

PLANNING COMMISSION MEETING

The meeting was called to order at 7:00 pm

ROLL CALL

Eric Mamula Gretchen Dudney Dan Schroder
Kate Christopher Jim Lamb Dave Pringle
Trip Butler and Jennifer McAtamney, Town Council Liaison, were absent.

APPROVAL OF AGENDA

Ms. Puester noted several changes to the Agenda. First, the AT&T Telecommunications Site at RWB has been withdrawn by the Applicant. (Mr. Thompson: Jay Nelson from Red, White and Blue announced that the board voted against the proposal due to issues with conditions of the lease.) (Ms. Dudney: Do you expect this to come back to another meeting?) (Mr. Thompson: No, we do not.) There will be no Town Council Report as Ms. McAtamney is absent. We will add a summary of the Saving Places Conference in Denver February 5-7, and a discussion on changing the date of the April 1 meeting due to the election. With no other changes, the Agenda was approved as presented.

APPROVAL OF MINUTES

With no changes, the February 18, 2014, Planning Commission Minutes were approved as presented.

CONSENT CALENDAR:

- 1) Ankenbauer Residence (MGT) PC#2014007, 835 Gold Run Road
- 2) AT&T Telecommunications Site at RWB (MGT) PC#2013112, 316 North Main Street (*Withdrawn at the request of the Applicant.*)

Mr. Mamula: I have a question about the 12 foot retaining wall on Ankenbauer. Please explain and have we never done a 12 foot retaining wall on a single family residence? (Mr. Thompson: I have not worked on a single family with a 12 foot retaining wall; I have done 6 foot wall with terracing, with another 6 foot wall. The architect for the applicant on this project said the lot is so steep and they are at edge of their disturbance envelope they had to do this. (Indicated on plans where wall would be.) Whole lot is very steep. That is why we gave them negative four (-4) points. One good thing is it is behind the house and not very visible to the general public.) Mr. Mamula: What about Lot 146? (Mr. Thompson: They will look right over the retaining wall. Strong landscaping plan warranted. The architect's concept was to put garage in back because they did not want garage doors to be the first thing you saw coming up to the road and did not want to bury living area in back. Other design we had them look at was to place garage on the other side of the north side of the house so that the driveway could short and not require the large retaining wall; they did not like the look of the garage doors dominating the front of the house. And they said they still want to have this size house, would have had to bury living area in back instead of garage. Staff had concerns with driveway and retaining wall but we did get a very strong landscaping plan and a HERS rating. Other negative points are for the heated driveway. Not much sun in there.) Ms. Dudney: Where is snow stack? (Mr. Thompson: (Indicated on plans.) They have quite a bit of parking. Four outdoor spaces. No accessory apartment. Only require two spaces.) Ms. Dudney: Above retaining wall, is it very steep? (Mr. Thompson: Yes, 32%.) Ms. Dudney: So snow above that will slide onto driveway. Is it our job to be concerned about snow stack? With weather conditions we have now, it is important to note. (Mr. Thompson: The majority of the snow will be pushed to the downhill side of the driveway, which will allow for adequate snow storage (indicated on plans). It will challenging but not impossible to plow. We do look at reasonable proposed snow storage. Heating it with this design is probably a necessity.) Mr. Mamula: Are the negative points for 7/R(C) Retaining Walls or 7R(A) Site Design and Grading? (Ms. Puester: We are talking alot about this application, so the Commission should call it up.)

Mr. Mamula made a motion to call up the Ankenbauer Residence, PC#2014007, 835 Gold Run Road. Ms.

Dudney seconded, and the motion was carried unanimously (6-0).

Mr. Pringle: Mr. Bill Tinker is here for the AT&T Telecommunications Site at RWB, and does not know it has been withdrawn. (Mr. Thompson reiterated as at the beginning of the meeting that the AT&T Telecommunications Site at RWB had been withdrawn.) Mr. Tinker thanked the Commission.

(Ms. Puester announced the camera screen connection is not working so if audience members want to see plans they can step up to the diaz.)

Mr. Thompson: We do have flexible zoning. They are able to make up negative points with landscaping and a HERS rating.

