

MINUTES OF THE MEETING OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF SODA SPRINGS, CARIBOU COUNTY, IDAHO HELD APRIL 14, 2020.

ROLL CALL SHOWED THE FOLLOWING PRESENT: VIA TELEPHONE

Charles Fryar–Chairman
Rod Worthington-Vice Chairman
Drew Erickson
Tysen Hopkins
Lori Anne Lau
Demian Guthmiller

EXCUSED:

ALSO PRESENT: VIA TELEPHONE

Alan Skinner, City Director
Jon Goode, Councilmember
Gregg Haney, City Attorney
Andrea Haderlie, Secretary
Tausha Vorwaller, City Clerk

Due to the threat of COVID-19 and limiting public gatherings, the Planning and Zoning Meeting and Public Hearings were held by conference call.

6:00 PM Chairman Fryar called the meeting to order. Commissioner Lau moved to dispense with the reading of the March 10, 2020 minutes and to approve the minutes as written. Vice Chairman Worthington seconded the motion. All in favor, motion carried.

6:05 PM Chairman Fryar opened the public hearing for the purpose of giving consideration to the application of Amanda & Mike Attebury, 570 E 1st N, Soda Springs, Idaho for a Conditional Use Permit in an (R-1) Single-Family Residential Zone for a Group Day Care Facility which allows for the care of up to a maximum of 12 children. The Group Day Care Facility would be located at 570 East 1st North, Soda Springs, Caribou County, Idaho.

Chairman Fryar encouraged Amanda Attebury to explain her request for the Conditional Use for the Group Daycare Facility. Mrs. Attebury stated she has an autistic child at home that needs continuous care and she needs to be home. She feels that this would be a better solution for her family. She voiced she works at Caribou Memorial Hospital and there are several people that have asked her to watch their children and there is a need for an additional daycare for people that work at Caribou Memorial Hospital for the hours they work. She stated that she is good with children and they are a foster family also. Chairman Fryar questioned if she will be starting from ground zero or if she already has clientele for child care. Mrs. Attebury stated right now she has a couple people that would like her to watch their children when needed. Right now she is just taking the first steps to apply for the conditional use to see if it is even possible to open the daycare facility within her home.

Chairman Fryar questioned if the Commission had reviewed the comments received by email. The written comments received were from; Ellis, Elisabeth, and Michael Peck of 560 Lewis Ave and Jeannette and Warren Westbrook of 571 Lewis Ave submitted written letters opposing the Conditional Use for the group daycare facility. Richard and Sandra Dixon of 98 N. Woodland Dr. submitted a written letter supporting the Conditional Use for group daycare facility. Chairman Fryar asked if the Westbrooks would like to make any additional comments or if the letter was enough. Mrs. Westbrook stated the letter was enough.

Chairman Fryar opened the Public Hearing to the audience. Commissioner Lau questioned if Mrs. Attebury had a chance to read the letters. Secretary Haderlie stated she had not. Chairman Fryar requested the letters be read aloud for Mrs. Attebury. Secretary Haderlie read the comments aloud. Mrs. Attebury explained they were considering a privacy fence for the backyard, as for the noise concerns; there are children all over the

neighborhood and several different families with multiple children in the surrounding area. She stated the question on the property value she was not sure how it would affect surrounding neighbor's property value. Commissioner Lau questioned with eleven children if there is just one adult supervising all 12 children? It does not list additional supervising adults. Mrs. Attebury stated she still needs to look into the state regulations. If she needed an additional adult it would be another foster mother to help her out. Chairman Fryar questioned the hours of operation. Mrs. Attebury stated 5:30 AM-6:00 PM. Councilmember Goode questioned if Mrs. Attebury had inquired about going through the Department of Health and Welfare licensing and State regulations yet. Mrs. Attebury stated she had not due to getting a Conditional Use being the first step she needed to take. Councilmember Goode mentioned she will be subject to the regulations and safety guidelines of the State before she can open and recommended the Planning and Zoning make that a condition of being in full compliance and licensed through the State if the Conditional Use is granted. There were no additional comments from the audience.

