

COUNCIL COMMUNICATION

Meeting Date: May 24, 2022	Agenda Item: 10B	Agenda Location: Consent Calendar	Goal(s):	Legal Review: <i>TY</i>	<input type="checkbox"/> 1 st Reading <input checked="" type="checkbox"/> 2 nd Reading
Subject: An ordinance denying a rezoning from Community Retail to Planned Development, an Overall Development Plan/Conceptual Site Plan, and Planned Development Standards for approximately three acres of land generally located west of Interstate 25 and south of West 84 th Avenue to develop industrial buildings and a digital message monument sign (electronic billboard) (Falk Industrial Tract, Amendment No. 1, Lot 4A).					
Recommended by: Randy Grant <i>RG</i>				Approved by: Kevin S. Woods <i>KW</i>	
Presenter(s): Warren Campbell, Current Planning Manager				Ordinance previously introduced by: <u>Matkowsky</u>	

SYNOPSIS:

A public hearing was opened on February 8, 2022; continued to March 22, 2022; and subsequently continued to April 26, 2022 and May 10, 2022; regarding a Zoning Amendment and Overall Development Plan/Conceptual Site Plan (ODP/CSP), and Planned Development (PD) Standards for approximately three acres of land generally located southwest of the intersection of West 84th Avenue and Interstate 25 (I-25), south of Sherman Street:

- Rezone the property from Community Retail (CR) to PD.
- Develop the lot as small-scale warehouse and office spaces intended to provide incubator space for small businesses.
- Construct a digital message monument sign (electronic billboard) along I-25.
- Construct associated site improvements such as adjacent roadways, landscaping, and utilities.

RECOMMENDATION:

Staff recommends Alternative No. 2, to deny the Zoning Amendment, ODP/CSP, and PD Standards as outlined in the draft ordinance.

BUDGET/STAFF IMPLICATIONS:

A financial evaluation has been completed by the City’s Finance Department to illustrate potential impacts the proposed Zoning Amendment could have on the City. At build-out, the City would not experience a material change in fiscal impact. The total revenues, less expenses, are estimated at \$21,000 annually. The evaluation can be found in Attachment 1 of this communication

ALTERNATIVES:

1. Approve the Zoning Amendment, ODP/CSP, and PD standards.
2. Deny the Zoning Amendment, ODP/CSP, and PD standards.
3. Revise the Zoning Amendment, ODP/CSP, and PD standards in response to specific Council direction.
4. Continue the Public Hearing.

BACKGROUND (ANALYSIS/NEXT STEPS/HISTORY): (includes previous City Council action)

A public hearing was opened on February 8, 2022; continued to March 22, 2022, and subsequently continued to April 26, 2022 and May 10, 2022. The continuance at the February 8, 2022 Public Hearing was at the request of Council, to allow the applicant to address questions raised by Council and the public relating to the proposed electronic billboard. Specifically, questions included those related to traffic safety along I-25 due to introduction of an additional driver distraction. Additionally, Council requested additional information regarding the mitigation of potential light impacts on adjacent residential uses. The potential to reduce the size of the proposed sign as a way to mitigate these potential adverse impacts was discussed amongst Council. There was also discussion regarding the commitments which were made during the public hearing that were not proposed as requirements contained in the PD Standards, such as message hold and transition times and the opportunity for City advertising time. Questions regarding the purpose of the sign and the proposed value to the City and property also remained. The applicant has since provided additional documentation to address Council questions, including a memo, letters of support, and traffic study research, which has been included in the Council packet as Attachments 10-28. The applicant has also amended the proposed PD Standards to reduce the maximum allowed sign area of the electronic billboard from 700 square-feet to 672 square-feet per sign face. Additionally, the required message hold time was increased from a minimum of five seconds to a minimum of 8 seconds.

The proposed Zoning Amendment requests to rezone approximately three acres of land from CR to PD to allow the development of four buildings intended to provide incubator space for small businesses as well as an approximately 60-foot-tall electronic billboard. The subject property is Lot 4A of the Falk Industrial Tract, Amendment No. 1 subdivision. The shape of the property is an irregular flag lot with frontage on Sherman Street. Adjacent properties include industrial and commercial developments to the north and Single-Family Detached (SFD) residential located in unincorporated Adams County to the west and south. I-25 is located directly east of the property.

The proposed electronic billboard is not permitted under existing City Code (Code) regulations. Per Section 18-741 of the Code, Billboard Signs are only permitted on Undeveloped Properties and must be removed once the property is developed. Furthermore, the Code defines Undeveloped Property as a private property which does not have a building or structure on it and is at least 200 feet from a building or paved parking area. While the subject lot is currently vacant, the surrounding developments are within 200 feet of the lot and therefore it would not meet the definition of an Undeveloped Property. Since the subject property does not meet the definition of Undeveloped Property, a Billboard Sign would not currently be permitted on the property. Additionally, Section 18-750 of the Code regulates the construction of Electronic Signs within the City. While the Code currently allows Electronic Signs, they are limited to advertising on-site messages related to the business or activities occurring at that site and they are prohibited from being billboards. Section 18-750(a) explicitly prohibits electronic signs as billboards.

During the February 20, 2018 Planning Session, staff introduced a discussion regarding a Code amendment which would allow electronic billboards along I-25. The discussion was recommended by the Businesses of Thornton Advisory Commission in an effort to establish a Shop Thornton First electronic billboard marketing program with the intent of providing opportunities to advertise Thornton small businesses, the Shop Thornton First Program, and City events/information. At the Planning Session, staff was directed to draft a Code amendment which would allow this type of electronic billboard. This draft Code amendment was introduced at the September 4, 2018 Planning Session, although, Council ultimately decided to not move forward with the proposal.

