

MINUTES OF THE PLANNING COMMISSION
MEETING HELD
AUGUST 23, 1988

PRESENT: Robert McGregor, Chairman Jerry Smith, Planning Director
 LaMar Pace Franklin Andersen, Dep. County Attorney
 Van Martin
 DelRay Hatch
 Larry Shafkind

ABSENT: Brent Ovard, Ron Robinson

The meeting was called to order at 7:30 p.m. by Chairman, Robert McGregor.

Shane & Joan Fraughton - Request for renewal of a conditional use permit for a temporary mobile home located at 795 East Chalk Creek Road, Coalville.

Jerry Smith said the Fraughtons' applied for a conditional use permit for a temporary mobile home while building a house. Mr. Smith said they have taken out a building permit for the construction of a new home and the foundation is in. Mr. Smith said he is not aware of any problems or reasons why the permit should not be renewed.

DelRay Hatch asked if this is the first time this permit has been renewed? Jerry Smith said this is the first time since the building permit has been issued.

DelRay Hatch made the motion to renew the conditional use permit for a period of one (1) year.

Van Martin seconded the motion. All voted in favor. The motion carried.

American Savings - Ryan Richards - Review of the open space at Silver Springs.

Ryan Richards said he represents American Savings as Corporate Counsel and has been involved with the Silver Springs project for about a year and a half. Mr. Richards said he has met with Jerry Smith and asked for help researching this project. Mr. Richards said he was asked to come and give a summary of the project and American Savings involvement. Mr. Richards said American Savings is the original lender on the Silver Springs development. Mr. Richards said the original developer has done most of what's been done in terms of community development, but then went out of business and subsequent developers took over who were foreclosed upon and this is how American Savings obtained a substantial part of the Silver Springs project. Mr. Richards said at the time they took possession they had 66 improved lots and have since sold about 40. Mr. Richards said he received a phone call from Dale Boschetto, president of the homeowners association, regarding a parcel of land originally designated by the developer as a park parcel. Mr. Boschetto was interested in getting the park conveyed to the homeowners so they could develop a park on parcel H of the map presented in the comments. Mr. Richards said the entire parcel H is 1.75

acres. Mr. Richards said Mr. Ligety's request had to do with parcel K which is located next to his lot. Mr. Ligety wanted to purchase this parcel because according to him the original purpose of this parcel was to be used as housing or access to the pumping equipment to be used by the water company in providing irrigation water to the homeowners. Mr. Richards said with these two requests he went to the American Savings real estate division, which revealed to him there are four parcels in similar situations, parcels K, I, H and #8. These parcels American Savings has ownership of by reason of foreclosure, they are not parcels that they have any interest in. Mr. Richards said he began to do research about these parcels and talked with the original developer, subsequent developers and a number of homeowners at Silver Springs. He went to all the documents and records that American Savings has and made calls to the Planning Office. Mr. Richards said his inquiries confirm the explanation that parcel K was intended to be used as an access way to the pumping equipment for the water company. Mr. Richards said he learned that parcel I was also intended to be an access way to the pumping equipment. The original developer said it was the intent not to use these as pathways but used as access ways to the pump and easements for the sewer line. Mr. Richards said he has not been able to determine the original purpose of parcel #8 but suspects it is a discrepancy on lot boundary lines and where the stream inlet ended up. Mr. Richards said if the Planning Office has any other information he would be glad to hear it. Mr. Richards said following this investigation he sent a letter to the homeowners proposing that it was American Savings intent to sell parcel K to Mr. Ligety and parcel I to the adjacent lot owners, convey half of parcel H to the homeowners and subdivide the other half. Mr. Richards presented a reduced copy of a Silver Springs master plan which shows the east half of parcel H as a park and the west half subdivided. Mr. Richards said it was his understanding that subsequent to this the second developer received permission from the Board or Planning Commission to use the entire parcel as a recreational facility with tennis courts, etc. Mr. Richards said they propose to convey half of it to the homeowners and subdivide half as shown on this master plan because the developer who received permission to build a clubhouse went out of business and this was abandoned. Mr. Richards said their reasoning for selling parcels I & K to the adjacent lot owners is because it was not intended that there be public traffic on this portion of the lake and by conveying these parcels to the adjacent lot owners it would conform this portion of the lake to the other lake front areas. Mr. Richards said in April of 1988 they sent out another letter to the same residents indicating that they were planning on proceeding as proposed, at that point they received a great deal of reaction to their proposals, such as threats of lawsuits, requests for more discussion, etc. Mr. Richards said this prompted his request of Mr. Smith that it be presented to the Commission for consideration. Mr. Richards said their reasoning was based on best use and highest invested property interest of the parties who lived near or involved the use of the lakes. Mr. Richards asked whether the master plan as it presently exists prohibits them from going ahead as proposed to sell parcel K to Mr. Ligety, parcel I would be split into 3 and sold to the adjoining lot owners, parcel #8 would possibly be added to parcel J or other nearby parcels and to split parcel H in half as the master plan shows with the east half going to the homeowners and the west half developed. Mr. Richards said his request is to find out if American Savings is prohibited by County Ordinance or master plan approval from proceeding with this plan.

