



PLANNING AND ZONING COMMISSION

**Minutes
March 25, 2013**

Meeting Summary

PZ Resolution No. 2013-9, a Resolution Recommending Approval of the MidCities Planned Unit Development Plan (Eighth) Amendment, The Summit Green Site Development Plan and Final Plat approximately located at 453 and 515 Summit Boulevard, was approved by a 4-2 vote. The following conditions were added to the recommendation for approval: 1) The Commission recommends the Council deny the variance reducing the width of the access aisle within the Flats building garage; 2) The applicant dedicate public parking for the Central Green area; 3) The applicant work with staff to align the parking spaces in the Flats building garage to accommodate larger vehicles in a standard nine foot by nineteen foot parking space; 4) The applicant provide vehicular access to the Central Green Park; 5) The applicant to resolve outstanding technical issues with the North Metro Fire and Rescue District; and 6) The applicant assure inclusion in the Subdivision Improvement Agreement for the off-site sewer improvement obligations required for construction of the project prior to going before Council.

PZ Resolution No. 2013-10, a Resolution Recommending Approval of a Use By Special Review for Nordstrom 5-4 and Nordstrom 2-4 PAD Oil and Gas Wells approximately located at 16000 Sheridan Parkway was approved by unanimous vote (6-0-2) of the Commission.

A Use By Special Review and Urban Renewal Plan for the Olde Lumberyard, located at 7905 West 120th Avenue, was denied due to the applicant's failure to comply with 17-22-010 (General Business District - Intent) and continued failure to meet the standards of 17-30-060 (Uses Permitted by Special Review - Request; approval, conditional approval; denial). The motion on PZ Resolution No. 2013-11 for denial of the Olde Lumberyard's request for a Use by Special Review was approved by unanimous vote (6-0-2) of the Commission.

Roll Call – 7:00 P.M.

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

Commission Members Present: Jacklynn Gould
Charles Hastings
Archie Lind
Phil Russell
Tom Silvers
Kathryn Turner

Commission Members Absent: Roger Kelley
Scott Weeks

Staff Members Present: Dave Shinneman, Community Development Director
Tami Yellico, Deputy City & County Attorney
Anna Bertanzetti, Principal Planner
Lynn Merwin, Principal Planner
Alice Hanson, Senior Planner

Petitions and Communications -- None

Disposition of Minutes

The minutes of the regular Planning and Zoning Commission meeting of March 11, 2013 were approved as printed and previously submitted.

PUBLIC HEARING – PZ RESOLUTION 2013-9

MidCities Planned Unit Development Plan (Eighth) Amendment, Site Development Plan and Final Plat for MidCities Filing No. 22 for Summit Green

Location: 453 and 515 Summit Boulevard (one block south of Coalton Road on Summit Boulevard, west of Walmart and directly north of the Sunrise Assisted Living property)

Applicant: Pathfinder Broomfield Holdings

Planner: Alice Hanson

Chairman Silvers declared the public hearing open at 7:03 p.m.

Senior Planner Alice Hanson summarized the staff report and requested the staff memorandum be submitted into the public record. The request is for an amendment to the MidCities PUD, a final plat and a site development plan for a two hundred unit apartment development in MidCities. The publication notification requirements have been met. The owner and applicant for this application is Pathfinder Broomfield Holdings, LLC. The site is located on the north side of Summit Boulevard about one block south of the intersection of Coalton Road and Summit Boulevard. The site is bordered by the Sunrise Senior/Assisted Apartments on the south, Walmart on the east, a collection of drive-through oriented business on the north and the Summit Office Park (partially constructed) on the west. The site is vacant and slopes about thirty-eight feet from the southwest to the northeast.

The property is within the MidCities PUD which (without an amendment) would permit seventy-four units on the property. The applicant is proposing a two hundred unit project which will require an amendment to the PUD. The eighth text amendment for the MidCities PUD would permit an additional one hundred twenty-six residential units in the area with design parameters that match those already in the MidCities PUD. Because residential units are being added to the area, a public land dedication is required. The PUD includes a 5.78 acre land dedication and/or cash-in lieu of land dedication. The amount of public land dedication is calculated based on the estimated population generated by the additional one hundred twenty-six units. The applicant is proposing to meet the public land dedication through a combination of land dedication and cash in-lieu.

