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Town of Minturn
Planning and Zoning Commission
3/22/06

MEETING MINUTES

REGULAR MEETING (7:00)
Minturn Town Center – 302 Pine Street

Bill Sisk called the meeting to order at **7:00pm**

Planning & Zoning members present included Bill Sisk, Rob Davis, and Robert Martinez.

Town Staff present were Wiley Smith, Town Planner and Derrick Slocum, Planner I

Approval of Agenda Items

Motion made by R. Martinez to approve the agenda as presented, second by R. Davis; all voted in favor.

Approval of Minutes – Minutes from January 25, 2006 and March 8, 2006

Minutes from January 25, 2006 were not able to be approved due to not meeting quorum.
Minutes from March 8, 2006 were not able to be approved due to not meeting quorum.

New Business

ACTION ITEM #1 Design Review

Applicant: Andy Kaufman & Steve Campbell (Minturn Saloon)

Address of Property: 146 North Main Street

Zoning: Old Town Character Area

Proposal: To gain design approval through the Design Review Board.

Summary: The applicant is requesting approval of a Design Review for a proposed patio, approximately 800 Sq. Ft., at the Minturn Saloon, Lot 5 & 6 of Block B, Booco Subdivision in the 100 block of North Main Street.

Discussion: The applicant has submitted the required documentation for a Development Review Board Application as stated in the Minturn Design Guidelines. The application is complete and is found to comply with the design standards and guidelines, codes and other regulations of the Town.

Recommendation: Staff: Considering the findings and other information provided herein, the staff recommends that the Planning and Zoning Commission grant approval of this application favorably subject to the following conditions:

1. The DRB grant preliminary approval to the applicant meeting in a general fashion the design and other regulations of the Town but to submit a final application following the Submittal Information Checklist to warrant final approval.
2. The applicant making any modifications to the plan document as requested by the Planning Staff, Building Inspector, and Eagle River Fire Protection District prior to Certificate of Occupancy.
3. The applicant shall pay all required fees and charges related to development of the subject property.
4. There will need to be engineered and structural drawings of the proposed 8 foot fence to be submitted and approved by the Building Inspector before construction on the fence begins.
5. Nothing permanent shall be placed within the 30 foot setback from the designated High Water Mark approved by the Town of Minturn.
6. The applicant is to provide the Town of Minturn Planning Department with a signed survey showing the exact location of the 30 foot setback from the high water mark.

Derrick S. briefed the commission on the Andy Kaufman and Steve Campbell's request for a patio addition which would be located North of Bellm Bridge at the Intersection of North Main Street and Railroad Avenue. The zoning surrounding the subject property includes commercial to the East, West, South and the planned unit holding zone, also known as the rail yard area. The proposal is for approval through the design review process; patio would connect to the south side for dining and drinking 800 sq ft, 515 sq ft for dining and drinking. (Derrick S. referenced pictures of the area)

For parking there are currently 47 existing spots, 7 on the property, 3 on the street, and 37 leased from the town at the Municipal Parking Lot. The proposal would take away 3 of the spots which would leave them with 44. **Minturn Municipal Code Chapter 16.16.3** the restaurant section of the Saloon will require 26 spaces, the bar would require 10 and the proposed patio would require 7 which give us a total of 43, one surplus.

In a commercial zone, setbacks are 0' in the front, 5' on the side and 25' from the rear. On the patio would be 8' from the rear, but according to **Minturn Municipal Chapter 16.17.19** outdoor dining areas operating in conjunction with permitted eating and drinking establishments; temporary awnings or shade devices and unroofed terrace or patios are exempt from setback requirements, which this proposed patio falls under.

The staff finds that the proposed use in the commercial zone district appropriate. And any future changes will require approval from the planning director and design review board, for any change in use or design of the architecture.

The required setback and parking requirements have been addressed according to the Minturn Town Code. Staff recommends that the **Design Review Board (DRB)** grants approval to the applicant and meeting the general fashion, design and regulations of the town. The applicant making any modifications to the plan document as requested by the planning staff, planning director, Eagle River, pays all fees. There will need to be an engineered 8' fence. Any fence over 6' needs to be engineered and inspected by our building inspector. Nothing permanent shall be placed with in the 30' high water mark which is approved by the Town of Minturn. Applicant will provide a signed survey showing the exact location of the 30' high water mark. We have a pretty good idea, but with the snow cover we have not be able to get out there to get a survey completed. 30' set back shown as is with red line.

