



MEETING MINUTES
Planning & Zoning Commission
Tuesday, March 1, 2022, 6:00 PM
Public Meeting Room / Eagle Town Hall
200 Broadway, Eagle, CO 81631

This agenda and the meetings can be viewed at www.Townofeagle.org.
PUBLIC WIFI - TOEE – ((TOEEWireless))

MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

This was an in-person meeting with access for the public to attend via Zoom.

6:00 PM – REGULAR MEETING CALLED TO ORDER

Chair Hood called the meeting to order at 6:00 PM.

COMMISSIONERS PRESENT

Matt Hood, Bill Nutkins, Jesse Gregg
Keegan Winkeller, Kyle Hoiland,
Charlie Perkins

COMMISSIONERS ABSENT

Lani Webb

STAFF

Chad Phillips – Community Development Director
Dennis Wike – Town Engineer
Peyton Heitzman – Planner II
Tez Hawkins – Senior Planner
Nikki Davis - Administrative Tech II

APPROVAL OF MINUTES

1. Minutes dated February 15, 2022.

The February 15, 2022 meeting minutes were approved without change.

PUBLIC COMMENT

Public comment opened at 6:01 PM. There was no public comment.

PUBLIC HEARINGS

1. Project: Mountain Tots Preschool Special Use Permit
File #: SU22-01
Applicant: Mountain Tots Preschool

Location: 641 McIntire Street
Staff Contact: Tez Hawkins, Senior Planner
Request: To obtain a Special Use Permit to operate a childcare facility in the Residential Medium (RM) zone district.

Staff Presentation

Hawkins began by explaining that the Town Code requires a Special Use Permit (SUP) to operate a childcare facility in any residential zone district. He summarized the applicant's motivations for purchasing the property and obtaining the permit which includes increased indoor & outdoor space, increased parking & loading area, increased office space, and the property's desirable proximity to the Eagle Town Park and Eagle Public Library. The application was referred out to 11 agencies and departments for review including the Greater Eagle Fire Protection District and Eagle County Public and Environmental Health. A summary of the public comments revealed mixed opinions, though majority of the comments expressed support for the project. Those expressing opposition voiced concerns around building safety, alterations to the building, lowered property value, increased noise, and creating a precedent for commercial uses in residential areas.

Next, Hawkins reviewed the four standards for granting a SUP. First, the expansion of childcare and infant care facilities in commercial, mixed-use, and appropriate residential neighborhoods is supported by the Elevate Eagle Comprehensive Plan (Comprehensive Plan). As it relates to the Town's Code, childcare facilities are subject to the minimum use standards which are used to assess compatibility with existing and nearby approved uses such as visual impacts, noise, and traffic. Staff reviewed three existing childcare facilities in town for comparison and determined there are no childcare facilities that match the neighborhood context of this project. The third standard ensures there are adequate street improvements to accommodate traffic volumes and parking. The Town Code does not provide specific parking requirements for childcare facilities, therefore, staff looked to neighboring communities for examples. Working with the Town Engineer, staff determined that eight spaces would provide adequate parking for both employees as well as drop-off/pick-up. To help mitigate traffic impacts, the applicant proposed a metered drop-off/pick-up plan that limits each occurrence to a 10-minute rotation. Hawkins added that traffic circulation is recommended via McIntire Street with egress to the south, then left onto W 7th Street. Wike supported the applicant's metered drop-off/pick-up plan also adding that 3-4 parking spots for parents is sufficient. Traffic observations on McIntire Street during peak times in the morning and afternoon suggest this is a main thoroughfare road. However, staff determined the traffic generated from the childcare use was not excessive. The fourth standard requires that special conditions for specific uses are met and staff noted there are no special conditions for childcare facilities.

Staff recommended approval with two conditions.

Q & A

Hoiland asked if the Commission must include the requirements from Eagle County and the Fire Department into the conditions of approval. Hawkins replied no; those are related to the interior improvements of the property and will be assessed during the building permit phase.

Nutkins asked if there is public parking on McIntire Street. Wike described that the Town has 80 feet of right-of-way (ROW) so there is enough room for head-in parking. Since this is a change of use, the applicant is no longer allowed to continue using the ROW. The drop-off/pick-up spaces must be on the applicant's property.

