

TOWN OF BERTHOUD  
BOARD OF TRUSTEES  
REGULAR MEETING  
OCTOBER 28, 2003  
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The Board of Trustees for the Town of Berthoud met for a regular meeting on Tuesday, October 28, 2003, in the Board Room of Town Hall. Mayor Milan Karspeck called the meeting to order at 7:30 p.m.

MEMBERS PRESENT: Mayor Milan Karspeck  
Mayor Pro-Tem Jenny Foote  
Trustee Don Ashcraft  
Trustee Glen Buckingham (arrived 7:31 p.m.)  
Trustee David Gregg  
Trustee Michael Patrick (arrived 7:31 p.m.)  
Trustee Peder Thorstensen (arrived 7:32 p.m.)

**PLEDGE OF ALLEGIANCE**

Mayor Karspeck led the pledge of allegiance.

**CITIZEN PARTICIPATION**

Dr. R. B. Fickel of 645 7<sup>th</sup> Street addressed the Board, noting he was contacted by the Berthoud Arts and Humanities Association and asked to put a permanent piece of sculpture in Fickel Park. He asked the Board what needs to be done and if he needs permission from the Board.

Mayor Karspeck suggested Dr. Fickel discuss this with the Town Administrator and get Town Staff involved and come back once a location has been established.

**REPORTS**

Mayor Karspeck distributed copies of a letter from the Northern Colorado Water Conservancy District, thanking the Town for our assistance in getting their new campus open. He noted we have a good working relationship with NCWCD, and hope that will continue.

Administrator White noted NCWCD has a users meeting scheduled for Wednesday, November 5, 2003 at 8:00 a.m. Anyone interested in attending should let staff no prior to this Friday, October 31, 2003.

Administrator White announced that the Technical Advisory Committee for the MPO supported the Town's request for funding for \$350,000 to put in a roundabout.

Administrator White noted the Main Street Manager is scheduled to present a year-end review for the Board during the meeting scheduled for November 18, 2003.

Administrator White reported that the City of Loveland is working to expand their local calling area, to include Greeley, Windsor, Eaton, Ault, LaSalle and Platteville. He proposed that we send a letter of support from the Town. Board members agreed.

**CONSENT AGENDA**

The consent agenda consisted of 6a., minutes of the regular meeting no October 14, 2003, minutes of the special meeting on October 21, 2003, 6b., the financial statement for September 2003, 6c., a liquor license renewal for Piccabears, and 6d., a special event permit for BAHA for their event scheduled on November 15, 2003.

**Trustee Ashcraft moved to approve the Consent Agenda as presented. Second by Trustee Gregg. All members voted YES.**

**PUBLIC HEARING – FICKEL FARM 3<sup>RD</sup> FILING**  
**CHANGE TO AREA BULK REQUIREMENTS**

Trustee Ashcraft recused himself from discussion of this item, noting his company has a financial interest in this development.

Mayor Karspeck opened the public hearing for the Fickel Farm PUD 3<sup>rd</sup> Filing, the amendment to the FDP to change the area bulk requirements.

Planner Reed noted the applicant is requesting an amendment to the original FDP which established seven and a half foot (7'6") side-yard widths. The original FDP did not address lot coverage, so the default 33% lot coverage in the R-1 Zoning District standards is applicable.

Mayor Karspeck clarified that current code allows for seven and one half foot (7'6") side-yard widths for houses under 22' in height. This applicant is asking to build a house that is 28 feet high, and is asking to reduce the side-yard width to five feet. Planner Reed concurred.

Trustee Patrick asked if this would be a variance. Planner Reed noted this would be similar to a variance, but in this case, the applicant is asking for this to be invoked for all the lots in the subdivision.

Trustee Patrick noted the justification we are being offered for this change is economic. He noted if we are agreeable to allowing this for this applicant, we should change our lot coverage for all developers who are building on an R-1 lot. Planner Reed noted the difference in this case is that these lots are zoned PUD, and not R-1. The FDP for this development is silent regarding this issue, and when the FDP is silent, the standards default to the Town Development Code.

Trustee Gregg asked how building height is measured. Planner Reed noted the Berthoud Development Code requires that the measurement be to the ridge line of the roof.

Mayor Karspeck opened the floor for public comment.

Pam Worster of 309 Hubble noted she lives across the street from these lots. She opposed this change, noting the houses to be built on the lots were to have been similar to the houses already in the area. She noted current residents could be adversely affected by higher density homes across the street. She noted they already have the patio homes in the area, and these are not completed and not selling.

