

SILVERTHORNE TOWN COUNCIL
Meeting Minutes
Wednesday, August 12, 2015

CALL TO ORDER/ROLL CALL/APPROVAL OF AGENDA:

Those members present and answering Roll Call were Mayor Bruce Butler, Council Members Derrick Fowler, Peggy Long, Russ Camp, Stuart Richardson, and JoAnne Nadalin Ann-Marie Sandquist absent. Staff members present were, Town Manager Ryan Hyland, Chief Mark Hanschmidt, Facility Manager Steve Herman, Public Works Director Bill Linfield, Assistant Town Manager Mark Leidal, Senior Planner Lina Lesmes, Operations Superintendent Mike Bittner, Town Engineer Dan Gietzen, Utilities Manager Zach Margolis, Town Attorney Matt Mire and Town Clerk Michele Miller.

The Pledge of Allegiance was recited by those present.

STAFF COMMENTS:

Herman updated Council on the upcoming Recreation Center closure and scheduled improvements to the facility during that time.

Margolis reviewed the Rainbow Drive JSA East Bank Interceptor replacement project and its impacts to Town.

Hanschmidt updated Council on the Pro Cycling Tour on August 18, 2015.

COUNCIL COMMENTS:

A. Seth Lyons, EDAC Member, Recognition

B. Mike Bittner, JSA Operations Superintendent, Retirement Recognition

Mayor Butler and Council thanked Lyons for volunteering his time on the EDAC committee. Mayor Butler presented Lyons a plaque for his years of service.

Mayor Butler and Council recognized Mike Bittner for his twenty-three years of employment and contribution to the Joint Sewer Authority with a plaque. Under his guidance, the JSA has received several national recognitions and maintained the plant according the EPA standards. Staff tried to put a dollar amount to what Bittner has saved the Town over the years; they came up with a dollar amount a little over \$5 million. He kept his eye out for grants available to assist the plant in general maintenance as well as State mandated improvements. Under his guidance the JSA has been an absolutely outstanding plant.

CITIZEN COMMENTS:

Frank Gutman, John Taylor, and George Resseguie, Friends of the Eagles Nest Wilderness, presented Council with a framed poster commemorating their 20 year anniversary and also in appreciation for the Town's generous support over the years.

CONSENT CALENDAR:

RICHARDSON MOVED TO APPROVE THE CONSENT CALENDAR INCLUDING THE MINUTES FROM JULY 22, 2015. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL. (SANDQUIST ABSENT)

LIQUOR BOARD:

A. Chipotle Mexican Grill – Renewal of H & R Liquor License

CAMP MOVED TO APPROVE CHIPOTLE MEXICAN GRILL’S RENEWAL OF HOTEL & RESTAURANT LIQUOR LICENSE. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL PRESENT. (SANDQUIST ABSENT)

PUBLIC HEARING

B. Sauce on the Blue, LLC dba Sauce on the Blue – Application for new H & R Liquor License, Silverthorne Town Center

Public Hearing opened.

Mire informed Council that the Preliminary Findings were summarized in the Town Clerk’s memo to Council. Notice of the hearing has been properly posted, there has been no previous application denied to the applicant, needs and desires of the neighborhood has been established with a survey, the Police Department has conducted background checks and has no objection to the issuance of the liquor license.

Shervin Rashidi, applicant, reviewed his ownership in the three other of liquor licenses noted in his application.

Mire stated the applicant has provided proof of the need for the liquor license on this premise and that he is qualified to hold the license.

Long asked if residents of the Town Center signed the petition.

Rashidi stated yes, he collected signatures in the coffee shop at the Town Center; he reviewed his plans for Sauce on the Blue. They are very excited about the new establishment.

Richardson stated this unit was always supposed to be a restaurant, glad to see the space filled

Public hearing closed.

NADALIN MOVED TO APPROVE SAUCE ON THE BLUE, LLC DBA SAUCE ON THE BLUE’S NEW APPLICATION FOR A HOTEL & RESTAURANT LIQUOR LICENSE. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL PRESENT. (SANDQUIST ABSENT)

PUBLIC HEARINGS:

None.

ACTION ITEMS:

A. Preliminary Planned Unit Development (PUD) – Foxfield Townhomes, S.E. Corner of HWY 9 and Bald Eagle Rd., Unplatted parcel – SW ¼, S35 T4S, R78W and Lot 4, Ponds at Blue River

Lina Lesmes, Senior Planner, presented the applicant’s request for a Preliminary PUD to create one Planning Area, which would allow up to 25 residential dwelling units. The PUD Guide lists standards for uses, density, setbacks, lot coverage, height and parking. She reviewed the Foxfield Townhomes PUD submittal history for the 4.19 acres. There is no underlying density for this property; the PUD creates new density for it. She reviewed how the Town Code guides staff on calculating density. She reviewed her staff report and recommended denial.

