

**GRAND JUNCTION PLANNING COMMISSION
MAY 27, 2008 MINUTES
6:00 p.m. to 7:25 p.m.**

The regularly scheduled Planning Commission hearing was called to order at 6:00 p.m. by Chairman Cole. The public hearing was held in the City Hall Auditorium.

In attendance, representing the City Planning Commission, were Roland Cole (Chairman), Tom Lowrey (Vice-Chairman), Lynn Pavelka-Zarkesh, William Putnam, Patrick Carlow (1st alternate) and Ken Sublett (2nd alternate). Bill Pitts, Reggie Wall, and Dr. Paul A. Dibble were absent.

In attendance, representing the City's Public Works and Planning Department – Planning Division, were Greg Moberg (Planning Services Supervisor), Lori Bowers (Senior Planner), Kathy Portner (Neighborhood Services Manager), and Eric Hahn (Development Engineer).

Also present was Jamie Beard (Assistant City Attorney).

Lynn Singer was present to record the minutes.

There were 31 interested citizens present during the course of the hearing.

ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

There were no announcements, presentations and/or visitors.

CONSENT AGENDA

1. Minutes of Previous Meetings

Action: Approve the minutes of the April 22, 2008 Regular Meeting.

2. Orchard Mesa Retail Center – Sign Package Permit

Request approval of a Sign Package for a retail center with four parcels on 5.39 acres in a C-1 (Light Commercial) zone district.

FILE #: SPP-2007-243

PETITIONER: Donald Cook – New Regatta, LLC

LOCATION: 2740, 2742, 2744, 2746 Highway 50

STAFF: Scott Peterson, Senior Planner

3. Cal-Frac Subdivision – Preliminary Subdivision Plan

1. Request approval of a Preliminary Subdivision Plan to develop 4 lots on 31.409 acres; one (1) lot on 4.33 acres in an R-8 (Residential 8 du/ac) zone district and three (3) lots on 27.079 acres in an I-1 (Light Industrial) zone district;

2. Request a recommendation of approval to City Council to vacate portions of Teller Court Right-of-Way.

FILE #: PFP-2007-349

PETITIONER: Beau Searle – Cal-Frac Well Services Corp.

LOCATION: 489 30 Road

STAFF: David Thornton, Principal Planner

4. Sienna Creek Annexation – Zone of Annexation

Request a recommendation of approval to City Council to zone 4.8 acres from a County RSF-4 (Residential Single Family 4 du/ac) to a City R-4 (Residential 4 du/ac) zone district.

FILE #: ANX-2008-107

PETITIONER: Bill Fitzgerald – AAA Landholdings, LLC

LOCATION: 2052 Broadway

STAFF: Brian Rusche, Senior Planner

5. Trail Side Subdivision – Preliminary Subdivision Plan

Request approval of the Preliminary Subdivision Plan to develop 44 lots on 9.15 acres in an R-5 (Residential 5 du/ac) zone district.

FILE #: PP-2007-321

PETITIONER: Ben Hill – Ankarlo Hills, LLC

LOCATION: 318 31-5/8 Road

STAFF: Brian Rusche, Senior Planner

6. Houston Avenue & Alley Vacation – Vacation of Right-of-Way

Request approval to vacate 239 ft of Houston Avenue, the east/west alley between Houston and Cannell Avenue and a portion of the north/south alley that intersects this alley for a combined total of 21,083 sq ft of vacation.

FILE #: VR-2008-139

PETITIONER: Tim Foster – Mesa State College

LOCATION: Houston Avenue & Cannell Avenue

STAFF: Kathy Portner, Neighborhood Services Manager

Item Number 6, Houston Avenue & Alley Vacation, was pulled for Full Hearing at citizen's request. Commissioner Putnam asked for corrections to the minutes as follows: Page 1, the name of the Development Engineer present at the hearing needs to be identified as either Eric Hahn or Rick Dorris; and on page 2, item 2, Background Section, should be corrected to read "respectively" rather than "respectfully".

