



TOWN COUNCIL STUDY SESSION AGENDA
August 12, 2019
5:30 PM

I. Town Council Items

II. Study Session Items

1. Debt Refinancing Update - Brown - 10 minutes
2. Noise Ordinance Discussion - Schledorn/Kivela/King - 20 minutes
3. Resolution of Intent for Pine Curve and PACE Lot 2 - Diak/Rivero - 30 minutes



MEMORANDUM

TO: Mayor and Town Councilmembers

FROM: Kristin Schledorn, Deputy Town Attorney
Michelle Kivela, Town Administrator
David King, Chief

DATE: August 12, 2019

SUBJECT: Noise Ordinance

ISSUE:

Whether to revise the Town's noise regulations, contained in Chapter 6.03 of the Parker Municipal Code.

FISCAL/BUDGET IMPACT:

Minimal.

BACKGROUND:

Town Council and staff have received several complaints concerning noise from the Tailgate, which is hosting outdoor bands (utilizing amplified speakers) on its patio.

Section 6.03.040 of the Parker Municipal Code provides, in part:

"The following acts and the causing thereof are declared to be in violation of this Chapter: (1) Outdoor loudspeakers/public address systems. (a) Using or operating for any noncommercial purpose any loudspeaker or similar device between the hours of 10:00 p.m. and 7:00 a.m. the following day. (b) Using or operating for any commercial purpose any loudspeaker, public address system or similar device..."

Because an outdoor band at a retail establishment is a commercial activity, under the current Code, the use of "outdoor loudspeakers/public address systems" by a band at the Tailgate, at any time of the day, would be a violation of the Town's noise regulations.

Section 6.03.050 provides for a fine of not more than \$499 upon conviction.

Noise regulations in surrounding communities vary. For example, Castle Rock prohibits the playing of devices that produce or amplify sound that is audible 100 ft. away, except for activities open to the public and for which a permit has been issued. They also prohibit

loudspeakers/public address systems for any commercial purpose such that the sound creates a noise disturbance across a residential real estate boundary, as well as prohibiting live bands and music audible at a residential real property boundary between the hours of 12 a.m. and 7 a.m. Lone Tree prohibits any sound amplifying equipment in or on any public or private property in a manner that makes it plainly audible 25 feet away from the property line without written authorization from the City. Littleton prohibits places of public entertainment from operating loudspeakers that exceed specified decibel levels for specified durations (with decibel levels required to be lower the longer the duration of the event).

If Town Council wishes to allow activities such as the Tailgate bands, the noise regulations will need to be amended.

Options for Town Council consideration include:

1. Allowing amplified sounds (a) only during specified days/hours and/or (b) only in specified zone districts.
2. Allowing amplified sound pursuant to an amplified sound permit, which permit could require notification to neighboring properties and impose conditions on issuance (limited days/hours, restrict future permits if violations occur).
3. Enforce the current regulations.

RECOMMENDATION:

If Town Council wishes to allow activities such as the Tailgate bands, staff would recommend amending Chapter 6.03 to allow amplified sound pursuant to an amplified sound permitting process.

REQUESTED DIRECTION:

Provide direction on whether to amend the Town's noise regulations.

ATTACHMENT:

None

RESOLUTION NO. 19-_____, Series of 2019

**TITLE: A RESOLUTION OF INTENT TO SELL THE MY MAINSTREET PARCELS
INCLUDING THE PINE CURVE PROPERTY AND PACE LOT 2**

RECITALS:

**TOWN OF PARKER APPROVED MASTER PLANS
FOR DOWNTOWN MAINSTREET**

1. In June 2012, after extensive community engagement, and following public notice and hearing as well as recommendation by the Planning Commission, Town Council adopted the Parker 2035 Master Plan establishing the community vision and growth and development policies for the entirety of the Town, including Downtown Mainstreet, PACE Lot 2 and the Pine Curve Property;

2. In September 2015, after extensive community engagement, and following public notice and hearing as well as recommendation by the Planning Commission, Town Council adopted the Mainstreet Master Plan affirming the community vision and growth and development policies for Downtown Mainstreet from the Parker 2035 Master Plan and recommending new development in the Mixed-Use Areas, including PACE Lot 2 and the Pine Curve Property, that promotes active ground-floor uses, increased residential housing and more daytime activity through uses that create employment;

