



AGENDA
Planning & Zoning Commission
Tuesday, June 2, 2020
6:00 PM

ON-LINE MEETING

This agenda and the meetings can be viewed at www.Townofeagle.org.

PUBLIC WIFI - TOEG – townofeagle2019

MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

1. Virtual Meeting Procedure

- Register in advance for this meeting. Registration
URL: https://us02web.zoom.us/join/tZUtc-GsrD0uHdYSzN_Wbo4laVQ2GuQo8OGq
- Public comments can be made when the Chair opens the public comment. Please prompt through Zoom to raise your hand and you will be called on when it is your turn.
- All public attendees will be muted during the meeting, unless the Chair or meeting facilitator invites them to speak live during the meeting.
- Meetings are recorded and will be published on the Town's web page.
- For technical difficulties, please email peyton.heizman@townofeagle.org and we will do our best to assist you.

6:00 PM - REGULAR MEETING CALLED TO ORDER

APPROVAL OF MINUTES *Approval of the minutes from the May 5, 2020 meeting of the Planning and Zoning Commission.*

1. Minutes dated May 5, 2020.

PUBLIC COMMENT

Citizens are invited to comment on any item not on the Agenda subject to a public hearing. Please limit your comments to five (5) minutes per person.

PUBLIC HEARINGS

1. Project: Amendment to Title 4 of the Municipal Code, involving uses and standards within the Commercial General (CG) Zone District.
File # LURA20-01
Applicant: Town of Eagle
Location Commercial General (CG) Zone District
Staff Contact: Chad Phillips, Community Development Director/Town Planner
Request: Amendment to Title 4 of the Municipal Code, Section 4.04.070 - Schedule of uses permitted in nonresidential zone districts by adding a Special Use (S) designation to the use category dwelling units - above street level.

TOWN COUNCIL MEETING REVIEW

Staff update to the Planning & Zoning Commission on recent decisions made by the Town Council on various Land Use files.

COMMUNITY DEVELOPMENT DEPARTMENT UPDATE

Staff update to the Planning & Zoning Commission on recent work and upcoming files.

OPEN DISCUSSION

ADJOURN

I hereby certify that the above Notice of Meeting was posted by me in the designated location at least 24 hours prior to said meeting.



Jessica Lake
Planner I



MINUTES
Planning & Zoning Commission
Tuesday, May 5, 2020
6:00 PM

ON-LINE MEETING

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MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

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6:00 PM - REGULAR MEETING CALLED TO ORDER

Chair Matthew Hood called the meeting to order at 6:02pm.

COMMISSIONERS PRESENT

Robert Townsend, Lani Webb, Jesse Gregg,
Matthew Hood, Charlie Perkins, Kyle Hoiland,
Brent McFall, Bill Nutkins

STAFF

Chad Phillips – Community Development Director
Angie Kyle - Administrative Tech II
Jessica Lake - Planner I
Peyton Heitzman – Planner I

Bill Shrum – Asst. to Town Manager

COMMISSIONERS ABSENT

APPROVAL OF MINUTES *Approval of the minutes from the April 21, 2020 meeting of the Planning and Zoning Commission.*

1. April 21, 2020

MOTION: COMMISSIONER BRENT MCFALL MOTIONED TO APPROVE THE MINUTES. MOTION WAS SECONDED BY COMMISSIONER BILL NUTKINS AND PASSED WITH A VOTE OF 8 IN FAVOR AND 0 OPPOSED.

PUBLIC COMMENT

Citizens are invited to comment on any item not on the Agenda subject to a public hearing. Please limit your comments to five (5) minutes per person.

Chair Hood opened public comment. There was no public comment.

PUBLIC HEARINGS

1. Project: 446 Washington Street Zoning Variance (continued)
File # V20-01
Applicant: Tracie Schumacher
Location 446 Washington Street
Staff Contact: Jessica Lake - Planner I
Request: Zoning variance to reduce the front yard setback from 25' to make the front of the new garage and accessory dwelling unit in line with the South side of the existing house.

Staff received three public comment letters on May 5th. *The following three letters were submitted after they distribution of the agenda and staff summarized them to the Commission:*

446 Washington Street – Shed is NOT a Hardship for the Variance Application



Arguments for Shed Removal – Not a Hardship

- 1) Shed has no historical significance to the 446 property. It has been moved to its present location and placed on a concrete slab.
- 2) The placement of the shed on the concrete slab foundation facilitates its ability to be relocated to another area on the property.
- 3) Snow shedding and accumulation from the roof is impacting my garage wall to the south. The snow piles up in the narrow space between the buildings, which is always shaded, and is rotting the logs and will require replacement. I am in favor of moving the shed.



