
Chapter 2.52 INITIATIVE AND REFERENDUM PROCEDURES

2.52.010 Procedures generally.

Pursuant to Article V, Section 1 of the Colorado Constitution, and Article XIII of the home rule charter of the City of Lakewood, there are established procedures for exercising the initiative and referendum powers reserved to the registered electors of the city. The City Clerk may, from time to time, issue administrative rules and regulations not inconsistent with this Chapter 2.52 as may be necessary or desirable to accomplish the purposes of this chapter.

(Ord. O-94-3 § 1 (part), 1994).

2.52.020 Definitions.

As used in this chapter, unless the context otherwise requires:

Ballot issue means a nonrecall, citizen-initiated or citizen-referred petition or legislatively referred measure which is authorized by the State Constitution, including a proposition which is in the form of a question meeting the requirements of Section 20(3)(c) of Article X of the State Constitution.

Ballot question means a proposition which is in the form of a question other than a ballot issue.

Circulator means a natural person who circulates a petition and is 18 years of age or older at the time of petition circulation.

Draft means the proposed text of the initiative which, if passed, becomes the actual language of the ordinance.

Section means a bound compilation of initiative forms approved by the City Clerk or referendum petitions which shall include pages that contain the warning required by Sections 2.52.080 or 2.52.140, respectively; and the title, the summary, and a copy of the proposed initiative measure or the number, name and a copy of the ordinance which is the subject of the referendum petition; succeeding pages that contain said warning, the title of the initiative measure or the number and name of the referred ordinance and ruled lines numbered consecutively for registered electors' signatures; and a final page that contains the affidavit required by Sections 2.52.080 or 2.52.140, respectively. Each section shall be consecutively prenumbered by the petitioner prior to circulation.

Submission clause means the language which is attached to the title to form a question which can be answered by "yes" or "no."

Summary means a condensed statement as to the intent of the initiative measure.

Title means a brief statement that fairly and accurately represents the true intent and meaning of the proposed text of the initiative measure or the number and name of the ordinance that is the subject of the referendum.

(Ord. 2004-21 § 1, 2004; Ord. O-94-3 § 1, 2004; Ord. O-94-3 § 1 (part), 1994).

2.52.030 Initiative procedures.

- A. Any initiated measure shall be in the form of an ordinance, legislative in character, the original draft of which shall be submitted to the City Clerk before the petition relating thereto is circulated to the registered electors

of the city. Proponents are encouraged to write such drafts in plain, non-technical language and in a clear and coherent manner using words with common and everyday meaning which are understandable to the average reader. Within ten days after submission, the City Clerk, with the assistance of other city officials as the Clerk deems necessary, shall designate and fix a fair title, submission clause, and summary to the proposed ordinance which shall correctly and fairly express the true intent and meaning of the proposed ordinance. Titles shall be brief, shall not conflict with titles selected for any petition previously filed for the same election, and shall be in the form of a question which may be answered "FOR THE ORDINANCE" to vote in favor of the proposed measure or "AGAINST THE ORDINANCE" to vote against the proposed measure and which shall unambiguously state the subject matter of the ordinance sought to be added, amended, or repealed.

- B. If any registered elector submitting such initiated petition is not satisfied with the title, submission clause, or summary as provided, and claims it to be unfair, or that it does not fairly express the true meaning and intent of the proposed measure, such person may file a motion for a hearing with the City Clerk within seven days after the return of the petition to the persons submitting it, which hearing shall be had within two business days thereafter. If the City Clerk rules against the registered elector submitting such initiated petition, then upon the filing of a written request, a certified copy of the petition with the title, submission clause, and summary of such proposed measure, together with a certified copy of such motion for hearing and of the ruling thereon, shall be furnished to the parties by the City Clerk and, if filed with the Clerk of the District Court for Jefferson County within five days thereafter, shall be docketed as a cause there pending and disposed of as expeditiously as circumstances permit.

(Ord. O-2004-21 § 2, 2004; Ord. O-94-3 § 1 (part), 1994).

2.52.040 Initiative petitions—Fees.

The City Clerk may charge the same fees for certifying a record of any proceedings as are provided for certified copies of other papers, which fees shall be paid by the parties desiring a review of such proceedings. The Clerk of the District Court shall receive the ordinary docket fee for docketing any such cause, which shall be paid by the parties desiring a review of such proceedings.

(Ord. O-2004-21 § 3, 2004; Ord. O-94-3 § 1 (part), 1994).

2.52.050 Initiative petitions—Circulation prerequisites.

- A. No petition for any initiative measure shall be circulated, nor any signature thereto have any force or effect whatsoever, which has been signed before the title, submission clause, and summary have been fixed and determined as provided in Section 2.52.030. No petition shall be printed, published, or otherwise circulated unless the form and the first printer's proof of the petition have been approved by the City Clerk.
- B. Any petition which has not been submitted as required in Section 2.52.030 shall not be accepted for filing by the City Clerk.

(Ord. O-94-3 § 1 (part), 1994).

2.52.060 Initiative petitions—Filing.

No petition for any initiated ordinance within the city shall be of any force or effect unless filed with the City Clerk within 180 days from the date that the title and submission clause therefor have been fixed and determined pursuant to the provisions of Section 2.52.030. The City Clerk shall not accept any petition for filing which is not timely filed under the provisions of this section.

(Ord. O-94-3 § 1 (part), 1994).

2.52.070 Initiative petitions—Signature requirements.

A petition for an initiated ordinance shall be signed by persons registered to vote in the city in a number at least equal to five percent of the total number of persons registered to vote in the city on the date of the last regular municipal election.

(Ord. O-94-3 § 1 (part), 1994).

2.52.080 Requirements of petitions—Initiative.

A. At the top of each page, including signature pages, of every initiative petition section shall be printed the following:

WARNING:
IT IS AGAINST THE LAW:

For anyone to sign any initiative petition with any name other than his or her own or to knowingly sign his or her name more than once for the same measure or to knowingly sign such a petition when not a registered elector who is eligible to vote on the measure.

DO NOT SIGN THIS PETITION UNLESS YOU ARE A
REGISTERED ELECTOR
AND ELIGIBLE TO VOTE ON THIS MEASURE

TO BE A REGISTERED ELECTOR,
YOU MUST BE A CITIZEN OF COLORADO
AND REGISTERED TO VOTE IN
THE CITY OF LAKEWOOD

Do not sign this petition unless you have read or have had read to you the proposed initiative measure or the summary of the initiated measure in its entirety and understand its meaning.

- B. The title shall be printed on each page following the warning required in subsection (A) of this section.
- C. Any initiative petition circulated within the city shall be signed only by the registered electors by their own signature, after which the signer shall print his or her name, the address at which he or she resides, including street number and name, city, and the date of signing. Each registered elector signing a petition shall be encouraged by the circulator of the petition to sign the petition in black ink. In the event a registered elector is physically disabled or is illiterate and wishes to sign such petition, such elector shall sign or make his or her mark in the space so provided. Any person, but not a circulator, may assist the disabled or illiterate elector in completing the remaining information required in this subsection. The person providing assistance shall sign his or her name and address and shall state that such assistance was rendered to the disabled or illiterate elector.
- D. To each such petition shall be attached a signed, notarized affidavit of the circulator, stating his or her name, address, the date the affidavit was signed, that he or she circulated the petition, that each signature thereon was affixed in his or her presence, that each signature thereon is the signature of the person whose name it purports to be, that to the best knowledge and belief of the affiant each of the persons signing the petition was at the time of signing a registered elector of the city, and that he or she has not paid or will not in the

future pay, and that he or she believes that no other person has so paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix his or her signature to such petition. Each circulator and representative of the petition signers shall sign an agreement in which each agrees to submit to the subpoena authority of the City Clerk. The City Clerk shall not accept for filing any petition which does not have attached thereto an affidavit meeting the requirements of this section and the agreement submitting to the subpoena authority of the City Clerk. Any signature added to a section of a petition after said affidavit has been executed shall be invalid.

- E. All initiative petitions shall consist of a complete copy of what is proposed to be initiated including the title, submission clause, and summary as designated and fixed by the City Clerk pursuant to Section 2.52.030. Each petition shall designate by name and address two persons who shall represent the signers thereof in all matters affecting the same, and who shall be registered electors of the city. All such petitions shall be prenumbered serially, and the circulation of any petition described in this chapter by any medium other than personally by a circulator is prohibited. Any petition which fails to conform to the requirements of this chapter or is circulated in a manner other than that permitted in this section shall be invalid.
- F. Any disassembly of a section of the petition which has the effect of separating the affidavits from the signatures shall render that section of the petition invalid and of no force and effect.
- G. The circulation of any petition section other than personally by a circulator is prohibited. No section of a petition for any initiative measure shall be circulated by any person who is not at least 18 years of age at the time the section is circulated.

(Ord. O-2004-21 § 4, 2004; Ord. O-94-3 § 1 (part), 1994).

2.52.090 Sufficiency of petitions—Initiative.

- A. No petition for initiative shall be filed with the City Clerk unless it contains the required number of signatures. Upon filing of a petition for initiative with the City Clerk, the City Clerk shall make an initial determination of sufficiency and report the results thereof to the City Council within 20 days of the date of such filing, with a final determination of sufficiency and report to City Council to be made within 30 days following the filing. The City Clerk's determination of sufficiency shall be based upon a review of the petition to find whether signatures of individuals are insufficient in the following categories:
 - 1. Address shown by signer not located within the city limits of the City of Lakewood;
 - 2. Any signature appearing on the petition more than once, in which event all signatures of said individual shall be deleted except one;
 - 3. More than one individual signature on a signature line, in which event the line shall count as one;
 - 4. Signature lines containing incomplete information or information which was not completed by the elector or a person qualified to assist the elector shall not be counted;
 - 5. Signatures of individuals who are not registered electors in the city.
- B. The petition may not be removed and no signature may be removed or deleted by a signer, circulator, or representative of the City Clerk until the City Clerk has made an initial sufficiency determination. Any request to remove a signature shall be made in writing to the City Clerk. A signature may only be removed between the initial and final sufficiency determination by the City Clerk.
- C. After the City Clerk has completed the final sufficiency review of the petitions; the following procedures shall apply:
 - 1. For initiative petitions found to contain an insufficient number of valid signatures, and against which no protest has been filed, the City Clerk shall mail a written notice of insufficiency, summarizing the

grounds for the decision, to the representatives of the petitioners. The decision of the City Clerk concerning insufficiency shall be a final decision from which an appeal may be made to the District Court of Jefferson County.

2. For initiative petitions found insufficient, and against which a protest has been filed, the provisions of subsection (D) of this section shall apply.
 3. For initiative petitions found sufficient, and against which no protest has been filed, the provisions of Section 2.52.110 shall apply.
 4. For initiative petitions found sufficient, but against which a protest has been filed, the provisions of subsection (D) of this section shall apply.
- D. A protest to an initiative petition may be filed in the office of the City Clerk by any registered elector of the city within 30 days after the petition is filed with the City Clerk. The protest shall set forth with particularity the grounds of such protest and the names protested. The City Clerk shall mail a copy of such protest to the petition representative, together with a notice fixing a time for hearing such protest not less than five nor more than 20 days after such notice is mailed.
- E. All records and hearings shall be public under this section and all testimony shall be under oath, and the City Clerk with whom such petition is filed shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents. Upon failure of any witness to obey the subpoena, the City Clerk may petition the District Court of Jefferson County and upon proper showing the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the order of the court is punishable as a contempt of court. At any hearing held pursuant to this section, the party protesting the finding of the City Clerk concerning the sufficiency of signatures shall have the burden of proof. Hearings before the City Clerk shall be had as soon as is conveniently possible. The result of such hearings shall be certified to the petition representatives and the protester.
- F. The decision of the City Clerk is final. Any appeal of the decision shall be to Jefferson County District Court. (Ord. O-2004-21 § 5, 2004; Ord. O-94-3 § 1 (part), 1994).

2.52.110 Initiative—Election.

- A. If the petition is found to be sufficient pursuant to Section 2.52.090, the City Clerk shall present the petition to the City Council at its next regular meeting. At that time, the City Clerk shall also determine whether the petition qualifies for a ballot issue election or a ballot question election and shall advise the City Council of such determination. Within 30 days after the petition is presented by the City Clerk, the City Council shall either adopt without alteration the initiated ordinance by a majority vote of all members of City Council, or submit the initiated ordinance to a vote of the registered electors. If the initiated ordinance is one which may be considered at a ballot question election, it shall be submitted at a special election held not less than 30 nor more than 90 days after the petition is presented to the City Council, or at a regular municipal election held within that 90-day period. If the initiated ordinance is one which may only be considered at a ballot issue election, it shall be submitted at the next ballot issue election held not less than 90 days after the petition is presented to the City Council.
- B. Alternative ordinances may be submitted at the same election, and if two or more conflicting ordinances are approved by the people, the one which receives the greatest number of affirmative votes shall be adopted in all particulars as to which there is a conflict.
- C. If a majority of the registered electors voting vote "for" the ordinance, it shall be adopted and take effect upon certification of the election results, or at such later date as may be set forth in the initiated ordinance.

- D. Notwithstanding the above provisions, the City Council shall not be deprived of the right to enact any ordinance, resolution, or other measure.

(Ord. O-2019-5 § 2, 2019; Ord. O-2004-21 § 6, 2004; Ord. O-94-3 § 1 (part), 1994).

2.52.120 Prohibited action by City Council—Initiative.

No initiated ordinance adopted by the registered electors of the city may be amended or repealed by the City Council during a period of six months after the date of the election on the initiated ordinance.

(Ord. O-94-3 § 1 (part), 1994).

2.52.130 Referendum procedures.

- A. Except as provided in the City's Charter, all ordinances adopted by the City Council that are legislative in character shall be subject to referendum. Any ordinance necessary for the immediate preservation of the public peace, health, or safety; fixing the rate of general property taxation for any year; related to the issuance of securities; adopting the budget; making an appropriation for the ensuing fiscal year; calling for a special election; levying special assessments, or initiating improvement districts shall not be subject to referendum.
- B. No ordinance shall take effect and be in force before 30 days after adoption by the City Council and publication by title, except that no ordinance that zones, rezones, or changes any zoned district shall take effect and be in force before 45 days after adoption by the City Council and publication by title. If, prior to the effective date of an ordinance and during business hours on a business day in which the City Clerk' Office is open, a petition signed by registered electors of the city equal in number to three percent of the total number of persons registered to vote in the city on the date of the last regular municipal election is filed with the City Clerk protesting such ordinance, the City Clerk shall begin the initial determination of sufficiency as set out in Section 2.52.150.

(Ord. O-2019-24 § 4, 2019; Ord. O-94-3 § 1 (part), 1994)

2.52.140 Requirements of petitions—Referendum.

- A. At the top of each page, including signature pages, of every referendum petition section circulated within this city relating to a municipal ordinance shall be printed the following:

WARNING:
IT IS AGAINST THE LAW:

For anyone to sign any referendum petition with any name other than his or her own or to knowingly sign his or her name more than once for the same measure or to knowingly sign such a petition when not a registered elector who is eligible to vote on the measure.

DO NOT SIGN THIS PETITION UNLESS YOU ARE A
REGISTERED ELECTOR
AND ELIGIBLE TO VOTE ON THIS MEASURE

TO BE A REGISTERED ELECTOR,
YOU MUST BE A CITIZEN OF COLORADO
AND REGISTERED TO VOTE IN

**WARNING:
IT IS AGAINST THE LAW:**

For anyone to sign any initiative petition with any name other than his or her own or to knowingly sign his or her name more than once for the same measure or to knowingly sign such a petition when not a registered elector who is eligible to vote on the measure.

DO NOT SIGN THIS PETITION UNLESS YOU ARE A REGISTERED ELECTOR AND ARE ELIGIBLE TO VOTE ON THIS MEASURE

TO BE A REGISTERED ELECTOR, YOU MUST BE A CITIZEN OF COLORADO AND REGISTERED TO VOTE IN THE CITY OF LAKEWOOD

Do not sign this petition unless you have read or have had read to you the proposed referred measure in its entirety and understand its meaning.

THE UNDERSIGNED REGISTERED ELECTORS OF THE CITY OF LAKEWOOD, COLORADO DO PETITION BY INITIATIVE THE ADOPTION OF:

The Title and Submission Clause are as follows:

Title

An Ordinance to Repeal and Replace Lakewood Municipal Code Chapter 14.16 Relating to Park and Open Space Dedication to Eliminate the Option for Developers to Pay a Fee in Lieu of Parkland Dedication and to Require the City to Accept Open Space and Land Dedications for Current and Future Developments.

Submission Clause

Shall Lakewood Municipal Code Chapter 14.16 relating to park and open space dedication be repealed and replaced?

Summary of the Ordinance

Shall the City of Lakewood Municipal Code Chapter 14.16. PARK AND OPEN SPACE DEDICATION be repealed and replaced to eliminate the option for developers to pay a fee in lieu of parkland dedication and to require the City to accept open space and land dedications for current and future developments?

I certify that the following petition has been approved as to form.



Jay Robb, City Clerk

The following individuals, who are both registered electors of the city, have been designated to represent the signers of this petition in all matters affecting the petition.

Catherine Kentner
Rhonda Peters

9475 West Cedar Ave
1610 South Valentine Way

Lakewood, Colorado 80226
Lakewood, Colorado 80228

FREQUENTLY ASKED QUESTIONS ABOUT ORDINANCE

O-2024-28

1. Who drafted Ordinance O-2024-28

Ordinance O-2024-28 is a “citizen-initiated ordinance,” which means that it was drafted by residents of the City of Lakewood rather than by City of Lakewood staff or elected officials. The drafters of the ordinance obtained the requisite number of signatures from registered electors of the City to present the ordinance to City Council at the November 4th Special City Council meeting. For more information on the City of Lakewood initiative process, please review Article XIII of the City Charter and Chapter 2.52 of the Lakewood Municipal Code.

2. Why did the City Council adopt Ordinance O-2024-28?

Pursuant to City Charter, after the initiated ordinance received the requisite number of signatures, the Lakewood City Council was required to either adopt the unaltered initiated ordinance or send it to a vote of the registered electors of the City at a special election to be held by January 14, 2024. On November 4, 2024, the Lakewood City Council voted to adopt the unaltered initiated ordinance. You can review the Councilmembers’ reasons for adopting the initiated ordinance by watching the November 4th Special City Council Meeting at the following link under “item 10”: <https://lakewoodspeaks.org/meetings/782>

3. When does Ordinance O-2024-28 go into effect?

Unless another group of citizens acquires the requisite number of signatures to subject Ordinance O-2024-28 to a referendum, it will go into effect on December 7, 2024. With December 7th being a Saturday, City staff is calculating the effective date as December 6, 2024.

4. Will Ordinance O-2024-28 impact my development?

Ordinance O-2024-28 will impact all residential land use applications and developments in the City that do not have all building permits issued and paid for by December 6, 2024. While Section 14.16.040 of Ordinance O-2024-28 mandates that its requirements “apply to all current and future developments including applications in process that do not have all building permits approved and paid for” Section 14.16.040 clarifies that “all residential developers shall provide a minimum of 10.5 acres of park area on site. . .”

5. What happens to my project if isn’t fully permitted by December 6, 2024?

Any residential development project that has not obtained all building permits will need to resubmit all development documents to demonstrate compliance with the parkland dedication requirements of Ordinance O-2024-28. Ordinance O-2024-28 also removes the ability for developers to pay a fee-in-lieu of dedicating parkland. Any prior fee-in-lieu payment paid to the City in lieu of dedicating actual parkland will be refunded as soon as a process for refunding has been developed.

