

**CITY OF LOVELAND
PLANNING COMMISSION MINUTES
April 13, 2015**

A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on April 13, 2015 at 6:30 p.m. Members present: Chairman Crescibene; and Commissioners Middleton, Meyers, Molloy, Dowding, Forrest, Ray, Jersvig, and McFall. Members absent: None. City Staff present: Bob Paulsen, Current Planning Manager; Moses Garcia, Assistant City Attorney.

These minutes are a general summary of the meeting. For more detailed information, audio and videotapes of the meeting are available for review in the Development Services office.

CITIZEN REPORTS

There were no citizen reports.

STAFF MATTERS

1. **Mr. Paulsen, Current Planning Manager**, informed the commissioners there would be items on the April 27th and May 11th agendas and there will be no meeting on May 25th which is Memorial Day.

COMMITTEE REPORTS

Title 18 Committee: Commissioner Molloy stated that the item discussed at the last committee meeting is on tonight's regular agenda and resulted in the changes that were mailed out regarding the Code Enforcement Amendment.

Create Loveland: Commissioner Dowding stated that the committee will be looking at a draft on Thursday the 23rd.

287 Advisory Committee: Commissioner Forrest attended the Urban Land Institute's, Building Healthy Places Workshop in which they toured the 29th Street area and analyzed what can be addressed to promote a more walkable area. **Commissioner Forrest** mentioned that she has asked the ULI to share the presentation with the Planning Commission and the City Council.

Commissioners Meyers and Molloy attended the Urban Land Institute's recent presentation on the impacts of the 2013 flood and the future mitigation and planning efforts that can be taken to respond to the past and future flood events.

COMMISSIONER COMMENTS

Commissioner Middleton acknowledged Administrative Professional's Day and thanked Beverly Walker, Planning Commission Secretary, for her assistance to the commission. He also noted that **Ms. Betsey Hale, Economic Development Director**, was recognized in the Colorado Municipality's April 2015 publication.

APPROVAL OF THE MINUTES

Commissioner Middleton made a motion to approve the March 23, 2015 minutes; upon a second from **Commissioner Dowding** the minutes were approved with eight ayes and one abstention.

CONSENT AGENDA

1. Mountain Pacific PUD – Preliminary Development Plan Resolution

Commissioner Meyers made a motion to approve Planning Commission Resolution 15-01, upon a second by **Commissioner Ray**, the motion was unanimously adopted.

REGULAR AGENDA

2. Turney-Briggs Right-of-Way Vacation

This is a public hearing on a legislative matter to review an application to vacate a portion of public right-of-way (alley) associated with the redevelopment of property located at the NE corner of Eisenhower Boulevard and Lincoln Avenue. The “T-shaped” portion of alley proposed to be vacated is approximately 0.2 acres in area. This vacation would facilitate re-platting and redevelopment of the properties associated with a Sprouts grocery store. The Planning Commission’s recommendation will be forwarded to the City Council for final action.

Mr. Troy Bliss, Senior Planner, presented the application explaining that vacating this portion of the alley does not grant development rights. This is a separate application from the Sprouts Grocery Store. A Site Development Plan, Public Improvement Construction Plans, a lot merger plat, a Site Work Permit, and a building permit have to be satisfied prior to the vacation being placed in effect. The City Engineer also has to determine that construction of the Public Access and Utility Easement has been satisfactorily completed. If development does not occur, the vacation will not be finalized or completed; it won’t be recorded until all of the provisions have been completed.

Mr. Bliss introduced the applicant **Mr. Zach Lauterbach, Evergreen Devco, Inc.** who offered to answer any questions.

Commissioner Questions

- **Commissioner Middleton** noted that Section 6 of the Ordinance states: This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b). He asked for clarity from **Mr. Bliss**; will it be held until the conditions are met or will it take effect.

Mr. Moses Garcia, Assistant City Attorney, explained that the Ordinance will be in effect, but it won’t be recorded until the conditions are satisfied.

- **Commissioner Molloy** asked: Will there be improvements to the alley, such as paving?

