



**ARAPAHOE COUNTY  
PLANNING COMMISSION  
November 6, 2007**

**Members**

Paul Rosenberg  
Mark Brummel  
Dr. Niels Martin  
Brian Weiss  
Arnold Hayutin  
Linda Gentry

**OTHERS PRESENT**

Jan Yeckes  
Ron Hovland  
Sherman Feher  
Chuck Haskins  
Bill Skinner  
Sue Liu  
Stacey Thompson  
Joleen Sanchez

**APPROVAL OF MINUTES**

**The motion to approve the minutes from the August 21, 2007 and September 18, 2007 Planning Commission hearing was made by Mr. Hayutin, duly seconded by Mr. Weiss with one correction.**

**The motion passed unanimously.**

**CONSENT AGENDA**

There were no Consent Agenda items.

**REGULAR AGENDA ITEMS**

**Item 1 – Building Code Adoption**

Steve Byer, Building Official, said the Colorado Statutes require that the Planning Commission review the proposed adoptions. He said the packet is lengthy but most changes are modifications to obtain statutory requirements for the Code. He said things that could come up have been identified, and one of those issues

is a modification to the residential code that would increase side setbacks to five feet between non-rated walls. He presented photos of examples. He said the 2006 IRC requires five feet from the property line to the wall. He explained that currently there could be six feet from wall to wall without anything being rated, and that would increase to 10 feet. He said that code was modified because of flame spread from house to house. He said there were not a lot of examples, but the code bodies decided that was an acceptable modification.

Mr. Byer said there are other statutes that came into effect, such as House Bill 1146, which requires that any jurisdiction that adopts a building code also has to adopt and enforce the International Energy Code. He said that was signed by Governor Ritter in May of this year. He said the County would adopt the 2006 IEC for increased energy savings. He said another statute is Senate Bill 123, regarding elevator inspections, which requires that all elevators be registered with the State and must receive annual inspections. He said after the first of the year the applicable code for that would be adopted. He said the County is also working with DRCOG's (Denver Regional Council of Governments) elevator inspection program. He said there are 23 other jurisdictions that currently use that.

Mr. Weiss asked when the codes would be adopted.

Mr. Byers stated that a study session has been scheduled for December 4<sup>th</sup> and the public hearing is December 11<sup>th</sup>. He said the code would be adopted January 1, 2008.

Mr. Rosenberg inquired about comments from the building community.

Mr. Byer said staff had a meeting with the Home Builders' Association (HBA). He said there were initial concerns about existing platted properties that allow a 3-foot setback. He said staff also met with the Commissioners, who agreed that it would be reasonable to allow the existing builders that have platted lots to use the existing code without any modifications for at least a year; that would give the builders an opportunity to modify plans if necessary. He said the HBA was given suggestions as to how they could use the same footprint but with modified walls and substitute the walls with rated walls. He explained that the current code allows a 3-foot separation and the new code would require 5 feet and there could be up to 2 feet for overhangs such as soffit projections or bay windows. He said the HBA decided that they would not challenge the new codes.

Dr. Martin asked what the current setback is for rated walls.

Mr. Byer said there must be at least 3 feet per wall and that would allow unlimited openings and unprotected windows. He said that would increase to 5 feet, however if that wall were rated, then the setback could be reduced to 3 feet and still have a certain percentage of windows.

Dr. Martin asked if the current code allows for less than 3 feet for rated walls.

Mr. Byer said there are provisions in the code where the building could be right up to the property line, but there wouldn't be any openings and the walls would have to be rated. He said that applies to residential and commercial.

Dr. Martin said the Villager is considered a newspaper of general circulation and he asked if the eastern area of the County gets that newspaper.

Mr. Brummel and Ms. Gentry aid they have never heard of it.

Mr. Byer said the hearing would also be posted in the I-70 Scout.

Ron Hovland clarified that the Board selects the newspaper of general circulation and notices are required to be published in the Villager.

Dr. Martin referred to page 5 and the appeal process. He asked if that process is stated clearly in the building application or if it is only in the regulations.

Mr. Byer explained that there is very limited information about the appeals process. He said that was expanded to be more statutory compliant. He said specific code requirements cannot be waived, but the appeals board meets the first Tuesday of each month.

Dr. Martin asked if people have a clear understanding of what the appeals process is.

Mr. Byer said if there is any question about non-compliance and the contractor wants to know what to do, the building staff would let them know.

Dr. Martin said it would be good to have the appeals information on the building permit application or on the building permit itself.

Mr. Byer said the Code book is very thick and different people would like to see different things. He said at some point there is not enough space to include everything.

Dr. Martin said the appeal processes is very important.

Mr. Byer said the permit card includes the things that are statutorily required, but it would be up to the Building Department to give the contractor the information.

Dr. Martin said one example is that very often one inspector will come out and have a list of corrections. He said the corrections get done but the next inspector has a different list of things the builder has to do and that means additional steps.

Mr. Byer said the builder gets a correction notice from the first inspector and the second inspector does not start the inspection over, and just reviews the corrections made to the first list of items. He said if the builder did additional items that created a new problem because of his or her fix, then that could be added to the list.

