

**GRAND JUNCTION PLANNING COMMISSION
MARCH 25, 2003 MINUTES
7:00 P.M. to 7:35 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, Richard Blosser, Roland Cole, John Redifer, Bill Pitts and John Paulson (1st Alternate). William Putnam was absent.

In attendance, representing the Community Development Department, were Bob Blanchard (Community Development Director), Pat Cecil (Development Services Supervisor), Kathy Portner (Planning Manager), Lori Bowers (Senior Planner), Scott Peterson (Associate Planner) and Ronnie Edwards (Associate Planner).

Also present was John Shaver (Assistant City Attorney) and Rick Dorris (Development Engineer).

Terri Troutner was present to record the minutes.

There were approximately 15 interested citizens present during the course of the hearing.

I. APPROVAL OF MINUTES

Available for consideration were the minutes from the February 20 and February 24, 2003 Joint City/County Planning Commission Growth Plan Update public hearings.

MOTION: (Commissioner Evans) "Mr. Chairman, I request that we approve the minutes of the 20th as written."

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

MOTION: (Commissioner Pitts) "Mr. Chairman, I move that we approve and accept the Planning Commission meeting [minutes] of February 24."

Commissioner Redifer seconded the motion. A vote was called and the motion passed unanimously by a vote of 5-0, with Commissioners Cole and Evans abstaining.

II. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

Item #FP-2002-173 was withdrawn from consideration by the applicant. No future hearing date was set.

MOTION: (Commissioner Cole) "Mr. Chairman, I would move that we allow FP-2002-173 to be withdrawn."

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

III. CONSENT AGENDA

The Consent Agenda was read: items on that agenda were ANX-2003-023 (Zone of Annexation--Fruitvale Estates), CUP-2002-122 (Conditional Use Permit--Rio Grande Federal Credit Union, VE-2002-247 (Conditional Use Permit--Target Expansion), CUP-2002-231 (Conditional Use Permit--Sun Plex Office Building), and GPA-2003-045 (Amendment to the Future Land Use Map, Housekeeping Item--Update to the Grand Junction Growth Plan). No objection was offered by the citizenry, planning commissioners, or staff.

MOTION: (Commissioner Cole) "Mr. Chairman, I would move that the Consent Agenda be approved."

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

IV. FULL HEARING

GPA-2003-018 REQUEST FOR REHEARING OF ITEM #25--2002 UPDATE TO THE GROWTH PLAN

A request for rehearing of discussion item #25 on the proposed changes to the Future Land Use Map of the Growth Plan Update. Dick and Alan Pennington are requesting a rehearing of discussion item #25, a request to increase the residential density designation of the property in the Appleton area within the Persigo 201 sewer service area.

Petitioners: Dick and Alan Pennington

Location: Appleton area within the Persigo 201 boundary

The petitioner was cautioned by Chairman Dibble to limit his presentation to the facts supporting the rehearing.

PETITIONERS' PRESENTATION

Dick Pennington, co-petitioner, said that he'd been present at the initial public hearing; however, because the discussions had been moving slowly and because he'd heard the Chairman say that no items would be heard past 11:00 P.M., he and Alan Pennington left early, believing that the item wouldn't be discussed that evening. It was only when he'd gone home and turned on the television that he'd realized his item was to be heard. He surmised the time to be sometime after 11 p.m. Thus, his interests hadn't been represented. Because he'd lived in the Appleton area for most of his life, he felt he could have added information and represented the application.

When asked by Chairman Dibble if the petitioner had any new information to offer, Mr. Pennington replied affirmatively.

Chairman Dibble said that he'd asked for a verbatim transcript of what he'd said the evening of the 3 Future Land Use Map Amendment Hearing. He asked Mr. Shaver for a legal opinion on the transcript. Mr. Shaver said that section 2.18.D. of the Code, dealing with rehearing requests, set forth specific criteria which must be met prior to the granting of a rehearing request. He read that criteria into the record, which required: 1) that the person requesting the rehearing had been present at the original hearing or otherwise on the official record concerning the development application; 2) that the rehearing had been requested in a timely manner as specified by this section [2.18.D]; and 3) that in making the original decision, the decision-maker may have failed to consider or misunderstood all pertinent facts in the record or that information crucial to the decision was not made available prior to making the decision.

