

Experience on the P & Z board (Background to decision making)

Planning and zoning commissioners, weigh in on numerous land use matters in front of Pitkin County. The land use code reflects our community values. Our land use applications range from subdivisions, to essential workforce housing in the urban growth boundary, to growth management applications. We approved a solar array on a former waste site, that today powers over 600 valley homes. Land Use Approvals (many) are either one (Planning and Zoning only) or two step (we forward a recommendation, via a Planning Board resolution to the Board of County Commissioners).

The Planning and Zoning Commission has reviewed master plans for each of the Caucus areas and is currently reviewing updates to the Pitkin County Comprehensive Plan (currently adopted comprehensive plan is from 2003 and the currently adopted land use code is from 2006).

Our board conducts site visits, many times with the owner, staff, their planning representative and design professionals. We review board packets, outlining the staff recommendations and client presentations, and hear public comment- in order to agree on a final resolution that is passed by the Planning and Zoning Commission.

Together, the board- thoughtfully and respectively- reviews both “case work applications” and “strategic plans” as they come in front of the board in public hearings and public meetings. We decide as a citizen board on land use matters, in the interest of the community, in accordance with the adopted land use code and county master plans, as well as state law. Our code has been written, and periodically updated, to protect our citizens, the rural character of our community, scenic view planes, watersheds and wildlife.

How does a land use application draw a no vote?

In my tenure on Pitkin County Planning and Zoning I have exercised a no vote on several occasions as well as several abstain votes. Why?

My voting record demonstrates

1) serving the public interest; and 2) protecting the health, safety and welfare of the public, in accordance with the adopted Land Use Code of Pitkin County, the Standard of Conduct and the Home Rule Charter.

No Vote (03 05 2024)

The County recently brought a Location and Extent Review (L and E) in front of Planning and Zoning for a Battery Energy Storage System (BESS). Planning and Zoning’s role in a Location and Extent Review is to evaluate whether the applications conforms to the relevant (currently adopted) master plan. In this case the BESS was proposed for a parcel contained in the West of Maroon Plan (WOMP).

Our role as Planning and Zoning Commissioners is not to evaluate the fiscal impact, or the budget vs benefits to the community (20-60 minute of battery life for \$5 million), but rather our charge is does the County’s proposal meet the criteria set out in the WOMP.

So our remit as Planning and Zoning Commissioners is does the county proposal (Resolution and Recitals were are voting on) meet our community values as outlined in the WOMP. Highway 82 is a scenic view corridor. And the parcel, where a series of Conex Boxes are proposed (a seven foot barbed wire fence and shipping containers), is currently the last open space parcel on the Eastbound highway before Public Works, the Airport and the North Forty and the Aspen Airport Business Center.

Yes, I support disaster recovery planning (business continuity planning), but site selection that conforms with county master planning is also important. So a no vote is saying we value serviceberries over shipping containers and non-wildlife friendly metal fencing. A no vote is what is spelled out in our community plans.

From the adopted WOMP plan-

Parcel 5 - 20 Acre Parcel Immediately North & West of City of Aspen Snow Dump Property on East Side of Highway 82

The 20± Acre Parcel immediately north and west of the Aspen Snow Dump property on the east side of Highway 82 This parcel should continue to function as a rural, undeveloped transition area, providing an important open view plane and visual break from dense development in the ABC area before the highway corridor narrows in the Shale Bluffs area. The portion of this property purchased all or in part with FAA funds should be designated as "Airport" on the Future Land Use map and maintained as an unobstructed visual buffer between the Aspen Urban Growth Boundary and less dense areas to the north and west.

Again, Location and Extent review asks "does this application conform to this County Adopted Master Plan". This application does not meet the criteria in the adopted plan and warranted a no vote.

No (12.19.2023)

The Planning and Zoning Commission had an application for an approximately one acre lot split in the Urban Growth Boundary (UGB) of Pitkin County. The lot split is in conformance with the land use code as the lot split would create two conforming lots. The lot split would create more density in the UGB. Everything so far warrants a yes vote for the lot split.