Mr. Bliss stated that there would not be improvements to the alley, the traffic study shows that traffic will not utilize the alley.

- **Commissioner Meyers** asked: Why is the alley access being left open and not made into a dead end?

Mr. Lauterbach and **Mr. Bliss** indicated that trash trucks use the alley for both commercial and residential properties. They want to ensure there is no dead end in the alley for access especially emergency access. **Mr. Bliss** stated that, based on the design, fire trucks will be able to make a turn into the future Sprouts site.

- **Commissioner Meyers** asked: Will delivery trucks parked at the loading dock block the alley access?

Mr. Lauterbach explained that the loading dock is designed so the delivery trucks will not block the alley access.

- **Commissioner Forrest** asked: What is the main reason for the alley; public or emergency access?

Mr. Bliss stated that both uses need access, in addition to the need for accessibility to public utilities and for use by adjacent property owners.

- **Commissioner Forrest** asked: Has staff looked at making the alley run east and west and emergency gating the alley entrance?

Mr. Bliss explained that the challenge to that option is how to keep the public's accessibility and the design need's to provide adequate landscape buffering for the adjacent neighborhood. **Mr. Bliss** stated they are also trying to limit the amount of access points onto Jefferson Avenue.

- **Commissioner Molloy** asked: Are there any intentions to regulate the directional movement of the alley?

Mr. Bliss indicated that the directional movement in the alley has not yet been discussed.

- **Commissioner Ray** asked: Can bollards be used that let only city vehicles in the alley?

Mr. Lauterbach stated he is willing to do whatever is going to be needed and what staff requires.

Mr. Sean Kellar, Public Works Engineer, stated that the Public Works Department tries to avoid installing anything that is going to be a maintenance issue and he has found that bollards aren't effective after a period of time. He shared that he recently drove the alley and found that it is not convenient and not smooth. He found that it is easier to access the site from Lincoln Avenue; therefore, he indicated that he did not expect much use of the alley associated with the Sprouts project.

- **Commissioner Ray** asked: What is the plan for when the store first opens and there is a lot of initial traffic?

Mr. Kellar stated that he is open to using temporary traffic controls when the store first opens. He indicated that if he finds that longer term neighborhood "traffic calming" is needed he will use them. Public Works has installed several different devices for such purposes.

- **Commissioner Jersvig** asked: What is the path that delivery trucks would be going?

Mr. Lauterbach explained the delivery trucks would come into the site from Lincoln, they will not utilize the alley. He stated, they have done what they could to mitigate trucks being able to use the alley.

- **Commissioner Meyers** asked: What is the snow removal plan?

Mr. Lauterbach stated the snow would be piled in the northwest corner and it would still allow enough room to allow trucks to maneuver.

- **Commissioner Middleton** asked: What is the schedule for getting the other applications going?

Mr. Lauterbach explained, this is part of the process. He stated that he is pressing forward and should have approval on the Site Development Plan in the next month or so.

- **Commissioner Middleton** asked: Is the process taking longer than normal?

Mr. Bliss explained that it is a complex site with a lot of design nuances. The project is moving forward.

Chair Crescibene opened the public hearing at 7:35 p.m.

Mr. Brian Wood, 1516 N. Jefferson Ave., stated that the increase in traffic will affect his quality of life. He shared that Jefferson is a quiet street, he thinks there are about 6-10 cars in an hour on average. He is concerned that it will turn into a high traffic highway, so he has asked for a no left turn sign to be posted. He stated that he would like the Planning Commission to wait to see if a lawsuit goes through and to hold off on making the vacation decision. **Mr. Wood** emphasized several times that traffic from the proposed Sprouts store will harm the neighborhood unless steps are taken to address impacts and redirect it from Jefferson.

Chair Crescibene closed the public hearing at 7:45 p.m.

Commissioner Questions and Comments

- **Commissioner Dowding** wanted to know what the objection to a “no left turn” sign is.

Mr. Kellar, stated that it is still under consideration, but could be an enforcement issue. If not enforced it eventually will not be obeyed. **Commissioner Ray** felt that if police don’t want to enforce it, it would be negligible, so that should not be an issue.

