

Grand County Planning Commission Minutes

October 10, 2007

A regular meeting of the Grand County Planning Commission convened on the above date at 6:00 PM in the Council Chambers of the Grand County Courthouse.

Members Present: Chairman Marcus LaFrance, D.L. Taylor, Jean Binyon, Chris Baird, Dave Cozzens, and Ed Bridges. Charley Every was absent.
County liaison – Gene Ciarus

Others Present: County Staff, Richard Grice, Mary Hofhine, Mark Wright and Krissie Killoy applicants and other concerned citizens.

The Chair asked the Commission if there were any conflicts of interest that needed to be disclosed on any of the agenda items; there were none.

The Chair asked that all cell phones be turned off; if one goes off during the meeting you will be asked to leave.

Acceptance of Minutes – The Chair deferred the acceptance of minutes until the end of the meeting.

Public Hearing – Use on Review – Wilderness Lodge and Site Plan, Cloudrock Co. LLC applicant. Staff read into the record as reference; the Land Use Code as amended to date, the General Plan as amended to date, and staff memo in the Commission's packet with today's date.

This application is submitted in partnership by Cloudrock Land Company LLC and School and Institutional Trust Lands Administration (Applicant). The application seeks approval of (1) changes to the overall configuration and size of the Johnson's Up-on-top Wilderness Lodge as shown on the approved Master Plan. The lodge is proposed to decrease in size from 225 lodge units plus 55 accessory employee units, a maximum of 73 lodge units are included in the current plan. Also, previously the lodge was to have been a narrow linear series of structures built along the eastern rim of the mesa. The current proposal is to integrate the lodge buildings in the village pattern of lots and blocks, compact near the center of the now mainly residential village.

The Land Use Code in effect at the time the project was initially approved requires that all proposed changes to uses allowed by Use-on-review Permit receive county approval via the same process as the original approval. The process for Use-on-review Permits requires review and recommendation by the Planning Commission in a public hearing, with final action by the County Council in a public meeting.

The Grand County Council initially approved the Johnson's Up-on-top PUD (including PUD Rezoning, Preliminary Plat For Phase I & Preliminary Master Plan, Use-On Review For Wilderness Lodge, Special Exception For Unit Size Design Standard) with Resolution #2002-2568 on February 4, 2002. In conjunction with the initial approval of the project, the County Council approved the Johnson's Up-On-Top Mesa Development Agreement, which vested development rights in the project subject to the terms of the agreement.

Subsequently, in October 20, 2006, the Applicant submitted for county approval the First Amendment to the Johnson's Up-on-top Preliminary PUD, along with a proposed Amended and Restated Johnson's Up-On-Top Mesa Development Agreement. The Amended PUD included an increase in the average size of lodging units from 600 square feet to 1,000 square feet. This was approved by the Council.

The Grand County Council approved the above described amendments on May 8, 2007. Among the amendments approved at that time was a new PUD Master Plan which illustrates the reduction in units and reconfiguration of the Wilderness Lodge.

The Chair gave the applicants an opportunity to make their presentation.

Wade Budge, Attorney for the applicant, stated that they would like to answer any questions by the Planning Commission. They provided a detailed application and will just be brief in this presentation. They are here to seek input on the design of the development is suitable, the design is to cluster the development. We appreciate the cooperation of the County in seeking approval of this application. The applicant requested that the application be coterminous in accordance with Ordinance 454, Series 2007.

The Chair opened the public hearing and asked that everyone identify themselves before speaking and please keep your comments to 3 minutes.

Barb Morra – via telephone; stated that the review criterion was unavailable to the public; specifically the 1996 General Plan and the Public Facilities analysis. She is in disagreement with staff in that she believes there will be an effect on the public utilities with this project. She asked when and where the documents will be available, records have not been maintained and the public is unable to review the project adequately and provide appropriate comments. Ms. Morra feels there are adverse impacts with the project and the 2000 data is out of date and will need to have updated information in the current file.

Mike Suarez – Why the fancy language to make the application coterminous to an earlier application it means to back date and this is asking that tonight's action will be back dated; just curious what the reason for back dating. Also Mr. Suarez was not able to get a 1996 General Plan. The validity of the original preliminary plat has expired, the LUC states that if no action is taken in a year the application is invalid. The State is expecting a drought in the future according to an article in the Salt Lake Tribune, this Commission has the opportunity to improve legal action by reconsidering the original plat by finding that the original plat has expired.

