

**GRAND JUNCTION PLANNING COMMISSION
OCTOBER 10, 2000 MINUTES
7:05 P.M. to 11:35 P.M.**

The regularly scheduled Planning Commission hearing was called to order at 7:05 P.M. by Vice-Chairman Joe Grout. The public hearing was held in the City Hall Auditorium.

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

In attendance, representing the Community Development Department, were Pat Cecil (Development Services Supervisor), Kathy Portner (Planning Manager/Acting Community Development Director), Lori Bowers (Associate Planner), Bill Nebeker (Senior Planner), Tricia Parish (Associate Planner), Joe Carter (Associate Planner) and Kristen Ashbeck (Senior Planner).

Also present were John Shaver (Assistant City Attorney), Stephanie Rubinstein (Staff City Attorney), Kent Marsh and Rick Dorris (Development Engineers) and Ivy Williams (Code Enforcement Supervisor).

Terri Troutner was present to record the minutes.

There were approximately 33 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

Pulled from the agenda were items VR-2000-166 (Vacation of Right-of-Way, The Estates) and VR-2000-169 (Vacation of Right-of-Way, Martin Subdivision).

III. CONSENT AGENDA

Offered for placement on the Consent Agenda were items CUP-2000-162 (Conditional Use Permit, Junction Bell Credit Union), VR-2000-149 (Vacation of Right-of-Way, Mesa County Library), FP-2000-126 (Final Plat, Renaissance in the Redlands Filing 2), FPP-1999-182 (Final Plat/Plan, Indian Wash II Subdivision - Time Extension), VE-2000-160 (Vacation of Easement, Trolley Park), FPP-1999-226 (Final Plat/Plan, Miller Homestead Filing 1 - Time Extension), VE-2000-161 (Vacation of Easement, Omega Business Park II), FP-2000-159 (Final Plan, Mays Concrete Precast Manufacturing) and CUP-2000-163 (Conditional Use Permit, Coloramo Federal Credit Union). No objections were raised by either the audience or planning commissioners.

MOTION: (Commissioner Binder) "Mr. Chairman, I move that we approve the Consent Agenda with the addition of the Final Plan for Mays Concrete Precast Manufacturing."

Commissioner Prinster seconded the motion. A vote was called and the motion passed unanimously by a vote of 5-0.

IV. FULL PUBLIC HEARING

TAC-2000-001.1 TEXT AMENDMENT CODE—FERAL CATS

A request for approval of an amendment to Section 4.3.A.4, Household Pets, of the Zoning and Development Code to address the harboring of feral cats.

Petitioner: City of Grand Junction
Location: City-wide
Representative: Stephanie Rubinstein

STAFF’S PRESENTATION

Stephanie Rubinstein said that approval of the text amendment would permit registered participants to care for more than three cats, provided that these persons followed the requirements set forth by Community Cat Care. She said that the Code currently limited the number of household pets to three per species. Thus, persons who fed more than three adult feral cats could be in violation of the Zoning and Development Code, even if the cats did not live with those persons, if the cats returned for food to that residence. A person registered as a participant of the Community Cat Care program would not be subject to the maximum three-cat code provision. Ms. Rubinstein said that the organization sought to end the suffering and inhumane treatment of feral cats through the stabilization of their populations. Persons registered with the organization would, among other things, screen the cats to determine that they did not have owners. The cats would also be vaccinated and spayed/neutered.

She said that while City Council was supportive of this effort, there were concerns over enforcement when the City received complaints of free-roaming cats. Other issues which planning commissioners were asked to discuss included: 1) limiting the number of cats per property; 2) should there be any neighborhood input allowed; and 3) should the number of registered Community Cat Care participants be limited per neighborhood.

The proposed Code amendment, revising Section 4.3.A.4, reads:

- d. Persons who are registered participants of the Community Cat Care program shall be exempt from the requirements of subsection a. above, with regard to cats only. This exemption shall apply to cats that have been screened by Community Cat Care and have been determined to be unowned and feral. Additionally, these cats shall be spayed or neutered and the assigned caretaker shall keep all current vaccination records.
- e. Persons found to be in violation of any of the requirements of subsection d. above may be prosecuted under any applicable city of Grand Junction ordinance.

In addition to the above-proposed amendment, Ms. Rubinstein said that City Council would also consider an amendment to the Animal Control Regulations to require that registered participants of Community Cat Care have the cats that they are caring for vaccinated.

