

## GRAND COUNTY PLANNING COMMISSION

March 8, 2023

**MEMBERS PRESENT:** Bob Gnuse  
Loreta Silverio  
Shaun Mullahey  
Ryan McNerty  
Lynn Adams  
Brad White  
Chris Murphy

**MEMBERS ABSENT:** Kim Shepton

**STAFF PRESENT:** Kristen Manguso  
Jorune Klisauskaite  
Maxine LaBarre-Krostue (online)  
Judy Cautrell

There were six people present in the board meeting room.

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The March 8, 2023 Grand County Planning Commission meeting was called to order by Chairman, Shaun Mullahey at 6:31 p.m. Minutes from November 2022 and February 2023 were sent late and will be deferred for approval until next Planning Commission meeting in April.

Shaun stated the he expected this to be a somewhat controversial meeting and requested everyone both in person and online to keep their comments to 3 minutes for fairness to everyone involved in this process. The format of the meeting tonight will be staff presentation, then there is a septic pumping company online and they will speak next. Finally, comments from the Planning Commissioners followed by public comment, wrapping up with another round of comment from the Planning Commissioners. If we need to, we will take a break at the bottom of every hour.

### **Grand County Zoning Regulation Amendments**

Community Development Director Kristen Manguso presented a request to the Planning Commission for amendments to three (3) sections within the Grand County Zoning Regulations:

- Short Term Rental Regulations (Section 14.7)
- Remove duplicate statement in the mailing requirements for Special Use Permits (Section 11.3)
- Amend the Floodplain Regulation penalties Section 21.19 to comply with State Statute

### **Short term Rental Amendments – Section 14.7:**

As you are aware, Grand County is undergoing a change in our Short Term Rental (STR) Company that provides support and identifies STR properties within the County. We have signed a contract with GovOS, and are on track to go live with this company in mid-March. In conjunction with this move, staff has been reviewing the zoning regulations regarding STR requirements.

A joint workshop with the Planning Commission and Board of County Commissioners was held on February 7, 2023. Valuable discussion between individuals attending and both Boards occurred during this workshop, and four (4) follow up emails have been received. The feedback was varied, but overall, it seems the majority of individuals realize that some amendments need to occur and agree that enforcement is critical as we move forward. During the workshop, the main points of discussion were regarding a fee increase, maximum occupancy that aligned with the adopted Grand County Building Code, and the number of people allowed based upon Onsite Wastewater Treatment System (OWTS) size and design.

Staff is recommending the maximum occupancy be limited to comply with the size of the OWTS, as designed and installed on any property with an OWTS. Properties served by central sanitation would not be subject to this limitation

**Fee Increase** - The last amendment staff is proposing is to raise the per person occupancy fee from the current fee of \$25.00 to \$100.00. The \$25.00 per person fee was originally approved in 2016 when the current regulations were adopted. Increasing the fee in conjunction with the probable reduction in occupancy based upon the above recommendations should ensure the program pays for itself. Further, enforcement of STR violations had been spotty at best in the past. Grand County now employs a Code Enforcement Officer that will be using county resources including a vehicle, fuel and time to ensure compliance. Additionally, STRs are time consuming for many different employees including the Development Director, Administrative Assistant, Planning Technician's, County Attorney, County Manager, Sheriff's Officers, Dispatch and the Building Division. Even with the increase in occupant fee, it is uncertain whether or not this will pay for the costs associated with STR issues.

The next section for consideration is to the Special Use Procedure. There is a redundant section regarding mailing to property owners that is confusing and staff is requesting to remove the duplicate statements.

### **Special Use Permit Review Procedure - Section 11.3**

Unless waived by the Board of County Commissioners (BOCC) pursuant to the provisions contained in Section XI, no application for a Special Use Permit shall be scheduled for consideration by the Board of County Commissioners of Grand County until all of the required material is first filed with the Grand County Community Development Department. The Board of County Commissioners will be guided in their review by the provisions and purposes of these regulations, by the unique conditions of the surrounding neighborhood, and by the countywide need for each use. No use shall be granted under this section without a public hearing being held thereon; notice of which, including a description of the property, the proposed use, and the time and place of hearing, has first been published at least once in a newspaper of general circulation within the area ~~and has been mailed to all property owners within one thousand (1000) feet of the proposal, at least twenty (20) days prior to the scheduled hearing~~. This procedure shall be pursued in the following manner:

1. **Publication:** Public Notice shall be published at least once in a newspaper of general circulation within Grand County where the property in question is located at least twenty (20) days prior to the scheduled hearing; and
2. **Mailing:** *Written notice shall be mailed by certified mail to all property owners within five hundred (500) feet and by first class mail to all property owners within one thousand feet (1000) feet of the proposal at least twenty (20) days prior to the scheduled hearing; and*

### **Floodplain Regulations - Section 21.9**

#### **21.9 ENFORCEMENT AND PENALTIES**

~~These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program. Any infraction of the provisions of these regulations by failure to comply with any requirements (including infractions of conditions and safeguards established in connection with an approved Permit) shall constitute a violation. Any person who violates these regulations commits a misdemeanor under C.R.S. § 30-28-124, as amended, and shall, upon conviction thereof, be fined or imprisoned or both as provided therein. Each day of noncompliance shall constitute a separate offense. Nothing herein shall prevent Grand County from taking such other lawful action necessary to prevent or remedy a violation, including but not limited to actions for declaratory or injunctive relief as well as actions for civil penalties under C.R.S. § 30-28-124.5.~~

Replace the above in its entirety with:

*No structure of land shall hereafter be constructed, located extended converted, or altered without full compliance with the terms of these and other applicable regulations. Violation of the provision of these regulations by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall be subject to other enforcement provisions promulgated in Section 18 and 19 of the Grand County Zoning Regulations, and any other applicable statutory enforcement authority available to Grand County.*

#### **STAFF RECOMMENDATION:**

Staff recommends approval of the proposed amendments as presented, including the ability to correct minor grammatical and capitalization errors:

**DISCUSSION:**

Shelby Garrett (A&A Septic) stated that Short Term Rentals are hard on Onsite Wastewater Treatment Systems (OWTS) commonly known as “septic systems”. The loading is not even, which is how these are designed. So what happens is when the property is rented, there is over loading of the system followed by periods on non-use while the property is vacant. This is hard for the bacteria in the tank since they increase when the system is in use, then die when the system is not being used. The bacteria doesn’t have time to react before the solids head downstream to the field and it can plug the field, which increases nitrogen levels, ammonia levels and the phosphorus levels in the absorption (leech) field. It basically puts so much solid in the tank that it can’t flow from 1 Chamber of the tank to the other. So it’s something that we have to monitor.

(Online) Jeremy Larson spoke on webex commenting on the system is based on the number of bedrooms. There is a solid tank and then there’s a tank past that, and there is the leech field past that. The difference is that STR are used maybe 50% of the time. There is potentially a concentrated flow at certain times. He believes it should be the owners responsibility to keep a healthy system, not the County’s.

Brad White stated he believes that STR’s are really in the lodging business, and staffs on point with most everything here. The \$25 to \$100 makes sense when you look at the amount of staff time that it takes, software and vehicle usage.

Bob Gnuse’ thinks it’s a good first step to increase and can be evaluated in the future whether to change. Do children change the amount of occupancy? How do we count infants?

Kris responded that it depends on how they book it with companies and what is counted as an occupant.

Lynn commented she thinks this is a good incremental improvement. It’s challenging to balance the needs of all of the people of Grand County. We do need an increase in STR fees to support what it truly costs. Would large groups be allowed to have large gatherings in the rentals? Is the 2+2 also to be used in the calculation for the fee?

Chris Murphy is in agreement with the fee increase. She does think having an exception to the 16 person maximum should be reviewed on a case by case basis.

Loreta feels that the \$100 per occupant fee for STR is more than fair. The cost of monitoring the STR’s, keeping up with licensing and all the associated costs need to be recouped somehow.

Ryan stated that everyone needs a better understanding of the load in a septic system and the usage of water in STR’s. It also affects the water table in Grand County as well.

Shaun said the goal here is to strike a balance between everyone's right to use their home for whatever purpose they see fit versus the needs of the community at large. We're not trying to place moratorium. I think a lot of what's being proposed on the fee side, especially, is incredibly reasonable given our community and surrounding counties. Based upon some of the discussion, he would like to propose something in writing that exempts children 2 years old and under. He also thinks that STRs should have to meet all these requirements, access, parking, and if there are any other conditions we want to put on that, although in his opinion parking is probably the big one.

