

**TOWN OF WINTER PARK  
PLANNING COMMISSION  
Tuesday, February 14, 2017**

**Minutes**

- I. The meeting was called to order at 8:00 am.
- II. Roll Call indicated present: Roger Kish, Cliff Anderson, George Stevens, Mike Davlin, Brad Holzwarth, and Doug Robbins.
- III. Town Hall Meeting – no comments were received.
- IV. Commissioner Davlin moved, and Commissioner Robbins seconded a motion to approve the minutes from January 10, 2017. Motion carried: 6-0.
- V. Conflicts of Interest – no comments were received.
- VI. NEW BUSINESS:

- A. Minor Subdivision Winter Park Resort

Community Development Director Shockey presented the staff report.

The applicant, Winter Park Recreational Association, is proposing to plat Tract 41 into four separate lots. The intention of the subdivision is create the following –

- Lot 1 – Bus Barn Parcel – Management lot to be retained by WPRA
- Lot 2 – Lot to be transferred to Intrawest for future development
- Lot 3 – Management lot to be retained by WPRA
- Lot 4 – Future ski lift terminal. Lot to be retained by WPRA.

Since this plat is only subdividing four lots, the application can be processed as a Minor Subdivision.

Staff recommended the Commission provide a favorable recommendation of approval to the Town Council for the Final Plat of Tract 41 Minor Subdivision with the following conditions to be met and/or provided prior to recording:

- 1. The applicant shall revise the submitted plans and documents in conformance with the official red-marked print dated February 14, 2017.
- 2. A 911-address plat shall be provided.
- 3. A Statement of Authority shall be provided for each party that signs the Final Plat.
- 4. If there is a lien holder, a ratification and confirmation of the plat shall be provided.

5. A digital file of the approved plat must be submitted. The digital file shall be in a format acceptable to the Town's System. Requirements for digital submittal can be obtained from the Town's Planning Department.
6. An executed Final Plat Mylar and other supporting documents, as well as recording fees, be provided.

Doug Laraby, the Planning Director for Winter Park Resort was present.

Discussion was held.

Commissioner Davlin moved and Commissioner Stevens seconded approval of the Tract 41 Minor Subdivision Plat, Winter Park Resort with staff recommendations. Motion carried: 6-0.

This will go to Town Council on February 21, 2017.

B. Subdivision Exemption – Hi Country Haus

Community Development Director Shockey presented the staff report.

The Town of Winter Park has been working with the Hi Country Haus Board of Directors to dedicate a portion of Hi Country Drive as a public right-of-way. The right-of-way is required to allow public access from Highway 40 to the service drive being constructed on Sitzmark South.

Section 8-1-4 of the Subdivision Regulations states that the Planning Commission may condition the granting of any such exemption on a dedication by an owner of land for trails, bikeways, streets and parks or other public purposes. This Subdivision Exemption will create a public right-of-way.

The Subdivision Exemption process involves one meeting with the Planning Commission for approval. This does not receive review or approval from the Town Council.

Staff recommended approval of Exemption No. 2 - Hi Country Drive Right-of-Way Dedication and Acquisition with the following conditions to be met and/or provided prior to any recording:

1. Prior to recordation, the applicant shall revise the plat in conformance with the red-marked print dated February 14, 2017.
2. Prior to recordation, a Statement of Authority shall be provided for the individuals responsible for signing the plat.
3. Prior to recordation, a digital file of the approved exemption plat must be submitted. The digital file shall be in a format acceptable to the Town's System. Requirements for digital submittal can be obtained from the Town's Planning Department.

4. That an executed exemption plat mylar and other supporting documents, as well as recording fees, be provided prior to recording.

Discussion was held.

Commissioner Robbins moved and Commissioner Kish seconded approval of the Subdivision Exemption – Hi Country Haus with staff recommendations. Motion carried: 6-0.

C. Design Review Changes for Sitzmark South

Community Development Director Shockey presented the staff report.

