

Grand County Planning Commission Minutes

December 12, 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, Charley Every and Ed Bridges. County liaison – Gene Ciarus

Others Present: County Staff Mary Hoffine, 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. Please if you need to have a conversation with persons in the room other than when called on step outside the chambers.

Acceptance of Minutes – The Chair postponed the acceptance of minutes until the next meeting they are extensive and had many changes and will need to be reviewed carefully.

The Chair gave the process for public hearings as follows; public hearings are for the public to speak about items on the Agenda, the applicant is given 10 minutes to make an opening statement; the public will be given 3 minutes for statements and the applicant will be given an additional 3 minutes for closing statements.

The Chair asked the Commission if they had any conflicts of interest or ex parte communications that they feel should be considered. There were none.

Consideration of a policy for written submittals: Staff has provided a draft resolution regarding the submittal of written information for Planning Commission packets. The resolution defines the time period for written submittals for inclusion in the packets. For the information to become a part of the record it needs to be in the packet delivered to the Commission of Fridays before the meeting. Staff has requested that the information for packets be in the Planning Office by 3:00 pm the Thursday before the Commission meeting so copies can be made and put in the Commission meeting packets.

The Commission can set the rules of procedure pursuant to the Land Use Code.

Chris Baird feels that this does not give the full 10 day notice if the citizens need to provide their written comment 5 days before the meeting.

Staff pointed out that due to the newspaper coming out only once a week the actual notice in the paper is usually 13 days.

Jean Binyon commented that she feels it is appropriate that the Commission doesn't need to have the same rules as the Council and the Council does wait the two weeks after their hearing to make a decision. The Commission doesn't make the final decision anyway.

Chris Baird further stated. This County has had more than 100% growth we have gotten so far out in front of ourselves we can't responsibly approve projects, we need to consider public input and slow down the process. I do not have the time to research public input within the 5 days.

Ed Bridges stated that in the public hearing process we don't have the time to digest the information at the meeting where we hear the public.

Marcus LaFrance stated that there are very few items that are on our agenda that would need the extra time and we could take them on a case by case basis and postpone action in we feel more time is needed.

Charley Every moved to approve the Commission Resolution stating that it is reasonable and will provide the consistency of information. D.L. Taylor seconded The chair asked if there was any other issued to discuss; with no further discussion the Chair called for a vote. Charley Every, Marcus LaFrance, Dave Cozzens, D.L. Taylor, Jean Binyon and Ed Bridges voted in favor, Chris Baird voted against the motion. Resolution passes.

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 provides that changes to design standards may be approved by Special Exception. The process for Use-on-review Permits requires review and final action by the Planning Commission in a public hearing.

Staff explained that this subject had been to the Board of Adjustment on December 10th due to an appeal by a citizens group. The BOA found that the procedures followed were incorrect and invalidated the previous special exception for lodge unit size and the special exception to road standards. The appeal stated that the notice for the public hearing needed a full 15 days since the Cloudrock development has a Development Agreement which has the development following a 2000 Land Use Code, which requires the 15 day notice period. The notice time was determined to be inadequate and the BOA stated that a new hearing should be called by the Planning Commission and all previous actions were vacated.

At the last hearing we received documents from Smith Hartvigsen (Attorney for the Appellants of the Cloudrock development), Sarah Fields, and John Weshiet, subsequent to that we also received today additional information from Mike Suarez, Sarah Fields and Smith Hartvigsen.

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 1, 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, and representative of Michael Liss and Mark Oligschlaeger. First would like to address the issue of notice, we have met the requirement of 15 day notice with this meeting. Also we acknowledged that the prior notice met the state requirement of the 10 day notice requirement, but rather than continue with an issue we accept the BOA decision to vacate the prior approval. That said, we would like obtain an average unit size of 1000 square feet. We have made a comparison of lodge sizes most lodge units in resorts like Cloudrock are between 900 square feet and 2200 thousand square feet, to stay competitive in the market we respectfully request the Planning Commission's approval. The Code allows for this request, the main concern for those that are opposing this pattern relates to the size and it is not before you tonight and is currently in litigation in District Court.

Michal Liss commented that the issue is only the size of the units, not the buildings; this request is to stay competitive in the market.

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

Mike Suarez – Mr. Budes comment that the P&Z has no jurisdiction over this decision due to the validity of preliminary plat is not true. They are using it to their advantage in court, if the County keeps accepting steps of the project then there is the argument that the County has accepted the project in its entirety. You have the responsibility to the citizens of the County to determine that the underlying preliminary plat must be invalid.

Sara Fields – In going over the Land Use Code there is a section regarding the water shed protection. This project has potential to have adverse effects of the water aquifer zone and should be considered. 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 before approving the development.

With no other citizens to be heard the Chair gave the applicant three minutes to make a closing statement.

The applicants made the following statements in regard to the citizens concerns. This public hearing is only for the lodge size not the entire project so the issues are not relevant. The configuration of the lodge that was presented in 2001 is not the current configuration and the foot print will be less impactful and we are requesting less units, are request is for larger unit sizes.

