



**CITY OF MANITOU SPRINGS  
PLANNING COMMISSION  
REGULAR MEETING MINUTES  
Wednesday, August 10, 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 6:00pm and declared a quorum present. The following Commission members attended:

**PRESENT:** Vice Chair JEANNE VROBEL  
Commissioner TIP RAGAN  
Chair ALAN DELWICHE  
Commissioner MIKE CASEY

**ABSENT:** Commissioner GLORIA LATIMER (Excused)  
Commissioner JULIE WOLFE (Excused)  
Commissioner LORI BURRIS (Excused)

**STAFF:** Wade Burkholder, Planning Director  
Michelle Anthony, Senior Planner  
Sherri Johnson, Planning Technician

**GUEST:** Coreen Toll, City Council Liaison

**II. APPROVAL OF MINUTES**

**ITEM 1.** July 13, 2016

The July minutes were postponed to the September meeting.

**III. NOTICE OF COUNCIL ACTION**

**ITEM 2.** CU 1601, CU 1602 and CU 1603 – Conditional Use (Multi-Use Inn) – 336, 302 and 328 El Paso Boulevard (Onaledge, Red Crag and Rockledge) – Don Goede for Katspaw, LLC, Applicant. *At the July 19 City Council approved the requests as recommended, 6-0.*

*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, Sides, and Rear Setback Variances (New Dwelling and Existing House) - 356 Ruxton Avenue - Joel Grotzinger, Applicant

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

Senior Planner Michelle Anthony presented the staff report dated August 1, 2016.

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

Joel Grotzinger, 356 Ruxton Avenue, thanked the commissioners for their time. Mr. Grotzinger said there were numerous arguments for the density variance because it had been a triplex for more than 40 years and he was asking for two single-family homes on the same area of land. In his opinion that would be less dense than what it was previously. He stated when he purchased the property it came with an empty lot, which was appraised at \$30,000 as buildable. He noted all the neighboring properties were much denser than his project. Mr. Grotzinger felt most infill projects at this point in time would require some type of density variance. He stated staff recommended the project previously on the same property, but now that he was proposing two, separate lots and reduced the building footprint and they are arguing against the density. He did not understand the logic. In regard to the setbacks, Mr. Grotzinger requested reduced setbacks to build a livable, modest-sized cottage. He stated the only place he could build was in the back of the lot because of the flood plain and the Regional Building Department required 10' between structures, which he was complying with. He did extend the proposed property boundary for the cottage in back of the house to provide it some flat, outdoor area.

Commissioner Casey asked Mr. Grotzinger to discuss the replatting. Mr. Grotzinger said he wanted to downsize to the cottage and sell the existing house, so needed them on separate lots.

Hearing no further questions, the meeting was opened for public comment. Hearing no comments, the Public Hearing was closed.

Chair Delwiche asked staff if the existing structure was entirely on the existing Lots 7 and 8. Ms. Anthony said there was a small encroachment of the side deck and maybe the stairs, but the main house was fully on those existing, two lots.

Chair Delwiche asked if the lot configuration were left as it was for the existing structure, regardless of Lot 9, would there really be a need for variances. Ms. Anthony replied no because they would not be moving lot lines.

Chair Delwiche asked if Lot 9 could be addressed as a separate item. Ms. Anthony replied yes, if the encroachment were cured, he could sell Lot 9 or attempt to build on it.

Chair Delwiche confirmed the right to build on Lot 9 would be there; however, the issue would be how to build something that would be large enough to be livable. Ms. Anthony said a legally platted undersized lot could be built on, but there is no guarantee of variances. If no variances were needed, it would be an administrative process.

Chair Delwiche asked if there were any further questions.

Mr. Grotzinger explained his original intention was to keep the Lot lines exactly the way they were. However, in consideration of the building code, there would have to be 5' between the structure and the Lot line, which would eliminate windows and doors. The Lot line needed to shift away from the existing house to make the 5'.