(See attached copy of Public Notice and written comments)

Chairman Fryer closed the Public Hearing at 6:20 PM and opened it up to discussion before the Commission. Chairman Fryar questioned Director Skinner on how many children are at the Learning Tree and about any problems or complaints that have arose from the Learning Tree that the Commission will need to consider with this application. Director Skinner stated he is not sure the total amount of children currently at the Learning Tree, there have been some complaints from the neighbor we have worked through with the neighbor and the Learning Tree. Noise has not been a problem for them. Vice Chairman Worthington noted The Learning Tree did put up a 6 foot privacy fence that was in the conditions for their Conditional Use. Vice Chairman Worthington recommended using the 6 foot privacy fence as a condition so that it addresses the concern that Mrs. Westbrook had for the abutting property line with Mrs. Attebury. Commissioner Lau recommended we address restriction of hours the children can play outside during the day. Commissioner Guthmiller voiced hours of operations are less than a concern and he agreed with Commissioner Lau. Vice Chairman Worthington stated with the Learning Tree conditional use the Commission recommended no earlier than 8:00 AM and no later than 7:00 PM for the children to play outside. Vice Chairman Worthington asked if she planned on being open weekends or holidays? Mrs. Attebury stated no she would probably not be open weekends or holidays. Vice Chairman Worthington questioned how many people reside in the residence currently? Mrs. Attebury stated five family members. Vice Chairman Worthington questioned having five people in the home plus 12 other children if there will be enough room within the home? Mrs. Attebury stated that there was plenty of room in her house. Mrs. Attebury clarified with her current two children in the home they would only be allowed ten other children. Mrs. Attebury explained the State will do an inspection and let her know how many people can be in the house and how many children will be allowed to meet State Code. The Commission discussed at length and agreed if the conditions are met they would approve the Conditional Use. Commissioner Lau motioned to recommend approval of the Conditional Use with the conditions of a max height 6 foot privacy fence three sides to the backyard only, with limitations of hours no earlier than 8:00 AM and no later than 7:00 PM for the children to play outside, not hours of operation, and proper licensing with the State Department of Health and Welfare. Commissioner Hopkins seconded the motion. All in favor, motion carried.

6:44 PM Chairman Fryar opened the public hearing for the purpose of giving consideration to the application of Todd Hunzeker/Trail Canyon, LLC of 120 North Hooper Ave., Soda Springs, Idaho for a zoning reclassification to change the back (East) approximately 1/3 of the property owned by him at 118 North Hooper Ave, Soda Springs, Idaho from an (R-1) Single-Family Residential Zone to a (C-1) Neighborhood Commercial Zone. The reclassification will allow for the consideration of a conditional use permit for the development of a recreational vehicle park.

Chairman Fryar asked the Commission had reviewed the comments received by email. Written comments were received from Carl and Alisa Miller of 160 N Hooper Ave, Kim and Brent John of 116 N Hooper Ave, Reid and Hailey Herron of 170 Springview, Paige and Brock Byram of 150 Spring view, Crystal Galloway of 741 E 300 North and Kent and Sue Adams and Merle Thornton of 731 Pioneer Drive opposing the Zoning Reclassification. Richard and Sandra Dixon of 98 N. Woodland Dr. and Brian Lewis owner of Caribou Motor Rewind Inc. of 198 N. Hooper Ave submitted written letters supporting the Zoning Reclassification.

Chairman Fryar encouraged Todd Hunzeker/Trail Canyon, LLC to explain his request of the Zoning Reclassification. The lot is 471 feet long but for some reason the zoning for the back 60 to 70 feet is a zoning line residential (R-1), he would like to have his whole property zoned the same as the front as C-1.

