



**CITY OF MANITOU SPRINGS
PLANNING COMMISSION
REGULAR MEETING MINUTES
Wednesday, May 11, 2016**

I. CALL TO ORDER

A Regular meeting of the Manitou Springs Planning Commission was held in Council Chambers @ 606 Manitou Avenue. Chair Delwiche called the meeting to order at 6:02pm and declared a quorum present. The following Commission members were in attendance:

- PRESENT:** Vice Chair JEANNE VROBEL
Commissioner TIP RAGAN
Commissioner JULIE WOLFE
Chair ALAN DELWICHE
Commissioner MIKE CASEY
Commissioner GLORIA LATIMER
- ABSENT:** Commissioner LORI BURRIS (Excused)
- STAFF:** Wade Burkholder, Planning Director
Michelle Anthony, Senior Planner
Sherri Johnson, Planning Technician
- GUEST:** City Council Liaison COREEN TOLL

II. APPROVAL OF MINUTES

ITEM 1. April 13, 2016

MOTION:

Commissioner Latimer moved to approve the April Minutes with the name spelling correction as discussed.

SECOND:

Commissioner Vrobel seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed 6-0.

III. NOTICE OF COUNCIL ACTION

ITEM 2. An Ordinance Amending Title 18 “Zoning” in regard to Definition of and Setbacks for Storage Buildings in Residential and Commercial Zones; Appeals of Planning Staff Decisions; Increase of the Minimum Distance Requirement for Mailed Public Notification; and inclusion of Requirements for Pre-Application Meetings and Electronic Submissions. *Staff reported this item was postponed and would be rescheduled to a future date.*

ITEM 3. An Ordinance Amending Title 18 “Zoning” in regard to Definition of and Setbacks for Storage Buildings in Residential and Commercial Zones; Appeals of Planning Staff Decisions; Increase of the Minimum Distance Requirement for Mailed Public Notification; and inclusion of Requirements for Pre-Application Meetings and Electronic Submissions. *Staff reported this item was postponed and would be rescheduled to a future date.*

ITEM 4. **AP 1602-** Appeal of Planning Commission Affirmation of Planning Director Rejection of Traffic Study Submitted under CU 1207 - 515 Ruxton Avenue - Spencer Wren on behalf of Manitou & Pike’s Peak Railway, Applicant. *Public Hearing scheduled for the May 17, 2016 regular Council Meeting.*

ITEM 5. **CU 1207** – Recommendation for Revocation of Conditional Use Permit (Paid Parking Operation) - 515 Ruxton Avenue - Spencer Wren on behalf of the Manitou & Pikes Peak Railway, Applicant. *Public Hearing scheduled for the May 17, 2016 regular Council Meeting.*

ITEM 6. **VAC 1601** - Vacation-Right-of-Way (A portion of E. Fountain Place) – 0 East Fountain Place – Jerry Glass, Applicant. *Staff reported this item was postponed to an unknown, future meeting date per the Applicant’s request.*

ITEM 7. An Ordinance No. 1016, an Emergency Ordinance of the City of Manitou Springs, Colorado, Continuing the Moratorium on the Issuance of Conditional Use Permits for Vacation Rentals in all Zones. *Approved at the May 3, 2016 City Council Meeting.*

ITEM 8. An Ordinance Of The City Of Manitou Springs, Colorado, Amending Certain Sections Of Chapter 18.30 Regarding The Procedures Related To Conditional Use Permits And Created A Minor Conditional Use Permit. *Public Hearing scheduled for the May 17, 2016 regular Council Meeting.*

ITEM 9. An Ordinance Of The City Of Manitou Springs, Colorado, Adding A New Chapter 18.89 Concerning Vacation Rentals In The City Of Manitou Springs And Adding A New Definition Of Vacation Rentals. *Public Hearing scheduled for the May 17, 2016 regular Council Meeting.*

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 10. **RE 1601** - Rezoning (General Residential to Open Space – Public Hearing) - 0 Dudley Avenue - City of Manitou Springs, Applicant.

Senior Planner Michelle Anthony presented the staff report dated May 4, 2016.

Chair Delwiche asked if there were any questions for staff. Hearing none, he opened the meeting for public comment. There being none, the Public Hearing was closed.

MOTION:

Commissioner Wolfe moved to forward a recommendation for approval of **RE 1601** for rezoning 0 Dudley Road, Lot 2 McAlexander Subdivision, from General Residential to the Open Space zone designation with the finding that, based on the reasoning for the City's purchase and the condition of plat approval placed on this lot, that a public need exists and the use and location are compatible with adjacent land uses.

SECOND:

Commissioner Vrobel seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 6-0.

ITEM 11. V 1511 - Lot Size/Density Variance (Allow Second Dwelling Unit) - 107 Oak Place - Todd Liming on behalf of Andy Wells, Applicant

Senior Planner Michelle Anthony presented the staff report dated may 5, 2016.

Chair Delwiche asked if there were any questions for staff. Hearing none, the applicant was invited to the podium.

