

RECORD OF PROCEEDINGS

Regular Meeting of the Estes Valley Planning Commission
October 16, 2012 - 1:30 p.m.
Board Room, Estes Park Town Hall

Commission: Chair Doug Klink, Commissioners John Tucker, Betty Hull, Joe Wise, Kathy Bowers, Tom Gresslin, one vacant position

Attending: Chair Klink, Commissioners Tucker, Hull, Wise, Bowers, and Gresslin

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 nine people in attendance. Chair Klink stated that today's meeting was being streamed live on the internet. This meeting was the inaugural test run for the system.

1. PUBLIC COMMENT

None.

2. CONSENT AGENDA

A. Approval of minutes, September 18, 2012 Planning Commission meeting.

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

3. STONEWOOD TOWNHOMES SUBDIVISION PLAT, METES & BOUNDS PARCEL LOCATED NEAR 2071 HIGHWAY 66, TBD Ava Chase Lane

Planner Shirk reviewed the staff report. This was a request to create a townhome plat for a previously approved seven-unit residential development; formerly known as Rippling River. No additional development was proposed, only approval to allow the individual sale of the units. Planner Shirk stated the proposed plat complied with the approved development plan. The property is zoned *A-Accommodations*, which allows townhouse subdivisions. As required by Estes Valley Development Code Section 10.5, an outlet has been platted and would serve as 'general common element', containing commonly owned facilities such as the trash enclosure and driveways. The outlet would be owned by the homeowners association. Each individual lot would be limited to a maximum lot coverage of 80%.

Planner Shirk stated the application was submitted to all applicable reviewing agencies and adjacent property owners were notified. No significant issues or concerns were expressed by reviewing staff relative to code compliance or the provision of public services. Staff has requested a Letter of Approval from the Larimer County Engineering Department and as-built plans from the applicant prior to recording of the plat to ensure easements and utilities align.

Planner Shirk stated the Planning Commission was the recommending body for this application, with the final decision being made by the County Commissioners. Staff recommended approval, with conditions listed below.

Public Comment

Lonnie Sheldon/Applicant representative stated the applicant desired to create townhomes rather than condominiums. This would make it easier for potential buyers to obtain financing.

Staff and Commission Discussion

None.

Conditions

1. Reformat plat for recording (remove improvements).
2. As-built plans shall be submitted for review and approval prior to recording of the plat to ensure easements and utilities align. Easement locations shall be subject to review and approval of the respective utility providers.
3. Review and approval of Larimer County Engineering (survey review). Requires letter of approval from Larimer County Engineering prior to mylar being sent for recording.

It was moved and seconded (Tucker/Bowers) to recommend approval of the Stonewood Townhomes Subdivision Plat to the Larimer County Board of County Commissioners with the findings recommended by staff and the motion passed unanimously with one vacancy.

4. AMENDED PLAT OF TRACT B, BOOTH RESUBDIVISION OF LOTS 2, 3, 4, 7 AND A PORTION OF LOTS 1, 6, 8, 9, ELKHORN ESTATES, 4 SEASONS INN, 1130 W. Elkhorn Avenue

Planner Shirk reviewed the staff report. The applicant has requested to amend the plat in order to vacate several unnecessary utility easements. The property, 4 Seasons Inn, is located just east of the West Elkhorn and Wonderview Avenue intersection. Planner Shirk stated vacating these utility easements would allow additional future development on the property.

Planner Shirk stated the overhead electric easement covering the northern 2/3 of the western property line would be vacated; the southern 1/3 would be retained because it is maintained by the Light and Power Department. The western third of the water main easement would be vacated, while the eastern 2/3 would be retained because a four inch water main is located in that area. This easement could not be vacated until an old water service line that used to serve the property to the west was removed. Planner Shirk stated he anticipated the service line removal this fall, and staff would verify the work had been done before recording the plat.

Planner Shirk stated the application was submitted to reviewing agency staff for consideration and comment.

Planner Shirk stated the vacation of a drainage easement, platted in 1979, was also part of the request. The Public Works department recommended this easement vacation not be approved until a drainage study had been conducted and approved by the Public Works department.

