomes

The Union Boulevard Corridor Complete Neighborhood Plan will serve as a foundation to apply the complete neighborhood concept to additional areas in the city. The Union Boulevard Corridor Complete Neighborhood Plan will include:

- A recommended mix of uses based on community input, relevant local economic data, infrastructure availability and geographic considerations.
- A range of zoning mechanisms that would require development to meet the desired percentages of uses.
- An index to track implementation of the development recommendations.
- A set of design guidelines to ensure project development meets the community's vision for the area.

Recommendation

1. Adopt proposal to begin a Complete Neighborhood Plan for the Union Boulevard neighborhood

This memo is the second of several for public hearings related to the Lakewood Development Dialogue process. This memo specifically addresses issues identified with housing, the mixed-use descriptions and definition and the complete neighborhood framework. With memo content in mind, staff has included the findings of fact below for Planning Commission to consider.

FINDINGS OF FACT AND ORDER

The Planning Commission finds that:

- A. The proposed amendments to the Zoning Ordinance are necessary based upon staff's review and evaluation of the adopted Zoning Ordinance; and
- B. Amendment of the proposed Zoning Ordinance is consistent with and will implement the goals of the City's Comprehensive Plan; and
- C. Amendment of the proposed Zoning Ordinance promotes the health, safety or welfare of the inhabitants of the City and the purposes of this Ordinance; and
- D. Amendment of the proposed Zoning Ordinance is in the public interest.

That the Planning Commission adopt the findings of fact and order, A through D, as presented for Case No. OA-17-002 and that the Planning Commission ADOPT the amended Lakewood Zoning Ordinance and recommend that the City Council APPROVE the amended Lakewood Zoning Ordinance.