

The Planning and Zoning Commission of the Town of Berthoud met for a regular meeting on February 14, 2008 in the Board Room at Town Hall. Chairman Thorne called the meeting to order at 7:01 p.m.

MEMBERS PRESENT: Chairman Chris Thorne
Scott Banzhaf
Brian Anderson, Secretary
John Bauer
David Mineo

Rural Representative John Goreski

MEMBERS ABSENT: Jeff Hindman, Vice Chairman
Rob Liebman

STAFF/TOWN Planning Director Robert Anderson
Planning Technician Sue Bowles

CONSENT AGENDA

The consent agenda consists of the minutes of the meeting of January 24, 2008. Bauer noted a correction to the minutes that the motion made regarding the McCarty-Fickel House was seconded by Mineo rather than Hindman. Bauer then moved to approve the minutes of the meeting of January 24, 2008 with the noted correction. There not being enough members present at this meeting who were also present at the January 24th meeting, the minutes will be brought back to the next meeting for a vote.

BERTHOUD COMMON COMMERCIAL CENTER AMENDMENT TO THE FINAL DEVELOPMENT PLAN

Chairman Thorne introduced this agenda item and explained that the applicant is requesting this amendment for two (2) reasons.

1. To adjust the location of the attached sidewalk and tree lawn along Mountain Avenue (SH56) to meet CDOT clear vision zone requirements, while maintaining the tree-lined streetscape as desired by the Town and Developer.
2. To add one (1) single family condominium to each of the previously approved retail buildings for lots 6A and 6B, for a total of two (2) single family loft apartments/condos.

Director Anderson noted that the adjustment to the sidewalk and tree lawn location is a result of CDOT "clear vision zone" requirements, and since the tree lawn is in CDOT's right-of-way, the Town and applicant are obligated to meet this requirement.

Director Anderson also discussed the loft apartment request, noting this request does meet the intent of the mixed use as described in land use plan. Anderson noted that the

BFPD has asked for additional time to act on this referral, therefore staff recommends adding a condition that the applicant comply with BFPD requirements.

Carl Cross with Design One Consultants, Inc., speaking on behalf of the applicant, Clarkson Land, asked that the condition to comply with BFPD be reworded because as a part of the PDP and FDP, we are meeting the Town's Development Code requirements. The second process is the permitting process per building codes, so Cross asked that the Commission consider that the conditional language be that the developer comply with building codes rather than with the Fire Board.

Thorne opened the public meeting. The being no one in the audience wishing to comment, the meeting was closed, and the matter brought back to the Commission.

After some discussion regarding the BFPD condition, **Bauer moved to recommend approval of the Berthoud Commons Commercial PDP/FDP Amendment application finding that the request is consistent with the criteria for preliminary development plan and final development plan with the added conditions noted in the staff report;**

- 1. That the applicant address any remaining technical engineering comments pertaining to the Berthoud Common Commercial Center Construction Plans, to the Town Engineer's (CDOT's) satisfaction;**

and with resolution to the satisfaction of Town Staff of any requests or comments from the BFPD. Second by Thorne. All members voted YES.

HERON LAKES FINAL DEVELOPMENT PLAN AND FINAL PLAT

Chairman Thorne introduced this agenda item noting that the applicant is seeking approval of the FDP and Final Plat. Thorne reported that this project has been before the Commission a number of times, and there have been a lot of comment from the public, and work by the applicant. Thorne asked that during public comment, please stay on topic, and noted that this meeting is to discuss the extent to which the FDP differs from the PDP.

Director Anderson addressed the Commission and noted that the only substantive difference between the FDP and the PDP is that one townhome tract has been removed and replaced by single family lots as recommended by the Board of Trustees. Staff has been through this project thoroughly and recommends approval with the conditions noted on Page 14 of the Staff Report.

