

RECORD OF PROCEEDINGS

Minutes of the
Planning and Zoning Commission of the City of Cherry Hills Village, Colorado
Held on Tuesday, April 13, 2010 at 6:30 p.m.
At the Village Center

CALL TO ORDER

Vice Chair Laura Christman called the meeting to order at 6:30 p.m.

ROLL CALL

Present at the meeting were the following Planning and Zoning Commissioners: Vice Chair Laura Christman; Commissioner Joe Poche; Commissioner Jacque McIntyre; Commissioner Jim Rubin; and Commissioner Peter Savoie.

Also present at the meeting were the following staff members: Mr. Rob Zuccaro, Community Development Director; Ms. Laurel Landsman, Community Development Clerk; and Mr. David Foster, Deputy City Attorney for the City of Cherry Hills Village, Colorado.

Absent were Chairman Ira Plotkin and Commissioner Ann Kerr.

APPROVAL OF MINUTES

Commissioner McIntyre made a motion, seconded by Commissioner Savoie, to accept the February 23, 2010 minutes as written. The motion passed unanimously.

AGENDA ITEMS***Application Review – Expanded Use Permit for Kent Denver School Cafeteria Expansion (Public Hearing)***

Mr. Zuccaro began by saying that the applicant is requesting a review of the proposal to renovate and expand and remodel the dining hall at Kent Denver School. He said that all the Public Hearing Notice requirements have been met. The expansion and renovation of the cafeteria will accommodate about 500 students, includes assembly space, kitchen facilities and a board room. Parking around the dining hall will be expanded from 30 to 82 total parking spaces including 2 handicapped accessible spaces. In 2005 Kent Denver provided a campus-wide parking survey to the City for their Performing Arts Center. Mr. Zuccaro compared that survey with the current Dining Hall proposal. He said that the 2005 survey showed that during a typical school day, 285 spaces were used and the maximum number of spaces used for a special event was 411 and that the current proposal provided 731 spaces compared to 864 spaces required. The proposal is for a 15% reduction in the required parking spaces, but as the 2005 survey shows, is adequate for parking needs. Based on the information provided to the City, the City is comfortable with the amount of spaces that will be provided. Grading, drainage, and landscaping improvements are also proposed for the site. The proposal includes an increase in the floor area of the cafeteria from 7,000 to 16,600 sq ft.

Staff has reviewed the requirements for expanded use applications and has found that all requirements have been met.

Kent Denver School is entering into a License Agreement with Denver Water to cover improvements which are proposed in the Denver Water Board easement to the south of the dining hall. Mr. Zuccaro said staff recommends that any approval by the City be conditional on Kent Denver entering into the license agreement with Denver Water.

Vice Chair Christman asked if the Commissioners had any questions at this time, there were none so she opened the floor to the applicant for their presentation.

Jerry Walker, Assistant Head of School for Finance and Operations, Kent Denver School, began by explaining why the school needs the expansion. The existing dining hall was built in 1967. Mr. Walker said that while 750 people eat in the facility every day, the capacity is about 200. For that reason their entire academic day is based around the eating schedules of students and faculty.

Mr. Walker said that because the location of the parking was a concern to a neighbor, the School decided to move the proposed parking lot so that it would have more screening and be in a more favorable spot. He said that the proposed height of the addition should not be a concern as they are well within the City's height limit. Mr. Walker said that expansion will not impact the environmental habitat around the lakes. He said the dining hall kitchen will be upgraded so that it is code compliant and much more efficient allowing a much wider variety of foods to be prepared. The school plans to build to LEED Platinum standards. They have worked with South Metro Fire Rescue to meet their requirements and plan to sign a license agreement with Denver Water soon.

Architect Bryan Schmidt said their goal was to build "holistically" utilizing as much of the existing building as possible. Part of this proposal is for new storage in the dining hall. With this storage, the number of deliveries can be reduced – right now they have only enough food storage for a day. The new proposal addresses access by the Fire Department. Plantings included in this proposal are indigenous and more manicured but are designed to be low maintenance. He said that with respect to the height of the building that they tried to emulate the pitch of the land. He said the maximum height is 22' which is still a foot lower than that allowed on the site. The additional windows and "daylighting" will assist the school with energy consumption as well as capturing spectacular views to the west. Mr. Schmidt said he thought the building would bring a new kind of awareness of sustainability.

Mr. Walker said that in planning this structure and landscaping they were very cognizant of the neighbors wish to preserve view corridors.

Lighting for parking lot will be full cut-off fixtures and light cones will be directed back at the school and not onto the Highline Canal.

Commissioner Savoie asked if any mature trees would be removed for the parking lot.

The Architect, Bryan Schmidt, said that some trees would be removed but most were not healthy.

Mr. Walker said they intend to add 100 trees and are not removing many. He added that the school has a grounds committee that is very concerned with which trees are removed and which should not be removed.

