



GRAND COUNTY COMMISSION SPECIAL MEETING

Held virtually on Zoom
Moab, Utah

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AGENDA

Wednesday, March 10, 2021


Mary McGann, Chair

9:00 a.m.

- ☐ Call to Order
- ☐ Commission Member Disclosures
- ☐ Appeal Hearing

A. Appeal Hearing of the Zoning Administrator's Interpretation Regarding the Creekside Planned Unit Development (PUD) Amendment

- ☐ Closed Session(s) (if necessary)
- ☐ Adjourn

NOTICE OF SPECIAL ACCOMMODATION DURING PUBLIC MEETINGS. In compliance with the Americans with Disabilities Act, individuals with special needs requests wishing to attend County Commission meetings are encouraged to contact the County two (2) business days in advance of these events. Specific accommodations necessary to allow participation of disabled persons will be provided to the maximum extent possible. T.D.D. (Telecommunication Device for the Deaf) calls can be answered at: (435) 259-1346. Individuals with speech and/or hearing impairments may also call the Relay Utah by dialing 711. Spanish Relay Utah: 1 (888) 346-3162

It is hereby the policy of Grand County that elected and appointed representatives, staff and members of Grand County Commission may participate in meetings through electronic means. Any form of telecommunication may be used, as long as it allows for real time interaction in the way of discussions, questions and answers, and voting.

At the Grand County Commission meetings/hearings any citizen, property owner, or public official may be heard on any agenda subject. The number of persons heard and the time allowed for each individual may be limited at the sole discretion of the Chair. On matters set for public hearings there is a three-minute time limit per person to allow maximum public participation. Upon being recognized by the Chair, please advance to the microphone, state your full name and address, whom you represent, and the subject matter. No person shall interrupt legislative proceedings.

Requests for inclusion on an agenda and supporting documentation must be received by 5:00 PM on the Wednesday prior to a regular Commission Meeting and forty-eight (48) hours prior to any Special Commission Meeting. Information relative to these meetings/hearings may be obtained at the Grand County Commission's Office, 125 East Center Street, Moab, Utah; (435) 259-1346.



Christina Sloan <csloan@grandcountyutah.net>

(REQUEST FOR INTERPRETATION)LARRY WHITE'S PUD/CREEKSIDE/E.BENCH RD**Christina Brinegar** <cbrinegar69@yahoo.com>

Thu, Dec 17, 2020 at 6:05 PM

To: Mila Dunbar-Irwin <mdunbarirwin@grandcountyutah.net>, Christina Sloan <csloan@grandcountyutah.net>, "commission@grandcountyutah.net" <commission@grandcountyutah.net>

Cc: cbaird <cbaird@grandcountyutah.net>, "council@grandcountyutah.net" <council@grandcountyutah.net>, Mallory Nassau <mnassau@grandcountyutah.net>, Karen Robinson <sombra@frontiernet.net>, Geoff Brinegar <geoff.brinegar@gmail.com>

Good Evening Mila and Whomever Should Be Concerned:

Our Counsel submitted a letter dated December 9, 2020 which stated below:

The second paragraph of the letter (see attached) the key issue is that if a regular subdivision application were submitted for property, that application would have to comply with the land use regulations in effect at the time of the submittal. Utah Code Ann 17-27-a-508. I also found within the very long code the following verbiage which clearly states same as attorney addressed on her letter dated December 9, 2020.

- A county is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.
- Upon a specified public agency's submission of a development plan and schedule as required in subsection [17-27a-305\(8\)](#) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and **land use regulations in effect on the date of submission**.

REQUEST FOR INTERPRETATION: PLEASE PROVIDE YOUR INTERPRETATION AS TO WHY YOU DID NOT FOLLOW THIS LUC?

Continued from our counsel's letter dated December 9, 2020:


Because of the current requirement to plat roads as separate lots and not as easements over residential lots, only 4.7 acres of the Property is available for subdivision. Applying the minimum lot size of the Rural Residential zone this means that without the PUD this property could only contain four lots. The reference on the original plat including the Property as Tract A that it was intended for six lots with a minimum one-acre lot size did not vest the Property with a right to develop six lots, it simply stated an intention for the future. In considering the criteria discussed below it is important to compare the requested PUD to a subdivision under the existing land use regulations, not a **PRESUMPTION** that the Property is somehow entitled to six lots.

REQUEST FOR INTERPRETATION: PLEASE PROVIDE YOUR INTERPRETATION AS TO WHY YOU PRESUME THAT THE PROPERTY IS ENTITLED TO SIX LOTS BASED ON OUR COUNSEL'S FINDINGS ABOVE?

IN ADDITION, PLEASE PROVIDE YOUR INTERPRETATION OF THE 1997 RECORDED FINAL PLAT EXECUTED BY LARRY WHITE?

Continued from our counsel's letter dated December 9, 2020:

As you know, the Grand County Land Use Code ("LUC") treats the PUD as a re-zone (SEE LUC 4.4.3.) Accordingly, Section 9.2.7 of the LUC requires the Commission to consider the eleven criteria (see attached letter dated December 9, 2020 Page 2) in evaluating the PUD. Consideration of the previously discussed criteria demonstrates that approving the PUD would not fulfill any of these purposes and would actually be a detriment to the community without any benefit EXCEPT to the developer. Just because the LUC permits planned unit developments in certain instances, it does NOT necessarily follow that THIS PUD is compatible with the General Plan and the LUC. If the criteria in the LUC are properly applied, it is clear the Commission should DENY the PUD and retain the existing requirement for minimum one-acre lots for the subject property.

REQUEST FOR INTERPRETATION: PLEASE PROVIDE YOUR INTERPRETATION AS TO HOW YOU CONCLUDED YOUR FINDINGS OF SECTION 9.2.7 OF THE LUC OF ALL ELEVEN CRITERIA IN EVALUATING THE PUD?**REQUEST FOR INTERPRETATION:** PLEASE PROVIDE YOUR INTERPRETATION AS TO WHY THE COUNTY WOULD BENEFIT THE DEVELOPER ONLY AND NOT CONSIDER FOLLOWING THE LUC AND LISTEN TO THE NEIGHBORHOOD OUTCRY THAT HAVE SUBMITTED LETTER AFTER LETTER AND PROVIDED PUBLIC COMMENT AT THE PUBLIC HEARINGS? THIS IS A TWO PART QUESTION.Respectfully,
Christina Brinegar
 **Creekside PUD Amendment - Letter to Grand County Commission.pdf**
151K



December 9, 2020

VIA EMAIL
COMMISSION@GRANDCOUNTYUTAH.NET

Melanie R. Clark
201 S Main Street, Suite 1100
Salt Lake City, UT 84111
D. 801.578.6904
melanie.clark@stoel.com

Grand County Commission
Commission Chambers
125 E. Center St.
Moab, UT 84532

Re: Creekside PUD Amendment

Dear County Commission:

This firm represents Scot Andersen, Geoff and Christina Brinegar, Todd Beeman, Richard Davidson, Marian Boardley, Brian Parkin, Lisa Albert, Rob Kerchen, Bonita and Ken Kolb, Steve Mulligan, Karen Robinson, Bret Van Burgess, Lew McCreery, Harvey Dewitt, Rob Jahries, Ken Helfenbein, Darcey Brown, and Dave & Jana Knowles, whose addresses are set forth on Exhibit A attached hereto, who all object to the Creekside PUD Amendment (the “PUD”) for the property located at approximately 3373 Creekside Lane (the “Property”) being considered by the Grand County Commission (the “Commission”) on December 15, 2020. We have reviewed the Agenda Summary prepared for the Grand County Planning Commission on September 28, 2020 by Mila Dunbar-Irwin, Planning and Zoning Director (the “Planning Report”), and believe there are a number of errors that inaccurately led to the conclusion that the PUD should be approved. We also reviewed the Agenda Summary prepared by the Community Development Staff for the Commission’s December 15th meeting and the Staff Report dated December 1, 2020.

The key issue here is that if a regular subdivision application were submitted for the Property, that application would have to comply with the land use regulations in effect at the time of the submittal. Utah Code Ann. § 17-27a-508. Because of the current requirement to plat roads as separate lots and not as easements over residential lots, only about 4.7 acres of the Property is available for subdivision. Applying the minimum lot size of the Rural Residential zone this means that without the PUD this Property could only contain four lots. The reference on the original plat including the Property as Tract A that it was intended for six lots with a minimum one-acre lot size did not vest the Property with a right to develop six lots, it simply stated an intention for the future. In considering the criteria discussed below it is important to compare the requested PUD to a subdivision under the existing land use regulations, not a presumption that the Property is somehow entitled to six lots.

As you know, the Grand County Land Use Code (“LUC”) treats the PUD as a re-zone. (See LUC § 4.4.3.) Accordingly, Section 9.2.7 of the LUC requires the Commission to consider the

eleven criteria listed below in evaluating the PUD. We have included the information from the Planning Report addressing each item first, and then have separately analyzed each criterion.

A. Was the existing zone for the property adopted in error?

- Planning Report: Somewhat. The applicant has stated that the existing 1.0 acre lot minimum sizes were not predicated on any future plans and were simply a placeholder for the dimensional standards table on the original plat.
- Analysis: No. Surrounding areas are rural residential with 1.0 acre lot minimums. The existing zoning was adopted to be consistent with the neighborhood.

B. Has there been a change of character in the area (e.g., installation of public facilities, other zone changes, new growth trends, deterioration, development transitions, etc.)?

