



**Planning and Zoning Commission
Meeting Minutes
December 3rd, 2019**

PRESENT

Jason Cowles, Chair
Stephen Richards
Jesse Gregg
Bill Nutkins
Kyle Hoiland
Charlie Perkins
Matthew Hood

STAFF

April Kroner- Town Planner
Bill Shrum- Assistant to the Town Manager
Jenny Rakow, Town Clerk

ABSENT

Brent McFall
Kyle Hoiland

This meeting was recorded. The following is a condensed version of the proceedings written by Jenny Rakow.

CALL TO ORDER

The regular meeting of the Planning and Zoning Commission held in the Eagle Town Hall was called to order by Commission Chair Jason Cowles at 6:00p.m.

APPROVAL OF MINUTES

Commissioner Perkins indicated there was an error regarding Commissioner Hoiland in the minutes to be corrected. Commissioner Richards made a motion to approve the minutes of the November 5th and December 3rd, 2019 meeting minute. Commissioner Hood seconded. The motion passed.

PUBLIC COMMENT

None.

LAND USE FILES

V19-02 306 Howard Street

Cowles opened file V19-02, a request for a Variance to create four lots with a lot size of less than 6,000 sf in the Residential Medium (RM) Zone District.

STAFF REPORT AND PERSENTATIONS

Applicant Rick Beveridge provided an overview and presentation of the request. Tom Boni provided additional details regarding the request. Applicant has met with the neighbors and provided the vision and plan to be conducive to the neighborhood including single family homes with garages and ADU's. Intent is to preserve the historic home on the property. Concerns regarding development including modular or manufactured homes would be prevented with applicants plan for the property. Minor adjustments to the lots was requested to accommodate the public right of way alley that is under review by the Town's engineer and public works department.

Kroner reviewed the variance request and presented some additional details regarding staff recommendation for denial. Kroner read additional public comments received after packet was published to include in the record. These included letters from Jayne McKinzie in support, Kristin Miller in support and Lily and David expressing concerns including too much density and loss of views.

Kroner summarized the development standards and noted the Planning Commission may grant a variance provided it finds both Subsections (A)(1)(a) and (b) of this section and either Subsection (A)(1)(c) or (d) of this section are applicable:

(a) That the variance granted is without substantial detriment to the public good and does not impair the intent and purposes of the Town's regulations, goals, policies and plan, including the specific regulation in question; and

(b) That the variance granted is the minimum necessary to alleviate the hardship; and

(c) That there exists on the property in question exceptional topography, shape, size or other extraordinary and exceptional situation or condition peculiar to the site, existing buildings, or lot configuration such that strict application of the zone district requirements from which the variance is requested would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property in question; OR

(d) That such exceptional situation or condition was not induced by any action of the applicant and is not a general condition throughout the zone district.

With regard to staff findings Kroner presented the staff recommended findings as follows:

Finding (a) Recommendation:

Staff finds that the variance request meets this requirement.

AND Finding (b): That the variance granted is the minimum necessary to alleviate the hardship.

The question before you is: should the reduction in minimum lot area from 6,000 sq ft, to the lot sizes proposed between 5,000 – 6,000 sq ft, be viewed as the minimum necessary to alleviate the hardship? Staff views the hardship as a personal hardship, which is not recognized as a valid hardship by the code or the planning community. It is personal, because the property can be developed into six lots instead of seven, all of which would then be able to meet the minimum lot area of 6,000 sf as required by the Town's current ordinance.

Finding (b) Recommendation:

Staff believes this variance request is unnecessary as the land does not present any hardships to prevent compliance with the existing minimum lot area requirement.

AND Finding (c): That there exists on the property in question exceptional topography, shape, size or other extraordinary and exceptional situation or condition peculiar to the site, existing buildings, or lot configuration such that strict application of the zone district requirements from which the variance is requested would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property in question;

OR Finding (d): That such exceptional situation or condition was not induced by any action of the applicant and is not a general condition throughout the zone district.

This property has no exceptional topography, shape or size, or other extraordinary condition that results in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the property owner. The property owner has the ability to create six residential lots, 1 with the existing structure and five new buildable parcels meeting the minimum lot area of 6,000 sq ft.

In addition, the applicant has self-induced the condition of minimum lot sizes below the Code's 6,000 sq ft requirement by creating undersized lots. This issue can be alleviated by the applicant if only 6 lots are proposed, allowing conformance with the Code.

Finding (c) Or (d) Recommendation:

Staff does not believe that this request meets the requirements for either Findings (c) or (d).

