



WESTMINSTER

CITY OF WESTMINSTER PLANNING COMMISSION

Meeting Minutes

July 23, 2024-DRAFT

1. ROLL CALL

The meeting was called to order at 7:00 pm by Acting Chair David Carpenter. Present were Commissioners, Kevin Kinnear, Rick Mayo, Timothy Pegg, Larry Dunn, Tracy Colling, and Chennou Xiong. Excused from attendance were Chair Jim Boschert and Commissioner David Tomecek. Also present: Staff members, Associate Planner Jennifer Baden, Planning Aide Dawn Aguilar, Senior Planner Jacob Kasza, Planning Manager John McConnell, Assistant City Engineer Development and Mobility Heath Klein and Deputy City Attorney Greg Graham. With the roll called, Acting Chair Carpenter stated that a quorum was present and that the alternates would be voting.

2. CONSIDERATION OF MINUTES

Meeting Minutes from July 9, 2024.

Commissioner Mayo made a motion to accept the minutes from the July 9, 2024, Planning Commission meeting. Commissioner Dunn seconded the motion. The minutes were unanimously accepted (7-0).

3. CONSIDERATION OF NEW BUSINESS AND PUBLIC HEARINGS

3a) Public Hearing and Recommendation on an Official Development Plan for Uplands Filing 3, Block 4 / PA-C(1-D)

Acting Chair Carpenter opened the public hearing at 7:02 pm.

Mr. Klein informed the Commission and the audience that the Uplands contractor is in violation of stormwater regulations. He stated that a stop work order has been issued for the site and once the site is no longer in violation, the stop work order would be vacated.

Mr. McConnell informed the Commission and audience that staff has prepared several alternative motions for the Commission to consider regarding the public hearing item. These motions were intended to provide additional conditions on the public hearing items if the Planning Commission determined that the outstanding stormwater violations were a concern relative to the applications on the agenda.

Jacob Kasza, Senior Planner, entered into the record the agenda memorandum, attachments, PowerPoint presentation, certification of mailed notice, certification of posted notice, and public notice affidavit of publication from the *Westminster Window* on July 11, 2024. Mr. Kasza narrated a PowerPoint presentation for the proposal to:

- a. Hold a public hearing.
- b. Recommend that The Planning Commission recommend City Council approve the Official Development Plan for Uplands Filing 3, Block 4.

The applicant team gave a presentation.

Commissioner Colling asked the applicant if pedestrian traffic would ever be crossing between the two schools (Crowne Point Academy grades 3-8 is across the street). The applicant stated

there has been significant discussion about this and there are controls in place to prevent movement between the two schools, staggered start and end times and controlled traffic flow. Commissioner Colling stated there is a need for a crosswalk to be constructed between the two schools for safety concerns.

Commissioner Carpenter echoed Commissioner Colling's statement about the need for a crosswalk. He asked staff how this development may affect the need for the traffic signal at 86th & Federal. Mr. Klein stated he has spoken to the Colorado Department of Transportation (CDOT) and there will be improvements including a signal at this location likely within the next calendar year.

Commissioner Colling asked staff if on street parking will be allowed on 86th Avenue. Mr. Klein responded no.

Acting Chair Carpenter opened the public testimony at 7:25 pm.

There was public testimony about concerns about a conflict of interest with a Commissioner being on the board of a group that has connections with the Uplands, concerns that the project is being referred to as the Uplands yet the applicant's presentation refers to the project as Crowne Point Academy expansion, concerns with parking on 86th Avenue, concerns with infrastructure responsibilities, concerns about the signal at 86th & Federal and asked for confirmation of the forthcoming signal.

At the conclusion of the public testimony, Acting Chair Carpenter closed the public hearing at 7:28 pm.

Commissioner Carpenter addressed the concern about a possible conflict of interest. He stated that he is a member of the Westminster Chamber of Commerce, he does not receive remuneration for being a member, he has no financial interest in the Uplands project, has never discussed any project or application that may come before the Planning Commission and that he is able to evaluate this project/application fairly.

Commissioner Carpenter asked the applicant to clarify how they are related to the Uplands Development. The applicant stated that the subdivision and the plat fall under the Uplands name until the sale is final and that this project is not tied to the Uplands development. They also stated that there is no dedicated on-street parking on 86th Avenue. Mr. Klein stated once the Civil Drawings are approved, no parking signs will be installed on 86th Avenue.

