



**CITY OF MANITOU SPRINGS  
PLANNING COMMISSION  
REGULAR MEETING MINUTES  
DECEMBER 12, 2018**



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

**PRESENT:** Chair ALAN DELWICHE  
Commissioner JULIA SIMMONS  
Commissioner JULIE WOLFE  
Alternate Commissioner WHITNEY LEWIS  
Alternate Commissioner BRYANT “TIP” RAGAN

**ABSENT:** Vice Chair JEANNE VROBEL (excused)  
Commissioner MIKE CASEY (excused)

**STAFF:** Kimberly Johnson, Planning Director  
Michelle Anthony, Senior Planner  
Dylan Becker, Planner I

**GUESTS:** Robert Todd, City Council Liaison

**II. APPROVAL OF MINUTES**

**ITEM 1.** November 14, 2018 Regular Meeting Minutes

**MOTION:**

Commissioner Ragan moved to approve the November 14, 2018 Regular Meeting Minutes, as presented.

**SECOND:**

Commissioner Wolfe seconded the motion.

**DISCUSSION:**

There was no discussion regarding the motion.

**VOTE:**

Motion passed, 3-0. Commissioner Simmons and Commissioner Lewis abstained as they were not present for the Regular November Meeting of the Planning Commission.

**ITEM 2.** November 14, 2018 Special Meeting Minutes

**MOTION:**

Commissioner Ragan moved to approve the November 14, 2018 Regular Meeting Minutes, as presented.

**SECOND:**

Commissioner Wolfe seconded the motion.

**DISCUSSION:**

There was no discussion regarding the motion.

**VOTE:**

Motion passed, 3-0. Commissioner Simmons and Commissioner Lewis abstained as they were not present for the Special November Meeting of the Planning Commission.

**III. NOTICE OF COUNCIL ACTION**

**ITEM 3. SW 1801** – Subdivision Waiver (Encroachment into No-Build Area) – 2 Keithley Place – Jerry Peterson, Architectural Concepts, on behalf of Elizabeth Crawford, Owner. This item was scheduled and postponed from the October 16 and November 20, 2018, City Council Meetings, to the December 18 meeting to allow the City's On-call Engineer to review the Geologic Hazards Report and Drainage Plan.

**ITEM 4. RESOLUTION 3518** – Resolution to Adopt Creek Walk Master Plan. Consideration of this Resolution was scheduled to be heard by City Council on December 4, 2018 and was approved as recommended, 6-1.

**ITEM 5. ORDINANCE 2318** – Amendments to the Zoning Code Pertaining to Definitions of Dwelling Unit, Kitchens, and Occupancy of a Dwelling Unit. Consideration of this Ordinance was scheduled to be heard by City Council on December 4, 2018 but was postponed due to the Senior Planner being out sick. This item has been scheduled for the January 22, 2019, Council Worksession and First and Second Reading dates will be determined subsequently.

**ITEM 6. ORDINANCE 2418** – Amendments to the Zoning Code Pertaining to Short-Term Rental Regulations. Consideration of this Ordinance was scheduled to be heard by City Council on December 4, 2018 but was postponed due to the Senior Planner being out sick. This item has been scheduled for the January 22, 2019, Council Worksession and First and Second Reading dates will be determined subsequently.

**ITEM 7. ORDINANCE 2518** – Rezone (General Residential to Open Space) – 18 Manitou Terrace – City of Manitou Springs, Applicant. First Reading was unanimously approved at the December 4, 2018, City Council Meeting as recommended. Second Reading is scheduled for the December 18, 2018 City Council Meeting.

*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**

There was no Unfinished Business to discuss.

**V. NEW BUSINESS**

**ITEM 8. MiCUP 1806** – Minor Conditional Use Permit (Vacation Rental) – 820 Shoshone Place – Susan Richardson and Lynne Bryant, Applicants.

Michelle Anthony, Senior Planner, presented the Staff Report dated December 7, 2018.

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

Susan Richardson, 820 Shoshone Place, introduced herself.

Lynne Bryant, 820 Shoshone Place, introduced herself and stated she was amenable to the recommendations made by Staff. Ms. Bryant stated she was currently working to bring the yurt up to Code.