Planner Shirk stated staff found the following during their review of the request:

1. The applicant requests a drainage easement for the Fall River be vacated with this plat. The Public Works Department recommends this vacation request be denied until a drainage study is done to determine the impacts.
2. This proposal complies with applicable sections of the Estes Valley Development Code, including Section 3.9.E "Standards for Review" and 10.3 "Review Procedures."
3. Approval will not be materially detrimental to the public welfare, injurious to other property in the neighborhood, or in conflict with the purposes and objectives of this Code.
4. This request has been submitted to reviewing agency staff for consideration and comment.
5. Within sixty (60) days of the Board's approval of the amended plat, the applicant shall submit the plat for recording. If the plat is not submitted for recording within

this sixty-day time period, the approval shall automatically lapse and be null and void.

6. This is a Planning Commission recommendation the Town Board of the Town of Estes Park;

Public Comment

Amy Plummer/applicant representative stated the Water Department has requested the line be disconnected to prevent the line from rusting out and possibly leaching water out of their system. The plan is for the line to be disconnected and plugged at a location approved by the water department. She stated the current property owner questioned the requirement to maintain not only a drainage easement, but also a 100-year floodway easement. The 1979 easement was created prior to the 1982 Fall River flood. The current easement is not defined and is not accurate. Ms. Plummer stated prior to any future development on the property, a floodplain study would be required, showing an exact outline of the 100-year floodway. It was Van Horn Engineering's opinion that FEMA would govern this area, so no easement was necessary. She also stated that the drainage easement on the river was one of only two in the entire Estes Valley. The owner would prefer to abandon the drainage easement.

Scott Zurn/Public Works Director stated they were dealing with a 30-year-old drainage study. Research stated that some of the data used for the study may not have been used by the consultants conducting the study. The Public Works Department is considering requesting an update of the area in question. Director Zurn stated when an easement is in place, the Town has the right to maintain the area if the property owner does not. In this specific case, there is a bridge in the area that could collect debris during high runoff. With the easement in place, the Town would have the right to access the area to clear debris away from the bridge.

Amy Plummer stated John Spooner/floodway expert with Van Horn Engineering reviewed the plat and found no language on the plat as to what the 100-year floodway meant. Typically, drainage easements allow runoff to move across property without being blocked or diverted to cause harm downstream. The property owner does not want his property burdened with a non-defined and inaccurate drainage easement in an area that would be governed by FEMA. Lonnie Sheldon, Van Horn Engineering, stated that the current easement does not allow Town access in the areas requested and recommended dedication of an easement that would allow Town access accompanied by vacation of the old easement.

Chris Levering/property owner stated the vacation of the current drainage easement would allow more square footage of buildable property for future development.

Discussion occurred about abandoning the water line versus removing the water line. Planner Shirk agreed to reword the condition to allow for abandonment.

After discussion, the Planning Commission recommended the drainage easement dedicated with the Booth subdivision be vacated due to the following factors:

1. The drainage easement was dedicated in 1978, before adoption of Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM) maps in 1987 (after the Lawn Lake flood).
2. The drainage easement is not well defined.
3. The river channel was altered after the 1982 Lawn Lake flood.
4. There is a recorded bridge/maintenance agreement that allows the Public Works Department to maintain the bridge.
5. Retention of the drainage easement places an undue burden on the property owner that is not shared by other property owners along stream and river corridors.

Conditions

1. Prior to recording plat, the water service abandonment must be completed according to the water department's requirements.

It was moved and seconded (Tucker/Hull) to recommend approval of the amended plat to the Town Board with the findings and conditions recommended by staff, with the exception that the drainage easement shall be vacated, and the motion passed unanimously with one vacancy.

