



PLANNING AND ZONING COMMISSION

**Minutes
October 24, 2011**

Meeting Summary

The Planning and Zoning Commission adopted PZ Resolution 2011-20. Commissioner Kelley moved PZ Resolution 2011-20, A Resolution Approving a Variance Request for 14681 Sorrel Run, Wildgrass Filing No. 1, Block 15, Lot 14, allow a reduction in the rear yard setback from 15 feet to 7 feet and allow an existing deck, and finds the following: 1) The applicant's lot is smaller than the adjoining neighboring lots; 2) The neighbors of the adjoining lots have signed a petition supporting the deck in its current condition; 3) The Wildgrass Homeowners Association has approved the variance and called it a 'grandfathered plan' and 4) the amount of the overhang into the easement is so small as to be practically negligible. The following are conditions of approval: 3.1 Any expenses or problems that arise from the cantilever portion of the deck which is encroaching into the utility and drainage easement are the responsibility of the homeowner; and 3.2 The deck will not be covered anywhere within the 15 foot rear yard setback. PZ 2011-17 was approved by a vote of 6-1.

The Planning and Zoning Commission adopted PZ Resolution 2011-21. Commissioner Russell moved for approval of PZ 2011-21, a Resolution Recommended Approval of an Urban Renewal Site Plan for A&B Subdivision Replat B, Lot 2, Broomfield Corners West, approximately located at the northeast corner of West 120th Avenue and Wolff Street, with the following variations: 1) a two feet square of signage per one linear foot of building frontage; 2) a monument sign not to exceed 25 square feet per sign face; 3) a thirty-five foot setback for the monument sign; and 4) non-landscaped, concrete islands as narrow as 1.6 feet. The motion was approved by unanimous vote of the Commission present.

Roll Call – 7:00 P.M.

Chairman Tom Silvers called the meeting to order at 7:00 p.m.

Commission Members Present: Gifford Aune
Charles Hastings
Roger Kelley
Archie Lind
Karen Nelson
Phil Russell
Tom Silvers

Commission Members Absent: David Jurcak

Staff Members Present: Dave Shinneman, Planning Director
Tami Yellico, Deputy City & County Attorney
Alice Hanson, Senior Planner

Chairman Tom Silvers said there was a quorum present.

Petitions and Communications - None

Disposition of Minutes

The minutes of the regular Planning and Zoning Commission meeting of September 26, 2011, were approved as printed.

Public Hearing – PZ Resolution 2011-20

A Resolution Approving a Variance Request for 14681 Sorrel Run, Wildgrass Filing No. 1, Block 15, Lot 14, to allow a reduction in the rear yard setback from 15 feet to 7 feet to allow an existing deck

Applicant: Michael Schmuck

Planner: Alice Hanson

Public hearing opened at 7:05 p.m.

Alice Hanson summarized the memo. The applicant is requesting a variance from the Wildgrass PUD to permit a reduction of eight feet in the required fifteen foot rear yard setback for a deck less than thirty inches high (this would allow a seven foot rear yard setback). Public notice requirements, including advertising, mailed notices to properties within five hundred feet and posting of the property have been met for this hearing. Ms. Hanson requested the staff report be entered into the record of the hearing.

A building permit was requested for the deck (which had already been constructed). The permit was denied on September 29 because the deck encroaches in the required fifteen foot rear yard setback which is permitted (through a blanket administrative modification). The applicant applied for a variance on October 3. The applicant has identified four reasons for the request: 1) The deck has been in existence for three years with no complaints or problems; 2) The setback on neighboring patios are constructed closer than seven feet to their rear fence, leading the applicant to believe their deck location was acceptable; 3) the property is under contract and the applicant desires the new home owners be able to enjoy the deck in its current state; and 4) the neighboring property owners and HOA support the variance so the deck can be permitted to remain in its current state (through a letter submitted with the application) – in addition, staff analysis found the lot is smaller (16%) and more shallow than other lots in the area (average depth of this lot is 107 feet versus the 124 feet of lot in the area. The Broomfield Municipal Code permits considerations of variations from the Code by the Planning and Zoning Commission based on the following criteria (02-40-070): 1) There are peculiar and exceptional practical difficulties or undue hardship upon the owner of the property; 2) Relief of the hardship will not cause substantial detriment to the neighborhood or public good (or impair the intent/purpose of Title 17); and 3) The variance does not authorize a use that is not permitted in the zoning district. Following the hearing, the Planning Commission will need to incorporate reasons (findings of fact) into the resolution of approval or denial. A concurring vote of four members of the Commission is necessary to approve the variance.