ODP/CSP:

The proposal includes four single-story buildings with a maximum height of approximately 20 feet. The proposed uses include office and Flex-Warehouse, which the PD Standards define as a facility that has any combination of warehouse, showroom, and office space. The scale of the tenant spaces is intended to be small in an effort to provide an incubator space for starting entrepreneurs to operate and grow their businesses. Due to the lot shape, the buildings have limited visibility from the public right of way. A private drive from Sherman Street provides access to the proposed buildings. This drive continues south into Adams County as an emergency only access. Pedestrian access is proposed to be included along this private drive, although, the width of the sidewalk narrows as it travels north towards Sherman Street due to existing constraints caused by the irregular lot shape. Parking for the proposed development is proposed to be adjacent to the proposed buildings. Surplus parking is located on the north side of the lot. Per the proposed PD Standards, the development is required to have a total of 42 spaces. The applicant is proposing a total of 55 spaces.

The proposed ODP/CSP proposes landscaping treatments on 27 percent of the property, which exceeds the 20 percent landscape requirement per Code. The proposal includes a minimum 15-foot buffer along the west and south of the property, adjacent to the existing residential uses. The design and quality of the landscape plan meets Code requirements.

Conceptual architecture is also included in the proposed ODP/CSP and has been designed to include articulation in the wall planes as well as 30 percent glazing for each tenant space, which meets minimum Code requirements. The materials used include stone veneer, metal panels, and metal canopies. The materials and colors were selected in an effort to meet Code requirements and be compatible with the design of the neighboring non-residential development.

The proposal also includes the allowance of a 60-foot-tall electronic billboard, which would be visible from I-25. The signage is proposed to be a maximum of 700 square-feet and is intended to provide off-site advertising for businesses, commodities, services, and products. The applicant is proposing that \$40,000 of the annual revenues from the sign will be donated to the Adams 12 Education Foundation annually for programming south of 104th Avenue. Along I-25, the City of Northglenn has a similar electronic billboard with a sign area of 672 square-feet and a height of 60 feet. The Northglenn Development Code allows electronic billboards for off-premise advertising, subject to a minimum 25-foot setback from the property line, a maximum sign area of 672 square feet, and a maximum height of 60 feet. Additionally, the Northglenn Development Code requires a message hold time of five seconds, transition methods which require static messages only, and brightness/luminance restrictions which require dimming technology that varies brightness on the sign according to ambient light conditions. Outside of City approvals, the applicant would be required to receive a permit from the State to ensure the electronic billboard complies with the Colorado Outdoor Advertising Act as well as the Highway Beautification Act. This State permitting process requires similar message hold time and transition standards as the City of Northglenn and allows a maximum sign area of 1,200 square feet. Additionally, the State requires that electronic billboards are spaced no less than 1,000 feet apart on the same side of the highway.

Staff is recommending denial of the proposal due to the introduction of the referenced electronic billboard sign. While the PD Zoning Designation allows the introduction of unique uses, regulations, and exceptions, staff does not believe it meets the intent to allow an innovated development. Additionally, staff does not believe the proposed introduction of the electronic billboard meets the following criteria for approval of a PD Zoning Amendment, as outlined in Section 18-42(c) of the Code:

- *The proposed PD district is compatible with present development in the area, and will not have a significant, adverse effect on the surrounding area.*

Staff believes that, due to the prohibition of electronic billboards per Code requirements, the proposal is not compatible with any present development within the City. While Billboard Signs are permitted on an Undeveloped Property per Section 18-741(a)(2) of the Code, this lot does not meet the definition of an Undeveloped Property. Additionally, the proposal includes the component of an electronic sign which is further prohibited in Section 18-750(a)(2) of the Code. Staff's position is consistent with Council's decision to not pursue a Code amendment to allow electronic billboards after it was discussed in two Planning Sessions in 2018. Additionally, the subject property is within close proximity to SFD residential uses and the proposal has the potential for significant adverse effects on the surrounding area.

- *The proposed PD district is consistent with the overall direction, intent and policies of the city's Comprehensive Plan.*

While the City's Comprehensive Plan does not provide direction regarding signage within the City, it does speak to compatibility of uses. Staff does not believe the proposed electronic billboard meets the overall direction and intent of the Comprehensive Plan due to the following policy:

- a. Policy SG2.4 – Neighborhood Compatibility: Ensure that infill and redevelopment projects are designed to be sensitive and compatible with adjoining neighborhoods by providing appropriate transitions in height/scale, massing, and intensity along the shared street frontage or lot lines(s).

- *The exceptions from the zoning regulations requested in the proposed PD are warranted by virtue of innovative design and amenities incorporated in the PD district.*

Staff does not believe the exceptions requested from the Code are warranted by the proposal as it does not include an innovative design or amenities. The development of the proposed electronic billboard is accompanied by industrial uses. While the proposed industrial uses are supported by the Comprehensive Plan, staff does not believe the proposal warrants the need for a PD Zoning Designation as a similar development could be achieved under the Business Park (BP) Zoning Designation. While the applicant is proposing that \$40,000 of the lease revenue from the sign will be donated to the Adams 12 Education Foundation annually for programming south of 104th Avenue, staff does not believe it qualifies as an amenity incorporated in the PD District which would justify the exception from the Code.

- *The proposed PD Zoning District is consistent with the public health, safety and welfare, as well as efficiency and economy in the use of land and its resources.*

A Police Services Impact Statement has been included in Attachment 4 of this communication. Within this statement, concern is expressed that the proposed electronic billboard could increase driver distraction and exacerbate a higher than typical accident occurrence rate on I-25. This statement raises a public safety concern unique to this proposal and staff does not believe this criterion has been met. Additionally, the location of the proposed electronic billboard has a higher

elevation than the grade of I-25 which will increase the overall height and prominence of the sign which may further contribute to the increased driver distraction.

