

**CITY OF LOVELAND**  
**PLANNING COMMISSION MINUTES**  
**May 13, 2019**

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A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on May 13, 2019 at 6:30 p.m. Members present: Chairman McFall; and Commissioners Bears, Fleischer, Hammond, Hitchcock, Hovland, Molloy, Peterson and Tygesen. Members absent: Commissioner Molloy. City Staff present: Robert Paulsen, Current Planning Manager; Laurie Stirman, Assistant City Attorney; Lisa Rye, 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**, mentioned that there will be no Planning Commission meeting on Monday, May 27<sup>th</sup>, due to the Memorial Day holiday. **Mr. Paulsen** reviewed the agenda scheduled for the Monday, June 10<sup>th</sup>. There will be two public hearing items that evening, one of which will be an Annexation. It was requested that Commissioners let staff know if they are unable to attend.
2. **Troy Bliss, Senior Planner**, provided the Commission with an update on The Foundry project. City staff has been busy completing items so that Certificates of Occupancy (COs) can be issued for the Lincoln Building and the Cleveland Building, and the City will then take over the parking garage. Mr. Bliss stated that staff is currently working through minor adjustments to landscaping and screening for electrical meters, which should be completed in the next couple of weeks. The mural will be painted on the parking garage around the end of this month, and should take approximately 30 days to complete. It is expected that the theatre, and possibly the hotel, will be issued a Certificate of Occupancy around this July.

**Mr. Bliss** shared with the Commission that Roger Thorpe, architect of the Foundry Theatre, has recently passed due to illness. He added that he was wonderful to work with and will be missed.

**CITY ATTORNEY'S OFFICE UPDATES**

**Laurie Stirman, Assistant City Attorney**, noted there is nothing to report.

## **COMMITTEE REPORTS**

There were no committee reports.

## **APPROVAL OF THE MINUTES**

*Commissioner Hitchcock made a motion to approve the March 25, 2019 minutes; upon a second from Commissioner Bears, the minutes were approved unanimously.*

## **REGULAR AGENDA**

### **1. Unified Development Code Corrections – Memo**

**Item Description:** This is an informational item only for the Commission, and summarizes the first administrative amendment to the Unified Development Code (UDC). No action by the Planning Commission or City Council is required.

**Kerri Burchett, Principal Planner**, explained that the UDC grants the Director of Development Services the ability to make minor changes at an administrative level. It is also required that changes be reported to the Planning Commission and to the City Council. Changes made included spelling and punctuation corrections, some cross-reference corrections, and finally formatting changes, such as the insertion of line breaks and adjustment of section numbering by adding decimals. Redlines were provided as an attachment to the memo that was presented. It was added that these changes will be reported to the City Council in June.

**Ms. Burchett** stated that there will be more amendments to come; and, since they will not be considered minor, they will come before the Planning Commission. These future amendments will include some clarification of certain processes such as public notices, along with oil and gas revisions, and some small-cell item additions.

### **2. Amendments to Municipal Code - Public Hearing**

**Item Description:** This amendment to Title 18 of the Municipal Code requires a public hearing and a recommendation by the Planning Commission or the City Council. The amendment relates to affordable housing incentives. The same amendments were reviewed and recommended for City Council approval by the Planning Commission in October of 2018; but, the amendments

were not incorporated into the Unified Development Code when it was adopted in December of 2018. As stated, the amendments require that fire impact fees, while they can be waived for affordable housing projects, must be backfilled or reimbursed. The amendments also broaden the allowance for Community Housing Development Funds, specifying the funds can be used to support the Community Partnership office as determined by the City Council. The amendments are supported by the Community Partnership office.

**Commissioner McFall opened the public hearing at 6:41 p.m.**

**Allison Hade, Community Partnership**, presented the two code amendment items to the Planning Commission for review. These items were processed in late 2018, but did not make it into the Municipal Code. Item 18.16.103 is an amendment which adds language requiring back-filling Loveland Fire Rescue Authority fees, and item 18.16.502 allows for the use of the Community Housing Development Fund (1.25% of sales tax revenue) to be used for professional services.

Professional services that the Community Housing Development Fund has covered include the hiring of a consultant to evaluate human service grant funds and for the payment to an organization that will complete a Homeless Strategic Plan for Loveland. **Ms. Hade** stated that sales tax revenue that goes into the fund currently equals approximately \$575,000 per year. When the Community Housing Development Fund is used, the item goes directly to City Council, so they are aware of how the funds are being spent.

