

**GRAND JUNCTION PLANNING COMMISSION
MARCH 16, 1999 MINUTES
7:03 p.m. to 11:37 p.m.**

The regularly scheduled Planning Commission hearing was called to order at 7:03 p.m. in the City/County auditorium by Chairman John Elmer.

In attendance, representing the Planning Commission, were: John Elmer (Chairman), Jeff Driscoll, Joe Grout, Mark Fenn and Paul Coleman. Two positions are vacant.

In attendance, representing the Community Development Department, were: Scott Harrington (Community Development Director), Mike Pelletier (Assoc. Planner), Michael Drollinger (Development Services Supervisor) and Kristen Ashbeck (Sr. Planner).

Also present were John Shaver (Asst. City Attorney), Kerrie Ashbeck (Development Engineer) and Rick Dorris (Development Engineer).

Terri Troutner was present to record the minutes.

There were approximately 31 interested citizens present during the course of the hearing.

I. APPROVAL OF MINUTES

There were no minutes available for consideration.

II. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

There were no announcements, presentations and/or visitors.

III. PUBLIC HEARING ON ITEMS FOR RECOMMENDATION TO CITY COUNCIL

Due to the existence of a conflict of interest, Mark Fenn withdrew from consideration of the following item.

RZP-1999-032 GROWTH PLAN AMENDMENT/REZONE/PRELIMINARY PLAN/SPECIAL USE PERMIT/WAIVER OF PUBLIC STREET STANDARDS—SUMMER HILL SUBDIVISION
A request for: 1) an amendment to the Growth Plan to change the land use plan designation of the property from Residential Medium (4-7.9 units/acre) to Residential Medium-Low (2-3.9 units/acre); 2) approve rezoning approximately 80.52 acres from RSF-5 (Residential Single Family with a density not to exceed 5 units per acre) to PR-2.5 (Planned Residential with a density not to exceed 2.5 units per acre); 3) approve the Preliminary Plan for Summer Hill Subdivision, consisting of 201 dwelling units; 4) approve a Special Use Permit to allow open space uses within an airport critical zone; and 5) approve a waiver to the public street standard to modify the cul-de-sacs to allow installation of a parking island.

Petitioner: Paradise Hills Partnership
Location: East of 26 ½ Road at H ½ Road
Representative: DCS, Inc. – Jana Bingham-Gerow

PETITIONER'S PRESENTATION

Jana Bingham-Gerow, representing the petitioner, introduced the following additional members of her development team: Robert Bray, Bruce Hendel, Gale Lyman and Phil Scott. An overhead transparency depicting the site's topography was presented. The primary reason for the downzone request, she said, was that the area's topography made development to a higher density impossible.

Bruce Hendel, from VHA Design and also representing the petitioner, said that the plan's design incorporated and accommodated the site's topography; preserves views of both the Bookcliffs and the National Monument. A neighborhood meeting had been held to solicit neighbor comments. Drainage areas (natural open spaces) to the west and south would be protected, and the southern ridgeline provided a large, natural buffer area for Paradise Hills residents. Trail and pedestrian accesses were noted and would connect to various park, pond and open space locations. Clustering techniques would help preserve open space areas. Homes would be upper-end, with prices ranging from \$160-\$300K for single family detached units and \$145-\$200K for attached units. Open space and a pond were planned for the subdivision's entrance and landscaping plans would include a boulevard concept.

Mr. Hendel asked that consideration be given to allowing 5-foot side yard setbacks as it would provide greater flexibility for building envelope placement on angled lots. The primary issue for Paradise Hills residents, he said, was the neighborhood connection via Lanai Drive. None of the lots was located within the airport's critical zone, and it was felt that by moving a few lots further south, the airport's 65 ldn noise contour boundary could also be avoided. The only areas remaining within the contour would be open spaces for which a Special Use Permit was being sought. Mr. Hendel further explained that irrigation would be provided for all landscaped areas. Natural open space areas would be left undisturbed and would continue to provide wildlife habitat. The 28-foot requested street mat would narrow perceptual distance and discourage speeding. Larger cul-de-sacs were planned, with parking islands/landscaping located in the center of them. He said that detached sidewalks may be requested during Final to allow for street tree plantings. Graphics of representative home designs were presented.

Ms. Bingham-Gerow addressed individual staff comments by stating that the Growth Plan amendment would allow for the topography of the parcel and be more consistent with actual densities of the area. She believed that the originally adopted medium density classification of 4-7.9 units was in error and did not accurately reflect existing area densities. The rezone request of PR-2.5 would be consistent with the Growth Plan amendment request. She said that the team was in agreement with all staff conditions except for the request to allow 5-foot side yard setbacks for reasons stated previously. Since so much open space was being provided elsewhere, she could not see where this request would be a problem. The Special Use Permit and waiver of street standards, she said, had been explained by Mr. Hendel.

