

From: April O'Neal, Zoning Administrator
To: Shawn Owens, Deer Ranch Subdivision
Planning Commission Feedback on Deer Ranch Concept
September 15, 2022

Overview

The planning commission supports the general concept of using the cluster ordinance provisions to put residential lots along the hillside and preserving the current irrigated field as was indicated in the Minutes of the May, 2022 and June 2022 planning meetings. The commission believes that the September 8 discussion was productive, and the commission is open to both future concept discussion at a regular meeting or a special on-site field meeting if you request.

Clarification on Application Terms and Procedure.

Citizen comments before, during, and after the meeting indicated some confusion about ordinance terms and subdivision procedural steps. The following is provided so everyone has a common understanding of the situation.

The discussion at the September planning meeting was treated as a second (third) concept plan discussion since "no specific concept plan submission requirements are identified" for a concept discussion, and a concept discussion is "designed to allow the identification of application procedures, requirements and standards, and other items that may be considered in the subdivision approval processes once a complete subdivision application is received." [152.026]. Official consideration of your Preliminary Subdivision Application, including the required public hearing cannot be put on the meeting agenda until a determination is made by the Zoning Administrator that the application is complete.

After the hearing the Planning Commission may recommend approval of the preliminary subdivision application as presented, recommend approval of the application with conditions, or recommend denial of the application. The Planning Commission may recommend onsite and offsite improvements, facilities and amenities, provided 100% by the applicant for subdivision approval, and determined necessary by the Planning Commission to protect the health, safety and welfare of anticipated residents of the subdivision, or the existing residents of the town [152.045] The decision on a preliminary subdivision application is a discretionary action of the Town Council, accompanied with findings of fact, following the receipt of a Planning Commission recommendation. [152.040] Since the Deer Ranch concept involves infrastructure (streets, water mains) and dedications (conservation easement) the Final Subdivision Approval process will apply. [Section 152.060 and following].

Incomplete Items for a Preliminary Application

The following items are required before your application is deemed complete:

1. Signed agreements with all property owners whose land will be used for street or utility access to the subdivision. The town cannot approve a plat or development plan that implies encroaching on other property without the owner's consent.
2. A signed agreement with Boulder Farmstead Water Company indicating that they have agreed to provide fire protection and culinary water to the subdivision.
3. The list of nearby property owners has only the property address, not the mailing address for the owners. Please obtain the full owner name and mailing address from the county tax records so the town can mail the required notices at the appropriate time.

Areas of Concern Regarding the Current Concept

The following is a list of areas where the issues have been raised about the content of the current proposal. The Planning Commission review will be facilitated by your addressing these issues as part of your Preliminary Application.

1. The ordinances require each lot front on a street with all-weather surface and providing access to a public road or street. This means an improved connection to Lower Boulder Road. Some road cross sections were provided on Sept 8 but there is insufficient engineering detail at this time. The PC has indicate the intent to have an engineer review the plat, including the street design, for compliance with the ordinances and good design practice.
2. The street maintenance agreement must be approved by the town who has discretion to impose requirements for public safety and the protection of property owners. Planning commission members have indicated that they do not consider your current proposal adequate to protect the town (emergency access), the interests of the existing owners fronting on 1600 south, and the future owners in the subdivision lots. Normally private streets require an HOA with organizing documents, bylaws, officers, voting procedures, a bank account with reserve funds, and the ability to equitably assess property owners for maintenance costs.
3. Lots 7 & 8 are in non compliance because existing buildings do not comply with setbacks and adjustments should be made. There is also an existing structure outside of the Deer Ranch development which may imply encroachment onto adjacent property.
4. Lots 1 and 2 may be difficult to develop. Determining that a suitable building envelope and space for septic drainfield exist on these lots would answer this question.
5. Plans for the existing dirt road should be clarified as this could affect several lots.

6. Public comments have indicated a complicated situation regarding 1600 South. Examination of documents and past actions regarding this land and legal analysis may be required to fully address existing rights.

7. The Hydraulic Analysis indicated flow and pressure issues and the Preliminary Application should address which options were chosen to provide adequate water.

8. The cluster development ordinance requires open space dedication to be "acceptable to the Town Council" and comply with the Utah Conservation Easement Act 57-18. Some required details are missing,; for example, duration (perpetual) is not specified. Differing opinions have been expressed as to whether the plat notes and CC&Rs are sufficient or whether a recorded conservation easement held by a land trust or other trusted party is also needed. The Planning Commission intends to have the Town Attorney review the open space provisions after the application documentation has been updated.

9. Regarding the CC&R's: the developer has great discretion, and the town ordinances do not impose specific requirements. However, the current draft seems to be copied from urban subdivisions and there are provisions that are not compatible with the character of Boulder or the goals of the General Plan, and are more stringent than the GMU zoning. Multiple editing and cut-and-paste errors were noted. Given the character of Boulder excessively stringent or poorly written CC&Rs will be a deterrent to potential buyers. The Planning Commission urges that the CC&Rs be carefully reviewed before resubmittal.

10. Although not prohibited by current ordinances the idea of having a large number of lots served by a dead-end road from a single access point is unwise from a public safety standpoint. An access at the north would greatly improve the project.

The above discussion indicates the major issues identified from initial review of the materials submitted for concept discussion on September 8. The failure to mention an item now does not preclude it being brought up once the Preliminary Application goes to public hearing. Careful attention to detail, anticipating questions, providing narrative discussion justifying choices, and avoiding controversial ideas are all suggestions for preparing a successful application that Planning can recommend for Town Council approval. Again, the Planning Commission is open to further informal (conceptual) discussion if needed.