

**GRAND JUNCTION PLANNING COMMISSION
FEBRUARY 11, 2003 MINUTES
7:00 P.M. to 9:50 P.M.**

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

In attendance, representing the Planning Commission, were Paul Dibble (Chairman), John Evans, Roland Cole, Richard Blosser, John Redifer, Bill Pitts and John Paulson (1st Alternate). William Putnam was absent. Travis Cox (2nd Alternate) was also present.

In attendance, representing the Community Development Department, was Pat Cecil (Development Services Supervisor).

Also present were John Shaver (Asst. City Attorney) and Rick Dorris (Development Engineer).

Terri Troutner was present to record the minutes.

There were approximately 21 interested citizens present during the course of the hearing.

I. APPROVAL OF MINUTES

No minutes were available for consideration.

II. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

There were no announcements, presentations and/or visitors.

III. CONSENT AGENDA

Available for placement on the Consent Agenda were items ANX-2002-180 (Preliminary Plan--Crista Lee Subdivision) and RZ-2002-236 (Rezone and Simple Subdivision--World Harvest Church). At citizen request, item ANX-2002-180 was removed from Consent and placed on the Full Hearing Agenda.

MOTION: (Commissioner Blosser) "Mr. Chairman, I move that we approve the Consent Agenda as modified."

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

IV. FULL HEARING

ANX-2002-180 PRELIMINARY PLAN--CRISTA LEE SUBDIVISION

A request for approval of the Preliminary Plan to create 21 lots on approximately 6 acres, including 0.356 acre of open space, zoned Residential Single-Family with a density not to exceed 4 units per acre (RSF-4).

Petitioner: Alan Helmich

Location: 2933 B 1/2 Road

PETITIONER'S PRESENTATION

David Chase, representing the petitioner, opted to defer his comments until after staff and public testimony.

STAFF'S PRESENTATION

Pat Cecil offered a PowerPoint presentation containing the following slides: 1) location map; 2) aerial photo of the site; 3) future land use map; 4) existing City and County zoning map; and 5) Preliminary Plan. The RSF-4 zone would permit a density of up to 4 units/acre. The proposed density of 3.5 units/acre complied with Growth Plan recommendations and Code requirements. Proposed locations of the detention pond and subdivision access points were noted. One letter had been received from a citizen expressing concern over possible drainage problems. Staff did not believe that drainage would be an issue; however, the final plan design would have to substantiate this. Approval of the request was recommended based on the findings of fact and conclusions outlined in the February 11, 2003 staff report.

PUBLIC COMMENTS

FOR:

There were no comments for the request.

AGAINST:

Rochelle Larson (2919 B 1/2 Road, Grand Junction) said that her notification card did not reference consideration of the Preliminary Plan, only the Zone of Annexation. She noted a low point in the subject property near proposed lots 3 and 4 in block 3. Given the area's high water table and the site's topography, she expected that irrigation runoff would settle in the northwest corner of the subject property and flood her property located directly adjacent. She urged relocation of the detention pond from its currently proposed northeast location to the northwest corner near lot 4. She wondered with whom liability would rest if her property were flooded as a result of the proposed development. She also noted the existence of barbed wire fencing dividing her property from the subject site. Did the developer have any plans to replace the barbed wire with privacy fencing? Ms. Larson also noted the presence of an irrigation easement which she had always been able to use to access her irrigation water headgate located in the southeast corner of the proposed development. The developer was providing easements to Orchard Mesa Irrigation Company; however, she contended that no provision had been made to allow her the same access. If fences, vegetation, or other structures had to be removed to allow for irrigation line repairs, she wondered who would incur the liability. Ms. Larson asked if any parks fees had been paid since the petitioner wasn't proposing development of any park. Would improvements to B 1/2 Road be made in conjunction with the proposed development?

David Daugherty (2931 B 1/2 Road, Grand Junction) noted the location of a ditch in the northeast portion of the subject property from whence he received his irrigation water. Did the petitioner intend to pipe this ditch?

David Crow (2932 B 1/2 Road, Grand Junction) said that there was currently a lot of speeding along B 1/2 Road. Additional traffic from more homes would only exacerbate current problems. Were there any plans to install a traffic control device at the subdivision's proposed B 1/2 Road entrance?

