



OFFICIAL MINUTES Planning Commission Meeting

Wednesday, August 28, 2024

Town Hall / Council Chambers - 302 Pine St Minturn, CO

The agenda is subject to change, including the addition of items 24 hours in advance or the deletion of items at any time. The order of agenda items listed are approximate.

This agenda and meetings can be viewed at www.minturn.org.

MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION:

This will be an in-person meeting with access for the public to attend in person or via the Zoom link included. Zoom Link: <https://us02web.zoom.us/j/81040253148>

Zoom Call-In Information: 1 651 372 8299 or 1 301 715 8592 **Webinar ID:** 810 4025 3148

Please note: All virtual participants are muted. In order to be called upon an unmuted, you will need to use the “raise hand” feature in the Zoom platform. When it’s your turn to speak, the moderator will unmute your line and you will have five (5) minutes for public comment.

Public Comments: If you are unable to attend, public comments regarding any items on the agenda can be submitted to Madison Harris, Planner 1, prior to the meeting and will be included as part of the record.

1. CALL TO ORDER - 5:30 PM

Lynn Teach called the meeting to order at 5:30 p.m.

2. ROLL CALL AND PLEDGE OF ALLEGIANCE

Those present at roll call: Planning Commission Chair Lynn Teach, and Planning Commission Members Jeff Armistead, Amanda Mire, Eric Rippeth, and Darell Wegert.

Staff members present: Planning Director Scot Hunn and Planner I Madison Harris.

Note: Michael Boyd is excused absent.

3. APPROVAL OF REGULAR AGENDA

Opportunity for amendment or deletions to the agenda.

Motion by Darell W., second by Eric R., to approve the agenda as presented. Motion passed 5-0.

Note: Michael B. is excused absent.

4. APPROVAL OF MINUTES

A. August 14, 2024

Motion by Amanda M., second by Darell W., to approve the minutes as presented. Motion passed 5-0.

Note: Michael B. is excused absent.

5. DECLARATION OF CONFLICTS OF INTEREST

Lynn T. has a conflict of interest for agenda item 8B as she weighed in on this in her capacity as a Historic Preservation Commissioner.

6. PUBLIC COMMENT

Citizens are invited to comment on any item not on the regular Agenda subject to a public hearing. Please limit your comments to five (5) minutes per person unless arrangements have been made for a presentation with the Town Planner. Those who are speaking are requested to state their name and address for the record.

No public comment.

7. SPECIAL PRESENTATIONS

Presentations are limited to 5 minutes unless prior arrangements are made with the Town Planner.

8. DESIGN REVIEW AND LAND USE PUBLIC HEARINGS

Note: 5 minute recess called at 5:33 p.m.

- A. 161 Main Street and 161 Nelson Avenue - Variance Request for Relief from Rear Setback
Madison H. introduced the topic. She explained the public notice sequence of events. Scot H. detailed the conversation he had had with the Town Attorney. He advised that this is something for the Planning Commission to decide on.
The Commission decided to go ahead with the hearing.

The Applicants, Spence and Stefanie Neubauer, request review of a request for relief from the thirty foot (30') rear setback at 161 Main Street and 161 Nelson Avenue in the Old Town 100 Block A Zone District. The 100-Block Design Guidelines within Appendix B of Chapter 16 were adopted in 2023. At that time, the purpose and intent of requiring the rear setbacks along Eagle and Williams streets was to ensure the provision of parking for residential uses (in mixed use buildings) and, in the case of Williams Street, to create the physical conditions necessary to promote a "Woonerf" concept which allows for vehicular and pedestrian use within the same travel corridor. Since adoption, the Guidelines – specifically the rear yard setback requirement – have not been implemented as there have been no new building or major redevelopment proposals. Additionally, staff suggest that upon adoption, the rear yard setback requirement did not contemplate 1) the proposed use is 100% commercial (parking requirements for commercial uses were eliminated at the time the Guidelines were adopted to incentivize commercial, sales tax generating uses), 2) there may be a valid need for an expanded first floor area due to federal regulations, and 3) an inability to utilize the full capacity for building height and massing due to those federal regulations. In an effort to work within the spirit and intent of the Guidelines, and to otherwise reduce the amount of relief (from the rear setback) requested to achieve the project design goals, the Applicant is proposing reducing the rear setback from 30 feet to 10 feet for the first floor of the building and from 30 feet to 20 feet for the second floor of the building. The first floor on the rear would be capped at a 14-foot eave height, and the second floor would be capped at a 20-foot eave height. According to Sec. 16-21-690(d) "**Findings required.** *The Planning Commission and Zoning Board of Appeals shall make the following findings before granting a variance:*

- (1) *There are exceptional or extraordinary circumstances or conditions applicable to the site of the variance that do not apply generally to other properties in the same zone;*
- (2) *The exceptional or extraordinary circumstances of the site create a situation in which the strict, literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this Chapter;*

(3) That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity and will not result in substantial impairment to the purposes of this Chapter.

(4) There is no substantial impairment to the public that would result from the granting of the variance.”

The Applicant has reduced the total amount of relief requested as evidenced by the building design which steps up in mass and form from first floor to second floor remaining cognizant of the impacts on the pedestrian experience, and in keeping with the overall intent of the Design Guidelines. Staff does not believe that this will have a negative impact on light or air, and in fact is respectful of the shading effects on walkways around the building based on the massing presented. The proposed design does not contemplate perpendicular parking along Williams Street except for a loading dock area, and so there should be minimal conflict with the parking across the street at the Molly G Building. Staff suggests that the intention of the 30-foot rear setback is to ensure enough area within a lot to provide adequate parking area for any second story and above residential uses. As stated within the Applicant's letter of intent "since federal rules do not allow residential use above a distillery, we cannot utilize the code allowed height for other uses." With no residential uses allowed within the proposed building per federal regulations; the prioritization of economic viability and welfare within the downtown corridor by the Minturn Municipal Code Old Town Character Area purpose and intent, the 2023 Imagine Minturn Community Plan, and Town of Minturn Town Council 2023-2025 Strategic Plan; and the proposed design of the building, which otherwise complies with the Design Guidelines and goals for activation on Williams Street, there may be a case for physical hardship and/or practical difficulty to allow for the requested relief from the rear setback. Staff recommends that the Applicant's request for a variance for relief from the strict application of the Town's Rear Setback limits at 161 Main Street and 161 Nelson Avenue may be granted as the request generally meets all variance criteria, particularly for practical difficulty.

Robert Creasy, 453 Pine St, Architect for the project

Hoping to provide an iconic building that provides character and a friendly pedestrian experience. Trying to reinforce the woonerf character by allowing for more sunlight. They are requesting the minimum area to make this business work. Unable to utilize different uses on the 2nd and 3rd floor due to federal regulations. There are only three lots that have this 30' rear setback. The code allows balconies to project 10' into the setback. By stepping the height it makes it more pedestrian friendly. This also reduces the amount of asphalt from a 70' foot wide span to something less than 50'. It more closely approximates the Town's guidelines and vision for Williams. What is being proposed is in keeping with the massing around. Maintaining views to the water tank. Thankful for the multiple letters of support for this project and appreciate the concern expressed by the other two letters. They will be applying for a Conditional Use for the use and believe that they meet the goals of the community plan. There is a recycling plan, solar arrays, and have been issued an Actively Green certification

Public comment opened.

Krista Driscoll, 115 Nelson Ave

There is no ability to have residential so this won't have as negative an impact. They are proposing more parking than needed, and maintains views of the water tower and the valley. The intent of the 100 Block Guideline was to create thoughtful growth and character. This building addresses that. In terms of backing up trucks, anything developed there will impede trucks even if a variance isn't granted.

Ken Mintz, 167 Williams St

Very supportive of having something built at the empty lot and likes the drawings that have been submitted and the less bulky building that's proposed. Questioned whether the use was allowed. This project doesn't really reach the threshold of a retail business. Retail occupies the entire ground floor, but that is not the case with a distillery occupying a bulk of the ground

space. Not building a retail space, but a factory. This is not light industrial, but major manufacturing. A conditional use would be required if deemed light industrial. Need to get beyond the trendy ambiance of a distillery and look at it as a factory in the 100 Block. Asked if the applicant had an approved state license for a distillery in this location. If they don't this might be the cart before the horse. Variances are forever, and what happens if the applicant decides not to do a distillery. Then there would be all this extra mass/20 feet. A future owner could come in and put something else in there. One of the requirements to get a license from the state is that it meets the desire of the adult inhabitants of the neighborhood. No survey has been conducted. Doesn't believe there is a legal argument for the variance based on the applicant not being able to utilize the height. There are dozens of permitted uses in the code that would not require a variance to be built. The highest and best use of a property is not a reason to grant a variance. The Applicant's purchased the property with the reliance on securing variance relief. This is a self-created hardship. The street level should be dedicated to retail. The variance should not be detrimental to existing uses. This would be detrimental to the Minturn Market. The Town and MR Minturn use a lot of that space for snow storage. The space is currently being used for parking for all of the other commercial businesses so this would hinder the existing businesses. As for compatibility, this goes back farther than other structures in the area. The semis that deliver to Magustos and the Country Club cannot exit without going onto this property. Have there been any vehicular studies on the turning radii of semis. The number of vehicles that come onto Nelson off Main Street, about 50% turn around, and they will not be able to maneuver. More people enter Williams Street illegally because they can't turn around. Stated that distilleries are among the highest polluting uses. Unaware of what practices the applicant has or if ERWSD has been contacted. Odor is something that should be considered. The Planning Department failed to consider the Town's comprehensive plans.

Ken Halliday, 532 Main Street

Cares about the development of Minturn. This building and use fit the character of Minturn. This is the type of business that we should have as it's unique. Planning Commission should consider that this is the right kind of business and they need the extra space to operate. We should try to be flexible to keep this business here. Since they can't have residential, this shouldn't set a precedent.

Devin Schow, 115 Nelson

Has concern about snow storage and where that pile of snow is going to end up, but in support of the variance. This is a good business to support.

Lynn T. read into the record the written public comment received.

Hope all is well. My name is Ashley Saunders and I am a Minturn resident living at 440 Eagle River Street. I wanted to reach out to express my support for the proposed 161 Main Street variance application.

Thank you for your consideration.

Ashley Saunders

440 Eagle River Street

My name is Brady Schlichting, and I own Evoke Outdoors, the bike shop at 102 Main St. I've heard a little about the variance at 161 Main St and I'm for it, if it can help the business, I'm all about it. The owner is a Minturn local and all he wants is the best for the town.

Thanks,

Brady Schlichting

Evoke Outdoors

I am writing to express my opposition to the granting of the variance request of Eagle River Whisky Company at 161 Main St. This is not something the downtown will benefit from. It really doesn't fit in with the other business in the area and I am opposed to it being built.
Sincerely,
Frank G. Sanders

I am writing to express my opposition to the granting of the variance request of Eagle River Whisky Company at 161 Main ST. The town just spent hundreds of thousands of dollar updating the Town Community Plan to create standards for the lot's and buildings and a vision on what the downtown area was to be and look like. Now the first developer to submit a proposal can't live within the new guidelines and wants to develop their lot to their needs and their own vision of what the area needs to look like. They need to adhere to the new regulations.

I am also curious as to why they are requesting a variance for a use that is not allowed in the mixed use zone of downtown. Distilling whiskey is a manufacturing process and light manufacturing is not allowed in that zone.

Lastly please consider that a distillery is an environment and fire disaster just waiting to happen. Please review the attached information sheet on the potential environmental damage a distillery can cause.

Sincerely,
Hawkeye Flaherty

Just writing to express my support for the 161 Main variance application. Please feel free to reach out if you have any questions. Thanks so much.

Justin Ross
1141 Main Street

Myself and my wife Lindsey would like to express our support for the 161 Main st variance. We currently reside on 261 Main street.

Thank you
Sean Adams
Public comment closed.

Mr. Creasy said that they would be asking for a conditional use for light manufacturing. There will be retail space on all three frontages and the distillery will be open to the public. This will be a substantial economic benefit to the Town. The need for the variance is the first step. There would be more impairment on Williams if a terrace was built all the way out, and there would be more ice on Nelson if the full height was built. The variance is only good for one year and the variance would be specific to the heights proposed. Snow storage, the Market, are issues for the Town and not on the owners to figure it out. There will be no discharge from the product and it is a closed system that should not produce odors.

Spence Neubauer, 161 Main
Has their DSP and the state license for manufacturing at Meadow Mountain. This would be another property that would go into that current license.

Stef Neubauer, 161 Main Street
Appreciates the comments about sustainability. Has their Actively Green certification. Want this to be a place to teach people about small manufacturing. The whisky fungus is about air filtration that they have no problem addressing. Have no desire to hurt anyone and want to be as cutting edge as can be.

Scot H. stated that the Town can approve a variance without a formal DRB application in front of it. There are plans that are needed to demonstrate the proposed building, but the variance

is not required to be based on a use. If the lot sells or never gets built, the variance is specific to the plans provided.

Jeff A. also clarified that if the variance is granted and is only valid for one year, so there's only one year for the applicant to initiate the construction of this building.

Scot H. gave the definition of Light Manufacturing from Sec. 16-2-20.

Amanda M. asked if the variance would still be required if the lots are combined

- Yes
- Amanda M. asked if there can be conditional use constraints to ensure that it always remains Light Manufacturing
- Scot H. advised against it.

Darell W. asked if there was a variance for height

- No, this is self imposed
- Darell W. asked if it is sprinkled
- Mr. Creasy said that it is completely sprinkled, and while they haven't officially decided on materials, they will be primarily stone and stucco with accents of wood, metal, and glass.
- Darell W. asked about odor.
- Ms. Neubauer said that there will be little odor, but they will have air filtration.

Jeff A. thinks that the intent of the 100 Block Design Guidelines, and his interpretation is that there was a lot of maximization of what could be built. Some of the provided renderings of what could be built are helpful based on some of the plans that the Commission saw. These opportunities are rare. The good thing about being a recommending body is that they aren't the final say. Appreciates that the public came out to give comment. Some of the things stated tonight and in the code are subjective and can be interpreted. One of those things is "detrimental use". Thinks it is important for this property to be built upon that is not maximized is rare. This is a thoughtful plan. This is an iconic building for this town, something to be proud of. It fits and has so much potential. There will never be a scenario where all boxes get checked, but this is close. Negative impacts will come out in the wash when it comes to the DRB and CUP applications. Would agree that this variance meets criteria 3 and 4. The code that was changed in 2023 is a direct result of the maximized plans seen in prior years. This fits in with the Town and fits the bill to be considered as a variance.

Eric R. appreciates the building and the comments. Has questions about the 10' setback meeting the woonerf concept. What's going to happen in the future. As a building does it keep the historical look of the downtown. Is it going to make the downtown look different.

Amanda M. asked about the time line.

- Jeff A. asked if in the future someone comes in and wants to create condos then would it become a non-conformity or would they have to conform.
- Scot H. believes they would have to conform to the current code at the time.

Lynn T. had concerns about the traffic issues and asked them to consider putting bollards at the corner of Williams and Nelson. Does want the commission to consider the conditions recommended by Scot and Mike

Motion by Amanda M., second by Darell W., to forward a recommendation of approval to the Town Council with conditions. Motion passed 5-0.

1. The Applicants shall apply for and successfully complete a formal Design Review Board application; and

2. The Applicants shall apply for and successfully complete a Conditional Use Permit application; and
3. The Applicants shall apply for and successfully complete an administrative subdivision process to eliminate the common lot line between the two lots and to combine the lots into one lot.

Note: Michael B. is excused absent.

Note: 5 minute recess called at 7:25 p.m.

B. Ordinance TBD - Series 2024 An Ordinance Amending Chapter 16 - Zoning and Chapter 19 - Historic Preservation of the MMC

Note: Lynn T. recused herself and left the room.

Jeff A. introduced the agenda item. At the June 5, 2024 meeting Council discussed balancing historic preservation, economic feasibility, and the utilization of property, particularly in the Town's downtown, commercial generating area. In response to this a work session was scheduled at the July 17, 2024 meeting. During the work session staff brought forth nine different ideas for Council to discuss and give direction on. Staff was directed to bring back an ordinance addressing Options 1-7:

1. Option 1: Eliminate the requirement for two sets of design review guidelines
2. Option 2: Eliminating potentially redundant approval requirements
3. Option 3: Allow for historically designated structures in the downtown corridor to have the immediate ability to function as short term rentals on all floors
4. Option 4: Encourage historic preservation reinvestment as part of the Downtown Development Authority Operations Plan
5. Option 5: Require a minimum of two nominators for a structure to be nominated for historic designation
6. Option 6: Create a process whereby property owners can determine if their structure would be historically designated without necessarily "supporting" such a designation
7. Option 7: Allow residential in the Downtown Character Area on the back 50% ground floor of historically designated commercial buildings to create live/work opportunities

When discussed at HPC, staff received the following direction:

- Amend the definition for alteration and the historic designation process to allow for the selection of facades (not to exceed 50% of the exterior of the structure) to be prioritized to remain the same and trigger the Certificate of Appropriateness process even if 50% of the structure is not affected.
- To add a visual example to the definition of alteration.
- To amend the intent statement of Sec. 16-6-35 - 100 Block Commercial Zones subsection (b) to add lodging as a use at the street level.
- To amend the *** clause at the end of the Old Town Character Area Use Table to specify 50% of the "proposed ground floor area"

Staff presented this ordinance to the HPC at their August 20, 2024 meeting, and is presenting this ordinance to the Planning Commission to receive feedback and a recommendation before bringing it to Council for final decision. Several of these options, should they be implemented, should provide additional flexibility and stability to individual property owners within the 100 Block and throughout the rest of Town.

Public comment opened.

No public comment.

Public comment closed.

Eric R. likes the encouragement of the reinvestment of the DDA. It needs to be more visualized.

Darell W. clarified the two nominators.

Amanda M. had no questions, but thinks that some of this is not in conformance with the Community Plan.

Jeff A. asked about the use table.

Motion by Amanda M., second by Eric R., to forward a recommendation of approval of Ordinance TBD - Series 2024 An Ordinance Amending Chapter 16 - Zoning and Chapter 19 - Historic Preservation of the MMC with the strike through of option 3 in that it does not meet the intent of the comp plan for 100 Block. Motion passed 4-0.

Note: Michael B. is excused absent and Lynn T. is recused.

Note: Lynn T. unrecused herself.

9. DISCUSSION / DIRECTION ITEMS

A. Minturn Forward: Draft Article 5 - Land Use Application Requirements & Procedures

Scot H. went through the changes proposed to the Land Use Application Requirements and Procedures. The goal is to create a standard way for how to accept and review applications in easy to understand language.

- Sec. 16-5-130-16-5-160: Planned Unit Developments (PUDs)
 - Amanda M. asked for clarification on what a 30% slope would look like
 - Jeff A. stated that just because you can't build on a slope doesn't mean that you can't recreate it
 - Amanda M. thinks this clause should be taken out
 - Jeff A. said that if you dedicated it permanently via an easement on the plat then it should be counted.
 - Eric R. asked about the critical wildlife areas counting
 - Scot H. said that there's some room to wordsmith to allow this as long as the areas are properly protected. There needs to be a balance between protecting sensitive areas and having active recreation areas specifically for residential projects that will have kids.
 - Jeff A. said that there should be a requirement that the developer is trying to
 - Amanda M. would like to say that 130D(5) should say "recreation area standards". There should be a definition for common elements as well.
 - Jeff A. thinks this should be left broad so that we don't leave things out.
 - Darell W. asked if we should list golf courses, pickleball courts in "areas that count" under open space. Table title should not say county, but count. Also clarified pg 85 6. Remedies Authorized, there should be clarification that this would be billed to the Applicant. On page 97, there should be water conservation/water budget plans under 8c. on Page 110 add review water conservation criteria.
 - Lynn T. would like to define wet water
 - Jeff A. G2b thinks the 20 feet between buildings should be 10 feet. 25% open space requirement on page 100 and 110 shows up. Should add on page 97 the percentage of construction ready documents that we need. Should also add Engineers Estimate of Probable Cost to the Preliminary Plan. On page 98 there should be clarification on whether or not you need a traffic study vs. an access permit. Asked why we aren't referencing the plat in the recording on pg 115 and throughout the PUD section.
 - Eric R. asked if there is a limit on Hwy 24 or do we just keep adding.
- Sec. 16-5-170: Minor PUD Amendments
 - Jeff A. doesn't think that changes in bulk/height/character are minor.
 - Amanda M. thinks that A2b should be moved to Major Amendment.
- Sec. 16-5-180: Major PUD Amendments

- Sec. 16-5-190: Sign Permit
 - Jeff A. said that in Step 6 that there should be added staff decisions shall be forwarded to the Commission at their next meeting.
- Sec. 16-5-200: Master Sign Program
- Sec/ 16-5-210: Sign Variance

10. STAFF REPORTS

A. Manager's Report

Colorado Municipal League (CML) Policy Committee

In preparation for the 2025 legislative session, Colorado Municipal League (CML) member municipalities are now asked to appoint/confirm representatives who will serve on the League's 2024-2025 Policy Committee, as well as for municipal members to submit any legislative or policy proposals for committee consideration and recommendation to the CML Executive Board. Each representative will be expected to read and adhere to the Policy Committee Roles and Responsibilities, as outlined in the attachment and covered in more detail below.

General policy committee responsibilities include:

1. Attending and participating in all Policy Committee meetings, in-person or virtually, and voting on policy positions to recommend to the CML Executive Board.
2. Evaluating requests from member municipalities for CML-initiated legislation and making a recommendation to the Executive Board.
3. Reviewing the League's 2024-2025 Policy Statement that guides League positions on policy issues affecting municipalities and proposing revisions, if necessary. (Any recommended changes to the policy statement are voted on by CML members at the Annual Business Meeting that takes place as part of CML's Annual Conference.)

2024-2025 Meeting dates (subject to change)

All meetings are 9:00 - Noon

- Friday, Oct. 11
- Friday, Dec. 6
- Friday, Jan. 17 (Virtual)
- Friday, Feb. 21
- Friday, March 14 (Virtual)

Unless a Council member specifically volunteers for this position, I will add myself to the Policy Committee and Mayor Earle Bidez will be appointed as the alternate.

Community Events: First Fridays

Staff reached out to the business community to gauge interest in hosting a First Friday event. This would be a sponsored event by the Town and would seek to spotlight our local businesses while bringing community together. Thus far two businesses have responded expressing interest. The "first" First Friday will be September 6th at the Eagle River Inn with Whisky tasting by Eagle River Whisky. The October First Friday will be at Kirby Cosmos with a pig roast. More to come.

Safe Streets 4 All (SS4A)

Minturn is looking for one to two business owners to join the SS4A Working Group. This is a local group of stakeholders who will meet up to four times (virtually) over the next year to provide discussion and feedback on the state of the safety of Minturn streets. Those interested should contact Michelle Metteer at manager@minturn.org or 970-445-2418.

B. Planning Department Update

541 Main Street - Minor DRB Permit

The owners of 541 Main recently applied for a Minor DRB Permit to change windows and a door. This was approved August 9, 2024.

11. PLANNING COMMISSION COMMENTS

No planning commission comments.

12. FUTURE MEETINGS

A. September 11, 2024

- a. Darell W. isn't here
- b. Eric R. might not be here

B. September 25, 2024

13. ADJOURN

Motion by Jeff A., second by Eric R., to adjourn the regular meeting of August 28, 2024 at 9:23 p.m. Motion passed 5-0.

Note: Michael B. is excused absent.

Lynn Teach, Commission Chair

ATTEST:

Scot Hunn, Planning Director