

MEETING DATE: Monday, June 22, 2020
MEETING TIME: 6:00 PM
MEETING LOCATION: City Council Chambers, 448 E. First Street, Suite 190, Salida, CO

Present: Follet, Bomer, Mendelson, Denning, Kriebel, Walker, Dockery, Van Nimwegen, Jefferson, Almquist, City Administrator, Drew Nelson, City Attorney, Nina Williams

Absent: Chambers

AGENDA SECTION:

I. CALL TO ORDER BY Follet: - 6:05 PM

II. ROLL CALL:

III. APPROVAL OF THE MINUTES – March 23, 2020– Denning made a motion to approve the minutes as written. **Kriebel** seconded the motion. All were in favor and the motion carried.

IV. UNSCHEDULED CITIZENS – None

V. AMENDMENTS TO AGENDA - None

VI. PUBLIC HEARINGS –

1. **Confluence Park Major Subdivision - Major Impact Review** – The application is for Major Impact Review approval for a minor subdivision for a 16.3 acre parcel located at the northeast corner of Highway 50 and Vandaveer Ranch Road. The proposed subdivision consists of 39 lots. The site is zoned Planned Development with the underlying districts of Residential Mixed Use (RMU), High Density Residential (R-3) and Commercial (C-1).

A. Open Public Hearing: 6:06 PM

B. Staff Review of Application – Van Nimwegen gave an overview of the application and pointed out that the applicant would like to build the roads in phases as shown in the packet materials. **Van Nimwegen** stated that staff supports the request with the following five (5) conditions.

1. Make corrections to the improvement plans as outlined by the Public Works Director (Attachment 5).
2. Developer to provide stamped grading plan showing building envelopes, base floodplain elevation and minimum floor elevations for lots within the floodplain.
3. Add the following notes to the plat to describe the following fees prior to recording:
 - a. Open space fees in lieu are required at the time of issuing a building permit for Lots 13-38;
 - b. School site dedication fees in lieu (currently \$444.66) are required at the time of issuing building permits for residential units within Lots 2-38.

4. Developer shall enter into a subdivision improvement agreement that guarantees the construction of the public improvements that are required for the project, prior to the recording of the subdivision plat.
5. Coordinate with Xcel Energy on appropriate public utility easements to serve the site.

Follet asked if the applicant is required to loop the water in the first phase and **Van Nimwegen** confirmed that the water will be done in Phase I and explained that the street improvements are the only thing that will be phased. **Denning** asked if only half of Trenton Street will be constructed by the developer because at the last meeting she thought that the entire road would be constructed by the developer of Confluence Park. **Van Nimwegen** stated that the adjacent property owner and the developer of Confluence Park have an agreement for Trenton Road. He explained and most of the Road was shifted to the Confluence site so more than half will be completed but the remaining section of Trenton Road will be constructed by the adjacent owner when the parcel gets developed.

C. Applicant's Presentation: Applicant's representative, Bill Hussey of Crabtree Group explained the proposal and was available to answer questions. **Denning** asked about the park and when it will be completed. **Hussey** stated that the park has been dedicated to the City and the City will be responsible for park improvements.

D. Public Input- Ned Suesse, 6953 C.R.105- He explained that he is the adjacent property owner and had questions about Trenton Road but his questions have been answered tonight and his concerns were addressed.

E. Closed Public Hearing – 6:20 PM

F. Commission Discussion –Follet opened the Commission discussion. Commissioners all agreed that the request is straightforward and they have no concerns.

G. Commission Recommendation: A motion was made by **Bomer** to recommend the City Council approve the Confluence Park Major Impact review subject to the five (5) conditions recommended by staff.

Kriebel seconded the motion. With all in consensus the motion carried.

Commissioner Follet recused himself from the meeting. Vice-Chair Bomer resumed the meeting.

2. **Crestone Avenue Rezoning request - Major Impact Review** – request is to rezone Portion of Lot 4-6 Strip C of Eddy Brothers Addition (a City of Salida-owned property at the intersection of E. Crestone Ave and W. 3rd St) from Single-Family Residential (R-1) to Medium Density Residential (R-2).

