

PLANNING AND DEVELOPMENT MEMORANDUM
#10-14

July 8, 2010

TO: Honorable Joyce Downing and City Council Members

FROM: William Simmons, City Manager *WAS*
James Hayes, Director of Planning and Development *JH*

SUBJECT: CB-1722 / Rezoning of 9777 Fred Drive from R-1-B to PUD

BACKGROUND INFORMATION

This is a re-application for a case that was acted upon by City Council in April of 2009.

Originally, in March of 2009, the Planning Commission heard the case and recommended approval of rezoning the property to the City Council pursuant to a public hearing. When, later, the City Council heard the case and held a public hearing for the rezoning to PUD, the vote was 4-3 in favor of the rezoning. However, a clause in Article 37- Amendments and Public Hearings of the Northglenn Zoning Ordinance rendered the vote invalid, ultimately defeating the proposal.

Article 37, Section 11-37-2(g) Council Action indicates the following:

"In case of protest against such zone change signed by the owners of 20 percent or more, either of the area of the lots included in such proposed change or of those immediately adjacent to the side and in the rear thereof extending 100 feet therefrom or of those directly opposite thereto extending 100 feet from the street frontage of such opposite lots, such zone change shall not become effective except by the favorable vote of three-fourths of the entire voting membership of Council.

At the City Council public hearing in 2009, a petition was presented and signed that exceeded the thresholds as stated above in 11-37-2-(g). In light of the submitted petition and in accordance with the article above, 7 out of 9 members of the "entire voting membership of Council" would have had to vote in the affirmative. Therefore, the application was not approved. In the event that a similar petition is submitted, the same circumstances would apply.

Attached to this memorandum is a proposed ordinance, which, if approved, would rezone 9777 Fred Drive from an R-1-B Residential Zone to a PUD Planned Unit Development Zone to allow for a 12-resident assisted living facility. Staff presented the application to the Planning Commission for their consideration at a public hearing on May 18, 2010. A copy of the staff report and exhibits is attached for reference purposes (Attachment A).

PROCEDURE

On May 18, 2010, the Planning Commission considered the requests for rezoning to Preliminary PUD for the subject site. The Planning Commission unanimously recommended approval of the Preliminary and Final PUD based on six findings of fact:

- The proposed development is compatible with the surrounding area;
- The proposed development is not inconsistent with the City's Master Plan;
- The proposed development does not adversely affect the health, safety, and welfare of the inhabitants of the area and the City of Northglenn;
- A need exists for the proposal;
- Adequate circulation exists and traffic movement will not be impeded by the proposed development; and
- Additional municipal service costs will not be incurred.

The Planning Commission also added recommended conditions of approval to their formal recommendation:

1. If at any point the waste generated from the facility exceeds the allowed capacity of a regular single family structure, the owner may be required to contract for private waste services.
2. Upon final approval of any PUD the applicant will submit final, to scale drawings.

The Planning Commission did not take action on any conditional approval of a Final PUD upon any rezoning approval by the City Council. If the rezoning to PUD is ultimately granted by the City Council, a Final PUD hearing would be scheduled for the Planning Commission at a later date.

POTENTIAL OBJECTIONS:

No objections from the public were heard at the Planning Commission meeting.

BUDGET/TIME IMPLICATIONS:

This rezoning request has no budgetary impacts.

STAFF REFERENCE:

If Council members have any comments or questions they may contact James Hayes, jhayes@northglenn.org or at 303-450-8937.

ATTACHMENTS

Attachment A – Planning Commission staff report

Attachment B - Letter from applicant's attorney dated March 19th, 2010

ATTACHMENT A

Case No. Z-1-10

Applicant: Oscar Salem, The Care Group
of Northglenn
Location: 9777 Fred Drive
Ordinance: 11-16 and 11-37-2

9777 FRED DRIVE REZONE STAFF REPORT AND RECOMMENDATION

REQUEST:

The applicant, Oscar Salem, requests the Planning Commission hear and recommend, to the City Council, a change of zoning of the parcel located at 9777 Fred Drive (Exhibit A & B) from R-1-B Residential to Planned Unit Development (PUD).