Ms. Richardson stated she and Ms. Bryant were currently in the process of shopping for a developer or contractor to create plans and ensure the property was up to Code under the Pikes Peak Regional Building Department's standards.

Hearing no further comment from, or questions for, the Applicants, Chairman Delwiche opened the Public Hearing for public comment. Hearing none, the meeting continued.

Commissioner Simmons inquired what was meant by the term "pool enclosure". Ms. Anthony responded the previous owners had installed the yurt with a pool to perform water therapy. Ms. Richardson commented the yurt was affixed to a permanent foundation and was not a temporary type of structure.

**MOTION:**

Commissioner Wolfe moved to approve MiCUP 1806 for operation of a short-term vacation rental at 820 Shoshone Place with the finding the proposal will be in conformance with the Conditional Use criteria without any adverse conditions created and the following conditions:

1. A maximum of two (2) guests are allowed at any one time and in no more than two vehicles.
2. All advertisements and/or listings for the vacation rental must contain the approval number (MiCUP 1806) and copies of advertisements and/or listings must be submitted to the Planning Department for retention in the property file. The advertisement(s) and postings shall also note guests must not arrive in more than two (2) vehicles and if the property will accommodate oversize vehicles, RVs, campers, or trailers the guests will need to be advised of this and that only one of these types of vehicles will be allowed.
3. The required fire extinguishers, smoke detectors, and CO<sup>2</sup> detectors must be in place as required by code.
4. A final guest notice complying with 18.89.040.G (1-7) must be submitted to the Planning Department for review and approval prior to issuance of a City Business License. Notice must also include a statement prohibiting smoking outside of the house.
5. The owners must not schedule guests during any time they will be unavailable for more than 24 hours, or are required to provide an additional emergency contact who will be available during any such periods.
6. The owners must obtain a business license from the City of Manitou Springs and the required tax licensing prior to listing the property for vacation rental operation.
7. In a conspicuous location for the guests, the owner must post emergency evacuation procedures for wildfire. Staff recommends that a map showing an evacuation route be added to the Property Rules.
8. The guest parking area shall be paved (concrete, asphalt or pavers) prior to operation of the vacation rental.
9. Building Permits from the Regional Building Department and the associated Property Improvement Permits from Manitou Springs must be obtained for the conversion of the yurt to an independent residential unit. The permits must be obtained and the work performed to bring the structure up to current building, fire, and housing codes for residential use prior to its occupation. Final inspections by both Regional Building Department and the City of Manitou Springs are required prior issuance of a City Business License for the vacation rental occupation.

**SECOND:**

Commissioner Ragan seconded the motion.

**DISCUSSION:**

There was no discussion regarding the motion.

**VOTE:**

Motion passed, 5-0.

**ITEM 9. MiCUP 1807 – Minor Conditional Use Permit (Amendment of MiCUP 1707 Condition of approval) – 324 Terrace Place – Alexander and Samantha Belding, Applicants**

Michelle Anthony, Senior Planner, presented the Staff Report dated December 7, 2018.

Commissioner Simmons inquired if it was more practical or beneficial to the overall landscaping to have a permeable surface such as gravel. Ms. Anthony responded this was a question for the Applicant.

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

Alexander Belding, 324 Terrace Place, stated he had been before the Commission a year prior and in the past year, he and his wife had constructed a very nice parking pad. Mr. Belding stated the original issue which brought this up was the drainage culvert which ran across his property and the parking area they had created was on the opposite side of this culvert from where the house was located.

Mr. Belding stated the parking pad was currently a packed road base, but would like to top it with one and a half inches (1.5 in.) of artisanal gravel as this was not only cost effective, but fit the aesthetic appeal of the rest of the neighborhood. Mr. Belding stated this material would compact over time and cause little transportation of material into the street.

Mr. Belding also stated the permeable surface he was requesting was congruous with the stated goals of Plan Manitou which called for the use of more permeable surfaces, despite this change not yet having been updated in the City's Code.

Commissioner Simmons inquired if a hydrologist or a geologist had reviewed the proposed request or materials. Mr. Belding responded he had tried to get the City's Storm Water Manager to perform a site visit, but had not been able to get anyone out to review the proposal. Mr. Belding commented his request had been sent to the Storm Water Department for the City and they did not provide any comment which he assumed meant they were amenable to the request or did not see any issues. Ms. Anthony commented if Public Services had any concerns regarding the request they would have provided comment.

