

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
December 1, 2016
1777 Broadway, Council Chambers

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PLANNING BOARD MEMBERS PRESENT:

John Gerstle, Chair
Liz Payton, Vice Chair
John Putnam
Leonard May
Crystal Gray
Harmon Zuckerman

PLANNING BOARD MEMBERS ABSENT:

Bryan Bowen

STAFF PRESENT:

Charles Ferro, Development Review Manager
Hella Pannewig, Assistant City Attorney
Cindy Spence, Administrative Specialist III
Susan Richstone, Deputy Director of Planning
Sloane Walbert, Planner II
Edward Stafford, Development Review Manager
David Thompson, Civil Engineer II-Transportation

1. CALL TO ORDER

Chair, **J. Gerstle**, declared a quorum at 6:02 p.m. and the following business was conducted.

2. APPROVAL OF MINUTES

3. PUBLIC PARTICIPATION

- a) **Kari Palazzori**, with Studio Arts Boulder, gave an update of events, enrollment and fess at the Pottery Lab and thanked the board for their support.
- b) **Bruce Thompson**, representing the Frasier Meadows Flood Mitigation Committee, urged the board to continue its efforts with the south boulder mitigation project.
- c) **Al Lablang** urged the board to continue its efforts with the south boulder mitigation project.

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

- A.** Call Up Item: Floodplain Development Permit (LUR2016-00103); 1770 13th Street. This decision may be called up before Planning Board on or before December 5, 2016.
- B.** Call-Up Item: NONCONFORMING USE REVIEW to in-fill existing high volume ceiling resulting in an additional 204 square feet of floor area split between four separate apartment units in existing common areas and bedrooms at 949 Marine Street. The proposal also includes replacing and expanding the existing exterior balconies on the north and south facades of the apartment building (case no. LUR2016-00024). The project site is zoned Residential – Mixed 1 (RM-1). The call-up period expires on December 6, 2016.
- C.** Call Up Item: Wetland Permit (LUR2016-00084); Boulder Creek Confluence Restoration. This decision may be called up before Planning Board on or before December 5, 2016.
- D.** Call Up Item: Wetland Permit (LUR2016-00074); La Mesa Drive. This decision may be called up before Planning Board on or before December 5, 2016.
- E.** Call Up Item: Minor Subdivision (LUR2016-00032); 2935 19th Street. This decision may be called up before Planning Board on or before December 6, 2016.

None of the items were called up.

5. PUBLIC HEARING ITEMS

- A. AGENDA TITLE:** Public hearing and Planning Board consideration of the following items relating to the property at 3303 Broadway:
 - 1. Consideration of a Boulder Valley Comprehensive Plan (BVCP) land use map change request for the property from Public (P) to High Density Residential (HR) (case no. LUR2016-00089);
 - 2. In conjunction with the requested land use map change described above, recommendation to City Council on a request to rezone the property from Public (P) to Residential - High 2 (RH-2) (case no. LUR2016-00041);
 - 3. Consideration of a Site Review application to redevelop the 1.3-acre property with two 3-story buildings containing approximately 57,000 square feet of floor area. The south building would include approximately 12,000 square feet of commercial area for office and retail uses, 34 efficiency living units (less than 475 square feet) and 10 apartments. The north building would include 6 townhomes with attached garages. The proposal includes a request for a 33% parking reduction to allow for 68 parking spaces, where 101 are required per the land use code. The applicant is seeking to create vested property rights as provided for in section 9-2-19, B.R.C. 1981 (case no. LUR2016-00042).

4. Consideration of a Use Review application for a neighborhood business center and 34 efficiency living units, which is 68 percent of the proposed residential units. The neighborhood business center would include convenience retail uses, restaurants, personal services, offices, and indoor recreational or athletic facilities, which require Use Review approval to operate in the RH-2 zone district. The applicant is seeking to create vested property rights as provided for in section 9-2-19, B.R.C. 1981 (case no. LUR2016-00090).

Applicant: Fulton Hill Properties
Owner: 3303 Broadway LLC

Board revealed any ex-parte contacts they may have had on this item.