REASON FOR REQUEST:

The applicant proposes to remodel the existing single family home located on the site into an assisted living facility, with the potential of housing up to 12 elderly residents. Although the proposed use would be allowed in an R-1-B zone with approval of a Special Use Permit, the number of occupants would be limited to 8, fewer than the applicant wishes to assist. The PUD zoning would allow for the provision for 12 residents to be listed directly on the PUD documents.

BACKGROUND:

The site has been zoned R-1-B zone since incorporation of the City. It is designated as Single Family Residential in the City's Western Planning District.

SURROUNDING LAND USES:

North: Hepp Duplex PUD and Single Family Residences
South: Multi Family Development in Thornton
West: Single Family Residences
East: Single Family Residences

CASE ANALYSIS:

This is a re-application of a case that was ultimately denied by City Council in April of 2009. Originally, the Planning Commission recommended approval to the City Council pursuant to a public hearing. When, later, the City Council heard the case and held a public hearing for the rezoning to PUD, the vote was 5-2 4-3 in favor of the rezoning. However, an obscure clause, in Article 37- Amendments and Public Hearings, of the Northglenn Zoning Ordinance rendered the vote invalid, ultimately defeating the proposal.

Article 37, Section 11-37-2(g) Council Action indicates the following:

"In case of protest against such zone change signed by the owners of 20 percent or more, either of the area of the lots included in such proposed change or of those immediately adjacent to the side and in the rear thereof extending 100 feet therefrom or of those directly opposite thereto extending 100 feet from the street frontage of such opposite lots, such zone change shall not become effective except by the favorable vote of three-fourths of the entire voting membership of Council.

At the City Council public hearing, a petition was presented and signed that exceeded the thresholds as stated above in 11-37-2-(g). In light of the submitted petition and in accordance with the article above, 7 out of 9 members of the "entire voting membership of Council" would have had to vote in the affirmative. Therefore, the application was not approved.

As stated, this is a re-application of the same proposal. The Planning and Development Department has been in close contact with the applicant regarding the proposed rezoning since February of 2008. Staff has reviewed the rezoning proposal and determined that it complies with all requirements for a Planned Unit Development zoning district.

The aging population continues to increase within the City of Northglenn, while assisted living facilities within the Western Planning District are in short supply. Currently there appears to be a need for such a facility in this area of the City. The proposed rezoning is compatible with the surrounding residential areas, including several multi-family developments in Thornton and the two Hepp Duplexes directly north of the proposed site.

The applicant has provided preliminary schematics for the remodel, which includes a 3,000 square foot main floor (Exhibit C), 2,600 square foot walk-out basement (Exhibit D), and five parking spaces for staff and visitors (Exhibit E). The proposed parking configuration would include two spaces within the existing garage and three spaces at the northwest corner of the house, with one dedicated handicap space. The proposed parking was reviewed by members of the Development Review Committee and was deemed to be sufficient for the proposed use.

It is not anticipated that Huron Street will be impacted by the proposed development; however, Fred Drive may or may not be impeded throughout the day. The site is currently developed with a circular drive and two access points onto Fred Drive. The applicant is proposing to reconfigure the circular drive to accommodate the additional parking and provide a single access for Fred Drive. The proposed parking configuration and site access outlined in the PUD was reviewed by the City's traffic engineer and determined impact to Fred Drive to be less than the existing condition. Further, the intersection of Fred Drive and Huron Street is equipped with a left turn lane on

southbound Huron Street. The intersection is signalized, but no specific "left turn" arrow exists to control eastbound turns off of Huron Street onto Fred Drive (Exhibit B).

No additional city infrastructure is required to serve this proposal. User rates within the city are structured such that the proposal will be paying for any service costs incurred by increased usage.

The proposed facility would be licensed by the Colorado Department of Human Services (CDHS) to accommodate up to twelve elderly residents. At least one employee would remain on site at all times to provide assistance to the residents in their daily activities. The applicant proposes to install a fire sprinkler system, fire alarms, and a chair climber as required by the CDHS. The applicant will be required to meet all code requirements from the North Metro Fire Rescue District and the City of Northglenn's Chief Building Official.

