

Grand County Planning Commission Minutes

June 11, 2008

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

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

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

The Chair introduced the Commission and Staff then requested that all cell phones be turned off; if one goes off during the meeting you will be asked to leave.

The Chair asked the Commission if there were any conflicts of interest that needed to be disclosed on any of the agenda items. Dave Cozzens stated that he owns land adjacent to the Canyon Village (previously Mesa Village), but does not consider it to be a conflict.

Public Hearing: Land Use Code Amendment – Liquid Waste Material Management Ordinance:

Staff read into the record the General Plan as amended to date the Land Use Code as amended to date and the draft ordinance. Mark Wright, County Engineer explained to the Commission that the draft ordinance is in response to the moratorium the Council has in place regarding the waste water disposal plants.

The Chair outlined the procedure for public hearings and then opened the public hearing.

Bill Love – Stated that the Ordinance is good, but there are not enough specifics, Mesa County has an ordinance that works. Regarding the location the facilities should be built on 1000 feet of clay (mancus shale) to protect water shed, or some other protection. Other concerns are;

Netting to prevent wildlife from getting into the ponds that have oil slicks.

Fish and Wildlife should monitor facilities for protection.

Monitor chemicals going into the pond.

An inspector on site that has the County's interest, chemicals, water going in.

Why are other communities banning these facilities?

Why does SITLA not allowing out of state water on sites they have leases.

Terry Shepherd – RedRock Forests, represents 400 members in the State of Utah. The following are the concerns.

- 1) Impact fees should be assessed for these to cover the damage done to the infrastructure.
- 2) Double liners should be required.
- 3) Inspections and monitoring of the sites should be required and monitoring data must be reported to the county on a monthly basis and made available to the public and easily assessed.
- 4) Air quality monitoring specifically for VOCx, NOx, and dust. Dust control should be implemented during construction.
- 5) Soil Erosion bonding and reclamation bonding.
- 6) Implement a spill plan and the County should be required to approve the plan and determine if the site is clean.

- 7) State and Federal regulations need to be enforced and County staff should be the enforcement and have training to adequately enforce compliance.
- 8) The ordinance should include some way to deal with facilities that may be retired or abandoned.

Recommend they continue the moratorium until this issues are worked out.

Harold Shepherd – represents the local Green Party.

- Would like to see an air quality requirement and a paper trail for compliance of standards.
- The Fish and wildlife should be a monitoring agency for the ponds.
- Locking gates to prevent illegal dumping
- A financial background should be required for private wells.
- Cumulative impacts

Sarah Fields – Citizen of Grand County

- Need more technical review to demonstrate that there are protections for the public health and safety.
- Justification and explanations for the basis of the ordinance.
- List the types of waste going into the sites.
- Costs for the product from out of state maybe charged more if they come from other states or just not allow them.
- Inspectors on site.
- Should not permit liquid waste.
- Guidelines for location is too vague.

Marian Eason – Understands that it is unrealistic to expect the industry to go away, but it seems within reason to expect the companies to operate under the strictest guidelines. Anything else presents unacceptable risks to the local tourism economy, quality of life and protection of the land and wildlife. Provide netting enclosures for safeguards to the wildlife.

Sam McKay – The section regarding Federal and State regulations for fish and wildlife needs to be looked into. There doesn't seem to be much regulation on with the State and Federal wildlife. Urge the County to look into the Colorado division of wildlife resources; they have researched these uses more thoroughly. The ponds need to be treated for mosquitoes; we have concerns for West Nile Virus.

With no other comment the Chair closed the public hearing. The Chair entertained a motion to postpone.

Chris Baird moved to postpone until we had a workshop, Dave Cozzens seconded. The Chair asked for discussion from the Commission.

Dave Cozzens, asked about the length of the current moratorium? The Chair explained that the ordinance is under consideration and active, although the moratorium is expired. This ordinance goes into effect as long as we have something active, this is essentially an extension of the moratorium.

Mr. Cozzens also asked if the waters would be protected and go through a preprocess before going into the ponds.

D.L. Taylor felt we need to make sure the process is handled, but with minimal regulation.

Chris Baird added that the site in Colorado was in violation for air quality standards due to improper oil skimmers we need to make sure we add the that safety regulation to evaluate how much separation. Staff needs to go over this ordinance and tighten it up more.