Andy Kaufman, 5288 O'Neal Spur Avon, CO is requesting approval for an outdoor patio, for summer time and appropriate weather use. The 8' fence is located on the east side to hide the view of the International Trade Center; people would rather not look at the building so we went higher. There will be planter boxes along the patio and the south side of the patio will be open to the River so that customers can take advantage of both the view and the sound of the river. On the Main Street side we have between 4 and 5' so there will be flowers and you will be able to see through if you stand up but not when you are sitting down. If you are familiar with the inside the entry, where the window to the left side of the fireplace is now, we will take that table down, punch a bigger hole, and put a double door entry there, handicap accessible ramp going up to the deck, emergency exit on the deck as recommended by Carol Mulson. We also consulted with Chuck Lanci and any recommendations he had have already been incorporated into the plans at this point. We feel like we will be growing into how we will handle this space. We are excited, it will be a wonderful addition to town; attract some more people our way. Operationally we will build it and feel it as we go. I turned into Derrick the sample of the stain we will use on the deck. Artificial deck that is much easier to maintain.

B. Sisk asked if it will be composite.

Mr. Kaufman confirmed and stated it will be a stout looking deck, fences and post, three beams going across to steady the fences. The south view shows three beams, it will present itself as a stout structure. That is an example of the proposed stain for the fencing (passed it around to council).

R. Davis asked if this is his fencing material.

Derrick S. responded that it is just the color, not the actual material that will be used.

Mr. Kaufman corrected himself stating that there will be four beams across, not three as originally stated. The fence on the Main Street side, close to the river, is a double gate to allow access for snow removal and access.

B. Sisk asked if that area will be open.

A. Kaufman confirmed and mentioned that the patio will step down, one step at South end and park down to the parking lot. The whole area will be included in the license, because that is the area we can secure.

R. Davis asked if they are going to skirt the underneath part of the deck where the caisson are going to be supporting, will the grade come up to it?

Steve Campbell added that the grade starts out level with about a foot of fall from the East to the West side; it will only be off by about a foot. There is not going to be a lot but we are going to have to put something, like a bumper for the cars.

B. Sisk asked if the four parking spaces that are left are on the Main Street side, and are all four of those to the right of the walkway.

A. Kaufman confirmed both questions.

B. Sisk asked that when coming out from the fireplace there will be access through the double doors, according to your drawings here, your going to use T-1-11 which is siding; you've got a small space?

A. Kaufman confirmed yes, it's a double door area.

B. Sisk stated you've got double doors on the other side?

A. Kaufman confirmed and mentioned that basically it is matching; it shows that because it matches existing wood on the building.

B. Sisk asked if it is coming out from brick though, right?

A. Kaufman confirmed.

B. Sisk asked that he would like to see that brick, just a veneer, I'm not saying you have to, I'm just talking. The other question I have is the lighting. What your plan calls for is Christmas tree lights.

A. Kaufman said; yes C7 or C9 bulbs, they are the larger ornate bulbs. You can put a cover over them like chili peppers; they are similar to the ones across the street at the Eagle River Inn, like a paper bag. They are stouter and bigger, we did that for flexibility and we felt we could wrap the

beams and provide light that we could restate and not just a couple of focused points of light that would either be ineffective and annoying to customers and annoying to the neighbors.

B. Sisk asked how are you going to be lighting the rest of the patio itself?

A. Kaufman stated the C7 and C9 bulbs, we use those in Denver and it works well. We will be planning to restate it so that we can control that light so it isn't too bright.

B. Sisk mentioned that it struck him that coming around that corner into Minturn he feels the presentation on the front side should blend in with everything else there. No other ideas were available at the time but the Town may come back and ask for something different as far as lighting.

R. Davis asked what the interior behind the gates is going to be used for?

A. Kaufman stated that they were not sure at this point.

R. Davis asked if it is a walk off right.

A. Kaufman confirmed. We may end up astro-turfing it to make it look better. Maybe adding one of those portable fireplaces like the Minturn Market has with chairs around it so people can gather there.

R. Davis added that he thinks it is a great idea, looks good just sees a lack of landscaping on West Main Street side, could use some planters and/or shrubbery.

Mr. Kaufman stated that the parking spaces are right in front of that. On the view from the Main Street side you can see beautiful flowers on top. We may try to echo that along that side. No dirt to be landscaped so it all has to be potted.

