

GRAND JUNCTION PLANNING COMMISSION
February 20, 2018 MINUTES
6:00 p.m. to 9:13 p.m.

The meeting of the Planning Commission was called to order at 6:00 p.m. by Chairman Reece. The hearing was held in the City Hall Auditorium located at 250 N. 5th Street, Grand Junction, Colorado.

In attendance representing the City Planning Commission were, Christian Reece, Jon Buschhorn, Kathy Deppe, Keith Ehlers, Andrew Teske, Bill Wade, and Steve Tolle.

In attendance, representing the Community Development Department –Tamra Allen, (Community Development Director) and Kristen Ashbeck, Senior Planner.

Also present was John Shaver (City Attorney).

Lydia Reynolds was present to record the minutes.

There were 13 citizens in attendance during the hearing.

*** * * CONSENT CALEDAR * * ***

1. Minutes of Previous Meetings

Action: Approve the minutes from the January 23, 2018 meeting

Chairman Reece briefly explained the Consent Agenda. Noting that only the minutes from the January 23rd, 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 to approve the Consent Agenda.”

Commissioner Deppe seconded the motion. A vote was called and the motion passed unanimously by a vote of 7-0.

Chairman Reece explained there will be a written and video recording of the meeting. The order of the meeting will be as follows:

- 1) Examination of the application and a determination concerning the adequacy of notification.
- 2) Presentation, description and analysis of the application by the staff,
- 3) Opportunity for the applicant to present evidence and arguments concerning their position on the project
- 4) All other interested parties may then address the Commission, with comments limited to three minutes per speaker.

6. Applicant's response to Staff Report (handed out at meeting)

The Commission took a fifteen-minute break to read the handouts.

Staff Presentation

Ms. Ashbeck stated that this proposal is to consider a request for review of a Service Plan for the proposed Lowell Village Metropolitan District. The applicant is ReGeneration LLC.

Ms. Ashbeck displayed a PowerPoint slide with an aerial photo of the site and explained that the applicant is planning for the proposed Lowell Village project to be constructed on the easterly two-thirds or just over 1.5 acres of Block 84 of the Original City Plat also known as the R-5 High School Block located at 310 North 7th Street.

Per preliminary plans, the development will consist of 36 townhome units, each with the potential for an accessory dwelling unit above a garage on each lot. As a means of generating capital for the construction and on-going maintenance of the proposed public improvements within the development, the Applicant is proposing to form a Metropolitan District. Ms. Ashbeck noted that per Title 32 of the Colorado Revised Statutes (C.R.S.), the first step is to develop a Service Plan for the District, which is to be considered and, if found acceptable, approved by the City.

Ms. Ashbeck displayed a slide with the zoning illustrated and noted that the property is zoned B-2 (Downtown Business) which allows for a mix of uses, including multifamily residential such as the townhomes proposed. The block is also within the Greater Downtown Overlay which includes development guidelines and standards for new construction. While the property is also a part of the North Seventh Street Historic Residential District, the guidelines and standards adopted for that district are advisory only.

As indicated on the Applicant's preliminary concept plan in the Service Plan, the density of the development will be approximately 22 dwelling units per acre. This density is consistent with existing multifamily development to the north and east that is zoned RO (Residential Office). Properties to the south and west are also zoned B-2 and are developed as downtown commercial uses, primarily offices.

Ms. Ashbeck explained that special districts are quasi-municipal corporations that are organized to act for a particular purpose. A metropolitan district is a special district that provides any two or more services which may include fire protection, parks and recreation, safety protection, sanitation, solid waste, street improvements or water, to name a few.

A district has the ability to acquire bonds for the construction of the improvements and to levy taxes to the area within their boundaries to repay those bonds. The financing, construction, and operation and maintenance of improvements and services to support new development is legally the responsibility of the district if formed.

Ms. Ashbeck displayed a slide of bullet points and explained that the Municipal Code does not contain provisions for review of service plans. Therefore, the process of submittal and review of a Service Plan must be in compliance with requirements in Title 32 of the Colorado Revised Statutes. The requirements include submittal of the service plan to the City Clerk who, in turn, provides notice to the Colorado Department of Local Affairs – this was completed February 2 and 5, 2018.

Then per local policy, the Service Plan is referred to the Planning Commission for review and recommendation. City Council then sets a Public Hearing date and holds the Hearing. If approved by City Council, affected property owners must vote to approve the district.

Ms. Ashbeck added that if the District is formed, the sale of municipal bonds generates funding for infrastructure and amenities. As development occurs, bonds are repaid by property owners within the district through the additional taxes paid by district residents. The applicant maintains oversight of the district, an annual audit is conducted and reports are submitted to the City and State. The City has no legal or financial liability during the life of the district; it does not reduce tax revenues and it does not draw from the City's capital improvement budget or capital reserves.

The trend with special district legislation has been to allow local governments to have greater control over the formation and operation of special districts. The approval process for the Service Plan is the key to exercising that control as a means of preventing unnecessary proliferation and fragmentation of local government and tax sources, and eliminating overlapping services.

Ms. Ashbeck displayed a slide showing an aerial view with the property highlighted and explained that the Service Plan proposes to serve the Lowell Village development, a 36-unit development with potentially 36 accessory dwelling units. The applicant submitted a Preliminary Plat and Plan for the project on February 8, 2018 which has not been reviewed or approved by the City. This results in a review of the Service Plan without an accompanying Approved Development Plan as defined by the Service Plan.

The area defined as the boundary of the District includes the easterly two-thirds of Block 84 of the Original City Plat also known as the R-5 block. However, the Service Plan states: "It is anticipated that the District's boundaries may change from time to time as it undergoes inclusions and exclusions subject to Statute."

Ms. Ashbeck clarified that the primary purpose of the District is to provide for the Public Improvements associated with development and the ongoing operation and maintenance of them. Statutory requirements state that a Metropolitan District may include a variety of services, but is required to provide at least two services that benefit the public.

