



LAND USE REVIEW COMMISSION

**Minutes
December 14, 2009**

Meeting Summary

LURC 2009-27 Mark Subdivision Replat, a Final Plat approximately located west of Federal Boulevard and one-half mile north of 144th Avenue, was continued to the January 25, 2010, Land Use Review Commission meeting and the following items need to be further studied/researched: 1) That the applicant provide to staff the agreement between the applicant and Nobel Energy relating to the surface use agreement; 2) That the applicant provide to staff the agreement between the applicant and FRICO that addresses the two items of concern identified by FRICO; and 3) That the applicant comply with the State Statutes on the plat easement. The motion was adopted by unanimous vote.

LURC RESOLUTION 2009-28 Lambertson Farms Planned Unit Development Plan Fourth Text Amendment and Lambertson Farms Filing No. 2 Site Development Plan Amendment approximately located north of West 136th Avenue and east of Zuni Street, was adopted with the following conditions: 1) That the applicant add a note to the Site Development Plan restricting the number of contemporary homes on the lots adjacent to Lexington Estates to a maximum of one contemporary home for every six consecutive lots; 2) That the construction of contemporary homes be restricted to no more than 15 percent of the remaining lots; and 3) That the developer provide copies of any contemporary home plans to the Lexington Estates Homeowners Association as a courtesy (not a requirement) prior to submitting for a building permit. The motion was adopted by unanimous vote.

Roll Call – 7:04 P.M.

Commission Members Present: Joel Hendrickson
Roger Kelley
Archie Lind
Tom Silvers

Commission Members Absent: Bob Davis
David Jurcak
Karen Nelson

Staff Members Present: Dave Shinneman, Planning Director
Tami Yellico, Deputy City & County Attorney
Anna Bertanzetti, Principal Planner
Lynn Merwin, Principal Planner

Chairman Silvers noted for the record that a quorum was present.

Disposition of Minutes

The Minutes of the regular Land Use Review Commission meeting of November 9, 2009, were approved as printed.

Petitions and Communications -- None

Planning Director Dave Shinneman stated that a letter from Education Facility Solutions has been submitted. The letter is in reference to a site development plan for a public charter school through Adams 12 Five Star School District. The letter is on behalf of Prospect Ridge, a proposed K-12 Core Knowledge/College-preparatory public charter school, scheduled to open in August 2010. Prospect Ridge intends to locate along the north side of Preble Creek Way in the Anthem area. Adams 12 Five Star School District has not acted upon their application therefore The City & County of Broomfield is not required to take any action at this time.

Mr. Shinneman also referenced for the record an e-mail from Manuel Montoya of Farmers Reservoir (FRICO) was submitted and distributed to the Commission. FRICO has recommended final approval of the Mark Subdivision Replat A be postponed until the issues relating to right of way are resolved.

**PUBLIC HEARING – LURC 2009-27 Mark Subdivision Replat A Final Plat approximately located west of Federal Boulevard and one-half mile north of 144th Avenue
Applicant: Ocon Group, LLC**

Chairman Tom Silvers opened the public hearing at 7:07 p.m.

