



**ARAPAHOE COUNTY
PLANNING COMMISSION
February 3, 2009**

Members

Arnold Hayutin
Brian Weiss
Leah Martin-Absent and Excused
Brett Larson
Kim Herzfeldt
Paul Rosenberg
Mark Brummel-Absent and Excused

OTHERS PRESENT

Jan Yeckes
Ron Hovland
Carol Kuhn
Irene Valenzuela
Sue Liu
Bill Skinner
Chuck Haskins
Joleen Sanchez

OPENING COMMENTS

Ron Hovland, on behalf of Division Manager, Jan Yeckes, distributed a copy of the Planning Commission (PC) by-laws. He said the PC is required to hold elections between February and April. He said he would like the PC members read through the by-laws and discuss any suggested changes at a future meeting. He said the by-laws were originally adopted in 1984 and were last amended in 2001.

Mr. Hovland then discussed the PC training and budget for this year. He said the budget is tight and the training has been scaled back. He said the emphasis would be on statewide issues. He said there are two conferences that come to mind, and there may be other in-state training opportunities throughout the year. He said it might be easier to get more of the PC members involved if there isn't a lot of traveling. He said these are difficult times for everyone, including the County's budget.

Mr. Hovland then discussed the Wabash Bridge project. He said the Denver Councilmember that represents that district provided a Wabash Bridge summary in her newsletter. He said Arapahoe County does have possession of that property; Arapahoe County filed a condemnation suite in September and a deal was reached with Denver. Arapahoe County paid Denver the appraised value. He said there were stipulation conditions regarding improvements to the Yale/Syracuse intersection and Arapahoe County will participate in a traffic study for I-25 to Quebec. He said there is also some reference to the potential to realign Wabash south of Iliff. He said this is something for the PC to be aware of. He said the council woman held a community meeting on January 29th, but he was not able to attend. He said there were many

Denver constituents that wanted this matter to go to trial, but that was not reflective of the Denver staff or the councilwoman's office. He said the resolution is best for everyone.

ADOPTION OF MINUTES

The motion to adopt the minutes from the December 16, 2008 and January 20, 2009 Planning Commission hearings was made by Mr. Rosenberg, duly seconded by Mr. Larson.

The motion passed unanimously.

CONSENT AGENDA

There were no Consent Agenda items.

REGULAR AGENDA ITEMS

Item 1 – P08-012, River Run Plaza/Final Development Plan (continued from January 20, 2009)

Bill Skinner established jurisdiction. He said the case is known as River Run II or River Run Plaza. He explained that this case was continued from January 6th to January 20th; because of the holidays, the case was again continued to tonight, February 3, 2009. He said this is a proposal for a 16,000 square foot medical office on a 1.1 acre lot. He said the project is within the River Run Preliminary Development Plan (PDP) area, which is zoned MU-PUD (mixed use-planned unit development) with residential and commercial uses. He said the FDP was designed to accommodate the standards of the River Run PDP and it does indeed fit. He confirmed that the sight plan meets the zoning. He further stated that the plan was also reviewed by the City of Centennial and other outside agencies. He said Centennial had the most feedback, and the applicant has been exceedingly receptive to try to adapt the plan to make it meet the requests from Centennial. He said one thing Centennial asked for that street lights be moved away from the edge of the property as much as possible. He said the applicant looked at the property and the adjacent properties and structures and brought up some very good points. He confirmed that the lights were moved away from the original locations because there was a fear that the lights would be shining into the houses, even though the houses have no windows on that side. He added that the landscaping would further filter the lights and the response to that was very reasonable. He said the plan not only conforms to the County's regulations and the PDP, it also conforms to the JPA (Joint Planning Area), which has been renamed the Centennial Airport Environs Planning Area (CAEPA). He mentioned that staff did not have any contact from the neighborhood. He said it appears that there are no large concerns and his impression is that the neighborhood is comfortable with this plan. He said the HOA was sent the information and there was no contact from the HOA (homeowners association). He said the only "hiccup" he found was that the Comprehensive Plan shows this area as multifamily. He said after speaking with the zoning administrator, it was determined that a medical office is considered a neighborhood support service, and the zoning administrator didn't see any conflict with this being in an area that allows neighborhood support services and alternative uses. He stated that this plan conforms to the goals and intents of the Comprehensive Plan.

Mr. Rosenberg asked about reducing the height of the parking lot lights.

Mr. Skinner stated that the applicant will address that.

Paul Vernon, PBV Architects, LLC, 12361 E. Cornell Avenue, said the applicant has attempted to locate the proposed structure as close to Broncos Parkway as possible to provide buffering between the two adjacent residential lots and the project. He said the site slopes from the southeast towards the northwest, but is a relatively flat site with the previous grading that was done in the preliminary development plan (PDP). He said directly across the street is the nursery center and landscaping materials. He said to the north is an elementary school. He said the applicant attended the HOA meeting in December where the basic plan was presented. He said the concerns raised by Centennial were valid but there were some constraints such as the 20-foot setback area between the residences and the drainage considerations. He said part of the delay was redefining where that grading area had to be in order to plant trees in the buffer areas as suggested by Centennial. He said the current landscape addressed that. He said the other thing that was taken into consideration was where the windows were on the homes. He said the lights were tweaked a little to provide the best buffering possible. He said the applicant indicated that the height could be reduced if necessary; the photometric plan shows zero foot-candles at the boundaries, but the applicant is willing to bring those down. He said the existing streetlights on Cherokee Trail and the rest of the development are about 20 feet tall. He said he would be glad to run the photometrics again if necessary.

Mr. Rosenberg said the letter from Centennial talks about patios on the second story of the west elevation and the impact to the privacy of the neighbors.

Mr. Vernon presented a site map and said that is a balcony, not a patio. He said that was located as far to the south as possible. He said the goal is to capture the west views. He referenced the adjacent house and said the balconies are to the south of that residential area, so that impact would be very minor.

There were no public comments.

Mr. Skinner stated that staff recommends approval of this case.

The motion was made by Mr. Rosenberg in Case No. P08-012, River Run Plaza 2 Final Development Plan, that the Planning Commission has read the staff report and received testimony at the public hearing. The Planning Commission finds itself in agreement with staff findings 1 through 3 including all plans and attachments as set forth in the staff report dated January 28, 2009, and recommends this case favorably to the Board of County Commissioners subject to the following two (2) conditions:

- a. Prior to signature of the final mylar copy of these plans, all minor modifications shall be made as required by the Arapahoe County Public Works and Development Department.
- b. Prior to signature of the final mylar copy of these plans, the applicant agrees to address the Division of Engineering's comments and concerns as identified within the Engineering Staff Report.

Seconded by Mr. Weiss.

The motion passed unanimously.

