

**GRAND JUNCTION PLANNING COMMISSION
JULY 13, 2004 MINUTES
7:00 P.M. to 9:54 P.M.**

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

In attendance, representing the City Planning Commission, were Dr. Dibble (Chairman), Roland Cole, Travis Cox, John Evans, William Putman, John Redifer and Tom Lowrey (alternate). Bill Pitts was absent.

In attendance, representing the City's Community Development Department, were Kathy Portner (Planning Manager), Pat Cecil (Development Services Supervisor), Lisa Cox (Senior Planner), Scott Peterson (Associate Planner) and Ronnie Edwards (Associate Planner).

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

Debbie Kemp, Deputy City Clerk, was present to record the minutes.

There were 14 interested citizens present during the course of the hearing.

I. APPROVAL OF MINUTES

The minutes from the May 25, 2004 were not available for approval at this time.

II. ANNOUNCEMENTS, PRESENTATIONS AND/OR PRESCHEDULED VISITORS

Sheryl Trent, City Manager Assistant, introduced herself to the Planning Commission and advised what her job assignments will be and how she will be working with the Planning Commission. She would like to arrange a meeting with each Commissioner on a one on one basis.

III. AGENDA CORRECTIONS

There were none.

IV. CONSENT AGENDA

Available for consideration was item VE-203-196 (Vacation of Easement – Hays Easement Vacation). No opposition was expressed by the citizenry, planning commissioners or staff.

MOTION: (Commissioner Roland Cole) "Mr. Chairman, I'd like to move that we approve the Consent Agenda as presented."

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

A verbatim transcript has been prepared for the following item.

V. FULL HEARING

CUP-2004-019 REQUEST FOR REHEARING – CONDITIONAL USE PERMIT FOR AN UNLIMITED GROUP LIVING FACILITY – COLORADO WEST MENTAL HEALTH FACILITY

Request that the Planning Commission 1) rehear the Conditional Use Permit application to construct five (5) buildings, infrastructure, parking and landscaping for a Mental Health campus on 8.35 acres in a C-1 (Light Commercial) zone district and; 2) set a date for rehearing.

PETITIONER: Stella Garcia, Special Events Coordinator, Grand Mesa Little League

LOCATION: 515 28 ¾ Road

STAFF: Scott Peterson

Chairman Dibble

The next item, we have two items on the Regular Agenda, this evening. Item number one, I want to just make a few remarks about this. I'll read the preamble to Public Hearings, and then I'll refer to the first one, and then I'll make some comments. On the following items, the Grand Junction Planning Commission will make the final decision, or a recommendation to the City Council. If you have an interest in one of these items, or wish to appeal an action taken by the Planning Commission. Please call the Community Development Departments, after the hearing, to inquire about the City Council scheduling. The item on the Agenda, the first item, listed as number Two, is CUP-2004-019. But it is a request for a re-hearing. A conditional use permit for an unlimited group living facility – Colorado West Mental Health Facility. It is a request that the Planning Commission re-hear the conditional use application to construct five buildings, infrastructure, parking, and landscaping for a mental health campus on 8.35 acres in a C1, that's light commercial, zone district. And if it is approved for re-hearing, setting the date for the re-hearing is the second part of that. I would like to make a few comments about that. Although this is a public hearing on this petition, we will not be receiving testimony from the public, per se. Since it's only a request to be reheard, and the Grand Mesa Little League has petitioned for that re-hearing. Therefore, the Commission will only be receiving testimony from a spokesperson, from Grand Mesa Little League, stating reasons why a re-hearing should be granted. We will also hear from Colorado West Mental Health spokesperson, reasons why the re-hearing should not be granted.

The City Development staff does not intend to make a presentation this evening, but will be available for Commission questions. The participants this evening have received letters from our attorney, stating this information. I would like to read the criteria for a rehearing for the public's benefit, as well as to solidify our own thinking on this. It's

found in Chapter 2, of our Planning, City Zoning and Development Code. Chapter Two, eighteen, D1 (18D1), and I would like to read the appropriate information verbatim.

“REHEARING: Any person, including an officer or agent of the City, agreed to by or claim to be agreed by a decision or final action of the Zoning Board of Appeals, Planning Commission, or City Council, may request a rehearing, in accordance with Section 2.18.D. A Rehearing does not have to be requested in order to perfect an appeal. Approval criteria, in particular, are in granting a request for a rehearing, the decision maker shall find that a person requesting the rehearing was present at the original hearing, or otherwise on the official record concerning the development application. Number 2, number B, find that the rehearing was requested in a timely manner, and C, find that in making its decision, the decision maker, (that’s the Commission), may have failed to consider, or misunderstood pertinent facts, in the record, or that information crucial to the decision was not made available at, or prior to the decision being made.”

Now having said that, I just want to make a footnote to that. This evening, we are not hearing an appeal. We are hearing a rehearing request, as covered in that section. An appeal is covered under 2.18.E, and this evening, and I’m not going to bother reading that this evening, since it is pertinent to the hearing before us. If a rehearing is not granted, the code section then, E, would come into play. Or, even if it is. Reference to additional evidence not presented at the first hearing on May 21, 2004, or to evidence that was presented at the hearing, will be allowed in argument that the criteria is met for the Planning Commission to allow or deny the request. We are listening to the reasons why we should rehear this. We will make a decision on this, this evening. The evidence, it’s an opportunity, it’s not an opportunity to present the evidence itself, per se. Or to dispute the evidence that was recorded at the public hearing on the 25th. You can refer to it though, and you can actually give us information that would lead us to conclude there might be evidence that was not provided, if that’s the case.

If a rehearing is granted, any new evidence may be brought forward for consideration at that time. We are not here this evening to hear any new evidence. I want to make that as a definite statement.

Now, let me comment on the procedure that we have. Each representative, and we are going to limit this to one representative, representing the Appellant and one representing the Colorado Mental Health West. Each representative will be granted ten minutes for their presentation, and additional time will be allowed for questions from the Commission. Then the spokesperson from Grand Mesa Little League will speak first. The Colorado West Mental Health personnel will follow. Grand Mesa Little League will then be allowed an additional five minutes for rebuttal, if they would care to. This rebuttal testimony will be limited to testimony presented by Colorado West Mental Health. The rebuttal information that they gave, they can comment on. No new information will be allowed from Grand Mesa Little League at this time. This is under a pretty tight procedural, thought that we have to adhere to this evening. The Planning Commission will then take the request under deliberation, and they will limit their discussion, based on the finding of the testimony presented this evening. Then they will

be guided by the Zoning Code, Section 2.18.D.1, as referenced above in making that decision.

Now, having said all of that, I'm going to ask that the Little League spokesperson please come forward, and introduce herself. I haven't had the opportunity to talk with her, but she will give us her name and address for the public record. Thank you.

Jody Visconti Clow

I was here before, I'm Jody Visconti Clow, Stella Garcia is otherwise occupied. Her Little League team is busy playing ball tonight. So we have teams all over the valley right now during All-Stars. So she asked me to be here. I did help prepare the appeal and the request for the rehearing. So I am very familiar with the information. First, allow me to

Chairman Dibble

Could you speak just a little bit louder and into the microphone?

Jody Visconti Clow

Yes, Ok, thank you. We're a little bit nervous; I've been waiting here for a little bit, so I'm just trying to process everything that you just said here. I don't want to present anything new, but I want to make sure that I get all the information there. In considering a rehearing, there were several statements that were presented over the course of, what was it, five and a half hours, maybe a little bit longer at the last hearing. And through that time period, several of the statements that were made by Colorado West Mental Health, many of them, felt were inaccurate at best. Some we felt were false. And after the hearing, we took it upon ourselves as citizens to find out whether they were false or inaccurate. And have done a great deal of research to find out. And in filing the appeal, we indeed did find that there were several discrepancies in that were made during the hearing. And one that was clear, with regard to Ordinance 16, was the notice to the property owners. There were several property owners who stated that they were not given proper notice with regard to meet and to have a group, neighborhood meeting, regarding the facility, and what would be expected. Ordinance 331416, says that notice must be made within 30 days. Grand Mesa Little League was not notified within 30 days. And that is one thing that we have brought forward in the appeal, and also should be reconsideration, consideration for the rehearing that, that was something that there was testimony not only by Grand Mesa Little League, but several other neighbors in the area, who backed up that, that there was no notice given with regards to that Ordinance.

There is other information that was presented with regard to safety concerns, as well as traffic concerns. One of the statements made with regard to safety in the area, I think in particular when question with regard to traffic in the area, I believe Scott Peterson, the reply was that Colorado West said that it wouldn't be a problem. There was no, nothing to backup how many visits there might be, how many... With regards to 911, there was no evidence as to how many calls would possibly made to that facility. And as such, we have done a great deal of research and found that there are indeed, a number of possible calls that can and will be made to that facility. We are still in the process of doing

research, but those are clearly inaccurate statements that were made during the hearing. And we, as citizens, the burden has been placed on us to go and correct and find the true information. And it appeared at the first hearing, any statement that was made by Colorado West Mental Health officials, or representatives, was just assumed to be a correct statement. And it's been placed on us, as citizens, to go and find the correct information. And the information we found does not coincide with what was presented at that meeting. And that is why we are requesting a rehearing.

I'm assuming that you've all read the appeal that we filed. Probably one of the most disconcerting presentations that was made was with regard to the sexual offenders. The number that was presented at the hearing, and it wasn't stated once, it was stated several times, was the number of sexual offenders registered in Mesa County. Doctor Updike, said there were five registered sex offenders in Mesa County, and none of them use their facilities. Clear the evidence that we found, it's more than five times that number. And again, we have had to go and dig and find information, investigate, pay money out of our own pockets to correct the statements that were made in. We believe that the statements that were brought forward at the first hearing were believed to be true. And not afterward we found that they were not true. And that is why we are requesting a rehearing. So, I'm not sure what you..... I have a lot of new information and I know that you don't want that tonight, so....

Chairman Dibble

Could you give us the nature of the new information as to what if, if you were to, we would allow you to submit that?

Jody Visconti Clow

I do, I have a packet of 911 calls here for one address that is owned by Colorado West Mental Health. For the last five years there is nineteen pages of calls to one address. We are in the process of gathering information for the five other addresses. That doesn't include St. Mary's. This is 911 calls; this is ambulance calls and police calls.

Chairman Dibble

Is that to one of the current occupied?

Jody Visconti Clow

Uhhh, this is 1405 Wellington Avenue. And after the appeal was filed, we were also given, we were also, and I wish I could say how we were given this information, I honestly don't know. There is a letter from Dr. Updike, dated May 11th, asking for, it just basically says to set up an neighborhood advisory council. And there is some other information in here with regard to ummm, you know, contact with police enforcement, and that they had on-going input from police, law enforcement, which I kind of doubt that, because the nineteen pages on one address would conflict with that. But, even still, dating that May 11th, and it's signed by Dr. Updike, I have the original. I don't have the original here with me tonight, but I have it at my office. It's two weeks before the first meeting, which would again go back and conflict with Ordinance number 163314, number 16, which is notice should have been given 30 days prior to a neighborhood,

neighbor, 500 feet. So....then again, other things that we have brought into the appeal, there is new information that we found with regard to sexual offender information. I'm not sure, what else do you want....me to present with that. The list, I don't know that you want that list.

