

**GRAND JUNCTION PLANNING COMMISSION**  
**JUNE 13, 2000 MINUTES**  
**7:02 p.m. to 10:45 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 at Two Rivers Convention Center.

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

In attendance, representing the Community Development Department, were Pat Cecil (Development Services Supervisor), Tricia Parish (Associate Planner), Dave Thornton (Principal Planner), Lori Bowers (Associate Planner) and Bill Nebeker (Senior Planner).

Also present were John Shaver (Assistant City Attorney), Dave Varley (Acting Community Development Director/Assistant City Manager), Rick Dorris and Kent Marsh (Development Engineers).

Terri Troutner was present to record the minutes.

There were approximately 16 interested citizens present during the course of the hearing.

**I. APPROVAL OF MINUTES**

Available for consideration were the minutes of the May 9, 2000 Planning Commission hearing.

**MOTION: (Commissioner Binder) "I move we accept the minutes for the meeting on May 9."**

Commissioner Prinster seconded the motion. A vote was called and the motion passed by a vote of 7-0.

**II. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS**

Pat Cecil said that items MS-2000-054 Barmac Minor Subdivision, FPP-2000-057 Desert Hills Estates Final Plat and Plan, and ODP-2000-058 Etter/Epstein Outline Development Plan had been taken off the agenda and moved to a second public hearing scheduled for June 20.

**III. CONSENT AGENDA**

Offered for placement on the Consent Agenda were items RZ-2000-094 Scariano/Williams Rezone, PP-2000-081 Grand Park South Subdivision Preliminary Plan, MS-2000-079 TBIF Minor Subdivision, MS-2000-078 Williamson Minor Subdivision, PP-2000-080 Garrett Estates Subdivision Preliminary Plan, and FPP-2000-056 Independence Ranch Filing #6 Final Plat and Plan. No objection was expressed from either the audience or planning commissioners.

**MOTION: (Commissioner Binder) "Mr. Chairman, I move that we approve the Consent Agenda as read."**

Commissioner Dibble seconded the motion. A vote was called and the motion passed unanimously by a vote of 7-0.

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

For the sake of expediency, the following items were opened concurrently.

##### **ANX-2000-087 ZONE OF ANNEXATION—G ROAD SOUTH ENCLAVE**

A request for approval of the Zone of Annexation for approximately 383.71 acres from County RSF-R, RSF-1, and PUD to City RSF-R (Residential Single Family, 1 unit per 5 acres), RSF-1 (Residential Single Family 1 unit per acre), and RSF-2 (Residential Single Family, 2 units per acre) zone districts.

**Location:** Between 25 ½ and 26 ½ Roads, south of G Road, with a portion extending a short distance east of 26 ½ Road

##### **ANX-2000-088 ZONE OF ANNEXATION—CLARK/WILSON ENCLAVE**

A request for approval of the Zone of Annexation for approximately 4.85 acres from County RSF-R to City RSF-R (Residential Single Family, 1 unit per 5 acres) zone district.

**Location:** 2522 and 2524 F ½ Road

##### **ANX-2000-089 ZONE OF ANNEXATION—SUTTON/RICKERD ENCLAVE**

A request for approval of the Zone of Annexation for approximately 5.73 acres from County RSF-R (Residential Single Family, 1 unit per 5 acres) zone district.

**Location:** 2543 G Road and 689 – 25 ½ Road

##### **ANX-2000-090 ZONE OF ANNEXATION—P.S. SUBSTATION ENCLAVE**

A request for approval of the Zone of Annexation for approximately 2.13 acres from County PI to I-O (Industrial Office) zone district.

**Location:** Southwest corner of F ½ and 25 ½ Roads

##### **ANX-2000-091 ZONE OF ANNEXATION—PUCKETT ENCLAVE**

A request for approval of the Zone of Annexation for approximately one acre from County RSF-R to RSF-R (Residential Single Family, 1 unit per 5 acres) zone district.

