



**MINUTES**  
**City of Glenwood Springs**  
**Planning and Zoning Commission**  
**Regular Meeting**  
**January 22, 2019**  
**Council Chambers, First Floor, City Hall**  
**101 W. 8<sup>th</sup> Street**  
**6:00PM**

1. Roll Call Meeting called to order at 6:02 PM

Present at roll call were Commissioners: Ingrid Wussow, George Shaver, Marco Dehm, Kathryn Grosscup, Tim Malloy, and Sumner Schachter

Absent: Amber Wissing

Also present were: Jenn Ooton, Director/Asst. City Manager  
Gretchen Ricehill, Assistant Director  
Anna S. Itenberg, City Attorney's Office  
Trent Hyatt, Senior Planner  
Kathleen Michel, Admin. Assistant

2. Receipt of minutes of the December 18, 2018 regular meeting.

**MOTION: Moved by Commissioner Grosscup, seconded by Commissioner Schachter, to accept the minutes of December 18, 2018 regular meeting as written. Commissioners Wussow and Malloy recused themselves as they were not at the prior meeting. Motion carried by voice vote. .**

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

Dan Sullivan, spoke about change of hours for marijuana stores from 7:00 p.m. to 9:00 p.m. to be consistent with hours in other communities.

Jenn Ooton indicated that this would be a staff item and was on a future agenda.

**New Items**

4. 29-18 – Consideration of an enclave Annexation, a Comprehensive Plan Future Land Use Map Amendment, and Rezoning.

Applicant: James Mason/City of Glenwood Springs  
Location: PIN: 2185-272-00-003 and 101 Airport Road (PIN: 2185-272-20-001)  
Zone: Garfield County Residential/Suburban and Rural Residential

Trent Hyatt, Senior Planner, summarized the project in accordance with the staff report. There are three action items for consideration. The actual annexation will take place with an ordinance from the City Council.

Discussion followed regarding zoning, the right-of-way, an easement, setbacks, the church parcel and the church parking lot.

Applicant presentation: Jim Mason, 521 Sunny Acres Rd., was present to represent Mark Iddings who was unable to attend due to health reasons. Goal is to annex an enclave into City with uses compatible with neighboring properties. The Jehovah's Witnesses' parcel is a separate ownership. The Iddings' parcel is limited by topography and setbacks. Mr. Iddings is willing to grant an easement to the City for Airport Road.

The Chair opened the hearing for public comment at 6:41 p.m. No one wished to comment. The public portion of the hearing closed at 6:42 p.m.

**Action Item 1:** Future Land Use Map Amendment - To revise the Iddings' property from Low Density Residential and Hillside Preservation to Multi-family Residential.

**Motion: Commissioner Malloy moved for approval, seconded by Commissioner Wussow. The motion carried unanimously.**

**Action Item 2:** Rezoning of the Iddings' property to Residential High-Density (RH) District.

**Motion: Commissioner Malloy moved, seconded by Commissioner Schachter, to approve with findings on page 8 and conditions 1, 2 and 3 as written on page 9.**

**Discussion followed about a possible amendment to straighten the right-of-way.**

**Commissioner Malloy moved to revise condition 1 to read that applicant shall dedicate right-of-way to for access, utility maintenance and roadway use to the City and the rest would read the same. Commissioner Schachter seconded. The motion carried unanimously.**

**Action Item 3:** Rezoning of a portion of the Glenwood Springs Congregation of Jehovah's Witnesses' property to Rural Residential (RR) District.

**Motion: Commissioner Malloy, seconded by Commissioner Schachter, to approve the rezoning. Motion carried unanimously.**

5. 30-18 – Consideration of variance to allow for a two foot front setback and a variance for the requirement of the installation of a sidewalk.

Applicant: Ian Moritz/CO Energy Systems  
Location: 1140 Devereux Road (PIN: 2185-054-08-011)  
Zone: I2 River Industrial

Trent Hyatt summarized the project in accordance with the staff report.

Discussion followed regarding the cost of constructing a sidewalk or payment of fee in lieu which was a provision added to the new development code. The City owns much of the river bank area and some is owned by the railroad. Existing sidewalks on that side of the road are on the City property. There was discussion of whether fee in lieu was set aside in a specific fund for sidewalk construction.

Jenn Ooton advised that a dedicated fund for fee in lieu is not addressed in the code.

Applicant and property owner, Ian Moritz, 274 Mountain Shadows Drive, described the services provided by his business and how the need for an office and secured storage inside a warehouse has developed over ten years in business. He discussed the unusually shaped lot. The application of the required 20-foot setback would make it impossible to build on the property. He discussed his request for a variance from having to install the sidewalk and presented photos of other businesses on Devereux Road which did not have sidewalks.

There was discussion of the cost of the sidewalk requirement and the fee in lieu would be more than 10% of the value of this project.

Public comment was opened at 7:27 p.m.

Tiffany Eggleston, 333 Mountain Shadows Drive and Electric Outfitters (on Devereux Rd.), spoke in favor of this project. She said that it would improve their section of Devereux to have a nice building at this location instead of the fence which is there currently.

