

Minutes of the Proceedings
Laramie County Planning Commission
Prepared by the Laramie County Planning & Development Office
Laramie County Wyoming

Thursday, November 29, 2012

- 121129 00** The Laramie County Planning Commission met in a special public hearing session on Thursday, November 29, 2012 at 3:30 p.m.

Members in attendance were: Commissioner Jody Clark, Chairman; Commissioners Frank Cole and Bert Macy; Gary Kranse, Planning & Development Director; John Shepard, Senior Planner; Barbara Kloth, Associate Planner; Nancy Trimble, Recording Secretary.

The meeting register was signed by: Brian Bryant, 5019 S. Greeley Hwy, Cheyenne, WY; Joe Patterson, 3420 Hales Ranch Rd, Cheyenne, WY; Mike Gostovich, 11800 Blazer Rd, Cheyenne, WY; Del Lummis, 1825 Campstool Rd, Cheyenne, WY; Doran Lummis, 1825 Campstool Rd, Cheyenne, WY; David Dedo, 597 Valley View Dr, Cheyenne, WY; Frank Falen, 300 E. 18th St, Cheyenne, WY; Casey Palma, Steil Surveying Services, 1102 W. 19th St, Cheyenne, WY; Brandon Jensen, Budd-Falen Law Offices, 300 E. 18th St, Cheyenne, WY; Keith A. Trimels, 810 N. Table Mountain Loop, Cheyenne, WY; Linda Heath, 4031 Winterset Dr, Burns, WY; Larry Gallagher, 5907 Townsend Pl, Cheyenne, WY; Nick Healey, 204 E. 22nd St, Cheyenne, WY; Erin Murphy, 204 E. 22nd St, Cheyenne, WY.

- 01** Review and action of the Final PUD for a change in Zone district from A2 (Agricultural) to PUD (Planned Unit Development) for the Sweetgrass Development located south of College Avenue and east of Avenue C, Laramie County, WY.

Del Lummis, 1825 Campstool Road, Cheyenne, WY 82007, came forward to present the application. He explained he didn't have any additional information to add to this presentation of the Final PUD, and that Bruce Downing was not in town to be present at this meeting. Mr. Lummis stated that fine tuning to the project had taken place within the last 30 days and he believed all the questions and concerns had been addressed by Tracy Colling, in Mr. Downing's stead. Mr. Lummis expressed that, due to the size of the proposed development and amount of time that would be involved to complete the project, he was looking forward to a good relationship with the Planning Office and the Director, Gary Kranse. He added that the plat should be submitted by spring of next year.

Gary Kranse summarized the purpose of today's presentation of the Final PUD. The proposed project would encompass approximately 2,300 acres divided into eleven (11) districts. Each district has specific land use regulations governing it and was further illustrated in the PUD Master Plan Map. There were allowances for flexibility in the density and configuration within these districts. However, the final allowable build-out for the PUD area

is not to exceed 5,000 residential dwelling units. The preliminary PUD was reviewed by the Planning Commission on October 11, 2012, and was found to be in conformance with the Laramie County Land Use Regulations. The Final Sweetgrass PUD submittal included conceptual drainage and traffic studies, specific land use regulations, and an outline of the overall future of the project. These documents addressed the majority of comments from the Preliminary PUD agency reviews. Staff finds the proposed Sweetgrass PUD to be in conformance with Section 4-2-112 of the Laramie County Land Use Regulations for Planned Unit Development (PUD), and recommends approval with conditions 1 through 3 as listed in the staff report.

Commissioner Clark opened the hearing to the public. Hearing no comment, it was closed, and the item was opened for discussion. Commissioner Cole said he was unclear on some items in the PUD document. On Page 3, Item B, the clause was confusing where it stated if there was a conflict between the Development Plan regulations and the Laramie County Land Use Regulations, then the Laramie County Land Use Regulations shall control. The county zoning regulations were included in the land use regulations, and the purpose of this PUD was to establish new zoning regulations for the subject property. Also, child care centers were mentioned in several places in the PUD, without clarification as to the size of the center. The State has 4 to 5 classifications of child care centers, so it was not clear what classification was referred to in the PUD. He expressed that the size should be appropriate according to the zone district area.

Commissioner Cole also mentioned the setbacks outlined on Page 11 for a Single-Family Detached Unit. The property setback distances were designated as 20 feet for the front of a primary building and 15 feet for the back of the building. He stated that the City of Cheyenne specified 25 feet for both the front and back setbacks, as did Laramie County.

He felt the PUD setbacks were not in alignment with the land use regulations. He also asked about the reference to water wells and water well pumping stations, and questioned if the intent was to furnish water wells for the entire project, or would the project be provided public water service.