6. How much land am I required to dedicate?

Section 14.16.040 of Ordinance O-2024-28 mandates that "All residential developers shall provide a minimum of **10.5** acres of park area **on site** per 1,000 anticipated population." Please note that this is an increase from the 5.5 acres of parkland that are required to be dedicated under the current version of the City's parkland dedication law that will be in effect until December 6, 2024.

7. How do I calculate the total acreage I must dedicate to the City as parkland?

Section 14.16.040 of Ordinance O-2024-28 provides the following information regarding calculation of the total acreage that must be dedicated to the City for parkland purposes prior to receiving approval to approval of any site plan:

Density Factor:

Single-family detached = 3.00;

Single-family or multi-family attached = 1.50; and

Senior housing = 1.25.

Calculation:

___ development acres x ___ units/acre x ___ density factor x 10.5 acres parkland ÷ 1000 = **_____ acres of parkland to be dedicated to the City.**

Example Calculation:

- proposed development size: 10 acres
- proposed density: 10 units/acre
- multi-family attached density factor

10 development acres x 10 units/acre x 1.5 density factor x 10.5 acres parkland/1000 people = **1.575 acres of parkland to be dedicated to the City.**

Applying this calculation illustrates that higher density projects directly correlate to higher land use dedications. **Therefore, the planned number of residential units of a**

project may need to be reduced to allow for the required amount of the site to be dedicated to the City for parkland.

8. Questions/Comments

City of Lakewood staff is still in the process of assessing Ordinance O-2024-28 prior to its implementation on December 6th. As the City's staff works through this process, they may not be able to quickly answer every question you may have, however, please feel free to submit any questions or comments to: Ross Williams, Land-Design-Facilities Administrator for the Department of Community Resources (roswil@lakewood.org). Responses to any questions submitted will be provided as quickly as possible.

O-2018-4

AN ORDINANCE

REPEALING AND REENACTING IN ITS ENTIRETY CHAPTER 16 OF TITLE 14 OF THE LAKEWOOD MUNICIPAL CODE RELATING TO REQUIREMENTS FOR PARK AND OPEN SPACE DEDICATION AND FEES IN LIEU THEREOF

WHEREAS, the provisions of the Lakewood Municipal Code regarding park and open space dedication, including those provisions containing the formula for calculating fees in lieu, have not been updated for many years, and the City Council wants to ensure that such fees are reasonably related to the City's costs; and

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the City Council desires to comply with the Lakewood Municipal Code by setting a public hearing to provide City staff and the public an opportunity to present evidence and testimony regarding the proposal; and

WHEREAS, approval of this Ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies the proposal.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood:

SECTION 1. Chapter 16 of Title 14 of the Lakewood Municipal Code is hereby repealed and reenacted in its entirety with the following:

14-16-010. Scope and application.

Each development containing residential land uses shall dedicate to the city park sites and open space areas in accordance with the provisions of this title. Except as provided in this section, at the discretion of the Director of Community Resources (Director), fees in lieu of dedications shall be levied as set forth herein. The Director shall use current, adopted city planning documents as a guide for determining park and recreation needs in proximity to the proposed development area. The park and open space requirements in this chapter 16 shall be reasonably related to the needs of the residents of the proposed development. All developments containing residential uses greater than 14.99 acres in size shall dedicate land in accordance with this chapter 16 unless the City Council approves a fee in lieu alternative.

14-16-020. Park standards.

For purposes of this title, the city's park standards shall be a minimum of ten and five-tenths (10.5) acres of park area per one thousand anticipated population within

the proposed development. This standard of ten and five-tenths (10.5) acres per one thousand (1,000) population is composed of the following elements:

- A. Five (5) acres per one thousand (1,000) population for regional parks;
- B. Three (3) acres per one thousand (1,000) population for community parks;
- C. Two and five-tenths (2.5) acres per one thousand (1,000) population for neighborhood parks.

14-16-030. Regional parks provided.

The City Council determines, as of the time of adoption of the ordinance codified in this chapter, that the regional park needs of the residents of the City are satisfied by Bear Creek Lake Park, William Frederick Hayden Park, the Bear Creek Greenbelt, Jefferson County Parks, and State of Colorado parks to the west and south of the City. Therefore, a residential development shall not be obligated to dedicate land for regional park purposes in the City. Consequently, that the operating standard for dedication of parkland shall be five and five-tenths (5.5) acres of parkland per one thousand (1,000) population for community parks and neighborhood parks.

14-16-040. Calculation of land dedication requirements for park and open space.

- A. Parkland Standard. All residential developers shall provide a minimum of five and five-tenths (5.5) acres of park area per one thousand (1,000) anticipated population or cash in lieu thereof, except for developments of 14.99 acres or greater where no fee-in-lieu option shall be applicable.
- B. Density Factor. To provide an estimated and equitable population standard among different housing types, a density factor (representing average number of persons within the unit type) shall be applied to the calculation as follows:

- 1. Single Family Detached = 3.00
- 2. Single Family or Multi-Family Attached = 1.50
- 3. Senior Housing = 1.25

C. Example Calculation:

Proposed development size: 10 acres

Proposed density: 10 units/acre, multi-family attached

Park and open space acreage required:

10 development acres x 10 units/acre x 1.5 density factor x 5.5 acres parkland/1000 people = .825 acres of parkland required.

D. Dwelling Unit Changes. If an area is replatted prior to construction of the development, and the number of anticipated dwelling units increases or decreases by more than ten percent (10%), the developer shall be required to adjust either the amount of parkland dedicated consistent with the aforementioned provisions and formula or the amount of cash in lieu thereof to provide for the change in units.

E. At the discretion of the Director, all or a portion of the park dedication required may remain in private ownership, provided the privately owned park land is open to public use. The land area that may remain in private ownership shall:

1. Not exceed an average slope of 4:1;
2. Be privately maintained; and
3. Be noted on development plans as a fulfillment of parkland dedication requirements.

14-16-050. Criteria for land eligible for park and open space use.

The following criteria will normally apply in determining what type and nature of land will meet the requirement for dedication:

- A. Land that is accessible from two (2) separate locations by standard maintenance vehicles or from one location with a minimum fifty-foot frontage;
- B. Land or water bodies contiguous to other acceptable parkland or existing parkland;
- C. Usable land within the one hundred-year floodway fringe that would not be inundated in a five-year storm; and
- D. Special areas of natural, historical or cultural significance.

The Director will develop criteria to further define usable land.

14-16-060. Criteria for land not eligible for park and open space use.

The following criteria will normally apply in determining what type and nature of land will not meet the requirement for dedication:

- A. Land required by city's zoning code for private open space;
- B. Land used to fulfill requirements of the city's storm drainage ordinances, such as detention ponds, retention ponds or drainageways;

C. Rights-of-way and easements for irrigation ditches, laterals and aqueducts, power lines, pipelines or other public or private utilities without the written permission of the right-of-way owner; and

D. Hazardous geological land area, mineral extraction areas and hazardous wildfire areas.

14-16-070. Procedure/fee determination.

A. All land dedications, and/or fee requirements in lieu of land dedications, for subdivisions and other residential development shall be met at the time of platting or, if platting is not required, at time of site plan approval. The Director may delay the collection of fees to the time of building permit issuance. The amount of the fee to be paid shall be the fee in effect at the time payment is made.

B. If the Director determines that a land dedication in accordance with this chapter would not serve the public interest, the Director may require payment of a fee in lieu of the dedication, or may require dedication of a smaller amount of land than would otherwise be required and payment of a fee in lieu of the portion not dedicated. The Director may also accept improvements of equal or greater value of the fee that would have been collected. The Director shall set the amount of the fee equal to the amount of the fair market value of the land that would otherwise be dedicated.

C. Fees shall be payable to the City of Lakewood and shall be designated for the acquisition and/or development of park and open space land in the same Planning District as shown in 14-16-090.

D. In those instances where the Director elects to require a fee-in-lieu of land dedication, the Director may, subject to City Council approval, waive all or a portion of the fee requirements for individual housing units set aside for households earning no more than eighty percent (80%) of the area median income (AMI) through recorded deed restriction for a minimum period of twenty (20) years.

14-16-080. Site development standards-General.

A. Land that has been platted as public park and open space, or otherwise dedicated to the city, shall not be used in the development process of adjoining lands, except as stated in subsections (B), (C) and (D) of this section, or as reflected in an approved subdivision grading plan.

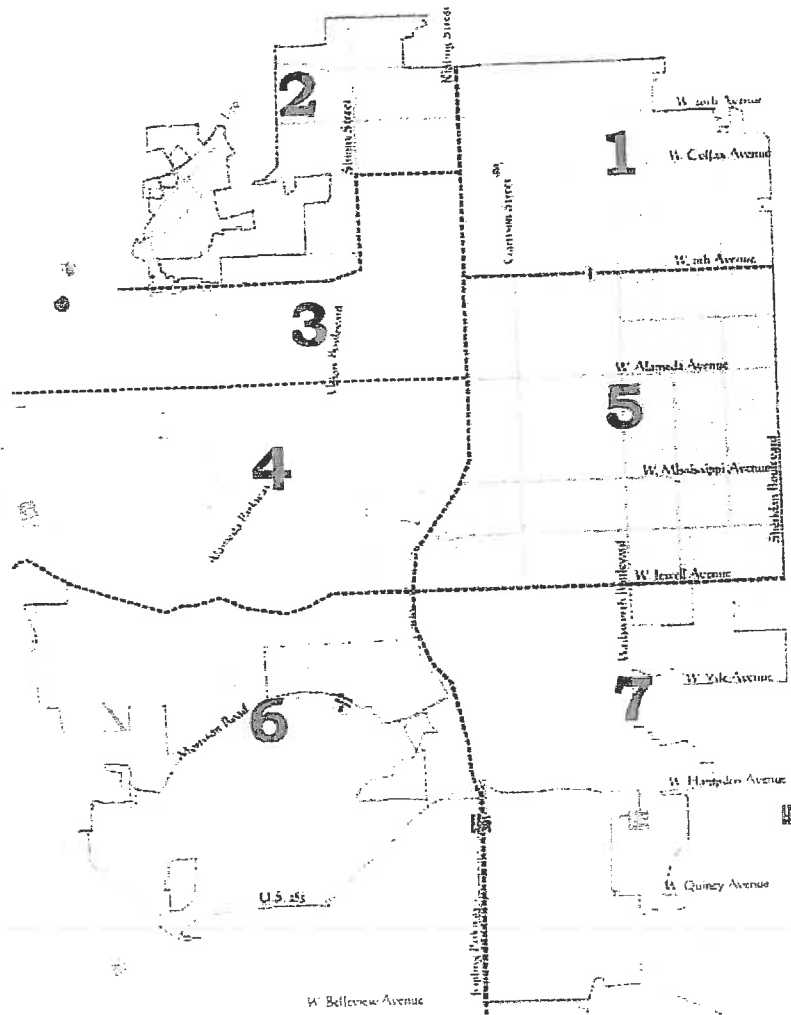
B. The developer shall be responsible for the installation of public improvements adjacent to the park site including, but not limited to, curb and gutters, streets, storm drainage facilities, and bridges made necessary by the development. Such public improvements will normally be limited to two hundred ten (210)

linear feet per acre of parkland. This does not include park development or tap fees unless such improvements are part of an Improvement Agreement.

C. All slopes shall be stabilized in accordance with acceptable engineering standards to prevent public endangerment, and for ease of maintenance. The maximum slope shall normally not exceed 4:1 or other slope treatment will be required.

D. Sites shall be made easily accessible to city maintenance equipment.

14-16-090. Planning Area Map.



Planning Districts for Parkland Fees

14-16-100. Review.

This Chapter shall be reviewed by City Council every 5 years, beginning five years after the effective date of Ordinance O-2018-4, and no later than December 31, 2023.

SECTION 2. Effective Date. This ordinance shall take effect thirty (30) days after final publication, and its provisions shall apply only to land use applications submitted to the City after such effective date.

SECTION 3. Severability. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

I hereby attest and certify that the within and foregoing Ordinance was introduced and read on first reading at a regular meeting of the Lakewood City Council on the 26th day of March, 2018; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 29th day of March, 2018; set for public hearing on the 14th day of May, 2018, read, finally passed and adopted by the City Council on the 14th day of May, 2018 and, signed and approved by the Mayor on the _____ day of _____, 2018.

Adam Paul, Mayor

ATTEST:

Margy Greer, City Clerk

APPROVED AS TO FORM:

Tim Cox, City Attorney

An Ordinance to Repeal and Replace

Lakewood Municipal Code Chapter 14.16 - PARK AND OPEN SPACE DEDICATION

Purpose and Intent

The purpose of park and open space land dedication is to guarantee the preservation of wildland and natural habitats so that the citizens of Lakewood and visitors to our city can enjoy and be enriched by communion with nature. Equally important is preserving the birds, trees and other flora and fauna within our parks and open spaces, to protect and sustain the beauty of our natural environment that makes our city unique and alluring. The conservation of wildlife will ensure that our residents can access the rich, natural heritage our city has to offer, and will also protect and maintain wild habitats for future generations. Lakewood's future as a sustainable, regenerative and healthy place to live depends on our preservation of open spaces and parkland.

14.16.010 - Scope and application.

Each development containing residential land uses shall dedicate to the city park sites and open space areas in accordance with the provisions of this title. These requirements apply to all current and future developments including applications in process that do not have all building permits approved and paid for.

14.16.020 - Park standards.

For purposes of this title, the city's park standards shall be a minimum of 10.5 acres of park area per 1,000 anticipated population within the proposed development

14.16.040 - Calculation of land dedication requirements for park and Open Space.

A. *Parkland Standard.* All residential developers shall provide a minimum of 10.5 acres of park area on site per 1,000 anticipated population.

B. *Density Factor.* To provide an estimated and equitable population standard among different housing types, a density factor (representing average number of persons within the unit type) shall be applied to the calculation as follows:

1. Single-family detached = 3.00
2. Single-family or multi-family attached = 1.50
3. Senior housing = 1.25

C. *Example calculation.*

Proposed development size: 10 acres

Proposed density: 10 units/acre, multi-family attached

Park and open space acreage required:

10 development acres \times 10 units/acre \times 1.5 density factor \times 10.5 acres parkland/1000 people = 1.575 acres of parkland required.

D. *Dwelling Unit Changes.* If an area is replatted prior to construction of the development, and the number of anticipated dwelling units increases or decreases by more than ten percent, the developer shall be required to adjust the amount of parkland dedicated consistent with the aforementioned provisions and formula to provide for the change in units.

E. When the calculation results in land dedication of fewer than 0.3 acre, the parkland dedication required may remain in private ownership. The land area that may remain in private ownership must be added to the project's open space requirement and shall:

1. Not exceed an average slope of 4:1;
2. Be privately maintained; and
3. Be noted on development plans as a fulfillment of parkland dedication requirements.

14.16.050 - Criteria for land eligible for park and open space use.

The following criteria will normally apply in determining what type and nature of land will meet the requirement for dedication:

- A. Land that is accessible from two separate locations by standard maintenance vehicles or from one location with a minimum 50-foot frontage;
- B. Land or water bodies contiguous to other acceptable parkland or existing parkland;
- C. Usable land within the 100-year floodway fringe that would not be inundated in a five-year storm; and
- D. Special areas of natural, historical or cultural significance.

14.16.060 - Criteria for land not eligible for park and open space use.

The following criteria will normally apply in determining what type and nature of land will not meet the requirement for dedication:

- A. Land required by city's zoning code for private open space;
- B. Land used to fulfill requirements of the city's storm drainage ordinances, such as detention ponds, retention ponds or drainageways;
- C. Rights-of-way and easements for irrigation ditches, laterals and aqueducts, power lines, pipelines or other public or private utilities without the written permission of the right-of-way owner; and

D. Hazardous geological land area, mineral extraction areas and hazardous wildfire areas.

14.16.070 - Procedure.

A. All land dedications, subdivisions and other residential development shall be met at the time of platting or, if platting is not required, at time of site plan approval.

14.16.080 - Site development standards—General.

A. Land that has been platted as public park and open space, or otherwise dedicated to the city, shall not be used in the development process of adjoining lands, except as stated in subsections (B), (C) and (D) of this section, or as reflected in an approved subdivision grading plan.

B. The developer shall be responsible for the installation of public improvements adjacent to the park site including, but not limited to, curb and gutters, streets, storm drainage facilities, and bridges made necessary by the development. Such public improvements will normally be limited to 210 linear feet per acre of parkland. This does not include park development or tap fees unless such improvements are part of an Improvement Agreement.

C. All slopes shall be stabilized in accordance with acceptable engineering standards to prevent public endangerment, and for ease of maintenance. The maximum slope shall normally not exceed 4:1 or other slope treatment will be required.

D. Sites shall be made easily accessible to the city.

14.16.110 - Severability clause

If any part, section, sentence or clause of this Ordinance shall for any reason be questioned in any court and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance. Any such part, section, sentence or clause shall not be taken to affect or prejudice in any way the remaining part or parts of this Ordinance.



Cathy Kentner <cathykentner@gmail.com>

FAQ for O-2024 -28 Questions

5 messages

Cathy Kentner <cathykentner@gmail.com>
To: Ross Williams <roswil@lakewood.org>

Wed, Dec 11, 2024 at 10:08 AM

Hi Ross,

Thank you for the FAQ document that you put together for O-2024-28. I have two questions in regards to it. (And sorry I couldn't make a comment or attend yesterday's DRC meeting. As usual it was at a time when the vast majority of those of us who work for a living can not attend)

1. #5 talks about projects that paid a fee in lieu but weren't issued building permits and a refund to be issued. Are there any projects that fit this criteria? If so, what are the specific addresses?
2. There seems to be a misprint or at least a section that needs clarification. There is a statement under #7 that "higher density projects directly correlate to higher land use dedications." Using the common definition of density as units per acre (this is one of the two definitions used in the FAQ) this is a demonstrably false statement. The density has no impact on the amount of land dedicated. The land to be dedicated is only related to the anticipated population increase. For example, a project with 75 multi-family attached units has the same land dedication requirement whether it is on 5 acres or 15 acres. The only time "density" factors in is in the other definition in relation to unit density, i.e. the number of people anticipated per unit. Will you please correct or clarify this? There is already so much misinformation out there I am sure we can agree that this document should be changed so that we aren't communicating even more mis-information.

Thank you!

Cathy

303-349-2434

Ross Williams <RosWil@lakewood.org>
To: Cathy Kentner <cathykentner@gmail.com>
Cc: Amber Thill <ambthi@lakewood.org>

Wed, Dec 11, 2024 at 2:59 PM

Cathy,

First, I must clarify, I cannot take credit for the FAQ document that was part of the staff update to the DRC board. That document was put together by the City Attorney's office. My contact was put on it as I am the one who gets to enforce the City parkland dedication requirements, and it was decided that I would be the point person to provide answers to questions. The questions and answers are a work in progress as we get different scenarios presented to us.

The item on the DRC agenda was from the chairman wondering if the new ordinance would affect the board. I understand the answer to the board was that the new ordinance would have a very little impact on that board.

In response to your questions below:

1. The answer is difficult to determine, as our recording system is not set up to track in that manner. I believe there are some development projects that would fall into this situation, mostly in a single-family subdivision where the developer platted many lots and paid a fee in lieu at the time of platting and has not applied for a building permit for all of their lots. This could also occur in a multi-family development where there are multiple buildings in the development, and they are only getting a permit for one building at a time. Another situation where this could occur are places where the property owner purchased an oversized lot and subdivided years ago and paid a fee for each lot and has built a home on the first lot and is holding the other lot to sell or build a home for their children someday. We would not know of all those situations until a specific permit application has been presented. These situations could occur anywhere in the City.

