



WESTMINSTER

CITY OF WESTMINSTER
PLANNING COMMISSION
Meeting Minutes
February 28, 2023

1. ROLL CALL

In the absence of Chair Boschert and Vice-Chair McConnell, the meeting was called to order at 7:00 pm by David German at which time, Commissioners were asked to elect an Acting-Chairperson to conduct the meeting. Commissioner Carpenter made a motion for Commissioner Mayo to serve as Acting-Chairperson, Commissioner Dunn seconded the motion. The vote unanimously passed (5 -0).

Present were Commissioners Lawrence Dunn, David Carpenter, David Tomecek, Richard Mayo, and Chennou Xiong. Excused from attendance were Chair Jim Boschert, Vice-Chair Joe McConnell and absent were Commissioners Elisa Torrez and Tracy Colling. Also present: Staff members John McConnell, Interim Planning Manager, Amy Johnson, Senior Planner, Patrick Caldwell, Senior Planner, Jacob Kasza, Senior Planner, Greg Graham, Deputy City Attorney, Joe Reale, Open Space Superintendent, Heath Klein, Transportation Engineer, and David German, Development Services Coordinator. With the roll called, Acting-Chairperson Mayo stated that a quorum was present.

2. CONSIDERATION OF MINUTES

Meeting Minutes from February 14, 2023.

Commissioner Tomecek made a motion to accept the minutes from the November 8, 2022, Planning Commission meeting. Commissioner Dunn seconded the motion. The minutes were unanimously accepted (5-0).

3. CONSIDERATION OF NEW BUSINESS AND PUBLIC HEARINGS

3a) 9889 Alkire Street Annexation, Comp Plan, & Zoning (Brauch Property), 12620 Zuni Street Annexation, Comp Plan, & Zoning (Bushnell Property), 7371 West 92nd Ave Annexation, Comp Plan, & Zoning (Diekmann Property), West 68th Ave & Federal Blvd Annexation, Comp Plan, & Zoning (Federal Blvd South Property), 3421 and 3431 Mosko Court Annexation, Comp Plan, & Zoning (Mosko Court Properties)

Patrick Caldwell, Senior Planner stated that four of the five properties have been purchased by the City to be added to the Open Space inventory. The Mosko Court site was purchased for Right-of-Way for Creekside Drive at the Westminster Station area. Tonight's proceeding is a cleanup effort to officially and correctly account for these properties to include annexing into the city, establishing zoning and allowed land uses and establishing a comprehensive plan land use designation. Staff recommends approval of annexation, comprehensive plan, and zoning to City Council. No PowerPoint presentation was prepared for tonight's hearing.

Mr. Caldwell entered into the record the agenda memorandum, associated attachments, and the public hearing notices.

Mr. Caldwell stated that several corrections were needed – sheet 5 of 7 in Criteria #4 in the agenda memo for the Diekmann site – the county of the Diekmann site is incorrectly noted as in Adams County. The attachment maps and legal description correctly locate the site in Jefferson County.

Mr. Caldwell also stated that the mailed notice incorrectly states the address as 7179 W. 96th place. The correct address is 7371 W. 92nd Avenue. The vicinity map that was included in this

mailed letter correctly located the site on West 92nd Avenue. The posted and published notice correctly listed the address as 7371 W. 92nd Avenue. Staff apologizes for these errors.

If Planning Commission makes its recommendation, these items will move forward to City Council on April 10th for first reading and second reading on April 24th.

Acting-Chairperson Mayo opened the public hearing at 7:11 pm.

One public comment received by email was read aloud in favor of the annexation of the property located at 7371 W. 92nd Avenue into Open Space.

Public testimony heard shared common concerns surrounding the dog park, increased traffic, and safety concerns around cleanup of the Diekmann Property.

Acting-Chairperson Mayo closed the public hearing at 7:28 pm.

