

**GRAND JUNCTION PLANNING COMMISSION
NOVEMBER 9, 1999 MINUTES
7:07 p.m. to 11:45 p.m.**

The regularly scheduled Planning Commission hearing was called to order at 7:07 p.m. by Chairman John Elmer. The public hearing was held at Two Rivers Convention Center.

In attendance, representing the Planning Commission, were John Elmer (Chairman), Joe Grout, Terri Binder and Mark Fenn.

In attendance, representing the Community Development Department, were Bill Nebeker (Sr. Planner) Kristen Ashbeck (Sr. Planner), Kathy Portner (Planning Manager), Lori Bowers (Assoc. Planner) and Pat Cecil (Development Services Supervisor).

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

Terri Troutner was present to record the minutes.

There were approximately 40 interested citizens present during the course of the hearing.

I. APPROVAL OF MINUTES

Available for consideration were the minutes of the October 12, 1999 Planning Commission public hearing.

Commissioner Binder asked that the last sentence of the first paragraph under Discussion on page 16 be stricken, which read: "She also felt that Mariposa would be used more as a secondary access, since the bulk of expected traffic would be coming from the City."

MOTION: (Commissioner Grout) "Mr. Chairman, I move that we approve the minutes as amended tonight for October 12th."

Commissioner Binder seconded the motion. A vote was called and the motion passed by a vote of 3-0, with Commissioner Fenn abstaining.

II. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

There were no announcements, presentations and/or visitors.

III. PUBLIC HEARING ON ITEMS FOR FINAL DECISION

FPP-1999-183 FINAL PLAT/PLAN—FOUNTAIN GREENS FILING #1

A request for approval of the Final Plat/Plan of Fountain Greens Filing #1 consisting of 44 single family attached and detached lots on approximately 11.52 acres in a PR-8 (Planned Residential with a density not to exceed 8 units per acre) zone district.

Petitioner: Fountain Green, LLC

Location: North of the northwest corner of 25 and G Roads

Representative: Brian Hart, LanDesign

PETITIONER’S PRESENTATION

Tony Bottagaro, the petitioner, presented an overhead transparency denoting the site’s location. He then turned the presentation over to Brian Hart, engineering consultant, who presented an overhead transparency of the Site Plan.

Mr. Hart reviewed the proposal and said that the Final Plat conformed to the conditions of Preliminary Plan approval. He also concurred with staff’s approval conditions for the Final Plat but suggested changing the verbiage of condition 3 to read, “The City of Grand Junction will be indemnified for any relocation of the existing Grand Junction Drainage District line.” Mr. Hart acknowledged that the proposed change was only recently proposed to staff. Conditions 5 through 8 pertained to future filings. The GJDD had approved of proposed drainage mitigation measures and would support the plan as long as conditions of approval were met. Mr. Hart then presented an overhead transparency of Filing 1.

QUESTIONS

Chairman Elmer asked Mr. Hart to point out where single family attached and detached units would be located, which was done. Mr. Hart also noted the locations of various traffic-calming measures within the project.

Chairman Elmer asked for clarification on how the existing drain through Filing 1 would be handled. Mr. Hart showed where the new line would tie into the existing line and be directed to and along 25 Road, where it would empty into Leach Creek. He said that the northern half of the property would not be altered.

Chairman Elmer asked if the one-year study required by staff was intended to ascertain impacts to Filing 1. Mr. Hart responded negatively and recalled a meeting where he, various engineers, drainage district representatives, and City staff met to discuss the drainage issue. The new line would be constructed, with the old line (north half of the existing line) either blocked off or removed. Mr. Dorris had recommended that prior to construction of Filings 3 and 4 a one-year monitoring schedule be implemented. Groundwater would then be monitored. If any problems arose, the petitioner would be responsible for mitigation.

Chairman Elmer wondered why the existing line had to be abandoned. Mr. Hart explained that the existing line was currently routed through the entire property. If not moved or abandoned, homes would be situated over it.

Chairman Elmer wondered if the groundwater level rose during the one-year monitoring period, would there be a trigger point where the drain line would be reactivated so that rising water didn’t damage existing properties? Mr. Hart understood that the existing line would remain during the monitoring period should it be needed. He reiterated that if a problem arose, mitigation would be performed before any construction of Filings 3 or 4 could commence.

Mr. Dorris said that during the monitoring period he expected removal of the existing line, to represent actual conditions. If the groundwater then became a problem, mitigation would be required, which could include installation of a drain line near the canal or a series of under-drains next to sanitary sewers, etc. Perhaps more fill would be added. The concern, he noted, with just adding more fill to elevate structures above groundwater levels was that the Courtneys’ home was situated nearby. If the groundwater rose, their home could be adversely impacted. The petitioner would retain the storm drainage system in front of the Courtneys’ home, tying that in to the new line.

