

MEETING DATE: Monday, October 23, 2006
MEETING TIME: 6:00 PM
MEETING LOCATION: City Council Chambers, 125 E. 3rd Street, Salida, CO

Present: Bavaria, Cabe, Smith, Lau, Stephens, MacDonald, Loudenburg

Absent: Biglow, Karnuta, Wikoff, Hartsliel

AGENDA SECTION:

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

- II. APPROVAL OF THE MINUTES –September 25, 2006**
 - 1. Cabe** made a motion to approve the minutes as written
Lau seconded the motion. All voters were unanimous and the motion carried.
- APPROVAL OF THE MINUTES –October 10, 2006**
 - 2. Cabe** made a motion to approve the minutes as written
Smith seconded the motion. All voters were unanimous and the motion carried.

- III. UNSCHEDULED CITIZENS**
None

- IV. AMENDMENTS TO AGENDA**
.Move Minor Planned Development Ordinance, Section VII. Unfinished Business, #2 to after Accessory Dwelling Unit, Section VIII. New Business, #1.
All were in favor

- V. PUBLIC HEARINGS**
 - 1. Jeannie Peters Conditional Use – 318 E. 3rd Street.** The request is to grant a conditional use to conduct a home business within a single-family dwelling located in a Medium Density Residential (R-2) zone district at 318 E. 3rd Street.
 - A. Open Public Hearing – 6:09 p.m.**
 - B. Staff Review of Application – MacDonald** summarized the staff report by stating the applicant would like to operate a massage therapy business in her home. Her home is located in a residential neighborhood so the home business requires a conditional use approval. She would have customers come by appointment and would not have any signs or other advertising. There are several business and public uses in the surrounding neighborhood.
This type of home business should have limited traffic to the site, will be contained entirely indoors and should have limited impact on the surrounding neighborhood. Staff has found that the application meets

the review standards for conditional uses and for home businesses in particular.

There are four suggested conditions of approval that will help to ensure that the operation of the business continues to be compatible with the surrounding neighborhood. These conditions limit the number of clients that can be seen in a one week period, restrict the business to have no employees and that there not be a sign located on the site advertising the business. The final condition is the standard condition that if the business is not started within three years that the approval will expire.

- C. Applicant’s Presentation – Jeannie Peters, 318 E. 3rd Street** was present to answer any questions.
- D. Public Input – Diana Smith, 329 E. 3rd Street,** said there were several existing home businesses in the area such as Crabtree and Safe Haven that had caused some problems with the neighbors but did not feel Mrs. Peters’ massage business would disrupt anything.
- E. Close Public Hearing – 6:11 pm**
- F. Commission Discussion**
Smith asked how clients usually came to her establishment and the applicant stated usually they walked or rode their bikes but there is adequate parking in front of home on the street or in alley behind her home. **Bavaria** feels it would be a minimum effect on the neighborhood and the commission does realize there are several home businesses in the area. The Commission is generally concerned with the cumulative impacts of home businesses in residential areas. **Bavaria** asked Mrs. Peters if she had any problems with any of the four conditions stated in the staff report and Mrs. Peters said not at all.
- G. Commission Action - Lau** made a motion to accept the recommended findings and take the recommended action as stated in the Staff Report. **Cabe** seconded the motion. All were in favor so passed unanimously.

2. Wood Conditional Use –Lots 5-16, Hillside Addition - The request is to be granted a conditional use to build single family homes on Lots 5-16, Hillside Addition. The area is zoned Industrial.

- A. Open Public Hearing – 6:14 p.m.**
- B. Staff Review of Application – MacDonald** summarized the staff report by stating that a land trade has been proposed between Judy Everett, PT Wood and the City exchanging the 17-acres on Tenderfoot Mountain owned by the Everetts for the 12 lots at the base of the mountain which are owned by the City of Salida. As part of the exchange, PT Wood would like to obtain the 12 lots in the Hillside Addition for residential use and the trade would be subject to approval of this use. The City Council directed PT Wood to go ahead and submit an application for the development that he would like approved for the City-owned Lots 5-16 in the Hillside Subdivision.

A conditional use approval must be obtained for use of the industrial zoned lots for residential. This is a sensitive topic in the City because a portion of “Christmas Mountain USA” is located on the 17-acres owned by the Everetts. The Planning Commission should consider the conditional use application on its own without regard for the situation with Christmas Mountain or whether the City should pursue the land exchange.

Mr. Wood submitted an application on October 4th. The City, as the property owner, has given permission for Mr. Wood to pursue the application. Staff found the application to be incomplete and has requested additional information prior to review of the application. The application and the letter from staff requesting additional information are attached for your review.

The application was noticed for the Planning Commission meeting on October 23rd and for this reason, although the application is incomplete, the public hearing should be opened to take any comment the public wishes to make. As of this writing no additional information has been received from the applicant. Staff has been working with Mr. Wood and Ms Everett to finalize an application but staff is not sure when the completed application will be received. The Commission should continue the hearing allowing adequate time for the staff and other reviewing agencies to receive the application and provide comment.

