

**GRAND JUNCTION PLANNING COMMISSION  
JANUARY 25, 2005 MINUTES  
7 p.m. to 11:16 p.m.**

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

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

In attendance, representing the City's Community Development Department, were Bob Blanchard (Community Development Director), Kathy Portner (Planning Manager), Ronnie Edwards (Assoc. Planner), Lori Bowers (Sr. Planner), Scott Peterson (Assoc. Planner), and Faye Hall (Planning Technician).

Also present was Jamie Kreiling (Asst. City Attorney) and Rick Dorris (Development Engineer).

Terri Troutner was present to record the minutes.

There were approximately 68 interested citizens present during the course of the hearing.

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**I. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS**

There were no announcements, presentations and/or visitors.

**II. APPROVAL OF MINUTES**

Available for consideration were the summary minutes of the November 9, 2004 December 14, 2004 public hearings.

November 9, 2004 (Summary Minutes)

**MOTION: (Commissioner Lowrey) "Mr. Chairman, I move we approve the November 9th minutes."**

Commissioner Cole seconded the motion.

A vote was called and the motion passed by a vote of 5-0, with Commissioners Wall and Carlow abstaining.

December 14, 2004 Summary Minutes

**MOTION: (Commissioner Pitts) "Mr. Chairman, I move accept the minutes of December 14 as presented."**

Commissioner Lowrey seconded the motion.

A vote was called and the motion passed by a vote of 6-0, with Commissioner Carlow abstaining.

**III. CONSENT AGENDA**

Available for consideration were items CUP-2004-273 (Conditional Use Permit--Bank 8 Billiards, Inc.), VR-2002-200 (Vacation of Right-of-Way--Winters Avenue), VR-2004-269 (Vacation of Right-of-Way--Arcadia North), ANX-2004-263 (Zone of Annexation--A Storage Place II), CUP-2004-290 (Conditional Use Permit--Proposed 8-Foot Fence on Belford), PP-2004-256 (Preliminary Plat--Summit View Meadows #2), and RZ-2004-304 (Rezone--Jacobson Rezone). Staff indicated that item VR-2002-200 would be pulled and continued to the February 22, 2005 public hearing. At citizen request, item RZ-2004-304 was pulled and placed on the Full Hearing Agenda. No objections were received from the audience, planning commissioners, or staff on any of the remaining items.

**MOTION: (Commissioner Cole) "Mr. Chairman, I would request item 2 [VR-2002-200] be removed from the Consent Agenda and continued to February 22."**

Commissioner Pitts seconded the motion.

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

Ms. Kreiling clarified that the Consent Agenda's description of item PP-2004-256 should have reflected consideration of the Preliminary Plat, not a Preliminary Plan.

**MOTION: (Commissioner Pitts) "Mr. Chairman, I would move we accept the Consent Agenda on items 1, 3, 4, 5, and 6 [CUP-2004-273, VR-2004-269, ANX-2004-263, CUP-2004-290, and PP-2004-256] as presented."**

Commissioner Lowrey seconded the motion.

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

**NOTE: Due to an inconsistency in parliamentary procedure, reconsideration of the Consent Agenda was given following the first Full Hearing item. Please refer to that section for full details and new motions.**

**IV. FULL HEARING**

**RZ-2004-304 REZONE--JACOBSON REZONE**

**A request for approval to rezone 37 acres from RSF-2 (Residential Single Family, 2 units/acre) to an RMF-5 (Residential Multi-Family, 5 units/acre) zone district.**

**Petitioner: Marion Jacobson**

**Location: 738 26 Road**

**STAFF'S PRESENTATION**

Lori Bowers gave a Powerpoint presentation which contained the following slides: 1) aerial photo map; 2) Future Land Use Map; and 3) Existing City and County Zoning Map. The property had been annexed in 1995. At that time, it had been acknowledged that the Growth Plan and the property's current RSF-2 zoning were inconsistent. Acceptable zoning options for the property as reflected in the Growth Plan were RSF-4, RMF-5, and RMF-8. The requested RMF-5 zoning reflected the mid-range density option. Surrounding zonings and land uses were noted. Since staff concluded that the request met both Code criteria and Growth Plan recommendations, approval was recommended.

**PETITIONER'S PRESENTATION**

Pat O'Connor, representing the petitioner, availed himself for questions and opted to wait for public testimony before offering anything further.

**QUESTIONS**

Chairman Dibble asked Mr. O'Connor how he'd determined the RMF-5 zone to be the most appropriate for the site. Mr. O'Connor said that the site had a great deal of undevelopable area. He noted the locations of a sizable pond and significant wetlands areas on the property. There were additional areas that he considered undevelopable by virtue of their proximity to I-70. Thus, to make the site work, the bulk densities allowed by the RMF-5 zoning were needed. He reemphasized the site's current non-compliance with Growth Plan recommendations, adding that the RMF-5 zone would bring the property into compliance.

Chairman Dibble asked if access would be derived from 26 Road, to which Mr. O'Connor replied affirmatively. When asked if 26 Road was likely to be the only access available to the property, Mr. O'Connor said that initially a second access had been planned via Cottonwood Drive; however, after having heard the concerns of residents from Cottonwood Meadows Subdivision during neighborhood meetings, he'd met with staff and Fire Department representatives, who'd agreed to delete that connection requirement. While no actual plan was available for review, a street stub would likely be proposed for connection to one of the as-yet-undeveloped adjacent parcels.

Commissioner Lowrey said that assuming one-third of the property was undevelopable, people would pay less for the property. Given that, what justification was there for a higher density? Mr. O'Connor again referenced the bulk requirements of the RMF-5 zone and said that they better "fit" the petitioner's vision of how the property should be developed. He was unsure what had been paid for the property.

**PUBLIC COMMENTS**

**FOR:**

Marion Jacobson, petitioner, said that she'd been working over the past year to develop the property. She felt there to be a great need for housing in the north part of town for older citizens such as herself. Any plan brought forth for consideration would have amenities such as gazebos, walking trails, etc. She felt that an upscale development of the property would increase the area's property values. Ms. Jacobson said that she'd spoken with a number of the area's residents and listened to the concerns of those living along Cottonwood Drive. As a result of her taking those concerns to City staff, that connection point had been eliminated as a secondary access point.

**AGAINST:**

Mike McInnis (2645 Cottonwood Drive, Grand Junction) said that he was also representing another eight homeowners who lived along Cottonwood Drive. Cottonwood Meadows Subdivision, adjacent to the petitioner's property, was zoned RSF-2. He and other subdivision residents did not feel that the density inherent to an RMF-5 zone was compatible with their neighborhood or surrounding properties. Looking at other homes in the area, they were larger with plenty of space to separate them from other residences. He felt that the more rural character of the area would be destroyed by a higher density development. Mr. McInnis reiterated concerns over using Cottonwood Drive as a secondary connection since the street was not two-lane and did not have curb, gutter or sidewalk. If the connection were allowed, there would be substantial conflicts at the intersection of Cottonwood Drive and 26 1/2 Road. Pedestrian and vehicular safety issues were paramount.

Commissioner Pitts asked Mr. McInnis if he understood that the Cottonwood Drive connection was no longer being considered. Mr. McInnis said that he appreciated the statements made in that regard;

however, for so large a property a secondary access would be essential. He was concerned that the Cottonwood Drive connection may be given reconsideration. If that should happen, he just wanted to make sure that his concerns and those of his neighbors were represented and reflected on the record.

