

**JOINT CITY/COUNTY PLANNING COMMISSION  
GRAND JUNCTION PLANNING COMMISSION  
MAY 24, 2005 MINUTES  
7:00 p.m. to 9:25 p.m.**

Directly preceding the regularly scheduled Planning Commission hearing, a specially scheduled Joint City/County Planning Commission public hearing was called to order at 7:00 p.m. by Chairman Bruce Kresin (County) and Vice Chairman Roland Cole (City). The public hearing was held in the City Hall Auditorium.

In attendance, representing the County Planning Commission, were Bruce Kresin (Chairman), Mark Bonella, George Domet, Bruce Noble and John Justman.

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

In attendance, representing the County's Planning Department were: Kurt Larsen (Planning Director), Linda Dannenberger (Senior Planner), Christie Barton (Senior Planner) and Dahna Raugh (Senior Planner).

In attendance, representing the City's Community Development Department, were Kathy Portner (Planning Manager), Pat Cecil (Development Services Supervisor), Senta Costello (Associate Planner), Ronnie Edwards (Associate Planner), Lori Bowers (Senior Planner) and Dave Thornton (Principal Planner).

Also present was Jamie Kreiling (Assistant City Attorney).

Terri Troutner was present to record the minutes.

There were approximately 33 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 City Planning Commission minutes from the April 26, 2005 public hearing. County Planning Commission members abstained from voting.

**MOTION: (Commissioner Pitts) "Mr. Chairman, I move for approval of the minutes of April 26 as presented."**

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

### III. JOINT MEETING TO CONSIDER TWO GROWTH PLAN AMENDMENTS

#### **2004-250 MP1 FLYNN/YOUNG MASTER PLAN AMENDMENT**

**A request to amend the Future Land Use Map of the Countywide Land Use Plan (A component of the County's Master Plan). The map shows the property recommended for rural/agricultural land uses. The applicants request changing the map to reflect a Residential Medium-Low density land use.**

**Petitioner: Flynn/Young LLC**

**Location: 3327 F 5/8 Road, Clifton, CO**

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

Dahna Raugh entered into the record the Countywide Land Use Plan, the project file, the Mesa County Standards for Road and Bridge Construction, the County's Land Development Code, and staff's Exhibit A. Exhibit A, a hard copy of staff's Powerpoint presentation, contained the following slides: 1) Future Land Use Map; 2) Current Zoning Map; 3) Aerial Photo Map; 4) photos of the site from various angles; 5) County Land Development Code approval criteria outline; and 6) general approval criteria outline.

The subject parcel's location was noted and a brief overview was provided. The west half of the 20-acre parcel was zoned RSF-R (Residential Single Family-- Rural) and was situated within both the Urban Growth Boundary and the Clifton Sanitation District #2 service area. In March of 2005, the boundaries of the Clifton Sanitation District #2 service area were expanded to include the east 10 acres. Because sewer service was now available to the entire parcel, the applicants were requesting an amendment to the Future Land Use Map to reflect a Residential Medium-Low (2-4 dwelling units (du)/acre) land use designation. A separate rezone application for an RSF-4 (Residential Single-Family, not to exceed 4 du/acre) had also been submitted for the entire 20-acre parcel. Surrounding zoning and land uses were noted, and photos of the site from various angles were shown. Ms. Raugh said that the County would support a maximum density of not more than 2 du/acre giving the area's road and transportation limitations. Several calls and letters in opposition to the request had been received; none had been received in support of the request. Although many review agencies had expressed concerns with the provision of public services and facilities (e.g., roads and fire protection), their primary concern had been over the possible precedent that approval of the request might set for other properties in the area. Ms. Raugh said that without an updated plan for the area, the Mesa County Planning Department would not support further expansion of the Urban Growth Boundary in the subject area. Approval of the current request made sense, however, because it would resolve a split in the recommended land uses for the subject parcel. In addition, Clifton Sanitation District #2 had already annexed the property into its district.

Having concluded that the request met established goals, policies and review criteria, staff recommended approval based upon the findings and conclusions outlined in the May 17, 2005 project review.