QUESTIONS

Commissioner Driscoll asked what the density of the property directly adjacent to the site was, to which Ms. Bingham-Gerow responded that she thought that its gross density was near 2.7 units/acre.

Commissioner Driscoll asked if any portion of the subject parcel had been in agricultural production. Ms. Bingham-Gerow said that a portion of it had, but the land had been unproductive for the past 30 years.

Commissioner Driscoll asked if landscaped areas would be maintained by the Homeowners Association, to which Ms. Bingham-Gerow responded affirmatively. She added that an irrigation plan would be submitted during Final. When asked if natural open space areas would be irrigated, she replied negatively, adding that non-irrigation of those areas complied with DOW/Corps directives. Further, irrigation of open space along the ridgeline could compromise slope integrity.

Chairman Elmer noted the placement of a power pole on lot 7 in block 2, which seemed awkward. Ms. Bingham-Gerow said that setbacks were sufficient to allow placement of a home on the site without interference with the power pole.

Chairman Elmer asked for clarification on traffic report findings with respect to traffic along Lanai. Phil Scott of Lee, Scott and Cleary, also representing the petitioner, explained that existing southbound traffic in the morning reflected approximately 65 vehicles; evening, 55 vehicles. northbound traffic in the morning was approximately 85 vehicles; evening, 85-90 vehicles. He anticipated that the majority of subdivision traffic would utilize Summer Hill Way to 26 ½ Road, with traffic increases of only 10 percent anticipated (additional 6 vehicles southbound and 2 vehicles northbound). The level of service for the 26 ½ Road/H Road intersection was currently at "A." The report concluded that the current service level would remain constant even after the property's development and for the next 20 years.

STAFF'S PRESENTATION

Michael Drollinger agreed that an error could have occurred in the Growth Plan's density designation for the subject area, and added that a lower classification would more accurately reflect current area densities. Approval of the PR-2.5 rezone request would meet Code criteria and comply with Growth Plan goals and policies. In addition to providing the Summer Hill Way and Lanai accesses, Amber Springs Way would be developed as a street stub to the western property boundary. Future extension to 26 ½ Road would occur when the adjacent property to the west developed. A written agreement on how the petitioner proposed crossing Leach Creek via Amber Springs Way was still required for staff review. A temporary emergency vehicle access would be developed from the Spring Crossing cul-de-sac to tie in with I and 26 ½ Roads via the Grand Valley Canal maintenance road. Trail connections were noted and would be constructed to specifications outlined in the Staff Report. The Parks Department felt that additional trails may be warranted for the subject property.

Mr. Drollinger supported the petitioner's request for waiver of the public street standards to allow for narrower street mats and cul-de-sac parking islands; however, staff did not support the petitioner's request for 5-foot side yard setbacks. Play equipment would be placed in active open space areas. Protections were needed to ensure non-disturbance of natural open space areas during construction. And while no lots would be located within the airport's 65 ldn noise contour once the northernmost lots were moved southward, staff still felt that lots contained within Filings 6, 7 and 8 may still be affected by noise exceeding 65 ldn. Thus, additional soundproofing measures were recommended for lots within those filings unless the petitioner could demonstrate that this sound level would not be exceeded.

Staff recommended approval of the Growth Plan amendment, the rezone to PR2.5, the Special Use Permit and waiver of public street standards. Approval for the Preliminary Plan was also recommended subject to the following conditions:

1. The developer of Summer Hill and the City have agreed that the developer has an obligation to complete a residential public street crossing over Leach Creek to provide secondary access to the north half of the development and to tie in to the future development to the west. Prior to Final Plan approval for Filing 1, the developer shall submit a written agreement for how he proposes to fulfill his obligation for completion of the future crossing for City review and approval. Said agreement must be executed by all affected parties prior to final approval.
2. Improved public trails (8 feet of concrete within a 12-foot tract or easement) be constructed in: 1) the Catalina Court right-of-way from Catalina Drive to Summer Hill Way, and 2) from the end of Spring Crossing within the alignment of the temporary fire department access to the canal.
3. The bulk standards in the "lot configuration/bulk requirements" section be adopted with the project.

4. The passive and active open space areas for the project described in the “open space” section and on the Preliminary Plan be approved with the project.
5. Heavy construction traffic from the subdivision is required to use 26 ½ Road to Summer Hill Way. If construction of Summer Hill Way is delayed, the applicant may, for a limited period, use Catalina Court for construction access. Lanai Drive shall not be used for construction traffic access.
6. No building envelopes for homes shall be located within the 65 ldn. The applicant shall redesign affected lots to eliminate encroachment of building envelopes in the 65 ldn.
7. Homes within Filings 6-8 shall receive soundproofing in accordance with the FAA report entitled *Guidelines for the Sound Insulation of Residences Exposed to Aircraft Operations (ADA 258 032)* for noise exposure exceeding 65 ldn.
8. The developer shall take note of all staff requirements for Final Plan submittal contained in this report and incorporate those items into the final design plans for the project.
9. Dedication of hiking/biking trail easements along the south bank of the Government Highline Canal wherever the canal’s access road encroached upon the petitioner’s property.