John Stevens (no address given) said that his home was also situated along Cottonwood Drive. While he understood that the petitioner would strive for a nice development, he shared the concerns expressed by Mr. McInnis regarding impacts to the area as a result of higher densities and loss of the area's rural character. The surrounding area had been constructed to densities of one or two homes per acre. While not opposed to development of the petitioner's property, he could not support the RMF-5 zone.

Roy Lamberty (2615 Chestnut Drive, Grand Junction) agreed that the RMF-5 zone was just too dense. No more than three units per acre should be allowed on the property in order to be compatible with the surrounding area. Any more than that would result in "people living on top of each other."

Myron Barker (2648 Cottonwood Drive, Grand Junction), a trustee for the church located at the 26 1/2 Road/Cottonwood Drive intersection, agreed that a parcel the size of the petitioner's should absolutely have more than one access. Cottonwood Drive did seem the logical connection point even though doing so would significantly and negatively impact the residents of Cottonwood Meadows Subdivision. The intersection of 26 1/2 Road and Cottonwood Drive did not meet TEDS standards, and sight distance at the intersection wasn't good. If the street were widened and improved to City standards, none of the homes along Cottonwood Drive would be able to meet setback requirements. So if a secondary connection couldn't be made via Cottonwood Drive, where would it be located? He agreed that the RMF-5 zone district was just too dense for, and incompatible with, the area.

#### **PETITIONER'S REBUTTAL**

Mr. O'Connor felt that it was difficult not to address specific resident concerns but they referenced a plan that had neither been submitted nor was under current review. With regard to Mr. Lamberty's comments regarding a density of not more than three units per acre, Mr. O'Connor reiterated that perhaps only half the site was developable. A number of considerations were factored into an overall build-out density. With the plan's proposal of 102 units, the total overall density would only be about 2.6 units/acre. That would be the maximum number of units that could be placed on the property. With regard to the Cottonwood Drive connection, that had been reduced to a pedestrian connection point only. He agreed that a secondary access point would be needed, and he reiterated that a stub street, probably to the property directly south, would be planned.

#### **QUESTIONS**

Commissioner Lowery asked for clarification on how many developable acres were available on the site, and what was the square footage planned for individual lots. Mr. O'Connor said that approximately 20 acres of the 37 available acres were developable. Proposed lot sizes would be in keeping with RMF-5 bulk standards, or 6,500 square feet.

Commissioner Lowery asked if the onsite wetlands areas represented significant wildlife habitat. Were they under Corps of Engineers' jurisdiction? Mr. O'Connor said that he'd met with Corps staff onsite to discuss the various wetlands areas. He wasn't sure just how "significant" they were but he was sure that they provided habitat for birds and other animals. Regardless of how significant they were, he and the petitioner wanted to do all they could to protect and preserve them in their natural states.

Commissioner Pitts asked if the Corps had distinguished the wetlands areas as "natural" or "manmade." Mr. O'Connor was unsure whether that distinction had been made.

Commissioner Lowrey asked engineering staff if they had additional information available on the site's wetlands areas. Rick Dorris said that the site's wetlands areas were regulated by the Corps; as such, the petitioner would be required to get a permit from that agency prior to any development of the property.

Commissioner Cole referenced comments and concerns expressed about the site's secondary access and asked if the petitioner's provision of a stub street met with the City's approval. Mr. Dorris agreed that the sight distance at the Cottonwood Drive/26 1/2 Road intersection wasn't good, and that it had factored into the Cottonwood Drive connection. He pointed out that the only thing under consideration, however, was the rezone request. The Preliminary Plan review stage was the appropriate time to consider plan specifics. TEDS standards indicated that only 30 lots could be developed with a single access; up to 100 lots would be allowed if a future secondary access were provided. The provision of a stub street satisfied that TEDS requirement.

Chairman Dibble wondered what improvements would be required along 26 Road to accommodate the development. Mr. Dorris said that according to the newly adopted TCP ordinance, the petitioner would not be required to improve 26 Road. He noted the locations of other developments in the nearby vicinity that derived or would derive their accesses from 26 Road. There were sight distance concerns that would require mitigation; however, the City would likely take collected TCP funds and use them to recontour the road and improve the intersection.

Commissioner Cole asked if there was sufficient right-of-way available to make the needed 26 Road improvements. Mr. Dorris said that right-of-way would be dedicated by owners of several area properties, including the subject site. He felt that sufficient right-of-way would be available to make needed improvements.

Chairman Dibble asked if there were any TEDS-related issues pertinent to southbound traffic along 26 Road that should be addressed. Mr. Dorris did not expect any issues to arise that could not be remedied. Problems would be addressed in conjunction with the development of area properties.

### **DISCUSSION**

Commissioner Pitts said that in consideration of testimony given, the presence of 26 Road and I-70 as "barriers," the amount of developable onsite property, and surrounding densities, he could see no reason not to support the RMF-5 zone request.

Commissioner Cole said that given site constraints and the statements made limiting the maximum overall density to no more than 2.6 units/acre, he felt that he, too, could support the RMF-5 zone district.

Commissioner Lowrey said that he still had a number of concerns with the request. Lots to the east of the site were generally close to an acre in size. Lots to the west were larger, generally 1-2 acres in size. Property to the south was largely undeveloped. He didn't feel that 6,500 square foot lots were compatible with the 30,000 to 40,000 square foot and above sizes of neighboring lots. In consideration of the presence of, and need to protect onsite wetlands areas, a less dense development should be considered. It was his contention that the request failed to meet rezone criteria with regard to compatibility and community benefit. He agreed that the proposed RMF-5 zone district was too dense given site constraints.

Commissioner Wall agreed with Commissioner Lowrey's statements and position. He, too, expressed concerns over impacts to wetlands areas and felt that the petitioner was trying "to put a lot into a little area." As a result, it would likely diminish the surrounding neighborhoods.

Chairman Dibble concurred with opposition statements. He expressed discomfort over that many lots having only one through access to 26 Road, especially when 26 Road itself was deficient. There were safety issues to consider since many people were inclined to "race" along that stretch of road. He understood the petitioner's desire to get as many lots and the most value as possible from the property; however, while that might be good for the petitioner, he wasn't so sure it was the best thing for that part of town.

**MOTION: (Commissioner Cole) "Mr. Chairman, on item RZ-2004-304, a request for the Jacobson rezone, I move that we make the findings of fact and conclusions listed in the staff report and recommend approval of the rezone to RMF-5 to City Council."**

Commissioner Pavelka-Zarkesh seconded the motion.

A vote was called and the motion failed by a vote of 3-4, with Chairman Dibble and Commissioners Pavelka-Zarkesh, Lowrey, and Wall opposing.

A brief recess was called at 7:55 p.m. to consider a point of parliamentary procedure. The public hearing was reconvened at 8 p.m.

Chairman Dibble said that a 7:30 p.m. hearing start time had erroneously been indicated on some of the public notification cards. It was felt that that error may have resulted in some citizens arriving late for Consent Agenda items that were approved for lack of expressed objection. In the interest of fairness to those who may have wanted to hear one of those items, it was decided that Consent items receiving approval would be continued to the February 8 public hearing. Those items included CUP-2004-273, VR-2004-269, ANX-2004-263, CUP-2004-290, and PP-2004-256.

