

**MINUTES OF THE HUNTSVILLE TOWN
PLANNING COMMISSION MEETING**

MEETING DATE: February 25th, 2016
PLACE: Huntsville Town Hall, 7309 E. 200 S.
TIME: 7:00 P.M.

Commissioners: Ron Gault Rex Harris Brent Ahlstrom
Sandy Hunter Preston Cox

Excused: Karen Klein

Admin Staff: Gail Ahlstrom Mike Engstrom

Citizens: Tom Freeman Greg Stuart Dave Booth
Gina Myrberg Artie Powell

Ron Gault called the meeting to order, there is a quorum present.

Discussion on “Stop Work Order” for Greg Stuart’s home: (7400 E. 340 S.) (See Attachment #1)
Tom Freeman presented a drawing of the work his Father-in-law is doing above their garage. Tom stated that Greg has 8 children and the home is used for family purposes only. It has never been rented, and never will be rented. Multiple families use the home on the 4th of July and other holidays. Ron stated that the Town only allows for one single family dwelling per residential lot. The septic was upgraded to accommodate the additional bathrooms. Greg said he made a mistake, when he called the septic contractor and he said he would pull a permit, Greg assumed that was a permit for the entire project. Greg is here tonight to correct this misunderstanding. Mike asked if the Stuarts use 4-wheelers when they visit. The answer was yes. Mike stated that he has received complaints from their neighbors about this. Gail remarked that the Town has an ordinance that states anyone driving a 4-wheeler on Town streets must wear a helmet and be 16 years old or they will be ticketed. Greg acknowledged this and will talk to his family about it. Rex asked about the washer and dryer, it doesn’t show them on the plans. Tom replied that they will be downstairs at the base of the stairs. Mike reminded the Stuarts that this cannot become an apartment.

Ron made a motion to approve the land use permit as presented. Rex seconded. All votes aye. Motion passed.

	<u>Yea</u>	<u>Nay</u>		<u>Yea</u>	<u>Nay</u>
ROLL: Ron Gault	X		Sandy Hunter	X	
Rex Harris	X		Brent Ahlstrom	X	
Karen Klein	Excused		Preston Cox	X	

Discussion about a Lot Consolidation with Allen Endicott: (228 S. 7100 E.)

This item was tabled.

Review of Dave Booth's Re-zone request: (7700 E. 500 S.) (See Attachment #2)

Dave Booth presented the commissioners with a site plan for his property. Dave said the maximum number of buildings he can have on this property is 7. After meeting with the Health Dept., the types of businesses that go in the development will control the number of buildings drastically. Dave used the square footage of the property and footage of each building and allowing space for septic with primary and secondary use to come up with this number. Summer Day suggested that instead of trying to keep all the drain fields on the east side of the property, he runs drain fields under some of the public spaces. She also suggested putting in smaller system for three of the buildings and one for the other four. Mike asked what percentage of the property will be covered by buildings. Dave replied 22,000 sq. ft. There is four acres for this development. Dave said they are within the regulations. If a full scale restaurant were to go in, restaurant water use is considerable and could push another business out. Perk tests have been done on the properties. After speaking with Summer Day, she said the drainage is good. The septic system will need to be designed by an engineer. They don't know what businesses are going to be built yet, so septic plans can't be finalized just yet. Summer said she is willing to work with Dave on this. When the development gets moving and they get a feel for how the septic needs to be, there will be a maximum use for the property. They will be limited to what type of businesses can come into the development. Dave's drawings show the very maximum of what could be built.

Dave said he was hoping to have the CC&R's ready for this meeting, but they aren't done yet. All exterior materials will be will be natural; wood and stone. The roofing will be a minimum quality of a 40-year architectural shingle or better. The barn might have a steel roof. Dave is hoping to have a grocery store/café shop in the corner. Sandy asked where the driveway would be placed. Dave replied that it will be further west than the post office entrance. With the road design, Dave said he is addressing issues with the fire department. In talking with engineers and the firemen, they suggested there needs to be a good flow of traffic in and out so you don't get a bottle neck.

Dave said he spoke with Rocky Mtn. Power a year ago about moving the power pole that is right on the corner of 500 S. 7700 E. He has hit it twice with the snowplow. As this project progresses he hopes to be able to move the pole. Rex agreed that it would be in the best interest of the town to get the pole moved, it is a safety issue. The retention pond is to help with subsurface discharge; the banks will be natural grass. Rex said generally you design a detention pond so it drains within a couple days. Dave said it will look nice.

Rex stated that the item to be discussed tonight is the re-zone application request. Currently the three properties are zoned Residential. Gail said this will be different from anything the Commissioners have dealt with because Dave is planning to just sell the footprint of the building, not a parcel of land. Dave commented that there will be an HOA to manage the subdivision, for grounds keeping, snow removal, and garbage. The Commissioners reviewed the Commercial zone requirements. Rex said the Commissioners need to talk about what Dave wants and if it is covered in the C-1 zone. Ron said the C-1 zone has regulations and the development can also be controlled through the building permit process.

