

MEETING DATE: Monday, December 20, 2010
MEETING TIME: 6:00 PM
MEETING LOCATION: City Council Chambers, 448 E. First Street, Suite 190, Salida, CO

Present: Stephens, Brown-Kovacic, Malde, Leavitt, Kennedy, Wilbur, Kasper, MacDonald, Yerman

Absent: Curtis, Wood, Jefferson

AGENDA SECTION:

- I. CALL TO ORDER BY Stephens: - 6:00 PM**
- II. ROLL CALL**
- III. APPROVAL OF THE MINUTES – Monday, November 22, 2010**
Brown-Kovacic - made a motion to approve the minutes with a spelling correction.
Leavitt - seconded the motion. All voters were unanimous and the motion carried.
- IV. UNSCHEDULED CITIZENS - None**
- V. AMENDMENTS TO AGENDA - None**
- VI. UPDATES:**
Update from Salida Regional Planning Commission: **Yerman** explained that there was no RPC meeting in December; however the Regional Planning Commission had a public meeting in November to discuss the zoning recommendations within the Municipal Planning Area. The meeting was continued until January 19, 2011. In the meantime staff is contacting the five property owners identified during the November meeting for further discussion.
- VII. PUBLIC HEARINGS –**
 - 1. Cordova Minor Subdivision – 501 Walnut Street –** The request is for preliminary plat approval to subdivide one (1) lot into two (2) lots at 501 Walnut Street.
 - A. Open Public Hearing – 6:05 p.m.**
 - B. Proof of Publication – yes**
 - C. Staff Review of Application –** **Yerman** summarized the staff report for the preliminary plat request and explained that staff recommends approval with four (4) conditions. He noted that a new name will need to be chosen for the subdivision as there is already a ‘Cordova Minor Subdivision’ on Crestone Ave. **Wilbur** asked if any dedication of right of way would be required along Chilcott as a condition of future development.
 - D. Applicant’s Presentation - Pete Cordova -** He explained that 1B will be vacant after the garage is relocated to Parcel 1A. Parcel 2 is already developed with commercial uses. Lot 10 is unoccupied and the owner is somewhat unavailable. **Cordova** discussed the locations of water meters and service lines. He discussed that the sewer service line locations are unclear but that he believes there is an issue with staff’s interpretation of 13-3-50, Separate Connections Required, because of which property is being divided. The property being divided is not the one that is cross-connected and he does not own Lot 10 so it does not fall under the code requirement for separation. If however, it is applicable he would like to apply for an exception to the requirement that the cross-connection be corrected.

Wilbur asked if granting an easement across Parcel 1A for the water service line is a concern. **Cordova** explained that he is willing to grant a non-exclusive utility easement across the rear lot line of Parcel 1A&1B to allow for the water line from Lot 10 and any future electric or other utilities. Discussion followed regarding the location of utilities and the requirement to provide an easement and the statutory recognition of a proscriptive easement. **Cordova** does not feel he has the right or ability to enter Lot 10 to investigate if the lines are cross-connected or to remedy the situation if the code section does apply. **Brown-Kovacic** asked how maintenance of the sewer line would be addressed without a separation of the possible cross-connection and who would pay for repairs. **Corodva** stated he would be willing to provide a plat note requiring that if the sewer line failed in the future that the owner of Parcel 1A be required to abandon the cross-connection and take the line out to Chilcott at that time.

Stephens asked if the relocated garage would cover the water line and was informed it would not. The garage will be placed east of the water service line. **Wilbur** asked if the City has a copy of the original plat or building permits for the structures and staff stated that they do not. **Kennedy** asked if the site was posted and the posting location was described. No comments have been received from the neighborhood.

E. Public Comment – None

F. Close Public Hearing – 6:27 p.m.

G. Commission Comments – Stephens understands Cordova’s argument regarding the sewer cross-connection and feels it should be considered by the City Attorney and Council. **Yerman** agrees that the recommended condition could be altered to recommend discussion with the City Attorney on this matter. **Wilbur** noted that the applicant does have the ability to ask for an exception to the separation requirement from City Council if it does apply. **Stephens** noted that in recommended condition #1 that the ‘or’ be changed to ‘and’. In condition #2 he asked if the easement should be provided for both water and sewer. It was clarified that the sewer line is not in that location.

Wilbur does not feel the City can require the applicant to grant an easement without compensation such as the water line easement or easement for Xcel. While he understands the issues must be resolved under 16-14-80(3)b, he is hesitant to direct that the applicant provide an easement without compensation. Rather he feels the City should simply request that applicant provide a solution rather than directing how that solution is provided. **Wilbur** suggested that the language in recommended conditions #2 and #3 be altered to be more consistent with the preliminary plat requirement language in the municipal code. **Cordova** is willing to offer the easement although he agrees with Wilbur. There was further discussion of the proposed wording.

