



**PLANNING COMMISSION
REGULAR MEETING**

**November 6, 2019 // 7:00 p.m. // Town Board Chambers
301 Walnut Street, Windsor, CO 80550**

MINUTES

A. CALL TO ORDER

Chairman Schick called the regular meeting of the Planning Commission to order at 7:00 p.m.

1. Roll Call

The following Planning Commission Members were present:

- Gale Schick
- Victor Tallon
- Doug Dennison
- Kelly Hall
- Jerry Bushelman
- Daniel Foreman
- Cindy Scheuerman

Town Board Liaison David Sislowksi

Also Present:

- | | |
|----------------------|-----------------|
| Director of Planning | Scott Ballstadt |
| Chief Planner | Carlin Malone |
| Senior Planner | Paul Hornbeck |
| Deputy Town Clerk | Trisha Conway |

**2. Review of Agenda by the Planning Commission and Addition of Items of New Business to the Agenda for Consideration by the Planning Commission
Mr. Tallon moved to approve the agenda as presented; Mr. Bushelman seconded the motion. Roll call on the vote resulted as follows; Yeas – Schick, Tallon, Dennison, Hall, Bushelman, Foreman, Scheuerman; Nays – None; Motion carried.**

3. Public Invited to be heard

Mr. Schick opened the meeting up for public comment to which there was none.

B. CONSENT CALENDAR*

1. Approval of minutes of October 16, 2019

Mr. Tallon moved to approve the consent calendar as presented; Mr. Foreman seconded the motion. Roll call on the vote resulted as follows; Yeas – Schick, Tallon, Dennison, Hall, Bushelman, Foreman, Scheuerman; Nays – None; Motion carried.

C. BOARD ACTION

The Town of Windsor will make reasonable accommodations for access to town services, programs, and activities, and will make special communication arrangements for persons with disabilities. Please call 970-674-2400 by noon on the Thursday prior to the meeting to make arrangements.

1. Public Hearing – Conditional Use Grant (CUG) for a Public Utility Installation Including Transmission Lines and Substation – Avery Substation – Nicole Korbe, Public Service Company of Colorado, applicant; Jennifer Chester, Tetra Tech, applicants representative.
 - Quasi-judicial
 - Staff presentation: Carlin Malone, Chief Planner

Mr. Schick opened up the public hearing.

Mr. Sislowski stated, “Mr. Chair, for the record I would like to disclose that I am a sitting member of the Town Board, and that I am here in my capacity as non-voting liaison to the Planning Commission. Although I will be present during this public hearing, I will not be giving my opinion or participating in the discussion. I will not let tonight’s proceedings influence or affect my review of this matter when it comes before the Town Board. I will make my decision at the Town Board level based only on the evidence presented during the Town Board public hearing.”

Meeting is in recess, due to technical errors

Per Ms. Malone, the applicant, Nicole Korbe of Public Service Company of Colorado (PSCo), represented by Jennifer Chester, is requesting a Conditional Use Grant (CUG) to allow a public utility installation including transmission lines and a substation on a property known as Thornton Farm 24. The 288-acre property is located northeast of the WCR 13/Latham Parkway and WCR 76 intersection. The property was annexed to the Town on May 14, 2018, and zoned Residential Mixed Use (RMU), which allows any principal, accessory or conditional use permitted in any residential district. The single-family residential zone district requires CUG approval for public utility installations, including transmission lines and substations. The subject CUG considers the use, as well as the proposed height of structures, including the towers and fence.

Previous CUG Application Withdrawn

On December 3, 2018, PSCo submitted a CUG application for the facility on the subject site, with a location in closer proximity to residential neighborhoods and WCR 76. On February 6, 2019, the Planning Commission held a public hearing regarding the CUG application for this property. The Town Board held a public hearing for the CUG on February 25, 2019. At the Town Board hearing, there were neighborhood and Town Board concerns regarding the proposed location of the site and its proximity to existing residential. Due to concerns expressed at the February 25, 2019 public hearing, the applicant chose to withdraw the CUG application (March 20, 2019), revisit the preferred site location, and submit a new CUG application.

Subject CUG Application

The subject CUG application was submitted on August 27, 2019. The proposal significantly reduces the visual impacts associated with the prior application.

The proposed public utility installation is for a new 230-kilovolt (kV) substation and a 1.3-mile long over-head transmission line (approximately 0.4 miles being within the Town of Windsor). In addition, underground distribution lines are planned from the substation westward to WCR 13/Latham Parkway along WCR 76. The purpose of the facility is to enable Public Service Company of Colorado to accommodate existing and future energy demands in the region. The transmission line and station would tie into an existing Platte River Power Authority transmission line.

The substation would be constructed on a 10-acre portion of the Thornton Farm 24 property. The site is located approximately 2,500 feet east of WCR 13/Latham Parkway, approximately 1,500 feet north of WCR 76, and 2,500 feet west of Northwest Estates. Please see the presentation materials for location map of the proposed site. If approved, the applicant's intention is to subdivide the Thornton Farm 24 property to allow for the purchase of the 10-acre site from the City of Thornton.