The Chair explained that staff should have another draft available at the July 9 meeting for a brief discussion and then we will have a workshop on this ordinance July 23. The Chair called for a vote. All voted in favor to postpone action on the proposed ordinance.

Continued Public Hearing – Rezone and sketch of Mesa Village – This application was before the Commission on May 14th and was continued due to incompleteness. Staff read into the record the Land Use Code as amended to date the General Plan as amended to date including staff reports and related materials.

This application is submitted by Larry Becknell, on behalf of the property owner, Millcreek Moab, LLC (applicant) for 22.44 acres of vacant land with a split zone of Large Lot Residential (LLR) and Highway Commercial (HC). On May 10, 2007, Planning Commissioners reviewed a sketch plan for this site, including 40 single family units and 200 multi-family units. This application represents substantial changes in the project's general use (replacement of single family homes with duplex and townhome units) and configuration (general project layout, including: streets, parking, and dwelling units). Additionally, because use, configuration, and density are not vested at sketch plan, the new submittal represents the introduction and application of new land use code regulations as amended through April 2008.

The subject application seeks sketch plan, rezone, and master plan approval. The Applicant seeks a rezone to Multi-family 14 (MFR-14). MFR is an overlay district adopted by the County in 2005. The purpose of the MFR district is to provide locations where medium to high density residential neighborhoods may be established. The MFR district is intended to promote **infill development** and **affordable housing**. A rezone is a legislative act recorded by ordinance. A rezone to the MFR district requires a master plan to be recorded and filed in conjunction with the ordinance. Rezones are subject to the conditions of the master plan.

All development in the MFR district is subject to the lot design standards of Article 5. The applicant proposes a cluster subdivision (LUC, p. 5-4) with a maximum density of 236 units. The master plan includes 56 duplex units, 100 apartment/condo units, and 80 townhouse units.

Cluster subdivisions must provide a minimum of 30 percent open space and a minimum of 25 percent affordable housing. The Applicant has agreed to provide both affordable housing and open space as part of the rezone requirements. Currently, Grand County is working with the City of Moab and the Housing Authority of Southeastern Utah (HASU) to develop an affordable housing needs assessment and action plan. It is anticipated that this document will help further refine Section 6.14, Affordable Housing, of the LUC. The applicant has agreed to meet the minimum affordable housing requirements, as well as to continue to work together with Staff (as well as HASU and the Utah Workforce Housing Initiative) to identify market needs and previously untapped financial resources.

An MFR-14 upzone provides the applicant with a bonus density of 431% = an additional 163.12 units. Rezone to MFR-14 will provide an additional 104 market price units and 59 affordable housing units.

The subject property is located within the City of Moab's *Annexation Plan Policy Map*, Utah Code 10-2-402 states, "the legislative body of a specified county may not approve development within a municipality's expansion area without first notifying the municipality of the development". The municipality may consent in writing to the development or provide objections within 90 days. In compliance with Utah Code, staff has provided the City with copies of the project master plan by letter dated April 4, 2008. Additionally, County and City planning staff met April 29, 2008 and discussed general design issues and code requirements. City Planning Commission reviewed the Master Plan on May 8th, 2008. City comment will be required, prior to the land use authority's approval of Preliminary Plat.

The Plan meets the General Developments Standards in the Land Use Code with minor inconsistencies.

Staff recommends approval with the following conditions:

1. LANDSCAPING PLAN, PARKING LOT. The applicant shall work with staff to address main parking

lot design issues, including: landscaping, screening, and pedestrian across-lot access.

2. OPEN SPACE AND COMMON AREA. The applicant shall work with staff to address inconsistencies in open space calculations and definitions.
3. ENGINEERING. The applicant shall obtain all necessary engineering approvals and shall work with the County Engineer to acquire off-site drainage easement requirements per the Storm Drainage Master Plan.
4. AFFORDABLE HOUSING. The applicant shall continue to work with staff to address affordable housing requirements prior to preliminary plat approvals.

The Chair invited the applicant to comment on the proposed project.

Mr. Paul Morris stated that he agrees with the information in the staff report. In the calculations for open space we will exceed the requirements for open space. They have been working with the City on the annexation, but apparently the city had not sent anything to the County and he apologized for that. We are working with the City and County with the annexation, actually the City wants to annex property across the street from our property due to the commercial interest in the property purchase of the land. Our pre annexation agreement is only to make sure that if they need contiguous properties they will be able to accomplish that process. We are talking with the affordable housing groups to accommodate the needs of affordable housing within the project.

