

SILVERTHORNE TOWN COUNCIL
Meeting Minutes
Wednesday, April 27, 2011

CALL TO ORDER/ROLL CALL/APPROVAL OF AGENDA:

Those members present and answering Roll Call were Mayor Dave Koop, Council Members David Anderson, Darrick Wade, Vince Lanuza, David Preaus, Bruce Butler and Ann-Marie Sandquist. Staff members present were Town Manager Kevin Batchelder, Attorney Jerry Dahl, Chief Mark Hanschmidt, Administrative Services Director Donna Braun, Recreation Director Joanne Breigenzer, Public Works Director Bill Linfield, Community Development Director Mark Leidal, Planning Manager Michael Johnson, Assistant to the Town Manager Ryan Hyland and Town Clerk Michele Miller.

STAFF COMMENTS:

Breigenzer updated Council on the upcoming events at the Recreation Center. Chief Hanschmidt introduced new Police Officer Mark Edson to Council. Council welcomed Officer Mark Edson.

COUNCIL COMMENTS:

None.

CONSENT CALENDAR:

BUTLER MOVED TO APPROVE THE CONSENT CALENDAR INCLUDING THE MINUTES FROM APRIL 13, 2011, RESOLUTION 2011-04, A RESOLUTION AUTHORIZING THE PURCHASE OF A CATERPILLAR LOADER, COUNCIL COMMITTEE APPOINTMENTS, AND RECOMMENDATION OF CHANGES TO THE DRUG & ALCOHOL POLICIES. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL.

CITIZEN COMMENTS:

None.

PUBLIC PRESENTATIONS:

None.

LIQUOR BOARD:

None.

PUBLIC HEARINGS:

A. Ordinance 2011- 03, an Ordinance Amending the Town Parking Code, Second Reading

Town Attorney Jerry Dahl presented Ordinance 2001-3 for Council's consideration. He reviewed his staff memo dated 3-15-11 and recommended approval.

Public hearing opened, no comments, public hearing closed.

Sandquist thinks it is a housekeeping item and it makes sense.

Anderson feels there is a presumption of guilt on the vehicle owner and he cannot support this ordinance.

Lanuza feels this closes a loop hole in the Town Code.

SANDQUIST MOVED TO APPROVE ORDINANCE 2011-03 AN ORDINANCE AMENDING CHAPTER 2, ARTICLE VII, SECTION 2-7-8 OF THE SILVERTHORNE TOWN CODE CONCERNING PARKING REGULATIONS, ON SECOND READING AND FINAL READING. MOTION SECONDED. MOTION PASSED BY COUNCIL. (ANDERSON NAY)

B. Conditional Use Permit (CUP) – JH Mountain Services – 205 & 207 Warren Avenue, Lot 2-A, Block 2, Enterprise Park Subdivision

Lina Lesmes, Planner II, presented the project to Council. The applicant, Kamil Petrik, is requesting approval for a Conditional Use Permit for the use of Auto Storage in a C-2 Zone District. She reviewed her staff memo and recommended denial based on the findings that several criteria for approval of CUP were not being met. The Planning Commission recommended approval with nine conditions.

Wade asked if this project was classified as an accessory use for the property or a conditional use and would the review process be the same? Does an accessory use still require a CUP under the Code? The CUP seems to be more of a process than it would be as an accessory use. This use fits more in C-2 Zoning than it does in C-1 Zoning.

Leidal stated that there are differences in the use schedule between an accessory use, conditional and accessory, and a conditional use. An accessory use is incidental to the primary use and is a use by right. Conditional and accessory and conditional use requires a CUP process.

Kamil Petrik, JH Mountain Owner/Applicant. Last time he was before Council requesting a CUP he had requested an impound lot, this time it is for vehicle storage. If there was non-compliance on the lot in the past, he was not notified of it. He had conversations with the Code Enforcement Officer over the last three years. He is not going after State Patrol rotation or anything like that. He does not want to leave vehicles on the property any longer than necessary. He requested approval.

Council Questions.

Sandquist asked if the applicant if he is comfortable with the Planning Commission conditions of approval.

Petrik is willing to stripe the parking spaces. He is unsure of how effective bump stops would be when plowing snow in the lot. He will be installing an eight foot fence.

