

**GRAND JUNCTION PLANNING COMMISSION  
NOVEMBER 13, 2001 MINUTES  
7:02 P.M. to 11:30 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), Richard Blosser, John Evans and Terri Binder. Paul Dibble and William Putnam were absent.

In attendance, representing the Community Development Department, were Community Development Planning Director Bob Blanchard, Pat Cecil (Development Services Supervisor), Lisa Gerstenberger (Sr. Planner), Dave Thornton (Principle Planner), and Lori Bowers (Assoc. Planner).

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

Terri Troutner was present to record the minutes.

There were approximately 50 interested citizens present during the course of the hearing.

**I. APPROVAL OF MINUTES**

Available for consideration were the minutes from the October 9 and October 16, 2001 Planning Commission public hearings. Also available for consideration were the minutes from the September 25 Joint City/County Planning Commission public hearing.

**MOTION: (Commissioner Binder) “Mr. Chairman, I move that we approve the minutes of October 9.”**

Commissioner Evans seconded the motion. A vote was called and the motion passed by a vote of 3-0, with Chairman Elmer abstaining.

**MOTION: (Commissioner Binder) “Mr. Chairman, I move that we approve the minutes of October 16.”**

Commissioner Blosser seconded the motion. A vote was called and the motion passed by a vote of 3-0, with Chairman Elmer abstaining.

**MOTION: (Commissioner Evans) “Mr. Chairman, I entertain a motion that we approve the minutes [of the September 25 Joint City/County Planning Commission public hearing].”**

Commissioner Blosser seconded the motion. A vote was called and the motion passed unanimously by a vote of 3-0, with 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 RZ-2001-199 (Rezone & Final Plat/Plan—Chiro Connection Subdivision), ANX-2001-052 (Zoning the Cantrell Annexation) and ANX-2001-214 (Annexation/Rezone—Madaris Annexation). At citizen request, items ANX-2001-052 and ANX-2001-214 were pulled and placed on the agenda for full hearing.

**MOTION: (Commissioner Binder) “Mr. Chairman, I move that we approve the Consent Agenda, with the Chiro Connection Subdivision as the only Consent Agenda item.”**

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

**IV. FULL PUBLIC HEARING**

**ANX-2001-052 ZONING THE CANTRELL ANNEXATION**

**A request for approval of a Zone of Annexation from County C-1 (southern portion) and RMF-8 (northern portion) to City C-1 (Light Commercial) and RMF-8 (Residential Multi-Family, 8 units/acre), respectively, zoning districts.**

**Petitioner: Emory Cantrell  
Location: 2930 North Avenue  
Representative: DKO Architecture, PC—Kreg Obergfell**

**PETITIONER’S PRESENTATION**

No petitioner was in attendance to give a presentation.

**STAFF’S PRESENTATION**

Lori Bowers presented an overhead of a location map. Ms. Bowers said that the property had been annexed into the City for some time. Application of City zoning had been forestalled pending resolution of an access issue. Referencing another overhead of the site’s plat, she noted where the access issue had been resolved, preventing Lot 2 from being landlocked. The proposed city zone is consistent with its former county zoning and staff recommends approval.

**PUBLIC COMMENTS**

**FOR:**

There were no comments for the request.

**AGAINST:**

Keith Boughton (705 – 24 ¾ Road, Grand Junction) wondered about the type of structures which would ultimately be placed on the property. Chairman Elmer clarified that the only issue for consideration was the zoning. He encouraged Mr. Boughton to meet with staff outside of the public hearing for further information about the property.

**DISCUSSION**

Chairman Elmer remarked that the request seemed straightforward and is consistent with county zoning.

Commissioner Binder added that she was pleased the access issue for Lot 2 had been resolved.

