

Town of Bayfield
Planning Commission Minutes
April 14, 2015
1199 Bayfield Parkway, Bayfield, CO 81122

Planning Commissioners Present: Joe Mozgai (Chairman), Dr. Rick Smith (Mayor), Isaac Fleener, Kalon Porter, Matt Nyberg (Trustee) and Kelly Polites

Staff Present: Chris La May (Town Manager), Amy Witte (Administrative Assistant)

Media Present: Carol McWilliams, Pine River Times

The meeting was called to order by Chairman Joe Mozgai at 7:00 p.m.

Roll Call: 6 present, 1 vacancy

Pledge of Allegiance

Approval of Minutes: Mayor Smith made a motion to approve the minutes of the January 13, 2015 meeting as presented. Commissioner Matt Nyberg seconded the motion. All were in favor; motion passed unanimously.

Public Input: None

Public Hearings:

1. Variance Request from ADU Requirements - 71 E. South Street

Chairman Mozgai opened the public hearing.

Town Manager Chris La May presented the staff report for the variance from the Accessory Dwelling Unit (ADU) requirements. The applicants, Dave and Stephanie Woodruff, reside at 71 E. South Street. They purchased the property with a garage on the back side that they would like to convert to an ADU. The property is zoned Single Family R-10, which allows for an ADU. The applicants are having difficulty meeting the ADU requirements and seek variance from certain ADU requirements.

Specifically, the applicants request a variance from the requirement that the owner, title holder or contract purchaser, shall occupy either the principal residence or the ADU as their primary residence. Secondly, the applicants request variance from the ADU requirement that the square footage be the lesser of 700 square feet or 50 % of the floor area of the primary residence. In this instance the ADU would be 731 square feet, whereas under the current code the ADU would be limited to 532 sq. ft.

The property has a long history and the garage in the back has been used for commercial purposes. The water and sewer lines were extended to the garage in 1991. It has never been used as a residential unit.

Staff recommends approval of the variances from the sections of the Bayfield Land Use Code with stipulation that a Right of Way permit is obtained to demolish the existing curb for the garage, replace sidewalk and relocate the curb to the new driveway and complete the work in accordance with the Town of Bayfield infrastructure design standards and construction specifications. Staff also recommends the Planning Commission include in the motion that the variance is granted under extraordinary circumstances and not self-imposed necessarily for the preservation and enjoyment of substantial property right possessed by other similar property in the same vicinity and district and without a detrimental impact on the public welfare or injury to the property or improvements in the vicinity.

Applicant Stephanie Woodruff introduced herself as the owner of the property at 71 E. South Street and informed the Planning Commission that she and her husband Dave purchased the property with the intention of being able to rent out both properties in order to supplement their income. They currently rent other property in Durango. Mrs. Woodruff believes the occupancy of owner requirement is intended to keep an eye on the property, but felt that as owners it is in their best interest to protect their investment, but not necessary for them to occupy the site. Mrs. Woodruff cited the recent report from the Downtown Community Assessment, which indicated that it the Town needed to consider more rentals and lodging in downtown.

Chairman Mozgai asked for any questions of the Board, Mayor Smith asked if there was any intention of changing the structure of the out building, (the secondary building) by expanding the walls. Mrs. Woodruff responded with a no. Commissioner Fleener asked for clarification from Mrs. Woodruff as to their intention to rent or reside on the property. Mrs. Woodruff stated that their current intention was to live in the primary dwelling and rent out the ADU, but in the future rent out both primary and ADU. She estimated a time frame of 7 years.

Chairman Mozgai asked for public comment, none was presented, Chairman Mozgai closed the public hearing.

2. Use by Review Sun Linen Services Commercial Laundry- 777 Orchard Drive

Chairman Mozgai opened the public hearing and asked staff for a report. Town Manager Chris La May explained that Sun Linen Services, LLC would like to locate their business at 777 Orchard and conduct a bulk commercial laundry service.

