

CITY OF LOVELAND
PLANNING COMMISSION MINUTES
August 28, 2017

A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on August 28, 2017 at 6:30 p.m. Members present: Chairman Jersvig; and Commissioners Dowding, Molloy, McFall, Roskie, Fleischer, and Hitchcock. Members absent: Commissioners Ray and Forrest. 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: <https://loveland.viebit.com/>

CITIZEN REPORTS

There were no citizen reports.

CURRENT PLANNING UPDATES

1. **Robert Paulsen**, Current Planning Manager, reviewed the agenda items scheduled for the Monday, September 11, 2017 Planning Commission meeting. Items currently scheduled are a public hearing in regard to the Affordable Housing Code Changes and the Mountain Pacific GDP Amendment to look at some additional uses within this project which is located on north Highway 287.
2. **Mr. Paulsen** also noted that, due to fast approaching deadlines, study sessions for the Unified Development Code updates will need to be scheduled for all Mondays in September (except Labor Day) and possibly in October. He asked that Commissioners please be open to attending if possible. Unless the study session follows a scheduled Planning Commission meeting, these study sessions will begin at 6:00 pm at the Development Center, 410 E. 5th Street.
3. **Mr. Paulsen** noted that the Amendment to the Loveland GMA Overlay Zoning District is scheduled before the Larimer County Commissioners this evening. The amendment was approved by City Council and the Larimer County Planning Commission has recommended approval. Status will be updated at the next meeting
4. **Mr. Paulsen** also reported that the Brands/Brands West Flexible Zoning Overlay Zone was approved by City Council on 2nd reading on 8/1/17. He also noted that the Parkside Village Annexation was approved by City Council on 1st reading on 8/15/17; the 2nd reading is scheduled for 9/5/17.

CITY ATTORNEY'S OFFICE UPDATES

There was nothing to report from the City Attorney's office.

COMMITTEE REPORTS

The Title 18 Committee members reported that a meeting was held last week to review the same topic that will be discussed in tonight's study session. This committee is also now meeting four times a month to review the UDC updates.

COMMISSIONER COMMENTS

There were no comments.

APPROVAL OF THE MINUTES

Commissioner Dowding made a motion to approve the July 24, 2017 minutes as corrected; upon a second from Commissioner McFall, the minutes were unanimously approved.

REGULAR AGENDA

180 S. Jefferson – Special Review Appeal

Troy Bliss, Current Planning, introduced this item as an appeal of Special Review #933 that was approved for property at 180 S. Jefferson. The Special Review proposes to establish an existing building as a three-family dwelling unit and construct two (2) separate detached single-family dwelling homes – totaling five (5) dwelling units on this site. The property is zoned R3e – Established High Density Residential and is part of the long established Ballard Place subdivision. Multiple-family developments exceeding four (4) dwelling units are permitted only through approval of a special review in this zoning district. The special review includes a site plan that the City approved on July 10, 2017. Mr. Bliss noted that a neighborhood meeting was held in May and all required notices were issued. A public hearing tonight is part of this appeal.

Mr. Bliss summarized the project as illustrated in the staff report. The property is zoned R3e that allows up to four multi-family units as a use by right. The proposal is for five units consisting of the existing two family house, the addition of an efficiency unit in the basement of the existing house and the addition of two single family detached units that are two-story with the living unit over a double garage. The lot size at 9900 square feet exceeds the 9500 square foot minimum requirement for five units. Access and egress is only from South Jefferson Avenue. As proposed, there are nine parking spaces on site which satisfies the parking requirements. R3e zoning requires 20% open space which is also met. One item of note is that the bufferyard on the north side of the property is smaller than the landscape standards. This was not a concern at the neighborhood meeting. The south side bufferyard is within requirements for size but is somewhat deficient in terms of the number of plantings. The Adequate City Facility standards were met.

An appeal was filed on July 20, 2017, by Mr. Ian Rajala, a nearby property owner who resides at 140 S. Jefferson Avenue. Mr. Rajala provided justification for his appeal (see Attachment 1 of the Staff Report), outlining concerns with respect to parking, site circulation, traffic issues and overall design. The appeal was filed in accordance with the City of Loveland Municipal Code, Chapter 18.80 including review by the City Attorney's office. This appeal of an administrative decision is a *de novo* public hearing with the Planning Commission to consider upholding, reversing, or modifying the approval granted on July 10, 2017, by the Current Planning Division. Staff recommends the City's conditional approval of the project be upheld.

