

Loa Town & Waterworks

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Mayor – Cody Grundy, Clerk – Michelle Brian, Treasurer – Jeanette Taylor

Loa Town Planning & Zoning Commission Work Meeting

Sept. 4, 2024

Roll call: Jared Hallows (chairman) present (late), Derek Woolsey is present, Kori Brown is present, Barbara Tewell is present, Brage Greenhalgh is present, Chris Olsen - town council representative is present, Michelle Brian is absent, Jeanette Taylor (p/z secretary) is present.

Visitors: Gray Hansen and Daniel Jensen

Action Items:

Derek calls for a motion to approve the minutes for August 12, 2024. Kori motions to approve the minutes for August 12, 2024, Barbara 2nds the motion to approve the minutes for the August 12, 2024. All others voted in favor.

Business Items:

Derek welcomed Daniel Jensen with Sunrise Engineering to go over the Subdivision Ordinance updates that he created. Daniel gave us a little bit of background and said the state has made significant subdivision code changes in both 2023 and 2024. They changed significantly in 2023, they started this funding process, a lot of communities started updating the code, and they again they changed in 2024 and so those communities that started before April of this year must redo it. Some of the biggest changes are subdivisions, while they've been administrative with a legislative element to them. Even though they were administrative, they still went to councils. A lot of communities were saying things like, the council can grant this waiver, or neighbors showed up and said, I have concerns about growth, and I don't want to see this subdivision in my neighborhood and council listens to those kinds of concerns. The state has said no, this is an administrative process. If the applicant checks all the boxes, it needs to get approved. We're tired of all these horror stories from developers who come and cry to us and say the city said, "I just needed to do this, and you also need to do this?" Then all the neighbors have these concerns and the council listens and adjusts again. So, the state said we were not going to council anymore. We're going to keep it at a lower level. We're going to keep it administrative. If they can check off all the boxes, it needs to get approved. We still want the preliminary plan process so that they can go through planning commission if the town or city wants it to go to the planning commission. But the final plat, we're not even going to take to the planning commission. The final plat is mainly the things that the cities were requiring like the construction drawings; we're going to put all that engineering upfront in the preliminary plan. We're going to do it all at once. Once that's done with the preliminary plan and they created a new term of art called a subdivision improvement plan. That's all the construction drawing that is done with the preliminary plan. Once that's done the only thing left for the final plat is the Mylar. It's just the plat. They've said that Mylar gets reviewed by a staff member, the engineer, whoever the town has that has been part of the review process and in approving the preliminary plan, that staff member or if the city would like a committee but the committee cannot include city council members, town council members or planning commission members. So that committee would be a planner, an engineer, maybe a town

surveyor or somebody that can be on the committee that reviews that final plat. They would just look at that final plat, and say is it consistent with the approved preliminary plat? Did it check all the boxes? If yes, then we're done. There's no public hearing, there's no public comment, there's no public meeting but there could be at the preliminaries.

Chris said, we don't have any of those things. We have Planning and Zoning and the Town Council so who do we give that job to? Do we use someone like Eric? Daniel said who's Eric? Chris said the county building inspector. Daniel asked if the town has an engineer they contract with because he said that typically what we've seen with the small communities is they contract it out and then they pass that cost on to the developer. Chris said I don't think so. Kori said we would need to have someone on a retainer. Daniel said you'd just have to guess approximately what those fees are going to be or do some kind of fee schedule where that cost is borne as much as possible by the developer and not the town. Derek said we are working on a fee schedule so that should be something on that list if it's not already.

