

City of Colville

ZONING BOARD OF ADJUSTMENT

December 4, 2015

9:00 a.m. – City Hall

MINUTES

The Colville Zoning Board of Adjustment met on Friday, December 4, 2015, in the Council Room at City Hall. Chairman Chris Montgomery called the meeting to order at 9:00 a.m. with a quorum present.

MEMBERS PRESENT: Daron Tate, Chris Montgomery, Saundra Wilma, and Pearl Mance. MEMBERS ABSENT: One vacancy exists. STAFF PRESENT: City Planner RJ Keetch, Police Chief Bob Meshishnek. Mayor Louis Janke and Councilmembers Doug Kyle, Nancy Foll, and Bill Pifer. OTHERS PRESENT: John Horton, Leigh and Cheryl Fitzpatrick, and numerous other members of the public. RECORDING SECRETARY: Susan Davis.

MINUTES OF PREVIOUS MEETING

The minutes of the previous meeting of May 7, 2015 had been distributed to each member prior to the meeting. Saundra Wilma moved and Daron Tate seconded the motion that the minutes be approved as written. Roll Call Vote: Saundra Wilma - yes; Chris Montgomery – yes; Daron Tate – yes, and Pearl Mance – yes. Motion carried unanimously.

PUBLIC HEARING

Subject: Conditional Use Permit Application #1-15
Applicant: American Legion Frank Starr Post 47
Location: 103 E. 6th Avenue
District: R-2 (Multi-Family Residential)
Request: Application for a conditional use permit to operate the Colville Community Warming Center in the lower level of the American Legion Hall during periods of extreme cold weather, pursuant to Table 17.12.070 and Chapter 17.84 of the Colville Zoning Ordinance

Chairman Chris Montgomery convened the scheduled public hearing to consider a request for a conditional use permit by John Horton, representing the American Legion Frank Starr Post 47. The Chairman reviewed the request and outlined the hearing procedure. None of the Board members had a conflict of interest with the appearance of fairness requirements. There were no objections from the audience to any of the Board members participating in the hearing process. Chairman Montgomery asked if any Board members had engaged in communications with either proponents or opponents outside the hearing on the issue to be heard. Saundra Wilma disclosed a conversation with a citizen regarding public hearing notification. There were no other Board communications. The Chairman declared the public hearing open at 9:04 a.m. and requested the staff report.

City Planner RJ Keetch presented the staff report, which had been distributed to each Board member and the applicant prior to the meeting (attached hereto and made a part of these minutes). He explained that John Horton submitted an application for a conditional use permit to allow the Colville

Community Warming Center (CCWC) to operate during periods of extreme cold weather in the lower level of the American Legion Hall at 103 E. 6th Avenue. The CWCC is operated by volunteers and opens its doors when temperatures reach 15 degrees wind-chill or lower. On days that the shelter is open, operating hours are from 5:00 pm to 9:00 am.

According to the applicant, the Colville Community Warming Center (CCWC) has been in operation for four years, the last three years at this location. Mr. Keetch stated that a complaint, in early 2015 by an adjacent property owner, prompted a zoning review and a determination that a conditional use permit approval would be required for the CCWC to continue operations at this location. The proposed use is not specifically listed as a permitted or conditional use in the R-2 District; however Table 17.12.070 of the Colville Zoning Ordinance gives the Administrative Official latitude in determining whether the proposed use is similar in scope to other allowed uses. Such determinations are usually based on the type of use and impacts which can be expected to occur such as land use incompatibility, noise, dust, or traffic volume. RJ Keetch stated that he asked Mr. Horton to go through the conditional use permit process because the warming center is a unique use. The conditional use permit process requires a comment period and hearing. This ensures the public is provided with an opportunity to review and comment on the proposal.

