

GRAND JUNCTION PLANNING COMMISSION
APRIL 18, 2000 MINUTES
7:05 p.m. to 11:50 p.m.

The regularly scheduled Planning Commission hearing was called to order at 7:05 p.m. by Chairman John Elmer. The public hearing was held at Two Rivers Convention Center.

In attendance, representing the Planning Commission, were John Elmer (Chairman), Joe Grout, Dr. Paul Dibble, Nick Prinster, James Nall, and Jerry Ainsworth. Terri Binder, Vicki Boutilier (alternate) and William Putnam (alternate) were absent.

In attendance, representing the Community Development Department, were Kathy Portner (Planning Manager) and Bill Nebeker (Sr. Planner).

Also present were John Shaver (Asst. City Attorney) and Kent Marsh (Development Engineer).

Terri Troutner was present to record the minutes.

There were approximately 26 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

There were no announcements, presentations and/or visitors.

III. CONSENT AGENDA

Offered for placement on the Consent Agenda were items FPP-1998-108, RZP-1999-058, ANX-2000-038, and RZ-2000-033. At a citizen's request, item RXP-1999-058 was pulled from the Consent Agenda.

MOTION: (Commissioner Grout) "Mr. Chairman, I move that we approve the Consent Agenda."

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

IV. PUBLIC HEARING ITEMS ON ITEMS FOR FINAL DECISION

RZP-1999-058 REZONE/PRELIMINARY PLAN—VILLAGE PARK

A request for a six-month extension for Village Park Preliminary Plan

Petitioner: Bob Walker, Peak Properties

Location: Northwest corner of 28 ¼ and F Roads

Representative: Brian Hart, LanDesign

PETITIONER'S PRESENTATION

Richard Livingston, representing the petitioner, said that additional drainage information had been requested by staff, which was not yet available. When the hydrology report was completed in the next month or two, the request would move forward.

STAFF'S PRESENTATION

Bill Nebeker said that it was not uncommon to grant extensions and staff had no objection to the request.

PUBLIC

FOR:

There were no comments for the request.

AGAINST:

Judd Perry (2954 Beechwood, Grand Junction) said that the petitioner's original submission had rallied approximately 400 people in opposition. He expressed new concern that a legal ad in the Daily Sentinel had indicated that the petitioner would be imposing a Special Act District to pay for water and sewer improvements. Surrounding residents had not been informed nor did they know what the petitioner intended with the special district. He felt that more information was needed before any time extension on the project was granted.

PETITIONER'S REBUTTAL

Mr. Livingston said that consideration of the special district overlay had been given previously but the petitioner had since withdrawn the idea. While it would have been perfectly legal to do so, the petitioner had decided instead to pay for infrastructure improvements himself.

DISCUSSION

John Shaver said that he'd had a conversation with Mr. Perry over the legal ad and had provided him with clarification. While space was being reserved on a ballot in the event the petitioner wanted to pursue the special district, the City had no information about the type or form of special district that may be proposed. That fact, Mr. Shaver said, led him to believe that a district was not seriously pursuing the same.

Chairman Elmer said that as long as the petitioner met Code requirements by providing infrastructure, it was perfectly legal to explore and/or pursue alternative payment options.

Commissioners Grout and Prinster expressed support for the time extension.

MOTION: (Commissioner Dibble) "Mr. Chairman, on item RZP-1999-058, I move that we grant a 6-month's extension request for the approval of the Village Park Filing #1 Final Plat and Plan."

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

Due to the interrelation of the next two items, FPA-2000-065 and FPA-2000-066 would be opened in concert and heard concurrently.

Commissioner Prinster disclosed that he had many friends and acquaintances living in the subject area. While having no personal financial interest in either the South Rim or Vista Del Rio subdivisions, his father held a financial interest in a subdivision nearby. Mr. Shaver said that since the only item under discussion involved amending a detail in preexisting plans, which wouldn't necessarily affect that

interest, there should be no conflict of interest. Commissioner Prinster felt that he could render an impartial decision. Chairman Elmer accepted the disclosure and deliberations continued with Commissioner Prinster's participation.

Chairman Elmer also disclosed that he knew Paul Thompson and Leeds Foyle, both of whom are owners. Because there were no financial interests at stake with either party, he said that he could render a fair and impartial decision.

