

GRAND JUNCTION PLANNING COMMISSION
JULY 18, 2000 MINUTES
7:07 p.m. to 11:35 p.m.

The regularly scheduled Planning Commission hearing was called to order at 7:07 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), Dr. Paul Dibble, Terri Binder, Jerry Ainsworth, Vickie Boutilier (alternate) and William Putnam (alternate). Joe Grout, Jim Nall and Nick Prinster were absent.

In attendance, representing the Community Development Department, were Kathy Portner (Acting Community Development Director/Planning Manager), Bill Nebeker (Senior Planner) and Kristen Ashbeck (Senior 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 34 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 was item RZP-2000-107. No objection was raised by planning commissioners or the citizenry.

MOTION: (Commissioner Dibble) "Mr. Chairman, on item RZP-200-107, I move we forward the request to rezone the proposed Lot 2 from PD to RSF-4 on to City Council with the recommendation of approval."

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

IV. FULL PUBLIC HEARING

GPA-2000-103 GROWTH PLAN AMENDMENT/REZONE/PRELIMINARY PLAN—THE KNOLLS FILING #'S 4-7

A request to: 1) amend the Growth Plan from Residential Medium (4-7.9 units/acre) to Residential Medium-Low (2-4 units/acre), 2) rezone the property from PD 2.7 units/acre to PD 2.5 units/acre, and 3) approval of the Preliminary Plan consisting of 80 attached and detached dwellings on 32.52 acres.

**Petitioner: O.P. Development Company, LLC
Location: South of the southeast corner of Cortland Avenue and 27 ½ Road
Representative: Banner Associates**

PETITIONER'S PRESENTATION

David Chase, representing the petitioner, introduced other members of the petitioner's design team. An overhead transparency of the Future Land Use Map, showing the site's location, was presented. Mr. Chase said that no apparent issue had been taken by staff on the Growth Plan Amendment (GPA) and Rezone requests. He briefly reviewed the Preliminary Plan request and said that primary access would be derived via Piazza Way, which intersected with 27 ½ Road. An open space area of .8 acre had been provided as Tract C off Piazza Way. Mr. Chase asked that staff condition 1 be deleted, since a pedestrian path between the patio homes to the main trail would interfere with existing wetlands. The only viable alternative, he said, existed closer to the subdivision's entrance; however, sidewalks on both sides of the street rendered the path unnecessary. He asked that condition 2 be deleted as well. Mr. Chase felt that sufficient active open space areas were available nearby in both Spring Valley and the future Matchett Park. Liability and maintenance of playground equipment would be a burden to the Homeowners Association (HOA). Mr. Chase said that all other staff conditions were acceptable.

QUESTIONS

Commissioner Ainsworth asked for clarification on where the proposed pedestrian path would be located.

Chairman Elmer asked if grading issues had been addressed. Mr. Chase said that an onsite topographic survey had been completed. In Filings 6 and 7, he acknowledged areas of substantial topography and anticipated that an extensive amount of earthwork would be required to make roadways work and to grade lots. Between Autumn Ash Avenue and Woodgate Drive, he expected lots to be terraced from the upper to the lower sides, providing the option for walk-out basements on the south side of Autumn Ash Drive. Fill would probably be required at the end of the Woodgate cul-de-sac to build up lots on the south side, again providing the opportunity for walk-out basements. Mr. Chase felt that road grades could be kept to a less than a 5 percent grade.

Chairman Elmer asked if the petitioner would be working with homeowners to the south concerning the open ditch. Mr. Chase responded affirmatively; the ditch would ultimately be piped, although that was several years away.

Chairman Elmer asked if the subdivision's property line extended to the north edge of the ditch. Mr. Chase replied that the property line actually fell along a portion of the slope going into the ditch. The ditch was primarily located to the south, with ownership falling to adjacent Spring Valley homeowners. Chairman Elmer doubted that homeowners were even aware that this property belonged to them, and he urged further communication between Mr. Chase and affected Spring Valley homeowners. Mr. Chase said that discussions were currently underway to transfer maintenance of the easement from the Grand Valley Water Users District to the City.

Commissioner Binder asked if the street leading into The Knolls subdivision was the same width as Fernwood Court. Mr. Chase responded negatively, indicating that the referenced street was “private,” with sidewalk located on only one side. He was currently working with the Engineering Department to achieve a 20-foot turnaround area.

