

**Town of Bayfield  
Planning Commission Meeting  
February 10, 2009  
1199 US Highway 160B Bayfield, CO 81122**

**Planning Commissioners Present:** Joan Hanna (Chairman), Bob McGraw (Vice-Chair), Rick Smith (Mayor), Justin Talbot (Town Board Member), Pat Heyman, Ed Morlan, Michelle Nelson

**Planning Commissioners Absent:**

**Staff Present:** Justin Clifton (Town Manager), Joe Crain (Town Planner), Marianne Jones (Deputy Town Clerk)

**Media Present:** Carole McWilliams – Pine River Times

The meeting was called to order @ 7:02 p.m.

**Minutes:** Bob noted that Andrew Kloz's name on page 2 needed a "t" added. His name is spelled "Klotz". Rick made a motion to approve the minutes of the January 13<sup>th</sup>, 2009 Planning Commission meeting as amended. Michelle seconded the motion. All were in favor so the motion passed unanimously.

**Public Input:** No public comment was offered so this portion of the meeting was immediately closed.

**Action Agenda Item #1: Election of Officers – Chairman/Vice-Chairman**

Joe explained to the Planning Commission that they needed to elect a Chairman & Vice-Chairman for the year 2009.

Rick recommended Ed as chairman. Bob seconded the recommendation.

Joan then recommended Bob as chairman. Ed seconded the recommendation.

Rick made a motion to elect Bob as chairman & Ed as vice-chair. Michelle seconded the motion. All were in favor, motion passed unanimously.

**Action Agenda Item #2: Public Hearing: Homestead Trails Annexation & PUD Zoning**  
**Applicant: Jack McCarthy & Grant Richards**  
**SE ¼ SW ¼ Sec. 15 T 34 N, R 7, W 240+ Acres**

Joe gave his staff report. He explained that the Planning Commission heard this item during the January meeting and today's meeting is to answer any final questions and made a recommendation to the Board.

Joe received comments from La Plata Electric. He placed these comments on dias for the Planning Commission to review. He also placed comments received from Russell Engineering in rebuttal to the Souder Miller comments. These were also placed on the dias for the Planning Commission to review.

Joe went through all of the referral comments that were received for the project. He also discussed the details of the annexation development agreement & negotiation items that are being negotiated. (Full detail on this information is documented in the staff report from Joe Crain dated February 6<sup>th</sup>, 2009).

**Staff Recommendation:**

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The staff recommends that the Planning Commission recommend approval of the 7 annexation, the Planned Unit Development conceptual plan, & zoning designation to the Bayfield Town Board with the following conditions:

- 1) That the Annexation & Development agreement be completed to include all agreed upon infrastructure restoration items as identified by the Town Engineer.
- 2) That the 7 annexation plats be revised to comply with the Town Engineer's comments.

The floor was then given to the applicant.

The applicant, Grant Richards explained that he didn't have anything to add to the presentation but that he would answer any questions of the Planning Commission.

Ed asked if there is gas service available in the subdivision.

Grant answered that there is already gas service installed.

Justin Talbot asked if there is a drilling envelope anywhere in this subdivision. He also asked about the mineral rights.

Grant answered that there are 2 existing drill pads in the subdivision. One of them will not be able to be used because of building. BP plans to put another drill head on the eastern most pad site. He has been told by BP that is the extent of the drilling in that area.

Bob asked if there are going to be any bridges built in this subdivision.

Grant answered that there will be 2 bridges built in future phases.

Rick asked the size of the water tank and what the plan is for that tank once the subdivision is annexed.

Grant answered that it is 60,000 gallons. The intent is to leave the tank in place and use it as additional water storage.

Rick asked if the well is going to be dedicated to the Town.

Grant answered that it is going to be dedicated.

Michelle asked if the lots are going to have irrigation water.

Grant answered that they do not plan to offer secondary irrigation because it would be impossible to give the residents in Phase 1 the same option.

Joe commented that Dirk is researching how many water rights are going to have to be dedicated for this development. Any irrigation water rights that are dedicated will be transferred to municipal water use.

Bob asked if the Town will be taking over the maintenance of the water storage tank.

Justin Clifton answered that the Town will be taking over maintenance of the tank but the Town is still in negotiations over when that take-over will begin. The staff doesn't think it is a good idea to take over maintenance until the whole subdivision is on the Town water system. The staff doesn't want to maintain two different types of system.

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Michelle asked if the new sewer plant is going to have the capacity to handle this new large subdivision.

