

Minutes of the
Planning and Zoning Commission of the City of Cherry Hills Village, Colorado
Held on Tuesday, April 23, 2013 at 6:30 p.m.
At the Village Center

CALL TO ORDER

Vice Chair Savoie called the meeting to order at 6:32 p.m.

ROLL CALL

Present at the meeting were the following Planning and Zoning Commissioners: Vice Chair Peter Savoie, Commissioner Al Blum, Commissioner Joe Poche, Commissioner Jim Rubin, Commissioner Steve Szymanski and Commissioner David Wyman.

Present at the meeting were the following staff members: Robert Zuccaro, Community Development Director; Marcus McAskin, Deputy City Attorney; Troy Carmann, City Engineer; and Emily Kropf, Community Development Clerk.

Absent was Chair Laura Christman.

APPROVAL OF MINUTES

Commissioner Szymanski made a motion, which was seconded by Commissioner Blum, to accept the March 12, 2013 minutes as written. The motion passed unanimously.

AGENDA ITEMS

Request by Kent Denver for an Expanded Use Permit for Athletic Field Modifications

Mr. Zuccaro stated that staff is presenting a request by Kent Denver for an Expanded Use Permit to allow modifications to a portion of its athletic fields. The area to be modified is located in the northwest corner of the property between S. Monroe Lane and the school's entry drive, located south of E. Quincy Avenue. The proposal includes construction of a new synthetic turf field and running track over a current natural turf area, relocation of an existing baseball diamond and removal of existing bleachers.

Mr. Zuccaro continued that the synthetic turf athletic field and running track is proposed to cover approximately 2.95 acres, with the running track adding .67 acres of new impervious surface area. A drainage plan is proposed to address the additional impervious area. A supplemental memorandum has been provided with comments by the City Engineer. There are several technical comments that must be addressed, but staff is in support of the proposed drainage plan once these comments have been resolved.

Mr. Zuccaro said that Article XX of the City's zoning ordinance governs expansions or modifications of nonprofit institutions, private clubs, recreational facilities and nonprofit recreational facilities. Additions or modifications to athletic fields require an Expanded Use Permit. Staff's finding and analysis for each submittal requirement is listed in staff's memorandum. Staff recommends that the conditions of approval are recorded on the proposed site plan, if approved, rather than in a development agreement, which is typically required.

Mr. Zuccaro added that staff received one public comment letter expressing concern regarding relocation of the bleachers. The applicant has since agreed to remove the bleachers from the site.

Mr. Zuccaro stated that the City Engineer is present if there are any questions regarding the drainage comments.

Commissioner Wyman asked if there will be any seating.

Mr. Zuccaro replied that no new seating is proposed.

Commissioner Wyman asked if there will be any seating around the proposed synthetic turf field and track.

Mr. Zuccaro said that there are no other modifications proposed.

Commissioner Wyman asked what the distance is from the baseball diamond to the north property line. He asked if it was possible for a player to hit a ball near the bridle path.

Mr. Zuccaro responded that he does not know the exact distance, but the proposed location of the backstop fence to E. Quincy Avenue appears to be at least 150 feet. He asked that the applicant address the question.

Commissioner Blum asked if the parking area located on the northwest corner of the property will be removed.

Mr. Zuccaro replied that all parking is to remain the same. He continued that applicants are often required to submit a parking or traffic study for an Expanded Use Permit, but staff considered the request a repurposing of the athletic field rather than an expansion and did not require a parking study.

Commissioner Blum asked if there is an outfield fence.

Mr. Zuccaro replied no. He said that there is 60 linear feet of 30-foot tall backstop fencing around the baseball diamond that is connected to 80 linear feet of 10-foot tall fencing running down each side of the diamond.

Commissioner Poche asked if the existing fences are being relocated.

Mr. Zuccaro responded yes.

Vice Chair Savoie asked if anyone finds that the existing parking is inadequate. He continued that it might not be sufficient if two events are scheduled to take place at the same time.

Commissioner Poche said that the vacant fields can be used for overflow parking.

Commissioner Wyman said that the City Engineer's comment regarding the groundwater study is a fair point given the historic soggiess of the area. He believes that approximately 15 years ago large corrugated piping was installed to remove water pressure on the north side of the property. He asked if the City Engineer has any further comments.

Mr. Carmann replied that the comment regarding groundwater was a standard checklist item of the Phase III Drainage Report. The applicant has proposed the installation of piping 4 to 5 feet below grade to direct water from the synthetic turf field to the underground system, which will then bubble up through a dry well. The comment asked the civil engineer to identify any reason to expect adverse groundwater.

Commissioner Wyman asked how the dry well functions.

Mr. Carmann responded that the water will have to bubble up 4 feet in the dry well before it spills over onto the grass. While it is not a conventional treatment, it is an applicable way to treat the stormwater given the limitations of the area.

Commissioner Wyman asked if Mr. Carmann is satisfied with the plan and how it addresses possible stormwater discharge.

Mr. Carmann said that based on the information provided, he cannot determine if the plan adequately addresses runoff. With the additional information requested, it should be easily determined, however.