Commissioner Binder wondered why only 8 spaces had been proposed at the end of Fairwood Court. Mr. Chase said that since it was a City-owned street, no off-street parking had been required. The spaces just provided additional parking for visitors and would help alleviate any potential parking conflicts for patio home units. He added that there were no restrictions to on-street parking.

STAFF’S PRESENTATION

Bill Nebeker said that both the GPA and Rezone requests met Code criteria. He explained that the property’s original Growth Plan future land use map designation had been in error and did not conform to surrounding densities of 2-4 units/acre. With regard to conditions 1 and 2, he said that as a Planned Development, staff always tries obtaining amenities that would not be provided with a straight zone; pedestrians would benefit from a path in that it would direct them away from interior streets. He reminded planning commissioners that the path would not be required if proven by the petitioner to be unfeasible; he added that path materials could be gravel or some other surface. The active open space area noted in condition 2 was a standard requirement for planned developments. Also subject to approval was the condition to modify the Fairwood Court standard street section. Staff recommended approval of the GPA, the Rezone, the modification to street standards and the Preliminary Plan, subject to the following conditions:

1. In the filing that contains the patio homes, the applicant shall be required to provide a pedestrian pathway between the patio homes to the main trail in Filing 3 unless justification is provided that shows why this path is not feasible at this location.
2. The applicant shall detail the active recreational facilities proposed in this park at Final Plat approval that contains the park site.
3. Prior to Final Plat approval, the developer shall ascertain if the Spring Valley property owners are beneficiaries of the irrigation easement along the south property line, hence requiring permission for piping the ditch on their property.
4. Prior to Final Plat approval, the developer shall contact the Spring Valley property owners and work out a solution on the ground cover of the piped ditch. If left in its natural state, this developer shall be required to provide an appropriate long-term cover such as native grasses.
5. The fence or wall proposed along 27 ½ Road shall be located in a tract or easement dedicated to, and maintained by, the Knolls Homeowners Association. If the wall is placed on a berm, the total height shall be no higher than 8 feet above the sidewalk. If the wall is placed on a berm, it shall meet specifications of the Public Works Department.
6. The travel lane at the end of the interior parking pods shall be increased to 20 feet of asphalt mat for fire access purposes. The applicant shall provide “No Parking Fire Lane” signage around the exterior of the paved mat around island and on the shared driveway.
7. The interior of the island in Fairwood Court, from 1 foot behind the back of the curb, shall be a tract dedicated to, and maintained by, the Homeowners Association.

8. At Final Plat approval, the applicant shall demonstrate that the shared driveway meets the requirements of the shared driveway standards in the TEDS Manual.
9. A minimum 20-foot setback is required between the lots in the patio home development and the street.
10. Every attempt shall be made to utilize the existing sanitary sewer tap in 27 ½ Road to avoid an additional cut in the road. All asphalt cuts in 27 ½ Road shall use seamless asphalt patching (infrared heating technology).
11. An indemnification agreement shall be required for discharge of stormwater into the Grand Valley Water Users Association (GVWUA) drain.

QUESTIONS

Commissioner Binder asked if the petitioner's plan to erect an 8-foot wall could be implemented without a Conditional Use Permit; she wondered if similar walls could be constructed in other parts of the City. Mr. Nebeker said that when proposed as part of a Planned Development, such a request was reviewed in the context of the overall plan. He explained that the wall being proposed by the petitioner was consistent with the wall and berm approved in earlier filings and the request was not out of character with the area. Commissioner Binder asked for a general City position, to which Mr. Shaver provided a detailed explanation. When Commissioner Binder asked about the wall's appearance, Chairman Elmer suggested that the question be directed to the petitioner during rebuttal.

Commissioner Ainsworth asked about the assumption of liability for playground equipment in the open space area. Mr. Nebeker said that the HOA would assume responsibility, with specific equipment proposed by the petitioner for staff's consideration.

Chairman Elmer asked staff if there were any standards in place for judging the proximity of a proposed development to an active open space area. Mr. Nebeker was not aware of any such standards.

When asked by Commissioner Binder if the development would be close enough to Matchett Park for children to walk, Chairman Elmer responded that they could only gain access from Patterson Road. Matchett Park was as yet undeveloped. Chairman Binder asked if there were any pedestrian paths available adjacent to the proposed development. Mr. Nebeker noted a pathway along the Ridge Drive alignment down Applewood Street, adding that Spring Valley parks were probably the closest practical alternatives for access to playground equipment.

Commissioner Ainsworth asked if any of the proposed building envelopes would be located within the airport's critical zone, to which Mr. Nebeker replied negatively. An avigation easement had previously been signed by developers.

