



Community Development & Neighborhood Services

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MEMORANDUM

Date: March 19, 2013

To: Mayor Weitkunat and City Councilmembers

Thru: Darin A. Atteberry, City Manager *DA*
Karen Cumbo, Planning, Development and Transportation Director *kc*

From: Peter Barnes, Zoning Supervisor *PB*

Re: March 19, 2013 City Council Meeting, Agenda Item #30 – Consideration of the Appeal of the February 7, 2013 Planning and Zoning Board Decision to Approve Sign Modifications for the Foothills Mall Redevelopment Plan.

In response to a comment from yesterday's Leadership Team meeting, additional information is being provided in regard to the staff recommendation that was presented to the Planning and Zoning Board at the February 7, 2013 hearing of the Foothills Mall Redevelopment Plan. Highlighted excerpts from the following documents are attached to this memo and summarized below.

Staff Report of the Project Development Plan (Attachment 3 of the Council packet)

A total of five sign modifications were requested by the applicant. The three modifications that are the subject of this Council Appeal deal with the two electronic message center signs (EMCs) proposed along College Avenue. Specifically, the modification requests approved by the Planning and Zoning Board would:

1. allow two EMCs to display messages in full color rather than in one color,
2. allow two EMCs to exceed 50% of the total area of the sign face, and
3. allow two EMCs along South College Avenue instead of the one allowed.

Staff recommended denial of the request to allow full color displays and approval of the two other modifications.

Staff Report and Analysis of the Applicant's Sign Modification Request (Attachment 22 of Attachment 3 of the Council packet)

This attachment describes the sign modification requests in detail and includes an explanation of the rationale for the staff recommendation. In order to approve a modification, the Planning and Zoning Board must find that the request is not detrimental to the public good and that it satisfies at least one of four standards: 'equal to or better than'; 'substantially alleviates a problem of city-wide concern or would result in substantial benefit to the city'; 'hardship'; or 'nominal and inconsequential'.

1. Full color displays - staff recommended denial of this request because we do not believe that the applicant demonstrated how the modification request satisfied any of the four modification standards, and further, that the granting of the modification would be detrimental to the public good.
2. Allow the size of the EMC displays to exceed 50% of the area of the sign face (specifically, 64% instead of 50%) – staff recommended approval of this request, believing that the modification satisfies the ‘equal to or better than standard’ and the ‘nominal, inconsequential’ standard. With regard to ‘equal to or better’, the EMC signs could, in compliance with the Code, be almost doubled in size from what was proposed, resulting in a larger EMC display without the need for a modification. With regard to ‘nominal, inconsequential’, the displays exceed the maximum allowed size by only 6.85 square feet.
3. Allow two EMCs along College Avenue instead of one – staff recommended approval of this request, believing that the modification satisfies the ‘nominal, inconsequential’ standard because the 1,164 foot separation distance between the two signs satisfies the intent of the standard to ensure adequate separation between EMC signs.

Revised PowerPoint presentation

Staff has added three new slides to the presentation. The slides illustrate the staff recommendation and were included in the staff PowerPoint presentation to the Planning and Zoning Board (see attached new copy of presentation).

Attachment 3 – Staff Report Provided to the Planning and Zoning Board

PROJECT: Foothills Mall Redevelopment, Project Development Plan,
PDP #120036

APPLICANT: Alberta Development Partners
c/o Bryan McFarland
5750 DTC Parkway, Suite 210
Greenwood Village, CO 80111

OWNER: Walton Foothills Holdings VI, LLC
c/o Don Provost
5750 DTC Parkway, Suite 210
Greenwood Village, CO 80111

PROJECT DESCRIPTION:

This is a request for a mixed-use redevelopment of the existing Foothills Fashion Mall. As proposed, the project contains a commercial/retail component, a commercial parking structure and 800 multi-family dwelling units on 76.3 acres. The site is zoned C-G, General Commercial and is located within the Transit-Oriented Development Overlay District (TOD).

