

MEETING DATE: Monday, September 24, 2007
MEETING TIME: 6:00 PM
MEETING LOCATION: City Council Chambers, 125 E. 3rd Street, Salida, CO

Present: Bavaria, Cabe, Wood, Stephens, Lau, Rose, Bergin, MacDonald, Jefferson, Wallis

Absent: Vance, Hartsliel

AGENDA SECTION:

- I. CALL TO ORDER BY CHAIRPERSON: Bavaria - 6:00 PM**
- II. Roll Call**
- III. APPROVAL OF THE MINUTES –Wednesday, May 23, 2007**
 - 1. Rose** made a motion to approve the minutes as written.
Stephens seconded the motion. All voters were unanimous and the motion carried.
- IV. UNSCHEDULED CITIZENS-Jackie Powell:** is working with people putting together the Downtown Plan, she has no official capacity. **Powell** wants to be sure that the commission knows that the plan doesn't deal only with preservation but economic sustainability of historic downtown. **Powell** stated that several items in the Downtown Plan were being implemented, which she believes shows a strong plan. This goes before City Council on October 1, 2007. Closed discussion at 6:05 pm
- V. AMENDMENTS TO AGENDA**
None
- VI. PUBLIC HEARINGS**
 - 1. Steeves Conditional Use-325 Maxwell St-**The request is to be granted a conditional use to a home business within an accessory building associated with a single family dwelling in an R-2 zone district.
 - A. Open Public Hearing – 6:05 p.m.**
 - B. Staff Review of Application – MacDonald** –Applicant is currently constructing a home and accessory structure on this property. Once completed, they would like to be able to use the accessory structure for a massage therapy home business. Staff has found that the application meets all of the review standards for a conditional use and for a home business. Staff has recommended approval of the application with the typical recommended conditions of approval limiting advertising, hours of operation, and intensity of use. Upon further discussion with the applicant, they would like to extend the hours of operation to accommodate clients after their typical work day. Staff feels that extending the hours for this type of business is likely acceptable and if the Commission agrees they could modify the recommended condition #3.
 - C. Applicant’s Presentation- Kalen Steeves & Matt Smith - Kalen** has lived in Salida all of her life. She is currently working in downtown at 205 G Street. She looked into buying commercial but it was out of her budget. She felt like moving her business to her residence was the best option for her family so she could divide her time up between working and staying home

with her son. The applicants felt it was very important to go by the book and follow all the rules.

D. Public Input –Sarah Whittington-333 Maxwell- As the applicant’s closest neighbors she wants to give her approval for the home business in applicant’s garage.

E. Close Public Hearing – 6:07 pm

F. Commission Discussion-Stephens asked applicant where the business would be located. **Steeves** informed him that it would be in the garage. **Cabe** would like to know what time the applicant would like the hours extended to. Applicant informed him that she would be working till 7:00 pm a couple of evenings a week. **Cabe** feels like extending the hours of operation till 9:00 pm is reasonable. **Bavaria** asked if applicant would make her last appointment at 7:00. **Steeves** informed the commission that she would try to be done by 7:30, but definitely be done by 8:00 pm. **Bavaria** also asked if there would be any retail sales done at the location. Applicant informed her that there would not.

G. Commission Action –Cabe moved to grant application with the recommended findings and the recommended conditions with the exception of extending the hours to 8:00 pm. **Wood** seconded the motion. All were in favor. The motion carried.

2. Highway 50 Development-101-103 E Hwy 50-The request is to designate the new annexed property as C-1 and include the property in the new Highway 50 overlay.

A. Open Public Hearing-6:10 pm

B. Staff Review of Application-MacDonald-This application is to zone the recently annexed site across Highway 50 from the end of F Street. This location recently included a Texaco and Whitewater Inn. The site is currently vacant. Staff found that the C-1 and Highway 50 Corridor Overlay are the appropriate zoning designation for this property and that this zoning would be compatible with all of the surrounding properties along the corridor. Staff recommends that the Commission recommend approval of this application.

**C. Applicant’s Presentation-None
Public Input-None**

D. Close Public Hearing-6:11 p.m.

E. Commission Discussion- Bavaria feels that it makes sense to zone property to C-1. **Wood** agrees with **Bavaria**, feels retail property is something that Salida is always looking for.

F. Commission Action-Bergin will be voting as an alternate. **Cabe** made motion to approve with recommended findings. **Wood** seconded the motion. All were in favor. Motion carries.