The application was received and the fees were paid on March 13, 2015. It was sent out to the referral agencies on March 19, 2015. After hearing back from the various agencies, one concern was the phosphorus levels that might potentially be in the wastewater. Staff's recommendation will include some items to address that issue. The engineer reviewed the project and opined that there were no changes to the imperviousness area, no traffic impacts, and appropriate water service size. He suggested the town examine the amount of equivalent residential taps (ERT's) for the sanitary sewer service. The Public Works Director was also concerned with the

wastewater impacts and recommend installation of a sample port, so that if the town noticed changes at the wastewater facility, the property could be checked for phosphorus levels.

The Public Hearing Notice was published in the Pine River Times on March 27, 2015 and notice was given to property owners within 200 feet of the property of tonight's meeting. The application conforms to the Towns Master Plan. The land use classification is Industrial, which provides for this type of use by review. Project will likely not impact property and sales tax significantly, however the personal property tax will likely increase due to the equipment that would be moved in. The water tap is an inch and a half (1-1/2"), which both the Town Engineer and Public Works Director feel is adequate.

The property needs to comply with the drinking water supply regulations and install a water backflow prevention device. Sewer service will likely increase. The Property currently has 2.1 ERTs assigned, which equates to 15,750 gallons per month. The applicant estimated that to start they would use 24,000 gallons per month and at peak operation would use 50,000 gallons per month. At startup they would be short 1.1 ERT or 8,250 gallons per month. Staff recommends that the applicant pay \$6,600.00 for an additional 1.1 ERT. Future ERTs could be purchased at a later date, as use warrants. A lint trap would also need to be installed to insure the lint is not getting into the sanitary sewer and potentially causing blockage.

The property currently has 10 parking spaces, with little use, the only traffic would be the delivery and distribution of the linens. The project won't change the imperviousness of the site and would not require any additional storm water requirements.

The Planning Commission is asked to determine whether or not the property meets the following criteria:

1. Are the offsite uses consistent with the character of the land use district or adequately mitigated?
2. Does it comply with the Codes, policies and comprehensive plan?
3. Are the proposed uses consistent with the scope and intent of the property's land use district category?

Staff recommends approval with conditions including: 1) the installation of a backflow device in accordance with the municipal code and Colorado Drinking water regulations, approved and inspected by the Town Public Works Director; 2) installation of the sanitary sewer sampling manhole in accordance with the Town infrastructure design standards; 3) installation of a lint traps on drain lines; 4) an initial payment of \$6,600.00 for sanitary sewer plant investment fee for the increase in use; and 5) compliance with the Town building and fire codes.

Chairman Mozgai invited the owners of Sun linen Services to come up, introduce themselves and talk about what they plan to do.

Rob Bitner who lives in Durango got up to speak, saying he and Edin Ramos have been working on this plan for about a year and have no problem complying with the conditions Town Manager Chris La May stated. Edin Ramos who lives here in Bayfield, works in Durango, wants to move the business to Bayfield and believes it will be a positive impact for the community. Edin also stated that his dream is to have a large thriving business that could sustain 20 employees.

Chairman Mozgai questioned the start date. Mr. Ramos answered if the approval was quick the start date could be June 29, 2015. Chairman Mozgai also asked if the closest laundry service for medical applications (such as the hospital) was Grand Junction. Mr. Ramos confirmed that there was nothing local.

Chairman Mozgai asked if the Board had any comments and hearing none, he asked for public comment. Teddy Jack who resides on North Street asked how many jobs they plan on creating. Edin Ramos stated that for the first year the plan is to hire two employees. Teddy Jack commented that he would like to see more jobs created, that there are a lot of people who need a job.

Chairman Mozgai asked for any other comment. Hearing none, he closed the public hearing.