Michael Schmuck, 14681 Sorrel Run, applicant, spoke. He apologized for building the deck into the setback, he said he didn't realize the deck would be encroaching into the setback. He is selling the home and one of the contingencies of the sale was obtaining a deck permit and approval from the Building Department. He said it was his belief that the deck does not impact the neighbor's privacy. The deck has been inspected by a structural engineer. He would like to see the new owners be able to enjoy the deck as much as his family has so he is asking for the approval of a variance to allow the deck to stay in its entirety.

Public comment was requested, there was no one in the audience wishing to speak.

Commissioners' comments and questions were:

- Variance should appear on a title commitment should any future owners will be aware of the condition.
- Deck encroaches into the utility easement.
- The neighborhood is a covenant controlled community, and the applicant should have had the HOA approve the deck prior to construction.
- The only part of the deck in the easements is the cantilever part of the deck.

Public hearing closed 7:15 p.m.

RESOLUTION PZ 2011-20 WAS READ BY TITLE

Commissioner Kelley moved that PZ Resolution 2011-20, A Resolution Approving a Variance Request for 14681 Sorrel Run, Wildgrass Filing No. 1, Block 15, Lot 14, allow a reduction in the rear yard setback from 15 feet to 7 feet to allow an existing deck, and finds the following:

- 1) The lot is a smaller than the adjoining neighboring lots;
- 2) The neighbors of the adjoining lots have signed a petition supporting the deck in its current condition;
- 3) The Wildgrass Homeowners Association has approved the variance and called it a 'grandfathered plan; and
- 4) And the amount of the overhang into the easements is so small as to be practically negligible.

and the following conditions of approval:

- 3.1 Any expense or problems that arise from the cantilever portion of the deck which is encroaching into the utility and drainage easement is the responsibility of the homeowner; and
- 3.2 The deck will not be covered anywhere within the 15 foot rear yard setback.

Commissioner Russell seconded the motion.

Discussion of the motion was called for, there was none.

The motion was approved by the following vote:

Those voting Yes: Aune, Kelley, Lind, Nelson, Russell and Silvers
Those voting No: Hastings
Those Absent: Jurcak
The motion was approved.

Public hearing PZ Resolution 2011-21
Urban Renewal Site Plan for a restaurant/retail building at Broomfield Corners West approximately located at the northeast corner of West 120th Avenue and Wolff Street
Applicant: Broomfield Shops Two LLC
Planner: Alice Hanson

Chairman Silvers opened the public hearing at 7:18 p.m.

Alice Hanson summarized the memo. The application is for an Urban Renewal Site Plan for the property at the northeast corner of West 120th Avenue and Wolff Street. A 6,085 square foot multi-tenant commercial building is proposed. Ms. Hanson asked that the staff memorandum be entered into the public record. The applicant and the staff have met the public notification requirements. The owner of the property is Walmart TRS, LLC. The applicant is Broomfield Shops Two LLC (managed by Drake Real Estate). The plan to be considered is: construction of a 6,085 square foot building for three to four retail, service or restaurant businesses with thirty-six parking spaces.

The review of the Urban Renewal Site Plan is governed by the Comprehensive Plan (which designates the area as Commercial/Retail), the 120th Avenue Gateway Corridor Urban Renewal Plan and the West 120th Avenue Gateway Corridor Sub-Area Plan. The proposed plan shows the building located on the southern site of the buildable area of the site. The thirty-six parking spaces (calculated by assuming a mixture of retail and restaurant uses) are located along West 121st Avenue with two access points, one shared with Jack In the Box off West 121st Avenue and a new access off Wolff Street. Pedestrian access is directed to this sidewalk, along Wolff Street. In addition, the plan includes a seating area and bike parking adjacent to this access. The required setbacks along West 120th Avenue and West 121st