Winkeller asked if it is possible to make angled parking in the direction of traffic. Wike replied that could be achieved through the parking fee in-lieu program, however, most improvements have been made by neighboring property owners. The applicant was not in a financial position to participate in the program, therefore, the best solution is to have parking on site. Hawkins reiterated that the conditions encourage drivers to enter McIntire Street from the north and exit to the south during peak times.

Gregg asked how staff determined eight parking spaces. Wike stated that other towns established a ratio of one parking space for every 8 kids. Staff determined that replicating this ratio provided adequate parking for this facility.

Perkins asked if Wike could expand on the metered drop-off/pick-up process. Wike confirmed the applicant has been tracking the number of cars coming and going at their existing facility but deferred to the applicant for further explanation. Perkins also asked for the average duration of the drop off/pick-up process and the applicant responded, about 5 minutes.

Applicant Presentation

Meghan Wilson, the applicant, is the Board President at Mountain Tots Preschool. Wilson explained that Mountain Tots remains one of the more affordable childcare facilities in town and that young adults are leaving Eagle because of the cost of childcare. Currently they are licensed for up to 30 children and have 68 children on their waitlist; there is a strong need for their services. Mountain Tots has read the public comments from surrounding neighbors regarding noise and increased traffic which Wilson addressed with mitigation plans. The facility's operating hours coincide with standard working hours and traffic plans would be communicated with parents and staff. Wilson developed the metering plan by observing drop-off/pick-up occurrences at their current facility over a three-week period. This study helped her establish an average time required for each scenario. Moreover, Wilson reiterated that by working with the Town Engineer, they were able to establish an agreeable number of parking spaces to satisfy the Town's requests. Wilson added they did not intend to park in the Town's ROW. Lastly, Wilson expressed they are open to feedback from the Town and neighbors.

Jessica Deerr, Executive Director at Mountain Tots Preschool, explained how the bell system would function. The sound is comparable to a holiday bell, not a customary school bell, and would be used to alert the children about their noise level. The bell system is part of their education structure and helps develop behavior expectations.

Q & A

Nutkins asked if there are other businesses in this area with a SUP. Phillips replied the nearest nonresidential use is the Forest Service.

Perkins asked what time of day the children will participate in outdoor activities. Deerr explained the level of outdoor activity varies throughout the year. The children utilize the outdoor space more frequently in the spring and summer, and less frequently in the winter. She included that bringing the classroom outside is a main part of their education style, it is not just free play.

Public Comment

Public comment opened at 6:36 PM.

Community members who are opposed to the project expressed concerns around increased traffic, inadequate parking, noise levels, appropriateness of location, setting a precedent for commercial use in residential areas, and the expansion of the property.

Community members who are in favor of the project expressed support for increasing affordable childcare facilities in the town and supporting small businesses.

Laurie Diversey, 624 McIntire Street – Opposed to the project and has obtained signatures from 37 neighbors who are also opposed.

Carmen Weiland, 335 McIntire Street – Opposed to the project.

Robin Spain, 543 McIntire Street – Supports expanding childcare facilities but concerned about increased traffic generation throughout town.

Natalie Bullard, 609 Washington Street – Supports expanding childcare facilities but concerned with appropriateness of location and creating a precedent for a commercial business in residential areas.

Tina Sanders, 24 Snow Owl Court – In support of the project.

Sara Ellis, 878 Gray Rock Drive – In support of the project.

Jeff Woods, 703 Bull Run – Woods suggested that all Bull Run residents should have received the adjacent property owner notices. He was also concerned with parking and increased traffic.

Laurel Broy, 401 W. 7th Street – Opposed to the project.

Robin Hoppin, 633 McIntire Street – Hoppin requested that the Town require sound mitigation and ensure that the property meets building code standards.

Silvana Flaherty 510 Palmer Loop – In support of the project.

Bryan Woods, 212 E. 3rd Street – Woods provided comment on parking downtown and concern that the project took away on-street parking spaces.

Jamie Woodworth, 760 Castle Drive – In support of the project.

Jackie Devens, 50 Bunker Way – In support of the project.

Carol Blevins, 309 W. 7th Street – Blevins expressed mixed opinions. While she supports increasing childcare facilities, she is concerned about expanding the property. Blevins had additional questions around the Forest Service property, how the Town can build more sidewalks, and when the final decision will be made on this application.