Commissioner Lowrey wondered if the Planning Commission could just invite comment from the audience at this point on Consent items. Chairman Dibble said that doing so would not account for those folks who had come to the public hearing only to find out that their item had been approved on Consent and who had left as a result. The prior motion for continuing item VR-2002-200 stood as previously made.

**MOTION: (Commissioner Cole) "Mr. Chairman, I would move for reconsideration of the Consent Calendar as revised."**

Commissioner Pitts seconded the motion.

Bill Balaz (no address given) spoke up and came forward as representative of one of the Consent Agenda items and said that making those on Consent with non-contentious items wait another two weeks seemed a little unfair. He expressed support for Commissioner Lowrey's suggestion to solicit feedback from the audience. Chairman Dibble reiterated that fairness also had to be extended to those who may have already left. The City's legal counsel supported the decision.

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

**MOTION: (Commissioner Cole) "Mr. Chairman, due to the fact that there may have been people here that left because of the error in the notice, I would move that the Consent Agenda items that we have already considered and have decided to reconsider be continued to the next regular**

**Planning Commission meeting [to continue items CUP-2004-273, VR-2004-269, ANX-2004-263, CUP-2004-290, and PP-2004-256 to the February 8 public hearing]."**

Commissioner Pitts seconded the motion.

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

**ANX-2004-236 ZONE OF ANNEXATION--PINNACLE RIDGE ANNEXATION**

**A request for approval to rezone 45.5 acres from a County RSF-4 (Residential Single Family, 4 units/acre) zone district to a City RSF-2 (Residential Single Family, 2 units/acre) zone district.**

**Petitioner: Claude Barlieb**

**Location: Northwest of Monument Road and Mariposa Drive**

**PETITIONER'S PRESENTATION**

Tom Volkman, legal counsel representing the petitioner, gave a Powerpoint presentation. Referencing the Future Land Use Map, he noted the location of the site. In providing a background overview, he said that a portion of the site had been platted in the County in 1955. Although not built out, taxes had been paid on it for the last 50 years. The City's current position, he said, was not to recognize the plat. As part of recent discussions, the decision was made to annex the property into the City with an RSF-2 zone district. Surrounding zonings included PD zones with underlying 4 unit/acre densities, a section of County-zoned RSF-4 and City-zoned RSF-2. The Growth Plan recommended Residential Low for the site (1/2 to 2 units/acre densities). In keeping with Code section 2.14.F and the Persigo Agreement, zones of annexation were selected in compliance with Growth Plan recommendations or as the closest City equivalent to the property's existing County zone. The current request represented half of what the Growth Plan recommended; however, staff was recommending an even lower density zone of RSF-E (1 unit/2 acres).

Staff's concerns, he said, centered around steep slopes and ridgeline development standards. While acknowledging the presence of both steep slopes and ridgelines, those topographic constraints were specifically handled through the Code's mitigation criteria. Citing Code section 7.2.G, he noted an arithmetic treatment of the property with regard to steep slopes (e.g., widths of lots, development of lots, what type of development could occur within specific slope contours, etc.). Citing Code section 7.2.H dealing with ridgeline development, setbacks were addressed and mitigation techniques were provided to minimize visual impacts from adjacent roads. Staff had cited a number of Growth Plan policies to support their position for recommending RSF-E; however, even the RSF-2 zone district was less dense than what the Growth Plan recommended. Mr. Volkman contended that those Growth Plan goals and policies contemplated mitigation of the problems referenced, not prohibition of development. Staff also made reference to "natural hazard areas." However, that reference by the Code's own definition meant areas so designated by a state or federal agency. No mention had been made in staff's comments to any such agency having made that determination on the property.

With regard to staff's comments regarding risks for loss of life, property damage, etc., the petitioner had every intention of employing mitigation techniques to avoid such cataclysmic events. While agreeing that it was difficult not to discuss plan specifics without being able to present the plan, Mr. Volkman contended that if a zone request could not be supported without some consideration being given to a plan, it was just as erroneous to discount that zone request based upon staff's assumptions. Staff's assumptions, he maintained, identified potential engineering issues, not necessarily those that currently existed.

The petitioner sought no special treatment with regard to steep slopes or ridgeline development standards, or with regard to the zone of annexation. The requested City RSF-2 zone, he reiterated,

represented half the density of its current County RSF-4 zone. Should planning commissioners want to discuss more specific engineering-related issues, the petitioner's engineering consultants were present and available for questions. He reminded planning commissioners, however, that the only request before them was the zone of annexation and not the development plan.

### **STAFF'S PRESENTATION**

Kathy Portner gave a Powerpoint presentation containing the following slides: 1) site location/annexation map; 2) aerial photo map; 3) Future Land Use Map; 4) Existing City and County Zoning Map; and 5) contour map. She overviewed the request and said that the site was currently going through the City's annexation process. The annexation did not include a portion of property denoted within the site; thus, the City's annexation would create an enclave of that property. She concurred that the City did not recognize the County plat referenced by Mr. Volkman. The site was presently landlocked with no available access or right-of-way. The City had agreed to negotiate with the petitioner for access across City-owned property (Painted Bowl) to Mariposa. Discussions between both City and County staffs had resulted in a decision not to support a connection to Bella Pago since the street was substandard. A secondary access would be required; likely this would be made in the form of a stub street to undeveloped property.

The Future Land Use Map designated the site as Residential Low. Surrounding land uses included Residential Low to the east; a public CSR designation to the south; and Residential-Medium for the Ridges development, although the Ridges had probably been built out to about half that density. Three zone designations could be considered under the Residential Low classification: RSF-E, RSF-1 and RSF-2. Prior to annexation, the property had been zoned County RSF-4. When the Growth Plan was adopted in 1996 by both the City and County, the County had opted not to rezone properties that were inconsistent with the Growth Plan. Under the Persigo Agreement, the City could opt to zone a property undergoing annexation in accordance with its County equivalent (in this case RSF-4) or according to Growth Plan recommendations (any one of the three alternatives previously mentioned).

The site was constrained by topography, access, and ridgelines. A slope analysis undertaken by the petitioner indicated that 19 percent of the site had slopes in excess of 30 percent; 36 percent of the site had slopes between 20-30 percent; 24 percent of the site had slopes between 10 and 20 percent; and 21 percent of the site had less than 10 percent slopes. The Code did handle development in each of those categories differently. The goals and policies of the Growth Plan and those included as part of the Redlands Area Plan needed to be considered along with surrounding area conditions prior to assigning a zone district. While a range of zoning options were available within a given land use classification, it was erroneous for a petitioner to think that either the high or low-end options were assured. The Growth Plan's goals and policies did reference mitigation of steep slopes and hilltops; however, staff felt that limiting development density was a form of mitigation as was limiting cut and fill work along hillsides and avoiding development in natural hazard areas. While the Growth Plan did not have a definition of "natural hazard area," the geotechnical reports required for a site such as this would be submitted to the State for review and comment.

Given the variety of topographic and access-related issues inherent to the subject property, staff recommended a zone district at the low end of the Residential Low category, which was RSF-E. Staff felt that the petitioner had not convincingly demonstrated how an RSF-2 zone was the most appropriate or how those densities could be achieved. Further, the specific planning and engineering necessary to show what density could be achieved was best undertaken during a planned development review; this would allow the plan to be considered in conjunction with a requested zone district.

