

**MINUTES**  
**CARBONDALE PLANNING AND ZONING COMMISSION**  
Thursday July 11, 2019

**Commissioners Present:**

Ken Harrington, Vice-Chair  
Marina Skiles  
Jay Engstrom  
Jade Wimberley  
Nick Miscione  
Nicholas DiFrank (1<sup>st</sup> Alternate)

**Staff Present:**

John Leybourne, Planner  
Mary Sikes, Planning Assistant

**Commissioners Absent:**

Michael Durant, Chair  
Tristan Francis (2<sup>nd</sup> Alternate)  
Jeff Davlyn

**Other Persons Present**

Mark Chain  
Randy Spurrier  
Jerome & Donna Dayton

The meeting was called to order at 7:00 p.m. by Ken Harrington.

**June 27, 2019 Minutes:**

Jay made a motion to approve the June 27, 2019 minutes. Marina seconded the motion and they were approved unanimously with Jade and Nick abstaining.

**Resolution 8, Series of 2019 - Approving Condo Exemption - 718 Lincoln Avenue**

Marina made a motion to approve Resolution 8, Series of 2019, approving the Condominium Exemption at 718 Lincoln Avenue. Nicholas seconded the motion and it was approved unanimously.

**Public Comment – Persons Present Not on the Agenda**

There were no persons present to speak on a non-agenda item.

**PUBLIC HEARING – Minor Plat Amendment**

**Location: 403 & 417 Crystal Canyon Drive**

**Applicant – Randall & Juliet Spurrier**

John said that this is a public hearing to consider a Major Plat Amendment for 403 and 417 Crystal Canyon Drive. He stated that the Planning Commission is required to hold

a public hearing and approve the application or deny it. He said that the Commission may also continue the public hearing.

John said that the RVR HOA issued a letter of approval of the proposal on April 24, 2019 with four conditions of approval.

John explained that the purpose of the Major Plat Amendment is to consolidate two lots, 403 and 417 Crystal Canyon Drive.

John said that normally a consolidation would be an administrative review. Staff felt that due to the size of the lot that would be created, the application should be reviewed by the Planning Commission.

John stated that the Major Plat Amendment removes the dividing lot line and also the building setback lines along that interior lot line.

John said that the proposed new lot is 41,388 sq. ft. in size, Lot 19 is 20,638 sq. ft. and Lot 20 is 20,750 sq. ft. in size.

John stated that the building envelope has been increased in the front yard, effectively pushing the conceptual structure to the back of the lot and the side and rear setbacks increased to 20 feet from the original 10-foot setback.

John said that the property owner has also worked with neighbors on the driveway and parking layout so that there are no issues.

John stated that while Staff has reservations about the overall lot and more specifically the building envelop size, Staff is supportive of the application.

Jay asked if the setbacks needed permission from the utility companies for easements.

John said no that there were no utilities running in the setbacks.

Mark Chain introduced Randy Spurrier. He said that the owners have been working on the design for their home and that the HOA of RVR has approved and now they are wanting the Town's approval. He explained the location on the map and said that Phase 7 was the last platted area. He continued by saying that the neighbors to the right were concerned with cars parking near their bedrooms so the parking was changed. He said one issue was the size of the building envelope and the DRC suggested pushing it north.

Mark said that in the packet there is a list of eight homes larger than 5,000 square feet. He said that the applicants accept Staff's conditions.

Randy said that it has been our dream to live in RVR and we currently live here and we love Carbondale. He said that our current home design is 4,000 square feet and with a narrow lot. He said by using two lots that the house can be set back for Mt. Sopris

views. He said that we have designed outdoor sheds, one with a telescope. He said that they have no intention to build a McMansion and through the RVR process that they met with neighbors and they were positive meetings and that we don't want to make an impact.

Nick thanked the applicant for the presentation and asked if the HOA has approved their consolidation.

Mark answered yes and the letter is in the packet from the HOA.

Ken added, with four conditions.

Marina asked what the final square footage was for the home.

Randy answered that their home was going to be about 4000 square feet.

Marina said that they would be allowed to build a much larger home than is proposed.

Randy said if we wanted a McMansion.

Ken disclosed that he lives in Old Town in RVR.

There were no members of the public present

### **Motion to Close Public Hearing**

A motion was made by Nick to close the public hearing. Nicholas seconded the motion and it was approved unanimously.

### **Motion**

Jay made a motion to approve the Major Plat Amendment for Lots 19 and 20 Block AA River Valley Ranch Phase 7 with the suggested findings and conditions indicated in the Staff report. Nick seconded the motion and it was approved unanimously.

