

MEMBERS	PRESENT	ABSENT	EXCUSED
Carolyn Riggs, Chair	X		
Erik Niemeyer	X		
Erich Ferchau	X		
Andy Tocke	X		
Bob Beda	X		
Greg Larson	X		
Councilor Ellen Harriman	X		

OTHERS PRESENT: Community Development Director Steve Westbay, Planner Andie Ruggera, Planning Technician Pam Cunningham, Jerry Kowal, Richard Hagan, Julie Robinson, Mike Fightmaster, Victoria Fightmaster, Jim Gelwicks, Ronda Connaway, Dianne Haberman, and City Manager Ken Coleman.

I. CALL TO ORDER AT 7:02 PM BY CHAIR CAROLYN RIGGS

II. PLEDGE OF ALLEGIANCE TO THE FLAG

III. ZA 12-3 BY THE CITY OF GUNNISON AND THE GUNNISON COUNTY LIBRARY DISTRICT TO ESTABLISH PUD ZONING FOR THE VANTUYL RANCH AND LIBRARY SITE.

Open Public Hearing. Chair Riggs opened the public hearing at 7:03 p.m.

Review of Process. This is a public hearing for a Map Amendment. Director Westbay gave an overview of the zoning process and entered into the public record the following documents:

- *VanTuyl Ranch PUD Map Amendment Application, ZA 12-3;*
- *VanTuyl Ranch Annexation Phasing and Scoping Files, City document files;*
- *City of Gunnison and Gunnison County Library Annexation Petition, City document file;*
- *VanTuyl Ranch Annexation Impact Report, City document files;*
- minutes, public hearing comments, and written correspondences submitted by the public for the record;
- *VanTuyl Ranch Management Plan;*
- *City of Gunnison Land Development Code;*
- *City of Gunnison Master Plan;* and,
- *City of Gunnison Trails Master Plan.*

Director Westbay then gave an overview of the application, including:

- Adjacent Uses
- Utilities
 - water
 - wastewater
 - electric
 - irrigation
 - phone, gas, cable
- Transportation / Access
- Natural Resources

Director Westbay focused the discussion on the General Development Components:

- Zoning Districts. He stated that the overarching concept is that the Land Development Standards in the *LDC* will apply to the majority of development within the Ranch, except:
 - PUD Library District Site – uses must be in compliance with the deed which is for a library. Director Westbay gave an overview of the dimensional standards and explained the building envelope concept and the nature's envelope, which is a transition between the urban setting and open setting using natural vegetation.
- Standards for a PUD

Director Westbay then reviewed the Findings.

Public Input. Chair Riggs asked for public comments.

Jim Gelwicks, who lives adjacent to the VanTuyl property on Tincup, addressed the Commission. He said he is in favor of the annexation. He inquired about the zoning code, stating that there used to be a Government zone and asked if it is still in effect. Director Westbay responded that it is not.

Mr. Gelwicks stated that there was a long period of time where the City was trying to eliminate agricultural zoning in the City limits. Director Westbay replied that the agricultural piece is interesting and that occasionally it does arise and create conflict. He said that currently there is not an agricultural zone, but there are provisions for livestock in the Animal Code. He went on to explain that in the case of the Ranch, the PUD will create an Agriculture/Open Space district. One of the primary functions on the Ranch is agriculture, which includes management of livestock, the ranch house, and the irrigation system. The Ranch will be operated in its historic use with modern resource management techniques.

Director Westbay explained the land uses allowed on the Ranch.

Mr. Gelwicks asked if there are there setbacks on the Ranch, as there are on the Library site. Director Westbay replied that there are setbacks from the residential areas, but there will be no development in the Agriculture / Open Space district, except perhaps an additional residence in the headquarters area, so setbacks aren't needed.

Mr. Gelwicks asked what the advantage of the PUD is, above and beyond the planning documents that exist. Director Westbay responded that there is not an Open Space or Agricultural district established in the existing *Code*. The Ranch was purchased to protect the water quality for the domestic water source and the PUD is a way to address the contents of the *Management Plan* as well as allow the provisions of zoning for quasi-urban uses such as the library and public facilities.