The Chair opened the public hearing and asked for public comment, being none the public hearing was closed and the Chair entertained a motion on the rezone only.

Dave Cozzens moved to recommended approval to the County Council the Master Plan and rezone of Mesa Village subject to the following conditions:

1. LANDSCAPING PLAN, PARKING LOT. The applicant shall work with staff to address main parking lot design issues, including: landscaping, screening, and pedestrian across-lot access.
2. OPEN SPACE AND COMMON AREA. The applicant shall work with staff to address inconsistencies in open space calculations and definitions.
3. ENGINEERING. The applicant shall obtain all necessary engineering approvals and shall work with the County Engineer to acquire off-site drainage easement requirements per the Storm Drainage Master Plan.
4. AFFORDABLE HOUSING. The applicant shall continue to work with staff to address affordable housing requirements prior to Preliminary plat approvals.

D.L. Taylor seconded.

The Chair opened up the discussion to the members.

Chris Baird had concerns about approving an upzone without the affordable housing component nailed down. He questioned approving an upzone that requires affordable housing when the term "affordable housing" was still being negotiated and asked if there was a way to tie a more concrete definition of affordable housing to this stage of development.

The Commission discussed at length the process of affordable housing and the upzone, Mr. Baird asked that the motion be amended to ask the County Council to pay particular attention to LUC Sec. 6.14.

It was explained that the preliminary plat for the approved master plan and rezone can only be approved if it follows the approved master plan. If the preliminary plat, which is also a public hearing, doesn't meet or exceed the requirements of the master plan it cannot be approved, so the rezone would be moot.

The Chair asked Mr. Cozzens if he accepted the amendment, he did, and Mr. Taylor seconded the amendment.

The Chair re-read the motion which included the amendment to the motion.

1. LANDSCAPING PLAN, PARKING LOT. The applicant shall work with staff to address main parking lot design issues, including: landscaping, screening, and pedestrian across-lot access.
2. OPEN SPACE AND COMMON AREA. The applicant shall work with staff to address inconsistencies in open space calculations and definitions.
3. ENGINEERING. The applicant shall obtain all necessary engineering approvals and shall work with the County Engineer to acquire off-site drainage easement requirements per the Storm Drainage Master Plan.
4. AFFORDABLE HOUSING. The applicant shall continue to work with staff to address affordable housing requirements prior to Preliminary plat approvals.
5. Recommend the County Council pay particular attention to LUC 6.14, C; specifically that the County Council examine closely the imposition of additional restrictions, such as limitations on income relative to area median income for Grand County, and household net worth as necessary to achieve the proposes of this district.

All voted in favor.

Acceptance of Minutes – The May 14th minutes were accepted with minor corrections.

DISCUSSION ITEMS – Deed restrictions for affordable housing – Richard Grice, Contract Planner, provided us with a document for deed restrictions for the affordable housing section of the LUC.

Zoning requirements alone are not sufficient to ensure that affordable housing, once created, continues to serve this purpose over the long term. Property-specific “deed restrictions” are also needed. Deed restrictions “run with the land” and should be issued to govern use and occupancy of the property, and determine or at least influence rental and sales prices over the long term.

Key elements of Sec. 6.14.1, above identify the target group to include (paraphrased here):

- (1) persons employed in Grand County and persons who were employed in the County for at least 3 years;
- (2) persons who earn or earned at least 80 percent of their household income from employment within Grand County during those three years;
- (3) persons who occupy the unit as their primary residence; and
- (4) households with a net worth that less than 150 percent of Grand County’s average household income.

The Commission discussed the deed restriction documents and decided to add this to the workshop on July 23rd.

Private Property Ombudsman letter from Jim Farrell – The Chair explained that Mr. Farrell, Pueblo Verde has made claims that he and Mary Hofhine, Planning Staff, “fabricated” an ordinance to the Council that required him to build roads that was not obligated by this body. Approved minutes of the Planning Commission and recording of the decision were available to demonstrate that the ordinance passing the Preliminary Plat for Pueblo Verde was, verbatim, the recommending motion from the Planning Commission.

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

Marcus LaFrance, Chairman