

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
June 2, 2016
1777 Broadway, Council Chambers

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PLANNING BOARD MEMBERS PRESENT:

John Gerstle, Chair
John Putnam
Bryan Bowen
Leonard May
Liz Payton
Harmon Zuckerman

PLANNING BOARD MEMBERS ABSENT:

Crystal Gray

STAFF PRESENT:

Charles Ferro, Development Land Use Review Manager
Hella Pannewig, Assistant City Attorney
Cindy Spence, Administrative Specialist III
Chandler Van Schaack, Planner II
Elaine McLaughlin, Senior Planner
Lane Landrith, Business and Special Events Coordinator, Community Vitality
Molly Winter, DUHMD Executive Director
Sandra Llanes, Assistant City Attorney

1. CALL TO ORDER

Chair, **J. Gerstle**, declared a quorum at 6:03 p.m. and the following business was conducted.

2. APPROVAL OF MINUTES

On a motion by **B. Bowen** and seconded by **J. Putnam** the Planning Board voted 6-0 (**C. Gray** absent) to approve the May 12, 2016 and May 26, 2016 minutes as amended.

3. PUBLIC PARTICIPATION

1. **John Driver** spoke in opposition to the project proposed at 1440 Pine, specifically the proposed elevations, zoning and density, and presented a handout.
2. **Rebecca Shoag** spoke in opposition to the project proposed at 1440 Pine, specifically the proposed mass and the compatibility with the current neighborhood.
3. **Scott Curry** spoke in opposition to the project proposed at 1440 Pine specifically the proposed mass and the compatibility with the current neighborhood.

4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS / CONTINUATIONS

- A. Call Up Item: SPARK Subdivision (TEC2016-00006) located at 3390 Valmont Road; 3085, 3155, and 3195 Bluff Street: Final Plat to replat the existing site into four lots and two outlots.

This item was not called up.

5. PUBLIC HEARING ITEMS

- A. AGENDA TITLE: Public hearing and consideration of a motion to recommend approval of an ordinance amending section 9-6-5(d) "Mobile Food Vehicle Sales," amending section 9-16-1(c) "Definitions" to redefine "Mobile Food Vehicle" to include human powered vehicles, amending section 7-6-28, B.R.C. 1981 "Bicycle Parking" and setting forth related details.

Staff Presentation:

- C. **Ferro** introduced the item.
L. **Landrith** presented the item to the board.

Board Questions:

- L. **Landrith**, S. **Llanes** and M. **Winter** answered questions from the board.

Public Hearing:

No one spoke.

Board Comments:

Key Issue: Does Planning Board support the staff recommendation regarding ordinance changes for human-powered mobile food vehicles, including:

- **Parking on roadway while conducting mobile food vehicle sales?**
- **Prohibiting sales in transit along paths where bikes are allowed?**
- L. **Payton** stated that she supports the ordinance, however since the ordinance includes bicycles, she suggested that perhaps the vendors should be allowed to go where cars cannot, such as parks (i.e. Scott Carpenter Park or North Boulder Park). Perhaps they could ride the paths rather than remain in a parking space in the lot.
- J. **Putnam** agreed. The challenge will be in finding a balance of where it will be appropriate. He suggested that it may be helpful for the city to zone some parks and/or spaces to allow for bicycles to not be restricted to pavement.
- B. **Bowen** added that a park environment would be safer for kids than a parking lot.
- J. **Gerstle** inquired if push carts would be included in this ordinance as well.
- J. **Putnam** suggested capturing the idea of providing zones in the city for allowable use which could be determined between now and City Council's determination within the motion. He stated that he is intrigued by the push carts, however concerned that it could raise questions surrounding pedestrian circulation. It would be worth looking into for the future.

- **H. Zuckerman** added that moving forward; the ordinance is acceptable as presented. He is also intrigued with zoning idea as presented by **L. Payton** and would like staff to look into how that could be done. He stated that he is not as concerned or interested in the push cart idea. The bicycle vending could become the character of Boulder vending.

Motion:

On a motion by **J. Putnam**, seconded by **H. Zuckerman**, the Planning Board voted 6-0 (**C. Gray** absent) to recommend approval of an ordinance amending section 9-6-5(d) “Mobile Food Vehicle Sales,” amending section 9-16-1(c) “Definitions” to redefine “Mobile Food Vehicle” to include human powered vehicles, amending section 7-6-28, B.R.C. 1981 “Bicycle Parking” and setting forth related details. Planning Board further recommends amending the current draft ordinance to include provisions for off-pavement sales in appropriate locations identified by the city in parks and other such places.

On a motion by **J. Gerstle**, seconded by **L. May**, the Planning Board voted 4-2 (**B. Bowen** and **H. Zuckerman** opposed, **C. Gray** absent) to recommend that staff consider and develop additional proposals that would address the use of push carts in public areas for vending food.

