

**Town of Bayfield  
Planning Commission Minutes  
February 14, 2012  
1199 Bayfield Parkway Bayfield, CO 81122**

**Planning Commissioners Present:** Joe Mozgai (Vice-Chairman), Chris Rhodes, James Sanders, Patricia Heyman

**Planning Commissioners Absent:** Dr. Rick Smith (Mayor), Michelle Nelson (Chairman), Gabe Candelaria (Town Board Member)

**Staff Present:** Chris La May (Town Manager), Marianne Jones (Town Clerk)

The meeting was called to order @ 7:03 p.m. by Vice Chairman, Joe Mozgai.

**Minutes:** Chris Rhodes made a motion to approve the minutes from the January 10<sup>th</sup>, 2012 Planning Commission Meeting as presented. James seconded the motion. All were in favor, motion passed unanimously.

**Public Input:** No public input was offered so it was immediately closed.

**Public Hearing: Rezone of Lot 7, Mountain View Subdivision  
(637 Colorado Drive) to Transitional (T) Zone.**

Joe opened the item for public hearing.

Chris gave his staff report. He stated that Dan Naiman, acting on behalf of Paul Peeples the owner of property located at 637 Colorado Drive (Lot 7, Mountain View Subdivision), is requesting a rezone of the property from Business (B) to Transitional (T). The intent of the rezone is to allow mixed use (Residential Dwelling Units and Restaurant) on the property. Property is currently zoned Business and contains Chavolo's Mexican Restaurant, four (4) offices and one (1) upper floor residential unit. Property owner intends to convert the four (4) offices into four (4) residential dwelling units.

The property to the east is zoned Single Family Residential (R-40); property to the north is zoned Multi Family; property to the west is zoned Business; Colorado Drive and US Highway 160 adjoin the property on the southern boundary.

Chris stated that the request was sent to the following referral agencies: La Plata Electric Association, Upper Pine Fire Protection District, Source Gas, School District 10JTR, Town Engineer (Souder, Miller & Associates), Town Attorney Dirk Nelson, USA Communications, Century Link Communications, San Juan Basin Health, Colorado Department of Transportation, Bayfield Public Works, and Bayfield Building Inspector.

Responses received are as follows:

**1) La Plata Electric Association:**

- La Plata Electric Association, Inc. has no objections to the proposed project, provided that all structures meet or exceed the minimum clearances to power line facilities as set forth in the current edition of The National Electrical Safety Code, and also provided that no structures are located on any LPEA easements, underneath any overhead power lines or on top of any underground power lines.

**2) Upper Pine Fire Protection District:** No comments received.

**3) Source Gas:** No comments received.

**Town of Bayfield  
Planning Commission Minutes  
February 14, 2012  
1199 Bayfield Parkway Bayfield, CO 81122**

**4) School District 10JTR:** No comments received.

**5) Town Engineer (Souder, Miller & Associates):**

- No significant Engineering Issues.
- Recommend that the Water and Sewer Tap allocation be reviewed to determine the impact of the change in use.

**6) Town Attorney:**

- Use by Review process necessary for multifamily under Transitional District.
  - Restaurant a Use by Review in Transitional District, but existing restaurant “grandfathered”.
  - Temporary discontinued could trigger new Use by Review in Transitional Zone.
  - Parking, Water and Sewer Taps and connections need to be reviewed.
  - Building/Fire Code Review.
- **San Juan Basin Health Department:** No comments received.

**7) Colorado Department of Transportation (CDOT):** No objections.

**8) Bayfield Public Works:**

- Water and Sewer Taps need to be addressed prior to construction.
- Plant Investment Fees should be evaluated.

**9) Building Official:** Firewalls must be maintained for change of occupancy.

Chris stated that the public hearing on this matter was properly noticed in the Pine River Times on February 3, 2012 and February 10, 2012. Property owner provided certified mailing receipts verifying that property owners within 200 feet of the property were notified of rezone request and public hearing.

The request is to zone the property from Business (B) to Transitional (T). The Transitional (T) Zoning District is intended to provide an area where residential and commercial uses can occur side by side with a minimum amount of inconvenience to each other and other uses, subject to review, as set forth in the Use Table. The district applies to parts of the community that are now businesses uses or may in the future change to business.

The Use Table identifies Multi-Family Dwellings as a Use by Review in the Transitional District. If approved for rezone, the applicant will need to seek approval for a Use by Review.

Chris noted that there is a fiscal impact to the Town to make this change. In the State of Colorado property is appraised based on use and not zoning. If the property is converted from commercial office space to residential use, it will likely reduce the property tax on the property and income for the Town.

**Town of Bayfield  
Planning Commission Minutes  
February 14, 2012  
1199 Bayfield Parkway Bayfield, CO 81122**

Converting approximately 40% of the space from commercial (29% assessed value) to residential (8% assessed value) would reduce the property tax to a figure of approximately \$287.00. The Town would lose approximately \$600 annually in property tax based on the rezone.

