

Grand County Planning Commission Minutes

January 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, Charley Every, D.L. Taylor, Dave Cozzens, Ed Bridges, Tom Shellenberger, and Jean Binyon.
County liaison – Gene Ciarus.

Others Present: Mary Hofhine, Richard Grice Consulting Planner, County Administrator Shawn Warnke, Council person Audrey Graham, applicants and other concerned citizens.

The meeting was called to order at 6:00 PM by the Chair, Marcus LaFrance.

Election of Chairman for 2007 – Dave Cozzens nominated Tom Shellenberger, Jean Binyon nominated Marcus LaFrance. The Chair called for a vote by show of hands for Tom Shellenberger; Ed Bridges, Dave Cozzens, Charley Every, and Tom Shellenberger. Tom Shellenberger will be the Chair for the year 2007.

Nominations for Vice Chair; D.L. Taylor was nominated by Charley Every no other nominations were offered D.L. Taylor is Vice Chair by acclamation.

Acceptance of Minutes - The December 13th Minutes and the November 8th 2006 minutes were accepted as corrected.

Kairn Ridge PUD - The County Council remanded this item back to the Commission for further consideration with respect to (1) water quality protection issues and (2) allowed density. In response the County Planning Staff and Council Administrator have met with the City Engineer and City Manager, and separately with the applicant's representatives.

At issue with respect to water quality is whether the applicant has complied or will agree to comply fully with the recommendations of the City of Moab. The City has statutory obligations to protecting water quality and agreed to prepare and send the Council a more detailed recommendation with respect to include construction mitigation measures, subdivision covenant language, inspection procedures, and improvement agreement/bonding. While that written recommendation is not currently available, the details regarding said recommendation have been reviewed with the Applicant's representatives, and agreed to by said representatives.

At issue with respect to density is the staff's interpretation of the PUD language which allows uses to be those of the underlying zoning district and for single-family and multi-family uses to cross zoning boundaries within a PUD provided that the gross density based on underlying zoning is respected. Such a written interpretation was issued by the Zoning Administrator in consultation with the contract planner on March 2006, we stand by the interpretation.

The City Engineer and City Manager have requested that the City be a third party in all reviews of the applications and that the City be the inspector of all sewer lines and other infrastructure pertinent to contamination of the ground water.

This application was reviewed by the Planning Commission in a public hearing on November 8, 2006, and recommended for approval of the 101 lot PUD with stipulations, which included the City's concerns listed.

The Commission discussed at length the mixing of densities on adjacent, commonly owned, properties. The Commission established that the interpretation was agreed to by the Commission prior to the issuance of the written interpretation.

The Commission made updated draft ordinance to include the requests from the City Engineer and syntax changes.

The Chair entertained a motion; Dave Cozzens moved to approve the drafted Ordinance D.L. Taylor seconded, All voted in favor except Jean Binyon who was opposed.

Johnson's Up on Top Mesa Amended Master Plan and Amended Preliminary Phase 1 Plat – Tabled from the December 6th 2006 meeting to get a legal opinion on the vested rights of the project. The Johnson's-up-on-Top PUD was approved by the County Council about 5 years ago, with Resolution #2002-2568 – the Development Agreement was

approved in October of 2001. The Development Agreement, which among other things creates a vested right for the uses, densities and general configuration as shown on the Master Plan.

This application seeks to amend the Johnson's Up-on-Top Mesa, Master Plan and Preliminary Phase I Plat in response to recommendations made by the Duany Plater-Zyberk & Company, Architects and Town Planners (Duany). Duany's recommendations include reducing density in the village and shifting more density out onto the mesa, pulling approved density back further from the edges of the mesa, and creating a series of neighborhoods on the mesa and within the overall development that are relatively compact and pedestrian-friendly, with all residential lots fronting along streets. The center of the development continues to be the wilderness lodge and town square with the highest density clustered in much the same location as originally planned.

