

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
MARCH 27, 2007
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The Board of Trustees of the Town of Berthoud met for a regular meeting on Tuesday, March 27, 2007 in the Board Room at Town Hall. Mayor Pro-Tem Don Ashcraft called the meeting to order at 7:10 p.m.

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

MEMBERS ABSENT: Mayor Milan Karspeck
Trustee Chase Sommars

STAFF PRESENT: Town Administrator Jim White
Town Clerk Mary Cowdin
Town Planner Robert Anderson
Planner Carlin Barkeen
Town Attorney Bruce Fickel
Deputy Town Clerk Charlene Reed

PLEDGE OF ALLEGIANCE

Mayor Pro-Tem Ashcraft led the pledge of allegiance.

CITIZEN PARTICIPATION

Bethany Knode of 805 4th Street addressed the Board regarding the roundabout. She asked if the Board has a commitment to replacing trees due to growth and construction and if we are adjusting the plans for the roundabout to save the trees in the area.

Mayor Pro-Tem Ashcraft noted the Town of Berthoud is a Tree City, USA. We have an arborist and do the best we can to replace trees. Our general requirement is for a three to one replacement when trees are removed.

Administrator White noted the plan for the roundabout was reviewed by CDOT engineers and the Town Arborist. There were trees designated for removal and trees to be kept.

Ms. Knode felt that several of the trees designated for removal should be saved. She suggested the design of the roundabout is responsible for the removal of the trees.

Administrator White noted the number of trees to be removed is determined in part by the dimensions needed for the roundabout.

Ms. Knout felt the design of the roundabout is being put ahead of the health of the trees. She asked for information regarding the status of the project. Trustee Patrick suggested she contact the Public Works Director to get this information. He noted there are limitations in what the Town can do with this project due to the participation of CDOT.

John Sayer addressed the Board, explaining that he is a member of the steering committee working with the North Front Range Rural Transit Authority. This group is looking for ways to improve our transit system. A meeting has been scheduled in the Community Center from 5:00 p.m. to 8:00 p.m. on Tuesday, April 3, 2007 to discuss this.

REPORTS

Trustee Buckingham reported on the Historic Preservation Commission meeting held last week. A candidate has been interviewed and selected for the Commission. Town Clerk Cowdin agreed to include this appointment on the next regular agenda.

Mayor Pro-Tem Ashcraft reported on the visit today as a part of the International Visitors Program. Administrator White noted this has been a remarkable opportunity for Berthoud and he provided information regarding the two visitors from Indonesia.

Administrator White reported on the visit to Trinidad to secure grant funding from the Department of Local Affairs for the Mountain Avenue project. He noted there was a lot of competition for the funds available, but the Town received a very positive response. Staff will provide information when we receive our response.

Administrator White reported on the signing of the long-term conveyance agreement with the Bureau of Reclamation and the Northern Water Conservation. The agreement was signed on Friday and is a significant step for Berthoud.

Administrator White noted we are moving forward with identifying the old wastewater treatment plan for a new location for the Berthoud Area Transportation System. A site visit was held by Vertex to determine if this is an appropriate location.

Administrator White noted the Town received a letter from the Larimer County Sheriff regarding the condition of the Larimer County jail. This will be discussed with Chief of Police Glen Johnson and further information will be provided to the Board at a future meeting.

CONSENT AGENDA

The consent agenda consisted of the minutes of the regular meeting on March 13, 2007, the financial statement from February 2007, the bills allowed from March 2007 and the special event liquor license for the Chamber of Commerce for Berthoud Day.

Trustee Buckingham moved to approve the consent agenda as submitted. Second by Trustee Gervasi. Trustee Patrick abstained and all other members voted YES.

LIBRARY AGREEMENT – USE OF TOWN PROPERTY

Attorney Fickel noted that the Library Board has chosen to move toward formation of a library district and is targeting July 1, 2007 as the date to function independently. As we continue the transition, it is necessary to clarify responsibilities on different aspects of the operation of the Library.

Attorney Fickel noted a copy of the draft lease agreement was prepared and provided for Board review. Under this agreement, the Town will be responsible for the building, including the roof, walls, windows, doors and floors. The Library will be responsible for the contents of the building and all repairs/maintenance of the HVAC system, plumbing, electrical service, phones and computer access. The Town will provide water and sewer services and the Library will acquire gas, electric and phone/DSL service. Attorney Fickel noted that if this lease is acceptable as written, a motion for approval would be in order. If more consideration or direction is required, this item can be brought back to the Board in the near future.

Mayor Pro-Tem Ashcraft asked if there is an option to make changes in this agreement in the future. Attorney Fickel noted suggested that this agreement be reviewed annually.