STAFF’S PRESENTATION

Bill Nebeker amended his November 9, 1999 staff report to reflect a project summary of 44 dwelling units, not 32. In addition to Final Plat and Plan consideration, consideration should also be given to vacation of utility easements (locations noted). He concurred that the petitioner had met Preliminary Plan

conditions. Staff recommended approval of the vacation and approval of the Final Plat/Plan subject to the following conditions:

1. The applicant shall comply with all conditions of Preliminary Plan approval, as modified in condition 2 below.
2. An eastbound left-turn lane onto G Road at 24 ³/₄ Road shall be constructed with Filing 2 instead of Filing 4 as stated in Preliminary Plan approval.
3. The City of Grand Junction will be indemnified for any relocation of the existing Grand Junction Drainage District line.
4. Final approval of this project (construction plans and plat recordation) is expressly contingent on vacation of the GJDD easement through the site.
5. The GJDD pipe in front of the Courtneys' house will be connected to the new GJDD pipe when it is built in future filings.
6. The applicant shall construct the GJDD storm sewer to Leach Creek. The applicant has requested that the City share the cost. The applicant is required to construct the sewer even if the City does not fund the requested cost share.
7. A more detailed report outlining the construction observation, quality assurance, and quality control testing will be required for future filings. The main intent of this report is to ensure shallow groundwater and potentially wet subgrade conditions are monitored, with problems identified as early as possible.
8. The north portion of the GJDD line, that part from the north side of Filing 1 to the terminus at the canal, will be installed (and the existing GJDD line removed) one year prior to the application for the filing in this area. The purpose is to allow one complete season of groundwater monitoring to determine if removal of the GJDD has allowed the groundwater level to rise to a problematic level. If the groundwater rises to an unacceptable level, one possible solution will be to install a groundwater drain along the canal from approximately the Courtneys' house to the east, connecting to the new GJDD line.
9. Revisions to construction plans per third-round comments from the City's development engineer shall be completed prior to construction.
10. A common ingress/egress easement is needed on the plat for the common driveway between Lots 12 and 13, Block 1, unless the garages are planned to face north. This determination must be made prior to plat recordation.
11. The Preliminary Plan shall be valid for six years from Filing 1 approval as long as each new filing is submitted within 1 ¹/₂ years of the final approval date of the prior filing.

QUESTIONS

Commissioner Binder asked for clarification on the verbiage change to condition 3. Mr. Shaver said that the new verbiage change protected the City against liability for any line relocation/removal. It was Mr. Shaver's opinion that the change would not harm the Courtneys because the City is not a party; the change was reasonable, Mr. Shaver said, from the condition as originally proposed.

Commissioner Binder referenced the GJDD's comments of August 13, 1999 wherein the District had indicated that it would bear no responsibility for ramifications resulting from line relocation/removal. If

neither the City nor the drainage district would accept liability, with whom would the responsibility rest? Mr. Dorris said that if groundwater drainage problems occurred, liability would rest with the developer.

John Ballagh, representing the Grand Junction Drainage District, reiterated that while the District would agree to accept responsibility for the existing line, it would not accept future responsibility for the new line. Mr. Shaver elaborated briefly on what this meant.

Commissioner Binder wondered if or when a lot buyer would be made aware of the liability. Mr. Shaver said that the record of the subdivision and the title work are the places potential buyers could look. He acknowledged that a fairly high degree of sophistication would be necessary. If further notification was desired, Mr. Shaver suggested requiring a plat note. Chairman Elmer said that extra insurance was already provided via the condition requiring engineered foundations. Mr. Dorris added that addressing the liability issue was the reason for requiring the one-year monitoring condition. He said that since water levels underneath the existing pipe could not be determined, removing the pipe would allow for more realistic monitoring. Chairman Elmer acknowledged the various safeguards in place to ensure that drainage problems wouldn't arise without a means for mitigation. Mr. Shaver said that the ultimate protection included the City's prohibition of future phases if drainage issues weren't addressed. Commissioner Binder said that the Planning Commission should provide property owners with a plat note; however, she doubted whether most buyers would know to examine the property's history before purchase.

PUBLIC COMMENTS

FOR:

There were no comments for the proposal.

AGAINST:

David Courtney (727 – 25 Road, Grand Junction) believed planning and development staff to be very conscientious; however, he still had reservations about the project. Citing a recent City Council decision on another proposal, he said that in that instance an adjacent property owner requested that lots directly abutting his property be enlarged. Why, then, was he not given the same consideration? He noted that groundwater levels on the northern end of his property were only 6 inches below the surface, with only a 26- 28-inch depth to the south. Representatives from both the Grand Valley Irrigation Company and the GJDD were supportive of his concerns. He'd understood that a new line would be installed to run parallel to the old line, with the old line remaining where it was. He thought that the water would then be measured as it came from the existing system. He asked if drainage water from the project site backed up into his basement, who would bear responsibility?

Mr. Courtney asked whether the retention pond was planned for construction with the current phase. Mr. Hart replied negatively.

Bob Reeder (2484 G Road, Grand Junction) said that his property and two others were regularly flooded by runoff from the subject property, yet no one had ever told him a problem existed and no notification had ever been recorded. He said that if runoff from paved surfaces included oil and gasoline, contaminants would be carried to his and other properties, threatening their landscaping.

When asked to note the location of his home, Mr. Reeder pointed it out on an overhead transparency and added that he lived in the Golden Meadows Subdivision.

