

RECORD OF PROCEEDINGS

Regular Meeting of the Estes Valley Planning Commission
January 15, 2013 - 1:30 p.m.
Board Room, Estes Park Town Hall

- Commission:** Chair Doug Klink, Commissioners John Tucker, Betty Hull, Joe Wise, Kathy Bowers, Nancy Hills, Steve Murphree
- Attending:** Chair Klink, Commissioners Tucker, Hull, Wise, Bowers, Hills, and Murphree
- Also Attending:** Director Chilcott, Planner Shirk, Town Attorney White, and Recording Secretary Thompson, Town Board Liaison Elrod
- Absent:** None

The following minutes reflect the order of the agenda and not necessarily the chronological sequence.

Chair Klink called the meeting to order at 1:30 p.m. There were approximately 25 people in attendance. Chair Klink introduced newly appointed Commissioner Steve Murphree, a Town representative who will be serving a four-year term.

1. PUBLIC COMMENT

None.

2. ELECTION OF OFFICERS

Chair Klink stated the new Chair must be a representative living within the Town limits. The vice-chair must be a representative living outside the Town limits, and within the Estes Valley Development Code (EVDC) area.

Commissioner Hull nominated Commissioner Tucker (seconded by Commissioner Bowers) to serve as Chair. **As no other nominations were received, it was declared by acclamation that Commissioner Tucker would serve as the Chair of the Estes Valley Planning Commission for 2013-2014 (two-year term).**

Commissioner Tucker nominated Commissioner Hull (seconded by Commissioner Bowers) for the position of Vice-Chair. **As no other nominations were received, it was declared by acclamation that Commissioner Hull would serve as Vice-Chair of the Estes Valley Planning Commission for 2013-2014 (two-year term).**

3. CONSENT AGENDA

- A. Approval of minutes, December 18, 2012 Planning Commission meeting.

It was moved and seconded (Hull/Hills) to approve the consent agenda as presented and the motion passed unanimously.

4. LOTS 1 & 2, WITT SUBDIVISION, REZONE FROM A-1 ACCOMMODATIONS TO A-ACCOMMODATIONS, AND DEVELOPMENT AGREEMENT FOR LOTS 1 & 2, 900 W. Elkhorn Ave (Fall River Lodge)

Bob Fixter, applicant, presented a slide show. He explained the current A-1 zone regulations do not allow day use of the property by those not staying overnight. It was his desire to allow daytime meetings for community organizations and other small celebrations to be held on the property, attended by guests who may or may not be overnight guests, with a limit of up to 80 people per event. Mr. Fixter reviewed the types of events and numbers of guests expected for the upcoming year, and stated there are house rules guests are expected to follow. He stated his willingness to construct a landscape buffer for the neighbors, if needed.

Mr. Fixter addressed the written public comment in opposition of the rezoning: He explained there would not be multiple events scheduled on the same date, limiting the amount of traffic coming in and out of the property. He stated the proposed development agreement would address parking and allow the use of Lot 2 without creating an amended

plat of Lots 1 and 2, and is working with Attorney White on the document. Mr. Fixter reviewed the zoning history of the property, stating he requested and received a zone change in 2011 from CO–*Commercial Outlying* to A-1–*Accommodations*. With that rezoning, he did not realize the exclusion of guests not staying on the property. The building change of use (from a B & B to a small hotel) resulted in the requirement of compliance with the fire code, and sprinklers were added. Mr. Fixter stated it was important to maintain the property so it would continue to attract wildlife. He stated the proximity of the property to downtown made it attractive for small gatherings, and believed there was a definite need in the area for accommodations of that size.

Director Chilcott reviewed the staff report. She stated there were two components to the application: 1) rezoning of Lots 1 & 2, Witt Subdivision from A-1–*Accommodations* (low intensity) to A–*Accommodations* (highway corridor); and 2) to enter into a development agreement to allow Lots 1 and 2 to function as one lot (instead of combining the lots through an amended plat); establish allowed uses, location, and intensity of uses on both lots; and allow the pathways that were constructed on Lot 2 to remain outside the platted limits of disturbance. Director Chilcott stated the Estes Valley Board of Adjustment reviewed the pathways as a whole on October 2, 2012, and approved the request to allow them to remain.

