



**The Buena Vista Planning & Zoning Commission
February 3, 2021 at 6:00 PM**

**Virtual Regular Meeting
Meeting will not be held
at the Buena Vista Community Center**

The meeting may be accessed virtually via ZOOM. To participate in Public Comment and/or Public Hearings you must connect to the video conference.

**Conferencing Access Information: <https://zoom.us/j/93191357798>
Listen via phone at 1-346-248-7799 Meeting ID: 931 9135 7798# Passcode: 880228**

AGENDA

6:00 REGULAR MEETING OF THE PLANNING & ZONING COMMISSION

- I. Call to Order**
- II. Pledge of Allegiance**
- III. Roll Call**
- IV. Agenda Adoption**
- V. Approval of Minutes – January 20, 2021**
- VI. Public Comment**
- VII. New Business**
 - 1. Discussion regarding Fee for Water Dedication Draft Ordinance**
Staff will present information about the proposed changes to fees for water as it relates to development within Town limits. Staff is seeking input from the Commission for further direction before bringing the topic back for the Commission's recommendation to the Board of Trustees.
 - 2. Staff/Commission Interaction**
- VIII. Adjournment**



Minutes of the Regular Meeting of the Buena Vista Planning and Zoning Commission January 20, 2020

CALL TO ORDER

A regular meeting of the Planning and Zoning Commission was called to order at 7:00 pm, Wednesday, January 20, 2021 via Zoom video conferencing by Chair Preston Larimer. Also present were Vice Chair Lynn Schultz-Writsel, Commissioners Estes Banks, Thomas Doumas, Craig Brown, and Alternate Commissioner Blake Bennetts.

Staff Present: Principal Planner Mark Doering and Planning Technician Doug Tart.

PLEDGE OF ALLEGIANCE

Chair Larimer led in the Pledge of Allegiance.

ROLL CALL

Tart proceeded with the roll call and declared a quorum.

AGENDA ADOPTION

Chair Larimer called for approval of the agenda. Commissioner Doumas motioned to adopt the agenda as presented, **Motion #1** seconded by Commissioner Banks. Motion carried.

APPROVAL OF MINUTES

Commissioner Schultz-Writsel motioned for approval of the December 18, 2020 minutes as amended. **Motion #2** was seconded by Commissioner Doumas. Motion carried.

PUBLIC COMMENT

Public comments opened at 7:04 pm. With no comments, public comment was closed at 7:05 pm.

NEW BUSINESS

Micah Salazar, Chief Operating Officer at Fading West, presented the preliminary plat and major site plan for the Farm Subdivision, Phase 2.

Development of Phase 1 began in 2016, with the first home sale occurring in 2018. By 2020, 83 homes had been sold or were under contract, with just seven lots remaining of the 90 that made up Phase 1.

The primary goal at The Farm is to create more attainable housing in Buena Vista for the local workforce to have opportunity at home ownership. Salazar stated that 84% of residents are primary residents of Buena Vista.

Phase 2 will consist of 51 single-family attached & detached units, as well as one multi-family lot, which will be a part of a separate site plan. It will also contain The Farm's largest park. There will be no "wide lot" Westgate or Raleigh as there were in Phase 1. There will be 40 townhomes within eight attached 5-plex's, 11 detached two-story franklin & loft units with detached ADU's available as extra option.

Doering then presented the staff report for Phase 2 of The Farm. The Major Site Plan review is only for the single-family attached and detached units, not the multi-family apartment units, which will be on a separate Site Plan. It is required to go through the Major Subdivision process due to more than 10 lots being proposed.

Doering explained that the Major Site Plan is reviewed by the Planning & Zoning Commission at a Public Hearing for the final decision. The Preliminary Plat will go to the Board of Trustees on February 23, 2021. The review of prelim plat allows Town and Board to ensure compliance with the Unified Development Code and Comprehensive Plan. The Site Plan review ensures compliance with development and design standards, previous land use approvals, and the mitigation of any potential impacts.

