

**GRAND JUNCTION PLANNING COMMISSION
OCTOBER 19, 1999 MINUTES
7:01 p.m. to 9:05 p.m.**

The regularly scheduled Planning Commission hearing was called to order at 7:01 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), Jeff Driscoll, Joe Grout, Terri Binder and Nick Prinster. Mark Fenn was absent. One position is vacant.

In attendance, representing the Community Development Department, were Bill Nebeker (Sr. Planner) Kristen Ashbeck (Sr. Planner), and Pat Cecil (Development Services Supervisor).

Also present were Dave Varley (Asst. City Manager), John Shaver (Asst. City Attorney), Kent Harbert and Kent Marsh (Development Engineers).

Terri Troutner was present to record the minutes.

There were approximately 5 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 FINAL DECISION UNLESS APPEALED

Due to the potential for conflict of interest, Commissioner Prinster recused himself from the following item.

FP-1999-180 FINAL PLAT—REDLANDS MARKETPLACE

A request for approval of the Final Plat for Redlands Marketplace Subdivision consisting of 6 commercial lots on 9.96 acres in a C-1 (Light Commercial) zone district.

Petitioner: Regency Realty Corp.

Location: Northwest corner of Highway 340 and Power Road

Representative: LanDesign, Gayle Lyman

PETITIONER'S PRESENTATION

Will Damrath, representing the petitioner, introduced other members of the design team, provided a brief history of the site, and presented an overhead transparency of the Final Plat and Site Plan denoting the proposed lot layout. Albertson's grocery store would be located on Lot 2, with retail and shops proposed for Lots 1 and 3. Lots 2A, 4 and 5 would be retained as pad sites for businesses yet to be determined. Because Albertson's indicated a desire to purchase Lot 5 instead of 2A, designation of the two lots had been switched on the Final Plat.

Access points were noted on the Site Plan. Mr. Damrath said no left-turn turning movements would be allowed out of the access onto Highway 340; however, CDOT permitted left turns into the access. The main access off Power Road has been repositioned on the plat to a point approximately 200 feet from the intersection. Two left-turn lanes and one right-turn/through lane were proposed for Power Road at the Highway 340 intersection. The

center lane would be striped to allow for stacking flexibility. The two islands currently located in the middle of the intersection would be removed, with new mast arms installed. Handicap ramps would be added at various points (noted). Additional right-of-way had been dedicated along Power Road to facilitate road widening and the construction of sidewalks along one side of Power Road to the west property line. Mr. Damrath noted that paving would be installed on both sides of the street. The current 3-phase signal light at the intersection would be replaced with an 8-phase signal light. A cost-sharing request would be submitted to City Council for consideration.

With regard to drainage, Mr. Damrath said that a drainage easement had been secured from Pepsi-Cola to allow conveyance of stormwater across its property to the Colorado River via a 36-inch-wide conduit. The riverfront trail section located along the site's Highway 340 frontage would be upgraded to a 10-foot-wide concrete section and extended to the intersection, ultimately tying into the handicap ramp crossing Power Road. One section of trail (shown) would be realigned. Access points from other on-site lots to the trail would be provided. Construction of Lot 1 would be completed so that existing Brach's Market tenants could, if they so chose, relocate prior to construction of Lot 3. Mr. Damrath noted the location of a temporary construction fence and striping, which would be present during construction.

In summary, Mr. Damrath said that the development complied with Preliminary Plan requirements and Growth Plan recommendations, and he noted the many improvements proposed with the project.

QUESTIONS

Commissioner Driscoll asked Mr. Damrath if his engineer had had an opportunity to evaluate potential turning conflicts arising between vehicles turning right out of Power Road onto Highway 340 and those vehicles going past Power Road and turning into the site's Highway 340 entrance. Mr. Damrath expected no conflicts to occur given the current access configuration.

