



PLANNING COMMISSION AGENDA

Tuesday, August 02, 2016
Breckenridge Council Chambers
150 Ski Hill Road

7:00pm	<i>Call To Order Of The August 2 Planning Commission Meeting; 7:00 P.M. Roll Call</i>	
	<i>Location Map</i>	2
	<i>Approval Of Minutes</i>	3
	<i>Approval Of Agenda</i>	
7:05pm	<i>Consent Calendar</i>	8
	1. Rocky Mountain Underground Change of Use (CK) PL-2016-0314; 114 South Main Street	
7:15pm	<i>Other Matters</i>	
	1. Comprehensive Development Code Steering Committee Update (Verbal)	
7:45pm	<i>Adjournment</i>	

For further information, please contact the Planning Department at 970/453-3160.

***The indicated times are intended only to be used as guides. The order of projects, as well as the length of the discussion for each project, is at the discretion of the Commission. We advise you to be present at the beginning of the meeting regardless of the estimated times.**

PLANNING COMMISSION MEETING

The meeting was called to order at 7:00 pm by Chair Schuman.

ROLL CALL

Gretchen Dudney Mike Giller Jim Lamb
Christie Mathews-Leidal Ron Schuman Dave Pringle (Arrived at 7:04pm)
Dan Schroder was absent.

APPROVAL OF MINUTES

With no changes, the July 5, 2016, Planning Commission Minutes were approved as presented.

APPROVAL OF AGENDA

Mr. Mosher: We would like to swap the work session with the combined hearing so that if the public shows up, they can participate. With no other changes, the July 19, 2016, Planning Commission Agenda was approved as presented.

COMBINED HEARINGS:

- 1) Government Lot 46 / Claimjumper Condominium Subdivision, Tract X (MT) PL-2016-0285, 867-877 Airport

Mr. Truckey presented a proposal to subdivide a portion of Government Lot 46 to create a triangle-shaped parcel of approximately 0.39 acres in size with no density assigned to the parcel. The Town's Open Space and Trails program has been actively pursuing a trail easement from the Claimjumper Condominiums Homeowner's Association (HOA) in order to complete a trail that will start from the south near the Parkway Center, move just west of Pinewood I and II apartments, and climb the hillside to the west to connect to the Pence Miller Trail. In seeking this trail easement, the Town has pointed out to Claimjumper Condominiums HOA that the driveway access off Airport Road to the condominiums actually falls on Town land, the southern portion of Government Lot 46. Thus, the Town has proposed to subdivide the small piece of land in front of the Claimjumper Condos and convey that small parcel to the Claimjumper Condos HOA to provide them clean access to their property. This conveyance would be contingent upon the Town receiving the desired trail easement from the HOA. This subdivision is seen largely as a housekeeping matter as the HOA has used this driveway access for many years. The proposed subdivision contains a Plat Note indicating that there is no density assigned to the proposed Lot 46 A, so there is no further development potential granted by this proposed subdivision. The intent is to maintain the existing driveway access and no further improvements are anticipated on the property. Staff had no concerns with the subdivision and easement proposed. Staff finds this subdivision proposal is in compliance with the Subdivision Standards. Staff recommended approval of the Subdivision of a Portion of Government Lot 46, PL-2016-0285, located at 867, 877 Airport Road, with the presented Findings and Conditions.

Commissioner Questions / Comments:

- Ms. Leidal: How do they have legal access now; prescriptive rights or an easement? (Mr. Truckey: It is a bit convoluted. We acquired this property 3 to 4 years ago. My understanding is that there was some kind of agreement from the previous property owner, the Forest Service, to allow access. This will clean the access issue up.)
- Mr. Giller: Is there anywhere in the aerial photo that shows the right of way for the proposed trail? (Mr. Truckey: Where government Lot 47 is, it on the lot just to the west generally paralleling the lot line in a north-south line. The trail will basically climb up behind where the existing buildings are at Claimjumper. This is the best place to do the switchbacks up to Pence Miller.)
- Mr. Pringle: I thought we don't put findings and conditions on Town Projects? (Mr. Truckey: This is not a Town Project.)

There was no public present for public comment and the hearing was closed.

Mr. Pringle made a motion to approve the Government Lot 46 / Claimjumper Condominium Subdivision, Lot 46 A, PL-2016-0285, 867-877 Airport Road, with the presented findings and conditions. Mr. Lamb seconded, and the motion was carried unanimously (6-0).