Mike Zaff, the applicant, addressed the Board. He noted this is a pre-sold home that is only slightly higher than the 22' limit. This home will cost approximately \$430,000, and the size of the home is necessary because the covenants require either a three car garage or double deep garage. In order to meet this requirement, it is necessary to have a bigger lot coverage. He noted the homes they are planning for these lots will be more comparable to the homes on Indiana. He pointed out there is a 15' green belt area in front of the houses, and that is not considered when figuring the density of the lot.

Mayor Pro-Tem Foote asked how big the side yards are on the houses on Indiana. Trustee Patrick noted most of the homes on Indiana have approximately 10' per side lot, and the lot coverage is significantly less than 45%. He noted the main difference is that the lot sizes are significantly larger on Indiana, with substantial front and back yards. He noted we are proposing a house the size of the houses on Indiana, with a lot size that is significantly smaller.

Trustee Patrick noted he is familiar with homes built by this builder and they are well done. The problem is that these lots are too small to support a house this large. He noted his real concern is that if we make exceptions for one builder, we will have other builders with the same situation, and this could affect homes through Berthoud.

Mr. Zaff noted this house is only 2,300 square feet, which is not significantly above average for the area. The distance from the house to the front curb will be 35'. He noted in other jurisdictions, this entire area would be considered when calculating coverage.

Trustee Gregg noted it is common in development codes to have different setbacks for ranch homes versus two-story homes. He noted this is a reasonable request for this lot, and he would be in favor of this change.

Mayor Karspeck asked if Mr. Zaff will be able to build a house on this lot if he is limited to 22 feet. Mr. Zaff noted explained the problems that occur if the height is limited, noting the only way to lower the roof would be to build a smaller home.

Planner Reed noted the lots for the homes on the south side of Indiana average between 10,000 and 12,000 square feet, with setback's that are from 7.5' to 10'. This is representative of the entire subdivision.

Trustee Buckingham asked if we have made an exception like this in the past several years. Planner Reed noted this has not been done for new construction. However, the Board of adjustments did grant a variance to allow a two story home with a total height of 24', with the 5' side-lots.

Trustee Patrick asked the basis for our current code. Planner Reed noted area and bulk requirements set the character for residential neighborhoods. He noted there is some variance in other areas regarding how the height of houses are measured. In many municipalities, height is measured to the middle of the roof. If the Town measured property in this manner, this property would be acceptable.

Trustee Gregg noted allowing more height for homes with hip roofs will encourage vertical density by encouraging ranch style homes where you otherwise might see two-story homes.

Mayor Karspeck noted a significant amount of thought was put into our existing code, and he noted he was not sure we want to make a change unless we are ready to make this change for anyone.

Mayor Pro-Tem Foote agreed if you are going to change for one builder, you should be willing to change the requirements for every builder.

Trustee Buckingham noted his concern would be the reduction in the side-lot width.

Trustee Thorstensen noted he would support the change to encourage hip roofs, noting a change of this type would be appropriate for this neighborhood.

Ms. Worster noted they had a problem with their lot because there was a variance allowed for the home next to them. The neighbor requested and received a variance to 5' for their side lots, and because the houses were so close together, their basement flooded three times. She also noted this change would not confirm to the rest of the houses in the neighborhood.

Mr. Zaff noted that problem may have been caused by the height of the foundation. He noted the standard in the uniform building code is to determine the height of a home by the mean of the roof. That allows a builder to get credit for a hip roof versus a gable roof. With the house that is proposed for this lot, there is very little above the 22'. He suggested the Town put in a restriction that if you exceed 22', you have to build a hip roof.

**Trustee Gregg moved to approve the amendment to the PUD to state that the only roof to be allowed to exceed 22' would be a hip roof. Second by Trustee Thorstensen. Mayor Karspeck, Mayor Pro-Tem Foote, Trustee Buckingham and Trustee Patrick voted NO. Trustees Gregg and Thorstensen voted YES. The motion failed.**

Dr. Fickel addressed the Board regarding how difficult it is to develop in Berthoud. He withdrew the Fickel Farm 2<sup>nd</sup> Filing-PUD, and left angry.

**PUBLIC HEARING – GOLDEN ACRES ANNEXATION**

Mayor Karspeck opened the public hearing. Planner Reed noted this applicant is requesting to annex 20.518 acres to the Town with the temporary classification of Agricultural (AG). He noted the Planning and Zoning Commission unanimously recommended approval of the annexation and the rezoning with nine (9) conditions recommended by staff. The applicant has accepted the conditions.