Anna Bertanzetti, Principal Planner, summarized the staff memo. The application is a request to subdivide a single 4.81 acre lot into three lots with a minimum lot size of one acre. The property is currently zoned A-1 (Adams County Legacy). The A-1 (A) District permits single family residential lots with a minimum size of one acre when utilizing a private septic system for each lot and connecting to public water service. Since the property was not rezoned to a Broomfield district within 90 days of annexation, the uses on the property remain under the Adams County Zoning District in effect on the date of annexation. The property must also meet all requirements and provisions of Titles 12, 13, 14, 15 and 16 of the Broomfield Municipal Code. BMC requires every lot to have vehicular access to a public road. The right-of-way has been dedicated for Federal Boulevard but the road was not constructed immediately adjacent to the subject property. A ditch (the McKay Lateral) exists within the Federal Boulevard right-of-way and the edge of the ditch is located approximately 20 feet from the edge of the subject property at its closest point. The Community Ditch is located along the north side of the property. An existing well site will remain within the area of one of the residential lots. The two new lots will be located outside of the 200 foot setback required by the Broomfield Municipal Code. The applicant has worked with Noble and addressed the issues by adding a note to the plat. A variance is requested from the requirements of 16-28-020 of the Broomfield Municipal Code relating to the diameter of a turn around at the terminus of the dead end street. Ms. Bertanzetti asked that the staff report be entered into the public record. North Metro Fire Rescue has reviewed the proposed development and had indicated that the proposed road surface, width, and turn around are acceptable, but the applicant will need to ensure that the roadway is designed, examined and certified by a Colorado Professional Engineer prior to the Fire District concurring to the issuance of any Certificate of Occupancy for any residences on the newly created lots. Staff believes it would be appropriate to provide a 50% credit towards the public land dedication requirements for the area of the 20 foot trail easement that is outside of the FRICO easement. This would leave \$4,182 as the remainder of the cash-in-lieu requirement.

For the record, FRICO has submitted an e-mail that details two issues. FRICO is asking that Mark Subdivision Replat A Final Plan be continued to allow the developer and FRICO time to resolve these issues.

John O'Conner, owner of the property; spoke about the application. He purchased the property approximately five years ago. He is presently negotiating with FRICO to address their concerns. The property has been laid so that each lot has a small drainage area. Discussions with FRICO have been ongoing as the ditch impacts the road and there is for no room for a swale. There is a possibility that the ditch could be piped.

Public comment was requested.

Chuck Swain, 14955 Federal Boulevard, spoke in opposition to the plan for the following reasons:

- Improvements to Federal Boulevard need to be made to provide access since other developers in the area were required to do improvements to Federal Boulevard;
- Opposed to one acre lots as they are not consistent with the 2-10 acre lots in the area;
- Concerns about the repairs of the fence;
- Both the agreements with Noble and FRICO should be made available to all neighbors in the areas;
- Development such as this would be the 'beginning of a progressive slum in a nice area';
- Setbacks from Community Ditch and McKay Lateral;
- Information (from the applicant) provided earlier had portrayed this development had already been approved;
- Do not want to see this development 'slide through':
- Concerned about the setbacks from the ditches;
- Concerned about the useable ground of each lot; and
- Mitigation of negative impacts to the development.

Robert Pounders, 14580 Irving Street, spoke in opposition to the plan:

- Concerned about the maintenance of the streets and the width of the road;
- Maintenance of the street needs to be done by the City & County of Broomfield; and
- Road width in the Wilcox area is 28 feet which may not comply with the City and County of Broomfield's standards.

John O'Conner, owner of the property; responded to some of the comments:

- The right-of-way is an existing 60 feet.
- The existing pavement stops about 500 foot from his property.
- Nobel Energy has allowed setback into the oil well setback.
- There are small drainage areas on each lot.
- There is no room for a swale adjacent to the road and the drainage ditch.
- There is a possibility that the ditch could be piped.

Evelyn Grady, 2960 High Prairie Way; expressed concern about the impact the development would have on property values.

Principal Planner Anna Bertanzetti spoke of the Wilcox Transportation Study and that at some time it may be appropriate for Federal Boulevard to go through, but the intent of this development is that the street would not be continued to the north at this time.

Commissioner's comments and concerns:

- surface use agreement to be reviewed by staff;
- provide staff the surface use agreement;
- adjacent land owners are not happy with the proposed subdivision;
- location of service lines; and
- plat must comply with state statute;

Chuck Swain, 14955 Federal Boulevard; again spoke:

- 1) degradation of Federal Boulevard;
- 2) Federal Boulevard should be done with quality and be maintained;
- 3) Applicant should have to dedicate their thirty foot and if they are not required then he would like an equivalent portion of property returned to him since he was required to dedicate land for the road; and
- 4) Lack of proper notification of the public hearing.

Public hearing closed at 7:39 p.m.