PowerPoint slides were presented to illustrate land use in the surrounding vicinity which includes Angus MacDonald Park to the north, and residential to the east, south, and west. The site and surrounding area are largely zoned residential with commercial zoning to the south and southwest of the site. The subject site is zoned R-2 (Multi-Family Residential) The purpose of the R-2 District is to provide higher density housing for residents who want small units with limited private open space to maintain. The R-2 District serves as a transitional buffer zone between commercial areas and low density residential areas.

Figure 1



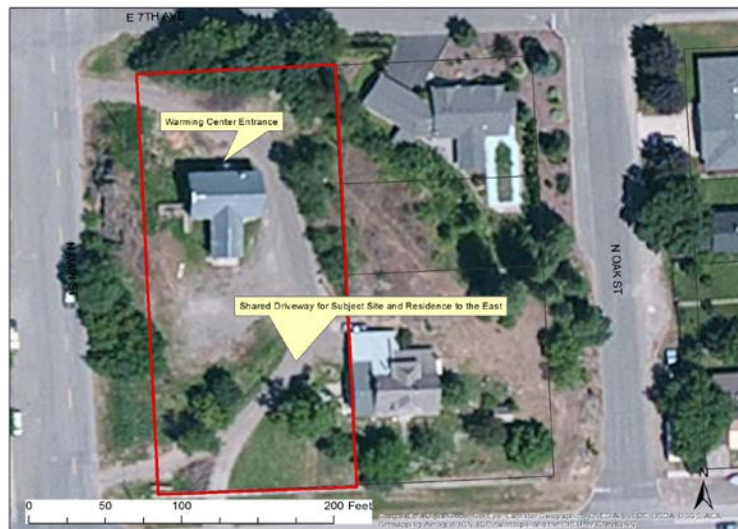
Figure 2



The site is located on a slope. The property measures 130' x 300', for a total of 39,000 square feet. It is occupied by a one-story, log structure which was built in 1934. The main level of the building is used as an assembly hall. The proposed warming center is located in the lower level with direct access by an entrance door on the north side of the building to serve patrons.

A driveway shared with the residential property to the east provides primary access to the site from 6th Avenue & Main Street. A secondary driveway provides access from Main Street on the northwest side of the building. There is a sidewalk adjacent to the site on the south side and a curb on the west side.

Figure 3



Pursuant to the State Environmental Policy Act (SEPA), an environmental checklist was distributed to applicable regulatory agencies for evaluation. Following a 14-day comment period, a Determination of Non-Significance was issued on November 23, 2015 for the request. No SEPA comments were received.

Public notification was provided as required by Chapter 17.112 of the Colville Zoning Ordinance. The Notice of Application was published in the Statesman Examiner, 58 property owners located within 300 feet of the subject site were notified; and notices were posted on the site, at City Hall, Courthouse, and Library. KCRK/KCVL radio and mailing list subscribers were notified of the public hearing. Two public comments had been received and were attached to the staff report.

Applications for a conditional use permit must be reviewed in accordance with Chapter 17.84 of the Colville Zoning Ordinance. A conditional use is an unusual and/or unique type of land use, which due to its nature requires special consideration of its impact on the neighborhood and land uses in the vicinity. As a conditional use, a determination by the Board can be made to assure that the use is so designed and so used that it will not have a detrimental effect upon surrounding properties and that the use is consistent with the Zoning Ordinance and Comprehensive Plan.

Mr. Keetch stated that the Technical Review Committee discussed the proposed use at its November 3, 2015 meeting and suggested that limiting access to the northwest entrance and the use of directional signage and fencing could help mitigate negative impacts on neighboring property.

Sandra Wilma requested clarification regarding how the conditional use permit determination was made. RJ Keetch explained that as a result of complaints from the adjacent property owner, he determined that the proposal is unique and should go through the conditional use permit process which provides the public an opportunity to comment.

Mr. Keetch advised that staff recommends approval of the request subject to the suggested conditions on Pages 7 through 11 of the Staff Report, which included the installation of sight obscuring fencing with gating, lighted signage, removal of some vegetation, and limiting access to the lower level entrance on the north side of the building.