2. I see your point and have asked the attorneys to look at it. In all the questions I have received, there have not been questions related to those statements in the FAQ's. It usually goes: I own this parcel of land and I want to put this number of residential (attached or detached) units on it, how much land needs to be dedicated. If I change the number of units what will that mean.



Lakewood
Community Resources

Ross Williams, ASLA, CPRP

LAND-DESIGN-FACILITIES ADMINISTRATOR

roswil@lakewood.org

303-987-7814

From: Cathy Kentner <cathykentner@gmail.com>
Sent: Wednesday, December 11, 2024 10:09 AM
To: Ross Williams <RosWil@lakewood.org>
Subject: FAQ for O-2024 -28 Questions

EXTERNAL – USE CAUTION

[Quoted text hidden]

Cathy Kentner <cathykentner@gmail.com>
To: Ross Williams <RosWil@lakewood.org>

Thu, Dec 26, 2024 at 2:57 PM

Hi Ross,

First off please accept this late thank you for your quick response to my questions a couple weeks ago. I hope you had a nice holiday yesterday.

I just had an interesting phone call from Mark Smith who seems to believe you told him that the new ordinance requires land dedication when only one single family home is being built. However, land dedication is only required when the formula amounts to over a third of an acre of land, or approximately 30 people being added to the city. Therefore one single family home (3 people by formula) doesn't have a dedication requirement.

14.16.040E. When the calculation results in land dedication of fewer than 0.3 acre, the parkland dedication required may remain in private ownership.

Can you help me understand the reason Mark would think there has to be dedication for one single family home?

Thank you,

Cathy

[Quoted text hidden]

Cathy Kentner <cathykentner@gmail.com>
To: Ross Williams <RosWil@lakewood.org>

Tue, Dec 31, 2024 at 5:36 PM

Hi Ross,

Just wondering if you may have an answer for me? Also since I sent this several days ago it dawned on me that the new ordinance, just like the old one, only applies to areas that weren't already platted with residential uses. What residential neighborhoods weren't already platted? This section didn't change. Doesn't seem to me that any single family or duplex home should have a dedication requirement unless it's part of a new subdivision and then the whole project has the requirement, not each individual lot.

14.16.070 All land dedications, subdivisions and other residential development shall be met at the time of platting or, if platting is not required, at the time of site plan approval.

Thank you!

Cathy

PS

Have there been any more FAQ or info sheets that have been created? If so can I please have a copy?

[Quoted text hidden]

Cathy Kentner <cathykentner@gmail.com>
To: Ross Williams <RosWil@lakewood.org>

Sun, Jan 19, 2025 at 8:55 AM

Hi Ross,

I still haven't received a reply to my email of Dec. 26. Can you please let me know if you received these? Will you be providing a response? If not, can you help direct me to the right person to get in touch with?

Thank you,

Cathy

[Quoted text hidden]

City of Lakewood Statement given to 7News and published at <https://www.denver7.com/news/front-range/lakewood/lakewood-family-looking-to-rebuild-home-told-they-must-give-up-part-of-property-under-new-ordinance>

Full statement:

"All residential developments requiring any type of plat or site plan is subject to the City Code. [The Christensen's project] involves a plat and the building of a new structure; therefore, it comes under the parkland dedication requirements.

The ordinance also anticipates that some residential dedications will be smaller than 0.3 acres. In those cases, the land can remain in private ownership, but the portion of the land dedicated to parkland must be publicly dedicated to Lakewood's open space and not used for private purposes.

Under the current ordinance, the city no longer has the authority to assess a property owner a fee to pay toward the city's parkland needs instead of dedicating some of the owner's private property to parkland use.

Prior to this citizen-initiated ordinance, if a change to a single-family home didn't require a plat or a site plan, parkland dedication or a fee was not required."

Exhibit 8

<p>DISTRICT COURT, JEFFERSON COUNTY, COLORADO 100 Jefferson County Parkway Golden, CO 80401 Telephone: (720) 772-2500</p>	<p>DATE FILED January 3, 2025 5:55 PM FILING ID: 620C0FCAFD6A9 CASE NUMBER: 2024CV31849</p>
<p>Plaintiffs: BELMAR OWNER LLC, and KAIROI PROPERTIES, LLC</p> <p>v.</p> <p>Defendant: CITY OF LAKEWOOD, COLORADO</p>	<p>▲ COURT USE ONLY ▲</p>
<p><i>Attorneys for Plaintiffs:</i></p> <p>Jason R. Dunn, #33011 Neil S. Sandhu, #56600 BROWNSTEIN HYATT FARBER SCHRECK, LLP 675 15th Street, Suite 2900 Denver, CO 80202 Telephone: 303-223-1100 Fax: 303-223-1111 Email: jdunn@bhfs.com; nsandhu@bhfs.com</p>	<p>Case Number: 2024CV031849</p> <p>Div.: 2</p>
<p>UNOPPOSED MOTION FOR PRELIMINARY INJUNCTION</p>	

Plaintiffs, Belmar Owner LLC (“Belmar”) and Kairoi Properties, LLC (“Kairoi”) (collectively “Plaintiffs”), through counsel, submit their Unopposed Motion for Preliminary Injunction (“Motion”) pursuant to C.R.C.P 65(a) against the City of Lakewood, Colorado (“Defendant” or the “City”) and in support state as follows:

Certificate of Conferral Pursuant to C.R.C.P. 121 § 1-15(8): Plaintiffs’ counsel conferred with the City’s counsel about this Motion. In order to obtain a speedy resolution to this matter, and in the interests of judicial economy and conserving taxpayer resources, the City does not oppose the issuance of a preliminary injunction with the understanding that it does not admit or concede any of the underlying legal arguments on the merits. Defendant reserves the right to dispute factual inaccuracies contained in this motion for preliminary injunction, and its lack of opposition at this stage should not be construed as conceding the allegations contained therein. Both Parties agree that the Court should issue a preliminary injunction before January 24th, 2025 in order to allow for Belmar’s project to be considered at the January 29, 2025 meeting of the Lakewood Planning Commission.

INTRODUCTION

Since at least 2020, Plaintiffs have been developing two multifamily housing projects in the City of Lakewood. For years, Lakewood has required developers of multifamily housing projects to either dedicate a certain amount of the subject development site as parkland or pay a fee in lieu of physically dedicating parkland. On multiple occasions over the last few years, Plaintiffs sought and received confirmation from the City that they could proceed by paying a fee in lieu of physically dedicating parkland. That fee-in-lieu option was critical to Plaintiffs because if they were forced to physically dedicate a portion of the parcels, they would be unable to build their planned developments.

On December 7, 2024, the City upended the Lakewood Municipal Code (“Code”) by



Lakewood
Colorado

Planning Department

Civic Center North
470 South Allison Parkway
Lakewood, Colorado 80226-3127
303.987.7505
303.987.7057 TTY/TDD
Lakewood.org/Planning

December 12, 2024

Tyler Sibley
Kairoi Residential
711 Navarro Street
San Antonio, TX 78205

**RE: Case # SP22-0010 & LA22-0002 – 777 S Yarrow St
Major Site Plan & LLA Plat for a multifamily development**

Dear Mr. Sibley:

The Development Assistance Team has reviewed the fourth submittal for the proposed development at 777 S Yarrow Street and we have the following comments.

General Comments

1. Engineering comments will be uploaded to eTRAKiT upon completion of the civil review. If you have specific questions regarding the engineering plan review comments, please contact Ken Hargrave, City Review Engineer, at 303-987-7906 or kenhar@lakewood.org.
2. Please refer to the original referral review letters from Xcel Energy, Bancroft-Clover Water and Sanitation District, Colorado Geological Survey and Mile High Flood District and prepare a short, written summary response stating how these comments have been resolved. All unresolved comments need to be coordinated with these agencies prior to the next submittal.
3. Any physical changes made to the engineering plans must be reflected on the site plan set and those changes made to the site plan set must be reflected in the engineering plans. Please note that there are comments included in the redlines that are not referenced in this letter.
4. Pursuant to Section 17.2.7.3 and 17.2.6.5 of the zoning ordinance, the Planning Director is referring the Site Plan and Minor Waiver Application to the Planning Commission for a decision. Please work to address all redlines and comments with the next resubmittal.

There are several zoning regulations that are not being satisfied and/or staff was unable to verify compliance upon completion of the 4th MSP review. Please note that the site plan must satisfy all applicable zoning regulations before a public hearing can be scheduled. Revisions based on the following comments and attached redlines shall be completed and returned by December 20, 2024, for the project to be scheduled for a public hearing with the Lakewood Planning commission on January 29, 2025.

5. (REMINDER) Coordination with city staff on scheduled city events throughout the construction phase is desired. Please continue to include Brad Chronowski, brachr@lakewood.org, 303-987-7805 on any pre-construction and scheduling meetings with the project GC development assistance staff.

Please also reach out to Brad to discuss detail level plans for the 29 off-site trees (i.e. irrigation plans, soil amendment, planting specifications, etc.). Landscape CD's are not part of the site/civil plan review or the building permit review and will need to be coordinated separately. Please do not incorporate construction level plans/ details related the off-site trees in the site plan, civil cd's or building permit plans.

Minor Waiver Comments

- 6. **Approval Criteria:** Revise the written request and/or the application to provide a point-by-point summary that details how the request is satisfying each of the waiver review standards. It is the applicant's responsibility to demonstrate that the waiver request meets the approval criteria.

Plat Comments

- 7. **Land Dedication:** The area depicted on the plat as Tract A will need to be dedicated (fee-simple) to the City of Lakewood by separate instrument because a new tract cannot be created via a Lot Line Adjustment Plat. The land dedication serves to replace the two existing City easements vacated by the plat. The fee-simple tract includes the existing pumphouse/boathouse and surrounding landscape with existing trees, which are currently located on private property and within a city municipal purposes easement.

Please review the legal description modifications in the plat redlines and have the surveyor prepare an exhibit and legal description of the fee-simple boundary. City staff will prepare the deed and provide it to the owner to sign and return a wet-signed document with applicable recording fees. The signed document and fees will be held by staff and recorded sequentially with the plat following a successful public hearing for the site plan.

The plat shall be revised to remove the area depicted as Tract A from the plat boundary. The legal description for the plat will need to be revised as needed to reflect the new lot area. The site and civil plans/reports need to be revised to exclude the dedicated parcel from the site boundary. The fee-simple parcel will need a placeholder label on the plat so the reception number can be written in after the deed is recorded.

- 8. **Lender Info:** The updated title work indicates that the original loan with M&T Bank [REDACTED] has been released. A letter or email providing the name and title of the officer from AMG National Trust Bank is required for the Deed of Trust Holder's signature block on the plat.
- 9. **Private Easements:** (REMINDER) The applicant will need to record documents that vacate the existing private utility and water easements and add the reception numbers to the plat, ASAP. The new Bancroft-Clover water easement also need to be recorded, and reception number added to the plat, MSP and civil plans. These items need to be resolved prior to plat approval. The plat needs to be approvable with signed mylars and all recording fees submitted prior to the PC hearing notification deadline.
- 10. **Plat Mylars:** Once all plat comments and redlines have been adequately addressed, please submit a final PDF that incorporates all document revisions. Staff will verify that the plat is ready to print to mylar and then follow up with additional instructions for plat signatures. Please note that the signed plat mylars and applicable recording fees will need to be submitted no later than January 10, 2025.

Site Plan Comments

- 11. **Unit Address Exhibit:** Please update the addressing exhibit to reflect the current floor plans in the building permit plan set.
- 12. **Tree Protection & Mitigation:** Based on the information provided in this submittal, the tree mitigation fee (to be paid prior to site plan approval) is \$426,000. The fee may be paid with a check made out to the City of Lakewood. The fee can be reduced by planting more trees on-site.
- 13. **Bike Racks:** (REPEAT COMMENT) The location for the long-term bike parking shall be depicted and labeled on the MSP. Details of racks or lockers for long-term bike parking must be added.
- 14. **Enhanced Development Menu:** This project will need to earn a minimum of 50 EDM points. Unfortunately, there has not been sufficient progress made to achieve the Open Option at this

stage in the review process. See notes on Sheet 11. Alternative EDM items will need to be selected to replace these 7 points. Consider Water Budget (5 points) and adding some or all of the previous Bike Amenities (2-5 points) back into the development, in new locations.

Refer to redlines for additional minor comments and revisions. Please contact Catlin Long in the Sustainability Division at cailon@lakewood.org for questions related to the EDM requirements.

15. **Fire & Life Safety Plan:** West Metro Fire Protection District did not provide redlines or comments on the FLSP provided with this submittal. The applicant will need to continue working directly with West Metro to secure FLSP approval prior to the next submittal. If comments or an approval is provided following this letter, I will pass that info along.
16. **School Dedication:** (REMINDER) In lieu of dedicating land, Jefferson County Schools has asked for fees in-lieu. Currently, the fees are \$800 per multifamily residential unit. With 411 proposed units, the total will be \$328,800. School land fees shall be paid prior to issue of any building permits.
17. **Parkland Dedication:** (UPDATE) Please refer to Ordinance O-2024-28, adopted by City Council on November 4, 2024. This citizen-initiated parkland dedication ordinance is applicable to all residential projects in Lakewood that have not paid for building permits prior to December 7, 2024.

Pursuant to the new ordinance, a fee payment in lieu of land dedication is no longer permitted. The project will need to be modified to comply with the current land dedication regulations as follows:

$$411 \text{ units} \times 1.5 \text{ persons per unit} \times 10.5 \text{ acres parkland per } 1,000 \text{ persons} = 6.47 \text{ AC}$$

Questions regarding where new parkland should be located should be directed to Ross Williams at roswil@lakewood.org.

(INFO ONLY / TRACKING) Pursuant to the requirements under the prior ordinance (O-2018-4) and the 2024 Community Resources Park Land Dedication Policy, the previously stated fee-in-lieu of land dedication increased.

- As of June 1, 2024, the \$2,100 per unit fee was increased to reflect the new fair market value of \$432,727 per acre (up from \$254,545 per acre) The revised value equates to \$3,570 per multifamily unit, with a total fee of \$1,467,270 (up from the original fee-in-lieu number of \$863,100).
 - Per O-2018-4, all land dedications, and/ or fee requirements in lieu of land dedications, for subdivisions and other residential development shall be met at the time of platting or, if platting is not required, at time of site plan approval. The Director may delay the collection of fees to the time of building permit issuance. The amount of the fee to be paid shall be the fee in effect at the time payment is made (LMC §14.16.070).
18. **Sidewalk Connection:** The required sidewalk connection per Section 17.6.4.A.4 that is proposed on the west side of the site to the existing sidewalk/trail on the park property needs to be revised per the comments in the attached redlines. Please work directly with Brad Chronowski, brachr@lakewood.org, 303-987-7805 to secure approval for the portion of the sidewalk connection that is located on City Property before the next resubmittal.
 19. **State EV Regulations:** Please be aware that in accordance with Colorado HB 23-1233 and the State Electrical Board rules, effective March 1, 2024, all electrical permits for new construction and major renovation to multi-family residential buildings with an R-2 occupancy (as defined in the International Building Code) must comply with the electric vehicle (EV) power transfer infrastructure requirements in the Colorado Model Electric Ready and Solar Ready Code ("Model Code"). Given the potential implications to parking area design and utility infrastructure, if this project will be constructed with an R-2 occupancy, please use Model Code Table CV502.1: EV

Exhibit 10

Search Results

Attachment

Project Info	Site Info	Contacts (5)	Fees \$0.00	Inspections(0)
Conditions (0)	Reviews(28)			

PLANNING DEVELOPM...	BREA PAF ...	CO ...	9/13/...	12/1...
PROPERTY MANAGEM...	GARRETT ...	CO ...	9/13/...	10/2/...
SUSTAINABILITY	CAITLIN H...	CO ...	9/13/...	12/1...
ENGINEERING DEVEL...	KEN HAR...	WIT ...	11/2...	12/2...
ENGINEERING DEVEL...	KEN HAR...	CO ...	12/2...	1/1/2...
PLANNING DEVELOPM...	BREA PAF ...	CO ...	12/2...	1/9/2...
PROPERTY MANAGEM...	GARRETT ...	CO ...	12/2...	12/2...
SUSTAINABILITY	CAITLIN H...	CO ...	12/2...	1/2/2...

3-0013

122-0002

319033

22-0010

124-0003

19047

21009

Review - SUSTAINABILITY



Review Group: ALL

Review Type: SUSTAINABILITY

Status: COMMENTS

Date Sent: 12/23/2024

Date Due: 1/3/2025

Date Returned: 1/2/2025

Reviewer: CAITLIN HASENBALG LONG

Remarks: 5TH REVIEW - MSP / PLAT

Notes:

1/9/2025 5:03:17 PM - BREAA PAFFORD

Refer to MSP redlines

Exhibit 11

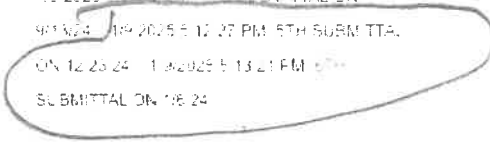
Exhibit 11

775 NARROW MOUNT FAMILY DEVELOPMENT
SITE PLAN
RESIDENTIAL
WITH APPLICANT
4-27-2022

12/17/2024
5/5/2022
4/30/2024 4:09:41 PM 3rd submittal on 10/15/23
Additional revisions submitted on 1/4/24
4/30/2024 4:12:37 PM WITH APPLICANT 3RD
TIME 9/13/2024 2:09:11 PM 4TH SUBMITTAL
ON 9/10/24 12/13/2024 6:31:01 PM WITH
APPLICANT 4TH TIME

FRONSATE EXECUTIVE PLAZA
SUBDIVISION LLAND
LOT LINE ADJUSTMENT
WITH APPLICANT
4-27-2022

12/17/2024
5/5/2022
4/30/2024 4:25:23 PM 3RD SUBMITTAL ON
10/15/23 4/30/2024 4:26:38 PM WITH
APPLICANT 3RD TIME 5/13/2024 3:00:54 PM
4TH SUBMITTAL ON 9/10/24 12/13/2024
6:23:42 PM WITH APPLICANT 4TH TIME
10/20/25 5:11:17 PM 4TH SUBMITTAL ON
9/10/24 10/20/25 12:27 PM 5TH SUBMITTAL
ON 12/23/24 1/2/2025 5:13:21 PM 5TH
SUBMITTAL ON 1/8/24



DISTRICT COURT JEFFERSON COUNTY, COLORADO 100 Jefferson County Parkway Golden, CO 80401 Phone: (720) 772-2500	DATE FILED January 6, 2025 1:46 PM FILING ID: 8287599533D76 CASE NUMBER: 2024CV31849
BELMAR OWNER, LLC, and KAIROI PROPERTIES, LLC Plaintiffs, v. CITY OF LAKEWOOD, COLORADO, Defendant.	▲ COURT USE ONLY ▲
<i>Attorneys for Defendant City of Lakewood, Colorado:</i> Geoffrey N. Blue (32684), gblue@gesslerblue.com Scott E. Gessler (28944), sgessler@gesslerblue.com Gessler Blue LLC 7350 E. Progress Place, Suite 100 Greenwood Village, CO 80111 Tel. (303) 906-1050 or (720) 839-6637	Case Number: 2024CV31849 Division:
CONFERRAL STATEMENT REGARDING PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION	

Plaintiffs properly conferred on their Motion for Preliminary Injunction and represented Defendant's position as stated prior to the filing of the Motion for Preliminary Injunction. However, a nuance was lost in the Plaintiffs' conferral statement that needs to be corrected. Defendant does not object to the entry of the preliminary injunction as a way to move this case forward as expeditiously as possible and to conserve both judicial and party resources. However, Defendant is concerned that Plaintiff will use a preliminary injunction to moot this matter by moving forward with their development and paying all related fees and

thereby take their developments out of the purview of the ordinance at issue.