Q & A

Commissioner Gregg inquired about the land use code update and if it would change the requirements regarding lot size. Kroner provided that it is possible the Town could look at reducing lot sizes to encourage infill development, however she does not know what those would be. The land use code draft may be presented by end of 2020.

Commissioner Nutkins asked about shifting the alley to provide for lot size accommodations. Kroner provided that that discussion will come at time of subdivision proposal and would change the lot sizes minimally.

Commission Chair Cowles noted the code provides for use by right of 1 dwelling per 6000 feet and this is a 7 acre parcel. With respect to the hardship is it because of the alleyway and preservation of the historic home and how does that fit in with encouraging infill.

Commission Chair Cowles opened Public Comment:

Stan Kensinger, 2753 E Haystacker Drive Chairman of the Business Advocacy Council and Land Use Code Committee. The right of way on this parcel has never been used since 1904. It could easily be argued it has been abandoned. This is the normal dilemma for the Town in applying outdated rules. Lot sizes will become smaller over time to encourage infill development. In support of development and redevelopment in the core. We have Broadway revitalization and the advisory committee is tracking economic development activity on Broadway. Every project that can provide 7 additional families that can walk to the core is part of what we are trying to accomplish. This project will build more vitality and economic vitality to increase our sales tax base. This is housing for people who want to live in Eagle. Encouraged the Planning Commission to consider the variance and allow them to move onto subdivision.

Annie Egan, 215 Howard Street stated she agreed with everything Stan said. The alley has been abandoned forever.

the Commissioner Hoiland asked if the building would have a crawlspace or basement. Nudell said that the building will be slab on grade.

Kroner mentioned that there were two public comment letters submitted after publication of the packet. The letters were distributed to the planning commissioners.

Hoiland asked if the letters that were submitted were from persons who reside in the Town of Eagle. Kroner stated that she does not know.

Commission Chair Cowles asked for clarification on a provision written in the staff report indicating that the applicant can provide off-site parking within a 200' radius of the subject property to fulfill the off-street parking requirement, but that it may not be possible to achieve in this location. Kroner stated that it is written in the code that this provision applies if the development includes more than 5 dwelling units. Cowles asked if pay-in-lieu was being considered or if the applicant was asked to improve on-street parking in an area near this site. Kroner said that it is not currently a policy or a provision of the code to require pay-in-lieu or to require off site parking improvements. She stated that it is currently under consideration and will be prioritized for the early part of 2020. Cowles asked what was holding up the decision. He stated that it is not terribly complex or difficult to estimate what the cost would be to provide parking improvements. Kroner reiterated that this is a high priority issue and will be considered early in 2020 along with other parking management and enforcement issues. He asked if fee-in-lieu could be added as a condition of approval if the applicant does not apply for a building permit before the town institutes the policy. Kroner said that it certainly is something the commissioners could add as a condition of approval.

Commissioner Hoiland said that he was not in favor of the fee-in-lieu being applicable if the fee has not been established. It would be difficult for developers to move projects forward without knowing the cost of the fee they may be subject to. He said that he is not against the fee-in-lieu but would not want to apply it to projects that are approved before the fee is established.

Commissioner Perkins asked about the grant application for asbestos removal. He asked what happens if the grant is not awarded. Kroner said that from the Town's standpoint, the asbestos issue will need to be dealt with regardless, adding that the town would pursue code enforcement action if the property is not dealt with.

Commissioner Gregg asked how close the neighboring building is on the north side of the property. Property owner David Nudell said there is a zero-setback requirement. Nutkins and Richards asked about code requirements and egress windows along that side of the building. Architect Maggie Fitzgerald said that the egress is down the stairs and not out the window on this building. Kroner said that the Town Building Official will be evaluating the proposed plans to ensure compliance with code requirements.

PUBLIC COMMENT

Paul Duprey of 125 4th Street said that back in the 90s when he first bought his house, he was considering building a garage with an apartment on the second story. He stated that at the time he was told that he would have to provide two off-street parking spots for each living space for a total of four. He asked if the parking standards were different for this project because of the different zoning districts. Kroner said the alley way between his property and the property in question separates the Broadway District from the Central Business District. She stated that parking requirements in residential areas would need to meet as outlined in the code. He asked where potential businesses occupying the commercial spaces would be getting deliveries. Fitzgerald said that the intent is to have deliveries received in the front of the building on Broadway. Duprey said that with 6 residential apartments there is a possibility of 12 vehicles that would need a place to park. He asked where they would park noting that residential parking is not allowed on

Broadway overnight. He said that when the building located at 404 Broadway was built, he asked the asked that for room for fire rescue and emergency vehicle access in the alley. Duprey said that employees that may work in the proposed building will have no place to park. He mentioned that there is unrelenting dust in the area as it is and said that with increased traffic in the ally it will only get worse. He said he would like to see the alley way paved to keep the dust down. He stated he understands that progress needs to happen but does not understand why the code requirement about not allowing residential units on the ground floor having is being waived in this case. He mentioned that he submitted a comment letter for the last hearing on this proposal. Kroner stated that his letter was included in the last packet when this file was originally on the agenda. Duprey thanked the commissioners for their time.