Ms. Rubinstein said that staff supported the proposal and recommended approval. She also referenced a letter of support received by Patricia Uelmen (254 ½ East Lynwood Street, Grand Junction).

QUESTIONS

When asked if the proposed regulation applied only to cats, Ms. Rubinstein replied affirmatively, adding that it applied only to this organization as well.

PUBLIC COMMENT:

FOR:

Krista Kuzminski (2330 E Alcove, Grand Junction) said that she had been working diligently to organize a local chapter of Community Cat Care. The organization would work with the area's veterinarians to get feral cats spayed/neutered and vaccinated. She said that feral cats were often abused, neglected and killed by those who were offended by their mere existence. While good intentioned, people who feed these cats usually ended up with increased feral cat populations. The spaying/neutering of these animals would ultimately result in diminished populations. Vaccinating the cats would also help curb the spread of disease. She reemphasized that applicants would be screened and records would be kept on each animal.

Barbara Metsker (2007 Manor, Grand Junction) said that she'd already received 50-75 calls from those interested in the program. Caretakers needed the type of assistance that this organization could provide. Once implemented, cats would be given addresses and paperwork would be kept by the caretaker. She reiterated the organization's intent to initiate a vaccination program; sick animals would be put down to help prevent the spread of disease within the cat population. She said that this request represented a humane solution to a real community problem.

AGAINST:

There were no comments against the request.

QUESTIONS

Commissioner Dibble asked the proponents for their opinions on limiting the numbers of feral cats per colony or neighborhood. Ms. Metsker asked that numbers not be limited since it was difficult to determine how many animals resided within a given colony. While relocation of animals was a possibility, she said that was not the focus of the organization. She felt that spaying/neutering the cats would limit their numbers naturally. While rare, homes might even be found for some of them.

Commissioner Dibble asked if colony locations were already known. Ms. Metsker said that calls had been received from all over Mesa County. Once the program was implemented, she would better know what the numbers are. She didn't think that limiting animal numbers would be feasible.

Commissioner Prinster wondered how the organization would screen its applicants. Ms. Metsker said that while people often had the funds to feed the animals, they could not afford the spay/neuter and vaccination fees. This program would help in that effort. She said that that when calls are received, humane traps and instructions on how to set them would be given to caretakers. Area veterinarians would help conduct spay/neuter clinics. Caretakers would return the animals to their original location(s). When asked about limiting colony numbers, Ms. Metsker said that while her preference was not to limit colony numbers, she would defer to the Planning Commission's determination.

When asked to clarify the application of the text amendment, John Shaver noted that the amendment applied only to this organization and no other. Adoption of this provision would not negate the currently existing Code section regarding the keeping of pets; those wanting to participate in the program would have to register.

Ms. Kuzminski interjected that colony records would also be kept with area vets. Ms. Metsker said that cats participating in the program would be further identified through the use of "ear tipping."

Commissioner Binder asked about the average life expectancy of a feral cat. Ms. Metsker said that life expectancies are short, generally 2 to 7 years. When asked how often the animals would be vaccinated, Ms. Kuzminski answered that they would be vaccinated approximately once every 3 years.

Ms. Metsker said she understood the anger and frustration of those dealing with unmanaged colonies. She was in the process of designing a pamphlet on the organization for community distribution.

Commissioner Dibble wondered if proponents received calls from residents complaining of feral cat colonies. Ms. Metsker responded affirmatively. In the downtown area, she said that individuals and business owners were reportedly poisoning the cats and abusing them. She was saddened not only by these activities but also by the fact that the attitudes of such people probably could not be changed.

Commissioner Dibble wondered if there would be any control measures put into place over colonies located in neighborhoods where people didn't want them. Ms. Metsker asserted that ours should be a society of tolerance and compassion. Removing the cats from their territories or killing them would never solve the underlying problem since more would move in, replacing those which had gone.

DISCUSSION

Mr. Shaver said that this organization constituted a surrogate ownership; ownership of the animals where none previously existed. He maintained that greater control over animals in general came when some form of ownership was established. The only way to have responsible pets, he said, was to have responsible owners. He suggested adoption of the text amendment with a sunset provision, at which time the proponents would be required to present verifiable documentation of the program's success. Extension of the text amendment could be discussed at that time.