Trustee Buckingham did not feel it made sense to provide a no-cost lease to the library in perpetuity. He agreed it would be appropriate to review this agreement annually.

Attorney Fickel suggested it would be appropriate to see if the district is approved. At that time, funding may allow the Library to pay to lease the building.

Trustee Patrick noted one concern that will need to be addressed involves the mill levy that was approved for the Town for the Library. That funding was not for a library district and that should be addressed when the Library requests formation of a district from the voters.

Mayor Pro-Tem Ashcraft noted it is important that the Town have a library. He felt the agreement should be modified to accomplish the requested items.

No action was taken. Recommended revisions are to be forwarded to the Town Clerk or Town Attorney.

**CONTINUATION OF PUBLIC HEARING – O’MALLEY GLEN
ANNEXATION REZONE AND OVERALL DEVELOPMENT PLAN**

Planner Anderson explained that this is a continuation of a public hearing and this applicant is requesting a further continuation. The applicant would like to address the annexation and rezone on April 10, 2007 and the ODP on April 24, 2006.

Steve Hanson addressed the Board representing property owner, Larry Bebo. He noted Mr. Bebo is moving forward with this project and they are looking forward to coming before the Board.

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

Trustee Patrick moved to continue the Public Hearing for the O’Malley Glen Annexation and Zoning for April 10, 2007 and the ODP for April 24, 2007. Second by Trustee Buckingham. All members voted YES.

Planner Anderson asked that the motion be modified.

Trustee Patrick moved to continue the Public Hearing for the O’Malley Glen Annexation and Zoning to April 10, 2007 and the Rezone and ODP to April 24, 2007. Second by Trustee Buckingham. All members voted YES.

POUDRE VALLEY REA FRANCHISE EXTENSION

Administrator White explained that the Town has had a franchise agreement with Poudre Valley REA for the past twenty years. That agreement was extended for an additional six months at the end of 2006, and we are asking the Board to approve another six-month extension to allow time for negotiations. That request will be taken before the Poudre Valley REA Board for approval. He noted he will be attending the Board meeting with Attorney Fickel and Mayor Karspeck, who will be representing the Board of Trustees.

Trustee Buckingham moved to approve Ordinance 1056, granting a franchise to Poudre Valley Rural Electric Association for a six month term, beginning March 24, 2007. Second by Trustee Gervasi.

John Clarkson of 1100 Jefferson Drive asked for clarification regarding this motion. Administrator White explained that the Town’s franchise agreement is being extended to allow time to engage in negotiations between the Town and Poudre Valley REA.

Mr. Clarkson asked if this agreement allows residents to request a change in power companies. Administrator White noted the decision regarding which power company

provides service is not made by the Town. That is the responsibility of the Public Utilities Commission.

All members voted YES.

**PUBLIC HEARING – BERTHOUD COMMON COMMERCIAL –
FINAL DEVELOPMENT PLAN AND FINAL PLAT**

Planner Anderson presented a summary of this request. Clarkson Land, LLC, the property owner is requesting consideration of a preliminary/final development plan and final plat application. Planner Anderson explained the recommendations of the Planning and Zoning Commission regarding this project.

Mayor Pro-Tem Ashcraft questioned the recommendation regarding tree placement. Planner Anderson noted the applicant has a landscape plan that places a dense collection of trees along Mountain Avenue. The Planning and Zoning Commission asked that placement of the trees be evaluated since there was a concern this may be too dense.

Mike Walker of Design One addressed the Board and explained the plan for landscaping along Mountain Avenue. He noted other issues regarding the landscaping involved the regional trail connections. He noted the plan follows the Town code and any changes can be made if requested by the Board.

Paul Cross of Design One presented information regarding the architecture and signage planned for this development. The goal for the architecture is to make the building appear to be a part of the Town and to mimic the buildings that are already in the Town. He noted they have taken significant details from other building in Berthoud and he presented detailed drawings of the planned development.

Trustee Buckingham asked if the Planning and Zoning Commission was concerned about the trees now or in twenty to years when the trees are grown. Planner Anderson noted they were concerned about the spacing. He pointed out that the Department of Transportation will have significant input into what the landscaping plan will look like. .

Trustee Buckingham asked why the detention area was not underground. Brad Curtis of Picket Engineering explained that moving the detention area underground was considered, but it was cost prohibitive and would affect the water table. He noted they sacrificed a building lot for the detention area and put in concrete pads as recommended by the engineers. The Planning and Zoning Commission asked them to remove the pads.

