



**MINUTES OF THE REGULAR MEETING OF THE  
ARAPAHOE COUNTY PLANNING COMMISSION  
TUESDAY, FEBRYARY 2, 2016**

<b>ATTENDANCE</b>	<p>A regular meeting of the Arapahoe County Planning Commission was called and held in accordance with the statutes of the State of Colorado and the Arapahoe County Land Development Code. The following Planning Commission members confirmed their continued qualification to serve:</p> <p>Brian Weiss, Chair; Paul Rosenberg, Chair Pro-Tem; Richard Rader; Jane Rieck; Richard Sall, and Diane Chaffin.</p> <p>Also present were: Robert Hill, Senior Asst. County Attorney; Chuck Haskins, Engineering Services Division Manager; Sarah White, Engineer; Sherman Feher, Senior Planner; Jason Reynolds, Current Planning Program Manager; Diane Kocis, Oil &amp; Gas Specialist; Jan Yeckes, Planning Division Manager, and members of the public.</p>
<b>CALL TO ORDER</b>	Chair Weiss called the meeting to order at 6:30 p.m. and noted a quorum of the Board was present.
<b>DISCLOSURE MATTERS</b>	There were no Planning Commission member conflicts with the matters before them.
<b>GENERAL BUSINESS ITEMS:</b>	
<b>APPROVAL OF THE MINUTES</b>	<p><b>The motion was made by Mr. Rosenberg and duly seconded by Mr. Sall to accept the minutes from the January 5, 2016 Planning Commission meeting, as presented.</b></p> <p><b>The motion passed unanimously.</b></p>
<b>REGULAR ITEMS:</b>	
<b>Item 1:</b>	<p><b>Z15-003, Denver Jewish Senior Living / Preliminary Development Plan (PDP) – Molly Orkild-Larson, Senior Planner, Public Works and Development (PWD) – Continued from January 19, 2016</b></p> <p>Ms. Orkild-Larson noted the case had been continued from January 19, 2016, at the applicant’s request, to address the facility’s building height and parking. She reported additional information had been provided in the board packets. She explained several</p>

email messages had been received from a resident of the Cherry Creek Country Club, which included a letter addressing building heights, signatures of neighbors, and photographs. She stated that citizen, Mr. Laws, was present for the meeting.

John Griffis, Buccaneer Development, presented a PowerPoint, a copy of which was retained for the record. He indicated the building height and parking were further studied and an update had been provided as part of the Planning Commission (PC) packets. He reported the current agreement with the Denver Jewish Day School was for 28 shared parking spaces in addition to the 28 on-site spaces, for a total of 56 spaces available. He said Land Development Code (LDC) 12-1207 allowed for a 10% administrative reduction by the Planning Division Manager, which had been approved. Mr. Griffis presented building height industry standards, a comparison to other developments in the immediate neighborhood, and the reasons for the additional building height for the proposed three-story facility. He stated Hunters Run Apartments, Highline Glen Apartments, and the Cherry Creek Country Club clubhouse had heights of 45 feet, 45 feet, and 55 feet, respectively. He reported resident expectations led to the decision for ten-foot ceiling heights throughout the building and to maximize windows and light coming into the building. Mr. Griffis provided comparisons to the Memory Care/Assisted Living Case Study Village at Belmar for a three-story building with a 47-ft height with rooftop mechanical equipment.

Nathan Paul, architect for the project in Lakewood, explained the building profile for that facility including architectural supports, trusses for a low-slope (“flat” roof) and screened mechanical equipment. He reported the building sloped from 44 feet to 42 feet, and the RTU equipment increased the total height to 47 feet for only a portion of the building. He explained the first-floor height and the plate-to-plate floor heights for the second and third stories. Mr. Paul also explained the Denver Jewish Senior Living project was proposed to have a flat roof with a parapet to surround.

Mr. Rosenberg noted the history of the school and said schools sometimes closed and were changed to other uses. He asked whether the parking spaces would be deeded to Denver Jewish Senior Living if that occurred.

Mr. Griffis stated he did not believe that kind of change was likely in the foreseeable future; however, in that case, the owners would work with the school prior to the sale of the property to ensure continued access necessary parking spaces.

Mr. Weiss asked whether the parking spaces for Denver Jewish Senior Living could be signed as reserved for them.

