

MEETING DATE: Monday, November 28, 2006
MEETING TIME: 6:00 PM
MEETING LOCATION: City Council Chambers, 125 E. 3rd Street, Salida, CO

Present: Bavaria, Cabe, Smith, Lau, Biglow, Wikoff, Hartslief, Karnuta, MacDonald, Vance

Absent: Stephens, Loudenburg

AGENDA SECTION:

- I. CALL TO ORDER BY CHAIRPERSON Bavaria - 6:01 PM**
- II. APPROVAL OF THE MINUTES –October 23, 2006**
 - 1. **Lau** 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**
None
- V. PUBLIC HEARINGS**
 - 1. **Ferris Conditional Use** – The request is to grant a conditional use to conduct a manufacturing business (constructing raft frames) at 202 Oak Street located in the Commercial (C-1) zone district.
 - A. Open Public Hearing – 6:09 p.m.**
 - B. Staff Review of Application – MacDonald** summarized the staff report by stating the application would permit an existing business in the County to relocate into an existing building along Oak Street. The business includes the manufacture of raft frames which involves some welding and other assembly.
A manufacturing type use is conditional in the C-1 zone district. The proposed use would be contained indoors and should not disturb the surrounding properties. The site is not conforming with current development regulations such as landscaping and other site improvements, however, no expansion of the use is being proposed as defined in 16-5-50, so the site is not required to come into compliance at this time.
Staff has found that the use is consistent with the Comprehensive Plan because the area is designated for a variety of uses. The application complies with the Land Use Code because the requirement to bring the

site into compliance has not been triggered and the applicable review criteria for all conditional use applications have been met.

Staff recommends approval with the suggested conditions included in the staff report.

C. Applicant's Presentation – Will Hodge was present as applicant's representative and stated building raft frames is low noise and all work will be done inside.

D. Public Input – None.

E. Close Public Hearing – 6:11 pm

F. Commission Discussion

Smith asked if business will be doing repairs, retail, and parking and applicant stated not any major repair, will be doing some retail but adequate parking on the site along Hwy 291 and Park Ave. Any big vehicles (rentals) would be parking along Park Ave side of the building. **Hartslief** asked **MacDonald** about fire code upgrade and she did not know. **Lau** asked **MacDonald** about parking and she stated any change in use would require looking at parking requirements.

Smith is concerned about rentals and Hodge replied rentals is more like a demo prior to purchase. **Bavaria** stated that there is a lot of space around the building and **Biglow** confirmed. **Bavaria** asked about employees and was told 1-2 full-time and 2-4 part-time and **MacDonald** said there was enough parking.

G. Commission Action - Cabe made a motion to accept the recommended findings and take the recommended action as stated in the Staff Report. **Biglow** seconded the motion. All were in favor so passed unanimously.

2. Karnuta Conditional Use –The request is to be granted a conditional use to construct a single family residence within a High Density Residential (R-3) zone district at 431 West Sackett Avenue.

A. Open Public Hearing – 6:14 p.m.

B. Staff Review of Application – MacDonald summarized the staff report by stating this application would permit two single family dwellings to be constructed in the R-3 zone. This zone district allows for duplexes and multi-family units to be constructed by right but requires single family homes to obtain conditional use approval. The applicant is proposing to demolish an existing garage on the site and subdivide the 75' x 150' property into two lots meeting the minimum dimensional standards of the zone district. After subdivision, each of the new lots would be permitted 2 units of density. The applicant would prefer to construct single family homes rather than multi family on this site. The immediate neighborhood is comprised of primarily single family homes.

Staff has found that the application is consistent with the Comprehensive Plan because the area is designated for medium density residential which includes single family homes. The

application complies with the Land Use Code with the recommended condition that the property be subdivided prior to issuance of any building permits for the homes. All of the applicable review criteria for conditional use applications have been met. There are no special criteria for this type of conditional use application.

Staff recommends approval with the suggested conditions included in the staff report.

