

Town of Bayfield
Planning Commission Minutes
July 10, 2012
1199 Bayfield Parkway Bayfield, CO 81122

Planning Commissioners Present: James Sanders, Matt Nyberg, Pat Heyman, Joe Mozgai (Vice Chairman), Rick Smith (Mayor).

Planning Commissioners Absent: Chris Rhodes

Staff Present: Chris La May (Town Manager), Heather Poulton (Deputy Town Clerk)

Minutes: June 6, 2012 Meeting minutes were approved unanimously.

Public Input: No one was present to offer any public input.

Public Hearing – Rezone of Lot 1A, Pine River Valley Bank Subdivision

La May presented the staff report informing the Commission that the Pine River Library District acquired lots 1 & 2 in the Pine River Valley Bank Subdivision in April of 2002. The Library District reclassified Lot 1 from Business (B) to Community Services (CS) prior to building the Lavenia McCoy Library. The Library District in 2009 consolidated lots 1 & 2 into one lot, Lot 1A Pine River Valley Bank Subdivision; however, one of the pre-existing lots was still zoned Business (B). Therefore, the consolidated lot has two land use classifications. The Library is requesting to reclassify the full consolidated lot to the same land use classification, Community Services (CS)

There was no public comment and the Planning Commission members had no questions. Public hearing was closed.

Public Hearing - Use by Review – Evening Porch, Assisted Living Facility

Town Manager La May gave the staff report. The property up for discussion is the Sunflower Estates Property, 42811 US Highway 160, and is zoned Business (B). The Business zone allows for group quarter/elderly care use through a Use by Review. The applicant Lee McCutchen, representing Lee William McCutchen Revocable Trust, is seeking permission to allow the group quarter/elderly care use in order to use the facility as an Assisted Living Facility (10 resident rooms, 1 staff apartment, and 2 guestrooms). Application was filed and fees were paid June 18th 2012. Application was sent for agency comment and the Town received a number of responses back, which were included in the packet. The proper public notification was done in the Pine River Times on June 22nd and June 29th of 2012 and letters were sent to property owners within 200 feet of the property to notify them of this public hearing tonight.

La May informed the Commission that the application appears be in conformance with the Town's Master Plan. The future land use plan in the 2005 Bayfield Master Plan shows this property as commercial and the land in the back as general commercial with multi-family overlay. There was an amendment to the Town's Master Plan for the east side properties and that amendment also identifies this property as commercial. Current zone is business. In order for use as a group home it requires a use by review and, Planning Commission approval. La May continued, there is language in the Annexation Agreement that they would tie to the towns water system. There is a line to the east and owner has access to a water tap. Fees will be assessed based on the size of the tap needed. Additional the Annexation Agreement identifies a cost recovery mechanism for the installation of the water line for Sunrise Estates. The agreement estimated that cost at \$2,500.00. Also the Town wants to make sure the property has a back flow prevention device.

Staff is also recommending that the property owner convey one share of Los Pinos ditch, as spelled out in the Annexation Agreement.

La May stated, that sewer services was one of the major obstacles to this project. The Annexation Agreement requires that the property owner tie into the sanitary sewer system. Historically it has its own septic system. At this time the owner is considering installing a lift station/force main to delivery sanitary sewer to a Town manhole west of the Haga property. The applicant originally considered running a 8 inch gravity feed line from the

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property, tying it into the sanitary system west of the Haga property. The distance is significant and since the property is on the north side of the road, it would require boring under US 160. The applicant has approached the Board of Trustees about some cost sharing with the town for this project. At this time the Board is not comfortable committing to that cost sharing due to the master sanitary plan that is in the works at this time. Mr. McCutchen has decided to move forward and proposed the lift station and force main. The lift station being located on their property and then bored under US 160 to the man hole west of the Haga property. This would be considered a private service and property owner would incur all costs. There is some talk of other properties tying into this system. That could be problematic and would require some approval from the Colorado Department of Health and Environment. Staff also shared the likely plant assessment fee for the project.

La May states there will be a kitchen in the facility and we are recommending it have a grease interceptor.

