



PLANNING & ZONING COMMISSION

**June 14, 2023 at 6:00 PM
0110 Whispering Pines Circle, Blue River, CO**

MINUTES

The public is welcome to attend the meeting either in person or via Zoom.

The Zoom link is available on the Town website:

<https://townofblueriver.colorado.gov/planning-zoning>

Please note that seating at Town Hall is limited.

I. CALL TO ORDER, ROLL CALL

Chair Johnson called the Planning & Zoning Commission meeting to order at 6:00 p.m.

PRESENT

Also present: Town Manager Michelle Eddy; Town Attorney Bob Widner Travis Beck-Vice Chair

Bevan Hardy

Doug O'Brien

Tim Johnson-Chair

Gordon Manin-via Zoom

Ben Stuckey

Troy Watts-via Zoom

Noah Hopkins-Board Liaison

II. APPROVAL OF MINUTES

A. Minutes from May 2, 2023

Motion made by Beck, Seconded by Watts to approve the minutes of May 2, 2023.

Voting Yea: Beck, Hardy, O'Brien, Johnson, Manin, Stuckey, Watts

III. PUBLIC HEARING

B. Town of Blue River Land Use Code

Chair Johnson introduced the public hearing noting residents should come to the podium, provide their name, address and time is limited to 3 minutes.

Chair Johnson opened the public hearing at 6:03 p.m.

Dan Cleary-Rustic Terrace (Lot 4 Blue Rock Springs): Stated concerns in the Land Use Code including the RP1 Zone District pertaining to non-conforming lots. He noted there should not be any subdivision of the lots noting there is a moratorium on subdivisions. He also questioned the roads and whether or not the Town has a right to claim the roads and right-of-way. He noted concerns on Class B & C permits as conducted administratively and requirements for submittals. He stated a concern with the driveway language. He noted concerns of additional zoning regulations, and snow storage. Mr. Cleary thanked the staff for their work on the code.

Paul Semmer-Blue Grouse Trail-Echoed Mr. Cleary's comments and thanked the staff for the work. He inquired as to the implementation.

Chair Johnson closed the public hearing at 6:12 p.m.

IV. PROJECT APPROVAL

C. Recommendation Vote to Board of Trustees-Land Use Code

The Commission held a discussion on the comments made.

Beck asked for answers to questions posed by Mr. Cleary.

Attorney Widner provided answers to the questions:

Implementation: Nothing about the current zoning will change. The only way for a change is if the owner asks or if the Town decides to make a complete change.

Attorney Widner reviewed the R6 Zone District-Mixed Use Development for any potential/future annexations if it fit this category. It would not apply to current properties. The floodplain allows the Town to designate areas for floodplain and no development if it wishes to protect areas. The RP1 Zone District is designed to be a subclass of the R1 District. It allows owners to apply for this district with a plan and to be compliant as many lots are non-conforming to the minimum lot size for R1. If an owner wishes they can ask to rezone to allow and recognize the non-conforming legal/conforming lot. Owners will not be required to move to RP1. Attorney Widner noted by adding the new RP1 Zone District, as it establishes a way for properties to become conforming without changing all creating a blanket size. PRD Zone District allows for higher density but is at the discretion of the Town and the Town may deny a

rezone to this district. It was noted that notice and hearings are required going first to Planning & Zoning and then to the Board of Trustees.

Right-of-way/roads-Attorney Widner noted the Town was developed in the 1960's with easements and platted to the owners within the subdivisions. He noted the government has maintained the property for 18 years or more with no objection, then the Town has a prescriptive easement on the property. The Town has maintained the roads and utilized the right-of-way for the last 60 years. The Town is allowed to continue to use and utilize the areas historically maintained. Any use beyond historical use, such as utilities is not allowed. This includes fiber and internet. It is necessary for the Town to address the issue to allow for the extension of utilities. This would require a 100% agreement from the residents. It was noted that additional research for tree fire mitigation in the right-of-way and how the mitigation will be able to be used.

Type C Process-Attorney Widner reviewed different types of permits. He noted site plans or additional information is required based on what the applicant is looking to do.

