



MINUTES
City of Glenwood Springs
Planning and Zoning Commission
Regular Meeting
September 22, 2020
Zoom
6:00PM

1. Roll Call

Present at roll call were Commissioners: George Shaver, Marco Dehm, Kathryn Grosscup, Carolyn Cipperly, Sumner Schachter, Ben West

Absent at roll call were Commissioners: Ingrid Wussow, Amber Wissing, Dean Kinkel

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

2. Seating of Alternate Commissioner

Motion was made by Commissioner Schachter to seat Alternate Commissioner Ben West for the meeting. Motion was seconded by Commissioner Grosscup.

Motion passed unanimously.

3. Receipt of Minutes- Receipt of August 25, 2020 minutes.

Commissioner Shaver made a motion to accept the minutes. Commissioner Grosscup seconded the motion.

Motion passed unanimously.

4. Public Comments

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

5. Continued Items

- a. *Planning File 43-20 Consideration of variances from the required side and rear yard setbacks and to exceed the Required Rear Yard Coverage limit for the construction of an accessory structure which includes a 321 square foot detached garage and 168 square foot storage space.. (PIN #2185-094-015-013)*

Commissioner Schachter made a statement to attest viewing the previous Planning & Zoning Commission Meeting of August 25th, 2020 in preparation for discussion of Planning File 43-20 at the September 22, 2020 meeting.

Planner I, Emery Ellingson presented on the variance application for an accessory structure at 820 Bennett Avenue. Ellingson summarized the proposed project including both variances. The following variances were requested:

Action Item 1: Consideration of variances from required side and rear yard setbacks. Applicant seeks to building structure set back 3.0' from the rear lot line and 2.0' from the side lot line.

Action Item 2: Consideration of variance from Required Rear Yard Coverage. Code limits Required Rear Yard Coverage to 40% of Required Rear Yard.

Staff recommended denial of the application based on the findings found on page 11 & 12 of the staff report.

Commissioner Schachter asked about drainage and building separation. Staff explained that the applicant indicated that drainage from the house would drain directly onto the west garage wall. Staff explained that 5' was standard fire separation distance between structures. Schachter also asked about the rear setback for ADUs which staff confirmed is a 5' setback.

Commissioner Grosscup asked about the Required Rear Yard Coverage. Staff explained that the requirement ensures some open space on the rear yard of a lot and that the 40% for rear lot was a smaller amount than total lot coverage.

Commissioner Shaver asked about code requirements for building separation. Staff confirmed that the standard fire separation distance was 5.0'. Shaver stated if a condition approval could require that the wall on the side property line be constructed to the standard of less than 5.0' building separation. Shaver asked if the garage wall on the side property line had any fenestrations. Staff confirmed that the Commission could set conditions for approval and that the garage wall did not have any fenestrations.

Commissioner Schachter asked if a reduction in storage space would eliminate the need for Action Item 2. Staff explained that a reduction of 92.93 square feet in the Required Rear Yard would eliminate the need for a variance.

Commissioner Cipperly asked for confirmation on the building separation. Staff confirmed the separation distance was 5.0' between the proposed garage and existing house.

Applicant, Kurt Carruth, 820 Bennett Avenue and Julie Carruth, 820 Bennett Avenue, explained the changes to the design, including reducing size of garage and increasing the rear yard setback.

Applicant also indicated willingness to work with Public Works on the foundation construction and connecting to the alley. Applicant also indicated that the principal structure is set back a little farther than other houses in the neighborhood and that they were willing to construct a 1-hour fire wall on the north side of the garage.

Commissioner Dehm asked staff if there were any more public comments. Staff confirmed that there were no additional public comments since the letters read into the record at the August 25th, 2020 meeting.

Commissioner Grosscup made a motion to approve Variance Request – Action Item 1. Commissioner Grosscup cited parking and revision in designs as reasons for approval. Commissioner Dehm asked Commissioner Grosscup to explain how the application met each of the individual variance criteria. Grosscup explained how the application met the individual variance criteria as reasons for approval.

Commissioner Schachter seconded the motion.