V. PUBLIC HEARING ON ITEMS FOR RECOMMENDATION TO CITY COUNCIL

GPA-2000-029 GROWTH PLAN AMENDMENT—BEILKE

A request to amend the Future Land Use Map of the Growth Plan to redesignate a 15-acre parcel from Residential Estate (2-5 acres per dwelling) to Commercial.

Petitioner: Thomas-Alan Development Co.

Location: 766 – 24 Road

Representative: John Beilke

PETITIONER'S PRESENTATION

John Beilke, petitioner, distributed to planning commissioners and staff copies of a design packet. Also presented was a visual representation of the plan proposed for the site and an architectural representation of a similarly-styled development. The development, he said, would be an amenity to the area and compliment the existing Canyon View Park and 24 Road corridor. He said that the quaint architectural style, 205,000 square feet of upscale "village shops" and planned open space would encourage visitation by persons from as far away as 200-300 miles. Mr. Beilke presented an overhead transparency of the site and said that interest had been expressed by many key tenants. Fast-food places and gas stations would be prohibited. The proposed entrance into the site was noted and Mr. Beilke explained how most of the project could be accomplished in the 15 acres already designated for Commercial (noted); however, the addition of the northern parcel in question would better facilitate access into not only the planned development but into other parcels as well. The sewer line would be extended to serve the site, improvements would be made to 24 Road, a stoplight would be installed and massive landscaping was planned. Mr. Beilke said that over \$50 million would be spent on the project, with \$1.5 million spent on infrastructure improvements alone.

The Growth Plan Amendment was necessary before the plan could move forward; he argued that the North Central Valley Plan (NCVP) was in error and should have included the northern parcel (Parcel A) in its Commercial designation. The character of the corridor, he said, was changing and although development had been all but halted pending completion of the 24 Road Corridor Study, over a million square feet of development was currently being planned to the south along 24 Road. The amount of infrastructure improvements necessary to facilitate such development and its related cost could not be borne by the few single-family homes that were situated on the nearby agricultural and estate-zoned properties. He cited the Fellowship Church across the street as an example of a commercial enterprise occurring on a residentially-zoned parcel. The church and Canyon View Park were both major traffic generators and continue to grow. Nearby, Webb Crane had recently received approval of its own expansion request. Commercial development typically situated off of major highway exits and this overpass was naturally slated for expansion. Mr. Beilke said that an extensive traffic study had been undertaken; however, he was reluctant to submit findings until the fate of his Growth Plan Amendment request was known. He stressed the quality of the project and the extent of added improvements and aesthetics to the area. Views would be protected via architectural design and structure placement.

QUESTIONS

Commissioner Nall said that as a State of Colorado Traffic Engineer, he was unsure he could continue hearing the item without there being a conflict of interest. While not involved with the petitioner's project, he would be involved with overpass improvements. When asked by Mr. Shaver, he stated that he had not engaged in discussions with the petitioner nor had he been presented with the petitioner's plans prior to the public hearing. John Shaver said that since the item brought forth this evening wasn't site-specific, no conflict of interest existed. Both Chairman Elmer and Commissioner Grout agreed, and Commissioner Nall continued deliberations on the item. Mr. Beilke confirmed that he'd had no direct conversations with Commissioner Nall.

Commissioner Dibble asked if any of the traffic study's figures had been presented to staff. Mr. Beilke responded negatively. Mr. Beilke clarified that Parcels A and C were already under contract; negotiations for Parcel B were underway. The Growth Plan Amendment, he reiterated, would affect only Parcel A.

Commissioner Nall asked the petitioner about buffering plans between Parcel A and the parcel to the north. Mr. Beilke referenced the design plan and pointed to the landscaping and streets that would be located along the site's northern boundary. The site's street system would provide access to the northern parcel.

Chairman Elmer wondered how potential conflicts arising from traffic generated by both the church and the development would be addressed. Mr. Beilke said that because peak hours were different for the church than the development, he did not expect any conflicts.

Commissioner Nall asked the petitioner if he could estimate the square footage at build-out without approval of the amendment. Mr. Beilke said that the current 15-acre parcel could accommodate approximately 54,000 square feet of shop space plus a hotel. Commissioner Nall remarked that there seemed to be little difference in built-out square footage. The greatest difference seemed to be in the amount of open space provided. Mr. Beilke said that the same quality would be evident in either option; however, a 32-acre commercially-zoned parcel would provide for additional landscaping, more open space and better access. The alternative, he said, would be to allow piecemeal development to occur on the parcel and risk incompatible uses. No one would want to develop the property to its estate densities given high infrastructure costs.

