

**JOINT HEARING OF THE
GRAND JUNCTION CITY COUNCIL
GRAND JUNCTION PLANNING COMMISSION
PROPOSED ZONING & DEVELOPMENT CODE
FEBRUARY 1, 2000 MINUTES**

The specially scheduled joint meeting of the Grand Junction City Council and the Grand Junction Planning Commission convened at 7:08 p.m. on February 1, 2000 and was held at Two Rivers Convention Center.

Representing the Grand Junction City Council were Gene Kinsey (Mayor/Council President) and Councilmembers Reford Theobald, Jack Scott, Earl Payne, Jim Spehar, Cindy Enos-Martinez and Janet Terry. Representing the Grand Junction Planning Commission were John Elmer (Chairman), Joe Grout, Terry Binder, Dr. Paul Dibble, James Nall and Jerry Ainsworth (alternate). City Manager Mark Achen, Asst. City Manager/Acting Community Development Director Dave Varley, City Attorney Dan Wilson, Asst. City Attorney John Shaver, and City Planning Manager Kathy Portner were also present. Terri Troutner was present to record the minutes.

Council President Kinsey introduced and welcomed the newest Planning Commission alternate, Jerry Ainsworth, to other board members and hearing attendees.

CONSIDERATION OF PROPOSED ZONING AND DEVELOPMENT CODE

The following information represents a synopsis of discussion and changes proposed for the City of Grand Junction *Zoning and Development Code* as outlined by Community Development staff and contained in the January 13, 2000 Staff Review.

CHAPTER ONE:

Sections 1-1 through 1-15: No major changes.

Section 1-16-3.D: At issue was how to handle development submittals during the *Code's* transitional period; length of the transitional period; pre-application (pre-app) vesting; and which *Code* version would apply--and to what extent--when considering multi-phased projects. Dan Wilson suggested limiting the *Code's* transition period for Preliminary Plan submittals to 3 years and dividing process rights from infrastructure/construction/technical standards rights. Thus, in a situation where a Preliminary Plan for a multi-phase project is approved under current *Code* criteria, vested process rights (zoning, project design) for that project would be honored for 3 years. However, if that project isn't developed within 3 years and new technical standards are adopted with the new *Code* (e.g., street/bulk/open space), the new standards would apply. Concept Plans (ODPs) would be honored for 10 years if developed in accordance with approved schedules. With regard to pre-app vesting, he suggested setting an effective *Code* date and all pre-apps held on or after that date, except final approvals, would be bound by new *Code* criteria. Projects must meet *Code* requirements for submission in order to qualify. The City will honor approved Preliminary Plan submittals having schedules exceeding 3 years; however, for those developers only now coming before staff saying that they cannot complete the approved phase

within 3 years, the timeframe and new *Code* criteria would apply. If supported by City Council and Planning Commission members, a schedule extension could be requested and granted.

PUBLIC COMMENTS/DISCUSSION

Larry Rasmussen (3086 Bookcliff Avenue, Grand Junction), representing the Home Builders Association et al., felt that any submittal made and/or approved under the current *Code*, prior to the date established for the final pre-app, should be allowed to continue under current *Code* criteria. Market conditions generally dictated development schedules.

Councilmember Spehar cited deficient developments from the 70s and 80s and stressed the need for projects to adhere to updated technical standards. Thus, a high degree of specificity should be evident before a Preliminary Plan exceeding the 3-year timeframe could be granted an extension.

Jack Acuff (462 Tiara Drive, Grand Junction) said that it always took longer to get through the process than expected. He agreed that market conditions were a factor in being able to stick to development schedules. Adhering to new rules on open space in later phases would be unfair and could be impossible. Perhaps the Administrator could be given the authority to make allowances where the situation warranted.

Councilmember Spehar suggested establishing a percentage-completed figure where, beyond that point, no major changes could be required by the City. Mr. Wilson said that in the event such flexibility were given to the Administrator, an appeal process would be in place to handle any decision disputes. He agreed that open space would be one of the most difficult elements to vary at the end of a project's phasing. If proposed verbiage included "...so long as the acreage or the use of the land overall, or the density units aren't affected..." the project's basic design would be protected. Other suggested verbiage included "The Director may determine whether or not it's substantially changed."

Councilmember Theobald suggested establishment of a 50% completion gauge beyond which no major change could be requested.

City Manager Mark Achen suggested establishment of the following priorities when exercising the aforementioned discretion: 1) assurance of contemporary infrastructure, 2) allowing the developer essentially the same quantity of development (e.g., number of lots and consistency of use), and 3) flexibility of bulk standards.

Mike Joyce (2764 Compass Drive, Grand Junction), representing the Chamber of Commerce, agreed that developers were generally most concerned over flexibility in bulk standards. Contemporary infrastructure requirements made sense and worked more efficiently. He noted that Mesa County had established a March 1, 2000 date as its pre-app deadline under its current *Code*. Its new *Code* would then go into effect on May 1, 2000. The County's deadline for turning in a project, regardless of pre-app date, had been set for April 20. The County vested ODPs for 2 years; Preliminary Plans were vested for only 1 year before a Final Plat must be submitted. The County's timing had been based on a 6-month transition period, with a "drop-dead" date established for new *Code* adherence.

