

Minutes of the  
Planning and Zoning Commission of the City of Cherry Hills Village, Colorado  
Held on Tuesday, December 2, 2014 at 6:30 p.m.  
At the Village Center

**CALL TO ORDER**

Vice Chair Savoie called the meeting to order at 6:33 p.m.

**ROLL CALL**

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

Present at the meeting were the following staff members: Robert Zuccaro, Community Development Director; Linda Michow, City Attorney; and Cesarina Dancy, Community Development Clerk.

Absent from the meeting were Chair Laura Christman and Commissioner Peter Niederman.

**APPROVAL OF MINUTES**

Commissioner Szymanski made a motion, which was seconded by Commissioner Rubin, to accept the October 28, 2014 minutes as written. The motion passed unanimously.

**AGENDA ITEMS**

- a. *Request by the Arapahoe Tennis Club for an Expanded Use Permit to Build a Paddle Court and Paddle Hut.*

Mr. Zuccaro stated that staff is presenting a request by the Arapahoe Tennis Club for an Expanded Use Permit to install a paddle tennis court with lights and a paddle hut. He continued to say that the Club had previously submitted a similar request in June of 2014, which was approved by the Planning and Zoning Commission with conditions, but that the applicant did not move forward to City Council with their request. He stated that the applicant was back with a revised request.

Mr. Zuccaro displayed a vicinity map of the area surrounding the Arapahoe Tennis Club. He continued to say that the Club is surrounded by properties which are zoned R-1, which is the 2.5 acre zone district.

Mr. Zuccaro displayed a current site plan of the Club as well as a proposed plan. He indicated the location of the proposed court and hut.

Mr. Zuccaro stated that the proposed paddle court is 30 feet by 60 feet, and that it will be 91 feet and 11 inches from the west property line and 151 feet and 9 inches from the north property line. He continued to say that the height of the court is 16 feet to the top of the fence and 24 feet to the top of the lights.

Mr. Zuccaro stated that the proposed paddle hut is 45 feet 8 inches by 24 feet. The paddle hut is located 50 feet 7 inches from the nearest property boundary to the east. He continued to say that the height of the paddle hut is 10 feet 8 inches. Mr. Zuccaro noted that the new paddle hut design does not have a rooftop deck as the previous design did.

Mr. Zuccaro stated that the applicant pointed out to staff prior to the meeting that as a private club, they were exempt from the recreational use lighting criteria in Chapter 16 but that they were still subject to the Expanded Use Approval review criteria for lighting. He continued by stating that staff felt the recreational use lighting criteria still provided a good baseline for reviewing the lighting requirements, including the line of sight requirement, maximum footcandle requirement and requirement on hours of use.

Mr. Zuccaro stated that the applicant has provided photometric plans, lighting details and line of sight cross sections demonstrating compliance with the recreational use lighting requirements of the code and included a note on the plans prohibiting use of the lights after 11:00 p.m.

Mr. Zuccaro stated that the Club currently has a 220 family membership cap. The applicant has included this as a limit in a note on the first page of the plans. If the plans are approved any further expansion of membership would need to be approved by the City based on the application. Because the application doesn't increase membership and the use that is being proposed is for off-peak season (explanation of peak/off-peak season), because of that and the limit on membership staff has determined that a traffic and parking analysis would not be necessary for this project, this is consistent with how staff reviewed the June proposal.

Mr. Zuccaro stated that the new proposal does not require any drainage documentation, as they would only be adding 1400 square feet, which is below the threshold to require a drainage review.

Mr. Zuccaro stated that traffic and parking study is not recommended by staff. He stated that this is the same recommendation which was given with the June 2014 proposal.

Mr. Zuccaro stated that staff is recommending approval of the request. He continued to say that all notification requirements were met by the applicant. He stated that additional comment letters were received since the packets were sent out and copies are provided for all the commissioners.

Don MacKenzie, president of the Arapahoe Tennis Club, stated that he would like to share all the new information since the last proposal. He stated that the ATC has been trying to find a way to have an incremental increase in facilities in conjunction with being a good neighbor.

Mr. MacKenzie stated that the original proposal required a setback variance, which they then eliminated and the Planning and Zoning Commission approved in June of 2014. He continued to say that since that time, the ATC has been conducting more research and having more dialogue with neighbors.