Mr. Griffis believed it could be done. He, again, noted the rooftop mechanical equipment would require only a limited fraction of the overall building area for additional height. He explained that different jurisdictions calculate building heights in different ways; some required including any rooftop mechanical equipment and others exclude that from the building height limitations (i.e., mechanical equipment can exceed the “building height”). Mr. Griffis also stated they had reviewed Mr. Law’s letter and prepared a written response, which was distributed to the PC. He also presented letters of support from other residents within the Cherry Creek Country Club.

The PC paused briefly to review these documents.

Mr. Rosenberg asked whether the apartments referenced were in Denver or Arapahoe County.

Susan Stanton replied they were in Arapahoe County. She had the approved Preliminary Development Plan (PDP) documents and noted the formal name on the PDP did not match the current marketing name, in some cases.

There were additional questions, answers from staff, and discussions related to the distributed materials.

Mr. Weiss questioned the need for ten-foot ceilings for residential use.

Mr. Paul explained the use of oversized windows allowed light to reach deeper into the units. He also gave an explanation for the need for oversized air ducts and diffusers to lower the velocity of air blowing, for resident comfort. He stated all mechanical equipment was contained within each unit, and common areas were desired to have the higher floor-to-ceiling height. Mr. Paul reported corridors would include ceiling-enclosed equipment, so the ceiling heights dropped to 8.5 feet; however, the plates remain consistent across the entire story.

Mr. Weiss had additional questions about architectural options to accomplish the needs of the building, which Mr. Paul addressed in detail.

Mr. Rader asked for clarification as to why this couldn't be dropped to an 8.5-ft ceiling height.

Mr. Rosenberg indicated he was not present for the previous hearing and asked for clarification that no changes were made to building height from the previous hearing;

Mr. Griffis confirmed that his understanding was correct.

There were additional discussions on differences between hotel occupancy and residential occupancy and the value of higher ceilings to make units of approximately 400 square-feet in size feel more spacious to the resident and how that differed from a typical multi-family building.

Mr. Weiss reopened the public hearing due to the new information presented.

Rich Laws, a resident of Cherry Creek Country Club (CCCC), discussed the different use of the property in comparison to the Comprehensive Plan (Comp Plan) and felt the applicant should be required to apply for a Comp Plan amendment. He mentioned other concerns and cited the building height as his greatest concern. He noted the CCCC clubhouse was in the middle of the development; whereas, the proposed building was adjacent to Wabash St. He stated homes in the area were limited to 35 feet in height to preserve view corridors. He noted the visual impact of the proposed building and the setback from Wabash and compared those to buildings on Colorado Boulevard (Denver). Mr. Laws also asked about height limitations comments relative to the Comp Plan and SubArea Plan as he could not find a height limitation stated in the Comp Plan. Mr. Laws also noted the impact of terrain on the need for additional building height to achieve multi-story buildings in the area and that most of these buildings were not at the maximum allowed height. He had consulted with an architect and received an explanation that a 40-foot building height could accommodate the use proposed in a three-story building. He referred to the materials he had submitted to Ms. Orkild-Larson to forward to the PC. He also disputed materials presented by the applicants and that he believed there was some confusion on what these documents represented. Mr. Laws said he went door-to-door in the neighborhood and many of the residents had lost touch with the project given the time that had passed since the neighborhood meetings. He said many supported the use and the density, but did have concerns with the height. He believed the use was good, a Comp Plan amendment was needed, the parking was not a concern,

and a lower building height was more appropriate.

Mr. Avi Hazel, Denver Jewish Day School, said it made him nervous to hear people talk about discontinuing the school and noted they were celebrating the 40-year anniversary. He reported the school was investing in replacing older buildings with new and updated buildings. He read a letter from the Board of Denver Jewish Day School in support of the senior living facility and providing a history of the decision and efforts to market the property to better support the school. He stated Denver Jewish Day School believed the faith-based senior living facility would be a complementary element to the campus and cited other benefits of the relationship of these two uses, including the shared parking arrangement. He asked the PC to support the project. He also noted many opinions were being offered about how to address the facilities within one building height or another. Mr. Hazel said Denver Jewish Senior living needed the building height to build and market the facility adequately. He was quite concerned about the possibility of losing the project.

Mr. Rosenberg asked if Mr. Hazel was familiar with another senior living facility that was approved near this location with a 38-ft building height.

Mr. Hazel stated he did not know the details of the facility and how it might differ from the proposed project.

