GRAND JUNCTION PLANNING COMMISSION
FEBRUARY 14, 2006 MINUTES
7:00 p.m. to 10:18 p.m.

The regularly scheduled Planning Commission hearing was called to order at 7:00 p.m. by Chairman Paul Dibble. The public hearing was held in the City Hall Auditorium.

In attendance, representing the City Planning Commission, were Dr. Paul Dibble (Chairman), Roland Cole, Lynn Pavelka-Zarkesh, Bill Pitts, Tom Lowrey, William Putnam, and Reginald Wall.

In attendance, representing the City's Community Development Department, were Bob Blanchard (Community Development Director), Kathy Portner (Assistant Community Development Director), Lisa Cox (Senior Planner), Ronnie Edwards (Associate Planner), and Lori Bowers (Senior Planner).

Also present were Jamie Kreiling (Assistant City Attorney), and Rick Dorris and Laura Lamberty (Development Engineers).

Terri Troutner was present to record the minutes.

There were 51 interested citizens present during the course of the hearing.

I. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

There were no announcements, presentations and/or visitors.

II. APPROVAL OF MINUTES

Available for consideration were the minutes from the January 10, 2006 public hearing. Commissioner Putnam noted a typo on page 7. The second motion referenced item RAC-2004-231; the correct reference should have been TAC-2004-231.

MOTION: (Commissioner Pitts) "I move [for] approval of the minutes as amended."

Commissioner Cole seconded the motion. A vote was called and the motion passed by a vote of 6-0, with Chairman Dibble abstaining.

III. CONSENT AGENDA

Available for consideration were items:

1. CUP-2003-024 (Conditional Use Permit--Canyon View Carwash)
2. PP-2005-105 (Preliminary Plan--The Arbors Subdivision)
3. ANX-2005-303 (Zone of Annexation--Autumn Glenn II)
4. ANX-2005-293 (Zone of Annexation--Mims Annexation)
5. VAR-2005-298 (Variance--Bud's Signs Landscaping Variance)
6. CUP-2005-250 (Conditional Use Permit--First National Bank of the Rockies, OM)

Chairman Dibble briefly explained the Consent Agenda and invited the public, planning commissioners, and staff to speak up if they wanted one or more of the items pulled for additional discussion. Staff requested that CUP-2003-024 be moved to the Full Hearing Agenda for discussion. No objections or revisions were received from the audience or planning commissioners on any of the remaining Consent Agenda items.

MOTION: (Commissioner Cole) "I'd move [that] item 1, CUP-2003-024 [be taken] off of the Consent calendar."

Commissioner Putnam seconded the motion. A vote was called and the motion passed unanimously by a vote of 7-0.

MOTION: (Commissioner Cole) "Mr. Chairman, I'd move approval of the Consent Agenda as amended."

Commissioner Putnam seconded the motion. A vote was called and the motion passed unanimously by a vote of 7-0.

IV. NON-HEARING ITEM

PP-2004-153 REHEARING REQUEST--RIDGEWOOD HEIGHTS SUBDIVISION
A request for rehearing of the denial of the Preliminary Plat for Ridgewood Heights Subdivision
Petitioner: Lyle Arnet
Location: 585 28 1/4 Road

Chairman Dibble briefly explained the process for consideration of a non-hearing item.

MOTION: (Commissioner Lowrey) "Based on what we discussed, I would move that we rehear that on March 28, 2006."

Commissioner Cole seconded the motion. A vote was called and the motion passed by a vote of 5-2, with Commissioners Pitts and Pavelka-Zarkesh opposing.

V. FULL HEARING

CUP-2003-024 CONDITIONAL USE PERMIT--CANYON VIEW CARWASH
(Continued from the January 10, 2006 Planning Commission public hearing.) A request is being made by the applicant to continue this project to February 28, 2006. A request for approval for a Conditional Use Permit to develop a 6-bay self-serve carwash in a B-1 (Neighborhood Business) zone district.
Petitioners: Mikel & Roxanne Lewis
Location: 2258 South Broadway

STAFF'S PRESENTATION

Bob Blanchard referenced a memo received from the applicants and distributed to planning commissioners requesting a continuance of this item to the February 28, 2006 public hearing. A later request had been received by the applicants asking that the item be continued instead to the March 14 public hearing. Since this item had been continued twice before, Mr. Blanchard proposed continuing the item to the April 11, 2006 public hearing with the understanding that this represented the final continuance of the item. He briefly outlined the various development steps that the request had completed, beginning in the year 2000. The request had undergone extensive rounds of review, with the primary issue consistently being access to the site. When the property was annexed into the City, the western portion of the Kansas Avenue right-of-way had been included. As the Conditional Use Permit (CUP) proceeded through the review process, it had been discovered that the pavement for Kansas Avenue was not consistently within the right-of-way, which affected the access design to the site. Also, information had been provided by a neighboring property owner raising doubt over whether the

applicants' access point trespassed across his property (Kansas Avenue traversed a portion of his lot where the street lay outside of the dedicated right-of-way).