Item 2 – P08-011, Prospect Village/Final Development Plan

Carol Kuhn, senior planner, established jurisdiction. Ms. Kuhn distributed handouts, copies of which have been retained for the file. She said there are two colored elevations; one is the revised elevation, the other is the old elevation of the north face of the garage (Building 1). She said it was brought to her attention that the County mis-colored the retail pads on the final development plan (FDP) in the staff report. She clarified that the pads should have been orange because they are one-story buildings. She said that error in the staff report has been corrected and the PC has been provided with revised color elevations. She said

there was an update from Brown & Caldwell on behalf of Cherry Creek Basin Water Quality Authority, which staff received today. She said there is also an update that the applicant will address regarding their concern about the community identifier. Ms. Kuhn said there is an update from the Division of Wildlife (DOW), and update from the fire district, and other correspondence from Kathryn and Jim Latsis on behalf of their HOA, Lois McFee, and an update from CDOT (Colorado Department of Transportation). She said she also provided an 11 by 17 elevation with the revised garage and the old garage on the Building 1 north face. She said this is a big packet and staff tried to give the PC extra time to read the staff report.

Ms. Kuhn reviewed the history of the case. She said the PC heard this case in October of 2007 and recommended approval to the Board; after three public hearings, the case was approved on January 8th. She said that was a night hearing that focused on a lot of elements such as transition between the residential neighborhood (Huntington Estates) and this proposed rezoning from light industrial to mixed use with residential units. She said a lot of work went into this project. She said there was a continuance and the applicant came back to the Board for another hearing. Copies of those minutes are contained in the packet. She said there was continued discussion regarding transition, and the stair stepping issue at both hearings. She said the applicant agreed to stair step the buildings to help with mass and scale and the transition between the established homes and the proposed rezoning. At that point, she said, the case was continued to January 8, but that's why the project looks different. She said the applicant then submitted an FDP and they believe they have addressed the transition and stair stepping issues. Ms. Kuhn said there are a number of outstanding concerns that staff has outlined in the staff report. She said there was concern from the neighbors regarding PDP issues such as density, height, mass and scale, and uses. She explained that many of those issues have to be addressed at the PDP stage, and since the zoning was approved with a maximum density of 328 units at the time of the PUD on January 8, 2008, the density is not an issue at the time of site plan, nor are the uses. She said the discussion today is regarding the site plan, and she wants to be sure that everyone is clear on that. She added that the stair stepping issue is a concern because it is different and would be presented to the BOCC. She said staff would like the applicant to have an opportunity to make a presentation.

Michael Sheldon, 5290 DTC Parkway, presented a PowerPoint presentation, a copy of which has been retained for the file. He introduced the client and team members. He thanked staff for spending a tremendous amount of time with this team. He said the staff has attended extra meetings because this is a complicated case and has a complicated history. He said this has been a controversial project with the neighborhood groups. He also thanked the PC members for coming to the Littleton location to accommodate the neighbors all the opportunity possible to be present.

Mr. Sheldon explained that after the PDP approval by the BOCC, there were a series of events that took place that have shaped this plan. He said there were a series of meetings with the design review and the technical review committees that looked into the access at the main entrance way. He further stated that Diana Rael would explain that in her presentation. Mr. Sheldon explained that the entire project had to be moved to the north. He said at first it was going to be a dramatic move to the north in order to get the appropriate stacking distance for the cars coming to the Iliff signalized intersection. He said a compromise was achieved where the developer didn't have to go as far to the north because it would move the entire project closer to where the neighbors live. He stated that the setbacks were very carefully negotiated and discussed during the PDP process. He said there would be a presentation that would show where the setbacks were and where they are now. He said when that was done the work began on the FDP. He said there was a preliminary design with extensive levels of detail at the PDP level. He said the applicant sought input from the neighborhood groups: Huntington Estates to the west and the Four Square Mile Area group. He acknowledged that there have been several meetings with both groups and the applicant has listened to them. He said the applicant has attempted to deal with their issues and made some significant concessions at the request of the neighborhood groups and staff, and an example of a concession is the most westerly pad site. Mr. Sheldon said the neighbors asked that the parking lot be reconfigured and that was done. He said another request is related to the alterations to garage 1. He said this is a project with a structured parking garage which is wrapped with the building walls. He said garage 1 is closest and most visible from the Huntington neighborhoods, which asked for changes to the garage to make it less visible.

Mr. Sheldon said the best use of the time would be to ask Ms. Rael to review the changes. He said there is a significant chart that would be presented. He said the double-faced masonry wall would remain as would the very large, extensively landscaped buffered open space, which has been expanded. He commented that the architecture is good and the neighbors have said they like it.

Diana Rael, Norris Design, 1101 Bannock Street, Denver, 80204, presented a PowerPoint presentation. She said this project has seen its share of design, and there was an extensive design process at the PDP level. She recalled that the PC last saw this project in October of 2007; at that time there were 340 units and an 85-foot buffer as well as 3 and 4 story building heights. She stated that there have been many design changes. The project is located south of Parker Road, west of Emporia. A site map was presented. Ms. Rael said this site is on 16.13 acres; the gross site was 16.14 but one hundredth of an acre was lost because of a fence offset. She referenced Emporia Street and Iliff and referenced the future extension at Dayton Way. She said the net site is adjusted at 15.64 acres, which is a result of additional dedication of right-of-way (ROW) along Iliff and Emporia. She said the site has morphed through the design challenges that Mr. Sheldon alluded to, and once the FDP approval was complete, the applicant started to bring the next level of detail forward. She explained that the first element that was faced was that there would be a signalized intersection at Iliff and Dayton Way extension. She said the concern there was that there were only 50 feet shown for vehicle stacking at that signal and that had to be addressed. She said those types of details are not typically addressed at a PDP level, however the PDP plan was very detailed and that was a result of the fact that there was a public process at the PDP level. She said the buildings were configured, but at that time there was no adjustment for this access. She noted that staff had requested that there be a 200-foot isle depth on the main access, but the compromise has been presented as a variance request to the TRC (Technical Review Committee). She said the current access is at 100 feet. She said the traffic study shows that the site can accommodate the stacking based on the typical trips that would exit, enter and flow through the project and staff felt comfortable with that; as a result, the building designs were considered and the stair stepping was removed that was part of the PDP approval from the Board. Ms. Rael said the reason that was done is because the applicant felt it was more important to condense the buildings than to string out the "fingers" of stair stepping. She said previously the buildings were very compact. She said in order to meet the intent of the PDP and commit to the stair stepping, the features and elements were added back into the plan; they are not to the extent of the PDP but the design team is moving with many moving targets and are trying to accommodate the intent of the PDP while creating a project that is well designed, compact and meets the setbacks.

Ms. Rael said on the previous plan there were two elements of pad commercial and there was also inline commercial retail uses. She said previously, the pad on the south and west area of the site was further to the west but was moved further into the project and wrapped the parking around that building; landscaping was added to help buffer and that was one of the commitments. She further stated that that commitment to create a solid hedge was made on the landscape plans; in addition, the pad on the south and east has been moved to the corner to create a corner element. She said the other change is that initially in the PDP, the single story pads had flat roofs and they now have sloped roofs; the applicant feels that is more consistent with the European architecture that was discussed at the PDP. She remarked that those are two fantastic looking buildings from a retail standpoint.

