



MINUTES
City of Glenwood Springs
Planning and Zoning Commission
Regular Meeting
August 13, 2020
Zoom
6:00PM

1. Roll Call

Present at roll call were Commissioners: Marco Dehm, Amber Wissing, Sumner Schachter, George Shaver, Ben West, Carolyn Cipperly, Dean Kinkel

Absent at roll call were Commissioners: None

Also present were: Asst. City Manager Jenn Ooton, Asst. Community/Economic Dev. Director Gretchen Ricehill, Senior Planner Trent Hyatt, City Attorney Karl Hanlon, Alissa Owsley, IT Director, Catherine Fletcher, City Clerk.

2. Seating of Alternate Commissioner

Commissioner Schachter made a motion to seat Alternate Commissioners West & Kinkel. Commissioner Wissing seconded the motion. Commissioner Dehm called the item to question.

Motion passed unanimously.

3. Public Comments

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

4. New Items

- a. Planning File 48-20: Consideration of an Appeal of a Community Development Director's decision that retail marijuana establishments are a prohibited use in Glenwood Meadows based on the Glenwood Meadows Annexation and Development Agreement and Zoning and Development Plan land use table filled with the Garfield County Clerk & Recorder's office at reception #616083.

Gretchen Ricehill, Assistant Community Development Director provided the Commission with a presentation on the planning file application.

Applicant Ben Johnston, 818 Grand, representing Glenwood Meadows LLC, owner of property provided a short presentation on the application. Johnston summarized that the intent of the appeal was to address the contract between the City and Glenwood Meadows, LLC., how the contract is interpreted, and how it was interpreted in the past. He indicated that retail is a listed use in the Annexation and Development Agreement (ADA) but marijuana is not. Where uses are not listed the Glenwood Springs zoning ordinance applies. Mr. Johnston provided two examples where the city allowed uses that were not covered in the ADA including the Community Garden and two electric charging stations. The city did not take the position that since these uses were not listed they were prohibited. Johnston requested the Commission reverse the decision to not allow a Special Use Permit application for retail marijuana.

Applicant Robert MacGregor, 3925 County Road 154, representing Glenwood Meadows LLC provided additional comments on the item. Macgregor stated that the use table in the Glenwood Meadows agreement was not prescriptive and that the agreement would allow retail marijuana pending approval of a Special Use Permit.

Applicant Chris Hawkins, Alpine Planning thanked Commission for its time and reiterated the previous points of applicants Macgregor and Johnston.

Commissioner Dehm opened the item to public comment.

Matt Bennett, 796 Castle Valley Blvd, New Castle commented in support of approving the appeal and allowing a Special Use Permit application.

Commissioner Dehm closed the item to public comment.

Commissioner Schachter asked for staff to confirm the instances that prescriptive uses applied to uses in the Meadows as referenced by Applicant Ben Johnston. Ricehill stated that the decision to deny the appeal was consistent with policy going back to the adoption of marijuana ordinances by the City. Ricehill also stated that electric car charging stations were not a separate land use. Schachter asked how the City had treated previous applications for marijuana retail in the Meadows and Ricehill explained that all previous store requests were not processed as they were not allowed.

Commissioner Dehm asked if electric charging stations were not a separate land use and just part of the parking lot, which staff confirmed. Dehm also asked about the approval of the Community Garden, and Ricehill did not have additional information on the approval process for

the Community Garden. Dehm also asked if there had been any other instances where a use was approved based on municipal code rather than the Meadows development agreement. Staff did not have information on that specific question. Dehm also asked if all landowners in the Meadows were required to agree to amend the ADA.

Karl Hanlon, City Attorney explained that the nature of the amendment determined the process of amendment and if all owners would need to approve. Hanlon also stated using the Municipal Code to permit uses in the Meadows, then future zoning changes could have a significant effect on the uses allowed in the Meadows as compared to the original development agreement. Hanlon also stated that some uses were disallowed by pre-existing private covenants for the development.

