



PLANNING COMMISSION REGULAR MEETING

448 E. 1st Street, Room 190 Salida, Colorado 81201
September 26, 2022 - 6:00 PM

AGENDA

Email public comments to: publiccomment@cityofsalida.com

Please register for the Planning Commission meeting:
<https://attendee.gotowebinar.com/rt/1909092342220683277>

CALL TO ORDER BY CHAIRMAN – 6:00 PM

ROLL CALL

APPROVAL OF THE MINUTES

- 1. July 25, 2022 - Draft Minutes

UNSCHEDULED CITIZENS

AMENDMENT(S) TO AGENDA

PUBLIC HEARINGS

Public Hearings will follow the following procedure:

- | | |
|---|--|
| A. Open Public Hearing | E. Public Input |
| B. Proof of Publication | F. Close Public Hearing |
| C. Staff Review of Application/Proposal | G. Commission Discussion |
| D. Applicant's Presentation (if applicable) | H. Commission Decision or Recommendation |

- 2. 505 Oak Street Major Impact Review for Planned Development and Major Subdivision - (**CONTINUE PUBLIC HEARING TO A DATE CERTAIN**)

The request is for approval of a Major Impact Review for a Planned Development Overlay and Major Subdivision for the 2.09 acre parcel located at 505 Oak Street. The parcel is zoned Commercial (C-1) with the Highway 291 Established Commercial Overlay. Below are the requests:

- A:** Major Impact Review approval of a Planned Development Overlay for deviations to the Dimensional Standards.
- B.** Approval of a Major Subdivision to subdivide the above described 2.09 acre property into 18 residential lots.

- 3. **Amendment to Chapter 16, Article IV of the Salida Municipal Code** - Consider amendments to Chapter 16, Article IV of the Salida Municipal Code regarding updates to the Zoning Variance requirements.

COMMISSIONERS' COMMENTS

ADJOURN

**An alternate can only vote on, or make a motion on an agenda item if they are designated as a voting member at the beginning of an agenda item. If there is a vacant seat or a conflict of interest, the Chairman shall designate the alternate that will vote on the matter. If a Voting member shows up late to a meeting, they cannot vote on the agenda item if the alternate has been designated.



PLANNING COMMISSION REGULAR MEETING

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July 25, 2022 - 6:00 PM

MINUTES

Email public comments to: publiccomment@cityofsalida.com

Please register for the Planning Commission meeting:
<https://attendee.gotowebinar.com/rt/1909092342220683277>

CALL TO ORDER BY CHAIRMAN – 6:00 PM

ROLL CALL

PRESENT

Chairman Greg Follet
Vice-Chair Francie Bomer
Commissioner Judith Dockery
Commissioner Giff Kriebel
Commissioner Michelle Walker
Alternate Commissioner Brian Colby

ABSENT

Commissioner Dave Haynes
Alternate Commissioner Aaron Derwingson

APPROVAL OF THE MINUTES

1. June 27, 2022- Draft Minutes

Motion made by Vice-Chair Bomer, Seconded by Commissioner Walker.

Voting Yea: Chairman Follet, Vice-Chair Bomer, Commissioner Dockery, Commissioner Kriebel, Commissioner Walker, Alternate Commissioner Colby

THE MOTION PASSED.

UNSCHEDULED CITIZENS- N/A

AMENDMENT(S) TO AGENDA- N/A

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2. **Salida Fire Station Annexation** - The City of Salida is requesting approval to annex the 2.94 acres located at 611 Oak Street.

A. Open Public hearing – 6:01pm

B. Proof of Publication -Yes

C. Staff Review of Application –

Planner Dunleavy reviews the application and recommends approval.

D. Applicant's Presentation –

Fire Chief Bess and Architect, Seth Clark, were present to answer questions.

Commissioners asked the applicants whether:

- The Stage and Rail Trail along the property would be conserved
- The City was collaborating with the School District

Chief Bess and Seth Clark confirmed that the Stage and Rail Trail are part of the design team plans and that the School District has their own design team.

E. Public Input – N/A

F. Close Public Hearing – 6:07pm

G. Commissioner Discussion –

H. Commission Recommendation –

Motion made by Vice-Chair Bomer to recommend City Council approve the Salida Fire Station Annexation application, Seconded by Commissioner Dockery.