Mr. Shaver's advice was met with general assent by planning commissioners. After a brief discussion over a suitable timeframe, planning commissioners decided that two years would give proponents ample opportunity to collect documentation and gauge success of the program. Commissioner Binder requested that a report be delivered to the Planning Commission prior to expiration of this two-year period.

Commissioner Dibble said that the willingness of this organization to share in the responsibility of these animals was a worthy endeavor. He expressed support for the request.

Commissioner Nall recalled his own experiences with feeding stray animals and appreciated knowing that there could now be a way caretakers could receive assistance.

Commissioner Prinster said that he'd had problems in the past with feral cats and empathized with the frustrations expressed by local citizens. He was pleased to see such a cooperative effort between Community Cat Care and the City and he, too, expressed support for the text amendment. He also supported Commissioner Binder's suggestion for an interim report and Mr. Shaver's suggestion of sunseting the original approval. The City, he said, needed to gauge whether this program would provide a long-term solution.

Commissioner Dibble said that when Code Enforcement received complaints from the community, he wondered who made the decision on how a situation was handled. Mr. Shaver said that the enforcement official made that decision. Ms. Rubinstein said that rarely was a ticket ever issued on the spot. In the instance of feral cat complaints, Community Cat Care representatives would be contacted.

Commissioner Binder wondered if complaining residents would be notified if a colony turned out to be registered with Community Cat Care. Mr. Shaver said that quite possibly they would. Ivy Williams added that organization representatives would talk with the complaining neighbors. If those neighbors still objected to the presence of a colony, she agreed that it could pose an enforcement dilemma.

MOTION: (Commissioner Binder) “Mr. Chairman, on item TAC-2000-001.1, I move that we forward the amendment to Section 4.3.A.4 of the Zoning and Development Code to allow the harboring of feral cats with the recommendation of approval with an additional clause stating that we will hear back from Community Cat Care within 24 months from the effective date of the ordinance with an interim report to be given to Planning Commission within 18 months.”

Commissioner Dibble seconded the motion. A vote was called and the motion passed unanimously by a vote of 5-0.

PP-2000-127 PRELIMINARY PLAN—DESERT TRAILS CONDOS

A request for approval of a Preliminary Plan for Desert Trails Condominiums consisting of 7 units in a PD (Planned Development) zone district.

Petitioners: Ben and Faith Hill
Location: 373 Ridges Blvd.
Representative: Atkins & Associates/Richard Atkins

PETITIONERS’ PRESENTATION

Ben Hill, (545 W Greenwood, Grand Junction) co-petitioner, presented an overhead of the Preliminary Plan. All previous staff and public concerns, he said, had been addressed. He noted the realignment of the emergency access lane, which now met Fire Department standards. One tree would be eliminated (location indicated). He’d met with the Desert Ridge Condominium Homeowners Association (HOA) and clarified ownership of the common element area. An agreement had been drafted between the HOA and himself, a copy of which had been submitted to staff. Important elements addressed in the agreement included the following:

1. Any necessary improvements would be paid for at his expense.
2. Any removal or disturbance of existing asphalt or other infrastructure would be returned to same or better condition following construction.
3. Clarification of drainage patterns.
4. No intended use by any Desert Trails Condo resident of the Desert Ridge Condo pool.

He said that the biggest concern expressed to him had actually been over tree placement. He felt that with mitigation of outstanding concerns, the plan was much better overall.

STAFF’S PRESENTATION

Tricia Parish said that the request met Code criteria and Growth Plan requirements. She concurred that staff and Planning Commission concerns had been addressed. Public concerns seemed also to have been addressed. The realignment of the emergency access, she said, was the only significant change to the overall plan. Staff recommended approval subject to the following conditions:

1. A Final Plat shall be submitted as part of the Final Plat/Plan for this project, showing Lot 17, Filing 4, Block 11 of the Ridges as two lots; one showing Desert Ridge Condominiums and the other the proposed Desert Trails Condominiums. That Final Plat shall show the ingress/egress easements for Desert Trails Condominiums as well as any existing easements that exist on the property. Use of the general common element and limited common element shall be clarified with this Plat.

2. The petitioners shall contact the Fire Prevention Office for assistance in locating the “No Parking Fire Lane” signage.
3. The fire flow information shall be provided to the Fire Department. A 1,500 GPM minimum shall be provided at the new fire hydrant location. Documentation stamped by a licensed engineer is required.
4. A rock fall study shall be undertaken by the petitioners and conducted by a Colorado-licensed geologist and submitted to the City Development Engineer for review and approval.