Commissioner Schachter stated the Commission may wish to consider adding conditions to the motion. Commissioner Shaver expressed support for adding a condition that the north wall meet Fire Code requirements for buildings with less than 5.0' separation. Commissioner Schachter also stated the Commission may wish to consider conditions to include requiring Public Works approval for the foundation as well as an indemnification agreement.

Commissioner Cipperly questioned if the applicant met variance criteria items 5 & 7 which related to hardship and if the variance requested was the minimum variance needed.

Commissioner Schachter asked if what the applicant's options would be pending variance denial. Assistant Director Gretchen Ricehill and City Attorney Anna Itenberg explained that the application could be denied, approved, or continued. Staff provided further explanation on the different scenarios. Commissioner Grosscup asked what would happen if Action Item 1 were approved and Action Item 2 denied. Staff explained that the applicant's design would be evaluated based on the whichever variances were approved or denied.

Commissioner Grosscup made a motion to amend the original motion. Grosscup made a motion to add the following conditions: that the north side of the garage be constructed to meet Fire Code requirements for buildings with less than 5.0' separation, that the foundation be constructed to meet all Engineering and Public Works requirements, and that the owner enter an indemnification agreement with the City for any damages incurred from work in the alley.

Commissioner Schachter seconded the motion.

Community Development Director Jenn Ooton asked to confirm that the condition regarding the north garage wall was to require construction to meet the Fire Code requirements for buildings with less than 5.0' separation. Commissioner Grosscup confirmed this.

Commissioner Dehm asked the applicant if their opinion on the conditions. The applicant stated that they could work with the conditions presented. Commissioner Dehm called for a vote on Action Item 1.

Commissioners Schachter, Grosscup, West, Cipperly, and Dehm voted to approve.

Commissioner Shaver voted to deny.

Motion to approve Action Item 1 passed 5-1.

Commissioner Cipperly made a motion to deny the variance request of Action Item 2 with the findings on page 11 and 12 of the staff report.

Commissioner Shaver seconded the motion.

Commissioner Schachter stated that the findings for this variance indicate the applicant has several options to eliminate this variance request.

Commissioner Dehm voiced support for this variance, citing density and the fact the applicant had already revised the design.

Commissioner Dehm called for a vote on Action Item 2.

Commissioners Cipperly, Shaver, Grosscup, and Schachter voted to approve the motion in favor of denial.

Commissioners Dehm and West voted to deny the motion in favor of denial.

The motion passed 4-2 in favor of denying the variance request of Action Item 2.

6. New Items

- a. *Planning File 15-20 Consideration of a request for a Preliminary Plat to amend the Oasis Creek Tract A Subdivision to allow for the construction of duplexes on lots previously platted for single-family homes*

Commissioner Grosscup recused herself from this item and left the meeting.

Senior Planner Trent Hyatt provided the Commission a summary of the request and process to amend a Preliminary Plat. Hyatt stated that Staff recommended approval with conditions and findings on page 7 of the staff report.

Commissioner Cipperly asked about the concerns from the Oasis Creek HOA and the Oasis Creek architectural control committee (ACC). Hyatt explained that the City does not administer HOA or other neighborhood covenants and that this project would require City approval as well as approval from the associated HOA and ACC.

Commissioner Dehm asked to confirm if these properties could be duplexes based on their existing zoning. Hyatt explained that because the original subdivision was for single family homes, that staff felt it was necessary to amend the original subdivision approval.

Commissioner Schachter asked to confirm what Planning & Zoning Commission approval would signify in relation to the additional neighborhood requirements. Hyatt stated that Planning & Zoning Commission would indicate City approval. Schachter also asked how, assuming City approval of the request, how a building permit would be assessed in terms of compliance with HOA and ACC requirements. Hyatt indicated staff would inquire to the status of the neighborhood approval prior to moving forward with building permit approval.

Commissioner Shaver asked if Tract 7 would remain open space in perpetuity. Hyatt explained that designating Tract 7 as open space was a condition recommended by staff. Hyatt also stated that if this condition were approved, that any future changes in use to Lot 7 would require an amendment to the subdivision.

