

CITY OF LOVELAND
PLANNING COMMISSION MINUTES
October 13, 2014

A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on October 13, 2014 at 6:30 p.m. Members present: Chairman Meyers; and Commissioners Middleton, Crescibene, Ray, and Jersvig. Members absent: Commissioners Dowding, Molloy and Forrest. City Staff present: Bob Paulsen, Current Planning Manager; Moses Garcia, Assistant 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 Development Services office.

CITIZEN REPORTS

There were no citizen reports.

STAFF MATTERS

1. **Mr. Paulsen, Current Planning Manager**, informed the Commissioners that Code amendments will be scheduled for the November 10th meeting. A combined study session with the Construction Advisory Board will be held on October 27th.
2. **Mr. Paulsen** also shared that two applications have been received for the Planning Commission's vacant position and interviews would be scheduled soon.

COMMITTEE REPORTS

Chair Meyers, shared that the Title 18 Committee will meet this Thursday on Temporary Use Provisions.

COMMISSIONER COMMENTS

There were no comments.

APPROVAL OF THE MINUTES

Commissioner Ray made a motion to approve the September 22, 2014 minutes; upon a second from **Commissioner Crescibene**, the minutes were approved with four ayes and one abstention.

CONSENT AGENDA

Prior to voting on the Consent Agenda, **Commissioner Middleton** asked for clarification on item 2 of the Consent Agenda, changing the wording to specifically state: *This application is associated with Consent Agenda item 1 Water Fifth Subdivision – Dolomite Place Vacation.*

1. **Water Fifth Subdivision – Dolomite Place Vacation** and 2. **Webster Addition / Water Addition – Alley Vacation**

Commissioner Middleton made a motion to approve the amendment to the consent agenda and *moved to make the findings listed in Section VIII of the Planning Commission staff report dated October 13, 2014, and, based on those findings, recommend that City Council approve the requested vacation of public rights-of-way subject to the condition listed in Section IX, as amended on the record.* Upon a second by **Commissioner Ray** the Consent Agenda items were approved unanimously.

REGULAR AGENDA

3. 2623 5th Street SW

Ms. Kerri Burchett, Principal Planner, presented the Special Review request to remove the requirement of the owner of the property to occupy either the primary residence or the accessory unit. Ms. Burchett explained that the change for this property would not change the zoning for the area, the neighborhood would remain a low density residentially zoned area. She explained that accessory dwelling units are usually approved by the Current Planning Manager in instances where the zoning allows it as a use by right.

Ms. Burchett explained the differences between use by right and special review uses. She then detailed the history of the accessory dwelling unit and the application for the special review under consideration:

2002: A building permit for an attached garage was approved.

2003: A building permit to convert the garage into a shop and accessory dwelling unit was submitted.

2009: A building permit for the accessory dwelling unit was approved by the City.

2012: The accessory dwelling unit was assigned a separate address.

2014: The Director of Development Services confirmed that the City had approved the accessory dwelling unit.

Five neighbors attended the neighborhood meeting on August 7, 2014. The Planning Division posted the preliminary findings indicating the intent to approve the request to remove the owner occupancy requirement associated with the accessory dwelling unit. Following the posting of these findings, more concerned neighbors came forward, and a petition of objection was submitted. This circumstance prevented the Current Planning from determining that the request was compatible with the neighborhood; consequently, the special review request was scheduled for public hearing with the Planning Commission. Correspondence received from the neighbors expressed concerns about property values, upkeep of the property, precedent setting, safety, traffic concerns, noise and violation of code.

Ms. Burchett emphasize the pertinent facts concerning the property in question:

- 1- Accessory Dwelling Unit was determined to be authorized
- 2- Zoning of the property will not change.
- 3- Occupancy provisions in the Code require the owner to dwell on the property. The special review application is requesting that this provision be waived. .

- 4- Use of property: if the special review is denied the home could still be rented as one single family structure or it could be occupied by two different families but an owner must occupy either the house or the accessory unit.

The Applicants, Anne Cooper and Clayton Davis, gave a presentation that included their background with rental properties, photos of their other properties and handed out letters of support from their tenants. They also showed pictures of the subject property from various angles and street views, stating that both dwellings have ample parking on the driveways. They presented suggested conditions for approval that they felt were strict parameters and would stay with the property so that any future owners would have to adhere to them as well. (Found on item VIII of the Staff Report.) The applicants stated that they felt it's better for the neighborhood to have two rental units, than rent the house and apartment to one large family.

Chair Meyers opened the public hearing at 7:23 p.m.

Mary Wilkinson, 480 Jacqueline Drive: lives in property that abuts the subject property. She feels everything has been permitted after the fact and the approval will allow two rental units on a single family residence in a single family neighborhood. She commented that there are lots of renters in the neighborhood, she has no problem with renters. She objects to turning the single family house into a duplex with two rental units.

Trista Claude, 451 Jaqueline Drive: is opposed to having two rental properties in a single family neighborhood.

Angela Ehrle, 2646 5th St. SW: stated that the streets aren't as big as they look in the photos and that parking and traffic are concerns associated with the request. The subject home is a single family dwelling and the approval of the request will turn it into a two family dwelling unit. She indicated that the owners knowingly purchased the home with an accessory dwelling unit and are trying to force it into a two family rental. She is also concerned about who will watch to make sure all the conditions are being met. She opposed the request.

Richard Hoover, 444 Kathryn Drive: stated that when the accessory unit was built over the garage, it was objected to by the neighborhood at that time as well. He opposed the request.

