

**Minutes of the Regular Meeting of the
Buena Vista Planning and Zoning Commission
September 21, 2016**

CALL TO ORDER

A regular meeting of the Planning and Zoning Commission was called to order at 6:00 p.m., Wednesday, September 21, 2016 at the Buena Vista Community Center, 715 E Main Street, Buena Vista, Colorado by Chair Trey Shelton. Also present were Commissioners Annie Davis and Estes Banks, and Alternates Ed Barkowski and Lynn Schultz-Writsel. Staff Present: Principal Planner Mark Doering and Planner I Scott Reynolds.

PLEDGE OF ALLEGIANCE

Chair Shelton led in the Pledge of Allegiance.

ROLL CALL

Doering proceeded with the roll call and declared a quorum.

AGENDA ADOPTION

Shelton called for approval of the agenda. **Motion #1** by Davis seconded by Banks to adopt the agenda as presented. Motion carried.

APPROVAL OF MINUTES

Davis motioned for approval of the September 7, 2016 minutes. **Motion #2** was seconded by Barkowski. Motion carried.

PUBLIC COMMENT

Shelton opened the public comment portion of the hearing at 6:02 p.m. With no comments received, the public comment portion of the hearing was closed at 6:02 p.m.

NEW BUSINESS

114 S. San Juan Special Use Permit (SUP) for an Accessory Dwelling Unit (ADU)

Nancy Dolan of 114 S. San Juan rose to address the Commission. She stated that she is applying for a Special Use Permit to build an Accessory Dwelling Unit (ADU) behind her house at 114 S. San Juan. She stated that the primary residence is currently also being used as a long term rental and that she plans to have the ADU be a long term rental as well. She added that the location is ideal, the lot is large enough, and she's hoping to provide affordable housing long-term.

Reynolds then presented the staff report. Reynolds noted that the proposed ADU would be 696 square feet and have two bedrooms and two bathrooms. He stated that it would be behind the primary dwelling unit and that there was one outstanding item that would be addressed later. Reynolds showed the location of the property and noted that the zoning is R-2 Old Town, which is similar to an application that was submitted at 650 S. Gunnison. Reynolds went on to state that there is adequate utility service,

including water, sewer, and a fire hydrant. Reynolds then showed photos of the property including the proposed site for the ADU, and the encroachment of a sign post into Town Right of Way.

Reynolds stated that a survey done of the property showed that part of the house and the fence were built into the alley Right of Way and explained that these encroachments could be addressed as part of the approval process.

Reynolds then went over the site plan and floor plans, noting that the ADU would be located behind the primary residence, and showed that it would have two bedrooms, two bathrooms, and a full kitchen. He noted that the existing main house is stucco and that the ADU will have matching stucco exterior as well.

Reynolds then went through the Special Use Permit criteria and noted that there are no ingress/egress concerns as the ADU will have access from the alley. He stated that per the code, two off street parking spaces are required in the R-2 zone district but that this requirement was exempt in the Old Town overlay. Reynolds highlighted that the code also states that with a Special Use Permit, parking requirements are determined during that process such that the Planning and Zoning Commission would make a recommendation to the Board of Trustees regarding parking requirements. Reynolds noted that when the application was submitted, Ms. Dolan had denoted two off-street parking spaces at the front of the property and two off-street parking spaces were shown in the rear of the property. Reynolds noted that staff determined that there is only one off-street parking space in the front but that there is availability for on-street parking in the front and for two off-street parking spaces in the rear and showed pictures. Reynolds stated that staff felt that that was adequate parking and that Condition #1 was created to address the parking criteria.

Reynolds continued with the Special Use Permit criteria by stating trash service for the property will be maintained similarly to other properties in the neighborhood and that utilities are available. He noted that in terms of screening and buffering, the applicant is planning to build a fence to separate the two dwelling units. He clarified that staff will ensure the fence is code compliant at the time of building permit. He further noted that the ADU is located on the rear of the property.

Reynolds then addressed the sign post in the front yard, stating that staff has concerns that this gave it the appearance of a commercial unit even though the main house and proposed ADU are both residential. Reynolds noted that staff encouraged the removal or relocation of the sign post onto private property so as to avoid any legal compliance issues with the Town.

Reynolds stated that a condition was added as with all ADUs to require exterior lights to be downcast and fully shielded to prevent glare and nuisance. He noted that the applicant is aware of this criterion and intends to provide lighting that is downcast and shielded. Reynolds went on to state that staff will ensure adequate landscaping is provided at the time of building permit. He noted that a condition has been added to address encroachment concerns. He concluded by stating that the ADU is residential use in a residential neighborhood and therefore is compatible with the surrounding area.

Reynolds then went over the criteria for an Accessory Dwelling Unit and noted that the size of the unit meets the requirements; the plans show that the kitchen and bathroom also meet the standards set forth by the code. He noted that there are two parking spaces off the back for the two bedrooms in the ADU. Reynolds stated that water and sanitation are able to provide service and noted that the ADU is in the correct zone district and is in the rear half of the lot as required. Reynolds noted that Condition #3 was added as a standard ADU condition to ensure that the ADU would not be condominized or sold

separately from the property. Reynolds noted that the ADU would be compatible with the existing house in terms of matching exteriors.