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

Dave Thornton expressed agreement with the County's presentation and position on behalf of the City. He noted that the primary difference between the City's and County's review of Master Plan criteria A-G was that the City required compliance with ALL criteria; that was not necessarily so with the County. However, having concluded that the request met all established criteria, the City supported approval of the request. The City also supported deferring consideration of any further Master Plan amendment requests in the subject area pending update of the Master Plan.

#### **QUESTIONS**

Commissioner Noble asked for a synopsis of why staff felt that approval of a Master Plan Amendment was appropriate for the subject parcel. Ms. Raugh said that although the parcel had never been

subdivided, the Sanitation District had annexed only half of it into its service area. That had prompted a land use reclassification of that annexed portion of property since it was situated within the Urban Growth Boundary. That single, unsubdivided parcel had then been given two separate tax identification numbers. Approval of the Master Plan Amendment would apply a single land use designation to the entire parcel and negate the need for more than one tax ID number.

Commissioner Carlow wondered if owners of other parcels in the area who had small portions of their properties situated within the Urban Growth Boundary would also want to apply for a Master Plan Amendment. Ms. Raugh thought it unlikely that the Mesa County Planning Department would support such requests since the current situation was unique. The Douglas Wash and Price Ditch Road, she added, also formed natural topographic boundaries for the subject property.

Chairman Kresin asked staff if approval of the request would create a precedent for the Clifton Sanitation District, to which Ms. Raugh responded affirmatively. She added that discussions between District and Planning Department staff were already underway.

Commissioner Putnam remarked that while the County's position was that no other Master Plan Amendment would be considered, pending the Plan's update, there was another Amendment request following the current one on the agenda. Ms. Raugh responded that the next request was very different from the one under current consideration.

**PETITIONER'S PRESENTATION**

Richard Livingston, representing the petitioner, expressed his appreciation to the City and County staffs in their dealing with a difficult situation. Annexation laws did not allow the annexation of just a portion of a given property, which had been just one aspect of what made the current request so unique. The Sanitation District's annexation of just half the petitioner's property imposed a real hardship on the owners in being able to develop the parcel. In fact, the applicants had tried over the last two years to sell their property but current limitations had discouraged potential buyers. Mr. Livingston noted that this was just the first development step. While an RSF-4 zone would be sought in a separate application, the applicants knew that approval of that zone district did not guarantee them the highest density range allowed. The petitioner understood that topographic constraints and other variables would be factored into any final decision. In the current situation, however, the logic was undeniable. He urged planning commissioners to follow the recommendations of staff and approve the current request.

**PUBLIC COMMENTS**

**FOR:**

There were no comments for the request.

**AGAINST:**

Patrick Solano (3340 F 5/8 Road, Clifton) thought that there would be development issues given the narrowness of the one available entrance off of F 5/8 Road. A development of four or five houses per acre would be just too dense. Mr. Solano expressed concerns over pedestrian safety and possible impacts to the area's quality of life.

**PETITIONER'S REBUTTAL**

Mr. Livingston said that if the property's development request moved forward, all issues would be addressed at the proper time, including street improvements. There was really no way to address those concerns until a plan could be developed and submitted.

**QUESTIONS**

Commissioner Noble asked how the applicants felt that criterion A had been satisfied. How had they ascertained that an error had been made in the Master Plan? Mr. Livingston explained that the division of the parcel independent of its actual boundaries represented the error. The physical legal boundaries, he said, should have guided the Future Land Use Map. When asked if there was anything preventing the applicants from developing just that property within the Urban Growth Boundary, Mr. Livingston said that, legally, it couldn't be done. It was "all or nothing."

Chairman Kresin asked for confirmation that a rezone application had been submitted in conjunction with the current request. Mr. Livingston affirmed that County staff had received submission of a rezone application, to run parallel with the current request.

Commissioner Cole asked if the request had been generated as a result of the Sanitation District's annexation of a portion of the subject property. Mr. Livingston confirmed that the Urban Growth Boundary automatically extended to include any property(ies) served by the appropriate utilities.

Ms. Raugh clarified that there was nothing to prevent development of the property as it was currently configured; however, since the two sections were zoned differently, each portion of the property would be governed by a different set of development criteria that, admittedly, would be awkward. It was highly irregular to have two distinctly different zoning districts applicable to a single non-subdivided parcel.