Commissioner Driscoll thought that most people would drive past Power Road and turn into the site via the Highway 340 entrance. Mr. Damrath said that the volume of right-turn movements out of the site from that intersection would be less than from the left-turn lanes located on Power Road.

Commissioner Driscoll asked if trail parking would be allowed to continue. Mr. Damrath said that parking by trail users could continue, at least initially, but the parking area would not be signed as such. If tenants later complained about trail user parking interfering with their businesses, the petitioner requested the right to prohibit future trail parking.

When asked by Commissioner Driscoll if trail users could park elsewhere on the site and use the trail, Mr. Damrath said that the number of parking spaces provided coincided with the square footage of lots and proposed uses; trail parking had not been factored into those calculations.

Commissioner Binder wondered why trail users couldn't utilize other on-site parking spaces, if available. Mr. Damrath did not expect that conflicts would arise; however, if they did, the petitioner wanted to be able to address them. He indicated on the Site Plan where trail users were currently parking.

Commissioner Binder asked where mailboxes would be located. Mr. Damrath said that the post office had not yet indicated its preference on a mailbox location.

Commissioner Binder wondered if the house and land located to the west of Brach's Market belonged to the petitioner, to which Mr. Damrath replied negatively.

Chairman Elmer asked if the petitioner had a problem with any of the staff's conditions. Mr. Damrath said that in condition 1, the Redlands Marketplace name may have to be removed from the drainage easement agreement since he thought the agreement, drafted by the City, had named just the City and Pepsi-Cola. Mr. Shaver

explained that Redlands Marketplace need not be named on this agreement as long as both entities (City and Redlands Market Place) were named beneficiaries. Mr. Damrath reiterated his intent to approach City Council with a cost-share request on intersection signalization. No issue was taken with any other staff condition.

STAFF'S PRESENTATION

Bill Nebeker agreed that conflicts between on-site businesses and trail user parking would be minimal. He noted the two proposed trail access easements from other lots. Staff had no problem with eliminating Redlands Marketplace from the drainage easement agreement. Having found that the request complied with Preliminary Plan requirements, staff recommended approval subject to the following conditions:

1. A properly executed drainage easement in favor of the City and Redlands Marketplace over the Pepsi property for stormwater drainage shall be required prior to plat recordation.
2. The 10-foot concrete trail along Highway 340 shall be 10 feet wide the entire distance to the ramp crossing Power Road. Construction plans shall be revised accordingly.
3. All fees including the \$60,000 upgrade of the sanitary lift station shall be paid prior to plat recordation.
4. Final approval of the CDOT access permit is required prior to plat recordation.
5. City Council action is required for any City participation in cost sharing for improvements in the public right-of-way.

QUESTIONS

Commissioner Driscoll asked engineering staff to comment on his concern regarding possible turning conflicts. Kent Marsh said that proposed striping would limit right turning vehicles to the two lanes excluding the decel lane.

Chairman Elmer said that if someone wanted to make a right-hand turn on red, it would conflict with traffic driving past the intersection wanting to use the site's Highway 340 access. Mr. Damrath agreed that a conflict in that instance could arise and said that engineering staff could further review that concern. Commissioner Binder added that conflicts with eastbound traffic wanting to turn left into the Highway 340 entrance would occur as well. Chairman Elmer did not feel that striping alone was sufficient. Mr. Damrath said that concerns could be mitigated by posting a "No Right on Red" sign at the Power Road intersection. Mr. Nebeker suggested leaving the final determination up to the traffic engineers.

Commissioner Driscoll wondered if the City had any prescriptive easement right to allow the public continued use of the current trailhead parking area. He expressed concern over a possible lack of available parking for the trailhead. Mr. Shaver said that in the current instance, the City had no established right to the parking area. He advised against making a parking area be provided as a condition of approval.

Commissioner Binder wondered if the land to the west, also zoned C-1, could be developed. Mr. Nebeker responded affirmatively, adding that the potential was also there for additional parking. He explained that Mesa County had offered property further to the west for trail parking; however, the proposal had been rejected due to possible conflicts arising between traffic and gravel pit operations.