Mr. Jerry Walker, Associate Head of Kent Denver, stated that the proposed work includes the installation of artificial turf on one playing field and a surrounding track. It is difficult to utilize the existing grass field during inclement weather, and the artificial turf will allow for additional practice days. Some benefits of the synthetic turf include fewer physical injuries and removal of the irrigation system as it does not require watering. Currently the track at Englewood High School is used for practice, which is why the surrounding track is proposed. It will be used mostly for practice and dual meets. The distance from the right side of the baseball diamond to the bridle path is over 260 feet, and the centerfield is over 290 feet. The diamond is to be used by the junior varsity team. In regards to the drainage plan, the civil engineer will provide the additional information requested.

Commissioner Wyman asked if the scoreboard near the proposed baseball diamond will be relocated.

Mr. Walker replied that it is to be removed as it has not been used in years.

Commissioner Wyman asked if artificial turf will also be installed in the baseball diamond.

Mr. Walker said no. He said that it will remain natural grass.

Commissioner Blum asked what the construction timeframe is.

Mr. Walker said that the project is proposed to begin in late May and finish in early August.

Vice Chair Savoie opened the hearing for public comment.

Mr. Kevin Duncan, 41 Covington Court, withdrew his request to speak.

Vice Chair Savoie closed the hearing for public comment.

Commissioner Poche stated that it seems as though the neighbors are in support of the proposal.

Vice Chair Savoie stated that no one has objected.

Commissioner Rubin stated that he asked staff prior to the meeting if as a parent of a Kent Denver student he should participate in the hearing. He was told that as long as he did not have an ownership interest in the school it would not be a conflict.

Commissioner Szymanski thanked the applicant for maintaining an open campus for the residents of the City.

Commissioner Szymanski made a motion to recommend approval of the request by Kent Denver School for an Expanded Use Permit to allow modifications to the school's athletic fields based on the analysis and findings in staff's April 23, 2013 memorandum with the condition that prior to the City Council hearing the applicant provides a revised Phase III Drainage Report addressing the City Engineer's review comments.

Commissioner Blum seconded the motion, which was unanimously approved.

Proposed Amendments to Building Permit Expiration Code

Mr. Zuccaro stated that staff is presenting a follow-up discussion for the expiration of building permits. City Council asked that the Commission provide feedback regarding proposed changes to the existing standards. Because this is a building code and not a zoning code amendment the Commission does not need to provide a formal recommendation. The City Attorney will also review the proposed language before it is presented to City Council.

Mr. Zuccaro continued that there were three main concepts that were proposed during the last discussion. First, the permit extensions were increased from 4 to 6 months, and the fees have been increased from 25% to 50% for the first extension and 50% to 100% for the second extension. Second, an additional extension can be applied for but would require compliance with review criteria and notification of neighbors. If there are comments from neighbors expressing concern, staff could require further mitigation. Third, a new permit would be required if an additional extension was denied and the valuation would include the full scope of work for the project.

Commissioner Poche asked if the Commission should not provide feedback of the proposed language until the City Attorney has reviewed it.

Vice Chair Savoie replied that the proposed amendments can be subject to the City Attorney's review.

Commissioner Szymanski asked if the City will have discretion in regards to what building codes will apply to new permits that have been denied an additional extension.

Mr. Zuccaro said no. All building permits issued are subject to the building codes that are adopted at the time of permit issuance.

Commissioner Rubin stated that he missed the previous discussion but is not sure that 18 months is a sufficient timeframe.

Vice Chair Savoie stated that if a project is well-planned with a full set of drawings, 18 months is a reasonable timeframe. Extensions are available for more elaborate projects. If a homeowner is designing a residence as it is constructed and requires additional time, additional fees should be paid.

Commissioner Szymanski said that there were only three or four homes during the past 5 years that exceeded 30 months. If a home cannot be built in 18 months, the homeowner will have to make a case in order to continue the project.

Commissioner Rubin asked what will happen if a portion of the house is not completed and an additional extension is denied.

Commissioner Poche said that it would be a terrible penalty.

Commissioner Szymanski replied that the initial permit is for 18 months and the extensions account for an additional 12 months.

Mr. Zuccaro said that currently two extensions are granted automatically for a permit with payment of fees. The proposed amendments would require notification of neighbors for an additional extension. If an additional extension is denied, the project would require a new permit.

Vice Chair Savoie asked if anyone finds that the language for the additional extension is arbitrary.

Mr. Zuccaro replied that the proposed amendments are modeled after the standards of Winnetka, Illinois.

Commissioner Blum stated that the proposed amendments address the concerns of neighbors and allow the building official to determine if an additional extension should be granted.

Mr. Zuccaro said that an additional extension can be granted, but it has to be applied for and reviewed. The additional extension can be up to 6 months, which would provide 36 months for a home to be constructed. After 36 months, the project would require a new permit and may be subject to new standards.