Chairman Montgomery asked if there were any petitions or communications to be presented other than those distributed earlier to the Board (attached hereto and made a part of these minutes). There were none.

At this time applicant John Horton, 1433 Queen of Sheba Road, Colville, WA explained that he is the current Commander of the American Legion and Director of the Warming Center. He stated the goal of the CCWC is to provide a safe warm place to spend the night for those who would otherwise have no shelter. Also to provide local needy individuals and families with referrals and resources in order to provide opportunities to move into secure and productive lifestyles. Its objective is to serve as the first point of contact to those needing relief from bitter cold by providing needed warmth, food, access to donated clothing, laundry and the ability to focus on improving their lifestyle without worries of food and shelter. Referrals are made to qualifying guests for services to partnering agencies. Data is also collected to be used in program development within Stevens County's 10-year plan to end homelessness. Mr. Horton stated that the average number of guests for the period Nov. 2014 – Mar. 2015 was 7.25;

number of guest signatures – 210; minimum number of guests – 3; maximum number of guests – 12. Mr. Horton estimated that the shelter is open an average of 30 nights per year. He added that the CCWC has been open for 11 days this year under temporary use approval by the City. They would also like to open on Saturday nights to provide meals. Some of the funding for the CCWC is provided by Stevens County. In the past the installation of a security system at the American Legion Hall was made possible by County funds. Mr. Horton addressed the staff recommendations. He felt the recommended fencing in Figure 4 was excessive and suggested instead that additional yard lighting and cones or tape across the driveway at night could help ensure that pedestrians will not be able to easily enter the CCWC from the south. He was not in favor of the suggested gates in Figures 7 & 9 based on the steep topography of the site, the potential impact on the various uses at the Hall, and services such as mail delivery, UPS/Fed-X deliveries, and garbage pickup. He agreed with a sight obscuring fence to screen the residence immediately to the east of the CCWC entrance per Figure 8. He also suggested other sight obscuring fencing options on the east and south sides of the property to address safety concerns. He advised that he had some signs made that identify “Private Property” to discourage people from entering the Fitzpatrick property when they are looking for the warming center. Mr. Horton expressed a willingness to comply with any conditions the Board may impose in order to operate the warming center at this location.

Chris Montgomery asked for clarification regarding law enforcement. Mr. Horton stated representatives of the American Legion have met with local enforcement officials (Colville Police Department & Stevens County Sheriff’s Office) in the past and have verbal agreements that officers will do drive-bys of the facility and respond to disturbances called into 911. He stated the American Legion does not want people loitering on the site when the warming center is closed.

Saundra Wilma requested clarification regarding the shared driveway. Mr. Horton referred to the easement of record whereby the American Legion granted an easement for road and driveway purposes across the east 24 feet of its property to the adjacent residence. He noted the driveway location as depicted in Figure 3. Saundra asked if the American Legion provides shelter in times of emergencies. Mr. Horton stated the American Legion has a FEMA designation for disasters. This past summer the Legion was asked to open a cooling center to shelter people from the heat but it was never needed.

At this time, the Chairman asked to hear comments for or against the request from the audience. The following citizens spoke:

- Andrea Wonch, 571 N. Oak St. #2, Colville, WA, spoke in favor of the warming center at this location but was not in favor of the fences.
- Dr. Barry Bacon, 570 Hotchkiss Rd., Colville, WA, spoke in favor of the warming center at this location citing the importance of providing essential services to needy people.
- Natalie ?, 150 E. Glen, Colville, WA, warming center volunteer, spoke in favor of the request.
- Debbie Gereaux, 2280 Whitetail Way, Colville, WA, spoke in favor of the warming center at this location. She did not support restricting ingress and egress to the site with gates citing a potential safety issue for emergency services and people who attend events at the American Legion Hall.
- Jon Vetten, Evans, WA, Past Commander of the American Legion, was not in favor of sight obscuring fencing on the south side of the property. He felt it could obstruct the parents’ view of the children when they are out playing. He recommended the installation of a sidewalk on North

Main Street between 6th & 7th Avenues and the relocation of the center line stripe on Main Street to promote pedestrian safety and facilitate use of the lower level entrance.