MOTION: (Commissioner Lowrey) "Mr. Chairman, I move we approve the Consent Agenda with the corrections in the minutes by colleague Bill Putnam with the exception of Item No. 6 which has been pulled."

Commissioner Sublett seconded the motion. A vote was called and the motion passed unanimously by a vote of 6 - 0.

PUBLIC HEARING ITEMS

6. Houston Avenue & Alley Vacation – Vacation of Right-of-Way

Request approval to vacate 239 ft of Houston Avenue, the east/west alley between Houston and Cannell Avenue and a portion of the north/south alley that intersects this alley for a combined total of 21,083 sq ft of vacation.

FILE #: VR-2008-139

PETITIONER: Tim Foster – Mesa State College

LOCATION: Houston Avenue & Cannell Avenue

STAFF: Kathy Portner, Neighborhood Services Manager

STAFF'S PRESENTATION

Kathy Portner, City Neighborhood Services Division, gave a PowerPoint presentation of the request for vacation of a portion of Houston Avenue as well as some adjoining alleyways. According to Ms. Portner, the request was for the southern portion of Houston Avenue which intersects with North Avenue, the east/west alley that connects Houston with Cannell and a portion of the north/south alley. She said that applicant had requested this vacation in order that they could proceed with the next phase of development for a Mixed Use building on the site. She further stated that applicant was actively pursuing acquiring all of the properties east of Cannell as they become available. She said that the properties adjacent to the rights-of-way to be vacated would be replatted to eliminate the individual lots and one lot would then be created. Ms. Portner said that as properties were acquired by Mesa State College, adjustments to the Future Land Use Map and the Growth Plan would be made to show those properties as Public designations as well as change the zoning to Community Services and Recreation. She said that there were several goals and policies in the Growth Plan that supported the expansion of Mesa State College. She said that the right-of-way vacation was in anticipation of a Mixed Use development that applicant had proposed along North Avenue. She pointed out that the utilities in the rights-of-way would have to be relocated and easements provided for those utilities as well as access easements that would be needed to continue the flow of the remaining Houston Avenue as well as what remains from the north/south alley. She pointed out that a traffic signal currently exists at Houston and North Avenue and advised that staff would be working closely with Mesa State College to ensure that the signal operates in a safe and effective manner. She concluded that the request was consistent with the Growth Plan and applicable review criteria of the Zoning and Development Code. Additionally, the vacation would be contingent on the approval and dedication of the required utility and access easements.

QUESTIONS

Commissioner Sublett asked for clarification regarding the inset. Ms. Portner stated that that showed how vehicular traffic circulation would be maintained through the site.

PETITIONER'S PRESENTATION

Tom Logue addressed the Commission on behalf of Mesa State College.

PUBLIC COMMENT

For:

Clark Carroll stated that he has two residences, 1220 and 1240 Cannell Avenue, and provided the Commission with a letter in support of the requested vacation. However, he said that he was concerned with access and parking. He said that he wanted to be able to make sure that he could get to the back of his house because of the college parking.

Against:

No one spoke in opposition to the request.

PETITIONER'S REBUTTAL

Mr. Tom Logue said that the proposal did not call for the elimination of any access between the north end of the proposed vacation on the alleyway and Bunting Avenue. He said that that access would remain open at this time. He said that the proposal contemplated extension of the alley to the east towards Houston to allow access north on Houston and would permit, through the use of an ingress/egress easement, access across the existing parking lot and south to North Avenue. He reiterated that the access between Mr. Carroll's property and Bunting Avenue through the alleyway would not be changed at this time.

QUESTIONS

Commissioner Sublett asked if there were any parking restrictions in the alley. Eric Hahn with the Public Works and Planning Department said that there were no specific restrictions on alleys in any of the standards other than the basic access requirements necessary to get trash trucks through. He further stated that nothing in the ordinances prohibited parking along an alley frontage or in the alley itself.

