



PLANNING AND ZONING COMMISSION

**Minutes
February 8, 2016**

Meeting Summary

The following Resolutions with the conditions noted were approved by unanimous vote (4-0) of the Commission.

PZ Resolution 2016-2, A Resolution Approving a Variance for Anthem Filing No. 22, 15894 Wild Horse Drive to allow a five foot rear yard encroachment of a deck, with the following findings of fact: 1) the Homeowners Association has approved the requested variance; 2) there is no neighborhood opposition and will not be detrimental to the neighborhood or the public good overall; 3) the request does not impair the zoning regulations, specifically the request for relief of the fifteen foot rear yard setback; and 4) strict application of the fifteen foot rear yard setback would and does present undue hardship on the homeowner.

PZ Resolution 2016-3, a Resolution Recommending Approval of Westlake Farms Filing No. 1 Replat A Final Plat approximately located at 13200 Lowell Boulevard with the conditions 1) That the applicant continue to work with staff to find resolution to the sewer license issue, and 2) That staff and/or the applicant provide information about Lowell Boulevard construction prior to going before City Council.

Roll Call – 7:00 P.M.

Vice Chairman Archie Lind called the meeting to order at 7:00 p.m.

Commission Members Present: Susan Barkman
Chuck Hastings
Archie Lind
David Milender

Commission Members Absent: Benjamin Maresca
Tom Silvers
Kathryn Turner

Staff Members Present: John Hilgers, Planning Director
Erika Delaney Lew; Assistant City Attorney
Michael Sutherland, Senior Planner
Diana Kjelshus, Recording Secretary

Disposition of Minutes

The minutes of the regular Planning and Zoning Commission meeting of January 25, 2015, were approved as presented.

Petitions and Communications - None

**Public Hearing – PZ Resolution No. 2016-2
Variance Application to Allow a Five-Foot Rear Yard Encroachment to Construct an Uncovered Deck Over 30 Inches In Height**
Location: 15894 Wild Horse Drive
Subdivision Anthem Filing No. 22
Applicant: Kent Kirkpatrick
Planner: Michael Sutherland

Vice Chairman Lind opened the public hearing at 7:05 p.m.

Michael Sutherland, Senior Planner, summarized the staff memorandum and asked that the staff memorandum be entered into the public record. Mr. Kent Kirkpatrick of 15894 Wild Horse Drive, requests approval of a variance to allow a five foot encroachment into the required fifteen foot rear yard building setback to construct an uncovered rear deck on his property.

The request requires a public hearing. To the best of staff's knowledge, the notification requirements have been met for the hearing. The variance request is permissible pursuant to Section 2-40-070(B) of the Broomfield Municipal Code.

Mr. Kirkpatrick's residence is located south of Anthem Ranch Road and west of Lowell Boulevard in the Anthem Ranch neighborhood. The property is zoned Planned Unit Development (PUD). On January 27, 2009, Council approved the Anthem Filing No. 22 site development plan, which established the front, side and rear yard building setbacks for this property. The plan requires a minimum fifteen foot rear yard for this lot. Mr. Kirkpatrick would like to construct a six foot deep by fourteen foot wide uncovered deck on the back of his house. Any deck over thirty inches in height is required to meet the required building setbacks. The proposed deck will be approximately thirty-six inches high.

The variance request does not authorize any other use of the house than as a single family dwelling. In staff's estimate, the proposed variance would not have any detrimental effect on street congestion, security, safety, public health, provision of adequate light and air, and provision of public services or concentration of population. Mr. Kirkpatrick should demonstrate how: 1) the strict application of the fifteen foot rear yard results in peculiar and exception/practical difficulties or undue hardship; 2) relief from the fifteen foot rear yard setback will not be detrimental to the neighborhood or the public good; and 3) relief from the fifteen foot rear yard setback will not impair the purpose of the zoning regulations to prevent overcrowding of land. Mr. Kirkpatrick provided a summary letter, plan and an approval letter from the homeowners association.