Chairman Dibble

No, we won't take it tonight, but we do know that it exists. And it would have to be looked at, and we probably would request it if we do have a rehearing.

Jody Visconti Clow

Yes, right, and that's fine. As I said there are several discrepancies that we found. We have a copy of the video tape from the first hearing. And we went back through it several times, and like I said, it's not. This isn't something that we take, taken lightly, you know we're just average citizens who have researched this and found many discrepancies in the statements that were made at the first hearing, that we believe were presented as fact, and indeed found to be false. So that is why we are requesting a rehearing.

Chairman Dibble

O.K., you still have technically another five minutes that you speak generally before we can ask questions. Or we can take that up and ask questions that you can answer, and consider that in the allowance.

Jody Visconti Clow

O.K. If you would like to ask me questions, I would probably be...I just don't know, most of the stuff that we found is new that supports what we found. And I don't want to impose on this hearing with new information. So...

Chairman Dibble

O.K. We can now ask questions of the presenter and we will just leave that at whatever pace it takes and perhaps staff can be interwoven as questions come up that might be addressed by them. We won't ask the Colorado West to answer at this time or even speak to the issues, but maybe we can begin by asking you some questions based on what you have presented this evening that is pertinent to a rehearing. Commission? Yes, Mr. Cole.

Commissioner Roland Cole

Visconti? Is that it?

Jody Visconti Clow

Visconti Clow.

Commissioner Roland Cole

O.K. In your research, generally speaking, what you've told the Commission here tonight, is that you found several discrepancies in the Applicants application. Did you find discrepancies in the oppositions application, testimonies? Or did you look for them?

Jody Visconti Clow

We didn't actually look for discrepancies. We were, based on your statements at the end of the hearing, it was, and I'm not exactly sure who made the statement, but, I guess in the end opinion, it was Colorado West's statements were fact, and the oppositions statements were opinion. And that's basically the way it was presented.

Commissioner Roland Cole

I have one other question. You said the property owners notice was not given. Could you clarify that as to of what you, what you mean by that, because we do have regulations that say what type of notices go out. And I'm wondering if you could clarify that.

Jody Visconti Clow

Yes, we meet as a board, once a month, and often more times than that. We meet sometimes every by monthly and any notices or anything of that sort are brought up at a monthly meeting. And we would be informed as to any kind of notices that are delivered by mail, or hand delivered.

Commissioner Roland Cole

Who did you expect the notices to come from?

Jody Visconti Clow

I would have expected a notice to come from Colorado West Mental Health. And there are two people that get mail everyday at our Little League Park.

Commissioner Roland Cole

O.K. I wonder if I could ask the Staff if they could clarify this type of notice requested for, or required for this type of facility.

Chairman Dibble

Certainly, that's in evidence. Scott. Would you introduce yourself?

Scott Peterson, Community Development Department Associate Planner

I'm Scott Peterson, Associated Planner in the Community Development office. As far as notification on any public hearing item, we send out cards in the mail, within five hundred feet (500 ft.), of the property that's under public hearing review. So it would be 500 feet distance from around the perimeter of that property that we give notification.

Commissioner Roland Cole

O.K. did you send this out and where and when?

Scott Peterson

Yes. They were sent out probably a week, a week and a half before the provisional public hearing.

Commissioner Roland Cole

O.K. did you also post the legal notices.

Scott Peterson

Yes. The posting or legal notices also gets published in the paper. And also the property is also posted with a sign, notifying that there is a land use application pending. And with the Community Developments department's phone number, listed as well.

Commissioner Roland Cole

So this would meet the legal requirements of notification. And thus the applicants themselves, unless they chose to, perhaps at your suggestion, would have, would not have to notify the people.

Scott Peterson

That's correct. I think what the appellant may be confused on, Colorado West, themselves, said that they would have a neighborhood advisory committee, that they would start up themselves. And they were going to be contacting the neighborhood. Which wasn't a City requirement, that was something Colorado West took upon themselves to form this neighborhood committee. So that might be something she might be referring to the notification on.

Kathy Portner, Community Development Department Planning Manager

Mr. Chairman, if I could also clarify, within the section of the code dealing with group living facilities. There is also a notice requirement for a required neighborhood meeting. And that notice requirement is: within 30 days prior to making an application, that the applicant would have had to given notice to property owners within 500 feet, and any Homeowner's Association within a 1,000 feet that is registered with our office. And I'm assuming that that was done.

Scott Peterson

Before the application was submitted, Colorado West did have a neighborhood meeting. It was a year ago, July. That they did have a neighborhood meeting, it was at one of the Mesa County buildings, about a block away, two blocks away from the proposed site. Notification did go out on that as well. So...

Chairman Dibble

Mr. Peterson. Do you know as a fact, that notification did go out?

Scott Peterson

Yes.

Chairman Dibble

Is the Little League a property owner?

Chairman Dibble

Who is the registered property owner recipient for a notice for Little League?

Pat Cecil, Development Services Supervisor Community Development Department
Can I answer that? I was just looking at the ownership list on the mailing. Colorado Little League was sent a mail notice as the public hearing. They were on our list.

Chairman Dibble

Do you know whether they were sent a notice for that homeowners meeting in July a year ago?

Pat Cecil

No. Because that wasn't a required meeting by the City. That was something put on by...

Kathy Porter

Yes it was.

Chairman Dibble

Who would control that Kathy?

Kathy Porter

The applicant would have been required to get the mailing list though the same procedure that they do for notification of the public hearing. So it should have been a list that was generated the same way as the public hearing notice.

Scott Peterson

They would submit their \$50 dollar application fee for the daily notices mailing labels.

Chairman Dibble

O.K. Has this been verified, and we'll ask them to state this unequivocally in the rebuttal. Has this been verified that they did so, and submitted the \$50 dollars for the mailing fee?

Scott Peterson

I would have to look in our files, but I know for a fact that those mailing did go out at the appropriate time

Chairman Dibble

Now this would have been homeowners' notification as well as the public hearing?

Scott Peterson

Right.

Chairman Dibble

We will ask them that questions, and see if we can clarify that particular. Can we also see who the entitled registrant of Little League would be? Do you have.... That. Give a second here to find it.

Pat Cecil

It's Grand Mesa Little League, Inc., P.O. Box 1744, Grand Junction, CO.

Chairman Dibble

Is that address correct Ma'am? And it does show on it that would have been part of the list that was used for the mailings?

Pat Cecil

Correct.

Chairman Dibble

O.K. As long as Scott is standing up there, is there any other questions for Scott.

Commissioner John Redifer

I don't necessarily have a question for Scott, but I just, given the criteria that we're evaluating to determine whether or not the rehearing is appropriate. To me, it looks as though it comes down to the question, whether or not there was information that we need to consider that wasn't provided that night. The question as to whether or not the property notification procedure were followed, seems to me, I'd ask legal staff to comment on this, would be more a question of an appeal decision, rather than something that would trigger a rehearing.

Jamie Kreiling

Yes. The criteria that you're supposed to focus on is that which was listed by Doctor Dibble earlier. Which is basically, considered or misunderstood pertinent facts with the Planning Commission did that. Or, that information crucial to the decision was not made available at or prior to the decision being made. Its not going through the procedures leading up to the hearing. That would be more of a basis for an actual appeal, rather than for a rehearing.

John Redifer

So, unless we are seeing the failure to notify resulted in this lack of information being provided at the hearing. I would suggest that much of this conversation is irrelevant to what we are looking at tonight.

Chairman Dibble

O.K. We'll bring that up again as we conclude our thoughts before we bring emotion. I would like to ask a question, Jody, of the sexual offenders. The inaccurate statements, whether there are five or whether there are, I believe you said, one and forty nine (149), registered. Why do you feel that the number of sex offenders is important, and sex offenders in general, considering that the statements were made at the hearing that they will not be housed. Which is what we are dealing with under the appeal. Why do you feel it's important?

Jody Visconti Clow

I think it's extremely important because I think we spent a great deal of time that evening dealing with the fact that it was misunderstood information again that night. It took, Miss Kreiling had to intercede and re-read the application itself, so that they could understand, they misunderstood the application, I believe that that was Dr. Updike's words, that they understood it to be involvement with DOC, not in general that they didn't think that the housing sex offenders necessarily applied under their application. And I believe after, it was close to 45 minute to an hour, and he finally just said, "We'll make it work, we'll make it work".

Chairman Dibble

Were you satisfied with the answers, the statements made in fact, they would make it work?

Jody Visconti Clow

No. Not at all. No. No.

Chairman Dibble

Then you feel that they would violate that?

Jody Visconti Clow

Yes. There is no way that you can keep track of that. There's not a system in place right now where you can keep track of sex offenders. Sex offenders are required to register, but they don't necessarily. I think that we have all seen in the newspaper and on television in recent weeks and months, where they are arrested because they haven't registered. Mesa County has taken an aggressive approach to following up with tracking down people who are supposed to register and haven't. They're supposed to register on their birthday every year for different issues, different crimes, different offenses. And if they don't, Mesa County has taken an aggressive approach to tracking them down, and you know, arresting them.

Chairman Dibble

O.K. Given the number, do you feel it's more significant the larger numbers, rather than. In other words, the five is not significant on a scale of 1-10, as to the 149 I believe it is. It would be more significant to you in light of the fact, if we take them at their word, they will not be housed there, which is the issue we are dealing with. Do you feel that there is a difference because of the numbers?

Jody Visconti Clow

Absolutely, and its 149 registered in the County. It's close to 500 if you include city limits and Mesa County. And we are looking at ten counties; we're not just looking at Mesa County. We are looking at ten counties.

Chairman Dibble

And you would be bringing forth, if we had a rehearing, you would be bringing forth these sex offenders as a population that would significantly impact the approval of the permit?

Jody Visconti Clow

It is the potential population that could significantly impact, yes.

Chairman Dibble

Not the fact that they would not, by admission of Colorado West, be housed there?

Jody Visconti Clow

Whether the housing...what did we determine...how many hours did we determine would be housed. Twenty-three hours?

Chairman Dibble

We said overnight, I believe, finally when we finished. The transcript would tell us that

Jody Visconti Clow

O.K. Yes. Yes. Twenty-three hours to be considered overnight. Yes.

Chairman Dibble

O.K. But that, that, according to the transcript was resolved before the decision was made.

Jody Visconti Clow

Right.

Chairman Dibble

You're contesting then the accuracy of their statement.

