

Town of Bayfield
Planning Commission Minutes
March 13th, 2012
1199 Bayfield Parkway Bayfield, CO 81122

Planning Commissioners Present: Michelle Nelson (Chairman), Joe Mozgai (Vice Chairman), Dr. Rick Smith (Mayor), James Sanders

Planning Commissioners Absent: Chris Rhodes, Gabe Candelaria, Pat Heyman

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

The meeting was called to order @ 7:06 p.m. by Michelle Nelson

Minutes: Rick made a motion to approve the minutes from the February 14th, 2012 as presented. Joe seconded the motion. All were in favor, motion passed unanimously.

Public Input: None offered so it was immediately closed.

Public Hearing: Use by Review –Lot 7, Mountain View Subdivision
637 Colorado Drive

Chris gave his staff report. He stated that the property 637 Colorado Drive (Lot 7, Mountain View Subdivision) was approved for rezone at the March 6, 2012 Board of Trustee meeting. The property was rezoned Transitional (T), which allows for multi-family dwelling unit through a Use by Review. The applicant is seeking permission to convert office space to four (4) multi-family dwellings, through the Use by Review.

During the rezone process, the Board of Trustees expressed concerns regarding the current placement of the garbage dumpster and parking concerns. The Board of Trustees was informed that the site specific issues should be handled by the Use by Review process rather than the rezone.

Application for Use by Review was filed and fees paid February 24, 2012. Application and Site Plan were sent to referral agencies on January 23, 2012.

Plans were 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:** Upper Pine does not have any objections to the proposed project but requests the following:
 - A two hour fire separation wall between the restaurant and the residential units.
 - A commercial fire alarm system to be installed throughout the complex to include a combination of heat, smoke and carbon monoxide detection. System to include interior and exterior alerting devices
 - Fire extinguishers; 1 located and secured between the downstairs units and 1 upstairs near the entry door. The restaurant has separate requirements for extinguishers

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- Address number visible from the street and suite numbers clearly marked
- Gas and electric utilities clearly marked with suite numbers
- Fire Lane on north and east side of the building maintained and signed indicating the presence of a Fire Lane

3) Source Gas: No comments received.

4) School District 10JTR: No comments received.

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

- a. No significant Engineering Issues.
- b. 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 was properly noticed in the Pine River Times on February 24, 2012 and March 2, 2012. Property owner provided certified mailing receipts verifying that property owners within 200 feet of the property were notified of Use by Review request and public hearing.

Chris feels that the application is in conformance with applicable sections of the Town’s Master Plan.

The property was recently rezoned 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.

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The Use Table identifies Multi-Family Dwellings as a Use by Review in the Transitional (T) District.

Chris stated that 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. Property tax currently generates:

	Actual	Assessed
Improvements	\$459,910	\$116,480
Land	\$151,060	<u>\$31,970</u>
		\$148,450
Town of Bayfield 5.950 Mill		\$883.28

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.

Arguments could be made that the Town's level of service would increase for multifamily use versus office space. More specifically, police services.

The property currently has one - 1 and ½ inch water tap serving a restaurant, office complex (4 units), and one (1) residential unit. If the Use by Review 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. Section 15-75 of the Town of Bayfield Municipal Code requires a separate monthly residential rate for each family living unit within the structure.

A separate and independent sewer service line is required for each individual lot.

Current Use:

Restaurant open 12 hours a day or less at 50 seats = 10 ERT, 2,500 sq. ft. of office space = .88 ERT, 1,216 sq. ft. = 1 ERT. Total 11.88 ERT.

Proposed Use:

A Restaurant that is open 12 hours a day or less and has 50 seats = 10 ERT's. Three (3) apartment units less than 700 sq. ft. = 2.25 ERT, two apartment units greater than 700 sq. ft. = 2 ERT's. Total 14.25 ERT.

2.37 ERT upon conversion to residential = (2.37 x 6,000) \$14,220 due at time of building permit.

The Bayfield fee for park impact fee is \$208 per Multi-Family Unit. The proposed rezone will include four (4) new multi-family units. Fee shall be \$832 assessed at time of building permit.

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

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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. Parking spaces shall be not less than 9' x 20' and located entirely on the lot for which the space is required. The site plan shows 30 parking spaces, which includes two handicapped spaces.

The applicant also owns the property to the west, and is agreeable to allowing night time parking on the property to the east. Chris recommended that the agreement be documented through a covenant on the property, to ensure that prospective buyers of the property are informed about the parking exchange.

Chris stated that the trash dumpster has been relocated and the applicant has submitted a site plan drawing that includes an enclosure on the property that will house the dumpster in the future. The enclosure will have a lid and will be locked. They have also submitted a drawing for another enclosure that will house the grease containers. This will keep all waste contained and out of the public eye.

