

**Planning Commission Meeting
November 13th, 2007**

Planning Commissioners Present: James Harrmann (Mayor), Pamela Smith (Vice-Chair), Daryl Yost (Town Board Member), Joan Hanna, Bill Miller, Bob McGraw,

Planning Commissioners Absent: Robert Piccoli (Chairman)

Staff Present: Justin Clifton (Town Manager), Joe Crain (Town Planner), Marianne Jones (Deputy Town Clerk)

Media Present: Carole McWilliams - Pine River Times

The meeting was called to order @ 7:01 p.m. by Pamela Smith. Robert Piccoli, (Chairman) is sick & unable to attend the meeting.

Minutes: 1 correction was made to the minutes of October 9, 2007. Joan made a motion to approve the minutes as amended. Bob seconded the motion. All were in favor, motion passed unanimously.

Public Input: Bill Miller stated that there is a double yellow line in front of the new water salesman. There is a sign that states that all traffic leaving the salesman must turn left. This turning regulation is forcing the salesman patrons to break a traffic law. Bill suggested that the Town may want to look at changing the double yellow line in that area. Joe answered that he will direct this concern to Justin.

No additional comments were given, public input was then closed.

Action Agenda Item #1: Public Hearing: Rezoning From Multi-Family To Business
Jeff & Cheryl Bynum
42811 Highway 160 East - Sunflower Estates
Parcel # 5677-122-00-028
Sec 12 T 34 N, R 7 W, N.M.P.M.

Joe gave his staff presentation. He explained that the property was originally annexed into the Town of Bayfield in 2004. It is approximately 3 acres of land located across from the Shell Station on Highway 160. It is currently zoned multi-family. This property is located at the northwest corner of the proposed new intersection at the Shell Station & Highway 160 East. Until recently, it has been used as an assisted living quarters for the elderly. The surrounding land owners are attempting to get a cooperative land use plan developed to submit to the Town of Bayfield regarding the development of this area & the new intersection.

When the property was initially annexed, an easement was given for the west side right-of-way to service a new proposed frontage road. This property will use the new frontage road and access Highway 160 at the new lighted intersection once it is built.

The property is currently using an access off of Highway 160 that is controlled by C-DOT. If the property is successfully rezoned to commercial use, CDOT will control the intensity of use that can be in the facility. San Juan Basin Health will also be regulating the intensity of use allowed at this location. The building currently has a lagoon septic system because the facility is not close enough to available municipal sewer services. Any new use will have to receive a permit from San Juan Basin Health for any new use in that location. The applicant and his realtor are aware that commercial use will be limited by these two entities. However, these limitations will diminish once access & waste water treatment are available.

The Town's Comprehensive Plan shows this location as commercial with a high-density residential overlay. The parcel is relatively small, but it is located in a very strategic location that will become a very healthy commercial area once the new intersection is completed.

Staff Recommendations:

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Due to the location of this property being adjacent to a State Highway and at the corner of a proposed new intersection, and due to the recommendations contained in the Bayfield Comprehensive Plan adopted in 2005; staff recommends that the Land Use District designation for this property be changed from Multi-Family to Business Land Use with the following conditions: (The first two recommendations will remain in effect until a new access is achieved & the property is tied into the Bayfield Sanitation System.)

- 1) Any commercial use at this location using the current access to Highway 160 must receive approval from CDOT
- 2) Any commercial use at this location using the current septic lagoon waste water system must receive approval from San Juan Basin Health Department.
- 3) Any institutional use associated with post-incarceration must obtain a "Use Permitted On Review" From The Town of Bayfield prior to occupancy.

Pamela asked how far the location is from the sewer line.

Joe answered that there is sewer service at the Shell Station but to get service to this location they would have to bore under the highway and it would be very expensive.

Jeff Bynum was given the floor.

Jeff asked for clarification & details on the 3rd staff recommendation.

Joe answered that the Use Permitted On Review could set hours of operation, the number of staff required, the number of residents allowed, etc. This permit would be approved by the Planning Commission.

Jeff asked what type of facility would fall under the "post-incarceration" terminology.

Joe answered that a "half-way house" ran by or connected with the Department of Corrections.