The next slide displayed outlined the required submittal elements for a service plan included in Section 32-1-202 of C.R.S. The first element is a description of services. Ms. Ashbeck explained that the Service Plan provides a list of potential services but also states that these may or may not be services that the district provides. The Service Plan for the Lowell Village Metropolitan District is to construct and provide on-going maintenance of the following elements:

- Community Greenhouse/Gardens, Community Recycling/Composting and Public Event Space - a parks and recreation service,
- Solid waste disposal facilities or collection and transportation of solid waste - a sanitation service,
- Public Roads and Private Drives - a streets improvement service, and
- Domestic water lines - a water service.

Ms. Ashbeck stated that another required element of a Service Plan is a financial plan. For the proposed Lowell Village District, the Financial Plan was included in the Service Plan and was reviewed by the City's Deputy Finance Director, Jay Valentine. The financing assumptions in the plan were modeled by D.A. Davidson and Company.

Ms. Ashbeck stated that Mr. Valentine had commented that the financial plan of the District, specifically the revenues acquired through the issuance of debt, at first appeared to be insufficient to construct the public improvements since the service plan states an estimated cost of the Public Improvements is \$1,600,000 while the revenue generated by the issuance of debt is \$697,000.

The applicant has since provided information stating the gap can be filled by conventional loans, proceeds from the property sales and additional bond revenue. This additional information was acceptable to Mr. Valentine. The repayment of the estimated \$697,000 debt is proposed to be achieved by imposing a mill levy targeted at 55.277 mills on the taxable property of this District.

The next slide illustrated the required elements of a Service Plan which are a Preliminary Engineering drawing and a Map of the proposed District boundaries. For the proposed Lowell Village District, Preliminary Plans have been included in the Service Plan to serve as the required drawing. These plans were submitted by the Applicant for review through the City development process on February 8, 2018 so have not received approval nor do they constitute the Approved Development Plan as defined in the Service Plan. Thus, staff believes this requirement has not been met; and is recommending that if a District is approved, an Approved Preliminary Plan consistent with the Code shall be completed prior to the Metropolitan District Service Plan becoming effective.

Ms. Ashbeck stated that the District boundary shown here is inconsistent with the legal description stated in the Service Plan since, per the Map and the subsequent Preliminary Plans and listing of site improvements, it appears the District is intended to include the public alley rights-of-way but the legal description does not include them.

In addition, lots stated in the legal description as filed do not presently exist until a new subdivision plat has been recorded. Staff expects to record the plat this week. These discrepancies in the maps and legal description must be revised prior to approval.

Ms. Ashbeck stated the Service Plan must also include a description of facilities to be constructed and cost estimates of those. Standards for the proposed construction were discussed and a statement was included in the Construction Standards Limitation section V.c. of the Service Plan that ensures Public Improvements are designed and constructed in accordance with the applicable standards and specifications of the City consistent with the Approved Development Plan.

However, Ms. Ashbeck noted that the Preliminary Plans do not specifically show which improvements and services are to be provided within the proposed District since the boundary is not shown on this plan. Instead, the plans show the ultimate build-out of the site, including areas that are not being proposed as part of the initial District boundaries as well as areas that are within City public rights-of-way and not within the District boundaries.

The facilities to be constructed include landscaping, community gardens and event space, private drives and public alleys including street lighting, sanitary sewer, storm sewer, domestic water and electrical distribution. While the Service Plan gives a description, it is unclear from the Preliminary Plans included in the Service Plan the extent of which, what and where facilities are to be provided via the District.

Thus, Staff concludes this submittal element has not been met and is reflected in condition 1 in the staff report. The plan provides estimated costs for engineering, surveyor and construction management, and construction of improvements based on the plans included in the Service Plan. Ms. Ashbeck emphasized that it is important to note that where these initial estimates might vary from the actual costs developed from detailed design, the actual cost of development shall be based on cost estimates associated with the Development Improvements Agreement that will be required with Final Plan review, and not those estimates contained within the Service Plan.

The next slide illustrated the proposed agreements. Ms. Ashbeck explained that the Service Plan states that an agreement for the performance of services between the City and others and the district is not anticipated.

However, Ms. Ashbeck stated that staff has identified the need for intergovernmental or private agreements to address construction and maintenance of site improvements shown on the Preliminary Plans that are not within the proposed boundaries of the District. One can see that much of the landscaping and other improvements shown on the Preliminary Plans that are to be constructed and maintained by the District are within the public rights-of-way of interior alleys and perimeter streets as outlined in red on the illustration. An agreement is needed to make clear the obligation for construction and maintenance of these improvements.

Similarly, the Stormwater Detention areas shown on the Preliminary Plans, shown in blue on the illustration, are on private property which appears outside of the proposed District Boundaries. Easement agreements are needed to address these areas. Such agreements are not attached to the Service Plan as presently filed. Staff believes this submittal element has not been met and recommends that such agreements be submitted and reviewed prior to approval of the Service Plan.

The next slide outlined the “criteria for action”. C.R.S. §32-1-203 contains the criteria for action on a service plan stating that the jurisdiction shall disapprove the service plan unless evidence satisfactory to the Council of each of the following is presented:

1. There is sufficient existing and projected need for the services to be provided by the proposed Metropolitan District.
2. The existing services in the area are determined inadequate.
3. The District is capable of providing the proposed services.
4. The District has the financial ability to discharge debt.

Ms. Ashbeck noted that these criteria are further discussed in the staff report, taking into consideration that this is an infill site, the services the City provides are or can be made available and the additional information provided by the Applicant.

The following slide Ms. Ashbeck displayed explained that statutes state that the jurisdiction may disapprove the service plan if evidence satisfactory to the Council of any of the following, at the discretion of the Council, is not presented:

- adequate service is not, or will not be, available to the area through the City or other existing municipal or quasi-municipal corporations.
- the proposed facility and service standards are compatible with those of the City
- the proposal is in substantial compliance with the Comprehensive Plan.
- the proposal is in compliance with an adopted water quality management plan.
- creation of the District will be in the best interests of the area proposed to be served.

Ms. Ashbeck added that a detailed discussion of these criteria is included in the staff report. Similar to the previous slide, in examining these criteria, consider that the Lowell Village property is an infill development site within downtown Grand Junction. Utility services exist to and within the perimeter rights-of-way that can be improved and extended to serve any proposed project. While the City does provide some of the proposed services, not all of them are provided within private property.

Ms. Ashbeck stated that in addition to the statutory review criteria discussed on the previous 2 slides, the statute gives the City broad power to establish requirements for service plan approval that exceed or enhance those specifically cited in the statutes. The staff report includes analysis of the need for additional information. Upon further review of the Service Plan and with new information provided by the Applicant, Finance

and Planning staff now believes that there is no need for additional information in these areas.

Findings of Fact

Ms. Ashbeck explained that in accordance with State Statute, the findings of the City shall be based solely upon the service plan and evidence presented at the hearing by the petitioners, planning commission, and any interested party.

After reviewing this request to consider formation of a Metropolitan District for the proposed Lowell Village project to be located on the R-5 block, the following findings of fact have been made:

1. The Lowell Village Metropolitan District Service Plan is consistent with the Comprehensive Plan;
2. The Lowell Village Metropolitan District Service Plan does not meet Title 32 Colorado Revised Statutes requirements for formation of a Metropolitan District without the following conditions being met.
 - Approved Development Plan as defined in the Service Plan.
 - The Plans do not specifically show the location of the public improvements to be completed by the District and
 - There are conflicts between the District boundary map and its legal description.
 - Need for Private and Intergovernmental Agreements.

Ms. Ashbeck noted that these requirements for amendments to the Service Plan are outlined in the proposed conditions listed in the staff report.

Planning Commission Action

Ms. Ashbeck explained that the action, pursuant to state statute, is recommendation to the City Council which has the authority to either:

1. Approve the Service Plan without condition or modification;
2. Disapprove the Service Plan; or
3. Conditionally approve the Service Plan subject to modifications of the proposed Service Plan.

In accordance with State Statute, the City may conditionally approve the service plan of a proposed special district upon satisfactory evidence that it does not comply with one or more of the criteria. Final approval shall be contingent upon modification of the service plan to include such changes or additional information as shall be specifically stated in the findings of the City Council.

Ms. Ashbeck added that the staff report lists 8 conditions of approval but, with the further analysis of the Service Plan and new information provided by the Applicant, 5 of the conditions are no longer necessary.

The three remaining are conditions 1 through 3 as listed in the staff report:

- 1) Revise legal description and boundary map within the Service Plan that correlate to each other and accurately depict the location of the services to be provided and an accurate map of Areas of Operations and Maintenance that clearly show the areas within which the services will be provided by the District and whether the areas are within or outside the District Boundaries.
- 2) An Approved Development Plan
- 3) An Intergovernmental or other Agreements acceptable to the City for the performance of any services between the proposed District and the City or other entities that shall be attached to the Service Plan.

Questions for Staff

Commissioner Teske asked about condition # 3 and asked for clarification regarding what agreements, besides the intergovernmental agreements that need to be in place for the condition to be met. Ms. Ashbeck responded that there needs to be easement agreements for off-site construction that may be on private property and the City would like to see those in place.

Chairman Reece, noting the applicant's response to comments, said it appears that they need to be a legal entity before entering into the Intergovernmental Agreements (IGAs) and asked if that is necessary.

John Shaver, City Attorney, explained that Exhibit 6 from the applicant did mention that, however, staff is not asking for the agreements to be executed but simply in a form that would be proposed for purposes of dealing with the service and the expectation of the service; so the technical issue of the execution is not what is being requested.

Commissioner Ehlers asked what is staff's concern of the absence of the IGA at this time vs. "prior to construction" which is what the applicant was requesting. Mr. Shaver responded that it is the nature of the agreement is that it is to be negotiated. Because if and when it is **not** negotiated, and the district is approved and up and running, then there may not be a basis to negotiate. Therefore, the lack of this information for an IGA with the City or private entity, creates an impediment potentially for the delivery of service. Mr. Shaver clarified that Metropolitan Districts are really about service delivery models, typically in larger scale projects. Because this is considered an infill project, surrounded on all sides by City service, therefore having City services seems to make sense. The District, if formed, may choose to contract with the City, not the City contracting with the District, so the formation of the IGA's prior to approval is important.

Commissioner Ehlers inquired about the timeline, in light of the elections, and asked if there is a way to address the concerns via the Development Proposal. Commissioner Ehlers asked if they could accomplish the goals and have the same platform for negotiation as the City, if they tie it to the Development Plan.

Mr. Shaver noted that there are a lot of other steps as well. Metropolitan Districts are supervised by the District Court. In order for this to proceed, there needs to be a petition

filed and a District Court process followed, in addition to the election mentioned in Exhibit 6. From the City's perspective it is efficient, and preferred, to have these agreements done in advance rather than after the fact. If the Commission believe this is something that can be done later, that is fine as the Statute does not provide much guidance as to the what the Commission's review ought to be. The City's view is that they would rather deal with potential problems now rather than later.

Ms. Ashbeck referred to a Statute that states the Service Plan should contain the following: Item G; a description of any arrangement or proposed agreement with any political subdivision for the performance of any services, between the proposed Special District and such other political subdivision, and if the form contact to be used is available, it shall be attached to the Service Plan.

Regarding the language of the conditional approvals, Commissioner Teske noted that it was mentioned that the conditions shall be met prior to the plan becoming effective and asked what that meant from the City's perspective.

Mr. Shaver explained there were a couple of ways to approach that, one being from the legal perspective and the other is from the policy perspective. From the legal perspective, Mr. Shaver referred to the District Court review process as being the final and effective step and then the recordation of that, for the purposes of beginning the taxing authority. Mr. Shaver noted the policy perspective addresses the satisfaction of the conditions.

Ms. Allen added that staff anticipated that at the time it would be approved at the District Court level, the IGAs would be in place, giving the applicant a little time to pull the pieces into place.

Mr. Shaver referred back to Commissioner Ehlers question regarding the timing and stated that although it is an important consideration of the applicant as mentioned in Exhibit 6, it is not the City's problem. The City's primary issue is the satisfaction of the Statutory conditions.

Applicants Presentation

Jeremy Nelson, Managing Member of Downtown Regeneration Development Strategies LLC thanked the Commission and the staff for their help with this project. Mr. Nelson noted that the conditions that needed to be addressed has already gone from 8 to 3 in the past 24 hours. Mr. Nelson stated that they are confident that they can satisfy the City's conditions and still move the project forward with the timeline they identified.

