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PLANNING AND ZONING COMMISSION

Minutes February 11, 2013

Meeting Summary

The public hearing on PZ Resolution 2013-1, Broomfield Heights Filing No. 1, Amended, Block 7, Lot 19 (211 Garnet Street), Variance Request to reduce the required ten foot side yard setback by approximately nine feet for the purpose of allowing a non-conforming garage was continued to the March 11, 2013, meeting of the Planning and Zoning Commission. The motion passed by unanimous vote (7-0) of the Commission.

PZ Resolution 2013-7, a Resolution Approving a Variance for 1198 Birdie Road, Broomfield Country Club Estates, Block 1, Lot 17, to allow a reduction in the Rear Yard Setback from 25 feet to 21 feet to allow an existing sunroom/deck with the following findings: 1) There would be a financial hardship in requiring the applicant to remove the structure; 2) There is no detriment as it existed without complaint for at least twenty years; and 3) That it is only to improve the existing condition, not to expand upon existing condition was approved by unanimous vote (7-0) of the Commission.

PZ 2013-8, a Resolution Recommending Approval of an Urban Renewal Site Plan for Marae Filing No. 1 located at 7705 West 120th Avenue, was approved by unanimous vote (7-0) with the following conditions: 1) An approved, recorded plat is required prior to the issuance of any building permits; 2) The applicant is to clarify the fire lane signage to include vertical fire lane no parking signage along the access driveway; 3) If the use is changed, the new user would be required to provide the needed spaces and the improved lot surfacing required by the Broomfield Municipal Code; 4) The applicant to provide an enclosed trash dumpster; and 5) The applicant to include a sketch/drawing showing loading procedures to address fire safety issues.

The Commission approved the denial of PZ 2012-27, an application for Mustang Acres Replat A, Block 1, Lot 1 Variance request to reduce minimum lot area from 1.0 acres to 0.8 acres and reduce minimum lot width from 150 feet to 133 feet to allow future subdivision of one lot into two lots based on the following findings of fact: 1) The Commission is unable to find practical difficulties and hardships and finds that any hardships were self-created; 2) The Commission found no exceptional conditions on the property that the applicant has demonstrated and the applicant was aware of the conditions on the property prior to the purchase of the property; 3) The approval of the variance would result in a substantial detriment to the neighborhood and community at large by allowing the development on two lots, each of which is less than the one acre requirement permitted within in the district and smaller in size than the surrounding lots; and 4) The applicant still has a buildable lot, and the lot can still be developed in accordance with the zoning district it falls under currently. The motion was approved (for denial of the variance) by a 4-3 vote of the Commission.

Roll Call - 7:00 P.M.

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

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Commission Members Present: Charles Hastings

Roger Kelley Archie Lind Phil Russell Tom Silvers Kathryn Turner Scott Weeks

Commission Members Absent: Jacklynn Gould

Staff Members Present: Dave Shinneman, Community Development Director

Tami Yellico, Deputy City & County Attorney

Alice Hanson, Senior Planner

Petitions and Communications -- None

Disposition of Minutes

The minutes of the regular Planning and Zoning Commission meeting of January 28, 2013, were approved as printed and previously submitted.

CONTINUED PUBLIC HEARING -- PZ RESOLUTION 2013-1

Broomfield Heights Filing No. 1, Amended, Block 7, Lot 19, Variance request to reduce the required ten foot side yard setback by approximately nine feet for the purpose of allowing a non conforming garage to remain

Location: 211 Garnet Street

Applicant: Juan Sanchez, Jr. and Nadia Sanchez

Planner: Michael Sutherland

Chairman Silvers opened the public hearing at 7:05 p.m.

Commissioner Silvers stated the public hearing was opened at the January 14, 2013, meeting. Testimony was taken at the hearing and continued to the February 11, 2013, meeting, to allow the applicant and other interested parties to bring additional evidence regarding the difficulties or hardships of removing the garage from the property of the substantial detriment to the neighborhood or to the public good if the garage remains in place and to gather additional information from the North Metro Fire and Rescue District. The applicant has requested additional time to talk with neighbors and gather the requested information. Staff recommends a continuance March 11, 2013, to encourage adequate time for the applicant to talk with the neighbors and for staff to prepare the memorandum.