Ms. Portner emphasized that engineering concerns did not represent the sole basis for staff's RSF-E recommendation. Other planning goals and policies contained in the Growth Plan and Redlands Area



Plan suggested that the RSF-E zone district may be more appropriate, or that the City needed to tie a specific plan to whatever zone district was placed on the property.

### **QUESTIONS**

Commissioner Cole asked whether a rezone could be requested by the petitioner at the same time the plan was submitted for review, to which Ms. Portner replied affirmatively. She added that a zone of annexation was applied as a legal requirement of the annexation process. A formal rezone request could be requested in conjunction with preliminary plan submission.

Commissioner Lowrey understood the assertion that a lower density development could be more easily mitigated; however, he'd heard no compelling evidence to suggest that an RSF-E zone district was better than an RSF-2. Ms. Portner said that application of the RSF-2 zone district to the site would set up a density expectation of 2 units/acre. If the developer should sell the property, that expectation would be passed on to the new owner.

Commissioner Lowrey asked whether the slopes were so steep as to preclude any consideration of an RSF-2 zone district. Ms. Portner said that without a plan, it was difficult to know how or if development to that allowable density would work.

Chairman Dibble wondered who actually determined whether "natural hazard areas" existed on a given site. Ms. Portner referenced the Code definition mentioned previously; however, there were more general documents available that identified natural hazard areas valley-wide. The Code also required site-specific analysis of properties such as this by the petitioner's geotechnical staff. Those site-specific analyses were then sent to the State for review and comment. When asked if the current property had been identified as having natural hazard area on it, Ms. Portner said that there were general documents available that showed rock fall areas but nothing else to any great detail. However, the petitioner's geotechnical report would address that in more detail.

Chairman Dibble asked if the slope analysis referenced earlier was based upon pre-construction conditions. Ms. Portner suggested that the question be directed to the petitioner. When asked if more than a third of the property was considered unbuildable by the Code, Ms. Portner said that using the term "unbuildable" was probably erroneous; rather, the steeper slopes and ridgelines were highly regulated by the Code. The Code essentially said that certain designated areas were unbuildable without special consideration having been given by the Planning Commission and City Council, based upon evidence that appropriate mitigation could be achieved.

Chairman Dibble asked for confirmation that the parcel was currently landlocked, which was given. Ms. Portner said that it would take negotiations to gain the required access, the most likely connection being through the publicly-owned CSR-zoned property to Mariposa Drive. When asked if the City had any special plans for the CSR-zoned property, Ms. Portner said that at the present time, the City had none.

Commissioner Lowrey asked if the 19 percent of the site listed as having slopes steeper than 30 percent was considered undevelopable. Ms. Portner reiterated that those areas would be especially difficult to develop. Since the Code specified that special consideration had to first be given by Planning Commission and City Council before development of those areas could be undertaken, staff tried to discourage any development within those areas. Where development was unavoidable, the petitioner had to provide evidence that proposed mitigation would satisfactorily address slope and ridgeline issues. Planning Commission and City Council approval were still required.

Commissioner Lowrey asked what restrictions or guidelines were inherent to the 20-30 percent slope contour. Ms. Portner said that lot sizes would have to be increased. If the petitioner employed clustering

techniques, the smaller lot sizes allowed in clustering would not be permitted for lots within that particular slope contour. On a parcel with the current topographic constraints, it was likely the petitioner would want to utilize clustering techniques. She added that regardless of the zone district applied to the property, the petitioner would still have to comply with Code criteria regarding steep slopes and ridgeline development.

### **PUBLIC COMMENTS**

#### **FOR:**

Marie Barlieb (253 Wendall Rock Court, Grand Junction), owners of the property, felt that her property was very similar in topography to the adjacent Ridges Subdivision and the Redlands Mesa Golf Course. With proper engineering, the problems inherent to those particular developments had been satisfactorily mitigated just as those on her property would be.

Darren Davidson (2204 Ridgeview Drive, Grand Junction) supported the RSF-2 zone because it allowed for densities as low as 1 unit/acre. If an RSF-E zone were applied to the property, it would take from the petitioner any flexibility and chance at mitigation. He noted that approximately \$100K had already been spent on engineering analyses. He'd undertaken a great deal of research on slope development and felt that the same infrastructure would be required for a development density of even 1 unit/acre. Even if the RSF-2 zone were applied to the property, Planning Commission still had the option of finding that a lesser density was more appropriate. But at least the petitioner would be given the flexibility of presenting a plan and demonstrating how proposed mitigation would work. He asked that the petitioner be given that flexibility.

Bill Foster (no address given), a partner in the parcel excluded by the City for annexation, referenced interactions and discussions with the petitioner and staff that weren't always amicable. He said that while disappointed that his parcel had been excluded from the City's annexation, he felt that downzoning the subject parcel from RSF-4 to RSF-E would be "grossly unfair" and wouldn't be compatible with surrounding zonings. He had been involved in development of the Ridges Subdivision and they'd been able to mitigate slopes steeper than the ones present on the petitioner's property. To his knowledge, there were no ongoing issues with the Ridges and, in fact, development within that subdivision was continuing.

#### **AGAINST:**

Michael Salogga (2397 Mariposa Drive, Grand Junction) noted the location of his property on Mariposa Drive and said that the petitioner's plan had been presented at neighborhood meetings. While it apparently wasn't appropriate to refer to it, it's all that the neighbors had to go on. Access was a big concern. He and his neighbors were concerned about traffic impacts to Mariposa Drive, traffic that would come not only from the petitioner's property but also from Redlands Mesa and another 14-acre parcel near Shallow Lake. Also, the petitioner proposed a street stub to another approximately 50-acre parcel to the south. Once developed, traffic from that parcel may also be routed to Mariposa.

Chairman Dibble said that access was currently under negotiations and was not an issue about which the Planning Commission could render a determination. Mr. Salogga felt that the issue was germane in that if an RSF-2 zone district were applied to the property, more traffic could potentially be routed to Mariposa and through their subdivision.

Mr. Salogga said that drainage issues were also of great concern. He submitted photos that depicted flooding from a particularly heavy rainfall during the summer of 2002. Lots along East Plateau Court had been flooded. Any additional development of homes in that area would only exacerbate drainage issues. Again, he emphasized that it was being brought up in the context that increased density increased impacts.

Ms. Kreiling noted that the Code's criteria for zones of annexation included neighborhood compatibility. Criteria further stated that an applied zone of annexation should not create adverse impacts such as capacity or safety of the street network, parking problems, and drainage problems. Thus, the issues brought forth by Mr. Salogga were germane to Planning Commission's consideration of an appropriate zone district application.

Barbara Salogga (2397 Mariposa Drive, Grand Junction) felt that it would be more prudent to err on the side of caution although she felt she could support an RSF-1 zone. She understood the petitioner's concerns over profitability of the parcel, but she felt that RSF-2 was just too aggressive given the site's topography.

Mike Hahn (2398 Mariposa Drive, Grand Junction) said that he'd seen the petitioner's plan and it appeared that most of the homes would be constructed on lands directly behind his home. He felt that the development would be unsightly, and he shared previously stated drainage concerns.