- **J. Gerstle** stated that he had prior contact with the owner, Margaret Freund, when she was first considering this project and opponents to the item in an informal manner. He has not had any contact with them since that time, therefore he can remain impartial on this issue.
- **L. May** has had no contact, however he lives in the neighborhood. He his outside of the 600-foot required radius buffer.
- **C. Gray** stated that in addition to a site visit, her only contact has been the email correspondence which was received by all board members.
- **L. Payton** stated she has not had any contact with individuals, but she did read a letter to the editor in the Daily Camera in which the contents were similar to the emails that the board has received from the public.
- **H. Zuckerman** stated he recently spoke with the attorney for the project, and the attorney's comments regarding the staff's recommendations mirrored the email which the attorney sent to the Planning Board's email list. Several months ago, he spoke to a potential tenant of the project, however **H. Zuckerman** was unaware of the project at 3303 Broadway at the time. He said that neither of those communications would affect his ability to judge the project on its merits. He stated he would base his decision solely on the information within the packet provided by staff, public comments, and staff's presentation which have been publicly provided.
- **J. Putnam** had none to disclose.

Staff Presentation:

- C. Ferro** introduced the item.
S. Walbert presented the item to the board.

Board Questions:

S. Walbert, C. Ferro, E. Stafford and **D. Thompson** answered questions from the board.

Applicant Presentation:

Margaret Freund, the owner, and **Jeff Dawson**, the owner's representative, presented the item to the board.

Board Questions:

Jeff Dawson, with the Studio at Morgan Creek, and **Chris McGranahan**, with LSC Transportation Consultants, answered questions from the board.

Public Hearing:

1. **David Phillips** spoke in opposition of the project.
2. **Brad Gilbert** spoke in support of the project.
3. **Amanda Bickel** (pooling time with **Tom Mayer, Fred & Betsy Fehsenfled, and Ken Osborn**) spoke in opposition of the project.
4. **Virginia Pine** spoke in support of the project.
5. **Dan Powers** spoke in support of the project.
6. **Peter Mayer** spoke in opposition of the project.
7. **Sara Mayer** spoke in opposition of the project.
8. **Renee Weisinger** (pooling time with **Dylan Weisinger-Flood** and **Aaron Weisinger-Flood**) spoke in support of the project.
9. **Angelique Espinoza** spoke in support of the project.
10. **Ronica Roth** spoke in support of the project.
11. **Roger Lewis** spoke in support of the project.
12. **Sean Kelly** spoke in opposition of the project.
13. **Lesley Smith** spoke in support of the project.
14. **David Adamson** spoke in support of the project.
15. **Bob Wells** spoke in opposition of the project.
16. **Francoise Poinsalte** spoke in support of the project.
17. **Tricia Martines** spoke concerning the current and proposed traffic from the project.
18. **Peter Van Laanes** spoke in opposition of the project.
19. **Lanning Schiller** (pooling time with **Kurt Swingle**) spoke in opposition of the project.
20. **Tommy Stover** spoke in opposition of the project.
21. **Alexis Schwartz** spoke in opposition of the project.
22. **Alice Levine** spoke in opposition of the project.
23. **Anne Ross** spoke in opposition of the project.
24. **Eric Budd** spoke in support of the project.
25. **Sharon Bundy** spoke in support of the project.
26. **Barbara Roach** spoke in opposition of the project.
27. **Jill Grano** spoke in support of the project.
28. **Greg Smith** spoke in support of the project.
29. **John Polluck** spoke in support of the project.
30. **Robert Webb** spoke in opposition of the project.
31. **Amy Webb** spoke in support of the project.
32. **Regina Cowles** spoke in opposition of the project.
33. **Margaret Alfonso** spoke in opposition of the project.
34. **Karen Simmons** spoke in opposition of the project.
35. **Jerry Shapins** spoke in support of the project.
36. **Judy Nogg** (pooling time with **Ray Meyers, Nick Delarippa, Sara Levin** and **Linda Curry**) spoke in opposition of the project.
37. **Andre Meneghel** spoke in support of the project.
38. **Will Toer** spoke in support of the project.
39. **Bill Butler** spoke in support of the project.
40. **Diane Dvorin** spoke in support of the project.
41. **Jeanne Walsh** spoke in opposition of the project.

42. **Sue Black** spoke in opposition of the project.
43. **Sam Iannette** spoke in support of the project.
44. **Rosia Parrish** spoke in support of the project.
45. **Ed Byrne** (pooling time with **Carolyn Young**) spoke in support of the project.
46. **Macon Cowles** (pooling time with **Benita Duran**) spoke in support of the project.
47. **Danielle Levine** spoke in opposition of the project.
48. **David Cook** spoke in support of the project.

