

MEETING DATE: Monday, September 25, 2006
MEETING TIME: 6:00 PM
MEETING LOCATION: City Council Chambers, 125 E. 3rd Street, Salida, CO

Present: Bavaria, Cabe, Wikoff, Smith, Lau, Stephens, Karnuta, Hartsliel, MacDonald, Loudenburg

Absent: Biglow, Karnuta

AGENDA SECTION:

- I. CALL TO ORDER BY CHAIRPERSON Bavaria - 6:02 PM**

- II. APPROVAL OF THE MINUTES –August 28, 2006**
 - 1. Smith** made a motion to approve the minutes as written
Stephens seconded the motion. All voters were unanimous and the motion carried.

- III. UNSCHEDULED CITIZENS**
None

- IV. AMENDMENTS TO AGENDA**
Drew Smith Conditional Use was moved to #2 on Public Hearings.

- V. PUBLIC HEARINGS**
 - 1. Tracy Smith Conditional Use – 13 Silver Spruce.** The request is to grant a conditional use to construct a single-family residence within a High Density Residential (R-3) zone district at 13 Silver Spruce Circle. In an R-3 zone district, single-family dwelling units are a conditional use.
 - A. Open Public Hearing – 6:06 p.m.**
 - B. Staff Review of Application – MacDonald** summarized the staff report by stating that the permitted uses in the R-3 zone have changed since this subdivision was platted and zoned. At the time the subdivision was created single-family homes were a permitted use. The zoning ordinance was subsequently changed so that multi-family homes are a use by right, but a single-family home built on site is a conditional use.

The neighborhood has been developed with single-family homes and the site plan submitted for this home is compatible in scale and layout with the existing homes.

Staff recommends approval of this application as presented.

- C. Applicant’s Presentation – Steve Tucker, Salida**, he was there in place of the applicant as she was working. He feels the home would be compatible with others in the neighborhood and the setback was more than what was required.
- D. Public Input - None**
- E. Close Public Hearing – 6:08 pm**
- F. Commission Discussion None**
- G. Commission Action - Lau** made a motion to accept the recommended findings and take the recommended action as stated in the Staff Report. **Smith** seconded the motion. All were in favor so passed unanimously.

2. Drew Smith Conditional Use –6 Rex Circle - The request is to be granted a conditional use to construct a single family residence within a Manufactured Housing Residential (R-4) zone district, single family dwelling units that are not manufactured housing or mobile homes are a conditional use.

- A. Open Public Hearing – 6:09 p.m.**
- B. Staff Review of Application – MacDonald** summarized the staff report by stating as was explained in the staff report the permitted uses in the R-4 zone have changed since this subdivision was platted and zoned. At the time the subdivision was created single-family homes of any type were a permitted use. The zoning ordinance was subsequently changed so that manufactured and mobile homes and multi-family homes are a use by right, but a single-family home built on site is a conditional use.

The neighborhood has been developed with single-family homes and the site plan submitted for this home is compatible in scale and layout with the existing homes.

Staff recommends approval of this application as presented

- C. Applicant’s Presentation – Drew Smith, 2 Silver Spruce Drive** was present and stated the home he was building was compatible with the neighborhood as most of the homes in that area were stick-built. **Bavaria** asked how many times he had come before the commission for this same type of conditional use and he stated only once for Rex Circle but 5 times for Silver Spruce and also this is a concern for Mesa Court. **Bavaria** would like to find a way to avoid requiring conditional use approval in these situations.
- D. Public Input – None.**
- E. Close Public Hearing – 6:10 pm**
- F. Commission Discussion – None**
- G. Commission Action – Smith** made a motion to approve the conditional use. **Lau** seconded the motion. All were in favor so passed unanimously.

3. Spino Annexation Petition - The request is to annex 5.2 acres at 705 E. Hwy 50 into the City of Salida.

A. Open Public Hearing – 6:11 p.m.

B. Staff Review of Application – MacDonald summarized the staff report by the applicants are requesting annexation of a 5.2 acre property along Hwy 50 within the established commercial area. The property is directly west of the Town & Country Ford auto dealership and is bounded on the south by the South Arkansas River. There are currently two houses on the property with some associated accessory structures. These homes are served with the municipal sewer and well water.