Accordingly, Defendant does not oppose the entry of a preliminary injunction so long as Plaintiffs' developments are subject to the provisions of the ordinance if Defendant wins this lawsuit. If the Court is unable to enter the preliminary injunction with this caveat, Defendant would ask the Court to set a briefing schedule on the motion for preliminary injunction to give Defendant sufficient time to respond to the motion.

Dated: January 6, 2025.

GESSLER BLUE LLC

s/ Geoffrey N. Blue
Geoffrey N. Blue

Certificate of Service

I certify that on this 6th day of January 2025, the foregoing was electronically served via e-mail or CCES on all parties and their counsel of record:

By: s/ Joanna Bila
Joanna Bila, Paralegal

Will Lakewood Replace the Condemned Trees?



What is a habitat zone?

Urban habitat boundaries are not necessarily congruent with the boundaries of a specific underlying property parcel. An urban habitat zone may touch upon more than one property parcel. The zone may also include more than one habitat type if interdependence characteristics of any resident species exist.

Wildlife is not aware of these legal property boundaries that are filed away in the county clerk's office. Amazingly, policymakers may struggle to grasp the concept that animals and other life forms do not easily adjust their shrinking habitats according to opposing land uses and legally defined property boundaries.

The field of geophysics has an analogous concept referred to as the habitable zone.

For a planet, the habitable zone is the distance from a star that allows liquid water to persist on its surface - as long as that planet has a suitable atmosphere. In our solar system, Earth sits comfortably inside the Sun's habitable zone. Habitable zones are also known as Goldilocks' zones, where conditions might be just right - neither too hot nor too cold - for life.

Belmar Park's legal boundaries define a 132 acre parcel but the park's habitat zone also includes various smaller nearby parcels that provide supportive or enhanced habitat attributes for plants and animals that share the habitat zone. 777 S Yarrow Street is an example of a parcel that is within the park's habitat zone.

A consulting zoologist who inspected 777 S Yarrow Street and Belmar Park stated:

"Saving existing large and medium size trees in conjunction with grassland or other herbaceous (non-woody habitats) is very important for bird and mammal species diversity and overall habitat quality for many species.

If all of those large trees are taken out, replacing that habitat will probably never recover unless very careful, extremely long-term land stewardship occurs."

Who Will the Children Hold Accountable?

The ongoing global destruction of habitats is too often endorsed by policymakers who then point the finger at somebody else.

For want of a nail the shoe was lost,

For want of a shoe the horse was lost,

For want of a horse the rider was lost,

For want of a rider the battle was lost,

For want of a battle the kingdom was lost,

And all for the want of a horseshoe nail.



The Proposed Project

Belmar Park West is the proposed 411 unit multifamily project at 777 S Yarrow Street in Lakewood, Colorado on the east property line of Belmar Park at the Inngate office complex.

Over 60 large trees are to be cut down on the developer's property adjacent to Belmar Park in Lakewood, CO. The collective tree canopy is a habitat for birds and other forms. There will be minimal tree canopy habitat replacement.

Due to their close proximity to Belmar Park, these large trees also extend the habitat zone of Belmar Park.

Cutting them down will eliminate important bird habitat plus other negative environmental impacts.

Initiative Petition






1 message

Cathy Kentner <cathykentner@gmail.com>
To: Jay Robb <jayrob@lakewood.org>

Mon, Mar 4, 2024 at 3:38 PM

Hi Jay,
Please accept the attached documents for setting title, summary and submission clause and approving form for initiative petition.
Thank you,
Cathy

5 attachments

-  **SOS title and submission.docx**
20K
-  **New LMC 14.16 to initiate 10.5.pdf**
167K
-  **New LMC 14.16 to initiate 10.5.docx**
21K
-  **Save Open Space Lakewood Petition.pdf**
100K
-  **Save Open Space Lakewood Petition.doc**
141K



Cathy Kentner <cathykentner@gmail.com>

Update from LW CCO: Revised Initiative Petition - Approved to Form

Jay Robb <JayRob@lakewood.org>

Fri, Mar 29, 2024 at 6:50 PM

To: RHONDA PETERS <rrp@ieee.org>, Cathy Kentner <cathykentner@gmail.com>

Hello Ms. Peters and Ms. Kentner, attached is the version of the initiative petition that both parties approved yesterday afternoon (March 28, 2024).

- With the new title being set on March 28th, the 180-day deadline for submittal is September 24th, 2024.
- And as reminder, the signatures required for referendum petitions: 5,862, which can also be found in our Initiative/Referendum Packet.

I still need to double-check the timing for your submittal to be place on the November 5, 2024 General Election, but I will communicate that timeline to you next week.

Thank you both.

Sincerely,

Jay Robb, CMC

City Clerk

Office: 303-987-7081
Email: jayrob@lakewood.org

480 S. Allison Parkway

Lakewood, CO 80226



Lakewood
City Clerk's Office

From: RHONDA PETERS <rrp@ieee.org>

Sent: Friday, March 29, 2024 10:29 AM

[Quoted text hidden]



Amendments

DATE	AMENDMENT NUMBER	COMMITTEE / ACTION HEADING	STATUS	DOCUMENT
05/04/2024	L120	Second Reading	Passed**	PDF
05/04/2024	L119	Second Reading	Passed**	PDF
05/04/2024	L118	Second Reading	Passed**	PDF
05/04/2024	L116	Second Reading	Passed**	PDF
05/04/2024	L115	Second Reading	Passed**	PDF
05/04/2024	L112	Second Reading	Passed**	PDF
05/04/2024	L111	Second Reading	Passed**	PDF
05/04/2024	L108	Second Reading	Passed**	PDF
05/03/2024	L114	SEN Appropriations	Lost	PDF
05/03/2024	L113	SEN Appropriations	Passed*	PDF
05/03/2024	L106	SEN Appropriations	Passed*	PDF
05/03/2024	L105	SEN Appropriations	Passed*	PDF
05/03/2024	L104	SEN Appropriations	Passed*	PDF
04/30/2024	L107	SEN Local Government & Housing	Passed*	PDF
04/30/2024	L093	SEN Local Government & Housing	Passed*	PDF
04/30/2024	L092	SEN Local Government & Housing	Passed*	PDF
04/30/2024	L088	SEN Local Government & Housing	Passed*	PDF
04/30/2024	L091	SEN Local Government & Housing	Passed*	PDF
04/30/2024	L087	SEN Local Government & Housing	Passed*	PDF
04/30/2024	L086	SEN Local Government & Housing	Passed*	PDF
04/30/2024	L084	SEN Local Government & Housing	Passed*	PDF
04/30/2024	L079	SEN Local Government & Housing	Passed*	PDF
04/30/2024	L078	SEN Local Government & Housing	Passed*	PDF
04/30/2024	L077	SEN Local Government & Housing	Passed*	PDF
04/30/2024	L076	SEN Local Government & Housing	Passed*	PDF
04/12/2024	H.005	Committee of the Whole	Lost	PDF

HB1313_L.077

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Local Government & Housing.

HB24-1313 be amended as follows:

- 1 Amend reengrossed bill, page 20, strike lines 26 and 27 and substitute
- 2 "SECTION 24-65.1-104 (5), IS SERVED BY A WELL THAT IS NOT CONNECTED
- 3 A WATER DISTRIBUTION SYSTEM, AS DEFINED IN SECTION 25-9-102 (6), OR
- 4 IS SERVED BY A SEPTIC TANK, AS DEFINED IN SECTION 25-10-103 (18);".

- 5 Page 21, line 8, after "FABRICATION," insert "MINERAL OR GRAVEL
- 6 EXTRACTION,".

- 7 Page 21, after line 11 insert:

- 8 "(e) ANY PART OF A PARCEL THAT, AS OF JANUARY 1, 2024, IS
- 9 SUBJECT TO AN EASEMENT FOR A MAJOR ELECTRIC OR NATURAL GAS
- 10 FACILITY, AS DEFINED IN SECTION 29-20-108 (3);".

- 11 Reletter succeeding paragraphs accordingly.

- 12 Page 21, line 22, strike "FEDERAL OR STATE".

- 13 Page 21, strike line 23 and substitute "OWNED BY A FEDERAL, STATE, OR
- 14 LOCAL GOVERNMENT ENTITY;".

- 15 Page 21, strike line 26 and substitute "29-7.5-103 (2);
- 16 (I) A PARCEL THAT AS OF JANUARY 1, 2024, IS OWNED BY A
- 17 SCHOOL DISTRICT, AS DEFINED IN SECTION 22-30-103 (13); OR
- 18 (m) ANY PART OF A PARCEL'S ZONING CAPACITY WHERE
- 19 RESIDENTIAL USE IS EXPRESSLY PREVENTED OR LIMITED TO LESS THAN
- 20 FORTY DWELLING UNITS PER ACRE BY STATE REGULATION, FEDERAL
- 21 REGULATION, OR DEED RESTRICTION PURSUANT TO EITHER:
- 22 (I) FEDERAL AVIATION ADMINISTRATION RESTRICTIONS PURSUANT
- 23 TO 14 CFR PART 77; OR
- 24 (II) AN ENVIRONMENTAL COVENANT PURSUANT TO SECTION
- 25 25-15-318 TO SECTION 25-15-323.".

- 26 Page 22, line 19, after "HEIGHT." insert "NOTHING IN THIS SUBSECTION (5)
- 27 MEANS THAT, IN CALCULATING NET HOUSING DENSITY FOR AN AREA, A
- 28 LOCAL GOVERNMENT SHALL INCLUDE AN AREA REQUIRED FOR
- 29 STORMWATER DRAINAGE OR A UTILITY EASEMENT.".

- 30 Page 25, line 14, before "As" insert "(1)".

- 31 Page 25, line 18, after "REQUIREMENTS" insert "AND GOALS".

1 Page 25, after line 18 insert:

- 2 (2) THE GOALS OF THIS PART 2 ARE TO:
- 3 (a) PROVIDE BENEFITS INCLUDING REGULATED AFFORDABLE
- 4 HOUSING, ACCESSIBLE HOUSING, REGIONAL EQUITY THROUGH A BALANCE
- 5 OF JOBS AND HOUSING, IMPROVED AND EXPANDED TRANSIT SERVICE, AND
- 6 MULTIMODAL ACCESS TO DAILY NEEDS WITHIN MIXED-USE
- 7 PEDESTRIAN-ORIENTED NEIGHBORHOODS; AND
- 8 (b) INCREASE OPPORTUNITIES FOR HOUSING PRODUCTION BY
- 9 PROVIDING APPROPRIATE ZONING CAPACITY BUFFERS.
- 10 (3) NOTHING IN THIS PART 2 PREVENTS A TRANSIT-ORIENTED
- 11 COMMUNITY, OR OTHER RELEVANT ENTITY, FROM:
- 12 (a) ENFORCING INFRASTRUCTURE STANDARDS IN LOCAL LAW THAT
- 13 RESULT IN THE DENIAL OR CONDITIONING OF PERMITS OR APPROVALS FOR
- 14 SPECIFIC HOUSING PROJECTS IN A TRANSIT CENTER, INCLUDING BUT NOT
- 15 LIMITED TO UTILITIES, TRANSPORTATION, OR PUBLIC WORKS CODES OR
- 16 STANDARDS;
- 17 (b) ADOPTING GENERALLY APPLICABLE REQUIREMENTS FOR THE
- 18 PAYMENT OF IMPACT FEES OR OTHER SIMILAR DEVELOPMENT CHARGES, IN
- 19 ACCORDANCE WITH SECTION 29-20-104.5, OR THE MITIGATION OF IMPACTS
- 20 IN ACCORDANCE WITH PART 2 OF ARTICLE 20 OF THIS TITLE 29;
- 21 (c) APPROVING A DEVELOPMENT APPLICATION AT A LOWER NET
- 22 HOUSING DENSITY THAN THE MAXIMUM ALLOWED HOUSING DENSITY;
- 23 (d) ALLOWING A HIGH AMOUNT OF ZONING CAPACITY IN ONE
- 24 TRANSIT AREA, WHILE ALLOWING A VERY LOW AMOUNT OF OR NO ZONING
- 25 CAPACITY IN ANOTHER TRANSIT AREA;
- 26 (e) IMPLEMENTING DISCRETIONARY APPROVAL PROCESSES FOR
- 27 SUBDIVISIONS, REZONINGS, VARIANCES, OR OTHER PROCESSES IN TRANSIT
- 28 CENTERS OUTSIDE OF PROJECT-SPECIFIC ZONING STANDARDS;
- 29 (f) CREATING A DISCRETIONARY REVIEW PROCESS THAT MAY
- 30 APPROVE DENSITY GREATER THAN THE OBJECTIVE STANDARDS SUBJECT TO
- 31 ADMINISTRATIVE APPROVAL;
- 32 (g) CREATING A DISCRETIONARY REVIEW PROCESS IN TRANSIT
- 33 CENTERS THAT AN APPLICANT MAY OPT IN TO, INCLUDING PROCESSES SUCH
- 34 AS PLANNED UNIT DEVELOPMENTS; AND
- 35 (h) KEEPING ANY CONFIDENTIAL INFORMATION RELATED TO
- 36 WATER SUPPLIES OR FACILITIES CONFIDENTIAL."

37 Page 26, line 15, strike "AREAS" and substitute "AREAS, AS DEFINED IN
38 THE TRANSIT AREAS MAP CREATED PURSUANT TO SECTION 29-35-208 (1),".

39 Page 37, line 2, after "AREA." insert "AS PART OF THE GUIDANCE THE

1 DEPARTMENT DEVELOPS PURSUANT TO SECTION 29-35-208 (5), THE
2 DEPARTMENT SHALL PROVIDE LOCAL GOVERNMENTS WITH SIMPLE AND
3 EFFECTIVE METHODS OF CALCULATING NET HOUSING DENSITY."

4 Page 37, line 4, strike "INCORPORATE ANY" and substitute "REFLECT ANY
5 SIGNIFICANT".

6 Page 37, line 9, strike "HEIGHT;" and substitute "HEIGHT. WHERE A
7 DIMENSIONAL RESTRICTION HAS MULTIPLE POTENTIAL OUTCOMES WITHIN
8 THE SAME ZONING DISTRICT OR WITHIN RELATED ZONING DISTRICTS, THE
9 AVERAGE OUTCOME OF THE DIMENSIONAL RESTRICTION MAY BE UTILIZED
10 BY THE TRANSIT-ORIENTED COMMUNITY TO MEASURE NET HOUSING
11 DENSITY."

12 Page 37, line 11, strike "SEVEN-TENTHS OF PARKING SPACES" and
13 substitute "THREE-FOURTHS OF A PARKING SPACE".

14 Page 37, line 13, strike "AND".

15 Page 37, after line 19 insert:

16 "(IV) NOTHING IN THIS SUBSECTION (1)(b) REQUIRES A LOCAL
17 GOVERNMENT TO INCLUDE AREAS FOR STORMWATER DRAINAGE OR
18 UTILITY EASEMENTS IN CALCULATING NET HOUSING DENSITY; AND

19 (V) IF A PARCEL'S EXISTING RESIDENTIAL USES HAVE A HIGHER NET
20 HOUSING DENSITY THAN THE NET HOUSING DENSITY ALLOWED FOR THE
21 PARCEL BY CURRENT RESTRICTIONS IN LOCAL LAW, THE NET HOUSING
22 DENSITY OF THE EXISTING RESIDENTIAL USE MAY BE COUNTED;"

23 Page 38, strike lines 4 through 7 and substitute:

24 "(e) ENSURE THAT THE AREA OF A TRANSIT CENTER IS COMPOSED
25 OF PARCELS THAT ARE LOCATED WHOLLY OR PARTIALLY WITHIN EITHER:

- 26 (I) A TRANSIT AREA OR OPTIONAL TRANSIT AREA; OR
- 27 (II) ONE-QUARTER MILE FROM THE BOUNDARY OF A TRANSIT AREA
28 OR OPTIONAL TRANSIT AREA."

29 Page 38, line 8, after "(2)" insert "(a)".

30 Page 38, line 9, after "MAY" insert "ONLY".

31 Page 38, strike lines 10 through 27.

1 Page 39, strike lines 1 through 16 and substitute:

2 "CENTER WITHIN AN OPTIONAL TRANSIT AREA AS DESCRIBED IN SECTION
3 29-35-208 (4), IF THE TRANSIT-ORIENTED COMMUNITY HAS PROVIDED
4 REASONABLE EVIDENCE IN THE HOUSING OPPORTUNITY GOAL REPORT
5 SUBMITTED PURSUANT TO SECTION 29-35-204 (8) THAT:

6 (I) TO THE MAXIMUM EXTENT FEASIBLE, AN AVERAGE NET
7 HOUSING DENSITY OF AT LEAST FORTY DWELLING UNITS PER ACRE IS
8 ALLOWED ON ALL PARCELS WITHIN THE TRANSIT AREA THAT ARE BOTH
9 ONE-HALF ACRE OR MORE IN SIZE AND NOT EXEMPT PARCELS; AND

10 (II) AREAS WITHIN THE OPTIONAL TRANSIT AREA HAVE FEWER
11 BARRIERS TO HOUSING DEVELOPMENT THAN AREAS WITHIN THE TRANSIT
12 AREA.

13 (b) FOR PURPOSES OF SUBSECTION (2)(a)(II) OF THIS SECTION,
14 BARRIERS TO HOUSING DEVELOPMENT MAY INCLUDE:

15 (I) AN ANTICIPATED LACK OF WATER SUPPLY, AFTER ACCOUNTING
16 FOR A REASONABLE ZONING CAPACITY BUFFER;

17 (II) AN ANTICIPATED LACK OF SUFFICIENT FUTURE
18 INFRASTRUCTURE CAPACITY, INCLUDING WATER TREATMENT PLANTS,
19 WASTEWATER TREATMENT PLANTS, OR ELECTRICAL POWER NETWORKS IN
20 THE AREA, AFTER ACCOUNTING FOR A REASONABLE ZONING CAPACITY
21 BUFFER;

22 (III) FACTORS WHICH CONTRIBUTE TO A HIGH COST OF HOUSING
23 DEVELOPMENT; OR

24 (IV) SITES THAT ARE INFEASIBLE FOR HOUSING DEVELOPMENT."

25 Page 44, strike line 9 and substitute:

26 "(h) ENACTING LOCAL LAWS THAT SUPPORT HOUSING FOR
27 FAMILIES, SUCH AS INCENTIVIZING CONSTRUCTION OF HOUSING UNITS WITH
28 MULTIPLE BEDROOMS; AND".

