



MINUTES
City of Glenwood Springs
Planning and Zoning Commission
Regular Meeting
May 26, 2020
Zoom
6:00PM

1. Roll Call

Present at roll call were Commissioners: George Shaver, Marco Dehm, Kathryn Grosscup, Amber Wissing, Carolyn Cipperly, Ingrid Wussow, Sumner Schachter

Absent at roll call were Commissioners: None

Also present were: Jenn Ooton, Asst. City Manager, Terri Partch, City Engineer, Gretchen Ricehill, Asst. Economic/Community Development Director, Trent Hyatt, Senior Planner
Anna S. Itenberg, City Attorney's Office
Catherine Fletcher, City Clerk
Jessica Bowser, Asst. City Engineer, Alissa Owsley, IT Director

2. Receipt of Minutes- Receipt of April 28, 2020 and May 5, 2020 minutes.

Commissioner Wussow made a motion to receive the minutes, seconded by Commissioner Shaver. Motion passed unanimously.

3. Public Comments

Comments from citizens appearing for items not on the agenda. No citizens were present.

4. Continued Items –

- a. 04-20 Consideration of a Major Site/Architectural Plan Review, Rezoning from RH Residential High-Density to RT Residential Transitional and Variance applications for the construction of 100 Multifamily apartment units in 6 buildings on approximately 5.8 acres (PIN 2185-153-04-001, 2185-153-02-008, and 2185-211-00-002)*

Commissioner Dehm reviewed the status of the hearing since May 5, 2020. Dehm noted that the public comment section was closed prior to losing internet connection and that the Planning Commission members had started deliberations prior to losing connection.

Commissioner Schachter asked for clarification of the status of the Blake gate and Blake Avenue improvements. City Engineer Terri Partch explained that these Blake Avenue items were conditions of a previous approval. Jenn Ooton clarified that the gate direction came from Council and was subsequent to Council's consideration of this application. Jenn Ooton indicated that it would be ideal to hold a neighborhood meeting following this application to address Blake gate and other neighborhood traffic issues. Terri Partch confirmed that the traffic study model was created with the assumption that the Blake gate was open.

Commissioner Schachter asked staff when the Blake gate would be opened and asked about the possibility of changing direction, if at all, on Blake. Terri Partch explained that the one-way direction for Blake was determined due to the condition of the asphalt on Blake Avenue.

Commissioner Wissing asked how long the on-site manager would be in place on site. Michael O'Connor from Triumph Development, LLC clarified that that on-site manager was to be a permanent fixture on the site. Commissioner Shaver also asked to confirm the ownership of the property and Trent Hyatt confirmed that the owner of the property, Triumph Development LLC, was also the applicant. Commissioner Shaver also asked about the status of off-site drainage improvements and the parking management plan.

Michael O'Connor explained that part of the parking management plan will rely on the on-site manager and that part of the parking management would be restricting the number of residents per unit and that parking spaces would be numbered and assigned per each tenant's lease. Stephanie Copeland from Triumph confirmed that there would be restrictions for number of residents per unit.

Jenn Ooton clarified the timing of the opening of Blake gate and that it would be open only to construction traffic during building construction and officially opened following issuance of Certificate of Occupancy for the final building on the property.

Commissioner Cipperly asked for clarification of other improvements related to the former project approval. Cipperly specifically asked about sidewalk size and the lack of sidewalk on both sides of the street. Trent Hyatt explained that the new engineering standards were adopted after approval of last application which results in the new application having a different sidewalk width than in the previous project. Trent Hyatt also explained that City Engineer Terri Partch has ability to waive certain construction standards based on topography. Cipperly also expressed concern over the planned 9-foot tall, 400' long retaining wall and expressed concern about wildlife movement. Michael O'Connor confirmed that wildlife would not be able to move through the fence and would need to move around it. Trent Hyatt confirmed that pedestrian access was not required to the privately owned land bordering the site. Cipperly also expressed concern over mitigation of trespassing issues and homeless encampments on the nearby hillside and asked how the site will deter trespassing. O'Connor explained that there will likely be cameras in the parking lots as well as retaining walls and fencing that would also deter trespassing on the site. Cipperly also asked if it was possible to require tenants to list all vehicles registered to a tenant and Stephanie Copeland confirmed that they would require tenants to provide list of all registered vehicle as part of the residency application.