Mr. MacKenzie displayed a graphic of the ATC campus and indicated the different areas which were considered for locating the improvements. He indicated areas on the property with mature and existing trees.

Mr. MacKenzie stated that the new proposal was further from the neighbors and did not have any effect on drainage. He also stated that the improvements are now located near the tallest trees and exceed the minimum setback requirements. He continued to say that he has received positive letters in support of the expansion from the immediate neighbors.

Mr. MacKenzie stated that the ATC has already made several improvements to the property, including the addition of LED lighting, which reduces the light output by 1/5. He continued to say that the enrollment of the ATC has stayed the same for many years, and that they do not have any parking issues at the club.

Mr. MacKenzie stated that the ATC is converting to underground gas as to eliminate the propane tank which the neighbors complained about. He continued to say that the rooftop deck from the original paddle hut design was removed because of the comments of the neighbors.

Mr. MacKenzie stated that he would like to address some of the comments from the letters of objection. He stated that the timers on the courts automatically go off at 11 p.m. He continued to say that club members never park on Dahlia, and that the club has more overflow parking than originally thought. He also stated that he has Arizona Cypress trees at his own residence which are approximately 38 feet in height.

Mr. MacKenzie stated that the new LED lighting that has been installed on courts 3 and 4 has reduced the light output by 1/5. He continued to say that the ATC is in full compliance of the City's municipal code 16-16-50, even though private clubs are listed as an exemption.

Mr. MacKenzie stated that the improvements are in no way related to a motive to increase revenue. He stated that the maximum number of players these improvements could add is 4. He continued to say that the club has spent over \$150,000 on improvements in response to comments from the neighbors.

Mr. MacKenzie stated that the Calkins family had originally expressed approval of the expansion project of the ATC, but he felt that they had changed their mind since their own project had gotten approval.

Vice Chair Savoie thanked the applicant. He reminded members of the public that they were limited to 5 minutes to speak.

Commissioner Szymanski stated that he had been renting the home at 1 Blackmer Road for two years while his house is being built. He stated that he has not talked to anyone from the ATC, or any neighbors regarding this issue. He continued to say that he was not present for the previous hearing but has read all the documentation and feels that he can make an impartial determination in these proceedings.

Commissioner Szymanski asked what the purpose of the paddle hut is.

Mr. MacKenzie replied that the hut allows spectators to watch while being indoors, as paddle tennis is primarily a winter sport. He continued to say that the proposed hut is much smaller than the original design and did not contain any plumbing. He also stated that one side of the hut will be used to house the tennis pro year-round.

Commissioner Szymanski asked was it similar to a hockey warming hut.

Mr. MacKenzie replied yes.

Commissioner Szymanski asked when the last major improvement to the ATC was.

Mr. MacKenzie replied that in 1983 courts 3 and 4 were added.

Commissioner Szymanski asked were the courts primarily used at night.

Mr. MacKenzie replied that the league games start at 6 and 8 p.m. four nights per week. He continued to say that the league games normally ended at 10 p.m.

Commissioner Szymanski asked if nonmembers will be using the new courts.

Mr. MacKenzie replied that the ATC has a guest policy which limits a member to bringing a guest no more than four times per month. He continued to say that the new court would be exclusively for the use of members. He stated that currently there are not any non-members in the current league program.

Commissioner Szymanski asked if guests were ever allowed to play alone.

Mr. MacKenzie replied no.

Vice Chair Savoie asked if the paddle hut would be heated.

Mr. MacKenzie replied yes.

Commissioner Blum asked what paddle tennis is.

Mr. MacKenzie replied that it is played on a court  $\frac{1}{4}$  the size of a regular tennis court. He stated that it is like squash in that it utilizes the wall during play.

Commissioner Blum asked if the photo showing the view from Tenaya was the new LED lighting.

Mr. MacKenzie replied no.

Commissioner Rubin asked if the overflow parking area would be surfaced.

Mr. MacKenzie replied that it would remain as a field. He stated that it would be less impactful to leave it as it is, and that it currently has good drainage.

Commissioner Wyman stated that he had a question but that he is a member of the ATC and would not be voting.

City Attorney Michow stated that he should recuse himself and would not be able to ask any questions.