Todd Liming of Planning Matters, 438 N. Prospect St., introduced the property owner, Andy Wells. Mr. Liming and Mr. Wells distributed additional photographs. Mr. Liming stated they agreed with portions of the staff report but disagreed on a few significant details. Mr. Liming asked if the minimum lot size for a second dwelling unit appeared anywhere in the zoning code or if the figure of 8,756 square fet was a staff interpretation. Mr. Liming said it was important for the commission to know they were being asked to approve a variance from a staff interpretation, not from the zoning code. Second, although it was possible Taos Village townhomes were rezoned in the last ten years, Mr. Liming argued it was not zoned High Density Residential but was actually General Residential.

Chair Delwiche stated he was confused and asked if someone said Taos Village was HDR. Ms. Anthony replied she misquoted the zoning in the staff report.

Mr. Liming said this was an important point as it got to the heart of the deprived rights. He noted there were 26 dwelling units at Taos Village on approximately 1.5 acres, which was 16 dwelling units per acre in the General Residential zone district. He stated if the evaluation only went out three blocks as with the 19 properties in the Staff Report, then the request was for more density than the surrounding properties, but if the 26 units in Taos Village were included, the majority of the property owners then enjoyed a density that exceeded what was being requested by Mr. Wells.

Mr. Liming addressed each of the six-variance criteria in the staff report. He stated he and Mr. Wells met with Shelley Cobau, Interim Public Services Director, who was on-board with allowing Mr. Wells to dedicate 5' on the south side of his property, which happened to be paved, and vacate the encroachment of Mr. Wells' western frontage 8'-10' into Oak Place. Mr. Wells was willing to give up the 5' on Plainview Place which was a heavily utilized roadway in exchange for the sliver of ground he encroached on Oak Place. Mr. Liming stated they were offering a solution, which was to grow the busy street for vacating a small portion of the less used street. He respectfully requested approval of the lot size density variance.

Andy Wells, 139 Clarksley Road, owner of 107 Oak Place and a 4th generation native of Manitou stated he had owned the property for 15 years and the garage was originally built to be a rental. He wanted to make more affordable housing in Manitou and supplement his retirement. Mr. Wells said it would cost approximately \$30K to set the garage up to what be an apartment. They discovered in the surveying process the city was encroaching on his property as well as he was encroaching the city property. Mr. Wells believed there could be a compromise to make it a win-win situation. Mr. Wells read a letter of support from a neighbor to the commission.

Chair Delwiche asked if there were any questions for the applicant. Hearing none, the meeting was opened for public comment. There being none, the Public Hearing was closed.

Commissioner Latimer asked from looking at the back of the existing home was the garage to the left. Mr. Wells replied yes, adding there were two parking spaces in front of the garage and he would provide two off Oak Place and had already moved the utility pole on Oak Place to allow for four parking spaces for the property.

Commissioner Ragan noted Mr. Liming used the term "hemmed in" to describe the property and asked Mr. Wells when he bought the property 15 years ago was it similarly "hemmed in" at that time. Mr. Wells replied yes, there was nowhere to expand except to the north and that property owner did not wish to sell. To the east, the existing development was on the property line and there is street on two sides. Mr. Ragan summarized that he purchased the property with the existing hardship.

Mr. Liming added the only thing that had changed over the past 15 years was the significant tightening of the variance criteria adding there were only three or four criteria 15 years ago.

Commissioner Ragan asked staff to address the issue of the zoning of Taos Village, the issue regarding the number of square feet not being stipulated in the code, and the third issue the information heard from Mr. Liming regarding Shelley Cobau who was not present. Ms. Anthony apologized for her misstatement regarding the townhomes however; she did not believe comparing a townhome development to a residential area was good practice as the townhomes had different characteristics than the properties surrounding the subject parcel. Ms. Anthony said concerning the square feet, staff interpretation happens every day as there are not charts provided for every situation that lay out every computation. However, the Code did provide the maximum number of dwellings per acre and that allowed for a calculation of lot area per unit tied to the Code. She stated the interpretation was based on sound reasoning and sound calculations. Ms. Anthony said she did speak with Ms. Cobau and if the minor subdivision went forward, Public Services supported the dedication and vacation of the impacted adjacent streets and also wanted to get a 10' easement along the northern property line instead of the existing 5' easement so the existing sewer line would be incorporated in an easement.

Commissioner Ragan asked Ms. Anthony if she would stand by her recommendation in light of these questions. Ms. Anthony said she would, noting that she did not feel it was a bad project, but she could not recommend it.

Chair Delwiche said the 8,756 sf was not arbitrary, it was based on minimum lot size not something that was just pulled out of the sky. Ms. Anthony agreed adding 4,400 square feet was the minimum required for a single-family unit and if you calculate what the square footage of an acre at 10 units per acre is that came to 4,400 for the first unit plus 4,356 for each additional unit.

Chair Delwiche felt the staff recommendation was reasonable adding maybe someday in the future the City would create a program for affordable housing and that would be wonderful. However, the Commission was not making new laws

Commissioner Wolfe supported the staff report.