Gary Kranse agreed with Commissioner Cole on the lack of clarity regarding the regulations conflict clause, and responded that the intent was if a particular item was not addressed in the PUD, then it would refer back to the Laramie County Land Use Regulations, but he acknowledged the intent was not clear in the document. He clarified there should be no conflict, and that the Laramie County Land Use Regulations would govern in case a subject was not addressed in the PUD, and he gave the example of signage. Another example would be for child care centers - whereas the regulations define size, centers in this development would be small, and 15 – 30 children per center were allowed in all residential zone districts. Mr. Kranse confirmed the ambiguity of these items, and assured the Planning Commission that these clarifications would be addressed.

With regard to the question about water wells, Mr. Kranse responded there was no intent to service the project with water wells and pump stations;

however, there may be the need for some wells to support the development, initially. He said the terminology was to ensure that, should the need arise, the possibility had been covered in the PUD, should there be no sewer or water service available at the time.

Commissioner Macy moved to recommend approval of the Sweetgrass PUD with conditions 1 through 3, and adopt the finding of fact a of the staff report; Commissioner Cole seconded the motion, with clarification needed on the phrasing of the regulations versus the PUD. The motion was passed with a vote of 3 – 0.

02 Review and action of a Subdivision Permit and Plat for Table Mountain Ranches, Fifth Filing, a replat of Table Mountain Ranches, Fourth Filing: Lots 219, 224, 225 & 226, Laramie County, WY.

Brandon Jensen, of Budd-Falen Law Offices at 300 E. 18th St., Cheyenne, WY 82001, came forward to represent the landowner, Brad Carnahan. He explained the purpose of the application was to replat and dedicate the public easement running through the Carnahan property. This action would be to revise the setback of the existing structures on the property from the access easement. An attempt was made to vacate Mountain View Loop in 2004, which was denied by the Laramie County Commissioners. Further attempts to relocate Mountain View Loop were unsuccessful, with unfavorable results from both the Laramie County District Court and Wyoming Supreme Court. It was recommended that the landowners and Laramie County work together to resolve the situation, as the law did not provide the means to rectify. The Carnahan residence, garage, and septic system all lie entirely within the boundaries of the right-of-way. The applicant wants to relocate the road, which would impact 1 to 3 lots, all of which are owned by Mr. Carnahan, and are currently undeveloped. Mr. Jensen asked John Steil, of Steil Surveying Services, to come forward and explain the two proposed options for rerouting Mountain View Loop.

John Steil, of 1102 W. 19th St., Cheyenne, WY 82001, stated it had been quite a process to come up with reasonable options, and that Option 1 was the preferred alignment, with a 20 percent grade then flattening out where it ties into the existing road, and would involve a replat 4 lots into 3. Option 2, which was less preferred, replatted 3 lots into 2. Commissioner Cole asked which road option was less steep to travel. Mr. Steil responded there was a 20 percent grade to the top of the road with either option. Commissioner Cole acknowledged the residence was in the public right-of-way, with option 1 seeming better than 2, as the second option involved a sharp turn at the top of the hill. Commissioner Macy asked how close the right-of-way would be to the barn with Option 2. Mr. Steil responded it was 5 feet.

Gary Kransé gave a summarization of the staff report. He explained the Table Mountain Ranches, Fifth Filing would have a very minor effect on existing lot sizes, as the proposed plat would maintain the 80' Right-of-Way and not

create any new lots, and stated that either access point was acceptable with the County. Staff recommended approval of the application with no conditions.

Commissioner Clark opened the hearing to the public. Nick Healey, of Dray Law Offices at 204 E. 22nd St., Cheyenne, WY, 82001, came forward to represent Rex and Vicki Lewis, of 575 Valley View Drive, Cheyenne, WY 82009. Mr. Healey brought materials with photos, and handed them out to the Planning Commission members. Mr. Healey wanted to give more detail regarding the prior actions pertaining to Mountain View Loop. He stated the Laramie County Commissioners denied the Kyle Subdivision replat application in 2004, which was submitted by the previous property owner, Mr. Griffith, with the intent to vacate Mountain View Loop. The Carnahans purchased the property despite the vacation denial. Subsequent cases were made to the Laramie County District Court in 2007 and 2011, resulting in the denial to vacate, as Mountain View Loop was dedicated to the public, and State Statute required that other landowners rights/privileges within the subdivision could not be abridged or destroyed. Mr. Carnahan's appeal to the Wyoming Supreme Court in 2011 was unsuccessful, as the Supreme Court upheld the District Court's decision.

Mr. Healey explained that a lot of time and money had been involved by the Lewis' to protect Mountain View Loop, which had been a big consideration in purchasing the land in that area. Neither option presented today would meet the Lewis' needs, and it was not acceptable to replace a public road with an undeveloped access easement. The burden of developing the road was unfairly being placed on the Lewis', at whatever time they may choose to develop their property. Currently, the Lewis' have the right to use the road, and they have fought to protect that right. The objection to approval of this application was expressed.

