

## RECORD OF PROCEEDINGS

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**Regular Meeting of the Estes Valley Planning Commission**  
**September 15, 2009, 6:00 p.m.**  
**Board Room, Estes Park Town Hall**

**Commission:** Chair Doug Klink; Commissioners Alan Fraundorf, John Tucker, Betty Hull, Steve Lane, Ron Norris, and Rex Poggenpohl

**Attending:** Chair Doug Klink, Commissioners Alan Fraundorf, Betty Hull, Steve Lane, Ron Norris, and Rex Poggenpohl

**Also Attending:** Director Joseph, Town Attorney White, Planner Shirk, Planner Chilcott, Town Board Liaison Homeier, and Recording Secretary Thompson

**Absent:** Commissioner John Tucker

The following minutes reflect the order of the agenda and not necessarily the chronological sequence.

**Chair Klink called the meeting to order at 6:00 p.m.**

**1. PUBLIC COMMENT**

None.

**2. CONSENT AGENDA**

Approval of minutes from August 18, 2009 Planning Commission meeting.

**It was moved and seconded (Hull/Fraudorf) that the consent agenda be approved as corrected, and the motion passed unanimously with one absent.**

**3. AMENDED PLAT – Lots 9, 10, 11, 12 & a portion of Lot 8, Block 1, 2<sup>nd</sup> Amended Plat, Town of Estes Park, Owner/Applicant: Thomas Widawski**

Planner Shirk reviewed the staff report. If approved, this amended plat will consolidate five lots into two lots and will allow the existing structures to fit on their own lots. He stated the owner plans on restoring the existing buildings at 203 and 205 Park Lane, which straddle existing property lines. The original lots were platted in 1907.

This proposal complies with applicable section of the Estes Valley Development Code (EVDC), and has been submitted to all applicable reviewing agency staff for consideration and comment. No significant issues or concerns were expressed.

This is a Planning Commission recommendation to the Town Board. Staff recommends approval with conditions outlined in the Staff Report.

**Public Comment:**

Lonnie Sheldon of Van Horn Engineering represented the applicant, who has read and agrees with the conditions of approval. The proposed plan includes some change of use of the buildings, all of which are allowed in the Commercial Downtown zoning district.

**It was moved and seconded (Fraundorf/Poggenpohl) to recommend approval of the Amended Plat of Lots 9, 10, 11, 12 and a portion of Lot 8, Block 1, 2<sup>nd</sup> Amended Plat, Town of Estes Park with the findings and conditions recommended by staff, and the motion passed unanimously with one absent.**

**CONDITIONS:**

1. Compliance with memos from Estes Park Sanitation District, Town Attorney Greg White, and Public Works Department

**4. REVISIONS TO ESTES VALLEY DEVELOPMENT CODE – SHORT TERM RENTALS**  
**Revisions to vacation home regulations, including revisions to the definition of accommodation use, guest room, quest quarter, household living, and nightly rental in EVDC Chapter 13, and revisions to distinguish between B&Bs and vacation home uses and the districts in which these uses are permitted.**

Director Joseph reviewed the Problem Statement, which has evolved out of various discussions between Staff, Planning Commission, and Town Board during study sessions and email correspondence. The following consensus has been reached: The issue is to clarify the distinctions between a B&B and a vacation home; the purpose is to reconcile the current municipal code regulations with reference in the Estes Valley Development Code (EVDC). In particular, Staff has asked the Town Board to voice their opinions about whether or not the use of a vacation home should be allowed as a principal use in a residential zoning district. Of the responses received thus far, Town Board supports principal use; the scope is to clarify the definitions of vacation homes and bed and breakfasts, realizing that outright prohibition of vacation homes and B&Bs is not open for consideration. Town Board has given this code revision a “medium” level of priority; and finally, the desired outcome is to enhance the clarity and predictability of the regulatory framework for owners of vacation home property and their neighbors, and to produce a regulation that can be adopted into the EVDC.

Planner Chilcott stated Section 4.3 would add vacation homes as a principal use in all residential zoning districts, a change from the current accessory use. B&Bs would be allowed as a principal use in R-2 and RM zoning districts. Section 4.4 removes B&Bs from the CO zoning district. The reasoning behind this change is B&Bs are intended to exist in single-family homes, which are not an allowed use in the CO district. The proposed revisions also line up the language in the Municipal Code with the EVDC by

eliminating the term “nightly rental” and replacing it with “vacation home.” Director Joseph clarified the Town Board has exclusive rights on revisions to the Municipal Code, and the changes listed in this draft would need their approval.

Planner Chilcott stated section 5.1 clarifies distinctions between B&Bs and vacation homes, using some of the language from the Municipal Code and inserting it into the EVDC. A business license would be required for B&Bs and vacation homes located within the Town limits, and a permit would be required if the B&B or vacation home is outside the Town limit but within the EVDC area. Language in the Municipal Code concerning property managers being available 24 hours a day would move into EVDC. A Colorado sales tax license number will be required.

Planner Chilcott reviewed the exception for B&Bs and vacation homes in the CD zoning district, where the design and operation should be in character with the residential neighborhood. She stated section 5.1.B.1.d.2 and 5.1.B.1.d.3 may need modification at a later date depending on the outcome of code revisions concerning the number of kitchens allowed in a single-family home. Any accessory buildings on the property shall not be used for amenities beyond a gazebo or similar outdoor room. No changes in the exterior appearance shall be allowed, except for permitted signage. Traffic and noise levels shall not be out of character with residential use. Where parking is concerned, Planner Chilcott stated all B&Bs shall have at least two parking spaces, and no more than three vehicles shall be parked outside at any one time. On-street parking is prohibited.

