



**Planning and Zoning Commission
Meeting Minutes
October 17, 2019**

PRESENT

Brent McFall
Jesse Gregg
Bill Nutkins
Stephen Richards
Charlie Perkins
Kyle Hoiland

STAFF

April Kroner- Town Planner
Bill Shrum- Assistant to the Town Manager
Dawn Koenig- Admin Technician
Jessica Lake- Planning Technician

ABSENT

Jason Cowles, Chair
Kyle Hoiland
Matthew Hood

This meeting was recorded. The following is a condensed version of the proceedings written by Dawn Koenig.

CALL TO ORDER

The regular meeting of the Planning and Zoning Commission held in the Eagle Town Hall was called to order by Commission Stephen Richards at 6:00p.m.

APPROVAL OF MINUTES

Commissioner Nutkins made a motion to approve the minutes of the September 17th, 2019 meeting. Commissioner Gregg seconded. The motion passed.

PUBLIC COMMENT

None.

LAND USE FILES

LLA19-02- 1088 & 1092 Fourth of July Road Lot Line Adjustment

Commissioner Richards opened file LLA19-02, an application to vacate the lot line between lots 53 and 54, creating a single lot.

STAFF REPORT AND PERSENTATIONS

Kroner described the file noting that the applicants own both of the lots in question and would like to vacate the lot line between the two lots. She said that staff has reviewed the application and it is in compliance with the code. Town Public Works and Engineering staff have reviewed the application, Kroner noted. Kroner listed the conditions of approval:

1. Within 30 days of the date of this Resolution and prior to recordation of the plat depicting the Lot Line Adjustment, Owners shall make technical corrections to the Application documents as directed by Town staff.
2. Prior to recordation of the plat depicting the Lot Line Adjustment, Owners shall demonstrate to the Town that the water and sewer service to Lot 53 have been permanently abandoned.

Property owner Drew Peternell thanked the commissioners for their time and consideration. He welcomed questions.

PUBLIC COMMENT

None.

Kroner noted that she received an inquiry from a neighboring property owner concerned with building size regulations. She assured them that any structures built on the site will need to conform to the standards of both the Eagle Ranch PUD guide and the Town.

DELIBERATION

Commissioner Perkins made a motion to approve file LLA19-02 with the staff recommended conditions of approval. Commissioner Nutkins seconded. All present voted in favor. The motion passed.

MS19-01- Chambers East Subdivision

Commissioner Richards opened file MS19-01, a request for a Minor Subdivision to split Lot C-14 of the Kemp Subdivision into two lots.

STAFF REPORT AND PERSENTATIONS

Kroner described the request to create two lots where only one lot currently exists on the site. She noted that the proposal meets the criteria for approval. Kroner noted that there are easements that need to be placed on the plat for future utility services and access to the utilities. Kroner stated that staff recommends approval with the following conditions:

1. The final plat document will be revised to reflect final technical comments from the Town Engineering and Public Works Departments, Town Attorney, and the Town's 3rd Party Surveyor.
2. Utility, Access, and Turn-around easements created by this plat shall be dedicated to the Town of Eagle, per section 4.13.75 of the Land Use & Development Code.

Q & A

Applicant Matthew Barry thanked the Commissioners for their time and summarized the request.

Commissioner Nutkins asked what Barry envisioned to be in the proposed building. Barry described what he has in mind including some of the possible tenants that have expressed interest in the new building that is being proposed. He noted that there is a long-term lease agreement in place for the existing building.

Richards asked if the lot that is being created where the existing building is located meets the requirements in terms of setback requirements, lot coverage, and lot size. Kroner stated that this proposal is not creating any non-conforming situations. Both lots will meet the requirements of the commercial general zone district Kroner said.

Nutkins asked if the stock piling of soil on the adjacent lot would be temporary. He said it is depicted on one of the civil drawings.

Perkins asked if the work that is currently being carried out on the site is part of this project.

Kroner addressed those question and let the commissioners know that what they are observing is not part of the subdivision file, but rather is due to an existing grading permit for this site that was issued in advance of approval of the development permit application for this site.

PUBLIC COMMENT

None.

DELIBERATION

Gregg asked where the proposed access is for the proposed project and asked if there will have to be a shared access agreement. Kroner said that the shared access is on the west side of the western most lot where the existing building is located. Kroner said that is addressed as part of the development permit request.

McFall made a motion to approve file MS19-01 subject to the conditions proposed by staff. Gregg seconded. All voted in favor. The motion passed.

DR19-05-Chambers East Development

Commissioner Richards opened file DR19-05, a request for a Major Development Permit for a 24,202 square-foot commercial warehouse/distribution facility in the Commercial General Zone District.

