

**MINUTES**  
**CARBONDALE PLANNING AND ZONING COMMISSION**  
Thursday July 26, 2018

**Commissioners Present:**

Michael Durant, Chair  
Yuani Ruiz, Chair Pro Tem  
Nick Miscione, 2<sup>nd</sup> Alternate  
Ken Harrington

**Staff Present:**

Janet Buck, Planning Director  
Mary Sikes, Planning Assistant

**Commissioners Absent:**

Jay Engstrom, 1<sup>st</sup> Alternate  
Jennifer Gee DiCuollo  
Jeff Davlyn  
Marina Skiles

**Other Persons Present**

Mark Chain, 811 Garfield Avenue  
Angela Loughry, 515 Crystal Circle

The meeting was called to order at 7:00 p.m. by Michael Durant.

**July 12, 2018 Minutes:**

Ken made a motion to approve the July 12, 2018 minutes with the change of those attended to include Mark Chain. Yuani seconded the motion and they were approved unanimously.

**Public Comment – Persons Present Not on the Agenda**

Mark Chain outlined his memo of UDC thoughts and issues.

**Motion – Special Use Permit – Sopris Labs LLC**

Yuani made a motion to approve the Special Use Permit for Sopris Labs LLC. Ken seconded the motion and it was approved unanimously.

**PUBLIC HEARING – Childcare Zone Text Amendment**

Janet explained the proposed changes to the code in the Land Use Table, 4.2-1 of the Unified Development Code (UDC) that are in the packet. She said that this had been discussed with the P&Z and the Board and that the zone text would add daycare with seven or more children as a special review in the CRW and the Industrial Zone Districts. She continued by explaining the use specific standard, which creates standards for Child care facilities. Janet stated that the first one is specific to the Industrial Zone District for buffering of the play area through the use of fencing and landscape screen be required. She said that the childcare would be required to notify clients in writing of the nature of the Industrial Zone District. Janet stated that the drop off would have to be

located on site. She added that the Commission might want to think about the drop off requirement for all zone districts.

Janet stated that the other change was regarding parking and that Staff looked at what other communities did. She said that the requirement would be one parking space per employee and one per classroom.

Janet said that one of the challenges in the Industrial Zone District was the distancing from marijuana facilities. She stated that she knew that the Commission wanted to preserve the Industrial Zone District for industrial uses. She explained that the distancing requirements are in the licensing section of the Municipal Code, which reads that for all marijuana facilities require a five hundred foot distance.

Janet stated that what she is recommending in her Staff report is that the Commission make a recommendation to the Board that the licensing section of the code be amended to remove this distance between daycare and medical facilities, only in the Industrial Zone District. She said that it would go hand in hand to the recommendation of the UDC.

Ken commented that making the requirement for a drop off for childcare on site in all zone districts would make the one on Main Street non-conforming. He added that he didn't think it might be needed in other districts where there wasn't as much traffic as in the Industrial Zone District.

Yuani said that he agreed with Ken and he made a reference to Sopris Montessori, which has their drop off partially on the public ROW. He said that this could be an issue for them as well.

Michael stated that he too was concerned.

Angela Loughry, 515 Crystal Circle stated that she is here to encourage the P&Z to adopt these amendments to the UDC. She said that the point of what has been written will be helpful to encouraging childcare facilities and helping them find a place to be. She stated that she appreciated the drop off issue because we do have some existing non-conforming in residential areas. She said that she could speak to one daycare in the Industrial Zone District and that they have no issue with noticing to their clients regarding the uses around the current location.

Angela stated that the new parking standards is a wash with the existing standard and that when you do the math that it ends up being about the same amount of parking give or take. She said that she strongly supports increasing the zone districts where daycare is allowed.

### **Motion to close the Public Comments**

A motion was made by Yuani to close the Public comments. Ken seconded the motion and it was approved unanimously.

Ken questioned what the purpose of one per classroom in addition to one per employee would be.

Janet explained that Staff collected this information from other communities. She said that she thought that is was taking into account the possibility of parents or visitors.