STAFF'S PRESENTATION

Bill Nebeker provided a background on planning in the subject area. An aerial photo of the site taken before construction of the Fellowship church and overhead transparencies depicting land uses and surrounding zoning were presented. Most of the area, he said, was rural in character with most parcels zoned Agricultural (County AFT) and City RSF-R. A large portion of the 24 Road corridor had been previously zoned H.O. Prior to adoption of the new Code, there had been nothing in place to prevent development to H.O. standards. The Growth Plan's Future Land Use Map showed no commercial development north of I-70; however, the NCVP, adopted afterwards, had recommended higher estate densities versus rural densities shown on the Growth Plan for most of the corridor, with a small commercial node identified on the northeastern portion of I-70 and 24 Road. Overhead transparencies of the Future Land Use Map and the Preferred Plan for 24 Road Corridor were presented. Mr. Nebeker said that never had anyone intended to allow extension of commercial growth along the entire length of 24 Road.

Mr. Nebeker went through the list of Growth Plan Amendment criteria and drew the following conclusions: 1) that there was no error in the plan designating only the southern 18 acres of land at the northeast corner to Commercial; 2) that no evidence had been presented to invalidate the original

premises and findings of the Growth Plan and NCVP to require commercial on the subject parcel; 3) that there has been no change in the character or condition of the area since adoption of the Growth Plan or NCVP; 4) no goals or policies from the NCVP had been identified as supporting the proposed amendment; 5) additional commercial development could not be justified until adequate public transportation facilities were available to serve the development; 6) the proposed plan qualified as neither neighborhood retail nor regional employment/commercial; and 7) approval of the amendment would promote urban sprawl. One of the City's development engineers predicted that construction on the overpass would effectively close it for almost a year. He wondered where would traffic be diverted and how would it be conveyed?

Mr. Nebeker said that if the amendment were granted, other developers could seek commercial designations for other estate-zoned properties in the area. Having found that the request failed to meet Growth Plan Amendment criteria, and since it also failed to meet the recommendations of the Growth Plan and NCVP, staff recommended denial of the request.

QUESTIONS

Commissioner Prinster asked if both Parcels B and C were presently zoned RSF-R, to which Mr. Nebeker replied affirmatively.

Commissioner Grout asked if the Fellowship Church had been required to make improvements to 24 Road. Kent Marsh said that widening of 24 Road had occurred along the site's frontage. Kathy Portner added that an accel/decel lane had also been required along with half-street improvements.

When Mr. Beilke asked if complete closure of the overpass was even possible, Commissioner Nall said that there were a number of ways to construct a bridge. He doubted that the overpass would be closed entirely, but he was unsure at this point how the project would be handled.

PUBLIC COMMENTS

FOR:

Bill Merkel (2136 Baniff Court, Grand Junction) supported the project and spoke highly of petitioner's tenacity in sticking to his plan. Having attended several of the NCVP meetings, he consistently heard from attendees that they assumed the subject property would be commercial. He'd also met with City Council members, the City Attorney and others to ask for commercial zoning of, and sewer extension to, his property. The petitioner's project, he said, was visionary and took future growth along the corridor into consideration. He urged planning commissioners to do the same.

John Nelson (2698 Alpine Drive, Grand Junction), real estate agent representing the owners of Parcel A, said that they'd owned their rural parcel long before the interstate ever went in. They had been told at the time that one day their property would be commercial. Since only 3 or 4 exits of this type existed off the interstate, clearly the highest and best use for their property was commercial, not residential. He felt that the Growth Plan meant to include the entire corner and presumed that a reasonably-sized parcel would be created with a reasonable access provided. He agreed with the petitioner regarding placement of access into the property across from the Fellowship Church. If granted, the 32-acre parcel would allow greater flexibility for open space and landscaping design and serve as an asset for the entire area. He suggested master-planning the property to protect it.

AGAINST:

There were no comments against the request.