Justin Clifton answered that the new plant is going to have plenty of capacity to accommodate this subdivision.

Justin Talbot asked about the amount of park land that is to be dedicated to the Town and when the park improvements will occur.

Justin Clifton answered that the draft annexation agreement states the following: *"The dedication of the Park land shall occur upon the recording of the first final plat that is adjacent to, and contiguous with, the boundaries of the park land. Upon the recordation of a final plat that contains the 200<sup>th</sup> residential unit within the future phases, Owner shall either have fully installed said recreational improvements or entered into a subdivision improvements agreement that assure the Town that Owner will commence installation of said recreational improvements, and shall thereafter diligently continue such installation until it is complete".*

Bob asked if there has there been anymore discussion about a 3-way intersection instead of a 4-way.

Grant answered that it's still being negotiated. The developers are having a lot of meetings and discussions regarding this issue trying to come up with the best plan for the intersection.

Justin Clifton responded that the EIS that was done a few years ago shows a different location (than the Homestead proposed location) for the intersection. This location was determined in order to minimize impact to wetlands. The developers & the Town are still in negotiation with CDOT on the best location for the intersection.

Joe commented that both proposed locations will impact wetlands.

Justin Talbot asked about the upfront sewer tap fees.

Justin Clifton answered if the Town falls short of financing for the lift station then the Town will go to the developers to ask for some upfront fees to help out with the financing of the lift station construction. The annexation agreement is being structured with some flexibility on this item so that the terms can be negotiated as needed.

Pat asked what types of immediate impacts the Town would incur once annexation occurs.

Joe answered that there will be very little immediate cost to the Town. The developers will have to continue to do all of the snow-plowing until the Town accepts that the streets meet Town requirements. Maintenance & snow plowing will begin once the Town accepts that streets & all agreements have been met. Patrol of that area will occur once it is annexed. The developer is contributing funds towards the purchase of a snow plow & police cruiser.

Ed asked why the money is being specifically earmarked for the purchase of a snow plow & police cruiser.

Justin Clifton answered that this is a decision that was made by the Town Board. They wanted to use site specific exactions for annexation. These are the main exactions that needed to be addressed by this development. However, the agreement will be written in a way that will give the Town some flexibility.

Ed stated that he is worried about being so specific with how the money will be spent.

Rick commented that the Town Board's direction was to be very specific about any money requested through exactions so that any questions about those funds can be easily answered.

Bob asked if any other residents have filed a petition for annexation in this area.

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Joe answered that nobody has actually filed with the Town; however, there have been some interested parties that have inquired.

The item was then opened for public comment. None was offered so it was immediately closed.

Ed asked if they are going to submit a drainage plan.

Joe answered that they will have to come in with a fully developed drainage plan during the preliminary plat stage.

Justin Clifton commented that the Town engineer has made some preliminary comments regarding the existing drainage. Any new subdivisions will have to meet the current Town standards. The staff is working on developing a full set of new infrastructure standards. Once these are adopted, the developers will have to abide by these standards.

The Town pays a lot of attention to all new drainage plans because they have been burned in the past by projects that did not have an adequate system. This review of the drainage delays a lot of projects because the Town engineers are very thorough with the review of the drainage. The Town is being very cautious that any drainage systems that are approved are sufficient for the project for which they are designed.

Pat asked about the lack of responses from several of the agencies. She wanted to know if any of those non-responses could hurt the Town.

Rick commented that if the Town waited to receive a comment from every agency it would hold up a lot of projects. The Town gives a very reasonable amount of time for a response. If they decide not to respond in the time given then they have to deal with the consequences of that non-response.

Joe commented that a lot of agencies do not comment at annexation or conceptual time. The Town will re-submit all of the information to all of the agencies again during preliminary & final plat so they will receive another opportunity to voice their objections or concerns if they have any.

Justin also mentioned that a lot of agencies do not send comments if they do not have issues with the proposed plan. The lack of response can also be construed as an admission of consent.

Rick made a motion to recommend approval of the 7 Homestead Subdivision Annexation Plat Maps & grant the zoning designation requested by the applicant subject to staff recommendations 1 & 2.

Pat seconded the motion.

All were in favor except Bob, who was opposed.

Bob stated that he is not sure that this is the best time to expand. He feels that the Town is already struggling to maintain current infrastructure without adding more to the load.