Commissioner Dehm asked if the proposed traffic flow was acceptable to the Engineering Department. City Engineer Terri Partch confirmed that the two way directional flow through gate on Blake Avenue was acceptable. Commissioner Dehm also asked Trent Hyatt to confirm that what the applicant was proposing was a use by right for the zoning district, which was confirmed by Trent Hyatt. Commissioner Dehm also asked the applicant if they had conducted a community meeting. O'Connor summarized that the community meeting was well attended and that the sentiments of the public meeting were similar to the public comments that had been submitted during past Planning & Zoning Commission meetings. The public comments at the meeting addresses scale of project, road conditions, and traffic. application conditions of approval- can these be referenced in the current conditions of approval. Commissioner Dehm also asked if the conditions of approval from previous projects could be referenced with this application and both City Attorney Anna Itenberg and Trent Hyatt both confirmed that Planning & Zoning Commission could include conditions from previous approvals to pass on with this new application as it moves to City Council.

Commissioner Dehm then moved to consider the variances.

Action 1: 04-20 Variance from Section 070.040.080(d)(2)a.2 of the Glenwood Springs Municipal Code which requires internalized parking to be located away from street frontages.

Commissioner Schachter had a question if the variances were not approved if that would prohibit the application from proceeding. City Attorney Anna Itenberg explained that each variance would need to be examined individually and that the applicant could either proceed with denied variances which would require to amend the site plan or appeal the denial. Schachter also asked for confirmation as to how the criteria for approval for each variance related to approval of the whole project. Trent Hyatt explained that many of the variances are closely related and although they are reviewed individually that denying one could substantially alter the entire development.

Commissioner Wussow asked to confirm that since Planning & Zoning is a recommending body that any variance denied by Planning & Zoning could still be approved by City Council. Hyatt explained that Planning & Zoning Commission is the deciding body for variances and the Planning & Zoning could deny a variance and that an appeal would then have to be made by the applicant to City Council.

Commissioner Grosscup made a motion to approve Action #1 with the seven recommended findings on page 12 of staff report. Commissioner Wussow seconded the motion

Commissioner Dehm opened the motion for discussion.

Commissioner Schachter expressed reservations about proceeding with the application without understanding the circulation plan and felt that there were too many unknowns. Schachter explained that he would like to see a circulation plan that had approval of the neighborhood before even considering application approval. Commissioner Wussow stated that it seemed that the variance would not be needed if the owner kept the density as originally approved. Commissioner Shaver found no issue with this specific variance and that he would reserve comments about the general development to the final action item. Commissioner Grosscup expressed no issues with this variance request and felt that this proposed variance allows the project to utilize the topography of the hillside and that this variance resulted in an improved site plan. Commissioner Wissing asked for clarification that the applicant did not create the hardship by their own actions and that the hardship was not related to

convenience. Trent Hyatt confirmed that analysis on page 10 of the staff report identified that the hardship is created by the topography shape and geologic conditions of the property.

Further discussion among Commission members included a general discussion about how the variances relate to the entire development and discussed the need to develop a circulation plan prior to proceeding with all actions.

Jenn Ooton explained that the Planning Commission per Code would be allowed to remand an application back to the Director for further consider and would need to tie the request to remand the application to a specific variance. Ooton explained that if the Commission wanted to see a circulation plan that this request would need to be added as a condition to an applicable variance.

Commissioner Grosscup added that a circulation plan was critical and that ultimately, this area is difficult from a transportation perspective and would like to see more engagement by the City and that the new site plan was an improvement over previous plans for the site.

City Engineer Terri Partch explained that there is an existing circulation plan which was indicated in the traffic study which was modeled with Blake Avenue as a two-way street. Partch explained that the applicant has provided information on circulation and what could be done is request the developer to assist by working with residents to develop a mitigation plan. Commissioner Schachter asked if there were ways to develop a plan that would direct traffic away from the neighborhood. Commissioner Shaver asked for clarification as to what a mitigation plan would involve and Terri Partch explained that a mitigation plan would involve both public input and the creation of solutions based on that public input which could slow, reduce, or redirect traffic through the neighborhood. Ooton mentioned that any sort of street solution such as a cul-de-sac or additional gates could be added as conditions and would need additional consideration for things such as fire access and snow plowing. Commissioner Dehm also mentioned the possibility of moving the gate to 26th Street or a bollard. Commissioner Cipperly expressed concern that the City has not adequately heard from the neighborhoods due to social distancing due to COVID-19. Cipperly also asked if there was a master circulation plan or sidewalk plan for the neighborhood. Commissioner Wussow expressed that it seemed that had the owners kept the original density, construction on the project would have already started. Wussow also stated that if the Commission wished to discuss the development as whole, that should be addressed in Action 4 and that this discussion should focus on Action Item 1.