Commissioner Lind moved to continue the public hearing on PZ Resolution 2013-1, Broomfield Heights Filing No. 1, Amended, Block 7, Lot 19, Variance Request to reduce the required ten foot side yard setback by approximately nine feet for the purpose of allowing a non-conforming garage to remain, be continued to the March 11, 2013, meeting of the Planning and Zoning Commission.

Commissioner Russell seconded the motion.

The motion passed by unanimous vote of 7-0 of the Commission.

PUBLIC HEARING – PZ RESOLUTION 2013-7

Broomfield Country Club Estates, Block 1, Lot 17, Variance Request to reduce the rear yard setback for an elevated deck from 25 feet to 21 feet, allowing the existing deck to encroach approximately four feet into the rear yard setback

Location: 1198 Birdie Road

Applicant: Charles and Martha Alarcon

Planner: Alice Hanson

Chairman Silvers declared the public hearing open at 7:05 p.m.

Senior Planner Alice Hanson requested the staff report be entered into the record of the hearing. A building permit was requested for repair of the roof of the sunroom (floor of deck) at the back of the home at 1198 Birdie Road. The permit was denied on January 3, 2013, because the sunroom/deck encroaches into the rear yard setback. No previous variance request or permit for the deck was located to indicate a prior approval. The applicant applied for a variance and has identified the following reasons for the request: 1) The existing deck flooring is deteriorating and is in need of repair; 2) The applicant did not construct the sunroom/deck. The property was purchased in October 1992 and the sunroom/deck was already in place at that time; 3) The proposed location of the deck does not increase the existing encroachment which has existed since prior to 1992 without any recorded complaints; and 4) The neighboring property owners have indicated that there will be no detriment to their property or the neighborhood in general with the granting of the variance.

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.

The applicant, Charles Alarcon, requested approval of the variance as removal of the deck would cause a hardship to them and would negatively impact the value of the home.

Public comment was requested, there was no one wishing to speak

Commissioners' questions, comments and concerns were:

- When was the sunroom deck built; and
- What action caused this request for variance.

The applicant responded to some of the Commission's concerns:

- The deck may have been built under the Boulder County code.
- The applicant purchased the home in 1992 and it was part of the structure.
- The applicant applied for a permit to repair the roof.

The public hearing was closed at 7:13 p.m.

RESOLUTION PZ 2013-7 WAS READ BY TITLE

Commissioner Kelley moved for approval of PZ Resolution 2013-7, a Resolution Approving a Variance for 1198 Birdie Road, Broomfield Country Club Estates, Block 1, Lot 17, to allow a reduction in the Rear Yard Setback from 25 feet to 21 feet to allow an existing sunroom/deck with the following findings:

- 1) There would be a financial hardship in requiring the applicant to remove the structure;
- 2) There is no detriment as it existed without complaint for at least twenty years: and
- 3) That it is only to improve the existing condition, not to expand upon existing condition.

Commissioner Lind seconded the motion.

The motion passed by unanimous vote.

PUBLIC HEARING - PZ RESOLUTION 2013-8

Marae Urban Renewal Site Plan for Construction of a 9600 Square Foot Metal Building (Aerodry

Systems)

Location: 7705 and 7795 West 120th Avenue

Applicant: Darryl and Cheryl Dobie

Planner: Alice Hanson

The public hearing was opened at 7:15 p.m.

Senior Planner Alice Hanson summarized the staff report and asked that the staff report be submitted into the record. The owner, and applicant for the application, is Darryl and Cheryl Dobie, who operate Aerodry Systems. The review of the URSP is governed by the B-2 zoning district, the Comprehensive Plan (which designated the parcel for Neighborhood Commercial), and the Broomfield Shopping Center Urban Renewal Plan. The site is currently two unplatted lots. In order to obtain a building permit, the property must be platted. A Minor Subdivision Plat to create one lot (which is an administrative process) is under staff review and will be required to be completed with the approval of the Urban Renewal Site Plan.