Mark Lampert, representing the Four Square Mile Neighborhoods Association, noted Hunters Run and Highline Glen were developed before the 4SM SubArea Plan was developed and before the neighborhood organization was established. He stated the proposed project did not factor into the 4SM Comp Plan except that development such as this led to the need for the plan in the first place. He noted PC support for maintaining lower building heights. Mr. Lampert reported the site was the lowest area of the 4SM region and that other taller buildings had been built to work within areas of variable and higher terrain. He noted the balloon visualization study to demonstrate building heights, proposed within the development of CCCC.

The developer agreed to maintain a height of 35 feet for the homes.

Mr. Lampert referenced a successful senior living development in Lakewood and said they did not find the need for this building height. He also asked why the air conditioning units must be mounted on the roof, with the additional floor heights proposed. He

stated there was an earlier meeting, after which, 42 feet was offered, but that there was no follow-up information to propose this height. He stated the project didn't need to be the Taj Mahal of senior living centers. Mr. Lampert referenced the stair-stepping of the building height for the Lugano at Cherry Creek Apartments project on Iliff worked to facilitate a higher maximum building height, with lesser impact to adjoining properties. He asked the PC to recommend approval of the project, but at a much lower height.

There were no further public comments.

The public hearing was closed.

Mr. Griffis addressed the various concerns. He stated they could build at 35 feet; however, the senior living center referenced with a 38-ft building height, was never built. He said the developer walked away from the project. He stated this project was not the Taj Mahal by any means and disagreed with the logic that this project could be marketed and built, at a specified height today, because other older buildings already exist with these heights. He addressed the comment that the building directly abuts Wabash and noted that a regional detention center with no development was directly across Wabash, and that there were no directly-adjoining residential properties. Mr. Griffis noted the golf course properties were 1,000 feet away from the proposed building and were on the far side of the Denver Jewish Day School buildings from the proposed building site. He felt the impact to the townhouses would be negligible and noted the existing brick perimeter wall. Mr. Griffis discussed current trends in homebuilding and said today's market called for higher ceiling heights, including many of the homes within CCCC neighborhood. He further discussed neighborhood outreach, with the 4SM group, and stated the original proposal was for a 55-ft maximum height in order to avoid an artificial ceiling given they didn't yet have building plans. He felt they had reached general agreement on the 47-ft height and noted they still did not have architectural plans developed.

Mr. Rader asked whether the units would be for-sale products or rental products.

Mr. Griffis indicated the change in markets, and the lack of ability for seniors to sell their homes and buy into a senior-living home, had changed the entire market and how the units were designed. He noted that Buccaneer did not operate the facilities and that an operator had not yet been selected.

Mr. Radar asked whether the facility would accept Medicare patients.

Mr. Griffis stated he anticipated the units were likely to be market-rate units.

Mr. Rader said many places he researched would not accept Medicare residents and he felt the applicants were trying to get a higher price for the units based on who they were marketing to. He stated he felt the ceiling heights were irrelevant when he looked for assisted living for a family member.

Mr. Weiss further pursued questions on the architectural details of the need for the ceiling heights and whether sections of the building could have varied heights.

The project architect addressed these questions and explained there was no atrium on the first floor that extended into the upper floors.

Mr. Griffis stated the project team was willing to offer a maximum building height, not including the mechanical equipment, of 42 feet (reduced from 44 feet), with additional allowable height for the mechanical equipment.

Ms. Chaffin asked for clarification on the height of the mechanical equipment.

Mr. Paul stated they were typically in the five-to-seven feet range.

Mr. Rosenberg stated he felt the public should have an opportunity to comment on this change.

Chair Weiss asked Mr. Lampert whether this was agreeable to him.

Mr. Lampert said it was smoke and mirrors as 42 feet, plus five feet for mechanical had them right back at 47 feet.

Mr. Laws said the facility could be built with lower heights, but perhaps the value would go up. He stated homes with nine feet between plates were selling for over a million dollars. He said he couldn't speak for all CCCC residents, but he would agree to 45 feet.

Mr. Weiss noted the PC could not always ensure that all parties agreed. He summarized that the application was for 42 feet for the primary building with additional height allowed for mechanical

equipment. He called for a motion supporting that request.

Mr. Rosenberg stated 35 feet was a guideline for the area and the maximum height for another senior living center was approved at 38 feet. He noted everyone agreed on the use, but felt there needed to be some specific agreement on the disposition of the parking spaces, should ownership change. He felt 38 feet was where heights should stop.

Mr. Rader felt the compromise of a 40-ft height building, with an additional five feet for mechanical, would be reasonable and meet the applicant's needs.

Mr. Weiss stated he was less concerned about the parking, but still concerned about height.