Trustee Buckingham asked who would have maintenance responsibility for the detention areas. Mr. Curtis explained that will be the responsibility of a business owners association. The FDP will cover the roads, detention areas and other infrastructure.

Trustee Gervasi noted that the Town has an observatory and he asked that the lighting be defused. He also expressed concern about the size of the parking area for this building. Mr. Curtis noted the parking area was designed according to the Berthoud Development Code. Trustee Gervasi noted the lot in front of Hayes Market was done according to code and that parking lot is not adequate for public parking.

Trustee Patrick asked if the Planning and Zoning Commission looked at the Development Agreement. Planner Anderson noted development agreements are not typically taken before the Planning and Zoning Commission. Trustee Patrick expressed concern about the layout of the development and the amount of parking that will be provided. He agreed that parking has been problematic and the Hayes parking lot is an example of the problem. He felt it is important that this be addressed before the project begins.

Trustee Patrick noted this is a building that will be several hundred feet in length, and the back of the building will be facing a residential area. He suggested it would be important to use landscaping and other ways to make the back of the building more visually attractive.

Trustee Patrick noted the development agreement allows for a delay before the trail is built. He noted he would like to see the trail put in as quickly as possible, as construction permits. The agreement allows the trail to be put in within 18 months of the first certificate of occupancy. That could be a long period of time.

Trustee Patrick asked when the improvements to Larimer County Road 17 will be considered. Mr. Curtis responded that is planned when the landscaping is put in during the first phase of the project. Trustee Patrick noted that since County Road 17 is not a part of the Mountain Avenue project, those improvements could be done earlier.

Trustee Patrick asked that the applicant consider more brick and less stucco, citing as an example the new Maggi building, which is all brick.

Mayor Pro-Tem Ashcraft noted this plan includes a good example of the architectural detail desired for Berthoud. This plan reflects the core town and the small town feel.

Mayor Pro-Tem Ashcraft noted that he respects the Planning and Zoning Commission's concerns regarding the placement of trees, but he felt the trees proposed by this applicant would be appropriate.

Trustee Patrick expressed concern that the access onto Welch will be directly across from an existing residential street and he questioned the location of the access from the commercial development as compared to the streets out of the residential development. Planner Anderson noted they will be T intersections with no mid-development crossings

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on Welch. Mr. Curtis noted there is one driveway onto Welch. Planner Anderson noted that was reviewed by our traffic consultant and no problems are anticipated.

Planner Anderson noted this applicant is requesting approval of the PDP/FDP and the Preliminary/Final Plat. The engineering of this development has been done and this application has been extensively reviewed by staff.

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

John Goreski, Tree Board Chairman, noted that the Tree Board supports the continuation of the Town's existing landscape plan which is reflected by this development. The trees in front of Hayes Market are spaced at 40 feet, and the Tree Board would like to see that continue.

Patricia Karspeck noted the Tree Board has worked many years to have our current ordinances written and enforced to alleviate problems with trees. Tree lawns must be wide enough to support the root systems of the trees, and all plans that come before the arborist are reviewed. This plan was reviewed and approved by our arborist and he confirmed that the width would be appropriate. This plan would mimic other developments in Berthoud and continue the tree lined streets that are so distinctive to Berthoud.

Mike Stowe of 301 Common Drive asked that there be some type of architectural barrier to block the back of the building from the residents located behind the building. He noted if there are restaurants or other businesses that maintain longer hours, there may need to be noise abatement. He asked that something be done to prevent trash from being blown into the neighborhood. Mr. Cross noted there will be enclosures for the trash cans behind the building.

Trustee Patrick asked the Town's traffic engineer, John Seyer, about the two entrances onto Welch. He expressed concern that access from one of those entrances to the private drive would require almost a u-turn. Mr. Seyer noted that entrance would be sufficient for a passenger vehicle, but he asked Mr. Curtis if there was a turning template for trucks. Mr. Curtis noted their intention would not be for trucks to use private drive C. Truck turning movement was reviewed and deemed adequate.

Trustee Patrick agreed that the intention will be for people to use the larger east/west road, but as the remaining lots are developed and traffic increases, there will be a larger amount of drivers that want to take the most direct route. Private drive C will be used more heavily and that will create problems. Mr. Curtis noted the traffic studies were done for 20 years and he pointed out that private drive C is intended for residents of the development, not for public traffic. Trustee Patrick asked if private drive C could be

removed. Mr. Curtis noted that even though the counts were minimal, the recommendation was to keep it available.

Trustee Gervasi noted there is a tree line easement on the southern side of the building. Mr. Curtis noted there is extensive landscaping planned along the southern portion of the building and he noted there is a three foot elevation along Welch.