STAFF REPORT AND PERSENTATIONS

Matthew Barry said that he had intentions for the existing building that are different than what is going to be there now. He said that he has a long-term lease agreement with a tenant going into that space. Barry said he had other businesses interested in leasing space, and he got the idea to use the extra land on this site to build another building.

Architect Sig Bjornson described details on the design of the proposed building. He commented on some of the materials that are being used that will require a design variance. He stated they are taking a step toward a sleek, modern look.

He noted that the roll up service doors on the front of the building facing Chambers Avenue are not intended to be used as functional loading doors but are more for natural lighting and for the look. Including these roll up doors will give them flexibility with the tenants needs as tenants may or may not want to use the roll up doors, Bjornson said.

He described the loading dock on west end.

Kroner presented a staff report for the file and stated the project fits with the Eagle Area Community Plan vision for land use and special requirements for this area.

Kroner noted that the reason this file is being considered a Major Development as opposed to a Minor Development is the need for extensions of public utilities. She said that Major Development files require approval from the Town Board of Trustees.

She presented standards for approval such as lighting, landscaping, utilities, drainage and grading, parking and access. She also presented architectural standards and zoning standards of the Commercial General zone district.

Kroner said the landscaping and lighting plan as submitted is not detailed enough to review and approve and stated that a complete landscaping and lighting plan will be reviewed and approved by the Town Planner before building permit issuance.

Bjornson said that there is some landscaping on the existing site. He said they would like to balance what is existing with what is required. He noted that the existing building is under parked but that the plan submitted includes ample parking for both lots. Non-potable water system. May be usable and he said that the applicants intend to use it when they can, however, there may be issues with operability.

Q & A

Perkins asked about the snow storage and removal strategy for the site. Bjornson pointed out the locations that will be intended for snow storage.

Gregg asked about the 15' landscape buffer on Chambers Ave. Kroner said that the applicants will have to make a modification to the plan to accommodate that.

Perkins asked Barry to estimate the hours of operation for the use of the building. He asked if they could anticipate late night or early morning trucking activity. Barry said that it is hard to say, but that he suspects that the activity will be day time. Kroner pointed out that the zone district allows for trucking activity.

Kroner noted that all of the drainage, erosion control, and utility plans have all been reviewed and approved by the Town Public Works and Engineering Team. Kroner said that the applicants will be required to identify, and screen mechanical equipment and details of the trash enclosure will need to be submitted for review and approval.

Kroner stated that loading docks and service areas are only allowed on the sides of the building. She said that with this proposal, that standard is not being met as the design includes service doors in the front of the building along Chambers Ave. She said that as noted before, these are not intended to be used as service doors in all cases. Kroner said that a design variance could be granted due to the odd shape of the lot.

The proposed exterior materials are not allowed per the current code, Kroner said, but staff supports a design variance. She stated that the code does not account for advances in new materials and what is being proposed does not go against the intent of the code.

Parking and access were then addressed. Kroner described the existing access and the new access point on the east end of the property. She stated that the proposal would require a variance approval for maximum width of the access point. Kroner noted that shared access needs to be addressed for both lots and requires that an easement to be recorded. Barry noted that this is the same arrangement as is place for the Chambers Lofts development.

Nutkins asked where the easement would be. Kroner said that she would not expect that there be an actual location of the easement, but rather a blanket easement that covers access for both sites.

Kroner said that she is asking that the applicants to provide a turn radius analysis for the intended loading docks. Barry said that they have consulted with engineers to design an appropriate circulation.

Perkins asked if the approval of this site will hasten the extension of Chambers Avenue to Highway Six. Kroner explained that the extension of Chambers is not tied to this project.

Kroner described the parking standards and noted that the plan meets the requirements and the access easement will include shared parking for both lots.

Kroner noted that the applicants have been working with Town Public Works and Engineering staff to find an efficient solution for the extensions of the utilities through the project.

Nutkins asked if the adjacent property owner would need an easement for utilities. Kroner said that the owner of the property is the same as the applicant for this development. They would be required to record an easement.

Perkins asked if the proposal has been submitted to the fire department review and approval. Kroner confirmed that the fire department has reviewed this proposal.

Kroner stated that staff recommends approval of the following design variances:

1. Allowance of seven service doors/garage doors along the front of the building (loading docks and service areas must be located to the side and/or rear of the building; if parcel abuts I-70 all services and loading areas must be located to the sides which do not face the primary street or I-70).
2. Allowance of modular steel and stucco wall panels as building materials (modular panel materials, such as ribbed sheet metal, are not allowed).
3. Allowance of a 38' wide driveway opening (max 35' allowed).

