



REGULAR PLANNING COMMISSION MEETING

Tuesday, August 25, 2020

Prior to Planning Commission Meeting:
Planning Workshop 6:00 p.m.

Chair Marantino called the Regular Planning Meeting to order at 7:03p.m.

Chair Marantino led the Planning Commission and audience in the Pledge of Allegiance.

MEMBERS PRESENT AT ROLL CALL

Marantino, Caldwell, Pettinger, Rogers, Villasenor, Steffen, and Roberts

Commissioner Steffen moved to **EXCUSE** Commissioner Damuth from the August 25, 2020 meeting;
Commissioner Caldwell seconded the motion. The motion **CARRIED** with the following vote:

ROLL CALL: Yes: Marantino, Caldwell, Rogers, Steffen, Villasenor, Pettinger and Roberts

OTHERS PRESENT

Planning Director Nathan Lindquist via Zoom, Planner Brian Rusche, City Attorney Richard Peterson-Cremer by Zoom, Ch. 10 Salvador Tovar-Guzman, Brenda Gonzalez, Jesus Gonzalez, Chief of Police Tommy Klein, Others present via Zoom

APPROVAL OF MINUTES

Commissioner Caldwell moved to **APPROVE** minutes from the June 30, 2020 Regular Planning Meeting
Commissioner Rogers seconded the motion. The motion **CARRIED** with the following vote:

ROLL CALL: Yes: Marantino, Caldwell, Rogers, Villasenor, Pettinger, Steffen and Roberts
No:

2020-020 CONDITIONAL USE PERMIT 630 RAILROAD AVENUE

The Chair called the Applicant(s) Brenda Gonzalez

Confirmed Public Notice was met

PURPOSE

A request for a Conditional Use Permit to operate a wellness spa within an existing residence in the medium Density Residential (MDR) Zone District.

STAFF REPORT

Planner Brian Rusche went over the staff report and explained Staff's recommendations.

Staff recommends that the Planning Commission **APPROVE** the Conditional Use Permit (File # 2020-020) for the B Bella Aesthetics Spa.

APPLICANT PRESENTATION

Ms. Gonzalez explained she is a registered nurse and has been taking cosmetic nurse classes in Denver. Dr. Hile is a war veteran would be offering the same services as well. We believe a wellness spa in Rifle offering Botox, dermal fillers and other skincare services would be a benefit to the community. The closest ones are in Grand Junction and Glenwood, it would be great to have one locally and keep our tax dollars in town. There is some Botox being done here at the hospital but they are busy and costly, we are trying to offer an alternative.

PUBLIC COMMENT: opened 7:09pm closed 7:14pm

No public comments

COMMISSION QUESTIONS AND COMMENTS

Commissioner Rogers asked about the upstairs being a rental along with the ADU in the back yard; also asked about parking.

Ms. Gonzalez replied when they purchased the property there was an older gentleman renting the upstairs and they are going to allow him to stay as long as he wants, when he moves out the upstairs will not be rented out again. The ADU in the back yard is rented out to a teacher and is a great tenant. Regarding parking *Ms. Gonzalez* shared she lives a few properties from the property in question and will be walking to the business to work. *Dr. Hile* would park in one of the parking spaces off the alley or in front of the park, they will not be using the street in front of the business very often.

COMMISSION DISCUSSION

No other comments

MOTION MADE:

Commissioner Rogers moved to **APPROVE** 2020-020 Conditional Use Permit 630 Railroad Avenue to operate a spa in the Medium Density Residential Zone District with all Staff’s Recommendations. *Commissioner Steffen* seconded the motion. The motion **CARRIED** with the following vote:

ROLL CALL: Yes: Marantino, Caldwell, Rogers, Villasenor, Pettinger, Steffen and Roberts
No:

2020-019 TEXT AMENDMENT OMTERMET SWEEPSTAKES CAFÉS

The Chair called the Applicant(s) Staff Planner Brian Rusche and Chief Tommy Klein

Confirmed Public Notice was met

PURPOSE

Text Amendment to Chapter 16 of the Municipal Code related to internet sweepstakes cafés.

STAFF REPORT

Planner Brian Rusche went over the staff report and explained Staff’s recommendations.

Staff recommends that Planning Commission **RECOMMEND APPROVAL** to the City Council of the proposed text amendments as outlined in the staff report for Case # 2020-019.