Bonnie Adams said she owns three lots in Silver Springs and asked what was the difference in price for lake front properties as compared to other lots?

Jerry Tulley said he was one of the original planners of Silver Springs with Webster and Associates and he worked on the project from 1979 to 1983. Mr. Tulley said the lake front lots were priced as premium lots. Mr. Tulley said at one time there was a path system around the majority of the lake in the master planning, as consultants were brought on line discussing marketing, property values and liability to the water company it was decided to omit the pathways, specifically those areas adjacent to lots. In doing so these lots became premium lots because they were lake front as opposed to lots in the project not adjacent to a lake. The original intent was that these lot owners would have privacy along the lake. One of the big concerns at that time was liability of the water company by exposing the entire lake, it was even talked about a chain link fence around the lake. It was decided that lake access would be limited to controllable areas. In time it evolved that the recreation center would be located at the 1.75 acre parcel on the lake and it would be staffed and run by the homeowners association. In 1982 Ray Fry and Don Stringham came up with the idea of a sports mall and do a commercial lake front recreation center, which was denied by the Planning Commission because that parcel had always been promised to the homeowners association as non-profit homeowners supported entity - parcel H. Mr. Tulley said this was one of the few parcels that was intended to be access for the homeowners to the lake. Other areas along the highway where the berm is were intended to be open space and they were to have access to the homeowners and if they choose to use the lake they could. One exception was the small peninsula that juts into the west side of the lake. There is a well casing on it and a pump house and this was another facility that the water company had intended not to be used by the public, due to safety and maintenance reasons. Mr. Tulley said the reason some of the lots along Lake Front have a wider strip around the lake is because of the sewer line through this parcel.

Lynn Stevens said another attorneys' opinion was that this strip should be a buffer zone around the lake area. Mr. Stevens said the water company has control of the land 15 feet beyond the rip-rap around the lake and nothing is supposed to be built in this area. Mr. Stevens presented a map which showed areas of open space and said this is what he feels was approved by the County. Jerry Smith said the Planning Office does not have this map in their files.

Van Martin asked if this was produced by J.J. Johnson & Associates? Mr. Stevens said he got this copy from Dick Andersen and it does not have a signature or date. Mr. Stevens said the lots were never lake front properties but lake view properties. Mr. Stevens said you can see an area around the lake as a buffer zone. Mr. Stevens said he has not see a map which shows what American Savings is representing.

Ryan Richards said the 15 foot easement did exist, the rip-rap was located after construction of the lake, this was then used to site many of the lots around the lake. Mr. Richards said the map Mr. Stevens is presenting did not come from Johnson & Associates, but from Webster & Associates. Mr. Richards said the water company is supposed to have a 15 foot easement for maintenance and protection of the lake edge and rip-rap all the way around the lake. Why this land is now in American Savings hands and not the water companies he does not know. Mr. Stevens said the only problem he has with parcel K is that they need access to get water company equipment through.

Larry Shafkind asked if these are dedicated easements and how can they be sold? Ryan Richards said they were never platted. Mr. Shafkind asked if American Savings is proposing to sell easements? Mr. Stevens explained that a lot of the open space area had been described through exception and never properly deeded and when things went bankrupt nobody followed through with the deeding process.

Jerry Tulley said back when Silver Springs was developed Summit County could not require the recording of open space plats, it was never designated what was open space. Mr. Tulley said the open space was never recorded, the deeds were drawn up to transfer from general developer to the water company.

Lynn Stevens said from the water company's stand point they have to protect their easements and their rights to get into the lakes and take care of them. If they can't get to the lakes and take care of them properly they won't be able to create the irrigation system, which was the primary purpose of the lakes. Recreation was not the primary purpose of the lakes. Mr. Stevens said he is also interested in protecting the atmosphere in Silver Springs, a relaxed atmosphere where you can go for walks, perhaps grassy areas around the lakes.

Bonnie Adams said American Savings is advertising using the lake as a selling point for selling the property and it should be lake view property rather than lake front property so everyone can use the lake.

Ryan Richards said there are two inlet streams and one outlet streams to the lake and feels there is ample access to the lake to justify the advertising.