The substation site plan shows approximately five acres of the site containing a fully-fenced facility with the proposed equipment and towers. The east-west fence lines are proposed at approximately 500 feet in length and the north-south fence lines are proposed at approximately 600 feet in length. The perimeter fence would be a 10-foot chain link fence. Ground equipment ranges in height to approximately 30 feet; towers range from 55 feet to 75 feet tall. The access to the site would be from WCR 76 immediately north of the intersection of Brian Avenue, and the road will extend approximately 1,500 feet to the site. A storm water detention area is planned on the northern portion of the site and a landscaping plan shows mixed evergreen and deciduous trees in a landscape buffer along the north side of WCR 76, which is Town right-of-way. Right-of-way for WCR 76 was dedicated to the Town at the time of the annexation of the property. The overhead transmission line would extend to the proposed substation site from the northeast (Severance and unincorporated Weld County) to the town limits. Please see the presentation an application materials for additional details on the facility.

The CUG would not have an expiration date. The facility is planned to operate for the long-term. Provided the CUG is approved by the Town, the applicant would submit a site plan to the Town for review and approval and concurrently, a minor subdivision for the purchase of the site.

The Town Board public hearing on the application has been scheduled for November 25, 2019.

Section 16-7-50 of the Municipal Code outlines the factors to be evaluated prior to the granting of a conditional use.

1. The character and the quality of the area in which the use will be located.

The Thornton Farm 24 property is approximately 288 acres. It currently has an agriculture use, which would continue in the areas outside of the substation site. Beyond the substation and transmission line, no development is currently proposed on the site and it is anticipated that development will not occur in the near term, as the property was purchased for its water rights.

Low to medium residential subdivisions exist to the south and east of the property. Lower density residential subdivisions and agricultural land are located to the north. The Town of Timnath is located to the west of the property. Additional development is expected in Timnath.

2. The physical appearance of the use, including suitability of architectural and landscaping treatment. The substation contains a number of electrical components and related physical support structures including:

- Dead-end structures and static masts (55 to 62 feet tall with extension poles up to 75 feet in height)

- Transformers, regulators, capacitors and other voltage modification devices (between 15 and 35 feet in height)
- Circuit protection and control devices
- High voltage cables
- Transmission line towers (between 100 and 135 feet in height) spaced at a range of 700 feet to 1,200 feet apart
- The ground equipment and transmission line towers would be grey with a dull surface to reduce reflectivity.

The prior CUG application for the facility, withdrawn in March 2019, proposed the facility in closer proximity to the residential subdivisions of Northwest Estates and Roth Subdivision, as well as WCR 76. The subject CUG application would locate the facility further west and substantially further north of the residential areas. Therefore, rather than provide landscaping directly adjacent to the facility, a 50-foot wide landscape buffer is proposed along the north side of WCR 76 with the subject CUG proposal. The landscape buffer would include a combination of evergreen, deciduous, and ornamental trees (see application materials and presentation).

Due to the size and height of the facility, it will be visible from the surrounding areas. The distance between the site and adjacent properties, terrain of the site (see item 3 below), the crops associated with the agricultural use and the evergreen trees attempt to provide some screening of the site from the surrounding vantage points. With the current proposed location approximately 2,500 feet west and 1,500 feet north of residential, there may be potential for future development between the facility and adjacent subdivisions. As noted herein, the property owner, City of Thornton, acquired the property for the purpose of utilizing the associated water rights. There are currently no submitted plans for development.

3. Appropriate location of the building or buildings on the lot.

The site location was selected in part to help reduce the visual impact of the substation from surrounding areas. The site of the substation ground equipment is located approximately 1,500 feet north of WCR 76. To the south is a wetland area that continues on the south side of WCR 76 in the northern portion of the Roth Subdivision. The wetland area adds an additional 300 to 350 feet between the WCR 76 and the Roth Subdivision. Terrain to the east of the site reduces the view of the substation from properties to the east. The substation site access is located on WCR 76, within 1,000 feet from WCR 13/Latham Parkway.

4. Adequate provision of parking, loading and circulation facilities.

There are no parking, loading and circulation facilities proposed. A 25-foot wide access drive of approximately 1,500 feet in length would serve the site from WCR 76.

5. Potential effect of the use upon off-site vehicular and pedestrian traffic circulation, with particular reference to potential traffic congestion.

Operation of the substation is continual but the substation will not be manned on a continual basis. After construction, employee visitation (typically 1 or 2 employees at a time) of the site is anticipated to be once a month to conduct maintenance, inspections and other operational requirements. During construction, a traffic control plan is required by the Town to ensure safe access to and egress from the site from WCR 76.

6. Potential effect of the use on storm drainage in the area.

Construction of the transmission line portion of the facility is not expected to create runoff in excess of previous site levels and would not change existing topography or drainage patterns. Construction of the substation portion of the facility may create runoff in excess of previous site levels; however, it is anticipated to be minimal. A detention area is shown on the northern portion of the site. The applicant will coordinate with Town Staff to incorporate properly sized drainage facilities at the substation site. The applicant would also comply with the Town's storm water (Grading Erosion Sediment Control Plan) permit application and construction requirements, including obtaining a Storm Water Permit for Construction Activities from the Colorado Department of Public Health and Environment, to ensure that the project does not impact water quality.