Chris stated that the property currently has one - 1 and ½ inch water tap serving the restaurant, office complex (4 units), and one (1) residential unit. If the rezone is approved, the property would include a restaurant, and five (5) residential units. 1 and ½ inch water tap should be sized adequately to meet that need and no increase in water tap or extension of line should be necessary, thus no additional water tap fee.

However, Section 15-75 of the Town Code requires a separate monthly residential rate for each family living unit within the structure.

For sewer service, a separate and independent service line is required for each individual lot. According to the code the current use in the building requires the following amount of ERT's: 10 ERT's for the restaurant, .88 ERT's for the 2500 square feet of office space & 1 ERT for the 1,216 square feet of residential space. This is a total of 11.88 ERT's.

The requirement for the proposed use will be: 10 ERT's for the restaurant, 2.25 ERT's for the three apartments that are less than 700 square feet & 2 ERT's for the two apartment units that are greater than 700 square feet. Total 14.25 ERT.

Therefore, the owner will have to purchase 2.37 ERT's at the time of building permit for conversion to residential.

For park impact fees, the owner will have to pay \$208 per Multi-Family Unit for a total of \$832 (for 4 units) to be assessed at time of building permit.

Chris said that the Land Use Code requires one (1) parking space for each 100 square feet of gross floor area for establishments for the sale and consumption on the premises of food and beverages having less than 4,000 sq. ft. of floor area. The restaurant component of the property is 2,500 sq. ft, which equates to 25 parking spaces. Section 7-9 (6) (c) of the Land Use Code requires in instances of mixed occupancies, the sum of the requirements for the various uses computed separately. The property, if approved for rezone, will have five residential units, which requires 2.5 parking spaces per unit for a total of ten (12.50) spaces.

In total the parking requirements call for 37.50 parking spaces. The property currently has 30 parking spaces on site, which includes two handicapped spaces. Chris explained that staff recommends that the applicant seek a variance from the parking requirements.

Chris explained that the Planning Commission should consider the following criteria in its action on the application:

The Planning Commission shall consider the following criteria in its action on the application:

- (1) Was the existing land use district adopted in error?
- (2) Has there been a change of character in the area?
- (3) Is there a need for the proposed uses within the area or community or will there be benefits to the community?
- (4) Are the proposed uses compatible with the surrounding area or uses?
- (5) Will there be adverse impacts from the allowed uses and can these impacts be adequately mitigated?
- (6) Are adequate public facilities and services available to serve development for the type and scope of uses suggested by the land use district category?

**Town of Bayfield  
Planning Commission Minutes  
February 14, 2012  
1199 Bayfield Parkway Bayfield, CO 81122**

- (7) Is the proposal in conformance with the intent, policies and requirements of the Bayfield Comprehensive Plan?
- (8) Is the proposal solely to provide special privileges to a single piece of land that is surrounded by properties with other land use district designations?

Chris stated that the property has been underutilized for a period and the rezone will provide the property owner flexibility. Nothing prevents the property from converting back to office space should the demand for that use increase in the future. The use is consistent with neighboring properties.

Chris recommended approval of the rezone for Lot 7, Mountain View Subdivision (AKA 637 E Colorado Dr.) to Transitional (T) Zone.

The floor was given to Dan Naiman, the agent for the project. Dan stated that the owner hasn't had any luck getting tenant into the office spaces in the building. The owner feels that he might have a better opportunity to utilize the property more if he changes them office space into studio apartments.

Dan explained that there is currently 3 commercial offices in the building. They are 850, 600 & 900 square feet. He also mentioned that the building already contains one residential apartment on the top floor of the building. If the rezone is passed, the owner plans to build 3 or 4 apartments that are less than 1000 square feet each. They will be studio type apartments with small kitchenettes & murphy-type beds.

James asked why the Transitional Zone is being requested.

Chris La May responded that there is some flexibility with the transitional zone. The intent is to use this zone on the properties that are on the borders of the Town that really should be classified as business in the future but need a lower designation for the interim period. It allows property owners to utilize their property until there is a higher demand for commercial uses. Transitional allows mixed uses such as Business, Residential, etc. The Business zone does not allow Multi-Family but the Transitional zone does through the Use By Review process.

Dan Naiman mentioned that there is an apartment complex to the north of this development and to the east is a single family home. Therefore, he feels that this use is consistent with the surrounding areas.

Joe asked if the property owner is aware of the requirements outlined in the staff report for water, sewer, & parking.

Dan answered that they are aware of the requirements. However, he noted that the high cost of the tap fees might make this project unfeasible.

Pat asked about the existing single family residence that is already in the building.

Chris answered that upper story residential is allowed in the Business zoning district. However, since the applicant is requesting lower level apartment units, the property will have to be rezoned to accommodate for that change.

Betty Edmonston (675 E. Colorado Drive) stated that she is not opposed to the owner being able to further utilize the property. However, she expressed that there is a major parking issue on Colorado Drive and she would like to see it addressed before any additional entitlements are allowed. She noted that the patrons of the restaurant park all along the sides of the road and they block the entrance into her property. She does not feel that there is currently enough parking for the restaurant, let alone any additional uses in the building.