MOTION: (Commissioner Lowrey) "Mr. Chairman, on the right-of-way vacation request adjacent to Mesa State College properties, VR-2008-139, I move that we forward a recommendation of approval to City Council making the findings of fact, conclusions and condition of approval as stated."

Commissioner Pavelka-Zarkesh seconded the motion. A vote was called and the motion passed unanimously by a vote of 6 – 0.

7. Shores Annexation – Zone of Annexation

Request a recommendation of approval to City Council to zone 17.33 acres from County RSF-4 (Residential Single Family 4 du/ac) to a City R-4 (Residential 4 du/ac) zone district.

FILE #: ANX-2008-104
PETITIONER: Jeffrey Wald
LOCATION: 166 Edlun Road
STAFF: Lori Bowers, Senior Planner

STAFF'S PRESENTATION

Lori Bowers, Public Works and Planning Department, addressed the Commission regarding the Shores Annexation. She said that the property owners had requested annexation into the City to allow for the development of the property. She pointed out

that under the 1998 Persigo Agreement, all proposed development within the Persigo wastewater treatment boundary required annexation and processing within the City. She said that the Future Land Use Map showed this area to develop in the 2 to 4 dwelling units per acre category. Ms. Bowers also stated that the requested zoning by the applicant was R-4, although she had recommended a zoning designation of R-2. Furthermore, according to Ms. Bowers, the existing County zoning surrounding this site was RSF-4 but the City, due to the constraints of the site, such as steep slopes, some in excess of 60%; and the access off of Edlun was just under 22 feet in width; and the access off of Sunlight Drive was quite narrow. There is also an easement that encompasses this property along the easternmost boundary of the site. She said that there were two existing trails in the area, the Gunnison River Bluff Trail and the Old Spanish Trail. She noted that the trails map provided in the presentation was wrong, but the City was working to correct it. She concluded that the requested zone was consistent with the goals and policies of the Growth Plan and the review criteria of the Zoning and Development Code have been met.

QUESTIONS

Commissioner Sublett asked if the area was an area of expansive soil. Lori Bowers said that she did not know.

PETITIONER'S PRESENTATION

Chris Pickett, VE Services, 808 8th Street, Greeley, Colorado 80631, appeared as a representative of Shores LLC regarding the request to zone the annexed parcel. He pointed out the historic County zoning of RSF-4 and the Growth Plan consideration of 2 to 4 units per acre. He advised that the applicant had taken into consideration the constraints of the property, including some very steep slopes along the Gunnison River, among other things. Mr. Pickett stated that if it were zoned R-4, the applicant anticipated the most number of lots that could be put on the site would be about 48, at approximately 2.7 units per acre. However, with a zoning of R-2, approximately 26 lots could be developed on the site. He said that applicant had taken into consideration the constraints of the land; the trails and some areas had expansive soils. These are planning and engineering issues that would need to be addressed if and when a subdivision are brought forward. Mr. Pickett acknowledged several valid concerns raised at the neighborhood meeting which would be considered at the point of annexation. However, he felt that those questions and concerns could not be adequately addressed until the zoning was known. He stated that the R-2 zoning would be a further restriction.

PUBLIC COMMENT

For:

No one spoke in favor of this request.

Against:

Joseph Hayes, 185 Rainbow Drive, Grand Junction, read into the record two letters – one from Senator Joshua Penry and the other from Janet Rowland, Chair of the Mesa County Commissioners. Both letters urged the Commission to delay a decision authorizing the proposed development.

Suzi Evans said that she has been a resident of Orchard Mesa for 20 years and was involved in Orchard Mesa Neighbors in Action Group concerning this property. She said that she cannot separate the fact that as a Commission, by discussing annexation from the petitioner, the Commission was discussing a business proposition and a business deal.

Chairman Cole disagreed with this opinion and asked for comment by legal counsel. Jamie Beard, Assistant City Attorney, said that in regards to a business proposition, at this point in time the Commission was not looking at an actual development for this particular project but rather a zone of annexation and placing a zone on the property which would allow for future uses based on that particular zone.

