MINUTES
City of Glenwood Springs
Planning and Zoning Commission
Regular Meeting
April 26, 2016
Council Chambers, First Floor, City Hall
101 W. 8th Street
6:00 p.m.

The Chairman called the meeting to order at 6:03 p.m.

1. Roll Call.

Present at roll call were Commissioners:	Michael Blair, Michael Dunn, Marco Dehm, Kathryn Grosscup, Sumner Schachter and Chelsea Carnaoli Parkison
Absent:	Mary Elizabeth Geiger, Ingrid Wussow, Tim Malloy
Also present were City staff members:	Andrew McGregor, Community Development Director Jill Peterson, City Planner Kathleen Michel, Administrative Assistant Jon Hoistad, City Attorney's Office

2. Receipt of the minutes of the March 29, 2016 regular meeting.

MOTION: Commissioner Dunn moved to receive the minutes of the regular meeting on March 29, 2016 as written. Commissioner Grosscup seconded the motion. Motion carried by voice vote.

3. Comments from citizens appearing for items not on the agenda.

No one wished to comment on items not on the agenda.

<u>Continued Public Hearings:</u>

4. #2-16 – Consideration of a request for a major subdivision, zoning and design variances.

Applicant:	Don Markley
Owner:	MAHC, LLC
Location:	56 Gamba Drive (Lot 13, West Glenwood Estates)
Zone:	R/2 Limited Multi-Family District

Jill Peterson presented the staff report. Last page of staff report should be items 15 and 16. The application is for a major subdivision to create four residential lots from the existing Lot 13. Much of the total lot areas for each individual lot will be for easements for access and utilities.

The original subdivision was developed in 2001 and buildings are primarily duplexes divided along common walls. Lot 13 was originally intended for development of a church and associated parking. The parking lot was to serve as a turn-around for emergency vehicles.

In 2013, the applicant petitioned to lift the restriction in the annexation agreement from church use to residential. There is a single access from Donegan Road, Gamba Drive, into the subdivision. This is a 40-foot easement across properties. The road is maintained by the Homeowners Association (HOA). There is another access easement that provides access to a public trail and to Lot 12, which is 20 ft. in width.

The proposed subdivision would create four lots and three separate tracts. There is a cul-de-sac proposed for access which would also be an easement. The new lots would be subject to an assessment for maintenance of the cul-de-sac. Two tracts are to be platted with the subdivision. Tract D is an existing drainage easement at present, which will become the responsibility of the new homeowners for maintenance. Tract B is encumbered with the access to the trail and Lot 12, the trail easement, and several utility easements. The applicant wishes to dedicate this tract to the City. The Parks & Recreation Director now supports the City taking over this property.

There are existing utility easements on Tract C along with a secondary driveway without an easement. There will need to be easements and an agreement between two property owners. This can be done on the plat with notes. The other option is for a Lot Boundary Adjustment (LBA) between the applicant and the owner of Lot 12. The conditions proposed require easements, etc. before the plat to subdivide the property can be recorded.

Ongoing maintenance of private improvements to serve these lots need to be addressed in the covenants. New lots are being enfolded into an existing subdivision with covenants. The applicant will need to obtain approval from the existing HOA board as to modification of the covenants. The alternative is the creation of a second HOA for the new lots that will be created.

The Municipal Code prohibits the use of easements as primary access to a lot. Gamba Drive is the sole access to these lots. The proposed cul-de-sac is below minimum City street standards in diameter. The Fire Department is fine with the size of this cul-de-sac provided each new unit incorporates a fire sprinkler system.

Each lot requires minimum of 25 feet on a public street, so again because of the access easement, a design variance is necessary. The subdivision meets requirements for individual driveways and safe access.

Design variance for streetscape requirement. West Glenwood Estates has sidewalk on the west side of Gamba Drive. Variance is requested from the standard along all lot frontages. The location of driveways have not been determined from the cul-de-sac. Sidewalks would be fragmented due to driveway access and smaller cul-de-sac. Staff supports this variance.

Pedestrian access to the public trail easement is a consideration. Staff recommends that the sidewalk be extended along the frontage of Lot 13D with a crosswalk from the sidewalk on the west side of Gamba Drive.

The Commission's action is in the form of a recommendation to City Council. The Commission can approve, deny, or continue the application with directions to applicant. Staff recommends approval with the findings and conditions outlined in the staff report.

Questions of staff

Commissioner Dunn had questions about the trail access.

Ms. Peterson pointed it out on the screen.

Commissioner Dunn wondered if it is necessary to cross Gamba again to reach it. Ms. Peterson explained that there is no easement north of the existing sidewalk on west side of Gamba where it could be extended.

Commissioner Blair had several questions. The final plat is a change from the previously approved plan the Commission had seen.

Ms. Peterson displayed the plat submitted which is a new application.

Commissioner Blair wanted to vacate the previously approved plat. It leaves questions about which is which and should be followed. He asked about Tract B with the parking area. Is it intended to be paved?

Ms. Peterson said there was no intent at this time to pave it.

Commissioner Blair thought it should be paved. He next asked about Tract C. Is that a separate lot on this plat? Could the owner put a residence on this?

Ms. Peterson said use restrictions would be called out to limit the use of the tract to drainage, and utilities per conditions.

Commissioner Blair asked if the cul-de-sac would be a public access easement.

Ms. Peterson replied in the affirmative.

Commissioner Blair asked if the duplex lots could be divided in the future.

Ms. Peterson replied that they would construct the duplex and then divide the lot and structure as a minor subdivision.

Commissioner Blair about the minimum 25 ft. of frontage for lots. Will the design variance apply to each unit?

Ms. Peterson said each lot would be evaluated at the time a new subdivision request came in per Code.

Commissioner Blair thought that the building envelope area looks pretty small.

Ms. Peterson said buildings would be confined to the building envelopes as depicted on the plat.

Commissioner Blair commented that if there would be no sidewalk in the cul-de-sac, they would have to walk in the street.

Commissioner Blair asked about page 7, pedestrian improvements and design variance. The recommendation is for pedestrian improvements to trails.

Commissioner Grosscup said that she did not understand the conditions with regard to Lot 12.

Ms. Peterson said that some improvements on Lot 13 serve Lot 12, i.e. utilities and a second driveway. If it remains a tract, we need to have an easement in place and know who will be responsible for the improvements. The alternate option is that the owner of Lot 12 may wish to purchase some land from the applicant and do a lot line adjustment. The owner of Lot 12 would have to be a signer on the plat.

Commissioner Grosscup asked about the prior approval.