Trustee Patrick moved to approve the Berthoud Commons Commercial PDP/FDP application as proposed subject to additional discussion and final resolution regarding: 1) parking lot width; 2) back building façade treatment; 3) additional brick architectural elements; 4) landscape or other shielding elements; and subject to staff recommendations, the Planning and Zoning Commission recommendations and approval of the development agreement for public improvements. Second by Trustee Buckingham. All members voted YES.

Mayor Pro-Tem Ashcraft opened the floor for public comment regarding the preliminary/final plat and there was none.

Trustee Buckingham move to approve the Berthoud Commons Commercial Center Preliminary/Final Plat application with the Planning and Zoning Commission's recommendations, finding that the request is consistent with the criteria for final plat. Second by Trustee Gervasi. All members voted YES.

Trustee Buckingham moved to continue the Development Agreement for Public Improvements to April 10, 2007. Second by Trustee Gervasi. All members voted YES.

Mayor Pro-Tem Ashcraft called a recess at 8:50 p.m. The Board reconvened at 9:10 p.m. without Trustee Buckingham who left the meeting.

**PUBLIC HEARING – COLLINS PARK FINAL
DEVELOPMENT PLAN AMENDMENT**

Planner Anderson noted the applicant, Steve Feller, of Berthoud Development, LLC is requesting an FDP Amendment for a modification to the approved FDP for Collins Park PUD to modify the minimum garage-facing alley setback from 15' to 5'. The intent is to allow for a variety of garage-facing alley setbacks rather than the one 15' setback. He noted that planning staff supports this request with the recommendation that the alley be posted "No Parking." He noted that this is similar to many of the alleys in old Berthoud.

Dave Wickum addressed the Board, noting that the development is open and has been well received. One problem identified is the lack of rear yard space and he distributed

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copies of photos for consideration using photos of the Stapleton development, which reflects the requested change.

Trustee Patrick asked what has changed since the original request was presented. Mr. Wickum noted they requested the 5' setback during the initial submission and were not happy that it was not approved. They were concerned when this was plotted regarding whether there would be adequate room with the 15' setback. Once construction began, it became apparent that this setback limits yard space and affects the view.

Trustee Patrick noted the Board asked when this was approved if it was possible to build on lots this size with this setback and it was indicated that it could be done. He noted there is another development in Berthoud with similar setbacks, and it is difficult to access the garages. He asked if this will affect parking for larger vehicles in the area.

Craig Bundy, the architect, noted with this configuration, their alleys are wider than their streets. With the fifteen foot pad in front of each garage and a 20 foot alley, they have 50' of paving, which appears very stark. He noted with a 24 foot garage and 25' to the center of the alley, this is wider than what is required for a parking lot in Berthoud. When this was originally presented, they offered to put another space for parking beside the garage. With up to a three car garage, and on street parking available, there should be plenty of space for parking without the 15' setback.

Trustee Thorstensen noted unless you have a fifteen foot driveway, you cannot park a vehicle behind the garage. Mr. Bundy agreed and noted that is why they are in agreement to the request for a "No Parking" sign in the alley.

Trustee Gervasi asked if there will be any residents that request the larger setbacks. Mr. Bundy noted they have the ability to attach the garages if that is desired, which results in a larger setback.

Mayor Pro-Tem Ashcraft noted in Mary's Farm there are varying setbacks and people try to park in the alley. Mr. Bundy suggested that the parking restrictions be included in the covenants.

Mayor Pro-Tem Ashcraft noted he is concerned that this was not resolved when it was initially brought before the Board. He agreed that these are valid arguments and that this would improve the view corridor and make better yards. He noted rear loaded garages enhance the pedestrian character of the houses, keep the junk in back and bring people together, but he expressed concern about creating problems with enforcement. Mr. Bundy asked if this is a problem in other areas of the Town. He noted he works on properties in other municipalities, and generally the only time there are problems with alley access is when the properties are under construction and the alleys are blocked by trucks. He suggested the 15' setback is not adequate for parking in front of the garage,

and it is better not to have parking than to have a space that is too small. He suggested the greater good is served by modifying this setback. If it is left the way it is, the parking spaces provided with the 15' setback are too small and will create problems. He did not feel that parking in the alley would be an issue since they are providing adequate garage parking and parking in front of the homes.

Mayor Pro-Tem Ashcraft noted the problem lies in having a large footprint on a small lot. Mr. Bundy noted since the homes are two story, they do not have a large footprint.

Mayor Pro-Tem Ashcraft asked for staff recommendation. Planner Anderson noted that planning staff supports this recommendation. Referrals were sent to the Public Works Department and the Fire and Police Departments and no comments were received.

