



**CITY OF MANITOU SPRINGS
PLANNING COMMISSION
REGULAR MEETING MINUTES
MARCH 14, 2018**



I. CALL TO ORDER and APPROVAL OF AGENDA

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 6:01 pm and declared a quorum present. The following Commission members attended:

PRESENT: Chair ALAN DELWICHE
Vice Chair JEANNE VROBEL
Commissioner GLORIA LATIMER
Commissioner MIKE CASEY
Commissioner LORI BURRIS
Alternate Commissioner WHITNEY LEWIS

ABSENT: Commissioner JULIE WOLFE (excused)
Commissioner JULIA SIMMONS (excused)

STAFF: Wade Burkholder, Planning Director
Michelle Anthony, Senior Planner
Dylan Becker, Planner I

GUESTS: Robert Todd, City Council Liaison

II. APPROVAL OF MINUTES

ITEM 1. February 14, 2018

MOTION:

Commissioner Latimer moved to approve the February 14, 2018 Regular Meeting Minutes of the Planning Commission as presented.

SECOND:

Commissioner Casey seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 5-0. Vice Chair Vrobel abstained as she was not present for the February 14, 2108 Regular Meeting of the Planning Commission.

III. NOTICE OF COUNCIL ACTION

ITEM 2. MJR 1702 – Major Development (Townhouse Units) – 115 Beckers Lane – Ryan Lloyd, Echo Architecture, on behalf of Eddie Bishop, Applicant. At their March 6 meeting, City Council unanimously approved the Major Development Plan, as recommended.

ITEM 3. ORD 0218 – Rezone (Hillside Low Density Residential/Low Density Residential/General Residential/Commercial to Open Space) – City of Manitou Springs, Applicant. At their meeting on

February 20, 2018, City Council approved these rezonings unanimously, as recommended, on First Reading. On March 6, City Council approved these rezonings unanimously, as recommended, on Second Reading.

At this time, Chairman Delwiche reviewed the meeting procedures for those present in the audience and asked if any Commissioner had Ex Parte Contacts or Conflicts of Interest to declare. Hearing none, the meeting continued.

IV. UNFINISHED BUSINESS

ITEM 4. SW 1703 – Subdivision Waiver (Encroachment into No Build Area) – 0 Manitou Terrace – Bill Koerner, Applicant

Michelle Anthony, Senior Planner, presented the Staff Report dated March 8, 2018.

Commissioner Latimer asked for clarification regarding the location and orientation of the proposed house on the property. Ms. Anthony responded the house would be located beyond the curve on Manitou Terrace facing a southerly or south-westerly direction and the proposed driveway entry would be located on the west side of the house just beyond the gate which separated the paved portion of Manitou Terrace from the unpaved portion. Ms. Anthony stated the Applicant intended to relocate the gate farther west along Manitou Terrace in the future to allow easier driveway access.

Hearing no further questions for Staff, Chairman Delwiche invited the Applicant to the podium.

Bill Koerner, 205 Ruxton Avenue, handed out photographs of the property and stated the photographs were intended to show the challenges on the site and the height of the ground in comparison to the road.

Mr. Koerner stated, after months of weighing the options, the most sensible solution to gain access to the house was to follow the contours of the land and to access the driveway at a high point on the road so as to minimize its grade.

Mr. Koerner stated, in regard to the house orientation, the house would face a southerly direction, which would be better for solar use down the road.

Mr. Koerner stated the yellow area on the images pertained to the area in which the Subdivision Waiver was requested.

Chairman Delwiche inquired if the Applicant was amenable to Staff's recommendations. Mr. Koerner responded he was.

Hearing no further comment from, or question for, the Applicant, Chairman Delwiche opened the Public Hearing for public comment. Hearing none, Chairman Delwiche closed the Public Hearing.

MOTION:

Commissioner Latimer moved to approve SW 1703 to allow approximately 1,140 square feet of encroachment into the established No Build area as shown on the site plan submitted on March 5, 2018, and labelled Figure 3 for driveway access. This approval includes the following conditions:

1. The Applicant's surveyor shall prepare and provide a revised, final plat Mylar showing the area

of the approved waiver graphically and containing a plat note stating the exact size of the waiver area in square feet, the Planning Commission's approval and date, and that only a driveway and related retaining walls are allowed to be developed within the waiver area.