Although the project itself is not before the Commission for approval, Mr. Nelson gave an overview of the project. The first slide Mr. Nelson presented listed the proposed program and the economic impacts. There will be 36 townhomes for sale in on the former R-5 School site in partnership with the DDA who is the landowner. The townhomes will have detached garages with flex studios above. There is a Neo-traditional site plan in terms of design and site planning. The landscape plan is to

benefit the residents as well as the community at large. Community gardens, a greenhouse, event space and other public amenities are proposed.

Regarding the economic impacts, Mr. Nelson stated that there will be \$7.5 million in townhome construction costs (estimated) and \$1.5 million in infrastructure construction costs (estimated). This project will increase property tax and sales tax revenues. One benefit is the urban infill housing choices that will support local economic development efforts such as the retention and recruitment of millennial entrepreneurs.

Mr. Nelson displayed a site plan that showed the alleys, private drives and other amenities. Mr. Nelson noted that 29 of the 36 homes have small yards. Mr. Nelson pointed out that they are proposing a density that is lower than the density allowed by right. In a future phase they hope to move forward with the rehabilitation, restoration and adaptive reuse of the old R-5 school as a community use.

Mr. Nelson's next three slides depicted sketches of the conceptual elevations and conceptual cross sections and a conceptual perspective of 11 units along White Ave.

Chris Bremner, Metropolitan District Consultant, stated that he has been a master plan developer on the Front Range for the past 15 years specializing in setting up Metropolitan Districts, running them and working through the issues associated with them. Mr. Bremner noted that he has been on 6 Metropolitan District boards and set up 4 of them.

Mr. Bremner stated that he tries to see the District be designed to be a cohesive community that will last long after the developer is gone. Mr. Bremner stated that there are upfront financial benefits, but also long term benefits to the residents of this community to have a financing taxing mechanism to be able to keep the aesthetics and beauty of the community to what they initially bought into.

Mr. Bremner display a slide highlighting a few points of special districts as follows:

CRS Title 32 Special Districts:

- Have proven increasingly popular tools for providing services to identify geographic areas.
- 1995: 875 Title 32 special districts
- 2017: approximately 2,160 Title 32 special districts
- Formation of new Metropolitan Districts account for nearly all of the recent growth in Title 32 special districts.

Mr. Bremner stated that almost all new growth in the Denver area has some type of metropolitan district associated with it. Mr. Bremner stated that the reason for that is that the infrastructure costs have outgrown the home costs.

Mr. Bremner's next slide displayed the following bullet points which he then explained:

- Facilitates the financing, construction, and operation/maintenance of improvements and services to support new development.
- Does NOT exempt a project from the City's long-range land use planning:
 - The decision on where to allow, encourage, or discourage new development is still made through the city's land use planning process.
- Does NOT exempt a project from the City's development entitlement approvals process:
 - A development project must still go through entitlement approvals (planning clearance)
- Better balances flexibility and accountability compared to local assessment district (DIDs, LIDs, etc.).
- Bottom line; an implementation tool to harness private investment to achieve City's planning, redevelopment, and economic development goals.

The next two slides Mr. Bremner displayed highlighted the legal basis for formation with the following points that he reviewed:

- District must provide at least two different "services" as defined by C.R.S.
- District infrastructure must serve a specific area and be necessary to support the redevelopment of that area.
- Allows for infrastructure cost to borne by the property owners in the development itself:
 - Does NOT tax anyone outside the district (e.g. adjacent property owners)
 - Does NOT reduce current/future tax revenues of other public agencies (e.g. TIF)
 - Does NOT draw from the City's capital improvement budget or capital reserves.
- Importantly, C.R.S. does NOT define as a legal basis for Metro District formation or Service Plan approval:
 - District size
 - District location
 - Buyer tax burden (as long as C.R.S. disclosure requirements are met)
 - Whether other infrastructure financing tools may or may not be viable.

Mr. Bremner next slide gave six comparable examples of Metropolitan Districts in Colorado as follows:

- 1997: Deer Creek Metropolitan District (Pine, CO)
- 2006: Fitzsimons Village Metropolitan District (Greenwood Village, CO)
- 2007: Solaris Metropolitan District (Vail, CO)
- 2017: RiverView Metropolitan District (Steamboat Springs, CO)
- 2017: Sunlight Metropolitan District (Steamboat Springs, CO)
- 2017: Jackson Creek Metropolitan District (Monument, CO)

Mr. Bremner explained that the proposed District meets C.R.S. formation and approval criteria and displayed a list of possible services. Two or more of these services is required: fire protection, mosquito control, parks and recreation, safety protection, sanitation (solid waste disposal facilitates or collection and transportation of solid waste), street improvement, television relay and translation, transportation or water service. Mr. Bremner noted that Parks and Recreation, Sanitation, and Street improvements are three services that are proposed with this District upon the construction and completion of the development.

Mr. Bremner stated that C.R.S. 32 also allows a Metropolitan District to levy and collect ad valorem taxes on and against all taxable property within the special district, which may be used to meet the obligations of the special district for bond interest repayment and for maintenance and operation. Mr. Bremner displayed a slide of services that a proposed district can and may seek reimbursement for as follows: parks and recreation, safety protection, sanitation (solid waste disposal facilitates or collection and transportation of solid waste), street improvement, television relay and translation, transportation and water service. Mr. Bremner added that this particular Metro District plans to seek reimbursement for the following five items: parks and recreation, sanitation, transportation of solid waste, street improvements, and water.

In summary, Mr. Bremner pointed out that the general public will directly or indirectly benefit from the following amenities: Community greenhouse/gardens, community recycling/composting, public event space (mini plaza behind the school and “great lawn” in front of the R-5 school building, future restoration and re-use of historic R-5 school, maintenance of all to the infrastructure, construction of public roads, increased property values and increased tax revenue (without a general tax increase), and increased downtown population/vitality.

Mr. Nelson displayed a comparison of the costs to homebuyers when they have an HOA (exp. The Peaks in Redlands Mesa) compared to the Metropolitan District and pointed out that HOA payments are in the form of dues, and the Metropolitan District is a form of property tax making it easier for compliance. In this comparison, the District would be \$1,400 less per year and the tax is an income tax deduction where HOA dues is not.

Mr. Nelson’s next slide addressed the developer’s accountability which is to 1) maintain oversight of the district, 2) an annual outside audit conducted of the district’s books, and 3) annual transparency reports that are submitted to DOLA and publically available.

Mr. Nelson stated that the City has no management, legal, or financial liability for a Metropolitan District. In addition, Property values will be better protected compared to HOA which is a less stringent assessment than Metropolitan District fees. Another advantage for neighboring properties is that there is reduced opportunity for blight and the need for code compliance complaints to the City since there will be a District contact person to address issues.

Mr. Nelson stated that their only intent for possible future expansion would be to develop the R-5 school building that DDA currently owns. Once the original bond debt is retired, they could generate additional revenue by re-issuing a bond. For this to occur, there would need to be an agreement of the property owners, a service plan amendment and City Council approval.

Questions for Applicant

Commissioner Wade asked Mr. Nelson if approval based on the three conditions, would allow him to continue to work with the development timeframe they have. Mr. Nelson replied yes, but with one caveat which is listed in the response to comments, as to when the Service Plan becomes effective. Mr. Nelson stated that if the City simply wants “approved as to form IGA attached to the Service Plan” then their position is that they would be ok with the City using an IGA that shows the form of the future IGA and attaching it to the Service Plan. Mr. Nelson went on to explain that they can’t negotiate the roles and responsibilities of an IGA when they don’t have an approved Development Plan. Mr. Nelson suggested the effective date of the Service Plan is not the approval by City Council, but when they actually begin to accrue revenues from bond issuance and begin to build at which point they agree they will have an IGA and an approved Development Plan before the City would allow them to build anything.

Chairman Reece asked if the taxes are still collected after the term of the bond is fulfilled. Mr. Nelson stated that they have in their Service Plan how the dissolution of the District will occur or whether it will not occur in conversation with the City. Under C.R.S., the District cannot dissolve if it has any outstanding indebtedness. Mr. Bremner added that what usually happens, depending on what’s happening in the District, is that when the debt is retired the Board may continue to tax for maintenance of the infrastructure but they can choose to lower the mill levy.

Chairman Reece asked what the term of the bond is. Mr. Bremner replied that it is typically 20 years but it can be 30 years depending on the market. Commissioner Buschhorn asked if the District can be dissolved after repayment of the bond. Mr. Bremner replied that it can as long as you have an entity in place to takeover whatever maintenance responsibilities the District had. Commissioner Bushhorn asked if the City could be responsible. Mr. Bremner replied that there would be an IGA in place once you have an approved Development Plan identifying what areas are private and what areas are the responsibility of the District which could include the responsibility into perpetuity unless the City wanted to take the responsibility.

Commissioner Bushhorn noted that some of the proposed services are private services and asked if any of the services are open to the general public. Mr. Bremner clarified that the term “public,” when setting up the District, implies the general public such as in the case of hearing notifications for example. Once the District is in place, C.R.S. refers to the inhabitants of the District as the “public” as far as repayment of the infrastructure. Commissioner Buschhorn asked if the “public” space for events was ultimately a “private” space just for the benefit of the 36 homeowners. Mr. Nelson clarified that they are creating infrastructure that will specifically benefit the 36 homeowners, but they are also going above and beyond that infrastructure to provide truly public infrastructure such as the event space shown behind the school, which also doubles as a firetruck turn-around, the community gardens, a mini park and a plaza for example. Mr. Nelson stated that this is not a gated community. Mr. Nelson gave some examples of partnerships that may develop to utilize the public spaces and stated that they are trying to create a community subdivision not a commodity subdivision.

Chairman Reece noted that two of the services the District anticipates providing is private roads and streets improvements as well as solid waste disposal facilities. Chairman Reece stated that a subdivision would have to provide those whether or not they are a Metropolitan District. Mr. Nelson stated that the sanitary services are referring to the composting and recycling that is not required. Mr. Bremner clarified that the sanitary sewer and roads is an investment to benefit the public, and the more important feature is that the maintenance will be the responsibility of the District.

Commissioner Buschhorn stated that his understanding of Metropolitan Districts is that they usually occur on the outskirts of a municipality and they are set up to bring infrastructure to the District so the municipality doesn't carry the cost burden and asked if that was the original intent of the Districts. Mr. Nelson replied that he would have to go back to C.R.S. to see what the original intent was, but basically it is a financing mechanism that has a maintenance aspect to it. It provides an option for the developer when the cost of the infrastructure can be cost prohibitive to the development of the subdivision.

Commissioner Ehlers asked if the developer has the benefit of recouping costs over time, will the cost of homeownership be less. Mr. Nelson stated that the traditional use of Metropolitan Districts has been greenfield, increasingly they have been used in infill sites especially if the developer is willing to go above and beyond minimum requirements in terms of landscaping. Mr. Nelson stated that half of the site is open space which is double or triple the space a typical subdivision has which raises costs and lowers yield. This model justifies the need of a District. Mr. Nelson stated that since the costs to build are the same or more than the Denver area, the price of housing is about half. Typically, the cost of homes is front loaded to absorb the infrastructure costs and with a District, these costs can be amortized over time while providing the homeowner a tax deduction as well.

Commissioner Ehlers spoke to the difficulty of local bankers and appraisers to appraise homes because of the influx of foreclosures. Commissioner Ehlers asked what the impact of a District would be regarding financing for the homeowners to make sure it is viable. Mr. Nelson suggested looking at it as a housing affordability mechanism. Either a homeowner pays the infrastructure costs upfront, which can price-out an entry level buyer, or they pay it over time. Commissioner Ehlers commented that as a land planner, he sees where a concept can start out looking good and then costs require them to strike out the amenities.

Commissioner Ehlers asked if they will be paying the water and sewer tap fees. Mr. Nelson stated that Community Development will still charge the fees although they may be allowed to defer them until certificate of occupancy which is currently an option at the City.

Commissioner Ehlers stated that he is sensitive to the timing of the proposal, however he is concerned about the absence of the Development Plan. Commissioner Ehlers

asked what happens if they need to modify the design and/or density before it is all said and done.