The property is currently two lots. The Final Plat combines the lots into a single lot and dedicates: 1) the Summit Green Park (centrally located); 2) access easements through the site for pedestrian access to the park and through the site; and 3) public access easement on the Overlook Park at the northwest corner of the site.

The plan is similar to the plan presented at the Concept Review and addressed the primary issues by: 1) dedicating of a public park; 2) committing to noise reduction elements in construction and notifying tenants regarding airport impacts (similar to Carmel Flatirons); 3) providing the number of spaces required by the Broomfield Code; and 4) not exceeding thirty percent of the MidCities PUD property for residential uses. The project does not contain three bedroom apartments requested at Concept Review.

The design of the site includes a total of two hundred apartments. There will be one hundred eight single bedroom units in the Flats building which is the building located along the north property line. The building will be built into the slope on the property which allows parking under the building at grade on the north side of the building and three stories of apartments with the ground level units even with the central park area. The row homes (ninety-two two bedroom units in eight buildings) will have 'front door' access along Summit Boulevard and the internal streets. There are ninety-two garage spaces with one tandem space for each of the row home units. The balance of parking is on the streets throughout the project. Architecture is a modern design. The primary exterior materials are lap siding, brick masonry, and metal trim. A central park area, named Summit Green Park, is to be dedicated to the City. There will also be a park on the northwest corner of the site. The sidewalks crossing the property are in easements allowing for public access. There will be a clubhouse with a fitness center, outdoor hot tub and fire pit/barbeque area. Forty-two percent of the site is private open area.

The applicant is requesting the following waivers: 1) reduced setback on the north property line due to the placement of the Flats building and the irregular configuration of the north property line; 2) reduced parking stall and drive aisle dimensions in the Flats building parking garage in order to provide one covered space per unit; 3) reduced setback on the west property line for a drive lane which matches the reduction for the parking area on the adjacent property; and 4) tandem parking at the row homes.

Issues identified by staff are: 1) public vehicular access to Summit Green Park; and 2) final approval from North Metro Fire and Rescue District has not been received due to primarily technical issues.

Peter Grenney, Pathfinder Broomfield Holdings, noted the plan is similar to what was presented at the Concept Review. The concept of the project will provide a new urbanist design that is neighborhood/community focused. The hope is to create a neighborhood friendly environment that fits into the area. Mr. Grenney noted he is agreeable to providing public vehicular access to the park and will work with North Metro to resolve any outstanding issues.

Bill Branyon, Flatirons Architectural Control Committee representative, spoke. He pointed out the Summit Green Park and public access easements. The project is well connected to trails. All of the items discussed at Concept Review hearing have been addressed. The parking standards are reduced parking dimensions within the garage and are for use by the residents of the project. Market studies show very little if any demand for larger than two bedroom units. The applicant will continue to work with staff on vehicular access to the parks and feels concerns mentioned by the Fire Department have been addressed.

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

Commissioner's comments and questions were:

- Like the concept of the project;
- Lack of dedicated parking area for the park;
- Concerned about the amount of parking, the tandem parking, the width of the parking spaces, and access drive width within the parking garage;
- North Metro's concerns;
- Sound attenuation for the project and willingness to increase the standards;
- Handicapped accessibility;
- Trash and recycling facilities provided and concerned about individuals having to cross the drive by Building Three;
- Restricting choices of renters because of the parking;
- Parking spaces on the circular drive at the west end;
- Snow storage area;
- Screening of utilities; and
- Addition of architectural features on the north side of the Flats building.

Representatives of the applicant responded to some of the Commissioner's comments and concerns (Bill Branyon; Eric Bottenhorn, Crain Architecture; and Peter Grenney, Pathfinder Broomfield Holdings, LLC):