Commissioner Casey asked Mr. Grotzinger to explain the neighbor's concern regarding parking. Mr. Grotzinger replied there were two rentals on Bluff Avenue that occupy the on-street parking. Those neighbors were concerned he would want to park in the spots they occupy. He added he worked with the Public Services Director to be able to create his own parking.

Commissioner Casey asked about the root cellar that needed to be filled in. Mr. Grotzinger replied one of the conditions he was willing to accept was that he fill-in the root cellar under Bluff Avenue. Mr. Grotzinger said he had plenty of parking on Ruxton, so was creating more parking than what was required.

Chair Delwiche felt the staff report summarized the situation very well, adding there was no justification for going back to a higher density. He was in favor of the staff recommendation.

Commissioner Casey remarked at one point the recommendation was for approval, and now it was not, which seemed confusing. Chair Delwiche stated when the initial recommendation was made, staff misunderstood what the applicant wanted to do and the changes necessary in the application in order to put the units on separate lots changed the character and intensity of the project.

Commissioner Casey asked what the result of the previous meeting was. Chair Delwiche said the item was postponed, not approved, which was why the item was before the commission at this meeting.

Commissioner Vrobel said, she agreed with Chair Delwiche and the staff report. She felt the commission would be going backwards to allow this request and, if the commission followed the regulations, she did not see any justification for the request.

**MOTION:**

Commissioner Vrobel moved deny **V 1510** for variances from the required Front Yard, Side Yards, and Rear Yard setbacks and **V 1512** for a Lot Size/Density Variance for 12 and 16 dwelling units per acre where a maximum of 10 dwelling units per acre are allowed in order to construct a new, single family dwelling unit and replat the property into two, nonconforming lots with the following findings:

1. That the representations in the application are invalid and the applications have not met the criteria established in Section 18.32.010\* of the Zoning Code;
2. That the reasons set forth in the application do not justify the granting of the variances and the variances are not the minimum that will make possible the reasonable use of the land;
3. That the granting of the variances 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 Ragan seconded the motion.

**DISCUSSION:**

There was no further discussion regarding the motion.

**VOTE:**

Motion passed, 4-0.

Chair Delwiche told the applicant if he wished to appeal this decision, he would have ten days to make that application.

**ITEM 5. MJR 1601** – Major Development (Expand Existing Building for Commercial & Residential Uses) – 327 Manitou Avenue – Todd Liming on behalf of Happy Cats Haven, Applicant

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

Chair Delwiche asked Staff if the requirements for a small animal facility would be reasonable, noting outside runs and soundproofing. Ms. Anthony stated if the Commission so chose, additional requirements could be included; however because this would be a feline only facility Staff did not feel the conditions which were the reason for those requirements (i.e., barking and noise) would be present.

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

Ray Ferguson, 634 Ruxton Avenue on behalf of Happy Cat Haven, said he wanted to introduce the team and answer any questions:

Architect Bill Beard, 30 W. Mill St. remarked that the site was great site and underutilized. Mr. Beard noted the building was simple and would provide some affordable housing via one-bedroom apartments. Mr. Beard stated this was a very straightforward and worthy project.

Sara Ferguson, Executive Director of Happy Cats Haven, 634 Ruxton Avenue said the organization received its 501(c) (3) nonprofit status and opened November 2011. Ms. Ferguson related that there were an estimated 10,000 homeless and abandoned cats in the Pikes Peak region and Happy Case was approaching 1,600 adoptions over the past five years. They were working hard to make a dent in the homeless cat population and the proposed project would provide a sustainable location for their mission. Ms. Ferguson stated they hoped to have the apartments help fund the operations and keep the rent down for the nonprofit. She further advised they would have a small retail area supporting the adoptions and long-term health care of the cats.

Commissioner Casey asked where the operation existed currently. Ms. Ferguson replied they rented approximately 1,500 square feet at 1412 South 21<sup>st</sup> Street in Colorado Springs.