Cinda Kerbein (2421 Hidden Valley Drive, Grand Junction) said one of the site's very steep slopes was situated right behind her home. She expressed concern over roads and homes constructed along that particular ridgeline. Drainage was a very real concern, and she said her back fence was already buried by mud sliding down from that slope. Additional earthmoving could further destabilize that hillside and send it careening into her backyard. She hoped that a lower density option would be approved.

Erin Philips (2398 E. Plateau Court, Grand Junction) expressed her agreement with statements made by other opponents to the RSF-2 zone district.

Michael Kerbein (2421 Hidden Valley Drive, Grand Junction) said that he'd already had to have French drains installed to mitigate the drainage coming from the steep slope located behind his home. He recalled having asked the engineer at the neighborhood meeting, "If the house slid into my yard, could I keep it"?

Rebecca Behrens (2413 Hidden Valley Drive, Grand Junction) expressed similar concerns over drainage and the destabilization of slopes. She also concurred with statements made by other opponents of the RSF-2 zone.

Dan Flannigan (2399 Ridgeway Court, Grand Junction) also concurred with statements made by opponents of the RSF-2 zone and expressed support for staff's RSF-E zone recommendation.

### **PETITIONER'S REBUTTAL**

Robert Jones II, engineering consultant representing the petitioner, said that in listening to comments made, he felt that the issues brought forth would be better addressed during preliminary plan review. The RSF-2 zone district represented half the density of those parcels directly to the north and west. A topographic survey had been completed and only 12 percent of the site had slopes greater than 30 percent, if you removed Mr. Foster's property, which was not included in the current request. Actual impacts to slopes greater than 30 percent would be minimal at best. Impacts would be mitigated through construction of decorative retaining walls. He'd brought with him Mr. John Withers of the Geotechnical Engineering Group, who'd performed an extensive analysis of the site, including drilling and test pits. That information had been submitted to staff. Mr. Withers was available for questions.

The preliminary site plan had been refined since the last neighborhood meeting, and the overall density had been reduced to 1.6 units/acre, or 73 units, with average lot sizes of between 13,000 to 14,000 square feet. Only the RSF-2 zone district would support that density.

A ridgeline analysis had been completed (exhibit presented for review). It had taken into account the existing elevations of Monument Road, the existing slope up to the property, and the proposed grades established on the preliminary site plan and engineering documents. Mr. Jones noted that while ridgeline standards and issues had been repeatedly mentioned, in actuality only the four lots on top would be affected by those regulations. Referencing the ridgeline analysis exhibit, he noted the clear line of sight between the upper and lower levels that would be present based on minimum setbacks of 47 feet. With lot depths of 200 feet on top, he didn't feel that ridgeline issues would be present. Preparatory work and site analyses had been undertaken over the last four years, and he felt that sufficient data was available to support the zone requested and density proposed.

### **QUESTIONS**

Chairman Dibble asked how drainage issues would be mitigated. Mr. Jones said that onsite stormwater management detention would be employed; however, the site would be allowed to release water only at historic rates. Approximately three onsite stormwater basins had been proposed and stormwater would be retained. Drainage issues would be dealt with during preliminary plan review. Detention ponds would be designed to 100-year flood specifications.

Mr. Jones said that with regard to access, a TEDS exception had been approved by the City for the cul-de-sac length that went on top and the intersection grade of the upper road. He reiterated that a lot of time and planning had gone into the project thusfar, and planning commissioners et al. would have a chance for more in-depth review during preliminary plan review.

Commissioner Pitts asked if it were Mr. Jones' contention that the natural hazard areas referenced by staff did not exist. Mr. Jones deferred response to Mr. Withers, who then came forward and answered that geologic hazards had been identified on a map of the Redlands area dated 1976. The potential rockfall hazard mapped on the site at that time was denoted along the south perimeter of the property, an area that sloped down to Monument Road. That geologic hazard would not in any way impact the site if zoned RSF-2.

Chairman Dibble asked if any of the proposed roadwork would in any way destabilize existing slopes enough to create additional hazards for Monument Road. Mr. Withers said that grading at any perimeter would match existing grades. In the line of sight analysis, he assumed a slope away from the existing ridgeline at a 3:1 ratio. From a zoning standpoint, he felt it to be a non-issue.

Mr. Volkman said that any inference on his part that staff had identified specific natural hazard areas on the site was incorrect. He understood that staff had only made a reference to natural hazard areas potentially being present.

Chairman Dibble asked Mr. Dorris if he'd had a chance to review the geological data submitted by the petitioner. Mr. Dorris said that, generally speaking, the site's topography would require steep grades on internal roads leading up to the site's highest development areas. Getting those grades up on top would require significant cuts and fills. There were engineering challenges inherent to the site but nothing that couldn't potentially be overcome, albeit at significant expense. Overlot grading plans would be reviewed more closely during preliminary plan review.

Chairman Dibble asked if infrastructure requirements would essentially be the same regardless of which of the three available zone districts was applied. Mr. Dorris said that one option available to the petitioner was to seek a planned development (PD). An underlying zone existed for a PD but the PD process allowed the City to grant some leeway on underlying zoning requirements in exchange for some additional community benefits/amenities to be provided for by the developer. He felt that the subject property was perfectly suited for such an arrangement. It was also possible that the developer could

forego development of the uppermost lots. That would greatly reduce the amount of cutting/filling required and reduce street grades. It was possible to situate all of the proposed units at lower elevations, which would lessen required street grades. With regard to drainage, there were still existing drainage problems inherent to the Ridges development. The petitioner would be required to mitigate many of the same issues as those that were encountered in the Ridges.

Commissioner Cole asked for confirmation that staff's assessment and zoning recommendation had been based on the data submitted to them by the petitioner's representatives thusfar, which was given.

Commissioner Lowrey asked if an RSF-E zone district would limit development of the site to no more than 22 units, to which Ms. Portner replied affirmatively. If the property were zoned RSF-1, Commissioner Lowrey noted that up to 45 units could be constructed. If the property were zoned RSF-2, he asked if the Planning Commission could approve anything between 45 and the 90 possible units allowed. Ms. Portner said that since the RSF-2 zone district had no minimum density requirements, any number of units up to the maximum number allowed could be considered.

Commissioner Cole asked, if the property were zoned RSF-E, could the petitioner come back and request a Planned Development, and would the underlying zoning remain RSF-E? Ms. Portner said that a PD could be requested but the underlying zoning would be dependent upon the approved plan. If a plan that proposed a density of 1.6 units per acre were submitted and approved, the underlying zoning for that plan would be the zone district which was most closely aligned to the approved plan. In the current scenario, that would be RSF-2. Also, in that PD scenario, planning commissioners would be able to consider the plan in conjunction with the zone district.

#### **DISCUSSION**

Commissioner Lowrey felt that insufficient information was available to the Planning Commission to determine just what density was most appropriate for the site. The Ridges Subdivision had very similar topography, yet it was zoned RSF-4. He felt that since the site could probably support 45-60 homesites, he could support the petitioner's request for RSF-2 zoning, with the understanding that the Planning Commission could restrict the actual density if review of the plan determined that a lesser density was warranted. He felt that the site could definitely support more than the 22 maximum homesites that an RSF-E zone district would allow. He felt that providing additional design flexibility on the front end would not jeopardize any later decision to reduce the site's overall density if the evidence presented during preliminary plan review justified it. Applying the RSF-E zone district at this point, he felt, would be too restrictive.