Betty also mentioned that there is a trash problem associated with the property. The trash dumpster is located on Colorado Drive and she feels that it is a major eyesore. It is constantly overflowing, has a foul smell and is

**Town of Bayfield  
Planning Commission Minutes  
February 14, 2012  
1199 Bayfield Parkway Bayfield, CO 81122**

not enclosed properly. She requested that the Town address these items before allowing this matter to move forward.

Chris responded that the trash dumpster should not be blocking Colorado Drive but if there is a problem it should be handled as a nuisance item rather than as a consideration item for the rezone request.

Joe asked how many parking spaces there are on the property.

Chris answered that there is 30 spaces.

Betty argued that there are only 12 spaces.

Dan Naiman responded that there are 30 striped spaces but he thinks that it's possible that they are not being utilized properly.

Betty said that the patrons of the restaurant are not using the designated spaces and are using Colorado Drive instead. She also noted concern about the pizza delivery truck that takes up a big portion of the parking spaces in the parking lot.

Chris expressed that the Town does not have signs on Colorado drive stating that it is a no parking area.

James noted that he has seen the pizza delivery truck and asked what kind of restrictions there are for having this type of vehicle being stored on the property.

Chris answered that the Town cannot enforce removing the truck unless it meets the criteria of an abandoned vehicle.

Betty said that the parking issues and the dumpster/grease barrels are devaluing her property and she feels they need to be addressed by the Town.

Dan Naiman stated that he will speak with the owner of the property to see if he can get the dumpster & grease barrel issue resolved in some way that is agreeable with the surrounding property owners & the Town. He thinks that there is a designated place on the original site plan that is allocated for the trash barrels. If there isn't, he will address it in the new design that will be presented during the Use By Review process. Dan also mentioned that there is a possible remedy for the parking issues. The property owner owns the lot to the west of this property as well and he is willing to allow parking to overflow into that parking lot. However, Dan noted that the current available parking does meet the requirements of the land use code.

Chris stated that the configuration of the site works and the parking is configured correctly according to the code. He admitted that there might be a problem with parking on Colorado Drive and the dumpster constitutes a nuisance. However, those items really shouldn't be tied to the application regarding the rezone of the property and should be addressed further during the Use By Review process which is much more site specific.

Joe closed the public hearing.

**Action Agenda Item #1: Consideration of Recommendation To Approve Rezone of Lot #7, Mountain View Subdivision (AKA 637 Colorado Drive)**

Chris La May explained that the Planning Commission will be making a recommendation to the Town Board on whether or not the rezoning request is appropriate for the property. If the rezone is granted, the applicants will have to come back to the Planning Commission to request a Use By Review permit to allow Multi-Family. Chris

**Town of Bayfield  
Planning Commission Minutes  
February 14, 2012  
1199 Bayfield Parkway Bayfield, CO 81122**

noted that the Use By Review process will be an appropriate time to address the more site specific concerns associated with the property.

Chris Rhodes made a motion to recommend approval of the rezone Lot 7 of the Mountain View Subdivision (637 Colorado Drive) from Business (B) to Transitional (T) subject to staff recommendations. Pat seconded the motion. All were in favor, motion passed unanimously.

**Action Agenda Item #2: Presentation of Infrastructure Design Standards**

Chris gave his staff report. He stated that this is a very technical document. He is presenting the document to the Planning Commission and would like for them to take a look at them. At the next meeting, the standards will be discussed in more detail. Adopting will be prepared into an ordinance and the ordinance will be brought back to the Planning Commission for a Town Board recommendation. If the document is adopted, it will become a part of the Land Use Code. These standards do not exist currently which is why the staff wishes to get them into place. They will give developers standards in which to follow for any new development. They will have a detailed document that they can review in order to make a business decision on whether or not they want to move forward with developing within the Town. It also covers the Town because it will help ensure that the Town doesn't receive inferior infrastructure.

The Commission acknowledged that they are to review the document before the next Planning meeting and the item will be discussed in detail at that meeting.

**Action Agenda Item #3: New/Unfinished Business**

Chris La May mentioned that staff has not received comments from the referral agencies on the Accessory Dwelling Unit & Recreational Vehicle Ordinances. He will return those items to the Planning Commission at the next meeting for a public hearing & a recommendation to the Town Board regarding approval.

Joe mentioned that there is an equipment trailer at the end of Dove Ranch road.

Chris La May responded that the Marshal has made a couple of visits to the property regarding that trailer and he is researching the code to see if there is a way to address the issue so that it is not a hazard on that street.

Pat made a motion to adjourn the meeting. James seconded the motion. All were in favor, motion passed unanimously.

*Minutes were approved as submitted on March 13<sup>th</sup>, 2012.*

**Approved:**

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Michelle Nelson  
Chairman

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Marianne Jones  
Town Clerk