Council questions

Long asked if the density calculation for this project is the same calculation used for other projects.

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Lesmes stated yes.

Richardson asked about remaining density, he feels there is a conflict. He read page 44 of the Town Council packet. Staff is saying there is zero density for this development? He feels the unused density from previous projects should not be lost and could be used for this project.

Lesmes stated the paragraph read by Richardson, was the opinion of the Town Attorney in 1994. There is nothing that guarantees an applicant can use relinquished density. As the property is developed and platted, the density that was not used is lost.

Long stated as projects are approved the developers relinquished density.

Richardson feels the paragraph states that density can be transferred.

Lesmes stated that was the Town Attorney's opinion in 1994.

Leidal stated in 1998 the Third Amendment was signed and divided the subdivision into three parcels.

Richardson feels you could argue that point.

Leidal stated there was never ever density assigned to the triangle piece of property. Once property it is platted, the density goes away.

Frank Willis, project investor, reviewed his history in Silverthorne. He has been skiing in Summit County for 40 years, served six years on the Hylands Ranch review committee, he owns Go Blue Construction, property in Willowbrook and a lot in Eagles Nest that he plans to build on. He plans on retiring in Summit County. In 2006-07, they saw this lot for sale and hoped to change the commercial zoning to residential so it would look like The Ponds. They are willing to volunteer a 1% transfer tax for the development. They have been surprised at the opposition to their development; they are trying to look like The Ponds. Is it compatible with their neighbors, yes? He reviewed the number of times the wording "compatible with surrounding neighborhoods" is mentioned in the staff report. They are proposing downzoning, not up zoning. The only disagreement is the number of units, Planning Commission says sixteen but they need a certain number of units to recoup their costs. He requested approval.

Bobby Craig, Arapahoe Architecture, asked why are we being limited on this lot by what has been done on other developments. He read from the 3rd Amendment to the Development Plan Agreement: a) the Blue River Property and the Western Property may be developed independently of each other and the remainder of the Property. Understand that the Town stepped in between these two developers so that they wouldn't be stepping on each other's toes as it went through the development process. Further: b) permits and approvals for the development of the Blue River Property and the Western Property shall not be conditioned or otherwise affected by the development or lack of development of the other or of the remainder of the Property or upon the consent of any of the other or of the owners of all or any portion of the remainder of the Property, and c) Blue River, Western and their respective successors and assigns may negotiate and enter into additional amendments to the Development Plan Agreement with Silverthorne with respect to their respective properties, including, without limitation, changes of use or density, without the consent of the other or of the owners of all or any portion of the remainder of the Property.

Craig reviewed the open space and right-a-ways proposed. The density is not designated on the property; it is up to us to decide. Today they are proposing to get rid of three commercial buildings, and are proposing only residential. They are proposing twenty-five units on 4.19 acres. It would be six units per acre, which is normal for Townhomes, and appropriate for this parcel. The fit test, they can fit six buildings with four units on it; it does fit. He showed how the units could be fit on the parcel. They are preserving the wetlands on the site. He does not feel staff is using appropriate comparisons. They prefer to look along the Highway 9 corridor, and pick condominiums and townhomes. He reviewed surrounding townhome developments and their compatibility with them. They feel the density needs to be compatible and fit on

similar acreage. Currently there is 59,000 square feet of commercial density assigned to this development. There should be feathered density; higher density should be closer to the highway. This is urban infill, things have occurred on this property and it's surrounded by infrastructure, it's a great place for higher density. The Comprehensive Plan recommends switching from commercial to residential. Craig asked Council to take a look at comparisons; this is a good project with down zoning. They are here to answer questions.

Council questions.

Public comments.

Darrel Rebkey, 123 Robin Drive, stated he has attended a lot of meetings with the developer. Density is their concern with the project. The layout of the lot impacts how much density it can hold. Twenty-four units were previously denied by Council and Planning Commission. The setbacks have been improved to fifty feet. The berm would be very large and tall and would push up against the Ponds. Density is an issue, net to gross density. This development is not the same as the Ponds. He feels residential is a good fit for the property, not commercial. All you will see on the development is parking, homes and berm. He questioned drainage from the property, it needs more open space.