This proposal would reduce the open space in the PUD from about 80 percent to about 60 percent. The balance of 20 percent would be included within individual lots, but restricted against development – such lands would remain in their natural state. The Applicant seeks approval of this change for “marketing” reasons. The Applicant commits to “respect” the preservation intent in the Development Agreement.

Other proposed changes include some adjustments to the Johnson's-up-on-top PUD property boundaries, including both additions and deletions, to reflect one or more land exchanges affecting the subject property between the BLM and SITLA (lot line adjustments) and survey corrections made since the County Council's approval of the PUD. The end result of these changes is a PUD parcel that is exactly the same size as the original PUD parcel – 1935 acres.

Further, and in the interest of full disclosure, the Applicant advises that SITLA has some additional contiguous land that they may be willing or wish to add to this PUD in the future – the disposition of that land may be the subject of a future application. If so, such addition will have to comply with the requirements of the Land Use Code at that time.

Richard Grice had a meeting with the County Attorney, County Administrator, and applicants and come to a consensus on the vesting and other items of concern. The conditions are as follows;

1. The vesting term shall be limited to 25 years, from the date of this amendment.
2. Dedicated “Open Space” shall not be less than 60 percent of the property in the PUD. “Rural Preserves” may be established for at least 20 percent of the property in the PUD; provided that the total of Open Space and Rural Preserve shall not be less than 80 percent of the property in the PUD. Open Space and/or Rural Preserves 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 and/ or Rural Preserves (80% of the property in the PUD).
3. Open Space 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 agricultural production, grazing, storm water management, utility crossings, parks, playgrounds sidewalks, non-motorized pathways and trails, and other recreational amenities;
 - B. Pedestrian accessways, trails and crosswalks 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.
 - C. Open space shall be permanent and not for a period of years.
 - D. Instruments for dedicating open space shall be subject to the approval of Grand County.
4. “Rural Preserves” shall be defined or restricted 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.
5. Identify any proposed variation from underlying district zoning standards and include such variation in a Development Stipulations Table on the Master Plan.

6. Submission of an updated service commitment from Grand Water and Sewer Service Agency, consistent with their current requirements.
7. Include the following language in the amended development agreement.

Responsibility for Payment for installation Costs

The subdivider shall provide for costs of materials, installation and maintenance of all required improvements, in accordance the Grand Construction Standard or the most recent County construction standards, and the following requirements:

A. Required Improvements

The subdivider shall pay all costs of materials and installation of the following:

1. Setting of survey monuments and markers;
2. Streets and road construction for all street improvements including base, grading, curbs, gutters, sidewalks and trails, pavement, street name signs, road regulatory signs, culverts, and bridges;
3. Water and sewer lines installations including fire hydrants and manholes;
4. Required storm water system and/or other drainage improvements;
5. All field density and related testing of base, sub-base and other compacted backfill, gradation tests, concrete cylinder tests, asphalt tests, and/or other related tests required to insure minimum standard requirements; and
6. Electric, gas, and other utilities.

B. Improvement Agreements and Guarantees

Prior to the recording of a Final Plat, a subdivider shall submit for approval to the Zoning Administrator an improvements agreement and financial guarantee for construction of any required improvements designated on the approved Final Plat or construction plans in accordance with the requirements of this section.

1. Form of Agreement

All improvement agreements shall utilize the standard County template (guide) for the format and content of such Agreements. The template may be obtained from the Zoning Administrator.

2. Engineered Cost Estimate

The improvements agreement shall include a cost estimate for all required improvements prepared by a professional Utah-registered, professional engineer.

3. Financial Guarantees

The subdivider shall utilize one (1) of the following methods of posting security to cover to the cost of installing all required improvements; provided, however, that nothing in this section shall preclude the County Council from approving other forms of liquid financial security in a form approved by the County. No expiration of the guarantee shall be permitted, [except in case of vacated plat].

a. Unconditional Letter of Credit

File with the County Clerk a letter of credit, in a form approved by the County, signed by a principal officer of a local bank, local savings and loan association or other bank, acceptable to the County, agreeing to pay to the County, on demand, a stipulated sum of money to apply to the estimated cost of installation of all improvements for which the subdivider is responsible under this section. The guaranteed payment sum shall be the 125 percent of the estimated costs and scheduling as prepared by the subdivider's engineer and approved by the Zoning Administrator, including a 25 percent contingency. The letter shall state the name of the subdivision and shall list the improvements, which the subdivider is required to provide.