PETITIONER'S REBUTTAL

David Chase acknowledged Ms. Larson's concerns as valid. He thought that the site had been flood-irrigated historically, with no prior control over water runoff. Development of the site would provide a means of controlling and directing irrigation and stormwater runoff away from adjacent properties and into the detention pond. Geotechnical recommendations would be followed. He expected that future lot owners would have to adhere to watering schedules, given the limited amount of irrigation water shares. With regard to the irrigation easement off the street, the Final Plat would grant Ms. Larson the access she needed to be able to get to her headgate, via the street and also via the easement located along the property's southern border. Trees and/or other obstructions blocking access to headgates could be removed, through plat dedication, to allow for needed headgate repairs.

The ditch referenced by Mr. Daugherty would be piped to his point of service at the east property line. That, too, would be noted on the Final Plat. Parks fees will be paid according to the City's Code requirements. He thought that the County had plans to improve B 1/2 Road but he wasn't sure when they would be undertaken.

Speeding, he said, was a law enforcement issue and not one he could control. Traffic increases as a result of the development would be minimal and didn't warrant signalization at the B 1/2 Road entrance, per City engineering standards. Current fencing plans included installation of privacy fencing along the two sides of the site abutting Mr. Daugherty's property (rear yards of lots 4 and 5, block 3). Since the City requested provision of access to Mr. Daugherty's property via Crista Lee Way, fencing would likely be interrupted to accommodate the City's request.

QUESTIONS

Commissioner Cole asked Mr. Chase if all irrigation overflow and other runoff would be directed to street gutters and conveyed away from adjacent properties, to which Mr. Chase replied affirmatively. When asked how long it had been since the property had been flood-irrigated, Mr. Chase said that it hadn't occurred for a number of years.

Commissioner Blosser asked if there were any natural occurrences of stormwater runoff from the site resulting in the flooding of adjacent properties, to which Mr. Chase responded negatively. He added, however, that during spring rains, there may be some localized flooding, but such occurrences would be brief and occasional.

Ms. Larson interjected that she was very familiar with the site, and it had never been flood-irrigated as suggested by Mr. Chase. The liability issue, she said, had still not been addressed. Ms. Larson asked again that privacy fencing be installed along the property line to buffer her property from the subdivision.

Chairman Dibble asked if engineering studies had been undertaken. Laura Lamberty, Development Engineer, remarked that the County had plans to widen B 1/2 Road to three lanes sometime this year. And with regard to drainage, while some water may drain eastward, as soon as it hit the street, it would be conveyed to Tract A via street gutters.

Chairman Dibble asked if any traffic studies had been conducted along the B 1/2 Road corridor. Mr. Dorris said that given the County's intention to widen B 1/2 Road, it was likely that traffic studies had been undertaken beforehand. He was unsure if the County intended to install curb, gutter and sidewalk in conjunction with the street's widening. He confirmed that the amount of traffic traveling along B 1/2 Road did not warrant signalization in the subject area.

When Commissioner Pitts asked for a response on flood-irrigation comments, Mr. Chase said that his definition of flood-irrigation included directing water to crops via man-made furrows.

Commissioner Redifer asked legal counsel for an opinion on the liability issue. Mr. Shaver said that the Code and the City's engineering standards placed liability with the developer's engineer(s). However, if Code and engineering requirements were followed, the presumption was that all potential problems would then be mitigated. If a drainage problem should arise following that level of mitigation, likely it will have occurred subsurface. In that event, the legal remedy would be more complex. The question of liability, he said, could only be addressed after causation of an event.

Chairman Dibble asked if a homeowners association would be created to maintain easements, to which Mr. Chase replied affirmatively. Mr. Shaver said that it was necessary to know before recordation of the plat whether Ms. Larson's easement was a record easement or a use easement; he encouraged Mr. Chase to research the status of her easement.

DISCUSSION

Commissioner Cole said that while he understood Ms. Larson's concerns over potential flooding of her property, it appeared that the drainage system would be designed to prevent such occurrences. He was satisfied that most of the irrigation and stormwater would be appropriately captured by the drainage system and conveyed to Tract A.

Commissioner Blosser felt that most of the historical runoff from the site had been via irrigation and not as a result of stormwater runoff. He agreed that appropriate easements needed to be provided to Ms. Larson for headgate repair and oversight.

Commissioner Pitts observed that the request met the intent of the Growth Plan and complied with Code criteria. He expressed confidence that both the developer's and the City's engineering staff would work together to mitigate any easement and drainage concerns prior to approval of the Final Plat. He supported approval of the request.

Chairman Dibble concurred that the request met both Growth Plan and Code requirements, and the widening of B 1/2 Road would help greatly in traffic conveyance.