Ms. Rieck said she didn't see that much had changed since the previous hearing. She stated that too much was being forced onto an odd-shaped lot. She felt the parking question had been resolved.

Ms. Chaffin said she was disappointed at the lack of change from the previous hearing and that not much consideration was given to different options.

Mr. Sall said he felt the 35-to-38-ft height could be pretty tough to meet.

There were further discussions on how building height was addressed and 38 feet was seen as an exception to the 35-foot standard.

Ms. Orkild-Larson clarified the County's building height regulation included rooftop mechanical equipment.

**It was moved by Mr. Rosenberg and duly seconded by Ms. Rieck, with a friendly amendment by Mr. Weiss, in the case of Z15-003, Denver Senior Living Preliminary Development Plan, that the Planning Commissioners had read the staff report and received testimony at the public and found themselves in agreement with staff conditions, including all plans and attachments as set forth in the staff report dated January 11, 2016, and recommended approval of this application, subject to the following conditions:**

- a. Prior to signature of the final mylar copy of the Preliminary Development Plan, the applicant agrees to**

	<p>address the Planning Division, Mapping Division, and Engineering Services Division comments and concerns, as outlined in their plans and reports.</p> <p>b. The applicant is required to provide a minimum of 56 parking spaces (minimum 28 parking spaces to be on-site) which can be satisfied in part by an agreement with the Denver Jewish Day School for the additional parking spaces needed. This agreement shall be recorded with the Arapahoe County Office of the Clerk and Recorder prior to Arapahoe County signing the Final Development Plan. This agreement shall be a permanent agreement that will run with the land and secure the use of the parking rights for the assisted living/memory care residential facility for the duration of its operations.</p> <p>c. At the time of the Final Development Plan, the applicant shall address the potential presence of flammable gas (methane) to the satisfaction of the Tri-County Health Department.</p> <p>d. Install signage that directs the public to the parking on the Denver Jewish Day School property.</p> <p>e. The proposed building to have a maximum height of 38’.</p> <p><b>The vote was:</b></p> <p><b>Mr. Weiss, Yes; Mr. Rosenberg, Yes; Ms. Rieck, No; Ms. Chaffin, Yes; Mr. Rader, No; Mr. Sall, Yes.</b></p>
<p><b>Item 1:</b></p>	<p><b>U15-001, Quincy Solar Gardens [Sunshare] / Final Development Plan (PDP) – Sherman Feher, Senior Planner, Public Works and Development (PWD)</b></p> <p>Mr. Feher briefly introduced the application.</p> <p>Mr. Rosenberg asked whether the PC had previously seen a SunShare application. It was confirmed that another SunShare facility had been approved near Jewell and Watkins Rd.</p> <p>Luke Rickard, SunShare, thanked staff for their help and thanked the PC. He presented a PowerPoint, providing a company overview. He further explained how solar garden subscribers and the community benefitted from solar gardens. He noted several local subscribers. He then explained steps taken to plan for the</p>

project and stated the development plan complied with County engineering requirements and Use by Special Review with 1041 requirements and Comp Plan guidelines. Mr. Rickard explained the context of the property and other uses in the area. He presented the site development plan and reported it maximized use of the most suitable land, minimized cut/fill grading activities necessary for operational reasons, used existing access from Quincy, complied with County design and engineering best practices, and interconnection to existing three-phase distribution architecture was present. He reported project timeline included twelve weeks of construction starting in the second quarter of 2016 (estimated) and would operate for 20 years with possible extensions that could be granted by the utility company. He noted technology was changing rapidly, which could affect the life of the project. Mr. Rickard then explained the equipment to be installed and how the equipment worked with the movement of the sun. In addition to solar panels, he said there was an inverter and transformer structure needed. He stated the height above grade, at maximum tilt of the panels, was eight feet. He reviewed the staff's recommended conditions of approval and provided responses as to how these had been met or would be met, if conditions are identified at a future time.

Mr. Weiss noted the agreement was with Xcel and asked about arrangements with IREA, who provided service to much of the area.

Mr. Rickard reported the applicant could sell to any customer of Xcel, but currently had no arrangements with IREA. He stated the site was located on the edge of the Xcel/IREA service boundary.

Mr. Rosenberg asked why these solar gardens were not built on a bigger scale.

Mr. Feher explained the legislative mandate for solar garden development and the cap the allowed facility size.

Mr. Rader stated IREA did not want to deal with any solar producers.

Mr. Feher indicated that IREA management had changed in the last few years and that IREA was now expressing interest in solar resources.

Mr. Rader stated that, as of today, IREA would not work with any solar providers.