Daniel asked if in the last 10 years, if somebody came in with a subdivision, how was it reviewed? Chris said honestly, I don't think there has been one in the last ten years besides the Leavitt one. Derek said yeah and that one was one that needs to be annexed prior to subdividing. Chris said it's been at a standstill for a long time though. They haven't come back to discuss it. Daniel asked how big of a subdivision was it? Chris said it was like 65 homes, but then they had to cut it back to maybe 55 homes which is still huge for us. Daniel said oh wow so huge one then. Derek said they had it set up in like three phases. Daniel said so the caveat that's always existed is a simple lot subdivision; the state has allowed what used to be called minor subdivision. Minor subdivisions though are defined in state code, and it relates to agriculture. So, as we put the codes together, we've tried to steer away from that minor subdivision terminology just because it is defined in state code as something different that the cities and towns have interpreted it. Smaller subdivisions are allowed in state code as an exception and in state code it says provided a few things on that check list like you can't cross certain streets or whatever, but it is not plotted so it's done through what's called a record of survey. This is a map that a surveyor puts together that gets recorded at the county and it looks almost identical to a plat. To an untrained eye, they're going to look at it and say, oh, that's a plat, but to a surveyor, planner, whatever they say, no that's a record of survey, that's different than a plat. The surveyor describes the property through a meet and bounds description and it won't say Lot 1, Plat A, it'll just remain the meets and bounds survey with a survey picture of it. It also says that the land use authority cannot be city council so that record of survey, the meets and bounds record of survey, can still go to planning commission for approval and then it has a maximum of 10 lots. It doesn't have any caveat in there about phases or time so in theory somebody could show up do a 10 lot meets and bounds subdivision through a record of survey and six months later do another one and never have to go through the subdivision process and could do 20 or 30 or 40 as long as they're doing 10 and 10. Chris said that can be a big concern then because people could get away with more lots by doing them in phases and avoiding the more costly subdivision process. Kori asked how do we protect ourselves from something like this? Daniel said that the state code allows it to go up to that and the town can choose to do it or not to do it. But if they allow those then the town can adopt an ordinance that allows up to 10 lots. Typically, what they see historically is that towns have said you can do this for 3 or 4 lots at a time. The idea being if Grandma and Grandpa want to divide property, we don't want them to go through this whole plot process. We're going to be fine with them doing a record of survey and quick claim deeding it to their kids for a small subdivision. But now that the state has come and made this big, long process for preliminary, heavily regulate process. There are some concerns for a small town going through this process. Many of the small towns have said let up that from 3 or 4 for the exception Lets do 5 or 10 because we don't get many subdivisions and more of them can fall under that exception and the final approval still planning commission is going to act the same as it always has, and we don't have to deal with some of the regulations in this new code.

Derek asked, If the 10 lot is in the meets and bounds, do they still have to follow the infrastructure and basically put in everything before they give it to their kids or whoever? Daniel said, they still come in and get an approval and meet the zoning requirements, all the regular stuff then they can quit claim it to their kids. Then when they apply for the building permit, then the town can say you need to hook into the sewer, water or whatever. Derek said that is helpful for those people that have a few lots that they just want to deed to their kids or grandkids without the extra cost. Barbara said there is a minor subdivision application in about every county planning commission meeting.

There is a state mandated process and within that process, there are a few places where the town can decide what they want to do. The first thing is the state mandates that you allow a pre-application meeting, it's not a requirement but if the developer wants to do a pre-application meeting you need to allow them to do a pre-application meeting. What this looks like is a developer would come in and say here's my plan. The code outlines a few basic things that they need to bring, like a sketch that would show how many lots, approximately where, how they're going to get roads onto the property, what infrastructure is in the area, the size of the lots, the frontage, the zoning of the property, if there needs to be a zone change, this sort of stuff. They would come in with the information and show their plan. We would need to have someone knowledgeable that could answer his or her questions. That can be a few people from P and Z or town council or whoever you choose that has a good understanding of all of those things.