The current location of the shed, while unfortunate, does not present a hardship for the applicant's variance request. There are numerous alternative ways to comply with the building code on this property. The unwillingness or financial inability to move the structure also cannot be considered a hardship for the applicant. Thank you. -marc



May 4, 2020

Town of Eagle Staff

Town of Eagle Planning and Zoning Commission

Not stated in the minutes from the April 21, 2020 P&Z meeting was the fact that 6 letters of opposition were written in against the variance request and a neighborhood petition was signed by the entire block of residents stating that the Applicant does not reside on the premise of 446 Washington Street.

The Code does not define a Home Business. The Code does define a Home Occupation, as outlined in section 4.04.100 Supplementary regulations and standards.
Section K. Home Occupation Standards.

A home occupation shall be allowed in certain zone districts, as provided herein, provided all of the following conditions are met:

1. Such use is conducted entirely within a dwelling or accessory building and carried on by the inhabitants there;

As stated by the Applicant in the last meeting, she has just made herself compliant in 2020. *Prior information provided shows proof that business was established prior to Applicant's supposed residency. Where is the proof the business was established legally prior to 2020? Does the Applicant's supposed current residency then gloss over the fact that the business had operated from the dwelling with no inhabitant for the last 9 years? Who enforces this aspect of the Code?*

2. Such use is clearly incidental to and secondary to the use of the dwelling for dwelling purposes and does not change the residential character thereof;

As previously stated the Primary use of this dwelling is a business, Studio 80. It has operated for the past 9 years with no inhabitants occupying the home. The character was changed years ago when it was made to serve as a showroom for an interior design business. Larger windows and removal of front and rear porches drastically changed the character of the historic home.

3. There is no exterior storage on the premises of material or equipment used as a part of the home occupation;

For more than one year, the Applicant has stored building materials for the Studio 80 expansion. It was first stored on Town property and now in her backyard.

4. Previously addressed in letter April 2020.

5. N/A

6. Home occupation will not adversely affect traffic flow and parking in the neighborhood;

The home occupation currently does not provide adequate employee parking. Employee parking is street parking. This restricts parking for Town Park visitors.

7. The home occupation provides additional off-street parking adequate to accommodate all needs created by the home occupation.

The off-street parking is parallel parking next to the dwelling off 5th Street. It is not adequate parking for employees, visitors and deliveries

Question 1.

It was stated in the last meeting that as the Owner of said property, the Applicant has the legal right to apply for a variance. Does that Applicant forgo that right when they are in violation of the code?

Question 2.

Does the Applicant's interior design business qualify as a home occupation or would it be classified as service establishment? Does Code require a Special Use Permit for a service establishment?

Commissioner Charlie Perkins, I would like to address your question from the last meeting in regards to the proof of residency. I do not believe the Applicant has satisfied this requirement. The

Applicant, as I stated in the last meeting has very recently changed her driver's license address. This is easily accomplished with a utility bill which the Applicant has for her business, Studio 80 which is located at 446 Washington Street. The motor vehicle registration that she turned in did not have an address on it, so this was not a useful piece of information. I would also like to state for the record that the Applicant is a single parent and her teenaged high school aged daughter does not reside at 446 Washington Street, but in fact still resides at the Applicants primary residence which is located at 258 Tanager Circle.

I have concerns with the fact that her usage of the dwelling is not more in question being that the Staff, including former Eagle Town Planner and former Eagle Town Manager Tom Boni is aware that the Applicant has been running a business from that location for approx. 9 years. The Owner has never resided on the property and the Applicant provided no proof that the business has been legally established, which was recently requested by the Town Planner.

Please keep in mind, that the Applicant stages homes for a living. Since we live next door we have been witness to the shell game. The unusual frequency of coming and going, shuffling of cars and leaving lights on to make it appear as though she lives there. We also watch her take all her pets back and forth between this property and her primary residence, 258 Tanager Circle. The best telling fact that this is not the Applicants Primary residence is she neglected to move in her family. What actions of enforcement should be taken? Does the action need to be taken on my part by filing on an appeal on this application?

Sincerely,

Jessica von Stralendorff

440 Washington Street, Eagle

May 4, 2020

Town of Eagle Staff

Town of Eagle Planning and Zoning Commission

I would like to clarify a few things from the last meeting April 21, 2020.

Please let the minutes reflect that under your public comment section, I spoke at the meeting. Yes, I wrote a letter, but it was included in the packet. I spoke in opposition to the legality of the business, Studio 80, being operated from the RMF home located at 446 Washington Street.

