

MINUTES
CITY OF GLENWOOD SPRINGS
Planning and Zoning Commission
Regular Meeting
March 26, 2024
Council Chambers, First Floor
101 W. 8TH STREET 6:00 PM

1. Roll Call

Present: Commissioners: John Houghton, Amy Connerton, Carolyn Cipperly, Pete Waller, Gregory Cowan, Matthew Simms

Also Present: Community Development Director Hannah Klausman, Planner II Emery Ellingson, Long Range Principal Planner Jim Hardcastle, Assistant City Attorney Richard Cremer-Petterson, Building Technician, Jose Vega

Actions: Commissioner Cipperly made a motion to seat Alternate Commissioner Gregory Cowan, motion seconded by Commissioner Connerton. Voice vote taken; motion passed unanimously.

2. Conflicts of Interest

None

3. Receipt of Minutes

February 27, 2024, Planning and Zoning Commission meeting minutes

Commissioner Connerton made a motion to approve the minutes, seconded by Commissioner Simms. Voice vote taken, passed unanimously.

4. Comments from citizens for items not appearing on the agenda

No public comment was offered.

5. New Items

a. Planning File #06-24 Code Text Amendments for Accessory Tourist Rental and Short-Term Rental Permits

Emery Ellingson, Planner II provided presentation on Planning File #06-24 for consideration of code text amendments to *Section 070.030.030(e)(7) Accessory Tourist Rental* and *Section 070.030.030(e)(9) Short Term Rental*. Staff recommended approval of the proposed code amendments as described in the staff report with findings and conditions on page 9 of the staff report.

Commissioner questions and comments, with staff responses included the following:

- *Question on definition of a free-market unit and why staff had suggested an ownership model change more similar to Crested Butte rather than one based on residency. Staff response:* Staff explained free market units are any unit that is not deed restricted. Staff clarified that creating

categories of resident and non-resident would be a larger change to the existing program beyond the scope of proposed amendment.

- *Question regarding how Council decided why to consider the changes and if there were any studies that showed an adverse impact to housing stocks.* **Staff response:** Staff provided background that Council was acting, in part, based on recommendations found in the Strategic Housing Action Plan (2022-2023), Regional Housing Study (2017-2019), and Regional Housing Study Covid Update, which all referenced short term rentals having adverse impacts on availability of housing stock.
- *Question on how many properties would be affected by the change in buffer regulation.* **Staff response:** Staff explained that the proposed change to 300' buffer would affect approximately 500 properties.
- *Question if a permit must demonstrate use within the permit period.* **Staff response:** Staff explained that to be eligible to renew a permit, the permit holder would have to show a minimum amount of lodging tax greater than zero within that permit period.
- *Question if a permit can be held in perpetuity.* **Staff response:** Staff explained that permits in good standing are allowed to continue to be renewed.
- *Question if the new buffer would create non-conforming properties that would be ineligible:* **Staff response:** Staff confirmed that increasing the buffer would likely create non-conforming licenses and staff emphasized that permit eligibility is dynamic and subject to changes as properties are bought and sold and as owners choose to continue or discontinue their permits.
- *Question on why staff report included language on trusts and LLCs while some communities only refer to trusts in their ordinances:* **Staff response:** Staff explained that concept was to illustrate legal entities that can have multiple owners, which encompasses numerous designations.
- *Question if the city has considered a lottery system for permit.* **Staff response:** Staff confirmed that the city does not utilize a waiting list or lottery system for permits.
- *Question why the units within the GID are not counted towards the cap.* **Staff response:** Staff explained that the GID was considered its own specific geographic area with unique characteristics which warranted special consideration.
- *Questions on timelines for Short Term Rental Permit and Building Permits:* **Staff response:** Staff provided examples illustrating the timelines and scenarios for Short Term Rental permit approval.
- *Question on enforcement changes and how that is tied to owner.* **Staff response:** Staff explained that some violations are tied only to the guest tenants and not the owner.
- *Question on the percentage ownership model being set at 33% and how that would function.* **Staff response:** Staff explained that if owners did not meet the threshold percentage of ownership, they could not hold a permit. Staff also indicated that 33% was a starting point for the Planning and Zoning Commission to consider.
- *Question on what the intended goal of requiring an individual hold a permit:* **Staff response:** Staff explained that not identifying a specific person to hold the permit allows for transfer loopholes to occur without staff's ability to verify a permit transfer.
- *Question if an emergency contact was required for permits.* **Staff response:** Staff confirmed that each permit is required to list a responsible party living within 30 minutes.
- *Question if any jurisdictions prohibit LLCs or trusts from having a permit.* **Staff response:** Staff explained that research on other communities only included Colorado and there may be other

jurisdictions that prohibit group ownerships from holding a permit. Legal counsel mentioned that prohibiting a corporation from holding a permit may present legal challenges.