3. Gateway Inn Creative Sign-1310 E Hwy 50- The request is to be granted the right to install an internally illuminated 247 square foot sign in C-1 zone district and to exceed the permitted amount of sign area. In a C-1 zone district the maximum size of any sign is 100 square feet and the total sign area displayed on the site may not exceed 250 square feet unless a creative sign is approved.

A. Open Public Hearing –6:12 p.m.

- B. Staff Review of Application-MacDonald-**The applicants have made this application as a result of a notice of zoning violation when they constructed a new sign for the business. Staff sent a letter to the applicants in June. The applicants requested a 30-day extension to respond and also asked for further clarification of why the sign required a permit. These requests were granted. The applicant had requested that the sign be considered maintenance of an existing nonconforming sign and therefore should not require a sign permit. Section 16-15-50 of the code states that nonconforming signs such as this one are permitted to be maintained. The code goes on to state that “in the event a nonconforming sign identifies a specific business or business name which ceases to exist...that the replacement sign shall be constructed in conformance with the provisions of the Land Use Code”. In this case staff found that the former sign identified the business name “Econo Lodge”. The new sign identifies a different business name and therefore must be constructed to current standards. As a result of the sign not conforming with the typical size and height requirements the applicants submitted an application for a Creative Sign on the basis that the sign is attractive and conveys a message welcoming visitors to our community. Staff found that the application does not meet the review standards for a creative sign. In particular we found that the sign has adverse impacts on the adjacent properties by creating an unfair situation by allowing a significant deviation from the code requirements regarding size and height without substantial aesthetic improvement. We further found that the sign does not utilize or enhance the architectural elements of the structure and that the design does not demonstrate strong artistic creativity. In addition, we did not find that there was a hardship with the site that would justify the deviations from the typical requirements. The site has adequate visibility without additional height or size needed. Staff recommends denial of application.
- C. Applicant’s Presentation-Elizabeth Kudasik-Partner in Kudasik Partnership-**Partnership has been in existence for sixteen (16) years, the name of the business (partnership) has never changed. The hotel has been on Highway 50 since 1987. **Kudasik** also stated that their family is very active in the community. The hotel is family owned and operated, they have contributed over \$300,000 in property taxes plus other taxes while still the Econo Lodge. The applicants spent \$7500 for signage. When the applicant contacted the City to see if a sign permit was required for refacing the existing sign the applicant was told no. The applicant did not get the employee’s name. Applicant feels that the city has caused a hardship, she also feels that the code needs some work. Applicant would like to see the City revise the code. **Kudasik** stated that they are still the same business, same location, with the same sign. Applicant feels that the new sign meets the requirements for a creative sign variance. The sign was not structurally altered. **Bavaria** informed applicant that the code was updated in 2002. With the nonconforming code the applicant was grandfathered in. The code could have set a time limit of three (3) years to put the sign into conformance. Commission was advised that Poncha Springs time limit is

five (5) years. Unless the sign was destroyed, business name changed, or ceases to exist then it would be created in the new code. **Kudasik** feels like she was not informed correctly when the code was changed. Again she stated that when she contacted the City about needing a sign permit she was informed that she did not. **Bavaria** informed **Kudasik** that much of the Highway 50 corridor group was part of the code revision meeting. **Kudasik** asked Commission if she would be allowed to read letters from some of the business on Highway 50. She was allowed to read letters from **Fred Lowry**, **Rusty Granzella**, and **Jeanne Foster**. **Bavaria** asked that **Kudasik** not read all 26 of the letters that she presented to the Commission since the content was generally consistent. **Kudasik** informed the Commission that she feels that the code needs to be revised and she would be happy to serve on that committee.

Public Input-Valerie Bennader-Mt. Mail-Feels like she should be at the meeting in support of **Kudasik**s. She stated that she was not sure exactly what the sign code states but feels that if business only changes letters it should not have to conform to the code. She loves the different variations in signs in Salida, thinks it adds character. Applicant has not changed anything except lettering, thinks that should be considered.

Ted Morawa-Owner of Silver Ridge Lodge-He has been in business since 1994. **Morawa** does not feel that the owners have changed size of sign. There are more signs on Highway 50 that are “eye sores”. He feels that the new sign looks nicer than the old “Econo Lodge” sign did. **Morawa** feels existing business are what support Salida. He thought that the County Commissioners and the City government were here to support Salida but he found out something different.