PD Zoning Amendments also need to meet the criteria for a change in a zoning district classification as outlined in Section 18-41(c)(5)(b) of the Code. Staff does not believe the proposal for an electronic billboard meets the following criteria:

- *The change in zoning provides for an appropriate use of the property.*

Based on the restrictions in the Code regarding Billboard Signs and Electronic Signs, staff does not believe the proposed electronic billboard is an appropriate use within the City. The establishment of a PD zoning district with unique uses, regulations, and exceptions from the Code is the only path for approval of the proposed use and staff does not believe it meets the criteria for approval of a PD District as stated previously in this communication.

- *The change in zoning is in substantial conformance with the goals and policies of the Comprehensive Plan and other adopted plans and policies of the city.*

As stated previously in this communication, staff does not believe the proposed electronic billboard is in substantial conformance of the goals and policies of the Comprehensive Plan. Additionally, the City does not have any other adopted plans or policies which would support the proposal of an electronic billboard.

- *The proposed zoning is sensitive to and compatible with the existing and planned use and development of adjacent properties.*

Staff believes the proposed electronic billboard has the potential to cause negative impacts to the existing adjacent uses. In addition to the sign type being prohibited per Code requirements, the proposal is unable to meet the development regulations that are applied to signage that is allowed within the City. Specifically, Electronic Signs are subject to illumination, message hold time, and transitions methods which are intended to reduce the potential nuisances that Electronic Signs could produce. The proposed electronic billboard meets the majority of these regulations, with exception of the transition method requirements. Additionally, the proposed electronic billboard is unable to meet standard setback requirements for freestanding signs or the residential proximity slope requirements under Section 18-452 of the Code, which the site would be subject to under Code requirements due to the adjacent residential land uses. Staff believes these proposed exemptions from Code requirements would allow a use that is incompatible with existing land uses.

PD Standards:

The proposed PD Standards are generally consistent with the City's BP Land Use Designation. Of the proposed land uses, Flex-Warehouse and the electronic billboard are unique to the PD. Unique requirements proposed by the PD Standards include development standards for the proposed electronic billboard, as well as landscaping requirements which go above and beyond Code requirements. Where the PD Standards are silent, the development must meet the requirements in the Code applicable to the most compatible zoning district.

The proposed landscape requirements which are an enhancement to those found in the City Code, include:

- a. A requirement that all deciduous trees within the PD shall have a minimum 2.5-inch caliper. Additionally, evergreen trees shall be a minimum of seven feet in height. The Code currently requires a two-inch caliper for deciduous trees and a minimum six-foot height for evergreen trees.
- b. A requirement that the proposed landscaping for the site shall incorporate a low water demand on the site, designing to an 80 percent efficiency along with the use of smart controllers for the irrigate

Water and Sewer:

The City has conducted a Water and Sewer Impact Statement to help determine the potential impact to City services. This statement can be found in Attachment 2 of this communication. The Sewer Statement concludes that the City's existing infrastructure has the capacity to handle projected peak flows for the project. The Water Impact Statement considers both raw water supply, as well as the capacities of the City's existing water distribution system. The City's current raw water supply would be adequate for the project and the water distribution system will not require any improvements beyond what the developer is proposing.

Traffic and Circulation:

The City has evaluated potential impact to City services and a Traffic Development Impact Statement can be found in Attachment 3 of this communication. This evaluation takes into account projected growth in background traffic, projected traffic from nearby developments, and the projected traffic from the proposed uses. The Traffic Impact Study completed for this proposal took into account projected growth in background traffic and projected traffic from the Falk Industrial development itself. The results of the Study indicate intersections near the development along Acoma Way will operate with acceptable levels-of-service (LOS) with the exception of the West 84th Avenue and Acoma Way intersection. During the morning and evening peak periods, the northbound left turn movement currently operates at LOS F and is projected to continue to operate at LOS F. The Acoma Way and West 83rd Place intersection is projected to operate at LOS B or better. No roadway improvements are recommended in the Traffic Impact Study.

Drainage:

The applicant proposes to provide water quality and detention on site.

Police Services:

A Police Services Impact Statement, which evaluates the potential impact to City services, can be found in Attachment 4 of this communication. The evaluation states that once the project has been developed, there is a projected low to very low impact on police services. The statement indicates that there is some additional concern regarding the placement of the electronic billboard causing distraction to drivers along I-25 as this particular location is one with a higher than typical accident occurrence rate on I-25.

Fire Services:

A Fire Services Impact Statement, which evaluates the potential impact to City services, can be found in Attachment 5 of this communication. Within the statement, it is projected that the full build-out of the proposal will increase the calls for service to a potential annual call volume of 118 calls, which will increase the unit utilization rate of responding apparatus to an acceptable level. Primary response will be assigned to Fire Station No. 2.

Parks and Open Space:

The proposed ODP/CSP proposes to satisfy the Public Land Dedication requirements for the project in the form of a cash in lieu.

Development Code Compliance:

The proposed Zoning Amendment does not comply with the criteria contained in Section 18-41 of the Code pertaining to zoning applications, as required in Section 18-41(c)(5)(b) of the Code:

- *Growth and other development factors in the community support changing the zoning.*

The proposed Zoning Amendment introduces an electronic billboard as an allowed use on the site which is not supported by growth and other development factors in the community.

- *The change in zoning represents orderly development of the City and there are, or are planned to be, adequate services and infrastructure to support the proposed Zoning change and existing uses in the area.*

Existing City facilities are projected to support the proposed Zoning Amendment, which would allow for an orderly development of the City. As mentioned in many of the impact statements included in the attachments of this communication, future analysis will be needed in order to confirm these projections based on the specific development that is proposed.

- *The change in zoning provides for an appropriate use of the property.*

Based on the regulations in the Code regarding Billboards and Electronic Signs, staff does not believe the proposed electronic billboard is an appropriate use within the City. The establishment of a PD zoning district with unique uses, regulations, and exceptions from the Code is the only path for approval of the proposed use and staff does not believe the proposal meets the criteria for approval of a PD District.