Commissioner Binder wondered who would take care of the easement over the southern ditch when piped. Mr. Nebeker said that the ideal alternative would be to have adjacent homeowners extend their fence lines to absorb the easement as part of their backyards. That may not be practical, however, if costs to move existing fences and/or walls would make that option prohibitive. Commissioner Binder envisioned an undesirable scenario where fences were extended only by a few property owners.

PUBLIC COMMENTS

There were no comments either for or against the request.

PETITIONER'S REBUTTAL

Denny Granum, also representing the petitioner, reasserted that construction of the pedestrian path would require the removal of existing trees and foliage within the wetlands area and would also require a lot of grading. Some of the trees located near the cul-de-sac area would be relocated to the open space area and replanted. With regard to condition 2, he reiterated that direct access to the Matchett and Spring Valley parks were available via the Spring Valley Subdivision. He envisioned a more "casual" environment for the Tract C open space and again asked that the requirement for playground equipment be waived.

Mr. Granum had spoken with the GVVUA manager, who said that the irrigation easement was currently "a real mess." Piping the ditch would help solve the problem. Mr. Granum said that he would meet with homeowners to discuss the easement and expected that most would welcome the opportunity to expand their backyards. If homeowners didn't want to pursue this option, native grasses would be planted as required by staff. Referencing the wall along the north property line, he said that this was made out of concrete, incorporating indentations where trees and ground cover would be planted. The wall would ultimately be painted and coated, with vines covering it to provide a kind of "greenscape" appearance. He stressed that the community had been pleased with the project thusfar.

DISCUSSION

Commissioner Boutilier said that she was satisfied that the petitioner had proven the path unfeasible. She supported the deletion of condition 1 altogether. With regard to condition 2, she felt it important to retain consistency with other developments in the area and supported deletion of this condition as well.

Chairman Elmer supported deleting condition 2 since other park facilities existed nearby; however, he felt that condition 1 should be retained until the Final Plat stage where the petitioner would be required to demonstrate how and why construction of the path was unfeasible. Since the proposal met Code criteria and Growth Plan recommendations, he supported its approval.

Commissioner Binder also supported the retention of condition 1, especially since other pathway material options were available for consideration. She disagreed, however, with the deletion of condition 2. It was important to support more neighborhood-oriented parks; she didn't want to miss this opportunity to provide subdivision residents with a place to take their younger children. Parks, she said, shouldn't be just for older children and adults.

Commissioner Dibble asked if the Planning Commission would see the Final Plan, to which Mr. Nebeker responded affirmatively. Commissioner Dibble agreed that the pedestrian path requirement should be retained pending Final Plat review. He supported the deletion of condition 2, given the liability issue over playground equipment and the close proximity of other parks.

Commissioner Ainsworth reiterated previous concerns about an uneven fence line over the irrigation easement. He urged the petitioner to come up with an equitable solution. Mr. Shaver remarked that the petitioner was obligated to devise a solution prior to Final Plat review.

Commissioner Putnam wondered if any prediction on homeowner ages could be made with regard to parks planning, to which Chairman Elmer replied negatively. Commissioner Binder commented that School District comments did predict that a number of younger children would reside in the subdivision.

Mr. Shaver noted that the word "Works" should be added between the words "Public" and "Department" in staff condition 5.

MOTION: (Commissioner Binder) “Mr. Chairman, I move that the Commission forward a recommendation of approval to the City Council for the Knolls Filings 4-7 Growth Plan Amendment, from Residential 4-8 to Residential 2-4 dwellings per acre, with a finding that it meets the criteria established in Section 2.5C of the Zoning and Development Code; approval of the Rezone of the property from PD to PD with a maximum density of 2.5 dwellings per acre; and a modification to the Fairwood Court standard street sections.”

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

Chairman Elmer suggested a separate motion addressing just conditions 1 and 2. Mr. Shaver outlined the various options available to the Planning Commission.

MOTION: (Commissioner Binder) “Mr. Chairman, I move that the Commission approve the Preliminary Plan for the Knolls Filings 4-7 with the conditions listed in staff’s recommendations, 1 through 11 with the minor modification in wording for condition 5 as suggested by staff.”

Commissioner Ainsworth seconded the motion. A vote was called and the motion failed by a vote of 2-4, with Chairman Elmer and Commissioners Boutilier, Dibble and Putnam opposing.