Kris responded that parking is already within the county zoning regulations. She responded to an online question regarding the budget, stating that county finances are public and the budget is available on the county website for anyone to view at any time. She also clarified that Counties are a government organization, not a "for profit" entity. Therefore, there are no profit and loss P/L statements.

(Online) Todd Holzwarth, East Grand Fire Chief expressed concerns regarding contact information. What if something bad happens, or something goes wrong, and the STR occupant tries to contact the owner or the manager. If they get through that's fine, but if they don't then the next call is to the fire department. The other problem is bedrooms being created in homes that were never designed to be a bedroom. They have no egress windows and frankly, that is not safe for anyone.

(Online) Melissa thinks that the \$100 per occupant fee seems really reasonable. She also stated that 16 beds is like having an unregulated hotel without having to go through the whole hotel process.

Charlie Scott does believe in property rights as long as somebody's rights are not being violated by someone else abusing their property rights. I think there should be an annual fee to commensurate with the true costs, and I am not a supporter of the \$100 per occupant fee. I would be in support of a \$250 per occupant fee, then we can look at it and adjust it or lower it in the future if need be. STR's should follow all codes the same as residents, including building codes, septic permit codes and all other codes.

Shaun replied that we are just trying to find a balance between the people who live here, and the people who are choosing to use their property for this purpose.

(Online)Jeremy: How would enforcement happen and how would fines be issued?

Shaun: We are not approving or denying, we are a recommending body. The actual approval or denial of this recommendation will happen at the Board of County Commissioners meeting.

(Online) Maxine LaBarr Krostue, County Attorney, responded to the fee issue stating there is so much more to enforcement than just what the budget will show. There's the

Sheriff office time including dispatch, trash, Fire Department, Road and Bridge, her time as County Attorney and her Paralegals time in dealing with all these issues. None of that will show in their budget documents because it's not tracked that way. We are county employees. So there's a huge amount of time and effort and money spent by the county on STR issues that is not tracked by budget

Kris responded to a question on how this will be enforced. Our new system, GovOS will identify STRs that are not registered. They have a 90% + identification rate. Further, when a violation is called in, there is a person that answers the phone and takes the complaint. It will be followed up on by our code enforcer.

(Online) Rachel Scott wants to say that she totally agrees with the fee increase. She is excited about the new software, and agrees with limited based on septic

(Online) Ernest does not disagree with the fee increase, but wants the rules to stay the same.

Bob & Chris asked if there could be an exception if the STR owner has proof that the existing septic system can accommodate additional occupancy.

Kris responded that yes, if the OWTS is designed for a five (5) bedroom home, but the home only has say three (3) bedrooms, then the occupancy can be for 10 people plus 2.

Will Macdonald stated that ire inspections are great and houses need to be brought up to code. Septic systems should be cleaned annually and the owner should have the pumping receipt available. It should be the owner's responsibility to manage their own property.

(Online) Tony Mango: This is not unique to just this county it's pressing nationally. Enforcement is a must. Septic is not the answer because it is a gray area. He recommends the county consider an advisory board for disciplinary action.

The majority is in agreement with the STR increase and septic inspections as well as enforcing the rules and regulations.

Bob stated that if we (the PC) move forward, we ought to follow up with how exceptions will be handled.

Shaun stated that maybe STR owners should be allowed a grace period or a process to meet the requirements.

Kris clarified that there is a process if the STR owner would like to increase capacity. It requires a building permit and meeting the applicable area of the building code.

Permitting of the backcountry huts was discussed and it was agreed that they should be exempt from the STR permitting. They have no parking, neighbor or trash issues.

Bob Gnuse asked that we exclude the entire sentence from the Special Use Permit area that refers to public hearing as that is under bullet #1 above – so the paragraph would read as follows:

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Lynn Adams made a motion to recommend approval of Grand County zoning amendments the STR, parental regulations, special use permit mailing requirements and amending penalty section in the flood plain regulation to comply with state statute with changes as discussed today. Bob Gnuse seconded the motion. All members vote “aye” Motion carried by Resolution No. 2023-3-1

The changes are as follows:

1. Include two additional occupants to the design capacity for any STR with an OWTS.
2. The following additional wording be deleted from Section 11.3, Special Use Permit Review Procedure: “notice of which, including a description of the property, the proposed use, and the time and place of hearing, has first been published at least once in a newspaper of general circulation within the area and”

**AFFORDABLE HOUSING INCENTIVES**

Jorune Klisauskaite presented the following information for discussion with the Planning Commission.