- *The change in zoning is in substantial conformance with the goals and policies of the Comprehensive Plan and other adopted plans and policies of the city.*

While the City's Comprehensive Plan does not provide direction regarding signage within the City, it does speak to compatibility of uses. Staff does not believe the proposed electronic billboard meets the overall direction and intent of the Comprehensive Plan due to the following policy of the Comprehensive Plan:

- b. Policy SG2.4 – Neighborhood Compatibility: Ensure that infill and redevelopment projects are designed to be sensitive and compatible with adjoining neighborhoods by providing appropriate transitions in height/scale, massing, and intensity along the shared street frontage or lot lines(s).
- *The proposed Zoning is sensitive to and compatible with the existing and planned use and development of adjacent properties.*

Staff believes the proposed electronic billboard has the potential to cause negative impacts to the existing adjacent uses. In addition to the sign type being prohibited per Code requirements, the proposal is unable to meet the development regulations that are applied to signage that is allowed within the City. Specifically, Electronic Signs are subject to illumination, message hold time, and transitions methods which are intended to reduce the potential nuisances that Electronic Signs could produce. The proposed electronic billboard meets the majority of these regulations, with exception of the transition method requirements. Considering the electronic billboard is intended to be visible from I-25, the possibility of increased driver distraction decreases the compatibility and sensitivity to adjacent land uses. Additionally, the proposed electronic billboard is unable to meet standard setback requirements for freestanding signs or the residential proximity slope requirements under Section 18-452 of the Code, which the site would be subject to under Code requirements due to the adjacent residential land uses. Staff believes these proposed exemptions from Code requirements would allow a use that is incompatible with existing land uses

- The amendment to the official map is being initiated by the City to rectify an error.

The proposed Zoning Amendment has been initiated by the applicant and is not intended to rectify an error.

Additionally, the proposed designation of PD and the associated ODP/CSP and PD Standards do not comply with the criteria contained in Section 18-42 of the Code pertaining to the establishment of a PD Zoning District as required in Section 18-42(c) of the Code:

- *The proposed PD Zoning District is compatible with present development in this area, and will not have a significant, adverse effect on the surrounding area.*

The proposed industrial uses are compatible with the present development in the area. The proposed use is comparable to the existing development to the north and a 15-foot landscape buffer is proposed along the property lines that are adjacent to SFD uses. Staff believes that the proposed electronic billboard use is not compatible with any present development within the City. Billboards are only permitted on Undeveloped Property, per Section 18-741(a)(2) of the Code, and this lot does not meet the definition of an Undeveloped Property. Additionally, the proposal includes the component of an electronic sign which is further prohibited in Section 18-750(a)(2) of the Code. Additionally, the subject property is within close proximity to SFD residential uses and the proposal has the potential for significant adverse effects on the surrounding area.

- *The proposed PD Zoning District is consistent with the public health, safety and welfare, as well as efficiency and economy in the use of land and its resources.*

As indicated in the Police Impact Statement, concern that the proposed electronic billboard will increase driver distraction, which would cause a negative impact to an area with a higher than typical accident occurrence rate on I-25 has been expressed. Additionally, the location of the proposed electronic billboard has a higher elevation than the grade of I-25 which will increase the overall height and prominence of the sign which may further contribute to the increased driver distraction.

- *The proposed PD District is consistent with the overall direction, intent, and policies of the City's Comprehensive Plan.*

The proposed PD District has a Future Land Use designation of Employment Center (EC) which anticipates a diverse range of employment options, including business parks, light manufacturing, and a mix of office types and sizes. While the proposed Flex-Warehouse use is compatible with this EC Future Land Use Designation, staff does not believe the proposed electronic billboard meets the overall direction and intent of the Comprehensive Plan due to the following policy:

c. Policy SG2.4 – Neighborhood Compatibility: Ensure that infill and redevelopment projects are designed to be sensitive and compatible with adjoining neighborhoods by providing appropriate transitions in height/scale, massing, and intensity along the shared street frontage or lot lines(s).

- *The proposed PD District provides for a creative and innovative design which could not otherwise be achieved under the zoning regulations of Code Sections 18-186 to 18-197.*

The proposed PD District allows an electronic billboard, which could not be achieved under the standard zoning districts within the Code. While staff is supportive of the proposed industrial uses included in the proposal, staff believes this use could be developed under zoning regulations of Code Sections 18-186 to 18-197.

- *The exceptions from the zoning regulations requested in the proposed PD are warranted by virtue of innovative design and amenities incorporated by the PD District.*

Staff does not believe the exceptions requested from the Code are warranted by the proposal as it does not include an innovative design or amenities. The development of the proposed electronic billboard is accompanied by light industrial uses. While the proposed light industrial uses are supported by the Comprehensive Plan, staff does not believe the proposal warrants the need for a PD Zoning Designation as a similar development could be achieved under the BP Zoning Designation. While the applicant is proposing that \$40,000 of the lease revenue from the sign will be donated to the Adams 12 Education Foundation annually for programming south of East 104th Avenue, staff does not believe it qualifies as an amenity incorporated in the PD District which would justify the exception from the Code.

In addition to the criteria used for the establishment of a PD Zoning District, City Council may consider the following criteria in evaluating the proposed CSP, pursuant to Section 18-43(g) of the City Code:

- *The proposed CSP is consistent with the comprehensive plan and all requirements of Chapter 18 of the Code.*

The proposed PD District has a Future Land Use designation of EC which anticipates a diverse range of employment options, including business parks, light manufacturing, and a mix of office types and sizes. While the proposed Flex-Warehouse use is compatible with this EC future land use designation, staff does not believe the proposed electronic billboard meets the overall direction and intent of the Comprehensive Plan due to the following policy of the Comprehensive Plan:

d. Policy SG2.4 – Neighborhood Compatibility: Ensure that infill and redevelopment projects are designed to be sensitive and compatible with adjoining neighborhoods by providing appropriate transitions in height/scale, massing, and intensity along the shared street frontage or lot lines(s).