Mr. Blanchard read into the record the Code's criteria for continuance of an item. He suggested that the Planning Commission allow both applicant and public testimony prior to rendering a decision on the continuance. Staff recommended that if the applicants' request were approved, the item be scheduled for the April 11, 2006 public hearing with the understanding that no additional continuances would be permitted.

PETITIONERS' PRESENTATION

Frederick Larson, representing the petitioner, said that he'd met with Mr. Blanchard, the City's attorney, et al. on February 3 to discuss the outstanding access issue. At that meeting, the City had requested a full site application, to include the changes occurring thusfar. Two surveys had been undertaken for the Kansas Avenue right-of-way. He was in agreement with the survey initiated by the landowner to the south (landowner). He confirmed that a portion of Kansas Avenue, the proposed entrance to the carwash, crossed the landowner's right-of-way. In response, he'd proposed moving the access further north, which would remove the encroachment from the landowner's property.

Mr. Larson noted the location of a wetlands area near the site. Prior to receiving the encroachment information from the landowner, information had been submitted to the Corps of Engineers and, upon payment of a fee, a permit had been received. The full site application requested by the City would include a revised Corps permit and additional discussions with the Colorado Department of Transportation (CDOT). He felt that the continuance request was supported by the Code's criterion, 'obtain coordinated and harmonious development' found in Section 2.3.B.9.d.

QUESTIONS

Chairman Dibble asked how many times the item had been continued. Mr. Blanchard said that the current request, if approved, would represent the third continuance.

PUBLIC COMMENTS

FOR:

There were no comments for the request.

AGAINST:

Tom Spehar (no address given) asked that the continuance not be granted. As the property owner referenced by the applicant's representative and the one most affected by the request, he felt that the applicants had had more than enough time to discover and mitigate outstanding issues. It seemed to him that a property survey would have been a fundamental requirement of any development; yet, the applicants' encroachment was discovered only when he himself had provided evidence from his own surveyor. That survey had been conducted over a year ago. He couldn't see how yet another continuance would solve anything since he was still unwilling to sell or grant access to the applicants across his property. The fact that after all this time the applicants still didn't have the information needed by the City for site review probably meant that the applicants couldn't provide it.

QUESTIONS

Commissioner Pitts asked if the referenced survey showed the access crossing Mr. Spehar's property. Mr. Spehar said that his survey showed where the City's right-of-way, from whence the applicants presumed to derive access, lay outside his property's boundary. So the applicants would need to cross his property to get to the City's right-of-way.

Mr. Blanchard clarified that the original survey submitted with the development application seemed to be fine and met site plan review requirements. The subsequent survey provided by Mr. Spehar showed that

Kansas Avenue actually traversed his property, leaving a remnant on the side of his property adjacent to the development proposal. Submission of that new information had prompted the last continuance request, giving the applicants time to address the issue.

Ms. Kreiling said that both surveys undertaken had been of the properties lying adjacent to the Kansas Avenue right-of-way. According to plats, there was a dedicated right-of-way and a constructed right-of-way that did not lie within the full area of the dedicated right-of-way. The City had not yet received a survey showing the location of the right-of-way itself, either the dedicated right-of-way in relation to the constructed right-of-way or vice versa.

PETITIONERS' REBUTTAL

Mr. Larson said that even though two surveys had been undertaken, the applicants were willing to accept the survey conducted by Mr. Spehar's surveyor. In response, and in an effort to both mitigate concerns and to be a good neighbor, the development's access would be moved northward approximately 20 feet. He noted that Kansas Avenue had been in its current configuration for many years. Given that the process was steadily moving forward, and since he was actively working with staff to resolve the access issue, he felt that the continuance request was appropriate.

QUESTIONS

Chairman Dibble asked if, by moving the access further to the north, it would encroach upon the wetlands area. Mr. Larson said that the encroachment into the wetlands would be altered, which necessitated a change to the Corps permit. He was currently dialoguing with the Corps on required changes to the permit.

Roxanne Lewis, co-applicant, said that for 50 years a portion of her property had encroached upon Mr. Spehar's property; however, that encroachment had only recently been discovered. She and her representative were actively working towards resolution of that issue so that there would be no encroachment. She noted that initially they had been directed by the City's engineering staff to use the City's Kansas Avenue right-of-way as access. It was only after the new survey information had been received that the City's direction changed. The last continuance was in response to the new information that had come forward.

Chairman Dibble asked for confirmation that a new submittal would be forthcoming, one that reflected the changes mentioned. Mr. Blanchard clarified that the applicants would be submitting a redesign of their access point; the site plan would remain virtually the same.

Mr. Larson said that he and the applicants were in agreement with staff's recommendation to continue the item to April 11.