City Councilmembers and Planning Commissioners selected June 1, 2000 as the last pre-app date and July 26, 2000 as the last date for submittals. All submittals at a Preliminary Plan level and

above, falling within the transition period where the current *Code* is applicable, must be heard by January 31, 2001. Exceptions to the January 31 date would be made at the discretion of the Administrator. Either there would be an approved development schedule to accompany a multi-phased project or the 3-year timeframe would apply. Extensions could be requested and considered administratively based on criteria proposed by Mr. Achen. Appeals would be to the Planning Commission, with its decision to be final unless appealed to District Court.

Sections 1-12-1.F and 1-13-1.A: Commissioner Grout noted that the Board of Appeals composition referenced in these two sections did not match.

CHAPTER TWO:

Section 2-2-1.A: Changed to differentiate a “general meeting” from a “pre-application conference.”

Section 2-2-1.C: Mailed notice requirement changed to include property owners within 500 feet of a proposed development. Written notification to HOAs would be required if the HOA were located within 1,000 feet of a proposed development, if the HOA is on file with the Community Development Department.

Section 2-2-3.B.4: Staff recommended deletion of paragraph 4.

Section 2-2-3.C.3.c: Subsection ‘c’ does not require additional parking spaces for a change of use if the parking demands are increased by fewer than 5 spaces; required parking spaces may be reduced by up to ten percent (10%) if additional landscaping is provided.

Section 2-2-3.E: Simplified process established for minor site plan reviews.

Section 2-2-4.D: Simple subdivisions can be reviewed administratively.

Section 2-3-1.C: Neighborhood meetings are required for *Growth Plan* amendments and rezones to a higher intensity or density, as well as for residential subdivisions of 25 or more lots or units.

Sections 2-3-2 and 2-3-3: The process for a *Growth Plan* consistency review and *Growth Plan* amendment has been added and includes adopted interim processes and procedures.

Section 2-3-6: Major Subdivisions are defined as those subdivisions which create more than one lot. Major Subdivisions will require hearing of the Preliminary Plan by the Planning Commission. Final Plats will be reviewed and approved administratively.

Section 2-3-7: Planning Commission approval will be required for condominium plats and lease holdings if the leasehold interest wants development rights similar to a platted lot or parcel.

Section 2-3-10: ODPs must be approved by City Council with the zoning, if proposed. Preliminary Development Plans (PDPs) are required. If the property does not have an approved ODP, the PDP must be approved by City Council with the zoning. Final Development Plans can be approved administratively.

Section 2-3-14: All variance requests must go before the Board of Appeals.

Section 2-3-16: The process for rehearing is defined. The process for appeals is changed so that any appeal is heard by the appellate body on the basis of the record only.

PUBLIC COMMENTS/DISCUSSION

Dan Wilson proposed pulling out previously noted cross-references and placing them in the new *Code* as footnotes.

Doug Skelton (706 Ivy Place, Grand Junction), President of the Home Builders Association, opposed the “mandatory” condition imposed for neighborhood meetings, suggesting that some developments didn’t warrant them. The 25-lot number referenced by staff was too low. Colorado Springs Planning Department staff told him that the need for a neighborhood meeting was typically discussed during a pre-app. If one was warranted, written notification would be sent to neighborhood associations and property owners located within 500 feet of the development. Neighborhood meetings were required within a given number of days following the pre-app, with the applicant responsible for coordinating time, location, and public notification for the meeting. A city planner would attend and facilitate meetings, then forward to the applicant a list of issues identified from said meeting within a given number of days along with a copy of the letter sent to the neighborhood representative(s). He felt that this was a much more equitable solution.

Mike Joyce (2764 Compass Drive, Grand Junction) agreed that the 25-lot triggering mechanism for neighborhood meetings was too low. He suggested that the trigger be increased to 50-100 lots. He said that if a plan met the City’s criteria, it should be approved. With infill development especially, there was generally more neighborhood opposition; that did not mean that the plan was bad.

Creighton Bricker (3615 Ridge Drive, Grand Junction) supported the *Code’s* neighborhood meeting requirement but cautioned against too much staff involvement since it would give citizens the impression of collusion between the City and developers.

Jack Acuff (462 Tiara Drive, Grand Junction) felt that neighborhood meetings failed to meet the needs of developers since they generally attracted only 63-65% of neighborhood residents. He opposed any written notification requirement to surrounding HOAs but said that those who might be financially impacted by an increase in HOA dues could be added to the 500-foot notification list. He suggested instead that mailouts contain more detailed information.

If neighborhood meetings weren’t made mandatory, Mr. Acuff was asked how he would be able to respond to neighborhood issues and comments or mitigate disagreements. Mr. Acuff said that he could follow a format similar to review agency comment responses, whereby comments could be forwarded to him and a response would be required within a given number of days.