b. Escrow Agreement

Place on deposit in an approved bank in the name of Grand County, a sum of money equal to 125 percent of the estimated cost of all improvements required by this section, including a 25 percent contingency. Selection of the trustee shall be subject to approval by the County and the escrow agreement shall be executed on the form provided by the County and approved as to form and legality by the County Attorney. The escrow agreement shall state the name of the subdivision and shall list the improvements, which the subdivider is required to provide.

- c. **Performance Bond**
File with the County Clerk a bond executed by a surety company holding a license to do business in the State of Utah, and acceptable to Grand County on a form approved by the County, in an amount of 125 percent of the estimated cost of all improvements required by this section, including a 25 percent contingency. The Performance Bond shall be approved as to form and legality by the County Attorney.

4. Engineering Inspection and Tests

- a. Grand County Engineer, applicable service district, or other inspection agent designated by the Zoning Administrator, shall be notified 3 days before any construction is begun on such public improvements in order that proper supervision and inspection may be provided. All construction work, such as street grading, street paving, storm sewers, curb and/or gutter work, sanitary sewers or water mains performed by the owner, developer or contractor, shall be subject to inspection during construction by the proper authorities of the County and shall be constructed in accordance with the approved standards and specifications, and in accordance with the provisions of any other applicable ordinance of Grand County.
- b. The County will charge fees for engineering inspection during construction and for final inspection commensurate to the value of services rendered or costs incurred; however, it is to be understood that the County will do no layout work or daily inspection. Where a special trip(s) to Grand County by the County Engineer are required, the subdivider shall reimburse the County for the costs of such trip(s).
- c. The County may require compaction tests on embankments and flexible bases, and depth tests on flexible bases and pavements, and pressure tests on piping systems, before final inspection and approval.

C. Plat Approval and Dedication

Approval of the plat and acceptance of dedication on a Final Plat shall not be effective until the Final Plat is recorded in the office of the County Clerk. Approval of the plat and acceptance of a dedication by the County shall not imply the maintenance by the County of such dedication. Acceptance for maintenance of roads, parks, trails and other public dedications requires a separate action of the County Council in accordance with the requirements of Sec. 9.6.10D, Final Acceptance.

8. Include the following language in the development agreement,

Acceptance of Subdivision Improvements

A. Time Frame for Completion

- 1. **Plan Resubmittal**
If construction has not commenced within one (1) year after approval of the plans, the Zoning Administrator may require re-submittal of plans for meeting current standards and engineering requirements.
- 2. **Expiration and Extension Of Approval**
If the public improvements for a subdivision have not been constructed and accepted by the County within 36 months of the recordation of the Final Plat, said Final Plat shall be null and void and shall conclusively be deemed to be withdrawn, without further action by the County. An approved, unexpired final subdivision plat may be extended once for a period not to exceed 36 months, pursuant to the following provisions:
 - a. The County Council may extend the approval of the Final Plat, for good cause shown by the applicant, if there has been no significant change in development conditions affecting the subdivision plan and the plat continues to comply with all applicable standards and ordinances.
 - b. A request for an extension of time to complete final public improvements for a subdivision pursuant to these provisions shall be submitted to the Zoning Administrator no later than the date the final subdivision plat expires. The request shall be in writing, and the application shall state the reason and justification for the requested extension.