Steve Zeilee, 136 Robin Drive, stated he bought his property in 2012; they looked at a lot of properties before that. The pond is part of their living area. This development will be very dense. Sixteen units would be appropriate on this land.

Jake Pansing, 116 Allergia Lane, the Ponds HOA board has voted to oppose this application. The density requested is too high. The discussions in April were about a twenty unit development. The applicant would not discuss density at their neighborhood meetings. They submitted an application for twenty-five units without talking to the neighbors. There is a threat to build commercial on the parcel. What is the proper density for this property? There is a PUD request, what is compatible for the parcel; it's not twenty-five units. The applicant wants to argue with Town staff about how to determine density, twenty-five units are inappropriate for this property.

Roy Herring, 146 Robin Drive, went to a vantage point to see all of the property. He tried to visualize putting that many units on the parcel and he could not.

Nancy Herring, 146 Robin Drive, feels it's about character of the area. If you put too many units on this parcel, in it can never be taken back. She knew when she moved in that there would be development on this lot. She doesn't know anything about PUD's. They have space in the Ponds and it cannot be compared to what is being proposed on this lot. She feels it is quality verse quantity. She asked that Council keep the character of the area.

Jim Schlie, 103 Allegra Lane, lives here four or five months a year. As fourteen year owners, they are concerned about quality of life, balance, heights and density. As owners we are concerned about visual and auditory senses will be affected by this development. As a retired military officer and an organizational behaviorist he has worked on cramming too much into little space. He feels balance and quality of life be taken into consideration. The Ponds and Eagles Nest HOA board has done due diligence on this project.

Dave Raymond 111 Allegra Lane, agrees with prior comments. There have not been any discussions about how horrible the development is, they are more positive. Density, what is it? They need to have twenty-five units on this development to make it work. He has been an investor and sometimes investments don't workout.

Marty Watson 174 Allegra, hiked up to Buffalo and looked down at the Town. He used google map to cut and paste the same size units on the lots on the property and couldn't do it. The problem with this property is, it is what is left and they are trying to put twenty-five units on it. He doesn't understand the shape of the buildings. This presentation doesn't accommodate drainage, it goes into the town pond. There are hydrological concerns. He urged Council to

deny this proposal, they know something will be built there, do something smart and compatible.

Janet Humphries, 114 Robin Drive, she has two issues, setbacks and the thirty-five foot height. Vince Boehning, 190 Robin Dr., echoed all the other comments, he agrees with the Ponds HOA and their recommendations.

Debbie Stratton, 156 & 144 Robin Drive, is a full time resident and she feels there is a quality of life issue. Density is an issue. She wants her new neighbors to have the same quality of life she has.

George Ressguie, 1770 Red Hawk Road, President of Eagles Nest HOA, they have seven hundred eighty-three properties in their subdivision; The Ponds is in their subdivision. He agrees with previous comments about zoning and density. The key for us is that this development is an entry way to the east entry. Grading is an issue and will increase height. The layout and building size should be compatible to the Ponds. They would like to see lower density, this proposal doesn't fit. Once it becomes a part of Eagles Nest this project will be under their Design Review Committee. This project has been before the public eight times. This should be denied, hand it back and ask for a meaningful plan.

Bob Long, 126 Robin Drive, he knows the developer is in it to make money but he is in it not to lose money. Sixteen units would be plenty.

Robert Eddington, 110 Robin Drive, is retired military and is familiar with building height. He has extensive surveying equipment that he uses occasionally. When they bought their unit, their entire subdivision was in repair and restructure. During that time there was a mound of dirt on the south end of the property that was thirty-five feet high and you can't see anything. He agrees with what was said about density.

John Taylor, 1712 Red Hawk Road, agrees with the other comments. Every property has its unique qualities, there is a lot of asphalt on the property. There is not any room for a picnic table.

Applicant

Craig, Arapahoe Architectures, replied to public comments.

Willis stated they have been talking to Tim Crane about being the contractor on the project and he will put out a nice product. Crane's development behind the Ponds has elevated their property values and this will be the same kind of product.

Council comments.

Long appreciates all the comments tonight. She has served on Planning Commission and/or Town Councils since 1997 and she has seen this project before. She had staff pull the minutes from when the Ponds development was presented to Council and the same comments were made against that project. She appreciates Craig and the work he has done at Angler Mtn and is glad Mr. Willis is part of the community. This property is what is left over from the other developments. There is nothing original about this site, it is difficult. Personally she thinks maybe commercial might be a good fit for the site. Our standard calculations are the same one being used for all other projects and she relies on staff for that information. She goes back to the standards used by the Town; there is not a lot of common area for the project. She cannot support this.