3. Town of Bayfield Three Mile Plan

Town Manager Chris La May stated that one of the items before the Planning Commission is an annexation. The Colorado State Statutes require a community to have a Three Mile Plan prior to annexing property, and updated annually. The Three Mile plan is a general description of unincorporated lands within a three mile area, which may be eligible for annexation. It does not assume annexation, but recognizes the existing conditions and planning documents in the event property is to be annexed. The Three Mile plan creates a policy and establishes criteria to be considered when properties come before the planning commission and Board of Trustees for annexation. The plan would be adopted as a component of the Towns Comprehensive plan. The State Statutes provide that the Planning Commission is the adopting body for the Comprehensive Plan. Criteria that is considered for annexing property includes the additional cost or burden on the existing residents, public facility usage, water rights, compliance of land use codes, transportation impacts, utility provisions, and community services. The Plan gives basic criteria in which to review annexations as they come before the planning commission and ultimately the Board of Trustees.

Chairman Mozgai asked if Ignacio, Durango and surrounding communities get the opportunity to sign up to the Three Mile Plan? Town Manager Chris La May stated that yes they all have a Three Mile Plan. Chairman Mozgai asked the board for comment, hearing none he opened the public comment. Town resident Teddy Jack asked if the Three Mile Plan meant we want jurisdiction to tax residents within the three miles for growing hay and having livestock? Mayor Smith commented that the Three Mile Plan is for joint planning purposes with the county.

Chairman Mozgai asked for any other public comment, hearing none the public comment was closed.

4. Porter Subdivision and Zoning

Commissioner Porter asked to be recused. Chairman Mozgai accepted.

Town Manager Chris La May began with the staff report. Kalon and Lora Porter purchased the property at 320 and 324 East East Drive in 2011. It has one lot in town lot and four lots within

unincorporated La Plata County. The properties include two houses and numerous agricultural buildings. The Applicants would like to annex the property to clean up the property lines and deal with one governing body. Both houses receive town water and sewer services.

The application and fees were paid on March 2, 2015. The application is being processed under the short procedure for subdivision as the land use codes provides. The short procedure involves one preliminary plan hearing before the planning commission, and if approved, one final plat before the Board of Trustees. Property is also requesting annexation, which the Board of Trustees is the deciding body.

Referrals were sent out. The Public Works Department requested recordation of a sewer easement as there is a sewer line that runs across the property, but an easement was never completed. The Public Works Director would like to establish a recorded easement rather than prescribed easement at this time. The Bean Ditch Company also would like an easement for the ditch shown on the plat, and to have it piped, if the property sold. Parks and Recreation department would like to make sure the Town followed the land use dedications or cash in lieu provisions that would require 0.4 acres or \$776.00 as cash in-lieu for new lots.

Property owners within 300 feet were notified of the annexation. The Town's Comprehensive Plan recommends encouraging Tier 1 properties to annex into the town. Lots on the plat as shown would comply with the density and dimensional standards (i.e. setbacks, lot coverage) for the R-10 single family residential zone. Preliminary plat submittal requirements were met. Both properties are currently provided Town water and sewer services; however, staff recommends that the second residence have a separate service line and meter for both water and sewer.

The owner is unwilling to dedicate any water rights, the Town could collect a cash in lieu fee, which the applicant is willing to pay. As it relates to park land dedication, the owner has expressed desire to pay the cash in lieu versus dedication of land.

The parking is adequate and the Land use code stipulates that the driveway needs to be paved for off street parking, which would be a challenge as this property has a very long driveway. The applicant is also requesting a variance for the land use classification to continue to raise 4-H pigs. The Board of Trustees will make a final decision, but it would be appropriate for a recommendation from the Planning Commission.