Daniel quoted directly from the code; it says that within 15 days the say that town shall schedule a pre-application meeting. It doesn't mean the meeting needs to be held; it just says scheduled. He interprets that as the act of scheduling must occur within 15 days. You could say we're going to schedule you for the next P&Z meeting, which might be 25 days out, if they had just missed that month's meeting. They would then come to the next meeting where they would bring the information, and we would talk to them about their proposed subdivision and let them know of things to consider with infrastructure and making sure the lots meet all the requirements. We need to provide them with an application and a link to where the codes are online or a paper copy. State code says we need to be able to do that. When they come in for the preliminary plat, they need to have a complete submittal. They need to submit a complete application and if it's incomplete it's going to get kicked back. No time starts, they cannot accept it, they cannot review it, other than reviewing to make sure everything's there. Daniel said that we need someone in the town that is knowledgeable as to what needs to be included in a subdivision submittal. This could be Michelle or Jeanette if they were trained in what the content of the checklist is. If they don't have what is on the checklist then they would have to come back. Once they come in with a complete submittal now a big thing that happens is there's a ticker that starts and that's going to be for the big town not as problematic but for the smaller towns, they have doubled the length of time but it's still tricky. From 20 days up to 40 days, so you have up to 40 days conduct that review, but if you have an engineering consultant, and sometimes they are backlogged, you will want to make sure you already have somebody on retainer who knows your ordinance. If you're doing a pre-application meeting, you may want to reach out to them and tell them about the pre-application and that we don't know when they are going to apply but give them a heads up. At the end of that 40 days and you've not completed your review, it's approved. You need to provide comments and if you provide no comments, it's as if there are no comments, so you've got to get comments back within 40 days. When you provide comments back you need to make sure that your comments are complete, because if you miss something when you provide comments to that applicant you can't go back. You can't say we forgot to tell you, but you need to do this, they come back with I've already paid for all my engineering and drawings a now you're telling me I need more. The state says that on the first set of comments that you give back, it must be complete and if it's not complete, you can't include it later, unless it's vital health/safety welfare. For instance, the fire chief steps in and says the international fire code says you have to have a turnaround, we neglected to see that. We're not going to build things that aren't going to meet the building code. But if it's a zoning thing, and they don't pick something up during the review period then that's on you and it will still be approved. So you

want to be very thorough during those 40 days. Derek asked if we could stop it if we forgot to do a traffic study or something like that? Would this be a legitimate hang up? Daniel said that these are specific requirements that would step in if needed, and so something like that I would go with definitely no. Now a UDOT, for example, if you're there along a UDOT road, I don't think that you can just waive UDOT's requirements by forgetting. I think UDOT's going to step in and say this is a safety measure and we as a third party by right must be able to review it. If you forgot to do a UDOT or FEMA thing, you're in a floodplain you're going to need to do it. It says if you are in a hazard area like FEMA, those dates do not apply. Because they know that Army Corps of Engineers or FEMA take a while, so wetland mitigation could take a year and then the 40 days doesn't count. If you're looking at a piece of property, and when they come into that pre-application meeting and you see, if there's this hazard here, tell them to go mitigate that first. Go get their FEMA floodplain certificate or go get their Army Corps of Engineers wetland mitigation certificate or whatever it is, if that comes into play.