PETITIONER'S REBUTTAL

Mr. Beilke presented an overhead transparency depicting the existing zoning along the 24 Road corridor. The lack of change in the corridor, he contended, was due only to the absence of a completed corridor study. He reiterated many of his previous points which included the quality and cost of the development proposed, the error which he believed to have occurred in the NCVP process, the potential for piecemeal development if something more cohesive didn't develop on the site, the prime opportunity afforded by the parcel's location off a highway exit, the jobs created, and the infrastructure improvements that would occur in conjunction with the development. He felt that 24 Road should be constructed to a 5-lane, rather than a 3-lane, standard given the amount of development pending. The County, he said, would dictate how properties to the north of Parcel A would develop. He disagreed that the overpass would be closed to all traffic, and he again urged planning commissioners to envision the corridor 10 years hence. The entire plan had been presented, he said, so that everyone could see for themselves his commitment to the project. He wondered why no traffic study had been required of Canyon View Park developers since traffic generated from that use impacted a significant area.

DISCUSSION

Commissioner Ainsworth expressed support for the plan and said that if future access was needed to the northern parcels, it would have to be provided through the commercially-zoned property. He approved of the petitioner's plans for street, access and overpass improvements and appreciated the amount of landscaping and open space being provided. Parcel A, he said, seemed suitable for commercial zoning due to its proximity to the highway's exit and given the volume of traffic utilizing the corridor. He felt that the project would be a major asset to the Grand Junction area and beat the piecemeal alternatives that could occur on the site.

Chairman Elmer said that infrastructure improvements would benefit the project much more than the community. Limits on sewer line extension had been intentional to prevent further encroachment to the north, and he felt that the direction of the NCVP had been clear. The request was for a Growth Plan Amendment only. He reminded planning commissioners that no actual plan had been or was being presented. If approved for a Commercial land use designation, the lack of an approved plan meant that if the petitioner so chose, he could sell the parcel and another commercial enterprise could locate there. Nothing guaranteed that the plan as presented would ever be constructed. He felt that there were already plenty of commercially-zoned properties in the area. Chairman Elmer said that a number of complaints had been received by staff from residents located near the Fellowship Church. Problems always arose when commercial uses expanded into residential and agricultural area; therefore, he could not support the request.

Commissioner Grout concurred with Chairman Elmer. Also having participated in the NCVP process, he said that Commercial designations had been deliberate. No desire for expansion past its current point had ever been expressed. Since the request failed to meet the goals and policies of the NCVP, he felt that denial was appropriate.

Commissioner Ainsworth disagreed and felt that the project would provide an aesthetic entrance into the City; he noted that the petitioner seemed to be working hard to do that. He expressed added support for the petitioner's master planning approach.

Chairman Elmer said that staff's analysis more closely approximated the intent and direction of both the Growth Plan and the NCVP as far as master planning went.

A brief discussion ensued over whether the petitioner was bound to comply with amendment criteria point by point. Mr. Shaver clarified.

Commissioner Nall also supported the plan and thought it would make a nice entrance into the City; however, he expressed similar reservations over the possibility of not having the project constructed as presented. Conditions changed, and what today may seem viable may not be tomorrow. How could the petitioner guarantee that no gas station would ever be constructed on the site?

Commissioner Grout noted that approval of the Growth Plan Amendment did not restrict the type of uses allowed. If approved, any allowed commercial use could be placed on the site.

Commissioner Dibble said that the project offered a type of “philosophy” that something attractive could be constructed to serve as an aesthetic entrance into the City. He felt that any access into the site could be constructed to mitigate stacking and other traffic problems. He agreed that expanding the current 15 acres to 30 acres would give both the petitioner and the project added flexibility. He also agreed that residential uses were not the best uses for the subject property. He wondered if the County would indeed dictate any expansion beyond Parcel A.

Mr. Shaver said that since properties were within the Persigo 201 boundary, they fell within the City’s jurisdiction in accordance with the Persigo Agreement as development occurred.

Commissioner Dibble said that traffic issues would require mitigation, regardless of whether or not development occurred on 15 acres or 30 acres. He again expressed support for the request.

Commissioner Prinster said that while some commercial in the area would provide transition, expansion to the north would create too large a commercial node and be out of character with surrounding residential and agricultural uses. He felt that a quality development could be constructed on the existing 15 acres, and he supported denial of the request.

