

**GRAND JUNCTION PLANNING COMMISSION  
JUNE 12, 2001 MINUTES  
7:08 P.M. to 11:07 P.M.**

The regularly scheduled Planning Commission hearing was called to order at 7:08 P.M. by Chairman John Elmer. The public hearing was held in the City Hall Auditorium.

In attendance, representing the Planning Commission, were John Elmer (Chairman), William Putnam, Dr. Paul Dibble, Nick Prinster, Terri Binder and alternate Creighton Bricker. Mike Denner and Jim Nall were absent.

In attendance, representing the Community Development Department, were Kathy Portner (Planning Manager/Acting Community Development Director), Pat Cecil (Development Services Supervisor), Lisa Gerstenberger (Sr. Planner), and Kristen Ashbeck (Sr. Planner).

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

Terri Troutner was present to record the minutes.

There were approximately 44 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**

Pulled from the agenda was item VE-2000-061 (Appeal of Administrative Denial, Mesa Village Marketplace).

**III. CONSENT AGENDA**

Available for placement on the Consent Agenda were items FPP-2001-077 (Final Plat/Plan—Brookside Subdivision Filing #2); ANX-2001-099 (Zone of Annexation, Laser Junction—offered for continuance to the June 19, 2001 public hearing); ANX-2001-011 (Preliminary Plan, Westland Subdivision—offered for continuance to the June 19, 2001 public hearing); RZP-2001-034 (Rezone/Preliminary Plat, Colonial Heights Subdivision—offered for continuance to the June 19, 2001 public hearing); and VE-2000-061-A (Mesa Village Marketplace). With regard to item VE-2000-061-A, John Shaver stated for the record that the following findings of fact, as required by new Code Section 1.18, had been met to his and the Community Development Department's satisfaction and that of the developer's attorney:

1. The developer has installed or will install during the term of the development schedule adequate, contemporary infrastructure. Adequate, contemporary infrastructure means that all infrastructure/facilities are/will be constructed to then existing standards.
2. The general scale, density/intensity of the development is consistent with then established community standards and development trends.
3. That no compromise, modification or amendment of the Code other than to one or more bulk standard is proposed with or as part of the extension of the former Code.
4. No extension of an approved development schedule shall extend or change the effective date of vesting of a property right under an SSDP unless specifically provided by written agreement, approved by the Planning Commission after public notice and hearing.

Mr. Shaver stated that the site-specific development plan allowed the project to develop under “old” City Development Code standards. It also permitted extension of those standards beyond December 31, 2004.

No objection or questions were expressed or given by the audience, planning commissioners or staff on any of the aforementioned Consent items.

**MOTION: (Commissioner Dibble) “Mr. Chairman, I recommend we approve the Consent Agenda as modified.”**

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

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

##### **RZP-2001-079 REZONE/PRELIMINARY PLAN—ROCKY HEIGHTS ESTATE SUBDIVISION**

**Request approval of: 1) a rezone from an RSF-R (Residential Single Family Rural) to PD (Planned Development, 1 unit/3.2 acres) zone district; and 2) a Preliminary Plan consisting of five lots on 16.003 acres.**

**Petitioner: Rocky Heights, Marilyn Schiveley**  
**Location: Escondido Court**  
**Representative: LandDesign, Rob Katzenson**

##### **PETITIONER’S PRESENTATION**

Marjorie Rump, co-petitioner, came forward first and read a prepared statement into the record. Her statement included that her family had lived in the area since the early 1900’s. In the 1980s, her family had sold land cheaply to the local museum for the public’s enjoyment. Another parcel had been gifted to the National Park Service for use in the preservation of buffalo habitat. Citing these examples, Ms. Rump felt that the City’s requirements for the currently proposed project were more focused on ownership and management issues than on land use issues. She noted her intention to dedicate Lot 6 to the Audubon Society, a walking path to the City, and Tract A, open space, to the subdivision HOA. She disagreed with the City’s position that Tract A would be better maintained by “an offsite third party.” Instead, she felt that individual homeowners would provide better stewardship of both this tract and the rock rollout trench.