- B. AGENDA TITLE:** Public hearing and consideration of a request for a two-story, 766 square foot rear addition to an existing single family home to convert the residence into a tri-plex, located at 2949 Broadway with a request for a 37.5 percent parking reduction and a reduction in lot area per dwelling unit from 3,000 square feet to 2,076 square feet within the RH-2 zoning district. Case no. LUR2014-00097.

Applicant: Michael Bosma
Owner: ALR Investments LLC

Board members were asked to reveal any ex-parte contacts they may have had on this item.

L. May disclosed that due to the historic nature of the home his wife currently sits on Landmarks Board and he currently sits on the Historic Boulder Board. He affirmed that this item has not been discussed. In addition, the architect on the project was once a client of his approximately seven years ago. **L. Payton** attended the Landmarks Board meeting on June 1, 2016 and this item was discussed.

Staff Presentation:

C. Ferro introduced the item.

E. McLaughlin presented the item to the board.

Board Questions:

E. McLaughlin answered questions from the board.

Applicant Presentation:

Michael Bosma, the applicant, presented the item to the board.

Board Questions:

Michael Bosma the applicant and **Tom Jarmon** with ESA Architects answered questions from the board.

Public Hearing:

No one spoke.

Board Comments:

Key Issue #1: Does the project, with its proposed reduction in lot area per dwelling unit meet the Site Review Criteria?

Key Issue #2: Does the 37.5 percent parking reduction meet the review criteria under section 9-2-14(h)(2)(K), B.R.C.?

- **L. Payton** expressed that it is great that a building on Broadway is being landmarked. She agreed with the applicant that this will be a benefit for the community and add an important structure to the city's landmark portfolio. Her only concern is with the requirement to differentiate the proposed new structure from old building in such an excessive manner (i.e. different width and color on the board and batten). There is no risk that the proposed addition will be misinterpreted as part of the original structure. She encouraged using the same siding and colors as the main historical structure to be more compatible. She would like to have a condition added that would encourage the Landmarks Board to require the finishes to be more compatible. She supports the project and has no issues with the proposed parking reduction.
- **J. Putnam** agreed with **L. Payton**. The project meets the BVCP policy consistency and Site Review criteria. Two new quality housing units will be provided where they are needed and consistent with the community. He agrees with the parking reduction assessment. The housing should be looked at for wide variety of uses, not just student housing as a number of people could benefit.
- **L. May** agreed but would like to recommend adding, to the maximum extent possible, that the addition be shifted three feet to the west to allow space from the historical structure. He would like to give this recommendation to Landmarks Board. He clarified that this would not be a breezeway, but gives more separation between the mass of the addition and the primary structure.
- **B. Bowen** offered a condition to create a bicycle/pedestrian connection from the south side all the way through the proposed site to the alley; specifically "Landscape Area 6" should be replaced with hardscape.
- **H. Zuckerman** acknowledged that he approves of the proposed project. He supports the density of the project and does not see the parking adjustments as an issue.
- **J. Gerstle** agreed and approves of the project. Regarding the unbundled parking, he clarified with the applicant that all parking spaces will be unbundled with the requirement that, if desired, each unit would have one priority spot that would be offered with a separate lease payment. The applicant agreed with this.

Motion:

On a motion by **H. Zuckerman**, seconded by **B. Bowen**, the Planning Board voted 6-0 (**C. Gray** absent) to approve Site Review application # LUR2014-00097 subject to the conditions of

approval listed below and adopting the staff memorandum and its attachments as findings of fact, with the addition of two conditions:

1. The south sidewalk be extended across the entire property from east to west replacing the “Landscape Area 6” with pavement for bicycle access and pedestrian access.
2. The addition be located as far west as can be accommodated by site constraints, particularly the back-up area, to create as much separation as possible between the massing of the primary structure and the addition.

Friendly amendment made by **L. Payton**, that Planning Board recommend a condition that the finishes on the addition be adjusted to be more sympathetic and compatible with the historical structure. Friendly amendment was accepted by **H. Zuckerman**.

- C. AGENDA TITLE: Public hearing and consideration of a NONCONFORMING USE REVIEW (LUR2015-00118) request to amend the approved operating characteristics for the Alpine Modern Café at 904 College Ave. within the RL-1 zone district to allow for beer and wine sales during regular business hours, and to extend the closing time from 7:00 p.m. (existing) to 9:00 p.m. (proposed) Mondays through Thursdays. No other changes to the existing operating characteristics are proposed.

Applicant: Lon McGowan
Owner: James Carter

Board members were asked to reveal any ex-parte contacts they may have had on this item.
J. Gerstle disclosed that he used to live in the neighborhood where 904 College is located. **J. Putnam** rides his bicycle by the location regularly.

Staff Presentation:

C. Ferro introduced the item.
C. Van Schaack presented the item to the board.

Board Questions:

C. Van Schaack answered questions from the board.

Applicant Presentation:

Lon McGowan, the applicant, presented the item to the board.

