

**GRAND JUNCTION PLANNING COMMISSION
JUNE 11, 2002 MINUTES
7:05 P.M. to 8:05 P.M.**

The regularly scheduled Planning Commission hearing was called to order at 7:05 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, John Redifer and Richard Cole. William Putnam, Richard Blosser, Bill Pitts and John Paulson (1st alternate) were absent. The second alternate position is vacant.

In attendance, representing the Community Development Department, were Community Development Director Bob Blanchard, Pat Cecil (Development Services Supervisor), Lori Bowers (Assoc. Planner), Bill Nebeker (Sr. Planner), and Ronnie Edwards (Assoc. Planner).

Also present were John Shaver (Asst. City Attorney), and Rick Dorris and Eric Hahn (Development Engineers).

Terri Troutner was present to record the minutes.

There were approximately 6 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

Withdrawn from the agenda was item CUP-2002-059 (Conditional Use Permit—Maranatha Broadcasting Tower).

III. CONSENT AGENDA

Placed on the Consent Agenda were items ANX-2002-114 (Zone of Annexation—Jurenda Subdivision) and ANX-2002-100 (Zone of Annexation—Mesa County HHS Building). Item SS-2002-098 (Vacation of Easement—Peppertree Filing #4A Replat) was added to the Consent Agenda, while item ANX-2002-110 (Zone of Annexation/Variance—Statler Annexation) was removed. No objection was raised from staff, planning commissioners, or the audience on any of the items removed, added, or considered.

MOTION: (Commissioner Cole) “Mr. Chairman, I would move that we pass the Consent Agenda as amended.”

Commissioner Evans seconded the motion. A vote was called and the motion passed unanimously by a vote of 4-0.

IV. FULL HEARING

ANX-2002-110 ZONE OF ANNEXATION/VARIANCE—STATLER ANNEXATION

A request for approval for a Zone of Annexation from County RSF-4 to (Residential Single-Family, with a density not to exceed 4 units/acre) to City RSF-E (Residential Single-Family Estate, not to exceed 1 unit/2 acres) and a variance from Section 6.2.E, Infrastructure Standards, Sanitary Sewer System.

Petitioner: Rod Statler
Location: 2134 Buffalo Drive
Representative: QED Surveying, Don Brown

PETITIONER'S PRESENTATION

Rod Statler, the petitioner, asked that staff's presentation precede his.

STAFF'S PRESENTATION

Lori Bowers offered a PowerPoint presentation which included: 1) an overview of the request; 2) location map; 3) aerial photo of the property; and 4) photos of the site. She noted the point where Buffalo Drive ended and the location of the existing sewer line. The area, she said, was comprised of low-density development. The petitioner had submitted a request to subdivide the property; however, he had taken issue with the Code's requirement for sewer line extension from its current location to his property, a distance of approximately 1,000 feet.

Variance criteria and both the petitioner's and staff's written responses from the June 11, 2002 staff report were read into the record. The petitioner contended that extension of the sewer line was cost-prohibitive and represented a hardship to him and his family. He didn't feel that waiver of the requirement represented any special privilege because, to his knowledge, no other parcel in the area had asked for a variance and been denied. He maintained that all lots in the area were on septic systems, which had proven over time to be reliable. He said that soil conditions in the area are conducive to septic systems. The petitioner felt it unfair to require connection to sewer and to be compared with someone who had property directly adjacent to the existing sewer line. The cost to extend the sewer line would prevent him from subdividing and building on the newly created lot. He didn't feel that waiver of the requirement would be injurious to anyone or detrimental to public health, nor would it reduce surrounding property values. He asserted that granting the variance would not conflict with the intent of the Code nor would it conflict with the City's Growth Plan.