Rob Katzenson, representing the petitioners, briefly outlined the property’s history and the petitioner’s current proposal. He said that all required reports had been submitted to the City for staff’s consideration. The petitioners had opted out of using an available density bonus option; however, he felt that generalized clustering techniques had been utilized. He offered a very extensive powerpoint presentation, which included the following overheads: 1) overall Preliminary Plan; 2) detailed Preliminary Plan; 3) project review requirements outline; 4) staff conditions outline; 5) Site Plan; 6) lot layout; 7) list of outstanding issues regarding viewshed protection; 8) rezone criteria (items 2 and 5 not applicable; items 1, 3, 4, 6, and 7 were felt to have been met, according to the petitioners); 9) Colorado Geological Survey conditions; 10) rock rollout trench elevation and detail drawings; 11) road standards exemption request (asking for 8 ADTs over the standard, to which staff hadn’t taken issue); 12) requested Planning Commission actions outline.

Mr. Katzenson pointed out the location of the rock rollout trench within individual homeowner lots. The trench had not been included in any of the outlot tracts because it was felt that homeowners would provide better stewardship, reduce the likelihood of trespass and provide better enforcement should trespass occur. Plans included construction of the trench prior to issuance of building permits. He agreed with Ms. Rump’s assertion that dedication of this area to an offsite third party would be a mistake. Building envelopes would be sited to ensure greater viewshed protection. He felt that sufficient open space had been dedicated to the Audubon Society (Audubon) to meet the City’s open space requirement, and he disagreed with staff’s position that the

additional dedication of Tract A to a public entity was needed to meet community public benefits standards. Terms and conditions of the Audubon dedication had been agreed upon by both the Audubon's staff and the petitioners; necessary access easements to Lot 6 would be granted by the Museum of Western Colorado. He noted that the Audubon had not wanted to assume ownership of Tract A due to the City's numerous maintenance requirements and restrictions. Mr. Katzenson felt that the dedication of Tract A to the subdivision's homeowners association represented a more suitable option.

John Withers, representing the Geotechnical Engineering Group (685 W. Gunnison Avenue, Grand Junction) referenced a cross-section of the rock rollout trench detail. The trench's design, he said, had been based on a worst-case scenario; however, some trench areas may be reduced in size, if warranted. Mr. Katzenson added that the trench would be constructed and certified. As-builts would be prepared and filed, with the certifying engineer assuming responsibility for the trench's design.

Bruce Phillips, attorney representing the petitioners, went over the list of staff conditions and provided the petitioners' responses to each condition. Staff had made a recommendation of denial of the rezone request and Preliminary Plan; however, staff had also prepared a list of conditions of approval should the Planning Commission wish to consider approval. Staff had required the dedication of both Lot 6 and Tract A to a non-profit entity. He reiterated the petitioners' position that the homeowners association would provide the best stewardship of Tract A. Citing Code Section 5.1.A.3, he stated that the Code contemplated both public and private open space as a means of public benefit. While the Code's clustering requirements specified dedication of 25-30% open space, this project proposed dedication of approximately 46% of the site's total area in open space, which didn't include the public access easement proposed along the canal. The most accessible areas of the property, he maintained, offered the greatest public accessibility; the least accessible areas should be subject to greater control. Reiterating previous testimony given regarding the inclusion of the rock rollout trench within individual homeowner lots, he asked planning commissioners to consider deleting staff conditions 1 and 2. Mr. Phillips took no issue with conditions 3 and 4, but asked that condition 5 also be deleted. He felt that the Colorado Geological Survey (CGS) didn't sufficiently understand the subdivision development process; many CGS concerns, he said, would be mitigated through the development process.

### **QUESTIONS**

Commissioner Binder asked about the construction schedule for the rock rollout trench. Would the trench be in existence prior to the sale of lots and before homes were constructed she asked? Mr. Phillips said that trench easements would be denoted on the Final Plat and outlined in the CC&Rs; trench construction wouldn't commence until building permits were issued.

Commissioner Bricker asked if the trench would be constructed all at once or as lots developed. Mr. Phillips answered that the trench would be constructed all at once.