3. The Parker 2035 Master Plan and the 2015 Mainstreet Master Plan specifically identify PACE Lot 2 as part of the downtown core and Mixed-Use/Active Ground Floor Overlay Area that functions as a “. . . mixed-use neighborhood that includes uses such as higher density residential, office, government, arts and cultural venues, restaurants, retail, personal services, as well as parks and other gathering places for community events. Provisions for these uses are promoted within vertically mixed-use developments that include housing and/or offices located above ground-floor retail and services;”

4. The Parker 2035 Master Plan and the 2015 Mainstreet Master Plan specifically identify the Pine Curve Property as part of the East Downtown Gateway and Mixed-Use Area that functions as a “mixed-use neighborhood that includes uses such as higher density residential, office, government, arts and cultural venues, restaurants, retail, personal services, as well as parks, open space and other public gathering places;”

5. On September 7, 2004, the Town Council adopted the Open Space, Trails and Greenways Master Plan as a part of the Town’s Master Plan, which plan was subsequently updated and approved by the Town Council on July 12, 2010, and includes specific Open Space Acquisition Criteria (the “Acquisition Criteria”) to evaluate a property’s overall value to the Town’s open space system and to determine whether to acquire or preserve a property. Under the Acquisition Criteria, PACE Lot 2 and the Pine Curve Property are not preferred candidates for open space;

DOWNTOWN MAINSTREET ACTIVE PARKS

6. In 1981, a portion of the real property for O'Brien Park was dedicated to the Town specifically for park purposes;

7. In 1992, an additional parcel of the real property for O'Brien Park was dedicated to the Town specifically for park purposes;

8. In 1994, an additional parcel of the real property for O'Brien Park was dedicated to the Town specifically for park purposes;

9. The Town has expended substantial taxpayer funds to improve those portions of O'Brien Park that were dedicated to the Town in 1981, 1992 and 1994 to create an active park on the west side of Downtown Mainstreet to meet the park and recreational needs of residents and activate Downtown Mainstreet for businesses and patrons of the Town;

10. In 2005, the Town purchased the balance of the real property needed for O'Brien Park in the amount of \$1,250,000, specifically for park purposes ("O'Brien Park North"), which property will further meet the park and recreational needs of residents, but will remain in a vacant state until funding is available;

11. In 2013, the Town purchased real property located on Mainstreet from the Kime Trust for approximately \$2,000,000 for development purposes (the "Kime Property");

12. In 2015, the Library District acquired a portion of the Kime Property from the Town to construct the new library;

13. In 2016, the Town expended substantial taxpayer funds to improve a portion of the Kime Property for a new park, which is known as Discovery Park, for the purpose of meeting the open space and recreational needs of residents and providing an active park to enhance the eastern section of Mainstreet and support the new library, which together activated the east side of Downtown Mainstreet consistent with the Parker 2035 Master Plan and 2015 Mainstreet Master Plan;

14. O'Brien Park anchors the west side of Downtown Mainstreet, while Discovery Park anchors the east side of Downtown Mainstreet activating Downtown Mainstreet with festivals, sports leagues and tournaments, swimming, playground use, concerts, celebrations, special events, outdoor movies, art exhibits and ice skating;

PINE CURVE PROPERTY

15. In 2001, the Town purchased the Pine Curve Property for approximately \$3,496,367 for development purposes and not for open space;

16. Between 2015 and 2018, the Town expended substantial taxpayer funds to prepare the Pine Curve Property for development, including regional drainage improvements, the demolition of the houses that were located on the Pine Curve Property, and the extension of Summerset Lane to accommodate access for future commercial development;

PACE LOT 2

17. In 2006, the Town purchased two parcels of land on which today comprises PACE Lot 1 and PACE Lot 2, in the collective amount of \$3,442,000, for development purposes and not for open space;

18. In 2009, the Town platted the PACE Property into two lots, PACE Lot 1 and PACE Lot 2;

19. Between 2010 and 2011, the Town constructed the PACE Center on Lot 1 and the parking lot for the PACE Center on a portion of PACE Lot 2;