- C. Applicant's Presentation – Karen Karnuta** was present and stated building footprint is not house footprint but only building envelope showing setbacks. Not sure what she is going to do with existing house and a conditional use does not require design standards. She is considering a two-story residence but much smaller than other homes she has built in the past.
- D. Public Input – George Ferrier, 130 N I Street**, stated she did not get variance for garage and is concerned with height.
Larry Fear, 417 W. Sackett Ave., stated he agrees with height concern and traffic in alley.
Phil Fear, 447 W. Sackett Ave., stated a single-story would be better as a two-story would not be good for the neighborhood.
- E. Close Public Hearing – 6:31 P.M.**
- F. Commission Discussion- Lau** stated that applicant is discussing density with 2 single-family homes instead of a 4-plex which is allowed in an R-3. **Biglow** asked if subdivision completed and was told no but is a condition of approval. **Bavaria** can't see how to deny as it is lessening density. **MacDonald** said commission does not have ability to set height or other restrictions for this type of application under the current ordinance.
- G. Commission Action- Cabe** made a motion to approve based on the recommended findings and conditions stated in the staff report. **Smith** seconded. All were in favor so passed unanimously.

- 3. Walker Conditional Use** –The request is to be granted a conditional use to conduct a home business (nail salon) within a single-family dwelling located in a Medium Density Residential (R-2) zone district at 124 East 10th Street.

- A. Open Public Hearing – 6:40 p.m.**

- B. Staff Review of Application – MacDonald** summarized the staff report by stating this application would permit a nail salon business in a home in the R-2 zone. This zone district allows for home businesses with a conditional use approval. The applicant is proposing to conduct the business in her spare bedroom and to see one client at a time. Staff has found that the application is consistent with the Comprehensive Plan. All of the applicable review criteria for conditional use applications including those regarding home businesses have been met. Staff has suggested several conditions of approval including limiting the number of clients and employees and prohibiting signage on the property.

Staff has received three letters of public comment regarding this application. One was included in the packets and the other two have been distributed this evening. If the Commission has concerns about the compatibility of the use with the surrounding neighborhood, they could also choose to limit the hours of operation and/or add a condition that the use be reviewed in six months or a year to find out if the neighborhood is being negatively impacted by the use

- C. Applicant's Presentation – Diane Walker** was present and stated she is in the process of phasing out her business and is only serving existing clientele. There would be only one client at a time and parking is not an issue. She is only going to be doing 4-5 clients per day and would be Monday through Friday.

Public Input – None

- D. Close Public Hearing – 6:42 P.M.**

- E. Commission Discussion- Bavaria** expressed concerns. **Lau and Karnuta** both supported home businesses. **Cabe** said there was no reason to deny. **Hartslief** asked about taxes and **MacDonald** stated conditional uses were sent to assessor's office and taxes do go up. **Hartslief** asked what the time frame was for phasing business out and applicant stated within 12-18 months as she does still have to make a living while finishing school program. **Smith** asked applicant if she would be willing to review application within 12-18 months and she agreed. **Smith** asked about sign code and **MacDonald** said it did not apply as applicant did not want any signage.

- F. Commission Action- Karnuta** made a motion to approve based on the recommended findings and conditions stated in the staff report with an additional exception to review in 12 months. **Wikoff** seconded. All were in favor so passed unanimously.

- 4. Chavez Rezoning** –The request is to rezone the subject property from Single-Family Residential (R-1) to Medium Density Residential (R-2)
- A. Open Public Hearing – 6:58 p.m. Karnuta abstained from voting**
- B. Staff Review of Application – MacDonald** summarized the staff report by stating this application would rezone the two Chavez lots along Third Street from R-1 Single Family Residential to R-2, Medium Residential. Most of the properties along Third Street have been developed under the R-2 zoning. With this zoning change each of the lots would be permitted to develop with two-unit structures. Under the current zoning they could develop with a single family home and an accessory unit.
- Staff has found that the application is consistent with the comprehensive plan which designates this area as medium density residential. The application is also consistent with the purpose of the R-2 zone district since the properties have a closer physical proximity to the R-2 lots along Third Street than the R-1 lots along Crestone Ave. The application is compatible with the surrounding R-2 zone and

would not be detrimental to the R-1 properties along Crestone. This application is the next logical step following the recent subdivision of the Chavez property and the physical separation of the new lots from those along Crestone Avenue.