La May stated that parking is sufficient with the nine spaces. Two of which are handicap accessible on the site plan. Staff feels CDOT should decide if entrance to US 160 needs to be paved.

La May identified the requirements in the Annexation Agreement including the importance of the future of this location and the prospect of a commercial intersection in the future, where Bayfield Parkway and US 160 intersect. The only thing missing is the north leg of the intersection. When the property was annexed in 2005 it was obvious that the town intended for this property to play a role in that east end intersection and was given an easement of 30 feet which widened at it got closer to US 160 to 40 feet. The Annexation Agreement also has language that states any future development will need to protect the ability to put a future road on that particular property. Additionally there was an agreement for a 60 foot right of way that is going east and west that is 300 feet back to provide access to the adjacent property. Although the specification on placement was somewhat loose it will need approval by CDOT and the Town. The staff is of the opinion that this may be the opportune time to make sure that it is there for future use. In conversation with CDOT staff discussed the need for the east and west collector routes. This would grant that north leg to the intersection and this would be one step towards that process. CDOT goal is to reduce the number of cars coming back on US 160.

La May stated that the staff has come up with a number of recommendations. Staff recommends approval of use by review for the evening porch assisted living facility, with conditions before the issuance of a building permit.

Conditions included:

- 1) That the site plan describes all the easements described in the owner's title policy.
- 2) That the property owner conveys a 60 foot easement to the Town for future road way and that easement be south of the Los Pinos ditch.
- 3) that the applicant reconfigure parking and the fire truck turn around to avoid further conflicts with any other road way easement and resubmit a site plan demonstrating these have been protected.
- 4) Property owner convey one (1) share of the Los Pinos ditch in accordance with the Annexation Agreement.
- 5) Applicant provides a signed copy of the approved CDOT access permit to the Town.
- 6) Applicant include adequately sized grease interceptor for the kitchen, and water backflow prevention device as approved by the Public Works Director and/or Town Engineer.
- 7) Applicant provide documented proof of closure of the existing private sanitary sewer system in accordance with San Juan Basin Health and/or Colorado Department of Health and Environment requirements, to the Town.

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8) Applicant prepare and submit to the Town of Bayfield and appropriate regulatory Agencies (for review, comment, and approval) adequate Plans and Specifications for the proposed domestic wastewater (sewage) pumping system including demonstration of an appropriate alarm system (for high water and/or pump failure) and emergency sewage overflow storage.

9) Applicants pay water and sewer Plant Investment Fees in accordance with the Town's rate structure, and in accordance, with the Annexation Agreement.

10) Applicant provide for the dedication of easements for the benefit of the Los Pinos Ditch Company and other down gradient water users for the operation, Maintenance and repair of the Los Pinos ditch and provide written evidence that the Los Pinos Ditch Company is agreeable to the development drainage and easement location.

11) Comply with the Town of Bayfield Fire and Building requirements.

Carolyn Hunter agent for Mr. Lee McCutchen stated that Danny Rodman the contractor for this project is also present, as well as Larry Holcum.

Hunter explained that assisted living facilities have low profit margins and the former owner abandoned the Sunflower Assistive living facility, because they could not afford the cost required to connect the property to the sewer and water for the Town of Bayfield, as well as other utilities. Hunter shared that Mr. McCutchen and his team have a strong commitment to this project and wants a project that his own parent could live in. Their idea is to provide a facility for people in the community to live close to family while receiving the level of safety and health care they need. They are trying to keep this project simple and find a cost effective way to meet all the needs. Hunter clarified that that the request is for ten rooms, plus two guest rooms, and one staff apartment. Also they have made changes to make two of the nine parking spots handicap accessible to meet the needs of the home.

Hunter stated that San Juan Basin Health advised them that this is a non commercial kitchen; because they have less than 20 resident rooms. This is why they did not consider the grease trap. They requested time with Mr. La May to discuss the trap after the meeting. Hunter informed the Board that they have received a signed CDOT drive way permit and have have discussed with the fire department how to design the drive way for fire truck turn around. Additionally, they noted it on the site plan and there are ongoing discussions with CDOT. Hunter stated that they felt that there is adequate space to provide a solution. They are also discussing the possible road expansion with the proper people for the future.