Dr. Martin said he has been personally aware of a couple of cases where the inspector comes out with a checklist. He said the next inspector comes out, which is a different person, and there is a different list of things.

Mr. Byer said he would be happy to go through that and find out what happened, and asked for a specific example. He said that is not how it is supposed to happen, but there have been cases where someone would fix the initial problem but create ten new problems.

Dr. Martin read Item 105.5. He asked what happens if the County doesn't do the inspection and the deadline is approaching.

Mr. Byer said the County has almost a 100% assurance that the inspector would be there the next day if the request is made by 3:30 the previous day.

Dr. Martin asked if that is a policy.

Mr. Byer said he cannot guarantee that, but with the current staffing it has not been a problem in seven years. He said if there were a reason the County inspector could not get to the site, a permit would not be voided.

Dr. Martin referenced 105.8 and said the sentence is constructed wrong. He explained.

Mr. Byer said the intent is that if the owner fires a contractor, the owner could take over the project, but the County must be notified in writing. He said that could be wordsmithed.

Dr. Martin asked on page 7, what is the basis for the building fee?

Mr. Byer said the permit fee is based on valuation, which is based on square footage figures and a County-adopted table. He said that is from a 2002 ICBO evaluation table.

Dr. Martin said a low price structure has a very low fee. He asked if the fees cover staff costs.

Mr. Byer said the fees do cover the Building Department, but just barely.

Dr. Martin referred to Section 4.1.1, and asked for clarification.

Mr. Byer said the Building Department has plans that are older than a year and a half. He said if a project loses its funding, the code is saying that if the permit does not get issues through no fault of the Building Department, the documents can be destroyed. He said the Department could also grant a 6-month extension.

Dr. Martin said on page 8, under 3 Item A, and asked about refunding fees that were collected in error. He said a written request must be made within 180 days of the date the fee was paid. He asked if the fees are paid or collected in error, does the 180 days limit apply?

Mr. Byer said no. He said if the County inadvertently collects a permit that was in Centennial or Denver, Arapahoe County would refund all the fees, and there is no day limit.

Dr. Martin asked why there is so much duplication.

Mr. Byer said the first part is the International Building Code for Commercial Structures and there is also the International Residential Code and there is the Mechanical Code and the Plumbing Code.

**The motion was made by Mr. Hayutin to recommend approval of the International Building Code amendments to the Arapahoe County Board of Commissioners.**

**Duly seconded by Dr. Martin.**

**The motion passed unanimously.**

### **Item 2-P07-002, Bendele Subdivision #01/ Minor Subdivision**

Sherman Feher, Planner, stated that there are no public notice requirements for a minor subdivision. He said the applicant, Cottonwood Surveying and Associates, on behalf of the owners, Lois and Marvin Bendele, are requesting approval of a minor subdivision, the purpose of which is to plat one lot of approximately 19.93 acres that is currently unplatted. He said the site is located near the intersection of County Road 46 and Strasburg Road, approximately 10 miles south of Strasburg.

Harold Ponsarella, Cottonwood Surveying, 56467 E. 41<sup>st</sup> Avenue, Strasburg, CO, said in 1980, someone owned 40 acres and illegally split it into 20s. He said he came into this situation because a real estate agent had clients that were considering buying the property, who had be “burned” on a previous deal in Byers. He said the agent reviewed the history and discovered that the new well permit had been mistyped and placed in the wrong quarter section. He said that was brought to someone at the County and now there is a big mess. He said the Bendeles were the fourth owners of this property and because someone finally figured out that the land had been illegally subdivided, the County made the Bendeles go through this process. He said it has been a hardship on the Bendeles as they were in the middle of a divorce when this happened and there is a boatload of these parcels in Arapahoe County. He said he is approached all the time by people who own 20 acres and they want to split 5 acres to do something. He said it is wrong and it

is against the law and he won't do it, but there are others that will. He said in this case, all the mineral rights owners have been notified. He said there is a letter from Noble, which is a subsidiary of Anadarko, who is agreeable to this. He said the request is to put this piece of land in compliance with State law and County specifications.

Mr. Feher said staff recommends that the application be recommended for approval to the Board of County Commissioners subject to the findings and conditions outlined in the staff report.

Dr. Martin said this land is zoned A-1. He asked if it was zoned A-1 when it was sold.

Mr. Feher said this probably was done before the zoning took place.

Dr. Martin said even at that time they had to get a subdivision to make the 20-acre break.

Mr. Hovland clarified that this is a public meeting, not a public hearing.

**The motion was made by Mr. Hayutin regarding, P07-002, Bendele Subdivision #01/ Minor Subdivision that the Planning Commission has read the staff report and received testimony at the public meeting. The Planning Commission finds itself in agreement with staff findings 1 through 4 including all plans and attachments as set forth in the staff report dated October 29, 2007, and recommend this case favorably to the Board of County Commissioners subject to the following conditions:**

1. That the applicant makes any minor modifications to the plat, as requested by the Public Works and Development Department
2. The applicant agrees to address all Division of Engineering comments and concerns as identified within the attached report.

**Second by Dr. Martin.**

**The motion passed unanimously.**

**Adjourned at 7:00 PM.**

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**Paul Rosenberg, Chairman**

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**Joleen Sanchez,  
Assistant Clerk to the Board**