Regarding condition 9, Mr. Drollinger said that while there could be a couple of places where the canal road crossed the petitioner’s property, staff’s initial review placed the canal and canal road north of the property line.

QUESTIONS

Commissioner Driscoll asked if the Amber Springs Way connection would be extended only upon development of the western property, to which Mr. Drollinger replied affirmatively. If the extension was never constructed, would the two major connections be sufficient? Kerrie Ashbeck said that no concerns had been expressed by the Fire Department over the potential loss of that access point. If the need arises, the Department could reevaluate its position.

Commissioner Driscoll wondered if 28-foot-wide streets could handle anticipated traffic along Summer Hill Way, to which Ms. Ashbeck responded affirmatively.

Commissioner Driscoll wondered if the soils report raised any concerns over the buildability of any lots. Ms. Ashbeck replied negatively, but said that it did identify areas where additional borings were needed.

Chairman Elmer asked for a brief elaboration on the City’s annexation agreement with the property owner, which was provided by Mr. Drollinger. Among other issues addressed, the agreement included the Lanai Drive extension using a design that discouraged extensive use of through traffic. Also included was a pedestrian/bicycle access connecting Paradise Hills Subdivision with the Summer Hills project. Both items had been included in the project’s design to staff’s satisfaction. John Shaver briefly addressed the enforceability of the agreement.

Commissioner Grout wondered if there had been any discussions with the petitioner on using the project’s northern trail connection within the critical zone in lieu of trail connections outlined in condition 9. Mr. Drollinger said that he had not been involved in discussions between the Urban Trails Commission, the Parks Department and the applicant. Opportunities for further trails negotiations were present.

PUBLIC COMMENTS

FOR:

There were no comments for the proposal.

AGAINST:

Randy Juhlin (2690 Mazatlan Drive, Grand Junction), president of the Filing 6, Paradise Hills Homeowners Association, submitted a petition containing 110 signatures of those opposing the project. He expressed strong concerns over the extension of Lanai Drive into the Summer Hills project. Mr. Juhlin stated that Lanai Drive had not been constructed to “collector” standards, but at approximately 2,000 trips/day, it was being used as one. There were no sidewalks for pedestrians and on-street parking was prevalent. Pedestrians were forced to walk on the inside of the street to get to the new City park recently constructed. Expected increases in traffic from the proposed development would only exacerbate existing problems of pedestrian safety, congestion, speeding and other traffic impacts. The petitioner’s traffic projections, he said, were unrealistic and he suggested extending Summer Hills Way on to 27 ¼ Road and closing off Lanai Drive to Paradise Hills through traffic.

Clark Atkinson (817 Lanai Drive, Grand Junction) refuted the findings of the petitioner’s traffic study and felt that expected traffic figures and impacts were grossly underestimated. If approved, he requested that the width of the Lanai Drive mat be reduced and sidewalk be added. That change he said would still leave a 28-foot street width; parking could be limited to just one side of the street. He asked that a comprehensive study be undertaken to determine realistic impacts of Summer Hills Way. Mr. Atkinson felt that density figures were misleading. Since much of the subject property was undevelopable, structures would be clustered in tightly packed groups on the remaining ground. That would give the subdivision an appearance of being high density, which was inconsistent with the surrounding area. He asked whether soils are capable of handling the amount of expected irrigation? Irrigation ponds, he said, would be “mud holes” for a number of months out of the year. What type of fencing would be provided to cordon off ponds? He asked that some type of financial guarantee be imposed upon the petitioner to ensure development of trails and that maintenance also be provided. He also asked that natural open space areas be reclaimed.

Loren Lutz (815 Mazatlan Drive, Grand Junction) said that with no sidewalks along the existing Lanai Drive and increased traffic from the proposed development, conflicts between vehicles and pedestrians could be expected. The proposed “attached” units, he said, were not compatible with the area’s single family homes; the development’s incompatibility threatened the area’s current “sense of community.” Mr. Lutz expressed concern that drainage from the new development would be directed down Lanai Drive into the Paradise Hills Subdivision. He suggested closing off Lanai Drive at the west end of Filing 2 with the construction of a cul-de-sac.

