



CITY OF BOULDER



Referral Docket SU-23-0016
Tennis Center of the Rockies Special Use Review
Date: February 23, 2024

To: Samuel Walker, Planner II, Boulder County Community Planning & Permitting

From: Chris Ranglos, Senior City Planner, Planning and Development Services, Comprehensive Planning Division; Bethany Collins, Open Space Real Estate Services Senior Manager, Open Space and Mountain Parks; Jacob Cassidy, Property Agent, Open Space and Mountain Parks

Thank you for the opportunity to comment on the referral of this application. City staff recognize the importance of recreational tennis opportunities throughout the Boulder Valley and understand this proposal is attempting to address the recent loss of such facilities at several locations. The city remains committed to local and regional coordination on such matters of shared concern.

Boulder Valley Comprehensive Plan (BVCP)

The subject property is located within the Planning Area for the Boulder Valley Comprehensive Plan (BVCP), a jointly adopted plan by the city and county. The property lies outside the Boulder city limits and is designated Open Space – Other (OS-O) on the Land Use Map. The OS-O designation indicates public and private land designated prior to 1981 that the city and county would like to preserve through various methods including but not limited to intergovernmental agreements, dedications or acquisitions. By itself, this designation does not ensure open space protection.

This property is also located within Area III – Rural Preservation of the BVCP, which is “where the city and county intend to preserve existing rural land uses and character” (BVCP Policy 1.12). The property is not eligible for annexation.

Based on the materials received, the city considers the request to be inconsistent with the BVCP. Specifically, the city finds that the application request is inconsistent with the following BVCP policies:

- *1.15 Over-Intensive Rural Development*

The Area III-Rural Preservation Area is the portion of Area III where rural land uses and character are to be maintained and preserved. Although the Boulder County Land Use Code allows for membership facilities on land zoned Agriculture, city staff find the otherwise permitted land use would have an impact on urban intensity and thus be considered over-intensive rural development in this proposed phase alone, but also considering the proposed Phase 2 plans included in the initial civil and landscape plans. As defined in the BVCP, criteria used to in making an over-intensive determination may include, but are not limited to, traffic, structure size, number of users, hours of operation, outside lighting, water needs, and wastewater

flows, impacts extending outside of the property boundaries, compatibility with surrounding land uses and the availability or lack of more appropriate sites for the proposed activity.

- *2.03 Compact Development Pattern*

A primary purpose of the BVCP is to maintain and focus urban land uses and development into urban areas. The location of the proposed Tennis Center of the Rockies site is far removed from the urban area of the city and adding such uses outside of the city in an area defined to remain rural in use is inconsistent with the purpose, policies and goals of the BVCP. Furthermore, the BVCP strives to ensure that development will take place in an orderly fashion, and avoid, insofar as possible, patterns of leapfrog, noncontiguous, scattered development within the Boulder Valley. Although close to existing subdivisions and other urban development, the subject parcel and proposed use are not contiguous to these developments or intensive uses.

- *2.06 Preservation of Rural Areas & Amenities*

The city and county will attempt to preserve existing rural land use and character in and adjacent to the Boulder Valley where environmentally sensitive areas, agriculturally significant lands, vistas, significant historic resources and established rural residential areas exist. A clear boundary between the urban and rural areas at the periphery of the city will be maintained, where possible. The location of the proposed Tennis Center of the Rockies is recognized as an Environmental Conservation Area in the BVCP, includes vistas to the Rocky Mountains and surrounding Plains, and is adjacent to an already established rural residential area. Further, the subject parcel also consists of land identified by the Boulder County Comprehensive Plan as Agricultural Land of Local Importance.

Additionally, the location is highly visible from the City's surrounding open space lands and sits uphill from the Cottontail Trail and the proposed ~50'-high seasonal bubbles, 10'-high fencing around the courts, and proposed retaining walls would have significant impacts on the viewshed and visitor experience in this area.

- *2.07 Delineation of Rural Lands*

- *A) Area III-Rural Preservation Area*

The Area III-Rural Preservation Area is that portion of Area III where rural land uses and character will be preserved through existing and new rural land use preservation techniques, and no new urban development will be allowed during the planning period. Rural land uses to be preserved to the greatest possible extent include several rural town sites (including those adjacent to Gunbarrel); city and county acquired open space and parkland; sensitive environmental areas that are unsuitable for urban development; significant agricultural lands; and lands that are unsuitable for urban development because of a high cost of extending urban services or scattered locations, which are not conducive to maintaining a compact community. Although the subject parcel is served by the Lefthand Water District, there are no sewer services provided nor are there any current plans to extend service into this area.

- *2.26 Trail Corridors/Linkages*

City staff acknowledges the applicant's proposal to coordinate connectivity of the site to the Cottontail Trail, however connections to private properties require significant review and planning processes by the City and should be considered outside the scope of this application and no gates or access to the adjacent city-owned open space will be permitted.