Marek Brynianski -Owner of Days Inn-He informed **Mr. Kudasik** that he needed to call the City because he felt like he had a problem. **Mr. Brynianski** stated that he is in the same boat as **Mr. Kudasik**, his company will be changing his signage in a few years.

Anamaya-Mrs. Kudasik’s cousin-She had a lot to do with talking to business owners. Feels business owners are very supportive, she is surprised that business owners are so supportive. Some business owners could not attend so they sent letters of support.

D. Closed Public Hearing-6:45 p.m.

E. Commission Discussion-Cabe stated that there is a limited question of whether current sign falls under the creative sign code, staff feels that it does not. The language in the code is very limited and narrow. He feels that there is nothing unique about this sign. 16-15-50 section of the code states that if business name ceases to exist then the sign must be brought into code. That part of the code was not recently modified, and a reasonable argument could be made that this was not the intention of the Council in adopting the language. **Cabe** feels that the way that the code is written may not be the way that Council wants to portray. **Cabe** made the suggestion that Commission not deny this variance but to remand it back to the applicant with a recommendation. The recommendation would be that the applicants

come up with something more creative. Applicant should go to in front of council, maybe council will accept a compromise for adopting an amendment to the code, that in the event of a name change or in the event that they reface the sign, that the owner have three years to bring sign into compliance. **Cabe** stated that he would like to see the code changed but if Council does not change the code, Commission has no choice but to deny application. Commission can only apply the code that the Council adopts. The Commission cannot change or ignore part of code. **Cabe** reminded Commission that the business name on the sign changed not the name of the partnership. **Bavaria** feels that the applicant does not qualify for a creative sign under the code. **Mrs. Kudasik** feels that they should be approved because their sign is welcoming and pleasing to the eye. **Wood** told applicant that he has been trying to find a way around the problem in the code. Commission cannot change the code. **Mrs. Kudasik** feels like the sign code creates hardships for business owners. **Bavaria** feels that the code did not cause the hardship, the applicant not understanding the code did. **Bavaria** informed the applicant that if the Commission approved the creative sign variance, they would have to grant the height of 35 feet to everyone on the Highway 50, and no one wants signs that tall or big on Highway 50. **Rose** stated that there is very little stretch allowed the Commission, the code was reviewed by business owners. The Commission can only approve whether it is a creative sign based on the code. **Rose** suggested that the applicant could inform Council that the code doesn't work in this situation. Ask them to change or clarify the code. When Commission has the change in code then they can change their decision. **Wood** stated that the sign code was adopted to bring all of the signs on Highway 50 and in town into conformance, to bring the height down and to give business owners a standard to abide by. **Kudasik** does not feel that a "cookie cutter code" is fair to every business owner.

- F. Commission Action-Cabe** suggests having applicant come with something totally different or take additional action to Council to seek modifications to section 16-15-50 of the sign code. **Mac Donald** recommended giving the applicant 4-6 months so if Council wants to change the code it will give them adequate time. **Bavaria** does not want to give the applicant hope that there is a way to make this sign a creative enough sign for approval as a creative sign. **Cabe** made a suggestion to give the applicant time to find another way. **Cabe** made the motion to make a finding that applicant does not propose a sign that qualifies under the creative sign code. Take action to remand back to applicant with instructions to return with something totally different expressing the sense of the Commission that the existing sign is not anything close to what is needed for a creative sign. Also instructing the applicant that they may wish to seek an amendment to section 16-15-50 of the code from City Council, include a condition that the application return to the Commission within 6 months. **Rose** seconded the motion. All were in favor. The motion carried.

4. **Open Space Ordinance**-This is a public hearing

A. Open Public Meeting-7:11 pm

B. Staff Review of Application-MacDonald-Following the last discussion of the parks and open space dedication requirements, staff was directed to bring forward an ordinance that addresses the changes that have been discussed to date. The proposed ordinance was passed on to the Land Use Attorney. They have reviewed the documents and provided staff with some initial feedback. They also supplied us with the “State of Colorado, Small Community Park and Recreation Planning Standards”, prepared by RPI Consulting in 2003. This study of planning standards in small Colorado towns found that an appropriate land dedication requirement is 14 acres/1000 residents. The Planning Commission had based their dedication requirements on those of Montrose, which required 7 acres/1000 people. Both the RPI study and Montrose use 2.5 people as an average household size for these calculations. The Land Use Attorney felt that we were well within the defensible range of land requirements in our discussion. Based on this study and their experience in other communities, the attorneys also felt good about basing the dedication requirements on the number of units rather than on the percentage of land area calculation that we have now. The attorneys generally felt good about the work that we have done on this ordinance. One concern is with the 8% dedication for commercial projects. They asked that we consider whether this is too onerous in an environment where we want to encourage commercial development. They were also concerned about providing a rational nexus between the commercial use and the dedication requirement. We have been unable to find any studies that quantify the requirement in the way similar to the residential requirements supported in the RPI study.