WORKSESSIONS:

1) Development Code Comprehensive Review Introduction (MT)

Mr. Truckey presented. At the May 31st Town Council Retreat, planning staff was directed to undertake a comprehensive review of the Development Code policies. The first meeting of the Steering Committee will be July 21. Staff provided a list of the Code issues staff and Planning Commission have identified over the last several years. Staff intends to bring these to the Steering Committee for discussion. Staff requested to hear from the Planning Commission regarding any other Code issues they think should be addressed through the Comprehensive Code review process.

Commissioner Questions / Comments:

- Mr. Lamb: I think this is a really good start. I would like to see the two parking spaces issue readdressed. Maybe a formula: two parking spaces is different for a large house than a small condo. I would like to see us require more parking spaces for larger houses, so that there is adequate parking. (Mr. Mosher: We are seeing more short-term people coming which affects this parking issue.)
- Mr. Pringle: We currently don't have any control over things like short-term rentals and Air BnB; I don't know how this is going to affect parking in the long-term. Mr. Lamb makes a very good point about this. (Mr. Grosshuesch: I think these are good topics for the committee to get into. We've been studying these issues a bit to hear what other jurisdictions are doing and it is particularly difficult to solve. In Maui, they have been trying to regulate short-term rentals geographically, and it was a hugely contentious issue that was very difficult to enforce. But it is something we should talk about, nonetheless because it does affect things like affordable long-term housing rental.) I think the housing issue is another discussion on its own, but the increased cars have a significant impact on the neighborhood and sooner or later it could be an issue. Maybe we could just put out there to the public that we're watching.
- Mr. Truckey: Do we want to continue to provide positive points for screening parking from public view? It seems the policy is more geared toward multi-family than single family residences?
- Mr. Schuman: We have received criticism for not providing enough opportunities for positive points; do we really want to take that away?
- Ms. Leidal: What about where in places where garages are required? (Mr. Mosher: Maybe we should look at opportunity for positive points in other areas since it is hard to police if people use their garages for storage and then park in the driveway.)
- Mr. Pringle: When the development code was envisioned years ago, the posture of the town was more into larger multi-family development and we have run into problems where the code does not address smaller developments as much. Maybe the code can be redeveloped with the new posture in mind? Additionally, with respect to property in a historic district, there is a list of acceptable materials for homes in the district, but I don't believe that means you can put all of those materials on the same project. (Mr. Mosher: Are you referring to when there is a new and old element and then a connector?) Actually referring to new building we just approved. Sometimes things just get so busy and ornate that they become too much. I feel like the side and trim details are sometimes satisfying a code requirement but it is not working because too much is going on. Example is the new homes on Wellington and Ridge/French. So maybe we should look at how many different materials can be put on one building.
- Ms. Dudney: I would like to look for places to assign positive points for things that people would not do otherwise. Some concern that so many points are available for affordable housing, up to 20 points combined for affordable housing policy and Council goals policies. Why do we give positive points for amenities? I would also like to discuss more about affordable housing,

things like density, for example waive height requirement to increase density. Should we be viewing this from what we see coming down the track? Do we expect more annexations? We shouldn't waste time on things that won't likely be happening. (Mr. Grosshuesch: The projects that have big budgets have an inherent advantage in being able to offset negative points. Affordable housing does not have this, and therefore is at a disadvantage, and this is something we should keep in mind.)

Ms. Leidal: I personally don't have as high of expectations for affordable housing for these very reasons, so I feel like the system is a bit strange to navigate.

Mr. Pringle: Huron was all "feel-good" points without looking as critically at the impact. There were all kinds of positive points that did not do anything to mitigate any negative aspects. I was wondering if there was time for discussion for breaking the code into certain subgroups (e.g., environment, physical) so negative points in one group would have to be offset by positive points in that same subgroup. Does anybody else want to think about something like that?

