



**CITY OF MANITOU SPRINGS
PLANNING COMMISSION
REGULAR MEETING MINUTES
Wednesday, September 14, 2016**

I. CALL TO ORDER

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

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

ABSENT: None

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

II. APPROVAL OF MINUTES

ITEM 1. July 13, 2016

MOTION:

Commissioner Ragan moved to approve the July Minutes as presented.

SECOND:

Commissioner Wolfe seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 6-0 (Commissioner Latimer abstained as she was absent at the July meeting.)

ITEM 2. August 10, 2016

MOTION:

Commissioner Ragan moved to approve the August Minutes as presented.

SECOND:

Commissioner Casey seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 3-0 (Commissioners Latimer, Wolfe and Burris abstained as they were absent at the August meeting.)

III. NOTICE OF COUNCIL ACTION

ITEM 3. MJR 1601 – Major Development (Expand Existing Building for Commercial & Residential Uses) – 327 Manitou Avenue – Todd Liming on behalf of Happy Cats Haven, Applicant. At the September 6, 2016, meeting City Council approved the request as recommended, 5-0.

Chairman 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

There was no unfinished business to discuss.

V. NEW BUSINESS

ITEM 4. MICUP 1605 - Minor Conditional Use (Vacation Rental) - 198 Crystal Park Road - Paige Kelsey, Applicant

Planning Director Burkholder presented the Staff Report dated September 9, 2016.

Commissioner Wolfe asked if Staff had any further contact with the Barnhardts, who submitted a letter of opposition to the request. Mr. Burkholder stated he had not.

Chairman Delwiche asked if the application was in compliance with the recommended condition. Mr. Burkholder stated it was.

Chairman Delwiche invited the Applicant to the podium.

Seth Kelsey, Applicant, 444 Winter Street, stated he and his wife had no issues with the recommended condition and understood what was required under the City's code for operation of the vacation rental.

Discussion regarding the parking and size of the cabin ensued.

Commissioner Wolfe asked the Applicant if he was comfortable with adhering to the parking restrictions stated in the application and as discussed by the Commission. Mr. Kelsey stated he was. He noted he and his wife were experienced vacation rental operators and were also going to provide a bear-proof trash

container. They had put a lot of work into fixing up the property and thought about doing long-term rental, but decided to request vacation rental approval.

Mr. Kelsey was asked if he obtained permits for the work on the house. Mr. Kelsey replied it was interior work that did not require permits.

Chairman Delwiche opened the Public Hearing.

Charles Smith, 12 Spur Road, stated the Barnhardts or another neighbor had contacted the Planning Department to report this property was being rented without approval. Mr. Smith stated he was on the first Historic Preservation Commission and was involved in the creation of the Historic District. He reviewed the changes which had occurred in the area over the last 10-20 years, stating the character of the area had changed because of property speculators who turned stable residences into rentals and sold vacant lots and this was having a detrimental effect on the Log Cabin District. Mr. Smith handed a photo to the Chair to pass around illustrating the deterioration of the area. He noted the subject property had been fixed up and there were some conditions on its operation, but overall rentals were adverse to the district and he felt the Commission had the discretion to deny the request.

Chairman Delwiche remarked the City had no control over rentals of 30 days or more, so if the application was denied the property could still be a rental.

Commissioner Casey advised a Homeowners Association was the only legal way to stop rental activity.

Bill Witzke, 196 Chelton Road, stated it had been brought to his attention that this property was zoned Low Density Residential and that did not allow motel-type use. Chairman Delwiche replied the Conditional Use process provided for uses not specifically allowed in a zone and the City's regulations for Short-Term Vacation Rentals allowed requesting the Conditional Use Permit in all residential zones.

Mr. Witzke asked what type of zoning enforcement the City had. Mr. Burkholder reported the Code Enforcement Officer position was currently open, would hopefully be filled soon, and until it was filled the Police Department was performing those duties.

Mr. Witzke asked, given Mr. Smith's assertions, what the Commission's position was on the request. Chair Delwiche stated that would be the outcome of the deliberations.

Hearing no further comments, Chairman Delwiche closed the Public Hearing.

Commissioner Wolfe stated perhaps the Commission should require vehicles parked on-site must be in the driveway, not just in the yard. It was noted the existing driveway was more than adequate to accommodate the vehicles.

Commissioner Vrobel asked what the maximum occupancy was proposed to be. Staff confirmed the application specified five persons.

MOTION:

Commissioner Wolfe moved to approve MICUP 1605 for a Short-Term Vacation Rental at 198 Crystal Park Road per the findings in the Staff Report and with the following condition in addition to the requirements for listing and permitting of the vacation rental prior to operation:

1. The Applicant submit a copy of items under Section 18.89.040 G. (1-6) for the Planning Department files prior to issuance of a Business License.

