



**PLANNING & ZONING COMMISSION
DRAFT MEETING MINUTES
MEETING HELD VIA ZOOM
TAOS SKI VALLEY, NEW MEXICO
MONDAY, SEPTEMBER 13, 2021 1:00 P.M.**

I. CALL TO ORDER & ROLL CALL

Commission Chair Tom Wittman called the meeting to order at 1:00 p.m. Roll call was taken, and a quorum was established. Commission members present: Henry Caldwell, Richard Duffy, Yvette Klinkmann, Susan Nichols, Chris Stagg, Tom Wittman, and Jim Woodard. Staff members present: Planning Director Patrick Nicholson, Village Administrator John Avila, Village Clerk Ann Wooldridge, Building Inspector Jalmar Bowden, Public Works Director Anthony Martinez, and Attorney Susan Baker.

II. APPROVAL OF THE AGENDA

MOTION: To approve the agenda as presented

Motion: Commissioner Stagg Second: Commissioner Woodard Passed: 7-0

III. APPROVAL OF THE MINUTES OF THE JUNE 7, 2021 P&Z COMMISSION MEETING

MOTION: To approve the minutes as presented

Motion: Commissioner Woodard Second: Commissioner Stagg Passed: 7-0

IV. OLD BUSINESS

V. NEW BUSINESS

A. PUBLIC HEARING: Consideration to Approve a Front Yard Setback Variance for a Residence Carport at 3 Phoenix Switchback

Director Nicholson explained that in Zoning Ordinance 17-30 Section 11:4 Supplemental Regulations within a Residential Zone, the Minimum Setback requirements for a Front Yard Setback are as follows:

Front yard: twenty-five feet or average of the depth of the front yard depth of the adjacent yards on either side of the dwelling, whichever is less. The front yard is the side from which primary access is provided.

Representatives of the homeowner from Modulus, who have designed the carport, spoke about the proposed project. They said that the owners want to have better and safer access from the vehicle to the front door. The proposed carport would be attached to the house with a deck on the top of the carport. The driveway width would not change as the edge of the driveway is already at the property line. Snow storage on the property should not change. Snow currently falls off the property onto Phoenix Switchback from this property and the Village Public Works crew cleans the road. The amount of snow falling to the road should not increase. The presenters said that there would be no negative impact on neighbors.

PUBLIC HEARING: Commissioner Chair Wittman opened the Public Hearing. Speaking in favor were the two representatives from Modulus, Vince Aragon and Christian Harper, who said that this was a good and much-needed project for the homeowners. Homeowner April Bender also spoke in favor of the project. No one spoke against. The Public Hearing was closed.

MOTION: To Approve a Front Yard Setback Variance for a Residence Carport at 3 Phoenix Switchback

Motion: Commissioner Duffy Second: Commissioner Stagg Passed: 7-0

B. PUBLIC HEARING: Consideration to Approve a Conditional Use Permit for a Commercial Restaurant at 1 Thunderbird Road

Director Nicholson explained that the subject property is located at 1 Thunderbird Road and is within the Core Village Zone (CVZ). The purpose of this zoning is to recognize the unique importance and characteristics of properties near and adjacent to the base Village of Taos Ski Valley and to provide for:

1. The enhancement of the character of the CVZ area through best practice town-center design and planning principles.
2. The promotion of uses which attract/serve both tourists and the local community.
3. The encouragement of high quality and sustainable development.
4. The promotion of more intense, compact, and integrated development.
5. The timely and orderly development of the CVZ's proposed system of roads, utilities, drainage, and trails/paths.
6. Parking flexibility so that all parking does not have to be provided on site.
7. The encouragement of pedestrian walkways and vehicle-free areas.
8. Path/trail connectivity to the proposed river walk and nearby trails and open space.
9. A flexible approach, through the use of performance standards, to implement the goals of the Village of Taos Ski Valley's plan.
10. The preservation and enhancement of the unique visual characteristics of the Village of Taos Ski Valley.

Director Nicholson said that the proposed development, where applicable, meets the intentions of the above.

The applicant, Christof Brownell, explained that the Brownell Chalet, at 1 Thunderbird Road, has been a Bed & Breakfast since 2005. He has applied for a beer and wine license through the Regulation & Licensing Department, and he said that it requires having indoor seating and table service. The existing building will not be expanded, but the interior may need to be changed to accommodate the indoor seating. Mayor Brownell said that they plan to offer the same menu items that they currently offer at Der Garten, the outdoor food truck on the property.

PUBLIC HEARING: Commission Chair Wittman opened the Public Hearing. Speaking in favor were the applicant, Christof Brownell, homeowner Alessandra Reifslager, and TSVI's Peter Talty, who said that as a voter and speaking for TSVI, having more restaurants and amenities is a good addition to the Village Core. No one spoke against. The Public Hearing was closed.

MOTION: To Approve a Conditional Use Permit for a Commercial Restaurant at 1 Thunderbird Road

Motion: Commissioner Woodard Second: Commissioner Nichols

Commissioner Nichols asked whether parking was adequate on the property and whether an increase in traffic was expected. Mayor Brownell answered that the indoor capacity would be 30 occupants and that there were 12 existing parking spaces on the property currently. Director Nicholson said that parking was adequate for the indoor capacity.

Commission Chair Wittman called for a vote. Passed: 7-0

C. PUBLIC HEARING: Consideration to Recommend a Rezone request for Bull of the Woods Lots B & C

from Special Use Zone to Residential Zone

Director Nicholson said that staff recommends postponement of this item to October 4, 2021, the next P&Z meeting.