Commissioner Redifer thanked the citizens who spoke, and noted that their presentations had been very thorough and informative. He, too, felt confident that the concerns raised would be resolved before Final Plat approval.

MOTION: (Commissioner Cole) "Mr. Chairman, on the Preliminary Plat for the Crista Lee Subdivision (ANX-2002-180), I move that we approve the Preliminary Plat, making the finding of fact and conclusions as listed above (referencing the staff report)."

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

Commissioner Blosser disclosed a potential conflict of interest on the next item, given his association with Coldwell Bankers Realty. After listening to the disclosure, Mr. Shaver did not feel there to be any evidence of impropriety. Planning commissioners agreed, and Commissioner Blosser was permitted to stay and deliberate on the following item.

ANX-2002-184 PRELIMINARY PLAN--D&K LUCAS SUBDIVISION

A request for approval of the Preliminary Plan to develop 3.77 acres, zoned Residential Single-Family with a density of no more than 4 units per acre (RSF-4), into 13 lots.

Petitioners: Dennis and Karen Lucas

Location: 2220 Broadway

PETITIONERS' PRESENTATION

Brian Hart, representing the petitioners, offered a PowerPoint presentation containing the following slides: 1) location map (aerial photo); 2) Preliminary Plan; 3) overview; and 4) a photo depicting the current ponding problem at the end of Kingston Road.

Primary access would be secured through Kingston Road. While not ideal, access options were very limited. The Colorado Department of Transportation (CDOT) refused to grant a permit for access directly onto Broadway, citing ongoing safety concerns. A pedestrian connection was proposed to link the internal cul-de-sac with Broadway. The cul-de-sac, itself, had received a TEDS exception since the street itself exceeded TEDS manual standards. Landscaping, and an irrigation system to maintain it, would be provided along Broadway. Construction traffic would be routed through an existing driveway connected to Broadway to lessen impacts to the existing neighborhood. The driveway cut would ultimately be eliminated when construction was completed.

A retention pond was proposed in Tract A to hold all storm and irrigation water runoff. Mr. Hart acknowledged the drainage problem currently existing at the end of Kingston Road but he assured planning commissioners that the proposed development would not exacerbate the existing problem. Overall drainage in the area was a

concern, and the main reason that flooding occurred at the end of Kingston Road was due to an inadequately-sized pipe installed on the north side of the Kingston Road cul-de-sac. While he understood that the County had done some work to correct the flooding problem in that area, the problem was still there. However, he reemphasized that the currently proposed development would not add to existing problems. There were a number of drainage mitigation options available to ensure this. The request complied with Growth Plan and Code requirements, and he asked that approval be granted.

QUESTIONS

Commissioner Cole noted the increased elevation of the property where it connected to Kingston Road via an existing valley pan. How did the developer intend to keep water from draining to the existing lower-elevated Kingston Road properties? Mr. Hart said that the site would be graded so that the connecting street would rise as quickly as possible, with a grade of 8% between the existing Kingston Road and the proposed subdivision. Water would be directed to the retention pond in nearby Tract A. The existing drainage problem was located offsite.

Chairman Dibble noted the strip of "no man's land" located to the north of Tract A. How would water be kept from overflowing into the adjacent Vineyards Subdivision? Mr. Hart didn't expect any drainage impacts to the Vineyards. The retention pond would contain all water flows from the site, with none expected to spill over into the Vineyards. He elaborated briefly that as a result of an apparent surveying error the referenced strip of land wasn't owned by anyone; however, because the process to acquire the land was rather lengthy and involved, the petitioners had no real interest in pursuing its acquisition.

Commissioner Blosser asked if irrigation water would be provided to subdivision residents, to which Mr. Hart replied negatively. He added that any landscape irrigation other than that of the Broadway frontage and Tract A would have to come from potable water sources.

Commissioner Paulson asked if it was likely that people would install a lot of landscaping given the lack of irrigation water. Mr. Hart could not recall having personally been involved in developing a site without irrigation water; however, he expected that given the high costs of potable water, landscaping installation would probably be minimal.

Commissioner Pitts asked about individual lot runoff. Mr. Hart said that swales would be created along the rear yard property lines; water would be directed to Tract A via these swales.