Lynn Ensley, 177½ Edlun, just north of this property, said that he was vice president of the Orchard Mesa Neighborhoods in Action. He said that the big problem they saw with this property was access. Mr. Ensley further said that Edlun was only 22 feet wide and with 50 homes, or 500 vehicle trips per day, there were buildings and irrigation right up against the property and Edlun Drive would not allow for fire or police to get in there safely. He stated that there was a 900 foot exclusive easement held by the BLM, with that being the only access, which was limited strictly to horseback, foot or bicycle which precluded access on that end as well. Also, the bluffs along the Gunnison River, the railroad tracks and expansive soils would further limit the developable land. He said that less than half of the 17 acres on top would be where 50 homes would be built. Lastly, he voiced a concern regarding the view shed. The Old Spanish Trail had to have a view shed that was compatible so that any building that went on there would necessitate consultation with the BLM liaison to the Old Spanish Trail. He asked that the Commission reject the petition to change the zoning.

Victoria Gibson, a resident on Edlun Road and a member of the Old Spanish Trail Association and a member of OMNIA, expressed her opposition to the proposed rezoning because it would negatively impact a nationally recognized historic trail by altering or eliminating public access, by destroying the current view shed, by destroying historical archeological evidence supporting its status as a national historic trail. She said that there was a six mile portion of trail that ran through Orchard Mesa and the entire Old Spanish Trail consisted of 2,700 miles managed by the Old Spanish Trail Association in partnership with the Partnership for the National Trail Association. Ms. Gibson pointed out that the dedicated easement on Sunlight was gravel. At the far north end of that road was signage that authorized BLM, the City and the County jurisdiction over this area and the access. Access is limited to hiking, biking and equestrian traffic other than the local residents accessing their property. Ms. Gibson requested the City and the County to uphold their commitment. She said that there was a cooperative effort by the Old Spanish Trail Association, Mesa County, the Colorado Riverfront Commission, the City of Grand Junction and the BLM, to take action to preserve the entire Gunnison Bluff area. She further stated that the Old Spanish Trail became a nationally recognized historic trail in 2002 and currently ranked 15th in the nation. She said that due to environmental impact issues she asked that the City and the County honor their previous commitment and vision to the trail system and not open the floodgate to development to the Old Spanish Trail, Gunnison River Bluffs area by rezoning this property. She had also requested the BLM to consider eligibility to enact

the National Historic Trail Preservation Act to provide a liaison on mitigation in the event this rezoning for development proceeded. She said that development of this property could directly impact the Gunnison River and may also be subject to the National Environmental Policy Act of 1969.

QUESTIONS

Commissioner Lowrey asked what protections the Spanish Trail had to prevent houses. Victoria Gibson said that the protection afforded by the public law was to preserve and promote the responsible use of recreational purposes of historic trail areas. She said that it did not presume to impede the private property owner. Furthermore, there had been in the past agreements to honor and protect this area as a recreational area which included the entire Gunnison River Bluffs area. Additionally, historic petroglyphs had been found in the area which were not widely known. She believed that there was the potential to make it to the National Registry of Historic Places. Also, according to the County Master Plan noted on the City of Whitewater side connecting the Spanish Trail to them, she said that it was conceivable that the trail could be connected to the Escalante, Dominguez Canyon conservation area.

PUBLIC COMMENT

Against:

Vicki Felmlee, 178 Glory View Drive, addressed the Commission as president of the Orchard Mesa Neighbors in Action. She clarified that there was a sign on Glory View as well as on Valley View. She said that several years ago, the Orchard Mesa Neighborhood Plan Committee, formulated a document for the future of Orchard Mesa which recognized Orchard Mesa's unique blend of city, county, rural and urban. She said that there were two pertinent areas in the plan that were discussed – the Old Spanish Trail and the compatibility issue. She said that it was compatibility with the surrounding neighborhood, adjoining neighborhood and adjacent neighborhood. They recognized that under the County zoning it was R-4 throughout much of this area. With regard to compatibility, Ms. Felmlee further pointed out that most of the adjoining or adjacent or neighborhood homes or lots in the area, you would be hard pressed to find 4 per acre as the vast majority were a third of an acre or more. She stated that they believed R-2 was much more adaptable and requested the Commission reject this petition.