Staff recommends approval of the proposed rezoning.

- C. **Applicant’s Presentation – George Chavez** stated buyers wanted more latitude and spoke about the height of the jail and across the street there are condos being built. **Biglow** asked if it only applied to Lots 3 and 4 and was told yes.
- D. **Public Input – Karen Karnuta, 668 W Sackett**, spoke in favor of the rezoning as she feels that the jail had made a negative impact and approval is the least to do.
- E. **Close Public Hearing – 7:05 P.M.**
- F. **Commission Discussion- Bavaria** agrees this should be done and rezoning does not change the other requirements.
- G. **Commission Action- Smith** made a motion to approve based on the recommended findings and conditions. **Cabe** seconded. All were in favor so passed unanimously.

5. **Smith Rezoning** –The request is to rezone the subject property from Medium Density Residential (R-2) to Manufactured Housing Residential (R-4)

- A. **Open Public Hearing – 7:08 p.m.**
- B. **Staff Review of Application – MacDonald** summarized the staff report by stating this application would rezone the property at 1204 ‘J’ Street from R-2, Medium Residential to R-4, Manufactured Housing Residential. The adjacent properties along ‘J’ Street to the north are zoned R-4, and other surrounding properties are zoned R-2. The site has been recently developed with a two-unit structure and the applicants would like the ability to subdivide the units with the land that they sit on. Under the R-2 zoning, they can subdivide the units as condominiums but do not have enough lot area to subdivide the property. They would have this ability under the R-4 zone designation because of the reduced minimum lot size to 4,000 square feet. Staff has found that the application is consistent with the comprehensive plan which designates this area as high density residential. The application is also consistent with the purpose of the R-4 zone district which permits duplexes. The application is compatible with the surrounding R-4 zone and would not be detrimental to the R-2 properties along ‘J’ Street and Twelfth and Thirteenth Streets.
Staff recommends approval of the proposed rezoning.
- C. **Applicant’s Presentation – Drew Smith** stated he would like to subdivide duplex and sell individually but not enough lot space. R-4 would allow this and there would be no further development.
- D. **Public Input – None**

E. Close Public Hearing – 7:10 P.M.

F. Commission Discussion- **Cabe** said zoning change makes sense.

G. Commission Action- **Lau** made a motion to approve based on the recommended findings and conditions. **Smith** seconded. All were in favor so passed unanimously.

6. Crabtree Enforcement Appeal –The request is overturn an enforcement decision by the Zoning Administrator. The applicant would like to be permitted to maintain the existing business at 325 ‘D’ Street.

A. Open Public Hearing – 7:12 p.m.

B. Staff Review of Application – MacDonald summarized the staff report by stating this application is the result of an enforcement action by staff which required that the applicant either submit a conditional use application for a home business or come into compliance with the requirements of a home occupation. The applicant has appealed this enforcement action based on the grounds that the use is “grandfathered” in under the previous code.

According to staff’s records the applicants purchased the property in January 2002. They submitted a building permit application in February of 2002 to remodel the structure from a church to a residence and home office. The building permit was issued on March 19, 2002 and the final inspection occurred on October 30, 2002. The applicant has quoted former planner Phelan as stating in a previous staff report that the home occupation was established prior to 2002. Staff suggests that the Planning Commission clarify when the home occupation was established.

