

Grand County Planning Commission Minutes

December 13, 2006

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, Charley Every, D.L. Taylor, Dave Cozzens, Ed Bridges, Tom Shellenberger, and Jean Binyon.

County liaison - Judy Carmichael excused.

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

The meeting was called to order at 6:00 PM by the Chair, Marcus LaFrance; the Chair requested that all attendees and members turn off their cell phones. Also this is a public meeting and attendees are expected to be respectful, there will be no public demonstrations.

Public Hearing – Johnson’s up on Top Mesa Amended Master Plan and Amended Preliminary Phase I. Staff read into the record – the General Plan as amended to date, the Land Use Code as amended to date and staff’s memo to the Commission.

The changes made to the preliminary plat are from a series of charettes that the applicant’s planner, Duany Plater-Zyberk and Co., had where the end result was reducing the density of the village and shifting more density onto the mesa, pulling the density back from the edges of the mesa and creating a series of neighborhoods on the mesa and within the overall development; thus creating a relatively compact pedestrian-friendly community.

This proposal reduces the open space in the PUD from about 80% to 60%, but includes the 20% balance within the individual lots and restricts against development.

Other proposed changes include some adjustments to the property boundaries, including both additions and deletions, to reflect property exchanges with SITLA and BLM also survey corrections made since the Council’s approval.

In the interest of full disclosure the applicant advises that SITLA has some additional contiguous land that they may be adding to this PUD in the future.

The proposed changes are viewed as a positive change, primarily because of the confidence in Duany’s ability to design desirable community plans for “greenfield” sites such as the Johnson’s up on top mesa. Secondly, Leucadia Corporation is a New York Stock Exchange-listed company with a long history of successful development projects.

Staff recommends conditional approval. Applicant to draft, submit and work with staff to perfect a document titled, “First Amendment to the Johnson’s-up-on-top PUD Development Agreement”, codifying amendments and commitments to include;

- A. Vesting of uses, density and general configuration, as described in the Amended Master Plan (October 20, 2006) shall be subject to the other applicable standards and procedures of the Grand County Land Use Code, as amended from time to time;
- B. Said vesting term shall be indefinite, provided that the development project is diligently and continually pursued, and subject to the following provisions:
 - 6.4.5 Effect of preliminary plat approval
 - A. Not approval of final plat

Conditional approval of a preliminary plat shall not constitute approval of the final plat. Rather, it shall be deemed an expression of approval to the layout submitted on the preliminary plat as a guide to the preparation of the final plat.

B. Lapse of approval

Preliminary approval of the subdivision shall be valid for a period of 12 months from the date of approval and the general terms and conditions under which the preliminary approval was granted will not be changed. The preliminary approval of the subdivision shall be deemed voided unless a final plat is submitted within the 12 month period or unless the 12 month period is extended by the County Council at the request of the subdivider. Provided, however, that the approval of the preliminary plat for a multi-phase subdivision shall be deemed voided unless at least one (1) phase of the subdivision is submitted within 12 months following approval of the previous final plat for the subdivision, unless the 12 months period is extended by the County Council. The County Council may extend the approval period for one (1) or more times for good cause.

C. Flexibility of phasing (size and location) at discretion of Applicant (not subject to specific phasing plan); and

D. Include termination rights in this provision (e.g., if the Development Agreement terminates for nonperformance; determination by the County of inadequate on- or off-site infrastructure to serve the proposed development; inadequate access or easements from existing development/ other property owners, etc.)

2. Dedicated "Open Space" shall not be less than 60 percent of the property in the PUD, and shall be defined or restricted as follows:

- A. Open space shall be left in its natural or undisturbed state, or properly planned and landscaped according to approved plans; provided, however, such lands may be used for storm water management, utility crossing, parks, playgrounds sidewalks, non-motorized pathways and trails, and other similar non-roofed recreational facilities;
- B. Open space shall not be encumbered with any substantial structures, including but not limited to, covered swimming pools, clubhouses, mechanical buildings, storage areas, accessory structures, of covered gathering areas or courts are not allowed.
- C. Pedestrian accessways, trails and crosswalks constructed to applicable County standards shall be included in the calculation of minimum open space required; however, rights-of-way shall not be included in the calculation of minimum open space required.
- D. Open space shall adjoin any neighboring areas of open space, other protected areas, and non-protected natural areas to the extent practical that would be candidates for inclusion as part of a future area of protected open space.
- E. Open space shall be permanent and not for a period of years.
- F. Instruments for dedicating open space shall be subject to the approval of Grand County.
- G. Open space shall be dedicated simultaneous with each filing, proportionate to the number of the lots in the filing and the total amount of required open space.