Commissioner Dibble asked who would assume responsibility for trench maintenance? Mr. Phillips said that individual homeowners would assume the first level of responsibility. If they failed to maintain their individual trench sections, the homeowners association would intercede and assume a second level of responsibility. This would doubly ensure the undertaking of required maintenance.

Commissioner Prinster asked if all homes would require engineered foundations? Mr. Phillips said that a notation would be placed on the final plat recommending engineered foundations; however, since it was unclear what type of homes would be constructed on individual lots, engineered foundations may not be necessary in every instance.

Commissioner Bricker asked if trespass had always been a concern for this area? If not, why was this problem now anticipated? Mr. Phillips said that trespass was always more prevalent when opening an area up to the public.

Chairman Elmer wondered how trespass concerns could completely be eliminated without fencing; he asked if some type of fencing was to be provided, to which Mr. Phillips replied negatively.

Commissioner Putnam referenced rezone criteria #1 and asked for demonstration that this criterion had been satisfied. He asked how could there have been an error in the property's initial zoning when that zoning had been applied so recently? Mr. Katzenson responded that while the RSF-R zone was not exactly an error, the PD zone was felt to be a more appropriately-applied zone. The RSF-R zone had been conservatively applied in response to City Council and Planning Commission concerns over the lack of a previous development plan at the time of the property's initial zoning. When asked about the advantages a PD zone versus a straight zoning in this instance, Mr. Katzenson said that the current plan did not comply with straight zone frontage standards and required planned development flexibility. The only other option had been to seek a variance. Staff advised that approval of a variance was unlikely. He noted that the petitioner could have elected to include portions of Tract A in the development up to the 30% slope line.

Commissioner Bricker asked if all CGS comments had been regarded as unreasonable by the petitioners. Mr. Katzenson said that while not necessarily unreasonable, the subdivision development process provided mechanisms for dealing with many of CGS's concerns. For example, no construction could or would occur on 30% or greater slopes.

Chairman Elmer commented that more lots were being proposed than would have been allowed in a straight zone, representing an exception to the bulk standards. In addition to this exception and non-compliance with minimum frontage requirements, current minimum lot sizes also did not meet minimum standards of the underlying zone. It was a misnomer, he said, to suggest that additional public benefit would result from not building within Tract A. Mr. Katzenson said that density bonus provisions and other clustering incentives could have been used to gain an additional lot, for a total of 6, but he felt that the site's topography did not lend itself well to a higher density.

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

Lisa Gerstenberger noted that at the time of the property's rezone in 1999, through the annexation process, City Council had applied the RSF-R zoning and limited development of the property to no more than 3 lots. She read through rezone criteria and said that the petitioners had not complied with the requirement to convey Tract A to a public or non-profit agency for use by the public. She added that the current proposal failed to meet cluster development provisions as specified in the Code. Since the designated open space was undevelopable and would have been required to be left as open space in a straight zone, they could not be considered as an added benefit of the PD zone district. Open space dedicated along the canal bank would also have been required in a straight zone. A straight zone would also have required the same protection and preservation of natural features inherent to the site. The applicants failed to demonstrate compliance with development standards outlined in Code Section 5.4.F (1-6). Insufficient justification for the PD zoning had been presented; there was no demonstration of how public benefit would be achieved beyond what was already required by the Code in a straight zone. Staff encouraged the applicant to consider an RSF-E zone district and the use of clustering density bonus option to achieve the desired proposed development, however the applicant had not chosen to pursue a design utilizing those provisions of the Code.

Incorporated into the current development request, the petitioners had requested and been approved for a design exception from the TEDS manual to reduce required road right-of-way by 4 feet and to eliminate sidewalks around the cul-de-sac. She said that the rock rollout trench must be placed in a tract and conveyed to the homeowners association; CC&Rs must include a provision requiring annual trench inspection and maintenance by a qualified person or entity. Construction of the trench would be required by the City prior to recordation of the Final Plat. Staff did not feel that the trench would be best maintained by individual homeowners controlling areas of the trench.