Jody Visconti Clow

Absolutely. Five is a significantly different number than 500 in Mesa County and Grand Junction city limits. And that's what we've been able to gather. It's difficult to even gather those numbers because you have to be a resident in the area in which you live just to get those statements. So in order to get information from other counties, we are going to have find residents of those counties and cities and municipalities, to find out exactly how many registered sex offenders there are in Glenwood Springs, Rifle, Silt, any of the facilities, any of those counties that the facilities said they will be serving.

Chairman Dibble

And you feel that that information would be pertinent to your defense on the appeal.

Jody Visconti Clow

Absolutely. With the number of children in the area, absolutely.

Chairman Dibble

O.K. Ummm, I would like to... yes?

Commissioner Travis Cox

Miss Visconti Clow. Is there any, did you discover any evidence that directly correlated sex offenders with this facility versus sex offenders with Outback Steakhouse? What I'm saying is, there are perhaps 500 sex offenders in the county and city, but are they likely to go to this facility versus the convenient store, or the restaurant nearby?

Jody Visconti Clow

They are going to have to be required to go to this facility for other treatment. Dr. Updike stated that.

Commissioner Travis Cox

I believe he stated he, that they would not treat sex offenders, they

Jody Visconti Clow

No. They could be treated for other....

Chairman Dibble

They could be if they came to the...

Commissioner Travis Cox

They could treat....right. I'm sorry, the point I'm making is that Outback Steakhouse could serve a sex offender a steak,

Jody Visconti Clow

Yes.

Commissioner Travis Cox

But they don't serve them because they are sex offenders.

Jody Visconti Clow

Right.

Commissioner Travis Cox

They don't, they're not attracted, there specifically for a sex offenders steak. It's just a coincidence.

Jody Visconti Clow

Texas Roadhouse and Texas Outback, they don't have the same burden as a group living facility, to protect the neighborhood. They don't have that same burden that a group living facility does. I mean, according to the Ordinance, there are several points in the Ordinance that it has to protect the neighborhood that a group living facility is coming into. And a restaurant doesn't have that same burden. So... I understand your point, but a restaurant doesn't have the same burden that a group living facility has to protect a

neighborhood. Because of the obvious issues that have been, I mean there's issues, that's why the Ordinance is there. So... I'm not questioning the Ordinance, but that's what's there. So....

Chairman Dibble

I have a couple; you raised the issue of safety concerns. I believe it focused on traffic. I'd like to ask Scott or someone, perhaps the engineer to, I realize we didn't have a definitive answer. But I'd like to have them state what they stated in the meeting. This seems to still be a question, as to whether traffic coming in and out will impact that road next to it, to the east.

Eric Hahn, Development Engineer Public Works & Utilities Department

My name is Eric Hahn, I'm with the Public Works Department in the City. I can't verbatim, remember what I said at the meeting, obviously. But, obviously there is going to be an impact on the street. There are going to be extra, additional trips on the street, that's unquestionable. What's at issue is whether or not the street has the capacity to handle those extra trips. And my conversations with the City Transportation Engineer have indicated they have absolutely no concern. It's going to be well within the capacity of the street, on a volume basis, to handle those trips. They have not done any detailed studies on pedestrians or specific impacts to the Grand Mesa Little League as an individual site. We haven't gone to that kind of detail at all. But the comments and the analysis so far, based on a volume basis, is the street will be, have plenty capacity to handle the volumes.

Chairman Dibble

I need to ask a hypothetical question to answer definitive fact, but if the property is zoned commercial light, and that could be a lot of things and quite a bit of traffic involved. In your opinion, would there be that much difference between some other type of commercial impact in a commercial zone like this one, on that street compared to a facility that's being recommended to us?

Eric Hahn

To expand on that theoretical question, I'm assuming he means for instance a strip mall or some kind of high volume retail or something like that?

Chairman Dibble

Like commercial, industrial or you know...

Eric Hahn

Generally speaking I would think that volumes from that kind of a use would be higher than what we're looking at here. It's tough to say whether or not the peak volumes would differ. I think that generally speaking, you could say that a retail use has fairly high peak volumes on an hourly basis.

Chairman Dibble

But there would be some considerable traffic, I would think, under those circumstances, and maybe not measurable at the moment, nor are the ones in question measurable at the moment. But there would be some impact to that street system, but your saying, if I could recap what you said, that it would be handled without any major broadening of the street or something like that.

Eric Hahn

Correct, the volumes that we anticipate based on industry standards are within the capacity that's available at the street. I think that more specifically what the issue, is not so much the volume capacity of the street. I think that the larger issue or perhaps the small issue, more specific issue is how that volume is going to impact the Little League site specifically. And frankly, that kind of detail analysis has not even been considered at this point. Or even requested by the City Transportation Engineer. I'm not even total sure how they would go about doing that kind of analysis, but that seems to be the larger issue at question here. And ...

Chairman Dibble

There would be one entrance into the campus?

Eric Hahn

Two, two entrances.

Chairman Dibble

Two entrances? Would they be, where in proximity would they be to the Little League entrances? I believe there is one to the south and one to the north, a street to the north that are both used for the Little League.

Eric Hahn

If memory serves, the access to the south is directly across from one the Fun Junctions accesses, or thereabouts. The one to the north, maybe close to one of the accesses, access location on the Little League.

Chairman Dibble

That is a designated street though. Is that correct?
That's a street itself, it is not?

Eric Hahn

No. Just private access to the sites.

Chairman Dibble

They are entrances, O.K. Are they allowed curb cuts? Are they just dirt?

Eric Hahn

On the opposite of the street, on the east side of the street I believe there is no curb. And it's essentially just defined by fences or gates and those kinds of things.

Chairman Dibble

Curb cuts would be defined upon build-outs. Is that correct? Because they would have the responsibility building both sides of the roadway, of the infrastructure?

Eric Hahn

Build-out of the mental health facility? I'm sorry, repeat that question.

Chairman Dibble

The curb cuts for entrance into the Little League would also be defined once curb and gutters on both sides of the street were created.

Eric Hahn

Assuming that was ever done, yes. But the mental health facility is only building the street on their side.

Chairman Dibble

So that would remain. O.K.

Eric Hahn

To take that a little further, if the City were to complete the construction of the street on the east side, in other words, the Little League side, we in theory would put a curb cut. It would be meeting our standards for spacing. Whether that is directly across from these curb cuts being proposed by the mental health facilities, or a hundred and fifty feet down, would be determined upon that design.

Chairman Dibble

Jody, let me ask you a sub-question on that. Is that the answer for safety you were looking for? Or is there another safety issue that is on your mind?

Jody Visconti Clow

Well, that's part of the answer. But I still, I would like to know what numbers these are being based on. I haven't heard, volume, I mean, I have no idea what volume, I mean, I have no idea what the number of patients that they anticipate seeing on a daily basis, on a weekly basis, on a monthly basis. Obviously, we have peak times throughout the year, and you know, number wise I have no idea what those numbers are being based on. So, yet that's one of the safety concerns. The other is, I still don't believe its been addresses as far as emergency vehicles. I mean that, that obviously was brought up at the first hearing and if there emergency vehicles transporting people to and from the facility, that peak times for Little League or peak times for grade school, or peak times for daycare, that's another safety issue in that residential area. And I don't know that that has been addressed.

Eric Hahn

I can concur that has not been addressed at all. Whether or not the peaks and how they overlap has not been looked at in any sense at this point.

Chairman Dibble

We might get some light from Colorado West as to estimates. I would assume they will be varied from what they have as actual trip ticks on their other establishments. But we can maybe add a little information here. Referring to the calls to 911 and the emergency vehicles, etc., you mentioned the packet that you have that you would hold for evidence to present if rehearing were given. How did you arrive at that documentation?

Jody Visconti Clow

Requested it from the City.

Chairman Dibble

It was available...from the City? From...

Jody Visconti Clow

At the records department. From the police department.

Chairman Dibble

Did it define the nature of these calls or is it something that could be, we could evaluate ahead of time if we were to grant the rehearing? In other words, this would be perhaps new evidence we have not seen or heard. If it were to be, how would we validate this from a public office, such as the Police Department or such as the Fire?

Jody Visconti Clow

It says City of Grand Junction, Colorado, Police on the front of the packet. And it's dated GJPD calls for service various location January 1, 99, to present.

Commissioner Travis Cox

To the nature of the 911 calls, are they calls that were made in response to incidents at the address that it's from? Or delivering to that address? There was a 911 call, and as a result of it, the police car ended up at the... Was it a Wellington address?

Jody Visconti Clow

Ah huh.

Chairman Dibble

Perhaps we don't want to delve too deeply into this at this time. But we would need to evaluate and substantiate that these were indeed, would affect the impact of our decision.

Jody Visconti Clow

I believe, you know, I haven't gone through every call on nineteen pages. But it appears they are calls from that location

Chairman Dibble

From that location?

Jody Visconti Clow

Yes

Chairman Dibble

From that location to 911?

Jody Visconti Clow

Yes.

Commissioner Travis Cox

It goes in my mind to whether or not that location was, had incidents at that location. Or if this was the solution to incidents elsewhere.

Chairman Dibble

I don't know if we can, we won't be able to determine that this evening. But calls from, if I understand correctly, calls from 1405 Wellington to 911 for a six month, basically

Jody Visconti Clow

Five years, yes.

Chairman Dibble

Five years?

Jody Visconti Clow

Yes, January 1, 1999, and that probably would have been the first part of June is when we got this packet.

Chairman Dibble

And how many are there?

Jody Visconti Clow

There's nineteen pages.

Chairman Dibble

Approximately how many to a page?

Jody Visconti Clow

I would say, I don't know, fifty.

Chairman Dibble

One hundred and fifty?

Jody Visconti Clow

No. Fifty per page, maybe more.

Chairman Dibble

Any other questions at this time? You will be given a few more minutes to rebut the presentation by Colorado West.

Commissioner Tom Lowrey

I think that one of the jests for your request for a rehearing is, that the mental health facility is saying that they are not going to house sexual offenders. According to their application.

Jody Visconti Clow

Yes.

Commissioner Tom Lowrey

That's what they applied...And if they do house sexual offenders, their conditional use permit will be revoked by the City.

Jody Visconti Clow

Yes.

Commissioner Tom Lowrey

It seems to me what your claiming is that the health facility, the mental health facility has not presented enough evidence that they can adequately screen applicants coming into the facility so that they don't house sex offenders.

Jody Visconti Clow

Yes.

Commissioner Tom Lowrey

O.K. I just wanted to understand. O.K. Thank you.

Jamie Kreiling, Assistant City Attorney

Mr. Chairman, if I may. If I'm understanding correctly, based on the questions that were ask by Mr. Cox and yourself. The information that Miss Visconti Clow has could be submitted for your review for a determination as to whether or not you felt it was information relevant in determining whether or not a rehearing should be granted. You wouldn't be looking at it at this point in time for purposes of determining of how it would affect your final decision if the rehearing is granted. But whether or not that is evidence that its within the criteria for purposes of granting your rehearing.