Chairman Kresin asked if the rezone application was also a part of the current request, to which Ms. Raugh responded negatively.

**MESA COUNTY**

**MOTION: (Commissioner Bonella) "On project 2004-250 MP1, Flynn/Young Master Plan Amendment, I make a motion for approval as recommended by staff with all review agency comments."**

Commissioner Justman seconded the motion. A vote was called and the motion passed unanimously by a vote of 5-0.

**CITY OF GRAND JUNCTION**

**MOTION: (Commissioner Pitts) "Mr. Chairman, on item 2004-250 MP1, Flynn/Young Master Plan Amendment, I move that we approve, with the Mesa County Planning Commission, the Master Plan Amendment as recommended by staff."**

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

**2004-262 MP1 WOODCRAFT MASTER PLAN AMENDMENT**

**A request to amend the Future Land Use Map of the County-wide Land Use Plan (a component of the County's Master Plan). The map shows the property recommended for Residential Medium-High land uses. The applicants request changing the map to reflect a Commercial land use.**

**Petitioner: Stoner Investment Group, LLC**

**Location: 569 32 1/2 Road, Clifton**

**COUNTY STAFF'S PRESENTATION**

Christie Barton entered into the record the Countywide Land Use Plan, the project file, the County's Land Development Code, and staff's Powerpoint presentation. The Powerpoint presentation contained the following slides: 1) location map; 2) zoning map; 3) Future Land Use Map; 4) Master Plan approval criteria; 5) general approval criteria; and 6) basis for recommendation. A building is currently situated on the property. The property owners also own the smaller adjacent property which is used for parking and circulation. The Master Plan appeared to be in error since the building had been constructed in 1900 as a packing shed, with the property used for commercial-type uses since that time. Given that, and the property's close proximity to the railroad, a Commercial designation would be more appropriate. While all but criterion C of the Master Plan's approval criteria had been met, criterion C addressed changes in the character and/or condition of the area since adoption of the Countywide Land Use Plan. However, the original use of the property appeared to have been overlooked during the original consideration of the Master Plan. Approval of the amendment would correct that error on the Future Land Use Map. Approval of the request was recommended.

**CITY STAFF'S PRESENTATION**

Dave Thornton said that the City was in agreement with both the County's presentation and recommendation. In the current situation, the original land use designation seemed to be clearly in error. Given that the area had historically been commercial, approval of the current request represented more of a housekeeping measure.

**QUESTIONS**

Chairman Kresin asked if C-2 zoning would be sought. Mr. Thornton thought that the County intended to apply a PUD zone with underlying Commercial bulk standards.

Ms. Barton said that the County was the petitioner for the current request. As such, there would be no petitioner presentation. Chairman Kresin asked if the current request had been generated by the property owner. Ms. Barton said that the property owner had generated the rezone request, which was running parallel to the current request.

**MESA COUNTY**

**MOTION: (Commissioner Noble) "Mr. Chairman, I recommend that with project 2004-262 MP1, Master Plan Amendment, we approve the project with the staff recommendation and conformance with all review agency comments."**

Commissioner Domet seconded the motion. A vote was called and the motion passed unanimously by a vote of 5-0.

**CITY OF GRAND JUNCTION**

**MOTION: (Commissioner Pitts) "Mr. Chairman, on item 2004-262 MPI, Woodcraft Master Plan Amendment, I move that we approve, with the Mesa County Planning Commission, the Master Plan Amendment as recommended by staff."**

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

With no further business to consider, the Joint City/County Planning Commission public hearing was adjourned at 7:54 p.m. The City Planning Commission Public Hearing was reconvened at 8:00 p.m.