MOTION: (Commissioner Grout) “Mr. Chairman, on item GPA-2000-029, I move that we forward a recommendation of approval to the City Council on the request to amend the Growth Plan for this proposal.”

Commissioner Nall seconded the motion. A vote was called and the motion was defeated by a vote of 2-4, with Chairman Elmer and Commissioners Nall, Grout, and Prinster opposing.

VI. PUBLIC HEARING ITEMS ON ITEMS FOR FINAL DECISION, continued

FPA-2000-065 FINAL PLAN AMENDMENT—VISTA DEL RIO SUBDIVISION, FILINGS 2 AND 3

A request for a major amendment to the approved plan requiring geotechnical investigation and/or other analyses prior to the issuance of a planning clearance/building permit for Filing 2, Block 1, Lot 5 and Block 2, Lot 5; and Filing 3, Lots 10, 11, 12, and 13 (2294, 2295, and 2296 El Monte Court; 569, 570, 571, and 572 Casa Rio Court)

Petitioner: City of Grand Junction

Location: 2294, 2295, and 2296 El Monte Court; 569, 570, 571, and 572 Casa Rio Court

FPA-2000-066 FINAL PLAN AMENDMENT—SOUTH RIM SUBDIVISION, FILING 4

A request for a major amendment to the approved plan requiring geotechnical investigation and/or other analyses prior to the issuance of a planning clearance/building permit for Lots 7, 8, 9, 10, and 11 (2342, 2345, 2347, 2349, and 2351 Promontory Court)

Petitioner: City of Grand Junction

Location: 2342, 2345, 2347, 2349, and 2351 Promontory Court

STAFF'S PRESENTATION

Kathy Portner presented an overhead transparency of the site and noted the lots believed to present geologic hazards. In one case, slope failure had occurred, resulting in the owners vacating the home. Mr. Shaver added that a potential issue could exist with Lot 4, Block 1, Filing 2 in the event that continued sliding compromised the integrity of the cul-de-sac.

Ms. Portner said that the proposed plan amendment would apply to any future structure(s) proposed for the lots. Photos of the vacated home on El Monte Court were shown, and the significant slope damage of this lot was highlighted. Based on the recommendations of Jeff Hynes, Colorado Geological Survey, staff proposed adding additional restrictions on the subject lots so that prior to the issuance of planning clearances and/or building permits, applicants must provide a geotechnical investigation specific to the lot and/or other analysis for the City to review, and that an engineer design any structures proposed for the sites. An engineer would be required to inspect the site during construction and require certification at the conclusion of construction attesting that construction conformed with approved plans. Notice to future buyers advising them of the City's restrictions was also suggested by Ms. Portner.

Ms. Portner introduced Jeff Hynes, who was made available via telephone conferencing. Mr. Shaver asked Mr. Hynes to provide a summary of his credentials, experience and background, which was given. Mr. Hynes said that he'd been contacted initially by the City regarding a home located on Lot 11, Filing 4 of South Rim. Mr. Hynes said that he had discussions with the City, the contractor involved in remedial action for the home and other City staff. Mr. Hynes stated that he did a surface inspection of all 5 lots. He noted that the lot surfaces had been disturbed by equipment traveling off the cul-de-sac to Lot 11 to effect repairs on the north side of the house so surface features were not as apparent as they may otherwise have been. Signs of insipient failure had been observed along the bluff, which were noted on a series of maps (Maps 1 and 2).

Mr. Hynes spoke about his investigation of the home at 2296 El Monte Court, which had fallen victim to severe slope damage.

Mr. Hynes said that the owner of the El Monte home contacted him later and they'd engaged in discussions. Continued progression of the slide, he said, would lead to the eventual destruction of the home, if it wasn't demolished beforehand.

Mr. Shaver referenced the maps of which Mr. Hynes had spoken and asked if they represented generalized findings of field conditions observed during his site visits. Mr. Hynes said that they represented findings regarding the stress and failure the two land areas were undergoing. The letter accompanying the maps provided general observations regarding the types of investigations that would be needed. Prior to viewing some of the insipient failure on Promontory Court, he and staff had used the presumption of developability. After the site visitation, he was more inclined to presume undevelopability unless and until it could be demonstrated that they were developable, using the same investigation methodology and tests that would have been required with the first presumption. Again referencing the maps, he said that the dashed and solid lines noted clear lines of failure in both topographical areas. The dashed line referred to a short-term (6 months to a year) timeframe where the physical distress would likely, in his opinion, manifest itself as a landslide. The remedy includes a set of rigorous design standards that must be met to demonstrate that those lots could be developed. Standards would include engineered foundation work, slope stabilization, surface and subsurface moisture management, slope stability analyses and irrigation management. He said that the severe sliding at 2296 El Monte had probably been exacerbated by extensive yard installation and irrigation. The lack of yard

and an irrigation system on Lot 11 in South Rim had probably contributed to the structure being salvagable.