Sec. 16-3-320. - Schedule of uses for residential districts.

The following is the schedule of uses for the LDR, MDR and MDR-X Zone Districts:

USE	LDR	MDR	MDR-X
Hospitals or clinics	*	C	C
<u>Internet sweepstakes cafe</u>	<u>*</u>	<u>*</u>	<u>*</u>

P = Permitted use
C = Conditional use
* = Prohibited use

Sec. 16-3-420. - Schedule of uses for commercial and industrial districts.

The following is the schedule of uses for the CS, TC, LI and I Zone Districts. For the Central Business District, see Section 16-18-1010 of this Chapter.

USES	CS ¹	TC ¹	LI	I

Indoor commercial recreation facilities	P	P	P	*
<u>Internet sweepstakes café</u>	<u>*</u>	<u>*</u>	<u>*</u>	<u>*</u>

P = Permitted use
C = Conditional use
* = Prohibited use

In addition, the Central Business District (downtown) has its own use table, which is formatted a bit differently than those for other zones, to wit:

Sec. 16-18-1010. - Table of land uses.

(a)Table 16-18-1010 lists the categories of land uses allowed in each sub-district of the Central Business District, subject to varying levels of review. See Section 16-1-220 of this Chapter for land use definitions and Section 16-18-1020 of this Chapter for standards specific to each land use.

(b)Consistent with the provisions of Section 16-3-110 of this Chapter, the Planning Director shall review applications for uses not listed on Table 16-18-1010 and shall have the discretion to make the following findings or to defer the decision to the Planning and Zoning Commission:

- (1)The use is similar to a listed "P" use and requires a Tier 1 review;
- (2)The use is similar to a listed "C" use and requires a Tier 2 review;
- (3)The use is similar to a listed "discouraged" use and requires a Tier 2 review; or
- (4)The use is unlike any listed use and is a prohibited use.

(c)Regardless of use, the scale and size of a project also affect the type of required review. See Section 16-18-1220 of this Chapter for more information.

Legend for Table 16-18-1010

- P: Use is permitted subject to a Tier 1 level of review (see Section 16-18-1230)
- C: Use is conditional subject to a Tier 2 level of review (see Section 16-18-1240)
- D: Use is discouraged subject to a Tier 2 level of review (see Sections 16-18-40, 16-18-1240 and 16-18-1270)

Empty cell: Use is prohibited

Central Business District Sub-Districts						
	Centennial Neighborhood	Creekside Neighborhood***	Historic Core	Second Street Mixed Use	North Gateway	River Gateway
	CBD-CN	CBD-CS	CBD-HC	CBD-MU	CBD-NG	CBD-RG
Commercial Uses						
Office and personal services	P	C	P *	P *	P	P
Indoor sales, service and minor repair	P	C	P	P	P	P
Indoor maintenance services			D	D	C	

Central Business District Sub-Districts						
	Centennial Neighborhood	Creekside Neighborhood ^{1***}	Historic Core	Second Street Mixed Use	North Gateway	River Gateway
	CBD-CN	CBD-CS	CBD-HC	CBD-MU	CBD-NG	CBD-RG
Indoor commercial entertainment, minor	P	P	P	P	P	P
Indoor commercial entertainment, major	C	C	P	P	P	P
Internet sweepstakes cafe						

PUBLIC COMMENT: opened 7:27pm closed 7:40pm

No public comments

COMMISSION QUESTIONS AND COMMENTS

Chair Marantino asked has there been any inquires for this type of business.

Planner Rusche replied yes there has been inquires which prompted us to look at the code. Looking at the code and the State Code we found from the zoning perspective other jurisdictions are not addressing these issues. It is called out in State Law but they are not addressing it in their zoning code. There are operations in Grand Junction and other communities. It came apparent we have a hole in our code, and the only thing we can go with is the state law if this becomes an issue. This is being presented tonight to address the specific zone of this type of use and decide if this use is appropriate for Rifle or not.

Commissioner Rogers asked if Staff could give more detail of what these machines are, is it like going to Las Vegas and doing slots, and what would stop someone from setting this up in their basements.

