

**EDGEWATER CITY COUNCIL**

**ORDINANCE NO. 2018-12**

**AN ORDINANCE CONDITIONALLY APPROVING A PLANNED UNIT DEVELOPMENT (PUD) FOR THE REDEVELOPMENT OF AN EXISTING COMMERCIAL SITE AT 5505 WEST 20TH AVENUE, EDGEWATER, COLORADO**

WHEREAS, the City of Edgewater, Colorado (“City”) has received an application and related documents from LCP Edgewater, LLC (the “Applicant”) for a Planned Unit Development (“PUD”) and associated Conditional Use Permit (“CUP”), to allow the redevelopment of the existing commercial property known as 5505 West 20<sup>th</sup> Avenue, Edgewater, Colorado (the “Property”), proposed to be known as the Edgewater Public Market (collectively, the “Application”); and

WHEREAS, the Property is zoned Commercial 1 (C-1); and

WHEREAS, pursuant to Edgewater Municipal Code (“Code”) Section 16-28-70, a PUD application requires the review and recommendation of the Edgewater Planning and Zoning Commission (the “Commission”) and final review and approval from the Edgewater City Council (“City Council”); and

WHEREAS, pursuant to and in accordance with Code Sections 16-28-70, the Commission conducted a public hearing on the Application on June 27, 2018, at which time the Applicant and all other interested parties were given the opportunity to be heard and after which the Commission made formal recommendation thereon to the City Council in the form of a resolution; and

WHEREAS, after due and proper notice in accordance with Code Section 16-28-70, the City Council conducted a public hearing on the Application on July 19, 2018, at which time the Applicant and all interested parties appearing were given the opportunity to again be heard; and

WHEREAS, based upon the testimony and evidence received at such hearing and after its consideration of the approval criteria set forth in the Code, the City Council finds that the Application satisfies the relevant criteria only upon the imposition of conditions and wishes to conditionally approve the Application, a further set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EDGEWATER, COLORADO, THAT:

**Section 1. Approval Criteria:** To obtain approval, Code Section 16-28-60 requires a PUD applicant to demonstrate:

- (1) Whether the project is compatible with the general purpose, goals, objectives and standards of the Comprehensive Plan.

- (2) Whether all applicable provisions of this Code have been met.
- (3) Whether the project is compatible with any applicable Design Standards.
- (4) Whether the following are arranged so that traffic congestion is avoided, pedestrian and vehicular safety and welfare are protected, adequate fire protection can be provided and adverse impacts on adjacent property, including noise, glare, odors, vibration and fumes, are mitigated or eliminated:

- a. Location of buildings, structures and improvements;
- b. Vehicular ingress and egress;
- c. Internal vehicular circulation;
- d. Setback lines;
- e. Height of buildings;
- f. Service facilities;
- g. Walls;
- h. Open space and landscaping; and
- i. Sidewalks.

- (5) Whether proposed signs will interfere with traffic or limit visibility.
- (6) Whether water and sewer systems are adequate to serve the project.
- (7) Whether stormwater runoff problems are compounded because of the project.
- (8) Whether curb cuts onto arterial and collector streets will be kept to a minimum and placed in safe locations.

**Section 2. Findings:** Based on all the evidence and testimony presented at the hearing on the Application conducted by the City Council on July 19, 2018, the City Council finds that the Application addresses the required criteria as follows:

- (1) Whether the project is compatible with the general purpose, goals, objectives and standards of the Comprehensive Plan.*

The City Council finds the Applicant's arguments that the Application aligns with several 2013 Edgewater Comprehensive Plan Guiding Principles, as outlined on pages 6-7 of the July 19, 2018 Staff Report on the Application from City Planner Patty McCartney ("Staff Report"), to be credible and persuasive. The City Council therefore finds that the proposed project is compatible with the general purpose, goals, objectives and standards of the Comprehensive Plan.

- (2) Whether all applicable provisions of this Code have been met.*

As detailed on pages 7-10 of the Staff Report, the Application proposes several waivers or exceptions from the zoning and development standards applicable to the Property.

The City Council finds that the Application proposes the redevelopment of a currently under-utilized, half-vacant, commercially viable commercial site in the City. The City Council further finds that the Application proposes a project that facilitates

and encourages the use of mass-transit, ride-sharing and pedestrian and bicycle travel, and would therefore provide a community-centric hub of commercial and social activity.

