



**MINUTES OF THE REGULAR MEETING OF THE
ARAPAHOE COUNTY PLANNING COMMISSION
TUESDAY, JULY 21, 2020**

ATTENDANCE	<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 were in attendance:</p> <p>Jane Rieck, Chair; Richard Sall, Lynn Sauve, Kathryn Latsis, Chair Pro-Tem, Jamie Wollman, Rodney Brockelman, and Randall Miller.</p> <p>Also present were: Robert Hill, Senior Asst. County Attorney; Kurtis Cotton, Engineer; Bill Skinner, Senior Planner; Kathleen Hammer, Planner II; Jason Reynolds, Current Planning Program Manager; Jan Yeckes, Planning Division Manager; and members of the public.</p>
CALL TO ORDER	<p>Chair Rieck called the meeting to order at 6:30 p.m. and noted a quorum of the Board was present.</p>
DISCLOSURE MATTERS	<p>There were no Planning Commission member conflicts with the matters before them.</p>
GENERAL BUSINESS ITEMS:	
APPROVAL OF THE MINUTES	<p>The motion was made by Ms. Wollman and duly seconded by Ms. Latsis to accept the minutes from the July 7, 2020 Planning Commission meeting, with the correction of a typographical error. [p. 5, paragraph starting with “Assistant County Attorney,” third line, “he explained the” (not “thee”)]</p> <p>The motion passed unanimously.</p>
REGULAR ITEMS:	
AMENDMENT TO THE AGENDA	<p>It was announced that Item 1 - Case No GDP18-007, Sky Ranch / General Development Plan and Item 2 – Case No PP18-001, Sky Ranch [Neighborhood A – Phase 1] / Preliminary Plat would not be heard due to public noticing requirements not being met. Staff stated the hearings would be properly noticed and rescheduled for a future date.</p>

ITEM 3

CASE NO FDP20-001, COPPERLEAF [KIDDIE ACADEMY] / FINAL DEVELOPMENT PLAN (FDP) AND USR20-001, COPPERLEAF [KIDDIE ACADEMY] / USE BY SPECIAL REVIEW (USR)

Kat Hammer, Planner II, presented a PowerPoint, a copy of which was retained for the record. She introduced the application, established jurisdiction for the public hearing, explained the proposed use, and noted the application, under the Copperleaf Preliminary Development Plan, required either a Use by Special Review or a Special Exception Use for day care use. Ms. Hammer stated the Use by Special Review was being considered in conjunction with the Final Development Plan for the site, as both had a requirement for a public hearing before the Board of County Commissioners (BOCC). She provided context for the site, noting nearby land uses. She explained the requested reduction in the parking space requirement, using the 2019 Land Development Code (LDC) requirement for parking and reducing that number by 5%. Ms. Hammer noted the findings and recommendations of staff, and noted a recommendation that future building permit plans included a shade structure as part of the playground, as the final plans for the playground were not yet known.

Ms. Rieck asked about sidewalk connectivity given that consideration of other developments in the area had raised sidewalk connectivity issues.

Ms. Hammer noted the applicant would provide additional detail.

Mr. Brockelman asked for further explanation of the parking reduction request and the various exhibits included in the staff report.

Ms. Hammer indicated the applicant would address this request during the applicant presentation.

Mr. Miller asked about the proximity of other day care facilities nearby.

Ms. Hammer noted another day care center project that had been approved; however, the project had not been finalized, at this time, due to the final plans not having been received by the County for signature.

John Stzalka, applicant, presented a PowerPoint, a copy of which was retained for the record. He indicated the child care center was intended to serve approximately 150 children. He reported parents

must park and walk the children into the center. He stated corporate averages showed a significant percentage of families had more than one child coming to the center, which reduced the number of parking spaces needed. Mr. Stzalka reported there were staggered times for arrival and departure reducing peak demand for parking at any given time. He explained the site was over-parked for their purposes. He said their other facilities usually had 22 to 28 spaces; however, this site was proposed to have 38 spaces. He reported a deceleration lane on Picadilly would help with traffic circulation. He stated the landscape plan would reflect Copperleaf landscaping standards and add shade to the playground area as the trees grew. Mr. Stzalka said there would also be shade structures in the playground. He explained the plans had just recently been finalized. He spoke to the sidewalk connectivity and noted there would be wrought-iron security fencing and security cameras. Mr. Stzalka said the tenant was very committed to safety. He went on to report the school did not anticipate a need for vehicle stacking as there was no drop-off zone and the arrival times would be staggered. He said the site plan gave a good indication of the nice environment. Further, Mr. Stzalka said the landscaping was a top priority for the tenant, as well as, for Copperleaf.