- C. Applicant’s Presentation – PT Wood** was present to answer any questions the public may have.
- D. Public Input – Judy Everett, 10090 CR 150**, owner of the 17-acre parcel for the exchange was present and stated she did not see any problem with the development as there are already residential homes in the area and the area is in need of improvement.
Tom Breunich, 203 Shavano Ave., stated the Commission should grant this exchange ASAP as then the City would not have to worry about the Christmas Tree on the mountain and it is not changing the concept of what is already there now. The City would not have to provide water and sewer to the area as it is being done with wells and septic. **MacDonald** stated that comments regarding the land exchange should be directed to the Council not the Planning Commission. Their only role would be to make sure the development was compatible with the area not to approve the land exchange.
Tom Jacobson, 1436 G Street, is in favor of granting the conditional use and feels it should be zoned Residential instead of Industrial anyway but the Commission needs to address the water and sewer issues and potential impacts of developing on well and septic.
Don McClung, 444 West Sackett Ave, owns some adjoining lots and feels the City is bending the rules for developers but individuals could

not buy and improve existing lots. Commented that it is hard to know what is being proposed at this point.

Annabelle Bednarek, 444 West Sackett Ave., Lot 17, Hillside Addition, said they had tried to purchase additional lots and were told it was impossible to buy from the City. She also feels that there is not enough open space in Salida now and that this property is serving as open space now.

Tony Espinoza, Hillside Addition home-owner, stated he is opposed to the development as there is no access road if Calco leaves and the railroad takes back over existing road. He is concerned that with the addition of new wells that his well will go down even further than it has already.

Maria Valdez, Hillside Addition home-owner, is concerned about the types of homes that will be built and is there going to be a road provided. She is also concerned about the effect new homes may have on the existing homes in the area.

PT Wood says he does not feel he is a developer and is seeking approval for 5 residential homes. He plans on combining the lots for a total of six sites. The combined lots 7 & 8 would include an easement for the trail up Tenderfoot and also possibly a community well and/or community septic. The wastewater treatment systems he is considering a bit more advanced than a typical system and better for environment. He is not sure yet what combination of well and waste treatment he will go with, i.e. central well with individual septics or common waste treatment with individual wells or common well and common waste treatment. He is looking at the Septi-Tech system that would produce irrigation quality water as a byproduct of processing wastewater. He wants to build "green" homes that would enhance the area. **Smith** asked if Wood had spoken with the Upper Arkansas Water Conservancy District and if they would augment a shared well system. **Everett** stated that she had spoken with them in the past and they could do that or they could do individual wells that would even permit a limited amount of outdoor irrigation. **Smith** asked who would review septic systems. **MacDonald** stated that they are working with the County Health Inspector regarding the well and septic issues. **Lau** stated that a well operator is required for a central system, that she is concerned about making the required separation between well and septic and that all greywater has to be used underground to ensure it returns to the system from which it came. **Lau** also asked if there would be a Home Owners Association and the applicant stated yes. **Lau** asked what the current configuration of the lots was, how they would be combined and what the situation with the road was.

MacDonald explained that her understanding was that the County had a proscriptive easement for CR 177 which comes down from the water tank and then runs along the front of the Hillside lots. **Valdez** said she was concerned about what would happen if the Calco road was closed

since many people use that road for access and that a fence has been built into CR 177 by one of her neighbors.

Bavaria asked when the application would be submitted. **Wood** is not sure when he will have all of the information, but will get it in as soon as he can. **MacDonald** noted that she needs at least two weeks, minimum, between the submittal and a meeting to allow time for review agencies to comment and to get a staff report written and out to the Commissioners. **Smith** feels that the Council has put the Planning Commission in a bad spot because there is no deal yet with Council for the land trade. He feels that Council has punted the decision to the Commission.

MacDonald asked when the next meeting should be scheduled. A date should be set so that people who have come to the meeting know when to come back. **Bavaria** felt that since the application was not complete that they could not really go any further on this so she proposed continuing until the packet was complete. Everett said the only time constraint is the Christmas tree. **Lau** stated that it was Everett's choice to not allow the tree but that the process could not go forward without a complete application. The Commission agreed that the tree is not relevant to this application. **MacDonald** stated that once the date was set she would mail notices again and post the site and that if there was anyone present who did not receive a notice that their name could be added to the list. **Cabe** made a motion to continue to the hearing until such time as a complete application has been received allowing adequate time for review. **Lau** seconded the motion. All were in favor so passed unanimously.

VI. UNFINISHED BUSINESS

1. **Vandaveer Ranch Overall Development Plan-** The request is for approval of the Vandaveer Ranch Overall Development Plan. An Overall Development Plan is the first step in zoning of a property as a Planned Development District. This item was continued during the October 10th meeting of the Planning Commission.