STAFF'S PRESENTATION

Pat Cecil offered a PowerPoint presentation which contained the following slides: 1) site location map; 2) aerial photo of the site; 3) future land use map; 4) existing City and County zoning map; and 5) Preliminary Plan. He noted locations of the proposed landscaping, right-of-way fence, and pedestrian path. He stated that the petitioner had indicated that construction traffic would access the site via an existing driveway connecting from Broadway. The main issue was drainage, and while staff felt that the developer's design would mitigate onsite drainage, it would not solve the existing problem occurring at the end of Kingston Road. The request met the intent of the Growth Plan and satisfied Code requirements. As such, approval was recommended per the findings and conclusions outlined in the February 11, 2003 staff report, which included the requirement for construction of adequate drainage facilities sufficient to retain all drainage onsite without impacting existing offsite drainage problems.

QUESTIONS

Commissioner Cole asked if staff were satisfied that the site's current drainage design would retain all drainage onsite without impacting current ponding problems at the end of Kingston Road. Mr. Cecil replied affirmatively, and concurred that the burden of proof rested with the developer.

Commissioner Blosser asked if there was any assurance that construction would be routed through the existing driveway off Broadway. Mr. Cecil said that the decision rested with CDOT.

PUBLIC COMMENTS

FOR:

There were no comments for the request.

AGAINST:

Lenny Lang (2230 Kingston Road, Grand Junction) submitted a copy of the front page of a letter originating from the County in 1998 to Dennis Lucas, preventing Mr. Lucas from securing a driveway permit because of drainage concerns existing at the end of Kingston Road. There were 60 feet between the Lucas property and the end of Kingston Road. To lessen drainage impacts, the County had spent additional dollars to install curb and gutter along the south side of the cul-de-sac, and install a valley pan along the west end; however, the drainage problem had never been eliminated. The difference in elevation between the petitioners' property and properties located at the end of Kingston Road was 14 feet. Mr. Lang felt certain that the proposed development would compound existing drainage problems. Both the Methodist and Mormon churches discharged their drainage into the street, which ultimately flowed to the end of Kingston Road in front of Mr. Matti's property. Mr. Lang noted that the north arrow on the proposed plat was incorrectly positioned and actually pointed eastward. He submitted photos of the ponding problem in the Kingston Road cul-de-sac. Turning to page 5 of the petitioner's drainage report, references in the report were made to the existence of Kalichi shale on the petitioners' property, which would hinder onsite drainage. He didn't believe that the slot drainage system proposed by the developer would work. Likely, it would silt up, instead.

Mr. Lang also expressed concern over having water retained onsite. What would prevent it from becoming a breeding ground for mosquitoes? With so much concern over the spread of West Nile Virus, this was a valid public safety issue. He felt that drainage issues needed further investigation and mitigation, and that any approval of the Preliminary Plan at this point would be premature. He suggested that the developer consider installing a larger pipe at the end of Kingston Road and using it to drain all water from the area directly to the river. With the City, County and the developer all acknowledging existing drainage problems, who would bear the liability of additional drainage impacts from the proposed subdivision?

Don Matti (2226 Kingston Road, Grand Junction) said that his property incurred the greatest drainage impact. Water often backed up onto his driveway 10-15 feet, and he'd not lived there long enough to have experienced a heavy rain. He believed the proposal was incompatible with Growth Plan goal 11.1 (compatibility). The developer, he felt, failed to adequately address expected traffic impacts, safety, and noise. A better plan was needed, something that the neighbors would have a chance to review. He suggested that the City and County work together to mitigate the existing drainage problems before allowing any new development.

Earl Fisk (14 Moselle Court, Grand Junction), representing the Vineyards' Board of Directors, said that the Kingston Road drainage problem impacted the Vineyards in that a 6-inch pipe extended from the end of Kingston Road to the Vineyards property where it connected to a 4-inch pipe that extended to the street. Vineyards homeowners then received the "dirty water" runoff from the end of Kingston Road. In the wintertime, this water would pool and freeze in their subdivision causing slick spots and safety hazards. He expressed concern over the seepage and potential overflow from the proposed retention pond since there were elevation differences between the two properties. He added that drainages from Broadway, nearby streets, and the Methodist church all collected into a single piped drainage ditch. He cited instances where drainage from these sources, and overflows from a nearby canal had resulted in the flooding of Vineyards properties, with flood waters ultimately carried over to school property, creating flood conditions there. Any landscaping installed over the existing 12-inch drainage ditch concerned him.

Debbie Lang (2230 Kingston Road, Grand Junction) said that the developer's math didn't add up, that the grade differences between the subject property and the Kingston Road cul-de-sac seemed closer to 20%. She asked for additional clarification.