Mr. Kirkpatrick, the applicant, addressed the Commission and was present to answer questions from the Commission. He spoke of the height of the deck as it currently exists, various configurations of a deck, and drainage in the neighborhood. He said the posting sign for the public hearing had drawn attention to his property and property owners were rather surprised by the required public hearing. He said he had been unable to contact the one home owner that is adjacent to him and the other home is still under construction so the property is still owned by the builder. Toll Brothers, the builder, would not give him the name of the individual who has the house under contract.

Public comment was requested, there was no one wishing to speak.

Commissioner's comments and questions were:

- Appreciate the applicant did proceed in this manner, requesting the variance, rather than adding soils to the property to meet the height requirement of a deck as it could negatively impact the drainage on the adjacent properties.
- The deck faces out to Lowell Boulevard.

Vice Chairman Lind closed the public hearing at 7:18 p.m.

PZ RESOLUTION 2016-02 WAS READ BY TITLE.

Commissioner Hastings moved for approval of PZ Resolution 2016-2, A Resolution Approving a Variance for Anthem Filing No. 22, 15894 Wild Horse Drive to allow a five foot rear yard encroachment of a deck, with the following findings of fact: 1) the Homeowners Association has approved the requested variance; 2) there is no neighborhood opposition and will not be detrimental to the neighborhood or the public good overall; and 3) the request does not impair the zoning regulations, specifically the request for relief of the fifteen foot rear yard setback; and 4) strict application of the fifteen foot rear yard setback would and does present undue hardship on the homeowner.

Commissioner Barkman seconded the motion.

The motion was approved by unanimous vote (4-0) of the Commission.

Public Hearing - PZ Resolution No. 2016-3 Final Plat for Westlake Farms Replat A to create two lots Location: 13200 Lowell Boulevard Owner/Applicant: Integrity Transitions Real Estate, LLC Planner: Alice Hanson

Vice Chairman Lind opened the public hearing at 7:21 p.m.

Alice Hanson, Senior Planner, summarized the staff report and asked that the memorandum be entered into the public hearing record. It was noted to the best of staff's knowledge, the notification requirements have been met for the hearing.

The request is for the subdivision of a 3.09 acre lot within the Westlake Farms Subdivision into two lots. In addition to the two lots, right-of-way will be dedicated to the City for improvements of Lowell Boulevard and its intersection with Misty Street. The owner and applicant of the property is Integrity Transition Real Estate, LLC represented at the meeting by Mark DeBenedictis.

The site is located at 13200 Lowell Boulevard, directly east of the Paul Derda Recreation Center. It is surrounded on the north, east and south by single family residential homes. The property was originally part of the Westlake Farms Plat and PUD approved in 1991. In 2004, a portion of the Westlake Farms PUD (Lot 2) was redeveloped as Pinnacle North subdivision. The subdivision included a parcel for the church (which is now constructed on the property) and fifteen single family lots. New PUD standards and public improvements accompanied the redevelopment of Lot 2.

The home on Lot 1 was constructed in 1956 according to the county assessor's records. A swimming pool was constructed in 2010. The property is served by public water from Lowell Boulevard. Sewer service for the property was originally an on-site septic system. In 2005, with the construction of sewer line in Misty Court (east of the site), a tap was installed and extended to 13200 Lowell Boulevard. In researching the history of the property it was found the property has never been billed for sewer service. This may be because there is no record of the purchase of a sewer license. The current property owners have owned the property for approximately one year and assumed they were being billed by the City for water and sewer services (not just water). As a Subdivision Improvement Agreement will be considered with the Final Plat (due to an extension of the public sewer main in Misty Street to serve Lot 2), the resolution of the lack of a sewer license will need to be addressed in this document.

