



**CITY OF MANITOU SPRINGS
PLANNING COMMISSION
REGULAR MEETING MINUTES
Wednesday, February 8, 2017**

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 6:00pm and declared a quorum present. The following Commission members attended:

PRESENT: Commissioner GLORIA LATIMER
Commissioner JEANNE VROBEL
Chair ALAN DELWICHE
Commissioner LORI BURRIS
Commissioner JULIA SIMMONS
Commissioner MIKE CASEY

ABSENT: Commissioner JULIE WOLFE

STAFF: Wade Burkholder, Planning Director

GUESTS: Coreen Toll, City Council Liaison
Tip Ragan, Former Planning Commissioner

II. APPROVAL OF MINUTES

ITEM 1. January 11, 2017

MOTION:

Commissioner Latimer moved to approve the January Minutes as submitted.

SECOND:

Commissioner Burris seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 4-0. (Commissioners Vrobel and Casey abstained as they were not present at the January meeting.)

III. NOTICE OF COUNCIL ACTION

ITEM 2. RE 1601 through RE 1611 – Rezoning Open Space Parcels. The date for City Council consideration of these items had not been determined.

ITEM 3. RE 1612 through RE 1623 - Rezoning from Hillside Low Density Residential to Open Space. The date for City Council consideration of these items had not been determined.

ITEM 4. MaCUP 1701 – Major Conditional Use (Long Term Lodging) – 23 Manitou Avenue – Susie Brock, owner of El Colorado Lodge, Applicant. Mr. Burkholder reported this application was unanimously approved as recommended at the February 7 City Council meeting.

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 consider.

V. NEW BUSINESS

There was no new business to consider.

VI. OTHER BUSINESS

ITEM 5. Review and Recommendation to City Council Regarding Amendment of the Zoning Code to Regulate Adult or Sexually Oriented Businesses

Planning Director Wade Burkholder presented the staff report and an overview of the Ordinance and its purpose stating this type of business may not be prohibited within the City. The Ordinance reviewed was drafted in 2010 but never advanced to the public hearing process. Burkholder explained Staff had received several inquiries about selling adult products in the recent past and informed an existing business of tonight’s meeting to further discuss and offer input into the Ordinance.

The Planning Commission began discussions around the language of the Ordinance and developed a list of further questions, many of which Director Burkholder stated would need City Attorney clarification.

Chair Delwiche mentioned a lawsuit in Fort Collins regarding the exposure of female breasts and whether or not Manitou Springs wanted to follow that path. Comments regarding breastfeeding of babies were referenced and whether the Ordinance moved the City in a direction of prohibiting breastfeeding activities in public.

Commissioner Casey mentioned Section 9.12.020 and whether this was overkill. Casey mentioned state law prohibited prostitution and solicitation so questioned it needed to be included in the Ordinance.

Commissioner Casey mentioned the language in Section 9.12.030 “such that the genitals or buttocks of either sex or the breast or breasts of a female are exposed.” was problematic for him and suggested ending the sentence after the word “undress”. The Commission agreed with that suggestion.

Commissioner Casey asked to see a provision prohibiting the sale of alcohol in these businesses. Additionally, he asked for clarification on the stage and dance floor requirements and whether these were needed or if the requirements were already located within other state regulations.

Commissioner Casey requested the Planning Commission consider a moratorium on accepting applications for this type of business until further discussion and answers could be gathered.

Commissioner Latimer asked about age restrictions and if a clause banned alcohol would the Ordinance need to be changed to age 21.

Commissioner Latimer questioned whether the penalties section was redundant and if it needed to be included. The observation was made the penalties may not be the same as in Title 1 of the Municipal Code. Burkholder stated he would verify the penalties are similar, also noting there was generally a reference in ordinances as to other sections of the Code where penalties could be found.

Commissioner Simmons asked whether or not PlanManitou was an appropriate place for this issue to be vetted. Specifically, the direction the community wanted to go in regard to this issue and PlanManitou being the place to get the temperature of the community. Staff explained PlanManitou was the roadmap for the community with regard to eleven sectors of the community and, other than the current and future land use map, the plan did not address specific land uses. Staff explained the Ordinance was attempting to address where these businesses could be located within the City. As the Commercial zone district was the most relaxed in terms of what uses could be located within in, this was the zone where it was recommended these businesses be allowed. Staff explained the City could look further and determine where within the Commercial areas these businesses might be located, if that was a recommendation of the Planning Commission.

Burkholder clarified the separation distances stated in the Ordinance from areas zoned for residential use, single family or multifamily dwellings, churches, public parks or libraries, state-licensed day cares, schools or other sexually oriented businesses. He pointed out the distance separation measurement was proposed from exterior wall of a business to exterior wall of the other uses and this was not how other these measurements were made in other areas of the Code. For example measurements for marijuana establishments as well as for short-term vacation rentals were from property corner to property corner. Burkholder stated he would like to see the measurements for all land use separation distance requirements be consistent.

A comment was made regarding adding a separation distance from a marijuana facility to a sexually oriented business or a liquor store. Commissioner Delwiche stated he was not sure a separation distance was needed stating “what are we trying to preserve”.

Tip Ragan, 20 Grand Avenue, stated he believed a moratorium would be a good thing and including prohibitions for solicitation and prostitution would hold business owners to task to not permit these activities. Furthermore, Mr. Ragan stated it was important to conduct some further analysis with GIS mapping to make sure the regulations did not effectively “zone out” sexually-oriented or adult businesses within the City. The commercial zone had a limited area and with distance separation requirements from other uses the regulations may not leave any place within the City in which to locate such a business.

The unanimous consensus of the Planning Commission was to request City Council pass a six-month moratorium on sexually-oriented/adult businesses from submitting applications to allow for further discussion to occur and to receive clarifications from the City Attorney.

Members of the Planning Commission expressed intention to further work on this Ordinance before City Council made any official determination regarding it.

ITEM 6. Recommendation to City Council Regarding Revocation of Conditional Use Permit #0709 for Long-Term Rentals at 1126-1132 Manitou Avenue (Ute Pass Apartments) and 1222 Manitou Avenue (Millwheel Apartments)

Director Burkholder presented the original conditions of CU 0709 and explained the violations Code Enforcement Officer Arnoldussen found when conducting inspections of the properties in November 2016. Further inspections by both Mr. Arnoldussen and Fire Inspector Larry Mitchell continued to show violations at the properties. Chapter 18.30.060 of the Municipal Code was provided to the Planning Commission and reviewed; the Code outlined the process for revocation of a conditional use permit.

Chair Delwiche asked if the applicant was made aware of the meeting. Director Burkholder stated he had spoken with the owner, Mr. Dunn, the day before and reminded him of the meeting and the process for revocation was beginning.

Concern was expressed this was not a public hearing. The Commission was referred to the Code, which required the public hearing occur at the City Council level. The code charged the Planning Commission with making a recommendation to the Council whether a failure to comply with any condition of the Major Conditional Use Permit existed.

MOTION:

Commissioner Vrobel moved to recommend CUP 0709 be revoked for failure to comply with approval conditions.

SECOND:

Commissioner Burris seconded the motion.

DISCUSSION

There was no discussion regarding the motion.

VOTE

Motion passed, 6-0.

VII. ADJOURNMENT

Hearing no further business, Chair Delwiche adjourned the meeting at 7:02pm

Minutes prepared by Wade Burkholder, Planning Director