DISCUSSION

Commissioner Cole felt that granting the continuance request would be the fairest thing to do, since it would provide the applicants with the time needed to address the issues that had only recently been discovered. However, he concurred with staff's recommendation that this continuance be the final one.

Commissioner Pitts agreed that granting the continuance would give the applicants a chance to clear the many hurdles they'd been faced with.

Ms. Kreiling reminded planning commissioners that they needed to provide findings since the continuance request originated from the applicants, not City staff. Mr. Blanchard had only provided a date for public hearing if the request were approved.

Commissioner Putnam said that if the continuance request was denied and the item heard this evening, there would be inadequate information on which to base a decision. He expressed support for the request.

Chairman Dibble said that findings should be based on the Code's continuance criteria. Granting the continuance would be based on Code section 2.3.B.9.d, 'To increase the efficiency of the development review process; reassess a design or a position; reconsider an application; and/or obtain coordinated and harmonious development.'

Commissioner Pavelka-Zarkesh said that in consideration of what it took to get a Corps wetlands application approved, and given the complexity of the issues brought forth, the request for additional time was warranted and met the criterion to obtain coordinated and harmonious development.

Commissioner Lowrey concurred and expressed support for the request.

MOTION: (Commissioner Pavelka-Zarkesh) "Mr. Chairman, I move that we continue this application until April 11 with the understanding that this is the last time."

Commissioner Pitts seconded the motion.

Commissioner Cole suggested adding the finding to the motion, that the request meets the criterion to obtain coordinated and harmonious development. Both Commissioners Pavelka-Zarkesh and Commissioner Pitts agreed to include and second this amendment. The revised motion is as follows:

MOTION: (Commissioner Pavelka-Zarkesh) "Mr. Chairman, I move that we continue this application until April 11 with the understanding that this is the last time [and finding] that the request meets the criterion to obtain coordinated and harmonious development."

Commissioner Pitts seconded the motion. A vote was called and the motion passed unanimously by a vote of 7-0.

TAC-2004-231 TEXT AMENDMENT, CODE--AMENDMENTS TO THE ZONING AND DEVELOPMENT CODE
A request for approval of the proposed changes to the Zoning and Development Code.
Petitioner: City of Grand Junction

STAFF'S PRESENTATION
Bob Blanchard said that presented for consideration were a number of amendments proposed by City staff. Opportunities for public comment had been offered early in the compilation process. Available for consideration were changes to Code sections 2.6.A, 2.8.C.5, 2.19.C, 3.8.A.3.f, 4.2.C.1.m, 4.2.F.2.a, 4.2.F.2.f, 4.3.Q, and 6.5.F.1, which were outlined in the February 14, 2006 staff report. Approval of other minor "housekeeping" changes was also requested. Mr. Blanchard reiterated that a separate request, dealing with the animal regulations portion of the Code, would be addressed separately and would require a separate motion.

Mr. Blanchard asked planning commissioners to exclude from their packets a letter from TML Enterprises containing comments on a formboard survey, an amendment originally included but later removed from the list of amendments currently under consideration. Mr. Blanchard overviewed each of the proposed amendments in greater detail.

PUBLIC COMMENTS

Larry Rasmussen, representing AMGD, a communications liaison between the City and the Realtors Association, the Homebuilders Association, ABC Contractors Association, Western Colorado Contractors, and local landscapers. He referenced an e-mail he'd sent previously to Mr. Blanchard and asked that the final plat lapse time period be changed from 3 years to 5 years and that the preliminary plat approval time period be extended from 1 year to 3 years. He still had some concerns over the Non-Conforming section of the Code and felt that this section needed further review.

QUESTIONS

Chairman Dibble asked staff to comment on the points raised by Mr. Rasmussen. Mr. Blanchard said that the final plat time period of 3 years was based upon the final plat's approval, not submittal date. The preliminary plan approval time period of 1 year had been in the Code for quite some time. Many Codes in other communities did not require full approval of a final plat within 12 months of preliminary plat approval; rather, they just required that a final plat be submitted within that 12-month timeframe. Because Grand Junction's Code had consistently required full approval of a complete final plat or a specific phase of a final plat, staff did not recommend changing the current timeline references.

With regard to the Non-Conforming section of the Code, Mr. Blanchard said that the amendment specifically addressed non-conforming condominiums and leaseholdings. The amendment would require condominium documents to warn potential buyers that if a condominium in a non-conforming structure were damaged by 50% or more of its fair market value, the condominium may not be rebuilt as it existed or may not be rebuilt at all. The amendment was intended to put potential buyers on notice that their investment could be at risk.

Commissioner Pitts asked if the extension allowance contained in Code section 2.8.C.5 would still be the equivalent of a 5-year time period. Mr. Blanchard said that it would be the equivalent to 4 years, since each of the two allowed extension periods was for 6 months. Since there was no real review criteria for extensions, staff primarily considered whether the developer was pursuing development and moving forward in good faith.