The Applicant stated in the last meeting that she has put in countless hours of trying to make this application work and how she would really love to have someone sit down with her and tell her how to make it work. Applicant's access to staff over the years, including the Eagle Town Planner, Tom Boni, should have given her the information needed to meet the current zoning requirements or at least apply for a reasonable variance, not a 90% variance prior to the last Planning and Zoning Commission meeting on April 21, 2020. The fact that the Applicant still put her design on the Agenda and then begged for guidance is a direct disregard for the process and is evident the Applicant's approach is 'what I want versus what is acceptable'. Even after additional meetings with Staff, the Applicant still does not make much of an effort to come close to the requirements of the code setback. The one change that was made to the application, was suggested by the Applicant at the last meeting. The Applicant did not take into consideration any of the suggestions provided by the Commission. The Applicant is now requesting an 84% variance. This request is not a reasonable use

of the property.

The Applicant is either unable or unwilling to provide any documentation on her shed. The shed clearly is not in the photo she provided of the home from the book, Images of America, Early Eagle. Which, I would like to point out to the Staff, the Planning and Zoning Commission and the Applicant, that my back-alley neighbor is Richard McCain. The majority of the photos provided in that book came from his own personal family photo collection. You may remember he wrote in prior to the first meeting how this shed structure, when it was relocated to 446 Washington Street, was used as a chicken coop. It has no historical significance to this lot and because of the lack of care taken to preserve this structure it has not only deteriorated the shed, but has also caused great deterioration to my garage because of the close proximity of its location and snow shed. Due to the current condition of our garage, we now must consider what options we have for our future development. Please take this into consideration during the process of this application. How will the Applicants business expansion affect our future development rights?

I strongly feel this shed structure is a hazard, has no useful purpose and will continue to deteriorate under the current conditions. The shed provides no value to this lot and the Applicant is using this shed as the basis of her entire application. The Applicant even refers to her neighbors being in support of her keeping this shed. Since we are the neighbor to said property let me state for the record that we have never indicated support for keeping the shed in its current location, she has misrepresented our statements on several occasions.

I want to show the visibility of the shed now and have you truly think about it. How visible is it now? The photo on the left shows your view traveling East on 5th Street. The photo on the right shows the view from Town Park. How visible will it be when her garage is moved to the west, further back and 35' in height?



May I suggest that the relocation of this shed would be the more appropriate solution to be discussed? Because the shed currently sits on a concrete slab, the structure could easily be relocated on the property. If the shed condition is so poor, then it can be deconstructed, reconstructed, and repurposed, which should please the Applicant. It would also allow a much more visible placement on the property for the shed that “appears historic but is not”.

Question 3. The Applicant’s dwelling meets historical standards. The shed does not. Does the Eagle Area Community Plan state what condition an infill accessory structure should maintain?

In order to grant a variance, A, B and C or D must be satisfied.

- 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”*

As stated by Staff, meets the requirement.

Currently Staff finds that this meets the variance requirement.

I would have to argue that although not a detriment to the public good, the application does not fit into the Town's future plan for possible sidewalks and street parking. Town Park Events that take place house a couple hundred people accessing the Town Park on bikes and foot, bus routes and vehicle traffic. There is no clear crossing area or sidewalks from the corner of 4th and Wall, heading west, all the way to Highway 6. When turning onto 5th Street from Wall Street, or the alley between Wall and Washington or from Washington Street, the line of sight is not clear. The area is very congested. I would argue that the Applicant does not meet this requirement.

- b. *"That the variance granted is the minimum necessary to alleviate the hardship; and"*

As stated by Staff: does not meet the requirement. The hardship is self imposed and therefore is not the minimum necessary to alleviate the hardship. Much can be done to reduce the amount of variance requested.

Currently Staff finds in favor of this variance standard because it is the minimum necessary to alleviate the hardship.

Reducing 12' space between structures:

The Applicant feels that this was the best way to achieve the design, keep the shed and get useable square footage between the garage and the ADU. Space would be needed between the shed and the new garage in order to maintain access and allow the storage functionality of the shed. The shed is the only hardship that Staff has identified on the property.

The shed is NOT a hardship. It is unfortunate, but it is not a hardship. This self-imposed hardship, by the Applicant continues to try to pull at your heart strings with the "charm" of this structure, the fact remains that it can be easily relocated and repurposed and be a more visual attraction to the property, or the Applicant can choose to remove the structure. The fact that the Applicant needs the shed for storage should not dictate the entire application to be centered around it and in its current placement. I also want on the record that this lot, as confirmed by the Commission does not contain any hardship and it still doesn't. Also, the Applicant has gone from a 2.5 ft or 90% variance request to a 4 ft or an 84% variance request. Is this the minimum to relieve the non-existing hardship? The Applicants argument is not the best way to achieve the design because it limits the design and location potential.

Question for the Commission, "What function or purpose do you see the shed serving by leaving it in the current location?"