- **Commissioner Molloy** wanted to know if improving the alley would remove the opportunity to utilizing Jefferson.

Mr. Kellar stated that the alley is not wide enough to be a thoroughfare.

- **Commissioner Meyers** asked about putting up caution signs for the family with deaf children on Jefferson.

Mr. Kellar stated they have looked into it and talked to the resident to put up signs regardless of whether the project is approved.

- **Commissioners Dowding, Molloy, McFall, Ray, Forrest, Jersvig, Meyers, and Crescibene** indicated that they understand the resident’s frustration and wish there was more that could be done, but the action before the Commission is only for the vacation of the alley.

- **Commissioners Ray and Meyers** would like city staff to also consider signage and a no left turn on Jefferson and one way for the alley. They feel there needs to be a remedy for the traffic impact to the residents.
- **Commissioners Meyers and Middleton** indicated they are glad that approval of the vacation will be conditionally based and trust that the ordinance will be appropriately recorded. **Commissioner Middleton** suggested that **Mr. Lauterbach** also be prepared with more third party traffic reports.

Commissioner Dowding moved to make the findings listed in Section VIII of the Planning Commission staff report dated April 13, 2015 and, based on those findings, recommend that City Council approve the Turney-Briggs Addition and Turney-Briggs First Subdivision – Vacation of Public Right-of-Way, subject to the conditions listed in Section IX, by adoption of an ordinance in the form attached hereto, as amended on the record; upon a second from Commissioner McFall, the motion passed with eight ayes and one nay.

Chair Crescibene called for a recess at 8:10 p.m.

Chair Crescibene called the meeting to order at 8:24 p.m.

3. Title 18 Code Enforcement Amendment - Section 1.28.070 Clarification – Authority to Issue Summons and Complaint

This is a public hearing on a legislative matter: a proposed amendment to Title 18 (the zoning code) of the Loveland Municipal Code; specifically, the amendment addresses the repeal of Section 18.68.045 (Title 18), the creation of Section 1.28.070 (Title 1), and the amendments of four various provisions to be consistent with the new Section 1.28.070. The Planning Commission’s recommendation will be forwarded to the City Council for final action.

Mr. Vincent Junglas, Assistant City Attorney, explained that the amendment is mainly a clarification concerning code enforcement officers. There will be no substantial change to current practices as a result of the amendment. Summons and Complaints can be written by code enforcement officers without involving the police department. The standard process for issuing a Summons and Complaint is probable cause and acquiring an inspection warrant to enter the property.

Mr. Junglas further explained that the limited commissioned code enforcement officer shall be considered a peace officer for purposes of issuing summonses into municipal court pursuant to Rule 204 of the Colorado Municipal Court Rules. Consolidating and clarifying such authority in Title 1 will establish a clear statement of authority for purposes of enforcement actions.

Commissioner Meyers stated that Peace Officers are defined within the Colorado Revised Statutes (C.R.S.). Specifically in 16-2.5-001 through 16-2.5-101 and Peace Officer Standards of Training (POST), the board and classifications in 16-2.5-200 through 16-2.5-202.

Mr. Junglas advised that as part of our Home-Rule charter we have the ability under this specific role not to have to comply but can define ourselves. He also shared that Article 20 of the Colorado Constitution makes the defining of a Peace Officer a matter of local concern. Officers are authorized under oath to write a Summons and Complaint for violations that don’t concern the Police Department. Good examples of complaints include the presence of weeds, rubbish problems, and abandoned vehicles. In such circumstances, officers would need probable cause to acquire an inspection warrant under Section 1.08.010.

Mr. Junglas indicated that training of the officers will be a Human Resources issue: they will be duly deputized by the Chief of the Police or City Manager who would certainly be confident in the level of training received prior to issuing the oath.

Commissioner Questions

- **Chair Crescibene** asked: what is the process when a complaint is made?

Mr. Junglas indicated, that when code enforcement is called, a site visit is done, fact gathering with other neighbors is initiated, and communication with the violator takes place prior to a summons and complaint ticket being written.

