

**Town of Bayfield
Planning Commission Meeting
April 13, 2010
1199 US Highway 160B Bayfield, CO 81122**

Planning Commission Members Present: Michelle Nelson (Chairman), Bob McGraw (Vice-Chairman), Pat Heyman, Gabe Candelaria (Town Board Member), Ed Morlan

Planning Commission Members Absent: Rick Smith (Mayor), Joe Mozgai

Staff Present: Justin Clifton (Town Manager), Marianne Jones (Town Clerk), Ron Saba (Director of Public Works), Elizabeth Jackson (Intern)

Media Present: None

The meeting was called to order at 7:05 p.m.

Minutes: Pat requested one correction to the minutes. Bob made a motion to approve the minutes from the March 9th, 2010 Planning Commission Meeting as amended. Gabe seconded. All were in favor, motion passed unanimously.

Public Input: No public comment was offered, it was immediately closed.

Action Agenda Item #1: Dove Ranch Preliminary Plat – Unit IV

Justin gave his staff report. He explained that the developer of Dove Ranch is submitting an application for Unit 4 of the subdivision. This submittal is intended to suffice as both a preliminary plat and final plat. The Town's Land Use Code contemplates a phased approach to development submittals whereby the preliminary plat would be submitted first and a final plat with greater detail would be submitted after approval of the preliminary plat. However, staff acknowledges that this phased approach is not necessary in a circumstance where a development has already been through a Master Plan process and the phase in question conforms to that Master Plan. This is the case with Dove Ranch. Therefore, the Park Place submittal has adequate detail to suffice for a final plat. After approval from the Planning Commission, the submittal will go to the Town Board for consideration.

There are numerous issues to address in Dove Ranch. The Annexation Agreements and Subdivision Improvement Agreements contain terms for development that were made when the economy was much stronger. Dove Ranch was greatly affected by the three building permit moratoriums imposed on the Town during the sanitation crisis and economic recession that took hold shortly after the sanitation issues were resolved. There are outstanding items that need to be explored and new terms need to be established. The large items that need to be addressed include impact to the Los Pinos and Schroeder ditches, plans for offsite drainage and the subdivision park, which this phase will create access to. Justin also noted that this is first subdivision application since the adoption of new Land Use Code standards regarding fire flow.

Justin stated that many of the agency comments that were received and the outstanding issues will all be incorporated in a new Subdivision Improvements Agreement (SIA). The SIA is the governing contract for how, what, where and when the subdivision development takes place. In the past all approvals for the subdivision were granted and staff would incorporate those terms in an SIA. The SIA always returned to the Board for final approval but many times it came back months after the plat was approved. It was also frequently the case that other requirements, such as satisfying the Town Engineer, were incorporated as contingencies for approval but were often not complete at the time of approval. Staff will no longer use this protocol. From now on, staff will work with applicants to account for agency comments, including feedback from the Town Engineer and resolve issues so that the Planning Commission and Town Board are approving the complete project in its finished form, without any significant remaining contingencies. In the case of Dove Ranch, Debbi Renfro the Project Engineer

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has been very proactive in accepting and addressing agency comments and accounting for input from the Town Engineer in order to satisfy this new protocol.

Justin also commented that the staff will establish a protocol of making recommendations for approval in a more open ended fashion. It was common for Joe Crain to make very specific recommendations concerning the terms of development. Justin explained that he intends to outline the primary issues for the Planning Commission and provide enough detail for the Planning Commission to make decisions regarding the specific terms. The purpose of this new protocol is reduce the perception of the staff taking sides between agencies and the applicants and to empower the Planning Commission to take a more active role in establishing recommended terms of the SIA.

Justin stated that he thinks it will be helpful if the Planning Commissioners consider the agency comments one at a time. The comments should be reviewed with the notes below and the response letter from Debbi. Justin's notes include questions (in bold) that the PC should address. Answers to these questions will become what are used to be the approved staff recommendations.