Ms. Rael then referenced the area where the clubhouse and pool were previously located. She said there was a single story clubhouse and pool, but there were concerns about pool hours and noise, so the pool has been moved from the perimeter of the project to the interior of Building No. 1. She said the clubhouse is now a part of Building 1 and the pool is interior, which eliminates the issues of noise and hours of operation. She said the applicant met with Kevin Ferry of the fire department regarding life and safety issues; there is now a fire lane that runs along the west perimeter of Building 1. She said that is restricted to fire access only and is not a public drive. She said there would be bollards installed. She said there is a trail that runs along Parker Road along the 100-foot buffer, which leads to the project site on Iliff and is enhanced with landscaping.

Ms. Rael explained that the unit count is 328, which is the same that was approved with the PDP; sixteen of those units are live-work and have not been calculated as retail or commercial square footage. She further stated that the commercial square footage is actually down from 30,000 square feet to 21,371 square feet

and the landscaped area meets the PDP minimum of 35% because it is actually 36.22% of the credited landscaping. She said there is much more landscaped area that is not credited towards that percentage and the open space area equals 7 acres, which is 43.43%.

Ms. Rael explained that because of the negotiations at the PDP level, the complexity of this project and the level of design and detail that was provided at the PDP, the applicant decided to put a chart together, which was presented and reviewed. She explained that the chart shows how true the FDP is to the PDP. She said in many cases there is over 100% adherence. She said building height was a major concern during the PDP and once there was a hard architecture design, it was much easier to be able to understand. She said the developer agreed to a height of 78 feet and now with the design, the building height is at 75 feet. She said another big number was the minimum open space of 35% at the PDP level; now there is 43.4% overall. She mentioned that the credited landscape is 36.22% which also meets the minimum requirements of the PDP. She said the other major area of concern was the Huntington Estates setbacks. She said in the written standards, the applicant agreed to a 2, 3 and 4 story tiered setback. She recalled that there was a minimum 100-foot easement and in addition to that, any 2-story element had to be 100 feet away, any 3-story building had to be 125 feet away and any 4-story element had to be 150 feet away. She said this information is new to the PC because the applicant hadn't gotten to that level of staggering. She reviewed the setbacks on today's plan: 134 feet away from 2-story elements, 155 feet away from 3-story elements and 156 feet away from 4-story elements. She said that meets the written criteria.

Ms. Rael then reviewed instances where the map drawings don't match the PDP. She presented a merged graphic of the PDP and proposed FDP. She said when the westerly retail pad is measured, on the PDP it is required to be 100 feet away and the PDP had it at 240 feet away and now it is at 228 feet away, and that is within the 100 feet, which meets the written standard. She said regarding Building 1, there was a setback on the original PDP that was 195 feet and it is now 169 feet. She said the southern wing of the stair stepping 2-story element was 170 feet and the current plan is at 134 feet. She said there are a few areas where things have shifted.

Additional commitments that the applicant has made were listed.

Ms. Rael presented an overlay of the PDP plan and the proposed FDP plan. She explained that the tan color represents the PDP footprint and the pink represents the proposed FDP footprint. She referenced the location of the original pad and where that pad has been moved to. She said the landscaped buffer remains in place and the parking would still be provided. She said the midpoint two-story element has a setback difference from 170 feet to 134 feet. She said other area of concern had an original setback of 195 feet and it is currently proposed at 169 feet; there are also areas where the building has been pulled back from the neighborhood. She stated that there is "give and take" along the entire perimeter as design adjustments were made.

The interior garages were discussed. Ms. Rael explained that the garage in Building 1 was originally sitting in a different location and was 100% surrounded by a building. She said as part of the shifting, the garage has been turned north and south and the northern end has been exposed for access and said the garage would be wrapped with architecture. She said 225 feet of the Building 2 garage was exposed to Emporia; that face was turned from north/south to east/west to expose the short end to Emporia and minimize the amount of garage one would see along Emporia. She said that has been reduced by 105 feet and is currently 120 feet long.

The elevation of Garage 1 was presented. Ms. Rael said more pine trees were added and architectural elements were added to make the garage look more like the residential units. She explained that there will be lighting interior to the garages, however, the lighting will not flow out of the garages; at night it will look like housing units with a glow and would not look like a garage.

Ms. Rael said the other staff report item that the applicant agreed to is the 100-foot stepping on all roof lines. She presented an illustration of the buildings and explained how the roofs would be stepped and staggered. She said the community identifier has been incorporated into the architecture. She presented a sketch of Buildings 1 and 2. She said there would be architectural towers, which repeat throughout the

architecture of the project. She said this is the European theme that was discussed during the PDP and was also an element that could be accepted as the community identifier. She said the applicant feels that they have met the intent of the community identifier with this project.

Ms. Rael affirmed that the team has worked very hard and worked closely with staff. She said with the design challenges for this site, the applicant has worked hard to come up with a project that meets the intent of the PDP and doesn't sacrifice design architecture and functionality.

Mr. Weiss asked about the entry ways. He said it was mentioned that there would be a new traffic signal at the main entrance, which is noted on the plan as point C. He asked about point A at Emporia and Parker Road.

Ms. Rael referenced the main entry from Dayton and confirmed that there would be a new traffic signal there. She explained that there would be a full movement access and that would provide access to all the retail as well as for the residents and visitors. She explained that access B is a $\frac{3}{4}$ movement access and is non-signalized; there would be a restricted left turn out; Emporia is stop controlled and would remain a full movement access; at Parker Road there is an emergency vehicle light and a deceleration lane. Ms. Rael said there is a garage access for residents at this location and said visitor/retail parking would enter on Iliff at entry B or C, and entry A is the garage access. She said the other garage access for the Building 1 garage comes in here (referenced the site map).

Mr. Weiss asked if there would be an emergency only signal on Parker.

Ms. Rael replied yes.

Mr. Hayutin clarified that there is presently a signal there.

Mr. Hayutin asked about the stair stepping. He said when the PDP was approved, there was quite a bit of stair stepping, which was designed to create a different kind of feel. He said the present picture only shows two little units, one on the west and one on the north. He said otherwise there are four-story buildings on top of a hill that overlooks Huntington Estates.