Board Questions:

Lon McGowan, the applicant, answered questions from the board.

Public Hearing:

No one spoke.

Board Comments:

Key Issue #1: Is the proposal consistent with the Use Review criteria including the additional criteria for Modifications to Nonconforming Uses set forth in Sections 9-2-15(e) and (f), B.R.C. 1981?

- **B. Bowen** stated that he appreciates that this place exists and should exist in every neighborhood in Boulder. He had concern with the proposed steel split-rail fence and suggested doing something more artful.
- **L. Payton** expressed concern that she has observed other restaurants with outdoor seating that serve alcohol and that do not have amplified music yet they can still be heard on the street and are loud. With outdoor seating for 12-15 people, she is concerned with the noise level. Staff responded by informing the board that the applicant would have to obey the existing noise ordinance and that their liquor license would control them from moving onto the sidewalk.

Motion:

On a motion by **B. Bowen**, seconded by **J. Putnam**, the Planning Board voted 6-0 (**C. Gray** absent) to approve the Use Review application LUR2015-00118, adopting the staff memorandum as findings of fact, including the attached analysis of review criteria, and subject to the recommended conditions of approval found in the packet.

6. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

A. Changes to Tax Credits Available for Residential and Commercial Restoration of Historic Structures

- **L. Payton**, after attending the June Landmarks Board meeting, informed the Planning Board of the details regarding state tax credits that are available for residential and commercial restoration of historic structures. The tax credits were passed in 2014 and will continue to be used in 2016. The fund has doubled in 2016. There are two types of tax credits – Residential Tax Credits and Commercial Tax Credits.

A residential homeowner can obtain a 20% credit for work on a historic/landmarked house up to \$50,000 in credits. There is no statewide cap on the number of people who can apply within the year. One can transfer the credit or apply it over ten years. In addition, one is no longer required to retain the property.

The commercial credits have changed in that the property owner can sell the property immediately after doing the work and receiving the tax credit. The commercial development can receive up to a million dollars in tax credit. Statewide, there is ten million dollars available and it is on a first-com first-serve basis and renews every year. It begins in July 2016 and can be applied for online. The commercial fund is split into two different funds – small vs. large projects. In addition, non-profits can get tax credits, which can be sold. **L. Payton** suggested that this could possibly open up opportunities for coop housing to restore historic structures and have a source of income, through the sales of tax credits. She suggested that the preservation be considered as an element of

Boulder's Coop Ordinance. Finally the building must be landmarked at the time the tax credits are issued and the work must be completed by December 31, 2019.

B. Collaboration between the EAB and Planning Board

- **J. Gerstle** inquired with staff if any further discussions had taken place regarding the involvement of the Environmental Advisory Board (EAB) with Planning Board.
- **H. Pannewig** informed the board, after reviewing the Boulder Revised Code (BRC), that the EAB's involvement with Planning Board may be limited. The only advice which the EAB can give advice to the Planning Board would be master plans that the Planning Board would be responsible for making a recommendation on. She advised to the Planning Board that EAB involvement would be beyond the jurisdiction that is allowed to them as granted by the BRC. She recommended to the EAB that if they would want to address the Planning Board, to do it in an individual capacity (i.e. sending an email, letter or speaking under Public Participation).
- **J. Putnam** stated that having the EAB address the board on an individual level would be helpful since they are experts in energy efficiency, solar, etc. He suggested they could send the board emails related to those matters. His concern would be if EAB addressed the board in a more formal manner, then it could open the door for other boards to do the same.
- **B. Bowen** agreed. Individual communication would be preferred. If want to present to the Planning Board as the EAB, then their legal staff should be consulted and perhaps a joint board session should be scheduled.
- **H. Zuckerman** added that a challenge in working with EAB is that the Planning Board has statutorily set guidelines for reviewing projects based on criteria. The EAB is allowed to participate according to legal staff in policy areas and assist in master plans. Having this type of input to formulate environmental criteria would be beneficial.
- **L. May** understood that the involvement of EAB was more policy related. He asked staff if EAB's input could extend to areas such as the building code or energy code updates.
- **H. Pannewig** stated that the role of the EAB is not to advise the Planning Board but to advise City Council who set the policies. But she agreed with **L. May** that if Planning Board could benefit from a joint board meeting and input from the EAB that it would be possible to have one.
- **L. Payton** agreed with **L. May** that perhaps there is a way Planning Board could work with EAB in a joint board meeting to identify areas in our code that do not address the most recent ideas of energy conservation.
- **J. Gerstle** stated that he would respond to EAB inquiries to inform them of the recommendations of the City Attorney and the Planning Board comments.

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The Planning Board adjourned the meeting at 8:26 p.m.

APPROVED BY

Board Chair

DATE

DRAFT