Chairman Fryar opened the Public Hearing to the audience. Carl Miller voiced his concern that the last 100 feet of the property is R-1 not the last 30 feet. He is disputing Mr. Hunzeker's application on question number eight due to his statement, he expressed it does not address the question appropriately. He also questioned who gave Mr. Hunzeker authorization to start work a week ago and work on it all week when the Public Hearing has not been done. He questioned also during the state wide stay at home order by Governor Brad Little, he would like to know how this is essential work 50 feet from my home. He stated the reclassification is from R-1 to C-1, but effectively it is C-2, because C-2 is the first place the RV Park (Recreational Vehicle Park) is allowed without additional conditional use permit, but the five other zones skipped, you're skipping over R-2, R-3, you're basically pushing C-1 into residential. It is not compatible with surrounding areas; an RV Park is not compatible with single family residential zone. It will reduce the property value; it will add traffic, and add to transient out of towners. Chairman Fryar questioned where Mr. Miller's house is placed. Mr. Miller stated it is directly to the north of Mr. Hunzeker's property. No other comments from the public were given. Chairman Fryar called upon Mr. Hunzeker for additional comments from him. Mr. Hunzeker voiced that Caribou Motor Rewind is to the north of his property and the John's to the south, have a salt business they run out of their home and east of his property is commercial, we are not trying to introduce a commercial property into residential area it is already there, his goal is to have his entire property zoned the same, which is common to do. Mr. Miller added the salt business is no longer in business.

(See attached copy of Public Notice and written comments)

Chairman Fryer closed the Public Hearing at 7:00 PM and opened it up to discussion before the Commission. Commissioner Lau questioned how this line was established for the property and was zoned as R-1 and C-1. City Director Skinner suggested it was a straight line with all the other zoning when it was established to be zoned long ago. Commissioner Hopkins voiced there was not any reason for it to be zoned residential and commercial, it is all one piece of property, when they put this line in it was a mistake back in the day and we are not going to stop anything happening commercially on this property. Mr. Hunzeker is within his right to do whatever he wants with the commercial portion of his property. Commissioner Erickson agreed with Commissioner Hopkins. Commissioner Lau would like to call the question to make a motion. Vice Chairman Worthington motioned to make a recommendation to the City Council that we stay consistent with this property and move forward with a Zoning Reclassification to C-1. Commissioner Hopkins seconded the motion. All in favor, motion carried.

7:15 PM Chairman Fryar opened the public hearing for the purpose of giving consideration to the application of Todd Hunzeker/Trail Canyon, LLC of 120 North Hooper Ave., Soda Springs, Idaho for a conditional use permit to allow the development of a Recreational Vehicle Park on the property owned by him at 118 North Hooper

Ave, Soda Springs, Caribou County, Idaho.

Chairman Fryar asked the Commission had reviewed the comments received by email. Written comments were received from Carl and Alisa Miller of 160 N Hooper Ave, Kim and Brent John of 116 N Hooper Ave, Reid and Hailey Herron of 170 Springview, Paige and Brock Byram of 150 Spring view, Crystal Galloway of 741 E 300 North and Kent and Sue Adams and Merle Thornton of 731 Pioneer Drive opposing the conditional use permit. Richard and Sandra Dixon of 98 N. Woodland Dr. and Brian Lewis owner of Caribou Motor Rewind Inc. of 198 N. Hooper Ave submitted written letters supporting the conditional use permit.