- **Chair Crescibene** asked: How many letters are sent to a citizen?

Mr. Junglas indicated that three actions are taken; the first is a warning letter called a Notice and Order, the second item sent is a Notice of Abatement, and the third action would be a Summons and Complaint. There will be no change in the maximum amount of notices that are sent.

- **Chair Crescibene** asked: who writes the summons now?

Mr. Junglas indicated that the code enforcement officer writes the summons, but they will officially be Peace Officers to be consistent with Rule 204. It doesn't change the process, it just clarifies it.

Commissioner Meyers clarified that the training of the Peace Officer would include the training in the municipal code and how to interact with the public. He reiterated that it was his understanding that there would be no change to the current process.

- **Commissioner Ray** asked how many Summons and Complaints are given and are there any other peace officer duties that would come about, such as civil law and is there any other liabilities that the city or officer could face?

Mr. Junglas stated that out of the 6,000 cases he has seen, there have only been three code compliance cases and there would be no additional training necessary additionally, they would not be involved in civil matters. The city would not be liable, these would be municipal court violations.

- **Commissioner Meyers** asked about the enforcement for the Parks and Recreation Department; for example, parking issues at the Viestenz-Smith Mountain Park?

Mr. Junglas explained that this would be an issue to address with Parks and Recreation and the City Manager, only city Parks and Recreation employees may issue a summons and complaint or penalty assessment in such circumstances. There would be no weapons used of any type; no batons, cuffs, taser guns, etc. They do not have any arrest authority.

Mr. Paulsen indicated that code enforcement officers are non-confrontational. They try to work with the violator to help resolve the matter.

Commissioner Middleton moved to recommend that City Council approve the repeal of Section 18.68.045, the amendments of Section 18.68.040, Section 18.50.170, Section 12.44.050, Section 13.04.235, and the creation of Section 1.28.070 as specified in the draft ordinance identified as Exhibit A to the April 7th, 2015 memorandum, as amended on the record, upon a second by Commissioner Meyers, the motion was unanimously adopted.

4. Review and action concerning a resolution to City Council to seek direction certifying the Loveland Building Division as a Prequalified Building Department pursuant to section 22-32-124 C.R.S.

This resolution responds to the request made to staff by the Planning Commission on March 9, 2015 and further discussed on March 23rd.

Commissioner Forrest clarified that the school district still has the option to go with the state review or go with the City's review. She also stated that she would appreciate the inclusion of the school district's input on this recommendation along with research completed by staff on what other municipalities are doing in this regard.

Chair Crescibene asked for clarification that the action tonight only affects the City Building Department and not the school district.

Commissioner Forrest explained that the state wants to ensure that the review is from a life safety aspect and funding is through the BEST Grant Program.

Commissioner Meyers explained that the Resolution proposes a process allowed by the State Statutes.

Mr. Paulsen indicated that the Resolution doesn't change the requirement that the school district must present its site plans to the Planning Commission; rather, it recommends to City Council that the Building Division provide building permit review and inspection services to the district schools.

Commissioner Meyers emphasized that this matter should be moved forward to the City Council as the Council has authority to take action on the resolution.

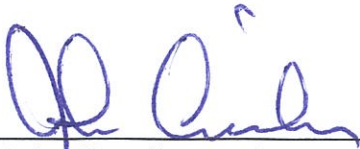
Commissioner McFall reiterated that he feels staff will research and submit to the City Council all findings relating to the resolution.

Commissioner Dowding called for the question.

Commissioner Meyers made a motion to pass the resolution from the Planning Commission recommending that the city apply for and obtain prequalified building division status for provisions of building permit services to the school district within the State of Colorado and authorizing the city staff to investigate and take to City Council as a recommendation for action, upon a second by Commissioner Dowding, the motion was adopted with eight ayes and one nay.

ADJOURNMENT

Chair Crescibene adjourned the meeting at 9:25 p.m.

Approved by: 
John Crescibene, Planning Commission Chair


Beverly Walker, Planning Commission Secretary