Joe Mozgai asked about the covenant on the property and how it will be tracked.

Chris answered that the covenant will be recorded with the Clerk & Records Office so it will show up on the title work for the property.

The floor was given to Dan Naiman, agent for the owner of the property.

Dan stated that the owner agrees with the items outlined in the staff report. He has received the document from Chris pertaining to the afterhours overflow parking. He was unable to get a hold of the owner today to get it signed but he will get it signed as soon as possible. He clarified that the owner is still unsure about whether or not they are going to develop 3 or 4 apartments in the building.

Joe asked if the owner has a problem with the requirements set forth by the Fire Department.

Dan answered that the required fire separation wall has already been constructed and they will be addressing the remaining item through the remodel process.

Joe asked about the pizza truck that is parked in the parking lot of Chavolos.

Dan answered that he doesn't know if it's been moved yet. However, he is sure that it will be picked up soon and moved out of the parking lot.

The item was opened for public comment.

Betty Edmonston (675 East Colorado Drive) thanked the property owner for resolving the problems with the trash dumpster & the grease barrels and she feels that the parking is being addressed as well. She asked if the Board is going to put restrictions on parking on Colorado Drive.

Michelle responded that the "no parking" item has not been addressed by the Town Board yet. She also asked about the uses on the site that will be used for overflow parking. She wanted to know if they will still have enough parking spaces available when it's being used for overflow.

Chris answered that the site has an office and a warehouse located on it and they have plenty of parking spaces available per the Land Use Code. The code also allows for the exchange of parking space being done as a night-time versus day-time use. The office & warehouse are primarily a daytime use whereas the impact for the restaurant is mostly night-time.

No additional public comment was offered so it was closed.

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Public Hearing: Amendments To Sections of the Land use Code To Allow For Short Term Use of Recreational Vehicles

Chris gave his staff report. He explained that since the November 8, 2011 Planning Commission meeting, the Commission has discussed clarifying language regarding restrictions on the use of recreational vehicles (RV's) for uses other than storage. Current restrictions on RV's in the Land Use Code are based on the absence of language, rather than clear language controlling such activity. In an effort to provide clear language and aid staff in administering the Land Use Code, an ordinance has been prepared that provides for use of a recreational vehicle as a lodging unit for seven (7) days in the residential zoning districts.

Chris presented a draft of an ordinance attempting to address the temporary use of recreational vehicles for uses other than storage. Since the ordinance will amend the Land Use Code, a public hearing is required before the Planning Commission and Board of Trustees.

Chris stated that the Planning Commission's role is to make a recommendation to the Board of Trustees to approve the ordinance as written, approve the ordinance with additional amendments, or deny approval of the ordinance.

James asked if this ordinance will only apply to the Town of Bayfield limits.

Chris answered that the Town can only enforce within their Town Boundaries.

The item was opened for public comment.

Jim Griffin (915 N. Wilmer Drive) stated that he does not understand why the Town is implementing this restriction in the Town. He feels that this ordinance is another bureaucratic regulation that does not help the residents of the Town. He thinks it infringes on property owners rights and does not feel that the ordinance should be passed.

Betty Edmonston (675 East Colorado Drive) paid for two water & sewer taps and she received the Town's permission to park the recreational vehicle on her property. She feels that she should be able to use the property as she sees fit and that the Town should not be regulating how she uses the property.

Paula & Darrel Ransford (1758 D Bar K Drive) stated that they have a mobile food trailer called the Happy Cow Food Shack that they are trying to establish at 557 Colorado Drive. They would like to get a temporary permit so that they can put this mobile business on this piece of land where a mobile home used to be located. Currently, the use has been denied by the staff because the use is not permitted by the Land Use Code but they would like to work with the Town in anyway possible to get this into place within the Town.

Dan Naiman (2453 Bear Creek Drive) stated that he hasn't seen the language but he thinks that the ordinance needs to include language that prevents the owner from using the recreation vehicle as a rental unit. He thinks this ordinance is a good thing for the Town but he doesn't think they RV's should be used as rentals.

No additional public comment was offered so the public hearing was closed.

Public Hearing: Amendment To Sections Of The Municipal and Land Use Code to Allow For Accessory Dwelling Units

Chris gave his staff report. He stated that at the November 8, 2011, Planning Commission meeting, the Commission was presented with information regarding Accessory Dwelling Units (ADU). The Planning

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Commission decided at that meeting, that they would be interested in further exploring the allowance of Accessory Dwelling Units within the Town of Bayfield. At the December 13, 2011 meeting the Planning Commission was presented with a draft of an Ordinance that would amend the Bayfield Land Use Code to allow for Accessory Dwelling Units. The Planning Commission provided input on appropriate requirements, although the full document was not reviewed at the meeting and the discussion was continued to the January 10, 2012 meeting.