Ineke Hoops, 167 Edlun Road, said that she agreed with the people who spoke before her and urged the Commission to reject this petition. She said that she was treasurer and secretary of OMNIA. She said that her daughters also did not want to see annexation in this part of town. She said that she did not want a plaque on Sunlight showing where the Old Spanish Trail used to be like the sign on UnawEEP.

Holly Shelton, 174 Shamrock Drive, concurred with all the previous speakers in opposition to annexation and the acreage being discussed. In addition to concerns about the expansive soils, she said that she also had specific concerns about the drainage. She said that it was extremely eroded, due to the unstable soils. She also had concerns about development, adding to pollution problems with the erosion causing silt and other drainage to go into the Gunnison River. She also expressed a concern with the view shed which would detract from the ambiance of the trail. Ms.

Shelton asked the Commission to take the opportunity to consider that there was an opportunity to preserve history. She thought there was an obligation to preserve the area as it is.

Nathan Humphrey, 175 Edlun Road, said that from strictly a monetary view, paying to get roads fixed, he was curious where the money would come from to pay for all of the upgrades that would be needed for this development.

PETITIONER'S REBUTTAL

Chris Pickett observed that some of the comments made were relative not to development issues but to the land use itself. He said that he agreed with the concerns with respect to the topography of the ground; however, those were development issues and not a zoning issue. He said that they could not get the density of 50 homes with an R-4 but it would allow for the development of lots that were appropriate with the contours of the land and the issues on the land.

QUESTIONS

Chairman Cole asked that since a zone of annexation was being considered, what the status of the annexation was at this point. Lori Bowers said that the City had land use jurisdiction. Ms. Bowers said that the annexation was not complete yet and the land use jurisdiction gave the City authority to begin to look at this property and the zoning possibilities. The zoning designation would be considered on June 30, 2008.

Commissioner Putnam asked how the City gets land use jurisdiction. Ms. Bowers said that a petition is filed by a developer and the City drafts a petition for annexation which would then be put on the consent calendar for the City Council to enact on.

Chairman Cole inquired if the Commission was required to give it a zoning. Lori Bowers said that a zoning would need to be placed on a property within 90 days.

Commissioner Putnam asked if it was not certain that the annexation ordinance would be passed. Lori said that was correct.

Chairman Cole asked that if this property was zoned would it preclude the request from Senator Penry or Commissioner Rowland from proceeding with their proposals of making this a public area. Lori Bowers said that she did not see where a zoning would preclude that. Jamie Beard, Assistant City Attorney, agreed that they would not be precluded from moving forward with any of the actions that they had proposed.

DISCUSSION

Commissioner Carlow said that alternate zones had not been discussed. He said that taking into consideration the topography and access, he would like to discuss alternate zones. He said that he would like to make his argument that he would prefer an R-2 zoning.

Commissioner Putnam said that it was not clear to him how the decision to apply a zone of annexation affected the Spanish Trail. He said that according to the map in the Staff Report, the trail was not on the property that was before them.

QUESTIONS

Chairman Cole asked if there was a BLM easement for the Spanish Trail. Lori Bowers confirmed that there was an easement 20 feet along the eastern most boundary of the parcel. She said that the City acknowledged the existence of the trails in the area.

Chairman Cole asked for clarification that when and if a development plan would come forward, that easement would then be identified and preserved. Lori Bowers confirmed that.

Commissioner Sublett asked what would be the interaction with the BLM were a development approved on this relative to this easement. Jamie Beard said that at the time of development, they would have to honor the easement as it exists today. If they did not want to honor the easement as it is, then they would have to work with the BLM to actually change the easement to modify it in some way with the agreement of the BLM. Any special conditions or requirements with regard to the easement would also have to be followed.