PETITIONER'S REBUTTAL

Mr. Hart began by saying that since he'd not seen the 1998 letter referenced by Mr. Lang, he could not comment on its contents. He reemphasized that most, if not all, the drainage problems at the end of Kingston Road originated from the east and south, and included the two nearby churches. The existing problem did not originate from the petitioners' property, nor would the problem be compounded by the proposed development. The lowest point of the subject property lay within Tract A. This would be graded to accommodate onsite drainage. He agreed with comments regarding highway drainage, adding that a significant amount would be routed to Tract A and captured in the retention pond. He said that several geotechnical reports had been submitted to the City in conjunction with the Preliminary Plan and that the City's engineering staff had reviewed and accepted them. The suggestion to pipe drainage water all the way to the river would entail running pipe through property not owned by the petitioners. He felt that the request did meet the compatibility requirements outlined in Growth Plan goal 11.1, and added that the final drainage design would provide the evidence to support its feasibility.

QUESTIONS

Chairman Dibble asked about concerns over the retention pond becoming a breeding ground for mosquitoes. Mr. Hart said that the geotechnical report anticipated complete pond drainage within 48 hours.

Commissioner Blosser asked if there would be any seepage occurring from the pond that could flood neighboring properties. Mr. Hart replied that the geotechnical report had addressed this issue to the satisfaction of City staff. With regard to potential silting problems, he said that silt standards had been provided even though they hadn't been required. Additional information would be provided at Final. Richard Livingston, legal representative for the petitioners, added that the homeowners association would be the legal owner of the retention pond. He suggested that the current Kingston Road residents consider annexing into the City and forming a special district to help fund drainage mitigation.

Commissioner Cole asked if the petitioners' engineer knew how thick the Kalichi shale layer actually was. Laura Lamberty responded that she was unsure. She said that trench drains would be installed at the bottom of the pond to both increase the surface area for drainage and facilitate drainage through the Kalichi shale. When asked if Tract A would be graded to keep all drainage water onsite, she replied affirmatively. The City's requirement was that all drainage water be retained onsite and that there be no drainage impacts to adjacent properties.

Commissioner Blosser wondered how assurance could be given that drainage water from all lots would be directed to the street. Mr. Hart briefly explained the concept of "split drainage" where the front yard would drain to the street while the rear yard drained to a swale; the swale would be piped, with drainage water directed to the retention pond. Ms. Lamberty said that a number of options were being considered to prevent onsite drainage from traveling east onto the Kingston Road.

Commissioner Blosser asked for clarification of the 60-foot reference made by Mr. Lang. Mr. Hart said that the actual distance between the existing valley pan and the petitioners' property was about 15 feet. There would be "no need to bring the property up to the exact height of the existing berm because it was higher than that point." Inlets at the property line could collect drainage water and pipe it into the retention pond. Mr. Hart said that a number of feasible drainage solution alternatives were available, and he acknowledged that no developed flows at greater than historic would be discharged from the site.

DISCUSSION

Mr. Shaver explained that with regard statements made by Ms. Lamberty and Mr. Hart, there was a legal difference between Ms. Lamberty's reference to "no impact" and Mr. Hart's statement that "no developed flows at greater than historic would be discharged from the site." Mr. Hart's statement, he said, was the more accurate representation of Colorado drainage law.

Discussion ensued among planning commissioners over whether the Planning Commission should be involved in review of the Final Plan versus leaving it to administrative review and approval. The administrative appeal process was explained. While confidence in staff's review was expressed, and staff's Findings of Fact were comprehensive, there still remained a level of discomfort in approving a plan without a final drainage design in place. Mr. Shaver reminded planning commissioners that Final Plan review included only ensuring that the criteria required as part of the Preliminary Plan review had been incorporated into the Final Plan. Thus, if there were to be specific recommendations over and above what was contained in the staff report, they should be included in any motion made.

The consensus among planning commissioners was to have the Final Plan brought back to the Planning Commission for final review. When asked how neighbors would be notified, Mr. Cecil said that if so directed, staff could send out notification cards.

MOTION: (Commissioner Cole) "Mr. Chairman, on the Preliminary Plat for the D&K Lucas Subdivision (ANX-2002-184), I move that we approve the Preliminary Plat making the finding of fact and conclusions as listed above (referencing the staff report) and that the Final Plat be reviewed and approved by the Planning Commission."

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

With no further business to discuss, the public hearing was adjourned at 9:50 P.M.