

**TOWN OF SILT
MINUTES FOR
PLANNING & ZONING COMMISSION MEETING
TUESDAY, FEBRUARY 5, 2019, 6:30 P.M.**

Call to Order

Chair Classen called the meeting to order at 6:32 p.m.

Roll Call

Present: Chair Chris Classen
 Vice Chair Mark Rinehart
 Commissioner Eddie Aragon
 Commissioner Joelle Dorsey
 Commissioner Marcia Eastlund
 Alternate Commissioner Ann Marie Stein
 Alternate Commissioner Lindsey Siddener

Absent: None

Also present at the meeting was Community Development Director Janet Aluise, Building Inspector Mike Styk, Chief of Police Mike Kite (telephone) and Administrator Jeff Layman (portion).

Pledge of Allegiance

At 6:32 p.m., the Commission cited the Pledge of Allegiance.

Public Comments

There were no public comments.

Agenda Changes

There were no agenda changes.

Conflicts of Interest

There were no stated conflicts of interest.

Tab 2 - Consent Agenda

At 6:33 p.m., Commissioner Dorsey made a motion to approve the January 8, 2019 Planning & Zoning Commission meeting minutes, as written. Commissioner Eastlund seconded the motion and the motion carried unanimously.

Tab 3 – PAINTED PASTURES 2ND AMENDED AND RESTATED ANNEXATION AND DEVELOPMENT AGREEMENT (2ND ARADA)

At 6:34 p.m., Attorney Neil Goluba and Engineer Yancy Nichol introduced themselves to the Commission as representatives for Raley Ranch Project LLC, owners of the Painted Pastures Subdivision located on the east side of Town, north and adjacent to State Highway 6 (Main Street), containing 107 single-family lots and 46 multi-family lots, all zoned R-2, Medium Density Residential.

At 6:34 p.m., Director Aluisse reviewed the staff report regarding the applicant's request to amend the 1st ARADA in the following sections:

- 1) Section 4.03 – Colorado Department of Transportation Application and Compliance.
 - Statement that the applicant already applied for and received a CDOT Access Permit to construct acceleration lane on the north side of State Highway 6 (Main Street), and an eastbound turn lane into Overo Boulevard, in lieu of constructing a sixty-seven foot (67') diameter roundabout;
 - Deletion of language regarding acquisition and dedication of property owned by Edward Walter south of the proposed roundabout (Owner submitted deed indicating that the property is now owned by Raley Ranch Project LLC);
 - Inclusion of CDOT Access Permit No. 317004 and Notice to Proceed for proposed accel/decel lanes.
- 2) Section 5.03 – Change to Subdivision Improvement & Development Agreement (SIDA)
 - Section within the 2nd proposed ARADA that indicates that the applicant must contemporaneously match the SIDA to the 2nd ARADA regarding State Highway 6 Intersection Improvements (acceleration and turn lanes vs. roundabout).
- 3) Section 5.03 (C)(1)(b) Rights-of-Way and Other Public Improvements - Roads.
 - Amendment of Section to delete roundabout and replace with State Highway 6 Intersection Improvements.
- 4) Section 5.03 (C)(2) Trails.
 - Completion of trail proposed with the Highway 6 Intersection Improvements referenced in Section 5.03(C)(1)(b).
- 5) Section 5.03 (C)(8) Cost Recovery: State Highway 6
 - Removal of roundabout requirement and addition of State Highway 6 Intersection Improvements.
- 6) Section 6.01 (A) Vested Rights
 - Extension of vested rights to total of 15 years, instead of 12 years from approval of final plat.
- 7) Signature Line
 - Mayor Richel replacing Mayor Aluisse

Director Aluisse stated that Town staff does not object to the Applicant's request for an extension of vested rights for the subdivision (to 2023), as the economy did not recover fully for some time after the Great Recession. She stated that the Applicant does own property to the north of Painted Pastures that could develop residentially, but that the property is not annexed at this time. She also stated that the Access Control Plan (joint agreement between

CDOT and the Town in 2010 regarding existing and potential accesses to State Highway 6 and River Frontage Road) is supportive of a full-movement access, and although a roundabout is stated in the document, there is no binding requirement for a roundabout in the document, and therefore the Applicant has a right to request another access permit (as it did in 2017), requesting an acceleration lane and a turn lane, instead of a roundabout. Director Aluisse stated that the Town approved an entrance sign design in 2008 that might enhance the intersection and make the deletion of the roundabout more palatable.