Mike Stubbs (2408 Hidden Valley Drive, Grand Junction) supported having neighborhood meetings, adding that it was important staff be there. The *Code’s* current verbiage, he said, did not require staff’s presence.

After lengthy discussion on the above issues, the following was approved by City Council members and Planning Commissioners: 1) to maintain the requirement for neighborhood meetings; 2) to increase the lot number trigger point from 25 to 35; and 3) to leave in the 500-foot requirement for property owners and the 1,000-foot notification requirement for those HOAs

on file with the City's Community Development Department; and 4) to have a staff member present at all meetings. The staff member would take notes and be available for questions only.

Mr. Joyce referenced Section 2-3-1.D.3 and thought that at least a 7-day period should be mentioned so that review agencies and the consulting community had sufficient opportunity to review comments/issues. The current timeframe, he said, didn't give staff and the developer sufficient time to respond. Also, subdivisions of up to five lots should be considered Minor Subdivisions.

Ms. Portner noted another correction in Section 2-3-1.D.4 deleting the "thirty (30) calendar days" reference in the first sentence and replacing it with "five (5) working days."

Larry Rasmussen (3086 Bookcliff Avenue, Grand Junction), representing the Home Builders Association et al., agreed that the Minor Subdivision section of the *Code* should be reinstated. Classifying all subdivisions over one lot as a Major Subdivision, per Section 2-3-6, created an onerous process for the developer.

Jack Acuff (462 Tiara Drive, Grand Junction) referenced Section 2-4-4 and said that maintenance bonds should be for a period not to exceed one (1) year from the date of City acceptance of the improvements. He was concerned that having a 2-year timeframe would intimidate contractors, resulting in fewer contractors wanting to bid on such projects. If an improvement was going to fail, he contended, it generally occurred within the first year. Developers were constructing improvements to the same standards as the City.

Ms. Portner said that in some previously-approved subdivisions, the Public Works Department reported that problems weren't evident until after the first year.

Planning Commission Chairman Elmer said that the industry standard was for only one year, although he acknowledged that often problems were not evident until after people start using the constructed system(s).

Mr. Achen was unsure how frequently such problems or circumstances arose. Mr. Wilson cited an example where a sewer line was installed that later created "bellies."

After a brief discussion, Mr. Wilson said that he would like the opportunity to check with Public Works staff and report back before a final decision was rendered.

Creighton Bricker (3615 Ridge Drive, Grand Junction) referenced Section 2-2-1.C.1 and 3. The way the two paragraphs were written, he said, seemed to cancel each other out. Also, on page 2, footnote 3. referenced "...portions of the Urbanized Area..." which didn't seem clearly defined. If considered the same as "Joint Planning Area," he suggested using the same terminology for clarity. Referencing a previous *Code* version, he wondered why the section allowing City Council members to "pull up" a Planning Commission issue with a 5-0 vote had been dropped.

Ted Ciavonne (844 Grand Avenue, Grand Junction) recalled past conversations where City Council would pull up an item only in instances of appeal.

City Manager Achen referenced Table 2-2 which outlined appeal authority. Assistant City Attorney John Shaver said that the current *Code* gave authority to City Council to pull up any item, regardless of whether or not it was being appealed.

Following detailed discussions, the decision was made to reinstate the current reference in the new *Code* with the modification that in such instances two members of City Council were needed to “pull up” an item for consideration if not part of an appeal process.

Mr. Bricker (3615 Ridge Drive, Grand Junction) also wondered why no notification was required when City Council heard requests for waiver (e.g., sewer, park fees, etc.). Referencing pages 32 and 33 of the January 1998 *Code*, he asked for clarification on City Council’s authority to override a general citizen protest of zoning changes and wondered why that paragraph had been removed in the new *Code*. Mr. Wilson said that elected bodies have the authority to make zoning decisions.

Planning Commission Chairman Elmer noted inconsistencies in voting references for Planning Commission and City Council which call for a three-fifths vote to overturn an appeal. Since both boards had seven members, this didn’t make sense. After a brief discussion, the decision was made to go with a simple majority (4 members) on decisions unless overturning a denial, in which case a super majority of 5 members would be required.

Additional discussion ensued over Section 2-3-1.D.3 with regard to the 5-day review period. Mr. Joyce noted developer difficulties in meeting some of the current timelines and suggested either moving submittal deadlines to more the middle of the month or rescheduling Planning Commission hearings to the third and fourth weeks of the month. Ms. Portner said that the current 5-working-day timeline should be continued, with further discussions to ensue among the development community. This was not an issue that could be resolved quickly and a decision should be postponed.

Mr. Stubbs (2408 Hidden Valley Drive, Grand Junction) expressed concern over the last sentence in Section 2-3-10.G, which seemed to give the Director the authority to arbitrarily initiate a zoning change on a lapsed Planned Development. Mr. Wilson clarified this point to Mr. Stubbs’ satisfaction.

Due to the lateness of the hour, the public hearing was continued to February 10 at 7 p.m. The hearing would again be held at Two Rivers Convention Center and begin with Chapter 3.

The hearing was adjourned at 10:35 p.m.

Stephanie Nye, CMC
City Clerk