7. Adequacy of planting screens where necessary.

Landscaping around the facility includes the agricultural land of the greater Thornton Farm 24 property and a 50-foot landscape buffer consisting of a combination of evergreen, deciduous, and ornamental trees along the north side of WCR 76. Staff will work with the applicant during the site plan review to ensure landscaping is planned and installed accordingly. Because the 50-foot landscape buffer would be located on private property (City of Thornton), a 50-foot landscape easement along the north side of the WCR 76 right-of-way would be dedicated to PSCo for maintaining the landscaping. The easement dedication would be a condition of site plan approval.

Due to the size and height of the facility, it will be visible from the surrounding areas. The distance between the site and adjacent properties, terrain to the east of the site (see item 3 below), the crops associated with the agricultural use and the evergreen trees attempt to provide some screening of the site from the surrounding vantage points. Future distribution lines planned along WCR 76 are to be underground, therefore minimizing the visual impact of those lines. In addition, a portion of existing distribution line between Brian Avenue and Latham Parkway/WCR 13 will be underground while a trench is open for the new distribution lines, which will further reduce visual impact.

8. Provision of operational controls where necessary to avoid hazardous conditions or eliminate potential air or water pollutants or other noxious influences.

Enclosed containment would be provided for all trash. All construction waste, including trash and litter, garbage, other solid waste, petroleum products, and other potentially hazardous materials would be removed from the site and transported to a disposal facility authorized to accept such materials. There would be no significant amount of hazardous materials stored in the project area.

Construction, operation, and maintenance activities would comply with all applicable federal, state, and local laws and regulations regarding the use of hazardous substances. The only hazardous chemicals expected to be used on-site are those found in diesel fuel, gasoline, coolant (ethylene glycol), and lubricants in machinery. Hazardous materials would not be drained onto the ground or into streams or drainage areas. In its contract with the construction contractor, the applicant would specify that it will hold a required preconstruction meeting with the contractor to ensure all applicable laws and the applicant's procedures would be followed. Although the transmission line and substation would be inspected regularly, emergencies may occur. If there were an issue, appropriate field crews and engineering personnel would be notified by telephone or radio and they would

undertake the required procedures to correct the problem and restore facilities to normal operations.

9. The general compatibility of the proposed use with the area in which it is to be located.

Due to the nature of the facility, complete compatibility is challenging. However, the project was planned to be as compatible with the existing surrounding land uses as possible, particularly through site location. Public utility facilities, such substations and transmission lines, are a conditional use within the RMU zone district and are seen as necessary to meet the growing energy demand of the area.

Municipal Code.

The following Planning Commission and Town Board public hearing notifications were completed in accordance with the Municipal Code:

- October 25, 2019 – affidavit of letter mailed to property owners within 100 feet of site
- October 21, 2019 – property posted with a notification sign
- October 25, 2019 – legal ad published in the newspaper

Notice of hearing posted on Town’s website on October 21, 2019. Additionally, notice of the public hearing was mailed and emailed to residents outside of the required notification boundary who requested to be on PSCo’s project mailing list.

A neighborhood meeting was not required for this proposal; however, the applicant held a community meeting on July 9, 2019.

Mineral Owners and/or Lessees.

In accordance with Article 65.5 of the Colorado Revised Statutes, a local government shall, as a condition of final approval of an application for development, require the applicant to certify that a notice (of the initial public hearings) has been provided to mineral estate owners not less than thirty days before the date of the initial public hearings. The applicant has provided the required notice of the pending development to all such mineral owners and or lessees. Per this same article, the mineral estate owner may waive the notification requirement, which has occurred for this application (see attached waiver of notification). Additionally, the mineral estate owner has waived the right to file an objection, per C.R.S. § 24-65.5-103(5).

The plan set was sent to referral agencies, including area utility providers, Colorado Department of Transportation, Colorado Department of Parks and Wildlife, and Weld RE 4, for review. North Weld County Water District requested more information regarding the irrigation source of the landscaping along WCR 76, which would be included with the subsequent site plan application. The school district and CDOT responded with no comment/no conflicts for the proposal. Three public comments were received regarding the application (see attached public comments).

A neighborhood meeting is not required for this CUG application. However, prior to submitting the CUG application to the Town, the applicant did hold a community meeting with on July 9, 2019, to discuss the proposal and gather neighborhood input regarding the preferred site locations. Over 1,700 postcard invitations were sent out to surrounding landowners, Staff was in attendance and the meeting was well attended (at least 50 residents).

The public comment received by staff is included in the meeting packet, along with the mineral owner waiver of public hearing notice and waiver of objection. Also included is a letter from the property owner, City of Thornton.

The 2016 Comprehensive Plan does not specifically address utility provider substations; however, it does discuss the importance of maintaining and enhancing quality facilities and infrastructure to support the community. Objectives include working with public agencies to maintain adequate and appropriate sites and facilities for the provision of public services (Objective 7.5).

The proposal supports the Strategic Plan in the area of adequate infrastructure.

Although the use will have visual impacts on the area, the subject proposal has reduced the impacts from the previous CUG proposal by shifting the site further away from surrounding neighborhoods to the east and south, as well as WCR 76. Additionally, the proposed landscape buffer along WCR 76 is an effort to further reduce these impacts. The use of public utility installations including transmission lines and substations is conditionally allowed in the zone district and found to be necessary to meet the demand for energy in the region.