Commissioner Casey asked Mrs. Ferguson to describe the operation. Mrs. Ferguson said they took in cats and provided food, shelter, and medical care while they were waiting to be adopted. Happy Cats had mostly volunteers but did have two almost, full-time employees and four, part-time employees who clean and take care of the cats, conduct classes, and process adoptions on Wednesdays, Fridays, and Saturdays. Happy Cats anticipated slow growth and are licensed through the State under the Pet Animal Facility Care Act.

Commissioner Casey asked about cat waste disposal. Ms. Ferguson replied they scooped litter boxes, tightly bagged, and disposed of the litter in a dumpster that was good at containing the smell, adding the business does not want bad odors, as neighbors did not want as well. Mr. Ferguson added at their most recent inspection, the Inspector told them they were the cleanest cat shelter the inspector had ever seen.

Commissioner Vrobel asked if the cats were spayed and neutered. Mrs. Ferguson replied they were, adding they were also micro-chipped and vaccinated.

Mr. Ferguson said the trash facility would be fenced off.

Commissioner Casey asked about the City's regulations regarding trash. Ms. Anthony replied the regulations stated properties must have trash service and it must be adequate to keep from having build-up or overflowing containers.

Commissioner Casey suggested Mr. Ferguson ask Bestway Disposal to come early and use plastic lids rather than metal lids on the dumpsters to keep the noise down.

Commissioner Casey asked if the owners of 329 Manitou Avenue were in agreement with the easements. Mr. Ferguson said, to be clear, the developers of 329 Manitou Avenue, Eldon Jourdan and Dave Meese, also developed Taos Village, but the Manitou Avenue property was not party to the easement at the back of his property. Mr. Ferguson said Mr. Jourdan and Barbara Meese came to the last community meeting. Mr. Jourdan had stated overall it was a good project and his only issue was the waste and they had worked together to come up with a solution, which was why Mr. Ferguson was moving the location of the dumpster area.

Chair Delwiche opened the meeting for public comment.

Patty Fraley, 326-B Santa Fe Place in Taos Village, stated she was the President of the HOA and Mr. Ferguson had done a great job working with the residents and their concerns. She was glad the trash would be moving. Ms. Fraley said there was some difference in interpretation regarding the easement agreement and the Taos Village owners had been told the intent was the parking was for their exclusive use when not used by Happy Cats Haven between 8:00am-5:00pm, Monday through Friday. Ms. Fraley stated Mr. Ferguson's attorney indicated there was not exclusive use and that had been discussed at the neighborhood meeting. She stated they would watch to see how the use of the area played out and if there were issues, the Homeowners Association might get their own interpretation of the easement agreement.

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

Commissioner Ragan said this was a great project and he really liked the look of the new building. He stated the applicant had worked well with staff and he appreciated the willingness to work within the limitation of the code. Commissioner Ragan understood there might be issues to work out, but he appreciated the effort on both sides to move forward in a productive and positive way.

Commissioner Casey thought it was great the Fergusons put all the time and effort into a nonprofit and in getting the current eyesore off Manitou Avenue.

Commissioner Vrobel stated she was very happy with the project and it was best of both worlds for the residents and the nonprofit.

**MOTION**

Commissioner Vrobel moved to forward a recommendation to City Council for approval of Major Development Plan 1601 for the construction of additional building area and redevelopment at 327 Manitou Avenue to facilitate a feline rescue and adoption shelter and two, residential units with the following conditions:

1. This approval is contingent upon processing and approval of a Minor Subdivision plat to create one whole lot and no Building Permit can be issued until the plat is filed.
2. Since the existing conditions in regard to stormwater runoff from the site will be slightly improved, no on-site retainage of stormwater shall be required.
3. As part of the Minor Subdivision submittal, the Applicant shall provide an Engineers Cost Estimate for public and critical site improvements – including the paving and concrete work associated with the parking and driveway improvements, the electrical service improvement, site grading, erosion controls, retaining walls, and site landscaping to the City Planning Department for review and approval. A Letter of Credit or other financial surety to assure the completion of the required and approved improvements shall be provided prior to the issuance of any Building Permit.
4. Prior to issuance of any Building Permits, the Final Landscape Plan incorporating an irrigation plan and certification by the property owner shall be provided that at eleven months after installation all vegetative landscaping will be living or will have to be replaced/reinspected.