Nonetheless, a resolution is made up of recitals. The resolution and the recitals are what the planning commissioners are voting on. When the motion to approve is made, the conditions of approval may be updated from the staff's presented board packet, resolution and recitals. In this particular case, the lot split's recitals did not reflect the authority having jurisdiction's (AHJ) current fire risk assessment for either the site or structures. The mapping from Pitkin County is outmoded (not reflecting current risk, dating to the mid-1990's) and the Aspen Fire Protection District is the AHJ, having updating their mapping and wildfire risk assessment in 2022 (post Lake Christine fire).

If the recitals were updated to match the current wildfire risk level, then a yes vote would be appropriate. In this case the recitals- outlining the preparedness of the site and structure for wildfire risk- were not updated to meet the AHJ's requirements and a no vote was appropriate to the resolution and recitals.

More details on the no vote:

As a planing and zoning commissioner, I was the lone no vote on the subdivision. While the subdivision meets land use code requirements and should go through as per the staff and applicants memo- the P and Z resolution did not meet health and safety requirements for site and area and buildings, creating a risk to the community.

The lot split should be approved, however, the conditions of approval should be for "moderate" or "high" fire mapping. The split meets land use code. The recitals should match the AHJ mapping. What if the county misidentifies the severity of the risk and the built environment and site and area plans are based on this 1995 mapping?

The county is currently using GIS mapping for hazards, like fire, from 1995. Whereas, the true authority having jurisdiction is the Aspen Fire Protection District. The County 1995 maps show "low" fire and the recitals are therefore based on Community Development 1995 GIS map layers. Since the Lake Christine Fire, the Aspen Fire Protection District has utilized Wildland Fire Officer to map every parcel in their jurisdiction. The result is parcel level data, based on 2022 site visits, mapping structure and site risk. The structure risk is "moderate" and the area risk is "high" for this parcel. The recitals presented should match the risks defined by the Authority Having Jurisdiction. This is consistent with the land use code, chapter 11.

Chapter 11 allows us to use Wildfire Experts, rather than rely on 1995 data. See chapter 11: WILDFIRE AREAS, SEVERE HAZARD means those areas which shall consist of the following: (in all cases mapping will be field verified by the Colorado State Forest Service, the Pitkin County Sheriff's Department or a person certified by Pitkin County as an expert in wildfire hazard areas and wildfire mitigation, sometimes referred to in this Land Use Code as "wildfire experts"):

Abstain

There are several occasions where the resolution and recitals are not consistent with community values, the prevailing adopted ICC Building Code and or do not meet federal requirements. I have on several occasions voted no or abstained where the agenda item in front of the board did not meet one of the above criteria.

Applicants rely on consultants, but they too are part of a proposal and may not provide a solution that clearly meets our community needs and values. For example, a professional produces a drawing for a gazebo and it is submitted for approval. Of course a gazebo in a park is welcome by the community.

But we must be an open and inclusive community, welcoming all to the gazebo. (The gazebo as drawn and submitted did not meet federal accessibility requirements as mandated by the ADAAG and the DOJ. Today similar issues persist in our built environment restricting access to our community).

Ideally the resolution and recitals are updated to reflect our land use code, our building code and our adopted plans- in cooperation with the applicant, staff and the board chair as per open meeting requirements.

What about a yes vote, but your heart said otherwise?

There are certainly case load meetings, where the resolution and recitals we are voting on, do not align with personal values, but they meet adopted state and local requirements. An abstain may be warranted, but ideally a landholder operating within state statute and local land use code should pass with the appropriate resolution and recitals.

Other areas of interest to the community

Purview of Planning and Zoning- Development near the airport

We have reviewed for Land Use Code conformance projects like the conex development on FAA land. We have similarly, reviewed parcel development in the North Forty. Generally we receive FONSI (Finding of No Significant Impact) statements from the Planning Director for projects near Highway 82 and the airport.

GHG emissions

We have not reviewed Coal Basin. Planning and Zoning did review and approve capping Wolf Creek Storage Injection Wells (2019).

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Draft: 27 April 2024

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