Mary Hollingsworth (729 – 25 Road, Grand Junction) elaborated on the problem with the 25 and G Road intersection. She said that the turning radius was too narrow and large trucks were not only taking up the entire intersection in order to make their turns but the shoulder as well. Added construction traffic and homeowner traffic from the subdivision would only exacerbate the problem. She expected that the 24 and G Road intersection would be impacted similarly as a result of the development. Since the City had

scheduled intersection improvements for the year 2001, she strongly urged delay of the project's development until that time. She cited Code sections, which she believed supported her request.

Alan Salter (2494 E. Harbor Circle, Grand Junction) objected to what he perceived as a predetermination by planning commissioners to approve the project regardless of the facts presented or the opposition expressed. He felt that due process was being denied to citizens with legitimate complaints. Mr. Salter recalled a comment made during an August 1998 public hearing that "a commitment had been made to the developer." Did this mean that the developer had been given prior assurances of approval? Mr. Salter suggested that the Planning Commission had been bribed. Mr. Nebeker said that the comment made referenced an approved ODP which conceptually outlined the proposal. Mr. Salter noted that none of the surrounding residents was in favor of the proposal, yet the City seemed to disregard the level of opposition and arguments expressed by existing homeowners. He asked planning commissioners to further consider drainage concerns, road concerns, safety issues of pedestrians, and other traffic-related concerns. Mr. Salter said that he was putting the City on notice that he would hold the City liable for any flooding occurring on his property as a result of the development approval.

Ted Martin (2580 G Road, Grand Junction) agreed with Commissioner Binder's concerns regarding property owner notification. Should drainage mitigation measures for the subject property fail, liability would be incurred. It shouldn't fall to the property owner to pay for the developer's error.

PETITIONER'S REBUTTAL

Terry Farina, legal counsel for the petitioner, reminded everyone that only Filing 1 was being discussed. He reiterated that a number of safeguards had been built into the project to protect both surrounding residents and future lot buyers and stressed that drainage issues would be mitigated. The petitioner, he said, had done everything the City and review agencies had required. Final Plat conditions added additional protections. He noted that the project had, in previous development stages, received unanimous support from both the Planning Commission and City Council.

DISCUSSION

Commissioner Fenn asked Mr. Dorris to comment on the proposed drainage system. He asked, at worst, would it still be an improvement for downstream properties such as Mr. Reeder's? Mr. Dorris responded affirmatively, saying that the basin for the pipe as it currently existed collected tailwater and surface water upstream of the canal and carried it through the property to the pipe located on Mr. Reeder's property. With the new system, that water would be diverted east to 25 Road and carried along that road to Leach Creek. Thus, Mr. Reeder's property would no longer be burdened with surface flows from upstream of the canal nor from half to two-thirds of the Fountain Greens property. In the new configuration, the only supply sources would be through controlled releases from detention ponds located at 24 ¾ Road and in the south portion of Fountain Greens. Analysis of the pipe had been undertaken using outflows from both ponds to ensure adequate capacity.

In response to Mr. Reeder's problems with flooding on his property, Mr. Dorris said that the City and/or the GJDD had come out to perform maintenance on the line after the last flooding incident. A large quantity of debris and a pool cleaning hose was discovered within the line. The line, he said, should provide better service now that it had been freed of impediment.

Commissioner Binder wondered what solutions would be available if monitoring demonstrated a problem. Mr. Dorris said that a number of options were available, which included installation of an underdrain system consisting of a perforated pipe with gravel layer and filter fabric around it and placed along the toe of the canal and tied into the new Drainage District line, or an underdrain system installed along the sanitary sewer. Other filings would be accepted only after mitigation measures were proven.

Commissioner Binder felt that the Planning Commission was charged with doing the best job possible for not only existing homeowners but future homeowners as well. She felt uncomfortable with the fact that

neither the City nor the Drainage District wanted to assume liability for the proposed drainage system. At the very least, she said, a plat note should be required; however, most property buyers were not that savvy. Chairman Elmer agreed the most buyers didn't do the research they should.

Mr. Nebeker asked legal counsel if the City would be indemnified by the developer anyway, even if condition 3 were deleted. Mr. Shaver said that the indemnification would provide an affirmative defense, which was different from the liability issue mentioned during public commentary. He provided additional detail on the differences between the two issues.

Commissioner Binder asked for clarification on the improvements planned for the 25 Road. Mr. Dorris said that 25 Road would be widened to include a left-turn lane into Fountain Greens Place. Another left-turn lane would be installed at Fountainhead Blvd. He expected completion of 25 and G Road intersection improvements prior to the project's build-out.

Commissioner Binder asked if TCP fees would go towards intersection improvements. Mr. Dorris responded affirmatively and briefly elaborated on the amount of money collected per residence.

Chairman Elmer felt that the petitioner had complied with all Preliminary Plan conditions and was adhering to Code requirements. He agreed that the development process was complicated and often the public didn't understand what was involved. The Planning Commission, he said, was charged with upholding Code requirements. If the public didn't like those requirements, they may be changed but that would entail a different process.

Commissioner Grout concurred. He also believed that the petitioner had done everything required.