Buildings C & D have been modified from the design that was last reviewed by the Planning Commission in August 2016. The material changes include the following –

- Roofline – Four (4) roof projections, consisting of glulam beams and exposed wood deck, located above the cantilevered projections on the east facades of Bldgs C&D and the west façade of Bldg D were eliminated. These elements were replaced by parapet walls at the top of the cantilevered projections.
- Material – While the type of material being offered has not changed, they have revised the location where the material is being installed. The bottom level of the structure originally had board-formed concrete in several areas. That has been limited to certain areas now and cementitious panels have replaced it.

Staff recommended the Planning Commission approve the design for Sitzmark South with the following conditions -

- The roofline will need to provide variation as required in the Town Design Guidelines. The architect has agreed to install projections that simulate the original cantilevered projections.
- The stair tower in the center of the building will be slightly redesigned using a variety of materials to break up the large amount of wood that is currently shown on the plans.
- The stair tower will have accent lighting installed on the upper portions to illuminate the roof structure.
- Windows will be installed on the south side of the structure to assist in breaking up the large amount of cementitious panels installed on that side of the structure.
- Windows will be installed on the second and third floor of Building C on the west elevation.

Peter Van Dusen, the project manager and designer of the project gave a presentation and answered questions from the Commission.

Discussion was held.

Majority of the Commission had concerns on the massing of the building and the lack of windows on the west and south side.

Commissioner Kish moved and Commissioner Davlin seconded approval of the changes conditional upon –

- Updated plans with revised projections for the roofline as discussed during the meeting.
- Windows added along the west side of Building C and the south side of Building D.
- The other staff recommendations be incorporated into the plans.

The Commission granted staff the ability to approve the changes. Motion carried: 6-0.

#### D. Subdivision Exemption – Whistlestop

Community Development Director Shockey presented the staff report.

The Town has received a request for a Subdivision Exemption to adjust the lot lines on E1 & E2, Whistlestop Townhomes. These lots have the unfinished unit on them and when they were surveyed, it was determined the structure was not entirely placed on the platted lots. This Subdivision Exemption is neither creating additional lots nor density; it is strictly adjusting the configuration of the existing lots.

The built structure is constructed over the platted lot in several locations and is approximately 400 square feet larger than originally platted. The new owner of the subdivision has started construction on the unfinished unit and in order to obtain a Certificate of Occupancy, an exemption plat must be approved to adjust the lot lines. This subdivision plat has maxed out their building coverage and the owner will need to adjust another lot in the future to make up the additional 400 square feet that this structure is using. The owner has stated that they do not intend to continue with the same design as the unfinished unit for the remaining lots so making up the square footage will not be an issue.

#### Subdivision Exemption Regulations

Section 8-1-4 of the Subdivision Regulations allows the Planning Commission to exempt property from the subdivision process if one of eight conditions is met. Staff has determined that this Subdivision Exemption meets the requirements of Condition 3 –

- Is for the purpose of correcting an engineering or survey error in a recorded plat, provided that the correction or corrections continue to meet the standards of this Title and provided that applicable law relating to amendment of recorded plats is complied with.

The Subdivision Exemption process involves one meeting with the Planning Commission for approval. This does not receive review or approval from the Town Council.

Staff recommended approval of Whistlestop Subdivision Exemption, Units E1 and E2 with the following conditions to be met and/or provided prior to any recording:

1. Prior to recordation, the applicant shall revise the plat in conformance with the red-marked print dated June 28, 2011.
2. Prior to recordation, the applicant shall provide a revised title commitment.
3. Prior to recordation, a Statement of Authority shall be provided for the individual responsible for signing the plat.
4. Prior to recordation, a digital file of the approved exemption plat must be submitted. The digital file shall be in a format acceptable to the Town's System. Requirements for digital submittal can be obtained from the Town's Planning Department.
5. That an executed exemption plat mylar and other supporting documents, as well as recording fees, be provided prior to recording.