Chief Tommy Klein replied it depends they have so many different games that you can play and that is one thing these organizations are good at is changing the games slightly to conform to what they think to the law. It has been his experience that is not the case that they don't conform to the law. Once these businesses get established it is very difficult for a local law enforcement agency to investigate them as gambling. They would have to obtain the services from Colorado Bureau of Investigation (CBI) or another agency that has that kind of technical skill; that would be if they have the time or resources to put into investigating the matter. Chief Klein stated there is nothing to stop anyone from putting this in their basements.

Planner Rusche explained part of the reason we are advancing this request for a change to the zoning matrix is to provide one more avenue to address these businesses. For example if someone set up something in their basement, whether if that something meets or doesn't meet this definition is something they have to prove to us. Not unlike any other use in the table, you want to open a restaurant you go through the table you see that you can open a restaurant in these zones and know you need to get a permit or a conditional use permit, just like the case prior, that is the way it is supposed to go. For the definition, Staff proposed exactly what the state used and what the state already bans. Say if tomorrow there was a phone call and they wanted to do an internet sweepstakes, Staff can say this is not allowed if this was to move forward. This is one way to address it right up front. Will it stop it from happening, maybe not unless there is enforcement that comes with it, Chief Klein wants to address too, that is true with any of our codes.

Chair Marantino asked do these types of business exist in our county or adjoining county that we are aware of.

Chief Klein replied in an adjoining county, and stated he has never visited any of those places so it is just speculation on his part.

Planner Rusche shared one of the challenges is they are illegal under state law if you were to visit one of them as a patron. The language that is being proposed is exactly what the state says; this is not a substitution for what appears to be their judgement or what the state has determined to be the best interest for the citizens of Colorado. Staff believes it is in the best interest of the City of Rifle to adopt consistent language that matches.

Commissioner Pettinger asked does this give the officers more ability to enforce the state code.

Chief Klein replied it is not an issue for the officers at that point it is zoning issues at the beginning, so they would not be allowed to open the business. That would be before law enforcement would step in.

Planner Rusche explained it is now up to the Planning Commission and ultimately up to City Council to decide if this is something you want codified at a local level.

Commissioner Roberts replied that it sounds like just aligning with the state so that we have grounds when we refuse a business.

Commissioner Rogers asked how this compares to football pools that everyone comes together at someone's house and they select their teams.

Chief Klein replied if you have a bona fide relationship with someone, such you know someone, they have a football pool than it is okay. Then it is not in violation of the law.

Commissioner Steffen asked the terminology chose to use the Internet Sweepstakes Cafés is that broad enough to cover, what if they are not using the internet.

Planner Rusche replied that he was looking at Section 18-10.5 starting at 100 [of state law] and it continues, that is an entirely separate section dealing with gambling devices. Within that section of the code there is a whole bunch of definitions.

Commissioner Steffen replied so as long as they are in the code that is great; just to classify it as adult atmosphere to get the age deal away from it.

City Attorney Richard Peterson-Cremer explained an important thing to recognize passing this code puts the burden on the applicant to tell the City how their business meets the code. Where if it is a criminal case the City has the burden on the City and the City would have to get CBI involved. It seems the people that want to open these types of business up they will look somewhere else and move on to where it will be easier to open.

Chair Marantino asked if there was anyone in the audience that wanted to speak on record

Planner Rusche replied there is no audience on zoom.

Chair Marantino closed the public hearing and brought the meeting back to the commissioners for any further questions or deliberation.

Chair Marantino asked what does this do for us in regards to enforcement, would it be the same as any other business that started up without prior approval and sales tax license so on.

Planner Rusche replied correct, to enforce anything in Chapter 16 we use the administrative procedure.

MOTION MADE:

Commissioner Caldwell moved to **RECOMMEND to** City Council to **APPROVE** 2020-019 Text Amendment Internet Sweepstakes Cafés with all Staff's Recommendations. *Commissioner Villasenor* seconded the motion. The motion **CARRIED** with the following vote:

**ROLL CALL: Yes: Marantino, Caldwell, Rogers, Villasenor, Pettinger, Steffen and Roberts
No:**

COMMENTS & ADJOURNMENT

Commissioner Rogers shared the famers market is still has two more weeks you can order on line at RifleFamersMarket.com Keep watch for the Ute Theater – they are working on opening the doors.

The meeting was adjourned at 7:45p.m.

Dustin Marantino, Chairman

Date

SIGNATURE ON FILE

Charlotte Squires, Planning Administrative Assistant

Date