Commissioner Fenn said that he'd attended the previous public hearings on the project and said that a great deal of scrutiny had gone into the drainage issue. Planning commissioners relied on the professional expertise of engineering and planning staffs, and all had been satisfied that drainage issues could and would be mitigated. He expressed support for the request.

MOTION: (Commissioner Grout) "Mr. Chairman, on item FPP-1999-183, I move that we forward a recommendation of approval to the City Council for vacation of the utility easements in the replat of Fountainhead Subdivision as noted on the public easement exhibit, and approve the Fountain Greens Final Plat/Plan subject to staff's recommendations with changes to number 3, that the City will be indemnified from any liability in the future, and condition 6 which states that the applicant shall construct the sewer."

Commissioner Fenn seconded the motion.

Commissioner Binder asked that an additional condition be imposed requiring a plat note apprising future homeowners of their potential liability.

A brief discussion ensued over proper verbiage for the amendment. Mr. Shaver suggested the following verbiage for the plat note, "Further information may be obtained by reviewing Community Development File FPP-1999-183, City of Grand Junction, Community Development Department, 250 North 5th Street, Grand Junction, CO, Ph: 244-1430."

Commissioner Fenn suggested imposing the requirement on every project approved, which met with Commissioner Binder's approval.

Commissioner Grout agreed to add the amendment to his motion as condition 12. Mr. Shaver offered amending verbiage to reflect that, "A plat note should appear, which generally indicates that further information may be obtained by reviewing Community Development File FPP-1999-183, City of Grand

Junction, Community Development Department, 250 North 5th Street, Grand Junction, CO, Ph: 244-1430. Final verbiage may be submitted by the petitioner and be subject to staff’s approval.”

The revision was accepted by both Commissioners Grout and Fenn.

The amended motion is as follows:

MOTION: (Commissioner Grout) “Mr. Chairman, on item FPP-1999-183, I move that we forward a recommendation of approval to the City Council for vacation of the utility easements in the replat of Fountainhead Subdivision as noted on the public easement exhibit, and approve the Fountain Greens Final Plat/Plan subject to staff’s recommendations with changes to number 3, that the City will be indemnified from any liability in the future, and condition 6 which states that the applicant shall construct the sewer. Also, a plat note should appear, which generally indicates that for further information may be obtained by reviewing Community Development File FPP-1999-183, City of Grand Junction, Community Development Department, 250 North 5th Street, Grand Junction, CO, Ph: 244-1430. However, final verbiage may be submitted by the petitioner and be subject to staff’s approval (as amended).”

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

FPP-1999-226 FINAL PLAT/PLAN—MILLER HOMESTEAD

A request for approval of the Final Plat/Plan for: 1) 24,300 square feet of professional office building on two acres, and 2) four attached dwellings on 0.9 acre in a PB (Planned Business) and PR-18 (Planned Residential with a density not to exceed 18 units to the acre) zone district.

Location: 3090 and 3150 North 12th Street

Representative: Dan Roberts

PETITIONER’S PRESENTATION

Dan Roberts, representing the petitioner, asked that the item be continued to the November 16 public hearing. The additional week would give him time to provide staff with clarification on several issues prior to public hearing.

DISCUSSION

Commissioner Fenn said that due to the potential for conflict of interest, he would be recusing himself from any vote for continuance and any participation in deliberations on this item. Chairman Elmer was unsure whether a quorum would be available without Commissioner Fenn’s participation.

Mr. Nebeker expressed staff’s support for the continuance.

Mr. Shaver suggested opening up the public hearing for comments on the continuance only.

PUBLIC COMMENTS

There were no comments made on the continuance request.

DISCUSSION

Commissioner Grout noted the length of the November 16 agenda and cautioned the petitioner that the item could be delayed. A brief discussion ensued over whether the item would be placed ahead of or at the end of other agenda items.

Mr. Shaver said that the item could be tabled until December’s public hearing, if planning commissioners so chose.

MOTION: (Commissioner Grout) “Mr. Chairman, I move that we continue the Final Plat and Plan for Miller Subdivision to November 16, 1999.”

Commissioner Binder seconded the motion. A vote was called and the motion passed by a vote of 3-0, with Commissioner Fenn abstaining.

FP-1999-231 FINAL PLAT—MOUNTAIN VISTA

A request for approval of the Final Plat of Mountain Vista Subdivision consisting of 64 units of residential development on 20.82 acres in an RSF-4 (Residential Single Family with a density not to exceed 4 units per acre) zone district.

**Petitioner: Best Buy Homes, Inc.
Location: 30 ¼ and F ¼ Roads
Representative: Thompson-Langford**

PETITIONER’S PRESENTATION

Doug Thies, representing the petitioner, presented an overhead transparency of the Final Plat. The petitioner was in agreement with staff’s conditions of approval, including the provision of a Price Ditch crossing. Mr. Thies asked that consideration be given to application of a portion of TCP payments towards the crossing. He felt that the crossing had not been necessitated by the development, since several access options had been available; rather, it was part of the City’s overall circulation plan. He wondered where funding for the crossing went and how were monies dispersed? A former detention pond had been substituted for a retention pond. The Final Plat, he said, complied with Preliminary Plan conditions of approval.