However, they did suggest that we could make a finding in the adoption of the ordinance that “folks living in the County are going to work in the commercial zoned areas of the City and bring their County-residing kids to recreate in the City’s parks, be it during work or on the weekend. Even though they do not live in the City limits, they are utilizing and impacting the City’s park system. County residents shopping in the City have the same impact so retail commercial has the same impact. The developer building the commercial development should offset the impact.” In addition, I would add that Salida serves as the active recreation hub for the southern part of Chaffee County in that we have all of the recreational amenities that are utilized by residents throughout the southern part of the County. This further supports the attorney’s argument about the employees and shoppers who reside outside of the municipality but who impact the parks and trails here in Salida.

However, the attorney does question the 8% number and also whether this requirement will end up being waived by the City in favor of jobs or sales tax.

Similarly, the attorney was concerned that the requirement for mixed-use developments was not spelled out more clearly. He suggested that we add language saying that the amount will be based on the number of residential units and the acreage of commercial. The fee in lieu could be paid at time of building

permit rather than at final plat, less desirable for staff because it would have to be tracked and explained each time. It is more desirable for developers because they will not have to come up with money at final plat.

They are the attorneys for Rifle as well and have worked on this issue over there quite a bit in the last few years. I have supplied the Commission with some information from Rifle at tonight's meeting. In 2004 Rifle used the equation of 8.6 acres/1000 people.

I would also point out that I proposed some definitions that have not been previously discussed by the Commission. Also, I have applied these regulations to the Planned Development chapter as well as the subdivision chapter.

I am hopeful that tonight we will be able to decide on the amount of dedication we want to require and clean up any other questions that remain.

- C. **Applicant's Presentation-Bavaria** informed Commission that **Lee Hart** would like to see the dedication based on dwelling unit instead of land area. **MacDonald** stated that since the Commission has not done their own study to find a nexus for how to come up with dedication requirement, the study done by the State of Colorado in 2003 is defensible so as long as we stay within recommendations. We are at half of their recommendation dedication requirements, the attorney thinks it is defensible and a good nexus. **MacDonald** also said that Commission looked at the Cottonwood Green, Trailside, and Starbucks Subdivisions to see what the totals acres to open separation was with different multipliers.
- D. **Public Input- Bob Engle-Engle** disagrees with the plan, he feels that it opens the City up to be abusive because the City can arbitrarily require the developer to maintain the dedicated open space. He is also concerned with potential abuse under subsection "f" on page 3 and "c" on page 2. He stated he was not at the meeting to protect developers. He feels the City does not want a lot of small pieces of land to take care of. He does not see where the City would be able to obtain large parcels for parks. Developers know in advance what the fee will be. A fee should always be required, not a dedication of land. To get 8% of open space you would need 25 acres of commercial land to get a useable parcel for a park. **Engle** feels that the Commission should go with the fees in lieu. City needs to value the property to stop abuse by the City and provide predictability to the developer. Annexation is where you will have flexibility to ask for land, if you want a particular piece of land the City may have to condemn that piece of land. **Paul Crabtree-325 D Street-Crabtree** asked whether we want to include civic functions as a possible use in this dedication requirement and whether this in lieu fee could go to civic function (civic building). He thinks that a portion of the fee should go to civic buildings, not just parks. Buildings add a lot to city character and quality of life to public. **Crabtree** believes that the Commission should clarify the meaning of "open space", people will interrupt it in different ways. Insert "public use" into definition, need to put

in what it is and what it is not. Using the number of residential units and % of commercial lot area is good; it is in the “sweet spot”. The “smart code” requires a minimum civic function of 5%, the maximum is 20%. **Crabtree** stated that the pedestrian shed is within a ¼ mile radius and under the smart code the developer has to provide a civic building within the pedestrian shed. **Bavaria** stated that she does not want to give up open space to civic buildings. **Crabtree** made the suggestion of maybe using open space fees to construct new City buildings to help off set the City budget. It would be a way for developers to start providing for that.

Scott Damman - Damman would like to go the full 20% dedication, would be happy with 15%. He asked whether there should be a minimum requirement.