Rex Lewis, of 575 Valley View Drive, Cheyenne, WY 82009, came forward to express the situation needed to be resolved, but this was not the solution. He stated that 10 years had been spent defending access to his property, and the approval of this application would put the burden of building the access road on him. He would be more agreeable if the Carnahan's were to build and maintain it. Mr. Lewis said he would like to find a more equitable solution, and he felt the County should be participating in the solution. He also expressed concern with the quality of the road meeting County standards.

Frank Falen, of Budd-Falen Law Offices, came forward on behalf of Mr. Carnahan. He noted that the alignment of the road shown in Option 1 was not the same as the route Mr. Griffith proposed years ago. Mr. Falen said he had met with Mr. Lewis and Mr. Lewis' selected road builder, Badger Excavation. Mr. Phelps, of Badger Excavation, provided an estimate of \$8,000 to \$10,000 to build the Option 1 road, but Mr. Falen stated that Mr. Lewis did not seem receptive to this bid. Mr. Falen added the work would improve the existing road, and add to the value of all the lots, but the Carnahans did not have funding for the longer route.

Commissioner Clark asked if the contractor would have to build the road to

standards? Mr. Kranse responded that the County would not require the road to be built to more than the current standard, but the road would need to provide for all-weather access and emergency services.

Commissioner Macy asked why this application was being submitted to change the right of way if the applicant could not afford to build either option. Mr. Falen responded the Carnahans had moved, as they could not afford to keep the house. They need to sell the property, but are unable to do so with the easement running through it. The applicant needs to have the County involved in moving the right of way. If the road were to be built now, the Carnahans would request Option 2, as it would require less funding.

Commissioner Clark asked if the proposed road would benefit the Carnahans. Mr. Falen responded that it would, but that it should also benefit Mr. Lewis more than anyone else. Commissioner Clark asked if it had been discussed to split the costs needed to complete the road? Mr. Falen said that meetings to finalize proposed agreements had been unsuccessful, although resolutions had been agreed to with Mr. Healey prior to the meetings. The issue remained to get an easement in place, and the County's help was needed. Commissioner Clark asked Mr. Healey if Mr. Lewis was asked if he was willing to pay half the costs to build the road? Mr. Healey responded that Mr. Lewis saw no benefit, and was being asked to help replace a road that doesn't need to be replaced. Mr. Healey added this litigation had been going on for a long time, and questioned why the Carnahans needed County help with the location of the easement. He expressed that the Carnahan's purchase contract had been contingent on the approval of the replat to vacate Mountain View Loop, and, although the contract had lapsed and the plat had been denied, the Carnahans chose to purchase the property.

David Dedo, the current lessee of 597 Valley View Drive, came forward to express his thought that Option 1 would be safer, but he didn't know the best solution based on cost. He stated he did not understand why one of the options wouldn't work, as the grade was not that bad. He felt that the issue should be resolved, as too much time had been spent in litigation, and then the Carnahans could sell the property.

Rex Lewis returned to the podium, and said it was possible he could agree with a reasonable solution. He suggested the two option routes should be staked so they were easier to see. If there was no money available and he was being asked for his help, he thought he should have some escrow money available to help cover the costs. Mr. Lewis expressed that he had trouble understanding where the roads were proposed to go, and had difficulty relating to the drawings presented by the applicant. Mr. Steil stated that once the road turned at the top of the 20 percent grade hill, it would be even with the adjacent ground at maybe a two foot grade. Commissioner Clark asked if Option 2 would require less work? Mr. Steil responded yes, Option 2 was less costly, but would be the less desirable route.

Commissioner Clark asked if the road had to be built to County standards. Mr. Kranse responded all weather access was required, and the standards utilized should be the same as those for existing roads out there. The road would not be county maintained, and would be a private road, but publicly dedicated. The new road would only need to be 2-track like the rest of the roads in that area, but would need to have all weather and emergency services access, and would be privately maintained.

Rex Lewis said that the right of way needed to be dedicated to the public. Mr. Kranse said the intent stated should be for an 80 foot right of way dedication, and the public access easement should be included as part of the motion. Mr. Steil stated that the dedication statement on the original plat for the 4th filing granted use to the public of the “ public access and utility easements”; it was not a dedication to the public. He explained a right of way dedicated to the public could be for any use; an easement was for a specific purpose. He clarified that all of Mountain View Loop was a public access easement, not a dedicated right of way. Mr. Kranse confirmed the clarification, and that identical language should be shown on the plat for the 5th filing, and stated that “to the public for all eternity” had been omitted on the submitted plat for this application.

