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Ouray, Colorado 81427



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**AGENDA
CITY OF OURAY PLANNING COMMISSION
REGULAR MEETING**

San Juan Room – Ouray Community Center – 320 6th Avenue
November 14, 2017- 4:00 p.m.

Notice is hereby given that a majority or quorum of the Ouray City Council may be present at the above-noticed Ouray Planning Commission meeting to discuss any or all of the matters on the agenda below for Ouray Planning Commission consideration.

ADMINISTRATIVE

- Call to Order
- Roll Call
- Review of Minutes from Planning Commission regular meeting of September 12, 2017 and October 10, 2017

CITIZEN COMMUNICATIONS

STAFF UPDATE

PUBLIC HEARING

- None

ACTION ITEMS

- Item #1 Dog Kennels-Recommendation for Council on Dog Kennels
- Item #2 Intermodal Shipping Containers (Continued Discussion/Action)

DISCUSSION ITEMS

- Item #1 Dog Kennels-Interpretation of a Use Not Itemized
- Item #2 Intermodal Shipping Containers (Continued Discussion/Action)
- Item #3 Review of On-Street Parking in Core Area of City; implications further away (no staff report)...Discussion Only by Planning Commission

ADJOURNMENT

Next regular meeting: December 12, 2017

WORK SESSION (Immediately following the regularly scheduled meeting)

- None

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DISCUSSION ITEM
PLANNING COMMISSION REGULAR MEETING OF
November 14, 2017

AGENDA ITEM NO.: #1

DESCRIPTION: Dog Kennels-Interpretation of a Use Not Itemized and Recommendation to City Council

PREPARED BY: Hank Epstein, Community Development Coordinator

Background: Mr. and Mrs. Pullig, owners of The Ouray Dog Company store at 920 Main Street, wish to rent the remaining two suites in their building to accommodate a boarding facility at that location. The site is zoned C-1 with historic district overlays. They previously operated a dog boarding facility in their home state of Louisiana. (See attached letter from the Pullig's.)

The C-1 zone district purpose statement does talk to the allowance of service related uses but does not list any such facility under permitted uses or conditional uses. Therefore, the owners and staff need an interpretation by the Planning Commission as a recommendation to the City Council on the use and how it might be allowed or not in the C-1 zone district. Mr. and Mrs. Pullig are anxious to have a determination made by the City.

Proposal/Discussion: The allowance of an indoor "doggy day care" and overnight boarding facility is being requested of the City. This type of use will require licensing by the State of Colorado. There is out of necessity, an outdoor play area and relief area for the dogs in day care and boarding if allowed. There are homes in the immediate area but they are in a commercial zone district which means various non-residential uses were anticipated to be neighbors. The site is located immediately adjacent to State Highway 550. Vacant land is to the south of the subject site. There are residences to the north and across Main Street (aka Highway 550). The property is leased by the Pullig's and is owned by Kenneth J. Oliver according to the Ouray County Assessor's Office. To formally apply to the City for this use being allowed on the site, the owner of the property would need to be involved.

Other communities generally have such facilities in industrial zoned areas or heavier commercial use areas. The City of Ouray has mixed use zone districts that enable various residential and non-residential uses to co-mingle despite compatibility issues that may arise. There are no provisions in the Code to address ways to mitigate such situations. This is an example of where a customer service use might be a reasonable inclusion, but not as a permitted use without conditions. Therefore, it might be viewed as a possible conditional use. As a conditional use, other than the owners obtaining a state license (to be documented) the City may impose conditions on the allowance if recommended for approval.

Possible conditions for a conditional use in the C-1 zone district:

- a. Maximum number of dogs able to be either in doggy day care or boarded overnight.
- b. Restriction on the hours of operation.
- c. On-going and proper maintenance of the facility (inside and out) to reduce risks to the employees and clients from dog related diseases. Trash containment needs are to be treated differently than normal trash.
- d. Proper training of any staff in the care and feeding of dogs in doggy day care or boarding overnight.
- e. Consideration of how they will address overnight boarding and care of dogs that are kenneled in this manner. Staff would need to be available to monitor the dogs boarded.
- f. If there are noise complaints from residential neighbors, on too frequent a basis, it might be grounds to terminate the use.
- g. Applicant would need to touch base with all the adjoining property owners and those within 300 feet of the proposed land use and get their reactions to the request. Have an identified telephone number to call if there are any problems.
- h. Documentation of license received from the State of Colorado.