MOTION: (Commissioner Putnam) “Mr. Chairman, I move that the Commission approve the Preliminary Plan for the Knolls Filings 4-7 with the conditions listed in staff’s recommendations except the second condition, and with the wording modification in condition 5 as expressed.”

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

FP-2000-104 FINAL PLAT—FOUNTAIN GREENS CONDOMINIUMS

A request for approval of a Final Plan for Fountain Greens Condominiums consisting of 59 condominium units in five buildings on 2.86 acres.

Petitioner: Fountain Greens LLC
Location: Fountainhead Blvd. and Lake Park Drive
Representative: Landesign, Brian Hart

Prior to formally opening this item, the petitioner’s compliance with notice requirements was brought forth for discussion. Several citizens complained of improper and/or non-existent notification of this item; they were allowed to come forward and speak to this issue.

CITIZEN STATEMENTS

David Courtney (727 – 25 Road, Grand Junction), adjacent property owner, said he’d missed the ODP hearing because he hadn’t received notification from the petitioner. It hadn’t been until after ODP approval that he’d heard of it and only then through a neighbor. Entered into the record were photos of the subject property and the legal sign posting. Referencing an overhead transparency of the site, he argued that the sign had been posted on the developer’s property several hundred yards from the nearest public street and was unreadable from its posted location. He wondered why he hadn’t received notification when his property was directly adjacent to the development.

Mary Hollingsworth (729 – 25 Road, Grand Junction), adjacent property owner, said that she had not received notification of the proposed development either. Roads to the south and east were blocked by

construction, and the site itself had “No Trespassing” signs on it. She felt that given these considerations, the petitioner failed to comply with the City’s requirement for proper notification.

Carmelita Portelea (705 W. Harbor Lane, Grand Junction), adjacent property owner, said she hadn’t received notification either.

Kenneth Fenton (737 – 25 Road, Grand Junction) said that he’d only heard about the current request through a neighbor. He’d surveyed other property owners located along the canal and not one of them had received notification from the petitioner. Neighbors were feeling like they were purposefully been kept in the dark.

PETITIONER’S STATEMENT

Brian Hart, representing the petitioner, began by saying that the notification area extended 200 feet from the boundary of Filing 1 (per old Code requirements); however, both he and staff had opted to expand that area to 400 feet. Unfortunately, that had not included all property owners adjacent to the outer boundary of the entire project. The Code required posting of the sign on their property, directly off a platted right-of-way, which had been done. He agreed that construction made access to the sign difficult, but to post it anywhere else would have been offsite, which constituted a violation of Code requirements.

STAFF’S STATEMENT

Bill Nebeker presented an overhead transparency of a photo depicting the sign’s posting on the subject site. Because the Code required posting the sign onsite, the petitioner was effectively in a Catch-22 situation. He agreed that the sign was difficult to read from 25 Road, but the petitioner had still met the requirement. An overhead transparency of the notification list was also presented. Although the notification area had been extended, not all of the more outspoken property owners had fallen within that area. Future filings, he said, would fall under new Code criteria, which required a notification area of 500 feet based on the exterior property line. When asked if all legal notification requirements had been met by the petitioner, Mr. Nebeker responded affirmatively.

Chairman Elmer concurred that legal requirements appeared to have been met.

Commissioner Boutilier asked when notification cards were sent to surrounding residents. Mr. Nebeker said that generally they were to be mailed no later than 10 days prior to a public hearing. While not spelled out as a requirement in the old Code, the new Code specifically addressed notification mailings.

Having determined that legal posting requirements had been met, item FP-2000-104 was formally opened.

PETITIONER’S PRESENTATION

Mr. Hart presented overhead transparencies of the Site Development Plan and Final Plat. While a 25-foot front yard setback had initially been proposed for lots along 25 Road, the variation in building envelopes would result in some portions of the building extending into that setback. He asked for variance of the front yard setback for affected encroachments since varied building placement would provide a more interesting street design. Two-story, rather than three-story units had been utilized to achieve allowed densities. The Preliminary Plan had requested side yards on both the west and north sides of the property. No rear yard had been established at that time. As part of the Final review, a side yard would be established on the west, with the rear yard designated to the north; however, in the northwest corner, one of the buildings encroached into the 10-foot rear yard setback by about 5-10 feet. A variance for this encroachment was also requested. He felt that because a community park was

planned adjacent to this area, no adverse impacts would result. In discussions with staff, these variance requests did not seem to cause concern.

Mr. Hart asked that the timeframe in staff condition 7 be extended to 2 years, to allow for additional marketing time. In addition, he asked that condition 8 be deleted since he felt that it was a redundancy. All other staff conditions were acceptable.