Vice Chair Christman asked what type of surfacing would be used for the trail shown on the drawings.

Mr. Walker said it would either be crusher fines or asphalt.

Vice Chair Christman opened the floor to the public for comments.

Betsy Searle, of 14 Blackmer Road, a neighbor of Kent Denver, said she is very much in favor of the school expansion project. She said that 3 of her children attended there and that she has been very involved with the school. She said her bedroom actually overlooks the dining hall. She said that facility-wise it is the right project for the school. Her family is 100% behind the school dining hall expansion.

Todd Horn, 4000 E Quincy, Head of School, said he has been with the school for 13 years. He said Kent Denver School will continue to be a good neighbor. He reiterated that the Kent grounds committee is very concerned about the trail and landscaping for this project. Mr. Horn said that looking toward the future they hope to provide approximately 200 acres of a park like setting for students to enjoy. He said the school needs to serve all the children and serve them well so he is in support of the proposed dining hall expansion.

Kathryn Ryan, who resides at 2 Cherryridge Road said she has one child currently at Kent and other children who graduated from Kent. This project will mean great things for the school. She said she believes that with an improved programming and dining experience the school can be an even better experience for the children.

Vice Chair Christman closed the public forum and asked if the Commissioners had any other questions.

There were no other questions but Commission Rubin disclosed that he has two children at Kent Denver who will benefit from the dining hall expansion.

Chairman Christman said she would entertain a motion regarding the Kent Denver Expanded Use Permit Application.

Kent Denver Expanded Use Permit

Commissioner McIntyre made a motion, seconded by Commissioner Poche to approve the request by Kent Denver School for an "Expanded Use Permit" to expand the school dining hall and parking facilities in accordance with the procedures and requirements of Article XX, Chapter 16 of the Municipal Code, with the condition that Kent Denver School enter into a license agreement with Denver Water authorizing all proposed site improvements located within the Denver Water easement.

The motion was unanimously approved.

Proposed Addition of Satellite Dish Antenna Regulations to the City's Zoning Ordinance (Continued from February 23, 2010 Meeting)

Mr. Zuccaro began by giving a quick overview of the proposal. The proposal is for the addition of comprehensive satellite dish antenna regulations to the Zoning Ordinance for review and recommendation to City Council. These proposed regulations allow satellite dish antennas one meter or less in diameter in all zone districts without restriction (as required by the Federal Communications Commission).

Mr. Zuccaro said as background on this proposal, the Commission had originally reviewed a draft of the proposal at the January 12, 2010 meeting and requested that staff amend the proposal so that the allowed number of free-standing antennas in residential areas would be based on the size of the lot rather than having the same limit per lot regardless of lot size. Staff made the requested change and presented a new draft of the proposal to the Commission at its February 23rd, 2010 meeting.

Mr. Zuccaro said that properties that are zoned residential would be allowed up to three wall or roof-mounted antennas between one and four meters in diameter subject to design criteria and location standards. Free-standing antennas would be considered accessory structures and would be subject to the permitted number of accessory structures for each zone district. Free-standing antennas would also be subject to design criteria and location standards.

Properties that are in commercial or community zoned districts would be allowed up to three satellite dish antennas between one and four meters, whether wall mounted, roof mounted or free-standing, subject to design criteria and location standards.

Mr. Zuccaro said that satellite dish antennas that exceed the allowed number, size or any of the design criteria or location standards would only be permitted as a conditional use under Article XVIII of the Zoning Ordinance. He added that an amortization period is included in the regulations requiring that any non-conforming satellite dish antenna come into compliance with the adopted regulations within ten years of the date of adoption of the ordinance.

In addition, Mr. Zuccaro reported that after further review of the IRS amortization table, it was determined that the correct category, Telegraph, Ocean Cable, and Satellite Communications (TOCSC) – Satellite Ground Segment Property, suggests a 10 year class life for satellite dish antennas.

Mr. Zuccaro said that as the Commission had requested, staff met with Mr. Mark Derbyshire of 4950 South El Camino Drive about concerns he had with the proposed ordinance. At this time staff has made only minor changes to the wording of the proposed ordinance to indicate that satellite dish antennas that are one meter or less, rather than less than one meter, be permitted as an allowed use without further regulation.

The City Attorney has also suggested that certain language be added throughout the ordinance because not all satellite dishes are round and the radius cannot be measured. To address those dishes which are not round, language may be added that says “or one meter or less diagonal” to address measurement of non-round antennas. Staff recommends approval of the satellite dish antenna regulations with the addition of this language.

Commissioner Rubin asked if there were more than one property with more than three satellite dish antenna of the larger sizes.

Mr. Zuccaro said that he was not aware of any other properties that had multiple satellite dish antennas of the larger sizes. He said that Mr. Derbyshire’s property had more of the larger dishes than would be allowed under this ordinance. He could apply for a conditional use permit under this ordinance.