Ms. Rael said there was a stair step here (referenced site map), a 4, 3, and 2-story, and that element is in place today. She explained that there was a stair stepped element here (referenced site map) that went from 4 to 3 to 2 stories. She said that is the one element that does not exist today as a result of the technical review and redesign for the safety of the main entrance and the signal. She said those were some of the design elements the applicant had to accommodate, but the stair stepping with the 3 and 2-story element remains. She said the developer also had to make sure the end units of the stair stepped areas looked really good and had 360-degree architecture. She said patios and windows were wrapped around those areas; The goal of the PDP approval was how to get a four-story element to stair step down to be consistent in a land use form with a two-story elements in Huntington Estates. She said the applicant was able to do those stair stepping. She further stated that it was not done in every location due to the fact that there were design constraints at this intersection. She said the intent has been met as there is stair stepping, the setbacks are there and there is extra architecture on the arms that come out from the main structure.

Mr. Hayutin said at the north end, one third of that building was three stories with a small portion being two stories. He said it is now totally four stories.

Ms. Rael concurred. She explained that this area was formerly three stories and is now four. She said that was a result of the access pushing the building back. She explained that the bulk of the parking was in the garage, as well as a portion of the retail parking. She said when the developer met with the retailers, the retailers stated that the retail area would never succeed if the retail customers had to park in the garage, because those customers wouldn't park there. She pointed out that there is now parking within a good, convenient, safe distance that is on the surface so that people can drive by, see the retail areas, see the

parking, and stop and shop at these locations. She said retail is a vital part of the mixed use component as part of the 4 Square Mile are and the intent of this subarea plan. She stated that it is important to get the parking within close availability to the retail areas. As a result, she said, that pushed this building further to the north, but to minimize that movement, the fourth story was added. She said there are still 164-168 feet of setback. She pointed out that the PDP allows for 4-story elements to be within 150 feet. She said from a design standpoint, the plan meets the standard that was written into the PDP.

Mr. Hayutin asked if the applicant would agree to insert a clause that there would be no drive-up windows on the two pads.

Mr. Sheldon said that request has been made by Huntington Estates and the developer agrees to make that commitment. He stated that the applicant has tried to work a non-opposition agreement with the neighbors, but there is not one in place and the applicant is making a number of commitments. He recalled that there were 26 commitments that were negotiated and one of the first things that was done was that the developer offered to build the commitments into the plan. He said the neighbors wanted that in writing and that was done. He said subsequent to those commitments, a request has been made to remove the drive-through windows. He said one of those pads would be a bank and the neighbors said that would be appropriate, but a drive-through would not be appropriate. He committed that there would be no drive-through for any restaurant.

Mr. Rosenberg said retail pad 1 was further to the east and is now further to the west by 12 feet. He asked why that building had to move 12 feet.

Ms. Rael explained that the analysis from the retailer was that it was more important to have parking surrounding the pad sites and readily available and accessible in order to make the pads successful. She said there was a disconnect; the pad was freestanding, but it had a 10-15 foot setback from the main building on the PDP. She said when that plan went to the retailers, the retailers said there was not enough parking to make the retail work. She remarked that the last thing the developer wants is a dead retail project, as that would be more of a detriment. She said the pad was moved all the way to the western buffering line, but it was pulled back after a meeting with the residents, who felt that was not acceptable; there was a compromise to place the pad at this "mid" location, which is a win-win for the neighbors and is not as far away as it was. She said it has been written into the standards that the developer would landscape the parking as a screen; the building itself would have a more residential look and have a pitched roof. She said it would also have tower elements to provide an old world European style.

Mr. Rosenberg asked if it is not possible to accomplish both of those goals. He said it looks like the building could be moved and get the needed parking.

Ms. Rael said it was difficult to get the parking count that is required. She commented that the design was done several times; from an access standpoint it was difficult to bring in a main drive isle and accommodate for the fire access. She said the fact that this pad also has four sided parking is also a benefit.

Mr. Rosenberg said that didn't answer his question and he again asked if it is impossible to do it.

Ms. Rael answered no, it is not impossible. She pointed out that it's not the optimum option but it could be done physically.

Mr. Sheldon said he disagrees with Ms. Rael given the overall constraints that the developer has to work with which means that the pad has to be sold and people have to work there. He said that pad was moved 60 feet to the east at the neighbors' request, and that was done immediately. He said it is not possible to alter it further at this point.

Mr. Rael said physically and design-wise it is possible, but it doesn't make a successful pad.

Mr. Herzfeldt said the parking services the pad and the front of the commercial structure.

Ms. Rael agreed. She said the more the pad is moved to the east, the further the parking is from the uses.

Mr. Hayutin read from the staff report, "Although staff has determined that the project technically complies with the PDP, staff advised the applicant that the Planning Commission and Board of County Commissioners would need to determine whether the degree of compliance adequately addresses the intents of the transitional requirements of the PDP. As this was a solution offered to address compatibility concerns, rather than a code requirement, Planning Division staff and the County Attorney's Office believe this to be an area in which the Planning Commission and the Board of County Commissioners can use its discretion to determine whether the PDP requirements are met."

Ms. Kuhn said the drive-through is an allowed use per the PDP. She suggested that there could be a note on the FDP that a commitment has been made to not use drive-through windows. If a drive-through is requested in the future, the applicant would have to apply to amend the FDP, but not the PDP, because a drive-through is an allowed use, as it was not excluded as an allowed use. She said the transition is still an outstanding issue and there is an area of Building 2 that is no longer stair stepped, but does have additional area within the allowable setbacks. She said if this is a concern for the PC, the PC may want to have the architect address why this area was not stair stepped. She said there was discussion regarding the concern about the breaks in the roof planes; the applicant has committed to addressing that. She emphasized that staff has not seen revised architecture that addresses that, and that would need to be submitted prior to scheduling this case before the BOCC. She said the stair stepping and transition still needs to be discussed by the PC. She said there should also be discussion regarding the garage being wrapped with architectural fenestration that matches the building and that the garage be internal to the building. She said that has been discussed in the staff report. She further stated that the community identifier must be discussed regarding whether or not the PC feels that that is agreeable. The PDP states that the identifier has to be mutually approved by the Planning staff and the applicant/developer and whether or not the PC feels that the towers meet the intent of a community identifier. She said the staff report discussed the architectural review committee and condominium plat, which does not apply because the units would not be for sale. She said there is no architectural review committee formed at this time.

Ms. Kuhn reviewed the draft motion and said the PC has options and alternative motions. She said there is also an option for a denial, but there would have to be new findings stated; she said there is also an option for a continuance if the PC is unable to make a favorable recommendation at this time. She said condition B has been addressed.

Mr. Hayutin asked Ms. Kuhn to address this following item contained in the staff report, "Based on the applicant's specific request to move forward on a specific schedule, in spite of unresolved issues, staff has requested that the applicant present additional information at the Planning Commission hearing."

Ms. Kuhn explained that there were a lot of loose ends which were not all addressed at the time the staff report was written, which were reviewed as outstanding issues; that is why there were additional documents handed out at the beginning of this hearing. She said staff did not have all these issues resolved by the time the staff report was written. She said the applicant is on a very aggressive time schedule and has been on an aggressive schedule during this whole project. She said the applicant would address that.

RECESS

The chair called the meeting to order.