Mr. Reale responded about 9889 Alkire Street (Brauch property) pointing out that the driveway is a shared driveway between the city and Mr. Bettis and the responsibility of maintenance on that driveway is on both parties. Mr. Reale also stated that there is no intention to allow public access to Open Space using that driveway off Alkire Street. Mr. Reale responded regarding the dog park area in question that there will be comments solicited from the community on what is being called the Westminster Hills Area Management Plan, with a website being launched the following week to seek public input on how the city manages that land in the future. Mr. Reale stated that Title 13 in the City Code states what can be done with Open Space land. The allowed off-leash dog area in question was special permission given by City Council and will be reviewed in the future.

Mr. Reale spoke about the property located at 7371 W. 92nd Avenue (Diekmann property). He stated that the city did due diligence and found there was asbestos on the property. The city bought the property a year ago and will be taking on the remediation of the property. Mr. Reale also stated that permits are being pulled on the property currently and that the city intends to move quickly with hopes to have the property cleaned up in the next 3-4 months. Longer term, there is potential to build trailhead connections into Walnut Creek.

Commissioner Carpenter made a motion to recommend that City Council approve the Annexation of Property Located at 9889 Alkire Street. The recommendation is based on a finding that the annexation is compliant with Section 11-5-1 of the Westminster Municipal Code.

Commissioner Carpenter made a motion to recommend that City Council approve the Comprehensive Plan Designation as City Open Space for Property Located at 9889 Alkire Street. This is based on a finding that the Comprehensive Plan Designation is generally supported by the criteria set forth in Section 11-5-21 of the Westminster Municipal Code.

Commissioner Carpenter made a motion to recommend that City Council approve the Designation of Zoning as O-1 for Property Located at 9889 Alkire Street. This is based on a finding that the zoning designation is generally supported by the criteria set forth in Section 11-5-3 of the Westminster Municipal Code.

Commissioner Tomecek seconded the motion.

Commissioner Carpenter thanked the residents of Alkire Street for speaking at the hearing.

Motion unanimously passed by a vote of (5-0).

Commissioner Dunn made a motion to recommend that City Council approve the Annexation of Property Located at 12620 Zuni Street. This is based on a finding that the annexation is compliant with Section 11-5-1 of the Westminster Municipal Code.

Commissioner Dunn made a motion to recommend that City Council approve the Comprehensive Plan Designation as Open Space for Property Located at 12620 Zuni Street. This is based on a finding that the Comprehensive Plan Designation is generally supported by the criteria set forth in Section 11-5-21 of the Westminster Municipal Code.

Commissioner Dunn made a motion to recommend that City Council approve the Designation of Zoning as O-1 for Property Located at 12620 Zuni Street. This is based on a finding that the zoning designation is generally supported by the criteria set forth in Section 11-5-3 of the Westminster Municipal Code.

Commissioner Tomecek seconded the motion.

Motion unanimously passed by a vote of (5-0).

Commissioner Tomecek made a motion to recommend that City Council approve the Annexation of Property Located at 7371 West 92nd Avenue. This is based on a finding that the annexation is compliant with Section 11-5-1 of the Westminster Municipal Code.

Commissioner Tomecek made a motion to recommend that City Council approve the Comprehensive Plan Designation as City Open Space for Property Located at 7371 West 92nd Avenue. This is based on a finding that the Comprehensive Plan Designation is generally supported by the criteria set forth in Section 11-5-21 of the Westminster Municipal Code.

Commissioner Tomecek made a motion to recommend that City Council approve the Designation of Zoning as O-1 for Property Located at 7371 West 92nd Avenue. This is based on a finding that the zoning designation is generally supported by the criteria set forth in Section 11-5-3 of the Westminster Municipal Code.

Commissioner Dunn seconded the motion.

Commissioner Tomecek stated that he would like to see the city address the hazardous materials and asbestos issues on the property as quickly as reasonably achievable as well as policing on the property while vacant.

Commissioner Carpenter agreed with Commissioner Tomecek and shared his disappointment that permitting is delaying the cleanup of the property.

Acting-Chairperson Mayo stated thanks to Parks and Open Space for addressing all concerns from testimony.

Motion unanimously passed by a vote of (5-0).

Commissioner Carpenter made a motion to recommend that City Council approve the Annexation of Property Located at West 68th Avenue & Federal Boulevard. This is based on a finding that the annexation is compliant with Section 11-5-1 of the Westminster Municipal Code.

