

Pitting Neighbor Against Neighbor - Greater Park Hill Community, Inc. (GPHC), est. 1961



Rift Deepens Over Proposed Fairfax Land Swap; Deal Gets

Political

By Cara DeGette, Editor, GPHN

If time were money, the tiny pocket park on Fairfax Street might already be built.

But the long tug-of-war continues over a proposed deal to give developer Ben Maxwell a parcel of land that was slated for a small public park in north Park Hill. In exchange, Maxwell would build the park inside his upscale development project – called Park Hill Commons – on the other side of the street.

Despite city officials' denial that a deal had already been made, the Greater Park Hill News has learned that in early November, the developer and the city entered into a formal ["Letter of Intent"](#) to move forward with the land swap.



The many conceptual designs of a small pocket park on the 2800 block of Fairfax. At top, developer Ben Maxwell says his company spent \$75,000 on designs for the park, which he wants to build inside his Park Hill Commons residential and retail project on the east side of the street. Above, Denver paid Olsam Landscape Architecture \$30,000 to develop three more potential designs for the park based on feedback from city-sponsored meetings this year. Below, the design was produced by volunteer architects following a series of GPHC-sponsored meetings last fall, showing the park at the former Xcel substation on the west side of the street.



Yet, the city's Parks and Recreation department subsequently paid \$30,000 to an outside landscape design firm to conduct four public meetings in February, March and April. The purpose was to get community feedback, in particular where people want the public park to be built. Maxwell, the principal of HM Capital, wants the park inside his residential and retail project on the east side of Fairfax, between 28th and 29th avenues. In that scenario, the city would give Maxwell the former Xcel substation property on the west side of the street – which had been the original site for the public park. He would then own the Xcel land for future development.

But many longtime residents want the public park on the west side of the street, separate from the upscale development and in a more neutral setting.

Allegra “Happy” Haynes, the executive director of the city's parks and recreation department, attended three of the four community meetings. She was joined by five other top managers from her department, representing nearly \$700,000 worth of yearly salaried city employees. Steve Charbonneau, an independent mediator who is on an \$11,583-per-month retainer with the city, was tapped to moderate. These meetings, ostensibly, were to discuss what had been originally envisioned as an \$80,000 to \$120,000 dog park ([click here for a complete timeline of events](#)).

The actions by city officials, some say, have fostered bitter and racially charged division in the neighborhood.

On one side are residents who worry that gentrification will push them out of the once-modest neighborhood they've called home for generations. On the other side are wealthier residents, many of them relative newcomers, who say they look forward to enjoying the amenities that Park Hill Commons promises.

“The reality is [the city was] going to let the developer have the park, and then they got caught and went back and had to

pretend they were getting community input," said Tracey MacDermott, the chair of Greater Park Hill Community, Inc. "They rolled out a dog and pony show to make this park look like it wasn't already a done deal when in reality, it was."

Deal, or no deal

Following several community meetings on the issue last year, the GPHC board voted in November to oppose the proposed land swap. City Parks and Recreation officials then announced the city would hold its own meetings to seek additional community feedback.

At the February kickoff meeting at Stedman Elementary School, Parks and Recreation Executive Director Haynes announced that there was "no deal" between the city and the developer for the land swap.

The following month, on March 23, the Greater Park Hill News asked Haynes whether a Letter of Intent existed between the city and HM Capital. "There is no Letter of Intent; nothing has been signed," Haynes said. "As I said before, there is no deal."

Nearly four months earlier, the city and HM Capital had indeed entered into a Letter of Intent for the land swap. ([The letter can be read online here](#)) Haynes recently claimed through a spokeswoman that she hadn't known about that Letter of Intent when she initially denied its existence. She maintained, however, that the agreement is not binding because the city council must formally approve any land swap with the developer.

Haynes is likely correct that the Letter of Intent may not be legally binding if the land swap does not go forward. However, such agreements are generally considered to be precursors to formalizing a contract – a green light that indicates both the city and the developer are poised to move forward with the deal.

When learning about the agreement, MacDermott was incredulous. "I would like to know how the director of parks and recreation could *not* have known this signed Letter of Intent was there," she said. "It is her job to know about this."

Drumming up support at City Hall

Maxwell says he would not likely sue the city should it break its initial agreement "I'm not the litigious type," he said.

Other developments suggest he is treating what he once thought was a done deal as more of political snag, not a legal one.

In February, Maxwell hired the powerful lobbying group, CRL Associates, to, he said, "get us a straight answer, and they've done that," He declined to provide specifics about whether CRL's efforts have included reaching out to members of the city council or other city officials.

Notably, before becoming executive director of the department of Parks and Recreation, Haynes worked for CRL Associates, as the firm's Director of Civil and Community Engagement. Since 2012, CRL Associates has donated thousands of dollars to numerous members of the Denver City Council, including nearly \$4,000 to Councilman Chris Herndon's campaigns.

Herndon, whose district includes Park Hill, has been a key player championing the land swap proposal. Since the beginning of the year, however, the councilman has remained largely absent from public view on this issue, as has Scott Gilmore, the deputy director of parks, who also helped broker the deal.