Mr. Feher said he believed there would be a change in future operations, based on inquiries received by Planning Division staff.

Mr. Rader asked about unexploded ordinance on the land and that the application referenced contact with the Army Corps of Engineers and referenced comments from the ACE. He stated lack of targets did not confirm no clean-up was needed. He felt a clearance should be a condition of approval as a safety issue.

Jon Sullivan, SunShare, discussed efforts to locate property for the solar garden which was not impacted by unexploded ordnance. He reported several properties had to be abandoned as potential sites, but this one was able to move forward.

Ms. Rieck asked about the process for decommissioning a site after a solar garden is no longer in use. She also asked whether they had previously had to handle prairie dog removal, which the applicant replied they had not.

Additional questions were answered as to how the arrays were installed and how that installation would influence process of decommissioning.

Mr. Feher noted he did not put a limit on the timeline as technology changes might limit the life of the facility. He stated the PC could add a condition on decommissioning; however, recommended the PC not place a time limit on the approval and asked them to allow technology changes to govern the time limit.

Mr. Sullivan explained the preliminary site screening done with the ACE and CDPHE.

Ms. Rieck asked about the limited setback and whether the glare would be a hazard for drivers on the nearby road.

Mr. Rickard explained the reasons glare would not likely be an issue based on design of the panels and the angle of the panels, in relation to direction of sunlight.

Ms. Chaffin asked about Department of Wildlife requirements for wildlife surveys and how to work around protected species (burrowing owl); this question was answered.

Mr. Weiss opened the public hearing.

There were no public comments.

The public hearing was closed.

Mr. Rosenberg noted the Tri-County Health Department comments in support of the solar garden and stated he was also in favor of these types of energy projects.

**It was moved by Ms. Rieck and duly seconded by Mr. Rosenberg, in the case of U15-001 – Quincy Solar Garden, Use by Special Review, that the Planning Commission has read the staff report and received testimony at the public hearing and find themselves in agreement with staff findings for the Use by Special Review application including all plans and attachments as set forth in the staff report dated January 19, 2016, and vote to recommend approval to the Board of County Commissioners, subject to the following conditions:**

- 1. The applicant will modify the plans as requested by the Public Works & Development Department, prior to the signing of the mylars and before the commencement of any construction activities relating to this project.**
- 2. The applicant agrees to address all Engineering Services Division comments and concerns, as identified within their reports, prior to signed mylars. The applicant will need to obtain an access permit.**
- 3. The applicant will strive to avoid any areas of paleontological, historic, or archaeological importance. If avoidance is not possible, further testing will be conducted, with landowner's permission, to determine the site's eligibility for historic status and a treatment plan will be developed that will be followed to protect eligible sites. The applicant will notify the County of any plans or activities to deal with historic, paleontological or archaeological sites that cannot be avoided by the construction of the solar garden.**
- 4. The applicant will strive to avoid any Federal and/or State Threatened and Endangered Species or any State Species of Concern, which exist in areas where the solar garden will be constructed. If any Federal and/or State Threatened and Endangered Species, as well as State Species of Concern, is found to exist in areas where the solar garden will be constructed, then the applicant will collaborate with Colorado Parks and Wildlife and Arapahoe County to mitigate and minimize any potential impact to these species.**
- 5. The applicant will provide the County with a noxious**

	<p><b>weed control plan for the site.</b></p> <p><b>6. Once the solar community garden facility is no longer operational, the applicant must remove all equipment and restore the site to predevelopment conditions within one year of ceasing operations or as otherwise agreed upon within a contract with the landowner if the land is owned by others.</b></p> <p>Mr. Rader asked to amend the motion to require verification from ACE that the lease area was cleared of unexploded ordnance prior to construction. His request to amend was not seconded and therefore the original motion was not amended.</p> <p><b>The vote was:</b></p> <p><b>Mr. Weiss, Yes; Mr. Rosenberg, Yes; Ms. Rieck, No; Ms. Chaffin, Yes; Mr. Rader, No; Mr. Sall, Yes.</b></p>
<b>ANNOUNCEMENTS</b>	<p>Ms. Yeckes led a discussion about upcoming conferences, possible attendance, and budget. She reported the election of officers was set to occur during the February 16, 2016 PC meeting. She said the Board of County Commissioners was set to reappoint Commissioners Brummel and Sall during their February 9, 2016 meeting.</p>
<b>ADJOURNMENT</b>	<p>There being no further business to come before the Planning Commission, the meeting was adjourned.</p>