- o The project is not within a community that has an alternative use that would put a burden on the community. Each site development plan in the area has met the required parking.
- o Architectural Control Committee did not address tandem parking; their belief is it is a management issue.
- o The engineer and the architect have worked with North Metro Fire Protect District and have received approvals but the 'boiler plate' letter of approval issued from North Metro is yet to follow.
- o The applicant has committed to the standard 25 dba sound attenuation.
- o Public parking for the park was never brought up at the Concept Review meeting.
- o The project provides wheel chair accessible units on the ground level which meets the federal government requirements.
- o We have tried to evenly distribute trash and recycling throughout the site.
- o The development would be short approximately twelve to fifteen spaces should no variances be granted. With approval of the requested variances the development would have three extra spaces.
- o The development is expected to be occupied by young, single professionals and individuals priced out of Boulder.
- o The number of parking spaces are within the code, the spaces (width and length) are within the code; and it is voluntary for people to live in the development.
- o Renters may value different attributes of the project.
- o Snow will be moved to the central green area.
- o Any utility on the ground will be screened by landscaping and any utility on the roof will be screened by a parapet.
- o The Flats building is primarily lap siding.
- o The parking garage columns may cause challenges when working to increase the width of parking spaces and the drive aisle width.
- o The applicant provided a Traffic Report.

Community Development Director Dave Shinneman stated the applicant is asking to use eight and a half foot by eighteen foot (8'6" x 18') parking space within the entire parking garage. A compact parking space is typically eight foot by fifteen foot (8' x 15').

The public hearing was closed at 8:05 p.m.

RESOLUTION PZ 2013-9 WAS READ BY TITLE

Commissioner Hastings moved for approval of Resolution No. 2013-9, a Resolution Recommending Approval of the MidCities Planned Unit Development Plan (Eighth) Amendment, The Summit Green Site Development Plan and Final Plat approximately located at 453 and 515 Summit Boulevard, be approved with the following conditions:

- 1) The Commission recommends the Council deny the variance reducing the width of the access aisle within the Flats building garage;
- 2) The applicant dedicate public parking for the Central Green area; and
- 3) The applicant work with staff to align the parking spaces in the Flats building garage to accommodate larger vehicles in a standard nine foot by nineteen foot parking space.

Commissioner Gould seconded the motion.

Discussion of the motion was called for.

Commissioner Gould offered the following friendly amendment:

- 4) The applicant provide vehicular access to the Central Green Park; and
- 5) The applicant to resolve the outstanding technical issues with North Metro Fire and Rescue District.

Commissioner Hastings accepted the friendly amendment.

Discussion of the motion was called for.

Commissioner Turner offered the following friendly amendment:

- 6) The applicant assure inclusion in the Subdivision Improvement Agreement for the off-site sewer improvement obligations required for construction of the project prior to going before Council.

Commissioner Hastings and Gould accepted the friendly amendment.

Chairman Silvers stated he felt we should leave the technical issues to the staff.

Discussion on the motion.

Commissioner Turner stated she would almost recommend a continuation of the project to assure all the unresolved issues be settled prior to making a recommendation to Council

The following votes were cast on the motion:

Those voting Yes: Hastings, Lind, Russell, Silvers,
Those voting No: Gould and Turner
The motion passed by a 4-2-0 vote.

Commissioner Gould said she voted against the motion because she felt the project is not a pedestrian friendly project and therefore does not have enough parking. Also, there is a need to meet the forty percent limitation on compact parking in the garage.

Commissioner Turner said she voted against the motion because there was inadequate parking for the development.

Recess -- 8:14 p.m.

Reconvene -- 8:21 p.m.

PUBLIC HEARING -- PZ RESOLUTION 2013-10 Nordstrom 5-4 PAD & 2-4 PAD Oil and Gas Wells Use by Special Review (North Park Filing No. 2, Block 1, Lot 1 Location: 16200 Sheridan Parkway, North of West 160th Avenue and east of Sheridan Parkway Applicant: Sovereign Operating Company, LLC Planner: Anna Bertanzetti

Chairman Silvers opened the public hearing at 8:21 p.m.

Principal Planner Anna Bertanzetti summarized the staff memorandum and asked that the staff report be entered into the public record. Also submitted into the record was the memorandum for City and County Manager, Charles Ozaki, dated 2011. The applicant requests approval of eleven new oil and gas wells on a 182 acre property located north of West 160th Avenue and east of Sheridan Parkway. The east well site includes one existing well (Nordstrom 5-4) and the west well site includes one existing well (Nordstrom 2-4). The site is zoned Planned Unit Development and is within the North Park PUD Plan. A use by special review is required for well operations in the North Park PUD Plan area. The use by special allows the Commission to look at the requested placement of an oil and gas well in relation to the character of the surrounding neighborhood and adverse environmental influence. Colorado Oil and Gas Conservation Commission recently approved a requirement that new oil and gas wells be located at least 500 feet from homes and buildings. This regulation will become effective August 1, 2013, and the proposed wells comply with the new setback requirement. The applicant will comply with all Rules and Regulations of the Colorado Oil & Gas Commission. Since the existing wells are not very noticeable

when viewed from Sheridan Parkway or West 160th Avenue, no additional visual mitigation should be necessary for the proposed wells. No key issues have been identified by staff.