Hearing no further comment from, or questions for, the Applicants, Chairman Delwiche opened the Public Hearing for public comment. Hearing none, the meeting continued.

Chairman Delwiche stated he felt this was a recurring issue, regarding impermeable surfaces, the City's Code, and Plan Manitou, but the Commission had generally tried to stay consistent and enforce what was actually in the Code. Ms. Anthony stated the Commission had been consistent but she did recall there had been a few instances in which the Commission had waived the requirement for paving.

Commissioner Wolfe stated she had always been one to go by the book but did not feel this warranted such a rigid interpretation. Commissioner Wolfe stated she was amenable to authorizing the permeable material for the parking pad as this was a specified goal stated in Plan Manitou, even though this change had not yet made its way into the language of the Municipal Code.

Commissioner Ragan stated he felt this was a situation in which the City had conflicting messages in regard to governmental documents and felt, due to this, it was the Commission's duty and responsibility to make a judgement. Commissioner Ragan stated given the situation specific to this request, he was amenable to authorizing the permeable material.

Commissioner Simmons stated she was amenable to subverting the rules so long as the Commission was not creating a situation which would endanger life or property. Ms. Anthony responded the proposed request would not pose a threat to either life or property.

Commissioner Ragan stated he would like to see some regulation in the future which mentioned special attention be paid to topography, run off, and material transportation for when future situations such as this arose.

**MOTION:**

Commissioner Ragan moved to approve MiCUP 1807 to amend the conditions of MiCUP 1707 as follows:

1. Condition #1 of MiCUP 1707 is hereby amended to state: "A minimum of two off-street parking spaces off of Plainview Place shall be provided on the property as indicated in the application. This parking shall be paved in high grade compacted gravel, asphalt, concrete, or pavers with curbing that defines the boundaries of the area by October 1, 2019."
2. The remaining Conditions #2 - #5 of MiCUP 1707 remain in effect and unchanged by this revised approval.

**SECOND:**

Commissioner Wolfe seconded the motion.

**DISCUSSION:**

There was no discussion regarding the motion.

**VOTE:**

Motion passed, 5-0.

**VI. OTHER BUSINESS**

Robert Todd, City Council Liaison, distributed a document pertaining to the transition of his role as a City Council Liaison to a more reasonable situation for himself and the Commission in terms of time, scheduling, and efficiency.

Councilman Todd stated the objective of the proposed changes was to improve efficiency and effectiveness and to enhance lines of communication between City Council and the City's various boards, commissions, and committees.

Councilman Todd stated his suggestions was for the Chair of the Planning Commission to address City Council on a quarterly basis regarding significant applications and what they see in terms of the future or any need for Council support.

Councilman Todd stated his second suggestion was the ability for the Chairperson of the Commission to add an item to the City Council agenda on the fly and the ability to speak at those meetings should something pressing come up.

Councilman Todd stated he was also proposing that he not attend all of the meetings as a liaison in favor of only attending when requested or when there was an item of particular interest or difficulty.

Councilman Todd stated he would like to implement these changes at the start of the 2019 year.

Commissioner Wolfe stated she felt it was a great idea as it would aide in more effective communication between the different bodies.

Councilman Todd stated he felt it was a huge help to City Council to have had the Chairperson present at meetings to represent the Commission and to better describe various ordinances or requests as opposed to relying on the liaison to do so.

Commissioner Ragan stated he was pleased Councilman Todd was pushing this exact thing forward as it had been proposed in the past when he had first joined the Commission years ago and were essentially told Commissioners were not permitted to speak at City Council meetings. Commissioner Ragan stated he felt this marred effective communication and had resulted in making difficult issues and situations worse.

Chairman Delwiche stated he felt it was a great idea and felt it would be a help in alleviating some of the scheduling concerns held by Councilman Todd.

Commissioner Wolfe inquired if there was any ruling which prevented the Commissioners from speaking or making comment to City Council at their meetings regarding an item, such as an appeal, heard previously by the Planning Commission. Councilman Todd responded he did not believe there was such a ruling.