20. The Town intended that PACE Lot 2 would incorporate accessory parking to support the PACE Center *AND* future commercial or mixed-use development along Mainstreet that would activate and support the PACE Center in the manner provided by the existing Greater Downtown District/Historic Center zoning;

MY MAINSTREET PROJECT

21. In February 2018, to further activate the Downtown Mainstreet through development of the balance of the Kime Property, the Pine Curve Property, PACE Lot 2 and other parcels owned by the Town and the Parker Authority for Reinvestment (“PAR”) (the “My Mainstreet Parcels”), a comprehensive public outreach project called the “My Mainstreet Project” was initiated;

22. The sale of the My Mainstreet Parcels for development is intended not only to further activate Downtown Mainstreet, but also to generate revenue, both from the sale of the My Mainstreet Parcels to reimburse the taxpayers of the Town for the initial purchase of these properties, as well as to generate sales and property taxes to pay for needed public improvements for Downtown Mainstreet and other areas of the Town, such as the O’Brien Park North park expansion, Harvie Open Space improvements, Salisbury Park North park expansion, The Schoolhouse plaza improvements and parking and transportation improvements;

23. Through the My Mainstreet Project the Town and PAR actively engaged the public for ten (10) months beginning February 19, 2018, and ending November 26, 2018;

24. The My Mainstreet Project was open for public feedback on Let’s Talk Parker, where 12,800 people visited the project website and submitted 1,862 survey responses, 152 quick poll responses, provided 31 ideas and asked 13 questions;

25. PAR staff participated in four pop-up events about the My Mainstreet Project, with approximately 620 visitors, and received 1,560 responses to questions;

26. The Town and PAR posted information and updates 77 times on Facebook, which resulted in 82,412 impressions and 11,849 engagements;

27. The Town posted information and updates 17 times on Twitter, resulting in 12,200 impressions and 309 engagements;

28. The Town published nine (9) articles in the Talk of the Town reaching 24,914 addresses in the Town each month (224,226 total impressions);

29. PAR staff gave 14 presentations to community groups, Parker Authority for Reinvestment Advisory Committee, Planning Commission, and Town Council;

30. PAR hired Economic Planning Systems to conduct the Downtown Market Study and provide economic data on the market realities of development of the My Mainstreet Parcels, including the Pine Curve Property and PACE Lot 2, which report was completed on May 24, 2018;

31. The Town Council and PAR Board adopted the My Mainstreet Strategic Framework on November 26, 2018, which consists of 64 pages of the Strategic Framework, 142 pages of public engagement data, and 95 pages of the Downtown Market Study;

32. Based on the public's participation in the My Mainstreet Project, a menu of preferred uses was developed for each of the My Mainstreet Parcels, including the Pine Curve Property and PACE Lot 2;

PROCESS TO SELL THE MY MAINSTREET PARCELS

33. On January 14, 2019, PAR engaged Pinnacle Valuation & Consulting, LLC, to conduct real estate appraisals for each of the My Mainstreet Parcels, including the Pine Curve Property and PACE Lot 2, which appraisal reports were completed on February 19, 2019;

34. From October 12, 2018, to December 12, 2018, PAR issued a Request for Proposals to identify a commercial brokerage firm that would represent the Town and PAR in the sale of the My Mainstreet Parcels, including the Pine Curve Property and PACE Lot 2;

35. On March 18, 2019, PAR and the Town entered into a commercial brokerage listing agreement for the My Mainstreet Parcels with NavPoint Real Estate Group;

36. The My Mainstreet Parcels were listed with NavPoint Real Estate Group for a listing price in excess of the appraised value for these parcels, including the Pine Curve Property and Pace Lot 2;

37. The listing agreement with NavPoint Real Estate Group specifically provides for the preservation of parking for the PACE Center.