- Jim Castrolang, 205 N. Maple St., Colville, WA, CCWC Board Member, spoke in favor of the warming center at this location. He felt some time will be needed to put a plan together to address any conditions because the CCWC is funded by the County and community donations.
- Ken Hendrix explained that his family owns the property at 603 N. Main St., Colville, WA. He spoke against the request at the subject site and expressed concern about the potential impact on property values in the residential neighborhood. He was also concerned that uses at the American Legion Hall could become more permanent in the future, i.e., a cooling center.
- Dusty Stark, Marcus, WA, urged everyone to look at the whole picture and consider the impacts on homeless and needy people if the warming center has to close.
- Mary ?, 813 Hofstetter St., Colville, WA requested clarification of the issue being heard.
- Luella Tadlock, 603 N. Main St., Colville, WA, spoke against the request at this site because of safety concerns for children using the school bus stop at the park and the increase in the number of people who loiter around the neighborhood all the time.
- Andrea Gjendem, 507 E. 2nd Ave., Colville, WA, CCWC coordinator, spoke in favor of the request at this site. She did not feel the warming center contributes to the loitering at the park because that has been going on for a long time. She felt that signage has helped direct guests to the entrance to the CCWC and minimize negative impacts on the adjacent property.
- Sharon Rosen, 732 N. Oak St., Colville, WA, spoke against the warming center at this site citing safety concerns for the residents in the neighborhood. She felt the warming center attracts drug addicts and alcoholics who loiter around the neighborhood.
- Kay Lynn ?, 438 Spanish Prairie Rd., Colville, WA, Goodwill, Supportive Services for Veteran Families, spoke in favor of the request. She explained that they take referrals from the warming center and other social services to help the homeless and those in need. She recognized the need to provide this warming center.
- Maxine Simmons, 1060 S. Main St., Colville, WA, spoke in favor of the request stating that the services provided by the warming center are essential for the homeless and others needing help.
- Judy Curtiss, 772 N. Oak St. #3, Colville, WA, spoke against the request stating that she did not feel it is in the appropriate location. She indicated she has observed people loitering in the neighborhood.
- Cheryl Fitzpatrick, 145 E. 6th Ave., Colville, WA spoke against the warming center at this location citing safety concerns for her children. She stated that people loiter around the American Legion Hall before the warming center is open and it makes her family fearful. She favored a sight obscuring fence to separate the residence from the American Legion Hall. Mrs. Fitzpatrick presented affidavits from 14 neighbors who are against the warming center at this location (attached hereto and made a part of these minutes). Mrs. Fitzpatrick indicated she was not opposed to gating the property if it were a feasible option.
- Caroline Williams, 884 Philpott Rd., Colville, WA, advised that she owns the adjacent property on the corner of 7th Avenue & Oak Street. She recommended extending the sight-obscuring fence on the east property line to keep people out of the vegetation. She made other suggestions for Board consideration such as having the American Legion consider giving some property to the Fitzpatricks so they can secure their property; ask the American Legion and the City to keep the area on the north side of the building adjacent to 7th Avenue clean and remove some of the

underbrush to keep people from hiding there; install sidewalks; and relocate the driveway. She felt that an alternative location for the warming center could perhaps be the fairgrounds.