- *2.39 Outdoor Lighting/Light Pollution*

The city and county seek to reduce light pollution and promote dark skies at nighttime in appropriate areas. The proposed lighting plan and operating hours will have significant impacts on dark skies in this area and especially the pole lighting will have lighting trespass and wildlife

impacts on the adjacent lands at least until/unless proposed tree canopy is mature enough to provide screening. Even with downward facing lights, the location of the property uphill from the adjacent open space to the west will mean that light trespass into the surrounding open space will be substantial.

- *3.03 Protecting Native Ecosystems & Biodiversity*

The location of the proposed Tennis Center of the Rockies is in an area identified as having very high biodiversity and is recognized as an Environmental Conservation Area in the Boulder County Comprehensive Plan.

The proposed development is adjacent to the City's Jafay Open Space property (managed by the Open Space and Mountain Parks Department) which is part of Boulder County Comprehensive Plan Environmental Resource Element (ERE) Critical Wildlife Habitat (CWH) #88. From the ERE: "Areas designated as Critical Wildlife Habitat are considered rare, irreplaceable or difficult to replace, and are essential to the conservation and preservation of wildlife in Boulder County."

Potential impacts to CWH #88 from proposal include:

- CWH #88 is designated as rare or unique for a variety of reasons. The northern portion (north of Lookout Road, east of 79th St) supports a large prairie dog colony which supports multiple pairs of nesting burrowing owls. Nesting burrowing owls are rare in Boulder County, are State Threatened, and identified as a Tier 1 species of greatest conservation need (SGCN) in Colorado Parks and Wildlife's State Wildlife Action Plan. The nearest confirmed burrowing owl nest is approximately ~300 meters from the property, well within the ¼ mile buffer that CPW recommends as a protective buffer from large disturbances such as what is being proposed in this application. It is quite possible that nesting burrowing owls will abandon the site if this type of disturbance is present.
- The intact prairie dog colony on OSMP east and west of 79th St is also an extremely high-quality and frequently-used natural foraging area ("significant concentration" per the ERE) for many sensitive raptor species like golden eagles (Tier 1 SGCN), bald eagles (Tier 2), and ferruginous hawks (Tier 2). These species of raptors prefer rural, natural habitat conditions; this would be compromised if not lost altogether if the application is approved. Eagle species are federally-protected from disturbance under the Bald and Golden Eagle protection Act and all raptors are protected under the Migratory Bird Treaty Act.
 - In an email sent to Samuel Walker on 2/12/24, a representative from the US Fish and Wildlife Service also provided comments concerning the loss of raptor habitat.
- Development and subsequent use of site as a Tennis Facility would cause considerable, likely irrecoverable, impacts to habitat effectiveness from operational noise (i.e. tennis racquets, pickleball paddles, outdoor pools and amplified sound), a considerable increase in traffic noise, and light trespass associated onto open space, regardless of planted tree cover. Development and use as per the application will reduce the effective foraging area for federally-protected raptors and may impact subsequent use of historic burrowing owl nesting locations on the west side of the open space property to the east.
- CWH #88 also protects habitat for grasshopper sparrows (Tier 2). This area has the densest population of grasshopper sparrows on public lands in Boulder County. Grassland bird populations have suffered severe population declines across the US and CWH #88 supports a large, intact grassland habitat block—a rare feature in Boulder County. Grasshopper sparrows are considered "area-sensitive" and prefer large, intact habitat blocks to nest. Development and subsequent use of the proposed tennis facility

may impact grasshopper sparrow abundance and reproductive success on adjacent OSMP property.

- *6.03 Reduction of Single Occupancy Auto Trips*

A primary focus of the BVCP is to create and maintain a safe and efficient transportation system that meets the city and county sustainability goals. Furthermore, the city and county will support and promote the greater use of alternatives to reduce vehicle miles traveled and single-occupancy automobile travel. The location of the proposed Tennis Center of the Rockies is far removed from the urban area of the city, and travel choices are largely limited to single-occupant automobile trips. Although the applicant plans to provide bicycle parking, a lack of safe multi-modal paths connecting to the site exists. It is possible for pedestrians or bicyclists to access the subject parcel, but 79th Street does not currently contain shoulders, lanes, or sidewalks for bicyclists and pedestrians. The subject parcel is not located near existing transit routes and is likely to be primarily accessed by single occupancy vehicles. The location of the subject parcel and intensity of the proposed use does not align with the BVCP goals focused on reducing single occupancy vehicle trips, promoting a more active-based transportation system, and directing development towards areas where public transit exists.

- *6.12 Transportation Impacts Mitigated*

Transportation or traffic impacts from a proposed development that cause unacceptable transportation or environmental impacts, or parking impacts, to surrounding areas will be mitigated. All development will be designed and built to be multimodal and pedestrian-oriented and include TDM strategies to reduce the vehicle miles traveled generated by the development. Supporting these efforts, new development will provide continuous multimodal networks through the development and connect these systems to those surrounding the development. Although the traffic impact report provided by the applicant identifies service levels as acceptable, the traffic impact report and written statement does not address traffic and parking impacts associated with special events, tournaments, and for use by the University of Colorado.

