



**ARAPAHOE COUNTY
PLANNING COMMISSION
TUESDAY, NOVEMBER 17, 2009**

MEMBERS

Arnold Hayutin, Chair Pro Tem
Brian Weiss
Brett Larson
Kim Herzfeldt, Absent
Leah Martin, Absent
Mark Brummel
Paul Rosenberg, Chair

OTHERS PRESENT

Jan Yeckes
Ron Hovland
Carol Kuhn
Sherman Feher
Sue Liu
Bill Skinner
Irene Valenzuela
Tom McNish
Terri Maulik

OPENING COMMENTS

Jan Yeckes addressed the board about an email regarding a Metro Vision pre-class that will be held from 4:00-6:00 p.m. on December 9, 2009. If the Board is interested in attending, please sign up or call Sandi and she can register the Commission. Interested persons must sign up by December 4, 2009. She said there is also a session tomorrow which requires a sign-up. She asked Ron Hovland to talk about that session.

Ron Hovland said there is a Transitory and Development Planner Information Exchange meeting on November 18, 2009 from 10:00 a.m. to 12:00 p.m. City and County of Denver will be present to speak to about their proposed zoning code. Mr. Hovland will not be able to attend, but if the Board is interested in attending, they can still sign up. He further stated that the December 1st and 15th meetings will be held.

ADOPTION OF MINUTES

The motion to adopt the minutes from the October 6, 2009 Planning Commission hearing was made by Mr. Hayutin, duly seconded by Mr. Larson.

The motion passed unanimously.

CONSENT AGENDA

There were no consent agenda items.

REGULAR AGENDA ITEMS

Item 1 – L09-004, Wabash Trailhead/Location & Extent

Sherman Feher requested, on behalf of the applicant, that this case be continued to December 15, 2009 due to an issue with meeting the public notice requirements.

The motion was made by Mr. Hayutin in Case No. L09-004, Wabash Trailhead/Location & Extent that the Planning Commission continues the hearing until December 15, 2009, as requested by the applicant, for required public noticing.

Seconded by Mr. Weiss.

The motion passed unanimously.

Item 2 – W09-005, LDC Amendment #5 2009/1-5300 A Technical Amendment

Bill Skinner said the Land Development Code (LDC) Amendment was properly noticed and the Planning Commission has jurisdiction to hear the case and make a recommendation to the Board of County Commissioners. Mr. Skinner reported that staff recommends the addition of Section 1-5300A which is a technical amendment to the LDC which will increase consistency and provide clarification by placing the criteria and standards that have been guiding the use of the technical amendment process in the LDC. He further stated that staff has already implemented these changes; however, the LDC has yet to be amended. He reported the changes include giving the Division Manager the authority to gage a situation and say the application does not meet the criteria. He said the old language allows the applicant to appeal. However, the amendment would not allow the appeal. This code will be restricted to small cases and minor changes. Mr. Skinner explained that the manager and staff would determine the criteria and if the applicant meets said criteria, then the approval would go through a rapid, low cost process.

Mr. Rosenberg asked if the ten day period stated in the LDC is reasonable.

Mr. Skinner said the ten day period isn't a start-to-finish deadline. He said ten days determines how much time the staff has to look at the application. He feels that due to the small stature of a technical amendment ten days is reasonable time frame.

The Public Hearing was opened.

Tom McNish recommended removing the application fees from the LDC and approving the fees by resolution in lieu of amending the code. He said if the fees are stated in the LDC they will be more difficult to change in the future.

The Public Hearing was closed.

Mr. Skinner said removing the fees from the LDC is acceptable.

The motion was made by Mr. Rosenberg in Case No. W09-005 – Land Development Code Revision, Technical Amendment Section 1-5300A - that the Planning Commission finds itself in agreement with staff findings one (1) through three (3) including all plans and attachments as set forth in the staff report dated November 5, 2009 and recommends approval to the Board of County Commissioners, subject to the following conditions:

- **The Public Works and Development Department staff will make all minor modifications to the text as required prior to the incorporation into the Land Development Code.**
- **The fee schedule will be removed from this section of the Land Development Code.**

Seconded by Mr. Hayutin.

The motion passed unanimously.