A. Open Public Hearing: 6:26 PM

B. Applicant's Presentation: – City Administrator, Drew Nelson provided background on both the rezoning and right-of-way vacation requests. **Nelson** explained that in April 2019 the Salida City Council identified pursuing affordable

workforce housing opportunities as one of their primary goals at their annual retreat and was reaffirmed at their March 2020 retreat.

In the summer of 2019 the Council tasked staff to look at City owned properties to find suitable sites to use to partner with local nonprofits that operate in the housing realm in Chaffee County. In October of 2019 the Council reviewed the City owned properties assessment and directed staff to work on a proposal with the Chaffee Housing Trust for the E. Crestone and Third Street site.

The site assessment included information about utility proximity, ease of construction, existing infrastructure, legal issues and other features that made this site the most logical for infill development. Other sites have more significant issues such as the lack of utilities and streets or pre-existing uses that make them difficult to repurpose.

Nelson noted that the City has a history of partnering and sponsoring Chaffee Housing Trusts activities including working with them to lower costs to construct their units at Old Stage Road.

Tonight the City is presenting two applications, one for rezoning and the other to vacate a portion of the public right-of-way to accomplish the tasks set by the City Council.

C. Staff Review of Application: **Almquist** gave an overview of the rezoning application and explained that the rezoning application is separate from the right-of-way vacation application which is next on the agenda.

Almquist went through the four (4) review standards for map amendments and explained how this application to rezone the parcel from Single-family Residential (R-1) to Medium Density Residential (R-2) met all of the standards.

Almquist stated that staff is recommending that the Commission recommend approval of the major impact review application to City Council to rezone the parcel from Single-family Residential (R-1) to Medium Density Residential (R-2).

Kriebel asked if the parcel is rezoned would there be another application to deed the parcel to someone else. **Attorney Nina Williams** explained that in order to transfer property City Council has to approve an ordinance which requires two readings including a public hearing. **Bomer** asked for clarification that any development plans on the parcel would require further review by the Planning Commission separate from the transfer. **Williams** said yes but the transfer of the property should be done first then a development plan could be heard by the Commission. **Denning** asked if there are any development plans for just this parcel not including the parcel to be vacated and Almquist said no there are no plans for just this parcel because it is currently zoned (R-1). **Walker** wanted to be sure that the Commission would be voting on the rezoning and not the transfer of the parcel and Almquist said yes the application before the Commission is just for the rezoning of the parcel.

D. Public Input- David Martin, 730 W. Third Street, stated that the rezoning request is based on the assumption that the East Crestone Avenue vacation request will be approved. **Martin** said that Read McCullough stood at his front porch and told him that City Council has assured him that the project is going to go forward. He questioned who assured Mr. McCullough that the project would move forward. **Martin** explained that he went through past City Council meeting minutes and listened to tons of stuff and did not hear any assurances from City Council so why would Mr. McCullough make that statement to him unless someone from the City gave those assurances.

Martin restated that the rezone request doesn't have to happen because the next item on the agenda is the East Crestone vacation request which is a violation of Colorado State Statute 7:13 which states that City owned property that has utilities on it cannot be given away. **Martin** said that the Chaffee Housing Trust is offering, at their own expense, to relocate the sewer that is on East Crestone Avenue but they cannot do that because they do not own it.

Martin told the Commission that they have made decisions and violated so many things like the municipal code, state law and rent controls. He said that the City Attorney told City Council to ignore his emails because of ex parte contact. He said he is passionate about this because Read McCullough was on his front porch telling him what was going to happen. He stated that without due process this is not going to happen.

Martin said he wanted it to be clear that he is not the Realtor, David Martin and he does not want to hurt his business.

Theresa Thompson, 804 W. Third Street, explained that she just moved to Salida and asked if two units could be built on the existing parcel that is to be rezoned.

Monika Griesenbeck, said that she opposes the rezoning and vacation requests and she doesn't recall the City ever giving away city owned property.