Chairman Fryar encouraged Todd Hunzeker/Trail Canyon, LLC to explain his request for the conditional use permit to allow the development of a Recreational Vehicle Park on the property. Mr. Hunzeker explained a 35 foot entrance to the back lot to go behind his Can Do building. The current Can Do building would be the office for check-in area for patrons. Mr. Hunzeker stated they are not trying to attract people pulling camp trailers, their goal is to purchase nine 660 square foot park models, which have two bedrooms, a kitchen, a bathroom, and are winter capable for our area snow load. They are 52 feet long and 15 feet wide. His goal is to purchase, set them on lots in the back and rent them out. According to the City of Soda Springs code he has to have them 15 feet from the boundaries of the property towards the inside, and have a 35 foot road down the center to access them, run sewer and water to them on the outer parameters of the property so each one has its own electrical, plumbing, heat, and air conditioning. The units look like a little house inside and our goal is to rent them out; he is not trying to compete with the other RV parks, it is a different type of business then what you are seeing around town. Chairman Fryar questioned the units being more permanent units instead of mobile ones or are you planning to have mobile camp trailers in addition or strictly permanent structures. Mr. Hunzeker stated that they are not planning to have campers pull in to stay at all. Yes they are a more permanent structure that will look like a little cabin and they will have full sewer, water and electrical. They are brought in completely done and finished, put in place and hooked up. Commissioner Lau for clarification is this like a RV park or more like a mobile home park. She called upon City Director Skinner or Attorney Haney to help understand if this will really fall under an RV park or under mobile home parks. Mr. Hunzeker clarified the wheels must stay under the unit they cannot be removed. City Director Skinner noted that it would be considered an RV park if the wheels are to stay put. Mr. Hunzeker stated a mobile home park is more than likely to be a monthly rental where he plans to market them as a nightly rental. Mr. Hunzeker noted his website is idahoexplorerv.com. Chairman Fryar asked if it would be like the KOA cabins. Mr. Hunzeker stated exactly. Commissioner Erickson questioned if the back of the units will face the Miller's home and will they have a window or deck on the back side. Mr. Hunzeker stated that they do not have windows or decks on the back, there will be a porch on the front. An RV park has to have a common gathering area for guests, with the Miller's concern for noise; they plan for a common gathering area behind the current Can Do building which the area will be 243 feet away from the Miller's house and 471 feet from the John's house, he plans to have a curfew set for guests at 11 PM in the evenings till morning. He plans for a 7 foot solid privacy fence around the property. Chairman Fryar asked if the common gathering area would have a fire pit/BBQ. Mr. Hunzeker stated yes and the Can Do building will provide shade for the guests during the summer months and by his drawing there will be a total of 13 units. City Director Skinner pointed out in order for this to qualify as an RV park they have to be 40 feet long or less and 10 feet wide, that is in the definitions of City code for RV. Chairman Fryar asked if there would be a better definition City Director Skinner would recommend. Attorney Haney stated from what Mr. Hunzeker is describing, our code is not written for that type of RV park, when the code was written, referring to title 14, tiny home if you want to call them, is closer to what Mr. Hunzeker is envisioning, other than an axle camp trailer which cannot be more than 10 feet wide and not more than 40 feet long and towed by another vehicle and the carriage underneath it. Attorney Haney recommended Mr. Hunzeker apply for

a use variance to allow for something different or to possibly make an amendment to the code to fit this project. Commissioner Lau pointed out that title 17.32.020 Permitted uses in the C-1 zone, section I. Boarding and rooming houses; section M. Motels and hotels; she stated it sounds more like a mini hotel/motel. Chairman Fryar asked Attorney Haney's opinion regarding the code. Attorney Haney noted based on Mr. Hunzeker's present application which he is requesting for a Recreational Vehicle Park title 14 that is a separate code entirely than title 17. Mr. Hunzeker asked if it could be changed it to the one that fits. Attorney Haney stated yes but you will need to restart the process. Chairman Fryar questioned Attorney Haney if this is considered hotel/motel would there be a need to reapply for a conditional use or is this allowed? City Clerk Vorwaller stated that it is a permitted use; he does not have to apply for a conditional use. Attorney Haney agreed it is allowed in a C-1, the question is how do we characterize this project? You can argue it is more like a motel like Mr. Hunzeker is describing. Commissioner Guthmiller voiced all points are valid, he recommends Mr. Hunzeker reapply for a more appropriate application then make a decision. City Director Skinner read aloud the definition of 17.08.560 - Motel. "Motel" means an establishment which provides lodging and parking for travelers in which the rooms are usually accessible from an outdoor parking area. City Director Skinner verified that Mr. Hunzeker would not need a conditional use application; he would need only a building permit. Mr. Hunzeker mentioned that his contractors are in the process of starting ground work tearing out the old sewer, old water lines, electrical and concrete. He is in the process of getting engineered plans and apply for the building permit as needed. He intends to have everything on the property up to code and have new sewer, new water lines, new electrical and the ground work. Councilmember Goode stated he would like to clarify code 17.08.540, 17.08.550, which addresses mobile home parks; He recommends the City clarify 17.08.540, 17.08.550 and 17.08.560 to make sure we are meeting the specific criteria. Mr. Hunzeker stated he could go to the manufacture and get the specifications on how they are built and submit with his building permit. City Director Skinner agreed he would clarify this when the building permit is applied for and the project approval. Attorney Haney questioned if these units have an under carriage? Mr. Hunzeker stated they have wheels or you can make them more permanent and take them off. His plan is to make them permanent and plans to have pads for them to be placed upon. Chairman Fryar wanted to clarify with Attorney Haney if there is potential for these to be deemed as a hotel/motel. Attorney Haney voiced they could be characterized as a motel and there will be stricter guidelines for setup and arrangement then there would be for a recreational vehicle park. City Director Skinner recommended Mr. Hunzeker submit his plan to the City and the City would decide the appropriate application process to proceed with. Commissioner Lau recommended Mr. Hunzeker talk with his neighbors and have them on board with his plans and address their concerns. In light of the discussion, Mr. Hunzeker then decided to withdraw the conditional use application until the City decides the type of classification, clarify the definitions, and if applications are needed after the City looks at the engineered plans. Chairman Fryar apologized to the public and thanked them for their time. Mr. Miller voiced he would like to know who allowed for work to start on this a week ago and he will follow up with the City about it. Mr. Miller voiced he would be following up about essential work that was authorized during a stay at home order by the Idaho State Governor. Chairman Fryar closed the Public Hearing due to the Conditional Use application being withdrawn by Mr. Hunzeker at 7:45 PM.