- 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"*

As stated by Staff: does not meet the Standard. The shape and topography of this lot are standard and while two historic lots exist on one parcel, this is common throughout the Town of Eagle and does not restrict the Owner from constructing an accessory structure

that meets zoning requirements. The existing buildings and the existing setback non-conformities along 5th Street might represent a concern; however, this does not meet Standard C as it represents a common concern along the entirety of the street frontage. Existing home and garage do not meet current setbacks requirements, none of the lots do from McIntyre to Church Street. Adhering to the setback would not be consistent with current building setbacks along 5th Street.

Currently Staff finds in favor of this. The configuration of the existing shed would not allow for the garage and accessory dwelling unit to be built to meet zoning requirements.

The shape, size and topography of this Lot (s) is average in size to the zone district. Adhering to the setback may not be consistent with current building setbacks on 5th Street, but the proposed 35' ADU also does not conform to the current buildings along 5th Street. Can an accessory structure be taller than the main dwelling?

The Applicant still does not come close to meeting the current zoning requirements. We've gone from a 2.5' application to a 4' application. The setback is 25'. Other options need to be explored. Once the shed has been relocated or removed it creates an abundance of design and location options for the Applicant. It can be a single car garage with an ADU. It can be a tandem garage with an ADU. It can be a two-car garage with a 10 foot setback to allow for alley access with a parking pad on the side and ADU entry. I have photographs to support the alley access to this garage. I can submit those if they are needed. With a minor alley setback, alley access is very easily obtained to this location. It is clear after the last meeting, this application will never meet the current zoning requirements, and there are multiple ways to achieve a successful application that would require less of a variance. The current application does not reflect the Applicant's willingness to meet these requirements.

Applicant claims impossible alley access due to width of alley and 2 utility poles located at the end of each property. The Applicant did not want to parallel park next to her garage on the parking pad.

One utility pole is on her property, one is on ours. Alley access is easily obtained. The Applicant currently parallel parks next to her garage and her Studio 80 application also show parallel parking, so this is not a valid argument.

What the Applicant has not discussed is employee parking and where the designated parking places will be for her employees. How does on-site employee parking work into the equation of the ADU and home parking with one access point?

- 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."*

As stated by Staff: does not meet the Standard. There are many parcels in Eagle that have sheds or accessory structures of one type or another that a homeowner might wish to keep, but in keeping them would prevent the owner from constructing an infill project on that lot. This is a general condition throughout the zone district. The historical lots could likewise be considered an exceptional condition, except that they too are a general condition throughout the zone district. Neither of these elements were induced by any action of the Applicant, but they are not exceptional in nature.

Currently Staff finds this does not meet the requirement. Location of the shed was not induced by the Applicant and the Applicant cannot move the shed without potentially

destroying it. Sheds and accessory structures are common throughout the zone district.

I believe again that the shed can absolutely be relocated, deconstructed, reconstructed, repurposed and achieve more visibility on the property. If it cannot be relocated, it is not historical and has no significance to the current lot that it is located on, so it could be removed.

The Standards have not changed for this application yet the Staff has done a complete 180. Admitted in their own comments is that the shed would not allow for the garage and accessory dwelling unit to be built to meet zoning requirements. Even the Commissioners one by one denied the application at the April 21, 2020 meeting but then chose to give the Applicant a continuance based on their recommendations. The fact remains that the Applicant could design a project that complies or achieves some higher level of compliance with the setback requirement but is choosing not to.

Staff finds that if the hardship is the location of the shed and the shed may not be able to be relocated due to age, then the Applicant's revised request would meet the minimum necessary qualification.

This is the exact opposite of what was stated in the last meeting. The hardship is not the shed. In no way can the shed be a hardship. The shed can be relocated or removed to make reasonable use of the property.

Staff has identified some inconsistencies between the ILC and the sketch submitted by the Applicant. They recommend a condition of Approval to have the property re-surveyed to identify the exact setback.

Staff needs to see a revised land title to show contiguous parcels in order to meet Code requirements for a lot.

Clearly this application still does not meet the requirements of the current setback regulation and there are still several issues with the application for this variance request. There is not enough evidence provided to be approved at this time.

Thank you,

Jessica von Stralendorff

440 Washington Street, Eagle

Staff presented the changes addressed in the April 21, 2020, the Commission as that staff work with the applicant to come up with an option that would satisfy code standards and allow her to create a new structure.

Commission Nutkins asked if there were regulations on the height, staff responded there is not. He then asked if the applicant is open to moving the shed? Staff responded, applicant is not, as it she feels it will destroy the shed.

Commission Webb asked if the applicant resides in the property. Staff has confirmed that she lives at the residence and provided documentation that she does live at the residence. Commissioner Webb also asked if there is a period of time that they need to reside before they can have an ADU. Staff responded that to have an ADU, the owner must occupy the residence.

Chair Hood mentioned that there is not any current open code enforcement case for this file. The applicant has met the requirements, what can happen in the future should not be considered in the decision.