Public comment closed at 7:06 PM.

Members of staff and the applicant addressed questions received during Public Comment.

First, Wike explained there is an ongoing road study through the Grand Avenue Corridor Plan which conceptualizes the building of several roundabouts along Grand Avenue. Part of this access will be triggered by development in Haymeadow, though that is likely still many years out. Eagle County is trying to build affordable housing in West Eagle and is working with the Forest Service to establish connectivity on W 7th Street with output onto Grand Avenue. Most of the future access created on Grand Avenue is expected to be right-in and right-out only. Wike reaffirmed that the Town recognizes that increased traffic is a concern.

Next, Wike reiterated staff's suggestion to create on-site parking in the front yard of the property along McIntire Street. Staff does not recommend using W 7th Street for drop-off/pick-up and prohibits using the alley behind the property for school traffic. Through preliminary observation during peak traffic times, Wike stated that traffic around Bull Run does not appear to be a major concern.

Last, Wike explained that the parking fee in-lieu program requires funds to be allocated toward the construction of parking spaces, sidewalks, and storm water drainage. This is a new program and as the Town collects fees, Public Works will begin constructing sidewalks. Wike noted that the Town currently does not have a program specific to building sidewalks.

Hood noted that the Planning Commission makes a recommendation to Town Council and that this is not the final decision-making meeting. There will be public comment available during the Town Council meeting as well.

Phillips added that the standard for adjacent property owner notices is 250 feet from the property under consideration. The Town also publishes public hearing notices in the newspaper and on the Town's website.

Wilson explained the detached garage will be converted to an office, breakroom, and staff bathrooms. The State of Colorado requires facility square footage minimums per child. Wilson added they have a snow removal service through a contractor.

Q & A

Perkins asked if Mountain Tots has children with physical disabilities and if the State requires this building to accommodate ADA. Wilson replied no, they do not have any children with disabilities. Wilson added in addition to meeting State requirements, they must meet Fire Department and Environmental Health requirements as well. Perkins also asked if one of the parking spots would be reserved for ADA. Wike replied that would be vetted by the Building Official but that the parking fee in-lieu program requires ADA parking to be on property.

Nutkins asked Wike where the ROW starts and stops. Additionally, Nutkins asked if the Mountain Tots parking spaces would take away from the Town's ability to construct parking spaces in the ROW. Wike replied that cars pulling in and out would not trespass into neighbor's yards since technically it is still within the ROW.

Gregg asked if the number of parking spaces requires an access lane or a separate parking lot and if McIntire Street is considered an arterial road. Wike replied that other infill projects already underway are facing similar challenges where their parking spaces back up directly onto an alley or street. An access study forthcoming from the Grand Avenue Corridor Plan will shed light on recommended access and additional parking improvements around town. Wike added that McIntire Street is a local street, but it does handle more traffic than W 7th Street since it feeds into Bull Run.

Nutkins asked if Eagle County intends to extend W 7th Street to connect to Grand Avenue if they can acquire the Forest Service tract. Wike stated this plan is still very conceptual and the road would be a secondary means of access.

Phillips reframed the main question when reviewing a SUP application: is this use appropriate on this site? The crux of the staff report are findings that support the Comprehensive Plan and the Town Code. As for the noise concerns, Phillips explained there is an enforceable noise nuisance statute.

Perkins asked what the Town's Code requirement is on fence height. Wike said the existing fence at the property is about 5 feet tall.

Discussion

Perkins was not convinced the application satisfied standard #2 which addresses compatibility. He voted to deny the application.

Nutkins conveyed general support for the project, however, agreed with Perkins about the ability to meet standard #2. He was not as concerned with traffic but asked if this is the right location within this neighborhood. The facility is further away from a main road and Town center and is too deep in a residential area.

Hoiland noted there are three other daycares in town and none of them are really compatible with the surrounding approved uses. He argued that this is an appropriate location and this is a critical need for the community adding that the lack of childcare will impact our labor force. Hoiland noted this non-profit organization has been around for 50 years and is a staple of our town. Hoiland was in support of approving the application.

Gregg did not believe this is compatible with the surrounding neighborhood but stated there are other childcare facilities in town located in residential areas. Hood agreed stating there are four in-home daycares in The Terrace and it's very quiet. There are more daycares in residential areas than the public may be aware of. Gregg argued this is a larger operation.

