

CITY OF LOVELAND
PLANNING COMMISSION MINUTES
November 14, 2016

A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on November 14, 2016 at 6:30 p.m. Members present: Chairman Jersvig; and Commissioners Dowding, Molloy, Forrest, Ray, McFall, Roskie, and Cloutier. Members absent: None. City Staff present: Bob Paulsen, Current Planning Manager; Moses Garcia, Assistant City Attorney; Linda Bersch, Interim Planning Commission Secretary.

These minutes are a general summary of the meeting. A complete video recording of the meeting is available for two years on the City's web site as follows: <http://loveland.pegcentral.com>

CITIZEN REPORTS

Christi Brockway, Larimer County citizen, expressed concern regarding the prairie dog colony that is located at 1st Street and Denver Avenue, the site of the new County office complex. She is requesting the Planning Commission's support in asking the county to safely and viably relocate the colony to County public land. Ms. Brockway referenced an information packet of prairie dog facts that was previously e-mailed to the Planning Commissioners. She indicated she would also advocate for the relocation at the November 28, 2016 Planning Commission meeting.

STAFF MATTERS

1. November 28, 2016 Agenda Preview:

- **Larimer County Office Building Location and Extent Review.**
Mr. Paulsen, Current Planning Manager, reported that this project review is similar to the review of a school site.
- **Foundry Project Update:**
The Brinkman Team and Staff will present a more detailed informational session. The next project hearing is scheduled for January.
- **LDP/DDA Presentation**
This presentation will not take place. The presentation is tentatively rescheduled for January at a date not yet determined.

2. Planning Commission Vacancy Update:

Jeff Fleischer, an Architect, has been nominated to fill the Planning Commission vacancy. He will begin his service on the Commission at the November 28th meeting pending approval by City Council at their November 15, 2016 meeting.

3. Planning Commission Fall Recruiting Cycle:

Application submission for this cycle ended at 5:00 pm this evening. The three incumbent commissioners have applied to continue their service. No other applications have been received.

4. **Planning Commission Appreciation Dinner:**

Mr. Paulsen reported that an invitation has been issued for the Planning Commission Appreciation Dinner to honor the Commissioners' service. It is scheduled for 5:30pm in the City Manager Conference room prior to the December 12, 2016 meeting.

5. **November 14, 2016 ZBA Hearing for a setback variance at 630 W. 5th Street.**

A ZBA hearing was held today. There has been no decision on the variance.

6. **Interim City Attorney Appointed:**

Moses Garcia, Assistant City Attorney, reported that **Clay Douglas** is now serving as Interim City Attorney.

COMMITTEE REPORTS

Commission Forrest reported that the ZBA hearing conducted today regarding a setback variance was well attended by citizens of the neighborhood. She commends them for their participation. No decision was immediately rendered. It will be made within the next ten days.

Commissioner Molloy reported that the Title 18 Committee has met with the stakeholder group to review the first segments of the zoning code update. That update will also be discussed at the study session following this meeting.

COMMISSIONER COMMENTS

Commissioner Ray made a motion to cancel the December 26, 2016 meeting; upon a second from Commissioner Forrest, the motion was unanimously approved.

Commission Jersvig initiated a discussion regarding the requirement that Planning Commission Members must reside within the city limits of Loveland. In the past there have been people interested in serving on the commission who resided within the city's GMA (Growth Management Area) but not within city limits. Future growth of the city would be within the GMA so it would be forward thinking to allow those residents to serve. He would like staff to draft a resolution to the City Council recommending the Council amend that ordinance to allow residence in the city's growth management area and well as within the city limits to apply to serve as a Planning Commission member.

Commission members supported the idea as forward thinking but felt there may be ramifications that they are not aware of. **Attorney Garcia** was asked to advise the group on the matter and he stated that the issue should be placed on the next meeting agenda. Such a resolution would need staff analysis and support before the resolution is brought forward.