Staff has found that the costs to the City of annexing this property are minimal. The property already lies within our commercial district and is served by city police, fire and sewer. The potential benefits to the city would be the acquisition of a piece of the trail corridor defined on the transportation plan and that when the property further develops it will be to City standards with regard to improvements such as sidewalks and design standards.

Staff recommends that the applicant be required to enter into an annexation agreement as a condition of annexation. This agreement should include a dedication of lands along the South Arkansas River for future trail construction. It should also include a provision that the existing well serving the two homes should be abandoned if it is isolated from the homes it serves through subdivision of the property. The agreement should also require the installation of sidewalk, pedestrian lighting and stamped concrete parkways in accordance with the Hwy 50/291 Corridor Plan accepted by the City. These improvements should be installed for the entire length of the property adjacent to Hwy 50 at the time of development or further improvements on any portion of the property.

Staff has found that there is adequate sewer and water capacity to serve future development of the property. Main lines for both of these services can be found along the south side of Hwy 50 adjacent to the property.

The Comprehensive Plan designates this area as Commercial and recommends the consolidation of access points among other things. Staff recommends that the applicant strive to align future access with Milford Street if possible. This is further emphasized in the comments from the Public Works Director that were distributed at this evening's meeting.

The Transportation Plan for the City calls for the development of a trail along the north side of the South Arkansas River. The Transportation Plan was adopted by the Planning Commission by resolution in 1999 and that resolution and the attached map are being passed around for the Commission this evening. The Transportation Plan was further integrated into the Salida Comprehensive Plan including this trail. Staff recommends that the applicant provide a dedication of land from the south boundary of the property north to a point 30' from the high water line to accommodate the future development of such a trail.

With the requirements that access line up with Milford Street and dedication of land for a trail corridor, staff finds that the application does seek to implement the Comprehensive Plan.

Staff recommends that the Planning Commission recommend approval of the application to the City Council with the two conditions included in the staff report.

- C. Applicant's Presentation – Phil Carey** was present and speaking on behalf of Mr. Spino. He is planning to purchase the portion of the property that includes a portion of the South Arkansas River. He handed out binders to everyone showing their plan for annexation and their proposal for an easement versus a dedication of land. He felt the City was asking for a large area of land. He then proceeded to go over the items in the binder he handed out. His biggest concern with dedicating the land to the City for the Trail system was the current condition of the trails in Salida. He feels the city does not have the manpower or money to maintain them properly and he did not want to see the land overgrown with weeds until the City was able to put the trail in. He brought up a number of iterations of past trails plans developed by Salida-area Parks, Open space and Trails and commented that they were not consistent and that the City should survey the areas being considered for trails and adopt a trails master plan. He does not feel that the tax savings through dedication of the land are significant. He would like to propose a 15' – 18' wide easement with a width of 30' permitted for construction. This proposal is included in the binders. **Bavaria** agrees that we need a good trail plan. **Hartslief** asked about the how the proposed zoning of the property plays into the annexation negotiations and stated that there is a lot of information being presented by the applicant and that he seemed to be picking selectively from the Comp Plan. **Smith** asked what would happen to the area south of the trail if the easement was fenced on both sides as proposed. **Carey** commented that the riparian environment should be protected and that the property owner would be able to cross over and maintain the riverbank.

MacDonald commented on why dedication was preferred because of clarification and lack of future confusion or litigation over easement language. There was discussion of how a dedication would affect the rear setback for future construction. **Hartslief** asked why not create an easement from the center of the river the width that staff was recommending rather than the dedication of land. **Carey** and **Spino** agreed that this would be acceptable.

Bavaria asked if the hotel would have access to the trail. **Smith** asked about the width of the river noted on the map in the binder and if there are setbacks from easements. The map indicates that the river is approximately 42 feet in width and there are normally no setbacks from an easement.

D. Public Input – Bob Engel, Salida resident, felt that Mr. Carey was being reasonable and 15' would be adequate for the trail. He stated that requiring a dedication of land would garner a negative response when published in The Mountain Mail.

