

Town of Bayfield

Regular Planning Commission Meeting

September 13, 2011

Bayfield Parkway Bayfield, CO 81122

Planning Commissioners Present: Dr. Rick K. Smith (Mayor), Joe Mozgai, Pat Heyman, James Sanders

Planning Commissioners Absent: Michelle Nelson (Chair), Chris Rhodes, Gabe Candelaria (Town Board Member)

Staff Present: Chris La May (Town Manager), Elizabeth Jackson (Town Intern)

Media Present: Carole McWilliams (Pine River Times)

Meeting was called to order @ 7:02 p.m.

Minutes: Joe made a motion to approve the minutes from the July 12th, 2011 Regular Planning Commission meeting. Pat seconded the motion. All were in favor. The motion passed unanimously, with three members absent from the vote.

General public input: None.

Action Agenda Item #1: Public Hearing: Use by Review 46 West North Street

Chris gave his staff report. He stated that applicant Dr. Annette J. Trick was proposing to conduct a health and wellness business (LifeSteps Health and Wellness) from a home office at 46 W. North Street, which is located in the Town Center (TC) Land Use District. The TC district is intended to provide an area in which apartment homes, townhouses, and duplexes are permitted as well as single-family homes and other uses, subject to review as set forth in the Land Use Code – Use Table. Chris stated that the use, a personal services business, may be allowed only if approved by a review permit by the Planning Commission. Applicant's Use by Review was filed and fees were paid on August 11, 2011 and the plans were sent to the following referral agencies: La Plata Electric Association, Upper Pine Fire Protection District, Source Gas, USA Communications, Qwest Communications, San Juan Basin Health, Bayfield Public Works, Bayfield Marshal's Office, and the Bayfield Building Inspector. The responses from these agencies are as follows:

1. Upper Pine Fire District
 - Address needs to be visible from street

- Minimum of one (1) 2A 10 BC Extinguisher for every 75' of travel distance annual service required
 - Annual Fire Inspection to be conducted by Fire District
 - Pre-opening Fire Inspection required
2. USA Communications
 - No conflicts
 3. San Juan Basin Health Department
 - No comments
 4. Bayfield Public Works
 - Advised that the alley parking must be out of the alley right-of-way and that potential snow hazards may occur in the winter months
 - Wanted to know whether water and sewer fees would be changed from residential to commercial use
 5. Bayfield Building Official
 - Consistent with other home occupations

Chris stated that the application appeared to be in conformance with the applicable sections of the Town's Master Plan. For instance, Bayfield intends to determine the ideal mixture of businesses and residences to promote development of local businesses, but managed in a way that would not be degrading to the existing community.

Other applicable regulations included required parking: the Land Use Code requires one (1) parking space for each 600 square feet of gross floor area for personal service shops. According to the County Assessors records, improvements on the property include 1,600 square foot of usable space. Chris stated that the applicant anticipated using 300 sq. ft. for commercial use and bathroom, which would equate to .05 required parking spaces. The property is also being used as a single family residence, which would require two (2) 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. Therefore, in this application, the requirements, call for three (3) off-street parking spaces, which are all provided on the back of the lot. The Site Plan identifies (1) car garage, three parking spaces on the property adjacent the alley. Parking spaces are to be no less than 9' x 20' and located entirely on the lot for which the space is required.

Chris also mentioned that a determination needs to be made for all applications, including this one, by the public works manager whether any proposed enlargement, addition or expansion of water using facilities can adequately be served by the existing water connection. Accordingly, the current service is sized adequately. The primary use is still residential (i.e. 80% of structure) and therefore, is questionable whether it meets the threshold for a commercial water rates.

For the purposes of determining the proportion of total flow any user contributes to the sanitary sewer system, an Equivalent Residential Tap (ERT) unit is established. For applicant's proposed health and wellness facility, the use of 300 sq. ft. is deemed insignificant and should not necessitate an additional PIF payment.

Chris also stated that the Planning Commission shall consider the item after a public hearing in accordance with the public hearing procedures outlined in Section 3-3 of the Land Use Code and they shall consider the following criteria:

1. Are the offsite impacts of the use either consistent with the character of the land use district or are they adequately mitigated?
2. Will the use as proposed comply with the requirements, intents and purposes of Bayfield's Codes, policies and comprehensive plan?
3. Is the proposed use consistent with the scope and intent of the property's land use district category as described in Section 5-3 of the Code?