COMMISSIONER QUESTIONS AND COMMENTS:

- **Commissioner Fleischer** inquired if there was any way to improve the plantings on the north side of the property, such as between buildings. Mr. Bliss indicated there is insufficient width to meet requirements. The privacy fence is to be installed as a buffer.
- **Commissioner Jersvig** inquired about the current density of this subdivision. Mr. Bliss indicated that due to the size of lots, most of the adjacent area contains single family homes. There are pockets of higher density units and intermixed two-family units.
- **Commissioner Molloy** asked if fencing would continue on the south side of the property as he was concerned about headlights in the parking area. Mr. Bliss indicated the fence does not continue along the south edge but there would be plantings along that side.
- **Commissioner Hitchcock** noted that the designated parking for the existing duplex is a long distance away from the structure and asked if there were any standards regarding that distance. Mr. Bliss indicated there was not a particular standard for that.

Mr. Bliss introduced **Mr. Ian Rajala, Appellant**, who thanked the Commission for allowing his appeal. He is representing other members of his community that he has spoken with. He went on to elaborate on the following basis for this appeal:

- **Parking** – 9 parking spaces for 5 units would put more cars into the already crowded on-street parking situation. The 9 spaces include the garages for the new buildings and tenants may use the space for storage or larger vehicles may not fit or tenants may have more than 2 vehicles. Also, an RV has been parked on the property for some time.
- **Ingress and Egress** – Location of the garages and parking spots make them difficult to access. If tenant cars exceed the number of parking spaces, more traffic will be generated in and out of the lot if parking spaces are full. Local traffic would increase in addition to the increase caused by the community health center. Street width is a problem.
- **Noise and Light Pollution** – Noise and headlights from vehicles entering and leaving the property could be a problem. Most neighbors have single story homes and light from the second story of the new units will pollute the neighboring back yards. Additional exterior lights for the additional units will add to the light pollution.
- **Poorly Designed** – this project does not conform with the neighborhood that has house placement towards the front of the lot and single story designs. Privacy of back yards is an issue. He is concerned with the small percentage of landscaping on the property.

- **Garbage Collection** – there is a concern about five units having individual garbage/recycling collectors. That makes 10 carts that would be placed along the street on collection day. He is also concerned about how they will be stored on the property. Would a dumpster be a better option for this property? There is also concern for large items being dumped when renters move out.
- **Nobody Wants It** – Single-family occupants in the neighborhood do not want another multi-unit development. There already is a large number of these units in the area and they generate a large number of transient residents.
- **Code Violations** – Mr. Rajala discussed the number of times the police have been called to the address. He is concerned about long term maintenance of the property based on past experience. Drainage from the property has also been an issue.

He would like to see some compromise with the neighbors on these issues.

The attorney for the developer, **Mr. Roger Clark**, introduced himself. He noted that the property owner, **Mr. Ron Elliott**, has done extensive work to make this project compatible with the neighborhood. Mr. Elliott will discuss the project further but Mr. Clark contends that this appeal does not meet the limited grounds for appeal set out in Loveland Municipal Code, 18.80.090(b).

Mr. Ron Elliott introduced himself as the developer of the property. He stated he does not understand the compatibility issue and presented a picture showing the design of the existing house. He addressed the history of his ownership of the property and the cause of some of the concerns raised by the appellant. He noted that a parking analysis was completed; he is willing to designate an area for garbage collection containers and the grounds will be maintained by utilizing professional landscape and grounds maintenance. In regards to the transient concerns, isn't that the nature of a renter? Trespassers and squatters created the problems that caused police calls. The SWAT team incident that was referenced was using his property as a staging area for an incident at a nearby property. He will be removing the motor home that is currently on the property.

COMMISSIONER COMMENTS:

- **Commissioner McFall** indicated he visited the area and has some of the same concerns about compatibility of this project as raised by the appellant, especially with the two-story verses the existing one-story homes. He noted concerns with the driveway, maintenance and parking. **Mr. Elliott** noted that his existing structure is two-story.
- **Commissioner Jersvig** asked if there would be a property manager for the five units or any lease restrictions for keeping garages for parking and not storage. Mr. Elliott indicated he will be residing on site and will not use a property manager. He is willing to restrict garage use in the lease agreement with his tenants. Those units will have a 12 by 12 foot storage area on the ground floor as well as some attic storage.

Mr. Roger Clark spoke again about this appeal not meeting Code requirements. He interprets the code language as allowing for appeal only when the city staff fails to properly apply code requirements. He will respond to some of the items discussed in the appeal but he is not

acknowledging these items as legitimate grounds for appeal.

