

The Board of Trustees for the Town of Berthoud met for a regular meeting on Tuesday, August 23, 2005 in the Board Room of Town Hall. Mayor Pro-Tem Ashcraft called the meeting to order at 7:05 p.m.

MEMBERS PRESENT: Mayor Pro-Tem Ashcraft  
Trustee Louis Gervasi  
Trustee Peder Thorstensen  
Trustee Glen Buckingham  
Trustee Michael Patrick  
Trustee David Gregg

MEMBERS ABSENT: Mayor Milan Karspeck

STAFF PRESENT: Town Administrator Jim White  
Public Works Director Tony Huerta  
Planner Wayne Reed  
Town Attorney Bruce Fickel  
Deputy Town Clerk Charlene Reed

#### **PLEDGE OF ALLEGIANCE**

Mayor Pro-Tem Ashcraft led the pledge of allegiance.

#### **CITIZEN PARTICIPATION**

There were no items from the audience.

#### **REPORTS**

Trustee Buckingham reported that there is a Historic Preservation meeting scheduled for August 24, 2005 in the Board Room of Town Hall.

**Trustee Thorstensen arrived at 7:06 p.m.**

Administrator White reported that we have issued 43 building permits for the year, and this is the first time in five years that we have hit our budget target.

Administrator White reminded the Board and the public that the reception for retiring Chief of Police Bill Wegener is scheduled for Friday, August 26, 2005 from 4:00 to 7:00 p.m. at the Berthoud Bed and Breakfast.

Administrator White noted clean-up day was held on Saturday, August 20, and was very successful. We plan to do this again in the spring of 2006.

Administrator White advised the Board that he will be gone on vacation next week.

#### **CONSENT AGENDA**

The Consent Agenda consisted of the minutes of the regular meeting on August 9, 2005 and the supplemental bills for July, 2005.

**Trustee Gregg moved to approve the consent agenda as submitted. Second by Trustee Gervasi. The motion passed unanimously.**

**APPOINTMENT TO CML POLICY COMMITTEE**

Administrator White noted that in 2002, 2003 and the early part of 2004, Town Administrator White was the designated Town representative. In the fall of 2004, the Town Board designated Trustee Gervasi to serve. It is time to designate the representative for the duration of 2005 through the fall of 2006. It is also recommended that we appoint an alternate to serve when our appointee is not available. Trustee Gervasi was asked if he would like to serve an additional term and he agreed, but he noted that CML has come out in support of Amendments C & D and he is opposed to those amendments. Mayor Pro-Tem Ashcraft noted that the Town Board has no official stance regarding these amendments at this time.

Trustee Patrick noted that if the Board adopts a position, he would anticipate the Town representative to support that position. Trustee Gervasi agreed that he could do that.

**Trustee Patrick moved to appoint Trustee Gervasi as the Town of Berthoud's representative to the CML Policy Committee, and to appoint Administrator White as the alternate to that Committee. Second by Trustee Thorstensen. All members voted YES.**

**RESOLUTION RE: MAIN STREET PROGRAM**

Administrator White noted this is follow-up from the last meeting. He explained that in 2002, 2003, 2004 and 2005, the Town of Berthoud has provided funding for the implementation and consultation of the Main Street Program. With the initial planning year funding of \$13,000, and three consecutive years of funding of \$25,000 annually, the Town of Berthoud has contributed a total of \$88,000. The hope is that further support from the Town's elected officials for the design concepts for future renovations to the downtown area may lead to more successful grant funding approval for the program.

Mayor Pro-Tem Ashcraft asked if this is in support of the concept which was presented, with the understanding that the Town has final design approval. Administrator White agreed and suggested a minor change to clarify that position.

Trustee Gregg suggested an additional modification to the final paragraph to indicate that the Board supports these concepts.

Mayor Pro-Tem Ashcraft opened the floor for public comment.

John Bauer of 1065 6<sup>th</sup> Street thanked the Board for considering this resolution and for bringing public attention to the community involvement. He asked that the resolution be worded to provide a strong statement of support to allow them to go forward in trying to find grant funding for this project.

**Trustee Gregg moved to approve Resolution 13-05 in support of the design concepts identified in the CSU Extension Program project on behalf of the Main Street Program's design committee as amended by the Board. Second by Trustee Gervasi. All members voted YES.**

**BERTHOUD HOLLOW ANNEXATION, REZONING  
AND OVERALL DEVELOPMENT PLAN**

Ashcraft reopened the public hearing for the Berthoud Hollow Annexation, Rezone and Overall Development Plan.