Butler stated there is responsibility when a CUP is granted by Council. With the position of the buildings, the site is reasonably screened except from the Federal Express site and that is not good. The fence has been damaged with snow stacking and storage. When CUP's are issued, conditions of approval need to be met for the five years. He asked if the applicant can meet the requirements of the fence and curb stops.

Petrik stated he can live with the conditions. He would like to have the site to look good. He plans on painting the building, doing some landscaping in the area and adding the eight foot fence.

Public hearing opened, no comments, public hearing closed.

Council comments:

Lanuzza stated he was on Council in 2007 when the first request was denied by Council and Planning Commission. He went back and compared the two submittals. There is no tenant on the site so there is an increase in parking capacity. There have not been any parking violations since 2007. The applicant meets the minimum parking spaces requirement. The fence will screen the lot, curb stops will be installed and proper striping. Cars in severe disrepair will be stored inside out of public view. The new fence will screen the lot. He does not feel the conditions will be a problem for the applicant. He is in favor of granting this CUP.

Wade stated C-2 Heavy Commercial zone District is the heaviest use district allowed by the Town Code. This is the perfect proposal for the site and the building layout. He doesn't feel there is a need for curb stops because they will cause problems for snow plowing. He requested an administrative review of accessory uses in a C-1 Zoning.

Butler agrees with Wade. He feels the site lends itself to this use. The fence is a great addition to the site. He would be flexible on requiring the curb stops; they will create snow removal issues on the site.

Sandquist stated she was on Planning Commission when this project was first heard. This project looks much better. She agrees with Lanuza's comments. She does not see a need for the curb stops.

Preaus feels this is a good use at this location. The curb stops are a hindrance to the owner. The money spent on the new fence should keep the owner from plowing into it.

Anderson agrees with the Planning Commission conditions of approval. He doesn't see the need for the curb stops.

Butler does not support requiring the curb stops.

Koop suggested condition number three stop after the word striped.

Council agreed with the suggested change to condition number three.

Koop stated he is glad to see the business still here. He agrees with previous Council comments. Council asked the applicant if he was comfortable with the conditions because they expect him to follow through all of them. The conditions seem to be best business practices for the applicant.

BUTLER MOVED TO APPROVE THE CONDITIONAL USE PERMIT FOR JH MOUNTAIN SERVICES TO ALLOW THE USE OF 'AUTO STORAGE' IN THE C-2 ZONE DISTRICT BASED ON THE PLANNING COMMISSION RECOMMENDED FINDINGS AND CONDITIONS:

FINDINGS:

1. THE APPLICATION MEETS ALL THE CRITERIA IN TOWN CODE SECTION 4-4-19 REGARDING CONDITIONAL USE PERMITS.

CONDITIONS:

1. THE CUP IS PERSONAL TO THE APPLICANT, KAMIL PETRIK OR JH MOUNTAIN SERVICES AND NONTRANSFERABLE. SHOULD THE APPLICANT'S OWNERSHIP, LEASE OR SUBLEASE TERMINATE OR BE TRANSFERRED DURING THE TERM OF THE CUP, THE CUP SHALL EXPIRE.

2. THE TERM OF THE CUP SHALL BE 2 YEARS, UNLESS SOONER TERMINATED OR REVOKED FOR FAILURE OF THE APPLICANT TO COMPLY WITH ANY OF THE CONDITIONS HEREOF, OR AS A RESULT OF ACTION BY THE TOWN TO ENFORCE THE CONDITIONS OF THE PERMIT OR REQUIREMENTS OF THE TOWN CODE.

3. ALL PARKING SPACES REQUIRED UNDER SECTION 4-6-10 THAT PROVIDE PARKING FOR CUSTOMERS, EMPLOYEES, AND COMPANY-OWNED VEHICLES SHALL BE STRIPED.

4. NO LOADING, UNLOADING OR TEMPORARY PARKING IN TOWN RIGHT-OF-WAY IS ALLOWED.

5. ALL AUTO STORAGE SHALL OCCUR WITHIN THE DESIGNATED VEHICLE STORAGE AREA, AS SHOWN ON THE APPROVED SITE PLAN. AUTO STORAGE IS NOT PERMITTED IN REQUIRED PARKING SPACES.