B. Partial Acceptance and Reduction of Security

1. As public improvements are completed, a subdivider may apply from time-to-time to the Zoning Administrator for partial release of the collateral deposited with the County Clerk in accordance with the procedures of Sec. 9.6.10C, Collateral Release Procedure.
2. If the Zoning Administrator determines that any of the required improvements are not constructed in substantial compliance with approved standards and specifications, it shall furnish the applicant a list of deficiencies and shall be entitled to withhold collateral sufficient to insure substantial compliance.
3. If the Zoning Administrator determines that the subdivider will not construct any or all of the improvements in accordance with all of the approved standards and specifications, the Zoning Administrator may withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvements in accordance with the approved standards and specifications.
4. The County Engineer shall independently inspect the construction of improvements while in progress, and, shall likewise inspect such improvements upon completion of construction. The design engineer shall certify that construction was completed to plan, and shall have approved any change(s) to the approved plan in consultation with the County Engineer. After final inspection, the County Engineer shall notify the subdivider and the Zoning Administrator in writing as to its acceptance or rejection. The Zoning Administrator shall reject such construction only if it fails to comply with the approved standards and specifications contained or referred to herein. If the Zoning Administrator rejects such construction, the Zoning Administrator shall advise the County Attorney and the County Attorney shall enforce the guarantees provided in this section. [Need to reference appeals process, page 140, Sec 6.15].
5. The design engineer for the subdivider shall submit to the Zoning Administrator a complete set of as-built drawings in "reproducible" hard copy and digital format showing all subdivision improvements, including utility locations (gas, water, sewer and telephone), paving and drainage improvements, and all changes made in the plans during construction. Each hard copy sheet shall contain an "As-Built" stamp bearing the signature of the engineer and the date. Digital information shall be provided in the latest version of AutoCAD, or other format compatible with the County GIS as may be specified by the Zoning Administrator with all measurements stated in feet.
6. The subdivider shall require his construction contractors, with whom he contracts for furnishing materials and for installation of the improvements required under this section, and shall himself be required to furnish to the Zoning Administrator a written guarantee that all workmanship and materials shall be free of defects for a period of 2 years from the date of acceptance by the Zoning Administrator.
7. Prior to the final acceptance of a subdivision by the County Council, the subdivider shall furnish a good and sufficient, unconditional warranty bond, or certified check payable to "Grand County", in the amount of 10 percent of the contract price with a reputable and solvent corporate surety in favor of the County, to indemnify the County or any applicable service district(s) against any repairs that may become necessary to any part of the construction work performed in connection with the subdivision arising from defective workmanship or materials used therein, for a full period of 2 years from the date of final acceptance of the work being warranted.

C. Collateral Release Procedure

1. From time to time, as the improvements are completed, subdivider may apply in writing to the County for a partial or full release of the letter of credit or substitute collateral; and shall utilize the standard County-approved form for this purpose. Such release requests shall be complete at least 14 days prior to any desired release date; and must show, or include all of the following:
 - a. Dollar amount of commitment guarantee,
 - b. Improvements completed, including dollar value,
 - c. Improvements not completed, including dollar value,
 - d. Amount of previous releases,
 - e. Amount of commitment guarantee requested released,

- f. Release or waivers of mechanics liens of all parties who have furnished work, services, or materials for the Improvements,
 - g. Certification by the design engineer that the improvements have been completed according to approved standards and specifications, and
 - h. Reasonable fee to cover the cost of administration and inspections.
2. Upon receipt of the application, the Zoning Administrator shall promptly refer the application to the County Engineer. The County Engineer shall inspect the required improvements, both those completed and those uncompleted, at his earliest convenience. If the County Engineer determines from the inspection that the required improvements shown on the application as been completed as provided herein, the County Engineer shall so advise the Zoning Administrator, and the Zoning Administrator shall release that portion of the collateral supporting the commitment guarantee relative to the completed improvements.
 3. All collateral releases shall be made in writing signed by the Zoning Administrator. Such releases shall be made in all cases as soon as practical, following the submission of a complete request, as described above.
 4. The County may release 115 percent of the amount of the collateral for the required improvements completed to date, less 125 percent of the costs of the required improvements not completed; thus retaining 10 percent of the amount of the collateral for the required improvements completed to date as identified by the approved cost estimate shall be retained pending satisfaction of the warranty bond requirements of Sec. 9.6.10B.7. Alternatively, the amount to be released may be 125 percent of the amount of the collateral for the required improvements completed to date, upon submission of a warranty bond in accordance with the requirements of Sec. 9.6.10B.7.