R. Davis I am worried about cars driving into it.

Mr. Kaufman said they realize they are going to have to install on both sides, some sort of bumper or railroad tie to keep people from smashing into it.

Motion by R. Davis to approve the design review for the Saloon, Case # 06-03 with the recommendations that the staff outlined, second by R. Martinez; all voted in favor.

ACTION ITEM #2 Conditional Use

Applicant: Tom Sullivan

Address of Property: 116 Nelson Avenue

Zoning: Old Town Character Area – Commercial

Proposal: The applicant is requesting a Conditional Use approval in a Commercial zone for a single family residential Building.

Summary: Applicant is requesting a Conditional Use approval in a Commercial zone for a single family residential Building on Lot 1&2, in the Sullivan Subdivision formally the Nelson Avenue Minor Subdivision. The 9,335 square foot site is presently two lots. The applicant is proposing one single family residential building at 5,393 square feet. The applicant is also pursuing an Administrative Replat. The development has been designed to allow for future home occupation, or business.

Discussion: Staff review of this application includes a comparison of the policies outlined in the Comprehensive Plan, pertinent zoning regulations, background activity, and analysis of referral comments including a comparison of the project to policies and goals outlined in the Minturn Land Development Code, **Chapter 16 16.21.8 Conditional Use**. The final document must comply with all other applicable restrictions of the **Old Town Character Area Regulations**. The Conditional Use must meet the minimum development standards as stated in **Chapter 16. 6.3 Old Town Commercial Zone** and also be an application which is desirable overall when weighed against the **Adopted Design Guidelines**.

Recommendation: The Planning and Zoning Commission grant approval to the application subject to the following conditions.

1. The applicant agrees to address the Planning Commission comments and concerns as identified within this report.
2. The applicant making any modifications to the plan document as requested by the Planning Staff and Building Inspector, Town Clerk, and Eagle River Fire Protection District. prior to Certificate of Occupancy.
3. The applicant shall pay all required fees and charges related to development of the subject property.

Tom Sullivan, 116 Nelson Avenue, Minturn, is requesting a conditional use on a proposed single family house in a commercially zoned property. The proposed house will be built on a lot that is currently occupied by a house that is there now and has been there been there a long time. We are asking for a conditional use because the property that the proposed house is to be built on is zoned commercial and a conditional is required for this action as required by the Minturn Town Code.

B. Sisk as Town Code calls for, this is conditional use and it does require a public hearing so I now open the public hearing and if any public would like to speak in favor or oppose to this request.

Someone form the audience ask why this is needed.

B. Sisk explained that this is required because the applicant is proposing and residential structure in a commercial zone.

Audience member understood.

B. Sisk said that there is no public comment so public hearing closed.

There were no comments from the Commission members.

Motion made by B. Sisk to approve the application per the outline from the staff for conditional use of a residential in a commercial zone at 116 Nelson Avenue, second by R. Martinez; all voted in favor.

B. Sisk requested a 5 minute break.

Old Business: Discussion of Old Town Lot Requirements and Dimensional Standards

B. Sisk asked Wiley S. if he wanted to get into the discussion of the Old Town.

Wiley S. responded but it is that it would be wise to wait until the next meeting when there should be more members to discuss this topic.

B. Sisk stated that he did not have the chart in the code for the lot dimensions for Old Town. In looking at what Old Town includes the mixed use zone there, and looking at what we have there and then looking what is supposedly in Appendix B shows what we want the Old Town to look like, I don't think there is a lot we can do with it. Basically you've got commercial zone 0' setback on the front and that is what we are looking at, the visual affect when you are coming down Main Street and I think that is what most people look at. And the setbacks on the side are 5', maybe cut it to 2.5 or to 0. I had a hard time in my own mind on what we could change to make it any better. You could change the mixed use zone, there is room to make changes there, but with the building mix I am not sure if it would look any better than it does now. I think we need and I think with the new council candidates I think it came out in the meeting last night; we need something to make it easier to get businesses in here. They don't have that much space to begin with unless they start moving up the mixed use zone to more that what it has in the past. What has happened in the past is it has gone from here to here to here instead of moving up the way. It could be that eventually that mixed use zone has to be changed to commercial. To allow for growth that makes it look like a town. Right now it looks like residential has gotten funky. We have a big building on the corner, then a trailer, and then a house, and then trailers across the street.

