



**MINUTES OF THE REGULAR MEETING OF THE
ARAPAHOE COUNTY PLANNING COMMISSION
TUESDAY, OCTOBER 18, 2022**

ATTENDANCE	<p>A regular meeting of the Arapahoe County Planning Commission (PC) was called and held in accordance with the statutes of the State of Colorado and the Arapahoe County Land Development Code.</p> <p>The following Planning Commission members were in attendance: Rodney Brockelman; Kathryn Latsis; Randall Miller, Chair Pro-Tem; Jane Rieck; Richard Sall; Lynn Sauve; and Jamie Wollman, Chair.</p> <p>Also present were Robert Hill, Senior Assistant County Attorney; Jason Reynolds, Planning Division Manager; Ava Pecherzewski, Development Review Planning Manager (moderator); Chuck Haskins, Engineering Services Division Manager; Molly Orkild-Larson, Principal Planner; Kat Hammer, Senior Planner; Sarah White, Engineer; Bill Skinner, Senior Planner.</p>
CALL TO ORDER	<p>Ms. Wollman called the meeting to order at 6:30 p.m. and roll was called. The meeting was held in person and through the Granicus Live Manager platform with telephone call-in for staff members and public.</p>
GENERAL BUSINESS ITEMS:	
APPROVAL OF THE MINUTES	<p>The motion was made by Mr. Miller and duly seconded by Mr. Brockelman to accept the minutes from the September 20, 2022 Planning Commission meeting, as submitted:</p> <p>The vote was:</p> <p>Mr. Brockelman, Yes; Ms. Latsis, Yes; Mr. Miller, Yes; Ms. Rieck, Yes; Ms. Sauve, Yes; Mr. Sall, Yes; Ms. Wollman, Yes.</p>
PUBLIC HEARING ITEMS:	
ITEM 1	<p>CASE NO PM21-001, BRYAN'S SUBDIVISION / MINOR SUBDIVISION (PM) – KAT HAMMER, SENIOR PLANNER; SARAH L WHITE, ENGINEER – PUBLIC WORKS AND DEVELOPMENT (PWD)</p> <p>Ms. Hammer stated the case had been properly noticed and that the PC had jurisdiction to proceed. She explained the applicant and owner, Gary Bryan, was requesting approval of Bryan Subdivision Minor Subdivision to create resulting lots to be known as Bryan Subdivision, Block 1, Lots 1 and 2. She</p>



said the subject property was approximately 40 acres and the applicant was proposing two lots just over 19 acres each. She explained the existing single family home would remain on Lot 1 and the proposed use for Lot 2 was another single-family residential with agricultural allowed uses, such as pasture, and other allowed livestock raising. She stated the property lies within the 55 Ldn noise contour of Front Range Airport and the western 230 feet of the parcel was in Restriction Area #1 and #2 of the Front Range Airport overlay zoning. She explained that Restriction Area #1 allowed “limited commercial and industrial” structures, provided that the structures complied with applicable federal airport regulations, were acceptable to the airport, and any commercial uses could not include gathering places for people. She further explained Restriction Area #2 prohibited the construction of new residences except that existing residences may remain be occupied. She concluded the existing residence, located on the proposed Lot 1, was located outside of Restricted Area #2 and the proposed Lot 2 was not within a restriction area and if this application was approved, a single-family residence was an acceptable use on Lot 2. She said that staff recommended approval of this application.

Mr. Schmeda of Strategic Site Designs, LLC, addressed the PC and thanked Kat Hammer and the Planning Division Team for their work on the project on behalf of the Bryans.

There were discussions regarding the following questions:

- Would it be communicated at the time of sale that prospective buyers would know that this was in an airport influence zone?
- What is currently on the 40 acres?
- What were the water supply requirements for these 2 lots?
- What was intent of the project?
- What standard is being applied?

Ms. Hammer noted that an avigation easement was present on the property. Mr. Hill agreed that notes could be added to the plat confirming this easement, therefore ensuring buyers would be aware of the airport influence zone. Ms. Hammer stated that the property currently had one home, wheat and livestock upon it. She explained that the water supply could support five large animals to each lot. She said she would notify the applicant of these restrictions. She confirmed that the intent of the project was to create one additional lot for a single family home. She stated that 100 year water supply requirement was the current standard being applied. She concluded that Long Range Planning had been consulted about this requirement.

Ms. Wollman opened the hearing for public comments. There were no members of the public present or on the call-in. The public hearing was closed.