29 Reletter succeeding paragraph.

30 Page 56, after line 9 insert:

31 "SECTION 3. In Colorado Revised Statutes, 29-20-203, amend
32 (1); and add (1.5) as follows:

33 29-20-203. **Conditions on land-use approvals.** (1) In imposing
34 conditions upon the granting of land-use approvals, no local government
35 shall require an owner of private property to dedicate real property to the
36 public, or pay money or provide services to a public entity in an amount
37 that is determined on an individual and discretionary basis OR ON THE

1 BASIS OF A LEGISLATIVELY ADOPTED FORMULA OR CALCULATION, unless
2 there is an essential nexus between the dedication or payment and a
3 legitimate local government interest, and the dedication or payment is
4 roughly proportional both in nature and extent to the impact of the
5 proposed use or development of such property. This section shall not
6 apply to any legislatively formulated assessment, fee, or charge that is
7 imposed on a broad class of property owners by a local government.

8 (1.5) WHEN REQUIRING AN OWNER OF PRIVATE PROPERTY TO
9 DEDICATE REAL PROPERTY TO THE PUBLIC, IF THE SUBJECT PROPERTY DOES
10 NOT MEET LOCAL GOVERNMENT STANDARDS FOR DEDICATION AS
11 DETERMINED BY THE LOCAL GOVERNMENT, INCLUDING DEDICATION TO
12 THE PARKS, TRAILS, OR OPEN SPACE SYSTEMS, A LOCAL GOVERNMENT
13 SHALL PROVIDE THE PRIVATE PROPERTY OWNER THE OPTION OF PAYING A
14 FEE IN LIEU OF DEDICATION."

15 Renumber succeeding sections accordingly.

16 Page 70, after line 8 insert:

17 "SECTION 9. In Colorado Revised Statutes, 43-1-1103, add
18 (5.5) as follows:

19 43-1-1103. **Transportation planning.** (5.5) THE DEPARTMENT OF
20 TRANSPORTATION SHALL CONDUCT A STUDY THAT IDENTIFIES:

21 (a) POLICY BARRIERS AND OPPORTUNITIES WITHIN THE
22 DEPARTMENT THAT INCLUDES AN EXAMINATION OF POLICIES WITHIN THE
23 STATE ACCESS CODE, ROADWAY DESIGN STANDARDS, AND THE
24 TREATMENT OF PEDESTRIAN AND BICYCLE CROSSINGS. THE STUDY SHALL
25 EXAMINE THE IMPACT OF THESE POLICIES ON NEIGHBORHOOD CENTERS
26 AND TRANSIT CENTERS, INCLUDING THE IMPACT ON HOUSING PRODUCTION,
27 THE IMPLEMENTATION OF CONTEXT-SENSITIVE DESIGN, COMPLETE
28 STREETS, AND PEDESTRIAN-BICYCLE SAFETY MEASURES; AND

29 (b) THE PORTIONS OF STATE HIGHWAY THAT PASS THROUGH
30 LOCALLY-IDENTIFIED TRANSIT CENTERS AND NEIGHBORHOOD CENTERS
31 THAT ARE APPROPRIATE FOR CONTEXT-SENSITIVE DESIGN, COMPLETE
32 STREETS AS DEFINED IN THE "INFRASTRUCTURE INVESTMENT AND JOBS
33 ACT", PUB.L. 117-5, AND PEDESTRIAN-BICYCLE SAFETY MEASURES."

34 Renumber the succeeding section accordingly.

** *** ** *** **

17.2.5: Variances

17.2.5.1: Applicability

This Section establishes the procedures and criteria for requesting a variance to a dimensional standard in Article 5, 6, 7, 8, 9, and 10 of this Zoning Ordinance or to a similar standard contained in an official development plan due to an extraordinary or exceptional situation or condition. No variance may be requested from the Use and Supplemental Standards provided for in Article 4 of this Zoning Ordinance.

17.2.5.2: Types of Variances

A. Major Variance

Except as otherwise noted below, a major variance shall apply when a variation of 20 percent or more to dimensional standard is proposed.

B. Minor Variance

A minor variance shall apply to the following:

1. When a variation of less than 20 percent to a dimensional standard is proposed; or
2. When an increase in height of a side or rear yard fence is proposed; or
3. To any design standard.

17.2.5.3: Review Criteria

Recommendations and decisions regarding variance applications shall be based on the following review criteria. Applications for variances shall be approved if it is demonstrated that:

- A. By reason of exceptional narrowness, shallowness or shape of a specific piece of property, topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of the regulation would result in peculiar and undue practical difficulties for, or peculiar and unnecessary hardship on, the owner of the property; and
- B. The extraordinary and exceptional situation or condition on the property that is stated as the reason for the proposed variance is not self-imposed; and
- C. The proposed variance complies with the purpose and intent of the standard to be varied and generally observes the spirit of the Zoning Ordinance; and
- D. The proposed variance will not substantially impair the appropriate use or development of adjacent property; and
- E. The proposed variance is the minimum variance that will afford relief with the least modification possible of this Zoning Ordinance; and
- F. The proposed variance is the minimum variance that will afford relief if a design

- e. Any decision of the Board of Adjustment on review of an appeal to a minor variance shall include reasons for affirming, modifying or reversing the Director's decision.

17.2.6: Waivers

17.2.6.1: Applicability

This Section establishes the procedures and criteria for requesting a waiver to a dimensional, development, design, or sign standard in Articles 5, 6, 7, 8, 9, or 10 of this Zoning Ordinance or to a similar standard contained in an official development plan when a request for a superior design or development standard is proposed. No waiver may be requested from the Use and Supplemental Standards provided for in Article 4 of this Zoning Ordinance. An applicant shall submit an application for a waiver in conjunction with the review of a site plan or a zoning review.

17.2.6.2: Types of Waivers

A. Major Waiver

A major waiver shall apply when a proposed alternative to a dimensional standard varies the standard by more than 20 percent.

B. Minor Waiver

A minor waiver shall apply to the following:

1. When a proposed alternative to a dimensional standard varies the standard by 20 percent or less; or
2. When an increase of up to 2 feet in the height of a side or rear yard fence is proposed; or
3. To any design standard.

17.2.6.3: Review Criteria

Recommendations and decisions regarding waiver applications shall be based on the following review criteria. Applications for waivers shall be approved if it is demonstrated that:

- A. The waiver will result in a superior development or design than if the strict application of this Zoning Ordinance is applied; and
- B. The waiver will better serve the intent of the zone district in which the property is located; and
- C. The waiver will not substantially impair the appropriate use or development of adjacent property; and
- D. The waiver will not alter the character of the neighborhood or area where the project is proposed; and



January 9, 2025

Tyler Sibley
Kairoi Residential
711 Navarro Street
San Antonio, TX 78205

**RE: Case # SP22-0010 & LA22-0002 – 777 S Yarrow St
Major Site Plan & LLA Plat for a multifamily development**

Dear Mr. Sibley:

The Development Assistance Team has reviewed the fifth submittal for the proposed development at 777 S Yarrow Street and we have the following comments.

General Comments

1. Engineering comments from the fourth review have been uploaded to eTRAKiT. Revised civil plans, reports, and documents were not included with the fifth MSP and Plat resubmittal. If you have specific questions regarding the engineering plan review comments, please contact Ken Hargrave, City Review Engineer, at 303-987-7906 or kenhar@lakewood.org.
2. Please refer to the original referral review letter from Xcel Energy and prepare a short, written summary response stating how these comments have been resolved or provide an updated letter from Xcel clarifying that the initial easement comment is no longer applicable.
3. (REMINDER) Any physical changes made to the engineering plans must be reflected on the site plan set and those changes made to the site plan set must be reflected in the engineering plans. Please note that there are comments included in the redlines that are not referenced in this letter.
4. The Site Plan and Minor Waiver Application are being referred to the Planning Commission for a decision. Please continue to address all redlines and comments. A new hearing date will be selected once all comments have been addressed and all required documents have been received by City Staff.
5. (REMINDER) Coordination with city staff on scheduled city events throughout the construction phase is desired. Please continue to include Brad Chronowski, brachr@lakewood.org, 303-987-7805 on any pre-construction and scheduling meetings with the project GC and development assistance staff.

Plat Comments

6. **Warranty Deed:** Thank you for returning the wet-signed SWD. Staff will hold onto this while the MSP is referred to the Planning Commission for a decision. You may log into eTRAKiT and pay the \$28 recording fee added to LA22-0002 (\$13 for the 1st sheet & \$10 for each additional sheet).
7. **Private Easements:** (REMINDER) The two fully executed (but unrecorded) Bancroft-Clover water easement documents to vacate the existing easement and create the new easement shall be submitted following the approval by the District's Board of Directors. The documents and recording fees will be held by city staff (with the signed plat mylars) and will be recorded sequentially with the plat after the Planning Commission renders a decision on the major site plan. The applicant should be aware that the existing building must be demolished and the watermain disconnected before these easements and the plat can be recorded. The recording fee for each document will be based on the number of pages (\$13 for the 1st page + \$5 for each additional page).

8. **Plat Mylars:** All plat comments have been addressed and the plat may be printed to mylar. All non-city signatures shall be completed in permanent ink. The signed plat mylars and recording fees shall be submitted before the site plan hearing date will be scheduled. You may log into eTRAKiT and pay the \$43 recording fee added to LA22-0002 (\$13 for the 1st sheet & \$10 for each additional sheet).
9. **PIA:** Please continue to work with Lakewood Engineering on the Public Improvements Agreement. The final draft will need to be fully executed and returned prior to the public hearing and will be recorded sequentially with the plat. Applicable recording fees will be added in eTRAKiT to SP22-0010 once a final page count is determined (\$13 for the 1st page + \$5 for each additional page).

Site Plan Comments

10. **Waiver Request:** The minor waiver request needs to be revised to address all of the encroachments into the required building façade stepback. The stepback is based on the finished grade elevation at the public right of way, which ranges from 5522 feet to 5528 feet in elevation. The exhibit included with the waiver application is based on the highest grade at the ROW, where floors 1-4 are within the 45-foot height limit; however, it does not accurately reflect the fourth and fifth story encroachments that occur where the elevation at the right of way is lower. The attached elevation and floor plans identify these additional areas that need to be included in the request and addressed in the written response to the criteria (as needed).
11. **Unit Address Exhibit:** (REPEAT COMMENT) Please update the addressing exhibit to reflect the current floor plans in the building permit plan set. Refer to attached redlines for discrepancy.
12. **Tree Protection & Mitigation:** The tree mitigation fee (to be paid prior to site plan approval) is \$415,200. Please submit a check made out to City of Lakewood, which will be held until the Planning Commission renders a decision on the MSP.
13. **Enhanced Development Menu:** Refer to redlines for comments on the revised menu options. Please contact Catlin Long in the Sustainability Division at cailon@lakewood.org for questions related to the EDM requirements.
14. **Fire & Life Safety Plan:** (REPEAT COMMENT) West Metro Fire Protection District did not provide redlines or comments on the FLSP provided with this submittal. The applicant will need to continue working directly with West Metro to secure FLSP approval prior to the next submittal.
15. **School Dedication:** (REMINDER) In lieu of dedicating land, Jefferson County Schools has asked for fees in-lieu. Currently, the fees are \$800 per multifamily residential unit. With 411 proposed units, the total will be \$328,800. School land fees shall be paid prior to issue of any building permits.
16. **Parkland Dedication:** (REMINDER) Pursuant to O-2024-28, a fee payment in lieu of land dedication is no longer permitted. Based on the current proposal, the following land dedication is required under the current ordinance.

411 units x 1.5 persons per unit x 10.5 acres parkland per 1,000 persons = 6.47 AC

(INFO ONLY / TRACKING) Pursuant to the requirements under the prior ordinance (O-2018-4) and the 2024 Community Resources Park Land Dedication Policy, the previously stated fee-in-lieu of land dedication increased.

- As of June 1, 2024, the \$2,100 per unit fee was increased to reflect the new fair market value of \$432,727 per acre (up from \$254,545 per acre) The revised value equates to \$3,570 per multifamily unit, with a total fee of \$1,467,270 (up from the original fee-in-lieu number of \$863,100).

- Per O-2018-4, all land dedications, and/ or fee requirements in lieu of land dedications, for subdivisions and other residential development shall be met at the time of platting or, if platting is not required, at time of site plan approval. The Director may delay the collection of fees to the time of building permit issuance. The amount of the fee to be paid shall be the fee in effect at the time payment is made (LMC §14.16.070).

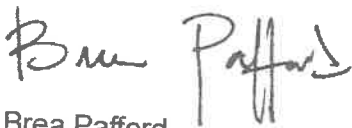
Next Steps:

The Development Assistance Team is available to answer any questions or provide clarifications to the comments and redlines. After your project team has reviewed this information, please reach out to me if there are any questions or clarifications.

Please upload all revised documents to the project case files at www.lakewood.org/eTRAKiInfo. The following items need to be included in the next submittal:

1. PDF files of all revised plans and documents
2. Updated letter from Xcel regarding initial dry utility easement comment
3. Wet-signed Bancroft-Clover Water Easement docs (2)
4. Owner signed/executed PIA (electronically signed)
5. Wet-signed plat mylars
6. WMFPD Approved Fire & Life Safety Plan
7. Tree Mitigation Fee Check

Sincerely,



Brea Pafford,
Project Manager

Encl: Redlines (3)
Xcel Energy Letter
Waiver Graphics

cc: Case File # SP22-0010 & LA22-0002
Paul Rice, Manager – SCD Development Review
Shawn DeJong, Engineering Coordinator – Development Assistance
Ken Hargrave, Project Engineer – Development Assistance
Toni Bishop – Transportation Engineering
Ross Williams – Community Resources
Brad Chronowski – Community Resources
Caitlin Long – Sustainability Division

Motor Vehicle Rental: A retail establishment where vehicles are rented to the general public for a specific period of time.

Motor Vehicle Sales:

With indoor display and storage: A retail establishment where vehicles are sold to the general public, which may include office space, vehicle repair facilities, facilities for body work, painting, restoration and retail sales of parts and in which all display and storage of available vehicles takes place within an enclosed structure.

With outdoor display and storage: A retail establishment where vehicles are sold to the general public, which may include office space, vehicle repair facilities, facilities for body work, painting, restoration, retail sales of parts, and in which some or all of the available vehicles are displayed or stored on parking lots or other outdoor areas.

Motor Vehicle Service:

Car Wash: A facility for the washing, waxing, vacuuming and interior steam cleaning of motor vehicles, not including commercial fleets, heavy trucks and buses.

Fueling Station: A retail establishment at which vehicles are serviced, especially with fuel, oil, air and water, and where ancillary repair, maintenance or replacement of electrical or mechanical devices may be obtained. A fueling station does not include any facility meeting the definition of a major or minor facility below or any electric vehicle charging stations accessory to a primary use.

Major: General repair or reconditioning of engines, air-conditioning systems, and transmissions for automobiles and commercial vehicles, wrecker/tow service; collision services including body, frame or fender straightening or repair, customizing, painting; undercoating and rust proofing; and including those uses listed under minor auto repair or any other similar use.

Minor: Minor repair or replacement of parts, tires, tubes, and batteries; diagnostic services; minor motor services such as changing grease, oil, spark plug, and filter changing; tune-ups; emergency road service; replacement of starters, alternators, hoses, brake parts; performing state inspections and making minor repairs necessary to pass inspection; normal servicing of air conditioning systems; and other such similar minor services for automobiles, but not including any operations or uses listed under major auto repair or any other similar use.

Multifamily: Three or more dwelling units in one structure with a common entrance, common facilities, or other unifying amenities or features.

Neighborhood Organization: An organization which is registered on an annual basis with the Department for the purpose of land development application notification.

Noncommercial Speech: Speech that does not meet the definition of commercial speech.

Nonconforming Building or Structure: See Building or Structure, Nonconforming.

Nonconforming Fence: See Fence, Nonconforming.

Property Information

Home / Owner / **Property Information**

Exhibit 22

Property Information

Sales

History

[Help](#)

Property Information

PIN/Schedule

300069505

Owners

BELMAR OWNER LLC

AIN/Parcel ID

49-142-03-001

Property Address

777 S YARROW ST
LAKEWOOD, CO 80226

Property Class

2220 Offices

Mailing Address

711 NAVARRO ST 400
SAN ANTONIO, TX 78205

Address and Political

Address Information



[Help](#)

Legal Description

Subdivision

380000 IRONGATE EXECUTIVE PLAZA SUB

Parcel Maps

[View Parcel Maps](#)

Interactive Map

[Aspin](#)

Interactive Map

[jMap](#)

Block	Lot	Tract	Section	Township	Range	QSection	Land SQFT	Land Acres
	0002		14	04	69	NW	227,993.04	5.234

CAUTION: The above legal description is incomplete and for internal purposes only. DO NOT USE THE ABOVE LEGAL DESCRIPTION FOR DEEDS and other legal conveyances.

[Help](#)

Sale History



Department of Community Resources

480 South Allison Parkway
Civic Center South
Lakewood, Colorado 80226-3127
(303) 987-7800 Fax (303) 987-7821
TDD (303) 987-7599

Tyler Sibley
Principal
Kairoi Residential

Mr. Sibley,

Thank you for participating in the facilitated discussion on December 6, 2023, with Kairoi, Lakewood, and the Belmar Commons HOA. Based on discussions at, and following, that meeting the City has made determinations about how we will expend the fees in lieu that are due to the City from both the Park Dedication and the Tree Replacements from the Kairoi development at 777 S. Yarrow Street.

Lakewood will use the fees associated with tree replacement as follows:

- Plant approximately 25 deciduous trees in the existing irrigated bluegrass turf areas in Belmar Park as generally depicted in the locations outlined in attached map.
- Plant the remainder of the replacement trees associated with Kairoi's fee payment in Ward 3 at the parks depicted in the locations outlined in attached map which include Addenbrooke Park, Bonfils Station Park, Lakewood Link Recreation Center, South Sheridan Field Park, Lasley Park and the Lakewood Estates Park. These trees will be installed within two years following the City receiving the fee payment from Kairoi.