Ethan Watel, Baseline Engineering Corporation, representing the applicant, spoke. He reviewed the site plan. The site is 182 acres located north of West 160th Avenue and east of Sheridan Parkway. There are two sites with a total of eleven wells. The eastern pad has five wells and the western pad has six wells. The bottom holes are approximately 8000 feet or more below the ground. The only surface operations are located at the two pads which are about three acres of disturbance a piece. These are directional wells which allow us clustering the wells on the two pads. The access road will be widened; the access road is off of 160th Avenue. The location is outside the one hundred year flood plain. He reviewed the detail of both sites which included the access road, location of the tanks and the berms. The road is privately maintained and there is no public access. Rick Benning, Baseline Engineering, and Stephanie Clasen, Sovereign Operating Company, LLC, were also present.

Public comments were requested. Chairman Silvers stated surface obligations of the property which is the only criteria upon which the Planning and Zoning Commission can act.

John Zukowski, 3141 Traver Drive, asked why so many wells have to be drilled and the impact on traffic on 160th Avenue as it is a main through from his neighborhood to the commercial district in north Thornton. He said he totally understands the need for gas drilling but was concerned, should the property be developed, that the City and County of Broomfield would have to pay/purchase the wells in order for development to occur.

Laura Fronckiewicz, 3317 Alexander Way; concerned about the impact of the wells on air, water, soil in which she lives. She was also concerned about students attending Prospect Ridge Academy. She spoke of studies about health risk near fracking sites. She asked that a map of the abandoned wells, active wells and proposed wells, as well as a map of the proposed development plan, and the proximity of each well to the development be provided. She said she would like to understand the safety record of Sovereign Energy and a full accounting of the spills, containment, and damage of the area. She would like to know: 1) if the County has their own experts to oversee the operations or are we relying on the State, 2) what requirements there are for reporting misting events; 3) County plan should something go wrong; 4) does Broomfield have the resources to pay for this or are we relying on the State; 5) are taxpayers paying for this? Ms. Fronckiewicz asked for a moratorium on the drilling until the answers for the above questions are given and until an analysis can be done on the health and safety effects on expanding drilling in the community. She asked that a public meeting be scheduled so residents can receive such information.

Angie Layton, 619 West Juniper Road, Louisville, encouraged people to go out where drilling is taking place; the lights at night and the noise are terrible. She said the road next to the fracking site in Louisville has been completely destroyed and this would give a feel for the consequences to Broomfield and the taxpayers.

John Williamson, 16617 Trinity Loop, inquired about the statement there is no need for scenic mitigation. He asked if there was any open lands or open space requirements and, if not, why not?

Principal Planner Anna Bertanzetti responded; there are Open Space and Open Land requirements for any residential developments within Broomfield. North Park has a very specific plan in place in terms of required Open Lands. The Preble Creek drainage will have significant open lands.

Nate Troup, 16615 Dyer Way, asked how long the actual fracking activity will last. The public health report addressed a half mile radius which put the school within the radius and consideration the risk as mentioned in the Colorado University report has been mitigated and there is nothing that we should be concerned about.

Candy Axelrod, 2989 Rams Horn Run, spoke of her experience living close to a fracking site in Erie. She was opposed to fracking near the school. She asked about the waterways, water courses and water bodies. She asked how close the wells will be to existing residential, proposed residential and proposed commercial development. She was opposed to the proposal.

Commissioner's comments and questions were

- Water to be used will be trucked in;
- Section 404 Clean Water Act Permit;
- Spill retainage;
- Frequency of traffic;
- Overflow protection;
- Contacts to the Oil and Gas Commission or the operator;
- Numbers that can be drilled on a quarter;
- Complaints about the wells that currently exist;
- Duration of the operation;
- Need explanation as to statement 'tremendous';
- Infrastructure in place; and
- Obligation of the oil and gas companies to fix the public roadways if damage occurs.