	<p>The motion was made by Ms. Sauve and duly seconded by Mr. Miller, in the case of PM21-001, Bryan Subdivision Minor Subdivision, the Planning Commissioners have reviewed the staff report, including all exhibits and attachments, and have listened to the applicant's presentation and any public comment as presented at the public hearing. I hereby move to recommend approval of this application based on the findings in the staff report, subject to the following conditions:</p> <ol style="list-style-type: none">1. Prior to signature of the final copy of these plans the applicant must address Public Works and Development Staff comments and concerns.2. Prior to recording of the approved mylar, the applicant shall pay a total amount of cash-in-lieu of \$2,590.70. The applicant shall pay \$1,850.70 for public schools, \$710.40 for public parks and \$29.60 for other public purposes. <p>The vote was:</p> <p>Mr. Brockelman, Yes; Ms. Latsis, Yes; Mr. Miller, Yes; Ms. Rieck, Yes; Ms. Sauve, Yes; Mr. Sall, Yes; Ms. Wollman, Yes.</p>
ITEM 2	<p>CASE NO LDC22-003, AFFORDABLE HOUSING LAND DEVELOPMENT CODE AMENDMENT (LDC) – KAT HAMMER AND BILL SKINNER, SENIOR PLANNERS – PUBLIC WORKS AND DEVELOPMENT (PWD)</p> <p>Ms. Hammer stated the case had been noticed even though it was not required, a summary of proposed changes were posted on the Arapahoe County website and that the PC had jurisdiction to proceed. She presented a PowerPoint, a copy of which was retained for the record.</p> <p>Ms. Hammer stated this county-initiated application proposed amending the LDC and Planning Division Fee Schedule to increase alignment with Colorado Department of Local Affairs (DOLA) affordable housing assistance and grant qualification criteria. She said that the Arapahoe County Housing Needs Assessment (HNA) had published a study in September 2019 indicating a need for more rental housing units in Arapahoe County, especially for the very lowest income households. She added that the assessment determined the greatest problem facing low income households in the county was housing cost. She described state assistance offered by DOLA consisting of grants to local governments with the goal of promoting affordable housing. She explained this program derived from HB21-1271, outlined sixteen affordable housing strategies that communities could implement in order to qualify for grants. She explained that if a community had implemented at least three of the sixteen strategies in place, they were eligible for funding under the program. She stated Staff believed Arapahoe</p>



County met the minimum standard of three strategies to qualify for grants; however, in a competitive grant environment, meeting more of the recommended strategies could improve the County's chances to secure grant funding. She said that the LDC could also be more explicit about its support for affordable housing. She described how, of the sixteen Qualifying Strategies, Arapahoe County currently meets numbers 9, 11, and 12, however, the LDC did not clearly state a link to affordable housing strategies. She said that the attached PowerPoint outlined the proposed amendment to both clarify support for affordable housing and implement more of the Qualifying Strategies. She concluded that staff recommended approval to proceed to the Arapahoe County Board Of County Commissioners (BOCC) hearing with changes to the LDC as described in the presentation.

There were discussions regarding the following questions:

- Would there be changes to development review processes to promote development of affordable housing in the future?
- What was the distinction between Affordable v Attainable Housing?
- What was the amount of the grant funding available and over how wide an area would it be distributed?

Ms. Hammer stated that a Planned Unit Development (PUD) 2-step process had been discussed preliminarily as a possible means to foster more affordable/attainable housing. She described the difference between affordable and attainable housing as a function of Area Median Income (AMI). She said that units with people living in them who had an AMI of 80% or less are considered affordable. She reported that units with people living in them with an AMI of 80% to 120% are considered attainable. She said that \$37 million in funding was available through a competitive grant process spread across several jurisdictions. Ms. Wollman recommended that grant awards should be of significant dollar value in order to be worth the effort of applying for them. She stated further that significant public outreach would be required to adequately address the use by right definition of a single family home to meet the affordable designation as proposed. Ms. Hammer replied that citizen input would be sought. Ms. Latsis suggested that exploring transit accessible development areas as well as under-utilized areas could be helpful in developing more affordable housing in the future.

Ms. Wollman opened the hearing for public comments. There were no members of the public present or on the call-in. The public hearing was closed.

The motion was made by Ms. Latsis and duly seconded by Mr. Miller, in the case of LDC22-003, Affordable Housing, Land Development Code Amendment, the Planning Commission has reviewed the staff report, including all exhibits and attachments and has listened the presentation and any public comment as presented at the hearing and hereby move



