

CITY OF LOVELAND
PLANNING COMMISSION MINUTES
November 25, 2013

A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on November 25, 2013 at 6:30 p.m. Members present: Chairman Meyers; and Commissioners Middleton, Massaro, Molloy, Dowding, Crescibene, Ray and Prior. Members absent: None, however one seat is currently vacant. City Staff present: Bob Paulsen, Current Planning Manager; Judy Schmidt, Deputy City Attorney.

These minutes are a general summary of the meeting. For more detailed information, audio and videotapes of the meeting are available for review in the Community Services office.

CITIZEN REPORTS

Former **Commissioner and new City Councilor Troy Krenning** thanked the Commission and staff for their support during his tenure as a Planning Commissioner. **Chair Meyers** presented **Mr. Krenning** with a commemorative plaque and thanked him for his years of service.

STAFF MATTERS

1. **Mr. Bob Paulsen, Current Planning Manager**, requested that the December 9, 2013 Planning Commission Meeting be cancelled as there are no items on the agenda.
Commissioner Ray made a motion to cancel the December 9, 2013 meeting. Upon a second from **Commissioner Middleton** the motion was unanimously approved.

COMMITTEE REPORTS

Commissioner Molloy stated that at the last Title 18 meeting the Current Development Activities Map (CDA) was presented. He explained the Commissioners would be given a presentation at tonight's meeting. He stated that the committee also discussed changes on industrial park uses that will be brought to the PC in the future.

COMMISSIONER COMMENTS

Chair Meyers explained that he gave a presentation to the City Council at the November 19, 2013 meeting addressing concerns about press and electronic media comments that surfaced in relation to the Artspace project. He summarized that the Planning Commission has the support of the City Council, and that they appreciate all the work the Planning Commission does.

Commissioner Molloy questioned what directive or rules are in place if one Planning Commissioner member speaks as a representative of the Commission as a whole at City Council or public meetings. He asked if it requires a motion to do so. He explained that he wants to ensure that rules and regulations are being followed, and would hate to see anyone not follow rules.

Ms. Judy Schmidt, Deputy City Attorney, responded that if a single member of the Planning

Commission wants to represent the entire commission, it's best to get a motion and a majority. **Mr. Paulsen** stated that Staff would be happy to develop guidelines with the Planning Commission's help, and hold a study session to ensure policy and procedures are being followed.

Commissioner Ray stated that he understood that Robert's rules, which can be found at the beginning of Title 18, should be followed by the Commission.

Ms. Schmidt stated that the policy regarding Robert's rules is general in nature. Historical information can be difficult to find, but the Planning Commission can adopt general policy rules to be followed.

Mr. Paulsen stated that when a Commissioner is representing the Planning Commission body as a whole, there should be a set of policy and procedures that are followed.

Commissioner Massaro agreed that procedures should be followed when a Commissioner represents the Planning Commission.

Commissioner Dowding explained that she watched the November 19, 2013 City Council meeting and felt **Chair Meyers** made it clear he was not representing the Commission as a whole, but was representing his viewpoint as the Chairman. She agreed that it's necessary to have guidelines.

Commissioner Crescibene stated went to several art events in downtown in the past several weeks and admits that he sees a commitment for downtown improvements that in the past have never come to fruition. He believes something is truly brewing in downtown Loveland. He appreciates the efforts that many successful business people are making. He explained that he also went to an event at the Feed and Grain building and feels the Artspace project will be successful.

Commissioner Crescibene went on to say he had concerns about certain Commissioners being politically involved. He shared that he had information indicating the **Commissioner Massaro** is the House 51 district director of the Larimer County Democratic Party, and is politically inclined, and he felt that was inappropriate since the Planning Commission is apolitical. He shared his concern that **Commissioner Massaro** cannot be unbiased in his role as a Commissioner.

Commissioner Massaro responded that he no longer serves in that capacity; and feels his voting record as a Planning Commissioner stands for itself. He explained that he makes decisions based on the facts as presented to the Commission and nothing else. He feels his politics does not influence his decisions on the Planning Commission. He reiterated he is no longer part of that Committee and hasn't been for two years.