**MOTION: (Commissioner Blosser) “Mr. Chairman, on item ANX-2001-052, the recommendation for Zone of Annexation for the Cantrell Annexation, located at 2930 North Avenue, to RMF-8 (Residential Multi-Family, not to exceed 8 units per acre) for Lot 2 and the zone of C-1 (Light Commercial) for Lot 1, I move that we find the project consistent with the Growth Plan, the Persigo Agreement, and Sections 2.6 of the Zoning and Development Code.”**

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

**ANX-2001-214 ANNEXATION/REZONE—MADARIS ANNEXATION**

**A request for approval of a Zone of Annexation from County Commercial to City RSF-4 (Residential Single-Family with a density not to exceed 4 units per acre) zone district.**

**Petitioner: Rosella Madaris**

**Location: 539 – 31 ½ Road**

**Representative: Direct Mortgage Group, Inc., Christopher Bucalo**

**PETITIONER’S PRESENTATION**

Chris Bucalo (2176 Avenal, Grand Junction), representing the petitioner, said that residential zoning would allow the petitioner to live on the property once she purchased it.

**STAFF’S PRESENTATION**

Dave Thornton presented an overhead of a portion of the Future Land Use Map, which noted the site’s location and surrounding zoning/uses. Mr. Thornton said that annexation of this property was currently making its way through City Council. Given surrounding uses, either commercial or residential zoning would be appropriate for the property; thus, staff recommended approval of an RSF-4 zone district.

**QUESTIONS**

Chairman Elmer asked for clarification of whether either zone district would be acceptable. Mr. Thornton responded.

When asked by Commissioner Blosser, who owns the property, Mr. Thornton replied that it was presently owned by one of the Madaris' who wanted to sell it to another family member. He said that it was his understanding that family members wished to live on the property; a single-family home existed on the property now. While there had been no expressed intention to develop the property further, any such plans would be brought before the Planning Commission for consideration.

**PUBLIC COMMENTS**

**FOR:**

There were no comments for the request.

**AGAINST:**

Michael Melgares (513 – 31 Road, Grand Junction) noted the existence of a water easement on the subject property. He cautioned against any interruption of water delivery or building over this easement in the event of future development. Chairman Elmer clarified that consideration of such issues would be given if and when a development submittal were received.

**PETITIONER’S REBUTTAL**

No rebuttal testimony was offered.

**DISCUSSION**

Commissioner Binder expressed support for the request.

Chairman Elmer noted that it seemed straightforward and met Code criteria.

Commissioner Evans commented that “it fit.”

**MOTION: (Commissioner Blosser) “Mr. Chairman, on item ANX-2001-214, consideration of a Zone of Annexation to Residential Single-Family, with a maximum of 4 units per acre (RSF-4) for the Madaris Annexation, I move for approval.”**

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

**GPA-2001-178 GROWTH PLAN AMENDMENT—LEWIS PROPERTY**

**A request for 1) approval of a Growth Plan Amendment from Residential Low (1/2 acre to 2 acres per dwelling unit) to Commercial designation, and 2) approval of a rezone from RSF-4 (Residential Single-Family not to exceed 4 units/acre) and CSR (Community Service Recreation) to C-1 (Light Commercial).**

**Petitioner: Canyon View Car Wash, LLC—Mikel and Roxanne Lewis**  
**Location: 2258 S. Broadway**  
**Representative: Development Concepts, Inc.—Mike Joyce**

**PETITIONERS’ PRESENTATION**

Mike Joyce, representing the petitioners, offered a PowerPoint presentation, hard copies of which were passed out to planning commissioners and staff. Recounting the history of the submittal, he said that a planned zone had originally been sought because it would limit the type of uses which could be placed on the property. An alleged error in the new Code’s zoning matrix precluded the Growth Plan Consistency Review, the B-1 zone district and Conditional Use Permit (CUP) as options. Mr. Joyce stated that by the time the error was discovered and these options were recommended by staff, the current submittal process was already well underway. The decision had been made to move forward with the current submittal; however, the petitioners were willing to accept a B-1 designation for their property if preferred by the Planning Commission. Because the Code recommends that all Neighborhood Business Centers to be separated by at least .8 mile, the presence of Meadowlark Gardens across the street may prove problematic to a B-1 zone.