As far as the water shed protection zone on the mesa, there is only a small section that is in the zone 2, but we committed to treat the entire mesa as a zone 2 and provide the appropriate protections.

The Chair closed the public hearing and asked for a motion by the Commission.

Jean Binyon moved to approve the approved 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.
1. That the applicant has complied with all submittal requirements necessary to show the following:
 - a. The general address and legal description of the property affected;
 - b. A site plan and other information necessary to clearly demonstrate eligibility for the special exception,
and
 - c. The filing fee to cover the cost of review in accordance with the fee schedule adopted by resolution of the county council.

2. This approval shall be coterminous with the approval of the amended plat by the council on May 8, 2007.

Dave Cozzens seconded.

The Chair opened the discussion with the Commission;

Jean Binyon stated the application is nothing new has been presented and feel the request is appropriate.

Chris Baird felt this is granting a favor to the developer since it's not a process other developers are provided. He's willing to address an amendment to the Code so the process is available to all.

Charley Every feels sympathetic to those in opposition, the project has failed to win the hearts of the community, but our objective for tonight is only on the size of the lodge units. Clearly the market shows that 1000 square feet is the size in the current market.

Ed Bridges - This is only a housekeeping process. The time frame is 15 days due to their agreement, the applicant has met the requirement and the Council has approved the amendment. There should be no other issues.

The Chair re-read the Jean Binyon's motion and called for a vote. Charley Every, Marcus LaFrance, Dave Cozzens, D.L. Taylor, Jean Binyon and Ed Bridges voted in favor, Chris Baird voted against the motion

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.

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

The applicants stated that the narrower roads are only on the top of the mesa and will only be internal roads. The road to the top (access road) will meet the County road standards. Earlier there was a request to modify the access road, but that was not approved and we are not asking for special exception for that access. The idea behind the village is to provide a walk able community. The Fire Department will review the plans at final and we will work with them in providing the safety. All internal roads will have sidewalks and landscaping medians. This provides for more openspace and less pavement.

Mike Suarez – read from the Cloudrock Development Agreement which, in his opinion, require all codes to be applicable to this project. The Chair of the BOA said that the Commission should look at all applicable codes for this project and consider all arguments because it will conceivable be back in front of the BOA. This is an amendment to the original preliminary plat and should be reviewed as such and the developer should be required to apply to the current code.

Sarah Fields – This access road has not been approved by the County and there are impacts that need to be addressed by the engineer.

The applicant was given 3 minutes to make a closing statement. The applicant sated that the access road will be engineered and presented for approval by the County during the final plat process.

With no other comments from the public the Chair asked for a motion.

Jean Binyon moved to approve the Johnson's-Up-On-Top road design special exception 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.
7. That the applicant has complied with all submittal requirements necessary to show the following:
 - a. The general address and legal description of the property affected;
 - b. A site plan and other information necessary to clearly demonstrate eligibility for the special exception, and
 - c. The filing fee to cover the cost of review in accordance with the fee schedule adopted by resolution of the county council.

8. That this special exception is for internal roads only and does not include or alter the design requirements for the main access road.
9. This approval shall be coterminous with the approval of the amended plat by the council on May 8, 2007.

D.L. Taylor seconded.

The Chair opened up discussion – **Jean Binyon** asked if the special exception is only applies to the village and not to the main road. It was to the interior roads only not the access.

Dave Cozzens stated that he doesn't like narrow roads, but supports the project.

Chris Baird, supports the narrow road system and the walk able village concept. The current code amendment will allow for the narrower road system. He is sympathetic to the appellants and the Council has approved the preliminary plat and will stand until the courts make their decision.

The Chair re-read the motion and called for a vote – all voted in favor.

Consideration of applications for the vacancy on the Commission - The Chair explained that there were other applications brought in to the Council office after the Commission packets had been distributed. Staff brought the applications to the meeting, we need to decide if we want to consider all applications or just the applications that we have had time to review and ask to have for interviews.

Ed Bridges moved to recommend to the Council to reopen the application process for consideration of members on the Planning Commission for 30 more days. The Commission received in their packets only 2 applications and 3 other applications were submitted prior to the meeting. Jean Binyon seconded.

Jean asked for clarification purposes that all members will stay on until the vacancies are filled. Staff read from the Land Use Code; all regular members continue to serve as voting member until replaced by appointment by the County Council.

The Chair called for a vote and all voted in favor.

Discussion Items:

Code Amendment proposal. The County Council has asked the Planning Commission to look at the section on Improvement Agreements and Guarantees; specifically the section allowing letters of credit as a form of guarantee and further requiring, in writing, acceptance of the forms of guarantee.

The Commission directed staff to put the item on the January 9th agenda for public hearing.

County Council Update – Gene Ciarus reported that GWSSA will be removing the moratorium on sewer hook-ups the first of the year. Further thanked the Commission for all their work especially on the Land Use Code amendments.

Adjournment: The meeting was adjourned at 7:30 PM.

Marcus LaFrance, Chairman