H. Commission Action – Wilbur made a motion to make the recommended findings and take the recommended action with modifications to Conditions 2 & 3 such that the applicant shall in accordance with 16-14-80(3)b coordinate with any adjoining neighbors with whom the applicant may have shared utilities and with any utility company, and with staff for a suitable resolution to make sure services are suitable and adequate to meet the needs of the proposed subdivision. **Cordova** commented that he remains concerned about trying to work with the adjacent

property owner who has been difficult to contact. There was discussion of the utility requirement to eliminate the sewer cross-connection. No one seconded the motion so the motion died.

Stephens led some discussion about recommended condition #1. It was discussed that the utility section of the code is outside the purview of the Planning Commission and that there should be further discussions with the City Attorney about that issue. **Wilbur** stated the City Attorney would provide an interpretation of this section of the code and advise the City Council during the final plat review. **Cordova** disagrees and feels that the Planning Commission can make recommendations regarding sections of the utility code. **MacDonald** noted that the Planning Commission does not have Chapter 13 in front of them to review or make determinations upon. **Yerman** noted that anything brought forward by the applicant would be reviewed by the City Attorney. **Wilbur** asked if it would be appropriate for the Planning Commission to modify recommended condition #1 to recommend the applicant's concerns be addressed by the City Attorney.

Wilbur made a motion to make the recommended findings and take the recommended action with the wording change suggested to condition #1 changing 'or show' to 'and show' in the first line and with modifications to Conditions 2 & 3 such that the applicant shall in accordance with 16-14-80(3)b coordinate with any adjoining neighbors with whom the applicant may have utilities shared and with any utility company, and with staff for a suitable resolution to make sure services are suitable and adequate to meet the needs of the proposed subdivision. **Leavitt** seconded the motion. All were in favor and the motion carried.

2. **Tenderfoot Health Collective (THC) Conditional Use Application** – The request is to be granted a conditional use to have a greenhouse for the cultivation of medical marijuana at 840 Oak Street located in the Commercial (C-1) zone district. In the C-1 zone district the proposed use is conditional. **Brown-Kovacic** asked for clarification on how the CDOT discussion evolved regarding access and parking.

A. Open Public Hearing – 6:52 p.m.

B. Proof of Publication - Yes

C. Staff Review of Application – **Yerman** summarized the staff report for the conditional use request and explained that staff recommends approval with ten (10) conditions. **Brown-Kovacic** asked about condition #5 including what the new local regulation might come into place and what those might entail. **Brown-Kovacic** asked if the applicants were proposing to engage in infused products manufacturing. The applicants are not proposing that use at this time.

D. Applicant's Presentation – **Colleen Kunkle** introduced herself. **Kathy McCullen** provided an overview of their application noting that under Observations #4 the CDOT concerns were just brought to their attention last week. They have begun the process of working with CDOT and the property owner is willing to pursue the access permit. Under #5, the state statute has taken effect and they are required to grow 70% of the product they sell. In response to the letter from the neighbor she pointed out that they have invested a lot in their establishment. Regarding the attorney's recommendation, they were issued their certificate by the State in August and that they are operating legally under the State regulations. Regarding the letter from Chief Clark, they are working to keep up with State regulations for things such as surveillance cameras as they get handed

down.

Brown-Kovacic asked about ventilation of the basement. **Kennedy** asked how much of the product they will sell will be grown on the site. **McCullen** explained they will grow 70% on site and the process of growing. **Wilbur** asked if there will be any testing required of the air. None has been suggested at this time.

E. Public Comment – None

F. Close Public Hearing – 7:18 p.m.

G. Commission Comments – Malde thanked the applicant for the level of detail being provided by the applicants. She feels that the lack of public objection says a lot about this being a more appropriate location for this type of application. **Stephens** commented that the wastewater disposal is not being addressed in the recommended conditions. **Yerman** noted that the wastewater plant supervisor did not have any concerns with this application. **Brown-Kovacic** asked whether the surveillance cameras will need to be installed within a certain amount of time once the State regulations are finalized. **Stephens** asked for clarification on the location of the access that CDOT is requiring.

H. Commission Action – Malde made a motion to make the recommended findings and take the recommended action striking recommended condition #7. **Wilbur** - seconded the motion. All were in favor and the motion carried.

VIII. UNFINISHED BUSINESS-

IX. NEW BUSINESS

X. COMMISSIONER'S COMMENTS:

XI. ADJOURN: With no further business to come before the Commission, the meeting closed at 7:28 p.m.