

MINUTES OF THE MEETING OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF SODA SPRINGS, CARIBOU COUNTY, IDAHO HELD FEBRUARY 9, 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:

Jon Goode, Councilmember
Alan Skinner, City Planner/Engineer
Gregg Haney, City Attorney
Andrea Haderlie, Secretary
Brock & Paige Byram
Ryan Carpenter
Dennis Nichols

EXCUSED:

Demian Guthmiller

Due to the threat of COVID-19, physical distancing requirements, and the limited space in City Hall, the meeting was limited to a maximum of 16 in-person attendance but open to all public by GoTo Meeting and Telephone Conference. As a precaution, due to the threat of COVID-19, we are limiting attendance to public gatherings and access to City Hall.

6:00 PM Chairman Fryar called the meeting to order. Commissioner Johnson moved to dispense with reading the January 12, 2021 minutes and approve the minutes as written. Commissioner Erickson seconded the motion. All in favor, motion carried.

6:03 PM Chairman Fryar opened the public hearing to consider an amendment to the Zoning Ordinance of the City as contained in Chapter 17, specifically the accessory building definition 17.08.020 and the addition of a new section 17.70 of the Soda Springs Municipal Code regarding Shipping/Cargo Containers being allowed as Accessory Buildings in Neighborhood Commercial Zone(C-1), Community Commercial Zone(C-2), Service Commercial Zone(C-3), Agriculture Zone(A-1, A-2), Light Industrial Zone(M-1), and Heavy Industrial Zone(M-2), which would require a Conditional Use Permit also relating to the placement and regulation of Shipping/Cargo Containers as Accessory Buildings in non-residential zones along with additional requirements for temporary placement and permanent placement. Chairman Fryar questioned Secretary Haderlie if any written comments/questions were received? Written questions received by email were from Jeffery R. Langedyke of 1542, Larsen Rd. Mr. Langedyke questioned: How many containers could one business/piece of property have? Who is responsible for enforcing this ordinance, and how exactly would that be done? Chairman Fryar questioned if the Commission had reviewed the comments. Chairman Fryar opened the public hearing for comments from the audience.

See attached Notice of Public Hearing for more details

Ryan Carpenter of 240 Court Street; commented that he feels like the proposed ordinance is an egregious overstep, he doesn't think that it is worded appropriately, it makes the ordinance pretty vague, he pointed out; "The following structures are not considered or allowed as Accessory Buildings: Railroad Cars, Truck/Semi Trailers, Mobile Homes, Construction Trailers, Recreational/Travel Trailers or Vehicles, a Bus or any portion thereof, vehicles and similar prefabricated items and structures originally built for purposes other than the storage of goods and materials." He feels it does not make it clear if they are allowed or not allowed. The other issue he has is there is no grandfather clause. He mentioned it is settled case-law, preexisting nonconforming land use that lawfully exists prior to the enactment of the zoning ordinance that is maintained after the effective date of the ordinance. He mentioned several different court cases as followed Glenberry VS Bird in 1983; Taylor VS Bonnersferry; O'Conner VS Moscow in 1949 case law. He thinks what we have a conflict of interest telling people in town what they have is illegal; that is not right from our point of view, this ordinance will not affect him personally, but he sees an overstep with the ordinance for the business owners and people affected by this ordinance. He believes in personal property rights for all. He recommends that the wording needs to be more sustained and add a grandfather clause.

Paige Byram of 150 Springview Drive supports allowing shipping containers on commercial property. She feels it will help keep local businesses cleaned up and organized. Allow businesses to keep following the city rules while having space to keep items that owners deem necessary on their property without the expense of building a new building or adding on to the existing buildings on the property. She feels a conditional use permit is a minimal cost versus adding a building. She mentioned larger cities are using shipping containers for many other things and uses; change is not always a bad thing; she understands there needs to be rules and regulations as they are placed on the property. She talked with other businesses that currently have shipping containers, and they use them to store seasonal products to sell and help keep the property clean.