Michelle Anthony, Senior Planner, stated the Commission was not permitted to speak or make comment regarding an appeal. Commissioner Wolfe inquired if only the Appellant was permitted to speak. Ms. Anthony confirmed and stated it had, however, never been the case that Commissioners were not permitted to speak or make comment regarding regular items, only regarding appeals to their decisions.

Councilman Todd stated he would take the responsibility for bringing the discussion regarding ex-parte contacts and communications to City Council.

Commissioner Ragan stated at Colorado College, which was similar to a small town in many respects, when an appeal was heard, no new information was permissible but both the Appellant and the opposing side were permitted to present their case, not just the Appellant. Commissioner Wolfe commented this seemed more reasonable and was actually typical of a judiciary type hearing.

Commissioner Wolfe inquired if other communities similar to Manitou Springs only allowed the Appellant to state their case without hearing comment from the lower governing body in an appeal. Kimberly Johnson, Planning Director, responded she had not been a part of an appeal process in her career as a City Planner, but this process was generally driven by Statutory Law.

Councilman Todd stated the City was moving towards a programmatic budgeting method which meant, along with the typical accounting methodology, the budget would also state how those dollars were being spent by item or activity under each line item. Councilman Todd stated this was a good way for the public to see where financial resources were being expended and to depict how the City was working to reach its goals under Plan Manitou.

Councilman Todd stated one of the main priorities for City Council was the creation and establishment of development standards and design guidelines for the Urban Renewal Authority area.

Commissioner Wolfe stated the Planning Commission also needed regulations in place pertaining to timeshares and fractional ownership, as this had recently been brought to the Commission's attention in recent meetings. Councilman Todd responded he found the topic interesting.

Councilman Todd stated one thing City Council had not discussed was the Land Uses proposed in the Urban Renewal Area and felt it was of the utmost importance to discuss how this area should evolve and develop.

Commissioner Ragan stated it may be appropriate to determine the permitted numbers of certain uses in the Urban Renewal Area such as had been done with the Marijuana Licenses.

Councilman Todd stated it had been the general feel of the City to await the completion of the infrastructure in the area before deciding on the Land Use Policies which would impact it and wanted to know what the City wanted to attract and what it was cautious about allowing.

Commissioner Ragan commented when the initial guidelines for the Urban Renewal Area were being discussed, he had recommended the City try to prioritize a list of uses but was told by the majority of attendees it was preferable to leave the uses wide open in order to attract buy-in from developers.

Commissioner Wolfe inquired if the Urban Renewal Authority Board had final decision making authority. Ms. Anthony responded the Board did not have the authority to make final decisions regarding Land Use.

Commissioner Wolfe inquired if this fell under the purview of El Paso County. Ms. Anthony responded it did not fall under the authority of the county and the Urban Renewal Area was a part of the City of Manitou Springs which meant it had to go through the City's processes. Ms. Anthony stated the Board did, however, have authority over assistance funding for a given project and would also have the authority to determine the amount of that funding.

Ms. Anthony commented any development which was proposed to the Urban Renewal Area Overlay had the potential to seek assistance funding, but felt this was something which could be applied to all of the Commercial Zone. Ms. Anthony stated any regulations or guidelines, including the benefits and restrictions involving incentives, placed specifically on the Urban Renewal Area Overlay could only be enforced if the developer asked for assistance and tying them to the Commercial Zone as a whole made things more enforceable overall.

Commissioner Ragan stated he appreciated hearing the response from Ms. Anthony and felt it was a good idea moving forward to use this approach.

Councilman Todd stated he had been hearing more and more as time went on that residents felt the Urban Renewal Authority Board was just a tax incremental finance group and did not have, under their purview, guidelines regarding Land Uses.

Commissioner Wolfe inquired how the City was supposed to go about setting this all in motion. Councilman Todd responded he was not exactly sure, but the Urban Land Institute had aided in the master planning for the downtown area of Colorado Springs and helped determine demand and the methodology for marketing to developers.

Commissioner Wolfe inquired if there was some sort of time crunch regarding moving forward as this seemed almost late or last minute to be thinking about. Councilman Todd responded he agreed with the sentiments of Commissioner Wolfe. Ms. Anthony responded the Planning Department was starting to see some interest in the area as some of the properties were becoming more available.

Commissioner Wolfe inquired without these guidelines and regulations in place, if developers would essentially have free reign to do as they pleased. Ms. Anthony responded this was certainly a possibility as long as they were in compliance with the Code and went through the regular processes.