Mr. Shaver continued saying that the verbatim transcript stated that planning commissioners would "try to adjourn by 11:00 P.M.". Mr. Shaver noted that no definitive representation had been made that items would not be heard after 11:00 P.M. Also, he noted, Chairman Dibble had polled planning commissioners from both the City and County at 11:00 P.M., and there had been consensus to proceed. Mr. Shaver said that the way the announcement had been made on February 20, it had not been especially clear how "item" was defined. It was Mr. Shaver's opinion that item #25 was actually a subpart of another agenda item. He encouraged planning commissioners to use the Code's criteria in determining whether the rehearing was warranted. Mr. Shaver said that while it appeared that the petitioner had met the first two criteria, the determination of whether the third criterion had been satisfied would be up to the Planning Commission based on the testimony presented by the petitioner.

Mr. Pennington said that the item had originally been represented as a request for a density of 2-4 homes/acre, a request which had been substantiated by his initial letter dated August 23, 2002; however, on February 12, 2003, he'd written a subsequent letter asking that an area between 24 and 23 1/2 Road, south of H Road to the I-70 frontage be lowered in density to between 1-2 units/acre. Also, the February 20 presentation suggested that the requested changes would affect the entire 201 area; his February 12 letter outlined only a specific half-mile area to be affected. He said that the representation made at the February hearing that the area was primarily residential wasn't accurate. Located within that half-mile were one of the largest churches in the valley--Fellowship Church--with a membership exceeding 4,000 persons, a trucking company, a canning factory (historical use), and a honey factory (historical use). The North Central Valley Neighborhood Plan also identified the four corners of 24 and H Roads as Neighborhood Commercial. He didn't feel that the Growth Plan Map was accurate, and it may have misled planning commissioners to making erroneous conclusions. The Map didn't reflect the Neighborhood Commercial on the four corners of 24 and H Roads; and it didn't show that the southwest corner was already zoned Neighborhood Commercial. Also within this half-mile boundary were the Appleton School, residential properties (1/4 to 2 acres in size), Webb Crane, Colorado Kenworth, and a John Deere dealer. Not mentioned at the public hearing, he said, were the facts that the area was served by City sewer, an 8" Ute water line, another 16" Ute water line along H Road, ample electricity, natural gas, fire hydrants, etc., everything that someone would need to build a house. Mr. Pennington asked "what better place to find infill development than an area such as this?" He also suggested that not to pursue infill development in areas such as this one would result in urban sprawl.

QUESTIONS

Commissioner Cole asked if both letters had been included in February 20 packets, to which Mr. Pennington replied affirmatively. The letters, he said, did not represent everything just stated; the second letter just requested a reduction in density from 2-4 units/acre to 1-2 units/acre.

Chairman Dibble explained to the public that if a rehearing were granted, the public would be invited to speak at that time. The only issue before the Planning Commission at present was the decision whether or not to permit the rehearing.

DISCUSSION

Commissioner Pitts said that Mr. Pennington had attended the initial meeting and only left when he, in good faith, believed that the item would not be heard. Given the new information presented, he felt that the Code's criteria had been satisfied and that a rehearing of the item was justified.

Chairman Dibble observed that the information just presented was far more specific and in-depth than what had been contained in the petitioner's letters.

Commissioner Cole acknowledged that it probably was not clear to Mr. Pennington that items could potentially have been heard past 11 p.m. Because Mr. Pennington's conclusion that the item would be continued was reasonable, and because he had no way of knowing for sure whether or not it would be heard, his rehearing request seemed warranted.

MOTION: (Commissioner Cole) "I would so move, Mr. Chairman [to approve the request for rehearing]."

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

A discussion ensued over the County's participation in the rehearing request process. Mr. Shaver explained that because the area was situated within the joint urban planning area, the County needed to approve the rehearing in order for it to be heard. He noted that a split decision would result in denial. Ms. Portner said that the County's Planning Commission would be meeting later that week.

With no further business to discuss, the public hearing was adjourned at 7:35 P.M.