Commissioner Dehm called for the question.

Commissioners Grosscup, Shaver, Wissing, Cipperly, and Dehm approved, Commissioners Schachter and Wussow denied the Action.

Motion passed 5-2.

Action #2: Variance from Section 070.040.080(e)(3) of the Glenwood Springs Municipal Code requiring developments encompassing three acres to provide at least two housing types.

Commissioner Grosscup made a motion to approve Action #2. Motion was seconded by Commissioner Shaver.

Commissioner Dehm then started discussion on the item.

Commissioner Dehm expressed the opinion that this variance request did not meet the seven criteria. Commissioner Wussow agreed that the hardship was created by increase in density and that this proposed project did not fit with the feel and character of the surrounding area. Commissioner Schachter cited that the singular use of the property does not fit with the goal of trying to provide for a diversity of housing within the city. Commissioner Dehm asked for staff to clarify if the developer could have started construction per prior approval. Trent Hyatt confirmed that the applicant could still start construction based on plans which received previous approval. Commissioner Grosscup stated that this application is an improvement compared to the previously approved application.

Dehm then called for the question to approve Action Item #2.

Commissioners Shaver and Grosscup approved, Commissioners Schachter, Wissing, Dehm, Cipperly, and Wussow denied the motion.

Motion failed 5-2.

Action #3: Rezoning of 2710 Blake Avenue (PIN: 2185-211-002) from RH Residential High Density to RT Residential Transitional.

Commissioner Wussow made a motion to approve the motion, Commissioner Wissing seconded the motion.

Motion passed unanimously.

Action 4: Major Site/Architectural Plan Review to allow for the construction of 100 multi-family apartment units in six buildings.

Commissioner Schachter made a motion to continue the item with the objective to gather more information based on collaborative neighborhood circulation plans with city. Commissioner Wussow seconded the motion. Commissioner Grosscup asked about the motion to continue and if the applicant would be able to create said circulation plan. Jenn Ooton asked to clarify what specifically would be included in the plan and what type of timeline would the plan require. Commissioner Schachter explained that it would be necessary to hold public meetings involving the neighborhood to find a solution for the traffic and transportation concerns. Jenn Ooton explained there would be a need to set a deadline for this process and Commissioner Dehm suggested a period of 60 days. Commissioner Wussow stated that this development that has been a long-term project and that there have been significant community concerns at every juncture. Wussow stated that the current plan, while better than previous plans, still lacks some items and believes that not rushing the project and working with the neighborhood might be the most prudent way to proceed. Commissioner Shaver expressed concern about the project, specifically Building F, and suggested to remove it allowing for more open space and to enlarge Building E to compensate for unit loss. Shaver also questioned if the City would have the resources to improve the streets in the neighborhood given the current economic situation.

Commissioner Schachter made a motion to amend the continuance to 60 days and Commissioner Wussow seconded the amended motion. Commissioner Dehm cautioned that the discussion with the neighborhood would need to focus specifically on traffic circulation and mitigation and trying to develop solutions. Trent Hyatt asked if a date could be chosen for the continuance such as July 28, 2020. Both Commissioner Schachter and Wussow agreed with the date.

The motion passed unanimously.

Following the vote, Stephanie Copeland, Triumph Development, LLC, asked to clarify specifically which items would be required for a circulation plan and if July 28th was the earliest or the latest the application could be heard. Commissioner Schachter explained that what would satisfy the requirement is a solution-based proposal that better involves the neighborhood to create a circulation and/or mitigation plan that will go to the City for approval. Copeland asked for clarification as to what would constitute satisfaction of the neighbors. Commissioner Schachter indicated that it would be likely best for the City to run the meetings while involving the application. Jenn Ooton also explained that July 28th would likely be the soonest that this issue could be discussed.

Commissioner Wussow also asked if it would be possible to have more information about the possible financial ramifications of the project to the City as to better understand how involved the City would be with this project. Jen Ooton questioned how that directly related to this application.

Commissioner Dehm called for a 5-minute recess at 8:34 PM.

Commissioner Dehm called the meeting back to order following a 5-minute recess.

b. *06-20 Consideration of a Special Use Permit for a Retail Marijuana establishment at 2114 Grand Avenue (PIN 2185-164-00-095)*

At the previous meeting on 5/5/2020, this item had been in the middle of public input when the internet connection was lost. Commissioner Dehm continued the public input portion. City staff had received the following written comments which were read into the record.

