

TETON COUNTY PLANNING AND ZONING COMMISSION
Meeting Minutes from December 14, 2010
County Commissioners Meeting Room, Driggs, ID

COMMISSIONERS PRESENT: Mr. Dave Hensel, Mr. Bruce Arnold, Mr. Ryan Colyer, Ms. Alice Stevenson, Mr. Darryl Johnson, and Mr. Shawn Hill.

DEPARTMENT HEADS PRESENT: Ms. Angie Rutherford, Planner/GIS, Mr. Curt Moore, Planner.

Mr. Hensel called the meeting to order at 5:06 PM

Approval of Minutes:

The Commission reviewed the draft minutes of November 9, 2010

Ms. Stevenson moved to approve the draft minutes of November 9, 2010, as amended. Mr. Arnold seconded the motion. The motion carried unanimously.

Administrative Business:

Ms. Rutherford commented the P4P committee is moving forward trying to close out the public comment period on the 23rd of December. 636 surveys have been received so far, which is approximately 8% of the population in the valley. She explained Mr. Brent Cooke is going door to door in the LDS community with the message of the survey and it has helped the response rate. The P4P committee is also working on an RFP based on the input received from the community, asking a consultant to come up with a comprehensive plan that would be consistent with the values expressed by the community. They are also working on a comprehensive plan committee, which would be another volunteer committee formed after the P4P committee is dissolved at the end of January or early February. At this point, it is envisioned to have five subcommittees and a core committee. The core committee would consist of the chairs of the five subcommittees, a couple of at-large members, and hopefully a member of the Planning Commission as well. Ms. Rutherford expressed an interest in getting the Commissioners involved as early as possible in any of the committees as a benefit to the process.

Mr. Hill explained the subcommittees focus would come from the values and areas of importance that came out of the survey. Ms. Rutherford commented that they anticipated the committees to be focused on natural resources and recreation, economic development and property rights, community events and facilities, transportation, and agricultural heritage and rural feeling.

PUBLIC HEARING: Final Plat Application (Remanded back to Planning & Zoning Commission) for Grouse Landing Planned Unit Development Thomas and Mary Ulrich are proposing 15 residential lots and 3 open space areas on approximately 40 acres located at approximately 4500 North and 1500 East.

Mr. Hensel explained his review of the minutes from the Board of County Commissioners meeting where the application was remanded back to the Planning Commission. It was his understanding that the Board directed the Commission to focus on three areas of the application: open space requirements being met, the change in setback requirements, and guest housing.

Mr. Moore reviewed the basics of the application and read the motion that was approved by the Board remanding the PUD Final Plat back to the Commission. The Board was looking for determination on how the open space meets the definition in the code, rational for a restriction on guest homes, and improvements of 1500 E from the entrance of the subdivision to the intersection with 4000 N., as well as other housekeeping details discussed in the hearing. Mr. Moore stated the applicant has submitted engineering plans for a redesign of 1500 E. and Mr. Simmonet, County Engineer, felt the plans were acceptable from an engineering point of view.

Regarding the open space design, Mr. Moore commented the code that would be used for analysis was the September 25, 2007 code based on the date of submission of the concept plan. He explained that the 2007 code was less specific and demanding in requirements regarding the design, layout and purpose of the open space than the current code. Mr. Moore stated there are no mapped overlays on this proposed development based on the 2007 code. Staff has recommended not changing the open space proposed based on compliance with the 2007 code.

Mr. Moore next discussed the recommendation by the Planning and Zoning Commission prohibiting guest houses, and commented the Board didn't agree with that recommendation. The Board wanted the Commission to specify their objections to allowing guest houses. He felt there was some basis in the code the Commission could use to say that guest houses are a unique situation and that a PUD allows the flexibility to consider impacts on adjoining property as a reason for restrictions. His findings on guest houses based on the code were outlined in the staff report.

The last issue was discussion on setbacks. Mr. Moore commented that within the description of a PUD it allows for deviations from the normal setbacks. He stated it is not uncommon for the side yard setbacks to be reduced in a PUD.

Mr. Moore commented the staff has recommended approval of the PUD subject to conditions and reviewed the recommended conditions in the staff report.