5. AMENDED PLAT OF LOTS 1A & 1C OF THE REPLAT OF A PORTION OF LOT 4 AND ALL OF LOT 1, STANLEY MEADOWS ADDITION, 610 Big Thompson Avenue

Planner Shirk stated the applicant was requesting to combine two lots into a single lot. The lots are owned by the Estes Park Sanitation District and contain sewage treatment facilities. The purpose of this amended plat is to lay the groundwork for more development of the area, as may be required by federal regulations. Planner Shirk stated a land transfer between the Town and the Estes Park Sanitation District took place in the mid-1990s. The current access to the Sanitation District is through the Convention and Visitor's Bureau (CVB) parking lot. When it was annexed years ago, the access to the Sanitation District was via street right-of-way. When the CVB was built, the plat was amended and the street right-of-way vacated. A 30-foot access easement was placed on the amended plat as access for the CVB, the park shops, and the Sanitation District. There is no currently access easement between the Town and the Sanitation District for access through the Sanitation District's property to the Town's park shops. This would need to be resolved either with this proposed amended plat, or as a separate access agreement. It has not been determined why an easement was not created years ago.

Planner Shirk stated the request was submitted to all applicable reviewing agencies and adjacent property owners. No significant issues, other than the access agreement, were expressed.

Planner Shirk stated the Public Works Department requested dedication of an access easement across the southwest portion of the plat be included on the proposed amended plat. The Sanitation District would prefer not to dedicate a 'blanket' easement, but instead write a separate access agreement document, not dedicated on this amended plat. The amended plat would reference the separate access agreement.

Planner Shirk stated staff recommended approval of the proposed amended plat, with negotiation by the Town of Estes Park and the Estes Park Sanitation District to have a formal access agreement drawn up regarding the existing access to the Town park shops. Planner Shirk stated the Planning Commission would be recommending their decision to the Town Board, who was scheduled to hear the item on November 27, 2012.

Public Comment

James Duell/property owner stated if future improvements were required, they would be built on the southern portion of the lot. Those improvements are yet to be determined. There have been some expenses on the driveway and gate, which have been shared between the Town and the Sanitation District. Mr. Duell stated he was not opposed to an access agreement, but was concerned about clouding the plat with an access agreement. The Sanitation District would rather have an Inter-Governmental Agreement (IGA) in place. The idea of the IGA was mentioned several years ago, with both parties in agreement, but the actual document was never created.

Scott Zurn/Public Works Director stated he would be willing to work with the property owner to draw up an IGA. He had no opposition to not showing the easement on the plat, but would prefer the amended plat not be approved until the Public Works Department and the Sanitation District could work out the IGA. Director Zurn preferred to table the application until an IGA could be drawn up. The proposed parking structure at the CVB could affect the access as it now stands.

Amy Plummer/Applicant stated the Town has an alternate route to access their shop, and the Sanitation District did not want to dedicate an easement in a location that may hinder future development on the property.

Director Zurn stated the Public Works Department had no plans to encroach on the district's property with a parking structure. The Town would prefer to have the easement through the Sanitation District because dump trucks would not be able to traverse through the ground level of the proposed parking structure.

It was moved and seconded (Hull/Bowers) to continue the application to the next regularly scheduled Planning Commission meeting to allow discussion between the Town and the Sanitation District concerning an access easement, and the motion passed unanimously with one vacancy.

6. ESTES VALLEY COMPREHENSIVE PLAN – RECOMMENDATION TO TOWN BOARD CONCERNING UPDATE OF PLAN

Director Chilcott reported on several options available for discussion at the upcoming joint study session between Planning Commission and Town Board on November 14, 2012 at 3:30 p.m. They were briefly explained as follows:

1. No update in 2013.
2. Review and update facts, remove obsolete references, remove information that is no longer relevant. (No impact to budget. Staff to draft. No consultants required. Public input at regular meetings.)
3. Develop Long-Range Neighborhood Plans (This could align with Town Board goals. Probable consultant fees. Public input through regular meetings, community outreach, and facilitated meetings.)
4. Update/Validate the Vision (This could align with Town Board goals. Probable consultant fees. Public input through regular meetings, community outreach, and facilitated meetings.)
5. Complete Update (Consultant fees estimated at more than \$50,000. Extensive public outreach and involvement both in regular public meetings and facilitated community meetings)
6. Update as recommended by the 2010 Comprehensive Plan Task Force (Cost could vary depending on scope. May be similar to Option 5.)