The Planning Commission shall by motion recommend approval, conditional approval or denial, including the conditions of conditional approval or the reasons for denial. The Planning Commission may establish conditions of operation, location, arrangement and construction of any use for which a permit is authorized. Permits for use subject to review may be granted for such period of time and under such conditions and limitations as may be deemed as appropriate and necessary.

Staff recommends approval of the Use by Review for the Life Steps Health and Wellness business operated by Dr. Annette Trick at 46 W. North Street in the Town Center Zoning District with the following conditions:

1. Address must be visible from W. North Street
2. Pre-opening fire inspection by the Upper Pine Fire District and compliance with their requirements
3. Parking in the rear of the property shall be maintained year round to ensure that vehicle parking does not infringe on public thoroughfare
4. The Health and Wellness Business Use shall be allowed as long as the business portion of the structure does not occupy more than 50% of the structure footprint or there is a change in business, business owner or the business ceases to operate
5. Signage for the business shall be in accordance with the Town of Bayfield Sign Code

Joe asked if there was any requirement that the neighbors be contacted about this issue.

Chris said there was. A certified mailing letter needs to go out and notice of the public hearing is required to be posted in the paper.

Joe asked about signage.

Applicant said she would have signage provided.

The matter was opened for public comment.

Lori Owen, located at 97 W. North St., said she was in favor of the applicant's proposal.

Dianna Amick, located at 31 W. North St., wanted to know what the hours of operation would be like.

Applicant stated she would be conducting regular business hours.

Dianne asked about parking; whether or not applicant would instruct her clients to use the ally for parking.

Applicant said she would be using it herself but that she would also instruct her clients to use that parking as well.

Dianna asked how often she would be seeing her clients.

Applicant stated it would be one at a time.

Dianna asked if that would be for the whole day.

Applicant answered that it varies, but that on average, she might see a person every 20 minutes or that she might see a client for an hour due to different techniques and appointments.

Dianne said she couldn't see how there would be enough parking on the street.

Applicant said she would just be seeing one client at a time and that that would be the maximum number of vehicles on the street.

Dianne said that there was always the possibility that more people could show up. She also stated that she thought there were only a few property owners that actually knew about the applicant's request and that seasonal renters needed to be taken into account and be notified as well.

Rick explained that notification was sent out to the abutting property owners. He said that applicant thus followed the requirements by sending it to them.

Dianna agreed to this but stated that most of their neighbors were renters and that home owners wouldn't necessarily come to a public hearing.

Applicant stated that she did put notice in the paper so that people would have a chance to come and ask questions.

Lori agreed that some of their neighbors were renters, but that all the individuals who owned property in that area had adequate time to respond to applicant's proposal due to

notification letters being sent out in a timely manner. Lori also stated that people were interested in having good, strong businesses located in Bayfield and that applicant's service would contribute to the health of the area.

Dianna disagreed.

Joe asked if there were any other home-based businesses on that street.

Chris said there were but that they tended to be located toward the western end of street.

Rick reminded the Planning Commission that they would need to consider the following criteria when coming to a decision: (1) Are the offsite impacts of the use either consistent with the character of the land use district or are they adequately mitigated, (2) Will the use as proposed comply with the requirements, intents and purposes of Bayfield's Codes, policies and comprehensive plan, and (3) Is the proposed use consistent with the scope and intent of the property's land use district category as described in Section 5-3 of the Code?

Rick stated that criteria 2 and 3 seemed to have been met.

Pat made a motion to accept staff's recommendation of approval of the Use by Review operated by Dr. Annette Trick, at 46 W. North Street, in the Town Center Zoning with the following conditions: (1) The address be made visible, (2) There be a pre-opening fire inspection by the Upper Pine Fire District and that compliance with their requirements would be met, (3) Parking in the rear of the property would be maintained year round to ensure that vehicle parking would not infringe on public thoroughfare, (4) The Health and Wellness Business Use would be allowed as long as the business portion of the structure did not occupy more than 50% of the structure footprint or if there was a change in business, the business owner or the business ceases to operate, and (5) Signage for the business would be in accordance with the Town of Bayfield Sign Code.