Chairman Fryar opened the floor to questions or concerns. Brock Byram questioned how far would the common gathering area be from the Miller's property line and is work allowed to continue on the property or is Planning and Zoning allowed to make that decision? Attorney Haney stated Planning and Zoning will not make that decision it will be made by the City Engineer, Building Inspector and City Officials, it is a C-1 Zone Mr. Hunzeker can get started with the ground work plans and apply for a building permit. Kristin Skinner wanted to share that good things can come from this change. She too has a home that she enjoyed raising a family in open spaces just within the City limits, and that she enjoyed her privacy and limited neighbors, closest neighbors

were living in the trailer court 50 plus feet next to her property, it was older, six place trailer court, it had become very dilapidated, with an owner change in 2016, Ward & Shannon Whitney saw potential use of the land and she envisioned them building a beautiful home, they ended up wanting to do an RV Park, she saw all the problems with it and what it would do to their neighborhood, on the other hand as a property owner, the Whitney's have every right to do as they wish with the property as long as it did not violate City code. She watches as they brought in the backhoes, dump trucks and all the equipment to tear it up. She worried about the noise, damage, their animals, her family, the people looking in her yard and the privacy she had become accustomed to. Meanwhile they came in, put in new amenities, and updated everything, put in a laundromat and shower house. She watch strangers come in with families, some single, couples, some like to play music while they sat outside till 9 pm at night and enjoyed their beer, some started their trucks at 3:30 AM to go to work at the mine. There was also an 80 year old couple that enjoyed feeding the ducks in Soda Creek. It was all different people, all different ideas. It has actually turned out pretty good. Sure there are times they don't like what I do and see and there are times I don't like what I see and they are doing on the property but as property owner we have to have the right to do as we would like with our properties as long as it is in City code and compliant. Has there been conflict, yes but we worked through it.

Vice Chairman Worthington recommended anyone to go to the County's website and the Accessor tab, it is a very beneficial tool, and it would be very proactive for the city to look at these types of settings. It causes some confusion and frustration to home owners and business owners. He would like to see a way better plan before we go ahead with the Conditional Use applications so we don't have these frustrations. He will want to see it applying to sections of the City code and the proof before it is brought to Planning and Zoning.

Alana Burns questioned because Mr. Hunzeker has withdrawn his conditional use application, does that mean the opinions of his neighbors don't matter, because this could potentially fall into use within the existing zoning. Attorney Haney stated it is zoned commercial; it can be used for commercial purposes without a conditional use permit. Mrs. Burns expressed concern about her and the neighbors getting no voice to share their concern with an Airbnb with multiple families, partying and having a great time because it falls within zoning. Attorney Haney expressed it is zoned commercial that was decided decades ago and that is the way it is, if you want to petition a zoning change you are welcome to do that. Chairman Fryar encouraged the public to participate and voice their concerns in City Council Meeting April 15, 2020 because their opinions do matter.

8:00 PM Vice Chairman Worthington motioned to adjourn the meeting. Commissioner Erickson seconded. All in favor, motion carried.