Photos of the site and the residence on it were referenced. The home, originally built in 1910, was flanked on two sides by major arterials--Broadway and the Redlands Parkway--the two most traveled roads in the Redlands. Meadowlark Gardens, a Commercial PUD, is located across Broadway opposite the applicants’ property. In the Petitioner's proposal only .94 of an acre was included in the Growth Plan Amendment request. The remaining .89 of an acre would be left in its natural state as open space. The proposal included reclamation of the wetlands area on the property; photos of the wetlands, depicting years of illegal dumping, were presented.

Mr. Joyce pointed out that the property’s small developable area restricted the number of allowable C-1 uses which could be placed on the site. The most intensive C-1 use determined by staff had been a convenience store. Although not proposed, the traffic impact study (TIS) had been undertaken using a convenience store with two fuel stations as a “worst case scenario.”

Even with the most intensive use, the TIS indicated that traffic to Kansas Avenue would be minimal, with only 20 percent of all trips leaving the site projected to access Kansas Avenue and travel through the residential area. The projected traffic impact of a convenience store with two fuel stations would be 2,170 ADT’s; with a 6-bay car wash, this number would be reduced to 648 ADT’s. The TIS studied several scenarios to lessen traffic impacts at the intersection of Broadway and Kansas Avenue. These alternatives included cul-de-sacking Kansas Avenue in front of the last home to prevent travel into

adjacent neighborhoods or reconfiguring the intersection to allow only a three-quarter movement (eliminating left-hand turning movements onto Broadway). Mr. Joyce said that neighborhood residents objected to the first alternative, because it would prevent them from accessing the Redlands Parkway. Even for the more intensive convenience store use, no change to the lane geometry of Broadway at Kansas Avenue would be required.

The proposed site for the car wash would be isolated from adjacent residential property by distance, vegetation and topography. The property's proximity to two major arterials made it unsuitable for residential development; this fact had also resulted in a reduction in the property's appraised valuation. Mr. Joyce stated that the Redlands was "underdeveloped" for commercial nodes. This meant that Redlands residents were forced to drive longer distances for goods and services. The increase in average daily trips (ADT's) added to traffic impacts and pollution. Mr. Joyce presented car wash information which suggested limited use of the car wash (greatest usage over the weekend and a reduction in overall ADT's to car washes elsewhere).

Mr. Joyce suggested that benefits of the proposal included: redevelopment of the corner to improve visual aesthetics; provision of a valuable service to nearby residents reducing commute time; complement services provided by the Meadowlark Gardens commercial development; restoration of the wetlands area, ultimately returning it to the community as open space (with CSR zoning); provision of an enhanced buffer area between the car wash and residential area; and installation of additional landscaping.

Mr. Joyce felt that the application as submitted met many of the Growth Plan's goals and policies and Code criteria. He reiterated that the proposed use was a far better alternative than leaving the property as residential and in disrepair/neglect.

### **QUESTIONS**

Chairman Elmer said that staff had received a letter from a representative of the Bluff West Subdivision Homeowners Association (HOA). The letter contended that the site designated by the petitioner for commercial use fell within the HOA's authority and thus was subject to its covenants, which precluded any commercial development.

Tom Volkmann, legal counsel representing the petitioners, said that he'd undertaken an exhaustive title research on a very complex title history. He said that plats from three subdivisions seemed to overlap on a portion of the petitioners' property.

Roxanne Lewis, co-petitioner, came forward and explained that she had gone door to door, speaking to residents of both the Redlands Estates and Columbine Subdivision, seeking release of covenants. She had secured notarized releases from residents within those subdivisions; however, the Bluffs West HOA had been unwilling to grant a release. She was unsure whether such release was even necessary because it was still unclear, through title research, that the Bluffs covenants applied to this parcel because it was a "parcel" and not a "lot."

Ms. Lewis further explained that the Bluffs West developer originally planned to give up the tract in question to the County. The County agreed to deed it to Ms. Lewis provided that she reclaim the wetlands area and haul out all of the illegally dumped debris.

