

# RECORD OF PROCEEDINGS

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## TOWN OF DILLON PLANNING AND ZONING COMMISSION

### REGULAR MEETING WEDNESDAY, June 4, 2014 5:30 p.m. Town Hall

#### **CALL TO ORDER**

The regular meeting of the Planning and Zoning Commission of the Town of Dillon, Colorado, held on Wednesday, June 4, 2014, at Dillon Town Hall. Commissioner Brad Bailey called the meeting to order at 5:35 pm. Commissioners present were: Nathan Nosari, Jerry Peterson and Yvonne Bryant. Chairman Jeff Shibley was absent. Staff members present were Ned West, Town Planner; Dan Burroughs, Town Engineer / Community Development Coordinator; Scott O'Brien, Public Works Director; Carri McDonnell, Interim Town Manager / Finance Director and Mark Shapiro, Town Attorney.

#### **APPROVAL OF THE MINUTES OF MAY 7, 2014**

Commissioner Peterson moved to approve the meeting minutes from May 7, 2014. Commissioner Bryant seconded the motion, which then passed unanimously upon roll call vote. Chairman Bailey abstained since he was absent during the May 7<sup>th</sup> meeting.

#### **PUBLIC COMMENTS**

No Public Comments

#### **DISCUSSION ITEM:**

**Continuation of Retail Marijuana Discussion.** Presented by Ned West, Town Planner:

We have moved the majority of the regulations to Chapter 6 which deals with business licenses and business regulations. There will be a separate Resolution for the Planning and Zoning Commission in July [July 2<sup>nd</sup>] for the land use sections. Section 6-8-60 Retail Marijuana Uses deals with the zoning districts for Retail Marijuana Stores; none of the other Retail Marijuana Establishments will be permitted in the Town. Also, Medical Marijuana Dispensaries will not be permitted.

#### ***Setbacks:***

- 300 ft from churches, parks or land zoned as parks and open space (POS), residential zoning district regardless of jurisdiction which could include Summit County or Silverthorne.
- Cannot be in a building in a mixed use zoning district that has residential use in it
- Cannot be in a building that contains a pediatrician's office or any building that has rooms for boarding.
  - Commissioner Jerry Peterson asked, "How about any medical office?"
  - Ned West: The draft does not contain that language, and the regulations being proposed are based on surrounding jurisdiction regulations. The pediatrician office language was found in Frisco's ordinance pertaining to Retail Marijuana, and has been discussed with and approved by the Town Council.
  - Commissioner Peterson feels that only limiting to pediatrician offices is "way to narrow".
  - Mark Shapiro recommended that a list of recommendations by the P&Z be generated such that they may make recommendations that may be different than the draft ordinance, so the Town Council can consider them.
- 1,000 ft. setbacks from child care, preschools, schools, a college campus whether it is a primary campus or not. This has already been vetted with Council. This was discussed with them after we learned of the

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situation with the Federal Government closing numerous Retail and Medical Marijuana establishments around the state, most notably in Boulder, if they are within 1,000 feet of a school, including college campuses – as was the case for the CU campus, rehabilitation center, or property owned by a housing authority. The Town is including language that will include a 1000 setback from any sort of child care center or facility.

- We will also add the federally subsidized housing component [property owned by a housing authority].
  - Mark Shapiro expressed that we are trying to avoid having problems with permitting a business to go in, and then have the Feds shut them down.
  - The discussion of Section 8 housing came up as to whether that is included or not in the Federally Subsidized Housing topic. Mark felt that it likely is not.

### ***Retail Marijuana Store Site requirements:***

- The proposed regulations have numerous steps that must be gone through when applying for a license. The Town has attempted to come up with as much reasonable criteria to abide by as we possibly could. This includes all of the criteria that must be satisfied under a condition use permit process, even though the Retail Marijuana Stores will not be a Conditional Use, but Permitted Use.

### ***Sec. 6-8-70: Residential Growing:***

- The right to grow marijuana is provided by Amendment 64. No person under 21 may possess or grow marijuana. State law says each person 21 years of age and older can grow 6 plants, only 3 of which may be mature, flowering plants at any one time.
- We have further restricted that to a maximum of 12 plants with 6 maximum being mature flowering plants at any given time regardless of the number of persons in the residence over the age of 21. This is a similar stance taken by many communities.
- New information has come up as to how creative some people have gotten with growing marijuana and we now question if the 12 plant maximum is appropriate. One plant can apparently produce as much as 6 plants with some methods now being used.
- Part of how to deal with this was already devised by instilling the square footage requirement of 150 SF for a single family residence, and 100 SF for a multi-family residence for the personal growing operations in a lockable space.
  - Mark Shapiro feels that perhaps the number of plants should further be restricted to better address the issue of the highly productive growing methods. The concern here is the odor that the flowering plants give off.
  - Commissioner Yvonne Bryant talked about an issue in California with super plants with one plant capable of getting really big by utilizing extreme amounts of fertilizer.
  - Mark Shapiro stated that the Constitution allows for any person over 21 to grow up to six plants. The innovation of some people is creating all kinds of issues: building code issues, fertilizer in the water (much of it is poisonous), and situations that are very dangerous for firemen, children, and others living in the home: high intensity lamps, extension cords, fertilizers, and the odor can be overwhelming. The odor is typically where the first complaints come in. All municipalities are struggling with this, and are now using the role of government for the protection of health, safety, and welfare of its citizens to utilize police powers limiting personal marijuana growing in the residential areas by means of zoning regulations that restrain the number of plants and the area that you can grow it in. Many municipalities are limiting the number of plants to a six plant maximum. This is a difficult area because of the constitutional rights, but the complaints of neighbors because of the overwhelming smell of the plants is leading the municipalities to