- Planning Report: There has not been a change of character in the immediate area, other than further subdivision and new residences. The pertinent community change is the need for affordable housing. Creating smaller lots brings prices down and can help achieve this goal.
- Analysis: No. The need for affordable housing does not constitute a change of character in the area. The character of the area has remained rural. Additionally, as described below, the PUD would not provide for affordable housing.

C. Is there a need for the proposed use(s) within the area or community?

- Planning Report: Yes, more affordable housing is a benefit for the community.
- Analysis: The PUD does not provide for affordable housing. The reference to “affordable” does not mean less expensive than it would be if the lots were larger. The definition of affordable housing is provided in Section 10.2 of the LUC: “Housing for which the allowable housing expenses paid by a household earning less than the median household income shall not exceed 30 percent of the gross monthly household income – unassisted and assisted (State and/or Federal) rental and unassisted and assisted (State and/or Federal) for sale units whose gross rental or sale price on the open market is affordable to, or for which rental and/or sale is restricted to, households whose gross annual household income is below the county median household income.” To provide for affordable housing the developer of the PUD would need to propose and agree to restrictive covenants that would limit the sales price or monthly rent of future homes on the proposed lots to meet the definition of affordable housing set forth above.

D. Will there be benefits derived by the community or area by granting the proposed rezoning?

- Planning Report: Yes, see above.
- Analysis: No. The rezone does not provide for “affordable housing” nor does it provide open space or other benefit to the community. The only benefit is to the developer, allowing him to retain a larger parcel but still create a total of six lots.

E. Is the proposal in conformance with the policies, intents and requirements of Grand County General Plan, specifically the plan’s zoning map amendment guidelines (see pages 44-48 of the Grand County General Plan)?

- Planning Report: Yes, the proposal is in conformance with the General Plan, specifically the use of the PUD tool to cluster development.
- Analysis: Clustered development is not the intent or benefit of the proposed PUD. If it were, then the six “density units” would all be clustered to preserve more open space on the entire tract. Rather, the grouping of three homes on 1/3 acre lots is just a means of keeping a total of six lots without disrupting the existing buildings that the developer will retain and allowing the developer to retain as much land as possible. The proposed clustering of three dwelling units does nothing to promote any of the following goals stated under the development patterns section in the General Plan:
 - Goal 1 – Support and participate in the implementation of the Grand County and City of Moab Housing Study and Affordable Housing Plan.
 - Goal 2 – Focus future development in centers where existing and planned infrastructure can accommodate it so that people can live close to where they work and obtain goods and services
 - Goal 3 – Minimize impacts of development on scenic resources.
 - Goal 4 – Promote community clean-up.
 - Goal 5 – Minimize impacts of natural hazards on properties and people.

Rather than meeting these goals, the proposed clustering simply makes the neighborhood feel more suburban rather than rural, which is counter to the intent of the underlying zoning. The General Plan focuses on “creating larger, more useful open spaces area in residential neighborhoods.” The proposed PUD does not provide that benefit.

F. Should the development be annexed to a city?

- Planning Report: No.

G. Is the proposed density and intensity of use permitted in the proposed zoning district?

- Planning Report: Yes.

- Analysis: No. The proposed PUD permits six lots where only four would be permitted under existing land use regulations, a density increase of 50%. Additionally, it places three dwelling units on a single acre, which increases the density and intensity on that land. It is also important to note that the larger lots do not have less intensity; there are simply more out-buildings on those lots, not open space.

H. Is the site suitable for rezoning based on a consideration of environmental and scenic quality impacts?

- Planning Report: Yes, the proposed PUD amendment would be suitable for the area and would preserve current agricultural uses.
- Analysis: The only scenic impact is to make the corner with three homes, which would be the most visible to neighbors, feel more suburban and less rural. There is no mention in the application that the purpose of the PUD is to preserve agricultural uses or that adoption of the PUD will accomplish that goal. Neither does the PUD promote open space as none of the land is restricted from development and instead includes as many as five buildings on a single lot.

I. Are the proposed uses compatible with the surrounding area or uses; will there be adverse impacts; and/or can any adverse impacts be adequately mitigated?

- Planning Report: Yes, the proposed use (residential) is compatible with surrounding uses, which include residential. In addition, the amendment would allow for compatibility with surrounding agricultural uses to remain.
- Analysis: While residential use is compatible with the surrounding area, three lots per acre is not compatible. The proposal makes no mention of preserving agricultural uses.

J. Are adequate public facilities and services available to serve development for the type and scope suggested by the proposed zone? If utilities are not available, could they be reasonably extended? Is the applicant willing to pay for the extension of public facilities and services necessary to serve the proposed development?

- Planning Report: Yes, the applicant has been through DRT review with the proposed preliminary plat and has addressed all issues.
- Analysis: The use of public facilities and services is the same whether or not the PUD is approved. The developer has not demonstrated that the PUD will provide any benefit in terms of facilities and services.

K. Does the proposed change constitute "spot zoning"?

- Planning Report: No, the applicant has an existing PUD applied to the property.
- Analysis: Yes. Allowing 1/3 acre lots is out of character with the neighborhood. The average lot size for properties within 1,000 feet of the PUD (excluding White Ranch, which has significantly larger acreage) is 3.19 acres. The proposed PUD would allow lots 1/10th that size. This is clearly inconsistent with the area and would therefore constitute spot zoning.

As stated in Section 4.4.1 of the LUC, the planned unit development overlay district was designed to provide flexibility to accomplish one or more of the following purposes:

- A. Promote flexibility in the siting of structures so as to preserve and take advantage of the site's unique, natural, resource or scenic features and to avoid or mitigate any hazardous area;
- B. Provide density bonus incentives in the interest of creating affordable housing and beneficial open space;
- C. Encourage more efficient use of land and public streets, utilities, and governmental services;
- D. Promote a clustering development pattern in the interest of preserving rural character;
- E. Preserve open space for the benefit of residents of developments and the community;
- F. Achieve a compatible land use relationship with surrounding areas; and
- G. Promote greater variety in the type and design of buildings and thereby improving the character and quality of new development.

Consideration of the previously discussed criteria demonstrates that approving the PUD would not fulfill any of these purposes and would actually be a detriment to the community without any benefit except to the developer. Just because the LUC permits planned unit developments in certain instances, it does not necessarily follow that this PUD is compatible with the General Plan and the LUC. Under that logic every single application for a planned unit development should be approved. If the criteria in the LUC are properly applied, it is clear that the Commission should deny the PUD and retain the existing requirement for minimum one-acre lots for the subject property.

Grand County Commission
December 9, 2020
Page 6

Respectfully submitted,

A handwritten signature in blue ink that reads "Melanie Clark". The signature is written in a cursive, flowing style.

Melanie R. Clark

Exhibit A

Represented Parties

Scot Andersen, 3231 and 3229 East Bench Road, Moab, UT 84532;
Geoff and Christina Brinegar, 3416 Creekside Lane, Moab, UT 84532;
Todd Beeman, 3283 E. Bench Road, Moab, UT 84532;
Richard Davidson, 3432 Creekside Lane, Moab, UT 84532;
Marian Boardley & Brian Parkin, 3411 Creekside Lane, Moab, UT 84532;
Lisa Albert and Rob Kerchen, 3151 E. Bench Road, Moab, UT 84532;
Bonita and Ken Kolb, 3649 E. Kerby Lane, Moab, UT 84532;
Steve Mulligan, 3800 Kerby Lane, Moab, UT 84532;
Karen Robinson, 2881 and 2891 SE Bench Road, Moab, UT 84532;
Bret Van Burgess, 3620 E. Kerby Lane, Moab, UT 84532;
Lew McCreery and Harvey Dewitt, 3466 Creekside Lane, Moab, UT 84532;
Rob Jahries, 3181 E. Bench Road, Moab, UT 84532,
Ken Helfenbein and Darcey Brown, 2931 E. Bench Road, Moab, UT 84532; and
Dave and Jana Knowles, 2940 E. Bench Road, Moab, UT 84532.



**Grand County Community Development
Planning & Zoning
125 E Center St.
Moab, UT 84532
435-259-1368
planning@grandcountyutah.net**

January 11, 2020

To: Christina Brinegar

RE: REQUEST FOR INTERPRETATION – CREEKSIDE PUD AMENDMENT

Dear Christina,

We received your request for interpretation in an e-mail dated December 17, 2020 and are submitting the following in response. Your questions are in regards to the Creekside Planned Unit Development Amendment Application received by Planning & Zoning on September 14, 2020. It was heard at a public hearing before the Grand County Planning Commission on September 28, 2020 and received a favorable recommendation to be forwarded to the Grand County Commission. The public hearing before the County Commission was held on December 15, 2020, and the vote has yet to be taken.

This application contemplates a change to the Dimensional Standards table on the Creekside PUD Final Plat approved in 1997 for Phase II to 0.37 acres from 1.0 acres.

Please see below for the requests and their replies.

1. Please provide your interpretation as to why you did not follow this LUC?

Excerpts from your December 17 Letter, quoting Counsel's Letter dated December 9:

- *The second paragraph of the letter (see attached) the key issue is that if a regular subdivision application were submitted for property, that application would have to comply with the land use regulations in effect at the time of the submittal. Utah Code Ann 17-27-a-508. I also found within the very long code the following verbiage which clearly states same as attorney addressed on her letter dated December 9, 2020.*
- *A county is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.*
- *Upon a specified public agency's submission of a development plan and schedule as required in subsection 17-27a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and **land use regulations in effect on the date of submission.***

(emphasis added by requester)

This is an inaccurate leading question; however, I interpret this question to be asking why the current application is not compliant with the LUC in effect when the plat was signed in 1997 and will answer as such in that spirit. The quoted statute, however, refers to a "public agency," which Larry White is not, so this provision is not applicable.

