



Land Use, Transportation & Infrastructure Committee Summary Minutes

Tuesday, October 29, 2013 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, Nevitt

Members Absent: None

Bill Requests

BR13-0757 Approves changes to the zoning classification from M-RX-5 to M-MX-5 for property located at 8822 Beekman Place (aka 4936 Verbena Street) in Council District 11.

Theresa Lucero, Community Planning and Development

Theresa Lucero, Community Planning & Development (CPD), explained that the Beekman Place proposal is for a rezone to a commercial mixed use. The property is located northeast of the Northfield Shopping District, near I-70 and is owned by Forest City Stapleton II, LLC. The site is vacant with development occurring around it. The area will need more commercial investment to accommodate the residential development plans. Changing the zoning from M-RX-5 to M-MX-5 is consistent with the Zoning Code and adopted plans, and the proposal received unanimous approval from the Planning Board. This mixed use has a five-story height limit. In addition, CPD did not receive any public comment and staff recommends approval of this zoning classification change. (See attachments.)

Councilmember Shepherd asked if this particular zoning change was developed specifically for Stapleton. Ms. Lucero stated yes, that the land being developed

by Oakwood Homes was designed to build a new community with a full range of zoning to include office, industrial, retail, and residential, and this type of zoning will not be used in other urban areas of the city.

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

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

BR13-0787 Approves a funding agreement with Friends of Levitt Pavilion Denver and Mortimer & Mimi Levitt Foundation in the amount of \$2 million regarding the Levitt Pavilion at Ruby Hill Park in Council District 7, which will define funding timing and responsibilities.

Lauri Dannemiller, Manager of Parks & Recreation; Jennifer Welborn, City Attorney's Office

Lauri Dannemiller, Manager of Parks & Recreation (P&R), stated that Ruby Hill Park completed its Master Plan (MP) four years ago and that the plan identified that an amphitheater was a great opportunity to develop in the park. Councilmember Nevitt stated this amenity is located in District 7 and that the goal is to make Ruby Hill Park a destination place for people to visit. A partnership began with the Levitt Pavilion Foundation (LPF), a national non-profit organization that transforms neglected areas from all over the United States into welcoming destinations with cultural and free events. Councilman Nevitt explained that the relationship is based on a three-way structure. The national LPF would provide capital and perpetual operational funding and technical support, Denver would host, own and maintain the pavilion (Parks & Recreation), and the local LPF would raise funding and operate the pavilion. As part of the agreement, LPF commits to sponsoring 50 free concerts every year.

Chris Zacker from City Park Jazz was recruited to become the Executive Director for the local LPF. Mr. Zacher said a board of directors consisting of 20 members was created for the Ruby Hill/Levitt Pavilion. The board has raised \$40,000 so far, and they have received funding for \$150,000 from the Gates Family. Councilman Nevitt explained that Mortimer Levitt grew up poor and loved music. Mr. Levitt's financial situation as a young person stopped him from attending concerts. When he grew up and became successful, he created the foundation and financial assistance so that others would not experience what he did in not being able to hear concerts. The LPF was an idea proposed by a City employee of Parks & Recreation, Gordon Robertson, to bring the LPF to Denver to create a partnership for opportunities in Denver.

The funding for the project includes \$2 million from Better Denver Bonds for a total

of \$4 million to the project. FLP will provide \$400,000 for capital construction for the design of the amphitheater and site improvements, and the Denver FLP will provide \$1.6 million from capital campaign fundraising activities and is committed to transferring the matching funds to the City by March 2015. Public Works and Parks & Recreation will jointly manage the project, including design and construction. Funding and responsibilities will all be memorialized in the funding and cooperative agreements. The funding will first flow through the FLP then to the City. (See attachments.)

Councilmember Robb questioned what happens if they don't meet deadline for the funding match. Shawn Ropp, Better Denver Bond, said they could amend the contract, but the bond criteria states that the bond dollars need to be spent by a certain date. Councilmember Brown asked if the design and build will get them completed by the anticipated date. Becky Seidel said it generally takes 9 to 12 months to build and that is an industry standard expectation. The FLPD plans to open the pavilion in the summer of 2016, and many of other cultural projects are also focused on 2016 for completion of bond projects.

Councilmember Robb asked how Denver would collect a seat tax on this project. Ms. Dannemiller said any event held beyond the 50 free events could be charged and the City could collect a seat tax. Any group can do up to five concerts for their own fundraising goals. If the public wants to host an event they will be required to go through the same City permitting process and pay appropriate fees. Those revenues will be used to offset the capital costs for maintenance. The admission-based policy is the fee structure used in parks, stated Ms. Dannemiller. The public would work through the FLPD to be permitted and to pay fees. The City will be responsible for trash and maintenance on site.

Councilmember Shepherd asked what the plan was to separate payers from non-payers for events. Ms. Dannemiller said the paid events will be limited and the design for the area would be coordinated as they currently do for admission-based events. FLP generally hosts at least one admission-based event nationally, said Mr. Zacher. Ms. Dannemiller added that there is only grass seating, and a maximum of 7,500 seat capacity is allowed. Mr. Zacher added that there will be concessions comprised of local food trucks.

Councilmember Lopez asked how the amenity will be managed when winter comes and sledding begins at the park. Ms. Dannemiller said that they don't foresee any problems with the activation of the park, this plan, and sledding. The Councilman said his concern is parking in the area. Ms. Dannemiller said it will be a busy park and they are relying on multi-modal transportation opportunities for people to get there. It is possible to incorporate off-site parking and utilizing shuttles. Mr. Zacher noted that the park is a quarter mile to the light rail, and a 5-mile bike ride from downtown.

Councilmember Robb asked about the impacts of using public and private money with bond funding. Jen Welborn, City Attorney's Office, stated when a project has private money there is no limit, but they have all worked diligently to

assure that all legal aspects are considered. Ms. Dannemiller stated that when a facility is being used for private use and profit and/or payment is gained, that is when it becomes a problem. The City is working with the bond council to assure that they are compliant with IRS rules. Based on rules, the City cannot provide business use with public money. The cooperation agreement states that money will come from seat tax, but that no private money will be used to pay back the bonds. Since Parks and Recreation charges permit fees to all, there is no conflict with that revenue.

Councilmember Robb asked how the FLPD will recruit musical groups. Mr. Zacher said approximately 25 up to 50 groups could be local based, and they will be paid for their talents. The FLPD books groups by traveling to events to look for national talent. Locally, it is done by outreach. The plan is to put together a west side community group to get the surrounding neighborhoods involved in getting local musicians.

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

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

BR13-0788 Approves a Cooperative Agreement with Friends of Levitt Pavilion Denver, Mortimer & Mimi Levitt Foundation, and Levitt Pavilions setting forth the roles and responsibilities of all parties with regards to the operation and maintenance of the proposed Levitt Pavilion.
Lauri Dannemiller, Manager of Parks & Recreation; Jennifer Welborn, City Attorney's Office

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

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