- *The proposed project is consistent with the current zoning on the property or conditioned on the approval of an existing application for a zoning district amendment.*

The proposed CSP is not consistent with the current zoning on the property. The CSP is contingent on the approval of the proposed PD Zoning Amendment.

- *The CSP is in compliance with all applicable use, development and design standards set forth in this Code.*

The proposed CSP is in compliance with all applicable use, development, and design standards including subdivision, circulation, pedestrian connectivity, landscape, setback, and parks and open space requirements proposed within the PD Standards. If staff's recommendation of denial is supported and the PD Zoning Amendment is not approved, the proposed CSP would not be compliant with the Code.

- *Adequate facilities and services exist or are planned by the project to serve the development at the time of construction.*

As provided in the impact statements, which are attached to this communication, facilities and services exist or will be provided by the developer to serve the project, including public roadway and traffic improvements, sewer facilities, stormwater detention, and sidewalks.

- *Compatibility with the surrounding area is demonstrated by proposed improvements, including screening and buffering that has been provided to minimize impacts to adjacent uses.*

The proposed industrial uses are compatible with the present development in the area. The proposed use is comparable to the existing development to the north and a 15-foot landscape buffer is proposed along the property lines that are adjacent to SFD uses. Staff believes that the proposed electronic billboard use is not compatible with any present development within the City. Billboards are only permitted on Undeveloped Property per Section 18-741(a)(2) of the Code and this lot does not meet the definition of an Undeveloped Property. Additionally, the proposal is unable to meet the development regulations that are applied to signage that is allowed within the City. Specifically, Electronic Signs are subject to illumination, message hold

time, and transition method and duration regulations which are intended to reduce the potential nuisances that Electronic Signs could produce. The proposed electronic billboard meets the majority of these regulations, with exception of the transition method and duration requirements. Additionally, the proposed electronic billboard is unable to meet standard setback requirements for freestanding signs or the residential proximity slope requirements outlined in Section 18-452 of the Code, which are intended to increase compatibility of non-residential land uses that are directly adjacent to residential land uses. The scale of the proposed sign combined with the prominence of the location at the southernmost border of the City will also create the appearance of a gateway or monument into the City for vehicles traveling north on I-25. Due to this, staff is concerned that the proposed electronic billboard will be viewed as a municipal sign that is intended to provide information on Thornton community events and Thornton-specific shopping/dining opportunities rather than the proposed purpose of offering content neutral offsite advertising opportunities. Staff believes these proposed exemptions from Code requirements depreciate the compatibility and sensitivity to existing land uses.

PUBLIC NOTICE AND RESPONSE:

Public Notification: A public notice of the Hearing was published on the City's official website on January 21, 2022 and at City Hall, the Margaret W. Carpenter Recreation Center, Thornton Active Adult Center, and the Trail Winds Recreation Center on January 20, 2022, in accordance with Code requirements. All property owners within at least 1,500 feet of this site were sent notice of the Public Hearing 10 days prior to February 8, 2022. Notification of the City Council Hearing was posted on the property for at least 10 days prior to the February 8, 2022 Public Hearing.

Public Response: A neighborhood meeting was held on August 24, 2021 to present and discuss the proposed PD Standards and ODP/CSP. Approximately seven residents attended the meeting, some of which had questions regarding the allowed uses within the PD as well as the proposed pedestrian connection on the site. Additionally, after the noticing for the public hearing, staff has received comments from residents regarding the proposal which have been included in the Council packet.

Attachments:

All attachments, which were properly entered into the record during the Public Hearing on May 10, 2022, are incorporated herein by reference and are available to view [here](#).

INTRODUCED BY: Matkowsky

AN ORDINANCE DENYING A REZONING FROM COMMUNITY RETAIL TO PLANNED DEVELOPMENT, AN OVERALL DEVELOPMENT PLAN/CONCEPTUAL SITE PLAN, AND PLANNED DEVELOPMENT STANDARDS FOR APPROXIMATELY THREE ACRES OF LAND GENERALLY LOCATED WEST OF INTERSTATE 25 AND SOUTH OF WEST 84TH AVENUE TO DEVELOP INDUSTRIAL BUILDINGS AS WELL AS A DIGITAL MESSAGE MONUMENT SIGN (ELECTRONIC BILLBOARD) (FALK INDUSTRIAL TRACT, AMENDMENT NO. 1, LOT 4A).

WHEREAS, Monkey Sports Capital Co, LLC is the owner (Owner) and Carlson Associates is the applicant (Applicant) of certain real property (Property) within the City, described in Exhibit A attached hereto and incorporated herein by reference; and

WHEREAS, the Property is currently zoned Community Retail (CR); and

WHEREAS, the Owner has submitted to the City an application to rezone the Property from CR to Planned Development (PD); and

WHEREAS, the PD Standards are hereby incorporated and attached as Exhibit B; and

WHEREAS, the proposed application is not consistent with the goals and desires of the City, does not provide for orderly growth within the City, and does not provide for a beneficial and efficient use of the Property; and

WHEREAS, the aforesaid request and all supporting documents are hereby incorporated as if fully set forth herein; and

WHEREAS, the application is a matter of public record in the custody of the City Development Department, and is available for public inspection during business hours of the City; and

WHEREAS, on March 22, 2022, the City Council conducted a public hearing on said application, pursuant to the procedural and notice requirements of Chapter 18 of the City Code, and the Council having considered the evidence presented in support of and in opposition to the application, the applicable zoning requirements, the City's Comprehensive Plan, and staff recommendations and have considered the record and given appropriate weight to the evidence.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THORNTON, COLORADO, AS FOLLOWS:

1. That it is found that the Applicant has not complied with the provisions of Section 18-41 of the City Code pertaining to zoning applications.