QUESTIONS

Commissioner Dibble asked if there had been any resolution over drainage concerns. Ms. Parish said that the initial plan had met Code criteria in that regard.

Rick Dorris clarified that during the Preliminary Plan stage it was necessary for the petitioners to identify the presence of required elements only. Refinement of their placement or details regarding them would be further addressed during Final review. He confirmed the necessity of a rock fall study by a licensed geologist. It was understood that problems arising from findings of the study must be mitigated by the petitioners.

PUBLIC COMMENTS

FOR:

Lynn Campbell (373 Ridges Blvd, Grand Junction) said that he'd attended a meeting with Mr. Hill. With the elimination of the one tree and the agreement drafted between the petitioners and the Desert Ridge Condo HOA, the majority of residents in the area were satisfied.

AGAINST:

Ken Bundy (373 Ridges Blvd, Grand Junction) said that he'd served as Director for more than six years with the Ridges Metro District. He felt that there was still an issue over whether the petitioner had legal ownership of the subject property. Recalling his involvement with the Metro District, he thought that the land outside the District's boundaries still belonged to the City and had been designated as open space. He urged resolution of this issue prior to any approval of the project.

PETITIONERS' REBUTTAL

No rebuttal testimony was offered by the petitioners.

DISCUSSION

Vice-Chairman Grout asked legal counsel if he was satisfied with staff's conditions. Mr. Shaver responded affirmatively. Mr. Shaver stated that he, Ms. Parish, Ms. Portner, Mr. Hill and the petitioner's surveyor had met to discuss the very difficult title history of the property. Because of the unclear title history, the petitioners would file a Plat. Mr. Shaver described how the parcel had been created by an exception deed. He confirmed the existence of lot 17, the area mentioned by Mr. Bundy. Mr. Shaver said that if a question over boundary lines existed, that represented a purely a civil matter. While acknowledging that the City had not undertaken a survey of the property in question, he saw no reason why the request should not move forward with the current conditions.

Vice-Chairman Grout concurred but requested that staff bring the Final Plat before the Planning Commission for final review since there still seemed to be several unanswered questions. He asked the petitioner if condition 4 requiring the rock fall study posed any problem, to which Mr. Hill replied negatively.

Commissioner Prinster asked if the subject property is within a floodplain. He wondered whether there is any danger of flooding? Mr. Dorris said that the property did not lie within a historic flow path and any residual flows would be picked up by the swale. He said that the petitioners will not exacerbate existing conditions.

MOTION: (Commissioner Binder) “Mr. Chairman, on item PP-2000-127, I move that we find the project consistent with the Growth Plan, the Amended Final Plan for the Ridges, and the Zoning and Development Code, and that we approve the Preliminary Plat/Plan for Desert Trails Condominiums with staff’s recommendations with the addition of a fourth condition of approval to require a rock fall study on the property to see if mitigation is necessary and with Planning Commissioner hearing the Final Plan.”

Commissioner Prinster seconded the motion. A vote was called and the motion passed unanimously by a vote of 5-0.

A recess was called at 8:25 P.M. The hearing reconvened at 8:30 P.M.

FPP-2000-157 FINAL PLAT/PLAN—VILLAGE PARK FILING #1

A request for approval of the Final Plat/Plan consisting of 3 commercial lots and 44 single-family lots in a PD (Planned Development) zone district.

Petitioner: Peak Properties & Development, Bob Walker
Location: Northwest corner of 28 ¼ and F Roads
Representative: LANDesign, Brian Hart

PETITIONER’S PRESENTATION

Brian Hart, representing the petitioner, referenced an overhead visual of the Final Plat. The Final Plat reflected the loss of one lot. A couple of dimensional changes had occurred as well. Mr. Hart requested additional discussion and reconsideration of staff conditions 2, 3 and 4. The petitioner felt that landscaping of the parkway strip on the west side of 28 ¼ Road was being required as part of an upgrade to street standards. Since the City had entered into a cost-share agreement with the petitioner on street upgrading, he asked that the same cost-share consideration be extended to installation of landscaping improvements for this area. Mr. Hart clarified that the 7-foot fence requested by the petitioner and referenced in condition 3 was for buffering a single property owner only. The rear yard topography for that particular property owner was depressed about 8 inches. Thus, installation of a 7-foot fence would appear to all who passed by to be a 6-foot fence. The biggest issue revolved around the verbiage of condition 4. He said that approval for the Preliminary Plan had been given to the project which allowed all B-3 uses except those requiring a Conditional Use Permit (CUP). The notation in parentheses in condition #4 referencing the R-O zone seemed to negate the allowances given by this prior approval.