3. "Rural Preserves" shall be established for at least 20 percent of land in the PUD as follows:

- A. Rural preserves may be included within private lots on the mesa and held in ownership by individual homeowners.
- B. Rural preserves within individual lots will be subject to strict covenants prohibiting any disturbance of the natural landscape. Lot owners will not be permitted to erect any structures, build fences, or otherwise disturb this preserve area.
- C. These covenants will be a deed restriction, to be strictly enforced by the HOA. Additionally, enforcement will be granted to the County.
- D. Developer has discretion as to where the preserve area is sited on each lot, as long as the total preserve area adds to at least 20 percent of the total land area; constraint applies to each phase (pro rata).

4. Identify any proposed variation from underline district zoning standards and include such variation in a Development Stipulations Table on the Master Plan.

5. Submission of an updated service commitment from Grand Water and Sewer Service Agency, consistent with their current requirements.

For the record the Fire Chief has recommended that the fire rating, (ISO level), be kept at the current level of 5. If this ISO rating would go down the community's fire insurance would go up. This may require the proposed fire station on Beeman Road be built and that Cloudrock help to get the station built.

The Chair opened the public hearing and invited the applicant to speak.

Michael Liss introduced his team of developers and gave a brief presentation on the scope of the project.

The Chair asked if there was anyone in the public that would like to comment;

Ms. Wheeler – lives on Kerby Lane and asked that public access be left open to the mesa.

Ginny Carlson – represents the trails mix group. This committee was not in existence during the first presentation of Cloudrock, but there is now a master plan for trails which include the mesa. Ms. Carlson met with Michael briefly and Mr. Liss agreed to work with the Trail Mix Committee to get the needed trails.

Audrey Graham is interested in making sure there are footprints for the buildings on the Master Plan of the project.

Michael Liss was given time to make closing remarks. Mr. Liss stated that the development will not be gated and invites the public up to the mesa. The development will work with the Trail Mix Committee to provide trails.

The public hearing was closed and the Chair asked for a motion by the Commission; Charley Every move to approve as addressed by staff, D.L. Taylor seconded with an amendment for the additional language to keep the Fire ISO rating at it's current level.

The Commission discussed the vesting of the prior project with the Land Use Code in effect 2002. After a lengthy discussion with the applicant Charley Every amended his motion to table the matter to the January 10 meeting, noting that the conditions of approval are recommended by staff and supported at this time by the Planning Commission and the Commission would like staff to prepare the required documentation for approval.

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

Public Hearing - Portal RV Park Addition Conditional Use; Staff read into the record – the General Plan as amended to date, the Land Use Code as amended to date and staff's memo to the Commission.

This application is submitted by Terry Bixler. The property is zoned HC, Highway Commercial and is located on the north end with an entrance off of Highway 191.

There are approximately 20 acres; currently there are 36 RV spaces, 10 tent spaces, 7 cabins, and a swimming pool. The application proposes 34 additional RV spaces, a new pool and bath house and 11 acres of open space (adjacent to the Matheson Preserve), for a total of 72 RV spaces.

The County's Zoning Map identifies this parcel's zoning as Highway Commercial (HC) and the proposed use is a Conditional Use subject to the use specific standards.

After approval of the Site Plan the Applicant must apply for a Building Permit. The Building Department will not issue any permits until the conditions from the Council are met. The Fire Department will need to review the plans and sign off before a building permit is issued. The applicant has met with the City and will be provided services from the City and at that time will be annexed.

The Chair opened public hearing – Randy Day stated that he is a partner in an adjacent property and welcomes the project.

Dave Cozzens disclosed that he has put a bid out on the infrastructure work, but has not spoken with the applicant..