Commissioner Molloy stated he does not have a problem with **Mr. Massaro's** voting record. **Commissioner Crescibene** apologized to **Commissioner Massaro**, and stated that if he spoke in error, he didn't intend to. His main concern is the Planning Commission stays apolitical. He thanked **Commissioner Massaro** for his understanding.

Commissioner Molloy shared that the Artspace project was an emotional project but feels now it's time to move on. He feels the Commission has done well with their decision making.

Commissioner Ray shared that he reads all project documents and makes every effort to stay unbiased in his decision-making until he has listened to all the pieces of the project including applicant statements, staff reports, and citizen comments. He wants to be open minded but educated in his decision making. He encouraged other Commissioners to do the same.

Chair Meyers explained that 80% of Planning Commission decisions are wrapped in code; 15% from staff input; and 5% is discussion based on empirical data. He feels that all Commissioners have a good record of recusing themselves when necessary.

Commissioner Massaro stated that different opinions are necessary, it keeps the Commission balanced. He prides himself for his time on the commission. He stated that he also attended both art events in downtown, and agreed that both were excellent. He agrees with **Commissioner Crescibene** about the commitment to downtown. Finally he shared that he traveled the new road to Estes Park and said it's an excellent road and gave CDOT major kudos for a job well done.

Mr. Paulsen explained that interviews for the vacant and incumbent Planning Commission positions will be underway in December. He stressed that candidates are not asked about their political affiliation or political involvement. He stressed that there is no political litmus test involved with being a planning commissioner. Applicants are asked if they can review materials and make informed and unbiased decisions.

APPROVAL OF THE MINUTES

Chair Meyers asked if there were any corrections needed in the October 28, 2013 meeting minutes. Needing no amendments, **Commissioner Middleton** moved to approve the minutes. Upon a second by **Commissioner Molloy**, the meeting minutes were approved 8-0.

CONSENT AGENDA

1. Millennium SW 8th Vacation

This is a public hearing to consider a legislative request to vacate four access easements located within the Millennium SW 8th subdivision, an application that is currently undergoing staff review. The easements, now unnecessary, were established within outlots in the Millennium SW 7th subdivision plat. The 96-lot single-family Millennium SW 8th subdivision is located along the north side of 1ST Street west of Sculptor Drive in SE Loveland; it is known more commonly as Stone Creek, Phase II. All needed easements and rights-of-way will be established with approval of the new subdivision. This vacation application requires the Planning Commission to make a recommendation to the City Council for final action. Staff is supportive of the request.

Commissioner Molloy moved to make the findings listed in Section IX of this report dated November 25, 2013; and, based on those findings, recommend approval of the easement

vacations to City Council, as depicted in Attachment #1 to this staff report, in the form included as Attachment #3 to this staff report. Upon a second from **Commissioner Middleton**, the motion was approved unanimously.

REGULAR AGENDA

2. Current Development Activities Map Presentation

This is an informational item about a new tool that can be used by the public to research and gather information on development projects that have been submitted to the City's Planning office. The Current Development Activities Map is available online at the City's website in the map directory, the Current Planning homepage, and through the following link: www.cityofloveland.org/cda.

Ms. Kerri Burchett, Principal Planner, addressed the Commission and presented the Current Development Activities (CDA) map. The Planning Department and GIS team developed the tool to keep citizens informed about current development in the City of Loveland. She explained the tool is very innovative and interactive and **Ms. Burchett** believes it's the only one its kind in the country. The information available in the map will be updated weekly and includes residential and commercial projects. In addition, the projects can be filtered to show those that require public review and those that do not. Some the outstanding features of the tool includes searchable projects and aerial views. A help menu is included to help with definitions. **Ms. Burchett** stated that the simplicity is the key and explained that it was developed in house and will be maintained and updated in house. Finally she thanked **Brent Shafraneck, GIS specialist** and **Heather Lassner, GIS Technician** for their brilliant work in creating the CDA map.

Chair Meyers commented that other people in the industry have stated that there is not anything else similar to the CDA map out there. The City of Loveland has done something that is first of its kind which is truly exceptional.