They opened it to questions.

La May suggested that while the public hearing is open, the applicant discuss the variance request. La May referred to the site plan that demonstrated the inability to meet a ten foot setback. Property Owners are requesting a variance form that set back. There was a porch that encroached onto the corner of the property. Ms. Hunter stated that that porch had been removed.

Chair Mozgai stated that the Planning Commission will take item 2 and 3 into consideration

Hunter asked if the Planning Commission wanted the variance staff report before the public speaks?

Chair Mozgai asked whether this is a problem with utilities and was this issue present when the building was built or is this now an issue because we are discussing it several years later.

Carolyn Hunter states there is no problem with utilities.

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Discussion moved to the property lines and discussion referencing the set back.

Chair Mozgai asked if this was an issue when the building was built or is this an issue now because we are discussing it several years later.

Ms. Hunter stated that there was some confusion about the property line and a quick claim deed filed since then. This is why the porch was removed. The true property line was discovered. She referred to the map.

La May stated that the porch was likely built in the eighties and we may not have had as strict setback requirements as we do today. The codes have evolved and it is now something we look at and require.

Chair Mozgai asks if the Commission had any questions for the applicant.

Chair Mozgai asked if there was any public input on items 2 and 3 the use by review and variance for the ten foot setback.

Paul Peebles stated that he has property to the west of the future care home. He stated that he guessed the deck has been removed, and that was his biggest concern as he had to hire legal help to get the deck removed. He wanted the Town to be aware of future plans to extend Colorado Drive would take a road next to the property and follow the property line to tie into the future north leg. He wanted to make sure that in the future that it would not be an issue, if a variance was granted.

Chair Mozgai asked if someone else had been made aware of this future planning of putting that road in and whether it was on some map.

Mr. Peebles stated that he worked on this about ten years ago. Tried to get the road through but was unable, but the plan was to go to the property line and turn north. There was a plan for a 60 foot easement across the property for future, but feasibility and finances became a problem. Just wanting to make sure there were no issues if that road ultimately went there.

There was no other input from public

Chair Mozgai closed public hearing

Action Item #1: Consideration of Rezone for Pine River Library District

Manager La May stated that this is really administrative clean up. At this time the property has two classifications, but should have one, as Community Service. La May informed the Commission that as a rezone they are making a recommendation to the Board. The Board would conduct a public hearing and make a decision at their next meeting.

Chair Mozgai asked if there was any discussion by the Commission related to this item. Mayor Smith made a motion to recommend to the Town Board that the land use classification for Lot 1A, Pine River Valley Bank Subdivision be changed to Community Service.

Commissioner Heyman seconded the motion.

Chair Mozgai asked for a vote. Motion was unanimously approved.

Action Item No. #2: Use by Review – Evening Porch. Assisted Living Facility

Chair Mozgai asked if there were any comments from the Commission

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Mayor Smith informed the applicants in regards to the grease trap, that he understood that per San Juan Basin Health they will not be commercial, but he believed at this juncture with the way the Town's sewer system is set up, he would be less inclined to go that direction.

Mayor Smith asked if they had two guests' rooms instead of the one guest room, does this change the parking requirements. La May stated he does not feel it would be significant. La May did state that he left the conditions open if in the outcome, they may need one more.

Mayor Smith stated that it is also important to continue contact with Mike Shave, Building Official. Ms. Hunter stated that they understood and will do so.

Mayor Smith's last comment was that to make sure all the easements in the title work appear on the site plan and to make sure the east-west road is in there and the north-south road is in there.

Commissioner Heyman stated that she does not totally understand the sewage issues. It seems to be that there are some conflicting ways about how it should be handled.

Mayor Smith addressed the topic. In terms of the sewer the applicant wanted to put in a public line and have it shared by future property owners. The problem is the Board of Trustees felt that they wanted to wait until the study was complete to determine the proper size pipe for the job. The property owner opted to not wait; because their other option was to put in a private line and use a force main that travels under the highway.