Damian Bollerman – Mayor of Castle Valley – Some experience of Land Use Planning and water shed protection. Concern is the change to the conditional use permit. Good luck with the water situation.

Lucy Curtis – expressed concerns with the development over the aquifer with guarantees that it will be protected from the pollution of the development.

John Weisheit – provided documents on scientific reports from 1971 to 2007 to be provided as the administrative record. Stated that he is a co-plaintiff on the law suit and would like to say that the attorney sent a memorandum and has copies for the members and would have liked them to have been copied and given to the Planning Commission. He will also put all these documents on the web server and will provide the contact information to staff. There are archeological sites on the property that need to be protected.

The Chair commented that at 4:30 this afternoon staff received responses to the application from the Plaintiff's attorney.

Peter Lawson – Takes issue with the staff suggestions, analysis. Do not see any support analysis to the staff memo only see suggestions and opinion how is compatible with the rural character of the area. Do not see design to mitigate impacts and does not feel they have been resolved. Adequacy of public facilities, no valid will serve letters; have not been able to obtain a copy. The prior plat has lapsed and the current is subject to the current law suit and would suggest no approvals until this is resolved. Density issues find that the new proposal may be 3 stories rather than 2 stories; this would add a different character to the prior proposal.

Sarah Fields – a party to the law suit - Ms. Fields asked if additional comments will be accepted. The Chair informed her that written information can be submitted until the Council has approved. GWSSA stated at a public meeting that Cloudrock does not have a valid will serve letter. There is another parallel to the process and it is the archeological site on Mesa SITLA has determined that there are 6 sites on the national registry and they will need to consider this.

Stephanie Dahlstrom – Concerns with the water issues are concerned with the larger development of Cloudrock. There are a number of people who don't show up to these meetings and also have concerns.

With no other citizens to speak the Chair gave the applicant 3 minutes to answer the comments and concerns of the public. Mark Oligschlaeger stated that they are working with SITLA on the archeological sites on the Mesa including a study; there are none within the Lodge site. There are many water protection conditions they have worked out with the City and GWSSA. Wade Budge stated that the reason for having the approvals running concurrent with the applications is so they won't need to ask over and over again every time they come for another phase.

The Chair called for a motion for discussion by the Commission. Chris Baird moved to table until the next meeting, Dave Cozzens seconded.

Chris Baird stated that he is having a hard time understanding what has been approved. Staff stated that the Council has approved the project in 2002 with the density; the Lodge was about a mile long. In May of 2007 the Council approved the same density, but has modified the design of the lodge into more clustered and compacted configuration. The issue tonight is a modification of how the development is located on the land. Architecture and design has changed; the original plan did not have developed area and will not see this from any developed area.

Chris Baird stated the he was at a meeting where a comment was made that there is not a will serve letter from GWSSA.

The Chair stated that there is no need to provide a will serve letter as part of this submittal, there was a letter given to the County in May during the Preliminary Plat review.

Jean Binyon - questioned the procedure of the motion - what information we would have at our next meeting that would keep the Commission from making the decision tonight.

D.L. Taylor called for the motion – The Chair called for the vote - Dave Cozzens and Chris Baird voted for the motion to table, Marcus LaFrance, Jean Binyon, Ed Bridges, and D.L. Taylor voted against the motion to table.

The Chair entertained another motion for the reconfiguration of the development. Ed Bridges moved to recommend approval of the amended Johnsons-up-on Top Wilderness Lodge Use on Review and to be coterminous with the other approvals granted by Ordinance No. 454, Series 2007 based on the following specific findings:

1. The proposed modified Wilderness Lodge use and accessory facilities are compatible with surrounding land uses, compliment the overall development and are consistent with the development approvals given by Ordinance 454, 2007 Series.
2. The General Plan and the RG district allow the location of the Wilderness Lodge as proposed by Applicant.
3. The approval of the modified Wilderness Lodge would further the County's stated goal of promoting development predictability, particularly in light of the County's prior approvals.
4. The modified Wilderness Lodge proposal is configured to promote pedestrian use, encourages reduced dependence on automobiles, and protects surrounding open space and environmental uses by clustering development and associated impacts.
5. The County's property, sales and lodging tax base should be increased by the modified Wilderness Lodge.
6. The modified Wilderness Lodge will not cause adverse impacts such as increased noise, vibration, dust, dirt, fumes, gas, odor or glare and the impacts associated with the buildings are mitigated by the requirements of the Cloudrock Code.
7. The modified Wilderness Lodge will not reduce the availability of public services to other properties.