- Jesse Nelson, CCWC volunteer, spoke in favor of the warming center at this location. He stated that he has observed the usage of the warming center dropping since it first began. He pointed out there are a lot more homeless people in the community than use the warming center. He did not feel the people who use the warming center are a threat.
- Lisa Everly, 422 S. Elm St., Colville, WA, CCWC volunteer, spoke in favor of the request. She stated that she has gotten to know a lot of the people who use the warming center and did not think that the center is contributing to the criminal element in the area.

Colville Police Chief Bob Meshishnek addressed questions of the Board regarding law enforcement. He explained that police officers do not have the authority to enter private property and ask someone to leave if they are not committing a crime. The property owner or manager must ask someone to leave their property in the presence of an officer before the officer can take enforcement action. In response to a question from Chairman Montgomery, Chief Meshishnek felt that possibly a Memorandum of Understanding (MOU) could be written and approved by the City Attorney and Prosecuting Attorney to provide guidance for the Police Department. He suggested if the American Legion can provide the Police Department with a list of contacts in the event there is a problem on the property, the police could call and ask someone representing the property owner to come to the site.

At 11:47 a.m. the Chairman allowed time for rebuttal. Applicant John Horton addressed comments from the public. Mr. Horton pointed out the recommended fence and separate gated entrance per Figure 9 could create hazardous driving conditions in the winter. In reference to safety concerns for children, he stated that some guests at the CCWC bring their children. He said guests are concerned about their appearance and don't want to be targeted as vagrants when they are walking around. They are appreciative of the services offered at the warming center and don't want do anything to jeopardize the operation of this facility. Mr. Horton clarified that the American Legion has had a FEMA designation for about 8 years for their facility to be used as a shelter in times of disaster.

In response to a question by Daron Tate, Mr. Horton advised that volunteers do the snow plowing. Jon Vetten added that the volunteers have to be able to drive through the property when plowing which is why they prefer not to have gates. Some clarification was presented regarding the location of yard lights on the property.

Pearl Mance pointed out that the warming center hours of operation are from 5:00 p.m. to 9:00 a.m. She felt the bus stop at the park should not be an issue with this request. It was noted that children are picked up between 7:30-8:00 a.m. and dropped off between 3:00-3:30 p.m.

As there were no further comments from the public, the Chairman closed the public testimony portion of the hearing at 12:00 p.m.

The Chairman stated that now that the Board has heard the public comments and has reviewed the documents concerning this proposal, the subject is open for discussion of findings of fact and conclusions by the Board members. If the Board members are in agreement with the Staff Report, you may adopt (or adopt with modifications) its findings and conclusions as a basis for your action or state your own.

At 12:02 p.m. Chairman Montgomery called a short recess. The meeting was reconvened at 12:17 p.m.

The Board members reviewed the suggested findings of fact on Pages 6 & 7 of the Staff Report and minor changes were made to findings #3 and #5.

The Board members reviewed the suggested conditions of approval on Pages 7 through 11 of the Staff Report and made changes and added conditions to address the concerns expressed during the public hearing. Condition #5 and Figure 9, on Page 10, were deleted following discussion with adjacent property owner Leigh Fitzpatrick. Chairman Montgomery suggested that a condition could be added to revisit the matter in the future to evaluate the use.

Chris Montgomery moved to approve Conditional Use Permit Application #1-15, as presented, and adopt the findings on Pages 6 & 7 and conditions of approval on Pages 7 through 11 of the Staff Report, amended as follows:

FINDINGS FOR CONDITIONAL USE PERMIT:

- 1. The project is consistent with the City of Colville Comprehensive Plan and meets the requirements and intent of the Colville Zoning Ordinance, including the type of land use, and the density/intensity of the development, and the protection of critical areas, if applicable.***

The proposed use will utilize the lower level of the existing structure to provide homeless people with a warm dry place to go during cold weather conditions in wintertime. Goal 2, Objective (f) of the Comprehensive Plan Housing Element is to promote housing and services for special needs populations and encourage public awareness to discourage opposition from property owners within the proximity of proposed projects. The proposed warming center, with an approved conditional use permit, is consistent with the direction of the Comprehensive Plan and with the requirements and intent of the City's development regulations. This particular proposal is consistent with the City's setback and development Conditional Use Permit Application #1-15 standards, and by complying with the conditions of approval, can adequately mitigate any identified development impacts. There are no critical areas on or near the site.