Joe seconded the motion. Motion carried 4-0, with 3 members absent from the vote.

Action Agenda Item #2: Discussion & Possible Action: Fidelity Towers

Chris gave his staff report. He stated that the Town received correspondence from Terracon Consultants, representing Fidelity Towers, inviting comment on a proposed 160 foot telecommunication tower to be installed north of the Town of Bayfield. Chris said that he was presenting the item to the Bayfield Planning Commission first for informational purposes, but also to allow the Planning Commission the opportunity to comment should they so desire. He stated that if it was the Planning Commission's pleasure, they could draft a letter and ask the county to consider certain aspects, address certain concerns, etc.

Joe asked if this was out of town limits.

Chris said it was.

Rick stated it was located (9) nine miles north of town.

Chris said that the Town was being given the opportunity to provide comment even though it is outside town limits.

Joe commented on the visibility of the tower. He said that attention would most likely be drawn to that instead of the trees and landscape.

Rick stated that, for communication purposes, there are a lot of dead spots and that the Fire District would most likely be able to take advantage of that area.

Joe agreed to this and concurred that it would be beneficial to cell phone communication since the area is fairly isolated. He also agreed that the Fire District would benefit from having equipment there and that there weren't a lot of homeowners that would see the tower. Joe stated that it would help improve the community.

James asked if the Town owned the property.

Chris said they didn't and that it was on private property. He also explained that this issue was similar to public comment as with the Use by Review in the above case.

Chris asked the Board to give this some thought and come back to staff with any further questions.

Action Agenda Item #3: Discussion & Possible Action: Bayfield Parkway Annexations

Chris gave his staff report and said that the Town was now in ownership of the road (formerly Highway 160B). He stated that Town Attorney Dirk Nelson was consulted as the road relates to annexation of a "flag" property, with Bayfield Parkway serving as the pole for a flag pole annexation. There are some challenges in that the flag (Bayfield Parkway) needs to be annexed, but since there needs to be 1/6th contiguity, the annexation needs to take place through a series of annexations. The Town owns the property and therefore can annex by ordinance after public notice and public hearing, but the application processing costs would be borne by the Town. Chris mentioned that the Town could also wait and have interested "flag" property owners annex the road as part of their annexation, and therefore, bear the cost.

Chris stated that AmeriGas contacted Rick Phelps (720 Westview Drive) and has interest in developing facilities on the Phelps Investment Property, which is adjacent to Bayfield Parkway. He said that it might be beneficial for the Town to annex the property, but annexation of a "flag" also has challenges. Town Attorney Dirk Nelson mentioned the real challenge is that if a flag property is annexed all the properties along the flag must be offered the opportunity for the same agreement. Annexation is the best opportunity to

negotiate for water rights, easements, land dedications, water and sanitary sewer line extensions, road improvements, etc. It is therefore a challenge because the public improvement needs of individual properties are substantially different. For instance, the Town may need additional ROW from the properties adjacent to the 509 intersection to address intersection improvements, yet that is not a need on the Phelps property, and therefore, would likely not be included in that annexation agreement. However, the properties proximate to 509, may accept the annexation agreement, knowing that the additional ROW would not be part of the agreement. The Town essentially could lose some of its leverage in the negotiated annexation process.

Chris said that Phelps was still interested in working with the Town, but has approached the County, as they are concerned that the process may take too long in Bayfield and AmeriGas is in a rush to relocate.

Chris stated that he was looking for the Planning Commission's thoughts as it relates to annexation of properties adjacent to Bayfield Parkway. With the transfer of ownership of Bayfield Parkway from CDOT to the Town, the Town now provides road maintenance and often law enforcement services, but receives no property tax from the adjacent properties to assist in paying for those services. Additionally, the Town can provide some sanitary sewer service to the properties outside of town, but limited water service.

Staff recommends that the Town should annex property to ensure they have control of how property and land development takes place in their area of influence; however, he emphasized that caution needs to be taken to ensure that annexation does not negatively impact the financial condition of the Town.