Commissioner Questions / Comments:

Mr. Mamula: What I am driving at is there is an obvious ability to have more than negative four (-4) points. (Mr. Thompson: I have typically always given negative two (-2)). With the length of this driveway we have always broken it up. You can't see it, but I don't want to set a precedent for a 12' retaining wall.

Mr. Lamb: I would prefer to see negative six (-6) points.

Mr. Schroder: We have had the landscape conversation before, that it is easy points. Have we seen this before? (Ms. Puester: Is the Commission against the wall visibility and disturbance or the precedent? If precedent, we could write a condition to describe the site issues.) (Mr. Thompson: The Daisy residence has a 10 foot wall next to the driveway that went through last meeting. However, the Daisy Residence garage was shorter and did not go behind the house. Also, due to the wetlands there was really no other location for the Daisy Residence and the steep slope caused a 10' tall retaining wall.)

Mr. Pringle: If the disturbance envelope line wasn't there they could move the line, true? (Mr. Thompson: Yes, you could step it.) Is the disturbance envelope there for a reason? The envelope can move around the lot to some extent if they fit within the setbacks? Is the envelope because we made them do it that way? (Mr. Thompson: This is the difference between the first filing of the Highlands versus later filings. The Town supports disturbance envelopes.)

Mr. Mamula: Developer put them on the lots; the buyer buys them knowing where they are and so do the neighbors.

Mr. Pringle: We arbitrarily put this disturbance envelope on this lot? (Ms. Puester: Disturbance envelopes were not arbitrarily placed. Staked and reviewed in the field at subdivision. This lot is steep. Garage designed to be way in back against that line.) Maybe we should look at other design options.

Ms. Dudney: On page 22 of the packet, it doesn't look like its 12 feet straight up. On the top section. (Mr. Thompson: The stone here closer to garage he shows 5'11", break, and then 5'6". The 12' is a section of wall.)

Mr. Mamula: I assumed it was the section further from the garage. (Mr. Thompson: Concrete planter, landscape and flowers on top of it. They chose stone to face the concrete wall.)

Ms. Dudney: Is your conclusion that the 12 foot wall is right near the garage and goes straight up? (Mr. Thompson: Yes. I asked the architect for different options, can you step it? They were resistant.)

Mr. Pringle: We could have made that disturbance envelope a little wider.

Ms. Dudney: That is a variance. You mean at the time platted?

Mr. Pringle: Yes, at the time platted. (Mr. Thompson: Usually 25 feet between disturbance envelope and property line. Setback issue and density issue. There were physical constraints too. This lot is very steep; the whole thing is very steep. This is the envelope they bought. They have a

- right to build to this envelope.)
- Mr. Mamula: We had a lot of discussion on long driveways. We discussed breaking up with retaining walls, stepping them, landscaping. That is going to be a canyon.
- Ms. Dudney: In this case you are protecting them from themselves. Maybe if they see our comments, they are not negatively affecting the neighbors. I might be open to a special finding since it's not visible.
- Mr. Lamb: How would we proceed here? (Ms. Puester: We would need a motion to pass the point analysis and then a motion for approval of the project with the finding we craft, should the Commission go that route.)

Mr. Lamb opened the call up to public comment.

Mr. John Ebright: Coincidentally I was on design review board when this house came in. To protect wall will have to drill into the hillside. An engineer on the board said you can't do it. A previous design for another house on this lot had garage right at the beginning. HOA gave them preliminary comments and asked the applicant to address those comments. The HOA is also concerned with the height of this proposed retaining wall. (Mr. Thompson: There is a plat note that encourages you to step back retaining walls.)

There was no further public comment and the call up was closed.

Commissioner Questions / Comments (Continued):