The proposed plan replaces two existing structures on the property. The new 9,600 square foot building is located toward the center of the 1.12 acre parcel. The building will house the Aerodry Systems business which sells drying systems for commercial carwash facilities. As the product is quite specialized, the business is focused primarily on wholesale sales activity. The building is located towards the middle of the site. The setbacks meet the requirements of the B-2 zone district. A landscaping island of approximately 24 feet will be improved along West 120th Avenue. Access to the site is provided by two driveways connected to West 120th Ave. Parking for the business is being calculated on the basis of the wholesale use which would be employee-based. The eight parking spaces at the front of the building will provide the necessary parking. Should the building be used for a retail based use in the future, the applicant has reserved a portion of the site for additional parking.

Public comment was requested.

Mark Brunner, owner of the property at 7700 West 120th Avenue and the three adjacent properties to the west, was interested in redevelopment of the area. Mr. Brunner said he would like to the see area vibrant as he feels the area is currently depressed.

Sean Kennedy, 7460 West 120th Avenue, expressed concern about the secondary use of the project, the parking lot in the back, and the entrances off 120th Avenue.

Mark Brunner spoke again and inquired about the elevations of the property. It is important the buildings in the area blend with the area's character.

Frank Ambrosia, property owner of 7910 West 120th Avenue; said they are proud of their neighborhood and some of the homes are historical. He asked what current zoning is and if, in the future, would the zoning change? The property is B-2 and the property he owns is zoned Agricultural.

Community Development Director Dave Shinneman stated the zoning of the property in B-2 and this proposed use is an allowable use in the B-2 zoning district. Zoning of property in the neighborhood could be changed through an application which would require a public hearing.

Commissioners' questions, comments and concerns were:

- Need to provide an enclose for the trash area;
- Proposed signage;
- Provide a drawing showing loading procedures to address fire safety issues;
- Fire safety issues and location of fire lane signs;

- In the future, the light rail will be coming through behind the building and this will be an entrance to the Broomfield community;
- Area in the back needs to be a non-blighted area;
- Detention of water; and
- Good project, right location and thank you for supporting economic development in Broomfield.

The applicant, responded to some of the Commission's concerns:

- The existing entrance on the east side of the lot will remain and another entrance will be created on the west side of the lot creating a circle drive;
- The building is a metal building with stucco along the bottom. There are two full glass overhead doors on the south elevation;
- The trash dumpster will be located in the back of the lot, it is not enclosed. Should the City and County of Broomfield require the trash dumpster be enclosed, they would agree to enclosing the trash area;
- The only signage they are requesting is a street address on the building;
- There is good access on both sides of the building;
- When loading trucks, the flat bed could be pulled up parallel to the building and loaded from the side; and
- The back area will have natural grasses and gravel. The lot naturally slopes from front to back so there is a need for detention of water on the back portion of the property.

The public hearing was closed at 7:45 p.m.

RESOLUTION PZ 2013-8 WAS READ BY TITLE

Commissioner Turner moved for approval of PZ 2013-8, a Resolution Recommending Approval of an Urban Renewal Site Plan for Marae Filing No. 1 located at 7705 West 120th Avenue, with the following conditions:

- 1) An approved, recorded plat is required prior to the issuance of any building permits;
- 2) The applicant is to clarify the fire lane signage to include vertical fire lane no parking signage along the access driveway; and
- 3) If the use is changed, the new user would be required to provide the needed spaces and the improved lot surfacing required by the Broomfield Municipal Code.

Commissioner Hastings seconded the motion.

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

Commissioner Hastings offered the following friendly amendment:

- 1) The applicant to provide an enclosed trash dumpster; and
- 2) The applicant to include a sketch/drawing showing loading procedures to address fire safety issues.