Doering stated that the Site Plan provides necessary roads and public infrastructure, meets water and sewer connectivity requirements, water and public infrastructure requirements, open space requirements, and contains a rational phasing plan.

The Farm is zoned R-3, and all building permit reviews in the future will ensure R-3 requirements are being met. The Farm will be required to install public improvements to connect Antero Circle to Barnwood Drive on the southeastern portion of The Farm.

Doering stated that staff has evaluated the criteria and it does meet all criteria for the Preliminary Plat and Major Subdivision. The staff's recommendation is the approval of the Major Site Plan with the following conditions:

- The approval of the Preliminary Plat and Final Plat shall create the lots, tracts, and public right-of-way's as shown in site plan
- Prior to issuance of building permits, the Final Plat and Public Improvement Agreement shall be recorded with the county
- The Preliminary Plat shall have the recommendations of the Board of Trustees with the condition that any remaining review comments by Town staff, RG Engineers, Buena Vista Sanitation District, and other referral agencies must be addressed prior to approval of the Final Plat.

Commissioner Banks commented on the quality of work done by Fading West, stating that the project is a "big time opportunity for Buena Vista" and recommended the approval of the preliminary plat and approval of the major site plan.

Commissioner Larimer acknowledged the necessity of quality, affordable housing in Town and how the Farm addresses this need.

With no public comment, Commissioner Schultz-Writsel motioned to approve the Major Site Plan with the outlined conditions, Banks seconded. **Motion #4** was approved.

Commissioner Schultz-Writsel motioned for approval of Preliminary Plat by the Board of Trustees with th outlined conditions. Brown seconded. **Motion #5** was approved.

STAFF / COMMISSION INTERACTION

Doering ordered books for the commission called "The Missing Middle". He also stated that the Town authorized 70 residential dwelling units in 2020. There were 79 residential units issued in 2019. The Town outpaced Salida in 2020, and almost outpaced Salida and Poncha Springs combined.

ADJOURNMENT

There being no further business to come before the Commission, Commissioner Banks motioned to adjourn the meeting at 7:40 p.m. Chair Larimer seconded. **Motion #6** was unanimously approved.

Respectfully submitted:

Preston Larimer, Chair

Doug Tart, Planning Technician



TOWN OF BUENA VISTA

P.O. Box 2002
Buena Vista, CO 81211
Phone: (719) 395-8643
Fax: (719) 395-8644

DATE: February 3, 2021

TO: Planning and Zoning Commission

FROM: Staff

SUBJECT: Fee for Water Dedication Draft Ordinance

REQUEST

In a Joint Work Session on January 20, 2021, the Planning and Zoning Commission and Board of Trustees were introduced to a Water Dedication Fee policy. An hour was spent becoming familiar with the rationale behind the proposal and clarifying what was included in the proposed ordinance change.

Tonight is intended as a continued discussion relevant to the proposal but not for making any decisions. Please provide direction regarding the proposal a staff can bring back a draft to the Commission for review during the upcoming public hearing

In a future public hearing scheduled for February 17, staff will ask commissioners to review the draft ordinance and do one of the following:

- a) Recommend approval to the Board of Trustees
- b) Recommend approval with amendments to the Board of Trustees
- c) Recommend not approval to the Board of Trustees

Recall from the work session that this proposal would *require that any new development pays a water dedication fee that the Town can leverage for water rights acquisition or augmentation.*

KEY POINTS OF THE POLICY PROPOSAL

1. All new development would contribute to water rights and augmentation by paying a Water Dedication Fee.
 1. The amount has not been set but at this point is assumed to be equivalent to the Cash-in-Lieu of Water Rights fee. Additional analysis would take place during the Water Master Plan process during 2021.
 2. As written, this contemplates any new development that would demand additional water would pay a fee based on fixture count as a function of meter size, i.e. Single Family Equivalency (SFE).