MOTION: To postpone this item until the October 4, 2021 P&Z meeting

Motion: Commissioner Woodard Second: Commissioner Nichols Passed: 7-0

D. PUBLIC HEARING: Consideration to Recommend to Council Approval of Ordinance No. 2022-30 Amending Village Ordinance No. 17-30 to Include Provisions Regarding Cannabis Establishments and Uses and Amending the Village’s Official Zoning Map to Create a Cannabis Overlay Zone District

Attorney Baker explained that the proposed ordinance amendments create zoning regulations regarding the use, sale, production, manufacturing, and cultivation of cannabis. According to the New Mexico Cannabis Regulation Act (“the Act”), the Village has the authority to regulate the “time, place and manner” of cannabis uses within the Village’s jurisdictional limits.

Village staff proposes creating a “Cannabis Overlay District” where certain retail establishments would be allowed as a permissive use. The Cannabis Overlay District is defined in the proposed amendments to our zoning regulations, Ordinance No. 17-30, Section 17. Creation of this District also requires amendment to the original Zoning Map, Ordinance No. 17-30, Section 10.

Overlay maps were presented defining the proposed Cannabis Overlay District, with options for retail uses exclusively in Amizette, and then a proposal for additional retail uses within designated portions of the Village Core. Because the Village Core District Zoning in Ordinance No. 17-30 currently requires that all commercial and retail uses obtain a conditional use permit, the same would be true for a cannabis establishment if the Cannabis Overlay District is approved for the Core. From a legal standpoint, staff would discourage the use of conditional use permits for cannabis operations in general because of the potential legal scrutiny on both sides of the fence. Staff prefers to allow retail cannabis establishments as a permissive use in certain zone districts, or designated areas, as defined by the overlay maps. The current proposals allow for retail cannabis establishments as a permissive use in the “C-B Commercial /Business Zone” District.

Consumption areas are treated differently than cannabis retail establishments in the proposed draft ordinance amendments. They will require a conditional use permit in the “C-B Commercial /Business Zone” District because they have more potential impact on neighboring properties, especially if customers are smoking marijuana on an outside patio. Retail establishments are not allowed in the Core in the draft ordinance. This proposal could be changed to allow consumption areas in the C-B Commercial /Business Zone, excluding the Core, as a permissive use. Alternatively, consumption areas could be barred altogether. The New Mexico Cannabis Act allows for local governments to ban consumption areas, but not cannabis establishments in general. In addition, consumption areas require a separate State license.

Cannabis establishments for manufacturing, production or cultivation are not allowed in the C-B Commercial /Business Zone or Core. In addition, no cannabis establishments are allowed in the Residential Zone or as a Home Occupation. They are proposed to be allowed in the Industrial Zone, but only as a conditional use due to their potential impact on surrounding neighbors.

PUBLIC HEARING: Commission Chair Wittman opened the Public Hearing. No one spoke in favor of recommending the proposed Ordinance to Council. Speaking against was Alessandra Reifslager who said that Amizette is the entrance to the Village and as such it should add character and charm to the Village, not detract by having cannabis retail establishments. She said that all areas of the Village should have equitable treatment. TSVI’s Peter Talty asked why only certain portions of the Core Village Zone were

selected for the proposed Cannabis Overlay District. The Public Hearing was closed.

MOTION: To approve recommendation to Council with Option A as the District, which would be only the Amizette commercial lots.

Motion: Commissioner Stagg Second: Commissioner Wittman

Discussion followed. Commissioner Stagg said that any TSVI property would necessarily be excluded because the TSVI liquor license covers all TSVI properties. Various Commissioners commented that the Core would be better because of having foot traffic, that having potential customers drive to Amizette could be a safety problem, that perhaps the entire Core Village Zone should be considered, and that this proposal seemed to be moving too quickly.

Commission Chair Wittman called for a vote. Failed: 2-5 (Commissioners Caldwell, Duffy, Klinkmann, Nichols and Woodard voting nay.)

MOTION: To approve recommendation to Council with Option B as the District, which would be the Amizette commercial lots and certain Core Village Zone areas, as shown in the proposed map, and to outlaw consumption areas.

Motion: Commissioner Stagg Second: Commissioner Woodard Passed:6-1 (Commissioner Duffy dissenting.)

VI. MISCELLANEOUS

A. Director Nicholson reported that an AmeriCorps member would be coming to work as an intern for several months, concentrating on trails planning and execution, and on Firewise mitigation efforts.

B. TSVI Peter Talty said that the Kachina Master Plan submission to the Village had been withdrawn. He said that this was not meant to be disrespectful of the Village, only that the involved parties wished to move forward on the plans described in the Plan. He announced a TSVI Open House via Zoom to take place on Saturday, October 2, 2021 at 3:00 p.m. about the Kachina Master Plan. Mr. Talty explained that Design Workshop would present on behalf of the property owners and that comments and input are welcome.

VII. ANNOUNCEMENT OF THE DATE, TIME & PLACE OF THE NEXT MEETING:

The next meeting of the Planning & Zoning Commission is scheduled for October 4, 2021 at 1:00 p.m. via Zoom.

VIII. ADJOURNMENT

MOTION: To adjourn.

Motion: Commissioner Woodard Second: Commissioner Caldwell Passed: 7-0

The meeting adjourned at 2:20 p.m.

Tom Wittman, Chairperson

ATTEST: _____
Ann M. Wooldridge, Village Clerk