

Zoning Board of Appeals Agenda

Regular Meeting
Tuesday, March 10, 2026, at 1:15 PM

City Council Chambers – City Center South
1001 11th Ave, Greeley, CO 80631
Zoom Webinar Link:
<https://greeleygov.zoom.us/j/85113140810>

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Zoning Board of Appeals

March 10, 2026, at 1:15 PM
City Council Chambers - City Center South
1001 11th Avenue, Greeley, CO 80631

Agenda

1. Call to Order
2. Roll Call
3. Approval of the Agenda
4. Approval of the March 28, 2023 & the February 10, 2026, Zoning Board of Appeals Meeting Minutes
5. Adjournment

City of Greeley, Colorado
ZONING BOARD OF APPEALS PROCEEDINGS
March 28, 2023

1. Call to Order

Chair Yeater called the meeting to order at 1:49 PM.

2. Roll Call

The hearing clerk called the roll.

PRESENT

Chair Justin Yeater

Commissioner Louisa Andersen

Commissioner Erik Briscoe

Commissioner Jeff Carlson

Commissioner Brian Franzen

Commissioner Larry Modlin

Commissioner Christian Schulte

None Absent

3. Approval of Agenda

There were no changes to the agenda. Chair Yeater proceeded with the agenda as published.

4. Approval of May 10, 2022, Minutes

Commissioner Franzen moved to approve the minutes dated May 10, 2022, Commissioner Briscoe seconded the motion.

Motion carried 7-0.

5. A public hearing for an appeal of an administrative decision that the PUD application proposed by LaSalle Investors is substantially similar to the previous R-H zoning application, which was denied and therefore cannot be submitted or considered on or before July 19, 2023, per Section 24-201.k of the City of Greeley Municipal Code.

Commissioner Carlson stated he had a potential conflict of interest with this item and was excused. Commissioner Franzen stated he had an acquaintance with the applicant but in no way would present a conflict. That was noted by Chair Yeater.

Becky Safarik (Community Development Director) opened her presentation with a clear introduction of the item as published, followed by relevant background information to provide context.

The commission was asked to determine whether staff correctly concluded that the two applications are substantially similar. If they are found to be similar, the applicant must wait until July 19, 2023, to resubmit the PUD multi-family application; if not, the applicant may proceed with that or a similar application.

Commissioner Andersen stated that at the time of both hearings, the traffic report had been prepared before the school and surrounding multi-family developments were built. Several residents believed the report was inaccurate and outdated, prompting significant discussion and raising the question of whether new traffic data should be collected and had the number of proposed units changed. Safatherefore,d that the application has not been accepted for

consideration and therefore has not undergone further analysis. However, it was noted that the neighborhood viewed the submitted traffic data as conservative in its projections. Safarik continued by saying that the plan reflected a specific number of multi-family units proposed for the site, and the traffic report evaluated it as such, which is central to the determination of similarity between the two applications. She also shared that the staff report identified 320 units, which was the unit count used to conduct the traffic analysis.

Commissioner Franzen asked whether the 320-unit figure was derived through a reverse engineering of the traffic analysis or if it was proposed as part of the original application. Safarik shared that the figure was included in their R-H zoning application and was provided in the Planning Commission packet distributed to the Commission.

Commissioner Schulte asked to clarify his understanding that the Zoning Board of Appeals is the final decision-making body at the city level. Whether the Board sustains or denies the appeal, the matter does not go to City Council. The next possible step, if further action is pursued, would be to appeal to District Court. Safarik stated that the Board is essentially being asked to determine whether the interpretation is appropriate. Typically, any staff decision appealed to the Planning Commission would also go to City Council on appeal. However, that process is not clearly defined in this plan, so a determination on that issue would need to be made after this hearing.

Commissioner Schulte asked for clarification on the statute's application, noting that it applies broadly to any appeal of an administrative decision under the code, not just rezonings, but also subdivisions, variances, or uses by special review. Safarik confirmed that this was correct.

Commissioner Schulte asked if the revised application appears to be specifically designed to address the concerns raised at the City Council meeting. Safarik explained that, as a pre-application, the submission did not include all the supporting information required for a full application. Because it closely resembled a previously denied multi-family project in both density and land use, it could not be accepted for consideration, forming the basis for the interpretation of "substantially similar."

Commissioner Schulte asked why the substantially similar analysis focuses on the proposed development concept in the context of a rezone request, rather than on the fact that a different zoning designation is being requested. Safarik shared that the code provision exists to prevent repetitive applications that could burden neighborhoods and decision-makers. Once the Council finds a proposed use inappropriate, a new application must show substantial changes before reconsideration. Safarik continued by saying in this case, although the zoning request changed from R-H to PUD, the proposed land use remains essentially the same, making it a substantially similar application that cannot be resubmitted within a year.

