CITY OF ARVADA

SUMMARY MINUTES OF PLANNING COMMISSION MEETING AND WORKSHOP HELD FEBRUARY 16, 2021

Planning Commission meeting minutes are not an exact transcript and represent key points and the basis of discussion.

1. **WORKSHOP** – Land Development Code Training

Ms. Grogg led a workshop for the Commission, including information about Colorado Open Records Act (CORA), Colorado Open Meetings Law, the Land Development Code, and the Planning Commission Bylaws.

There was general discussion among Staff and the Commissioners about the memo that was given to the Commissioners about the workshop topics.

2. **CALLED MEETING TO ORDER**– By T.O. Owens at 6:16 P.M.

3. **PLEDGE OF ALLEGIANCE**

4. **ROLL CALL OF MEMBERS**

Those present: T.O. Owens, Andrew Gay, Patricia Connell, Michael P. Griffith, Doug Magee

THOSE ABSENT

Mr. Owens moved to excuse Steve Hannan and Michael McCarron from the meeting.
The following votes were cast on the motion:
Those voting Yes: Owens, Gay, Connell, Griffith, Magee
Those voting No: None
Those absent: Hannan, McCarron
The motion carried 5-0.

ALSO PRESENT: Ryan Stachelski, Director of Community and Economic Development; Rob Smetana, City Planning Manager; Emily Grogg, Sr. Ass't. City Attorney; Cheryl Drake, Senior Planner; Jeremiah Bebo, Planner II; Jenny Wolfschlag, Manager of Development Engineering; Josie Suk, Manager of Dev. Systems and Administrative Services; Sara Hutchinson, Recording Secretary/Administrative Specialist

5. **APPROVAL OF MINUTES** – JANUARY 19, 2021.

Page three addition from Mr. Gay: his concern was with the number of mixed-use zoning requests being approved for residential use only. The minutes stand approved as corrected.

6. **GENERAL BUSINESS**

None.

7. **REPORTS**

None.

8. **PUBLIC COMMENT**

There being no one wishing to speak, Public Comment was closed.

9. **PUBLIC HEARINGS**

DA2020-0131 Habitat for Humanity Vacation of Right-of-Way, generally located at 5249 Carr St.

The public hearing was opened.

Ms. Drake made a correction to page 3 of the Staff Report, as the top row citation is incorrect. This citation should be Division 8-3-9-1 instead of 8-3-1-1.

Mr. Owens entered into the record the corrected Staff Report DA2020-0131 dated February 16, 2021, affidavits of mailing and posting, and posting log.

Ms. Drake gave a brief overview of the project. Staff recommends approval.

Mr. Whitaker, representative of the applicant, explained Habitat for Humanity of Metro Denver. He discussed the reasoning for the request of the Right-of-Way Vacation for the site.

Ms. Ma, representative of the applicant, explained Radian and other partners in the project.

Mr. Yong, representative of the applicant, explained his architecture firm and their mission.

Ms. Ma gave an overview of the site. She described the area that the ROW Vacation request is for and discussed the zoning.

Mr. Deyoung, representative of the applicant, explained the site plan and the need for the ROW Vacation with the proposed design of the site.

Ms. Ma gave further description of the reasoning for the ROW Vacation request.

Mr. Owens opened the hearing for comments from the public.

PUBLIC COMMENT

IN FAVOR

None.

IN OPPOSITION

None.

APPLICANT REBUTTAL

None.

Mr. Owens closed public comment.

QUESTIONS FROM THE COMMISSION

Mr. Griffith asked about tree removal with the proposed site design.

Mr. Whitaker stated that they are working with Ms. Drake and other Staff to make sure all tree removal is done well and any removal that is done is necessary for the design.

Mr. Owens asked for clarification on who owns the ROW property currently.

Ms. Drake clarified that the ROW is currently owned by the City.

Mr. Griffith asked about the maintenance of the ROW land if it is vacated.

Ms. Drake stated that this portion of the land will either be managed by the individual homeowners or by the homeowner's association.

Mr. Whitaker confirmed Ms. Drake's statements and said that there will be a homeowner's association.

MOTION:

It was moved by Mr. Magee, DA2020-0131 Habitat for Humanity Vacation of Right-of-Way, generally located at 5249 Carr St., be recommended to City Council for approval.

This motion is based on the findings of fact and approval criteria on Pages 3 and 4 of the Staff Report.

DISCUSSION OF MOTION DA2020-0131

The following votes were cast on the motion:
Those voting Yes: Owens, Gay, Connell, Griffith, Magee
Those voting No: None
Those absent: Hannan, McCarron
The motion carried 5-0.