6. VEHICLES IN SEVERE DISREPAIR SHALL BE STORED INSIDE THE NORTH BUILDING, WHOSE ADDRESS IS 207 WARREN AVENUE, AND MAINTAINED FROM PUBLIC VIEW AT ALL TIMES.

7. AN 8-FOOT TALL, SOLID, CEDAR FENCE SHALL BE CONSTRUCTED IN THE LOCATIONS SHOWN ON THE APPROVED SITE PLAN. SUCH FENCING SHALL BE CONSTRUCTED ON OR BEFORE AUGUST 1, 2011.

8. THE GATES AT THE ACCESS POINTS FROM WARREN AVENUE AND BRIAN AVENUE SHALL REMAIN CLOSED DURING NON-BUSINESS HOURS. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL.

C. Minor Subdivision and Final Site Plan, Cabins at Angler Mountain Ranch Phase II, Tract 3C, The Cabins at Angler Mountain Ranch, Filing #2

Michael Johnson, Planning Manager, presented the project to Council. The applicant, Tim Crane, is requesting approval of a Minor Subdivision and Site Plan for seven Cabin units. Staff recommended approval.

Tim Crane, Owner/Compass Homes Development, presented the history of the current project and the need for the proposed changes.

Mary Hart, Land Planner, appreciates the new landscaping requirements and the flexibility it imposes.

Public hearing opened, no comments, public hearing closed.

Sandquist thinks the new landscaping requirements work for the site.

Preaus stated the proposal works well for the site.

Butler applauded the submittal with the landscaping changes. This is a good quality project and he supports the submittal.

LANUZA MOVED TO APPROVE THE MINOR SUBDIVISION AND FINAL SITE PLAN FOR THE CABINS AT ANGLER MOUNTAIN RANCH PHASE II. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL.

BOARD OF ADJUSTMENT:

None.

ACTION ITEMS:

A. Ordinance 2011-04, 2011 Budget Appropriations, First Reading

Finance Director Donna Braun presented the Ordinance 2011-4 for Council's consideration. She reviewed her staff report and recommended approval.

Anderson asked about the Joint Sewer Authority (JSA) and its structure.

Braun reviewed the JSA structure and the fees imposed based on each entities' usage. The Silverthorne Town Council is this approving agency for the JSA budget.

Council comments.

Lanuza stated this item has been reviewed by Council at worksessions.

Sandquist stated she supports getting employees back up to speed; she didn't want anyone to be disadvantaged. She is disappointed in the amount of money being spent on lawsuits.

Butler stated Braun has done an outstanding job in keeping the Town debt free over the years. He understands it is a fundamental disadvantage that back in 2009 only half the employees got raises. This gets everyone back on the same playing field. He hopes for better times in 2011. He will support this ordinance.

Lanuza stated he has so much confidence with what Braun does for the Town.

Anderson stated even though the Council is being asked to approve a possible deficit it is possible and probable that we will not end up in a deficit.

Preaus has confidence in Braun and he supports this ordinance.

SANDQUIST MOVED TO APPROVE ORDINANCE NO. 2011-04 ON FIRST READING, AN ORDINANCE AMENDING THE 2011 BUDGET AS PRESENT. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL.

B. Preliminary Site Plan – AutoZone, 120 West 6th Street, Lot 1, Summit Motor Sports Subdivision

Lina Lesmes, Planner II, presented the project to Council. The Applicant, Mike Houx, is requesting approval of a Preliminary Site Plan for a 6,800 square foot AutoZone store. She reviewed her staff report and requested approval with Planning Commission's six conditions of approval.

Mike Houx, BHH Partners, representing AutoZone and the owner George Lane, stated the applicant has no problems with the conditionals of approval. A Special Use Permit will be required by CDOT and they are working on that. The signage plan has been submitted to staff. A sidewalk connection will be studied, and the color scheme will be reviewed. They are meeting with referral agencies and addressing those issues. South side windows are no problem. They are waiting on Council comments to decide on the east elevation's windows. They feel with the canopy on that side, architectural interests and no entry located on that side, that windows are not needed.

Council questions.