Director Chilcott stated staff supported the request to rezoning from A-1 to A, provided the development agreement addressed the uses, location, and intensity of uses to minimize impacts on the adjacent properties. She stated in 2003, the lot was a 3.5 acre parent parcel, Lot 2 of Seybold Subdivision, zoned CO since 1973. The property was developed in 1994-95 as a single-family dwelling and used as a Bed & Breakfast. In 2003, there was a subdivision that divided the 3.5 acre parcel into four lots, named Witt Subdivision. Lots 3 and 4 were developed with single-family homes. In 2011, Bob & Carol Fixter purchased Lots 1 and 2 and requested a zoning change from CO to A-1. This was a downzoning which removed the CO allowed uses (restaurants, bars, retail, etc). and allowed the property to be used as a small hotel. She confirmed Mr. Fixter's statement that A-1 zone districts do not allow guests on site that are not staying on site.

Director Chilcott stated staff support for the rezoning was based on the Estes Valley Comprehensive Plan's guidelines to support this type of development in the Fall River Sub-Area, more specifically residential and accommodations uses as a buffer between commercial and residential zone districts. The development agreement would limit the land use to minimize impacts with the adjacent neighborhood. Director Chilcott stated there was extensive public comment that expressed concern about the neighborhood compatibility and adverse impacts. Some of these concerns could be addressed in the development agreement.

Director Chilcott stated staff originally recommended a continuance of the request to allow the development agreement to be finalized. After additional thought, staff recommended approval of the rezoning request, with the modification of the development agreement being listed as a condition of approval. If the Planning Commission voted to continue the request, staff recommended a continuance of one month. Director Chilcott stated the development agreement modifications would demonstrate exactly how the limitations would be applied to minimize impacts on the adjacent properties. The agreement would need to include, but would not be limited to: establish the allowed uses and locations, maximum number of people allowed, intensity of uses (including pathways), hours of operation, describe the use of the patio and hot tub (currently not approved for commercial use). Although the location is on a highway corridor and suitable for A–*Accommodations* zoning, staff recommended scaling back the use due to the potential for neighborhood impact.

Director Chilcott elaborated on the use of Lot 2, stating this lot was considered undeveloped. According to the Estes Valley Development Code (EVDC) you cannot have an accessory use until you have a principal use (house, small hotel, etc). A parking area would be considered an accessory use. One option to remedy the situation would be to create an amended plat, combining Lots 1 and 2. The applicant chose another option,

which would create a development agreement itemizing the uses for Lot 2. With a development agreement, the property owners could dissolve the development agreement in order to sell or develop the lot. Director Chilcott stated the current development agreement submitted by the applicant needs revisions.

Jes Reetz/Cornerstone Engineering spoke to the Planning Commission about the design of the parking area. Director Chilcott stated the parking area on Lot 2 would need to be paved. Comments from Commissioners to Mr. Fixter included concerns about parking, noise, number of guests, full use of property, risk of fires by guests who smoke, control of guests, etc.

Public Comment

Ken Wynstra/adjacent property owner spoke in opposition to the rezoning. He stated he would have opposed the original rezoning if he had known the applicant wanted to have large groups/weddings there. His concerns were: no other businesses along that stretch of the highway, crowd noise, fire danger, enforcement of regulations, neighborhood impact.

Jacqueline Love/adjacent property owner opposed the rezoning and development agreement. She stated A-*Accommodations* zoning was primarily for highways, and most of the properties on West Elkhorn are residential. Her concerns were: temporary tents for large groups, noise, exterior lighting, ingress and egress of vehicles, potential use every day of the week, enforcement of regulations. She stated the development code was designed to protect the integrity of the neighborhood.

Johanna Darden/Town resident was opposed to allowing access to the river area for 80 people.

Ray Betka/Town resident spoke in favor of the rezoning. He stated the applicant has improved the property. He encouraged the Planning Commissioners to make decisions based on fact, not emotion. He stated the economic impact of allowing small groups would be good for Estes Park.

John Edy/adjacent property owner was opposed to the rezoning. He purchased his property believing it would remain a residential neighborhood. He would be more supportive of the rezoning if all guests stayed inside the building. His concerns were: proximity of the proposed parking area to his home, use of the river by guests, and noise. Mr. Edy encouraged the Commissioners to take note of the petition against using the property as a wedding site.