With no more public discussion the Chair called for a motion – Tom Shellenberger moved to approve with the following conditions:

1. SEWER AND WATER. That the applicant will need to have the City sign off on the any building permit applications since the City is providing these services.
2. TRAIL. That the applicant shows the proposed trail system, consistent with the North Gateway Plan through the project to the adjacent open space.

3. DESIGN GUIDELINES. The Land Use Code's design guidelines require that there be at least 24 foot walls on opposing sides for buildings. (bath house).
4. No space shall be located more than 200 feet from a water and sewage service building.
5. UDOT. A letter of approval is needed.
6. STORM WATER. That the storm water plan including storm water detention ponds are approved by the County Engineer, prior to building permit.
7. FIRE SAFETY PLAN. That a hydrant plan be submitted and approved by the Moab Valley Fire Department.
8. LIGHTING PLAN. That a lighting plan be submitted and that all lighting shall be shielded and directed downward so that the light source is not visible from beyond the property where the structure is located. Lighting shall not project above structures or flagpoles, nor beyond the property line.

Jean Binyon seconded and all voted in favor.

Sketch Plan Review White Horse Development Co. - This application is submitted by Marc Griffith, on behalf of the property owner, Desert Spectrum, LLC (Applicant). The property is zoned RR, Rural Residential, and is located at the end of Heather Lane behind All American Acres Subdivision.

There are 36.63 acres of real property; proposed use is 36 single-family lots ranging in size from .50 of an acre to a 4.6 acre lot, plus 9.23 acres of unimproved open space and 2.76 acres of common areas, which includes roads, parking and sidewalks. A HOA will be formed to be responsible for maintenance of common and open space areas.

All subdivisions in the RR, district shall be subject to the provisions of Sec. 6.2 Zoning map and text amendments, and the requirements of the Sec. 3.22, PUD, Planned Unit Development, unless such division qualifies for a waiver pursuant to Sec. 3.22.2 of this LUC. Where PUD is required, such developments shall be considered to be a RR-PUD, Rural Residential-PUD.

The property is currently a cultivated alfalfa field and at the base of the Johnson's up on top rim. No construction has been proposed on the slopes, but will be required open space lot.

Open space restrictions will protect those areas with predominant slopes greater than 30 percent, which are found at the North East side of the property.

Sole access to the property will be from Heather Drive. The proposal shows private lanes within the subdivision ending at two cul-de-sacs; these roads are off a County Road.

Connectivity is not an issue with this subdivision due to the unusual topographic circumstances. The site is at the back of an existing subdivision and at the base of a rim escarpments on the north east, which make additional access undesirable and impractical, if not impossible. The Land Use Code does not require connectivity in this circumstance. A waiver of the connectivity requirement should be granted due to the escarpments.

Land subject to hazardous conditions such as rock falls, wildfire, land slides, avalanches or floods shall be identified in all applications, and development shall not be permitted in these areas unless the application provides for the avoidance of the particular hazards. To this end, all structures should be setback at least 100 feet from any 100 percent (45°) slope. If avoidance is impossible or would require the construction to violate other development standards, then such hazards shall be minimized or mitigated.

The Commission discussed the issues particularly the connectivity and agreed that this project does not require connection to adjacent properties due to the circumstances. Building envelopes will be needed on lots 8,9,16,21,22, and 27 to avoid 30% slopes. The applicant will need to work with the Water District in protection of the adjacent public well.

This is only a sketch plan and the Commission will not make formal approvals, but recommends the applicant address the following issues of concern for Preliminary Plat review;

1. Submission of the required Master Plan with the Preliminary Plat application;
2. Submission of the required Drainage Study with the Preliminary Plat application;
3. There is a source well owned by GWSSA, Applicant to include reference to statutory language on the plat and actual language in the covenants;
4. Street connectivity to the exterior are waived due to the unusual circumstance created by the presence of

escarpments on the northeast, and to the southwest sides of the property due to existing subdivisions, which make it impossible to provide such access;

5. Recommend that the applicant submit a request for road design waivers for length of cul-de-sac and number of houses on to be served along the southern right-of-way;
6. Commitment to form a Homeowners' Association to be responsible for maintenance of private roads, common area and open space, as well as any amenities to be provided;
7. Submission of a fire protection plan satisfactory to the Fire Chief;
8. Include adequate access to GWSSA's facility (Mr. Stewart, adjacent owner, indicated that he has no problem with access to the well behind his property);
9. Include building envelopes on Lots 8, 9, 20, 21, 22, 16 and 27;
10. Add easement for the encroachment of the structure on the property line; and
11. Submission of letters with the Preliminary Plat application demonstrating the availability of water and sewer service, gas and electric service, and the adequacy of easements proposed.