Rick advised the Board to consider whether or not they wanted to entice property owners to annex, and if they did, at what speed they wanted the annexation to occur.

Joe commented on the limited amount of water and sewer extension.

Rick exclaimed that sewer was currently available. The problem however, revolved around water extension. He said that was up to the Board to decide and to also consider how it would get paid back. Rick stated that developers would most likely take on the costs for annexation.

Joe wanted to know about recent annexations. He asked how they were handled previously.

Rick mentioned the Homestead Subdivision. He said that Homestead didn't use Bayfield Parkway but instead used Highway 160 since they did not have ownership at that time.

Pat asked if there was an issue about mixing commercial and residential.

Rick said there was.

Chris said the Town favors a mixed use because it helps them bear the costs. He also commented that there were not a lot of large lots present and that current lots tended to lend themselves to residential use.

Joe asked what Amerigas' intentions were.

Chris stated that Amerigas' intentions were to relocate from CR 501 to the proposed area and that the relocation would be beneficial as they would be removing their tanks from the High School area.

Joe asked what the timeline was for setting up the tanks in the next year.

Chris said they weren't previewed to private negotiations with Amerigas, but that they would like to be there next spring on that site.

Rick reminded the Planning Commission that the sewer extension was not an issue but that water extension would be due to the fact that there was no line.

Chris mentioned that tap fees for out-of-town residents was one and a half times that in town.

Joe asked if staff knew how much water this would require and whether or not that would be added to the cost.

Rick said it depends on whether or not there are other properties that would want to join or if there were more commercial businesses that were interested in linking on.

Chris reiterated that he was trying to get a feel for what the Planning Commission was interested in doing and whether or not they were interested in the annexation process. He said the commercial component to all this was certainly intriguing to the Town but that it was also important to keep in mind that the Town would be delivering outside its limits and wouldn't be benefiting from the sales tax.

Pat said the Phelps letter (addressed to the Planning Commission) stated their interest in working with the Town rather than the County. She wanted to know however, what would happen if they were to go with County.

Chris said the County would give the Town room to comment, such as in the previous agenda item with Fidelity Towers. He stated they would get an access permit from the Town. Chris also mentioned that water was the biggest issue and that it was more of a cost than a benefit to them and that perhaps they would agree to tie into the Town water system and pay tap fees, etc. In exchange, the Town would tell the County that there were no problems foreseen with their development.

Joe asked if the proposal would be similar to the current facility on CR 501.

Chris said that it would not be as big, but that essentially, it would be the same.

Joe commented that the Town would now have two gas companies in that location.

Chris agreed. He also said there was a major power line going down there as well.

Rick commented on the proximity that this proposal has for developing the Gem Village area. He said it would also serve as a positive for the Town in the long run and that it would give the School District a more secure feeling in the relocation of the tanks.

Chris mentioned that with ownership of the road, the Town now is responsible for maintenance, for providing police service, etc., whilst receiving no property tax.

Joe asked what the next step was.

Chris said the next step would be to sit down with those property owners interested in annexing.

Joe asked what the approximate timeline looked like.

Rick asked the Planning Commission what their thoughts were regarding annexing in that direction. He said if they were interested, they would need to direct Chris and staff which way they wished to go. If they were not interested, they would need to tell them how to approach the matter.

Joe said he was interested, especially due to the fact that Amerigas was relocating to a safer area.

James wanted to know how many annexations would be required in this process; how many more properties will most likely want to annex.

Chris said if the Planning Commission was interested, he would take this back to staff and figure out how to go about annexing in a way that would prevent future harm to the Town.

James asked if this process would start right away.

Chris said it would.

Rick commented that the Planning Commission seemed to be in favor of the annexation process.

Chris stated that they were not asking to subdivide the property, which made this an easier process.

Action Agenda Item #4: New/Unfinished Business:

Rick said the Planning Commission needed to select the next Vice Chair member.

Joe made a motion to adjourn. Rick seconded.

The meeting was adjourned at 7:58 p.m.

Minutes were approved as submitted on November 8th, 2011.

Approved:

Michelle Nelson
Chairman

Elizabeth Jackson
Management Intern