

# MINUTES–CITY OF ASHTON

## SPECIAL CITY COUNCIL MEETING

Wednesday, October 20, 2021

7:00 p.m.

714 Main (North Entrance)

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*The purpose of the Agenda is to assist the Council and interested citizens in the conduct of the public meeting. Careful review of the Agenda is encouraged. Testimony from the public will be solicited for any item or issue listed under the category of **Public Hearings**. The Mayor will not normally allow audience participation at any other time. Idaho Law prohibits council action on items brought under this section except in an emergency circumstance.*

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**PRAYER: Tadd Atchley**

**CALL TO ORDER & WELCOME**

**PLEDGE OF ALLIEGENCE: Teresa Hansen**

**CALL TO ORDER & WELCOME**

**In Attendance:** Tom Mattingly, Teresa Hansen, Tadd Atchley and John Kaelberer. Councilman Funke is excused as he is visiting his new granddaughter in South Carolina.

**Also, in attendance:** City Clerk Stegelmeier, Deputy Clerk Warnke, City Attorney Angell, P & Z Administrator Bowersox, Police Chief Griffel, Shannon Belles, Doug Belles, Laurie Dance, Monica Morrison, John Scafe, Rachel Hatton, and Sheryl Hill.

Mayor Mattingly welcomed everyone and opened the meeting at 7:00 pm

**1. Public Hearing: Conditional Use Permit at 604 Main Street – ACTION ITEM**

Mayor Mattingly asked City Attorney Angell to be the hearing officer.

City Attorney Angell called the hearing to order and asked City Clerk Stegelmeier if the property had been posted and the proper notice given. City Clerk Stegelmeier replied that it had and a copy of the affidavit of publication is included in the meeting materials. He also asked if the recording had been started and City Clerk Stegelmeier assured him that the meeting was being recorded.

City Attorney Angell asked by roll call if any of the council or mayor had a conflict of interest. Councilman Kaelberer, no; Councilwoman Hansen, no; Mayor Mattingly, no; and Councilman Atchley, no.

City Attorney Angell then asked P&Z Administrator Bowersox to present her report on the proposed conditional use permit. Administrator Bowersox explained that Ms. Belles purchased a building on Main Street and she is opening a new business there. The business is a spa and wellness center which is a personal service business. A personal service business is an allowable usage in the Community Core Zoning District so it would not come before the board for approval. As a part of the business, Ms. Belles would like to offer overnight retreat packages. Because the city code specifically says residential use of upper floors in commercial buildings and her building does not have an upper floor so this would prevent her from offering the overnight spa packages. Administrator Bowersox explained that because the city code says that and is that specific as to prevent her from offering that service, the city's conditional use permit is right process. She has a unique and special situation here that she would like to offer. If she had a 2<sup>nd</sup> floor we wouldn't be here. If the code said something less specific or along the lines of residential use as an accessory use on a non-primary street use in a commercial building then the administrator could approve it without coming to the board. The city has had a lot of conversations about residential uses on the main floor in this commercial zone. This is not the first conditional use permit the city has heard with this usage. The plan and code do not try to prevent any and all commercial use in the

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Community Core Zone, it simply tries to prevent it from being the primary use of a building on the ground floor that fronts on Main Street. In Administrator Bowersox's reading of the code, what Ms. Bellis is trying to do here is a good fit for what the Comprehensive Plan and Code says and again it is the appropriate use of the Conditional Use Permit because it is a very specific, narrow thing that is different than what the letter of the code says. With that being said, Administrator Bowersox does recommend approval of this conditional use permit. She went on to say that there is a secondary request that if the space in the back that is being used for the retreat package is not being used then the applicant would like the option of putting it out on a vacation rental site. But that is not the primary use that for which she is applying, the primary use is for the spa retreat that she would like to provide for her clients. Administrator Bowersox again expressed her recommendation that the city council approve this conditional use permit. City Attorney Angell asked if the council had any questions for Administrator Bowersox. Hearing none, City Attorney Angell asked the Mayor if he would mind if he asked a question. The Mayor said that Attorney Angell could ask his question. He explained that at the beginning Administrator Bowersox talked about a use being allowed anyway – did she mean the spa and wellness center? Administrator Bowersox said that the spa and wellness center is allowed as a personal service business which is allowable under the code. The spa and wellness center is already allowed and approved. That part is approved by the administrator. City Attorney Angell restated that the part being discussed tonight is the overnight retreat. Secondly, the option of using the retreat portion of the building on a vacation rental site if it is vacant. He then asked the council if they were sure they had no questions. They did not.