Staff's written responses, as read from the staff report, reflected that sanitary sewer is not automatically required when properties are further than 400 feet from the nearest existing line; however, in such instances, the installation of "dry" lines has been required. Staff felt that granting this waiver would represent a special privilege not provided in the past to other comparable properties. The literal interpretation of the Code would require extensive costs in design and installation of a sewer system that would only benefit the petitioner at the present time; however, economic impacts are not considered sufficient justification for variances to development standards. Without the variance, the subdivision request could not move forward; however, the petitioner would still derive reasonable use of the property because there was already a home on the site. Staff agreed that granting the variance would not be injurious to or reduce the value of adjacent properties nor would it be detrimental to the public health, safety or welfare of the community, but only as long as the proposed septic system did not fail. While the variance request did not conflict with Growth Plan guidelines (such issues were not addressed in the Growth Plan), it did conflict with Code requirements.

Staff recommended denial of the variance request because it failed to meet all variance criteria.

With regard to the Zone of Annexation Ms. Bowers noted that the property is situated within the Persigo 201 area. Annexation into the City resulted from the petitioner's request to subdivide. Staff had determined that the RSF-E zone met Section 2.6 of the Zoning and Development Code and was consistent with the intent of the Growth Plan. As such, staff recommended approval of the Zone of Annexation to RSF-E.

QUESTIONS

Commissioner Cole wondered if other property owners were likely to connect to the sewer line, if it were extended. Ms. Bowers responded that all other properties in the immediate area were on septic and had not experienced any failure of their systems; thus, it was unlikely that they would want to connect. When asked if the City or County had any plans to extend the sewer, Rick Dorris answered that he knew of no plans to do so.

Chairman Dibble asked for clarification of the City's policy on sewer line hookup in areas with septic systems. Ms. Bowers said that the City requires property owners within the 201 boundary to hook up to sewer lines but only if their septic systems failed or with new development. Mr. Dorris said that Mesa County required properties with septic systems to be at least a half-acre in size, while the City required properties to be at least 2 acres. He agreed that soils in the subject area are conducive to good leaching. He said that existing homes in the area had been developed in the '70s and '80s; thus, their septic systems had already been in use, presumably without failure, for more than 20 years. He conjectured it unlikely that systems in the area would fail anytime soon.

Commissioner Evans wondered if other area property owners would be required to connect to the existing sewer line if their systems failed. Mr. Dorris responded affirmatively, provided that properties were within 400 feet of an existing line.

Commissioner Cole asked if there were design requirements the petitioner would have to meet if a septic system were installed. Mr. Dorris answered affirmatively, adding that the petitioner would be required to pull a permit; staff would ensure that the pertinent requirements were being met. When asked how wide the extended sewer line would be if constructed, Mr. Dorris said that the City would require at least an 8-inch-wide diameter pipeline. Likely, construction of a manhole would also be required.

Commissioner Redifer wondered how long the City's sewer line connection policy had been in place. John Shaver thought that it had been in place for a number of years.

Chairman Dibble asked for a brief explanation of the City's sewer line connection requirement for properties located within the Persigo 201 area, which was given by Mr. Shaver.

Commissioner Redifer wondered if it might be possible to condition approval of the waiver upon the continued success of an installed septic system. Mr. Shaver said that a problem with that would be the applicability of the condition to successive property owners. When asked if the City preferred property owners to hook up to City sewer whenever possible, Mr. Shaver responded affirmatively and stated the rationale.

PETITIONER'S PRESENTATION (continued)

Mr. Statler said that his kids were leaving home and that he wanted to build a smaller home for he and his wife on the proposed subdivided lot. He emphasized that septic systems in the area had proven themselves reliable. While he would gladly enter into a cost-sharing arrangement and pay his fair share of a sewer line extension, he felt it unfair to require him to bear the entire cost.

QUESTIONS

Chairman Dibble wondered if a reimbursement agreement might be a viable option to help recoup expenses. Mr. Shaver said that given the lack of failed septic systems in the area, there was no way of knowing if Mr. Statler would ever be in a realistic position to recoup expenses from other property owners. For a number of reasons he recommended against pursuing that option.

PUBLIC COMMENTS

There were no comments for or against the request.