Commissioner Casey disagreed saying the chart showed four properties in the neighborhood with a second dwelling unit, adding if the building didn't exist that would be different but this was a conversion of an existing building and the lack of neighborhood input showed the request was supported.

Chair Delwiche did not agree the lack of neighborhood input meant they supported it.

Commissioner Latimer was also inclined to support the request because it was an existing structure, as they were increasing the number of units but not increasing the building footprint or lot coverage.

Commissioner Vrobel stated she could not support the request because she there is a shortage of garages on properties in town and she did not want to set a precedent and have property owners come in claiming their property was blocked in therefore they wanted to add a second unit. She felt the City had sound guidelines and if the commission followed that guidance then they could not approve a variance.

Commissioner Casey stated the property owner had every right to keep the garage and add a unit on top. Commissioner Vrobel said he did not have the right to add another unit. Commissioner Casey said he could build a second floor and put a pool table in it. Commissioner Vrobel said that would not be a second unit and would have a different capacity as far as water, sewer and everything else.

Commissioner Wolfe said the request did not fit within the code but the applicant should come back should there be future code changes regarding affordable housing.

Commissioner Ragan felt the argument about it being an existing building carried weight, however when you buy a property you buy knowing the limitations. He appreciated the comment that the code had tightened up over time and stated the code in the past had been loose and it was imperative that the City tighten it up. Commissioner Ragan agreed with Ms. Anthony that the townhomes are qualitatively different and are not part of the particular neighborhood. Mr. Ragan also appreciated learning the rationale that went into establishing density and saw why that made sense. If the City moved in the direction of more affordable housing, and he hoped it would, and it had guidelines for that and if this neighborhood was right for those type changes, then hoped the Commission would hear this and other such cases again. However, as was mentioned, it is hard to grant a variance based on an expectation that something might happen, no matter how desirable. Commissioner Ragan stated he would reluctantly vote no on the proposal.

Chair Delwiche agreed saying he cringed at the thought of adding more and more units and thought about how he would look at it if it were next door to him. Commissioner Delwiche stated he was not sure higher density was desirable everywhere, adding when he bought in a neighborhood he had an expectation that zoning rules would be followed.

MOTION:

Commissioner Vrobel moved to deny V 1511 for a Lot Size/Density Variance for 13 dwelling units per acre where a maximum of 10 dwelling units per acre are allowed for an additional, single family dwelling unit to be developed in the existing garage structure (total of two units on the property) with the following findings:

1. The representations in the application are not valid and the application has not met the criteria established in Section 18.32.010* of the Zoning Code;
2. That the reasons set forth in the application and Staff's evaluation in regard to the lot density do not justify the granting of the variance and the variance is not necessary or the minimum to make possible the reasonable use of the land;
3. That the granting of the variance will not be in harmony with the general purpose and intent of the City's Vision Plan and the Zoning regulations and would be injurious to the neighborhood or otherwise detrimental to the public welfare

SECOND:

Commissioner Wolfe seconded the motion.

DISCUSSION:

There was no further discussion

VOTE:

Motion to deny passed, 4-2. Commissioner Latimer and Commissioner Casey voted in the negative.

ITEM 12. MNS 1504 - Minor Subdivision (Create One Lot) - 107 Oak Place - Todd Liming on behalf of Andy Wells, Applicant.

Senior Planner Michelle Anthony asked this item be postponed to the June meeting.

MOTION:

Commissioner Vrobel moved to postpone MNS 1504 to the June meeting.

SECOND:

Commissioner Latimer seconded the motion.

DISCUSSION:

There was no discussion

VOTE:

Motion passed, 6-0.

ITEM 13. V 1602 - Side Setback Variance - 2 Fountain Place - Douglass K. Edmundson on behalf of Diane Fitzkee, Applicant.

Senior Planner Michelle Anthony asked the applicant if this item was to be postponed to the June meeting or indefinitely. The applicant said this item could be postponed indefinitely.

MOTION:

Commissioner Vrobel moved to postpone V 1602 for Side Setback Variance indefinitely.

SECOND:

Commissioner Latimer seconded the motion.

DISCUSSION:

There was no discussion.

VOTE:

Motion passed, 6-0.

ITEM 14. MNS 1603 - Minor Subdivision - 2 Fountain Place - Douglass K. Edmundson on behalf of Diane Fitzkee, Applicant.

Senior Planner Michelle Anthony presented the staff report dated May 5, 2016.

Chair Delwiche asked if there were any questions for staff. Hearing none, the applicant was invited to the podium.

Douglass Keithley Edmondson, 7 Keithley Road, stated they agreed with the staff recommendations and were waiting to hear from the City Attorney regarding the encroachment issue. He noted Ms. Fitzkee and her husband had decided to restore and remodel the existing building; there would no longer be a second story. They would add a much needed back door and do some excavation in the back of the building.

Commissioner Latimer said it looked like there was a shed on the property that was also encroaching. Mr. Edmundson said yes, the shed was on skids on the back of the property and would be moved back further into the property and the concrete parking surface would also stay.

