

PLANNING COMMISSION MEETING

The meeting was called to order at 7:00 pm by Chair Schuman.

ROLL CALL

Gretchen Dudney Mike Giller Jim Lamb
Christie Mathews-Leidal Ron Schuman
Dan Schroder arrived at 7:03pm
Dave Pringle arrived at 7:08pm

APPROVAL OF MINUTES

With no changes, the May 17, 2016, Planning Commission Minutes were approved as presented.

APPROVAL OF AGENDA

Ms. Puester: We are going to add other matters to the end of the meeting in order to update the Planning Commission on a few matters.

With no other changes, the June 7, 2016, Planning Commission Agenda was approved as presented.

Mr. Schuman: I went to the Town Council meeting two weeks ago. They talked about the 4-3 decision but did not ask any questions of us. Mayor Mamula said he was going to come by and meet with us when his schedule allows.

CONSENT CALENDAR ITEMS:

- 1) Kelly Residence (CL) PL-2016-0157, 142 Penn Lode Drive
- 2) Garber Residence (CK) PL-2016-0153, 35 Hermit Drive

With no requests for call up, the Consent Calendar was approved as presented.

WORKSESSIONS:

- 1) Planning Commission Procedures (TB)

Mr. Tim Berry, Town Attorney, presented a memo concerning the obligation to first agree on a point analysis, which does not have to be a unanimous decision, and then the point analysis drives the approval of the application. The fight, if there is to be a fight, is over the point analysis. The Commission needs to make a motion to change the point analysis if they don't agree with the staff point analysis. Has the Commission all read my memo? (Agreement from Commissioners.)

Commissioner Questions / Comments:

- Ms. Dudney: This question has to do with our last meeting. The point analysis has to be unanimous. (Mr. Berry: No, it does not.) Let's say the Commission doesn't vote to change the point analysis, can they vote to deny? (Mr. Berry: If there is a passing point analysis, the project must be passed. I have been working with staff to come up with an alternative process to have one motion instead of the two we use now. It will mean a code change that would come forward.)
- Mr. Lamb: Yes, our process seems kind of funny.
- Ms. Dudney: Don't you have to have the second vote? (Mr. Berry: The approval would be one motion if we change the code but correct, right now two votes are required.)
- Mr. Schuman: We can debate and ask for clarification during the project discussion.
- Ms. Leidal: We all don't have to vote in support of the point analysis. It was 4-3 last time in favor of the point analysis so we could have kept going. Once that point analysis was deemed approved with the vote, then we would have moved forward with approval.
- Mr. Schroder: You can cast your vote against the point analysis. We usually take a straw poll.
- Ms. Dudney: If you don't agree with the point analysis you can make a motion to change it. (Mr. Berry: First motion to change the point analysis, then motion to approve the point analysis. You can

still vote against that. The point analysis does not have to be unanimous, just decided by a vote. But once that's done, the die is cast.) (Mr. Kulick: Say three people think 5/R is not met and three people think 7/R is not met. What happens then?) (Mr. Berry: If it were me, I would suggest someone make a motion to change point analysis on one issue; if that doesn't happen, then on another; then if you don't get four votes, then you continue it.)

Mr. Pringle: What's "deem" mean? It seemed to me at one time it was one step process at one point; then it was two. (Mr. Berry: Currently it is two. We are working with staff to get it back to one to approve the point analysis and the project in one motion.) Where do your objections go? (Mr. Berry: You have to have ability for the Commissioners to show their objection to the point analysis. I would ask the Chair to ask the person to make motion.) The motion was to approve the point analysis. (Talking about the last meeting.)

Mr. Lamb: Yes and then I rescinded it because we felt the opposition needed the opportunity to state their case.

Mr. Schuman: Or continue it.

Mr. Pringle: The steps we go through to make these motions; you make your objections noted before voting on the point analysis. (Ms. Puester: Before any votes are taken, it would be cleanest if the Chair says "does anyone have a motion to change the point analysis?" prior to a motion to accept the point analysis as presented. Lay it out on the table first if there is any objection.)

Mr. Pringle: This rarely comes out but when it does, we have to get it right. (Mr. Berry: If there is not a passing point analysis, the Code says it has to be failed. If the motion to adopt the staff's point analysis fails 3 for and 4 against, then before you move forward you would make the motion to change the point analysis.) If we make the motion to approve point analysis and it fails, then we have to reconsider. (Mr. Berry: That is not the same as approving a negative point analysis. At some point the Commission has to decide on the point analysis.) With all due respect, it was probably best way to make a motion on point analysis and then make motion to approve the project. The two step process seemed to be clearer to us as far as the Code was concerned although I understand it's hard to track in the minutes and the audience doesn't get it. (Mr. Berry: I think it is important that everyone understands that a point analysis has to be approved by the Planning Commission. It doesn't have to be staff's point analysis.)