	<p>to recommend approval of the proposed amendment to the Land Development Code, subject to the following condition:</p> <p>1. Staff, with the approval of the County Attorney, may correct typographical errors and make such revisions to the Code amendment as are necessary to incorporate the approved amendment into the Land Development Code for publication.</p> <p>The vote was:</p> <p>Mr. Brockelman, Yes; Ms. Latsis, Yes; Mr. Miller, Yes; Ms. Rieck, No; Ms. Sauve, Yes; Mr. Sall, Yes; Ms. Wollman, No.</p>
ITEM 3	<p>CASE NO LDC22-004, MARIJUANA / LAND DEVELOPMENT CODE AMENDMENT (LDC) / JASON REYNOLDS, PLANNING DIVISION MANAGER – PUBLIC WORKS AND DEVELOPMENT (PWD)</p> <p>Mr. Reynolds stated the case had been properly noticed and that the PC had jurisdiction to proceed. He presented a PowerPoint, a copy of which was retained for the record. He explained this County-initiated application proposed amending the LDC to change the medical and retail marijuana regulations applicable to unincorporated Arapahoe County. He said the proposed regulations would allow the existing four medical/retail marijuana stores to relocate to other locations in the unincorporated area with a Use by Special Review process for the new location. He reported the BOCC discussed proposals at March 21, 2022 and July 5, 2022 study sessions and directed staff to proceed with rules for medical and retail marijuana stores, but to delay discussions regarding grow operations to a later date. He described how Colorado State law authorizes the BOCC to limit the number of licenses and designate the location where a marijuana store was located. He stated there are currently only four (4) marijuana store locations allowed as legal nonconforming uses in unincorporated Arapahoe County. He added the BOCC had directed staff not to increase the number of marijuana store locations. He said currently, the existing marijuana stores cannot relocate to another location if they needed to address ADA issues, experienced a fire, or would like to work with a different landlord. He stated that if approved, the proposed regulations would provide additional options for the four existing businesses. Based on BOCC direction, staff recommended amending the LDC to remove the nonconforming use designation on marijuana stores, and to allow the four (4) current marijuana stores to move to locations within the Business zone districts B-3, B-4, and B-5 and Industrial zone districts I-1 and I-2, and within commercial or industrial portions of Planned Unit Developments allowing retail uses, through a Use by Special Review (USR) process, and with a marijuana licensing process requiring law enforcement inspections, provided that the proposed retail site is located west of the North-South alignment of Watkins Road. He reported that feedback from the City of Centennial and from Greenwood Village, had prompted staff to</p>

recommend prohibiting stores from the areas depicted on the map contained in the attached PowerPoint presentation and described as within one quarter mile of the Bellevue Avenue and Quebec Street intersection and south of Arapahoe Road between I-25 and Parker Road. He added that relocated marijuana stores would be limited in size to less than 5,000 square feet and they would be required to include odor mitigation measures. Staff recommended approval to proceed to the Arapahoe County BOCC hearing with changes to the LDC as described in the presentation.

There were discussions regarding the following questions:

- Why this change? And why not amend the initial decision to not allow any more than the 4 current stores?
- Were there any concerns about push back for expansion of licenses?
- Why were there so few surrounding jurisdiction referral comments?

Mr. Reynolds stated that each existing store was owned by different LLCs, and that the Federal Blvd. store had requested this change to allow them to move to a more ADA accessible space not located on a second floor reached by exterior stairs. He added that the Yale Ave. store in Holly Hills had inquired about moving as a result of a change in retail space ownership. He explained that no further amendment allowing more retail stores was made in deference to the cautious approach taken by Arapahoe County at the time of legalization. He stated the proposed amendment allowed no more than 2 stores within a 1.5 mile radius of each other in the unincorporated areas of Arapahoe County and limited size of facilities to 5,000 sq ft. He said that a new USR would also be required and this would likely limit the number of times the stores would move. He described that while existing licenses were transferrable, the proposed changes limited risk for expansion and prevented clustering of similar businesses. He reported that concerns about push back for expansion in the number of licenses were addressed by the Colorado Constitutional Amendment 64, which had a lot of latitude, including the ability for jurisdictions to outright prohibit retail marijuana sales. He confirmed that Greenwood Village and Centennial opposed the regulations. He reported that Tri-County Health Department had recommended separating retail marijuana from places where children might gather. He stated that there were no comments from the Arapahoe County Sheriff's Department, the Building Department, the City of Littleton, Denver International Airport and Elbert County. He concluded that the non-responses from surrounding jurisdictions could be categorized by those who exercised their right to not comment and those who specifically said "No Comment".

Ms. Wollman opened the hearing for public comments. There were no members of the public present or on the call-in. The public hearing was closed.



	<p>The motion was made by Mr. Miller and duly seconded by Ms. Rieck, in the case of LDC22-004, Arapahoe County Land Development Code Amendment for Marijuana Land Uses, the Planning Commission has reviewed the staff report, including all exhibits and attachments and has listened to the staff presentation and any public comment as presented at the hearing and hereby move to recommend approval of the proposed amendment of the Land Development Code as presented in the staff report, subject to the following recommended stipulations:</p> <ol style="list-style-type: none">1. Staff is authorized to make minor corrections or revisions to the proposed language, with approval of the County Attorney, if necessary to incorporate the approved amendment into the text of Land Development Code.2. Add the modified buffer language as follows: Not increase the number of commercial marijuana stores to more than two within a one and one half mile radius around any existing licensed commercial marijuana store. <p>The vote was:</p> <p>Mr. Brockelman, Yes; Ms. Latsis, No; Mr. Miller, Yes; Ms. Rieck, No; Ms. Sauve, No; Mr. Sall, Yes; Ms. Wollman, Yes</p>
ANNOUNCEMENTS ADJOURNMENT	<p>The PC was reminded that if there were cases to be heard on November 1, 2022, the PC Regular Meeting would be held at the East Hearing Room of the Arapahoe County Administration Building at 5334 S. Prince St. in Littleton.</p> <p>There being no further business to come before the Planning Commission, the meeting was adjourned.</p>