



**CITY OF MANITOU SPRINGS
PLANNING COMMISSION
REGULAR MEETING MINUTES
Wednesday, March 9, 2016**

I. CALL TO ORDER

A Regular meeting of the Manitou Springs Planning Commission was held Wednesday, March 9, 2016, in Council Chambers @ 606 Manitou Avenue. Chair Delwiche called the meeting to order at 5:53pm and declared a quorum present. The following Commission members attended:

PRESENT: Vice Chair JEANNE VROBEL
Commissioner LORI BURRIS
Commissioner JULIE WOLFE
Chair ALAN DELWICHE
Commissioner MIKE CASEY
Commissioner GLORIA LATIMER

ABSENT: Commissioner TIP RAGAN (Excused)

STAFF: Wade Burkholder, Director of Planning
Michelle Anthony, Senior Planner

II. APPROVAL OF MINUTES

ITEM 1. February 10, 2016

Senior Planner Michelle Anthony indicated that the staff had received a correction to the Minutes from Commissioner Ragan after the packets were distributed regarding his negative vote on the nomination of Chair.

MOTION:

Commissioner Vrobel moved to approve the February 10, 2016, minutes with a correction regarding the vote for Chair.

SECOND:

Commissioner Latimer seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed 6-0.

III. NOTICE OF COUNCIL ACTION

There was no Council action to review.

Chair Delwiche reviewed the meeting procedures for everyone present and asked if any Commissioner had Ex Parte Contacts or Conflicts of Interest to declare. Hearing none, the meeting continued.

IV. UNFINISHED BUSINESS

ITEM 3. V 1510 - Front Setback Variance (Allow New Dwelling Unit Construction) - 356 Ruxton Avenue - Joel Grotzinger, Applicant.

ITEM 4. V 1512 – Lot Size/Density Variance (Allow Additional Dwelling Unit) - 356 Ruxton Avenue - Joel Grotzinger, Applicant.

Senior Planner Michelle Anthony presented the staff report dated March 3, 2016.

Chair Delwiche asked if there were any questions for staff.

Commissioner Wolfe asked regarding the last paragraph on page 2, what was the footprint size. Ms. Anthony replied the existing proposed footprint was approximately 500 square feet and if the house were pushed away from the front setback, the footprint would be reduced further because of the floodplain; how much reduction would depend on the front setback applied.

Commissioner Casey asked about the staff recommendation regarding parking in regard to the right-of-way lying outside of the currently traveled road. Ms. Anthony replied there appeared to be right-of-way outside of the developed street between the applicant's property line and the edge of the graded part of the road.

Chair Delwiche was curious to know about the burden of providing off-street parking for new developments. Ms. Anthony replied the Applicant had more than enough parking off of Ruxton. However, she believed residents of the proposed cottage would want to park on Bluff and she felt like there should be some improvements to facilitate that so there would not be conflicts with the existing units which park on Bluff. Ms. Anthony said there is right-of-way outside of what is actual roadway between the applicant's property line and the edge of the graded, developed part of the road and a portion of the parking spaces would also likely be on the applicant's property as well. Ms. Anthony stated the intention was that any parking would be off the traveled road.

Mr. Casey asked if that would be on the applicant's property. Ms. Anthony replied it could potentially be on both – the unused right-of-way and private property - depending on the width.

There was discussion regarding the El Paso County Assessor changing the assessment from tri-plex to single family residence.

Chair Delwiche felt the photos made the property appear to have greater than 30% slope and asked if a subdivision waiver would be needed. Ms. Anthony replied there was potential for that, noting that a subdivision waiver was more for undisturbed 30% and greater slopes, not areas where there is currently landscaping or terracing.

Mr. Delwiche asked in the last 20 years had there been any other density and setback variances in that area. Ms. Anthony replied no, there hadn't been anything built in that area for many years; the existing density had been developed for a long time.

Mr. Casey wanted to know why Mr. Delwiche asked that question. Mr. Delwiche replied in regard to the criteria pertaining to being denied what everyone else has, in general, the Planning Commission had not applied that to properties from the 1890's. Ms. Anthony stated the City looked at what exists currently, not how the area got to where it is.

Commissioner Vrobel asked when the house had converted to single family and if permits were pulled. Ms. Anthony said that would be a question for the applicant and she had no evidence permits had been pulled for conversion to a single family residence.

