

**MEETING DATE:** Monday June 23, 2008  
**MEETING TIME:** 6:00 PM  
**MEETING LOCATION:** City Council Chambers, 125 E. 3<sup>rd</sup> Street, Salida, CO

Present: Bavaria, Stephens, Pierce, Cabe, MacDonald, Kasper, Curtis, Wood, Tracy, Jefferson  
 Absent: Vance, Hartslief

**AGENDA SECTION:**

- I. CALL TO ORDER BY CHAIRPERSON: Stephens- 6:03 PM**
- II. ROLL CALL**
- III. APPROVAL OF THE MINUTES – Tuesday May 27, 2008**
  - 1. Wood** made a motion to approve the minutes. **Stephens** found a couple of typos that needed to be corrected on pages 15 and 20.
  - 2. Tracy** seconded the motion. All voters were unanimous and the motion carried.
- IV. UNSCHEDULED CITIZENS - None**
- V. AMENDMENTS TO AGENDA -None**
- VI. PUBLIC HEARINGS –**
  - 1. Riverside Park Townhomes Conditional Use–** The request is to be granted a conditional use to construct three (3) two-unit condominium buildings at 314 East Sackett Avenue located in the Commercial (C-1) zone district. In the C-1 zone district the proposed residential use is conditional.
    - A. Open Public Hearing - 6:08 p.m.**
    - B. Proof of Publication - Yes**
    - C. Staff Review of Application -** Staff received an application from Mike Shomion to construct (3) two-unit condominiums buildings at 314 East Sackett which is adjacent to Riverside Park. Mr. Shomion is purchasing the property from Michael Kimmett who also owns the house at 214 N. D Street which house will remain. Staff did not have any concerns with the project other than the installation of sidewalks and curb and gutter at the time of construction. The applicant wants to clarify the condition # 2 that the approval would expire in three years. They want to be clear that the vesting is good until they have pulled the first building permit and at that point the whole project is vested. They would like to specify that within three years of approval, once a building permit has been issued for any of the three buildings that vesting has been perfected.
    - D. Applicant’s Presentation – Greg Powell, 417 W. First Street -** is here representing the applicant, Mike Shomion. **Powell** explained that along with this conditional use application they also have submitted a subdivision exemption, lot line adjustment application which had a few conditions. He stated that the sewer line was to be added and shown on the plat and they have taken care of that, the gas line easement has been taken care of through a contractual modification with Mr. Kimmett and

Mr. Kimmett will remove the fence that is in the D Street right-of-way. **Powell** said that the terms of the conditional use the application are self explanatory and they do not have any issues with the staff report. **Wood** asked if open space or a fee in lieu would be required with this application. **MacDonald** explained that there will be 6 condominium units and when they condominiumize they will pay \$3,000 per unit towards parks and open space. **Wood** asked if there had been any discussion about a Real Estate Transfer Assessment. **MacDonald** explained that a Real Estate Transfer Assessment is not a requirement of our code and with annexation we can require a RETA because an annexation is a condition of voluntary covenants. A RETA can not be required from a conditional use. **Curtis** noted that the plans show an elevation of 7040 at the new grade in the back and wanted to know what that was in relationship to the flood plain at that location. **MacDonald** stated that she was not sure what the flood elevation is but the applicant showed it on the site plan as 7040. **Shomion** said that they planned on building to the flood plain regulations.

**E. Public Comment – None**

**F. Close Public Hearing – 6:13 pm**

**G. Commission Discussion – Bavaria** asked if they were going to disturb the vegetated slope that goes down to the river. **Powell** said that they are planning on working with Mike Harvey on some river bank improvement; similar to some of his other projects here in Salida to enhance the river feature. **Bavaria** said that she recently went by the new project at the old Log Cabin Court and is concerned because it was completely disturbed and everything was wiped out. **Powell** stated that those projects are very carefully engineered, by engineers and said that with this project they will do what is required. There was discussion of the placement of fill on the site. **Stephens** said that he is concerned with the garages because they are facing the street which is undesirable. This will be the first garages on Sackett and asked if they would be able to change so that they will not face Sackett. **Powell** said that he would have to defer that to the architect but said with the tight space he didn't think they would be able to build the garages anywhere but on Sackett. He feels that it will be important to have the garages there because it will move cars, bikes, boats, etc., off of the street and clean up the streetscape.

**Wood** said that there aren't any front porches facing Sackett and said that it is a neighborhood issue that has been addressed at other times. By having the porch forward it maintains the character of Salida and the design standards. **MacDonald** explained that these condos have one-car garages and there are decks above the garages that face Sackett. **Powell** said that one of the best features of this property is the river which is one of the reasons they want to build the porches on the back of the units. **Wood** said that he is concerned with this property being close to the Riverside Park Bandshell and would like to see something mentioned in

the deed so that we do not get angry people contesting every amplified sound permit application. **Powell** said that they don't think the deed is the appropriate place but would put a disclosure in the condominium documents.