Mr. Giller: Can I get a copy of the Rules of Procedure? (Mr. Berry: Yes, Ms. Brewster has them.) (Ms. Puester: I will send them out.)

2) Wireless Communications Facility Ordinance (JP)

Mr. Berry presented. Much of this is covered by Federal law. The FCC passed several rules regarding installing wireless communication facilities. Those laws are binding. Reason staff and I think we need an ordinance dealing with wireless communication facilities (WCFs) is primarily the procedural shot clock is expedited. That's why this ordinance was drafted. We debated whether to put the WCFs into the Development Code or to do a stand-alone ordinance. We decided this is in addition to the Development Code. We have been working on this ordinance for quite a while and last fall when the FCC came out with its ruling, the shot clock issue is the amount of time a jurisdiction has to approve or deny an application. The longest time is 150 days and the shortest is 60 days. This includes both Planning Commission and Town Council decisions. Drafting to create system where most of applications can be handled at staff level as Cass Ds. The more significant WCF apps will be classified as Class A's and come to you but under the gun time wise. You will see shot clock provisions are included. Ordinance reflects staff understanding of policy direction from the previous Town Council; they saw this last November and sent us off to make it better just after the FCC update. The town has obtained services of attorney in Denver who is telecommunications attorney. Ken Fellman has worked with us on various issues and we sent the draft to him and yesterday we received some comments not incorporated here yet. There will be some revisions to this ordinance but they are not substantial. We wanted you to see it and see if you had questions or comments.

Commissioner Questions / Comments:

Ms. Dudney: Can you give us some sense of where telecommunication companies are heading? It is hard to guess the future. Even in my six years on the Commission, the conversation has changed dramatically. (Mr. Grosshuesch: There are a number of carriers servicing Breckenridge. Each one hires engineers to come up with varying recommendations for locations, tower types, etc. We convened a group of them about a year and a half ago one said you will never see a lattice work tower in Breckenridge coming from us. That is sort of sunseting technology for towns that have high aesthetic standards. That is still out there as a possibility though. We think where it is heading is toward smaller facilities.) On top of buildings? (Mr. Grosshuesch: Yes, and poles, less obvious fake trees, etc.) One thing we know is it is going to change so we change the ordinance when it changes.

(Mr. Berry introduced Mr. Rich Bush from the Seattle firm that represents AT&T. Mr. Bush's firm has made comments to the ordinance you see before you. Also Ms. Jennifer Price is here representing Colorado AT&T.)

Mr. Schuman: Are there any relative points? (Mr. Berry: No, it is cut and dried. Designed to be self contained.)

Mr. Pringle: What about the shot clock for action? (Mr. Berry: For action through Council vote. By law, the ordinance has to be drafted to comply with FCC timing requirements.) If they submit and are waiting for us to act on it? (Mr. Berry: Deadline for final decision by law is designed and intended to get local governments to act judiciously. Basically shot clock provision is deadline for a final decision.) Hoping everything is addressed in the application. (Mr. Berry: The rules show the director has one shot at making sure the application is complete first.)

Mr. Lamb: Something comes before us and we deny it and go past the timing, then do the feds approve it? (Mr. Berry: We are not going to miss any shot clocks.) (Ms. Puester: We haven't missed any yet but this sets up future planners to continue that timeline.)

Mr. Giller: Within the conservation district do we see future issues? (Mr. Grosshuesch: You can't rule it out. Some carriers have said they are not going to try it in the conservation district. But if there is a gap that can only be fixed by another location, there may be one in the historic district. Right now we believe that they need to go through a Section 106 review if in the Conservation District.) (Mr. Berry: There is now something pending before the FCC dealing with wireless communication in national historic districts, no one knows how they will act on it. If they do we will go back to this ordinance and adjust accordingly.)

Ms. Dudney: For wireless facilities on town projects, is it part of the ordinance that a town project come to Planning Commission for recommendation or is that staff level? (Ms. Puester: I think you mean on town property, not a town project.) Then do provisions not apply? (Mr. Berry: They do apply. For example, the one at the baseball field. These are not town projects, they would be private developments on town property, so not town project process; we would use a Class D or a Class A depending on the proposal.)

Mr. Schuman: This is a worksession, but would like to hear comments.