Mr. Schuman: It's an interesting concept, but I don't know if we have the time to rework the existing paradigm. I think our code is pretty solid as is; I don't know if we want to tinker with it that much. (Mr. Grosshuesch: If we depart too much from the direction the code is heading, we may get to a point where people cannot pass a point analysis. My view is that we look at individual policies and if there is something out of tune with the values of the community, we adjust that policy so that we bring individual policies up to date without getting too elaborate in the association between the policies. We have heard the complaint over the years that it is just too hard to make up negative points. We want to have flexible zoning with performance standards. The good thing is that people don't get denied in the system. If they were getting denied, it would lead to a lot of problems. The code serves the town pretty well as it is set up and I hope that we will just be tuning up the policies that need attention because wholly re-doing the concept would be very time-consuming.)

Mr. Lamb: I think that we should be reviewing policies and changing, but not a large scale re-work of the entire code. The committee will look at everything, but not change everything.

Mr. Schuman: I guess I misinterpreted my conversation with the Mayor; I thought he wanted to look more holistically at the code as opposed to just the policies. I see this more as a review than a re-do, so we fix what needs to be fixed. (Mr. Truckey: Let's take a hard look at places where we can have additional positive or negative points to address issues more specifically.)

Mr. Pringle: If you get negative points for one aspect of design on your site, I feel like you should make up those points in the same category. (Mr. Mosher: We did something like this on height; for example, if you go over height, you can get positive points for an interesting roof design. So maybe we can build in possibilities of mitigation within the original policy like this for people to get points back.)

Ms. Dudney: There was a lot of citizen pushback on relief for density requirements on amenities in Peak 8, which made for a much bigger building than what neighbors thought. It was highly technical the way that height was measured and it was done according to code, and the amenities didn't count toward mass, this seems like a very political decision. (Mr. Mosher: These applications that came in asked for extra mass because of site constraints and the amenities ended up underneath. We may want to revisit density and mass limitations. It was not in the code, but through the agreement.)

Ms. Leidal: Positive points were being received by tucking amenities into the roof, but this caused problems with the neighbors. I think we should possibly look into this issue.

Mr. Schuman: I'm not sure this is really our place, because it is Town Council dealing with the development agreement. Doesn't the planning department present the pros and cons of a development agreement? (Mr. Grosshuesch: They are all different. We can always look at recent ones, dissect them, and see what could have gone better.)

Mr. Giller: Some of what I'm hearing is an issue of scalability and how we apply points. Maybe one thing to look at is a way to scale points across project sizes.

- Ms. Dudney: That is a good idea.
- Mr. Pringle: I forget how we have discussed breaking this up. (Mr. Grosshuesch: We never made a differentiation because the Council wants public benefits for some projects. In a development agreement, we are supposed to get public benefits for the town.) (Mr. Mosher: When a development agreement comes to Council, a developer comes forward asking the Town essentially for a favor, and they offer something that will benefit the public in return.)
- Ms. Dudney: Should we open up traffic and parking requirements? Does reduced parking reduce congestion, and so should we change standards of parking spaces per room? (Mr. Grosshuesch: We have had consultants address this. We have to look at what we're currently trying to do by getting people into the transit system; encouraging the lodging community to tell their guests about transit. We do get people coming in on the shuttle from the airport, so maybe we won't need one parking space per room.) Maybe this will work because the operator of the hotel has to make it work. (Mr. Grosshuesch: sometimes more cars show up than units and we hear about that, which is one reason why we have satellite parking on airport road and will have enhanced transit out there.)
- Mr. Schuman: If there is a deficiency in number of parking spots, there should be a pool of parking available, like how The Village has commercial and residential parking.
- Ms. Dudney: If we force more parking in some places, we then have less affordable housing.
- Ms. Leidal: Under Policy 5, are you talking about overall limiting unnatural materials? (Mr. Truckey: What we're asking is: are we still okay with the policy as it stands or do we want a more specific requirement that relates to the amount of unnatural materials a building elevation can have?)
- Mr. Pringle: Because we weren't specific, we are seeing less natural materials with this policy.
- Ms. Leidal: Is how it is right now what we want to see?
- Ms. Dudney: For example: are you satisfied with how Denison Placer ended up?
- Ms. Leidal: I am not.
- Ms. Dudney: The problem is that this raises the price of housing, and so we should also keep that in mind.
- Mr. Pringle: There is a whole different character in places based on materials, wood trims, etc. When we get into synthetics, it changes the character, is this really what we want it to look like? Frisco is a good place to look for examples and how materials affect character. Look at the north and south sides for West Main Street there for the contrasts.
- Ms. Dudney: We just have to keep in mind that whenever we add requirements, we are increasing the cost of housing.
- Mr. Giller: I agree.
- Mr. Pringle: I think we are cheapening it up. Denison Placer is designed to look cheaper; there is an obvious difference, and I would like us to deal with this differently.
- Ms. Leidal: We were having trouble pointing to a policy to address the Pho Real propane tank above ground, so maybe we should think of incorporating a policy where such things have to be screened or painted, maybe in Policy 28. (Mr. Mosher: I don't think we can paint them.)
- Mr. Pringle: I thought Xcel Energy had some requirement on this?
- Ms. Dudney: What about the snow fence up in the Highlands? We denied it, but I don't think it looked that bad.
- Mr. Schuman: That is definitely something to look at.
- Ms. Dudney: What about child care facilities? Is there anything we can do to make child care easier?
- Mr. Lamb: I think that is state specified.
- Ms. Dudney: Don't we have something about the entire facility being inside? (Mr. Grosshuesch: The child care issue is pretty well-structured with the town. I'm not aware of any zoning problems associated with child care.) If you have any additional ideas, you can just call Ms. Leidal or me.