Ms. Connell stated her support for Habitat for Humanity.

DA2020-0103 Lazy Susan Major Comprehensive Plan Amendment, Annexation, and Rezoning, generally located at 16790 and 16770 W. 63rd Pl.

Mr. Owens entered into the record the Staff Report DA2020-0103 dated February 16, 2021, affidavits of mailing and posting, and posting log.

Mr. Bebo gave a brief overview of the project. Staff recommends approval.

Ms. Tindell, applicant, explained the site, the zoning, and the reasons for the requests.

Mr. Owens opened the hearing for comments from the public.

PUBLIC COMMENT

IN FAVOR

None.

IN OPPOSITION

Ms. Bartoletti, resident, asked what types of homes are allowed within the zoning.

Mr. Owens explained the procedure for the public comment portion of the public hearing, and let Ms. Bartoletti know that they would ask her question to Staff in their discussion period.

APPLICANT REBUTTAL

Ms. Tindell stated that it would be a single family residential home going onto the property.

Mr. Owens closed public comment.

QUESTIONS FROM THE COMMISSION

Mr. Griffith repeated Ms. Bartoletti's question.

Mr. Bebo explained that only single-family homes can be built within this zoning, and he stated the lot size requirements.

MOTION: Major Comprehensive Plan Amendment

It was moved by Mr. Magee that DA2020-0103 Lazy Susan Major Comprehensive Plan Amendment, generally located at 16790 and 16770 W. 63rd Pl., be recommended to City Council for approval.

This motion is based on the findings of fact and approval criteria on Pages 6-8 of the Staff Report.

DISCUSSION OF MOTION DA2020-0103 Major Comprehensive Plan Amendment

The following votes were cast on the motion:
Those voting Yes: Owens, Connell, Griffith, Magee, Gay
Those voting No: None
Those absent: Hannan, McCarron
The motion carried 5-0.

MOTION: Annexation

Mr. Magee asked Staff about the adjacent ditch property. He asked why the Lazy Susan property is allowed to be annexed in - based on State statues – while it is adjacent to the ditch.

Mr. Bebo explained that the ditch is viewed as a natural feature and that the property was able to obtain contiguity through the State statutes.

Mr. Gay asked for reiteration from the applicant on the reasoning for the requests.

Ms. Tindell confirmed the reasoning Mr. Gay provided.

It was moved by Mr. Magee that DA2020-0103 Lazy Susan Annexation, generally located at 16790 and 16770 W. 63rd Pl., be recommended to City Council for approval.

This motion is based on the findings of fact and approval criteria on Pages 6-8 of the Staff Report.

DISCUSSION OF MOTION DA2020-0103 Annexation

The following votes were cast on the motion:
Those voting Yes: Owens, Connell, Griffith, Magee, Gay
Those voting No: None
Those absent: Hannan, McCarron
The motion carried 5-0.

MOTION: Rezoning

It was moved by Mr. Magee that DA2020-0103 Lazy Susan Rezoning, generally located at 16790 and 16770 W. 63rd Pl., be recommended to City Council for approval.

This motion is based on the findings of fact and approval criteria on Pages 6-8 of the Staff Report.

DISCUSSION OF MOTION DA2020-0103 Rezoning

Mr. Owens stated his appreciation for Ms. Tindell presenting her project in front of the Commission.

The following votes were cast on the motion:
Those voting Yes: Owens, Connell, Griffith, Magee, Gay
Those voting No: None
Those absent: Hannan, McCarron
The motion carried 5-0.

DA2020-0129 Conditional Use for Morgan Ralston Creek, generally located at 9881 W. 58th Ave.

Mr. Owens entered into the record the Staff Report DA2020-0129 dated February 16, 2021, affidavits of mailing and posting, and posting log. Additionally a written letter of public comment was received and read by the Commissioners. This letter has been added to the record.

Mr. Bebo gave a brief overview of the project. Staff recommends approval.

Mr. Brockman, representative of the applicant, gave background on the developer and he explained the discussion ongoing with Brixmor Property Group. He gave background on the site and the project.

Ms. Niziolek, representative of the applicant, discussed public outreach that the applicants have undergone with members of the community. She explained how the proposed design will fit with the City Comprehensive Plan and zoning. She explained the two different options with the potential design plan for the site.

Mr. Owens opened the hearing for comments from the public.

PUBLIC COMMENT

IN FAVOR

None.

IN OPPOSITION

Mr. Sugden, council to the owner of the Arvada Plaza (the property to the east of the proposed redevelopment site), discussed the contents of the letter of public comment that he submitted. He described the Arvada Plaza's history. He discussed concerns about ingress and egress for the loading docks at Arvada Plaza. He described the condition that they are requesting, which would allow the continued easy access to the loading docks and would not change the proposed design of the site.