Having found that the applicants failed to meet the requirements of Chapter 5 in the Code, staff recommended denial of both the rezone from RSF-R to PD and the Preliminary Plan. Staff would however recommend approval of both the rezone and Preliminary Plan request if all proposed open space, currently delineated at Tract A and Lot 6, were conveyed to a public or non-profit agency for the benefit of the public; and subject to staff's conditions concerning the Preliminary Plan and CC&Rs which were listed on an attachment to staff's report.

### **QUESTIONS**

Commissioner Bricker asked about the type of improvements proposed for Lot 6 by the Audubon Society. Ms. Gerstenberger understood that a viewing blind for the "arm" section of Lot 6 had been proposed. She added, however, that the petitioners would have a stipulation in the deed that if the use were ever contrary to the petitioners' terms and conditions, the property would revert back to the applicants.

Commissioner Dibble asked for clarification on how access to Lot 6 and Tract A would be derived, which was shown on the Preliminary Plan.

Commissioner Binder asked for confirmation that if all proposed open space, currently delineated at Tract A and Lot 6, were conveyed to a public or non-profit agency for the benefit of the public, staff would then support both the rezone and Preliminary Plan request. Ms. Gerstenberger reiterated staff's support provided this condition was met.

Commissioner Dibble wondered if the Audubon Society had been approached about assuming responsibility for Tract A. Would individual homeowners would assume liability if the Audubon Society was unwilling to accept the property? Ms. Gerstenberger said that discussions had ensued over conveyance of the entire open space area to the Audubon Society, which later became just Lot 6. Initially, the Audubon Society had expressed interest in accepting the entire Tract A.

Commissioner Binder asked for clarification on the lack of sidewalks surrounding the cul-de-sac. Ms. Gerstenberger noted areas where sidewalks were already constructed; the exemption affected only the loop portion of the cul-de-sac for Rigg's Way.

Commissioner Dibble asked how the 46% open space figure stated by Mr. Phillips had been derived. Ms. Gerstenberger thought that this included both public and private open space areas. She added that if approval for the current proposal were recommended, access to Tract A would be a concern to staff as well. As currently designed, access to Tract A came from the individual lots. People would be required to cross private property and the rock roll out trench to get to Tract A. Lot 5 had no access at all to Tract A.

Commissioner Binder wondered why the boundary for Tract A hadn't included the rock rollout area, if it were all to fall within the jurisdiction of the homeowners association? Ms. Gerstenberger was unsure; staff's preferred alternative included placing the trench within a separate tract and having that tract controlled by the homeowners association.

Commissioner Dibble noted Lot 1's flagpole frontage and asked if this would create any access problems, to which Ms. Gerstenberger replied negatively, there was sufficient room for a driveway.

Commissioner Prinster asked if individual homeowner fencing construction would be possible given the site's topography. Ms. Gerstenberger said that while possible, it would be very difficult.

Commissioner Dibble asked for clarification on the purpose of Tract C, which was said to be the irrigation and detention pond site.

Commissioner Binder said that since the area south of the trench was not buildable land, lot sizes were deceptive. It was likely homeowners would think they were getting more buildable land than would actually be available to them.

**PUBLIC COMMENTS**

**FOR:**

Rod Martinez (2662 Catalina Drive, Grand Junction), president of the local chapter of the Audubon Society, read from his letter to the Rumps (copy submitted for the record) expressing gratitude to the them for their donation of Lot 6. He said that the Audubon Society wasn't interested in Tract A due to the magnitude of restrictions and maintenance provisions attached to it regarding trails. The Audubon Society wasn't in a financial or practical position of constructing trails, providing maintenance or preventing trespass.

Commissioner Dibble referenced an approximate ¼-acre piece of Tract A located above the arm of Lot 6 and wondered why it hadn't been included as part of Lot 6. Mr. Martinez said that to view birds and wildlife from that height would require actually climbing Riggs Hill, a feat not generally within the membership's skill level. Members would have greater ease parking further away and walking to the blind area along level terrain.