Jeff stated that he is concerned that the post-incarceration term is very broad.

Joe responded that he doesn't feel that the staff can recommend the zoning change without the post-incarceration recommendation being included.

Bill said that he is very concerned about a post-incarceration facility being put in that location because it could be very dangerous for the other residents in Town. There was a church group that brought in a half way house a few years back and a triple murder took place. He does not want post-jailed people being housed in the Town.

Joe explained that there is a list of permitted Use By Right uses in the Bayfield Land Use Code for the "Business" land use designation. The staff is recommending that post-incarceration facilities be excluded as a Use By Right. The staff is recommending that this type of facility go through the Use Permitted On Review process.

Joan asked for clarification on fair housing. She wanted more legal detail from Dirk on whether or not this recommendation is overstepping their bounds as a Planning Commission.

Pamela explained that there are numerous zones in Town that are subject to this sort of review process.

Justin said that this sort of review would help limit the commercial impact.

Jeff requested again that the 3rd condition be more defined and more explanative.

Pamela answered that the staff would have to take this to the Town attorney to get a more legal definition. She informed Jeff that if he wanted that definition this item would have to be continued until the December meeting.

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Justin commented that the Land Use Code does not give any additional detail than what is already listed in the staff recommendation. In order to add more detail, the Land Use Code would have to be changed to include that information and would draw the process out even farther.

Joe stated that the current location has 8 residents, plus the owner and his family. The access to the facility does not have an access permit from C-DOT. Any new commercial impact would be outlined by C-DOT because of the access issue.

Bob stated that he feels that this is a zoning request and that the discussion is off track. He requested for more detail on why the applicant is requesting the zoning change.

Joe explained that the facility was originally designated Multi-Family because elderly care falls under this category. They are now requesting "Business" zoning because they are hoping to change it to a group home use since that is primarily what it is set up to house. This type of use is not included under the Multi-Family designation. It is also consistent with the surrounding area zoning.

Daryl responded that he is concerned about the intersection. He feels that they are jumping ahead with this decision since the location does not have water & sewer service. He feels that if it is going to be in Town doing commercial business, it should have municipal utilities.

Bill concurred with Daryl.

Daryl said that this location should have to meet the same business regulations as everyone else. The Town told the developer of Bayfield Center Storage that he had to hook up to Town services and meet infrastructure standards. He feels that this location should be no different.

The item was then opened for Public Input.

Carol McWilliams stated that she is also concerned about the triple murder & that she thinks this would be a good location for business/retail use that would provide sales tax revenue such as a grocery store or a hotel/motel.

Phylis Ludwig said that she agrees with Daryl. She feels that they should have to hook up to water & sewer services and that the intersection needs to be completed before business use is granted.

Public input was then closed.

Bob made a motion to approve the rezoning from Multi-Family designation to Business designation subject to staff recommendations 1-3. The Mayor seconded the motion.

Daryl said that he doesn't like the thought of C-DOT and San Juan Basin Health making the Town's growth decisions. He is concerned that whoever buys this property may not be willing to participate in the construction of the new intersection if the Town grants this business zoning now. This zoning request would be a good way to negotiate with the new owners to join the improvement district. He feels that the infrastructure needs to be in place before the zoning is granted.

Joe commented that this piece of property will be limited until the intersection is built. The business zoning will open the doors for additional uses but it will still be limited.

Pamela, the Mayor & Bob voted in favor. Daryl, Bill & Joan were opposed. Therefore, there is no recommendation to the Trustees from the Planning Commission.

Action Agenda Item #2: Homestead Trails Update

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Joe gave his staff report. Joe explained that the Homestead Trails subdivision is filing a Planned Unit Development (PUD) with the La Plata County Planning Commission. The Town Board made a decision to be extensively involved in the review of the project both prior to & continuing as the project moves through the County PUD process. The developers of this PUD & the Town both want to annex this project into the Town of Bayfield. However, C-DOT no longer allows right-of-ways to be used for annexation purposes. Therefore, the developers had no choice but to go through the County planning process. Usually, the Town would receive a request for comment from the County and that would be all the involvement that the Town would have in the process. However, the Town Board made the decision that they want to be actively involved with the project so the development is simultaneously going to go through the County & the Town processes at the same time. The developers plan to use Town infrastructure standards and wish to annex into the Town as soon as possible. This item will be on the December agenda for review by the Planning Commission.