Wiley S. said that what came to him, why I am on the subject, is Rob comments a couple of months ago when we were going through different uses. When the code was adopted in 1998 it was to encourage economic growth. What I am hearing now is a back lash, that Minturn is using the small town approach. I am trying to find some medium between what the code says you can build now and to give more of a residential feel to the town. I think it is going to grow but how

do we control it, do we change the code and make it more intense and not touch the mixed or residential? Do we change the direction that we are going in with the code now or do we want to change it to something more intense or less intense?

B. Sisk responded that from what he has heard and from his own knowledge, it is extremely difficult for someone to buy, take Brinkerhoff's for example, they will have a hard time building something there, but if he could rent it out for a commercial building and make it pay for what he had to pay for the dirt. Now how do we change what the town is controlling to make that more feasible? The only way you can really change it is to let them build more square footage or mass and that doesn't seem to be what the people of the town want.

Wiley S. stated that right now we don't have any way to stop someone from consolidating lots and building on it; 2 x 5,000 lots. That is the only way I can see that someone could build something on it and get some return. From the 25' frontage you just can't do that. We are going to see a lot of lots being built, consolidated and then something large being put up. Within the zone, like the proposal for the Shop n Hop.

B. Sisk stated that it is a good example of what has happened, that property is on the market, and they scrap all plans to do anything. It is tough to be able to hold the Old Town character and promote business. When you come into the business district of Minturn, it actually stops at Holy Toledo. I know you have Harry's and the Shop n Hop, but the way I look at it, that is where the business district stops. You don't have any room to grow there at all; I am surprised that they are building it. They have no views except through the parking lot there.

Derrick S. questioned about doing a zero side setback? When I think of small towns like in the Midwest all of the buildings are pretty much connected. There buildings come right up from the front street and are connected all along the whole block giving the business district a small town feel. The only place here in town that is similar to those small towns in the Midwest is right there at the 100 block and that is it.

R. Davis mentioned that you could go to zero setback right now with a party wall.

B. Sisk said that currently there is a 5' setback.

R. Davis asked if that is it in the supplemental.

Wiley S. asked how do we entice people to relocate here but at the same time restrict consolidating two or three lots. What we have on one hand is we want someone to build their stores and lease them out, but we don't want anything that will ruin the character. Do we keep the code as it or how do we keep people from buying two or three lots and putting something on it. We don't have anything to stop it.

B. Sisk asked do we want to stop it? Lets say I bought the property where the shack is and now I have four lots in a row and I want to build a store front all the way across the front. I don't think there is anything wrong with that because in the Design Review process you can make them break it up and not look like it is one building. So what would be wrong with accumulating three

lots and making one building out of it? I would not oppose that at all. Why not have 0 set backs on the side as long as they are like the downtown is now along the 100 block of Main Street.

Derrick S. mentioned maximum building heights and another thing with the Midwest small town that the Main Street buildings are two levels, not three or multiple. 35' is huge and bulky, two levels is not as huge and bulky.

R. Davis stated that the block plane notion helps out with that.

Wiley S. said Rob was right, no set back required if the side wall is a party wall. So, possible but I think you would have to get to parties to agree.

B. Sisk the code states it a little bit different than in the UBC code that a building has to have a firewall not a party wall.

Wiley S. added that they can have the same thing but it would have to be plywood.

R. Davis asked what does that mean if there is a house or vacant lot and you want to build on the party line?

B. Sisk asked if we were to allow lot line to lot line buildings, if there is a vacant lot here, your building is going to stop here and the wall is a firewall, for future.

Wiley S. stated that he thinks a firewall would have to be, you could build a second wall right up to that, but you would have to anticipate that that wall would be built. I think that is the weakness of that. If you don't have both parties, both owners of each lot, that one half of that party wall, I would not approve something like that unless there was definite plans or proposals to join them.

B. Sisk added that what I understand in the UBC code, everything works from that. Example: John builds a building here and he comes up and stops right here, then this wall has to be a firewall. Now Charlie builds one over here and he decides to come up there has to be a firewall and he decides not to come up there and he wants to leave an alley space, there still has to be a fire wall, but they are independent from each other, they are not a common wall.