Ms. Peterson said while the applicant received approval from Council, it was a conditional approval and the development agreement was never created and executed so the plat was not recorded. This new application has now come in.

Commissioner Schachter asked if the lots could be subdivided.

Ms. Peterson replied that if a duplex is constructed, the units could be separated along the common wall via the minor subdivision.

Commissioner Schachter commented that the property owners must come up with a solution about Lot 12 and improvements on Tract 13C.

A question was raised regarding parkland improvements. Ms. Peterson said West Glenwood Estates satisfied the parkland requirement and the use on this lot as a church had a higher assessment then current proposal. There is no further requirement of the applicant for parkland.

Commissioner Schachter said there is no provision requiring access to the open space. Ms. Peterson said there is an existing access easement to the trail.

Commissioner Schachter asked about the cul-de-sac size and fire suppression. Does fire suppression in the individual units preclude the access need?

Ms. Peterson said the applicant came to that agreement in the prior application because the road was so narrow.

Commissioner Schachter noted there is public access to turn around. Is there a condition that prohibits parking on the cul-de-sac?

Ms. Peterson said the conditions of approval reference the applicant's submittal documents which include no parking in the cul-de-sac.

Commissioner Dunn asked about the previous approvals. Can we vacate with a simple condition or is it a necessary process?

Andrew McGregor said there was nothing in the Code which required an applicant to vacate a prior approval. The Planning Commission is not the final say on this. He does not think the Council will want to go there. The applicant then will have two approvals to pick from.

Commissioner Dunn asked who had responsibility for snow removal.

Ms. Peterson replied that responsibility for maintenance on the cul-de-sac will fall to the owners of the new lots.

Commissioner Schachter requested a hard copy of the staff report.

Applicant presentation:

Jeff Cheney, project attorney, New Castle; Roger Neal, High Country Engineering, the engineer for the project, and Don Markley, owner's representative.

Roger Neal provided a short history of the prior approval and had a short PowerPoint® presentation. He began with the history of the parcel. It had prior approval for eleven units. Looped road. Dense development that became cost prohibitive. That brought us to the four duplex lots or a single family with an accessory dwelling unit (ADU). Maximum units on the four lots would be eight. The size of the cul-de-sac was determined by slope of the land. Lot 12 access has a driveway and there is a pedestrian access to the open space parcel. The variance is required because access is via an easement, not a public street. There was much discussion regarding Lot 12. It is being negotiated with the Lot 12 owner. There is a verbal agreement between Mr. Markley and the Lot 12 owner for Lot 12 owner to purchase the tract.

The HOA for the four lots will be obligated to take care of maintenance and snow removal for the cul-de-sac. There are some clarifications they need to get on the record: On page 9 of 18, there was a notation that a duplex would require a certain amount of open space around it; that should be half, i.e. 200 sq. ft. per unit, total 400 sq. ft. The current proposal says single family or duplex. They wish to have the option for an ADU if a single family residence was built. They wanted to discuss some modifications to conditions and provided a handout to staff and Commissioners. They do not want to provide the full sidewalk to the open space requested by staff. Pedestrians would simply walk up the access to the trail. There is room for the City to add some parking in the future if they wish on Tract B. There is no improved trail, just access to the open space.

Regarding 3d, they want to add single family residence and ADU as an option for the lots.

Condition 4e, they want an option to improve access to the trail without plat modification.

The applicant stated they are providing affordable housing which is in-fill, and requested approval of the subdivision with the changes requested.

Questions to Applicant

Commissioner Schachter asked about vehicle access to the open space. A user must walk up from Donegan Road because there is no parking provided.

Response: There was joint-use parking in the prior application.

Commissioner Schachter wondered where they could park.

Response: On the city land there is a little room where they could park. There is parking on one side of Gamba Drive. That is the way it is posted.

Commissioner Schachter asked if it was feasible for the developer to grade out some space to park. Would it be a reasonable request for the developer to provide the temporary parking area without improvement?

Response: That is why we are offering the land to the City. Parking on the west side is allowed.

Commissioner Blair commented that the plan two years ago and residents of the subdivision said there was not to be parking on that street at all. On-street parking there was creating a problem. He said that he was concerned about the existence of a prior plan approval along with the new plan approval.

Jeff Cheney answered that the development became too expensive due to the conditions. He said that his client has a legal vested right. The Commission does not have the ability to abandon the earlier project. This project has the least amount of impact. He said his client has a vested property right. There was due process and the approval involved a significant financial wound.

Commissioner Blair said the earlier plan and this plan cause confusion and confusion creates problems.

Mr. Cheney replied that the applicant has the choice of which plan to proceed under. We would not be able to blend the two. We have to choose.

Commissioner Dunn wondered how much a sidewalk as proposed would cost to go up to the access to the trail.

Mr. Neal said the impacts were more than just that. He went back to the phrase “minimal use” with regard to this access to the open area. The property is steep but has a nice flat area at the top.

Commissioner Dunn wondered if Gamba Drive would be extended in the future.

Mr. Neal said he believed it would be too steep to consider.

Commissioner Blair asked if the water tank was in the open space and was it a City water facility.

Mr. Neal replied that it was a City facility in another subdivision and that the maintenance access was somewhere else.

Commissioner Grosscup inquired if they were suggesting access that from the sidewalk on the opposite side of the street, cross into the driveway to Lot 12 and then climb up hill to the open space. There was nothing to draw the pedestrian up.

Mr. Neal said there is signage that it is a private drive and that pedestrian access was allowed uphill. There is no trail improvement there currently.

Commissioner Grosscup said if they are going up the sidewalk, it just stops?

Mr. Neal said that more direction regarding the open space might be helpful.

Mr. Cheney said they have proposed a solution. There is no trail. There is open space that is not used. Based on the prior approval we got, this road was to be the access. We will have signage.

Chairman Dehm asked if the current owner was intending to build these residences.

Don Markley said he built the other units in the subdivision. We see this as a chance to finish an unfinished street. It provides that people have to cross the road only once. The entire cost of maintaining the tracts and cul-de-sac goes to the owners of the four lots and not to the whole subdivision. He says he intends to be one of the principals for the eight units. He said it was a pleasure to come before the Planning and Zoning Commission with a recommendation for approval.

Chairman Dehm asked Jill if she was familiar with the proposed changes the applicant had requested.

Ms. Peterson replied that she had just received them.

<u>The Chairman opened the hearing to public comment.</u>

Glenn Vawter, 8 Gamba Drive, president of West Glenwood Estates HOA. He talked about the history of the development of Lot 13. They think this plan is better than the original. It has less density and less traffic. Traffic and parking are issues on Gamba Drive. If there is interest in the trail, where would people park? Use is not an issue right now. Financial responsibility for the new tracts, i.e., drainage basin, cul-de-sac and tracts. The new proposal is better. Any change of our covenants would be a problem. We are reviewing the proposed amendment Mr. Markley is seeking through a subset of covenants and our Board will take some action on it. We welcome new residents to our Association. He reminded the Commission that if there is damage to Gamba Drive during construction, they need the developer to take care of repairs and Mr. Markley agreed.

Bernadette Mitton, 7 Gamba Drive, said parking is a problem. The existing covenants allow parking on one side of the road. We have no way to enforce the restriction. There is no room for parking up there. She asked for clarification of the two retention ponds, owner of that lot 13 maintains it. Who will maintain it now?

Martha Cochran, 1004 Palmer Ave, said she hadn't intended to speak but she sees a problem with two plans.

Applicant Response

Jeff Cheney responded and stated regarding parking, we are donating Tract B which could be used for parking. He hoped the City would do the improvement. Retention pond, which is Tract 13D, will be the responsibility of the new owners, Tier 2, level. That will be clearly identified in the amendment to the covenants. We will have a sub-association.

At 7:30 p.m., the Chairman closed the public portion of the hearing.

Commissioner Schachter reminded the Commissioners of the implied condition that anything stated verbally can be considered a condition. Can we include Mr. Cheney's comment that the conditions remain with their separate approvals.

Mr. Cheney agreed.

Commissioner Dunn wondered if legal counsel has reviewed the amended conditions proposed by Applicant.

Jon Hoistad, City Attorney's Office, said it was the first time he had seen them.

Commissioner Dunn asked if anything changed and did staff understand there would be a sub-association for the new owners.

Ms. Peterson said the covenants of West Glenwood Estates restrict to single family and duplexes only. This subdivision wishes to allow single family with an ADU. These things will have to be clarified in the subset of covenants, acknowledged and approved by the existing HOA.

Commissioner Dunn wondered how much use the open space received. The sidewalk goes almost to the public space and stops short of it.

Ms. Peterson responded she could not say.

Commissioner Blair asked Jill about engineering questions and changes for roads, drainage, etc. Staff had some new conditions in great detail and staff has to work this out without the Commission's involvement. Can staff accomplish all this without further review by the P&Z?

Ms. Peterson said the technical aspect comes back to applicant's engineers working with City staff and engineering to address the conditions. She is confident that they can get there.

The Chair called for a motion.

MOTION: Action Item 1: Commissioner Dunn moved to approve design variance from 070.030.080(b) and (e), requirement for a 5 ft. sidewalk and 5 ft. planting strip along lot frontages in residential zones, with the findings and conditions on page 14. Commissioner Schachter seconded the motion.

Commissioner Blair was concerned about the sidewalks and safety. Walking in the cul-de-sac was a safety problem.

Commissioner Grosscup commented that as she read the condition on page 14; applicant has provided a revised condition. If we approve, how does that affect this condition?

Commissioner Dunn said he intended it as written in the staff report which still includes the crosswalk and new sidewalk going up.

Ms. Peterson commented that as written in the staff report the condition is to require a crosswalk and a continuation of the sidewalk up along the frontage of Lot 13D.

Commissioner Schachter noted that by approving this condition, we are approving Condition 1 on page 14. What is the relationship if that passes to Condition 1 on page 15?

Response: There is no easement for the City to do the work later.

Mr. McGregor said there is an easement for the current access driveway and commented whether constructed by the applicant; the City could go in and construct an access.

Commissioner Schachter withdrew his second; Commissioner Dunn withdrew his motion.

Chairman Dehm requested staff to help us with the proposed change.

MOTION: Action Item 1: Commissioner Grosscup moved to recommend approval of a design variance from 070.030.080(b) and (e), requirement for a 5 ft. sidewalk and 5 ft. planting strip along lot frontages in residential zones to allow a change to the approval language on page 14 of the staff report with a change provided by applicant for Condition 1 with an added condition for signage indicating where the public open space was. Commissioner Schachter seconded the motion.

Chairman Dehm asked Jill how she felt about this change. Jill said it seemed fine.

Commissioner Dunn said he was okay with the cul-de-sac without a sidewalk but not with something that did not reach its destination.

Motion carried 3-2 with Commissioners Blair and Dunn voting no.

MOTION: Action Item 2: Commissioner Schachter moved to approve a design variance from 070.030.090(a) to allow the use of an easement for principal access to a lot(s) with findings on page 14. Commissioner Grosscup seconded the motion. There was no discussion. The motion carried unanimously.

MOTION: Action Item 3. Commissioner Schachter moved to approve a design variance from 070.030.060(b) requirement for lots to have 25 ft. of frontage on a dedicated public street with findings on page 14. Commissioner Grosscup seconded the motion. There was no discussion. The motion carried unanimously.

MOTION: Action Item 4: Commissioner Schachter moved to approve a design variance from 070.030.035 Uniform Street Standards for access easement and cul-de-sac design with findings and conditions on page 14 and 15. Commissioner Grosscup seconded the motion.

Commissioner Grosscup inquired about the fire suppression systems as required by the Fire Department. She asked if it would also be required for an ADU. Should there be an amended motion stating fire suppression was subject to Fire Department approval at time of construction. No amendment was needed.

The motion carried unanimously.

MOTION: Action Item 5: Major subdivision without development plan: Commissioner Dunn moved to approve the major subdivision with findings and conditions on pages 15 through 18 of the staff report and also incorporating the revisions submitted by applicant for condition 1, condition 3d, and 4e, Note 8. Commissioner Schachter seconded the motion.

Commissioner Grosscup wanted to clarify that we added signage.

Chairman Dehm commented that we understood it incorporated the signage for notification of open space.

Ms. Peterson suggested that condition 4.e, Note 8 include language stating it be to the satisfaction of the Public Works Director or City Engineer.

Commissioner Dunn so amended and Commissioner Schachter seconded the modification.

Commissioner Blair questioned whether staff was prepared to deal with the details. He wondered if it would have to come back to the P&Z.

Ms. Peterson said much depends on how the covenants get worked through between the applicant and the existing HOA.

Commissioner Dunn commented that he understands concern about the previous approval. He said that he sees it as the one plan or the other.

The motion carried unanimously.

The Chairman called a short break in the proceedings. The meeting resumed.

<u>New Public Hearings:</u>

5. #7-16 – Consideration of a request for a special use permit for a kennel and grooming facility.