DISCUSSION

Commissioner Cole said that with regard to the 5-year versus the 3-year final plat timeline, he felt that the existing 3 year time period along with the two 6-month extensions was sufficient for most developments. Dragging out development of a property would be a disservice to those properties surrounding the development site. He was not in favor of changing the time periods established in 2.8.C.5.

Chairman Dibble thanked legal and development staff for their diligence in recognizing where changes in the Code were appropriate and in facilitating those changes. He asked if developers would still be granted extensions if a 5-year timeframe were approved. Mr. Blanchard said that that depended on the verbiage contained in the motion. He noted that, as written, the Code section implied that while the approval was voidable, it was not automatically voided, suggesting a level of additional staff review. He added that with either time period option, it was important that a developer move forward with an approved development. No monitoring of the approval was undertaken unless the developer came forward with requested changes to the original approval. Only at the point where an approval was approaching expiration was a developer contacted, and sufficient time was given to the developer for filing an extension if one was needed.

Commissioner Pitts felt that if a 5-year reference provided developers with more clarification, he could support amending the applicable Code section, provided that there were no additional extensions.

Commissioner Cole felt that based on comments made by Commissioner Pitts, he too could support an extension of the 3-year time period to 5 years as long as no additional extensions were permitted.

Commissioner Lowrey felt that the referenced timelines were fine the way they were.

Commissioner Putnam said that he would feel uncomfortable rewriting this section of the Code on the "spur of the moment" without the benefit of review and additional discussion.

MOTION: (Commissioner Putnam) "Mr. Chairman, on item TAC-2004-231, the proposed amendments to the Zoning & Development Code, I move that we forward a recommendation of approval of all staff initiated amendments to the City Council."

Commissioner Lowrey seconded the motion. A vote was called and the motion passed by a vote of 6-1, with Commissioner Pitts opposing.

Mr. Blanchard said that the second part of the text amendment request had to do with a citizen's keeping of rabbits. He recounted how Code Enforcement staff had responded to a complaint that a citizen was keeping of a large number of rabbits and rabbit cages against a 6-foot privacy fence. The Code defined rabbits as agricultural animals and limited their numbers. The rabbits were subsequently moved to the garage, and the animals' owner was requesting an amendment to the Code to define "house rabbits" as household pets, categorizing them as small animals kept within a residence such as fish, small birds, rodents and reptiles. If approved, this would exempt them from being limited in numbers when kept inside. Other communities had been contacted to compare similar regulations. Staff findings were made a part of the February 14, 2006 staff report and had been included in planning commissioner packets. Staff concluded that the City's regulations were not out of line, and denial of the request to amend Code section 4.3.A. was recommended.

PETITIONER'S PRESENTATION

Judy Weinke, petitioner, brought forward for presentation two cages of rabbits. She said that the Code limited the number of rabbits kept outside to no more than six, but there didn't seem to be any verbiage preventing her from bringing her rabbits indoors. While in agreement that she was prevented from keeping all of her rabbits outside, she regarded her rabbits as pets and small enough to qualify under the section pertaining to household pets. She maintained that the U.S. Department of Agriculture did not regard rabbits as agricultural animals, and according to the American Rabbit Breeder's Association (ARBA), there was a clear distinction between commercial rabbits and "fancy bunnies." Ms. Weinke referred to a cage containing what ARBA referred to as a commercial rabbit. The animal was borrowed and not among those she kept on site. According to ARBA, commercial rabbits were larger, heavier, and used primarily for food. The National Rabbit Society, the National Humane Society, and veterinarians all classified fancy bunnies as "pocket pets." She held up one of her own rabbits from another cage. The animal was smaller, approximately the size of a guinea pig, and much lighter weight. She said that her fancy bunnies were used for show and were kept as pets. They were meticulously cared for, with cages cleaned regularly and medical care routinely provided. Her property had been inspected twice by animal services, with no problems noted.

Ms. Weinke noted that as the Code was written, someone could legally keep a house full of white rats; yet, the Code prevented her from keeping her fancy bunnies. She asked that the Code be rewritten to make the distinction between commercial rabbits and fancy bunnies and to consider the latter in the same Household Pets category as dogs, cats, fish, small birds, rodents and reptiles.

QUESTIONS

Commissioner Lowrey asked if the weight of fancy bunnies ever exceeded 4 pounds. Ms. Weinke said that the one exception was a breed called the Flemish Giant. That particular rabbit would never be used

for commercial purposes, she said, because it grew much too slowly and didn't gain the kind of weight that commercial rabbits did. The Flemish Giant was used as a pet or show animal. The minimum showable weight for a Flemish Giant was 13 pounds. She had three of them, which she kept outside. Cages for such animals had to be large, and she understood that she was presently limited to keeping no more than six of her rabbits outside.

Commissioner Lowrey asked if a reasonable way of distinguishing between commercial and fancy bunnies was to limit the weight of fancy bunnies to not more than 4 pounds. He suggested revising the last sentence under Code section 4.3.A to read, "However, this requirement does not apply to small animals kept within a residence as household pets such as....and fancy rabbits not to exceed 4 pounds." Ms. Weinke noted that some rats grew to weights exceeding 5 pounds, but she was amenable to establishing a weight criterion.