- Joel Dembinsky, on April 17th, 2020 sent an e-mail stating that this location is not an appropriate location for a dispensary and believes it incompatible with surrounding residential and commercial uses. Requested denial of the application.
- Garfield & Hecht Law Firm, representing Cedar Lodge, Inc, provided written comment stating that it was their opinion that the proposed marijuana store at 2114 Grand Avenue did not meet the criteria for approval as the location did not seem appropriate given the nearby proximity of a gun store and residential units sharing walls with the proposed store. The letter also expressed concerns over the small size of the parking lot as well as concerns that overflow parking from the proposed store would end up in the Cedar Lodge lot. The letter also mentioned concerns over Kind Castle's ability to adequately manage the odor. Requested denial of the application.
- Michelle Keplinger expressed the opinion that Planning & Zoning Commission should deny the application as there are multiple existing dispensaries in Glenwood Springs. Requested denial of the application.
- Suzanne Stewart requested denial of the application based on the fact there are already eight existing dispensaries and concerns that the proximity of the gas station to the proposed store could lead to increased driving under the influence. Requested denial of the application.
- Cindy Svatos, expressed the opinion that there were already enough dispensaries in Glenwood Springs and stated displeasure over the displacement of the existing frame store. Requested denial of the application.

- Barbara Koziol, provided comments on behalf of the Cedar Lodge, and expressed concerns regarding the location of the proposed store, the proximity to the Cedar Lodge, ability of Kind Castle to adequately manage the odor, and the possibility of an increase in traffic and the possibility of overflow parking from Kind Castle spilling over onto Cedar Lodge's lot. Requested denial of the application.
- Sue Sharpe, provided comments which expressed concerns that there are already a sufficient number of dispensaries in Glenwood Springs, possible negative effects on tourism, proximity of the store to Cedar Lodge and the gun store, and the displacement of the existing frame store. Requested denial of the application.
- Lynette Marie Lacerda, 285 Michaela Lane, New Castle provided comments which expressed concerns over possible increased traffic and congestion on site and a perceived lack of parking. Requested denial of the application.
- Linda Drake, April 29th, provided comments which expressed displeasure over the displacement of the frame store and expressed the opinion that there were already enough dispensaries in Glenwood Springs. Requested denial of the application.
- Dendy Heisel, provided comments which expressed the opinion that there are enough dispensaries in Glenwood Springs and expressed concern over possible increased traffic on site. Requested denial of the application.
- Debbie Roof provided comments that expressed the opinion that there are enough dispensaries in Glenwood Springs and expressed concern over possible increased traffic on site and its proximity to the high school. Requested denial of the application.
- Katie Laven, provided comments that expressed the opinion that there are enough dispensaries in Glenwood Springs and expressed concern over possible increased traffic on site and its proximity to the high school. Requested denial of the application.
- Kristine Del Rio, 1009 Colorado Avenue provided comments that expressed the opinion that there are already enough dispensaries in Glenwood Springs and expressed concern over the proximity of the site to the high school.

Commissioner Dehm opened the public comment to any individuals in the Zoom meeting that wished to speak on the item that had already not submitted comment. No members of the public had comments.

Commissioner Dehm closed the public comment portion of the meeting.

John Dyet, applicant and owner of Kind Castle, provided a summary to the Commission how odor would be managed on site with details of the systems used and how its effects on nearby properties would be managed. Dyet also stated that other dispensaries in town operate with proximity to other businesses and residential areas and felt that their proposed plan made adequate measures to control odor. Dyet also stated that previous amendments to the code ordinance regarding dispensaries were created due to concern over dispensaries effects on tourism which resulted in dispensaries not being allowed in the downtown area and that the proposed location would not negatively affect tourism given the distance from downtown. Dyet also explained that the possible overflow parking into Cedar Lodge is something that Kind Castle could control and manage. Dyet explained that Kind Castle would be a good neighbor to Cedar Lodge and other nearby businesses.

Mark Mayasich, Kind Castle addressed some of the comments expressed during public comment portion of the meeting. Mayasich questioned why it was an issue for a dispensary to share a wall with a gun store when it also shares a wall with a pawn shop and why that would be different. Mayasich also

stated that the location of Kind Castle met the distance requirements of the ordinance and due to its distance from downtown, would not have a negative effect on tourism. Mayasich explained that the barbershop had closed which would free up additional parking spaces and that overflow parking is likely to happen with any business. Mayasich also explained that pre-packaged flower will be sold on site and explained that odor management plan would be more than adequate. Mayasich described how the Kind Castle Parachute location resulted in increased revenue for nearby businesses and believed that the Kind Castle location in Glenwood Springs would have a similar effect. Mayasich also described security measures such as video cameras and window tint that would be used on site.