Nadalín spent a lot of time reviewing at this project. She echoes Peggy's comments. We cannot use different density calculations for different properties. She would love to see something located here, just not at this density. She cannot support this project.

Camp is not sure what the right number of units is for the parcel but twenty-five units is too many. It just doesn't fit.

Fowler asked about any standard density conversions from commercial to residential.

Lesmes stated the Town doesn't have a commercial to residential conversion.

Fowler has seen this project before and the density is less than the Ponds. We know the developer and the builder, deal with the devil you know. He supports this project, again.

Richardson supports this project now and in the past. The applicant has done a good job; he started high with the density and moved it down. The question of neighbors looking at Foxfield is the same question for the folks on Allegra Lane looking west. A recreational area has not been addressed yet, there will room. He supports this project.

Butler has seen this project before and he did not support it in the past. Sympathizes with the applicant about the shape and size of the lot, he feels commercial would be a disaster. It is in the revised Comprehensive Plan and the desire is for residential. Unfortunately there has not been any agreement. Eagles Nest HOA is reasonable, informed group of people. The remaining parcel is literally the victim of how things were developed over time. He asked the developer to take one more look at this and try to get agreement on it. He has to respect those people already in place. He hopes there can be a good compromise and discussion about density.

**LONG MOVED TO DENY THE FOXFIELD TOWNHOMES PRELIMINARY PUD FOR THE REASONS SET FORTH IN THE STAFF REPORT DATED AUGUST 6, 2015, AND BASED ON THE PLANNING COMMISSION RECOMMENDED FINDINGS. MOTION SECONDED. MOTION PASSED BY COUNCIL PRESENT. (SANDQUIST ABSENT)
LONG, NADALIN, AND CAMP (FOWLER, AND RICHARDSON NAY)**

B. Ordinance 2015-11; an Ordinance Amending Silverthorne Town Code Chapter 4, Article VI, Site Plan, Concerning the Town Core Design District – 1st Reading

Lina Lesmes, Senior Planner, presented Ordinance 2015-11, proposed amendments to the Town Core Periphery District Design Standards, updating the language and format to introduce new standards and guidelines and ensuring the consistency with the 2014 Town of Silverthorne Comprehensive Plan. She reviewed her staff report and recommended approval. Butler expressed concerns about landscaping growing out and blocking driveways and views. Long asked about the Green Village in the factory stores being included in this district. The Factory Stores are in three different design districts.

Leidal stated the reason had to do with the proximity of the buildings, types of uses, building height, and adjacent properties. There needs to be a step down to residential.

Richardson asked about parking in this district and Brian Avenue being a thoroughfare.

CAMP MOVED TO APPROVE ORDINANCE 2015-11 AN ORDINANCE AMENDING CHAPTER 4, ARTICLE VI, SECTION 4-6-2(h), DESIGN DISTRICTS TO AMEND AND UPDATE THE TOWN CORE PERIPHERY DISTRICT DESIGN STANDARDS AND GUIDELINES AND ADOPT THEM AS REGULATION, ON FIRST READING. MOTION PASSED UNANIMOUSLY BY COUNCIL PRESENT. (SANDQUIST ABSENT)

C. Craig Realty Group – Silverthorne, LLC, (Starbucks) Enhanced Sales Tax Incentive Program (ESTIP) Agreement

Mark Leidal, Assistant Town Manager, presented Craig Realty Group's request to be considered for participation in the Town's Enhanced Sales Tax Incentive Program. He reviewed his staff report and recommended approval.

Long asked about Craig Realty Group applying for the ESTIP agreement, not Starbucks.

Leidal stated the landlord or the tenant can apply.

Richardson asked about access to the residential units.

Leidal reviewed where all the easements are being moved.

Nadalin asked about the \$2,000 dedicated from the amount of sales tax to be reimbursed in a given year.

Butler feels this is a fair gesture for Craig Realty Group

CAMP MOVED TO APPROVE THE ENHANCED SALES TAX INCENTIVE PROGRAM AGREEMENT WITH CRAIG REALTY GROUP – SILVERTHORNE, LLC AS PRESENTED. MOTION SECONDED. MOTION APPROVED BY COUNCIL PRESENT. (SANDQUIST ABSENT)

DISCUSSION ITEMS:

None.

INFORMATIONAL:

A. Planning Commission Meeting Minutes, August 4, 2015

CAMP MOVED TO ADJOURN AT 8:40 P.M. MOTION SECONDED. MEETING ADJOURNED.

BRUCE BUTLER, 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.