Commissioner Turner accepted the friendly amendment.

Community Development Director Dave Shinneman stated the requirement of a recorded plat must be completed prior to a Building Permit being issued and the applicant is aware of the requirement.

The motion passed by unanimous vote (7-0) of the Commission.

Recess -- 7:47 p.m.

Reconvene -- 7:53 p.m.

CONTINUED PUBLIC HEARING -- PZ RESOLUTION 2012-27

Mustang Acres Replat A, Block 1, Lot 1 Variance request to reduce minimum lot area from 1.0 acres to 0.8 acres and reduce minimum lot width from 150 feet to 133 feet to allow future subdivision of one lot into two lots

Location: 15536 Santa Fe Drive

Applicant: Imagine! Planner: Anna Bertanzetti

The public hearing was opened at 7:54 p.m.

Chairman Silvers stated that Commissioners Lind, Kelley and Weeks were absent from the December 10 meeting. Each commissioner had the opportunity to review the minutes and/or listen to the meeting audio. Commissioners Kelley and Weeks confirmed they had either reviewed the minutes and/or listened to the meeting audio. Commissioner Lind was absent from the meeting.

Community Development Director Dave Shinneman asked the memorandum, attachments and additional information submitted by the applicant and others be submitted into the public record. Mr. Shinneman summarized the staff report.

The subject property is located south of West 156th Avenue and west of Huron Street. The applicant owns a 1.8 acre lot in Broomfield. The applicant also owns four additional adjacent parcels of land located within Adams County totaling 14,644 square feet. These parcels of land are former right-of-way vacated by Adams County in 2008. The applicant owns a total of 2.14 acres of property between the two counties. The former right-of-way remaining in Adams County cannot be combined into the subject lot for purposes of lot size determination in Broomfield because the properties are located in different counties. The 1.80 acre property owned by Imagine is zoned A-1 (A), which allows a minimum lot size of one acre if public water and private septic are provided for the lot. The lot will be connected to public water in Huron Street via an easement through an adjacent property to the east. The applicant is requesting two 1) Reduction of the minimum lot area (1.0 acres to 0.8 acres); and 2) Reduction of the minimum lot width (150 feet to 133 feet). On December 10, 2012, the Planning and Zoning Commission continued the public hearing to January 14, 2013, to allow the applicant additional time to provide information regarding the "exceptional and practical difficulties" faced by the applicant if the variance is not approved. On January 2, 2013, staff received an email from the applicant requesting additional time to talk with neighbors and gather the requested information. The Planning and Zoning Commission continued the public hearing on January 14, 2012 to February 11, 2012. On January 29, 2013, staff received additional information from the applicant including a written response from the applicant, an appraisal, and Housing and Urban Development funding regulations. These documents were attached to the staff memorandum and need to be entered into the public record. In the written response, the applicant describes exceptional conditions as well as peculiar and exceptional practical difficulties with developing the subject lot.

An appraisal is provided stating the value of the lot as a single developable site is \$140,000 while the value of two sites would be a total of \$200,000 in value (\$100,000 per lot). The appraisal also estimates the cost of extending Santa Fe Drive, as required by Adams County, is approximately \$64,000 and installation of two new utility lines to connect to water in Huron Street would be approximately \$24,000. The applicant has also provided a copy of Section 811 regarding funding from Housing and Urban Development. The regulations specify the land needs to be held by a "single asset corporation. It may not engage in any other business or activity or incur any liability or obligation unrelated to the project." As such, if the lot remains a single 1.8-acre lot, then the group home could be built on a portion of the lot, but the remainder of the lot would need to remain undeveloped and could not be used for agricultural or equestrian purposes. Mr. Shinneman stated for the record there were two additional e mails (from Mr. Clark and Mrs. Freedman) received after the P&Z packet went out.

Jodi Walters, Director of Innovations at Imagine; and Sterling Wind, project manager assigned to this project, spoke of the location, plans for the property, restrictions placed on the project, grant (for part of the capital construction for the home) application and communication with the neighbors.

