



**PLANNING COMMISSION AGENDA
CITY HALL AUDITORIUM, 250 NORTH 5TH STREET**

TUESDAY, February 9, 2016 @ 6:00 PM

Call to Order – 6:00 P.M.

*****CONSENT CALENDAR*****

1. Minutes of Previous Meetings

[Attach 1](#)

Action: Approve the minutes from the January 12, 2016 Planning Commission Meeting.

*****INDIVIDUAL CONSIDERATION*****

2. Daisy Center Appeal

[File # APL-2015-552]

[Attach 2](#)

Appeal of Final Action on Administrative Development Permit regarding approval of an Administrative Permit to open a group home for up to 16 girls on 0.984 acres in an R-8 (Residential 8 du/ac) zone district.

Action: Approval or Denial of Appeal

Appellant: Colorado Land Advisor LLC
Jeffery Fleming, Representative (43 signatures included in the Appeal)
Applicant: Jenny Brinton
Location: 643 27 1/2 Road
Staff presentation: Senta Costello, Senior Planner

3. Nonscheduled Citizens and/or Visitors

4. Other Business

5. Adjournment

Attach 1

**GRAND JUNCTION PLANNING COMMISSION
January 12, 2016 MINUTES
6:03 p.m. to 7:08 p.m.**

The meeting of the Planning Commission was called to order at 6:03 p.m. by Chairman Christian Reece. The public hearing was held in the City Hall Auditorium located at 250 N. 5th Street, Grand Junction, Colorado.

Also in attendance representing the City Planning Commission were Ebe Eslami (Vice-Chairman), Kathy Deppe, George Gatseos, Aaron Miller and Bill Wade.

In attendance, representing the City's Administration Department - Community Development, were Greg Moberg, (Development Services Manager), Brian Rusche (Senior Planner) and Senta Costello (Senior Planner) and Lori Bowers (Senior Planner).

Also present was Jamie Beard (Assistant City Attorney).

Lydia Reynolds was present to record the minutes.

There were 8 citizens in attendance during the hearing.

Announcements, Presentations And/or Visitors

There were no announcements, presentations and/or visitors.

Consent Agenda

1. Minutes of Previous Meetings

Action: Approve the minutes from the October 13, 2015 Planning Commission Meeting.

2. Grand Junction Skilled Nursing Facility – CUP [File # CUP – 2015-477]

Approval of a Conditional Use Permit for a Physical Rehabilitation – Residential Facility.

Action: Approval or denial of CUP

Applicant: West of the Rockies, LLC
Jay Moss, Owner
Location: 606 E. Foresight Circle
Staff presentation: Senta Costello, Senior Planner

3. Amendment to 21.02.110 & 21.06.070 of the Zoning and Development Code

[File # ZCA-2015-421]

Request to amend the Grand Junction Municipal Code, Section 21.02.110 Conditional Use Permit (CUP) and Section 21.06.070(g)(5) Planning Developments and Conditional Uses.

Action: Recommendation to City Council

Applicant: City of Grand Junction
Location: Citywide
Staff presentation: Lori Bowers, Senior Planner

Chairman Reece briefly explained the Consent Agenda and invited the public, Planning Commissioners and staff to speak if they wanted an item pulled for a full hearing.

With no amendments to the Consent Agenda, Chairman Reece called for a motion.

MOTION:(Commissioner Wade) “Madam Chairman, I move that we accept the Consent Agenda as presented by the Commission.”

Commissioner Deppe seconded the motion. A vote was called and the motion passed unanimously by a vote of 6-0.

*****INDIVIDUAL CONSIDERATION*****

Greg Moberg (Development Services Supervisor) requested that the Planning Commission table item number 6 (six) to January 26, 2016. Mr. Moberg explained that this item is the Christian Living Service, Outline Development Plan.

Chairman Reece asked for a motion to table the item to a future meeting.

MOTION: (Commissioner Wade) “Madam Chairman, I so move”

Commissioner Gatseos seconded the motion. A vote was called and the motion passed unanimously by a vote of 6-0.

4. Fox Meadows Zone of Annexation, Located at 3175 D ½ Road [File ANX-2015-455]

Request to zone 8.309 acres from County RSF-R (Residential Single-Family Rural) to a City R-5 (Residential 5 du/ac) zone district.