He went on to note that the project approvals are stricter than city regulations as far as lot size and height and width requirements. (9900 square feet rather than the 9500 required and height of 27 feet when 35 feet is allowed and a width that exceeds the requirement). While parking meets on-site parking requirements, Mr. Elliott is willing to go further in issuing parking permits to tenants; prohibiting use of garages for storage; limiting the efficiency unit to one designated parking space and prohibiting on street parking from that unit; and having designated parking for all spaces.

Mr. Clark again stated that the objections presented in the appeal: design not compatible when there are existing multi-family units in the neighborhood; nobody wants it and police reports, are not grounds for appeal as designated 18.80.030(b) which indicates an appeal needs to relate to whether city staff did or did not properly apply the code. Nor did staff accept false or misleading information. None of these provisions applies here. The developer has already agreed to the staff conditions for approval but is willing to add additional conditions such as meeting city requirements for lighting; permit parking; providing onsite storage so the garages are only used for parking; prohibiting boat or RV storage; providing a communal recycle cart and designating a storage place for trash carts. This project will make this property and the neighborhood a better place to be and asks that this appeal be denied and the staff recommendation be upheld.

Commissioner Jersvig verified with **Mr. Garcia, Assistant City Attorney**, that this appeal was accepted by the City Attorney's office. **Mr. Garcia** indicated that there is flexibility in the code as appealed; therefore, this appeal was accepted. **Mr. Clark** again stated that he disagrees with that interpretation because the appeal indicates the owner did not comply.

CITIZEN COMMENTS:

Commissioner Jersvig opened the public hearing at 7:55 p.m.

- **Alexia Rajala**, Loveland resident, indicated she is not wanting to squash the project. She spoke of the issue with the new two story units not being in line with the other houses and being able to overlook the neighbors' back yards. She is also concerned with the five units having individual trash/recycle carts. That makes ten carts that have to find space in an already crowded street on collection day. She appreciates the parking lease restrictions but felt that might deter renters. Parking lot lights will cause additional light pollution.
- **Becky Hawley**, Loveland resident, felt that the community had not been heard. She could not attend neighborhood meeting but did send an e-mail. The police calls were due to trespassers but is concerned about continuing upkeep of property, the on street parking problem and heavy traffic.
- **Jim Hawley**, Loveland resident, stated that the existing two-story is in line with other houses but is concerned about new units eliminating privacy from others' back yards. He feels a solution is building one-story units. He is also concerned about light pollution.

- **Fletcher Thompson**, Loveland resident, felt Mr. Elliott has done his best to fit this project into the neighborhood. Currently four street lights on Jefferson light up the night. The health center has contributed to the heavy traffic.
- **Omar Herrera**, Milliken resident, said new homes in other areas are close together and two-story houses in these developments and have eliminated back yard privacy. Mr. Elliott's project would provide needed jobs.
- **Kevin Brown**, Loveland resident, is the neighbor to the north next door to the project and is new to the neighborhood. He is concerned parking is not up to code and the small buffer on the north encroaches on him. Closing the alley helps him as it fixes a drainage problem that has caused problems for him in the past. Existing tenants on this property are good neighbors. The close parking is near his front window. He does hope these issues can be worked out.

Commissioner Jersvig closed the public hearing at 8:20 p.m.

COMMISSIONER COMMENTS:

- **Commissioner Jersvig** asked **Mr. Bliss** if he had investigated the police reports at this address and if the R3e zoning limits the number of multi-family in a neighborhood. Mr. Bliss reported that the police reports were not investigated. The zoning does not limit the number of multi-family units. The size of the lot dictates the number of units allowed on the lot.
- **Commissioner Roskie** clarified that if this project consisted of only four units, it would be considered a use by right within the current zoning.
- **Commissioner Molloy** inquired if the windows illustrated on the north side of the new units are the cause for the concern about light pollution; if the new development would require a drainage certificate and if that would possibly elevate the current drainage issues. He also asked if fencing the alleyway would totally close off that alley and if it could be used for trash pick-up? **Mr. Bliss** noted that a drainage certificate is required to alleviate any drainage problem for all surrounding properties. The windows illustrated are the only light source towards the north. The fencing will close off the alley to any access to or from 3rd Street. The alley is not all public right-of-way so the city could not use it for trash pickup. That is what prompted the use of individual trash carts.
- **Commissioners Fleischer and McFall** inquired about where that many trash/recycle carts would sit along the street on collection day or where on the property a common dumpster could be located. Mr. Bliss indicated that there was no space for a common trash collection enclosure. There is perhaps room behind the current structure for trash cart storage. Mr. Elliott will need to further address this issue.
- **Commissioner Hitchcock** inquired about the cantilevered second story on the back of the new buildings making the space available for plantings even smaller. **Mr. Bliss** said that the plant selection would have to be done with that limitation in mind.
- **Commissioner Roskie** asked, if this were a four-unit use by right project, would the code requirement be the same? **Mr. Bliss** reported that a ten-foot buffer would still apply and a variance would be required because five feet of buffer space is all that is available.

