



SUMMARY MINUTES OF PLANNING COMMISSION ACTION HELD
JANUARY 19, 2021

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

1. **CALLED MEETING TO ORDER**– By T.O. Owens at 6:15 P.M.
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL OF MEMBERS**

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

THOSE ABSENT

None.

ALSO PRESENT: Ryan Stachelski, Director of Community and Economic Development; Rob Smetana, City Planning Manager; Laura Hemler, Sr. Ass't. City Attorney; Jacob Nitchals, Senior Planner; Jenny Wolfschlag, Manager of Development Engineering; Josie Suk, Manager of Dev. Systems and Administrative Services; Stephanie Wallace, Recording Secretary/Administrative Specialist

4. **APPROVAL OF MINUTES** – November 17, 2020. The minutes stand approved as printed.
5. **GENERAL BUSINESS**

None.
6. **REPORTS**

None.
7. **PUBLIC COMMENT**

Nancy Young expressed her concern regarding the mixed use zoning districts from the new Land Development Code. She stated she is aware of at least two more Conditional Use Applications coming that will be residential. She is worried that they are becoming more residential than mixed use in the middle of thriving retail commercial districts. She asked that the Planning Commission carefully consider the impact of eliminating retail commercial districts on the city.

Public Comment was closed.

8. **PUBLIC HEARINGS**

**DA2020-0077 A Conditional Use Application For Clear Creek Commons,
Approximately Located At The Southeast Corner Of West 52nd Avenue And
Marshall Street**

Mr. Owens entered into the record the Staff Report DA2020-0077 dated January 19, 2021, affidavit of mailing, posting log and public comment that was received via email.

Mr. Nitchals gave a brief overview of the project and the application for a Conditional Use Application. Staff recommends approval.

Mr. Salzberg, applicant, gave an overview of the design of the proposed project. He discussed the details and constraints of the site and nearby areas. He explained the reasons that the project fits the requirements for a Conditional Use Application.

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

PUBLIC COMMENT

IN FAVOR

Brandon Figliolino, emailed his comment and stated he supports the conditional use permit for the Clear Creek Commons project. I think it will bring much needed housing to this area of the city, and in reading the public hearing meeting summary, believe the developer did a good job of connecting with nearby residents to put forth a project that benefits everyone.

IN OPPOSITION

Pauline Spano, resident to the east of the proposed project. She referenced recorded documents and stated she has an easement over the adjacent property. She is opposed to this project, because they have greenhouses which are currently not being used. They have been there for 78 years and if the five story building goes in, it will hugely impede on them as far as sunlight and the view.

Nancy Young, resident, discussed her concerns that 52nd and Marshall is retail commercial in nature and that residential is out of place on that street. She expressed concerns about a Kombucha Brewery and retail that will be lost with redevelopment of the site. She also expressed her concern about the proposed project being vague and uncertain. She agrees that affordable housing is needed in Arvada. She stated, that this project should be approved only with the condition that it be affordable housing.

Roxy Vendena, resident, had no comment.

APPLICANT REBUTTAL

Mr. Salzberg stated that Ms. Spano brought up the asserted easement years ago and his title company does not recognize the easement. He said that documentation had been provided to Mr. Nitchals. He responded to Ms. Young's comment about the Kombucha permit stating there is no active license for a Kombucha user at the old farm house. He stated this area is ideal for retail; however, retail follows roof tops. He responded to the concerns about the existing greenhouses stating there will be a nominal impact on solar access.

Mr. Owens closed public comment.

QUESTIONS FROM THE COMMISSION

Mr. Griffith stated his appreciation of the work put into this project, acknowledging there are benefits to this project. He believes in the concept of retail following rooftops, but he also knows retail follows activation and public life. He recommended activating the ground floor of the building along Marshall St. He approves of the smaller workforce housing development and affordable housing. He also recommends looking at ground level retail, such as a coffee shop. He asked what size the units will be.

Mr. Salzberg responded 36 two-bedroom units with the remainder approximately evenly split between one-bedroom and studios. Mr. Salzberg agrees with the recommendation regarding ground level retail and stated that the lobby is large enough that they could consider it in the future if it is conducive to the area.

There was discussion between Mr. Griffith and Mr. Owens, to add a condition that approval be based on the project receiving Low Income Housing Tax Credits.

Mr. Gay asked Staff, is there a concern on the mixed use zoning being retail and housing. His other concern was with the number of mixed-use zoning requests being approved for residential use only.

Mr. Nitchals responded City Staff evaluates these on case-by-case bases. That is why Council required a Conditional Use for developments with a residential land use in the Mixed-Use zone districts with the Land Development Code update. He reiterated what mixed use is.

Mr. Magee asked the applicant if the tax credit is part of the financial strategy to finance the project.

Mr. Salzberg responded the project could go two different directions. He stated if LIHTCs are available, this would be the preference. If not, I would do a market rate project.

There was further discussion between Mr. Magee and Mr. Salzberg on how the project would have to be 100% LIHTCs. Mr. Salzberg would like to move forward with the project even if LIHTCs is not available. Mr. Magee applauded Mr. Salzberg's willingness to address the existing neighbor's concerns.