Commissioner Wall asked how many rabbits the applicant had, to which Ms. Weinke responded 36, each individually caged and all currently housed within her garage.

Commissioner Pitts asked the petitioner how she dealt with the odor issue. Ms. Weinke reiterated that Animal Services had visited her property twice. She did not feel that her rabbits impacted her neighbors, and keeping them in individual cages prevented spontaneous breeding activity. She noted that she'd originally been told by City staff that she could keep her rabbits as long as they were not housed outside. Staff later rescinded that position.

Mr. Blanchard said that there existed a difference of opinion in the interpretation of the Code. The City limited the number of animals per parcel, regardless of whether they were housed inside or outside of the home.

Commissioner Pavelka-Zarkesh wondered what would prevent someone from making a pet out of a commercial rabbit. They too were cute.

Commissioner Lowrey thought that fancy bunnies represented a certain species of rabbit. Ms. Weinke said that the difference was in the breed.

Commissioner Pitts asked the petitioner if her garage was finished and heated, to which Ms. Weinke replied affirmatively.

Chairman Dibble noted that other communities also regarded rabbits as livestock. Ms. Weinke said that that was part of an ongoing argument that the U.S. Department of Agriculture had with local communities.

<u>PUBLIC COMMENTS</u>

FOR:

There were no comments for the request.

AGAINST:

Larry Reed (P.O. Box 4329, Grand Junction), president of the Paradise Hills Homeowners Association, referenced a letter he'd written to staff opposing the petitioner's request to keep more than the currently permitted number of rabbits. He asked that the City's animal regulations regarding the keeping and definition of rabbits remain unchanged. The regulations were appropriate for urbanized areas where houses were situated closer together. He expressed concerns over odors and disease as a result of inadequate feces removal.

Tom Whitaker (2695 Lanai Court, Grand Junction) said that he'd been the one to initiate the complaint against the petitioner. He disagreed with Ms. Weinke's statement that her rabbits did not impact her neighbors. He said that for at least two months out of the year he and his family were unable to go outside and enjoy their backyard because of odors emanating from the petitioner's rabbits. The odor from her rabbits also wafted through his swamp cooler to infiltrate his home. He said he'd had to spray for fleas and other insects that he attributed to Ms. Weinke's rabbits. Mr. Whitaker asked that the City's regulations be retained and not changed. If approved, what would prevent people coming forth with requests to house additional numbers of ferrets or mink or other small animals? Keeping so many animals did affect one's neighbors, and he again urged denial of the petitioner's request.

PETITIONER'S REBUTTAL

Ms. Weinke said that she'd moved her rabbits into her garage last summer. The problems experienced by her neighbor originated when she'd kept her animals outside. Her garage was both heated and air conditioned, and she didn't think that any of the issues mentioned by Mr. Whitaker had been experienced since she'd moved her animals inside. She maintained that her animals didn't have fleas and were routinely taken to her veterinarian for check-ups and inoculation. If Mr. Whitaker was spraying for fleas, likely they were coming from some of the neighborhood dogs. She noted that, unlike dogs, rabbits were not required by law to be inoculated.

Chairman Dibble asked if her garage were vented during the summer months. Ms. Weinke said that she cracked her garage window to allow for circulation. She routinely added a chemical to the animals' feces to deodorize it and make it less objectionable. Ms. Weinke added that ferrets were considered rodents and thus already considered "legal" by the Code's definition of household pets.

Commissioner Lowrey asked legal counsel if there were other Code sections that dealt with nuisance issues, to which Ms. Kreiling responded affirmatively.

DISCUSSION

Commissioner Pitts said that it appeared there was conflicting testimony about odors emanating from the property. While he could see and understand both sides of the issue, he could not find any compelling reason to change the Code.

Commissioner Lowrey said the he wouldn't mind redefining the household pets Code section to include fancy rabbits if their sizes were limited; however, since densities were higher within urbanized areas, not to restrict the numbers of pets kept on a property was to invite problems. If the County allowed additional numbers of animals kept on a parcel, perhaps those who wanted to keep more animals should consider living where the keeping of more animals was allowed.

Commissioner Putnam noted that there was a big difference between keeping 36 guppies and keeping 36 rabbits in 36 cages in a garage. He felt he could not support the petitioner's request to change the Code.

Commissioner Cole said that while the petitioner herself may be meticulous in the care of her pets, he knew of others who were not so diligent. The Code's criteria had to be applicable to all. He was leaning towards leaving the Code's applicable sections as they were.

Commissioner Pavelka-Zarkesh agreed that the Code was written to be applicable to all the City's citizens, not necessarily the special circumstances outlined by the petitioner. Grand Junction was a growing community, and densities were increasing. While she was sympathetic to the petitioner's situation, she didn't feel that there was sufficient justification to warrant changing the Code.