- Souder Miller (comments provided in the PC packet)
 - Comments made by the Engineer have been addressed in the response letter from Debbi. However, revised plans have not been submitted at this point
 - **Does the PC want to recommend approval to the Town Board pending the changes or does the PC want to request the applicant come back to the PC with revised plans?**
- Public Works--Ron Saba (comments provided in the PC packet)
 - Ron would like additional signatories included on the plat
 - The Developer has questioned the appropriateness of these additional signatories
 - Many other comments overlap concerns outlined by the Ditch companies and Engineer
 - **How does the PC want to handle satisfaction of Ron's comments?**
- Dirk Nelson (comments provided in the PC packet)
 - Dirk's comments focus primarily on the SIA. The items he references are discussed in greater detail within this report.
 - **To what extent does the PC want to be involved in recommending terms of the SIA?**
 - Remaining comments pertain to plat dedications. It is not clear that all of this has been resolved. Changes have not been incorporated for review.
- La Plata County Engineering (comments provided in the PC packet)
 - La Plata Engineering raises concerns about the drainage outlet, the privacy wall along CR 501 and any landscaping in the Right of Way
 - The Developer indicates they are working to fix the problem around the privacy wall and acknowledges the landscaping permit requirements
 - **Are the County's concerned about drainage addressed with the recommendation that the PC will make concerning offsite drainage?**
 - **How should the PC address the Right of Way encroachment?**
- Schroeder Ditch (comments provided in the PC packet)
 - The Ditch Company wants the offsite drainage plan completed. The plan would take flows under the ditch and to the river.
 - The PC needs to consider establishing clear terms regarding the expectation for the offsite drainage including:
 - **What portion of the offsite drainage needs to be completed?**
 - **What is an appropriate timeframe for completion?**
 - **How should the Town structure the financial surety?**
- Los Pinos Ditch (comments provided in the PC packet)
 - The Ditch Company indicates they need the ditch piped
 - The Developer indicates this work may be completed prior to commencement of development
 - No revised agreement between the Ditch Company and Developer has been submitted to the Town

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- **Does the PC require a new signed agreement concerning the ditch piping?**
- **What is an appropriate timeframe for completion?**
- **How should the Town structure the financial surety?**
- BP America (comments provided in the PC packet)
- Division of Wildlife (comments provided in the PC packet)
 - DOW has outlined numerous concerns regarding wildlife
 - The Developer has responded to these concerns and claims the issues outlined are not controlled by the Developer but has committed to inform residents
 - **How does the PC want to handle the DOW comments?**
- Upper Pine Fire (comments provided in the PC packet)
 - Comments are acknowledged but no evidence of the ability to meet fire flows has been submitted.
 - Justin sent an email to the Fire Chief and Debbi asking for clarification
 - **What does the PC need to see to know the project conforms to new Land Use regulations regarding fire flow?**
- San Juan Basin Health (comments pending payment by Developer)
 - SJBH now requires applicants to pay for agency comments
 - Justin forwarded an invoice from SJBH to the Developer on 3/18/10 and was told it would be paid
 - The Developer has since questioned the need for SJBH comments based on the fact that they have already engaged (and paid) the state for storm water management permits
 - **Does the PC require the Developer to pay SJBH so comments can be released?**
- LPEA (comments provided in the PC packet)
- School District 10JTR (no comments)
- Source Gas (no comments)
- Rocky Mountain Cable (no comments)
- Qwest (no comments)
- Division of Water Resources (no comments)
- La Plata County Planning (no comments)
- US Army Corps (no comments)
- Bayfield Post Master (no comments)
- Chris Choate (no comments)
- Mike Shave (comments provided in the PC packet)

Justin also mentioned that the Annexation agreement for Unit 1, 2 and 3 indicates the Developer is obligated to dedicate 2.58 acres and to use \$189,500 for improvements to the Park, trails or other improvements deemed appropriate by the Town. The agreement specifies a Park Plan must be submitted by December 31, 2005 and the Park must be completed within one year of the approval of the Park Plan. In other words, the agreement requires the Park to be built no later than December 31, 2006.

The Park requirement is now more than three years overdue. In previous discussions with the Developer the building permit moratorium and declining economy are cited as reasons that the Park has not been completed. Staff also feels strongly that terms for major improvements such as parks should not be pegged to a date certain. A better way to deal with these improvements is to peg the completion of phasing of such improvements to progress of the overall development. This way the expected expenditures come parallel with the revenues received from the development.

Justin expressed that the requirements for parks needs to be clearly defined and that the PC should consider terms for the park development in a few key areas and look at the following questions that need to be answered.

Timing: How does the PC want to handle the timing of the park requirements?

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Park Plan: Does the PC want to require a new Plan be submitted for approval? If so, what level of plan detail and cost estimate needs to be included? How is the SIA structured to handle cost overruns or unexpected savings?