Mr. Volkmann presented an overhead of the Bluffs West Subdivision Plat. When asked by Chairman Elmer if the plat included a portion of the subject property, Mr. Volkmann replied affirmatively but added that the portion included was not a recognized lot.

Commissioner Blosser asked if the TIS took into account traffic impacts from the commercial build-out of Meadowlark Gardens, to which Mr. Joyce answered affirmatively. He added that the same traffic

engineer used by Meadowlark Gardens had been employed by the petitioners to ensure consistency of approach and review. A variety of access options had been explored and impacts had been based on the most intensive uses allowed for both sites.

Commissioner Blosser asked if circulation patterns included the possibility that some traffic might travel through the Bluffs West Subdivision, using Kansas Avenue as a shortcut to the Redlands Parkway. Mr. Joyce said that given the curvature of the street and topography (natural traffic calming), it was unlikely anyone would reasonably consider this road a shortcut. The TIS indicated that approximately 20 percent of site traffic would travel through the subdivision via Kansas Avenue; this represented only 8 cars/hour and that was based on the highest possible use of the property as a convenience store/gas station. He reminded planning commissioners that the only thing being requested was approval for a car wash, a much less intensive use.

Ms. Lewis said that if the car wash served even 130 cars/day, she would consider the business successful.

Commissioner Evans asked if the Kansas Avenue/Broadway intersection would be reconfigured to prevent left-hand turns, to which Mr. Joyce responded affirmatively.

### **STAFF'S PRESENTATION**

Lisa Gerstenberger presented overheads of an aerial photo of the site and a portion of the assessor's map. Referencing a memo she'd passed out to planning commissioners earlier in the evening (an update to the initial November 8 Staff Report), Ms. Gerstenberger said that the rezone request applied only to the .94 of an acre site designated for the car wash; the rest of the property would remain zoned RSF-4. Reading through the Code's GPA criteria, staff concluded that while consideration of a non-residential use may be appropriate for the site, a GPA was not necessarily the most appropriate way to accomplish that objective. Ms. Gerstenberger noted that the overall character of the neighborhood remained unchanged and continued to be residential in nature.

To ensure that development in the area was both supportive and compatible with existing uses such as those allowed in a Neighborhood Business (B-1) zone district, staff recommended the applicants consider a Growth Plan Consistency Review. If the development were found to be consistent with the Growth Plan, a rezone to B-1 could be requested in conjunction with a Conditional Use Permit. Likewise, analysis of the rezone request concluded that Neighborhood Business (B-1) would represent a more suitable zone district than the Light Commercial (C-1) zone district.

Ms. Gerstenberger presented overheads of a portion of the Future Land Use Map and of the Concept Plan. If either zoning option were approved—the C-1 zone request or the B-1—the applicants would then be required to complete a simple subdivision to designate clearly the parcel affected by the rezone. She noted that approval of the GPA request would change the Future Land Use Map. She noted that portions of Kansas Avenue had not been constructed within the designated right-of-way.

### **QUESTIONS**

Commissioner Blosser observed that projected traffic impacts would remain the same no matter which zoning option was approved. The only real difference in the two seemed to be that the B-1 zone district would further restrict allowable uses. Ms. Gerstenberger said that the lesser zone would address a number of the concerns expressed by surrounding neighbors. Theoretically, a convenience store with gas station could be located on the site if approved with C-1 zoning. Good planning suggests that consideration be given to what might happen should the car wash fail and the property be designated "commercial."

Commissioner Blosser asked for confirmation that a simple subdivision would be required with the B-1 zone request as well. Ms. Gerstenberger said that the review criteria must still be addressed during the

Consistency Review process. Even if the applicants went through the Consistency Review process and a request to rezone to the B-1 zone, there was no guarantee that approval would be granted for either the rezone or the subsequent CUP. When asked how much additional time this would impose upon the petitioners, Ms. Gerstenberger said that if initiated in November, a decision could be rendered by the Planning Commission by January of 2002.