Bonnie McDonald, 929 Dodge Street, stated that she is 100% behind affordable housing. She said that there are opportunities to make this a positive thing. She explained that she has three (3) pieces of property that is zoned correctly and she would look at maybe making a trade. McDonald suggested the City look at other locations for affordable housing.

Online Public Comments:

Karen Karnuta, owns 750 W. Third Street, supports the rezoning request because the property adjacent to this parcel is also zoned R-2.

Dani Cook, said that she lives and works fulltime in Salida and has had nothing but difficulties trying to buy housing in town. **Cook** explained that it is becoming less feasible for her to own a home in Salida since the prices keep going up. She fully supports both the rezoning and the vacation requests.

E. Closed Public Hearing – 7:11 PM**F. Commission Discussion –Bomer** opened the Commission discussion.

Dockery stated that she agrees with the rezoning request because of the location and it is adjacent other R-2 zoning. Commissioners agreed that this location is appropriate for the Medium Density (R-2) zone district.

G. Commission Recommendation: A motion was made by **Kriebel** to recommend the City Council approve the Major Impact review to rezone a Portion of Lot 4-6 Strip C of Eddy Brothers Addition (a City of Salida-owned property at the intersection of E. Crestone Ave and W. 3rd St) from Single-Family Residential (R-1) to Medium Density Residential (R-2).

Mendelson seconded the motion. With all in consensus the motion carried.

3. Crestone Avenue Right-of-Way Vacation request - Major Impact Review – The request is to vacate 7,710.7 square feet (.18 ac) of the East Crestone Avenue right-of-way, for the purpose of consolidating the two adjoining City of Salida-owned properties into one contiguous site.

A. Open Public Hearing: 7:17 PM

B. Staff Review of Application – Almquist gave an overview of the major impact review application and explained that the right-of-way to be vacated is between M Street and East Crestone Avenue and along Third Street. **Almquist** said that the general purpose is to make the entire area available for an affordable housing site per the direction of City Council.

Almquist explained that the sewer line that is currently within Crestone Avenue will be relocated into M Street at the cost of the developer. He stated that staff has been working with Chaffee Housing Trust on different street configuration options. The street configuration for option 1 is that M Street would be closed, not vacated, just closed and the end of East Crestone would be a cul-de-sac. The street configuration for option 2 keeps M Street open with a four way intersection. **Almquist** stated that both options are conceptual and require engineering no matter which option is chosen.

Almquist went through the review standards for right-of-way vacation and explained how the application meets the standards.

Almquist stated that staff is recommending that the Commission recommend approval of the major impact review application to City Council to vacate .18 acres of East Crestone Avenue and recommend either Street Configuration Option 1 or Option 2, as identified in the staff report.

Mendelson asked if a vacation of this type ever happened in Salida before. **Almquist** said yes that street vacations or partial street vacations have happened in the past. **Walker** questioned the traffic counts and feels that the counts have been understated by staff's analysis. **Walker** also asked for clarification of the proposed street configurations since the staff report said that the City does not like acute angles and discourages cul-de-sacs and wanted to know why this is an exception for the City.

Kriebel asked what happens if this right-of-way is vacated and the project does not happen. **Almquist** explained that if the vacation is approved the entire site is the City's property and will remain the City's if the affordable project does not happen.

Kriebel asked City Attorney, Nina Williams to explain State Statute 7-13. **Williams** explained that the statute is for a future ordinance for the transfer of property. When a city or town transfers real estate they need to transfer by an election of the voters or by an ordinance. **Williams** explained further that they can do it by ordinance if the property was not held for governmental purpose or park purpose. **Williams** stated that in this case since this is a vacant lot the property can be transferred by ordinance which requires two readings and a hearing before City Council. This state statute does not apply to tonight's applications.

Williams said that the statute that applies to vacation of right-of-ways is 43-2-302 plus the section in the Municipal Code. She clarified that the triangle property to be vacated, if approved, has not been used for governmental purposes therefore no election is required. She explained that streets are regulated by a different section of the Colorado Revised State Statutes. **Williams** stated that prior to moving forward with this application all of the state statutes were looked at very carefully to make sure an election would not be required.