Commissioner Gregg asked how the staff came to the conclusion that this was the minimum necessary to alleviate the hardship. If the shed is the hardship, we need access to the shed and this gives the applicant the ability to access the shed and the new building. It also reduces the 12 feet and brings it in line with the house and several other buildings on the street.

Tracie Schumacher thanked staff time and consideration. She confirmed that she lives in the residence full time in 2020 and asked if there were any questions for her.

There were no questions for the applicant.

PUBLIC COMMENT:

Jessica von Stralendorff, 440 Washington Street, Eagle read her letter in its entirety.

Public Comment Closed.

DISCUSSION:

Commissioner Hoiland said that he supports the staff's recommendation. He believes the applicant has done her due diligence and has found solution for this project. He appreciates the applicant saving the shed and preserving that is beneficial. The new location of the proposed garage is a good spot.

Commissioner McFall struggled with this one and hoped the applicant would have utilized alley access to make it a better use. It would have helped assist him to justify a better use of the variance. There isn't a case for the hardship, he is not in favor of variance.

Commissioner Townsend believes that the minimum variance is for it to align with the existing house, any improvements in the right of way, that feature is always going to be there and with the garage being the same distance back so he doesn't believe there would be an issue in the future and he said he would be in favor of the variance.

Commissioner Webb is struggling with this, and moving the shed. There is not proof that it is historical. She would like to see the shed moved to align better with the setbacks but not too much. She would vote against this variance.

Commissioner Gregg does not see the hardship in the shed and he doesn't think it is a legitimate reason not to place the structure more on the lot. He disagrees with staff's assessment and doesn't see the hardship. He is not in support.

Commissioner Nutkins said that in the first meeting, there was not historical significance of the shed. The owner changed the outside of her residence changing the historical aspect of the structure. He does not see the hardship. He understands wanting to keep the shed, however there could have been more done in giving more setback room. The size of the garage she wants, 12x25ft only leaves her with 12.5 feet. One way or another there may be some variance. He asked that she investigate coming in from the alley and changing it that way as well. At this point, he does not believe he could support a variance.

Commissioner Perkins said that he was hoping the applicant would look a different way to orient the garage or look at alley access. He does not know the value of this shed so he has to lean on the

side of denial of this project because the applicant didn't look into alternate solutions for this.

Chair Hood agrees with the majority of the commission. This project does need a variance for this size of project, however doesn't see the shed as a hardship. He is leaning towards denial at this point and was looking for more creative thinking for this.

Commissioner Hoiland ask that if they held the applicant to the letter of the law and code and she met the 25 ft setback by pushing the building to the corner, it would be right on the edge and have the issue with the neighbor. He feels they held the applicant to those standards that, it would create more issues. He feels that giving it more room, and having the garage closer to the street, it would eliminate more issues. That's why he thinks this variance is appropriate.

Chair Hood believes that there needs to be some sort of variance to make this work. The hardship is the lot size not the shed and since the shed is being the hardship, he does not believe it is a hardship.

MOTION: COMMISSIONER BILL NUTKINS MOTIONED TO DENY V20-01 446 WASHINGTON STREET ZONING VARIANCE. MOTION WAS SECONDED BY COMMISSIONER BRENT MCFALL AND PASSED WITH A VOTE OF 6 IN FAVOR AND 1 OPPOSED.

DISCUSSION

Commissioner Hoiland informed the Commission that he applied for Town Council and is looking for letters of support.

1. Discussion with staff regarding possible amendments to Title 4 of the Municipal Code, involving uses and standards within the Commercial General (CG) Zone District.

Commissioner Hoiland and Commissioner McFall stated that they have been working on Code revisions. Commissioner McFall informed that the code revision committee, is stalled due to COVID-19 and the committee has not addressed this particular issue yet. Staff informed the P&Z that this revision is not in the strategic plan, this was more in regard to discussions between the Town Attorney and Town Manager.

Chair Hood informed that he does not have much background. There was one Accessory Dwelling Unit (ADU) on Chambers when he first started. In terms of precedent, this was before his time.

Commissioner McFall informed that this is one of the most contentious discussions on the P&Z Commission. The discussion ended on a split decision to revise the code to change the Town's current practice on how we allow one-to-one residential to commercial on Chambers. The P&Z Commission voted 4 to 3 to recommend to the Town Board of Trustees (at the time) a change to the code. The Town Board of Trustees decided not to pass the change. His understanding is that the Town was just embarking on new comprehensive plan and the code rewrite and any changes we want done will happen through those processes.

Commissioner Hoiland stated that this is a major overhaul of the code and it stalled out with the two previous Town Planners and now because of COVID-19. He does not know if the Commission should make these changes now knowing they will change in the next year or if they should put a "band-aid" on it. He proposed that they do not make a decision now and wait for the change in the code from the committee.