Commissioner Schulte asked; if a PUD requires a detailed, binding plan and additional approval steps, why isn't that enough to make it a substantially different application, instead of just comparing it to what the underlying zoning already allows. Safarik explained that the original denial was based on concerns about multifamily housing being the most intense use allowed under the prior zoning, which was viewed as too impactful for the neighborhood. Council discussions suggested that a mix of land uses or a gentler transition from single-family might have been more acceptable. However, because the PUD also proposes exclusively multifamily use, the speaker believes it does not address those prior concerns. Therefore, they were attempting to compare the new proposal to the original reasons for denial.

Chair Yeater asked whether the applicant's position is that the code requires the application itself to be the same, rather than the proposed use. He then asked Safarik to explain how the code shows that both the application and the proposed use must be considered. Safarik explained that zoning

applications are fundamentally about land use, not just the application type. Simply labeling something as a PUD does not make it the same application, since a PUD could allow different underlying uses, such as residential or industrial. She contended that the key comparison should focus on the proposed land use to determine whether applications are substantially similar.

Chair Yeater asked if there were any documents inside the application that were used in both applications. Safarik stated no, there were not.

Commissioner Briscoe asked for clarification on the commission's focus for the meeting, noting that they were reviewing only code section 24-201.k. Safarik confirmed, explaining that the discussion is not about the merits of the applications or whether one approach is better than another, but solely whether staff made a reasonable interpretation of this section of the code.

With no other questions for staff, Chair Yeater invited the applicant, if present, to speak.

Patrick Groom (Attorney representative for the applicant, LaSalle Investors LLC) explained that they filed the appeal, arguing that the interpretation of this matter is incorrect and carries significant consequences. He agreed with Commissioner Schulte that a rezone application does not propose a specific use, and that Mrs. Safarik's characterization of the application as one for multifamily housing was inaccurate. While a multifamily use was anticipated, it was not the actual focus of the application. The application was simply a rezoning application to change the zone on this property from I-L (Industrial Low Intensity) to R-H (Residential High).

Mr. Groom continued his argument by stating that the issue is whether the PUD application is substantially similar to the R-H application. Under section 24-201.k of the code, a denied application cannot be refiled for one year, but there is no time limit if the director finds the new application substantially different. This determination considers the proposed use, development scale or intensity, and potential impacts on neighboring properties. Those are significant when considering whether this is substantially different from the previous application that was filed.

Commissioner Franzen asked for a brief explanation of the difference between Continental and LaSalle Investors. Mr. Groom stated that LaSalle Investors is the property owner. The previous application was submitted by a separate developer, Continental, who was interested in developing the property at that time. Continental no longer has any ownership interest, so LaSalle Investors, as the current owner, is the party with standing.

Conversation ensued between the Commissioners and Mr. Groom regarding the two different applications submitted for this area, other projects that have been completed in the city and the specifications of the city code.

With no other questions for the applicant, Chair Yeater invited Safarik to speak again. Conversation then ensued between the Commissioners and Safarik regarding staff's decision after their review at the pre-application meeting and the two different applications submitted.

Commissioner Franzen asked what the public's concerns were when they denied the first application. Safarik shared that their main concerns were traffic, apartments, lifestyle, and compatibility and how that would impact the surrounding areas.

April Medeiros (Planning Technician) spoke to the process of a pre-application meeting and conversation ensued between the Commission, Medeiros and Safarik regarding this process and what was submitted at this meeting.

With no other questions for staff, Chair Yeater asked the applicant to respond. Mr. Groom stated his case again saying this application is not similar to the previous application and should be allowed to proceed.

With no questions for the applicant, Chair Yeater turned it over to the Commission for action.

Motion by Commissioner: Andersen

She moved that based on the official records of proceedings of the Planning Commission and City Council, the applicant's letter of appeal and the summary herein the Zoning Board of Appeals finds that the planned unit development pre-application for the HP Rezone request PAM2023-0010 is dissimilar to the HP Greeley rezone ZON2021-0018, and that code section 24-201.k for successive applications does not apply, and therefore grants the appeal.

Second: Commissioner Franzen

Commissioner Schulte stated that he was persuaded otherwise and believes there is a clear rule that when an application is submitted for one zoning designation and a subsequent application is made for a different zone, it must simply be substantially different. Commissioner Schulte said he would sustain the appeal. Commissioner Schulte explained that the same appellate standard applies to decisions by the board or city council and that the code's broad language is intended to cover various applications. However, he disagreed with the initial determination, arguing that the specific land use is not part of a rezoning application and should not factor into the evaluation unless explicit limitations are imposed.

Commissioner Briscoe opposed the motion, stating that the application is substantially similar to the prior rezoning proposal, which included the same details on layout, scale, and use in the R-H zone district. Although the commission had unanimously approved the earlier application, it was denied by the city council, and he believes the current proposal presents the same use and narrative, making it substantially similar under the city code. He said he believed that the decision was based on a good-faith interpretation of the code by city staff. Commissioner Briscoe noted that the narrative requires an indication of use and that the applicant's original rezoning request specified 320 multifamily units. The new request proposes a PUD for 288 multifamily units, which he said is why he sees the applications as similar.