D. Final Acceptance

Final acceptance of the required improvements and release of the warranty bond shall be made by resolution of the County Council in accordance with the requirements of this subsection.

1. Completion of Required Improvements

Completion of the required improvements shall be verified by the following findings:

- a. Certification by the Design Engineer that the required improvements have been completed according to the approved standards and specifications, including the final application of chip and seal coating to all roads;
- b. Verification of the County Engineer that the required improvements have been completed according to the approved standards and specifications;
- c. Presentation of signatures of final acceptance by any applicable service district(s); and
- d. Submission of as-built drawings in “reproducible” hard copy and digital format in accordance with the requirements of Sec. 6.6.3E.

2. Maintenance of Improvements

Upon final acceptance, maintenance of the completed improvements shall be assumed by one (1) of the following as determined by the County Council:

- a. Grand County and/or other applicable service district(s); or
- b. A homeowners’ association formed in accordance with the requirements of Sec. 6.13, Mandatory Homeowners’ Associations.

3. Warranty Bond Release

Release of the warranty bond required by Sec. 6.7.2G shall occur following final acceptance of the required improvements in accordance with the approved standards and specifications.

Richard commented that the document needs a bit more “word smithing” before the Council meeting, but is ready.

The Chair entertained a motion – D.L. Taylor moved to recommend approval with staff’s drafted conditions, as stated above; Marcus LaFrance seconded and all voted in favor.

Trails End PUD Final Plat – This application is submitted by property owner Jeffrey S. Flanders (Applicant). The subject property is zoned RR, Rural Residential, a mandatory PUD district; and the property includes a total of 6.75 acres, located at the north end of Roberts Road. The Applicant proposed division of the subject property into 6 lots with a minimum of ½

acre – lots range in size from 0.5 to 0.8 acres. Each lot is proposed for single family use. Thirty-five percent (35%) of the site will be preserved as open space, including a drainage channel and significant power transmission and gas pipeline corridors.

There are transmission lines and a pipeline corridor that run through the property. The applicant has utilized the utility easements and the drainage way as open space on the plat.

Grand County Council approved Trails End PUD Preliminary Plat in August 2005, without conditions.

The applicant has addressed the questions and comments asked by the County Engineer. GWSSA will need to approve the use of private pumps for sewage; Terry Sykes, Manager of GWSSA has committed to service.

A Subdivision Improvements Agreement and Performance Guarantee have been prepared in standard County-approved form, with a 25% contingency. The amount of the guarantee is specified and approved by the County Engineer.

Dave Cozzens moved to recommend approval of Trails End PUD, Final Plat, subject to the following conditions:

1. Amend the Construction Plans and Cost Estimate in accordance with the recommendations of the County Engineer, letter dated January 3, 2007.
2. 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 and approved by the County Engineer.
3. Pay all Engineer costs as required by the Land Use Code fee schedule.
4. Provide a mail box cluster at the entrance to the project.

Charley Every seconded and all voted in favor.

Public Hearing Ellis RV Park 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 of today's date. This application is submitted by Leroy Ellis. It is approximately 1 acre of vacant land recently subdivided as Ivy Acres Minor subdivision.

The applicant has submitted a site plan for this project and is proposing a private RV park with 7 RV lots for class A motor homes and a common building housing toilet/shower and private storage units. Each of the RV lots will have utility hook-ups.

The Chair opened the public hearing and asked the applicant for a presentation. Mr. Ellis explained that the project will be privately owned and each lot will have sewer and water hook-ups, small storage units are available to each lot as well as a common park area. Mr. Ellis addressed the driveway; there is 20 feet of driveway from the highway which will allow plenty of space for the park.