Applicant Presentation:

Charles Holmer, attorney for the applicant, stated that Mr. Tom Ulrich, applicant, Ms. Diane Temple with Nelson Engineering, Ms. Renee Magee, JD and planner, and Amanda Ulrich, a member of his firm, would be speaking on behalf of the PUD application. Mr. Holmer believed they were remanded back to the Commission to address a limited purpose, as outlined by the Board when they remanded the application.

He wanted to address the layout of the open space as per the PUD code. He stated the subdivision had been redesigned to accommodate the comments and concerns expressed in the Preliminary Plat hearing, and from the developers perspective, he has tried to do something that will be beneficial to the development and the public. He also spoke of a concern by the Commissioners regarding completing the external improvements outside the subdivision. Mr. Holmer felt completion of these improvements is covered in the Development Agreement that will be recorded upon approval. Regarding the road issue, he believed the only concerns were that the design comply with all engineering requirements and that there was legal access. He felt the specific engineering and design information submitted to the County Engineering department is in accordance with the requirements of the County codes and will receive preliminary approval from the County Engineer. Mr. Holmer also stated he has provided the County with the appropriate deeds showing access to property to the south, a recorded easement, and title insurance policies ensuring access to the south. Addressing the rental homes, he pointed out if the developer were to simply divide the lots up in a cookie cutter style, a guest unit would be allowed on each lot. Therefore, the benefit of developing a PUD should not be restricted further than the 2.5 acre option in regards to accessory dwelling homes.

Ms. Stevenson commented the newest Title 8 requirements would apply regarding accessory dwelling units. Mr. Holmer commented the developer is willing to comply with the new Title 8 requirements if necessary. Mr. Moore felt the square footage restrictions contained in the current Title 8 Zoning Regulations would apply.

Ms. Diane Temple, Nelson Engineering, wanted to review some engineering changes since the plat was last submitted. She stated they have provided Teton County Engineering Dept. with full design engineering drawings for the road based on the specific requests of the Engineering Department when they met on-site. The second change was adding revegetation items to the storm water and erosion sheet to address disturbed areas within the development with the proposed construction, including cost estimates to revegetate the area. The third item changed was a revision of cost estimates on off-site improvements, separating them from on-site improvements, for bonding and financial surety requirements. They have also added cost estimates for top soil replacement, revegetation, and final grading to address the revegetation of the open space.

Ms. Rene Magee, a public agency planner, discussed her education, background and experience as a planner. She wanted to discuss the open space plan and how it meets the current requirements. Ms. Magee presented a power point presentation to address the issues of the three separate areas of open space proposed and how they conform to the purpose and requirements of the ordinances and the comprehensive plan of Teton County. She first went over the sections of the zoning ordinances she felt were applicable and met, based on the current design. She then compared the sections of the comprehensive plan policies applicable. She pointed out the views protected by the open space would not be there if the development is split up into the 2.5 acre lots allowed under the current zoning designation. She pointed out that open space #2 and #3 protect sagebrush and associated wildlife. She then discussed Lot 7 concerns and pointed out the

10,000 sq. ft. building envelope. The clustering of lots 8, 9 & 15 were discussed last. She felt the view corridor from 1500 E .was preserved based on the relocation of those lots. She summarized the benefits of the site design and felt the open space plan followed the principals set forth in the ordinances and the comprehensive plan. She also spoke briefly about accessory dwelling units stating she felt the proposal in the staff report was very creative and she understood the logic on how it relates back to the purposes of the PUD. In order to promote the concept of clustered development and PUD design, she did not feel it was appropriate to penalize the developer by not allowing the accessory dwelling units when they would be allowed if the development was simply divided into 2.5 acre lots. The zoning ordinance allows accessory dwelling units on lots over 1 acre and all the lots proposed in Grouse Landing are over 1 acre.

Mr. Tom Ulrich, developer, explained his background in biology and eco systems preservation. He discussed other developments in the area that were not developed as a PUD and had no open space or wildlife habitat preserved. Mr. Ulrich stated for his benefit, his family's benefit, and the benefit to the public he chose to take the more progressive course and develop Grouse Landing as a PUD. He also pointed out he owns the property free and clear and would be personally financing completion of the improvements.

Public Comment:

Mr. Hensel reiterated that the purpose of the meeting, based on the input from the County Commissioners when they remanded the application back to the Planning Commission, was to discuss the open space, the guest housing, and the setback changes.

In Favor: None.