Commissioner Wall asked the petitioner if her intent was to raise and sell her rabbits for profit. Ms. Weinke said that her rabbits were not for sale; they were pets.

Chairman Dibble said that the Grand Junction area was becoming less agricultural and more metropolitan. Urbanized areas didn't really lend themselves well to the raising and keeping of so many animals in one location. It was hard to visualize 36 of any type of animal as pets. He was concerned that approval of the request might set a precedent. He noted that other communities also defined rabbits as agricultural animals, and it appeared that Grand Junction was consistent with other like-sized communities elsewhere. Since he also found no compelling reason to change the Code, he supported leaving the language of applicable Code sections as they were.

MOTION: (Commissioner Lowrey) "Mr. Chairman, on item TAC-2004-231, the proposed amendments to the Zoning and Development Code, I move that we forward a recommendation of approval of the citizen initiated amendment to section 4.3.A, Animal Regulations, to the City Council, that we allow fancy rabbits not to exceed 4 pounds to be considered a household pet, that the requirement does not apply as they would be considered a small animal kept within a residence and be added to the list of fish, small birds, rodents and reptiles."

Commissioner Pavelka-Zarkesh seconded the motion. A vote was called and the motion failed by a unanimous vote of 0-7.

A brief recess was called at 9 p.m. The hearing reconvened at 9:08 p.m.

Chairman Dibble said that the last item on the agenda, GPA-2005-148, had been pulled prior to the onset of the meeting and would be heard at a later date.

ANX-2005-264 ZONE OF ANNEXATION--BELLHOUSE ANNEXATION
A request for approval to zone 1.04 acres from a County RSF-4 (Residential Single Family, 4 units/acre) to a City RSF-2 (Residential Single Family, 2 units/acre) zone district.
Petitioner: Carol Bellhouse
Location: 2381 South San Miguel Drive

STAFF'S PRESENTATION
Lori Bowers gave a PowerPoint presentation, which contained the following slides: 1) site location map; 2) aerial photo map; 3) Future Land Use Map; and 4) Existing City and County Zoning Map. The proposed RSF-2 zoning was consistent with Growth Plan recommendations, and the petitioner was in agreement.

QUESTIONS
Chairman Dibble asked if the request could have come forward with RSF-4 zoning, to which Ms. Bowers responded affirmatively.

PETITIONER'S PRESENTATION
Carol Bellhouse, petitioner, said that she wanted to split her one-acre lot into two half-acre lots. She concurred with staff's recommendation and availed herself for questions.

PUBLIC COMMENTS
FOR:
There were no comments for the request.

AGAINST:
Richard Perske (502 Riverview Drive, Grand Junction), representing the Vallejo Subdivision's Homeowners Association (aka Vallejo Subdivision Mutual Water Company) (VSMWC), submitted written comments opposing both the annexation and rezoning of the petitioner's lot (lot 3, block 3). Subdivision residents believed that the proposed RSF-2 zoning would alter the Vallejo Subdivision's

character and would be detrimental to the safety and well-being of the neighborhood. The subdivision's zoning of RSF-1 (Note: the subdivision is zoned RSF-4 by Mesa County) should be preserved and maintained, and he noted that many of the subdivision's lots exceeded an acre in size and were all developed exclusively for single-family use. Mr. Perske noted that the subdivision was currently served by a 1 1/2" Ute Water line that was already undersized according to the City's subdivision standards. A heavily used Scenic Elementary School pedestrian path, student bike rack, and pedestrian gate were immediately adjacent to the petitioner's property for over 340 feet. He stated that the non-conforming driveway entrance of the second home would seriously compromise the safety of Scenic Elementary school children and others using the path. Traffic congestion at the Scenic School path was already a problem, one which was well documented through the many complaints of the previous owner of the property and in a recent letter to the City from the Scenic School principal (copy of letter also submitted into the record).

Mr. Perske noted the irregularly shaped configuration of the petitioner's lot and pointed out that it had been originally platted with the least amount of street frontage of all the Vallejo Subdivision lots. Lot 3 had only 70 feet of street frontage as measured on the curve of the cul-de-sac. The location of the existing house prevented the construction of another home to City standards. The petitioner proposed dividing the 70-foot frontage into one 30-foot and one 40-foot section, creating an additional driveway adjacent to the Scenic School path and student facilities. That would result in the removal of lawn and landscaping in front of the existing house, and create undesirable and non-conforming front yard setbacks. The application of RSF-2 zoning would be both inappropriate and cause significant damage to the existing home.

Well over 50 persons within the subdivision had expressed objection to the petitioner's request, including the owners of six directly adjoining properties. The residents of the Vallejo Subdivision requested that the subdivision's current RSF-1 zoning be retained, and if not retained, he requested that they be advised of the City's appeals process.