Staff recommends the Planning Commission forward to the Town Board a recommendation of approval of the Conditional Use Grant application with the following conditions:

1. A site plan, including landscaping, is reviewed and approved by staff prior to construction of the facility.
2. The applicant will obtain all applicable Town and State permitting for the facility and for development operations including an access permit from the Town Engineering Department and 10' fence per International Building Code requirements.

Ms. Malone requested that the following be information be entered into the record:

- Application Materials
- Site & Landscape Overview
- Letter from City of Thornton, Property Owner
- Public Comments
- Mineral Interests Notification and Waiver
- Mineral Interests Waiver of Right to File Objection
- Staff Presentation
- Applicant Presentation

Ms. Malone noted that the applicant had a presentation to share with the Commission.

Mr. Schick invited the applicant to the podium.

Ms. Jennifer Chester, Consultant for Xcel Energy, described collaborative efforts with the property owner (City of Thornton), the Town, and neighbors. Feedback and issues raised earlier this year were evaluated. Xcel gathered stakeholder input on the project location and revised the design. Overall, Xcel has just changed the location of the site to better serve the community.

Ms. Chester discussed the Thornton property site evaluations, and the public feedback. Working with landowner to align access drive and distribution feeder lines, reducing transmission line length results in fewer poles, including a reduced number of large angle structures. Landscape easement along WCR 76 proposed to include over 140 trees, and topography provides screening by placing the site lower in elevation.

Mr. Chad Nickell, Distribution Planning Group for Xcel Energy, explained that he is responsible for providing strategic direction and ensuring reliable and cost-effective distribution systems for Xcel Energy operating companies. Mr. Nickell answered the question [raised with the initial proposal], "Why can't the substation be placed farther away from homes?" Mr. Nickell explained main technical criteria for the location of lines: transmission line systems carry power over longer distances and local distribution lines cover smaller locations and carry power over shorter distances – the power lines you see around the community. Substations have to be closer to the communities they are serving. The Cobb Lane and the Windsor Substation have been serving this area, but they are reaching capacity. He discussed several outages that occurred over the summer that affected customers in this area. Xcel uses heat maps to illustrate system performance to check for [range of] normal conditions to conditions outside acceptable range.

Mr. Schick opened up the meeting for public comment.

Mike Mitchell 6771 Stevens Street, stated his home is located about 200 feet South of Hwy 76 between the new proposal, and the existing site application. He extended a "thank you" for all of the apparent hard work selecting this new location 1500 feet off the road. Mr. Mitchell recommended for the future considerations dedicating the property for a future substation before development begins.

Marsha Miyetta 6711 Stevens Street, stated February you voted to recommend a previous substation site to the Town Board regardless of its proximity to a long time neighboring wildlife habitat in order to meet primarily needs generated by recent development. Your concern was with landscaping, and fencing. My neighborhood asked for more, ultimately so did the Town Board. Now the applicant has made a thoughtful good faith effort to address the requests with the site, and landscape proposed tonight. The substation will still have some visual impact it's considerably less for all residence compared to the previous site. This site preserves the character of our nearly ½ century old neighborhood, and also habitat for wildlife. The shorted transmission route diminishes collision hazards for large birds. I'm hopeful that Xcel and the Planning staff will work with residence to plant screening trees along the road that doesn't obscure mountain views.

Ruth Connelly 5898 Chantry Drive, attended the February meeting they presented that several large migratory birds flying through that area to access Windsor reservoir. Birds fly at 600 feet, and magnetic fields drop at 800 feet. Ms. Connelly has a concern whether the environment is being evaluated. She stated that Poudre Valley REA Substation is less than 1 mile North which has high lines, and many of them that serve the community.

Rosalyn Leautaud 36933 County Road 15, stated she would like to thank Town of Windsor, and Xcel Energy for working with the City of Thornton to find an alternative site. Ms. Leautaud expressed concerns with 140 trees proposed will blocking the

view of the mountains, and Timnath Reservoir. She would like to see an intergovernmental agreement to help fund a bike, pedestrian trail under overhead transmission lines to connect to planned trails in the area and Harmony Ridge Parkway. She suggested a 10 – 15 foot wall for visual reasons, safety, and security before the development of Buffalo Creek in Severance, CO. Ms. Leauland had concerns regarding the landscape easements being wider on the West vs the East towards the Wetlands.

Ms. Scheuerman stated Mr. Chair can I recommend before we close the public hearing we address all fact finding questions from the commission, responses from the applicant, and questions from the public.

Mr. Chair stated what questions

Ms. Scheuerman stated the questions regarding the landscape buffer, and any commission questions.

Mr. Scott Ballstadt recommended that the applicant address any questions during public hearing.

Per Ms. Chester the difference in the easements towards the West access drive, and East are related to the underground distribution feeder. The landscape easement is proposed to be 50 feet on both sides of the access drive with the difference of the underground properties. Regarding the proposed 10 – 15 foot wall the topography, distance discussed earlier it wouldn't screen nearly as much as the trees. We understand the concern about the mountain views, and we've tried to place the trees in ornamental, deciduous, and evergreen trees to break up the view.