Avenue are met. A twenty-five foot setback is required along Wolff Street, however, the applicant is requesting a variation be granted to allow an 18.5 foot setback to the building. The landscape plan provides for additional landscaping on three sides of the site. Approximately 41% of the site will be landscaped, which exceeds the sub-area plan requirement of 25%. The landscape node that exists on the northwest corner of the site has been reduced by 385 square feet. The monuments on Wolff Street installed with the Walmart will be relocated. Landscaping is required within the parking area but due to the amount of parking required by the proposed uses, the applicant is requesting a waiver to reduce the width of the islands in the parking lot with no requirement for landscaping. The parking lot is required to be screened from West 121st Avenue. The applicant has proposed to install a berm and additional landscaping along West 121st Avenue to satisfy this requirement. The building has four-sided architecture with materials and colors that blend with the Walmart. The mechanical equipment on the east side of the building is screened. The applicant has indicated the location of the signage on all elevations of the building. Because the applicant would like the tenants to have the ability to place signs on the side of the building adjacent to the parking and West 120th Avenue, a variance has been requested to permit two square foot of signage per linear front foot of the business versus the one square foot that is permitted. The end tenants will be permitted to have three signs and the interior tenants two signs. A monument sign placed thirty-five feet from West 120th Avenue is also being requested as a variance.

The variations requested are: 1) two square feet of signage per one linear foot of building frontage; 2) a monument sign not to exceed 25 square feet per sign face (square footage not be counted against square footage permitted for buildings); 3) a thirty-five foot setback for the monument sign; 4) non-landscaped, concrete islands as narrow as 1.6 feet in the parking area; and 5) reduction in the setback along Wolff Street to 18.5 feet. No key issues were identified for the proposed Urban Renewal Site Plan.

Jon Hauser, Drake Real Estate Services, representative of the applicant said the project presented this evening has not changed much since the Concept Review meeting. The project is very consistent with the Broomfield Corners Project to the east. The architecture is 360 degrees. Mike Brettman, Nama Partners, and Cole Haberer, engineer for the project, were present to answer questions from the Commission.

Commissioners' comments and questions were:

- Concerned with the path the tanker trucks going into Murphy Oil would use and the possibility of cutting the corner.
- The staff report indicates an increase in the building size, the dimensions on the building, and the 50 foot setback.
- Concerned signage will be hidden due to the landscaping.
- Why are you using a berm rather than a knee wall?
- Asking for a variance relating to the parking lot to allow no landscaping on the concrete islands.
- Screening of the utilities.
- Asking for doubling signage on the building.

Representatives of the applicant responded to some of the Commissioner's comments/concerns:

- Wolff Street may be vacated in the future.
- The landscaping plan is similar to what is used by others in the Broomfield Corners area.
- Vacation of Wolff Street is dependent upon future development.
- The proposed development will greatly improve the appearance of the area.
- Would like to see a sit down restaurant.
- The building is three to three and a half feet deeper than the building shown on the Concept Plan.
- The landscaping on the berm provides a natural screening with evergreen shrubs to provide color throughout the winter.
- All utilities will be screened.

Public hearing was closed at 7:58 p.m.

RESOLUTION PZ 2011-20 WAS READ BY TITLE

Commissioner Russell moved for approval of PZ 2011-11, A Resolution Recommended Approval of an Urban Renewal Site Plan for A&B Subdivision Replat B, Lot 2, Broomfield Corners West approximately located at the northeast corner of West 120th Avenue and Wolff Street, with the following variations:

- 1) two feet square of signage per one linear foot of building frontage;
- 2) a monument sign not to exceed 25 square feet per sign face;
- 3) a thirty-five foot setback for the monument sign;
- 4) non-landscaped, concrete islands as narrow as 1.6 feet in the parking area; and
- 5) reduction in the setback along Wolff Street to 18.5 feet.

Commissioner Nelson seconded the motion.

The motion was adopted by unanimous vote of the Commission present.

Special Report --

Planning Director Dave Shinneman reviewed the upcoming meeting schedule distributed during the study session. Staff anticipates there will not be Planning and Zoning Commission meeting on November 14, 2011. The next Planning and Zoning Commission meeting will be held on Monday, November 28, and a Concept Review meeting is scheduled for Tuesday, November 29.

Adjournment – 8:02 p.m.

The meeting was adjourned at 8:02 p.m.

Approval

Minutes Prepared by:

Diana K. Tangsrud, Recording Secretary

Approved by:

Chairman