Chairman Dibble

If we did that, we would have to go into Executive Session to discuss it and review it. I'm not sure, is there information available, has anyone seen this list on staff? Have you presented this at all to them? You just have it there? And it uh.

Jody Visconti Clow

No. It's just, it's actually something Mrs. Garcia had. She acquired it and she gave it to me.

Chairman Dibble

I have curiosity as to what it might contain and what the impact it might have. But I'm wondering how we would evaluate it to consider it for the rehearing to evaluate for a decision.

Jamie Kreiling

It would be similar to the information that was provided originally with the request for the rehearing. It's just additional information that they are saying is facts that weren't considered at the first hearing. And that you can review it and determining it in your opinion does it fit pertinent facts that were not considered at the first hearing.

Chairman Dibble

How would you advise that we do this determination?

Jamie Kreiling

I would ask that, if we can, to have copies made and submitted to the Chairman. Excuse me, to the Commissioners.

Chairman Dibble

This evening, and to go into Executive Session to discuss it?

Jamie Kreiling

I don't think you have to go into Executive Session. I think that you can review it here and you can discuss it. As we indicated before, a motion is made to um...made to

Commissioner Thomas Lowrey

Even though it wasn't presented at the first meeting?

Jamie Kreiling

Yes. I believe she can still submit it at this time.

Chairman Dibble

It appears that this was not.

Jamie Kreiling

Yes, it wasn't at the first meeting, and that's what she is saying at this point, is because it wasn't at the first meeting, its pertinent facts that you need to consider it. And that is why a rehearing is necessary.

Chairman Dibble

Let me suggest that staff, we have a little while, and let staff make copies for us. At that point we will take a recess. We can either discuss it or not depending on what we decide.

But we can review it at a recess time and at least have that information to be able to make a decision on the pertinences of it. So if you would please give that to staff, we would be glad do that.

Jamie Kreiling

I'd ask that an additional copy also be made for Colorado West Mental Health.

Chairman Dibble

Yes, by all means, yes. Thank you.

Commissioner John Redifer

I would raise the question whether or not it would appropriate to discuss this, on the record in front of the public.

Chairman Dibble

We can discuss it after review. Any discussion should be on the record.

Chairman Dibble

Oh, you want to discuss, it takes awhile to absorb what's there though

Commissioner John Redifer

Certainly, and we could take a recess to do that but I, I would be, I don't know, again I would refer to legal counsel on this. But I'm not sure we should be discussing this amongst ourselves.

Jamie Kreiling

I think that it is more appropriate to be on the record. It's like I said, it basically similar to what was already provided to you with the original packet in the request for the rehearing. And based on the time that you have available to review it, you take that into consideration and how you're going to weigh it in your own decision.

Chairman Dibble

What would you suggest in the time absorption for understanding what's there so we can discuss openly. We would do that openly, to discuss it. But we need time to look at, that's one of the problems we have is that as a Commission, we see things that night five minutes before the session starts and we're supposed to use that in our deliberations we haven't even looked at it.

Commissioner John Redifer

And along those lines I would like to ask, how long has the ah. the Little League aware that this facility was being considered?

JodyVisconti Clow

I became a board member in October, but there were representatives who were at the first meeting, I believe it was in July, July or August.

Commissioner John Redifer

So they have had roughly a year? Of being aware of it? Did the Little League retain counsel to help prepare....

Visconti Clow

We have attempted to retain counsel, yes.

Commissioner John Redifer

Attempted to so you..

Visconti Clow

There were several attorneys that we have talked to have conflicts. Of the five that we...

Commissioner John Redifer

So you do not have any?

Visconti Clow

We do not have counsel.

Commissioner John Redifer

So you're just shooting from the hip in terms of appearing here?

Visconti Clow

I wouldn't say shoot. I worked, I have some background... I'm a legal assistant so I have some familiarity with the legal system. But the counsel we have sought have conflicts in. Because of the small town and they are on different advisory boards and such, so.

Commissioner John Redifer

Mr. Chairman I would like to just ask one more question. I was wondering what it is about this information that makes it so pertinent now, that

Visconti Clow

We didn't have it available before

Commissioner John Redifer

So why didn't you have it available?

Visconti Clow

It's not our burden to provide this information. This should have been provided by Colorado West Mental Health. It wasn't provided so we went and found it.

Commissioner William Putnam

Who decides who has the burden of presentation?. The Appellate, the legal system, or what?

Visconti Clow

It's something; it's a safety issue that we thought was important

Commissioner William Putnam

Who decides who has the burden to present the information such as we're asking to consider tonight?

Visconti Clow

It was asked of Colorado West Mental Health regarding the safety of the neighborhood at the first hearing, and several times they stated that safety would not be an issue. And I believe that the evidence in this packet conflicts with that information.

Commissioner William Putnam

And this packet is about number of 911 calls from a specific mental health location?

Visconti Clow

Yes.

Commissioner William Putnam

Will we be able to determine the relevance of those calls to safety?

Visconti Clow

You should be able to, yes.

Commissioner Roland Cole

Mr. Chairman, I would argue that this packet of 911 calls based on Chapter 2, page 56, of the Zoning and Development Code of the City of Grand Junction, would not be appropriate to consider tonight, and I would like to read Item #2, under E, there it says...

Chairman Dibble

Excuse me, is this on page...

Commissioner Roland Cole

Page 56

Chairman Dibble

56, we are dealing with rehearing criteria

Commissioner Roland Cole

I understand that. That's exactly what

Chairman Dibble

Which item?

Commissioner Roland Cole

Two, E2.

Chairman Dibble

Item E2, E2 has to do with appeals, according to mine. We are not dealing with appeals this evening, Mr. Cole.

Commissioner Roland Cole

I think we are, I think we are. In that we're considering an appeal as to whether or not to hear this.

Chairman Dibble

Mr. Cole, we are not talking about an appeal, we are talking about a rehearing of the application. E does not, can I have a consideration from Jamie on this?

Jamie Kreiling

What would apply tonight in your decision making is just 2.1.8d, the Rehearing section. Not on the following page in regards to the Appeal section or on the previous page on page 56, which is also dealing with an appeal.

Chairman Dibble

That's, does that answer the, I'm sorry to limit that, but that's what we are talking about specifically this evening is the rehearing criteria.

Commissioner Travis Cox

And just to clarify for the Commission, we're getting a copy of this 911 report. Not to consider the evidence, but to consider the relevance of the evidence in this case.

Chairman Dibble

That would be a fair statement. Yes, I could conclude that.

Jamie Kreiling

If Mr., Commissioner Putnam would like, I can explain further, as far as burden of proof. As to his question that had been asked of Mrs. Visconti Clow.

Commissioner William Putnam

Yes, please.

Jamie Kreiling

The burden of proof really would have been on the parties that came forward. We had Colorado West Mental Health; they had the burden of proof of saying that they had met all of the requirements under the City code and State law and Federal law, to be able to have this group living facility. It was on the burden on any opposition, those who were opposing it, to bring the evidence forward to show that no, they had not met the requirements as necessary under our code, State law and Federal law.

Commissioner William Putnam

Is there any reasonable time limit? Presumably, you can't go on infinitely into the future, saying "Oh, well I didn't think of about this at the time, but now I want to bring it up".

Jamie Kreiling

There is not a specific, under our code, in regards to consideration for rehearing to say that they had to bring it at the first hearing. But that's part of what you can take into consideration in your decision, on whether or not you grant the rehearing.

Chairman Dibble

And the pertinence of it. If I can attach, the pertinence of it will be determined by us as to relevance. Yes Mr. Cox?

Commissioner Travis Cox

While we are waiting, can I ask you a question about discovery? If this does go for a rehearing, is there some mechanism that we can put into the motion, to require that Colorado West Mental Health disclose to the people requesting the rehearing, facts and evidence that they will be presenting, and vice versa. So that there's not, at the rehearing, there's not evidence presented that the other does not have the ability to contest factually?

Jamie Kreiling

As far as the rehearing is concerned, you can set up the rules and provide that information, ahead of time to the parties that you have determined are allowed to participate in the actual rehearing, as to those specifics.

Commissioner Travis Cox

O.K. Thank you.

Chairman Dibble

The first hearing took six and one half hours. And we had limited the time of the proposal, simply because of time constraint. We do this quite often, this is not something we invented for that evening, but we have to recognize that we can't stretch out a hearing over many, many days and many hours. If we were to hear everyone speak for fifteen minutes, we would be talking about the better part of two days. We wanted to see if everyone would be available to speak at the first hearing. Obviously, there are some thoughts that are coming forward, and if we feel that the rehearing is appropriate, those new thoughts would be introduced at that time. And it has been stated that we have to determine what will be allowed into testimony at the rehearing that was not heard, at the first hearing. If, Jody, if there are no other questions, I would like to hear from Colorado West. If you would like to, do you have something further to share at this time?

Jody Visconti Clow

No. That's fine.

Chairman Dibble

You will have another opportunity

O.K. I would like to hear from Colorado West Mental Health

Sam Sterritt

Mr. Chairman, and remaining members of the Planning Commission, my name is Sam Sterritt. I'm a lawyer with Dufford, Waldeck, Milburn & Krohn, here in Grand Junction. And I represent Colorado West Mental Health, for the purpose of this rehearing. I want to specifically address a couple of comments to some of the questions that have been asked of the Appellant first, and that is with respect primarily to the notice provisions, and the items that were raised by the Appellant with respect to notice. I would note that the record reflects that Colorado West Mental Health did comply with all of the requirement of the code, with respect to notice. And that the Appellants, at the time of the initial hearing, did not complain or put on the record any issue about notice. And in fact, the appellants did indeed appear and present extensive testimony and documents, with respect to their position. So, if they didn't receive notice, which Colorado West vehemently denies. Colorado West did send notice of the initial meeting that was held with the neighborhood and Colorado West did send, through the Planning Commission notice to all of the property owners, that Colorado West received notice from the Planning Commission that we were supposed to send notice too. And that Grand Mesa Little League was on that list of entities. And they did receive the notice. At least we did send the notice. I can't always vouch for the U.S. Postal Service, although I would like to do that, but, I can't. And we did send the notice, and at any rate they did appear at the initial CUP hearing and did present extensive positions with respect to their arguments. And therefore, at this point, I believe that whether or not they received notice, is actually a moot issue.