Ms. Chester stated regarding EMF and wildlife that's regulated by the Public Utilities Commission, and they've completed the necessary studies at the time of application. The (PUC) deemed those levels to be within the limits, and not need mitigating. Additionally the project has coordinated with Colorado Parks and Wildlife throughout the project, and they don't see any negative impacts to wildlife. Colorado Parks and Wildlife did ask that the transmission line be marked to minimize those bird collisions. There will be bird flight diverters placed on the tallest lines, which are least visible to birds from the substation to County Road 78.

Ms. Scheuerman asked Ms. Chester about what will be developed in the unincorporated property to the North of the site.

Ms. Chester stated Town of Severance had a concept planning published on their website proposed for Buffalo Creek Subdivision.

Mr. Ballstadt stated he believed that property was under dispute several years ago between Severance, and Timnath. Currently he does not know the application status.

Mr. Tallon moved to close the public hearing; Mr. Bushelman seconded the motion. Roll call on the vote resulted as follows; Yeas – Schick, Tallon, Dennison, Hall, Bushelman, Foreman, Scheuerman; Nays – None; Motion carried.

2. Recommendation to Town Board – Conditional Use Grant (CUG) for a Public Utility Installation Including Transmission Lines and Substation – Avery Substation – Nicole

Korbe, Public Service Company of Colorado, applicant; Jennifer Chester, Tetra Tech, applicants representative.

- Quasi-judicial
- Staff presentation: Carlin Malone, Chief Planner

Ms. Malone had nothing further to add.

Mr. Schick expressed his appreciation to the applicant making the changes, and listening to the public concerns.

Mr. Tallon moved to forward to the Town Board a recommendation of approval of the Conditional Use Grant following the conditions recommended by staff; Mr. Dennison seconded the motion. Roll call on the vote resulted as follows; Yeas – Schick, Tallon, Dennison, Hall, Bushelman, Foreman, Scheuerman; Nays – None; Motion carried.

3. Public Hearing – Final Major Subdivision – Poudre Heights 3rd Filing - Poudre Heights LP, applicant/ Spike Rumley, Poudre Heights LP, applicant's representative.
 - Quasi-judicial
 - Staff presentation: Paul Hornbeck, Senior Planner

Mr. Schick opened up the public hearing.

Mr. Schick requested a 5-minute recess

Per Mr. Paul Hornbeck the applicant, Mr. Spike Rumley of Poudre Heights LP, has submitted a final major subdivision plat, known as Poudre Heights Subdivision 3rd Filing. The subdivision encompasses approximately 92 acres and is zoned Residential Mixed Use (RMU).

The proposal is summarized as follows:

- 266 single-family residential lots on approximately 51 acres (average lot size 8,351 square feet)
- 127 multi-family lots for 2, 3, and 4 unit buildings on approximately 8 acres
- 76 tracts (including open space, private drives, and utility & drainage easements) on approximately 14 acres;
- 1 future development tract for possible clubhouse on ½-acre;
- Approximately 19 acres of public right-of-way dedication
- Extension of the B.H. Eaton Ditch Trail from Poudre Heights Park to the Poudre River Trail

A total of four access points are provided to the subdivision. Three access points are extensions of existing dead-end streets in Poudre Heights 1st filing. Another access point is the extension of Merlin Lane from the Hilltop Subdivision. Two new streets within the development will provide possible future connections to an adjacent parcel to avoid isolating it without access.

A number of lots on the eastern portion of the subdivision fall within the 100-year floodplain. These lots will be removed from the 100-year floodplain by raising their elevation with fill and completing of a Letter Of Map Revision with the Federal Emergency Management Agency (FEMA).

The applicant held neighborhood meetings on June 24, 2015, and August 14, 2018, in accordance with Chapter 16, Article XXXI of the Municipal Code. Please see the enclosed neighborhood meeting notes for discussion topics and responses.

The application is consistent with the following goals and objectives of the Comprehensive Plan:

Chapter 5b – Growth Framework

Goal: Maintain the character of the community while accommodating future growth that is fiscally and environmentally responsible.

Objectives:

- Prioritize new growth in areas currently served by the Town infrastructure and services.
- Incentivize infill development to complete neighborhoods and leverage existing resources.

Chapter 5c – Residential Areas Framework

Goal: Support diverse housing and residential neighborhoods to meet the needs of varying family sizes, lifestyles, and income levels.

Objectives:

- Foster a diversity of housing types and sizes through coordinated land use planning and zoning.

The application is consistent with the Strategic Plan, particularly promoting community and hometown pride through sustainable, excellent and equitable delivery of services in a fiscally responsible manner; and quality of life, vitality and small town feel.

A neighborhood meeting was held on June 24, 2015. Notifications for this meeting were as follows:

- June 14, 2015 – legal ad published in the papers
- June 12, 2015 – affidavit of mailing to property owners within 300 feet of the subject property

A second neighborhood meeting was held on August 14, 2018. Notifications for this meeting were as follows:

- July 30, 2018 – affidavit of mailing to property owners within 300 feet
- July 27 & 31, 2018 – display ad published in the newspapers

Public Hearing notifications for Planning Commission and Town Board public hearings were as follows:

- October 21, 2019 - property posted with a notification sign
- October 17, 2019 - legal notice posted on the Town of Windsor website
- October 25, 2019 - legal ad published in the Tribune
- October 24, 2019 – affidavit of letters mailed to the adjacent property owners

Staff recommends that the Planning Commission forward to Town Board a recommendation of approval of the final major subdivision as presented subject to the following conditions:

1. The applicant shall contribute 71% of the cost towards construction of a traffic signal at the intersection of Riverplace Drive and 7th Street with the Town paying the remaining 29%.