Seconded by D.L. Taylor; the Chair opened the Commission's discussion on each finding one at a time.

Ed Bridges asked if the modification of the wilderness lodge was approved by Council at their May 2007 meeting. Staff answered that it was. Then since the applicant is using an older code based on the Development Agreement that has been re-approved in May of 2007. Staff agreed.

Staff informed the Commission that this is only a housekeeping item and all the concerns are already approved. There is a letter of commitment from GWSSA from 2001. The only issue that needs to be addressed with this application is the reconfiguration of the development; all other approvals happened in May. This project will be seen from the Wilderness Study Area to the East. Mitigation has been utilized by the applicant in breaking up line and form of the buildings.

Chris Baird still has a concern with the cloudiness of the sewer and water source protection of the project at a GWSSA meeting he had recently attended it was mentioned that Cloudrock does not have a contemporary will serve commitment.

Staff stated that the development agreement states that if they can't get commitment from the public facility they can build their own system, with state, city and county approvals. There are a lot of hyperbole and accusations, but the applicant has committed to a state of the art sealed sewer system. All items were committed to by Council in May of 2007 with Ordinance 454, Series 2007.

The Chair asked that the Commission stay focused on the facts of the application, which is the reconfiguration of the Wilderness Lodge.

Jean Binyon asked about the configuration of the Wilderness Lodge the plan doesn't show how many units are planned for each building. The applicant stated that this is a conceptual plan and due to the restrictions of height and size of buildings until the plan goes to final we won't be able to put the number of units in each building.

The Chair asked if there were other concerns from the Commission on other findings.

Jean Binyon also asked about finding number 5 regarding the taxes; this is providing they don't incorporate into their own Town.

D.L. Taylor mentioned that currently the site is not being assessed property tax because it is owned by SITLA; once developed the Assessor will assess property taxes. Mr. Taylor also expressed disappointment that a representative from SITLA wasn't in attendance since they are the land owner.

With no other comment from the Commission the Chair re-read the motion and called for the vote; all voted in favor.

Public Hearing - Special Exception Lodge Unit size set at an average of 1000 square feet. Staff read into the record a copy of the Land Use Code as amended to date, a the General Plan as amended to date, and staff memo in the Commission's packet with today's date.

This application is submitted in partnership by Cloudrock Land Company LLC and School and Institutional Trust Lands Administration (Applicant). The application seeks special exception approval to the design standards that limits the size of lodge units to a maximum of 600 square feet. The request is that lodge units be allowed to have an average size of 1,000 square feet.

The Land Use Code in effect at the time the project was initially approved requires that changes to design standards may be approved via a Special Exception. The process for Special Exception requires review and final action by the Planning Commission in a public hearing; alternatively and in conjunction with subdivision review, the County Council may also approve Special Exceptions.

Luxury rental units in comparable development in other locations across the country typically do include units of the size proposed, and that the change will not negatively affect surrounding properties or place additional demands on public facilities and services.

Staff recommends approval based on the following findings and that it be coterminous with other projects and Ordinance 454;

1. The proposal to increase the average size of Wilderness Lodge units from 600 square feet to 1,000 square feet is compatible with the land use of a Wilderness Lodge, the surrounding land uses in the development and the RG District.
2. The proposed unit size increase will not negatively impact the surrounding land uses and will not place additional demands on the environment or public infrastructure.
3. Comparable developments in competing communities have average unit sizes that are larger than the size requested by Applicant and the request to increase the unit size to 1,000 square feet per unit will increase the ability of the Wilderness Lodge to compete with those communities and enhance the County's tax base.
4. The proposed unit size increase will not lower property values on the development or on neighboring properties.
5. The proposed unit size increase is consistent with prior approvals granted by the County and furthers the County's goal of promoting predictability and attractive developments.

