

Commissioner Minutes

March 19, 2024 – 10:30 a.m. to 10:38 a.m.

**MEETING TO CONSIDER FCOS, DEVELOPMENT AGREEMENT AND ORDINANCE FOR MARK JOHNS, CASE NO. CR2023-0001**

Commissioners Leslie Van Beek, Brad Holton and Zach Brooks

Deputy P.A. Zach Wesley

DSD Director Sabrina Minshall

DSD Associate Planner Madelyn Vander Veen

DSD Office Manager Jennifer Almeida

GIS Supervisor Tony Almeida

Alan Almeida

Keri Smith

Connie Aebischer

COO Greg Rast

Deputy Clerk Jenen Ross\_\_\_\_\_

MEETING TO CONSIDER FCOS, DEVELOPMENT AGREEMENT AND ORDINANCE FOR MARK JOHNS, CASE NO. CR2023-0001

The Board met today at 10:30 a.m. to consider the FCOs, development agreement and ordinance for Mark Johns, case no. CR2023-0001. Present were: Commissioners Leslie Van Beek, Brad Holton and Zach Brooks, Deputy P.A. Zach Wesley, DSD Director Sabrina Minshall, DSD Associate Planner Madelyn Vander Veen, DSD Office Manager Jennifer Almeida, GIS Supervisor Tony Almeida, Alan Almeida, Keri Smith, Connie Aebischer and Deputy Clerk Jenen Ross.

Director Minshall feels that due diligence has been done on this file and the documents are ready for Board signatures. Mr. Wesley explained that this case come thru the planning and zoning commission initially as a denial and was then properly noticed as a conditional rezone for the Board hearing. The Board's decision was to overturn the planning and zoning commission's recommendation and approve the application. In regard to the question as to whether a second hearing was required under LLUPA, Mr. Wesley said there is a bit of disagreement and is subject to interpretation of the law. He has spoken with their attorneys who recommend a second hearing but administratively their directors don't hold a lot of additional hearings. In the research he's done they've discovered that Canyon County may be an outlier in the practice of conducting second hearings and the more common approach is to not have a second hearing unless there is a comprehensive plan change. In the time that Mr. Wesley has worked for the county, the administration of a 2<sup>nd</sup> hearing has been sporadic. On cases like this where it went from denial at P&Z to approval by the BOCC the county has not consistently held second hearings, many times the FCOs have just been signed. Second hearings would mainly be held on larger cases or if it moved to a denial, and was often at the request of the developer or the applicant to determine conditions if

it's an approval. His understanding is that there is some legislation working its way thru to strike this section of the code in order to clear up any confusion. On this particular case, it is his opinion that it would be typical of the county's practice to not have a second hearing which would be defensible in court.

In response to a question from Commissioner Van Beek, Director Minshall reiterated that having a second hearing has not always been consistent so getting some consistency will be helpful. She said Canyon County is one of the few jurisdictions that conducts second hearings even if inconsistently. In this specific case, the proposed conditions—if approved—were in all the documents and discussed in the last hearing. The only nuance to that in terms of policy is that the Board wasn't really overturning P&Z, it's not a decision, it's just a recommendation.

Commissioner Brooks stated he is in favor of moving forward and signing this, he believes that the state statute is pretty clear and there is no comprehensive plan amendment in this case.

Commissioner Holton stated that this was an uncontested hearing, no one showed in opposition and the proposal is to split the property in half in his opinion. He doesn't see the purpose a second hearing would serve.

Commissioner Brooks made a motion to approve and sign the FCOs, development agreement (agreement no. 24-025) and ordinance (ordinance no. 24-001) for Mark Johns, case no. CR2023-0001. The motion was seconded by Commissioner Van Beek and carried unanimously.

The meeting concluded at 10:38 a.m. and an audio recording is on file in the Commissioners' Office.