Commissioner Blosser asked for clarification of some of the referenced Growth Plan goals, which was provided.

Commissioner Binder asked why the petitioners hadn't been told about the Consistency Review option at the onset of the submittal process. Ms. Gerstenberger explained that the petitioners had been working on the project over the last two years, a portion of that time was under old Code guidelines. The new Code had been approved after a previous development submittal had been withdrawn. When the current request was submitted, the petitioners seemed very clear about what they wanted. Even when the Consistency Review option was brought to their attention, there had still been sufficient time for them to alter course. They instead chose to proceed as the request had originally been submitted.

Chairman Elmer noted the steep incline of Kansas Avenue as it met Broadway. Given this topographic incline, he wondered whether the stacking distance requirement could be met if the car wash were constructed? Rick Dorris answered that local streets did not have the same stacking distance requirements as streets with higher classifications. Presenting and referencing an overhead of a Kansas Avenue intersection configuration drawing, Mr. Dorris said that stacking, turning movements, and other access considerations would be reviewed in greater detail once the applicants' plan was submitted. Greater traffic impacts would be recognized if a more intense use were to locate on the site. As it was, traffic was already so intense along Broadway that there could come a point when any left-hand turns from Kansas Avenue would be impossible. If that should occur, the intersection with Broadway will be it-in/it-out and possibly more traffic would then be routed up Kansas Avenue northward. Mr. Dorris explained that while the Kansas Avenue/Broadway intersection as a whole was perhaps a Level of Service A or B, the individual left-hand turning movement from Kansas onto Broadway was likely to degenerate to a LDS F.

Commissioner Blosser asked if any traffic study, completed or planned, knew what traffic counts along Broadway were over any given weekend. Mr. Dorris said that he knew of no study current or pending which would give staff that information.

At the request of Chairman Elmer, Mr. Dorris explained how "levels of service" are determined and defined.

Commissioner Binder wondered if people would use Kansas Avenue as a shortcut. Mr. Dorris replied negatively; he noted that residents living in the Bluffs West Subdivision used Kansas Avenue to access the Redlands Parkway, but there was no general advantage for people to use the street as a shortcut from Broadway to the Parkway.

Commissioner Binder asked what is the horizon for traffic studies? Mr. Dorris responded that traffic studies projected over a 20-year period.

A brief recess was called at 8:45 P.M. The hearing reconvened at 8:58 P.M.

## **PUBLIC COMMENTS**

### **FOR:**

Christy Duncan (1883 North Deer Park Circle, Grand Junction) felt that the proposal to place a car wash on the site was a good idea. She said that the property is in dire need of cleanup and the business and

associated landscaping would add much more visual appeal to the corner. The petitioners, she said, seemed to have thought through the request and she felt the improvement would be comparable to that of Meadowlark Gardens. Redevelopment of the property would increase area property values and be an asset to the community.

Tina Peterson (536 Rim Circle, Grand Junction) said that she didn't currently use Kansas Avenue as a shortcut and didn't think others would either. She felt that any redevelopment of the property would result in an improvement over what was currently there. It didn't make sense, she said, to keep the property residential.

Craig Goodwin (address illegible) presented figures suggesting that use of a car wash over washing a vehicle at home could potentially save upwards of 780 gallons of water per day per wash bay. Car washes had the means of collecting and properly disposing solvents and other toxic substances, keeping them from discharging into stormwater sewers.

Trish Vagneur (2276 Ivory, Grand Junction) agreed that the subject property had deteriorated over the 14 years she'd lived in the area. She said that if that progression weren't stopped, the site would continue to be an eyesore to the many drivers that passed by the corner each day. The applicants' idea for redevelopment of the corner seemed to be a good one and she liked the idea of preserving a portion of the property in open space. It seemed logical that it would reduce the number of trips into town. She noted that neighborhood fears over Meadowlark Gardens had proven to be unfounded; she felt that this to be a similar situation.