Richard Livingston, legal counsel representing the petitioner, said that the Final Plan represented the mitigation of prior staff and community concerns. Focusing primarily on condition 4, he read the definition of a Planned Development from the old Code. Since the Preliminary Plan had been approved with B-3 uses, he was not comfortable with the current verbiage which seemed to rescind prior approval parameters. References to the R-O zone, he felt, were inappropriate, unreasonable and improper. Based upon Preliminary Plan approval, he said that any B-3 use proposed for the site would fall under Planning Commission scrutiny. He suggested, instead, the following verbiage: “All buildings on the commercial and multi-family sites within Village Park Filing #1 shall be compatible with the adjacent developments.”

The petitioner, he said, had expended extra effort in ensuring compliance and compatibility with surrounding uses.

Emery Host, President of Peak Properties and co-petitioner, reiterated that the primary issue with condition 2 was over who should pay. He acknowledged that once installed, landscaping would be maintained by the subdivision's HOA or the developer. Mr. Host said that he'd been completely surprised by staff's inclusion of condition 4 and asked that original approval conditions be honored. He suggested amending Mr. Livingston's proposed verbiage, to read: "All buildings on commercial and multi-family sites shall be compatible and integrated with each other. This condition will apply to the three commercial lots and the multi-family site showing each respective site plan application in Planning Commission hearings."

QUESTIONS

Commissioner Prinster asked for clarification on the 7-foot fencing; clarification was provided. Mr. Hart said that he didn't care either way whether condition 3 was approved; he suggested further consideration on behalf of the one property owner who'd requested it. When Commissioner Prinster asked if he'd spoken with other property owners about the 7-foot fence, Mr. Hart replied negatively, adding that only one person had requested it; the overall appearance and height of the entire fence would be uniform.

Commissioner Nall asked for clarification on why the petitioner felt that additional consideration should be given to condition 2. Mr. Hart reiterated that the landscaping strip would not have been required if the street had been constructed according to basic street standards. Since the City had requested an upgraded street section and had agreed to pay a portion of costs, it seemed reasonable that they would also participate in the cost of other improvements necessitated by the upgrade.

When asked by Commissioner Prinster if condition 4 was the petitioner's primary focus of concern, Mr. Livingston responded affirmatively. The definition of "compatibility" seemed to be at issue and was defined differently between staff and the petitioner. There was no way to know what future uses might be proposed for the commercial site, but he reaffirmed that Planning Commission would have the final say in determining the compatibility of any use proposed.

STAFF'S PRESENTATION

Bill Nebeker read condition 4 into the record as amended in his October 10, 2000 memorandum. He agreed that more discussion should probably have been undertaken prior to the public hearing, but he pointed out that the petitioner had not asked for a continuance. Referencing condition 5, "substantial conformance" had been replaced by staff's acknowledgment that "general conformance" was sufficient. With regard to cost-sharing of landscaping costs in the parkway strip along 28 ¼ Road, the City did not have funds available to participate in this endeavor. If the City participated at all, it would be in conjunction with the development of Matchett Park. Mr. Nebeker said that upgraded standards were necessary to better ensure a quality development. He suggested the petitioner contact the City about its street tree program which offered free trees to those who qualified.

Mr. Nebeker expressed frustration over the petitioner's lack of foresight in the development of the commercial lots. He said that since no tangible plan had been submitted with the project, condition 4 at least laid down some basic parameters by which all future uses must adhere. If architectural character weren't restricted in some way prior to approval, any stand alone B-3 allowed use could be placed on the commercial lots. Staff felt that without the character having first been defined, this allowance was too broad. The Patterson Road corridor is primarily residential and should remain as such. Any commercial use proposed for this site, he said, should be compatible with the surrounding area and reflect the same residential character.

Further, while limited to a building size maximum for all three commercial lots of 24,000 square feet, actual uses may deviate from the maximum building sizes noted for each lot on the Preliminary Plan. If not defined at the time of approval, future buyers of these lots wouldn't know their building size limitations or signage allowances. He recommended amending the third sentence of condition 6 to include a 35-square-foot maximum signage allowance for Lot 1, and 70 square feet for the sign located on Lot 3.