- a. Growth and other development factors in the community do not support changing the zoning.
 - b. The change in zoning does not represent orderly development of the City, although, there are, or are planned to be, adequate services and infrastructure to support the proposed zoning change and existing uses in the area.
 - c. The change in zoning does not provide for an appropriate use of the property.
 - d. The change in zoning is not in substantial conformance with the goals and policies of the Comprehensive Plan or other adopted plans and policies of the City.
 - e. The proposed zoning is not sensitive to or compatible with the existing and planned use and development of adjacent properties.
 - f. The amendment to the official map is not being initiated by the City to rectify an error.
2. The City Council finds that the Application does not meet the criteria in Sections 18-42 of the City Code for PD Zoning Amendments as follows:
- a. The proposed PD District is not compatible with present development in the area, and will potentially have a significant, adverse effect on the surrounding area;
 - b. The proposed PD District is not consistent with the public health, safety, and welfare, or efficiency and economy in the use of land and its resources;
 - c. The proposed PD District is not consistent with the overall direction, intent, and policies of the City's Comprehensive Plan;
 - d. The proposed PD District does not provide for a creative and innovative design which could not otherwise be achieved under the zoning regulations for the districts listed in Section 18-70(a) of the City Code;
 - e. The exceptions from the zoning regulations requested in the proposed PD are not warranted by virtue of innovative design and amenities incorporated in the PD District.

3. The Falk Industrial, Amendment No. 1, Lot 4A application to rezone the Property from CR to PD and the accompanying overall development plan/conceptual site plan is hereby denied.
4. Due to the denial of the Zoning Amendment and PD Standards, the proposed Overall Development Plan/Conceptual Site Plan does not meet the criteria for approval outlined in Section 18-43 of the Code and is therefore not approved.

INTRODUCED, READ, PASSED on first reading, ordered posted in full, and title ordered published by the City Council of the City of Thornton, Colorado, on May 10, 2022.

PASSED AND ADOPTED on second and final reading on _____, 2022.

CITY OF THORNTON, COLORADO

Jan Kulmann, Mayor

ATTEST:

Kristen N. Rosenbaum, City Clerk

THIS ORDINANCE IS ON FILE IN THE CITY CLERK'S OFFICE FOR PUBLIC INSPECTION.

APPROVED AS TO LEGAL FORM:

Tami Yellico, City Attorney

PUBLICATION:

Posted at City Hall, Margaret W. Carpenter Recreation Center, Thornton Active Adult Center, and Trail Winds Recreation Center after first and second readings.

Published on the City's official website after first reading on May 11, 2022 and after second and final reading on _____, 2022.

EXHIBIT A

ZONING BOUNDARY DESCRIPTION

LOT 4A, FALK INDUSTRIAL TRACT AMENDMENT NO. 1 AS RECORDED AT
RECEPTION NUMBER 2008000069281 IN THE ADAMS COUNTY RECORDS,
CITY OF THORNTON, COUNTY OF ADAMS, STATE OF COLORADO

OVERALL DEVELOPMENT PLAN/CONCEPTUAL SITE PLAN LEGAL
DESCRIPTION

LOT 4A, FALK INDUSTRIAL TRACT AMENDMENT NO. 1 AS RECORDED AT
RECEPTION NUMBER 2008000069281 IN THE ADAMS COUNTY RECORDS,
CITY OF THORNTON, COUNTY OF ADAMS, STATE OF COLORADO

EXHIBIT B

FALK INDUSTRIAL TRACT AMENDMENT NO 1, LOT:4A

Planned Development Standards for ENTERPRISE Thornton
Thornton, Colorado

Approved: XXXXXX

Section 1: Introduction

Zoning Amendment Justification: Section 18-41 (5) b.: *Criteria for a change in a zoning district classification or boundary. The city council may consider the following criteria to evaluate a change in a zoning district classification or boundary:*

1. *Growth and other development factors in the community support changing the zoning.*

This proposal is consistent with the Comprehensive Plan and will facilitate job growth in the immediate area.

2. *The change in zoning represents orderly development of the city and there are, or are planned to be, adequate services and infrastructure to support the proposed zoning change and existing uses in the area.*

This property has adequate utilities for the proposed development, as the properties immediately surrounding it have already been developed. The proposed PD zone district will provide jobs and revenue for the City while not significantly increasing demand on roadways and other utilities.

3. *The change in zoning provides for an appropriate use of the property.*

The proposal provides an appropriate use through providing increased jobs and increased revenue for the City. As an undeveloped parcel of land with a lower amount of visibility, the proposed zone district will provide jobs and revenue for the City where typical retail or commercial may struggle to survive. A DMMS will provide an opportunity for business within the greater Thornton area to advertise and gain exposure. A portion of the lease revenue (\$40,000) from the sign will be donated to the Adams 12 Education Foundation annually for programming south of 104th Avenue.

4. *The change in zoning is in substantial conformance with the goals and policies of the Comprehensive Plan and other adopted plans and policies of the city.*

The Comprehensive Plan designates this area to be an employment center and the zone change will allow for development of jobs in the area.

5. *The proposed zoning is sensitive to and compatible with the existing and planned use and development of adjacent properties.*

By developing an underutilized parcel of land, the proposal provides a flexible warehouse use, which is lower intensity than typical retail or commercial and more compatible with the surrounding properties, including the low density single-family residential to the south and west. While any commercial use will generate additional traffic, access is being limited to the existing northern connection and will not have any further impacts for the residential to the west and south.