The Planning Commission is asked to have a public hearing regarding the preliminary plan and initial zoning, and after the public hearing make a decision on the preliminary plan, and zoning. The Planning Commission also makes a recommendation to the Board, as it relates to the preference for annexation

Staff recommends it moves forward to the Board for consideration of annexation and zoning of an R10 classification, and the Planning Commission approve the plat with the following conditions:

1. Formal dedication of a prescribed easement for the sanitary sewer line 30 feet in width
2. Final plat dedication of the Bean Ditch 20 foot easement
3. Property owner pay \$1,113.00 as cash in lieu of dedicated water rights

4. Property owner pay \$776.00 as cash in lieu of park land dedication
5. Installation of separate water and sewer taps for each lot
6. Property owner have continued use of the property for 4-H livestock for Lot 2, when the ownership changes, the owner then must request from the Board of Trustees a variance to continue the that use.

Kalon Porter explained that he is trying to fix the problems with this property being partially in the town limits and partially in the county. He continued to say that they like the Town of Bayfield, and would like to stay, but that it is a unique property as it is set up like a little farm, not like the subdivisions up the road. The 4-H animals he would like to keep; because the plan is to never sell the property, but continue the use; and maybe when the surrounding properties become city properties then the use of the property changes. One concern is that the next owner not being able to use the property for livestock. If anyone looks at the property while he is the owner, the potential buyer would view the property with the ability to have livestock. Chairman Mozgai asked if the board has any questions for Mr. Porter. Mayor Smith asked if he was ok with the fees and second water and sewer lines that were listed in the recommendation. Mr. Porter responded with yes, the fees were ok. Commissioner Fleener asked if he was going to put the separate water and sewer lines in now? Kalon responded with he would be able to do that but would work with the Town. Town Manager Chris La May suggested a time limit of 12 to 18 months to complete the work.

Chairman Mozgai asked for public comment, hearing none he closed the public hearing.

Town Manager Chris La May noted that Commissioner Porter has rejoined the board.

Action Agenda

1. **Consideration of Approval of Variances for 71 E. South Street allowing ADU to exceed the square foot requirements, and removing requirement of owner presence on the property.**

Chairman Mozgai opened the agenda up to comment from the Commission for comments or recommendations. Town Manager Chris La May stated that he failed to mention that when a variance is granted it normally is granted for a period of time and that it should be determined. Town Manager Chris La May continued to say that it could be granted and when the property is sold the new owner would need to re-permit the ADU or grant in perpetuity.

Commissioner Fleener asked if the Land Use Code require separate taps for each unit. Town Manager Chris La May stated that no separate taps are not needed, but they are already separated in this instance.

Mayor Smith commented that it is a smart idea to keep the services separate in case of disputes between renters in the future.

Chairman Mozgai stated that staff is recommending approval as stated in the following:

- 1) Variance from Section 5-8 (a) of the Bayfield Land Use Code, permitting the absence of a property owner in either the principal unit or the ADU as their permanent residence; and
- 2) Variance from Section 5-8 (h) of the Bayfield Land Use Code, permitting an Accessory Dwelling unit of 731 sq. ft. on the property; and
- 3) Requirement that Property Owner apply for a Right-of-Way (ROW) permit, demolish existing curb cut for garage and replace with sidewalk, relocate the curb cut to the new driveway and complete work in accordance with the Town Infrastructure Design Standards and Construction Specification.
- 4) That the Planning Commission find that these variances are granted under extraordinary circumstances that were not self-imposed; necessary for the preservation and enjoyment of a substantial property right possessed by other similar property in the same vicinity and district; and without detrimental impact on the public welfare or injury to the property or improvements in the vicinity.

Chairman Mozgai asked if anyone had anything to add, Mayor Smith stated that he would like to add a timeline on the variance that if the current owner sell the property the new owner would need to reapply for the variances.

Commissioner Nyberg asked about a timeline for the Right of way permit for the sidewalk and curb cut. Town Manager Chris La May stated that it could be a requirement before the Certificate of Occupancy is issued.

