

**City of Cody**  
**Planning, Zoning and Adjustment Board**  
**Tuesday, August 14, 2012**

A regular meeting of the Cody Planning, Zoning and Adjustment Board was held in Council Chambers of City Hall in Cody, Wyoming on Tuesday, August 14, 2012 at 12:00 PM

Present: Jacob Ivanoff; Justin Lundvall; Kim Borer, Chairperson; Mark Musser; Bud McDonald; Steve Miller, Council Liaison; Sandra Kitchen, Deputy City Attorney; Todd Stowell, City Planner; Jolene Osborne, Engineering Administrative Assistant;

Excused Absence: Rick Brasher, Vice Chairperson;  
Absent: Bob Senitte

Chairperson Kim Borer called the meeting to order at 12:03 PM, followed by the pledge of allegiance.

Bud McDonald made a motion seconded by Justin Lundvall to approve the agenda. Vote on the motion was unanimous, motion carried.

Mark Musser made a motion seconded by Bud McDonald to approve the minutes of the July 24, 2012 regular meeting. Vote on the motion was unanimous, motion carried.

**PRESENTATION OF COMMUNICATIONS:**

Todd Stowell presented the staff report describing the application by John and Robin McClure to construct a shop on Blackburn Street. He stated that although the Blackburn PUD has not yet been completed, the planning and zoning review can proceed. He noted that staff received an updated site plan today that included a modification of proposed landscaping.

John McClure of McClure Custom Builders spoke regarding the modification to move the snow removal area to the southeast corner of the lot. The ADA space and loading/unloading zone is planned to be hard-surfaced. Some boulders are proposed along with groundcover landscaping that will more readily define the site access areas.

Bud McDonald made a motion seconded by Mark Musser to approve the site plan application submitted by McClure Custom Builders for property located at 177 Blackburn Street, as presented with the following conditions:

1. Submit a final site plan with the building permit that includes the following corrections and additions: Add labels and specifications for: the sidewalk, ADA space and loading area, ADA ramp, sidewalk extension to customer entrance, ADA sign, water stop location and electrical service location.
2. Submit a more detailed grading plan that clearly shows how storm water will be directed to the streets or otherwise into the subdivision storm water facilities. The City engineer and planner are authorized to approve the final grading plan.
3. That the snow storage areas either be moved to the south side of the lot, or that they be bermed or otherwise graded to prevent runoff from flowing onto the adjacent lots.
4. The lighting fixtures on the outside of the building must be of a down-lit style.

5. That a landscape bond, letter of credit, cash, or other surety acceptable to the City be provided to guarantee installation of the required landscaping with the building permit.
6. That additional grass and boulder landscaping as a site access restriction method be shown on the site plan.
7. Except for the tree locations and the snow storage areas, which may be adjusted as discussed, that the project must otherwise comply with the submitted site plan and applicable building, fire, and electrical codes. A building permit application is required.

Vote on the motion was unanimous, motion carried.

Todd Stowell presented the proposed sign and exterior modification for 1019 15<sup>th</sup> Street for Pat O'Hara Brewing Co. Additionally the door on the west side will be modified to open to the outside.

Dr. Leonard Moore, Pat O'Hara Brewing Co., addressed questions from the Board regarding signage, indicating that only the one sign is proposed at this time. Chairperson Kim Borer reminded the applicant that future additional signage would need to be reviewed by the board as the building is located within the Downtown Architectural District.

Bud McDonald made a motion seconded by Jacob Ivanoff to approve the architecture and sign plan for Pat O'Hara Brewing Co. for property located at 1019 15<sup>th</sup> Street. Vote on the motion was unanimous, motion carried.

Todd Stowell presented the staff report concerning the site plan application submitted by Karl and Lynn Lampe for additions to Geysers on The Terrace located at 525 West Yellowstone Avenue.

Lynn Lampe, owner of The Terrace, spoke regarding their plan for the brewery, and that the permission from the neighbor for storm water runoff was still in process.

Mark Musser made a motion seconded by Justin Lundvall to approve the site plan application and 10-foot high wind wall submitted by Geysers on The Terrace for property located at 525 West Yellowstone Avenue subject to the following conditions:

1. Either submit plans and construct storm water control facilities per the city storm water manual, or obtain written permission from the affected property owner accepting the increased runoff. Any plans must be approved by the City Engineer. If storm water facilities are installed, they must be inspected and certified by the engineer, in writing, that they were built as designed.
2. The project must otherwise comply with the submitted site plan and applicable building, fire, and electrical codes. A building permit and fence permit are required.
3. The brewing operation shall maintain compliance with applicable state and federal license requirements.

Vote on the motion was unanimous, motion carried.

Todd Stowell spoke regarding the proposed addition to house air-handler units submitted by Cody Laboratories at their facility located at 601 Yellowstone Avenue. He noted the suffering landscaping and requested the board review the photos.

Austin Allen, Groathouse Construction, spoke regarding the previous proposal. The new addition will still have the fencing installed. There is an existing drip system that has not been working. The owners have committed to remove and replace the dead trees and fix the watering system along the west entrance.

Mark Musser made a motion seconded by Bud McDonald to approve the site plan application submitted by Cody Laboratories for property located at 601 Yellowstone Avenue subject to the following conditions:

1. The temporary placement of the storage container labeled HMSB-22 on the site plan is authorized until the intended warehouse addition is completed, or 18 months, whichever is less.
2. That the landscaping be addressed to replace dead trees, repair the watering system and spray the rock area for weeds.
3. The project must otherwise comply with the submitted site plan and applicable building, fire, and electrical codes. A building permit is required.

Vote on the motion was unanimous, motion carried.

Todd Stowell spoke regarding the proposed sign in the downtown architectural district for Central Wyoming Neurosurgery. As the property is City property, the City Council, at their regularly scheduled meeting on August 7, 2012, reviewed and authorized the placement of the sign subject to the approval of the Planning and Zoning Board.

Bud McDonald made a motion seconded by Jacob Ivanoff to approve the sign plan application submitted by Central Wyoming Neurosurgery, LLC for property located at 1008 Rumsey Avenue. Vote on the motion was unanimous, motion carried.

Todd Stowell presented the staff report regarding the site plan application submitted by Joe's Auto for the construction of an auto repair shop at 3328 Big Horn Avenue.

Andrew Cowan of Tundra General Contractors spoke regarding the site plan application submitted by Joe's Auto. He stated the wainscoting may be modified to be rustic red metal instead of brick. The concrete apron width would be reduced to a 5 foot sidewalk while the ADA space size would be maintained.

Justin Lundvall made a motion seconded by Bud McDonald to approve the site plan application submitted by Joe's Auto for property located at 3328 Big Horn Avenue subject to the following conditions:

1. That more detailed plans for the ADA parking space, unloading area, and pathway to the front door be provided, which meet current ADA standards.
2. That the size and connection details for the oil/water separator be provided with the building permit application.
3. That all storm water facilities be inspected and certified by the applicant's engineer prior to building occupancy.
4. That the existing dead/dying trees be removed.
5. That a landscape bond, letter of credit, cash, or other surety acceptable to the City be provided to guarantee installation of the required landscaping with the building permit.
6. With the **suggestion** that an irrigation system be installed for the landscaping.
7. That the water line and gas line locations be modified to be outside the storm water swale.

8. That the snow storage removal area on the south side of the lot be bermed or otherwise graded to prevent runoff from flowing onto the adjacent properties.
9. That the board would **suggest** the entry way be paved for 30 feet to reduce track-out on Big Horn Avenue.
10. That the project must otherwise comply with the submitted site plan and applicable building, fire, and electrical codes. A building permit application is required.

Justin Lundvall, Bud McDonald and Mark Musser voted in favor of the motion. Kim Borer opposed the motion. As Jacob Ivanoff was absent due to a fire call. Motion failed.

Mark Musser made a motion seconded by Bud McDonald to approve the site plan application submitted by Joe's Auto for property located at 3328 Big Horn Avenue subject to the following conditions:

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5. That a landscape bond, letter of credit, cash, or other surety acceptable to the City be provided to guarantee installation of the required landscaping with the building permit.
6. That an irrigation system **be** installed for the landscaping.
7. That the water line and gas line locations be modified to be outside the storm water swale.
8. That the snow storage removal area on the south side of the lot be bermed or otherwise graded to prevent runoff from flowing onto the adjacent properties.
9. That the entry way **be** paved for 30 feet to reduce track-out.
10. That the project must otherwise comply with the submitted site plan and applicable building, fire, and electrical codes. A building permit application is required.

Kim Borer, Bud McDonald and Mark Musser voted in favor of the motion. Justin Lundvall opposed the motion. Motion failed.

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9. That the entry way **be** paved for 30 feet to reduce track-out on Big Horn Avenue.

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Vote on the motion was unanimous, motion carried.

Todd Stowell reviewed the draft nonconforming code and answered board questions. It was suggested that a modification be made on Page 4 line 10 (Section 10-13-4A) to state "50% of the original structure."

Harold Musser highlighted several details in the proposed ordinance he considered important to note. Section 10-13-1F on Page 2, line 8 places the burden on the property owner instead of the city. Section 10-13-1G states that the City Planner is authorized to render decisions instead of the board. Section 10-13-1I states "in error or by mistake" places burden on the property owner. Section 10-13-2A gives the value of "75%" which could be considered vague by lenders, insurance agents and others involved, putting risk on property owners. Kim Borer suggested continuity be maintained as this issue was addressed elsewhere in the code. Section 10-13-2D also seems to remove property owner rights. Section 10-13-4A addresses "that the use does not change." He gave the example of apartments changing to condominiums. Section 10-13-5 again states land uses that were "lawfully established" can become "legal nonconforming," which changes property owner rights. He also noted the "outside of the structure" section. Section 10-13-6A states "the Board may grant the relief requested if they find **all** of" the six conditions listed. He reiterated his belief that the proposed ordinance is not user-friendly and places all of the burden of proof on property owners.

Todd Stowell spoke regarding the proposed draft and purpose of the ordinance being to write down what most people already consider to be their nonconforming rights. It is a typical and very lenient nonconforming ordinance in comparison. Many of the thresholds set in the proposal simply trigger the review of the Planning and Zoning Board and not used as limiting factors. The burden of proof on showing that there is a nonconforming use has always been on the property owner. Section 10-13-2C addresses many of the property owner rights issues that concern Mr. Musser. The timeline suggested in Section C can be discussed, but the proposal states the traditional 365 days. He assured that this ordinance does not make uses or properties "illegal" but instead addresses thresholds for nonconforming properties to be reviewed by the Planning and Zoning Board.

Jolene Osborne reviewed the approved sign applications from Little Explorer's Preschool and Sprague Roofing.

Kim Borer stated she will be absent at the next meeting on August 28, 2012.

Meeting adjourned at 1:20 PM.

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Jolene Y. Osborne  
Engineering Administrative Assistant