Mr. Gelwicks asked if there is a deed restriction on the library. Director Westbay replied that several lawyers have reviewed the title. There was a misperception that it was deed restricted and would go back to the estate in 21 years. In reality, the deed restriction is that the library will be built in 21 years, but the estate will never be reopened. The Library Board has been explicit in honoring the deed and wanted the exact language from the deed to be in the zoning.

Mr. Gelwicks asked if it is fair to say that the PUD in this instance constitutes an intergovernmental agreement. Director Westbay replied that there is no intergovernmental agreement. He said that one of the most important things the City can do is ensure that the future of the Ranch site is under the direct control of the City. He continued, saying that the City has

been working closely with the Colorado Division of Parks and Wildlife (CPW) because they own the river corridor. The CPW and the City have agreements regarding trails on the Ranch. There is not an IGA with the Library District, but there is a draft Annexation Agreement which addresses the intersection of Spencer, 11th, and Quartz. The provision of the Agreement is that the Library District and City Council will have to come to terms on the cost of the changing of the intersection and the Library is granting a right-of-way to move Quartz.

Commission Discussion

Councilor Harriman asked about the statement in the application that says, “Facilities **will** include: a barn; community garden; dog park; greenhouse and garden area; pasture and horse arena; horse training area; large animal pens; restroom; small animal pens; storage building; and, trailhead shelter/interpretive area.” Director Westbay replied that future facilities will not be constructed until they are on a capital construction plan and in the budget, which probably won’t be in the very near future. The statement Councilor Harriman mentioned is in the application but not the Findings or *Management Plan*.

Commissioner Niemeyer suggested correcting a typographical error in Finding 5.

Chair Riggs noted that Larry Meredith, who is retiring as Executive Director of the Library Board, has sent a letter stating that the Library Board is comfortable with the zoning application. She asked if the new Executive Director is in support of the zoning application. Director Westbay responded that the Library Board is in support, so he assumes the new Executive Director will be.

Councilor Harriman asked if the portion of CR13 that is not included in the annexation will be deeded to the County. Director Westbay said that ambiguities exist from historic surveys. He explained that a section line goes down the middle of CR13. The original Ranch deed is to the section line and the deeds to the properties along CR13 are also to the section line. He said that CR13 is therefore, in a prescriptive easement. He said that the major users of the road are the agricultural and residential uses in the unincorporated area; the Ranch doesn’t use the road that much so the City decided to leave it under County jurisdiction.

Commissioner Ferchau asked if the setbacks and height restrictions are consistent with the draft LDC. The 35 foot height restriction is consistent. Director Westbay stated that additional wetlands setbacks are appropriate since there will be no development in the Habitat Protection Area.

Close Public Hearing. Chair Riggs closed the public hearing at 7:48 p.m.

Commission Action. During the Planning & Zoning Commission meeting held on December 12, 2012, Commissioner Larson moved, Councilor Harriman seconded, and the Planning and Zoning Commission voted to recommend APPROVAL of Zoning Amendment application ZA 12-3 based on the following findings of fact as amended:

FINDINGS OF FACT:

1. The Planning and Zoning Commission finds that the record of this action includes the application contents on file with the City of Gunnison; all comments entered into the Public Hearing record; public comments and application contents of the VanTuyl Ranch Annexation Petition; and provisions of the *City of Gunnison Land Development Code* and the *City of Gunnison Master Plan*.

2. The Planning and Zoning Commission finds that this PUD zoning meets all criteria standards cited in the *LDC* for such zoning.
3. The Planning and Zoning Commission finds that this Map Amendment application is being processed on a parallel track with the Annexation Application, and this process is consistent with the City's adopted annexation policy (Resolution 15, Series 2007).
4. The Planning and Zoning Commission finds that this zoning application is submitted in conjunction with an annexation petition for the VanTuyl Ranch and Gunnison Library, to create two PUD districts: the Agriculture and Open Space district and the Library district.
5. The Planning and Zoning Commission finds that Larry Meredith, from the Gunnison County Library District has provided written comments and is in support of the Zoning Application as presented.
6. The Planning and Zoning Commission finds that the VanTuyl Ranch PUD Development Standards implement the directives set forth in the *VanTuyl Ranch Management Plan* that was adopted by City Council in August, 2010.
7. The Planning and Zoning Commission finds that the Ranch and library site uses are limited to habitat protection, passive recreation activity, public education facilities, agriculture production, snow storage and the public library.
8. The Planning and Zoning Commission finds that the PUD zoning will serve to enhance the community's health, safety and welfare.