Mr. Richard Bush, Representing AT&T and Ms. Jennifer Price. Regarding your question about design changing over time. We are now on version 3.0. Early on it was all tall towers. In version 2.0, we were filling in gaps in commercial and residential districts. Version 3.0, everyone is using devices on ski resort slopes. We started with tall towers, now lower structures so we are starting to use now version 3.0 in the districts. No land line averages 50% nationwide and higher than 50% in CO, so now you see smaller antennae designs. In historic districts, we can see compatible designs. What will happen in future is hard to tell. I have been in the industry since 1986 and am not sure what will happen next. Comments about draft ordinance you will not be asked to wrestle with the smaller projects so kudos to you for that.

First comment is the 35 foot height limit. Rooftop sites might be out with 35 foot height limit? Utility pole installations can be higher than 35 feet. You can have a 35 foot tree (mono-pine) that would fit in with other trees. 35 feet drives a lot more locations. Next is the requirement for stealth. We encourage town to work on the definition of stealth, which could be painting, utility pole that matches the pole itself, trees, etc., will work with staff and you to come up with these and encourage proper deployment. Finally there are some FCC rules on small installations. Any temporary WCFs will be a Class A application unless they're for emergency purposes.

Commissioner Questions / Comments:

Mr. Schuman: On the 35 foot limit; what is the industry standard? (Mr. Bush: Every community varies.) For this community, is 35 feet too low? (Mr. Bush: It might be.)

Mr. Schroder: Is there a clearance you need to be above the clutter? (Mr. Bush: Good question. One carrier needs 10 feet above, two carriers need 20 feet above and three need 30 feet so it depends on number of carriers that might be on one location.)

Mr. Pringle: On the capacity, is there some way we can adjust to ebb and flow when there is a big event with 20,000 kids in town like the Dew Tour? (Mr. Bush: There are abilities for temporary, but they are expensive. If that is something you want the carriers to do, you would want it under the Class D category since it is a short duration.) They would need to be able to move capacity with the event. (Mr. Berry: It should. We have provisions in here suggested by the industry to deal with declared emergencies, but we did not think about the need on a short term basis to increase capacity. We will address that.) Do you think this is going to be treated more like a utility so system would be provided on a government basis and the carriers get on to that system? (Mr. Bush: In the bigger picture probably not because of the investment. Some areas like Provo, Utah, provide their own wireless but that hasn't gone very well.) (Ms. Puester: If you remember, before Mr. Giller or Ms. Leidal was here though, we did visit Vail where they have a Town wide DAS system there. Even if we were to have that system it doesn't exclude carriers from locating elsewhere; we would still need this ordinance because we are still going to get other applications as carriers find gaps in their system or perhaps don't want to locate on a more town wide system. You can make those attractive to the carriers but you can't require them to locate there.)

Mr. Schuman: Vail did 23 poles in first phase. (Ms. Puester: Those are not owned by the town; they had a contract with a third party tower company, then all the providers pay that company to locate on there.)

Mr. Pringle: Down the road maybe it would be developed where you tie into it like the water and sewer.

Mr. Lamb: What's going to happen in five or six years from now? We don't know.

Mr. Schuman: Anything else? (Mr. Berry: We are going to revise the ordinance, go to Council and see where it goes from there.)

COMBINED HEARINGS:

1) Ten Mile Suites Condo Unit 2 Change of Use (MM) PL-2016-0042, 520 South French Street

Mr. Mosher presented a proposal to change the use of Unit 2 of Ten Mile Suites from commercial (office) to a single, 2 bedroom and 2.5 bathroom residential condominium. No exterior changes are proposed. A recent application for Unit 1 (May 6, 2014 - PC#2014020) for a change of use was approved by the Planning Commission to convert the commercial space to four residential condos on the first floor. It is now primarily a residential building.

This is not a very complicated application. We saw in previous application, this use is actually a reduction in the parking needs. Down to two parking spaces vs. 5.85 actually a reduction in density.

Staff presented a point analysis and found all the Absolute Policies of the Development Code to be met and no reason to assign any positive or negative points to this project under any Relative policies. Staff

recommended a passing point analysis of zero (0) points. Staff found that this change of use is in conformance with the recommended land uses and results in less density and parking required for the property; therefore, staff had no concerns.

Staff recommended that the Planning Commission approve the Point Analysis with a passing score of zero (0) points for the Ten Mile Suites, Unit 2 Change of Use (PL-2016-0042) at 520 South French Street.