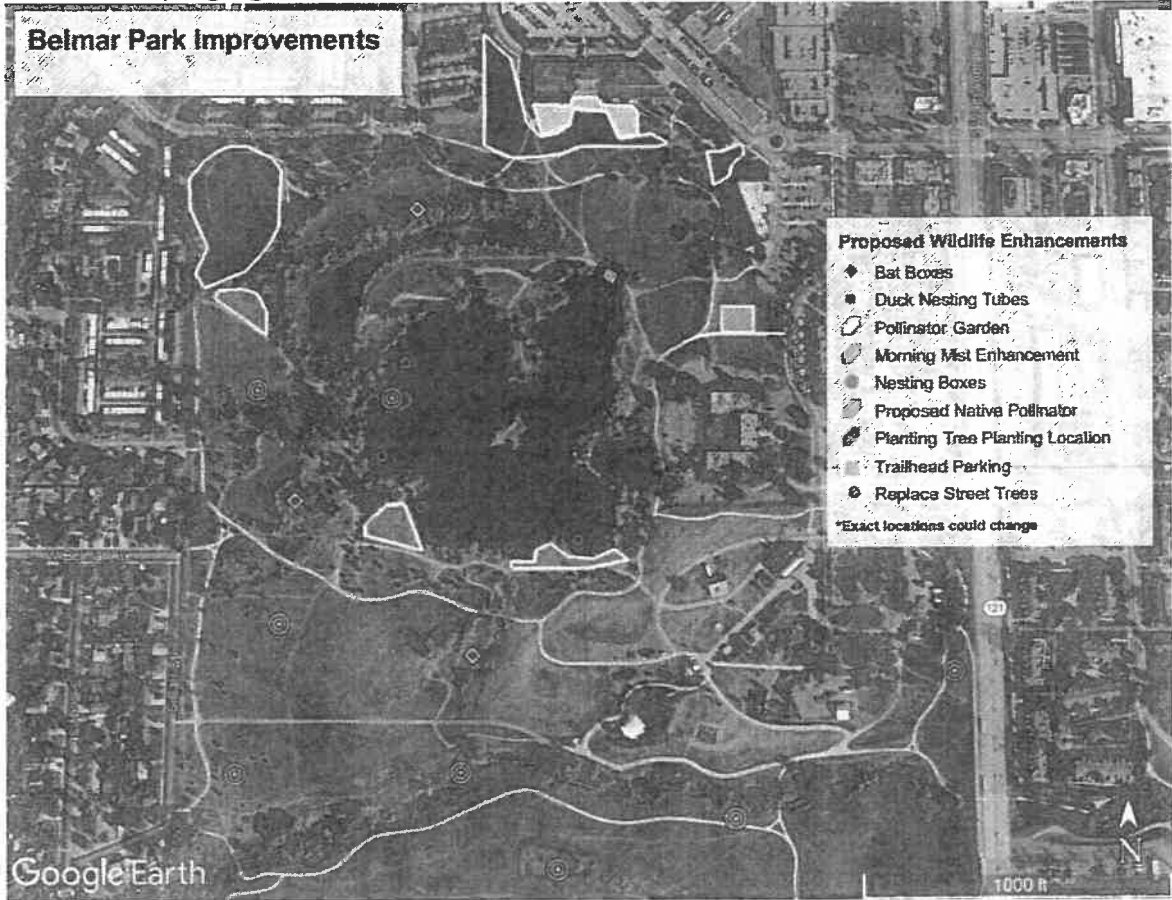
Lakewood will use the fees associated with park dedication as follows:

- Install a sizeable pollinator garden within the Park that's approximately 0.25 acres in size and generally located as depicted in Exhibit A in efforts to further enhance the bird, animal, insect and larval host environment within the Park. The pollinator garden will be installed within two years following the City receiving the fee payment from Kairoi.
- Install multiple bird nesting boxes within the Park in the areas generally depicted in attached map in efforts to further enhance the bird nesting environment within the Park. Bird nesting boxes will be installed throughout the 2024 calendar year.
- Make improvements to the Morning Mist sculpture in the Park including benches and hardscape improvements that will be designed to enhance the bird watching experience at the Park. The Morning Mist sculpture improvements will be installed within three years following the City receiving the fee payment from Kairoi.

Alternative formats of this document available upon request.

- Build a new trailhead parking lot within the northeastern open space area at Belmar Park, directly adjacent to the Library.

Attached map highlights areas for the discussed improvements.



Kind regards,

Kit Newland
Director of Community Resources

Exhibit 24

<  ZP-21-009 777 S Yarrow St.pdf

Exhibit

From: Ross Williams
 To: Matthew Frost
 Cc: Amber Till: Ross Williams
 Subject: ZP-21-009 777 S Yarrow St
 Date: Monday, March 1, 2021 5:04:07 PM
 Attachment: [image icon]

The Department of Community Resources has reviewed the proposed apartment development (Ka roi Belmar Park) and has the following comments.

1. The site plan will trigger the City Parkland dedication requirements of O-2018-4
2. The City does desire land in this location (A majority on the West side, with some on the North and South Sides). Land dedication will be required prior to or at the time of building permit.
 - 458 new units x 1.5 persons per unit x 5.5 acres of parkland per 1000 persons = 3.78 acres of parkland to be dedicated
 - 419 new units x 1.5 persons per unit x 5.5 acres of parkland per 1000 persons = 3.46 acres of parkland to be dedicated
 Knowing this equates to a majority of the property, the number of units will dictate the dedication requirements.
3. The site houses many artifacts from the Historic Belmar Mansion that should be preserved or documented (fountain base, Iron Gates, Boathouse/pump house, pool and mechanical room. Iron gates and Boat House should be kept in their original location.
4. The development needs to respect the existing easement to protect the pump house and park trail in the SW corner of the site (Easement Rec#86020161).
5. Note on site plans needs to designate how Park Dedication requirements will be satisfied.

Ross Williams
 FACILITIES PLANNER
 PLANNING AND CONSTRUCTION



Exhibit 25

Exhibit 25



Planning Department

Civic Center North
470 South Allison Parkway
Lakewood, Colorado 80228-3127
303.987.7505
303.987.7057 TTY/TDD
Lakewood.org/Planning

April 2, 2021

Meaghan Turner
Kimley-Horn and Associates
1125 17th Street, Suite 1400
Denver, CO 80202

Re: Case # ZP-21-009 - Preplanning Application for a 458-unit multifamily residential building at 777 S. Yarrow St. in Lakewood, CO.

Dear Ms. Turner:

Thank you for submitting a Preplanning Application with the City of Lakewood. The purpose of the preplanning process is to allow City staff the opportunity to provide preliminary feedback regarding the development proposal at an early stage in the design process. City staff has reviewed the materials that were submitted with your application and this comment letter is provided to identify the items that must be addressed prior to any formal application.

Your preliminary proposal is to construct a 490,473 GSF multifamily residential building consisting of 458 for-rent units or; a 449,319 GSF multifamily residential building consisting of 419 for-rent units. The property is zoned Mixed Use – Core – Urban (M-C-U) and allows multifamily as a permitted use pursuant to Article 4 of the [Lakewood Zoning Ordinance](#). Additional zoning information can be found at <http://www.lakewoodcolorado.org>.

While it is your responsibility to understand the zoning standards that apply to this project, staff is available to answer any questions you may have. A summary of the major planning and engineering related issues that may impact this project are provided below.

General Comments

1. **Overview:** Staff is generally supportive of the proposed use and site layout if all zoning and development standards are satisfied.
2. **Residential Growth Ordinance:** On July 2, 2019, City of Lakewood residents voted to adopt a Residential Growth Limitation Ordinance (RGLO). The ordinance creates an annual cap on the number of residential building permits that the City may issue in a calendar year, unless otherwise exempted by the ordinance. Pursuant to Section 14.27.020 of the Lakewood Municipal Code, residential allocations must be secured for any newly proposed dwelling unit prior to the issuance of building permits. The subject property is located in the West Alameda Corridor Reinvestment Area and as such, is exempt from the requirements of the ordinance. Residential allocations will not be required as part of this proposal.
3. **Process:** A Major Site Plan is required to develop a multifamily residential building on the subject site. The Major Site Plan will include site layout, landscaping, site details, building elevations and a photometric plan. Additionally, a Subdivision application is required for vacation of right-of-way (see comment #29). Requirements and further information on the submittal process are provided in the Next Steps section below.



Ex. 25 p. 2

4. **Review Standards:** The Major Site Plan will be reviewed against applicable standards in the Lakewood Zoning Ordinance. Articles 4, 5, 6, 7, & 8 will be the primary Sections utilized by planning staff for the review. If the development is single-use residential, Article 6 standards will apply; a mixed-use proposal will utilize the standards listed in Article 7. The Zoning Ordinance is available [here](#). Please find attached the Major Site Plan Guidelines Checklist for guidance while preparing your formal submittal.

The construction plans and associated documentation will be reviewed for compliance with the latest revision of the City of Lakewood Engineering Design Regulations, Construction Specifications and Design Standards, including the Transportation Engineering Standards and the Storm Drainage Criteria Manual. Copies of these documents are available on our website at <http://www.lakewoodcolorado.gov/standards>.

5. **Outside Agency Standards:** Please contact all outside agencies and service providers including: West Metro Fire Protection District, Consolidated Mutual Water Company, Bancroft-Clover Water and Sanitation District, Xcel Energy, Century Link, and Comcast Cable to ensure your project can meet the standards that are applicable to the proposed development prior to submitting formal applications.

6. **Park Land Dedication:** In accordance with Section 14.6.040 of the Lakewood Municipal Code, parkland dedication is required for all new residential developments in the City of Lakewood.

- The City will utilize the above-mentioned provision and request land dedication at this location.

- Option 1A: 458 units x 1.5 persons per unit x 5.5 acres of parkland per 1000 persons = 3.78 acres of required parkland dedication.

- Option 1B: 419 units x 1.5 persons per unit x 5.5 acres of parkland per 1000 persons = 3.46 acres of required parkland dedication.

- Staff recognizes that this dedication request encompasses the majority of the site. The listed formula will be utilized to calculate the parkland dedication requirements if an alternate number of units is proposed.

- Community Resources may offset a portion of the land dedication request with other improvements or mitigation measures. Please contact Ross Williams at ross@lakewood.org or 303-987-7814 to discuss.

- An existing easement present in the southwest portion of the site (REC #86020161) includes a public path, landscaping, and pumphouse. Please acknowledge and ensure that development proposals do not conflict with existing assets. The existing concepts show that the building footprint conflicts with this easement.

- The site is home to many elements of the Historic Belmar Mansion including the fountain base, iron gates, boathouse/pumphouse, pool and mechanical room. The elements should be preserved and/or documented to the greatest extent possible. See additional comments below.

- The area dedicated for parkland, when determined, will need to be surveyed and a legal description and exhibit map submitted at some point during the formal site plan process. Once received, a warranty deed will be prepared by the planning department and signed by the owner, which will then be recorded by Jefferson County.

Design should incorporate indigenous and low-water plants and employ water-conserving irrigation techniques and systems.

22. Existing Tree Preservation: Per Section 17.6.5.8 or 17.7.7.7, a site inventory will need to be prepared consisting of existing trees that are greater than 8 inches in diameter as measured 1-foot above grade that will need to be preserved on the site. Removal of any protected trees will need to be approved by the Director. Please set up a meeting with me to walk the site and determine whether any protected trees are present.

23. Tree Replacement: Trees that are determined to not meet the preservation requirement may be removed in accordance with Section 17.6.5.8.C or 17.7.7.C, though all removed trees must be replaced at a rate of 100 percent of the total caliper (diameter) of trees removed from the site (17.6.5.9 or 17.7.7.8).

24. Exterior Lighting: A photometric plan is required. Please include a cut sheet providing light fixture specifications and ensure compliance with Section 17.7.9.

25. Enhanced Development Menu (EDM): Proposed developments with a gross floor area greater than 50,000 square feet must earn a minimum of 50 points from the EDM found in Article 13. See comment #35 and refer to <mailto:kenhar@lakewood.org>. See comment #34.

26. Required Public Improvements: At a minimum, the development will be required to construct the following public improvements along the full extents of the project:

- South Yarrow Street - This project will be required to construct curb, gutter and an 8-foot wide detached sidewalk adjacent to the site in accordance with City of Lakewood Engineering Regulations and Design Standards. The existing access point at the center of the site will need to be removed and replaced with curb, gutter and 8-foot wide detached walk. A slight meander to the walk will be acceptable if needed to avoid the existing trees and preserve historic assets.
- Off-site improvements may be required due to increased traffic from the site. A traffic study is required and the should be completed and submitted as soon as possible. This will ensure that staff can determine whether any additional improvements will be required prior to the formal submittal.
- The extent of required asphalt improvements will be based on the existing conditions of the roadway. The project engineer will need to contact the City's review engineer, Ken Hargrave at kenhar@lakewood.org, for detailed information on required improvements.

27. Site Access: The southern-most site access point is acceptable as shown. The northern-most site access point shall be required to align with the opposing access to the east. All accesses must be a minimum of 24 feet wide.

28. Sight Triangles: The sight triangles must be depicted on the Major Site Plan and construction plans. Sight triangles shall be depicted on both sides of both access points regardless of traffic direction or presence of a median. The sight triangles from the site access points to South Yarrow Street shall be 25 feet. Additionally, a 10-foot pedestrian sight triangle is required at the intersection of all detached sidewalks or paths.

29. Required Right-of-Way/Easement Dedications/Vacations: If the required improvements do not align with the existing right-of-way width and/or easements, right-of-way shall be dedicated to the back of proposed curb and gutter. Additionally, a pedestrian, utility, traffic control devices (PUTCD) easement shall be dedicated to a minimum distance of two feet beyond the back of the proposed

A list of the current building codes and amendments can be found on the City of Lakewood website <https://www.lakewood.org/Government/Departments/Public-Works>.

10. What exterior/building signage standards will apply to this project?

See Article 9 of the Zoning Ordinance and refer to the M-C zone district standards.

11. Where can we find information regarding residential unit balcony standards and requirements for this project?

Please refer to Article 5 and Article 6 or 7 of the Zoning Ordinance for design guidelines and encroachment allowances.

12. Where can we find information regarding trash and recycling standards and requirements for this project?

See comments #17 and #18.

13. Can City of Lakewood Planning confirm that the Bulk Plane for Residential-zoned parcels does not apply to this site given the Public Use distinction of Belmar Park?

The referenced provision applies when a multifamily building is constructed adjacent to residential districts where a single-family or duplex structure exists. Due to no single-family or duplex use on the adjacent properties, this is not a requirement.

14. Where can we find information regarding bike parking requirements for this project?

See Article 8, Sec. 17.8.4 of the Zoning Ordinance.

15. As part of the open space calculations, where can we find information and standards on what constitutes an all-residential building vs. a non-all-residential use building?

See comment #13.

16. What information can the City team provide us on the history of the site? The developer and the design team appreciate as much of this information as possible, so they can work on honoring and/or incorporating elements of this history into the project.

See comment #35.

17. Can you please confirm, as we understand, that the property is designated as "blighted" pursuant to the Urban Renewal Law and is included in the West Alameda Corridor Reinvestment Area established by the Lakewood Reinvestment Authority and adopted by City Council in 1998 (and further amended in 2000)? Based on such inclusion, can you also please confirm that the Residential Growth Limitation Ordinance does not apply to the property or project, does not limit the number of residential dwelling units that may be constructed as part of the project and does not require the project to apply for or secure allocations?

Exhibit 26

Exhibit 26

From savebelmar.org:

ABOUT US

Save Belmar Park Inc. is a registered 501(c)(3) nonprofit based in Lakewood, Colorado. All donations are tax-deductible. Our cause focuses on protecting the diverse wildlife of Belmar Park and ensuring a sustainable, harmonious environment for future generations.

Exhibit 27

Meeting Date and Time: 12/6/2023 9:00 AM to 12:00 PM

NOTES FROM FACILITATION MEETING

Attendees: (1) Belmar Commons Homeowners Association, through two board and 1 community committee member; (2) Kairoi Residential, via two principal owners; and (3) City of Lakewood Planning and Community Resources Departments.

Facilitator: Wes P. Wollenweber of WF Legal, Lakewood, Attorney, Mediator, and Arbitrator

Notetaker (City of Lakewood)

- The facilitator gave a brief welcome, and everyone present gave introductions
- The facilitator spoke about the difference between facilitation and mediation
 - Facilitations are not confidential
 - For this facilitation meeting, notes will be taken and made public
 - Mediations are highly confidential under CDRA (Colorado Conflict Dispute Resolution statute)
- The facilitator spoke about the structure and goals of the meeting
 - Some issues can be agreed on, while some probably cannot be mutually resolved considering the advance nature of Kairoi's design and permitting status.
 - Focus on identifying and more deeply understanding the issues of concern
 - Engage in communication and collaboration with one another
- The group discussed the note-taking process
 - Importance of getting the notes out quickly with the mutual goal of finalizing and publishing the meeting minutes within 2 weeks of the meeting (December 20, 2023).
 - All participants will have a chance to review notes to verify accuracy and completeness while addressing the salient topics of discussion.
 - Notes will then be made publically available on Lakewood.org
- The facilitator asked each participant to summarize why they were attending the meeting
- **Kairoi Residential** —
 - It was important for Kairoi to meet with the neighbors during the formal Major Site Plan pause period in order to open up the lines of communication in order to identify and understand what the recently raised concerns and feedback are
 - Kairoi provided some additional historical context regarding how they originally identified the Property, their due diligence performed in connection with the purchase of the Property that closed in 2021 and the design and permitting work performed on the Project over the last three years. A few takeaways from this additional context were:
 - During their due diligence process, Kairoi learned that Property's existing Mixed Use – Core – Urban (MCU) allows for building heights up to 120' or approximately 12 story buildings and that there is no maximum residential density limits under MCU.
 - Kairoi's original intent on the Property contemplated two to three 120' residential towers featuring approximately 800 – 1,200 residential units that



Lakewood
Colorado

City of Lakewood
Office of the City Clerk

480 South Allison Parkway
Lakewood, Colorado 80226-3127
303-987-7080 Voice
303-987-7057 TDD
303-987-7063 FAX

MEMORANDUM

Date: October 21, 2024

To: Lakewood City Council

From: Jay Robb, City Clerk

Re: Final Determination of Sufficiency for Initiative Petition – Title: “An Ordinance to Repeal and Replace Lakewood Municipal Code (L.M.C.) Chapter 14.16 Relating to Park and Open Space Dedication to Eliminate the Option for Developers to Pay a Fee in Lieu of Parkland Dedication and to Require the City to Accept Open Space and Land Dedications for Current and Future Developments.”

Hello Council, I am providing this this memo as my final sufficiency determination report regarding the citizen-initiated petition to repeal and replace Chapter 14.16 relating to Park and Open Space Dedication. This memo follows the initial petition sufficiency determination and report to the City Council, which I provided at the October 7, 2024, Special City Council meeting.

As you recall, on September 20, 2024, the petition representatives for the above-referenced initiative timely filed their signed petitions with my office. Staff reviewed all signatures prior to my initial petition sufficiency determination on October 7th. By that time, we had reviewed 8,346 signatures that were affixed to 111 petition forms. As you will remember, we accepted 6,492 signatures as valid, which is above the threshold of 5,862 valid signatures.

Since my initial determination two weeks ago, my staff has reviewed all signature discrepancies and the final number of valid signatures remains at 5,862. Additionally, the protest period for the initiative petition closed on October 21, 2024, at 5:00 p.m., and my office did not receive any protests. Therefore, it is my FINAL DETERMINATION that there are a sufficient number of valid signatures for the submitted petition to qualify for a **ballot question election**.

Ex. 28 p. 2
Ex. 28 p. 2

Please note, because the petition is sufficient, pursuant to section 13.1(c) of the Lakewood Home Rule Charter, I am required to present it to City Council at the first regular or special meeting held more than thirty days after the petition was filed. Therefore, I am presenting the petition to the City Council tonight, October 21, 2024, as sufficient. I am also making the determination that the petition qualifies for a ballot question election, as required by L.M.C. 2.52.110(A). Pursuant to Charter section 13.1(d), City Council shall either adopt the initiated ordinance by a majority vote of all members of the City Council within 30 days of the date of this presentation or submit it to a vote of the registered electors of the City at a special election to be held within 90 days of this presentation. Due to state law and the general election on November 5, 2024, the election, if necessary, would have to occur between December 10, 2024, and January 14, 2025.

I will also give a brief presentation to City Council at the October 21st Special Meeting, where I can answer any questions that you may have on this issue.

A handwritten signature in black ink, appearing to read "Jay Robb".

Jay Robb, City Clerk

cc: Petition Representatives

Type of Housing Units Preferred by Expected Movers

Table A-8 summarizes the type of housing units that respondents expecting to move within five years prefer for their next housing. The columns indicate the type of housing currently occupied, while the rows represent the preferred next housing unit type.

TABLE A-8: TYPE OF HOUSING UNITS PREFERRED (AMONG EXPECTED MOVERS)

Preference for Next Housing Unit	----- Current Housing Unit -----									
	Detached Single-Family Home		Attached Single-Family Unit		Multi-Family Unit		Other Unit Type		Total	
	#	%	#	%	#	%	#	%	#	%
Detached Single-Family	68	77.3	10	43.5	34	53.1	3	42.9	115	63.2
Attached Single-Family	11	12.5	8	34.8	23	35.9	1	14.3	43	23.6
Multi-Family Unit	3	3.4	1	4.3	6	9.4	1	14.3	11	6.0
Other Housing Type ¹	6	6.8	4	17.4	1	1.6	2	28.6	13	7.1
Total	88	100.0	23	100.0	64	100.0	7	100.0	182	100.0

¹ Other category generally includes respondents who identified their preferred next housing as some type of senior housing or an ADU. Several respondents also indicated they are open to any housing type, given the price.