Property owners surrounding the proposed facility were notified via mail of the proposal, as required by Section 11-41-3(a) of the City's Zoning Ordinance. In addition, the property in question was posted as required by Section 11-41-3(b). No comments have been received as of the report date.

APPROVAL CRITERIA:

As a basis of approval Section 11-37-2(h) of the Zoning Ordinance provides that the Planning Commission "shall give consideration to and satisfy themselves to the following:

- 1) That a need exists for the proposal;
- 2) That this particular parcel of ground is indeed the correct site for the proposed development;
- 3) That there has been an error in the original zoning; **or**
That there have been significant changes in the area to warrant a zone change;
- 4) That adequate circulation exists and traffic movement would not be impeded by development; and
- 5) That additional municipal service costs will not be incurred which the City is not prepared to meet.

COMMISSION OPTIONS:

In this case, the Planning Commission is making a recommendation to Council.

Commission's options are as follows:

- 1) Recommend approval of this request, with or without conditions or stipulations;
- 2) Recommend denial of this request for reasons stated; or
- 3) Table the request for further consideration.

STAFF RECOMMENDATION:

Staff is recommending approval of the request for rezoning from R-1-B to PUD based on the seven recommended Findings of Fact.

RECOMMENDED FINDINGS OF FACT:

1. The proposed development is compatible with the surrounding area;
2. The proposed development is not inconsistent with the City's Master Plan;
3. The proposed development does not adversely affect the health, safety, and welfare of the inhabitants of the area and the City of Northglenn;
4. A need exists for the proposal;
5. There have been significant changes in the area to warrant a zone change;
6. Adequate circulation exists and traffic movement will not be impeded by the proposed development; and
7. Additional municipal service costs will not be incurred.

STIPULATIONS:

- 1) Prior to recording the document with the Adams County Clerk & Recorder, the applicant shall provide a corrected Site Plan (page A1.3), with all boundaries, footprints, and dimensions drafted to an appropriate scale.

RESPECTFULLY SUBMITTED:



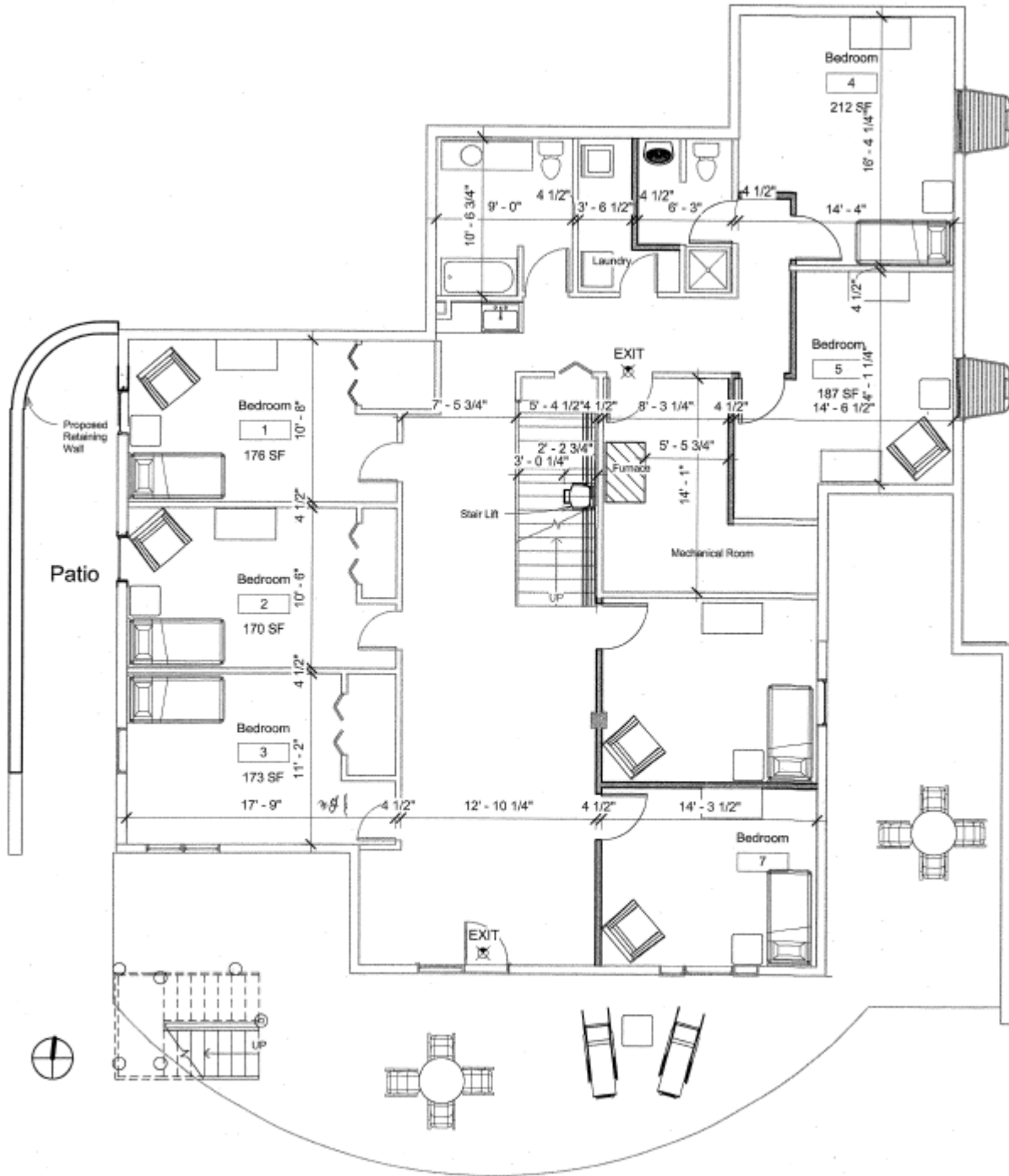
Travis Reynolds, AICP
Senior Planner

WHAT'S NEXT: In this case, the Planning Commission is making a recommendation to Council. First reading before City Council is tentatively scheduled for June 10, 2010.