Secondly, with respect to the 911 calls that you have been presented now, I would just, briefly, I think it goes without saying that these 911 calls were not part, at all, of the packet that was presented by Grand Mesa Little League in preparing its appeal. So Colorado West has not had a chance to review those and, in any detail. But I would also note the address, which is referenced by the appellant as being the source of these calls, is 1405 Wellington Ave. That address is actually managed by Hilltop Community Resources. Now at that address Hilltop Community Resources does manage one of Colorado West's current facilities. It is the Youth facility, one of the facilities that will be at the new location. But, by the same token, Hilltop also manages several other programs at that facility. And in the event that the Planning Commission has questions about what sorts of details come out of that particular location, I would ask that they be directed to Dr. Stein, who is also here to answer substantive questions about that issue. But, just for the record, that facility is not exclusively managed, and in fact, is not managed at all by Colorado West, it's managed by Hilltop Community Resources. And they also manage several other programs out of that location. Secondly, with respect to the 911 calls, the only reason that I can conceive of these calls even being pertinent, is located in the Ordinance 4Q, 4.3Q, and that is the Ordinance pertaining to group living facilities. The only reference in that particular statute that I can find, which even deals with police contacts, or police calls, is in subparagraph 13. That paragraph deals with whether or not a group living facility is deemed to have an adverse impact on the neighborhood. Now again, it has been determined by the Planning Commission that

Colorado West complied with the statutes that are our burden to comply with, at the initial level. This particular paragraph deals with either the registration or the re-registration of a group living facility. This particular group living facility has not been constructed yet. So to consider emergency calls from another facility, which has not been constructed, and extrapolate those calls to another facility, which has yet to be constructed, I think would be a stretch under any interpretation of what Colorado West is supposed to comply with under the law. And to impose upon Colorado West the burden of producing a negative, in other words, producing evidence that there won't be calls, or how many specific calls there will be, at a particular facility which has not be constructed yet, goes beyond any requirement that is in the code at all. And I think to propose that and to impose that requirement or burden upon Colorado West, would be something that an ordinary applicant under any other ordinary circumstances would not be required to produce.

The same is with for respect to the traffic study. Colorado West complied with and there was a detailed traffic study done, the same type of traffic study that is done for any application for a conditional use permit. To impose upon an applicant the specific requirement that that applicant produce detailed numbers of the number of cars that will be going in and out of a particular facility, or a number of cars that will impact a neighboring facility, is not a requirement under the code. It's simply not a requirement under the code. And the appellant in this case, is attempting to create, place a burden on Colorado West, which is not in the code. And it's simply not a requirement that Colorado West can comply with. And I don't think that the appellants are making that argument. I think simply what the appellants are saying is that based on the perceived notion that this particular facility is going to be dangerous. And that there are going to be dangerous people exiting and entrancing the facility. That we ought to have to produce information that other applicants under the code are not required to produce. So the traffic study, there's no allegation, or no argument from the appellants that the traffic study was somehow incomplete. That the traffic study did not comply with the code. But what the argument is, is that the traffic study needs to go beyond what is complied, what is required in the code, and produce specific numbers about how that traffic will affect the use that is adjacent to this proposed facility.

The sex offender matter is a topic that was discussed extensively during the initial hearing. I would note that the appellant made the statement, and I think everyone here is aware that that hearing was 5 ½ hours long. It produced a record that is 275 pages. I've reviewed that and submitted a written response to this appeal. I submitted in a consolidated response with two other appeals, which were determined to actually be appeals and not rehearings. But in that response, I don't know if you've had the benefit of reviewing it, I provided some analysis as to whether or not the sex offender issue is even something that again, is even pertinent at this level. I think as a couple of the Commissioners pointed out, whether or not Colorado West can screen applicants, and whether or not Colorado West can comply with the conditions that are imposed upon it by the conditional use permit, is not a factor that is supposed to be determined by the Planning Commission. Obviously, I don't think that it would be a pertinent or smart thing to do for the Planning Commission to approve a conditional use permit that the

applicant can not comply with. But the only evidence in the record right now, is that the applicant can comply with that request, or with that condition. And the number, if there is a discrepancy in the record, between 5 and 145, or 500, that discrepancy is probably also not something that is entirely relevant to this case. Because that also presumes that all of those registered sex offenders in Mesa County are even going to seek treatment at Colorado West Mental Health. And to make that kind of determination now, again, goes beyond the realm of what we can even predict or what we can even say. And I think if the record is reviewed, it will indicate that the number that was used is a number of sex offenders that have been treated at some point, by Colorado West Mental Health. I know that Dr. Stein can answer this question more specifically as to actually what that number referred to than I can. But what I can do is say that the 5 versus 500 rests on an assumption that Colorado West will be required to or will treat those registered sex offenders, simply because they are registered sex offenders. And that's not the case. This is not a facility which is going to be a treatment facility for sex offenders that are committed to mental health treatment. This is a facility that is not going to house anyone who is ordered to treatment at this facility by the judicial system. And therefore, for sex offenders to even receive treatment at this facility, they would have to voluntarily come in, and say I have a mental health issue that need to be treated. At that point, Colorado West and screen the applicant, and can ask them questions about their background. It is entirely within their discretion and jurisdiction to ask them whether or not they have ever been convicted of a sex offense.

Chairman Dibble

Excuse me, 10 minute is up, and perhaps these questions, we'll be asking you, then giving you the same latitude in answering the questions that we as a Commission will have. So perhaps we'll go to that phase.

Mr. Sterritt

Sure. Yes. And if I may, if there is a question that requires a substantive answer that I'm not cognitive on, I would ask for some leeway for Dr. Stein to answer that question.

Chairman Dibble

We will not allow that, I'm sorry.

Mr. Sterritt

O.K.

Chairman Dibble

Hopefully you'll have a answer. No, this was stated ahead of time and in writing. And so you are the spokesperson hopefully you can answer the question pertinent to the subject at hand. O.K. I'll ask the Commission if we have questions of Colorado West's spokesperson.

Commissioner Travis Cox

Sir, do you know the nature of the programs at 1405 Wellington?

Mr. Sterritt

I know what is in the applications. I know what is in the applicants description of those programs. Yes. I'm sorry. You referred to 1405 Wellington.

Commissioner Travis Cox

Yes.

Mr. Sterritt

I know that at 1405 Wellington, the only program that is my client's program is the youth correctional program. It's for youth treatment. People, who are young people who need mental health treatment. And I don't know the other programs that are managed by Hilltop Community Resources at that facility. If I could review my notes I, may have some notes from my conversations with Dr. Stein about that.

Jamie Kreiling

Mr. Chairman, if I may. It would not go totally outside the bounds of the direction that we said that we would only allow one representative to actually allow Dr. Stein to answer some of these questions. Simply, because as his attorney, he isn't an actual, he's representing them as the attorney, but he isn't as familiar with all of the information that would otherwise be available to an actual representative, in comparison to the representative from Grand Mesa Little League. If we limit it to basically the questions that are being asked at this time.

Mr. Sterritt

I would certainly appreciate that indulgence, but I do, I reviewed my notes, and I do have some information about.

Chairman Dibble

Jamie, I do beg to differ somewhat with you on that. Whether or not the attorney represents the client or the client, we hear one voice. Hopefully you were well brief, and you have discussed this at length with the administration.

Mr. Sterritt

Yes. If I may answer

Chairman Paul Dibble

I appreciate your comment on that. But I don't want to go to far a field of what we discussed and agreed upon.

Jamie Kreiling

That's fine. It's your option; you're in control of the hearing.

Chairman Paul Dibble

So, I would ask. I think I'll hold to that original intent, just to have no appearance of improprieties, so to speak.

Mr. Sterritt

That's fine

Chairman Paul Dibble

Because if I do this, I got to ask if there are other people like to speak on behalf of the Grand Mesa Little League. So I think I will, if you don't mind, I hope that you are well prepared and have discussed at length and are actually a spokesperson for the administration.

Mr. Sterritt

I will say, Mr. Chairman, that I have been briefed extensively on this matter, and I did produce an extensive written response. I received the letter from the Planning Commission though, in the mail today. Which was the one that told us we were going to be presenting testimony on this matter. And I, you know, I would like to incorporate in my response, the written response that we did, and submitted to the Planning Commission on June 22, 2004, which is the written response to all of the appeals.

Chairman Paul Dibble

O.K. That was directed, and here again, I don't want to be, I don't want to air one way or the other. I want to have an even keel on this. I think that was a response to the appeal that was made based on the Appellant's letter to City Council without a rehearing in mind at that point. They did then, under another set of criteria, come to us for a rehearing. Now, if material that we will ask of you comes up in our questions to you, we would welcome that. Otherwise, I don't want to bring it in, because it was for another venue.

Mr. Sterritt

O.K. All right. Right

Chairman Paul Dibble

And so I would like to limit this evening, I think we can handle it sufficiently if we limit this to the rehearing criteria, which I read at the first, and your rebuttal, which technically you're doing, and you have done this already, would be for those three particular criteria in Section D. We will ask at this point, since you're done with the formal presentation, questions concerning this rehearing request. So we can limit that...

Mr. Sterritt

That's fine, I want to go back then to Commissioner Cox's question about, if I may, what types of facility Hilltop does manage at that 1405 Wellington. My understanding, Commissioner Cox, that there is a brain injury facility, that is managed by Hilltop Community Resources, and there is a Department of Youth Correction facility that is managed at that location by Hilltop. And Department of Youth Corrections is radically different from the Youth Treatment facility that Colorado West has there, and would be proposing to place at the facility on North Avenue. And I really want the record to reflect that Dr. Stein did want to answer some of these questions himself. But given the circumstances, and I understand, I just need to make a showing that the fact, that my client did want to present these answers himself to some of these substantive issues.

Chairman Paul Dibble

Any other questions of Colorado West's attorney?

Commissioner Tom Lowery

Yeh, I want to clarify, I've got sub-paragraph 13 of sub-paragraph Q of 4.3, which are the youth specific standard, and about whether a facility adversely affect a neighborhood. And this in my mind, that paragraph is what we are dealing with tonight, and also what we were dealing with at the hearing on May 25.

Mr. Sterritt

Well, I think you were dealing with that at the hearing.

Commissioner Tom Lowery

I think we are still dealing with that.

Mr. Sterritt

And I think we are still dealing with it.

Commissioner Tom Lowery

Is that a request or review requirement from 2.13, under conditional use permits? Specific standards, they use specific standards established in Chapters 3 & 4, and that's what this is. So I think these do apply.

Mr. Sterritt

They do apply, Commissioner Lowery. They apply though if you read where the adverse impact on the neighborhood is referenced in other sections of this code. It's referenced in either the initial registration or a re-application. The re-registration pursuant to that yearly registration process. And all I'm saying is that, that particular deem, that particular paragraph, which deems an adverse impact on the neighborhood if there is an increase number of police visits to a facility, simply can't be applied to a facility that hasn't been constructed yet.

Commissioner Tom Lowery

No, but it applies to whether we grant a conditional use permit under 2.13 of the code.

Chairman Dibble

Mr. Lowery, we our hearing, already agreed to grant the conditional use permit, and that was part of the criteria to review that. I hate to cut to this conversation off, but we are specifically talking about the rehearing process and the rehearing criteria found in the D1a, b, c, for this evening.

Commissioner Tom Lowery

I understand that.