2. All remaining Planning Commission and staff comments shall be addressed.

Mr. Schick asked Mr. Hornbeck how many lots are located in the flood plan.

Mr. Hornbeck stated that would be a question for the applicant.

Gail (Spike) Rumley represents the applicant Poudre Heights LP stated there is a section of the property East on the BH Eaton ditch that's in a flood plain. He did receive a permit from the Army Corp of Engineers for fill in this area. None of the property is located in the flood way, and we did decrease the number of lots by approximately 10 to move the townhome lots away from the east edge to minimize affect. The townhomes will meet the requirements of the Army Corp of Engineers, and FEMA being an elevation higher than the flood plain. Additionally all the units that are affected in the flood plain will be built without basements slab on grade foundation.

Mr. Schick asked Mr. Rumley approximately how many lots will be affected by the flood plain.

Mr. Rumley stated approximately 127 lots, typically the townhome lots.

Per Mr. Rumley the project will be RMU zoning that ties into existing roadways with 4 access locations. No construction or additional projects to the east or north because they are affected by the flood plain. Open space towards the west will be a golf course part of the Raindance project.

Ms. Hall asked Mr. Rumley by adding dirt it takes the premise out of the flood plain.

Mr. Rumley stated; yes by adding fill to the area, and we receive the approval from the Army Corp of Engineers to allow for this. The lots have to be a minimum of 1 foot above the 100 year flood plain elevation. Typically these are done by a LOMR / CLOMR process, and that's typically the process we would use here.

Mr. Rumley would like to address the staff recommendation for intersection at Riverplace Drive. He stated if the intersection meets traffic warrants in the future, then we would participate in the installation of the traffic signal. If it does not meets warrants, then it would not be necessary.

Mr. Ballstadt asked Mr. Schick to clarify.

Mr. Ballstadt explained to Mr. Schick that staff recommendation is written very clearly, and is not subject to traffic warrants. Staff had forwarded the condition to the applicant earlier today, and asked for a confirmation either they were in agreement or we would continue the item to try and resolve this issue outside of the public process. If the applicant is not agreeing to the condition #1, staff would recommend the application be continued to resolve the issue.

Mr. Rumley stated to Mr. Ballstadt that he was unaware of this communication today.

Mr. Ballstadt asked Mr. Rumley whether he had read the condition of approval that was sent previously.

Mr. Rumley stated there has been a lot of correspondence ongoing.

Mr. Ballstadt read condition #1 of the staff recommendation to Mr. Rumley "The applicant shall contribute 71% of the cost towards construction of a traffic signal at the intersection of Riverplace Drive and 7th Street with the Town paying the remaining 29%".

Mr. Rumley stated he would agree to the exact language written in the staff recommendation.

Mr. Schick opened up the meeting for public comment.

Michael Payne 1763 Merlin Lane in the portion of Hilltop Estates that is adjacent to, but not connected to, the proposed Poudre Heights 3rd Filing Subdivision. I purchased my home in Hilltop Estates two years ago because of the peace and quiet in that neighborhood, and the large, open lots. The characteristics of my neighborhood are made possible by its zoning as E-1 under Windsor's Town Code.

I am here not to voice a wholesale objection to Poudre Heights LP's application for final approval of its subdivision, but to voice an objection to only one aspect of the application. Specifically, I object to the proposed connection of Merlin Lane to Poudre Heights 3rd Subdivision, which is zoned RMU (or Residential Mixed Use). For the following reasons, I ask the Planning Commission to require the applicant to revise its application to delete this connection, and then to forward a recommendation of approval of Poudre Heights, LP's revised application to the Windsor Town Board.

- Section 16-1-10 of the Town Code states, in part, that the overriding considerations of the zoning regulations contained in Chapter 16 are to: (1) promote health, safety, and general welfare; (2) "lessen congestion in the streets,"; (3) "secure safety from ... dangers,"; (4) "prevent ... undue concentration of population," and (5) "preserve the value of buildings."
- Section 16-14-10 of the Town Code states that it is the intent of Estate Residential E-1 District, in part, to create a semi-rural environment and to permit the keeping of certain large domestic animals.
- Section 16-24-10 of the Town Codes states, in part, that it is the intent of the RMU (Residential Mixed Use) district to: (1) provide for the development of mixed land uses; (2) encourage the creation of a desirable mix of residential dwelling classifications which are compatible with, complimentary to and located on the same parcel as common recreational uses, open spaces and commercial and light industrial uses; and (3) provide for improved vehicular and pedestrian traffic circulation and access.

The connection of Hilltop Estates (E-1) to Poudre Heights (RMU) by way of Merlin Lane will fundamentally change the character of Hilltop Estates by effectively eliminating the semi-rural nature of Hilltop Estates. For all intents and purposes, it will effectively, if not technically, change our zoning from E-1 to RMU, from "semi-rural" to one of greater density. Our neighborhood will go from one of 20 lots to one of 266 single family lots and 127 multi-family lots. And, based on the RMU zoning of Poudre Heights 3rd Subdivision, if the applicant or a successor one day successfully applies for an amendment of the subdivision plan, our neighborhood could be opened up to commercial and light industrial traffic. And this is to say nothing of the fact that the traffic in and out of an RMU neighborhood through an E-1 neighborhood is incompatible with the keeping of large domestic animals.