**AGAINST:**

Terry Dixon (423 Wildwood Drive, Grand Junction) said that no attention appeared to be given to access into the property from South Broadway. She understood that no turn lanes were being required; however, since the majority of drivers drove that section of roadway at speeds higher than the 35 mph posted limit, the lack of turn lanes would pose traffic hazards. She said that in the wintertime, the site's topography would shade Riggs Way, making it very slick. She predicted that people would use Escondido Circle as a turnaround, and she questioned the rationale of the site's current traffic design. Ms. Dixon also took issue with the City's allowance of pedestrians to travel along the canal bank via dedicated easements. Since neither the canal companies nor all private owners desired to have people traveling through their properties, it seemed illogical to require sporadic trail easements along canal banks. Having lived in this area for a number of years, she confirmed that trespassing was prevalent; it was sure to increase if the area were further opened up to the public.

**PETITIONER'S REBUTTAL**

Mr. Katzenson said that a traffic study had been undertaken and submitted to the City, which had been approved by its traffic engineer. He said that with regard to Lot 6, it would always remain within the ownership of a non-profit agency. If the Audubon Society should ever disband or fail to comply with stated terms and conditions of conveyance from the applicants, the petitioners would find another non-profit agency to assume responsibility. He briefly reiterated previously stated points from his initial presentation.

**DISCUSSION**

Having served on both the Planning Commission and Board of Appeals for a number of years and knowing staff's position on planned versus straight zoning, Chairman Elmer said that statements made by Mr. Katzenson regarding staff's alleged support of a planned zone over straight zoning were incorrect. As to the variance option, a principal criterion was evidence of non self-imposed hardship which Chairman Elmer questioned as being possible to show. Variances for setbacks of a development in the design stage had not been granted in the 13 years that he had served on the Board and Commission. All criteria must be met in order to grant a variance.

Commissioner Bricker asked about the kind of trench maintenance that would be required. Mr. Phillips answered that maintenance included removal of any rocks rolling into the trenches.

Commissioner Binder predicted that if areas of the trench were left within individual lots, there would be some homeowners that would want to fill in their trench sections to give them additional lot area. Mr. Phillips said that in such instances, the homeowners association would be responsible for ensuring compliance, even if it meant taking the offending homeowner to court.

Commissioner Dibble observed that the trench would also serve as a drainage catch basin. Had that been taken into account by engineering staff. Mr. Dorris responded negatively; that level of detailed discussion was generally reserved for Final Plat review.

While generally supportive of the overall plan, Chairman Elmer agreed with staff's assessment that individual homeowners were generally poor conservators of open space. He also concurred with staff's observation that without the dedication of Lot 6 and Tract A to a public or non-profit agency, there was nothing provided in this development that wouldn't also be required in a straight zone. Since the petitioners were unwilling to comply with staff's recommendations in these areas, he could not support the project as presented.

Commissioner Prinster noted that nothing extra was really being gained by giving the petitioners a PD zone designation, and no additional public benefit would be derived the Code did not already require through a straight zone. Without compliance to staff's recommendations, he agreed that a straight zone made more sense. He supported staff's recommendation for denial due to non-compliance with Code criteria.

Commissioner Binder agreed that the petitioners had not demonstrated compliance with the planned zone requirements.

Commissioner Dibble reiterated that responsibility for maintenance of the trench needed to be conveyed to the homeowners association via creation of a separate tract, or possibly conveyed to a public or non-profit agency via its incorporation into Tract A. Since the petitioners failed to comply with Code criteria, he felt that the recommendation for denial was warranted.

Commissioner Bricker agreed with staff recommendations and he too felt that denial was justified.

Chairman Elmer reiterated that only a few issues remained unresolved, to which Commissioner Prinster agreed.

**MOTION: (Commissioner Binder) "Mr. Chairman, on item RZP-2001-079, request to rezone from RSF-R, not more than 3 lots, to PD (1 du/2.66 acres), I move that we forward the request to City Council with a recommendation to approve with the findings that the request is consistent with the goals and policies of the Growth Plan, Chapter 5, and Section 2.6 of the Zoning and Development Code."**

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

A recess was called at 9:30 P.M. The hearing reconvened at 9:42 P.M. Due to the lateness of the hour, Chairman Elmer suggested that two items be moved to the June 26 public hearing. These two items would be heard ahead of any other item scheduled for that date.