Craig Dewars with Cabin Properties, LLC was present for discussion.

Commissioner Kish moved and Commissioner Davlin seconded approval of the Subdivision Exemption – Whistlestop with staff recommendations. Motion carried: 6-0.

#### E. Pre-Application for Lakota Final Development Plan

Community Development Director Shockey presented the staff report and a map on display for clarification.

The Town has received an application from the Lakota Land Group to amend the Lakota Final Development Plan (FDP). The original FDP was approved in 2005 for the North, Central and South Village. The Central Village was platted as Lakota Park in 2007 and is currently being developed. The North and South Villages have not been platted and the owner is requesting the amendment to make the parcel more appealing to a potential buyer. An attached letter outlined the proposed amendments.

This is a Pre-Application Conference ahead of a formal submittal to allow the Planning Commission the opportunity to discuss these issues with the applicant and provide feedback. Staff has been working with the applicant on these issues over the last six months. The applicant has added staff's feedback to them in the attached letter and we generally agree with their interpretation. Staff will provide additional thoughts and clarification on each issue at the meeting.

Staff recommended the Planning Commission discuss the issues outlined in the letter and provide feedback to the applicant to assist in amending the FDP.

Brett Moore was present to represent the Lakota Land Group. His following letter was discussed.

Main comments in letter **red** – applicant, **green** – Commission

RE: Lakota discussion for further amending the 2005 Amended Lakota FDP

Dear Planning Commission Members,

Please allow us to come forth with an amendment request, with knowledge Lakota Land Group, Ltd. has held several discussions with Mr. James Shockey, regarding specific planning and development issues related to the approved 2005 Lakota Amended FDP. Soon after the original adoption of the 2005 Amended FDP, Lakota Land Group, Ltd. sold specific parcels to Rick Hermes in 2007. Since the time of the Rick Hermes default (and subsequent foreclosure on the remaining Lakota undeveloped parcels, two years later in 2009), several planning and development components became clouded, remain unresolved, or are otherwise in need of greater definition. In the best interest of the Town, all Lakota residents in general, and the future growth and ultimate successful development of all remaining undeveloped portions of Lakota, we believe it in the best interest of all parties to commence discussions toward amending these unsettled issues.

Our motive and intent is to further clarify and define specific components of the Lakota amended FDP. This amendment will provide further clarity and predictability for the Town and Lakota Land Group, Ltd. and potential successors. Amending the FDP will also address current planning and market considerations related to land use and density associated with the respective undeveloped parcels. Lakota Land Group, Ltd. comes to the Town in a spirit of cooperative interest, in again laying out mutually beneficial terms for the future growth and the successful final development of Lakota. In factual matters, our approximately 110-acres (and 264 units, roughly 54% of the greater Lakota development) remain undeveloped.

Please know that we approach Staff, the Planning Commission and Town Council representing the northern approximate 56-acre parcel (defined as ‘Tract F’ in the 2005 Amended FDP), and the southern approximate 54-acre parcel (defined as ‘Tract H’ in the 2005 Amended FDP). We do not represent any part of the Lakota Park Subdivision (or ‘Lakota East’), but these issues and resolutions which we propose herein should cooperatively benefit those owner’s interests, as well.

Outlined below are the items and considerations in need of clarification, as we view them to exist:

**Revised Affordable Housing Agreement, for all parcels.**

Under the 2005 Amended FDP for Lakota, our previous attorney Mike Repucci (of the firm Johnson & Repucci, LLP) devised a program that in lieu of paying “affordable housing fees” (which has typically been \$3 per square foot on vertical construction, pursuant to the Town’s Affordable Housing Ordinance), Lakota Land Group, Ltd. (or our successors) would instead build affordable housing units on Lakota, at prescribed “constructed unit” triggers. I think all can agree in hindsight, that this was a flawed concept in several ways. Most importantly, the plan only made sense with one master developer for all of Lakota, to manage the responsibility and placement of such units. But it is now obvious (12 years later) that multiple developers would now have to share this responsibility, leaving confusion and complexity for the

remaining development of these two undeveloped properties (which could likely be multiple developers), and the remaining unbuilt Lakota Park (or “Lakota East”) units.