#### IV. CITY OF GRAND JUNCTION CONSENT AGENDA

Available for consideration were items:

1. ANX-2005-058, Zone of Annexation--Reynolds Annexation
2. ANX-2005-078, Zone of Annexation--Beanery Annexation
3. ANX-2005-099, Zone of Annexation--Beagley II Annexation
4. ANX-2005-101, Zone of Annexation--Bookcliff Middle School Annexation
5. ANX-2005-073, Zone of Annexation--Theobold Annexation
6. PP-2004-219, Preliminary Plan--The Glens at Canyon View
7. PP-2005-010, Preliminary Plat--Chipeta West Subdivision
8. PP-2005-019, Preliminary Plan--Redlands Mesa, Phase IV

Acting Chairman Cole briefly explained the nature of the Consent Agenda and invited the public, planning commissioners, and staff to speak if they wanted one or more of the items pulled for additional discussion. Lori Bowers asked that item PP-2004-219 be pulled from Consent and continued to the next regularly scheduled Planning Commission public hearing (June 14, 2005). Jamie Kreiling referenced PP-2005-010 and said that motion included in the staff report did not indicate that the recommendation of approval was conditional. Approval would be conditioned upon the fact that the "Final Plat not be recorded as long as the mobile home that is on lot 1 and lot 2, along with the shed on lot 3 be recorded. The suggestion would be that they do it in phases, based on the information provided in the staff report, so that those particular lots would not be recorded until after they've had the people residing in that modular home move into the home that they've suggested, and that those two items be removed from the property." At citizen request, items ANX-2005-058 and PP-2005-019 were pulled from Consent 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 Pitts) "Mr. Chairman, I move for the approval of the Consent Agenda for item 2, 3, 4, 5 [ANX-2005-078, ANX-2005-099, ANX-2005-101, ANX-2005-073], and the changes as recommended by counsel on item 7 [PP-2005-010], including continuing item 6 [PP-2004-219] to the next public hearing [June 14, 2005]."**

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

#### V. FULL HEARING

##### **ANX-2005-058 ZONE OF ANNEXATION--REYNOLDS ANNEXATION**

**A request for approval to rezone 6.549 acres from a County RSF-R (Residential Single Family, 5 acres/dwelling unit) to a City RMF-8 (Residential Multi-Family, 8 units/acre) zone district.**

**Petitioner: Waite Reynolds**

**Location: 3077 D 1/2 Road**

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

Senta Costello 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. Surrounding zoning and land uses were noted. Having concluded that the request met Code criteria and Growth Plan recommendations, staff recommended approval.

**PETITIONER'S PRESENTATION**

Ted Ciavonne, representing the petitioner, concurred with staff's report and recommendation of approval. He availed himself for questions.

**QUESTIONS**

Commissioner Lowrey said that if an RMF-8 zone was approved, he advised the petitioner's representative to limit the proposed density of any development submittal to ensure compatibility with the surrounding area. A development density of 5-6 units/acre would be regarded as reasonable; however, he could not personally support a proposal of 7-8 units/acre.

**PUBLIC COMMENTS**

**FOR:**

There were no comments for the request.

**AGAINST:**

John King (3068 D 1/2 Road, Grand Junction), representing the William Keith Homeowners Association referenced petitions signed by area property owners, all of whom were against the RMF-8 zone application. The higher density zone district was incompatible with the surrounding neighborhoods. He agreed that a maximum density of between 5-6 units/acre would be more reasonable.

**PETITIONER'S REBUTTAL**

Mr. Ciavonne said that a neighborhood meeting had been held, and input from surrounding residents had been solicited. Of just the 9 people who had showed up to that meeting, only Mr. King was present at the public hearing. The petition referenced by Mr. King had asked residents only if "they were against high density development." He assured planning commissioners that any development submittal brought before them for consideration would be compatible with the surrounding area. He agreed that a density of no more than 5-6 units/acre would be appropriate and would represent a good transition to the nearby Commercial land use. He remarked that when he approached County staff, they'd thought the property already zoned County PR-5.8. However, given the annexation requirements inherent to the Persigo Agreement, a new City Zone of Annexation was required.

**DISCUSSION**

Commissioner Pitts acknowledged that the development could make a good transition to the nearby Commercial land use; however, the adjacent parcel situated between the Commercial use and the subject property could also serve that purpose. When he asked legal counsel if planning commissioners could recommend a zone district other than the RMF-8, Ms. Kreiling responded affirmatively. Because the current request would apply zoning through a Zone of Annexation and not through a rezoning, a zone must be applied to comply with legal criteria. If the RMF-8 zone were denied, another recommendation would be required.