Chair Delwiche asked if there was any public comment. There being none, the Public Hearing was closed.

MOTION:

Commissioner Vrobel moved to approve MNS 1603 as presented to create Lot 1, Fitzkee Subdivision with the following conditions:

- 1) Prior to filing, the plat shall be updated to include the following:
 - a) Notation of the total square footage of the lot.
 - b) Correction of the conflict between the label of Fountain Place and the length of that frontage.

- c) Platted widths of both Fountain Place and South Path
 - d) Any areas of undisturbed 30% or greater slopes on the property shall be marked as “No Build” on the plat and shaded as such with a key provided to verify the purpose of the shading
 - e) Any corrections noted as necessary by the City Engineer upon review of the final, draft plat
- 2) A Title Commitment or Policy to allow the Surveyor and City to verify there are no applicable exclusions or easements which should be incorporated into the proposed plat.
 - 3) A Certificate of Taxes showing all property taxes are current shall be submitted prior to filing of the plat.
 - 4) The property owner shall pay the fees in lieu of land dedication for Parks, Open Space and Schools in the total amount of \$682 as broken out in the above table, unless amended by the surveyed square footage.
 - 5) The property owner shall provide a notarized letter acknowledging the encroachments into the right-of-way and asserting that the owner fully understands all maintenance and repair of these encroachments are the responsibility of the owner and will not seek assistance from the City. The owner understands that any replacement of the encroachments shall occur within the private property boundaries. Furthermore, the owner understands should the City decide to fully utilize the right-of-way, there will be no payment to the owner to remove the encroachments and the owner will be responsible for construction of any necessary walls or fences within the private property boundaries. The owner additionally agrees to execute an encroachment agreement for the private improvements within the South Path right-of-way at such time in the future that this process is finalized and available and that agreement will supersede the letter required at this point in time.
 - 6) The Subdivision Site Plan with all the required information shall be submitted with the final, draft plat and the information relating to the development of the property shall be removed from the “As Platted” graphic.
 - 7) The Surveyor has 90 days from the date of approval to provide all required information, corrections and additions, allow time for City review, and submit the final Mylar for filing or this approval will expire.
 - 8) The Surveyor shall provide CAD drawings of the final, approved plat at the time of submission of the final Mylar for filing to allow the City to update its GIS data.

SECOND:

Commissioner Ragan seconded the motion.

DISCUSSION:

There was no discussion

VOTE:

Motion passed, 6-0.

V. NEW BUSINESS

ITEM 15. V 1603 - Side Setback Variance (2.2' Setback) - 327 Manitou Ave. –Todd Liming on behalf of Happy Cats Haven, Applicant

Senior Planner Michelle Anthony stated the applicant requested postponement of **V 1603** to the June meeting.

MOTION:

Commissioner Casey moved to postpone V 1603 to the June Meeting.

SECOND:

Vice Chair Vrobel seconded the motion.

DISCUSSION:

There was no discussion

VOTE:

Motion passed, 6-0.

ITEM 16. MJR 1601 – Major Development (Construction of a 3-Story Building) – 327 Manitou Ave. – Todd Liming on behalf of Happy Cats Haven, Applicant

Senior Planner Michelle Anthony stated the applicant requested postponement of **MJR 1601** to the June meeting.

MOTION:

Chair Delwiche moved to postpone V 1603 and MJR 1601 to the June 8, 2016 meeting.

SECOND:

Vice Chair Vrobel seconded the motion.

DISCUSSION:

There was no discussion

VOTE:

Motion passed, 6-0.

ITEM 17. CU 1601 – Conditional Use (Multi-Use Inn) – 336 El Paso Boulevard (Onaledge) – Don Goede for Katspaw, LLC. Applicant

ITEM 18. CU 1602 – Conditional Use (Multi-Use Inn) – 302 El Paso Boulevard (Red Crag) – Don Goede for Katspaw, LLC. Applicant

ITEM 19. CU 1603 – Conditional Use (Multi-Use Inn) – 328 El Paso Boulevard (Rockledge) – Don Goede for Katspaw, LLC. Applicant

Director Wade Burkholder presented the staff report dated May 5, 2016.

Commissioner Casey asked Mr. Burkholder to discuss the removal of Condition #10. Mr. Burkholder replied Mr. Goede requested Condition #10 regarding amplified music be removed, as it was redundant due to the city's noise ordinance. In addition, Mr. Goede did not intend to have events with amplified music.

Chair Delwiche asked if a condition saying no amplified could be considered. Mr. Burkholder replied yes, that could be a condition.

Commissioner Wolfe said by taking out condition #10 and not replacing it with anything did that mean he could amplify music if he wanted to and people would have to call the police who didn't have a decibel meter. Mr. Burkholder replied the noise ordinance would cover anything from 10:00pm to 7:00am.

Commissioner Wolfe said they could be as loud as they wanted to before 10:00pm. Mr. Burkholder replied it would be a Police Department decision regarding the noise and if it was considered injurious to the peace of the neighborhood.