The project proposes to deconstruct portions of the existing Foothills Fashion Mall and renovate the original structure, for a 388,084 square foot, one-level, enclosed shopping mall. In addition, various free standing buildings including the Commons at Foothills Mall buildings, the Shops at Foothills Mall buildings, The Plaza at Foothills Mall, The Corner Bakery, Christy Sports and the Youth Activity Center building would all be deconstructed. In their place, eight new retail buildings are proposed along South College Avenue, ranging from 9,300 square feet to 31,715 square feet in size. Internal to the site, five new retail buildings are proposed to be located northwest of the existing enclosed mall. These five buildings range from 7,636 square feet to 12,000 square feet in size. To the southwest of the existing mall, four new restaurants are proposed ranging in size from 8,088 square feet to 14,000 square feet as well as a new, two story, 24,000 square foot Foothills Activity Center to replace the Youth Activity Center. Additionally, a new 86,754 square foot entertainment and theater building is proposed, located southeast of the new restaurants. The large east green area and smaller west green plazas anchor the pedestrian network. The commercial component provides a total of 3,581 parking spaces via a six level, 84,663 square foot parking structure and surface parking spaces.

In terms of the residential component, the project proposes 800 multi-family units distributed among five buildings that will include a mix of studio, one, two and three bedroom units. The unit mix would be divided in the following manner: 59 studio units;

395 one-bedroom; 319 two-bedroom and 27 three-bedroom, for a total of 1,173 bedrooms. For the residential component, 1,422 parking spaces are proposed via three separate subterranean structures (858 spaces), an above ground structure on lot 6 (472 spaces) and 92 open surface parking stalls located on lot 3. Moving along Stanford Road from north to south, Buildings 1A and 1B are primarily three stories in height transitioning down to two stories on the north elevations; Buildings 2 and 3 are four story buildings and Building 4 is a five story residential building wrapping a parking structure on the northwest corner of Stanford Road and East Monroe Drive.

RECOMMENDATION: Approval with Conditions

EXECUTIVE SUMMARY:

The site is located within the *Midtown Urban Renewal Plan* (adopted, 2011) area and is identified as a targeted activity center of Community-wide importance in *City Plan* (adopted, 2011). The Project Development Plan (PDP) demonstrates compliance with the applicable Land Use Code (LUC) standards in conjunction with the requested modification of standards and recommended conditions of approval.

Additionally, the applicant submitted a sign package with Modification of Standards relating to the signs as part of this PDP. The Modification of Standard request includes two of the ground signs proposed to be located along South College Avenue and for a number of directional signs and secondary entry signs proposed to be located within the interior of the site. All of the other signs included in the proposed sign package comply with the applicable standards.

Staff is recommending Approval of the following Modification of Standards Requests relating to Section 3.8.7, Signs:

- Allow more than one ground sign per lot with regard to the vehicular directional signs located on the interior of the site (Sign Type 3.1).
- Allow the vehicular directional signs (Sign Type 3.1) and the two secondary entry monument signs (Sign Types 1.3A and 1.3B) to be located on the interior of the site on lots that don't have street frontage.
- Allow two electronic message center signs to be located approximately 1100 feet apart along the South College Avenue frontage abutting the development.
- Allow the two, forty-five square foot electronic message center signs to exceed 50% of the total area of the sign face.

However, Staff is recommending denial of the Modification of Standard request to Section 3.8.7(M)(4)(c), allow two full-color electronic message center signs.

The recommended conditions of approval can be summarized as follows:

- The vacation of a portion of East Foothills Parkway (partially a public street) is a separate procedure subject to approval by City Council. A condition of approval is recommended ensuring proper completion of the vacation of this public right-of-way.
- The applicant proposes to relocate the portion of the Larimer Canal No. 2 on the site as a part of their project. Wetlands have been identified around the base of the canal and the Code requires the lost ecological value of these wetlands to be mitigated. A condition of approval is recommended to ensure the completion of a separate agreement with the City's Natural Areas department regarding off-site wetland mitigation for this project.
- The elevations for the 86,754 square foot entertainment/theater building are preliminary in nature and do not provide enough specific details, such as proposed materials, to evaluate it under the Large Retail Establishment standards of Section 3.5.4. As such, Staff recommends a condition of approval requiring more detailed elevations be provided at time of Final Plan that illustrate compliance with all relevant provisions of Section 3.5.4.
- In order for the PDP to meet Larimer County Urban Area Street Standards (LCUASS), a west bound right turn lane on Horsetooth Road at Stanford Road is required and recommended as a condition of approval.
- As a result of the denial recommendation for the Modification of Standard request to allow the two proposed electronic message center signs (digital signs) to display messages in full color rather than one color (Section 3.8.7(M)(4)(c)), a condition of approval of the PDP requiring compliance with Section 3.8.7(M)(4)(c) is recommended.