Suggestions/Recommendations: City staff does not object to the allowance of a doggie day care facility for a limited number of animals subject to licensing by the State. We do have concerns about a boarding facility which allows for long term stays of a larger number of animals. While the doggie day care is proposed to end at 8:00 p.m. every day, lodging for dogs would be 24 hours. They will need access to outside run area and that could raise the amount of barking in the evening or early morning for nearby residents. They have a retail operation already in use at the site. The adding of doggie day care and boarding facilities will increase staffing needs to meet the needs of the animals served day and night. How they plan to address this needed attention to the animals should be identified and made part of their conditional use if approved in that manner. We would not support this use as a permitted use. There are too many variables that can adversely impact others.

Planning Commission Options:

- a. Hear all testimony on the proposed use and make a recommendation to City Council as an action item to allow the doggie day care and/or the kennel operation (overnight and extended boarding) to be a permitted or conditional use in the C-1 zone district. If a conditional use in the C-1 zone district, conditions applicable to the two types of uses should be identified for the recommendation to the City Council for consideration.
- b. The Planning Commission could determine that these uses allowed as permitted uses in the C-2 zone district. There is no obligation to allow for both activities in the C-1 zone district.
- c. Given our unique zoning allowances, compatibility is an issue in both the C-1 and C-2 zone districts if the proposed non-residential uses are within 300 feet of residential uses. Maybe allowing them as conditional uses in either category gives the Planning Commission more control over the compatibility issues when they are near residential uses as allowed.
- d. All uses and activities could be required to be contained within a building; there is no reason why this could not be possible with an addition to the current structure to create an enclosed play area for the dogs in day care or overnight boarding to reduce noise generated off-site. If there is outside open play area, then there might be a limit on the number of dogs allowed outside at any time with supervision, and limited outside use with those dogs being boarded.
- e. The Planning Commission can determine that the doggie day care component is an allowed or permitted use in the C-1 zone district but the boarding facility should be in a C-2 zone district. This allowance or determination may be tied to the number of dogs served for either use.
- f. The Planning Commission can recommend against the uses in the C-1 zone district.

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**DISCUSSION AND ACTION ITEM
PLANNING COMMISSION REGULAR MEETING OF
September 12, 2017 and November 14, 2017 (continued)**

AGENDA ITEM NO.: #2

DESCRIPTION: Discussion and Action of Intermodal Shipping Containers (ISC) in the City- Request for Reconsideration by City Council

PREPARED BY: Hank Epstein, AICP, Community Development Coordinator

Background:

At their May 15, 2017 meeting, the City Council reviewed the recommendations and draft ordinance offered by the Planning Commission for the definition and inclusion of Intermodal Shipping Containers (ISC) in the City for temporary use during construction for a period of one year in all zone districts and as a permitted permanent use with performance conditions in the C-2 zone district.

There has been considerable confusion about what would be allowed and where. There was also significant concern highlighted for what might occur in the R-1 zone districts and in particular the historic districts. The potential use of ISC as building materials in these specific areas raised the most concerns expressed by the public and Council. There was no discussion of an allowance subject to architectural guidelines or performance standards if the ISC were to be allowed.

There was considerable public input during the public discussion as well as a constructive exchange amongst the City Council members. The matter was postponed for further review and action by the Planning Commission. At their meeting of June 19, 2017, the City Council asked staff to redirect the draft ordinance recommended by the Planning Commission back to the Commission for further review of specific issues previously raised by the City Council and to react to staff concerns.

Proposal/Discussion:

1. As drafted in the March 14, 2017 staff report there was consideration to allow ISC for temporary storage with permitted construction up to one year in the R-1 zone district and to become a *permitted use* (not a conditional use) in the C-2 zone district. **They would not be allowed as a permitted use in the R-1, R-2 or C-1 zone districts.**
2. The *draft ordinance* itself stated something different: ISC would be allowed in all zone districts with permitted construction activity for a period up to one year. A posting of a cash bond of \$750 would be necessary. Subsection 7-5-J Supplemental Regulations, would be amended to read that "*it shall not be construed to prohibit the use of intermodal shipping containers as a component of new construction if all other applicable codes are met.*" (Emphasis added) The draft ordinance further stated that intermodal shipping containers for private storage in the C-2 zone district subject to provision of screening outside storage and meeting dimensional requirements, could be allowed. This means any property owner having residential, commercial or industrial property in the C-2 zone district would be allowed to have permanent use of unlimited Intermodal Shipping Containers on their property.

This meant:

1. ISC would be allowed (no limit on quantity or size of the ISC) as temporary construction storage for up to one year on any site in any zone district subject to obtaining a bond for removal.
2. ISC could be used for construction material in development or redevelopment on any site in any zone district subject to meeting applicable building code and zoning requirements.
3. ISC would be allowed as permitted use in the C-2 zone district subject only to screening and meeting dimensional requirements.