Item 3 – W09-006, LDC Amendment #6 2009-1-5300 Administrative Amendment Changes

Bill Skinner said the Land Development Code (LDC) Amendment was properly noticed and the Planning Commission has jurisdiction to hear the case and make a recommendation to the Board of County Commissioners. He reported that staff proposes revising Section 1-5300, Administrative Amendment. Mr. Skinner stated the revision will increase consistency and provide clarification in this section of the code. Further, the changes do not alter the approval authority currently held by the Planning Division Manager. He reported that there are inconsistencies in terminology. Further, the existing text does not address the role the Engineering Services Division Manager plays in determining the extent of potential engineering related issues that may arise during the review of an Administrative Amendment case. He said that it was also determined that the thirty day period allowed for an appeal of a Planning Manager's decision to deny an Administrative Amendment process based on the stated criteria is excessive. The staff recommends reducing this period to ten days. Mr. Skinner explained that the order of subsections was revised to make more sense; however, the content was not changed. He reported that the old language did not acknowledge the Division Manager's authority. Text has been added to define the Division Manager's roll. He said the most significant change in the policy/procedure states that if the Division Manager were to deny an

application, administratively, based on criteria the applicant could appeal the decision within ten working days.

Mr. Rosenberg asked if the proposed ten days was a sufficient amount of time.

Skinner responded by saying that staff would have already reviewed the case. He said if staff determined the case cannot be handled administratively, then it would need to go to hearing. The applicant would be required, at that point, to state a desire to appeal within ten business days.

Mr. Brummel stated that we need to provide quick service to our customers.

Mr. Weiss expressed concern that ten days may not be enough time for the applicant.

Mr. Skinner clarified and reviewed the process. He said it is only the decision to appeal which the applicant needs to be make within ten days. Further, he added that weekends and holidays are not included in the ten business days.

Jan Yeckes said that staff is simply asking for *a date* should the applicant decide to appeal.

The Board began inquiring about Heights and Parking and discussed additional changes to the code. It was determined that an old draft had been distributed and a corrected Page 4 was given to the Board, a copy of which was retained for the record.

Ms. Yeckes explained to the Board that their proposed changes are not directly related to the notice posted for today's meeting. She said if the Board would like to motion for other changes, they would need to notice those changes and place the topic on a future agenda.

After review of the correct draft, Mr. Weiss stated that he feels much better about the revisions.

The motion was made by Mr. Brummel in Case No. W09-006 – Land Development Code Revision, Administrative Amendment section 1-5300 - that the Planning Commission finds itself in agreement with staff findings one (1) through (3) including all plans and attachments as set forth in the staff report dated November 5, 2009 and recommends approval to the Board of County Commissioners subject to the following condition:

- **The Public Works and Development Department staff will make all minor modifications to the text as required prior to incorporation into the Land Development Code.**

Seconded by Mr. Larson.

The motion passed 4 to 1, Mr. Weiss, No.

The motion was made by Mr. Weiss regarding the Planning Commissions need to consider revisions to Sections 1-5308 (Heights) and 1-5310 (Parking) of the Land Development Code – Administrative Amendment - and further directs staff to properly notice and place on a future agenda.

Seconded by Mr. Rosenberg.

The motion passed 4 to 1, Mr. Brummel, No.

Item 4 – W09-007, LDC Amendment #7 2009/1-4800 Open Space Calculation / Detention Pond

Ms. Yeckes spoke on behalf of Carol Kuhn. She reported that the Land Development Code (LDC) Amendment was properly noticed and the Planning Commission has jurisdiction to hear the case and make a recommendation to the Board of County Commissioners. She reported that staff recommends a revision to the Landscape Section of the LDC to clarify the guidelines for including drainage easements and detention facilities as part of the required open space/landscape area for a project site. She said Section 1-4804.5 speaks to drainage easements and detention ponds and their contribution toward meeting the open space/landscape requirements. Ms. Yeckes reported that the existing code contains inconsistencies, with certain sections allowing drainage easements and detention facilities to count toward open space requirements. However, other sections of the code state that all open space must be landscaped with the required tree and shrub ratio. However, the landscaping requirement poses complications because only seeding and limited landscaping are permitted in detention ponds because of engineering requirements. Therefore, no trees are permitted to be planted in detention facilities. Ms. Yeckes stated further that the language in the LDC conflicts with previous Board direction to not allow detention facilities to contribute to the open space requirements. She said that the LDC language is conflicting and confusing dependent upon one's interpretation. Staff received direction from the Board several years ago as direction to not allow the Detention Facility to be counted toward Open Space with the exception of residential areas if usable. However, this direction was never formalized. Ms. Yeckes reported that some developers feel they can use detention facilities as open space requirement. Staff wants to clean up the text so that developers and staff have code that can be worked with and so verbal policy isn't applied.