Chairman Elmer hoped that the Parks Department had had a chance to review the trail access issue, and after looking at other access options, deemed the Redlands Marketplace access point to be non-critical.

When asked by Commissioner Binder how property to the west of Redlands Marketplace would derive its access, Mr. Nebeker said that its access would be via Power Road. Staff had discussed providing the property with an alternative access point through the petitioner's property; however, no alternative access or easement

had been provided by the petitioner. Mr. Shaver said that the western property was neither landlocked nor did it require a secondary access to comply with the Major Street Plan. While not a preferred option, an access easement across the petitioner's property could be secured at some future point if deemed necessary.

Commissioner Binder expressed concern that runoff from the petitioner's parking lot would contain grease, oil, and other contaminants, which would be conveyed to the Colorado River. Were there any plans to require grease and oil separators? Mr. Shaver said that the state may not consider the runoff to be a "point source discharge." In 2003, new stormwater management regulations could require grease and oil separators or similar technology, with retrofitting costs likely borne by the City. Mr. Marsh confirmed that the City's current stormwater manual did not require any filtering device.

PUBLIC COMMENTS

There were no comments either for or against the request.

PETITIONER'S REBUTTAL

Mr. Damrath felt that the 8-phase signal light at the Power Road intersection would adequately handle traffic volumes and turning movements. He agreed to discuss the "No Right on Red" signage with his traffic engineer.

DISCUSSION

Commissioner Driscoll remarked that the Final met Preliminary Plan requirements. He expressed appreciation to the petitioner for allowing the public to continue using the trailhead parking area. From a safety standpoint, he felt that a re-review of the Power Road intersection was warranted.

Chairman Elmer suggested proposing a condition 6 to read, "The traffic engineers shall review the potential conflict of the right-hand turn from Power Road onto Broadway to determine whether there is a need for a 'No Right on Red' restriction."

Commissioner Binder felt that proposed improvements would definitely enhance the subject corner. She appreciated the petitioner's willingness to re-review intersection safety issues and to provide continued public trailhead parking.

Chairman Elmer noted the lack of any degradation in levels of service at the Power Road intersection resulting from the proposed development.

MOTION: (Commissioner Driscoll) "Mr. Chairman, on item FPP-1999-180, I move that we approve the Final Plat for Redlands Marketplace Subdivision subject to staff's recommendation with the addition of condition 6 as expressed earlier [to read, 'The traffic engineers shall review the potential conflict of the right-hand turn from Power Road onto Broadway to determine whether there is a need for a 'No Right on Red' restriction.']"

Commissioner Grout seconded the motion.

Chairman Elmer asked if the motion included the deletion of Redlands Marketplace from condition 1. Mr. Driscoll amended his motion accordingly, which was seconded by Commissioner Grout.

A revised motion is as follows:

MOTION: (Commissioner Driscoll) "Mr. Chairman, on item FPP-1999-180, I move that we approve the Final Plat for Redlands Marketplace Subdivision subject to staff's recommendation with the addition of condition 6 as expressed earlier [to read, 'The traffic engineers shall review the potential conflict of the right-hand turn from Power Road onto Broadway to determine whether there is a need for a 'No

Right on Red’ restriction.>] and to delete the words ‘...and Redlands Marketplace... from condition 1 (as amended).”

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

Commissioner Prinster returned and was present for the remainder of the hearing.

FPP-1999-182 FINAL PLAT/PLAN—INDIAN WASH II SUBDIVISION

A request for approval of the Final Plat/Plan of Indian Wash II Subdivision consisting of 15 single family detached lots on approximately 4.25 acres in a PR-2.9 (Planned Residential with a density not to exceed 2.9 units per acre) zone district.