Such a connection would fly in the face of the purpose of the Town's zoning regulations, as stated in 16-1-10, because it would:

1. Fail to promote the health, safety and general welfare of Hilltop Estates' existing residents;
2. Increase congestion of the streets in Hilltop Estates (which are already in existence, as opposed to the yet-to-be constructed streets in a hypothetical Poudre Heights 3rd Subdivision)
3. Invite dangers into Hilltop Estates
4. Very likely diminish the value of the existing buildings in Hilltop Estates, since the increased traffic may diminish third-party interest in purchasing a home in this neighborhood.

While I understand that the Town's Land Use Plan indicates that due to the Town's growing population the application of E-1 zoning going forward will be limited, the E-1 zoning district does exist today, and the residents of Hilltop Estates purchased their homes in reliance on that zoning. Therefore, the intentions behind E-1 zoning can't be ignored or dismissed in order to facilitate an incompatible use of vacant land.

Section 16-14-210 of the Town Code describes the Residential E-2 District as one that will be served by "community facilities" and that will utilize urban-level services and improvements. Clearly, this type of zoning was intended to serve as a buffer between other zoning types and E-1. The proposed extension of Merlin Lane and improvements that might be made to Merlin Lane if adjoined to Poudre Heights might be permissible if Hilltop Estates were zoned E-2, but it is not. The code clearly contemplates that E-1 should not be directly connected to or adjoined to a development such as Poudre Heights.

The Developer can still develop Poudre Heights 3rd Subdivision without connecting his development to Hilltop Estates via Merlin Lane. The exiting two points of ingress and egress (Green River Drive and Riverplace Drive) are legally sufficient, and there is precedent for developing a neighborhood in Windsor of similar size with only two points of ingress and egress. Water Valley North has as many or more homes as Poudre Heights will have at full build-out, and it is only served by two points of ingress/egress provided by Water Valley Parkway. Furthermore, even assuming that this development required more than two access points, the Town should require the developer to prove that there are no other means of gaining an access point other than through Merlin Lane. From the Planning Staff's own materials, there will be two new streets within the development that will provide possible future connections out of the neighborhood. That would put the total number of connections at 4, which is twice as many as Water Valley North. One of those connections may be an existing private road that is immediately to the west of Poudre Heights 3rd and that is currently being used by oil traffic to access the Merlin drilling pad and other oil and gas facilities. Assuming a successful negotiation of a right away, or the current road owner's willingness to dedicate said road to the Town, this road could provide future residents of Poudre Heights 3rd with access to New Liberty Road.

In closing, I'm all for residential real estate development, and for letting Poudre Heights, LP obtain a final approval for their subdivision so that they can get to work building houses (or so that they can facilitate a sale of this land to another developer or builders). I am, after all, a real estate attorney. However, I'm also for preserving the character and the nature of my neighborhood, and for the Town standing by its precedent and its own zoning regulations. So, I request that the Planning Commission require Poudre Heights LP to revise its subdivision application to delete

the connection to Merlin Lane, and then to forward a recommendation of approval of the applicant's revised request to the Town Board.

Mr. Schick asked Mr. Payne whether he attended any of the neighborhood meetings. Mr. Payne stated he did not attend the meetings.

Mr. Payne stated due to the size of the lots, and distance notice his neighbors did not receive notices of the public hearing

Mr. Ballstadt stated notices were provided to the Metro District for distribution.

Mr. Ballstadt stated when Hilltop Estates was platted, Merlin Lane was developed to eventually connect to Poudre Heights.

Bob Lynch 1700 Dolores River Drive, spoke with different residents in his neighborhood that he's representing tonight. He is requesting a change in the easement from where the homes are being built or a walking trail to access the park. Our street on Dolores River Drive is going to be one of the access points to get to the west side of the subdivision. Mr. Lynch is asking for a reduction in lot sizes from 6" – up to 1 – 2 feet. Additionally the position of a proposed driveway is pointing directly into his home, and vehicle lights will shine directly into living areas.

Mr. Schick asked Mr. Rumley to take recommendations into consideration.

Mr. Rumley stated we would have to evaluate the implications, and evaluate the depth of the lots. There is a complex that has some additional fencing along that area, and an irrigation utility easement. Mr. Rumley addressed the driveway concern with planting some trees or vegetation creating a light barrier.

Ted Johnson 1363 Barn Owl Court, stated there are 4 ingress / egress access points for Poudre Heights, and he would like Merlin Lane to be emergency access only. He has concerns of the street becoming a race track. Mr. Johnson also shared concerns about RMU vs E-1 zoning in the Hilltop Estates Subdivision.

Wayne Plechaty 1698 Dolores River Drive discussed his concerns of emergency access vehicles response time with an estimated 800 – 1100 more vehicles with no additional access to 7th Street. He doesn't believe a stop light will be sufficient, and at minimum is requesting a round-a-bout. Additionally he would like to see another access point along the Northside of 7th Street. Mr. Plechaty also requested additional easement space or a walking trail.