As allowed in the context of a PUD, the applicable Code standards may be modified, upon a finding that the proposed project meets the spirit and intent of the PUD criteria and that any modifications are warranted by the design and amenities incorporated into the project. The stated purpose of the PUD regulations is to “provide for greater variety and choice of design for urban living, to gain efficiency, to coordinate design development efforts, to conserve and make available open space, to utilize new technology in urban land development and to gain flexibility over conventional land control regulations.”

In this instance, the City Council finds that the project meets this stated spirit and intent of the PUD regulations because the project would give City residents and visitors a greater variety and choice in the type of urban retail and dining environments available within the City, would conserve existing open space by redeveloping an underutilized existing commercial site, and allow the flexibility over the traditional land control regulations necessary to provide the proposed mix of retail, dining, drinking, small-scale farming and entertainment uses.

The City Council therefore finds that the project meets the spirit and intent of the PUD criteria such as to warrant the following requested variations from applicable Code criteria otherwise applicable to the project:

- Maximum building height
- Maximum fence height
- Permissible fence materials
- Number and type of parking spaces
- Number of murals that may face front lot line
- Roof top signs (to allow – ordinarily prohibited)
- Projection sign (to allow in conjunction with a wall sign on Building # 3; ordinarily prohibited in conjunction with wall signs)
- Landscaping parking area buffer requirement
- Restriction on use of neon signs (to allow as a rooftop sign; only allowed in window signs)
- Aggregate sign size per commercial tenant (exclude from the maximum permissible area of signage per commercial tenant the size of the Building # 1 roof-top neon sign)

The City Council further finds that the following requested variations from applicable Code criteria are warranted only upon the imposition of certain conditions, intended to ensure that the spirit and intent of the City’s land use regulations are preserved:

- Maximum size of murals

**CONDITION:** The maximum permissible individual mural size of sixty-four (64) square feet may be exceeded so long as no individual mural exceeds five hundred sixty-nine (569) square feet in area and so long as the total aggregate mural sign area within the project does not exceed eighteen hundred (1,800) square feet.

- Size of Building # 1 rooftop neon sign

**CONDITION:** A rooftop sign of neon material may be located on Building # 1, so long as such the aggregate area of the neon elements of such sign do not exceed three hundred fifty (350) square feet (exclude from the calculation of sign area any structural sign elements that are not within or a part of the neon message components and that are at least eighty percent (80%) open)

- Maximum size of greenhouse

**CONDITION:** The maximum permissible greenhouse size of four thousand (4,000) square feet may be exceeded up to a maximum area of five thousand (5,000) square feet.

*(3) Whether the project is compatible with any applicable Design Standards.*

The Property is subject to the 20<sup>th</sup> Street Design Guidelines. As detailed on pages 10-11 of the Staff Report, the Application seeks modifications of several of these standards.

The City Council finds that the Application meets the intent and spirit of the PUD regulations even with the requested design standard variations only upon the imposition of the following conditions:

**CONDITIONS:**

- The Applicant obtain a revocable permit for all improvements located within the public right-of-way, as required by Section 17.3 of the Edgewater Home Rule Charter.
- The Depew Street access is moved approximately fifty to one hundred feet north to allow vehicles existing this access to move freely into the southbound queue, as further detailed and recommended by the Traffic Impact Study (TIS), Attachment E to the Staff Report
- Add a  $\frac{3}{4}$  movement driveway access and minimum four-foot median on West 20<sup>th</sup> Avenue, as recommended by the TIS and by the City Engineer, as detailed in her analysis, Attachment H to the Staff Report.

*(4) Whether the following are arranged so that traffic congestion is avoided, pedestrian and vehicular safety and welfare are protected, adequate fire protection can be provided and adverse impacts on adjacent property, including noise, glare,*

*odors, vibration and fumes, are mitigated or eliminated:*

*a. Location of buildings, structures and improvements;*

As detailed on pages 11-12 of the Staff Report, the proposed location of buildings, structures and improvements may cause negative noise impacts to adjacent properties and the neighborhood. As such, the City Council finds that the Application meets this criteria, only upon the imposition of certain conditions, as further detailed and recommended by the Noise Impact Study submitted as part of the Application and included as Attachment I to the Staff Report:

**CONDITIONS:**

- The outdoor movie space shall demonstrate the ability to comply with the City's noise regulations of Chapter 10, Article 14 of the Code. A noise analysis of the proposed acoustical equipment for the outdoor movie screen must be approved by City Staff prior to issuance of a building permit.
- The outdoor movie space shall not operate after 11:00 P.M.
- The outdoor patio and rooftop patios shall have downward facing loudspeakers for background music that are directed to the interior of the site.