Chairman Paul Dibble

I wish we'd have had this information to discuss it at that point. If we have a rehearing, I'm sure it will come up and be discussed at length. But I would like to focus on the rehearing request and the criteria for rehearing.

Commissioner Tom Lowery

In order to determine what kind of evidence, I'm looking at the criteria in paragraph C that you are referring to.

Chairman Dibble

Paragraph C of what?

Commissioner Tom Lowery

Under the rehearing

Mr. Sterritt

2-18-D-1C

Chairman Paul Dibble

1C?

Commissioner Tom Lowery

Pertinent facts or information crucial to the decision, was not made available, at or prior to the decision. So I think what we have to determine tonight, is whether there was some evidence, whether it's this list of 911 calls, or perhaps other evidence that we didn't hear on May 25. Ok.

Chairman Paul Dibble

Pertinent is an operative word.

Commissioner Tom Lowery

Relevant.

Chairman Paul Dibble

Relevant is an operative word.

Commissioner Tom Lowery

To determine what kind of evidence is pertinent, we have to look at the criteria that we are reviewing this thing under. And to me, at least part of the criteria that we are reviewing this under is this adverse impact. We need to know, have we heard all the evidence that we need to hear to determine that Colorado Mental Health is not an adverse impact to the neighborhood. It seems to me that is crucial. Have we heard the evidence enough that we can, are satisfied with our decision that they are not an adverse impact? Or is there some evidence, perhaps this list of 911, that affect whether it was an adverse impact or not. And so, in order to determine what kind of evidence may or may not be

missing, I need to look at the criteria, what kind of evidence, which to me the adverse impact to the neighborhood, helps us establish what we are looking for.

Chairman Paul Dibble

The list that we have in front of us, is potential evidence. We are not to consider it this evening as evidence, we are going to determine is it relevant to, if I'm hearing what your saying, and I concur. Now in order to do that, we will have to review this, and we will do this and reestablish the public hearing for the purpose of discussion of that. If that's in agreement with all of us. Do I hear any nay sayers. Ok, at that point, this will be heard as, is this valid for the purpose of a rehearing? As part of the validity for it, the purpose of the rehearing. Not the fact that the evidence itself, but the fact is, it's being brought forward at this point.

Mr. Sterritt

Let me just say that I agree whole heartedly with Commissioner Lowery's analysis of that. And the only issue that Colorado West would raise with respect to paragraph 13, is that calls, with respect to existing facilities, it is nearly impossible for Colorado West or any applicant to produce the number of telephone calls to the police or any other law enforcement agency, which may originate from a building which has yet to be completed. And that is the only quarrel that Colorado West or I would have at all with respect to Commissioner Lowery's analysis. But I do agree that this, his analysis is exactly right as to what guides the decision as to whether or not a rehear should be granted. If I may address what is in the record though, there was testimony from a number of individuals at the original hearing about the absence of police contact at existing Colorado West facilities. And just to name a few of them, Sally Schafer, CEO of Hilltop Community Resources. Not a single incident that has been a problem with any of our dependent populations in this community. Anita Pishota, Executive Director of Mesa Developmental Services, there have been no problems with the police, with respect to mental illness, that is being served by the mental health system. Joe Higgins, Director of Mesa County Partners, we have not had any problems. Betty Fulton, who is neither a client nor an employee of respondent, but said she lives within two blocks of one the respondents' facilities, said that there has never been an incident with any of the respondents clients, at or around her home. Bob Johnson, of Stepping Stones Daycare, testified and wrote a letter to the Planning Commission, that they have had no problems with Colorado West Mental Health operating one block from them. So this issue was something. If the Planning Commission determines that this matter was pertinent, and that Colorado West was under an obligation to demonstrate the absence of calls with respect to its existing facilities, and extrapolate that to a facility proposed to be built, that matter was address by at least five witnesses at the Planning Commission hearing. And I would also reference the Planning Commission now to the record, where another individual talked about police contacts at existing Colorado West, and was allowed to present testimony about that at the hearing as well. And so all of you were more than apprised of any of the information that was relevant with respect to those police contacts.

Commissioner Tom Lowery

I have one other question regarding the adequate screening. Dr. Stein did testify that they have a database and that they can, I believe access the counties, whether Delta county or Montrose county, as to whether somebody is convicted or registered sex offender. Can you...

Mr. Sterritt

I can verify that. That information is available to anyone who wants to access it. Including Colorado West Mental Health. Sex offenses are a matter of public record, and sex offenses

Commissioner Tom Lowery

How thorough is that. Like the CBI, the Colorado Bureau of Investigation it appears is not so thorough according to what was presented by the Little League in their writing.

Mr. Sterritt

Well, I guess it's very difficult to say how thorough any of our public record systems are. We have available to us the same information that anyone, any member of the public would have available to that person with respect to convicted sex offenders in the state of Colorado. We don't have a crystal ball and we don't have an ability to get information out of someone that's not a matter of public record, and that they are not willing to divulge. But I

Commissioner Tom Lowery

From the county, assuming they get databases from each county, as opposed to the Colorado Bureau of Investigation, are county records better, more thorough, do you know?

Mr. Sterritt

Counties will, upon a phone call give information about convictions for an individual. In fact, there are web sites now available to any member of the public for a fee of \$5.95 to access a web site called CoJustice.com. And that web site, if you punch in a name and a birthday of an individual will give all convictions and all civil actions of that individual in any county within the State of Colorado.

Commissioner Tom Lowery

Thank you.

Chairman Dibble

Any other questions of Colorado West? Now this will be your final opportunity to speak with us this evening. We apologize for following our _____. But we will take a 10 minute break to evaluate the call reports that we have received, and then we will ask the presenter for the rehearing request to come forward and give us a five minute comment on what Mr. Sterritt has been saying, what has been involved with that. Which is basically he said about you. So, we shouldn't have any problem coordinating that.

Mr. Sterritt

Did I hear you say that I had a chance to sum up?

Chairman Dibble

No.

Mr. Sterritt

O.K. Thank you very much. It was a pleasure speaking before you this evening.

Chairman Dibble

Thank you very much. We'll take a five minute recess, or ten minute recess, at which time we can review this and then we will reconvene and discuss this from prospective.

Recess 10 minutes @ 8:26 p.m.

Reconvened @ 8:38 p.m.

Chairman Dibble

Little League representative please come forward, with rebuttal, again asking her only to comment upon the things that were rebutted by Colorado West Mental Health.

Jamie Kreiling

Mr. Chairman, if I may interrupt again, I know you were intending to allow Mr. Sterritt From Colorado West Mental Health to speak again if he wanted to offer information regarding 911. I wasn't sure if you would like him to do that before the rebuttal, and then she can include that in her rebuttal, or you wanted to give her additional time after Mr. Sterritt has his comments to make about this. So she can address at least his comments.

Chairman Dibble

Which would you prefer?

Jody Visconti Clow

I'd rather just do it all at once. That's fine.

Chairman Paul Dibble

O.K. Let's ask Mr. Sterritt to come forward and we will ask him the questions about this list that was handed to us. What is your evaluation of this new material?

Mr. Sterritt

Well members of the planning commission, may I first state, indeed this material seems to indicate that a number of these calls are coming from apartments which, there are a number of apartments in this building; there are different apartment numbers there, very few of which are operated by Colorado West Mental Health. The whole facility at this 1405 Wellington is not a guarded facility. That is a distinct and very different item from the facility that is proposed to be built on the North Avenue property. That facility, as the Commission remembers, it is a fully guarded facility with a number of safety measures.

The, many of the items, if you will look on here, are simply an entry of a cancelled call, of a call that no action was taken on, of a call that didn't result in any public arrest or public warrant. And I would note that in connection with its application, Colorado West had specific and extensive and detailed meetings with the Chief of police the Director of public safety and the Sheriff and they reviewed all of these plans in details that Colorado West was proposing in its initial conditional use permit application. And no where, none of those safety experts, the Police Chief, the Director of public safety, the Sheriff asked for any of this information about 911 call relative to other of Colorado West facilities. So again, Colorado West would state that this information was available to the Appellants at the time of the hearing if the Appellants wanted to present this information. The information that was in these reports was addressed by those who testified in favor of CW and actually those who testified not in favor at the Planning Commission hearing. So the fact that these items show 911 calls to a location which is housed by a number of different programs other than CW, and there is nothing to indicate, what if anything, these items mean, this is something that is not pertinent to the Planning Commissions decision.

Commissioner Travis Cox

Mr. Skerrit?

Mr. Sterrit

No Sterrit, he's the actor.

Commissioner Travis Cox

Like a lawyer isn't an actor. Disregard that. The 1405 Wellington address, as you addressed already, how' this program by Hilltop, there are other addresses on here. Can you tell me if the other addresses are or aren't...

Mr. Sterrit

They are not associated with Colorado West

Commissioner Travis Cox

So 1260 Glenwood is not with Colorado West? 4882 Elm, 181 Elm, or 1825 Orchard or 1444 N. 23rd?

Mr. Sterrit

Not to my knowledge. I believe you're just reading down the list.

Commissioner Travis Cox

I'm going down the list. Yea, 1020 Grand.

Mr. Sterrit

No.

Commissioner Travis Cox

These are not associated at all with Colorado West Mental Health?

Mr. Sterrit

No. Not to my knowledge. The only ones associated with Colorado West at all are 1405 Wellington and they are only to a limited extent.

Travis Cox

Ok so the others have nothing to do with, Ok, thank you.

Chairman Paul Dibble

Any other questions before we ask to present the other. Thank you very much.

Mr. Sterrit

Thank you.

Jody Visconti Clow

I'm looking here at page 7, and I would question the limited extent when there are 43 instances of runaway calls. And I believe that Mr. Sterritt referenced that part of what Colorado West's interest was at 1405 was the youth services.

Chairman Paul Dibble

What inference are you making on the runaways?

Jody Visconti Clow

On page 7 there are runaway reports, there are 43.

Chairman Paul Dibble

What do you make of these?

Jody Visconti Clow

I think that's an implication of the youth division. I'm not going to sit here and go through.

Chairman Paul Dibble

Is that in your opinion of a mental health condition?

Jody Visconti Clow

A runaway call?

Commissioner Lowrey

What she's trying to say is that they can't police their facilities because that have all these runaways that are connected with the division of youth services which has nothing to do with Colorado West Mental Health.

Jody Visconti Clow

I'm saying that we can't go down this list line by line and say this section of 1405 was controlled by Hilltop. But they can just say that the division of youth services was something that Colorado West Mental Health has. That was their section.

Chairman Paul Dibble

No. I didn't hear. I don't think that as easy as.

Jody Visconti Clow

We got the information that 1405, I'm looking at the Daily Sentinel, Sunday, May 23rd, and it says Colorado West now operates at several locations and 1405 Wellington was one of the locations that was given in that report and that's why..

Chairman Paul Dibble

I think that Mr. Sterrit explained that there were parts of it, but I'm not sure. That's why I'm asking you, do you believe, do you believe runaways are significant to the mental health aspect?