Attachment 22 of Attachment 3 – Excerpts from Staff Report and Analysis of Sign Modification Requests provided to the Planning and Zoning Board. Excerpts pertain only to relevant sections of the Attachment dealing with the staff recommendation. These excerpts are from pages 7 through 15 of the Attachment.

PROJECT: Foothills Mall Redevelopment, Project Development Plan,
PDP #120036 – Modification of Standards Request for Signage

APPLICANT: Alberta Development Partners
c/o Bryan McFarland
5750 DTC Parkway, Suite 210
Greenwood Village, CO 80111

OWNER: Walton Foothills Holdings VI, LLC
c/o Don Provost
5750 DTC Parkway, Suite 210
Greenwood Village, CO 80111

PROJECT DESCRIPTION:

This is a request for modifications to numerous sections of the sign regulations contained in Section 3.8.7 of the Land Use Code.

RECOMMENDATION:

Approval of the following:

1. Allow more than one ground sign per lot with regard to the vehicular directional signs located on the interior of the site (Sign Type 3.1).
2. Allow the vehicular directional signs (Sign Type 3.1) and the two secondary entry monument signs (Sign Types 1.3A and 1.3B) to be located on the interior of the site on lots that don't have street frontage.
3. Allow two electronic message center signs to be located approximately 1100 feet apart along the South College Avenue frontage abutting the development.
4. Allow the two, forty-five square foot electronic message center signs to exceed 50% of the total area of the sign face.

Denial of the following:

1. Deny the request to allow the two electronic message center signs to be full color.

EXECUTIVE SUMMARY:

Section 3.8.7 contains regulations that govern the size, height, location, and design requirements for signs on private property. The applicant has submitted modification requests for two of the ground signs proposed to be located along South College Avenue and for a number of directional signs and secondary entry signs proposed to be located within the interior of the site. All of the other signs included in the proposed sign package comply with the applicable standards.

COMMENTS:

1. Background

The applicant has requested modifications to the following standards:

1. Section 3.8.7(G)(6) – allow ground signs that are proposed to be located on the interior of the site to be on lots that don't have street frontage.
2. Section 3.8.7(G)(6) - allow ten on-site vehicular directional signs to not be counted toward the maximum number of ground signs allowed.
3. Section 3.8.7(M)(4)(c) – allow the two proposed electronic message center signs (digital signs) to display messages in full color rather than one color.
4. Section 3.8.7(M)(4)(d) – allow the size of the electronic message center signs to exceed fifty percent (50%) of the total area of the sign face.
5. Section 3.8.7(M)(4)(h) – allow more than one electronic message center sign per street per development. Specifically, there are two such signs proposed along College Avenue.

5. Third Modification – Section 3.8.7(M)(4)(c)

A. Standard – No full color electronic message centers are allowed.

Section 3.8.7(M)(4)(c) reads as follows:

(c) A displayed message must be presented in a single color, value and hue and the background must also be a single color, value and hue.

B. Description of the modification:

The sign code allows for electronic message center (EMC) signs, but requires that the message be displayed in only one color at a time. The applicant is proposing two such signs be located along College Avenue, and each proposed to display messages in full color (more than one color at a time). The signs on which the EMC's will be placed are two-sided signs, but the EMC will be placed only on the side facing oncoming traffic.

D. Staff evaluation of the third modification request

Staff believes that the applicant has not demonstrated how this modification request satisfies any of the four modification standards, and further believes that the granting of this variance would be detrimental to the public good.

Staff spent 2011 revising the City's digital sign regulations, and the revisions adopted by City Council included a ban on full-color displays. The year-long process included many public meetings and other public outreach opportunities and considerable involvement by the local business community.

The current regulations do allow message centers capable of displaying messages in full color, as long as they're programmed in such a manner that the message is displayed in one color at a time. The applicant could consider installing the full color capable modules now, programming them as currently required but allowing the method of display to easily be changed in the event our code is amended in the future to allow full color displays.