Commissioner Hastings asked about a note in the plan regarding the water service. Principal Planner Anna Bertanzetti stated Broomfield had requested the note as these operations can go on for years. The note allows them to get water from Broomfield if approved by Broomfield. Approval would be done administratively. The property is believed to be in the Northern Colorado Water District Boundary. All applications of this type are referred to both our CIP Division and Public Works to make sure they agree the infrastructure is there and there are no additional needs, neither of these groups identified concerns with the proposed well sites. North Metro Fire District asked for improvements to the access roads.

The applicant stated a Section 404 Clean Water Act Permit is not required for a project of this size.

Rick Benning, representative of the applicant, said the containment berms are built either by gravel or by steel containment rings with an impermeable type of liner. There is daily inspection of the system which is the biggest safeguard. During construction, traffic is tremendous. After completion, there is probably one tanker truck a day. The smaller operator does daily inspection to monitor the conditions at the well site. During drilling operations there are signs as to whom to contact and anyone can contact the State Oil and Gas Commission. The operators would prefer to be contacted as they try to work with the public. During construction there will be about one hundred to two hundred trips a day but after construction there will be only one tanker truck a day.

Stephanie Clasen, Sovereign Operating, said she is not aware of any spills. They have owned the wells for approximately two years. All of the proposed well heads will be within sixteen to twenty feet of the existing wellhead.

Ethan Watel, Baseline Engineering Corporation, said the drilling phase for each well is between ten to twenty days per well so the drilling phase for six wells will be sixty to one hundred and twenty days. The same rig will be used for all wells so there will be one rig in and will drill all six wells. There is volunteer ground watering and the wells are tested before the well is drilled and then it will be tested after the well has been producing.

Deputy City Attorney Tami Yellico stated, on public roads, the wear and tear on the roads is just public use.

Nate Troup, 16615 Dyer Way, stated he did not feel the question of monitoring air was addressed.

Ethan Watel, representative of the applicant, stated there are a lot of Oil and Gas Commission Rules and Regulations that must be followed but is not aware of any regulations of monitoring of air quality.

Nancy Houton, 3229 Trevor Way, expressed concern about the monitoring of air quality. She also asked when the wells were originally drilled and who the first operators were.

Stephanie Clasen, Sovereign Operating, said the existing wells were drilled in the 1980's and 1990's. Once the wells are drilled and completed, companies are required by the Air Pollution Control Division to have a control device that captures all emissions from the well for the first ninety days. Sovereign keeps them on the wells all of the time and is reportable to the Air Pollution Control Division.

Laura Fronckiewicz, 3317 Alexander Way; spoke again and said the oil and gas company lacked attention to detail and was evading the question. She also said some of the wells are twenty to thirty years old and their casing is failing. Ms. Fronckiewicz said the stats on the well bores show the casings start to fail at about sixty percent after twenty years. She said she asked for a map and Sovereign Operating has not provided the map. She wants to see the safety record and the air monitoring record that they say they keep.

Chairman Silvers stated that in the packet there is a map that shows all the wells.

Ms. Fronckiewicz said she did not see in the packet, on the map, any abandoned wells, proposed wells or future development plans on the map.

Nate Troup, 16615 Dyer Way, inquired if the air monitoring is done while the well is being drilled?

Stephanie Clasen, Sovereign Operating, said the Air Pollution Division requires monitoring devices on the well after drilling. The Oil and Gas Commission website has a map which will show all of the abandoned, drilled and proposed wells (GIS map section). Ms. Clasen said that the engineering team that drills the wells would be responsible for any monitoring while drilling and if there are requirements they would be followed.

Ethan Watel, representative of the applicant, said he would provide information about the number of trips per day prior to the Council meeting.

Chairman Silvers closed the public hearing at 9:15 p.m.

RESOLUTION PZ 2013-10 WAS READ BY TITLE

Commissioner Turner moved for approval of PZ 2013-10, A Resolution Recommending Approval of a Use by Special Review for Nordstrom 5-4 and Nordstrom 2-4 PAD Oil and Gas Wells approximately located at 16000 Sheridan Parkway.

Commissioner Hasting seconded the motion.

The motion was approved by unanimous (6-0-2) approval of the Commission.

PUBLIC HEARING – PZ RESOLUTION 2013-11	
Olde Lumberyard LLC Use by Special Review and Urban Renewal Plan	
Location:	7905 West 120th Avenue
Applicant:	Craig Walstad (Olde Lumberyard LLC)
Planner:	Lynn Merwin

Chairman Silvers opened the public hearing at 9:17 p.m.