Denning stated that there seems to be a lot of opposition to the vacation request and asked when the street configuration option #2 was proposed and Almquist said fairly recently.

Mendelson asked if the meeting could be continued since the Commission has a lot of questions. **Williams** explained that the Commission will need to make the determination whether to continue or not after the public hearing. He said that when he was reading through the packet he thought that some of the property was going to be privately donated but it looks like it is all public property and Almquist said yes both parcels are City owned property.

Walker asked if there were other city owned property less complicated than this one where utilities would not need to be relocated and move a major road.

Administrator Nelson explained that all of the city sites were evaluated a lot of them were much more complex than this property.

C. Applicant's Presentation:

D. Public Input- David Martin, 730 W. Third Street, stated that staff does not have a complete traffic study as far as the number of vehicles going up and down East Crestone. **Martin** explained that he did a traffic count and there were about 200 cars in a four hour period on busy days prior to Covid19 and nobody has accurate numbers as of this point because of Covid19. He said that the sheriff's department uses East Crestone all of the time.

Martin said that he understands that street vacations happen but asked how often street vacations happen that closes entrances. He stated that his opinion is State

Statute 7-13, that he brought up earlier, applies because there are public utilities within the Crestone Avenue right-of-way and the City cannot give that away by ordinance. **Martin** expressed frustration because he feels that there are other city sites available for affordable housing that are easier and safer but staff has not been tasked with pursuing them. He asked the Commission to consider the fact that the land is to be given away, impact traffic, public utilities within the right-of-way, etc.

Michelle Parameter, 730 W. Third Street, opposes the vacation of right-of-way request. She stated that she bases her decisions on facts and data, not emotions.

Parameter agrees that we need affordable housing and the East Crestone Avenue vacation opposition is not anti-affordable housing. She explained that there is already affordable housing on East Crestone Avenue. **Parameter** commends the Confluent affordable housing project and Habitat for Humanity. She said that this opposition is about making decisions not based on emotions or egos.

Parameter stated that you cannot use affordable housing as an excuse to ignore public safety, fiscal responsibility and ethics. She said that there are many reasons why tonight's meeting should not have happened. The Council approved to begin the vacation application based on a draft survey that overlapped with private property. The survey changed within the application because there is a different survey now.

Parameter explained that the public notice signs did not tell the truth about what was being requested and there wasn't anything in the notice about the utilities being relocated or that the street would be vacated. She said that people in Salida do not know what vacation means they think it means go up to the mountains and play on the boat. She stated that there was no notarized affidavit of the posting of the public notice which is a checkbox on the application. **Parameter** said that the City is about as transparent as the Arkansas in late May. **Parameter** feels that the City is feeding on the public's emotion and not looking at the facts.

Parameter stated that the Mayor wanted to find, not create, shovel ready property for affordable housing. She said that East Crestone Avenue is not shovel ready because they need to move a perfectly good sewer line.

Parameter said that the cost estimate is incorrect because it did not include the labor hours of city staff, attorney fees, cost of the most recent paving of East Crestone Avenue, cost of the sewer line and the cost of a traffic study. She stated that the franchise fee is for all of Salida not for the use of this pet project. She said that the City should not vacate to donate the right-of-way because affordable housing cannot trump public safety and fiscal responsibility.

Willie Dominguez, 110 E. Crestone Avenue, agrees with what people have been saying and has concerns with the access and egress of East Crestone Avenue. He said that he's lived in his house since 1983 and has never seen an accident on that acute angle. **Dominguez** asked if all services have been thought about like snowplowing and trash service. He said that there are times that he needs to bring trailers to his house and with the proposed vacation he will not be able to get the trailers to his house.

Dominguez stated that he used to think that citizens mattered and his opinion matters but it doesn't seem like it does anymore which is frustrating. He said that Ms. McDonald offered land and there are other sites where the city can get more affordable housing units instead of the few houses proposed to be shoved here.

Dominguez said that he is opposed to the right-of-way request because it just doesn't make sense.