Several items in this proposed code revision are included as cross-references with other areas in the EVDC. Namely; Employee Housing Units, Attainable Housing Units, and Accessory Dwelling Units. In the CD zoning district, B&Bs and vacation homes are not allowed on the ground floor of a building fronting on Elkhorn Avenue. Also, only one vacation home or B&B shall be permitted per residential dwelling unit.

Section 5.1.B.2 addresses differences for maximum occupancy between B&Bs and vacation homes as well as the number of parties allowed to rent rooms at B&Bs. No more than eight guests shall occupy a B&B at any one time, in addition to the owners or operators of the business. B&Bs may be rented, leased, or furnished to one or more parties at the same time. The maximum occupancy for vacation homes shall follow the EVDC regulations for the number of persons allowed under the household living definition. Vacation homes shall be rented to no more than one party, and the owners of the home shall not be permitted to occupy the home while a party is present. Planner Chilcott stated the existing legal, non-conforming B&Bs would be grandfathered as long as they remain in continuous operation as a B&B.

Planner Chilcott stated the proposed code revisions allow B&Bs to provide meal service to registered guests, but not to the general public. Also, B&Bs may offer limited ancillary services to guests as a home occupation. Home occupations in vacation homes and/or accessory dwelling units are prohibited.

Planner Chilcott noted a change in section 5.2.B.1 to remove nightly rentals as an accessory use, and the rules pertaining to vacation homes moved to the principal use section. She noted the various points of cross-reference in the code includes using the same language and terms between both the Municipal Code and the Development Code.

In section 13.3 Definitions of Words, Terms and Phrases, there has been a slight revision to the definition of B&B, changing *owner*-occupied to *operator*-occupied. The definition for nightly rentals was removed and replaced with a definition for vacation home, both in the Municipal Code and the Development Code. Commissioner Lane suggested a change in the definition of Accommodations Use to read *for compensation* rather than *for a consideration*. Planner Chilcott noted this definition covers all types of accommodations, not just vacation homes and B&Bs. A clarification was also made in the Household Living definition to differentiate between long-term and short-term rentals.

Staff recommends keeping the current definition of a Guest Unit or Guest Room. This could be revised at a later date depending on the outcome of the kitchen code revisions.

Commissioner Norris suggested adding language to ensure there is a responsible party in charge of the property, as well as language to ensure the collection of the appropriate taxes.

**Public Comment:**

None.

**It was moved and seconded (Hull/Fraundorf) to continue the revisions to the EVDC for Short Term Rentals to the next regular meeting. The motion passed unanimously with one absent.**

**5. REPORTS**

Director Joseph distributed copies of Draper City, Utah's code on second kitchens in single-family dwellings. He requested feedback on this code from the Commissioners. Commissioner Klink stated that from the Study Session discussion, it is suggested wording should read *Additional* rather than *Second* kitchen. Reviewing the Draper City Code, Development Standards-Permitted Use, it was agreed amongst the Commission to: strike item (1) The residence shall have only one front entrance; incorporate (2) The residence shall have only one address; incorporate part of (3) An interior access shall be maintained to all parts of the residence to assure that an accessory unit or apartment is not created; do not incorporate the second sentence of (3); defer (4) to the Light & Power department to determine incorporation; more discussion needs to occur between staff and Commissioners concerning (5) A second kitchen shall exist only as part of the primary structure and shall not be installed in an accessory or "out" building. The comment was made that this is not applicable because accessory dwelling units are not allowed in the

EVDC area; incorporate (6) which requires a deed restriction declaring the residence will not be converted into two or more units without specific approval; strike (7) concerning limiting use of the single family residence to a family only. Town Attorney White stated the deed restriction should be written strong enough to cover the use of the residence; strike (8) Construction of any such kitchen shall meet standards of the current building codes adopted by the City. It is felt this is redundant. It is understood current building codes will apply. Commissioner Klink directed Staff to produce a draft and present it at the next Planning Commission meeting.

Commissioner Norris stated Staff and the Planning Commissioners have compiled a list of possible code changes and will be submitting them to the Town Board for prioritization.

The Community Development Department has had no pre-application meetings since the last Planning Commission meeting.

The Town Board approved the Location & Extent/Special Review 09-01 for the Stanley Park Grandstand.

Commissioner Klink asked Director Joseph to explain the enforcement process with the current complaints at a residence on Grand Estates Drive. Director Joseph stated this ongoing enforcement action involves an unpermitted accessory dwelling unit in a detached garage. The property owner is willing to try to come into compliance and is in the process of connecting the garage to the principal dwelling. Permits were issued, the owner was advised the garage could not be used as a living unit, and a neighbor has complained that the condition was being violated. She also complained about construction on the site taking too much time. The Building Department inspected the property and asked for and received a letter from the owner stating his intent to correct the current code violations. The property owner denies violation of occupancy of the garage. Director Joseph believes there has been an ongoing effort by the property owner to reach compliance with the code. The neighbor is well within their rights to expect code compliance. Building permits have an expiration date, but as long as you show progress, the process can go on for a long time. The department continues to work with both parties.

**There being no further business, Chair Klink adjourned the meeting at 7:15 p.m.**

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Doug Klink, Chair

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Karen Thompson, Recording Secretary