Mr. Phillips informed that through his discussions with the Town Attorney and Town Manager that whoever reads the code, there is a difference of interpretation or possible conflict and it needs addressed. He continued that the potential for conflict amongst the code is what sets this

apart from those others that are on the list to be fixed.

Commission Hoiland asked Phillips what his thoughts were for Town Council and P&Z to work through this.

Mr. Phillips informed that a joint work session with Town Council and P&Z on this particular issue might delay it a little further because of scheduling/notice. Staff came up with the bulleted list of questions so that, in answering them, P&Z could provide general direction for staff and a recommendation for the Town Council to determine the next steps.

Chair Hood mentioned that this is a contentious issue and it is because each member feels strongly about their stand on it.

Commissioner McFall informed that the current practice is a way to backdoor an apartment complex. He believes that the purpose of these buildings is not to build commercial space, it is to build residential. His previous argument was that it needs to say what exactly what the Town wants the use to be: is it retail and residential or is it a multifamily project?

Commissioner Nutkins stated that what we started to see is our Commercial General District (CG) turn into a Mixed-Use area of buildings. He agrees with Chair Hood and Commissioner McFall that having an occasional accessory dwelling unit to help with workforce housing is great but having a commercial project where the residential outweighs the commercial three-to-one, that that no longer the way of doing residential.

Commissioner Gregg said that it's good to designate some areas for live-work and mixed use type developments in the CG, but the way we're doing it now is that people show up with the plan strictly based on residential development with commercial being secondary, when in the code, it's the other way around. The residential is supposed to be secondary to the commercial. There is a place for residential in this district. He said that he would like to hear from Phillips on what his assessment is since P&Z has always relied on the Town Planners to provide guidance.

Mr. Phillips informed that this discussion mainly has to do with the Code's lack of clarity if dwelling units above street level are allowed or not. If the Town is concerned about the location of dwelling units above or at street level, that it needs to be called out as a standard for review. When a project comes up, if we make this clear, it will reduce the confusion and complication in these projects. Phillips stated that it all boils down to clarity and based on some of these comments from P&Z as well, the intent of the CG district.

Chair Hood said that P&Z has discussed the Land Use Map's Commercial and Mixed-Use districts' purpose and where the line should be. In his opinion, the Mixed Use should happen in the mixed-use area, if Commercial is the primary use, why do we have residential on the street level?

Public Comment:

Dave Dantas with DW Dantas Construction LLC stated that he and Rick Patriacca, built Eagle Climbing and Fitness, all the projects at 700 Chambers. They have Moontime [Cyclery] and [Dewy] Dabble in their buildings in the CG district. They have got another retailer that just came in. They are waiting to open because of the COVID-19 crisis. The gym is just on opening on a light level. He said that he's been sitting on this land since 2008 when a PUD was not reapproved, the only way to do a project and bring the climbing gym to the town was to do the mixed live-work project with it. All the apartments in that building are on the second floor. Without including apartments, there would not be a second floor. There would be Commercial on the main level and no office space up on the top floor because there is currently no need in Eagle. He stated that, because of using virtual meetings, there probably will not be a need for big office space in

Eagle anytime soon. What is happening now between when they built the gym and his other buildings B, C, and D that included lofts on Chambers on top of commercial units is that there has been a new interpretation of code and a new policy through staff. He is looking for some consistency with how to do his projects. He has attended land use institute meeting years ago and some LEEDS meetings, and what he found work well for those two groups was to put residential in the in walkable areas. He believes 700 Chambers is walkable. It is close to the market, lots of restaurants, downtown, and the bridge that goes to City Market. He said that people in our community are filling these residential units. He has six apartments in the gym, another four in Building B, and six approved for Building D and building C. All the apartments are full, except for one, and the people who live there are local people who work here. He thinks these units are very important for the community and revitalized Chambers Ave from what it was before. He thanked the Commission for taking his comments.

Public Comment Closed

Commissioner McFall thanked Dave for his comments and absolutely agrees that developers and the town want to see consistency so that it's clear what developers can do and what they can't do. There isn't any conflict when we're saying that we don't want residential on street level. McFall could support a Code amendment right now because that situation is certainly not what we would want in the CG district.

Chair Hood said that he did not want to see a rewrite in this section of the code. He would be fine with striking "accessory units at street level."

Commissioner Nutkins said that the confusion is due to a lack of definition. In CG district, dwelling units above street level are not allowed, that is independent of any other use as an ADU. Downtown, they allow Dwelling units as more of a mixed use because they are independent of the commercial. He said he does not want residential over commercial independently, they want them in conjunction with each other.

Mr. Philips said dwelling units above street level are allowed in the CBD, a special use in the CL district and not allowed in the CG district.