Commissioner Carpenter made a motion to recommend that City Council approve the Comprehensive Plan Designation as City Open Space for Property Located at West 68th Avenue & Federal Boulevard. This is based on a finding that the Comprehensive Plan Designation is generally supported by the criteria set forth in Section 11-5-21 of the Westminster Municipal Code.

Commissioner Carpenter made a motion to recommend that City Council approve the Designation of Zoning as O-1 for Property Located at West 68th Avenue & Federal Boulevard. This is based on a finding that the zoning designation is generally supported by the criteria set forth in Section 11-5-3 of the Westminster Municipal Code.

Commissioner Tomecek seconded the motion.

Motion unanimously passed by a vote of (5-0).

Commissioner Dunn made a motion to recommend that City Council approve the Annexation of Property Located at 3421 and 3431 Mosko Court. This is based on a finding that the annexation is compliant with Section 11-5-1 of the Westminster Municipal Code.

Commissioner Dunn made a motion to recommend that City Council approve the Comprehensive Plan Designation as City Open Space for Property Located at 3421 and 3431 Mosko Court. This is based on a finding that the Comprehensive Plan Designation is generally supported by the criteria set forth in Section 11-5-21 of the Westminster Municipal Code.

Commissioner Dunn made a motion to recommend that City Council approve the Designation of Zoning as SPD for Property Located at 3421 and 3431 Mosko Court. This is based on a finding that the zoning designation is generally supported by the criteria set forth in Section 11-5-3 of the Westminster Municipal Code.

Commissioner Carpenter seconded the motion.

Motion unanimously passed by a vote of (5-0).

Commissioner Carpenter shared his appreciation for Mr. Caldwell's 24 years at the city and his final presentation at the Planning Commission.

3b) Public Hearing and Action on a Rezoning, a Preliminary Development Plan, and an Official Development Plan for Huron Farm

Jacob Kasza, Senior Planner, entered into the record the agenda memorandum, attachments, public notice affidavit of publication from the *Westminster Window* on February 16, 2023, notice signs posted on the property, and the certification of mailing. Mr. Kasza narrated a PowerPoint presentation for the proposal to:

- a. Hold a public hearing.
- b. Recommend that the Planning Commission recommend that the City Council approve the rezoning, PDP, and ODP for Huron Farm.

After completion of the staff presentation, the applicant Jon Spencer, President of Sterling Design Associates was present and gave a presentation.

Commissioner Carpenter inquired about the 10 daily trips alleged for the new residents seems high. Mr. Klein responded that 10 is high on the single-family residents but it is within the ITE per trip generation for the single-family dwelling unit and staff is going to air on the high side with the nature of the larger family. Typically, it is 6-12 for a single-family dwelling unit.

Commissioner Carpenter inquired about maintenance being taken over from the new residences and if that is noted on the ODP or PDP? Mr. Kasza stated that the ODP on the landscaping pages states that the owners of Lot 1 and Lot 2 are required to maintain the ROW along the south portion of West 144th Avenue and the Lot 1 eastern lot is also required to

maintain the landscaped ROW of Huron frontage road. The plan has also been divided visually to show the landscaping with each lot. It would be a code enforcement violation if it is not maintained.

Acting-Chairperson Mayo opened the public hearing at 8:15 pm.

One public comment received by email was read aloud in favor of the annexation of the property located at 7371 W. 92nd Avenue into Open Space.

Public testimony heard from several residents of the Quail Hill Subdivision all with shared common concerns surrounding the access road, removal of older trees, maintenance & preservation of the neighborhood entrance and overall fit for the neighborhood. Property owner Jared Melius was present and spoke to the neighbors in appreciation of the hard work that has been done and is open to work with the neighborhood to understand concerns.

Acting-Chairperson Mayo closed the public hearing at 8:48 pm.

Acting-Chairperson Mayo requested that the developer answer public comments regarding the road and the driveway. Mr. Spencer stated that considerations have been made based on direction from staff and trying to meet the criteria set forth in City Code. One concern has been the front entry - the sign was placed as the entry to Quail Hill which was part of Adams County and outside the control of the City of Westminster. Since that time, the right-of-way was deeded to the City of Westminster with the agreement of maintenance and technically does not belong to Quail Hill nor is it part of the HOA.

