

City of Golden Memorandum



To: City Council
Thru: Michael C. Bestor, City Manager
From: Steve Glueck, Director of Planning and Development
Date: October 17, 2005
Re: Council process for 1299 Washington Avenue Rezoning Ordinance and related issues

Based upon a couple questions from individual Councilors on this complex rezoning question, staff offers the following comments for your review as you get ready for the October 27, 2005 public hearing.

- City Council's authority and role in a rezoning case are described in section 18.48.050 of City Code. This section indicates that Council holds a hearing at which time you hear from all interested parties on the findings and recommendation of Planning Commission. Given the scope of a rezoning hearing, this allows comment on any related topic or policy issue.
- Following the conclusion of the initial hearing and comment from the applicant, other interested parties and staff, and Council questions, Council's primary options are to:
 - Continue the public hearing to a subsequent meeting to allow time for the applicant or staff to address issues where additional information or discussion is desired. In this scenario, the public comment part of the hearing is usually kept open for reaction to the requested information.
 - Continue Council's consideration of the ordinance, by continuing for decision only. This option is usually taken if Council wants more time to deliberate on the issues or wants staff and legal counsel to prepare additional draft findings.
 - Act to approve or deny the ordinance.
- In deciding how to proceed after the public hearing, Council will note that there are several policy issues inherent in the request. Any or all of these issues are appropriate for Council to consider, debate, and evaluate in making a determination of how to proceed. In addition, as a rezoning to the PUD zone district, it is expected that a more detailed review of conceptual design issues would occur than would be the case in a rezoning to a standard zone district. Unlike some prior cases where the City wanted to discuss a policy area affecting a property distinct from the owner's request, the below issues form the basis of the applicant's request.
 - Increased height Throughout the process, the applicant's burden has been to demonstrate the appropriateness of the proposed fifth story. As a matter of context, staff has been asked to document other locations where buildings or portions of buildings exceed the fifty (50) foot height limit in place since about 1950. Without

doing exhaustive research, the known examples of buildings that exceed the legal definition of 50 feet (averaging all sides) include the Coors Tek ceramics plant at 9th Street and Washington Avenue, which appears to be the equivalent of a seven story building, some portions of the brewery within City limits, and a few buildings on the CSM campus. Of the buildings in the immediate downtown area, there are about eight that have specific walls or elements taller than 50', but which comply with the code definition of height. These include:

- The north wall of the San Francisco Way Condos on the southwest corner of 14th Street and Washington Avenue (probably).
 - The north wall of Table Mountain Inn (estimated at 57').
 - The north wall of the Golden Hotel (estimated at 60')
 - The north wall of Clear Creek Commons (estimated at 57')
 - The north wall of the Millstone Condos first building (shown as 59' on the building plans)
 - The north wall of the "turret" of the Armory Building at 13th and Arapahoe Streets (probably)
 - The north wall of the 5 story apartment building immediately west of Calvary Episcopal Church on the south side of 13 Street.
 - The north wall of Engineering Hall on CSM campus.
- Overall building bulk Although the current zoning permits a 50' high building today, the request to rezone allows Council to consider whether the treatment of the proposed building bulk warrants the increased height or other zoning flexibility requested. Relevant issues may include steps in the building façade such as is proposed at the northwest corner, or other building articulation.
 - Architectural style Similarly, the request to rezone allows Council to evaluate whether the architectural style proposed is appropriate given the bulk, height, and building placement.
 - Parking "credit" policy issue Although not directly related to the bulk of the building, the applicant's request to have the proposed building treated the same for parking requirements as a use or addition to the existing building is a significant policy issue for Council to consider.
 - Effective date of approval As Council has noted, the zoning stipulations being requested in this application are very specific and may only be appropriate if the current applicant actually purchases the property and proceeds with the project. Council may wish to discuss a condition in the ordinance itself (rather than in the

Official Development Plan) that conditions the approval of the ordinance on the purchase of the property.

- In the event that a majority of Council desires to discuss modifications or adjustments to the Official Development Plan related to the above policy issues, the appropriate method would be to request that the applicant comment either on October 27, 2005, or in writing prior to a continued meeting on any specific design or policy issues. If such request is part of a continuance, stating the areas to be investigated and discussed at the subsequent meeting would be appropriate.
- Council does not have the authority to unilaterally change the Official Development Plan. Any changes made in the course of the Council consideration of the rezoning request must ultimately be with the agreement of the applicant. If the applicant is unwilling to make a change requested by Council, Council's ultimate leverage would be to deny the rezoning request based upon the applicant's failure to show compliance with the rezoning and PUD approval criteria.

Hopefully this outline will assist Council in determining your course of action on the request. If there are any further questions, please contact staff or legal counsel.