Mr. Hayutin asked Jan Yeckes to speak.

Ms. Yeckes said the Public Works and Development Department has additional staff present to help answer any questions from the County's perspective. She reminded the PC that it has the opportunity to ask additional questions of the project team before or after the public hearing. She said Ms. Kuhn mentioned that this case has a fairly aggressive schedule. She explained that this was mentioned because staff knew that the PC would be provided with new information at the time of the hearing. She stressed that staff tries not to do that very often and prefers that all issues get resolved before the PC gets the staff report so the PC

is not looking at new information at the time of the hearing. In this case, she said, because of scheduling concerns, staff wrote the staff report with the information available. She said staff worked very hard to get the PC the additional information in time. She said the applicant made significant strides regarding the redesign of the garage. She said if there are more questions about the degree of stair stepping or about the garage design, the project architect is present. She further stated that Ms. Rael could address the schedule. She said she wanted the PC to know that they could call on County staff or the project team with further questions.

Public Comments

Mr. Hayutin said the audience has the opportunity to address the Planning Commission. He asked that remarks be brief and non-repetitive.

Sheldon Ginsberg, 2276 S. Dayton Street, said he lives in the second house north of Iliff Avenue. He said his house is number 14 on the map. He said this plan is going backwards. He said initially there was talk about stair stepping, and that has been eliminated. He said he has no concern about the success of commercial facilities within this project. He said he is strenuously objects to moving the westerly most pad closer to his back yard and said there is no reason why that is necessary. He said it wasn't necessary before and it is not necessary now. He said to have a separate building from the main structure for the insertion of commercial facilities immediately adjacent to residential facilities is total improper. He said that building can be put inside of or directly adjacent to the main structure as part of the stair stepping process. He said when that building was moved away, the applicant also moved away the stair stepping process and he asked the PC not to approve that portion of this plan.

Patricia Chellman, 9400 E. Iliff, #405, said she is new to this because she hasn't lived in Windstream very long, which is across Iliff from the project. She said she cannot imagine a four story building on that corner. She said she goes to the work that way and the traffic is always bad on Iliff and coming out of Dayton. She asked why commercial is needed there. She said on Iliff there are so many empty strip malls, and there would be more empty spaces. She asked what kind of stores and how many stores there would be. She said the bottom line is how would the developer kill all the animals that live on that property. She said there are hundreds and hundreds of prairie dogs, rabbits, fox, coyotes and squirrels and the developer would have to eliminate them before bulldozing begins, unless the developer plans to just bulldoze them down. She said gassing the animals is not a sure thing and if they don't gas the babies that might be further down, and poisoning is the same thing. She said she tried to call around and couldn't get a response from anyone, but that must be addressed before the applicant starts grading. She said flags are already on the site.

Mark Lampert, 9022 E. Colorado Drive, said he is speaking on behalf of the 4 Square Mile area (4SMA), ACCRD (Arapahoe County Citizens for Responsible Development) and Yorkshire Estates. He thanked the PC members and the design team. He said this project has been going on for well over three years, and we're almost there. He also thanked County staff for all the times they have meet with the residents. He said tonight this crowd is much different that what the PC has seen before, but the PC did not see the volumes of people that came to the BOCC hearing and how passionate they were. He said he was told by the Sheriff that that was one of the largest crowds for a planning issue that was heard by the BOCC. He said there is a lot of passion and there is a lot of tiredness that people have given up on the system. He said after three years of negotiating and sometimes two times a month, we are now down to the end and the issue is that there is little tweaking going on. He said there is also a lot of faith that people that are not here that have given up on the County, because they know the way that the process works. He said the residents believe that at the very early stage the residents were showing the neighbors that their participation did allow for things to happen. He said Mr. Sheldon was very cordial in working with the neighbors and there was a lot of work done, but tonight it's a little bit different. He said tonight the neighbors are asking the PC for help in getting the continuity from the PDP to the FDP, what we believe is a different plan than what was approved by the BOCC. He said this is unheard of, to discuss these types of issues before the PC at this point in time. He said this should have been resolved at the PDP and the residents felt very comfortable walking out of that PDP hearing that it had been resolved. He said the residents expected plans to match that; as you see tonight we did not. He said staff wants the PC and the BOCC to resolve that. He said that is a difficult decision that the PC will make that the residents will have to live with for

many years to come. He said the residents overall, if you asked, and we have asked, we have asked many, the intent of the PDP is not being met right now. He said if it comes down to a little more horse trading, which it seems to be what we have been doing on this ever since day one, if we would go back to the stair stepping, that some of the residents would allow a little bit of an encroachment into that buffer area to get the two story to the three story to the four story on the whole part that faces the Huntington 15 homes. He said what you see is just basically an attempt; what we're missing is what the intent, I think, was, when Ms. Beckman put forth that it needs to be stair stepped. And stair stepped means from all residents' view, not just those that are on the north and those that are on the far west. He said when you look at these homes, yes, it's very nice and he's glad that the applicant is keeping the double-sided wall and the landscaping allowance that has been given to those 15 homeowners, but how much would you want your home look over a wall out a four-story building. He said remember that wall is going to cover the two-story. He said what we did when we intended this stair stepping is we wanted the stair stepping to push the façade. He said we don't want a movie screen in the peoples back yards, which, when you look over the fence, that's what you'll see. He said the stair stepping needs to be more gradual, and more gradual means that it has to be encroaching a little bit from the dimension of what they showed. He said what he heard tonight was very good and he asked that, no matter what you make tonight, the decision, that that commitment that Mr. Sheldon made be added, and that is that the no drive-through for food is what we would like to see. He said when we started this PDP, that was not even an issue because of the fact that the issue was not free standing. He said we were going to have a continuous part of the structure so the rules change a little and yet we're not allowed to talk. He said he appreciates Mr. Hayutin bringing that up and hopefully we'll see that in whatever motion is made tonight. He said the rush of the time schedule seems to go whenever the mood fits. He said what he feels right now is that he is being rushed to make a decision when three years of time was there. He said they have met for that period of time and a little extra time to finish off these final little things that we have to live with. It seems like the project is constantly changing and we don't know what were approving. He said from the time the PC approved the PDP it changed to the PDP approval by the BOCC. He said he is concerned that that is going to happen again tonight; the PC will approve something that by the time it goes to the BOCC it might change again. He said we have to nail it down and the PC has got to restore the faith in the people that the PC represents and say, PDP, follow it to the letter. He said if that means changing dimensions, then let's talk about it; lets horse trade a little bit more. He said we just want to get it right, and the homeowners want the applicant to be a good neighbor. He said last night at ACCRD's monthly meeting, he brought up this concept about the transition and transition is a big issue for everybody, not only here in Arapahoe County but also in Denver. He said there is zoning put in place for transition. He said transition is not just putting retail right next to residential. He said there is a transition buffer in-between. He said what we're asking for is that too in the idea of the dimension of what you see. He said it can be done. He said the residents are fortunate that the BOCC discussed at great length this transition and what was agreed to by all parties was that 2, 3, and 4 story stair stepping. He said all of us that are here tonight were there and saw the intent of the BOCC and agreed to that. He said the residents had the same vision that the developer had at that time, but now they changed, we haven't changed. He said as we get down to the end here screening of the parking structure, originally we were sold that structured parking which is a new concept to our area. He said structured parking was welcome, but the concept of structured parking was that it was completely encased by residences. He said he is not sure that he totally agrees that a little bit of a light on in a garage is going to look like his window at night. He said he doesn't believe that and that is something is a total change from the original plan. He said screening, whatever, there needs to be some planning done to go back and honor that structured parking being surrounded by the complete residences. He said the community identifier, from day one, when we sat down with people from GenCap, we said we're just hot and ready to go with identifying the 4 Square Mile area, and that one item was a very big issue. He said there were commitments made that would possibly give signage saying Welcome to 4 Square Mile, and that's not what we're looking for. He said the identifier the PC saw tonight he saw for the first time, too. He said these are the way things are going and there are too many changes happening right now. He said we need that community identifier and we welcome that community identifier, but we want to make sure it's right. He said we can make a decision when people that are not here haven't even seen that or reacted to it. He said those are the major issues that he wanted to bring up, and he now would like to have Phil Eck speak on behalf of Huntington Estates, who is the most important association here; however, as you've seen, a lot of the homeowners' association did not respond, but in communication with them through the 4 Square Mile do support Huntington. He said if we're going to work this 4 Square Mile area, everybody has to band together, so as