Rex Lewis stated when he had asked to be dismissed from the law suit, the response he received referred to the Laramie County Commissioners’ statement, which had been provided to the Court, indicating the dedication of Mountain View Loop was the final plat and the recordation thereby created the public right of way.

John Steil said if the proposed road needs to be a right of way, then so does the section going thru Mr. Lewis’ property. Frank Falen stated that Mr. Carnahan accepts that this new road was going to be a public right of way, so was agreeable with the amendment. The purpose of the road relocation was to move it out of the area of the residence.

Commissioner Clark asked about the intent of the road on the recorded plat for the 4th filing. Mr. Kranse responded the road was intended as a public easement, whether it was dedicated as a public easement or a fee simple right of way, it served the same purpose in this case. The County would own the road, but would not maintain it. The County did not object to the new road, and it would serve the same purpose as now and be built to the same standards as the other road that currently existed. Commissioner Clark asked what about future use of the road for school buses, etc. Mr. Kranse responded there was a lot of development going on in the County, and there was no intention to require improvement of the minimal standard roadways. If a party chose to live on a 2-track road, that was their right and privilege, but there shouldn’t be any expectations for the County to maintain it.

Commissioner Clark closed the public hearing. Commissioner Cole stated that Option 1 did move the access road further from the house, but it was a more expensive option. Commissioner Cole motioned to approve the application with road Option 1 with the present landowner covering 75% of the build costs and Mr. Lewis covering the remaining 25%; Commissioner Macy seconded the motion, and it was passed with a vote of 3 – 0.

03 Review and action for the proposed adoption of the 2012 ICC Building Codes and the 2011 National Electrical Code.

Gary Kranse stated Laramie County proposed to adopt the 2012 International Building Codes and the 2011 National Electrical Code. Starting in 1997, the County has adopted the codes when they have been updated on three year cycles. The 2006 codes were adopted in 2008, when the Planning and Building office took over the Building permitting process for Laramie County. Laramie County was obligated to adopt these new code updates now to stay

in conformance with the State Fire Marshall's Office. The State of Wyoming allows local jurisdiction to make amendments to the codes. Mr. Kranse summarized what were the benefits of building codes.

He explained that the codes were not designed for builders, but for homebuyers' protection. The codes standardized practices and materials, which helped reduce costs for new designs, by bringing new products in at lower costs. Codes also helped to keep homeowners' insurance costs within reason.

Mr. Kranse reviewed the proposed new amendments to the codes – particularly for the International Building Code and the International Residential Code. The code called for automatic fire sprinklers for 1 & 2 single-family dwelling units, with the amendment to not require the fire sprinklers, but allow for a system to be installed voluntarily.

The new codes and amendments would take effect on January 2, 2013. An Open House was held the evening of Tuesday, November 27, 2012, to solicit feedback from the public regarding the proposed code adoption. The voluntary fire sprinkler issue was discussed at that time.

Mr. Kranse outlined the number and function of the Laramie County Building staff and introduced the new Chief Building Official, Dan Cooley. He explained that the Building Division was fully funded by permit fees, and there had been no increase in fees since the department was established in 2008. He displayed a table reflecting the total permits and valuations, upon which the fees were calculated, issued since the department had taken over in March 2008.

Commissioner Clark stated that two people she worked with had given good references regarding the quality of the building inspector personnel – even though they had failed an inspection, the building inspectors worked with them to resolve issues. Commissioner Cole thought there should be a longer period of time between code updates, such as 5 to 6 years.

Commissioner Clark opened the hearing to the public. Joe Patterson, of Joe Patterson Construction at 3420 Hales Ranch Road, Cheyenne, WY 82009, came forward to thank the Planning staff for reviewing and implementing the 2012 codes. He suggested that removal of Chapter 13 of the International Building Code and Chapter 11 of the International Residential Code should be supplemented by adoption of the 2009 International Energy Conservation Code. He expressed that Codes were not just for life safety, but for health safety, as well. If those chapters were removed, and not replaced with provisions for items such as values for insulation or hvac equipment, the codes would not provide for the reasonable expectations of comfort and quality. Mr. Patterson stated he would appreciate the consideration in the adoption of the 2009 International Energy Conservation Code, as it would provide more flexibility than the 2012 version.

Hearing no further public comment, Commissioner Clark closed the public hearing. Mr. Kranse stated he fully supported Mr. Patterson's comments, into which staff would check and provide results for the Laramie County Board of Commissioners public hearing on Tuesday, December 4, 2012.

Commissioner Cole motioned to recommend approval of the adoption of the 2012 International Building Codes and the 2011 National Electrical Code, as amended, and to include the adoption of the 2009 International Energy Conservation Code. Commissioner Macy seconded the motion, and it passed with a vote of 3 – 0.

The Planning Commission meeting was adjourned at 5:03 p.m.