**SECOND**

Commissioner Ragan seconded the motion.

**DISCUSSION**

There was no further discussion regarding the motion.

**VOTE**

Motion passed 4-0.

Chair Delwiche stated this item would be heard by City Council at their first meeting in September.

**V. NEW BUSINESS**

**ITEM 6. V 1604 – Variance to 500' Separation Distance in Short-Term Vacation Rental Ordinance - 109 Ruxton Avenue - Manitou Rentals Property Management, LLC, Applicant**

Director Wade Burkholder presented the staff report dated August 10, 2016.

Chair Delwiche asked if there were any questions for staff.

Chair Delwiche asked Mr. Burkholder why he felt the variance was justified. Director Burkholder said his main reason for supporting the variance was because the house was located outside of the actual radius distance.

Chair Delwiche was curious about Item 4, asking why staff did not accept the application after the moratorium expired. Mr. Burkholder replied the City Attorney recommendation was to not accept the application when there was a pending ordinance.

Chair Delwiche invited the Applicant to the podium.

David Chorpenning, Manager of Ruxton LLC and Manitou Rental Property Management said he agreed with the staff report and recommendations and asked for approval. Mr. Chorpenning said there was nothing in the municipal code saying an application can be refused due to a pending ordinance. This application was made when none of the requirements were present, however other than the separation requirement he was willing to comply with the new ordinance.

Chair Delwiche opened the meeting for public comment.

Ken Jaray, 304 Michigan Avenue, said he felt the ordinance was a solution solving a problem that didn't exist and felt the vacation rental regulations discouraged folks from improving their property. Mr. Chorpenning's hardship was caused by the City. Mr. Jaray stated maybe if there were more vacation rentals there would be less people complaining about noise. Mr. Jaray felt the ordinance did not make sense for this area and was inappropriate in our town.

Commissioner Ragan said the commission was not meeting to reconsider the law; the comments were not productive and asked Mr. Jaray to address the request. Mr. Jaray agreed with staff recommendation adding he believed the applicant met all the criteria.

Paul Suzinski, 965 Manitou Avenue, said he has vacation rentals around him and felt they were a benefit and are good for the town.

Chair Delwiche, hearing no further public comment, closed the Public Hearing.

Commissioner Vrobel, felt there was no choice but to deny this if the commission followed the ordinances. She feels her hands were tied, but said she thought Ruxton is an appropriate place for more vacation rentals. However, if this were approved, other properties would come in and claim the same thing and there would be a flood of people seeking variances.

Commissioner Ragan supported the variance. He stated he did not give variances easily and felt it would have been better to measure the separation distance using the linear method recommended by the commission, rather than the radius method adopted by the City Council. Commissioner Ragan agreed with Mr. Burkholder's recommendation and rationale for approval. He stated the definition of "moratorium" was the suspension of regulation and it was incorrect on the part of the City to make the applicant think there was a moratorium when there was not one. He felt this was a unique situation. Commissioner Ragan noted, if you read what other cities and neighborhoods are going through, he was glad the City had vacation rental ordinance.

Commissioner Casey was in favor of the variance. He stated the city relied on approving these applications via the conditional use process because it can be reviewed on a case-by-case basis. Precedence comes up all the time, but the commission looked at things individually.

Chair Delwiche agreed, the moratorium was over and the City should have accepted the application, however he felt the justification in the staff report was poor. The City messed up regarding the moratorium and that's why he supported the variance.

Commissioner Vrobel said this is a mixed-use neighborhood and she would support the request because of the moratorium error.