Photos of multi-family units submitted by the petitioner during preliminary plan approval were referenced as Exhibit A. Without tying commercial development to some form of architectural styling compatible with Exhibit A, Mr. Nebeker said that commercial developments may be constructed to inappropriate design styles and/or building materials. Residents of this project and in the surrounding area deserve commercial uses that are more integrated in appearance.

Staff recommended approval of the request subject to the following conditions (as amended by the above presentation):

1. Rear yard setbacks to Dawn Subdivision shall remain at 20 feet. Rear setbacks to Grand View Subdivision shall be 25 feet.
2. With Filing 1 approval, the applicant shall landscape the parkway strip on the west side of 28 ¼ Road the length of this development per the approved landscaped plan. This included the area adjacent to Blocks 2 and 3. An irrigation system shall also be installed. The Homeowners Association and/or developer shall maintain this area.
3. Planning Commission approval is required for the proposed 7-foot-high fence along the north property line. If approved, a building permit shall be obtained for this fence.
4. All buildings on the commercial and multi-family sites shall be architecturally compatible and integrated with each other. This includes building style, building mass/scale proportion, roof shape, fenestration and exterior building materials. (The R-O zone district provides clarification and examples of these terms.) If the commercial is developed first, their architectural style should match that of the proposed Peakview Apartments in Lafayette, CO as shown on Exhibit A, which was submitted by the applicant for Preliminary Plan approval as an example of what the multi-family dwellings in Village Park would look like.
5. The Preliminary condition regarding "substantial conformance" of the commercial site regarding layout, circulation, and building placement shall be changed to "general conformance."
6. A maximum of two monument-styled signs is allowed on the commercial portion of the property. The signs shall be no greater than 105 square feet each. Lots 1 and 3 shall share the allowance of the 28 ¼ Road monument sign, with Lot 1 receiving 35 square feet and 70 square feet for Lot 3. The monument sign for 28 ¼ Road shall be located along this road on Lot 1. The monument sign for Patterson Road shall be located on Lot 2 and may be allocated by preference of that lot owners. Flush wall signage for each use will be determined at the time of final approval but shall not exceed the standard allowance for flush wall signs less the monument sign square footage.

7. As each lot develops in the commercial development, the developer of those lots will be required to install a proper turnaround for fire apparatus.
8. The applicant shall record notice to future property owners that Block 2 is reserved for 132 multi-family dwelling units. The developer shall also place a sign on Block 2 that states that this site is the future home of 132 multi-family dwellings.
9. Place a note on the building envelope siting plan that states that no direct residential access is permitted to 28 ¼ Road except from Village Park Drive.
10. Technical review comments from the Development Engineer must be completed before construction plans are approved.

QUESTIONS

Vice-Chairman Grout asked for clarification on signage allowance for Lot 2, which was provided.

Commissioner Nall said that there seemed to be some confusion existing over the R-O zone district reference. Mr. Nebeker said that to allay any concerns, staff had no objection to deleting reference to the R.O. zone altogether.

Commissioner Binder wondered how Block 3 received its access. Mr. Nebeker answered that access would be via 28 ¼ Road. Since copies of the more detailed revised Preliminary Plan weren't included with Final Plan packets, individual detail drawings were absent. An overhead visual of the revised Preliminary Plan was referenced.

Commissioner Dibble said that it was more difficult for planning commissioners to render a decision on the Final Plat when details of the Preliminary Plan weren't included in packets.

Commissioner Dibble asked if plans for Block 1 would be submitted reasonably soon, to which Mr. Nebeker responded affirmatively.

Commissioner Binder asked how access across the large ditch would occur. Mr. Nebeker said that the ditch would be piped. She wondered if the petitioner might later opt out of constructing the assisted living portion of the project. Mr. Nebeker replied affirmatively, saying that the preliminary plan allowed single family as an alternate use on this site with submittal of a revised preliminary.

Commissioner Dibble asked if staff had any strong objection to the 7-foot fence proposal. Mr. Nebeker acknowledged that the portion of property denoted by the petitioner was located within a swale, and comments made by the petitioner regarding this were essentially correct. While staff did not recommend approval of the over height fence, planning commissioners could opt to vary the standard.

At this point there was a significant discussion of the concept and definition of "compatibility." As stated previously, staff's primary concern was ensuring that even if development of the commercial lots occurred first (which reflected the petitioner's current plan), the residential integrity of both the project itself and the surrounding area would be protected.