George Platt (812 Mazatlan Drive, Grand Junction) submitted a copy of a letter he’d written to planning commissioners. He suggested placing an electronic gate at the Lanai Drive entrance to Summer Hill’s Filing 2, to be used as an emergency access only. Also suggested was the closure of the Lanai extension, with an alternate extension constructed from the currently proposed Filing 5 cul-de-sac to Summer Hills Way. He felt it unreasonable to expect that construction traffic would be prevented from using Lanai, and he complained that few adhered to the 20 mph posted speed limit. The petitioner’s traffic estimates were inaccurate, and he asked that another traffic study be undertaken by the State. He recalled significant vehicle stacking during peak traffic hours. Mr. Platt stated that a lot of grading would be required for lots within Filings 2, 4 and 5. He felt that the Amber Springs access should be made to extend to 26 ½ Road immediately; the City, he said, could use its condemnation powers to secure right-of-way through the western property owner’s land. He contended that the entire parcel would be subject to noise levels exceeding 65 ldn.

Terry Heers (818 Lanai Drive, Grand Junction) recalled several instances where vehicles had driven into his yard and run over his mailbox and where a child had been hit on Lanai while crossing the road. He asked that Summer Hills Way “stand on its own” and that no Lanai extension be made. He stressed safety concerns and said that Paradise Hills residents should not be made to suffer a reduction in their quality of life for the sake of a new development.

Tony Eschington (808 Lanai Drive, Grand Junction) said that he, too, had replaced three mailboxes hit by motorists. He strongly disagreed with the petitioner’s traffic projections and said that traffic was already so bad along Lanai he refused to let his children play in the front yard. He asked that the petitioner seek another access point.

Diane Gelotti (815 Lanai Drive, Grand Junction) suggested deleting the Lanai access altogether and routing traffic through the northern “emergency” access to I and 26 ½ Roads.

Mike Moran (2676 Catalina Drive, Grand Junction) said that there was a lot of traffic along Catalina Drive as well. He also noted that Robert Bray (property owner) had asked residents along the north side of Paradise Hills to help pay for a survey to resolve questions over fence line encroachment on the Summer Hill property. He said that Mr. Bray had expressed a willingness to deed the property over to the homeowners provided they paid for the survey. He thought that most, if not all, the residents had paid for the survey; yet, no deed or documentation had been forwarded to them. Mr. Moran said that while the City’s new park encouraged small children to visit, there was no sidewalk system in place. Current and additional traffic along Lanai posed a serious safety threat to kids.

Toni Heiden-Moran (2676 Catalina Drive, Grand Junction) felt that resolution of the survey issue should be a condition of the project’s approval.

PETITIONER’S REBUTTAL

Ms. Bingham-Gerow emphasized topography of the site using an overhead transparency. She offered comment on these topics. Drainage: single family homes, located in Filings 2, 4 and 5 would be situated on higher ground. Most stormwater runoff would be directed westward down the street system, emptying into Leach Creek. This issue would be addressed in further detail during Final. Survey: it was her understanding that none of the Paradise Hills residents had yet paid the \$500 survey fee. Conveyance of the disputed property could not be effected until development of the property occurred. Traffic/Access: the northern I Road/26 ½ Road connection was not feasible because of its location along the canal bank. Development of that access as a permanent alternative would meet with certain canal company objection. The suggestion to extend a road across the irrigation canal and onto airport-owned property had also been discussed with staff and had proven unviable as well. Mr. Platt’s suggestion to extend a roadway from the Filing 5 cul-de-sac would not work because of the property’s steep topography. She reiterated that the Amber Springs connection would extend only to the onset of the wetlands area, initially. Corps permits had been obtained, so that when the western property owner developed his lands, Amber Springs Way could then be extended to 26 ½ Road. Ms. Bingham-Gerow said that in the original submittal, Lanai had been blocked off from Paradise Hills; however, staff concerns expressed during discussions were found to be valid and their recommendations had been incorporated into the current plan. Sidewalks, she said, would be constructed along the Summer Hill portion of Lanai.

QUESTIONS

Commissioner Coleman asked Mr. Bray if he had also owned the Paradise Hills Filing 7 property. Mr. Bray answered affirmatively and expounded on the following points. The Lanai extension resulted from staff directives and had been incorporated into the City’s annexation agreement; however, understanding resident concerns, the street had been made as restrictive as possible. He said that he’d always honored

his commitments, but agreed that there were several issues within Paradise Hills Filing 7 which still needed resolution.

Chairman Elmer wondered if the Summer Hills property had been included with Paradise Hills in an overall master plan, to which Mr. Bray replied affirmatively. Paradise Hills Filing 1, he said, dated back to the late 1960s, with Lanai constructed either in the late 1970s or early 1980s. Mr. Bray said that all trails would be developed and then deeded over to the Homeowners Association for maintenance.

DISCUSSION

Chairman Elmer asked staff for clarification on Lanai's classification and current/projected traffic counts. Ms. Ashbeck understood that the traffic study depicting 1,980 ADTs was based on counts the petitioner had obtained. The study anticipated 10 percent of development traffic (100 ADTs) being routed along Lanai. She clarified that street width for a "residential collector" was 36 feet, which was greater than Lanai's 34-foot street width. That fact and the absence of sidewalks had been factored into the annexation agreement to minimize the street's usage. Projected trips were not expected to exceed the street's capacity. No accident data had been obtained from the Transportation Division; however, in discussion with the Developer's representatives, no mention had been made of any preexisting traffic/safety complaints made by Paradise Hills residents.