APPROVAL OF THE MINUTES

Commissioner Dowding made a motion to approve the October 10, 2016 minutes; upon a second from Commissioner Forrest the minutes were approved. Commissioner Roskie abstained.

CONSENT AGENDA

1. The Larimer County Easement Vacation

Project Description: This is a public hearing to consider the vacation of access, utility and building footprint easements that exist on Lot 1 of the Anderson Farm Eleventh Subdivision. This 3.4-acre site is located at the NW quadrant of the intersection of 1st Street and Denver Avenue. The site is being planned for a new County office complex that would accommodate many of the services currently provided at the downtown 6th Street location. The vacation of easements is part of the process of preparing the site for development by eliminating easements that were established to serve a previous development proposal; new easements will be established to serve the new development. On November 28, 2016, the Planning Commission will review a Location and Extent proposal for the new project. The Commission's role with the easement vacation request is to make a recommendation to the City Council for final action.

Commissioner Dowding moved to accept the Consent Agenda. Upon a second by Commissioner Ray, the motion was unanimously approved.

REGULAR AGENDA

2. Seven Lakes 11th Subdivision Preliminary Plat and Preliminary Development Plan

Project Description: This is a public hearing to consider a Preliminary Development Plan and Preliminary Plat for a 37-lot residential subdivision on 5.5 acres located on vacant land in the Seven Lakes area. The undeveloped site is located between Pikes Peak Drive and Boise Avenue, on the north side of Mount Columbia Avenue. This property was previously approved for an independent/assisted living facility (The Lodge) that was not developed. The proposed housing development is allowed by the Seven Lakes North Planned Unit Development. Planning Commission has final authority on both the Preliminary Plat and the Development Plan; City review staff supports the applications subject to the proposed conditions.

Troy Bliss, Staff Planner, presented a preliminary Development and Preliminary Subdivision Plat for a proposed subdivision for single-family attached homes (townhomes) on the 5.5 acres. Two townhomes are already approved/constructed in place of The Lodge at this site.

There is a key issue that has been expressed by the Seven Lakes North HOA regarding detention. The storm water design for this project includes detaining storm water off-site in a pond located southeast across Boise Avenue. The pond is sized to accommodate this project because a master storm water design was created for Seven Lakes North PUD. The pond is owned and maintained by the Seven Lakes North HOA. In order for this

project to use the pond, there is a desire from the HOA to have the applicant participate towards the overall maintenance responsibilities. This is a matter that is being discussed between both parties but has not yet reached agreement. From the City's perspective, there is no requirement in place to assign maintenance responsibilities or even require an agreement. However, without an agreement, the City could not approve an FDP and Final Plat because the pond is not owned by the applicant and there is no storm water alternative in place. A resolution of this matter is a condition of approval for this Preliminary Plat and Development Plan. The applicant is not in agreement with this condition.

Jason Messaros, Landscape Architect with BHA Design, Inc., presented for the applicant that there has been an update to the sidewalk in keeping with the rest of the community but the landscaping remains the same as the originally proposed. This proposal is for four three-unit buildings, five four-unit buildings and one five unit building. There are 23 on-site parking spaces that are in addition to the requirements.

Scott Bray, Twin Lakes Development LLC, is developer of the entire Seven Lakes PUD. This project is the last piece of the PUD. Mr. Bray express that he has issues with the conditions relating to this drainage issue with the Master HOA being place on the final approval of this project. He described that the pond was designed to hold the run-off from this piece of property. He does not agree with City Attorney's opinion which states that there needs to be a legal agreement for use of the pond as this proposed development is not part of the Seven Lakes Master HOA. He does agree that there needs to be a maintenance agreement and he is working with the Master HOA to come up with that agreement but it is not yet in place. He expressed concern with the time frame he has had to work with in resolution of this issue.