STAFF’S PRESENTATION

Bill Nebeker agreed that Preliminary Plan conditions of approval had been met. Staff recommended approval of the Final Plat subject to the following conditions:

1. The applicant shall design the Price Ditch crossing and pay for one-half the cost of construction per the condition of approval for the Preliminary Plan (ANX-1999-139).
2. Some additional changes regarding designation of yards for setback purposes will be required on the Final Plat prior to recordation.

Staff recommended denial of the request to apply TCP funds towards the Price Ditch crossing. The City’s position was that the crossing was integral as an access into the subject property, and thus the development necessitated its construction. This was further corroborated by Kent Marsh.

QUESTIONS

Commissioner Binder asked if a private driveway would be constructed in the flag portion of lot 17, to which Mr. Nebeker replied affirmatively. How would lot 10 in block 5 derive its access? Mr. Nebeker said that access for that lot would be obtained off of Stonegate Road. Mr. Nebeker commended the petitioner for the development’s layout, given the number of access points.

Chairman Elmer wondered why the petitioner was being asked to pay for half of a crossing that wouldn’t even be located on his property. Mr. Nebeker compared the current request to Canyon View Filing 8, which crossed the Redlands Canal. Both canal and ditch were owned by their respective utility company. Without funding from the developer, there would be no other way to develop the crossing unless public funds were expended. Chairman Elmer said that a greater impact would result from development of the property to the north. Mr. Nebeker noted that no portion of the ditch was owned by either property owner; rather, there had been a deeded right-of-way for the ditch. Had the ditch been owned by the northern property owner, the obligation for construction of the crossing would have fallen to that property owner.

Commissioner Binder wondered if there would be a need for the crossing if the northern property was able to derive access from other locations. Mr. Nebeker said that the crossing was shown as a minor collector on the City's Major Street Plan.

Mr. Shaver said that the crossing's inclusion in the Major Street Plan necessitated its construction.

PUBLIC COMMENTS

FOR:

There were no comments for the request.

AGAINST:

Robert Unfred (3020 Vin Rose Way, Grand Junction) said that irrigation water rights of between 1/3- to 1/2-miner's inch were allocated to the property. Why wasn't the petitioner providing lots with irrigation water?

PETITIONER'S REBUTTAL

Mr. Thies said that although some water rights were available, the amount of water available was insufficient without construction of major on-site storage. The petitioner had chosen not to incur the added expense. He reiterated his request for consideration in the credit of TCP payments towards crossing construction.

Chairman Elmer said that under the TCP Ordinance the decision on application of TCP funds would rest with the City's Public Works Director.

QUESTIONS

Commissioner Binder wondered why irrigation water hadn't been provided if water rights ran with the land. Mr. Thies reiterated that there were insufficient water rights available to serve all proposed lots. The Code did not require provision of irrigation water.

DISCUSSION

Commissioner Fenn observed that the Final Plat met the conditions of Preliminary Plan approval. He thought the petitioner had done a good job with the project.

Chairman Elmer recommended staff's consideration for TCP payment credit towards the crossing construction given the unusual conditions associated with it. Commissioners Binder and Fenn concurred and supported the recommendation. Chairman Elmer agreed that the petitioner had addressed previous concerns.

MOTION: (Commissioner Grout) "Mr. Chairman, on item FP-1999-231, I move that we approve the Final Plat for Mountain Vista Subdivision subject to staff recommendations."

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

A brief recess was called at 9:25 p.m. The hearing reconvened at 9:35 p.m.

IV. PUBLIC HEARING ON ITEMS FOR RECOMMENDATION TO CITY COUNCIL

MS-1999-179 MINOR SUBDIVISION AND VACATION OF RIGHT-OF-WAY FOR HORIZON PARK MEADOWS

A request for approval of the Final Plat for Horizon Park Meadows Subdivision consisting of five commercial lots on 17.6 acres, and vacation of right-of-way in an existing H.O. (Highway-Oriented) zone district.

Petitioner: HPM, LLC

Location: Northeast corner of Horizon Drive and North 12th Street

Representative: Brian Hart, LanDesign

PETITIONER'S PRESENTATION

Rich Heiserman, representing the petitioner, introduced other members of the design team, Jeff Krosky and Brian Hart. Mr. Heiserman reviewed the request and said that he'd met with three homeowners groups on August 25, 1999 to discuss the project and had an attendance of between 40-50 people. No serious objections had been raised at that time. He noted the various internal and external access points. The only definite use proposed included an extended-stay hotel on Lot 3, which was an acceptable use in H.O. zones. He said that the subject right-of-way, from Horizon Drive to 27 Road, would not serve any useful purpose following subdivision of the lots.

QUESTIONS

Chairman Elmer noted that since Lot 3 did not abut a public road, signage would not be allowed off-site along street frontage. Mr. Heiserman said that he understood but added that some type of shared signage may be allowed through a variance process. Chairman Elmer cautioned that variance approval was not automatically guaranteed.

Chairman Elmer felt that given the close proximity of the site to residential uses, a 65-foot maximum height was excessive. Would the petitioner consider lower height restrictions? Mr. Heiserman said that he could not commit to a lesser height without first consulting other partners. He offered that the hotel should not be any higher than about 30-35 feet.