Mayor Pro-Tem Ashcraft asked what the setback requirement is in the development code. Planner Anderson noted the standard is 15', but a PUD can be amended.

Trustee Patrick noted he has not heard anything that would indicate there would be staggering if this is approved. He suggested that most, if not all, of the homes would be built with the 5' setback. Mr. Feller proposed that the amendment could state that no two consecutive houses could have the 5' setback, which would solve that problem.

Mr. Wickum proposed that this be tabled to a future meeting, to allow them time to bring in guidelines from other developments with this type of setback. Trustee Patrick felt staggering would be beneficial, but with an 8' setback, parking will be a problem.

Trustee Patrick noted he is reluctant to allow this amendment with no change in circumstances. This will encourage every development in Berthoud to come back and make requests, and he does not feel this is a good use of the Board's time. He noted once building has started, residents depend on the FDP to determine what will be built. He noted he would not be comfortable in making this change without a full Board and three members are out. He noted no argument is being made here that cannot be made by any other architect or designer in any other development in Berthoud. There is nothing specific to this neighborhood that would make it necessary to make this change. He suggested it would be more appropriate to consider a revision to the overall setback requirement, instead of considering this for a single development. He asked staff to evaluate the possibility of making this change in the development code if this is appropriate. He also asked Mayor Pro-Tem Ashcraft to allow this applicant to bring further information.

Mr. Bundy noted the residents that purchase the homes will benefit from this change and this will create a successful project. He noted they are responding to the deficiencies identified by the people looking at the houses. The Town and the homeowners will benefit if this project is successful.

Mayor Pro-Tem Ashcraft noted it would be appropriate to consider this as a global change and agreed it is important to have the full board present. He noted he does not want this change to delay this project. The Town needs the permit revenue and we do not want to slow this developer down. Mr. Anderson noted there are a number of amendments to the development code to be considered. He did not feel it would be appropriate to postpone this request until the development code can be amended. He suggested allowing this developer to make this change and then look at the results.

Trustee Patrick asked if staff would have time to give an expert opinion on the difference between a 5' and 15' variance. He asked for a review from staff before going forward with this change.

Trustee Patrick moved to table this matter for the next available meeting. Second by Trustee Thorstensen. The motion passed unanimously.

MASTER STREET PLAN AMENDMENT

Planner Anderson reported that the Master Street Plan was adopted by the Planning and Zoning Commission on February 22, 2007. They are requesting that the Board endorse an amendment to the Town's Master Street Plan for the following: A) Elimination of the proposed arterial along the extension of the LCR 6 alignment to the east of LCR 17; B) An east-west collector from the 5th Street alignment, along the east side of the development to LCR 17; and C) Extension of 10th Street to terminate at the proposed east-west collector.

Planner Anderson noted the Town's transportation engineer, in cooperation with the Public Works Department and Planning Department, has reviewed the requests and found that the amendments would benefit the Town's plan. Staff is recommending approval for this change.

Trustee Gervasi asked why we are terminating the 10th street extension, rather than extending 10th Street to 4E.

Planner Barkeen noted we are not terminating the 10th Street extension. Instead, it is being changed to a local street, since a collector was not necessary.

Mayor Pro-Tem Ashcraft explained that local streets are not included on the master street plan.

Mayor Pro-Tem Ashcraft asked the current status of Nebraska Avenue. Mr. Seyer explained that Nebraska is currently a local street and is not indicated on the master street plan. When this map was developed, Nebraska was terminated as a collector and the

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collector was run along 6C. He noted this may need to be changed with further development in this area.

Planner Anderson noted we are sending out requests for proposals for our master street plan and we hope to have this done within the next nine months.

Mayor Pro-Tem Ashcraft noted he would like to encourage connectivity and grid patterns within the town to make traffic flow better. It is not a good idea to have north/south collector streets and not have east/west collector streets.

Trustee Patrick suggested that decisions should be made for Nebraska Avenue before ground breaks for O'Malley Glen. He felt that connectivity should be considered before that occurs. He also noted it would be easy to expand Nebraska at this time since development is not complete on both sides of the street.

Planner Anderson noted this issue will be critical when we address the PDP for O'Malley Glen.

Trustee Patrick moved to endorse the Planning and Zoning Commission's adoption of the Town's Master Street Plan Amendment, finding that the amendment is justified and consistent with the Town's Best Transportation with substitute language for adopt the suggested motion and request staff to work with Town Council to substitute language for item #C that will more accurately reflect the Board's understanding of what is being done. Second by Trustee Gervasi. The motion passed unanimously.

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

Mayor Pro-Tem Don Ashcraft

Deputy Town Clerk Charlene Reed