

**GRAND JUNCTION PLANNING COMMISSION
AUGUST 14, 2001 MINUTES
7:02 P.M. to 9:10 P.M.**

The regularly scheduled Planning Commission hearing was called to order at 7:02 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), Dr. Paul Dibble, William Putnam, Terri Binder, John Evans and Richard Blosser. Nick Prinster and Mike Denner were absent. One position is vacant (Jim Nall resigned).

In attendance, representing the Community Development Department, were Community Development Director, Bob Blanchard, Dave Thornton (Principle Planner), Pat Cecil (Development Services Supervisor), Senta Costello (Associate Planner) and Ronnie Edwards (Associate 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 18 interested citizens present during the course of the hearing.

I. APPROVAL OF MINUTES

Available for consideration were the minutes from the July 17 public hearing.

MOTION: (Commissioner Dibble) “Mr. Chairman, I move that we approve the minutes of July 17.”

Commissioner Putnam seconded the motion.

A vote was called and the motion was approved by a vote of 4-0, with Chairman Elmer and Commissioner Binder 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 VE-2001-142 (Easement Vacation—Northgate Drive), ANX-2001-154 (Zone of Annexation—Appleton Corners Veterinary Clinic), and VE-2001-141 (Easement Vacation—Rattlesnake Court). At a citizen’s request, item ANX-2001-154 was pulled for full hearing. No objection was expressed or given by the audience, planning commissioners or staff on the remaining two consent agenda items.

MOTION: (Commissioner Binder) “Mr. Chairman, I move that we approve the Consent Agenda as modified [included only items VE-2001-142 and VE-2001-141].”

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

IV. FULL PUBLIC HEARING

**ANX-2001-154 ZONE OF ANNEXATION—APPLETON CORNERS VETERINARY CLINIC
Request for approval of a Zone of Annexation from County RSF-R to City RSF-R (Residential Single-Family—Rural, 1 unit per five acres) on 2 acres.**

Petitioner: Richard Alan Pennington

Location: 797 – 24 Road

STAFF PRESENTATION

Dave Thornton noted the site’s location on an overhead map. He explained that since the property lay within the Persigo 201 boundary, the annexation requirement had been triggered when the petitioner sought to change the property’s use from residential to commercial. The City’s recommended zone district was the same as the County’s. Application of the zone district complied with Code requirements and Growth Plan recommendations.

QUESTIONS

Chairman Elmer asked if any other properties would be affected by the annexation, to which Mr. Thornton replied negatively. Mr. Thornton noted that the veterinary clinic’s submittal was currently going through the County’s planning approval process.

Mr. Shaver asked Mr. Thornton to address contiguity. Mr. Shaver asked does the annexation request comply with statutory requirements? Mr. Thornton confirmed that all issues had been satisfactorily addressed.

PUBLIC COMMENTS

FOR:

There were no comments for the request.

AGAINST:

Debbie Parko (2411 H Road, Grand Junction) said that her concerns were primarily over the property’s annexation into the City. She voiced no objections to the veterinary clinic, itself. She said that she’d been told by a Community Development staff member that annexation of other parcels in the area was likely. Ms. Parko also wondered if sufficient notification of the pending annexation had been given to area residents.

Chairman Elmer suggested that Ms. Parko meet with Mr. Thornton to seek clarification of the Persigo 201 boundary.

Mr. Thornton added that while unsure of just how far the County’s notification area extended, the City’s notification area extended 500 feet from the subject parcel in all directions.

DISCUSSION

Chairman Elmer noted that annexation did not fall within the purview of the Planning Commission. Because those issues were considered exclusively by City Council, he urged residents to bring their questions and/or concerns to the next City Council meeting.

Mr. Shaver said that some of the confusion probably arose as a result of one process going through the County at the same time the other went through the City. He explained the Zone of Annexation process.

Chairman Elmer said that in this case the Zone of Annexation met both Code requirements and Growth Plan recommendations.

MOTION: (Commissioner Dibble) “Mr. Chairman, in reference to file ANX-2001-154, the application for a Zone of Annexation of RSF-R, I recommend approval.”

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

RZP-2001-120 REZONE/PRELIMINARY PLAT—THE PINES

A request for approval of 1) a Rezone from RSF-1 (Residential Single-Family, 1 unit/acre) to RSF-4 (Residential Single-Family—4 units/acre) and 2) a Preliminary Plat for The Pines Subdivision, consisting of 13 single-family lots on 5.08 acres.