**Action Agenda Item #3: Public Hearing: Preliminary Plat  
Mesquite Phase Of The Southviews Subdivision  
Applicant: Real Estate Ventures II, LLC (Brad Elder, Principal)**

Joe gave his staff presentation. He stated that this project is located in the northwest area of the Southviews development. It is just south east of the water tank site. The development consists of 8 lots ranging in size from .20 acres to 5.05 acres. The zoning on the property is HDR (High Density Residential—Single family) and the

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developer is requesting that the 5.05 acre lot be designated HDR-MF (High Density Residential-Multi-Family Overlay). This parcel is being sold to an organization called Opportunity Builders. The company builds multi-family developments using tax credit financing. The development would consist of 49 one, two and three bedroom apartments and a community building. The residual lots will offer one single family and several duplex and four-plex opportunities. The proposal is in compliance with the 2008 amended Bayfield Comprehensive Plan – East Area Plan.

Joe went through all of the referral comments that were received for the project. (Full detail on this these comments is documented in the staff report from Joe Crain dated February 6<sup>th</sup>, 2009).

**Staff Recommendations:**

The Staff is recommending approval of the 8 lot Mesquite Phase I of the Southviews Subdivision Preliminary Plat subject to the following conditions:

1. That the Annexation Plat and Annexation and Development Agreement for Southviews are recorded prior to subdivision plat recordation.
2. That utility easements be placed on the subdivision plat in appropriate locations.
3. That the 5.05 ac parcel be shown as a lot by designating a lot line.
4. That the comments of the Town Engineer are strictly followed and the Town Engineer must approve the revised plat and construction drawings for water, sewer, streets and drainage prior to recordation.
5. That the plat and construction drawings comply with comments of the Public Works Director
6. That the Plat and construction drawings comply with comments made by the Upper Pine Fire Protection District.
7. That an adequate SIA (Subdivision Improvements Agreement) be developed and recorded as well as adequate surety posted to guarantee that the necessary improvements are installed.
8. That the secondary access to Southviews Boulevard and Dove Ranch Road be allowed a "temporary all weather access" road until such time the Town determines in additional phases of the subdivision that full construction is warranted.
9. That park land dedication fee of \$ 779.00 per lot is paid prior to plat recordation. ( $\$ 779.00 \times 8 = \$ 6232.00$ )
10. That a "Community Improvement Fee" of \$ 198.00 per lot for a total of \$1,584.00 be paid prior to plat recordation.

Joe also stated that the staff is also recommending that the Planning Commission grant a variance for a "temporary all weather surface road" with the understanding that in subsequent phases of the Southviews development the Town of Bayfield will make the determination of when the road will be constructed to Town standard. He also explained that this item is a separate item on the action agenda so a separate motion will need to be done to address this recommendation.

Joan asked if staff condition # 8 regarding the temporary road should be taken out of the motion for the preliminary plat approval and made a condition of variance request action agenda item.

Joe answered, "That would be the best way to handle the item".

Bob disclosed that he owns a lot within 200 feet of this subdivision. He asked the Planning Commission if they wanted him to recuse himself from the voting.

The Planning Commission all concurred that there was no reason for Bob to recuse himself because he does not have a financial interest in the project.

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Rick asked if the secondary access goes through Jack Roe's property (also known as the Highlands Subdivision).

Joe answered that that the second access is the road that has been started on the Jack Roe property.

Rick asked what type of all-weather road it is going to be.

Brad Elder answered that it's going to an all-weather gravel road. It will be the equivalent of a typical County road. He also noted that this will be the secondary access, not the primary access.

Ed mentioned that the list of comments made by the Town's engineer is very long and in depth regarding this project. He feels that there seems to be a lot of problems with this preliminary plat submittal.

Joe answered that he agrees that there are a lot of problems. This is the reason that he made the recommendation which states that the Town Engineer will have to approve the revised plat and construction drawings for water, sewer, streets and drainage prior to recordation.

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

Brad gave a power point presentation showing his plan for the subdivision. *(A copy of this presentation is included in the official packet book and the official minute book.)*

Rick asked if this plan is going to be considered affordable housing.

Brad answered that his hope is that it will be affordable housing; however, it will not be managed by the RHA (Regional Housing Alliance). The proposed buyer, Opportunity Builders manages their own projects so that they can manage their tax credits. He explained that Opportunity Builders will manage the project for 15 years.

Rick asked what happens after the 15 years.

Brad responded that would be a question for Opportunity Builders. He thinks they would make condos out of the units at the 15 year point or they work a deal with someone like the RHA to continue the management. However, he did know exactly what the plan would be and encouraged the Planning Commission to ask Opportunity Builders that question.