There was discussion regarding the non-residential code versus requirements for residential landscaping. The Board discussed drainage easements and detention ponds, specifically dry ponds versus wet ponds and open space requirements.

The Public Hearing was opened.

Jane Reck, Cherry Creek Vista, said she has been an Arapahoe County resident for thirty-two years. She served two terms as president and/or officer where she had the opportunity to view development plans for the County. Ms. Reck said that she has

reviewed developments and surveyed residents. She worked directly with South Suburban Park and Recreation District who had experts and homeowners on hand. She reported that the one thing everyone seemed to miss was Open Space. She stated that pocket parks are very desirable. She is aware of the drainage problems and will never consider open space and detention ponds as one in the same. Ms. Reck strongly opposes allowing ponds to equal open space and feels that allowing ponds to count toward open space requirements would be a detriment to the County. She encouraged the Board to consider things carefully before adopting the current proposed amendment(s) to the LDC.

The Public Hearing was closed.

Ms. Yeckes reported that someone from the 4-Square Mile area made a comment. They had expressed concern that the Land Code Amendment would result in people not being able to appeal to the Board. Ms. Yeckes stated that the proposed amendment would not negate someone's ability to appeal a decision.

Mr. Rosenberg said that he has been involved on both sides of table. He said that clear policy was stated that no detention ponds be permitted to count as open space. He further stated that policy was already determined and it should not be changed or amended. Mr. Rosenberg reminded staff that the County voted in favor of an open space tax in order to acquire more open space, not less. He said even a few feet is that much less open space the County will have. He believes that staff is recommending a substantiate change which he will not vote for.

The motion was made by Mr. Brummel in Case No. W09-007 – Land Development Code Revision, Open Space Calculation / Detention Pond, that the Planning Commission finds itself in agreement with staff findings one (1) through three (3) including all plans and attachments as set forth in the staff report dated November 3, 2009 and recommends approval to the Board of County Commissions with the following condition:

- **All minor modifications to the text are required prior to incorporation into the original documents.**

Seconded by Mr. Hayutin.

The vote was 1-4, Mr. Weiss, No; Mr. Hayutin, No; Mr. Larson, No; Mr. Rosenberg, No; Mr. Brummel, Yes.

The motion failed.

Item 5 – W09-010, LDC Amendment #10 2009/1-4600 Tandem & Compact Parking and Item 6 – W09-011, LDC Amendment #11 2009/1-4600 Parking Reduction (Daycare)

Mr. Hovland, Planning Division, reported on cases W09-010 and W09-011. He said that Case No. W09-011 concerns day care center parking. He explained that W09-010

required some historical review. He said there was a study session held last spring with the Board of County Commissioners (BOCC). The BOCC requested a discussion regarding the impact of compact parking spaces and of tandem parking (head-to-tail parking). The Planning Division went into the study session with the BOCC and explained where, they believe, the automobile industry is heading. He said this past summer may not have been the best time to discuss this topic, but staff believes the American car fleet is actually downsizing. He said that tandem parking is not necessarily a negative option; however, it's what happens in a driveway at a family's home that makes the greatest impact. He reported that Colorado leads the nation (along with California) as to the number of vehicles individuals own. The BOCC said the Planning Division should give no credit for tandem parking in meeting the minimum parking requirement in a multi-family zone. Further, the Planning Division believes that compact parking should not be allowed. He said, having received direction from the BOCC, the Planning Division has brought forward changes to the parking section as it relates to these issues. Mr. Hovland reported that a few other changes have been made to clarify areas where there were omissions. Specifically, one change was in regards to industrial and assembly manufacturing parking requirements and the addition of the word "or." He explained that the amendments are consistent with what other jurisdictions do and with International Traffic Engineers (ITE). He said that ITE publishes books that address the current trends. Mr. Hovland spoke about parking islands. He explained that the LDC is much more detailed in the actual landscape section; however, when people are trying to design a project they often fail to refer to every applicable section of the code. He said the landscape section of the parking code was reworded to provide greater clarity. He said compact parking spaces have been removed. Mr. Hovland said that staff has clarified another section of the code that refers to buildings and gross floor area. Parking requirements will be based on floor area and the requirement is being stated clearly in the code. He further stated that the use of compact parking is also proposed to be eliminated in Section 1-3402A.02.03 of the Centennial Airport Environs Planning Area Overlay District. Mr. Hovland said that W09-011 references day care centers and nursery schools. He said that a previous applicant suggested that the Arapahoe County LDC parking requirements were out of line. The applicant provided alternate suggestions and provided the Board justifications. The Planning Division took their research a step further and looked at all the surrounding jurisdictions and referred to the ITE book. He said staff agreed that our requirements are too high. Staff recommends that we change the code to 1 space for 250 square feet gross square area as the parking requirement. He further stated that this would be consistent with the industry standards and would treat daycare centers fairly and not force them to over park. Mr. Hovland said that most of the referral responses demonstrated that people are happy about the proposed changes. The only negative comment came from the East Arapahoe County Advisory Group. He said he understands that Mr. Weiss has an issue with regard to parking. He reported that there is a provision in the current code called parking reduction. He explained that it is a request that can be made to the Planning Division Manager for an adjustment in the amount of required parking. He said applicants must submit a request prior to making the application. He said these requests rarely happen.