Commissioner Wall asked if covenants were in place for the subdivision, to which Mr. Perske replied affirmatively. They'd been in place since 1956.

Commissioner Putnam remarked that available maps didn't appear to clearly denote the subdivision's location. Mr. Perske said that the City's maps "ignored" the subdivision's boundary to the west. Their western boundary was Vallejo Drive. He denoted the subdivision's perimeter on an available City map.

Walter Boigegrain (2389 S. San Miguel Drive, Grand Junction) said that his property within the subdivision was approximately 1 3/4 acres in size. He was concerned that if the request were approved, it may prompt the owners of other larger lots to follow suit and split their properties. He could probably fit three homes on his lot. He also wondered why a discussion on zoning was preceding the property's actual annexation. He expressed concerns over the safety of school children and other pedestrians using the Scenic pathway. Pedestrians would be put at risk from the vehicles backing out of a second home on the property. This was a situation where understandings had been made with the previous owners of the property; once sold, however, all of those understandings seemed to fly out the window. Approval of the current request would be a disservice to all of the neighborhood's existing residents.

Commissioner Putnam asked staff to make a statement regarding the Persigo Agreement so that they would understand why annexation of the property was necessary. A response to this request was deferred.

Robert Eggan (2379 S. San Miguel Drive, Grand Junction) said that he was unsure about what was going on. This seemed to be an attempt by the City to get its "foot in the door" in order to annex the entire neighborhood.

Elizabeth Balzer (2375 S. San Miguel Drive, Grand Junction), representing the parents of Scenic Elementary's school children, said that kids traveled that path every day. The lot split would create a dangerous situation because kids generally didn't pay attention to vehicles backing out of driveways. She urged denial of the rezone and asked that the current property owners not be allowed to split their property. One house on the property, she said, was enough.

Gerald Heaton (2388 N. San Miguel Drive, Grand Junction) said that he was concerned for his 9-year-old granddaughter who regularly used the Scenic School path. He would hate to see any child hit by a car racing out of any newly created driveway. This was a quiet neighborhood where everyone knew each other. He was aware of the Persigo Agreement but recalled statements made by City staff that they had nothing to fear, that their neighborhood would not be annexed into the City.

Bonnie Nobel (2382 N. San Miguel Drive, Grand Junction) said that she had never received notification of tonight's meeting. She asked for assurance that she would be notified about projects or proposals that might potentially affect her or her neighborhood. Chairman Dibble briefly explained that individual notification was sent to the owners of properties situated within 500 feet of a development proposal.

Jane Persky (502 Riverview Drive, Grand Junction) mirrored concerns about other property owners within the subdivision splitting their lots. She didn't want to see the neighborhood filled with rental properties or densities similar to those found in Clifton. The property had always been zoned RSF-1, she said, and should remain so.

John Cooper (2376 S. San Miguel Drive, Grand Junction) said that he'd lived in the neighborhood for the last 13 years. The quality of life enjoyed by existing residents was important and should be protected. Safety was a big issue. He was very concerned about the City's annexation of property within their neighborhood and felt that there should be full disclosure. He expressed similar concerns about this rezone setting an unwelcome precedent.

Greg Sherry (2380 N. San Miguel Drive, Grand Junction) felt that the Scenic School path was a great asset to the neighborhood. The petitioner's proposed driveway would be dangerous to the area's school children. Additional traffic from the cul-de-sac would pose a similar danger. If other property owners followed suit and split their lots, it would effectively destroy the character of the neighborhood.

PETITIONER'S REBUTTAL

Ms. Bellhouse said that the subdivision had been established and the building restrictions recorded in 1956. At that time, three blocks were recorded as part of the subdivision. There were five lots (lots 1-5 of block 3) that had been specifically exempted from those building restrictions in anticipation of future development. Those lots had been zoned RSF-4. Lot 5 had been subdivided in the mid-1970s. Thirty years later, she was requesting only one new home for lot 3. She didn't feel that one new home in 30 years represented unreasonable growth. Since the split of lot 5 had been allowed, it was only fair that she be allowed to split lot 3. The proposed lot was already under contract to a family with three children, who would attend Scenic Elementary School. The new owners planned to construct a 2,500 square-foot Mediterranean styled home, which would add value to the neighborhood. With regard to setbacks and the location of the driveway, she said that the City would be getting a 14-foot utility easement across the front of the property in lieu of the present 5-foot easement. Also, she owned part of the school path previously discussed by the neighbors. She intended to deed her part of the path to the School District and dedicate a maintenance easement for the irrigation ditch that traversed the property. She felt that her neighbors were under the impression that a larger easement somehow narrowed a property line. That was an incorrect assumption. She said that City staff had already reviewed the request and determined that nothing would be non-conforming as a result of the lot split. The new driveway's design would look like a plaza. Since xeriscaping was proposed for her lot, it would reduce the amount of irrigation water

used. No irrigation water had been allocated to the new lot, saving irrigation water for the rest of the neighbors.