Regarding safety, Mr. Spencer stated that providing for the leach field and preservation of the barn and other features, the drive location has been moved as far east as possible. There are some trees on that bend that will be required to be removed for visibility and safety. The new owner would be responsible for future maintenance and any new landscaping of that area. He restated that the Code is being followed and development of one residence according to the standards and criteria set forth.

Mr. Kasza addressed the question regarding the flag lot which has been analyzed by staff. It would be a run of approximately 400+ feet of asphalt or concrete which is very expensive to be installed and maintained. There is a public right of way that is adjacent to the property, and it can be served directly from that right of way. The flag lot emergency services are considered and would require a 96-foot-wide circle for emergency vehicle turnaround which would also need to hold 70,000-pound truck. Lastly, there are several complications that come with flag lots as far as maintenance obligations, and water utility therefore the city opposes flag lots in general.

Commissioner Carpenter inquired about right of way limits. Mr. Kasza pointed out the property line on the PDP/ODP document map on the PPT presentation.

Commissioner Carpenter inquired if the restrictions were recorded on the subdivision plat. Mr. Kasza confirmed that the right of way is clearly shown on the plat and combined PDP and ODP for Quail Hill which have been shared with the HOA.

Commissioner Carpenter inquired on access restrictions recorded to 148th Avenue either on the plat or on the ODP/PDPs in the area. Mr. Kasza responded that he is not aware of any restrictions recorded on those documents.

Commissioner Carpenter wanted to verify that if someone from Adams County on the north side wanted to subdivide their lot, they could do so, accessing 148th without any issue. Mr. Kasza responded that he believes at that point, they would need to annex into the city and then go

through the regulations. They already have access to the public right of way and the city is only required to grant one access point.

Commissioner Carpenter asked for clarification on the maintenance agreements with the monument sign on the Huron Street frontage road. What does the record show? Mr. Kasza responded that maintenance agreements are typical for any subdivision and had a lot premium attached to them to cover costs of infrastructure and development. Those are private agreements. The city is party to the PDP and ODP agreements which are the regulatory documents that state what stipulations are regarding landscaping in the right of way and that the HOA maintain that landscaping.

Commissioner Carpenter inquired about the spruce trees regarding sight conditions. If they are causing a sight condition for the driveway, are they also causing a sight condition with the curve in general? Mr. Kasza responded that if the goal is to preserve the trees, one option could be to limb the trees up to 8 feet. Currently, where they are the trees are not on the PDP or ODP on that location and they wouldn't be approved at this location because of the sight visibility issues of the existing street curve.

Commissioner Carpenter asked if there is a policy where the city is encouraging the single-family development for the purpose of tax revenue? Mr. Kasza verified that there is no policy. The city tax revenue on new development comes from initial tax for permit fee and use tax and the property tax rate is 3.65 mils which is one of the lowest tax rates in the front range. Approximately 70% of the city budget comes from sales tax.

Commissioner Carpenter inquired about Westminster Code Enforcement communication with Adams County. Mr. Kasza responded that there is communication with Adams County and has heard that they have more to cover per staff person in that county which is more of a challenge.

Commissioner Carpenter inquired about irrigation in the entry way. Why did we not allow them to purchase a tap for non-potable water if it were available? Mr. Kasza responded that he does not have an answer for that question. Commissioner Carpenter commented that regardless of what happens, the issue of using reclaimed water versus fresh water should be revisited.

Commissioner Carpenter asked if there is anyplace in the city where we do not permit driveway access to a road from a house. Mr. Kasza responded that yes, specifically in arterial streets and collector streets. The city won't allow rear pullout onto a collector street, you must have a front exit. This is a local street so the city will allow full access onto local streets.

Commissioner Carpenter asked why sidewalks were not required during construction. Mr. Kasza responded that he does not have an answer for that question.

Commissioner Carpenter asked can the city put a stipulation on new subdivided properties that they must join the Quail Hill HOA? Deputy City Attorney Graham stated that he doesn't know the answer but that this is a recommendation that the Planning Commission could make and if it is not allowable by Code, then that could be addressed at the City Council meeting.