Thomas Morgan, Real Estate Agent, Mr. Morgan is representing the purchaser of the portion of the property that the Hampton/Dennys will be constructed on. He stated he felt the biggest issue was dedication versus easement because dedication takes away value of the property and felt 30' width was excessive.

Walt Harder, Real Estate Agent, submitted a letter via Mr. Carey and was in agreement with Mr. Carey on the easement instead of dedication of land.

Lau commented that the suggestion of an easement seems good and that she is concerned with weeds in parks and on trails.

Robert Vance, Director of Public Works, spoke and stated whether an easement or a dedication of land the City would still be responsible for maintaining the trail. He felt that easements were cumbersome and always had glitches in them. He said to maintain a trail next to the river that 30' was not excessive. He referred to the definition of right-of-way from ASHTO and referred to CDOT standards for trails both of which support the staff recommendation that 30' is the minimum required. He agreed that the City should adopt trail standards. He explained that maintenance issues are a result of lack of money and manpower as well as limits along the Monarch Spur Trail where the city is limited to 2' on either side.

Smith asked about the assertion that less width is required after construction. **Vance** explained that the trail would likely be raised in this area and requires some drainage structures. It will need to meet 1:6 slope on the shoulders. 15' – 18' being proposed would not be

adequate. At a minimum a clause for rebuild should be included in an easement. **Bavaria** asked about the need for dedicated land and **Vance** expressed his concern with easements and the way they are written. **Smith** commented that ditch easements are used often and include provision for maintenance. He asked if 30' is enough width. **Vance** asserted that 30' is the minimum, not the ideal.

Carey commented that a high water mark has not been established and that it could be far above the bank resulting in more than expected portion of the property being dedicated. There was discussion of what the high water mark is and the Commission decided they were more comfortable referring to the bank of the river instead. **Carey** commented that with a perpetual, exclusive use easement the City would have the liability, not the property owner and he would like that. He commented that he is concerned with weeds. **Vance** explained that the City contracts with the County for weed control and that it may take a number of years before we see results of spraying.

Hartslief asked if the concern is where the north boundary would be if the land is dedicated. **Carey** said it is a concern with dedication, but not with an easement. **MacDonald** further advocated for a dedication of land explaining that it is not a takings of land because it was being done through the annexation process and dedication is better for the City because it is a clean transfer of land and not open to ambiguity or interpretation like an easement can be.

Bavaria asked if there will be public access from Hwy 50 to this trail through the subject property. **Carey** would prefer that such an access lie along the east property line and stated that such an access is being negotiated between the two buyers of the property at this time. **Lau** asked who would be installing the fence along the trail. **Carey** agreed that the property owner could be responsible for that.

Stephens stated that he thinks the easement is a good option because it will be an isolated piece of land in the immediate future and there are concerns about maintenance. There was discussion of the trail system in Boulder Colorado and the variety of trail widths and right-of-way widths. **Lau** would like to defer to **Vance's** recommendations for width needed. **Vance** emphasized again that 30' is the minimum given as an industry standard. **Stephens** commented that the Mineral Belt Trail in Leadville has a narrow right of way in some areas and people use it just fine. He would like to see a width that is reasonable. **Carey** suggested that the area needs to be surveyed to determine what is reasonable. **Bavaria** would like to see adequate width to keep heavy equipment off the river bank. **Vance** stated that anything less than 30' would be a travesty and that 30' is not that big. **Carey** agreed that 30'

from the bank would be acceptable and that the trail should be concrete to withstand flooding. **Lau** and **Cabe** agree that 30' is a good width and that an easement will suffice and dedication is not necessary.

Bavaria asked about the recommendation to align access with Milford Street. **Carey** explained that alignment with State Street would not work because of the location of the old farmhouse. **Thomas Morgan** explained that CDOT said to ask for the access they desired and they would like one access aligned with Milford Street and one at the future shared property boundary.