Commissioner Wolfe asked the intention of Condition #8 and if those would be annual limits. Mr. Burkholder replied yes and noted the conditions were not being changed from the original approvals.

Commissioner Wolfe asked if there was a recommendation for future review. Mr. Burkholder replied there was not but a condition did exist stating the owner could be brought in for review should there be any violation found.

Commissioner Latimer asked regarding Condition #7, did that mean there could be 250 people attending events at one time. Mr. Burkholder said yes, the condition is written stating if each property were, having an event there could be up to 250 people. The intent was not to have each property maxed out to the limit and the condition was not new and not proposed to change.

Commissioner Wolfe asked about the no public restaurant clause and if she were visiting a guest at one of the properties would that prevent her from joining the guests for a meal. Mr. Burkholder replied no, no public restaurant meant there would be no location where the public could come onto the property and have a meal.

Hearing no further questions for staff, the applicant was invited to the podium.

Don Goede, 103 Cliff Road asked if the commission had any questions for him.

Chair Delwiche said he thought it was great Mr. Goede eliminated the amplified music. Mr. Goede said he felt he was being bullied because the neighbors did not want him to have any music whatsoever. Mr. Goede said this was complicated and he did not want to cancel weddings or other types of events for people who had already paid substantial deposits. He understood where the neighbors were coming from – he himself lived just down the road. He felt people wanted to take away his rights as a business owner and he was looking for advice from the commission, as he could see this spiraling and he did not want to be anyone's enemy. Mr. Goede discussed what amplified music actually meant, saying a horn section could be louder than amplified music. Mr. Goede felt this could go on and on and asked where it would end.

Chair Delwiche said Red Crags was a great example of a property that caused a lot of turmoil for the neighborhood by abuse of a conditional use and did things that were rude to some of the neighbors. Mr. Goede said he had heard some stories and felt he was being punished for the previous owner's issues without being given the benefit of the doubt.

Chair Delwiche said what the commission wanted to do was come up with a workable solution. One thing was including a clause stating if the conditional use devalued the neighborhood; it would be reconsidered and evaluated. Chair Delwiche said in his personal view, the residential neighborhood was there first and there were expectations of maintaining the neighborhood.

Mr. Goede said he was open to negotiation but wanted it to be fair; adding in all the letters he received not one person welcomed him to the neighborhood. Instead they were blaming him for the past. Mr. Goede said he would make the first move toward goodwill by taking out the amplified music condition as he did not want people to lose sleep over the potential of hearing bad music. Mr. Goede stated no one asked him what he wanted to do and didn't read the information about wanting to bring in healing. He stated they wanted to keep the use, but change the perspective. He stated if it were up to him they wouldn't have a liquor license. Mr. Goede wanted it on record he felt the neighbors would not be happy until there were no businesses on El Paso Blvd.

Commissioner Latimer asked Mr. Goede what his plan would be if his business was booming and he did have an event at each property at capacity, which would be 250 people. Mr. Goede replied that was not his model his business was not based on numbers like that. His goal was not about quantity, it was about quality and he would never try to get 250 people on those properties as that would be a festival. He stated this was a perfect example of the extreme thought he was encountering.

Commissioner Latimer spoke about the potential for that many guests and Mr. Goede said he wanted this to be intimate and personal. They did not plan to have giant TV's, but wanted people to get out into Manitou. He wanted to bring back some of the culture and spiritual aspects of the City. He noted his relationships with the Native American's were getting stronger all the time and his goal was not to have 250 people all at once and have a giant party.

Commissioner Wolfe asked what numbers he expected because as written, legally, he would be allowed to have 250 guests. Commissioner Wolfe wanted to know what limitation Mr. Goede felt would be appropriate. Mr. Goede replied he was part of a team and could not answer that question on the spot. He stated, again, they were looking for intimacy, no alcohol. They were not looking for party situations. For example, he had planned an event for June, which was a teacher intensive training and he could not see selling more than 20.

Commissioner Wolfe asked if he felt a condition stated no more than 60 people at any given time would suffice. Mr. Goede said this was what he was talking about and asked where it would end. Commissioner Wolfe asked where it began as Mr. Goede was asking for approval of 250 guests but telling the commission there would never be that many and the City was just supposed to believe that. Commissioner Wolfe asked Mr. Goede again what was a reasonable number of people he would like to see at the properties as the maximum. Mr. Goede did not understand why the number of people was an issue as that number had already been in place for many years.

Commissioner Ragan felt the commission needed to hear from the public and then make a decision, as they had been discussing this one condition for quite some time already.

Mr. Goede wanted to say for the record, they are buying a 16-person shuttle because they do not encourage people to rent cars adding this is an example of how they are concerned about their carbon footprint. Mr. Goede said again how ridiculous he felt it would be to have 250 people on that beautiful historic property, but the condition was already on the property, so he felt like he needed to prepare for battle.