**MOTION: (Commissioner Binder) "Mr. Chairman, I move that we continue item ANX-2001-061, Flint Ridge Subdivision, and also ANX-2001-080, the Grand Meadows Subdivision, to the hearing on June 26, to be heard first in case something else is moved to the 26<sup>th</sup>."**

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

**PP-2001-074 PRELIMINARY PLAN/CONDITIONAL USE PERMIT—RIMROCK MARKET-PLACE**  
**A request for approval of a Preliminary Plan and a Conditional Use Permit to develop a retail shopping center which will consist of 370,000 square feet on a 54-acre site in a C-2 (Heavy Commercial) and C-1 (Light Commercial) zone districts.**

**Petitioner: THF Belleville, LLC**

**Location: 2526 River Road**

**Representatives: Wolverton & Associates, Inc.**

**PETITIONER'S PRESENTATION**

John Rubenstein, representing the petitioner, said that he and others had been working diligently to resolve outstanding traffic issues. Referencing an overhead of the Preliminary Plan, he said that two traffic studies had been undertaken and submitted to the City for review and all parties--the City, CDOT and the applicants--seemed satisfied with the new traffic and circulation plan. The overall square footage of the main shopping center had been reduced by 60,000 square feet. Because the first CUP had been lost, the current application fell within the parameters of the new Code's "big box" criteria. Mr. Rubenstein said that Lowe's and Wal-Mart had both signed agreements to serve as anchors for the site.

Traffic plans included reconstruction of the Independent Avenue/Highway 6 & 50 intersection, to re-route Independent Avenue to the north through the Sam's Club site and re-routing the frontage road on the west side of the Golden Corral through the Sam's Club site to create a safer intersection with adequate stacking on the north side of Highway 6 & 50. The frontage road in front of the Golden Corral and the Sam's Club fueling facility would then be closed off. A letter from the representative of Wal-Mart/Sam's Club had been submitted indicating both agreement to the new road alignments and a willingness to provide the Golden Corral with adequate access. The project will also be closing off the frontage road on the south side of Highway 6 & 50 along the project's northerly boundary and re-routing the road via a new street on the west to channel traffic to the new intersection of Highway 6 & 50 and 25 1/2 Road or as an alternative to use the new 25 1/2 Road extension to Crosby to the southwest, which is required. A new road connection to the lot located between Outlots 2 and 3 would also be provided.

Mr. Rubenstein said that in an effort to keep to the construction schedule and open during the fourth quarter of 2002, developers would like to break ground within the next 60 days.

**QUESTIONS**

Chairman Elmer asked if the petitioners took issue with any of staff's conditions, to which Mr. Rubenstein responded negatively.

Commissioner Dibble asked for additional detail on possible use of roundabouts. Jay Wolverton, representing the petitioner, noted the three locations discussed, which would be further investigated prior to Final.

When asked by Chairman Elmer how access would be provided to The Country Store, Mr. Rubenstein said that CDOT required access via a City street. The location of that street, as noted on the project's Site Plan, was as a result of stated preferences of City engineering and CDOT staffs. The owner of The Country Store, Mr. Wollard, had not yet been notified and apprised of this accepted plan. Mr. Rubenstein said that while an official, written agreement had not yet been signed by CDOT, verbal agreement with the traffic plan as presented had been expressed.

Commissioner Dibble asked for additional clarification on traffic flows and intersection details, which were provided by Mr. Dorris, using an aerial photo as reference.

Mr. Rubenstein felt it important that he and others involved in the project report to the anchor stores that the CUP had been approved. With no exceptions to staff conditions requested and very little design work remaining on the north side of Highway 6 & 50, he asked that approval for both the CUP and Preliminary Plan be granted.

Commissioner Binder asked for Mr. Rubenstein to point out areas designated as green spaces, which he did.