SECOND:

Commissioner Latimer seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 7-0.

ITEM 5. MICUP 1606 - Minor Conditional Use (Vacation Rental) - 733 Manitou Avenue - Kiepke Enterprises, LLC, Applicant

Planning Director Burkholder presented the Staff Report dated September 9, 2016, and noted the subject property was zoned Downtown, so this proposal was slightly different than most of the applications the Commission had seen in the past.

Commissioner Casey remarked the 500' radius around this property would overlap with the radius from another vacation rental operation. Mr. Burkholder clarified the subject property had to be outside of another vacation rental's 500' radius, but that did not mean that those radius areas could not overlap.

Commissioner Casey stated he thought vacation rentals in the commercial zones didn't have to obtain Conditional Use approval. Mr. Burkholder replied that was the way the City handled these requests previously, but the Short Term Vacation Rental regulations required approval in all zones.

Chairman Delwiche invited the Applicant to the podium.

Jeff Kiepke, 1410 N. Weber Street, Colorado Springs, stated the building in question was where the Mona Lisa Restaurant was located and he could have obtained a Motel Business License, but didn't want to operate a motel, so was requesting vacation rental approval.

Commissioner Latimer asked about parking for the vacation rental and only allowing one space for up to six persons in the vacation rental. Mr. Kiepke stated he only allowed his long-term tenants one space in the parking lot in back of his building and would restrict vacation rental guests to a single space.

Commissioner Burris stated she didn't know how most guests would show up with six people in one car.

Commissioner Vrobel remarked that they would just show up with more than one car.

Commissioner Wolfe asked if other parking spaces could be accommodated and that the Applicant confirm how many rental units he had overall. Mr. Kiepke stated the five apartments in the building included the proposed vacation rental and he had enough room in the parking lot for six to seven spaces.

Chairman Delwiche stated if there was concern with the number of guests related to the single parking space proposed, the Commission could specify that the Applicant had to provide seven spaces in this lot.

Chairman Delwiche opened the meeting to the public. There being no one present who wished to comment, Chairman Delwiche closed the Public Hearing.

Commissioner Ragan stated he had no issue with a Vacation Rental downtown, but his concern was with the density of six adults proposed and parking of only a single space. He felt a restriction to no more than four adults and requiring two parking spaces was more realistic.

Commissioner Vrobel noted that the Applicant had four apartment units that were only provided a single, off-street parking space and what about their visitors – they would have to be parking either in the already overtaxed downtown or up in the residential area behind the property.

Staff noted the residential area to the south was not Residential Parking Permit only, so any company of downtown residents would have to parking downtown or remotely.

Commissioner Latimer agreed with Commissioner Ragan's proposed change to what would be allowed and required.

Commissioner Casey stated he agreed six adults in a unit this size was too much, but that was a business decision of this owner.

Chairman Delwiche stated he was not uncomfortable with six people, but felt that the Commission should require two parking spaces.

Commissioner Wolfe stated the Commission had just approved prior to this application a 2 bedroom, one bath house for five people with two parking spaces.

MOTION:

Commissioner Ragan moved to approve MICUP 1606 for a Short Term Vacation Rental at 733 Manitou Avenue per the findings in the Staff Report and with the following conditions in addition to the requirements for listing and permitting of the vacation rental prior to operation:

1. Up to five guests at a time may be accommodated and the vacation rental unit must be provided two parking spaces in the owner's off-street lot.
2. The Applicant submit a copy of items under Section 18.89.040 G. (1-6) for the Planning Department files prior to issuance of a Business License.

SECOND:

Commissioner Vrobel seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 7-0.

ITEM 6. MICUP 1608 - Minor Conditional Use (Vacation Rental) - 153 Clarksley Road - Terry and Paul Bernard, Applicant

Planning Director Burkholder presented the Staff Report dated September 9, 2016.

Chairman Delwiche invited the Applicants to the podium.

Terry and Paul Bernard, 153 Clarksley Road, stated they agreed with the Staff recommendation. They related there were two long-term rentals in their neighborhood at 152 and 148 Clarksley Road, so this was one reason they decided to request this approval. The Bernards stated they would provide their own property management as they wanted to take care of their house, their neighborhood, and their renters. They said they would live off-site, but in a nearby RV park when their house was rented. The Bernards noted they had no opposition from neighbors and always worked closely with them. Mr. Bernard provided background on their property, noting it had been a utilities substation until 1989 when the substation was decommissioned. He obtained the property and they were able to build the current house.