Bavaria suggested changing recommended condition #1 to an easement from the southern boundary of the property to a point 30' north of the bank of the South Arkansas River. **Smith** asked about access to the trail from Hwy 50 and **Bavaria** agreed that is important. **Carey** stated that there are discussions ongoing amongst the buyers regarding this issue and asked that it be brought up at subdivision. **MacDonald** suggested that if this is an important issue for the Council that it be required at annexation because that is the time that the City has the most leverage. **Smith** emphasized that the connection be from the highway, not just the back of the hotel.

MacDonald suggested that discussion of how the trail would make it down the retaining wall being proposed should happen sooner rather than later. There was discussion of the potential height of the retaining wall 20' – 30', how a trail would get down that distance and ADA requirements.

There was discussion of whether the requirement that the owner install the fence should be included in the annexation agreement. **Lau** and **MacDonald** suggested that there could be language that the cost of the fence would be the responsibility of the property owner. **Cabe** noted that the fence requirement belongs in the easement and expressed concern that the Commission has not seen the easement language. There was discussion of who would draft the easement language and it was determined that the easement would not be required to come before the Commission for approval but that they would like to see the language and possibly make comments to Council.

E. Close Public Hearing – 8:30 pm

F. Commission Discussion – None

G. Commission Action – Lau made a motion to take the recommended action based on the recommended findings with the following conditions:

1. That the applicant provide a perpetual, exclusive use easement from the southern boundary of the property to a point 30 feet north of the bank of the river as a condition of annexation.
2. That the applicant enter into an annexation agreement including the easement of lands along the South Arkansas River for future trail construction, a provision that the existing well serving the two houses should be abandoned if it is isolated from the homes through future subdivision of the property and the houses should connect to municipal water service at that time. Access should line up with Milford Street and the applicants should be required through the annexation agreement to pursue that access alignment if two access points are permitted by CDOT. The annexation agreement should also require the installation of sidewalk, pedestrian lighting and stamped concrete parkways in accordance with the Hwy 50/291 Corridor Plan accepted by the City Council. These improvements should be required for the entire length of the property adjacent to Highway 50 at the time of development or further improvements on any portion of the property.

Cabe seconded the motion. All were in favor so passed unanimously.

4. **Spino Zoning Application** - The request is to designate the newly annexed property at 705 E. Hwy 50 as Commercial (C-1) District and include the property within the Highway 50 Corridor Overlay. The property is also known as the Third Spino Annexation.

A. Open Public Hearing – 8:35 p.m.

B. Staff Review of Application – MacDonald summarized the staff report by stating this application is regarding the zoning of the annexation that was just discussed.

Staff has found that the zoning of C-1 Commercial with the application of the Hwy 50 Corridor Overlay is appropriate for this property. The recommended zoning is consistent with the Comprehensive Plan and consistent with the purpose of the zone district. C-1 and the inclusion in the Overlay are the same as the surrounding zone districts in the City.

Staff recommends that the Planning Commission recommend approval of the application to the City Council.

C. Applicant’s Presentation – Phil Carey stated this is pretty straightforward. **Hartslief** asked if homes would be kept as residences and Carey stated yes.

D. Public Input – None.

E. Close Public Hearing – 8:39 pm

F. Commission Discussion – None

G. Commission Action – **Cabe** made a motion to approve the zoning change. **Lau** seconded the motion. All were in favor so passed unanimously.

VI. UNFINISHED BUSINESS

1. Special Meeting

Bavaria asked if this meeting could just be about Vandaveer and put off the Minor PD ordinance until later. Everyone agreed.

The meeting is scheduled for October 10, 2006 at 9:00 am at the Council Chambers.

VII. NEW BUSINESS

None

VIII. COMMISSIONER'S COMMENTS:

Bavaria stated that she feels Vandaveer is very urgent and needs to be taken care of. **Smith** asked if we needed to rezone the subdivisions that were discussed for the conditional uses and **MacDonald** stated zoning had been changed. **Cabe** felt that the stipulation for single-family homes just needed to be removed. **Stephens** said that we needed to put a system into place for logging complaints so we could enforce them. **Bavaria** asked if we needed to revisit the sign code with the recent complaint of political signs.

IX. ADJOURN

With no further business to come before the Commission, the meeting was closed at **9:00 pm**.