Wiley S. states that is different than what we are discussing here, Derrick made a good point, when they were built they were built under the assumption that the next lot would be also be built. If someone doesn't want to build and a firewall was put up and then next guy doesn't want to build up to the firewall, I don't understand, that is gray area. That is the next door neighbor doesn't want to put up a party wall, is that right or wrong. We don't necessarily condone not putting up a party wall.

B. Sisk stated that they would have to do it or meet the set back requirements.

Wiley S. added I would approve that first party wall unless there was some obligation of the next lot owner. We've got plans to just do the party wall to get out of the 5' set back. If the next door

neighbor wants to join that first one, it was a well conceived proposal that you approve one half of a party wall.

R. Davis asked if we have a definition of a party wall now.

Derrick S. said yes.

B. Sisk you are talking party wall, I'm talking fire wall. That fire wall would have to incorporate everything that a party wall would so what you would end up with is two separate fire walls side by side which would actually be two party walls.

Wiley S. said I think they are one in the same, but they are different. A firewall has to be fire rated, you can't skirt that. It is really one in the same but it is not as far as the definition goes.

B. Sisk, I agree with what you are saying but we are not on the same wave length. What I am saying is now the code calls for us to put up a party walls, I had to have four sheets of 1/4 " drywall from bottom to top, unbroken, insulated. What would keep us, if we are building in a 0 set back, from requiring these four sheets in this guy's property and the four sheets in this guys property?

Derrick S. added that the definition of a party wall is a common shared wall between two separate structures, buildings or dwelling units.

R. Davis said that would mean to me that the wall would be half on one property and half on the other.

B. Sisk added that is the way I interpret it also, and what I am saying is that if we go that route, each one of them to build a fire rated wall which would be the size of a party wall, so he is going to lose 3-4" of sq ft along that wall, but inside of his property line, he has 6" wall, four sheets.

R. Davis said technically that is not a party wall; it is a fire rated wall on a 0 set back.

B. Sisk said that is the whole point of what I was trying to get across. I went all the way around my elbow to get to it.

R. Martinez do you think that would attract people to come and buy property or for the owners that are done there.

Wiley S. and R. Martinez having conversation and B. Sisk and someone else talking.

Derrick S. rents and property values are about the same, it is tough due to the cost of everything unless you have really strong local ties.

B. Sisk stated that the perception I get from the people who live here and the people who drive through here, all they see is what they see while driving down Main Street.

R. Davis said mixed use was suppose to reflect more residential. What I am seeing now with buildings like the Molly G is more commercial with a residential aspect. Harry's block was zoned mixed use; the intent was to be more residential with small commercial aspect to it, the street level with commercial with the owners living on top. Like Darell Wegert used to do with Campbell's.

B. Sisk asked what is your opinion?

R. Davis I think it leans more towards the commercial side. You've got the Bump & Grind down stairs, professional offices on the second level and then the top with three residences. I like the building and I like the setback and residential aspect to the architecture and I think it is a tad ahead of it's time.

Wiley S. said he also had to come back in front of the planning commission three or four times for changes and approval. The town wasn't prepared for that type of use. He had to come back to build it and he had to ask for variances.

R. Davis said our town has two minds about that; some folks want to foster more business and other folks dig their heels in and fight it. And I see that even on our full board here when we are all together. I think the councils are more same minded.

B. Sisk said I feel like this group has come together as far as thinking similar to the projects than council.

Wiley S. asked the Commission what you think we should do, would you like to continue this.

B. Sisk stated there has been a problem in the past and I think it is not quite the time to say what is going to happen in the future. I think the council is going to have to loosen up a bit if they want some growth and keep their core town character but their growth has been outside of their core. That is what makes it difficult.

R. Davis said I like the setback of Harry's building, during Minturn Market and 4th of July people can go into that little space, they can mingle, and they are not confined to a sidewalk. It gets elbow to elbow down by the Country Club. If it was no set back and straight building by the setbacks, there would be no room in front of the building.

B. Sisk stated you get the Country Club and all along there is a 0 set back.

R. Davis stated I could see the second block infilling with buildings similar to Harry's. When Hoza's place goes, which is a similar sized lot to Harry's, more likely a building similar to Harry's will go in there.

B. Sisk added that Hoza's is 3 ½ lots, Harry's is 3 lots.

R. Davis added that between the Ironworks building and your places (B. Sisk), I can see the natural transition going that way, but will the town be out of business before that happens?

Informational: None

Attachments: Action Items #1 and #2 staff reports

B. Sisk adjourned the meeting at 8:25 pm.