She stated that the Planning and Zoning Commission should deliberate prior to making a recommendation to the Board of Trustees regarding the deletion of the roundabout and the addition of an eastbound turn lane into the subdivision, as well as a westbound acceleration lane out of the subdivision, with respect to the following points:

- The Planning & Zoning Commission should find that the addition of a westbound acceleration lane from the subdivision and an eastbound turn lane into the subdivision (both on State Highway 6) will adequately address the subdivision's traffic impacts and not impede existing traffic on State Highway 6, Grand Avenue, and 16th Street, in order to find that no roundabout is warranted;
- The Planning and Zoning Commission should make a determination that the addition of a westbound acceleration lane from the subdivision and an eastbound turn lane into the subdivision will be an aesthetically pleasing improvement, in order to find that no roundabout is warranted;
- The Planning & Zoning Commission shall review and recommend to the Board of Trustees approval, approval with conditions, or denial of the applicant's request to construct an acceleration lane and a turn lane on State Highway 6 for the Painted Pastures Subdivision, in lieu of constructing a roundabout.

At 6:51 p.m., the Commission discussed the following items:

- What is the roundabout cost in today's dollars? (Mr. Nichol responded \$1.1-1.2M versus \$700K for the acceleration and turn lanes.);
- Will the Colorado Department of Transportation decrease the speed limit at this spot? (Director Aluisse stated that CDOT has been unwilling to decrease the speed limit, and likely would not with just an acceleration lane and a turn lane, but likely would reduce for a roundabout.);
- Does the Applicant control the southern property and if so, what are the development plans? (Mr. Goluba stated that the Applicant indeed purchased the southern property, but has no plans to annex or develop the property at this time.);
- Did the neighbors to this subdivision, or the residents within the subdivision, receive public notice of this meeting? (Director Aluisse stated that there were no public notice requirements for this recommendation to the Board of Trustees.);
- When does the Applicant expect to build-out the subdivision? (Mr. Goluba stated that there are 26 homes under construction/finished at this time, and they have been building for over ten years; he expects ten homes to be built a year, in the future.);
- Why didn't CDOT coordinate with the Town to issue the Access Permit? (Director Aluisse stated that CDOT is not bound to coordinate with local jurisdictions.).

At 6:54 p.m., Mr. Neil Goluba and Mr. Yancy Nichol addressed the Commission and stated the following:

- The primary purpose for the Applicant's purchase of the southern property was to resolve the roundabout issue;
- Painted Pastures North might be a future impact on the intersection, but a traffic light could take care of the problem;
- The box culvert was needed for the acceleration/turn lane improvements, but would not be needed for the roundabout;
- There might be a need in the future to have an eastbound deceleration lane into the subdivision, but is not warranted at this time;
- The improvements proposed do not necessary trigger 16th Street improvements;
- The Applicant might be willing to put in an entrance sign, eventually;
- The irrigation line proposed to serve the roundabout landscaping is no longer proposed;
- The Applicant needs to complete the box culvert by April 1 and all road improvements by June 1, 2019;

At 7:20 p.m., Vice Chair Rinehart made a motion to recommend to the Board of Trustees approval of the Painted Pastures 2nd ARADA, as written. Commissioner Aragon seconded the motion, and the motion carried with Commissioner Dorsey and Chair Classen voting nay.

At 7:22 p.m., Commissioner Aragon made a motion to recommend to the Board of Trustees approval of the Painted Pastures 3rd SIDA Amendment, as written. Vice Chair Rinehart seconded the motion, and the motion carried with Commissioner Dorsey and Chair Classen voting nay.