38. On August 5, 2019, the Town Council passed on first reading a bill for an ordinance to approve a purchase and sale agreement (the "Pine Curve Purchase Agreement") to sell the Pine Curve Property for \$5.00 a square foot or an approximate purchase price of \$5,261,830 (subject to adjustment based on a new survey), which amount is in excess of the amount that the Town paid for the Pine Curve Property in 2001 and in excess of the appraised value of the Pine Curve Property (second reading is August 19, 2019);

39. The Pine Curve Purchase Agreement requires the buyer to enter into a development agreement with the Town, that will be recorded against the Pine Curve Property, which will require that the "proposed development of the Property must be consistent with the My Mainstreet

Strategic Framework,” which agreement must be approved by the Town Council prior to the sale of the Pine Curve Property;

CITIZEN INITIATIVE TO REZONE THE PINE CURVE PROPERTY AND PACE LOT 2 FROM MIXED USE ZONING TO OPEN SPACE

40. On March 15, 2019, the “Committee to Save PACE and Pine Curve 3.0” filed a Committee Affidavit with the Town Clerk. According to the Committee Affidavit, “[t]he purpose of this initiative will be to place a question on the ballot as to whether the zoning . . . (. . . The Pine Curve) and . . . (. . . the PACE Parking Lot) . . . should be modified to Parks/Open Space;”

41. The Committee Affidavit identified the Committee Chairman and the person to receive notices (the “Committee Chairman”);

42. On March 20, 2019, the Town Clerk sent a letter to the Committee Chairman to certify the Town’s receipt of the Committee Affidavit and to notify the committee that the Committee Affidavit was deficient. In addition, the Town Clerk explained “that the Town does not have ‘Parks/Open Space’ zoning, but does have an ‘Open Space District’ which is reflected in the sample forms. Parks are not an allowed use in this zoning, *so you may wish to consult with Community Development on the appropriate zoning designation you are seeking, prior to re-filing the affidavit, proposed petitions and ordinances;*” (emphasis added)

43. On March 21, 2019, the Committee Chairman called the Community Development Director of the Town and left a message. On March 22, 2019, the Community Development Director returned Committee Chairman’s call and advised him that the act of rezoning the PACE parking lot on PACE Lot 2 to “Open Space” or “Public Facility” would, from a zoning perspective, sever the PACE parking lot from the PACE Center, and that a parking lot is not permitted as a principal use within either “Open Space” or “Public Facility” zoning designations;

44. Pursuant to the Land Development Ordinance, an action to rezone PACE Lot 2 from Greater Downtown District/Historic Center to Open Space or Public Facility would result in the existing parking lot becoming a nonconforming use and the Town would be required to implement the zoning change and correct the nonconforming situation by removing parking so that the primary use of PACE Lot 2 is converted to open space;

45. On April 5, 2019, following the March 21, 2019, discussion with the Town Community Development Director, Committee Chairman submitted a corrected Committee Affidavit on behalf of the “Committee to Save PACE Center Parking” to the Town Clerk, the purpose of which was to propose “A BILL FOR AN ORDINANCE ZONING CERTAIN PROPERTY WITHIN THE TOWN OF PARKER, COLORADO, KNOWN AS PACE PARKING LOT, TO OPEN SPACE DISTRICT . . .;”

46. On April 12, 2019, the Town Clerk sent a letter to Committee Chairman to certify the Town’s receipt of the corrected Committee Affidavit and approving the form of petition;

47. On April 5, 2019, a corrected Committee Affidavit was also submitted on behalf of the “Committee to Save Pine Curve 3.0” to the Town Clerk, the purpose of which was to propose

“A BILL FOR AN ORDINANCE ZONING CERTAIN PROPERTY WITHIN THE TOWN OF PARKER, COLORADO, KNOWN AS PINE CURVE, TO OPEN SPACE DISTRICT . . .;”

48. On April 12, 2019, the Town Clerk sent a letter to certify the Town’s receipt of the corrected Committee Affidavit and approving the form of petition;

REASONS SUPPORTING TOWN COUNCIL’S INTENT TO SELL

49. Downtown Mainstreet is the focal point of the Town’s economic development and the My Mainstreet Parcels, including Pine Curve Property and PACE Lot 2, are part of the project to further energize Downtown Mainstreet through mixed use development for the benefit of the residents, businesses and patrons of the Town;