Board Comments:

Key Issue #1: Is the request for a change to the BVCP land use designation consistent with the criteria for land use map changes?

- **C. Gray** stated that the most appropriate land use map change would be *Medium Density* designation because of existing gradations within *Medium Density*. That designation would still be compatible with the existing surrounding land use.
- **L. Payton** agreed and objected to a *High Density* designation. It would be appropriate to have residential and attached housing in this location. This is a predominantly low density neighborhood and an increase to a *Medium Density* land use designation would make sense in this location. The current Comp Plan policies regarding preservation regarding residential neighborhoods were correct and this area needs to be a safer place.
- **J. Putnam** stated that, generally, the project meets the Comp Plan goals but it needs detail in terms of neighborhood compatibility. He agreed it would meet middle-income housing needs, would be located on a transit rich location and the mixed use would be a benefit to this neighborhood. He agreed with staff's analysis regarding the Site Review, however he is not ready to approve a land use designation change without a plan on the corridor, neighborhood or site. He said that a map change could be done in the future and that a *Residential High* designation might be compatible.
- **L. May** agreed and stated he is not comfortable with the project as it seeks to change nearly every aspect of the planning regiment within one site. The setback detail should be part of a larger planning effort and the project should be part of a larger corridor plan. He agreed that there are shortcomings in the proposed Site Review. He suggested that if the project were done as part of a Comp Plan update, then there would be an opportunity to create a land use category which could then lead to another zoning category that is *High Density* but not as broad as the existing one.
- **H. Zuckerman** said that he is fundamentally unopposed to the plan in this location with respect to the proposed height, density and mixed uses. He does not believe that this project would need an area plan to be approved and could stand alone since it would be located on Broadway and provide necessary services. He agreed with **J. Putnam** that the project may need to be worked out more completely to approve the land use change.
- **J. Gerstle** agreed with the staff recommendations and that the current *Public* use designation is appropriate.
- **C. Gray** encouraged people to get involved with the Broadway corridor process and gave an example of a situation within her own neighborhood of changing the zoning to something that may be more appropriate which was done in part of an entire plan, not just rezoning of one section.
- **J. Putnam** added that is appropriate to rethink the designated use of the space to something other than *Public* use, however at this time, the case has not been made to

change it to *Residential High* status. In addition, he would not support a Broadway corridor plan or area plan for this location.

- **L. Payton** rebutted saying she would support a corridor plan. If there were broad corridor plan, then any future project would make sense and enhance safety and this should be set as a goal.

Motion:

Motion by **J. Putnam**, seconded by **H. Zuckerman**, that Planning Board not approve the land use change request for the property from Public to High-Density Residential (case no. LUR2016-00089). 6-0 (**B. Bowen** absent).

Key Issue #2: Is the rezoning request consistent with the goals and policies of the BVCP and the criteria for rezoning in section 9-2-19, B.R.C. 1981?

- **J. Putnam** stated that there is no compelling basis that the project is consistent with the BVCP and the applicant has not shown by clear and compelling evidence that this location should be rezoned.
- **L. Payton** stated the criteria for rezoning are clear and without the land use map change, the board does not have a good rationale for changing the zone.

The applicant requested from the board a recess in order to consult on whether they would like to withdraw their application or continue the board's deliberations. The board took a short recess. The applicant returned with their decision to not withdraw and continue with the board's deliberations. The applicant would prefer the Planning Board make a decision and the applicant could return with a substantially revised project within one year for review.

- **J. Putnam**, regarding the rezoning request, stated that given the denial of the land use designation, it would make sense to deny the rezoning.
- **C. Gray** agreed with **J. Putnam** and staff's recommendation.
- **J. Putnam** added that despite the denial tonight, it does not mean that the rezoning could not be done at a future date especially if the applicant were to show changes to the site plan.
- **L. May** agreed and added that a solution to this site would be to come up with a different zoning designation, with a narrower range, and a high density category.
- **H. Zuckerman** added if the land map use change were in effect, he could support the rezoning change based on Criterion 5 that the change would be in the public interest to encourage redevelopment in the area recognizing change of character and based on Criterion 6 that proposed rezoning is necessary to provide land for a community need that was not anticipated because the proposed change aims at the missing middle.