Planner Reed presented brief summary of the activity that has affected this project during prior meetings. He noted R & M Land Holdings, LLC is presenting three (3) requests before the Board of Trustees. The requests include an annexation, a rezoning, and an Overall Development Plan for 28.89 acres of proposed PUD for mixed-use residential and commercial for a maximum of 152 dwelling units with a density of 5.1

dwelling units per acre. The property is located on the southwest corner of the Larimer County Rd 10E and 4th Street. Reed noted the applicant has dropped the request to consolidate more than one residence on a single tap. The applicant has also made the following changes to the ODP:

- 1) The overall density has been reduced from 5.8 du/ac to 5.1 du/ac.
- 2) The density of Parcel B has been reduced from 13 du/ac to 10 du/ac.
- 3) The density of Parcel C has been reduced from 20 du/ac to 15 du/ac.
- 4) The retail component has been reduced from 60,500 s.f. to 51,000 s.f.
- 5) The office component has been reduced from 76,650 s.f. to 64,855 s.f.

Planner Reed summarized the information provided that explains these calculations, and noted that Staff finds that these meet the requirements for Annexation, Rezoning and the ODP.

Trustee Patrick asked if the applicant is agreeable to approving each segment of the requested items separately and in the order presented, noting that the applicant would end up with his property annexed, but without approval for the ODP.

Robert Cole addressed the Board, noting that they have presented a sketch plan and would assume it would be approved as presented. He noted if the Board is not able to approve the application as presented, they would like to continue pursuing this project.

Trustee Patrick noted that the Board will be annexing the property, and then will look at whether or not the ODP is acceptable. That is not a foregone conclusion and will be considered after the annexation. He noted it is important to be sure that the property owner understands that there is no guarantee that the ODP will be approved.

Mr. Cole noted staff supports this presentation and they do not have any indication that the Board would not. He noted if the Board does not feel they can support the ODP, he would like to hear those comments prior to going forward.

Mayor Pro-Tem Ashcraft noted that the Board will follow normal procedures with this request, and each item will be considered separately and in the appropriate order.

Attorney Fickel noted that this is a valid concern. This property could be annexed and rezoned and then the Board could reject the ODP as presented. The applicant would then have to bring forward another plan for consideration. The only way to avoid this from happening is to have an annexation agreement in place that allows the applicant to withdraw from the annexation if the Board is not willing to approve the plan as submitted. Without an annexation agreement, there is some risk for the applicant if he gets the annexation approved, and then the ODP is not approved.

Mr. Cole noted they are ready to go forward.

Mayor Pro-Tem Ashcraft opened the floor for public comment regarding the Findings of Fact for the Berthoud Hollow Annexation.

Ralph Nelson of 1121 4<sup>th</sup> Street expressed concern about the increase in traffic on 10E and 4<sup>th</sup> Street.

Mayor Pro-Tem Ashcraft asked Mr. Nelson to address this during the public hearing for the ODP.

There were no comments from the audience regarding the Findings of Fact.

**Trustee Patrick moved to approve Resolution No. 14-05, the Findings of Fact for the Berthoud Hollow Annexation. Second by Trustee Gregg. All members voted YES.**

Planner Reed summarized the ordinance for annexation and zoning of the land of the Town of Berthoud. He explained the requirements regarding annexation.

Mayor Pro-Tem Ashcraft opened the floor for public comment and there were none.

**Trustee Gregg moved to approve Ordinance No. 1012, an ordinance annexing Berthoud Hollow. Second by Trustee Patrick.** Gregg moved to approve. Second by Patrick.

Attorney Fickel noted the suggested motion attaches staff's recommendations to the annexation, and he recommended that the annexation be approved without the recommendations. Staff agreed.

**All members voted YES.**

Planner Reed noted the next step in this process is to rezone the property from T-Transitional to PUD.

Mayor Pro-Tem Ashcraft opened the floor for public comment and there was none.

**Trustee Patrick moved to approve Ordinance 1013, an ordinance rezoning the Berthoud Hollow property from T-Transitional to PUD. Second by Trustee Buckingham. All members voted YES.**

Planner Reed summarized the action that has occurred regarding the ODP.

Trustee Gervasi asked when the Board will consider the request to allow more than one dwelling on a single water tap, and asked for examples where this has been allowed. Planner Reed cited examples where this has been allowed, and noted that because the details have not been resolved, this request is not being considered at this meeting.

Trustee Gervasi expressed concern that we are approving this ODP without have this issue resolved. Planner Reed explained that the applicant understands that such an action would still require Board approval, and there is no guarantee that such a request would ever be approved.

Trustee Patrick noted that in most instances, the status quo prevails. In this instance, that would be one tap per unit. The applicant can ask for a modification, but they will have to provide extraordinary circumstances to get approval for something of this nature.