Commissioner Massaro stated he has been in the industry a long time and stated that Staff did an excellent job launching this tool. He worked in the tool yesterday and said it represents the excellent work City Staff does.

Mr. Paulsen encouraged Commissioners to work with the tool and urged them to provide feedback and comments.

Commissioner Ray agreed with the praise of the CDA map and shared that the GIS maps he works with in his current job is not as useful of a tool.

3. Wintergreen PDP

This is a public hearing to consider a preliminary development plan (PDP) for a multifamily residential development within the Wintergreen PUD. The 19 acre subject site is located to the west of the Super Wal-Mart located on North Hwy. 287. The PDP proposes the development of 224 rental multifamily units within 14 two-story buildings. The units will vary between one, two and three bedrooms and are intended to be market rate rentals. Staff believes that all key issues have been resolved based on the municipal code and standards contained in the PUD. The

Commission's action on this quasi-judicial matter is final barring appeal.

Mr. Paulsen, Current Planning Manager, explained to the Commission that the project site for the Wintergreen PDP consists of 19 acres located to the west of the Super Wal Mart. The proposal is to construct 224 multifamily rental units within 14 two-story buildings. The units will vary between one, two, and three bedroom market rate rentals. The development is anticipated to be named "Ashley Estates". He noted that the subject property is adjacent to a developing single family subdivision and to vacant property that may include future non-residential development.

Mr. Paulsen stated that Planning staff believes that the project will be a high quality, well designed project that includes a clubhouse, pool, and playground that meets requirements of the Wintergreen General Development Plan (GDP). He stated that the Planning Commission has the final decision-making authority on the project barring an appeal. Staff is recommending approval with 3 conditions.

Commissioner Middleton asked if there was a possibility that residents might be bothered by development to the north of the project site. **Mr. Paulsen** replied that there is nothing in the planning stages yet; however, there is a buffer on the north end of the subject property which is deemed sufficient to mitigate noise and other compatibility issues. Any new development in the Longview Industrial Park (to the north) would require Site Development Plan approval and this process would be used to mitigate impacts on the apartment complex; but, it should be understood that industrial uses are a use by right within the vicinity.

Applicant, Terence Hoaglund, Vignette Studios representing Pedcor Investments, LLC addressed the Commission and shared that his company has been doing site development in the area for over 10 years. He explained that the platting has already been complete and that there will be 16 units per building. He stated that there will be a central leasing unit and multiple play areas. The site exceeds the setback requirements and extensive landscaping will be added. 448 total parking spaces were required, but 475 will be provided of which 56 garage spaces could be rented by tenants. No fencing is being proposed.

Ryan Rogers, Pedcor Investments, explained that Pedcor has been doing development since 1987 including the development of 16,000 multi-family units' in 13 states. Pedcor will manage the property for a minimum of 15 years, making the company fully vested in the project. The affordable units will be constructed with the same quality materials as other Pedcor properties.

Mr. Rogers explained that the market in Northern Colorado is very tight, and multi-family housing is needed. He stated that Pedcor received a 4% affordable housing tax credit to help finance the project. Based on the 60% area median income, a 1 bed 1 bath, 1800 sf unit with rent of \$800/month is considered affordable housing under the federal tax code. The screening process for tenants will include background checks, sex offender checks, and a zero drug tolerance policy.

Commissioner Crescibene asked what lease options will be available. **Mr. Rogers** replied that the typical rent option will be annual, but there will be some flexibility with lease options. Pedcor will be involved in the property management for 15 years minimum due to tax

implications and credits.

Since the company has been in business since 1987, **Commissioner Crescibene** asked if they still have involvement in projects as far back as that date. **Mr. Rogers** replied that Pedcor is still involved in their first project and stated that many of the early developments still have a 95% occupancy rate.

Mr. Rogers explained that financing from HUD requires a vigorous review for funding, and HUD felt any concerns related to the project, including future construction in the area, have been mitigated.

Commissioner Crescibene questioned if there would be additional cost for use of the clubhouse or pool. **Mr. Rogers** explained that all amenities are included in the rent, and property owners will pay water, sewer and trash.

