

# WOODLAND PARK BOARD OF ADJUSTMENT

## MEETING MINUTES – SEPTEMBER 11, 2019

*City of Woodland Park Council Chambers, 220 W. South Avenue, Woodland Park, CO*

**1. ORDER AND ROLL CALL.** Order was called at 6:36 p.m. with attendance as follows:

|               |                                                                                                                                     |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------|
| Present       | Chairman Louis Ramon                                                                                                                |
| Present       | Vice-chairwoman Lois DeVaux                                                                                                         |
| Absent        | Regular Member Kerri Kilgore                                                                                                        |
| Present       | Regular Member Randy Carlson                                                                                                        |
| Present       | Regular Member Larry Larsen                                                                                                         |
| Present       | Alternate Member Jerry Smith                                                                                                        |
| Present       | Alternate Member Catherine Nakai                                                                                                    |
| Staff Present | Planning Director Sally Riley, City Planner/BOA Secretary Lor Pellegrino,<br>City Attorney Jason Meyers, BOA Attorney Nina Williams |

Alternate Board Member Smith was appointed to replace absent Regular Board Member Kilgore.

**2. PLEDGE OF ALLEGIANCE.** All recited the Pledge of Allegiance. A moment of silence was held to remember all those who were injured or perished in the 9/11 terror attack.

**3. APPROVAL OF MINUTES.** The 8-19-2019 minutes were unanimously approved as written. All present Board of Adjustment (BOA) members stated no conflicts or biases with tonight's scheduled case.

**4. PUBLIC HEARINGS.** Chairman Ramon reviewed the ground rules for the meeting. BOA Attorney Williams presented the public hearing order and BOA duties and procedures in considering an appeal. BOA Secretary Pellegrino described the public notice for this meeting including announcement of the continuation at the 8-19-2019 meeting and a courtesy on-site poster. Chairman Ramon opened the public hearing. Vice-Chairwoman DeVaux called the item.

**A. APPEAL #APL19-002 (#19080214): Consider an appeal by Citizens in Opposition to Village at Tamarac (c/o Frances Maria Sinel) from the administrative decision regarding "SPR #19-001 The Village at Tamarac Site Plan" for 53 detached single family units on Lot 5, Tamarac Tech Park Filing No. 5 (Tamarac Parkway) in the Multi-Family Residential Suburban (MFS) zone. (Continued from August 19, 2019)**

Appellants Sinel and Lundy (on behalf of Citizens in Opposition to Village at Tamarac) presented their verbal appeal with the help of a slide show. They opened with a request for additional time stating they are willing to waive the 45-day rule given the size of their group and the scope of issues. Additional time was not granted. They continued, discussing: (I) alleged errors in application of the Municipal Code (MC); (II) 9 alleged errors and 4 alleged inconsistencies in project documentation or compliance; and, (III) alleged errors in application of the comprehensive plan. They outlined the BOA powers, the standard of error, and preponderance of evidence. In summary, they requested that the BOA reverse the Certified Letter of Approval (Order); that the BOA seek the recommendation of the Planning Commission in reaching its decision; and, if reversal fails, modifications to Conditions 2, 3, 7, 8 and 10 of the Order.

Planning Director Riley presented her verbal response to the appeal supplemented by a slide show. She went over terminology and the ten points in the written appeal that are possibly applicable to zoning. She stated that City Staff is cautious not to be arbitrary and capricious in its application of the MC. She further stated that the MC allows single-family units in the MFS zone as an administrative site plan review without a public hearing or Planning Commission review; that the proposed manufactured homes will be placed on permanent foundations and will meet IRC standards equivalent to "stick-built" homes including minimum size for habitable spaces; that these are not mobile homes nor is the site zoned Mobile Home Park (MHP); that the project implements a variety of beautification, order and convenience methods including but not limited

to varied colors and materials for each unit, a looped driveway, landscaping throughout, trash collection, setbacks, screening, drainage, utilities, roads, access, and fire protection; that rules are proposed that will be enforced by the property owner and can be enforced by the City; and that improvements to State Highway (SH) 67 must meet Colorado Department of Transportation (CDOT) requirements.