- Ms. Christopher: Is there anything about drilling into the hillside to secure the wall? (Mr. Thompson: No. There is a plat note that you can have retaining wall outside disturbance envelope if related to the driveway. The architect for the applicant said you are going to have to cut way back and thus open up a view into the house from above.)
- Ms. Dudney: 12 foot wall is not really from the driveway. Wouldn't allow because not really the driveway. (Mr. Ebright: The HOA did not approve it. We sent it back with series of questions to resolve.) Don't they have to get HOA approval? (Ms. Puester: We strongly recommend it but legally, we can't require it. It is the applicant's choice to submit to the Town first. If they have substantial changes between the Commission approval and building permit, then staff would take back to Planning Commission.)
- Mr. Lamb: If visible we would have an issue; since it's not, we don't.
- Mr. Mamula: Policy 7/R is Site and Environmental Design, and section A Site Design and Grading, where you can receive negative points, also under section C. Retaining Walls, applicant can receive negative two (-2) or negative four (-4) points. (Mr. Thompson: Section C. also encourages retaining walls if they minimize site disturbance. Section D. Driveways and Site Circulation Systems could also be used to assess points, that multiplier is 4 x (-2/+2). Applicant should try and minimize the amount of site disturbance more.)
- Mr. Schroder: Sounds like there's the possibility the HOA will deny the project.
- Mr. Mamula: We don't have a code issue to deny, so we are setting precedent if we approve. (Ms Puester: (read from code) smaller retaining walls of four feet are preferred without creating excessive site disturbance. When you keep going back is that excessive site disturbance? It also goes on to say that if alternative site layout that causes less site grading and complies with all other polices is viable, then it should be strongly considered. It's under 7, the relative policy.) I might be ok with that then. By approving something that they are going to have to do (soil nailing etc.); if it's not constructed correctly and it fails, does that set the Town up for liability? (Ms. Puester: No. We would require the design to be stamped by engineer, so that engineer would be the liable party.)
- Mr. Pringle: They have more parking, is that one reason why this wall has to be there? (Mr. Thompson: I don't think so. You need the hammerhead to get out of one garage bay.)

- Ms. Christopher: I agree with Mr. Mamula.
- Mr. Schroder: I agree.
- Mr. Pringle: I'm not sure I agree with it.
- Ms. Dudney: I'm ok with what we've talked about; adding a caveat to findings.
- Mr. Mamula: Right by Discovery Ridge trailhead? (Mr. Thompson: Immediately adjacent to the big cut we did up there.) So you will see it when you are on a bike. Town property to the side. Now I have some visibility concerns.
- Mr. Pringle: Rather than stepping back retaining walls, what are we talking about in that 12' section? If we are worried about the additional disturbance and what that might look like, we need to look at the whole lot.
- Mr. Mamula: (Showed photo on his computer.) This lot is all dog hair lodgepole.
- Mr. Pringle: I don't know if the additional grading to access the wall would be as objectionable as the 12 foot wall. If we step it back once or twice the disturbance would be very large. I'd rather maintain the precedent we have and build it into the disturbance area. (Mr. Thompson: There is a plat note that allows us to do that for driveways.)
- Ms. Dudney: Does that require a variance to go into the envelope? (Mr. Thompson: Plat note says you can for a driveway. If you think it's better to go beyond the disturbance envelope, that is an option.)
- Ms. Christopher: Mr. Pringle, you would prefer that?
- Mr. Mamula: How much space between 4 foot sections? (Ms. Puester: We typically suggest enough for plantings.) (Mr. Thompson: About two feet.) What is distance from edge of disturbance envelope to back of lot? (Mr. Thompson: 25 to 30 feet. It would use up approximately one third of the setback area.
- Mr. Pringle: Outside envelope but within setback. (Mr. Thompson: I would consider this the rear yard, that setback requirement is 15'.)
- Mr. Mamula: It's rear yard setback compared to where Gold Run Road is.
- Mr. Pringle: I'm good with that solution.
- Mr. Mamula: I would be good with that.
- Ms. Dudney: I would be too. (Mr. Thompson: The wall is 35 to 40 feet from the property line. That would be enough. Also meets the plat note.) (Mr. Ebright: We did not turn it down; we just sent it back.) (Ms. Puester: There has been lots of discussion this evening, and the Applicant is not here to hear the discussion or accept your suggestions. Another option would be to continue this to another meeting to give the Applicant time to understand the concerns and suggestions.)

Mr. Mamula made a motion to continue the Ankenbauer Residence, PC#2014007, 835 Gold Run Road, to a future hearing. Ms. Dudney seconded, and the motion was carried unanimously (6-0).

TOWN COUNCIL REPORT: None.

