

**GRAND JUNCTION PLANNING COMMISSION  
OCTOBER 14, 2003 MINUTES  
7:00 P.M. to 8:05 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, John Paulson, William Putnam, John Evans and Roland Cole. Bill Pitts was absent.

In attendance, representing the City's Community Development Department, were Bob Blanchard (Community Development Director), Scott Peterson (Associate Planner), Lori Bowers (Senior Planner) and Lisa Cox (Senior Planner).

Also present were John Shaver (Assistant City Attorney) and Eric Hahn (Development Engineer).

Terri Troutner was present to record the minutes.

There were approximately 19 interested citizens present during the course of the hearing.

**I. APPROVAL OF MINUTES**

Available for consideration were the minutes from the September 9, 2003 public hearing.

**MOTION: (Commissioner Cole) "Mr. Chairman, I would move for approval of the minutes as printed."**

Commissioner Redifer seconded the motion. A vote was called and the motion passed by a vote of 4-0, with Commissioners Putnam and Paulson abstaining.

**II. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS**

There were no announcements, presentations and/or visitors.

**III. CONSENT AGENDA**

Offered for placement on the Consent Agenda were items PFP-2003-092 (Preliminary/Final Plan--Grand Mesa Center Revised), ANX-2003-197 (Zone of Annexation--Church on the Rock Annexation) and PP-2003-124 (Preliminary Plan--Forrest Estates Subdivision). No objection was raised from the audience, planning commissioners or staff on any of these items.

**MOTION: (Commissioner Evans) "Mr. Chairman, I move we approve the Consent Agenda as it stands right now."**

Commissioner Cole seconded the motion. A vote was called and the motion passed unanimously by a vote of 6-0.

#### **IV. FULL HEARING**

##### **CUP-2003-189 CONDITIONAL USE PERMIT--FERGUSON TRELLIS/FENCE**

**A request for approval to retain an existing 8-foot tall trellis/fence in a side yard setback.**

**Petitioner: Florence Ferguson**

**Location: 1390 Pinyon Avenue**

##### **PETITIONER'S PRESENTATION**

Jerri Benson, representing the petitioner, said that she'd obtained a fence permit on May 21, 2003. At that time she thought she'd been clear in conveying her intent to construct a staggered 2-foot to 6-foot trellis fence beginning 10 feet in from the front yard property line along the side property line, ending in a 28-foot section of 8-foot trellis/fencing commencing from the lilac bush to where the neighbor's garage began. Ms. Benson presented photos of the fencing from various angles on the property. The existing chain link fence provided the petitioner with no privacy, and the neighbor's home was slightly elevated on their property, rendering a 6-foot solid privacy fence ineffective. A 6-foot solid privacy fence would also present a "closed-off effect." Grape vine plantings along the fence line would not ensure year-round privacy since grapes were seasonal. The trellis/fence, she said, had been constructed out of white PVC lattice, which would be easy to maintain.

Ms. Benson had not realized at the time of permitting that a Conditional Use Permit (CUP) would be required for any fencing over 6 feet. Since the trellis/fence consisted of open lattice, she hadn't thought the requirement would apply. She now understood that a CUP and subsequent building permit were required.

##### **QUESTIONS**

Commissioner Cole asked the petitioner's representative to address staff's restriction on fencing erected within the front yard setback. Ms. Benson said that she'd been apprised by staff that any type of fencing within the 20-foot front yard setback would be limited in height to no more than 4 feet; she now understood that the section(s) of erected fencing higher than that would have to be lowered. She expressed her willingness to comply with this criterion.

Commissioner Redifer asked the petitioner how long she'd been living at her present address. Ms. Ferguson answered that she'd been there for four years.

Ms. Benson continued by saying that during her discussions with the planning technician she'd understood the greatest concern to be over fencing erected within the front yard setback. Since her intent was to stagger the fencing within that setback, she'd indicated on the fence permit that fencing would be stair-stepped in height. And even though she recalled having mentioned erection of the 8-foot trellis/fence, apparently the planning technician did not.

