

**CITY OF COLUMBIA FALLS
CITY COUNCIL REGULAR MEETING MINUTES
HELD MAY 02, 2022**

REGULAR MEETING – 7:00 P.M.

Mayor Barnhart called the meeting to order at 7:00 p.m.

ROLL CALL: Councilor Fisher, Councilor Lovering, Councilor Piper, Councilor Karper, Councilor Robinson, Councilor Shepard (via zoom) and Mayor Barnhart.

Also Present: City Manager Nicosia, City Clerk Staaland, City Attorney Breck, City Planner Mulcahy and Police Detective McConnell.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA: Councilor Robinson motioned to approve the Agenda, seconded by Councilor Fisher and the motion carried.

CONSENT AGENDA: Councilor Lovering made motion to approve the Consent Agenda noting all claims appeared to be in order, seconded by Councilor Karper with Council voting as follows. Ayes: Fisher, Karper, Lovering, Piper, Robinson, Shepard and Barnhart.

Approval of Claims - May 2, 2022 - \$67,178.91

Approval of Payroll Claims - April 29, 2022 - \$85,106.77

Approval of April 18, 2022 Regular City Council Meeting Minutes

Approval of Morrison-Maierle Engineering Services Contract - Reconstruct and Overlay Project and authorize City Manager to execute

Approval of KJ Engineering Miscellaneous Services Agreement and authorize City Manager to execute

Approval of SANE Exam Services Contract - Logan Health Medical Center and authorize City Manager's signature

Approval of BNSF Utility Inspector Agreement and Permit 22-13906 for Water Main Installation on 12th Ave West and authorize City Manager to execute all necessary documents

Approval of the Certificate of Completion - 2020 Water System Revenue Bonds and authorize submission to MT DNRC (one-year project completion)

APPOINTMENTS:

Police Commission - Reappoint Shawn Bates, 3 year term ending April 2025

Councilor Lovering motioned to reappoint Shawn Bates to the Police Commission for a 3 year term ending April 2025, seconded by Councilor Robinson and the motion carried.

NOTICE OF PUBLIC HEARINGS/PUBLIC HEARINGS:

Mayor Barnhart read the notice of hearing and requested the staff report presentation:

Public Hearing: Request to Amend a Planned Unit Development in the Columbia Falls Zoning Jurisdiction:

Ruis Holdings 540 Nucleus Ave LLC is requesting an Amendment to their Planned Unit Development overlay for the property located at 540 Nucleus Avenue which was the former Bank of Columbia Falls site. The owner

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is amending the design of the south building to allow a height of 40-feet to the top of parapet and also allow a casino in the proposed restaurant on the main floor. Otherwise, the building meets all use and dimensional requirements. The property is described as Lots 11-15 and also all that portion of the east half of the vacated alleyway lying adjacent to the west boundary line of said Lots 11-15 inclusive of Block 37 and Lot 10A of the Amended Plat of Lots 1-3 & Lots 6-10 of Block 37 according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

City Planner Mulcahy delivered Staff Report CPUD-22-02 as Findings of Fact. Mulcahy said this particular request was approved by the Planning Board on April 12, 2022. The developer decided to reduce the building apartments to 12 instead of having hotel suites, which will allow for suitable parking. A portion of the PUD is for a casino, which is allowed in the CB-4 zone with a Conditional Use Permit or a PUD. The PUD will allow for a maximum building height of 40 feet, 42 feet for the elevator and 50 feet for the stair tower which provides access for the fire department. The request is to allow for building height change and a casino within the bar and lounge area. Staff recommended approval.

With no public comment Mayor Barnhart opened and closed the public hearing at 7:04 p.m.

Councilor Karper made motion to adopt Staff Report CPUD-22-02 as Findings of Fact, seconded by Councilor Robinson with Council voting as follows. Ayes: Karper, Lovering, Piper, Robinson, Shepard, Fisher and Barnhart.

Mayor Barnhart read the hearing notice and requested the staff report presentation:

Public Hearing - Request for an Amendment to Conditional Use Permit to Construct 36 Apartment Units in the Columbia Falls Zoning Jurisdiction:

The applicant, Toby Gilchrist, is requesting an amendment to an approved Conditional Use Permit that allows the construction of 36 apartment units in two buildings, eighteen units in each building. The proposed amendment would allow the north building to allow owners of the units to offer short term rentals of the units. The south building would remain exclusively long-term rental (30-days or more). None of the other elements of the project change with the request of this amendment and this amendment only deals with the length of stay for the north building. The property is located approximately ¼ mile north of Highway 2 at 302 Meadow Lake Blvd. The property is described as Assessors' Tracts 2BDEA and 2BDAEA of Section 7, Township 30 North, Range 20 West, P.M.M., Flathead County.