Commissioner Coleman wondered if sidewalks could be installed along the Paradise Hills portion of Lanai. Ms. Ashbeck said that staff could review any request made by residents.

Commissioner Coleman did not feel that Lanai was a suitable access for expected traffic volumes. Traffic figures should be more closely scrutinized, and Paradise Hills residents should not bear the burden of such dramatic traffic increases through their neighborhood. He supported an earlier suggestion limiting access onto Lanai to just the 9 lots nearest the entrance into Summer Hill.

Chairman Elmer stated that the City's own engineers had projected traffic impacts on Lanai to be minimal. The extension, he added, had been a part of the project's master plan and had been conditioned as part of the City's annexation agreement. He felt the Growth Plan amendment request and subsequent rezone were justified. The density proposed would provide a good transition for the area.

Mr. Shaver read into the record excerpts from the annexation agreement pertaining to the Lanai access. Mr. Drollinger mentioned additional language regarding the connection.

Commissioner Driscoll said that given the physical constraints of the property, the Growth Plan amendment and subsequent rezone to the lower density classification seemed warranted. The Lanai extension, while deemed acceptable to staff, was clearly creating problems for Paradise Hills residents. He recommended further review of issues surrounding the connection prior to Final. With regard to citizen complaints regarding incompatibility, he acknowledged that the natural buffering provided by the site's topography and the proposed location of single family homes nearest Paradise Hills effectively separated and transitioned the two subdivisions.

Commissioner Grout concurred with comments made by Chairman Elmer and did not support reconfiguring Lanai. He felt that the street's design would adequately curtail through traffic and prohibition of construction traffic had been included as a staff condition.

MOTION: (Commissioner Driscoll) "Mr. Chairman, n item RZP-1999-032, a request for Growth Plan amendment/rezone/waiver of public street standards for Summer Hill Subdivision, I move that we forward these items to City Council with a recommendation of approval."

Commissioner Grout seconded the motion.

Chairman Elmer clarified that the Growth Plan amendment applied not only to the Summer Hill project but to the existing Paradise Hills Subdivision, Filings 1-7. Commissioner Driscoll agreed to include the amendment into his motion, which was seconded by Commissioner Grout. The revised motion is as follows:

MOTION: (Commissioner Driscoll) “Mr. Chairman, n item RZP-1999-032, a request for Growth Plan amendment/rezone/waiver of public street standards for Summer Hill Subdivision, I move that we forward these items to City Council with a recommendation of approval. The Growth Plan amendment shall apply not only to the Summer Hill project but to the existing Paradise Hills Subdivision, Filings 1-7.”

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

With regard to the following motion, Commissioner Driscoll concurred with staff’s recommendation not to vary side yard setbacks to 5 feet.

MOTION: (Commissioner Driscoll) “Mr. Chairman, on item RZP-1999-032, a request for Preliminary Plan and Special Use Permit approval for Summer Hill Subdivision, I move that we approve the request subject to the conditions in the staff report dated March 3, 1999.”

Commissioner Grout seconded the motion.

Chairman Elmer clarified that the motion included condition 9 as later added by staff. Mr. Shaver said that the exact wording of condition 9 could be formulated later. He reiterated that the intent was to secure access easement adjacent to the canal in those places where the canal/canal road was located on the petitioner’s property. The amendment was acknowledged by Commissioner Driscoll and included in his motion, which was seconded by Commissioner Grout. The revised motion is as follows:

MOTION: (Commissioner Driscoll) “Mr. Chairman, on item RZP-1999-032, a request for Preliminary Plan and Special Use Permit approval for Summer Hill Subdivision, I move that we approve the request subject to the conditions in the staff report dated March 3, 1999. The motion includes condition 9 as added by staff, with exact wording to be formulated by legal and planning staff.”

Commissioner Grout seconded the motion. A vote was called and the motion passed unanimously by a vote of 3-1, with Commissioner Coleman opposing.

A brief recess was called at 9:50 p.m. The hearing reconvened at 9:58 p.m.

Commissioner Fenn returned and was present for deliberations on the next item.

IV. PUBLIC HEARING ON ITEMS FOR FINAL DECISION UNLESS APPEALED

Due to a conflict of interest, Commissioner Driscoll withdrew from consideration of the following item.

PP-1998-173 PRELIMINARY PLAN—TRAILS WEST VILLAGE #3

A request for approval of the Preliminary Plan for Trails West Village Filing #3, consisting of 17 single family lots on approximately 10.3 acres in an RSF-4 (Residential Single Family with a density not to exceed 4 units per acre) zone district.