**AFFORDABLE HOUSING OVERVIEW – CURRENT CHALLENGES AND NEEDS**

Grand County is currently faced with very few rental vacancies and attainable homes for sale, making living in the community taxing for many current and incoming residents. According to the Fraser Valley Housing Needs Assessment Update (August 2022), the rental vacancy rate is commonly less than 1% across the Fraser River Valley, including the towns of Winter Park,

Fraser, Tabernash, and Granby. This, coupled with rising rental prices over the years, has left renters with challenging circumstances and an increasing cost burden. In the same vein, the average sales price has increased by 21% in the Valley from 2020 to 2021, largely exceeding the average 6% annual pay increase. It should be noted that as of June 2, 2022, there were only four (4) for-sale listings under \$500,000. In order to afford a \$500,000 home, a 2-person household would need to make \$166,000 annually (236% AMI).

**STAFF COMMENTS**

While Staff has explored and discussed many avenues, Staff understands that there are still many ways to incentivize construction of affordable housing units to meet the housing demand in Grand County. Staff would like to discuss additional ideas regarding incentives and details of how affordable housing units could be processed.

**STAFF RECOMMENDATION**

Staff recommends approval of the proposed amendments Grand County Zoning Regulations as summarized below.

Zoning Regulation Amendments:  
**Section 13.1, Subsection 2e – Accessory Buildings and Uses**

- Specify permissibility of Accessory Dwelling Units (ADUs) for properties served by household use only wells and central water.

Staff recommends that the Affordable Housing Incentives be extended to another meeting with Planning Commission in order to modify the proposal accordingly to the results of our discussion on March 8, 2023.

**DISCUSSION:**

Lynn explained that the economy could solve some of this problem and suggested that there should be a sunset provision. She expressed concern over these regulations staying stagnant and applying forever. She additionally expressed concern over 20% open space being too low, stating that is easier to make things less restrictive than stricter for future amendments.

Jorune reiterated that given that the targeted area is so small and development is largely restricted by availability of water, there may not be much benefit to relieving stricter regulations later on.

Chris stated, the open space will be taken away from the neighboring properties that initially purchased for the space. At some point we could hit a saturation level with so many new units being built. Jorune explained that you can't predict development next to you.

Grand County Housing Authority Operations Manager, Sheena Darland, explained that developers are not going to build 40 units on 5 acres. With open space requirements, technically



they can only build on 2 acres. We want 20 of those units to be affordable and most affordable housing developers say that it takes 10 market rate units to be able to support a truly affordable unit. This is something that developers could look at and possibly make it work. We can actually do that if we can put together 10 units and make 8 of them market and the other two affordable housing. That would be 2 more units that we didn't have before.

Shaun asked if there would be more affordable housing incentives to come later.

Jorune stated that there could be more affordable housing incentives to come to board in the future. Jorune stated that there are more grant funding options once we adopt two or three incentives. Those grants can be used for reduced water and sewer taps, affordable housing assessments, etc.

Bob stated that the number of units being proposed is missing from the equation, stating that he is unsure if 20% affordable housing units deserves 20% open space in comparison to a 100% affordable housing development. He suggested that the more units a developer is proposing to build, then the bigger the discount on open space should be.

Chris asked if there is an affordable housing unit, is it forever deed restricted and how many deed restricted homes do we have in the county.

Sheena replied that Winter Park has one and they're working on building another. She explained that there is also Millers Inn in Fraser. Sheena reiterated that the affordable housing unit would remain affordable in perpetuity.

Will Macdonald had a recommendation that the home could be either as far as serving as a primary residence or Short Term Rental. Instead of prohibiting Short Term Rentals on an ADU, an owner would be able to long term rent or live in a home and short term rent an ADU, or vice versa. It would allow more flexibility for supplying long term rentals and allow a larger home to be rented out to full time residents.

All agreed that there is a need for affordable housing in the community. Shaun recommended to get this topic back to the board next month in order to have more time for discussion.

Shaun made the motion to close the meeting. Lynn second the motion. All voted "aye".

The meeting was adjourned at 10:10pm