Driveways-Attorney Widner noted Mr. Cleary's concerns and stated there may be an opportunity for the Trustees to conduct further review on lengths and widths. The 300' notice issue has been in the code, the new code better defines where to measure. He noted that notice is not required by statute. Owners within 300' will receive notice but anyone may attend and speak at a public hearing.

Appeals-Attorney Widner addressed additional questions from Mr. Cleary concerning appeals of administrative decisions.

Discussion on language with roofs and the words should or shall. Discussion to leave language as should and not create a hard line with the word shall.

Paul Semmer asked for additional information on prescriptive easements as it pertains to the utilities within the road right-of-way. Specifically, were easements provided to UBSD and Colorado Natural Gas. Attorney Widner notes that the roads have been treated as public roads and therefore the utilities were allowed as such.

Attorney Widner reviewed the snow storage provision. Noting the provision to ensure the Town has the ability to store snow within the right-of-way. He noted there may be a need to regulate this provision. He also noted that as issues come up or if there are things that need to

be considered after it is adopted, it may be changed as a recommendation from the Planning and Zoning. Attorney Widner noted there are often times where requirements show on an application but don't exist within the code. If it is asked for and denied by the applicant, it defaults back to the code. It was noted to add the requirement of snow storage on site as it appears in the building application.

Manin noted language of code as it pertains to signage. He asked if the Town allowed to put any limits on the signage verbiage. Attorney Widner noted exceptions when the Town can limit content: mimic safety; obscene-very lengthy and vague as to what can and cannot be; can't put up "fighting" words (words that would incite riots); spoken word (fire in a theatre). He noted that municipalities do not touch content due to the limited areas of regulation.

Dan Cleary noted a recommendation to potentially remove the RP1 and just list the subdivisions where the lots were platted and are currently non-conforming or drafting a different solution. Discussion by the Commission to remove the RP1. Attorney Widner noted the Commission may make the recommendation to remove the zone from the proposed code if they wish. Discussion on whether or not to keep it or remove it. Attorney Widner recommended removing it and to come back and revisit the issue later.

Recommended changes: remove RP1 for further review.

Motion made by Johnson, Seconded by Hardy to recommend approval with the recommended change of removal of RP1 Zoning for further review.

Voting Yea: Beck, Hardy, O'Brien, Johnson, Manin, Stuckey, Watts

D. 0311 Wagon Road New Construction

Manager Eddy presented the project at 0311 Wagon Road. She noted the project has been recommended for approval by the Building Official. She noted that due to the conditions of the site, the rock retaining wall is required in the proposed location. Per the draft land use code page 147 Chapter 16B-7-150:

Location. The location and alignment of a retaining wall, screening wall, or a landscape wall should be determined based on site contours and changes in topography, natural features or man-made improvements. In no case shall a retaining wall or a landscape wall follow lot lines.

(1) Retaining wall:

(i) shall not be located within a setback except where the wall is deemed necessary by the Town to provide a reasonable buildable area for a lot.

Discussion that a materials sheet will need to be submitted and approved by the Building Official prior to permit issuance.

Discussion of the wetlands area and position of the homes are located along Wagon Road.

Discussion that the plans state the wetlands have not be delineated so no way to determine if the lower retaining wall encroaches in the wetlands. Homeowner noted the plans were stamped by the engineer with distances for the septic and wetlands flagged on site. It was advised to obtain an official designation for the wetlands.

Discussion to deny until additional information is provided on the wetlands delineation including a survey as it pertains to the septic and leach field. Discussion that this will fall under the purview of Summit County Environmental Health.

Discussion to require a septic permit prior to building permit issuance as well as materials sheet with stamped plans and fire department approval of driveway.

Motion by Beck, Seconded by Hardy contingent on the submittal of a septic permit, materials board and fire department approval of the driveway prior to permit issuance.

Voting Yea: Beck, Hardy, O'Brien, Johnson, Manin, Stuckey, Watts

V. ADJOURN

Motion made by O'Brien, Seconded by Stuckey to adjourn the meeting at 8:30 p.m..

Voting Yea: Beck, Hardy, O'Brien, Johnson, Manin, Stuckey, Watts

NEXT MEETING - July 2023

Discussion to move the July meeting to Thursday, July 6, 2023