2. At time of property development, the No Build Areas and the area of the approved Subdivision Waiver shall be staked on the property to insure construction does not encroach into areas that are not allowed.

and the following finding:

The Subdivision Waiver is justified based on the demonstration by the Applicant that access from the area of the property frontage outside of the No Build areas creates undesirable conditions that would be detrimental to the property development and access. Denial of the requested waiver would place an unnecessary hardship on the Applicant or any future developer of the property. The waiver, under the conditions granted, would not be detrimental to the public good or impair the intent and purpose of the Subdivision Regulations.

SECOND:

Commissioner Casey seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 6-0.

V. NEW BUSINESS

ITEM 5. V 1801 – Variance (Front Setback) – 151 Clarksley Road – Neale Minch, Applicant

Michelle Anthony, Senior Planner, presented the Staff Report dated March 8, 2018. Ms. Anthony stated the minimum hallway size, per Code, was three feet (3 ft.) and would like the Commissioners to keep this in mind, as without the approval of the Variance, the addition would only measure a width of five and a half feet (5.5 ft.).

Hearing no questions for Staff, Chairman Delwiche invited the Applicant to the podium.

Kathleen Minch, 151 Clarksley Road, stated she was comfortable with the Staff Recommendations.

Hearing no further comment from, or questions for, the Applicant, Chairman Delwiche opened the Public Hearing for public comment. Hearing none, Chairman Delwiche closed the Public Hearing.

MOTION:

Vice Chair Vrobel moved to approve V 1801 to allow for a three foot (3 ft.) Front Setback Variance to allow a seventeen foot (17 ft.) setback, respectively, from the front property line, where a twenty foot (20 ft.) setback is required at 151 Clarksley Road with the following conditions:

1. The variance granted only pertains to the encroachment of the proposed eight foot by twelve foot (8 ft. x 12 ft.) addition, as presented in the Site Plan and Application. Any alteration to the dimensions of the encroachment, other than what was presented in the Application, shall require further approval

from the Planning Commission.

And 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 front setback requirements justifies the granting of the variance and the variance allowed is the minimum that will make possible the reasonable use of the land;
3. That the granting of the variance will be consistent with the general purpose and intent of the City's Zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

SECOND:

Commissioner Burris seconded the motion.

DISCUSSION:

There was no discussion regarding the motion.

VOTE:

Motion passed, 6-0

VI. OTHER BUSINESS

ITEM 6. Wayfinding Signage Discussion – Kristin Cypher, C+B Design

Michelle Anthony, Senior Planner, explained the Wayfinding Signage Discussion would be postponed to the next Regular Meeting of the Planning Commission on April 11, 2018 due to the fact Kristin Cypher of C+B Design was unable to attend due to scheduling conflicts.

ITEM 7. UPDATE RE 1754 – Rezone (Commercial to High Density Residential) – 110 El Paso Boulevard – Cristine Gritz, Applicant

Wade Burkholder, Planning Director, stated the Applicant was likely, at this point, to sell the property, as is, and was likely not going to pursue the rezoning request due to the comments which were heard at the last meeting. Mr. Burkholder stated the request had been postponed until April and it was expected there would likely be a letter requesting further postponement while the Applicant determined their best course of action.

Mr. Burkholder stated there had been multiple conversations with Pikes Peak Regional Building Department in the past month. Mr. Burkholder stated the request was a change of use to the property and was also a change of occupancy, two issues brought up during the Preliminary Hearing by surrounding neighbors, but this had nothing to do with the Rezoning request. Mr. Burkholder stated many of the issues brought up regarding the property in the last meeting were Building Code related which were being handled by the appropriate processes in place.

Mr. Burkholder stated Staff had looked into the reported issues regarding the property posting and public notice of the property and it was determined the advertising and postings were done in accordance with the Code and the reported issues were, therefore, incorrect or mistaken.

Mr. Burkholder stated he had no further information other than this and for the Commission to expect a request for further postponement at the next meeting.

Commissioner Latimer inquired if the decision to keep the property zoned Commercial, was because the property was intended for continued use as a motel. Mr. Burkholder responded the Applicant was looking to sell the property with the current zoning, which would mean that the property could potentially be used for any commercial use listed in the Zoning Code.