- A. **Public Input- Tom Jacobson, 1436 G Street,** spoke and gave some advice on several of the issues noted below in the discussion. **MacDonald** explained that the changes discussed during the October 10th meeting had been incorporated into the version of the ODP that was distributed to the Commission. In addition, an email was distributed to the Commission from **Attorney Devitt** regarding religious institutions and zoning. **Smith** stated that generally if the City is not limiting a religious organization in a way that is different than limitations on other organizations, then the City is abiding by the

federal law. There was discussion of how and where the ODP permits churches and whether they should just be treated the same as other non-residential uses, or if they should not count towards the total non-residential square footage permitted. **Bavaria** stated that the Transitional Residential zone did not limit all non-residential to no more than 6,000 square feet. There was more discussion and it was decided that any non-residential in that zone should have the same limit of 6,000 square feet. **MacDonald** noted that it would be difficult to ensure that non-profits remained in space that was constructed for that purpose. Bavaria suggested eliminating not for profits and churches from not counting towards non-residential square footage. It was decided at **Cabe's** suggestion that the note at the bottom of page 6 of the ODP should be struck and replaced with "Development for public occupancies shall not count against the maximum non-residential square footage allowed in each Planning Area."

Bavaria was not in favor of leaving the paragraph about TDR's (Section 3.04) in the ODP but **MacDonald** said it would ultimately be up to Council to approve a TDR plan and determine if the additional density was appropriate in Vandaveer. There was discussion of TDRs and how the ODP could be amended. **Bavaria** and **Jacobson** are concerned that Councils do not understand planning documents and asked if a future Council should be trusted to consider whether more density would be appropriate **Cabe** felt it could be removed if it made them uncomfortable because it does not mean anything substantive since any changes would be subject to review by the Planning Commission and City Council. **Jacobson** thinks it would lead to the City taking on the problems of the County and suggested specifically stating that no TDRs would be permitted in Vandaveer. **MacDonald** stated it was just leaving the door open for more density and that any TDR program would have to be carefully considered prior to adoption. **Smith** further explained that a TDR program is useless without a receiving zone and that a program could be established such that Salida could only receive density from areas the preservation of which would benefit the citizens of Salida. It was decided to leave the section in the ODP.

Smith asked about phasing and what type of phasing could be expected with a development of this size. **Lau** noted that a label needs to be changed on the Environmental Conditions Map. **Bavaria** pointed out a typographical error in Section 5.04.4.

Lau asked about the allowance of utility facilities, water facilities and wastewater facilities in the description of the open space/parks zone in Section 4.01. It was decided to strike these as uses in that zone. There was discussion of the allowance for impervious surface

coverage and how that compares to what is allowed under the current code. **Bavaria** asked what submittals had been postponed in Section 6.03. **MacDonald** noted that anything that was postponed was explained in Article 2 of the ODP and that they would be inserted in 6.03. It was discussed that what submittals are postponed will be application specific in planned developments depending on the scale of the project.

Cabe had typographical changes in Sections 7.05.2 (which was struck), 8.02.5 and 8.02.7. **Smith** asked about Section 8.02.8 regarding the percentage of a street facing façade that could include garage doors. This was discussed and it was determined that the linear width of the garage door should be no more than 40% of the linear width of front of the building. Section 8.02.9 was discussed and it was determined that the words “of views” should be removed because people would be building to take advantage of views already and solar access is the priority. **Cabe** suggested striking Section 8.04.13 and the Commission agreed.

Bavaria asked if they could continue this after changes were made and also wanted input from Barb Cole on TDR’s and accessory dwelling units. **Smith** made a motion to continue to the next scheduled meeting. **Lau** seconded the motion. All were in favor so it passed unanimously.

VII. NEW BUSINESS

1. **Accessory Dwelling Unit-** Discussion of accessory dwelling units and their role regarding permitted density.
MacDonald said the main reason for adding accessory dwelling unit to the code was to address affordability and it restricted the unit to 700 sq. feet and only 2 people could live there. Her interpretation was that since restrictions were placed on the units regarding size, number of occupants and how they could be rented, that they were not considered a unit of density. **Bavaria** explained that it had been the intent of the Commission when crafting the language that they would be counted as density and that was clear in the definition under dwelling unit and in Table 16-E. She added that if the rules are to be relaxed so that ADUs do not count towards density that other tools to mitigate impacts should be considered.
Jacobson said that the rules were designed as a balance between affordability and not sacrificing character and comfort of neighborhoods. He feels it might be time to institute some design standards. **Cabe** noted that this is really only an issue for R-2 and R-4 since the minimum lot sizes in R-1 and R-3 already permit two units of

density. There was a discussion of condominiumization of ADUs if a property has the permitted density to allow an additional unit.

Smith feels that the code should be interpreted such that ADUs do count as a unit of density. The Commission generally agreed. It was decided that any clarification of the code to this effect should be addressed the next time the Commission did Code updates.

UNFINISHED BUSINESS (continued)

2. **Minor Planned Development Ordinance-** An ordinance enacting planned development standards and review procedures for projects three acres in size or less, know as a minor planned development, with associated updates to subdivision review standards and planned development standards. This item was continued during the August 28, 2006 meeting of the Planning Commission.

Bavaria asked if it could be continued until they had more time to fit it in. **MacDonald** stated yes but it was becoming crucial to go over this soon. The Commission continued the discussion until a future meeting.

VIII. COMMISSIONER'S COMMENTS:

None

IX. ADJOURN

With no further business to come before the Commission, the meeting was closed at **9:10 pm**.