6. Fourth Modification – Section 3.8.7(M)(4)(d)

A. Standard – The size of an electronic message center (EMC) is limited to not more than 50% of the sign face.

Section 3.8.7(M)(4)(d) reads as follows:

(d) The maximum allowed size of an electronic message center shall be fifty percent (50%) of the total area of the sign face.

B. Description of the modification:

Two of the proposed ground signs along College Avenue are proposed to contain an EMC. Specifically, the Sign Type 1.2B signs will be double-side with the message display area of one side of the sign face of each sign being entirely an EMC. The sign faces, including the cabinet and other decorative elements are 47.5 square feet, and the actual message display area is 30.5 square feet. Therefore, the EMC is 64% of the total area of the sign.

D. Staff evaluation of the fourth modification request:

Section 2.8.2(H)(1) – Sign Type 1.2B is proposed to be 47.5 square feet per face. The sign could be enlarged by adding additional graphics, up to 90 square feet total, and the proposed 30.5 square foot EMC would then comply with the code and a modification would not be required.

The purpose of this standard is to help ensure quality design of signs containing an EMC. Staff believes that the proposed sign is well designed, containing a substantial base and other design elements that match those proposed on the other signs in the development, and that the plan submitted promotes the general purpose of the standard equally well or better than would a sign that is double in size with additional graphics.

Section 2.8.2(H)(4) – Staff believes that the proposed sign diverges from the standard only in a nominal, inconsequential way when considered from the perspective of the entire development plan. The EMC size exceeds the maximum allowed by only 6.85 square feet.

7. Fifth Modification – Section 3.8.7(M)(4)(h)

A. Standard – no more than one electronic message center (EMC) sign per street per development.

Section 3.8.7(M)(4)(h) reads as follows:

(h) With respect to sign permits issued after December 30, 2011, no more than one (1) electronic message center sign shall be allowed to face each street abutting or within any property and/or site specific development plan. The minimum horizontal distance between electronic message center signs located on the same side of a street shall be one hundred (100) feet measured in a straight line.

B. Description of the modification:

The applicant is proposing two ground signs that contain an EMC (Sign Type 1.2B). The code limits the number of EMC signs to not more than one per street abutting any property and/or site specific development plan, and requires that the minimum distance between EMCs on adjacent properties and/or developments is 100 feet. The two proposed signs are located 1164 feet apart, are both facing College Avenue, and are both within the boundaries of a single site specific development plan.

D. Staff evaluation of the justification:

Section 2.8.2(H)(4) - Staff believes that the proposed sign diverges from the standard only in a nominal, inconsequential way when considered from the perspective of the entire development plan.

The purpose of the standard is to limit EMC signs from being located close together by ensuring adequate spacing along the streets of the city. The length of the College Avenue frontage of the Foothills Mall development plan is about 1,850 feet, which is greater than most, if not all, commercial developments. The 1164 foot spacing between the two EMC signs is adequate to ensure that the intent of the standard is met. Additionally, the proposed sign towards the north boundary of the development is 350 feet from the north lot line, and the sign towards the south end is 370 feet from the south lot line. These distances ensure that the 100 foot spacing requirement will be met between any possible future EMC signs on adjacent developments, thereby not impacting the ability of those adjacent developments to install EMC signs.

RECOMMENDATION:

Staff recommends approval of the modification requests to the four Sections below, finding that one or more of the standards for modification in Section 2.8.2(H) have been satisfied as cited in the Staff Evaluations described above:

1. Section 3.8.7(G)(6) - Allow the vehicular directional signs (Sign Type 3.1) and the two secondary entry monument signs (Sign Types 1.3A and 1.3B) to be located on the interior of the site on lots that don't have street frontage.
2. Section 3.8.7(G)(6) - Allow more than one ground sign per lot with regard to the vehicular directional signs located on the interior of the site (Sign Type 3.1).
3. Section 3.8.7(M)(4)(d) - Allow the two electronic message center signs to exceed 50% of the total area of the sign face.
4. Section 3.8.7(M)(4)(h) - Allow two electronic message center signs to be located approximately 1164 feet apart along the South College Avenue frontage abutting the development.