If there are to be exemptions, staff would need to know what situations would constitute an exception and how that is justified for x and not for y. For example, PUDs already approved (i.e. South Main and Colorado Center), those situations with firm contractual obligations (i.e. the Meadows and Ivy League), subdivisions already through final or preliminary plat,

subdivisions with houses having yellow trim, tiny homes, whatever it may be that makes sense and is equitable, and accomplishes the aims of addressing the water policy.

2. Each ADU pays this same equivalent fee but can have this fee waived if the unit is a long-term rental for three years. This is easily trackable with Code Enforcement.
3. The Water Dedication Fee in major subdivisions is treated as a public improvement in a Public Improvements Agreement and in other developments collected before Certificate of Occupancy. As contemplated now, this could tie into Point 1 paragraph 2 above regarding how existing major subdivisions may be 'grandfathered' in - according to PIA approval for a given phase.
4. Any developer may have the option of bringing their own water to the table instead of paying the fee.
5. There is no trading nor crediting of SFEs.
6. A development that proposes to use more than 50 SFEs would need to submit a water report, as per state statute. The Town Administrator may require a water report for other projects as well, at his or her discretion. Statutorily, this number 50 cannot be raised but it can be lowered if desired. This component needs to be added to the Municipal Code regardless.
7. The Town Administrator may determine a maximum amount of water dedication for any proposed development. Water is not assured for any development.
8. ADU Inference is added to the code to dissuade arguments with the public about whether or not a space is to be classified as an ADU. This component ought to be added to the Municipal Code regardless.

TOWN OF BUENA VISTA, COLORADO
ORDINANCE NO. ____
(SERIES OF 2021)

AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE BUENA VISTA MUNICIPAL CODE, RENAMING AND AMENDING ARTICLE 16.05 BY THE ADDITION OF A NEW SUBSECTION 16.05.5.3.6 CONCERNING WATER DEDICATIONS AND FEES-IN-LIEU FOR DEVELOPMENT, AMENDING ARTICLE 16.04 BY THE ADDITION OF A NEW SUBSECTION 16.04.4.8.1 CONCERNING THE ADEQUACY OF WATER FOR DEVELOPMENT, AMENDING SUBSECTION 16.03.3.3.4.A CONCERNING ACCESSORY DWELLING UNITS, AMENDING SECTION 16.07.7.2 WITH A NEW DEFINITION FOR SINGLE FAMILY DWELLING UNIT AND AMENDING SECTION 15-3(d)(2) CONCERNING WATER REQUIREMENTS FOR ANNEXATION

WHEREAS, the Town of Buena Vista generally, within the limits of availability, provides water services to residents of the Town;

WHEREAS, the Town's water supply is limited and the Board of Trustees foresees that unrestricted growth will increase water demand beyond the available supplies and recognizes development must have a role in increasing the Town's water supply;

WHEREAS, although the Municipal Code establishes permissible dimensional standards and allowed uses for lots, the Town has reached a point where new development necessitates that the Town acquire water to service additional subdivisions; and

WHEREAS, the Board of Trustees has decided to impose a water dedication or fee-in-lieu requirement as a condition of annexation and development within the Town and further adopts a requirement for annexation and development to demonstrate an adequate water supply.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BUENA VISTA, COLORADO, THAT:

Section 1. Article 16.05 of Buena Vista Municipal Code is hereby renamed as follows: "Dedications and fee-in-lieu requirements".

Section 2. Article 16.05 of the Buena Vista Municipal Code is hereby amended by the addition of a new subsection 16.05.5.3.6 to read as follows:

5.3.6 Water Dedications

A. **Purpose.** The purpose of this Article is to ensure that new development contributes to the purchase or acquisition of water rights or to the payment of augmentation of water to offset the impact of the new development on the Town's water supply.

B. **Applicability.** This subsection shall apply to all development proposed under this Article, except as provided in this subsection.