Commissioner Ragan asked where their RV was currently. Mrs. Bernard indicated it was in Buena Vista on property they owned. Mrs. Bernard noted a lot of their neighbors did not understand what the Vacation Rental regulations required and she informed as many as possible.

Chairman Delwiche opened the Public Hearing.

Rick and Jean Flowers, owners of 148 Clarksley Road, stated the Bernards had always been great neighbors and kept their property immaculate. The Flowers noted they watched the properties in the neighborhood, as did the Bernards, and didn't put up with much in the way of poor management. They supported the request.

Chairman Delwiche closed the Public Hearing.

Commissioner Ragan asked about the parking in this area and noted there seemed to be a lot of on-street capacity. Mr. Bernard stated the property itself had two driveways and a lot of on-site parking.

MOTION:

Commissioner Wolfe moved to approve MICUP 1608 for a Short Term Vacation Rental at 153 Clarksley Road per the findings in the Staff Report and with the following condition in addition to the requirements for listing and permitting of the vacation rental prior to operation:

1. The Applicant submit a copy of items under Section 18.89.040 G. (1-6) for the Planning Department files prior to issuance of a Business License.

SECOND:

Commissioner Vrobel seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 7-0.

ITEM 7. MICUP 1610 - Minor Conditional Use (Vacation Rental) - 11 Narrows Road - Bill Frazier, Applicant

Planning Director Burkholder presented the Staff Report dated September 9, 2016, and noted there would be two rentals in the subject building, but this would count as only a single operation to the 2% cap City-wide because it was a single property.

Commissioner Wolfe confirmed that one unit had two bedrooms and one had one bedroom; she noted there was no occupancy number provided and asked if the units would exceed the housing code occupancy. Mr. Burkholder suggested confirming the number of guests with the Applicant.

Chairman Delwiche invited the Applicant to the podium.

Bill Frasier, 6660 Ranch House Lane, Colorado Springs, stated that maximum occupancy in the two bedroom unit would be six people and two people in the one bedroom unit. He stated he had parking adjacent to the building adequate for four vehicles.

Commissioner Wolfe asked how long it took the Applicant to get to Manitou Springs, in case of emergency. Mr. Frasier stated it took him about 20 minutes from his house; his mother also lived off of 36th Street in Colorado Springs, which was about five minutes from the property. She would be helping with managing the vacation rental and he was also frequently at her house, so was very available.

Commissioner Latimer stated she was concerned with evacuation of guests in case of flooding. Mr. Frasier replied that in the 2013 flooding, neighbors came to his property for safety as it was the only one with a second floor and then they went up the hillside in back of the property to Dudley Avenue above.

Commissioner Latimer asked if the property was currently in good condition. Mr. Frasier stated it was in decent condition, but he planned to paint and upgrade its appearance. He would have to make it nicer in order to compete to get renters.

Commissioner Vrobel stated that guests might get four cars into the parking, although she felt it was tight for that, but they wouldn't get them out – at least not quickly in case of evacuation – as there was no way to turnaround. She stated the area was too tight and she was concerned this request was for too many people.

Commissioner Ragan felt a more reasonable number was four people in the two bedroom unit and two in the one bedroom and no more than three vehicles.

Commissioner Wolfe questioned reducing the number of parking spaces required.

Commissioner Ragan asked if the Commission allowed six persons, could it be specified that would consist of no more than 4 adults and two children; he supported the restriction on large vehicles. The commission consensus was that would not be allowed as it would be age discrimination.

Commissioner Latimer stated the area was very congested and she agreed with reducing the occupancy and that allowing a vacation rental may improve the condition of the property.

Commissioner Vrobel stated she did not feel this application met the criteria and long-term renter at least got to know their surroundings and what they would do in case of an emergency.

Mr. Frasier stated he could build a stairway up to Dudley if that would help the Commission feel more comfortable.

Commissioner Casey stated that it was just a fact of life on Narrows Road that most people would have to back out to Canon Avenue. He felt it was a positive for that area that this property would be fixed up to a higher degree, as that would be necessary for the business to succeed. Long term rentals did not have to be maintained to the same level.

Commissioner Delwiche stated he agreed the area and the parking was tight, but that was common in Manitou Springs.

Mr. Frasier responded that he had a large truck and didn't have any issue with maneuvering to get out to Canon Avenue. He stated he felt he would have three cars most of the time, but wanted to allow for that additional vehicle.

Mr. Burkholder stated the permit could require no RVs and similar vehicles. Ms. Anthony noted a previous approval had specified no oversized vehicles and that would be an appropriate condition to place on this application.

Chairman Delwiche opened the Public Hearing.