Voting Yea: Chairman Follet, Vice-Chair Bomer, Commissioner Dockery, Commissioner Kriebel, Commissioner Walker, Alternate Commissioner Colby

THE MOTION PASSED.

3. **Salida Fire Station zoning** - The City of Salida is requesting a zoning designation of Commercial (C-1), should the property be annexed.

A. Open Public hearing – 6:08pm

B. Proof of Publication -Yes

C. Staff Review of Application –

Planner Dunleavy explained the request to rezone the property to Commercial (C1) and recommends approval.

D. Applicant's Presentation –

Fire Chief Bess and Seth Clark were present to answer questions.

E. Public Input – N/A

F. Close Public Hearing – 6:14pm

G. Commissioner Discussion –

Commissioners asked about the difference between commercial and institutional zoning and whether a new institutional zoning would be a possibility for that lot in the future.

H. Commission Recommendation –

Motion made by Vice-Chair Bomer to recommend City Council approve the Salida Fire Station Annexation Zoning application, Seconded by Commissioner Kriebel.

Voting Yea: Chairman Follet, Vice-Chair Bomer, Commissioner Dockery, Commissioner Kriebel, Commissioner Walker, Alternate Commissioner Colby

THE MOTION PASSED.

4. **Newman Annexation** - The applicant, Christopher Newman, is requesting approval to annex his 1 acre property located at 7680 C.R. 140.

A. Open Public hearing – 6:14pm

B. Proof of Publication -Yes

C. Staff Review of Application –

Planner Jefferson reviewed the application and recommended approval, subject to the following recommended conditions to be included in the annexation agreement:

1. Owner shall meet the inclusionary housing requirements of Article XIII of Chapter 16 of the Salida Municipal Code at the time of building permit submittal for additional units constructed on the property.
2. Owner agrees to pay at the time of building permit all applicable fees for the property in the amounts set forth pursuant to the Salida Municipal Code, or as hereafter amended, namely the building plan review; water and sewer system development fees; and the Fair Contribution to School Sites per Section 16-6-140 of the Salida Municipal Code (SMC)).
3. Fees in lieu of open space shall be provided, in an amount then in effect, at the time of issuance of a building permit for new residential units constructed on the property

D. Applicant's Presentation –

The applicant, Christopher Newman was not present.

E. Public Input – N/A

F. Close Public Hearing – 6:24pm

G. Commissioner Discussion –

Commissioners discussed the following:

- Whether the property was a natural extension of the City's municipal boundary and whether it meets the requirements for annexation.
- The failing septic system and the proximity the property is to municipal water and sewer.
- The benefit of this property being annexed into the City of Salida.
- Whether the property is in the municipal services area.

H. Commission Recommendation –

Motion made by Vice-Chair Bomer to recommend City Council approve the Newman Annexation application, with the three (3) conditions recommended by staff. The motion was Seconded by Alternate Commissioner Colby.

Voting Yea: Chairman Follet, Vice-Chair Bomer, Commissioner Dockery, Commissioner Kriebel, Commissioner Walker, Alternate Commissioner Colby

THE MOTION PASSED.

5. **Major Impact Review -Newman Zoning** - The applicant, Christopher Newman, is requesting a zoning designation of High Density Residential (R-3) should the property be annexed.

A. Open Public hearing – 6:31pm

B. Proof of Publication -Yes

C. Staff Review of Application –

Planner, Jefferson, reviewed the request from the applicant to be rezoned Residential (R-3). Staff supports the High Density R-3 zoning that would allow for 20 units on the property.

Commissioners asked:

- If there was a plan in place for that area.
- Whether all future projects in that area would be zoned R2 and R3.
- Will there be design standards set in place for future developments.

D. Applicant's Presentation –

The applicant, Christopher Newman was not present or online.

E. Public Input – N/A

F. Close Public Hearing – 6:43pm

G. Commissioner Discussion –

Commissioners discussed the following:

- The updates to the new land use code
- The current codes in regards to Major Subdivisions
- The sustainability of high density residential building

H. Commission Recommendation –

Motion made by Commissioner Kriebel, to recommend City Council approve the Newman Annexation Zoning application. The motion was Seconded by Commissioner Walker.