Mr. Nelson responded that the Service Plan is a high-level framework. Given that they have gone through the process and have done market studies, had pre-app and general meetings with the City and a community meeting, they hope there are no modifications necessary. The high-level frame of the Service Plan can be amended in response to changes that happen through the development approval process or through the negotiation of the IGA. Mr. Nelson stated that they are asking to have this approved conditionally to allow it to proceed to City Council and that the effective date of the Service Plan is not the City Council approval, (which essentially is denying the Service Plan because they cannot reasonably get the Development Plan and the IGA negotiated in a month), but the effective date of the Service Plan becomes some date to be negotiated with the City staff and attorney prior to expenditure of revenues, construction or permits. That gives them time to concurrently negotiate the IGA or take the project through entitlements. Mr. Nelson noted that they have been working on this for 1-½ years and they feel they can work on these two pieces while keeping the Service Plan moving forward.

Commissioner Ehlers asked if the Service Plan can be amended. Mr. Nelson replied that under C.R.S., the service plan can be amended if needed. Mr. Nelson clarified that they can go through the amendment process, including going back to City Council, without going through another election process. Commissioner Ehlers asked if the Commission considered moving forward without certain items....appreciating good faith, the design, and understanding the history to make sure the City's interests are secured...would the City be able to come in at a later date and impose conditions that may require an amendment to the Service Plan.

Mr. Nelson stated that they would not want to specify those specific changes that require that amendment to be done. Mr. Nelson stated that he was confident that City staff would inform him if the IGA or Development Plan was an issue.

Mr. Bremner added that at the time a preliminary plan gets approved, an IGA would be approved alongside that, so the City would know what the District's responsibilities would be. Those two items would go hand in hand and don't hold up the Service Plan approval in order to get it to an election.

Commissioner Ehlers stated that they want to make sure that they have options and that they are not approving something too early just because of the sensitivity of the elections cycles. Mr. Bremner added that in his experience, the developer can't issue debt without a preliminary plan approval and the bond holders will be looking for City approval to issue the bonds. Therefore, the City would not be at risk to approve without all the steps in place because there are other (like bond holders) that will require the preliminary plan be in place before the District can become viable.

Chairman Reece asked about the language stating that the Service Plan will be in place once it becomes effective. She recalled that they said that to be “once it start collection revenue to pay for the services”. Chairman Reece asked why the service plan wouldn’t be finalized beforehand considering part of the services that are listed are main sewer lines and transportation improvements, which are going to occur before a single unit is sold.

Mr. Nelson recapped that that they are asking for the Service Plan to be conditionally approved, to move it forward to City Council, and he would be happy to work with City staff to wordsmith the necessary language to establish what the appropriate “effective date” when the IGA and the Development Plan get tacked on to the Service Plan. Mr. Nelson stated that they have until whenever the packet deadline is for the March 21st City Council meeting. Mr. Nelson added that it could be a condition of approval.

Chairman Reece referred to a rendering and asked if the studio/flex space above the garage were to become established as an accessory dwelling space, was that considered when they calculated density.

Mr. Nelson stated that the homeowner can choose to finish it by having storage, a studio or accessory dwelling however the District, though the covenants would not allow the space to become short term vacation rentals. Ms. Ashbeck added that accessory dwelling units are not considered in density calculation according to the Code.

Commissioner Wade stated that it is his understanding that the applicant’s preference is to change the language “*prior to the Service Plan becoming effective*” to be “*prior to construction of infrastructure and amenities*” as noted in the response to comments. Commissioner Wade asked if he understood correctly that they were willing to come up with difference language between now and the City Council meeting. Mr. Nelson stated that the suggestion to change the language was a first response after seeing the language “becoming effective” listed in the conditions for approval. Mr. Nelson stated that it was felt that the language could potentially tangle up their preferred approach, so they proposed some initial language but they are flexible.

Chairman Reece called for a 10-minute recess.

Chairman Reece called the meeting back to order, for Public Comment.

Public Comment

Treece Bohall, stated he was a local builder and interested in partnering with REgeneration Development Strategies LLC to build this development and he would recommend approval of the District so they can move forward with the project.

Brian Bray, stated that he was managing broker at Bray Commercial Real Estate and had an office right next to the project. Mr. Bray stated that it looks like a great design and would be proud to have it as their neighbors and feels it would flow well with the downtown. Mr. Bray noted that Downtown Grand Junction has had problems with

penciling in a project. Mr. Bray stated that the applicant's group has been innovative in a way that the financing can make sense for Downtown Grand Junction. Mr. Bray expressed his support for this project.

Rob Breeden, stated he is with Nvision Design Studio, Fruita, Colorado. Mr. Breeden stated that he is working with the developers and is able to answer questions about the proposed community gardens and public spaces. Mr. Breeden stated that he was in support of the formation of the District as it does a lot of things for the City and the community at large that we haven't seen in Grand Junction. The Metro District will provide a vehicle for them to operate in a way that makes things more efficient and cost effective for the owners. Mr. Breeden noted that he is the treasurer for a local Conservation District in Mesa County and they act in a similar way that the Metropolitan District is proposed and has worked on Public/Private partnerships to promote conservation and education projects.

Aaron Young stated that he is a local business owner and commercial property owner on 8th and Main Street. Mr. Young expressed his support for this project and thought it was being done in a creative and innovative way. Mr. Young stated that he has 45 employees and downtown has struggled with housing. Mr. Young stated that the project is two blocks north of his business and looks forward to this development.

Brandon Stam, Director of the DDA, stated that the DDA is in support of this project. The DDA sees this as a core component of many of the other economic development projects that are underway such as Las Colonias, revitalizing the riverfront, Two Rivers renovation and hotels. Mr. Stam stated that this will help with infill and create more needed housing downtown.

Chairman Reece asked if the DDA was comfortable with the Commission moving forward on approving the District without an IGA in place to address the detention ponds. Mr. Stam stated that he is confident that an easement would be something both sides could resolve. Mr. Stam noted that it would be necessary to have easements and Mr. Nelson is aware of that.

Chairman Reece asked if it would be DDA's preference to have the pond easements in place at the front end of the project since they are on DDA property. Mr. Stam responded that the topic came up at a predevelopment meeting two or three months ago. The applicant wanted to know if it was something that the City would be open to. Mr. Stam stated that the conversation also included Stormwater treatment. Mr. Stam stated that he does not feel the timing is as important, but they would need to have the easements in place eventually as part of the project.

For clarification, Mr. Breeden added that from the time they put the illustration together that is before the Commission, to the time they submitted the application to the City, his civil engineer determined that the pond to the north would not be necessary.

Harry Hotimsky, First Choice Realty, stated he is in support of this project noting that there are not enough housing projects in the downtown.

Steve Ammentorp, ANB Bank, stated that as a banker he knows the demand for housing in the downtown area is huge among both young people and retirees for a variety of reasons. Mr. Ammentorp feels the market demand will support this type of project and he is in support of it.

Questions for Staff

Commissioner Ehlers asked Mr. Shaver if the Service Plan could be approved with a different milestone for the “becoming effective” component, that may allow this to move forward and yet still address the ability for the City to have the right negotiating platform.

Mr. Shaver stated that in the statutory section 32-1-204 there is not a lot of guidance and in most cases you can run down a list and see if it complies, however this is not one of those matters. In subsection “e”, it talks about “in your discretion, you are to determine whether or not the creation of the proposed District will be in the best interest of the area proposed to be served”. Mr. Shaver clarified that “the area” is not only the proposed District area, but the broader area of interest of the community, therefore the area to be served will need to be defined.

Mr. Shaver reminded the Commission that the project is not what is being approved, the Service Plan is what they will vote on. Because the Service Plan is integral to what the project will be, that is why the exhibit is relevant. The relationship of the approval of the Development Plan and the approval of the Service Plan is at the core of the issue. From the City’s perspective, Mr. Shaver felt it was something they could work through, but he hopes the Commission recognizes that the Development Plan informs the Service Plan closely. For example, if the Development Plan as approved, said that those streets were going to be private streets instead of public streets, then there would be a significant change in the context and applicability of that Service Plan. Similarly, if the City, in the development planning process were to say that the sewer line would be a City sewer line, instead of a sewer line constructed by the District, then that would be a significant change to the Service Plan.

Mr. Shaver stated that between now and the City Council meeting the Development Plan could be informed a little bit more specifically as far as these basic elements, as there is a conceptual plan that these are going to be public streets. Mr. Shaver feels that the Commission would be safe in making what they think would be the appropriate condition of approval, if these other conditions were met as Ms. Ashbeck outlined earlier. The biggest difficulty will be time and although there may not be an approved Development Plan in that time, there could be very likely be a more concrete development plan. Mr. Shaver noted that that was the staff’s perspective, but the Commission could always take a different perspective and choose not to put any conditions at all.

Ms. Allen, Community Development Director, concurred with Mr. Shaver's comments about the timing and the importance of having an approved Development Plan and understanding of what the Service Plan will provide. Ms. Allen stated that having an agreement in place, at least in draft form, is critical for the understanding of which entity will be responsible for things such as the maintenance of streets. Mr. Alan noted that they just received the preliminary plan and have been working with the concept plan up to now without the engineering details and design.

Ms. Allen stated that when they proposed the effective date as the condition of approval, they saw that as the time of the District Service Plan going to election. Ms. Allen felt that waiting until time of construction was too late to have those assurances.

Commissioner Wade asked if they made a recommendation with a condition of approval to City Council, and City Council then approves it, what is the timeline after that for the other pieces of the process that are necessary. Mr. Shaver stated that he would defer to the applicant as they have very specific expectations for those timelines.

Mr. Shaver added that they will be noticing this for City Council for March 7th and they then have statutory deadlines for when they can conduct the hearing. Based upon that, staff is expecting that Council will consider it on March 21st. Based upon the Council consideration on the 21st, it is staff's understanding that it fits with the developer's timeline for purposes of then taking it to the next step of the notice of election and then the election itself and the District Court petition. The City intends to meet those timelines, however, a lot will depend on what the conditions are that the Planning Commission may suggest.

Chairman Reece asked the applicant if they had any comments regarding the timeline that Mr. Shaver spoke about. Mr. Nelson noted that the filed Service Plan is the fourth draft of the plan in nearly four months. Mr. Nelson stated that the language just proposed by Ms. Allen around the certified election results, would seem to be an effective date that they could live with as far as the development timeline, but it also aligns with what is likely the City's capacity to review and provide feedback to revise the Development Plan and develop the IGA off of that Development Plan. The District Court filing date is March 29th. If the applicant was to miss that date, then it would push it back to a November election, however if they do make that date then they would have a May 8th election which is a 6-month difference in moving dirt.

Commissioner Ehlers asked if, as a condition of approval, instead of the response saying that it should be "prior to the construction of infrastructure and amenities, that it be changed to "**prior** to certified election results".

Mr. Nelson added "**at the time of** the certified election results" which is when the Service Plan would become effective as a document. Mr. Nelson noted that DOLA has to then recognize the District based on the submission of the certified election results. Essentially, the effective date of the Service Plan is when the District is recognized by the State of Colorado.

Mr. Nelson noted that on condition of approval #1, he feels like this can be done at a 1-hour meeting as it deals with formatting and they need to have a discussion on legal description versus District Boundaries. On condition of approval #2, the approved Development Plan, it is up to the Community Development Department, given their constraints, as to whether they will have enough time to review the plan and what the implications would be if there would need to be variances that will need to be processed.

Commissioner Wade asked for clarification on their desired effective date. Mr. Nelson clarified that on condition #2, an approved Development Plan and condition #3, an executed IGA, they would be comfortable with those being approved and executed at the time that the Service Plan becomes effective, whether that's the DOLA recognition, or when the election results are certified adding that he would defer that to the attorneys. Mr. Nelson had a question with condition #1 because it states they need to revise the exhibits because they are not compliant with C.R.S., however they feel they are compliant. Mr. Nelson stated that they will work with the City to make sure that the exhibits, the service plan and the legal description, are compliant with C.R.S.

Commissioner Wade stated that the condition says that they will work with the City to create accurate boundaries and show what services will be provided and where they will be provided. Commissioner Wade asked if they use the date of the certification of the election as the date of effectiveness of the Service Plan, would they be able to get everything resolved before that date. Mr. Nelson stated that he would defer to City staff for their timeline for reviewing the Development Plan.

Commissioner Wade noted that the District Court filing date is March 29, 2018 and asked if they were to get in on that filing date, when would the election be. Mr. Nelson replied May 8, 2018. Commissioner Wade asked if they were in the election for May 8, 2018 when would the certification date be. Staff replied that they believe it would be 30 days later.

Commissioner Wade asked Ms. Allen if the certification date was June 8, 2018, would staff be able to work through the 3 conditions of approval and have everything ready by June 8, 2018. Ms. Allen stated that there are a lot of variables concerning the question. Ms. Allen noted that there are unresolved issues as far as the review goes, and they haven't even began to dig into the preliminary plan that was recently submitted. Ms. Allen stated that it appears to be a doable timeline, however it depends on the responsiveness of the applicant to address review agency issues/concerns and staff's ability to get their review done given their other workload.

Chairman Reece asked if the items would need to be firmed up before going to City Council. Ms. Allen responded that ideally they would be, but these are conditions of approval that are penciled in and there is a certain amount of trust and obligation on the part of the Commission and Council as to whether these are appropriate levels of responsibility for staff to work with and to work with the developer to negotiate these.

They are presented as conditions of approval to the Commission and would be left to staff to negotiate, and it is up to the Commission and Council if they are comfortable in not seeing this as part of the Service Plan at this point in time.

Chairman Reece asked Mr. Shaver if based on the discussion of when the effective date is, should they modify the language of the motion. Mr. Shaver replied that due to the fact that there are specific expectations of the Commission as to the condition, it would be best if specific terms were stated in the motion.

Mr. Shaver added that regarding the question of the legal description versus the District description, he stated that staff can easily deal with that and of the 3 conditions, that one can be easily resolved. The one that the Commission is grappling with is the effective date and is the one that is the most significant because the plan informs that as to what is approved and what is approved will determine what the services will be.

Commissioner Wade asked if the motion is better if they had a specific date in it. Mr. Shaver responded that it can be, but the question of what happens if that date is not met. Mr. Shaver reminded him that this is a recommendation only to Council.

Commissioner Ehlers would like the record to be clear that he agrees with staff and legal as far as a concern to make sure that we aren't jumping ahead and limiting the ability to do what is best for the City. Commissioner Ehlers offered for consideration that there could be an amended motion for approval with condition #1 being there but not including #2 and #3. Commissioner Ehlers stated that it is based on his understanding that all of the concerns and items raised by staff and legal, can still be addressed by staff because of the flexibility to be able to amend the Service Plan as a result of any an evolution of the Development Plans.

Commissioner Ehlers stated that he agrees with the comments Mr. Shaver referred to in the statutes that "public benefit of the area" can be a consideration. Commissioner Ehlers added that he believes that the time is right, time is critical in this type of development, and it supports economic development associated with this type of housing. Commissioner Ehlers noted that development in this area has met with resistance in the past.

Commissioner Ehlers believes that with the ability to amend the Service Plan to reflect evolutions of the Development Plan, and can do so in a manner that is less restrictive than the election cycle, then he is in favor of approval with condition #1 being met. In this recommendation, it would not require that the approved Development Plan or the approved IGAs have to happen before the Service Plan can become effective. If the Commission chose to go that route, some of the language can be modified in that recommendation...perhaps an addition at the end...that the conditions shall be met prior to the Service Plan becoming effective upon DOLA's certification of the election results.

Chairman Reece stated that she understands Commissioner Ehlers thoughts regarding the potential motion, however if that was the motion, she would vote no. The reason she would vote no is because the final Development Plan directly informs the Service Plan and the motion is not to approve a development, but to vote on a Service Plan.

Chairman Reece stated that without having those items locked down, she does not feel comfortable moving forward without the condition of having a final approved Development Plan. Chairman Reece added that whether they are formal IGAs or they are in the early stages of negotiation...even though the DDA is ok with the schematics...it is still putting a schematic over someone else's private property, without an easement put in place. For those reasons, Chairman Reece stated that she would not be in favor of that motion.

Commissioner Wade agrees that this is a wonderful development and feels it is badly needed. Having said that, Commissioner Wade stated he is not in favor of moving forward without the 3 conditions in there. Commissioner Wade felt they could modify the language to indicate that the effective date is defined as the date that DOLA approves the election results. If that were the motion, then he would be in favor of approval.

Commissioner Deppe stated that while she agrees with the improvements to Downtown Grand Junction, it is such a great concern to everyone and they need to do this right, and carefully. She would be in favor of a motion that requires that the 3 conditions are met partly due to the fact that she does not have much faith in the amendment process.

Commissioner Buschhorn stated that he would be in favor of approval with the 3 conditions. Commissioner Buschhorn thought this could be a fabulous addition to the downtown.

Commissioner Ehlers added that he agrees with what the other Commissioners have said and feels he offers an alternative. Commissioner Ehlers addressed staff, and indirectly City Council, that they consider the timeframes and recognize the importance...not only an individual project...but a developer that is trying to make this economically feasible. Commissioner Ehlers stressed that considering the impact that time has...to do everything that we can, given the resources that we have, to facilitate these dates if these conditions remain in the motion.

Commissioner Teske suggested that while they put the dates in that need to be complied with, they should be sending along a message with that to show they expect staff and the applicant to do what they can do with the resources available to meet those time frames.

Commissioner Wade asked Mr. Shaver if they can just list the 3 conditions in the motion. Mr. Shaver replied that they can list them and amend as they see fit. Mr. Shaver stated that when he spoke of specificity he did not mean every detail, but rather if there was a date or something such as the DOLA certification, those would be helpful to have in the record.

MOTION: (Commissioner Deppe) “Madam Chairman, on the request for consideration of the formation of a metropolitan district service plan for the proposed Lowell Village development, SDS-2017-558, I move that the Planning Commission forward a recommendation of approval with the following three (3) conditions that shall be met prior to the Metropolitan District Service Plan becoming effective with the effective date defined as the date the election results are certified by the Department of Local Affairs. Condition #1 as written, condition #2 as written, condition #3 Intergovernmental Agreements and such other agreements, may be acceptable to the City for the performance of any services.”
Commissioner Ehlers seconded the motion. A vote was called and the motion passed unanimously by a vote of 7-0.

Other Business

Ms. Alean reminded Commissioners that there is a work session scheduled for this Thursday.

Adjournment

The meeting was adjourned at 9:13