Commissioner Blum asked if there could be any tracking of mud onto Dahlia from the field.

Mr. MacKenzie replied that it could happen but that the club would comply with the development agreement they reached with the City.

Pam and Peter Clute, of 4300 S. Dahlia St., stated that they had submitted letters to the Commission. Mrs. Clute stated that she was upset because she thought this issue was resolved. Mr. Clute displayed several photos showing the ATC at night from their property. Mr. Clute stated that the proposed parking area acts as a basin to catch water from the Calkins property. He continued to say that there was resurfacing of an existing court going on a Sunday and he called the CHVPD. He stated that in the last few years, the parking, noise, and traffic from the club has gotten worse. He stated that the ATC is not a good neighbor and that he felt they were a public nuisance. Mr. Clute stated that there is a fence up on the Calkins property to keep the ATC from trespassing on it. He stated that they should not be allowed to make any additional improvements on their property, that traffic laws should be enforced, and the neighborhood should be respected.

Karyn Bristow, of 5 Blackmer Road, stated that she feels the new plan is worse than the original plan. She stated that she has done research on the effects of LED lighting, and that there are some undesirable side effects. She continued to say that with the court located at a higher location, the light will be more obvious, and that the noise and traffic is already bad. She stated

that this disturbs the peace and tranquility of the City. She stated that her research on the Arizona Cypress tree shows that it is not a good tree for this planting zone.

Kelly Kim, of 2 Blackmer Road, stated that in his 5 years of living in the neighborhood, he has never received any communication from the ATC regarding any special events or expansion plans. He continued to say that good neighbors have good communication in letting people know when there is a large party or other event. He stated that there is a lack of trust with the neighbors regarding the ATC.

Cathrine Gilbert, of 4265 S. Eudora Street, stated that she has not received any communication from the ATC as she is not an immediate neighbor. She stated that the proposed changes only suit the purposes of the ATC. She continued to say that the ATC has no interest in improving the quality of life in the City. She stated that she thinks there is a push to get this approved before the Calkins property is developed. She stated that she would like to know how the cap on membership will be checked. She stated that these changes go against the Master Plan of the City.

Mr. MacKenzie stated that the output of LED light is scientifically proven to be less. He continued to say that the Clute property will likely be blocked from any light once the lot labeled as #1 on the Calkins property is developed. He continued to say that the ATC has never trespassed onto the Calkins property and that the fence was temporarily removed to bring in large amounts of clay in order to resurface the courts.

Mr. MacKenzie stated that the ATC can communicate with their membership regarding speeding, but they cannot control anyone who speeds down Dahlia Street in the City. He continued to say that the gravel in the parking lot is being raked weekly off of Dahlia Street.

Mr. MacKenzie stated that two of the neighbors who are in opposition tonight were in favor of the last proposal. He continued to say that the number of lights on the court have been reduced from 8 to 6 per court and are LED.

Mr. MacKenzie stated that the ATC is attempting to lessen the noise by making the paddle hut totally enclosed, as opposed to the original proposal, which had a rooftop deck. He continued to say that the ATC will find the correct species of tree for the area.

Mr. MacKenzie stated that he has not introduced himself to every neighbor in the area; but that the ATC would be glad to notify neighbors of special events.

Commissioner Blum asked Mr. MacKenzie to display sheet 1.0 again. He asked Mr. MacKenzie to indicate the existing and proposed landscaping. He continued to ask if the trees were deciduous.

Mr. MacKenzie replied that they were evergreen.

Vice Chair Savoie asked what the planting height of the new trees would be.

Mr. MacKenzie replied they would be 12 feet high at planting and would have drip line irrigation.

Commissioner Blum asked what the total height of the lighting was.

Mr. MacKenzie replied that the lights were 23 feet in height.

Commissioner Rubin asked if the elevation of the court could be dropped at all.

Mr. MacKenzie replied that the drainage could be complex if the court was lowered. He continued to say that the courts need a minimum of 28 inches below the surface for the gas heaters to blow. He continued to say that he has cypress trees at his own home which are 38 feet in height.

Commissioner Szymanski stated that lighting and parking seem to be the two main issues. He asked if the ATC would be willing to reduce the hours the courts were lit. He also asked when the existing lighting would be changed to LED.

Mr. MacKenzie replied that the lights would be changed immediately with all the other improvements.