**MOTION:**

Commissioner Ragan moved to approve the distance separation variance with the following findings.

1. That the representations in the application are valid and the application has 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 setback justifies the granting of the variance and the variance is the minimum that will make possible the reasonable use of the land;
3. That the granting of the variances would be in harmony with the general purpose and intent of the City's Vision Plan and the Zoning regulations and would not be injurious and detrimental to the adjacent property and to the public welfare.

**SECOND**

Commissioner Casey seconded the motion.

**DISCUSSION:**

There was no further discussion regarding the motion.

**VOTE:**

Motion passed, 4-0.

**ITEM 7. CU 1609 - Conditional Use (Vacation Rental) - 109 Ruxton Avenue - Manitou Rentals Property Management, Applicant**

Director Wade Burkholder presented the staff report dated August 10, 2016.

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

David Chorpenning, Manager of Ruxton LLC and Manitou Rental Property Management apologized if he offended the commission during his previous presentation, stating he knew too much about the process and did appreciate what the commission had done. He agreed people that rent are also part of the community and with the staff recommendation

Commissioner Vrobel asked what the maximum number of occupants would be. Mr. Chorpenning replied two.

Commissioner Casey said no one took offense but he felt it was a twist of fate that Mr. Chorepenning was the first to request a variance.

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

Chair Delwiche confirmed all items in the requirements must be complied with. Mr. Burkholder stated this was correct, adding the applicant had signed the statement that they understood and would abide by the code requirements for vacation rental operation.

**MOTION:**

Commissioner Ragan moved to approve **CU 1609** with the condition the Applicant submit items under Section 18.89.040 G. (1-6) for the Planning Department files prior to issuance of a business license.

**SECOND:**

Commissioner Casey seconded the motion.

**DISCUSSION:**

There was no further discussion regarding the motion.

**VOTE:**

Motion passed, 4-0.

**ITEM 8.** Applications Postponed until September:

- a. CU 1605 - 198 Crystal Park Road – short term vacation rental
- b. CU 1606 - 733 Manitou Avenue – short term vacation rental
- c. CU 1608 - 153 Clarksley Road – short term vacation rental
- d. CU 1610 - 11 Narrows Road – short term vacation rental

**MOTION:**

Commissioner Vrobel moved to postpone **CU 1605, CU 1606, CU 1608, and CU 1610** to the September meeting.

**SECOND:**

Commissioner Casey seconded the motion.

**DISCUSSION:**

There was no further discussion regarding the motion.

**VOTE:**

Motion passed, 4-0.

Chair Delwiche suggested the next time a Minor Conditional Use was heard, the entire ordinance did not need to be read into the record, maybe just cite sections and/ unique circumstances.

Commissioner Casey asked about inspections. Mr. Burkholder said there was an annual short-term inspection, which is triggered by the business application renewal process.

## **VI. OTHER BUSINESS**

### **ITEM 9. Discussion regarding Agriculture Ordinance revisions**

Director Burkholder presented an overview of discussions between a local farmer and City Council regarding the new language being proposed and asked if there would be any changes the Commission would like to see before the draft went to public hearing at City Council.

Commissioner Casey asked why the regulation of goats would only apply to CSA farms and asked if anyone wanted to bring a few goats to clear their property could they do that.

Jeremy Tackett, Flying Pig Farm at 5 Keithley Road, stated he preferred not to limit goats to CSA farms and urban agriculture with conditional use. Mr. Tackett would like to see four goats per acre. If anyone had that amount of land, they could have working goats. Mr. Tackett said currently, working goats are allowed for 72 continuous hours. Mr. Tackett referred to the goats as “working goats” because they were not pets.

Commissioner Ragan was in agreement with the proposed changes as presented by staff.

## **VII. ADJOURNMENT**

Hearing no further business, Chair Delwiche adjourned the meeting at 8:48pm

Minutes prepared by Sherri Johnson, Planning Technician