



SUMMARY MINUTES OF PLANNING COMMISSION ACTION HELD
September 17, 2024

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

1. **CALLED MEETING TO ORDER– By Michael P. Griffith at 6:17 P.M.**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL OF MEMBERS**

Those present: Michael P. Griffith, Andrew Gay, Tim Knapp, Brandon Figliolino, Tom Aljinovich, Doug Magee, Steve Hannan

THOSE ABSENT

None

ALSO PRESENT: Jessica Garner, Director of Community and Economic Development; Rob Smetana, City Planning Manager; Emily Grogg, Sr. Ass't. City Attorney; Josie Suk, Development Systems and Administrative Manager; Emiley Yoshihara, Civil Engineer II; Jake Moyer, Stormwater Administrator; Jeremiah Bebo, Sr. Planner; Heidi Van Gieson, Development Technician I; Dixielee Rodriguez, Recording Secretary.

4. **APPROVAL OF MINUTES**

June 18, 2024. The minutes stand approved as printed.

5. **GENERAL BUSINESS**

None

6. **REPORTS**

None

7. **PUBLIC COMMENT**

There was no one wishing to speak. (This is for Items NOT on the Agenda) Public Comment was closed.

8. **PUBLIC HEARINGS**

8.A. Major Comprehensive Plan Amendment for 6800 Kilmer RV Storage, a 14.01 acre parcel, addressed as 6800 Kilmer St. and located at the terminus of West 68th Avenue just west of Indiana Street.

Before beginning the hearing, Mr. Griffith made a statement explaining what the Planning Commission would be voting on. And that it is a recommendation to the City Council and just a part of the process.

Emily Grogg explained that the Planning Commission only has authority to determine the Comp Plan amendment. She explained what that meant and the remaining opportunities for public involvement if the project progresses. She reiterates what Mr. Griffith stated.

Mr. Griffith swore in all guests that would be speaking.

Mr. Griffith opened the public hearing.

Mr. Griffith asked if all of the required documents were in order.

Mr. Bebo stated that publication in the newspaper was required and posting log and mailing affidavit for the noticing requirements were in order.

Mr. Griffith asked are there any additions or corrections to the Staff Report?

Mr. Bebo stated Yes there are corrections to the Staff Report. two corrections on page 7-"Ay" to "any" - then "slop" to "slope" and added the neighborhood meeting summary to the staff report.

Ms. Grogg stated that all public comment that has been received has been provided to the Planning Commissioners which included the prior public comment from 2021.

Mr. Griffith stated the following items have been submitted and will be made a part of the permanent record, publication notice, posting notice, mailing notice and affidavit, and public comment to include complete email chains between staff and public.

Mr. Griffith asked Mr. Bebo to introduce the project.

Mr. Bebo introduced the project. Norris Design requests approval of a Major Comprehensive Plan Amendment from mixed use to office/industrial to match the IL (Industrial, Light) zoning that is already in place. Subject property is about 14 acres in size located West 68th Avenue just west of Indiana Street and is currently undeveloped. The Applicant has submitted a site plan amendment and Staff conducted historical research to understand the planned future land uses for the site based on past Arvada Comprehensive Plans. Arvada's first Comprehensive Plan was adopted in 1964 and designated this site as Low-Density Residential. In 1973, the land use designation was changed to Industrial Office Park. However, in 2005, the land use designation was changed to Mixed Use – Residential Emphasis and remains as such. In May of 2020, the property was rezoned to IL as part of the larger Arvada Land Development Code (LDC) Update and citywide rezoning. Concurrently, a Comprehensive Plan Update was approved in order to align the new zone districts with the Comprehensive Plan. The land use designation of the subject property was not revised as part of this update, which resulted in the continued conflict. December 2021, a similar application for an RV storage with a higher number of RV parking spaces was proposed, Ultimately that application was withdrawn. Current application that has

been submitted has a reduced number of RV parking spaces and removed the need for any Major Modifications. With the administrative review for the site plan and minor subdivision plat the volunteer clean up application, along with any environment clean up review will be required to follow CDPHE (Colorado Department of Public Health and Environment). Staff took into consideration the following: transportation, surrounding land uses, access, and natural features of the site. Areas around this site are zoned light industrial. Staff recommends approval of the Comprehensive Plan Amendment.