Commissioner Wall concurred with Commissioner Lowrey's comments and expressed his support for the RSF-2 zone district.

Commissioner Cole remarked that staff had taken into account a great deal of geotechnical and other data not normally required for a zone of annexation. As such, he felt that staff's assessment and recommendation was based on much of the same information that would be presented during preliminary plan review. He supported staff's recommendation and noted that the petitioner could still seek a rezone of the property to RSF-2 through the PD process.

Commissioner Pitts agreed with Commissioner Cole's conclusion and expressed his support for staff's recommendation as well.

Chairman Dibble agreed with comments made by the first two commissioners. There wasn't enough information to suggest that RSF-E was a better fit than the RSF-2 zone district. It was understood that while the petitioner may want to construct 73 units on the property, preliminary plan review findings

could in fact support a less dense development. He also felt that securing access to the site was probably the biggest obstacle facing the petitioner. He felt he could support the requested RSF-2 zone.

**MOTION: (Commissioner Cole) "Mr. Chairman, on item ANX-2004-236, I move that we recommend approval of RSF-E (Residential Single Family-Estate, 2-5 acres per unit) for Pinnacle Ridge Annexation, with the facts and conclusions listed in the staff report."**

Commissioner Carlow seconded the motion.

A vote was called and the motion failed by a vote of 3-4, with Chairman Dibble and Commissioners Lowrey, Wall, and Pavelka-Zarkesh opposing.

**MOTION: (Commissioner Lowrey) "Mr. Chairman, on Zone of Annexation ANX-2004-236, I move that we recommend approval of RSF-2 (Residential Single Family) for the Pinnacle Ridge Annexation, with the facts and conclusions listed in the staff report."**

Commissioner Wall seconded the motion.

A vote was called and the motion passed by a vote of 5-2, with Commissioners Cole and Carlow opposing.

Commissioner Cole noted that the approved motion mentioned taking into consideration staff's findings and conclusions. Wasn't that contradictory? Chairman Dibble said that while planning commissioners considered staff's findings and conclusions, they didn't necessarily have to agree with them.

Commissioner Lowrey said that he was in no way disregarding staff's assessment or conclusion; he just wanted to leave open the door of flexibility.

A brief recess was called at 9:38 p.m. The public hearing reconvened at 9:45 p.m.

#### **CUP-2004-136 VARIANCE--MARIOTT HOTELS**

**A request for approval of three variance requests to waive the requirements of providing an off-street bus stop, an 8-foot-wide sidewalk, and to have outside lighting mounted higher than 35 feet above the ground.**

**Petitioner: Carl Hren, White Lodging Services**

**Location: 765, 767 Horizon Drive**

The decision was made to address each variance request separately. Following are three individual presentations.

### **OFF-STREET BUS STOP VARIANCE**

#### **STAFF'S PRESENTATION**

Scott Peterson gave a Powerpoint presentation that contained the following slides: 1) variance request overview; 2) aerial photo map; 3) Future Land Use Map; 4) site plan; and 5) outline of the Code's variance criteria. The site's location was noted. Mr. Peterson said that the hotel was comprised of the Residence Inn and the Courtyard by Marriott. A Conditional Use Permit was required for all hotels in an

I-O zone; however, that request would be heard separately at a later date. Staff did not feel that any of the variance criteria had been met, and approval of the variance would convey a special privilege to the petitioner. Pedestrians and bus riders from the nearby area and adjacent properties would be negatively affected by the lack of a safe waiting area. Denial of the request was recommended.

### **QUESTIONS**

Commissioner Lowrey asked where the bus turnout lane would be located if the variance were approved. Mr. Peterson said that likely it would be located adjacent to the hotel's stormwater detention area. He added that other bus stop benches were present in the area: one near the Grand Vista Hotel on the same side of the street; another directly across the street; and a third bus stop on the north side of Hilaria en route to the Airport (locations noted). In conversations with Grand Valley Transit (GVT), the three bus stop benches would be removed in favor of the covered turnout bus stop. None of the three bus stop benches had turnout lanes in front of them. The nearest one that did was at the Safeway Store off Horizon Drive near 12th Street. That one had been constructed as a requirement of the Big Box standards.

When Chairman Dibble asked if the Marriott would be required to supply the shelter, Mr. Peterson replied that the Marriott would only be responsible for providing the turnout lane. GVT and a local advertiser would provide the shelter.

### **PETITIONER'S PRESENTATION**

Carl Hren, petitioner, passed out hard copies of his Powerpoint presentation to planning commissioners. The presentation for the bus stop variance included the following slides: 1) Introduction; 2) ITE Trip Generation Data, including comparison overview of hotel trips per day versus major retailers' trips per day; 3) Justification; and 4) Photos of other area bus stops. Mr. Hren anticipated that only about 10 percent of hotel employees (4 persons) would use the bus stop. While the hotel was willing to provide the shelter or a bench for the stop, he didn't feel that the expense of a turnout lane was justified. Providing sufficient area for a turnout lane would result in its encroachment into their stormwater detention area and possibly their parking area. It would trigger the possible need for retaining walls, etc., and cover their existing stormwater sewer system with asphalt and street.

Mr. Hren contended that hotels should not be lumped into the same category as major retailers; they were not "Big Box" retail stores and should not be held to the same development standards. He cited significant differences in trip generation figures from an October 6, 2004 report entitled "*Big Box Retail and Austin: An Independent Review*," "*Transit Design Standards and Guidelines*," dated July 2003, and "*Trip Generation, 7th Edition*" from the Institute of Transportation Engineers (ITE). It made sense to require major retailers to provide turnout bus stops because the traffic generated to and from them could be several thousand trips per day. Not so with hotels. Mr. Hren said that no credit was being given to the fact that three other bus stops were currently available in the immediate area. It didn't make sense to require the hotel to construct the turnout lane when there was already a sufficient supply, and when so few of the hotel's employees would benefit from its construction.

### **QUESTIONS**

Commissioner Cole noted that the hotel would probably provide the community with meeting rooms. Wouldn't those visitors utilize the turnout lane if a bus stop were placed in front of the hotel? Bill Balaz, representing the petitioner, came forward and answered that people who attended meetings or conferences generally drove to get where they needed to go because they were generally pressed for time. Bus travel was a good way to travel if time was not an issue.

Commissioner Carlow asked staff if any information had been received from GVT on its goals for placing stops in the area. Mr. Peterson said that no specific information had been received. GVT's last new added route was to the Rimrock Shopping Center.

Commissioner Carlow asked for confirmation that GVT would likely remove the other existing stops in the area if the turnout lane was provided, which was given.

Chairman Dibble asked about Big Box standards applying to hotels. Mr. Peterson said that hotels were subject to Big Box standards, adding that the word "retail" triggered the application of those standards.

Commissioner Wall asked if Big Box standards were applied based on the size of the "retail" business. Mr. Peterson said that the standards were applicable if the building exceeded 50,000 square feet in size and accommodated a retail business use.

Commissioner Pitts asked if there was a standard size established for the turnout lane. Mr. Peterson said that an additional 10 feet of right-of-way extending 120 feet would be required to meet TEDS standards.