EXHIBIT B

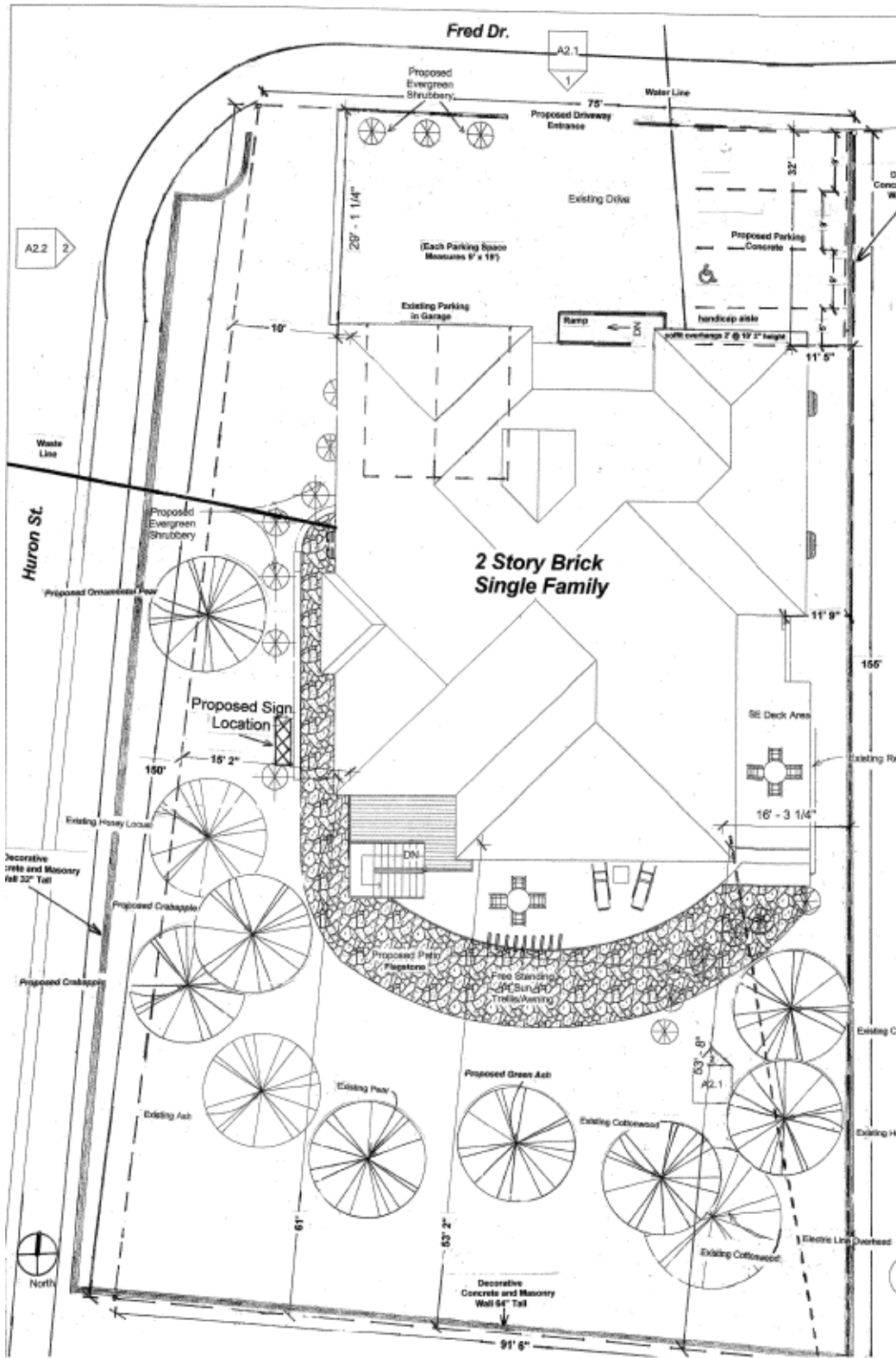


EXHIBIT D



1 Lower Level
3/16" = 1'-0"

EXHIBIT E



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March 19, 2010

Development Review Committee
City of Northglenn
11701 Community Center Drive
Northglenn, CO 80233

Re: Oscar Salem – Application for Development Review

To Whom It May Concern:

Please be advised this firm represents Mr. Oscar Salem. Please accept this letter on Mr. Salem's behalf as the operational narrative attached to the enclosed Application for Development Review. Mr. Salem is requesting approval of a Planned Unit Development ("P.U.D.") for Property located at 9777 Fred Drive, Northglenn, CO 80260 (the "Property"). The Property is currently zoned R-1-B.

Mr. Salem requests approval of a P.U.D. to allow for a twelve (12) resident assisted living home to be located at the Property (the "Project"). The project would include installation of a sprinkler system, fire alarms, a wheelchair lift and all other improvements required to meet state of Colorado regulations. To be clear, an assisted living center is a very low level care center where local citizens receive assistance from care providers to go about their day-to-day lives. It is not a hospice, nursing home or hospital and it is important to understand the distinction between these high level care facilities and the footprint left by the Project, which would be extremely minimal.

While the residents of the Project would not need extensive care, they are far less active than better-abled individuals so their impact will be nominally felt, if at all, by the neighbors of the Property. Few, if any, of the residents would drive and most would be transported by trained, professional drivers. The parking situation at the Property is ideal for a Project of this type. Mr. Salem specifically purchased the Property because it is located on the corner of a very accessible intersection: Fred Drive and Huron St. The enclosed building plans set forth Mr. Salem's detailed plan with respect to parking, which include five (5) on-site parking spots. Because the Property is located at an accessible intersection, directly adjacent to the Huron Professional Center, neighborhood impact from any increase in traffic due to the project would be nearly nonexistent; traffic created by the Project would not actually move into the neighborhood but would be confined to the intersection at Fred Drive and Huron St. and Mr. Salem has more than accounted for any necessary parking required of an increased use intensity at the property by including five on-site parking locations. Moreover, Mr. Salem's proposed parking solution meets all requirements set forth by Colorado's applicable health code for assisted living homes.