**Location:** 2563 F ½ Road

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

Dave Thornton noted property locations and zoning using an overhead transparency of the area. He said that the proposed City zones are closest to their County equivalents and all were a part of the G Road South Enclave. A meeting had been held with property owners to discuss ramifications of the annexation. Having found that Code criteria for the rezones had been met, Mr. Thornton recommended approval of the proposed zoning.

#### **QUESTIONS**

Chairman Elmer asked if property owners were generally satisfied with the City zoning. Mr. Thornton said that primary concerns had been over perceived density increases and the imposition of City standards. Area residents wanted to retain the same neighborhood characteristics as had been enjoyed in the County (e.g., no street lighting or sidewalks). He reiterated that the City's proposed zoning would be a close equivalent to that of the County.

Chairman Elmer asked if the RSF-R zone was intended to be a "holding zone," to which Mr. Thornton replied affirmatively.

**PUBLIC COMMENTS**

**FOR:**

There were no comments for the request.

**AGAINST:**

Baird Brown (677 Larkspur Court, Grand Junction), representing himself and two other unnamed property owners, said that neighbors did not want the conditions of their present zoning to change if annexed into the City.

Dave Bates (626 Fletcher, Grand Junction) questioned the legality of the annexation since the South Enclave area was not surrounded on all sides by the City. John Shaver said that the current enclave does exist and reminded the Commission that discussion involved only land use, not annexation. He suggested that Mr. Bates present his concerns to City Council on July 5.

**DISCUSSION**

Commissioner Grout said it appeared that all zones had been applied correctly. Commissioner Binder concurred.

Commissioner Prinster said that the City always tried applying the closest equivalent to County zoning.

Chairman Elmer expressed some concern over the RSF-R holding zones, but Mr. Thornton said that property owners would be able to come back with individual rezone requests, if they so chose.

**MOTION: (Commissioner Grout) “Mr. Chairman, on items ANX-2000-087, 088, 089, 090, and 091, I move that we forward a recommendation of approval of the Zone of Annexations for these properties.”**

Commissioner Binder seconded the motion. A vote was called and the motion passed unanimously by a vote of 7-0.

**RZP-2000-067 REZONE/PRELIMINARY PLAN—THE LEGENDS**

**A request to: 1) rezone approximately 11.5 acres from the RSF-5 (Residential Single Family not to exceed 5 dwelling units per acre) to a PD-3 (Planned Development not to exceed 3 units per acre) and to incorporate the 11.5 acres into The Legends Subdivision site to the north, and 2) approval of a revised Preliminary Plan to subdivide approximately 32 acres into 178 single family lots and 20 lots that will contain four-plex condominium units.**

**Petitioner: Abell Partners LLC, Ron Abeloe**

**Location: 28 ½ and F Roads**

**Representative: Mark Austin**

**PETITIONER’S PRESENTATION**

Mark Austin, representing the petitioner, said that the Preliminary Plan request had originally been heard in December of 1999. Since that time, the petitioner had obtained an additional 11.5 acres, to be incorporated into the Preliminary Plan proposal. The additional property would help mitigate drainage concerns and grading issues, better facilitate road alignments and provide for additional open space. Mr. Austin noted the site’s location and detail using overhead transparencies. He said that both active and passive open space would be provided and include pedestrian paths and playground equipment. Access would remain essentially the same; however, a decel lane would be provided off of F Road for traffic coming into the development. A 29 Road connection would be provided via Presley Drive. A brief

outline of phasing was given. The Preliminary Plan called for closing off the 28 ½ Road/F Road intersection with Filing 4 and constructing the Legends Drive connection to Grand Falls Drive.

### **QUESTIONS**

Commissioner Dibble wondered how construction traffic for the first three filings would be routed. Mr. Austin answered that construction traffic would be routed off F Road via an existing curb cut. When asked about impacts of construction traffic to F Road, Mr. Austin expected that impacts would be limited to the installation of the project's water line. Since construction of the decel lane was off the pavement's edge, equipment would have no need to block F Road traffic.

Commissioner Grout asked if the petitioner was in agreement with all of staff's conditions, to which Mr. Austin replied affirmatively.

Commissioner Binder wondered why the decel lane couldn't be installed immediately. She expressed concern over motorists' perception of, and reaction to, sudden slowing and turning of construction traffic into a curb cut that would not be well designated.