Chair Delwiche asked him not to think of this process as the commission coming after him. Mr. Goede replied he based his level of trust on the lack support he had from the community. He felt he needed to prepare for the absolute worst situation.

Commissioner Vrobel felt the size down a bit saying the property had a bad record and Mr. Goede should realize there were some unjust things that happened to the neighbors; they felt they did not have a voice and they had a right to express that. She expressed her hope the new ownership was successful and that the neighborhood would be very happy, which was exactly why all the commission members were there. Commissioner Vrobel said she could not blame the neighbors for feeling this was their chance to say how they felt. Mr. Goede said he appreciated her reminding him of that, but he felt he was taking the brunt of most of the issues and wished there was a more positive way to deal with this.

Chair Delwiche asked if there were any further questions for the applicant or if Mr. Goede had anything else he would like to add. Mr. Goede stated again he was pulling the amplified music out as a good faith gesture because they did want to do the right thing in the neighborhood.

At this time, Chair Delwiche opened the meeting to the public.

Jay Butler, 327-D El Paso Blvd., said he appreciated the fact there were businesses interested in those historical buildings and making them a viable economic part of the community, which is a benefit to the community. Mr. Butler was sorry some of the residents had spoken unkindly. He did not believe there should be no music. He did believe many people purchased in the residential neighborhood because it had a quiet, beautiful atmosphere and they wanted to keep that. He stated the neighbors wanted to find some way in which business could prosper without crossing over and destroying their atmosphere. Pulling condition 10 was a nice gesture but what the neighbors wanted was to be able to sit outside in the evening with peace and quiet. It was not what happened after 10:00pm, it was what happened between 5:00pm and 10:00pm in the summer months that had the most impact as that was the time people wanted to enjoy the neighborhood and the surroundings.

Steve Funkhouser, 309 Rockledge Lane, stated he bordered the Red Craggs on the north and thanked Mr. Goede for being proactive asking who had the most complaints regarding the previous owner as he had the biggest stack. Mr. Funkhouser applauded Mr. Goede's courage and willingness to meet with people and help explain their proposal. Mr. Funkhouser said music did not bother him, he lives behind the hill. He asked for clarification as to the type of vehicles that could use Rockledge lane, asking if it was the size of the vehicle or the size of what was being delivered that mattered.

Susan Claxton, 319 Rockledge Lane, wanted to know what no amplified music meant. Her evening was over around 9:00pm and she liked to sit outside and enjoy it. She was not attacking anyone but said she would hate to lose that.

Camille Lipinski, 323 El Paso Blvd., stated she was directly across from the three beautiful inns. She requested more time to examine the issues. Ms. Lipinski said last week she could hear noise at the Briarhurst until she was past the Tajine. Ms. Lipinski said according to the notification she received, only 6 outdoor events were allowed presently between all three inns, however they were presenting 30 outdoor events be allowed. That is 2-1/2 events per week for June, July, and August, which seemed like a lot to her. She suggesting slowing down the process and employing sound studies. She appreciated the noise ordinance already in place but wanted to know who monitored those sounds and who paid for that. She also asked for a traffic study of the impact of 250 guests. Ms. Lipinski wanted to know if wildlife would be affected due to the noise or traffic. She felt the number of guests needed to be clear, as there was some confusion in the discussion earlier. Ms. Lipinski asked who would pay for additional police coverage and for fire and ambulance services and asked who would do the clean up afterward.

Tom Lundgren, 415 El Paso Blvd., stated he had lived at that address since 1985 before the properties were converted to B&B's. He took exception to Mr. Goede's statement that no one welcomed him to the neighborhood, saying he welcomed him the first time they met. Mr. Lundgren was thankful for the opportunity to express comments relative to the conditional uses. He stated he had been bothered by the music that occurred during outdoor events in the past. He felt 30 events was an excessive number. He had tried to be a good neighbor and tried to get along, but he was concerned if the amplified music statement were removed, it would open the door to allow anything. He asked the condition to be modified to say no outside activities shall be permitted after 10:00pm and no outdoor amplified music shall be permitted at any time. Currently, no amplified music was allowed at Red Craggs, we want the same treatment along El Paso and Mayfair as those on Rockledge Lane and Rockledge Court already have. He would hate to see the entire paragraph deleted.

Chair Delwiche asked if there were any further public comments. Hearing none, the Public Hearing was closed. Mr. Goede was given an opportunity to comment.

Mr. Goede apologized saying Mr. Lundgren did call to meet with him and did extend a welcome. Mr. Goede said this was super complicated and he wanted to work it out so everyone could be happy in the neighborhood. Mr. Goede said he was looking for help. He said amplified meant to make louder not simply electronic.

Chair Delwiche said the commission would do its best to come up with a reasonable recommendation for City Council as they have the final approval.

There was discussion among the Commissioners about a previous issue in the area regarding chainsaw noise. Commissioner Ragan thought the City adopted the State rule of a certain number of decibels during a certain number of hours. Ms. Anthony said the noise ordinance did not talk about decibels. Chair Delwiche said there is a State provision.