Commissioner Binder asked if the hotel was part of a nation chain. Mr. Heiserman said that it was part of Holiday Inn's chain of extended-stay hotels.

Chairman Elmer expressed concern over the site's overall traffic circulation plan. He asked for further clarification on this point, which was provided.

Chairman Elmer asked Mr. Heiserman if internal streets were eventually to become private drives, to which he responded affirmatively, adding that they would be maintained by a Homeowners Association. After asking legal counsel if that would mean a separate recommendation to City Council at the present time, Chairman Elmer opted to address the question later in the presentation. Internal circulation patterns were further discussed.

Commissioner Binder asked if turn lanes would be provided off of Horizon Drive, to which Mr. Hart responded negatively. He explained that while the traffic study warranted construction of turn lanes, due to the level of improvements needed, the City opted to move up its capital improvements plans for Horizon Drive. Development Impact Fees would be paid to the City in lieu of construction along Horizon Drive. However, 12th Street would still be improved with turn lanes, curb, gutter and sidewalk.

Commissioner Fenn asked if the northern access off of 27 Road would be used more as a service access. Mr. Hart said that the northern access was expected to get less use than the southern access; however, it wasn't really a service access, per se.

Chairman Elmer related to the petitioner's representatives that due to the site's proximity to residential uses, there would be a 15-foot landscaping strip and a boundary fence required as a minimum. Mr. Heiserman acknowledged the requirement. Chairman Elmer wondered if additional buffering would be provided and included in the CC&R's. Mr. Heiserman said that minimum rear yard and side yard setbacks of 30 feet from any interior lot line would be provided, with 65 feet of minimum setback from any street, applicable to all lots. Mr. Hart indicated that a revised set of CC&R's had been drafted and included the additional buffering; a copy would be submitted to staff for review.

Commissioner Binder wondered if Site Plans for individual lots would be brought before the Planning Commission for further review. Chairman Elmer explained that in straight zones, if a use was designated as "allowed" within that zone, Site Plans were only required to undergo administrative review.

Chairman Elmer preferred limiting the heights of structures to 35 feet on the three lots adjacent to the residential areas, with heights measured from the rear view. Mr. Heiserman reiterated that he couldn't commit to the restriction without first contacting the partnership. Mr. Shaver referenced Code section 4-2-18, which gave the Planning Commission and City Council authority to vary HO bulk requirements. Chairman Elmer felt that the least residents should expect is that some of their privacy would be protected.

STAFF'S PRESENTATION

Kristen Ashbeck stated that 12th Street improvements would be constructed by the petitioner. A landscape plan to include both 12th Street and Horizon Drive had been submitted, with landscaping installed as each lot was developed. While the circulation plan proposed was acceptable, she suggested additional language be added to the CC&R's reinforcing how access to Lot 3 would be handled. Blanket easements across the rest of the property would allow cross-access between parking lots and would accommodate drainage. She noted the site's two detention ponds, which would serve all five lots. She concurred that vacating the segment of east-west right-of-way in the southwestern portion of the site was appropriate and met Code criteria. Staff recommended approval of the vacation request and approval of the Final Plat subject to the following conditions:

1. Address all remaining staff comments regarding the Final Plat and covenants (provided petitioner) prior to recording the Final Plat.
2. Address all remaining comments from the City Development Engineer dated November 1, 1999 prior to approval of final construction drawings.
3. Staff's approval of the cost estimate for the amount of cash to be collected in lieu of half-street improvements along Horizon Drive.
4. Provide evidence of formation of a property owners' association prior to recording the Final Plat.

QUESTIONS

Commissioner Fenn wondered if height restrictions had ever been discussed, to which Ms. Ashbeck responded negatively.

Commissioner Binder wondered if height concerns had ever been expressed by any of the neighbors during the August meeting. This question was deferred to the public comment portion of the hearing.

With regard to private streets, Ms. Ashbeck said that there was no requirement for frontage on public streets for commercial lots. While no waiver of public street standards was needed, the City could not require private streets. Chairman Elmer said that most commercial developments provided an ingress/egress easement over a shared driveway versus a private street maintained by an HOA. Ms. Ashbeck said that in the current situation, easement locations would be left up to the property owners' association.

Chairman Elmer asked if a traffic analysis had been submitted and reviewed by City engineering staff, to which Mr. Dorris replied affirmatively.

Commissioner Binder wondered how accurate the traffic analysis could be given that the uses for four of the lots were as yet undetermined. Mr. Dorris said that “conservative” use scenarios were used, which included a 60,000-square-foot retail center, a restaurant and a 140-room business hotel with attached restaurant. Thus, as each use was proposed, the traffic study would be revisited to ascertain how that proposed use fit in with projections. He said that a similar scenario was in place for drainage flows.

Chairman Elmer asked for staff’s opinion on whether a 65-foot structural height limitation was appropriate for lots abutting residential zones. Ms. Ashbeck said that while compatible with the residential structure across Horizon Drive (e.g., Horizon Towers), it didn’t appear compatible with the single family structures to the north. Other commercial zones, she said, limited structural heights to 40 feet. Mr. Dorris suggested basing the structural height limitation on an absolute elevation difference between the property line at the residential subdivision versus the height of roof eaves, or perhaps utilizing a sight triangle analysis out of the windows of the hotel(s) into the back yards of residences.