Applicant - Eva Mather with Norris Design - not a resident of Arvada. Describes the location and where the Ralston Creek Trail borders the site, Geos and West Woods Mesa to the north. Forest Springs and Croke Canal to the south. Industrial developments to the east and Westwoods golf course to the west. Existing constraints make a multi-modal interconnected street layout with public plazas and pedestrian-oriented design makes it incredibly difficult to achieve. Mass transit in this area is scarce. There are easements and open space requirements on the north that cannot be changed. Site is surrounded by natural features and is only accessible by one road through an industrial park which makes the site an "island". The property is a former landfill site. Costs to build single-family homes would be too high or infeasible. Applicant agrees to dedicate a public access easement for the Ralston Creek Trail and clean up the environmental conditions.

PUBLIC COMMENT

The public input portion of the hearing was opened.

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

IN FAVOR

Alisha Svaldi - Unincorporated resident but owns a building and has business in this area that is light industrial. Has been there since '98. Her company is the manufacturer for AeroSpace. Has big semi's coming through this area to her business. Currently it doesn't bother anyone because there is no one around except for this property. Feels it should be changed to industrial/office. Does not want it to have Residential in this area. Having the RV's storage down that road would be best use for this property. You do not want kids riding around this area. Would like our businesses to be protected. This would be the best use for this property.

IN OPPOSITION

Elaine Fitzsgerald - Resident of Arvada, She lives on the south border of the site. Three things she disagrees with, minimum impact surrounding areas, she strongly disagrees, developer stated only 7 houses would be impacted. She stated that her house is one of the 7 and she is upset that the applicant thinks those 7 houses don't matter. Compatibility with the surrounding area, come by and see if you think this is compatible with the area. Public welfare, RV spewing pollution, light pollution, trash and graffiti. She asked that they do not change it.

David Soucie - Resident of Arvada, Been in Arvada since 6th grade, he has done several developments and two large projects. He thinks that the comp plan is developed by and for the people of Arvada. This is the intent for the development of Arvada. Now the city is saying it's wrong and wants to change it. Shows a picture of where his home is. That he had owls that live

in a large tree behind his home. What has been conveniently left out is that there is wild life there, which is compatible with mixed use residential. There are other options with this property. Perhaps mixed use is not the right thing but Industrial light is not the right one. And it is the developers responsibility not the City's.

Ed Yovak - Resident of Arvada speaking for Rainier Gerbatsch lives in Geos (currently out of town). Size of RV storage is outside the boundaries of the area of the classification of IL (industrial light). The city staff seeks the approval even though the developer has failed to submit a complete and concise plan. Over the last 40 years 3 separate Geotechnical Engineers have issued warnings not to develop this site unless there is full remediation of this site. To ensure safety and responsible development, it is centered on minimizing cost while not ignoring these geological warnings. There have been detailed reports that have been documented and submitted in public comments.

Eric Mathys - Resident of Arvada, also representing comments of someone (did not give name) that could not be present for the meeting. There are 7 listed approval criteria to consider, he is addressing item 6 and 7 of the criteria listed. Item 6 - The land was a landfill and with proper remediation it can be used for residential purposes and can be made safe. Higher cost remediation is recommended for all type development. Lower cost alternatives can be considered but if the developer decides to do this they are responsible for the higher risk of failure and high level of continued maintenance. This creates more potential environmental exposure. Item 7 - Applicants' response states this will be consistent with public welfare and goals of the surrounding area. Site improvements are on private property and no improvements for water, sewer and electricity. Approved improvements are to the regulated improvements like lights and landscape for the project. Gravel parking lot will create a blighted site and dust, emission problems and other environmental concerns. If the developer is not willing to ensure the safety of the surrounding residents the city should not be allowed this proposal for this site.

Debra Gander - Resident of Arvada - Also represents a group of people too. Asking the PC commissioners to not approve the comp plan amendment. Developer stated the proposed development will be an extension of the industrial area already there. This use may be compatible with the property on the east side of the property. It is not compatible with neighborhoods to the north, west and south of the site. With access to Ralston creek and trail this is ideal for residential and small commercial use. If the developer is not willing to invest in this property to ensure the safety of the site the city should not approve their application. Project is avoiding improvements that are needed in many areas. Given the legacy of the environmental contamination of the site, any proposal of the site should go to public hearing, not administrative process hidden from public view.