Staff recommended that the Planning Commission approve the Ten Mile Suites, Unit 2 Change of Use, (PL-2016-0042) at 520 South French Street, with the presented Findings and Conditions.

Commissioner Questions / Comments:

Mr. Schroder: How many units are in this building? (Mr. Mosher: Not sure when including the abutting condos.) (Ms. Puester: It is primarily a residential building, with the exception of this one unit as commercial. Planning Commission saw Unit 1 conversion last year from commercial into 4 residential units. This one is the last remaining commercial unit in that building; and they are just converting this into one residential unit. Other units in building are residential.) Regarding the parking: If the owner purchased into parking do they get money back? (Mr. Grosshuesch: They are not in the Parking Service Area they had adequate parking on site.) This project is beneficial.

Mr. Schuman opened the hearing for public comment. There was no public comment and the hearing was closed.

Commissioner Final Questions / Comments:

Mr. Schroder: I think this is the right move for this unit. Reduces impact. Conforming with what's in the building.

Ms. Leidal: I support staff's presentation.

Mr. Giller: I also support staff's presentation.

Ms. Dudley: Yes.

Mr. Pringle: This was the Breck Athletic club, then commercial. I don't have a problem with it.

Mr. Lamb: Plenty of parking and density comes down; I agree.

Mr. Schuman: Is there a motion on the point analysis?

Mr. Pringle made a motion to approve the point analysis for the Ten Mile Suites Condo Unit 2 Change of Use, PL-2016-0042, 520 South French Street, showing a passing point analysis of zero (0) points. Mr. Schroder seconded and the motion was carried unanimously (7-0).

Mr. Pringle made a motion to approve the Ten Mile Suites Condo Unit 2 Change of Use, PL-2016-0042, 520 South French Street, with the presented findings and conditions. Mr. Giller seconded, and the motion was carried unanimously (7-0).

(Ms. Puester: I wanted to note for the record that there was no applicant presentation for this project because there was no applicant present at the meeting this evening.)

TOWN PROJECT HEARINGS:

1) Blue River Restoration (CK) PL-2016-0188, Coyne Valley Road

Mr. Kulick presented. This is the latest in a series of restorations to the Blue River that have occurred since the mid-1990's. The Blue River restoration project on the McCain property involves realigning a 3,000 linear foot section of the river north of Coyne Valley Road to increase year-round surface flows, improve aquatic habitat, accommodate long term river function, bolster wildlife and riparian habitat, enhance recreational river access, and improve river aesthetics. Work to the river includes regrading, installing a new culvert crossing at

Coyne Valley Road, installing a PVC liner, installing bedding consisting of graded gravel, cobble and organic materials and revegetating the riverbanks with willows and native grasses. Despite roadway improvements being exempt from review by the Planning Commission per section 9-14-5 of the Town Code, staff wanted to include a rendering of the proposed Coyne Valley Road bridge as an update to the Commission since it will be constructed concurrently with the other improvements being reviewed in this application.

Staff recommended assigning positive four (+4) points under Policy 7/R – Site and Environmental Design, consistent with precedent from restoration work done on the Stan Miller property north of this area. Positive three (+3) points under Policy 27/R – Drainage, consistent with recent precedent from the Denison Placer Phase 1 project, and positive three (+3) points under Policy 31/R – Water Quality, consistent with precedent from the Breckenridge White Water park approved in 2001, for a passing point analysis of positive ten (+10) points. The application was found to meet all Absolute policies.

This is a Town Project pursuant to the ordinance amending the Town Projects Process (Council Bill No. 1, Series 2013). As a result, the Planning Commission was asked to identify any concerns with this project, and any code issues and make a recommendation to the Town Council.

Planning Staff recommended that the Planning Commission recommend approval of the Blue River Restoration project located on Coyne Valley Road, PL-2016-0188, with a passing point analysis of positive ten (+10) points and the presented Findings.

Mr. Schuman opened the hearing for public comment. There was no public comment and the hearing was closed.

Commissioner Questions / Comments:

Mr. Lamb: They are going to tear out that bridge and reinstall? When it is only two years old?

Ms. Dudney: Timing? (Mr. Kulick: This summer.)

Ms. Leidal: Public access points? (Mr. Kulick: With this no, but long range it anticipated to have a couple intermittent access points along this section of the river. Because this is wildlife corridor, this project is mainly designed to aid water quality for aquatic life and wildlife. To the south of Coyne Valley Road we will be emphasizing trails and recreation.) Access from the rec path? (Mr. Kulick: Long-term yes, to different access points from trails.) (Ms. Puester: The long term plan will require a lot of work on McCain to have safe access points.) (Mr. Kulick: There will be some access trails coming from the rec path.)