Petitioner: Camelot Investment/Brian Stowell

Location: Southeast corner of the South Camp Road and D ¼ Road line

Representative: Banner Associates

PETITIONER'S PRESENTATION

Brian Stowell, representing the petitioner, said that the project's previous approval had lapsed, and that the project had subsequently been redesigned. To address staff concerns regarding drainage, a detention pond would be constructed behind lots 13 and 14. Landscaping would be provided on open space tracts B and C, with a landscaping plan to be submitted to staff prior to Final. Montero Road had been moved 20 feet to a flatter surface area, which would better facilitate building envelope placement.

QUESTIONS

Chairman Elmer asked Mr. Stowell if he was in agreement with staff's conditions. Mr. Stowell said that with regard to condition 5, he hoped that latitude could be given during Final to allow construction of split-rail fencing behind lots 6 through 12.

STAFF'S PRESENTATION

Kristen Ashbeck clarified actual open space acreages as outlined in the March 16, 1999 Staff Report. She noted drainage and slope stability concerns and said that those issues must be satisfactorily addressed prior to Final. While the 30-foot "no disturbance" zone disallowed any grading, structure, or fencing, staff would consider split-rail fencing exempt from that provision. Having found that the request met or could meet Code criteria, staff recommended approval subject to the following conditions:

1. Prior to submittal of an application for Final for Trails West Village Filing #3, one of the following shall occur: 1) the City must have received an executed drainage easement for the new swale configuration on lot 6, block 2, Filing #1; or 2) the developer shall have submitted plans to the City for review and approval and have completed construction of a drainage swale in the existing easement.
2. A geologist or other competent professional must evaluate the site for rockfall potential, prepare a report, and recommend mitigation measures.
3. Landscape and/or revegetation plans for Tracts A, B, C, D, F and G shall be required with final plans. At a minimum, a temporary irrigation system must be supplied to all of those areas in order to establish plantings.
4. Final plans shall address detailed individual lot grading for lots 6 through 12 as illustrated on pages 4 and 5 of the approved Preliminary Plan development plans.
5. The Final Plat and/or covenants or other mechanism shall further refine and address the "no disturbance" zone indicated on the approved Preliminary Plan.
6. The Final Plat and covenants shall address the no fencing requirement of the 20-foot irrigation easement along the east side of the Redlands Water and Power No. 2 Lift Canal.

QUESTIONS

When asked by Chairman Elmer if staff was satisfied with the petitioner's submitted drainage plan, Rick Dorris replied affirmatively.

PUBLIC COMMENTS

FOR:

There were no comments for the proposal.

AGAINST:

Kim Kreft (2218 Mescalero Avenue, Grand Junction), stated that he was representing the majority of homeowners along Mescalero Avenue, expressed concern over drainage from the proposed subdivision. He passed out photos of the Trails West Village Filing #2 site taken after two 100-year flood events which occurred in July 1998. Photos depicted heavy flooding of the area, and he wondered how future occurrences would be prevented. RSF-4 density, he felt, was too dense for hillside development. He expected runoff from homes to drain onto his and other adjacent lots. Mr. Kreft commented that sewers were full of mud and had not been able to handle the flooding depicted in photos. He added that the petitioner had failed to complete required landscaping in previous filings.

PETITIONER'S REBUTTAL

Mr. Stowell concurred with drainage concerns but said that he'd been working with the City's engineering staff to mitigate that issue. A final drainage plan would be ready for submission prior to Final. He acknowledged that areas around the pond (location noted) were still dry but the City was still holding monies aside for completion of that landscaping per its Development Improvements Agreement. Having run out of time before the onset of winter, he said that remaining landscaping would be completed as soon as irrigation water was available to the site.

QUESTIONS

Chairman Elmer wondered how the proposed drainage plan would mitigate the potential for flooding. Pat O'Connor, also representing the petitioner, said that submitted photos represented flooding in excess of 100-year events. The existing system was designed to handle 100-year events and had actually worked well for the events in question. Swale and drainage improvements for previous filings had been completed in December 1998. Mr. O'Connor noted that Filing #3 included an independent stormwater management system in the form of a detention pond. That system had been designed to control developed releases from the proposed subdivision to levels less than or equal to historic levels.

Commissioner Coleman wondered if absorption and time had been factored into detention pond calculations, to which Mr. O'Connor replied affirmatively. If two 100-year flood events happened concurrently, absorption would be negligible and flooding of the detention pond would likely occur. When asked, he said that the Homeowners Association would maintain the system. Commissioner Coleman emphasized the importance of installing landscaping on open space tracts, to help mitigate hillside drainage concerns. Mr. O'Connor clarified that Tracts A, B, C, and F were existing Ute Water easements. A limited amount of runoff would travel down those tracts. The majority of flows would be directed to Montero Court and empty into the detention pond.