Larry Wuellner/adjacent property owner opposed the rezoning. He appreciated Mr. Edy's comments, stating this was a human rights issue for the neighboring residents. His main concerns were: noise, preservation of peace in the neighborhood, and allowance of large groups. He stated most Estes Park residents choose to live here because of the surroundings, and was opposed to the change the rezoning would create.

Kathleen Baker/Town resident was opposed to the rezoning. She was unaware of the possibility of the rezoning when she sold property to the adjacent property owners. She stated it was unfair to enhance the value of one person's property at the expense of many others.

Public comment closed.

Staff and Commission Discussion

Director Chilcott stated more work was needed on the parking plan, as staff would not support an unimproved parking area. There was discussion among staff and the commission, with comments including, but not limited to: property is located in a residential neighborhood, impact on adjacent properties and their value could be severe, does not meet threshold for Planning Commission to consider a zoning change, noise traveling along the river could be detrimental to neighbors, A-1 zone district used as a

buffering mechanism between high density and residential use. Commissioners Wise and Tucker would not support the rezoning request.

It was moved and seconded (Wise/Klink) to recommend to the Town Board DISAPPROVAL of the proposed rezoning and development agreement for Lots 1 and 2, Witt Subdivision from A-1 Accommodations/Low-Intensity to A-Accommodations/Highway Corridor with the findings and conditions recommended by staff, and the motion passed 6-1. Commissioner Murphree voted against the disapproval.

Chair Tucker declared a 10-minute recess at 3:30 p.m. The meeting reconvened at 3:42 p.m.

Commissioner Klink recused himself from reviewing the next item on the agenda. He is the owner/applicant of the project. Commissioner Klink left the dais.

5. SPECIAL REVIEW 2012-07, KENWOOD INDUSTRIAL PARK, LOT 2A OF LARIMER TERMINALS AMENDED PLAT, 1000 AND 1050 Kenwood Lane and 444 Elm Road.

Senior Planner Shirk introduced Traci Shambo and Clint Jones from the Larimer County Engineering, who toured the property last week and would be providing comments on drainage and paving.

Planner Shirk reviewed the staff report. He explained the request fell under the Special Review guidelines because of outdoor storage. Planning Commission would be the recommending body, with the final decision made by the Board of County Commissioners.

Planner Shirk stated the request was twofold: 1) to allow storage of the bus fleet used in the National Park, and 2) to provide general warehouse/storage space for public use. He stated nearby properties are zoned I-1–*Restricted Industrial*. Large lots to the east are single-family residential, while vacant land to the north is in conservation easement. Planner Shirk stated the stormwater drainage would be located on the southeast portion of the lot. A dedicated drainage easement would be required to account for the stormwater runoff.

Planner Shirk stated Lot 1A was currently developed and contained a propane storage facility; Lot 3A was currently undeveloped and would contain the stormwater quality pond. Lot 2A would be developed in two phases. Phase 1 would include construction of the western building, a 50' X 170' metal building containing four units. Proposed uses for this building would include a bus maintenance facility and additional rental space for local contractors and other local "back-door" operations for equipment storage, etc. The bus fleet would be stored near the east property line, north of proposed building two. Phase 2 would include construction of the eastern building, a 40' x 150' metal building with similar uses to Phase I.

Planner Shirk outlined the review criteria for Special Review applications. This review requires the applicant mitigate, to the maximum extent feasible, potential adverse impacts on nearby land uses, public facilities and services, and the environment. The application was routed to all affected agencies. Rocky Mountain National Park personnel recommended using a natural color exterior paint to blend in with the surroundings and minimize neighborhood impact.

Planner Shirk stated the proposed use of bus storage would require screening from adjacent properties. In this case, the applicant owns the adjacent property, and screening would not be required. Future building two would be the screening mechanism to the south. Because of the project phasing, Planner Shirk suggested the Planning Commission make specific findings to accounting for interim screening. The proposed use of vehicle storage is very common in this neighborhood, most of which were developed prior to the adoption of the EVDC.

Planner Shirk stated the I-1 zone district has a maximum lot coverage requirement of 80%. Based on that standard, the EVDC would require extensive landscaping involving trees, shrubs, and underground irrigation. The applicant requested an alternative landscaping plan due to the difficulty in planting and maintaining live plants in the area. To date, the Community Development Department had not received the detailed landscaping plan. The applicant would have the opportunity to show the Board of County Commissioners the detailed landscaping plan, if the Planning Commission recommended moving forward with the project.