Commissioner Dehm asked to confirm that between the two sets of regulations, City and Meadows, if the more restrictive regulations were applied. Staff confirmed that the more restrictive regulations were applied.

Applicant Mike Maple stated the original zoning change was made with intent to open a store. Maple also stated that, as a partner in Glenwood Meadows, they had not had any previous agreements with anyone looking to apply for a marijuana store in the Meadows. Maple also opined that the electric charging stations were not an allowed use per the Meadow agreement yet they were allowed by the City.

Applicant Robert MacGregor stated that no previous applicants had permission of the Meadows to apply for a retail marijuana license. MacGregor stated that the silence on the issue of retail marijuana in the agreement did not constitute prohibition.

Chad Lee, Balcomb & Green, stated that the language of the development agreement seemed to indicate that silence on the issue of retail marijuana in the agreement meant that the permitted uses per the City zoning district should apply, which would allow a Special Use Permit application.

Applicant Ben Johnston stated that it seemed that Municipal Code was more restrictive in that it separates marijuana retail from general retail, while the Meadows agreement lists retail as a broad category.

City Attorney Karl Hanlon explained that the Planning & Zoning Commission's decision would set a precedent for these types of decisions. Hanlon explained that future staff interpretation of this type of issue would follow Planning & Zoning Commission's decision on this issue.

Commissioner Dehm asked if staff could confirm the exact number of marijuana establishments that had been denied. Ricehill explained that staff could only provide the number of approved establishments. Ricehill also explained that medical marijuana was formerly a permitted use and did not require a Special Use Permit and even then, there were no stores in the Meadows.

Applicant Mike Maple stated that, previous to this applicant, the Meadows had not received any inquiries as to opening a marijuana store in the Meadows.

Applicant Robert MacGregor stated that this decision should be made keeping in mind flexibility for the future and rather not so focused on solely the retail marijuana use.

Applicant Ben Johnston stated that the ADA agreement seemed clear that municipal code applies.

Applicant Chris Hawkins stated that there is no mention of the Meadows agreement in the land use portions of the municipal code yet there is reference to it in design standards.

Commissioner Dehm asked Applicant Chris Hawkins if he was a part of the zoning change and if a potential use was specified as part of that decision. Hawkins confirmed that future uses were not specified during that process.

City Attorney Karl Hanlon requested interpretation from the owner of the authority section of the agreement. Applicant Ben Johnston explained that the Meadow's interpretation is that specified uses prohibited in the agreement supersedes Municipal Code and that if there is silence in the agreement, then Municipal Code is applied.

Commissioner Cipperly made a motion to reject the Director's decision that retail marijuana establishments are a prohibited use in Glenwood Meadows based on the Glenwood Meadows Annexation and Development Agreement and Zoning and Development Plan.

Commissioner Shaver seconded the motion.

Commissioner Schachter asked if the motion to reject the decision would allow a Special Use Permit application for retail marijuana. Schachter also cited that Meadow's original agreement seemed to have been designed with future flexibility in mind rather than being brought into the City as a PUD.

Commissioner Cipperly acknowledged this would set a precedent and stated other uses not prohibited seemed to have been allowed, citing electric charging stations and the community garden.

Commissioner Dehm asked if a proposed store here would still be required for review of a Special Use Permit, which was confirmed by Karl Hanlon.

Commissioner Wissing asked to specify voting options.

Commissioner Dehm called the item to question.

Motion passed unanimously.

5. Commissioner Comments

Commission Wissing thanked staff for their time.

Commissioner Cipperly asked if the recycle center would be reviewed by Planning & Zoning.

Commissioner Schachter reminded the Commission of the upcoming joint work session between Housing Commission and City Council.

Commissioner Kinkel thanked staff for their time.

6. Director Comments

Director Jenn Oton stated that a joint meeting between Planning & Zoning Commission and City Council was being planned.

7. Adjournment

Meeting was adjourned at 7:36 PM.

DRAFT