Chairman Silvers reopened the public hearing at 7:40 p.m.

Mike Fiore, 2920 High Prairie Lane, expressed concern about the development not matching the surrounding area and inquired about the design guidelines for the development. He expressed concerns that modular homes need to be kept out of the area.

The applicant responded that there will not be design guidelines for this three lot subdivision.

Public hearing closed 7:42 p.m.

Commissioner Kelley requested that the FRICO ditch issues need to be documented and that the Commission may wish to continue the item to another meeting time.

Public hearing reopened at 7:44 p.m.

Discussion of a continuance to the public hearing occurred. The applicant was agreeable to continuing the public hearing to January 25, 2010.

Commissioner Kelley moved to continue LURC 2009-27 Mark Subdivision Replat A Final Plat approximately located west of Federal Boulevard and one-half mile north of 144th Avenue, to the January 25, 2010, Land Use Review Commission meeting and the following items need to be further studied/researched:

1. That the applicant provide to staff the agreement between the applicant and Nobel Energy relating to the surface use agreement;
2. That the applicant provide to staff the agreement between the applicant and FRICO that addresses the two items of concern:
 - a. Overlapping community right-of-way and the back lots; and
 - b. Overlapping right-of-way of the future Federal Boulevard and the McKay Lateral;
3. That the applicant comply with the State Statutes on the plat easement.

Commissioner Lind seconded the motion.

Discussion of the motion was called for, there was no further discussion.

The motion was adopted by unanimous vote.

**PUBLIC HEARING – LURC RESOLUTION 2009-28
Lambertson Farms Planned Unit Development Plan Fourth Text Amendment and Lambertson Farms Filing No. 2 Site Development Plan Amendment approximately located north of West 136th Avenue and east of Zuni Street
Applicant: Promontory Broomfield, LLC and McKay Shores Construction Corporation**

Chairman Tom Silvers opened the public hearing at 7:47 p.m.

Lynn Merwin, Principal Planner, summarized the staff memo. The application is for consideration of a Text Amendment (Fourth) to the Lambertson Farms Planned Unit Development Plan and an Amendment to the Lambertson Farms Filing No. 2 Site Development Plan. The applicant and property owners are Promontory Broomfield, LLC and McKay Shores Construction Corporation. The site is zoned PUD and is subject to the Lambertson Farms PUD Plan which was approved for the overall 245 acre area. The fourth text amendment is to allow an expanded range of residential architecture styles in the Filing No. 2 subdivision and revise the fencing in the PUD Plan for residential areas only. No changes are proposed to the land uses. Ms. Merwin asked that the staff report be entered into the public record and said the public notice requirements have been met. Roof pitches and overhangs of the homes need to be clarified as well as accessory structures and equipment (house telescope equipment for viewing the night sky). There are no key issues identified in the memo.

Dan Davis, Boschert Marketing Group, representing the applicant addressed the Commission. He showed pictures of various modern architectural style homes that may be provided for certain lots in the community. Many other custom and semi-custom styles of homes will be developed and offered by Bosch Land Group and other select custom home builders in order to maintain a variety of architectural designs and styles. Mr. Davis spoke of the warm reception that the modern architectural style homes had received and stated that they believed people are growing tired of the Tuscan architectural style of homes. Mr. Davis said that two lots are under contract. Bosch Land Group, LLC has provided to the Lexington Homeowners Association information about the proposed changes to include the addition of modern architectural style homes. The builder also wishes to promote dark sky lighting and the use of modular observatories in the backyard.

A public comment was requested.

Mike Obeymer, President of Lexington HOA, said the plan had been shared with the Lexington Homeowners Association at their annual meeting and the plan did not meet with overwhelming enthusiasm. Their homeowners do not feel it is in their best interest to have modern architectural style homes adjacent to their traditional homes.

Christine Ireland, 13816 Lexington Place, one of the directors on the Lexington HOA, spoke in opposition to the modern architectural home styles as it was her experience that no one thinks this is attractive. They are difficult to sell, and are often 'trendy.' She also spoke in opposition to the use of a wood fence because of the upkeep.

