

SILVERTHORNE TOWN COUNCIL
Meeting Minutes
Wednesday, August 24, 2011

CALL TO ORDER/ROLL CALL/APPROVAL OF AGENDA:

Those members present and answering Roll Call were Mayor Dave Koop, Council Members David Anderson, Vince Lanuza, David Preaus, Bruce Butler, Stuart Richardson 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 US Pro Challenge passing through Silverthorne August 27th. The Fall Pastimes brochure is out and registration continues for classes.

COUNCIL COMMENTS:

CONSENT CALENDAR:

BUTLER MOVED TO APPROVE THE CONSENT CALENDAR INCLUDING THE MEETING MINUTES FROM AUGUST 10, 2011, REPLAT – ANGLER MOUNTAIN RANCH LAKESIDE TOWN HOMES FILING 2, SECOND AMENDMENT, REPLAT – HIDEAWAY TOWN HOMES SUBDIVISION, SECOND AMENDMENT, AND REPLAT – HIDEAWAY TOWN HOMES SUBDIVISION, SECOND FILING, FIRST AMENDMENT. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL.

CITIZEN COMMENTS:

None.

PUBLIC PRESENTATIONS:

High Country Conservation Center Solar Garden – Lynne Greene
Updated the Council on the Solar Garden opportunities in Summit County. She requested support in their effort.

LIQUOR BOARD:

None

PUBLIC HEARINGS:

Ordinance 2011-05, an Ordinance Approving the Conveyance of Real Property and the Purchase of Real Property within the Newly Platted Cottonwood Subdivision, Second Reading

Utility Manager Zach Margolis presented Ordinance 2011-5 on second reading for Council's consideration and requested approval.

RICHARDSON MOVED TO APPROVE ORDINANCE 2011-5 AN ORDINANCE APPROVING THE CONVEYANCE OF REAL PROPERTY AND THE PURCHASE OF REAL PROPERTY WITHIN THE NEWLY PLATTED COTTONWOOD SUBDIVISION ON SECOND AND FINAL READING. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL.

BOARD OF ADJUSTMENT:

None/

ACTION ITEMS:

Preliminary Site Plan and Preliminary Disturbance Permit – Silver Trout Estates, Lot 5, Ponds at Blue River Subdivision

Michael Johnson, Planning Manager, presented the project. The applicant, Scott Russell, Silver Trout Estates, LLC, is requesting approval of a Preliminary Site Plan and Preliminary Disturbance Permit application. Johnson reviewed his staff memo and the history of the project. The Planning Commission recommended denial with five findings. Staff has provided an alternative motion for approval.

Council questions.

Butler asked what tangible factors staff uses to determine the negative impact to neighboring properties.

Johnson stated in this instance staff looked at the flood plain.

Butler asked for a summary of permits required to build on the site.

Johnson reviewed the permits required on the site.

Butler asked about the Army Corps permit and the request to review the current permit.

Johnson reviewed the need to update the 404 Permit from the Army Corps because of the proposed changes to the site.

Lanuza asked about the one to six foot fill on the development site, did FEMA or the Army corps give an opinion that this fill would not affect neighboring properties.

Johnson reviewed the parameters that would be reviewed by FEMA.

Richardson asked about the density history for the area.

Johnson reviewed the density history for the property.

Lanuza stated that at the Planning Commission meeting they recommended denial with two extra findings listed in the denial. How does staff feel about the additional findings of denial?

Johnson stated that staff does not disagree with the two extra policies imposed by Planning Commission. Staff chose the three policies that they thought were strongest.

Applicant.

Bill Falcone, Attorney, introduced the Silver Trout team presenting information tonight.

Shervin Rashidi, Silver Trout Estates, LLC, reviewed his history in Summit County and the property history. Utilities for Angler Mtn. Ranch run through his property. He outlined the Silver Trout Team presenting tonight. He reviewed the location of the proposed site in Silverthorne, site plan, and economic benefits to the Town & community. He outlined the environmental rules and regulations used for the site. Silver Trout reduced the density on the site. There is public access and open space proposed. This site was a gravel pit and they hope to restore it. He presented pictures of the proposed homes and the architecture.

Scott Russell, Silver Trout Estates, LLC. This Site Plan was submitted and approved as a Sketch Plan in 2008; little has changed since that preliminary submittal and approval. He reviewed the two changes made since the 2008 submittal.