Mr. Balaz said that he'd talked with Regional Transportation Authority (RTA) and representatives had agreed with the estimated numbers of hotel employees likely to use the bus stop. They also agreed that there were adequate facilities already present in the area. Mr. Balaz said that RTA had commented in a recent e-mail that if the City agreed with those figures and findings, RTA would have no further comment on the issue. He added that while the hotel met the definition of Big Box by virtue of their size exceeding 50,000 square feet, the differences in traffic generation between a hotel and a major retailer were extreme. So in the areas of traffic and pedestrian improvement requirements, hotels shouldn't be held to the same Big Box standards as major retailers.

Chairman Dibble asked engineering staff to comment on the potential impacts of the turnout lane right-of-way on stormwater management facilities. Mr. Dorris said that there would be no problems created by covering up the stormwater sewer system. He thought that the TEDS manual called for concrete versus asphalt. With regard to topography, the treatment would be very similar to the Safeway Store near 12th Street/Horizon Drive, which had a retaining wall with a handrail on top of it. The treatment was expensive but it could be done.

### **PUBLIC COMMENTS**

There were no comments either for or against the request.

### **DISCUSSION**

Chairman Dibble agreed with staff's conclusion that providing a turnout lane would add an element of safety for pedestrians and bus riders not present with existing bus stops. And he supported GVT's intention to consolidate existing bus stops if this one were constructed.

Commissioner Carlow said that while not opposed to the placement of bus stops, there was no data to suggest that this was the right place for one. With Planning Commission permission, Mr. Hren read into the record an e-mail received from Mesa County's RTA which cited the presence of other bus stops in the immediate area and their deferral to the City on whether or not a bus stop was warranted in front of the hotel. Mr. Peterson said that he'd also had conversations with the RTA, and they generally deferred to the City when dealing with placement of bus stops inside city limits.



Commissioner Lowrey wondered if Big Box standards required bus stops in front of every Big Box retailer regardless of how far apart they were from each other. Mr. Peterson said that the standards required it. Mr. Blanchard added that variances were designed to handle unique situations and to determine whether deviations to established requirements were warranted.

**MOTION: (Commissioner Cole) "Mr. Chairman, on the variance request in conjunction with the file CUP-2004-136, I move that we approve the variance to waive the requirement of providing an off-street bus stop as specified in section 4.3.M.2.b, finding the request to be consistent with the Growth Plan and section 2.16.C.4 of the Zoning and Development Code."**

Commissioner Pitts seconded the motion.

Ms. Kreiling said that motions for a variance should include whether and how the Code's criteria have been met. That discussion was not yet a part of the record.

Chairman Dibble reiterated his previous comment supporting staff's conclusion that providing the turnout lane would add an element of safety for pedestrians and bus riders. He agreed that granting the variance would confer special privilege and expressed support for denial of the variance.

Commissioner Cole spoke in favor of the variance citing the presence of other bus stops in the area. He didn't feel that traffic generation figures justified construction of a turnout lane.

Commissioner Pitts also expressed support for the request. He questioned the rationale of placing hotels in the same Big Box category as major retailers, and he felt that granting the variance would be appropriate.

Commissioner Lowrey agreed that another bus stop in the area wasn't needed; there were no traffic numbers available to support placement of one at the hotel. He too supported the variance request.

Commissioner Wall opposed the request. He felt that if the City didn't take advantage of this opportunity to improve the safety of pedestrians and bus riders, that opportunity would be lost. He felt that the City had to look into the future and consider future growth and the community's need for such a facility.

Commissioner Pavelka-Zarkesh concurred with Commissioner Wall's comments and also expressed opposition to the variance request.

A vote was called and the motion passed by a vote of 4-3, with Commissioners Wall and Pavelka-Zarkesh and Dibble opposing.

## **8-FOOT SIDEWALK VARIANCE**

### **STAFF'S PRESENTATION**

Scott Peterson said that as with the last variance request, staff concluded that none of the Code's variance criteria had been met. Granting the variance would confer a special privilege and go against Growth Plan policies, which supported the construction of sidewalks. The petitioner had always been aware that they were subject to Big Box standards, so the requirements should have come as no surprise. The presence

of sidewalks added aesthetics, convenience and safety to pedestrian travel. The petitioner had proposed 8-foot-wide sidewalks in locations adjacent to the parking lot, from Horizon Drive, in front of the courtyard, and in front of the Residence Inn adjacent to the parking lot. The variance would affect sidewalks along the side and to the rear of the courtyard area, and at the side entrance to the Residence Inn. In those areas, the petitioner was asking to reduce sidewalk widths to just 5 feet.

**PETITIONER'S PRESENTATION**

Mr. Hren referenced his Powerpoint presentation and said that once again the hotel was being held to Big Box standards when, he maintained, they were not Big Box retailers. He compared pedestrian traffic to that of major retailers during holiday shopping periods. He said that sidewalks along the fronts of buildings would remain 8-feet-wide to accommodate large group entrances. The placement of so many onsite 8-foot-wide sidewalks would cover more aesthetically pleasing green spaces. Referencing various photo slides of other 5-foot-wide sidewalks in the area, he noted that they were in use at the Holiday Express Hotel, along Horizon Drive, and along Hilaria. The 5-foot-wide sidewalks would suffice to facilitate pedestrian and wheelchair travel. He felt that the hotel had met the intent of the Code and that the variance was warranted.

**QUESTIONS**

Commissioner Wall asked if all building entrances were accessible by customers (both walk-in and wheelchair-bound), to which Mr. Hren replied affirmatively. Commissioner Wall followed up by asking if two wheelchairs would be able to pass one another if traveling in opposite directions along 5-foot-wide sidewalks. Mr. Hren said that a walking pedestrian could easily pass a wheelchair-bound pedestrian.

Commissioner Wall wondered why some of the parking area hadn't been converted into green space if there was such a concern for its preservation. Mr. Balaz said that the parking area requirement had been part of the Big Box standards. Mr. Hren pointed to several locations within the parking lot where additional landscaping had been added "to break up the sea of asphalt." The Code required one parking space per room, and he thought the hotel had provided just 6 spaces more than the requirement. So the parking area had been reduced as much as possible to provide for additional landscaping.

Chairman Dibble thought that the 5-foot-sidewalks referenced in photos of the Holiday Inn Express had been approved prior to adoption of the Big Box standards, an assumption confirmed by staff.

Commissioner Pitts asked if the hotel was likely to host meetings or conferences on site. Mr. Hren said that meetings and conferences should be small, with most attendees likely staying at the hotel.

Commissioner Lowrey asked if the hotel was asking for waiver of the requirement for sidewalks along Horizon Drive. Mr. Hren clarified that 8-foot-wide sidewalks would be constructed along the front of the Courtyard and in front of the Residence Inn along the Horizon Drive front side for the entire length. Mr. Peterson referenced the site plan to clarify the locations of both the 8-foot-wide and 5-foot-wide sidewalk sections.

**PUBLIC COMMENTS**

There were no comments for or against the request.

**PETITIONER'S REBUTTAL**

The petitioner offered no rebuttal testimony.

**DISCUSSION**

Commissioner Lowrey agreed that Big Box standards shouldn't apply to hotels. It didn't make sense to require 8-foot-wide sidewalks everywhere on hotel property since a hotel did not generate the same number of pedestrian trips as a major retailer.