Sonny Croy, who lives next to the lake, said they are concerned about the safety, security and privacy of their back yard. Mr. Croy said they are not interested in restricting the lake to anyone and would like to be developing the park, cleaning up and making a grassy area where there will be access to the lake. Mr. Croy said they don't want to restrict it to anyone but they are concerned with the privacy of the homes. Mr. Croy said they are approximately 25 feet to the water company access and don't feel it should be opened up for a public walk way. Mr. Croy said they should be building a park so people can use the lake.

Robert McGregor asked what is the distance from the lot lines to the water. Mr. Croy said approximately 12 to 15 feet. Mr. Croy said there was suppose to be the 15 foot easement but now it turns out that the Water Company actually owns the property. Mr. Croy said they have no problem with the Water Company using this property to maintain the lake because they are concerned with the lake but they do not want a pathway through their backyard.

Jerry Tulley said early master plans did show pathways around the lake this was later deleted before the actual construction of the lake. The decision for this was Vern Hardman's decision, based on meetings with attorneys and marketing firms. The marketing firms said if you do not allow pedestrian access those lots are worth more because you don't have people walking through your back yard. Mr. Tulley said at that time that proposal was brought to the Planning Commission and was approved for deletion from the master plan as were all changes in the master plan. Mr. Tulley said there were many changes in the master plan. Mr. Tulley said docks were never intended to be permitted on the lake, one of the reasons was that they did not want pilings put down in the lake breaking whatever seal might have been there. Mr. Tulley said Mr. Ligety had a dock built that cantilevers out onto the lake so nothing is stuck into the lake and he believes this was approved in theory, by the water company. Mr. Tulley said there is a difference between open space for recreation and open space for easements.

Carl Karn said he lives on the lake adjacent to parcel I and it was represented to him when he bought the home that the area behind him was an open green belt area. Mr. Karn said it was explained that this area could never be developed, it was for access for the water and sewer companies.

Dale Boschetto, president of the homeowners association in Silver Springs, said in 1982 it was stated at a homeowners association meeting that the entire lake shore would be available to all property owners. They believed that this was a fair representation by the developer. Mr. Boschetto said he does not support the development of a pathway around the lake, but he does support the continuation of multiple access points for the enjoyment of this amenity by all the property owners. Mr. Boschetto said on plat 1B there is a walk way between lots 75 & 76 on Willow Loop Road and 166 & 167 on Silver Springs Road that would make a natural continuation to the lots in plat 1E. Plat 1E was not platted with a continuation of a walk way. Mr. Boschetto said it is the intent of the Homeowners Association to develop a park on parcel H with picnic tables. The Association has no intent of encouraging any homeowner to use another homeowners back yard for their own personal pleasure. The lake is a fishery and cannot be blocked, anybody can access this lake as long as they stay on the water ways. The multiple points of access are supported as represented in the approved Master Plan. Mr. Boschetto said the master plan was approved based on 4 acres of developed park land for the homeowners in Silver Springs. At this time there is no park land. Mr. Boschetto said American Savings is claiming only 1 acre is suitable for a park, they are not asking the Bank to develop parks but they would like recognition of this 4 acres and some type of dedication that determines where the 4 acres will be.

Mr. Boschetto said the parcel next to the tennis courts should have also been deeded to the homeowners as part of a park. Mr. Boschetto said he is also concerned with the open space being reduced.

Robert McGregor said it is his opinion that before any decisions can be made that a field trip needs to be made to look at the site. Mr. McGregor said he does not feel comfortable with the discussions so far to be able to make a decision.

Larry Shaflkind said he would like to look at the site also.

Robert McGregor asked if Lynn Stevens of the water company and Dale Boschetto of the homeowners association could accompany the commission on a field trip.

Bill Ligety asked that the homeowners also be notified.

Lynn Stevens said the water company office is at the entrance of Silver Springs and there is a large area where they could meet, then go over to the areas the commission would like to see.

Bill Ligety encouraged the commission to look at the past records and what has been approved and make decisions on what has been approved and not what would be nice to do. Mr. Ligety said he does not want to see the master plan modified to the detriment of those living near the lake.

It was suggested that the commission hold their next meeting in the Silver Springs area and take a field trip an hour or two before the meeting.

The Commission decided to hold the September 13th meeting in the Parleys Park Elementary School at 7:30 and a field trip to be scheduled at 6:00 p.m.

LaMar Pace asked if parcel H is conveyed to be a park land are the homeowners in a situation where they could develop a park? Dale Boschetto said yes they are prepared.

Van Martin asked if the tapes are available for previous meetings of approvals on this development? Mr. Martin said there seems to be concerns about the approval process and Jerry Smith could use some help in uncovering these issues due to the size of the Planning Staff.

Miscellaneous

Franklin Andersen, Deputy County Attorney, discussed with the Planning Commission letters he had received regarding the gravel pit in the Francis area. Mr. Andersen also discussed the possibility of litigation with this issue.