Butler agrees with Planning Commission on Condition 5: windows are needed on the east side. Silverthorne is trying to come up with a core town and this is the first building that will start that vision. He doesn't want to trample on how the business functions or safety issues. The main avenue is on this side of the building and then you have to go around the building to get inside. Otherwise he likes the design of the building, but would like the east side to look like we are open for business.

Anderson would encourage some kind of window treatments on the east side.

Preaus asked about the percentage of coverage on the front side of the building.

Wade feels that the north elevation would have more exposure than the east elevation when driving by.

Sandquist agrees with the prior comments on the windows. This is a nice job with the parking.

Lanuzza agrees with Butler's comments. He likes that the applicant has addressed the conditions right away.

Koop stated for basic retail this is a good design. He agrees with other Council comments regarding the windows on the east.

Butler is willing to listen to arguments regarding the function and security of the business and the east windows.

SANDQUIST MOVED TO APPROVE THE AUTOZONE PRELIMINARY SITE PLAN WITH PLANNING COMMISSION RECOMMENDED CONDITIONS 1-6:

- 1. THAT THE LENGTH OF SOUTH BUILDING FAÇADE HAVE AT LEAST 50% TRANSPARENT MATERIALS, AS REQUIRED BY STANDARD 4.3.6 OF THE TOWN CORE DISTRICT DESIGN STANDARDS.**
- 2. THAT THE COLOR OF THE FLAT ROOF BE SPECIFIED, AND THAT IT BE A FLAT DARK COLOR. ALL RTUS SHALL BE PAINTED TO MATCH.**

3. **THAT A FINAL DRAINAGE REPORT BE SUBMITTED FOR REVIEW WITH THE FINAL SITE PLAN.**
 4. **THAT ALL OF THE CONCERNS OF THE REFERRAL AGENCIES BE ADDRESSED TO THEIR SATISFACTION.**
 5. **APPLICANT SHALL ADDRESS THE EAST ELEVATION, AND THAT WINDOWS BE ADDED TO MAKE THE ELEVATION MORE APPEALING.,**
 6. **THAT INFORMATION BE SUBMITTED REGARDING THE CIRCULATION OF DELIVERY TRUCKS, AND THAT NO TRUCKS BACK OUT ONTO 6TH STREET.**
- MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL.**

C. Preliminary PUD, The Reserve at Fox Crossing PUD – Southeast Corner of Bald Eagle Road and Highway 9

Lina Lesmes, Planner II, presented the project. The Applicant is requesting approval of a Preliminary Planned Unit Development. She reviewed her staff report, and the history of the project. She outlined the Planning Commission's recommended denial of the project.

Bobby Craig, Arapahoe Architects, representing the Applicant. He introduced Rodney Allen, Realtor and Mark Sandstrom, one of the three project partners. It has taken a long time to get to this point; it is either do or die with the project being commercial or residential. If we get denied as residential tonight, the partners have told him they are going to stop pursuing residential and leave it with the existing commercial PUD. They went before Planning Commission and the Commission thought the applicant was threatening to be a business like an Auto Zone. It was not a threat but an attempt to assess the risk of leaving it as commercial with the potential thirty two uses. If there is a For Sale sign on it and someone makes an offer they will sell it for commercial development. He is trying to get a consensus tonight by all the stake holders that residential is better for all involved. He hopes we can move forward with residential and not leave it as commercial. Density is a major issue for the developer. With a PUD, density can be set; this is a unique situation. Before the Planning Commission meeting, they were happy to see the staff report and the recommendation for denial. Also included in that packet, was an alternative motion for approval with conditions and the applicant agrees with most of them. They only had a problem with condition one; staff's recommended density. They feel the applicant should be able to present a different argument for density. He understands the process in Silverthorne but from their standpoint it is frustrating. They should be able to propose a density for the project. They propose six units per acre or twenty-four units for this parcel. They can still make money with that number of units. If they don't get that number they will leave it the way it is. This is reality. He reviewed density; this will be four units per building. This development could compliment the neighborhood. They can live with the other conditions of approval. They have not been avoiding the Eagles Nest HOA, they have called to attend their May meeting. If we can't get approval on a residential tonight, at least give them a direction in which to proceed, coming back to Council, or referring back to the Planning Commission. Don't kill this project tonight; that would be the wrong thing for everyone.