Commissioner Sublett asked, other than view requirements, what other special restrictions might exist on this from the BLM. Jamie Beard said that she had not seen any documentation which would indicate that there were any restrictions at all.

Commissioner Lowrey pointed out that part of the easement goes on Sunlight Drive and asked if Sunlight Drive allowed vehicle traffic. Jamie Beard said that was not clear based on the information she had available. She said that that portion of Sunlight Drive was an actual right-of-way that had been dedicated or otherwise granted for purposes of using it as a street. Furthermore, Ms. Beard said that technically that would override any other easement except that if the easement that was referred to was given to the United States which was similar to the easement given on the other piece, then those would have to work together with the right-of-way that was there. Ms. Beard said that if the right-of-way was there before the 1996 easement and was granted just as an easement, then the two easements would have to coexist together. However, if it was granted as an actual fee simple interest, in which case it would have been owned by Mesa County, then it would have been up to Mesa County at that time to actually grant the easement as the owner of the land.

DISCUSSION

Commissioner Putnam said that in view of so much uncertainty as to the location of the trail, the situation of easements and the uncertainty as to whether or not the annexation would occur at all, he felt that it was premature to decide this tonight.

Commissioner Sublett concurred with that view.

Chairman Cole said that the location of the trail was not part of the hearing tonight; however, it would be considered and dealt with in the event a development plan were to come before the City and the right-of-way would be dealt with at that time as well.

Jamie Beard said that the criteria would have to be looked at regarding the location of the trails and whether or not that affected the zoning. Also, the criteria didn't specify locations of the trail or how close other than to say it has to be in conformance or compliance with the Growth Plan. With regard to the right-of-way and the access being Edlun and Sunlight, then those are some of the criteria issues that would be considered as far as the infrastructure being available and for which zone to be added to the property.

Commissioner Lowrey asked what the issue was on whether or not it was annexed. Jamie Beard said that it was not uncommon to bring a zone of annexation forward before the actual annexation was completed. First, land use jurisdiction is taken, considered for purposes of which zones are possible on it, it's then brought forward to the Planning Commission and then usually the two issues are taken to City Council at the same time.

Commissioner Lowrey said that he would be prepared to decide the issue tonight but agreed with Commissioner Carlow that he would not vote for an R-4.

Chairman Cole said that he did not think that the trail issue should be part of this hearing tonight but should be dealt with at a later time. He said that he also would favor an R-2 zoning given the topographical issues, among others, and said that if the County or State or anyone else in the public would like to pursue the making of this property public property, park property, recreational, that the zone of annexation would not preclude any of that.

There was discussion regarding whether or not to vote on the proposal by the applicant for an R-4 zoning. Jamie Beard said that the advantage of doing that was to make clear that the actual request had been considered.

MOTION: (Commissioner Lowrey) "Mr. Chairman, on the Shores Zone of Annexation, # ANX-2008-104, I move that the Planning Commission forward to the City Council a recommendation of approval of the R-4 (Residential 4 du/ac) zone district for the Shores Annexation with the facts and conclusions listed in the staff report."

Commissioner Sublett seconded the motion. A vote was called and the motion was denied by a vote of 0 – 6.

MOTION: (Commissioner Lowrey) "Mr. Chairman, on the Shores Zone of Annexation, # ANX-2008-104, I move that the Planning Commission forward to the City Council a recommendation of approval of an R-2 (Residential 2 du/ac) zone district for the Shores Annexation with the facts and conclusions listed in the staff report."

Commissioner Pavelka-Zarkesh seconded the motion. A vote was called and the motion passed by a vote of 5 – 1, with Commissioner Sublett opposed.

General Discussion/Other Business

None.

Nonscheduled Citizens and/or Visitors

None.

Adjournment

With no objection and no further business, the Planning Commission meeting was adjourned at 7:25 p.m.