

**GRAND JUNCTION PLANNING COMMISSION
SEPTEMBER 9, 2003 MINUTES
7:00 P.M. to 8:22 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 City Planning Commission, were Dr. Paul Dibble (Chairman), John Redifer, Richard Blosser, Bill Pitts, John Evans, Travis Cox and Roland Cole. William Putnam was absent.

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

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

Terri Troutner was present to record the minutes.

There were approximately 13 interested citizens present during the course of the hearing.

I. APPROVAL OF MINUTES

Available for consideration were the minutes from the August 12, 2003 public hearing.

MOTION: (Commissioner Pitts) "Mr. Chairman, I move we approve the August 12 minutes as written.

Commissioner Redifer seconded the motion.

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

II. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

There were no announcements, presentations and/or visitors.

III. CONSENT AGENDA

The proposed Consent Agenda items were read: FP-2003-074 (Revised Preliminary Plan--Rocky Heights Estates). No objection was raised from the audience, planning commissioners or staff on this item.

MOTION: (Commissioner Cole) "Mr. Chairman, I would move for approval of the Consent Agenda as submitted."

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

IV. FULL HEARING

RZ-2003-139 REZONE--SANDER REZONE

A request for approval to rezone 5.317 acres from RSF-R (Residential Single-Family Rural, with a density not to exceed one unit per five acres) to RSF-1 (Residential Single-Family, with a density not to exceed one unit/acre).

Petitioner: Dieter Sander

Location: 2611 Kelley Drive

PETITIONER'S PRESENTATION

Craig Roberts, representing the petitioner, said that what had started out to be a request for construction of a carport ended up being a request for a rezone. Mr. Roberts elaborated by saying that the petitioner wanted to build a carport near his home on his property; however, RSF-R zone setback restrictions prevented him from placing the carport where it would be most convenient. A neighborhood meeting had been held and the single biggest concern expressed by surrounding residents was the possibility that, with an RSF-1 zone, the petitioner's parcel could be further subdivided and developed. Mr. Roberts provided a brief history of the area's zoning and its annexation into the City. He said the property directly to the west and northwest of the subject parcel had already been zoned RSF-1, so the request would be compatible with the surrounding area. The request also met Code criteria and Growth Plan recommendations; he asked that approval be granted.

STAFF'S PRESENTATION

Ronnie Edwards offered a Powerpoint presentation which included the following slides: 1) site location map; 2) aerial photo map; 3) Future Land Use Map; 4) Existing City and County Zoning Map; and 5) findings and conclusions. She said that the subject parcel was one of very few in the area which met the minimum 5-acre requirement for an RSF-R zone. She concurred that the existing home and driveway were located close enough to the current 50-foot side yard setback that it could very well prohibit construction of the carport in the petitioner's preferred location. Ms. Edwards also said that the RSF-R zone was inconsistent with Growth Plan recommendations and had been assigned to the property at the time of annexation since that was the zone district that was closest to the County zoning for the area. The RSF-1 zone would be consistent with Growth Plan recommendations, would provide sufficient setbacks to allow construction of the petitioner's carport, and it would not impact the surrounding neighborhood. Staff recommended approval of the request.

QUESTIONS

Commissioner Cox asked how many and how large the parcels directly to the north are? Ms. Edwards said that two parcels containing approximately 5 acres and 8 acres, respectively, were situated directly north. When asked how many lots, realistically, could be subdivided from the petitioner's parcel, Ms. Edwards said that given site constraints and the location of the petitioner's home on the property, she didn't feel that any more than 1-2 additional lots would be possible.

Commissioner Blosser asked if Kelley Drive would provide sole access to any additional lots created; Ms. Edwards answered affirmatively. She added that upon subdivision of any new lots, major improvements to Kelley Drive would be required. Ms. Edwards advised that for the addition of 1-2 lots, such development would be cost-prohibitive.

Chairman Dibble asked if both the RSF-R and RSF-1 zones complied equally with Growth Plan requirements, to which Ms. Edwards replied negatively. She said that the RSF-R zone category was non-compliant with both the Growth Plan and Future Land Use Map.

Commissioner Cox asked if the smallest a lot could be within an RSF-R zone was 5 acres; Ms. Edwards responded affirmatively.

Commissioner Pitts wondered why the petitioner hadn't pursued a variance instead of a rezone. Ms. Edwards said that while a variance may be an option, one of the primary criterion for approval of a variance is demonstration of a non self-imposed hardship or some distinctly unique characteristic of the land which warranted special consideration. Neither was evident with the current request.

PUBLIC COMMENTS

FOR:

Dieter Sander, petitioner, reiterated that all he wanted to do is build a carport next to his home and that the rezone request seemed to be the only way available for him to do so without tearing out a good portion of existing landscaping and mature trees. The carport, he said, would be unobtrusive and he predicted that likely very little of it would be visible from Kelley Drive. He understood the concerns of the neighbors but said that he had no intention of ever subdividing the property. To that end, he offered to draft covenants or enter into some other legal agreement with the neighbors to restrict any future development of his property. He noted that several neighbors opposing the request also had RSF-1 zoning on their properties.

AGAINST:

Herb Mooney (2613 Kelley Drive, Grand Junction), owner of property directly to the east, said that he and others were not trying to be unneighborly; however, regardless of Mr. Sander's good intentions, anyone purchasing the property in the future may have a different intent. Area residents are most concerned about future impacts to their neighborhood should future development occur. He agreed that while other nearby parcels were also zoned RSF-1, the two largest had site constraints that would make subdivision virtually impossible.