Intent/Purpose of PD District

PD District Overview: This 3.35-acre property, legally described as Falk Industrial Tract Amendment 1, Lot A, is generally at West 83rd Place and Sherman Street in Thornton, south of the Interstate 25 and West 84th interchange. The borders include Interstate 25 to the east, an existing industrial use (Adams Polishes) to the north, and single-family residences within Unincorporated Adams County to the west and south. All 3.4-acres of the property are within one Planning Area.

Planned Development Zoning Justification: This development is unique because it provides an investment in a part of Thornton that will benefit from having new development occur. It also will provide

incubator/entrepreneur space for smaller businesses to operate and grow the overall job base. This proposal meets the requirements of section 18-120 of the City Code because a Digital Message Monument Sign is not something currently contemplated in the City of Thornton and the Applicant would like to incorporate such into this PD. Based on Chapter 4: Growth Framework within the recently adopted 2020 Comprehensive Plan, the Future Land Use Map designates this property to be an employment center. The proposed underlying zone district of this proposed PD is the existing Business Park Zone District which would meet Chapter 4's goal of adding to the job base for the City. The addition of the Digital Message Monument Sign to the site will also contribute to growing the overall jobs and tax base through its business promotion capabilities and opportunities.

Section 18-42 (c)Standards for approval: The council shall consider the following in making their decision for approval, approval with conditions, or denial of a PD district:

1. *The proposed PD district is compatible with present development in the area, and will not have a significant, adverse effect on the surrounding area;*

This proposal is compatible with existing development in the area. To the north is an existing industrial use. The west and southern sides of the property are single-family residences within Unincorporated Adams County. Interstate 25 is to the east of the site. The allowed uses within the proposed underlying Business Park Zone District will not cause adverse impacts to nearby uses. The proposed Digital Message Monument Sign is strategically placed towards the northern portion of the site and will sit approximately 150 feet from the residences to the south. Additional illumination standards have been incorporated into the signage standards for this PD to further reduce impact to adjacent residences.

2. *The proposed PD district is consistent with the public health, safety and welfare, as well as efficiency and economy in the use of land and its resources;*

The proposed PD is on an infill site that already has existing infrastructure and is in an area designated for employment in the future. Since the site is surrounded by development on all sides, this development will enhance the public safety by providing a use on an otherwise vacant piece of property, while providing opportunities to increase the City's tax and jobs base.

3. *The proposed PD district is consistent with the overall direction, intent and policies of the city's Comprehensive Plan;*

The plan determines this area to be an employment center. The proposed PD will increase employment in the area and is consistent with the overall direction of the Comprehensive Plan. The proposed Digital Message Monument Sign will also provide business promotion opportunities to the City.

4. *The proposed PD district provides for a creative and innovative design which could not otherwise be achieved under the zoning regulations for the districts listed in Section 18-70(a);*

The proposal includes the allowance for a Digital Message Monument Sign that is not contemplated under current zone districts within the City. This proposed sign will prove business promotion opportunities in the City for on-site and off-site uses. The sign will also provide an additional revenue source for Adams 12 Education Foundation for programming south of 104th Avenue.

5. *The exceptions from the zoning regulations requested in the proposed PD are warranted by virtue of innovative design and amenities incorporated in the PD district.*

Due to the unique site location and configuration of this property, PD zoning is warranted to establish development standards and to accommodate a use which is not contemplated within the City of Thornton's Development Code. This PD will facilitate a high-quality development on an otherwise underutilized and vacant infill property, while also provide a unique land use which will help foster small business development.

Applicability of Standards: - The following information, which outlines the applicability of the regulations within the PD Standards shall be included:

General: *These PD Standards shall govern future development applications in the Falk Industrial PD. All regulations not specified in these PD Standards for Falk Industrial PD shall conform to the requirements for each use, or most compatible zoning district, as outlined in the City Code in effect at the time of development, as determined by the Development Director.*

Conflicts: *In the event of a conflict between city Code and any of the provisions set forth in these PD Standards, these PD Standards shall control.*

Development Permits: *Any nonresidential development proposals require review and approval by the Development Permits and Appeals Board, unless the project is nonresidential or mixed use and qualifies as a project of economic significance for administrative review and approval in accordance with Section 18-58 of the Code, as amended.*

Section 2: Uses and Use Regulations

Land Uses Allowed (Reduced list from the Business Park Zone District):

- Accessory Uses
 - Accessory outside display of merchandise
 - Accessory outside sales
 - Accessory outside storage
 - Amateur telecommunication facility
 - Attachment of telecommunication antennae to existing structure
 - Solar Collectors
 - Television reception antenna
 - Wind energy conversion system – WECS (SUP)
- Industrial Uses
 - Industrial – inside (high risk) (SUP)
 - Industrial – inside (not high risk)
 - Office showroom/warehouse
 - Warehouse (SUP)
 - Flex-Warehouse
- Office Uses
 - Financial institution without drive-in window
 - General office
- Residential Uses – None allowed
- Retail and Personal Service Uses
 - Auto rental (SUP)
 - Auto service center (SUP)
 - Job printing
 - Micro-Alcohol Use

- Personal service use
- Taxidermist (SUP)
- Technical and trade schools (SUP)
- Temporary Uses
 - Christmas tree lots (TUP)
 - Other temporary use (TUP)
 - Seasonal sales stand (TUP)
 - Temporary concrete or asphalt batch plant (TUP)
 - Temporary construction yard, construction/sales office (TUP)
 - Temporary donation collection bin (TUP)
 - Transportation Uses
 - Commercial bus station and terminal (SUP)
 - Heliports (SUP)
 - Transit passenger shelter
- Utility and Public Service Uses
 - Commercial radio and TV station
 - Electric substation and gas regulator station (SUP)
 - Local utilities
 - Telephone exchange without shops or offices
 - Utility or government installation other than listed (SUP)
 - Water treatment plant, reservoir and water storage tanks (SUP)
- Wireless Telecommunication Uses
 - Commercial radio or TV facility (SUP)
 - Commercial satellite dish (SUP)
 - Mobile telephone facility (SUP)
 - Public safety telecommunication facility
- Signage
 - Digital Message Monument Sign

Section 3: Urban Design Standards

This proposal includes no new public rights-of-ways or streets. Internal sidewalks are proposed and will meet either current code or an alternate approved design as determined during the site plan review. All Urban Design Standards of the City Code will be met with this proposal.