**Ms. Hade** explained the process for affordable housing generally starts with the developer meeting with the Community Partnership office, including the completion of an Affordable Housing Designation Application. If the City Council approves the project, the fees would be locked-in for five years, a waiver of fees can be requested, and the project would be allowed for a fast track through the Planning Department. Any property receiving incentives will be deed restricted. Most projects are for those that live at or below 60% of the area median income.

**Commissioner Hammond** questioned what percentage of the population would fall into that category of living at or below 60% of the median income. **Ms. Hade** answered that the number is high, and added that there are thousands of people on the Loveland Housing Authority waitlist.

**Commissioner Bears** asked what the timeframe is for the waitlist. **Ms. Hade** answered that it can be as long as three years.

**Commissioner Hammond** asked where the motivation is for builders to provide housing for those who are low income. He shared that if we fail to make affordable housing a priority, only rich people will live in Loveland.

**Commissioner Hitchcock** stated that builders make more money by not taking rebates. The builders will choose projects based on money.

**Commissioner McFall** mentioned that affordable housing is not the only issue, and that we need jobs in the City that can sustain the high housing costs.

**Commissioner Peterson** stated that her definition of affordable housing is something that is going to grow in value instead of something that is going to depreciate because it was not a good value in the beginning.

#### **CITIZEN COMMENTS:**

There were no public comments.

**Commissioner McFall closed the public hearing at 7:04 p.m.**

*Commissioner Bears moved to recommend that City Council approve amendments to the Unified Development Code, Part 4, Chapter 16.8, Division 18.16.103 (E) and 16.16.502 regarding fire impact fees and use of the Community Housing Development Fund as described in the staff memorandum dated May 13, 2019. Commissioner Fleischer seconded the motion.*

*The motion was unanimously approved.*

**Commissioner McFall adjourned the Planning Commission meeting at 7:07 p.m.**

**Commissioner McFall opened the Zoning Board of Adjustment hearing at 7:07 p.m.**

#### **3. 4177 Roaring Fork Drive Variance – Zoning Board of Adjustment – Public Hearing**

**Project Description:** The 4177 Roaring Fork Drive Variance is a request to allow the construction of a 1,250 square foot single-story accessory dwelling unit within a restricted setback along the rear of the property from the edge of Horseshoe Lake. The proposal is to construct the accessory dwelling 68 feet from the rear property line within a 115 foot setback and 5 feet off the north property line outside of an existing utility easement as illustrated in the staff report.

**Troy Bliss, Senior Planner**, presented the variance application. The subject site is located on the western edge of a peninsula and is 2.3 acres in size. He explained that the variance focuses on the setback restriction, which is unique to several residential properties in this peninsula area. The site is part of the Horseshoe Lake PUD, which has a specific development plan that was

approved in the 1990's. When the subdivision in the peninsula area was approved, there was believed to be a high level of environmental and habitat significance, which prompted a desire for creation of a conservation easement. The intention was for the environmentally sensitive areas to be reserved as open space. Based on an environmental report, Lots 1-20, Block 1 would have a special setback restriction in order to mitigate impacts to the environment and habitat along the shore of the lake.

**Mr. Bliss** reviewed the variance request, and in his view, the variance application does not meet the required test. However, he acknowledged that the applicant had worked to pursue an amendment to the PUD in order to adjust the setback for all of the lakefront lots, but was unable to persuade the HOA to join this effort. Mr. Bliss also acknowledged that the applicant has raised a number of pertinent factors in support of his request, including the completion of an addendum to the original environmental assessment prepared by a qualified Biologist that indicates that the proposed setback for the new structure would not have any negative environmental impacts. In light of the information provided by the applicant, staff has provided the Planning with an optional motion and findings that would support approval.

**Commissioner McFall** asked how the other neighbors had received approval for the improvements made within the designated setback area, since such improvements are contradictory to the original plan. **Mr. Bliss** answered that because discretion was given to the Architectural Control Committee, their decisions were not always in keeping with the PUD requirements; so, there most likely are many structures built that contradict the plan. Since the City does not inspect people pouring sidewalks and driveways, or the building of pergolas, the property owners probably did not understand that there were restrictions in place. Although there are some surrounding structures that are questionable, the size of the applicant's proposed structure would require a building permit to be constructed.

**Commissioner Hitchcock** asked if there are questionable structures that would have required a permit when they were built within the 150-foot setback. **Mr. Bliss** answered that it is very possible; however, he wants to focus on the applicant's proposed structure instead of pointing out what was done incorrectly by surrounding property owners.