- 2. The project will not be unduly detrimental to the use of properties in the project vicinity.***

The proposed use will be located in the lower level of a meeting hall that has been an established part of this neighborhood for over 80 years. The addition of the warming center operations three years ago has proven to be a somewhat incompatible use in a largely residential neighborhood. Nevertheless, the warming center can be accommodated on this site without creating any undue impact to surrounding properties, provided the applicant complies with the conditions of approval in this request.

- 3. The project makes adequate provision for access and circulation, water supply, storm drainage, sanitary sewage disposal, emergency services and environmental protection.***

City water and sewer serve the site. Emergency services are nearby. The operation of the warming center, as proposed, should not negatively impact the natural environment.

Currently, the proposed use does not adequately address access and circulation. Per Figure 3 above, the shared access drive creates confusion and warming center patrons are reported to use the southern driveway to access the CCWC. This has resulted in uncertainty about where the warming center is located and has resulted in the residence to the east being confused as the CCWC. However, the CCWC can provide for adequate access and circulation provided the applicant complies with conditions of approval below.

4. The project adequately mitigates impact identified through the SEPA review process, if applicable.

The City of Colville reviewed the proposal for probable adverse environmental impacts on November 3, 2015. A Notice of Application/SEPA Review was issued November 5, 2015 using the optional DNS process pursuant to WAC 197-11-355. The comment period expired November 19, 2015. A Determination of Non-Significance was issued November 20, 2015. There were no SEPA comments received.

5. The project is beneficial to the public health, safety and welfare and is in the public interest.

- Public health issues related to this request have been identified that must be addressed.
- The safety of the warming center patrons and staff may be an issue. Per the conditions of approval below the Colville Building Official shall inspect the premises to ensure adequate fire and life safety provisions before the CCWC continues operation.

If mitigation measures are employed per the conditions of approval below, the project is generally beneficial to the public health, safety and welfare of the community.

CONDITIONS OF APPROVAL:

1. Access to the facility shall be limited to the lower level entrance on the north to minimize any impacts on adjacent properties. See Figure 3 below.

Figure 3



2. Access for the Legion Hall and private residence shall be separated using site obscuring fencing from the east property line to the driveway at the location shown per Figure 4 below. The fence will extend from the driveway to the east property line. There shall be directional signage facing north at the west end of the fence indicating “Not a Warming Center Exit”.

Figure 4



3. Signage shall be located per Figure 5, 6 and 7 to make it clear where the warming center entrance is located and where it is not. Warming Center signage at the southern entrance (Figure 7) shall not advertise the CCWC when the facility is not open and/or during summer months.

