

MINUTES OF THE MEETING OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF SODA SPRINGS, CARIBOU COUNTY, IDAHO, HELD DECEMBER 14, 2021.

ROLL CALL SHOWED THE FOLLOWING PRESENT:

Charles Fryar–Chairman
Rod Worthington-Vice Chairman
Robert Johnson
Drew Erickson
Tysen Hopkins
Lori Anne Lau

ALSO, PRESENT:

Mitch Hart, Councilmember
Gregg Haney, City Attorney
Andrea Haderlie, Secretary
Alan Skinner, City Planner/Engineer

EXCUSED:

Damien Guthmiller

The city provided Christmas dinner for the Planning and Zoning Commission for the meeting.

6:06 PM Chairman Fryar called the meeting to order. Commissioner Johnson moved to dispense by reading the November 9, 2021 minutes, approving the written minutes except changing to the last paragraph, and taking out “accessory buildings.” Vice-Chairman Worthington seconded the motion. All in favor, motion carried.

Vice-Chairman Worthington expressed that he would only discuss amending the Zoning Code for R1, R2, and R3 and the definitions. He voiced accessory dwellings, home occupations, nursing homes/assisted living; he would only like to discuss definitions for R1, R2, and R3. He strongly expressed that he is not in favor of discussing Accessory Buildings. Commissioner Lau attended the meeting late due to a slow-moving train and weather. The caterer delivered dinner, and the Commission paused the meeting to eat dinner.

Attorney Haney explained to the Commission that when Planning and Zoning held the public hearing for Ordinance 683 Accessory Building-Shipping Containers, it was then sent to City Council. He expressed it was under the old process where two public hearings are held; one for Planning and Zoning and one for City Council. He mentioned that City Council decided that additional changes were to be made to the ordinance at the public hearing. He expressed that Councilmember Lau was given the task to change the ordinance, but it was not done for whatever reason. He stated it was determined that the material changes would be required to be sent back to Planning and Zoning for another public hearing. Four or five months after the 683 ordinance was passed to City Council, changes were made to the Public Hearing process. Planning and Zoning would have one or more public workshop meetings, and then City Council will hold the Public Hearing. He suggested to City Council to make the material

changes. It would need to be rejected by City Council and sent back to the Planning and Zoning to make the content changes at the workshop meetings. The City Council would hold the Public Hearing.

Chairman Fryar questioned Councilmember Hart, that Councilmember Lau made it sound as if the City Council had hashed out the changes. They would like to be done to the Ordinance 683 over several meetings and knew where they were going with it. Councilmember Lau suggested to Chairman Fryar that the Planning and Zoning recommend returning it to City Council; that way City Council could amend the ordinance with their suggestions. Councilmember Hart questioned Attorney Haney if they could do that or have a public hearing? Attorney Haney stated that because he knows one of the suggestions to allow shipping containers in residential areas, it will cause division in the city. He voiced that ordinance would be heavily scrutinized. He mentioned that because of the scrutiny this ordinance would face, he suggested not playing games with the process, taking time, sticking to it, and doing it right.

Vice-Chairman Worthington voiced that this ordinance was passed to City Council on February 9, 2021; it has sat in the lap of the City Council for ten months; he believes that the president of the City Council asked several times about updates on the ordinance. He mentioned that is a considerable concern of his. The second concern is that we have a City Councilman reaching out to a Commissioner on Planning and Zoning by phone. He warned he is cautious of taking those phone calls; we don't ever act as single individuals on a Commission; we decide these things as an entire group. He believes that the process has been made to be sped up. At this point, he would make a motion to table the accessory dwellings and anything that has to do with shipping containers until the next Planning and Zoning meeting in January; we slow things down to speed items up so we don't push something through that would be reckless, we don't have the public hear what it needs to have. Commissioner Lau clarified with Vice-Chairman Worthington, did you say accessory buildings or dwellings? As she suggested, the Commission talks about the cottages and mother-in-law suites dwellings because the shipping containers are accessory buildings. Vice-Chairman Worthington clarified it is accessory buildings that pertain to shipping containers only. Commissioner Hopkins seconded the motion. All in favor, motion carried.