Chair Yeater added that the focus should be on the scale and impact of the use on adjacent properties, not the use itself. He agreed with Safarik's interpretation that narrowing the description of a use does not constitute a change in use, but rather a more specific version of the same use. Because he did not see a change in scale or impact to nearby properties, he believes the proposal represents the same use, just more narrowly defined. Chair Yeater clarified that the focus is solely on whether the current application is similar to the original, based on the specified conditions, not on what is being submitted or proposed.

Commissioner Modlin stated that while he commends the applicant for pursuing a PUD, such applications typically provide more detailed information about the property's future design and development. He felt this application lacked sufficient supporting documentation to show what the project would ultimately become. As a result, he would deny the PUD at this time but encouraged the applicant to return later with more detailed plans.

Commissioner Franzen stated that he stood with Commissioner Schulte that this application is different in use.

Chair Yeater called for a vote on the motion made by Commissioner Andersen.

Vote: 3-3, the appeal was denied.

Commissioners Schulte, Franzen, and Andersen agreed with the motion.

Chair Yeater, Commissioner Briscoe and Commissioner Modlin disagreed with the motion.

6. Staff Report

Safarik noted that the city clerk's office invited everyone to a board and commission reception on April 27. Unlike past years, the event will feature a more informal presentation. Staff will re-send the invite to reception to make sure everyone receives one.

7. Adjournment

With no further business before the Board, Chair Yeater adjourned the meeting at 3:24 PM.

Don Threwitt, Director of Comm. Development

Justin Yeater, Chair



Zoning Board of Appeals Meeting Minutes

February 10, 2026, at 1:15pm

1. Call to Order

Chair Yeater called the meeting to order at 1:15pm.

2. Roll Call - Present

Chair Justin Yeater

Commissioner Erik Briscoe

Commissioner Jeff Carlson

Commissioner Brian Franzen

Absent

Vice Chair Louisa Andersen

Commissioner Larry Modlin

Commissioner Christian Schulte

3. Approval of the agenda

There were no changes to the agenda, Chair Yeater proceeded with the agenda as published.

4. Expedited Item: A public hearing to consider a request for approval of a variance to allow a retaining wall at a maximum of twenty-six (26) feet in height located at 920 N. 7th Avenue.

Chair Yeater asked if anyone on the Commission wished to see a presentation. Seeing none, Chair Yeater asked if anyone in attendance or online wished to see a presentation. Seeing none, Chair Yeater invited the applicant, if present, if they wished to speak.

Gary Komerska (Applicant from Tippmann Construction) stated he was present for any questions the Commission may have.

Commissioner Franzen was seeking clarification in the report, noting that they did not see a clear and well-supported explanation of why the variance is necessary based on the grading. Mr. Komerska explained that the current condition is a vertical, earthen cliff approximately 46 feet high that has been eroding for many years. Over time, neighboring individuals have deposited various discarded materials, including chunks of concrete, causing the area to function as an informal dumping site. If the property were regraded to meet the City's 3:1 slope requirement, the resulting footprint would encroach so significantly onto the JBS property that the project would no longer be functional, leaving insufficient space for semi-trucks to access and back into the proposed facility.

Chair Yeater requested clarification of his understanding that the code requires a variance for anything over six feet. Mr. Komerska confirmed Chair Yeater's understanding and explained that the proposed wall ranges from approximately 3 to 26 feet in height, depending on where the slope begins and ends. The grading was brought to a 3:1 slope from the neighboring property line as far as feasible to meet City criteria before transitioning to the wall, rather than placing the wall directly at the property boundary.

Commissioner Carlson sought clarification, asking if the wall would be located to the east of the existing facility. Mr. Komerska shared that this wall would be to the north of the what they call the value-added facility on North 7th Avenue.

Chair Yeater asked if one of the goals of this wall is to relieve the parking that is currently on the street and move that to the back of the facility. Mr. Komerska explained that while the wall is one component of the project, the overall purpose is to develop a distribution center for JBS. A key objective of the project is to address and alleviate the existing truck traffic currently queuing along the main road, making the facility and the trucking improvements part of a comprehensive plan.

With no other questions for the applicant or staff, Chair Yeater opened the public portion of the meeting at 1:20pm. With no one in person or online wishing to speak to the item, Chair Yeater closed the public portion of the meeting at 1:20pm and turned it over to the Commissioner for action.

Motion by Commissioner Briscoe:

Based on the application received in the preceding analysis, the Zoning Board of Appeals finds that the requested variance to allow a retaining wall at a maximum height of 26 feet complies with and meets all applicable review criteria under Section 24-209B of the Greeley Development Code, and therefore approves the request.

Second: Commissioner Carlson

Vote: Motion approved 4-0

Absent: Vice Chair Louisa Andersen, Commissioner Larry Modlin and Commissioner Christian Schulte

5. Adjournment:

Chair Yeater adjourned the meeting at 1:22pm and moved into the Planning Commission meeting.

Justin Yeater – Chair

Don Threewitt – Interim Comm. Development Director