When asked by Commissioner Redifer if she was a fence contractor, Ms. Benson replied negatively, adding that she'd had the fence built in conjunction with a landscaping project she'd undertaken. She reiterated that since the 8-foot trellis/fence was not a solid structure, she hadn't realized that separate permitting would be required.

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

Scott Peterson offered a Powerpoint presentation containing the following slides: 1) site location map; 2) aerial photo map; 3) Future Land Use Map; 4) Existing City/County Zoning Map; 5) photos of the subject fencing from various angles on the property; 6) site plan submitted by the petitioner; 7) copy of actual fence permit application; 8) Code review criteria; and 9) findings and conclusions. Fencing within the front yard setback was limited in height to no more than 4 feet. Since the petitioner's representative agreed to comply with this criterion, it appeared the only point of contention remaining was over the 8-foot section of trellis/fence. That section of fencing did not meet Code criteria nor did it meet Growth Plan recommendations. Neither a CUP nor a building permit had been obtained prior to its construction. Since the petitioner's property and that of the adjacent neighbor were both relatively flat, nothing would have prevented the petitioner from conforming to the

approved fence permit/planning clearance process. A 6-foot-high trellis/fence could provide sufficient privacy, especially since the petitioner intended to plant grape vines to provide an additional visual barrier. An 8-foot-high fence would not integrate well into the existing area's design. Two letters of support had been received along with one phone call in support and another call in opposition. Since the petitioner is in violation of fence permit criteria, Code approval criteria for a CUP, and Growth Plan recommendations, staff recommended denial of the request.

**QUESTIONS**

Commissioner Cole noted that the petitioner's representative had not even followed her own stated height limitations and plot plan layout as indicated on the fence permit. She'd written down that fencing would consist of a 2-foot section followed by a 3-foot section, with a 6-foot average height the entire length of the side yard setback. Neither the plot plan nor the description included any mention of actual 6-foot-high and 8-foot-high sections. Mr. Peterson confirmed the commissioner's observation.

Chairman Dibble asked for further clarification of front yard fencing restrictions, which was provided. When asked if the fence had been erected according to fence permit specifications, Mr. Peterson replied negatively, reiterating that there were both height and length discrepancies.

When Commissioner Cole asked if grape vines were to be planted along the fence line in the front yard setback, Mr. Peterson said that he was unsure.

Chairman Dibble asked for the Code's distinction between the definitions of "fence" and "trellis." Mr. Peterson said that while the materials used for the petitioner's fence was open lattice, it had been erected on the property line with the intent to screen; thus, it was both a trellis by virtue of the material used and a fence by virtue of its placement and intent. He added that a 6-foot-high fence would be allowed within the side and rear yards of the property without the need for a CUP. Any fence comprised of any material was considered a structure if over 6-feet in height, since there were usually inherent foundation and support concerns.

**PUBLIC COMMENTS**

**FOR:**

There were no comments for the request.

**AGAINST:**

Joyce Vote (1332 Pinyon Avenue, Grand Junction), the adjacent neighbor, objected to the petitioner's constructed fencing. Its placement and the added height made maintenance of her garage difficult if not impossible. She noted that there was only a 2 1/2-foot separation between the side of her garage and the petitioner's fence. She also considered the added height of the fence so close to her garage a fire hazard. She noted discrepancies between the fencing permit and actual fence and said that the portion of 6-foot fencing referenced by the petitioner's representative was actually 6 feet 4 inches in height for a distance of 38 feet. The presence of the fence so close to the street also hindered sight distance, creating a safety hazard. Ms. Vote expressed concern that if the fence remained, she would have no way of being able to paint her own fence on that side of her property. Some provision must be made by the petitioner, she said, to allow for the painting of her fence. Additionally, if grapes were grown on the petitioner's fence, those grapes would extend into her property as well, creating additional problems.