Neutral: None

Opposed: Mr. Terry Randall, owner of 21 acres north of Grouse Landing, commented on the purchase his property in 1999 and the subsequent building of his dream home in 2001. He discussed planting of extensive landscaping and his intent to continue adding landscaping to his property. He stated his biggest concerns were with the setbacks, guest houses, and the impact on his views. He felt the PUD proposal was inconsistent with the existing developments between 4000 N. and 5000 N. from Hwy 33 all the way to State Line Road, pointing out the existing lots range in size from 2.5 acres to 20 or more acres. He was extremely concerned with his views and the proximity of the proposed lots to his home. He requested the Commission require 60' setbacks between homes and not allow guest houses. He also expressed concern about the cost of maintaining the road that will access the entrance to Grouse Landing, pointing out there is not a shared maintenance agreement in place and the County will not maintain the road. Mr. Hensel recommended that Mr. Randall speak again to the Board of County Commissioners and voice his concerns at the next hearing before the Board.

Ms. Anna Trentadue, speaking on behalf of VARD, wanted to make a comment for the record regarding the Commission's determination that they would not be discussing the road issues and felt it was appropriate for discussion. She also stated for the record that, to date, there is no shared road maintenance agreement and pointed out that the developer does not have a confirmed road access in the form of a decreed easement to the proposed subdivision, which Ms. Trentadue stated has been confirmed. She commented that this was one of the last subdivisions submitted under the 2007 ordinance and pointed out that 10 letters of objection have been submitted to the County. She cited statistics regarding platted subdivisions and the percentage of lots built out within one square mile of the proposed subdivision. Ms. Trentadue questioned how the Commission could plan for a project that she believed was not viable. She stated that there would not be 15 lots allowed if the property were developed with 2.5 acre lots after subtracting the acreage taken up by roads. She then discussed the purpose of open space and the application of such in the proposed development. She questioned the Commission's goals in approving the open space, commenting she did not feel the open space was designed to protect scenic vistas as called upon in the comprehensive plan and Title 9. Ms. Trentadue next discussed guest houses and read sections from the 2007 zoning ordinance regarding authority to limit guest houses. She also read from section 9.49 of the 2007 code regarding landscaping to buffer the development from neighbors to protect view corridors and vistas. She felt the Commission had the authority to place a prohibition on additional structures as well as height and footprint limitations. She ended with a public policy argument, questioning the PUD process and public benefits in exchange for a density bonus and flexibility in design. Her final point was the economic viability of the proposed project, and stated the proposed application would require a substantial investment in converting property that will not likely be sold any time in the near future. She felt it was the duty of the Commission to take into account the viability of the project.

Rebuttal:

Ms. Magee commented on balancing interests when proposing a cluster housing development with adjacent property owner interests. She pointed out the benefits to owners on the east and west from the clustering and the open space provided versus a conventional subdivision design. She also discussed the issue of lots that have not been sold or built on and how that could be used as an argument or public policy decision to not allow creation of new lots in the County. Ms. Magee did not feel this should be a consideration until such time as there is a standard adopted by which that becomes a consideration. She also did not believe a single family home would not likely pay for itself even on larger lots.

Mr. Holmer commented the Grouse Landing HOA will provide for all maintenance on 1500 E., south of their development to the intersection of 4000 N. Mr. Holmer also commented on the issue brought up by Ms. Trentadue about a road decree from some court regarding the access and stated there is no requirement he is aware of for that type of documentation. He also presented the deeded easement for access and title insurance policies for the record. His last issue was discussing unsold lots and failed subdivisions,

believing that should not be taken into consideration in the approval process. He felt that only the current zoning ordinances and comprehensive plan should be considered.

Mr. Moore read from the 2007 code relating to the condition of the access road, section 9.4.11 titled Access, subsection A. His point was that the code does have access requirements for legal and physical access, and the County Engineer will use the code when making his decision.

Deliberation:

Mr. Arnold stated he was present during the Commission's original approval and he had not changed his mind about the open space, feeling it works and is acceptable as designed. He supported the elimination of accessory dwellings based on the reduced setbacks requested and the impact on the view of adjacent owners when it is possible to build a home so close to the side lot line. He did not have a problem with accessory dwelling units if no setback variance was approved.

Ms. Stevenson felt the open space clearly met the requirements in the County codes in place at the time the application was submitted. As to accessory dwellings units being allowed, she felt the neighbors concerns with views were valid. Because of the clustering, small lot sizes and neighbors concerns about views, she was still in favor of not allowing accessory dwelling units. She commented she was not sure what the setback issues were that needed to be discussed.

Mr. Johnson commented he felt the PUD design criteria in this proposed development meets the ordinance requirements and intent. He felt the amount and design of the open space was meaningful and followed the intent for a PUD design. He questioned the size of proposed accessory dwelling units as stated in the CC&R's, which state units can be no larger than 800 sq. ft. on the main floor. He pointed out that the zoning ordinances allow an accessory unit on lots larger than 1 acre, and allows the dwelling unit to be up to 1500 total sq. ft. Regarding setbacks, he agreed with Ms. Stevenson and commented he was not sure what the setback issues were and how they impacted the proposed design.

Mr. Holmer commented the setback variance was not part of the reason the Board remanded the application back to the Commission. Mr. Holmer read from the April 13th minutes regarding setbacks and Ms. Stevenson pointed out that approval was remanded back to the Commission so comments made during the April 13th hearing were null and void.

Mr. Hill read a portion of the current ordinance 9.5.2.E regarding open space parcels. He then asked if that language was present in the 2007 ordinances. Mr. Moore commented that language was not in the 2007 ordinance but, in the 2007 code 9.7.7 regarding contiguous lands, he stated there is different wording but phrases within are similar. He felt there was more leeway in the 2007 code regarding open space. Mr. Hill commented he struggled with the proposed open space plan and felt there are unique natural features on the property and areas that should be preserved in the open space plan, such as the

sagebrush swale, that are not. He felt lots 8, 9 & 15 would be ideal for preservation, especially in conjunction with adjacent properties that have yet to be proposed for development. Based on the language in the 2007 code allowing the Commission the discretion for preservation of open space, he felt that open space should be designed for maximum preservation. He commented that based on the language in the 2010 code, the statement he had a hard time getting past was the intent to preserve open space to the maximum intent feasible, and did not feel the proposed design met that criteria. Regarding the accessory dwelling units, he felt the visual impacts and the potential to double the density was cause for concern and not allowing accessory dwelling units.

Mr. Colyer had a problem with the thin strip of land approximately 60' wide designated as open space, feeling it was not large enough to be considered open space. Overall, he felt that the amount of open space provided addresses the intent of the 2007 ordinances as far as protecting views, buffering the development, and being configured in a manner that addresses the 2007 ordinances. He stated he would not support modifying standard setbacks, but would support accessory dwelling units that are restricted in size. He would support modifying setbacks if accessory dwelling units were eliminated. Mr. Arnold agreed with that approach.

Mr. Hensel commented he was comfortable with supporting the open space as proposed, feeling it provides a meaningful protection of natural vegetation and preservation of views. He felt the County should encourage cluster development, even though it will cause certain areas to have higher density potentially affecting some adjacent property owners. He also pointed out that the density in the proposed PUD design was no higher than if the developer had done a standard 2.5 acre subdivision. As far as whether or not to allow accessory dwelling units, he stated he is a believer in allowing "rental units" on a lot. He suggested requiring accessory dwelling units be attached to the primary dwelling unit if allowed.

Mr. Johnson commented he liked the idea of allowing a second dwelling if it was attached to the main home to eliminate the number of structures that could be built on a lot. He understood the intent of the 2010 ordinance regarding accessory dwelling units and did feel they were appropriate. Mr. Hensel added the only way to achieve a one acre lot is through the PUD process, and that process allows requiring the accessory dwelling unit be attached to the primary dwelling unit. Mr. Colyer was not sure that was a good way to conduct business, he felt the applicant should not be held to stricter requirements than those allowed in the approved ordinances for the rest of the County. He did feel standard setbacks should be enforced, especially in a PUD cluster design.

Ms. Stevenson asked the applicant to address the setback variance. Mr. Holmer stated the code specifically allows the request for a variance so that was why it was requested. They asked for the variance to allow more flexibility as to where to allow placement of the residence within the building envelope.

Motion: Mr. Hensel moved to recommend approval of the Grouse Landing PUD as drawn. On the first part the Commission believes that the open space is significant and

meaningful and protects a large part of “native” sage brush vegetation, it provides buffering for neighboring subdivisions to the east, south, and partially to the northwest, and protects the view shed and fits in to a meaningful degree of the land contours. On the second issue regarding accessory dwelling units, the Commission recommends that they be allowed and restricted to no more than 800 sq. ft. and a single story in height if detached, and remove the former recommendation of allowing a setback variance and require standard setbacks.

Ms. Stevenson wanted to clarify if accessory dwelling units that were attached could meet the Title 8 ordinance requirements of no more than 1500 sq. ft. Mr. Hensel stated the intent of his motion was that it could be no more than 800 sq. ft. and a single story if detached, and comply with the Title 8 ordinance dated 2010 restricting the square footage to 1500 sq. ft. if attached. She questioned the limitation of 800 sq. ft. and Mr. Hensel stated that was based on what was written in the CC&R’s for Grouse Landing and the one story limitation was based on neighboring property view corridor concerns.

Mr. Arnold seconded the motion.

Motion Discussion:

Mr. Colyer questioned the restriction of accessory dwelling units when encouraging a PUD design, restricting a detached unit to 800 sq. ft. and one story. Mr. Arnold felt the compromise in allowing the accessory dwelling units was to minimize the impact on the view corridor. Mr. Johnson suggested restriction to a single story but allowing the square footage to be 1500 sq. ft., as stated in the 2010 ordinance.

Mr. Hensel felt the PUD design was a much better approach than the cookie cutter subdivisions and this type of development should be encouraged. He did not feel putting a restriction on the secondary dwelling unit was unreasonable. He did comment he would amend his motion on the secondary dwelling unit restriction based on the input from the Commission. Mr. Arnold felt if the motion had the standard setbacks he would support the single story restriction, but using the current ordinance allowance of 1500 sq. ft. Ms. Stevenson agreed with Mr. Colyer’s comments on supporting the allowances of the 2010 Title 8 on the square footage restrictions, but agreed with the single story restriction.

Vote: The motion was denied in a 5-1 vote.

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recommendation of allowing a setback variance and require standard setbacks. Mr. Arnold seconded the motion.

Vote: The motion was approved 5-1.

Mr. Hill commented his opposed vote was based on not being comfortable with the density the accessory dwelling unit allowance would create.

PUBLIC HEARING: City of Driggs Area of Impact/Interest

Mr. Moore commented he received a phone call from the County Attorney about concern over the Area of Interest, which is not in the statutes.

Mr. Doug Self, Driggs Planning & Zoning Administrator, stated he spoke to Ms. Spitzer before the hearing and she did not express any concern to him over the Area of Interest. The Area of Impact was originally adopted in 1995 along with an agreement defining which ordinances and plans apply in that area. It was decided both the City and County ordinances would apply to that area and which ever was the more restrictive ordinance would apply. He stated in 2004, after Targhee Ridge Estates was approved, land owners complained to the City so the density in that area was down zoned from R-1 to ADR (Average Density Residential). At the same time a new agreement was adopted stating that the City of Driggs Comprehensive Plan and ordinances would apply in the Area of Impact. Since that time, the City has adopted a Comprehensive Plan. Mr. Self read the section of the Comprehensive Plan that related to the Area of Impact. The intention was to direct growth to within the City proper. He discussed the proposed increase of the area of impact in order to prevent sprawl and possible rezoning by the County in these areas. On December 8, 2010 the Driggs Planning & Zoning Board recommended to the Driggs City Council to keep the existing impact area boundaries with the exception of adding Huntsman Springs and to exclude the old County landfill. He stated he has also discussed with Mr. Moore the possibility of having a two tiered area of impact in the future in order to keep the growth tight in the City and keep down the cost of maintaining infrastructure.

Mr. Hensel questioned if the City would provide water and sewer services to any area within the impact area proposed. Mr. Self stated that would be decided on a case by case basis on the sewer if a land owner wants to extend the lines, and water would need to be in the City limits or adjacent before allowing a hookup.

Mr. Colyer asked if Huntsman Springs contacted the City with their opinion. Mr. Self stated they have met with Huntsman Springs and they are in favor of being included in the proposed Area of Impact.

Public Comment:

Ms. Anna Trentadue, representing VARD, said she was in favor of having Huntsman Springs in the Area of Impact. She pointed out that over past two years, 42 building