Commissioner Tomecek asked city staff to clarify why this particular property wouldn't be able to pull utilities from the Huron frontage road. Mr. Kasza responded that his understanding is that there is not a water line close enough of adequate size and type to pull from. There is a water line in the landscape section of the right of way of 148th Avenue that would be the recommended access point. Fire sprinklers are required in all new homes and to maintain adequate water pressure. To draw a service line from a water main in Huron Street would be a long run and may not be feasible.

Commissioner Tomecek asked for clarification on the email comments regarding the legal questions on who owns the land, who has been responsible for maintenance of the property,

and effectively losing this property. Can the city speak to the code and legality of the development process? Mr. Kasza stated that the right of way section of West 148th Avenue was dedicated to the city as right of way with their subdivision plat. Right of way belongs to the public, dedicating it to the city means the city is the controller of the right of way. The city has control of the access which is a legal mechanism that under the City Code Section 11-7-5, requires that the property owner adjoining the right of way is responsible for the maintenance of the landscaped portion of the right of way as well as snow removal. It also states that the HOA must maintain all landscaping on all right of way and common tracts as shown on their ODP. The PDP/ODP for Quail Hill shows the landscape area of the right of way and includes specific notes for the maintenance responsibilities of the HOA. City staff has determined that the new owner would need to access the right of way and thus becoming the beneficiary of the right of way, he should be the one to maintain it and the applicant has agreed such which would be amending the ODP to replace Quail Hill with the new owner.

Commissioner Tomecek asked what assurances does the existing neighborhood have that the new property owners will continue to maintain their property consistent with the remainder of the neighborhood? Mr. Kasza responded that one option would be to include a condition of approval that Lots 1 and 2 of Huron Farm don't do any maintenance and that the obligation of maintenance remain with Quail Hill. Commissioner Tomecek responded that historically we expect developers to have the funding to perform that maintenance. Do we have that assurance with only two property owners? Mr. Kasza stated that the city doesn't require that an HOA have a surety account for maintenance so there is no guarantee that this maintenance will continue.

Commissioner Tomecek asked about the proposed septic field on the plans. How many homes in the Quail Hill neighborhood have a septic system? Mr. Kasza responded that he is unaware of any septic system, that all are part of the city sewer system. Commissioner Tomecek asked what precludes them from connecting into the sewer system? Mr. Kasza responded that it cannot be gravity fed. The existing line is too far away, and it is too high up. There is no line in Huron that is accessible.

Commissioner Tomecek inquired about the utility corridor that runs on the south side of the property. What runs through that? Mr. Kasza responded that looking at the utility plan, there is no utility there - more than likely an old line of CenturyLink or Comcast. The easement was more than likely recorded with the plat.

Commissioner Xiong stated that assuming there is not a city ordinance or code violation of adding the condition that the property owner join the Quail Hill HOA, would the Quail Hill neighborhood be opposed to the property owner joining the HOA? A neighborhood resident responded that a couple of things would need to be reviewed first - the proposed house would have to meet the standards of the neighborhood, and a vote by the membership would need to be done. A second resident responded that she doesn't believe that the property will fit in the covenants of the neighborhood. She also responded to previous questions asked about the median center in the island of the entrance and per the Assessor's office, that belongs to Quail Hill.

Commissioner Carpenter made a motion to recommend City Council approve the Rezoning, Preliminary Development Plan, and Official Development Plan for Huron Farm Subdivision Planned Unit Development. This recommendation is based on a finding that the Rezoning, Preliminary Development Plan, and Official Development Plan is supported by the criteria set forth in Sections 11-5-14 and 11-5-15 of the Westminster Municipal Code with the stipulation that Lot 2 joins the Quail Hill Homeowners Association.

There was no second to the motion, therefore the motion dies. Acting Chairperson Mayo calls for a new motion.

Commissioner Dunn made a motion to recommend City Council approve the Rezoning, Preliminary Development Plan, and Official Development Plan for Huron Farm Subdivision Planned Unit Development. This recommendation is based on a finding that the Rezoning, Preliminary Development Plan, and Official Development Plan is supported by the criteria set forth in Sections 11-5-14 and 11-5-15 of the Westminster Municipal Code.