Regardless, the County is bound to comply with the land use regulations in effect at time of submittal. The application in question was submitted on September 14, 2020, and the current LUC governs its process.

A developer or owner of a Planned Unit Development may, at any time, submit an application for an amendment to any part of the Planned Unit Development. Processing of an amendment application is governed by Sections 4.4.15 and 4.4.16 of the Grand County Land Use Code. The County deemed the application in question to fall under Section 4.4.16 *Major Amendments* (the most burdensome process for the applicant) and Section 9.2 *Text and Zoning Map Amendments* as per the Land Use Code. The Creekside Final Plat from 1997 may be amended, through due process, if approved, as per the LUC. This is also true for any final plat in Grand County. Regular final plat amendments are governed by Section 9.9.1 *Plat Amendments* and may be undertaken by a property owner at any time through proper process. This PUD amendment is not an unusual request.

2. Please provide your interpretation as to why you presume that the property is entitled to six lots based on our Counsel's findings above? In addition, please provide your interpretation of the 1997 recorded final plat executed by Larry White.

Excerpts from your December 17 Letter, quoting Counsel's Letter dated December 9:

- *Continued from our counsel's letter dated December 9, 2020:*
- *Because of the current requirement to plat roads as separate lots and not as easements over residential lots, only 4.7 acres of the Property is available for subdivision. Applying the minimum lot size of the Rural Residential zone this means that without the PUD this property could only contain four lots. The reference on the original plat including the Property as Tract A that it was intended for six lots with a minimum one-acre lot size did not vest the Property with a right to develop six lots, it simply stated an intention for the future. In considering the criteria discussed below it is important to compare the requested PUD to a subdivision under the existing land use regulations, not a **PRESUMPTION** that the Property is somehow entitled to six lots.*

(emphasis added by requester)

The owner of Creekside Estates PUD Phase II has a vested right to subdivide Tract A into six lots with six residences, per the Development Stipulations table on the Final Plat recorded on July 25, 1997 in the Grand County Recorder's Office. This calculation was made at the time due to the 6.48 acres contained within Phase II, which, at an allowable density of 1 lot / acre, results in six lots. Were the applicant's request for an amendment not approved, the applicant would be able to draw the lot lines across the current road easements to achieve the minimum sizes, as was done with Phase I, and still achieve six lots.

Please also note that your counsel is incorrect when she states that our Land Use Code requires roads to be platted as separate lots. This is not a requirement - it is County preference. Thus, your counsel's argument that the proposed amendment increases density is creative but legally flawed. The owner of Tract A has the right to place the road inside easements within each lot, as done in Phase I, which again would preserve his right to develop six lots on Tract A. Instead, the County has requested that the owner place the roads in a separate road parcel as it clarifies ownership and liability for both the owning entity as well as the lot owners in the subdivision.

3. Please provide your interpretation as to how you concluded your findings of Section 9.2.7 of the LUC of all eleven criteria in evaluating the PUD.

Excerpts from your December 17 Letter, quoting Counsel's Letter dated December 9:

- *Continued from our counsel's letter dated December 9, 2020:*

- *As you know, the Grand County Land Use Code ("LUC") treats the PUD as a re-zone (SEE LUC 4.4.3.) Accordingly, Section 9.2.7 of the LUC requires the Commission to consider the eleven criteria (see attached letter dated December 9, 2020 Page 2) in evaluating the PUD. Consideration of the previously discussed criteria demonstrates that approving the PUD would not fulfill any of these purposes and would actually be a detriment to the community without any benefit EXCEPT to the developer. Just because the LUC permits planned unit developments in certain instances, it does NOT necessarily follow that THIS PUD is compatible with the General Plan and the LUC. If the criteria in the LUC are properly applied, it is clear the Commission should DENY the PUD and retain the existing requirement for minimum one-acre lots for the subject property.*

Creekside Estates is an approved and vested Planned Unit Development which was platted in two phases in 1997 with the aforementioned Final Plat. The amendment to be considered by the Commission is a legislative action, meaning that the Commission has broad authority to approve or deny it. Thus, your counsel's emphasis on the role of the eleven criteria is misplaced. Specifically, Section 9.2.7 contains "Issues for Consideration" which are intended as guiding questions. A legislative proposal need not fail because one or even many of the criteria cannot be met.

Our Planning Commission stated their reasons in considering the request during their public hearing on September 28, 2020. Staff has considered Section 9.2.7 in the following manner:

A. Was the existing zone for the property adopted in error?

The existing zone is Rural Residential with an existing PUD overlay applied. Neither were adopted in error.

B. Has there been a change of character in the area (e.g., installation of public facilities, other zone changes, new growth trends, deterioration, development transitions, etc.)?

Yes, there has been development in the area since the plat was approved in 1997, including on the lots approved by the original plat.

C. Is there a need for the proposed use(s) within the area or community?

The proposed use is an already entitled development right. Smaller lots can be beneficial to potential owners for many reasons, most notably providing additional housing stock in a more affordable configuration.

D. Will there be benefits derived by the community or area by granting the proposed rezoning?

The proposed larger lot would be preserved as an agricultural use, which can benefit the area as a small farm, as a visual buffer from development, and to preserve other uses in the area. Additionally any provision of housing helps relieve Grand County's lack of housing. And, smaller lot configurations provide the possibility for more affordable development.

E. Is the proposal in conformance with the policies, intents and requirements of Grand County General Plan, specifically the plan's zoning map amendment guidelines (see pages 44-48 of the Grand County General Plan)?

Yes, a Planned Unit Development is a tool codified in the Grand County Land Use Code and as such is supported by the General Plan.

F. Should the development be annexed to a city?

No.

G. Is the proposed density and intensity of use permitted in the proposed zoning district?

Yes. There is no additional density or intensity proposed in this application.

H. *Is the site suitable for rezoning based on a consideration of environmental and scenic quality impacts?*

Yes, the smaller lots would have a smaller development footprint and preserve agricultural land.

I. *Are the proposed uses compatible with the surrounding area or uses; will there be adverse impacts; and/or can any adverse impacts be adequately mitigated?*

Yes, the proposed use is residential and agricultural, as are the surrounding uses. Any adverse impacts can be adequately mitigated.

J. *Are adequate public facilities and services available to serve development for the type and scope suggested by the proposed zone? If utilities are not available, could they be reasonably extended? Is the applicant willing to pay for the extension of public facilities and services necessary to serve the proposed development?*

Yes, the developer will provide for all the required utilities.

K. *Does the proposed change constitute "spot zoning"?*

No, there is already an approved PUD for the property.

4. Please provide your interpretation as to why the County would benefit the developer only and not consider following the LUC and listen to the neighborhood outcry...

This is a leading question, and so staff declines to answer. The County Commissioners will take the concerns of both the property owner and neighborhood residents into consideration.

I hope this interpretation is to your satisfaction and helps to elucidate some of these issues.

Thank you,



Mila Dunbar-Irwin
Planning & Zoning Director
Grand County, UT
435-259-1371
mdi@grandcountyutah.net

CC:

Christina Sloan, Grand County Attorney
Mary McGann, Grand County Commission Chair
Chris Baird, Grand County Commission Administrator

Reply to Request for Interpretation Re: Creekside PUD

email: "mdunbarirwin@grandcountyutah.net Mila Dunbar-Irwin" Monday, January 11, 2021 at 5:52:00 PM Mountain Standard Time

To: email: "cbrinegar69@yahoo.com Christina Brinegar"

Cc: email: "cbaird@grandcountyutah.net Chris Baird" , email: "csloan@grandcountyutah.net Christina Sloan" , email: "mmcgann@grandcountyutah.net Mary McGann"

Christina,

Please see attached for your reply to the Request for Interpretation that you submitted on December 17th, 2020 in relation to the Creekside PUD Amendment application. We have provided a response to each of your requests.

I will send this PDF as my reply and will not send a paper copy unless you specifically request it. Please let me know if this will satisfy your request and confirm receipt of this e-mail and the attachment.

Thank you,
Mila

Attachments:

Creekside PUD Request for Interpretation 1-11-21.pdf 110k



Christina Sloan <csloan@grandcountyutah.net>

APPEAL TO INTERPRETATION/RE: LARRY WHITE'S/CREEKSIDE PUD AMENDMENT

Christina Brinegar <cbrinegar69@yahoo.com>

Mon, Feb 8, 2021 at 12:32 PM

To: Planning2 <planning@grandcountyutah.net>, Chris Baird <cbaird@grandcountyutah.net>, Christina Sloan <csloan@grandcountyutah.net>, Mila Dunbar-Irwin <mdunbarirwin@grandcountyutah.net>, Mary McGann <mmcgann@grandcountyutah.net>, Trisha Hedin <thedin@grandcountyutah.net>, "commission@grandcountyutah.net" <commission@grandcountyutah.net>

Dear County Council:

I am appealing the response to the request for interpretation because I believe some commissioners and members of the community were misled by intentional misuse of such legally descriptive words as **"OPEN SPACE," "Agriculture Land," "Farmland," "undevelopable," "affordable," "already entitled," and "Clustered Development."**

These words, whose conditions are necessary to approve a Planned Unit Development (PUD), were incorrectly used in both the agenda and public hearing to give the impression that the conditions were true for the plat being developed. Moreover not having a preliminary plat in the packet available is not in sync! Ask Garrish!