Administration: Who should administer the project; the Town or the Developer? If the Developer administers the project, how is the Town involved? Does the PC want to require the Developer to adhere to any processes concerning contract awards, equipment procurement etc.? What information does the Developer need to submit to the Town if any? Does the Town need to consider any detailed specifications as part of the Park Plan?

Justin asked the Planning Commission to review these items and consider each aspect during the approval of the subdivision.

The floor was given to the applicant, Brad Elder (P.O. Box 450 Durango).

Brad stated that this phase may or may not get built depending on the requirements set forth by the Planning Commission and Town Board. He expressed that he would like to find out all of the questions and outstanding items that have to be resolved so that he can figure out funding options for the project. He explained that he submitted the park plan and the subdivision plan during a time when building and development was booming in Bayfield. There were a lot of up front costs for the project that made it very expensive. Then the building moratorium happened in Bayfield that severely damaged the market and the economy fell into recession. He explained that this is the reason that these outstanding items have not been resolved yet. The cost of the project and the lack of building going on in Bayfield currently have really hindered his ability to move forward. He requested to find out all of the requirements from the PC and the Town Board so that he can make a decision about whether or not it is feasible to begin the next phase of the subdivision.

He then addressed some of the agency comments:

La Plata County: Brad explained that he has already established an arrangement for the trail plan. He has also already acquired a landscape permit and the paperwork for a landscape easement for the right-of-way on County Road 501. He expressed that he will have continued communication with the County regarding this item.

Upper Pine Fire: Brad commented that the question regarding fire flows has also already been addressed. The pump sizing and the water storage tanks were all engineered and built according to specifications for servicing the entire subdivision.

San Juan Basin Health: Brad stated that he has spoken with SJBH and will have the comments by next week.

Brad asked Debbi Renfro, the Project Engineer to address some of the other agency comments.

Souder Miller: Debbi explained that she hasn't sent the revised plans to Souder Miller yet but hopes to get them sent off soon. She asked if the Planning Commission wants to see the plans or if they just want confirmation that all engineering items have been addressed.

Public Works: Debbi stated that she has resolved some of the Public Works items. She spoke with a surveyor and found out that it is not possible to add additional signatory lines onto the document but the developer expressed that he will provide assurance for those entities in another manner so that they are satisfied by the outcome of the development.

Dirk Nelson – Town Attorney: Debbi said that the items noted by Dirk will be worked out in the SIA process.

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La Plata County: Debbi commented that the detention facility to handle the storm water drainage will be developed during this phase of the subdivision. She expressed that she will work out the details with the County.

Shroeder Ditch: Debbi explained that they cannot do the offsite drainage in phases. The entire thing has to be done at once. However, the subdivision is still only releasing historic flows but any additional lots will cause it to go over the threshold.

Los Pinos Ditch: Debbi asked Brad to address this item.

Brad explained that the subdivision had two options for drainage: Option one is that they could release the historic drainage to the historic places, Yucca Estates and Wilmer Farms. However, those two subdivisions are notorious for flooding regularly during annual rain events. Option 2 was to divert the drainage from the Dove property and the school property above it down through the Dove Ranch property, under County Road 501 and into the Pine River. This is an equivalent of about 200 CSF of water that will be diverted away from Town by this drainage system but it is extremely expensive to finish now that the economy is not as good as it once was. However, he did express that the release numbers are not any different today that prior to the subdivision being built.

Brad also explained that the reinforced concrete pipe (RCP) that the Los Pinos Ditch Company is requesting be used to pipe the ditch is going to cost approximately \$100,000.00. Brad has submitted a request to the Ditch Company asking if he can use polyethylene (ADS) pipe instead. (The Ditch Company has adopted an RCP standard for all ditch piping of the Los Pinos). The proposal was to install that pipe immediately but the ditch company felt like there was not enough time available before turning on the ditches for the season to get it installed. They want it done during the month of October instead.

Debbi clarified that piping the ditch was not necessary until this phase because they were not releasing any additional flows into the ditch. However, Brad did sign an agreement that stated that he would pipe the ditch.

