



Land Use, Transportation & Infrastructure Committee Summary Minutes

Tuesday, April 22, 2014

10:30 AM City & County Building, Room 391

Committee Members: Robb, Chair; Montero, Vice-Chair; Brown; Lehmann; López; Shepherd

Committee Staff: Debra Bartleson

Council Members Present: Brown, Lehmann, Lopez, Montero, Robb, Shepherd, Susman

Members Absent: None

Bill Requests

BR14-0304 Approves a rezoning of 2000 East 28th Avenue from PUD #572 to new PUD under Former Chapter 59 in Council District 8.

Courtland Hyser, Community Planning & Development

Courtland Hyser, Community Planning & Development (CPD), explained that the proposal is to rezone property at 2000 E. 28th Avenue from PUD #572 under Former Chapter 59 before the rezoning project to a new PUD #636 under Former Chapter 59. The current zoning was approved in 2005 for the former restaurant known as M&Ds and only allows two uses; eating place and office space (non-medical). The limited use combined with strict size limitations resulted in chronic vacancy of the site. The owner wants to rezone the site to expand the list of allowed uses to make the space more marketable. No new construction is planned. Mr. Hyser explained that the intent is also to update other sections of the code to include provisions for off-street parking and signage. He noted that the City will waive sections of the Former Chapter 59 that don't apply to this proposal such as outlining construction times and phasing, since there isn't any construction

planned.

Councilmember Shepherd asked why staff is approving a rezoning to another PUD and questioned whether there was another appropriate zoning. Mr. Hyser said there were other options to rezone such as to a standard district (U-MX-2x), but the owners liked the current zone and preferred to modify the PUD, and staff will keep this particular zoning within this area. Tina Axelrod, CPD, said rezoning to a PUD does cost more and would have cost less for a zone district change, but it is the applicant's choice. Ms. Axelrod said it was an option under new code to continue with a PUD, and staff does encourage applicants to move from old code to new code. The Planning Board approved the rezoning at its meeting on April 2. If it moves out of Committee the public hearing should be scheduled for June 2nd. CPD approves the proposal as it is consistent with neighborhood and zoning plans.

Councilmember Robb asked if CPD is willing to consider language amendments to a PUD and amending Chapter 59. She stated she would oppose those actions and she was told that the City wouldn't do that and that it would set a precedence to amend language to an old code. Ms. Axelrod said CPD does not have plans to do that; and CPD is not bound in any way regarding what option an applicant takes, but since Denver's rezoning, the path for an existing PUD has narrowed. She added that it shouldn't be an easy route to amend an old PUD and that those amendments must now do new a PUD under the new code. In addition, an applicant must do more homework if they stay on the 2010 PUD path. Councilmember Shepherd is not comfortable with keeping this path for a PUD alive. Ms. Axelrod said the process is applicant driven and there is nothing illegal with the proposal. Staff lay out benefits of the new code to applicants. She reported that 1,261 properties in Denver still reside in PUD zones, and they are looking at remapping those areas.

Councilmember Robb asked the applicant why he didn't elect to go to a new zone district. Herb Casner, Nama Partners, said they did look at other zoning such as U-MX-2x, but the operation of hours was strictly limited, especially for weekend hours, and so to protect being able to continue with his business, he selected the new PUD.

Councilmember Robb noted that Councilmember Brooks was watching the meeting on TV and said he supports the rezoning proposal.

Councilmembers Robb and Shepherd do not feel that it is ready to move out, and that the City should not be rezoning under old zoning.

A motion offered by Councilmember Montero, duly seconded by Councilmember Lehmann, to file the bill carried by the following vote:

AYES: Susman, Brown, Lehmann, Lopez, Montero(5)
NAYS: Robb, Shepherd(2)
ABSENT: (None)
ABSTAIN: (None)

BR14-0305 Approves a rezoning of 3600 East Alameda from B-4 with Waivers UO-1, UO-2 to C-MX-5 and C-MX-8 in Council District 10.

Tim Watkins, Community Planning & Development

Tim Watkins, Community Planning & Development (CPD), stated the property is located in the Cherry Creek neighborhood and the current zoning is B-4 with waivers (since 1987 and 2001). The intent was to allow the waivers and overlay districts to expire and then move to rezone the area to C-MX-5 and C-MX-8. The two zone districts will address the form, parking requirements, and appropriate uses to implement the adopted plans.

The Planning Board approved the proposal on April 2nd and three letters were received by surrounding neighborhoods in support. The rezoning is consistent with the Comprehensive Plan and is consistent with the neighborhood character. Mr. Watkins explained that the two zone districts transition height from mid-rise to tall, and will help to activate the parkway vision plan. Councilmember Robb said a lot of neighborhood input was provided at the time to assure appropriate setbacks conform to the future vision. Councilmember Lopez said he supports the tree line design and asked who will be maintaining the parkway and sidewalks. Councilmember Robb said the property owners are responsible for maintaining tree and lawn landscaping. Councilmember Lopez said his concern was related to an issue in his district on the Westside portion of Alameda. Homeowners are responsible, but trees are dead and everyone is pointing fingers as to who is responsible. He noted that feedback from residents in the area said they were told it is illegal for people to prune the trees. Councilmember Robb agreed that park maintenance is inconsistent citywide.

Mr. Watkins said CPD recommends approval for this rezoning.

A motion offered by Councilmember Susman, duly seconded by Councilmember Shepherd, to file the bill carried by the following vote:

AYES: Susman, Lehmann, Lopez, Montero, Robb, Shepherd(6)
NAYS: (None)
ABSENT: Brown(1)
ABSTAIN: (None)

BR14-0272 Approves changes to certain green fees for the Golf Enterprise Fund to support operations and capital improvements.