Petitioner: Fennern Construction
Location: North of the northwest corner of 29 and F Roads
Representative: Genesis Designs, Marc Maurer

PETITIONER’S PRESENTATION

Marc Maurer introduced other members of the design team and presented an overhead transparency of the Final Plat. A brief overview of the project was given and surrounding zoning and land uses were indentified. He noted that Preliminary Plan conditions had been met. Lots abutting 29 Road would have a 15-foot setback measured from a proposed 6-foot privacy fence. A 5-foot landscaping strip along the fenceline would be included, providing a 20-foot total rear yard setback. For Lots 1-7, Block 1, rear yard setbacks would be 25 feet. Sufficient building envelopes existed for both Lots 8 and 9, Block 1. Property lines had been adjusted to accommodate rip-rap, with building envelopes adjusted to provide a 5-foot strip for maintenance of the structure. Elsewhere, 14-foot front yard setbacks were provided for principal structures, and 20-foot setbacks were provided for garages. Side yard setbacks were typically 10 feet.

Mr. Maurer said that the CC&R’s provided for 48-inch open fences along the wash. The lower, open fencing, he felt, would discourage people from dumping trash and grass clippings into the wash. The petitioner was amenable to providing a public trail easement through the wash. Mr. Maurer read a letter from the NRCS into the record and submitted a copy of the letter to staff. No issue was taken with any of staff’s conditions.

QUESTIONS

Commissioner Binder asked for a brief history on the formation of Tracts A and B, which was given. When asked, Mr. Maurer clarified that both tracts, the 5-foot landscaping strip along 29 Road, and the private street would be maintained by the HOA.

Commissioner Binder wondered if Lots 10 and 11, Block 1, would derive their accesses via 29 Road. Mr. Maurer said that while property owners could face their homes towards 29 Road, access would be via a shared driveway along the 30-foot easement provided.

Chairman Elmer asked if the NRCS had jurisdiction over the rip-rapped area outside the property’s boundary. Jim Langford, also representing the petitioner, said that the NRCS had no objection to placement of rip-rap outside the property line. Mr. Shaver clarified that while the NRCS exerted some influence over flood control in the area, they were not the actual regulatory agency. The City and County, he said, retained control over maintenance of the wash. Mr. Langford said that none of the agencies contacted had expressed opposition to placement of rip-rap along the banks of the wash.

Chairman Elmer observed that, according to the cross-section, the 5-foot setback for Lots 8 and 9 was located on a 1 ½:1 slope, with the building envelope located on the crest of that slope. Mr. Langford agreed that the slope extended to the property line along one portion of rip-rap (noted). Chairman Elmer said that if a home were built up to the edge of the building envelope, the existing slope would preclude any maintenance or access. Mr. Langford expected that there would be no need for maintenance of the rip-rap once installed.

Chairman Elmer wondered why such a large building envelope and small setback had been proposed for Lot 8. Mr. Maurer indicated that the lot was very constricted, so that only about 700-800 feet of livable space and a 400-square-foot garage could be placed on the property. A larger building envelope would allow greater flexibility for placement. The 5-foot easement, he continued, was not for maintenance of the rip-rap; rather, it had been intended for maintenance of the structure. No rear yard easements had been necessary, and access to the rip-rap would be through Tract A. Mr. Langford said that rip-rap had been sized for a 100-year flood event; thus, it was doubtful maintenance would ever be required. Mr. Maurer said that there were homes currently located along the wash where no bank stabilization measures had been employed; those homes had withstood 100-year flood events without incident. Mr. Langford thought that the City currently had plans for detention facilities upstream, which would further attenuate any historic flows through the wash. Kent Harbert said that rip-rap had been requested by the City only as a precautionary measure. He noted that a hike/bike trail could be constructed at the bottom of the wash, and more aggressive maintenance of the wash would be undertaken. Mr. Langford said that the petitioner would initiate clean-up of the wash.

Commissioner Binder asked if rip-rap would be in place prior to sale of the lots, to which Mr. Langford replied affirmatively.