Treva Dominguez, 110 E. Crestone Avenue, loved Ms. McDonald's ideas and said that she also liked the idea of having just two units on the existing parcel. She said that if they did two units on the parcel the street wouldn't need to be vacated and the sewer wouldn't have to be relocated. **Dominguez** stated that vacating Crestone Avenue and giving away land does not benefit the majority. She said that she is all for affordable housing but at this location it does not benefit the majority.

Dominguez stated that she doesn't feel like she's being heard and asked if this was a done deal and wondered if she is wasting her time here.

Theresa Thompson, 804 W. Third Street, explained that she has only lived at her residence for three weeks but wanted to voice her opposition to the vacation request. She explained that there is a lot of traffic on Crestone Avenue, M Street and W. Third Street. **Thompson** stated that she does not agree with the argument on acute angles. She said that she came here from Florida because it was a busy State and she wanted to get out of there. She explained that she watched development go awry in terms of precedent. She stated that she would go to community meetings and developers would talk the Planning Commission into doing things that would set a precedent and every developer after that would use it against them because a precedence had already been set.

Thompson said that she is not against affordable housing but this is a complicated way of going about getting affordable housing especially having to vacate a road and relocate a sewer line. She can't believe that this is the least complicated site on the list of City owned properties.

Online Public Comments:

Karen Karnuta, owns 750 W. Third Street, supports the vacation of Crestone Avenue but is not in support of vacating M Street. **Karnuta** stated that she supports all of the neighbors who are against this project and she understands that it is not a perfect project. She said that being able to provide even 5 affordable housing units is greatly needed and would be everything to those families who can live, work and raise their families in our community.

Dani Cook, said that she is in favor of the vacation request and the realignment of M Street option. She said that providing affordable housing is a more appropriate use of the land since it is currently an eyesore. She said that there are several people on the Chaffee Housing Trusts wait list and the need is for five affordable housing units not just two.

Ken Matthews, Vice-Chairman of the CHT Board, gave an overview of what the Chaffee Housing Trust has done so far in Chaffee County and explained that all of

the units that have been provided are at 60-70% area median income. He stated that providing five or six units is not going to solve the affordable housing needs but we have to start somewhere. **Matthews** said that he is in favor of the vacation request because it is the only way this property could be developed in an affordable way because they could not build just two units and keep them affordable. **Matthews** is also in favor of the M Street realignment option.

E. Closed Public Hearing – 8:39 PM

F. Commission Discussion –City Attorney, Nina Williams explained to the Commission that they should be evaluating and considering the review standards of Land Use Code section 16-6-130 when they are discussing evidence. **Bomer** opened the Commission discussion and reminded Commissioners that they are discussing and voting on the right-of-way vacation request and not on the merits of Chaffee Housing Trust.

Kriebel stated that a lot of the discussion was based on the Chaffee Housing Trust's plan and there is no reason to vacate this parcel without that plan. He said that he does not know enough about CHT's plan to make an informed decision and vote on the application.

Mendelson agrees with Commissioner Kriebel and said that more data is needed to make an informed decision. **Mendelson** said that if this application is approved he would like to see a condition added that if the land is vacated it has to be dedicated to an affordable housing project. **Mendelson** stated that the street configuration that he thinks is best is Option 2 the realignment of M Street.

Denning stated that at this point she is not in favor of the vacation but appreciates the work that everybody has done. She said that she is in favor of affordable housing but this plan seems disruptive and she wants to be mindful of the people who live in this neighborhood.

Walker said she doesn't feel that this is the appropriate place for affordable housing. She wondered if there was another site that would be more efficient for everybody.

Dockery said that she is in favor of option 2 for the street realignment because nobody wants to see a street closure like what is being proposed in Option 1. **Dockery** stated that she thinks that everybody is concerned with the vacation of the street without knowing for sure what is going to happen once it is vacated.