Public comment was closed at 7:29 p.m.

Action Item 1: **Variance** – from Section 070.020.150(b) (Table 020.017) of the *Glenwood Springs Municipal Code*, requiring a front yard setback of 20 feet, allowing a front setback of 5 feet in the River Industrial (I2) District. **Motion: Commissioner Malloy, seconded by Commissioner Grosscup, moved to approve with conditions and findings on pages 6-7 of the staff report. Motion carried unanimously.**

Action Item 2: **Variance** – from Section 070.040.70(f)(1)a.1 of the *Glenwood Springs Municipal Code* to eliminate the requirement for the installation of a sidewalk adjacent to the site along Devereux Road. **Motion: Commissioner Malloy, seconded by Commissioner Grosscup, moved to deny the variance with findings and conditions on page 6-7.**

Discussion followed concerning this being the first request for a sidewalk variance and new code which does not cover all the contingencies. Commissioners discussed having problems denying the request as this is the first sidewalk variance consideration under the new code. There was surprise at the amount of the sidewalk fee in lieu for this property as the fee is based on the actual construction cost. Some Commissioners wanted to see fees in lieu dedicated to pedestrian connectivity in a separate fund.

Ms. Ooton said there were other places in the code where a specific fund was established. There is the intent to set it aside for future sidewalk construction and we can clarify the intent. She read the code regarding fee in lieu for parks and recreation as an example.

In the discussion, it was pointed that much time was invested in this new code and the importance of addressing sidewalk variances. It seems an oversight not to set the funds aside to actually build sidewalks. Another commissioner called for common sense and did not agree that a fee in lieu should be over 10% of the total construction budget for a particular project. We could recommend a smaller percentage as a condition. It was pointed out that the applicant can appeal to Council.

Questions were directed to City Attorney [recording inaudible]. Ms. Itenberg responded that the Commission has discretion to deny the variance and pointed out that the Code states that the developer “may” with approval by the City pay a fee in lieu.

Ms. Ooton used the parking requirement as an example. An applicant can provide a parking space or pay a fee in lieu if not providing the parking.

Commissioners pointed out that no one else on Devereux Road has been required to build a sidewalk and commented that if this were on Blake or Bennett we would make sense to require a sidewalk.

Ms. Ooton said there were locations where sidewalks made no sense.

There were comments that the purpose of the fee in lieu was generate funds to improve connectivity in areas where none existed. A discussion with City Council was suggested on this topic.

**The Chair called for the question: Motion failed.**

**Ayes: Commissioners Malloy and Grosscup**

**Noes: Commissioners Wussow, Shaver, Schachter and Chairman Dehm**

**New Motion: Commissioner Schachter moved to approve the variance based on findings i - vii on pages 4-5 of the staff report regarding variance approval criteria outlined in Section 070.060.070(a)(3)e.2 (GSMC). Commissioner Wussow seconded.**

Commissioner Grosscup commented that we will be making a recommendation to Council and she believes there is merit in the fee. Commissioner Malloy wanted to modify finding ii and is concerned about this happening with our first application of the new code so he will not support the motion as he believes the intent of the code is clear.

**Call for the question: Motion carried.**

**AYES: Commissioner Wussow, Shaver, Grosscup, Schachter and Chairman Dehm**

**NOES: Commissioner Malloy**

Commissioner Schachter requested staff to consider an additional amendment to earmark payment of fee in lieu to go to some fund for pedestrian use elsewhere in the city. What is Council's intent when we are looking at a neighborhood where no one would build a sidewalk? Is there some other mechanism to deal with fees that seem excessive in a place where a sidewalk is not required? We need to have guidance in this sort of situation.

Commissioner Malloy asked staff to grapple with the question of what to do when conditions for variance exist and are met, and the fee in lieu would be a roadblock to a project.

Ms. Ooton pointed out that they would need a variance in that case. With the parking example, there are options, there is a requirement for a certain amount of parking, seek a variance or ask to pay a fee in lieu. What she has heard is an interest to have a motion to initiate a code text amendment. She asked for a motion directing staff to initiate a code text amendment.

Anna Itenberg commented that the findings presented did prove hardship. The hardship is not convenience or financial burden.

**MOTION: Chairman Dehm called for motion to initiate a code text amendment to 70.40.070(a)(3)e.2 (GSMC) Commissioner Malloy moved, seconded by Commissioner Schachter, to initiate a code amendment. Motion carried by voice vote.**

A lengthy discussion followed about how to apply the code. Commissioners felt there should be a way to determine how much fee in lieu is fair. This is a long, narrow lot and there does not seem to be a way to charge a percentage of the real cost instead of the full value of a sidewalk.

Ms. Ooton commented that fee in lieu comes into play when there is a substandard condition where sidewalks cannot be accommodated.

There was concern about who decides if fee in lieu is involved. There has to be a determination by the City that the conditions are substandard. Code section regarding sidewalks was read to the Commission.

6. Commissioner Comments – in prior discussion.
7. Director Comments – None.
8. Adjournment: 8:32 p.m.

APPROVED