Trustee Ashcraft noted that although there is no plan in place for this property, the purpose of this annexation is to develop this property. His concern is the lack of access to this property, noting there are only three streets that will reach the property. There is already a traffic problem to adjacent properties, and he noted he does not see how the streets can support additional traffic in the area.

Trustee Buckingham asked if staff would be open to a slight change in wording regarding the Phase 1 Environmental Audit to say if one is requested, instead of if one is performed. Planner Reed agreed to make this change.

Trustee Ashcraft asked if the Board can deny this annexation if traffic improvements are not addressed. Planner Reed noted the Board can deny this request, or attach conditions that will make it easier for the Town to work with the applicant when they are ready to develop the area. He noted traffic requirements should be addressed when we have a site plan and a request for development submitted. It was agreed to amend the last sentence under item #4, Traffic Impact Study, as follows: Traffic improvements shall be determined by the Board of Trustees after reviewing the conclusions of a traffic impact study.

Trustee Gregg asked if it will be possible to put in a gravity fed system to handle wastewater for the existing developments in the area when this property develops.

Margaret Brown of Earhart, Griffin and Associates addressed the Board, noting they are not ready with a formal presentation for the Board. She noted they have discussed the possibility of installing a gravity feed system to manage wastewater flows to the new treatment facility, and it appears that may be feasible.

Mayor Karspeck opened the floor for public comment.

Lori Klosowski of 316 East Nebraska asked if this will solve the problem with the lift station at Mary's Farm. Mayor Karspeck noted that will be considered at a future date. The decision this evening is whether we want to bring this property into the Town. We will not know if this will solve this problem until we actually get to the development stage.

Mayor Karspeck closed the floor and returned the item to the Board.

Trustee Ashcraft asked that the last sentence of item 4 be stricken. He noted traffic studies have value and will be weighed into any decision that is made. However, he did not want the Board bound to following only the recommendations from the study. He noted he would like the Board to have the ability to require more or different recommendations than what the study defines.

Mayor Karspeck read proposed resolution 16-03, the Findings of Fact for this annexation.

Trustee Foote noted the resolution needs to be corrected. Section 2, letter C should be corrected to reflect that the request for initial zoning of the property is AG.

**Trustee Buckingham moved to approve Resolution 16-03, the Findings of Fact for the Golden Acres subdivision. Second by Trustee Gregg. All members voted YES.**

Mayor Karspeck read the title of the annexation ordinance.

**Trustee Buckingham moved to approve Ordinance 975, an Ordinance approving the annexation and zoning of land to the Town of Berthoud to be known and designated as the Golden Acres Annexation. Second by Trustee Ashcraft. All members voted YES.**

Mayor Karspeck called a recess at 8:53 p.m.

**PUBLIC HEARING – WILSON RANCH ANNEXATION, REZONE  
AND OVERALL DEVELOPMENT PLAN**

Mayor Karspeck reconvened the meeting at 9:05 p.m, noting this is the continuation of the public hearing regarding the Wilson Ranch Annexation, Rezoning, Overall Development Plan and Development Manual.

Planner Reed noted this Annexation, Rezone and Overall Development Plan has been considered by the Planning and Zoning Commission over the past months, and at their meeting on October 28, 2003, the Planning and Zoning Commission made its recommendation. The open space definition was approved separately.

Planner Reed noted the Board can open the public hearing this evening. There is additional information that will be forwarded to the Board as it is obtained. He noted the applicant has asked that the Board focus this evening on redlines to the Development Manual. He distributed draft minutes from the October 28, 2003 Planning and Zoning Commission meeting, noting they reflect the recommendation of that Commission.

Planner Reed also noted the site tour was held this evening for members of the Board, and he noted a tour can be arranged at a later date for any members who were unable to attend.

Planner Reed noted Mr. Wilson is in attendance and thanked him for his continued interest and enthusiasm.

Steve Shroyer addressed the Board, noting review of this development process started in August at the Planning and Zoning Commission. The Commissioners met weekly, holding numerous special meetings to get to the recommendation that was made on October 28, 2003. He thanked the Planning and Zoning Commission for their efforts and distributed copies of redlines that were approved by the Commissioners. He noted that there are no redlines for Section 7, which was not revised.

Mr. Shroyer noted during the review process, the Commissioners would plan weekly for what sections were to be reviewed at the next week's meeting. He noted they averaged three sections per meeting, with revisions distributed at the meeting following the review. He recommended a brief review of all the sections this evening and then an in depth review can be completed during future meetings.