Brad explained that he is not hooking into the water fill line as the Public Works Director indicated on his comment sheet. Brad said that he will be tying into a main line that comes off the pump house instead of the water storage tank.

Rick asked for the status of the water line on the Jack Roe property.

Justin Clifton answered that the water line has already been installed by Jack Roe.

Joan commented that she thinks this plan is a very piece-meal approach. She expressed that she doesn't feel this is the best approach to take for Bayfield planning.

Bob asked if the Planning Commission approved 49 units in this area of the project when it was submittal for Sketch Plan.

Brad answered that it was approved.

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Bob commented that he has a real problem with approving a temporary road with the current state of the economy and the fact that the completion of the road hinges upon several other developments completing their improvements.

Brad explained that Dove Ranch Road and Southviews Boulevard already have an easement in place for using this access. The road will be a full all-weather road equivalent to a County Road but it will not be paved. He reiterated that it will only be a "temporary" access road.

Bob asked how long it is going to be before the road is actually paved.

Joe answered that the staff recommendation would be that that road would have to be taken to full road standards upon the platting of the next phase of the Southviews subdivision. The Town would not take the position to leave this road temporary if a request came into for another section of Southviews.

It was asked if the Town would maintain the temporary surface road,

Joe answered that the Town is obligated to maintain all of the roads it acquires. The Town already maintains several gravel roads within the Town limits.

Ed asked Brad if he plans to go forward with this project if the deal with Opportunity Builders doesn't happen.

Brad answered that he is not going to build anything on speculation.

The item was opened for public comment. None was offered so it was immediately closed.

Rick commented that he is uncomfortable that the temporary access road goes through Jack Roe's property.

Brad answered that he has already obtained the necessary easements from Jack Roe to build the access road.

Justin Clifton explained that the Planning Commission might want to consider that if they wait or decide to adopt policies that discourage some types of growth, it could come with a very hefty price tag. For example; the new sewer treatment plant that is being built was mandated by the State of Colorado based upon a certain amount of growth. If the Town does not have that type of growth and doesn't receive any of the projected plant investment funds, then it will have to figure out another way of obtaining the funds to pay for this new facility.

He explained that Opportunity Builder is very invested in this project and they have negotiated almost all of the terms. The contract is not complete but it's very close.

Pat asked how affordable these homes will be for the residents.

Justin answered that they will be very affordable. This type of project is meant to be for work-force housing. A 2 bedroom apartment would rent for \$600-\$700 per month depending on the applicants income. There is currently a waiting list of 150 families for tax credit housing. This conceivably means that these units would fill instantly.

Ed asked about the community improvement fee & park improvement fee. He wanted to know if these fees are paid per lot.

Joe answered that they are based on a per lot fee. He also mentioned that there is another park improvement fee that is paid at the time of building permit.

Ed made a motion to recommend approval of the 8 lot Mesquite Phase of the Southviews Subdivision Preliminary Plat subject to staff recommendations 1-9 excluding recommendation #8.

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Rick seconded the motion.

All were in favor except Joan, who was opposed.

**Action Agenda Item # 4: Variance Request – Temporary All Weather Surface Road**

Justin Talbot stated that he thinks that the road needs to meet the requirements of the Public Works Department and if it is determined that the maintenance is greater than a normal paved road that the additional costs need to be absorbed by the developer until the road is taken to full standards.

It was also mentioned that there needs to be a time-frame of how long the road will be a temporary surface.

Brad commented that he is amenable to a stipulation that says that the road will have to be paved eventually. He stated that he realizes that the road will have to be finalized eventually regardless of whether or not the Highlands Subdivision is constructed.

Justin mentioned that many of these items can be addressed in a Subdivision improvements Agreement.

Bob made a motion to approve a temporary all weather surface road for the Mesquite phase of the Southviews Subdivision subject to compliance of terms, conditions & requirements as established by the Town staff.

Pat seconded the motion. 5 were in favor, Rick and Justin were opposed.

**Action Agenda Item #5: New/Unfinished Business**

Joan welcomed Michelle Nelson as the newest member to the Planning Commission.

Ed requested that he would like to receive more details on land-locked lots.

The meeting was adjourned @ 9:39 p.m.

**Approved:**

\_\_\_\_\_  
Joan Hanna  
Chairman

\_\_\_\_\_  
Marianne Jones  
Deputy Town Clerk