PUBLIC COMMENTS

There were no comments either for or against the request.

PETITIONER'S REBUTTAL

Mr. Livingston suggested that planning commissioners and staff were making the compatibility issue more complicated than necessary. If every proposed use came before Planning Commission for site plan review, then control would be retained by the City. He also noted that phasing preferences had not been a condition of approval. Development of commercial lots would provide funding for the extensive infrastructure required by the project.

Brian Hart recounted that the only real changes to the Preliminary Plan had been the reduction of one residential lot, the slight modification of rear yard setbacks, and the combining of commercial lots from 4 to 3. He was in agreement, however, with Mr. Livingston's presentation and recommendations concerning condition 4.

QUESTIONS

Vice-Chairman Grout referenced individual building size maximums noted on the Preliminary Siting Plan. He asked if the petitioner would be willing to hold to a maximum 10 percent variation of those established figures. Mr. Host felt that Siting Plan numbers were realistic but holding to a 10 percent deviation was also reasonable.

Mr. Shaver asked the petitioner if he would be willing to submit elevation drawings with each commercial site plan review. He added that if the petitioner was willing to make some site plan concessions now regarding architectural elements, doing so could forestall future problems. Mr. Livingston said that never had the petitioner's intent been to limit the definition of "compatibility." That privilege, he conceded, was left up to the City's discretion. If the City wanted elevation drawings submitted at the time of site plan review, he took no issue with that.

Kathy Portner said that for planned zones, it was typical for staff to review architectural elements; thus, it was appropriate to define and/or require those elements. Mr. Livingston felt this to be redundant since architectural standards had been addressed in the CC&Rs. Ms. Portner said that she could not find reference to them in the CC&Rs. After careful review involving Mr. Livingston, Ms. Portner and Mr. Nebeker, no reference to these elements could be found. The only reference was to formation of a design committee.

Mr. Host felt that compatibility could be achieved without every structure looking the same. He again stressed individual site plan review. Vice-Chairman Grout agreed that design flexibility could be given without compromising compatibility.

DISCUSSION

Again, extensive discussion ensued over the definition of "compatibility." Mr. Shaver said that assertions made by both the petitioner and staff were reasonable; thus, it was up to the Planning Commission to first decide on a definition and then decide who would be responsible for determining whether that definition of compatibility had been achieved. It was important, he said, to establish a standard for future buyers of the commercial lots.

Commissioner Dibble took no issue with staff condition 2 as written; he supported approval of condition 3; and the signage clarification for condition 6 was fine. For condition 4, he suggested substituting "compatibility" with the words "architectural continuity." He didn't feel the reference to the R-O zone was necessary and should be deleted. He was not that concerned over the petitioner's phasing.

Commissioner Binder agreed with Commissioner Dibble with regard to conditions 2 and 3. She felt that additional attention should be given to the verbiage in condition 4. She agreed with Mr. Shaver's

statements that it would be far better to establish a standard now to provide future buyers with some sort of development guideline.

Vice-Chairman Grout offered the following for condition 4. Delete the word “architecturally” in the first sentence and end the first sentence after the word “compatible;” drop the reference to the R-O zone. He also suggested verbiage stating that the character of the first part of the project shall determine compatibility with the remaining project. The petitioners may provide the project with architectural design, but the Planning Commission should establish a reference to style. Mr. Host suggested using Exhibit A when referencing style. Commercial development would have to conform to that style.

Commissioner Nall didn’t want to limit the petitioner’s architectural design freedom.

Commissioner Prinster agreed that future buyers needed to have some sort of expectation from the City on what would or wouldn’t be deemed acceptable.

Commissioner Dibble said that while phasing may not be of great concern, it did set the tone for the rest of the project.

Mr. Shaver offered the following revision for condition 4: “Buildings on the commercial and multi-family sites shall be compatible and generally integrated in conformance with the approved planned development. Compatibility shall be demonstrated in drawings that show a common building style and exterior building materials. If the commercial site is developed first, the architectural style should be of a similar residential character as shown on Exhibit A.”

Mr. Shaver’s suggestion drew general assent by planning commissioners; however, Mr. Host took issue with requiring similar building style and materials for commercial structures.

Vice-Chairman Grout said that for this type of development, uses shouldn’t look like typical commercial development found in other areas. This project was unique and its design should reflect that uniqueness. He felt that Mr. Shaver’s verbiage was probably the best compromise available.