A brief discussion ensued over the timing of Filing 4's development.

Commissioner Dibble felt that closing the 28 ½ and F Roads intersection would better address safety concerns. "Why could that not be done immediately?" he asked. Ron Abeloe, petitioner, said that the intersection currently met City standards but felt "awkward" to motorists. As part of Filing 1 improvements, the intersection is posted for right turns only. The Grand Falls Drive extension would be constructed with Filing 2, providing primary access to residents of that filing. Mr. Abeloe said that closure of the intersection concurrent with Filing 4 was primarily a financial consideration; its closure was also intended to coincide with F Road improvements, construction of the decel lane, and construction of Legends Drive.

Commissioner Binder wondered why 28 ½ Road couldn't be used for construction traffic. Mr. Abeloe said that during consideration of the original Preliminary Plan, residents along 28 ½ Road had complained and asked that construction traffic use an alternate route. It didn't matter to him which road was used; he would comply with whatever alternative the City preferred. Commissioner Binder reiterated her concern over the traffic hazard the curb cut may create along F Road.

When asked by Chairman Elmer if any of the lots were contained within the Indian Wash floodplain, Mr. Abeloe responded negatively.

Commissioner Dibble asked about the percentage of the project to be left in open space, to which Mr. Austin answered 12.23 acres. A brief discussion ensued over where passive and active open space areas would be located. Mr. Austin noted the locations of passive open space areas, adding that they would be both terraced and landscaped.

Chairman Elmer asked if building envelopes were accurately depicted, given previous grading issues, to which Mr. Austin replied affirmatively.

### **STAFF'S PRESENTATION**

Pat Cecil reviewed the request as outlined in the June 13 Project Review. Having found that the request met Code criteria, staff recommended approval subject to the following conditions, as amended during the presentation:

1. The Final Plan for Filings 6 and 7 of the project shall provide either a landscaped berm, 20-foot wide and a minimum of 4 feet high and/or a 6-foot-high block or masonry wall with a minimum of a 5-foot landscape strip behind the sidewalk adjacent to F Road (Patterson Road). As an alternative, a combination of landscaped berms and walls (meeting the above-mentioned height requirements) along the entire F Road (Patterson Road) frontage would also be acceptable.
2. A final landscape plan showing tree plantings 40-foot on center will be required at the time of submittal of the Final Plan for Filings 2, 6 and 7 along the extension of Grand Falls Drive, Legends Way and Patterson Road.
3. At the time of the submittal of the Final Plan for Filing 2, a fully executed drainage agreement between the petitioner and the Grand Valley Irrigation Company shall be submitted for recording with the Final Plat.
4. At the time of the submittal of the Final Plan for Filing 4, the applicant shall submit a request for vacation of the right-of-way for the T-intersection at 28 ½ Road and Patterson Road. Upon vacation of the right-of-way by the City Council, the applicant shall remove the existing paving, curb, gutter and sidewalk and fully landscape the area of vacated right-of-way with new curb, gutter and sidewalk being constructed at the new stub area of 28 ½ Road.
5. Recreational equipment for the active open space areas (Tracts B and G) shall be identified on the Final Plat/Plan submittal and approved by staff and constructed at the time of construction of the filing that the tract is located in.
6. The setback areas (i.e., front, back, and sides) shall be delineated on the Final Plat for all corner lots and lots taking access from cul-de-sac bulbs.
7. The applicant shall make a privy provision in the contract with his subcontractors that construction traffic shall utilize F Road (Patterson Road) as the access for all construction traffic.
8. The applicant shall dedicate easements for trails to the City, to be used by pedestrian and bicycle traffic along the north bank of the Grand Valley Canal, Indian Wash, and from Presley Avenue and Norma Jean Court to the trails along the canal and Indian Wash.
9. A parks and open space fee of \$40,050 is required for this project. This fee may be divided between the various filings at the time of platting.
10. The area subject to flooding from the 100-year storm event shall be shown on the Final Plat for Filing 8.
11. The trail to be located in Tract D shall be constructed with the construction of Filing 3.
12. All open space areas, active recreation areas, private driveways, landscaped areas, and drainage facilities shall be owned and maintained by the Homeowners Association, with the exception of trails constructed within the trails easements dedicated to the City.
13. No access to Presley Avenue will be permitted for corner lots with frontage on Presley Avenue. A plat note to this effect shall be recorded with Filings 3, 4, and 8.