City Attorney Angell asked the applicant, Shannon Belles, to give her presentation. Ms. Belles explained that this sort of presentation is all new to her and asked who had received the information packet that she provided. She co-owns the building and the business with her husband, Doug Belles. The business is not open yet. The tentative opening date is the first weekend of December. It will be called the Lupine Spa and Wellness Center and it is located in between the bank and the chiropractic office. She is not planning on reading through the information packet but she would like to highlight some of it. In her original request for a conditional use permit she did state that she would like to use that part of the building as a vacation rental along with the retreat center. She feels that, for her business to be a success, the most important thing is to have a conditional use permit for the retreat center. Ms. Belles would be willing to forgo the vacation rental part but the retreat center is important for her and for her business to be successful. As Administrator Bowersox already explained, her business has been approved with a Class I Permit and this application is only for the retreat suite center in the back. This will open up her options for her business. It will allow her to pull from a larger pool of clientele and guests. An example is that she has 6 sisters and every year they look for spas or whatnot specific to a retreat type business. A place they can stay and stay overnight, shop downtown and enjoy the spa services, the whole package. This is where this whole idea has stemmed from. This is why Ms. Belles is passionate about it because some of her best memories are with her sisters at one of these overnight retreats and/or spa. She is trying to incorporate other local businesses such as restaurants and shops. She is giving vouchers for the other businesses because she feels that when you help all ships rise it is better for the whole community. Ashton is a wonderful place. Ms. Belles and her family moved here from Michigan in March/April. She and her husband have seven children. Their oldest attends BYU and plays basketball there. Her second is in beauty school in Rexburg at Paul Mitchell and she is hoping to get her to stay and have a salon at the spa and wellness center. This is her first time opening a spa and wellness center. Ms. Belles owned a quilt shop in Michigan which was very successful. She has spoken to Laurie Dance about having some quilting retreats as a package with the spa retreat. She is open to any ideas to help the community grow and to help them as well in their new ventures. Ms. Belles then went over the diagram (floorplan) that she brought. The main entrance to the spa is 604 Main Street. 606 Main is the middle suite and will not be an

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open entrance. It will just be used to help with the flow of people at the spa. There will be tanning beds, sauna, red light therapy pod. There is one entrance into the retreat suite but it will stay locked unless she is cleaning, etc. because she cannot man that as she will be the only one there in the beginning. The entrance to the retreat will be in the back where there is also parking. Ms. Belles was hoping that her neighbor, Gerry Huntsman, could be here at the meeting because Gerry came to her after receiving the letter about the hearing that she was just excited for anything she was doing at the spa and wellness center. This made Ms. Belles very happy because she would like everyone to view her business as a positive addition. The 3 jail cells will be used as a solitary retreat for meditation and rejuvenation. This will only be offered in the summer time. Ms. Belles then spoke a bit about the different options that will be offered to her guests and customers. She will also have a boutique which will feature several local products. Ms. Belles then asked the mayor and council if there were any questions. Mayor Mattingly asked if Ms. Belles has stayed at the jail cells overnight. She replied that she is not a person who enjoys solitude. He joked that the city used to give those cells for free at times (Mayor Mattingly served as the City Police Chief for many years). Councilman Kaelberer asked if there were going to be memberships which anyone in the community can buy. Ms. Belles said there will be family packages and other ways for everyone to enjoy her business. Mayor Mattingly asked if there was going to be a privacy wall between the bank drive through and the retreat suite. Ms. Belles replied that they in phase one which is getting the shop open. In phases two and three they are planning to have a wall for safety because of the hot tub but also because they are hoping to also plant a relaxation garden for people to enjoy nature. They are wanting to see what the winters are like prior to construction. There were no more questions.