STAFF'S PRESENTATION

Kristen Ashbeck confirmed that the Final Plat and Plan met Preliminary Plan requirements, including the provision of a maintenance strip for Lots 8 and 9. She understood that the City would do clean-out of the wash which would be completed within the next year. Staff recommended approval subject to the following conditions:

1. Revise the dedication language on the Final Plat so that the City/public may have access across Tract B to the public open space (Indian Wash).
2. Provide evidence of plan approval from the NRCS prior to City approval of final construction plans.
3. Address all remaining staff comments dated October 12, 1999 and Central Grand Valley Sanitation comments dated October 7, 1999 (attached to staff report) prior to approval of final construction plans and/or recording the Final Plat.

Ms. Ashbeck said that although the NRCS letter was read into the record, staff wanted an opportunity to review it.

Mr. Shaver added that the only guarantee for construction of private improvements prior to a lot's sale would be a plat hold.

QUESTIONS

Commissioner Binder asked if Tract B would be maintained by the City, to which Ms. Ashbeck responded negatively. While the easement would be dedicated to the City, maintenance of it would be assumed by the HOA.

PUBLIC COMMENTS

There were no comments either for or against the request.

PETITIONER'S REBUTTAL

No rebuttal testimony was offered.

DISCUSSION

A great deal of discussion ensued about the maintenance easement provided for Lots 8 and 9. Chairman Elmer felt strongly that the 5-foot strip was inadequate, especially due to its location on a steep slope. Heavy equipment would be unable to navigate the slope to access the wash should rip-rap repairs be necessary. Mr. Maurer said that building envelopes would require regrading prior to construction. He expected that the ground would be much more level than what was shown in the cross-section.

Commissioner Grout expressed similar concerns over possible slope failure during a flood event, necessitating repairs. Mr. Langford admitted to over-engineering the project and said that by the Development Engineer's own admission, rip-rapping the embankment was probably unnecessary. Mr. Langford agreed to level the maintenance strip to provide better access for heavy equipment, although he reiterated that such precautions were probably unwarranted.

Chairman Elmer did not feel that the 5-foot maintenance strip would provide sufficient room for repairs, especially for Lot 8. Given building envelope restrictions and insufficient setbacks, the lot seemed "forced" into the subdivision. He suggested that further revision of the plan be undertaken.

Commissioner Grout agreed. If fill were required prior to grading in order to create the maintenance strip, the potential for slope failure would be increased.

Commissioner Prinster disagreed, noting that City engineering staff didn't foresee a problem and viewed rip-rapping as precautionary only. He felt the maintenance strip to be wide enough but thought that it should be leveled.

When asked by Chairman Elmer what the 100-year flood flow levels were, Mr. Harbert was unsure. Mr. Langford said that the City had given him the figure of 1,000 cfs, with velocities of approximately 5-7 cfs. Figures, he said, had been included in the geotechnical report.

Chairman Elmer asked about the type of soils present. Mr. Langford said that it appeared there had been some fill placed on the site over many years.

Commissioner Driscoll concurred with Commissioner Prinster's comments and acknowledged the lack of concern expressed by the City's engineering staff. Houses, he said, had been successfully built on slopes steeper than the one at Indian Wash. Since the petitioner had offered a feasible building envelope that met with staff's approval, he could see no reason to oppose the request.

Chairman Elmer said that if approved, he suggested adding a recommendation that at least a 5-foot-wide level strip be graded in the setback area behind Lots 8 and 9, with the improvement completed prior to the sale of either Lot 8 or 9. Commissioners Driscoll and Prinster concurred.

MOTION: (Commissioner Driscoll) "Mr. Chairman, on item FPP-199-182, I move that we approve the Final Plan and Plat for Indian Wash II Subdivision subject to staff's recommendations with the addition of recommendation #4 as outlined by Chairman Elmer [to read], 'At least a 5-foot-wide level strip be graded in the setback area behind Lots 8 and 9, with the improvement completed prior to the sale of either Lot 8 or 9.'"