Reynolds concluded by stating that staff recommends approval with the following conditions:

1. A minimum of three parking off-street parking spaces shall be required, two for the ADU and one non-conforming for the house; Reynolds noted that should anything be done to alter the non-conforming parking spot that it be brought up to code at that time; and
2. any new exterior light fixtures on the property shall be downcast and fully shielded; and
3. the ADU shall not be condominiumized and/or sold separately apart from the primary building to which it is accessory; and
4. prior to the certificate of occupancy for the ADU, an encroachment permit shall be submitted for the fence and structure, the sign post in the Town's Right-of-Way shall not be included and shall be removed in its entirety or relocated onto the property at 114 S. San Juan.

After a brief discussion, Davis motioned to make a recommendation to the Board of Trustees approval with the conditions as outlined by staff. Barkowski seconded and **Motion #3** carried unanimously.

STAFF / COMMISSION INTERACTION

Barkowski inquired what the encroachment permit process would be for the applicant at this time. Doering stated that Ms. Dolan's house currently sits on Town property and that per Municipal Code regulations, in order to have any private improvements on public property, the owner must get an encroachment permit. He stated that Town wants an acknowledgement from the property owner that they are subject to Town's requirements, one of which is the requirement that the owner has an insurance policy that covers any liability that may result. Doering commented that this is typical for items such as A-frame signs on Main Street or an awning, or a sign hanging off the building, assuming the building is built on the property line, like much of Main Street. Doering stated that the Town wants assurance that it will be protected if, for example, one of the awnings or signs falls off. He stated that similarly, if someone was driving down the alley and hit the house at 114 S. San Juan, the Town does not want to be liable. Doering noted that in many communities, they would require encroachments be taken down all together. He noted many existing encroachments in Town, such as 114 S. San Juan, occurred due to lack of surveying. Reynolds noted that staff encouraged Ms. Dolan to have a survey done of the property when she began this project to have a better idea of what the property looked like. He commented that staff did not know of the encroachment until the survey was done.

Reynolds added that staff sees many encroachments with fences either going onto Town property or onto neighboring properties. He noted that fences should never be used to denote property lines and that this was a main reason the Town started requiring fence permits be completed.

Shelton asked if the insurance was difficult to get. Doering responded that it was not.

Davis asked about the form of the agreement. Reynolds responded that there is a standard form that the applicant would complete and submit to Town Hall with the appropriate fee and proof of insurance. He noted that the Town has to keep these on file and ensure that the insurance is kept up to date. Doering added that if the applicant chooses not to keep the insurance policy, Town has the ability to revoke the encroachment permit, which means the owner must remove whatever is encroaching onto Town property.

Schultz-Writsel asked about how far the encroachment was for the property in question. Reynolds stated that it was 5.8 feet from the bay window to the property line, and that the sign post was 12 feet away from

the house. Doering also showed where the house is encroaching on the alley with the surveyed plat and also noted that the fence was added afterwards which also encroached 1.2 feet.

Shelton commented that it may be easier just to remove the sign post. Reynolds commented that at one time, there was a commercial business at the house, but that it had been used for residential purposes since the applicant purchased the property in 2010.

Doering also brought up the fence encroachment for the property at the corner of Chestnut and Colorado. He stated that the fence was built without a permit and that it encroaches onto Town Right of Way. He noted that the Town is trying to rectify the situation and needs to hire a surveyor to find the property pins and determine where and by how much the fence encroaches.

Reynolds noted one problem is that on some properties, there is no clear designation to indicate where the property line may be. He mentioned that property owners stop by Town Hall to ask where their property line is, which staff usually can't definitively answer. Reynolds added that with the different permit processes through Town, staff is not only trying to protect the Town but also the individual property owners and the investments they made.

Doering stated that the APA State Conference was moved to October 24-26 and that two spots had been reserved for Planning Commissioners. He welcomed any of the Commissioners to attend, and noted that Barkowski had already been signed up to go. He further stated that Commissioners could go for a full or half day, and that a hotel room could be reserved if needed.

Doering also noted that there is an organization called Community Builders which offers a program called Community Builders Leadership Institute. The program will take place November 2 – 4, 2016 in Durango, Colorado. He noted that it would be comprised of eight "teams" with six to eight people per team. He stated that the program focuses on combining planning and economic development. He stated that scholarships are available to fund the workshop, hotel, and meal expenses. He noted that the application deadline is September 30 and that staff is hoping to create a team that includes Commissioners, Trustees, and local developers. Banks showed interest in attending. Shelton noted that he would not be available on those dates.

Doering stated that his goal is to have the Unified Development Code ready for the Commission in November for review. He noted that he is trying to get another meeting together with the Steering Committee. He stated that the consultants from Clarion will be present for the meeting in November and noted that the meeting would probably be rather lengthy given the depth and scope of the project. Doering followed up by stating that staff is still working on updating the zoning map and that there are some properties that staff would like to rezone so changes to the zoning map will be proposed.

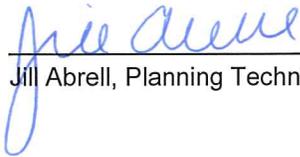
ADJOURNMENT

There being no further business to come before the Commission, Commissioner Davis motioned to adjourn the meeting at 6:35 p.m. Commissioner Banks seconded. **Motion #4** was unanimously approved.

Respectfully submitted:



Trey Shelton, Chair



Jill Abrell, Planning Technician