Final Plat Rim Village Vistas PUD, Phase 3 - This application, submitted by Souder, Miller Engineers for Chuck Henderson (Applicant), seeks approval for the Final Plat for Phase 3 of Rim Village Vistas PUD. The subject property is located between Highway 191 South and Rim Village PUD. Phase 3 includes two 8-plex townhouse structures, with each townhouse unit occupying a single "footprint" lot.

Rim Village Vistas PUD Preliminary Plat Master Plan includes some 21.72 acres of real property with a split zone of MRR, Multi-family Residential, and RR, Rural Residential. The Council endorsed the allowance of mixing densities and approved the mixed density at Preliminary Plat.

There is a trail system proposed through the project and concrete sidewalks along the public road and Prickly Pear Circle. All private roads are proposed to be a minimum of 24 feet wide the private driveways proposed at 22 feet.

The applicant asked which roads would need bonding. The Land Use Code requires all roads to be bonded and to be consistent with adopted standards the Commission declared that the private and public roads will need bonding; private "driveways" will not need bonding.

Chair entertained a motion – D.L. Taylor moved to approve with the following conditions:

1. Addition/modification of a PUD Development Stipulations table on the final plat as recommended by the staff.
2. Amend the Construction Plans and Cost Estimate in accordance with the recommendations of the County Engineer.
3. Submission of a SIA and Performance Guarantee in standard County-approved form, with a 25% contingency. The amount of the guarantee should be as specified or approved by the County Engineer.
4. Accept proposed trails system in lieu of sidewalks, as reflected on the PUD Master Plan, except on Prickly Pear Lane.

Dave Cozzens seconded. All voted in favor except Jean Binyon who abstained.

Public Hearing – Redstone Development Corp. Rezoning request property located on Mill Creek Drive.

Staff read into the record the General Plan as amended to date, the Land Use Code as amended to date and staff's memo to the Commission.

The Chair read a letter addressed to Mr. Gull from Ron Ferguson, Superintendent on behalf of the Grand County School Board regarding rezone request. For the record the School Board is not requesting the rezone. Letter is attached to the minutes.

The Chair also disclosed that there were many letters written to him regarding this proposal.

This application is submitted by Jamie Gull, on behalf of the Redstone Development LLC. The applicant seeks rezoning of 17.17 acres of property located at the intersection of Murphy Lane and Cedar Hills Lane. The request is to rezone from RR, Rural Residential to LLR, Large Lot Residential PUD and is coupled with a Master Plan.

This Master Plan proposes 34 dwelling units and 30% open space.

The Commission needs to base their decision of findings that the request meets the issues for consideration within the Land Use Code. Rezoning is a discretionary decision and the code provides guidance in the form of "Issues for consideration"

The public hearing was opened and the Chair warned the public about decorum and respect – there will be no demonstrations if there are you will be asked to leave.

Jamie Gull made a presentation stating that the Master Plan is sensitive to the site and will provide needed drainage and pedestrian passage throughout the project. The Old City Park is assessable to the property which allows for more open space feeling.

Dennis Silva is an adjacent property owner and disapproves of the zone change. There is a definite traffic problem and is concerned for the availability of water.

Arlene Slaichert also has the same concerns, traffic and water availability.

Thea Nordling is a neighbor and favors the underlying zone district for development; also concerned with increase in traffic.

Page Holland has concerns regarding the high density in general and how it affects the quality of life of those who live here for the rural aspect of the community.

Anna Conrad stated that there is already a traffic problem on Murphy and the added density will add that much more traffic to an existing problem. Would also like to add the need for affordable housing and the development will not provide any aid for that problem. The 15 foot buffer along the perimeter does not alleviate the visual aspect of the density.

Pete Gross stated that this is vastly improved from the last proposal, but does not benefit the community in any way.

Greg Kennedy stated that this only serves the developer not the community and also stated that the County needs to fix the existing traffic situation on Murphy Lane before more traffic is added.

