

GRAND JUNCTION PLANNING COMMISSION
May 23, 2017 MINUTES
6:00 p.m. to 7:12 p.m.

The meeting of the Planning Commission was called to order at 6:00 p.m. by Vice-Chairman Bill Wade. The 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 Kathy Deppe, Ebe Eslami, George Gatseos and Steve Tolle.

In attendance, representing the Community Development Department – Tamra Allen, (Community Development Director), Kathy Portner, (Community Services Manager), and Dave Thornton (Principal Planner).

Also present was Jamie Beard (Assistant City Attorney).

Lydia Reynolds was present to record the minutes.

There were 60 citizens in attendance during the hearing.

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

1. Minutes of Previous Meetings

Action: Approve the minutes from the March 28th and April 25th, 2017 Meetings.

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

With no amendments to the Consent Agenda, Vice-Chairman Wade called for a motion to approve the Consent Agenda.

MOTION: (Commissioner Deppe) “Mr. Chairman, I move approve the consent agenda.”

Commissioner Tolle seconded the motion. A vote was called and the motion passed unanimously by a vote of 5-0.

*****APPEAL*****

2. The Lofts Appeal of the Administrative Decision

[File# APL-2017-176]

Appeal of Final Action on Administrative Development Permit regarding approval of an Administrative Permit for 27 three and four bedroom multifamily units in 7 buildings, with a total of 102 bedrooms and 61 on-site parking spaces in an R-O (Residential -Office) zone district.

This is a discussion among the Planning Commission, no additional public testimony will be accepted.

Action: Approval or Denial of the Appeal

Applicant: Lee Joramo/Joe Carter
Location: 1020 Grand Ave
Staff Presentation: Kathy Portner, Community Services Manager

Vice-Chairman Wade briefly explained the appeal and noted that although it is a public meeting, an appeal does not allow the Commission to take any additional testimony. He stated that the Commission needs to base their decision solely on the record they were given.

Vice-Chairman Wade noted that earlier in the day, the Commission received a letter from an appellant requesting a continuance of this appeal based on the fact that the appellant feels that there was information not included in the record that they had access to when they were putting their appeal together.

Vice-Chairman Wade explained that the Planning Commission will need to decide whether or not they will allow a continuance, and if they should decide to grant the continuance and if so, under what terms. Vice-Chairman Wade also stated for the record that they have received both a request from an appellant, as well as a letter from the applicant's attorney regarding the request.

Commissioner Discussion

Commissioner Eslami stated that since there is a doubt, in that they believe the City has withheld information from the public, he is inclined to grant a continuance.

Commissioner Gatseos explained that he has concerns for the applicant that there have been delays which has made this a drawn out process. However, Commissioner Gatseos agreed with Commissioner Eslami that they would like to see the public have due process and added that he would also like to see a larger Planning Commissioner turn-out for additional input.

Commissioner Deppe acknowledged that she is aware to the financial impact that the delay could cause the applicant, but she agreed with the other Commissioners that they should grant a continuance for further research and input from other Commissioners not present.

Commissioner Tolle stated that he is aware that the delay could have a financial impact on the applicant and he wished he had been aware of the issue earlier. Commissioner Tolle supports the other Commissioners in their stance and stated that he needs more time to review the issue and adjudicate. Commissioner Tolle asked for depositions on how this happened and asked that they re-schedule the item for the earliest possible meeting even if it is a special meeting to adjudicate.

Vice-Chairman Wade stated that he too wished he had seen the request for continuance earlier, as they have reviewed the entire project being appealed in depth.

Vice-Chairman Wade stated that there were two requests in the appellant's letter for continuance. The first request was for notes from a meeting that were not included in the record, and the second was that they were not made aware of a meeting that was held March 31, 2017 when there were addition explanations made. Regarding the second referenced meeting, Vice-Chairman Wade stated that it is his understanding that the applicant had walked in and spoke with the planner and it was referenced in the staff report. The appellant states that these notes were not in the file they received when they began to consider their appeal.

Vice-Chairman Wade stated that the appellant will have an opportunity to speak briefly about the items they believed were left out of the file, and why they should be included for the review of the appeal. In addition, Vice-Chairman Wade invited the applicant to speak briefly regarding the matter as well.

Appellant's Comments

Joe Carter, 2849 Applewood St., stated that they had received the staff report and noted that there was information regarding a meeting that was held March 31, 2017 that was not given to them upon request of the file prior to filing the appeal. Mr. Carter stated that the request for the continuance is to allow them to understand the background of what has transpired. The omission of the March 31st meeting created a gap in the information.

In addition, Mr. Carter noted that there was correspondence in a pre-application process that referenced Mr. Ruche (Senior Planner) in the continuance request. Mr. Carter stated that they would like to receive any correspondence that occurred between Mr. Rusche and the developer, including internal or email exchanges regarding the project.

Mr. Carter stated that they would like to get a reissuance of the file so that they may piece together any gaps in information to get a clearer picture of what transpired.

Vice-Chairman Wade stated that the request for the continuance will be based on specifically what was asked for in the letter that the Planning Commission had just received.

Applicant's Comments

David Weckerly, managing member, stated that they were unaware of any pieces of information that may have been missing from the file as they are not part of the City staff. Mr. Weckerly stated that they are more than happy to have a continuance to have a completely transparent process. Mr. Weckerly stated that they do not know what these pieces of information are and they feel they have put everything on the table as far as they are concerned.

Noting that they had started the process in June (2016), Mr. Weckerly requested that if the Commission grants the continuance, they would like to see the process move as expeditiously as possible.

Commissioner Discussion

Commissioner Gatseos stated that he feels the continuance is a wise choice and they have to make a decision that is quasi-judicial based on the record only. Commissioner Gatseos expressed appreciation that the applicant is amenable to it and feels this would be the right thing to do.

Vice-Chairman Wade explained that there are two issues in granting a continuance. The first is how long of a continuance they are going to grant and how much time they will grant to the appellant to review and bring up the additional information. Vice-Chairman Wade noted that the appellant has asked for 15 days however he feels that given the fact that the items are restricted to what was requested in the letter, he suggested 10 working days from now for them to gather any additional information they would need. A meeting, either the next regular meeting in June or a special meeting before then, would be fair. Vice-Chairman Wade then asked for a motion.

MOTION: (Commissioner Gatseos) "Mr. Chairman, I move we grant a continuance for 10 working days for both parties and that we hold a special meeting."

Vice-Chairman Wade asked Jamie Beard, Assistant City Attorney, if the motion was sufficient. Ms. Beard stated that what she is hearing is that they are indicating that they would like to grant 10 working days to the appellant to address the concerns that they have based on the information that they wanted to still review, and then that the applicant would have 10 working days after that to be able to respond to what the appellant has put forward. In addition, not hearing a date in the motion, she suggested that they clarify if they have a particular date in mind, or if they want staff to schedule a meeting.

Commissioner Gatseos agreed with the suggestions and noted that he would like the meeting to be scheduled at a date with the highest number of Commissioners available to attend. Commission Gatseos asked if he needs to repeat the motion.

Tamra Allan, Community Development Director, noted that looking at a calendar, the ten working days for the appellant followed by the ten working days for the applicant, would give staff approximately one week to prepare a staff report which all would queue up nicely with the next regularly scheduled meeting in June.

Vice-Chairman Wade clarified that the motion would be a continuance of the appeal, with 10 working days for the appellant, 10 working days for the applicant to respond and they will hear the issue at the next regularly scheduled meeting on June 27th.

Commissioner Deppe seconded the motion. A vote was called and the motion passed unanimously by a vote of 5-0.

Vice-Chairman Wade called for a 5-minute break.

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

3. Civic and Institutional Master Plan and Right-of-Way Vacation Request for Colorado Mesa University [FMP-2017-118]

Request approval of an Institutional and Civic Master Plan and Right-of-Way Vacation for Colorado Mesa University. Continued from April 25, 2017 hearing.

Action: Recommendation to City Council

Applicant: Colorado Mesa University
Location: 1100 North Avenue
Staff Presentation: Kathy Portner, Community Services Manager

After a brief break, Vice-Chairman Wade called the meeting back to order and explained that the next item on the agenda had been continued from the Planning Commission meeting on April 25, 2017.

Staff Presentation

Ms. Portner explained that this is a request for approval of an Institutional and Civic Mater Plan for CMU and approval of an administrative process for future vacation of right-of-way interior to the campus once certain conditions are met.

Ms. Portner displayed a slide of an aerial view of the campus with an overlay of CMU's 2017 West Campus Master Plan. Ms. Portner explained that the Zoning and Development Code sets forth a process to consider master plans for major institutional

and civic facilities that provide a needed service to the community. The Colorado Mesa University Campus Facilities Master Plan provides an overview of CMU's future long term objective to expand the existing main campus westward toward N. 7th Street.

Ms. Portner stated that in conjunction with the master plan, CMU is requesting an administrative review process for future vacations of right-of-way interior to the campus, as shown within the green outline displayed on the slide. Ms. Portner explained that the vast majority of the properties in the identified area are already owned by CMU or they are pursuing acquisition of those properties. Ms. Portner pointed out the ROW already vacated (shown in red) and noted that currently requests for ROW vacation occur piecemeal as CMU acquires properties on both sides of any given right-of-way. Ms. Portner stated that the requested administrative review would require notification to surrounding property owners and adherence to all conditions of past approvals.

Findings of Fact/Conclusions/Conditions

After reviewing the CMU Civic and Institutional Master Plan and Right-of-Way Vacation application, Ms. Portner stated that staff makes the following findings of fact, conclusions and conditions:

1.) The request is consistent with the Comprehensive Plan and Sections 21.02.190(c) and 21.02.100 of the Code.

2.) Staff recommends that future Right-of-way vacation in the identified planning area (Exhibit A) is presumed and conditionally approved on condition that CMU petitions for vacation(s), which shall be reviewed and approved administratively subject to the Director finding that CMU has met all of the following conditions:

- CMU must own properties on both sides of the right-of-way (streets and/or alleys) to be vacated; and,
- Private easement agreements must be provided to benefit any remaining privately owned property(ies) where access to the property(ies) is or may be claimed by the owner(s) to be compromised by the vacation; and,
- CMU shall plan for and propose circulation and emergency access to standards mutually acceptable and agreed to by the City and CMU, to establish and preserve public safety and legal access for both public and private users; and,
- All City utilities shall be subject to the terms and conditions of the Colorado Mesa University and City of Grand Junction Utility Easement and Maintenance Agreement-CMU Main Campus; and,
- CMU shall dedicate as applicable necessary utility easements to Xcel Energy and/or other utility providers.

3.) Notice shall be given of all vacation petition decisions right-of-way vacations in the designated Master Plan area and exceptions to the Director's decision shall be

forwarded to the City Council for record review as provided in the proposed Ordinance and the Recitals.

Applicant's Presentation

Derek Wagner, CMU Vice President, thanked the staff for working with CMU to address issues that they work with on a regular basis. Mr. Wagner gave a brief update of several projects that CMU had been working on since he last spoke before the Planning Commission.

The first slide Mr. Wagner displayed was regarding the Health Sciences Remodel that is on the old Community Hospital campus on 12th and Orchard. Mr. Wagner explained that it was a two-phased project with the first phase consisting of the remodel which is complete, and the second phase is the new construction that is almost complete. Mr. Wagner stated that both phases should be complete and ready for students this fall.

Mr. Wagner showed a slide of the Band storage facility and practice field that is under construction and should be completed by August of 2017.

The last update Mr. Wagner gave was of the Engineering Building and stated that it should be complete in December, 2017.

Regarding CMU's Civic and Institutional Master Plan, Mr. Wagner explained that when the new City Manager arrived, meetings were held with him to discuss how CMU works with the City and what the interface points were. Mr. Wagner noted that the ROW vacation process was one of those points and explained that currently it is pretty much a piecemeal process. Mr. Wagner stated that City staff had suggested that CMU bring forward the Civic and Institutional Master Plan, which was adopted by the CMU Board of Trustees in 2011. Both parties have an understanding that the focus is on the growth to the west of the campus, and the expansion is laid out in the Plan. Mr. Wagner referred to page 20 of the plan where there is a sketch of the proposed campus in 2030.

Mr. Wagner referred to a slide of the ROW vacation conditions and noted that these conditions will be implemented for each ROW vacation. The next slide Mr. Wagner presented was of the opportunities for Public Participation. Mr. Wagner noted there are CMU Neighborhood Meetings, Board of Trustees Meetings, President's open office hours as well as City Planning Commission and City Council meetings where the public can offer input regarding an issue.

Questions for Staff

Commissioner Eslami asked staff if the public will still have the opportunity to express concerns regarding the ROW vacations as they come about. Ms. Portner stated that this proposal outlines the area for future ROW vacations, as well as the conditions that will be placed, and the public have this meeting to express concerns. In addition, the neighboring properties will be notified as each right-of-way vacation is going through the administrative review and can contact staff with comments at that time as well.

Commissioner Gatseos asked if the public can appeal the administrative decision. Ms. Portner stated that was correct.

Vice-Chairman Wade acknowledged that doing the ROW vacations administratively would make things easier, however he has concerns about the public's right to be involved in that discussion until they appeal it. Vice-Chairman Wade stated that he has a concern that the slide Mr. Wagner displayed showed the Planning Commission meetings as an avenue for public input, however this proposal would eliminate the Planning Commission from the process. Mr. Wagner stated that discussions with staff consisted of what opportunities existed to streamline the process for both parties and emphasized that there will still be opportunity for public input even when done administratively.

Vice-Chairman Wade asked if the public appeal would go straight to City Council. Ms. Portner responded that with any decisions made within the code, there is only one appeal process. The rationale is, that since the City Council is ultimately going to be making the final decision on ROW vacations, appeals of the administrative decision would go to City Council.

Vice-Chairman Wade asked how much time it would add to the process if someone from the public had concerns and it was appealed to a public hearing. Ms. Portner stated that it would depend on when the appeal was made and the scheduling of the next public meeting. It could take approximately 30 days.

Vice-Chairman Wade stated that he is not in agreement with any process that takes the public input out of the procedure until a formal appeal is made.

Commissioner Gatseos stated that he understands the streamlining process and the needs of CMU, however he does not like the appeal process. Commissioner Gatseos stated that he is proponent of public hearings and feels they can avoid the necessity of appeals.

Mr. Wagner stated that this all came about to streamline the process with both CMU and the City, and the conditions are a mechanism that ensures proper steps are taken during the ROW vacation. Mr. Wagner encouraged the Planning Commission to come to a neighborhood meeting where they have 30-40 neighbors in attendance.

Ms. Portner clarified that her earlier response to Vice-Chairman Wade regarding added process time was specific for an appeal. The current process adds 60-90 days to a right-of-way vacation request since it goes to Planning Commission for recommendation and City Council for two readings of the ordinance.

Commissioner Deppe stated she was on the fence and could see both sides of the issue.

Public Comments

Clark Carroll, 1240 Cannell Ave, stated he was speaking against the proposal. He stated that the University often falls short of their own plans. City would be relinquishing authority of the street to those who fail to live up to their end of the bargain. Mr. Carroll stated that the maps presented were fake and presented a false view of the area and a false narrative, therefore approval of this proposal would be based on misconceptions. Mr. Carroll noted that the GIS city maps are mostly correct regarding ownership and parcel boundaries. Mr. Carroll stated that for the most part, CMU owns at least one side of the street, however where he lives, both sides are privately owned.

Mr. Carroll stated that the current process works well and does not feel there is a need to change it. Mr. Carroll also stated that he submitted written comments as well.

Applicant's Rebuttal

Mr. Wagner wanted to point out there were a number of incorrect statements made by Mr. Carroll both in person and in the letter submitted. Mr. Wagner reiterated that this is a proposal that was made in partnership with the City and there is plenty of opportunity for public comments.

Questions for Applicant

Noting that the campus development to the west is ahead of schedule, Commissioner Gatseos asked if the process is broken.

Mr. Wagner stated that the development is ahead of schedule due to the enrollment growth. Although the process is not broken, there is room for improvement. Mr. Wagner stated that from a planning perspective, discussions with staff and the City Manager resulted in a proposal to adopt the CMU Master Plan to streamline the process.

Mr. Carroll added that he feels the Planning Commission is the "thin blue line" between chaos and order. He feels the Planning Commission is the only thing that separates him from chaos and the University expansion. Mr. Carroll stated that he would like to preserve the public process and that it has been working all along.

Commissioner Discussion

Commissioner Gatseos stated that he understands the need for CMU to streamline the process, but he also understands the needs of the public regarding the public process.

Commissioner Eslami stated that he has been on the Planning Commission for over 8 years and is very much in favor of the public hearing process and is opposed to any efforts to eliminate it. Commissioner Eslami expressed concern that an individual may not have the time or money to go through a formal appeal process. Commissioner Eslami emphasized that CMU is an enhancement to the community, however he feels

that the public should have the opportunity to speak regarding these decisions.

Commissioner Deppe stated that she agrees with the other Commissioners regarding the need for a public process, however, she feels the conditions that need to be met regarding the ROW Vacations make sense and she is in favor of the proposal.

Commissioner Tolle stated that when he was appointed by City Council, it was explained to him that he is to listen to the constituents whom he represents; the citizens. Secondly, his job is to work with, support and help the staff to develop proposals correct the first time so that time and money is not wasted. Commissioner Tolle stated that he is not in favor of the proposal. He feels that as Planning Commissioners they should attend the CMU neighborhood meetings when invited.

Commissioner Wade stated that he feels the CMU Master Plan is a great plan, however he has difficulty in eliminating the public from the process. Commissioner Wade stated that he believes there is a way that this can be constructed so it still allows administrative approval, but if there was an objection, then it would at least go to a public hearing before the administrative approval could be ratified by the Planning Commission. For that reason, Commissioner Wade stated he is not in favor of the proposal as it is written.

Commissioner Wade noted that since there are five Commissioners voting, there would need to be four votes in favor to carry the motion. He would also like to poll the votes.

MOTION: (Commissioner Gatseos) "Mr. Chairman," on the Institutional and Civic Facility Master Plan for Colorado Mesa University, FMP-2017-118, I move that the Planning Commission forward to the City Council a recommendation of approval with the findings of facts and conclusions and conditions stated in the staff report."

Commissioner Deppe seconded the motion. A vote was called and the motion failed by a vote of 1-4 with Commissioner Deppe voting in favor.

4. Other Business

Tamra Allen introduced herself as the new Community Development Director and thanked Vice-Chairman Wade for a well-run meeting.

5. Adjournment

The Planning Commission meeting was adjourned at 7:12 p.m.