Chairman Mozgai then asked for a motion. Mayor Smith made a motion to approve the Variance from Section 5-8 (a) of the Bayfield Land Use Code, permitting the absence of a property owner in either the principal unit or the ADU as their permanent residence; approve the Variance from Section 5-8 (h) of the Bayfield Land Use Code, permitting an Accessory Dwelling unit of 731 sq. ft. on the property; and Requirement that Property Owner apply for a Right-of-Way (ROW) permit, demolish existing curb cut for garage and replace with sidewalk, relocate the curb cut to the new driveway and complete work in accordance with the Town Infrastructure Design Standards and Construction Specifications prior to receiving any occupancy permits and that these variances are granted under extraordinary circumstances that were not self-imposed; necessary for the preservation and enjoyment of a substantial property right possessed by other similar property in the same vicinity and district; and without detrimental impact on the public welfare or injury to the property or improvements in the vicinity and that they have a sunset clause as long as these owners have ownership of the property, but that subsequent owners would need to reapply for the variances. Commissioner Nyberg seconded the motion. Chairman Mozgai asked for a vote, all were in favor; motion passed unanimously.

2. Consideration of approval Use by Review for a Bulk Commercial Laundry Service, Lot 19, Phase I Second Corrected Plat, Bayfield Industrial Park Subdivision (777 Orchard Drive)

Chairman Mozgai stated that staff is recommending approval as stated in the following:

1. Installation of a water backflow prevention device, in accordance with section 15-98 of the Bayfield Municipal Code, approved and inspected by the Towns Public Works Director

2. Installation of a Sewer sampling manhole in accordance with section 4.2.10 of the Town of Bayfield Infrastructure and Design Standards, approved and inspected by the Towns Public works Director
3. Installation of a lint trap on drain lines, approved and inspected by the Towns Public Works Director
4. Payment of an initial \$6,000.00 sanitary sewer Plant Investment fee for increased and payment of additional ERT's as use warrants in accordance with section 15-119 of the Bayfield Municipal Code.
5. Compliance with the Town of Bayfield Building and Fire Codes

Town Manager Chris La May Stated that in item #4 it should be \$6,600.00 not \$6,000.00, Mayor Smith commented that was correct.

Chairman Mozgai asked for comments from the Board, hearing none, he said he would entertain a motion.

Mayor Smith made a motion to follow approval of staff recommendation for the Use by Review for a Bulk Commercial Laundry Service, Lot 19, Phase I Second Corrected Plat, Bayfield Industrial Park Subdivision (777 Orchard Drive) with the following:

1. Installation of a water backflow prevention device, in accordance with section 15-98 of the Bayfield Municipal Code, approved and inspected by the Towns Public Works Director
2. Installation of a Sewer sampling manhole in accordance with section 4.2.10 of the Town of Bayfield Infrastructure and design standards, approved and inspected by the Towns Public Works Director
3. Installation of a lint traps on drain lines, approved and inspected by the Towns Public Works Director
4. Payment of an initial \$6,600.00 sanitary sewer Plant Investment fee for increased and payment of additional ERT's as use warrants in accordance with section 15-119 of the Bayfield Municipal Code.
5. Compliance with the Town of Bayfield Building and Fire Codes.

Commissioner Nyberg seconded the motion, Chairman Mozgai asked for a roll call, all were in favor; motion passed unanimously.

3. Consideration of Approval of Resolution 332, A Resolution Adopting the Three Mile Plan as a component of the Town of Bayfield Comprehensive Plan

Chairman Mozgai asked for a motion. Commissioner Nyberg made a motion to approve Resolution 332, A Resolution Adopting the Three Mile Plan as a component of the Town of Bayfield Comprehensive Plan. Commissioner Fleener seconded the motion, Chairman Mozgai asked for a roll call, all were in favor; motion passed unanimously.

4. Consideration of Recommendation – Porter Annexation, Subdivision, and Land Use Designation

Commissioner Porter recused himself.