Mr. Magee asked staff if Jefferson County has been contacted in any aspect of this project.

Mr. Nitchals responded Jefferson County was involved in the rezoning of this property to MX-S. They will be a referral agency when the actual site plan application comes in. He stated they have not been involved in the Conditional Use Application.

Mr. Magee added a few comments regarding the traffic study. Just to the south which is Wheat Ridge, traffic will bottle neck. He agrees with Mr. Owens to add the condition regarding affordability. He stated if this project is not granted LIHTCs, the applicant would be allowed to apply for a new Conditional Use for a four-story market rate project.

Mr. Griffith asked Mr. Salzberg for a ballpark timeframe of having clarity on which way the project may go.

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Mr. Salzberg responded it's a cart before the horse situation. We need thumbs up from the City, before the Colorado Housing and Finance Authority (CHFA) will award the project LIHTCs. He expressed his hope for approval to move forward with either option, LIHTCs or market rate.

Commissioners agreed that workforce housing would be highly desirable in this area.

Mr. Owens expressed his concern on Criteria 6, the mitigation on the adverse impacts on the surrounding area. He stated that no one has the right to a view and he understands the Spano Family has been there for years. His concern is regarding the solar impact and that a solar study has not been performed on the proposed building. The current use is for greenhouses on the adjacent property. He is not comfortable going forward without a solar study. His other concern is if the commission grants a Conditional Use Application then any type of housing could be built here.

The Commissioners had discussion on the solar study/impact and the use by right aspect of the Conditional Use. A question was raised on how long the greenhouses have been inactive. If it's been 20 to 30 years, then it's unlikely that they will be used in the future.

Mr. Salzberg commented he could obtain a solar study, but a setbacks study was done in lieu of a solar study.

Mr. Owens commented Mr. Salzberg is asking for the Commission to grant this conditional use application. However, the Commission has to balance what is the best use for Arvada and that neighborhood. He stated we need affordable housing in Arvada and if that is obtainable that is a tradeoff.

Ms. Connell expressed the same concern as Mr. Owens.

Mr. Griffith asked Staff if there are other affordable housing projects that could be looked at to compare the cart before the horse situation that Mr. Salzberg mentioned and how we got around that on those projects.

Mr. Smetana responded there have been three different projects that applied for Low Income Housing Tax Credits through CHFA. In all three cases CHFA wanted a letter from the City saying it is approvable and we provided it in those cases. CHFA is hesitant to grant funds for a project that doesn't have at least the zoning in place. Allison Village which is MX-U also, was a Conditional Use Application and the City did grant it.

Mr. Magee expressed his concern on having one vote for two projects, tax credit vs. market rate.

Mr. Smetana brought up the criteria for a Conditional Use Application and advised the Commission that they are being asked if a residential use is appropriate at this location and are there factors that need to be migrated to allow that residential use. The actual site design would be reviewed at the site plan level. Should the City Council approve the Conditional Use Application.

MOTION:

It was moved by Mr. Magee, that DA2020-0077, a Conditional Use Application for Clear Creek Commons, approximately located at the southeast corner of West 52nd Avenue and Marshall Street, be recommended to City Council for approval.

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This motion is based on the findings of fact and approval criteria on Pages 8 and 9 of the Staff Report.

DISCUSSION OF MOTION DA2020-0077

Mr. Griffith motioned to amend the motion to include a condition that the applicant achieves the Low Income Housing Tax Credits, LIHTCs to move forward.

The following votes were cast on the amended motion:

Those voting Yes: Owens, McCarron, Gay, Connell, Griffith, Magee, Hannan

Those voting No: None

Those absent: None

The motion carried 7-0.

Mr. Owens explained that they are voting to recommend approval of the Conditional Use Application, with the condition that the tax credits for affordable housing are required.

DISCUSSION OF THE AMENDED MOTION DA2020-0077

Mr. Griffith stated his appreciation to the applicant for doing business in Arvada.

Mr. Owens suggested acquiring a solar study so it could be reviewed at City Council. He stated the reason he supports the amendment is because of Criteria 4.

The following votes were cast on the motion:

Those voting Yes: Owens, McCarron, Gay, Connell, Griffith, Magee, Hannan

Those voting No: None

Those absent: None

The motion carried 7-0.

Mr. Owens explained that the motion carried as amended.

9. OTHER ITEMS

Mr. Smetana stated that there are no items on the agenda for the February 2, 2021 meeting and that it should be cancelled. The next meeting will be February 16, 2021.

It was moved by Mr. Owens to cancel the Planning Commission meetings in February 2, 2021, as there are no items on the agendas.

The following votes were cast on the motion:

Those voting Yes: Owens, McCarron, Gay, Connell, Griffith, Magee, Hannan

Those voting No: None

Those absent: None

The motion carried 7-0.

12. ADJOURNED at 7:53 P.M.

T.O. Owens

T.O. Owens, Chair

Patricia Connell

Patricia Connell, Secretary

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Stephanie Wallace

Stephanie Wallace, Recording Secretary