Absent specific surface and subsurface investigations, he recommended site-specific engineering detail for homes on subject lots except for Lot 5, Block 2 of Vista Del Rio. He opined that nothing could be done to save that lot; it was effectively unbuildable as shown by the existing condition. If the El Monte Court cul-de-sac were to be saved, grading and drainage management of the slope would have to occur once the vacated home was removed.

Mr. Shaver asked if Mr. Hynes had been retained to render any final opinions on that assumption, to which Mr. Hynes responded negatively. Mr. Shaver asked Mr. Hynes to recall the number of cases where he had been qualified as an “expert,” and his associated educational credentials relating to the opinions being given, for which Mr. Hynes complied.

Mr. Hynes said that the general bluff-retreat phenomenon along the river extended at least as far west as Loma. He recalled other areas in Grand Junction, particularly Lamplight Park, where this phenomenon was occurring.

QUESTIONS

Chairman Elmer asked for clarification on the problems related to Lots 10, 11, 12, and 13 at the end of Casa Rio Court. Mr. Hynes said that on an outside bend along the river channel tended to accelerate, resulting in “hydraulic elevation.” Thus, the outer bank of the river curve had the tendency to erode faster than the inner bank. He observed that some of the gravel deposit on El Monte existed on Casa Rio as well. He conjectured that some of the fill material from the Casa Rio area had been excavated as “borrow” and used to build the filled wedge for the bridge approach on the south side of the river. By removing that material from the Casa Rio area, it was much more stable than the El Monte Court area. The difference, he said, was in the prognosis—the prognosis being better for the Casa Rio area. There were more opportunities for mitigation of lots along Casa Rio Court; however, stabilization costs for the lots may ultimately be prohibitive. The same situation was evident along Promontory Court.

Commissioner Nall, looking at the contour of the river, asked if installation of rip-rap along the river could help stabilize the bank. Mr. Shaver suggested that mitigation engineering didn’t relate to the plan amendments under discussion; he noted that Mr. Hynes was not testifying for that purpose.

Commissioner Ainsworth referenced the El Monte Court cul-de-sac and wondered if additional lots would be affected if the cul-de-sac were pulled back. He asked “would the cul-de-sac even be salvageable?” Mr. Shaver said that the City had retained CTL Thompson to evaluate utilities and transportation impacts of the current situation.

Commissioner Prinster asked if geological data would still be required for Lot 5, Block 2 if deemed unbuildable. Mr. Shaver said that while a general opinion had been rendered by Mr. Hynes, the staff part of the plan amendment being proposed is not asking the Commission to make that decision.

PUBLIC COMMENTS

Richard Cummings (Aspen, CO) referenced the markings on Map 1 and Map 2 and wondered if areas north of lines marked “clear line of failure” could be engineered to make those areas buildable. Mr. Hynes said that there was an area of active landslide on El Monte Court. There was probably no economic way to recover the cost of lots along El Monte, he said, for less than two or three times the value of the lot; development of lots along Promontory may be more economic.

Chairman Elmer said that it would be difficult to know the status of each lot or what kind of mitigation might be possible without further investigation. Mr. Hynes agreed, adding that the depth and orientation of slope failures were crucial to the feasibility and cost of any mitigation efforts.