We believe the most effective solution, would be to simply go back to the Town’s regulating standard within the Town’s existing Affordable Housing Ordinance: the simple payment of a fee at the time of building permit. Which we believe, the Town has already been collecting from the Lakota Park subdivision (or Lakota East) developers. Removing the previous definition of calling for constructed affordable housing units on Lakota, and replace and define it back to the common Affordable Housing Ordinance, would seem the most practical solution for all parties.

Staff has responded positively to our suggestion, and believes it a viable option to return the Lakota development back to the traditional Affordable Housing standard (and subject to any future possible amendments of that Ordinance), for all future Lakota development.

Commission agrees that the agreement should be revised. Another form of payment will be required to amend the agreement. The Commission was in favor of a Real Estate Transfer Assessment in exchange for the required built units.

#### **CDOT emergency access permit for the South parcel.**

In 2005, the Town required a secondary access point onto US Highway 40, for the increased density received. A permit was secured with CDOT in 2005, which was effective for two years, and then another 2-year extension held the permit effective through 2009. Rick Hermes never built the improvement (at our insistence and reminder), and the extension expired in 2009. All that was needed was work within the CDOT right-of-way, and stubbed back within the South property. It is regrettable that we and the Town were not able to influence the improvement, before the permit expired by that deadline.

Lakota Land Group, Ltd. has recently probed CDOT through an engineer, to see if they would re-issue the permit. We have had a positive response. However, it seems preliminary to pull the permit again, until development of the South property (noted Tract H in the 2005 Amended FDP) is ready for development, with a greater and more definitive layout and density plan. It could also now be argued, that this “emergency access permit only” should also allow for public transportation (carded private gate, egress only), allowing for a future transportation loop route through the South development (and maybe the greater Lakota subdivision in general at some future point – ingress via Lakota Trail, egress via the South private gate).

Staff and I agree, it does not make sense to pull a new CDOT access permit at this time (because of expiration deadlines, and unanswered questions regarding South density). Instead, we propose inserting this matter into an amended record, stating that this issue will simply require further discussion, and become a condition at the ‘time of platting’ for the greater South property.

The Commission discussed this idea is acceptable but a new agreement will be required once there is a developer for the south property and a new plat is filed.

**A northern 'Lakota Trail' Turnaround, on the North parcel.**

In 2005, we discussed with the Town an assumption of ownership and maintenance of the two main access roads on Lakota - Arrow Trail and Lakota Trail – if turnarounds for Town snow plowing equipment were constructed. At that time, there was a huge concern (over Denver Water threats and equipment), in their possible destruction of the pavement up Arrow Trail (toward the DWB road/CR128). It should be reminded and noted that Rick Hermes never built the turnaround improvements, in fact it could be argued he damaged these main access roads more than improved them. Lakota Land Group, Ltd. finally built the Arrow Trail turnaround four years ago, in cooperation with the Lakota Owners Association. The LOA financially participated and paid to make Town required improvements to the existing pavement (and repaired damages made by Hermes equipment), and LLG extended the pavement and built the Arrow Trail turnaround. This resolved one of the major issues which Hermes never completed.

While we certainly appreciated the Town's interest and takeover of the route to the Arrow Trail turnaround (which again solved the historic problem with the Denver Water Department, and better secured public access to the national forest), at the time of all previous discussions of this matter we also asked the Town to consider the northern main access up Lakota Trail, also. We've long suggested that road maintenance is the only real return benefit Lakota owners receive, on all their assorted tax payments within Winter Park (besides emergency and protection services).