Ms. Bellhouse had recorded the traffic in her cul-de-sac on January 16 and again on January 26, 2006. On the first date, total traffic for the day consisted of a car delivering newspapers and a blue minivan circling the cul-de-sac without stopping, then leaving. On the second date, traffic consisted of a car delivering newspapers, a snowplow clearing the cul-de-sac, a garbage truck, a friend of hers visiting, and two vehicles picking up kids at the pedestrian path. Generally, 15-20 people daily used the pedestrian path, not the 80+ persons indicated by the neighbors. There had never been any accidents in the cul-de-sac and no crime occurring on the path. The owners of the newly created lot would situate their home to the back of the property. This would provide a level of path supervision that currently didn't exist. The Fire Department and Ute Water had reviewed the request and approved the existing lines.

QUESTIONS/DISCUSSION

Commissioner Wall asked for clarification on the location of lot 5, which was provided.

Commissioner Lowrey asked for confirmation that the five referenced lots were exempted from the same restrictions as other lots in the subdivision. Ms. Bellhouse reiterated that lots 1-5 of block 3 had all been exempted from the HOA's building restrictions back in 1956.

Mr. Blanchard provided a brief explanation of the Persigo Agreement. No other parcels in the neighborhood would be affected or annexed unless or until development occurred on them. The right-of-way had been included only as a means of ensuring contiguity.

Chairman Dibble asked if an RSF-1 zone could be considered. Mr. Blanchard responded negatively, adding that RSF-1 zoning was inconsistent with Growth Plan recommendations and the Future Land Use Map. The application of RSF-2 zoning was as a result of the annexation request. He noted that the annexation request itself would be heard on April 5.

Commissioner Cole asked staff to provide a brief explanation of how City zones were applied in conjunction with annexation, which was given.

Commissioner Wall asked if the City had any involvement with a Homeowners Association's covenants. Mr. Blanchard said that HOA covenants could effectively limit further subdivision of properties. The City was not charged with implementing or enforcing HOA covenants. Disputes were considered civil matters and addressed in civil court.

Commissioner Lowrey said that he'd initially had some concerns over this request setting a precedent. However, if it was clear that only five properties were affected, and they had been clearly exempted from the subdivision's building restrictions, then the number of splits that could occur was limited. He wondered if the owners of lots 3 and 4 had any intention of subdividing their lots.

Ms. Kreiling remarked that the City did not take covenants into consideration when determining appropriate land uses or zoning.

Ms. Bowers confirmed that staff had received documentation from the petitioner confirming her statement regarding the exclusion of lots 1-5 in block 3 from the subdivision's building restrictions.

Commissioner Cole said that the Growth Plan designated a density of 2-4 units/acre for the subject property. The proposed zone of annexation was in keeping with Growth Plan recommendations.

Commissioner Pitts said that Code criteria required any proposed zone of annexation to be 1) compatible with the surrounding neighborhood, and 2) the community or neighborhood had to benefit from the proposed zone. It seemed to him that RSF-2 zoning would satisfy neither criterion. As such, he felt he couldn't support the request for RSF-2 zoning.

Chairman Dibble said that since RSF-1 zoning wasn't a possible option, the only two options available were RSF-2 and RSF-4.

Mr. Blanchard confirmed Chairman Dibble's assessment. Some of the rezoning criteria were not applicable in the current situation. The City was required to rezone property upon its annexation, and the RSF-1 zone was incompatible with Growth Plan recommendations.

Chairman Dibble said that of the two options available, the RSF-2 zone represented the only logical choice.

Commissioner Lowrey felt he could support the RSF-2 zone because documentation had been received substantiating the limited number of lots exempted from the subdivision's building restrictions. Since it appeared that only lot 4 had any possibility of being subdivided, he determined the zone to be compatible with the existing neighborhood. If other lots in the subdivision could have split, he would have found the zone to be incompatible.

Commissioner Cole observed that quite a bit of discussion had transpired over the application of a zone. He agreed that if the only choices were RSF-2 and RSF-4, the clear choice was RSF-2.

Chairman Dibble expressed his appreciation to the citizens present, who took the time and interest to speak on behalf of their neighborhood. Subdivision of the subject lot had apparently been anticipated and was supported by Code criteria and the Growth Plan. Clearly, RSF-4 zoning was inappropriate. While he was unsure what the final development would look like, that had not been part of the current review process. He expressed support for staff's recommendation of RSF-2 zoning.

MOTION: (Commissioner Cole) "Mr. Chairman, on zone of annexation ANX-2005-264, I move that the Planning Commission forward the zone of annexation to City Council with the recommendation of the RSF-2 (Residential Single-Family, 2 du/acre) district for the Bellhouse Annexation, with the facts and conclusions listed in the staff report."

Commissioner Wall seconded the motion. A vote was called and the motion passed unanimously by a vote of 7-0.

With no further business to discuss, the public hearing was adjourned at 10:18 p.m.