QUESTIONS

Commissioner Dibble wondered what the basis had been for condition 9. Mr. Hart answered that shallow groundwater existed primarily in the northern half of Filing 1 (location noted). Engineered foundations had been made a requirement for all buildings within that filing as a safety precaution, and he felt it to be a reasonable precaution for the current filing as well.

Chairman Elmer asked if the variance requests had already been incorporated into the design plan, to which Mr. Hart responded affirmatively. He noted areas where encroachments would be corrected per discussions with staff.

When asked by Commissioner Binder if placement of the condos on the Final Plat reflected the same placement as the Preliminary Plan, to which Mr. Hart replied affirmatively.

STAFF'S PRESENTATION

Bill Nebeker said that higher density pods had been required at ODP to bring the density up to a minimum of 8 units/acre. While the Final Plan changed somewhat from the Preliminary Plan, the number of units and access had essentially stayed the same. He outlined the Final Plat layout and said that minor modification was still required (per staff conditions). Since 20 feet was a standard front yard setback, staff supported the petitioner's request to vary front yard setbacks for encroaching building envelopes along 25 Road. Designating lots along the western property lines as "side yards" reduced the amount of buffering between the two-story units and the adjacent property. Having only a 10-foot setback may not be a problem provided that property owners to the west were apprised. The petitioner would be required to disclose this information to future single family lot buyers.

Staff recommended approval, including variance requests, subject to the following conditions:

1. Remove the two parking spaces from the bend in the main driveway. The spaces must be relocated onsite or a dwelling unit eliminated from the overall site.
2. Remove the stairs and encroaching portion of the building from the 10-foot side yard setback/irrigation easement along the west property line.
3. All sidewalks except those accessing individual doorways shall be increased to 5 feet.
4. Widen the 4-foot sidewalk interior to the site adjacent to the 10-space parking area to 5 feet or provide bumper blocks to eliminate bumper overhang onto the sidewalk.
5. Dimension dumpster pads and show screening of dumpsters. A 6-foot-high screen wall or fence is required.
6. Prior to Final approval of construction plans, the applicant shall submit a phasing plan of this site that details what improvements will be constructed for each phase.

7. This plan is valid for two years from Final approval. The approval blocks on the plans shall be revised to reflect this timeline.
8. The Development Improvements Agreement (DIA) for the project shall guarantee restoration of the undeveloped portion of the site with a native seed mix and irrigation.
9. Place a note on Final Plans denoting that engineered foundations will be provided.
10. Place “caliper” on landscape plan as size on deciduous trees.

QUESTIONS

Commissioner Binder asked for staff’s definition of “stockade” mentioned in the staff report. An explanation was given.

Commissioner Ainsworth asked for clarification on the condo construction. Mr. Nebeker said that the two buildings adjacent to Fountainhead would be constructed first, with the other three to be constructed later.

Chairman Elmer asked if the developer had been the one to designate side and rear yards. Mr. Nebeker said that during Final review, the developer had chosen which of those two side yards would become a rear yard. No variance of side yard setbacks was being requested.

PUBLIC COMMENTS

FOR:

There were no comments for the request.

AGAINST:

David Courtney (727 – 25 Road, Grand Junction) retrieved his previously submitted photos and offered no further testimony.

Mary Hollingsworth (729 – 25 Road, Grand Junction) felt that the density was too high and had been pushed through without input from surrounding residents. She predicted that future residents to the west would object strongly to their loss of privacy from the two-story units. She objected to the construction of the condo units first, stating that a 20-foot separation between structures along the western boundary was insufficient. She expressed approval for the petitioner’s requirement of engineered foundations and the variance of setbacks along the eastern boundary. Ms. Hollingsworth said that the petitioner had not honored their Preliminary Plan requirement to keep construction traffic off Fountainhead Boulevard; she was constantly being awakened by construction truck traffic along that road as early as 6:30 A.M. She asked why 25 Road been closed? She noted that she’d been experiencing utility interruptions and wondered if she would have to continue enduring those inconveniences until the last filing was completed. She feared her property’s value would be negatively impacted, and she objected to the amount of dust generated by the construction from the fill brought onto the site. Referencing the pond to the north, she said that the petitioner’s plan was to construct it to a depth of 15 feet but he expected that only 2 feet of water would fill it. She thought this would be an “eyesore” to the neighborhood.