Commissioner Schachter asked about language found in the annexation agreement which stated that Municipal Code applied to the properties within the PUD unless specifically exempted in the PUD agreement. Schachter asked how this applied to this request with the understanding that the original PUD did not prohibit multi-family housing. Hyatt explained that this language would apply to items required by Municipal Code that are not mentioned in the PUD requirements. Schachter also asked for staff to confirm that a building permit would not be issued until the project met all neighborhood (HOA and ACC) requirements. City Attorney Anna Itenberg stated that the building permit issuance would not require proof of compliance with private approvals such as the Oasis Creek HOA or ACC. Hyatt explained that it was the City's responsibility to ensure this request meets Municipal Code requirements and that the enforcement of standards of private groups such as the HOA or ACC was beyond the responsibility of the City.

Doug Pratte, Land Studio, 365 River Bend Way, Glenwood Springs, provided Commission with a short presentation on the proposed project which included a site plan. Pratte indicated that it was the desire of the applicant to preserve Tract A7 as open space.

Fellow applicant, Scott Grosscup, Balcomb & Green, stated that Doug Pratte and staff had summarized the application well and did not have additional comment.

Fellow applicant, Mary Steinbrecher, 611 Harvard Drive, stated support for the proposal.

Commissioner Schachter asked for confirmation between tract and lots. Applicant Doug Pratte explained that the Oasis Creek HOA covenants designate that lots are for single family homes and tracts are for multifamily homes. Pratte also stated that the intent of this project is to build duplexes on the tracts. Schachter also asked how the neighborhood ACC and City design requirements would govern the project. Pratte explained that the project would need to comply with the neighborhood ACC as well as all City design requirements. Schachter also asked who maintained the gravel path on Tract A7. Pratte explained that Tract A would have an HOA which would maintain that path.

Commissioner Shaver asked the applicant what the next step would be for the project, pending Planning & Zoning approval. Applicant Doug Pratte indicated that they would proceed to City Council with the project with compliance to any conditions. Shaver asked if the applicant had been in communication with the HOA and ACC as part of the process. Pratte stated that the

applicants had been in contact with the ACC. Pratte also indicated that there was not an existing HOA for the Oasis Creek neighborhood. Commissioner Shaver also asked about combining driveways for the duplexes and the number of parking spaces provided per unit. Pratte explained that each unit would have 2 indoor spaces and 2 outdoor spaces. Commissioner Shaver's Zoom connection cut out.

Commissioner Cipperly asked if on-street parking was allowed per the Oasis Creek covenants. Commissioner Schachter stated it was not allowed per the covenants. Commissioner Cipperly also asked about a pedestrian connection to the nearby park. Applicant Doug Pratte stated that the connection to the park would be preserved as part of the project. Commissioner Cipperly also asked who enforced the parking requirements in Oasis Creek. Hyatt stated that the parking was in the public right-of-way and that there was no signage regarding parking.

Commissioner Shaver asked about an empty lot on the site plan. Applicant Scott Grosscup and Applicant Doug Pratte confirmed that the lot in question was a city owned lot.

Commissioner Dehm read a comment from the Oasis Creek ACC. The comment expressed concern that a decision by Planning & Zoning Commission should be delayed until the local ACC approves a variance which would allow this development. Commissioner Dehm asked the applicant how they have approached this issue.

Applicant Scott Grosscup stated that the applicants had been working on the issue and that it was a private matter between the applicant and the local ACC.

Commissioner Dehm asked for staff to confirm the role of Planning & Zoning's decision in the matter. Hyatt explained that the application was submitted to the City and reviewed according to the City processes, which does not require the applicant to receive ACC prior approval for the project.

Commissioner Schachter asked about the conditions of approval, specifically condition 11A of the staff report. Commissioner Schachter expressed concern that the City could approve the project and that development could begin without approval of the ACC. Applicant Scott Grosscup stated that the scenario described by Schachter was a possibility.

Commissioner Dehm expressed concern that Planning & Zoning Commission would approve this request before the private local ACC made its own decision.

Commissioner Dehm explained that a decision on the item would not occur at this meeting and provided details on providing public comment on the Planning Item. Dehm opened the item to public comment.

Mark Lea, 506 Castle Court expressed concerns regarding the covenants. Mark Lea stated that no covenants had been enforced during their time (29 years) in the neighborhood and that the covenants were essentially non-existent. Lea stated that the proposed project was a reasonable proposal and voiced support for the request.