Furthermore, THERE IS NO OPEN SPACE! The terms **"OPEN SPACE," "Agriculture Land," "Farmland," "undevelopable," "affordable," "already entitled," and "Clustered Development."** have been used consistently during arguments for acceptance of the PUD. County officials have corrected themselves on occasion, but have continued to use the phrase(s) enough to convey the existence of open space. Larry White may have also confused some commissioners and members of the community by intentional misuse of such legally descriptive words **"OPEN SPACE," "Agriculture Land," "Farmland," "Clustered."** I am not convinced that everyone involved in approving this PUD amendment was aware that Lot 6 (2 acres) was NOT open space (agricultural or otherwise).

MILA STATES: (5:00:55 Meeting 12-16-20)

"Planning Dept voted in support of **CLUSTERED DEVELOPMENT**".

MILA STATES: 5:01:51 Meeting 12-16-20)

"Staff recommendation is to **approve we support the CLUSTERED DEVELOPMENT proposal**".

MR. WHITE STATES: (5:05:36 - 5:06 Meeting 12-16-20)

"I have put many years spent tens of thousands of dollars into **AGRICULTURAL** building that soil and I want to **KEEP IT OPEN for that purpose** that's why **Lot 6 is 1.75 acres** and I have **CLUSTERED** the rest of my lots."

MR. WHITE STATES: (5:06:44 meeting 12-16-2020)

"I have taken many years to look at this to see what is best for the property. So, keeping it **AGRICULTURAL** for the next owner who owns Lot 6 he will have the option to **FARM** it and that's a big big purpose of this whole um re platting of the lots.

MR. WHITE STATES: (5:33:24 Meeting 12-16-2022)

"I have done a really good job of keeping this **neighborhood AGRICULTURAL** and it's going to stay that way"

MR. WHITE STATES: (5:32:57 Meeting 12-16-2022)

"**There is NO OPEN SPACE REQUIREMENT and Mila please I would like for you to follow up on my comments here as to what is and isn't in the land use code**".

Mila does not respond...

This rezone should not have been permitted. The request does not meet even one of the seven characteristics required under 4.4.1 Purpose and intent. **No one in any of the County entities ever (publicly at least) confronted the fact that the PUD itself was inappropriate.**

I did not see the P&Z discuss/refute any of the points brought up by the lawyer except in one case that was where she mistakenly mentioned road acreage. Arguments instead centered around roads.

Does it state in the Grand County Land Use Code ("LUC") and General Plan that roadway(s) are a criteria for approving a PUD amendment? How were the roadway(s) used in decision making? Is this a legal issue that does not apply to a PUD amendment approval process?

CHRISTINA SLOAN STATES: (5:20:54 Meeting 12-16-20)

"I supports this amendment because we can **"Clean Up"** the issue of the roadway for tract A".

CHRISTINA SLOAN STATES: (5:21:40 Meeting 12-16-20)

"I'm supportive of this because it cleans up a legal issue that is a benefit to the County. Especially if we ever end up with this roadway.

CHRISTINA SLOAN STATES 5:22:29 Meeting 12-16-20)

"We have not studied the road issues. We will study the East Bench road issues at Final Plat. There are legitimate issues. We will address those at final Plat.

MILA STATES: (1:42:18 Meeting 9-28-20)

"Theres **NO CHANGE TO THE UNDERLYING ZONE**"

MILA STATES: (1:41:34 Meeting 9-28-20)

"Phase 2 as written on the 1997 plat also has a **(MINIMUM LOT SIZE of 1 ACRE)** and allows for 6 lots."

"The applicant is asking to **REDUCE** the **(MINIMUM LOT SIZE from 1 ACRE)** to 0.3 acres this is something that is currently supported by the PUD tool **in our code the land is zoned R&R which has a (MINIMUM LOT SIZE of 1 ACRE)"**

"So if he did not reduce this... I mean, essentially the way that it is written is, um, he doesn't need a PUD. Theres no change to the underlying zone. Um, **6 acres would allow for (6 ONE ACRE PARCELS.)**

MILA STATES: (1:42:24 Meeting 9-28-20)

"Um, so, reducing the minimum lot size allows the applicant to fully use the PUD development tool which a then intention is for **CLUSTER DEVELOPMENT** and to **leave larger contiguous acreage UNDEVELOPED and UN DEVELOPABLE** um, the applicant has an approved preliminary plat by the DRT not by planning commission of course but a the DRT has seen no issues with the 0.3 lot sizes um everything works for the layout the applicant is entitled to six lots and they are proposing six lots they are **CLUSTERING** the lots in the North West corner of the property and then leaving a **MUCH LARGER TRACT UNDEVELOPED** on the other side."

MILA STATES: (1:44:32 Meeting 9-28-20)

All the mentions of this Tract A in the easement documents and the CC&R's essentially state that Tract A will have 6 lots. They don't state anything specific or prohibitive as far as **MINIUM LOT** size or any change to that being specifically disallowed it just says that it will have just 6 lots which this proposal has 6 lots.

MILA STATES: (1:52:50 Meeting 9-28-20)

"And that's why the code treats a PUD amendment request, a major amendment request, **WHICH IS WHAT THIS IS AS A REZONE.**"

Mila Dunbar: (1:54:00 Meeting 9-28-20)28-20)

Re: Cluster Development

A PUD only allows for a reconfiguration of lot dimensions which allows for CLUSTER DEVELOPEMNET and by CLUSTERING DEVELOPMENT we end up with "OPEN SPACE" that is "NOT DEVELOPOABLE."

Larry White: (2:01:44 Meeting 9-28-2020)

There was to some verbage as to **no developemnt** on other parts of my property. All parts on the property are plattd out in building lots. I just made that 2 acre piece that larger piece at 2 acre lot you know and "SO THERE IS NO OPEN SPACE" (2:02:02)or any UNDEVELOPED PARCELS OR ANY LOT openings or how ever you want to verbage it to the lot so every part of the lot the six acres will be a building lot is that clear is there any question on that?

Mila Dunbar response to Larry White: (2:02:20 Meeting 9-28-20)

"We're using OPEN SPACE as a slightly FLUID TERM and you are exactly right there is no TECHNICALLY public OPEN SPACE that will be part of this at all. UM, it is just a, not going to a... I guess I don't really know how else to say it but... there's one residence and thats all thats going to stay on that parcel essentially. It's just a larger lot THAT'S WHAT WE SHOULD SAY." Mila looks puzzled

ADDITIONAL COMMENTS BY NEIGHBORS WHO ATTENDED THE PUBLIC HEARING:

As stated by Scot Andersen, neighbor, at zoom public hearing on 9-28-20 **THE BIGGEST BIGGEST CONTRADICTION OF ALL that he was told multiple times from Mila directly that this was in favor UNDER the NEW PUD open space guidelines because there will be open space.**

THIS IS CONTRARY TO WHAT LARRY JUST SHARED WITH US TODAY. LOT 6 CAN BE DEVELOPED. THIS IS DIRECTLY A CONTRADICTION AS TO WHAT HAS BEEN SHARED WITH US.

Todd Beeman, neighbor, at zoom public hearing on 9-28-20 also concerned that he might have been misled on the open area lot 6. It was confusing to him when it was originally stated that it will remain open area BUT there is no guarantee that it will remain open area which to him he would not be in favor at all. He states he is in favor of development and in favor of the one acre parcels. He is worried it could set a precedence in this area.

Mila is asked by Emily to clarify how to use the term and how it was applied open space.

(Mila states "Open space" is generally considered to be public access. No public access open space as contemplated as part of this PUD nor does there need to be. PUD's are used for cluster development which means a few smaller lots and one larger lot. It's all private. It's all developable. **The same underlying density just a different lot configuration so essentially it is meant to preserve agricultural land and habitat. That is the idea with cluster development and this current proposal does preserve agricultural land on lot 6.** There is no public open space contemplated on this pud nor does there need to be.)

OUR COUNSEL: Because of the current requirement to plat roads as separate lots and not as easements over residential lots, only 4.7 acres of the Property is available for subdivision. Applying the minimum lot size of the Rural Residential zone this means that without the PUD this property could only contain four lots. The reference on the original plat including the Property as Tract A that is was intended for six lots with a maximum one-acre lot size did not vest the Property with a RIGHT to develop six lots, it simply stated an intention to compare the requested PUD to a subdivision under the existing land use regulations, not a PRESUMPTION that the property is somehow entitled to six lots.

MY QUESTION ON THE REQUEST FOR INTERPRETATION: Please provide your interpretation as to why you presume that the property is entitled to six lots based on our counsel's findings. In addition, please provide your interpretation of the 1997 recorded final plat executed by Larry White.

MILA'S RESPONSE TO INTERPRETATION:

The owner of Creekside Estates PUD Phase II has a vested right to subdivide Tract A into six lots with six residences per the Development Stipulation table on the Final Plat recorded July 25, 1997 in the Grand County Recorder's Office. This calculation was made at the time due to the 6.48 acres contained within Phase II, which, at an allowable density of 1 lot /acre, results in six lots.