Kroner mentioned that the file was noticed properly, and staff has received no public comment.

Kroner stated that staff recommends approval with the following conditions:

1. The final plat document will be revised to reflect final technical comments from the Town Engineering and Public Works Departments, Town Attorney, and the Town's 3rd Party Surveyor.
2. Utility, Access, and Turn-around easements created by this plat shall be dedicated to the Town of Eagle, per section 4.13.75 of the Land Use & Development Code.
3. A lighting plan shall be submitted to planning staff for review and approval with the Town's lighting standards as detailed in Section 4.07.010, prior to execution of the Development Agreement.

4. A complete Landscape Plan shall be submitted to planning staff for review and approval with the Town's Landscaping Standards as detailed in Section 4.07.020 and 4.07.070, 6, prior to execution of the Development Agreement.
5. Trees are not allowed to be located within the utility easement locations, however shrubs are permitted.
6. Identify the location of the mechanical equipment on the plans and indicate the method of screening prior to execution of the Development Agreement.
7. Provide details of the trash enclosures to staff for review and approval prior to execution of the Development Agreement.
8. Record an easement to allow access and parking on and across the two subject lots. This can be achieved by depicting/describing the easement on the subdivision plat, or via a separate recorded document.
9. Submit a turning radius analysis to ensure adequate maneuverability through the northeastern— most driveway and to access the loading area on the east side of the building.
10. Relocate the accessible parking spaces so as to not be located in front of a service door.

PUBLIC COMMENT

None.

DELIBERATION

Nutkins asked about the service doors on the front. Barry said they were included to provide tenant flexibility and that having them is very important for the viability of the project. Service doors would allow for loading and un-loading equipment and supplies and some of these doors may not be used in that way, Barry said.

Nutkins asked about the dumpster on the west end of the building and why is it located there. Barry said that it is a functional location and the enclosures are very durable. It was strategically located. Nutkins said that he thought it would be better located more toward the back side of the building.

Perkins made a motion to approve file DR19-05 with the staff recommendations of approval one through ten and the three design variances. McFall seconded. All voted in favor. The motion passed.

Administrative Appeal by David Nudell

STAFF REPORT AND PERSENTATIONS

Kroner presented details on the request for an appeal. She described how the owner of the property in question has been working with town staff for years on this development. Kroner said that her first day on the job was the same day that comments were due on a development proposal for this site. She said that the applicant had been working with a town hired consultant prior to her joining the Town.

Kroner said that upon further review of the proposal, she was unable to find any area of the code that allow ground floor residential as a permitted use in this zone district even by way of special use permit which was what had been advised by town staff previously. Kroner said she could not bring forward a special use permit for ground floor residential use in the Broadway District. Kroner stated that use variances our not included in the Town ordinance. She advised Mr. Nudell that he has the right to appeal to the Planning Commission by State Statute and he elected to do so.

Q & A

Commissioner Richards asked if there are discussions in the land use code update about allowing for ground floor residential.

Mr. Nudell said that he is involved in the code update and there have been recommendations from the advisory committee and general public that support in-fill, mixed use, increased density in the downtown area, and affordable housing. He stated that it seems that the future land use is going in a direction that supports his proposal.

PUBLIC COMMENT

Russell Gies, owner of 404 Broadway unit C said he just found out today that the appeal was happening. He said he believes that approval will set a bad precedent. Broadway will not be a vibrant place if residential development is allowed on the ground floor.

Lori Mowder tenant of 404 Broadway unit A said she only learned of the appeal recently as well and that she is concerned about parking. She asked where the residential tenants would park their vehicles. She said that she can't imagine that the tenants of the building will not have a vehicle.

Kroner added that the appeal process does not require public noticing.

Shawn Bruckman owner of the lot behind the property in question said Broadway is different than the Central Business District for good reason. She said she believes that lower floors should be designated for businesses.

Mr. Nudell asked if he could address the comments. He said there are a few reasons the project was originally designed with ground floor residential. He said he was previously told by Town staff they could include ground floor residential through the special use permit process. He stated that the units would be for sale and he wants to be able to provide accessible units and would be required to install an elevator if the ground floor units were not allowed which would be cost prohibitive. He said that he believes that the proposal is in keeping with the spirit of the code because the ground floor residential units will be located on the back of the property and not facing Broadway. He said that larger retail units are not viable on Broadway.