### **PUBLIC HEARING – Crystal Acres PUD Amendment**

**Location: 315 Oak Run Road**

**Applicants: Jerome & Donna Dayton**

Three letters were distributed from other owners in Crystal Acres that were not at the meeting.

John said that this is an application for a Major PUD amendment for the Crystal Acres Planned Unit Development. He said that the Planning Commission is required to hold a public hearing and either recommend to approve, deny or continue the public hearing.

He continued by saying that the purpose of the amendment is to update Section 12, Special Restrictions of the PUD to better define what a "Primitive Trail" is by providing a

review through a conditional use permit with review criteria and providing design and construction details for a “low impact trail.” He stated that there are no proposed changes to any of the district zoning parameters such as setbacks and building heights. John said that the PUD was annexed in 1978/1979 and the PUD was established in 1992. He stated that the PUD consists of Residential Low Density Lots. He said that the PUD is almost entirely built out with only one lot left vacant today.

John said that comments pertaining to the application were provided by CPW, the Roaring Fork Nature Conservancy and were positive of the application as the standards would provide for a more sustainable trail that would help with percolation and the controlling of erosion and silt entering the river/riparian zone.

John outlined the following:

#### Section 12, Special Restrictions: A. Riparian Zone

This section pertains to the designated riparian zone between the building rear setback line and the Town owned Public Open space on Lots 18 through 31 along Oak Run Road. Specifically, the section states that the indicated lots are entitled to have one primitive footpath leading to the Crystal River.

Several trails have been built and they consist of several different types of construction methods. The applicant included pictures of these trails in the application packet.

#### **Proposed PUD language/changes**

Staff is supportive of the proposed Construction Standards indicated in the application and would suggest the following additions/changes.

#### Section 12

Staff is supportive of the change from a “one primitive footpath” to a “low impact footpath” Staff would suggest that the applicant indicate that only one footpath is allowed. Suggested language would be “one low impact footpath.”

Add a reference to the Wildfire Mitigation Permit as established in 2012 for the clearing of vegetation for defensible space.

Suggested added language to include the restriction of structures being placed in the Zone such as picnic tables, landings, shade structures, fire pits and other improvements other than the approved permitted footpath.

Add that the footpath may not exceed 24” in tread width.

Lighting. Staff would suggest that no lighting is allowed in the Hillside and Riparian Zone.

A requirement be added that a site inspection be performed as part of the application before work is to commence and after work is completed.

#### **Established PUD Policy**

Several owners expressed concern that the PUD amendment would lead to more changes in the overall PUD and stated that they would not be interested in larger changes to the PUD. No other changes are proposed nor would Staff recommend any at this time.

Jade said that there are numerous other trails to the river from other homes, why are we talking about this path.

John stated that there was a complaint from across the river.

Ken asked how many paths are existing.

Mark explained that there are thirteen lots on the river in Crystal Acres and that there are two paths constructed as well as a primitive one on Lot 19.

Nick asked if there was an HOA.

Frank Taverna answered that there was no HOA.

John explained that the PUD process required 50% agreement from owners.

Mark Chain introduced Jerome and Donna Dayton and said that they live at 315 Oak Run. He said that Chris Brandt of DHM Design will explain some history shortly. He said that Frank Taverna and John Segal were the developers of Crystal Acres in '91 or '92. He said that this amendment for the trails was the only change to the PUD. He said that there were forty lot owners and that twenty-two responded to go forward, five said not to, three abstained and ten did not respond.

Mark said that there has been a debate about the definition of a primitive path. He said that there is no clear definition. He recalled the history of the area and the PUD. He said that there was also a study done referencing the slope to the river and that it was decided not to remove dead trees and vegetation. He said that the riparian area is small and that the bottom area to the middle of the river was dedicated to the Town. He said that in Crystal Village there is Staircase Park.

Mark gave some historical information of the wishes of a former Trustee and that he had wanted a path along the river. He said that we are talking about the re-write of Section 12 – safe but discrete, no heavy equipment, no retaining wall, no switch backs, natural, with no elevated construction above grade and removing all excavation spoils.

Mark said that with a conditional use permit that it could be required to get a professional to get the lay of the land. He said that the Dayton's put in steps to take care of weed management. He said that they were allowed to make a path and it is primitive with no erosion or any other disturbances.

Jerome said that he did not want his wife or guests to slip and that the bull thistle was his motivation. He said that in the spirit of the PUD he is here to clear things up.

Mark presented seasonal pictures and said that they want to honor the Town's comments about obscuring the timbers.