David Johnson, Western Ecologist Resources, does a lot of wetland work in Summit County. Three things needed for wetlands: vegetation, soil, and hydrology. Wetland delineations only last for five years and the last one was done in 2006. There will be some changes to the wetland delineation with the next submittal. He passed maps out of the site. The trees on the land have been inventoried, and he reviewed the numbers. He reviewed the wetland impact and acreage on the site. In the mitigation plan, the site will be seeded with native plants and trees to create high quality wetlands. Quality of the wetlands will be greatly improved with these changes.

Leslie Hope, Hydra Engineering, reviewed her credentials. She addressed the CLOMR process. She reviewed the differences between flood plain and flood way. There are no increases to the flood plain with this project. She reviewed the LOMR process and FEMA's review of such. FEMA provides the computer program that designates the flood plain limits, base flood elevations, velocity that there are no increases to the flood way and less than a foot in the flood plain. She stated that this project does not increase the flood way or the flood plain.

Greg Shaner, Civil Engineer: Complimented amount of collaboration between staff and the developer. The roadway design follows the utilities and the flood plain elevation. He reviewed the need for fill on the project, and the location of the detention ponds to improve water quality on the site. The project has been designed to Town standards.

Jerry Powell, Wildlife Specialist, reviewed his credentials. FEMA requires that there is no impact to any species. There has been a letter submitted to the Fish and Wildlife Service that there is no impact to this area by this project, and they concurred. This is not an important wildlife habitat. It is not mapped as wildlife habitat by the Colorado Division of Wildlife. This area has been negatively impacted by surrounding development, roads, humans, pets, and beetle kill.

Marc Hogan, BHH Architect: One of the issues brought forward is if this development reduces the neighborhood quality. The development is clustered and has adequate buffers to the west, east and north. They will increase the quality of the neighborhood. They will be revegetating the area. The parking requirements exceed what the Town requires. Foundation walls will be constructed to act as retaining walls. He reviewed the type of units proposed and their natural features. Eagles Nest HOA has reviewed the project and they will go back for final review. He feels the buildings fit the area well.

Kurt Sanders, Project Attorney, reviewed the previous presentations. He reviewed the property's land use history, restrictions on the property and things that have been asked for by the Town and given to the Town. He reviewed the history of the property, rezoning, concessions made to the Town, and changes in Town Code requirements. What does a Preliminary Site Plan and Preliminary Disturbance Permit mean? He read from the Town Code. He reviewed the Criteria for approval. Concerns addressed tonight were; flood plain, landscaping requirements, architecture, geological concerns, wildlife, water runoff and sanitation. The 2008 Comprehensive Plan general land use plans has not changed for the area. The Disturbance Permit Application has been cleared up by the experts and issues clarified on some of the concerns expressed by citizens. Mitigation is occurring entirely on site. Construction of the townhomes will be constructed outside the twenty-five foot wetland barrier. No variances are being requested. This is a challenging site but not undevelopable. The neighbors may view this as open space but it has always been contemplated for development since 1982. He requested Council consider the experts presented tonight. He thanked Council. He requested approval with staff's conditions. He requested all the maps and handouts presented tonight be entered into the record.

Council questions:

Lanuzza asked about FEMA and the LOMR stating that there would be no disturbance to surrounding properties. There are concerns by neighbors that filling the property with six feet of fill will impact will their properties. The applicant did a great job of presenting the project and speaking to wetland mitigation, snow stacking, and removal of big trees, but there is ongoing concern.

Hope clarified the fill is not all for mitigation of the flood plain. The fill is needed to raise the residences one to one and a half feet. The six feet of fill mentioned is needed to have a gravity sewer service. They are not increasing the water surface elevations. The fill will be in the flood fringe, not the flood way, which is why it will not impact adjacent property owners.

Preaus asked if there will be continued monitoring of the upstream or downstream flows.

Hope stated FEMA continues monitoring after the project is completed because the Town is in the flood insurance program.

Sandquist asked who does the As-Built Survey.

Hope stated it is provided by the consultant that is submitting the conditional map revision.

Sandquist asked about ramifications for the firm doing the As Built Survey.

Hope stated they must be a licensed surveyor to do a topographic survey. They are responsible for an accurate survey.

Butler asked for more info on the sewer utility, shallow bury, CLOMR, and deeper fill on the south end of the site.

Shaner reviewed road construction and elevation needed, sewer utility coverage, minimum grade, connectivity to Angler Mountain Ranch and the amount of filled needed.

Sanders stated the sewer utility is providing service to Angler Mountain Ranch and that drives the amount of fill.

Koop asked about 3730 CFS talked about by Hope.