Mikey Jones, homeowner in Lexington, spoke in opposition to the modern architectural style homes and that he lived in horror of looking out at a purple and orange Frank Lloyd Wright home. He spoke in opposition to the modular observatories and spoke in support of traditional landscaping.

Doris Jones, homeowner in Lexington, spoke in opposition to the modern architectural style homes as there is a small percentage of people that like that type of home. She also spoke in opposition to the modular observatory as she believed they looked plastic.

Dan Davis, Boschert Marketing Group, responded to some of the concerns expressed by the audience. He does real estate development and marketing and there is a change in what buyers want. There are people that want change and they want modern architecture. Many people are looking for homes that are smaller but with more detail. The architectural design guidelines used in the development should assist with the value retention of homes.

Commissioner's comments and concerns:

- Market will dictate what sells;
- Like the proposed styles of homes, don't like stoic homes;
- Modern architectural style homes will attract younger buyers;
- Lexington Homes Association allows for hot tubs which are considered accessory structures (similar to the modular observatories);
- Like the smaller more efficient homes;
- Percentage of modern architectural style homes allowed;
- Number of modern architectural style homes allowed against the Lexington Subdivision;
- Metal roofs (ACC approval process);
- LEEDS certification process;
- Wood fence and maintenance/upkeep;
- Need to provide a balance within the neighborhood;
- Three rail fence with wire can keep the dogs in the yard;
- Discussion of the cantilevers;
- Landscaping around the ancillary facilities or the observatory can screen the facility; and
- Opportunities to consider other ancillary facilities.

Representative of the applicant responded to some of the Commissioner's comments:

- They will provide contemporary home plans to the Lexington Estates HOA as a courtesy.
- They will provide a copy of the design guidelines to the Lexington Estates HOA as a courtesy.
- They concur to the one contemporary home for every six consecutive lots adjacent to Lexington Estates.

Public hearing closed at 8: 30 p.m.

RESOLUTION LURC 2009-28 WAS READ BY TITLE

Commissioner Kelley moved that LURC Resolution 2008-28 be adopted with the following condition:

- 1) That the applicant add a note to the Site Development Plan restricting the number of contemporary homes on the lots adjacent to Lexington Estates to a maximum of one contemporary home for every six consecutive lots;

Commissioner Lind seconded the motion.

Discussion of the motion was called for.

Planning Director Dave Shinneman clarified that there is a difference when specifying 'one in every six lots' versus a percentage of homes.

Commissioner Hendrickson offered the following friendly amendment (to clarify the discussion):

- 2) That the construction of contemporary homes be restricted to no more than 15 percent of the remaining lots; and
- 3) That the developer provide copies of any contemporary home plans to the Lexington Estates Homeowners Association as a courtesy (not a requirement) prior to submitting for a building permit.

Commissioner Kelley accepted Commissioner Hendrickson's amendment to the motion.

Discussion of the motion was called for. The sharing of any contemporary home plans with the Lexington Estates HOA is a courtesy. Mr. Davis, representative of the applicant, concurred to the one contemporary home for every six consecutive lots adjacent to Lexington Estates and the limitation of no more than 15 percent of the remaining lots with contemporary homes.

The motion was adopted by unanimous vote.

Commissioner's Corner -- None

The next Land Use Review Commission is tentatively scheduled for January 11, 2010.

Commissioner Lind congratulated staff on the development plan for Jack In The Box at 136th Avenue and Zuni Street. The review process is paying off; the building and site are very attractive.

Commissioner Kelley reported the Sustainability Task Force will be holding several open houses to encourage comments from the citizens. There are various changes to the Master Plan changes proposed. Mr. Kelley encouraged the Commission members to participate in the open houses.

Adjournment 8:38 p.m.

The meeting was adjourned at 8:38 p.m.

Approval

Minutes Prepared by:

Diana K. Tangsrud, Recording Secretary

Approved by:

Chairman