APPLICANT REBUTTAL

Mr. Brockman, stated their desire to work with Brixmor Property Group (owner of the Arvada Plaza).

Ms. White, representative of the applicant, stated that this issue is most properly addressed at the site plan stage. She stated that Mr. Sugden's concerns are not impacted by this conditional use application in terms of the conditional use of the site, instead by the potential design. She agreed that this should continue to be a conversation.

Mr. Owens closed public comment.

QUESTIONS FROM THE COMMISSION

Mr. Owens asked about the shared access agreement at the site held by Brixmor.

Mr. Brockman stated that this shared access agreement had expired five years ago.

Mr. Owens stated that this means that there is no legal claim to this access as it currently stands.

Mr. Brockman agreed with this statement.

Mr. Owens reiterated the definition of the Conditional Use and stated that he believes without any legal claim to this access, it is not an issue for the applicant. He stated his belief that it is instead an issue for Brixmor to address. He stated that if it was an issue for the applicant, he believed this would be addressed in the site plan stage of the application and not through the Conditional Use.

Mr. Gay stated the adjacent ARC property already may have loading issues of their own, and that there could be concerns with the loading docks access as well.

Mr. Owens stated his understanding of this issue, but reiterated that he does not believe this burden should fall upon the neighboring property developer (the applicant).

Mr. Magee asked about the lease negotiations with the Good Times on the site. He asked for clarification on who holds the lease right now.

Mr. Brockman stated that the lease is set to end in five years, but that they are under negotiations to buy them out at the end of December 2021. He said the lease holder is the owner of the Kmart.

Mr. Magee stated his appreciation for holding the neighborhood meeting both virtually and in-person. He asked about the percentage of affordable housing proposed for the site and asked if they considered any increase in the percentage.

Mr. Brockman stated that if they increase the percentage, the market rate units have to go up in rent and that they do not feel that is fair to the community.

Mr. Magee asked if the first floor units are at grade in order to be accessible.

Mr. Brockman stated that they will follow ADA guidelines and Federal Fair Housing guidelines.

Mr. Magee asked if all of the northern building units are accessed internally.

Mr. Brockman stated that they are, and that eventually there may be more connectivity to the street through the patios.

Mr. Magee recommended that in the site plan there might be some access to the green spaces from the northern side units. He asked about the ratio of guest parking.

Ms. Niziolek stated that the parking is set up in accordance with Code, but that this will continue to be addressed through the design process.

Mr. Magee asked about bike parking and electric vehicle charging stations and parking.

Ms. Niziolek stated that they believe it is important, and that it will be addressed in the site plan stage.

Mr. Magee suggested putting bike parking within the covered parking structure proposed for the site.

Mr. Griffith stated his hope that as the development continues, the ground access should be supported to make it feel more residential and walkable. He asked Staff about traffic impacts of this project.

Mr. Bebo stated that the traffic study indicated that the project could be accommodated with the existing traffic system in the area.

Mr. Griffith asked about the traffic impact on 58th Avenue specifically.

Mr. Bebo stated that those specific details will be looked at more closely with the site plan design, but that Staff feels comfortable that it will not be a problem for the traffic systems.

Ms. Wolfschlag stated that at build-out, this development will be at a C level or better, and that the residential use generates lower traffic than a store like Kmart.

Mr. Griffith stated his desire for a shade analysis and investigation into snow removal in the amenity green space areas to be done further into the design process. Mr. Griffith asked Staff about the definitions of affordable housing criteria with Area Median Income (AMI).

Mr. Bebo stated that the previous Land Development Code did not state a definition for AMI for affordable housing. He stated that the new Code focuses more on conditions that will require affordable units (typically LIHTC), such as a height incentive. He clarified that this is a unique situation, where the developer is deciding to put affordable units in without doing so as part of a request for a height incentive or other condition.

Mr. Smetana stated that even for LIHTC housing, there is usually a sliding scale of AMI to qualify.

Mr. Gay asked about the walking path between the apartments and the King Soopers.

Mr. Brockman confirmed that the intent is to create connectivity in the area and provide a walkable space, including for residents to get groceries.

Mr. Gay asked where the answers are to the questions from residents at the neighborhood meeting that was given in the packet.

Ms. Niziolek stated that all the responses were answered out loud in the meeting but are not typed out in the written record. She stated that they have a recording and can add the responses to the packet.

Mr. Gay stated his concerns over ARC's donation drop-off site in the area.

Ms. Connell stated that some of the traffic may be eliminated with the potential design.