Public Input:

Geoff Craig (813 Main Avenue Durango) stated that he is the attorney for the Los Pinos Ditch Company. He explained that the ditch company entered into an agreement with Brad Elder in August of 2005 stating that the remainder of the ditch that has not been piped (approximately 400 feet) would be piped by the fall of 2006. It was also agreed that it would be piped using 48" RCP pipe. This has not been done yet and the developer is in default of that agreement. The ditch company and the developer are trying to reach an amendment to the agreement but they haven't been able to come to agreement yet. However, since Brad is bringing in another section of the subdivision the ditch company felt that it was a good opportunity to push the matter for resolution. The company has received the proposal to use the ADS pipe but their engineer has not had a chance to review it yet. If the engineer deems that the ADS pipe is acceptable, they hope to be able to move forward with a new agreement stating that the ditch must be piped in the fall of 2010. If it is not done, the ditch company is going to request that they receive adequate surety from the developer during this phase of the subdivision that will ensure that the improvements will be completed and they would also like language in the SIA that states that the developer is required to pipe the remaining section of ditch.

Gabe asked what the Town's course of action will be on this matter if the developer decides it's unfeasible to move forward with this phase of the subdivision.

Brad answered that it's not that he doesn't want to complete these outstanding items; he's just struggling to come up with the funding to pay for them. He hopes that this proposal will be acceptable to the ditch company because he already has the funding in place to cover the costs and can have the work completed by the end of 2010.

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Phyllis Ludwig (9205 County Road 521) stated that she is representing the Shroeder Ditch Company. She stated that the ditch company is having a lot of difficulty with the drainage caused by the Dove Ranch Subdivision. There is an increase in flow and more contaminants in the water that are being dumped into the irrigation ditch. The ditch company asked Brad Elder to pipe over or under the ditch back in October of 2005 and he agreed that it would be done. However, it's been over 5 years and it still hasn't been completed. They have requested to have it completed by May 1st but they received a response from Brad Elder that stated that it could not be completed any sooner than November. The ditch company requested that the Town give the ditch company some sort of backing to ensure that the work will be completed.

Elizabeth Collins (1735 N. Taylor Circle) stated that she is a property owner in Dove Ranch and she lives in the area where the Los Pinos Ditch is not piped. She encouraged the Planning Commission to set clear standards on how they want things built. She purchased her home in 2006 under the agreement that a number of improvements would be completed on the property by the developer. These improvements were done so poorly that she has to spend money every summer to fix these items that were not done correctly. She suggested that it would be a wise idea to spell out every detail very explicitly and be as specific as possible in the agreements so that it gets done to the highest quality. She expressed that if there is a way to save money and skimp on the project, Brad Elder will definitely take that route instead.

Debbie Helton (509 Dove Ranch Road) stated that Brad Elder has made a lot of promises that have not been brought to fruition. She recommended not allowing Brad to move forward with any new development until these outstanding items are resolved. She feels that he should have to honor the agreements that have already been made and not be allowed to move forward with any additional development until they are completed.

Lars Helton (509 Dove Ranch Road) suggested that the Town should make sure and have a substantial amount of financial security for any new development brought forth by Brad Elder so that it is covered in the event of default.

No additional public input was offered. That portion of the meeting was closed.

Gabe asked if there are certain specifications that have to be followed for building a park.

Justin answered yes. Justin recommended that it might be a good idea for the Planning Commission to require that Brad submit a new park plan (even if it's the same one that was submitted before) outlining new cost estimates that can be revised in an effort to determine if it is still the best plan to meet the need.

Gabe asked about the bike trail.

Justin answered that the annexation agreement states that if the County allows a trail along County Road 501, the developer could be obligated to build it. However, based on the amounts dedicated, it's possible that it could be argued that the building of that trail would be deducted from the \$189,000.00 that is obligated in improvements owed by the developer.

Gabe asked if the Town and the Developer both felt that it was possible to complete all of these items (i.e. the park, the water storage, the ditches, & the drainage) by the end of 2006.

Justin answered that both parties signed the agreements. He feels that Brad should receive some credit for all of the things that he did do at the beginning of the project but there are still a lot of outstanding issues that still need to be resolved. Brad agreed to get them done by a certain date and he is in breach of those agreements. However, he did want it noted that the state of the economy and the decline in the building market should be taken into consideration in the matter.

Brad commented that he is still in Bayfield and still trying to come up with creative ways to finish out the subdivision as promised.

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Gabe asked what type of clarification needs to be received regarding fire flows.

Justin answered that the Planning Commission will need to set that precedent and decide exactly how they want to handle fire flows.

Brad clarified that he already has all of the current data and specifications that were used in the designing of the system for that subdivision.

