

Tropic Town Planning Commission Meeting  
Held Thursday, May 5, 2016  
Tropic Town Heritage Center at 6:00 p.m.

**PRESENT:** Alfred Foster, Dan Cloud, Riley Roberts, Daniel Fagergren,

**OTHERS:** Katie Parkin, Kevin Poe, Jan Stock

**CALL TO ORDER:** Dan Cloud

**MINUTES:**

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Katie Parkin: Building permit application was received for a prefab storage shed/barn. Dennis Pollock explained the project missed April's PC meeting; the building was going to be delivered before Katie could get the Town's approval in May. The project was pre-approved by the Town Council in April's TB meeting with the condition she have the PC review the setbacks and other conditions were in compliance. A motion was made by Dan Cloud to approve the building permit. Second by Dennis Pollock – Motion carried.

Dark Ranger – Rezoning: Letters were received from Justin Fischer, Garfield County Planner, and also Kevin Poe; both letters understood the viewpoints that were revealed and are not in favor of rezoning. Discussed the comments and concerns expressed at a public hearing held April 7, 2016 against the rezoning of 6.5 acres of agricultural property, the motion was made by Riley Roberts to not rezone the 6.5 acres of Kennedy's property ~ Second by Alfred Foster – Motion carried.

Dan Cloud expressed appreciation for the public hearing; the comments and concerns initiated Dan to explore further the zoning requirements.

Kevin Poe did not appeal this decision against the rezone, but asked for a conditional use permit. Kevin did stated he would appeal to the Town Council if the Planning Commission did not recommend the approval of a conditional use permit; and asked for the following three conditions to be a listed/added:

- ~ Amphitheatre/Observatory & Stage
- ~ Caretaker onsite
- ~ Sell of merchandise

1. Amphitheatre/Observatory & Stage – would like to have a place to show his presentation on a big screen
2. Caretaker – liability insurance would be less if he had someone on site
3. Sell of Merchandise – Jackets, gloves, hat, etc.

Interpreting the permitted zoning uses, Kevin felt his activities fall under a number of the categories listed:

“Parks” – his observatory, by most definitions is a park, providing recreational and educational opportunities.

“Barns...machinery shed, etc.” There is a barn, which houses his tractor – and houses his telescopes which is his machinery; would like to insulate the walls to do presentations for guest. Would like a to build a wood fence/corral ~ would like a waiver to allow a 7ft fence, 1ft above what it permitted; this allows for him to operate the telescopes without neighboring lights or in town.

“Radio Television Towers” – He does have a radio tower, the only thing he has put in on it is the foundation; would access it if needed.

“One stand or display or sale of products raised on premises” – Kevin acknowledge there are concerns about generating revenue; the ordinance does not clearly state anything against that. Throughout the state there are farms where a ticket is purchased to see go through a corn maze, performance, etc. He doesn't have zucchini or apples, but would like to sale tickets - fee of a ticket pays for his expenses ~ currently the shows are reservation only; but if approved could have walk-ins as well. Guest think warm when location is “Southern Utah”; many are not prepared for the colder weather to observe the night sky, he would like to have jackets, gloves, hats available to purchase, as well as other memorabilia ~ post cards, posters, etc. of the night sky. He guarantees his program; a refund is given to anyone that is unhappy with the program, especially when it relates to the weather.

“Single Family Dwelling” – Kevin expressed this might not be needed, but would like approval to have a camp trailer on site, whereby the caretaker would stay; this structure is much like a sheep camp that some use on their agricultural land.

Dan Cloud stated that the only structures are permanent; Alfred was unsure if the Council would allow the camp trailer, it being not hooked up to water/sewer. Kevin isn't able to find where it is written dwellings need to be connected to w/s. Dennis stated septic tanks are not allowed, it's in the w/s ordinance ~ where w/s is accessible one must connect to the system. Kevin asked for a waiver – for a few months – giving him time to dig a ¼ mile to connect; responding, Dan Cloud stated that is the Council's decision. Riley reported that those on 550 North had septic, but once the sewer line was installed, they all were required to connect to the sewer system – Francisco Lane was the same way. Being a place for a resident to live, it is required that fire protection be made, which required a fire hydrant within 400 ft.

Another item addressed ~ Dennis questioned the width of the road; 2 cars need to be able to pass and fire emergency access. Kevin considers the road a farm lane ~ Alfred asked if the Town was going to require all farms this same conditions? Looking at issuing a conditional use permit, Dennis stated the Town is looking at allowing for something other than agriculture use ~ a recreational business ~ we'll need input from the fire department, if the road will meet requirements for emergency access. Not questioning the area to which fire trucks can turn around, but looking at the width of the road accessing the property; need to be consistent in the requirements of all businesses. Riley added that if there are changes needed, then the Council needs to revise the ordinances; making variances, conditions, etc. is not the way to manage the growth of Tropic and will cause more problems than solve them. Dennis agreed stating the one of the problems with 550 North is that previous Town Councils allowed 550 North road to be created without following what is outlined – it should have been paved.

Kevin asked about contacting Ron Harris for a site inspection – Riley felt it would be better for the Commission to contact him; this is a different situation, trying to operate a commercial venture on an agricultural zone area; safety is an issue.

Reviewing all input and requests, Dan Cloud asked Marie if any conditions were issued when the business license was given, responding, Marie answered no, was just given a business license. ~ doesn't think a conditional use permit is need for the use of the property, dose need one for the caretaker would stay. Continuing, Dan feels that the sale of hay is this a commercial venture – Kevin's sale of items doesn't bother him, but questioned is it in line with the agricultural use? Having the “astronomy park” makes sense, but there are other issues that have been expressed. From a zoning perspective, Dan doesn't think a conditional use permit is needed for the occupational venue, but is concerned with the structures and buildings.

Discussed the definition of “sale or display of products raised on the premises” ~ Commission called the products produce – such as vegetables, hay, etc. Kevin stated the ordinance doesn’t say produce, it says products; if they wanted it to say produce it would have said produce.

Dennis clarified products raised in agricultural; t-shirts are not raised on the property. Alfred continued, asking if it’s being called by a different animal to justify it.

Dan Fagergren commented on the discussion, referring to Kevin’s interpretation of the language in the ordinance is pretty creative. Referring to the public hearing regarding the zone change, the concern was traffic not the business itself. Any good business will want to grow and Kevin’s will want to grow his business, which will increase traffic; what other access is available – such as 250 West ~ responses made - no emergency vehicle would be able travel that road – it’s a farm lane.

Alfred made comment regarding 550 North and the speed issue, but speed is an issue throughout town and 550 North is a Town road and the venue will increase traffic, more than normal; but is it the planning commission’s responsibility to regulate traffic. Tropic is not the quiet little farming community, as long as Bryce Canyon attracts people, residents will need to learn how to deal with the traffic, speed, etc., does the Town start limiting grow or address the issues as we grow?

Discussion continued, Daniel Fagergren referenced the concerns expressed from the public hearing, it wasn’t so much the business that was opposed, but the traffic and speed; as in letters from John and Marsha Holland with the Stone Canyon Inn development; it was at first pitched a small B&B, now its restaurant, cabins, etc., not to mention the increase in traffic and dust it causes. Responding, Dan Cloud and Dennis stated it was zoned RRC when they built – the area there is zoned for recreational development. Following up on his comments, Daniel agreed in the zoning; but addressing the dust and road conditions – residents are pushing to paved road(s) 550 North and Under the Rim Road – and many have said it would increase speed; but there is a way to control speeding.

Alfred followed up making comment that Tropic is not the small quaint community – as long as Bryce Canyon is continues to increase with travelers and visitors Tropic will be impacted. Are we going to strangle business interests to keep that quaint farming community or try to find a way to make it work?

Dan Cloud stated the commission job is to look at the proposal, does it fit the zoning; it’s up to the Town Council to decide it needs a fire lane, it water/sewer, etc. Does it fit the zoning for the area – in his opinion it does; but if he continues to expand more than what he has presented, it definitely would not fit the zoning.

Many additional comments regarding dust, paved roads, speeding, etc. was made by Kevin; feels that the speed is not caused from his guest, visitors traveling in unfamiliar areas do not speed. Riley expressed another part of the Commission job is safety – how does the Commission appease the safety concerns that was brought up; part of the logistics of safety is paving the road. It is also the responsibility of the Commission to propose the recommendation of the conditional use permit be taken to the Town Board ~ it is also the Commission responsibility to help set the “conditions”.

Discussed safety issues – what is in place, what needs to be in place, etc. Speed limit signs, children at play sign, lighting, etc. Daniel, Alfred and Riley do feel a Conditional Use Permit is needed – outline the clarity of the use, setting parameters, otherwise if something does happen, what are the consequences. It is noted that business licenses are approved/renewed on a yearly basis. Repeating previous comments – Alfred felt there was a play on words calling a fence a corral, an observatory or a meeting place being called a shed, etc., this is why there should be a conditional use permit in place. Riley agreed ~ and disagreed with Dan Cloud stating that Kevin’s night sky is an agricultural venture – and that it is different, it’s a business in an agricultural zone. Kevin replied, stating that nowhere in the ordinance does it say “park” has to be non-profit; things are not written by accident.

Riley replied in referencing the general plan and zoning, it is “Agricultural” zoned, not “Business in Agricultural” zoned. The only way to get around the zoning issue is to have a conditional use permit in place – otherwise you will have many upset people. Need to quit trying to define what clearly it’s not – call it what it is; otherwise it is shady and sneaky; the Commission and Town Council represent the entire community, not just Mr. Poe’s interest or our own.

Daniel Fagergren stated he is not opposed to the project ~ trying to look at every angle. Every business has a desire to grow – with the increase of visitation to Bryce Canyon, more and more people will want to attend the program; the temptation will be there to bring in more telescopes, additional facilities, etc. Cautioned Kevin to be careful; if the Town sees there is threat to the residents and the conditions, the Council will need to take action; need to find a balance to maintain. Addressing Kevin’s letter, Daniel felt it was creative – many may see it as being deceitful; he can see it as a way to market your project – “cowboy” experience of astronomy – using corral gate, “fruit stand” entrance, rather than cargo boxes; having an agriculture façade – it’s definitely a marketing ploy. It’s not going to mask what Kevin is doing, but it would be putting it in black and white.

Concluding, Dan Cloud asked to acknowledge the whole venture as a conditional use that fits; it’s a night sky program ~ it didn’t fit in a RRC and the venue in and of its self is wrong in the Commercial zone. It is the Commission’s recommendation to the Town Board that a “Conditional Use” permit be approved with conditions and why ~ discussed possible conditions, these do not necessarily affect the property of the area, but will address residential concerns:

- ~1 Year Permit – will be rescinded at any time for violation
- ~One-(1) Merchandise Stand – “farming” look/touch
- ~Size of outdoor theatre/stage – no more than “X” amount of people
- ~Fence Height
- ~Fire/Emergency access
- ~Address dust, traffic, speed
- ~Proper Signage – Visible, distance from the road, etc.
- ~Security Cameras

To help alleviate the speeding, it was felt Kevin could help. It was expressed that people are already upset for the Council to even allow it at all and to appease that, having their ideas and input would help address the concerns. Kevin felt that he has done everything he can to address the speeding, has purchased two 20 mph speed limit signs that are on his property and shouldn’t have to place signage down 550 North; he doesn’t feel it’s all his responsibility; there is more than just his one or two vehicles using the road compared to families, law enforcement, etc. using the road seven or eight times a day. As previously discussed, speeding is an issue throughout Town, not just by visitors, but by the locals. Dennis stated that the Town cannot blame Kevin or set conditions for the use of a Town road – we do all we can to mitigate traffic control, lighting, signage, etc.

The permit can be protested/appealed to the TB – PC sets the conditions; TB approves the permit. Time frame ~ to be fair, Riley felt something should in place before next meeting; if the permit is approved, Kevin should be given ample time to meet the conditions. A work meeting set for Wednesday, May 11 at 5:30 p.m. Riley offered to draft a list of possible conditions to be reviewed and used in the permit; including those Kevin has asked for and those the Commission and Town Council set.

### Review & Discuss

Another item currently facing debate among the Town Council, Planning Commission, Businesses and Residents is “Vacation Rentals” in residential zone. It is a heated issued not just in Tropic, but throughout the State – Dennis Pollock and Alfred Foster attended a meeting hosted by Cameron Diehl – ULCT, where those in attendance shared experiences, concerns, and the impact of STR in their communities. (Attached ULCT minutes)

Commission reviewed the list of items of concern expressed at the combined work meeting of the planning commission and the town council – April 7, 2016 (attached). Alfred and Dennis expressed that it would be tuff to ban STR from residential areas; by placing stiff conditions to regulate them and keep them from moving into the residential zone.

From the understanding of the Commission, unless the wording in your ordinance is such to ban STR; it is illegal to not allow them. It was expressed that “Vacation Rentals” should be allowed in those areas currently zoned for this type of activity \* Residential Recreational Commercial & General Commercial \*

If the decision from the Council is to allow the current STR to remain, a “business conditional use permit” should be required; and all **NEW** request not be allowed:

\*Onsite Management 24/7 within 15 minutes of the business

\*Commercial Rates/Impact Fees

\*Transient Tax/Sales Tax

\*Inspection ~ Owner’s responsibility – Proof of inspection

\*Fencing ~ 6ft solid privacy fence

\*Permit revoked ~ 3 complaints/reported incidents to Law Enforcement

\*Contact Neighbors ~ Signatures of neighbors okay with the business

\*Signage

~Interior of the home: Contact information, regulations – addressing noise, trespassing, pets, illegal activity/conduct

~Exterior of the home:

\*Not allowed near a school ~ 1,000 feet

As the discussion went on, more apprehensions and reservations were expressed on the difficulties of addressing every concern regarding STR in residential areas. The ordinances and codes are in place, should not create waivers, condition permits, etc.; zones are currently established and available for those really interested in a business venture. As it has always been expressed, the Commission feels that there should be NO Vacation Rentals/Short Term Rentals in the Residential zone. The public should have input; timeframe on hearing from the residents is short. Renewal of business licenses are in July.

A motion was made by Dan Cloud and second by Riley to recommend that Tropic Town keep comply with the current zoning ordinance ~ Not allowing Vacation Rental/STR’s in the residential zone; and if it the ordinance needs to reflect such, that steps be taken to amend the ordinance to reflect this decision. Motion carried.

Adjourn

Approved this 2<sup>nd</sup> day of February 2017

Marie H Niemann