OTHER MATTERS:

- Mr. Mosher: For the retreat: Ms. Best mentioned something like get around Denver without a car. Let's do something different. (Mr. Truckey: Another option is to stay in town and look at some of the projects we've approved over the years.)
- Mr. Schuman: What's the deal with the North side of Pinewood II? It looks like an entry but isn't, so it looks out of balance. Were there changes in those plans that we didn't see before approval? There are also visible meter stacks and utility structures on a visible corner. (Mr. Mosher: It is a part of the reality with affordable housing.) If we want to make these projects cheaper, there are other ways of doing it than that. (Mr. Mosher: I believe there is a doorway there.) (Mr. Grosshuesch: There is a door there. I'm not sure what you're referring to.)

ADJOURNMENT:

The meeting was adjourned at 8:12 pm.

Ron Schuman, Chair

completely hid the telephone building's original core. Five years later, in 1981, a 637 square-foot retail space was added to the south end of the building, expanding it to 1,746 square feet. That year, John R. and Claudia G. Weeks changed the ski rental shop to an electronic game arcade and snack bar, renaming the business "The Ski Stop (Main Street Arcade)." The Deli Stop moved into the building in 1985, and The Record Store and Clay Basket shared the building in 1992. Whit's Record Store and Hot Shop occupied the two retail spaces in 1995. The most recent tenant businesses are Canary in a Clothes Mine, a clothing shop, and Greta's Ice Cream, Candy and Gifts.

Staff has visited the site and determined that there is no remaining historic fabric.

Over the years the building has had a variety of commercial uses; however, there has never been a restaurant/ bar use approved on the property.

Staff Comments

Land Use (Policies 2/A & 2/R): The applicant proposes to change the use of Unit B, Lot 14, Bartlett & Shock from snack bar /delicatessen to restaurant/bar. This is a commercial Land Use District, hence the use is recommended. Staff has no concerns with the proposed use.

Water Plant Investment Fees: The fees due to the Town will be the difference between the snack bar/ delicatessen rate paid and restaurant/ bar rates.

The difference between the rate paid per 1,000 sq. ft. for retail use and the restaurant use proposed is: restaurant rate of 4.50 – 0.90 = (credit for retail rate paid in the past) = 3.6 x 0.637 SFE's (637/1,000) x \$7,002.00 (water tap fee per SFE) = **\$16,056.99** total in water PIF's to convert the snack bar/ delicatessen space into restaurant use at the time of this writing.

This fee will need to be paid to the Town of Breckenridge upon issuance of a building permit. This has been added as a Condition of Approval.

Site Plan/Parking: The property currently has four (4) parking spaces on site. A restaurant/ bar use requires the same parking as snack bar /delicatessen which amounts to 2.23 spaces (637/1,000 = .637 SFE's x 3.5 = 2.23 spaces per Section 9-3-8 of the Town's Off-Street Parking Regulations). Additionally Unit A's retail use requires 1.22 spaces (1,109/1,000 = 1.109 SFE's x 1.1 = 1.22 spaces per Section 9-3-8 of the Town's Off-Street Parking Regulations) for a total of 3.45 spaces required for the proposed uses on the property. Since the property has four (4) onsite spaces as well as one (1) space purchased in the parking district in 1981 the property exceeds the required parking for this change of use. Staff has no concerns with the proposed parking.