Figure 5

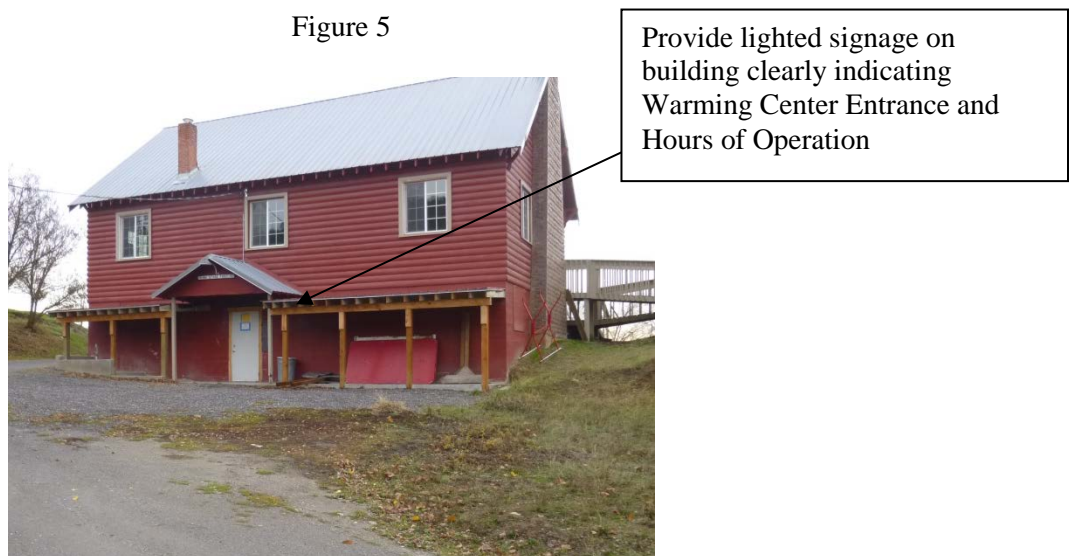


Figure 6



Provide lighted monument sign, clearly indicating Warming Center Entrance and Hours of Operation

Provide a sign stating No Loitering Private Drive

Figure 7



Provide 3 lighted signs clearly indicating No Loitering Private Drive

When the Warming Center is operating there shall be sufficient portable signage of not less than 2 signs directing Warming Center traffic to the north driveway entrance

4. The applicant shall provide site obscuring fencing from the existing fence to the rock outcrop to screen the residence immediately to the east of the CCWC entrance per Figure 8.

Figure 8



5. The applicant shall work with the City of Colville to remove site obscuring underbrush adjacent to the site along 7th Avenue from the pavement to the applicant's driveway to create a clear line of sight for law enforcement inspection from the street. See Figure 10 below.

Figure 10



6. The applicant shall provide warming center access to the Colville Building Official to inspect the premises to ensure adequate fire and life safety provisions before the CCWC continues operation. The applicant shall install improvements as directed by the Building Official.

7. The applicant shall grant specific written permission to the Colville Police Department to move loitering people along and off the property. To this end the applicant and the City of Colville shall work together to work out terms and conditions of a Memorandum of Understanding (MOU) for removal of loitering persons from the applicant's property.
8. The applicant shall have 30 days from the approval date to complete all required conditions. The Administrative Official shall have authority to extend the compliance deadline as appropriate.
9. The applicant shall work with the City Planner and Municipal Services Administrator to determine if a designated pedestrian/bicycle lane can be created on the east side of Main Street between 6th and 7th Avenues. If possible, such a lane shall be designated.
10. The Administrative Official shall certify that all conditions have been satisfied. If the conditions of approval have not been satisfied the conditional use permit shall expire.
11. In October of 2016 this matter shall be revisited for compliance and/or additional conditions of approval by the Zoning Board of Adjustment.
12. If at any time the CCWC shall fail to meet the conditions of approval outlined above the Administrative Official shall have the right to terminate the conditional use permit subject to a review by the Zoning Board of Adjustment.

Daron Tate seconded the motion. Roll Call: Sandra Wilma – yes; Chris Montgomery – yes; Daron Tate – yes; Pearl Mance – yes. Motion passed unanimously.

Chairman Montgomery stated that the Board's approval is for the warming center only, as presented in the conditional use permit application.

COMMUNICATIONS & PUBLIC PRESENTATIONS:

OLD BUSINESS: There was no Old Business to be presented.

NEW BUSINESS: There was no New Business to be presented.

REPORTS:

Sandra Wilma reported that this meeting was not posted to the City website under Zoning Board of Adjustment. She requested that staff ensure in the future that meeting notices are posted appropriately to the City website.

ADJOURNMENT:

As there was no further business, Sandra Wilma moved and Daron Tate seconded the motion to adjourn. There were no objections and the meeting was adjourned at 1:52 p.m.