Tab 4 – Appeal to Planning & Zoning Commission of Director's Ruling on Shed/Greenhouse at 1430 Em Avenue

At 7:29 p.m., Director Aluisse reviewed the staff memorandum, requesting that the Planning & Zoning Commission make a determination whether Director Aluisse applied correctly Section 17.73.020 regarding the definition of "enclosed locked space" with respect to marijuana cultivation on a residential property. She stated that the Applicants, Nicholas and Jason Irion, 1430 Em Avenue, have requested a building permit for a 544 square foot pole barn structure, that includes twelve posts/supports placed in sono-tubes (concrete) to frost depth, no floor to the structure, a four foot wood panel wall section from the ground vertically (to match house materials), the remainder (up to 8 vertical feet above four foot wood panel section) to be a semi-translucent material, and a completely transparent roof. She provided an Exhibit "A" regarding the semi-translucent material proposed and submitted by Applicant, for the Commission's consideration. Director Aluisse stated that staff (Administrator/Building Official Layman, Building Inspector Mike Styk, Police Chief Mike Kite, and Director Aluisse) all believed that the Applicant's submission constituted a greenhouse, which is specifically prohibited by Section 17.73.020. Chief Kite stated (by telephone) that Section 17.73.020 was clear that no greenhouses were allowed for marijuana cultivation, and that he recommended an eight (8) foot tall wood wall, with no more than four (4) feet of the semi-translucent material on the wall face. Building Inspector Mike Styk stated that the proposed building design satisfied the 'foundation' definition, even without a floor to the structure. Director Aluisse stated that the eight (8) foot wood wall section was appropriate, as most sheds have an eight (8) foot wall.

At 7:46, Mr. Nicholas Irion approached the Commission and stated that he felt that he met the definition of the code for 'enclosed locked space', with the fence he proposed within the structure (security), the HEPA system he proposed (odor), and the four (4) foot wood vertical wall section from natural grade (non-greenhouse attributes). He stated that he had removed the original fence structure that was on the property surrounding his cultivation in 2018, due to municipal court settlements and also due to cross-pollination of hemp cultivations, which damaged his 2018 crop. Next, Mr. Irion stated that the Town had no definition of 'greenhouse' in its code, and therefore could not enforce the code. Lastly, Mr. Irion stated that he could grow tomatoes in the structure with no problem, and that he needed this greenhouse in order to get the most amount of sunlight into the structure to feed his marijuana plants, without the need for artificial grow lamps that could cause glare for the neighborhood.

At 8:25 p.m., Director Aluisse stated that the common and ordinary definition of a greenhouse, as well as the professional interpretation by staff of the word 'greenhouse', is sufficient to believe that the Applicants are proposing a 'greenhouse', which is not allowable by code. She reiterated that the Planning & Zoning Commission could rule that she had not instituted the code correctly (that the proposed structure was not indeed a greenhouse); that there were modifications that could be made to the proposal to ameliorate the situation (6' high wood panel walls, 8' high wood panel walls); or a recommendation to the Board of Trustees for a definition of 'greenhouse' or some other modification to this section of code.

The Commission had discussion regarding the following:

- Staff is bound to uphold the code, and there is no other alternative;
- Commission does not find that staff misapplied the code;
- There might be some way to modify the design to make it look less like a greenhouse.

At 8:32 p.m., Vice Chair Rinehart made a motion that the Applicants have a six (6) foot vertical wood panel wall from grade, and no more than six (6) feet of semi-translucent material, with a chain link panel placed within the structure beneath grade to discourage varmints from entering structure. Commissioner Dorsey seconded the motion, and the motion failed with Chair Classen, Commissioner Eastlund, and Commissioner Aragon voting nay.

At 8:44 p.m., Chair Classen made a motion that the Applicants have an eight (8) foot vertical wood panel wall from grade, with no more than four (4) feet of semi-translucent material. The motion died for lack of a second.

At 8:55 p.m., Vice Chair Rinehart made a motion to table this agenda item to a future meeting. Commissioner Eastlund seconded the motion, and the motion carried unanimously.

Old Business

There was no old business.

New Business

There was no new business.

Other Business

There was no other business.

Future Business

There was no future business.

Commissioner and Staff Comments

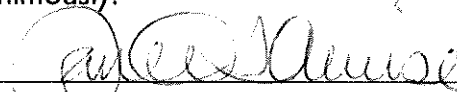
There were no Commissioner or staff comments.

Adjournment

At 9:02 p.m., Commissioner Eastlund made a motion to adjourn. Commissioner Dorsey seconded the motion, and the motion carried unanimously.



Chairman Chris Classen



Community Development Director Janet Aluise