Petitioner: Grand Valley Development, LLC—Ted Ciavonne
Location: 2645 F ½ Road
Representative: Ted Ciavonne

PETITIONER’S PRESENTATION

Ted Ciavonne, petitioner, noted the parcel’s location on an overhead aerial map. He briefly reviewed the project, noting the site’s topography and geographic delineations. The Growth Plan, he said, recommended that the parcel reflect densities of 4-8 units/acre; however, when a density of 4 units/acre had been proposed initially, neighbors had strongly opposed. Surrounding densities as well as the parcel’s current zone district reflected RSF-1 (1 unit/acre). It was felt that a project density of 2.5 units/acre would be more consistent with surrounding densities and still meet Growth Plan requirements. At that density, the project would still be economically viable. An overhead of the Preliminary Plan was presented which denoted lot layout, access and the home on one of the lots. Existing vegetation would be preserved to the greatest extent possible. Irrigation water would be made available to each lot. The project’s layout also complied with Code requirements and bulk standards.

QUESTIONS

Commissioner Putnam asked why a density higher than 1 unit/acre was necessary. Mr. Ciavonne said that Growth Plan recommendations conflicted with the parcel’s current zone district. If the developer was to comply with Growth Plan recommendations and receive staff’s support for the project, a higher density had to be proposed. He’d also had to consider the economic viability of the project.

Commissioner Putnam noted a comment made in the Petitioner’s Narrative which suggested that the parcel was slowly converting from rural to more residential uses. Mr. Ciavonne clarified that he had been referring to the surrounding area.

STAFF’S PRESENTATION

Pat Cecil said that at the time of the parcel’s annexation into the City, City Council had zoned the property RSF-1 rather than impose a higher density zone district. Mr. Cecil said that Council expected to revisit the issue during the Growth Plan’s 5-year review. The Growth Plan currently recommended 4-8 units/acre. While acknowledging that the proposed density was inconsistent with the surrounding area, staff was obliged to follow current standards of the Growth Plan. The RSF-4 zone district would allow densities between 2 and 4 units/acre, with the current proposal at the lower end of that range. Mr. Cecil said that a wall would be constructed and landscaping would be installed along the northern property line bounding F ½ Road. Copies of an opposition letter received from Charles Desrosier (2643 F ½ Road, Grand Junction) were distributed to planning commissioners. Mr. Desrosier contended that the project’s

proposed density was inconsistent with the surrounding area; that it represented spot zoning; and that the increased density would bring with it increased traffic and congestion. Other letters and phone calls had been received by staff from area residents who opposed the project. Payment in lieu of construction of F ½ Road half-street improvements would be acceptable since F ½ Road improvements were scheduled beyond the City's 10-year CIP horizon.

Having determined that the request met both Code requirements and Growth Plan recommendations, staff recommended approval of the rezone request and approval of the Preliminary Plan subject to the following conditions:

1. The Final Plat submittal shall include plans for a landscape strip and a wall along the F ½ Road frontage contained within a tract to be owned and maintained by the Homeowners Association.
2. At the time of Final Plan, the applicant must submit a cost estimate of the half-street improvements for review, and either construct those improvements or provide funds for the future construction of the improvements.
3. As part of the Final Plan submittal, an agreement allowing the discharge of stormwater into the Grand Valley Canal must be obtained from the irrigation company.
4. As part of the Final Pan submittal, all proposed drainage ditches must be placed within drainage easements. The proposed contours appear to indicate that ditches are proposed along the east lot lines of lots 3 and 6 and along the north lot line of lot 11.
5. As part of the Final Plan submittal, the applicant must label and verify that the cut slope along the west and south property boundaries will not exceed maximum slope limits (see the SWMM Manual).

QUESTIONS

Commissioner Dibble noted the discrepancy between the Growth Plan's recommended density and the zone district approved by City Council. He asked staff if there existed a precedent which would guide the Planning Commission in such a situation. Mr. Cecil said that Growth Plan recommendations generally took precedence over zoning ordinances.

Commissioner Dibble wondered, then, why City Council had applied an RSF-1 zone district to a parcel designated for a higher density. He asked "what had been the Council's intent?" Mr. Cecil reiterated that while City Council members acknowledged that the Growth Plan's recommended density was too high, they wanted to wait and revisit the issue during the Growth Plan's 5-year review. Argument could be made to support the higher density because staff is obligated to follow the regulations currently in place. Consideration should be given to the highest and best use of the land.

Mr. Shaver agreed that in this case there were no definitive answers; the Commission, he said, had to make a decision based on his/her best judgment as to whether the proposed density was compatible with the surrounding area. Providing a definition of "spot zoning," he said that the proposed RSF-4 zone district was legally defensible and is not spot zoning.