Chairman Elmer asked if the development would actually help curb mud flows from the hillside via landscaping and the detention pond, to which Mr. O'Connor responded affirmatively.

DISCUSSION

Chairman Elmer felt that the system had been designed to handle flood events greater than 100-year.

Commissioner Coleman asked for clarification on maintenance of stormwater sewers, which was provided by Mr. Dorris. Mr. Dorris stated that the referenced flood had far exceeded a 100-year event.

Commissioner Coleman wanted to ensure that the City didn't accept a third filing without adequately addressing drainage issues.

Commissioner Fenn remarked that it seemed the existing system had adequately handled the extensive flooding of the previous year. Kerrie Ashbeck reiterated that 1998's flooding had exceeded a normal 100-year event and a canal breach had only exacerbated the problem. She noted that drainage improvements for previous filings had not been completed prior to the flood event, but added that significant work had been undertaken since then.

Chairman Elmer said that during construction of infrastructure, the petitioner should either construct the detention pond or demonstrate how runoff would be contained to historic flows, to avoid a repeat of last year's problem. Mr. Dorris explained that a stormwater management plan would be required for Final, which would implement practices to reduce or eliminate sediment coming from the disturbed site of Filing #3 down onto Filings #1 and #2.

MOTION: (Commissioner Coleman) "Mr. Chairman, on item PP-1998-173, I move that we approve the Preliminary Plan for Trails West Filing #3 subject to staff recommendations."

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

Commissioner Driscoll returned and was present for deliberations on the following item.

MS-1999-029 MINOR SUBDIVISION—CJM MINOR SUBDIVISION

A request for approval to subdivide 4.19 acres into three lots in an I-1 (Light Industrial) zone district.

Petitioner: Wylie Miller
Location: 725 Scarlet Street
Representative: Applied Earth Sciences

PETITIONER'S PRESENTATION

Wylie Miller, petitioner, said that staff's primary concern had been drainage. A drainage study had been undertaken and recommendations of the study would be implemented prior to sale of the lots.

STAFF'S PRESENTATION

Mike Pelletier said that the request met Code criteria. With no outstanding issues remaining, staff recommended approval with no conditions.

PUBLIC COMMENTS

There were no comments either for or against the proposal.

DISCUSSION

Chairman Elmer remarked that the request seemed straightforward.

MOTION: (Commissioner Driscoll) "Mr. Chairman, on item MS-1999-029, I move that we approve the Minor Subdivision."

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

Due to a conflict of interest, Commissioner Fenn withdrew from deliberations on the following item and excused himself for the evening.

SUP-1998-203 APPEAL OF AN ADMINISTRATIVE DENIAL—SPECIAL USE PERMIT, STICKS AND STONES

A request for a Special Use Permit for landscape material and equipment storage for an existing landscape business in an RSF-R (Residential Single Family with a density not to exceed 1 unit per 5 acres) zone district.

Petitioner: Warren Dettmer
Location: 675 ½ - 24 ½ Road

PETITIONER'S PRESENTATION

Warren Dettmer, petitioner, said that he'd received a notice of violation from the City after complaints were made from his neighbor. Mr. Dettmer said that he'd been operating his business in its current location for the past 21 years with no previous problems. Upon annexation, he stated, that he'd been told by the City that his business would be considered a grandfathered use. He listed the types of materials sold and said that no expansion of the use had occurred and no complaint had been received from any other neighbor.

QUESTIONS

Commissioner Coleman thought that the northern neighbor currently had a SOLD sign posted on her property, which was confirmed by Mr. Dettmer.

Chairman Elmer wondered what the conveyors on the property were used for. Mr. Dettmer said that only one conveyor was located to the rear of the property; it was used to screen manure and topsoil. When asked, Mr. Dettmer said that no rocks were ever screened by the conveyor.

Chairman Elmer asked the petitioner if he'd seen the letter submitted by the northern neighbor, to which Mr. Dettmer replied negatively.

Commissioner Coleman noted the existence of Valley Grown Nursery (VGN) directly across from Sticks and Stones. He asked the petitioner if VGN had ever received a Special Use Permit. Mr. Dettmer briefly elaborated that a former partner had started VGN; he was unsure whether VGN had ever obtained a Special Use Permit.

STAFF'S PRESENTATION

Mike Pelletier explained that when the City had annexed the property, it had been assumed that the existing use was legal and would have been considered a legal, non-conforming use. It was later discovered, following complaints received from a neighbor, that the petitioner had never received the County's required Conditional Use Permit (CUP). Without the CUP, the use failed to meet Code requirements as a legal, non-conforming use. It also failed to meet Growth Plan recommendations which designated the area for medium-high density residential uses. Due to the narrowness of the subject parcel, there was insufficient buffering between the petitioner's use and surrounding residential uses. Staff recommended denial for the aforementioned reasons.