Then they come in, you give comments, it used to be that people would give comments and then forget and they come back and so I think what's going to happen here is since you have to give full comments you're going to want to take a lot of your 40 days, because you don't want to rush it and be sloppy and forget things. This may slow it down a little bit and I think the state was thinking this is going to speed it up, but I think a lot of communities are thinking we need to really make sure all the i's are dotted, and t's are crossed before we give it back. This may slow down this process a little bit. When you give them back comments, you're going to have to be thorough and cite the ordinance. If you're going to require something, you need to be able to cite it in your ordinance and if there's a correction, you need to say it and have them make the change. You'll provide all those comments with it cited. When they bring it back to you, you're going to see that list of corrections that they need to make with the citations and then ask did you address each of these? If there are some that are outstanding, then you won't take the resubmittal back. If it is a complete submittal and they have addressed everything, in theory, it should be good to approve at that point. There could be some disagreements as to what something means, so maybe you can get your third review, but in theory, by the time they come back for a second review, they've addressed every single comment, or it doesn't get accepted and the staff that's, contracted out will look at it make sure everything's there and if it is and they've addressed it they'll say this is ready to go, send it to planning commission and say they've met every single comment you'll be able to see here's the review here are their comments they've addressed all their comments and it should actually be then a quick approval process and that's going to include the preliminary plan and subdivision improvement plan with the construction drawings too. The big one is the preliminary plan and that's the one that's at the planning commission. Once this is done, and you have all the drawings, everything is approved, that developer knows what the standards are, knows what's been approved and they can't change it. Some developers might say I want to add a lot and if they want to do that, fine. You must start all the way over at the very beginning stage of the process. The state says these are review cycles with a maximum of four. If there's a material change on anything, it goes to the first review cycle. There's a caveat that says if there's a material change, it goes back to the first review cycle for the area of thing that was changed. It's common to put in your code that your application fee covers two preliminary plot reviews and after that it would be another fee or if there is a material change then that would incur a new fee. You don't want to get a developer who goes through like 50 iterations and it's all under the application fee. Once it's approved at the preliminary level, it goes to final plat. The final plat should be insanely easy now because most everything is now shifted to preliminary. That final plat is just the plat, along with the performance guarantee. Now at this point they'd submit their cost estimates for the public improvements that would be reviewed by the engineer. This would all be submitted with the performance guarantee and submitted before that plot can be recorded. Or under state code they can go at risk, which means that they construct all the public improvements before they record the plot. State code says you can go either way, either go at risk but then you can't record the plot until everything is done and inspected or record the plat right after submitting a performance guarantee bond that covers everything up to 110% and you must allow both options.

Some of the things that communities look at, the Code does not address expiration dates, so Daniel went with the default. What this means is if an applicant brings in an application and you give back comments and then they walk away and say, I'll bring it back and they take longer than 12 months, it expires then you start over again. This way you don't have an outstanding comment sitting out there. The other thing would be if they get a preliminary plat approval and then sit on it and never come in for final plat approval, you'd want to make sure that that has an expiration date and in the code. I think I put 12 months, maybe 24. If we had it in our existing code he matched it. If we didn't, he put in 12 months. It says you need to bring in a complete final plat submittal within those 12 months otherwise it lapses. The same thing goes with the final plat. If you give final plat review comments and they don't come back, there's an expiration date. You don't want those sitting out there since they're vested. State code for the preliminary says it can be planning commission; it could also be a board or an individual. He said that he couldn't foresee any reason why you would not have the planning commission be the one to review the preliminary plat. Daniel had a question on the number of lots that we want to allow for the simple lot, minor lot. He put 4 because that is what our current code says so he just brought that over. After hearing how the process goes for preliminary and final he wanted to know if we would want to expand that or if we still want to keep it at four and say if you're doing more than four, you have to go through this process. Barbara said I think keep it at four because it seems to control the growth a bit more. She worries about schools and healthcare from the extra growth. Derek said that if we were to go with maybe six then that would be 3 acres at half-acre lots. Just thinking because a lot of people have 5 acres. Chris and Kori both thought that 6 sounded fair. It was further discussed that if you had 5 acres you could do up to 10 lots. Derek said he was thinking about the younger generation and the cost of everything, if they didn't have to put in all those hundreds of thousands of dollars' worth of infrastructure just because they have to subdivide it and go through this whole big process when they could simplify it. They could have a chance to have their kids come back. Even if they were able to sell off part of the property and then they would be able to pay to put in the infrastructure and not pay a developer. Keeping five lots for my family and selling five and that way pay for the infrastructure costs. Kori asked if there was any way to guard against someone who wants to do a bigger subdivision coming in and doing it in little slices just so they can avoid the bigger process and get away with doing less? Daniel said that he knew of a community that said you could only do it once every four years or something. Chris reminded everyone that we don't have a lot of space to grow, and a bigger subdivision would have to be annexed in prior to doing it anyway. He suggested that we add something in the ordinance that they could only maybe do it every 5 years or something. Derek had a concern if they went with 10 lots and the guy that split it up sold 10 lots and put no infrastructure in and then the people that bought it came to get a building permit and you tell them that the infrastructure is not in then this could be a concern. Derek said for example, Garkane is currently installing a new power line down in Bicknell and there's a subdivision, well it was plotted as a subdivision but the roads never got put in and now the fence lines are out here and they have a 20 foot road, but they really have a 66 foot right of way but then nobody is going to do anything with it because it didn't get done and the road is going to stay the same and those people that have the lot have 33 feet that belongs to the county and they took it over and it's their yard now. There won't be a road now because who's going to pay for it? So, Daniel said maybe keeping it 4 restricts it a bit more and keeps those things from happening on a larger scale. Derek said people will always find some loopholes because that's what some people look for. After a lot of discussion, it was then decided to keep it at 4 lots.