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Public comment was requested. Chairman Silvers reminded the audience this is a continued public hearing and asked the speakers not repeat their previous testimony.

Scott LaFleur, 16524 Lipan Street, spoke in support of the variance since it allows for an opportunity for rental of a portion of the property for equestrian uses and was in opposition to an increase in residential density.

Derek Malmegren, 864 West 154th Avenue, states the variance should not be approved at this time

Bob Davis, 1145 Bellaire Street, board member of Imagine!, spoke of Imagine! working hard for the community. Imagine is a non profit organization and wants to take care of the land in a rightful manner to fit into the community. If the property is not subdivided now, it cannot be subdivided for forty years.

John Clark, 15488 Navajo Street, president of Mustang Acres Water Company, said Imagine! has been particularly helpful. He expressed concern about the future lease of the land and spoke of a couple five year leases and then the land could be turned into community gardens.

Commissioners' questions, comments and concerns were:

- HUD application;
- Septic design;
- Restricting the use of the property;
- Access by the Fire Department;
- Annexation of the parcels;
- Willingness of the parties to compromise and work things out;
- Applicant did purchase the property knowing the restrictions that were in place;
- Property can be developed without the granting of the variance;
- Lease document is a token contribution between the parties, and it cannot be part of the variance;
- Lease agreement is a private contract between two parties;
- The neighborhood appears to be split, fifty percent OK with the variance and fifty percent of the neighbors in opposition to the variance;
- It appears the situation is self created; and
- Sympathic but feel the situation is self-inflicted.

Chris Mirto, PH Architects, spoke about the process of purchasing the property to include the property in Adams County.

Deputy City Attorney Tami Yellico spoke of the process to annex property into the City and County of Broomfield. The process is a two part process which requires a board be organized from Adams County and the City and County and should the board make a recommendation of annexation then it would be put to a vote of the people in both Adams County and the City and County of Broomfield. A rough cost of an election, given to the applicant was close to a couple hundred thousand dollars.

Deputy City Attorney Tami Yellico said the lease agreement is a private contractual agreement between two parties and the contract itself cannot be made part of the Commission's approval.

Community Development Director Dave Shinneman said the Commission is acting on the variance request, not the zoning of the property.

The public hearing was closed at 8:38 p.m.

Recess -- 8:45 p.m.

Reconvene -- 8:56 p.m.

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RESOLUTION PZ 2012-27 WAS READ BY TITLE

Commissioner Weeks moved for denial of PZ 2012-27, an application for Mustang Acres Replat A, Block 1, Lot 1, Variance request to reduce minimum lot area from 1.0 acres to 0.8 acres and reduce minimum lot width from 150 feet to 133 feet to allow future subdivision of one lot into two lots based on the following conditions:

- 1. The Commission is unable to find practical difficulties and hardships and finds that any hardships were self-created:
- 2. The Commission found no exceptional conditions on the property that the applicant has demonstrated and the applicant was aware of the conditions on the property prior to the purchase of the property:
- 3. The approval of the variance would result in a substantial detriment to the neighborhood and community at large by allowing the development on two lots, each of which is less than the one acre requirement permitted within in the district and smaller in size than the surrounding lots.
- 4. The applicant still has a buildable lot, and the lot can still be developed in accordance with the zoning district it falls under currently.

Commissioner Hastings seconded the motion.

The following votes were cast:

Those voting Yes: Hasting, Kelley, Turner and Weeks

Those voting No: Lind, Russell and Silvers

The motion passed (the variance was denied) by a 4-3 vote of the Commission.

Special Report --

Community Development Director Dave Shinneman stated the next meeting for the Planning and Zoning Commission is March 11, 2013. Applications for the Planning Commission are required to be submitted by Thursday, February 28.

Adjournment - 9:03 p.m.

The meeting was adjourned at 9:03 p.m.

| Approval | |
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| Minutes Prepared by: | |
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| Diana K. Tangsrud, Recording Secretary | |
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| Approved by: | |
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| Chairman | |