OTHER MATTERS:

1) Legislative Review:

Ms. Puester: On March 11 we will have the first reading on the Historic Connectors Ordinance. Condo-Hotels Ordinance is also set for first reading on March 11. Ms. McAtamney went over the changes; 50 unit limit is removed to allow for market conditions. Existing condo-hotels will be able to convert to deed restricted units with energy audits through a development agreement. A covenant will be recorded against any new condo-hotel developed if they change the use from condo-hotel, which they receive extra density for, they would have to pay the TDRs at the current price in addition to meeting all other relevant policies of the Town Code. The Covenant would go into detail. Council was concerned that future buyers would not understand TDR process.

Commissioner Questions / Comments:

- Mr. Pringle: There is nothing that compels an owner of a unit in a condo-hotel to rent the unit short term. Can our covenant compel someone to operate the new condo hotel in the way we want it to be done, well? (Ms. Puester: I have spoken to our Town Attorney and he has drafted the Ordinance to require a covenant for future conversions.) We still don't have guarantee to rent the units.
- Ms. Dudney: Why is there even a condo-hotel policy?
- Mr. Pringle: That is my next point. Why are we kidding ourselves?
- Mr. Mamula: We should just call it a timeshare. No one can afford to buy 52 weeks. Almost physically impossible to buy a room there.
- Ms. Dudney: They may never have any intention of running as a condo-hotel. They buy and put all units on VRBO never have any intention of running as a condo-hotel.
- Mr. Pringle: There has not been one new condo complex to come in since this policy went into effect.
- Mr. Lamb: The Town Council has weighed in on this based on our recommendations made. Mayor Warner asked if the Planning Commission understands this policy, I said yes.
- Mr. Pringle: We should just get rid of the condo-hotel designation in total.
- Mr. Lamb: The Town Council will read these minutes.
- Mr. Pringle: I will go to the meeting. I don't see anything changing this policy. I don't see anything forcing them to do what they are supposed to. I say you should get rid of this policy. We are not going to be able to do anything to get the developer to run as condo-hotel.
- Mr. Mamula: I agree with Mr. Pringle. We need to let them know we have had a complete change on this issue. We need to meet ourselves, have another worksession on this issue. I don't want to send this to the Council and say read our minutes. This is a new thought. (Mr. Truckey: We already went to Council with a worksession on this; this is a first reading scheduled next week. We will talk to Town management about how to proceed.) I will go to the meeting.
- Mr. Lamb: I will too, usually do.
- Mr. Pringle: I don't know we are going to get anything new with this reading. (Ms. Puester: We are requiring a covenant that yes, if they are going to convert they will have to pay the density; same with conversion of any rooms. If you convert from condo-hotel to condo all of units.) They won't convert anything with that. How are you going to get them to operate? Stop the presses! Eliminate the condo-hotel policy. (Ms. Puester: I'll check with Tim Berry tomorrow.) No offense to him but we need someone with really good land use law to see whether we can do that; require owner to operate correctly.
- Mr. Mamula: The big one will be the ski area's Grand Hotel on Watson and Ski Hill.
- Mr. Pringle: Could they develop as condo-hotel?
- Mr. Mamula: They could, but in discussion years ago, not sure if best for them would be to run as condo with front desk or condo-hotel. This was planned to look like hotel but as financing structure they want to sell individual units and have management company to run it. Riskier to run as a hotel.
- Mr. Lamb: How are we to proceed? The first reading is a week from today. Council is comfortable with this.
- Ms. Dudney: They don't understand this new issue.
- Mr. Lamb: How do we proceed? Mr. Lamb and Mr. Mamula will attend the next Town Council meeting on the 11th. (Mr. Truckey: We need to regroup tomorrow internally on this and see how to address it. The council direction was to let the market deal with this.) Mr. Lamb and Mr. Mamula will attend; Mr. Pringle is going to make a phone call.