Jim Birdsall with the Birdsall Group addressed the commission on behalf of the applicant, and highlighted the changes between the PDP and the FDP, noting that he had one clarification, in the staff report there is some language that may be a remnant from the PDP & Preliminary Plat. Birdsall went through the minor changes from the PDP, noting that the most substantive is the change from 26 townhomes to 26 single family homes, but the overall number of units has not changed and remains at 636 units.

Chairman Thorne opened the public meeting.

Rod Pereria – 2303 WCR 14 – his home is located next to the main entrance into the subdivision, and has been here for 4 years. This is the first time we've been notified. Our main concern is that our driveway is across from main entrance, is located on a blind hill and this is going to impact where our driveway is. It is already quite dangerous. What is the impact of traffic going to be? Since we've been living here there have been 4 accidents with property damage to vehicles and livestock due to animals getting out on the blind hill. Currently the speed limit is 45 mph but drivers are going 5 – 10 over the speed limit habitually. He is concerned about pedestrians, children, bicyclists and so on. He'd like to see the speed limit adjusted to 35 mph. Also, hole 9 on the golf course is close to our house. Will there be a fence to prevent golf balls from coming into our yard and causing property damage? We've had a lot of hunters across the street and we've had pelt shot in our windows. Right now, knowing there will be many fertilizers, pesticides etc. , we're the first people on the ditch and right now the water is cleaner than water from Little T. How will this development impact our land value and property taxes?

Karen Stockley – I can't believe its FDP already. I'm surprised in the increase in density. It has gone up and up. Don't approve the higher density. The Board approved 25 meters from the Heron Rookery. You need to up the buffer more. I have issues with the golf course by the cottonwood area. DOW report says there should be a big buffer around them. There should be no foot traffic on the peninsula.

Rod Pereria – across from the house there are 2 huge cottonwoods. Bald eagles live there and would like to have those trees left alone.

Nancy Lamb – 1101 NCR 19 – emphasize there should be no foot traffic on the peninsula. I'd hate to see this be Heron Lakes because there use to be herons there. The developer has said he didn't really care whether it was open to the public. People will take their dogs there, and it's no huge gain, so it should be closed to public.

Elizabeth Kearney – Concerned about the historic feature of the silos. The Historic Preservation Commission would like to preserve this. She has located bricks in Texas and there's enough to fix the silo, and a mason to make the repairs. An historic designation could qualify the developer for tax credits or rebates. Are the McNeil Reservoir recreation rights still in place?

Mina Cox – LCR 19 – the road was to be closed off, but now it's open? That will mean more traffic on the road, and it can be converted to a private road. Who will maintain it?

There being no one else wishing to speak, the public meeting was closed.

Anderson addressed the issue of LCR 19 noting that the owners on the road were previously asked to annex this road and they did not want to do so. The public works department is not prepared to take on that road. We would be willing to meet with county and owners, but from the Town's standpoint it is not in our transportation plan.

Birdsall addressed the public's comments. Regarding Pereria's driveway, Storm Lake Drive is included in the Town's transportation master plan and has been requested by staff. It is on a hill, and is the only viable place to connect due to visibility issues. There will be a traffic impact, however the road will be improved and updated as the development is phased. The timing of improvements is tied to the level of development. County Road 14 is a county road, and will remain so, and the speed limit is determined by county, but we would wholeheartedly support lowering the speed limit. In regards to hole 9, there is no fence proposed, however it is one of the widest holes on the course, and there shouldn't be an issue of golf balls going onto his property. If it becomes an issue we will either use landscaping or screen fencing. Regarding the cottonwood trees, although bald eagles have perched in that tree, according to the D.O.W., there are no nesting bald eagles in this area of Colorado. We have no intention to remove or impact the tree and it is a center-point of the area. In regards to water quality, we are confident we are addressing those issues. It is important to us from a liability standpoint to insure that we do not feed pollutants into those waterways.