Section 4: Architectural Standards

The applicant is proposing to meet the Architectural Standards in the City Code.

Section 5: Development Standards

- Development Standards are the following:
 - Setbacks for Buildings:
 - Front: 25 Feet Minimum, 50 feet Maximum
 - Side: 0 or 15 Feet Minimum, 25 feet Maximum
 - Rear: 0 or 15 Feet Minimum, 25 feet Maximum
 - Maximum Lot Coverage: 75%. Aboveground parking structures are included in lot coverage calculations; surface parking lots and underground parking structures are not included in coverage calculations.

- Maximum Dwelling Unit Density: None permitted
- Floor Area Ratio: Maximum 0.5
- Maximum Building Height: 120 Feet
 - Residential Proximity Slope: If any portion of a building is over 30 feet in height, that portion may not be located above a residential proximity slope.
- Off Street Parking Requirements:
 - Parking in this PD is based on the office/showroom parking category, which requires one space for every 333 square feet of floor area in office uses and one space for each 1,000 square feet of floor area in showroom or warehouse uses. For the purpose of this PD, Flex-Warehouse parking is based on the warehouse standard and required parking is as follows:

	Flex-Warehouse Space	Parking Req'd.	Office Space	Parking Req'd.
Bldg. 1 (East)	5 units, 5,200 sq. ft.	5.2	5 units, 3,250 sq. ft.	9.75
Bldg. 2	8 units, 7,125 sq. ft.	7.12		
Bldg. 3	12 units, 10,305 sq. ft.	10.3		
Bldg. 4 (West)	10 units, 9,600 sq. ft.	9.6		
	Total Flex-Warehouse Req'd.	32.22	Total Office Req'd.	9.75
Total Parking Spaces Required				41.97 (42)

- The conceptual site plan shows 55 spaces provided, with 3 accessible spaces and one 11' x 36' loading area.
- Typical users of this site will be small contractors or tradespeople who generally perform work off-site but have their operations based in a unit at Enterprise. Each space will have a small office component which will not generate additional traffic or parking, as the office is for the business housed in the same unit. These units are generally intended to be more of an incubator for small businesses which are seeking new space to operate from as they grow.
- As this property is at the end of a roadway, no parking impacts will occur on adjacent sites.
- Fencing Standards are the same as the City Code.
- Retaining walls may be allowed up to eight feet in height.
- Signage:
 - One Digital Messaging Monument Sign (DMMS) is allowed per the Conceptual Site Plan associated with the PD Zoning.
 - Minimum Sign Area Allowed: 300 square feet per sign face.
 - Maximum Sign Area Allowed: 672 square feet per sign face.
 - The DMMS shall not exceed 60 feet in overall height.
 - The architectural style of the Digital Message Monument Sign will be consistent with and of comparable quality to the architectural style of the development as a whole.
 - Illumination: Highway electronic signs shall have automatic dimmer software of solar sensors to control brightness for nighttime viewing. The intensity of the light source shall not produce glare, the effect of which constitutes a traffic hazard or is otherwise detrimental to the public health, safety, or welfare. Lighting from the message module shall not exceed 300 NITs (candelas per square meter) between dusk and dawn as measured from the sign's face. The sign permit application shall include the manufacturer's specifications and NIT (candela per square meter) rating. City officials shall have the right to enter the property and view the programmed specifications of the sign to determine compliance with this provision.
 - Minimum Message Hold Time: The displayed message shall not change more frequently than once per eight (8) seconds.

- Only one sign face shall be visible from any one direction of travel on I-25.
- Signs shall comply with the Colorado Outdoor Advertising Act, C.R.S. § 43-1-401 et seq. and the Highway Beautification Act, 23 U.S.C. 131, et seq.
- Permits Required:
 - A minor development permit is required. The applicant shall include historical zoning information documenting compliance with the Colorado Outdoor Advertising Act when submitting the permit application.
 - A building permit for construction of a highway electronic sign shall not to be issued until the city receives a copy of the approved Colorado Department of Transportation permit for said sign.
- The setback for the sign foundation shall be a minimum of 5 feet from the eastern property line. Building setbacks outlined above do not apply to the Digital Messaging Monument Sign.
- The minimum height to the bottom of the Digital Messaging Monument Sign shall be 15 feet.
- Additional signs are allowed per Article VII of the Code.

Section 6: Landscaping, Public Land Dedication, and Amenities

- Landscaping
 - Deciduous Trees added to this site shall be a minimum of 2.5 caliper inches.
 - Evergreen trees added to this site shall be a minimum of seven feet.
 - Landscaping within this Planned Development will incorporate a low water demand on the site, designing to an 80% efficiency and using a smart controller.
 - Landscaping for this site shall generally follow the design of the Concept Plan as approved with the PD zoning change.
- Public Land Dedication
 - PLD fee-in-lieu shall be paid with this proposal in accordance with Sec. 18-685 of the City Code.
- Amenities
 - There is one seating area proposed to provide on-site amenities for users of this site.

Section 7: Definitions

- **Flex-Warehouse** means a facility that has any combination of warehouse, showroom, and office space, to provide incubator or entrepreneur space for smaller businesses to operate with the intent of growing the overall job base.
- **Digital Message Monument Sign (DMMS)** means an electronic sign directing attention to businesses, commodities, services, or products and allows for on-site business identification. Municipal and community messaging are also allowed on such sign.