Commissioner Colling asked staff to provide more details about the light on 86th Avenue. Mr. Klein responded there are three intersections tied to the Uplands development, 84th and Federal Blvd, 86th & Federal Blvd and 88th and Federal Blvd; two of these already exist as signalized intersections and the Uplands will be reconstructing those, and a brand-new signalized intersection is proposed to be installed on 86th & Federal Blvd. The construction of this intersection is under consideration with the Colorado Department of Transportation (CDOT) and has not been finalized.

Commissioner Mayo made a motion recommending that the Planning Commission recommend City Council approve the Official Development Plan for Uplands Filing 3, Block 4. This recommendation is based on a finding that the Official Development Plan is supported by the criteria set forth in Sections 11-5-15 of the Westminster Municipal Code. Commissioner Colling seconded the motion.

The motion passed (7-0).

- 3b) Public Hearing and Recommendation of three separate Official Development Plans for Uplands Filing 1, Block 1, Block 5, and Block 7 (PA-A1, A5, and A7) Located at the Southwest Corner of West 88th Avenue and Irving Street

Acting Chair Carpenter opened the public hearing at 7:36 pm.

Commissioner Carpenter addressed the concern about a possible conflict of interest. He stated that he is a member of the Westminster Chamber of Commerce, he does not receive remuneration for being a member, he has no financial interest in the Uplands project, has never discussed any project or application that may come before the Planning Commission and that he is able to evaluate this project/application fairly.

Jacob Kasza, Senior Planner, entered into the record the agenda memorandum, attachments, PowerPoint presentation, certification of mailed notice, certification of posted notice, and public notice affidavit of publication from the *Westminster Window* on July 11, 2024. Mr. Kasza narrated a PowerPoint presentation for the proposal to:

- c. Hold a public hearing.
- d. Recommend that City Council approve the Official Development Plan for Uplands Filing 1, Block 1 / PA-A1, subject to the condition set forth in the Summary of Staff Recommendations herein. This recommendation is based on the finding that the Official Development Plan generally complies with the criteria in Section 11-5-15 of the Westminster Municipal Code

Recommend that City Council approve the Official Development Plan for Uplands Filing 1, Block 5 / PA-A5, subject to the condition set forth in the Summary of Staff Recommendations herein. This recommendation is based on the finding that the Official Development Plan generally complies with the criteria in Section 11-5-15 of the Westminster Municipal Code.

Recommend that City Council approve the Official Development Plan for Uplands Filing 1, Block 7 / PA-A7, subject to the condition set forth in the Summary of Staff Recommendations herein. This recommendation is based on the finding that the Official Development Plan generally complies with the criteria in Section 11-5-15 of the Westminster Municipal Code.

The applicant team gave a presentation.

Commissioner Kinnear asked the applicant about the Block 1 exceptions request for a reduction in the number of units. The applicant responded that due to the housing diversity, the plan works better with a reduced number of lots than had originally been anticipated.

Commissioner Colling asked staff to clarify what the shortage of parking on each block really is. Mr. Kasza stated Block 1 is sixty (60) spaces short, Block 5 is two hundred fifty-seven (257) spaces short, and Block 7 is two hundred twenty-nine (229) spaces short.

Commissioner Colling expressed concerns over the lack of parking, the volume of documents being hard to understand and how the staff report was presented. The applicant team stated that the parking at this site is the exact same as the other Uplands sites and explained how the parking counts were determined for each block.

Commissioner Colling asked for an explanation about enhanced architectural elevations and masonry on corner lots and what the definition of corner lot is. The applicant responded a corner lot is anytime a side elevation is exposed to a street or alley.

Commissioner Colling asked for clarification about the exception for patios. The applicant responded that for the A1 neighborhood, Single Family Detached, the code requires a 400 square foot rear yard and since they are alley loaded products by definition with no rear yard, the lots will have 408 square feet of combined porches, deck and front yard space.

Commissioner Mayo stated his appreciation for the applicant and the transparency about the storm event and the responsibility the applicant has taken. He also expressed concerns about parking.

