

This letter is being submitted by and on behalf of the surrounding property owners in the Deer-Foot Subdivision and is to be attached to the appeal (PL20230053) of the Planning Department's approval of the Minor Subdivision application for 95 Deerfoot Ave. (Project #PL20220377). The purpose is to summarize the surrounding property owner's opposition to the application so that the Planning Commission/City Council review of the appeal will be easier. This application is very controversial and was under review for nearly 6 months. We would like to point out that subdivision is not a by-right privilege that comes along with property ownership in Steamboat. The current Community Development Code needs to be adhered to as the guiding document for the Planning Department decision makers when reviewing subdivision feasibility and legality. We do not feel that the standards set forth in the CDC governing development have been objectively interpreted and applied to this application. We are asking that the application approval be overturned by the Planning Commission/City Council using any of the following CDC standards that have been overlooked by the Planning Department DRT and the Planning Director.

- 1. A determination of legal nonconforming status for Lot 3 of the Deer-foot subdivision should have been made.** The simple fact that the Deer-Foot subdivision could not be built, as it currently exists, under today's CDC should be adequate grounds for making this determination. All the lots within Deer-Foot subdivision (3-10) that share a border with the primary access road, Arapahoe Lane, should be considered legal nonconforming lots because of the nonconforming status of the road itself. Arapahoe Lane does not meet city engineering standards for width or proper cul-de-sac termination. Its path causes irregular non-CDC compliant lot shapes for lots 3 through 9 because these lots have a boundary defined by the irregular path of the road. The applicant's final project narrative even sites this nonconformity as the primary reason why the proposed subdivision of lot 3 has non-CDC compliant lot shapes (**per section 602.C.**). Another nonconforming aspect of lot 3 is that it is burdened by a snowshed and storage easement that was established with the original plat in 1976. This easement is vital for the functionality of Arapahoe Lane. The easement essentially reduces the usable/buildable square footage of lot 3 by roughly 25%. Most of the lots in the Deer-Foot subdivision could not be installed or created, as they are, under the current CDC standards and we respectfully request that the Planning Commission/City Council overturn the subdivision approval in question by recognizing this fact and making a designation that lot 3 is of legal nonconforming status and is to be governed by the following standards established in section 105 of the CDC.

-**105.A.1.a Purpose:** Prohibit changes to nonconforming lots that would increase the degree of nonconformity. **(Creating a new nonconforming lot clearly increases nonconformity)**

-**105.A.2. Intent:** The intent of this section is to apply standards that will eliminate legal nonconforming lots as speedily as possible. **(Approval creates a new nonconforming lot, exactly the opposite of the intent of this section)**

-**105.B Determination of Legal Nonconforming Lot:** The Planning Director may determine that a nonconforming lot is a legal nonconforming lot and may allow the lot to continue upon a finding that the lot meets the following criteria:

1. The nonconforming lot was lawfully established prior to the effective date of this CDC; **(Planning director and DRT should have made this determination and recognized legal nonconforming status was established on 7-22-76 when the original plat of the Deer-Foot subdivision was filed.)**

- **105.D Lot Area Reduction-**

1. No lot or interest therein shall be transferred, conveyed, sold, or subdivided so as to create a new nonconforming lot, to avoid, circumvent, or subvert any provision of the

CDC, or to leave remaining any lot in violation of the dimensional requirements of the applicable zone district. (Approval creates a new nonconforming lot)

3. No building permit shall be issued for any lot or parcel of land that has been conveyed, sold, or subdivided in violation of this Section.

(This clause potentially brings the building Dept. into future conflict if a potential new owner applies for a building permit for a structure on the newly subdivided lot.)

Section 105 clearly prohibits subdivision of nonconforming lots and establishes a requirement for the Planning commission/City Council to overturn the approval.

2. The General Provisions section of the CDC (Section 100) has several clauses that serve the purpose of safeguarding current community residents and property owners from the type of development that the application under review represents. We feel the following sections are relevant:

100.B.1.a.: Promote the health, safety, convenience, order, aesthetics and visual qualities, prosperity and general welfare of the present and future inhabitants of the city; (none of these factors are improved for the surrounding residents by the Planning Department's approval of this subdivision. The only beneficiary is the applicant.)

100.B.1.e.: Secure safety from fire, flood, water and other dangers. (Proposing a single-family home be built directly under a snow shed and storage easement in an established drainage field doesn't secure safety from water and flood damage.)

100.B.1.k.: Preserve existing neighborhood character. (Creating lots that are on average 42% smaller than the average lot size in a subdivision does not preserve the character of the existing mature neighborhood. This added density burdens the existing residents permanently and it sets a precedent that this type of development will be encouraged and given favorable treatment by the decision makers in the Planning Dept. Our community members, property owners and citizens deserve to be protected from developments that seriously alter neighborhood character. It is vital that our city government provide these protections by objectively interpreting and applying the CDC standards when reviewing potential development. The only protective rights the citizens have are written into the code.)

