

**Town of Bayfield**  
**Planning Commission Minutes**  
**July 8, 2014**  
**1199 Bayfield Parkway, Bayfield, CO 81122**

**Planning Commissioners Present:** Joe Mozgai (Chairman), Dr. Rick Smith (Mayor), Kalon Porter, Troy McAllister, Isaac Fleener and Matt Nyberg

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

**Media Present:** none

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:** Commissioner Kalon Porter made a motion to approve the minutes of the June 12, 2014 meeting as presented. Commissioner Troy McAllister seconded the motion. All were in favor; motion passed unanimously.

**Public Input:** None

**Action Agenda Item #1- Continuation of Consideration of Approval of Variance Request for second Driveway- Lot 38, Mountain View Subdivision**

Town Manager Chris La May reported that staff has reviewed the detailed items. The applicant, Jeff Grigsby, purchased the property in the subdivision with the intent for a second driveway serving an accessory shop building. Some of the neighbors wanted more information regarding the second structure that was proposed on the lot, but did not express concern over the second driveway. The Planning Commission was not tasked with approving the structure; however, Mr. Grigsby met with adjoining neighbors and altered his plans to include a design for the second structure that satisfied the neighbors. Staff recommended moving forward with the variance for the second driveway.

Chairman Joe Mozgai asked for public comment, none was presented.

Chairman Mozgai asked for questions or comments from the Planning Commission members. Mayor Smith commented that Mr. Grigsby has done what was needed; purchased the lot with the intent to have a second driveway, as many of the other lots in the subdivision have. He was in favor of the variance.

Mayor Smith motioned to approve the variance and find that the variance is granted under a unique circumstance that was not self-imposed, as the Property owner did purchase the lot with the intent of a second drive, which would have been permissible at the time of the purchase in August 2012; and for the preservation and enjoyment of the right to use the property, in

accordance with approved uses, and in a similar fashion as properties in the Mountain View Subdivision, the variance for a second driveway may be granted without detrimental impact on the public welfare or injury to the property or improvements in the vicinity.

Commissioner McAllister seconded the motion. There was no further discussion. Chairman Mozgai called for a vote. The motion passed unanimously.

Commissioner Matt Nyberg arrived at 7:07p.m.

**Action Agenda Item #2 – Discussion – Cargo and Shipping Container Requirements**

Manager La May brought everyone up to date with the previous discussions on the Cargo Containers. An initial draft of an ordinance was presented to the Planning Commission for purpose of discussion and clarification.

La May read the definition of the Cargo Containers. Chairman Mozgai commented that there are no physical dimensions for the containers listed in the definition and it might need to be added. Commissioner McAllister did not believe it necessary to limiting the size, as the sizes were standardized. La May added that industrial zoned properties or Planned Unit Developments that specify use would need a special use permit. Low density residential properties would need to have the containers screened. Commercial properties are exempt from the article for seasonal events for 90 days.

Mayor Smith wanted to make sure all situations are covered in regards to county properties that could be annexed into the Town with zoning regulations a factor. La May replied that any annexation would need the Planning Commissions' approval.

La May went on to read from the proposed Ordinance regarding sports fields and temporary use. Both residential and commercial are allowed to have cargo containers for 10 days after the certificate of occupancy has been issued, construction use would be subject to a building permit.

Regarding the permit administration, a temporary use permit would need to be submitted with a site plan including details of height, width, color and screening, along with a small fee that will be adopted by the Board.

La May read on about the section with standards. Commissioner McAllister noted that the containers often include a small brand sign and suggested changing the limitation to include a certain dimensions of sign.

Chairman Mozgai added that of the pictures shown of cargo containers around town some of which are not matching the surrounding areas, would we want them to repaint to conform? La May wasn't sure how that would be dealt with, but that they would be "grandfathered" in and they would have one year to bring it up to date, as written. Chairman Mozgai wanted to clarify that the date would mean the date of acceptance of the Ordinance, La May agreed that was the intent.

Chairman Mozgai asked Mayor Rick if this is closer to what the Board of Trustees for the Town is looking for. Mayor Smith replied that delineating the residential and commercial is what the

Town Board wanted to see. Commissioner Nyberg commented that the Board wants to clarify cargo containers versus sheds.

Chairman Mozgai questioned as to who would pass judgment on the color, dimensions, screening, etc. for the Cargo Containers? La May commented that any judgment would be his, but the applicant could appeal his determination to the Planning Commission. Mayor Smith and Chairman Mozgai believed that La May would be able to pass acceptable judgment.

Chairman Mozgai asked if anyone had any more comments and if we wanted to bring it forward to a vote or have a clean copy to review next month. Commissioner McAllister asked about the use of tractor trailers or other previously licensed vehicles used as containers; would there be rules for those? Commissioner Fleener suggested the definition of the cargo container be tweaked to specify tractor trailers.