**Curtis** stated that even though this area is zoned C-1 he doesn't see much potential for businesses there and that the surrounding uses are residential. **Stephens** said that this property is near the old Hospital, the Scout Hut and the funeral home so there is the potential for someone to develop the property as commercial. **Stephens** also said that by allowing residential in this commercial zone we are giving up revenue but he is more concerned with the garages facing Sackett Avenue. **Pierce** said that on the application the side setbacks are shown as 5' but part of the building is sticking out in that 5' setback. **MacDonald** reminded the applicant that they can't encroach within the 5' setback with the structure.

**Powell** said that the condos will only have a single garage front which limits the visual impact and moves cars off the street and into the garage. There are front porches on the second floor and said that anything that built there is going to be oriented to the river. This is a site specific plan and all of the properties, within a couple of blocks, are residential with the exception of the funeral home and said that the applicant is keeping with the character of the neighborhood. The old hospital is under contract and once it is purchased the developer is going to subdivide the property and have residential units along the river. **Bavaria** asked if the exterior would be stucco and if they were planning on adding vegetation or shrubs to the front of the property. She also stated that she did not have a problem with the single garages. **Powell** said that the exterior would most likely be stucco and they do plan on adding some landscaping to the front of the property.

**Wood** asked about the two lot coverage calculations that were in the application and wanted to know the difference between the two. **Powell** said that the first calculation includes patios and decks and the second calculation does not. **Wood** asked if we would use the dimensional standards for C-1 and **MacDonald** said that typically with residential we have gone with the lot coverage standards for C-1. **MacDonald** stated that we do not include patios or decks that are less than 30 inches in our calculation of lot coverage and in the C-1 zone 60% of the lot can be covered with structures.

**Kasper** said that he likes the project and feels that it is fit for the location.

**H. Commission Action - Bavaria** made a motion to make the recommended findings and take the recommended action and adding the condition that the side setbacks are met and changing the wording on condition #2 to:

“The issuance of a building permit within three (3) years of approval for one of the three (3) buildings perfects the vested rights for the entire project. **Kasper** seconded the motion. All were in favor, the motion carried.

**2. Salida Hospital District Zoning-** The request is to zone the newly annexed property at 448 East 1<sup>st</sup> Street as commercial (C-1) and to include the property in the SH 291 Corridor Overlay for Established Residential.

**A. Open Public Hearing – 6:35 pm**

**B. Proof of Publication - Yes**

**C. Staff Review of Application – MacDonald** explained that at the Planning Commission meeting on May 27<sup>th</sup> commission recommended approval of annexation of this portion of the hospital property that was never annexed into the City. Within 90 days of annexation the property needs to be zoned. Staff is suggesting that this portion be zoned exactly the same as the rest of the hospital property which is Commercial (C-1) with the residential overlay in the SH 291 Corridor Overlay. **Bavaria** asked about the trail easement and **MacDonald** said that it would be included on the annexation plat.

**D. Applicant’s Presentation – Applicant was not present**

**E. Public Comment –Close Public Hearing - 6:40 p.m.**

**F. Commission Comments – Wood** asked if after this property is zoned will there be conditional use applications for residential use and Dara said that in the residential overlay someone could do 3 residential attached units as use by right. If more that 3 units attached were requested then a conditional use would be required. **Bavaria** asked if design has been discussed in the negotiations and Dara said that design has not been discussed. **Tracy** asked if there has been discussion about affordable housing and Dara said that the applicants have agreed to do 10% of the project affordable housing. **Curtis** asked if they approve this application without the corridor overlay would the commission see conditional use applications. **MacDonald** said that they could approve it without the overlay but then it would be awkward because a portion of the property is in the overlay and a portion is not. **Curtis** asked if the whole property is in the SH 291 Corridor Overlay and Dara said yes. He said that since the whole property is zoned commercial and in the SH 291 overlay they should continue the same with this property. **Pierce** said that it makes sense to zone this portion of the hospital property the same way as the rest is zoned.

**Bavaria** asked how the trail easement would be accessed and **MacDonald** said that if the City and County’s purchase proceed the City and County will create a river front park where the road access currently goes down to the river would be one access point. **MacDonald** said that the portion of the property that the city owns on C Street by the old bridge abutment would be another access point. **Bavaria** asked if people would be able to

cross the entire property along the river. **MacDonald** said yes except for the far east end which is the parcel adjacent to the Log Cabin Court. **Tracy** asked if the trail is going to end right there and Dara said that it would end at a park. **Tracy** asked if on the far east side would the trail connect back out to another trail. **MacDonald** explained that the way the subdivision would work is the eastern most 70' of the parking lot straight back to the river would be a separate parcel that will be sold for development. The trail would not go through that parcel on the east end. There will be a park along the river between where the helicopter pad is now and the new parcel. **MacDonald** also reminded commission that they did get the real estate transfer assessment on this project for the whole parcel.

- G. Commission Action - Bavaria** made a motion that the recommended findings be made and the recommended action be taken as recommended by staff. **Cabe** seconded the motion. All were in favor, the motion carried.

## VII. UNFINISHED BUSINESS –

- 1. Nonconforming Signs Ordinance** – An ordinance of the City Council of the City of Salida, Colorado, adopting a new section 16-15-50 of the Salida Municipal Code regarding Nonconforming signs. This item was continued from the April 28, 2008 hearing.