Chair Delwiche invited the applicant to the podium.

Todd Liming, Planning Matters, 438 N. Prospect Avenue, Colorado Springs, stated he was representing the Applicant. Mr. Liming said the house was converted to a single family home approximately six years ago prior to Mr. Grotzinger purchasing it. Mr. Liming felt the staff report was stellar but they would like to discuss two of the conditions - the question of parking and the timing, details and possible subdivision waiver in Condition #1. Mr. Liming said, in regard to the parking, the request was for a minimum of two off-site spaces, on the right-of-way or straddling the right-of-way and private property on Bluff Avenue. Mr. Liming stated Mr. Grotzinger did not disagree with that and if he could get two more parking spaces he would. However, it was they recently discovered there is a root cellar under a portion of the ungraded, unimproved part of Bluff Avenue at Lot 7 and a utility pole east of that area. Mr. Grotzinger didn't want to drive a vehicle over the root cellar as it might not be structurally sound and was concerned the utility pole would only allow one parking space to be developed. Therefore, Mr. Grotzinger was respectfully requesting the condition change to read "one or two parking spaces" rather than "a minimum of two parking spaces". Mr. Liming stated the applicant had twice the parking spaces required by code apart from the two car garage on Bluff Avenue. Mr. Liming continued, stating he felt it was important for the record to reflect that the two houses to the east calculate to 43 dwelling units per acre. The applicant was asking for 13.7 dwelling units per acre. Mr. Liming noted properties to the west were 71, 43, and 37 dwelling units per acre. None of those high-density properties had even one off-street parking space. Mr. Grotzinger had four for this cottage alone and wanted to create a fifth space but did not want to drive over a root cellar to get to it.

Chair Delwiche asked if there were any questions for Mr. Liming.

Commissioner Casey asked if the root cellar was located where the photographer was in the photograph on page 9. Mr. Liming replied the root cellar would be slightly behind the photographer's location, adding it is sited in the unimproved, sloping portion of Bluff Avenue.

Commissioner Casey asked if the root cellar was on the applicant's property. Mr. Liming replied the doorway might be on private property but most of it was under Bluff Avenue opposite Lot 7. That was why the owner might not be able to create the sixth parking space.

Commissioner Wolfe asked if it became necessary, how that area could be strengthened so a car could drive over the root cellar. Mr. Liming replied he believed a structural engineer would be able to explain how to accomplish that.

Commissioner Latimer asked if the third level of the cottage would be level with the street. Mr. Liming replied no, the front door of the cottage would be below the improved level of Bluff Avenue.

Chair Delwiche asked for clarification of the size of the cottage at approximately 1500sf. Mr. Liming replied it was somewhat smaller at about 1300sf.

Hearing not further questions for Mr. Liming, the applicant was invited to the podium.

Joel Grotzinger, 356 Ruxton Avenue, thanked the Commission for its time. He clarified the house had been a tri-plex for at least 40 years and the person who sold the property to him converted it to a single-family residence in order to sell it. Mr. Grotzinger said several months ago he called the Assessor's office to have his assessment changed from tri-plex to single family. Mr. Grotzinger said one of the reasons he wanted to build the cottage was because he wanted to stay in Manitou Springs long-term. He said he was one of the few people that liked living on Ruxton and this proposal was part of his retirement plan. Mr. Grotzinger noted parking there had never been an issue and his intention was to put a parking spot on Bluff because it would be more convenient for carrying groceries. He stated the retaining wall marked his property line, so any parking would be on the Bluff right-of-way, which was 11' wide from the edge of the road to the retaining wall. Mr. Grotzinger said the root cellar was on the western corner of Lot 7 and it was 10' wide. The lot itself was 22' wide, so the cellar took up half of the lot. On the other side of Lot 7 there was a telephone pole, essentially in the middle of where a parking space could be. Mr. Grotzinger envisioned a spot along Lot 8 where there was a turn in and some space for parking. He stated he had more off-street parking than anyone else in the neighborhood and requested the Condition be changed to allow one or two parking spots depending on what can be done in a reasonable fashion. Mr. Grotzinger stated he did not completely understand however the condition regarding replatting and explained he saw Lot 9 as a platted, buildable lot. What he wanted to do was separate that lot from Lots 7 and 8 so he could sell the main home and move into the smaller residence. His vision was to leave the property lines where they are and was asking for a west 5' setback and a 5' easement alongside the cottage so the back area could still be 20' wide.