Commissioner Heyman stated that this still tells her there is a conflict.

The property owner Lee McCutchen stated that there is no conflict there is just two options and he presented maps to everyone on the Board.

La May informed the Planning Commission that there was an opportunity where multiple properties could benefit if the sanitary sewer line was gravity fed and located in a certain location. However, it is difficult to require one individual property owner to bear the brunt of the full cost. That was above what the applicant was willing to do and it would be hard for the Town to require that because they need to show they can provide adequate sewer for the property, not the whole north side of the property. Rather than an opportunity to have a main service line that can serve multiple properties, they have just one to service their own property. The property owner will maintain and operate it.

Pat Heyman asked if the Town is ok with this process.

La May stated that yes; while not optimal the Town is comfortable with this process of a private service.

Chair Mozgai stated that the first item on conditions for recommendation was that the site plan should include all the easements described in the owner's title policy. He asked is that on the Site Plan or will there be an update.

Ms. Hunter stated that there will be an update. Mr. McCutchen also informed the Commission the he would include a 40 foot easement for fiber optics all the way north, which will accommodate everything.

Mayor Smith stated that the Town did need that north and south.

La May stated that the original proposal was to place on the adjacent property.

Mr. McCutchen stated that the other property owners did not approve and that is why he was contacted.

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La May asked for clarification. He understood that the applicant was proposing there would be an 80 foot right of way. 40 feet would be on the McCutchen property and 40 feet on the adjacent property and that the applicant is suggesting is that they would be moving the fiber 35 feet back from center using the last five feet of the 40 feet for fiber.

Mayor Smith stated that he has no problems with that as long as all these are written in the plan.

Chair Mozgai asked if the applicant was fine with item seven, that requires the applicant to provide documented proof of closure of the existing private sanitary sewer system.

Ms. Hunter stated that they understand these are required and are ok with them.

Trustee Nyberg made a motion that the Planning Commission approve the Use By Review for the Evening Porch assisted living facility. Trustee Nyberg amended his motion to include conditions recommended by staff in the staff report and to include the additional easement for the fiber as a condition.

Mayor Smith seconded the motion.

Motion passed unanimously.

Action Item #3. Request for Variance form ten foot setback.

Mayor Smith asked for clarification as to his understanding that the deck would not be coming back and the variance accounts for the change in the property line.

The property owner stated that that is correct.

Mayor Smith then asked if they go to put in the road and Colorado comes across and it has to make a turn to go up to catch the east, west arterial, if the variance is granted does that hurt this road in any way?

Ms. Hunter stated that she could not see how it would. The 60 foot easement goes all the way to this property line. She stated that CDOT has the 300 foot stacking requirements at both ends. The frontage road will run parallel to 160 and it should not interfere with the corner of the property line. The road should stay parallel. This tight corner is a good 200 feet away from this frontage road.

Mayor Smith stated that it does turn at the edge of your property.

Mr. McCutchen stated that, that is not what CDOT has on there plans. It has to go through all three property owners is what he understood, but they did not show it with bends.

La May stated that this is a challenge because we are talking about a vacant piece of property that has no formal approval for anything. The question is that can one specific road or other roads that are providing access to businesses potential be put on that property boundary. La May believed the answer was yes, it could be and therefore, there could be a road next to the building in the future. The Town doesn't have requirements that say a road has to be set back from a property; the Town says a property typically has to be set back from right of way. There is some risk that if we grant the variance, that a road in some manor could be located on that property boundary and be a detrimental impact to that corner.

Chair Mozgai asked if we have an idea of how far out we are with the possibility of that happening.

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La May stated that is unknown, but does hold some risk. He further stated that you are dealing with an existing structure that is 3 foot from the property line. The only other option is to tear it down and move it. La May suggested that the applicant would rather risk having a future road verses having to tear it down.

Mayor Smith stated that he has no problem then as long as there is an understanding that there could be a road go in on the adjacent property.