The Chair asked for public comment – being none he asked the Commission for comment. Charley Every moved to recommend favorably to the Council subject to the following conditions, the following conditions;

1. SEWER AND WATER. The applicant will need to have the GWSSA sign off on the any building permit applications as required for a building permit.
2. DESIGN GUIDELINES. The Land Use Code's design guidelines require that there be at least 24 foot wall dimension on principle structure. Sec. 3.8.8
3. SCREENING PLAN. A screening fence (opaque) is required along the perimeters of the lot adjacent to the RR, Rural Residential District which is a protected zone. Sec. 4.10
4. STORM WATER. That the storm water plan including storm water detention ponds are approved by the County Engineer, prior to building permit. Sec. 4.7
5. FIRE SAFETY PLAN. That a hydrant plan approved by the Moab Valley Fire Department.
6. 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, pursuant to the Land Use Code Sec. 4.6

Dave Cozzens seconded and all voted in favor

Public Hearing – Hacienda PUD Preliminary Plat - Staff read into the record, the General Plan as amended to date, the Land Use Code as amended to date and staff's memo of today's date.

The City presented the County with state regulation that requires that the City must approve any urban development in the County that is within the City's expansion zone. This development meets the criteria and will need City approval before

the County can act on the development. Staff recommends that the Commission table this application until the City responds.

The Chair stated that he would open the public hearing and take public comment.

Bill Love – This project has not provided any affordable housing; the zone district was set up for affordable housing and does not support the rezone and wants the Commission to support affordable housing by denying the rezone application.

Mike Suarez – Respectfully ask that the request for increased density be denied based on available water capacity. (Mr. Suarez' complete statement is attached to the minutes)

The Holland Family, all strongly opposed the rezone for the following reasons;

Stan Holland explained that the receive water from irrigation that crosses the proposed subdivision. Up zones should not be allowed just so developers can make a bigger profit.

Page Holland also stated that the surrounding density is 9,000 square foot lots and many of the current housing has more; most are ½ acre lots or larger.

Aaron Holland has concerns with the congestion of traffic on Mill Creek Drive.

Sunnie Holland stated there is family owned property adjacent to the proposed subdivision and is within the City limits, their land is currently under agriculture cultivation and the density would be incompatible with the adjacent uses.

Dave Inglemen with the Moab Irrigation Company stated that there is an irrigation line that runs through the property on the South.

Mary Frothingham lives next to the project and she opposes the rezone due to the density and increase in traffic.

Joyce Victor sold the property and is in favor of the project.

The Chair reviewed the MFR-20 zone overlay for the public and closed the public hearing.

Jean Binyon moved to table the application to allow time for a referral to and comment by the City of Moab as required by Utah Code, Ed Bridges seconded and all voted in favor.

Public Hearing Red Cliff Ranch Destination Resort - Staff read into the record, the General Plan as amended to date, the Land Use Code as amended to date and staff's memo of today's date. Charley Every recused himself he has a working relationship with the applicant.

This application is submitted by Colin Fryer (Applicant). The Applicant seeks approval of an amendment to the approved Red Cliffs Guest Lodge Conditional Use Permit. The project is located on a 212.5-acre parcel in Professor Valley, which is zoned RG, Range and Grazing. The proposed amendment would change the final phase of 10 overnight units to individual cabins and move the cabins to a location along the river, adjacent to other existing cabins and a change of location for the employee housing.

The Chair opened the public hearing.

Jack Campbell had concerns with the plan – it does not meet the requirements for a destination resort. The original plan had the buildings clustered at the Lodge site. The change of the cabins on the River makes the buildings much more visible from the road.

Bill Love – commented that the cabin buildings are within a riparian area.

Ed Bridges moved to recommended approval of the replacement of the previous site plan with the new Amended Master Site Plan Red Cliffs Adventure Lodge, dated Dec. 8, 2006, as presented; and all other conditions of approval remain in place and unchanged, including the maximum rental unit size of 600 square feet.

D.L. Taylor seconded; all voted in favor except Jean Binyon who opposed.

Workshop – Discussion of the draft Land Use Code. The Commission decided to get the Code into a form where we can codify the code and work on the amendments one at a time. Richard will get a copy of the code with all the changes by the February 14th meeting.

Adjournment: The meeting was adjourned at 8:30 PM.

Tom Shellenberger, Chairman