Voting Yea: Chairman Follet, Vice-Chair Bomer, Commissioner Dockery, Commissioner Kriebel, Commissioner Walker, Alternate Commissioner Colby

THE MOTION PASSED.

- 6. Major Impact Review - West End Subdivision Rezone** - The applicant Tory Upchurch is requesting to rezone Lot 15 of the West End Subdivision from Medium Density Residential (R-2) to High Density Residential (R-3).

A. Open Public hearing – 6:49pm

B. Proof of Publication -Yes

C. Staff Review of Application –

Planner Dunleavy reviews request to rezone a parcel of the Upchurch property to R3. The purpose of the request is so the applicant, Tory Upchurch, can build 6 deed restricted units on Lot 15 instead of 5 deed restricted units.

Staff believes that this request is compatible with the existing structures and recommends approval contingent on approval from the Department of Public Works.

Commissioners asked staff the following:

- Whether the lot would still be eligible for the 6th deed restricted unit if it was not rezoned
- If the lot was rezoned to R-3, would there be room for 7 deed restricted units.

D. Applicant's Presentation –

Applicant, Tory Upchurch, was online and available to answer questions.

Commissioners asked the applicant the following:

- Whether there was a 7th deed restricted unit in the budget for this project.

Tory Upchurch responded that they will be building the affordable units at the same time and then donate them to Chaffee Housing Trust. The Housing Trust would then be responsible for filling the homes. Tory Upchurch explained that finances are an issue for the 7th unit.

Commissioners asked if there are different designs for the different units in the Upchurch Property.

Tory Upchurch confirmed that there are a variance in designs but it would not be eligible for the deed restricted units.

Director Almquist talked about the possibility of adding an Accessory Dwelling Unit to the property down the line.

E. Public Input – N/A

F. Close Public Hearing – 7:06pm

G. Commissioner Discussion –

Commissioners discussed the following:

- Can commission recommend that any additional units built on that lot should also be deed restricted?
- Whether the deed restricted homes are rented or are they for sale.
- The language of the annexation agreement for the deed restriction units.

H. Commission Recommendation –

Motion made by Alternate Commissioner Colby, to recommend City Council approve the West End Subdivision Rezone application. The motion was Seconded by Commissioner Walker.

Voting Yea: Chairman Follet, Vice-Chair Bomer, Commissioner Dockery, Commissioner Kriebel, Commissioner Walker, Alternate Commissioner Colby

THE MOTION PASSED.

UPDATES

Director Almquist updated the Planning Commission on the RV Rental Park Program

COMMISSIONERS' COMMENTS

Commissioners requested a work session to discuss variances and the new land use code.

ADJOURN

With no further business to come before the Commission, the meeting adjourned at 7:24 pm



PLANNING COMMISSION STAFF REPORT

MEETING DATE: September 26, 2022
AGENDA ITEM TITLE: Amendment to Chapter 16, Land Use Code Article IV
AGENDA SECTION: Public Hearing

BACKGROUND:

Over the past couple of years the Planning Commission has expressed their desire to update the Land Use Code Sec. 16-4-180 Zoning variances. The Planning Commission, staff and City attorney had a work session on August 9, 2022 to discuss amendments to the zoning variances section of the Code.

At the work session the Commission stated the need to make Section 16-4-180 (e) Required Showing for Variances clear for property owners and for the Board of Adjustment, as the decision maker.

In the attached draft Ordinance, City Attorney Nina Williams provided amendments to Chapter 16 of the Code, as it relates to zoning variances, in order to ensure more substantive clarity to property owners as well as enhanced procedural certainty and direction to the Board of Adjustment.

REQUIRED ACTIONS BY THE COMMISSION:

1. The Commission shall conduct a public hearing.
2. The Commission shall make a recommendation to City Council regarding the proposed changes to Chapter 16.

The Commission’s recommendations are anticipated to be brought to City Council in November for public hearing.

STAFF RECOMMENDATIONS:

Staff recommends the Planning Commission make a recommendation to the City Council to adopt the proposed changes to Article IV included in the draft Ordinance.

RECOMMENDED MOTION:

“I make a motion to recommend the City Council approve the proposed changes to Chapter 16 of the Salida Municipal Code by amending Article IV as presented.”