Ms. Dudney: Is Alpine Rock still there? (Mr. Kulick: They have a conditional use permit. Public Works manages the lease out there and is actively aware.) (Mr. Truckey: They have been ratcheting down their operations there. Mr. Daugherty (Public Works Director) is putting money in budget for next year for grading work to bring down the McCain property. There is a big plan for recreation; it will take time but we plan to run a rec path loop that will come down toward the river. A lot of times when people ride down as far as the bear store they should be turning around. The west side of the river will be completely left alone for wildlife.) (Mr. Kulick: The rec path is planned to be pulled in; it will eliminate conflict points with vehicles exiting Highway 9.) Is this proposal in front of us tonight scheduled for this summer? (Mr. Kulick: Yes. When completed there will be an immediate benefit for year round flows, aquatic life and wildlife and improving the area's aesthetics.)

Mr. Pringle: You can see what Stan Miller is doing out there. It's a huge improvement. (Mr. Kulick: Mr. Pringle can certainly speak to the progress of this work over the last 25 years.) (Mr. Grosshuesch: The work this year will help with flooding issues on the Stan Miller property as well.)

Ms. Dudney: I am really excited to see this project happen.

Mr. Pringle: It's been a long time coming. I hope it is well documented what this town looked like back in

the 60s. It was absolutely stunning to see what it looked like in the 60s compared to now. I hope we have got interactive displays to show what we have done. (Mr. Kulick: I think Mary Hart did some displays. The photos of the River Mountain Lodge with just rock behind it then the addition of the Riverwalk Center are certainly a big departure from the conditions today.)

Mr. Lamb: I agree to the ten positive (+10) points. I hope it looks as good as the current work. I 100% support this project.

Mr. Schroder: There was something on the map that said "historic rock pile leave" which was great to see. I support the project.

Ms. Leidal: I agree with the other Commissioners.

Mr. Giller: I lived here in 1983 and I remember what it looked like. I support the project.

Mr. Schroder: Here it is: "Historic dredge piles east of the rec path: do not disturb."

Mr. Schuman: I agree; great project.

Mr. Lamb made a motion to approve the point analysis for the Blue River Restoration, PL-2016-0188, Coyne Valley Road, showing ten positive (+10) points. Ms. Dudney seconded. (Ms. Dudney: Do we need to approve the points for a Town Project?) (Ms. Puester: I like to show the approval in the record.) The motion was carried unanimously (7-0).

Mr. Lamb made a motion to recommend the Town Council approve the Blue River Restoration, PL-2016-0188, Coyne Valley Road, with a passing point analysis of positive ten (+10) points and the presented findings. Ms. Dudney seconded and the motion was carried unanimously (7-0).

OTHER MATTERS:

Ms. Puester: I was going to update the Commission on the fact that the Council has expressed interest in a comprehensive look at the Development Code not to change the policies but to look at the overall code. You will see that soon where the top ten list will be more of a work plan. If you hear anything about that I wanted you to understand. (Mr. Grosshuesch: The process is going to include a couple of reps from the development community, staff and a representative, maybe more than one, from the Planning Commission. We will try to keep the committee a little less than 5-6 in addition to staff. We obviously have just updated some policies that don't need a look at. Others work just fine. Then sweet spot in middle with some that need to be revised. It will take several weeks to figure it out. In the end, that will give us the comprehensive look.)

Ms. Puester: Secondly, we are going to shoot for the July 12th meeting for a joint Town Council meeting. They are going to be doing the joint meetings a little differently and doing it more like 3 in the afternoon during the Council's worksession. Please look at your schedules for that. Our plan would be at the next Planning Commission meeting to begin to talk about that a little more to prepare for that meeting. (Mr. Schuman: At the next meeting we will have top topics?) Yes; getting away from top ten and going to more of a work list.

Mr. Grosshuesch: I have two things. First, we received the resignation of Glen Morgan, Chief Building Official, whose last day is June 24th. The other is we have the traffic, transportation and urban design consultants back in town next week starting at 7:30am on Monday the 13th. There will be two more public meetings and their recommendations will be at 90% level. Council will spend significant part of their meeting on 14th and a larger amount of time on the 28th discussing the recommendations and trying to select the route they want to go.

Mr. Schuman: I don't know how feedback from Town Council is going to go, but I will report back on anything I find out when I attend the next meeting.

ADJOURNMENT:

The meeting was adjourned at 8:20 pm.

Ron Schuman, Chair