Hope stated the 3730 CFS was established by FEMA when looking at the water release from the Dillon Dam and hydrology in the area.

Anderson asked Shaner about the amount of fill noted in a memo earlier, is that correct?

Shaner stated the project will need approximately 36,600 yards of fill.

Anderson asked if that amount of fill is obtainable.

Shaner stated yes.

Lanzua asked Marc Hogan for clarification on the approval by Eagles Nest Architectural Review Committee, it was approved on the conceptual level only?

Hogan agreed: they have only received conceptual approval by the Architectural Review Committee.

Pinky Faux, Eagles Nest HOA, Design Review Board Chair, there are three different levels of approval: conceptual, preliminary, and final. Their board approved the conceptual form i.e. the type of buildings, and where they are located. This board has nothing to do with the site plan or wetlands approval. They expressed concerns that this project looks a lot like Fox Crossing and Angler Mountain Ranch.

Sandquist asked Faux what this group looks for initially in the project.

Fox stated they review density, materials, colors, and similar look of surrounding developments.

Bulter asked if any other HOA's do a review.

Faux stated projects all start with the Design Review Board for Eagles Nest.

Preaus asked about wetland mitigation on the site. If you were to increase the wetland mitigation how much area is there on site to do so?

Johnson stated the Army Corps recommends mitigation of one to one, not two to one. Water augmentation issues are created with more wetlands. There is two to one with habitat. There is very little soil currently on site.

Anderson asked how long does it take to seed and plantings to reach maturity.

Johnson stated there are criteria to determine the success of the wetland plan. There is documentation on the progress over three years and that is reported to the Army Corps and the Town. The length of re-vegetation depends on the development. Neighboring Spraddle Creek will take approximately four years.

Butler asked if there have there been any conversations with other HOA's.

Rashidi reviewed the number of HOA's he has contacted.

Sanders stated there have been Community meetings this year and they invited all the neighbors at that time.

Richardson asked about fiscal recourse to finish the project.

Rashidi said their financing is through US Bank. With the collapse of the economy in 2008 they put the project on hold.

Richardson asked the applicant if they would agree to bonding for completion.

Russell stated they would agree to anything Angler Mountain has agreed to as far as bonding. All of us have the same concern.

Preaus asked the applicant about staff's alternative motion for approval; do any of the conditions stand out as unattainable?

Russell stated they have reviewed all the conditions with staff.

Sandquist asked are any of the conditions that will be a problem.

Russell stated there are none of the conditions that they cannot achieve.

Lanuzza asked the applicant why they have not met with the HOA's for Angler Mountain Ranch, Ponds or Eagles Nest.

Rashidi stated they have tried to meet with Stinky, but they did meet two years ago. Angler Mountain Ranch had the wrong contact people.

Lanuzza asked about Eagles Nest HOA.

Rashidi stated he only had so much time.

Public Comments:

Bill VanDornick, South Forty, feels it is hard to reconcile FEMA flood way definition and not building on that. There is running water on the site. How can this not be defined as a flood way? He wants to hear more from FEMA on that issue. Even without this development, South Forty had some near flooding issues this year. The dike was breeched downstream. Feels the channel is going to be narrowed and the water will rise and run faster. He has great concern, about flooding.

Robert Frederickson, South Forty. He owns the first house north of this proposed subdivision. His property is in the 100 year flood plain. During this high flood season, much of this proposed development area was flooded. He is not opposed to the development but he is very concerned about increase flooding for his property.

Jim Harrington, Angler Mtn. Ranch, presented photos of the property in June and July of water flowing in the access point. He enjoys the generalist type of animals passing through this property. This project is too dense. A lot of fill will be trucked through the Ponds. Planning Commission and staff have done a good job reviewing the project. He is worried about the developer not completing the project. He requested Council deny the application.

Joel High, Angler Mountain Ranch, submitted a letter to staff listing their concerns and asked for it to be included in the packet. He feels there is missing information or an incomplete application. He feels there are still some issues with the DPA. The 2008 information should be updated. There are issues with excessive water on the site, and it is not being looked at seriously. He has concerns about the grading, fill, and the disturbance area. The retaining wall being proposed is four or five feet tall with a house built on top of fill. He addressed the location of the proposed road. He requested denial.

Don Kennon, Angler Mountain Ranch, asked why a sewer lift station is not proposed. Dumpster and mailboxes locations should be addressed in a new development. He is concerned that the surrounding developments maintain their value.

David Fagen, Angler Mountain Ranch, is a fly fisherman and maintaining the quality of the Blue River is his major concern. Maintaining the quality of the water in the pond is a concern.