The applicant team responded that alley loaded products live differently and homes are designed smaller and are more sustainable. They also explained that in other high-density neighborhoods they have built they have been successful with reduced on-street parking. The applicant went on to explain that another way to mitigate parking issues will be deed restrictions through a sub-HOA that will be managed by the HOA which is a subdistrict to the Uplands community. These deed restrictions will require home buyers to agree to use the garage for parking and not storage, thus reducing on-street parking in the neighborhoods.

Commissioner Pegg asked the applicant if they were required to add in the missing parking spaces, what kind of changes would have to be made to the site.

The applicant responded they would likely have to reduce the number of units.

Commissioner Pegg asked staff about how the reduction in the number of units to gain more parking and how this aligns with the Comprehensive Plan designation for this site.

Mr. Kasza stated the cornerstone being referred to is broad and large reaching across many different aspects of planning and that the goals can be accomplished regardless of the specific unit count.

Commissioner Pegg asked staff how the reduction in the number of units to gain more parking aligns with Strategic Priority One.

Mr. Kasza responded that a reduction in the number of units to gain more parking would possibly decrease compliance with Strategic Priority One.

Commissioner Xiong expressed concerns with the lack of parking at the site. He also asked staff and the applicant to provide additional details about the storm event and what is being done to mitigate this in the future.

The applicant stated they will be installing substantial berms and additional performing grading at the detention pond.

Mr. Klein stated that the City is working with the developer on creative ways to mitigate these kinds of storms. Mr. Klein stated the City has received concerns and comments from residents about the storm and that the City is working closely with the Uplands to get creative on how to prevent future damage.

Commissioner Dunn asked if there was any damage to homes from the storm event. Mr. Klein responded the City has not received any report of damage to homes and no reports of property damage.

Commissioner Dunn asked the applicant to provide the parking shortage numbers for each lot and overall.

The applicant responded that in neighborhood A1, they are providing the required parking just in a different way. He acknowledged that neighborhoods A5 and A7 are under the required amounts by code because of the alley loaded product and the proximity to Federal Blvd.

Commissioner Dunn stated that he understands this development is more of an urban setting and that he believes the proposal is trying to bridge a gap between urban living and suburban living.

Commissioner Mayo asked staff regarding parking counts in other developments, if on street parking means parking provided by the developer. Mr. Kasza responded under the current parking regulations in Title 11, the regulations do not count on street spaces as counting towards the minimum required parking for both commercial and residential. He went on to state that the regulations require parking generally to be on lot unless they are required as a shared amenity in which they can be in a shared space.

Commissioner Xiong asked what the projected timeline is for the stormwater violations to be rectified. The applicant responded there is a meeting with the City on Wednesday morning, and they believe that by Wednesday morning all required work will be completed and the stop work order will be lifted.

Commissioner Colling stated her understanding of the stormwater event and that the reason this event was so catastrophic for this area because the detention pond was in the middle of being constructed. She asked Mr. Klein what type of event this was. Mr. Klein responded he did not know the type of event. He also stated that the stormwater management plans were in place but the build up of pressure caused the silt fence to fail and that is something that is going to be addressed. He went on to state that these temporary measures that were in place while the permanent detention facility is being constructed were not designed for a large event but once the permanent detention facility is built and ultimately completed, this should eliminate further events. Mr. Klein stated the developer and the City are working together with homeowners that sustained damage.

Acting Chair Carpenter opened the public testimony at 9:04 pm.

There was public testimony about concerns of a sitting Commissioner and a possible conflict of interest, heights for the A1 and A5 site not being compatible with adjacent sites, concerns with parking, concerns about the Bus Rapid Transit (BRT) coming to fruition, concerns about the number of stormwater events at the site.

Acting Chair Carpenter closed the public hearing at 9:11 pm.

The applicant responded to the public testimony comments. They stated that the stormwater event is a construction process that does not have anything to do with the application being heard by the Commission. They stated the construction site is being well governed by the City and that construction detention areas are designed for two-year storm events. They stated the measures that are in place are inspected on a weekly basis by the City and that concerns are addressed quickly. The detention facility is expected to be completed in the next two months.

The applicant addressed the parking counts.

In the A1 neighborhood, there are 78 units, and is four spaces over the required amount, and 3.2 parking spaces per unit.

In the A5 neighborhood, there are 166 units, the plan is 64 spaces deficient but still parking at 2.9 parking spaces per unit.