Mike Suarez commented that he supports the other comments and that the long view of the proposal will add to the list of others who will want rezones and maximizing the developer's needs does not benefit the community as a whole as the operation and maintenance requires a larger tax base. The County needs to make sure the applicant provides a compelling reason for the proposed rezone.

Liz Thomas – the proposal does not respond to the communities needs, piece meal zoning is not beneficial to the community it does not meet the current standards for rezoning. A comprehensive County wide review of the zoning in the valley needs to be looked at before we rezone parcels of land.

Ann Sherrill also an adjacent property owner same concerns she's had with the last request – how many times does the County need to say no for the same reasons.

Neil Herbert – reiterated the same concerns the increase will not be a benefit to the County.

Wayne Hoskisson, against the rezone it creates a different atmosphere and we need to be cognizant of the water needs.

Randy Day stated that he is an associate with the developer. Since the County has put in the sewer and water lines in the valley it will allow for more density. The reason we had one acre zones was to accommodate the septic systems that were in the valley that are no longer there because of the sewer lines.

Bill Love asked what has changed from the last request; there is no merit to the rezone.

Lisa Patterson This rezone would impact the existing roads – no one has had any concerns for a 17 unit development because that's what we expect on the property, but we didn't buy in the area for double the density of the surrounding properties.

Jamie Gull was given 3 minutes for a response – Mr. Gull stated that this is not the same rezone request but an entirely different proposal. As developers they have looked at 17 lots and rejected the development because it didn't look as good as the project that they are proposing. Developers are not evil; I have the same community needs as others in the community.

The Chair called for a motion – Jean Binyon moved to deny the rezone based on the following findings relative to Land Use Code, Sec. 6.2.6, Issues for Consideration (*Commission findings in italics*):

- A. Was the existing zone for the property adopted in error? *Not adopted in area.*
- B. Has there been a change of character in the area (e.g. installation of public facilities, other zone changes, new growth trends, deterioration, development transitions, etc.)? *No, changes in the character in the area as neighbors attest.*
- C. Is there a need for the proposed use(s) within the area or community? *There is a need for workforce housing, not high end housing.*
- D. Will there be benefits derived by the community or area by granting the proposed rezoning? *No*
- E. Is the proposal in conformance with the policies, intents and requirements of Grand County General Plan? *No, sections below are not adequately considered.*

[Section 4.2.14 of the current *Grand County General Plan* includes the following statements:

(b) In addition to the "Issues for Consideration" established by the Grand County Land Use Code, Sec. 6.2.6., the County will take into consideration the effect of any proposed rezoning applications upon the character of established neighborhoods and quality of life.

(c) Grand County should review the zoning pattern in Spanish Valley and consider rezoning lands as necessary to correct historic spot zoning problem areas, or, alternatively, the County may chose to develop incentives such as increased clustering/open space requirements to mitigate potential problems.]

- F. Should the development be annexed to a city? *No, the city does not provide any services..*
- G. Is the proposed density and intensity of use permitted in the proposed zoning district? *Yes if granted.*
- H. Is the site suitable for rezoning based on a consideration of environmental and scenic quality impacts? *No, concerns with flooding and other impacts.*
- I. Are the proposed uses compatible with the surrounding area or uses; will there be adverse impacts; and/or can any adverse impacts be adequately mitigated? *Decidedly so, and the traffic and other impacts not mitigated.*
- J. Are adequate public facilities and services available to serve development for the type and scope suggested by the proposed zone? If utilities are not available, could they be reasonably extended? Is the applicant willing to pay for the extension of public facilities and services necessary to serve the proposed development? *Yes, services are available and the developer is willing to pay for them.*
- K. Does the proposed change constitute "spot zoning"? *Yes,*

Ed Bridges seconded.

The Chair called for a vote; Charley Every, Marcus LaFrance, Tom Shellenberger, Ed Bridges and Jean Binyon voted in favor of the motion, D.L. Taylor and Dave Cozzens in opposition.

Workshop – The Commission decided to have another workshop on the Land Use Code Amendment for January 10th from 1 PM to 4PM in the Council Chambers.

Adjournment: The meeting was adjourned at 9:30 PM.

Marcus LaFrance, Chairman