**Mr. Bliss** added that in addition to the addendum to the environmental report, the HOA has provided the applicant a letter of approval. Greeley-Loveland Irrigation Company (GLIC), which is the association in charge of lake rights, has stated that they have no objection to improvements on private property. Finally, the property owner directly north of the subject property and the lot that would be the most impacted by the variance, has shared no objection to the request. Mr. Bliss stated that there may still be interest among the area property owners in pursuing an amendment to the PUD regarding the environmental setback, but no such effort has started.

**Mr. Paulsen** stated that Planning staff cannot support the application because the required findings for the variance are not met, in the view of staff. Staff would prefer members of the

HOA pursue an amendment to the setback, which would likely be supportable, but it appears such an initiative will not occur in a timely manner.

**Mr. Bliss** presented the recommended conditions that he would like the Planning Commission to consider if the Commission chooses to approve the request. The conditions include dimensional standards for accessory dwelling with respect to neighborhood expectations, limiting the number of accessory dwellings to one for this site, and ESAR Addendum recommended mitigation measures.

**Commissioner Hitchcock** asked if staff is recommending denial because an amendment to the PUD would be preferred. **Mr. Bliss** stated that since the findings are not met within the Code, the request cannot be supported. An overall amendment to the setback would be preferred, but a variance would be a logical alternative since the Zoning Board of Adjustment has more discretion than City staff does in considering this request.

**Commissioner Fleisher** stated that if we approve variance, it sets a precedence. If the amendment does not occur, we can see this 19 more times. **Mr. Paulsen** answered that by definition, a variance should not be considered a precedent. If another variance request were received tomorrow, the recommendation would be the same.

**Commissioner McFall** asked if the architectural control committee is aware that anything that goes within the setback area needs to be approved by the City's planning staff. **Mr. Bliss** answered that they most likely are not aware. Staff works on a complaint driven basis and no complaints have been voiced about non-compliance.

**Mr. Adam Carriger, Applicant**, discussed the layout of the lot and described where he would like to place his beach house. Architectural drawings were presented, as well as the approval letter from the HOA and the adjacent neighbor. He stated that he does not want any neighbors to be in trouble and he believes most of his neighbors do not know that the structures they have aren't allowed. **Mr. Carriger** further explained the justifications for the approval of his variance request, such as the large setback making accessing the lake difficult with recreational toys, and that other improvements have been made around the lake and his building will further the value of the property. The guidelines and standards he will apply to his proposed structure include height limitations to below 17 feet 6 inches, will not exceed 1,250 square feet, only one accessory building will be allowed, and the elevation will be raised to 4,980 feet to protect it from flood damage.

#### **CITIZEN COMMENTS:**

There were no public comments.

**Commissioner Hovland moved to make the findings listed in this Staff Report dated May 13, 2019, and based on those findings approve the variance for constructing an accessory dwelling within the 115 foot restricted setback area and 5 feet from the north property line for Lot 7, Block 1 – Horseshoe Lake First Subdivision, subject to the conditions listed under the Staff Recommendation. Commissioner Peterson seconded the motion.**

**Commissioner McFall** asked the applicant if he accepted the conditions. **Mr. Carriker** responded that he does.

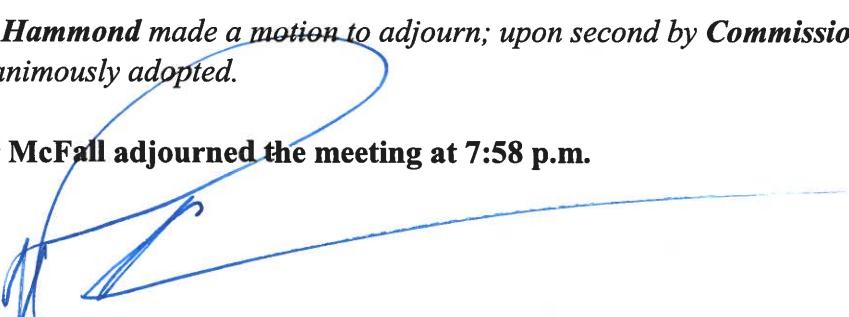
*The motion was unanimously approved.*

#### **ADJOURNMENT**

*Commissioner Hammond made a motion to adjourn; upon second by Commissioner Bears, the motion was unanimously adopted.*

**Commissioner McFall adjourned the meeting at 7:58 p.m.**

Approved by:

  
Patrick McFall, Planning Commission Chair

  
Lisa Rye, Planning Commission Secretary