- *Question if enforcement violations would go to both guests and owners:* **Staff response:** Staff explained that the violation goes to the tenant and not necessarily also the owner depending on type of violation. Staff noted the main goal is to align Municipal Code Section 100, which the Police Department observes to Municipal Code Section 0708 which is overseen by Community Development.

Commissioner Waller requested that each proposed code amendment be a separate action item with its own specific motion. This resulted in the following separate action items: buffer size, permit cap, permit percentage for calculating cap, application timelines, penalties and violations, and ownership models.

Commissioner Waller opened the item for public comment. No public comment received.

Buffer Size Item

Commissioner Connerton motioned to approve the staff recommended buffer size of 300’.

Commissioner Houghton seconded the motion.

Commission discussion of the motion included the following:

- Multiple commissioners expressed interest in keeping the existing 250’ buffer.
- Concern for properties anticipating applying for a permit that would lose opportunity with an expanded buffer.

Commissioner Waller called the item to question. Motion failed with a vote of 4-2 with Commissioners Cipperly, Connerton, Cowan, and Simms voting against the motion and Commissioners Waller and Houghton voting for the motion.

Total Permit Cap

Commissioner Cipperly motioned to approve the recommendation that GID permit numbers be included in the overall City permit cap. Commissioner Simms seconded the motion. Commission discussion of the motion included the following:

- One commissioner indicated that they felt the 18% cap in the GID was worth further consideration. Staff identified this proposal would fit better in separate item to be considered.

Commissioner Waller called the item to question. The motion passed unanimously with a vote of 6-0.

Permit Cap Alternatives

Commissioner Houghton motioned to lower the GID permit cap to 15%. Commissioner Cipperly seconded the motion. Commission discussion included the following:

- Support for lowering the GID limit with rationale that since parking is not required downtown, reducing number of permits would alleviate possible parking issues.
- Support for lowering the percentage to help preserve residential units in the downtown.
- Support for increasing the cap with rationale that this could help direct growth of STRs to the downtown area as opposed to other outlying residential areas.

Commissioner Waller called the item to question. Motion passes with a vote of 4-2. Commissioners Connerton, Houghton, Waller, and Cipperly in favor with Commissioner Cowan and Simms against.

Application Timelines

Commissioner Waller allowed discussion prior to making a motion. Commissioner discussion included the following:

- Multiple commissioners agreed that requiring a certificate of occupancy prior to applying for a Short-Term Rental Permit was a good idea.
- Multiple commissioners agreed that establishing a clear permit expiration date was a good idea.
- Support for ability to extend a permit application for an additional timeline for extenuating circumstances, pending approval from Building Official and Community Development Director.
- Discussion of appropriate timeline for application with six-month, nine month, and year lengths considered along with potential extension lengths.

Commissioner Cipperly motioned to adjust the permit timelines to require Certificate of Occupancy was required prior to application and for a permit timeline of 6 months for completion with an additional 2-month extension from Community Development Department. No second was received. Motion expired for lack of second.

Commissioner Houghton motioned to require a Certificate of Occupancy prior to application and a permit deadline of 6 months for completion with possible extension of 6 months at discretion of Community Development Director. Commissioner Connerton seconded the motion.

Commissioner Waller called the item to question. Motion passed unanimously 6-0.

Penalties/Violations

Commissioner Cipperly motioned to approve code amendment recommendations to the penalty and enforcement section as recommended by the staff report. Commissioner Cowan seconded the motion.

- Brief discussion by Commission with confirmation on how the penalties and violations currently function.

Commissioner Waller called the item to question. Motion passed unanimously 6-0.

Ownership Models

Commissioner Waller allowed discussion prior to the motion.

Commissioner discussed the following:

- Percentage thresholds for ownership and examples of permit transferability
- Support for utilizing natural person as requirement.

Commissioner Cipperly motioned to recommend the ownership model that the permit must be held by a natural person with a controlling interest of no less than 33% and that the natural person be 18 years of age or older.

Following the motion there was further discussion on whether the variance procedure would apply to the proposed regulations and transfer processes for unique situations outside applicant control. Staff explained this discussion could carry over to the upcoming Council meeting that staff would review possible remedy options for inclusion in the staff report.

Commissioner Waller called the item to question. Motion passed unanimously 6-0.

Following conclusion of the item, Commissioner Waller called for a five-minute recess.

b. Planning File 74-23 Variances to Dimensional Setbacks

Long Range Principal Planner Jim Harcastle presented the Variance application. Staff showcased the definition of “hardship” in the code as well as the three variances of this Planning File.