100.B.1.q.: Encourage the most appropriate and efficient use of land. (The characteristics of the proposed minor subdivision of 95 Deerfoot Ave. represent the most extreme allowable use for the land in question. The subdivision proposes that a new owner could build into the maximum allowable slope for development (30 degrees) under a dedicated snow storage easement with a complex engineered shared access that isn't governed by any snow storage requirements while barely meeting the required minimums for lot sizing under the RN-3 zoning standards. (Minimum lot size for RN-3 zoning is 6000 sq. ft. and if the unbuildable portion of each lot <because of the Arapahoe Lane snow storage easement> is accounted for, the proposed lots don't even meet the minimum area requirements). Just because the applicant attempted to show that this could technically be done on paper, in 2D rendering format, doesn't mean that it is an appropriate use of the land or that it is feasible in real world conditions. The subdivision effectively creates a "burdened" lot that will be extremely difficult to develop and will almost certainly result in future conflict between the existing residents and any buyer and potential builder on the lot, not to mention the conflict and safety issues that could arise with the crowded shared access entering the property across a steep slope.)

Any, or all, of the above general provisions in section 100 of the CDC should be honored and provide a requirement for the Planning Commission/City Council to overturn the approval of the subdivision in question.

3. Section 600 of the CDC defines subdivision standards for lot shapes. The proposed final plat for the minor subdivision of 95 Deerfoot Ave. will need to be viewed in order to accurately review this objection. It is important to note that the final plat was approved to create a west lot that has 5 sides and an east lot that has 6 sides. Rectangles have 4 sides, and a closer configuration could have easily been achieved if the applicant was held to the shape standards and required to draw a straight line on a north south axis from Arapahoe Lane to Deerfoot Ave. This would have created a 4-sided west lot and 5-sided east lot which would have been a more compliant configuration but the applicant was not held to this clearly defined standard. The final narrative argues that rectangular shapes weren't feasible because of the irregular boundary created by Arapahoe Lane to the North. We agree that Arapahoe Lane is irregular and prevents perfect rectangular lots from being defined which is why we requested a determination of legal nonconforming status. Currently, no such determination has been made by the Planning Dept.

602.C.6. Lots shall typically be rectangular in shape. Non-rectangular lots may be approved by the Planning Director upon a finding that the shape is responsive to topography, streets, or other conditions of the land and generally consistent with other lots in the vicinity. (The DRT ruled against the applicant's proposed lot configurations after the original submittal and again after the first resubmittal. Both times saying the following: "The proposed lots are non-rectangular, and we are unable to make a finding that the shapes of the proposed lots are responsive to topography, streets, or other conditions of the land. Consider if there are any further revisions to the lot line that can be made or request a variance to this standard." The final plat that was approved has the same lot shapes as the previous submittal with the only difference being that the dividing line was moved a few feet to the east. The lot shapes weren't even changed, only the size of each lot was slightly altered. The Planning Dept. failed to make the applicant apply for a variance and clearly failed to uphold the lot shape standards that are defined in 602.C.6 of the CDC. They also allowed a Point A to B to C interior lot line division which does not exist anywhere in the Deer-Foot Subdivision and is clearly out of character.)

We feel that the Planning Commission/City Council should overturn the approval by holding the applicant to the lot shape standards in section 602.C.6 of the CDC. At the very least the applicant should be required to apply for a shape variance.

Another significant point of concern aside from the above mentioned CDC sections is that, we, the surrounding property owners feel like our neighborhood, the Deer-Foot subdivision, was improperly zoned as RN-3 when the latest zoning designations were made. We should have been designated RN-1, according to the minimum lot size requirements. The average lot size in our subdivision is 12,997 square feet and the smallest lot is 10,018 square feet. The respective minimums for RN 1, 2 and 3 are 10,000, 8,000 and 6000 square feet. All lots in the subdivision are above the minimum for an RN -1 designation but we were put in an RN-3 zone. This designation may have made sense if most of the lots were not built out, but this subdivision has been built out since the early eighties except for one lot. The current conflict is a direct result of this improper zoning designation.

In conclusion, we, the surrounding property owners, are all unanimously opposed to the minor subdivision of lot 3 of the Deer-Foot subdivision. We were directed by the Planning Department to structure our opposition around specific clauses within the CDC that define subdivision standards and govern this type of development request. We feel that we have clearly explained how the CDC should have been interpreted and applied during the review of this project. Unfortunately, the Planning Dept. and DRT have failed to objectively interpret and apply the relevant code standards during their review. We are requesting that the Planning Commission/City Council overturn the approval for the subdivision of lot 3 in the Deer-Foot subdivision. Thank you for your time in carefully reviewing this project.

The surrounding property owners who are in opposition to this approval decision are:

Deer-Foot Subdivision lot owners:

Kerry and Laura Kaster- owners of lot 2

Keith and Sarah Mikkelson -owners of lot 10.

Janis and Whale Petry -owners of lot 8

Gina Kolvereid -owner of lot 7

Ron and Lisa Famiglietti -owners of lot 6

Holly and Dave Williams -owners of lot 5

Virginia and C.K. Erickson owners of 99 Deerfoot Ave.