Commissioner Prior asked what plans, if any, are being developed in the property directly behind Walmart. **Mr. Rogers** shared that the property is on the market, but no plans are currently in the works.

Commissioner Prior queried what the zoning is for future development to the north. **Mr. Paulsen** stated that industrial uses are allowed by right. Specific requirements and standards are required in the Longview Industrial Park to ensure compatibility with surrounding properties. He stated that the Wintergreen GDP plan allows for the apartment use but Planning will work to mitigate any incompatibilities that arise when vacant property in the vicinity is reviewed for development.

Commissioner Dowding questioned if open space areas are a HUD requirement. **Mr. Rogers** explained that it not a HUD requirement but a City of Loveland requirement. She stated the play area seemed to be reduced by landscaping. **Mr. Paulsen** explained that landscaping is allowed in play areas and is considered an amenity as long as there is sufficient open play field space.

Commissioner Molloy offered kudos for the decision to move the buildings across the ridgeline and asked what the build-out timeline is. **Mr. Rogers** responded that the construction timeline is sixteen (16) months from start to finish, and said that assuming there are no other government shutdowns, they hope to start construction in the April/May timeframe.

Commissioner Ray explained there are two entrances to the facility and questioned why there are not more ingress points. **Mr. Rogers** stated that the Traffic Impact Study (TIS) was completed and is keeping with the overall GDP. **Mr. Paulsen** explained that **Sean Keller, TDR**, is very comfortable with the project plans and traffic levels that will be generated. He stated that the Fire Authority requires two access points at a minimum but also had no concerns.

Mr. Massaro asked if the TIS took future projects in the area into consideration. **Mr. Rogers** stated that the Wintergreen 2nd project was approved and started in 2008, but was halted during the recession. He explained that traffic patterns and allowances were established with the original GDP, and this project is following that plan.

Chair Meyers asked if the west face, downhill slope would include a split rail fence along the property line. **Mr. Rogers** replied that no fencing is associated with the project, with the exception of a required fence around the pool.

Commissioner Massaro questioned if there will be bike trails on 64th street. **Mr. Rogers** explained that it will have sidewalks on the entire street system and bike lanes will be included. 65th will also have sidewalks and bike paths.

Chair Meyers opened the public hearing.

Seeing no citizen comments, the public hearing was closed.

Commissioner Ray stated that he appreciated the detail that went into this project. He feels income level properties of this type are much needed in Loveland and feels it was well designed.

Commissioner Crescibene shared that the project is a fantastic opportunity for the community. He would like to make sure that bikes and other outdoor storage is kept to a minimum. He explained the project fills a gap that is greatly needed in the community.

Commissioner Massaro explained that he likes the plans for this community project and thinks the developer did a good job.

Commissioner Crescibene asked about the HOA requirements. **Mr. Rogers** responded that the management company would ensure that tenants follow the rules in keeping the site clean and attractive. Complaints from residents or citizens in the community are taken seriously and are handled in a timely manner.

Commissioner Middleton stated that he was impressed with the history of Pedcor, impressed with the layout and the footprint. He explained that he especially likes that the developer hires contractors locally.

Chair Meyers shared that he felt this was an impressive project which is much needed in the community. Pedcor offers a good quality product that fits in with the surrounding area.

Commissioner Middleton made a motion to move to make the findings listed in Section VIII of the Planning Commission staff report dated November 25, 2013 and, based on those findings, instruct staff to prepare a resolution of approval for the Wintergreen Third Subdivision Preliminary Development Plan subject to the conditions listed in said report, as amended on the record. Upon a 2nd from **Commissioner Dowding**, and after the applicant accepted all conditions, the motion passed unanimously.

The Planning Commission took a ten minute break at 8:35 p.m.

At 8:49 the meeting resumed.

4. Amendments to Title 18 of the Municipal Code

This is a public hearing item on a legislative matter to consider amendments to Title 18 (the zoning code) of the Loveland Municipal Code. The amendments are a compilation of relatively modest adjustments to several areas of the code that are designed to correct errors, provide consistency, and clarify use allowances. The amendments have been reviewed by the Title 18 Committee. Upon review, the Planning Commission will forward a recommendation to the City Council for final action.