Rich Bohling - Resident of Arvada. no reason for the Planning Commission to amend the comp plan for a single parcel to facilitate a property owners still incomplete proposal. Regarding item #1- doubtful it can be developed without remediation. The landowner is unwilling to spend the money for remediation. Changing the comp plan to industrial/office does not lessen the enormous process of the site. This cannot ignore the problems of the site. The geo report back in 91' it says the area should not be developed for commercial or residential on the site.

Sharon McCarthy - Resident of Arvada - Speaking for a group of people - Forest Springs. West side of town located in unincorporated Jeffco there are already 2 RV storage lots. There is a 3rd parcel on 72 there are RV's parked in the back. On the east side there are 3 RV storage lots located in IG, and are in industrial, not in residential area. In the LDC 5-1-6-3- b2 defines what

this means. A RV storage lot near the surrounding residential area will create an unsafe area and create hazards to the residents.

Rick Simms - Resident of Arvada - Lives in Forest Springs area - Believes the comp plan should not be amended. Current comp plan goes with the current surrounding area. There is no reason to amend the comp plan of specific use or facilitate a owners land use proposal and cannot be developed without complete remediation to the site. Just recently Jeffco's planning commission reviewed a proposal off Indiana and candelas was denied. Feels it is not compatible. Land use runs with the land not the owner. Urge you to look at what serves the people of Arvada and to deny this request.

Jay Smolen - Resident of Arvada- shows a picture on the overhead projector. He does not approve of the rezoning of the plan. How deep is the layer of garbage at this site? How deep do they have to dig for redevelopment of this site? Rezoning could affect air quality and water in Croke Creek and Ralston creek. Disrupt the wildlife in the area. The rezoning should be thought through before it is approved.

Emily Grogg spoke up to make some legal clarification about Rezoning. Tonight is about a Comprehensive Plan amendment. This developer already has the correct rezoning. This is only for the Comprehensive Plan Amendment. Rezoning is very different from what we are dealing with tonight.

APPLICANT REBUTTAL

Kevin Saylor - Not a resident - Works for Terracon - Working on the environment aspects of the project. Will address concerns with the streambank and in communication with Mile High Flood District. Concerning all environment items, they are working with CDPHE (Colorado Department of Public Health and Environment), and have an approved plan for that. When the project is under development it will be under full oversight of an Environmental Field Professional.

Ms. Mather stated doesn't like to be accused of avoiding things. Had Kevin speak on the environment items. She felt that she addressed the comments from the public in her presentation already. Reiterating on Alisha's comment about this being an extension of the industrial and the heavy industrial fleet that exists. Feels kids living and playing on a street that does not have sidewalks usually don't go together. There are no streets to extend to. Only one way in and out. When a comp plan amendment may not happen regularly but it does happen. It just happened not too long ago for the Taphouse down the road.

QUESTIONS FROM THE COMMISSION

Mr. Hannan asked the following question to staff: Is the comp plan a vision and long range plan for implementation and legally enforceable?

Ms Grogg stated: Correct, there is no legal requirement for properties to be in compliance with the comp plan. This is the guiding document for new development. The LDC is what is codified and law.

Mr. Hannan asked if there are other instances where there is this kind of disconnect with the comp plan and Land Development Code.

Mr. Bebo stated that it is not super common but yes there are other areas where we have conflicts between the comp plan and zoning or vice versa.

Ms. Grogg stated that one of the criterias in the LDC for the site plan states that it must meet Comp Plan.

Mr. Hannan asked when the site plan is developed will it be looked at administratively and can it be called up by City Council to be reviewed at any time?

Mr. Bebo stated that a site plan can be reviewed and approved administratively. If the project is approved or denied by staff, it can be called up by the City Council.

Mr. Hannan stated the environmental condition is concerning to him. What is the city's role?

Mr. Bebo stated we defer environmental issues to (CDPHE) Colorado Department of Public Health and Environment. As we don't have our own environment department.