Chris Brandt of DHM Design introduced himself and said that he is a landscape architect. He suggested hand construction scaled with steps that are solid, uniform flat surfaces 3-6 feet wide.

### **Discussion**

- Appropriate width of steps
- Erosion plan
- Steps on existing paths
- Construction near root zones
- Proposed standards
- Defining minimal impact
- No lighting on path as condition of approval
- Existing paths and grandfathering
- Filter fabric to allow water to pass to other steps
- Handrails
- Clarification of egress locations

### **Public Comment**

John Foulkrod, **1349 Wald Drive** said that he was on the city council when this PUD was approved. He said that everyone was missing the point and that it was agreed to leave the river wild. He said that this included no decks or picnic tables and the rules were put there to keep the river natural. He said that it is a river and it can be treacherous. He said that in Aspen putting the bike path near the river made it no longer wild. He said keep that in mind and to keep the river paths primitive.

Frank Taverna, **405 Oak Run Road** said that John Segal was his partner when they developed Crystal Acres in 1991. He said that with the designation of the riparian zone we agreed to move the boundaries of the river front lots to maintain the character of the river. He said that each owner has understood for thirty years that a primitive path to the river was allowed. He said that this is an approval of a path that was already built. He stated that not all owners were included in the mailing and that they heard about it from the public notice signs and that he questions the fairness. He said in the packet that Janet mentioned handrails which is a contradiction. He doesn't agree with the amendment to the PUD so that every time an owner violates the covenants they can be brought into compliance.

Nick Sontag, **305 Oak Run Road** said that he agrees that every owner is going to have a different description of how a primitive path looks. He said that his property on the river needs to be managed and that there is a risk with fires and that a low impact path is not a bad thing.

Gayle Wells, **320 Oak Run Road** said that the path in question is so unintrusive and natural looking and that it ends before the riparian zone.

Bob Pazik, **365 Oak Run Road** said that we have a primitive path, not made by people. He said that if we built on our path trees would need to be removed, 25-50% of the trees and that it would be disruptive to the riparian zone.

### **Motion to Close Public Hearing**

A motion was made by Nicholas to close the public hearing. Marina seconded the motion and it was approved unanimously.

Nicholas said that this is not about right or wrong and that he has compassion for both sides. He said that the Crystal is a jewel and that he doesn't think the intent was a bad use of your property. He said that the biggest challenge is the definition of path. He said that there was not enough guidance and that this is an opportunity to help further to avoid this situation of having the community up in arms. He said that he is not against their path and that setting precedent will be helpful for the future.

Jay said that was great and that he understands the purpose is to protect the river and this area. He said that the definition is loose and that future owners might define it differently. He said everyone has a different opinion and that if we change the PUD text it will prevent further conflict.

Jade asked for clarification of the Commission's role.

John stated that the Commission can either approve the PUD amendment or deny it and that it will go to the Board of Trustees. He said the Commission and Staff can draft the PUD language.

Ken asked what if the Commission didn't want to amend the PUD.

John stated that the language would stay the same and that each owner on the river would be allowed one primitive trail.

Ken stated that the current wording of primitive trail might have different standards and it might lead to more damages etc. He said that it was only enforced after a complaint. He said that we could amend the PUD because the language is vague and maybe make another pass to clarify issues raised tonight.

Nicholas suggested looking at other towns and their thresholds, grade to steep standards.

Nick agreed that vagueness causes issues. He said that without a DRC and no executive or organization of the community to protect yourselves. He said that the best judgement is to not leave it up to the Town and to approve with conditions.

Nicholas said that the Dayton's are the scapegoats here.

Marina thanked everyone and said that primitive path needs to be defined.

Ken asked if we are going to vote on specific language.

Jay asked if all the owners of the PUD have a say in the proposed standards.

Jade said that she heard John Foulkrod's one sentence and his passion for a primitive path to access the river. She said we could decide as a group what language to use to protect it and make it more specific to protect the river. She said that, if you build paths, it will be developed and that we should honor language from the past.

Further discussion ensued about process.

### **Motion to Continue the Public Hearing**

Nicholas made a motion to continue the public hearing to August 15, 2019 and that Staff will bring back a draft of the wording for the PUD amendment. Jay seconded the motion and it was approved unanimously.

### **Staff Update**

John said that the City Market permit was close to being issued and that we are mediating the renewables.

John said that Main Street Marketplace was waiting for City Market and the retail building to begin building.

### **Commissioner Comments**

Nicholas commented that Tristan might have left the valley.

### **Motion to Adjourn**

A motion was made by Nicholas to adjourn. Nick seconded the motion and the meeting was adjourned at 8:48 p.m.