After calling a ten minute recess, Chairman Ramon reconvened the meeting at 8:30 p.m. and opened the public comment portion of the public hearing.

Chuck Gallagher (1125 Pine Ridge Road) spoke about financing and suggested that the BOA take more time to consider all the information raised by the Appellant emphasizing that there are many errors of omission and mistakes to be considered. He believes a fast decision is a wrong decision, recommends review by the Planning Commission, and asks the BOA to consider the 53 families that will move in.

Tim Taylor (1440 Eagle Trace Court) believes there are problems with the planning process and the Code. He is concerned about the fast-tracking of this project, loop holes in the code, storage in the crawl space, incomplete studies, and the need for Planning Commission review. He believes that the City has failed in upholding its own core values and that this project reeks of cronyism, favoritism, and lack of transparency.

Paul Neal (1470 Masters Drive) spoke about errors, compliance with plans, affordable housing and financing, permitted use issues including a public hearing process, attached vs. detached units, and read excerpts of minutes from previous Planning Commission meetings and Courier newspaper articles. He believes that an error was made in reducing the sidewalk width, and recited definitions related to temporary vs. permanent. He recommended the BOA watch a John Oliver video on affordability of trailer parks.

Joe Fury (565 Pembroke Drive) stated that the City is picking which standards to apply and that the City Attorney has admitted there are holes in the Code. He believes this project is “lipstick on a pig.”

Bill Kasischke (1149 Windflower Lane) believes that the Comprehensive Plan is applicable to this project like it was for the Morning Sun project; that zoning trumps building codes; and, that the least harmful option is viable in the face of conflicting codes.

Jenavie Brandt (1235 Woodland Valley Ranch Drive) asked about the concurring vote on the first appeal and seconded concerns expressed by speakers previous to her.

Scott Laudert (445 Oxford Lane) asked about the origin of the Table of Uses, specifically section N.1 and asked that the BOA consider whether or not staff properly applied the Table.

Patricia Stinner (1140 Michael Lane) stated that the 2014 zone change that approved the higher density on this site did not contemplate single family units.

Mike Nakai (225 Morning Star Court) stated that many interpretations of the MC are possible and that MC 18.06.320 defines Mobile Home. He surmises that another planner could consider this project to be a mobile home park. He suggests that the MC is ambiguous, unclear, incomplete and contradictory and that the BOA approve the appeal, and hold the application until MC revisions are completed.

George Christian (1240 Salmon Point) stated that the BOA is thorough and fair; that it is shameful how Staff and the City are being disparaged when the problem is in the MC.

Todd Wiseman (338 High View Circle) is concerned about compatibility, massing and scale.

Appellant Lundy began her rebuttal stating that there is nothing in the MC to support the use table trumping the text; that apartments or attached units are preferred on this site; that combustibility is a concern for items stored in a crawl space; that this is not an affordable project; and, that the BOA should consider community property rights. Appellant Sinel displayed pictures of the Woodland Valley Mobile Home Park citing concerns about its condition and the Developer’s past behavior. She stated that Staff was being arbitrary and capricious; that this project presents no

benefits to Woodland Park; that the Developer is about money; that the tiny home movement is not great; and that 33 trees is not great landscaping;

Director Riley presented her rebuttal reviewing the definitions of Mobile and Modular homes; the irrelevancy of the Woodland Village Mobile Home Park to this appeal; the citation of applicable MC standards detailed in the 12-page Order; and the 25-year existence of the use table. She stated that on September 16 City Council will consider first reading of an ordinance for a moratorium prohibiting new applications of single-family units in multi-family zones with the public hearing scheduled for October 3 and that on September 26 the Planning Commission will have a work session to consider possible MC changes related to this issue.