Mr. Shroyer summarized the changes to Section 1. did not 1.3.11 – Add right to farm covenant.

Trustee Patrick noted differences between the ODP map and the zoning map. Mr. Shroyer noted there may be variations in scale on the two maps. The final maps will be done by a surveyor and will be identical.

Mr. Shroyer summarized the changes to Section 2, Non Residential Site Plan Criteria.

Trustee Buckingham asked for clarification regarding the special review process. Mr. Shroyer noted items requiring a special use review would go through the Planning and Zoning Commission and then come

before the Board. He noted on Page 1-7, Table 1.7, the table identifies all allowable uses in the district. Items designated A are uses by right, NA reflects uses that are not allowed, and S indicates uses that require special review. Any item designated S would have to have approval from the Planning Commission and the Town Board.

Mr. Schroyer summarized the changes in Section 3, Nonresidential Architecture Standards. He noted the Town retained the services of Ken Yoshida to review these standards, and Mr. Yoshida was surprised the developer was agreeing to such strict standards.

Trustee Ashcraft suggested language could be added to section 3.4.4 regarding the color palate for the development. While monochromatic colors are discouraged, once the redlines are gone, the actual choices are not clear.

Mr. Schroyer summarized the changes in Section 4, Access, Circulation and Parking standards.

Mr. Schroyer summarized the changes in Section 5, Residential Performance Standards.

Trustee Patrick Patrick asked if setbacks have a relationship to height, noting we want to be sure we have uniformity across the Town. He noted the proposed heights are higher than what we allow presently. Mr. Schroyer noted at the end of section 5, there are tables that address setbacks, lot size and dwelling height.

Trustee Buckingham asked if the numbers in these tables are set. Mr. Schroyer noted the tables reflect what they are using in Loveland. Troy McWhinney addressed the Board, noting they do not build homes or office buildings. They sell the land to others, and the numbers in these tables reflect minimums and maximums.

Trustee Patrick asked if it would be useful to determine where in Centera similar type areas to allow Board members to drive through and see what these kinds of specs will mean. Mr. McWhinney noted there are only 150 homes built in Centera. He noted they would be happy to provide photos reflecting dwellings that are compatible to the numbers in the tables.

Trustee Buckingham noted table 5.3 allows side setbacks of 5 feet. Mr. McWhinney noted in a conversation with the Town Planning staff, the current Town Code allows for 5 foot setbacks, based on specific dwelling heights.

Mr. Schroyer summarized the changes in Section 6, Residential Design Review.

Mr. Schroyer noted Section 7 did not change.

Mr. Schroyer summarized the changes in Section 8, Landscape Open Space Standards, noting extensive meetings were reach an agreement regarding the definition of open space.

Trustee Buckingham expressed concern regarding some of the areas we are counting as parkland, noting he would like further discussion with Staff regarding this definition.

Mayor Karspeck asked if Staff could provide a checklist that reflects where the Development Manual addresses the items that were brought forward as a part of the definition of open space.

Planner Reed noted we completed an extensive review of this development manual compared to the Town of Berthoud development code. That matrix will have to be revised based on the changes that have been made, and he agreed to go one step further to identify the areas where this code exceeds our standards or to address the variations.

Trustee Buckingham expressed concern regarding the open space definition, noting Board members are trying to preserve the meaning of open space. In general, the feeling was if we can reach an agreement regarding open space, then we can determine what percentage we hope to achieve.

Mr. McWhinney asked the Board for their definition of open space. He noted he has struggled for a year to understand what the Board wants to see. Mayor Karspeck noted that definition needs to be refined at a future date.

Trustee Buckingham noted open space definitions from surrounding communities were laid out before the Board. At that time, the Board was impressed with the standards established in Longmont. Their definition seemed to reflect decisions made by the Board over the past years.

Trustee Ashcraft noted the definition was narrowed down in the study session. He suggested Mr. McWhinney review the tape from the study session to get a feel for the direction the Board is taking.

Trustee Patrick noted that while this development manual is specific to this development, any changes we make will have to be acceptable to any development in the Town. Definitions take on a life of their own. He noted it may be better for the Board to address these definitions so that they apply to all future developments, and not just to this specific development. The Board has not defined open space yet, but as a group, they have strong feelings regarding what "open space" really means. He noted when the standards were set at 30%, we did not have a definition of open space in place. It is important that open space be defined, and then the Board can determine how much open space is appropriate.