Commissioner Casey inquired if there was some way of notifying potential people who were interested in this request before the meeting date, should the request be withdrawn or postponed. Mr. Burkholder responded the meeting agenda would simply be posted, as usual, but the item would say "Postponement Requested" in red letters and the Commission would still be required to make a motion for postponement.

ITEM 8. Ordinance Clarifying the Hotel/Motel Definition in the Zoning Code

ITEM 9. Ordinance Providing that Both Bed & Breakfasts and Vacation Rentals are Processed Per Chapter 18.89 in the Zoning Code

Michelle Anthony, Senior Planner, presented the City Memorandum dated March 9, 2018. Ms. Anthony also presented an additional exhibit of a map depicting how the separation distance using a lineal frontage on the Vacation Rental Map would appear and be administered for the Commission's review and discussion.

Ms. Anthony stated the lineal frontage separation distance opened up a lot more space on the map and made many more properties eligible to be utilized as short-term rentals. Ms. Anthony commented, under the current regulations, it did not appear the City would ever reach the two percent (2%) maximum threshold established by the Code, however, under the lineal frontage separation distance, this threshold could easily be reached and there would likely be a push to have more.

Ms. Anthony stated, under the current regulations using the five-hundred foot (500 ft.) radial separation distance, properties which operated a short-term rental had an impact on the eligibility of other properties which were a considerable distance, and several streets or blocks, away and there had been multiple inquiries from potential applicants wondering why this was the case.

Chairman Delwiche inquired if the Planning Commission had originally recommended the linear frontage approach and who had been responsible for changing the separation distance to a circumference. Mr. Burkholder responded City Council had reached the decision in a late night session. Chairman Delwiche inquired if City Council had a rationale for doing so. Mr. Burkholder stated he was unsure of the chain of events which led to the final decision, but it had come out in the final motion as a radius. Ms. Anthony stated there did not seem to be much or any discussion which led up to the decision. Mr. Burkholder commented, at the time, he recalled there being some dissenters on City Council regarding the separation distance, but, in the end, this was what had come out. Chairman Delwiche stated he knew there was some confusion regarding how the separation distance was applied. Ms. Anthony responded it may have been that the radial separation distance was simpler to understand and apply which was why it had occurred the way in which it did.

Commissioner Latimer inquired if this would be a good time to clarify the way in which units or properties are counted towards the two percent (2%) threshold. Ms. Anthony responded the count was based on number of permits as opposed to number of units. Commissioner Latimer commented the two were associated in her mind. Vice Chair Vrobel stated she thought they were linked as well and thought the count was based on the number of units.

Commissioner Burris inquired if there was some sort of point system the City could implement which factored somehow into the two percent (2%) threshold. Ms. Anthony responded if the Commission desired to move towards a more lineal regulation, this would make sense, but otherwise it was unnecessary. Ms. Anthony commented, if each unit was counted towards the two percent (2%) threshold, the City was likely at or near the threshold. Commissioner Burris stated she felt this would also be helpful in keeping the City from being overrun with vacation rental properties. Chairman Delwiche stated this would require the City to do a housing survey to get an accurate number of units within the City and inquired how this would be done. Ms. Anthony responded, at this point, she was uncertain how this would be achieved, but Staff had contacted the State Demography Office to determine what exactly the term "residential structures" actually meant, as the term itself was somewhat ambiguous.

Chairman Delwiche inquired if there had been numerous complaints regarding the current application of the ordinance. Mr. Burkholder responded there had been quite a few. Chairman Delwiche commented he had heard a lot of positive feedback and envy from other communities. Ms. Anthony commented she felt the current separation distance had worked well, but thought there needed to be more refinements and clarification regarding certain aspects of the Code. Ms. Anthony stated Staff received multiple calls a month from potential applicants which they must turn away due to their eligibility under the current separation distance regulations.

Commissioner Casey stated he had always felt the Downtown Zone should be exempted from the separation distance requirements and if the five-hundred foot (500 ft.) separation distance was too much, perhaps the Commission should consider reducing the requirement to four-hundred feet (400 ft.). Commissioner Casey commented he felt the radial separation distance was simpler and cleaner in terms of its application.