Staff recommends denial of the modification request to Section 3.8.7(M)(4)(c) to allow full color electronic message center signs. As cited in the Staff Evaluation for the Third Modification Request described above, staff believes that the applicant has not demonstrated how this modification request satisfies any of the four modification standards, and further finding that the granting of this variance would be detrimental to the public good.

City Council Meeting March 19, 2013

Appeal of the Planning and Zoning Board's
February 7, 2013 decision to approve sign
modifications for the Foothills Mall
Redevelopment Plan.

Background Information

- Foothills Mall Redevelopment Plan application included sign code modification requests
- The modifications were approved by the P&Z Board on February 7, 2013
- Three of the approved modifications have been appealed to City Council

Modification Request

1. Allow two electronic message center ground signs along South College Avenue to display messages in full color rather than one color.

Modification Request (continued)

2. Allow size of electronic message center signs to exceed 50% of the total area of the sign face. Specifically, allow them to be 64% of the area of the sign face.

Modification Request (continued)

3. Allow more than one electronic message center sign along South College Avenue. Specifically, allow two such signs, 1164 feet apart.

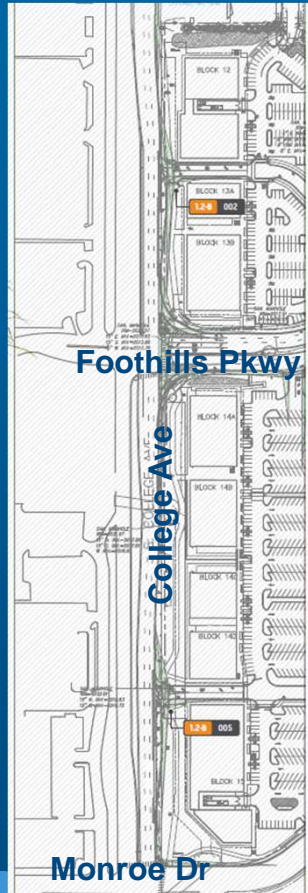
Modification of Standards Approval Criteria – Section 2.8.2(H) of the LUC

Not detrimental to the public good,
and

Modification Criteria (continued)

1. Meets standard equally well or better than complying with standard, or
2. The modification would substantially alleviate a city-wide concern or result in substantial benefit to the City and complying with the code would render the project practically infeasible, or
3. Exceptional situations unique to the property cause complying with the code to result in an exceptional hardship, or
4. The modification is nominal and inconsequential in the context of the entire development plan.

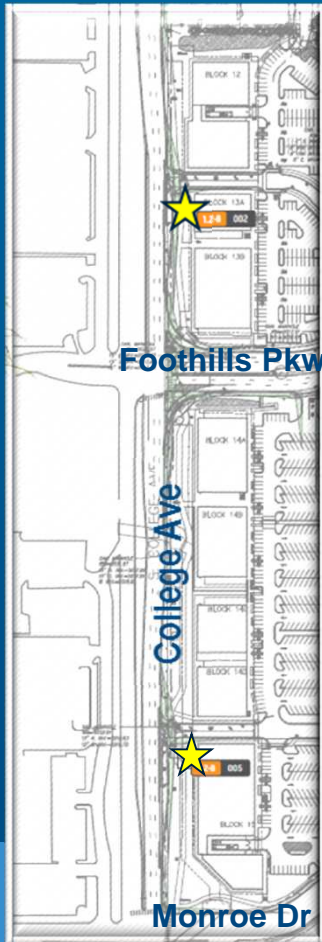
Modification Request – Allow Two Digital (EMC) Signs to be Displayed in Full Color



Full color EMC signs are allowed, as long as the message is displayed in one color at a time.

The modification request can not be justified based on the specific criteria outlined in the Code.

Modification Request- Allow more than one Digital (EMC) Sign per Street per Development



Code allows 1 EMC sign per street and/or development with a minimum 100 foot spacing.

As proposed, the signs are 1,164 feet apart.

Length of College Ave. frontage of Foothills Mall Redevelopment project site is 1,850 ft. – greater than most commercial developments.

Could be considered nominal and inconsequential way when considered in context of the entire development plan.

Council Action Needed

Council should review the record and determine if the decision of the Planning and Zoning Board to approve the three modifications of standards should be upheld, overturned, modified, or remanded to the Board for further consideration.