Action: Recommendation to City Council

Applicant: Grand Junction Real Estate Investments, LLC
Staff Presentation: Brian Rusche, Senior Planner

Brian Rusche, (Senior Planner) explained that the Fox Meadows Annexation is a two-part

Annexation in the Pear Park Neighborhood. Annexation number 1 (one) is right-of-way within D ½ Road and Annexation number 2 (two) is one parcel, approximately 8.039 acres. Mr. Rusche noted the property owner has requested annexation into the City with a zoning of R-5 (Residential 5 du/ac) to facilitate the development of this parcel.

Mr. Rusche pointed out that the property is currently agriculture and includes a single family home. Neighboring uses includes agriculture and residential uses. The Future Land Use Map in the Comprehensive Plan, shows this area as Residential-Medium with a density range of 4-8 dwelling units per acre. This designation is consistent with the Pear Park Neighborhood Plan.

Mr. Rusche stated that the proposed zoning of R-5 is consistent with the zoning and/or density of existing neighboring residential subdivisions which are already in the City limits. Mr. Rusche pointed out that is also consistent with the Dove Creek subdivision which is in Mesa County. Mr. Rusche noted that properties east of the proposed annexation are located outside the Persigo Agreement boundary.

Findings of Facts and Conclusions

Mr. Rusche stated that after reviewing the Fox Meadows Zone of Annexation, it is his professional opinion that the proposed annexation is consistent with the goals and policies of the Comprehensive Plan, and meets the majority of the review criteria of the Grand Junction Municipal Code as outlined in his staff report.

Chairman Reece asked the Planning Commission if they had questions for staff at this time. With no questions presented, Chairman Reece asked if there was a presentation from the petitioner.

Mr. Rusche stated that the petitioner was present and was available for comment.

Steve Voytilla, Grand Junction Real Estate Investments LLC, stated that he is the petitioner for this annexation and he believes there is a big demand for buildable lots.

Chairman Reece asked the Planning Commission if they had questions for the applicant at this time. With no questions for the applicant, Chairman Reece stated that she would like to open the meeting for public comments.

Public Comment

Chairman Reece opened the meeting for the public comment portion and asked for anyone in favor of the project to line up at the podium. Having no one respond, Chairman Reece asked for those against the proposal to sign in and speak.

Karl Antunes, 3169 D ½ Road, stated that he had no problem with developing the land, however he is not in favor of the annexation. Mr. Antunes held up several papers and stated that he had a petition signed by neighbors that are against the annexation. Mr. Antunes stated that he feel they are fast tracking the proposal for some reason.

Mr. Antunes stated that he received a notification card that indicated he only had until November 13th to have his questions answered. Mr. Antunes recalled a conversation with Mr. Rusche who stated that the cards were mailed out late. Mr. Antunes stated that when he explained to Mr. Rusche that the City was closed on November 11th, Veterans Day, therefore he only had two days to ask questions and have them answered, Mr. Rusche reassured him they would extend the date to receive comments.

Mr. Antunes stated that he went back to the Planning office and requested to get the extension in writing, however he was told Mr. Rusche had gone home early that day. Mr. Antunes stated that he expressed his concern about not having a paper trail, and the person he spoke with said that he knew it was all moving too fast. Mr. Antunes stated that he wanted to know why.

Mr. Antunes stated that the people who he has talked to around that property do not want to be a part of the City. Mr. Antunes said he was tied into the city sewer. He also stated that Chatfield II subdivision is directly across from his driveway and is in the County, but has city sewer as well. Mr. Antunes stated that the proposed property has sewer going to it already, so they only need to extend the line therefore there is no need for annexation. He did not see why there is a need to annex this property when there are 37 surrounding homeowners who have expressed they do not want to be annexed into the City.

Mr. Antunes stated that he felt there is no benefit to being in the City other than an increase in property taxes and the County doesn't drop any of their taxes when property is annexed. He felt the County does not fight to keep you in the County because they get the same amount of taxes and don't have to provide services.

Mr. Antunes expressed concern that the developer has a picture of his property where two lots are plotted out when he was never approached about that. He stated that it had nothing to do with the proposed development. Mr. Antunes asked if the City is requesting that, shouldn't they have to buy his property before they start planning on what is going to be done with his property.

Commissioner Eslami requested that staff back up the presentation slides to display the proposed development map. Mr. Antunes stated his property was the large parcel just to the west of the proposal. He stated that there are two different variations with two dead end streets that abut his east property line.

Mr. Antunes stated that they already have his property planned out and one of the plans is to have a cul-de-sac down on the end with 4 (four) City lots. A second plan has a straight road coming in off the back, with 3 (three) lots and then a road going north to D ½ Rd with no access to D ½ Rd. He stated that they said it could be multifamily to the North, so basically it would be 7 houses, or two multifamily on the street.

Mr. Antunes again expressed concern that his property was being planned for possible future development when he owns it. Mr. Antunes stated that the people who signed his petition and don't like the City, moved to the County for a reason. Mr. Antunes stated that regarding the Persigo Wastewater agreement, the City Charter on page 27, Article 12, Department of Water and Sewer, number 4 (four) states "all consumers of water for domestic use outside of

the City limits shall pay not more than double the rates, so established and fixed” so they can offer the City water and sewer, that’s what the Charter does, gives the City power. Mr. Antunes stated that his property, Chatfield II Subdivision to the north and Dove Creek to the west are all in the County and have City sewer, so annexation of the proposed property is not necessary for development.

Chairman Reece asked the Commissioners if there were any questions. Commissioner Eslami asked Mr. Antunes if they were encroaching on his property. Mr. Antunes replied that they are not encroaching, but questioned why there are showing development on his property. Commissioner Eslami stated that they cannot encroach on his property, but they can do what they want with their own property with approval.

Mr. Antunes stated that his second question was regarding his irrigation. He stated that the Planning Commission, when developing the property to the west, was requiring a pipe because his return irrigation was across the top of the property, just behind his fence. He stated that the developer was going to put in a pipe and bring it to the return ditch which used to be behind that property. Mr. Antunes stated that while he was at work, they came in and V-ditched across the back of his property and just dumped it onto where they are going to annex now. Mr. Antunes said he went to the meeting and said they needed to get it into a pipe that would go across everyone’s backyard, all along the west side of the proposed annexation property. Mr. Antunes wants to be assured that the pipe is in before the sale of homes, because the Planning Commission said they would do that with the property to the west, but they never did. He stated they trespassed and V-ditched and that was it. Mr. Antunes stated that they will have to fill some of that in, and he wants to know where his irrigation will be going now and wants a guarantee that someone is going to put a pipe in and get the irrigation down to the return.

Commissioner Wade asked Mr. Antunes that when he said the Planning Commission said they were going to put a pipe across....Mr. Antunes clarified that the Developer said he was going to, however the Planning Commission approved it as well as City Council.

Mr. Antunes stated that when he complained to the Planning Department that the pipe didn’t get put in, they basically said “oh well”. Mr. Antunes stated that he wants a future pipe in writing.

Mr. Antunes stated that his zoning used to be Agriculture. When he received a green card regarding one of the developments, he was told at the Planning Department that it doesn’t concern him. Mr. Antunes said they changed his zoning and when he realized it and went to the Planning Department, they said “sorry, why didn’t you come down when we had the meetings?” Mr. Antunes stated that it does concern him and feels they had lied to him and he no longer has trust.

Commissioner Gatseos noted that Mr. Antunes was the only one in opposition to the proposed annexation. Mr. Antunes stated that there were 37 people on a petition that opposed it, and the point of getting their names was so they didn’t all need to attend the meeting. Commissioner Gatseos stated that he wanted to understand clearly what Mr. Antunes concerns are and that he cares about Mr. Antunes concerns as well as proper process. Commissioner Gatseos stated that Mr. Antunes covered a lot of issues, and would

like Mr. Antunes to list in priority, what his concerns are. Mr. Antunes referred to a video tape of a City Attorney lying to him regarding a different matter. Mr. Antunes stated that the law says there has to be a meeting, but the law doesn't say you have to listen to them.

Commissioner Gatseos stated that he understands Mr. Antunes is unhappy with the City and asked if there are other reasons. Mr. Antunes explained that he feels there is no need to annex since the property already has City sewer.

Commissioner Eslami stated that there are other services the development can get from the City such as Police protection. Mr. Antunes stated that he lives there and they already have County, State and City police in the area writing tickets. He also noted a drunk driver had hit a piece of his equipment and he has yet to be contacted about it.