Council's expressed concerns or direction to Planning Commission for further discussion and reconsideration:

- a. Restricting the use of ISC as a component of new construction in any residential area (R-1, R-2 and C-1) that fall within designated national and local historic district areas of the city; all other locations are acceptable.
- b. Identifying performance standards to create or improve "compatibility" of the use of ISC with adjoining residential land uses where allowed on a more permanent basis.
- c. Addressing the cash bond requirement for a property owner utilizing multiple Intermodal Shipping Containers during construction activity on a site. The question raised: Should an applicant be allowed a lesser fee if they use multiple containers during construction?
- d. Should there be a limit on the number of ISC allowed on any project during construction?
- e. How do we address the allowance of ISC in the city's rights-of-way? Only by Temporary Encroachment Permit? If so, what are the restrictions to be followed?
- f. Should stacking of ISC be allowed? If so, how many? Temporary (anywhere) or permanent (C-2)?
- g. Identifying how to address adequate screening of the allowance during construction or permanent storage use.

Staff Comments or Concerns:

- a) Why is it necessary to have a definition of an Intermodal Shipping Container? What is it about the term that needs to be qualified as to the City's use of this term: Intermodal Shipping Container?
- b) There would not be any permitted Intermodal Shipping Containers allowed in the P-1, P-2, R-1, R-2 and C-1 zone district other than on a temporary basis during construction. If approved, any existing Intermodal Shipping Containers currently in use in these zone districts, would be on notice to remove existing storage containers unless they are associated with construction or remodeling of a home site, or the property owner is moving and the use in all instances are temporary.
- c) As proposed, ISC can be used on any residential property in the C-2 zone district *as a permitted use*, subject only screening and dimensional requirements (i.e., setbacks) and can be used for construction material. They can also be used for construction on all multiple family and non-residential sites in the C-2 zone district. *There are no performance standards distinguishing the allowance for use in an industrial use site versus a multiple family site or single family home property in the C-2 zone district.*
- d) Is the Planning Commission comfortable with allowing the stacking of ISC wherever they occur (temporary or permanent)? Given zoning height allowances, this could be sites where units are stacked 3-4 units high.
- e) Is the Planning Commission concerned that there is effective way to screen ISC from adjoining properties or public rights-of-way?
- f) Is the Planning Commission aware that some ISC often carry advertising? This could be a conflict with the existing sign code.
- g) Standard ISC are: 20 feet to 40 feet in length and from 8'6" high to 9'6" high. Non-standard sizes are from 8' in length to 60' in length. **The draft regulations are silent on this the size of ISC allowed for temporary or permanent use.** Is this a concern to the Planning Commission?
- h) How do we address any illegal non-conforming ISC currently in the City?
- i) Does the Planning Commission want ISC in any front yard in any zone district other than during construction? Should they be in side yards or rear yards only? If someone cannot place a ISC in their side or rear properties, they may only have the front yard to use or the City's streets.
- j) Should ISC be placed on improved surfaces so that they are able to drain properly? Permanent storage units should be on permanent or stabilized surfaces.
- k) Should ISC be placed to create traffic hazards or vision clearance problems? If not, then we need to state the obvious in the regulations.

Suggestions/Recommendations:

Specific recommendations from City Staff:

- a. Intermodal Shipping Containers, if allowed for construction material, consider performance standards other than simply meeting the Building Codes and dimensional requirements of the Code.
- b. Prohibit the allowance of Intermodal Shipping Containers as construction material in the historic districts of the City.
- c. If allowed as a permitted use as a storage structure in the C-2 zone district, this allowance should be limited to *industrial uses* in the C-2 zone district not any residential or commercial categories.
- d. Intermodal Shipping Containers as temporary storage in any zone district during construction, remodeling, moving and/or relocation, *or during damage repair to a home or other property situations due to natural or man-made events*, would be reasonable, subject to necessary bonding for removal.

- e. Staff does not support the \$750 price for removal of any ISC to be decreased for any applicant. Having multiple ISC on a site is a normal project cost. The funds are returned if not used. They could be placed in a restricted interest bearing account for this purpose. If the property owner or developer do not remove the ISC from a site as required that is what the price is to the City for removal; the City does not get a discount. Applicants should plan to budget for these units as they would any other construction costs associated with their overall project.
- f. Non-conforming (illegal) ISC that exist today should be identified, given notice and be removed from any property where they are presently located unless allowed per the new regulations.

Planning Commission Options:

1. Agree on changes to the draft ordinance after hearing all testimony, revise the draft ordinance and return it with your recommendations to the City Council.
2. Defer further action to allow for further discussion on the suggested amendments to the draft ordinance.
3. Take no further action and return the draft document to the City Council with any additional comments.