Roll Call Yes: Niemeyer, Ferchau, Tocke, Riggs, Beda, Harriman, Larson
Roll Call No:
Roll Call Abstain:
Motion carried

IV. STREET DEVIATION REQUEST FROM HABITAT FOR HUMANITY FOR THEIR PROJECT LOCATED AT 6TH STREET AND WEST NEW YORK AVENUE.

Staff Presentation. Director Westbay stated that he followed the Commission's directive to address a recommendation to remand. Subsequent to that, the applicant, Habitat for Humanity, provided a revised proposal.

Applicant Presentation. Jerry Kowal, of Habitat for Humanity addressed the Commission and gave an overview of the revised proposal. He thanked the Commission and explained that he received the staff response on Thursday and the Board spent the weekend looking it over. The new proposal has three basic components: existing conditions, the revised proposal incorporating a "non-disturb easement," and a response to the staff recommendation.

City Manager Ken Coleman addressed the Commission: He stated that he felt it important to consider other options and that the City has to apply the rules equitably across the board. He continued, by saying that the oversight [by the City] on the West Haven condo development should not be a burden on Habitat. He said he felt a partnership on developing the alley is important to make the area functional and effective. There is uncertainty about the substructure [where the alley would be] and the City has the best means to address that. [This proposal] would

have to be approved by City Council. The Director of Public Works estimates that removing the substructure in the developable zone will be about \$25-\$30,000. The sub-base is the majority of the cost; the road base and asphalt will probably be a \$6,000 split. He recommended moving forward on making a recommendation to Council.

Kowal stated that he liked the compromise position. He feels that although neither party completely agrees with each of the respective positions, the objective is to get the job done and move on with the project. He and the Habitat Board members appreciate the willingness of the City Planning and Public Works personnel to contribute their time and talent in the resolution of this issue.

Director Westbay said there are two options. We can move forward on the deviation application and make a recommendation. Or, if the applicants withdraw the application there could be a general review by staff to determine expenditures. There is a new proposal on the table, which has not been addressed by staff to develop new findings.

Kowal said he is ok with withdrawing.

City Manager Coleman said it falls on the City to pick up part of the development cost because of the oversight.

Commissioner Niemeyer commended City Manager Coleman for finding a compromise. He said he was glad the City is able to balance the needs of the *LDC* and the needs of Habitat.

Commissioner Ferchau stated, for the record, he disagrees with Mr. Coleman; that despite the error that occurred with West Haven, affordable housing is an exception that should be granted because there is a broader community interest. [This is in regard to Mr. Coleman's statement about applying rules equitably]. Commissioner Ferchau said, "I think you should waive the bonding too." City Manager Coleman responded that the equity statement was meant in terms of not requiring Habitat to build the alley when West Haven wasn't required to. He said that if the City is administering the development of the alley bonding won't be required; Habitat will be sent a bill for their portion.

Kowal stated, "We withdraw our request."

All agreed it was a useful discussion and Chair Riggs thanked everyone for coming.

V. COUNCIL UPDATE. Councilor Harriman updated the Commission on recent Council business. The Council:

- heard an interesting presentation from student intern, Mick Knudsen, about his water quality study on VanTuyl Ranch;
- appointed Sharon Cave to City Council, she will be seated on January 8th;
- finished the second reading on the budget ordinances;
- cancelled the December 25th meeting;
- reviewed the City Manager's contract; and,
- upon recommendation from the auditors, transferred a large amount of money from the insurance reserve fund to the general fund.