Ms. Puester: Temporary structures going for first reading on the 11th. Reduction of wording and requirements of temporary structures; written to conform to applicable policies within Town Code. Also, staff is working

on a cell tower policy. That will be on a later meeting. Talking to cell providers now as to how everything will look in the future. (Mr. Mamula: Can we disallow them in the historic district?) My understanding is with the data needs now rather than coverage. LTE requires much more data capacity. If we don't have any in the area, for example in the historic district, people are not going to be able to access their phones. (Mr. Truckey: We may be preempted by federal law from denying outright.) Cell towers look a lot better than we have seen in the past. They can camouflage them so you may not even notice they are there. Sometimes in light poles. Sometimes they look like a tree. There are ways to disguise them. We are learning more; we do expect to see some new applications within next 18 to 24 months. (Ms. Christopher: Are you working on design issues and locations?) Yes, an all encompassing policy. Co-locating so not all over the place if possible; how to disguise; what kind of equipment. Not ready yet but on the radar.

There is a US Forest Service open house from 4:30 to 6:30 tomorrow evening on summer programming at Mountain Thunder Lodge. (Mr. Mamula: Is this proposal giving BOSAC heartburn?) (Mr. Truckey: BOSAC saw this a couple of weeks ago. Mark Udall passed bill a couple of years ago allowing more summer activities on federal lands. Zip lines over a mile in distance off the Independence Chair; canopy tours through forest; four wheel drive tours on access roads; and other smaller pieces. BOSAC had concerns and made recommendations to Council. Scott Reid is writing a letter to the Forest Service. Next week the Council reviews and makes comments. The draft letter is due the next day. This is scoping period, then we will have opportunity to comment at environmental impact statement time too.)

2) Saving Places Conference Recap

Ms. Puester: Several Staff members, as well as Mr. Lamb, Ms. Christopher, Ms. Dudney and Mr. Butler attended the Saving Places Conference in Denver February 5-7. Good conference. The Ski Town Forum covered connector elements and additions to historic structures. There was a lot of talk about sympathetic additions; everything from things that blend in to extremely modern additions. Interesting to see a different viewpoint. A lot of variety as to how to do additions. (Mr. Lamb: We are more on the strict side.) (Mr. Truckey: Philosophical approaches differ too. Aspen approach is you know what is historic and what is new. Sometimes here you would have a hard time without a trained eye. Kind of a philosophy as to how to address those additions.) (Ms. Christopher: Also a principal they would consider a mid century house just as beautiful.) (Mr. Lamb: Never been so damn cold in my life. Minus seven was the high. The second presentation on dredge restoration was wonderful.) Financial incentives for history related preservation. Mr. Thompson went to the State Capitol and talked to Rep. Millie Hamner about state tax preservation credits. Increasing state historic preservation tax credits from \$50,000 now to up to \$5 million. Addressing very large commercial buildings. Seeing huge historic preservation projects that can receive tax credits in other states that have a larger cap. Here in Colorado, its small projects with the low cap. Economic vitality in older run down areas. Something in the works at the state capital. (Ms. Christopher: I have notes from all classes I took; I can email that out to everyone.)

3) Change of Date for April 1, 2014, Planning Commission Meeting

Ms. Puester presented. The Town Council Chambers will be used on Tuesday, April 1, 2014, for the Municipal Election. Therefore, the April 1, 2014, Planning Commission Meeting needs to be rescheduled to another date. Would a quorum of Planning Commissioners be available for Monday, March 31, 2014, at 7:00pm? This date is preferable due to the Town Hall remodel, which is very noisy and dusty Wednesday through Saturday, especially in the evenings. Mr. Butler indicated by email earlier in the day that he was available March 31st. Mr. Lamb asked for a show of hands for those Commissioners available for March 31st. All Commissioners are available, so the meeting date will be changed. The Commissioners will be reminded a couple of times by email as to the date change. We will place the updated meeting on the Town Calendar. Thanks very much for your flexibility.

4) Mr. Pringle: A couple final things. On the cell tower information for tonight, we didn't have a problem

with the proposed project being enclosed, can't see it. Need to look at the quickly changing technology. We got started about writing television discs when they were 8-10 feet wide. Now they are tiny. On the minutes from the last meeting, regarding the discussion on affordable housing. The minutes did not catch the essence of my comments. I meant that we had an absolute policy that everyone building would be required to do affordable housing, and then we abandoned that policy. I just wanted to get that into these minutes. (Ms. Puester: Is a change to the prior meeting minutes needed?) No, it is just a clarification.

ADJOURNMENT:

The meeting was adjourned at 8:23pm.

Jim Lamb, Chair