Principal Planner Lynn Merwin summarized the staff report. The application this evening is for consideration of a use by special review (USR) and urban renewal site plan (URSP). The proposal is to characterize an existing landscape supply stockyard as a "building supply yard" which is permissible under the Broomfield Municipal Code B-2 zoning designation subject to a use by special review approval. The owner and applicant is Olde Lumberyard LLC. The property is located at 7905 West 120th Avenue, approximately one-quarter mile east of the intersection of West 120th Avenue and Commerce Street. Ms. Merwin asked that the agenda memorandum and the communication from Mr. Brunner (which was forwarded to the Commission earlier in the day) be entered into the record. Also to be entered into the record was a map the applicant provided earlier in the day to address fencing on the site.

The property is zoned B-2 for general business uses and is within the Broomfield Shopping Center Urban Renewal Plan boundary area which permits the same business uses as the B-2 district. The B-2 zoning is designed to contain the more intensive commercial uses and those business uses related to highway users or those businesses that require some outdoor operations. The surrounding area is currently comprised of a mix of uses and zoning ranging from legacy Jefferson County agricultural properties, to business and residential. The majority of the properties adjacent the site to the north, east and west are zoned B-2. The properties immediately to the south are zoned A-1(J) for Jefferson County agricultural uses. There are residential-zoned properties in the area including two properties along the western boundary (the northern approximately one-half of the western boundary).

The Broomfield Comprehensive Plan is a policy document adopted by the Broomfield City Council to establish a vision for Broomfield's future. The Comprehensive Plan land use map identifies the subject property as "neighborhood commercial" which should create a walking destination for residents by providing neighborhood-focused retail. The area is also "susceptible to change" due to the (re)development potential for the area. While the existing business is not expected to provide a walking destination for neighborhood commercial retail or services, the proposal could facilitate implementation of other goals and policies identified in the Comprehensive Plan, namely promoting business opportunity and economic development.

The application is requested to bring an existing landscape stockyard/supply yard use into zoning compliance with the existing B-2 zoning for the site. The proposed plan shows the location of the landscaping/building supply yard functions and establishes site specific requirements for the business to continue to operate on the site. The existing site and business operations for a landscape stockyard are expected to remain substantially unchanged with the exception of limiting outdoor storage to designated areas not to exceed twelve feet in height, improving screening of storage and operations along the north and west property lines with a privacy fence, and restricting the hours of operation for truck deliveries and pick-up of supplies from 7 a.m. to 7 p.m.

The key issue identified by staff is whether the existing the landscape stockyard business should be characterized as a "building supply yard" use permissible by special review with a site plan commitment to: 1) enhance the screening of outdoor storage with a five to six foot tall privacy fencing within 60 days of approval of the plan; 2) clean-up and restrict stockpiles on the site within 60 days of approval of the plan; and 3) restrict operations of truck deliveries and pick-up of supplies from 7 a.m. to 7 p.m.

If the Planning Commission desires to recommend approval of the proposed use by special review and urban renewal site plan, the Commission should consider recommending a condition that the site plan should be revised prior to consideration by the Broomfield Urban Renewal Authority to clarify the existing and proposed fencing styles and heights by location. The intent should be to provide a six- to eight-foot opaque fence along the property lines adjacent to all residential properties. If the use by special review site plan is approved, or approved with conditions, the use may continue provided it operates in conformance with the use by special review site plan. If the use by special review site plan is not approved, the use will not be permitted to operate at the site with the existing zoning.

Mickey Layba-Fonsworth, Permontesgrou, representing the applicant, addressed the Commission. The applicant/owner was also present. Ms. Layba-Fonsworth explained ValleyCrest Landscape and Maintenance has been operating at this location since 2005. Ms. Layba-Fonsworth reviewed the proposed plan to include screening and fencing. There are no proposed structures, the intent is to keep the business operating as it has been since 2005 and to continue the use.

Public comment was requested.