Gabe asked if he has the capability to get proper financial backing on the project.

Brad answered that banks are not issuing letters of credit anymore. Based on the amount of pre-sales, he hopes to have an investor that is willing to put up cash to fund the next phase. However, he is still working out the numbers and trying to get everything approved so that he can find out all the details of how much it is going to cost.

Justin stated that the staff is going strongly recommend that the Town has to be financially protected.

Gabe expressed that he feels that all of the items outlined by Souder Miller need to be completed/corrected and resubmitted as a complete set of plans. He also feels that the developer needs to resolve all of the issues with the Los Pinos Ditch before a building permit are allowed in this next phase of the subdivision or some other form of surety to make sure that this item gets resolved. .

Ed asking Brad what exactly he is requesting from the Planning Commission,

Brad answered that he wants to know all of the things that are going to be required by the Town Board & Planning Commission to receive an approval on the phase.

Gabe responded that he feels that the actual improvements to the Los Pinos Ditch need to be completed before the next phase is allowed to move forward.

It was asked how much the improvements to the Schroeder Ditch are going to cost.

Brad answered that if he has to put in the entire drainage system to the river it will cost approximately \$250,000.00. If he's able to just resolve the minor problems with the ditch it will cost approximately \$10,000.00.

Justin answered that the lower cost estimate would have to be approved by the Ditch Company and be an adequate temporary fix to the problem.

There was a discussion regarding the park.

Debbi asked if it would be possible for the developer to only pay the park fees for the lots that have already been platted (142 lots) instead of paying for the entire amount which would include lots that haven't been created or developed yet.

Justin clarified that the developer is asking to only fulfill half of the park obligation since only half of the subdivision has been built yet.

Gabe asked if the developer plans to actually write the Town a check and have the Town do the work or if the developer plans to develop the park himself.

Brad answered that he would rather just pay the money and not be involved in the actual development of the park.

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It was decided that it might be a good idea for the Town to head up the park development because the Town has access to possible funding sources that could help add to the money paid by the developer.

Ed expressed that he feels that Brad should have to do all of the outstanding items and abide by the agreements that have already been made.

Brad responded that if he's required to do all of the outstanding items the project won't happen.

Bob asked if the process can be changed so that the entire SIA is approved at the same time as the plat instead of occurring long after the plat approval.

Justin answered that is exactly what he is trying to achieve. He wants the PC to identify some of the terms and then the SIA will be approved by the Town Board before the plats are approved.

Pat stated that she feels there are too many unresolved issues for this plat to be considered a final. Justin expressed that there are a lot of things that can be cleared up by the next meeting such as the Fire Department, engineering, etc. However, there are some major financial issues that are still outstanding such as the Los Pinos Ditch, the Schroeder Ditch, off-site drainage and parks. He asked the PC to come up with some terms on handling those items.

Brad offered that he would like to develop the irrigation system and the portion of the park that will make it usable, make the improvements to the Los Pinos Ditch as soon as allowed by the company, do some interim improvements to the Schroeder Ditch to alleviate their issues and the offsite drainage will have to wait until the next phase.

Michelle commented that she thinks that ditches need to be taken care of as soon as possible. She suggested that she would be willing to forego making them do the entire drainage plan at this time if the developer is able to come up with an agreement with the ditch company. She feels that the Town should be deed the land for the park and given the funds for the lots that have already been platted and then the Town should do the administering and developing of that project.

Gabe said that he agrees with Michelle. He strongly feels that the developer needs to write the check to the Town and allow the Town to administer the park project.

Bob & Pat both agreed as well.

Gabe made a motion to continue the Dove Ranch Phase IV Preliminary Plat until the next Regular Planning Commission meeting and for staff to adhere to the direction given by the Planning Commission. Ed seconded the motion. All were in favor, motion pass unanimously.

Action Agenda Item #2: New/Unfinished Business

Justin explained that the Westside Comprehensive Plan extension has been continued because the developer didn't get the revised materials needed and they are also waiting on more materials from CDOT & La Plata County. He hopes to have all of these items in time for the next Planning Commission meeting.

Ed mentioned that he has been elected to the Town Board so there is now an open seat on the Planning Commission because he will be vacating his seat.

Gabe made a motion to adjourn. Bob seconded the motion. All were in favor, motion passed unanimously.

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Approved:

Michelle Nelson
Chairman

Marianne Jones
Town Clerk