Commissioner Binder seconded the motion. A vote was called and the motion passed by a vote of 4-1, with Chairman Elmer opposing.

VE-1998-179 FINAL PLAT/PLAN—ROCKWOOD ON THE RIDGES

A request to extend time for recording the Final Plat (15 attached and detached dwellings on 2.24 acres in a PR-4 zone).

Petitioner: Dynamic Investments, Mike Stubbs
Location: Rana Court and Rana Road in the Ridges

PETITIONER'S PRESENTATION

Mike Stubbs, petitioner, explained how he'd lost his builder and partner in the project. The extension would give him the time needed to find another partner.

STAFF'S PRESENTATION

Bill Nebeker said that staff took no issue with the request and recommended approval.

PUBLIC COMMENTS

There were no comments either for or against the request.

DISCUSSION

Commissioner Grout commented that the request was straightforward and appropriate.

MOTION: (Commissioner Grout) "Mr. Chairman, on item VE-1998-110, I move that we grant a one-year time extension request for the recording of the Rockwood at the Ridges Final Plat."

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

IV. GENERAL DISCUSSION

Commissioner Binder said that she had met with Mr. Shaver concerning the problem of developers waiting until after the sale of subdivision lots before constructing all the improvements. Citing a recent incident where neighbors had purchased their lot only to have a 25-foot berm constructed in what they thought was their backyard, she felt that buyers should be afforded greater protection. Requiring all improvement construction prior to the sale of lots would give buyers a chance to actually see what they were getting. This discussion is what prompted Mr. Shaver's letter to the Commission.

Chairman Elmer thought that the requirement would be very controversial, since developers depended on the sale of lots to pay for improvements. Instead, he suggested that, upon purchase of the lot, notice be given to lot buyers outlining improvements that were yet to be constructed.

Commissioner Binder asked if such notice would elaborate on the type and extent of the improvement. Chairman Elmer thought that notification language could be crafted to provide any level of clarification desired.

Commissioner Grout hoped that homeowners would receive notification prior to the signing of paperwork.

Mr. Shaver said that one problem with that approach was in the standardization of disclosure language. He said that public policy issues were more difficult to resolve than the legal requirements.

Commissioner Prinster wondered if developers had a fixed timeframe for completion of improvements. Mr. Shaver said that generally DIA's were for a one-year time period.

In discussion of a possible remedy, Mr. Shaver said that 'Certificate of Improvements' could be required which generally would consist of a list of improvements to be completed, could also be given to a lot buyer; however, the question of enforcement would then be an issue. If the City were given the task of disclosure, then the City would also be responsible for enforcement. Mr. Shaver mentioned that much information could always be obtained through staff at the Community Development Department. Developers, he said, could also raise the objection that they were being forced to protect the consumer from themselves.

Chairman Elmer asked Mr. Shaver to investigate some sort of notification option. Mr. Shaver said that notification could be addressed in the new draft Code, with the issue being brought before City Council for discussion. He agreed to research available options and report back to planning commissioners with his findings.

Chairman Elmer said that complaints were more often registered from consumers over a developer's lack of providing an adequate irrigation system.

Commissioner Driscoll announced that this would be his last meeting as his term had expired. Chairman Elmer and other planning commissioners thanked him for a job well done and wished him well with his other pursuits.

Mr. Shaver said that a Code amendment providing for two Planning Commission alternates was being considered by the City Council tomorrow night.

With regard to the status on a Consent Agenda, David Varley said that he would meet with Mr. Shaver to pursue that item further. A proposal should be brought before the Planning Commission very soon.

Commissioner Prinster asked about time limitations imposed upon public hearing testimony. Mr. Shaver said that the chairman had the right to direct the public hearings and impose such limitations if he so chose.

With no further business, the hearing was adjourned at 9:05 p.m.