Elliot Robertson, South Forty, would like to see the developer succeed. The amount of water on the site is a concern. We have been told that there is no water on site, but there is and moving it will be an issue. Animals migrate through this area. Urged Council to use facts of the site and not rely on what you have been told by the experts. He agreed with the Planning Commission's findings and recommendation of denial.

Mike Lakritz, President South Forty HOA, not anti development but the area has water issues. They have had discussions with the developer. The studies are false if they say there will not be impact to their properties. He reviewed Army Corps letters to the developer regarding South Forty. This proposed development is in a sensitive area with many issues. South Forty wants to protect their wetlands and avoid flooding. He requested denial.

John Taylor, 1712 Redhawk Road, stated he met with Shervin a couple of weeks ago. Design review for the HOA is reviewing structure. There are community issues to be considered, sidewalks, common area, playgrounds, and trails. He encouraged attention to the wetlands improvements.

Brian Wray, Hummingbird Circle, Planning Commission member, stated this is an improved presentation from Planning Commission.

Preaus asked the developer if the access to the Blue River and pond will remain private.

Christy High, 320 Bald Eagle Road, addressed concerns about the neighbors using of the area, for walking the dogs and snowshoeing. Their concerns about the development far exceed the causal usage of the land by neighbors. She is concerned about looking out her windows and looking at walls and density.

Hope addressed public comments regarding the flood way, flood fringe and flood plain. She acknowledged the water on the property. She addressed the need for fill and the increase in the water flow. FEMA has addressed not increasing the water downstream.

Lanuza asked about the letter from FEMA addressing the re-issuing of the LOMR.

Hope stated by FEMA approving the CLOMR they are saying the development is meeting the requirements of the National Flood Insurance Program.

Koop stated he lives in a world where $q = v \cdot a$, and if you keep the flow the same and lessen the area, the velocity will rise. There will be a change to the water in the area, cause and effect.

Hope reviewed the numbers from FEMA.

Anderson asked about water standing on the site. Is it flowing, standing, or pooling? Does it create a pinch point?

Hope reviewed the flood way and the flood fringe.

D. Johnson stated this is not high quality wetlands. The disturbance would be buffered and the impact small.

Shaner stated there is a component on site because of the sewer line. He reviewed the updated DPA.

Butler asked if the fill is needed for the flood plain or the utilities. Are units 30 and 31 partially driving the need fill on that end?

Shaner stated the fill is going in for the sewer line. There is only one and a half feet of fill.

Russell stated they don't need the sewer main from Angler Mountain Ranch, but they are tying into it, they could tie into the sewer line by connecting to a man hole.

Butler asked if the proposed development is going to tie into the existing line from Angler?

Sanders addressed the fill needed for the sewer connection.

Hogan stated the elevations presented in the packet are what the view will be from Angler Mtn. Ranch. He showed a diagram. The footing is built on the natural grade. The building's wall will be used as a retaining wall.

Rashidi reassured Council the site is not going to be clear cut. They tried to save trees on the site.

Council comments.

Lanuza declared to Council that he has been the President of the Eagles Nest HOA but has excluded himself from discussion or review of this project. He asked Council if they see a conflict.

Anderson declared he was vice president of HOA and had excused himself from HOA discussion or review of this project

Council saw no conflict of interest as outlined by the Town Code.

Sandquist stated she has mixed feeling on the project. This is a difficult site to develop. She appreciates the applicant's experts attending tonight to give the detail needed. She is disappointed the applicant has not met with the surrounding HOA. She would have liked to see the FEMA approvals before this meeting. She is on the fence regarding this project. She wants to be reassured that the surrounding neighborhoods won't be impacted by this development.

Preaus stated this is not an easy process. There are still a lot of issues that need to be addressed. There are thirty two conditions from staff for approval. He understands that this is a preliminary approval but there are issues that still need to be addressed before Final. Discussions with the surrounding HOA's are necessary. He will support preliminary approval. Protection of surrounding areas is important with this application.

Butler stated the last consideration of this project was done under different rules; a lot of work has been done since then. This was a good presentation tonight. The architecture is fine, and density is ok. He is concerned about Lots 30 & 31 and the lay out. He would approve the preliminary plan with the staff listed conditions. He is concerned about the disturbance permit application. He is also concerned about the overall viability of the project.

Anderson thanked the applicant and the neighbors for their comments. There are complex issues faced by this project. He understands that this land was bought years ago with the intent to develop it. He can support staff's recommendation for approval tonight. The project needs a lot of work before Final Review.