Chair Delwiche asked Mr. Grotzinger if he was suggesting building up to the property line on the west side of the cottage. Mr. Grotzinger replied he could do a permanent easement on Lot 8, or redraw the property lines to get the 5' setback on that side from the cottage.

Commissioner Wolf asked why all the fuss about parking if Mr. Grotzinger was going to sell the main house. Mr. Grotzinger said he would keep all of Lot 9 which had four parking spaces; Lots 7 and 8 each had two parking spaces.

Chair Delwiche asked if Lot 9 would have stairs going up from Ruxton Avenue. Mr. Grotzinger said yes on the east side.

Chair Delwiche thought another variance would be needed and reconsideration regarding how to break up the parcel. Ms. Anthony said she did not realize the proposal was keeping Lot 9, if she had, this would require processing of another variance for that internal lot line and, without seeing exactly what might be proposed she could not guess at the number of variances which might be needed. Ms. Anthony said it was not clear to her that this wasn't being treated as all one property.

Chair Delwiche suggested the item needed to be postponed. Ms. Anthony agreed, stating the Commission could not consider only part of the proposed actions and the City needed a whole, complete proposal package.

MOTION:

Commissioner Vrobel moved to postpone V 1510 for a Front Setback Variance and V 1512 for a Lot Size/Density Variance to the next Regular Meeting on April 13, 2016.

SECOND:

Commissioner Wolfe seconded the motion.

DISCUSSION:

Commissioner Casey wanted to know if the applicant agreed to the postponement. The applicant agreed.

VOTE:

Motion passed, 6-0.

ITEM 5. V 1511 - Lot Size/Density Variance (Allow Second Dwelling Unit) - 107 Oak Place - Andy Wells, Applicant.

ITEM 6. MNS 1504 - Minor Subdivision (Create One Lot) - 107 Oak Place - Andy Wells, Applicant.

Senior Planner Michelle Anthony stated the applicant requested postponement to the next meeting.

MOTION:

Commissioner Vrobel moved to postpone V 1511 for a Lot Size/Density Variance and MNS 1504 for a Minor Subdivision to the April 13, 2016, Regular Meeting.

SECOND:

Commissioner Latimer seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 6-0.

V. NEW BUSINESS

There was no New Business to discuss.

VI. OTHER BUSINESS

ITEM 6. Review and Recommendation Regarding Vacation Rental Regulations

Planning Director Wade Burkholder presented the proposed language for an Ordinance concerning Vacation Rentals in the City of Manitou Springs and Adding a New Definition of Vacation Rental, Minor Conditional Use Permits, and Major Conditional Use Permits and opened a discussion regarding the proposed changes.

In regard to 18.89.060 I. Commissioner Wolfe suggested adding verbiage, "with an active permitted minor Conditional Use or preexisting (grandfathered) permitted rental at the time of this chapter" so that the City prohibited all, not just the newly permitted. Mr. Burkholder said he would make that more clear.

In regard to 18.89.080, Commissioner Wolfe suggested, "shall not be transferable to any other person or legal entity. Any changes to an LLC or Corporation or any changes to the members shall be considered a new legal entity".

Commissioner Latimer asked in regard to the map provided, were the existing vacation rental properties 500' apart. Mr. Burkholder replied no, they were grandfathered; however, there would be no new vacation rentals within 500' of the vacation rentals already on the map.

Commissioner Latimer asked in regard to homeowners who wish to rent out their property for less than 21 days, would they have to reapply every year. Ms. Anthony replied this is not intended for someone who would like to rent their house out for one weekend.

Commissioner Latimer said, based on the map provided, it appeared we had more than our cap already. How would we go about ferreting out which ones were active and how would we inform the public. Mr. Burkholder stated the properties on the map in blue are active. There were 30+ illegal rentals and the City would have to review the different websites on a monthly basis and report to code enforcement. Commissioner Latimer added she did not want an ordinance with no enforcement.

Commissioner Wolfe asked if the fees charged for this were enough to fund enforcement and if not, could we look at increasing the Business License fee. Ms. Anthony replied Finance, along with Council, set up the fee for a business license. Ms. Wolfe suggested the Planning Commission make a recommendation to increase the business license fee, adding if the City doesn't have funds for enforcement, this was just a mental exercise.