QUESTIONS

Commissioner Coleman wondered if staff had researched the VGN for comparison, to which Mr. Pelletier responded negatively. Mr. Harrington stated that such comparisons were irrelevant.

Chairman Elmer wondered what had triggered the need for the Special Use Permit. Mr. Pelletier said it had been the combination of neighbor complaints and finding out that the petitioner's use had never been legal.

Chairman Elmer said that there didn't seem to be any evidence to indicate expansion of the business. Mr. Shaver reiterated that the record discloses that a CUP had never been issued by the County. Thus, even if the business had not expanded, it was still not a legal use. He also reiterated that the City assumed the use was legal when it annexed the property but if it was not then the use could not be a "legal non-conforming" use.

Mr. Pelletier referenced an aerial photo taken in March 1994 and one taken following the City's annexation of the property. Mr. Pelletier represented that the photos showed evidence of expansion of the use during that period of time. Chairman Elmer said that one comparison photo taken at one point during the year was insufficient evidence to prove expansion. Since the business was seasonal in nature, the 1994 photo could have been taken when business was slow or prior to receiving seasonal inventory.

Extensive discussion ensued. Mr. Shaver commented that the determination made from photos may not have been thorough and he questioned Mr. Pelletier on his knowledge of the use and expansion of the use. When asked about a "waiver" of the Special Use Permit requirement, given that the petitioner had been operating thusfar illegally, Mr. Shaver replied that there was no general principle of estoppel when a land use is unlawful.

Chairman Elmer wondered why the use hadn't been considered legal non-conforming in the County. After 21 years and many Code revisions, the chance of it having been legal at some point during that time was fairly good.

Mr. Shaver surmised that the County may have also received complaints on the business and, as a result, required the CUP but never followed through. He said that failure to comply would not have made the use legal.

Chairman Elmer felt that insufficient information was available to adequately render a decision. Commissioner Coleman agreed.

Commissioner Grout wondered when actual expansion of the business was purported to have occurred.

Commissioner Driscoll suggested tabling the item until more information was gathered to answer the historical questions posed.

Mr. Shaver reminded the Commission that the two legal theories in question are: 1) the legal status of the business and whether that was the controlling consideration; or 2) the expansion. He said that there may be evidence to support either or both.

After further discussion, it was determined that public comment would be allowed prior to consideration of any motion for tabling.

PUBLIC COMMENTS

FOR:

There were no comments for the proposal.

AGAINST:

Pam Schnurr (677 – 24 ½ Road, Grand Junction) said that the petitioner's use was incompatible with the surrounding higher density residential uses in the area. She noted that the subject parcel was only 165 feet wide, which did not adequately buffer adjacent uses. She said that the applicant's project report was misleading in that actual site activities included extensive processing of materials, including mixing. She felt that the mixing of materials constituted an industrial use.

Ms. Schnurr felt that the petitioner had assumed erroneously that surrounding uses would remain agricultural. Average daily traffic figures, she said, were underestimated and she recalled instances where there had been up to 8 trips per hour, 7 days per week. That versus the 3 trips per day denoted in the petitioner's report. Ms. Schnurr said that she has photos going back 10 years to when she and her husband first purchased their property. Those photos presented clear evidence of expansion of the use on site.

Chairman Elmer asked if referenced photographic evidence and any other evidence could be submitted to staff and the Planning Commission for review. Ms. Schnurr said that she'd submitted the 1994 aerial photo; other photographs of the business were taken from her property. She said that when she and her husband had moved into their home, the site had been used for storage of demolition equipment only, with some minor processing of materials. There had been none of the on-site materials storage that there is presently. Truck traffic had increased dramatically, and she said that the petitioner had moved his driveway to a point directly adjacent to her property line.

Mr. Shaver asked if Ms. Schnurr had ever filed a complaint with Mesa County, to which she replied affirmatively. She added that another adjacent property owner, who had since moved, complained constantly to the County about odors emanating from the site. When asked to clarify the timeframe complaints would have been made, Ms. Schnurr said that the former resident would have lodged her complaints between 1995 and 1998, approximately. She said that the Health Department may have been contacted as well.

After a brief discussion and with the consent of the petitioner, the determination was made to table the item until the first regular public hearing in May to allow for additional supporting documentation from any and all involved parties.

MOTION: (Commissioner Driscoll) "Mr. Chairman, on item SUP-1998-203, I move that we table this item for the purpose of gathering additional information to the next regularly scheduled meeting in May, which is the third Tuesday of that month."

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

V. GENERAL DISCUSSION

Mr. Harrington briefly updated planning commissioners on City Council's progress on finding replacement planning commissioners. Due to the impending demolition of City Hall, it was unclear whether the second meeting in April would be held at the City/County Auditorium or at Two Rivers Convention Center. Completion of the new city building is anticipated in June or July of the year 2000.

With no further business, the hearing was adjourned at 11:37 p.m.