Motion:

Motion by **J. Putnam**, seconded by **H. Zuckerman**, that Planning Board recommend to City Council to deny a request to rezone the property from Public to Residential-High 2 (case no. LUR2016-00041). 6-0 (**B. Bowen** absent).

Key Issue #3: Does the proposal meet the Site Review Criteria of section 9-2-14(h), B.R.C. 1981?

- **L Payton** agreed with the staff analysis. She stated that the proposal did not meet the circulation criteria, otherwise she agreed with the rest of the sited criteria.
- **C. Gray** thought the building's design mass and scale was incompatible with those found in the area. She suggested that the building should be more broken up. Regarding the parking, she thought it may be proposing too much for the site. There could be a better use of the proposed open space. Finally, the proposed number of units is too high.
- **J. Putnam** agreed with the staff analysis. He recommended the applicant review the useful open space, unit count, parking and height. He suggested the applicant look at an option of roof top decks. He agreed that cut-through traffic should be reviewed and discouraged with design.
- **L. May** agreed. A persuasive case has not been made in regards to flood and parking considerations. The design work is continuing to evolve; therefore, the board cannot approve it at this time. While the open space requirements have been met numerically, they lack usable space. He would support a significant parking reduction. The traffic study has not addressed the expanded school hours in terms of parking and traffic. He would support the mixed use. Finally, middle-income housing is not substantially addressed and encouraged permanently affordable housing rather than market rate.
- **H. Zuckerman** stated that he has no issue with the proposed open space. In addition, he generally approves of the building design. He suggested more of a mix of one to three bedroom units rather than townhomes and perhaps breaking up the building. He offered the idea of a stormwater management system, a bus turnout and pedestrian safety features.
- **J. Gerstle** agreed with **L. May's** comments. He said that he is least concerned regarding the proposed parking. He agreed with the board and staff's comments.

Motion:

Motion by **J. Putnam**, seconded by **H. Zuckerman**, that Planning Board deny Site Review application LUR2016-00042, incorporating the staff memorandum and the attached criteria checklists as findings of fact. 6-0 (**B. Bowen** absent).

Key Issue #4: Are the proposed uses requiring Use Review consistent with the Use Review criteria as set forth in subsections 9-2-15(e) and 9-6-9(f), B.R.C. 1981?

- **C. Gray** agreed with staff recommendations and stated the proposed neighborhood business center would be too large and the uses were not defined. It would add to the burden of traffic and non-conformity of site. She presented that if there were more townhomes and less efficiency units, there would be a better diversity of housing options.
- **L. Payton** agreed. She recommended the applicant work with the neighborhood regarding the desired commercial space. In regards to the proposed efficiency units, the applicant needs to look at a better middle-income type of housing, such as duplexes and townhomes. She would support more townhomes and less efficiency units.
- **J. Putnam** would support a denial of the Use Review however he does not see efficiency units as a negative type of proposed unit. They have a roll, have a place at

this location and would help support a parking reduction. It would create a better definition of mixed use space. He would support the mixed use element proposed but it needs more details.

- **L. May** agreed.
- **H. Zuckerman** stated the proposed uses are adequate, noting that on p. 360 of the staff report, the applicant provided enough detail on the proposed uses by category that staff could calculate the parking needs for the project.
- **J. Gerstle** agreed with staff recommendations and **J. Putnam's** comments.

Motion:

Motion by **J. Putnam**, seconded by **H. Zuckerman**, that Planning Board deny Use Review application LUR2016-00090, incorporating the staff memorandum and the attached criteria checklists as findings of fact as well as the recommended findings of denial in the packet. 6-0 (**B. Bowen** absent).

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

A. Annual Letter to City Council

Board Comments:

- The board agreed to meet on Monday, December 5, 2016 from 8:30-10:00a.m. at the Park Central Building, Olmsted Conference Room to discuss the annual letter to City Council and possible topics.
- The Planning Board Subcommittee regarding Community Benefit will meet following the annual letter to City Council meeting at 10:00a.m. on Monday, December 5, 2016. The location will be determined.

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The Planning Board adjourned the meeting at 11:57 p.m.

APPROVED BY

Board Chair

DATE