14. A geotechnical report shall be submitted with each filing, to be reviewed and approved by the Colorado Geological Survey. Foundation recommendations shall be noted on the Final Plat for each filing.
15. A note will be required on the plats for Filings 3, 4, and 8 designating allowable driveway locations along Presley Avenue.
16. The 10-foot drainage easements shown between lots 4 and 5 of Block 3, Filing 3, and lots 6 and 7 of Block 5, Filing 5, must be made a part of Tract E.

### **PUBLIC COMMENTS**

There were no comments either for or against the request.

### **PETITIONER'S REBUTTAL**

Mr. Abeloe said that the additional 11.5 acres helped complete the project and addressed many of the issues brought forth previously. The end result, he said, would be a much better project. The curb cut from Patterson for construction traffic would be further delineated by the addition of gravel and/or signage.

### **QUESTIONS**

Commissioner Dibble asked where Presley Avenue would end up. Mr. Abeloe answered that it would tie into 28 ½ Road. Traffic would be routed along either this access or Legends Drive.

Chairman Elmer noted that the Final Plat submittal would not be brought forth for Planning Commission consideration; rather, it would be considered administratively. He warned the petitioner that typically when single family filings were constructed ahead of multi-family filings, residents often objected vehemently. Mr. Abeloe understood and said that he would try to make single family homebuyers aware of the overall plan.

When asked by Commissioner Dibble what effect, if any, Cagney Court would have on drainage, Mr. Austin provided a brief explanation of drainage flows, using the overhead transparency. He said that an internal storm sewer system would also be installed.

Chairman Elmer asked why the internal storm sewer system had not been proposed for extension all the way to Indian Wash. Mr. Austin said that historic rates imposed limitations on what could be discharged into Indian Wash. As well, there were grading issues that posed additional limitations.

Commissioner Binder wondered what kind of landscaping would be proposed for passive open space areas. Mr. Abeloe said that trees and low-maintenance grasses would be planted. An installed irrigation system would be maintained by the HOA. He added that similar plans were provided for the detention pond area.

Commissioner Dibble asked if a detached sidewalk would be provided along F Road, to which Mr. Abeloe responded affirmatively. Mr. Abeloe added that additional landscaping features along F Road would create an attractive buffer and contribute to the project's aesthetics.

### **DISCUSSION**

Commissioner Binder reiterated her concerns over construction traffic entering the project via the curb cut on F Road. She felt it would create a traffic hazard for motorists. Chairman Elmer recalled neighbor

opposition during the first Preliminary Plan review over construction traffic using 28 ½ Road. Routing construction traffic to the site via F Road had been intended to alleviate those concerns. Commissioner Grout pointed out that the petitioner agreed to improve the curb cut to facilitate quick access.

Commissioner Dibble asked staff if setback provisions were satisfactory, to which Mr. Cecil responded affirmatively.

Commissioner Dibble still had reservations over timing of the 28 ½ Road intersection closure. Otherwise, he expressed support for the project.

Commissioner Nall agreed that improvements to the curb cut should be required to better accommodate the turning radius and a stub should also be included. He supported leaving the decel lane and other major road improvements to Filing 4.

Chairman Elmer suggested adding another condition to read, “The existing curb cut should be improved to encourage traffic to utilize it (e.g., gravel).”

Mr. Shaver offered the following proposed verbiage as an amendment to condition 4: Delete “Upon vacation of the right-of-way by City Council...” and substitute “ Prior to the effective date of the vacation ordinance...” Also, at the end of the paragraph, add “...and specifically that he construct Legends Drive.”

Commissioner Grout noted that the request met both Code criteria and Growth Plan recommendations, and he expressed support.