Kevin Gingery, Senior Civil Engineer – Stormwater Division, provided history on the pond. He stated it is designed for and can hold the run-off from this property. He also detailed some of the problems with the pond due to the water table, cattails in the area and the outlet from the pond. The city has been working with the Master HOA on maintenance of the pond and the upstream problems with cattails, etc. This pond requires frequent maintenance. The Master HOA reached out to the city and asked for assistance in developing a maintenance agreement for the pond. He also stated that conditions regarding proof of legal use of the pond as well as agreements for maintenance are not uncommon requirements in an application approval of this type.

COMMISSIONER QUESTIONS AND COMMENTS:

- Several Commissioners express concern that without this stormwater run-off agreement in place, they were reviewing an incomplete application and perhaps the application should be continued.
- **Commissioner Ray** questioned who owned the pond and if this development would be part of the Master HOA. **Mr. Bray** responded that the pond was owned by the Master HOA and this development would have its own HOA that would not be part of the Master HOA.

- **Attorney Garcia** stated that there was an opportunity missed when the property was sold and the rights to use the pond were not retained. The city has had previous problems with this type of situation. The city can become a third party in a dispute if this type of use agreement is not in place.

CITIZEN COMMENTS:

Commissioner Jersvig opened the public hearing at 8:10 p.m.

- Doug Rideout, President of the Seven Lakes North Master HOA, thanks Mr. Gingery and the city stormwater group for their help in working to bring this pond up to standards. This pond does not work as the other ponds in the development and requires more frequent maintenance. The HOA received the maintenance agreement from Mr. Bray on Friday, November 11th and the board will meet on Tuesday, November 15th on this agreement. The board is anxious to reach an agreement with Mr. Bray and is waiting on a review from their legal counsel in order to proceed. The current draft includes a maintenance and a use by right for the pond. He feels this can be resolved in a short period of time.

Commissioner Jersvig closed the public hearing at 8:15 p.m.

COMMISSIONER COMMENTS:

- **Commissioner Dowding** suggested that this applicant should be postponed until this drainage agreement is resolved.
- **Commissioner Molloy** indicated it could be approved with the conditions if the applicant would agree.
- **Commissioner Ray and Jersvig** questioned if **Mr. Bray** would accept the conditions. Mr. Bray said he would accept the conditions and the Master HOA issue should be resolved shortly.
- **Commissioner Molloy** agrees is a good update to previous plan and with the conditions accepted, recommends approval.
- **Commissioner Ray** would have preferred to continue the application until the drainage issue is resolved but feels this is project is an improvement over the previous plan.
- **Commissioner McFall** likes the improvements presented in this project. He would like to have seen a cleaner application before the commission.
- **Commissioner Forrest** supports project with the traffic flow, quality of buildings, etc. She feels this new plan will produce less run-off. She is also concerned that the commission was caught up in the drainage issue.
- **Commissioner Roskie** stated the property should have retained the use by right for the pond and the City Attorney was right to require this condition and is glad the applicant will accept the condition.
- **Commissioner Cloutier** agrees with **Commissioner Roskie**. He likes the new project and will approve it.

- **Commissioner Dowding** appreciates Mr. Garcia's input and concurs that this is a good project. It is much better than The Lodge.

Commissioner Dowding moved to make the findings listed in Section VIII of the Planning Commission staff report dated November 14, 2016, and based on these findings approve the Seven Lakes 11th Subdivision Preliminary Development Plan, subject to the conditions listed in Section IX, as amended on the record. Commissioner Ray seconded the motion which passed unanimously after Mr. Bray accepted those conditions.

Commissioner Dowding moved to make the findings listed in Section VIII of the Planning Commission staff report dated November 14, 2016, and based on these findings approve the Seven Lakes 11th Subdivision Preliminary Plat, subject to the conditions listed in Section IX, as amended on the record. Commissioner Forrest seconded the motion which passed unanimously after Mr. Bray accepted those conditions.

ADJOURNMENT

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

Commissioner Jersvig adjourned the meeting at 8:37 p.m.

Approved by:



Jeremy Jersvig, Planning Commission Chair



Linda Bersch, Interim Planning Commission Secretary.