Scott Rethlake and Fred Weiss, Parks & Recreation

Fred Weiss, Parks & Recreation (P&R), said the proposed changes will impact City Park, Willis Case, Overland, Kennedy, and Wellshire Golf Courses. He noted that

the green fees have not been increased since 2010. Denver Golf compared to other metro area courses sits at the bottom 20-25% percentile of local market golf rates (lower 1/3 for golf pricing). Other metro area golf courses charge fees 75% more than Denver. The increase will result in revenue estimated at \$350,000 per year. (See attachment.)

Councilmember Lopez asked if the last increase impacted users, especially youth. Scott Rethlake, P&R, reported that the youth program has grown since 2010 and is the sixth largest program for youth in the U.S.; serving 2,500 kids per year. In 2010, approximately 1,600 youth participated in golf programs. Golf awareness outreach, instructors, and branding helped to increase participation. In addition, Denver golf has one of the highest in the nation for female participation.

Mr. Rethlake said P&R will be proposing a capital lease transaction to Council soon for upgrades and replacement of golf equipment. Many of the golf carts are now 7 to 8 years old and need to be replaced. In addition, a new club house at Kennedy Golf Course is needed and it is estimated that \$2 million of projects are required to keep up with golf assets. The P&R Golf Advisory Board unanimously voted to increase the fees.

Councilmember Montero asked how many youth will receive scholarships for the golf program and if the increases will impact seniors. Only the Evergreen Golf Course will increase for senior rates, stated Mr. Rethlake. The increase is a two-year catch up for the Evergreen course and there is a senior representative on the advisory board. Councilmember Montero requested to see the feedback from the advisory group. Mr. Rethlake said he will send her the minutes to their last meeting. He added that P&R has also applied to FEMA for reimbursement for repairs to the Evergreen course due to the severe flooding last year and they are close to getting the funding.

A motion offered by Councilmember Lopez, duly seconded by Councilmember Shepherd, to file the bill carried by the following vote:

- AYES: Susman, Lehmann, Lopez, Robb, Shepherd(5)
- NAYS: Montero(1)
- ABSENT: Brown(1)
- ABSTAIN: (None)

BR14-0346 Establishes a \$5.00 access fee to provide for ongoing operations and maintenance at Summit Lake in Denver Mountain Parks.

Fred Weiss and Bob Finch, Parks & Recreation

Fred Weiss, P&R, explained that due to an outcome of a 2012 federal lawsuit, the United States Forest Service (USFS) cannot collect a fee for access to Mt. Evans without Denver enacting an ordinance authorizing the fee. Up until 2012, the USFS was collecting since 1997 a \$10 fee per vehicle and the fee was used to help cover

operational expenses. The fee was collected at a booth located at Echo Lake and would permit access to the Summit Lake and Mt. Evans areas. As a result of the lawsuit, Denver and the USFS could not have a revenue-sharing agreement

The City and the federal government have been negotiating as to how to proceed. The plan is for Denver to establish fee authority from the proposed ordinance request. The request is to collect a fee of \$5 for access to Summit Lake located on the Mt. Evans road. The fee will be collected at the booth and a vehicle can go to any three areas to Mt. Evans. If an individual (vehicle) is only driving through, and will not be stopping to use any amenities, there would be no charge for anything. If an individual (vehicle) changes their mind and they park, there will be drop boxes in the areas to pay the fee for visiting at that place. Mr. Weiss explained that this mountain area is expensive property to maintain. The fees are used for enhanced ranger presence and operational/maintenance expenses. The City would enter into an agreement with the USFS for trash and restroom services. Mr. Weiss said it's been almost a year working with legal counsel from Washington DC on this matter.

Bob Finch, P&R, added that the booth is on city land and that asset management is currently appraising the land to determine the appropriate charge for leasing the land. If Denver can charge a lease fee the City will continue to charge the \$5 for trash, bathroom, and safety services. Mr. Finch said it is in the best interests of the natural areas to keep people moving to protect these areas. He noted that the re-enactment of the Recreation Act requires the federal government to look at nation-wide protections. This act was involved in the lawsuit and addressed what amenities were provided and what can't be charged. It could be that a vehicle could have three different fees if an individual decides to park in any three areas. Mr. Weiss reiterated that in 2014 an individual driving through and not stopping would pay nothing. If they stop anywhere it would mean an extra \$5 fee. He said that if this fee is not in place Denver would not get anything to pay for the services provided. He added that the City has no intention of increasing the fee more than \$5, but they can't control what the federal government does. Mr. Finch said the \$10 fee has been charged since the 90s, and there have been no fees charged to bikers. The federal government could charge Denver 35,000 for cleanup costs. Mr. Finch said that Denver does not stock fish in the lake.

Councilmember Lehmann said it is important to give P&R the fee authority and that they could come back to committee to re-evaluate how it's working. Any lease between the City and federal government would come back to Committee.

Councilmember Lopez said P&R should have some type of fee to maintain the natural areas.

Councilmember Montero said she feels uncomfortable about raising fees because some families cannot afford to pay higher costs.

A motion offered by Councilmember Lehmann, duly seconded by Councilmember Susman, to file the bill carried by the following vote:

AYES: Susman, Lehmann, Lopez, Robb, Shepherd(5)
NAYS: Montero(1)
ABSENT: Brown(1)
ABSTAIN: (None)