Chair Hood mentioned that in the commercial zone, single dwelling units are not a use by right; they are not allowed.

Commissioner Nutkins addressed the confusion by stating that the dwellings above street level uses are currently two separate uses even though it says dwelling above street level is not allowed in the CG. The accessory dwelling unit is allowed, and that has to be on the ground floor just because a dwelling unit not associated with the primary use isn't allowed above street level.

Chair Hood agreed that these are independent as shown in the uses chart. Those are two possible uses, there could be a dwelling unit or there could be an accessory dwelling unit and if it's an ADU then you can be above street level in commercial general but it needs to at least be made clear what we think the current reading is but he doesn't want to start striking whole lines from the code.

Commissioner Nutkins said that what's been happening is that the ground floor gets split into these tiny little unusable commercial spaces so that there can be four residential units on the top floor to meet the live-work intent. Those commercial spaces do not work. The recommendation is that when we rewrite the code for accessory dwelling units, if we want to leave it as one-for-one per commercial, we need to put in a some sort of square footage limit and/or a comparable ratio so there isn't a 2,000 sq ft living unit and a 1,000 sq ft commercial space. The ratio should

be 1000 sq ft commercial space and a small 800 sq ft living space to be more commercial for this district.

Mr. Phillips said that if an applicant wants to see residential above street level in the CG then that it would be similar to the Talon Flats project. There would be a ground floor retail and not necessarily accessory dwellings above. That would allow applications for regular dwelling units above the first floor.

Summary of discussion:

- There is a reluctance to do a comprehensive analysis and change of the Commercial General District in the P&Z Commission, but they acknowledge that a conflict in this code exists.
- The intent in the regulations as reflected in similar approvals in the past should be maintained.
- The issue is the lack of clarity which creates conflict in keeping the intent of the Commercial General District consistent.

2. P&Z and Community Development Department staff - introductions and discussion

Staff presented the memo introducing staff to the Commissioners.

TOWN BOARD OF TRUSTEES MEETING REVIEW

Staff update to the Planning & Zoning Commission on recent decisions made by the Board of Trustees on various Land Use files.

Nothing to report at this time.

COMMUNITY DEVELOPMENT DEPARTMENT UPDATE

Staff update to the Planning & Zoning Commission on recent work and upcoming files.

Nothing to report at this time.

OPEN DISCUSSION

None.

ADJOURN

MOTION: COMMISSIONER BRENT MCFALL MOTIONED TO ADJOURN. MOTION WAS SECONDED AND PASSED WITH A VOTE OF 7 IN FAVOR AND 0 OPPOSED.

APPROVED:

DATE:

Matthew Hood, Chair

Angie Kyle, Administrative Tech II

DRAFT



To: Planning & Zoning Commission

From: Chad Phillips, Director, Community Development Department
Jessica Lake, Planner I, Community Development Department

Date: June 2, 2020

Agenda Item: Amendment to Title 4 of the Municipal Code, involving uses and standards within the Commercial General (CG) Zone District

REQUEST: Town staff and the Town Attorney have drafted an Ordinance to amend the Town of Eagle Municipal Code (Code) Section 4.04.070. – Schedule of uses permitted in nonresidential zone districts, as follows:

Current:

ZONING DISTRICT	CBD	CL	CG	PA	I
USE					
Dwelling units - above street level	P	S	*	S	*

Amended:

ZONING DISTRICT	CBD	CL	CG	PA	I
USE					
Dwelling units - above street level	P	S	S	S	*

INTRODUCTION: On May 5, 2020 and May 12, 2020 the Planning & Zoning Commission and the Town Council requested that staff and the attorney draft an Ordinance to remedy a potential conflict in the Code.

Upon review of the Code, Town Planning staff and attorneys have noted instances in the language that are unclear at best and at worst a conflict. Although the Town has initiated the update of the whole Code, staff is proposing action to be taken prior to the completion of the update process in this instance.

On May 12, 2020 Town Staff brought this matter to the Town Council and was directed to proceed with an Ordinance to Amend Section 4.04.070. of the Town's Municipal Code. The Council requested that

the Ordinance be drafted as presented in the attached Ordinance. Town Council also urged staff to consider that the Chambers Avenue Area is and should remain Commercial first.

- Staff note: any projects that have been approved are permitted to move forward. The proposed amendment is applicable for new projects.
- Staff note: Title 4 of the Municipal Code does not include a process for amending a Special Use Permit, therefore any proposed changes to an existing special use permit are looked at as a new application.

ANALYSIS: To aid in the decision of amending the Code to accurately reflect the goals of the community, staff has identified several areas of the 2010 Eagle Area Community Plan and the Town of Eagle Strategic Plan for consideration. Although the Elevate Eagle Comprehensive Plan is still in draft form (adoption pending), staff has included relevant excerpts.