Mr. Paulsen shared that the changes to the code require a public hearing. He pointed out that rather than dealing with rights of a specific property owner, the changes more broadly address zoning changes that will affect a number of properties in the community. To this effect, the matter is legislative in nature, not quasi-judicial.

The assemblage of minor amendments include definitions, use adjustments in residential zones, use adjustments in commercial zones, adjustments to the downtown BE district provisions, clarifications to accessory buildings and uses, and Zoning Board of Adjustment clarifications.

Mr. Paulsen began by addressing the definition of drive-in and fast food restaurants. He explained that the zoning code currently includes two definitions for fast food and drive-in restaurants. With the amendments, one of the definitions will be eliminated because it is out dated and redundant. The remaining definition clarifies the distinction between a standard restaurant versus drive-in and fast food restaurants. Drive-in and fast food restaurants require special review, while standard restaurants are a use by right in many of the commercial zoning districts.

Next, **Mr. Paulsen** explained changes to the definition of two-family dwellings. Currently, two-family dwellings are defined in the code to specify that when two family units occur on the same lot, they must be attached. The code amendments will allow two family dwellings to be attached or detached, and to occur as a use by right in several residential and commercial zones. This amendment will provide for more flexibility for property owners who have a large enough lot to develop a second dwelling unit on their property—which is a situation that most commonly occurs in the downtown area. The amendment will not impact the allowance for accessory units.

Commissioner Massaro stated that he owns a property that might be impacted by the amendment and asked if he should he recuse himself from the discussion.

Ms. Schmidt explained that since this discussion does not impact his property directly, he does not need to recuse himself.

Commissioner Middleton asked if this situation will create a subdivision capability. He also questioned if the requirements for the percentage of square footage remain the same. **Mr. Paulsen** stated that all existing zoning provisions, including lot size and setback requirements, will remain unchanged.

Chair Meyers questioned if property owners could create a condominium association and then sell individual units. **Mr. Paulsen** clarified that this change does not affect zoning requirements

concerning lot size minimums nor condominium use—which is controlled by the state. City has accessory unit allowances and this change has no bearing on those allowances.

Commissioner Crescibene asked what, if any, implications are there to the setbacks. **Mr. Paulsen** explained that building code separation requirements and zoning setback requirements would remain applicable and unchanged. He stressed that the change would not allow for greater densities or smaller lot sizes. Rather, on lots where two units are allowed, the change in definition would allow the units to be detached or attached.

Ms. Schmidt explained that the code will allow property owners to build two detached buildings on a lot, but it does not necessarily allow automatic rights for subdivision.

Mr. Paulsen next described the amendment addressing indoor firing ranges. He explained that the amendment was designed to clarify the definition for an indoor firing range and to specify in what zoning districts an indoor firing range could locate. **Mr. Paulsen** explained that the City is working to develop a new safety training facility in the airport area which will include an indoor shooting range and this clarification would apply to the proposed airport project. However, the amendment applies to publically operated facilities or privately operated facilities.

Chair Meyers asked if he needed to recuse himself from the vote since he owns a firearm business. **Ms. Schmidt** questioned if he owns an indoor firing range. **Chair Meyers** responded he did not; therefore there is no conflict of interest.

Mr. Paulsen shared that if an applicant wanted to open a privately operated shooting range, they would fall under the proposed definition and use allowances of the code. He went on to explain that the definition of a firing range specifies it must be in a completely enclosed building. Under the proposal, such a facility would be allowed by right in the I-Industrial district, and by special review in B, MAC, and E districts. The definition does not include archery, laser tag, or paintball or other recreational uses which could occur by right in various commercial zoning districts.

Commissioner Crescibene asked if this definition would only be applied to community firing ranges. **Mr. Paulsen** responded it does not have to be public and could be a privately operated facility.