There were discussions regarding the maximum allowed children at peak capacity, pedestrian access, whether the site would accommodate 40 spaces, and if the site was a school or day care center.

Ms. Rieck opened the hearing for public comments. There were no public comments. The public hearing was closed.

It was moved by Ms. Latsis and duly seconded by Ms. Wollman, in the case of FDP20-001, Copperleaf Kiddie Academy / Final Development Plan, that the Planning Commission reviewed the staff report, including all exhibits and attachments, listened to the applicant's presentation and any public comment as presented at the public hearing, and moved to recommend approval of the application based on the findings in the staff report, subject to the following conditions:

- 1. Prior to signature of the final copy of these plans, the applicant must address Public Works Staff comments and concerns.**
- 2. The applicant must meet all of East Cherry Creek Valley and Water Sanitation requirements.**
- 3. The applicant must include shade structures in the play area at the time of building permit.**

	<p>4. The applicant must meet all of Tri-County Health Department requirements and receive approval from Tri-County Health Department prior to construction.</p> <p>The vote was:</p> <p>Ms. Rieck, Yes; Ms. Sauve, Yes; Mr. Miller, Yes; Mr. Sall, Yes; Ms. Latsis; Yes; Ms. Wollman, Yes, Mr. Brockelman, Yes.</p>
<p>ITEM 4</p>	<p>Case No. LDC20-003, Recreational Marijuana Code – Bill Skinner, Senior Planner, Public Works and Development (PWD)</p> <p>Mr. Skinner presented a PowerPoint, a copy of which was retained for the record. He introduced the case and explained Arapahoe County was the applicant. He stated the case had been properly noticed and the Planning Commission had jurisdiction to proceed. Mr. Skinner explained the purpose and history of the proposed amendment to the Marijuana Land Uses code. He reported the owners of the four existing, nonconforming medical marijuana businesses, had approached the Board of County Commissioners (BOCC) asking for consideration to expand the allowable use to include the sale of recreational marijuana from these retail establishments. He said, such approval would them to compete within the market, which included nearby jurisdictions who allowed both medical and recreational marijuana sales at retail establishments. Mr. Skinner stated the BOCC conducted a study session and provided direction to staff to prepare draft regulations for consideration through the hearing process. He said their direction included the allowance of recreational marijuana sales for the four existing businesses, at their existing locations, and that the rules of nonconforming uses would otherwise continue to apply to these four businesses. Mr. Skinner explained the relationship of the proposed Land Development Code (LDC) amendment to a proposed change to a County ordinance currently prohibiting marijuana businesses. He stated the ordinance, which would be amended to allow recreational sales at the four existing, nonconforming medical marijuana retail businesses in their current locations, would be reviewed and acted upon only by BOCC. He reported, if the ordinance was approved, the change in the LDC would be needed to implemented.</p> <p>Senior Assistant County Attorney Bob Hill noted the language between the proposed ordinance and the proposed LDC amendment was inconsistent.</p>

Mr. Skinner noted the text of the proposed LDC amendment had been further revised since what was provided to the PC in their staff report. He explained that was presented in the staff report referenced the four businesses that were in existence “prior to December 15, 2009.” However, he went on to explain that in order to make the LDC language consistent with the ordinance language, the LDC had been re-revised to reference the four businesses “existing as of July 14, 2020.” Mr. Skinner reviewed agency referral comments that were received after the staff report was sent. He explained the referral responses included comments from Tri-County Health Department (TCHD) recommending a minimum 1,000-foot distance from youth-oriented facilities such as schools. He had also received referral comments from the Sheriff’s Office noting there might be some additional security issues that arose with the expanded use into the retail market. Finally, Mr. Skinner shared referral comments from the City of Centennial that they did not oppose the amendment but would want the opportunity to further review any changes that would allow expansion of sales at the existing businesses or the addition of new businesses. Mr. Skinner noted the code did not address a spacing requirement, because the change would apply only to existing locations. He noted some of the locations would not meet the minimum distance recommended by TCHD.

There were discussions regarding expanding uses that were deemed nonconforming, the 1,000-foot minimum proximity of the existing locations to schools or other youth-oriented facilities and the increase of the minimum age to purchase marijuana from 18-21.

Ms. Sauve asked for a legal opinion as to whether allowing this additional use would set a precedent for allowing additional marijuana businesses in the future.

Mr. Hill explained the very limited nature of the nonconforming status and that any further expansion of business or establishment of any new business would require an additional Land Development Code amendment.