Commissioner Lowrey noted the extreme density difference between the RSF-4 and RMF-8 zone districts. He said that he would be willing to approve the RMF-8 zone district with guidance to the petitioner that developing the property to the highest allowable density would not be something he could support. He would consider 5-5.5 units/acre a reasonable compromise, one that would ensure compatibility with the surrounding neighborhoods. Mr. Ciavonne said that the RSF-4 zone district would allow densities of only 2-4 units/acre. The RMF-8 zone district would allow greater design flexibility and better ensure compliance with both the Pear Park Neighborhood Plan and Growth Plan. Kathy Portner said that even if the RSF-4 zone district were applied, the Code required at least 80 percent of the zone district's allowable density range.

**MOTION: (Commissioner Pitts) "Mr. Chairman, on Zone of Annexation ANX-2005-058, I move that the Planning Commission forward the Zone of Annexation to City Council with the recommendation of the RMF-8 (Residential Multi-Family, 8 du/ac) district for the Reynolds Annexation with the facts and conclusions listed in the staff report."**

Commissioner Pavelka-Zarkesh seconded the motion.

Commissioner Cole said that the direction of planning commissioners had been made clear. He hoped the petitioner would take those comments under advisement.

Commissioner Lowrey encouraged input from other planning commissioners.

Commissioner Pavelka-Zarkesh felt that development at the high end of the RMF-8 density range would be difficult. She agreed that an overall density between 5-6 units/acre would be more reasonable, although development at the lower end of that spectrum would also be appropriate.

Commissioner Putnam concurred and felt he could support a project with a mid-range density in the RMF-8 zone district. He thought that development of single parcels in that area, in general, was difficult given the narrowness of those parcels.

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

**PP-2005-019 PRELIMINARY PLAN--REDLANDS MESA, PHASE IV**

**A request for approval of a Preliminary Plan and amended PD zoning ordinance for Redlands Mesa, Phase IV, consisting of 25 single-family lots on 23 acres.**

**Petitioner: Ron Austin, Redlands Mesa LLC**

**Location: Monument Road and Mariposa Drive**

**STAFF'S PRESENTATION**

Kathy Portner 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. Due to topographic constraints, it was unlikely that the maximum number of units established during the Outline Development Plan (ODP) would be recognized. Mariposa Drive would be completed in conjunction with the current request and had been guaranteed by a Development Improvement Agreement (DIA) and a letter of credit. The extension of Ridges Boulevard and Mariposa Drive would meet all City standards; however, a 10-foot-wide concrete detached path on one side of both streets would be allowed instead of having attached sidewalks along both sides of the streets. The extension of West Ridges Boulevard to Mariposa Drive would require access across a small section of the City-owned Painted Bowl property. While City Council had indicated its willingness to consider such access on a case-by-case basis, approval of the Preliminary Plan would be conditioned upon City Council approving the access. A 10-foot-wide concrete pedestrian trail would be provided, connecting Mariposa Drive to East Redlands Mesa Court through the existing Hilltop Court right-of-way and a proposed tract. Within that Tract A, the sewer line would also be laid. Lots would be accessed via a proposed cul-de-sac off of West Ridges Boulevard. The undeveloped portion of West Ridges Boulevard would be maintained for emergency access. Two TEDS exceptions had been granted: one, to allow the cul-de-sac to exceed 750 feet in length; and two, to allow street lights only at intersections to reduce the amount of night sky light pollution.

Ms. Portner said that access to lots 3 and 4 would be from a shared driveway off of Redlands Mesa Court. The driveway would be in a tract dedicated to the two lots it served, with a hammerhead turnaround for emergency access. Approximately 10 acres of open space would be provided and deeded



to the subdivision's homeowners association. A pump station would be required to ensure adequate water pressure for domestic use and fire flow. The developer preferred not to provide the site with irrigation water. The City's Utility Department would like to provide lots with irrigation water. Prior to review and approval of the Final Plan and Plat, that issue would require resolution.

Having concluded that the request met Code requirements and Growth Plan recommendations, and provided that remaining issues could be resolved, staff recommended approval.