Commissioner Molloy shared that the Title 18 Committee has reviewed these provisions in the past. He stated that **Chair Meyers**, with his expertise in this area, did an outstanding job in assisting staff in developing the definitions.

Mr. Paulsen explained that archery, paintball systems, video-based gaming, laser-based technology of low output, and other technologies that do not cause emission of a destructive force, including compressed gas, air propulsion based firearms, and spring-based propulsion systems, do not constitute an indoor firing range, although such activities may occur within a firing range.

Mr. Paulsen went on to address the amendment concerning safety training facilities. He explained that currently the zoning code does not define or specify what zones this type of use is

allowed within. As proposed, this type of facility is defined as an outdoor or partially enclosed facility for training or recreation that may result in the creation of off-site noise, vibration, smoke, light flashes or hazards. With such uses, a special review will be required and would only be allowed in the industrial zoning district. The definition would apply to publically or privately operated facilities.

Commissioner Ray questioned if guns will be allowed to be discharged outdoors around the airport. **Mr. Paulsen** explained that the City's proposed safety training facility would include an outdoor track for vehicle training; however, the firing range and related uses will be indoors.

Chair Meyers stated that airport management in the area have reviewed the plans and are comfortable with the changes.

Mr. Paulsen explained the changes to definitions in the BE District-Established Business District. Amendments being proposed clarify the role and authority of the Planning Commission when reviewing a Site Development Plan (SDP) as authorized by this chapter. Amendments also specify that neighborhood meetings and public hearings must be noticed, and state that Planning Commission decisions are appealable. A minor adjustment to the design standards of the BE District concerning setback allowances for on-site parking lots adjacent to alleys is also provided.

Mr. Paulsen described changes to the accessory building and uses provisions. Adjustments in the definition pertain to swimming pools since they are considered an accessory use. The modifications will allow for additional safety solutions to prevent unwanted entry into outdoor pools. It allows the Chief Building Official the authority to make a determination as to the adequacy of safety features.

Commissioner Molloy shared that the Title 18 Committee discussed the issue, and stated that insurance companies usually require a four foot fence around swimming pools. **Mr. Paulsen** clarified that is not true in all cases based on his experience in reviewing proposed swimming pools.

Commissioner Ray asked if someone built a pool in an area with no fence, but had a pool cover, would that sufficient. **Mr. Paulsen** replied that a full review of site-specific factors would be necessary, including accessibility to the property and to the swimming pool; the Chief Building Official will have final authority on whether or not the safety provisions are satisfactory.

Mr. Paulsen described the proposed alterations to the Zoning Board of Adjustment section of the code specifying that the ZBA has the authority to approve variances to zoning code standards which are dimensional or numeric in nature (with specified limitations). The amended text broadens the scope of the ZBA's authority to grant variances in all zones.

Mr. Paulsen stated that staff is recommending approval of the code amendments to City Council.

Mr. Ray stated he would like to approve the amendments however he won't because he cannot accept detonation of firearms near an airport.

Mr. Middleton shared that he is in favor of all proposed changes and will be voting for them.

Commissioner Middleton made motion to move to recommend that City Council approve the amendments to Title 18 of the Municipal Code as specified in the November 25, 2013 Planning Commission staff report, as amended on the record. Upon a 2nd from **Commissioner Dowding** the motion passed 7-1 with **Commissioner Ray** voting nay.

5. Review of the updated Boards and Commissions Handbook and Related Materials


This is an administrative item. Staff has distributed a collection of materials that provide direction on the operations of the Planning Commission, including the updated Boards and Commissions Handbook. The purpose of this item is intended to give Commissioners familiarity with relevant materials and to identify any pertinent revisions that have occurred in the recent past.

Commissioner Middleton made a motion to review the Boards and Commission Handbook at a later date, due to the late hour. Upon a 2nd from **Commissioner Massaro** the motion was unanimously approved.

ADJOURNMENT

Commissioner Middleton made a motion to adjourn. Upon a second by **Commissioner Dowding**, the motion was unanimously adopted and the meeting was adjourned.

Approved by: _____


Buddy Meyers, Planning Commission Chairman


Kimber Kreutzer, Planning Commission Secretary