Beverly Pneuman, property owner of 7997 Emerald Lane, showed a number of photos. She asked the Commission to deny the special use request as a building supply yard. The proposed and present use for the last ten years would be better suited in an industrial zoning area. The current business on the property is not a B-2 use. She was concerned about the odors, noise and hours of operation. She said she had been communicating with the Code Enforcement division since 2005 and there have been consistent nuisance issues since 2005. The property is an eye sore and has been referred to as the 'Broomfield slums.' An eight foot privacy fence would be necessary should the business be allowed to continue to operate in the location, the six foot opaque fence is not appropriate. The property has not been cleaned up by the property owner even though Code Enforcement has been involved. The use is beyond the scope of a building supply yard.

Shannon Glaser, 7997 Emerald Lane, showed a number of pictures and gave a timeline of maintenance issues of a fence which had fallen down on the property. He spoke of the property owner being informed by the Code Enforcement Division to bring the business into compliance with the Municipal Code. He said the quality of his family's life has been impacted because of the business. The business owner does not operate as they have presented tonight and they have only fixed some of the issues the City Code Enforcement Division has requested.

Gary Wolfson 12137 Emerald Lane, resident of the Habitat development spoke. Mr. Wolfson wishes to echo what prior speaker had explained. He described the business as an eye sore and a junkyard. He said the City has an opportunity to show the residents of this area of Broomfield they are important. The fence as it exists today is inadequate. If the business is allowed to continue to operate, a more robust fence (brick and wood) would be necessary.

Mark Brunner, 7770 West 120th Avenue, said he provided his narrative earlier and was present to answer questions from the Commission.

Commissioner's comments and questions were:

- consistency of type of fence, height of fence, condition and maintenance of the fence,
- existence of code compliance issues;
- noise issues and business operating outside the 7 a.m. to 7 p.m. time line;
- twenty-five foot required landscape buffer; and
- applicants are normally proactive and willing to work with the neighbors which is not the case in this situation.

Ms. Layba-Fonsworth, representative of the applicant, responded to some of the questions and comments from the Commission:

- The fence would be replaced with a six foot fence, the gate on the west would not be replaced. The gate is normally locked.
- Note number 5 on the plan clarifies hours of operation, which for pick up and delivery is 7 a.m. to 7 p.m.
- A note on the plans has been added to limit the height of mulch piles to twelve feet.
- A twenty-five foot landscape buffer would not serve any purpose as the fence exists as a screening.
- The stockpiles of the mulch will be placed fifty feet from the fence.
- A landscape buffer is not required in the B-2 zoned area, adjacent to similar zoning.

Principal Planner Lynn Merwin said in industrial areas fencing can be between six and eight feet in height. The special review is triggered by the use, not the height of the fence.

Beverly Pneuman spoke again regarding the difference in elevation and the requirement the fence be higher in that area. She indicated she believes the applicant should be required to have an eight foot fence. As the fence is replaced by the applicant, it is replaced with various types of fence (chain link or black fabric).

Community Development Director Dave Shinneman said the intent of a fence is to maximize the screening of any outdoor equipment and storage. The City could require the fence to be eight feet, especially where adjacent to a residential district as required by Code.

Gary Wolfson, 12137 Emerald Lane, said a six foot fence does not block anything and questions if an eight foot fence would block anything. He asked that the complete perimeter be an eight foot fence.

Mark Brunner spoke again, asking what the big picture for the area is. He believed the Comprehensive Plan would assist in the decision and expressed concern about the impact the Commission's decision would have on the value of his property.

Public hearing closed at 10:09 p.m.

Commissioner Lind moved for denial of a Use By Special Review and Urban Renewal Site Plan for the Olde Lumberyard located at 7905 West 120th Avenue, Resolution 2013-11, because of the fact the applicant has failed to comply with 17-22 B-2 General Business District and continue to fail to meet the standards of 17-30-060 (Uses Permitted by Special Review - Request; approval, conditional approval; denial).

Commissioner Russell seconded the motion.

The motion passed by unanimous vote (6-0-2) of the Commission members present.

The motion for denial of the Use By Special Review and Urban Renewal Plan for the Olde Lumberyard will be sent forward to Council.

Special Report --

Community Development Director Dave Shinneman reviewed the schedule of items for public hearing that was distributed at study session. The next Planning and Zoning Commission meeting will be April 8, 2013.

Adjournment – 10:13 p.m.

The meeting was adjourned at 10:13 p.m.

Approval

Minutes Prepared by:

Diana K. Tangsrud, Recording Secretary

Approved by:

Chairman