A discussion was held regarding the 30% requirement, Mr. McWhinney noted the plan shows for the I-25 area includes 13%. He asked why the Town would hire a planner who says 13% is appropriate, and then require 30%. Planner Reed noted the I-25 plan is meant to define where open space would be. He suggested this discussion should be brief and this should be discussed in depth at a later meeting.

Trustee Patrick agreed and noted this is an important issue for the Board and for the Wilson Development.

Mr. Schroyer reviewed the changes in Section 9 and Section 10, He noted Section 11 did not change, and Section 12 will be the annexation agreement.

Mayor Karspeck commended Mr. McWhinney, Mr. Schroyer and Staff for the incredible amount of work that went into the document.

Mr. Schroyer thanked Staff for their efforts and assistance through this process.

Trustee Buckingham noted the Planning Commission should be commended for their efforts. He noted there are still some areas that need to be addressed, but noted this is a good starting point for the Board.

Trustee Gregg noted this is a quality document. He pointed out he has worked with larger communities that do not have a development code this extensive.

Following discussion, it was determined that the Board will review sections one through four at the next meeting. The Board agreed to meet at 7:00 p.m. for the Study Session on November 4, 2003 and to follow that study session with a Special Meeting to consider this project.

Trustee Buckingham suggested the Board and the Planning and Zoning Commission should meet and have discussions regarding the recommendation which has been made.

Mayor Pro-Tem Foote noted the annexation will also need to be reviewed and approved. Attorney Fickel noted he has had a discussion with the Wilson's attorney and they hope to have copy of the amended

annexation agreement back to the Board within two weeks. He suggested a Board retreat to meet and discuss these issues.

Mr. McWhinney noted it would be helpful if Board members would forward questions to the Planning Staff prior to the meetings. This would give them an opportunity to research any issues that are identified prior to the meetings.

**Trustee Buckingham moved to continue the Wilson Ranch Annexation, Rezoning, Overall Development Plan and Development Manual public hearing to November 4, 2003. Second by Trustee Patrick. Mayor Karspeck noted this motion is approved by unanimous consent.**

Mayor Karspeck noted the Board has not had public comment regarding this annexation. This will need to be done in future meetings.

#### **SET PUBLIC HEARING – MOSS REZONE**

Planner Reed noted this property owner has petitioned the Town for rezoning of the property from M-1 to M-2. This will be reviewed by the Planning and Zoning Commission on November 13, 2003 and their recommendation will be available for the Board meeting on November 18, 2003.

**Trustee Thorstensen moved to set the public hearing for the Moss Rezone for November 18, 2003. Second by Trustee Gregg. All members voted YES.**

#### **SET PUBLIC HEARING – FICKEL FARM 2<sup>ND</sup>**

Planner Reed noted this was removed at the request of the applicant.

#### **PUBLIC HEARING – ORDINANCE REGARDING INTERIM LOAN.**

Attorney Fickel noted these documents were prepared by the Bond Counsel. He suggested the Board review and approve these documents to allow us to go forward with the interim loan.

Attorney White noted it is in our best interest to do this, since our permanent bond funds are not in place and we need the loan to continue to pay for the project until the bond process is complete.

Mayor Karspeck summarized the Certificate of Town of Berthoud, Colorado.

**Trustee Gregg moved to approve the Certificate of Town of Berthoud, Colorado. Second by Trustee Thorstensen. All members voted YES.**

**Mayor Karspeck read the title of the proposed resolution, declaring the intent of the Town that the available net revenue from the operation of the Town's wastewater system be used to support the payment of a loan between the Colorado Water Resources and Power Development Authority and the Town to finance a wastewater treatment plant.**

**Trustee Buckingham moved to approve Resolution 17-03. Second by Trustee Ashcraft. All members voted YES.**

Mayor Karspeck opened the public hearing and read the title of proposed ordinance 976, an Ordinance approving an interim loan between the Colorado Water Resources and Power Development Authority and the Town for the purpose of providing additional financing for a wastewater treatment plant and related wastewater improvements; authorizing the form and execution of a loan agreement and a governmental agency bond evidencing the loan; providing for payment of the governmental agency bond from revenues

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of the Town's wastewater system, or if necessary from the imposition of ad valorem property taxes; and prescribing other details in connection therewith..

Mayor Karspeck opened the floor for public comment. There were no comments so the item was returned to the Board.

**Trustee Buckingham moved to approve Ordinance 976. Second by Trustee Ashcraft. All members voted YES.**

With no further business before the Board, the meeting adjourned at 10:40 p.m.

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Mayor Milan Karspeck

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Deputy Town Clerk Charlene Reed.