MOTION:

Ms. Grogg stated that conditions are not required to be put into the motion, whether from the Staff or from public comment request.

It was moved by Mr. Griffith that DA2020-0129 Conditional Use for Morgan Ralston Creek, generally located at 9881 W. 58th Ave., be recommended to City Council for approval.

This motion is based on the findings of fact and approval criteria on Pages 11-12 of the Staff Report.

Mr. Owens requested to amend the motion to include the two conditions on page 12 of the Staff Report.

Mr. Griffith amended the motion to include the two conditions on page 12 of the Staff Report:

1. In order to preserve a portion of the site for retail and commercial uses and to mitigate the loss of a larger amount of retail space (Criteria 6), a minimum of 10,200 square feet of commercial space shall be provided on site.

2. In order to adhere to Criteria 2, the applicant shall offer a minimum of five percent of the apartment units as affordable to residents making up to 80% of Area Median Income. The means of restricting these units shall be determined at the Site Plan application and shall be at the discretion of City staff.

DISCUSSION OF MOTION DA2020-0129

Mr. Magee stated his appreciation of the design but noted his disappointment that there will not be added retail or commercial space at the location. He stated his preference for the Option 2 design in order to keep commercial space on the site. He stated his concerns over the King Soopers loading docks access, but that he agrees with Mr. Owens in his analysis of the situation. He stated his support of the project.

Mr. Griffith stated his support of the project and noted his excitement to have new development with pedestrian focus instead of a vacant space.

Mr. Owens stated his support of the project and commented that it is not an easy site to deal with.

The following votes were cast on the motion:
Those voting Yes: Owens, Gay, Connell, Griffith, Magee
Those voting No: None
Those absent: Hannan, McCarron
The motion carried 5-0.

10. OTHER ITEMS

Mr. Owens asked Staff if there are any items to consider.

Mr. Smetana stated that there are no items scheduled for the March 2, 2021 meeting.

It was moved by Mr. Owens to cancel the Planning Commission meeting on March 2, 2021, as there are no items on the agenda.

The following votes were cast on the motion:
Those voting Yes: Owens, Gay, Connell, Griffith, Magee
Those voting No: None
Those absent: Hannan, McCarron
The motion carried 5-0.

Mr. Smetana explained the projects that are on the agenda for March 16, 2021.

Ms. Connell thanked everyone for their participation.

Mr. Griffith asked about the plan for moving forward with eventual in-person meetings at City Hall.

Mr. Stachelski stated that this will be up to discussion based on what the Commission prefers, and that it could be added as a future agenda item. He stated that it could be based upon an agreed upon criteria. He explained how Council has addressed this discussion. He stated that Staff is currently trying to minimize contact and that at the City they are encouraging remoteness when possible.

Mr. Owens asked if the Commissioners are hoping to have in-person meetings, with some of the Commissioners in-person and some at home. He stated his desire not to impose on Staff in requiring them be in-person.

Mr. Magee stated that he does not have a strong desire to be in-person, but that Covid numbers seem to be going down. He stated that he feels that the current virtual system has been working well. He commented that the seating at the dais in Council Chambers doesn’t allow Commissioners to be six feet apart.

Ms. Connell stated that she would prefer to wait a few more months and see what the vaccination numbers look like. She stated her appreciation that the City has been holding the meetings virtually.

Mr. Griffith stated that he wants to discuss it, but that he is not trying to move back to be in-person soon. He stated concerns of accessibility with virtual meetings.

Mr. Gay stated his appreciation for the virtual meetings, but that he eventually hopes that at least once a quarter that the Commissioners could meet in person.

Mr. Owens stated that in April the Commission can have another check-in and discussion about what the criteria should be in order to decide when to have in-person meetings again. He doesn't want to push anyone to come back if they are uncomfortable.

Ms. Suk stated that due to increased interest with the projects going on the March 16, 2021 meeting, the meeting will be done on live stream and shown on KATV. She stated the desire to make it easier for more members of the public to watch future meetings, even if they do not want to participate in the meeting.

Mr. Magee stated his concern of imposing on the City/Staff if some of the Commissioners were to be in-person at Chambers and some were to be present virtually at future meetings. He stated his preference to have meetings be either completely virtual or completely in-person.

Ms. Grogg stated that because of a potential increase in public comment for the March 16, 2021 meeting, Staff will be trying to get the Commissioners their packets sooner than normal in order to allow the Commissioners as much time as possible to read all of the public comment as it is received.

12. **ADJOURNED** at 8:06 P.M.

TO Owens
T.O. Owens, Chair

Patrica Connell
Patricia Connell, Secretary

Sara Hutchinson
Sara Hutchinson, Recording Secretary