Skip Behrhorst (no address given), developer of South Rim, said that he had been very aware of the property's geologic constraints. He referenced a booklet (passed around to planning commissioners) which included specific recommendations, requirements and recorded documents included as part of the initial project analysis. Covenants and specific issues related to geotechnical requirements had also been recorded and included disclosures in the purchase contract and reference to a Lincoln-DeVore study conducted on the property. On the bluff lots, a provision in the deed specifically addressed the area from the bluff line to the building envelope, limiting the amount of fill from the existing grade of 6 inches at the bluff line to not more than 18 inches to the building envelope. In the Architectural Guidelines, an extensive booklet was prepared to address architectural control. A subsurface exploration report conducted by Lincoln-DeVore made irrigation water recommendations and restrictions. Xeriscaping was strongly encouraged, and CC&Rs had been put into place. Referencing page 15, the recommendation was made that the owner provide a subsurface analysis through an open foundation investigation. On page 23 of the CC&Rs, number 4, specific reference to geotechnical requirements was made (read into the record). Another requirement of record prevented building envelopes from being less than 35 feet from the bluff line. Mr. Behrhorst said that no specific investigation or analysis had been undertaken by Mr. Hynes. The City's proposed amendments were no more restrictive than precautions already taken by the owner.

Mr. Shaver stated that by making the documents referenced by Mr. Behrhorst a part of the plan amendment, the City would then have authority to enforce what had already been put into place by the developer. The only other element included site-specific, building-specific design requirements.

Chairman Elmer clarified to the audience that the Planning Commission was not in a position to referee any legal dispute between property owners and the developer.

Edward Morris (no address given), of Lincoln-DeVore said that Lincoln-DeVore had been involved in the subsurface investigation of the subject properties. Mr. Morris expressed concern over Mr. Hynes' testimony and how referenced maps were being used. All lots located on the bluff line shared similar concerns, yet only a few lots had been singled out.

Mr. Morris said that he'd visited Lots 7 and 8 off of Promontory Court yesterday and determined that surface cracking seemed limited to the upper levels of Lots 7, 8 and 9. He said that the cracking represented very thin, graveled, sandy soils that were sliding over the existing shale formation. Excavation determined that cracking did not extend into the shale. Cracking on the central and west ends of Lot 7 of South Rim, Filing 4, related to approximately 9 feet of very low-density sands, gravels and cobbles. While normally quite dry, these materials did get seasonably wet and had undergone minor collapse. In fact, they were deemed by Mr. Morris to be "collapsible soils." Mr. Morris noted a crack along 5 feet of the bluff line that represented old fill that had been pushed over the edge during the gravel removal process and was now beginning to move down the slope. Removing those soils and revegetating the area would involve very complex mitigation efforts. In reviewing the slope's stability, no changes from his initial report were noted. The 35-foot setback referenced previously did not apply to all lots; some lots had setbacks greater than 35 feet.

Mr. Morris referenced the remedial work that occurred on Lot 11 of South Rim and said that expansive soils were present in the central portion of the Lot and settlement had occurred due to the presence of

collapsible soils. No evidence of slope instability on Lot 11 was present nor did slope instability have anything to do with damages caused to the home.

Doug Colaric (200 Grand Avenue, #101), representing two lot owners in Vista Del Rio, referenced the 1994 approval of Vista Del Rio Subdivision. He said at that time the Lincoln-DeVore report identified areas of instability. He asked whether the City's request for additional conditions concur with findings in the initial report or had the report been incomplete? Ms. Portner said that the City's amendments would expand on the original report. The report's findings had been very generalized and were neither site-specific nor lot-specific. Mr. Colaric said that both lot owners represented by him were concerned over the fate of the cul-de-sac. Mr. Shaver reiterated that the City had retained CTL Thompson to analyze the situation and prepare a report. Mr. Colaric asked Mr. Hynes if, in his opinion, lots belonging to the two owners—the Scotts and Halpennys (Lot 5, Block 1 and Lot 5, Block 2)—were unbuildable, to which Mr. Hynes replied affirmatively.

Kevin Nourse (564 Casa Rio Court, Grand Junction) said that Vista Del Rio Subdivision had essentially the same covenants and restrictions as South Rim. He questioned the City's singling out a few specific lots for further geotechnical review when his subdivision map noted those lots and others within the Vista Del Rio Subdivision. A newspaper article had identified similar areas of concern as far away as 5 blocks.