you see from some people that are not even part of this area, Yorkshire, Mountain View Gardens, some of those are not speaking tonight are from other areas and are concerned and we're all banding together to show support to Huntington. He thanked the PC for their time and effort and he enjoys waiting to see what the decision is.

Phillip Eck, 2295 S. Dayton Street, resident of Huntington Estates and representing the HOA, said there are approximately 200 homes in Huntington Estates, located immediately west of the subject property. He also thanked staff, and said although there have been disagreements in the past with regard to interpretation the work quality presented by the staff report is beyond compare. He acknowledged Carol Kuhn's effort. He noted that he's not sure there has been adequate time for the members of the community to consider this proposal. He said he saw some, if not most of these issues, for the very first time this evening. He said that has taken him a little longer to digest that information to understand exactly what we're talking about. He said there is one primary issue that he would like to direct this commission toward in terms of their review of the presentation that is under consideration. He said it is the issue of compatibility, which, as identified in the staff report is actually required by County ordinance. He said compatibility and transition was the primary issue again identified in the staff report, of the three public hearings of the BOCC. He said it's not an issue that we can overlook lightly. He said with regard to compatibility, there are two primary issues that he would like to highlight tonight. He said the first is the issue of stair stepping. He said because he doesn't think that everyone in the audience has seen some of the diagrams that the commission has he would like to present a site map for their information. He said there are a couple of drawings that were inserted into the commissioners' packets this evening. He said he wanted to identify this because the color coding on this graphic specifically is one of the graphics Mr. Hayutin referred to earlier with regard to the stair stepping and showing some of the differences between the four storey buildings and the 2 and 3 story buildings. He said the tan color buildings are shown as the 2 or 3 story buildings and the reddish color is shown as retail and with regard to Huntington Estates, the transition from the neighboring residential properties, there seems to be a continuous buffer. He said he estimates 70 or 80% of this building was buffered by Huntington by the 2 and 3 story buildings as shown in the PDP and presented to the BOCC during that time. He presented the FPD and said at this point and time, there is very little buffer between Huntington Estates and the four-story building shown in green. He said by his estimate, there is maybe 20% of that buffer shows up as a 2-3 story structure or retail; rather what you see is the direct look from Huntington Estates into a 4-story building. He said the next item he would like to comment on is the issue of the setbacks. He said there has been some discussions and a chart presented by the applicant with regard to minimum setbacks but he wanted to raise the issue with regard to how the setbacks are actually measured. He said as presented by the applicant, they looked at the minimum setback from their proposed structures to their property line. He said he wants to turn that perspective around and talk a little about the perspective from the adjacent land owners. He said for each adjacent landowner, there is a transition issue from those 15 parcels back to the structures proposed by the applicant. He said Huntington Estates submitted a letter where they tried to compare the differences between what was reflected in the PDP and what was reflected as part of the FDP. He said most of the houses saw setback reductions, certainly with regard to the height of the buildings. He said some of the setbacks were increased but the building height had gone up. He said that goes to the lack of transition, since there are no longer the 3 and 4-story buildings and it goes immediately to four-story buildings, even if those were set back further than the prior 2 or 3-story buildings. He said with regard to the setbacks and moving the buildings to the west, the applicant said that they were required to do this based on some design criteria. He said there has been no change in the traffic rules or the guidance from the County with regard to what was shown in the PDP or what would amount to a change in what was presented in the PDP versus what is shown in the PDP, rather this is just a matter of refining the design criteria and learning that there are going to be some restrictions that the applicant hadn't initially contemplated, but there has not been any hardship imposed by change in regulation or ordinance. Mr. Eck said as shown in some of the prior drawings, there was much higher density shown on the southeast corner of the subject parcel; now there is much more open parking on the southeast corner, the result of which is the applicant is stating that they need to move the rest of these buildings west, actually decreasing the setbacks. He said there are one or two other items he wants to discuss with regard to the transition, because he hasn't seen those in the packets tonight. He said the first is the view of the westerly elevation of Building 1. He said he hasn't seen that westerly elevation presented and he's not certain what that looks like. He noted that during some of the BOCC meetings, Norris Design and Ms. Rael presented, as part of their transition study, an overlay that was representative of what zoning

districts would look like based upon the density shown as part of the PDP. He said specifically what they did was walked through different zones on this property to show based on the density, how that could be classified as either an R-1, R-2, R-3 or R-4 zoning district. He said the result of that sort of zoning analysis showed that as you were closest to Huntington Estates the R-1 zoning was closest to Huntington Estates, that is where the residential density as well as the retail properties had the lightest impact. He said that density actually got larger as you move closer to the southeast corner, which is what the residents had recommended. He said they had asked for that sort of transition from Huntington Estates. He said what there is now, based on the FDP proposal, is vastly different. He said if one were to overlay the zoning map and a density map on this it would probably look much more like a voting district in Texas than it would with regard to any form of zoning requirement. He said the point he is trying to make is that he doesn't think there is consistent transition and there has not been a consistent transition from Huntington Estates out; rather the diminishment of the 2 and 3-story buildings as well as some of the other buffering makes this a vastly different project and a vastly different transition than the intent approved at the BOCC meeting. He asked the PC for three things given the situation. He asked for more time to consider this information or, if the PC can't give more time to review and comment upon this at public hearing, he asked that this commission make a recommendation to the Board of County Commissioners that there be a public hearing at the Board of County Commissioners. He said there has not been adequate time for the residents to actually analyze and assemble this information and be prepared to speak on it. He requested that this board recommend denial of the project or denial of the FDP due to the lack of transition that, as noted, is in the discretion of this commission and Board of County Commissioners to determine the extent of which this project and this FDP complies with the intent of the transition and compatibility required underneath the ordinance and underneath the PDP that was approved. He asked the commission to clarify with the applicant the commitment that was made with regard to the no drive through and specifically, he said he would like to understand whether that is no drive through with food establishments or whether the agreement is to allow drive through for a bank only. He said the reason he raised this is because no one wants a retail liquor store on these properties with drive through windows. He said there are drive-throughs in the 4SM area.