- **Commissioner Jersvig** asked Mr. Elliott to address the issues presented. **Mr. Elliott** stated that his lot is 300 square feet over the required minimum and that there are many two-story housing units in the immediate area in addition to his existing two-story unit. He is willing to offer the following considerations:
 - Move the windows in the north side of the new units so no light would shine into neighboring yards on that side of the units.
 - He has planned the drainage for the new development to alleviate any problems for his neighbor to the north.
 - Provide a trash dumpster with private collection in the space where the alley currently exists. If access is a problem, he could make room in the green space on the left. If a dumpster is not an option, trash carts will be stored behind the existing structure. A communal recycle cart would be provided, as there is insufficient space for five separate recycle carts.
 - The police calls were due to trespass/squatters on his property or theft from his house when he was out of state for health reasons. The SWAT team was utilizing his place for staging for a call at a neighboring site. He has installed a security system.
- **Commissioner Jersvig** asked **Mr. Rajala** to speak to the considerations presented regarding his concerns. Mr. Rajala indicated he is pleased with being able to share his concerns and with the considerations proposed by Mr. Elliott such as no windows on the north side of the upper floors of the new units; the parking although he is concerned about restrictions being enforced; accommodations for trash containers and the removal of the RV. He would like an opportunity to speak with his neighbors and solicit their input.
- **Commissioner McFall** indicated that this process was not a negotiation and the Commissioners make the decision.
- **Commissioner Roskie** made the point that this process is not a mediation. The Commissioners decision is solely based on how the staff applied the codes.
- **Commissioner Dowding** appreciates time neighbors have taken to be here tonight. She is uncomfortable with putting on conditions that are only enforceable by lease. There is no way to monitor or enforce that type of provision. She appreciates Mr. Elliot's willingness to move the windows. To her the development seems rather jammed in.
- **Commissioner Molloy** says there is a desire to live downtown and he thinks this does fit in. He likes the idea of the two separate units. If the efficiency wasn't included, we wouldn't be here. He does not feel two story dwellings with windows facing back yards is a problem and feels this is a quality project and he will support it.
- **Commissioner Roskie** is considering this appeal based on whether city staff properly applied the code. She appreciates the appeal coming before the commission but does not see anything that indicates the staff did not properly apply the code. The allowances staff granted are those they are allowed to give. The conditions the property owner is proposing are something the property owner can manage. She also does not want to get into lease requirements. This project is consistent with the zoning and character of the area and she will be voting to uphold staff's decision.
- **Commissioner Fleischer** will vote for this project as well. It seems that all findings were been met. Staff did a great job with the project.

- **Commissioner McFall** thanked all those in attendance. It is always good to see the community come in. He commends Mr. Elliott for wanting to make concessions. After looking at the area he does not see any other projects that encroach on the neighbors as much as this one does and for that reason he is going to vote against this.
- **Commissioner Hitchcock** thanks everyone for coming this evening. He has a concern with the five-foot setback that becomes three foot at the second floor level. He also has concerns for drainage and because there is limited grass, where children would play. He feels like we are shoe horning something into this piece of property.
- **Commissioner Jersvig** thanked all for coming out and Mr. Rajala for having an organized presentation. He notes that if it were not for the efficiency basement unit we wouldn't be here. Mr. Elliott has been very gracious in wanting to add his own conditions. We are not going to add any additional conditions over what the staff has already put in place. It would be good for the neighborhood if Mr. Elliott were to hold to those conditions. We are here to hear the appeal. Compatibility is the biggest issue and there are existing multi-family units in the immediate area. I will be voting yes.

Commissioner Dowding moved to adopt the findings in Section VII of this Planning Commission Staff Report dated August 28, 2017 and uphold the July 10, 2017 decision of the Current Planning Division approving the 180 S. Jefferson Avenue Special Review #933, subject to the conditions set forth in Section IX herein. **Commissioner Roskie** seconded the motion. After Mr. Elliott accepted those conditions, the motion was adopted with seven votes in favor and **Commissioners McCall and Hitchcock** opposed.

ADJOURNMENT

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

Commissioner Jersvig adjourned the meeting at 9:17 p.m.

Approved by: _____


Jeremy Jersvig, Planning Commission Chair



Linda Bersch, Interim Planning Commission Secretary.

Jenell Cheever,