The Chair opened the public hearing and gave the applicant 10 minutes for a presentation.

Mark O. passed out a letter from an appraiser stating that there will be no impacts on adjoining properties.

Barb Morra stated that she believes this project will impact the Millcreek wilderness area and should be considered. She doesn't believe that anyone from the P&Z has access to the General Plan and can't make a determination without review. Financial hardship shall not be the sole ground for a special exception and the applicant has made that comment. The public has a right to be heard and there is no action item on the agenda and no action can be taken tonight.

Mike Suarez – This is not a valid action, the application has a limitation of a year; he believes that the application needs to be denied due to the expiration of the preliminary plat based on applicable Land Use Code. That would give this Commission time to study full impacts on the Blue Ribbon panel on climate change. The legal and prudent thing to do is require the applicant to rescind the approval of 454 and do things according to law.

Peter Lawson – stated that to make a decision based on relatively old information that was in existence in 2001 and to make a decision today based on a very different application and relatively old information is a very questionable move I don't think it meets the standards. These changes change the character of this development of a lodge to a more commercial structure in nature. With the increase tax base the Commission should look at the neighboring County, Bryce Canyon City, the County does not have the revenue that it had before.

Damian Bollerman – Questions the financial benefit to the County. As the population increases and properties are built out, the more difficult land requires more infrastructure and taxes will go up to accommodate this.

Lucy Curtis – with all the expansion that is happening in the County, we have a volunteer Fire Department our police department is small and we are limited to those services. We need to be sensitive to the infrastructure with all endeavors that the county takes on.

With no other public comment the Chair asked the Applicant if they had any further comment.

The Applicant thanked the Commission and stated their appreciation to the public. The Cloudrock Code has restrictions to how it is set on the Mesa and will be mindful of the Millcreek Wilderness area. We know that we can't put any burden on the insurance fire rating of the County and will provide whatever it takes if we affect that rating it is in the agreement with the County. We have provided competitive evidence that recreational units on an average of 1900 to 2000 square feet and we are asking for less than the average size. On the coterminous issue, the code allows this body to determine how long an approval lasts this is to provide that all approvals have the same time limit.

With no other comments – the Chair closed the public hearing and called for a motion.

D.L. Taylor moved to approve a special exception increasing the average size of lodge units from 600 to 1,000 square feet, and authorizing the special exception permit to be coterminous with the other approvals granted by ordinance no. 454, series 2007, based on the following findings:

1. The proposal to increase the average size of Wilderness Lodge units from 600 square feet to 1,000 square feet is compatible with the land use of a Wilderness Lodge, the surrounding land uses in the development and the RG District.
2. The proposed unit size increase will not negatively impact the surrounding land uses and will not place additional demands on the environment or public infrastructure.
3. Comparable developments in competing communities have average unit sizes that are larger than the size requested by Applicant and the request to increase the unit size to 1,000 square feet per unit will increase the ability of the Wilderness Lodge to compete with those communities and enhance the County's tax base.
4. The proposed unit size increase will not lower property values on the development or on neighboring properties.
5. The proposed unit size increase is consistent with prior approvals granted by the County and furthers the County's goal of promoting predictability and attractive developments.

Ed Bridges seconded. The Chair asked for the Commission's comments

Chris Baird questioned the special exception request, the State repealed them and we are now allowing the use of special exception; are we essentially providing a favor to this developer? Mr. Baird also stated that he would prefer to; first, consider amending the current LUC with regard to the issue before considering granting a special exception.

Ed Bridges stated that what we are doing is housekeeping – this has already been approved and the applicant has provided good reasons to approve again, no other development is vested with a development agreement as is this project.

Jean Binyon asked about the average square foot, the applicant has provided a range of 900 to 2000 square feet what will be the range largest and smallest. The application answered that small will be 600 square feet and the largest will be 1200 or 1300 as the plan exists now, but they haven't had the final plan yet.

The Chair reminded the Commission that the request is for an average size of 1000 square feet.

The Chair reread the motion and called the question; Dave Cozzens, Jean Binyon, Ed Bridges, D.L. Taylor, and Marcus LaFrance voted in favor, Chris Baird voted against.