Source: Gruen Gruen + Associates

Overall, the survey response indicates very little propensity for current single-family occupants to change housing types. Among 111 expected movers who currently occupy a single-family housing unit (either detached or attached), more than 87 percent of these respondents prefer their next housing to be another single-family unit. Among respondents currently occupying multi-family apartment or condominium units (which are primarily renters), nearly 90 percent would prefer a single-family unit for their next housing.

EX. 27 p. 2
Exhibit 29 p. 2

Renter-Occupied Housing Gap Estimates

Table B-14 summarizes the existing housing rental inventory by price, in comparison to the income characteristics of the existing renters in Lakewood. The estimates reflect the price of housing that households can potentially afford, not what they will necessarily elect to rent.

TABLE B-14: ESTIMATED RENTAL HOUSING AFFORDABILITY GAPS IN CITY OF LAKEWOOD

	Existing Supply of Renter Occupied Units ¹ #	Number of Renters Able to Afford Units #	Existing Surplus or (Deficit) in Units #
Monthly Gross Rent:			
Less than \$875 ²	3,098	9,399	(6,301)
\$875 to \$1,249	3,442	4,027	(585)
\$1,250 to \$1,874	9,839	4,720	5,119
\$1,875 to \$2,499	7,917	3,558	4,359
\$2,500 to \$3,749	3,700	4,067	(366)
\$3,750 and above	688	2,915	(2,227)
¹ Estimate of occupied units by price. Price distribution from 2020 adjusted upwards to account for 20 percent typical rent growth since mid-2020.			
² Estimated supply includes units with "no cash rent."			
Sources: U.S. Census Bureau; Gruen Gruen + Associates.			

Lakewood, like many other communities, experiences a large deficit of rental units at deeply affordable prices. Using the 30-percent-of-income standard, Lakewood is estimated to contain about 9,400 renter households who can afford to pay no more than \$875 in monthly gross rent. The existing supply of rental units priced below this affordability threshold is estimated at 3,100 units; indicating a "gap" or deficit of approximately 6,300 rental units affordable to the lowest income bracket. This quantitative comparison helps to explain why such a high proportion of Lakewood renters (58 percent) are estimated to be rent burdened. Almost one-half of all renters can afford no more than \$1,250 in monthly rent, while units available at these prices are increasingly scarce.

At the high end of the income spectrum, Lakewood is estimated to contain about 7,000 renter households who could potentially afford monthly rents exceeding \$2,500. A relatively small number of existing rental units in Lakewood command this level of rent, indicating another gap of almost 2,600 units affordable to the highest income renters. This "gap" is not a rental housing deficiency. It reflects the presence of a relatively small but very high-income subset of existing renters, many of whom can find suitable rental housing at a price well below their incomes would support. It also helps to explain the recent increase in market rate multi-family apartment construction, many of which are amenity-laden properties and a standard of quality that differs from older apartment supply in Lakewood.

A large share of housing needs of both lower- and higher-income renters tend to be satisfied in the middle of the market, which is why a large surplus of rental units priced between \$1,250 and \$2,500 per month is estimated to exist in relation to household incomes.

- D. Provide areas for public and semi-public uses, such as utilities and telecommunications infrastructure needed to support the community; and
- E. Provide development flexibility, while ensuring that new development and redevelopment interacts appropriately with adjoining land uses.

17.3.4.2: Mixed Use District Descriptions

Mixed-use districts are established to allow a range of district types, from the small neighborhood center to regional-level centers. The general intent of each of the five mixed-use zone districts within the City is identified by the descriptions below.

- A. **M-N – Mixed-Use-Neighborhood:** The M-N district is intended to allow and accommodate a mix of lower-intensity neighborhood-scale commercial uses and a range of residential uses generally along collector streets and adjacent to light rail stations with walk-up access. Typical non-residential uses include those that provide goods and services to the residents of the surrounding neighborhoods. The district is intended to accommodate a high level of pedestrian activity and scale. Mixed-use buildings and projects are encouraged and not required.
- B. **M-G – Mixed-Use-General:** The M-G district is intended to allow for mixed-use and community commercial development generally along arterial streets. Typical nonresidential uses include those necessary to support the community. The district is intended to accommodate a higher level of motor vehicle activity, although pedestrian activity will still be accommodated and encouraged.
- C. **M-C – Mixed-Use-Core:** The M-C district is intended to allow and accommodate opportunities for higher density mixed-use development in areas developed or planned with the most intense urban characteristics, such as downtown Lakewood and adjacent to light rail stations with associated parking facilities. Typical nonresidential uses include those generally intended to support the entire city. The district is intended to accommodate a high level of pedestrian activity, although motor vehicle activity will still be accommodated. Mixed-use buildings and projects are key components of this district, and are required in certain contexts.
- D. **M-E – Mixed-Use-Employment:** The M-E district is intended to provide for office and campus development, with ancillary retail and residential uses along arterial and collector streets. The district may also act as a buffer between higher intensity mixed-use districts and adjacent residential neighborhoods. The district provides for medium-to high-density employment opportunities, as well as educational and institutional campuses. Employment uses are key components of this district, and are required in certain instances where the parcel and/or district is of a certain size.
- E. **M-R – Mixed-Use-Residential:** The M-R district is intended to allow for compact multifamily residential development with a variety of densities. This district will also allow for office and retail uses that are integrated into residential projects. Minimum residential densities are established as part of the district to maximize the potential number of transit riders and business users within adjacent transit and urban development areas, while limiting the impact on existing surrounding neighborhoods.

Exhibit 31

EXHIBIT 31

Table 17.4.1: Use Table

Land Use	Zone District																Supplemental Standards		
	Residential						Mixed Use						Commercial and Light Industrial						
	R-1-43	R-1-18	R-1-12	R-1-9	R-1-6	R-2	R-MF	R-MH	M-Z	M-G	M-C	M-F	M-R	C-R	C-I	I	I-RD		
P = Permitted	A	A	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
A = Accessory	P	P	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
S = Special	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
L = Limited	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
[blank] = Prohibited	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Other (continued)																			
Wind-Powered Electric Generator, Freestanding	P	P	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	See Section 17.5.5.4
Wireless Communications Facility																			
Stealth	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	See Section 17.10.3.1
On Existing Structures																			
Building Facade Mounted	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	See Section 17.10.3.2.B
Roof Mounted	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	See Section 17.10.3.2.C
Other Freestanding Support Structure	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	See Section 17.10.3.2.D
New Freestanding Structures																			
60 feet in height or less																			See Section 17.10.3.3
Greater than 60 feet in height																			See Section 17.10.3.3

Table 17.4.1: Use Table

Exhibit 31 p 2

Land Use	Zone District														Supplemental Standards			
	Residential				Mixed Use				Commercial and Light Industrial									
	R-1-43	R-1-18	R-1-12	R-1-8	R-1-6	R-2	R-MF	R-MH	M-N	M-G	M-C	M-E	M-R	C-R	C-I	C-L	LI-RD	
P = Permitted																		
A = Accessory																		
S = Special																		
L = Limited																		
[blank] = Prohibited																		

Agriculture (continued)

Apiaries	P	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	See Section 17.4.3.1:E
Community Garden	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	See Section 17.4.3.1:H
Horticulture	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	

Temporary

Construction or Sales Trailer	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	See Section 17.4.3.1:I
Outdoor Display									A	A	A	A	A	A	A	A	A	A	See Section 17.4.3.1:J
Roadside Stand	L	L	A	A	A	A													See Section 17.4.3.1:AA
Temporary Use, Long-term	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	See Section 17.4.3.1:DD
Temporary Use, Short-term	S	S	S	S	S	S	S	S	L	L	L	L	L	L	L	L	L	L	See Section 17.4.3.1:EE

Other

Amateur Radio Tower or Antenna	A	A	A	A	A	A												A	
Home Business																			
Major	S	S	S	S	S	S	S	S	P	P	P	P	P	P	P	P	P		See Section 17.4.3.1:P
Mirror	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		See Section 17.4.3.1:O
Satellite Dish Antenna	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		See Section 17.5.5.2
Solar Collection System	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		See Section 17.5.5.3

Ex. 31 p. 3

Table 17.4.1: Use Table

Land Use	Zone District														Supplemental Standards					
	Residential							Mixed Use								Commercial and Light Industrial				
	R-1-13	R-1-18	R-1-12	R-1-9	R-1-6	R-2	R-MF	R-MH	M-N	M-G	M-U	M-W	M-R	C-R		C-I	C-L	LI-RD		
P = Permitted	A = Accessory	S = Special	L = Limited	[blank] = Prohibited																
Commercial and Light Industrial (continued)																				
Office	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	See Section 17.4.3.1.V
Parking, Stand-Alone																				
Structured Surface																				See Section 17.4.3.1.X
Pawnbroker																				See Chapter 5.24 of the Lakewood Municipal Code
Personal Service	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	See Section 17.4.3.1.Y
Plant Nursery	P																			
Restaurant																				
Retail																				
Rental, Service, or Repair of Large Items																				See Section 17.4.3.1.Z
Storage, Outdoor																				See Section 17.4.3.1.CC
Vehicle Dispatch Facility																				
Warehouse or Distribution																				
Public / Civic / Institutional																				
Community Building	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	See Section 17.4.3.1.G
Convention or Exposition Center																				
Correctional Institution																				See Section 17.4.3.1.K

Table 17.4.1: Use Table

Ex. 31 p5

Land Use	Zone District													Supplemental Standards					
	Residential						Mixed Use						Commercial and Light Industrial						
	R-1-43	R-1-18	R-1-12	R-1-6	R-1-6	R-2	R-MF	R-MH	M-N	M-G	M-C	M-E	M-R	C-R	C-I	C-I	LI	LI-RD	
P = Permitted	A = Accessory													S = Special	L = Limited			[blank] = Prohibited	
Commercial and Light Industrial (continued)																			
Club, Lodge, or Service Organization									P	P	P	P	A	P	P	P			See Section 17.4.3.1.J
Contractor Shop										L	L	L	L	L	P		P	L	See Section 17.4.3.1.L
Crematory														S			L		
Day Care Facility, Child or Adult	A	A	A	A	A	A	A	A	P	P	P	P	A	P	P	P	P	P	See Section 17.4.3.1.L
Emergency Medical Facility										P	S	P		P	P	P	P	P	
Entertainment Facility																			
Indoor									P	P	P	S	S	P	P	P			
Outdoor										S				P		P			
Fitness or Athletic Facility, Private									P	P	P	P	A	P	P	P			
Gallery or Studio									P	P	P	P	A	P	P	P			
Golf Course	S																		
Hotel									P	P	P	P		P	P				
Junkyard or Motor Vehicle Wrecking																	S		

Table 17.4.1: Use Table

Ex. 31 p.6

Land Use	Zone District														Supplemental Standards				
	Residential							Mixed Use					Commercial and Light Industrial						
	R-143	R-1-18	R-1-12	R-1-9	R-1-6	R-2	R-MF	R-MH	M-N	M-G	M-C	M-E	M-R	C-R		C-I	C-T	L-1	L-RD
P = Permitted	A = Accessory	S = Special	L = Limited	[blank] = Prohibited															
Commercial and Light Industrial (continued)																			
Manufacturing																			
Light																			
Heavy																			
Medical Marijuana Business									L	L	L			L					See Chapter 5.51 of the Lakewood Municipal Code See Section 17.4.3.1.Q
Mini-Warehouse or Storage									S					L					
Mortuary									P					P					
Motel									P					P					
Motor Vehicle Rental									L	L	L	L		P	L	L	P	P	See Section 17.4.3.1.R
Motor Vehicle Sales																			
Indoor Display and Storage									P	P				P					
Outdoor Display and Storage									L					P					See Section 17.4.3.1.S
Motor Vehicle Service																			
Car Wash									L					P	P	P			See Section 17.7.6.3.A
Fueling Station									S	S				S	S				See Sections 17.4.3.1.M & 17.7.6.3.B
Major									S					L	L	L	P		See Section 17.4.3.1.T
Minor									L					L	L	L	P		See Section 17.4.3.1.U

LMC 14.16 prior to 2018

Chapter 14.16 - Park and Open Space Dedication

14.16.010 Scope and application

Each development containing residential land uses shall dedicate to the city, park sites and open space areas in accordance with the provisions of this title. At the discretion of the Director of Community Resources, fees in lieu of dedications shall be levied as set forth herein. The Director shall use the park element of the Comprehensive Plan as a guide for determining park and recreation needs in proximity to the proposed development area. The park and open space requirements discussed herein shall be reasonably related to the needs of the residents of the proposed development. Official Development Plans that have been approved by the Planning Commission prior to the date of enactment of the ordinance codified in this chapter are not affected by the provisions herein. (Ord. O-89-3 § 5 (part), 1989; Ord. O-83-137 § 1 (part), 1983).

14.16.020 Park standards

For purposes of this title, the city's park standards shall be a minimum of ten and five-tenths acres of park area per one thousand anticipated population within the proposed development. This standard of ten and five-tenths acres per one thousand population is composed of the following elements:

- A. Five acres per one thousand population for regional parks;
 - B. Three acres per one thousand population for community parks;
 - C. Two and five-tenths acres per one thousand population for neighborhood parks.
- (Ord. O-83-137 § 1 (part), 1983).

14.16.030 Regional parks provided

The City Council determines, as of the time of adoption of the ordinance codified in this chapter, that the regional park needs of the residents of the City are satisfied by the two thousand three hundred acre Bear Creek Lake Park, the one thousand six hundred fifty-five acres William Frederick Hayden Park, Jefferson County Parks, and State of Colorado parks to the west and south of the City. Therefore, a residential development shall not be obligated to dedicate land for regional park purposes in the City so that the operating standard for dedication of parklands shall be five and five-tenths acres of parkland for community parks and neighborhood parks per one thousand population. (Ord. O-2004-30 §1, 2004; Ord. O-83-137 § 1 (part), 1983).

14.16.040 Calculation of land dedication requirements for park and open space

- A. **Parkland Standard.** All residential developers shall provide a minimum of five and five-tenths acres of park area per one thousand anticipated population or cash in lieu thereof.
- B. **Population Standard.** For purpose of these calculations, the anticipated population of each residential dwelling unit shall be two and five-tenths persons per dwelling unit.
- C. **Example Calculation.**
Proposed development size: 10 acres
Proposed density: 10 units/acre
Park and open space acreage required:

F. Swamps or boggy lands. (Ord. O-83-137 § 1 (part), 1983).

14.16.070 Procedure/fee determination

A. All land and/or fee requirements in lieu of land for subdivisions and other residential development shall be met at the time of platting. A letter of credit, not to exceed one year in length, may be substituted for the fee requirement at the time of platting.

B. If the Director of Community Resources determines that a land dedication in accordance with this chapter would not serve the public interest, the Director of Community Resources may require payment of a fee in lieu of the dedication or may require dedication of a smaller amount of land than would otherwise be required, and payment of a fee in lieu of the portion not dedicated. The amount of the fee shall be the fair market value of the land which would otherwise be dedicated; however, the total fee shall not exceed an amount equal to seven hundred dollars per unit.

C. In the event that a fair market value cannot be determined by mutual agreement between the Director of Community Resources and the developer, the fair market value of the zoned, unplatted, and unimproved land shall be determined by an independent party, being a qualified appraiser who shall be mutually agreed upon by the Director of Community Resources and the developer. The independent party shall be a Member of the Appraisal Institute (MAI) or the Society of Real Estate Appraisers (SRA). The developer and the city shall each pay one-half the cost of the appraisal.

D. Fees in lieu of a land donation shall normally be required when the dedication formula would result in parkland of three acres or less.

E. Fees shall be payable to the City of Lakewood and shall be designated for the acquisition and/or development of park and open space land in the same Planning District as shown in Concept Lakewood. (Ord. O-2004-30 § 2, 2004; Ord. O-89-3 § 5 (part), 1989; Ord. O-83-137 § 1 (part), 1983).

14.16.080 Site development standards-General

A. Land that has been platted as public park and open space, or otherwise dedicated to the city, shall not be used in the development process of adjoining lands, except as stated in subsections (B), (C) and (D) of this section, and/or as reflected in an approved subdivision grading plan.

B. The developer shall be responsible for the installation of public improvements adjacent to the park site including, but not limited to, curb and gutters, streets, storm drainage facilities, and bridges made necessary by the development. Said public improvements will normally be limited to two hundred ten linear feet per acre of parkland. This does not include park development or tap fees unless such improvements are part of the Public Improvements Agreement.

C. All slopes shall be stabilized in accordance with acceptable engineering standards to prevent public endangerment, and for ease of maintenance. The maximum slope shall normally not exceed 4:1 or other slope treatment will be required.

D. Sites shall be made easily accessible to city maintenance equipment. (Ord. O-83-137 § 1 (part), 1983).

14.16.090 Interpretations and appeal

Exhibit 33

Since the Parkland Dedication Requirements were formalized in 1983, the City has taken several parcels in dedication, given credit for onsite added improvements in many locations. Below is a list of parcels dedicated:

Park	Acres Ded	Year	Subdivision	Reason
ANDERSON POND	4.66	1995	Anderson Farm	Trail, adjacent
BEAR CREEK GREENBELT	13.11	1989	McCoy-Jensen	adjacent
BONFILS-STANTON PARK	0.78	1990	Joe Kelly oyster Dock	Trail, adjacent
GARY R. MCDONNELL PARK	4.07	1984	Arrowhead	adjacent
13th Ave Space	0.07	2000	Daniels Place Sub	Trail
HABITAT PARK	0.23	1998	Edgewater BLK 14 2	Park
HERITAGE FILE # 8	1.89	2000	Heritage West 8	Open Space
IRONSRING PARK	12.15	2007	Solterra	Trail
LAKEWOOD ESTATES PARK	0.05	1998	West 6200 Jewell Ave	adjacent
LOWER COYOTE GULCH	13.86	1994	Hutchinsons GMV 58	Trail, open Space
MOM'S HILL	1.00	1993	Americana Lakewood 2	Trail
OVERLOOK AT BC PARKSITE	12.32	2000	Overlook at Bear Creek Cherry Sub	Park
PETERSON PARK	2.33	1984	Americana Lakewood 1	Park
SANCTUARY PARK	1.51	1988	Deerfield Sub	Open Space
SANDERSON GULCH	3.65	1985	Sanderson Creek	Trail
SOLTERRA	47.59	2007+	Solterra	Trail, Open Space
SOLTERRA CENTRAL CORRIDOR	19.22	2013	Solterra	Trail, Open Space
SOLTERRA WEST CORRIDOR	5.09	2013	Solterra	Trail, Open Space
SOUTH SHERIDAN FIELD	0.92	2002	L & S Sub	Trail
TAMARISK Tract D	7.89	1997	Tamarisk Sub	Open Space, adjacent
WESTSTAR	9.36	1995	Weststar Sub	Open Space
WILSON DRAINAGEWAY	5.48	2001	Whit Fence Farm Sub	Trail

JEFFERSON COUNTY DISTRICT COURT 100 Jefferson County Parkway Golden, Colorado 80401	DATE FILED: December 9, 2021
Plaintiff: Colorado Christian University, a Colorado nonprofit corporation, v. Defendant: The City of Lakewood, a municipal corporation, State of Colorado.	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> Case Number 2021CV30629 Division 8 Courtroom 400
ORDER REGARDING MOTIONS TO INTERVENE	

This matter is before the Court on separate motions to intervene filed by proposed intervenors Lenore Herskovitz and Robert Baker. The Herskovitz Motion to Intervene was filed on September 30, 2021. The Baker Motion to Intervene was filed on November 1, 2021.¹ A response to the Herskovitz Motion was filed by Colorado Christian University on October 25, 2021, and a reply was filed on November 1, 2021. A response was filed to the Baker Motion on November 17, 2021. Replies were filed by the two proposed intervenors on November 22, 2021. The Court held a hearing on November 11, 2021 to address the issues raised in the motions (the “Hearing”). Thus, the matter is ripe for consideration by the Court.