Yuani stated that his opinion has not changed much and that this is probably not the proper use for industrial zoning. He said that we are being asked to make recommendations to the Town Trustees and that because there are only four members, the vote could be two and two and we could be deadlocked. He said that we could bump this up as it sits right here or recommend that no changes be made but that if they want to make changes that we have a number of recommendations that they should consider. He said that this is the question that should be discussed.

Ken said that he agreed that childcare should not be in Industrial Zones. He stated that the safety concerns could be managed with the Special Use Permit. He said that there is a limited amount of industrial land and that the more you allow non-industrial uses that industrial uses will get crowded out. He said that industrial uses provide jobs and economic benefits to the community. He said that there are other non-industrial uses that have been allowed in the industrial areas so one could argue how would child care hamper other uses in the Industrial Zone Districts.

Nick commented that the other uses like restaurant or bars are not in the same category as child care.

Ken stated that a viable alternative would be an overlay zone district, which would make conditions to prevent having a child care on every property. He said that it would be more complex and that it could have rules to say that it has to be on the outside edge, would be allowed.

Michael said that he agrees with Yuani and that he would like to get Staff's suggestion for other alternatives. He said that he remains confident that this Commission, or the greater Commission, is still opposed to child care in the Industrial Zone District and that it just doesn't make sense. He said that this all started out with a single Trustee trying to accommodate a single advocate for a single piece of land. He said that we went to the Trustees to make our case. Michael said he told the Mayor that if you want this to happen then you can make it happen because you are the deciding Board but that the P&Z does not support this. Michael stated that the Mayor thanked him for the advice and that this is Staff's attempt at resolving what this Commission still believes is a really dumb idea for a single parcel. He said that this is the first step in our UDC becoming the spaghetti code that the UDC replaced.

Michael said that the question is do we recommend this to the Trustees wholeheartedly or do we come up with some other alternative that says that we still think that this is a dumb idea but that this is Staff's best attempt at providing you with what you asked for.

Yuani stated that he wants the record to reflect that some of the P&Z members that are not here have supported the idea and that it is not some unanimous thing, he said that there is support for the idea. He said that there is a general thought from the Commission that the Industrial Zone District may not be the best place for child care facilities. He said that we are dealing with the land use and that, from our lens, we have some concerns regarding our purview of what we deal with.

Michael concurred with Yuani.

Nick read the following;

Section 2.4.1.C.3.b. states amendments to the UDC may be approved if the Town finds that all of the following approval criteria have been met:

1. The proposed amendment will promote the public health, safety, and general welfare;

Nick stated that the zone text amendment has to meet all of the criteria. It does not meet this one.

2. The proposed amendment is consistent with the Comprehensive Plan and the stated purposes of this Unified Development Code; and

Nick stated that the zone text amendment is not consistent with the Comprehensive Plan.

3. The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions.

Nick stated that number three might qualify because it is necessary because of changing conditions or social or economic conditions.

Ken stated that we have three choices: recommend not approving it, send it on without a recommendation, or approve it. He said that he was leaning towards sending it on without a recommendation with an outline of concerns.

Yuani stated that if we are asked to give a recommendation then don't we need to do so either way.

Janet read the following from the code;

“Following a public hearing the Planning Commission shall listen to all of the evidence and shall vote to recommend approval, approval with modifications or denial of the text amendment or continue the public hearing.”

Janet said then Staff forwards the Commission's recommendations to the Board and then the Board considers the recommendations of the P&Z.

Janet said that technically you may recommend denial of the idea of child care in the Industrial Zone District and continued by saying, however if the Board's inclined to approve it, then these amendments are what the Board should consider looking at.

Further discussion ensued about the process.

Nick stated that he wants to recommend denial, because there are too many conditions that this amendment would have a deleterious effect on the community at large. He said he also doesn't see how it positively impacts the Comprehensive Plan. He said that changing conditions is the only thing he could consider but that he doesn't see conditions changing to that level and if they were changing to that level that he doesn't know if the Comp Plan would support those changing conditions.