Commissioner Dibble asked if the Growth Plan had been adopted and in place at the time the RSF-1 zone district had been applied by City Council, to which Mr. Shaver replied affirmatively mentioning that the plan was first approved in 1996. Mr. Shaver added that a decision could be rendered without having to provide a "finding" of error; he reminded the Commission that zoning implements the Growth Plan.

Commissioner Binder wondered if, upon annexation into the City, the City always went with a County-equivalent zone, even if it conflicted with Growth Plan recommendations. Mr. Shaver recalled instances of both.

Chairman Elmer remarked that it appeared City Council had not found the RSF-1 zoning to be in error at the time of annexation.

Commissioner Putnam said that while this request may not be spot zoning, argument could be made that the higher density would only provide a benefit to the developer.

Commissioner Blosser wondered how many other properties had been annexed along with the subject parcel. Mr. Cecil was unsure, because this was part of an enclave.

Commissioner Blosser asked if other parcels in the area were also under consideration for rezoning to RSF-4. Mr. Shaver answered that each submitted plan was considered separately.

Commissioner Blosser asked for clarification of the petitioner's option to pay for street improvements in lieu of constructing them, which was provided by Mr. Hahn.

Commissioner Binder wondered if on-street parking would be available in the shared drives. Mr. Cecil said that only onsite parking would be permitted; each homesite would minimally have parking for up to 4 vehicles.

Commissioner Dibble wondered if there had been any concerns expressed by the City's Fire Department on accessibility, to which Mr. Cecil replied negatively. Street and parking configurations, he said, met Code requirements.

Commissioner Binder wondered why a wall was being required at the project's entrance. Mr. Cecil said that staff expected traffic along F ½ Road to increase over time. The wall would provide long-term buffering for the development.

When asked by Commissioner Dibble if there were any floodplain considerations, Mr. Cecil said that none were present according to FEMA's floodplain map.

PUBLIC COMMENTS

FOR:

There were no comments for the request.

AGAINST:

Walt Bergman (628 Sage Court, Grand Junction), representative for Bellridge Subdivision, said that while he appreciated the petitioner's willingness to compromise, he felt that the higher density designation would set an unwelcome precedent for future development in the area. Referencing rezone criteria as outlined by staff, he said that it didn't appear that the proposed density met Code requirements. It also didn't appear that City Council intended to support higher densities in the area; otherwise, they would have applied a different zone district at the time of annexation. The RSF-4 zone district was incompatible with the area and did, in his opinion, represent spot zoning. He urged denial of the request.

Rev. Julia Vernon (2615 F ½ Road, Grand Junction) said that her family had lived in the subject area for more than 60 years. She felt that the highest density did not always mean the highest and best use for the land. A number of the area residents had spoken to her as they walked or rode their bicycles by her property. None of them were in favor of the current proposal. She felt that higher densities in the area would threaten the current quality of life enjoyed by residents.

Alisa Radice (2634 F ½ Road, Grand Junction) concurred with previous comments. She recalled that during annexation discussions she and other residents had been assured that existing zoning would be retained. She asked "if the City was so willing to change its position with the current request, what did this portend for future development requests?" She hoped that City Council would uphold its promises made to area residents.

Bruce Palo (2648 Hollyhock Drive, Grand Junction), resident of Northfield Estates Subdivision, said that none of the surrounding subdivisions up to G Road had densities higher than 1 unit/acre. He agreed with previous comments, adding that traffic was already a problem on F ½ Road; the street, he said, was ill-maintained and included a blind curve that was not far from the current project's proposed entrance.

Wayne Meineke (2634 F ½ Road, Grand Junction) invited planning commissioners to visit the area and see for themselves the rural lifestyle, F ½ Road's limitations, the blind curve, etc. He hoped the City would not cave in to the wishes of the developer.

Charles Desrosier (2643 F ½ Road, Grand Junction) referenced the letter he'd submitted to staff and said that he'd lived in the subject area for the last 40 years. He expressed agreement with previously stated comments. It would be a mistake, he said, to change the property's current RSF-1 zoning since it truly reflected the density of the entire area.

Carol Bergman (628 Sage Court, Grand Junction) said that if natural topography helped define zoning boundaries, densities in the subject area were 1 unit/acre or less. She felt that the Growth Plan's recommended density of 4-8 units/acre was grossly out of character and urged retention of the property's RSF-1 zone district.

A recess was called at 8:20 P.M. The public hearing reconvened at 8:28 P.M.

PETITIONER'S REBUTTAL

Cliff Anson, representing the petitioner, said that this was his first project. When he'd originally come before the City with a project of lesser density (11 lots), staff would not support it because it didn't comply with Growth Plan recommendations. In trying to please everyone involved, he said, it seemed like the lower end of an RSF-4 zone might provide the most equitable solution.