PETITIONER’S REBUTTAL

Tony Bottagaro, representing the petitioner, reiterated that the petitioner had complied with the conditions of the Preliminary Plan and posting requirements. He said that the development would be an asset to the community, noting that the density of the project had been reduced as far as possible within the zone constraints. Construction of the condos first should eliminate any unexpected “surprises” and

give adjacent property and lot owners ample time to acclimate. The plan, he reiterated, had always called for two-story units, but that too was consistent with zone constraints.

Ed Lenhart, representing the petitioner, passed out copies of renderings depicting how units would look when constructed. The current plan provided for greater aesthetics, security, quality landscaping design, and a greater sense of community. The project fit in well with the surrounding area, and he reemphasized that engineered foundations were appropriate for buildings of the size proposed.

Terry Farina, representing the petitioner, said that all relevant issues had been satisfactorily addressed. Only the market, he said, could determine the development’s success.

DISCUSSION

Commissioner Binder asked about legal remedy for residents with regard to the dust, noise and construction traffic issues. Mr. Shaver said that those were Code enforcement issues, which could be brought to the attention of the City’s Code Enforcement Department.

Chairman Elmer felt that plan changes had actually improved the development’s overall design. Since the Final met conditions of Preliminary Plan approval, he expressed support subject to staff’s conditions as modified earlier.

Commissioner Binder commended the petitioner for his willingness to construct condo units first. She agreed that it would eliminate the “surprise factor” that many residents experienced when buying their single-family lots.

Commissioner Putnam expressed his support for the request as well.

When asked by Commissioner Ainsworth if it were common to use condos to bring up a development’s density, Chairman Elmer answered that increased densities were often achieved via mixed-use development proposals.

MOTION: (Commissioner Putnam) “Mr. Chairman, on item 2000-104, I move that we approve the Final Plan for the Fountain Greens Condominiums subject to the staff’s recommendations and conditions, including the combination of conditions 7 and 8, modified to 2 years, and as otherwise discussed.”

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

A brief recess was called at 9:45 p.m. The hearing reconvened at 9:55 p.m.

PP-2000-106 ZONE OF ANNEXATION/PRELIMINARY PLAN—WHITE WILLOWS SUBDIVISION

A request for: 1) approval of the Zone of Annexation from County AFT to a City RSF-4 zone district, and 2) approval of the Preliminary Plan for White Willows Subdivision consisting of 122 single family lots on 39.56 acres.

**Petitioner: L.A. Enterprises, Gene Patnode
Location: 2851 D Road
Representative: Banner Associates**

PETITIONER'S PRESENTATION

David Hartman, representing the petitioner, said that the request has three main issues: 1) density, 2) traffic and 3) Florida Street right-of-way. The overall project density is 3.1 units/acre. The petitioner has enlarged the lots along the western boundary slightly decreasing the density and providing a more equitable transition to the west. Mr. Hartman said that no open space is proposed; however, none was required for developments within straight zones. The Florida Street right-of-way would be relocated to align with the current water/sewer lines. A second traffic study had been undertaken and submitted to staff. Its findings stated that the proposed development would not significantly impact traffic along D Road. The development would impact the 9th Street/D Road intersection only insofar as it reduced the Level of Service (LOS) from B to C. Mr. Hartman said that all staff conditions and recommendations were acceptable to the Petitioner.

STAFF'S PRESENTATION

Bill Nebeker presented an overhead transparency of the Preliminary Plan and provided a brief history of the project. He confirmed that the submitted traffic study indicated no significant decrease in LOS along D Road. With this, staff supported the RSF-4 density request, noting that 3.1 units/acre was in the mid-range of the Growth Plan. The Florida Street realignment made sense, but he added that Florida Street would not connect with 29 Road until adjacent property developed. Road widening along the project's frontage would allow for safe ingress/egress. Staff recommended approval of the Zone of Annexation and approval of the Preliminary Plan subject to the following conditions:

1. A 6-foot-high solid fence shall be constructed by the developer along the D Road frontage behind a 5-foot-wide irrigated and landscaped setback, with trees and shrubs provided by the developer in a tract or easement. The tract or easement shall be conveyed to the Homeowner's Association for maintenance.
2. Provide road width transition tapers per Table 10, page 31 of the TEDS Manual, east and west of proposed improvements along the D Road frontage.

QUESTIONS

Chairman Elmer asked for the definition of the term "Level of Service," which was given by Kent Marsh. Mr. Marsh added that even projected impacts to the D Road/9th Street intersection were borderline on whether a problem resulted.