**MOTION: (Commissioner Grout) “Mr. Chairman, on item RZP-2000-067, for the rezoning of The Legends subdivision, consisting of 34.99 acres, I move that we find the rezoning consistent with the Growth Plan and adjacent property zoning and recommend adoption of the Planned Development (PD) ordinance to the City Council and on the revised Preliminary Plan for The Legends subdivision, Filings 2 through 8, creating a mixture of townhouse, detached and attached single family units consisting of 160 dwelling units, I move that we find the project consistent with the Growth Plan and adjacent property usage and approve the revised Preliminary Plan, subject to the staff conditions as recommended, with the following changes: to item 1, for Filings 7 and 8, it’s changed to Filings 6 and 7; on item 2, for Filings 2, 6, and 7; on item 4, the verbiage that the City Attorney had used previously [delete ‘Upon vacation of the right-of-way by City Council...’ and substitute ‘Prior to the effective date of the vacation ordinance...’ Also, at the end of the paragraph, add ‘...and specifically that he construct Legends Drive.’]; on item 10, it’ll be changed to Filing 8; on item 13, it’ll be changed to Filings 3, 4 and 8; on item 15, it’ll be Filings 3, 4, and 8; and with the addition of item 17, which would improve the curb cuts on Patterson Road to a standard that makes them acceptable for temporary ingress and egress per approval by City staff.”**

Commissioner Ainsworth seconded the motion. A vote was called and the motion passed unanimously by a vote of 7-0.

**RZP-2000-064 REZONE/PRELIMINARY PLAN—THE COMMONS**

**A request to: 1) rezone 18.8 acres from RMF-8 to PD (Planned Development) with a density not to exceed 8.9 units per acre, and 2) approve a Preliminary Plan for a new 306 bed assisted living facility, 14 duplex cottages, and an 82,186 square-foot Senior Enrichment Center**

**Petitioner: Grand Valley Atrium**  
**Location: 616 – 27 ¼ Road**  
**Representative: Hilltop Health Services Corp., Thomas Piper**

**PETITIONER’S PRESENTATION**

Rob Jenkins, representing the petitioner, noted the location of the site and clarified that there would be a total of 254 apartment units, 14 two-bedroom living units in three tri-plexes and one five-plex and a senior enrichment center, which would be open to the entire community. An east-west extension of Hermosa Court will serve as access. The senior center, he elaborated, would be constructed in two phases. Patrons would most likely be bussed to and from the site. The site would be fully landscaped, with approximately 39 percent of the site being retained as open space. Irrigation water is available and two detention pond locations were noted. Parking met City standards; no on-street parking along Hermosa would be allowed; cottages would all contain single-car garages. A pedestrian pathway system would circle the entire property. Mr. Jenkins said that the applicant would like to retain the fence along the east but remove the fence along the south.

**QUESTIONS**

Commissioner Binder asked what age clientele the facility would target. Tom Piper, co-petitioner, said that the facility would serve those age 55 and over.

When asked by Commissioner Binder if patrons would utilize the Grand Valley Transit System, Mr. Jenkins thought that most would probably use private bussing services. Commissioner Binder asked for clarification on the type of activities offered by the enrichment center. She asked if crosswalks would be provided and wondered if sidewalks would be detached. Mr. Jenkins said that there would be both attached and detached sidewalks in the project. Locations of each were noted. Since space was at a premium, detached sidewalks, he said, could not be incorporated throughout the project. This seemed, he said, to meet with staff’s approval. Crosswalks would be provided and delineated by surface treatment and color. Handicap ramps would also be incorporated. The pedestrian path would be 5 feet wide. Clarification on enrichment center activities was provided.

Commissioner Dibble wondered if management would place a “cap” on membership of the enrichment center. Mr. Piper expected the cap to be somewhere between 500 and 600 members. A scholarship program should also be introduced, with approximately 50 percent of costs absorbed by Hilltop.

Commissioner Binder asked about hours of operation. Mr. Jenkins expected that peak enrichment center usage would be generally from 9 a.m. to 5 p.m., but evening classes/activities could be expected.