Chairman Fryar questioned if the list is all that City Council would like the Commission to consider? Councilmember Hart clarified that the last paper in the packet for Ordinance 683 is not all the information. City Council would like the Commission to view the added comments that City Council has discussed in work meetings. He explained the additional information that they had agreed on. He would email a copy to Attorney Haney and Secretary Haderlie for the next meeting to discuss. Secretary Haderlie will email the Commission before the January meeting. The Commission discussed at length the price of the permit is \$100.00, the approval of neighbors or a conditional use permit would notify them. Commissioner Lau suggested having an open public meeting with citizens for input on the shipping container ordinance for the February meeting. She also mentioned the motion made at the public hearing

in February 2021 when it was recommended to City Council. The motion read: Commissioner Lau moved to make a motion to recommend to City Council to strike the last paragraph on page 4 12-A "All Shipping/Cargo containers that were illegally placed upon property in the City of Soda Springs prior to the adoption of this article are considered existing non-conforming per the City zoning ordinances with the exception of those legally placed in Light Industrial Zone (M-1), and Heavy Industrial Zone (M-2) zoning districts. Any shipping container illegally placed upon property in the City at the time of adoption of this article which does not conform to the requirements of this article shall be required to meet the requirements within 120 days after its adoption." Councilmember Hart mentioned that the list of recommendations from City Council number nine refers to rail cars; he said that they had addressed the concerns on the list that will be emailed to the Planning and Zoning Commission that they will have to consider. He expressed that the Commission needs to decide if shipping containers should be allowed or not and consider there may be push back from the citizens either way. Commissioner Lau mentioned that they are allowed in industrial zones with a conditional use permit. Still, as far as she knows, those who have shipping containers didn't apply for a conditional use permit, and they are out of compliance. She mentioned back in February that the Commission agreed to recommend to the City Council to strike page 4 12-A and enforce the code going forward. Councilmember Lau suggested that they would have twelve months to become compliant. The Commission discussed the time spent by the Commission on the amended code. Councilmember Hart recommended pausing and amending the ordinance and advising the Council of the changes. Commissioner Lau suggested that the Commission hold an open public meeting for citizen input for February. Chairman Fryar recommended Secretary Haderlie set it up for February 2022 for citizen input for the Ordinance 683 Accessory Building-shipping containers. It will be advertised on the Caribou County Sun, the city website, and Facebook.

6:35 PM-Veda Mascarenas and Pastor Nathan Sobers of the Presbyterian Church attended the meeting to clarify the Church definition. Pastor Sobers voiced that they are attending to talk about the definition of a Church 17.08.225. He expressed they have no problem with the language; they have an issue with the previous meetings noted that the Daycare center that we lease qualifies for a grandfather clause or exemption. He expressed it has been there for about thirty years. They would like to request some acknowledgment that the grandfather clause or exemption is added to the definition simply as a matter of clarity. He voiced it was noted in the minutes that it is grandfathered in but not in the definition. He expressed concern that the daycare center would not be grandfathered in at all; they are just asking for some language that would acknowledge that the Creative Center has been grandfathered in; either by name or by date, stating, "Organizations that have those prior to this date are grandfathered in." Attorney Haney indicated that it had already been done; they did it in 1787, they put it in the Constitution of the United States of the grandfather clause. He mentioned that no government could affect anything already in existence; the daycare center is already there. Mrs. Mascarenas said to save headache, it would be wise down the road in another fifteen to twenty years, and it comes up again you could look at the definition and tell who is grandfathered into that. Attorney Haney mentioned that if someone proposed to build a new church, not something already in existence. Pastor Sobers expressed that the last two

sentences of the definition are where they have gotten hung up on. He mentioned they understand this is looking forward and not backward, but at the same time, it feels like the possibility exists the future Council or Commission could say we need to revisit this. Commissioner Lau voiced we changed the definitions of preschool and daycare, and they are no longer considered a school with the amended definitions. Pastor Sobers and Mrs. Mascarenas expressed that they were okay with explaining the meaning.