C. **Calculation.**

1. Basis for Calculation. Water dedications and fee-in-lieu payments shall be based on the potential development of the property pursuant to the development application, including, but not limited to, the uses by right under the applicable zone district, the uses proposed on the property and division of property. Each single family dwelling unit shall constitute a single family equivalent for purposes of determining the necessary water right dedication or fee-in-lieu.
2. Multiple Developments, One Application. If a development application involves both subdivision and a site plan, the water dedication or fee-in-lieu requirement shall be calculated based the site plan portion of the application; provided, the site plan portion of the application is for the entire property. If the site plan portion of the application involves only a portion of the property subject to the subdivision application, the Town may calculate the water dedication or fee-in-lieu based on a combination of the site plan and subdivision.
3. Effect Previous Annexation or Development Approval. Annexation or approval of a subdivision plat shall not exempt property from the requirements of this Article. For properties previously annexed or subdivided in compliance with this Code, submission of a new development or building permit application shall require compliance with this Article. For developments for which there is a credit for a previously-made water rights dedication or fee-in-lieu payment, such dedication or payment shall be subtracted from any additional required dedication or payment upon further development of the property.
4. Subdivisions. Upon receipt of an application for a subdivision, Town staff shall determine the possible number of single family dwelling units based upon the zoning of the property and manner of division of the property, including but not limited to the number of lots.
5. Residential Site Plans or Building Permits. Upon receipt of an application for a residential site plan or building permit, as applicable, Town staff shall determine the number of new single family dwelling units proposed by the site plan or building permit.
6. Non-Residential and Mixed Use Site Plans. Upon receipt of an application for a nonresidential, Town staff shall determine the size and number of taps necessary to serve the development as proposed by the site plan. Upon receipt of an application for mixed use site plans, Town staff shall determine the number of single family units and the size and number of taps for the nonresidential component of the

development. For these uses, one three-quarter inch tap shall be equivalent to one single family dwelling unit.

7. ADUs. The possibility of ADUs on a property shall not be considered at the time of subdivision, unless the ADU is part of site plan pursuant to subsection C(2) above. However, additional water rights dedication or payment of fee-in-lieu shall be imposed for an ADU within a subdivided property at the time of request for approval of an ADU.

D. Water Rights Dedication or Fee in Lieu.

1. The water rights to be dedicated shall be sufficient to serve the proposed development. The fee-in-lieu of a water rights dedication to be paid shall be established by Board of Trustees. The fee-in-lieu shall be reviewed annually by the Board of Trustees and updated accordingly.
 2. Dedication of the water rights or payment of the fee-in-lieu shall be made to the Town prior to recording of the final plat, minor subdivision plat, or in the case of site plans and building permits, prior to certificate of occupancy, except as provided herein.
 3. For major subdivisions, subject to a public improvements agreement, the Town may, in its sole discretion, allow for the payment of fee-in-lieu at the time for preliminary acceptance of the public improvements. If permitted by the Town, the developer/subdivider shall secure payment of the fee-in-lieu by letter of credit or cash escrow. The water fee-in-lieu security shall be in addition to any security required under the public improvements agreement for public improvements.
 4. The Town shall have sole discretion to accept a dedication of water rights, to impose conditions on such an acceptance, and to determine how much development such a dedication will support. The Town shall also have sole discretion to accept a fee-in-lieu of a water rights dedication.
- E. **Waiver.** A developer may seek a waiver from the Town Administrator for ADUs which will not be used as a short-term rental for a period of at least three years from the issuance of the certificate of occupancy. Such a waiver, if approved, will be recorded against the property by the Town and any use of the ADU as a short-term rental will cause the fee-in-lieu applicable to development at the time of the use of the ADU as short term rental to become due and payable immediately to the Town. The Town shall send the owner of the property a notice of assessment of the fee-in-lieu and if such payment is not made within thirty (30) days of the date of the notice of assessment, the Town is authorized to record a lien against the property for the amount of the fee-in-lieu due and certify the same to the County Treasurer, to be collected and paid over in the same manner as taxes, together with the costs of collection. Cessation of the ADU as a short term rental after receipt of the notice of assessment shall not alleviate the property owner from payment of the fee-in-lieu as required.