Christopher McAnany, representing the owner of Lot 10 in the South Rim Subdivision, noted the three Code requirements for a plan amendment. Testimony from Mr. Behrhorst and Mr. Morris pointed out that concerns had been known for some time and were well documented. A procedure was already in place to enable individual lot owners to seek geotechnical review before any development was undertaken. Since soil conditions were not new and adequate CC&Rs were already in place, new, City-imposed restrictions were not warranted. He asked Mr. Hynes for clarification on the lack of bluff instability notations on Lot 10. Mr. Hynes said that while lots directly to the east and west of Lot 10 showed signs of either distress or failure, his inspection of Lot 10 did not show any evidence of change in the shallow surface. Mr. Hynes was unsure whether Lincoln-DeVore had taken into consideration the fill which had been placed on the southern half of referenced lots to achieve grade for the cul-de-sac. Basing fill at the head of a scarp was an accepted practice, but had a tendency to destabilize a slope, although he couldn't say for sure whether surface features were as a result of any fill work. Mr. Morris's comments, he said, represented the level of findings from a detailed analysis that would likely support development of Lots 7, 8, 9 and 10 on Promontory Court. Mr. Hynes said that his "inspection" included only observations, not in-depth analysis.

Leeds Foyle (2294 El Monte Court, Grand Junction) said that if the cul-de-sac on El Monte failed, would he be notified of what the City intended to do? Would he have input? Mr. Shaver replied affirmatively.

Paul Wisecup (568 Casa Rio Court, Grand Junction), owner of Lot 8 on Casa Rio Court, expressed concern over the additional regulatory layer of control being requested by the City. He wondered what restrictions the City could impose that would be any different from what was already in place. He wondered how or if slope stabilization, surface drainage and irrigation management would be addressed by the City for the subdivisions as a whole. In the event that Lots 5 in both Block 1 and 2 could meet engineering requirements for building on those lots and the cul-de-sac failed, what would the City commit to do to ensure access? It seemed that the City certainly had a vested interest in the integrity of streets and utilities in the subdivisions; therefore, the entire subdivision should be considered.

DISCUSSION

Mr. Shaver said that restrictions could not be imposed to retrofit the subject subdivisions since they were constructed to County standards. With regard to the Code requirements Mr. Shaver said that there were two not three; changes in conditions which occurred after final and changes in the development policy of the community. He said that meeting the condition of “change in conditions,” is demonstrated by the failure on El Monte; the change in development policy is that the staff and the Commission are now more aware of the need for engineered foundations.

Commissioner Nall asked Mr. Hynes if a site-specific approach would provide adequate remedy or did the City need to consider a more broad-based approach? Mr. Hynes said that there was a possibility with the current situation to get owners of lots located along Promontory Court to combine their efforts to come up with a common solution which could improve the stability of the area overall while saving money in the process. He suggested an aggressive subsurface moisture collection and conveyance system as one possible option.

Chairman Elmer said that a number of indications existed to encourage property owners to look further. Although falling within the Architectural Control Committee’s (ACC) purview, the ACC did not have the expertise to make the level of geotechnical judgments necessary to render an accurate geological conclusion. The City would provide a higher level of review.

Commissioner Ainsworth asked if the City would require a different type of testing than what was already being undertaken. Planning commissioners agreed that all lots located along the bluff had the potential for instability. Mr. Shaver provided clarification on this point.

Commissioner Dibble said that by raising the review to a higher standard, the City would have the opportunity of preventing another occurrence similar to that of 2296 El Monte Court. Had plans come under City scrutiny prior to their original approval, the currently requested level of review probably would have been required at that time.

Commissioner Nall expressed concern over the site-specific requirement and possible conflicts which might arise in expert opinions. And what would happen if the mitigation of one lot created problems for another lot?

Commissioner Grout said that in his experience most of the reports generated were fairly consistent in their findings.

Mr. Hynes offered that, as one option, a special “management zone” all along the bluff on the south side of the river, from the eastern city limits to its western boundary, be implemented. Where lots weren’t in imminent development or failure, he suggested convening a board of vested parties to come up with a management tool that would encompass areas of concern.

MOTION: (Commissioner Grout) “Mr. Chairman, on item FPA-2000-065 and FPA-2000-066, I move we amend the final plans for Vista Del Rio, Filings 2 and 3, and South Rim Filing 4 as recommended by staff.”

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

VI. GENERAL DISCUSSION

Ms. Portner said that City and County staffs were currently undertaking update of the Orchard Mesa Neighborhood Plan. Copies of a meeting schedule were distributed to Planning Commissioners.

With no further business, the hearing was adjourned at 11:50 p.m.