City Attorney Angell thanked Ms. Belles and asked Administrator Bowersox if she had any questions or rebuttal. She had none.

City Attorney Angell then opened the time for public comments and reminded those wishing to speak to step to the podium, speak loudly and give their name and address at the beginning. He also explained that everyone will be allowed three minutes to speak.

In Favor:

City Attorney for those wishing to speak in favor of the permit. There was no one on the sign in sheet so he asked if anyone in the audience wished to speak.

Laurie Dance, 1684 Aspen Heights Drive. Laurie just had a question about parking. Laurie and her husband own a building across the street from the applicants. They have tenants that live upstairs with no parking on Main Street so they have had to provide parking in the rear. She can tell by the floorplan that Ms. Belles is showing parking in the rear but she would just like to be assured that the same rules will apply as to parking on Main Street.

City Attorney Angell thanked her for her comment and asked if there were any more comments in favor. There were no more comments. City Attorney Angell then called for neutral comments.

Neutral:

Sheryl Hill – 308 Highland Street. One of Sheryl's concerns is, again, the process. She reminded the council that there was a commercial building in downtown Ashton that was sold recently. She explained that it is now the location of the El Rincon restaurant. She said that the reason it was sold was because

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the person who had owned it had plans for a commercial operation up front, he was going to have a psychological counseling center. The owner had offices upfront and he had wanted to have a residence in the back. She said that the owner was evicted because he had a residential area in the back. Sheryl went on to say that this is the code, this is the law, this is the comprehensive plan, this is not the law. She went on to say that the code for conditional use permit is part of the development code title 17 of the Ashton City Code, that is law. She explained that residential use is simply not part of the code for the Community Core Zoning. Sheryl expressed that she loves the idea. She is not supposed to be speaking in favor or against. Again, she is talking about process. It sounds to Sheryl that if Mr. Corbett had come to the council and said that he was going to build a room just inside the entrance of my building and sell cards or candles or books and use the rest of it as residential use as an Airbnb. She went on to say that actually what it should be according to the code is a motel – that it would have been fine. Again, she reminded the council that they need to think really hard about what they are basing their decision on. Sheryl asked the council if the decision is based on the code or what they would like downtown Ashton to look like. Sheryl maintains that they are two different things.

City Attorney Angell thanked Sheryl for her comments. He then asked if anyone else would like to speak as neutral to the conditional use permit. There were none.

Against:

City Attorney Angel then asked if there was anyone who wished to speak against the conditional use permit.

Seeing none, he asked the applicant, Ms. Belles, if she had any rebuttal statements or any clarifications she wanted to offer having heard the public comments.

Ms. Belles said she would. She has read through the code and read the code and does agree that the council should stick with the code. She appreciates Sheryl's remarks, said she has not met her yet and it was nice to meet her. She went on to say that in that code, specifically 17.16G.010 titled 'The Purpose and Interpretation of Conditional Use' it states it recognizes that an increasing number of new kinds of uses are appearing daily and that any of these and some more conventional uses possess such characteristics of such unique and special nature relative to location, design, size, method of operation, circulation and public facilities that each (and Ms. Bellis maintains that this was the important part) specific use must be considered individually. Ms. Bellis appreciates all of the rules. She read through them and learned a lot about animal rules, noise, etc. because she wants to start her business correctly. That rule that she cited states that her business gets to be considered individually considered for a conditional use.

City Attorney Angell thanked Ms. Belles for her statement. He than asked Administrator Bowersox if she had any rebuttal or clarification she wanted to offer having hear the public statements.

Administrator Bowersox did have a follow up statement. She explained that the standard rules for parking in the Community Core Zone and in the entire City will be applied equally and equitably. So yes, there will be no parking on the street according to the rules and Ms. Belles has set up her parking accordingly.