2010 Eagle Area Community Plan

Land Use Policy 2.2

New development should be compact, pedestrian friendly and located within or adjacent to existing development to minimize infrastructure and service needs.

Recommended Strategies:

F. Ensure residential infill and redevelopment outcomes blend appropriately with the character and scale of surrounding neighborhoods.

Future Land Use Map – Commercial Areas Description –

Intent D. Commercial uses are generally not compatible with residential units. A limited number of live work arrangements may be appropriate, per zoning.

Interstate 70 Influence Character Area

Narrative: “Portions of the I-70 Influence Character Area are intended to support commercial and industrial sites, exclusive of other uses. Improvements along Chambers Avenue and Market Streets, for example, are generally auto-oriented with limited pedestrian amenities, and while workforce housing may be found to be appropriate on upper levels of some buildings, residential development of any significance in these areas should be avoided.”

Planning Principles: Interstate 70 Influence Character Area

G. Until a sub-area plan for the Chambers Avenue corridor is completed, minimize the inclusion of significant residential use in commercial and industrial areas located along Chambers Avenue, Marmot Lane, Sawatch Road and Market Street.

Housing Policy 1.2

Promote the preservation and/or creation of a wide range of housing units, including single family, duplex, multifamily and mixed-use arrangement units.

Recommended Strategies:

E. Allow and encourage accessory units within single family residential zones and in new development.

Elevate Eagle – Comprehensive Plan (November 2019 draft)

Future Land Use Map.

Staff note: The area of CG zoning around the Chambers/Sawatch area is shown as a “mixed use” land use category. The Plan’s Land Use category “Mixed Use” includes CG as an allowed zone.

Mixed Use:

Description: Areas that include a variety of local entertainment, civic, medical, residential, and retail uses with integrated essential services. Building types may include free-standing, low- to mid-rise buildings with high quality design integrated with urban elements such as pedestrian connectivity, shared parking, and green space.

Primary Uses: Areas designated for commercial, office, civic, and service uses supporting general neighborhood needs.

Secondary Uses: Integrated multifamily residential and commercial, either horizontally or vertically.

Allowed Density: 4 - 10 DU/Acre

Actions: 1.1

Establish a new, mixed-use zoning district and associated standards within the LUDC to encourage residential dwellings within vertical mixed-use buildings.

COMMUNITY INPUT: Public notice ran in the Vail Daily on Monday, May 18, 2020, staff has not received any public comment as of May 29, 2020.

BUDGET / STAFF IMPACT: Minimal if Ordinance 13-2020 is approved.

STRATEGIC PLAN ALIGNMENT/STANDARDS ACHIEVED:

Major Objective No. 7: Implement Priority Infrastructure Improvements

- Background: The Town's infrastructure is the foundation for high quality of life and a strong economy. Businesses considering a move to Eagle will be looking at the quality of the infrastructure, its capacity to support a reasonable amount of growth, and the Town's plans for enhancing the infrastructure.

A sub-area plan for the Chambers Avenue Area has not been proposed and modeling and analysis of infrastructure has not been obtained prior to allowing residential as accessory to a commercial use on Chambers Avenue.

Major Objective No. 8: Improve Housing Availability and Affordability

- Solution #4 - Explore zoning and other methods to create a more balanced and affordable housing mix that supports young people and young families

Major Objective No. 10: Address Essential Planning and Land-Use Challenges

- Most Relevant Standards: Support a small-town look and feel for Eagle
 - Maintain standards that support new development while managing risks to the Town.
 - Maintain land-use codes that are current with new development, engineering, regulatory, and technology standards.
 - Transportation system that facilitates pedestrian, bicycle, and vehicular movements throughout the Town, making it easy to get around Eagle at any time of the day.
 - Park and open space system that provides for recreational needs and protects sensitive landscapes.
 - Housing that provides a wide range of housing types in walkable neighborhoods.
- Background: Poor planning, or the lack of planning, can lead to negative outcomes in terms of inadequate infrastructure, degraded public services, or negative impacts on the environment.

In order to understand what land uses can and should be added to zone districts it is important to mitigate risks, the best way to mitigate risks is to have a full understanding of the impacts the proposed

change could have, through thorough analysis and sub-area planning. Common residential amenities such as parks and open space are not found on Chambers or in the rest of the Commercial General Zone District and the area is noted in the 2010 Community Plan to have “limited pedestrian amenities... [and] residential development of any significance in these areas should be avoided”.

RECOMMENDED ACTION OR PROPOSED MOTION:

Recommend APPROVAL {or} DENIAL of an amendment to Section 4.04.070. – Schedule of uses permitted in nonresidential zone districts by adding a Special Use (S) designation to the use category dwelling units - above street level.