- A. Staff Review of Application - MacDonald** said that not much has changed since the last time commission had seen this and noted that she was not at the worksession where it was discussed. She would like clear direction on where the commission would like to go next with the nonconforming sign issue. She included some random samples of nonconforming sign regulations from other similar communities in Colorado and Stacey Murphy also provided some at the beginning of this meeting. **MacDonald** would like clear direction on what commission wants to do with either the language that Ms. Kudasik has proposed specifically or any modification to that language or recommendation not to change the code at all. **Cabe** said that at the worksession he suggested that we remove a clause in the discontinuance paragraph in section 16-15-50 (b). **Cabe's** suggestion was to have section 16-15-50 (b) read – Discontinuance. In the event a nonconforming sign is destroyed or damaged by fifty percent (50%) or more as a result of either an intentional act of the owner (other than for maintenance which shall not exceed two [2] weeks), an unintentional act of another or an act of nature, the replacement sign shall be constructed in conformance with the provisions of this Land Use Code. The words “identifies a specific business or business name which ceases to exist, or if the nonconforming sign” would be removed from the paragraph. **Kasper** stated that he liked the simplicity of removing a few words. **Wood** stated that he thinks that the sign code is clear as written and doesn't feel like we

should change it.

**B. Applicant's Presentation- Stacey Murphy, representing Kudasik Partnership and Gateway Inn and Suites – Murphy** stated that she would like to get a sense of where we were heading with the sign code. She said that she attempted to take ideas from other code provisions that she has looked at to come up with more than one trigger. She said that she would be happy with one trigger and if that trigger was “damage and destruction” that would make things simple. **Murphy** said that as long as the changes are fair and reasonable and not ambiguous we would be making improvements to the code. She also stated that it would be a big mistake to deny the Gateway Inn and Suites application without doing anything with the nonconforming sign code. If the application were denied the applicants would consider appealing the decision and take it as far as it needs to be taken. **Murphy** stated that she researched cases on nonconforming signs and there weren't very many but she did find a lot cases on other nonconformities, structures and uses and they are constitutionally protected. This comes down to a property right that is constitutionally protected and thinks it would be a mistake to keep the code provision as it stands.

**C. Public Input- None**

**D. Close Public Hearing – 7:00 p.m.**

**E. Commission Discussion - Curtis** asked Murphy how she felt about Cabe's suggestion and she said that with the changing the clause the nonconforming signs section is more clear. **Tracy** asked how staff felt about the change and **MacDonald** said that we are fine with it. **Pierce** asked if we should address abandoned signs and **MacDonald** explained that in the sign code there is a provision for obsolete signs but the historic signs are allowed to remain. **Bavaria** asked what the time period for obsolete signs was and **MacDonald** said 90 days after the business has closed. **Pierce** asked if 90 days was enough time and thought that we should make the time period longer. **Wood** stated that the few nonconforming signs have little possibility for future business and we eventually want to get rid of them. He thinks we should leave the 90 days.

**MacDonald** explained to commission that they could put the nonconforming sign language in the sign code if they thought it would be easier for people to find there with the rest of the sign information.

**Tracy** said that he likes the diversity of the signs on the Highway and thinks that they should be able to remain. **Bavaria** asked if there was any way that we could inform businesses about our sign code and thought that it would be a good idea to add it to one of the Chamber of Commerce newsletters. **MacDonald** said that we have informed businesses through the quarterly utility billing and that we can continue informing them as needed. **Stephens** stated that it is the responsibility of the business owner to be informed about city codes.

**F. Commission Action - Cabe** made a motion that we recommend to the City Council modification to section 16-15-50 nonconforming signs paragraph

(b) it should read after the modification: in the event a nonconforming sign is destroyed or damaged by (50%) or more as a result of either an intentional act of the owner (other than for maintenance which shall not exceed two [2] weeks), an unintentional act of another or an act of nature, the replacement sign shall be constructed in conformance with the provisions of this Land Use Code. And we add to section 16-8-20 Applicability- provisions of article XV nonconformities also apply. **Curtis** seconded the motion. **Wood** opposed, the motion carried.

**VIII. NEW BUSINESS – None**

**IX. COMMISSIONER’S COMMENTS: Wood** gave an update on the Regional Planning Commission. He said at their last meeting they were working on a transportation plan and at their next meeting they will focus on the Highway 291 to Highway 50 interconnect. He asked that if anybody had any thoughts on how that could be accomplished to please let him or **MacDonald** know. **Stephens** asked if we could add the update to our regular meeting agendas and **MacDonald** said that we could either do that or have an update at our worksession.

**Pierce** asked the status of the Vandaveer project and **MacDonald** informed the commission about the most recent extension of the contract. **Cabe** commented that he disagrees with the ban on ADU’s being used for short-term rentals. He feels that there is not a rational relationship between the impacts on the neighborhood for short-term rentals and long-term rentals.

**X. ADJOURN**

With no further business to come before the Commission, the meeting closed at **7:45 p.m.**