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further limit the number of plants. Fire Depts. and Building Depts. worry. Mark is leaning in the direction of limiting it to six plants.

- Commissioner Bryant, “So rather than 12 plants, the suggestion is to take it down to 6 plants maximum?”
- Mark Shapiro, “We have not discussed it, but that is my personal opinion, especially given what we are seeing can be done with 12 plants in a 100 SF space.” This has not yet been discussed with the Council. What the Council has bought in on is 12 plants.
- Mark Shapiro thought that he had seen statistics that stated that six plants could produce 8 pounds of marijuana. He is uncertain if any one person could consume such a quantity of marijuana, so it seems like it would be enough.
- Commissioner Bailey, “Won’t these regulations be addressed in the future as more municipalities deal with these issues?”
- Mark Shapiro, There will be constant amendments.
- Commissioner Peterson, “What about the fertilizer – how can the sewer plant handle it? Down in Texas they have toxic fish because of Prozac being flushed down the toilet. It is going to fall on the tax payers to keep the Blue River on Gold Medal Status; the EPA is going to be coming down on the towns. Is there any way to control what is coming out of these growing operations?”
- Mark Shapiro said he had not seen anything on it, yet.
- Ned West: Amendment 64 has allowed for personal marijuana growing for a year and a half now, and Medical Marijuana growing has been going on for quite a while longer than that.
- Commissioner Bryant attempted to determine a reasonable growing area based on assumptions of plant sizes being about 4 SF each along with walk areas. Based on this, 50 SF could be a reasonable growing area.
- Ned West pointed out that the area permitted for the growing would also include the trimming, processing, and drying of the marijuana. Also, state law allows for the front door to be the lockable space for marijuana growing if someone under 21 does not live in the home; otherwise, it needs to be in a separate, confined lockable space that prevents the entry of those under 21 years of age.
- Mark Shapiro feels it would be better to focus on the number of plants, rather than the square footage.
- Commissioner Bailey thinks keeping the current SF is fine.

### ***Sec. 6-8-80 Processing Marijuana for Extractions of Cannabinoids:***

Another land use pertaining regulation is the extraction of cannabinoids from the marijuana plant. Any sort of extraction in the Town of Dillon shall be prohibited. Previously more specific language would not have covered as broad of a spectrum. So not only is flammable gas extraction, but all other means of extraction shall be prohibited. Again there is no real structure for enforcement of this regulation; it simply provides for an enforcement mechanism in response to a situation.

- Commissioner Bailey asked, “Is the Town trying to make our regulations similar to the surrounding towns.”
- Mark Shapiro responded that much of the towns are building off of one and other. We have tried to pull from numerous mountain towns and some Front Range communities to pull together the best regulations to fit our town.
- Ned West stated that Dillon is different in that trying to use the more typical 500 ft setbacks would not work in Dillon, and through a great deal of work with the Town Council, and during the Town public forum held on Retail Marijuana Regulations, the 300 ft setback was

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determined. Essentially this leaves just the City Market – Dillon Ridge Marketplace and a few of the surrounding business buildings.

### **OTHER BUSINESS:**

#### **1. Alpine Lake Village and the Design Guidelines Theme:**

Commissioner Nat Nosari stated that he had worked on the “homework assignment” to work on the “Alpine Lake Village” theme for the design guidelines.

Dan Burroughs said, We need some basic design concepts and images that can be used for providing developers so that they can meet the goals of the theme; otherwise we need to move away from such stringent guidelines and a theme name.

Commissioner Nosari Googled Alpine Lake Village and looked at some of the European style architecture that all had pitched roofs. He was concerned that if this was insisted on, it would make it so you could not have roof top bars and roof top outdoor living spaces.

Dan Burroughs said that if we can’t define it, then we need to just get rid of the term, and let the design guidelines speak for themselves.

Commissioner Brad Bailey said that this was visited about a year ago during the discussion of Mountain Maritime Architecture and how intangible that was, which led to coming up with the Alpine Lake Village phrase. He knows we want good architecture, and we don’t want Victorian. We could come up with wish lists, and combine that with Town Council wish lists of what we want to see, but I don’t know if we can really define it. As we know, we take plans from a developer and move from there. We are an advisory board. We can suggest what we want to see along the lines of good planning and good architecture.