Planner Shirk stated the applicant requested waivers to road paving standards. The road to the property is privately maintained with public access dedication. There is no road maintenance association. The applicant also requested waivers to paving the parking area within the site. Planner Shirk stated the EVDC paving standards include curb and gutter, engineered drainage swales, etc. Current construction plans do not address paving.

Planner Shirk stated staff found six findings, and suggested the Planning Commission show additional findings to address screening, landscaping, and outdoor storage to be resolved prior to final approval by the Board of County Commissioners. Staff also recommended six conditions of approval, listed below.

Public Comment

Traci Shambo/Larimer County Engineering explained the paving standards for industrial areas. She stated industrial areas with road use by heavy equipment commonly have paved roads, and the paving of such roads required drainage retention, paved parking areas, etc. These impervious coverage requirements are a standard development practice. Discussion between Ms. Shambo and the Commissioners occurred concerning paving standards in the EVDC and the Larimer County Rural Area Road Standards. Ms. Shambo explained if paved, the road would continue to be a privately maintained road with a publicly dedicated right-of-way, and a maintenance agreement would need to be in place. Larimer County Engineering supported paving Kenwood Lane and the onsite parking area, as these were an EVDC requirement. Larimer County was not supportive of the appeal, citing long-term maintenance, dust suppression, and trips per day. Specific to this site, the applicant owns the three lots closest to the nearest paved road. The County was concerned that allowing this waiver would set a precedent for any other new development that comes to this area.

There was discussion about the possibility of waiving the paving requirements, with Town Attorney White stating the Planning Commission could recommend the waiver to the County Commission. The final decision would be made by the County Commissioners. Ms. Shambo stated oiling the road would not be a long-term resolution with this type of use. Ms. Shambo clarified the County Engineering Department would not support a waiver from paving requirements. She recommended the road paving and parking lot paving be two separate findings. Ms. Shambo stated the County Engineering Department recommendation was based on the property not being annexed into the Town, and there were not many options to get the road paved except with development-related requirements. While the applicant proposed creating a public improvement district for the maintenance of the roads, the County Engineering Department would not be supportive of such a request because the Engineering Department was not inclined to administer an improvement district for a commercial industrial park that has roads not meeting the minimum criteria for roads as stated in the EVDC. She explained there are other options for road maintenance. If the Planning Commission supported the waiver, the County Engineering Department would request a condition of approval requiring the applicant to meet the other minimum road specification requirements as stated in Appendix D of the EVDC (road surface, width, drainage) from Elm Road up to and through Lot 2. Planner Shirk stated those requirements should be listed as findings. Ms. Shambo further explained the County Engineering Department was not supportive of the waiver of the parking area, stating the typical expectation of the County was to have paved parking areas for this type of commercial industrial use. Paved lots minimize maintenance, drainage, and safety issues.

Comments made by the Commissioners included, but are not limited to: rock requires little maintenance, and the road would require more maintenance if it was paved; the County Commissioners need to be aware of the existing surface; staff and Commission recommendations would be made clear to the Board of County Commissioners; support for landscaping requirement waiver, support for screening waiver.

Lonnie Sheldon/applicant representative was in favor of waiving the paving requirement, stating other businesses in the area are unpaved. The applicant proposed signage for individual parking spaces in the parking area, and stated the handicap accessible spaces would be paved and labeled. Mr. Sheldon stated the applicant was willing to commit to lay down road base across Lots 1 and 2. Positive drainage would be created alongside the road. Additionally, the same type of surface would cover the parking area. A detention pond sufficient to county standards would be built. The neighbors are supportive of the waivers.

Doug Klink/applicant stated the drainage pond would be a huge improvement for downhill property owners. Not having to pave the road and parking areas would make the project economically feasible. He stated a portion of the building permit fees are added to a county improvement fund that would specifically allocate those funds to the district containing the Estes Valley. He shared information about the road leading to the County shops and how it was constructed and maintained, stating it does not meet County standards. He was appreciative of the County Engineering Department's attendance at the meeting.

Johanna Darden/Town resident was in support of the project as long as dust was controlled.

Ed Kitchen/adjacent property owner stated the project would be a definite improvement to the area. He stated paving the road would be impractical. He agreed the area could use dust control applications.

Public comment closed.

Staff and Commission Discussion

There was discussion regarding the wording of the findings and conditions.