Trustee Gervasi expressed concern regarding the densities that are being presented. Planner Reed presented summary sheets that clarify the densities for each category, office, retail, or multi-family. The applicant is asking for the flexibility for the property to develop a multiple of ways. Planner Reed noted the densities presented represent the maximum density that will be allowed, but these do not provide for specific requirements that may reduce that maximum, such as the requirement for parkland dedication.

Trustee Buckingham thanked staff and the applicant for the density modifications. He asked if the proposed densities were discussed at the neighborhood meeting held to discuss this proposal.

Carlan Barkeen noted she attended neighborhood meeting and at that time the proposal showed an overall density of 5.8. She noted that was not a concern presented at that meeting.

Trustee Buckingham noted there is still concern regarding the density of the remainder of the project. He noted he would like to see reductions for both Sections, B & C. He noted the Cottages of Berthoud has less than 10 units per acre, and when you go with 15 units per acre, we are forced to stack apartments and that does not reflect the spirit we want to develop.

Trustee Patrick observed that he has substantial concerns about the densities being proposed. One concern is the residential densities and their proximity to the rural areas surrounding the property. Another concern is that of the proposed uses, only one bring retail tax dollars to the Town. The Board has historically been concerned that we match residential development with corresponding retail development to prevent an adverse impact on the Town budget, and in this development, he would prefer to see something more specific regarding the retail component being proposed.

Trustee Patrick noted the Town is currently modifying our land use plan, and the Board must be careful that we do not allow a different use than we would expect for the land use plan for this area.

Trustee Patrick expressed concern about the increases in traffic that would result from a residential development of this type in this area. This will result in a need to expand the roadways adjacent to the development. He noted if there was certainty that this would be retail or office below and residential above, he might be more comfortable considering this request.

Trustee Gregg noted he is more comfortable with the realistic densities that are being presented this evening. He noted that one thing that has not been mentioned is that this might be a source of more affordable housing than anything we have in Berthoud at this time. He questioned the viability of retail at this intersection, questioning whether there will be enough traffic to support retail.

Mayor Pro-Tem Ashcraft noted he agrees with his colleagues regarding the density being proposed. He agreed we need more affordable housing, but felt that the information being provided is not adequate to make a decision.

Mayor Pro-Tem Ashcraft opened the floor for public comment.

Ralph Nelson addressed the Board, noting that he agrees with Board comments regarding the need for street improvements on 4<sup>th</sup> and on Water Avenue if this development occurs. He encouraged Board to address traffic in this area.

There were no further comments from the audience.

Planner Reed noted a traffic impact analysis is required for submittal with all preliminary development plans. The traffic study will address the needs created based on the increase in traffic. He noted this is done with every development, and he shared the concern that new development will increase the burden on our roadways.

Planner Reed noted that approval of this ODP grants limited uses by right, and does not guarantee that what the applicant is asking for can be achieved. He also noted that since this has been rezoned to P.U.D., all site specific proposals must be approved by the Board. The applicant must come before the Board with finals and a development agreement which is the binding legal document.

Attorney Fickel noted if the Board wants to go forward with approval of this project, they can add two additional conditions, one involving traffic and another regarding the densities. He noted the purpose of an ODP is not to establish specifics. The ODP provides information regarding the maximum densities that could be allowed. The ODP gives the developer feedback regarding what will be acceptable without committing to densities. He noted that the good part about approving an ODP is that you are granting limited rights.

Mr. Cole noted they want to meet the Town's goals and objectives regarding densities. They have lowered their request, and are looking for guidelines and to understand what will be acceptable for development in Berthoud.

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Trustee Gregg noted the ODP provides a snapshot of what is planned and gives a general representation of the development pattern. When the developer presents the PDP, that is where they are required to meet the density and setback requirements. At that point, the Board can evaluate the particulars of the development. Specifics will come, and the Board will have the latitude to work through any issues they have.

**Trustee Gregg moved to approve the Overall Development Plan for the Berthoud Hollow PUD with staff's recommended conditions as stated on pages 6 through 7 on the staff report. Second by Trustee Thorstensen. Trustees Gregg and Thorstensen voted YES. Mayor Pro-Tem Ashcraft and Trustees Patrick, Buckingham and Gervasi voted NO. The motion failed.**

Mayor Pro-Tem Ashcraft recommended this developer work with staff and bring this item back to the Board. Planner Reed agreed to work with the applicant to address the concerns presented by the Board.

With no further business before the Board, meeting adjourned at 8:52 p.m.

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Mayor Pro-Tem Ashcraft

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Deputy Town Clerk Charlene Reed