Were the applicant's request for an amendment not approved, the applicant would be able to draw the lot lines across the current road easements to achieve the minimum sizes, as was done with Phase I, and still achieve six lots. Please also note that your counsel is incorrect when she states that our Land Use Code requires roads to be plated as separate lots. This is not a requirement - it is County preference. Thus, your counsel's argument that the proposed amendment increases density is creative but legally flawed. The owner of Tract A has the right to place the road inside easements within each lot, as done in Phase I which again would preserve his right to develop six lots on Tract A. Instead the County has requested that the owner place the roads in separate road parcel as it clarifies ownership and liability for both the owning entity as well as the lot owners in the subdivision.

MY APPEAL: Yes, Phase I and Phase II are currently in a PUD. That does not give Phase I or Phase II the authority/approval or entitlement of anything but the Minimum lot size of 1 lot per 1 acre as executed by Larry White in 1997. This is why Mr. White has applied for the PUD amendment.

(Please refer to County Attorney's statement with regard to roadways). I argue that your statement is flawed and would need to be looked into.

CHRISTINA SLOAN STATES: (5:20:54 Meeting 12-16-20)

"I supports this amendment because we can "Clean Up" the issue of the roadway for tract A".

CHRISTINA SLOAN STATES: (5:21:40 Meeting 12-16-20)

"I'm supportive of this because it cleans up a legal issue that is a benefit to the County. Especially if we ever end up with this roadway.

CHRISTINA SLOAN STATES 5:22:29 Meeting 12-16-20)

"We have not studied the road issues. We will study the East Bench road issues at Final Platt. There are legitimate issues. We will address those at final Plat.

Our Attorney states it **does** in fact increase the density because if it were approved under the current guidelines with the way the roads have to be configured there are only be 4.7 acres available for development and with a one acre lot minimum which is required by the Rural Residential zone that would only permit 4 lots and this is proposed 6 which is an increase.

I am not an attorney but hired one and cannot dispute her findings.

Definition: Cluster zoning permits residential properties to be clustered closely together than normally allowed. This leaves substantial land area to be devoted to open space. This is also referred to as density zoning.

Mila's statement below states that Larry needed to change his lot size in order to get his 6 lots. Due to the way Larry configured his current layout, it does not allow him to utilize the one lot per acre as our counsel stated. Without the PUD amendment approved, Larry would have had to relocate already existing structures in order to achieve 6 one acre lots. That is the reason he applied for a PUD amendment which I might add was not "approved."

MILA STATES: (1:41:34 Meeting 9-28-20)

Phase 2 as written on the 1997 platt also has a MINIMUM lot size of 1 acre and allows for 6 lots. The applicant is asking to reduce the minium lot size from 1 acre to 0.3 acres this is something that is currently supported by the pud tool in our code the land is zoned RR1 which has a MINIMUM lot size of 1 acre so if he did not reduce this... I mean, essentially the way that it is written is, um, he doesn't need a PUD. Theres no change to the underlying zone. um, 6 acres would allow for 6 ONE ACRE parcels. Um, so, reducing the minium lot size allows the appliaent to fully use the PUD development tool which a then intention is to CLUSTER DEVELOPMENT and to leave larger contiguous acreage UNDEVELOPED.

OUR COUNSEL: The second paragraph of the letter (see attached) the key issue is that if a regular subdivision application were submitted for property, that application would have to comply with the land use regulations in effect at the time of the submittal. Utah Code Ann 17-27-a-508. I also found within the very long code the following verbiage which clearly states same as attorney addressed on her letter dated December 9, 2020.

- A county is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

- Upon a specified public agency's submission of a development plan and schedule as required in subsection 17-27a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and **land use regulations in effect on the date of submission.**

MY QUESTION ON THE REQUEST FOR INTERPRETATION: Please provide your interpretation as to why you did not follow the LUC?

MILA'S RESPONSE: this is an inaccurate leading question; however, I interpret this to be asking why the current application is not compliant with the LUC in effect when the plat as signed in 1997 and will answer as such in that spirit. The quoted statute, however, refers to a "public agency," which Larry White is not, so this provision is not applicable. Regardless the County is bound to comply with the land use regulations in effect at time of submittal. The application in question was submitted on September 14, 2020, and the current LUC governs its process. A developer or owner of a Planned Unit Development may at any time submit an application for an amendment to any part of the Planned Unit Development. Processing of an amendment application is governed by Sections 4.4.15 and 4.4.16 of the Grand County Land Use Code. The county deemed the application in question to fall under zoning map amendments as per the land use code. The Creekside Final Plat from 1997 may be amended, through due process, if approved, as per the LUC. This is also true for any final plat in Grand County. Regular final plat amendments are governed by Section 9.9.1 Plat Amendments and may be undertaken by a property owner at any time through property process. This PUD amendment is not an unusual request.

MY APPEAL:

As stated by our attorney, Clustered development is not the intent or benefit of the propsoed PUD. If it were then the six "density units" would all be clustered to preserve more open space on the entire tract. Rather, the grouping of three homes on 1/3 acre lots is just a means of keeping a total of six lots without disrupting the existing buildings that the developer will retain and allowing the developer to retain as much land as possible. The proposed clustering of three dwelling units does NOTHING TO PROMOTE ANY OF THE GOALS STATED UNDER THE DEVELOPMENT PATTERN SECTION IN THE GENERAL PLAN.

It does not support and participate in the implementation of the Grand County and City of Moab Housing Study and Affordable Housing Plan.

It does not focus on future development in centers where existing and planed infrastructure can accommodate it so that people can live close to where they work and obtain goods and services.

It does not minimize impacts of development on scenic resources.

It does not promote community clean-up and it does not minimize impacts of natural hazards on properties and people.

Rather than meeting these goals, the proposed clustering simply make the area feel more suburban rather than rural, which is counter to the intent of the underlying zoning. The General Plan focuses on "creating larger, more useful open space are in residential neighborhoods." The proposed PUD does not provide that benefit.

It does not address issues with change in character in the neighborhood.

It does not provide affordable housing.

It does not provide for meaningful open space.

We have one additional lot which I appreciate has been stated by Larry White it will continue to be used as agricultural use but there are approximately 6 buildings on that lot. It is NOT OPEN SPACE. The point of a PUD is to accomplish a specific purpose and this does not do any of the those things. It is not truly a lot cluster. It did not take all six (6) units and put them together and allow for 4 acres of total open space. It just grouped three (3) so that one (1) lot could be larger, two (2) could be medium sized and then (3) could be put together which then creates a more suburban feel in a rural area.

RESTATED FROM OUR COUNSEL:

As you know, the Grand County Land Use Code ("LUC") treats the PUD as a re-zone (SEE LUC 4.4.3.) Accordingly, Section 9.2.7 of the LUC requires the Commission to consider the eleven criteria in evaluating the PUD. Consideration of the previously discussed criteria demonstrates that approving the PUD would NOT FULFILL "ANY" of these purposes and would actually be a detriment to the community without "ANY" benefit EXCEPT to the developer. Just because the LUC permits planned unit developments in certain instances, it does not necessarily follow that THIS PUD is compatible with the General Plan and the LUC. If the criteria in the LUC are properly applied, it is clear the Commission should deny the PUD and retain the existing requirement for minimum one-acre lots for the subject property.

OUR COUNSEL: As you know, the Grand County Land Use Code ("LUC") treats the PUD as a re-zone (SEE LUC 4.4.3.) Accordingly, Section 9.2.7 of the LUC requires the Commission to consider the eleven criteria in evaluating the PUD. Consideration of the previously discussed criteria demonstrates that approving the PUD would NOT FULFILL "ANY" of these purposes and would actually be a detriment to the community without "ANY" benefit EXCEPT to the developer. Just because the LUC permits planned unit developments in certain instances, it does not necessarily follow that THIS PUD is compatible with the General Plan and the LUC. If the criteria in the LUC are properly applied, it is clear the Commission should deny the PUD and retain the existing requirement for minimum one-acre lots for the subject property.

MY QUESTION ON THE REQUEST FOR INTERPRETATION: Please provide your interpretation as to how you concluded your findings of Section 9.2.7 of the LUC of all eleven criteria in evaluating the PUD.

MILA'S RESPONSE: Creekside Estates is an approved and vested Planned Unit Development which was platted in two phases in 1997 with the aforementioned Final Plat. The amendment to be considered by the Commission is a legislative action, meaning that the Commission has broad authority to approve or deny it. Thus, your counsel's emphasis on the role of the eleven criteria is misplaced. Specifically, Section 9.2.7 contains "Issues for Consideration" which are intended as guiding questions. A legislative proposal need not fail because one or even many of the criteria cannot be met. Our planning Commission stated their reasons in considering the request during their public hearing on September 28, 2020. Staff has considered Section 9.2.7 in the following manner.

MY APPEAL: The words "approved" and "vested" are misleading and could have confused some Commissioners.

Yes, Phase I and Phase II are currently in a PUD. That does not give Phase I or Phase II the authority or entitlement of anything but the Minimum lot size of 1 lot per 1 acre as executed by Larry White in 1997.

Some commissioners the day they decided to approve this PUD amendment did not fully understand the LUC because they had never read the land use code. Most importantly, the intentional misuse of such legally descriptive words as "open space" may have confused several commissioners. *Is it possible because the County Attorney and Planning Zoning Administrator had already given their approval, that some commissioners due to their lack of real knowledge and understanding of the LUC and the misuse of legally descriptive words as "open space," "affordable," "farmland," and "preserve agricultural," based their decision not on their own understanding and knowledge but because the County Attorney and Planning Zoning administrator had already made the decision for them?*

C. Is there a need for proposed use(s) within the area or community?

MILA: The proposed use is an already entitled development right. Smaller lots can be beneficial to potential owners for many reasons, most notably providing additional housing stock in a more affordable configuration.

