

Meeting of the Planning Commission, March 17, 2015

Notes taken by Susan Shirley

In attendance were Commissioners Steve Hannan, David Goff, John Sullivan, John Crouse, and Patricia Connell. Brandee Caswell and Ed Rothschild were excused.

Public attendance was approximately 16.

Minutes from the March 3 meeting were approved with no changes.

Agenda items for this meeting were annexation and rezoning of the Davenport property at 4955 Carr Street, and an amendment to the Land Development Code.

Stan Davenport requests annexation and rezoning of his property from Jefferson County residential to Arvada R1, 1 & 2 family residential. The request is in order for city water to be made available. There was no public comment or testimony, and both items were approved on a 5 to 0 vote.

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In 2013, the Olde Town design guidelines were updated and all properties within Olde Town were rezoned and placed into subdistricts. One, unintended, result of this update was that 20 structures suddenly became nonconforming; three were mixed-use structures from the east side of Olde Town, and the rest were single-family detached homes along Ralston Road, Grandview, and Wadsworth.

The proposed modifications to the Land Development Code would grandfather in those nonconforming properties so that they are able to be expanded or altered, or in the case of damage or destruction, the structures could be rebuilt as they were and not as the revised design guidelines would dictate. For example, if a home was originally built with a 25-foot setback, then that would be considered the appropriate setback were the home to be rebuilt.

Public notification of this meeting's vote on this amendment was made only in the newspaper, not by posting or by mail. In addition, staff spoke to all twenty property owners.

There was no public testimony in favor of the amendments.

Four members of the public were sworn in and gave testimony opposing the amendments.

The first to speak was Nancy Young of *Save Arvada Now*, also representing three other citizen groups: *Citizens for a Better Arvada*, *Stop Arvada Walmart*, and *Arvada for All the People*.

Young said the two major areas of concern with these amendments are the lack of public input, and a conflict of interest matter. She said that, while twenty property owners were contacted, they are not named, nor are their comments included in the packet available to the public. In view of the importance of Olde Town, Young believes citizen input should be sought.

The second matter deals with the conflict of interest pertaining to a member of the Design Review Committee, who is understood to have an interest in a property located next door to his current business location, and who for that reason opposes a development project now at the planning department.

Young said that, if the nature of the revisions to the Land Development Code were to make that development impossible, it could give the appearance of collusion between the City's staff and the DRC member.

Young stated that one of two known instances of conflict of interest involving the Design Review Committee member occurred February 19, 2015; an observer at that meeting has reported concerns to the City Manager. Young strongly suggested that the Planning Commission should table the matter of the Land Development Code amendments until all these concerns have been investigated.

Cindi Kreutzer spoke next, first providing copies of correspondence between Kreutzer and City Manager Mark Deven and Mayor Marc Williams, detailing the observations she made during the February 19 meeting. She introduced herself as a new member of the Board of Adjustments and also as the observer at the February 19 meeting who brought the problems she saw to the attention of City Manager Mark Deven. Kreutzer said that Deven has agreed that there was a conflict of interest, and that further discussion is planned with regard to some other violations she observed.

She said that this proposal adds to the appearance of impropriety, and approving it in this meeting would only make the travesty worse.

The third speaker was Jerry Napolitan. This is the developer who brought a proposal for mixed use in Olde Town, with retail on the ground floor and higher end, for-sale condos upstairs. It is materially conforming to all guidelines, requiring few waivers.

Napolitan said that his first meeting with the Design Review Committee was "entertaining." He presented engineering reports showing the lack of structural integrity in two houses he would need to remove for his project. A member of the DRC then asked him how much it would cost to fix and flip the two houses; Napolitan said, speaking off the top of his head, he would guess \$200K to \$250K, to which the DRC member flatly stated she did not believe him.

Napolitan finished by stating that if the Land Development Code amendment wasn't tabled, he would just fold his project, but that he had come here with the intent to build a beautiful building with owners, not renters, right across the street from the light rail station--seemingly right in line with what the City is looking for.

Geoffrey Gardella urged the Commission to urge the planning department to come up with a better plan which would not contradict its own goals.

Senior Planner Cheryl Drake clarified the proposal, saying that it doesn't take away any rights at all, but is meant to repair mistakes that happened when the update was done. She said that when the properties became nonconforming, they couldn't be expanded or altered, and that this affected such structures as the Schoolhouse and some single family homes on Ralston Road. Drake said that anything allowed under the current code is allowed under the amended code.

Attorney Randall Sampson of the City Attorney's office then said that, with respect to nonconforming structures the law as it stands imposes limitations. Sampson made it clear that he did not like the "insinuation that staff is somehow nefarious--that is not how Arvada's staff operates, and certain folks who see conspiracies everywhere" should stick to the facts and in that way, "we could move Arvada forward in a productive way."

He continued, "Our office will have discussions with the members of the Design Review Committee, who are volunteers, not paid." He said those volunteers, in his view, try to operate in the best interests of the City, but may need reminders as to technical matters. He said that, where some people find nefarious behavior and conspiracies, others might suggest that we are blessed with skills, failings and frailties, and that sometimes it's hard to know what should or shouldn't be done.

He said, "where concerns are raised, we will investigate, if there is a conflict we will address it, if there are technical issues we will educate folks as to the things to avoid. Will it take time? It might. I think that people try to operate in the best interests of the City, and we will work with them to ensure that that's the case."

He said the amendments are to provide flexibility to landowners.

Commissioner John Crouse said that the DRC is not under the control of the Planning Commission, but the Land Development Code is, and asked Cheryl Drake if the adoption of the amendment would restrict the ability of the owners of nonconforming properties to make modifications. Drake said no, it opens up options for them.

Commissioner John Sullivan said, "I almost wish the testimony had, instead of suggesting impropriety, had helped us to understand the unintended consequences, which I can't see in this material [provided by Cindi Kreutzer.]"

Commissioner John Crouse made a motion to accept the amendments, and then said, "I have looked through this material, have listened to the testimony, and the comments of legal counsel, and I struggle to find restrictions to existing landowners; we didn't get that testimony tonight."

Commissioner Steve Hannan said the amendments are an administrative correction, and he didn't see anything that indicated harm would be done by approving them.

Commissioners Goff and Connell agreed. Commissioner Sullivan reiterated that he wished the testimony had focused on the consequences, but as it was, he could not see what harm the proposed amendments could do.

The amendments were passed on a 5 to 0 vote.

The next meeting of the Planning Commission will be on April 7 and will deal with a Subway restaurant and a rezoning matter having to do with the Moore Brothers' farm.

Following the meeting, Sampson observed rather forcefully to Cindi Kreutzer that "some people just want to get in front of the cameras" (he says the Planning Commission meetings are televised, news to me) and spout all kinds of conspiracy theories, rather than try to move forward in a productive way. His opinion of the Design Review Committee is that the members are just not fully versed in the proper procedures, but that doesn't make them bad, just needful of some proper education in those matters.