Commissioner Binder wondered how far the nearest park was from the proposed development. Mr. Nebeker said that the nearest park was probably at the riverfront off of 7th and 9th Streets. He noted that under the new Code there would be a 10 percent land dedication requirement for open space in straight zones; however, this development was proposed under the provisions of the old Code.

When Commissioner Ainsworth asked staff if larger lots to the west provided better transitioning, Mr. Nebeker replied affirmatively.

Commissioner Dibble asked if the traffic study had required a decel lane into the project. Mr. Marsh said that the traffic study recommended a center turn lane, a right-turn decel lane and an accel lane. The City's traffic engineer opted to delete the accel lane. Instead, the petitioner would agree to construct a major collector street section across the length of the property's frontage without curb and gutter.

Chairman Elmer asked if Code-required street improvements would still be constructed. Mr. Marsh answered affirmatively, adding that the City would also be receiving TCP monies.

Commissioner Dibble wondered what would trigger the need for curb and gutter along D Road. Mr. Marsh noted the vast expanse of frontage along D Road without curb and gutter. If required for this project, there would be nothing for it to tie into. Construction of such improvements may be undertaken by the City and/or County out of CIP budgets at some future date.

PUBLIC COMMENTS

FOR:

There were no comments for the request.

AGAINST:

Mark Fugere (382 Evergreen, Grand Junction) took issue with the traffic study. He maintained that it had been undertaken at a time when school was out. He objected to the lack of either short- or long-term mitigation of the 9th Street/D Road intersection. Public safety, he said, was at risk and the City's liability could be called into question if development approvals resulted in increased accident rates. He said that the City's decisions should not harm existing residents.

Larry Caster (no address given) wondered if the City had checked into the area's floodplain boundaries to ensure that building envelopes did not encroach.

Jack Buford (386 Evergreen, Grand Junction) expressed continued concern about traffic. He agreed that traffic study results seemed suspect if undertaken when school was out. He wondered about combined traffic impacts from other developments pending approval? He noted that traffic was already stacked two and three deep trying to get onto D Road from existing subdivisions. It would be more responsible, he said, for the City to postpone approval of the development until a remedy to the traffic problem could be found. Traffic problems would be further exacerbated with construction of the 29 Road extension. He also wondered why the fence originally proposed to extend along the western property boundary had been eliminated.

Donita Faust (390 Evergreen, Grand Junction) felt that the traffic study was inaccurate and the proposed development incompatible with the surrounding area. The project's density, she said, was incompatible with the adjacent Pine Forest Subdivision.

PETITIONER'S REBUTTAL

James Bowen, representing the petitioner, felt that the fence was no longer needed since lots along the western boundary had been enlarged. Homes would be upscale, with sizes ranging from 1,200 to 2,000 square feet.

Mr. Hartman added that floodplain boundaries had been checked; no building envelope encroachment had been found. The project, he reiterated, provided a good transition of densities from east to west. With regard to comments made about the traffic study, the study actually reflected higher traffic counts since school let out. Counts had been taken over various times of the year, with figures integrated into the report. The report also took into account long-range development of the area and City/County CIP plans. While recognizing and acknowledging the traffic problem along D Road, it was unfair to place the burden of mitigation at the feet of only one developer.

DISCUSSION

Mr. Marsh confirmed that traffic counts had been taken at peak hours over the course of the year, without much fluctuation noted between summer months and the school year. He felt that the data received was both sufficient and reliable in its analysis.

Commissioner Binder wondered if capital improvements along D Road would be the City's responsibility. Mr. Marsh said that D Road was under County jurisdiction, with the County providing paved shoulders and some widening. Project improvements along D Road were expected to make little improvement to traffic flows along D Road.

Commissioner Ainsworth said that traffic mitigation along D Road went beyond the level of the Planning Commission; it would be more appropriately addressed by City Council. Mr. Shaver said that the Growth Plan also provided guidance.

Commissioner Boutilier appreciated submission of the new traffic study and said that it helped staff and planning commissioners to be more informed.

Commissioner Dibble concurred with comments that the traffic issue went beyond the purview of the Planning Commission.

Chairman Elmer said that both the City and County are currently analyzing the area's traffic issues. With regard to the project request, planning commissioners need to determine if 4 units/acre were more appropriate than 2 units/acre.

Commissioner Ainsworth asked if perimeter fencing or buffering could be made requirements along the western boundary. With regard to fencing, Mr. Shaver said that the answer could be "yes," however, the old Code did not require it in straight zones. He added that the new Code had not been amended to include fencing as a requirement for straight zones. Likewise, he said, the City could not lawfully impose additional buffering requirements for a straight-zoned project under the former Code.