Daniel made a comment on the existing code, the planning commission has the authority to impose exactions upon a sub divider in addition to the standard and requirements contained herein, including but not limited to exactions regarding water. He said to be very careful with that. You need to state exactly what is required as opposed to saying planning and commission can decide what the exactions are. We possibly could open ourselves up to legal liability.

Derek asked, if someone does split 6 lots off and one person builds on it, and they put the water line in and they pay for it all upfront because they're the only ones that build there is there an expiration date that they will have to pay their portion of that line if they build? For example, on the power system, if you build and hook on within five years, you have to pay a portion. If you let it last for five years, then it's just the cost of the hookup. This might be a question for Michelle.

Daniel walked through the process again of the pre-application, it starts with the preliminary plat filling and review, the submittal and the check for completeness. There are some caveats that come from the state code like the water conveyance facility. If it's located within a certain distance then you need to notify the water conveyance facility, which is outlined in the state code, who those are and they need a chance to respond within a certain number of days. You need to reach out to the utility companies and to the affected entities so that they know that a subdivision is coming in and they can respond if they have concerns.

You require a will-serve letter anyway, so that means that they need to have gone to utility companies to make sure that they can even have the utilities provided. You have the review frame, but geologic hazards waive that, then you provide your letter. Then the application expiration is for 12 months if this sounds reasonable to everyone? Everyone agreed. Then there is a resubmittal; you check for completeness; you have a review window for the resubmittal. The state code says that the number of days applies to single-family homes, two family homes, and town home developments. So, what he put is that time frame does not apply to commercial, industrial, or other multi-family developments. So, if somebody comes in to do a plat or an industrial project, they're still going to go through this process, but you don't have to worry about these 40 days. It's a little more complex so you can have longer, but you're still going to say complete application, complete comments, complete resubmittal, and planning commission approval. If there's a zone change or anything like that, that's the very beginning. If there's a legislative component, go do that first.

What you can do to make sure that you're not upzoning property or giving some right of way without guaranteeing that a thing happens is make it contingent. Tell your counsel; we're going to do a zone change contingent upon plat approval. If they never come back to do the plat approval, then the zone change isn't granted. You could do that for a right-of-way vacancy or something. You need to shift where the road goes. You can't because the plat can't go to council, you can't do that in the same meeting as you used to be able to. So, you'd say all right council you probably don't want to change your road unless that plat does get approved. So they would say that they would change the road contingent on the future approval, and if that approval does not occur, then that vacation of the road right of way is void. You need to tie it somehow otherwise a developer might come in, up zones the property for something you like, doesn't actually do it and then sells it to someone who does something you don't like. This would stop things like that from happening.

By the fourth review cycle you should have it done, and if the applicant can't get it done at that point, then there's a dispute as to something and we have the council as the appeal authority. Then the code outlines everything that needs to be submitted and it should match that checklist. The improvement plan is also included. The state code doesn't say what those things have to be so you can take a look at that checklist and make sure or take a look at the code and make sure these are the things we want. When we do our review are there things that we want included? The last thing we want is to have minimal standards and wish we had more. The approval process is straightforward, it's basically do they meet everything or do they not. Then you have the 12 months and then they're going to come in for the final plat and it's the same process.

