

ORDINANCE NO. 960

AN ORDINANCE OF THE TOWN OF BERTHOUD, LARIMER AND WELD COUNTIES, COLORADO ESTABLISHING A BUILDING PERMIT ALLOCATION SYSTEM

WHEREAS, the Board of Trustees has determined that it is imperative to manage Berthoud's growth through a combination of comprehensive master planning, development agreements and allocation of building permits; and,

WHEREAS, the Town has contracted with Downing, Thorpe and James to develop a comprehensive master plan for the 4200 acres at the I-25/Highway 56 area with the potential of re-annexing an additional 1600 acres of the Wilson/McWhinney property. The Town's planner has provided the Board of Trustees with a schedule for the development of the master plan for this area; and,

WHEREAS, the Town has directed its staff to proceed with additional comprehensive planning of the future U.S. Highway 287 corridor; and,

WHEREAS, in order to ensure adequate public facilities are available the Town has directed staff to amend the Development Code to specifically address these issues; and,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, LARIMER AND WELD COUNTIES, COLORADO AS FOLLOWS:

Section 1. Residential Building Permits Issued or Allocated.

The residential building permits permitted by Ordinance No. 874 were 98 for 2001, 100 for 2002, and 100 for 2003. The provisions of this Ordinance shall not apply to residential development in the I-25 and Colorado Highway 56 area.

Section 2. Residential Building Permit Roll Forward.

Building permits previously allocated by agreement for the years 2001, 2002, 2003 and 2004 shall be permitted to roll forward. Building permits that were not allocated shall remain limited to the calendar year set forth in the applicable development agreements. Unallocated permits are to be placed into the discretionary pool subject to Section 4.

During the period that this ordinance is in effect, allocation of permits shall be controlled by the development agreements already in place, or which shall be approved during that period by the Board of Trustees, all to be subject to the allocation system and permitted numbers as set forth herein. All developments for which development agreements have been approved shall be guaranteed the number of permits allotted to them by development agreement for the calendar years 2001, 2002, 2003 and 2004. Those permits which have been allotted for the calendar years 2001, 2002, 2003 and

2004 shall be permitted to roll forward, but all other allocations shall remain limited to the calendar year set forth in the respective development agreement and the terms of this ordinance.

Section 3. Application of Development Agreements.

All developments which do not have existing development agreements as of the effective date of this ordinance shall be subject to the terms and conditions of the respective development agreement as approved by the Board of Trustees, which development agreements shall be subject to the Building Permit Allocation System set forth herein.

Section 4. Unallocated Permits.

Permits not allocated by development agreement may be placed in a discretionary pool to be allocated by the Board of Trustees.

Section 5. Exemptions to Allocation Requirements.

Specifically exempted from the requirement that no residential building permits be allocated and issued except pursuant to this ordinance are the following exemptions:

5.1 Redevelopment, remodeling, restoration, reconstruction or replacement of legally established structures, model homes, mobile homes, modular homes and manufactured homes that do not increase the number of residential dwelling units that existed previously on the site;

5.2 Vacant lots that had an approved land use classification permitting a dwelling unit and had an approved final plat as of November 7, 2000, which may or may not have obtained vested rights prior to the effective date of Ordinance No. 874. The following lots have been identified as meeting this criteria and are specifically exempted by this ordinance:

- (a) Lots 13 and 14, Block 6, Berthoud Common
- (b) Lot 1, Block 2, North Park 3rd Filing
- (c) Lots 1 through 9, Fickel Farm PUD, 2nd Filing
- (d) 690 Bunyan Avenue
- (e) 512 5th Street

5.3 For parcels identified on plats and zoned for dwelling units recorded as of November 7, 2000 as specified on the plats.

Section 6. Allocation by Board of Trustees:

6.1 The Board of Trustees may, in its discretion and subject to the availability of adequate public facilities as set forth in the *Development Code* of the Town of Berthoud

allocate all other residential building permits not otherwise allocated as set forth in Section 2. When establishing the allocation the Board of Trustees may, but is not required to, give special consideration to projects of special merit which may include, but not be limited to those described in 6.1.1.

6.1.1 Housing for older persons which may be developed pursuant to the Fair Housing Act (42 U.S.C. 3607(b)(2), as amended); governmentally assisted senior housing projects; affordable housing projects which may be sponsored by non-profit "501-C-3" organizations as defined by the *Internal Revenue Code*. This type of housing may include but is not limited to the following forms of facilities:

- a. Skilled Nursing and Health Care Facilities.
- b. Assisted Living.
- c. Congregate Care.
- d. Independent Living.
- e. Single Family Residences Developed as Affordable Housing subject to further evaluation.

6.2 After public review of a project that is being considered for special merit, the Board of Trustees may exempt one or more residential dwelling units fully or partially. For example, all units in an independent care facility and apartments in a nursing facility could be totally or partially exempted while some of the units in a low-income housing or apartment complex may be considered as one-half (1/2) or one-fourth (1/4) of a dwelling unit. Since each project requesting consideration for special merit will be unique, no fixed evaluation criteria may be established at the present time.

Section 7. Schedule of Allocation Periods.

7.1 Berthoud Core Area. The Board of Trustees shall annually establish by resolution the available number of residential development allocations for new dwelling units to be made available for that calendar year in accordance with Ordinance No. 874.

7.1.1 Schedule of Allocation Periods. There will be two allocation periods annually during the period from January 1st through May 31st and from June 1st through October 31st, but the Board of Trustees may consider applications for additional allocations at other times based upon special merit, hardship or exceptional circumstances.

7.1.2. Applications for Allocations. Applications for allocations to lots that have received or are processing site development review shall be made on a form provided by the Town. A separate application submitted by the property owner is required for each allocation period. Except as provided otherwise, complete applications must be submitted to the Town at least seven (7) calendar days prior to the beginning of an allocation period for which the application is made. Applications may not be submitted more than ninety (90)

days before the beginning of the applicable allocation period. Applications for excess allocations may be made at any time that excess allocations are available.

7.1.3 Issuance of Allocations. All eligible residential developments must apply for allocations for a given allocation period in order to be eligible for building permits within the allocation period. The number of requested allocations from this pool shall be deducted from the available number of allocations based upon the year-end inventory.

7.1.4 Year End Pool. All unused allocations, which remain on the 1st of November of each calendar year will be available for re-allocation if deemed appropriate by the Board of Trustees.

7.1.5 Report to Planning Commission and Board of Trustees. Following the issuance of allocations for a given period, Town shall present a report to the Planning Commission and the Board of Trustees summarizing the results of the allocation period.

Section 8. Severability.

Should any part of this ordinance be held illegal for any reason, the holding shall not affect the remaining portion of this ordinance.

Section 9. Effective Date.

The Board of Trustees of the Town of Berthoud herewith finds, determines and designates that this ordinance shall take effect and be in force thirty (30) days after publication.

At its meeting on February 25, 2003, a public hearing was set by the Board of Trustees of the Town of Berthoud for its meeting held on the 25th day of March, 2003. After the public hearing, this ordinance was read, passed and ordered published by the Board of Trustees at its meeting this 25th day of March, 2003.

ATTEST:

TOWN OF BERTHOUD:

Mary K. Cowdin
Mary K. Cowdin - Town Clerk

Milan Karspeck
Milan Karspeck - Mayor

Published: April 3, 2003