Public Comment

None.

Staff and Commission Discussion

Town Board Liaison Elrod stated in his reports to the Town Board, he has mentioned the struggles the Planning Commission has had in determining what approach to take. He requested Planning Commission give the Town Board their best recommendation. The Town Board would make a decision based on their recommendation.

Discussion occurred among Commissioners and Staff. Comments included: Commissioner Wise – Option 2 would be a good starting point in 2013-2014; review one chapter at a time; determine what budget considerations would be necessary to update further. Director Chilcott stated Option 2 would lay the groundwork for other options, without changing the vision. Changes would be made during regular Planning Commission meetings. No funds for updating the plan have been specifically proposed in the 2013 budget. Chair Klink stated the largest difference in the options was the amount of public outreach. Commissioner Gresslin recommended making the comprehensive plan a working document to avoid becoming outdated in the future.

It was moved and seconded (Wise/Bowers) to recommend Option 2, with an estimated completion date of 18 months from date of approval, for consideration at the November 15, 2012 joint study session and the motion passed 5-1, with Commissioner Tucker voting against and one vacancy.

Commissioner Tucker was not confident the task could be completed within 18 months, and disagreed with reviewing the plan chapter by chapter. He would rather see the changes made as the need arose from regular Planning Commission application reviews.

7. REPORTS

1. Planner Shirk updated the Commission on the Woodland Heights fire. The burn area was platted in the 1910s. In most cases, there were no easements of record, and many utilities cross property lines. The Town is requesting letters from property owners giving permission to cross property lines. This will assist in documenting utility lines as they are located. To date, five building permits have been issued, two additional permits are on hold, one detached garage is being rebuilt, and one damaged home is being repaired. One of the permits being held has a water main three feet from the main structure, and the Water Department is requiring an easement. Discussions are ongoing with property owners who had more than one dwelling unit on their property. Planner Shirk reported new vegetation has taken hold and is growing quickly. The Board of County Commissioners adopted a special resolution to provide relief for those affected by the High Park Fire. That ordinance will be revised to fit our local needs and presented to the Town Board at a future date. The ordinance extends the grandfathering period for nonconforming structures from one year to two years and waives some of the building permit fees.
2. Planner Shirk reported pre-applications for single-family dwellings are up, and not only in the fire area. Staff is also beginning to get inquiries about restarting some of the stalled projects.
3. Planner Shirk reported on a variance request at the Old Mountaineer Restaurant location. If all goes according to plan, the existing building would be scraped and a new commercial building built in its place. Planning Commission will be reviewing a development plan for the project in the next few months.
4. Planner Shirk reported the Estes Park Housing Authority hosted a design charrette at the Colorado Housing Conference in Vail. Various professionals were brought in to come up with a design. There may be an application in the next several months to move forward with their plan.
5. Planner Shirk reported the following approvals at the October 2nd Estes Valley Board of Adjustment meeting:
 - a. Murphy's River Lodge – river/stream setback for new boiler room
 - b. Martin Residence (Rock Acres Condominiums)– river/stream setback for new deck
 - c. Fall River Lodge – river/stream/wetland setback for paths and patios. Director Chilcott reported the owners of Fall River Lodge will be submitting a rezoning application in the near future, to change from A-1 to A–Accommodations zoning.
 - d. Estes Performance, Inc – river/stream setback and maximum height variance at the former Park Theater Mall location.
6. Planner Shirk reported the following reviews by the Town Board:
 - a. River View Pines Amended Condominium Map - Approved
 - b. Pine Knoll Minor Subdivision and The Pines North and The Pines Condominiums - Approved
 - c. Promontory at Kiowa Ridge Condominiums Amended Condominium Map to allow a deck expansion is scheduled for October 23rd.

There was general consensus among the Planning Commissioners that the format for updating the Commission via reports is adequate, beneficial, and should continue.

There being no further business, Chair Klink adjourned the meeting at 3:30 p.m.

Doug Klink, Chair

Karen Thompson, Recording Secretary