MY APPEAL:

NO.

THIS STATEMENT IS FALSE AND MISLEADING. Yes, Phase I and Phase II are currently in a PUD. That does not give Phase I or Phase II the authority or entitlement of anything but the Minimum lot size of 1 lot per 1 acre as executed by Larry White in 1997. *I believe some commissioners and members of the community were misled by intentional misuse of such legally descriptive word "affordable."* As stated by our counsel- The PUD does not provide for affordable housing. The reference to "affordable" does not mean less expensive than it would be if the lots were larger. The definition of affordable housing is provided in Section 10.2 of the LUC. It does not support and participate in the implementation of the Grand County and City of Moab Housing Study and Affordable Housing Plan. Please refer to Section 10.2 of the LUC. The definition of affordable housing is provided in Section 10.2 of the LUC.

D. Will there be benefits derived by the community or area by granting the proposed rezoning?

MILA: The proposed larger lot would be preserved as an agricultural use, which can benefit the area as a small farm, as a visual buffer from development, and to preserve other uses in the area. Additionally any provision of housing helps relieve Grand County's lack of housing. And smaller lot configurations provide the possibility for more affordable development.

MY APPEAL:

NO.

THIS STATEMENT IS FALSE AND MISLEADING. *I believe some commissioners and members of the community were misled by intentional misuse of such legally descriptive word(s) as "preserve agricultural" and "small farm" and "preserve."* THESE LOTS ARE NOT CONSIDERED AFFORDABLE AND SHOULD NOT BE STATED AS SUCH AND SINCE YOU STATED THE PROPOSED LARGER LOT WOULD BE PRESERVED AS AGRICULTURAL OR CAN BENEFIT THE AREA AS A FARM, SHOULD there be a DEED RESTRICTING OPEN SPACE THAT PRESERVE'S AGRICULTURAL AND FARM LAND? IS IT POSSIBLE THIS PUD AMENDMENT WAS APPROVED IN ERROR AND IS NULL AND VOID?

E. Is the proposal in conformance with the policies, intents and requirements of Grand County General Plan, specifically the plan's zoning map amendment guidelines (see pages 44-48 of the Grand County General Plan)?

MILA: Yes, a Planned Unit Development is a tool codified in the Grand County Land Use Code and as such is supported by the General Plan.

MY APPEAL:

NO.

Mila's statement is false. As stated by our counsel- Rather than meeting these goals, the proposed clustering simply make the area feel more suburban rather than rural, which is counter to the intent of the underlying zoning. The General Plan focuses on "creating larger, more useful open space are in residential neighborhoods."

The proposed PUD does not provide that benefit.

It does not support and participate in the implementation of the Grand County and City of Moab Housing Study and Affordable Housing Plan.

It does not focus on future development in centers where existing and planned infrastructure can accommodate it so that people can live close to where they work and obtain goods and services.

It does not minimize impacts of development on scenic resources.

It does not promote community clean-up and it does not minimize impacts of natural hazards on properties and people.

G. Is the proposed density and intensity of use permitted in the proposed zoning districts?

MILA: Yes, There is no additional density or intensity proposed in this application?

MY APPEAL:

NO.

Her answer is false. According to our attorney Larry does not have the acreage for 6 lots but only has acreage due to road issue for 4. This is considered additional density.

Furthermore, *Cluster development if done properly according to this definition Cluster development zoning permits residential properties to be clustered closely together than normally allowed. This leaves substantial land area to be devoted to open space.*

This is also referred to as density zoning.

H. Is the site suitable for rezoning based on a considerations of environmental and scenic quality impacts.

MILA: Yes the smaller lots would have a smaller development foot print and preserve agricultural land.

MY APPEAL:

NO.

I believe some commissioners and members of the community were misled by intentional misuse of such legally descriptive word "preserve agricultural."

SHOULD there be a DEED RESTRICTING OPEN SPACE THAT PRESERVE'S AGRICULTURAL LAND? IS IT POSSIBLE THIS PUD AMENDMENT WAS APPROVED IN ERROR AND IS NULL AND VOID?

It does not minimize impacts of development on scenic resources.

It does not promote community clean-up and it does not minimize impacts of natural hazards on properties and people.

I. Are the proposed uses compatible with the surrounding area or uses; will there be adverse impacts; and/or can any adverse impacts be adequately mitigated?

MILA: Yes, the proposed use is residential and agricultural as are the surrounding uses. Any adverse can be adequately mitigated.

MY APPEAL:
NO.

I believe some commissioners and members of the community were misled by intentional misuse of such legally descriptive word "agricultural." AS stated by our counsel, Consideration of the previously discussed criteria demonstrates that approving the PUD would NOT FULFILL "ANY" of these purposes and would actually be a detriment to the community without "ANY" benefit EXCEPT to the developer. I hope this can be mitigated ASAP!

In closing, the appeal presented today should leave many commissioners wondering if the PUD tool in the Grand County Land Use Code ("LUC") and General Plan were applied and used properly? Moreover, is it possible being that the County Attorney and Planning Zoning Administrator had already given their approval, that some commissioners due to their lack of understanding of the Grand County Land Use Code ("LUC") and the misuse of legally descriptive words as "**OPEN SPACE**," "**Agriculture Land**," "**Farmland**," "**undevelopable**," "**affordable**," "**already entitled**," and "**Clustered Development**," "**preserve agricultural**," based their decision not on their own understanding but because the County Attorney and Planning Zoning administrator had already made the decision for them? **No one in any of the County entities ever (publicly at least) confronted the fact that the PUD itself was inappropriate.** Should the PUD amendment application have ever been pushed through without having the preliminary plat provided to the commissioners and members of the community in the first public hearing? Was the PUD amendment application implemented inappropriately?

I would and some members of the community would like to see that the recently approved PUD amendment be looked into to verify if in fact it was approved erroneously? Should the County attorney have approved this based solely on the roadway? **Does it state in the Grand County Land Use Code ("LUC") and General Plan that roadway(s) are a criteria for approving a PUD amendment approval process? How were the roadway(s) used in decision making? Is this a legal issue that does not apply to a PUD amendment approval process?** How is Open Space and Clustered Development used and is it used correctly or is it used incorrectly in this recently approved of the PUD amendment? Will there be open space deed restricted or will the PUD amendment be null and void? Were these legally descriptive words as "**OPEN SPACE**," "**Agriculture Land**," "**Farmland**," "**undevelopable**," "**affordable**," "**already entitled**," and "**Clustered Development**," "**preserve agricultural**," intentionally used to push an agenda along illegitimately?

Below are definitions I have collected throughout this process for your review:

Definition of Clustered Development: Residential cluster development is a form of land development in which principal building and structures are grouped together on a site, thus saving the remaining land area for common open space, conservation, agriculture, recreation, and public and semipublic uses. Additional definition of Cluster Development: a cluster development is a residential or mixed-use development that is proposed or located in an approved cluster zone, where at least 20% of the dwelling units will be conveyed subject to a cluster restriction. A cluster restriction is a deed restriction, covenant, zoning regulation, subdivision or site plan approval condition, or obligatory affordability plan that restricts household income, sale or resale price, rent and housing costs as required by the bill.

Cluster zoning is a type of zoning in which density is determined for an entire area, rather than on a lot-by-lot basis. Within the cluster zone, the developer has greater flexibility in designing and placing structures. The overall density requirement should be met by the developer. Developments in cluster zoning often incorporate open, common areas with park-like settings.

Cluster zoning specifies housing density for an entire area overall. Hence a developer is free to use some space for high-density housing such as apartments or garden homes. The other space can be used for low-density estate-sized lots. Cluster zoning is a type of smart zoning which is in contrast with traditional zoning ordinances that specify the same density for each and every lot within an area.

Cluster zoning permits residential properties to be clustered closely together than normally allowed. This leaves substantial land area to be devoted to open space. This is also referred to as density zoning.

Open Space land is **defined** as either: (1) Any land area **zoned** for **open space** by a comprehensive land use plan adopted by a city or county legislative authority, or, (2) Any land area in which the preservation in its present use would: Conserve and enhance natural or scenic resources. Protect streams or water supply.


Regulations of the Department of Agriculture; Chapter VII -- Farm Service Agency, Department of Agriculture; Subchapter D -- Special Programs; Part 781 -- Disclosure of Foreign Investment in Agricultural Land], agricultural land means "land in the United States used for forestry production and land in the United States currently used for, or, if currently idle, land last used within the past five years, for farming, ranching, or timber production, except land not exceeding ten acres in the aggregate, if the annual gross receipts from the sale of the farm, ranch, or timber products produced thereon do not exceed \$ 1,000. Farming, ranching, or timber production includes, but is not limited to, activities set forth in the Standard Industrial Classification Manual (1987), Division A, exclusive of industry numbers 0711-0783, 0851, and 0912-0919 which cover animal trapping, game management, hunting carried on as a business enterprise, trapping carried on as a business enterprise, and wildlife management. Land used for forestry production means, land exceeding 10 acres in which 10 percent is stocked by trees of any size, including land that formerly had such tree cover and that will be naturally or artificially regenerated."