In the A7 neighborhood, there are 180 units, the plan is 118 spaces deficient but still parking at 272 parking spaces per unit.

Commissioner Carpenter asked if the stop work order means that the applicant is in default or has an outstanding obligation to the City. Mr. Graham responded yes; the applicant is in default with city code.

Commissioner Colling asked the applicant if the total parking numbers in the A7 neighborhood considers the option for a one-car garage and if there is an option to reduce to one-car garages on the other two parcels and how much of a reduction for each parcel. The applicant responded there is no option for a one car garage in A1 or A5, only the option to increase to a three-car garage in some cases. The parking counts in A7 were based on the 28 one-car garages which is the lowest parking quantity deficit for A7. Commissioner Colling responded the deficiency could be changed by 28 bring the deficiency down to 190 if this option was eliminated thus being 90 deficient instead of 118. The applicant agreed. The applicant also stated the one-car garage allows for housing diversity in different price points.

Commissioner Colling asked the applicant to address the public comment about building height exceptions. The applicant responded that on A1 and A5, the single family are under 40 feet and three stories which is what the code allows. A7 is the same and the plan is under 35 feet and three stories. They stated there are no requests for building height exceptions for single family but their exception requests for the townhomes on A1 and A5 to be over 40 feet to allow for roof top decks.

Commissioner Xiong asked staff if the applicant was different for this site (different developer), would the staff recommendation be the same. Mr. Kasza responded yes.

Commissioner Pegg asked staff to explain what the stop work order means and what needs to be done to lift the stop work order on site. Mr. Klein explained that the stop work order prevents further grading to prepare for utilities, prevents further installation of utilities, and only allows work to be done that remedies the storm damage. He went on to state the work order was issued due to sediment discharge from the Uplands site, improper sediment control measures and pump discharges without sediment control. The remedy will be the addition of an earthen berm and the further construction of the detention basin will improve the sediment control measures. He stated the City Stormwater team is working with the Uplands contractor to make sure these measures move forward; once the City Engineer is satisfied, the stop work order may be lifted.

Commissioner Xiong asked staff to explain why denial of the application is not recommended. Mr. Kasza explained that the application should be recommended for approval with conditions and the applications are supported by the standards for approval and exceptions have been identified.

Commissioner Colling expressed concern for the need for two car garages. The applicant explained that the concept of a one car only garage is geared towards affordability of the house. She asked staff to explain how the recommendation with conditions will work. Mr. Graham stated that the recommendation with conditions will be included with the packet that is presented to City Council and then City Council would then decide on what, if any, conditions would apply.

Commissioner Dunn requested a short break at 9:31 pm.

Acting Chair Carpenter called the meeting back to order at 9:41 pm.

Commissioner Kinnear stated that the storm water event will rectify itself as the detention pond is built. He stated that he is not as concerned with parking and cited other cities that have successful alley loaded garage neighborhoods, and the application offers variety for residents.

Commissioner Colling agreed with Commissioner Kinnear's statements about variety but expressed concerns with lack of parking.

Commissioner Colling made a motion that the Planning Commission recommend to City Council the approval of the Official Development Plan for the Uplands Filing 1, Block 1, PA-A1, subject to the conditional approval listed in the agenda (memo) and conditioned that they (the applicant) come into compliance with the items associated with the stop work authority related to the storm damage that occurred. This recommendation is based on the finding that the Official Development Plan is supported by the criteria set forth in section 11-5-15 of the Westminster Municipal Code.

Commissioner Pegg seconded the motion.

The motion passed (7-0).

Commissioner Colling made a motion that the Planning Commission recommend to City Council approval of the Official Development Plan for Uplands, Filing 1, Block 5, PA-A5, subject to the conditions listed in the agenda memo and upon the condition that they (the applicant) come into compliance with the items associated with the stop work authority (order) associated with the storm; and that the applicant review the northeast corner of the area in question specifically along 88th Avenue to either add additional parking in the form of five guest parking spaces or mandate that additional tandem garage parking be required for 30% of single family homes fronting onto 88th Avenue. This recommendation is based on the finding that the Official Development Plan is supported by the criteria set forth in section 11-5-15 of the Westminster Municipal Code.

Commissioner Xiong seconded the motion.