Public Hearing – Special Exception – modification of the road design standards- Staff read into the record a copy of the Land Use Code as amended to date by reference, a the General Plan as amended to date by reference, and staff memo in the Commission's packet with today's date.

The Grand County Council initially approved the Johnson's Up-on-top PUD (including PUD Rezoning, Preliminary Plat For Phase I & Preliminary Master Plan, Use-On Review For Wilderness Lodge, Special Exception For Unit Size Design Standard) with Resolution #2002-2568 on February 4, 2002. In conjunction with the initial approval of the project, the County Council approved the Johnson's Up-On-Top Mesa Development Agreement, which vested development rights in the project subject to the terms of the agreement.

Subsequently, in October 20, 2006, the Applicant submitted for county approval the First Amendment to the Johnson's Up-on-top Preliminary PUD, along with a proposed Amended and Restated Johnson's Up-On-Top Mesa Development Agreement. The Amended PUD included certain modifications to the internal road design standards.

This application is submitted in partnership by Cloudrock Land Company LLC and School and Institutional Trust Lands Administration (Applicant). The memo states that this application also includes the main access road, this is incorrect this

submission does not include the main access road only the interior roads. At the time the County Council approved the application this year there were changes proposed, the applicant has decided it is not necessary and plans to build the main access to current road standards.

The interior roads are planned to be narrower to design a pedestrian community by slowing down traffic, although comply with the minimum 20 foot unobstructed width requirement set forth in the International Fire Code. These have been approved by the Fire Chief and the County Engineer.

The Land Use Code in effect at the time the project was initially approved requires that changes to road design relative to the adopted road design standards may be approved via a Special Exception. The process for Special Exception requires review and final action by the Planning Commission in a public hearing; alternatively and in conjunction with subdivision review, the County Council may also approve Special Exceptions.

The Grand County Council approved the above described amendments on May 1, 2007. Among the amendments approved at that time was a new PUD Master Plan which illustrates a modified road system with reduced road widths consistent with the proposed pedestrian village, which will be the core of the development.

Reduced street widths are a key component of traditional neighborhood developments, such streets together with street trees and varied surface treatments serve to slow traffic and support project goals related to pedestrianization. A variety of street widths are proposed in the application, with the minimum width proposed for use in the development being a 20 foot wide all-weather surface. With proper parking control, a 20 foot width is sufficient for fire protection and other emergency access purposes. The Consulting Planner recommends approval of the road design standards as proposed based on the following findings:

1. The proposed thoroughfare standards depicted on Sheet 12 of the PUD Amendment show street widths of varying size, while maintaining a minimum width of twenty feet and require all-weather surfaces.
2. The thoroughfare standards will ensure the attainment of the same standards and goals as the default street standards in Section V.C. of the Grand County Land Use Code.
3. The proposed thoroughfare standards minimize the impact on the development's lands and enhance the overall scenic aesthetic of the development. By allowing the thoroughfare standards more land will be available for use as open space and strict enforcement of the default street standards would create greater impacts on the development's lands.
4. The minimum width of twenty feet and other proposed thoroughfare standards are adequate to serve as fire apparatus access roads under applicable local and state codes and will not be detrimental to public health, welfare and safety.
5. The adjacent land uses in this RG district and surrounding environs will not be materially or negatively impacted by the thoroughfare standards and the use of the proposed thoroughfare standards does not necessitate the installation or use of additional buffering or screening elements.
6. The approval of the thoroughfare standards will not negatively impact property values in the area and will promote the development of a project that is designed to be attractive and protective of the environment.

The Chair opened the public hearing and asked the applicant to make their presentation and to keep it at 10 minutes.

Michael Liss stated that the professional planner they are working with has suggested the narrower roads to give the community a pedestrian atmosphere. The proposed code amendment will allow for this planned road within in the PUD. These roads will protect the environment and provide safer roadways and meet the County road standard.

The Chair opened the hearing to the public;

Barb Morra asked that hearing be continued because we received misinformation regarding this application the General Plan was not available and the memo received at 4:30 PM on this day be considered because we were waiting for information. She would like to point out that this application was not reviewed by the Fire Department she had spoken with him and he said he had not seen the current plan. She feels that all new information needs to be given to the applicant and the Planning Commission.