Commissioner Casey inquired if the Bed and Breakfast owners had been notified about these possible changes to the regulations. Ms. Anthony responded, at this time, they had not been notified because they were already on the list. Vice Chair Vrobel commented they would be grandfathered in anyway. Commissioner Casey commented he felt there would be an impact to those owners because new regulations were being imposed on them. Ms. Anthony responded bed and breakfasts were already under the same regulations, but the separation distance did not currently apply to them.

Commissioner Burris inquired if the Conditional Use for a bed and breakfast would run with the land or be nullified under new ownership. Ms. Anthony responded the permit would be nullified under new ownership unless otherwise stated in the conditions of approval, but was uncertain any of those permits were still in existence currently.

Commissioner Casey commented he felt if there was more than one (1) unit on a given short-term rental property, it should be considered and counted as one (1) Vacation Rental and count against the two percent (2%) threshold as a single rental. Ms. Anthony responded if the Commission wanted to keep the separation distance as a radius, this would also eliminate the need to separate each unit on a property out when applying the separation distances.

Mr. Burkholder commented he liked the idea of decreasing the five-hundred foot (500 ft.) separation distance because the City would never reach the two percent (2%) threshold under the current regulations.

Vice Chair Vrobel inquired why the City should strive to hit the two percent (2%) threshold. Mr. Burkholder responded this was because the ordinance indicated so and the Commission could also consider changing the threshold to allow more short term rentals to operate should they desire so. Ms. Anthony commented the City had determined two percent (2%) was an acceptable number, however, the current application of the separation distance requirements have made it so the two percent (2%) threshold was unattainable which meant the regulations were in conflict with one another.

Commissioner Burris commented the threshold could be reached if each unit was counted as a single Vacation Rental. Vice Chair Vrobel commented she felt this was the way the ordinance had originally been worded and intended to work.

Chairman Delwiche commented he recalled attempting to explain to some City Council members how the separation distances and threshold worked, but had a difficult time doing so.

Commissioner Latimer commented when this ordinance had originally been implemented, it was discovered there were far more Vacation Rental properties listed than what had been permitted and inquired if the City had any way of tracking legal or illegal rentals and whether the current short-term rental number was accurate. Ms. Anthony responded the City had hired a host compliance team to seek out illegal operations and the current number was accurate. Ms. Anthony commented there had already been some enforcement regarding the illegal operations.

Vice Chair Vrobel recounted her recent trip and her stays in several Vacation Rentals in which she related her poor experience in other municipalities in comparison to how the City of Manitou Springs operated.

Ms. Anthony inquired of Mr. Burkholder whether or not the short-term rental properties were inspected. Mr. Burkholder responded the properties were inspected when the owners applied for a Business License or a Business License renewal.

Chairman Delwiche stated he felt the City could squeeze in another ten (10) or so Vacation Rentals under the current regulations. Ms. Anthony commented the current regulations really spread short-term rental properties out within the City. Chairman Delwiche stated he liked the current regulations and did not mind cleaning up some of the language, but was not in support of altering the application of the separation distances from a radius to a lineal frontage method. Chairman Delwiche commented other communities had expressed their envy of the City's regulations and felt there was no need to drastically change them. Ms. Anthony stated she felt it was good to have these conversations and check back in every once in a while.

Mr. Burkholder stated he would like to close the loophole regarding residential structures in the Commercial Zones operating as Hotels/Motels. Ms. Anthony commented she recently had a conversation with a potential applicant who, upon hearing how the regulations worked, stated he would rather just call himself a Hotel/Motel to avoid paying the fees and going through the Minor Conditional Use process. Chairman Delwiche commented he felt this was a good idea and was part of the language clean-up effort regarding the regulations. Commissioner Latimer commented she agreed it was beneficial to bring them all under one definition.

Ms. Anthony inquired if the Commission was comfortable with Staff's amendments to the regulations, while keeping the application of the distance separation unchanged. The Commissioners confirmed.

Commissioner Lewis inquired if the term “Residential Lodging” may be somewhat confusing and felt the term “Vacation Rental” was unambiguous and easy to find in the Code and on the website. Ms. Anthony responded the words “Vacation Rental” were contained in the wording of the regulations and when a search was performed using the term “Vacation Rentals” this regulation should still come up.

Commissioner Burris inquired if including the term “Vacation Rentals” in parentheses next to the heading was appropriate. Ms. Anthony responded it made the heading too long, but there was a section which stated “This includes Vacation Rentals, Bed & Breakfasts, and similar land uses”.