Commissioner Carpenter asked Commissioner Colling to repeat the motion.

Commissioner Colling motioned that the Planning Commission recommend to City Council approval of the Official Development Plan for Uplands, Filing 1, Block 5, PA-A5, subject to the conditions listed in the agenda memo and that they (the applicant) come into compliance with the items associated with the city stop work authority (order) items associated with the storm and that they (the applicant) increase parking in the northeast corner of this area to either add additional five guest parking spaces or mandate additional tandem garage parking for 30% of the single family homes fronting onto 88th Avenue.

She clarified the motion is meant for Irving Street east.

Commissioner Pegg stated disappointment for the motion and that he believes the lack of parking is in alignment with the 2040 Comprehensive Plan and particularly the focus on providing a mix of housing opportunities for a range of incomes and lifestyle choices and he believes the application is also consistent with sustainable design practices and will provide a variety of neighborhood types with a diversity of housing choices. He stated he will not support this motion and would prefer to see a motion with no requirement for additional parking.

Commissioner Kinnear expressed confusion with the original motion and the restated motion. The original motion stated "the applicant review the northeast corner of the area in question" for parking and the restated motion was a requirement and not a review.

Commissioner Colling stated her intent was a condition of approval and increase parking in one of two different ways.

Commissioner Carpenter asked if the intent of her motion was not review but mandate and Commissioner Colling responded yes, there is a parking shortage.

Mr. Graham stated that since Commissioner Colling's original motion and restated motion had changed, he asked Commissioner Colling if her intent was to consider or mandate and Commissioner Colling responded mandate. Mr. Graham asked if Commissioner Xiong agreed with the changes. Commissioner Xiong responded yes. Mr. Graham clarified for the record that the motion is to recommend to the City Council in addition to everything stated in the original motion and mandate that the applicant increase parking in the northeast corner.

The motion failed 2-5.

Commissioners Pegg, Kinnear, Carpenter, Mayo and Dunn were not in favor.
Commissioners Xiong and Colling were in favor.

Commissioner Mayo made a motion that the Planning Commission recommend to City Council the approval of the Official Development Plan for Uplands Filing 1, Block 5, PA-A5, subject to the condition(s) listed in the agenda memo further conditioned upon City Council understanding the Planning Commission's concerns with the parking methodology and conditioned upon the applicant correcting outstanding violations. This recommendation is based on the finding that the applicant is in default to the city due to violations of stormwater regulations but that the Official Development Plan is otherwise supported by the criteria set forth in section 11-5-15 of the Westminster Municipal Code.

Commissioner Xiong asked Commissioner Mayo to repeat the portion about parking. Commissioner Mayo stated the parking is conditioned upon City Council understanding the Planning Commission's concern with the parking methodology. He clarified that the intent of his motion is not making any mandates but just highlighting to the City Council that the Commission does have concerns with the way the parking spaces were counted.

Commissioner Dunn seconded the motion.

Commissioner Colling stated she feels the motion does not have enough teeth in it because there is a particular area in Block 5 that is particularly short of parking in the northeast corner adjacent to 88th Avenue and that additional parking should be considered because what is being shown is not sufficient.

Commissioner Xiong asked if the word considered would suffice and Commissioner Colling responded yes.

Commissioner Carpenter stated he was conflicted on the motion but leaning towards supporting the motion and he feels maybe there is an opportunity for additional parking in the commercial areas.

Commissioner Kinnear stated he does not share the concern about parking and wondered if the item/motion should be tabled.

Mr. Graham advised that the Commission could motion to table and the motion to table would take precedence over the motion at hand and advised the Commission on how, if desired, to table the motion.

Commissioner Xiong stated he's not as concerned with stronger language and would be agreeable with adding language asking Council to consider the concerns that have been stated by himself and Commissioner Colling.

The Commission discussed tabling the item or continuing and agreed their intention is not to delay the hearing, just need to get the motion wording correct.

Commissioner Colling asked Commissioner Mayo to state the motion again for the record.

Commissioner Mayo restated this portion of the motion: that the Planning Commission recommend to City Council the approval of the Official Development Plan for Uplands Filing 1, Block 5, PA-A5, subject to the condition(s) listed in the agenda memo further conditioned upon City Council understanding the Planning Commission's concerns with the parking methodology.

