

GRAND JUNCTION PLANNING COMMISSION
December 12, 2017 MINUTES
6:00 p.m. to 8:46 p.m.

The meeting of the Planning Commission was called to order at 6:00 p.m. by Chairman Christian Reece. 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, Bill Wade, Keith Ehlers, George Gatseos, and Brian Rusche.

In attendance, representing the Community Development Department –Tamra Allen, (Community Development Director), Kathy Portner, (Community Services Manager) and Lori Bowers, (Senior Planner).

Also present was Jamie Beard (Assistant City Attorney).

Lydia Reynolds was present to record the minutes.

There were 4 citizens in attendance during the hearing.

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

1. Minutes of Previous Meetings

Action: Approve the minutes from the November 28, 2017 meeting.

Chairman Reece briefly explained the Consent Agenda. Noting that only the minutes from the November 28, 2017 meeting were on the Consent Agenda, Chairman Reece called for a motion to approve the Consent Agenda.

MOTION: (Commissioner Wade) “Madam Chairman, I move approve the Consent Agenda.”

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

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

2. 1st Church of the Nazarene Rezone

FILE # RZN-2017-577

A request to rezone the property located at 2802 Patterson Road from R-4 (Residential, 4 du/ac) to MXOC (Mixed Use Opportunity Corridor).

Action: Recommendation to City Council

Applicant: First Church of the Nazarene of Grand Junction, Larry Chovancek
Location: 2802 Patterson Road
Staff Presentation: Kathy Portner

Staff Presentation

Ms. Portner began her presentation by showing an aerial photo of the site and stated that this request is for a rezone of 2802 Patterson Road from R-4 to MXOC. The 6.2-acre property is located at the NE corner of Patterson Road and 28 Road. The 1st Church of the Nazarene and Heaven's Little Steps Child Care Center are located on the property. Religious assembly is a use by right in all residential zone districts and the child care facility is allowed as an accessory use.

The property to the north is owned by the City of Grand Junction and contains a stormwater detention facility. Properties to the south across Patterson Road are single family homes and an assisted living facility. Townhomes are to the west across 28 Road, and the adjacent property to the east is a mixed use development with commercial, multifamily and assisted living.

The next slide displayed showed the property from different road approaches. Ms. Portner explained that the property has over 590 linear feet along Patterson Road and 440 linear feet along 28 Road. The Church currently has a 24 square foot internally illuminated sign along the Patterson Road frontage and would like to replace it with a larger, more visible sign with digital display. However, the R-4 zoning on the property restricts permanent signs to 24 square feet and does not allow digital display. The applicant is requesting a rezone to MXOC (Mixed Use Opportunity Corridor) to accommodate the proposed sign. Both the church use and the day care are allowed in the MXOC zone district.

Ms. Portner displayed the site with the Future Land Use Map overlay and explained that this section of Patterson Road has a Future Land Use designation of Mixed Use Opportunity Corridor which allows for rezoning to MXOC. The surrounding future land use designation is Residential Medium (4-8 d/a) to the north and south, residential medium/high (8-12 d/a) to the west and residential high mixed use (12+d/a) to the east.

The next slide featured the site with the current zoning overlay. The church property is currently zoned R-4 (Residential, 4 d/a) as is the property to the north. The property to the east is zoned Planned Development with commercial development at the NW corner of Patterson and 28 ¼ Road and multifamily and assisted living on the remainder. Properties to south across Patterson Road are zoned R-5 (residential, 5 d/a) and the townhomes to the west across 28 Road are zoned Planned Development.

Ms. Portner explained that rezoning of property may be considered if the proposed changes are consistent with the Comprehensive Plan and meet at least one of the criteria as listed in section 21.02.140 of the Code. Ms. Portner displayed a slide that listed the five criteria.

Staff finds that the request to rezone to MXOC is consistent with the Future Land Use designation of Mixed Use Opportunity Corridor and meets 4 of the listed criteria as follows:

- 1) The R-4 zoning on this property predates the 2010 Comp Plan that designated Patterson Road as MXOC.
- 2) The property directly to the east is zoned PD and is a mixed use development. East of 28 ¼ Road is another large church and the 200+ acre Matchett Park property planned for a Regional Park and a property approx. ½ mile east was rezoned to MXOC.
- 3) Adequate public facilities and services are available in the area, and
- 4) The proposed MXOC zoning will create an opportunity at this key location along Patterson Road to provide for additional uses that could serve the community.

Staff recommends approval of the proposed rezone based on the following findings:

- The requested zone is consistent with the goals and policies of the Comp Plan.
- In accordance with Section 21.02.140 of the Zoning and Development Code, Criteria 1,2,3 and 5 have been met.
- In accordance with Section 21.02.140(c)(2) of the Code the residentially zoned property has a lot depth greater than 150 feet, and the rezone furthers the goals and policies of the Comprehensive Plan and enhances the surrounding neighborhood.

Applicants Presentation

Larry Chovancek, 2802 Patterson stated that he was the Pastor of the First Church of the Nazarene of Grand Junction as well as Chairman of the Board which operates the Heaven's Little Steps Daycare Center.

Pastor Chovancek stated that the Church has been at that location for 20 years although they will celebrate 100 years in ministry in Grand Junction in 2018. Pastor Chovancek noted that their present sign is 20 years old and in disrepair. They would like a larger sign, about 60 square feet, and learned that a variance was not possible. They also would like a taller sign as the church is lower than the elevation of Patterson. The larger sign would allow them to have more information about the congregation as well as the daycare. Presently, they have two banners on the pump house and would like to remove them.

Questions for Applicant

Commissioner Rusche asked if the church had any expansion plans in the near future. Pastor Chovancek stated that the present space is adequate however the long range plan is to build a worship center on the property and use the present building for child care and youth/community ministries.

Commissioner Ehlers commented that churches often have deed restrictions on the property in the event they were to sell, and wanted to know if they have any restrictions. Pastor Chovancek stated that they have no plans on selling and the only restrictions that he is aware of is an agreement that the church made with the City when they started the day care. That agreement was to permit a 17-foot maximum right turn lane from westbound Patterson to north bound 28 Rd should the City want to upgrade Patterson.

Commissioner Discussion

Commissioner Wade noted that Pastor Chovancek had come before the Board of Appeals when he originally requested a zoning variance and he appreciates his patience and efforts to rezone the property which is more in line with the Patterson Corridor planning. He stated that he intends to vote in favor of the proposal. Commissioner Deppe agreed with Commissioner Wade.

Commissioner Gatseos stated that he was a member of the Board of Appeals at that time and is glad to see it come back as a rezone. He is in agreement with the staff report and feel the proposed rezone request makes sense in that area.

Chairman Reece agreed the change to MXOC zoning, as it allows for flexibility along the high-use corridors and if they ever did decide to sell, there would be more uses available than under the R-4 zoning. Chairman Reece noted that the MXOC zoning is a new category under the most recent zoning code changes.

MOTION: (Commissioner Rusche) “Madam Chairman, on the Rezone request RZN-2017-577, I move that the Planning Commission forward a recommendation of approval for the 1st Church of the Nazarene Rezone of 6.2 acres, located at 2802 Patterson Road, from an R-4 (Residential 4 dwelling units per acre) to MXOC (Mixed Use Opportunity Corridor) zone district with the findings of fact as listed in the staff report.”

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

3. H Road Comprehensive Plan Amendment and Rezone FILES # CPA-2017-520 and RZN-2017-544

Request to amend the Comprehensive Plan from Neighborhood Center to Business Park MU and rezone the properties to I-O (Industrial Office) on 8.6 acres.

Action: Recommendation to City Council

Applicant: Jerry Patterson and; TEK Leasing, LLC
Location: 2202 and 2202 1/2 H Road
Staff Presentation: Lori Bowers

Staff Presentation

Lori Bowers, Senior Planner, stated that this request is to consider amending the Comprehensive Plan Future Land Use Map from Neighborhood Center Mixed Use to Business Park Mixed Use for two parcels of land located at 2202 and 2202 ½ H Road. If the Comp Plan Amendment is approved, the applicants also wish to rezone their properties from Mixed Use General – Low, to Industrial /Office Park, which will be in conformance with the Comprehensive Plan.

Ms. Bowers displayed an aerial photo of the area with the City limits highlighted and stated that the subject parcels are within the City Limits located at 2202 and 2202 ½ H Road this is considered to be in the Appleton area.

Ms. Bowers explained that the applicants, Jerry Patterson and TEK Leasing, LLC, are requesting an amendment to the Comprehensive Plan Future Land Use Map designation for their properties as outlined in blue. The total acreage is 8.59 acres.

The Applicants held a Neighborhood Meeting on October 18, 2017 at Appleton Elementary School. Four citizens attended the meeting. There were a few general questions about the description of the proposed Comprehensive Plan Amendment /Rezone to (BPMU Business Park Mixed Use/ I-O Industrial/Office Park). There was one objection to the requested rezone. The attendee in opposition expressed concerns about the sale of his own property having to compete with the rezoned properties, which he felt would make their property more attractive to potential buyers than his.

The next slide presented displayed the Future Land Use Map over the property, with the parcels outlined in blue. Ms. Bowers explained that the property located at 2202 H Road consists of 4.99 acres. It is currently developed with a single family residence and a garage/hay barn. The parcel located at 2202 ½ H Road consists of 3.6 acres of vacant land. There would be no change to the other parcels, they would remain as shown on the map. The neighbors on both sides were asked if they would like to participate in this request to amend the Future Land Use Map but they declined. If this amendment is approved, it will keep about 23 acres still designated as Neighborhood Center. This would be a good transition from one designation to another.

The parcels were annexed in 2007 and zoned to Mixed Use (M-U) at that time. The staff report gives the detailed history of how these parcels came to be zoned as they are, and how the Comprehensive Plan designated them.

The following slide depicted that existing zoning layer and Ms. Bowers stated that the applicants feel their properties have been passed on by potential buyers who would like to use the land for purposes other than the allowed uses in the MXG-3 (Mixed Use General) zone district. The MXG-3 zone district is a form based zone district that is intended to create pedestrian-friendly urban areas. The building form in this zone district is intended for ground floor office and personal services uses (but does not include sales, repair or entertainment oriented uses) with upper-story residential or offices.

Based on the desire of the Applicants to be able to develop/redevelop their properties for a use such as outdoor storage, it was discussed that the current Comprehensive Plan designation does not support rezoning to I-O, but that an amendment to the Comprehensive Plan may be considered to assign the properties a designation of “Business Park Mixed Use.”

Ms. Bowers stated that in the opinion of staff, this would still meet the intent of the Comprehensive Plan to buffer the residential areas to the north from the heavier industrial uses to the west. Business Park Mixed Use is also one of the lesser land use designations that the City has, the closest being over five miles away along the Riverside Parkway. This will provide more opportunities for this area if the amendment is approved.

The criteria for reviewing a Comprehensive Plan Amendment and the Criteria for a Rezone are the same. In the staff report the five criteria have been broken out into reviewing the Comprehensive Plan amendment first and then the same criteria for the rezone as follows:

- (1) Subsequent events have invalidated the original premise and findings; and/or*
- (2) The character and/or condition of the area has changed such that the amendment is consistent with the Plan; and/or*
- (3) Public and community facilities are adequate to serve the type and scope of land use proposed; and/or*
- (4) An inadequate supply of suitably designated land is available in the community, as defined by the presiding body, to accommodate the proposed land use; and/or*
- (5) The community or area, as defined by the presiding body, will derive benefits from the proposed amendment.*

Ms. Bowers stated that in her professional opinion, all criteria have been met.

Ms. Bowers displayed several slides of street level photos showing how the area has grown. It is not pedestrian friendly as large trucks frequent the area. Love’s Travel Stop, RV storage, and diesel services are nearby.

Staff recommends approval of the proposed vacation based on the following findings:

1. In accordance with Section 21.02.130 of the Grand Junction Municipal Code, the requested amendment to the Comprehensive Plan has met Criteria 1, 2, 3, 4 and 5 and the requested amendment to the Comprehensive Plan is consistent with the goals and policies of the Comprehensive Plan;
2. In accordance with Sections 21.02.140 of the Grand Junction Municipal Code, the requested rezone has met Criteria 1, 2, 3, 4, and 5 have been met and the

requested rezone is consistent with the goals and policies of the Comprehensive Plan;

Staff recommends the Planning Commission consider two separate motions for the two-part request for the amendment of the Comprehensive Plan and the Rezone.

Questions for Staff

Commissioner Ehlers asked what the zone designations are for a Neighborhood Center/Mixed Use. Ms. Bower replied that it is presently zoned MXG-3 that allows for a mix of apartments, townhomes, multi-use with small family business type development. It is intended for much less intense use and to be pedestrian friendly.

Commissioner Ehlers noted that the Neighborhood Center/Mixed Use is a unique designation of the Future Land Use Map and asked what zones were intended to fit within that. Commissioner Ehlers clarified that if you zoom out, looking at the Future Land Use Map, one can see where there are nodes that are specifically placed at intersections of higher classifications. Commissioner Ehlers stated that it was his understanding that the nodes were based on having components, such as a neighborhood grocery or other services, that the neighborhood can utilize at these junction points. Commissioner Ehlers's concern was that these were designated as Neighborhood Centers at a particular intersection for a reason and wondered what the thought process was when they put them there. If they change it, it will become something more consistent with the industrial use there.

Ms. Bowers stated that staff discussions included the idea that Business Park Mixed Use could serve as a good buffer to a Neighborhood Center and has a much broader range of options. Commissioner Ehlers clarified that his understanding is that the Neighborhood Center is a place where surrounding neighborhoods could come for resources and wondered if that is consistent with the plan. Ms. Bowers referred to criteria #2 "*The character and/or condition of the area has changed such that the amendment is consistent with the Plan*" and noted the heavier uses such as the truck stop, diesel services, Ute Water, and Grand Valley Power have moved in nearby, changing the area. Ms. Bowers explained that the Business Park Mixed Use could now serve as a buffer to those more intensive uses that are ½ mile away.

Chairman Reece asked if she understood correctly that other properties owners in the Neighborhood Center were asked to come in on this rezone. Ms. Bowers clarified that at one time the property owners to the east were going to come in on the rezone, however they changed their minds. The other owners around did not want to participate. The applicant and the property to the east and north were approached by buyers who want to do outdoor storage on these lots, but that was not an allowable use in the zone district. Chairman Reece asked if the property owner who objected to the rezone, feeling their property would become less valuable, were located in the Neighborhood Center. Ms. Bowers replied that that property is further north and not in the Neighborhood Center designation.

Commissioner Wade asked why the other property owners declined to participate. Ms. Bowers thought the property owners directly to the east that backed out were happy with their single family use. Ms. Bowers added that the applicant's representative is present and may be able to shed light.

Chairman Reece asked what type of screening would be required if this was zoned I-O for outdoor storage use. Ms. Bowers stated that I-O requires a 20-foot setback with appropriate screening and landscaping unlike Industrial where only the frontage is required.

Commissioner Ehlers thought he understood there to be a limitation to the I-O zone district elsewhere. Ms. Bowers clarified that it is the limitation of the Business Park/Mixed Use designation in the Comprehensive Plan. Ms. Bowers noted the other one is five miles away on Riverside Parkway and then around 7th and Patterson is another node.

Chairman Reece asked if the property owners to the east, who have a single family home, expressed concern about the property being rezoned to a heavier industrial use. Ms. Bowers stated that she had not heard that they were concerned, in fact they were a party to this rezone and then backed out in the end.

Applicant Presentation/Questions

Kim Kerk, Land Development and Consulting LLC, 564 S. Commercial Dr. #4, stated that she is representing the property owners. Ms. Kerk stated that they feel this level of industrial use is a good buffer between the heavier uses and residential. She noted that in the past ten years the area has developed with several outdoor storage uses as well as Ute Water and Grand Valley Power offices and more proposed.

Commissioner Wade stated he was interested in the reason why the property owners backed out who were originally involved. Ms. Kerk replied that they were involved before her firm was hired and had since sold the property. She did not approach the new home owners as it was too late in the process.

Commissioner Rusche asked if the new homeowners had been invited to the neighborhood meeting. Ms. Kerk replied that they had not moved in by then. Commissioner Rusche stated that he found that disconcerting.

Public Comment

John McDermott, 819 22 Rd. stated that he expressed his disagreement at the neighborhood meeting. Mr. McDermott stated that he has been on 22 Rd. since 2001 and when it rezoned they were not happy about it, but they accepted it. Mr. McDermott stated that there are 6 acres to the west of the subject property that has been for sale for 5 years. Mr. McDermott agreed with Commissioner Ehlers comments that it was Mixed Use for a reason when it was put in the Comprehensive Plan. Mr. McDermott expressed concern about the proposed development effecting the value of his land.

Commissioner Wade asked Mr. McDermott to point out his land on the map. Mr. McDermott identified his parcel as one that is across 22 Rd. and to the northwest of the subject property. He said he has 3.9 acres and his neighbors both have over one acre and they are still I-0 as is a lot of the parcels to the north of them. Mr. McDermott asked the Commission why they would consider taking away from the Mixed-Use area and allow it to become Industrial when there is still vacant land zoned I-O to the west.

Commissioner Gatseos noted that Mr. McDermott's property is pretty much surrounded by I-1. Mr. McDermott stated that although he officially has his property for sale, his other two neighbors, with smaller lots, are hoping to sell their property to whoever buys his.

Rusty Walters, 2205 Lynn St. stated that his property is to the north of the subject property. Mr. Walters stated that he was never notified of a community meeting regarding this proposal. Mr. Walters stated that his neighbor to the south does barrel racing and this rezone would interfere with her and his community of 7 houses. They have animals and are concerned about loud noises and other issues.

Alyce Coats, 2205 Lynn St. stated that they have coyotes and use shotguns on their property. She feels her view will be greatly impacted and does not understand why they would take this corner and rezone to develop storage units. Ms. Coats stated that she is in the County, in a shoot zone where they protect each other's animals and enjoy a rural way of life.

Commissioner Wade asked if the Industrial uses to the west bother them. Ms. Coats stated that they are great neighbors and have no issues with them. She stated they are quite and generally not there at night or on weekends.

Applicant Rebuttal

Ms. Kerk stated that she recalled that she had contacted the realtor of the new property owners to the east and extended an invitation to the neighborhood meeting and the realtor came back and said they declined.

Ms. Kerk stated that they are not asking for a very big change as the biggest difference between the I-1 and I-0 is the outdoor storage which is already in the area with the other uses. Ms. Kerk added that traffic is already heading north off H Rd. with people going to Ute Water and Grand Valley Water to pay bills.

Commissioner Deppe asked for the definition of "outdoor storage" and also if the property owners plan to keep the single family home. Ms. Kerk clarified that the owners did separate deeds for the house and property so they could keep the house if they decided to.

Ms. Bowers responded to Commissioner Deppe's question regarding "outdoor storage" and said it means "keeping in an unenclosed area, unscreened any goods, junk materials, merchandise, vehicles, and vehicles for repair in the same place for more

than 48 hrs.” Ms. Bowers pointed out the caveat of the I-0 zoning which does require screening and buffering.

Commissioner Ehlers asked if outdoor storage is allowed in I-1. Ms. Bowers responded that it is allowed. Chairman Reece asked if the I-1 had the same buffering and screening requirements as I-0. Ms. Bowers replied that it has less, therefore I-0 is more restrictive when it comes to screening and buffering.

Commissioner Ehlers noted the H Road Northwest Area Plan overlay to the west of the properties and asked Ms. Kerk if she is familiar with the development requirements for those properties vs the I-O without that overlay. Ms. Kerk stated she is not familiar with that plans requirements, but stated that the development pattern has changed so much that current zoning may not be the most appropriate. Commissioner Ehlers expressed concern that the Comprehensive plan change and rezone may have not considered the H Road Northwest Area Plan in that maybe it would be appropriate to carry over that designation to the subject property. Commissioner Ehlers stated that he is pro-business and pro-smart growth, however he has concerns that they are not considering what the implications might be with relation to the H Road Northwest Area Plan.

Chairman Reece asked Ms. Bowers about the H Road Northwest Area Plan. Ms. Bowers believed the plan called for greater setbacks and screening from H Road, 21 Rd. and 22 Rd. Ms. Bowers noted that the I-0 zone has performance standards for screening that would be similar to the H Road Northwest Area Plan.

Chairman Reece asked how far away is the nearest I-0 zoned parcel. Ms. Bowers stated that there is I-0 zoned parcels out by the airport and possibly Foresight Park.

Commissioner Gatseos stated that there is an I-1 southeast to the property and asked if there was an application for the properties to the south. Ms. Bowers stated that it was in the County. Commissioner Gatseos asked Ms. Bowers what the uses were for MXG-3. Ms. Bowers responded that it is intended to be a mix of apartments, townhomes, multifamily, small neighborhood businesses.

Commissioner Discussion

Noting that only one of the criteria must be met, Commissioner Ehlers acknowledged that several of the criteria had been met. Commissioner Ehlers stated that the other component of a Comprehensive Plan amendment is that the proposed changes need to be consistent with vision, intent, goals and policies of the comprehensive plan in addition to meeting one or more of the criteria.

Commissioner Ehlers stated that unless the Love’s Travel Center area has taken the place of the Neighborhood Center, his concern is that they would be omitting the intent of having that neighborhood center at that location. Commissioner Ehlers noted that all of the other proposed Neighborhood Centers in the plan are located at intersections.

Commissioner Ehlers asked if the intent of the Neighborhood Center been met in a nearby area such that this Neighborhood Center designation is no longer needed at this location.

Commissioner Ehlers stated that he feels it would not be appropriate to make this change unless the area plan changed with it. Along those lines, Commissioner Ehlers stated that he does not feel the change to I-0 should happen unless the standards required meets or exceeds those in the H Road Northwest Area Plan. Commissioner Ehlers added that although he is not in opposition to the plan, he does not feel he has enough information about the H Road Northwest Area Plan or the definition of Neighborhood Centers to make a decision.

Tamra Allen, Community Development Director, clarified that the subject parcels are not included in the H Road Northwest Area Plan as that plan is to the west. To provide requested information, Ms. Allen referred to the analysis in the staff report regarding the Comprehensive Plan amendment. The first criteria speaks to the intent of the Neighborhood Mixed Use category as follows;

“Neighborhood Mixed Use contemplates limited employment, residential, open space and limited retail, focused on uses that provide convenience items for the immediate neighborhood. Residential uses are encouraged to integrate with commercial uses.”

Given that clarification, Commissioner Ehlers revised his comments to say that he believes that the Love’s Travel Center and other gas station could fulfill some of the components of the Neighborhood Center. Commissioner Ehlers stated that he still would like to know if the standards in the I-0 zone meets or exceeds those in the H Road Northwest Area Plan and encouraged the applicant to clarify that for City Council.

Commissioner Wade stated that he agreed with Commissioner Ehlers in that he is uncomfortable making a decision without comparing the standards of the H Road Northwest Area Plan with those of the requested I-0 zoning.

Commissioner Deppe agreed with the other two Commissioners that she would like more detailed information before she can make a decision.

Chairman Reece stated that they have the option to continue the item if they choose.

Commissioner Ehlers asked if it was appropriate to give the applicant the option to have the Commissioners vote, having heard the Commissioners concerns, and possibly continue on with the process to avoid delay. Ms. Allen responded that she feels this is an issue of the Planning Commission and if they are ready to take action on the item, regardless if it is a decision in favor or not, then they should do that. If they feel they need additional information, then they should table it.

Commissioner Gatseos stated he agrees with the staff report and referenced the land use changes that have occurred in the area since the Comprehensive Plan was done. Commissioner Gatseos stated that he would like to review the H Road Northwest Area Plan and would favor a continuation and added that if he was to vote now he would vote in favor of the rezone.

Commissioner Ehlers added that he would like to vote with respect to the applicant's timeframe and based on the fact that they can clearly articulate the reasons for their vote and have done so through the comments. This gives City Council the Planning Commission's recommendation based on what those considerations have been. Commissioner Ehlers encouraged the neighbors to continue to stay involved, but cautioned that development is coming and the Planning Commission will review developments based on the land uses allowed by the zone district and the master plans.

Commissioner Rusche noted that his concerns are less with the color it winds up being on the map but more with the process. Commissioner Rusche stated that he disagrees with the idea a lot has changed in that area since 2010, but due to the recession, things have not changed enough for the lot to be marketable. Commissioner Rusche stated that this corner could easily mirror the industrial properties to the west and added that the H Rd. plan has a 25-foot buffer which is only a 5 to 10 buffer difference.

Commissioner Rusche added that there are three other properties that have the potential to preserve the Neighborhood Center concept even though two of the nearby parcels are not designated as Neighborhood Center. Commissioner Rusche recalled that there is a provision in the plan that the Neighborhood Centers were able to "float" (not locked into a particular parcel) as the needs dictate. Commissioner Rusche feels that some of the neighbors may not realize that the existing MXG-3 uses could include apartments. Commissioner Rusche stated that if this recommendation should go to City Council, it may result in a re-evaluation of the area, but he does not have an overwhelming disagreement with the proposal.

MOTION: (Commissioner Gatseos) "Madam Chairman, on the request to amend the Comprehensive Plan as presented in file CPA-2017-520, I move that the Planning Commission forward a recommendation of approval for a Comprehensive Plan Amendment to change the Future Land Use Map designation from "Neighborhood Center Mixed Use" to "Business Park Mixed Use" on the 8.59 +/- acres located at 2202 and 2202 ½ H Road with the findings of fact as listed in the staff report."

Commissioner Deppe seconded the motion. A vote was called and the motion passed by a vote of 4-2 with Commissioners Ehlers and Wade voting Nay.

MOTION: (Commissioner Deppe) "Madam Chairman, on the request to Rezone the subject parcels as presented in file RZN-2017-544, I move that the Planning Commission forward a recommendation of approval for a Rezone to Rezone from MXG-3 (Mixed Use General-Low) to I-O (Industrial/Office Park) Zone District on the 8.59 +/-

acres located at 2202 and 2202 ½ H Road with the findings of fact as listed in the staff report.”

Commissioner Gatseos seconded the motion. A vote was called and the motion passed by a vote of 4-2 with Commissioners Ehlers and Wade voting Nay.

The Planning Commission took a short break.

4. Hilton Tru Alley Vacation

FILE # VAC-2017-516

Request to vacate the east/west alley ROW for the future development of a new hotel on 1.2 acres in a B-2 (Downtown Business) zone district.

Action: Recommendation to City Council

Applicant: Western Hospitality LLC, Kevin Reimer
Location: 243 Colorado Avenue
Staff Presentation: Lori Bowers

Staff Presentation

Lori Bowers, Senior Planner, began her PowerPoint presentation with a slide containing an aerial photo of the alley and surrounding properties and stated that this request to consider the vacation of the 20-foot wide alley right-of-way of Block 123 of the original town site (between 2nd and 3rd Streets), between Colorado Avenue and Ute Avenue, and retain the area for utility easements and access for service and emergency responders. This request has been brought forth by Western Hospitality, LLC to be able to implement the proposed site plan for a new hotel (Hilton Tru) at 243 Colorado Avenue.

Ms. Bowers reported that the applicant has assembled approximately 1.2 acres of currently vacant land to develop a new hotel. The properties combined form a reverse “L” shape, shown here outlined in red, with the southernmost property line bounding Ute Avenue, and the western most property line bounding 2nd Street. The proposed alley vacation will facilitate the applicant’s desired traffic flow for the new hotel parking lot. The applicant plans on fencing the parking lot to increase security and safety for hotel guests and their vehicles. Currently there is significant transient foot traffic through this area.

Ms. Bowers stated that a Neighborhood Meeting was held on September 20, 2017. Three neighbors (adjacent property owners) were present at the meeting. The applicant also indicated that they had spoken in person, by phone, and by email with other property owners adjacent to the alley regarding the proposal. All comments were supportive of the proposal and did not object to the alley vacation.

Ms. Bowers explained that pursuant to Section 21.02.100 of the Zoning and Development Code the vacation of the ROW is in conformance with the Comprehensive

Plan, and The Grand Valley Circulation Plan, there are six criteria to be reviewed when considering a vacation as follows:

- 1) *The Comprehensive Plan, Grand Valley Circulation Plan, and other adopted plans and policies of the City.*
 - 2) *It will not land lock any parcel as a result of the vacation.*
 - 3) *The vacation will not restrict access to any parcel or reduce or devalue any property affected by the proposed vacation.*
 - 4) *There will be no adverse impacts on the health, safety or welfare of the community, or the quality of public facilities and services such as police, fire or utility providers.*
 - 5) *All existing easements and services located within the right-of-way shall be retained, so services will not be inhibited.*
- And*
- 6) *The benefit to the City is the reduced maintenance of the alley.*

The next slide Ms. Bowers displayed illustrated the detail of the 20-foot alley ROW.

Staff recommends approval of the proposed vacation based on the following findings:

After reviewing VAC-2017-516, a request to vacate the entire alley right-of-way and maintain existing easements and cross access easements for safety and emergency responders, the entire east-west alley right-of-way of Block 123, First Division, Resurvey, Town of Grand Junction Plat the following findings of fact have been made:

The proposal conforms with Section 21.02.100 (c) of the Grand Junction Zoning and Development Code.

Therefore, staff recommends approval of the request to vacate the subject alley right-of-way and retain existing easements and provide access easements for service and emergency responders.

Questions for Staff

Chairman Reece asked if the property owners at 201 and 209 ½, who have building that directly abut the alley, utilize the alley for access or uses that would change as a result of this vacation. Ms. Bower responded that trash trucks can still come in and that is the biggest use of the alley.

Commissioner Ehlers asked if the buildings at 201 and 209 ½ were to be destroyed in a fire, would they have to rebuild with different setbacks. Ms. Bowers replied that they could rebuild with the same footprint.

Chairman Reece asked if the parcels to the south, at 244, 248 and 260 are still vacant. Ms. Bowers replied that they still are vacant although one of the parcels has a billboard.

Commissioner Wade asked Ms. Bowers to point out where the proposed fence would be for the parking lot and asked if the alley, if vacated would have an open access. Ms. Bowers responded that the entire lot would be gated for security and they are still working out the details for access. Ms. Bowers noted that the city will no longer maintain that alleyway, but it is in best interest of the hotel owners to maintain the alley.

Chairman Reece asked if the hotel will go across the open space that the alley currently occupies. Ms. Bowers replied that the hotel will not be located there and the alley will become a drive isle.

Commissioner Rusche noted criteria C mentions access easements provided and asked if that will happen as part of this vacation or with the future hotel development. Ms. Bowers stated that this vacation allows the easements to be retained. Commissioner Rusche asked if the alley is vacated is there an access easement that covers the 20 feet because the ordinance only shows a utility easement not an access easement. Ms. Bower stated the access easement would be intended for emergency services. Commissioner Rusche asked if the access easements will be in the ordinance and Ms. Bowers stated it was. Ms. Allen added that under the staff recommendations and findings of fact, the last sentence speaks to the retention of easements which would include the utility easement as well as provide emergency access. Chairman Reece asked if the property owners that abut the alley will have access. Ms. Bowers replied that they will have the access and as they will receive half of the right-of-way.

Applicants Presentation

Steve Reimer stated he and his brother are the owner/developers for the three existing hotels downtown and the applicant for this right-of-way vacation for the next hotel they are developing. Mr. Reimer stated that Shane Burton who owns the property at 201 Colorado #4 was present.

Mr. Reimer added that he owned and just sold the other property that abuts the alley (209 ½), and the new owners plan to open a tapas/bar/brewpub on that parcel along with the one to the north of it. Mr. Reimer stated that there are 3 parking spaces between the buildings and those owners will have access to those spots even if they need to put in a gate. Mr. Reimer noted that he has not fenced and secured the three other hotels downtown, however they plan to fence this one due to the location and Two Rivers Convention Center parking. Mr. Reimer added that he purchased the lots to the south and the City is buying them from him for public parking for Two Rivers and other downtown events.

Commissioner Rusche asked for clarification where the alley gates would be. Mr. Reimer referred to the photo and explained the areas. Commissioner Rusche asked if they were part of this application as they will own half of the alley. Mr. Reimer stated that he has had conversations with all of the owners either at the neighborhood meeting or after and they all were ok with working out an arrangement. Commissioner Rusche asked about the access to the gate for emergency services. Mr. Reimer replied that he thinks the gate will be a simple wood arm that in an emergency, they could go thru.

Public Comments

Shane Burton, representing Two Rivers Condominiums 201 Colorado #4, stated that he is fine with the right-of-way arrangements after conversations with Mr. Reimer. Mr. Burton noted that the three parking spaces are already gated.

Desiree Colmenero, representing the Historic Melrose 337 Colorado Ave., stated that the owner, Joya Depasquale, did not receive a notice of the neighborhood meeting. Ms. Colmenero stated that there are 19 properties owned by Western Hospitality, LLC in Mesa County and three hotels in a small area. Ms. Colmenero stated that the Historic Melrose is a small locally owned business and she feels they are creating a monopoly. Ms. Colmenero stated she has safety concerns in that there is a lot of transients in the area and they have asked police to drive by more often.

Ms. Colmenero asked if the City will no longer maintain that alley, does the maintenance responsibility fall on 251 and 259 Colorado for the alley along their properties. Ms. Colmenero wanted to note that on 11/29/1999, the property at 202 Ute was sold by the City to Steve Reimer for ten dollars.

Ms. Colmenero stated that she is a native of Grand Junction, works downtown and feels a five story hotel takes away from the historic aspect of the adjacent brick buildings. Ms. Colmenero wanted to know how high the gate will be as she feels a 4-foot gate around the parking lot is not going to be useful.

Commissioner Ehlers explained that the site plan is an opportunity to comment about fences etc. although it is processed administratively. Commissioner Ehlers stated that in an alley right-of-way vacation there is set criteria that they are required to review based on community plans.

Applicants Rebuttal

Mr. Reimer stated that he could meet with Ms. Colmenero and answer some of her questions. Mr. Reimer stated that he wished they had a monopoly on hotel rooms in Grand Junction but there are a lot of them around. Mr. Reimer suggested that the Historic Melrose may be another type of market and he has heard employees at the front desk refer guests to there when they were sold out or were looking for a different price rate. Mr. Reimer stated that he will make sure they are invited to any future neighborhood meetings.

Questions for Staff

Kathy Portner, (Community Services Manager) clarified that the way the ordinance is proposed, the easement will only be retained as a utility easement. If they were to retain it as an access easement then it would have to remain open, so the gating would not be allowed. If there is a need for some type of joint access on the west end, it really needs to be a private agreement between the property owners.

Chairman Reece asked if there is a problem with not having those details negotiated in advance. Ms. Portner stated that it was a little unusual and they usually like to have it all worked out in advance, however since the property owners are in agreement, they moved forward with it.

Commissioner Gatseos asked Jamie Beard (Assistant City Attorney) if the emergency services have a device that opens gates. Ms. Beard responded that she is not aware of a special device like that, however during the development review process, police and fire will have the opportunity to review the project and make comments at that time.

Commissioner Gatseos noted that in the comments of for this vacation, police had not commented but fire had replied they were not against it. Ms. Portner commented that there have been other private streets that have a "Knox Box" that gives emergency services access to a key.

Commissioner Discussion

Commissioner Rusche stated he does not see any future use for the alley, but it is a departure from regular protocol in terms of the other two hotels that were built where they have partial alleys remaining along the last business that were left. Commissioner Rusche acknowledged that the emergency services can have access anywhere but he noted that it needs to be addressed at site plan review stage along with the other concerns voiced by neighbors such as height of fence, etc. Commissioner Rusche stated he is not voicing a yes or no, but wanted to note that this is a departure from how they usually treat these type of vacations. What is unusual is that the entire alley is being vacated and that it is being done by faith rather than is writing.

Chairman Reece agreed with Commissioner Rusche and suggested that the agreements be in writing as soon as possible as sometimes things change once construction starts. She also noted that when they look at vacations for the University or other properties, it is usually worked out in writing. Chairman Reece stated that she was mostly comfortable with the proposal and feels she can support it.

Commissioner Ehlers referred back to the mandate that the criteria for Planning Commission is to determine if it effects health, safety and welfare and he does not believe it does. Commissioner Ehlers stated that it is not their job to protect the property owners from themselves and they have been properly notified of the process. Commissioner Ehlers noted that there is precedence for this and that there is reason and logic that supports it, in addition to the future site plan process.

Commissioner Deppe stated that she is leery of the lack of a written agreement and she cannot support this until this is done.

Ms. Allan reminded the Commission that they have the ability to condition the request and if they need to see these types of easements or other agreements in writing.

Commissioner Rusche stated that it would be challenging to write the condition as they

make the motion and he is aware that they can add that before the City Council hears it regardless of the recommendation that the Commission provides. Commissioner Rusche also stated that the official recording of the easement can be held up until the easement is in writing to the satisfaction of the Planning Department if that is Council's direction. Commissioner Rusche reiterated that he is not inclined to write the condition and the motion speaks to what they want; to retain easements and provide emergency access, and let the Council or staff decide how to implement it.

Commissioner Wade asked Ms. Beard if they made a motion with the condition that access is addressed, would they have to be more specific than that. Ms. Beard stated that they would have to rely on what the condition is that you do as a recommendation going forward. Ms. Beard explained that the City Council is not held to those conditions but can consider them with regards to the recommendation that is made.

Commissioner Ehlers stated that he will read a motion that is the favored motion and give the Commissioners the opportunity to indicate how they may vote based on why, and that could give the City Council the record that is needed. Should they choose to say no, then it would be clear that they feel the easements are needed or they could choose to say yes and the comments that have been made could be put there as well.

Chairman Reece asked the Commissioners if they were comfortable with that and the Commissioners indicated they were.

MOTION: (Commissioner Ehlers) "Madam Chairman, on the request to vacate the alley right-of-way and retain easements and provide access easements for safety and emergency responders within the vacated east-west alley, between 2nd and 3rd Streets south of Colorado Avenue, Block 123, First Division, Resurvey, Town of Grand Junction Plat, file number VAC-2017-516, I move that the Planning Commission forward a recommendation of approval with the findings of fact as listed in the staff report."

Commissioner Rusche seconded the motion. A vote was called and the motion passed 5-1 with Commissioner Deppe voting Nay.

5. Amendment to Various Sections of the Zoning and Development Code

FILE # ZCA-2017-580

A request to amending various sections of the Zoning and Development Code regarding administration and procedure, setbacks, cluster development, fences and flood damage prevention.

Action: Recommendation to City Council

Applicant: City of Grand Junction, Community Development Director
Location: City wide
Staff Presentation: Kathy Portner

Staff Presentation

Ms. Portner explained that there were a number of Code amendments they will be going over and that none of them are very substantive. Most of the amendments are for clarification purposes or corrections or eliminating redundancy.

Ms. Portner began her PowerPoint and stated that one item will be to update the code by replacing all references to the Public Works and Planning Department and/or Director with the Community Development Department and/or Director.

Proposed changes to Section 21.02.070(a) include formatting changes and the deletion of "Building Permits" from Section 21.02.070(a)(8)(i) showing expiration of permits, since Building Permits are issued by the Mesa County Building Department and can often times be extended for periods greater than 180 days.

Another proposed change to Section 21.02.070(l) Administrative Adjustment clarifies the criteria to be used in considering a request for a 10% deviation from bulk standards, including setbacks for additions and construction errors. It also modifies the existing provision allowing the Director to permit an accessory structure in a front yard or side yard of a corner lot to allow an accessory structure in any setback, including fences and retaining walls, subject to specific criteria.

Commissioner Gatseos asked for verification that this means that the Director has the discretion on a case by case basis. Ms. Portner stated that if the Director finds that the criteria listed has not been met, then the only other option is for the applicant to go through a variance process.

Commissioner Ehlers asked about an example Ms. Portner gave where a retaining wall over 4 feet may need to be closer to the edge of property, for example, so allowing it within setback makes sense. Commissioner Ehlers asked about item G where the request for deviation is listed as 10% or less. If you have to meet all the criteria and then you say it can only be 10% or less, then the Director would not have the ability to allow that retaining wall. Ms. Portner clarified that this is completely separate from the 10% or less provision. The 10% or less provision is a separate section. Under Administrative Adjustment, number 1, the director may permit deviation from any bulk standard upon finding compliance with this section and then the subsections under that talk about additions and construction errors. Ms. Portner referred to number 2 and stated that it is a separate section. Number 2 refers to "the director may permit a fence or retaining wall, that are considered structures, in a required setback, upon the finding that..." and the provisions that follow that.

Commissioner Ehlers asked that under Administrative Adjustment, Section 1, in the first paragraph they are crossing out the 10% and allowing the Director to make these decisions, but then under Section 1, item G, the requested deviation is only 10% or less. Ms. Portner indicated that it was correct and still stands. Commissioner Ehlers asked for clarification of the difference of Section 1 and Section 2. Ms. Portner stated that they are dealing with separate issues. Section 1 is dealing with additions to a structure and

construction errors. Section 2 is dealing specifically with accessory structures and fences and retaining walls that require a building permit.

Commissioner Ehlers asked about the 10% limitation. Ms. Portner responded that when it was put into the code in 2010, it was felt that that is the most that could be done at an administrative level and anything beyond that should go through the full variance process. It was meant to give some latitude, especially to the construction errors, because they would find that they have set all the forms and they are a few inches off. In the case of an addition, a house already might not meet setbacks, so this would allow for the director to provide minor deviation from setbacks.

Ms. Portner display the next slide, proposed revisions to Section 21.02.200-Variances, and explained that this consolidates the criteria and deletes redundancy and clarifies that all of the criteria must be met for a variance to be granted.

Chairman Reece inquired about Section 21.02.070(a), where they deleted the paragraph on appeals and amendments and broke it out into two separate paragraphs. One sentence is on amendments and one sentence on appeals. Chairman Reece asked if in practice, does this actually change the process or does it just break it out into two separate designations. Ms. Portner responded that it does not change the process and that it is to just make it clearer.

Chairman Reece referred to Section 4 in the Administrative Adjustment section, where there is a whole paragraph that was struck out about application and review procedure and asked why that was eliminated. Ms. Portner stated that it was redundant. Ms. Allan inquired if Chairman Reece was talking about number 4 of the application and review procedure that talks specifically about the covenants and enforcement of the covenants. Chairman Reece responded that she was, and Ms. Allan asked Ms. Beard to speak to that section. Ms. Beard stated that it boils down to that it's not up to the City to enforce Homeowners Association's covenants. It is up to the HOAs to enforce their covenants.

Commissioner Gatseos asked if this amendment will take care of that concern. Ms. Beard replied that the main difference is that the City will not make an applicant go the extra step to show proof that they have approval of their HOA. It won't be put back on the City to in regard to the enforcement of any HOA documents which has been her advice all along as these matters are between the property owners and the HOA.

The next slide referred to two zoning districts where there are proposed amendments regarding what is allowed to encroach into setbacks. The first change is to change what they believe was a scrivener's error. Ms. Portner explained that the proposed change to section 21.03.030(d)(2)(xiii) is to correct an error to one of the allowed encroachments into a required setback. This section allows for uncovered terraces, patios and porches to extend into a required setback up to 6 feet, but no closer than 3 feet to a property line. The proposed amendment clarifies that the allowed 6 feet encroachment is into the setback and it corrects the inconsistency in the text that states "uncovered, unenclosed terraces, patio 'covers' or porches..." by deleting the term "covers".

Chairman Reece asked if an awning would be allowed to encroach into the setback. Ms. Portner stated they are not allowed to encroach, however there is a provision for an eave to hang over into a setback by 3 feet.

Ms. Portner stated that the proposed changes to 21.03.060 Cluster Provisions include corrections to the table showing examples of lot size modifications allowed based on percentage of open space provided. The specific equation used to calculate lot size is also added and is the example of the formula already provided and maintained in the Code.

Commissioner Ehlers asked if this provision is just to correct a math error and not changing any content on how cluster provisions are applied in the code. Ms. Portner responded that he was correct.

Ms. Portner's next slide was regarding uses in Section 21.04.040(i) and explained that this proposed amendment deletes the section allowing the Director to increase the allowable fence height, with or without a retaining wall, and places that provision in Section 21.02.070(l) as an Administrative Adjustment.

Commissioner Ehlers was concerned that people in the private sector that use the code may not think to look in the Administrative Adjustment section for these types of provisions and although he doesn't want to encourage redundancy, he questioned whether it should be left in this section. Ms. Portner replied that it would be incumbent on the staff to direct people to what an option may be when something they are proposing to do does not meet the strict application of the code.

The next slide displayed was regarding special regulations in Section 21.07.010. Ms. Portner explained that in 2012, the City adopted floodplain management regulations in accordance with minimum standards established by the National Flood Insurance Program (NFIP) and the State of Colorado. Guidance was provided by the Colorado Water Conservation Board with a model ordinance. In a side-by-side comparison, staff found the section specific to Recreational Vehicles includes two significant deviations. One is a prohibition of Recreational Vehicles being located in a special flood hazard area between April 1st and June 30th of each year. Since that prohibition is not in the model ordinance staff is proposing to delete it, finding that all the other regulations in place provide adequate protection.

The other proposed amendment appears to be a scrivener's error where "and" was used rather than "or" between sections that detail requirements as a temporary structure versus a permanent structure.

Commissioner Ehlers asked if the definition of a recreational vehicle as "occupied as a temporary dwelling" was necessary in that section. Ms. Portner clarified that it is defined in the ordinance and is specific to the floodplain regulations. Chairman Reece added that it says "on site for fewer than 180 days."

Staff recommends approval of the proposed amendments based on the following findings:

Staff finds that the proposed amendments to the Zoning and Development Code are necessary to provide consistency and clarity to the Code provisions and therefore recommends approval.

Ms. Portner asked that they consider an addition so that within Section 21.02.070(I)(2) that “an accessory structure” is added.

Commissioner Discussion

Commissioner Ehlers referred to the Recreational Vehicles that were discussed and asked if there was an “opportunity” or possible an omission in that codes may not be up to date with new modern RV Park terminology. For example, along with recreational vehicles there are “recreational park models” that are like RVs. These units are usually owned by the park and can be a tiny home or RV that is rented out by the park. Commissioner Ehlers asked if there is any reason to omit or include language that is applied to that industry.

Ms. Portner replied that the floodplain regulations would consider that a permanent structure and it would have to meet those standards which includes anchoring and whatever is written into that section as a permanent structure. Ms. Portner stated that they would still be allowed to be there but they would have different standards they need to meet. Ms. Portner added that the length of stay and how it is attached is what is addressed in this section.

Ms. Allan added that the City has a lengthy list of standards that are required for RV parks and campgrounds. Ms. Allan recognized that the RV Park industry has evolved and suggested that the Planning Commission may want to look at those standards at some point in time to possible update them.

Commissioner Ehlers added that he would like to see those definitions and standards reviewed in the future. Some RV parks have what is defined as a “tiny homes”, however the whole conversation of all types of “tiny homes” needs to be addressed. Ms. Allan agreed that the RVs, tiny homes and recreational park homes all need to be reviewed to see how they fit into the Land Use Codes.

Commissioner Deppe asked Commissioner Ehlers if a Park Home has a license plate on it. Commissioner Ehlers replied that a Recreational Park Model, also referred to as a Park Home, is required to be constructed to the same building code standards as an RV is. In order for them to be registered at the DMV, with a tag that is labeled on them, that it is an RVIA certified. They are issued plates and technically have wheels, tires and axles under them and can be driven out, however for the most part they are affixed.

MOTION: (Commissioner Ehlers) “Madam Chairman, on the Zoning and Development Code Amendments, ZCA-2017-580, I move that the Planning Commission forward a recommendation of approval finding that the amendments are necessary to provide consistency and clarity to the Zoning and Development Code with the addition of adding to Section 21.02.070(1)(2) to include an “accessory structure” as follows: “the director may permit an accessory structure, including a fence or retaining wall that are considered structures in a required setback upon the finding that...”

Commissioner Wade seconded the motion. A vote was called and the motion passed unanimously 6-0.

Other Business

Ms. Allan reminded the Commission that Commissioner Wade had extended an invitation to a reception on Thursday for both Ebi Eslami’s going away party and a holiday reception.

Adjournment

The meeting was adjourned at 8:46 pm.