Commissioner Prinster asked if Independent Avenue would be completely cut off as a through street. Mr. Rubenstein replied negatively, but said that it would be substantially reconfigured at the Sam's Club intersection.

**STAFF'S PRESENTATION**

Pat Cecil reviewed the request as outlined in the June 12, 2001 staff report. He noted that all businesses locating on the site would be subject to compliance with the Code's big box standards. The first business to locate there would set the architectural style for all other businesses. Staff recommended approval of both the Conditional Use Permit and Preliminary Plan subject to the conditions outlined on pages 5, 6 and 7 of the June 12, 2001 staff report.

**QUESTIONS**

Chairman Elmer asked staff if any exceptions to technical requirements had been requested or given to the petitioners, to which Mr. Cecil responded negatively. He added that the petitioners had been very compliant with staff's conditions.

Commissioner Dibble asked if there were any expected impacts arising from soils or floodplain studies that might be pertinent. Mr. Cecil didn't feel that there were any substantial concerns. He remarked that due to the size of the project and site, a lot of earth would have to be brought in as fill.

Mr. Dorris provided a brief elaboration of drainage plans, adding that drainage had been a much more workable issue than issues involving traffic. It reiterated CDOT's apparent willingness to sign off on the currently proposed traffic plan.

Chairman Elmer asked if any consideration had been given to residents living near Crosby. Given that there would be impacts to 25 ½ Road, and noting the fact that these residents lived outside of the notification area, petitioners and staff alike would be well advised to meet with these neighbors to discuss potential impacts of this development on their neighborhood.

**PUBLIC COMMENTS**

There were no comments either for or against the request.

**PETITIONER'S REBUTTAL**

Mr. Rubenstein said that the current plan represented the substantial and collective efforts of many people, and he extended special appreciation to Mr. Dorris. Mr. Rubenstein reiterated that final details would be worked out prior to Final Plat review.

**QUESTIONS**

Chairman Elmer asked if the petitioners were able to meet the Code's big box standards and still produce an economically viable project, to which Mr. Rubenstein replied affirmatively. Chairman Elmer noted that there had been comments made by other developers that adherence to big box standards made financial viability unattainable. Commissioner Dibble added that this project would serve to set the standard for other big box project proposals.

**DISCUSSION**

Commissioner Prinster acknowledged the seeming resolution of traffic issues.

Commissioner Dibble agreed. He said that his level of confidence in this proposal was far greater than that generated by its predecessor.

Discussion ensued over whether planning commissioners should see the Final Plan. Of primary interest was the architectural design of the building. Because this was the first big box project under consideration following

adoption of the new Code, planning commissioners thought that their continued involvement may be warranted. Mr. Shaver suggested that Final Plan review remain administrative. He said that the Planning Commission would retain its appeal authority should staff deny an aspect of the Site Plan. He said that Planning Commissioners could be updated periodically in a workshop setting to review the project's progress; however, he cautioned participation must remain informal.

Commissioner Binder stressed to the petitioners and staff the need for strict compliance to the Code's big box standards.

Commissioner Dibble said that public credibility also needed to be taken into account.

Commissioner Bricker added that he would appreciate seeing architectural details of each proposed business during its Site Plan review. Mr. Shaver said that this could also be done via a workshop as proposals were submitted.

**MOTION: (Commissioner Binder) "Mr. Chairman, on the Preliminary Plan for the Rimrock Marketplace Subdivision (PP-2001-074), I move that we find the project consistent with the Growth Plan, Section 2.8 of the Zoning and Development Code and adjacent property usage, and approve the Preliminary Plan subject to the recommended conditions attached to the staff report (pages 5 and 6, items 1-16)."**

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

**MOTION: (Commissioner Binder) "Mr. Chairman, on the Conditional Use Permit for Anchors A and B of the Rimrock Marketplace commercial development, I move that we find the CUP consistent with the Growth Plan, Section 2.13 of the Zoning and Development Code, and that we approve the Conditional Use Permit subject to the recommended conditions attached to the staff report (page 7, items 1-5)."**

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

With no further business to discuss, the meeting was adjourned at 11:07 P.M.