Ralph Zrubek 1799 Dolores River Court stated concerns about the volume of traffic, and heavy commercial vehicles. He expressed concerns about whether the road were heavy duty enough to handle the weight of the commercial vehicle hauling fill, and construction materials.

Mr. Rumley stated the fire department requested Poudre Heights connect to Merlin Lane. Due to the flood plain we are unable to connect 7th Street on the Northeastern side. There are discussion about using a truck access road along the West side of the property. Additionally most of the dirt that will be hauled comes from the site itself.

Mr. Tallon moved to close the public hearing; Mr. Bushelman seconded the motion. Roll call on the vote resulted as follows; Yeas – Schick, Tallon, Dennison, Hall, Bushelman, Foreman, Scheuerman; Nays – None; Motion carried.

4. Recommendation to Town Board – Final Major Subdivision – Poudre Heights 3rd Filing - Poudre Heights LP, applicant/ Spike Rumley, Poudre Heights LP, applicant's representative

- Quasi-judicial
- Staff presentation: Paul Hornbeck, Senior Planner

Mr. Hornbeck had nothing further to add.

Mr. Dennison asked Mr. Hornbeck if public works, and fire department are contacted on this type of project. Additionally what input they had regarding the project.

Mr. Hornbeck stated; yes they have been involved since day 1.

Mr. Ballstadt stated the applicant has worked extensively with engineering on this project due to the flood plain.

Mr. Bushelman asked why not put a round-a-bout for flow of traffic vs a street light.

Mr. Ballstadt stated because of the flood plain, additionally that area on 7th Street has flooded in the past.

Mr. Tallon moved to forward to the Town Board a recommendation of approval of the Final Major Subdivision subject to the two conditions recommended by staff; Mr. Foreman seconded the motion. Roll call on the vote resulted as follows; Yeas – Schick, Tallon, Dennison, Hall, Bushelman, Foreman, Scheuerman; Nays – None; Motion carried.

5. Recommendation to Town Board – Final Site Plan – Poudre Heights 3rd Filing - Poudre Heights LP, applicant/ Spike Rumley, Poudre Heights LP, applicant's representative

- Quasi-judicial
- Staff presentation: Paul Hornbeck, Senior Planner

Per Mr. Hornbeck the applicant, Mr. Spike Rumley of Poudre Heights LP, has submitted a final site plan, known as Poudre Heights Subdivision 3rd Filing – Site Plan. The site plan encompasses approximately 15 acres and is zoned Residential Mixed Use (RMU). A total of 127 townhomes are being proposed, along with HOA maintained open space. A mix of two-, three-, and four-unit buildings are proposed.

The proposal is summarized as follows:

- 127 townhome units in 47 buildings
- Access is provided from private drives
- 2 car garages per unit, 20 off-street guest parking spaces, and adjacent parking on public streets for up to 135 cars

Building architecture is summarized as follows:

- Maximum building height of 28 feet
- Generally two story buildings with one story elements on all buildings
- Pitched roofs with varied rooflines
- Primary finish materials of brick and stone veneer, fiber cement lap siding, and hardboard wood siding with stucco finish
- Small yards with each unit

The application is consistent with the following goals and objectives of the Comprehensive Plan:

Chapter 5b – Growth Framework

Goal: Maintain the character of the community while accommodating future growth that is fiscally and environmentally responsible.

Objectives:

- Prioritize new growth in areas currently served by the Town infrastructure and services.
- Incentivize infill development to complete neighborhoods and leverage existing resources.

Chapter 5c – Residential Areas Framework

Goal: Support diverse housing and residential neighborhoods to meet the needs of varying family sizes, lifestyles, and income levels.

Objectives:

- Foster a diversity of housing types and sizes through coordinated land use planning and zoning.

The application is consistent with the Strategic Plan, particularly promoting community and hometown pride through sustainable, excellent and equitable delivery of services in a fiscally responsible manner; and quality of life, vitality and small town feel.

Notifications are not required with site plans.

Staff recommends that the Planning Commission forward to Town Board a recommendation of approval of the final major subdivision as presented subject to all remaining Planning Commission and staff comments shall being addressed.

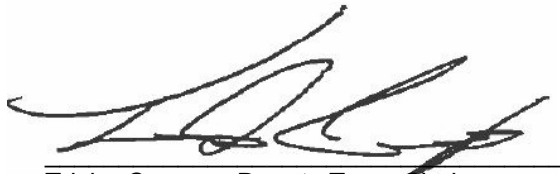
Mr. Tallon moved to forward to the Town Board a recommendation of approval of the Final Major Subdivision subject to conditions recommended by staff; Mr. Dennison seconded the motion. Roll call on the vote resulted as follows; Yeas – Schick, Tallon, Dennison, Hall, Bushelman, Foreman, Scheuerman; Nays – None; Motion carried.

D. COMMUNICATIONS

1. Communications from the Planning Commission
 - None
2. Communications from the Town Board liaison
 - None
3. Communications from the staff
 - Mr. Ballstadt reminded everyone about the Coffee with the Major on November 16th with the topic Transportation Master Plan.

ADJOURN

Upon a motion duly made, the meeting was adjourned at 9:09 p.m.

A handwritten signature in black ink, appearing to read 'Trisha Conway', written over a horizontal line.

Trisha Conway, Deputy Town Clerk