Ms. Grogg stated legally we do not have any authority to overrule CDPHE. We have to follow state law. We do not have the required personnel on staff.

Mr. Hannan asked about the 2020 LDC review. Was there any discussion about this property at that point?

Mr. Bebo stated No, this property was not singularly identified and reviewed. There is a history of this property changing over time in the comp plan but was industrial for a very long period of time. Unsure why it was changed to Mixed Use - Residential in 2005.

Mr. Gay asked, does this meet the criteria for infill development?

Mr. Bebo stated it is a little challenging, it is one of the last remaining undeveloped parcels in the city and is surrounded by development on all sides which make it infill. However, this is larger property than what is typically seen in infill development in Arvada.

Mr. Gay asked if the Comp Plan Amendment is a precursor to a site plan discussion? And when that happens is that internal or goes to a public hearing or administrative?

Mr. Bebo stated that it would be approved or denied by city staff and would not come before the Planning Commission. But can be called up by the City Council and then a public hearing would be held on that.

Ms. Grogg stated that if the Planning Commission decides to deny the Comp Plan Amendment the applicant can go forward with the Site Plan because they do have the zoning. That is where as stated before, it would be missing the criteria that is looked at by staff. Final decision would be made by the Director. If the administrative decision is made then the City Council can call up and public comment could be made again at that time.

Mr. Gay asked criteria #2 - What was the logic that was used to not count the north and south borders of the parcel the same as the east when analyzing compatibility?

Mr. Bebo stated he felt it was more compatible to what is to the east based on the utilization of access with the existing Industrial area to the east. He also discussed how the presence of the

Ralston Creek and Croke Canal act as natural buffers to the neighborhoods to the north and south. making this site integrate more with the industrial to the east.

Mr. Gay asked about criteria #7 - Is there a public benefit for industrial uses versus residential uses on this site? Is this anecdotal or actual data that shows this?

Mr. Bebo stated that Staff believes that prohibiting residential uses on this property is in the interest of public welfare due to the existing conditions of the site, access limitations, and the presence of light and heavy industrial uses along West 68th Avenue. If residential was built on the site, they would have to drive, walk and bike through industrial uses which also have heavy truck traffic.

Ms. Grogg stated that there is not a definition to "public welfare" in the Comprehensive Plan. Staff did their best on interpreting that criterion.

Mr. Magee asked that no matter what the Planning Commission decides the City Council can make whatever decision they please in their discussion and hearing comments from the public.

Ms. Grogg stated that is correct, the City Council can make their own decisions on this and does not have to follow what Planning Commission recommendation. We have decided to follow the path that allows the most public input.

Mr. Magee asked about the zoning which is industrial light in the Land Development Code, has been this since the early 80's changed in 2020 pud industrial to current industrial light. Then land use designation from '73 - '05 it was industrial office and not sure why it was changed to its current use.

Mr Bebo responded that is correct.

Mr. Magee asked the applicant about the clean up on this development. No matter what you pursue on this site you will need to follow the guidance by the State department?

Mr. Saylor stated yes they have to follow CDPHE guidance and if they have to they will amend their plan.

Mr. Magee asked if they will get different guidance depending on what development they do?

Mr. Saylor stated if the project changes they could be looking at institution controls or engineering controls.

Mr. Magee asked if the embankment improvement for protection is it voluntary or required?

Mr. Saylor stated the program administrator wanted to see some improvements in their plan.

Mr. Figliolino asked staff the Industrial Light definition in the LDC, does not say outdoor storage or RV. Is this allowed under IL?

Mr. Bebo stated that there are general zoning statements that are not intended to capture all uses. We have the use tables that are within chapter 3 showing the uses in detail what can be used. These are intent statements not the bread and butter of the use.

Mr. Knapp asked for clarification about page 9 #7 of the staff report. That this project does comply and promote public health and welfare. What other uses can be constructed at this site?

Mr. Bebo stated That is part of the problem, we have other permitted uses that can go under the current IL zoning district. Give examples of these. If rezoning to Mixed use, it would be forced to a higher density residential in this area primarily townhomes, small lot single family dwellings, condo or apartments..Which brings up the issue with transportation is this area.

Mr. Aljinovich stated thank you to all that spoke tonight. To the City, this is a small step to the other items for this site. A check box and could be many changes along the way Bigger plan..