Today, there is a resulted dispute between the Lakota Park subdivision (or Lakota East) developers and the Lakota Owners Association, on cooperation for winter maintenance of the existing paved portions of Lakota Trail. Which was just another resulted complexity left by Rick Hermes, that we should all seek to cooperatively resolve.

The original conceptual plan for a North turnaround, was to be located just beyond and on the North side of Cub Creek (and in fact was contemplated in the very beginning of Lakota, and was actually reserved within Tract D of Lakota, platted in 1999.). However, that plan is complicated by a large quantity of fill that would be necessary for the downslope, and how it would complicate traffic movements. Another crucial consideration made relevant today, is the need to monument this North entrance, and consider the traffic needs to access development areas below this point, all that would crowd this same location. A far superior and more practical plan would suggest moving the turnaround to the top of the North development, where (1) the terrain is more conducive for a large turnaround, and (2) public transportation could additionally access more future occupants in the speculated higher-density development near that upper location.

We would like to propose a provision be placed into the record for this future access improvement (specifically for the future extension of Lakota Trail and north turnaround), that would be placed largely over the existing gravel road (with a widened switchback, and over the 12" water main which connects to the WPWS water storage tank, at the northernmost corner of Lakota). Exhibit B was presented for a general idea of where this road alignment, and upper turnaround could be placed. At the time of future platting, we suggest that the North developer and Town officials work toward a mutually agreeable design standard that could accommodate this improvement. We recommend that it (1) meet an agreeable standard (to be further defined at the time of platting, allowing the developer flexibility to create an

integrated access design plan, that incorporates all the related elements), (2) that such agreement must be made specifically between the future North developer and Town officials, and (3) not necessarily defined by a new relaxed standard for all other northern Lakota private roads, suggested in the next provision.

In return, we ask that the Town ultimately promise acceptance and maintenance of the road at some future date and time, after an agreement between parties at the time of platting, and under specific terms: (1) the ultimate and final construction proven and held to those mutually agreeable preset specifications, (2) at no construction cost or expense to the Town, and (3) when certain densities would warrant public maintenance. We would additionally agree to an additional condition written into the record requiring repair of the existing asphalt damage prior to an ultimate transfer of Lakota Trail maintenance to the Town (repair of the existing paved portions of Lakota Trail above the Arrow Trail intersection, which mostly resulted from Rick Hermes destructive development issues).

Lakota Land Group, Ltd. respectfully request that the Town approve this proposal. If a public/private cooperation could again be implemented on this project turnaround (as we successfully completed and proved on the Arrow Trail extension and turnaround), it could result in a mutually beneficial improvement, and provide for an ideal extension for the new transportation system (and hopefully provide service to a much larger population of north Lakota guests in the future).

Staff's response is that there is no documentation suggesting that Lakota Trail would ever be maintained past the intersection with Arrow Trail (which only enveloped the old historic national forest access). But discussions of a Lakota Trail turnaround did occur, proved by the Tract D plat outline (recorded all the way back in 1999). This provision may not be supported by Staff. Even though a similar provision was made for the Rendezvous development (ultimate future maintenance acceptance, upon completion of certain density figures built above those access improvements).

Commission discussed this concept in depth and recommended that the road would have to be redesigned to make the grade work with future development. The Commission suggested looking at the Rendezvous road standards as an example.

**8%, 6% maximum grades for private road standards, within the North and South parcels.**

We understand that the Town's own standard for its roads is no greater than 7% grade on straightaways, and 5% grade in switchbacks. For some reason, Rick Hermes refrained from the advice of our prior land planner and changed to these standards. Which resulted in the overly massive cuts and retaining walls, almost complete deforestation, and many unbuildable and inaccessible lots on the Lakota Park subdivision (or Lakota East) property. Even though, those internal roads were always to remain private.