Commissioner Szymanski asked if the Commission did not approve the plan would the ATC still move forward with the improvements.

Mr. MacKenzie replied that he was unsure, and that the ATC would complete the plan which they were previously approved for. He continued to say that this may delay construction of the paddle hut, but the Development Agreement is good for 3 years.

Vice Chair Savoie asked how the overflow parking would be handled.

Mr. Zuccaro replied that a condition of the previous proposal was the parking threshold and that the ATC would need to come to the City to show there was adequate parking. He stated this is similar to the processes the church sites follow.

Mr. MacKenzie stated that the development agreement stated the maintenance required for landscaping as well as new signage.

Commissioner Blum asked if the development agreement designated the height of the trees at planting.

Mr. Zuccaro replied that it would be an addition to the development agreement, as it currently does not specify sizes. He continued to say that the City code has minimum planting sizes listed.

Commissioner Rubin stated that he voted against the first proposal because of the setback variance that was requested. He continued to say that he was absent from the June hearing. He stated that the new proposal diminished the impact to the neighboring properties and that many concerns have been addressed.

Commissioner Blum stated that he agrees with Commissioner Rubin but he would like for the applicant to meet with Staff to discuss tree species and sizes.

Commissioner Szymanski stated that he agreed with both Commissioner Blum and Commissioner Rubin. He continued to say that he was fine with the location of the paddle hut. He stated that maybe the Commission could explore a connection between hours lighting is allowed and tree height.

Vice Chair Savoie stated that may be too complex. He asked if they could limit the hours of operation of the lights to end at 9 p.m.

Mr. Zuccaro stated that the Commission could recommend the restriction as a condition of approval.

Vice Chair Savoie stated that the ATC has done an admirable job. He stated that it is not the job of the Planning and Zoning Commission to regulate bad behavior, traffic, or if drivers stop at

stop signs. He stated if the proposed changes meet zoning criteria that is the concern of the Commission.

Commissioner Blum stated that the trees should be taller at planting.

Vice Chair Savoie stated the larger the tree at planting, the greater chance the tree will fail.

Commissioner Blum asked if there was a denser tree that could be planted. He continued to say that play on the court could be suspended at 9 p.m.

Commissioner Szymanski stated that any conditions of approval should include any conditions from the June 10, 2014 meeting which staff thinks are still relevant.

Mr. Zuccaro reviewed the conditions listed in the minutes from the June 10, 2014 meeting.

Commissioner Rubin made a motion, which was seconded by Commissioner Blum, to recommend approval of the request by the Arapahoe Tennis Club for an Expanded Use Permit to build a paddle court and paddle hut expansion with the following conditions:

1. The field north of the existing parking lot shall be designated an overflow parking area to accommodate 60 vehicles and include directional signage and a development restriction to ensure that the area is reserved for parking.
2. Noise limitation reflecting the requirements of Municipal Code Section 7-1-30(4).
3. Limitation on events that would exceed a demand for 110 parking spaces and an administrative approval process for special events exceeding this parking demand if the applicant demonstrates that adequate off-street parking can be provided.
4. The Development Agreement includes the restrictions presented by the applicant on the use of the timer for the lighting.
5. Landscape screening north of the Paddle Court 5 and on the north property line shall be installed at a height of 16 feet with the species determined by the applicant.
6. Lights on the Paddle Court shall be turned off from 9pm to Sunrise the next day.
7. The items agreed to by the applicant listed as numbers one through eleven on page three of the letter of intent included with the June 10, 2014 application that are determined to still be relevant by staff.

The following votes were recorded:

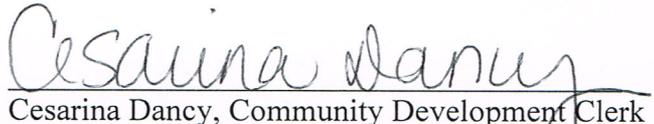
Vice Chair Savoie	yes
Commissioner Szymanski	yes
Commissioner Rubin	yes
Commissioner Blum	yes
Commissioner Wyman	abstain

The motion passed.

**ADJOURNMENT**

The meeting was adjourned at 8:17 p.m.

  
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Laura Christman, Chair

  
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Cesarina Dancy, Community Development Clerk