Mr. Goede felt decibels would be the solution and asked who would decide what was a nuisance and what was not. He felt it should boil down to decibels that could be measured.

Chair Delwiche told Mr. Goede the Commission was not supposed to be negotiating with him at this time as the meeting had been closed and the commissioners were discussing it. He continued, stating there had to be some type of recourse in the conditions which would allow for review, not just be implied. The previous Planning Director said that was implied in a conditional use, but it was reasonable to have a specific review condition.

Director Burkholder clarified saying Condition #14 stated if any conditions were not met or violated, the Conditional Use could be brought back for review.

Commissioner Ragan also felt a review condition should be in all conditional uses. Mr. Ragan said this was an area where the City could have an impact. He understood why people felt they were not heard, as the City is sometimes not as responsive as it could be. Mr. Ragan felt if there were three complaints, for example, for loud music or excessive traffic that should trigger an automatic review of the conditional use. He would like to have that clearly stated.

Commissioner Wolfe liked the language about the review being expanded to include not just a specific violation but also no injurious impact on the neighborhood even if there was no overt violation of other conditions. She did not feel allowing up to 250 people at any given time was reasonable, adding the applicant did not either. Commissioner Wolfe said although the applicant was not able to say today how many people he thought was reasonable, she would like to postpone the request and give him an opportunity discuss with his business partners rather than the Commission to try to guess an appropriate number. She also felt it somewhat dangerous to simply take out Condition #10 and rely on State law for decibels and suggested no electronic amplification outdoors and see how that impacted the neighborhood. Commissioner Wolfe felt the commission should start slowly and could loosen up gradually as warranted.

Chair Delwiche said he wanted to keep Condition #10 in and possibly re-word it saying no outside activity shall be permitted after 10:00pm, no outside-amplified music allowed at any of the three properties at any time.

Commissioner Ragan was not in favor of that; he was reluctant to say have different standards in different neighborhoods. He could understand different standards for different zones but not for neighborhoods. Mr. Ragan did not think the commission should be telling people no outdoor actives after 10:00pm. Mr. Ragan was in agreement with Commissioner Wolfe saying maybe this should be postponed for further discussion.

Chair Delwiche felt because this was a residential neighborhood, it was fair to have strict restrictions. He asked staff if there would be a grandfather clause for events already scheduled. Ms. Anthony replied while the application was in process, the Planning Department was allowing the operation of the properties. In fact, they had applied for the business license conditional on approval of the Conditional Use Permit.

Commissioner Casey felt there should be something related to Condition #10 back in the recommendation. He wanted to point out, as with the Short Term Vacation Rental issue, the City should not over analyze. There were rules in place and he felt the commission was putting too much government into it. Mr. Casey felt the neighborhood voicing their opinions was a good thing. He noted Mr. Goede had a history of doing good work and while he respected the concerns of the neighbors, if Mr. Goede said he was going to change the philosophy of the operations, the City should give him the benefit of the doubt.

Commissioner Latimer said as a community member she would prefer quiet all the time but she did not expect that. She was willing to give it a try and see how it worked out.

Commissioner Wolfe felt it would be better to be safe than sorry. She wanted to start conservatively since this was a residential neighborhood.

Chair Delwiche said as far as postponement, his preference would be to construct something. This was just a recommendation; there would be another hearing at the City Council.

Director Burkholder said Councilwoman Toll accessed the Colorado Noise Statute and asked if it would be helpful to the commissioners if he read it. Chair Delwiche said yes.

Mr. Burkholder read Colorado Noise Statue 25-12-103 Maximum Permissible Noise Levels.

Ms. Anthony said if the commission wanted to incorporate that section, if three or more complaints were received, for example, the City would at least have a specific standard.

Commissioner Ragan was glad Mr. Burkholder read the statue adding that was why he believed more information was necessary since no one really knew what 50 decibels sounded like.

Mr. Burkholder said a police siren was 120 decibels; thunder was 130 decibels.

Ms. Anthony suggested perhaps since Mr. Goede was having an event on the 19th and would be having some bands playing music, perhaps if he would agree to have a decibel tester come out and establish what he would consider a normal music presentation at 25' around the property perimeters. That could be taken to council and everyone, including Mr. Geode, would know how loud any music could be.

Commissioner Wolfe said if the commission was going forward with a motion, she suggested it be more consistent with State law and have a 7:00pm cut off. Chair Delwiche felt that was reasonable.

MOTION:

Chair Delwiche moved to recommend approval of Conditional Use Permits #1601, #1602 and #1603 for operation of Multi-Use Inns at Red Crag (302 El Paso Blvd.), Rockledge (328 El Paso Blvd.) and Onaledge (336 El Paso Blvd.) with the following amended conditions:

1. Up to eight guest rooms at Red Crag, up to six guest rooms at Rockledge, and up to six guest rooms at Onaledge are allowed under this Conditional Use approval.
2. One resident manager unit shall be provided at each site. No other residential units shall be allowed on any site without designation of these and allocation of appropriate parking. The Property Owner shall provide the names of all current resident innkeepers and update the City as those employees may change.
3. Off-street parking in the following amounts shall be shall be provided:
 - a. 16 parking spaces at Red Crag, vehicles will be parked in designated spaces per the approved on-site parking plan and no more than 16 vehicles are permitted on the Red Crag property. Minimum aisle widths per the Zoning Code will be maintained at all times.
 - b. 32 parking spaces at Rockledge, including four spaces on Lot 13
 - c. 8 parking spaces at Onaledge
4. Two off-street parking spaces for resident managers/staff shall be provided on each site.