City Planner Mulcahy delivered Staff Report CCU-22-01 as Findings of Fact. Mulcahy said the initial Conditional Use Permit was approved by Council in August of 2021, at which time the question was asked if the apartments would be long term or nightly rentals and the applicant stated they would be long term rentals. With this amendment, the applicant is asking to use one of the buildings for short term rentals. Mulcahy said the Amendment went before the Planning Board on April 12, 2022, and there was a substantial amount of public testimony. The Planning Board reviewed the findings and decided to add a paragraph in section d., which states "The proposed short-term usage impacts the immediate neighborhood because the frequency and high change-over of occupants in the building creates a transient nature which changes the character of the neighborhood." The Planning Board approved the amended findings on a 6-2 vote. Mulcahy said the recommendation from the Planning Board is to not approve the amendment. Mulcahy noted that staff did not make a recommendation on approval.

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Mayor Barnhart asked Council if they had any questions for staff. Councilor Karper asked if the Planning Board voted down the request to amend the CUP. Mulcahy said that is correct however the applicant can still move forward with the original CUP with long term rentals. This amendment is to allow one building to be used as short term rentals. Mulcahy noted that the owner can still condo the units. Karper asked if the Planning Board's decision was based on the Findings of Fact. Mulcahy said the Board amended the findings to reflect that the proposed short term rentals would affect the nature of the neighborhood. Karper questioned if the new condo owners could do nightly rentals. Mulcahy said no they would be long term rentals only, we would not allow nightly rentals if the amendment was denied.

Mayor Barnhart asked if the units are to be used as condos would the building permit requirements be different. Mulcahy said there is no change in a building permit from apartments to condos.

Mayor Barnhart asked the applicant if he wished to address the Council.

The applicant Toby Gilchrist said the building cost for his project has gone up from 5.3 million to 8.2 million in 5 months. He said they are still trying to help with monthly rentals along with meeting the need of tourist housing. Gilchrist mentioned there seems to be a view that the one building would be a mini hotel, but there will be a variety of owners, some units being primary residences. The zone change was initially denied because the applicant did not include a traffic study, as recommended by City staff, which was done later and the zone change and conditional use permit subsequently approved. Gilchrist believes this amendment request is a good fit for the property location.

Mayor Barnhart opened the Public Hearing at 7:16 p.m.

Brooke Stearns Lawson resides at 292 Meadow Lake Blvd. Ms. Lawson said she and her husband were supportive of the original Conditional Use Permit as it would provide the need of long term housing. Nightly rentals fundamentally change the nature of the neighborhood dynamic. By marketing nightly rentals you are targeting out of state buyers. Ms. Lawson asked Council to please consider the fact that the Planning Board denied the amendment request.

With no further comments Mayor Barnhart closed the Public Hearing at 7:20 p.m.

Mayor Barnhart requested to hear from City Attorney Breck on his comments to the Planning Board. City Attorney Breck said he was discouraging the Board in making a decision to approve or disapprove purely on long term or short term rentals. Breck stated under the law it's residential whether you are staying for a week, two nights, 90 days or a year, you are still residing in the residence. Breck said he steered the Board back to the criteria for approval. Breck noted that there was plenty of discussion from the Planning Board on nightly rentals and how bad they were with disruptions. Additionally, they discussed the approval of the original CUP in 2021 with respect to the requested amendment. The business plan and economic analysis by the developer is not subject to review by the Planning Board or Council noted Breck. Breck stated the property is residential in nature regardless.

Council Fisher disclosed he attended the Planning Board meeting and had discussion with the applicant and to the community member here this evening.

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Councilor Fisher made motion to approve Staff Report CCU-22-01 as Findings of Fact as amended, seconded by Councilor Piper.

Mayor Barnhart said after reading City Attorney Brecks comments in the Planning Board draft minutes he is uncertain that half the units used as short term rentals would create a problem with or change the nature of the neighborhood.

Councilor Piper said the neighborhood to him is a broad term. Piper said in previous meetings the discussion was on the need for long term rentals and perhaps we should look at the town as a neighborhood to a degree. Piper said he does not think it fits well with the neighborhood.

Councilor Lovering believes the amendment correctly notes that short term rentals change the nature of the neighborhood due to the potential of having up to 18 short term rentals. Lovering believes having one nightly rental coming into the residential area is different than a possibility of 18 in a relatively small residential area and believes it does change the nature of the area.

Ayes: Lovering, Piper, Robinson, Shepard, Fisher and Karper. Noes: Barnhart.

Councilor Lovering motioned to deny the request for the amendment to the conditions, seconded by Councilor Piper with Council voting as follows. Ayes: Piper, Robinson, Shepard, Fisher, Karper and Lovering. Noes: Barnhart.

Mayor Barnhart read the notice of upcoming hearings:

Notice of Public Hearings - Planning Board May 10th and City Council June 6th:

The Columbia Falls City-County Planning Board will hold a public hearing for the following item at their regular meeting on Tuesday, May 10, 2022 at 6:30 p.m. at the Council Chambers of City Hall, 130 6th Street West, Columbia Falls, Montana. The Columbia Falls City Council will hold a subsequent hearing on Monday June 6, 2022 starting at 7:00 p.m. in the same location.