Commissioner Pitts thought the hotel to be a "relatively small operation" and felt the variance to be justified. He agreed that hotels didn't generate the same number of pedestrian trips as major retailers.

Commissioner Wall expressed opposition to the variance. Based on the Code's criteria, the hotel did qualify as a Big Box business and those standards were applicable. Again, he felt that the City should look to the future and realize that adhering to the standards would provide for the greater public good long-term. It would be an error, he felt, to approve the variance.

Chairman Dibble suggested that if there was a problem it could be more with the Code's interpretation of just what a Big Box business was. However, like it or not, the hotel fell within current Big Box standards and he agreed that the petitioner should adhere to established criteria. He felt he could not support the request.

Commissioner Pavelka-Zarkesh said that she could somewhat support a reduction in sidewalk width near the rear of the courtyard, but any reduction would make it difficult for wheelchair-bound patrons to pass each other. She felt that wider sidewalks were especially needed from parking lots at entrances to facilitate patron and luggage transportation. She too opposed the request.

Commissioner Carlow felt that in this case wider sidewalks were necessary, if for no other reason than to provide customers with added convenience. He also expressed opposition to the request.

**MOTION: (Commissioner Lowrey) "Mr. Chairman, on variance request in conjunction with file CUP-2004-136, I move that we approve the variance to waive the requirement to provide an 8-foot sidewalk along the building, the side featuring a customer entrance as specified in section 4.3.M.3.b along the sides and rear of the hotel buildings only, finding the request to be consistent with the Growth Plan and section 2.16.C.4 of the Zoning and Development Code."**

Commissioner Cole seconded the motion.

A vote was called and the motion failed by a vote of 2-5, with all but Commissioners Lowrey and Pitts opposing.

## **OUTSIDE LIGHTING VARIANCE**

### **STAFF'S PRESENTATION**

Scott Peterson continued with his Powerpoint presentation which offered slides containing an outline of the request and revised elevation drawings of the Residence Inn. Lighting fixtures on the Residence Inn were placed at an above ground elevation of 37 feet, not the 46 feet originally stated in staff's report. The courtyard area lighting would remain at the 48-foot level. Although not part of Big Box standards, staff concluded that none of the Code's variance criteria had been met, and that granting the variance would confer a special privilege and go against Growth Plan policies. The hardship was deemed to be self-inflicted since the petitioner just didn't want to install them at the 35-foot maximum height specified in the Code. The variance would affect six lights above 35 feet on the Residence Inn building and approximately 10 lights in the Courtyard area.

### **QUESTIONS**

Commissioner Cole asked if the hotel was situated near any residential uses, to which Mr. Peterson replied negatively. He added that even if the variance were approved, down-directional and full cutoff fixtures would be required. When asked if the fixtures being considered were just the ones affixed directly to the building itself, Mr. Peterson replied affirmatively.

Commissioner Cole wondered how the 35-foot height requirement had been derived. Mr. Blanchard answered that above 35 feet the fixtures themselves became visible and created a glare factor, which was why full-cutoff fixtures were required. Factors that went into lighting placement included position of the building on site, how high adjacent lighting was, whether or not they were full cutoff or down-directional, whether or not the lighting stayed on the building versus compounding light out onto sidewalks and into parking areas.

Chairman Dibble asked if the 35-foot figure was arbitrary or did it represent historical research. Mr. Blanchard said that the Code criteria provided direction to the majority of situations; however, there were always exceptions that had to be addressed differently. The variance procedure was intended to address those more unique circumstances.

Chairman Dibble asked for confirmation that the 35-foot-high maximum requirement was the standard for any commercial development, which was given.

#### **PETITIONER'S PRESENTATION**

Mr. Hren referenced his Powerpoint overview of the hotel's position and maintained that while a 40-foot building height restriction applied to most areas, that height restriction was raised to 65 feet for buildings along Horizon Drive. The 35-foot-high lighting requirement was fine for 40-foot-high buildings but the limitation didn't make sense for a 65-foot-high building. He contended that building lighting added to the aesthetics of the building and added visibility and safety to the site, of special concern given the building's proximity to the airport. According to the hotel's photometric plan, all lighting would stay on site. Mr. Hren presented a photo slide of the Holiday Inn Express Hotel, a business that had received approval for a similar variance request.

Mr. Blanchard asked if building lights would in any way intrude out onto the property. Mr. Hren said that building lighting was solely intended for building illumination. Even if there were .1 or .2 candles of overflow lighting present, by the time it reached the landscaped area below, its dispersion would make any impact practically non-existent.

#### **QUESTIONS**

Chairman Dibble asked if, other than the 24 Road corridor, were other commercial areas in the City permitted 65-foot building heights? Mr. Peterson said that only buildings along the Horizon Drive corridor north of G Road were permitted the 65-foot height allowance. Ms. Portner indicated that a 25 percent deviation in the height restriction was within Planning Commission purview and applicable to building heights citywide.

#### **PUBLIC COMMENTS**

There were no citizens present to offer public comments either for or against the request.

#### **PETITIONER REBUTTAL**

The petitioner offered no rebuttal testimony.

#### **DISCUSSION**

Chairman Dibble agreed with staff's conclusion that the hardship was likely self-inflicted; however, aesthetically, he agreed with the petitioner that elevating the lighting on the building would look nicer.

Commissioner Cole agreed that placing the building lighting at higher elevations would be more aesthetically pleasing.

Commissioner Pitts observed that safety considerations did not seem to be at issue, just aesthetics. He could see no reason not to support the variance request.

Commissioner Lowrey felt that higher building allowances made higher lighting elevations more feasible. Given the absence of any residential uses adjacent to the property, and the fact that down-directional and full cutoff fixtures would be utilized, he felt he could support the request.

Commissioner Carlow agreed that placing the lighting at higher elevations would look better, and he expressed support for the request.

Chairman Dibble remarked that since the lighting height restriction was designed to correspond with the more universal 40-foot building heights, perhaps it made sense for City Council to consider amending the lighting criterion to provide for the higher building allowance along Horizon Drive. However, since the Code criteria was clear, and that criteria had not been met by the petitioner, he could not support the request.

**MOTION: (Commissioner Cole) "Mr. Chairman, on the variance request in conjunction with file CUP-2004-136, I move that we approve the variance to waive the requirement of installing outside building lighting to be mounted no higher than 35 feet above the ground as specified in section 7.2.F.2, finding the request to be consistent with the Growth Plan and section 2.16.C.4 of the Zoning and Development Code."**

Commissioner Lowrey seconded the motion.

A vote was called and the motion passed by a vote of 6-1, with Chairman Dibble opposing.

The final item remaining included continuing those Full Hearing Agenda items that could not be heard due to the lateness of the hour and the Planning Commission's adherence to the 11 o'clock rule. Those items included PP-2004-169 (Preliminary Plan--Spyglass Ridge Subdivision), PFP-2004-181 (Growth Plan Amendment/Rezone--Hanson Equipment); and VAR-2004-271 (Variance--Buffer Wall Requirement).

**MOTION: (Commissioner Cole) "Mr. Chairman, I would move for continuance of item 10, PP-2004-169, item 11, PFP-2004-181, and item VAR-2004-271. I'd move for continuance to the February 8 meeting."**

Commissioner Pavelka-Zarkesh 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 11:16 p.m.