PUBLIC COMMENTS

FOR:

There were no comments for the proposal.

AGAINST:

Vern Cochran (1449 Racquet Way, Grand Junction) said that he’d attended the August neighborhood meeting and that no one there had expressed any kind of support for the project. Structure height had been a big issue along with concerns over lighting, increased traffic and noise. He said that the 12th and Horizon roundabout could barely handle traffic volumes there now. He wondered why the City would condone destruction of its newly-constructed pedestrian path along Horizon Drive, which would surely occur as a result of the site’s development.

Dawn Taylor (1111 Horizon Drive, Grand Junction) noted that from the Pizza Hut on Horizon Drive to 7th Street, the area was residential in character. Wetland areas abounded on the site. How would wetlands be protected? Increased setbacks were needed, she felt, to protect both residential and wetland areas. She concurred with previous statements regarding traffic impacts and said that traffic at the Horizon Drive/G Road intersection was already backing up past the Pizza Hut.

Walter Dalby (555 Pinyon Avenue, Grand Junction) referenced an overhead transparency of an assessor’s map showing the site’s location. He objected to not having been invited to the neighborhood meeting. He suggested limiting structural heights to residential maximums. A 60,000-square-foot retail center would greatly impact surrounding residential neighborhoods and create a significant traffic burden along Horizon Drive. In the absence of a Site Plan, he urged denial of the request. A planned zone, he said, would be more appropriate, with specific setbacks, height restrictions, etc. put into place. Public input should be allowed for each use proposed. Mr. Dalby said that the Code should be changed to prevent commercial development from locating so close to residential zones without benefit of public input. Mr. Dalby questioned the zoning process. Mr. Shaver explained the process and answered Mr. Dalby’s questions about straight (HO) and planned zones.

Martin O’Boyle (3720 Horizon Drive Court, Grand Junction) concurred that H.O. zoning was inappropriate for the site. Commercial uses, he felt, were incompatible with surrounding residential neighborhoods. He suggested that a more appropriate location would be out towards the airport. He agreed that there were too many “unknowns” associated with the development, noting that other developers had considered the property but later abandoned it because of poor soils. A high water table existed underneath the property, with the site acting as a “sponge” for surface and subsurface drainage

flows. He suggested that additional residential uses would be more appropriate for the site; a 60,000-square-foot retail center was definitely not compatible.

PETITIONER'S REBUTTAL

Mr. Heiserman apologized to Mr. Cochran for his earlier statements made about the neighborhood meeting. He agreed that there had been opposition, just not to the extent suggested. He said that the 60,000-square-foot retail use reference had been used only for traffic projection purposes. Currently, there were no plans to construct such a facility. With regard to setbacks, buildings would be set back 65 feet from Horizon Drive and 30 feet from interior roads. The Army Corps of Engineers (COE), he said, had released most of the on-site areas referred to as "wetlands" after its reevaluation of the site. He felt that quality commercial uses would be attracted to the site, but reiterated that he couldn't commit the partnership to a height restriction. Noting that the Horizon Towers building was eight stories in height, he expected similar development for the subject property. Approval was needed without delay, he said, and he noted the lack of objection received from planning staff.

Mr. Hart added that a floodplain study had been undertaken, with results submitted to staff. The Ranchman's Ditch would not be piped due to the expense involved and because it would be contrary to COE preferences. He said that traffic numbers were based on very conservative use projections. An actual 60,000-square-foot retail facility would probably never be built. Citing the recently approved Brach's Market, he didn't feel that the area of any of the lots would be large enough to support so large a retail facility.

DISCUSSION

Chairman Elmer said that he'd never felt that an H.O. zone was appropriate for the subject property; yet, the zoning had been in place for many years. While agreeing that a planned zone would be more appropriate for the site, the zoning was not at issue. Mr. Shaver remarked that proposed uses would be subject to staff review and must comply with Code criteria regarding bulk standards, as established with the approval, signage regulations, etc. Chairman Elmer felt that a 40-foot height restriction should be imposed on lots 1, 3 and 5. This would be consistent with other commercial zones and lessen impacts to abutting residential uses. He expressed support for the larger setbacks. Lighting and signage could be adequately addressed at the staff level during administrative review.

Commissioner Binder asked if a use would be automatically approved if listed in the Use/Zone Matrix as "allowed." Mr. Shaver responded negatively, reiterating that site planning issues such as circulation, landscaping, parking, lighting and bulk standards must be addressed prior to any issuance of a planning clearance.

Commissioner Binder asked for clarification on the zoning for property located below Mr. Dalby's. Chairman Elmer answered that it, too, was residential.

Mr. Dorris said that Horizon Drive and 12th Street were experiencing added traffic volumes due to the closure of 27 ½ Road. Upon completion of construction, he expected those numbers to diminish.

Commissioner Binder asked for clarification on the zoning for property across from Horizon Towers to the east. Ms. Ashbeck said that it was zoned RSF-4.