Commissioner Wyman stated that the language regarding demonstration by the applicant that the remaining work can be completed within the requested timeframe for the additional extension needs clarification. He asked why written notice to homeowners within 500 feet of the site is required. Neighbors have an opportunity to express concerns regarding a project during the pre-application neighborhood input meeting process.

Mr. Zuccaro replied that the pre-application neighborhood input meeting is an opportunity to foster dialogue between neighbors, but comments expressed during the meeting are non-binding. If a neighbor comes to a meeting and asks that the construction staging be changed, the homeowner does not have to comply with the request.

Vice Chair Savoie said that after 30 months the neighbor could request that the construction staging be changed, and the additional extension might depend on compliance with the request.

Commissioner Wyman asked why public notice is required.

Vice Chair Savoie responded that neighbors do not know when a permit is scheduled to expire. He added that the burden should be on the builder rather than the neighbor.

Commissioner Wyman asked if the City can ignore a request for an additional extension based on the proposed language.

Mr. Zuccaro replied that the intent of the language is to avoid automatic approval or denial of a request for an additional extension.

Commissioner Szymanski said that he agrees with the 30-month timeframe.

Commissioner Wyman stated that the time limit is reasonable with the additional fees. He has concerns regarding the building official's ability to deny an additional extension, however.

Mr. Zuccaro stated that the demonstration by the applicant that the remaining work can be completed within the requested timeframe for the additional extension is based on a construction schedule and staging plan. The circumstances beyond the control of the permit holder that prevented completion of the permitted work are much less defined.

Commissioner Szymanski asked if there should be a motion.

Mr. Zuccaro said that there seems to be general concurrence in favor of the proposed amendments.

Ms. Mary Scott, 4501 S. Monroe Lane, stated that her property is located next to a project that has been under construction for several years. She said that she is glad that additional restrictions are being considered.

Commissioner Poche asked what condition the road is in due to the on-going construction.

Ms. Scott replied that the road has been patched. She asked what the process currently is for the expiration of permits.

Mr. Zuccaro stated that two four-month extensions can be purchased when a permit reaches its expiration date. If a new permit is required following both extensions, the permit fee is based on the valuation of the portion of the work that has not been completed. There have been concerns raised about the project located next to Ms. Scott's property. The City is following the project and may not grant an additional extension or permit.

Commissioner Szymanski asked how the proposed amendments would affect the project.

Mr. Zuccaro responded that the City may not grant an additional extension once the current permit reaches its expiration date following two four-month extensions. If a new permit is required, the project would be subject to the current building codes and the valuation of the permit would be based on the entire scope of work.

Vice Chair Savoie asked if grandfather provisions could be added that would prohibit existing projects from being grandfathered under the previous standards.

Mr. Zuccaro said that staff can look into the City's legal ability to require existing projects to comply with the new standards.

Vice Chair Savoie suggested that the two four-month extensions be denied.

Commissioner Poche asked if denial would be arbitrary and capricious.

Mr. Zuccaro said that the current code does not have criteria for denial.

Commissioner Szymanski recommended adding a provision that states that an extension is subject to the new standards.

Mr. Zuccaro said that staff will look into that.

Vice Chair Savoie asked if staff has enough direction to move forward.

Mr. Zuccaro replied yes.

Proposed Amendment to Municipal Code Sec. 16-1-20 Concerning Interpretation of Minimum Zoning Requirements

Mr. Zuccaro stated that staff is presenting an amendment to Municipal Code Section 16-1-20 clarifying that the City should not interpret or implement private covenants or deed restrictions or other adopted rules or regulations when interpreting the City's zoning standards. Staff was recently made aware of a zoning code provision that could be interpreted to mean that a private covenant or deed restriction or other adopted rule of regulation should be enforced by the City. The proposed language is intended to clarify that the City will only enforce City-adopted ordinances or deed restrictions and covenants that the City is party to.

Commissioner Wyman asked if covenants, conditions and restrictions are attached to plats or if they are separate items.

Mr. Zuccaro replied that they are separate items.

Vice Chair Savoie asked for an example of a code and a restriction that are different.

Mr. Zuccaro responded that a private covenant restriction might limit the height of a fence to 4 feet. The City allows fences that are up to 6 feet in height. The City would not enforce the private restriction that limits fences to 4 feet.

Vice Chair Savoie asked if the restriction would be a private civil matter.

Mr. Zuccaro said yes. He added that the City has received requests from homeowners associations to enforce private restrictions, but the City will not enforce private covenants that it is not party to.

Commissioner Rubin made a motion to recommend the City Council approval of the proposed amendment to Municipal Code Section 16-1-20 as proposed in the April 23, 2013 staff memorandum, clarifying the City's minimum zoning interpretation requirements.

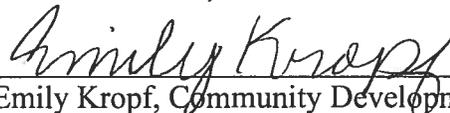
Commissioner Poche seconded the motion, which was unanimously approved.

ADJOURNMENT

The meeting was adjourned at 7:32 p.m.



Laura Christman, Chair



Emily Kropf, Community Development Clerk