Chairman Elmer asked the petitioner's representatives if they would agree to erect the fence along the west property line as requested by adjacent residents. Mr. Hartman said that given other concessions made and the presence of an irrigation ditch that would pose a conflict, the petitioner preferred not to erect the fence.

When asked by Commissioner Dibble if irrigation water delivery should be addressed, Chairman Elmer said that this was an issue not within the purview of the Planning Commission because of the provisions of the old Code.

Chairman Elmer remarked that it would be nice if the petitioner provided for fencing along the western property line even though not required by Code. He expressed support for the Preliminary Plan.

MOTION: (Commissioner Dibble) "Mr. Chairman, on item PP-2000-106, the White Willows Subdivision, I recommend that the Commission forward to the City Council for approval the Zone of Annexation of RSF-4."

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

MOTION: (Commissioner Dibble) "Mr. Chairman, I recommend the Commission approve the Preliminary Plan with the following conditions as outlined by staff."

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

CUP-1996-180 A REQUEST FOR REHEARING—RIMROCK MARKETPLACE

A request for a rehearing of a denial of an appeal by Planning Commission on June 13, 2000.

Petitioner: THF Belleville Development, L.P.
Location: 25 ½ Road and Highway 6 & 50
Representative: Tom Volkmann

PETITIONER'S PRESENTATION

Tom Volkmann, representing the petitioner, said that a rehearing of the request would allow planning commissioners to consider the request in greater detail. While significant progress had been achieved and new information was now available, he contended that submitted drawings had not been given sufficient review.

QUESTIONS

Commissioner Dibble asked what facts had changed since the last public hearing. Mr. Volkmann said that since then, the petitioner had met with both City staff and CDOT representatives and an access permit for one of the project's accesses had been received.

Chairman Elmer said that the primary issue from his perspective is whether the petitioner's had demonstrated "substantial progress" by the April 28, 2000 deadline. Even if the petitioner were able to meet the requirement today, the fact remained that both staff and the Planning Commission had determined that the requirement had not been met as of the April deadline.

Mr. Shaver read for the Commissions reference a section out of the new Code regarding rehearing criteria.

STAFF'S PRESENTATION

Kristen Ashbeck said that the plan had substantially changed and that a large quantity of new information had been received. Many of the issues outlined in the previous hearing had still not been addressed (e.g., vacation of easements, frontage road status). She reminded planning commissioners that in a rehearing no new information could be introduced, only the information available at the time the decision had originally been rendered. Staff recommended denial of the rehearing and suggested that the project be resubmitted for review under the new Code, and that a new CUP application should be made.

PUBLIC COMMENTS

There were no comments either for or against the request.

PETITIONER'S REBUTTAL

Mr. Volkmann read into the record a section of testimony from Rick Dorris, City Development Engineer (12/14/99 minutes, page 4, 7th paragraph) where Mr. Dorris acknowledged that the review process "...would probably take longer than 90 days."

DISCUSSION

Significant discussion was held about the constraints imposed upon the Planning Commission when considering a rehearing. Mr. Shaver reemphasized that in a rehearing no new information could be considered. Given that only old information could be heard (that which had already been heard) planning commissioners concluded that sufficient consideration had been given to the request and that proper review of submitted materials had been made. If heard again, most agreed that their decision would be the same. The only variation from this position was Commissioner Ainsworth, who felt that the project was important enough that the petitioner should be given every possible opportunity to state his case.

MOTION: (Commissioner Dibble) “Mr. Chairman, I would recommend that we rehear the presentation of the applicant on the specific item as outlined in his request based on the failure of the petitioner to demonstrate that they met the criteria for the rehearing.”

Commissioner Binder seconded the motion. A vote was called and the motion failed by a vote of 1-5, with Commissioner Ainsworth in favor and Chairman Elmer and Commissioners Dibble, Boutilier, Putnam and Binder opposing.

V. GENERAL DISCUSSION

Kathy Portner apprised planning commissioners of a breakfast meeting with City Council members on Wednesday, July 26, 2000 at 7:30 A.M. at Two Rivers Convention Center.

A workshop was planned for City Council, Planning Commission and 24 Road Steering Committee members on July 31, 2000 at 7:00 P.M. at Two Rivers Convention Center.

With no further business, the hearing was adjourned at 11:35 P.M.