Ms. Johnson stated guidelines were just that, guidelines, and were not legally enforceable. Ms. Johnson stated she was basically hearing from the Commission they would like to see some aesthetic requirements and some Land Use controls. Ms. Johnson stated with an overlay district, such as the Local Historic Districts or the Urban Renewal Area, it was possible to create specific zoning standards for that overlay district, but she did not personally have any experience in seeing them limit or restrict the Land Uses, per se, but felt there was a precedent in the City doing this already with the short-term rental operations and marijuana stores.

Ms. Anthony commented Plan Manitou did contain a Future Land Use Map which called for some amendments in the Commercial Zone as well as the Urban Renewal Area and it was a ripe time to start implementing those changes. Ms. Anthony stated there were also ways of limiting certain uses, as opposed to outright excluding them, by removing them from the permitted uses list which would mean the proposed use would require a Conditional Use Permit which could then be used to impose certain restrictions on the use.

Ms. Johnson stated it was also possible to also state if a use was not listed as a permitted, conditional, or accessory use, it was simply not allowed. Ms. Johnson commented she had never seen a community which simply allowed Conditional Use Permits to be issued when a use was not permitted under the Zoning Code and felt this was unique to Manitou Springs.

Commissioner Ragan stated he was pleased Ms. Johnson had brought this topic up as the previous Interim Planning Director, Barb Cole, had been saying for years she was amazed by how many Variances the City used to grant, as this was not typical for most communities. Ms. Johnson responded it was her experience it was not legal to grant a Use Variance.

Ms. Johnson stated it was also possible to impose certain design standards but it was not worthwhile to adopt guidelines as they were not enforceable.

Ms. Anthony stated one of the reasons the City had not worked much on this was due to a lack of interest from the public and developers and, until now, there hadn't been any interest. Chairman Delwiche commented he thought the intention was to provide incentives to encourage the types of development desirable and attractive to the City. Ms. Anthony commented this was still the idea, but there was nothing done on the other side.

Chairman Delwiche stated he had heard from Coreen Toll on the Urban Renewal Authority Board they were inactive and reluctant to make any decisions. Ms. Anthony responded there was nothing which stated these decisions were tied to the Urban Renewal Authority Board or gave them direct purview to make these decisions and, since the matter involved zoning, it would behoove the Planning Commission to be heavily involved in the entire process.

#### **NON-AGENDA ITEMS FOR DISCUSSION:**

Chairman Delwiche stated he recalled a discussion, regarding community engagement, the City was looking to hire outside facilitators to perform the engagement, especially on contentious items, such as the Sexually Oriented Business Ordinance. Chairman Delwiche stated the hope was the Commissioners would also participate in the process, which may require more time and effort on behalf of the Commissioners.

Kimberly Johnson, Planning Director, stated she actually wanted City Council to provide some thresholds for determining what would trigger an item to go through this additional process, but the idea was to train Staff and other volunteers to be these facilitators and build the City's capacity for community engagement.

Commissioner Ragan stated he was taken aback by the Rezoning process for the City-owned property on Manitou Terrace in which the Public Hearing was held immediately following the Initial Hearing as he did not feel the agendas had been posted until the morning of the meetings. Ms. Anthony responded the agendas had actually been posted the Friday prior to the meetings, which was the standard and typical way all agendas were posted.

Commissioner Ragan stated there was some sort of time crunch related to the project funding which necessitated the need for the two (2) hearings to be heard and approved prior to the end of the year, but he also meant in terms of the Ordinances in which recommendations were made to City Council at that meeting as well. Ms. Anthony stated the Ordinances were discussed and motions for recommendations were made during the Regular Meeting, not the Special Meeting, as the Special Meeting solely pertained to the Rezoning.

Commissioner Wolfe inquired if there were any concerns for the City's ability to fund the facilitation and engagement process given the limited budget. Ms. Johnson responded she thought there was around thirty thousand dollars (\$30,000.00) which had been set aside specifically for the implementation of this process.

## **VII. ADJOURNMENT**

Hearing no further business before the Commission, Chairman Delwiche adjourned the meeting at 7:53 pm.

*Minutes Prepared by Dylan Becker, Planner I*