Mr. Burkholder said there would be a new Code Enforcement Officer in April adding that position would be mostly assigned to Planning; however, the Police Department would also share that position.

Chair Delwiche said in regard to the Minor Conditional Use Permit, he did not see it spelled out specifically how that would be used, adding it should be specifically for vacation rental requests and nothing else. It seemed to him it was a definition with no process.

Commissioner Wolfe suggested how to tighten up the definition of Minor Conditional Use Permit, saying, "Minor Conditional Use Permits shall apply exclusively to Short Term Vacation Rental Requests".

Commissioner Vrobel expressed her appreciation for the hard work Staff had put into the endeavor as she knew it to be a never-ending and grueling process to identify something that everyone would be happy with.

Chair Delwiche agreed with that statement and wanted to comment on the email from Mr. Chorpenning who had advocated for not doing anything at the present time and waiting until later to tighten up the code if there were problems. Mr. Delwiche felt that approach was nonsense because that would allow bad situations to be grandfathered in. He would rather tighten regulations now and then loosen up later if it was warranted and desired.

Commissioner Vrobel and Commissioner Wolfe agreed. Commissioner Latimer also agreed and said it was better to be proactive.

MOTION:

Commissioner Vrobel moved to recommend approval to City Council with the minor changes as discussed.

SECOND:

Commissioner Wolfe seconded the motion.

DISCUSSION:

There was no further discussion regarding the item or the motion.

VOTE:

Motion passed, 6-0.

ITEM 7. Review and Recommendation Regarding Ordinance Amending Chapter 18, Zoning, of the Manitou Springs Municipal Code to Conform to Changes Made to the Regional Building Code

Senior Planner Michelle Anthony presented the language of the Ordinance and explained the proposed changes.

Commissioner Wolfe suggested a change on page 3 in the first paragraph of "impacts of the proposed project, subject to planning staff discretion, mailed notification shall.". Ms. Wolfe also suggested removing the "etc." on page 1 in the definitions Accessory Structure, Permanent and Assessor Structure, Temporary.

MOTION:

Commissioner Wolfe moved to recommend approval of the Ordinance Amending Chapter 18, Zoning, of the Manitou Springs Municipal Code to Conform to Changes Made to the Regional Building Code subject to the changes discussed.

SECOND:

Commissioner Vrobel seconded the motion.

DISCUSSION:

There was no further discussion.

VOTE:

Motion passed, 6-0.

Commissioner Casey left the meeting at 7:25pm.

ITEM 8. Review and Recommendation Regarding an Ordinance Revising Title 16, Subdivisions, to Incorporate Requirements for Public Notice, Hearings and Appeals and Chapter 17.04, Historic Preservation Regulations, to Amend the Required Distance for Mailed Notification, and to Add the Requirement for Pre-Application Meetings and Electronic Submissions in Both Title 16 and Chapter 17.04 of the Manitou Springs Municipal Code.

Senior Planner Michelle Anthony presented the proposed language and outlined the reasons for the changes.

MOTION:

Commissioner Wolfe moved to recommend the Ordinance Revising Title 16, Subdivisions, to Incorporate Requirements for Public Notice, Hearings and Appeals and Chapter 17.04, Historic Preservation Regulations, to Amend the Required Distance for Mailed Notification, and to Add the Requirement for Pre-Application Meetings and Electronic Submissions in Both Title 16 and Chapter 17.04 of the Manitou Springs Municipal Code.

SECOND:

Commissioner Latimer seconded the motion.

DISCUSSION:

Commissioner Wolfe suggested changing the bad wording in paragraph B.7. Ms. Anthony said this would be discussed with the City Attorney.

VOTE:

Motion passed, 5-0.

Chair Delwiche asked the Commissioners if anyone wanted to make a recommendation for Council to raise fees to cover code enforcement.

MOTION:

Commissioner Wolfe moved to make a recommendation to City Council to increase the initial application and renewal fees for Short Term Lodging and to increase fines for non-compliance which can be accrued on a daily basis.

SECOND:

Commissioner Vrobel seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 5-0.

VII. ADJOURNMENT

Hearing no further business, Chair Delwiche adjourned the meeting at 7:35pm.

Minutes prepared by Sherri Johnson, Planning Technician