Russell Guise said that he is a property owner of 404 Broadway. He said that the only thing he has concerns about is parking. He said he likes the proposal and the design of the building that is being proposed. He said that there is limited parking available on 4th Street. He said that it is likely that there will be multiple cars for each of the residential units. He said that he does not see the hardship. He quoted the code requiring one parking space for each residential unit if there is retail space on the ground floor. He requested that the commissioners consider the parking issue very carefully.

DELIBERATION

Commissioner Hood said that he does not see why providing the required amount of parking is such a burden for the developer. He mentioned that the commissioners already allowed for residential on the ground floor in part to give the developer a chance to redesign the project to include more parking. He says he sees parking as a sticking point and that the applicant should have to meet the standards of the code. Hood stated that only providing 6 parking spaces does not seem fair. He said he is open to requiring a fee-in-lieu.

Commissioner Richards said that he agrees with Hood. He would like to see something done to provide for more parking or a fee-in-lieu. He said he would also like to see the alley paved.

Commissioner Gregg said that he agreed with Hood and Richards. He said he thought that the parking was going to be addressed by reducing one of the ground floor units. He said he would like to see the applicant provide some offsite parking improvements along Capitol or 4th Streets. Gregg said he is ok with the rest of the variance requests.

Hoiland said that he is ok with all of the design variances. He said the additional 3 spaces are not going to make or break Broadway. He said there is plenty of available parking on Broadway. Hoiland said that he would like to see something done about the dust on the alley.

Hood said that parking on Broadway can't be overnight, so it is not intended for residential use.

Nutkins said that he likes the project and would really like to see something like this happen on this site. He said he thinks there is a parking problem that should be addressed sooner than later. He said he appreciates the revision the applicant made but would have liked to see the second ground floor unit eliminated to further relive the parking issue. He stated that other recently approved developments in the area found a way to include the parking on site.

Perkins said that he likes the idea of a fee-in-lieu for parking. He said he likes the proposal and thinks that the retail spaces will be successful in the coming years. He said he has no issue with the setback or the other design variances and is in support of the project.

Commissioner McFall said that he is in support of the project. He shares concerns about the parking and hopes the town works toward a solution. He supports the project as presented.

Cowles said that he is sympathetic to the parking issues but thinks this is a good project. He said that for some reason parking is a sensitive issue in the town. He said that perhaps in the future if the town grows and there is a parking issue the town would have the funds to provide a parking area. He said smaller lots have a difficult time providing on-site parking. He stated that the town has a parking management problem, not a parking problem and enforcement is needed. Cowles said that he would have liked to see a better attempt to meet the on-site parking requirements. He said that if concessions are not made with parking requirements, Broadway will never be vibrant.

Nutkins said that it would have been nice to have more on-site parking included in the project. He questioned if they were doing the right thing by allowing the ground floor unit if the parking requirement would be met if it was not included.

Hoiland said that it is too late to do that. Nutkins said that it is not too late, the applicants do not have to have the ground floor unit and they are not obligated to approve it as proposed.

Hood said that there are ways to design the building so that more parking is included. He asked that the applicant provide more options to include parking.

Cowles said that he looks at it a different way. He said that the land use code may be out of date and in need of updating instead of being designed around cars. He said that the applicant should have to perhaps pay a fee-in-lieu.

Hoiland made a motion to approve file DR19-03 with the staff recommended variances and conditions of approval. McFall seconded. Perkins, Hoiland, Cowles, and McFall voted in favor. Richards, Gregg, Hood voted against. The motion passed 4-3 (Commissioner Nutkins, as the alternate, does not vote when all commissioners are present).

Kroner summarized the highest and best use for properties in the Broadway area. She stated that communities are moving away from parking requirements in downtown areas. She mentioned that the town is committed to enhancing enforcement efforts and a full-time code enforcement officer is funded for the fourth quarter of 2020.

McFall asked how to make best use of the parking inventory we do have. He said, for example, the overnight parking in Broadway is not set in stone and could be modified depending on the needs of the town and what is in the best interest of the community.

There was a brief refreshment break from 7:10PM to 7:15PM

DISCUSSION ON MOBILE VENDING

Postponed

DISCUSSION ON DRAFT COMP PLAN

Kroner said that the commissioners will have other opportunities to provide comments if they have not had a chance to review the plan in depth.