Commissioner Nall wondered if street lighting would be installed to help elderly residents and members navigate at night. “Were there any plans to include a decel lane for 27 ½ Road?” Mr. Jenkins said that current and projected traffic counts did not warrant construction of a decel lane. Street and bollard lighting would be provided.

Commissioner Binder worried that the internal street would be used as a shortcut to F Road. Mr. Jenkins acknowledged that that was always a possibility.

Chairman Elmer asked about the kind of buffering provided along 27 ½ Road. Mr. Jenkins said that shrubs, trees, berms and an open-railed fence were planned. Details would be outlined in the Final Plan.



When asked by Chairman Elmer if the applicant had held a neighborhood meeting, Mr. Jenkins replied affirmatively. Approximately 40 people had attended and all had been supportive of the project.

**STAFF'S PRESENTATION**

Tricia Parish reviewed the request as contained in the June 13, 2000 Project Review. She reiterated that a landscape plan would be submitted at Final and confirmed that sufficient open space had been provided. Four freestanding on-site signs were requested. Stormwater would be retained on-site per the Grand Valley Water Users Association. Staff determined that the rezone and Preliminary Plan met Code Criteria and recommended approval of the rezone and approval of the Preliminary Plan, subject to one of the two following options, to be addressed by the applicant at the Final Plan phase regarding the street stub to the southern property:

1. Dedicate the right-of-way and construct the street to City standards, or
2. Dedicate the right-of-way, apply for a Revocable Permit in order to construct a walkway and landscaping within the right-of-way, and pay cash in lieu of constructing the improvements (cost to include sidewalk, cross-pan and asphalt.)

**QUESTIONS**

Chairman Elmer asked staff if the 50-foot height allowance was appropriate for the zone. Ms. Parish said that the equivalent straight zone would allow 40 feet plus a 25 percent increase if approved; thus, 50 feet was acceptable. Mr. Jenkins clarified that the three-story units would be located further away from the street than the two-story units.

Chairman Elmer asked if staff was satisfied with the proposed street alignment, to which Ms. Parish responded affirmatively.

Commissioner Nall asked for additional detail on proposed signage. Ms. Parish said that signage would be a maximum 12 square feet per sign and be non-illuminated.

Commissioner Ainsworth remarked that attached sidewalks at the facility's entrance wouldn't give residents a feeling of safety. Mr. Jenkins reiterated the need for space conservation. He offered to re-review the possibility of constructing detached sidewalk to the west and incorporating detached sidewalk wherever space permitted.

Commissioner Nall asked if the site's grade at the center's entrance would pose any problems. Ms. Parish said that grading would have to meet City standards.

**PUBLIC COMMENTS**

There were no comments either for or against the request.

**PETITIONER'S REBUTTAL**

Mr. Jenkins said that grading would conform to ADA standards of not more than 5 percent. Plans called for grades of 3.5 to 4 percent. Handicap parking was also planned and would also conform to ADA standards.

**DISCUSSION**

Commissioner Dibble felt the plan to be a wonderful addition to the community and would also help the traffic situation along 27 ½ Road.

Chairman Elmer expressed concern over the project's landscaping/berming plans and potential impacts to neighbors. Mr. Shaver said that because the project had originated under the old Code, the Planning Commission would be involved in the review of the Final Plat.

Chairman Elmer directed the applicant to submit elevation drawings as well as the landscape plan at Final. Enrollment limitations should also be set and submitted by the applicant at that time. Mr. Shaver said that while setting limits on enrollment made sense, the City would have a difficult time with enforcement. He suggested that the membership issue be revisited during Final, with a condition being crafted at that time. Chairman Elmer said that hours of operation should be more thoroughly addressed by the applicant during Final.

When Commissioner Binder asked staff about the possibility of requiring detached sidewalk along Hermosa, Kent Marsh said that detached sidewalk was not an option along a 44-foot-wide residential street, and would constitute a variance to established street standards. Ms. Parish agreed with Mr. Jenkins' statements regarding space concerns.

Commissioner Nall had no problem with attached sidewalk along Hermosa, given that no on-street parking would be allowed and 8-foot shoulders would be provided.

Commissioner Dibble asked if striping for bike lanes was planned, to which Mr. Marsh responded negatively. Bike lanes along Hermosa were not included in the Urban Trails Master Plan.