Commissioner McAllister wanted to be sure that the trailers are allowed for construction use, but that the definition should clearly state that flat tires or undesirable appearance is not acceptable.

La May will research current ordinances to see if that is covered elsewhere in the Land Use or Municipal Code.

Mayor Smith stated that in Section C.2 and Section D it gives the Town and owner of the property the ability to work together to resolve any issues. La May can make the final decision on the method of screening and the applicant may appeal to the Planning Commission if they don't like the requirements.

Chairman Mozgai asked for any more comments. None were given. The Planning Commission requested a copy with changes for review before proceeding with public hearings and a vote.

**Action Agenda Item #3-Detached Dwelling Units and/or Accessory Dwelling Units in Downtown Zoning Districts**

Town Manager La May stated that he had received requests in the Town Center (TC) and R-10 Single Family zoning districts for use of detached structures as dwelling units. In the Town Center zoning district a property owner may be allowed a duplex, townhomes, and multifamily units, but a detached single family dwelling is not allowed. Accessory Dwelling Units (ADU's) are allowed in the R-10, R-20, and R-30 residential zoning districts, but not in the Town Center. While they are allowed in the R-10 Single Family district, the owner must reside in either the primary or accessory dwelling unit. The party requesting the use wanted to rent out both units.

After consulting with the Board of Trustees at its June 17 meeting, La May informed the Planning Commission that the Board requested that the Planning Commission review the situation, and determine if changes are desired to allow for more than one (1) detached single family unit in the Town Center (TC) Zoning District; and/or to allow for an accessory dwelling units in zoning districts other than R-10, R-20, and R-40; and/or to remove the ADU restriction that the owner of the property must reside in either the primary or accessory dwelling unit.

La May laid out various options for the Planning Commission including doing nothing. He suggested that one could argue that the intent of the current language in the Code is consistent with what should be allowed in the Downtown area. That is, those property owners zoned R-10 can have an Accessory Dwelling Unit. Those property owners zone Town Center (TC) can have two and more units (duplex, townhouse, multi-family), just not a detached second dwelling unit. The Planning Commission could consider allowing for detached single family units in the Town Center (TC) Zoning District. If someone in the R-10 zoning district, south of Mill Street or within the Downtown Area desires to have a second detached unit, less restrictive than an ADU, then they may request a rezone of property to Town Center (TC). However, the only reason they would likely do this is based on the desire to rent both units out, as the ADU requirements require property owner presence in primary or accessory unit. Another option suggested was to remove restriction that the property owner of a property with ADU must reside in either the primary or accessory dwelling unit. This would enable someone to purchase in the R-10 zone to rent both units out. Or the Planning Commission could consider allowing for accessory dwelling units in the Town Center (TC) zoning district. This would enable property owner to have a detached dwelling unit, but the use would need to meet ADU requirements.

Chairman Mozgai asked for any public input.

Josh Schmidt who resides at 46 W. North Street was present to ask if he were to build a detached garage with an apartment above the garage would he have to go through the ADU requirements as the property is zoned Town Center.

No further public comment was given.

Commissioner McAllister commented that allowing ADU's without the owner occupying the property would be fine with him, but not in Town Center zoning district.

La May suggested one option might be to modify the land use table to allow for ADU's in different zoning districts.

Mayor Smith believes it to be logical for denser development in the Town Center and that if a single family residential property wanted a second unit, other than ADU, they could opt to be re-zoned. This was the general consensus of those members present.

Chairman Mozgai questioned if the permitted uses by zoning district map was acceptable to the Town Board members. Mayor Smith replied that it doesn't conflict with what the Town Board has already seen.

Chairman Mozgai asked about the next steps for approval. Mayor Smith commented that once a clean copy from staff is presented to the Planning Commission then it would be reviewed by the Town Board and a public hearing would be held if the Planning Commission sought to change the Land Use Code.

Chairman Mozgai suggested that the changes be presented at the next meeting and closed the discussion on Action item #3.

### **New/Unfinished Business**

Mayor Smith nominated Commissioner Porter as the new Vice Chairman. Chairman Mozgai asked Commissioner Porter if he would be interested in the position, Commissioner Porter declined, but appreciated the nomination. Chairman Mozgai then asked Commissioner McAllister if he would consider being the new Vice Chairman. Mayor Smith nominated Commissioner McAllister as Vice Chairman. Commissioner Porter seconded. All members were in favor and the motion passed unanimously.

### **Adjournment**

Chairman Mozgai made a motion to adjourn the meeting. Commissioner Porter seconded and the motion passed unanimously. Meeting was adjourned at 8:18 p.m.