Mike Suarez – he reiterated that he was unable to get a copy of the 1996 General Plan and it is pertinent to this project. Would like an explanation as to why these need to be coterminous (back dated) does it run with the land in the agreement? Plat has been expired and is invalid and an invalid plat cannot be reviewed by law.

Staff would like to point out that the General Plan that was requested was for the 1999 General Plan which we could not provide because there is none; the applicable General Plan is 1996.

Sara Fields – one issue that was not brought up is school buses, are the narrower roads appropriate for larger vehicles. The Commission should delay for further review, also there is an archeological site on the property and it should be reviewed by the appropriate agency and wait until they have mitigated the impacts on the site.

Peter Lawson – feels that this is putting the cart before the horse, when the sole access to the property has yet to be resolved. We need a County approved access road it is a part of the thoroughfare roads it is primary. The former Engineer has reviewed and we should have the current Engineer review before it goes forward. The City Engineer has concerns regarding water protection.

Staff explained that many of these concerns are at final Engineering not at preliminary and will be addressed then.

The applicant was given three minutes to make a closing statement.

A road meeting County standards was approved and is readily available to the community. The current designs for this application have been open to all for review and the Fire Chief is here to address the road issue. At final plat all appropriate agencies will sign off and approve or disapprove the design. The reason for coterminous intent is they all terminate at the same time. The roads will accommodate fire trucks and school buses and there will be sidewalks. As far as archeological sites the applicants have been in contact with appropriate agencies for review.

The Chair closed the public hearing and entertained a motion. Jean Binyon asked about the issues with the Fire Department. The Chair asked the Fire Chief to address the issue. The Chief stated when Ms. Morra asked him if he had seen the roads he did tell her he hadn't seen the access road, but he had approved the internal road and it meets the intent of the code. Also this is only preliminary and we will need to review all plans at final review.

This is treated as a preliminary (concept plan) plat – we don't approve all final construction plans until final and all the agencies will have opportunity for review at that time.

Jean Binyon moved to recommend approval as proposed and without condition, and authorizing the special exception permit to be coterminous with the other approvals granted by Ordinance No. 454, Series 2007, based on the following findings:

1. The proposed thoroughfare standards depicted on Sheet 12 of the PUD Amendment show street widths of varying size, while maintaining a minimum width of twenty feet and require all-weather surfaces.
2. The thoroughfare standards will ensure the attainment of the same standards and goals as the default street standards in Section V.C. of the Grand County Land Use Code.
3. The proposed thoroughfare standards minimize the impact on the development's sensitive lands and enhance the overall scenic aesthetic of the development. By allowing the thoroughfare standards more land will be available for use as open space and strict enforcement of the default street standards would create greater impacts on the development's sensitive lands.
4. The minimum width of twenty feet and other proposed thoroughfare standards are adequate to serve as fire apparatus access roads under applicable local and state codes and will not be detrimental to public health, welfare and safety.
5. The adjacent land uses in this RG district and surrounding environs will not be materially or negatively impacted by the thoroughfare standards and the use of the proposed thoroughfare standards does not necessitate the installation or use of additional buffering or screening elements.
6. The approval of the thoroughfare standards will not negatively impact property values in the area and will promote the development of a project that is designed to be attractive and protective of the environment.

Ed Bridges seconded.

The Chair asked for discussion from the Commission;

Jean Binyon asked about the size and layout of the roads. It was explained that the secondary roads as shown on the plan go to the rest of the mesa. Road profiles are contained in the Cloudrock code.

Chris Baird asked if the road deviations being applied for would be acceptable under the current Land Use Code. Staff indicated that they would be.

In the development agreement the main access is a public road owned and maintained by the county, where that road ends the road becomes primary roads into the village. Interior roads in the village will be a minimum of 20 feet some will be wider.

The Chair reread the motion and called for a motion, all voted in favor.

Acceptance of Minutes – The Commission accepted minutes from September 12 Workshop meeting and Regular Meeting, with corrections. Also the September 26th minutes were accepted with corrections.

Adjournment: The meeting was adjourned at 8:50 PM.

Marcus LaFrance, Chairman