Ms. Grogg stated yes that is correct. The site plan review is in its early stages. There are many more ahead.

Mr. Aljinovich asked, "Are we here for a small step in that process?"

Ms. Grogg stated yes that is correct. Wanted to point out that the site plan has an entirely different set of criteria that must be met.

MOTION: 8.A.1

It was moved by Mr. Figliolino that a Resolution by the Planning Commission for the City of Arvada, Colorado to Amend the 2014 Arvada Comprehensive Plan Land Use Designation pertaining to 6800 Kilmer RV Storage from Mixed Use: Residential Emphasis to Industrial/Office, generally located a 14.01 acre parcel, addressed as 6800 Kilmer St. and located at the terminus of West 68th Avenue just west of Indiana Street, City of Arvada and State of Colorado be approved and recommended to City Council for ratification..

This motion is based on the finds of fact and approved criteria on Pages 8 & 9 of the staff report.

DISCUSSION OF MOTION

Mr. Knapp stated that the applicant's testimony was clear that their intended use of the subject parcel is to be for the storage of recreational vehicles. He also stated that the applicant testified that the property would be lighted for security and accessibility. Mr. Knapp further stated that the applicant testified that it had prepared and submitted documents to the City in furtherance of their stated intended use of the property. Mr. Knapp stated that staff had testified, and that he personally observed during a recent site visit, that there are residential properties lying both north and south of the subject parcel. He stated that he observed minimal separation and screening between the residential properties and the subject parcel consisting of a creek, canal, walking trail and deciduous trees and shrubs. Further, that it was his opinion that the proposed operations would be visible to the adjacent properties. Based on these and other factors presented, Mr. Knapp stated he does not believe the application satisfies Criteria #'s 2 and 7 in that would not benefit the public welfare and that the intended use of the property is not compatible with the adjacent properties.

Mr. Hannan stated there are 7 criterias that need to be met, #2 is the access and the boundaries to this site. Gave examples of where there is access if residential remained that use. #6 Keeping with key elements, we got confused about this area. IL seems less invasive to the area than residential. There are natural boundaries north and south. What is best for Arvada? Feels putting a townhome there would be a good use there. He will be voting against the comp plan amendment.

Mr. Gay stated that criteria #2- about the natural barriers on the north and south, is not good enough for him. These are not really barriers to him, they are land features. Criteria #7- that light industrial would be less invasive for this area than residential is not a fact that we know. This is not a yes or no, more like change or no change. He will be voting against the amendment.

Mr. Figliolino stated he is concerned with criteria #2 does not believe it is an island. For #7 - He does not believe this project will promote public welfare. He feels that this project does not meet criteria 1, 2 and 7. He will be voting no.

Mr. Griffith extended gratitude to the public that has come out to the meeting and staff. Tough for him he sees an undeveloped land that is contaminated and it is unclear how much. City does not have a department that would deal with what remediation would be required. Meeting the goals and objectives in the 2014 Comprehensive Plan and # 2 and 7 about meeting those goals. These do not match the goals. He will be voting against this motion.

Those voting Yes: Magee

Those voting No: Knapp, Gay, Figliolino, Hannan, Griffith, Aljinovich

Those absent: None

The motion not carried: 6 no - 1 yes

9. **OTHER ITEMS**

Mr. Smetana stated that there are no items scheduled for the next Planning Commission meetings on October 8th and October 22nd, and therefore the meetings can be canceled.

Motion to cancel the October 8th and October 22nd meetings: 7 Yes - 0 No. Motion carries.

Mr. Smetana asked to cancel the Nov 5th meeting due to it being election night and proposed to have a special meeting on 11/12

Motion to cancel the November 5th meeting and schedule a special meeting on November 12th: 7 Yes - 0 No. Motion carries.

10. **ADJOURNED** at 8:20pm



Michael P. Griffith, Chair

A handwritten signature in black ink, appearing to read 'Brandon Figliolino', written over a horizontal line.

Brandon Figliolino, Secretary

A handwritten signature in blue ink, appearing to read 'Dixielee Rodriguez', written over a horizontal line.

Dixielee Rodriguez, Recording Secretary