Findings

After review, staff and the Planning Commission found:

1. This proposal complies with applicable sections of the EVDC, except for the requirement to pave the road.
2. The applicant requests a waiver to road paving standards. This waiver is justified in the Larimer Terminals industrial neighborhood due to minimal public use of the road, use of the property, lack of road association to maintain a paved road, and the fact the existing road is granite bedrock.
3. The road should meet design standards, except for the paving requirements (e.g. width, drainage).
4. The applicant requests waiver to parking lot paving, which the Planning Commission supports. The parking lot should have all-weather surface. Waiver to parking lot paving does not affect ADA parking space requirements, which must comply with Federal standards.
5. This request has been submitted to reviewing agency staff for consideration and comment. The Larimer County Engineering Department does not support the request to waive road paving standards.
6. The application for the proposed special review use mitigates, to the maximum extent feasible, potential adverse impacts on nearby land uses, public facilities and services, and the environment.
7. Neighborhood conditions provide screening of stored vehicles.
8. The proposed rock garden satisfies the intent of landscaping requirements based on watering, soil conditions, and neighborhood conditions. The Board of County

Commissioners may approve this xeriscape plan in lieu of the standards landscaping typically required (60 trees and 180 shrubs).

9. This is a Planning Commission recommendation to the Board of County Commissioners.

Conditions

1. Compliance with memos from:
 - a. Larimer County Engineering dated December 29, 2012.
 - b. Larimer County Building dated December 14, 2012
 - c. Estes Valley Fire Protection District dated December 26, 2012.
 - d. Town of Estes Park Utilities and Public Works dated December 28, 2012.
2. Prior to site work, a drainage easement to account for the proposed stormwater detention facility on Lot 3A must be recorded with the Larimer County Clerk. This easement shall be subject to review and approval of the Estes Park Community Development Department.
3. Prior to issuance of a building permit, a Development Construction Permit is required from the Larimer County Engineering Department. Construction plans must be approved by the Larimer County Engineering Department prior to the issuance of the Development Construction Permit. (The Development Construction Permit is issued at a pre-construction meeting, which shall be coordinated through the Estes Park Community Development Department.)
4. A culvert will be required below Kenwood Lane to account for drainage. Culvert shall be included in the construction plans and the drainage report. Construction plans must account for project phasing.
5. Buildings shall be a matte finish neutral color that will blend into the reclaimed quarry north of the structure.
6. Applicant shall submit a detailed landscaping plan two weeks prior to the County Commission hearing.
7. Maintenance agreement shall be submitted for Kenwood Lane, from the eastern limits of Lot 2A west to Elm Road, and shall include a specific maintenance schedule (e.g. frequency of blading, dust control, etc.)
8. Formatting changes:
 - a. Add signature blocks to the development plan page (Owner, Board of County Commission).
 - b. Rock and sculpture garden for building one to be installed with phase one (currently references phase two).
 - c. Ensure page number is correct.

It was moved and seconded (Hull/Hills) to recommend APPROVAL of the proposed Kenwood Industrial Park Special Review 2012-07 to the Larimer County Board of County Commissioners with the findings and conditions recommended by staff and Planning Commission, and the motion passed 6-0, with Commissioner Klink absent from the dais.

Commissioner Klink returned to the dais.

REPORTS

Planner Shirk and Director Chilcott reported on the following pre-application conferences:

1. Outdoor Adventure Park with a proposed location just south of the Estes Park Brewery.
2. Proposed 30-unit townhome development on Moraine Avenue. The applicant is a local developer.
3. Proposed Elkhorn Tubing Hill on the Elkhorn Lodge property. Tentatively scheduled for Planning Commission review in March.

Planner Shirk reported O'Reilly Auto Parts would be submitting a development plan, with construction likely to begin the winter of 2013.

Planner Shirk reported no applications have been received for review by the Estes Valley Board of Adjustment.

Planner Shirk reported the Stanley Meadows Amended Plat would be heard by the Town Board on January 22, 2013. The access easement agreement has been resolved and completed.

Planner Shirk reported the Community Development Department received a referral for proposed land use. The Larimer County Planning Department received an application for trailhead provisions at the Longs Peak Trailhead. Proposed provisions would be adjacent to the parking lot, on private property, located just outside Rocky Mountain National Park boundaries.

There being no further business, Chair Tucker adjourned the meeting at 5:15 p.m.

John Tucker, Chair

Karen Thompson, Recording Secretary

DRAFT