Rick Kenagy (2288 S. Broadway, Grand Junction) said that he'd originally been opposed to Meadowlark Gardens; however, after seeing the aesthetic improvement brought about through that development proposal, he now favored redevelopment of the applicants' property. He didn't feel that the traffic problems feared by Bluffs West residents would materialize.

**AGAINST:**

Tom Foster (519 Kansas, Grand Junction) felt that construction of a car wash on the subject property would negatively impact surrounding property values and increase traffic impacts. As a member of the Bluffs West HOA, he said that residents of this subdivision were strongly opposed to any commercial development on lots protected by that subdivision's covenants. The residents of the Bluffs Subdivision, he maintained, would be adversely affected by any such commercial development and subsequent use of Kansas Avenue for commercial traffic. The HOA, he said, was prepared to employ all legal means at its disposal to prevent commercial encroachment.

Doug Larson (2278 Windwood, Grand Junction), president of the Bluffs West HOA, reaffirmed the intent of the HOA to fight against any commercial development locating on that portion of the parcel protected by its covenants. Referencing a letter he'd submitted to staff, he expressed concern that further commercial encroachment would negatively impact the surrounding residential area. Commercial development, he said, was also contrary to the direction and intent of the Redlands Neighborhood Plan and Growth Plan goals and policies, which called for keeping the area residential. Those who said that the Redlands was underdeveloped for commercial nodes forgot that Mesa Mall and other shopping opportunities were located only 3 miles away via the Redlands Parkway. The increased traffic along Kansas Avenue would create safety hazards for children out playing or other pedestrians. He noted the absence of sidewalks along Kansas Avenue and other adjoining streets. Mr. Larson read through GPA criteria and felt that in most cases, the criteria had not been met by the applicants. He expressed agreement with staff's recommendation that the current request be denied.

Commissioner Binder asked "if the covenants covered the land in question and were to prevent deterioration, why then is the property in such poor shape?" Mr. Larson explained that the strip of land



in question was located much further away from the rest of the subdivision and access was difficult. He reiterated that the subdivision's developers had given the strip to the County; the County in turn gave it to the Lewis' with the caveat that they would be responsible for cleanup.

Paul VonGuerard (2290 Shane Court, Grand Junction) offered another PowerPoint presentation showing photos of the Bluffs West Subdivision, pointing out the lack of sidewalks, the curvature of the street in some areas and its straightness in others. He felt that the applicants' use of traffic data from Meadowlark Gardens going back to 1998 was misleading and didn't reflect today's traffic increases. Mr. VonGuerard presented an overhead map of the area and said that discussions included extension of 23 Road. If that were to occur, Kansas Avenue would become a through street. Noting the incline on Kansas Avenue at its intersection with Broadway, Mr. VonGuerard said that he opposed the request primarily for safety reasons. Referencing page 4, table 3 of the applicants' TIS, he noted what he felt were discrepancies in data. A parallel between this request and that of Meadowlark Gardens, he said, could not be drawn. Meadowlark Gardens never proposed to route its traffic through a residential subdivision whereas the current request did. With a C-1 zone, he said, there was no guarantee that a more intense use wouldn't be constructed on the site. Commercial development would only exacerbate traffic and safety concerns and reduce neighboring property values. He also noted that the County's gift of the wetlands to the Lewis' mandated completion of the cleanup by the year 2003. He wondered if this development would impact any long-term future development plans for the Parkway. Would it fit in with the revision of the Redlands Neighborhood Plan? Mr. VonGuerard felt that the best use of the site would be to tear down the house and keep the land as open space; he felt that GOCO or other public monies could be used to purchase the property.

Michael Dirsmith (528 Kansas Avenue, Grand Junction) said that as the father of two children his primary concern was over safety. He referenced a letter submitted earlier in the evening from Mr. Harry Easton, principal of Broadway Elementary School, who voiced similar concerns. He also referenced a letter submitted by Palma Wilson, superintendent for the local National Park Service, who cautioned against added traffic and encroachment of commercial development in areas near the Colorado National Monument.