RECESS

Mr. Hayutin called the meeting to order.

Ron Jacobs, 2134 S. Dayton, said one thing that they didn't show was an elevation of Building No. 2 from his viewpoint. He said there is a token 2-story, 3-story that is not going to affect anything; it's the 4-story and the shadows they're going to cast into our properties until after 12 or 1 o'clock in the winter. He said he would be completely out of the sun and the PC should require a shadow plan at 8 a.m., 10 a.m., and 12 p.m. to see where the shadows of the 4-story building would be cast. He said at one meeting it showed the shadow clear across Dayton Street. He said that is something else that they completely eliminated from this meeting was a view of the No. 2 building from his standpoint, mainly because it would be all 4-story, and the PC should request a shadow plan.

Mr. Hayutin said the PC's discussion during the recess was related to procedure, and had nothing to do with a decision. He said the item that the PC is considering is asking the applicant if they would like to continue the case to a date certain.

Public comment closed.

Mr. Sheldon replied that the applicant respectfully requests that this case not be continued. He explained that this case has spent two years in the PDP and one year in the FDP and the schedule has not been that aggressive. He stated that the owner has closed on the land and has a rare construction loan and financing to build this project. He explained if that had not occurred several months ago, there might not be a project at all. He advised the PC that there are certain requirements that require construction at dates certain. He said he has been instructed by the client to request that the PC render a decision tonight so that the applicant could move forward to the Board of County Commissioners and to receive a decision there. He said unfortunately the applicant cannot consent to an adjournment of this project. He told the PC that the developer has met with the neighbors many times and the plans the home owners saw months ago are

essentially the same plans; the only new information are the concessions that they keep asking for, which the applicant has made. He further stated that the residents have seen the building plans for months. He pointed out that the project does have a recommendation of approval with conditions from staff, and staff says that the applicant has met the technical requirements of the PDP, and that the FDP technically complies with the PDP. He respectfully requested a decision of the Planning Commission this evening.

Mr. Rosenberg said he already asked about the possibility of pad site 1 moving. He said Mr. Sheldon indicated that that was impossible. He said obviously the people who live along this project don't want to see it, that is clear. He asked if there is anything more that could be done to help keep the neighbors from seeing it.

Mr. Sheldon said there are a couple of lots that are adjacent to that pad and asked if those are the lots Mr. Rosenberg is referring to.

Mr. Rosenberg said about half of those lots.

Mr. Sheldon said there could be some additional buffering and landscaping. He said he wants to clarify a discussion that the chair brought up earlier about the nature of the applicant's commitment related to the drive-through. He emphasized that the applicant is not interested in a drive-through liquor store; the only possible drive-through would be for a bank, and there would be no other drive-throughs of any other kind. He asked that his commitment be on the record so the commitment is clear. He said the applicant is willing to do more for the few neighbors immediately to the west of the pad sites regarding the amount of private buffering within their community.

Mr. Rosenberg asked Mr. Sheldon to be more specific.

Mr. Sheldon stated that the applicant would agree to double the amount of landscaping in the residents' back yards for the two lots that buffer there. He said at the BOCC hearing the applicant had agreed to \$1,200, and the applicant would provide \$2,400 for those two lots so they could buy additional trees.

Mr. Rosenberg asked about lot 15 and whether or not there is a house there.

Mr. Sheldon confirmed that there is a house there.

Mr. Rosenberg expressed concern for lots 11-15, or five lots. He said those are the lots that are most affected by the pad site.

The applicant agreed to double the offsite commitment for those five lots.

Mr. Rosenberg thanked the applicant.

Mr. Weiss said from the public comments tonight, it sounds like there is no doubt that an agreement can be met at some point, but not right now. He said he doesn't believe that the developer's loan issue is forcing the project. He asked why the applicant cannot take another month or two to work out the remaining issues.

Mr. Sheldon argued that this case has been going on for three years. He said the applicant is negotiating against itself and keeps giving, but the residents will never say that they will support this project. He said besides that, the loan issue is real. He said what he is representing in public to the Planning Commission, County staff, and to the neighbors is real. He said the applicant really does have a huge, rare, unusual commitment to build this project that has very specific criteria in it. He promised that the applicant would continue to meet with the residents every day between now and the BOCC hearing to see if this can happen. He said he is making that commitment publicly. He stated that the applicant has some flexibility. He stated that there has been a request to limit drive-throughs, more buffering and landscaping, and the applicant has done that. He said he hopes that the applicant has some credibility with the County after all

these years. He indicated that the schedule related to the loan is real and that is why he has been instructed that this case cannot be continued.

Ms. Kuhn clarified that the staff report specifically states that any changes have to be made three weeks prior to scheduling this item before the Board of County Commissioners; that gives the applicant one week to make all these changes so the case doesn't go to the Board with loose ends.

Mr. Sheldon agreed.

Mr. Rosenberg said on the draft motion to approve, there are conditions A through F. He asked if some of those are no longer a factor.

Ms. Kuhn stated that she has not seen a revised set of plans at this point, so she cannot say if these conditions have been met.

Mr. Hayutin said A through F should be included in the draft motion.

Ms. Kuhn agreed, and said the applicant has one week to submit the plans.

The motion was made by Mr. Rosenberg in Case No. P08-011 – Prospect Village Final Development Plan, that the Planning Commission has read the staff report and received testimony at the public hearing. The Planning Commission finds itself in agreement with staff findings 1-7, including all plans and attachments as set forth in the staff report dated January 21, 2009, and forward a recommendation to the Board of County Commissioners for approval of this FDP, subject to the following conditions to be completed three weeks prior to taking this item before the Board of County Commissioners for consideration:

- a. Applicant shall make all minor changes and corrections requested by the Planning and Engineering Divisions including any outstanding items identified in the Engineering Services staff report dated January 7, 2009.
- b. The applicant shall provide a revised FDP plan set that includes revised building architecture that provides breaks in the roof planes at 100-foot intervals, to comply with the PDP.
- c. The applicant shall enclose the garage located in Building One and provide revised building elevations demonstrating consistent architectural fenestration that matches Building One, to comply with the Design Standards required in the PDP.
- d. For the exposed garage wall in Building Two, the applicant shall provide revised building elevations demonstrating consistent architectural fenestration that matches the balance of Building Two, to comply with the Design Standards required in the PDP.
- e. The applicant shall provide a community identifier or provide a revised graphical representation that demonstrates compliance with the PDP requirement of a community identifier.
- f. The applicant shall provide an evaluation of shadows from Prospect Village buildings, as submitted in the FDP, on adjacent Huntington Estates neighborhood for the Board of County Commissioners hearing.
- g. There will be no drive-through other than a bank.
- h. There will be additional landscaping, double that agreed to, on Lots 11-15.