Mark Sandstrom, one of the three partners in the project, stated we can meet the conditions for approval outlined in the staff report. Planning Commission denied a project that does not exist anymore. The project has moved forward addressing the Planning Commission's conditions. They do have an issue with staff's recommended density. Residential is better for everyone on this site. They as investors, need a certain number of units to make a project viable. He showed a re-do of the project, since the Planning Commission denial. He needs guidance on the density of the project. Basically the original project does not exist anymore. He requested

a continuance on the deliberation of this project so he can schedule a meeting with the HOA and Town staff.

Koop asked for clarification on the process.

Dahl stated the applicant has submitted a plan and it is before Council for consideration tonight. The applicant could have withdrawn the application at any time. The review process is outlined by the Town Code. Until the applicant withdraws the project, Council must approve, deny, continue for two weeks or re-refer it to Planning Commission. Council must take one of those actions tonight if the project is not withdrawn by the applicant.

Rodney Allen, Realtor, they are certainly not requesting approval. They are requesting a continuance or a re-refer to the Planning Commission. They want a chance to present the revised project to Planning Commission. The revised project is in response to Planning Commission comments.

Craig stated they do understand the process but the applicant didn't want to lose the momentum of the project. They were given the options of denial or a density number recommended by staff. They want to propose different density. They requested a continuance or re-referral.

Koop asked staff if a continuance or re-referral happened, would it be on the original project.

Dahl stated yes, this is a process and it has to be followed, it cannot be adjusted to fit the applicant.

Anderson asked if the applicant withdraws the project would they would have to re-submit the application.

Dahl stated yes.

Sandquist asked if a re-referral to Planning Commission would be the amended application or the original project.

Staff stated it would be the original project.

Leidal suggested the applicant listen to public comments and Council comments and have the applicant decide at that time what to do.

Citizens Comments.

Ann Brewster, 120 Robin Drive, is concerned about the set back on adjoining properties. Are there any rules regarding setbacks and adjoining properties? There does not appear that much has changed on the project over the last four years. The landscaping between the properties is a concern. Density on the property is 2.1 not 6.1, that is triple the density for the area. A trail system does not need to be located on this property.

Darren Repkey, 124 Robin Drive, the staff report gives a lot of common sense feedback to the developer. There are issues regarding density, proximity to road, and noise abatement. His comments are directed to the current plan, the one that has been out since September of last year. Construction of a berm is a concern for the residents, there is not room with the wetlands. He has concerns with the ten foot setback from his property; that is too close. There is not adequate screening between the properties. The applicant does not seem to have done their homework on the project. The density is too high for the area. He would like to see the developer continue requesting input. He agrees with staff's comments.

Stuart Richardson 302 Red Hawk Circle, manager of the Eagles Nest HOA, admonished Town staff for not recognizing the Eagles Nest HOA as a referral agency. This project started in 2007 and now it is 2011. They are not opposed to residential on this property. The HOA has a right and responsibility to protect the residents of Eagles Nest by reviewing the project.

John Taylor 1718 Red Hawk, he used to be on the Eagles Nest HOA board. They have met with a lot of developers over the years. There are seven hundred homeowners and the HOA gets involved with the fallout after the developer leaves. They need to be able to give input.

He is not sure this site is right for residential or commercial. There is nothing that says we need to develop all property in the Town.

Council Comments.

Lanuza stated the developer usually meets with the surrounding Eagles Nest HOA's. They determine if the development is compatible with the area. This process was ignored.

Anderson stated he previously was an Eagles Nest HOA member. He commented at the worksession back in August 2010, that he would not support the eight four duplexes.