Discussion among commission members.

Commissioner George Shaver requested staff to provide summary of Police Department and Fire Department comments on the project. Trent Hyatt explained that Police Chief Joe Deras had expressed general concerns over the proposed location and its proximity to residential areas and the general traffic and congestion of the area. Fire Department comments expressed concern over access and ability to maneuver on site.

Commissioner Wissing asked how many complaints the City has received in connection with the marijuana industry in Glenwood Springs. Gretchen Ricehill explained that the City had not received complaints on the retail establishments and has received complaints on the grow facilities on Devereux Road. Commissioner Grosscup asked when the new ordinances for marijuana establishments were established. Trent Hyatt mentioned that City Council has discussed a possible cap on limiting number of dispensaries in town and that no action towards that beyond discussion had occurred.

Commissioner Schachter asked questions regarding the access control plan to the property and how redevelopment would affect the site. Trent Hyatt explained that CDOT had recommended combining the access in the future if the site was redeveloped. Commissioner Dehm asked to confirm that there were two residential units connected to the proposed project space and Trent Hyatt confirmed this.

Commissioner Cipperly had questions regarding the CDOT access permit and if the possible sidewalk realignment would result in a loss of parking. Trent Hyatt explained that there are existing substandard conditions on site and that was unable to comment on possible number of parking spaces lost based on that CDOT access plan. Commissioner Grosscup asked for confirmation for the total number of marijuana applications in town and Trent Hyatt confirmed that there are nine approved applications with seven operating, which does include two cultivation facilities with retail.

Commissioner Wussow made the motion to deny the application. Wussow cited the comprehensive plan and stated reason for denial was that this business pulls business away from downtown. The motion was seconded by Commissioner Cipperly.

Commissioner Schachter mentioned that the application meets the SUP criteria and that the application did not fit the general purpose of the Comprehensive Plan. Schachter also voiced support for City Council to consider a cap on marijuana establishments within the City. Commissioner Cipperly stated that while the use of this property was appropriate, there are concerns over increase in traffic to an already congested area. Commissioner Wussow further explained that the Comprehensive Plan is clear on the importance on consolidating businesses in the downtown. Commissioner Dehm stated that it is not Planning & Zoning Commission's job to determine the appropriate number of marijuana establishments in the City. Dehm explained that the purpose of a Special Use Permit is to evaluate if a

proposed use fits with surrounding uses and cited the fact that no other marijuana establishments in town are in a mixed-use building. Dehm explained that because it was a mixed-use building with residential units, that this site was not the best place for the proposed project.

Vote taken. Motion to deny the application passed unanimously.

5. New Items

- a. *20-19 Consideration of a Code Amendment to Section 070.010.070 of the Glenwood Springs Municipal Code regarding the City's nonconforming use regulations.*

Commissioner Shaver recused himself and left the meeting.

Trent Hyatt summarized the intent of the proposed code amendment as it related to legal non-conforming structures in riparian areas.

No public comments were received.

Commissioner Wussow asked if the City would provide additional information to the public that resides along the river. Trent Hyatt explained that additional outreach would be provided for the proposed riparian setback code amendment and not this specific amendment.

Commissioner Cipperly made a motion to approve the item with the findings as stated in the staff report. The motion was seconded by Commissioner Schachter.

The motion to approve the item passed unanimously. Commissioner Shaver had already recused himself from the meeting.

6. Commissioner Comments

Commissioner Wussow stated that this meeting illustrated two potential problems with code in the variance requirements and the number of marijuana establishments and that the City could explore further discussion on those items. Commissioner Schachter expressed a desire to be able to restart the conversation and discussion on housing with the Housing Commission. Commissioner Grosscup mirrored Schachter's statement on housing and asked if Midland Avenue improvement were still planned. Jenn Ooton confirmed that these improvements were still on schedule. Commissioner Cipperly stated would like to see a reconsideration of code regarding the parking requirement reduction in code based on proximity to transit. Commissioner Dehm asked if City Hall would be reopening to the public and Jenn Ooton explained that a press release would be issued explaining that staff would be allowed back in the office and not the public. Dehm also asked if there was a possibility of an in-person meeting in June and Jen Ooton could not confirm that and explained that the City was looking at option for an in person meeting. Commissioner Schachter also congratulated City Clerk Catherine Fletcher for her recent feature in the Post Independent.

7. Adjournment

Meeting was adjourned at 10:06 PM.