**PETITIONER'S PRESENTATION**

Craig Roberts, representing the petitioner, indicated that the proposed density had been the result of some "density shifting" from other pods; however, the overall project density was still less than the maximum of what the original ODP had allowed. He reiterated plans to complete Mariposa Drive with detached sidewalk and landscaping strip.

**PUBLIC COMMENTS**

**FOR:**

There were no comments for the request.

**AGAINST:**

Michael Salogga (2397 Mariposa Drive, Grand Junction) was glad to see that Hilltop Court had not been targeted as a primary access to the development since it was situated directly adjacent to his home. He was also pleased to see that an open space buffer between his home and the proposed development had been provided. He was, however, opposed to the proposed 10-foot-wide pedestrian walkway connecting with Hilltop Court. He felt it would invite trespassers and break up the landscape buffer. The proposed improvement to Mariposa Drive, he said, would only be up to the West Ridges entrance. He felt that some kind of traffic calming should be installed for that unpaved section of Mariposa Drive up to his home (location noted). He hoped that with the development, the remainder of West Ridges Boulevard would be improved all the way through, to connect to "West Ridges on the other side."

**PETITIONER'S REBUTTAL**

Mr. Roberts wasn't sure if other materials besides concrete could be used for the Hilltop Court pedestrian path. He felt that there would be grading/slope issues inherent to the construction of a concrete path.

**QUESTIONS**

Commissioner Pitts asked staff what the purpose of the Hilltop Court pedestrian path was. Ms. Portner said that it would provide pedestrians and bicyclists quick access to Mariposa Drive without having to travel the entire length of East Redlands Court and then backtrack quite a distance along West Ridges Boulevard. Since the easement was required to accommodate the subdivision's sewerline anyway, it seemed a good way to provide for an alternate pedestrian access. While staff had not had an opportunity to more closely review slope conditions to determine the feasibility of constructing a concrete path, the City's Development Engineer felt that constructing the path to meet ADA standards was possible. Ms. Portner noted that Hilltop Court was a City-owned right-of-way. Since less area was needed to accommodate the sewerline easement and pedestrian path, adjacent property owners could request vacation of a portion of that right-of-way.

Ms. Kreiling asked if the ownership of Tract A would belong to the City or to the subdivision's HOA. Ms. Portner said that she would have to check with the City's Utility Engineer. Staff wanted to ensure that if deeded to the subdivision's HOA, the trail segment would still be usable by the public at-large. She added that the only condition of approval for the current request was that the developer obtain approval from City Council for access through a portion of the Painted Bowl property.

**MOTION: (Commissioner Lowrey) "Mr. Chairman, I move we forward a recommendation of approval of the requested amendment to the PD zoning ordinance and approve the Preliminary Development Plan for Redlands Mesa, Phase IV, with the findings and conclusions as listed in the staff report, and conditioned on the City Council approving the access across the Painted Bowl property connecting West Ridges Boulevard to Mariposa Drive."**

Commissioner Pitts seconded the motion.

Commissioner Putnam commented that he lived in neighborhood with a very heavily used pedestrian pathway. He'd never seen or heard of any instances where there were any issues of trespass or problems of any kind. He couldn't imagine how the proposed pedestrian path would be a detriment.

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

**VAR-2004-223 VARIANCE--AA ALIGNMENT MASONRY WALL**

**A request for approval of a variance from the requirement for a masonry or block wall between commercial and residential zoning.**

**Petitioner: Chris Menzies**

**Location: 496 Harris Road**

**STAFF'S PRESENTATION**

Ronnie Edwards gave a PowerPoint presentation which contained the following slides: 1) site location map; 2) aerial photo map; 3) Future Land Use Map; 4) Existing City and County Zoning Map; 5) landscape plan; and 6) site plan and utility composite. The variance request was in conjunction with an auto repair application, which had been approved administratively in 2004. Instead of constructing a masonry wall as required by Code criteria, the petitioner was proposing to use landscaping and the erection of a double-sided wood fence as buffering. Since the request did not meet Code criteria, staff recommended denial.