Councilor Harriman also reported that:

- Next Tuesday's meeting will be about how Amendment 64 impacts the City and what must be done for enforcement. If the City has their rules in effect before the State sets its regulations it will give the City more control. Director Westbay explained the three-step process the City will follow in developing codes: 1) criminal; 2) an ordinance restricting the commercial components; and, 3) land use provisions. He said that staff is recommending that cultivation, laboratory processing, and retail sales will not be allowed in any zone district in the City. However, the Constitution says that individuals may grow up to six plants on their premises and persons over 21 can possess less than one ounce.
 - Commissioner Ferchau observed that [a possible] justification for passage of Amendment 64 was that it will generate sales tax. He asked how the City will collect taxes if it doesn't allow sales. Commissioner Larson stated that a community could make the decision to forfeit the revenue to maintain the character of the community. Director Westbay added that the Attorney General has issued an opinion that the amendment had provisions in place that a portion of the retail sales tax would go to schools. The opinion is that that provision is subject to TABOR and therefore schools won't get any funding until the state or local jurisdictions vote to allow sales tax to go to schools. Commissioner Larson added that it is still illegal under federal law and any funds generated from an illegal activity can't be deposited in a bank. Commissioner Niemeyer added that until federal laws are changed, it is a liability for municipalities.
- Staff had a long day with CDOT looking at the Highway Access Control Plan for Highway and about the pork chop at VanTuyl Village. There is a deadline for CDOT to respond.
- City sales tax is down .04% through October;
- the High Country Service Station is closed and a location for a new bus stop is needed.

VI. CONSIDERATION OF THE NOVEMBER 28, 2012 MEETING MINUTES. Commissioner Larson moved and Councilor Harriman seconded to approve the November 28, 2012 meeting minutes as corrected.

Roll Call Yes: Niemeyer, Ferchau, Tocke, Riggs, Beda, Harriman, Larson

Roll Call No:

Roll Call Abstain:

Motion carried

VII. UNSCHEDULED CITIZENS. There were none

VIII. COMMISSIONER COMMENTS

- Commissioner Niemeyer advised that there is an interesting article in the *APA Newsletter* "Planning for Food Access and Community-Based Food Systems". It has interesting ideas that could be included in future discussions. Director Westbay provided some information about Mountain Roots and the City providing space on City property for gardens.
- Commissioner Beda thanked the City for the Christmas party.
- Commissioner Larson added his thanks and asked how the meeting with CDOT went; Director Westbay responded that he is cautiously optimistic.
- Councilor Harriman informed the Commission that the wireless installation is underway at the Community Center. Commissioner Niemeyer asked if the City will offer free wireless to guests of the facility. Commissioner Larson responded that the Community Center used to have free wireless but when they had to switch to DSL it was turned off because there was not enough band width. He said that once it is tested guest access will be turned back on. There should also be enough bandwidth for the ice rink for scoring and for public use.

- Chair Riggs thanked the City for the Christmas party as well. She reported that she had an interesting conversation with a constituent about who is liable if a surveyor makes an error on an elevation certificate. Subsequently, Chair Riggs spoke with Director Westbay about it. The answer is that surveyors are held accountable. Discussion followed about FIRM maps, elevations, and discrepancies between surveys.
- Chair Riggs said she would like to challenge the Commission to crank out the rest of the *LDC* in the next 3 months.

IX. PLANNING STAFF UPDATE. Director Westbay updated the Commission on recent activity in the Community Development Department:

- staff is working on ordinances for the VanTuyl zoning and annexation;
- work continues on the Highway Access Control Plans for Highway 50 and Highway 135;
- the *Non-motorized Transportation Plan* is moving forward and Director Westbay will make a presentation to the Sage-Grouse Strategic Committee next week;
- the Medical Marijuana Code is a daily staff topic;
- student intern Mick Knudsen is wrapping up his report. Director Westbay stated that it was an interesting experience; it is nice to provide mentoring to someone who is enthusiastic and has ambitions.

X. ADJOURN. Chair Riggs adjourned the meeting at 8:40 p.m.

Carolyn Riggs, Chair

Attest:

Pam Cunningham, Secretary