The land use code prior to July 3, 2002 had a fairly loose definition of home occupation, and no definition of a home business. It is important to clarify to what extent the business was existing prior to July 3, 2002 when the current regulations came into place. I have included an email from the applicant dated September 22, 2004 in which the applicant states that the “Crabtree Group, Inc now has 2 off-site employees, and had 3 during the summer”. This implies that the business had grown since the 2002 code change. The building has continued to grow since that writing in 2004. The Planning Commission should clarify how many employees worked for the business in 2002 and how many people currently work at this location. The other question that has arisen during this appeal process is whether the applicants still make their home at the residence at 325 ‘D’ Street. The applicants have stated that they do live at the subject property.

Staff has asked the applicant to discuss these questions, without success.

Under either definition of home occupation from the current or previous code, the use is required to be incidental and accessory to the primary use as a residence. If the Planning Commission finds that the

business was in place prior to the implementation of the current code in 2002, then the business is, in fact, permitted to continue in its current location, at the size it was at that time.

Nonconforming uses are not permitted to expand under Section 16-15-20 of the land use code and if the business has expanded since 2002, it is required to come into compliance with current code. The easiest way to do this is to apply for a conditional use approval as a home business.

Staff recommends the Planning Commission seek clarification to the questions raised above and make their decision based on those findings. It seems apparent that at the very least the business has grown since the new code was established in July 2002 and that a conditional use for a home business should be required.

- C. Applicant's Presentation – Paul Crabtree, 325 D Street**, stated his reasons for appeal was the enforcement was under the wrong code. He stated the old code definition for home occupation. He is appealing the letter sent by **MacDonald** and he did present multiple pieces of evidence and state that he resides there. He stated he has 3 full-time and one part-time employee.
- D. Public Input – Joe Deluca, 11575 W Hwy 50**, stated he feels business should be grandfathered in as it is low impact and falls within home occupation.
- Tracy Vandaveer, 6770 CR 107**, stated it is a low impact business and is good for community for jobs, interns, high school shadows. It is a business that brings income to community.
- Jean Peters, 318 E 3rd Street**, stated she lives across from Paul and that there is very little traffic and very little impact on neighborhood.
- MacDonald** stated she received two complaints but not in writing.
- Diana Smith, 329 E 3rd Street**, stated low impact business and is confused as to the issues.
- E. Close Public Hearing – 7:35 P.M.**
- F. Commission Discussion- Smith** believes that a written decision is necessary and it needs to be verified if **MacDonald** used wrong code. **Hartslief** felt the applicant is walking a fine line on this issue and it needs to state how large he is planning to grow the business at that location. The commission needs to clearly define the interpretation of home occupation under the old code. After much discussion it was decided that evidence shows use was well established and that interpreting the language of the old code which provides home occupation to be “clearly incidental and subordinate” relied more heavily on impacts on the neighborhood observable from outside the building.
- G. Commission Action- Cabe** made a motion to approve the appeal as evidence shows use was well established and that interpreting the language of the old code which provides home occupation to be “clearly incidental and subordinate” relied more heavily on impacts on

the neighborhood observable from outside the building. **Smith** seconded. 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 and October 23rd meetings of the Planning Commission.

A. Public Input- None

B. Close Public Hearing – 8:35 PM

C. Commission Discussion – Regarding the parks and open space areas - add community garden and community supported agriculture as permitted uses in 4.06, Page 10.

D. Commission Action- Karnuta made a motion to approve with change. **Smith** seconded. All were in favor so passed unanimously.

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 and October 23rd meetings of the Planning Commission.

A. Public Input- None

B. Close Public Hearing – 8:45 PM

C. Commission Discussion – Bavaria would like cut off to be higher 10, 15, or 20 acres.

D. Commission Action- Cabe made a motion to continue one more time. **Lau** seconded. All were in favor so passed unanimously.

VII. NEW BUSINESS

1. **Growth Areas/ IGA –** Need to set a date for a work session to continue discussion of the urban service area and Salida growth area.
Next meeting will be December 7, 2006 at 7 am.

VIII. COMMISSIONER'S COMMENTS:

Bavaria said they needed to discuss Highway improvements and suggested this be added to the agenda of the regular December meeting. She also wanted to know if anyone was interested in being the chairperson.

IX. ADJOURN

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