Wade asked who the partners are in this project. He worries about Craig coming to the Council with your dander up already. He is not interested in what Craig thinks about how Council makes decisions or the process. He is concerned about making this Town a better Town as opportunities come our way to make Silverthorne grow the way we want it to grow. It can be a mutual success for both parties. We need to talk about things cordially, make good decisions and move forward. He has a lot of confidence in staff, and their comments regarding the project are right in line with what they should be and provide good guidance. He asked Craig if he was familiar with the Town Mission statement and the Comprehensive Plan. How does the project's layout meet the goals and mission statement of the Town? The plan is forced and contrived, and is forced onto the site. There should be more continuity on the site, rhythm of uses along the highway. Do we have any opportunity to make circulation better? Who is the target market for the project? Every market needs more than a house; it needs to be a home. It takes homes to make our community into a Town. Are children going to be located on this site, will they be safe? Will there be storage on the site for homeowner's toys? These are important questions he wants answered. He wants to know how this project can make Silverthorne a great place to live and contribute to the community. Density is not the issue, taking care on the site plan is important. The layout of this site appears to be random. The proposal needs to compliment the surrounding areas. He supports this site being developed as residential. What does the community need in this area? He supports leaving the wetland as it is. He will support a motion to deny. This needs to go back to the drawing board.

Butler feels Wade made good points. The Town is sensitive to the time and money it takes to bring projects before Council. He feels residential use is best for this site. He is sensitive to the fact that a developer needs to get a certain amount of return on a project. The Eagles Nest Board is very involved and engaged and he encouraged the applicant to meet with them and include them in the process.

Sandquist agrees with Wade's thoughtful comments. The project looks like it was placed on the property to make it economically viable for the developer. She doesn't feel the applicant has listened to the public comments or the Council at the August work session. She would support denial if brought forward.

Preaus does not see any changes made to the current submittal by the applicant since the August work-session with Council. He felt like Council was clear in those comments. He wonders how we missed the mark on this project. He supports residential on the site.

Koop understands the owner desiring to make a profit. When residential is brought forward density is a question. He supports Wade's comments. Eagles Nest HOA needs to realize that it is zoned commercial and something commercial could be built there. Compromise needs to be made because sooner or later it will be developed.

Dahl stated the applicant needs make a decision at this time. Options for Council are; approve, continue the project, re-refer to Planning Commission or accept withdrawal.

Sandstrom requested changes in the procedure. The applicant should be able to look at preliminary review by staff so they could react to the comments and make changes.

Butler stated staff is accessible to the applicant at any time in person, by phone or e-mail. You don't have to wait until a memo comes out. There should be open dialog with staff at all times during the progress of a project.

Anderson asked the applicant what do you want to do at this time regarding the project, have Council vote or withdraw the project.

Council granted a short recess for the applicant to discuss their options.

Craig stated if their only choices are a Council vote or withdrawal, they will withdraw. He appreciates the comments and they have everyone's opinions. They will meet with the HOA and come back with a project that can be approved. They will withdraw the project at this time.

DISCUSSION ITEMS:

Butler expressed his concerns about the old grade school site and damage being done to it by vehicles driving on it.

SANDQUIST MOVED TO GO INTO EXECUTIVE SESSION AT 8:35 P.M. UNDER CRS 24-6-402(4)(B) FOR A CONFERENCE WITH THE TOWN ATTORNEY, TOWN MANAGER AND APPROPRIATE STAFF FOR THE PURPOSE OF RECEIVING LEGAL ADVICE CONCERNING REIDY V. SILVERTHORNE

SHE FURTHER MOVED TO ADJOURN THE COUNCIL MEETING AT THE CONCLUSION OF THE EXECUTIVE SESSION. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL.

EXECUTIVE SESSION:

Executive session under CRS 24-6-402(4)(b) for a conference with the Town Attorney, Town Manager and appropriate staff for the purpose of receiving legal advice concerning Reidy v. Silverthorne

INFORMATIONAL:

- A. SPORT Committee Meeting Minutes – March 17, 2011
- B. Planning Commission Meeting Minutes – April 19, 2011
- C. February 2011 Sales Tax Report

EXECUTIVE SESSION. AND THE MEETING ADJOURNED AT 9:16 P.M. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL.

DAVE KOOP, MAYOR

ATTEST

MICHELE MILLER, TOWN CLERK

Town of Silverthorne Town Council Meeting Minutes

These minutes are only a summary of the proceedings of the meeting. They are not intended to be comprehensive or to include each statement, person speaking or to portray with complete accuracy. The most accurate record of the meeting is the videotape of the meeting, maintained in the office of the Town Clerk.