Dan Burroughs said that he believes that is right, that the term Alpine Lake Village should be abandoned, that you state that you want to see good planning and architecture, and you let the design guidelines speak for themselves.

Commissioner Bailey: In Europe they had traditional, pitched roofs for a purpose and due to limitations; since modern construction materials and methods now allow for the construction of flat roofs, you see more of them. I don’t know how to define it [Alpine Lake Village architectural style]; we have talked about this for years.

Commissioner Yvonne Bryant: Part of the issue is that now we are working with Carrie McCool [McCool Development Solutions] to help define our vision for the Town Core. We have not sat down with the public to figure out what is desired under this current effort with Carrie. We can advise based on the general direction, but ultimately we need to have a consensus from the community. I feel that needs to be part of Carrie’s making certain recommendations.

Dan Burroughs: There will be a lot of public meetings to go through many topics to create an outline of the next steps. Carrie McCool is trying to pull together four core groups: Organization, Promotion, Economic Development, and Design. It will be nice to see what the community thinks.

Commissioner Bryant: The Alpine Lake concept is important to Dillon on the economic side because that is what makes Dillon unique in Colorado.

Commissioner Jerry Peterson: Felt that some places, like Switzerland, have gone over the top, which if applied here could make projects cost prohibitive. This is not something that we want to do here, but should try to find some middle ground. You don’t want to have galvanized siding, so come up with the middle ground.

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Dan Burroughs agrees. For instance Vail has very much done this. He has contractors that provide bids to him that are 3 times more expensive in Vail. You don't want to create standards that are too cumbersome.

Commissioner Peterson: Agreed that Vail has done so much over the top in the past five years, significantly raising the price of the land and projects.

Commissioner Bailey: "Yes, but they did that because they knew they could sell them, and they have sold them. It took a couple of years because of the economy, but they have sold them. Vail can get those kinds of numbers. I guess that we can trust that a developer that comes in here will have done his homework, and know that we don't want row houses, and we can't have 1500 foot condos that won't sell. That is where you have to trust the private sector to come up with that. Even though some of us are pretty good architects here, I cannot presume to know what this town wants to look like. All I know is I want to see good architecture and good design; I can recognize that. I can tell you what we don't want, we don't want bad design."

Dan Burroughs: That is why the design guidelines should speak for themselves without a label [Alpine Lake Village] on it.

Commissioner Bailey: "I think I agree."

Commissioner Peterson: You want to avoid the cookie-cutter where everything looks the same. We have seen towns like that; it's pretty boring; after 20 years it's almost a slum.

Commissioner Bryant: Having worked in other communities she could research a "Western Themed Subdivision", for instance, if she knew that is what they wanted. From that as the architect she could incorporate design elements to meet that community's desires for western style architecture. She thinks there is a valid and important concept in what the community wants to look like. Without a theme, you could be getting something from anywhere. The theme does not have to be really specific, so long as it guides the developer / architect in their thought process.

Commissioner Nosari: Feels we should retain the Alpine Lake Village theme and let them design their projects as they interpret the meaning of the phrase.

Dan Burroughs: OK, but it is hard to know what to tell someone that comes in. What do we say when they ask what that means? I have no clue; good luck with the P&Z? That is what we are trying to avoid. It comes back to: you want good architecture, and the definition of good architecture is always going to change. Still think you don't label it, give them the design guidelines, tell them to go look around town at good architecture, and then work from there.

Commissioner Bryant: "But it is not that hard for them to justify their thought process if you give them a direction to work with."

Commissioner Peterson: Suggested that most everyone has a phone with which they can take a picture; "if you see something that strikes your fancy, snap a picture and send it to Ned. Let's start a photo book."

Dan Burroughs: That's a good idea.

Ned west: I am happy to receive those emails and I will compile them. That is one of the things we left out of our last iteration of the design guidelines for the financial incentives program for the façade improvements grant program. We left out the numerous photos that were part of the prior draft of the design guidelines. If in the future we want to include pictures that really mean something to the Commission, we can certainly do that.

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Commissioner Bailey: “I tend to agree with Dan; I am not really sure the label helps us. I have other thoughts for the language like: we’d like to see natural materials, we don’t want pink stucco.”

Commissioner Nosari: Why don’t we say that Dillon is an Alpine Lake Environment and architecture should follow/reflect lake and or alpine environments?

Dan Burroughs: I think that is it. You should just say that the architecture should be compatible with an alpine lake environment and then let them define what that means.

The Commissioners were all happy with that solution.

### **2. Resignation of Commissioner Yvonne Bryant:**

Commissioner Bailey: “The Commission would like to recognize Yvonne Bryant for her selfless and diligent performance for 4 ½ years. Thank you for pretty much being my left hand man. Good luck to you and your husband.”

Commissioner Yvonne Bryant: Thank you.

**Adjournment** There being no further business, the meeting adjourned at 6:16 p.m.

Respectfully submitted,

*Ned West*

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Ned West  
Town Planner