5. One off-street parking space shall be provided on each site for each of the guest lodging rooms.
6. No parking on El Paso Boulevard by either lodging or non-lodging guests from any of the properties shall be allowed. The property owner shall be responsible for installation the morning of each event and removal immediately following each event of temporary "No Parking" signs along these property frontages when events are scheduled at any of the properties. Parking for up to seven (7) vehicles along the Rockledge Lane frontage of Red Craggs may be utilized during special events.
7. Special events for a maximum of 100 (outdoor) and 50 (indoor) guests (to include both lodging and non lodging guests) shall be allowed at Rockledge and Onaledge. No more than 50 guests are allowed at Red Craggs for both indoor and outdoor special events. Events may occur at any one or a combination of the properties. At no time shall the available combined off-street parking for lodging and off/on-street parking for non-lodging guests be exceeded. This approval does not allow operation of a public restaurant. The total combined number of guests shall not exceed 100 for any specific day.
8. Each property is allowed the following number of special events:
 - a. Red Craggs: 26 indoor, 6 outdoor
 - b. Rockledge Inn: 26 indoor
 - c. Onaledge: 26 indoor
 - d. Rockledge Inn & Onaledge: a total of 30 outdoor
9. General guest and event access to Rockledge Inn shall be by El Paso Boulevard. Use of the Rockledge Lane access through Lot 13 (aka 340 Rockledge Lane) shall be limited to emergency vehicles, owner/employees, pedestrian guest traffic, and only those commercial deliveries that are unable to use the El Paso Boulevard access.
10. No outside activities shall be permitted after 10:00 p.m. No electronically amplified music is allowed at the Red Craggs, Rockledge, or Onaledge.
11. All properties shall comply with Fire Department access requirements and shall post "Fire Lane" and "No Parking" signs as may be required
12. No changes in the coordinated operation of the three properties as approved under this Permit, including the property ownership, shall be made without the City's review and approval of a new Conditional Use application.
13. The property owner shall maintain all required licenses, permits and inspections for the operation of Multi-Use Inns and shall conform to the requirements of each.
14. The Planning Commission shall review the application if any of the adopted conditions are not met or are violated and forward a recommendation to the City Council for either revocation of the conditional use or revised conditions of approval.
15. Planning Commission shall review the conditional use permit in 12 months after approval. The applicant is responsible for ensuring the item is put on the Planning Commission agenda for review.

Chair Delwiche offered the following findings:

- A. That the value and qualities of the neighborhood surrounding the conditional use are not substantially injured; the proposed use furthers the architectural and historical qualities and character of the community as set forth in the Manitou Springs Design Guidelines and the proposed use is compatible in function and design with surrounding land uses.
- B. That the conditional use, under the conditions and operation parameters indicated, is consistent with the intent and purpose of the Zoning Code to promote public health, safety and general welfare.
- C. That the conditional use is consistent with the Rainbow Vision/Comprehensive Plan of the City.

SECOND:

Commissioner Vrobel seconded the motion.

DISCUSSION:

Commissioner Ragan said he would vote in favor of the motion, adding he was in favor of the idea of measuring the decibels that would benefit the city having a better idea of compliance.

Commissioner Wolfe asked if the conditional use would run with the property or was it specific to the owner. Director Burkholder said it was specific to the owner.

VOTE:

Motion passed, 6-0.

Chair Delwiche stated this was a recommendation to City Council and would be heard in June.

ITEM 20. A Resolution of the Manitou Springs Planning Commission Ratifying its Decision on the Appeals of Two Administrative Decisions Submitted by the Manitou & Pike's Peak Railway Company

Director Burkholder said the City Attorney's office asked the resolution be adopted as the official record of the planning commission decision and for use in the public record for City Council. When asked, Mr. Burkholder said to his knowledge the commission had never been asked to do this before.

There was confusion and discussion among the commissioners about what the resolution was and the function of it.

Commissioner Ragan said there were many nuances in the 3-hour discussion and he felt City Council should read the entire set of minutes of the recommendation. The commission consensus was to pass on signing the resolution.

Ms. Anthony stated this was outside of how the commission normally operated and offered that the City Attorney's summary of the commission's action could be incorporated into his memo to the City Council.

ITEM 21. Reminder of Board and Commission Training on May 19th, 2016 at 5:00pm.

VII. ADJOURNMENT

Hearing no further business, Chair Delwiche adjourned the meeting at 9:13pm.

Minutes prepared by Sherri Johnson, Planning Technician