Private road standards were not written into the 2005 Lakota Amended FDP, which if they had been, Hermes' team may not have made such egregious errors. To correct the probability of this ever happening again, we would like to write road standards for the two remaining undeveloped Lakota properties. With an understanding going in, which roads might specifically and ultimately become public, and all others private - with their own defined

standards. Such definition would give more flexibility in design and more potential access, into more development areas. For the record, we would define the standards as no greater than 8% grade on straightaways, and 6% grade in switchbacks, for private access roads. This would again result in the removal of an uncertainty for a future developer, if it were defined and settled in the record of this amendment. This new standard we seek is no greater than those adopted for the Rendezvous/Arrow development.

Staff has commented they will consider the adoption of these standards in the amendment.

Commission seemed to agree with this concept.

### **Changes in Density and Zoning on the North and South parcels.**

Although we don't believe increasing density is practical or necessary at this point, we would like to consider transferring some density from South to North. Today, the approved figures are 143 units for the North, 121 units for the South (as defined in the 2005 Amended FDP). We would seek a change to approximately 158/106. The intent is to add language in the amendment, reserving a right to allow internal transfer of more density (between North and South properties) in the future. Such a transfer of density could potentially also apply to the Lakota Park subdivision (or Lakota East) developers, to fulfill the total density figure approved in the 2005 Amendment (if they are interested in being party to a density transfer provision and definition).

Today, there is no reservation for a potential zoning change, for commercial hotel and related hospitality operations. Simply creating this reservation now, could potentially attract a different style of hospitality developer, creating hospitality services and increased centralized rental potential for certain areas within the Lakota development. We would like to seek this flexible option, for potential minor subdivisions located within both the North and South properties. Lakota Land Group, Ltd. seeks to define in the amendment, that select future minor subdivisions (within both North and South properties) could be reserved and approved for D-C zoning, to accommodate the possibility for boutique hotel operations and commercial hospitality services. We would redefine various acceptable unit sizes, and insert those sizes to accommodate the potential provided within a D-C zoning format.

Additionally, we would like to define an approval for a unique mini-storage concept (a minor-subdivision facility) to house ATVs and snowmobiles (or other recreational or personal items) in a common facility, specifically for Lakota owners. This concept could either become a fractional ownership facility, or individual mini-storage style condominiums. The concept would be further defined at the time of platting. While this concept might be construed as a commercial style operation, it should be acceptable under current R2 zoning, if acceptable and defined in this amendment.

Staff says they will consider these new definitions for the amendment, and support these changes.

Commission stated that moving the density can be considered but with limitations. They weren't in favor of the idea of a mini-storage area because there is no way to really control who uses it. It could be sold as commercial storage. They also discussed the need to redesign the roads if higher density is proposed or a commercial use is proposed. Also the

current owners in Lakota did not buy into a development that could have commercial traffic on the roads. Any change to a commercial use would require a rezoning.

**Miscellaneous Items, for all parcels.**

While again amending the Lakota FDP, we would seek to extend the vested rights. In 2005, we understand the rights were reserved for twenty years (to 2025). We seek a 10-year extension, to 2035, in this new amendment.

Additionally, it has been proven that the legal description for the North property was recorded in error (that property noted as Tract F in the 2005 Amended FDP). Since discovery, we have generated newly improved legal descriptions for both North and South properties. We would like to correct and insert these new legal descriptions into the record, as part of the new amendment.

Staff says they will consider these new definitions for the amendment, and support these changes.

The Commission didn't have concerns with these items.

In conclusion, we hope this outline can facilitate both of us cooperatively moving forward in negotiating a better set of development terms, that will be mutually beneficial for the Town and Lakota. Please approve this outline, so it can be advanced for review and discussion with the Town Council.

Respectfully,

Bret Moore  
Lakota Land Group, Ltd.

VI. STAFF UPDATE

- Master Plan – RFP update
- Reunion Station
- Serenity Trail
- From Town Council - Staff looking at updating code to a one year approval of plat instead of 6 months.

Upon a previously adopted motion, the meeting was adjourned at 10:15 a.m.