**PETITIONER'S PRESENTATION**

Chris Menzies, petitioner, acknowledged the Code's requirement of a block wall but he felt he'd met the intent of the Code in other ways. First, he'd provided added insulation to his building during construction to buffer against noise. In addition to proposing the double-sided wood fence, he was also proposing an extensive landscaping buffer, to include trees and other vegetation along the side of his building. Irrigation would be provided to all landscaped areas. He noted the long span of wood fencing used by the adjacent Wal-Mart to buffer its use from adjacent residences. Mr. Menzies provided photos of the site from various angles. Currently, only chain link fencing and a portion of wood fencing buffered his business from the adjacent apartment building. He felt that not only would his solution provide adequate buffering, the added landscaping would be more aesthetically appealing. He added that he would be responsible for maintaining both the landscaping and the fencing. Mr. Menzies referenced a maintenance agreement that, upon approval of the variance request, would be recorded.

**QUESTIONS**

When asked by Commissioner Cole how much area existed along the side of his building for landscaping, Mr. Menzies replied that there was approximately 10 feet available. It really wasn't usable for anything, he said, but landscaping.

Commissioner Wall asked if there was anything in the Code requiring extra space to accommodate landscaping maintenance, to which Ms. Portner replied negatively.

Commissioner Cole asked if a maintenance agreement for both the fence and landscaping could be recorded to run with the property, to which Ms. Portner replied affirmatively.

**PUBLIC COMMENTS**

There were no comments either for or against the request.

**DISCUSSION**

Commissioner Lowrey asked for staff's input on the wood fence separating Wal-Mart's property along its western border. Ms. Edwards acknowledged that Wal-Mart had been permitted by an earlier Code to erect a long span of wood fencing to separate its property from adjacent residences; however, current Code criteria required that a masonry wall be constructed to separate commercial and residential uses. She added that, if erected, the required masonry wall would be the only one in the immediate area.

Commissioner Lowrey asked about the cost difference between the two options, if known. Mr. Menzies estimated construction costs of the masonry wall to be approximately \$10K. His proposed alternative would probably be closer to \$5K.

Commissioner Putnam said that he had extensive experience working with evergreens. While it may be true that they provided an effective and visually appealing sound barrier, they also required maintenance and constant watering. Wood fences required regular maintenance and/or repair. In the case of a masonry wall, once constructed, little or no maintenance would be required. He felt that he could support either option presented by staff or the petitioner.

Ms. Kreiling reminded planning commissioners that if approval were granted, they needed to provide findings to support how they felt that the variance criteria had been met.

**MOTION: (Commissioner Pitts) "Mr. Chairman, on item VAR-2004-223, I move that we approve the variance to waive the requirement to provide a six foot tall masonry wall between a C-1, Light Commercial, and a PD, Planned Development residential zoning district, finding the request to be consistent with the Growth Plan and Section 2.16.C.4 of the Zoning and Development Code."**

Ms. Kreiling suggested conditioning the motion to include installation of landscaping and construction of the double-sided fence instead of just doing away with the wall requirement altogether.

Commissioner Lowrey considered offering an amendment to the motion to include Mr. Menzies' landscaping and fencing maintenance agreement but then opted against it. It seemed that since the inclusion of the masonry wall condition in the latest Code update, the Planning Commission had been plagued with masonry wall variance requests. It was unfortunate that a business like Wal-Mart could get away with providing just a single wood fence when other smaller and much less intense uses were required to construct masonry walls. However, permanence was an important consideration in buffering commercial and residential uses, and masonry walls were permanent. He expressed support for staff's recommendation of denial.

Commissioner Wall concurred. While the up-front costs of a masonry wall could seem daunting, over time, the long-term maintenance costs of the proposed alternative could meet or exceed that initial cost. He too expressed support for staff's recommendation of denial.

Commissioner Pitts also opposed the variance request. Regulations were there for a reason. This could be the first of other masonry walls constructed in the area.

Commissioner Pavelka-Zarkesh agreed that over time, not having the long-term maintenance costs of the petitioner's alternative would result in the masonry wall paying for itself. Also, evergreens typically grew to be very large, too large for just a 10-foot space. And once that happened, the petitioner could be faced with the vegetation causing damage to his building.

A vote was called and the motion failed by a vote of 1-6, with all but Commissioner Carlow opposing.

With no further business to discuss, the public hearing was adjourned at 9:25 p.m.