Chairman Mozgai stated that staff recommends the approval of the Porter Annexation, Preliminary Plan and R-10 single family residential zoning for Lots 1 and 2 of the Porter Subdivision to the Board of Trustees with the following conditions:

1. Final Plat include a formal dedication of prescribed easement for the sanitary sewer, 30 feet in width
2. Final Plat include a formal dedication for the Bean ditch 20 foot easement
3. Payment of \$1113.00 as cash in lieu of dedicated water rights.
4. Payment of \$776.00 as cash in lieu of dedicated Parks Land dedication
5. Property owner to install a separate water and sewer service line to each lot
6. Property owner to be allowed to continue use of Lot 2 for 4H until ownership changes, at that time the new owner will need to get permission from the Board of Trustees for the continued use.

Town Manager Chris La May stated that the property owner suggested that when the adjacent properties annex into the Town the livestock use would be discontinued at that time.

Chairman Mozgai asked for comments from the Board. Mayor Smith concurred with the staff recommendation and would amend #6 that when the adjacent property owners annex, the livestock use is no longer permitted. Chairman Mozgai questioned using the word adjacent to describe the surrounding properties. Town Manager Chris La May stated that when this is presented to the Board of Trustees the other properties could be identified by lot numbers.

Chairman Mozgai asked for a motion. Commissioner Polites made a motion to recommend the approval of the Porter Annexation, Preliminary Plan, and R-10 single family residential zoning for Lots 1 and 2 of the Porter Subdivision, to the Board of Trustees with the following conditions:

1. Final Plat include a formal dedication of prescribed easement for the sanitary sewer, 30 feet in width
2. Final Plat include a formal dedication for the Bean ditch 20 foot easement
3. Payment of \$1,113.00 as cash in lieu of dedicated water rights.
4. Payment of \$776.00 as cash in lieu of dedicated Parks Land dedication
5. Property owner to install a separate water and sewer service line to each lot.
6. Property owner to be allowed to continue use of Lot 2 for livestock raising until the adjacent properties are annexed into the Town, at which point use goes away.

Commissioner Nyberg seconded the motion.

Mayor Smith commented that the ditch easement could be piped at a later date when the property owner changes, just to clarify item 2.

Chairman Mozgai asked for a roll call vote. All were in favor; motion passed unanimously.

Chairman Mozgai informed Mr. Porter that his request has been accepted by the Planning Commission and moves to the Board of Trustees. Commissioner Porter rejoined the Commission.

New/Unfinished Business

Chairman Mozgai asked if there was any new or unfinished business. Town Manager Chris La May stated there will be a meeting regarding the Downtown Colorado Inc., assessment findings and will be reviewing the power point presentation to assess what items could be addressed.

Town Manager Chris La May stated that he and Mayor Smith had the chance to visit the Tailwinds Nutrition site. They are shipping from the location and will start production soon.

Town Manager Chris La May stated that the bids for the water treatment plant were opened today and the engineers are reviewing the numbers for accuracy. The lowest bid came in at 7.1 million dollars. LAPLAWD will be paying for the project and there is benefit to the Town.

Chairman Mozgai asked if the Board had any questions for the Town. Chairman Mozgai asked if there was a group that meets for the 1% sales tax. Town Manager Chris La May stated that there is a private group of citizens meeting regularly and they have come up with ideas to provide message to the voters.

Chairman Mozgai stated that the Vice Chairman has been transferred and a Vice Chairman is needed in case of his absence. Commissioner Porter volunteered to be the Vice Chairman.

Chairman Mozgai asked for a vote of those in favor of appointing Kalon Porter as Vice Chairman. All were in favor; motion passed unanimously.

Adjournment

Chairman Mozgai asked for all those in favor of adjourning the meeting, all that were present were in favor. The motion passed unanimously. Meeting was adjourned at 8:30 p.m.

Approved:

Joe Mozgai, Chairman

Amy Witte, Administrative Assistant