Greg Grier, stated that development of the property was a legitimate use of the property and stated that it was important that the neighborhood was included in the decision, both with the Planning & Zoning Commission as well as the local ACC.

Jason Wilson, resident on North Traver Trail, expressed support for the project stating that the site plan was a good use of the space.

Sue & Bob Ludtke, 406 Yale Circle expressed support for the project. Ludtke stated that the proposed project would fill a need for single floor single story homes in the area.

Mike Fattor, called in and was not heard on Zoom.

Terry Kates, a neighborhood resident expressed concerns over density, height requirements, landscaping, parking, and the lack of covenant enforcement.

Mike Fattor, provided Planning & Zoning Commission with information about staffing of the ACC. Fattor also asked if the applicant could provide more information about the difficulty of polling the neighborhood.

Jeff Peterson, a member of the local ACC stated that he did not represent the homeowners of the neighborhood. Pederson indicated that they were actively working with the applicant to address specific concerns. Pederson did state concerns that approval of the application by Planning & Zoning would override the ACC and requested Planning & Zoning Commission to wait to decide until the ACC was able to discuss the issue further.

Commissioner Dehm closed the public comment.

Applicant Doug Pratte informed the Commission that the applicants intended to continue working with the neighborhood and demonstrate that they meet all applicable City standards as the project moves forward.

Commissioner Schachter asked the applicant to confirm the process for the neighborhood to change the covenants as well as the zoning. Applicant Scott Grosscup indicated that the zoning was created by the City as part of the PUD process and that zoning language was incorporated into the neighborhood covenants.

Commissioner Shaver asked for confirmation on the language of the covenants regarding multi-family housing and the parcel in question. Applicant Scott Grosscup provided further explanation and background on the history of the parcel. Trent Hyatt also provided further information on the City's process to review this proposal.

Commissioner Schachter made a motion to continue the hearing on the item for the next scheduled Planning & Zoning meeting on September 29th.

Commissioner Shaver seconded the motion.

Motion passed unanimously.

Commissioner Dehm called for a five-minute recess.

b. Planning File 44-20 Consideration of a request for a Special Use Permit for a retail marijuana establishment in the M1 Mixed-Use Corridor District

Senior Planner Trent Hyatt provided the Commission a summary of the request for the Special Use Permit. Hyatt recommended approval with conditions of Action Item 1 with findings and conditions on page 9 of the staff report.

Commissioner Schachter asked what the applicant intended to do with the existing pole sign and canopy from the previous use. Hyatt informed the Commission that the pole sign was likely non-conforming and that the canopy would exist as an accessory structure.

Commissioner Shaver asked if the existing fuel storage tanks would need to be removed. Trent Hyatt indicated there may be a state requirement to remove tanks. Shaver also asked about proposed parking and access from Mel Ray. Hyatt explained there would be requirements for parking and access both from CDOT and the City and explained there would need to be delineations on the property for pedestrian safety as well. Hyatt also explained there were some limitations with circulation and access given the current configuration of the site.

Commissioner Dehm asked if any plan for future changes had been submitted and if the applicant had plans to purchase the property. Hyatt confirmed that a plan for future changes had not been submitted.

Applicant Peter Fornell explained that the intent was to apply and acquire a Special Use Permit and that future changes would adhere to any City requirements.

Trent Hyatt informed the Commission that any substantial future changes to the property would require an amendment to the Special Use Permit.

Commissioner Dehm opened the hearing to public comment.

No members of the public were present to comment.

Commissioner Dehm closed the hearing to public comment.

Commissioner Schachter made a motion to continue the hearing until the next scheduled Planning & Zoning meeting on September 29th. Commissioner Cipperly seconded the motion.

Motion passed unanimously.

7. Commissioner Comments

Commissioner Cipperly stated the Oasis Creek project seemed like an appropriate location. Commissioner Shaver requested more information, such as legal information, on the Oasis Creek application. Commissioner West stated the agreement with Commissioner Cipperly's statements. Commissioner Dehm asked about setting up future workshops and discussions.

8. Director Comments

Director Jenn Ooton informed Commission members of upcoming items.

9. Adjournment

Meeting was adjourned at 9:22 PM.