Mr. Ciavonne added that the 2.5 units/acre density was only guaranteed if the project was built according to the current plan and by the current developer. If the property was sold, he acknowledged that a higher density development could potentially be proposed. He'd spoken to staff about reducing speed limits along F ½ Road, to try and help mitigate traffic concerns. He agreed that the highest density did not always mean the highest use but the highest density recommended by the Growth Plan was 8 units/acre. The current proposal was not even close to that. Having participated in the original Growth Plan review process, he noted that the underlying zoning generally prevailed.

DISCUSSION

At Chairman Elmer's direction, Mr. Shaver addressed the issue of spot zoning. He agreed that economic issues had traditionally been one of the elements used to analyze for spot zoning; however, Mr. Shaver said that the cases and opinions had not caught up to the public policy concepts, which encouraged infill development. Mr. Shaver said that economic benefit was less important than reciprocity of expectation regarding compatibility. Mr. Shaver said that spot zoning is a term for zoning treatment that is dissimilar and cannot be justified or is not in accord with a comprehensive plan.

Commissioner Dibble didn't feel that the Growth Plan was "set in concrete." Its recommendation of 4-8 units/acre seemed out of character with the surrounding area since no portion of the immediate area was

similarly zoned. He said that since City Council had recommended the RSF-1 zone district, that seemed a sufficient basis by which to gauge Council's intent. He agreed that approval of zone districts which permitted greater densities would only encourage such development in the future. He expressed support for retention of the RSF-1 zone district.

Commissioner Putnam acknowledged staff's support of the City's regulations but it seemed to him as though City Council intended to ultimately change the Growth Plan's designation for the property. The Code's rezoning criteria included protecting the integrity of an existing neighborhood.

Commissioner Putnam said that he'd spoken with City Council members about their intent when they'd originally upheld the property's zoning of RSF-1. They'd felt at that time that the property had been zoned correctly, that no error had been made. He supported City Council's prior finding and felt that the RSF-1 zone should be retained.

Chairman Elmer said that the Planning Commission had been a part of the initial zoning review process along with City Council. He noted that while geographic barriers were often used to delineate zoning districts, in some cases doing so didn't reflect the most logical approach. He thought that the canal would have been a better boundary for the zone district.

Commissioner Binder acknowledged the petitioner's efforts and felt that without a rereview of the Growth Plan, denial of the current proposal would force the Planning Commission and staff to consider for approval only those projects falling within the Growth Plan's 4-8 units/acre recommended density. The petitioner had tried very hard to find an acceptable compromise to this dilemma. She said infill development represented a wise use of City resources and she felt it important for the Planning Commission to be consistent when dealing with infill development. Citing development along D Road, she noted that in those cases, Growth Plan recommendations prevailed. While she sympathized with neighborhood concerns, she felt the current proposal was worthy of her support.

Commissioner Putnam acknowledged the petitioner's efforts in trying to find a suitable compromise. He reiterated his belief that in this case the Growth Plan was in error; the Planning Commission was not obligated to perpetuate the error. He agreed that the current request didn't meet rezone criteria.

Chairman Elmer said that he concurred with Commissioner Binder's comments. He felt that the entire area was transitioning. Whether RSF-1 (which allowed ½ to 2 units/acre) or RSF-4 (which allowed 2-4 units/acre), either zone district would allow 2 units/acre densities. There wasn't much difference between 2 units/acre and 2.5 units/acre, nor was there much difference between 10 and 13 lots. Yes, there was a risk that the petitioner would default and not construct the project or sell the property, but the Planning Commission was not obligated to approve any alternate plan.

Commissioner Dibble acknowledged the difference between rural and residential uses. He felt that decisions should be made based on the best use of the neighborhood. In the current situation, the RSF-1 zone district seemed more appropriate for the parcel and should be upheld.

Commissioner Evans concurred that the RSF-1 zone district was more appropriate, but noted that without changing the Growth Plan, it didn't leave the petitioner with any options that would be supported.

MOTION: (Commissioner Binder) "Mr. Chairman, on the Zone Amendment RZP-2001-120, I move that we forward a recommendation of approval of the zone amendment to the City Council with the findings as listed in the staff recommendation."

Commissioner Dibble seconded the motion. A vote was called and the motion failed by a vote of 2-4, with Commissioner Evans, Dibble, Putnam and Blosser opposing.

V. GENERAL DISCUSSION

A discussion ensued over the current status of St. Mary's planning efforts and over pending changes to the TEDS manual.

With no further business to discuss, the meeting was adjourned at 9:10 P.M.