Point Analysis (Section: 9-1-17-3): Staff conducted an informal point analysis and found all the Absolute Policies of the Development Code to be met, and no reason to assign positive or negative points to this project under any Relative policies.

Staff Decision

The Planning Department has approved the Rocky Mountain Underground Change of Use located at 114 S. Main Street, Unit B, Lot 14, Bartlett and Shock Subdivision (PL-2016-0314), and recommends the Planning Commission uphold this decision.

TOWN OF BRECKENRIDGE

**Rocky Mountain Underground
Change of Use
114 S. Main Street
Lot 14, Bartlett and Shock Subdivision
PERMIT PL-2016-0314**

FINDINGS

1. The proposed project is in accord with the Development Code and does not propose any prohibited use.
2. The project will not have a significant adverse environmental impact or demonstrative negative aesthetic effect.
3. All feasible measures mitigating adverse environmental impacts have been included, and there are no economically feasible alternatives which would have less adverse environmental impact.
4. This approval is based on the staff report dated **July 21, 2016**, and findings made by the Planning Commission with respect to the project. Your project was approved based on the proposed design of the project and your acceptance of these terms and conditions imposed.
5. The terms of approval include any representations made by you or your representatives in any writing or plans submitted to the Town of Breckenridge, and at the hearing on the project held on **August 2, 2016**, as to the nature of the project. In addition to Commission minutes, the meetings of the Commission are tape recorded.

CONDITIONS

1. This permit does not become effective, and the project may not be commenced, unless and until the applicant accepts the preceding findings and following conditions in writing and transmits the acceptance to the Town of Breckenridge.
2. If the terms and conditions of the approval are violated, the Town, in addition to criminal and civil judicial proceedings, may, if appropriate, issue a stop order requiring the cessation of work, revoke this permit, require removal of any improvements made in reliance upon this permit with costs to constitute a lien on the property and/or restoration of the property.
3. Complies with the statements of the staff and applicant made on the evidentiary forms and policy analysis form.
4. This permit expires eighteen (18) months from date of issuance, on **February 2, 2018** unless a building permit has been issued and substantial construction pursuant thereto has taken place. In addition, if this permit is not signed and returned to the Town within 30 days from the permit mailing date, the duration of the permit shall be 18 months, but without the benefit of any vested property right.
5. **The approved use of “Rocky Mountain Underground” in Unit B of Lot 14, Bartlett & Shock is for a 637 square foot “Restaurant/ Bar” for the purpose of Water Plant Investment Fees and Parking Fees.**
6. **No signs are approved with this application. All signs visible from the exterior of the building shall be approved by the Town of Breckenridge under a separate sign permit application.**

PRIOR TO ISSUANCE OF A BUILDING PERMIT

6. **Town of Breckenridge water tap assessments shall be updated and paid prior to issuance of a building permit and prior to the new use of the property. If paid on or prior to December 31, 2016, this fee shall be \$16,056.99. If paid after December 31, 2016, then the fee shall be determined based on the new Water Plant Investment Fee schedule in effect at the time of the payment.**
7. Upper Blue Sanitation District sewer tap assessments shall be updated and paid prior to issuance of a building permit and prior to the new use of the property.
8. The development project approved by this Permit must be constructed in accordance with the plans and specifications, which were approved by the Town in connection with the Development Permit application. Any material deviation from the approved plans and specifications without Town approval as a modification may result in the Town issuing a Stop Work Order and/or not issuing a Certificate of Occupancy or Compliance for the project, and/or other appropriate legal action under the Town's development regulations. A Stop Work Order may not be released until a modification to the permit is reviewed and approved by the Town. Based upon the magnitude of the modification, another hearing before the Planning Commission may be required.
9. No Certificate of Occupancy or Certificate of Compliance will be issued by the Town until: (i) all work done pursuant to this permit is determined by the Town to be in compliance with the approved plans and specifications for the project, and all applicable Town codes, ordinances and standards, and (ii) all conditions of approval set forth in the Development Permit for this project have been properly satisfied.
10. Applicant shall submit the written statement concerning contractors, subcontractors and material suppliers required in accordance with Ordinance No. 1, Series 2004.