Daryl asked if there is an appeal process that the Town could use to annex this project.

Joe answered that the developer, Jack McCarthy, is looking into a waiver. They are hoping to be able to use the "flag-pole" method for annexation. The developer is taking the lead on this and is trying to appeal the C-DOT decision. If that occurs, they will come to the Town and request annexation at that time.

Sewer service & the signalized intersection are the two main issues that will need to be addressed with the developer of the project by the Town.

Action Agenda Item #3: Weed Control Proposal

Michael Freeman came to the Planning Commission during the October meeting. The Planning Commissioners requested that he send in a proposal outlining the costs & implementation of perma-culture practices throughout the Town. Michael outlined 5 different options & costs that the Town could implement.

1) Continue with the status quo approach. This involves the Public Works department mowing weeds & applying 2,4D herbicide. This requires 2 seasonal full-time employees & 1 permanent full-time employee. Plus, Ron Saba's (Director of Public Works) time for applying the herbicide. Future plans would include purchasing a new tractor.

Cost: Approximately \$147,500.00.

2) Coordinate with public land agencies (governmental and NGO's) to study economic feasibility of alternative weed management plans, research applicable models enacted in other communities for maintaining Right-of-Ways (ROW), public properties such as parks and recreational areas, providing educational assistance for residential lots, and enacting a weed plan for all new subdivision developments.

Cost: No significant adjustment.

3) (a) Adopt a low-spray policy and use herbicide as a last resort. Concerns expressed by several Planning Commission/Weed Board members suggest that the Town should adopt a plan that is low in chemical use. As a component of Agent Orange, 2,4-D is a known carcinogen that can cause thyroid cancer, liver tumors, birth defects and many acute health effects. 2,4-D tends to bioaccumulate in the environment and is described as a persistent organic pollutant (POP's).

(b) Option may also include a phase out period for 2,4-D. Safe alternatives include C-Cide a non-toxic form of Vitamin C, or Burnout an all-natural vinegar based product

Cost: No significant adjustment.

4) (a) Look at funding a full time natural resource manager who can manage all existing and proposed land stewardship projects, perform research, organize public forums, & seek funding.

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(b) Hire a consultant to draft a weed management/land stewardship plan that the Town of Bayfield can enact and oversee with an environmental committee.

(c) Become member of the Organic Lands Stewardship Collective to receive discounted consulting and educational services. This would increase publicity of environmental commitments.

Cost: Approximately \$51,000.00

5) Hold a public forum to open the dialog between community members and organize a volunteer working group to initiate weed events such as weed cleanups and festivals (i.e. Vibrant Bayfield, Earth Day). Hold work parties for land stewardship projects.

Cost: No significant adjustment

Joe requested that this item be continued to the December meeting when Michael Freeman is available to answer questions. In the meantime, Joe will send it out to Public Works, Parks & Recreation, & Justin for comments.

Justin stated that he is not in favor of using 2,4D. He has already had some discussion with the Public Works Department about using something else that is not as toxic. He stated that he will put a request on the Town Manager listserv to get examples of other municipalities policies on this matter.

The Planning Commission wants to know how to implement a low-spray or no-harsh spray program that is easy to maintain and feasible to use on a day to day basis.

Joan also mentioned that education for residents might also help with the weed issue. She thinks that raising resident awareness would make a huge difference and would help with the maintenance costs.

Daryl made a motion to continue this item to the December 11th Planning Commission meeting. The Mayor seconded the motion. All were in favor, motion carried unanimously.

Action Agenda Item #4: New/Unfinished Business

Joe gave a synopsis of the agenda for the December meeting. The following items will be on the agenda:

T&M Minor Subdivision
Valcor Annexation
AJ's Pizza Use By Review
Homestead Trails

Daryl requested that the Trail Plan be reviewed & updated.

The meeting was adjourned @ 8:30 p.m.

APPROVED:

Robert Piccoli
Planning Commission Chair

Marianne Jones
Planning Commission Secretary