Jody Visconti Clow

Well I believe that in security issues that could be part of it with regard to traffic and safety issues we were just talking about with regard to police calls and emergency calls.

Chairman Paul Dibble

Miss Visconti Clow, do you agree that the other addresses on the list have nothing to do with....

Jody Visconti Clow

I agree, and I wanted, this is what was given to us, and Mr. Sterrit brought up the issue that we could have had this information. I think we addressed that that we brought this information because it wasn't brought at the first hearing. So we went and requested it. It took time to for the records dept to provide that. We didn't even get it in time for the appeal. So it takes time, they didn't get it to us in time. It certainly not our intent to make them do a job. I can't make them do things that they don't have time, the time in this issue is not, I can't put deadlines on people to pull reports like this, we requested it we got as soon as we were able to get it, that.

Another issue that Mr. Sterrit brought up was implying that the 5 or 500 number of sexual offenders implying that they may never visit the facility across the street from the Little League. It's true they may never, but I think that the ascension that they may. We are looking at positives and negatives here. I think that you can't assume that every sex offender, registered sex offender is going to visit this facility. That's not an accurate statement. But its also not an accurate statement that none of them will every visit the facility, never. They will not be house, be housed. And I have a great deal of concern with regards tracking sex offenders, I don't agree at all with his statements with regarding. I had trouble with getting the list that I got. I am a registered, resident of Mesa County when I got the list from Mesa county I was told you must be a resident of the county in which you live. I was not able to get a list of the City from the City because

I do not live in the city limits. So in order to do that, I would have had to go through CBI to get, I would have had to fill out paperwork and be OK'd through CBI to get a list from the City.

Commissioner Roland Cole

Contrary to popular belief, Grand Junction is in Mesa County.

Jody Visconti Clow

I agree. But they would not allow me. I went down there and asked, and I have to be....

Commissioner Roland Cole

Down where?

Jody Visconti Clow

To the records department at the police department.

Chairman Paul Dibble

Because you do not live in the City?

Jody Visconti Clow

Because I live in the county as opposed to the city limits.

Chairman Paul Dibble

Do you know anyone on the Board that lives in the City.

Jody Visconti Clow

No. Not as of right now.

Chairman Paul Dibble

No one representing Little League.

Jody Visconti Clow

No one that's helping us with the appeal, right now.

Commissioner Roland Cole

But is not the City of Grand Junction included in the Mesa County report?

Jody Visconti Clow

No. No. Each municipality has its own registry. Fruita may have its own registry. Palisade may have its own registry, anything that's outside the City limits then falls within county lines. And that's why its been so difficult to get anything outside of Mesa County because then we have to find residents say of Rifle, Silt, Garfield county, those people can get that information as Planning Commissioner Lowery stated on CBI. You pull up that list and there's maybe twenty people on that list. And those are the very dangerous or their multi-offenders, or different things like that. That's totally not who the registered offenders are. The City of Grand Junction does have a site where you can

pull that up and go grid by grid, and Mrs. Garcia did do that and counted over 400. But did not get a specific list like I was able to get from the Sheriffs office. It's not an easy task to get a list. That's just the registered, that's not individuals who been convicted and aren't registered, that not individuals who've been arrested and have not gone to trial yet.

Chairman Paul Dibble

Do you have anything further you'd like to say about Mr. Sterrits rebuttal?

Jody Visconti Clow

I don't believe so. I think there's substantial information to allow for a rehearing. I think there is no information that will allow for a rehearing. And I appreciate your time.

Thank you.

Chairman Paul Dibble

Well now, Close of Public Input. We will still have staff available for questions. But we would like to take this under advisement and let's consider the evidence before us concerning rehearing issue.

Commissioner Travis Cox

Mr. Chairman, like most public hearings we have I've been going back and forth of, yea I think we should have a rehearing, no we shouldn't. And I think that the points that have been brought up in favor of having a rehearing aren't significant to this questions, the notification question wouldn't have swayed my opinion of this UP at all. The question of traffic, I know that wouldn't have swayed my opinion at all. It was, this is probably a lower intensity than would otherwise be there. The sex offender quantity seems to be a really big fact, but it doesn't seem pertinent in my mind, because whether there's five, five hundred, or five thousand, I don't think it increases the risk based, I don't think it increases the risk of the Little League because of this facility. The risk of safety, because of this facility. I think that this facility won't attract anymore sex offenders than a bunch of little kids playing on a field. And so whether there is five or five thousand in the Grand Valley, I don't see any difference there. So to me that is not pertinent. It is fact, but it's not pertinent. And the 911 list, given that most everything, you know we don't have a quantity of what is based on Colorado West Mental Health facility calls, but as it was pointed out, most of them are run-away, or this or that, and they seem to be youth related, for Division of Youth services. So I don't see any new pertinent fact, although there are new facts, they are not pertinent to the question. And I will stand silent with regards to a motion or vote against any motion in favor of a rehearing.

Chairman Paul Dibble

O.K. Anyone else?

Commissioner Roland Cole

Mr. Chairman, a few observations that I would like to make, is as to the appeal. That is, there are the allegation was made almost immediately by the appellant, that the statements were inaccurate by Colorado Mental Health during the last hearing. I would say that those are public statements given in a public meeting. And those are the

statements that this Commission had to rely upon to make their decisions. There were statements having to do with the owners to the properties. Those seem to be, in my mind, the question was answered, it was legally posted, other notices sent that would have taken care of that. Safety and traffic issues, our traffic department did testify at the hearing that they were within the standards of the traffic for that type of facility. We have no way of knowing whether or not Colorado Mental Health testimony was correct or incorrect. We had to assume that it was correct, and that it was given in a public meeting, and as true statements. And as a Commissioner, I feel that I have to take that into consideration that the statements they made, as well as the statements made by those in opposition, were true statements. Having to do with the sexual offenders, incorrect statements being given by them, there was a considerable amount of time spent, I think it was, alluded to something like 45 minutes tonight, was alluded to that time was spent on just that very point. And based on the outcome of that, I reached the conclusion that Mental Health could handle that situation, based on their application. I would like to point out this 911 calls situation. I went through the list, and by the way there's not nineteen pages from 1405 Elm. When it's presented to us in this type of packet, it looks rather intimidating. But as you go through this, and was testified to, there was a testimony that 1405 Wellington houses, other agencies, besides Colorado Mental Health. So as I looked through it, I took it upon myself to count those calls that had to do with Colorado Mental Health. And many of those were just follow-up calls. But I counted a total of twenty-three mental health calls in a five year time. And if you take that and if you say I missed a few of them, and say there was 25, of those that are in that list there, that would be five per year. I really don't think that's unreasonable. In fact, five per year could come from a private home some place very easily. And so, to me, I do not consider the 911 calls, having to do with this new facility, and having to do with Colorado Mental Health as part of anything that we should consider in a rehearing. Given all of that, I also, and is alleged in the letter asking for a new hearing, where it states that we were not the...

Chairman Paul Dibble

That's the appeal, that's not relevant.

Commissioner Roland Cole

As stated in the appeal, saying that they were not given time to present their case. In my mind, I think that four or five hours was sufficient time for everybody to present their case. And so, I think all had equal time, and in some cases, the opponents were even given a bit of additional time. And so, I really am not in favor of having a rehearing on this, on this item. That's all I have.

Chairman Paul Dibble

Mr. Lowery?

Commissioner Mr. Lowery

Well, I agree that the notice, in fact, I'll agree with Mr. John Redifer's statement, or question early on. I'm troubled by this 911 list though, and I'm a little bit troubled by how well the Mental Health can screen applicants. Now I think the screening of the applicants, I'm not as troubled by that, they have a very strong motivation to do a good

job screening their applicants to see if they are not sex offenders, because their conditional use permit can be revoked. So I think they are going to do everything they can to do that, but I certainly like to know a little bit more how their going to do it, and not much has been presented on that, the database, or whatever. On these 911 calls, you can look at them and I, a lot of them say "Report written" or "In-service Report Written", a few of them have "arrest", "adult incarcerated", and "run ways" and all that. Now I have no idea whether these are connected with the Mental Health facility or not. I can't tell from looking at this list, how many of these are connected with the Mental Health facility or what not. So it bothers me a little bit. So I guess, what I have to wrestle with, and I would interested in hearing what some of the other Commissioners said, is what is our duty as a Planning Commission, and agency of the City, to insure that when we are approving of a group facility, going into a area that is zoned commercial, but it is right next to a few hundred, at least I think, a few hundred residential homes and all that. What is our duty to insure that it does not have an adverse impact on the neighborhood, and that the citizens in the vicinity of this facility will be safe. My feeling is, my personal feeling is, as a government and stuff, we want Grand Junction to be the best city it can be and stuff, and I think we have a fairly high standard of care and duty to ensure that the Mental Health facility is compatible with the neighborhood that it is going to be next to. So, while I don't think this evidence, if we had a rehearing, I'm kind of inclined to believe that the evidence probably would not cause us to change our minds. But out of an abundance of caution, and I think a high duty that we should have, I would kind of like to have a rehearing to be able to examine a little bit more what these 911 calls are about, or are not about. And to be able to examine a little bit more how is it that Colorado Mental Health is going to ensure they are not going to have, they're not going to house sex offenders, a little bit more detail on that. Those two issues are the only two things that I'm concerned with. And again, my feeling, we have a very high standard, particularly on a facility like this, and being next to a neighborhood, to make sure that it's going to be successful, it's going to work out, that it's not going to cause problems. So again, out of abundance of caution, I would, I'm in favor of having a rehearing on those two issues.

Commissioner William Putnam

Mr. Chairman? In response to Commissioner Lowery, it sounds from his remarks that he want to have a rehearing to reverse the decision. And the, wants to discuss the question of compatibility with the neighborhood. That is not the question before us, the question is shall there be a rehearing. And the criteria for making that decision is that we may have failed to consider, to consider or misunderstood pertinent facts in the record. Or that information crucial to the decision was not made available at or prior to the decision being made. And I submit that neither of those have shown, and that we ought to deny the request for a rehearing and move on.

Chairman Paul Dibble

Mr. Evans?

Commissioner John Evans

I agree with Mr. Pitts, Mr. Cole, Mr. Cox.

Chairman Paul Dibble

Mr. Pitt? No not Mr. Pitts

Commissioner John Evans

Oh I'm sorry. I don't think that anything has been presented that we didn't consider before. I do feel safe having this facility where it's going to be, because it is going to have supervised areas. It's not that people will be wandering in and out and on their own, its going to be very strictly enforced I believe. It's not like everybody that's going to be in there is going to be, you know, a mad person or something. It's people that need help. And like I said the first time, it's something that we need in this city, and by them trying to get it all together, I feel this is right for this place, and right now. But I just don't think that anything new has come before us that we didn't consider the first time.