Duly seconded by Mr. Larson.

Ms. Kuhn said the PC has not discussed Condition D and she asked for clarification. She said the PC has not addressed whether or not Condition E (graphical representation) serves as a community identifier. She said she wants to make sure the PC discusses that because it was in the staff report. She asked if that graphic addresses that.

Mr. Hayutin said that is part of the motion.

Ms. Kuhn asked if the graphic that was presented is acceptable to the Planning Commission or if the applicant has more work to do. She said that must be clarified before this case goes to the BOCC.

Mr. Rosenberg asked for more information.

Ms. Yeckes said Condition a. stands. She said Condition b. works best, rather than an alternative motion, because staff has not actually received the plan, although the applicant has committed to doing that. She said regarding Condition c. there were two alternatives. She explained that the original motion states that the garage shall be enclosed and provide revised building elevations. She said the alternative motion states that the applicant shall provide a revised FDP plan set reflecting changes presented to the Planning Commission on February third. She said that is an important distinction as to whether or not the PC's intent is to accept the garage plan for Building 1 that was presented or whether the intent is that the applicant must fully enclose the garage and not have it open at all. She stated that it would help if Mr. Rosenberg would clarify the motion for Condition c. She said regarding Condition d., that building was shown as having an exposed wall. She said the applicant has not provided revised architectural plans; she asked the PC to clarify if the intent is for the applicant to do something more to the garage face on Emporia.

Mr. Rosenberg asked Ms. Yeckes to discuss that further.

Ms. Yeckes explained that on the garage for Building 1, which faces the neighborhood, the applicant presented a revised plan, which was included in the handouts. She said one handout shows two of the building faces on the same sheet and one handout is an architectural rendering. She said even though the garage technically is not interior and is not completely surrounded by units, and there are some open elements, the applicant has presented a new architectural face for that garage that the applicant is proposing as an alternative to having to either fully enclose that wall or surround it by units. She said that is Condition c. She said staff needs to know whether or not the PC is recommending the new plan.

Ms. Yeckes said regarding Condition d., staff did not get a replacement drawing that shows anything different, so that wall facing Emporia is shorter than it was on the PDP. She recalled that the applicant mentioned that the garage was rotated to put a shorter face towards the street, but the architecture will be as it was presented in the original FDP package. She referred to page 15 of the plan set.

Mr. Rosenberg said to accept what was presented tonight, the PC must do something different that either of these.

Ms. Yeckes clarified that if the PC wants to accept what was presented tonight, the PC could say that the Building 2 garage may be as presented in the FDP.

Mr. Rosenberg said that was his intent and clarified that is related to Condition d.

Ms. Yeckes noted that someone would have to second the motion if it were changed or clarified.

Ms. Yeckes said regarding Condition e (the community identifier), what was presented tonight was not a change in the architecture of the buildings. She said the architectural towers are part of the building architecture. She explained that staff couldn't get the feel for whether or not those tower units served as a community identifier, so staff recommended that the applicant present an architectural rendering to show the PC how that works together. That was presented as new information tonight.

Mr. Rosenberg referred to the rendering.

Ms. Yeckes said the PDP lists a number of things that could qualify as a community identifier. She said the applicant's presentation is that this series of architectural towers that are incorporated into the overall architecture of the buildings is what the applicant intends to serve as that community identifier. She said on

Condition e, if the PC's intent is to accept the applicant's proposal in the FDP, the PC should say that the architectural tower elements presented in the FDP may serve as a community identifier.

Ms. Yeckes recommended that Mr. Rosenberg go back and restate the conditions depending on what his intent is.

Condition c – clarified: The applicant shall provide a revised FDP plan set reflecting changes presented to the Planning commission on February 3, 2009.

Condition d – clarified: The Building 2 garage may be as presented in the FDP.

Condition e – clarified: The architectural tower elements presented in the FDP are accepted as a community identifier.

Mr. Larson seconded the clarifications.

Mr. Weiss said due to the fact that 20 minutes were spent reading the motions and there are eight different contingencies on this case, that says that this plan is not quite ready to go yet. He said it could be easily ready to go if the applicant would just take the time to discuss it with the neighborhood, then come back to the Planning Commission. He further commented that the applicant has taken a step back from the PDP by eliminating most of the stepped elements. He feels that there is a medium that can be reached relatively quickly if the time is taken to do it.

Mr. Herzfeldt agreed. He said he is uncomfortable with the dramatic changes from the PDP, where there was a significant amount of stepping, which he thought was an outstanding architectural feature. He said he didn't spend a lot of time on the FDP and he should have done more, but he didn't realize that there was such a significant change in the plan. He said it feels like there is so much here, and he wants to do his job, and he doesn't feel comfortable enough with all the changes to vote in support of this plan at this time.

Mr. Rosenberg said he doesn't feel that this project is rushed. He commented that the PC has been looking at this for years. He said this is a real unusual time for financing. He said some of us are in business and we know about those things, and the applicant is lucky they have the financing, period. He felt that the applicant has bent over backwards; there is a 100-foot landscaped median. He said there is a Wal-Mart on Parker Road and the homes are 70 feet away. He said this is a 100-foot landscaped buffer and he thinks the developer has done its job.

Mr. Weiss wondered if the applicant is more concerned about the financing or being a good neighbor and having a good project. He said money should not be the deciding issue on something this major to so many people.

Mr. Larson said if the financing goes then the deal is dead.

Mr. Weiss said if the Planning Commission denies this case and the BOCC denies this case then the whole project is dead, and the applicant would lose that way, too.

Vote:

For:

Larson, Rosenberg

**Against:
Herzfeldt, Weiss, Hayutin**

The motion failed.

The motion to recommend denial of Case No. P08-011 – Prospect Village Final Development Plan to the Arapahoe County Board of County Commissioners was made by Mr. Herzfeldt, duly seconded by Mr. Weiss, based on the following findings:

1. The lack of transition
2. The architectural stepping does not comply with the Preliminary Development Plan

Vote:

**For:
Larson, Herzfeldt, Weiss, Hayutin**

**Against:
Rosenberg**

The motion passed 4-1.

Adjourned at 9:10 p.m.

Arnold Hayutin, Chair

Joleen Sanchez, Asst Clerk to the Board