Ken said it sounds like there isn't anyone here recommending approval.

Michael agreed.

Yuani said that he would like to discuss denial findings, and that Nick has a good finding. He said we need the wording for the UDC amendment recommendations that are in the packet and how we send those up.

Ken asked what the Board would receive in the packet if the Commission recommends denial.

Janet stated that whatever the P&Z directs me to include in the packet. She said that she would suggest the minutes, what you recommend a denial of, so that they would see the redlines and the Staff report. She said that she would try to keep the whole packet intact.

Ken stated therefore you have outlined the changes that should be made.

Janet said yes.

Yuani said that he thinks we all agree on the amendments that we need to make.

Nick suggested that for the first point that the wording could be that the following criteria have not been met. He read criteria 1 and 2 again.

Yuani said that he agrees regarding those two criteria.

Further discussion ensued on the wording of the motion.

Michael said that he was looking at Mixed Use (MU). He said that one of the things that the Mayor asked us to do is to look at districts where we would want child care. He said that, according to the use table, in the MU Zone District, both fewer than seven children

and more than seven children are special uses. He said that he isn't sure how this fits into this public hearing.

Janet said that you can look at it as it was noticed very broadly.

Ken said one of the things we haven't talked about is in Commercial/Retail/Warehouse (CRW) zone district, which he wouldn't have a problem with.

Michael stated that there could be a recommendation to the Board that we loosen things up in CRW and MU as a conditional use.

Ken stated that if it were seven or more children that it is special use across the board. He said that he would be ok with seven or less children being a conditional use across the board.

Michael said that in CRW it is not allowed for fewer than seven children and it is a special use for seven or more children. He said that he would be in favor of converting it to a conditional use for fewer than seven children in all commercial and MU districts across the board.

Janet brought up the Public Facility Zoning.

Ken said that the smaller one is not permitted in PF but a larger one is.

Yuani asked if we are in agreement that in PF that it should be allowed for more than seven children but not less than seven.

Michael said yes that in Public Facilities fewer than seven children is not permitted and that seven or more requires a special use.

Janet explained that the parking recommendation would be one space per employee and one per classroom.

Michael said that we have four components;

- Recommend approval of adding child care in all commercial districts including Public Facility for fewer than seven children as a conditional use and greater than seven as a special use.
- Recommend denial of adding child care in the Industrial Zone District based on two of the three findings that have not been met.
- Recommend approval to the changes to the parking regulations as defined in the Staff report.
- Should the Board elect to add child care in the Industrial Zone District, that consideration should be given to Staff's recommendation of adding use-specific standards.

### **Motion**

Yuani made the motion to recommend the four components outlined. Nick seconded the motion and it was passed unanimously.

Yes: Michael, Yuani, Ken, Nick

No: none

### **P&Z Interviews**

Michael explained that we have two long-standing Commissioners that are leaving us. He said that it has always been the practice that the alternates move up to full voting members. He said that Jay and Nick have served us well as alternates.

### **Motion**

Ken made a motion to recommend Jay and Nick as regular voting members of the Planning Commission. Yuani seconded the motion, the motion passed unanimously with Nick abstaining.

The Commission then interviewed Robert Comey, Jade Wimberley and Tristan Francis.

The Commission postponed making a recommendation tonight. They wanted to invite Nicholas DiFrank, who had a family emergency and could not make it tonight, to interview at the August 16, 2018 meeting.

### **Staff Update**

Janet said that she had included the Quarterly Administrative Report for the Planning Department in the packet.

Janet stated that the contract with Clarion has been signed for the modeling and that she will be meeting with them next week to decide properties which will be modeled.

Janet noted that the teacher housing open house is on August 1 @ 4:00. She said that she went in the units and they are incredible.

### **Commissioner Comments**

No comments.

### **Motion**

A motion was made by Ken to adjourn. Nick seconded the motion and the meeting was adjourned at 9:07 p.m.