

**INTRODUCED BY COUNCIL MEMBER STITES**

**Council Bill No. 17-2008**

**Ordinance No. 1428**

**Series of 2008**

**TITLE: AN ORDINANCE PROVIDING FOR THE APPROVAL OF A CHANGE OF ZONING FROM RESIDENTIAL-ONE (R-1) AND AGRICULTURE-ONE (A-1) TO PLANNED RESIDENTIAL DEVELOPMENT AND FOR APPROVAL OF AN OUTLINE DEVELOPMENT PLAN FOR PROPERTY LOCATED AT 11885 W. 38<sup>TH</sup> AVENUE (CASE NO. WZ-07-06/DOUD OVERLOOK)**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE, COLORADO THAT:**

**Section 1.** Upon application by Ashton Woods Homes, approval of a change of zoning from Residential-One (R-1) and Agriculture-One (A-1) to Planned Residential Development and for approval of an Outline Development Plan for property located at 11885 W. 38<sup>th</sup> Avenue and pursuant to the findings made based on testimony and evidence presented at a public hearing before the Wheat Ridge City Council, a change of zoning is approved for the following described land:

**A TRACT OF LAND LOCATED IN THE SOUTHEAST ONE-QUARTER 20 AND THE NORTHEAST ONE-QUARTER OF SECTION 29, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE 6<sup>TH</sup> P.M., CITY OF WHEAT RIDGE, JEFFERSON COUNTY, COLORADO DESCRIBED AS FOLLOWS:**

**COMMENCING AT THE ONE-QUARTER CORNER COMMON TO SAID SECTIONS 20 AND 29; THENCE N.89E22'34"E, ALONG THE LINE BETWEEN SECTIONS 20 AND 29 A DISTANCE OF 1,348.72 FEET TO A POINT 15.00 FEET EAST OF THE NORTHWEST CORNER OF THE WEST ONE-HALF OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER (W ONE-HALF SE ONE-QUARTER SE ONE-QUARTER) OF SAID SECTION 20 AND THE TRUE POINT OF BEGINNING; THENCE N.00E19'54"W. ALONG THE EAST LINE OF THE WEST 15.00 FEET OF THE W ONE-HALF SE ONE-QUARTER SE ONE-QUARTER A DISTANCE OF 814.12 FEET TO A POINT ON THE SOUTHERLY LINE OF THAT TRACT OF LAND DESCRIBED IN BOOK 2325 AT PAGE 309 OF THE RECORDS OF THE OFFICE OF THE JEFFERSON COUNTY CLERK AND RECORDER; THENCE EASTERLY ALONG SAID SOUTHERLY LINE THE FOLLOWING SIX COURSES AND DISTANCES:**