Attached you will also find definitions from Grand County LUC that clearly state using Affordable housing, Agriculture land, Cluster Development to allow the remaining land to be used for open space and agriculture uses.

Thank you and I greatly appreciate your time.

Respectfully,
Christina Brinegar

3 attachments

 **Creekside PUD Amendment - Letter to Grand County Council.DOCX**
45K

 **Def of L.U.pdf**
171K

 **Creekside PUD Request for Interpretation 1-11-21.pdf**
110K

Definitions of Key Terms

From Grand County LUC

Affordable Housing	Housing for which the allowable housing expenses paid by a household earning less than the median household income shall not exceed 30 percent of the gross monthly household income – unassisted and assisted (State and/or Federal) rental and unassisted and assisted (State and/or Federal) for sale units whose gross rental or sale price on the open market is affordable to, or for which rental and/or sale is restricted to, households whose gross annual household income is below the county median household income.
Agricultural Land	Land suitable for or historically used for production of commercial purposes of crops, livestock or products.
Agricultural Production	Production for commercial purposes of crops, livestock products if 50 percent or more of the material processed or marketed is produced by the farm operator. Production of forage, grains, livestock, trees and fruits, vegetables; nursery, floral and ornamental stock with reasonable expectation of profit is agricultural production activity.
Cluster Development	A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, open space and agricultural uses.
Cluster Subdivision	Cluster subdivision trades smaller lot sizes (with smaller yards) for additional common area. Cluster subdivision must provide a minimum of 30 percent common area exclusive of individual lots.
Clustered II Subdivision	Clustered II subdivision reduces lot sizes even further, in trade for substantial open space provision for the subdivision as a whole. Clustered II subdivisions must provide a minimum of 50 percent common area, exclusive of individual lots.

4.4 -PUD, Planned Unit Development

4.4.1 Purpose and intent

The -PUD, Planned Unit Development is an overlay district designed to provide for modification of the otherwise applicable dimensional and density standards of the underlying base district as specified in Article [5](#), Lot Design Standards, in order to accomplish one or more of the following purposes:

- A. Promote flexibility in the siting of structures so as to preserve and take advantage of the site's unique, natural, resource or scenic features and to avoid or mitigate any hazardous area;

Commentary:

The -PUD "overlay district" permits variation from standard lot configuration patterns in order to reduce disturbance of sensitive lands, promote land use compatibility, open space, affordable housing, and facilitate creative site planning. In the -PUD district, the underlying base district standards may be modified consistent with the purposes for -PUD. However, allowed uses and maximum density must be determined by the underlying base district.

- B. Provide density bonus incentives in the interest of creating affordable housing and beneficial open space;
- C. Encourage more efficient use of land and public streets, utilities, and governmental services;
- D. Promote a clustering development pattern in the interest of preserving rural character;
- E. Preserve open space for the benefit of residents of developments and the community;
- F. Achieve a compatible land use relationship with surrounding areas; and
- G. Promote greater variety in the type and design of buildings and thereby improving the character and quality of new development.

4.4.2 Applicability

Upon approval, the underlying base zoning district as modified by the approved -PUD master plan shall control development within a -PUD district. -PUD district master plans may be approved for properties in single ownership or in contiguous (multiple) ownership or control.

4.4.3 Approval Procedures

-PUD district developments shall be reviewed and approved in accordance with the procedures of Section [9.2](#), Text and Zoning Map Amendments (Rezoning), and shall be considered to be a zoning map amendment.

4.4.4 Identification on Zoning Maps

Approved -PUD district developments shall be indicated on the official Zoning Map.

4.4.5 Allowed Uses

Any use or combination of uses allowed by the underlying base district(s) are permitted in a Planned Unit Development; provided, however, that non-residential uses shall be those of the underlying zoning district.

4.4.6 Lot Design Standards

In order to achieve the purpose and intent of these -PUD regulations, variation may be permitted relative to underlying base district standards with respect to the minimum lot area, setbacks, and lot width.

4.4.7 Density

Maximum density shall be no greater than that permitted in the underlying zone district prior to -PUD approval, unless the project meets the requirements for affordable housing density bonus incentives (in accordance with Section [4.4.8](#)) or opens space density bonus incentives (in accordance with Section [4.4.10](#)).

4.4.8 Affordable Housing, Density Bonus Incentives

Maximum residential density may be increased at the option of the developer in the MFR, SLR, and LLR base zoning districts in accordance with the requirements of this subsection, provided that at least 50 percent of the bonus dwelling units provided in “Density Incentive 1” and 70 percent of the bonus dwelling units provided in “Density Incentive 2” shall be affordable housing restricted in accordance with the requirements of Section [6.14](#). Maximum allowed density by district shall be as follows:

Qualifying Zone Districts	Maximum Density by District (Units per Gross Acre)		
	Conventional	Affordable Housing	
		Density Incentive 1	Density Incentive 2
MFR, Multi-family Residential	8	14	18

Maximum Density by District (Units per Gross Acre)			
Qualifying Zone Districts	Conventional	Affordable Housing	
		Density Incentive 1	Density Incentive 2
SLR, Small Lot Residential	5	6.5	7.5
LLR, Large Lot Residential	2	2.6	3

NOTE:

A minimum of 50 percent of the bonus dwelling units in “Density Incentive 1” and a minimum of 70 percent of the bonus dwelling units in “Density Incentive 2” must be affordable housing restricted in accordance with the requirements of Section [6.14](#).

4.4.9 Road Design Standards

Variation from otherwise required road design standards may be approved where the applicant demonstrates to the satisfaction of the County that such exception will not be detrimental to the public health, safety and general welfare, and where private road maintenance is provided by a Homeowners' Association or other similar entity.

4.4.10 Open Space, Density Bonus Incentives

A density bonus of up to 20 percent may be approved at the discretion of Planning Commission for projects providing 20 percent or more open space.

Beneficial open space eligible for the density bonus shall provide the following:

- A.** Open space that promotes the preservation of productive agricultural land (see Section [10.2](#)).
- B.** Open space that promotes access to public lands, connections to existing or planned trails, and riparian and historic trail corridors. Such open space shall be freely accessible to the general public, and clearly identified by on-site signage. Trails shall be constructed in accordance with Section [7.4](#) and maintained by the mandatory homeowners association in accordance with Section [9.6](#).

[Ord. 544, 2016.]

4.4.11 Master Plan Requirement

In approving a -PUD district development in accordance with this section, the County Commission shall require a master plan of the development. A comparison of the proposed development with the standards of underlying zoning district and a statement by the applicant describing how the proposed development provides greater benefits to the County than would a development carried out in accordance with otherwise applicable zoning and development regulations;

- A.** A statement by the applicant describing how the proposed development provides greater benefits to the County than would a development carried out in accordance with otherwise applicable zoning and development regulations;
- B.** Identification of lands that include public drinking water supply watersheds (recharge areas for the aquifer in the Glen Canyon formation); floodplains and riparian habitats; slopes in excess of 30 percent, and significant geological, biological, and archeological sites (not all of these will apply to every parcel);
- C.** Identification of site planning features designed to ensure compatibility between on-site residential and nonresidential uses, and with the surrounding neighborhood and land uses;
- D.** A narrative addressing the proposed development explaining and tabulating the land uses by gross acre, number of dwelling units by housing type, residential density and/or square footage of non-residential uses per gross acre, common area and open space acreage, potential traffic generation, overall character and architectural style, the relationship of the proposed development to existing development in the area and other related development features;
- E.** A site plan prepared in accordance with the requirements of Section [9.17](#) shall be approved and filed with the findings of fact as part of the approval; including but not limited to, major roads, trails and trail connections, major utilities, existing and proposed land uses, common area, open space, landscaping plan, a conceptual drainage plan and entrance locations on existing roads;
- F.** Dimensional standards to be modified within the -PUD district relative to the underlying base district standards;
- G.** A statement of how the proposed development is consistent with the General Plan; and
- H.** Other relevant information as may be requested by the Zoning Administrator.

[Ord. 544, 2016.]

4.4.12 Public Land Dedications

In addition to land required for public rights-of-way and easements, the County shall require the dedication to the County of:

- A.** Land for public facilities pursuant to the provisions of Section [6.13.7](#), Extraordinary Impact; including but not limited to, public schools, fire stations, water storage, well fields, public parks and trails that are necessary to serve the development;
- B.** Easements for scenic corridors or preservation that benefit the general public;
- C.** Rights-of-way for non-mechanized trails shall be dedicated as necessary to maintain historic access to public lands and trail connections to surrounding area and as part of the Grand County Master Plan for Non-Motorized Trails (Trail Mix); such dedications shall also include documented or verifiable historic trails perhaps not included in the Trail Mix; and

Commentary:

The General Plan encourages a clustered development pattern, with development located in the most appropriate part of the property. Small clusters of 5-10 dwellings each, separated by common area or open space tends to be most effective in preserving rural character.

- D.** Historic sites and buildings.

[Ord. 544, 2016.]

4.4.13 Architectural Review

The Planning and Zoning Commission may require an architectural site plan to review for the purpose of promoting the preservation of the visual character of the neighborhood, the stability of land values, the public safety, and the general welfare by preventing the erection of structures or additions or alterations, which are not properly related to their sites or to prevent the indiscriminate clearing of property, excessive grading, and the destruction of trees and shrubbery. In carrying out the purpose of this section with respect to the external design of the buildings, approval shall be considered in accordance with the following objectives:

- A.** Reducing the adverse visual impacts of structures which, because of size, scale, color or location, are out of harmony with the neighborhood in which they are to be constructed.