Char Moran, the Applicant's mother, stated she didn't see any problem with allowing two people in the bedroom and two on the couch in the one bedroom unit. She felt the Commission was too restrictive.

Chairman Delwiche stated the Commission was trying to consider not just the operation, but the surrounding area and strive for balancing any impacts.

Hearing no further comments, Chairman Delwiche closed the Public Hearing.

MOTION:

Commissioner Wolfe moved to approve MICUP 1610 for two Short Term Vacation Rental units at 11 Narrows Road per the findings in the Staff Report and with the following conditions in addition to the requirements for listing and permitting of the vacation rental prior to operation:

1. Up to four guests at a time may be accommodated in the two bedroom unit, and up to two people in the one bedroom unit are allowed.
2. Up to four vehicles are allowed and must be accommodated in the owner's off-street parking. The owner shall not allow guests with RVs, large trucks or other oversized vehicles.
3. The Applicant submit a copy of items under Section 18.89.040 G. (1-6) for the Planning Department files prior to issuance of a Business License.

SECOND:

Commissioner Ragan seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 6-1 (Commissioner Vrobel cast the negative vote for the reasons stated during discussion on the item.)

ITEM 8. MNS 1604 - Minor Subdivision (Create One Lot) - 327 Manitou Avenue - Ray Ferguson on behalf of Happy Cats Haven, LLC, Applicant

Senior Planner Michelle Anthony presented the Staff Report dated September 7, 2016.

Chairman Delwiche invited the Applicant to the podium.

Ray Ferguson, 634 Ruxton Avenue, stated he agreed with the Staff recommendation and thanked Staff and the Commission for their assistance with this project.

Commissioner Ragan asked Mr. Ferguson what his schedule looked like for work to get started. Mr. Ferguson reviewed his thoughts on getting the project started, and noted that the current shelter's lease was up in 2017 and the goal was to have it relocated by the time the lease ran out.

Chairman Delwiche opened the hearing for public comments. Hearing none, the Public Hearing was closed.

MOTION:

Commissioner Vrobel moved to approve MNS 1604 to create Lot 1, Planet Happy Cat Subdivision with the following conditions:

- 1) Prior to filing, the plat shall be updated to include notation of the acreage/total square footage of the property at the end of the legal description.
- 2) A Title Commitment or Policy to allow the Surveyor and City to verify there are no applicable exclusions or other 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 \$1,636 as broken out in the table provided in the Staff Report.
- 5) The Subdivision Site Plan shall be updated to indicate the grades of Manitou Avenue and Oak Place along the property frontage.

- 6) A Letter of Credit or other financial surety shall be submitted to the City for \$40,125 prior to issuance of any permits for construction on this property.
- 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 regarding the motion.

VOTE:

Motion passed, 7-0.

VI. OTHER BUSINESS

Commissioner Ragan noted the language in the Vacation Rental staff reports restated the application and suggested streamlining these reports and providing whether staff agreed with the application statement or not.

It was noted there was a typo in Code Section 18.89.40 – a number was skipped.

ITEM 9. Items for Discussion at Board or Council Worksession

Chairman Delwiche stated he had asked Staff for discussion at the end of the agenda regarding items the Commission wanted to meet with City Council regarding as had been mentioned at a recent meeting. Discussion ensued about whether a City Council worksession or discussion at a commission worksession or retreat ensued. The following items were listed for follow-up or additional information to be provided by Staff:

- Rationale about grandfathering previous fees-in-lieu paid as part of the subdivision process
- Implementing a larger or smaller public notice distance
- Parking fees-in-lieu – the code was already written and provided that specific plans for future improvements would be developed
- What the Council might want the Commission to address in regard to parking and events
- Raising the price of parking on Ruxton Avenue
- Revisit the issue of Fines and Fees overall and as related to the Zoning and Subdivision regulations
- Parking guidance for downtown
- A cost/benefit analysis to confirm that enough was being charged to not lose money (parking)

- Standardized Major Development Obligations - requiring a certain amount or % of the cost of a commercial project to either implement or pay for public improvements and upgrades
- Vacation rental ordinance revisions – commercial property should be exempt from CUP requirement and there needed to be guidance on the density rule.

Staff asked of the list, what item was the first priority for the Commission. The consensus was the Major Development Obligations.

It was also suggested some Commission field trips into specific neighborhoods to look first hand at issues or successful projects in order to generate ideas for needed codes or how to encourage desired actions would be beneficial.

VII. ADJOURNMENT

Hearing no further business, Chair Delwiche adjourned the meeting at 8:16pm

Minutes prepared by Michelle Anthony, Senior Planner