DISCUSSION

Commissioner Redifer said that he was sympathetic to the petitioner's situation; however, the City had established plans and codes in place to guide development. He noted that the sewer line connection requirement has been in place long before the petitioner purchased his property. He agreed with staff that granting the waiver would represent a special privilege. Bearing the entire cost of sewer line extension may be the price the petitioner will have to bear for the approval needed to develop his property.

Chairman Dibble said that if the waiver request failed, he wondered what would happen to the subdivision request. Ms. Bowers said that the subdivision request could not move forward without the waiver.

When asked again to clarify when the sewer line connection regulations had been adopted, Mr. Shaver reiterated that they had been in place for at least 10 years, and were supported and included in the regulations of the City, the County and the Health Department.

Commissioner Cole expressed reluctance to require the petitioner to bear the entire cost of the line extension by himself and he felt that requiring an 8-inch line for one residence was excessive. He suggested that failure to approve the variance would deny the petitioner reasonable use of his property.

Chairman Dibble said that the request failed to meet Code's variance criteria; economic impacts were not considered a justifiable hardship.

Commissioner Redifer agreed that while not fair, approving the variance would set a precedent for future petitioners in similar circumstances. Mr. Shaver remarked that while it wouldn't set a legal precedent, it could definitely set a policy precedent. Mr. Shaver said that if planning commissioners determine that the variance criteria had been met, approval would vary the law.

Bob Blanchard interjected that if the Planning Commission chose to approve the variance request, the motion must also contain findings to support the uniqueness of the property and substantiate the petitioner's compliance with variance criteria.

Pat Cecil reminded planning commissioners that their motion represented a recommendation only; City Council would render the final decision.

Commissioner Redifer wondered if it were possible to table the decision, giving the petitioner time to perhaps negotiate a more equitable arrangement with the City (*i.e.*, cost-sharing). Mr. Shaver said that while the City had participated in cost-sharing arrangements to eliminate septic systems, such arrangements were usually made with groups of property owners. He added that if not postponed, the petitioner would still have time prior to the City Council hearing to meet with City staff; postponement, however, is within the Planning Commission's legal purview.

Commissioner Redifer asked if the City could impose a reimbursement agreement on an area, requiring property owners to participate in the event their septic systems failed. Mr. Shaver said that while this option was possible, it would require much more detailed investigation.

Mr. Dorris noted the area's steep topography and said that when considering cost-sharing options, the City had to prioritize based on the greatest benefit to the greatest number of area residents. The City typically gave precedence to areas having high septic system failure rates because system failures jeopardized the health, safety and general welfare of area citizens. He doubted that the current situation would represent a priority. The City, he added, was responsible for being good stewards of public funds.

Commissioner Evans didn't feel that the variance was justifiable at the present time. Perhaps one day if the area developed further, that would change.

Mr. Shaver cited Code section 2.16.C.4 which required satisfaction of all variance criteria before any variance could be granted. Commissioner Cole remarked that while he would like to have been able to grant the variance request, planning commissioners are bound by the Code's requirements. Mr. Shaver clarified that he was not advocating for or against approval but was simply reminding Planning Commissioners that all variance criteria had to be satisfied in order to lawfully grant a variance.

MOTION: (Commissioner Evans) "Mr. Chairman, on item #ANX-2001-052, I move that the Planning Commission recommend to the City Council the zoning designation of RSF-E (Residential Single-Family Estate, not to exceed 1 unit per 2 acres) for the Zone of Annexation of the Statler Annexation, located at 2134 Buffalo Drive, finding that the project is consistent with the Growth Plan, the Persigo Agreement, and section 2.6 of the Zoning and Development Code."

Commissioner Cole seconded the motion. A vote was called and the motion passed unanimously by a vote of 4-0.

MOTION: (Commissioner Cole) "Mr. Chairman, on the variance request for item #ANX-2001-052, I make the motion to recommend to the City Council approval of the sewer variance to section 6.2.E, making the finding that the request is consistent with the findings required by section 2.16.C.4 of the Zoning and Development Code."

Commissioner Redifer seconded the motion. A vote was called and the motion failed by a vote of 0-4, with all planning commissioners opposing.

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