Attachments: Draft Ordinance
Proof of publication

CITY OF SALIDA, COLORADO
ORDINANCE NO. __
(Series of 2022)

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF SALIDA,
COLORADO AMENDING CHAPTER 16, ARTICLE IV OF THE SALIDA MUNICIPAL
CODE, REGARDING ZONING VARIANCES

WHEREAS, the City of Salida, Colorado (the “City”) is a statutory city, duly organized and existing under the laws of the State of Colorado;

WHEREAS, pursuant to C.R.S. § 31-23-301 *et seq.*, the City, by and through its City Council, possesses the authority to adopt and enforce zoning regulations;

WHEREAS, under such authority, the City Council previously adopted regulations related to zoning variances, codified as Chapter 16, Article IV and Section 16-4-180 of the Salida Municipal Code (the “Code”);

WHEREAS, the Planning Commission, acting as the City’s Board of Adjustment, has expressed the desire and recommendation to update and amend Chapter 16 of the Code, as it relates to zoning variances, in order to ensure more substantive clarity to property owners as well as enhanced procedural certainty and direction to the Board of Adjustment;

WHEREAS, on September 26, 2022 the Planning Commission held a duly-noticed public hearing and recommended adoption of this proposed ordinance;

WHEREAS, the City Council finds it desirable and appropriate, and in the best interest of the general health, safety, and welfare of its residents, property owners, visitors and customers to amend Section 16-4-180 of the Code, as it relates to zoning variances.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE
CITY OF SALIDA, COLORADO AS FOLLOWS:

Section 1. The foregoing recitals are hereby incorporated as conclusions, facts, determinations, and findings by the City Council.

Section 2. Section 16-4-180 of the Code, concerning zoning variances, is hereby amended to read as follows:

Sec. 16-4-180. – Zoning variances

- (a) Purpose. The variance procedure provides authorization to deviate from the literal terms of this Chapter where strict application and enforcement of this Chapter would result in exceptional practical difficulty or undue hardship preventing the use of the land as otherwise allowed by this Chapter. ~~Variations are authorization to deviate from the literal terms of this Land Use Code that would not be contrary to the public interest in~~

~~cases where the literal enforcement of the provisions of this Land Use Code would result in undue or unnecessary hardship. A variance shall not be granted solely because of the presence of nonconformities in the zone district or adjoining districts.~~

- (b) Variances Authorized. Variances from the standards of the underlying zone district shall be authorized only for maximum height, minimum floor area, maximum lot coverage, maximum lot size, minimum setbacks and parking requirements.
- (c) Administrative Variances. Because the development of much of historic Salida preceded zoning, subdivision and construction regulations, many buildings within the older neighborhoods of the City do not conform to contemporary zoning standards. In order to encourage restoration and rehabilitation activity that would contribute to the overall historic character of the community, variances from underlying zoning requirements for side and front setbacks may be granted by the Administrator under the following circumstances:
 - (1) Existing Primary Structure. The Administrator may grant a variance from a setback requirement for an addition to a primary structure if it continues the existing building line. The Administrator shall only consider allowing the encroachment into the setback if it can be shown that maintenance of the building addition can be provided on the subject property and that it is not injurious to adjacent neighbors.
 - (2) Traditional Neighborhood Setbacks. The Administrator may grant a variance from a front setback requirement for a primary structure if the neighboring properties encroach into the front setback. The variance shall not permit the structure to encroach further into the front setback than the neighboring primary structures. The Administrator shall only consider allowing the encroachment into the setback if it can be shown that such encroachments are the existing development pattern of the block on which the subject property is located and that the encroachment would not be injurious to adjacent neighbors.
- (d) Use Variances Not Authorized. Establishment or expansion of a use otherwise prohibited in a zone district shall not be allowed by variance.
- (e) ~~Required Showing for Variances. The applicant shall demonstrate the following to the Board of Adjustment before a variance may be authorized:~~

Variance Approval Criteria. Variances from requirements of this Chapter shall be considered an extraordinary remedy. When considering, reviewing and deciding on whether to approve a variance application, the Board of Adjustment must find that all of the following criteria have been met:

- (1) **Special circumstances exist such that strict application of the standards adopted in this Chapter would result in undue hardship or practical difficulties for the owner of such property.**
 - a. **Special circumstances include, but are not limited to, exceptional or peculiar limitations to the dimension, shape or topography of the property, such as slope, standing or moving water, wetlands, floodplain, rock features, narrowness, shallowness or irregular shape of a lot.**
 - b. **The following factors shall be considered in determining practical difficulty:**

1. Whether the property and development can have any beneficial use without the variance;
 2. The degree to which the variance deviates from the otherwise applicable standard;
 3. Whether the applicant purchased the property with knowledge of the standard;
 4. Whether the standard can be addressed through some means other than a variance; and
 5. Whether the purpose and intent behind the regulation would be maintained by granting the variance.
- (2) The requested variance would not create a substantial detriment to the public good and would not substantially impair the intent and purpose of this Chapter, this Code or the City's Comprehensive Plan.
 - (3) The requested variance would not result in significantly adverse impacts to the natural environment or to the surrounding properties and neighborhoods.
 - (4) The granting of the request is the minimum variance necessary for reasonable use of the property or building and the least deviation required from the applicable zoning standard to afford relief.

- ~~(1) Special Circumstances Exist. There are special circumstances or conditions which are peculiar to the land or building for which the variance is sought that do not apply generally to land or buildings in the neighborhood;~~
- ~~(2) Not Result of Applicant. The special circumstances and conditions have not resulted from any act of the applicant;~~
- ~~(3) Strict Application Deprives Reasonable Use. The special circumstances and conditions are such that the strict application of the provisions of this Chapter would deprive the applicant of reasonable use of the land or building;~~
- ~~(4) Variance Necessary to Provide Reasonable Use. The granting of the variance is necessary to provide the applicant a reasonable use of the land or building;~~
- ~~(5) Minimum Variance. The granting of the variance is the minimum necessary to make possible the reasonable use of the land or building;~~
- ~~(6) No Injury to Neighborhood. The granting of the variance will not be injurious to the neighborhood surrounding the land where the variance is proposed, and is otherwise not detrimental to the public welfare or the environment; and~~
- ~~(7) Consistency With Code. The granting of the variance is consistent with the general purposes and intent of this Land Use Code.~~

(f) Authorization to Impose Conditions. The Administrator, in approving an administrative variance, or the Board, in approving the variance, may impose such restrictions and conditions on such approval, and the premises to be developed or used pursuant to such approval, as it determines are required to prevent or minimize adverse effects from the proposed variance on other land in the neighborhood and on the general health, safety and welfare of the City. All conditions imposed upon any variance shall be set forth in the granting of such variance.

Section 3. *Severability.* The provisions of this ordinance are severable and the invalidity of any section, phrase, clause, or portion of the ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the ordinance.

INTRODUCED ON FIRST READING on this __ day of _____, 2022, ADOPTED and ORDERED PUBLISHED IN FULL in a newspaper of general circulation by the City Council on this ____ day of _____, 2022, and set for second reading and public hearing on the __ day of _____, 2022.

INTRODUCED ON SECOND READING FINALLY ADOPTED and ORDERED PUBLISHED BY TITLE ONLY, by the City Council on this __ day of _____, 2022.

City of Salida

Mayor Dan Shore

ATTEST:

City Clerk/Deputy City Clerk

**PUBLIC NOTICE
NOTICE OF PUBLIC HEARING BEFORE
THE CITY OF SALIDA PLANNING
COMMISSION CONCERNING AN
ORDINANCE TO AMEND CHAPTER
16 OF THE SALIDA MUNICIPAL CODE
REGARDING VARIANCES**

TO ALL MEMBERS OF THE PUBLIC AND INTERESTED PERSONS: PLEASE TAKE NOTICE: that on September 26, 2022, at or about the hour of 6:00 p.m., a public hearing will be conducted by the City of Salida Planning Commission at City Council Chambers, 448 East First Street, Suite 190, Salida, Colorado and online at the following link:

<https://attendee.gotowebinar.com/rt/1909092342220683277>

The public hearing is to consider amendments to Chapter 16, Article IV of the Salida Municipal Code regarding updates to the Zoning Variance requirements.

Interested persons are encouraged to attend the public hearing. Further information on the amendments may be obtained from the Community Development Department, (719) 530-2634.

Published in The Mountain Mail September 9, 2022