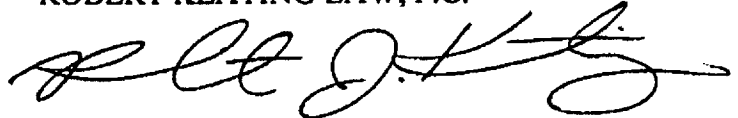
The enclosed building plans call for a floor plan of 5,607 square feet to provide accommodations for all residents. However, the Project would not expand the building envelope; rather, improvements to the building will be made to the interior only. Mr. Salem also plans to significantly improve the exterior of the Property by adding thousands of dollars in landscaping and other cosmetic exterior upgrades.

Mr. Salem owns two other highly successful assisted living centers (both in Arvada), and has tremendous experience as a builder, owner and operator of assisted living centers. We are happy to provide affidavits from current residents about the level of care they receive at Mr. Salem's facilities. The Project will provide high quality care with a minimal neighborhood impact, provide current Northglenn citizens an option with respect to their elder care, bring jobs to the local community as well as increasing the City's tax base. The Project is simply an excellent opportunity for the City of Northglenn and will not impact the Property's neighbors. Please approve my client's request.

I greatly appreciate the City's review of this matter. The enclosed building plans have been produced at the scale designated therein. I have been working with Rocky Mountain Blueprint and Supply Company and they have assured me the enclosed copies are printed to scale. However, if any additional copies of the enclosed materials, or if any supplementary materials are required or requested, please do not hesitate to contact me.

Sincerely,

ROBERT KEATING LAW, P.C.



By: Robert J. Keating, Esq.

Enclosures: Fred Dr PUD Assisted Living Home Preliminary and Final Planned Unit
Development
Application for Development Review
Check in the amount of \$700.00

cc: O. Salem

SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1722
Series of 2010

Series of 2010

A BILL FOR A SPECIAL ORDINANCE REZONING FROM RESIDENTIAL R-1-B TO PLANNED UNIT DEVELOPMENT PUD, CERTAIN REAL PROPERTY IN THE CITY OF NORTHGLENN LOCATED AT 9777 FRED DRIVE, CITY OF NORTHGLENN, COUNTY OF ADAMS, STATE OF COLORADO, AMENDING THE ZONING MAP OF THE CITY OF NORTHGLENN, AND IMPOSING PENALTIES FOR VIOLATIONS OF THE ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Findings of Fact. The City Council hereby makes the following findings of fact regarding compatibility with the surrounding area pursuant to 11-37-2(h) of the Northglenn Municipal Code:

- A. A need exists for the rezoning from Residential R-1-B to Planned Unit Development PUD;
- B. The property at 9777 Fred Drive is the correct location for the proposed development;
- C. Significant changes in the area have occurred to warrant the proposed zone change;
- D. Adequate circulation exists and traffic movement will not be impeded by the proposed development; and
- E. Additional municipal service costs will not be incurred which the City is not prepared to meet.

Section 2. Change of Zoning District. Pursuant to the provisions of the Northglenn Zoning Ordinance, as amended, and upon the recommendation of the Northglenn Planning Commission, a change of zoning from Residential R-1-B to Planned Unit Development PUD is hereby approved pursuant to Section 11-37-2(h) and granted for the real property in the City of Northglenn, Colorado, described as 9777 Fred Drive, City of Northglenn, County of Adams, State of Colorado follows.

Section 3. Change of Zone Maps. The official zoning map of the City of Northglenn, pursuant to the provisions of Section 11-3-1 of the Municipal Code of the City of Northglenn, as amended, shall be and hereby is ordered amended to conform with the provisions set in Section 1 of this Ordinance.

Section 4. Violations-Penalty. Violations of the provisions of this Ordinance shall be punishable by a fine of not more than one thousand dollars (\$1,000.00), or by imprisonment for a period of not more than one (1) year, or both such fine and imprisonment.

INTRODUCED, READ, AND ORDERED POSTED this _____ day of _____,
2010.

JOYCE DOWNING
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

PASSED ON SECOND AND FINAL READING this _____, day of _____,
2010.

JOYCE DOWNING
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney