

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

Acting Chairman Schachter called the meeting to order at 6:05 p.m.

1. Roll Call.

Present at roll call were Commissioners: Michael Blair, Michael Dunn, Kathryn Grosscup, and Sumner Schachter

Arrived later: Alternate Tim Malloy

Absent: Marco Dehm, Ingrid Wussow, and Alternate Chelsea Carnaoli-Parkison

Also present were City staff members: Andrew McGregor, Community Development Director
Trent Hyatt, Planner
Jill Peterson, City Planner
Kathleen Michel, Administrative Assistant
Jon Hoistad, City Attorney's Office
Jessica Bowser, Assistant City Engineer

MOTION: Commissioner Dunn moved to seat Vice Chairman Schachter as Chairman for this meeting. Commissioner Grosscup seconded the motion. The motion carried by voice vote.

2. Receipt of the minutes:

MOTION: Commissioner Grosscup moved to accept the minutes of the regular meeting of June 28, 2016 as corrected. The motion was seconded by Commissioner Dunn. The motion carried by voice vote.

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

No one wished to comment.

Continued Public Hearings:

- 4. #39-15 – Consideration of a request for a major development permit, major subdivision, zoning variance, and design variances for the construction of 34 residential units (12 single family homes, 10 duplex units, and 12 townhomes multi-family units).

Applicant: Craig Helm, Western Slope Properties, LLC
Owners: First Baptist Church of Glenwood Springs
Location: 2225 Midland Avenue (PIN: 2185-164-00-087 and 2185-164-00-089)
Zone: R/4 Residential Transitional

Trent Hyatt presented background on the continuance. He said that the staff sought additional information re traffic impact and geo-technical issues as the Engineering Department had not reviewed certain information presented. Staff was also concerned with the applicant’s request to waive certain impact fees and for the City to accept all utilities for the project. He pointed out that the Commission had concerns about traffic impact and geotechnical concerns. The Commission asked for more detailed renderings of the buildings and the potential need for multiple access points for the development. We received some additional information based on the traffic impact for this development. The Engineering Department requested that traffic count be broken into peak hour counts entering and leaving the site. They also had concerns about management of additional traffic and vehicles on the property based on the 2-car-per-unit assumption that is identified and calculations or design associated with the left hand turn lane and the roadway tapers that are proposed for mitigation. They provided expected peak hour traffic volumes in an addendum to the staff report. It is broken into turning movements, and those assumptions and numbers are based on industry standards taken from the institute of traffic engineers, edition 9, and the design of the intersection is based on the Colorado Department of Transportation’s State Access Code Standards, exclusive of the median lane that is proposed. Engineering staff has since had a chance to review this information and has no additional comments regarding traffic impacts at this time. The Municipal Code does not necessarily require a full-blown traffic impact study for this type of development since it doesn’t directly impact the state highway system.

In terms of geologic hazards, there were many reports provided to the Commission prior to last month’s meeting with the staff report that addressed the hazards that potentially could impact this site. We identified that there is an active debris fan on site that is identified as a high hazard area. A 3-foot high debris-flow wall is proposed to mitigate possible mud flow. There are also recommendations for specific foundation construction, grading at the site. Also a recommendation that each individual unit or building prepare its own subsurface geotechnical report prior to the issuance of a building permit. There was also some discussion of cut and fill slopes in excess of 3:1 horizontal to vertical. The original geotechnical report limited that to 3:1; however, there is grading in excess of that up to 2:1 and that has since been revised and reviewed by the geotechnical engineer consulting firm. That information was also provided to you in the packet. Fee waiver of 50% was requested for water, wastewater and fire impact fees. Applicant rescinded that request for water and emergency impact fees. They still

request it for the other associated fees. The City has recently adopted a new fee schedule for service fees and staff did not recommend fee waivers. There was also discussion of a potential construction recapture agreement. That is not identified in the Municipal Code at this time so it is not something that we would want to consider. In addition, the utilities easement serves only the units proposed but makes no provision for expansion in future. Additional public comments were received with more concerns with grading, drainage flow, traffic impact, wildlife migration and even wind direction. We recommend forwarding the application to City Council with findings and conditions of approval.

Questions of staff

Commissioner Dunn did not recall the fee waiver issue being addressed in the conditions of approval.

Mr. Hyatt explained that was covered in the major development permit consideration. We did not recommend accepting infrastructure or waiving the fees.

Commissioner Dunn did not see any major changes to the proposed development. Was anything submitted regarding sidewalks or access points?

Mr. Hyatt said there were no changes. New information was submitted regarding traffic and geotechnical considerations for grading.

Commissioner Blair asked if staff received revised drawings or reports for the Commission.

Mr. Hyatt said that no additional large scale plans were provided, just 8.5" x11".

Commissioner Blair asked about the landscape plan provided.

Mr. Hyatt said the landscape plan is on the monitor and revegetation with native grasses was discussed.

Commissioner Grosscup wanted changes in conditions outlined.

Mr. Hyatt said they are fairly similar to conditions with other projects. Storm water plan is required when you disturb nature.

Commissioner Schachter for the record was the parkland and other fees set by the annexation agreement rather than our current rates.

Applicant presentation

Craig Helm said that he had one drawing that was new that he wanted to present. He provided a new drawing showing how the buildings would look against the hillside and how the driveway would approach from Midland. The retaining wall was also illustrated. The trees from the landscape plan were not included in this drawing as they would hide the buildings. He also displayed a photograph taken from Grand Avenue and South Grand facing the hillside and said that much of the view was obscured by the existing

trees. He stated that nothing had changed from the application presented at the prior meeting.

Commissioner Blair questioned the applicant's approach in stating that market forces would set the cost levels for housing in Glenwood Springs.

Mr. Helm did not remember making this statement but said that the demand for housing versus the supply of housing dictates the housing costs. The population of our area is predicted to grow and without providing additional housing, costs are going to continue to climb due to the short supply of housing. He commented that only eight new single-family homes were built in the last eight years.

Commissioner Grosscup asked him to comment on his request for a credit for the offsite connections for the sewer line.

Mr. Helm said the off-site cost to construct the sewer line would exceed the amount of the sewer impact fees.

Commissioner Grosscup asked about the ownership of the improvements.

Mr. Helm was not totally clear what the City's response is.

Commissioner Dunn needed his memory refreshed. Did you include the crosswalk to the pedestrian path on Midland Avenue? Is that one of the raised crosswalks?

Mr. Helm said that it was in the plan and that it was painted on the road.

Chairman Schachter said public comments were received at the prior meeting and would also be received at this meeting. He asked those who spoke to limit their comments to three minutes and make only new comments.

Opened public comments

Nick Kelley, 2238 Midland Avenue, across from the proposed project, commented that multi-family housing at Fox Hollow was not a good idea. The location is not close to shopping and services. The walk-score.com site did not give a good score. All errands will be done by automobile. This is bordered by single family housing. There is no multi-family housing nearby. Keep the project close to what the neighborhood already is.

No additional public comment was made.

Commissioner Dunn asked what happened when annexation agreement does not agree with the Comp Plan.

Jon Hoistad, City Attorney's Office, said that the annexation agreement takes precedence.

Commissioner Grosscup commented about Tim's comment in the prior meeting about sidewalks.

Chairman Schachter said the annexation agreement allowed for multiple uses. This application is one of the highest densities allowed under the agreement. Under current zoning is it still an R/4 property?

Mr. Hyatt said uses are similar to R/4. It is zoned R/4 and the adjacent parcels are R/1 and R/2. The Comprehensive Plan identifies this as multi-family which is representative of the annexation at the time.

The Chair indicated he would entertain a motion.

MOTION: Action Item 1: Zoning Variance - from Section 070.040.030(f)(6) regarding the maximum building height of 35 feet. Commissioner Dunn moved to approve the zoning variance regarding building height with findings on page 4. Commissioner Grosscup seconded the motion.

Commissioner Blair commented that he does not object to it. But will make his vote and comment later.

Motion carried 3-1 with Commissioner Blair voting no.

MOTION: Action Item 2: Design Variance - from Section 070.030.035 regarding Uniform Street Standards for public or private streets. Commissioner Dunn moved to approve the design variance regarding uniform street standards with findings on pages 4 and 5 of the staff report. Commissioner Grosscup seconded the motion.

Commissioner Grosscup said that she knows this is a challenge to omit the sidewalks, but the site slope justifies the elimination.

Commissioner Blair said he cannot support it for safety reasons. He predicted there will be parking on the streets so the streets would be unsafe.

Commissioner Dunn has no objection to this but is concerned. He wants to see a more substantial crosswalk rather than just paint on the street. Midland is getting busier all the time. He has reservations about the comments from the Fire Department. Pedestrian access is his primary concern. When the 14th Street Bridge is in place this could be a walkable area.

Chairman Schachter was not sure where the crosswalk applied. It is an added condition regarding the subdivision itself.

Motion carried 3-1 with Commissioner Blair voting no.

MOTION: Action Item 3: Design Variance – from Section 070.060(b) regarding 25 feet of lot frontage on a dedicated public street. Commissioner Dunn moved to approve the design variance with the findings on page 5 of the staff report. Commissioner Grosscup seconded the motion.

Motion carried 3-1 with Commissioner Blair voting no.

MOTION: Action Item 4: Design Variance - from 070.030.080(b) and (e) , requirement for a 5 foot wide sidewalk and a 5 foot wide planting strip along lot frontages in residential zones. Commissioner Dunn moved to approve the design variance based on findings on page 5 of the staff report. Commissioner Grosscup seconded the motion.

Commissioner Dunn asked if his crosswalk concerns applied here.

Jon Hoistad said that it would be something to bring up on the Major Development.

Commissioner Grosscup said that this is a design variance request to not provide sidewalk on west side of Midland as well as within the development. She said she was okay with this design variance.

Commissioner Dunn said he was okay with the internal plan. He doesn't like the logic that there is nothing on that side to link with. Following that logic, we will never have connecting sidewalks in the City. He does not see the problem with this application but wants to make point that he does not like that argument.

Motion carried 3-1 with Commissioner Blair voting no.

MOTION: Action Item 5: Design Variance - from 070.030.090(a), requirement for access to each lot from a street, not an easement. Commissioner Dunn moved to approve the design variance with findings on page 6 of the staff report. Commissioner Grosscup seconded the motion.

Motion carried 3-1 with Commissioner Blair voting no.

MOTION: Action Item 6: Design Variance - from 070.050.100(8), requirement that access ways shall not exceed 4 percent within 100 feet or 1 percent within 25 feet of a public right-of-way. Commissioner Dunn moved to approve the design variance with findings on page 6 of the staff report. Commissioner Grosscup seconded the motion.

Motion carried 3-1 with Commissioner Blair voting no.

MOTION: Action Item 7: Design Variance - from 070.160.090(b)(4)b.5, requirement that street oriented garages not comprise more than 50% of the width of the front facades of buildings. Commissioner Dunn moved to approve the design variance with finding on page 6 of the staff report. Commissioner Grosscup seconded the motion.

Commissioner Dunn commented that he did not see any public impact from the orientation of the garages.

Motion carried 3-1 with Commissioner Blair voting no.

MOTION: Action Item 8. Design Variance - from 070.160.090(b)(4)b.6.i(i), regarding garages being recessed a minimum of 10 feet beyond the front façade of residential buildings. Commissioner Dunn moved to approve the design variance regarding recessed garages variance based on findings on page 6 of the staff report. Commissioner Grosscup seconded the motion.

Motion carried 3-1 with Commissioner Blair voting no.

MOTION: Action Item 9: Design Variance - from 070.160.090(b)(4)b.9, regarding garage dimensions and garage door heights for multi-family dwellings (one car: 12 feet by 22 feet, tandem 12 feet by 44 feet, door height: 8 feet). Commissioner Dunn moved to approve the variance regarding garage dimensions and garage door height based on the findings on page 6 of the staff report. Commissioner Grosscup seconded the motion.

Motion carried unanimously.

MOTION: Action Item 10: Major Development Permit – for the construction of 34 residential units including 12 single family homes, 10 duplex units (five buildings), and 12 multi-family townhomes (two buildings). Commissioner Grosscup moved to approve the major development permit with findings and conditions found on page 7-9 of the staff report. Commissioner Dunn seconded the motion.

Commissioner Grosscup said there were 19 conditions.

Mr. Hyatt said he did not believe there was a condition for the crosswalk specifically. However, he said the painted crosswalk was on the development plans. He said they could make it a condition for a raised crosswalk. He pointed out that Jessica Bowser was here from Engineering to address any traffic questions. If you recommend a raised crosswalk, I recommend one that meets the design specifications of the City Engineer.

Commissioner Grosscup said she would prefer not to specify but have a condition to work with the City to the City's satisfaction regarding a crossing of Midland. She said it should be left at the staff level.

Chairman Schachter suggested Jessica come to the podium to advise them regarding the crosswalk. He thought it should include "active" versus "passive". He asked Jessica to clarify what the parameters might be to get more than a painted crosswalk.

Ms. Bowser said the raised crosswalk would cause traffic delay. We need to come up with a joint solution. There are other options besides a raised crosswalk such as flashing lights so the City and applicant should work together for an acceptable solution.

Chairman Schachter asked Jessica to suggest some language for this condition.

Ms. Bowser replied that applicant should work with City staff to come to an acceptable, safe pedestrian crossing in this location. We need to find the best fit for this location as Midland is a high traffic road, a high volume road.

Mr. Hoistad said it might be cleaner to withdraw and make a new motion.

Commissioners Grosscup and Dunn withdrew their motion and second.

MOTION: Action Item 10: Major Development Permit – for the construction of 34 residential units including 12 single family homes, 10 duplex units (five buildings), and 12 multi-family townhomes (two buildings). Commissioner Dunn moved to approve the major development permit with conditions on pages 8-9 of the staff report with additional condition of the developer working with City engineering and traffic staff to construct a crosswalk with additional safety to the City’s satisfaction. Commissioner Grosscup seconded the motion.

Commissioner Blair commented on the Major Development permit for 34 residential units. There are multi-family units nearby. There is a need for dwelling units in the city as population was increasing. The amount of available land is diminishing. We have to accept that. He said he will vote against this particular application for a number of reasons

- Traffic report is inadequate for the design of the access roadway intersection with Midland;
- Needs a better revegetation plan because of the type of soils on the site;
- Project did not meet Comp Plan goals to provide workforce housing for people who live and work here;
- Plan is not appropriate for the site.

Commissioner Dunn was also concerned about pedestrian safety. Common concern is affordable housing in the community. Although not “affordable” housing, this project will help alleviate the housing shortage. The pros outweigh the cons.

Commissioner Grosscup believes the City Council should address the affordable housing question and decide whether to maintain the affordable housing moratorium. She recognized that it was not part of this housing application.

Chairman Schachter does not agree we should build higher and more at almost any expense to the surrounding neighborhoods. Council has taken the affordable housing opportunity off the table as a requirement. The developer’s rights and the pre-annexation agreement allow this development. We don’t have space for all the housing types we want. This may not be the best solution. One could argue that it is not infill. The Comp Plan can be used for many arguments. It also encourages pedestrian friendly development. Many units have been approved recently but none have broken ground.

The Chair called for the question: The vote was as follows:

YES: Commissioners Grosscup and Dunn

NO: Commissioner Blair and Chairman Schachter

The motion failed due to the tie vote.

MOTION: Action Item 11: Major Subdivision - of Parcel A and B for the creation of 34 individual lots which correspond to the proposed residential units.

Commissioner Dunn moved to approve the Major Subdivision with the conditions on page 10 of the staff report. Commissioner Grosscup seconded the motion.

Commissioner Blair said that he wanted his comments from Action Item 10 applied to this item as well. If there were a few (5 or 6) single-family residences or duplexes, it might fit better with neighborhood. The agreement did allow a certain number of units and they should be able to rely on that. We also need to provide for additional population growth. It could fit better on the site if the project were designed for the site rather than the site designed for the project.

Commissioner Dunn asked for clarification of approving the subdivision but not the major development permit. What are the repercussions?

Mr. McGregor reminded the Commission that all of their actions are in the form of a recommendation to the City Council. He said that the City Council has the duty and responsibility to be the final decision maker.

The Chair called for the question: The vote was as follows:

YES: Commissioners Grosscup and Dunn

NO: Commissioner Blair and Chairman Schachter

The motion failed due to the tie vote.

Commissioner Malloy arrived at 7:27 p.m.

MOTION: Commissioner Dunn moved to seat Alternate Malloy for the meeting. Commissioner Grosscup seconded the motion. The motion carried by voice vote.

5. #12-16 - Consideration of a request for a special use permit for a single family residence in the Hillside Preservation Overlay zone district.

Applicant: Bruce Barth, Red House Architecture P.C.

Owners: Michael David Simpson and Angela Grace DiMercurio Simpson

Location: Property between 1776 and 1804 Midland Avenue
(PIN: 2185-162-00-008)

Zone: R/1/6 Single Family Residential and Hillside Preservation Overlay
Zone

Jill Peterson presented the staff report. She said that the Hillside Preservation Overlay Zone (HPOZ) requirements apply to this property. The property extends from the river across Midland Avenue and up the hillside. This is a 5-acre parcel with average slopes of 29%. The applicant wishes to develop the property between Midland Avenue and the Roaring Fork River. The slopes on this portion of the parcel average 32%. There are single family dwellings north and south of the side. Applicant needs to demonstrate compliance with HPOZ performance standards. The proposed home will be 2,640 s.f. It will have a garage (1,007 s.f.) and patios and decks (562 s.f.). The materials board was displayed. The home will include some beetle-kill pine siding as well as cement siding. Decks and patios are concrete. For wildfire mitigation, the Fire Department is requiring sprinklers are required in the home. Applicant met with Community Development

Director on site to develop the vegetation removal and retention plan. Wildfire mitigation plan must be approved by the Fire Marshall. Publications from Forest Service re wildfire mitigation were provided in the packet. They will move some aspen trees further away from the home. Wildfire mitigation recommendations will be conditions of the special use permit. Two trees from City's approved list will be planted as street trees.

The property is subject to geologic hazards. Additional items in the packet provide supplemental information. This is a moderate hazard zone. It is required that the applicant provide analysis of debris flow and a mitigation plan. Code provides some recommendations for mitigation. The property is also subject to hydro-compactive soils. Information from the geotechnical engineer includes recommendations for foundation design and for routing drainage water around the home to keep it away from the foundation. There is condition that the applicant provides debris flow analysis and the proposed method of mitigation. Comments from City Engineering request additional detail on the drainage report and plans. The applicant met with the City Engineering Department and we worked through some of the comments. She said she thinks the applicant now has a better idea of the information that Engineering is looking for as far as drainage from some of the uphill basins is concerned. Regarding utilities to the site, water will be provided from the City's main in Midland. This property is not within 400 feet of one of the City's existing sewer mains. They will be required to have an on-site wastewater system designed to meet State requirements and a permit from Garfield County Environmental Health Department is required. They will need to provide as-built plans to the City prior to issuance of a Certificate of Occupancy. City Electric provided two options for service to the property. Applicant will need to choose one. They will have to follow comments from the City's Electric Superintendent and the City's line extension policy.

A zoning variance is requested for the retaining walls – both the north wall and south wall exceed allowed length and height. Retaining walls are limited to 60 feet in length and 6 feet in height unless there is terracing. The retaining walls are necessary for the driveway into the site. The north wall is 95 feet and is proposed at a height of 14 feet. The south wall is 70 feet and with a height of 8 feet. The applicant is proposing to construct a vegetated retaining wall which is illustrated in the packet. We have not seen this application within the City limits before. She said she recommended 2 additional trees on the downhill side of wall as an additional mitigation measure.

There are two actions on this application. (1) A zoning variance for the retaining wall. (2) Special use permit for the single-family dwelling in an HPOZ area. The staff report includes recommended findings and conditions for both actions.

Questions of staff

Commissioner Malloy asked if the property was one lot or two lots.

Ms. Peterson replied that the County Assessor shows it as one parcel. However, our Code lacks clarity so she posed this question to the City Attorney. There is one legal description for the property and the applicant purchased it as a single parcel.

Jon Hoistad said the CCode was somewhat ambiguous. The right-of-way effectively created two parcels as a matter of law. It should be treated as two parcels. There are considerations to do with this project. They may have a difficult time receiving the wastewater permit. If the County will grant the permit, the individual sanitation disposal system (ISDS) would be permitted. It might be that a condition is included that if the upper parcel is sold off, they must tie into the City's system and provide a lift station.

Commissioner Malloy asked how far the parcel is from a tie-in.

Mr. McGregor thought it was about a thousand feet.

Ms. Peterson said that calculating the slope percentages exclusively for the lower parcel does result in a change as does the percentage of site disturbance for a smaller land area. Instead of having two actions there would be three: Zoning variance for retaining wall height, zoning variance for maximum site disturbance under HPOZ, and the special use permit.

Commissioner Malloy wanted to be clear that it was the City Attorney's opinion that this was two lots.

Mr. Hoistad replied in the affirmative.

Commissioner Malloy was concerned about possible wastewater system failure and effluent in the river.

Commissioner Blair asked about the variance for the retaining wall. Has anyone commented on the height of the wall other than staff? Trees obscure the site. They would probably hide the wall anyway.

Commissioner Dunn asked if the analysis was based on this being one lot,

Ms. Peterson said she analyzed it both ways. She distributed an additional information sheet to the Commission.

Applicant presentation

Bruce Barth, Red House Architecture, 815 Blake Ave, architect for the proposed residence stated that they spent a lot of time trying to make this one of the better examples of an HPOZ application. He said that existing grade was shown on the drawing and illustrated how the house will sit in the site. Connection to the City sewer is not a viable option. There is a fair amount of vegetation. There are a couple of benches that drop to the river. The house steps down to the river as well. We are not removing the living vegetation. Garage and mudroom are on the upper level. The house has three bedrooms. It is a moderate sized house. Materials include rustic steel panels, stone, beetle kill pine. The geo-retaining wall is a new system in Glenwood. This project involves substantial mitigation that was not required on the Shaver lot located one parcel to the south. During two major weather events this year, there was no effect on this lot from debris flow. There are major drainages on both sides of the lot.

Mike Simpson, 2701 Midland Ave., said that he is a construction industry professional and has been a resident of Glenwood Springs for 20 years and in the construction industry for 20 years also. We are not naïve about the hazards that exist with this site. He said that he is asking for a sense of reasonableness to this site. We have taken mitigation steps within our design. There is a concrete curb along the driveway that will redirect water into a drainage swale. He is asking for a way forward by doing the mitigation in a reasonable manner. As the owner of the property, he is willing to indemnify others for possible problems arising from debris flow on his property. Single parcel versus dual parcels issue. He bought the property that was listed as one parcel. It is recorded with the County as one parcel. Why has the two parcel question come up? It has a potential impact on the project when considered as two parcels. He requested that it remain as one parcel.

Mr. Hoistad commented about the ISDS permitting determination to be made by the County. He stated that determination is what the one parcel/two parcels issue revolves around. If the County is willing to treat it as one parcel for the purpose of the ISDS permit, we believe that is appropriate. In the event the County rejects that permit on that ground, we would suggest that they be required to tie into our infrastructure. This condition is in place to avoid having to come back to the Commission for approval. He pointed out the one parcel/two parcel issue will be settled by the ISDS decision by the County. If the County rejects the permit on that ground it prevents applicant from building or requires applicant to connect to City system.

Commissioner Schachter called an end to this discussion as it is beyond the scope of the Commission. Chairman Schachter said that Commission can consider it only one way. If it turns out to be two parcels it would become a different process. Let's proceed with the application as a single parcel.

Mr. Hoistad commented that if the County changes it, the discussion will have to take place again.

Mr. Simpson said this is a single 5-acre parcel. That is what we bought; that is what we intend to develop and this two parcel issue was a complete surprise.

Questions to applicant

Commissioner Grosscup asked which condition we are specifically discussing.

Mr. Barth said it was condition 7.

Commissioner Grosscup asked what changes you are asking for. She noted there were several recommendations from various dates as well as supplemental reports submitted to the City Engineer.

Mr. Simpson said the reporting from HP GeoTech evolved. We designed the house so we could create a more functional space for the garage. A wall for the garage made sense structurally and architecturally. In response for the need for retention, we raised the wall to add protection to the structure and we added the curb to the driveway so that we had multiple levels so that in the event of a debris flow, we had all of the property on the west side of Midland. We had the Midland road corridor itself, we had the sidewalk,

we had the driveway, we had the curb, then we had a little bit of green space and then we have this concrete wall that is above grade. We are asking you to consider that in the broader scheme of the debris flow mitigation, understanding that measures like that are not being applied to the recent projects along Midland. They did not have to meet the standard we have to meet.

Commissioner Grosscup commented that in your mind you have gone above and beyond but your fear is that the City Engineer could require additional changes and you would like clarity of what may be required.

Commissioner Dunn asked Mr. Simpson if he would do whatever paperwork was necessary to show it is one lot.

Mr. Barth said they already have that with an ILC and a legal description. He didn't know what else they could provide.

Commissioner Malloy asked applicant to clarify the recommendation of the geologist for a debris flow diversion wall on the same side of Midland just above the house.

Mr. Simpson said there was no structural recommendations for debris flow mitigation.

Commissioner Malloy asked if there was discussion about the debris flow wall.

Mr. Simpson said it was his understanding that we could opt out of the debris flow study by providing a wall that was six feet tall and met the variable between 400 pounds per square foot of force and 900 pounds depending on whether it was a severe debris flow risk or a moderate risk. Practically speaking, there is the opportunity to do mitigation on the west side of Midland. We haven't studied that but certainly it is undeveloped and intended to remain undeveloped and it might be a reasonable place to do that but we have not studied it at any detailed level.

Additional questions of staff

Commissioner Grosscup asked the Assistant City Engineer to summarize what was communicated to applicant.

Jessica Bowser, Assistant City Engineer, said she had not been in all the discussions on this. Applicant can demonstrate that this site is not in a moderate geologic hazard zone through the report if there were findings such as it is on a ridge line and debris goes around the site. Without that analysis or justification, we can't say yes or no that there is not going to be hazards that impact the home. They have three options: (1) follow the Code based on the current hazard zone; (2) provide an analysis that provides mitigation; or (3) they can demonstrate that there is no hazard.

The Code calls for the wall because the area is in an alluvial fan and the debris flow can fan out and cause damage to homes. She has met with residents who had issues with previous debris flow analysis that did not quantify debris amount and hazard mitigation in other areas of town. The reports submitted years ago said that there might be debris that will cause a little bit of debris build-up that will have to be removed. There was no

wall design or other prevention methods. While the current owner accepts the hazard, what about future owners purchasing the property in 50 years?

Commissioner Dunn what would the no hazard designation require.

Ms. Bowser said it would require a full analysis. She said she could not speak for Terri Partch but in their discussion, they were of the opinion that it may not necessarily be as bad as the applicant thinks. She could not say without quantification.

Commissioner Dunn asked if they are worried about debris flow to other property or just this home.

Ms. Bowser replied that it was directly for this home. Our Code is very general about these requirements. That is why we give the option to provide your own analysis and the mitigation method that you want to do.

Commissioner Blair with all the discussion about debris flow mitigation, does it pertain at all to the height of the retaining wall for the driveway.

Ms. Bowser said no, they have provided their own mitigation method but it doesn't quantify what mitigation it is providing. The retaining wall design is purely based on the driveway.

Commissioner Malloy what do you mean that it won't be as bad as they imagine. I assume "they" means the applicant. What did you mean by that? Cost-wise or the impact of the actual hazard?

Ms. Bowser replied it was the impact of the actual hazard. It does appear that the house is on a ridgeline and the gullies are north and south. It is up to them to demonstrate that it is not going to be a significant hazard and the revised soil report says minor mud will come on site. What do they classify as minor?

Commissioner Malloy said that he does not recall a debris flow at this location. Do we have any records on that? He said there was quite a bit when you go

Ms. Bowser said there was recent flow close to this site. Jill is familiar with where it was located. It did require clean up.

Commissioner Malloy said one lot/two lots? I am the person who raised this question. Is it the attorney's opinion that this is one lot or two? If a dedicated right of way bisects property, they are separate interests. There are missed properties in the assessor's records. Is it the City Attorney's opinion that this is one lot or two? How do we apply the standards of the regulations unless we know the size of the parcel that we are dealing with?

Mr. Hoistad said that the City Attorney's opinion is that it is two parcels. Some of the issues that arise from that may be resolved through the County's ISDS permitting process. We encourage them to go to the County and seek the permit as one parcel. We defer to City staff in dealing with the slopes as this was purchased as a single parcel.

Commissioner Malloy said the fundamental question seems to be the site disturbance which goes from 13% if one parcel to 89% if it is two. That is the only HPOZ standard that is affected by the status.

Ms. Peterson commented for the record regarding the public notice that the notice was simply about design and zoning variances in a very generic manner. HPOZ standards in the Code fully acknowledge there will be platted lots within the city that do not have the minimum land area required based on slope percentage with an entitlement to a single family home if it meets the performance standards of HPOZ.

Commissioner Blair had more questions for Jill about conditions. He wanted to know about Action Item 1 as it only had findings. He wanted to know if she wanted to add any conditions or recommendations to Action Item 1.

Ms. Peterson replied that the findings were the same as in the staff report. She said that findings and conditions were addressed in the Special Use Permit item. She noted that Action Item 1 dealt with height and length of the retaining walls for the driveway. Nothing else.

Mr. McGregor pointed out the need for the public to comment.

Commissioner Grosscup does City talk to County staff about the need to issue the ISDS permit or does that go to the applicant. She wanted to ask the applicant if they have had preliminary conversations with the County.

Mr. Barth said they had not because we found this out at the beginning of the week.

Mr. McGregor said the City historically approved all ISDS systems within the corporate limits of the City. They must be designed by a registered professional engineer who provides a stamped drawing. He is confident that the County will grant approval if we have the appropriate drawings to support the application. It is highly doable regardless of the gross parcel size.

Ms. Bowser said that the County has been keeping records of OWTS (previously ISDS) since the 70's and since the City does not have a health department, the County takes jurisdiction for the septic systems. They are the reviewing authority. They do issue permits for this. She did speak with the County today about this application.

Chairman Schachter directed a question to Jessica regarding the drainage report and the conditions. Does the issue that applicant is having relate to your July 19th comments regarding the revised drainage report not being submitted?

Ms. Bowser confirmed that was correct. The uphill basin that is a part of this parcel still needs to be analyzed for drainage. That is a standard drainage report requirement in any storm water prevention control plan that you do. We are looking for flow amounts onto the site. They can follow the Code or provide their own analysis.

Mr. Barth said that was to take it out of the moderate hazard zone. He commented that there was no way an engineer would downgrade his report.

Mr. Simpson commented that if you are a certain distance of linear feet from the outlet of the debris flow, even though it does not impact your property, it is within enough proximity to the outflows that then it puts you within that zone and the Code applies.

Ms. Bowser repeated that you have the choice of following the Code or providing your own report to mitigate the hazard. The distance specified in the Code was because of the nature of an alluvial fan, the debris fans out and could impact another property.

Chairman Schachter commented that if the analysis provided does not change the zone, does the Code automatically apply or are there ways to

Ms. Bowser said they would have to choose to use the Code or to provide their own recommendation.

Chairman Schachter said they could make recommendations different from the Code subject to City staff approval.

Ms. Bowser agreed that was correct.

Chairman Schachter commented that thus far, they haven't met that condition.

Commissioner Malloy commented that the only thing that seems to have changed is Action Item 2.

Ms. Peterson directed his attention to the red-lined list of conditions that shows what changes took place in the report.

At 8:45 p.m. the Chair opened the meeting to public comment.

No one wished to comment.

The public portion was closed and the meeting returned to the Commissioners for discussion or motion.

Mr. Barth asked the Commission to please understand that the options may or may not be there. They can't assess what we have done, because they don't have enough information. Geo-tech engineers always take the conservative position.

The Chair called for motion on the action Items.

MOTION: Action Item 1: Zoning Variance to allow retaining walls exceeding 6 ft. in height and 60 ft. in length per Section 070.040.030(a)(10)j.i. Commissioner Blair moved to approve as recommended by staff. Commissioner Malloy seconded the motion.

Commissioner Malloy complimented applicant and his architect on the beautiful house. He commented that the staff recommendation for planting additional trees was not the right solution, especially if they are aspen trees. He suggested leaving trees shown on the plan and adding shrubs. Grasses will break up the visual but seems sparse. Would be nice to have more plants in front of the wall. The wall to the north is less than six feet

and would need no variance. [Correction: the wall exceeds 60 feet in length.] It would be nice to have some plantings in front of that segment of wall.

Chairman Schachter commented that the conditions referred to are not specific to Action Item 1 but are contained within the action for the Special Use Permit.

The Chairman called for the vote: The motion carried unanimously.

MOTION: Action Item 2: Commissioner Malloy moved to recommend approval of a zoning variance to grant site disturbance up to 87% as analyzed by staff with the suggested findings in the modified staff report under Action Item 2 and also the caveat that this is an extraordinary circumstance given the record keeping with respect to this lot. Commissioner Blair seconded the motion.

Commissioner Blair asked for clarification from staff. He wondered about adding this additional action between the original two actions. Does it require special notice?

Ms. Peterson said that the original public notice was generic enough to reference zoning and design variances so that would allow this additional action.

Commissioner Dunn noted that we should call the next one action three.

Chairman Schachter acknowledged that it was duly noted.

Chairman Schachter called for the vote: The motion carried unanimously.

MOTION: Action Item 3: Commissioner Malloy moved to approve a Special Use Permit for a Single Family Dwelling in the Hillside Preservation Overlay Zone with the findings and conditions in the modified staff report including Conditions 15 and 16 which were not in the original staff report and referencing Condition 5a with respect to the lower parcel. Commissioner Grosscup seconded the motion.

Commissioner Dunn verified that we are not removing any of the conditions as requested by applicant regarding a geo-tech report for debris flow.

Commissioner Malloy replied that was his motion.

Commissioner Grosscup said 5e and 7 or both should be altered and maybe the right wording is "to City Engineer's satisfaction" rather than updated geo-technical report but some sort of analysis provided related to missing items and current . . . [Some inaudible exchange among members.] She said she was asking for discussion so she could understand.

Commissioner Dunn said applicant stated that any additional research or reports that they have just make it more serious so that by not removing these conditions, based on what the applicant is saying, we are essentially guaranteeing that they are going to have to follow precisely what the Code says. Unless we remove these conditions, they will have to build a monumental concrete wall.

Chairman Schachter said that he believed he was hearing staff say that was not necessarily the case; depending on the numbers in the solution they provide, it could be accepted without full implementation of the Code requirements.

Commissioner Malloy said condition 7 was basically saying that they should work with the City Engineer.

Commissioner Grosscup asked if in order to work with the City Engineer, does condition 5e need to be removed?

Ms. Peterson said that condition 5e calls for some recommendation contained in a geotechnical report and for the applicant to then take that information and put together a mitigation plan for the City Engineer to review and approve. Anything they choose to do still has to be blessed by the City Engineer.

Commissioner Malloy said that we are not compelling them to comply with the geotechnical report; we are compelling them to provide the report and to work with the City Engineer to come up with a solution.

Ms. Bowser said she would agree with that and knows that Terri is reviewing the materials right now. Unfortunately, she couldn't be here this evening.

Commissioner Malloy said he left the condition in because that was his understanding that these conditions are simply telling the applicant to work with the City Engineer to come up with a solution. He said he understood the applicant's concern about this but also wanted to make sure that as a community we don't put our residents at risk in a way that is a blatant ignoring of our Code. He said he was asking the applicant to work with the City Engineer to come up with something that is a reasonable solution to a reasonable level of risk. He said he thought the perception here was that it would be an unreasonable solution for an unrealistic risk.

Chairman Schachter acknowledged that it was a dilemma whether the Code was fully implemented in other cases or not. The Code is there; the solution was to come up with a mitigation plan that was feasible and suitable to both the City and the applicant and our position is if we don't leave this in, our only solution would be two-fold: (1) the applicant has said they will indemnify everybody which leave us an extremely tenuous position now and in the future; or (2) to ignore it as Commissioner Malloy said. Now we have done little or nothing to protect both the owner and future owners in the neighborhood so I believe working with staff seems to be the best solution.

Commissioner Dunn does not feel it is our place to determine acceptable risks for a single-family home from a knowledgeable and reputable builder that understands the risk that he is taking, he does not feel right about imposing additional costs and more restrictions under the basis that we are protecting them. I have faith that staff will work out a reasonable solution and not put an undue burden on the applicant but without removing those conditions, we can't guarantee that.

Commissioner Malloy said that he agreed with Commissioner Dunn that we shouldn't be in the role of deciding what is reasonable or unreasonable with respect to a geologic hazard. I am not a geologist and I don't think that anyone else on this panel is a

geologist. That's why I think that leaving the condition in puts this question in the hands of those who are best able to answer it.

Commissioner Blair said he was trying to remember all the comments made on Action Item 1 that were really for this item. They were out of order but were very worthy and well stated. He asked staff if they could be applied more particularly in the record under the Special Use Permit rather than on the zoning variance so that the Council and others will know what they pertain to.

Commissioner Malloy asked if he was referring to my comment with respect to shrubs and trees and so forth.

Commissioner Blake said there was a lot of discussion but he couldn't remember it all but he thought it was well worth being in the record on this.

Commissioner Malloy asked if we could have an amendment to the motion.

Mr. Hoistad said we could withdraw the motion and keep it clean that way.

Commissioner Malloy withdrew his motion on Action Item 3 as previously stated and Commissioner Grosscup withdrew her second.

MOTION: Action Item 3: Commissioner Malloy moved to approve the single-family dwelling in the HPOZ area with a modification to condition 3b which provides for two additional trees on each side of the retaining wall, to provide additional shrubs in the area of the two existing aspen trees on the west side of the driveway and to increase the number of Karl Forester grasses as shown just below the wall on the west side of the driveway and to add some additional shrubs along the base of the north wall. Commissioner Blair seconded the motion.

Commissioner Dunn said he liked the first one better. It is not our job to redesign the wall cover for a retaining wall facing into the property.

Commissioner Blair requested that his comments under Action Item 1 be in the record for Action Item 3.

Chairman Schachter said that of all the conditions, this was the least significant to the applicant and to the City. This is a case where normally I would defer to staff because it is beyond what I consider my responsibility or knowledge. The other conditions in the action are far more important.

The Chairman called for the vote: The motion carried unanimously.

The Chairman called a break at 9:12 to reconvene at 9:20 p.m.

The meeting reconvened at 9:20 p.m.

New Public Hearings: 9:22 p.m.

6. #16-16 - Consideration of a request for a design variance from 070.130.158 Downtown Design Standards for a fence exceeding 3.0 ft. in height.

Applicant: Bruce Barth, Red House Architecture P.C.
Owners: Bruce and Dara Barth
Location: 815 Blake Avenue (PIN 2185-094-13-006)
Zone: C/2 Core Commercial

Jill Peterson presented the staff report. The property is in the area of the city subject to the Downtown Design Standards. She said that the City was contacted by an adjacent resident about a fence under construction. The owner wants to create an outdoor screened area. The screening was created by metal framing, barn wood and mesh. She displayed the standards that owner was working under as he thought the City's Commercial Design Standards applied to his property. His property is actually subject to Downtown Design Standards which has two sections, residential and commercial. Office use falls under the category of commercial uses.

The maximum height for a fence when the property is commercial, is three feet and the only reference to materials is a statement that talks about historic downtown context. Fences in the downtown which fall under the residential section in the standards are limited to three and a half feet in height. There are references to materials such as ornate, transparent, wood, and pickets with spacing. In other residential areas of the city outside of the downtown, the residential zone districts allow fences of four feet in height in the front of the properties and no materials are suggested or mandated.

The Downtown Design Standards (DDS) encourage open spaces and courtyards to be at the rear of the properties. Currently the design standards do not address types of materials that can be used for screening. The applicant included information regarding his basis for the variance. He referenced some of the other fences that appear in the downtown. Also, that the fence around his outdoor seating area included some panels that were open. The rear of the lot is dedicated to parking and storage. There is also a parking space at the front of the property that must be maintained. The only standard that can apply to the fence is the three foot height limitation and the reference to historic context. The packet includes photos of fences within the downtown but most of them were residential applications, not commercial. There may be an opportunity to revise Code through the rewrite project currently under way.

In the reviewing agency comments, the Engineering Department expressed a concern about visibility of pedestrians on the sidewalk adjacent to the outdoor space. She said that she did not find it difficult backing from the parking space and visibility. The screened area will alter the appearance of the site. Any structure approved for the C/2 area could go up to the front lot line and would also add visual impact.

Action alternatives on a design variance are to approve with conditions or continue the hearing for additional information or deny the application with findings. Both approval and denial require findings. Staff recommends approval of the design variance. The basis for recommending approval of the design variance was that the design provides

some transparency at the top and bottom of the screen. Also, it was a limited area across the front of the yard. She felt that the Code was somewhat unclear as far as screening materials for these types of outdoor areas.

Questions of staff

Commissioner Grosscup asked Jill to explain why the parking space in front must be maintained.

Ms. Peterson replied that she thought it was the desire of the applicant to maintain the space. C/2 core commercial zone generally follows the boundary of the General Improvement District (GID), where there is no off-street parking requirement. That is applicable here.

Commissioner Blair asked if building a fence required a building permit.

Ms. Peterson replied that no fence under six feet requires a building permit.

Commissioner Blair asked what district allows a six feet high fence.

Ms. Peterson replied that it was commercial zones but not within the front yard setback. In the commercial zone district typically the setback is going to vary between five feet and sixty feet.

Commissioner Blair asked if the application was referred to Historic Preservation Commission. He said they are interested in use of materials and design as they might be compatible with the historic aspect of that area of town.

Ms. Peterson said she did consult with Gretchen Ricehill, the staff liaison for the Historic Preservation Commission. Based on that discussion, the application was not circulated to the Commission.

Commissioner Malloy asked if the fence was complete. It is an unusual structure with an opening at the bottom and opening at the top. Do we know the measurement from the ground to the top of the wood panels?

Ms. Peterson replied that the vertical dimension is 15 inches for the open area so you would take that off of the 5.5 ft.

Commissioner Malloy asked if the Code had a definition of a fence. Did this structure deviate substantially from the definition?

Ms. Peterson replied that she did not have the Code available and without it she could not say with certainty that we do have a definition for fence.

Applicant presentation

Bruce Barth, Red House Architecture, 815 Blake Ave., described the mix of uses and structures in this block. There is no access to the back of the building. There is no back door out of the building. There are very few options for semi-private outdoor space. The

fence is made out of window panels from an old church up on Cooper. The pieces are not yet attached. There are many examples of fences, enclosures, etc. around town that bypass this definition of a fence. He emphasized the limited options for outside space on his property.

Questions of applicant

Commissioner Malloy asked if Mr. Barth intended to leave the open space at the bottom and the top. How many sides?

Mr. Barth replied that there are three sides.

Commissioner Blair said that the location of the screen relative to the parking space seems adequate except when we have inattentive children moving rapidly on the sidewalk. Could you find a way to call attention to the presence of the driveway?

Commissioner Grosscup commented that on the front and north side you'd plant flowers at the bottom. What about the south side?

Mr. Barth on the north and east side we would have flowers at the bottom. Nothing huge.

Public comments

Bobbie Hodge, 817 Blake Avenue, said that she calls it the penalty box. She is property manager for two of the properties in the neighborhood and she lives at one of the properties. She said that she is a member of the Historic Preservation Commission. There are two landmark properties on this block. Most of the homes were built in the early 1900's. She talked about inappropriate modifications within the district. There are requirements for the historic district. The intent is to improve the image of downtown. The Downtown Design Standards apply to all buildings in the area. She emphasized the importance of front porches on the historic buildings. She said that the structure obstructs the visual sight line in the neighborhood. She said the Commission was setting a precedent tonight.

No one else wished to speak.

At 10:07 p.m. public comment concluded.

The Chairman called for a motion.

MOTION: Commissioner Dunn recommends denial of the variance based on the fact that it does not comply with design variance criteria, the Comprehensive Plan, the Downtown Design Standards or other City policies. Commissioner Malloy seconded the motion for discussion.

Commissioner Dunn said that he had to make the motion as it does not satisfy the criteria for a variance. If we have underlying zoning that allows it and design standards that do not, which one applies?

Mr. Hoistad replied that the Downtown Design Standards apply.

Commissioner Dunn said we should try to have the two documents agree with one another.

Commissioner Malloy noted that on the one hand, any building constructed would be subject to substantial review in terms of its aesthetic and impacts. The entire first floor is a short-term rental and the upstairs is an office. We do have a residential environment which would suggest that some fencing for privacy might be appropriate. The screen is creative and odd. It is only a third of the frontage.

The Chairman called for motion to continue up to 11:00 p.m. **MOTION: Commissioner Grosscup moved to continue the meeting up to 11:00 p.m. Commissioner Malloy seconded the motion. The motion carried by voice vote.**

Commissioner Malloy continued to discuss the seating area screen. The back yard is being used for a purpose that benefits the applicant. He wondered if the back yard could be rearranged to still benefit the applicant and also provide outdoor space. He thinks the current fence is not the right solution to the applicant's problem.

Commissioner Blair was concerned about the materials and the siting of the structure. The size did not seem obtrusive but from the sidewalk or the neighbor's front porch, he could understand the concern about the size of it adjacent to the sidewalk and a neighbor's front porch. He appreciates the artistic expression but it needs to be in an appropriate place. Materials do not fit in the district as they are not similar to or compatible with materials on other buildings in the area. This seems more appropriate in an industrial use or for an outbuilding in an agricultural use. A private sitting area in the front should be on the front porch or in a swing in the front yard.

Commissioner Grosscup said we are discussing a motion for denial. We should consider continuing the request and giving the applicant an opportunity to look at a change in plantings and materials. He could use vegetative screening to help it blend more. Height is not too much of a difference. It is more a matter of materials.

The Chairman called for the vote. The vote was 4-1 with Commissioner Grosscup voting no. The motion to deny the variance carried.

7. #17-16 – Consideration of a request for a zoning variance for the rear yard setback for the construction of an accessory dwelling unit and the acknowledgement of side yard setbacks for historic encroachments of the existing home and side retaining walls.

Applicant: Todd Leahy
Owners: Todd Leahy
Location: 1028 Blake Avenue (PIN: 2185-094-30-008)
Zone: R/2 Limited Multi-Family Residential

Trent Hyatt presented the staff report. He said this property was zoned R/2 as are surrounding properties. He reminded the commission of standards for a variance. This property was previously a duplex and there are ADUs located within the area on

substandard lots. This home encroaches on the adjacent lot. It was built in 1938 prior to location verification during construction. We have not received comments from adjacent property owners. The Commission can approve, deny or continue the application. Staff recommends approval of the zoning variance based on findings in the staff report.

Questions of Staff

Commissioner Malloy commented that there was a parking space on the property. Recently converted from duplex to single family and at the time converted it had one parking space. This regulation allows grandfathering of an existing condition.

Mr. Hyatt did not know how the space was used.

Commissioner Malloy said we now have a single family home and want to use the parking space for the ADU and where is the parking space that was grandfathered. Off-street parking should be provided for the new use.

Mr. Hyatt did not consider the space a developed parking space.

There was a lengthy exchange regarding the “space” and its use.

Commissioner Blair asked if the property is within the downtown parking district. How many spaces for construction of a new single family residence? For the new guest house?

Mr. Hyatt said a new home would need two spaces and an ADU would need one. They turned a duplex into a single family home, thus decreasing the need for two spaces. With the addition of the ADU, they are going back to their original status of two residence. There would be no change in the parking required.

Commissioner Blair commented on the drawing that shows a 9'x20' parking space. It appeared that a vehicle had been parked there, but it was not developed as a parking space. Couldn't that be included in the requirements to develop that space as a parking space?

Mr. Hyatt replied that was the intent. That is the parking space for the accessory dwelling unit.

Applicant's presentation

Kurt Carruth, Hinge Architects, 820 Bennett Avenue, Glenwood Springs, spoke on behalf of the applicant. He said that they tried to avoid the overhead utilities and waste lines when positioning the guest house.

Questions of the applicant

Commissioner Malloy commented that it was a cool looking structure. He said he was concerned about the parking. We have a single-family home which normally has two parking spaces. Did the applicant have discussions with you about designing a garage with the unit above the garage so we could have three parking spaces?

Mr. Carruth we had to keep the peak of the guest house below the peak of the main house.

Commissioner Dunn asked if there was discussion about the small section of encroachment with the neighboring property owner and having an easement recorded.

Mr. Carruth was not sure. The owner said he had a good relationship with the neighbor.

The hearing was opened for public comment but there was no public present to comment on the item.

Commissioner Blair asked if there was a minimum area for an ADU.

Mr. Hyatt said it was 300 sq.ft.

Commissioner Malloy asked what the area is for this ADU. The staff report says 339 sq.ft. If you add the dimensions on the plans it is 423 sq.ft.

Mr. Hyatt agreed. The floor area definition included all heated floor space from interior walls excluding stairways. That is why you see the 339 number, as my measured area.

Commissioner Dunn wanted to know what encroaches on the neighboring property.

Mr. Hyatt replied that it was part of the structure and a retaining wall. If there was a problem between the neighbors, a lot line adjustment may make one of the lots less than a buildable lot.

Commissioner Dunn was concerned for future buyers of the property being encroached on.

Mr. Hyatt said it would be an exception on the title insurance policy.

Chairman Schachter asked if there was any additional encroachment as a result of the remodel itself.

Mr. Hyatt said it was an interior remodel only.

Commissioner Malloy said these units are common in the downtown area. This is the first time he had seen a request for a variance for an ADU. Presumably, there have been others of these in the downtown area that were considered with similar conditions.

Mr. Hyatt agreed there were others. He said he had studied three previous files in his review of the application and drafting of the staff report.

Commissioner Blair said the applicant's letter says the ADU will be 20'x14' footprint. That calculates to be 280 sq.ft. How do we get a structure that is larger than that?

Kurt said there is a loft that counts as additional square footage.

Mr. Hyatt said that as previously mentioned, our definition for heated area includes all interior areas inside the walls excluding stairwells. He said he added the first and second floors and excluded the stairwell.

MOTION: Zoning Variance from Sections 070.040.030(d)(4)b. and c. of the Glenwood Springs Municipal Code to acknowledge a 0 foot northern side yard setback and a 4.5 foot southern side yard setback for the existing single family home and to allow a rear yard setback of 3.5 feet for the construction of an accessory dwelling unit. Commissioner Dunn moved to approve the variance based on the findings and conditions on page 4 and 5 of the staff report. Commissioner Malloy seconded the motion.

Commissioner Blair said he did not see a requirement for the parking space to be developed as part of the approval of this application except in number 1 it says “the dwelling unit shall be developed in accordance with all plans, specifications and materials.” He thought the motion should include a requirement that the parking space was identified on the plan.

Mr. Hyatt said he did not think it was necessary as they must comply with the plans.

Commissioner Malloy is hoping that the revised Code helps with such applications and situations. He disagreed that it meets criteria for a variance.

Commissioner Dunn did not see harm to the public with this approval. We are providing a benefit. This site has some unique constraints because of power lines and utility lines.

Commissioner Blair concurred with Commissioner Malloy that there are no hardships on the site and if there are any, the applicant created them.

Commissioner Grosscup is familiar with the neighborhood. The hardship was already there. There is parking now on Blake Avenue.

The Chairman called for the vote. The motion carried unanimously.

8. Community Development Director’s Update.

Andrew McGregor distributed the first review of the Code update based on the conversations with Clarion last fall. This is the part that deals with process and part of the process discussion in here tries to change the level of review and gives us a little more latitude in terms of variances and flexibility with the Code. It should look similar to what we have talked about. It will be available on line. Please just look at it. We will have a meeting with Clarion on August 4 and a joint meeting with Council at 6:00 p.m. There is a lot to digest with this. It is a huge departure from how we operate today. Then consider if this is how we want to go forward. There is a cover memo explaining how the document works. The next module will deal with zoning and the third module will get into the design standards. That is where we will get into parking and the parking ratios and really have to wrestle with the question of do we want to design around parking or do we want to design around people?

Mr. McGregor advised the Commission that on August 17, Tim Malloy will become a full time member of the Commission. We will also be seeking another alternate for the Commission. If you know anybody who would be a good candidate, please encourage them to apply.

As the last thing on his list, Mr. McGregor announced that he has submitted his resignation and this will be his last official meeting with the Commission. He thanked the Commissioners for their service to the community.

9. Comments from the Commissioners.

Commissioner Dunn commented on tax advisory committee and said it looks optimistic for the Acquisitions and Improvements Tax. The data collected looked very optimistic for renewing the 1% tax.

Commissioner Blair is looking forward to the revised Code and the format as to receipt and review of information from staff more efficiently.

10. Adjournment. 10:47 p.m.