Ryan questioned if an accessory building can only be defined like this? Are we trying to outlaw Railroad Cars, Truck/Semi Trailers, Mobile Homes, Construction Trailers, Recreational/Travel Trailers, or Vehicles? Is this ordinance saying that we cannot have these? Chairman Fryar replied that the only place they are allowed, per city code, is in industrial M-1 & M-2. Ryan replied that "The following structures are not considered or allowed as Accessory Buildings: Railroad Cars, Truck/Semi Trailers, Mobile Homes, Construction Trailers, Recreational/Travel Trailers or Vehicles, a Bus or any portion thereof, vehicles and similar prefabricated items and structures originally built for purposes other than the storage of goods and materials." with that it is saying that these will be outlawed even in these zones. Attorney Haney replied do you know what an accessory building is? Ryan replied that yes, he does. Attorney Haney commented that we would not change what already exists because these items have never been precluded in Soda Springs; the only thing precluded was shipping/cargo containers since 1987.

All the other items were never precluded until this ordinance will become effective. Like at the school and the railroad car they use for storage will be grandfathered. Commissioner Hopkins questioned they would have to be there after 1987? Who kept track of that? Attorney Haney replied no, just the shipping/cargo containers would be after 1987; these other items would be when this ordinance would come into effect. Commissioner Hopkins questioned we have people with connex in town. They are using them for storage, were not there pre-1987, they now have to come and apply for a conditional use permit, from now forward all the Railroad Cars, Truck/Semi Trailers, Mobile Homes, Construction Trailers, Recreational/Travel Trailers, or Vehicles would not be allowed. He questioned from 1987 till now, and we did not enforce the current code? City Engineer Skinner commented that we enforced some of it. Commissioner Hopkins questioned, now we are going to go back and say we didn't enforce the code, and now you need to come and ask us and apply for a conditional use permit for something that you have had on your property for the last ten years, 15 years, and 20 years and still use it? Chairman Fryar questioned if there was a statute of limitations on enforcing an ordinance and not enforcing an ordinance before there are issues? Attorney Haney explained enforcement is one of the most expensive things they do, and Soda Springs has not had the resources in the past to enforce code, it becomes a monitory issue at times, other projects such as bringing the sewer and water up to code, and it has cost millions of dollars. If it is against the law, you don't have to enforce the law to enforce it later. Any violation of the Soda Springs code is a criminal offense. There is no statute of limitations. Paige commented, what is wrong with grandfathering in the ones already in place and moving forward, enforcing the current code, and keeping a record of it? Attorney Haney questioned people who have placed the shipping/cargo containers illegally should get a pass after placing them illegally versus citizens placing them legally? Paige commented they had not been enforced for the past 20 years. Attorney Haney commented that when City Council says we want to enforce this, they proceed to enforce it. We are not denying people that already have shipping/cargo containers. They will have to apply for a conditional use permit to meet the shipping/cargo containers' criteria. The Commission and the audience discussed at length enforcement of the code; the conditional use permit versus an allowed use; not allowed in residential-only for emergency use and cleaning up code enforcement.

Vice Chairman Worthington voiced and would like it noted; he was against any shipping/cargo container in a residential area. In C-2, the shipping/cargo container of Brock & Paige Byram approved of it because it looks nice and has been modified to fit a need for it. Let's talk about the corner lot across Gonzalez restaurant; those are the areas of our town we need to protect. We have multiple highways that bring people into our City and set it up; the East of the City looks horrible, the west of the City awful but getting better. Then we have some eyesores in this direction. He took his hat off to Brock & Paige for doing it right, not knowing there was an ordinance against shipping/cargo containers. Let's be very careful moving forward. The Commission and audience discussed at length property rights, code enforcement, hardships on property owners to remove shipping/cargo containers, shipping/cargo containers in residential and removing them, area of impact with residential homes on A-1 and A-2.