*b. Vehicular ingress and egress:*

As detailed on pages 2-3 of the Staff Report and Attachment H thereto, the City Engineer reviewed the TIS and found the same to be incomplete or incorrect such that the following conditions are necessary to ensure that vehicular ingress and egress to the Property are adequate and arranged in such a way as to minimize adverse impacts on adjacent properties:

**CONDITIONS:**

1. Correct the Traffic Study for the following items:
  - Synchro Analysis. Update the synchro model and reports for the W. 20th Avenue traffic volumes for further review by the City Traffic Engineer.
  - Synchro Analysis. Model the Primary Site access and W. 20th Avenue intersection with a single westbound thru and separate westbound right turn lane.
  - Include an auxiliary turn lane requirement table that includes auxiliary turn lane improvements at all accesses and study intersections.
  - The raised median on W. 20th Avenue should be a minimum of four feet in width.
2. If further parking reduction (less than the 411 proposed by the Application) is sought on the basis of proposed off-site parking at the Target parking lot located at 1985 Sheridan Boulevard, the Applicant shall contribute to a future

traffic signal at Benton Street and W. 20<sup>th</sup> Avenue in such an amount as reasonably determined by the City Manager, or his or her designee.

3. The following Transportation Demand Management (TDM) measures shall be implemented:

- 70 bicycle parking spots distributed throughout the site.
- Adequately signed, marked and lighted rideshare pick-up/drop-off lane.
- Sidewalk and American with Disabilities Act (ADA) improvements per City Code.
- Post bus scheduled/route information in a public space.
- Coordinate with local senior/care centers to provide shuttle services.
- Construct curb improvements at the northeast corner of the intersection of Depew Street and W. 22nd Avenue to improve pedestrian crossing and physically prohibit wrong-way driving on the one-way section of Depew Street to the north of the intersection.
- Provide curb extensions at the intersection of Benton Street and W. 22nd Avenue to shorten pedestrian crossings and to discourage high speed traffic through the adjacent residential neighborhood.

c. *Internal vehicular circulation:*

d. *Setback lines:*

e. *Height of buildings:*

f. *Service facilities:*

g. *Walls:*

h. *Open space and landscaping:*

i. *Sidewalks:*

For the reasons identified in the Staff Report on pages 12-13, which the City Council finds to be credible and accurate, the City Council finds that the remaining above features and characteristics of the Application are arranged so that traffic congestion is avoided, pedestrian and vehicular safety and welfare are protected, adequate fire protection can be provided and adverse impacts on adjacent property are mitigated or eliminated.

*(5) Whether proposed signs will interfere with traffic or limit visibility.*

The City Council finds that signage is unlikely to interfere with traffic or limit visibility.

*(6) Whether water and sewer systems are adequate to serve the project.*

The Applicant indicates that it is working with Denver Water to ensure that adequate water service is available, which the City Council finds to be credible and reliable. Both the Applicant and the City, through the affirmation of Deputy City Manager Maples, indicate that the City and Applicant shall cooperate to ensure adequate sewer service.

*(7) Whether stormwater runoff problems are compounded because of the project.*

The City Engineer has reviewed the Application and expressed no concern about stormwater or run-off implications of the proposed project.

*(8) Whether curb cuts onto arterial and collector streets will be kept to a minimum and placed in safe locations.*

The City Council finds that this criteria is met, consistent with Criteria 4.b. above.

**Section 3. Decision:** Based on the foregoing findings, the City Council hereby **CONDITIONALLY APPROVES** the Application, the conditions specified above being summarized below as follows:

**CONDITIONS:**

1. Correct the Traffic Study for the following items:
  - a. Synchro Analysis. Update the synchro model and reports for the W. 20th Avenue traffic volumes for further review by the City Traffic Engineer.
  - b. Synchro Analysis. Model the Primary Site access and W. 20th Avenue intersection with a single westbound thru and separate westbound right turn lane.
  - c. Include an auxiliary turn lane requirement table that includes auxiliary turn lane improvements at all accesses and study intersections.
  - d. The raised median on W. 20th Avenue should be a minimum of four feet in width.