Applicant:	Bruce Barth for Lori Pohm and Bob Thorsen
Owner:	Grand GP, LLC
Location:	2517 South Grand Avenue
Zone:	C/3 General Commercial District

Commissioner Schachter stated that his office was at 2520 South Grand Avenue near the subject location and the only information he has received is the packet for this hearing. He stated that he was able to act objectively on this matter.

Trent Hyatt presented the staff report regarding the application. Technical difficulties regarding screen projection delayed viewing by the audience but he went ahead with his verbal presentation. This is a request for a special use permit for a dog kennel and grooming facility in the C/3 general commercial district. The property is approximately an acre in size. There is an existing structure and plans include indoor and outdoor play areas for the dogs. There are individual kennels on the south side of the property with outdoor runs for the dogs. Surrounding uses include offices, an insulation business, and residential uses. The adjacent uses could deem the proposed kennel as incompatible. This proposal seeks to mitigate potential negative impacts on the area by restrictions on hours of operation, screening of walls, fencing and/or landscaping, sound reduction techniques, modification of the light levels and fixtures, and compatible architecture. Some of the potential negative impacts on surrounding properties include noise from barking dogs, water quality and foul odors associated with dog waste, and/or visual impacts. Of greatest concern would be uncontrolled barking of dogs adjacent to the existing residences and businesses. This comes down to the day to day operation of the facility and attention to potential problems. They will employ multiple persons at this location and they propose to maintain a dog to person ratio of 8 to 1 during business hours. The state standard in that regard is 15 to 1. They will also have a staff person there on site through the evening hours. There will be multiple play areas on the property for the dogs. One play area is completely outdoors, another is within the 960 sq.ft. addition as an enclosed play area that has large doors to the outside as well as a fully indoor play area. Management of the number of dogs on the site and in the outdoor play areas will also be very important. Having the ability to separate unruly dogs from the rest of the pack would enable them to control having other dogs join in the barking. The project also includes a time-out area where they would separate unruly dogs from the others. The intent is not to allow dogs outside the facility at night time. Even in the separated suite areas, they would deny outside access at night. The City has various regulations that deal with sound and noise nuisances. One of those is Section 100.020.110 that states it shall be unlawful to keep any animal or fowl within the City which disturbs the peace and quiet of the neighborhood.

They have a plan for handling dog waste to prevent odors of feces or urine. The applicants have proposed a canine grass that is specifically designed to drain urine so that it is not pooling on the property. They are committed to prompt removal of feces. Rather than collect that waste in dumpsters, they will dispose of the waste in the City sanitary sewer. This property is located adjacent to the Roaring Fork River. The plans for swift removal of waste and the draining characteristics of canine grass seem to manage potential water quality concerns. This project will remove asphalt from the property and expose more soil to the infiltration of water. They propose existing landscaping as well as new landscaping to buffer and screen the kennel from adjacent properties. They also plan to fully contain outdoor play areas with a fence. The applicants operate a veterinary clinic in the City that is located in a commercial area and shares walls with other businesses. He stated that the City is not aware of any complaints from the businesses adjacent to the veterinary clinic at this time.

In granting a special use permit, you may implement specific requirements that may be necessary for this proposal. That can be anything from parking requirements, maximum size of buildings, -- anything that you deem necessary to protect the public health, safety and welfare. Staff has provided many conditions within the staff report should you choose to approve this request. Commercial design standards apply to the remodel of the exterior of the building. Design elements for the building include addition of façade features to make the building look nicer from the street and adjacent properties that include a trellis, stone veneers, corrugated steel fencing, and barn wood siding.

Mr. Hyatt said that no official comments were received from referral agencies. Staff worked very closely with various City departments on this proposal, including engineering, police and public works. We have heard concerns from adjacent property owners as well as other neighbors in the area. The applicant held a neighborhood meeting to hear concerns. As suspected they brought up noise and negative impacts to property values. We also received letters regarding the close proximity to residential areas, noise, potential impacts to wildlife, and incompatibility with the Municipal Code. There are also letters of support included in the staff report. Additional letters were provided to you this evening.

The Planning & Zoning Commission may take one of the following actions this evening: you may grant the proposal, you could deny the proposal, or you could continue the hearing to a future meeting and request that the applicant or staff provide additional information. Staff recommends approval of the special use permit with the findings and conditions outlined in the staff report.

The projector was reset successfully and Mr. Hyatt ran through the PowerPoint® slides for the benefit of the audience.

Questions to staff

Commissioner Blair noted that the public notice for the action was placed inside the window of the building. He was concerned about the public notice. Neighbors questioned whether this is a special review use by code.

Mr. Hyatt said that a kennel is identified as a special review use; it was not a use by right.

Commissioner Blair commented that the property sloped to the rear and the river. He was concerned about protecting the river from liquid waste runoff from that lot.

Mr. Hyatt said that engineering had looked at potential storm water runoff. Asphalt will be removed from the property and canine grass allows liquids to go into the soil. Animals will not be as close to the river as the current parking lot paving.

Commissioner Blair questioned whether the grassed in area would suffice to collect urine.

Mr. Hyatt showed a picture of the parking lot and said the play area will not extend as far as the asphalt does currently.

Commissioner Dunn asked if you could clarify the hours for Rivers Restaurant.

Mr. Hyatt spoke about outdoor access for dogs between 8:00 a.m. and 7:00 p.m. Boarding total is 30.

Commissioner Dunn asked if the grooming facility was listed separately or did the kennel cover it.

Mr. Hyatt that said it is not a special use but is included as a picture of the whole operation.

Commissioner Dunn asked if there were restrictions on the number of dogs for a single family home.

Mr. Hyatt replied that there would not be.

Commissioner Schachter commented that drainage with canine grass and urine is not an issue at this point. The conditions limited it to eight dogs outside at a time.

Mr. Hyatt replied that the applicant tried to respond to the concerns of the adjacent property owners.

Commissioner Schachter asked about eight dogs outside at a time in the play area as a group or does it include the private outdoor space.

Mr. Hyatt replied that some dogs have access from their private suites. The play group would be eight dogs.

Commissioner Schachter wondered if approved would it transfer to subsequent property owners as a use by right.

Mr. Hyatt believed it would apply to the property.

Commissioner Schachter asked if there was something in code prescribing minimum distance between a residence and the kennel facility.

Chairman Dehm commented that this does not go to Council.

Mr. Hyatt thought it would be transferrable.

Commissioner Schachter noted that there is a vet and kennel across the street from this property. How many feet from a residence in our code?

Mr. Hyatt said the code does not specify.

Commissioner Schachter asked how far to the residences and condos to the north and east.

Mr. Hyatt replied regarding the property boundaries – 100 feet to Roaring Fork Condos; 300 feet to Cottonwood Landing.

Outcry from the audience.

Commissioner Schachter asked about other areas.

Sumner we can change conditions correct?
Trent: yes

Commissioner Dunn Condition No. 5 regarding a six month period. Does that mean the applicant will come back in six month if there are multiple complaints? Please explain what this means.

Mr. Hyatt explained as background that this is a condition from a previous kennel facility special applicant.

Commissioner Blair asked if it is likely that it could be revoked after complaints.

Mr. Hyatt responded that any condition applied that applicants would adhere to. The police chief says dog complaints require that someone has to be willing to testify in court, under oath.

Commissioner Blair commented that it wouldn't be a process where two people complained to you and you would shut them down.

Mr. Hyatt said we would follow City procedures.

Chairman Dehm when a special use permit is granted, there is no time limit unless we make it a condition. Have you had a lot of comment from the public on the conditions?

Mr. Hyatt did not know if the public had read the staff report; he displayed the conditions of approval and went over them again.

Commissioner Schachter inquired whether staff explored the Red Hill Kennel in Carbondale and how they run their facilities.

Mr. Hyatt said he used Glenwood prior applications for conditions.

Commissioner Dunn wondered if sound panels on the fences would have any effect on noise.

Mr. Hyatt had no knowledge of that.

Commissioner Grosscup noted that High Tails was outside City limits. Do you have information on how that business works?

Mr. Hyatt said he did not know their routine but there are state regulations that would apply. The Shaggy Dog was approved 10-12 years ago.

Commissioner Grosscup asked about standards and checking.

Mr. Hyatt replied that decibel levels mean that you can still hear the noise even it does not exceed a certain level.

Commissioner Grosscup said that the manner for waste disposal had changed. She would like to know what had changed.

Mr. Hyatt said that feces were not going to landfill and instead will be flushed into City sewer. Staff recommended that containers were covered to prevent storm water contamination.

<u>Applicant presentation</u>

Bruce Barth, Red House Architecture, 815 Blake Avenue, described the application. Old Western Petroleum building. We send out 100 letters and held a neighborhood meeting. There is a series of letters portraying the neighborhood as residential. This is an inaccurate

description. [Loud reaction from the audience.] This is a C/3 district. There is noise and sound mitigation on site. All Dogs & Cats is located in the Van Rand Building, a professional office building. In 24 years in that location, they have not had a single complaint about noise or smell. These are responsible people who manage up to 40 pets per day in this building. The approach has been to limit the number of dogs in the kennel. This is the same business model and the same ownership group.

Vegetation on the property will be enhanced. The asphalt has been removed and there is now a surface that is permeable. City Engineer believes that if feces are removed, there is no problem with urine on the site. South side units have individual fenced areas. Vegetation, fencing, other buildings. Dogs will be inside at 8:00 p.m. There are two indoor play areas. The one at the back can be opened with garage doors. We agree there are residential areas near this facility. We are taking steps to mitigate the anticipated problems.

Dr. Lori Pohm, 1607 Grand Ave., Suite 11, Glenwood Springs, introduced herself and her husband Bob Thorsen. We currently share a building with an accountant, a lawyer, and Glenwood Insurance and our property manager. Their decision to do this, grew from a need in the community. People need places to leave their pets while they enjoy Glenwood Springs. Need overnight boarding location. We understand dog behavior and have a proven track record. She had a presentation on why dogs bark. Alarm and fear, we will have a solid screened fence to help keep them from seeing things to bark at. If they don't see things to bark at they are less likely to bark. Maximum of 8 dogs per individual supervisor. They are engaged in play. We use pheromones and thunder shirts for a calming effect. We play classical music in the suites and reception area. Pets can have their own TV in their suite. Dogs bark due to boredom or loneliness. In the play groups, they don't have a chance to be bored or lonely. Other types of barking are for greeting and play barking. An unsafe dog will not be allowed to be with other dogs. The play group is introduced indoors and once they are established, they can be allowed outdoors. A tired dog is happy and quiet. Barkers are assigned a training aid (citronella dispensing collar) to discourage barking. Application of the training aid requires the written consent of the dog owner. Problem dogs will be denied ability to stay at our facility. Indoor play areas have rubber flooring. We also have a pool for supervised play time.

Noise mitigation is coupled with management. Dogs are assigned to a staff member for special attention; we pick it up and carry it around or keep it at the receptionist's desk. Sound control is indoors as well as outdoors. A bored dog will be given a puzzle or a frozen treat to keep it busy. For smell mitigation, stool picked up and flushed in the outdoor toilet right away. She found a device called a Power Loo which is like an outdoor toilet. Inside the building they will have a designated animal waste toilet. Canine turf can be cleaned with a dumped bucket of water or hosed down. Dumpster will contain no animal waste.

<u>Questions of applicant</u>

Commissioner Schachter asked if there was anything on the Western Slope comparable with this facility. He asked for clarification of denied admission.

Dr. Pohm I will take the dog home or to my vet facility where it wouldn't bark.

Commissioner Schachter what is your interpretation of dogs being outdoors.

Dr. Pohm said that she had not counted the dogs in the suites. If a dog just barks in his suite patio, he will be denied outdoor access.

Commissioner Schachter questioned the ratio of 8 to 1 is an implied condition. What hours does that apply to?

Dr. Pohm said at night all the grooming dogs have gone home. If we were filled to the brim, we will have two people on staff at night. If a fight breaks out, eight dogs is an easier number to handle than 15 dogs.

Commissioner Schachter acknowledged the financial risk they were taking. He asked if they would consider a limited time period of three to six months with a limited capacity to see how this might work.

Dr. Robert Thorsen said seven dogs was the break-even almost.

Commissioner Grosscup said this was a challenging proposal. On the staffing issue, will you have four or three staff for 30 dogs?

Dr. Pohm asked if do she meant total staff or kennel staff. With 30 dogs, we have four humans. When they are in their kennel at night, we need fewer.

Commissioner Grosscup how does it work for 30?

Dr. Pohm replied that we have a max of 30 for overnight and day care. The grooming dogs come and go throughout the day. One groomer does six dogs a day and the other does four to five. We will also offer training. Grooming dogs do not go outside. Training classes are inside.

Commissioner Blair commented that he would not take his dog there because they will be spoiled terribly.