50. Zoning the Pine Curve Property and PACE Lot 2 as open space will have a significant negative impact on (i) the My Mainstreet Project and Downtown Mainstreet, (ii) the economic development of Downtown Mainstreet, (iii) the ability of the Town to recover the significant taxpayer investment in the Pine Curve Property and PACE Lot 2, (iv) the collection of sales tax and property tax revenue that would be realized by the Town and PAR from new development on the Pine Curve Property and PACE Lot 2 and the reinvestment of this revenue into capital projects that are needed by the Town, (v) the availability of parking for the PACE Center and (vi) the appearance of the Downtown Mainstreet, if the Pine Curve Property and Pace Lot 2 are left in a vacant state;

51. Zoning the Pine Curve Property and PACE Lot 2 as open space will have a significant negative impact on the My Mainstreet Project and the Downtown Mainstreet because, if left vacant, the properties will not meet the Town’s identified purpose as outlined in the 2015 Mainstreet Master Plan, which states “[t]he Town desires to strengthen its identity and grow Downtown Mainstreet into an economically vibrant, dense and exciting area recognized as a destination and place of opportunity;”

52. Zoning the Pine Curve Property and PACE Lot 2 as open space will have a significant negative impact on the economic development of Downtown Mainstreet because, pursuant to the Downtown Market Study, the demand for office, retail/restaurant and residential spaces has outpaced the supply. This results in rental rates rising in Downtown Mainstreet faster than the Town as a whole, indicating that, without an increase in supply, the rents will continue to rise and become unattainable for the small business community currently leasing space in downtown;

53. Zoning the Pine Curve Property and PACE Lot 2 as open space will have a significant negative impact on the ability of the Town to recover the substantial taxpayer investment into Pine Curve Property and PACE Lot 2 because of the loss of property and sales approximately totaling \$6,969,380 to \$9,148,230 (\$5,261,830 for Pine Curve and \$1,708,000 to \$3,886,400 for PACE Lot 2);

54. Zoning the Pine Curve Property and PACE Lot 2 as open space will have a significant negative impact on sales tax and property tax revenue that would be realized by the Town and PAR from new development on the Pine Curve Property and PACE Lot 2 with an estimated loss of \$8,500,000 to \$9,700,000 in direct sales tax and property tax revenue over 10

years (approximately \$2,300,000 to \$3,700,000 for PACE Lot 2, and approximately \$6,200,000 for the Pine Curve Property);

55. Zoning the Pine Curve Property and PACE Lot 2 as open space will result in the loss of parking for the PACE Center because the act of rezoning the PACE parking lot on PACE Lot 2 to Open Space would, from a zoning perspective, sever the PACE parking lot from the PACE Center, and that a parking lot is not permitted as a principal use within the Open Space zoning designation;

56. Zoning the Pine Curve Property and PACE Lot 2 as open space will negatively affect the appearance and economic vibrancy of the Downtown Mainstreet because the Pine Curve Property and Pace Lot 2 would be left in a vacant unimproved state, contrary to the Parker 2035 Master Plan, Mainstreet Master Plan and My Mainstreet Project, which received widespread community support for active uses and well-planned development on PACE Lot 2 and the Pine Curve Property; and

57. Zoning the Pine Curve Property and PACE Lot 2 as open space will have a significant negative impact on the reinvestment of this revenue into capital projects that are needed by the Town. The proceeds of land sale from PACE Lot 2 and the Pine Curve Property should be utilized to fund needed capital improvement projects in or near Downtown Mainstreet or in areas that have a parks and open space benefit, such as O'Brien Park North park expansion, Harvie Open Space improvements, Salisbury Park North park expansion, The Schoolhouse plaza improvements, and transportation/parking improvements among other projects.

58. If the Town is successful in selling the My Mainstreet parcels according to Town plans to redevelop those parcels, the Town will recover the taxpayers' investment in those parcels and collect sales and property tax to reinvest in needed capital projects to enhance/energize downtown Mainstreet, the Town's park and open space system, and transportation and parking infrastructure.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, AS FOLLOWS:

Section 1. The Town Council of the Town of Parker hereby determines that it is in the best interest of the Town to sell the My Mainstreet Parcels, including the Pine Curve Property and PACE Lot 2, and hereby declares its intent to pursue that objective.

RESOLVED AND PASSED this ____ day of _____, 2019.

TOWN OF PARKER, COLORADO

Mike Waid, Mayor

ATTEST:

Carol Baumgartner, Town Clerk