Winkeller agreed with Hoiland's comments. He has experienced the challenges of searching for daycare and our community needs these services to thrive and grow. Winkeller noted that a quiet neighborhood would be safer compared to Grand Avenue or building a childcare facility on the fringes of a residential area. The children are supervised and the teachers would be actively trying to mitigate loud noises. Winkeller empathized with the applicant and the challenges of finding an affordable, viable property.

Hood also agreed with Hoiland but recognized the compatibility concerns. He suggested that the size of the facility is not that large and 26 drop-off/pick-up trips would be spread out over the course of an hour. He understood the concern with noise but the noted the use is appropriate given the time of day and the applicant's mitigation strategies. Hood asserted that staff condition the special use to mitigate noise levels. Last, the walkability to the Town Park is great and being able to walk through a residential street is much safer. Hood was in favor of supporting the project.

MOTION: HOILAND MOTIONED TO APPROVE FILE # SU22-01, MOUNTAIN TOTS PRESCHOOL SPECIAL USE PERMIT WITH THE FOLLOWING CONDITIONS:

- 1. ALL PICK-UP AND DROP-OFF VEHICLES SHALL ARRIVE AT THE PROPERTY FROM MCINTIRE STREET AND EXIT TO THE SOUTH ON MCINTIRE STREET USING 7TH STREET TO IMPROVE TRAFFIC CIRCULATION. DURING PEAK TIMES, DROP-OFF AND PICK-UP SHALL BE ENCOURAGED TO ENTER MCINTIRE FROM THE NORTH AND EXIT TO THE SOUTH. ALL PICK-UP/LOADING AND DROP-OFF/UNLOADING SHALL OCCUR IN THE PROPERTY'S FRONT YARD TO DISCOURAGE USING THE REAR ALLEY ASSOCIATED WITH THE PROPERTY.**
- 2. ALL PICK-UP AND DROP-OFF SHALL BE RESTRICTED TO FOUR SPOTS IN THE FRONT YARD. PICK-UP AND DROP-OFF SHALL NOT TAKE PLACE OUTSIDE OF THE FOUR DESIGNATED PARKING SPOTS LOCATED IN THE FRONT YARD.**

MOTION WAS SECONDED BY WINKELLER BUT DID NOT PASS. THREE COMMISSIONERS WERE IN FAVOR (HOOD, HOILAND, WINKELLER) AND THREE COMMISSIONERS WERE OPPOSED (PERKINS, NUTKINS, GREGG).

Hood closed file # SU22-01.

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| Project: | Code Amendment to Section 4.07.140. Parking Exemption in the Central Business District (CBD) |
| File #: | LURA22-02 |
| Applicant: | Town of Eagle |
| Location: | Town of Eagle |
| Staff Contact: | Peyton Heitzman, Planner II |
| Request: | Amend Section 4.07.140 to modify parking requirements for a change in use for an existing building in the Central Business District (CBD). |

Staff Presentation

Heitzman explained that the Town recently adopted the voluntary parking fee in-lieu program which offered developers options to meet the Town's parking requirements. As a result of adopting this program, modifications were made to the Town's parking standards, particularly in cases when there is a change in use to an existing building. The language that was removed exempted properties in the CBD or Broadway District to provide the required parking spaces if there was a change in use. Further analysis revealed that the change may have unintended consequences for this area where the ability to develop off street parking is limited. Heitzman noted that existing buildings face unique challenges meeting Town parking requirements. To further illustrate the implications downtown, staff provided two scenarios: 1) establishing outdoor dining; 2) and the financial burden the new regulations would have imposed on a new business owner moving into an existing building.

Based on these scenarios, staff recommended reinstating the exemption language and have the policy reexamined through ReCode Eagle.

Q & A

Nutkins asked if the Town has language that specifies what constitutes the construction of on-street parking spaces. Wike replied the parking fee in-lieu program requires the construction of the parking spaces, sidewalk, drainage, and lighting; the developer would have to meet the Town's standards. Nutkins also asked how long this policy will be in place. Phillips replied this will be included in Clarion's work, scheduled to conclude by the end of the year.

Gregg questioned if the Town was defaulting on what the parking fee in-lieu program was created to do. Phillips replied that the focus of the program was on parking and not necessarily the impacts on businesses.