Commissioner John Redifer

This is somewhat awkward for me because I was not present for the original hearing. So I guess I'll really kind of focus on the criteria on which we're supposed to utilize to make a decision on whether or not to grant a rehearing. And I would like to just clarify that there's two things we are looking at under this idea of the third criteria. And the first is to consider, is that we have failed to consider or misunderstood pertinent fact in the record. Now, that's very different than the second part. And what we are talking about there is information that's in that record, stuff that was presented. Somehow or another, this Planning Commission failed to give it its appropriate weight when they were making their decision. Or that we misunderstood the meaning of those facts. And I haven't seen anything here in the presentation by the applicant to demonstrate that the information that was presented that night was misunderstood or not weighed properly. And the second part of that, is really I think, is what the applicant is trying to get at. Is that there is information that we should have had on that meeting, that we didn't consider. Because it wasn't presented. And the criteria for that is different. It has to be more than pertinent, it has to be more than relevant, it has to be crucial, crucial to the decision. That's a very different standard to me. That's finding the smoking gun, alright, after the hearing was held, and putting that smoking gun out on the table and saying look, oh my gosh, this information, if you'd have known it, would have blown away the opposition. Or whatever. And that, this information doesn't meet that standard. It just simply fails to meet it. It's relevant, it's interesting, it could have been considered, but it's not crucial to the decision, and it should have been information that could have been easily provided at the original hearing. If the applicant would have done their homework the first time around. We simply can not afford to take the time to rehear, and rehear, and rehear, every decision simply because people don't like the decision that was made. And that seems to be more of what's going on here, than the fact that there is crucial information that wasn't presented.

Chairman Paul Dibble

Let's see, I guess my turn. I'll have to concur with Mr. John Redifer's comments about the crucial ness of that particular point. Whether or not the Commission eroded in its understanding of the pertinent facts, will be decided at appeal. The appeal criteria are slightly different and more critical, if you want to say, of the decisions that have been

made. But that's not our issue this evening. The issue is as, Mr. John Redifer stated, found in D-1A through C. We have answered some of these, we have, I believe, taken care of the traffic issue, I think that that's been reconciled. I think the statements of record, whether or not it was done in a timely manner, the notice of the meetings were done in a timely fashion. I think the procedure, in my opinion was followed, and notification was given in a timely way. I think that anything beyond what was required by the zoning ordinances, such as neighborhood counsel, and that type of thing, was at the discretion of Colorado West. And they have indicated and I think they are still open to the fact that there can be some neighborhood input, even if this facility were to go forward. Now as far as the sex offender issue, I think it's a real issue, I don't want to down play that in my own mind. I want it to be, I'm concerned about the issue we have as a society. It's a societal issue. I think that the way it's been stated that if they did house, and we are using that word very carefully, house any sex offenders, I believe that this would be revealed, this would be controlled and their permit would be pulled. If I built, I don't know how million dollar facility there, and were at risk of having my conditional use permit, that doesn't make any sense at all to me. They are going to be very careful, at least I would if I were in there position, and I would advise them that this is what they ought to do. But, they are not going to violate that inadvertently because of the nature of the consequences. And they have the facility; I believe that is an administrative thing, that's up to their discretion. It's not up to the Commission nor City Council to police that, in the sense of their administrative details and how they go about doing it. The fact that they will do it, according to the conditions of the conditional use permit is the important issue.

As far as the list is concerned, I came up with a couple of different statistics than Mr. Cole did. I came up with there's approximately fourteen pages of 50 on a page. Basing that, if you take the number of weeks in a five year period, that's eleven per week. Eleven, plus or minus calls per week, of which I tried to gather or at least something that had to do with mental health and circle those, there are approximately two or three on a page. So that really is not significant in my opinion. The ideas of 911 hang-ups or burglaries, welfare checks, the other things that are on this list, follow-up investigations, perhaps instigated by the agencies administration. I don't know, we have no way of doing this, it's awfully vague to try to figure out why these calls were made from any number of phones within the building at 1405 Wellington Avenue. And to me, that most of them, I would have to say in my own opinion, most of them are in no way associated with the Colorado West operations or future operations. The point was made that the operation can not be transferred, and thought to, a new operation under different circumstances. I'm assuming the phone usage in the facility would be closely guarded and policed. That people would not just be able to discriminate call 911 and hang up. I don't know, again that's an administrative function, as I see. Certainly, we would not have anywhere near the calls to 911, if any, from the new facility. Perhaps some if they needed assistance within internally. But certainly not for runaways or 911 hang-ups or that type of thing. Well again, looking at the criteria, I believe that the person that was present, at least the representative of the Little League was present, so that one is certainly qualified. The rehearing was requested in a timely manner, and as far as B & C, I do not believe that the Commission, having heard all of the testimony that it took on the

25th was negligent in ascertaining the understanding of the facts. I have re-read the verbatim, every word that was, that evening. And in my opinion, this is not the case. We did not misunderstand pertinent facts on the record. The same, I believe that, the information presented this evening by the person requesting, the Mesa Little League, requesting the rehearing was not substantial nor relevant to a rehearing decision. And I would not be in favor of a rehearing. Are all minds clear?

Now the way that we will proceed at this point, we will, according to the prescription in the Zone Code, someone who is at the hearing, that would, the only one that was not here was Mr. John Redifer, I believe, that evening. We will take a motion from someone who was here, requesting that the rehearing be agreed upon. And someone, including Mr. John Redifer, at this point, may second that. If the motion is not made and seconded, it will die for lack of a motion. If it is made and seconded, we will ask for roll call of the Commission to determine the outcome. Am I clear? Then I will ask for the motion.

Commissioner Tom Lowrey

I'll make the motion if I can find the proper language to do it.

Chairman Paul Dibble

Simply state, if you would Mr. Lowrey, that would be fine.

Commissioner Tom Lowrey

I'll make the motion that we grant a rehearing on the Mental Health facility, CUP 2004-019, Colorado Mental Health, located at 515 28 3/4 , as requested by the Grand Mesa Little League.

Chairman Paul Dibble

OK. Do I hear a second? Hearing no second the Motion is null and void as denied, and the rehearing will not be granted.

END OF VERBATIM TRANSCRIPTION

A brief recess was called at 9:15 P.M. The public hearing was reconvened at 9:22 P.M.

**ANX-2004-101 ZONE OF ANNEXATION - FLINT RIDGE III ANNEXATION
A Request for approval to zone 19.1275 acres from a County RSF-R (Residential Single Family Rural) to City RMF-8 (Residential Multi-Family-8 units/acre) zone district.**

**PETITIONER: Balerio / Flores
LOCATION: 2946, 2952 D Road**

Travis Cox excused himself from this item due to a conflict of interest. He has recently developed a relationship with the applicant.

Tom Lowrey also excused himself from the meeting do to a family emergency.

PETITIONER'S PRESENTATION

Jeff Crane, representing the petitioner, TML Enterprises stated that the request is for zoning the property from Mesa County Rural Single Family Residential to City of Grand Junction RMF-8. The zoning of this annexation is consistent with the growth plan. It will be 4 to 8 dwelling units per acre. Flint Ridge I & II is adjacent to the property. The request is compatible with the neighborhood and the growth plan. The necessary infrastructure is in place. The community needs this type of development.

QUESTIONS

Chairman Dibble asked what the density is at the existing development. Mr. Crane advised that it is approximately 5.5 to 5.8 duplex units per acre. A neighborhood meeting was held and asked for comments from the neighborhood on what type of units they would like to see and the petitioner changed the proposed plan to single family units at 5.4 dwelling units per acre.

STAFF'S PRESENTATION

Lisa Cox, Senior Planner, reviewed this item. She reviewed the following slides: 1) site location map; 2) aerial photo map; 3) Future Land Use Map; 4) Existing City and County Zoning Map; 5) Preliminary Plan; and 6) findings and conclusions. The item is for consideration for recommendation for the requested zoning of the Flint Ridge property, slightly more than 19 acres with the two combined parcels. The request is consistent with the goals and policies of the Growth Plan and the Future Land Use Map and staff would like to make a recommendation for approval of the requested zoning.

Commissioner Evans inquired about a separate parcel on the map. Ms. Cox stated that it will not be considered at this time. It currently has a house and access control issues have been planned for the one acre piece of land.

Chairperson Dibble inquired about the consistency of the RMF8 versus the RMF-5 zoning. Ms. Cox stated that the Growth Plan calls for 4 to 8 dwellings per acre. RMF8 is generally developed at 5 ½ to 6 units per acre.

Chairperson Dibble asked if there is a need for low income housing. Ms. Cox termed it as affordable housing and that there is a need and steps need to be taken to encourage and accommodate the need.

Chairperson Dibble commented that there would be a 33% increase in lot size with RMF-5 versus RMF-8 and asked if there would be any advantage to have greater lot sizes. Ms. Cox stated that the planning perspective versus the Zoning Code, they have more of a tendency to look at the density rather than the type of housing. RMF-8 is very difficult to accommodate for single family housing.

Commissioner Dibble stated that if approved at a higher build-out range, the plan could come back with an 8 dwelling units per acre. Ms. Cox it could but that could be a good thing.

Commissioner Dibble asked if Planned Development was considered. Ms. Cox stated that it was discussed with the developer and the applicant. It would be very difficult to accommodate the requirements of a planned development.

Commissioner Putman stated concerns with dealing with issues of landlord responsibility for a Homeowners Association. The City can enforce covenants of the HOA. Jamie Kreiling, Assistant City Attorney, stated the City does have the ability to enforce violations if the HOA does not take care of it.

Commission Evans asked if a Homeowners Association is required. Ms. Cox stated that is not a requirement.

PUBLIC COMMENTS

FOR:

There were no comments for the request.

AGAINST:

None

TESTIFY NOT FOR OR AGAINST:

Loren Ennis, representing JTL, the ultimate purchaser of the development, stated that they received input from area homeowners and they would like to see the kind of development people would like to have. There is a need for affordable housing. RMF-8 would allow for a nice development. They held a meeting the previous night and many neighbors were present. They were pleased with the changes in the development that were made.

DISCUSSION

Commissioner Cole feels that this request was well presented and should be recommended to be approved.

Chairperson Dibble agreed and felt that the presentation it was well organized and meets all the required criteria.

Commission Redifer was prepared for opposition and was surprised there wasn't any. There is a need in the community for affordable housing but not cheap housing.

Commissioner Evans stated that the proposal meets all criteria and he is in favor of the request.

MOTION: (Commissioner Roland) "Mr. Chairman, on item ANX-2004-101, Flint Ridge III Annexation, I move that we forward a recommendation of approval to City Council. The request is consistent with the goals and policies of the Growth Plan and all applicable sections of the Development Code."

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

VI. GENERAL DISCUSSION

There was none.

VII. NONSCHEDULED CITIZENS AND/OR VISITORS

There were none.

VIII. ADJOURNMENT

With no further business to discuss, the public hearing was adjourned at 9:54 P.M.