Commissioner Carpenter seconded the motion.

Commissioner Dunn stated that he feels for the residents of Quail Hill as well as the applicant. He makes this motion without any stipulations.

Commissioner Carpenter stated in agreement with Commissioner Dunn. West 148th Avenue is a public right of way, and the Huron property is public property, and the applicant should be allowed to build a house.

Commissioner Tomecek stated that he will be voting no against this motion based on City Code 11-5-15, item #5 as he doesn't believe that this plan is compatible and harmonious with the existing private and public developments in the area. The city Planning department could do better to bring the house within closer conformance with the neighborhood. It is up to City Council to determine if joining the HOA as a requirement would be legal. Upgrade of the existing fencing, agreement for existing landscape maintenance, and conformance with the neighborhood would be required for a yes vote.

Acting Chairperson Mayo confirmed that ownership of the monument sign is on Quail Hill property. Having personally been the HOA President for 20 years, the entry of his neighborhood is public right of way, and the monument sign is maintained by his HOA, however there is no say as to what can happen with the public right of way. As far as harmonious neighborhood, having nice homes near other nice homes is harmonious. He will be supporting the motion.

Motion passed by a vote of (4-1) with Commissioner Tomecek voting no.

Planning Commissioners took a 10-minute break at 9:37 pm.

Acting Chairperson Mayo called the meeting back to order at 9:45 pm.

3c) Public Hearing and Consideration of a Preliminary Development Plan Amendment and an Official Development Plan Amendment for the Tri-State PUD

Amy Johnson, Senior Planner, entered into the record the agenda memorandum, attachments, public notice affidavit of publication from the *Westminster Window* on February 16, 2023, notice signs posted on the property, and the certification of mailing. Ms. Johnson narrated a PowerPoint presentation for the proposal to:

- a. Hold a public hearing.
- b. Recommend conditional approval of the PDP and ODP amendments.

After completion of the staff presentation, the applicant Mark Littrell, CEO of West Pines Behavioral Health representing the Acadia Healthcare/SCL Health Joint-Venture was present and gave a presentation.

Commissioner Tomecek asked if the proposal has been reviewed by the building division and fire department? Ms. Johnson responded that yes, they have reviewed the proposal.

Commissioner Carpenter asked about screenings and refusals of potential violent patients and what happens to those people that aren't admitted for treatment. Mr. Littrell responded that they work with community providers to ensure that patients are in the right space. They work to

vet out volatility and manage through assessment. In the majority of the hospital systems, 50-60% are voluntary hold patients.

Commissioner Carpenter asked about the agenda memo and the Lot 3 proposal in the 2040 Comprehensive Plan being residential medium density, a wall being constructed, and the potential of a third exception request. Ms. Johnson stated that the requirement for a wall is in the Retail Commercial Design Guidelines, not in the 2040 Comprehensive Plan.

Commissioner Carpenter asked about the conditions of approval and where they are listed. Ms. Johnson stated that the eight conditions can be found on page 11 and page 12 of the agenda memo.

Acting-Chairperson Mayo opened the public hearing at 10:10 pm.

One public comment received by email was read aloud in opposition of the project due to the location of the facility.

With no additional public comment, Acting Chairperson Mayo closed the public hearing at 10:13 pm.

Commissioner Tomecek made a motion to recommend that City Council approve the PDP Amendment and ODP Amendment for the subject property known as the Tri-State PUD subject to all eight of the conditions listed in the agenda memo.

Commissioner Dunn seconded the motion.

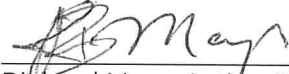
Commissioner Carpenter stated that he is in support of this vital service for the community.

Motion unanimously passed by a vote of (5-0).

4. ADJOURNMENT

The meeting was adjourned at 10:15 p.m.

THE WESTMINSTER PLANNING COMMISSION



Richard Mayo, Acting Chairperson

A full recording of the meeting has been posted on The City of Westminster website. www.cityofwestminster.us/pc