Commissioner Deppe wished to confirm that one of his concerns is the irrigation. Mr. Antunes restated that he wants a pipe to go in with any new development.

Chairman Reece asked the petitioner for a rebuttal.

Applicant Rebuttal

Mr. Voytilla stated that he was not the developer who created a V-ditch on Mr. Antunes property and has never been on that property. Mr. Voytilla added that the developer Mr. Antunes would be referring to was the one who developed the Dove Creek property to the West. Mr. Voytilla stated that Mr. Antunes believes that this annexation will annex him into the City. Mr. Voytilla clarified that his development company is only interested in annexing their own parcel, as required by the City, in order to proceed with the development of it. Mr. Voytilla stated that he assumes he will need to pipe the irrigation between his property and Mr. Antunes property and he will comply if it is required.

Questions for Staff

Commissioner Wade asked Mr. Rusche if the petitioner requested the annexation because they wanted to be part of the City. Mr. Rusche confirmed that it is a voluntary petition, and wished to remind the Commission that the proposal is for the Zone of Annexation which is a component of the annexation and ultimately will be forwarded to the City Council. Commissioner Wade noted that development of the property is not the current proposal.

Commissioner Eslami asked if this is approved, would they be most likely next be looking at development. Mr. Rusche stated that if the property is annexed into the City, and if the requested zoning is approved by the City Council, then any development proposals would be evaluated against that zone district. Mr. Rusche clarified that the evaluation would include items such as lot size as well as related infrastructure, extension of the sewer, access and irrigation as well as any clean-up items that need to be addressed. Mr. Rusche explained that the City would address impact on neighboring properties regardless of whether those properties are in the City or not.

Commissioner Eslami inquired if the City would ask for an easement, on the neighboring property for example, to put an irrigation pipe in if that was needed. Mr. Rusche stated that

there are easements or other options that could address the conveyance of water. Mr. Rusche reminded the Commission that subdivisions are an administrative process under the Code. Should the Planning Commission chose to forward a recommendation of this zoning and the City Council chooses to approve, all the remaining work with the developer will be done at an administrative level. Mr. Rusche stated that there are processes in place that would allow a citizen to appeal decisions of the staff.

Commissioner Gatseos asked Mr. Rusche to point out the exact area that is the proposed property for annexation. Mr. Rusche pointed to the map and described the boundaries of the parcel. Commissioner Gatseos asked if the properties east of the proposed annexation were in the City. Mr. Rusche stated that those parcels are in the County and the eastern property line is actually the boundary line of the Persigo Agreement.

Commissioner Deppe asked why the neighboring property owner did not realize that he was not part of the annexation if he has been down to the Planning Department several times. Mr. Rusche stated that the gentleman would be the one that could clarify that. Mr. Rusche stated that the dates on the cards that are sent out are established when the initial review process is started and that they are a courtesy card. Subsequent to that, another postcard is sent to notify area property owners of the Planning Commission meeting. With respect to the actual zoning of the subject property, (Fox Meadows) the County Zoning is currently RSF-R (Single Family Rural) which is the same as Mr. Antunes neighboring property to the west.

Commissioner Deppe asked if Mr. Antunes chose to develop his property in the future, would he have the option to annex or would he be forced to annex into the City at that time. Mr. Rusche stated that the structure of the Persigo Agreement indicates that annexation is necessary and good for the development of the community. Mr. Rusche explained that the trigger for that is subdivisions of more than one lot. That determination would need to be made at the time he proposed to do something with the property. Mr. Rusche stated that annexation is not automatic and that there is a process in State law that addresses annexations, and that the City and the County have an agreement as to how they would like to see that process go.

Commissioner Gatseos noted that the final say for annexation is City Council. Mr. Rusche confirmed that.

With no further questions, Chairman Reece closed the public hearing portion of item number 4 (four) and asked for a Motion.

MOTION:(Commissioner Wade) “Madam Chairman, I move that the Planning Commission forward a recommendation to the City Council for approval of the Fox Meadows Zone of Annexation, ANX-2015-455.”

Commissioner Eslami seconded the motion. A vote was called and the motion passed by a vote of 5-1.

5. Fox Meadows Access Plan Amendment, Located at 3175 D ½ Road

[File #CPA-2015-456]

Request a Comprehensive Plan Amendment to amend the Pear Park Neighborhood Plan, an element of the Comprehensive Plan, to revise the access point to D ½ Road from property known as Fox Meadows, consisting of 8.309 acres, in a County RSF-R (Residential Single-Family Rural) zone district.

Action: Recommendation to City Council

Applicant: Grand Junction Real Estate Investments LLC
Staff Presentation: Brian Rusche, Senior Planner

Staff Presentation

Mr. Rusche explained that this request is a companion request to the previous request for the Zone of Annexation to the Fox Meadows property. This is a request to provide direct access to D ½ Road as part of a future subdivision. The property has an existing agricultural access, and a stub street to the south which comes from the Dove Creek subdivision to the west.

Mr. Rusche noted that the Comprehensive Plan shows that future residential development is expected in this area. This request has to do with the 2004 Pear Park Transportation and Access Management Plan (TAMP) which is part of the Pear Park Neighborhood Plan. The

TAMP became part of the Grand Valley Circulation Plan (GVCP) at adoption. The purpose of the TAMP was to identify intersections and access onto major streets within Pear Park, with the goal of maintaining street capacity, resulting in a more efficient use of infrastructure.

Mr. Rusche showed on a map how the current access on D1/2 Road from Mr. Antunes property lines up with the Chatfield II subdivision. Upon further review of the proposed plan, the Development Engineer noted "The current proposed access configuration in the TAMP will work (i.e. meets Minimum TEDS intersection spacing requirements) but creates potential overlapping left turn movements in the two way center left turn lane on D 1/2 Road. Moving the proposed access on the south side to approximately the center of the 3175 D 1/2 Road property ultimately creates a safer driving situation and allows development now without having to partner with the 3169 D 1/2 property."

Mr. Rusche clarified that this is a request for an amendment to the 2004 Pear Park Transportation and Access Management Plan (TAMP) to revise the access point D ½ Road east from property known as Fox Meadows, located at 3175 D ½ Road.

Mr. Rusche noted that the Fox Meadows development will be required to provide a stub street to 3169 D 1/2 Road. Mr. Rusche explained that this will not affect Mr. Antunes personal driveway or his current access to D ½.

Mr. Rusche concluded that approval of this amendment will provide direct access into a future residential subdivision, while eliminating potential overlapping left turn movements on D ½ Road, ultimately creating a safer driving situation.

QUESTIONS FOR STAFF

Commissioner Eslami asked if the black arrow on the map represented Mr. Antunes access to his property. Mr. Rusche clarified that the arrow represents the presently approved future access point for an entire stretch of road, not just for Mr. Antunes property.

Commissioner Eslami asked how Mr. Antunes would be able to access his property if the access is moved. Mr. Rusche explained that Mr. Antunes would be able to maintain his existing access to D ½ Rd until such time that development takes place. Fox Meadows will be required to provide a stub street to Mr. Antunes property as part of the TAMP plan. The TAMP plan looks at the entire neighborhood circulation and indicates where access should occur.

Commissioner Wade asked Mr. Rusche if the two proposals being considered would allow Mr. Antunes to maintain his existing access to his property providing he does not choose to develop his property. Mr. Rusche confirmed that statement.

Commissioner Gatseos asked Mr. Rusche what the reasons were to move the Road. Mr. Rusche stated that the primary reason to move the access is to improve safety along D ½ Road. Mr. Rusche stated that if the plan was not modified, Fox Meadows only access point would be to the south that would not have accessibility to the broader street network. In the 10 years since this plan was adopted, there is a better understanding how this area is developing.

Commissioner Gatseos summarized that it is his understanding that moving the access is to address development in the larger area and for safety reasons. Mr. Rusche stated that was correct.

Commissioner Deppe asked if the petitioner for both of the requests was the same developer. Mr. Rusche stated that it is the petitioner requesting both items, not City initiated, to accomplish their development.

Applicant Comments

Mr. Voytilla wished to clarify that his development proposal will not change Mr. Antunes access to his property. Mr. Voytilla stated that he is required to put in a stub street to Mr. Antunes property otherwise that property is not a part of his proposal.

Chairman Reece asked if there was anyone who wished to speak in favor or against this item. With no one wishing to speak, Chairman Reece closed the public hearing portion of the discussion.

Chairman Reece called for a motion.

MOTION:(Commissioner Wade) “Madam Chairman, I move that we forward a recommendation to City Council for approval of the Fox Meadows Access Plan Amendment, located at 3175 D ½ Road file number CPA-2015-456.”

Commissioner Gatseos seconded the motion. A vote was called and the motion passed unanimously by a vote of 6-0.

General Discussion/Other Business

Chairman Reece reminded the Commission that the Christian Living Service, Outline Development Plan has been continued and has been rescheduled for January 26, 2016.

Greg Moberg, Development Services Manager, reminded the Commission that there will be a workshop on January 21st.

Nonscheduled Citizens and/or Visitors

None

Adjournment

The Planning Commission meeting was adjourned at 7:08 p.m.



Date: January 21, 2016
 Author: Senta Costello
 Title/ Phone Ext: Senior Planner / x1442
 Proposed Schedule: February 9, 2016
 File # (if applicable): SPN-2015-217

Attach 2

PLANNING COMMISSION AGENDA ITEM

<p>Subject: Hearing - Appeal of the Director’s Decision on a Site Plan Review Approval Issued to the Daisy Center, Located at 643 27 ½ Road [This is a discussion among the Planning Commission, no additional public testimony will be accepted.]</p>
<p>Action Requested/Recommendation: Consideration of the Appeal</p>
<p>Presenter(s) Name & Title: Senta Costello – Senior Planner Shelly Dackonish – Senior Staff Attorney</p>

Executive Summary:

Appeal of Final Action on Administrative Development Permit regarding approval of an Administrative Permit to open a group home for up to 16 girls on 0.984 acres in an R-8 (Residential 8 du/ac) zone district.

Procedural Background and Options:

May 15, 2015, the Community Development Division received a request from Jenny Brinton (the Applicant) to establish a Large Group Living Facility for up to 16 girls who have been placed for foster care. On December 4, 2015, staff finalized review of the Daisy Center request and granted a conditional approval. The decision letter is attached and incorporated herein by this reference.

On December 18, 2016, an appeal of that decision was filed with the Community Development Division. A copy of the appeal letter is attached incorporated herein by this reference, including all attachments thereto. The applicant responded to the appeal on January 4, 2016, which response is also attached and incorporated herein by this reference.

The Planning Commission hears and decides appeals of administrative development decisions in accordance with Section 21.02.210 of the Grand Junction Municipal Code. In considering an appeal, the Planning Commission shall consider only those facts, evidence, testimony and witnesses that were part of the official record of the decision-maker’s action. No new evidence or testimony may be considered, except City staff may be asked to interpret materials contained in the record.

The Planning Commission has three options on an appeal; it can either affirm the decision, reverse the decision, or, if the Commission finds that pertinent facts were not considered or made a part of the record, may remand the matter back to the decision-maker for reconsideration and direct that such facts be included in the record. In reversing or

remanding, the Planning Commission must state the rationale for its decision. An affirmative vote of four members of the appellate body shall be required to reverse the decision-maker's action.

On an appeal, the Planning Commission shall determine, considering only that evidence that was before the Director at the time of the decision, whether the Director:

- (i) Acted in a manner inconsistent with the provisions of this code or other applicable local, State or federal law; or
- (ii) Made erroneous findings of fact based on the evidence and testimony on the record; or
- (iii) Failed to fully consider mitigating measures or revisions offered by the applicant that would have brought the proposed project into compliance; or
- (iv) Acted arbitrarily, or capriciously.

Planning Commission received copies of the appeal, and a complete copy of the record for this project was made available for both Planning Commission and public review on December 29, 2015.

Analysis

The Director, through his designated staff members, fully reviewed and considered all the application materials, agency and public comments, the Applicant's responses to comments, and applicable provisions of the Zoning and Development Code prior to issuing the decision. The decision letter analyzes, based on evidence in the record, the applicable Code provisions and the neighbors/appellants comments received during the review process in detail and we do not attempt to repeat those here. To the extent the appeal letter makes claims not raised or specifically discussed before, those are addressed below. Support for these items are also in the record.

Appellants claim that the development application was not signed. The Applicant submitted a signed development application on July 6, 2015. That document is included in the record.

Appellants claim that a copy of the Applicant's deed was not submitted. The Applicant submitted a copy of the property deed on July 6, 2015. A copy of the deed is in the record.

Appellants claim that a change of ownership somehow renders the application incomplete. A copy of the new deed was submitted on October 12, 2015, conveying an interest in the property to the Applicant. A new ownership statement was not required as the documentation provided was and is sufficient to ensure that a property owner was aware of and consented to the development of the land as specified in the application.

Appellants claim that staff's failure to explain all of the various types of group living described in Section 21.04.030(p) renders the decision improper. The definitions first of all speak for themselves and do not require expounding; but more importantly explanation of types of

group living that do not apply to the project is completely unnecessary to a determination of this application.

Appellants claim that the stairs are unsafe. The appellants provide no support for that claim other than a conclusory statement; in contrast, the experts at the building department have approved all the applicant's modifications to the structure, and the structure has not been red-tagged or otherwise determined to be non-compliant with applicable building codes. The City's conditional approval of the change of use does not foreclose any further building inspection that may be required for state licensure of the facility; in fact the conditional approval expressly requires the Applicant to demonstrate state licensure as part of its annual group living registration. If at some future time the stairs or building become a safety issue for residents, that issue can be addressed by the building department at the appropriate time.

Appellants claim that a non-paved driveway makes the facility not ADA complaint. This is inaccurate. A vehicle can drive right up to the entrance to the handicap ramp.

Appellants claim that the facility's proximity to I-70 somehow defeats the application. Nothing in the Zoning and Development Code allows the Director to consider the proximity to an interstate as a factor in his decision. The zone district where the property is located is residential and allows group living. The proximity of the home to I-70 is irrelevant to the application.

Appellants claim that "The Daisy Center is seeking approval from Colorado State Juvenile Parole Boards Placement Manager Dennis Desparrois. Which is in conflict with this Code[sic]." No basis for the claim is provided, but regardless, the claim is irrelevant. The application is not for a detention facility, it is for foster care for girls. The property has not been and is not approved for use as a detention facility. The fact that a child in foster care at a group living facility (or in any other foster care situation) may have been charged with or convicted of a crime does not render the facility (or family home) where he or she lives a "detention facility." Not all crimes result in detention.

Appellants claim that "the property has been liened [sic] no less [sic] than 6 times for failure to pay obligations relating to the property on 27 ½ road [sic]." This claim is not relevant to determination of the application. The Zoning and Development Code does not authorize the Director to consider this as a factor in determining the application.

Appellants claim that a Stormwater Management Plan should have been required. This is inaccurate. Regardless of the size of the property, the applicant's remodel did not disturb more than 1 acre of property, and regardless of the presence of broken concrete on the ground, the ground cover is *established* as required by the stormwater management regulations. Broken concrete is not a "pollutant" within the meaning of any applicable regulation.

Review Criteria

The decision letter and the rest of the record clearly show that the Director applied all the applicable provisions of the Zoning and Development Code and other applicable law to the application and made a decision that was consistent with them.

All the Director's findings of fact are based on evidence in the record.

As demonstrated in the record and the detailed decision letter, the project is in compliance with the Zoning and Development Code and other applicable law.

The Director considered and applied all mitigating measures or revisions offered by the applicant, including: the Applicant replaced windows, replaced some siding with stucco, painted the home and relocated the dumpster to the north side of the property adjacent to the garage. None of these mitigating measures were required to bring the project into compliance with the Code, but do serve to enhance the compatibility with the newer parts of the residential neighborhood by updating an older residential home.

The Director carefully and deliberately considered all applicable provisions of the Code and did not act arbitrarily or capriciously.

Conclusion and Request for Relief

The Appellants have failed to show that the Director acted in a manner inconsistent with applicable law; that he made erroneous findings of fact or failed to consider facts that are relevant to the determination; that he acted arbitrarily or capriciously; or that he failed to consider mitigating measures that would have brought the proposed project into compliance. Therefore, the Director requests that the Planning Commission affirm the Director's conditional approval of the Applicant's proposed large group living facility.

Attachments:

Certified Record. In addition, a copy of the official record is on display in the office of the Community Development Division, City Clerk's Office and the City Council Office (Administration Division).