E. Closed Public Hearing-7:20 pm

- F. Commission Discussion-MacDonald** feels that .0175 acres per residential unit is reasonable, she would like to see people have a plan for their property at the time of subdivision. **Bavaria** stated that there was not a set fee for the fee in lieu. **MacDonald** said that it would be more palatable to developers to collect the money when the building permit was issued rather than when the final plat is filed. However, it is easier for staff to collect at the time of final plat so that there is not tracking into the future. **MacDonald** informed Commission that Rifle uses “extraordinary circumstances”; in this case the City Council may authorize the deferral of the payment of cash in lieu of dedication until building permit rather than at final plat. In such event the owner of the property shall agree with the City, in such form as shall be acceptable to the City Council, to pay such sums at the time of the issuance of any building permit upon the property. Notice shall be given of such deferred payment by recording a first mortgage or other security instrument with the Clerk and Recorder. In no event, however, shall the deferral of any dedication fee extend for a period of greater than five (5) years from the date it would otherwise be payable. The developer shall agree to pay the higher of the dedication fee calculated at the time originally owed or at the time actually paid. **Cabe** suggested that the staff could put the applicant on notice when they buy. **MacDonald** stated that Rifle gives notice at first mortgage. **Stephens** would like to see it be the first transaction. **Crabtree** feels that escrow should pick up the fee in lieu. **MacDonald** stated that the definition for “open space” is any parcel or area of land or water, essentially unimproved and set-aside for public use, enjoyment, or benefit. **Bavaria** would like to know what Commission would accept as open space, would Commission accept courtyards, etc. **MacDonald** said that a park is an area open to the public for recreation. **Bavaria** wants to know if there is a rational nexus to get open space from community. **MacDonald** informed her that there is a good argument for that which is supported by the study the State commissioned. **Cabe** would like to know where does open space designation stop when community developers come in and have an eating area, example in food courts. **MacDonald** informed the Commission that it would be their call at the time of application. **Bavaria** read that the old code states that non-

residential development shall dedicate at least 8% of the gross land area within as open space as parks or open space, path way, trails, bike paths, and recreation area, that are separate from any parking area or lot, private or public seating.

- G. **Commission Action-Bavaria** would like the Commission to go over the information on their own and give it more time. Crabtree suggested that if Commission wants to make fee in lieu deferred, make fee due at final plat, developer would pick land dedication. If the fee in lieu is deferred, make it a higher percentage.

VII. UNFINISHED BUSINESS

1. **Downtown Plan-Bavaria** stated that the Downtown Plan was discussed extensively at the work session. **Rose** was not able to attend that work session and had several questions about the plan. On page 17 of 64, he feels that the City does not want to get into the loan business. **MacDonald** stated that there are quite a few programs like this around Colorado. On page 30 of 64, **Rose** wanted to know if there were any talks of taking a new position on the SteamPlant. **MacDonald** informed **Rose** that the City wants to get SteamPlant on their feet before they consider expanding the responsibilities to include downtown events. **Rose** pointed out that on page 47 of 64, the plan encourages use of upper floors for residential use. He feels affordable housing in the downtown area is a great idea, there is a limited resource for affordable housing. **Cabe** suggested that the answer to affordable housing is probably not in zoning that prohibits every thing else, requiring developers to build a certain number of units that qualify as affordable is the answer. **Cabe** also stated that a lot of downtown is vacant. **Bavaria** said that the tax assessor bases taxes on use not zoning, if you live in your building up or downstairs, it is taxed residential already. **MacDonald** feels the biggest concern is how the assessor is categorizing buildings that were remodeled. **Crabtree** would like to know if the plan mentions why it encourages the upper level use. Stephens said the idea is to encourage use upper level, whether it is residential or commercial use. **Bergin** feels that it is to make the area a 24-hour area instead of just a 9-5 area; more people = more activity. **Crabtree** gave an example of an area in Carmel, CA that the upper levels were vacant, then were used for residential first, and eventually became commercial buildings.

VIII. NEW BUSINESS-None

- IX. **COMMISSIONER'S COMMENTS:** **Cabe** feels it is important to gradually conform to the new sign code and that some mechanism needs to be in place to require gradual change. Commission needs to draft their own proposal for council on the code, Section 16-15-50. **Bavaria** would like to see someone on staff to give creative sign applicants some guidance on how to approach their applications.

IX. ADJOURN

With no further business to come before the Commission, the meeting was closed at **8:20 pm**.