Commissioner Gregg mentioned that the future land use map and specifically the low density residential does not match what exists today. Kroner said that Future Land Use Map typically does not line up with what you might see in existence.

Gregg said that the low-density areas are not clear and identify areas that are not currently low density. Kroner said that she has identified that definitions for high, medium, and low-density areas have not been clearly provided.

Cowles mentioned that the FLUM in the document does not present well. Will need to be a full-size map that should be included.

Kroner said that the future land uses, and the allowed zones need refinement. Hood mentioned that the majority of the downtown area should not be identified as low density residential. He said low density residential should not be the zoning for east of Capitol.

Gregg said Soleil circle is labeled as mixed use and should not be.

Nutkins identified areas around village homes should not be low density and is at least medium density or mixed use. Cowles said that all of Eagle Ranch is PUD. McFall mentioned that there are areas of Eagle Ranch that are not low density as shown on the FLUM.

Kroner said that there is currently no residential low-density zoning in Eagle.

McFall said that perhaps the FLUM should show the existing PUD. Kroner said that there should be commentary on the amount of PUD area and the effect that has on future growth.

Kroner said that a future land use map does not affect zoning, it is just the intention for the future.

Cowles said that PUD areas should be recognized or noted on the future land use map.

Kroner suggested that there should be an overlay of the FLUM to identify the PUD areas. Cowles agreed.

Gregg again stated that the Soleil Homes should not be identified as mixed use.

Kroner said that there should be important areas that are identified for future intended land use like the RED Development property. Cowles said that he agrees. Kroner said that it was the expressed desire of the committees to identify areas of special importance. Kroner said that she has communicated this intent to the current land owners of the RED Development property so that they have an idea of what the town would support. She said that the current owner would like to see residential. Cowles said that the owners made a mistake by purchasing the land at a high price and residential would allow them to recoup costs.

Kroner asked the commissioners if they would be supportive of any residential use on that property. Nutkins said that he would support residential use along HWY 6 or near chambers. Hood said that the town does not need residential in that area at all. Cowles said that if the town wants to bring any type of large business to the town it would be best on this property. He would not support residential in that area.

McFall said that RED will be a long-term property holder of that land.

Nutkins said that the town of eagle is a bedroom community. Cowles said that it did not have to be.

Nutkins said that the accessory dwellings on Chambers should also be addressed he said that he thinks Chambers should be mixed use.

Perkins asked if the RED would be required to build an interchange on I-70. Cowles said that it would be cost prohibitive unless residential is included.

Kroner said that the town is looking at offering micro-phases to the utility infrastructure on the property.

McFall said that if the Town passes the charter, the town would have more flexibility in that way.

Kroner asked if the commissioners could take a look at the draft and future use, goals actions and strategies.

Gregg asked about the multifamily apartments on nogal rd. Being labeled as mixed use.

All commissioners requested a hard copy on 11x17.

Hood mentioned Elevating our Inclusive Culture. What is goal 2.3? or confusion on the actions and goals.

Kroner said that the goal was to have the draft go out to the public in January. She said that she has identified that there was to be a joint work session between the TBOT and the PZ before the draft is released to the public. The commissioners were in favor of having the meeting. Scheduling, probably late January.

Kroner said that the consultant was also to do a fiscal analysis that will take some time. The public draft will not be likely until Feb or March.

McFall mentioned that the consultants came in with an aggressive schedule and he is not surprised that they are behind schedule especially given the staff turnover on both ends.

Kroner said that other things should be addressed in the comp plan in regard to the downtown area and residential use and parking.

Cowles said that he would be happy to come up with a unit cost for a parking space. He said that the downtown area on street parking needs to be formalized.

Nutkins said that if we want the downtown area to be pedestrian friendly, more residential would not be compatible.

Cowles said that formalizing the parking would go a long way to changing the perception that there is no parking.

Nutkins mentioned that the Broadway street scape was completed 10 years ago and was not continued since then. No other improvements have been made along the side streets.

Cowles said that parking requirements kill projects and we get caught up in focusing on parking that the overarching goals for vibrancy and economic vitality get lost.

Nutkins said that the cash in lieu is time to happen.

Hood mentioned that the public perception of not doing anything is bad. The cash in lieu would help with that and at least give the commissioners a chance to tell the public that the town is taking steps toward a solution.

McFall said that revitalized downtown raises property values.

DISCUSSION ON SHORT TERM RENTALS.

Postponed

ADJOURN

Commissioner McFall made a motion to adjourn and Commissioner Nutkins seconded. All voted in favor.
The meeting adjourned at 8:11PM.