Commissioner Binder expressed concern over the street's width. Wider streets, she said, typically encouraged speeding. Mr. Marsh said that there were other ways to slow traffic. He didn't think people would typically drive fast through that neighborhood given the curvature and limited length of the street; however, if there proved to be a problem, the applicant could propose something.

**MOTION: (Commissioner Dibble) "Mr. Chairman, on item RZP-2000-064, a rezone from RMF-8 to PD and Preliminary Plan for the Commons Assisted Living Center, I move that we approve the Preliminary Plan subject to staff's recommendation and forward the rezone to City Council with the recommendation of approval."**

Commissioner Binder seconded the motion.

Chairman Elmer asked staff to note the items discussed and incorporate them into the Final review and add as conditions of approval:

1. Dedicate the right-of-way and construct the street to City standards, or dedicate the right-of-way, apply for a Revocable Permit in order to construct a walkway and landscaping within the right-of-way, and pay cash in lieu of constructing the improvements (cost to include sidewalk, cross-pan and asphalt.)
2. Document the hours of operation and total number of memberships for the Senior Enrichment Center.
3. The applicant, wherever spacing will allow along the new extension of Hermosa Drive, shall consider a detached sidewalk. The applicant realizes that any deviation of the City Street Standards must first be approved by City Council. (A local residential street currently calls for attached sidewalks in the City Street Standards).
4. The applicant shall demonstrate if traffic-calming measures are needed for the new extension of Hermosa Drive between 15<sup>th</sup> Street and 27 ½ Road.

A vote was called and the motion passed unanimously by a vote of 7-0.

A brief recess was called at 9:38 p.m. The hearing reconvened at 9:44 p.m.

Due to the potential for conflict of interest, Commissioner Nall recused himself from participation in the next item.

**CUP-1996-180 CONDITIONAL USE PERMIT—RIMROCK MARKETPLACE**

**An appeal of staff determination that the submittal by THF Belleville Development LLP failed to comply with the condition on the CUP by the City Planning Commission in its hearing of December 14, 1999.**

**Petitioner: THF Belleville Development LLP**

**Location: Southwest corner of 25 ½ Road and Highway 6 & 50**

**PETITIONER'S PRESENTATION**

John Rubenstein, co-petitioner, announced that Lowes HIW, Inc. had agreed to locate at Rimrock Marketplace, making the store the second major enterprise to commit to the site. He reaffirmed his commitment to the project and asked that further extension of the CUP be granted, to allow the development to move forward. It was his intent to “move dirt” by September of 2001.

Tom Volkmann, attorney representing the petitioner, briefly recalled the history of the project and its extension requests. During the last extension request on December 14, 1999, the Planning Commission had required submission of construction drawings by April 28, 2000 as a condition of continued extension. He maintained that, while not complete, a set of drawings had been submitted which represented substantial compliance. The petitioner was not asking for another extension request, he said, only the determination by the Planning Commission that compliance with the previous condition had been achieved.

**QUESTIONS**

Chairman Elmer asked how many extensions for the project had already been granted, to which Mr. Volkmann replied that three had been given. He reiterated that the current request did not represent a fourth, only the determination of whether the condition of approval for the third extension had been met.

**STAFF'S PRESENTATION**

Pat Cecil said that drawings submitted on April 28 did not meet the minimum standards as outlined in the SSID manual, as stated they should as a condition in the December 14, 1999 motion. Further, the drawings downsized the project from 430,000 square feet to 339,000 square feet, representing a major change in the plan. In addition, the previously issued CDOT permit had expired. Since CDOT had since adopted new standards, a new and extensive list of compliance criteria had been submitted to the petitioner. Traffic and drainage studies were outdated and would require resubmission and a “host of technical issues had yet to be addressed, not the least of which included easements traversing the property, which had yet to be vacated.” It was staff’s position that the petitioner had not complied with either the letter or spirit of the approval condition made on December 14, 1999, that construction drawings did not represent a “buildable” project, that substantial problems remain which had yet to be resolved, and that application for a new CUP, one which would better fit the design and scale of the current project, would be of greater benefit to the applicant and the process. Mr. Cecil asked that staff’s original determination be upheld and that the current CUP be considered “expired.”