Eric Smith (Developer) stated that he developed Trail Ridge Apartments which was the site of a former mobile home park. He emphasized that the MC is law and that the project meets the zoning code; that developer's take calculated risks; that affordability is different for everyone but generally small homes are more affordable; that the proposed single-family units are not mobile homes but rather IRC approved like any other house built on-site; that the Village will be well-maintained with enforceable rules; that banks can finance the housing units; that both the land and the homes are taxable; that no work has started on the property; and, that MC changes are not germane to this appeal. He stated that a revised site plan will be submitted to include all the changes recommended by staff and the BOA. He asked the BOA to affirm the Order.

Chairman Ramon closed the public comment portion of the public hearing.

After a five minute recess, Chairman Ramon reconvened the meeting at 10:21 p.m. and opened BOA deliberation on the appeal.

BOA Attorney Williams presented guidelines for the deliberation stating that the BOA should explain their rationale for their vote; and, that four votes are required to reverse, in whole or in part, three votes to affirm, in whole or in part, and three to modify the order. She stated that the property owner must also agree to waive the 45-day BOA decision requirement.

The Developer agreed to accept the decision on the 45<sup>th</sup> day (September 16, 2019).

The Board discussed tabling the item to have more time to consider the information presented stating that all members were available for another meeting up to and including September 16, 2019. BOA Attorney Williams indicated that she is only available September 16.

After much discussion, and a comment from the Appellant stating that no new information was contained in the items that were distributed this evening, deliberation continued in hopes of reaching a decision.

MOVED BY Carlson, THAT the Board of Adjustment reverse the City's Administrative Order in whole. The motion is incomplete as no other member seconded it and a vote was not taken.

The Board continued to deliberate, commenting on the clarity of the use table for this project as a permitted use; that it is clear that the project is not a mobile home park, is not and need not be in the MHP zone; that staff considered, and the project conforms to, numerous goals, policies, objectives and actions in the Comprehensive Plan and that the Comprehensive Plan supports the greater community good in the resolution of conflicts; that the MC could use some changing but that code changes are not within the power or purview of the BOA; that this project may not have a positive impact on property values; that the parking layout and sidewalk widths comply with the MC and City Engineering Standards; that the CDOT condition is clear and appropriate in the Order; and, that any development will create impacts when compared to a vacant lot.

After a five minute recess, Chairman Ramon reconvened the meeting at 12:29 a.m.

MOVED BY Larsen, and SECONDED BY Ramon, THAT the Board of Adjustment affirm in whole the City's Administrative Order approving the Village at Tamarac Site Plan based on the written and oral presentation of testimony and evidence; and, direct the Attorney for the Board to prepare appropriate findings and order reflecting this decision for signature by the Chairman.

(Yes) Larsen, Ramon (No) Carlson, DeVaux, Smith. **FAIL**

Further deliberation ensued with the BOA discussing possible modifications; the irrelevancy of “like” to this appeal process or the project; no finding of error by the Administrative Officer; and overall community fit and impacts. BOA Attorney Williams stated that as an appeal, the Order stands if a motion to reverse fails or if a motion to affirm fails.

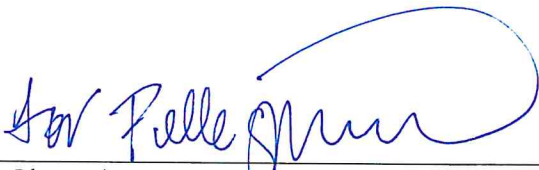
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(Yes) Larsen, Ramon, DeVaux (No) Carlson, Smith. **PASS**

Chairman Ramon closed the public hearing.

5. **REPORTS.** BOA Secretary Pellegrino stated that with no cases submitted, the September 16 BOA meeting is canceled; that MC codification updates have been distributed to the BOA; and, that the on-line MC has been updated.
6. **ADJOURNMENT.** The meeting was adjourned at 12:46 a.m.

Minutes by:

  
City Planner/BOA Secretary Lor Pellegrino, AICP

Approved by:

  
Mr. Louis Ramon, Chairman

10/21/2019  
Date