**PETITIONER'S REBUTTAL**

Ms. Benson agreed that she should have noticed the paragraph on the fence permit limiting fencing height to no more than 6 feet without a CUP and building permit. The 6-foot average height notation on the permit had not been written by her. It had been included because the planning technician understood that the fence line would be comprised of staggered heights. Since the focus had seemed to be on compliance with front yard setbacks, she hadn't made much mention of the 8-foot-high trellis. Ms. Benson agreed that the oversight was her error, one that she hoped approval of the CUP would remedy. She clarified that the two letters received by staff

actually represented three different property owners. The petitioner, she said, did not intend to plant grape vines along the trellis/fence line in the front yard setback. She said that the petitioner would grant access her yard for the purpose of painting Ms. Vote's fence.

**QUESTIONS**

Commissioner Cole asked if a survey of the petitioner's property had been done to verify property lines, to which Ms. Benson responded negatively. The new fence had been placed along the petitioner's existing fence line.

Commissioner Redifer asked Ms. Benson if the petitioner and Ms. Vote had had a chance to sit down and discuss the issues mentioned previously. Ms. Benson replied negatively, noting the strained relationship between the two parties.

**DISCUSSION**

Commissioner Putnam remarked that the fence permit had clearly been issued in error. The two biggest concerns, it seemed, were that the fence was out of compliance, and its erection created difficulty for the neighbors in maintaining their own fence and garage.

Commissioner Cole said that since the fence, as constructed, violated both Code criteria and Growth Plan recommendations, he concurred with staff's findings and supported denial of the request.

Commissioner Paulson asked legal counsel if the petitioner was afforded any legal protection by virtue of any planning technician error on the fence permit. Mr. Shaver responded negatively, adding that the underlying regulations took precedence.

**MOTION: (Commissioner Cole) "Mr. Chairman, on Conditional Use Permit CUP-2003-189, I move that we deny the Conditional Use Permit, with the findings and conclusions listed above.**

Commissioner Evans seconded the motion. A vote was called and the motion passed unanimously by a vote of 6-0.

**V. NON-HEARING ITEM**

**ANX-2002-230 REHEARING REQUEST--PRELIMINARY PLAT FOR RED TAIL RIDGE ANNEXATION**

**A request for rehearing of the approval to develop 9.88 acres into 36 single-family lots.**

**Petitioner: La Cima I, Inc.--Jay Kee Jacobson**

**Location: Highway 50 at the south end of Buena Vista Drive**

Chairman Dibble outlined the protocol associated with a rehearing request. If the request were approved, the item would be scheduled for rehearing at a later date.

**REQUESTOR'S PRESENTATION**

Shawna Wells (143 Buena Vista Drive, Grand Junction) said that during the initial hearing mention had been made of two adjacent parcels coming up for sale that following weekend. Since one of the key concerns expressed at the hearing had been traffic impacts to the area as a result of Red Tail Ridge Subdivision's development and future traffic impacts which were likely to result upon development of the other two parcels, she asked if the sale of those two adjacent parcels to the petitioner would have any effect on the prior approval.

Mr. Shaver outlined rehearing criteria from the Code and said that because the two parcels and their future development were mentioned at the previous hearing, Ms. Wells' request for a rehearing technically met Code criteria. However, since Planning Commission approval of the Red Tail Ridge development had been based

solely on the satisfaction of criteria inherent to that proposal and not on any future development expectation of the two adjacent parcels, their subsequent purchase did not alter the initial conditions of approval for Red Tail Ridge.

After a brief discussion, it was determined to the satisfaction of the requestor and planning commissioners that the purchase of the two adjacent parcels had no bearing on the outcome of the initial approval. Issues inherent to those parcels would be considered at the time of development proposal submission. Ms. Wells formally withdrew her request for a rehearing.

With no further business to discuss, the public hearing was adjourned at 8:05 P.M.