If further parking reduction (less than the 411 proposed by the Application) is sought and granted on the basis of proposed off-site parking at the Target parking lot located at 1985 Sheridan Boulevard, the Applicant shall contribute to a future traffic signal at Benton Street and W. 20<sup>th</sup> Avenue in such an amount as reasonably determined by the City Manager, or his or her designee.

3. The following Transportation Demand Management (TDM) measures shall be implemented:
  - a. 70 bicycle parking spots distributed throughout the site.
  - b. Adequately signed, marked and lighted rideshare pick-up/drop-off lane.
  - c. Sidewalk and American with Disabilities Act (ADA) improvements per City Code.
  - d. Post bus scheduled/route information in a public space.
  - e. Coordinate with local senior/care centers to provide shuttle services.

- f. Construct curb improvements at the northeast corner of the intersection of Depew Street and W. 22nd Avenue to improve pedestrian crossing and physically prohibit wrong-way driving on the one-way section of Depew Street to the north of the intersection.
  - g. Provide curb extensions at the intersection of Benton Street and W. 22nd Avenue to shorten pedestrian crossings and to discourage high speed traffic through the adjacent residential neighborhood.
- 4. The outdoor movie space shall demonstrate the ability to comply with the City's noise regulations of Chapter 10, Article 14 of the Code. A noise analysis of the proposed acoustical equipment for the outdoor movie screen must be approved by City Staff prior to issuance of a certificate of occupancy.
  - 5. The outdoor movie space shall not operate after 11:00 P.M.
  - 6. The outdoor patio and rooftop patios shall have downward facing loudspeakers for background music that are directed to the interior of the site.
  - 7. The maximum permissible individual mural size of sixty-four (64) square feet may be exceeded so long as no individual mural exceeds five hundred sixty-nine (569) square feet in area and so long as the total aggregate mural sign area within the project does not exceed eighteen hundred (1,800) square feet.
  - 8. The Applicant obtain a revocable permit for all improvements located within the public right-of-way, as required by Section 17.3 of the Edgewater Home Rule Charter.
  - 9. The Depew Street access is moved approximately fifty to one hundred feet north to allow vehicles exiting this access to move freely into the southbound queue, as further detailed and recommended by the Traffic Impact Study (TIS), Attachment E to the Staff Report.
  - 10. Add a  $\frac{3}{4}$  movement driveway access and minimum four-foot median on West 20<sup>th</sup> Avenue, as recommended by the TIS and by the City Engineer, as detailed in her analysis, Attachment H to the Staff Report.
  - 11. A rooftop sign of neon material may be located on Building # 1, so long as such the aggregate area of the neon elements of such sign do not exceed three hundred fifty (350) square feet (exclude from the calculation of sign area any structural sign elements that are not within or a part of the neon message components and that are at least eighty percent (80%) open)
  - 12. The applicant shall grant a public access easement to the City for any sidewalk area that is adjacent to, but not completely located within, any public right-of-way, which access easement may obligate the City to maintain the sidewalk improvements, but shall not obligate the City to maintain any other, or related, improvements.



**Section 4. Recordation.** Upon the effectiveness of this Ordinance, City Staff is directed to record the Application, together with a copy of this Ordinance, with the Jefferson County Clerk and Recorder at the Applicant's expense, in accordance with Code Section 16-28-70(g).

**Section 5. Effective Date.** This ordinance shall become effective in accordance with the Home Rule Charter of the City of Edgewater.

INTRODUCED, READ, PASSED ON FIRST READING AND ORDERED PUBLISHED  
this 19<sup>th</sup> day of July, 2018.

/s/ Laura Keegan  
Laura Keegan, Mayor

ATTEST:

/s/ L Pedroza  
Lenore Pedroza, City Clerk

PASSED AND ADOPTED ON SECOND READING AND ORDERED PUBLISHED  
this 2nd day of August, 2018.

/s/ Laura Keegan  
Laura Keegan, Mayor

ATTEST:

/s/ L Pedroza  
Lenore Pedroza, City Clerk

APPROVED AS TO FORM:

/s/ Thad Renaud  
Thad Renaud, City Attorney