Commissioner questions and comments, with staff responses included the following:

- Can you explain the hardship in #5 as you also indicate the situation is being improved? **Staff response:** The applicant was unable to provide an argument that provides a non-convenience or financial burden argument, and the proposed variances discussed tonight, and future Minor Subdivision allow a delineation to separate the two dissimilar structures for future users.
- How do residents access the house on Cooper? **Staff response:** There is an established access, driveway, and garage on the east side of Cooper Avenue.
- Is the deck considered a balcony? **Applicant response:** it is considered a balcony.
- Do you have pictures of the site? **Staff response:** No but the applicant may have some.
- What is the nature of the landscaping between the two proposed lots. **Staff response:** There is grass, shrubbery, and fencing.
- Are there two different addresses for mail delivery? **Staff response:** yes, both addresses have been in place since the early 1980s, the commercial structure to the south has been addressed since the early 1950s.
- Is there a chance for a future change in use for Parcel A (south). **Staff response:** No, this lot has always been used as commercial and with the creation of the parcel below 5,000 SF it would only allow to continue as commercial use.
- Is there a chance for a change in use for Parcel B (north) **Staff response:** Yes, the lot could be used for commercial purposes as there is no lot size minimum requirement for such uses.

- Are there requirements for fire resistant structures along the shared lot line? **Staff response:** There needs to be a 5' separation between buildings.
- Will the connecting structure section in green on page #6 be removed to help prevent fire issues? **Staff response:** yes, the applicant plans to remove the structure which connects.
- There is one owner with two different uses, though how long has it been rented and operated by someone other than the individual living in the house? **Applicant response:** Quite some time but not sure.
- Could you remove any of the hardships between Parcel A & B. **Applicant response:** Yes, we would be open to that. **Staff response:** If the applicant modified the southern balcony on Parcel B back a distance that would lay within the allowed 18" it can encroach into a side setback, this would remove the requirement for the variance associated with the 2nd action Item. **Legal response:** The best course of action is to withdraw action Item #2, then the City can confirm at final plat the deck has been modified as discussed here. **Applicant response:** We consent to withdraw Action Item #2.

Applicant Comments:

- The applicant shared historical elements of the existing structures.
- Additionally, the purpose is to detach the two properties, with the best way to do that is through the Minor Subdivision process.
- Clarification was made regarding a 5' easement and required of an old building permit though never established, for it to be included on the Minor Subdivision.

Comments from the Public:

- Commissioner Waller opened the item for public comment. No public comment received.

Action Item 1

Commissioner Connerton motions to approve the variance request for Action Item #1, contrary to the staff report recommendation for denial. Noting staff findings for items 1, 2, 3, 4, 6, and 7 in the staff report indicate compliance to the Municipal Code. Regarding #5 concerning hardship, it does demonstrate hardship not related to convenience or financial burden due to the fact they didn't create this, it would be costly, and for them to be able to use this in a practical manner. Seconded by Commissioner Simms.

Discussion:

- Commissioner Cipperly indicated there is a compelling argument for a hardship that isn't financial or of convenience.
- Commissioner Cowan indicated there should be a goal for the best use of the parcels and should be a consideration.

Chairperson Waller called the item to question. Motion passes with a vote of 4-2. Commissioners Connerton, Houghton, Simms, and Cowan voting in favor, and Commissioners Cipperly and Waller

against.

Action Item 2

This item was removed by the applicant, and the encroachment will be modified to conforming status and addressed at Final Plat

Action Item 3

Commissioner Connerton motions to approve the variance request for Action Item #3, contrary to the staff report recommendation for denial. Noting staff findings for items 1, 2, 3, 4, 6, and 7 in the staff report indicate compliance to the Municipal Code. Regarding #5, it does demonstrate hardship not related to convenience or financial burden due to the fact they didn't create this, it is a 60 year old problem, that they are unable to use the property for what we intend now for code, and that creates an undue hardship for them to rectify this. Seconded by Commissioner Cowan.

Discussion: Commissioner Cipperly noted we have approved rear yard setback variances, and we approved the first action item tonight, though it is a financial convenience, but I want to see lots cleaned up as the applicant has described.

Chairperson Waller called the item to question. Motion passes unanimously 6-0.

6. Commissioner Comments

- Commissioner Houghton is encouraging all to vote in the upcoming election.
- Commissioner Connerton is appreciative of Staff's work on the Code amendment work.
- Commissioner Cipperly inquired about site work on Midland near Petco. Staff indicated it is a City lift station project which is not subject disturbance requirements and but not exempt from storm water quality standards
- Commissioner Simms inquired to process and procedure changes connected to the April election item.
- Commissioner Cowan suggested we revisit guidelines and rules for procedure. Assistant City Attorney Richard Cremer-Petterson indicated he will work with the Director to help put that in place.
- Commissioner Waller asked about the sewer improvements along 4-Mile Gould is working on. The Community Development Director will pass that inquiry along to Matt Langhorst and relay information to you.

7. Director Comments

Community Development Director Hannah Klausman thanked everyone for their work. City Council requested a work session with Planning and Zoning Commission regarding zoning. Reminded that P&Z still has two alternative positions available.

8. Adjournment

Meeting adjourned at 9:30PM.