Hearing no further questions for Staff, Chairman Delwiche opened the Public Hearing for public comment. Hearing none, Chairman Delwiche closed the Public Hearing.

MOTION:

Vice Chair Vrobel moved to forward a recommendation to City Council for approval of the amendments to Chapter 18.60 and 18.89 of the Zoning Code, as presented.

SECOND:

Commissioner Latimer seconded the motion.

VOTE:

Motion passed, 6-0

NON-AGENDA ITEMS FOR DISCUSSION:

Chairman Delwiche inquired if Staff had attained the volunteers they were looking for to serve on the sub-committee. Ms. Anthony responded Staff had one (1) Planning Commission volunteer and inquired if anyone else would like to volunteer to serve on the sub-committee.

Commissioner Burris stated she had volunteered her neighbor as a citizen volunteer and inquired if Ms. Anthony had received the notification. Ms. Anthony responded she had received the recommendation, as well as several others from citizens.

Chairman Delwiche inquired if the sub-committee needed another member from the Planning Commission. Ms. Anthony responded she needed one (1) more.

Commissioner Latimer inquired if Ms. Anthony had counted her as the volunteer she had from the Planning Commission. Ms. Anthony responded she was counting on Commissioner Latimer as a back-up because she would potentially need to miss one (1) or more of the meetings.

Commissioner Burris inquired the dates of the sub-committee meetings. Ms. Anthony responded March 19, 2018 through April 5, 2018, but did not know how many meetings would be required to work out the remaining issues. Ms. Anthony stated regardless of how many meetings there were, the item needed to be presented to the Planning Commission for review by April 11, 2018.

Commissioner Latimer stated she was not available from March 22, 2018 to March 28, 2018. Ms. Anthony stated she felt Commissioner Latimer may work as the other volunteer and stated she also had two (2) members from City Council, two (2) citizen volunteers, one (1) of two (2) members from the Chamber of

Commerce, and one (1) member from the Urban Renewal Authority. Ms. Anthony stated this gave the sub-committee an odd number which was needed to ensure there was no vote which resulted in a stalemate.

Commissioner Casey inquired the date of the next Planning Commission Meeting. Ms. Anthony responded it was scheduled for April 11, 2018.

Commissioner Latimer inquired how the closing of the Cog Railway would impact the City and the Planning Commission. Ms. Anthony responded it would affect the City a tremendous amount. Mr. Burkholder responded the property was in conflict with their Conditional Use Permit regarding the parking lot and, at this point, it was undetermined whether or not the Cog Railway would be using the parking lot for Incline users. Mr. Burkholder stated, if this was the case, the City would need to close their Conditional Use Permit. Chairman Delwiche commented perhaps they had decided they could make more money this way and stated he felt disappointed at the announcement of the closure.

Commissioner Latimer commented she had read it would cost around ten million dollars (\$10,000,000) to perform the necessary repairs and thought, as a business, the Cog had generated a substantial enough income to perform the needed work, which was why she wondered how necessary the closure really was. Ms. Anthony commented the owner was Phillip Anchutz. Chairman Delwiche commented he also owned the Broadmoor Hotel and other locations, as well.

Ms. Anthony stated she did not imagine Mr. Anchutz would let the railway shut down indefinitely. Chairman Delwiche stated he hoped Ms. Anthony was right and commented there were only two (2) railways of this kind in the entire country. Ms. Anthony commented it would be a huge economic hit to the City should it close permanently.

Vice Chair Vrobel commented the situation seemed similar to when the railway on the Incline closed. Ms. Anthony commented it did seem like déjà vu. Mr. Burkholder stated, according to what the owner told Mayor Jaray, it was only a three (3) year closure and they intended to re-open following the repairs.

Chairman Delwiche commented he had a neighbor who rented property to a Swiss couple every summer that worked on the railway and they had commented how poorly the railway was maintained and how much work it needed to bring it up to an acceptable standard.

Commissioner Latimer stated she felt the closure may affect the new summit house on top of Pikes Peak, as well, because there would be significantly fewer people visiting the summit on a daily basis.

VII. ADJOURNMENT

Hearing no further business before the Commission, Chairman Delwiche adjourned the meeting at 7:05 pm.

Minutes Prepared by Dylan Becker, Planner I