Addressing Stockley's comment that there has been an increase in density at each step, I'm not sure what's that's based on. It remains at 696 units as it has been from the ODP. We have already increased the buffer from the Heron Rookery, and we've had 4 wildlife biologists as well as the DOW agree that as long as the trail is closed during nesting season, there would be no negative impacts to the Heron's or the Osprey. Regarding the cottonwood tree buffer of 300', the original studies and all studies since have all recognized that golf is not a problem in that buffer, and within that 300' buffer, passive and active uses are allowed. Regarding closing the peninsula to human activity, this has been discussed and from a developer's perspective we're okay either way. Seasonal access on a seasonal trail is a benefit to the town residents. Signs will be posted regarding seasonal closure. This is a balanced approach. During the osprey and heron nesting season, the trail will be closed, and the trail would be open when the birds are not nesting. There were 52 pairs of Heron's last year and the majority leave when they're not nesting because there aren't enough fisheries. The osprey's are migratory and are not there in the winter.

Birdsall went over the phasing plan noting the general concept has not changed. The golf course and club house are in Phase 1.

Regarding the silos, we feel strongly that we want to preserve those and are excited to pursue restoring if it is feasible, and we're excited that bricks have been found.

McNeil recreation rights are still available, and we're proposing passive activity on the water; sailboats, paddle boats, canoeing, and fishing.

John Seyer, the Town's Transportation Engineer addressed the commission and clarified some of the traffic improvements proposed. He agreed with Director Anderson's discussion regarding LCR 19, and noted that given the condition of that road and what will be Heron Lakes Parkway, that is the road that will be used. The traffic study will be updated and will give timing of improvements off site.

After significant discussion of the following issues:

- ▶ Improving the look of the Town's water tank within the limitations of Homeland Security;
- ▶ water quality, including treatment of pesticides used by private property owners;
- ▶ allowing or not allowing public access on the peninsula when the birds are not nesting.

Thorne moved to recommend approval of the Heron Lakes PUD First Filing Final Development Plan with staff's recommended conditions finding that the request is consistent with the Town's criteria for a final development plan, and subject to the following additional conditions;

- 1. That there be no public access on the peninsula on which the osprey nest is located.**
- 2. That the two (2) silos be reasonably restored and preserved if technically feasible, if the silos are structurally sound and it is determined by the Town of Berthoud that they may be preserved without creating a safety hazard.**
- 3. That the Town cooperate with the developer and the metro district for inclusion of any improvements to the water tank property while still protecting the water source.**

Second by Mineo.

Bauer asked for an amendment to the motion's condition #2: That the two (2) silos be reasonably restored and preserved through mutual cooperation with Berthoud's Historical Preservation Commission if technically feasible, if the silos are structurally sound and it is determined by the Town of Berthoud that they may be preserved without creating a safety hazard. Second by Banzhaf. Bauer, Mineo, Banzhaf and Anderson voted YES. Thorne voted NO.

After further discussion regarding the trail located on the peninsula, Bauer moved to amend Condition 1 as a compromise agreed upon by the developer and change it to state the original board's condition of seasonal closing from March 1 through September 1 and add that the closure be reviewed on a yearly basis by the Town of Berthoud, DOW, and necessary official environmental agencies to extend the closure should they find it necessary. Second by Banzhaf. John Bauer and Scott Banzhaf voted YES. Mineo, Thorne and Anderson voted NO.

The vote was then taken on the original motion with the amendment to Condition 2 with all members voting YES.

Banzhaf moved to recommend approval of the final plat for Heron Lakes PUD First Filing, finding that the request is consistent with the Town's subdivision regulations and final plat criteria. Second by Thorne. All members voted YES.

STAFF REPORTS

Director Anderson reported that he will be presenting a Planning 101 course in the near future.

He is still trying to get the Town's Attorney to come to a meeting to answer questions that were presented a few months ago. Any other questions should be sent to Director Anderson by February 28th.

Brian Anderson, Secretary

Sue Bowles, Planning Technician