Bomer agreed and said that it is difficult to approve vacating a street with the sewer needing to be relocated without knowing for sure if it is going to be feasible for the city to do that. **Bomer** asked if it is possible to approve the application with a condition that the vacated parcel be used only for an affordable housing development. **City Attorney, Nina Williams** explained that a vacation of right-of-way is a very particular and it would be difficult to condition a vacation request. She stated that vacating a right-of-way deeds the property to the adjoining property owners and in this case the city is the adjoining property owner. Williams said that the reason the city is requesting the right-of-way vacation is for affordable housing. **Williams** suggested that the Commission add

a condition that they will only accept a limited impact review application on the vacated parcel as long as it was for affordable housing. **Mendelson** questioned if a condition cannot be added on the approval how they will be guaranteed that the parcel is developed for affordable housing. **Administrator, Drew Nelson** explained that City Council directed staff to work on this vacation of right-of-way for this parcel specifically for affordable housing.

Williams explained that the Commission can make a recommendation to the City Council that the parcel is used for affordable housing but it cannot be a condition of approval.

Denning asked if the vacation is approved would Crestone Avenue no longer be used as a road. **Williams** said that if the vacation request is approved after two readings with City Council then technically it is no longer a right-of-way but would probably remain open until development plans were approved. **Bomer** clarified that a potential motion could say that the Commission recommends City Council restricts the vacated parcel for affordable housing and until such time that the development plan is approved the road can continue to be used for vehicle traffic. **Williams** said yes the Commission can make that recommendation but they need to understand that the ordinance will not have the recommendation on it.

Dockery said that if they delay voting on the vacation then they will also delay the project.

- G. Commission Recommendation:** A motion was made by **Kriebel** to recommend denial of the Major Impact review to vacate 7,710.7 square feet (.18 ac) of the East Crestone Avenue right-of-way, for the purpose of consolidating the two adjoining City of Salida-owned properties into one contiguous site.

Denning seconded the motion.

Roll call vote:

Kriebel, Denning and Walker voted in favor of the motion for denial.

Bomer, Mendelson and Dockery voted against the motion for denial.

Williams explained that since there was not a majority of quorum present for voting for the motion the motion fails. She said that they can keep deliberating and make another motion.

Bomer stated that even though they do not have all of the facts she understands the decision in not wanting to approve the vacation request but she also understands the need to move forward for affordable housing. She said that she'd like to hear a motion with the recommendation that the vacated property be restricted to affordable housing and the street continue to be used for vehicular traffic until development plans are reviewed and approved.

Kriebel stated that the City has the right to do what they are doing but they haven't done a very good job the way they've done it. **Walker** said that the neighbors and the public are very upset and asked if there has been any missteps.

Read McCullough explained that affordable housing is not an easy process but the key is making the numbers work. He said that they have gone as far as they could in the process to come up with numbers to tell them that this project is viable, including the changes that need to be made to the sewer line.

McCullough stated that the Commission's decision tonight is critical in moving the process forward but there are other decision making points in the future that could halt the project if it is felt that this is a bad project. **McCullough** said that there have been a number of letters to the editor in the Mountain Mail that are not factual and a lot of misinformation is out in the public. He clarified some of the misinformation regarding the affordable housing that was sold in the Two Rivers Development.

McCullough explained that he has had conversations with Bonnie McDonald regarding her properties and they are all unaffordable for Chaffee Housing Trust. **Walker** asked if Chaffee Housing Trust could build two units on the existing parcel that is being rezoned. **McCullough** said that they have not considered that option so he would not be able to give an honest answer as to what the numbers look like but scaling is an important part of providing affordable housing.

A motion was made by **Kriebel** to recommend the City Council approve the Major Impact review to vacate 7,710.7 square feet (.18 ac) of the East Crestone Avenue right-of-way with the following recommendations:

That the vacated parcel is subject to the use of affordable housing.

The road use will continue for vehicular traffic until project approval.

The Commission would like to recommend Option #2 for the road realignment.

Mendelson seconded the motion.

Roll call vote:

Bomer, Kriebel, Mendelson and Dockery voted in favor of the motion for approval with recommendations.

Denning and Walker voted against the motion for approval with recommendations.

With a vote of four (4) to two (2) the motion carries.

VIII. UNFINISHED BUSINESS-

IX. NEW BUSINESS- None

X. COMMISSIONER'S COMMENTS-

XI. ADJOURN: With no further business to come before the Commission, the meeting adjourned at 9:22 pm.