DELIBERATION

Commissioner McFall said that he thinks that it is difficult to know what the original intent of the code was when it was written. He said he thinks that the intent is for store fronts on Broadway which this project includes, not simply ground level residential. Regarding parking, McFall said that downtowns are different animals. If any redevelopment is to happen on Broadway, it is not realistic to expect that sufficient parking would be achieved on site for each property on Broadway. He said that he is not really troubled by lack of off-street parking spaces on projects like this. He said that he thinks the applicant has responded well to the direction of past town staff. He said that he tends to look favorably on the appeal but wants to hear the opinions of the other commissioners.

Commissioner Nutkins said that he agrees that the intent of the code provision is to have storefront on Broadway. He said that he is concerned with the parking and that residential parking will be taking up parking for the commercial retail spaces. He said that he thinks it is a good practice to include residential projects in the downtown area, but that parking requirements need to be observed. He said the two units on the ground floor with this project would contribute to the lack of parking.

Commissioner Perkins said that he supports the appeal because of the staff direction that was given to the applicant when he started his application. He said he is more concerned with downtown vibrancy than parking. He said he supports the appeal.

Commissioner Gregg said that he agrees with McFall that the residential units in the back of the building does not detract from the spirit and intent of the code for commercial fronting Broadway. He said he thinks there should be more parking. Commissioner Gregg said he would support one ground floor unit.

Commissioner Richards said that he agrees with Gregg about the parking. And agrees with McFall on the intent of the code with commercial fronting Broadway. He said he has an issue with the parking would like to see more on-site parking included in the project.

Commissioner McFall added that today at 1pm he observed a total of two cars parked on Broadway.

Commissioner Richards added that there is no overnight parking allowed on Broadway anyway and therefore would not be ideal for residential use.

Commissioner Nutkins said that he drove by just before the meeting and observed six cars parked on Broadway near the site in question. He said if the Town keeps allowing parking variances without provided public parking areas, they are just kicking the can down the road.

Commissioner Richards said that he agrees with Commissioner Nutkins that the developer needs to mitigate the parking somehow. He noted that the parking on the side streets off of Broadway frequently fill up.

MOTION

Commissioner Gregg made a motion to modify the appeal to include only one residential unit on the ground floor. Commissioner McFall seconded. Commissioner Richards, Gregg, and McFall voted in favor. Commissioners Nutkins and Perkins were opposed. The motion passed three to two.

There was discussion about how to proceed.

Mr. Nudell was asked to come forward with comment on how he could redesign in accordance with a modification to the appeal.

He thanked the commissioners for their consideration.

Nutkins requested that more space for on-site parking be included in the revisions.

Nudell said that he could see doing tandem parking spaces.

Kroner added that the parking requirements could be met off site through a lease agreement with another property owner. She encouraged the applicant to look into this option.

DR19-03- 410 Broadway Development

Commissioner Richards opened file DR19-03, a request for a Minor Development Permit to construct a mixed-use building with 1800 sf of commercial space and 10 residential units in the Broadway Overlay District.

STAFF REPORT AND PRESENTATIONS

Q & A

PUBLIC COMMENT

Mr. Russell Gies, owner of 404 Broadway unit C said that he has an issue with the parking. He asked Kroner what the parking requirement is for commercial use. She indicated that there are no parking requirements for commercial use. He said that residential use will need parking and said that there is inadequate parking in the area as is. It will become a problem down the road when other developments move forward, Gies said. He wondered where else residents park would park if other developments ever were proposed in the surrounding area. He said that the Town has got to pay attention to this. Property owners should not have the expectation that they do not have to provide parking for their developments.

Kroner acknowledged that parking downtown needs to be addressed by the Town. She said staff is looking into management and enforcement methods. If there is a parking problem downtown, Kroner said that could be a good thing for the Town from an economic health perspective. She said there are several mechanisms that communities can use to address the issue.

Commissioner McFall said that the commissioners are aware that there needs to be a solution to the issues of parking.

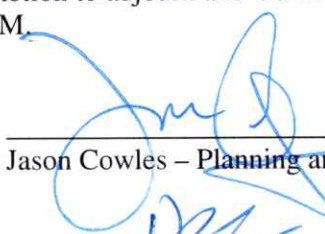
DELIBERATION

Commissioner McFall made a motion to continue file DR19-03 and Commissioner Nutkins seconded. All voted in favor.

ADJOURN

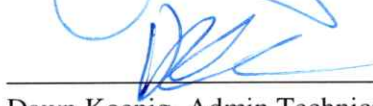
Commissioner McFall made a motion to adjourn and Commissioner Perkins seconded. All voted in favor. The meeting adjourned at 8:06PM.

11/5/19
Date



Jason Cowles – Planning and Zoning Commission Chair

11.5.19
Date



Dawn Koenig- Admin Technician