Joel Webber, 434 Anita Drive: has lived in his house for 14 years, he chose the neighborhood because he feels it is a quiet and safe place to live. He stated that he has watched the changes over the years from the different renters in the garage apartment. Currently there are four large trucks that are parked on the street, at a fairly congested corner, making visibility hard. The applicants have stirred up a very quiet and congenial neighborhood. He opposed the request.

A.J. Ehrle, 2646 5th St. SW: stated that the situation has caused a lot of havoc in the neighborhood. The main artery into the neighborhood is 5th Street SW and there are always cars parked there. He asked the commissioners "to please help us by keeping the ordinances the way they are." He opposed the request.

Carol Gentry, 2743 5th St. SW: stated that she feels there are too many cars parked on a very narrow street. The occupants are parking mainly on the street, not on the driveways. It was

planned as a single family home, the special provision was made and that has been upheld and now they want to make an additional change. She also opposed the request.

Peggy Whitt, 2590 5th St. SW: lives across the street from the subject property, she stated that the corner is very congested. Many times she has seen kids playing in the street and has seen close calls. She stated that two rentals on one small property is not the intended use, the applicants can't maintain who visits and stays. She is opposed to the request.

Upon no further comments, Chair Meyers closed the public hearing at 7:54pm and called for a 10 minute recess.

Chair Meyers called the meeting to order at 8:05pm.

Upon direction from Chair Meyers, the Applicants addressed the concerns of the neighbors with the following comments:

- Occupancy in the small apartment is limited to two people—if the proposed conditions are adopted.
- Neighbors can't change the City code for parking on the street—parking is allowed.
- The owners don't intend to allow the property to become an eyesore in the neighborhood. The proposed conditions will require them to keep the property in good shape.
- The owners are trying to make the accessory unit comply with the code and asking for a simple conditional use.
- The owners can't help fix the traffic and parking issues in the neighborhood.
- It has been a rental for 10 years, it has been approved and an address has been assigned to it.
- No code violations have been brought forward.

Commissioner Questions

Commissioner Middleton asked who is the deed recorded owner and who is the occupant? **Ms. Cooper** responded that her mother, **Mr. Davis** and she, **Ms. Cooper**, are on the deed and her cousin lives in the accessory unit. **Commissioner Middleton** asked if this property was just another investment. **Ms. Cooper** stated that she has a strong interest in maintaining the value of the property and may move back into it in the future.

Chair Meyers asked if they had two separate families living there. **Ms. Cooper** stated, yes. **Mr. Davis** stated that he had lived in the apartment up until August and still has a lot of his belongings there.

Chair Meyers asked **Ms. Burchett** if traffic studies were done with the intent of a single family neighborhood. **Ms. Burchett** stated yes, a traffic study was done at the time the subdivision was platted as a single family residential neighborhood.

Chair Meyers asked if the issues were discussed at the Concept Review Team meeting concerning the special provisions. **Ms. Burchett** responded that the requirements of the special

review and the neighborhood involvement with the process were discussed at the concept review meeting between the Applicants, who were perspective purchasers, the property owner at that time, and city staff.

Commissioner Crescibene asked if the request is denied what the applicant would do with the property.

Ms. Cooper stated they would rent the house and accessory unit out to one family. They don't intend to allow the house to detrimentally affect the neighborhood. She emphasized that the owners can't control everything that anyone does, but there are laws to address certain undesirable behavior; if there is a loud party, you call the police.

Commissioner Ray went over the list of recommended conditions to show that most of the conditions are already standards in the city code. The exceptions are the limitation of no more than two persons occupying the accessory unit and the requirement for a special review modification that involves the neighborhood for any exterior changes to the property.

Mr. Paulsen explained that the conditions provide clarity for the owners and the neighbors, indicating that not all of the conditions add requirements beyond the existing city codes.

Commissioner Comments

Commissioner Ray stated that he feels the applicant is not trying to pull a fast one. He commented that: at what point did we let this go further than it should have? Homeowners bought into the neighborhood so they could live in a single family neighborhood, not to live next to multi-family units.

Commissioner Jersvig stated that he feels the same as **Commissioner Ray** and he doesn't like the precedent it sets and the stipulation that it passes along to a future owner.

Commissioner Crescibene stated that he doesn't want to see a multifamily unit in a single family area, it changes the whole integrity of the neighborhood. The recommended conditions are standard for everyone and the next owner may not adhere to the applicant's good intentions.

Commissioner Middleton commended the applicants on their standards for their rentals. He also commended the City for helping the previous owners in a situation where they were at a difficult time, but would deny the special review request.

Chair Meyers stated that he heard from the neighbors that the neighborhood was quiet and congenial, but now a rift has been created. The spirit of the owner occupancy is that someone who owns the property lives there. He has concerns about creating a dual unit precedent; the codes are set up to protect the neighborhood residents.

Commissioner Middleton made a motion moving to deny the Type 3 Zoning Permit for Special Review Application #910 based on a determination that the findings listed in Section VIII of the Final Statement of Findings dated August 28, 2014, cannot be made. Upon a second by **Commissioner Jersvig**, the motion was unanimously adopted.


ADJOURNMENT

Commissioner Middleton, made a motion to adjourn. Upon a second by **Commissioner Crescibene**, the motion was unanimously adopted.

Approved by:



Buddy Meyers, Planning Commission Chair



Beverly Walker, Planning Commission Secretary