B. Minimizing disturbances to the natural terrain and existing significant vegetation; enhancing drainage; reducing soil erosion; and otherwise maximizing compatibility with the regulations of this LUC.

C. It is the intent of this section that the County shall exercise the minimum control necessary to achieve the overall objectives thereof.

[Ord. 544, 2016.]

4.4.14 Additional Conditions

The County shall impose such other conditions as are deemed necessary to accomplish the purposes of this section, this LUC and the General Plan. [Ord. 544, 2016.]

4.4.15 Minor Amendments

A. The following minor amendments to -PUD master plans shall be reviewed and, if appropriate, approved by the Zoning Administrator:

1. Changes that result in a decrease in assigned density or intensity for a specific parcel, either residential or nonresidential.
2. Change in land use designation from multi-family to single-family or a change from any other use to common area or open space.
3. Change in major infrastructure features (e.g. roads/access, sewer, water, storm drainage) of the master plan area, which are beneficial to the residents of the master plan area.
4. Change in land use designation from single-family to multi-family with no increase in permitted site-specific density.

B. The applicant requesting such change shall notify the property owners' association, at least 15 days prior to any decision, that would be affected by the change of the request and ask that all comments be directed to the Zoning Administrator. Proof of such notification shall be provided to the Zoning Administrator. If the Zoning Administrator determines that the change does not have the support of the affected property owners, the request will be referred to the Planning Commission for review.

[Ord. 544, 2016.]

4.4.16 Major Amendments

All other proposed amendments to a listed master plan or master plan text not specifically addressed above shall be considered major amendments and must be processed in accordance with the procedures

and requirements of Section [9.2](#), Text and Zoning Map Amendments (Rezoning). [Ord. 544, 2016.]

Commentary:

Where property has been previously platted, a plat amendment is necessary in addition to any -PUD master plan amendment, which might be approved under this section.

4.4.17 Effect on Other Code Standards

Except as expressly authorized by the regulations of this section and approved as a part of a -PUD master plan in accordance with the procedures of Section [9.2](#), Text and Zoning Map Amendments (Rezoning), the standards of this LUC shall apply to development within a -PUD. [Ord. 544, 2016.]

9.2 Text and Zoning Map Amendments (Rezoning)

9.2.1 General

Text and zoning map amendments are discretionary legislative decisions. This is true even when a proposed map amendment otherwise conforms to the applicable requirements of this code. [Ord. 546, 2016.]

9.2.2 Initiation of Text Amendment

Any person having a proprietary interest in any property may submit an application to the County Commission for a change or amendment to the provisions of this LUC, or the Planning Commission may on its own motion or on request from the County Commission, institute study and proposal for changes and amendments in the public interest. [Ord. 546, 2016.]

9.2.3 Application for Zoning Map Amendment

Any person having a proprietary interest in any property within Grand County, Utah, requesting a change or amendment to the zoning classification of such property shall submit an application for such change or amendment with the Zoning Administrator. The application shall be submitted at least 30 days prior to any desired agenda date and, at a minimum, shall include the following information:

- A.** The name, address, and telephone number of the applicant shall be provided;
- B.** The application shall clearly state the requested change or amendment and describe the property to be affected by such request by metes and bounds or by other legal description;
- C.** The application shall be accompanied by a preliminary title report from a licensed title company or attorney listing the name of the property owner(s) and all liens, easements and judgments of record that affect the title to the subject property;
- D.** A statement from the County Treasurer showing the status of all current taxes due on said parcel;
- E.** Certified boundary survey of land area to be rezoned, along with an indication of the existing zoning, predominant existing uses, and existing zoning designations within 100 feet in all directions of the boundary of the land area to be rezoned;
- F.** A list of surrounding property owners and their legal mailing addresses within 1,000* feet of the exterior boundary of the parcel proposed to be zoned or rezoned;

G. A statement by the applicant explaining the rationale for the rezoning request relative to the issues for consideration imposed by Section [9.2.7](#); and

H. A filing fee shall be submitted to cover the cost of review and processing with every application in accordance with the fee schedule adopted by resolution of the County Commission.

[Ord. 546, 2016.]

*Code reviser's note: The distance shown in this subsection has been updated to conform to the notice requirements of Ordinance 608, amending Section [9.1.8](#).

9.2.4 Review by Planning Commission

Before taking action on any proposed amendment, supplement or change, the County Commission shall submit the same to the Planning Commission for its recommendation and report.

A. Public Hearing Required

The Planning Commission shall hold a public hearing on any proposed amendment permit prior to making its recommendation to the County Commission.

B. Public Notification

Public notice shall be made in accordance with the requirements of Section [9.1.8](#), Required Public Notices.

C. Notice of Decision

The Zoning Administrator shall provide a copy of the decision to the applicant by mail within 10 days of the Planning Commission's decision.

[Ord. 546, 2016.]

9.2.5 Action by County Commission

The County Commission shall act on the zoning map or text amendment in a public hearing within 30 days after the recommendation and report of the Planning Commission, or within a reasonable time thereafter. [Ord. 615, 2020.]

A. Public Hearing Required

The County Commission shall hold a public hearing on any application for amendment or change prior to making its decision. If County Commission approves the ordinance amendment on first reading in a public hearing, a second reading shall be held by the County Commission before adopting any proposed amendment, supplement or change. Following the second reading, such amendments shall become effective upon the favorable vote of a majority of the quorum of the County Commission present and voting.

B. Public Notification

Public notice shall be made in accordance with the requirements of Section [9.1.8](#), Required Public Notices.

C. Exception

When the zoning district map in any way is to be changed or amended incidental to, or as a part of, a general revision of this LUC, whether such revision be made by repeal of the existing zoning and/or land use regulations and enactment of a new zoning and/or land use regulations, or otherwise, posting of notice on the land area proposed for rezoning shall not be required.

[Ord. 546, 2016.]

9.2.6 Notification Requirements for Text Amendment

When any such amendment relates to a change of a regulation or to the text of this LUC not affecting specific property, the County shall cause notice of the public hearing of the County Commission to be given in a newspaper of general circulation in Grand County. Such notice shall state the time and place of such hearing and the nature of the subject to be considered, which time shall not be earlier than 10 days from the date of publication. [Ord. 546, 2016.]

9.2.7 Issues for Consideration

In making its determination, the Planning Commission and the County Commission shall consider the recommendation of the Planning Commission, staff reports, and the written and oral testimony presented, and the following criteria:

A. Was the existing zone for the property adopted in error?

B. Has there been a change of character in the area (e.g., installation of public facilities, other zone changes, new growth trends, deterioration, development transitions, etc.)?

- C.** Is there a need for the proposed use(s) within the area or community?
- D.** Will there be benefits derived by the community or area by granting the proposed rezoning?
- E.** Is the proposal in conformance with the policies, intents and requirements of Grand County General Plan, specifically the plan's zoning map amendment guidelines (see pages 44-48 of the Grand County General Plan)?
- F.** Should the development be annexed to a city?
- G.** Is the proposed density and intensity of use permitted in the proposed zoning district?
- H.** Is the site suitable for rezoning based on a consideration of environmental and scenic quality impacts?
- I.** Are the proposed uses compatible with the surrounding area or uses; will there be adverse impacts; and/or can any adverse impacts be adequately mitigated?
- J.** Are adequate public facilities and services available to serve development for the type and scope suggested by the proposed zone? If utilities are not available, could they be reasonably extended? Is the applicant willing to pay for the extension of public facilities and services necessary to serve the proposed development?
- K.** Does the proposed change constitute "spot zoning"?

[Ord. 546, 2016.]

9.2.8 Interpretations of Text and Zoning Map

A. Authority

The Zoning Administrator shall have the authority to make all interpretations of the text of this LUC, and the boundaries of the official zoning map.

B. Requests for Interpretation

An interpretation may be requested by any affected person, any resident or real property owner in Grand County, or any person having a contractual interest in real property in Grand County.

C. Procedures

1. Submission of Request for Interpretation

Before an interpretation shall be provided by the Zoning Administrator, a request for interpretation shall be submitted to the Zoning Administrator in a form established by the Zoning Administrator.

2. Determination of Completeness

Within a reasonable amount of time after a request for interpretation has been received, the Zoning Administrator shall determine whether the request is complete. If the Zoning Administrator determines the request is not complete, he shall serve written notice on the applicant specifying the deficiencies. The Zoning Administrator shall take no further action on the request for interpretation until the deficiencies are remedied.

3. Rendering of Interpretation

After the request for interpretation has been determined complete, the Zoning Administrator shall render an interpretation within a reasonable amount of time. The Zoning Administrator may consult with the County Administrator and the County Attorney, review this LUC and the official zoning map, whichever is applicable, before rendering an interpretation.

4. Form

The interpretation shall be in writing and shall be sent to the applicant by certified mail.

5. Official Record

The Zoning Administrator shall maintain an official record of all interpretations in the County Hall, which shall be available for public inspection during normal business hours.

6. Appeal

Any person who has made a request for interpretation may appeal interpretation of the Zoning Administrator to the County Commission by filing an application within 30 days of the Zoning Administrator's decision. The date of the decision shall be the postmark date of the certified mail notifying the applicant of the interpretation. The application shall be considered by the County Commission within 30 days of its filing, and the interpretation of the Zoning Administrator affirmed or modified.