Gary Dohling (2291 Olive Court, Grand Junction) agreed with staff's analysis that GPA criteria had not been met. He felt that since the restoration of the wetlands was as a result of a prior agreement between the County and the Lewis', it should not be referenced as a benefit associated with the current development request. He also expressed concerns about safety and the limited access into the subject property via Kansas Avenue. If access to this site could be routed elsewhere, he said, a number of neighborhood concerns would probably be eliminated.

Darlene Gsell (1930 Star Canyon, Grand Junction) presented an overhead of the local Wildlife Composite Map. It showed large concentrations of wildlife on the Lewis' land and in the immediate area. She asked who would protect this wildlife habitat from further encroachment? She agreed with previous statements about traffic and safety concerns.

Terry Dixon (423 Wildwood, Grand Junction) noted that all commercial development in the subject area had received a lot of public opposition. Residents as a whole he said are opposed to commercial development encroaching into their residential neighborhoods. The Redlands Parkway intersection is very dangerous. It was not a good idea, he said, to add to that problem by compounding traffic and safety issues.

Bill Bultman (2269 S. Broadway, Grand Junction) felt that the size and scope of the proposed project would be out of character with the rest of the area. He presented an overhead photo of a 6-bay car wash superimposed upon the applicants' property to illustrate this point. The applicants had purchased this property purely for speculation, he said, and they had done nothing thusfar to improve the property.

Since the nearest car wash was only 2.78 miles away, there was no need for another one at this location. He agreed that if the site were given a C-1 zone, there was no guarantee that a more intense use wouldn't locate there instead.

### **PETITIONERS' REBUTTAL**

Mr. Joyce reiterated that given its proximity to two major arterials, the subject corner was inappropriate for residential development; staff had agreed with this conclusion. This request represented "node" development, not "strip" development. The appropriate size and scale of the use would be determined during Site Plan review. Fewer neighborhood nodes would result in increased ADT's to other services across town. With regard to safety concerns, sidewalks would be constructed along the site's Broadway frontage in conjunction with the development. He disagreed with the opposition and felt that the burden of proof had been satisfied with regard to GPA and rezone criteria. The applicants would be amenable to a B-1 zone; however, he felt that consideration should still be given to their GPA request, and that the appropriate zone district should be determined at this hearing. The Growth Plan, he maintained, was a "living" document. This area was in transition, and whether a C-1 or B-1 zone district was placed on the property, he felt that a GPA review was still warranted. The Consistency Review option would stall the project another 6 months. Mr. Joyce objected to comments made by the opposition that the land deeded to the Lewis' was a "gift" and not representative of an exchange. Cleanup costs, he said, would be at least \$30K. If residents wanted to purchase the property and leave it as open space, he felt certain that the Lewis' would sell it. He also noted that a TIS represented a "best guess" of what might happen; it was not an exact science. He didn't believe that safety would be a factor since most of the car wash's business would occur on the weekends and not while children were walking to and from school. He noted that even with added traffic to Kansas Avenue, Kansas Avenue was designed to handle more traffic than it was currently receiving. In response to wildlife impact questions, he noted that every residential development on the Redlands impacted wildlife in some way. This impact was not limited to commercial developments, and to infer thusly was unfair.

Ms. Lewis came forward and said that she had collected 86 signatures of residents who were unopposed to the development and had released she and her husband from subdivision covenants. She had not pursued homeowners from the Bluffs West Subdivision since they were clearly opposed and there remained some question over whether its covenants were applicable to the parcel since it was not a lot contained within the subdivision itself. She reiterated that she expected no more than 120-130 cars/day to visit the car wash. This represented far less impact than the Meadowlark Gardens across the street.