The proposed subdivision proposes to divide the 3.09 acre parcel into two lots. Under the current PUD designation, one additional home could be constructed on the vacant lot created by this subdivision. The new lot will most likely be served with public water and sewer from Misty Street. Access to both lots is provided by a thirty foot access easement along the southern edge of the property. The access easement for the drive was created in 1979 when the right of access was granted specifically to the property owner to the east. The subdivision expands the access easement rights to include public, emergency and utility purposes. This will meet the subdivision requirements of the City (Section 16-28-100 (B)) which require vehicular access to a public street and remove the need for a flag lot design as was originally thought.

The staff memorandum was written prior to the discovery of the lack of sewer license for the existing home and indicated there are no key issues regarding the subdivision. The Planning Commission may consider some direction regarding the resolution of the sewer license fee for the existing lot.

Bill Miller, MM&D Engineering, representative of the applicant, was present to answer questions from the Commission. Mr. Miller stated that at the current time they do not have a buyer for the lot that is being created by the subdivision. The extension of the water and sewer will be in Misty Street and the new lot will require water and sewer services from the City. There is dedication of property for the widening of Lowell Boulevard.

Public comment was requested.

Joann Iturbe, 13272 Misty Street, expressed concerns about what may occur in the future on the property. She expressed concern about the uses allowed on the property, number of homes that would be permitted, objected to multi family and asked whether the grades on the property would be changed.

Commissioner's comments and questions were:

- The applicant is not being very forthcoming about future plans for the property.
- What are normal setbacks?
- What would be considered the front of the house?
- Where would access to the new lot be?
- Potential traffic issues relating to the access to the new lot.
- Lot 1 will someday be developed and there is a need to be considerate of the neighbors.

Mr. Miller, representative of the applicant, responded to some of the questions and comments from the Commission and the public.

- The retaining wall and the fence will remain adjacent or near Ms. Iturbe's property.
- The property is zoned PUD and the intent currently is to divide the property into two single family lots.
- There is no current intention to change the elevation.
- The path referenced by Ms. Iturbe, is an open lands tract and is on the City property.
- From the property line to the edge of the pool is twelve feet and from the property line to the edge of the easement is eight feet.
- There is no need for the easement, other than XCEL always wants an easement. There may be a gas line that feeds to the existing house in the existing easement.
- Access to the new lot would probably be from the private drive.
- A traffic letter was written for the one lot and was reviewed and approved.
- There are numerous questions relating to the unknown development and the construction on Lowell Boulevard.

Vice Chairman Lind said that should the property be proposed for development of more than a single family home, it would have to come before the Planning and Zoning Commission and City Council.

Alice Hanson said the property is zoned PUD and when the PUD does not mention setback it defers to R-1 District. In the R-1 district any accessory building would need to have a five foot side yard and the pool would be considered in the side yard which is a five yard setback requirement. The access to the house is located along the south side of the driveway which would allow this side of the home to be considered the front yard.

Vice Chairman Lind closed the public hearing at 7:44 p.m.

Erika Delaney Lew, Assistant City Attorney, said the proposal has been reviewed by the City Engineering Division and has noted what is needed by the City for Lowell Boulevard. North Metro Fire District has approved the proposed division and access, which is access for one additional lot. Any changes to density for Lot 1 would have to come before the Planning and Zoning Commission and City Council. The proposal for Commission action at this hearing is only the creation of two lots.

Commissioner Milender moved for approval of PZ Resolution 2016-3, a Resolution Recommending Approval of Westlake Farms Filing No. 1 Replat A Final Plat approximately located at 13200 Lowell Boulevard with the conditions 1) That the applicant continue to work with staff to find resolution to the sewer license issue and 2) That staff and/or the applicant provide information about Lowell Boulevard construction prior to going before City Council.

The motion was approved by unanimous vote (4-0) of the Commission.

Special Report

The next meeting of the Planning and Zoning Commission will be February 22, 2016.

Adjournment – 7:49 p.m.

Approval

Minutes Prepared by:

Diana Kjelskus, Recording Secretary

Approved by:

Chairman