

Grand County Planning Commission Minutes

March 8, 2006

A regular meeting of the Grand County Planning Commission convened on the above date at 5:30 PM in the Council Chambers of the Grand County Courthouse.

Members Present: D.L. Taylor, Marcus LaFrance, Dave Cozzens, Tom Shellenberger, Ed Bridges, Charley Every, and Jean Binyon.
County liaison - Judy Carmichael.

Others Present: Richard Grice, Mary Hofhine, and other concerned citizens.

The meeting was called to order at 5:30 PM by the Chair, Marcus LaFrance. Charley Every asked if he could respond to a letter written by Jack Campbell? The Chair asked that he keep it brief; Mr. Every made the following comments, "I am an independent contractor and I am not an employee of Mr. Fryer; in regards to the sign issue I did not build a sign for Mr. Fryer. When we applied the code to Red Cliff I recused my positions on an administrative decision because it is case specific, property specific, owner specific. I commented and voted on the legislative decision because it is inserted in the LUC and available for any land owner of Grand County. I checked with the County Attorney and was told I could legally comment on legislative decisions. At an earlier meeting Red Cliff was on the agenda; as a new member I did make comment and I apologize for making the mistake of not declaring my conflict, I was reprimanded for that mistake and I apologize to Ms. Carmichael and Ms. Langianese." Mr. Every explained further that he wants to keep the small town spirit of our community and feels protective of the economic growth. In closing he stated "Our views are different, but we are looking the same direction."

Lions Back Potential Annexation – Brian Torgerson: Mr. Torgerson from SITLA was at the P&Z as a courtesy to let them know that School Trust Lands have petitioned the City for annexation. They are planning a development and will need public services that will be provided by the City.

Since the City will be most affected, the Commission felt annexation was the right thing to do and they would not oppose the annexation.

Administrative business: Disclosure of exparte communication and conflicts of interest will be addressed at each meeting. The Chair also informed the Commission that their bylaws require them to follow Roberts Rules of Order and he will be strictly enforcing them, but will ease into them gently. Each member is allowed 10 minutes of 2 presentations each; if you only speak for 15 seconds your first session is over. Each member will need to ask for recognition from the Chair, please wait for each person to be over before asking for the floor; before any discussion there needs to be a motion for discussion. Motions will need to be made to the application; motions will be repeated by the Chair and will need findings before each vote to make the motion clear. Worksession items are not as structured.

Minutes do not need to be voted on; they just need approval and signature by the Chair.

Approval of minutes: Minutes are approved as noted.

**Continued Public Hearing – Rezone of property from RR, Rural Residential to HC, Highway Commercial
Chuck Henderson applicant:**

The Chair asked if anyone has any conflicts or exparte communication to declare on the public hearing regarding the rezone of Chuck Henderson's property. Ed Bridges declared that he has had discussion regarding his property although he does not see this as a conflict of interest on this project.

The Chair reminded the Commission that the decision is based on the application only. It was tabled from the last meeting due to the Council reviewing an administrative decision of allowing mixing densities if a property has multiple zones.

This application is submitted by Henderson Properties LLC, Chuck Henderson, Manager (Applicant). The subject property consists of approximately 12.47 acres, located on Highway 191. The application seeks to rezone that portion of the property currently zoned RR, Rural Residential to HC, Highway Commercial and a 2.70 acre parcel currently zoned MFR, multi-family residential to HC, Highway commercial.

Mr. Henderson made a presentation asking the Commission to review his request based on his need to get his project started. He has waited a long time for the County to make changes to the LUC so he could go through the proper zoning steps. Mr. Henderson stated that he would like the Commission to vote on the zone change request from RR, rural Residential and the MFR, Multi-family residential to HC, Highway Commercial.

The Chair opened the public hearing and asked if there were any comments. There were no public comments and the public hearing was closed.

As discussed earlier the Chair called for the motion so the Commission could discuss the application.

Mr. Bridges moved to deny the request based on the facts that it does not meet the standards in the General Plan or the 11 items of criteria for rezone consideration in Sec. 6.2.6 of the Land Use Code. Jean seconded. The Chair repeated the motion.

Discussion on the rezone of 12.47 acres from RR, to HC, and 2.70 acres of land from MFR to HC.

Mr. Bridges stated that he is sorry that the planning element is an issue for Mr. Henderson, but that's the way government works. This is not the only rezone that has been denied by the County.

Tom Shellenberger asked for a point of interest– what Mr. Henderson's recourse is if he is denied. Staff relayed that the Planning Commission only gives a recommendation to the Council. The Council reviews the application with the Commission's denial recommendation; if the Council denies the request Mr. Henderson can reapply for rezone at his discretion.