### **DISCUSSION**

Commissioner Binder asked Mr. Shaver if covenants ran with the land and, if so, what did that mean in this particular instance? Mr. Shaver responded that covenants do run with the land, whether or not they were enforced. He noted that covenants, however, represented private rights of enforcement and such enforcement was left up to those charged with that task. While such enforcement could involve litigation, that did not fall within Planning Commission purview. He advised that whether or not the Bluffs West Subdivision covenants actually applied to the parcel in question was another issue, also outside of Planning Commission purview. Mr. Shaver said that the only issue which should currently be under discussion was the land use.

Chairman Elmer offered that if the parcel was technically a part of the Bluffs West Subdivision and its covenants were applicable, then it did affect the land use. Mr. Shaver reiterated that enforcement of covenants was a civil matter which may ultimately require litigation. He cautioned planning commissioners not to make a judgment in this matter but to leave that up to a civil court to determine.

When Chairman Elmer asked Mr. Shaver if he considered the portion of land in question to be a part of the Bluffs Subdivision, Mr. Shaver responded affirmatively but added that the applicability of covenants

to that portion of land was a separate consideration. He acknowledged the very long and difficult title history associated with this property.

Commissioner Blosser asked if an alternate zone could be recommended by the Planning Commission. Mr. Shaver said yes, giving a detailed opinion relating to legal advertising requirements. The request for a rezone to C-1, the more intensive zoning had been advertised. Consideration could be given to a less intensive zone district under that advertisement.

Chairman Elmer noted that dealing with land uses around busy intersections was a common problem and neither the Code nor the Growth Plan offered any clear direction on how best to handle such situations. He never viewed GPA's as a solution to the zoning issues of a single parcel; they were designed, instead, to accommodate much larger areas. Meadowlark Gardens had been approved because it had been a greenhouse for many years prior. Even so, its approval still came with a number of restrictions and specific standards. Approval of that request did not serve as justification for other commercial development requests. He didn't believe that the character of the area had changed; traffic flows along Broadway and the Redlands Parkway had always been significant, yet people still invested a lot of money in their homes located along these busy streets. It seemed to him that only criterion #5 of the GPA came close to having been met. As such, he did not feel he could support the GPA request.

Commissioner Binder said that she could sympathize with residents concerned about traffic and safety; however, she wondered if this was such a big concern, why are schools continually built along busy collectors and arterials? She agreed that rural streets were designed to handle a certain volume of traffic and that traffic along Kansas Avenue was not even close to capacity. If Bluffs West residents were so concerned about safety, they should seriously consider cul-de-sacking the street. Perhaps it would reduce their convenience of accessing the Parkway quicker, but what was more important—convenience or safety? She also agreed that if services weren't localized, people would be forced to travel more miles, resulting in increases in traffic, gas expense, drive time, and pollution. With regard to wildlife, everyone was guilty of impacting wildlife habitat to some degree. She felt that she could support the GPA but not the C-1 zone request.

Commissioner Blosser concurred with Commissioner Binder's comments. He said that he drives by that corner every day and agreed that it was inappropriate for residential development. Traffic along Broadway and the Parkway will continue to be bad regardless of what is eventually constructed on the site. It was unlikely that development of a car wash on the property would impact current levels of traffic very much. He, too, said that he could support the GPA but not the C-1 zone request.

Commissioner Evans also agreed with Commissioner Binder's comments. Safety is a big concern; however, it was unlikely a car wash or the traffic generated as a result of it would significantly impact the neighborhood. Neighbors might consider posting a crossing guard to allay concerns about children crossing the street. He concurred that the corner was not appropriate for residential development. While he could support the GPA request, he did not feel C-1 zoning for the site was appropriate.

**MOTION: (Commissioner Blosser) "Mr. Chairman, on item GPA-2001-178, request for a Growth Plan Amendment to redesignate a portion of the Lewis property, the .94 of an acre as represented by the applicants and referenced in the Staff Report, from Residential Low (1/2 to 2 acres per dwelling unit) to Commercial, I move that we forward this request to City Council with a recommendation to approve."**

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

With failure of the GPA request, no motion was made on the rezone request.

With no further business to discuss, the meeting was adjourned at 11:30 P.M.