Lanuzza has walked the site and is concerned about the water on site. He has concerns about the project. He can live with staff's recommended conditions of approval. He worries about the total economics for the development. Wetland mitigation completion is a concern. Completion of the project by the Developer is a concern. He has mixed feeling on this project. He requested the applicant meet with the HOAs. He will support approval tonight but he has many concerns before Final approval.

Richardson feels this is a good design. The revised CLOMR and LOMR should re-assure the Town. He has a problem with financing and viability of the project. He wants assurances that the project will be completed.

Koop stated infill on a project is always difficult. He doesn't have problems with the density proposed. He gives the applicant credit for the work that has gone into the presentation tonight. He gives the applicant credit for providing the community meetings, whether the public shows up is another matter. The review process was shortened by request of the development community. During the Preliminary approval you need to listen to the comments and make changes before you come back for Final Review. Community means connectivity with the neighbors. He supports the project as it stands but there a lot of work to be done before Final Review.

Preaus requested access to the Blue River and pond be addressed.

Dahl reviewed conditions that cannot be added, such as financial guarantees for completion of the project.

RICHARDSON MOVED TO APPROVE THE SILVER TROUT ESTATES PRELIMINARY SITE PLAN AND PRELIMINARY DISTURBANCE PERMIT APPLICATION WITH THE STAFF RECOMMENDED CONDITIONS:

- 1. THE APPLICANT SHALL ADDRESS ALL TWENTY (23) COMMENTS ENUMERATED IN THE ENGINEERING MEMORANDUM DATED JULY 8, 2011.**
- 2. THE APPLICANT SHALL ADDRESS ALL COMMENTS MADE IN THE UTILITY DEPARTMENT MEMO DATED JULY 13, 2011 AND SPORT COMMITTEE COMMENTS DATED JUNE 6, 2011.**
- 3. THE APPLICANT SHALL INCLUDE AN EXECUTED AND RECORDED EASEMENT**

AGREEMENT PERMITTING THE CUL-DE-SAC ON ANGLER MOUNTAIN RANCH PROPERTY, AS A PRE-CONDITION OF A FINAL SITE PLAN SUBMITTAL.

4. A MINOR SUBDIVISION SHALL BE SUBMITTED AND APPROVED CONCURRENTLY WITH A FINAL SITE PLAN.

5. THE APPLICANT SHALL OBTAIN AN ARMY CORPS OF ENGINEERS PERMIT FOR THE PROPOSED WETLAND IMPACTS AS A CONDITION OF A FINAL SITE PLAN SUBMITTAL.

6. THE APPLICANT SHALL UPDATE THE WETLAND DELINEATION IN THE DPA PRIOR TO FINAL SUBMITTAL.

7. THE APPLICANT SHALL REMOVE ANY WETLAND MITIGATION EFFORTS FROM TOWN OF SILVERTHORNE PROPERTY.

8. THE APPLICANT SHALL SUBMIT A DRAFT OF THE DECLARATIONS AND COVENANTS WHICH INCORPORATE THE RECOMMENDATIONS OF THE WILDLIFE ASSESSMENT, AS A CONDITION OF A FINAL SITE PLAN SUBMITTAL.

9. THE APPLICANT SHALL OBTAIN APPROVAL OF THE CONDITIONAL LETTER OF MAP REVISION (CLOMR) FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY AS A CONDITION OF A FINAL SITE PLAN SUBMITTAL.

MOTION SECONDED. MOTION PASSED 5-1 (BULTER NAY)

DISCUSSION ITEMS:

None.

BUTLER MOVED TO CALL A SPECIAL MEETING OF THE TOWN COUNCIL FOR TUESDAY, SEPTEMBER 6, 2011 AT 6 P.M. FOR THE PURPOSE OF CONDUCTING AN EXECUTIVE SESSION FOR THE ANNUAL PERFORMANCE REVIEW OF THE TOWN MANAGER. MOTION SECONDED. MOTION PASSES UNANIMOUSLY.

EXECUTIVE SESSION:

Town Manager's Performance Review: Rescheduled to September 6.

INFORMATIONAL:

- A. **Planning Commission Meeting Minutes – August 16, 2011**
- B. **June 2011 Sales Tax Report**

BUTLER MOVED TO ADJOURN. MOTION SECONDED. MOTION ADOPTED UNANIMOUSLY. MEETING ADJOURNED AT 10:12 P.M.

DAVE KOOP, MAYOR

ATTEST

MICHELE MILLER, TOWN CLERK

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.