BACKGROUND

The crux of the dispute in this case relates to a change in a zoning regulation enacted by the City of Lakewood. According to the Complaint, the change to Lakewood zoning ordinance

¹ Mr. Baker initially filed a Motion to Intervene on October 18, 2021 on behalf of the MidLakewood Civic Association. That motion was subsequently withdrawn after the Court directed MidLakewood Civic Association to show cause why it is able to proceed without counsel or in the alternative, have counsel enter on its behalf.

0-2020-10 resulted in an unconstitutional application against Plaintiff and certain properties that it owns within the city limits. In short, Plaintiff argues that the change to the municipal ordinance results in differential treatment for Colorado Christian University compared to other non-university landlords despite otherwise identical circumstances. Thus Plaintiff seeks declaratory and injunctive relief under the equal protection, substantive due process, and anti-retrospective provisions of the United States and Colorado constitutions, as well as other provisions of the Colorado Revised Statutes. Both parties more or less agree that there are no questions of material facts that are disputed, and both parties have moved for summary judgment. The briefing on the two summary judgment motions is currently ripe, and the case is set for a two-day trial to start on January 18, 2022.

The two motions for intervention are filed by interested members of the community. Ms. Herskovitz resides on S. Cody Court. According to Ms. Herskovitz, she resided on the west side of S. Cody Court, "immediately adjacent to CCU campus" for 18 years. Due to Plaintiff purchasing properties on the west side of S. Cody Court, Ms. Herskovitz was moved to the east side of S. Cody Court. As a result of the actions of Plaintiff and this case, Ms. Herskovitz contends that she faces a continued threat of displacement. Mr. Baker resides on S. Cody Street and is similarly adjacent to the CCU campus. Mr. Baker raises concerns about the negative impact of institutional functions. Both Ms. Herskovitz and Mr. Baker seek intervention so that they may provide the Court with such additional information as they believe is necessary to help the Court make its decision in this case.

STANDARD OF REVIEW

Intervention in a civil case is governed by C.R.C.P. 24. Rule 24 provides for two types of

intervention: intervention of right, and permissive intervention. The rule requires that a person seeking to intervene shall serve a motion to intervene, that the motion to intervene shall state the grounds for intervention, and that the motion shall also be accompanied by a pleading setting forth the claim or defense for which intervention is sought. Although the rule requires the inclusion of a pleading, the failure to include a pleading is not fatal. *Feigin v. Sec. Am., Inc.*, 992 P.2d 675 (Colo. App. 1999), rev'd on other grounds, 19 P.3d 23 (Colo. 2001).

A. Intervention of right

Intervention of right is governed by C.R.C.P. 24(a). Under that provision, a non-party shall be permitted to intervene either (1) when a statute confers an unconditional right to intervene, or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action "and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties." *Id.* Unless there is a statute granting an unconditional right to intervene, "[a]ll three requirements of the rule, that is, a property interest, an impairment in the ability to protect it, and inadequate representation, must be present in order to intervene." *United Airlines, Inc. v. Schwesinger*, 805 P.2d 1209, 1210 (Colo. App. 1991) (finding that United Airlines had a right to intervene where it had a subrogation claim giving it property rights, that the subrogation rights were dependent upon the recovery in the underlying action, and that there was reason to believe that plaintiff in the underlying action would not as vigorously pursue amounts that may be due to United Airlines via subrogation rights). Absence of any one of the three elements means that there is no right to intervene. *Denver Chapter of Colo. Motel Ass'n v. City & County of Denver*, 374 P.2d 494 (Colo. 1962). Finally, "[i]t is the

duty of courts to respect the integrity of the issues raised by the pleadings between the original parties and to prevent the injection of new issues by intervention.” *Crawford v. McLaughlin*, 473 P.2d 725, 728 (Colo. 1970) quoting *Moreno v. Commercial Security Bank*, 240 P.2d 118, 120 (Colo. 1952).

Colorado appears to have adopted the federal principle that “the most important inquiry in determining the adequacy of representation does not involve an analysis of the courtroom strategy of the representative” but is instead is concerned with how the interest of the nonparty compares with the interest of the party providing representation on the issue.² *Matter of Scott’s Estate*, 577 P.2d 311, 313 (Colo. App. 1978). Absent a showing of fraud, collusion, or inattentiveness of their interests in the litigation, taxpayers and ratepayers do not have a right of intervention just by their virtue of being taxpayers or ratepayers. *Denver Chapter of Colo. Motel Ass’n*, 374 P.2d at 496. Parties, however, have been permitted to intervene of right in a zoning case where “the intervenors had no one to protect their interests” in the action. *Dillon Companies, Inc. v. City of Boulder*, 515 P.2d 627, 629 (Colo. 1973). In *Dillon Companies*, the Supreme Court highlighted that the rule doesn’t call for an interest *in* the property, but an interest *relating* to the property. *Id.* Thus, while all three elements must be met, the Supreme Court has taken a broader interpretation as to who might fit within the scope of the rule.

B. Permissive intervention

Rule 24 also provides for permissive intervention where either a statute confers a conditional right to intervene or when an applicant’s claim or defense and the main action have a

² However, numerous appellate opinions make clear that a simple disagreement on litigation strategy is, in and of itself, insufficient to warrant intervention.

question of law or fact in common. In considering such intervention, the Court must consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties. Colorado law makes clear that permissive intervention is addressed to the discretion of the court. *Grijalva v. Elkins*, 287 P.2d 970 (Colo. 1955). Intervention in such instances is frequently denied even where there are common questions of law or fact, if additional collateral or extrinsic issues would be brought by an intervenor. *Id.* However, intervention may be proper where adjoining property owners have a vital interest in a zoning dispute unless there are compelling reasons against such intervention. *Roosevelt v. Beau Monde Co.*, 384 P.2d 96 (Colo. 1963).

ANALYSIS

At the outset, the issues before the Court in this case are narrow. This Court is not sitting as an arbiter of whether the ordinance at issue is a good idea or a bad idea; nor is the Court in a position to second-guess the Lakewood City Council in their decision to pass the subject ordinance. These are political questions that are beyond the Court's jurisdiction. The sole issue in this case is for the Court is to determine whether or not the ordinance runs afoul of any statutory or constitutional prohibitions. *See Busse v. City of Golden*, 73 P.3d 660, 664 (Colo. 2003) ("While courts must refrain from reviewing controversies concerning policy choices and value determinations that are constitutionally committed for resolution to the executive branch" a trial court has jurisdiction to consider claims that do not require formulating of legislative policy or developing standards that are not legal in nature).

Both Ms. Herskovitz and Mr. Baker seek intervention for essentially the same reason: they are residents of the neighborhood and live in property on a street that is directly adjacent to

Colorado Christian University, the plaintiff in this case. Ms. Herskovitz resides in and rents a home in a neighborhood that could be directly impacted by the outcome of this case, and Mr. Baker (together with his wife) own a home on the same street as Ms. Herskovitz. Thus, both believe that they have been and will be negatively and tangibly impacted by the outcome sought by Colorado Christian University.

Neither of the parties nor the proposed intervenors have pointed to any statute that gives the proposed intervenors either a conditional or unconditional right to intervene in this case. Instead, both proposed intervenors rely upon the fact that their residences (in the case of Ms. Herskovitz, rented, and in the case of Mr. Baker, owned) would be directly impact by the ordinance at issue – particularly if Colorado Christian University were to prevail. The proposed intervenors have also taken the position that the city of Lakewood is not adequately representing their interests in light of their agreement to a preliminary injunction at the outset of this litigation. Colorado Christian University has taken the position that intervention should not be permitted in this case. In support of this outcome, Colorado Christian University contends that neither proposed intervenor has claimed any interest relating to the at-issue properties subject to the ordinance, that their interests are adequately represented by the City of Lakewood, that they have not added any additional analysis that is relevant to the claims in *this* case, and that intervention would harm Plaintiff through undue delay and increased cost of litigation. The City of Lakewood has not taken a position.

A. Intervention of Right Analysis

Because neither the parties nor proposed intervenors identified any statute that creates an unconditional right to intervene (and the Court is not aware of any such statute), the Court will

proceed to the analysis under C.R.C.P. 24(a)(2). As noted above, each proposed intervenor claims an interest based upon the fact that they reside adjacent to Colorado Christian University and on a street which contains property that would be impacted by the ordinance. In the case of Ms. Herskovitz, there are claims related to a continuing threat of displacement.

Although the Court could not identify a case directly on point, similar issues were raised in *Harmelink v. City of Arvada*, 580 P.2d 841 (Colo. App. 1978). In *Harmelink*, the Court of Appeals held that “any landowner in the rezoned area has ‘an interest relating to the property’ which entitles him to intervene as a party plaintiff under C.R.C.P. 24(a)(2).” *Id.* at 842. This right to intervene exists so long as the other two factors (impairment and lack of adequate representation) also exist. The Court finds that based on the representations that have been made here, both proposed intervenors have met their burden under C.R.C.P. 24(a)(2):

First, the Court finds that Ms. Herskovitz and Mr. Baker each have a sufficient interest relating to this matter. Both parties appear to reside (Mr. Baker as a homeowner and Ms. Herskovitz as a resident who leases property) in an area adjacent to the university and may be impacted by the ordinance or any changes to the ordinance, including a modification of the definitions found within the zoning ordinance. In *Dillon Companies, Inc. v. City of Boulder*, 515 P.2d 627, 628-29 (Colo. 1973), the Supreme Court emphasized that the rule does not require an interest *in* the property but an interest *relating* to the property. “The record reveals that the proposed intervenors live between one and one-half and three and one-half blocks from the subject property. Thus, they meet the first requirement of the rule under the facts of this case.” Here, the proposed intervenors reside in property that is adjacent to Plaintiff’s boundaries and have provided an interest at least as concrete as the one described in *Dillon Companies* (with

adverse impact if the Court were to grant the relief sought by Plaintiff). As a result, both Ms. Herskovitz and Mr. Baker have met their burden for the first part of the analysis under C.R.C.P. 24(a)(2).

Second, the Court finds that both Ms. Herskovitz and Mr. Baker both have an impairment in the ability to protect their rights. In *Feigin v. Alexa Group, Ltd*, 19 P.3d 23 (Colo. 2001), the Colorado Supreme Court considered whether private party investors had a right to intervene in a civil enforcement action brought by the Securities Commissioner. The Supreme Court analyzed the provisions of the Colorado Securities Act (“CSA”) and found that because of the structure of the CSA, the fact that the Securities Commissioner brought an enforcement under C.R.S. § 11-51-602 did not act to impair their rights to bring a private cause of action under C.R.S. § 11-51-604.³ Contrary to the circumstances in *Alexa Group*, in *Dillon Companies* the Colorado Supreme Court’s opinion emphasized the use of the word “practical” in the provision that “[intervenor] is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest....” C.R.C.P. 24(a)(2). The emphasis on the use of the word practical is critical, because while cases like *Alexa Group* highlight the alternative legal remedies available to proposed intervenors in that case, *Dillon Companies* highlighted non-legal impairments. Thus in *Dillon Companies*, the Supreme Court noted that the proposed rezoning change for the supermarket “will affect their interests in several ways. The increased traffic will make it more hazardous for their children. The asphalt parking lot will affect drainage in the area, etc.” *Dillon Companies*, 515 P.2d at 629. This was sufficient (together with no other

³ Under C.R.S. § 11-51-602, the Commissioner has a right to bring an enforcement action, and even has rights to seek the type of relief available to investors. However, this is separate and apart from the independent rights that investors have to seek relief under C.R.S. § 11-51-604.

meaningful ability to address the issue) to meet the second prong of the analysis under Rule 24(a)(2). Here, the two proposed intervenors have demonstrated impairment both in a practical manner, and there is no other meaningful legal mechanism for the intervenors to be heard on this issue.

Third, although it is a close call, both Ms. Herskovitz and Mr. Baker have demonstrated that there may be inadequate representation in this matter. In *Dillon Companies*, the Supreme Court noted that the City of Boulder and the city council had decided not to appeal a decision of the district court. Thus, there was no one to protect the proposed intervenor's interests through an appeal. *Dillon Companies*, 515 P.2d at 629. The circumstances in this case are not quite the same. Here, the City of Lakewood is in fact defending the ordinance change in this case. The proposed intervenors in this case argue that the City of Lakewood did not oppose a temporary restraining order and that the temporary restraining order filings contained false information – as a result, their interests are not being adequately represented in this matter. Colorado appellate courts in cases such as *Dillon Companies* have looked favorably at Wright & Miller for guidance as to how to interpret C.R.C.P. 24(a)(2). In 7(a) C. Wright & A. Miller, Federal Practice and Procedure: Civil s 1909 (2021), it was discussed that the amendment to the federal analog (Fed. R. Civ. P. 24(a)(2)) in 1966 altered the language of that section:

Second, under former Rule 24(a)(2) one of the two conditions on intervention was a showing by the intervenor that the representation by the existing parties 'is or may be inadequate.' The new rule turns this around. If the other two conditions of amended Rule 24(a)(2) are satisfied, intervention is of right 'unless existing parties adequately represent that interest.' Though there has been some suggestion to the contrary, it seems entirely clear that the effect of this change is to shift the burden of persuasion. Before the amendment the intervenor had to satisfy the court that representation was or might be inadequate. Although some courts seem to continue to follow this approach, the language of the rule clearly suggests that now the intervenor is to be allowed in, if the other conditions of the

rule are satisfied, unless the court is persuaded that the representation is in fact adequate.

In *Scott's Estate*, the Court of Appeals discussed the distinction in cases under this prong, drawing a line between cases where there was a divergence of interests between the party prosecuting the action and the prospective intervenors sufficient to cast serious doubt upon the adequacy of the representation (*Howlett v. Greenberg*, 530 P.2d 1285 (Colo. App. 1974); *Allison v. People in re: Adamson*, 286 P.2d 1102 (Colo. 1955); and *Dillon Companies, supra*). In *Scott's Estate*, the Court drew a distinction regarding the nature of the divide between the personal representative and intervenor heirs in that case – both had an interest in preserving the assets of the estate, and the sole difference was the judgment of the personal representative in deciding not to prosecute what may have been a successful appeal. *Scott's Estate*, 577 P.2d 313. Thus, Colorado requires something more than just a difference in litigation strategy. Here, the Court finds that the interests of the City of Lakewood and the two proposed intervenors are different, and that the difference is not reduced to a disagreement as to trial strategy. The City of Lakewood has an interest in defending the constitutionality and application of its ordinances, whereas the proposed intervenors have an interest in the impact of the ordinances on their neighborhood and residences. Thus, the Court finds that the unique interests that each party maintains (the City of Lakewood vis-à-vis the two proposed intervenors) do not sufficiently overlap, and the Court finds that the interests of the two proposed intervenors are not adequately represented.⁴

⁴ The Court again notes that the issues in this case are quite narrow. As stated above, the Court is not asked (and not in a position) to determine whether the ordinances or the changes to the ordinances are a good idea. These are political questions more properly left to the executive and legislative branches of government.

Based on the foregoing, the Court finds that the two proposed intervenors have met the minimum threshold to intervene of right under C.R.C.P. 24(a)(2).

B. Permissive Intervention Analysis

Permissive intervention sets forth a more lenient standard that is discretionary to the Court. As with intervention of right, neither the parties nor the proposed intervenors have identified any statute that creates a qualified right to intervene (and the Court is not aware of any such statute). Therefore, the Court will proceed to the analysis under C.R.C.P. 24(b)(2), which allows for intervention “when an applicant’s claim or defense and the main action have a question of law or fact in common.” In exercising judicial discretion, this Court is required to “consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.” *Id.*

The Court finds, and for the same reasons described in the above section on intervention of right under C.R.C.P. 24(a)(2), that permissive intervention would also be appropriate. Permissive intervention is discretionary on the Court, and may be authorized under Rule 24(b)(2) where there is a common question of law or fact in common. While a lower standard to meet, trial courts still generally deny intervention where there are additional collateral or extrinsic issues that would be brought by the proposed intervenor. *Grijalva v. Elkins*, 287 P.2d 970 (Colo. 1955). Here, there are common questions of law or fact in that proposed intervenors have sought intervention to oppose the relief sought by Plaintiff. The issues to be resolved in this proceeding are narrow. The sole issues to be determined are the constitutionality of the ordinances (and/or the constitutionality of their application). Therefore, the Court finds that intervention can be ordered in this case in a way that does not alter the integrity of the proceedings, avoids the

injection of collateral and/or extrinsic issues, and does not result in undue delay to Plaintiff and Defendant.

CONCLUSION

Based on the foregoing, the Court finds that there has been a sufficient showing for intervention by the two proposed intervenors, Lenore Herskovitz and Robert Baker under both C.R.C.P. 24(a) and 24(b). The requests to intervene by both Ms. Herskovitz and Mr. Baker are **granted**. Given the posture of the case, the Court finds and orders as follows:

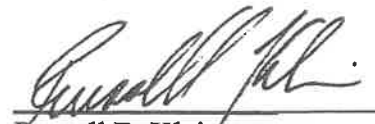
1. The Motion to Intervene filed by Lenore Herskovitz is **granted**.
2. The Motion to Intervene filed by Robert Baker is **granted**.
3. Both Ms. Herskovitz and Mr. Baker will be granted status in this case as intervenors.
4. Motions for summary judgment have already been filed in this case by Colorado Christian University and the City of Lakewood. Ms. Herskovitz and Mr. Baker shall have twenty-eight (28) days from the date of this order to file a responsive brief to the respective motions for summary judgment filed by the parties in this case (Plaintiff's Motion for Summary Judgment are filed on September 3, 2021, and Defendant's Motion for Summary Judgment filed on September 7). The Plaintiff and Defendant may, but need not, file a reply brief directed to the response briefs (if any) filed by the intervenors. The reply briefs (if any) shall be filed within twenty-one (21) days of the filing and service of the response briefs (if any). The motions for summary judgment will then be at issue before the Court.
5. Because of the proximity of the trial dates to this order permitting intervention, the Court vacates the pre-trial readiness conferences set for December 15, 2021 and January 14,

2022, as well as the two day trial set for January 18, 2022 and January 19, 2022. The purpose of vacating these dates is to allow the parties to complete briefing on the respective motions for summary judgment within the timeframes described above.

6. Within fourteen (14) days of this order, the responsible attorney as defined in C.R.C.P. 16(b)(2) shall contact the Division (01division8@judicial.state.co.us) to obtain dates and coordinate with all parties to set this matter for a new trial date before the Court (in the event that summary judgment does not resolve all issues), as well as two pre-trial readiness conferences.

Dated this December 9, 2021.

BY THE COURT:



Russell B. Klein
District Court Judge