The coverage percentage, architecture, landscape, screening, and parking are all addressed in the ordinance. There is no on-street parking. Rex asked if C-1 has any requirements as to ownership of the property or how businesses are owned as opposed to the land under them. Ron replied that the ordinance doesn't address these topics.

Dave said he will not release ownership of the property until it is completely built out. The owners of the businesses and the HOA will then own the property. They will own the footprint and have a separate land serial number. Ron asked who owns the open space areas. Dave remarked that he needs to figure this out before the final documents are drawn up. Dave intends to keep ownership of the community center. Dave said he and Gina plan to build and start the grocery store and eventually sell it. The PC needs to research how the C-1 zone will handle selling the property under the footprint of the building. Rex said the Commissioners need to research the C-1 zone to make sure it can handle what is being proposed. Ron wondered about subdividing, there are three separate properties right now. There is no minimum lot size in the C-1 zone, and no setback requirements. Dave said he has no plans to make this a mixed-use development.

Ron said this development could be competing with another proposed development, they could be competing. We don't want to be in a position of conflict. The Commissioners need to address this objectively. Rex said there will be push back about the re-zone.

Mike said decisions need to be made on whether the proposal fits the Master Plan and does it meet the standards of the Town. Rex said it does meet the intent of the Master Plan. In order to do a re-zone, the town will need a concept development plan. Mike went through the standards of Title 15.16.4: Concept Development Plan: The Concept Development Plan to be submitted with a rezoning petition shall indicate general land use types, approximate locations and arrangements of buildings, structures and facilities, general open space, parking, access traffic patterns, letters of feasibility from the appropriate state or county agencies wastewater provision, and, for review by the Huntsville Town Engineer, a general plan from the Petitioner's Project Engineer discussing the mitigation and treatment of storm water run-off. More specific development plans shall be reviewed by Huntsville Town at a later date as part of its site plan design review, conditional use approval, and building permit issuance process. The information shown on the Concept Development Plan may vary in detail depending on the size of projects. Small projects shall be more detailed than larger projects which may be described in broad general terms in plan and/or narrative form.

Mike said Dave's concept is good, but asked if Dave has a written narrative relating to the project. Ron encouraged Dave to come up with a one page summary description of his proposal, something that could be put in the Ogden Valley Newspaper. Gina replied that she has already planned to write a couple of articles to put in the paper, leading up to the development.

Rex said when a property is re-zoned; he hates to do a re-zone based on a pending development. If a piece of property is re-zoned it should be on the merits of whether or not the town wants commercial property there. The ordinances ask for a narrative. Rex hates to rezone the property just because someone likes the project or not. Mike agreed, but thinks it's applicable to say the commissioners are comfortable re-zoning because they are comfortable with a proposed development.

Rex remarked that if the property gets rezoned because everyone likes what the development is going to be and the project doesn't happen. Now the property is re-zoned and the same process doesn't need to be followed. Someone else can sell the property without having to meet any rezoning requirements. Mike said Title 15.16.8 addresses this. Reversion to Original Zoning Designation: A. If development does not occur as proposed at the time of zoning approval, the public benefits expected from the development cannot be realized and the effect of the rezoning is therefore without merit in terms of improving the public economic prosperity, general welfare, safety, health and convenience to Huntsville Town's residents. If in such cases Huntsville Town finds that the zoning purpose has not been attained, Huntsville Town then may declare its intent to revert the zoning to its former or other appropriate zone so future opportunities for similar development in the same general area may be shared by all properties deemed suitable and so that a speculative zoning monopoly is not created. Mike said there is a two year time limit on the development.

Dave wants this to development to look like a residential project being used as commercial. The issue tonight is the re-zone application, nothing else. Mike said the CC&R's are beyond the scope of the concept development plan. Rex suggested that Dave not develop past this point until it goes through the rezone process. Once a Concept Development Plan goes to PC, it is forwarded to the TC, the TC will set a public hearing date, notices will be mailed out and posted, the TC will hold a public hearing and make a motion to approve or deny the re-zone. After the re-zone the Land Use Permit process takes place. The Town will also need a letter of feasibility from the Health Dept.

Ron made a motion that the PC forwards this re-zone application onto the TC and that the TC consider the re-zone petition from Eco Design LLC, Dave Booth, based on the review of the proposed design, and that the PC feels it is in the town's best interest and it meets the intent of the Master Plan for this property to be Commercial. Brent seconded. All votes aye. Motion passed. Rex stressed the point that the reasons for the Town Council to hold a public hearing is to re-zone the property not approve a development plan.

		<u>Yea</u>	<u>Nay</u>		<u>Yea</u>	<u>Nay</u>
ROLL:	Ron Gault	X		Sandy Hunter	X	
	Rex Harris	X		Brent Ahlstrom	X	
	Karen Klein	Excused		Preston Cox	X	

Dave will need to decide how he intends to sell the property. It seems that Dave would need to consolidate all three lots and then carve out the footprints for the businesses. Dave agreed that he wants the three parcels to be combined into one. Ron said Dave will need to consult with an attorney because there is common ground in this development, who is going to own that. Rex asked, if there is multiple property owners will they be allowed to share a septic system, there will need to be a body politic to manage the system. It is apparent that there needs to be more research done. Dave said he met with his attorney and she suggested that Dave come to the Town, listen to what is said, and if it feels better to the community, then Dave would maintain ownership of the common ground. Dave plans to form an HOA so each business owner has to pay a fee for grass cutting and snow removal, but Eco Design LLC could still retain ownership of the common grand and septic system. If it's easier for the Town to do it that way, Dave is willing to do this. Rex complimented Dave on what has been presented.