Left Hand Water District

The subject parcel at 5701 N. 79th street currently has an existing residential tap associated with the property. The applicant has stated that an upgrade to the residential tap and an additional irrigation tap will be needed to serve the property. The City of Boulder and the Left Hand Water District entered into the 1995 Amended and Restated Agreement (Agreement) that provides a process for the city to comment on requests that are made for new service or changes in service to existing District water customers in the BVCP area. The Agreement also provides that the city may ask for a hearing before the Left Hand Water District Board of Directors if it has any objections to the requested service. The city's review of the requests revolves around whether the District has the capacity to serve new customers and whether the request is consistent with the BVCP and Agreement. Although no official request has been made, and the city has not been referred to by the Left Hand Water District, city staff will not be supportive of such a request should it be made and would request a hearing before the District's board in opposition. This is due to the proposals inconsistencies with the BVCP, including the policies mentioned above (1.15, 2.03, 2.06, 2.07, 2.26, 2.39, 3.03, 6.03, 6.12), and including Policy 1.14 (Definition of New Urban Development); Policy 1.18 (Provision of Urban Services in the Boulder Valley); Policy 1.19 (Definition of Adequate Urban Facilities and Services); and Policy 1.28 (Out-of-City Utility Service).

Additional Open Space and Mountain Parks Comments:

Noise Impacts

As also noted elsewhere in these comments OSMP staff believes the proposed project will have significant noise impacts to wildlife and visitors on the adjacent open space lands and trail. This includes the individual and cumulative noise from the site activities (for example: balls/racquets, outdoor pools, amplified sound systems, and mechanical equipment for seasonal bubbles) and traffic noise from the large increase in daily traffic, construction traffic, and traffic related to proposed tournaments and competitions.

Consideration of Prairie Dogs

The applicant can expect to experience conditions on the neighboring open space consistent with prairie dog occupation. Prairie dogs are native wildlife, and OSMP is not responsible for their movements across land ownership boundaries. The applicant should be informed that the prairie dog colony on the adjacent open space is designated as a Prairie Dog Conservation Area (PCA). PCAs are locations on city open space grasslands where the conservation of the prairie dog is the primary management objective and PCAs are managed opportunistically for associated species. These areas can serve as receiving sites for relocation with the minimum requirements described in the prairie dog relocation criteria of the City of Boulder OSMP Grassland Plan. No removal of prairie dogs would occur in PCAs except for the purpose of maintaining an existing irrigation facility such as a headgate, ditch, lateral ditch, reservoir, or irrigated field.

If developers of this property wish to prevent prairie dogs from inhabiting their property, that will be their responsibility and the applicant should be aware that irrigated landscaping will likely be attractive to prairie dogs OSMP can provide information about effective barriers to prairie dog movement. The applicant is aware of the presence of prairie dogs on the parcel proposed for development and they will need to work with an expert to determine how to best remove these prairie dogs prior to construction. It is important to note that due to the size of the colony on the parcel proposed for development, and occupation of surrounding OSMP lands, passive relocation of prairie dogs off the property will not be a feasible option.

Open Space Adjacent

All open space fences and boundaries must be respected at all times. No gates or other access points will be allowed from the subject property onto city owned open space lands without OSMP approval.

No dumping of trash, tree limbs, lawn clippings, or other debris is allowed on city-owned open space land. Trimming or removal of existing vegetation from OSMP property or planting vegetation on OSMP property is prohibited.

Construction access across city owned open space lands, storage of construction material, staging construction equipment, or dumping of construction debris on city owned open space lands are not allowed.

Site Screening

If the application is approved, OSMP supports efforts by county staff to have the applicant maintain trees and vegetation that could help screen the proposed development from the public viewshed while considering the need for wildfire defensible space. OSMP also encourages the county to consider requiring Firewise landscaping plants as defined by the Colorado State Forest Service (CSFS). More information on Firewise plants can be found at the following link:

<https://extension.colostate.edu/topic-areas/natural-resources/firewise-plant-materials-6-305/>

Native Plants

If the application is approved, use of native plant materials for revegetation and landscaping should be recommended. Non-native plant materials should not be planted, particularly Mediterranean sage, myrtle spurge, purple loosestrife, Russian olive, or any other State of

Colorado listed noxious weed species and the grading and landscape plans should require a weed management plan.

Following are some sources of information about the use of local native plants in landscaping:

https://conps.org/wp-content/uploads/2015/05/Suggested-Native-Plants_0408.pdf

<https://conps.org/gardening-with-native-plants/>

<https://bouldercolorado.gov/services/gardening-native-plants>

Drainage

OSMP notes the proposal would significantly increase the impervious surfaces on the site. Historic drainage patterns and quantities onto adjacent city-owned land and into drainages leading to the Boulder and White Rock Ditch should not be altered. Any proposed stormwater drainage or outfall to, or across, city-owned land would require city approval.

Water rights and other requirements for stormwater detention facilities identified in Colorado Revised Statute 37-92-602 must be followed.

Ditch

OSMP staff notes the drainage identified by the applicant appears to ultimately flow to the Boulder and White Rock Ditch. The applicant and County staff should consult with the ditch company as a referral agency (contact Jules VanThuyne, President, at (303) 775-7894).