For the record, the Secretary asked Commissioner Mayo to read the motion in its entirety.

Commissioner Mayo made a motion that the Planning Commission recommend City Council the approval the Official Development Plan for Uplands Filing 1, Block 5, PA-A5, subject to the condition(s) listed in the agenda memo and conditioned upon City Council understanding the Planning Commission's concerns with the parking methodology and conditioned upon the applicant correcting outstanding violations. This recommendation is based on the finding that the applicant is in default to the city due to violations of stormwater regulations but that the Official Development Plan is otherwise supported by the criteria set forth in section 11-5-15 of the Westminster Municipal Code.

Commissioner Kinnear clarified this motion is for Block 5.
Commissioner Dunn agreed.

Commissioner Xiong stated that this concern is the deficit of parking for the area but will support the motion.

Commissioner Colling agreed with Commissioner Xiong's concern.

Commissioner Carpenter agreed there is a parking deficit but feels this is due to driveway parking versus garage parking and that the site has deed restrictions he is less concerned about and will support the motion.

The motion passed 6-1.
Commissioner Colling was not in favor.

Commissioner Pegg made a motion that the Planning Commission recommend to City Council the approval of the Official Development Plan for Uplands Filing 1, Block 7, PA-A7 subject to the condition listed in the agenda memo and conditioned upon the applicant correcting outstanding violations. This recommendation is based on the finding that the applicant is in default to the city due to violations of stormwater regulations but that the Official Development Plan is otherwise supported by the criteria set forth in section 11-5-15 of the Westminster Municipal Code.

Commissioner Kinnear seconded the motion.

Commissioner Colling stated that A7 was the neighborhood that is deficient by 108 parking spaces and without having any condition in the motion to alert City Council to the concerns, she cannot support this motion.

Commissioner Mayo agreed with Commissioner Colling's concern.

Commissioner Pegg stated he believes the motion supports the Comprehensive Plan of balanced mix of housing opportunities for a range of incomes, age groups and lifestyle choices. He stated this application may be different from other applications but that he believes this is exactly what the Comprehensive Plan means. He also stated a lack of parking is also consistent

with providing a variety of neighborhood types and is consistent with encouraging sustainable design practices.

Commissioner Xiong stated Commissioner Colling to explain her dissenting vote.

Commissioner Colling stated the deficit on A7 is 118 spaces short and 28 of those could request a one car garage and she would like for the applicant to remove the one car garage option so the deficit would be reduced to 90; she stated this does not need to be mandated but rather reviewed and that City Council should know this is important to the Commission and the community.

Commissioner Carpenter stated if the condition that was added to A5 when A7 has a higher deficit, is missing the point. He stated that he does not agree with Commissioner Pegg entirely.

Commissioner Dunn stated he agrees with Commissioner Pegg and is not concerned about the lack of parking and will support the motion.

Commissioner Mayo stated he believes if there was a condition on A5 there should be a condition on A7.

Commissioner Pegg stated that A7 is not adjacent to a residential tract and as such spillover parking is not as much of a concern.

Commissioner Kinnear acknowledged this site does have a deficit but is still consistent with a variety of housing and sustainability.

The motion failed 3-4.

Commissioners Xiong, Carpenter, Mayo and Colling were not in favor.

Commissioners Pegg, Kinnear and Dunn were in favor.

Commissioner Colling made a motion that the Planning Commission recommend to City Council the approval of the Official Development Plan for Uplands Filing 1, Block 7, PA-A7 subject to the conditions listed in the agenda memo and conditioned upon the applicant correcting outstanding violations and condition on the City Council understanding that the Planning Commission has concerns about the parking deficit for this area. This recommendation is based on the finding that the applicant is in default to the city for violations of stormwater regulations but that the Official Development Plan is otherwise supported by the criteria set forth in section 11-5-15 of the Westminster Municipal Code.

Commissioner Mayo seconded the motion.

The motion passed 6-1.

Commissioner Kinnear was not in favor.

4. ADJOURNMENT

The meeting was adjourned at 10:21 p.m.

THE WESTMINSTER PLANNING COMMISSION

David Carpenter, Acting Chairperson

A full recording of the meeting can be viewed on the The City of Westminster website.
www.cityofwestminster.us/pc