Request a Conditional Use Permit to construct two six-plex apartments in the Columbia Falls Zoning Jurisdiction:

A request by Big Sky Living, LLC for a Conditional Use Permit (CUP) to build a six-plex condominium/apartment building on each of two lots owned by the applicant. As a result, there will be a total of twelve units proposed. The six-plex will occupy Lots 166 and 167 of Hilltop Homes Subdivision located on Diane Road in Columbia Falls. The properties are zoned CRA-1 (Multi-Family Residential) which requires a CUP to construct a three-plex or greater within the zoning district. The properties are addressed at 9 and 11 Diane Road and described as Lots 166 and 167 of the Hilltop Homes subdivision in Section 18, Township 30 North, Range 22 West, P.M.M., Flathead County

Request to change the zoning from CR-5 (Two-Family Residential) to CR-3 (One-Family Residential) in the Columbia Falls Zoning Jurisdiction:

The applicant, Rhonda Hoon, is requesting a zone change at 1115 Nucleus Avenue in the Columbia Falls area from the current CR-5 (Two-Family Residential) to a CR-3 (One-Family Residential) designation. The property currently has a house and a detached garage on the property. The applicant would like to convert the garage to an accessory dwelling. The property is described as Lot 3, Block 8 of Nucleus Addition in Section 17, Township 30 North, Range 20 West, P.M.M., Flathead County.

ORDINANCES / RESOLUTIONS:

First Reading - Ordinance # 816: An Ordinance of the City Council of the City of Columbia Falls, Montana, Amending the Columbia Falls Zoning Map to Allow the Development of an Amended Planned Unit Development (PUD) Overlay at 540 Nucleus Avenue Described as Lots 11 Thru 15 And Also All That Portion Of The East Half Of The Vacated Alleyway Lying Adjacent to the West Boundary Line of Said Lots 11 – 15 Inclusive of Block 37 and Lot 10A of the Amended Plat of Lots 1-3 & Lots 6-10 of Block 37, Columbia Falls, Montana, According to the Map or Plat Thereof on File and of Record in the Office of the Clerk and Recorder of Flathead County, Montana.

Councilor Fisher made motion to approve the First Reading of Ordinance # 816, seconded by Councilor Lovering and the motion carried.

REPORTS / BUSINESS FROM MAYOR & COUNCIL

Councilor Lovering said she has been hearing a lot of feedback from unhappy people that the tennis courts are used by the tennis team but the public cannot use them due to a lock on the gate. Lovering was told that perchance some students have the gate key and are using the courts outside of school related use. Nicosia said she has not heard of that happening as there is an agreement with the school for practice and meets only. The courts are on the calendar to be sealed in June and the City has to have them clean. Nicosia said the City gave strict use guidelines for school use only and will contact Mr. Bowman right away.

Councilor Karper said the Arbor Day celebration is this Friday at River's Edge Park and the public is welcome to attend.

Councilor Shepard said he received a letter from Chad Campbell regarding Senator Tester's response to the EPA about covering dumps in the State of Montana.

Mayor Barnhart inquired about the two hour parking signs on Nucleus Ave. Nicosia said the City has to meet with MDOT considering it is their right of way to verify requirements.

Mayor Barnhart said we talked about more visible parking and believes we need to look at priorities at the next meeting. Fisher added there are a lot of tree roots coming up under the sidewalks and would like to make a list and work towards getting them repaired.

Mayor Barnhart also noted that there was discussion on putting chain link fencing on the backside of the baseball park. Nicosia said we moved the Hoerner Park fencing and the Baseball Association received a Roundup for Safety Grant to add fencing.

Mayor Barnhart said the "report a pothole" on the City website appears to not be working as he has reported the same pothole a couple times. City staff will look into the issue. Mayor Barnhart would like to see the burning regulations visible on the City website.

CITY MANAGER REPORT:

Nicosia reported that City staff met with the Rotary Club at the fishing pond; they would like to work with the City on a fishing pier. Fish Wildlife and Park is willing to work with us as well and they have some funding available. Nicosia also reported that FWP said they would provide gravel if the City would make an entrance where they can back in to stock the pond.

Nicosia noted that the BNSF utility agreement on the consent agenda will allow the City to put the water main under 12th Ave. W. as part of the EDA project. The 90 percent design plans have been submitted to EDA for approval and the engineer should be providing the 100 percent plans any time. We hope to hear from the EDA by the next council meeting.

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Nicosia noted that the City is on the list of approval for our water project competitive grant and we should hear more by Friday.

The City found 6 million gallons of water loss with the 5th Ave. EN and 8th Ave EN repairs; waiting to see the pumping numbers when we turn on irrigation.

Nicosia said City staff is looking into the 2022 Season Pool fees and recommend keeping the passes and day use the same and potentially increasing the swim lesson fees 1st time lesson in city \$30, out of city \$37, repeat lesson \$25, private lesson \$25 per hour and pool party rates.

ADJOURN: Councilor Lovering motioned to adjourn at 8:17 p.m., seconded by Councilor Karper.

Mayor

City Clerk