Commissioner Prinster was uncomfortable with the lack of homeowner notification regarding the 7-foot-high fence. The lack of notification may be perceived by some homeowners as an absence of due process. Vice-Chairman Grout reiterated that the overall height would still appear to be at the 6-foot-high level.

Referencing condition 4, Commissioner Nall thought that perhaps the City was requiring too much detail at this stage. However, he expressed support for both Mr. Shaver’s comments and for the 7-foot fence. He also supported imposing a 10 percent maximum deviation mentioned previously for commercial building sizes; signage allocation revisions for condition 6 were acceptable.

Mr. Hart asked if there was still an opportunity to continue this item since he didn’t agree with staff’s direction on condition 4. Mr. Nebeker interjected that if Planning Commission retained 100 percent control, staff would be left without guidance for future site development. The decision was made that no continuance would be permitted.

Based on the discussion Mr. Shaver revised his earlier verbiage to the following: “Buildings on the commercial and multi-family sites shall be compatible and generally integrated in conformance with the approved planned development. Compatibility shall be demonstrated in drawings that show a common building style and exterior building materials. When the commercial site is developed, the architectural style should be of a residential character.” Mr. Livingston concurred.

Discussion ensued over the verbiage of condition 11 regarding the variation limitation of commercial building sizes. Vice-Chairman Grout offered the following: “The maximum building footprint shall be 24,000 square feet as approved in the Preliminary Plan and delineated as 4,900 square feet for lot 1; 13,100 square feet for lot 2; and 6,000 square feet for lot 3. The applicant may vary those numbers by plus or minus 10 percent.”

MOTION: (Commissioner Dibble) “Mr. Chairman, on item FPP-2000-157 I move that we find the Final Plat and Plan for Village Park Filing 1 to be consistent with the Growth Plan, the approved Preliminary Plan, and Section 2.8 of the Zoning and Development Code, and approve the Plat subject to staff’s recommendations and conditions. Conditions 1, 2, 3, 5, 6, 7, and 8 shall stand as they are, with number 4 being revised as per the reading by our City Attorney [to read: ‘Buildings on the commercial and multi-family sites shall be compatible and generally integrated in conformance with the approved planned development. Compatibility shall be demonstrated in drawings that show a common building style and exterior building materials. When the commercial is developed, the architectural style should be of a residential character.’]. Number 6 will be revised to read that lot 1 shall receive 35 square feet, and 70 square feet for lot 3. Item 11 will be added to read a maximum of 24,000-square-feet is allowed on the commercial development within Block 1. The three lots will be described as having 4,900 square feet for lot 1, 13,100 square feet for lot 2, and 6,000 square feet for lot 3. A plus or minus 10 percent deviation will be allowed, not to exceed the maximum of 24,000 square feet.”

Commissioner Nall seconded the motion.

Mr. Shaver said that the motion erroneously references new Code section 2.8; rather, it should reference old Code Chapter 7.

Commissioner Dibble agreed to incorporate the amendment, which was seconded by Commissioner Nall.

The revised motion is as follows:

MOTION: (Commissioner Dibble) “Mr. Chairman, on item FPP-2000-157 I move that we find the Final Plat and Plan for Village Park Filing 1 to be consistent with the Growth Plan, the approved Preliminary Plan, and Chapter 7 of the old Zoning and Development Code, and approve the Plat subject to staff’s recommendations and conditions. Conditions 1, 2, 3, 5, 6, 7, and 8 shall stand as they are, with number 4 being revised as per the reading by our City Attorney [to read: ‘Buildings on the commercial and multi-family sites shall be compatible and generally integrated in conformance with the approved planned development. Compatibility shall be demonstrated in drawings that show a common building style and exterior building materials. When the commercial site is developed, the architectural style should be of a residential character.’]. Number 6 will be revised to read that lot 1 shall receive 35 square feet, and 70 square feet for lot 3. Item 11 will be added to read a maximum of 24,000-square-feet is allowed on the commercial development within Block 1. The three lots will be described as having 4,900 square feet for lot 1, 13,100 square feet for lot 2, and 6,000 square feet for lot 3. A plus or minus 10 percent deviation will be allowed, not to exceed the maximum of 24,000 square feet (as amended).”

A vote was called and the motion passed unanimously by a vote of 5-0.

With no further business to discuss, the meeting was adjourned at 11:35 P.M.