Also in February, Maxwell took to social media to drum up support for his overall project, including the land swap. Via Facebook, he solicited feedback from dozens of supporters. Maxwell says he plans to submit the comments to Denver city council members, whose votes would ultimately be needed to approve the deal.

The comments include expressions of anger, even disgust, with the Greater Park Hill Community and other opponents of the land swap.

"My husband and I have lived near the Fairfax shopping center for ten years and we're thrilled about the new development," wrote Jennifer Windram. "I'd love to have shops that are within walking distance of my house instead of constantly having to go over to Stapleton."

"We have three young children and are looking forward to having a convenient place to dine, shop and relax," wrote Tiffany Kampsnyder.

"I support anything that will clean up that block and make it safer for our community," wrote Miriam Willard.

Some have asked Maxwell to consider keeping an open space area within his high-density development on the east side, in addition to supporting a city-built park on the west side. But he says he cannot afford to do that. He's already spent \$6.4 million on the property and says he would abandon the plans for restaurants, retail and commercial spaces if the city backs out. The Park Hill Commons project instead would include only townhomes and micro-units.

"I have made a genuine effort to reach out to all," he said. We want this to be an inclusive development. We have no desire to make this a racially divided issue."

The voices not seen on Facebook

Others fear they won't be welcome in a park surrounded by an upscale residential and retail project. Many have been hopeful that revitalization efforts on the block, including a public park, would also benefit existing businesses on the west side of the street, which are largely minority owned and operated.

They want the city to keep its original commitment to a park on the west side of Fairfax.

At the first city-sponsored meeting, Luevenia "Lulu" Bland, who with her husband, Melvin, has lived in their home for decades, addressed Happy Haynes. Bland had heard that they would need to have a ticket to get into the park, should it be built in Park Hill Commons. "Is that true?" she asked Haynes.

"Absolutely not," was the response.

Bland was one of only a few African Americans who attended any of the city's four meetings. Blair Taylor, the District 5 representative for GPHC, pointed out that the racial and socioeconomic makeup of those city-sponsored meetings was hardly representative of the majority of the residents living in the north section of Park Hill.

"When someone asks, 'Do I need a pass to get into the park?', that should be a big red flag to the city, that we are not serving our community well," Taylor said.

"Some of these residents don't have email, they are not on Facebook," she continued. By contrast, the meetings held by the neighborhood association were far more diverse.

During the second city-sponsored meeting, another longtime resident, Owetta McNeil, described the fear of being pushed out of Park Hill. McNeil will be 80 years old this year. She hopes that her children and grandkids might one day move into her home. But, she fears, rising property taxes will prohibit them from staying. It's become a regular part of her routine, she says, to field calls from enthusiastic realtors.

"I say, 'where do you see the for sale sign at my house?' " McNeil said. "But there is pop-topping happening all around me, and I will end up paying for someone else's luxury. We have worked hard all our lives, and now taxes are more than anyone can afford, and that's pushing everyone out."

"I don't like that and it's not fair. And it takes away from what the neighborhood is all about."

A few people of color who did show up at the city-sponsored meetings left quickly when they saw the other attendees – not friends, not neighbors they recognized.

The last meeting, held on April 17, devolved into an emotional exchange about racism and gentrification. About 80 people attended. Only a handful were people of color.

Marty Esquibel, who has lived in Park Hill since 2006, mentioned the news story that had just gone viral about two black men who had been arrested without cause in a Philadelphia Starbucks. The incident prompted apologies and a company-wide implicit bias training for employees.

“This is a very important conversation to have,” Esquibel said. “Will black and brown boys be suspect when they go into the park? I am not meaning to offend anyone, I am just asking you to understand that it is their reality.”

Pushing dirt around

The decision over where the park would go – on the east side of the street or the west – was supposed to be announced at the fourth meeting. However, the city now says that Haynes will review the comments that were submitted and announce her recommendation in early May.

For the past several years, Councilman Herndon and Gilmore’s big selling points in favor of the land swap have been that HM Capital will pay for and build the park – and that the developer will build the park much faster than the city could.

The first phase of the Park Hill Commons project – 20 upscale townhomes with rental prices starting at \$2,500/month-plus – was slated to have already been completed in January. However, construction has yet to begin. Instead, the only construction activity is a bulldozer, occasionally pushing dirt around. The east side of the block is surrounded by a crude chain fence.

With delays in construction, and continued controversy over the land swap, the timeline may now be a draw. The city now estimates that, if it were built at its original location on the west side of the street, the park could get funding next year, with a timeline of completion by 2020 to 2022.

Park Hill Commons developer Maxwell says that delays, mainly a result of securing permits from the city, have pushed the estimated completion of the phase one townhomes to early 2020.

If the land swap is approved and the park is built within his development project, it would not be finished until the rest of the block is built.

MacDermott, the GPHC chair, termed the entire process “completely disgusting.”

“One thing that is certainly infuriating is all this money they are spending on these people to come up with yet another design for a pocket park,” she said. “Two years ago they could have taken the money they have now spent on this and put it into building a park. That park would now be built.”

To see a complete timeline of events, [click here.](#)