Staff explained that the request the applicant is asking for is HC, Highway Commercial, which does not allow for retail, Mr. Henderson may want to request a General Business.

Tom Shellenberger was asking about the RC, Resort Commercial zone district in the area, which we currently cannot allow. The RC district is an implementation tool for the North Gateway Corridor Area Plan only.

The Chair explained that the work session is the time to discuss changes to the Land Use Code, not during a review of a specific application; we need to stay germane to the motion.

D.L. Taylor doesn't feel that the applicant should be penalized for the Commission's lack of planning and would like to have the Chair call the question so the applicant can go forward.

The Chair repeated the question on the table; to recommend denial because it does not meet the standards in the General Plan or the 11 items of criteria for rezone consideration in Sec. 6.2.6 of the Land Use Code.

Marcus LaFrance, Jean Binyon and Ed Bridges voted in favor of the motion, D.L. Taylor, Dave Cozzens, and Charley Every, Tom Shellenberger, voted to oppose the motion. The motion failed.

D.L. Taylor moved to recommend approval of the rezone, seconded by Dave Cozzens for the requested rezoning.

Dave Cozzens read through the criteria to make the findings.

Ed Bridges remarked that the existing zoning was not adopted in error because the commercial zoning ended further north of the property. There is also concern about the unintended consequences of housing in a HC, zone district; the allowed uses in a HC are allowed in any of the housing lots.

The Chair made comments regarding the uses by right in the HC zone district; these allowed uses can be put in at any one of the lots. Commercial zoned properties have been paying higher property taxes for years and to rezone a property that has been paying a lower rate would increase that property value immediately. This would not be a logical extension of commercial properties; in fact the nearest commercial zone is a nearly a half mile to the North. Recently the Commission recommended and the Council approved rezone to allow SLR-2 which was a medium density zone. A member of the council at that decision stated that this makes a definite end to Highway Commercial on that end of town.

Also the Supreme Court decision allowed a governmental entity to exercise its power under eminent domain to force a number of homeowners to sell their primary residence to develop a Wal Mart under the guise of common good and economic need and the Courts agreed.

Approval of this application would be consistent with that decision of the Supreme Court. People who have

bought homes adjacent to this property, many of which were sold by this developer, rightfully expected to live next to the serenity and security of the of current RR, zone district and now the developer is asking us to join with him and in essence seize the property for commercial use for the benefit of one developer. All people on this commission votes their conscience and I will not support this seizure.

Staff explained that the zone he is asking for does not allow retail, except for a service station and an accessory convenience store.

Charley said the General Plan says that we need to change zoning as the need arises and he would argue that this is a need.

The Chair stated the question as; Recommend approval of the requested rezoning; and called for the vote. D.L. Taylor, Dave Cozzens, and Charley Every voted aye . Ed Bridges, Tom Shellenberger, Jean Binyon and Marcus LaFrance voted against. Motion failed.

Worksession

Blu Vista Preliminary Plat – discussion regarding connectivity. The Chair cautioned the Commission that this is not to be a discussion regarding the plat only a discussion about connectivity and the need. Mr. Tanner has an approved preliminary plat if he wants to make changes to the approved plat he needs to go through the proper political process, which requires public hearing and this has not been advertised as a public hearing.

Mr. Tanner relayed that he has been delayed due to an appeal, but his concern is that he was not made aware of the connection needed to Stocks Drive, (actually it is Zimmerman) until the preliminary review at the Council meeting. It was brought to the attention of staff by Dave Warner, Road Supervisor, the night of the Council meeting. The Chair stated that the Land Use Code Sec. 5.3.3 states; The system of streets designated for the subdivision, except in unusual case, must connect with streets already dedicated in adjacent subdivision...

This is definitely a connection required by the code. Mr. Tanner asked what the Commission would require of the other connections if this is connected. Would they allow him to remove one of the others? The Commission was reminded that this discussion is on the verge of being out of order, the Commission can only discuss the connectivity needs not specifically the needs for Blu Vista until it is in the public hearing.

Staff stated the solution would be to vacate the roads that he doesn't need and bring it back to the Commission as a combined Preliminary and Final plat, but it will need to be readvertized.

South Corridor Study – The Commission discussed the need for a South Corridor Area Plan. Developers are asking for rezones and we don't have a plan to help us through their needs. There is currently close to 500 acres of vacant Highway Commercial zoning, but we have developers asking for more. The need for higher density in the valley should be discussed and planned.

The Chair called the meeting due to lateness the other workshop items, PD Standards and the Use Standards Amendment will be continued to the meeting on March 22, 2006.

Adjournment: The meeting was adjourned at 8:00 PM.

Marcus LaFrance, Chairman