The state code says that there are certain things we need to have on the town's website or have it available at the office if they don't have a website. You need to have the application available to print. You need to know what the application fees are, you need to be able to tell that to them when they come in. You will need to give them a copy of the land use ordinance, with a complete list of standards for the project. If we have a separate document of standards and specifications, or if the engineer that we contract with says, we have a great set of standards that we use, a lot of them do just ask if we can have a link to that and post it on the website. With the final plat committee will have their attorney look at it. State code says that once the plat is approved, and then you need to send it to UDRC for 911 emergency databases. You need to submit that to them within 30 days. You might be relying heavily on whatever engineer that you contract with, and we'll say here is the check list and they said everything is in there, so we accepted it. If you find it's not, then we will kick it back immediately. If everything is in there, we do our review, we provide the comments and then pass it over. We won't be having to do a technical review; we are just making sure everything is there.

Daniel said that from a town standpoint, what this really means is your general plan and your zoning matters a lot. Because at a subdivision stage there really is not say. This is really going to be between engineers to make sure they have followed a checklist. There's no do we want to have this here or is this too many for this area? No decisions happen at the subdivision stage. So, he says you need to make sure that your zoning ordinance is something you're comfortable with, your zoning map is something you should be comfortable with, and if it's not, make it so. Derek reminded us of the last meeting how we were told that personal opinions aside, if it doesn't meet follow parameters but if it does meet X, Y&Z then its approved and they can do it. They did their due diligence to make sure that it met everything, so it's up to us to accept it or deny it.

Daniel asked if we had an updated general plan and Jared said that we did, and it was just updated a couple of years ago. Jared said the general plan is fairly new but most of the ordinances are way old and overdue for updating. Daniel asked what our timeline is now? Do you want to take this and study it more and come back to the next meeting to make a recommendation to the council? Jared said that he thinks we're comfortable with it and to make the recommendation. With some minor changes that say 4 instead of 10. Derek asked if we did four and then should there be a stipulation that you can't do it again for four or five years, so that they can't come back in the next week and do it again? Jeanette asked how many years is a common date-time? Daniel said that he has seen a couple cities do it and that their date-time is also four lots every four years. There was more discussion on whether to keep it at four or to add more. Chris asked Braige what his opinion was, and he said that he liked the idea of having more. Jared said that we are mixing our subdivisions with our lot splits a little bit. The subdivision is a lot more involved, so he has a hard time limiting it to four because of that. Derek said that because of the meets and bounds, you don't have to put any infrastructure until you come in for a building permit, and you've split your property off to the people that are going to get it. Maybe if a family member has three or four to sell and two to keep then that pays for their infrastructure. There are so many factors to think about. Jared said that he likes going with six. Derek said that he is thinking more along the lines that it's 70 grand for a lot here and most young people can hardly buy a lot. If they had one or two sell, then they could afford to build a house. We have had a lot to think about this last year and have tackled a lot of different things that come into play with our decision. Barbara said that one thing she always worries about is water. It's a real concern in a desert community. Daniel asked if we require new subdividers to purchase water from the town or do, they need to bring their own share of water? Derek said Fremont has a code that says they must bring a share of secondary to trade for a water meter so when they go after more development, they have the water right. Just something to think about. Kori said she was leaning more toward 4 over 6. Jared asked the commission what they all thought would be best for our community and everyone agreed on 6 lots. Kori asked if we needed to have our fees together before we submitted this? Daniel said that we don't have to, but if someone came in and we don't have a fee decided, then they just don't pay the town anything, and we don't want this to happen. Derek suggested that we do a study and call the surrounding

towns and then hopefully decide the fee amount for the meeting. There was discussion on who would be good people to ask from each surrounding town. Jared said he could get a copy from Noreen, Bicknell's mayor. Others mentioned talking to other towns.

Daniel asked if we needed more time to review it and if he should come back next month. It was decided that we needed more time to review and that he would do a zoom call in at our next meeting.

Our next meeting will be the 3rd of October, the first Thursday of the month @ 6: oclock.

Jared asks if anyone wants to make a motion to adjourn. Kori makes a motion to adjourn, Derek seconds it. All others voted in favor. Motion carries.

Meeting Adjourned.