Commissioner Cox asked if the neighbors would favor the kind of development restriction offered by Mr. Sander; Dr. Mooney responded affirmatively. He added that he'd approached the petitioner and offered to buy his "open field" just to keep it from being developed; however, there had been no conclusion to those conversations. Dr. Mooney said there are plenty of examples where parcels with homes on them continued to subdivide even when others viewed such subdivision as impractical.

Commissioner Cox asked Dr. Mooney where he derived access to his property. Dr. Mooney noted the location of his driveway on an available map. He said that the legal easement extended from the Kelley Drive cul-de-sac and bisected Mr. Sander's property.

Commissioner Cole said that the presence and protection of legal right-of-way would factor into any future subdivision request.

Chris Cameron (2605 Kelley Drive, Grand Junction) said that with only 6 homes currently located along Kelley Drive, even the addition of another 2-3 homes would negatively impact the neighborhood. None of the neighbors were opposed to Mr. Sander's carport; however, they hoped there were other ways of achieving the same end without rezoning the property. Mr. Sander's property, he continued, was the only one in the vicinity that could reasonably be subdivided if the zoning permitted it.

Vernon King (2610 Kelley Drive, Grand Junction) agreed with Mr. Cameron's comments. If the street were widened, he predicted that his property's value would diminish because the neighborhood's "rural appeal" would be gone. And with a widened street and additional homes would come additional traffic and its resultant impacts. He urged City staff to find another way to allow Mr. Sander to have his carport without rezoning the property.

Stella Shanks (2606 Kelley Drive, Grand Junction) said that although her property had been rezoned to RSF-1, it had been imposed upon her by the City. While opposed to the Sander rezone request, she did not oppose the petitioner's desire for a carport. She would be in favor of the petitioner's suggestion to enter into some type of agreement to restrict future development of his property.

PETITIONER'S REBUTTAL

Mr. Roberts said that if one looked at the property from a developer's perspective, development of so few additional lots would be impractical. There is too little frontage available from the cul-de-sac to even consider more than 2 additional lots. Kelley Drive improvements would cost an estimated \$150 per linear foot to construct. Factor into that equation the costs of drainage mitigation, sewer hookup, etc., total improvements before construction of actual homes could easily exceed \$900K. If Dr. Mooney were to acquire an additional portion of Mr. Sander's property and add it to his own, Dr. Mooney would then, himself, be in a position to more feasibly subdivide and develop the 8 acres he would then have. At the present time, there should be no concern that further subdivision could occur on Mr. Sander's parcel. Mr. Roberts said that the request does not meet variance criteria; this rezone seemed to be the only way that the petitioner could have his carport in the place he deemed most logical and convenient to him.

QUESTIONS

Commissioner Pitts asked if there is any other location available next to the house for placement of the carport without setback encroachment. Mr. Roberts said that the existing driveway could be extended to other locations on the property; however, doing so would not be convenient for the petitioner.

DISCUSSION

Chairman Dibble asked John Shaver if it were possible for the Planning Commission to grant a variance. Mr. Shaver replied negatively, saying that variances are the purview of the Board of Appeals; all variance requests are heard by that board. He said that without a demonstrated hardship or unique characteristic of the land, it was unlikely that variance approval would be granted.

Commissioner Cox asked Mr. Shaver if a deed restriction placed on Mr. Sander's property would be a practical means of addressing neighbor concerns. Mr. Shaver affirmed that a deed restriction could adequately encumber the property and be something that would transfer to future purchasers. When asked if approval could be contingent upon the petitioner's recording such a restriction, Mr. Shaver advised against it because it "presumed" the property would be developed at some future point. He suggested that Planning Commission address strictly the appropriateness of the proposed zoning.

Mr. Shaver mentioned that Ms. Portner concluded that the Planning Commission consider the RSF-E zone because it offered the same setback advantages as an RSF-1 zone while limiting the density to 1 lot per 2 acres. In the case of the petitioner's property, the RSF-E zone would potentially allow only one additional lot. Given the cost factors pointed out by Mr. Roberts, it would be even less likely that development of a single additional lot would ever occur. An RSF-E zone, she felt, would address the needs of the petitioner while mitigating neighbor concerns.

The RSF-E zone suggestion elicited a great deal of discussion. Mr. Shaver advised that no additional advertising or posting would be required because the proposed/advertised RSF-1 zone was a higher intensity. Mr. Shaver explained that RSF-E would not constitute spot zoning because with that zone there would be a reciprocal expectation; that the Future Land Use Map provided for zoning possibilities anywhere from RSF-E to RSF-2; that the RSF-E zone would address the needs and concerns of both the petitioner and surrounding residents; and that the RSF-E zone still met Code criteria and Growth Plan requirements. Planning Commissioners, staff, legal counsel, the petitioner and general public all agreed that the RSF-E zone represented an acceptable alternative.

MOTION: (Commissioner Cox) "Mr. Chairman, on the Sander Rezone, #RZ-2003-139, I move that the Planning Commission forward a recommendation of approval to the City Council on the request to rezone from RSF-R (Residential Single-Family, with a density not to exceed one unit per five acres) to RSF-E (Residential Single-Family Estate, with a density not to exceed one unit per two acres) with the findings and conditions listed in the staff report."

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 8:22 P.M.