Mr. Weiss asked for clarification on the compact car parking code.

Mr. Hovland said compact car parking will be disallowed entirely. He added that many other jurisdictions are getting rid of compact car parking. Further, these changes are being proposed as directed by the BOCC.

There was discussion regarding the text of the code.

Mr. Skinner reported that the County has measurements for a typical parking space. Some time ago the County created smaller measurements for a category of space called a compact parking space. He said if we simply eliminate the compact category and say that all parking spaces must meet the County's minimum size requirement then we solve both problems. He said we do not need to start creating sections that specify everything an applicant will never be allowed to do.

Mr. Weiss asked about Section 1-4604.03.03. This section speaks to the required trees and shrubs that are required. He would like to know how xerioscape fits into that when an applicant wants to reduce water usage. He doesn't see that option.

Mr. Hovland said xerioscaping was added in the landscape code. He said they even give credit for ornamental grasses. Further, this section refers people to the landscape code for further detail.

Mr. Hayutin suggested we add xerioscaping as an option.

Ms. Yeckes explained that xerioscaping is a type of landscaping but is a patented/copy-written term. They use a different word than xerioscape and a list of acceptable plant life is provided.

Mr. Rosenberg directed staff to readdress landscaping/xerioscaping in a future LDC meeting.

Mr. Hovland said that as the LDC is amended, landscaping will be addressed.

Mr. Weiss commented on parking usages, page 16, Section 1-4608. He said he thinks all the usages and parking regulations are okay with one exception, the restaurant section. He said he has a problem with the word "OR". He thinks it should say "whichever is greater." Mr. Weiss stated that the first section of the regulation says one space for three seats. He said that is fine except during high volume times. Mr. Weiss feels the code does not account for busy nights with overflow.

Mr. Hovland said we do not plan needs based on black Friday or Christmas season and believes the number is reasonable. The County cannot make people build for the worst case scenario.

The following section of the meeting was not recorded due to the recording device failing.

The Public Hearing was opened.

There were no public comments.

The Public Hearing was closed.

The motion was made by Mr. Hayutin in Case No. W09-010, LDC Amendment #10 2009/1-4600 Tandem & Compact Parking that the Planning Commission finds itself in agreement with staff findings one (1) through four (4) including all plans and attachments as set forth in the staff report dated November 9, 2009 and recommends approval to the Board of County Commissioners with the following condition:

- **All minor modifications to the text are required prior to incorporation into the original documents.**

Seconded by Mr. Brummel.

The motion passed unanimously.

The motion was made by Mr. Weiss in Case No. W09-011, LDC Amendment #11 2009/1-4600 Parking Reduction (Daycare) that the Planning Commission finds itself in agreement with staff findings one (1) through four (4) including all plans and attachments as set forth in the staff report dated November 9, 2009 and recommends approval to the Board of County Commissioners with the following condition:

- **All minor modifications to the text are required prior to incorporation into the original documents.**

Seconded by Mr. Hayutin.

The motion passed unanimously.

The meeting was adjourned at 7:15 p.m.

Paul Rosenberg, Chair

**Terri L. Maulik
Assistant Clerk to the Board**