Chris presented an ordinance providing for allowances of Accessory Dwelling Units in residentially zoned districts.

Since the ordinance will amend the Municipal Code and the Land Use Code, a public hearing is required before the Planning Commission and Board of Trustees.

Planning Commission's role is to make a recommendation to the Board of Trustees to approve the ordinance as written, approve the ordinance with additional amendments, or deny approval of the ordinance.

Marianne mentioned that currently the code does not allow Recreation Vehicles to be used as dwelling units or any type of ADU. So the Town is actually broadening the code to allow the residents to utilize their properties a little bit more than what they are allowed by right now.

Joe asked if the ADU's would have to have a building permit.

Chris answered that they will have to comply with building codes which outlines building permit requirements.

The item was opened for public comment. No public comment was given, so it was immediately closed.

Action Agenda #1: Consideration Of Recommendation To Approve use By Review. Lot 7, Mountain View Subdivision (AKA 637 Colorado Drive)

Rick asked about signage regarding parking on Colorado Drive.

Chris stated that Colorado Drive is a fairly wide road and it is not a through way at this point. However, there is a possibility that putting in parking restrictions will force people to use the parking lot.

Rick feels that the Town should get a sign for Betty Edmonton's property so that her lot does not get blocked.

Chris responded that the staff could put up a sign that says "Resident Parking Only" in that area so that Betty's lot does not get blocked.

Rick suggested that would help so that there is clear access to her property.

The Planning Commission concurred.

Chris recommended approval of the Use by Review for Lot 7, Mountain View Subdivision (AKA 637 E Colorado Dr.) for Multi-Family Dwellings, with the following conditions:

1. Property Owner provides the appropriate document as recommended by the Town Attorney memorialize the parking arrangement with the adjacent property.

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2. Property Owner provides appropriate location for on-site garbage and grease storage, without impacting the number of on-site parking spaces.
3. Property Owner agrees to comply with the Town of Bayfield Building and Fire Codes, including:
 - A two hour fire separation wall between the restaurant and the residential units.
 - A commercial fire alarm system to be installed throughout the complex to include a combination of heat, smoke and carbon monoxide detection. System to include interior and exterior alerting devices
 - Fire extinguishers; 1 located and secured between the downstairs units and 1 upstairs near the entry door. The restaurant has separate requirements for extinguishers
 - Address number visible from the street and suite numbers clearly marked
 - Gas and electric utilities clearly marked with suite numbers
 - Fire Lane on north and east side of the building maintained and signed indicating the presence of a Fire Lane

Michelle recommended putting up a sign stating that overflow parking is available next door so that patrons know that it is allowed for them to park in that parking lot.

Joe asked if the double glass doors are going to remain as they are now.

Dan answered that they are going to keep the double doors at this point.

Rick made a motion to approve the Use By Review for Lot 7, Mountain View Subdivision subject to staff conditions 1-3 with the addition of a 4th requirement stating that a "No Parking" sign for the property owner located directly to the east and an overflow parking sign directing patrons to the parking lot adjacent to the property be erected. Joe seconded the motion. All were in favor, motion passed unanimously.

Action Agenda Item #2: Consideration Of Recommendation Amending Sections Of The Land Use Code For Short Term use Of Recreation Vehicles

Chris explained that currently the code does not allow recreational vehicles to be used as dwelling units. The Town wanted to give the residents the ability to have friends or relatives stay in their RV's for short amounts of time. However, the reason for the restriction on time is so that this type of use is not taking business away from the RV Park that is located in the Town.

Chris mentioned that the mobile food trailer is an interesting situation and it is something that will have to be addressed by the Planning Commission & Town Board at some point. Due to tough economic times, businesses are beginning to look into these mobile food trailers because they aren't as expensive as brick & mortar restaurants. The code reads that it is not an allowed use so the Boards will have to decide if it is something that they wish to allow within the Town. This item would not be directly associated with this particular ordinance but if the Boards decide that they want this type of use allowed, the staff will need to create a new ordinance that specifically addresses temporary vending carts.

Chris explained that when the Happy Cow Food Shack was in Durango, they issued them a Special Use Permit and then they began drafting language to address sort of item. If the Boards decide to move in this direction, there is a model ordinance available that the Town could use to develop one for Bayfield. However, there are restaurants in Town that have invested the expense to build a brick and mortar building and he feels that the Boards need to consider if allowing this type of activity will be a detriment to those that have invested a substantial amount into the Town.

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Chris also mentioned that the Boards do have the option to amend this ordinance to add in detail for vending carts but he thinks that it would be better if it was a separate ordinance.