Perkins asked if the parking in-lieu fee is going to a special fund or going towards the construction of a future parking garage. Phillips outlined the funds are collected for Public Works to construct and improve parking on the ROW on 5th Street, Howard Street, and Grand Avenue.

Hood agreed that a change in use was not considered, only new development. He was in favor of staff's recommendation and requested that it be re-evaluated through ReCode Eagle. Nutkins suggested adding language that addresses redevelopment.

Gregg asked if Broadway Station intends to take advantage of this change now that they are an existing use. Staff said they are grandfathered in through their development permit with the exception of outdoor seating. Gregg commented this makes sense for existing buildings but doesn't push forward the original intent of creating parking on side streets and making parking in this area more efficient.

Public Comment

Public comment opened at 8:13 PM.

Bryan Woods, 212 E. 3rd Street – Woods asserted that these parking requirements and fees will inhibit the growth of downtown. Also, that the Town may require too much parking when businesses have varying operating hours.

Public comment closed at 8:14 PM.

Discussion

Hoiland, Hood, Winkeller, Gregg expressed support for staff's recommendation.

Gregg suggested adjusting the parking in-lieu fee. Phillips noted that adjusting the fee will require a new study to understand the impacts.

Nutkins suggested enforcing the \$7,000 maintenance fee per space when there is a change in use since the new business will be impacting the area.

Hood noted that the Town needs to know what our parking needs are, which is part of ReCode Eagle. This policy seems prohibitive.

MOTION: HOILAND MOTIONED TO APPROVE THE RECOMMENDATION TO REINSTATE THE PARKING EXEMPTION LANGUAGE FOR THE CENTRAL BUSINESS DISTRICT (CBD) AND BROADWAY DISTRICT AND HAVE THE POLICY REEXAMINED THROUGH THE RECODE EAGLE PROCESS. MOTION WAS SECONDED BY NUTKINS AND PASSED UNANIMOUSLY.

Hood closed file # LURA22-02.

3. Project: Code Amendment to Section 4.04.070. Indoor Recreation in Nonresidential Zone Districts (continued from February 15, 2022)
 File #: LURA22-01
 Applicant: Town of Eagle
 Location: Town of Eagle
 Staff Contact: Peyton Heitzman, Planner II
 Request: Staff is requesting that the Planning & Zoning Commission review and provide feedback on a previous amendment to the Town of Eagle Municipal Code (Code), specifically Section 4.04.070, Schedule of uses permitted in nonresidential zone districts, and Section 4.03.040, Definitions.

Staff Presentation

Staff went through Town records and confirmed that Ordinance No. 12, Series 2016 had not been rescinded. Sometime after this ordinance was approved, the Municipal Code was converted from PDF and onto the online platform, MuniCode. It is likely that the approval was missed during this conversion. The Town attorney recommended that staff work with MuniCode to get the existing language added.

Public Comment

Public comment opened at 8:25 PM. There was no public comment.

Discussion

No further discussion.

MOTION: NUTKINS MOTIONED TO UPHOLD THE CODE AMENDMENTS FROM ORDINANCE NO. 12, SERIES 2016. MOTION WAS SECONDED BY GREGG AND PASSED UNANIMOUSLY.

Hood closed file # LURA22-01.

OPEN DISCUSSION

Hood noted that Commissioner Robert Townsend has resigned and asked what the next steps are. Phillips replied that staff will advertise to fill his vacancy immediately. Additionally, there will be a recommendation to move Winkler from alternate to a regular member.

Nutkins asked if there are standards pertaining to community members presenting a community signed petition since neither the Commission nor staff know what kind of information is being shared with the petitioners. Hoiland advised it may need to be reviewed by the Town Clerk. Hawkins added that staff needs to verify property owners and their signatures before adding the petition into public record.

Nutkins asked if the Town has an ordinance related to beekeeping and if a property owner needs a SUP. Phillips suggested it would be an accessory use by right but if it became a nuisance, the Town could enforce.

ADJOURN

MOTION: NUTKINS MOTIONED TO ADJOURN. MOTION WAS SECONDED BY HOILAND AND PASSED UNANIMOUSLY.

MEETING ADJOURNED AT 8:38 PM.

APPROVED:

DATE: 3/15/2022



Matthew Hood, Chairman



Nikki Davis, Administrative Tech II