Commissioner Lau questioned Attorney Haney about the school being a part of the church definition. Vice-Chairman Worthington questioned Commissioner Lau about what she was trying to point out. Commissioner Lau explained you couldn't use a building for the category of your structure because it is a school. She questioned if you're renting a building and because it is in a school and you are renting a room in the school building, it does not need a business license? Commissioner Hopkins voiced that we are trying to make sure people cannot come into the community to say it is a church, but they are really running a business and just set it up as a religion. Vice-Chairman Worthington pointed out that it could be any business. Commissioner Lau questioned the Hooper School building, is it a school or just a building? Councilmember Hart stated that it is Hooper Business Plaza. Vice-Chairman Worthington voiced that it has been shut down by the State Board of Education and can no longer be a school; he also mentioned that it is going up for sale.

Commissioner Lau mentioned the school definition and if it could be separated and made into three sentences. Attorney Haney stated "as regulated by the State Board of Education" should be moved up to "including college." Commissioner Lau mentioned number two says "businesses whose primary purpose is the teaching of physical culture, music or dancing." Commissioner Johnson questioned what is the difference of a vocational and trade school? Attorney Haney mentioned they are the same thing; he does not remember crossing out "or." Attorney Haney noted that we have lost meaning to the sentence with or crossed out. Vice-Chairman Worthington mentioned that it needs to be clarified. Attorney Haney stated leave "or" in the sentence. Chairman Fryar explained it should read: A place of general instruction in the arts and sciences including college as regulated by the State Board Education, but excluding institutions such as business colleges or vocational schools, or businesses whose primary purpose is the teaching of physical culture, music or dancing, unless a home occupation, trades or industries, or the combination of any two (2) or more of these see section 17.08.440 Home Occupation. Commissioner Lau agreed and mentioned that teaching physical culture, music, or dance in a dwelling or residence may be considered a home occupation and regulated by the code number. The Commission discussed the school wording of the definition and home occupations at length.

Vice-Chairman Worthington motioned with the corrections noted to accept the definition of school as noted, A place of general instruction in the arts and sciences including college as regulated by the State Board Education, but excluding institutions such as business colleges or vocational schools, or businesses whose primary purpose is the teaching of physical culture, music or dancing, unless a home occupation, trades or industries, or the combination of any two

(2) or more of these see section 17.08.440 Home Occupation. Commissioner Erickson seconded the motion. All in favor, motion carried.

Vice-Chairman Worthington was excused at 7:20 PM.

Commissioner Lau voiced that on daycare Center 17.08.263, the first paragraph and first sentence may need to be removed. Attorney Haney mentioned it needs to be cleaned up, and the first sentence needs quotations on both sides of the sentence because they are alternate names. Commissioner Lau said combining 17.08.262 daycare and 17.08.263 daycare Center and 17.08.263 make a better name for the daycare center to be daycare facility. Chairman Fryar noted the different daycare and child care types are supposed to be in alphabetic order. Attorney Haney will correct it and make it in alphabetic order. Commissioner Lau noted that the first sentence needs quotations around it; "A family home nursery school, family home daycare, preschool." The Commission agreed the types of daycares should be in alphabetic order.

Commissioner Lau explained she did some research on adult daycare; for example, you need to take a loved one to an adult daycare because you need to go to work or an appointment. She mentioned that there is also an adult care home for the disabled group setting in single dwelling homes, provided room and board, meals, housekeeping, laundry, and sometimes help with basic hygiene, medication and behavior management. She mentioned these adult care homes are situations where you would not want them living alone. Chairman Fryar questioned if someone wanted to build another care facility, would they need to apply for a conditional use? City Engineer/Planner Skinner mentioned they are allowed use in R-3, C-1, and C-2. He stated that they are required to have a conditional use in R-1 and R-2. Attorney Haney recommended adding a definition for Assisted Living because it is a more common term. Commissioner Lau pointed out with the current definition 17.08.600; it becomes a nursing home/convalescent home for two or more individuals.

The Commission will discuss Ordinance 683-shipping containers accessory buildings with City Councils notes and recommendations for the next meeting. The Commission will have an open public input for Ordinance 683-Shipping containers accessory buildings in February 2022. Commissioner Hopkins voiced that it would be great to hear input from those it will affect. The Commission will elect officers for the year. Councilmember Hart mentioned the new Planning and Zoning member would be Chris Guedes

7:39 PM Commissioner Hopkins motioned to adjourn the meeting. Commissioner Erickson seconded the motion. All in favor, motion carried.