Commissioner Fenn wondered what zone would be taking the place of the H.O. zone upon adoption of the new Code, to which Ms. Ashbeck answered that the new zone application would be C-1 (Light Commercial). He expressed support for the 40-foot height restriction for lots 1, 3 and 5, with 65-foot heights allowed for lots 2 and 4. Commissioner Binder concurred.

Commissioner Grout wondered if specifics should be mentioned in the motion on how the 40 feet would be measured. Chairman Elmer suggested using the current definition contained within the Code. The 30-foot side and rear yard setback stipulation should be addressed as well in any motion made.

Commissioner Binder concurred with statements made by Ms. Taylor concerning the need to protect wetland areas. As a newcomer to the area, she too recognized the value in the aesthetics of wetland and other wild areas but realized that, often, planning commissioners were powerless to stop their destruction. Chairman Elmer said that only through Codes and policies could those issues be addressed.

When asked to clarify the 30-foot setback stipulation, Mr. Heiserman said that the 30 feet would be measured from interior roads, which was more restrictive than measuring from interior lot lines. Mr. Shaver suggested that the Commission require that front, side and rear setbacks be denominated noting that all setbacks would be at least 30 feet except for frontages along Horizon Drive.

MOTION: (Commissioner Grout) “Mr. Chairman, on item MS-1999-179, I move that we approve the Final Plat for the Horizon Park Meadows Subdivision subject to staff recommendations with the additions of number 5, the building height be restricted to 40 feet on lots 1, 3 and 5, and a number 6, that the minimum rear and side yard setbacks for all interior property lines be 30 feet, and forward a request for vacation of the right-of-way to City Council with the recommendation of approval.”

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

ANX-1999-229 ZONE OF ANNEXATION/PRELIMINARY APPROVAL—HILL ANNEXATION
A request for: 1) approval of the Zone of Annexation for approximately 11 acres from County PR-3.6 to City RSF-E (Residential Single Family Estate with a density not to exceed 1 unit per 2 acres) zone district, and 2) a request for final approval of a three lot minor subdivision for three single family detached lots known as Leah Marie’s Minor Subdivision.

Petitioner: Ben Hill
Location: South Redlands Road
Representative: Thompson-Langford

PETITIONER’S PRESENTATION

Scott Thompson, representing the petitioner, asked for latitude on the provision of two fire hydrants. Due to the extreme cost of connecting hydrants to the City’s high-pressure water line, he asked that consideration be given to providing homes with in-house sprinkler systems, or a combination of one hydrant and an in-house sprinkler system for lot 3. Mr. Thompson also asked that the “no disturbance zone” allow for construction of a driveway into lot 3.

STAFF’S PRESENTATION

Lori Bowers said that three motions were needed on the item. The zone of annexation, she said, complied with Code criteria. The petitioner was also requesting waiver of the sewer requirements due to topographic conditions and distance of the site to the nearest sewer line. Staff supported this request; however a plat note must be included on the plat as provided in conditions of approval. The petitioner and/or future property owners must hook up to the sewer line if extended into the area. An overhead transparency of the Minor Subdivision was presented. She acknowledged the extreme topography of the site and said that limiting the subdivision to just three lots made sense. The Fire Department, she said, was requiring two hydrants be installed to serve the property. Ms. Bowers read into the record a letter received from resident Bill Hammond (319 South Redlands Road, Grand Junction), who felt that it may not be realistic to require extension of a fire hydrant service line for lot 2 across the 50-foot strip of land extending to South Redlands Road since it appeared to cross a canyon wall comprised of Dakota Sandstone.

Ms. Bowers explained staff's rationale for creating a "no disturbance zone" on the property. Allowance of a driveway through this zone would be at Planning Commission discretion. Staff recommended approval of the Zone of Annexation, approval of the sewer waiver (subject to staff condition 2), and approval of the Minor Subdivision subject to the following conditions:

1. That any work or discharge that may be planned in the delineated wetlands area require a 404 permit from the COE prior to such work or discharge taking place.
2. That if City Council grants a variance for sewer requirements in accordance with sections 5-4-5 of the Zoning and Development Code, that special language be provided on the plat prior to its recording.
3. That two fire hydrants will be provided per the Fire Department's requirements and that access to lot 2 shall be a minimum of 16 feet wide with an all-weather driving surface capable of supporting a fire apparatus weight of 75,000 lbs, per the Uniform Fire Code, section 902, 1994 edition, as amended.
4. That the building setbacks be provided on the Final Plat.
5. That the concerns of the Development Engineer be addressed to his satisfaction prior to the Final Plat being recorded.

QUESTIONS

Commissioner Binder asked for clarification on whether the petitioner would be required to hook up to sewer if extended into the area, to which Ms. Bowers replied affirmatively. The use of septic systems, she said, would be acceptable in the meantime. When asked if hook-up to sewer was generally enforced by the City, Ms. Bowers replied affirmatively.

Chairman Elmer suggested the following verbiage with regard to the fire hydrant issue. "The number of fire hydrants will be provided per the Fire Department's requirements." This would allow for flexibility in consideration of alternate fire protection measures. