

AGENDA
HAYDEN PLANNING COMMISSION

THURSDAY, JANUARY 27, 2011

7:00 P.M.

HAYDEN TOWN HALL – 178 WEST JEFFERSON AVENUE

REGULAR MEETING

- 1. CALL TO ORDER, MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE**
- 2. ROLL CALL**
- 3. CONSIDERATION OF MINUTES**
- 4. PUBLIC COMMENTS**
- 5. OLD BUSINESS**
- 6. NEW BUSINESS**
 1. Decision: APPOINTMENT OF CHAIRPERSON & VICE-CHAIRPERSON
 1. Public Hearing & Recommendation: REQUEST FOR TEXT AMENDMENT TO PERMITTED PRINCIPAL USES IN HD: HISTORIC DOWNTOWN DISTRICT TO ALLOW RELOCATION OF MOTOR VEHICLE FUELING STATIONS
- 7. STAFF AND COMMISSION MEMBER REPORTS**
- 8. ADJOURNMENT**

NOTICE: Agenda is subject to change. If you require special assistance in order to attend any of the Town's public meetings or events, please notify the Town of Hayden at (970) 276-3741 at least 48 hours in advance of the scheduled event so the necessary arrangements can be made.

The regular meeting of the Hayden Planning Commission was called to order by Chairman Karl Koehler at 7:00 p.m. Other members present were Donna Hellyer, Chuck VeDepo, Amy Williams and Alternate, Angie Robinson. Absent was member, Tim Frentress. Town Manager, David Torgler, Contract Planner, Tim Katers, and Town Clerk, Susan Irvine, were also in attendance.

Moment of Silence and Pledge of Allegiance **Chairman Koehler** asked for a moment of silence and led the Pledge of Allegiance.

Consideration of Minutes **Amy Williams moved to approve the minutes for the regular meeting held on August 12, 2010 as written. Chuck VeDepo seconded. Voice vote. All ayes. Motion carried unanimously.**

Public Comments **None.**

Old Business **None.**

New Business **Karl Koehler** advised that people speaking during the Public Hearing needed to state their name and address and sign in. He also asked that they give a brief background about themselves.

Appointment of Chairperson & Vice-Chairperson **Susan Irvine** advised that a Chairperson and Vice-Chairperson need to be appointed at the first meeting of the year.

Amy Williams moved to appoint Karl Koehler Chairperson and Chuck VeDepo Vice-Chairperson. Donna Hellyer seconded. Voice vote. All ayes. Motion carried unanimously.

Request for Text Amendment to Permitted Principal Uses in HD: Historic Downtown District to Allow Relocation of Motor Vehicle Fueling Stations **Chairman Koehler opened the Public Hearing at 7:05 p.m. Tim Katers** entered Exhibit A – Proof of Publication, Exhibit B – Citizen Responses, Exhibit C – Excerpt from Town of Hayden Land Use Regulations and Affidavit of Proof of Posting into the record. **Tim** explained that this was a Public Hearing which is like a court proceeding and the Planning Commission is to make a decision based on the testimony given during the Hearing. It is not an interaction between the audience and staff or the Planning Commission. **Tim Katers** stated that this request is to allow the relocation of existing motor vehicle fueling stations as a permitted use in the HD zone district. This is a subtle approach to a zone change request in that there are currently 2 motor vehicle fueling stations in this District. Those businesses include:

- Kum & Go at 230 W. Jefferson
- Bear River Valley Cooperative at 193 E. Jefferson.

The Cooperative is not a party to this application and staff does not anticipate that facility shifting its location. With two companies

currently operating motor vehicle fueling stations in the HD District; both could shift locations if this amendment were to be approved. Another aspect of the proposal is that 2 (and only 2) motor vehicle fueling stations would be allowed in the HD District if the amendment were approved. No third motor vehicle fueling station could legally locate within the HD District. The issue before the Commission is not a referendum on whether or not a new Kum & Go store would be a positive addition to the Town of Hayden. The issue before the Commission is whether or not to recommend that the relocation of motor vehicle fueling stations be allowed as a permitted principal use in the HD: Historic Downtown zone district. **Tim Katers** advised that the documents that identify both the community intent for the Town of Hayden and the regulations that drive development in the Town were adopted 6 months apart. That process allowed the Land Use Code (regulations) to be based upon the Comprehensive Plan which provided the vision for growth in the community. The adoption dates for these Hayden regulating documents were:

- | | |
|------------------------------|------------------|
| 1. Hayden Comprehensive Plan | April 21, 2005 |
| 2. Hayden Land Use Code | October 6, 2005. |

The Hayden Comprehensive Plan (page 22) identifies features and policies for the Historic Downtown. They include:

- Architectural consistency as downtown redevelops
- Pedestrian-oriented streetscapes
- Historic architecture
- New infill buildings should reflect Downtown history and character.

The boundaries of the HD: Historic Downtown zone district largely match the boundaries shown on the Comprehensive Plan maps. The Comprehensive Plan also specifically contemplated service and auto-oriented commercial uses. An excerpt from page 24 of the Plan includes:

- As U.S. 40 leaves the Historic Downtown and the service district, commercial uses along Highway 40 will focus more on auto-oriented businesses such as drive-throughs, gas stations, car/equipment sales, restaurants, and motels.

Tim stated that the text and list of uses from the adopted Hayden Land Use Code was as follows.

Hayden Land Use Code Section 16.03.040.G

Intent. It is the intent of this district to encourage the redevelopment and expansion of the existing downtown commercial district; provide a concentration and mixture of civic, office, retail, restaurant, housing and cultural land uses; maintain and enhance the historic character of the original downtown; create a pedestrian oriented district; develop and promote small scale businesses; and promote shared or cooperative parking within or adjacent to the district. It is the intent of this district to allow retail uses on the first floor and businesses and residences or services on upper floors of buildings where appropriate.

The district will allow continued use of property that is within the District until a change in land use category occurs. For example a residential use changing to a service, commercial or retail use would constitute a change. At that time the new use must be in compliance with the provisions of this District.

Tim advised that Section 16-2-190 of the Hayden Land Use Code describes the intent and lists regulations for any new development in the community. Should a change be made in the Article 3: Zoning, to allow the relocation of motor vehicle fueling stations as a permitted use, that use would need to follow the intent and regulations as listed below and in the full Code. The intent and design sections below identify elements that relate to a motor vehicle fueling station type use.

Intent. The Town has distinctly different downtown, commercial and industrial types of development contemplated within its Planning Area. They are different in character, purpose, and the proposed mixture of uses. The design considerations vary for each type, although there are many common design elements. The General Provisions section below outlines both common elements and the specific design considerations by type of use.

With respect to the Historic Downtown business district, the Town's historic buildings have established a pattern of downtown development where buildings are located close to the sidewalk, forming a generally continuous street facade. Pedestrian movement is the primary focus. Building height, architectural details, front setbacks, parking location, wall articulation, and sidewalks establish the architectural edges that define this area as a walkable commercial corridor. Two types of commercial districts have been created to transition from original downtown to other areas of Hayden.

Building orientation. Where possible, buildings in the HD and

SC Zone Districts shall be located to front on and relate primarily to streets. Building setbacks from local and collector streets should be minimized in order to establish a visually continuous, pedestrian-oriented street front.

Location of parking lots. Parking requirements in the HD and SC Zone Districts shall be provided to the greatest extent possible by spaces at the rear or sides of the building.

Setbacks. Buildings shall abut the front property line. Building facades may be recessed if an arcade or similar structure abuts the front setback. Architectural projections including cornices, balconies, canopies and entry features may encroach into public rights-of-way, subject to permits as required by Town Codes.

Tim noted that two sentences from the “Intent” section of the HD District may be informative for Commissioners on this issue. Those sections are in *italics* below and read:

The district will allow continued use of property that is within the District until a change in land use category occurs.

The sentence above “grandfathered” the existing uses in the HD zone upon adoption of the Code in 2005. That meant that fueling stations could remain in business until an owner of the property decided to change the use on that property.

A second section from the “Intent” of the HD District reads:

For example a residential use changing to a service, commercial or retail use would constitute a change. At that time the new use must be in compliance with the provisions of this District.

Changes in land use were anticipated in the adoption of the new Land Use Code and the provisions of the Code call for new land use to be in accordance with the HD District standards. The HD District was not set up to support motor vehicle fueling stations.

Tim reviewed the criteria for text amendments which are as follows along with whether they apply or not:

1. To correct a manifest error in the text of this Article; or – *not applicable.*
2. To provide for changes in administrative practices as may be necessary to accommodate changing needs of the community

and Town Staff; or – *not applicable*.

3. To accommodate innovations in land use & development practices that were not contemplated at the adoption of this Article – *not applicable*.

4. To further implementation of the goals and objectives of the Town Comprehensive Plan – *not applicable*.

Tim Katers stated that the proposed text amendment to allow the relocation of motor vehicle fueling stations in the HD: Historic Downtown District is not supported by either the Hayden Comprehensive Plan or the Hayden Development Code and staff is recommending that the Planning Commission recommend denial of this issue to the Town Council. **Chairman Koehler** asked for a point of clarification of whether fueling stations are allowed as a conditional use in the Table of Uses. **Tim Katers** replied that this Table was removed in its entirety in October, only the text remains and it is not allowed in text.

Neil Broderick, Des Moines, Iowa, advised that he has been with Kum & Go since 1993 as the Vice-President of real estate and has been involved in all new locations in Colorado in recent years. He commended the staff and all parties involved in development of the Comprehensive Plan and the Land Use Code (LUC). He felt that the text of the LUC does follow the Comprehensive Plan; however, Kum & Go does not believe that their request is in conflict with their intent. He referred to sections of the Comprehensive Plan which indicated that goals and visions were to preserve the Town's fiscal balance and to make the downtown and adjacent service district an appealing place for shopping. He indicated that the Comprehensive Plan stated that Hayden is underserved by retail and the fiscal goals were to create a healthy, attractive commercial core to serve residents and travelers on Highway 40 and to create a reliable tax base. He stated this request would not allow for any more than the 2 existing gas stations in the HD, both have been here over 20 years, and this would only be a 1 block move. He stated that they do not have the space to rebuild at their existing location and the new store would have the same Highway 40 frontage but would be deeper. He advised that the new site was once a gas station so the use is historic. He advised that there are numerous communities with fuel stations in the downtown area and the traffic tends to spill over to other businesses. He is aware of a plan for stabilization of retail in Town and stated that this type of store stops traffic, would have more employees, and would provide a larger tax base, as they would be investing over \$3 million in the project and the larger store would produce more sales tax. Relocating this store to the AC district will not bring traffic to Walnut Street. **Mr. Broderick** stated that the lot has been vacant for many years in the hope that something will be built there and vacancy does not attract businesses.

He advised that Kum & Go is not leaving, will stay in their small store and will not build elsewhere in Town. They feel that occupying ¼ of a block of a 9 block area would not kill the Historic Downtown district. They believe that a Comprehensive Plan from different economic times should be allowed to change and the Planning Commission can enact this change. **Chairman Koehler** asked about the intent to stay at this location and why they are not interested in building at their other location on the east end of Town. **Mr. Broderick** replied that they don't own enough property to build there and the alley has problematic utilities. **Tim Katers** advised that the hearing before the Town Council will not take place until March 17th due to scheduling conflicts between Neil and Tim.

Roger Walker, 179 N. Walnut Street, stated that he is a neighbor to the proposed location and thinks it should be at either end of Town. He does not want it located next to his property and does not feel it will enhance downtown area. **John Lozinsky, 307 Harvest Drive**, advised that he has lived in Hayden 21 years and works at 20 Mile Coal. He feels that allowing the relocation of the store would be beneficial as the newer, bigger store would stop more people and lead to more tax revenue. He stated that a 24-hour operation benefits shift workers, the new store would have more enhancements, and he often sees Craig residents frequenting the store and leaving their tax dollars here. **Karen Gilroy, President of Chamber of Commerce**, advised that she is a lifelong resident and believes that the Town needs revenues now. She feels that the south side of Walnut Street is more historic in nature, but the north side is a mixture of buildings. She stated that the current location of the Town Hall took out a prime retail position and generates no taxes. The Dutch Mill location owned by Kum & Go would take traffic away from downtown. She supports Kum & Go's request and thinks it is the best way to permit this. **Roger Walker, 179 N. Walnut Street**, stated that the people on Walnut Street will be impacted by traffic, trash and noise. **Jack Giessinger, 250 W. Jefferson Avenue**, advised that he is a 35-year resident of Town and has owned a business here for 30 years. He is a member of the Hayden Economic Development Commission (HEDC) and they have been trying to promote businesses locating to Hayden without much success. The HEDC is also looking for ways to keep existing businesses in Town. The historic capacity must be weighed against the economic development. He felt that it may be many years before anyone else would be interested in the property and Kum & Go is willing to invest \$3 million now which could stimulate more businesses locating to Town. He stated that we must not miss opportunities when they present themselves. He advised that the zone change would be followed by a site plan where the Planning Commission has much discretion and is in control. He felt that

relocating the store would promote pedestrian traffic. **Roger Walker, 179 N. Walnut Street**, stated that he liked the Comprehensive Plan which was derived from the wishes of nearly 500 people. **Gordon Dowling, 172 N. 3rd Street**, advised that he is an HEDC member and wished that Kum & Go would have approached them with their plan. He would like to know the sales tax increase projections. He stated that the Steamboat newspaper said don't do it which was political in nature. He felt that this was not their business and recommended approval of this request. He believes that the historic downtown district is across the highway and felt that traffic concerns would need to be addressed. **Patrick Delaney, 41910 CR 80**, stated that this one small sentence change has a huge impact as it would add three times the pumps and seven times the retail space. He feels that Kum & Go is great but would like to see them listen to the residents of Hayden. He advised that this request is not in compliance with the community vision and the community should dictate businesses, how they operate and where they are located. **Darrell Camilletti, 2419 E. Victory Way, Craig**, stated that he owns Mtn. West Insurance and his property is under contract with Kum & Go. The property has been vacant for many years since a restaurant located there was torn down. He used an example of the Country Mall in Craig which burned down in 2007. He stated that the owner went to Craig to build a new building and he was turned down due to tough regulations and Craig being inflexible. The project was rebuilt outside of Craig and the old property sits vacant and likely will for many years to come. He advised that the economic collapse changed the way to do business and his business in Hayden had to close. He felt that Kum & Go had studied this and have identified this site as the best location. Kum & Go generates business but the existing store is too crowded and people often pass it up due to the congestion. **Milton Kitchens, 169 N. Walnut Street**, advised that he owns the 3 lots north of the vacant lot and his property is under contract with Kum & Go. He has owned this property for 40 years and has seen many businesses come and go. He feels that we won't see pedestrian type businesses in Hayden as we are not a tourist town. The superstores have changed the way people shop, the best location for a new Kum & Go is that corner and this will generate revenue and other business. The historic district is to the south of the highway and not the north and people who live in a commercial area should be willing to accept commerce as their neighbor. **Tammie Delaney, 41910 CR 80 and 190 E. Lincoln**, advised that she is a member of the HEDC, NW Colorado Products, NW Colorado Cultural Heritage Tourism, Routt County Extension, Colorado State Extension, Community Agriculture Alliance and a local business owner. She said that this relocation would be the immediate solution for economic growth; however, Walnut Street was intended for traditional businesses and a corridor of shops, retail and diverse

businesses. She said it was clear that several property owners in this area are willing to sell and the property would be great for a hotel. She felt that the options would be limited by locating a Kum & Go there for the next 20-30 years but a flagship store would be great for Hayden just not at that location. She believes that Kum & Go has an opportunity to expand where they are or could look at property across from the High School. **Kathy Lozinsky, 307 Harvest Drive**, advised that she favors the relocation to Walnut Street as it is close to the school and she would be concerned with the location at the east end of Town due to its close proximity to the Haven and the impact on its residents who walk on Shelton Lane. **Stef Nijsten, 38760 CR 53**, stated that he is a member of the HEDC and would like to see the economic impact quantified. **Wendy Lind, 42375 McGuire Lane**, stated that she and her husband were struck by downtown area of Hayden and historic district. She feels it is a valuable asset and they moved here because of the downtown area. She advised that this request is tied to 112 W Jefferson Avenue but impacts the entire HD as it would allow for relocation of fuel stations in the entire district. She opposes the request and feels that it will not generate traffic and is not pedestrian friendly. **Jayne Armbruster, 422 Clover Circle**, asked how many businesses have left Town in the last 24 months, how much tax does Kum & Go generate as opposed to the existing businesses on Walnut Street and stated that she supports this request. **Jim Folley, 173 S. 3rd Street**, advised that he owns the framing business across the street from Town Hall. He stated that he was part of the group contributing to the Comprehensive Plan. He stated that you have to look at dreams versus reality and thinks that relocation of this business would increase his business. **Judy Guerin, 42855 CR 76**, advised that she operates a business on South Walnut Street. She feels that Kum & Go is great but does not support their request. She believes that there are other options available which would lead to the same revenues. **Rodney McGowen, 38835 Ridgeline Court**, advised that he has been a member of the HEDC for 5 plus years, is a builder in Town, and hasn't had work in Town since the economic downturn. He felt that business breeds business and activity breeds activity. He would love to see something else on that lot but the reality is that nobody else is interested. He favors the request as he believes the interested business should be given the opportunity to proceed. **Kevin Lind, 42375 McGuire Lane**, advised that he has lived here for 3 ½ years and came here due to the uniqueness of Hayden. He feels that the Planning Commission should honor the work of the Comprehensive Plan and Land Use Code. The tax impact is positive but the business impact leaves Town. There is room for growth at the current location and the Historic District needs to stay at a local scale. **Mick Loeffelbein, 250 S. Spruce Street**, advised that he has lived on Hospital Hill for 6 years and overlooks the proposed lot. He stated that he is absolutely not

interested in the increased traffic and noise impacts this location would generate. **Sam Haslem, 399 S. Spruce Street**, advised that he has been a resident since 1974 and supports local businesses. He felt that there is a need to protect the character of businesses and was wary of basing the decision on the promises of a big corporation which he feels can immediately be broken. **Betsy Blakeslee, 1250 Highway 40**, does not think relocation would generate business in the Historic District and would like to see the Comprehensive Plan and Code upheld. The lot is prime for a face-to-face type business and Kum & Go is vibrant at their existing location. She also stated that the Cultural Heritage Tourism Task Force feels that Hayden is unique and our history adds to that attraction. **Chairman Koehler closed the Public Hearing at 9:07 p.m.**

Amy Williams stated that she is an advocate of local government and feels it is the most visible and best form of government. She asked that everyone respect each other's positions. She felt that this was a reasonable compromise to a tough situation, that economics are important to the Town. She stated that Kum & Go is the type of business which serves Hayden's commuter work force and will likely survive as it is regional in nature.

Amy Williams moved to approve text amendment as submitted. The motion died for lack of a second.

Chuck VeDepo felt we were weighing tax money versus community. He stated that Kum & Go will leave and Hayden will remain and he is not willing to budge from the decisions of 5 years ago. He would like to see something more community oriented at that corner. **Angie Robinson** asked what would happen to the old Kum & Go property if they relocated. **Neil Broderick** replied that the gas tanks would be pulled and the property decommissioned. **Chairman Koehler** felt that there were 2 different camps on this issue. The first camp supports the Comprehensive Plan as adopted and the second camp believes there should be flexibility due to changes in economic circumstances. The Comprehensive Plan was put together with expectations which are dramatically different from the reality which has presented itself. The anticipated growth has not occurred, students have been lost, and many homes are for sale. He feels that there is a long road to recovery and approval of this request could provide an immediate economic benefit to the Town. One of the primary objectives of the Comprehensive Plan was to achieve a tax balance and increase revenues from businesses versus houses. He would like to be able to see and evaluate what Kum & Go is bringing to the table. He would like to explore the possibility of a compromise for the long and short-term and did not think you forego opportunities forever. He did not believe that a one block

relocation would have a dramatic impact but feels that the solution, as presented, is too narrowly crafted. He noted that under the existing HD zoning motor vehicle service & repair is okay, convenience shopping is okay, but fueling is not, which seems to be in conflict. He stated that he would have a hard time voting yes for this text amendment but wishes this could move forward with more information and firmer decisions being made. **Donna Hellyer** does not support the text amendment but does like Kum & Go in the community. She felt that the tax dollars will be there wherever they choose to locate and that approving this request would let people down who were involved in Comprehensive Plan. **Angie Robinson** stated that it is easy to vote for this with the current economic conditions but Hayden is a quaint town and the shopping community should stop people, not a Kum & Go. She felt that Kum & Go on that lot would inhibit the potential of the downtown area. **Amy Williams** stated that 40 years of studying trends indicate that Hayden is slow growth community. She continued that North Walnut does not seem to be in opposition of this text amendment and the owners of the Midway Building supported this request when it came forward the last time. She felt that destination businesses make money and meandering businesses are not supported. The business wants of the community are not supported by the investments and this has not become a vibrant location. Nobody developed this property when properties were in an active market. The pedestrian traffic she observes is mostly kids going to Wolf Mountain and Kum & Go. A new Kum & Go could contribute to the perception of a vital downtown. She was opposed to moving Post Office out of downtown which changed it from a pedestrian oriented downtown location to a drive and leave destination. She stated that Kum & Go forces daily interaction in the community, we have never had a \$3 million investment in downtown, and she feels we cannot disrespect any business which can survive and thrive in Hayden. **Chairman Koehler** stated that one of the last things **Russ Martin** recommended before his departure was periodically reviewing the Comprehensive Plan to see if it still fits. **Amy Williams** stated that she participated in pushing the buttons for input during the sessions for developing the Comprehensive Plan but felt that the professionals planners and those participating in creating and refining the Comprehensive Plan have a better feel and vision than 80% of the people who were involved in the input sessions for the current Comprehensive Plan. She continued that nobody foresaw this as a rigid document and it was not intended to be the law. **Chairman Koehler** stated that he does not want zoning to inhibit economic activity, as money is very important to a community. **Donna Hellyer** thinks we need to consider the letters in the decision and does not want to make decision based solely on money. **Chuck VeDepo** stated that we said no to medical marijuana which would have generated money and he does not think we should change our minds

just because of the current economy. **Chairman Koehler** expressed his disappointment that the table with the conditional use was removed as this might have afforded the ability to influence the decision at the proposed location. **Neil Broderick** stated that he believed the Planning Commission would influence design issues through the site plan process. **Chairman Koehler** replied that he felt a conditional use would give more leverage to the Planning Commission and the site plan only requires the applicant to meet specific criteria within the Code.

Amy Williams moved to approve recommendation of the text amendment. The motion died for lack of a second.

Chuck VeDepo moved to recommend that the Town Council deny the application to add “Relocation of Motor Vehicle Fueling Stations” as a permitted principal use in the HD: Historic Downtown zone district. Donna Hellyer seconded. Voice vote. Chuck VeDepo, Donna Hellyer, Angie Robinson, Karl Koehler - ayes. Amy Williams – nay. Motion carried on a 4-1 vote.

**Staff and
Commission
Member Reports**

None.

Adjournment

Chairman Koehler adjourned the meeting at 9:39 p.m.