City Attorney Angell asked the council if they had any questions. Councilman Kaelberer asked if the permit can be split up so that the retreat use can be permitted but not the vacation rental until the Council has gone through the code. He explained that the council is hoping to do that very quickly so that could be put in place for them. Administrator Bowersox responded that the conditional use permit says that they

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can put conditions on that permit. So yes, the council can put conditions on that permit if that is what he is thinking of doing. City Attorney Angell asked if there were any more questions. Seeing none, Attorney Angell closed the public hearing at 6:31 pm.

City Attorney Angell explained that now this is all the information that the council will consider in making their decision. The council now has its opportunity to deliberate and make a decision. He reminded everyone that under state law the decision has to be made within 60 days. It doesn't have to be made at this meeting but we are all here so if they want to make it tonight, they can. City Attorney Angell went on to explain that while an oral decision can be made by the council tonight, there will be written reasoned statements of the decision that will follow the oral decision. He then turned it over to the council for deliberation.

Councilman Kaelberer said he thought Ms. Belles did a very good job of presenting what they would like to do and that it would be an asset to the city. He would like to approve the retreat for now but not approve the vacation rental. He said the council will be looking at what vacation rental rules they would like to enact for the city and are hoping to update the code and plan soon.

Councilman Atchley likes it all, he would like to approve it all. He told Councilman Kaelberer that he would need to make the motion because if Councilman Atchley makes it – he would permit both uses.

Councilwoman Hansen wanted to remind everyone that conditional use permits, by the code, are not precedent setting. Each one is their own permit, there is no comparison. They are to be looked at individually.

Councilman Kaelberer made a motion accept the conditional use permit for Shannon and Doug Belles at 604 Main Street, Ashton with condition that they are allowed to have residential use in conjunction with their business, for people who are spending the night but it is not to be used as a vacation rental (Airbnb) until further approval down the line. Councilwoman Hansen seconded the motion. Mayor Mattingly called for a roll call vote, Councilman Kaelberer, yes; Councilwoman Hansen, yes; Councilman Atchley, yes. The motion passed.

## **2. City Code Discussion**

City Clerk Stegelmeier explained that the council had said that they wanted to move ahead and fix the city code to what they think fits the businesses in Ashton now. Administrator Bowersox had said she would bring them a copy of the Comprehensive Plan which she then handed out to the Council. Administrator Bowersox explained that the council can read over it and then be prepared to discuss it at the November council meeting. She has nothing else prepared. Councilman Atchley said it looked like him that they could change the code and then fix the comprehensive plan later. Administrator Bowersox explained that the comprehensive plan is like the blueprint and then the code is second. If you have a code that contradicts the plan. Her understanding is that the city opens up itself to liability if it has a code that contradicts the plan. She said that they should focus first on community core zone and talk to constituents. They then should have some public meetings. In effect – the comprehensive plan and the code go hand in hand and the public hearings can be held the same night. They discussed the plan and went over the dates and revision. Councilman Kaelberer is thinking that maybe the city should get away from the conditional use permit because it is such a grey area and set rules of what can be in each zone. He also feels that there needs to be rules on vacation rentals. They discussed the county rules and the possibility of partnering with the county. The Mayor asked the council to continue to put their ideas

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together for the next meeting.

### **3. Adjournment**

Councilman Atchley made a motion to adjourn. Councilman Kaelberer seconded the motion. The motion passed unanimously.

The meeting ended at 7:47 pm.

### **NEXT MEETING**

- ◆ City Council 7:00 p.m. – Wednesday, November 10, 2021 Council Chambers, Ashton City Building – 714 Main, Ashton.
- ◆ Questions concerning items appearing on these Agendas or requests for accommodation of special needs to participate in the meetings should be addressed to the Office of the City Clerk or call 208-652-3987.

Minutes respectfully submitted by Cathy Stegelmeier, City Clerk

Attest

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Cathy Stegelmeier  
City Clerk

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Teresa Hansen  
Council President