1. N.63E13'44"E. A DISTANCE OF 44.49 FEET;
2. N.83E15'13"E. A DISTANCE OF 149.96 FEET;
3. N.79E21'51"E. A DISTANCE OF 46.91 FEET;
4. N.82E19'26"E. A DISTANCE OF 41.41 FEET;
5. S.86E47'19"E. A DISTANCE OF 81.84 FEET;
6. N.70E22'28"E. A DISTANCE OF 289.81 FEET TO A POINT ON THE WESTERLY LINE OF THAT TRACT OF LAND DESCRIBED IN RECEPTION NUMBER F0633461 OF THE RECORDS OF THE OFFICE OF THE JEFFERSON COUNTY CLERK AND RECORDER; THENCE S.33E47'16"E. A DISTANCE OF 36.11 FEET TO A POINT ON THE EAST LINE OF THE WEST ONE-HALF OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER (W ONE-HALF SE ONE-QUARTER SE ONE-QUARTER); THENCE S.00E22'21"E. ALONG SAID EAST LINE A DISTANCE OF 921.63 FEET TO THE SOUTHEAST CORNER OF SAID W ONE-HALF SE ONE-QUARTER SE ONE-QUARTER OF SAID SECTION 20, THENCE S.00E41'00"E. ALONG THE EAST LINE OF THE WEST ONE-HALF OF THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER (W ONE-HALF NE ONE-QUARTER NE ONE-QUARTER) OF SAID SECTION 29 A DISTANCE OF 76.46 FEET TO A POINT WHICH LIES 70.00 FEET NORTHERLY FROM THE SOUTH RIGHT-OF-WAY LINE OF WEST 38<sup>TH</sup> AVENUE AS SHOWN ON THE PLAT OF APPLEWOOD RIDGE, A SUBDIVISION RECORDED IN THE OFFICE OF THE JEFFERSON COUNTY CLERK AND RECORDER AT PLAT BOOK 73 AT PAGE 7; THENCE S.80E07'13"W. PARALLEL WITH AND 70.00 FEET DISTANT FROM SAID SOUTH RIGHT-OF-WAY LINE A DISTANCE OF 660.29 FEET TO A POINT ON THE EAST LINE OF THE WEST 15.00 FEET OF THE W ONE-HALF NE ONE-QUARTER NE ONE-QUARTER OF SAID SECTION 29; THENCE N.00E42'08" W. ALONG SAID EAST LINE A DISTANCE OF 182.66 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING AN AREA OF 15.017 ACRES, MORE OR LESS.

**Section 2. Vested Property Rights.** Approval of this change of zoning and Outline Development Plan does not create a vested property right. Vested property rights may only arise and accrue pursuant to the provisions of Section 26-121 of the Code of Laws of the City of Wheat Ridge.

**Section 3. Safety Clause.** The City of Wheat Ridge hereby finds, determines, and declares that this ordinance is promulgated under the general police power of the City of Wheat Ridge, that it is promulgated for the health, safety, and welfare of the public and that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the ordinance bears a rational relation to the proper legislative object sought to be attained.

**Section 4. Severability.** If any clause, sentence, paragraph, or part of this Zoning Code or the application thereof to any person or circumstances shall for any reason be adjusted by a

court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

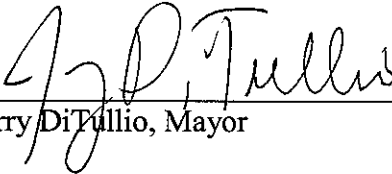
**Section 5. Supersession Clause.** If any provision, requirements or standard established by this Ordinance is found to conflict with similar provisions, requirements or standards found elsewhere in the Code of Laws of the City of Wheat Ridge, which are in existence as of the date of adoption of this Ordinance, the provisions, requirements and standards here shall supersede and prevail.

**Section 6.** This Ordinance shall take effect 15 days after final publication.

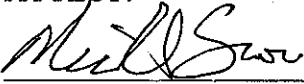
**INTRODUCED, READ, AND ADOPTED** on first reading by a vote of 7 to 0 on this 8th day of December, 2008, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge and Public Hearing and consideration on final passage set for **Monday, January 12, 2009**, at 7:00 o'clock p.m., in the Council Chambers, 7500 West 29<sup>th</sup> Avenue, Wheat Ridge, Colorado.

**READ, ADOPTED AND ORDERED PUBLISHED** on second and final reading by a vote of 6 to 2, this 12th day of January, 2009.

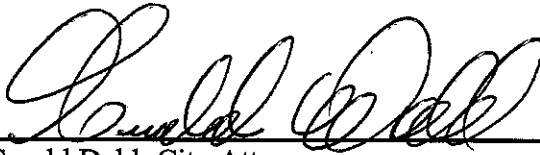
SIGNED by the Mayor on this 12th day of January, 2009.

  
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Jerry DiTullio, Mayor

ATTEST:

  
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Michael Snow, City Clerk

Approved as to form by City Attorney

  
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Gerald Dahl, City Attorney

1<sup>st</sup> publication: December 11, 2008  
2<sup>nd</sup> publication: January 21, 2009  
Wheat Ridge Transcript  
Effective Date: February 06, 2009