F. Limitations.

1. Consolidation of lots shall not entitle the subdivider to any credit for any fee-in-lieu.
2. Previously paid fees-in-lieu are credited to the property which was the subject of the development and may not be transferred as a credit to any other property.

Section 3. Article 16.04 of the Buena Vista Municipal Code shall be amended by the addition of new subsection 4.8 to read as follows:

4.8. Water Supply.

4.8.1. Adequate Water Supply.

- A. **Purpose.** The purpose of this section is to ensure that developments demonstrate the availability of water for the type of use proposed and that the Town, as the water utility, has adequate water capacity to supply water to a development.
- B. **Applicability.** For every development, the Town shall evaluate whether it has adequate water to supply for the development. In making this evaluation, the Town may take into consideration the type of use, density, long-term water goals of the Town, water quality and any other factor relevant to the evaluation of whether an adequate water supply exists. No development is ensured water from the Town and the lack of adequate water supply may be a basis for denial of a development or building permit application. For developments involving more than fifty single-family equivalents, evaluation of an adequate water supply shall occur during preliminary plat phase in accordance with Sec. 16.06.6.6.3 and if adequate water supply is found, no further evaluation shall be made for the specific project, except as allowed by C.R.S. § 29-20-303.
- C. **Water Report.** A development which results in a new water use in an amount more than that used by fifty single-family equivalents must submit a water report with the following information:
 1. An estimate of the water supply requirements for the proposed development through build-out conditions;
 2. A description of the physical source of water supply that will be used to serve the proposed development;
 3. An estimate of the amount of water yield projected from the proposed water supply under various hydrologic conditions;
 4. Water conservation measures, if any, that may be implemented within the development;

5. Water demand management measures, if any, that may be implemented within the development to account for hydrologic variability; and
6. Such other information as may be required by the Town.

Section 4. Section 16.07.7.2 of the Buena Vista Municipal Code is hereby amended by a new definition as follows:

Dwelling, single-family. A dwelling unit to be used by one person or group of persons acting as one household unit.

Section 5. Section 16.03.3.3.4.A of the Buena Vista Municipal Code is hereby amended by the addition of a new subsection 6 to read as follows:

6. Inference of ADU.

- a. The Town may infer the creation of an ADU in a primary structure and require compliance with this Section if actions indicate the intent to creation an independent dwelling unit or other similar arrangement for a separate dwelling unit by the presence of any of the following:
 - i. The existence of a separate exterior entrance to separate living space;
 - ii. The ability or practice of blocking access to the separate living space from the remainder of primary structure or vice versa;
 - iii. The existence of secondary cooking facilities; and/or
 - iv. A separate living space which includes a sleeping area, either sanitary or cooking facilities, or both.
- b. The Town may infer the creation of an ADU in an accessory detached structure and require compliance with this Section if actions indicate the intent to creation an independent dwelling unit or other similar arrangement for a separate dwelling unit by the presence of any of a living space which includes a sleeping area, either sanitary or cooking facilities, or both.

Section 6. Section 15-3(d)(2) of the Buena Vista Municipal Code is hereby amended to read as follows:

A preliminary utility plan, including a description of the anticipated need and proposed timing for the extension of the municipal water system to serve the annexation territory. Unless specifically waived in whole or in part by the Board of Trustees during the annexation review and approval process upon a finding that such waiver would serve the best interests of the Town, every applicant for annexation shall, as a condition of

annexation approval, be required to dedicate water rights or pay a fee-in-lieu in accordance with Section 16.05.5.3.6 of this Code.

Section 7. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any part or parts be declared unconstitutional or invalid.

Section 8. Safety. This Ordinance is deemed necessary for the protection of the health, welfare, and safety of the community.

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED this _____ day of _____, 2021.

THIS ORDINANCE SHALL BECOME EFFECTIVE THIRTY (30) DAYS FROM PUBLICATION.

TOWN OF BUENA VISTA, COLORADO

By: _____
Duff Lacy, Mayor

ATTEST:

Paula Barnett, Town Clerk

(SEAL)