There were continued discussions about the impact of the proposed code changes and if it would allow new or continued business processes. It was noted the current retail medical marijuana businesses did not currently manufacture products on site.

Mr. Skinner noted Tri-County Health Department regulated pre-packaged food sales differently than preparing and serving food on site.

Mr. Miller asked how many of the four facilities encroached on the 1,000-ft setback from youth-oriented facilities.

Mr. Skinner referenced a map and indicated it was possible that at least three of the existing businesses fall within that distance.

Ms Rieck asked whether any of the four businesses could relocate to another location and whether the business could shut down and then be reopened by another party.

Mr. Skinner noted the code amendment was specific to the address and to the unit number of a multi-tenant building.

Mr. Hill stated that a nonconforming use was transferable and could be sold if not shut down for more than six months and that state's licensing requirements would apply to the new owner.

Mr. Miller asked whether there were any restrictions in hours of operation.

Mr. Skinner explained the proposed code amendment did not address hours of operation and that these types of businesses would be considered in the same way as other general retail businesses, unless located in a PUD, with an overall "no 24-hour business" restriction.

Ms. Rieck opened the hearing for public comments.

Earam Matenan, said he owned one of the existing medical marijuana shops. He knows many of his customers and they liked to come to his shop. He would like to be able to have the flexibility to provide them with recreational products.

Wendy Davis, 3460 S Poplar, said she lived about a mile from the Yale St location and has patronized them for a long time. She felt the code amendment would be fair to the owners, who are very nice people and are very concerned about the rules. She supported the business that she patronized.

Wesley Billingsstone, reported he lived off of Mississippi in Unincorporated Arapahoe County and that he was a surviving pancreatic cancer patient who moved here a number of years ago because of the ability to obtain medical marijuana. He stated some of the medical shops were excellent. Some days he cannot drive because of his illness, and some stores are closed on Sundays. He would like to be able to obtain recreational, as well as, medical marijuana in the same location that is close to his home.

Gabriel [*last name was inaudible*], stated he owned the store at 2280 S Quebec. He would like to expand into recreational sales to better serve the community.

Bill McKiernan, 3290 Cherry Ridge Rd, said he was employed by CURE, which was one of the existing shops. He wanted to thank the Planning Commissioners and Bill Skinner for their work. He reported the shop where he was employed has no manufacturing as part of its business. He appreciated the support and, as an employee of this shop and as an Arapahoe County resident, would like this opportunity to move into the recreational market to better compete.

There were no further public comments. The public hearing was closed.

Ms. Latsis asked if staff had information on the proximity of competing businesses in other jurisdictions. She also asked if the expansion into recreational sales would result in additional security needs and costs, and if that had been taken into consideration.

Mr. Skinner said staff had not researched the locations of competing businesses. He noted the BOCC, during a study session, did ask about set-up considerations. He explained medical and recreational sales must be separated in area and cash flow/accounting, but no discussion occurred specifically on security changes anticipated by owners. Mr. Skinner said he had the impression the owners knew the business operations of their competitors and understood operational needs.

Mr. Miller asked whether the business could move entirely into recreational sales and no longer include medical sales.

Mr. Skinner shared that Mr. McKiernan, one of the CURE employees, stated these businesses had long-running relationships with their medical customers and they did not wish to cause any discomfort for their current clients with that change in operations; however, he stated there was nothing in the proposed code that would require medical sales to continue.

It was moved by Ms. Wollman and duly seconded by Mr. Brockelman, in the case of LDC20-003, Recreational Marijuana Regulations / Land Development Code Amendment, that the Planning Commission read the staff report, including all exhibits and attachments, listened to the staff's presentation and any public comment as presented at the public hearing, and

	<p>moved to recommend approval of the application based on the findings in the staff report, subject to the following conditions:</p> <ol style="list-style-type: none"> 1. Staff will make corrections and revisions to the proposed language as directed by the County Attorney prior to incorporating the approved amendment into the Land Development Code for publication. 2. If the Board of County Commissioners does not adopt a recreational marijuana ordinance this related application LDC20-003 to amend the Land Development Code will be withdrawn. <p>The vote was:</p> <p>Ms. Rieck, No; Ms. Sauve, Yes; Mr. Miller, Yes; Mr. Sall, Yes; Ms. Latsis, No; Ms. Wollman, Yes; Mr. Brockelman, Yes.</p>
<p>ADJOURNMENT</p>	<p>There being no further business to come before the Planning Commission, the meeting was adjourned.</p>