Chairman Christman opened the meeting for the public forum.

Mark Derbyshire, of 4950 S. El Camino Drive, who had spoken at the February 23, 2010 meeting, again expressed his concerns about the conflicts he sees with OTARD and the Telecommunications Act of 1986. He said that his concerns about amateur services regulations with respect to satellite dish antenna were not addressed in the new draft. He said he didn’t know if the City Attorney was still looking into some of his concerns or not.

Mr. Zuccaro said that the City Attorney had not completed his review at the time the memo was released but has since completed his review. The City Attorney recommended changing the language regarding “less than one meter” to “one meter or less” but was comfortable with the rest of the language of the proposed amendments.

Mr. Derbyshire spoke to the Commission about his continued concerns regarding: the conflict he sees with federal regulations; amateur services regulations with respect to satellite dishes that were not addressed in the proposed regulations; the amortization of satellite dish antenna; height restrictions; satellite dish antenna screening; and, how the size of satellite dish antenna are measured due to the fact that satellite dish antenna may not be round but may be oddly shaped.

Mr. Derbyshire mentioned that the television antenna height that is in the code is not correct and suggested this might be a good time to correct the height provision.

The Commissioners discussed whether the amortization regulation would get rid of satellite dish antennas that are not being used. Since the definition is "antennas that are designed to receive" satellite signals, the fact that the dishes were not being used would not be a factor in their removal.

Commissioner Rubin said he thought that none of the satellite dishes could be located within the setbacks.

Mr. Zuccaro said that the one meter or less dishes may be put in the setbacks.

Mr. Derbyshire recommended removing the amortization clause and suggested that the City fix the height limit, improve the definition of antenna especially with respect to amateur services, and encourage low impact solutions.

Vice Chair Christman closed the Open Forum.

Commissioner Poche said that he is a property rights supporter. He said he believes that Mr. Derbyshire has the right to do whatever he likes with his property and that he will not vote for this proposal.

Commissioner Rubin asked if this all started just with one complaint.

Mr. Zuccaro said there had been a complaint but that the ordinance was written to provide standards city-wide. In doing research regarding satellite dish antenna regulations, it was recognized that the City did not have up to date standards and reasonable limits on satellite dishes.

Vice Chair Christman said part of this is a fairness question. People who want an accessory structure have to come in for accessory structure permits, even for small structures. Not that you are asking people not to have satellite dishes but to make choices between large satellite dish antennas and accessory structures.

Commissioner Poche said if satellite dishes were considered "art work" they would not be addressed as accessory structures and thought it might be differentiated in another way.

Commissioner McIntyre asked if staff had looked at "peer" communities when doing research for proposed amendments.

Mr. Zuccaro said no but that staff would be happy to do so if the Commission wishes.

Commissioner Rubin asked about the amortization issue and if there are any other items that the City "amortizes."

Deputy City Attorney Foster said that he views this differently because this is a residential use and the City is amortizing an accessory structure. He said that while there is no case law that he is aware of that is directly on point, the City is not removing the ability of people to have the accessory structure, it is only limiting the number of accessory structures.

Mr. Zuccaro said that regarding lighting for parking areas (16-16-20), that there was a requirement of conformance by January 2003. Those public areas were given three years to come into compliance.

Vice Chair Christman asked if there were any other questions at this time. There were no questions but there was additional discussion by the Commissioners. The Commissioners agreed that they would like staff to perform some research and see what other communities are doing with respect to satellite dish antenna regulations.

Commissioner Poche said he would like to see the regulations worded to incorporate more of the concerns of Mr. Derbyshire.

Vice Chair Christman says she is concerned about the satellite dish antenna definition. She says it may not make a difference if you use the word antenna, but it might.

Commissioner Poche made a motion, seconded by Commissioner Rubin, that the proposal be continued and requested that staff perform research regarding how other communities regulate satellite dish antenna.

The motion passed unanimously.

Vice Chair Christman asked Mr. Zuccaro if there were any reports for the Commission.

REPORTS

The City Council approved the lighting ordinance on first reading and will bring it back for second reading the second week in May.

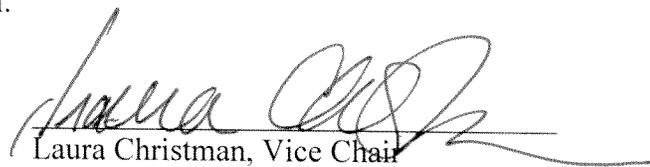
The next regularly scheduled meeting of the Commission is April 27, 2010.

ADJOURNMENT

A motion was made by Commissioner Rubin and seconded by Commissioner Poche to adjourn the meeting at 8:10 p.m.

The motion passed unanimously.

The meeting adjourned at 8:10 p.m.


Laura Christman, Vice Chair


Laurel Landsman, Community Development Clerk