Chairman Fryar closed the Public Hearing at 6:46 PM and opened it up to discussion before the Commission. Chairman Fryar questioned is there a burden on those needing to remove

shipping/cargo containers, paint them, and the conditional use permit? How many are in M-1 & M-2 with a conditional use permit? He drove around and realized there are several all over the City. The Commission discussed the burden on removing shipping/cargo containers, painting shipping/cargo containers, who are doing code enforcement, the process of enforcement, conditional use permits versus requirements, fines for noncompliance, and time limits to become compliant, adding a grandfather clause. The Commission informally voted on conditional use on any residential property. Commissioner Erickson voted no to residential, Vice-Chairman Worthington voted no to residential, Commissioner Hopkins voted yes due to there may be unique needs for it, Commissioner Johnson voted no to residential but felt like there is an exception to property in A-1 & A-2. Attorney Haney recommended allowing the use of variances. The Commission agreed variances could be used for unique settings. Attorney Haney mentioned he could add it to another section in the city code. The Commission discussed at length the conditional use permit and cost per application. Chairman Fryar questioned the Commission which way they would like to go? Go back to the drawing board or make a motion to move forward with the proposed ordinance and conditional use. After a lengthy discussion, the Commission agreed on a recommendation. 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." Commissioner Hopkins seconded the motion. All in favor, motion carried.

8:32 PM Chairman Fryar opened the public hearing to consider an amendment to the Zoning Ordinance of the City as contained in Chapter 13.24 – Solar Energy Systems, providing for the installation and permitting regulation of Solar Energy Systems within the City. This Ordinance requirement shall apply to all Small Scale solar energy systems (residential, commercial, multi-family, and condominium) modified or installed after this ordinance's effective date.

See attached Notice of Public Hearing.

Chairman Fryar questioned Secretary Haderlie if any written comments/questions were received? Secretary Haderlie received no written comments from the public. Chairman Fryar opened the public hearing for comments from the audience. Paige Byram of 150 Springview Drive commented she was for the solar panel ordinance. It benefits our community as long as they can stay on top of rooftops, and it is an eco-friendly energy source. We are growing and always changing. As long as they are done correctly and professionally, they are viable options.

Chairman Fryar closed the Public Hearing at 8:38 PM and opened it up to discussion before the Commission. Attorney Haney noted the changes from the previous meeting are highlighted in yellow. He also talked to a gentleman at the State of Idaho of Public Safety, and he recommended 12 volts or less and not attached to the grid; they would be alright. Commissioner Lau voiced that she still feels it would require a building permit, even a small-

scale system. Attorney Haney stated that small scale solar panels couldn't be attached to the power grid, the house, or electrical panel; this is a safety issue to make sure it's not connect to the cities grid. The Commission discussed small-scale solar panels not connected to the grid, solar panel permits, inspections, and safety precautions to include all panels and solar thermal units. Vice-Chairman Worthington moved to make a motion to recommend to City Council to approve the proposed ordinance 684 as written. Commissioner Johnson seconded the motion. All in favor, motion carried.

Caribou County Planning and Zoning Administrator Joanna Ashley emailed a copy of the application for conditional use for Jonathan and Kristine Housley. This property falls within the City's area of impact (AOI), and per the city code, in the area of impact, the proposed house exceeds the allowed height and is required to apply for a conditional use permit. She emailed a copy of the staff report with her findings and whether the application meets the code's requirements for approval. Councilmember Goode recommended a safety issue to ensure the fire department can reach the top of the house in case of an emergency due to height. The Commission discussed at length the height of 36 FT., and emergency services would have to pump water to the structure. Councilmember Goode suggested making sure all safety aspects have been addressed for a building that height. City Planner Skinner questioned who would write the letter to the county planning and zoning of the cities recommendations; it was decided to have City Council make comments if they choose to at their next meeting and have a letter drafted by City Council. Vice-Chairman Worthington moved to make a motion to indicate Councilmember Goode safety concerns and move this to City Council for their signature and direct this to City Planner Skinner and Attorney Haney to draft a letter. Commissioner Erickson seconded the motion. All in favor, motion carried.

9:08 PM Commissioner Johnson motioned to adjourn the meeting. Commissioner Hopkins seconded the motion. All in favor, motion carried.