Joe commented that he doesn't think it should be combined with this ordinance.

The Board concurred that it should be dealt with as a separate ordinance.

Rick asked if it would be possible to issue a temporary permit to the Happy Cow Food Shack to allow them to begin business while the ordinance is being drafted.

Joe asked if the cart will have to be connected to Town water & sewer.

Darrell Ransford answered that it is a self-contained unit but they would like to attach to Town water & sewer if possible. He expressed that they know they have to install a grease trap to be in compliance with the sanitation regulations. They will only have 4 tables located on the outside of the building. Regulations state that you don't have to have a restroom facility if you have less than 24 seats. However, they do plan to put in a porta-potty.

Chris responded that there are challenges with these types of requests. If this was a permanent structure they would have to comply with the building code requirements. The building code has a specification that you can issue a temporary use permit for 180 days but after that time frame is over the building would have to become a permanent structure and comply with building code requirements.

Michelle asked who issues a temporary permit.

Chris answered that it would be issued by the Town but the code is lacking in that process on how it would be done. There is no detail on what is classified as a temporary use. The determination of the Town Attorney is that this type of use is not allowed under the Bayfield Land Use Code. The Town would have to draft an ordinance in order to allow for this within the Town. The ordinance will need to specify what is allowed, time frames, etc. Chris noted that in his prior employment, the Town outlined a process to issue a series of temporary use permits to the applicants for a period not to exceed two years. This gives the applicants 2 years to do a more permanent structure.

Joe asked the Ransford if they are interested in doing a permanent structure.

Paula Ransford answered that they would like to make it permanent eventually.

Rick stated that he would like to have staff draft an ordinance.

The Planning Commission concurred.

Rick stated that he would be inclined to issue the Happy Cow Food Shack a 6 month temporary use permit so that they can do business until the ordinance can be drafted, reviewed & approved.

Joe asked if the Town has heard anything from the community regarding this request.

Paula stated that she did a petition and went to each of the businesses in the vicinity of the location to get their blessing on the endeavor.

The Planning Commission agreed that they are in favor of moving forward with a temporary permit for the business.

Chris stated that he will find out the best way to process a temporary use permit and take it to the Town Board for approval.

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Rick asked how the Town will deal with the properties that are currently not in compliance with the code

Chris answered that there is a provision in the Land Use Code that says that if there is an existing use that is in violation of a new change that is adopted the resident will be allowed to continue that use. However, if there is a change made to that use or it is abandoned, the "grand-father" rights are null & void. They will then be required to comply with the code.

Rick made a motion to recommend approval of the ordinance amending sections of the Land Use Code For Short Term use Of RV's for adoption by the Town Board. Joe seconded the motion. All were in favor, motion passed unanimously.

Action Agenda Item #3: Consideration Of Recommendation Amending Sections Of The Municipal And Land Use Codes To Allow For ADU's

Joe made a motion to recommend approval of the ordinance amending sections of the Municipal and Land Use Codes to allow for ADU's as presented in the revised version submitted by staff. Rick seconded the motion. All were in favor, motion passed unanimously.

Action Agenda Item #4: Discussion & Possible Action – Infrastructure Design Standards

Chris gave his staff report. He stated that staff submitted a copy of the infrastructure design standards that were developed by the Town Engineer, Public Works Director and a committee of public residents to the Planning Commission for consideration & review. The staff would like to implement them into part of the development process so that they give guidance to developers regarding the Town's requirements & standards for new construction.

Joe asked who governs the other utilities such as electric, natural gas, etc.

Chris answered that the other utility companies are typically covered by the industry standards. There are very specific requirements that those utility companies have to follow.

Joe asked if the design standards should reference those other standards.

Chris responded that the Town really doesn't have jurisdiction over those utilities. However, since the Town might get into the telecommunications business in the future, the Town may need to add some detail regarding telecommunications.

Rick added that he does want to make sure that telecommunications is included. But it could be added later on if necessary.

The Planning Commission did not have any additional comments regarding the design standards.

Action Agenda Item #5: New/Unfinished Business

Chris mentioned that Marianne Jones, the Town Clerk will be leaving the Town of Bayfield. Her last day with the Town will be June 1st, 2012.

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Michelle asked if it would be possible to appoint a new chairperson at the next Planning Commission meeting.

Chris answered that the Town Board will be getting 3 new members at the first meeting in April and will be re-appointing the Planning Commission in May. He thinks that would be the opportune moment for the change to the chair position.

Rick made a motion to adjourn. Joe seconded the motion. All were in favor, motion passed unanimously.

Minutes were approved as submitted on April 10th, 2012.

Approved:

Michelle Nelson
Chairman

Marianne Jones
Town Clerk