Dr. Pohm stated that it has to be clean and not smelly or people won't leave their dogs there. We have to walk each animal individually at Van Rand Center because we have no outdoor area.

Commissioner Blair asked why they needed such a large area.

Dr. Pohm explained that pets are family members and people want them to have fun and play. Most noise is because the animal is bored or unhappy.

Bruce Barth pointed out that the Van Rand Center is a veterinary office not a kennel.

Commissioner Blair noted the vegetation that would screen noise.

Mr. Barth said the vegetation on the Rivers property was Rivers. We will add our own.

Commissioner Blair commented that there has been much thought to screening on the north side. There is a residence on the northwest corner.

Mr. Barth said the corner of the closest unit was 71 feet away.

Commissioner Blair asked the distance from play area to the end of the property.

Mr. Barth said the fence would be pulled in about six feet. It is not on the river bank.

Commissioner Blair wondered how high the proposed fence would be.

Mr. Barth replied that we proposed eight feet; but City says it can be only six feet. He said that mitigation of noise is in management, no amount of screening can eliminate all noise.

Commissioner Blair asked if there will be a particular group of traffic related to dogs coming and going.

Dr. Pohm commented that the boarding dogs will come in a various times of the day; the groomers will have a schedule and their dogs will come and go throughout the day.

Commissioner Blair asked if there was a place for cars.

Mr. Barth there is a drive through area and parking for 12 cars.

Commissioner Dunn wondered about hours of operation. What hours are the suites doors open?

Mr. Barth replied they would be open 8:00 a.m. to 7:00 p.m.

Commissioner Dunn if there is a dog in the suites that is outside barking, what do you do?

Dr. Pohm replied that we will close the outside door. We put them in a play group. We take them to a staff member for supervision. We can put them with the groomers who can watch them.

Commissioner Grosscup asked if they paired up unrelated pets in the same suite.

Dr. Pohm replied that only dogs from the same household were put together.

Chairman Dehm how many potential barkers are overnight at the clinic?

Dr. Pohm said that after surgery, a dog in pain may be crying. We do not have overnight boarding.

Chairman Dehm asked about their ownership status with the building.

Dr. Pohm said they are under contract for the building.

Chairman Dehm acknowledged the financial undertaking and said that he wanted to be sure they understand condition 5. A special review use can be revoked.

Public hearing began at 9:30 p.m.

Chairman Dehm said there would be a three minute limit for remarks and asked speakers not to repeat something that has already been said. He asked for a show of hands for how many people wished to speak. He explained how the red and green lights worked with the flashing red starting when speaker had 20 seconds left.

Cheryl Doll, 2562 Woodbury Drive, directly across the river from the proposed facility. She had a slide presentation. She and adjoining owners of townhomes are concerned about the proposed kennel. They do not dispute the need for a kennel or the quality and intent of the veterinarians. We dispute the location and the noise impact on our neighborhood. She said she had a different view of the zoning and what is reality. Since the time the zoning was assigned, many residences were constructed in this neighborhood. The kennel is an island in a sea of residences and is not in character with the existing development surrounding it. The developments surrounding it are all residences. Other homeowners besides Cottonwood Landing where she is located have joined with us in asking for a denial of this request. Our main concern is noise and distances. I take issue with the measurement of distances. I did it from property line to property line, not from where the dogs might be. We all know that sound carries dramatically across the river. Where she lives, she said it was 105 feet away from the property line. The Roaring Fork Condos are 15 feet away, and the mobile home park is 77 feet away. She claims that she can hear sounds from the veterinary clinic across South Grand, they can hear the horses whinny. A horse whinny is 38 decibels; a dog bark can be up to 75 decibels. There is a lot going on in this area that can cause dogs to bark. People park along the fence line at Rivers and she doubts that trees will abate the noise of cars pulling in and people talking. Rivers empties morning trash between the hours they have stated the dogs will be out in their private kennel areas from the suites. Food delivery trucks come into the area. Rivers plays music at night. Noise impacts the peace and quiet of our neighborhood and can affect our investment. We paid a premium to have river front access. In spite of attempts to control noise, if the kennel is built, we will have no recourse. We might have recourse with issue number 5 which she said she was not aware of. The kennel noise will disrupt the serenity of our river location and thus will harm us and our investment. We recommend that you deny the application.

Henry T. Doll, 2562 Woodbury Drive, said he hear the word “mitigation.” Food for thought on the word itself, it means to cause to become less harsh, etc. Currently nothing needs mitigating. We hear the white noise of the river. He read an email from Alan Story, the mobile home park owner. Mr. Story does not object to a kennel but does object to the location. He states it will impact 36 families who reside in the mobile home park. He turned on a recording of dogs barking as he left the microphone.

Roy Nunn, lives at Cottonwood Landing, said that he is not anti-business and not anti-dog. This area needs a kennel. Western Petroleum was an office use. We are going to try a probability. Our codes refer to kennels as nuisance. A vet practice is very different from a kennel. Mitigation simply says we are trying to turn the volume down. He said his good friend operates a kennel and said you simply cannot stop dogs from barking. A large dog’s bark can be 115 decibels. We live in a valley. There is the river channel and you are asking us to put up with a nuisance. No one has talked about the river corridor. Our drinking water is in the river. There are wildlife in the river. He is concerned about urine reaching the river.

Michelle Ballinger, 330 Park Drive, Glenwood Springs. She was there to support her vets. She hears noise from the river, all of the houses with river front property. She hears the birds. She hears noise from all the condos. This is a great property for what they are planning. This city needs a kennel. People are looking for it and she thinks we need it. She has seen pets just left in cars. This is a resort town and there is no place for pets. Yes, they will hear a pet bark now and then, even now. These people act like they don't like dogs or they think that [loud audience reaction.]

Chairman Dehm said he would clear the room if there was another outburst.

Ms. Ballinger continued, stating that we are a tourist town and we need this type of facility to accommodate the tourists who visit here. She does not believe this kennel will cause the interference the neighbors anticipate.

Chairman Dehm called for a motion to continue past 10:00.

MOTION: Commission Dunn moved to extend the meeting past 10:00. The motion was seconded by Commissioner Grosscup. Motion carried by voice vote.

The Chairman said the meeting would have to end at 11:00 p.m.

Dan Aklinski, 2500 Woodberry Drive, said he was retired from the police department. He anticipated this will be a nightmare. He talked about the complaint process. He said that people usually want to be anonymous and do not want to sign a complaint or go to court. He said that noise from Rivers carries up into Cottonwood Landing. With all these people complaining, it will take up the time of the officers and the courts when they could be doing more important things. He claimed that an approval would increase the workload of the police department, taking them away from things they should be doing. He likes the idea of kennel but not in this location.

Mary Ruth Wiener, lives at 2583 Woodberry Drive, Cottonwood Landing. She stated noise amplifies on the river. She hears traffic from Highway 82. No one has mentioned male dogs marking territory. How will they clean up diarrhea? There is a bike path, no bike lane and she fears some will be hurt by the traffic. She wants it denied.

Phil Long, 2540 Woodberry Drive, directly across from the site. Snow removal at the back of the property is pushed into the river from the back of the site. Will it pick up what is buried in the snow and push it into the river. There is a lot of wildlife such as a beaver, a pair of mink. The smell of those animals will trigger barking. He simply has a problem with the location.

Wendy Nunn, 2504 Woodberry Drive, said the Dr. Lori and Dr. Bob are the most compassionate vets she has ever met. Our dog was very ill and they were so compassionate. This would be a wonderful facility but it is in the wrong location. She believed there were guidelines for denying this application. Compatibility is important. She read from the 2011 Comprehensive Plan. She did not think it appropriate to approve this just because it is zoned for commercial. Please deny the application.

Lori Riddile, 1338 Grand Avenue, said she has two large breed animals. They go with her everywhere. She loves this plan and acknowledged how much thought has gone into it and it would be a fantastic addition to the community. Dr. Lori and Dr. Bob will do it right.

Martha Cochran, 1004 Palmer Ave., suggested switching locations with the apartments in West Glenwood. If they get approval, they could sell in the future. Things change. Conditions usually deal with physical things. You have conditions relating to staffing and unruly dogs. We agree this is a fabulous facility but it is in the wrong place. She urged the Commission to deny it.

Jim Kuhns, 2505 Cesar Court, said he is about 15 feet from the fence. When he first bought his place, he was sitting outside with a buddy and commented about whether the people across the river could hear our conversation and the people waved at us. We are all quiet because we know how it echoes right in front of that huge mountain behind us. There is a natural amphitheater.

Dr. Rocky Mease, partner at Glenwood Veterinary Clinic, 2514 Grand Avenue, said he wished that he had thought of this idea first. It is a fantastic idea. He said that the community needs this type of facility. Every year he has dead dogs brought to his practice because they were left in the car while their family participates in activities and there is no place to leave their dog. They cannot leave them in their hotel room and they cannot leave them in their cars because it is unsafe. The system they have set up addresses all of the concerns. The dogs will not be outside unsupervised, barking. If they bark, they get shut up. They are introduced when they come into a new play group. That takes place inside the soundproof building. Noise is the issue and the noise has been dealt with. The dogs are inside a building or directly supervised by a person. If the dog barks, he goes inside. There is no chance for a dog to be barking all day continuously. He encouraged the Commission to approve the facility.

Gary Newhurst, Meadowlark Lane, one of the first condos built just downwind from this. This is a great idea. He said he loves dogs but he thinks if they want to give dogs room to play, then go somewhere where there is room for them to run. He talked about the air movement along the river and how it carries sound. He talked about the wildlife that lived in this area, deer, beaver, bears, and birds. He encouraged them to find another location.

Robert McClelland, 2509 South Grand Ave., Aspen Insulation, said that traffic was an issue in the area. He came tonight to hear both sides of the issue. The thing that makes him nervous is that he purchased his building for his future, not intending to keep his company there forever. He is concerned about what is going to happen if we go backwards and have a value drop for the properties in the area if this facility becomes a problem. He understood the concern of the condo owners around there about property values. He said he had offered on the property next door to expand his business. We are the back-up offer because there are still disclosure issues about the setbacks and some of the surveys for the property. He said that special uses are about being able to put something in place that was supposed to be in harmony with the surrounding area of the community and improving the land. He thought there needs to be further review of this project before a decision is made.

Gail Chapman, 2501 Cesar Court, Roaring Fork Condo Association, said there were three buildings in her association. There are seven units in each for a total of 21 units. She said she has lived there almost nine years. When the market crashed in 2008, the Roaring Fork Condo Association began to allow tenants to have pets; prior to that time, only owners could have pets. There was a lot of controversy regarding this decision because of potential noise and smell problems. It only lasted for a short period of time because the renters started having more dogs and did not take care of waste and noise. We have already had this problem. She hopes they get this business going somewhere else.

Nichole Bowman, 2917 Sopris Avenue, said she was employed by Dr. Bob and Dr. Lori at their vet practice. She said that we need a kennel in the area. When traveling to move here 12 years ago, she came with her pets and wanted to find a place to rent. She could not find a place to house her pets. As a traveler, she would not want to go to some remote location outside the community to house her pets. She would want something easy to find within town. The location is a really big issue for the neighbors, but for a resort community, it is a service that is needed. The location is spot on for visitors.

Unidentified speaker said that the last five to seven speakers have brought up the subject but have not called it what it is, highest and best use of real estate. That is a very valuable piece of property, almost a full acre, sits on the river. You could do anything with that parcel in terms of office buildings, whatever. It is a perfect piece of property.

Francie Camblin said her office was at 2520 Grand Avenue, in Penrose Plaza. For 11 years she lived at 1700 Midland Avenue right on the west side of the Roaring Fork River. She knows about this from personal experience. She said that her deck looked out over the Roaring Fork and one of the most fun things that she did for 11 years was to talk with the fishermen who were down in the river fishing. She said the volume of these conversations was lower than she is speaking now. She could hear what they were saying from their boats, they heard every word she was saying. In the past there were people who used to camp illegally along the river near the high school. She always knew they were there because she could hear every word they were saying. Sound is unbelievable in this valley. There is granite on either side and it is an echo chamber. The wildlife at night is unbelievable. No one mentioned raccoons. There were bears, skunks, and foxes. These people are sincere and are excellent veterinarians but in her opinion there was no way there will not be barking and noise associated with this kennel. She said that the stress level of never knowing when a dog may start barking is intermittent low grade stress from periodic barking. There will be complaints. She asked the Commission to respect the concerns of the neighbors.

At 10:25 p.m., the Chairman closed the public portion of the hearing.

<u>Applicant Response</u>

Dr. Bob Thorsen spoke about the concerns about urine. We live in a valley and everything drains into the Colorado River. In our valley there are a lot of large animals: deer, elk, beef cattle, horses. A beef cow urinates about 3.5 gallons of urine per day; 30 pounds of feces are produced daily. A larger cow produces 8-10 gallons of urine and 60 pounds of feces. A lot of these animals are close to the river, bed down by the river. A small kennel like this isn't even a tick. We also have a dog park along the river. When it was approved, everyone predicted noise problems, odor issues, but they haven't been an issue. He said that over the weekend he treated an older dog with kidney issues who was a barker. He went outside the office to his car and couldn't hear the dog. He stood by the door and couldn't hear the dog. If he pressed his ear to the office door, he could hear muffled barking. He said the kennel will be more sound proof than his office. He commented that dogs at veterinary offices are usually under stress due to injury or illness or surgery. On a day when they had 13 dogs in for treatment, it was totally quiet in the office. He commented that in the kennel situation, they have mitigation plans but usually it is not necessary to mitigate. Our three children were raised in the veterinary office with their crib just a few feet from the kennel and he does not recall them ever being awakened from a nap by a barking dog. He thought they might boost business for Rivers Restaurant when people come by to pick up their dog.

Questions of Staff

Commissioner Blair asked Trent what other uses were allowed there such as a used car lot or an auto body shop.

Mr. Hyatt said they could by special use permit

Commissioner Blair also wondered if the application was referred to Division of Wildlife.

Mr. Hyatt said it was not.

Commissioner Dunn asked if there was a way that the special use permit could be approved for this applicant only.

Mr. Hyatt thought it could be a condition if the property changed hands or the ownership of the business changed hands.

Commissioner Grosscup asked if snow being pushed into river is a common practice.

Mr. Hyatt replied that it could be a management condition.

Commissioner Grosscup inquired if complaints can be anonymous.

Mr. Hyatt replied that the Chief wants the complainants to be responsible for going before the judge with their complaint.

Commissioner Blair wanted clarification about rec. no. 5 and noise complaints. Would it then have to be reconsidered by the P&Z.?

Jon Hoistad said that a complaint from the community involves a summons and complaint that ties back to what would play out in court. There are mechanisms to send a complaint to court. It can be solely by the accuser or by the police office observing. Chief Wilson does not want officers waiting to testify and puts the burden on the community member as the one to testify. Complaints cannot be anonymous.

Commissioner Blair wondered if the Community Development Department could bring complaints before the P&Z.

Jon Hoistad said a complaint would have to go through the Police Department and the courts.

Commissioner Blair said he was looking for a way not to burden the police and the courts by handling it in the Community Development Department.

Mr. Hoistad said that would eliminate the law enforcement specialists or police officers make the determination.

Commissioner Schachter we have the same concern about the wording about “complaint” in the condition. Frivolous complaints could bring this back to us. Multiple complaints upheld through the city’s legal process.

Mr. Hoistad said if you are inclined to add the extra layer in some settings they can be frivolous. The finding by muni court would add validity.

MOTION: Commissioner Dunn moved to approve the special use permit for operation of a dogs and cats kennel facility in C/3 general commercial district with the conditions and findings on pages 4 and 5 with amendment to conditions 4 and 5 by Commissioner Schachter. Eight dogs per one human in the play group. Amend 5 to two convictions of a nuisance through the municipal legal process. Commissioner Schachter seconded the motion for sake of discussion.

Commissioner Blair had concern about snow removal. He said he was still trying to make up his mind. "Somewhere else" cannot be found. That is the reason for a special use. The applicant has a good plan. Condition that the permit can come back to the P&Z concerns him. Barking dogs are everywhere.

Commissioner Grosscup thinks we need this facility. She wants to amend the motion to would not continue and revisit the ability for a special use permit process. What was done in condition 5?

Commissioner Schachter said it was not to make it more difficult to complain but to make it more difficult to come back as a reconsideration. He said he was trying to make sure complaints are valid and legal and upheld by the court.

Commissioner Grosscup if an outcry reached Andrew's ears, and our legal team, would the public have the impression that they can bring it to the commission.

Commissioner Schachter said if there is that much complaint, then conditions are not being met and that would be grounds even without a formal complaint to come to us.

Mr. Hyatt said that would put a lot of onus on staff to make that determination. A verified conviction seems appropriate to him. If we have evidence that conditions are not being met, yes he thinks staff could bring it forward.

Commissioner Schachter said that the City does have a code officer. If you have the code officer and the municipal process that provide a venue for potential complaints and that make sure they are vetted before they come back before us.

Commissioner Schachter said that he supports amending conditions with Kathryn's suggestion. Also, he supports an approved snow removal plan filed with Community Development. If the application is approved, reduce the outdoor time to 8:00 a.m. to 5:00 p.m. and weekend hours 9:00 a.m. to 4:00 p.m. The maximum 8-dog play group outside at any given time does not include dogs assigned to the private suite enclosed areas. He acknowledged the difficulty of weighing the needs of the applicant and the needs of the neighborhood. We have to follow the law in preserving and protecting neighborhoods which is very subjective but it is implied in our decisions.

Commissioner Dunn said that he has to make comment before we do revisions. He said we cannot forget that the potential future owner of this property has rights too. He appreciated hearing the concerns and fears of the speakers. Unfortunate truth is that we don't get to pick

our neighbors. The applicants seem that they would be good neighbors. If we can't put a business like this in the commercial general zone, where do we put it? This area is zoned C/3 because the community decided to make it that way. There is another veterinary facility in the neighborhood. These applicants are concerned about their reputation in the neighborhood. It would be fine to attach the special use permit to these particular owners. However it would be difficult to do it for a change in management. If they need to hire a different manager, that is up to them. Attaching it to the ownership would make sense. The other proposal was snow removal and he was not sure how to do that.

Mr. Hyatt went over the changes to condition 4; this requires waste to be discarded in the sanitary sewer. Condition 5 requires convictions upheld through the City judicial process and consider changing hours for dogs outside to be shortened, not including the private suite outdoor areas in terms of maximum number outside. Changing condition 7 to require one human to supervise eight dogs. Finally, adding condition 10 regarding transfer of ownership of the business or property would require re-evaluation by the P&Z. Condition 11 that a snow removal plan be submitted and approved by the Community Development Department.

AMENDMENTS TO MOTION: Commissioner Dunn moved to approve the modifications to the motion summarized in the preceding paragraph. Commissioner Schachter seconded the motion.

Chairman Dehm commented that this was a really tough one. He thought that we have done the best we can with what was in front of us. The application was spectacular and if anyone can pull this off, Lori and Bob can. Condition 5 was the key condition for this. They are investing a lot of money in this. If something goes wrong, their money is gone. Let's give them a chance.

The Chairman called for the question. The motion carried 4-1 with Commissioner Schachter voting no.

Adjournment: The meeting concluded at 11:01 p.m.