Mr. Shaver read into the record the motion from the December 14, 1999 public hearing.

Rick Dorris said that given the content of the December 14, 1999 motion, he had determined that the drawings submitted on April 28 did not satisfy the condition as outlined in the motion. He reiterated that a number of unresolved issues still remained.

### **QUESTIONS**

Chairman Elmer asked if the CUP could even be extended a fourth time. Mr. Shaver said that no additional extension would be needed if the Planning Commission determined that sufficient compliance with the condition of the December 14 motion had occurred.

Chairman Elmer asked if modification of the current CUP could occur. Mr. Shaver said that if the Planning Commission determined that “substantial compliance” to the December 14 condition had occurred, further discussion could ensue over individual CUP condition modification. Mr. Dorris said that submitted drawings were only 66 to 75 percent complete, which did not take into consideration the lack of a CDOT permit, unvacated easements and outdated traffic and drainage studies. He noted that if staff’s determination was upheld, the petitioner must apply for a new CUP and would fall under provisions of the new Code.

Commissioner Ainsworth asked for more detail on the new traffic study. Mr. Dorris said that any new study would come under the scrutiny of, and require approval by, both the City and CDOT. He also noted that if the current CUP were upheld, the Final Plat would be subject to administrative review and would not come back before the Planning Commission.

Commissioner Prinster asked for an outline of minimum SSID standards, which was provided by Mr. Dorris. Mr. Dorris added that a myriad of other details would be added to those minimum standards as well in order to achieve a “buildable” project.

Commissioner Prinster asked Mr. Shaver to outline the criteria of a CUP, which Mr. Shaver provided.

### **PUBLIC COMMENTS**

There were no comments either for or against the request.

### **PETITIONER’S REBUTTAL**

Mr. Volkmann reiterated that he was not asking for an extension request, only a determination that substantial compliance had been achieved. He acknowledged that a lot of work still had to be done and that drawings were incomplete. The petitioner was only asking to be allowed to continue through the process under the conditions of the current CUP.

### **DISCUSSION**

Chairman Elmer asked if the project could work on a smaller scale without the frontage road extension. Mr. Dorris was unsure; the traffic study would serve to answer that and other traffic-related questions.

Commissioner Dibble asked staff for a determination on whether the drainage study would require updating. Mr. Dorris said that the previous report would not now meet current City standards. When asked if the plan change was deemed “significant,” Mr. Dorris replied affirmatively.

Chairman Elmer felt that submitted drawings did not meet the technical interpretation of the December 14 motion. He was also concerned over the dramatic changes in plan design and over the fate of the frontage road. While the petitioner tried to meet the literal intent of the motion, Mr. Dorris said that he failed to meet it by having everything in place. The concept plan should have been firmly established

and all major issues should have been addressed prior to submission of construction drawings which did not occur.

Commissioner Grout said that his intent with the December 14 motion was that submitted drawings meet minimum SSID standards. Not only did the petitioner fail to comply with that requirement, but other significant issues had since arisen. He felt that conditions of the current CUP had not been met and that staff was correct in their determination.

Commissioner Dibble expressed concern that many of the previous studies were outdated and required resubmission; that neither easements had been vacated, nor had a CDOT permit been secured also caused concern. He noted that traffic had increased significantly since the CUP had first been issued. While supportive of the project overall, he felt that the conditions of the current CUP had not been met and a new CUP should be required.

**MOTION: (Commissioner Grout) “Mr. Chairman, on item CUP-1996-180, the Conditional Use Permit for the Rimrock marketplace, I move that we find that the applicant has not satisfied the condition imposed on December 14, 1999, that being that the applicant submit a set of final design drawings by April 28, 2000, and I further move that the Planning Commission determine that the CUP and any extension previously granted has expired.”**

Commissioner Prinster seconded the motion. A vote was called and the motion passed by a vote of 5-1, with Chairman Elmer opposing.

With no further business, the hearing was adjourned at 10:45 p.m.