Review Title 15.17.3: Additions and Enlargements: (See Attachment # 3)

Artie Powell was asked to join the conversation. Artie stated that he was disheartened by some of the comments made during the last PC meeting, and that the conversation missed what the issues actually are. Artie said there are three issues he would like addressed: 1-the lack of process and procedures for the Town to oversee a building permit to make sure the conditions that were granted are being enforced, 2-another set of procedures needs to be in place for when a violation is recognized that the town acts immediately, there is a very short window of time for the town to challenge a violation and get it corrected, 3-what is the town going to do with a non-complying building or structure on a lot, what is going to be allowed to be done to the building, before the entire building needs to be brought into compliance. Artie said the idea behind non-complying buildings is that the town wants to eliminate them as soon as possible.

The town, once it has designated a building lot, can't take away people's property rights even if the lot is less than .5 acres. Rex disagreed. Artie said this is discrimination and will set the town up for a law suit. Ordinances do restrict property rights, but the town cannot discriminate against property owners. Ron asked if the ordinances determine what the property rights are. Artie said the town needs to be very careful because if the town takes away people's property rights the town can be sued. Rex replied that anytime an ordinance is created, there is danger, and the town needs make sure there is justification for them. Mike asked for clarification, Artie remarked that the town can't treat individual property owners differently. Rex said it is not a good idea to create new ordinances and zoning if there is a pending issue, it is much better to understand and know the issues and create ordinances that deal on a whole.

Artie stated that it is irrelevant whether a home sits straight on a lot or not, as long as the house meets all the setback requirements. Artie said as he listened to the PC's discussion it seemed they jumped right in on restricting property rights as opposed to addressing the issue, which is a non-conforming building. Artie said when someone comes to the Appeals Authority asking for a variance, if a variance is granted, the Appeals Authority is legally saying that they have an exception to an ordinance. That's why a variance is extremely difficult to obtain. There are five conditions upon which a variance can be granted and all five criterion need to be met.

Ron wanted to address one of Artie's points. (See Attachment #4) Ron passed out draft wording to be added to the Land Use Permit, so when the building process is started there is something signed by the property owner that they realize they can't change their site plan after it has been approved without coming back and getting the changes approved. Ron will work with Gail to get the wording added to the Land Use Form. Artie said there needs to be some oversight from the town with new construction. There needs to be some reporting back to the town from the county. Mike said technically that responsibility would fall to him, but he has no training in construction. The Town Council has been discussing this topic, and may need to hire a building inspector for the Town.

There was discussion on how inspections could be checked by the town and who would do them. When the county does inspections they are concerned about enforcing building codes. The Town is worried about setbacks, not how many rooms you have.

Artie said what happens if someone comes in and builds pours their foundation with the side and front setbacks like they're supposed to, but cantilever the second story from side to side 5 feet, am I still in compliance because the foundation is within the setbacks? This renders the ordinance moot. Artie suggested that the ordinance reads 'setback shall be measured from the closest point'. Ron remarked that the wording that was agreed upon during the last PC meeting was "side yard will be measured from the closest structural dimension to the property line." Brent commented that when the footings are inspected the inspector needs to understand what the house plans look like when they do the measurements.

Artie brought up the issue of when it crosses over from remodel, to new construction. Artie said most communities typically try to do this by using a percentage of the existing square footage of the home. If instance, if you add more than 50% of the existing sq. footage of a home, it's no longer a remodel it would be considered new construction, at that time the entire building would need to be brought into compliance. Arties likes the idea of saying if you do something structurally to the home; foundation, exterior walls, or the roof, which would be new construction. However, you should be able to re-shingle your home. Ron will pull together a draft ordinance that reflects this conversation for the next PC meeting.

Commission Updates:

Rex mentioned that it looks like there will be another public hearing in the near future. Rex offered to do some training on public hearing procedures for the Town Council and Planning Commission, if everyone feels this would be a good idea. Gail will schedule a joint work session for this on March 17th at 6:30 p.m. prior to the TC meeting.

Approval of minutes for Planning Commission meeting held January 26th, 2016:

Sandy made a motion to approve the PC minutes for meeting held January 26th, 2016, as amended. Preston seconded. All votes aye. Motion passed. Minutes were approved.

Set date for next PC meeting:

The next regularly scheduled PC meeting will be held on March 24.

Rex made a motion to adjourn. Sandy seconded. All votes aye. Motion passed.

Meeting adjourned at 9:05 P.M.

Gail Ahlstrom, Clerk/Recorder

Ron Gault, Chairman