Mayor Smith made a motion to approve the variance for the ten foot setback on the west side of the Sunflower estates property. With the following findings that this is an extra extraordinary circumstance in that the existing structure was constructed and in existence for more than 20 years at its current location and the hardship was not self imposed. Secondly, that the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other similar property in that same facility; and third the variance can be granted without detrimental impact on the public welfare or injury to the property or improvements in the vicinity specifically the property to the west.

Commissioner Sanders seconded the motion.

Vote was unanimously in favor.

Action Agenda #4: Election of Planning Commission Chair

After some discussion, Mayor Smith nominated James Sanders as Chair of the Planning Commission. Trustee Nyberg seconded the motion.

Vote was unanimously in favor.

Action Agenda #5: Election of Planning Commission Vice Chair

Mayor Smith nominated Joe Mozgai as vice chair. Motion was seconded by Trustee Nyberg.

Motion passed unanimously in favor of Joe Mozgai as vice chair.

Action Agenda #6 Discussion and Possible Action Temporary Uses

La May stated that based on the last two reviews, staff has put together the list of temporary uses and is working through the individual uses.

The first one discussed was construction and sales office, which also can be used as security quarters incidental to construction on the premises. Based on the previous conversations, the Commission was comfortable with the way this one was written.

The second use was real estate offices and model homes incidental to a new housing development. This was changed to a two year limit.

The third use was temporary residential or commercial storage containers. Staff was still seeking clarification on this topic. The Commission had expressed concerns that if in a commercial area, it did not infringe on the parking and discussed temporary uses verses accessory uses

Mayor Smith felt that out of site out of mind. If it is in the back yard neighbors probably won't have a problem with it. However, if in the front it may be hard to look at every day. Mayor Smith felt that if in the front and visible there should be a time limit.

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La May stated that if we are looking at a 30 day time limit, a permit might not be necessary.

Chair Mozgai asked if PODS would be the same, La May stated yes.

All members were in agreeance that no permit would be required, but limit the time to 30 days of use.

The fourth one was carnival, circus, bazaar, fair, petting zoo, music and art festivals, open air market which may include retail sales of specialty items. Staff was comfortable with the two week time limit and allowed on public and commercial property. Question was posed should it also expand to others special event?.

Chair Mozgai asked if the cost of the \$150.00 fee, is sufficient to cover all security and whatever might be needed to cover the event.

La May stated that would likely be discussed at the time of application based on the size of the event. Staff will include language that states that the town has the right to add additional fees as needed for this event.

The fifth one was seasonal sales including farmers market and outdoor markets. Within the town limits, the language permits on public property and two days per week.

Chair Mozgai asked about enforcement for all these permits. Will the marshal ask them where there permit is? La May stated yes.

Chair Mozgai asked about Heritage Days. Do the venders need a permit? La May stated yes, though the special event permit.

La May stated with grand openings, wedding parties and luncheons staff did not want get involved in those, although the Commission might want to consider a time limit on grand openings.

La May stated parking would stay the same as temporary use; sidewalk sales is good as long as it did not interfere with pedestrian traffic; Christmas tree sale could be consolidated with seasonal sales otherwise good; fireworks would be removed altogether; and outdoor sales by charitable event are not something staff wants to regulate.

La May informed the Planning Commission that temporary food carts, trucks and trailers would all be one and have a time limit of 30 days and need to comply with grease trap ordinance. Additionally that they would not be allowed in residential areas.

Town wide events like the Fourth of July would be exempt and staff would prepare special procedures for special events.

There was some discussion regarding the temporary use permit that was granted to the Happy Cow Food Shack.

Commission will be asked to review a draft ordinances at the next meeting.

New and Unfinished Business

Trustee Nyberg asked if Palo Duro had contacted the Town about a fire hydrant at 801 Hickory Ridge that is place in the middle of the drive way. La May stated that he will look into it.

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Adjourn

Joe Mozgai mad a motion to adjourn. Trustee Nyberg seconded the motion. Vote was unanimously in favor.

Minutes were approved as submitted on September 11, 2012.

Approved:

James J. Sanders
Chairman

Heather Poulton
Deputy Town Clerk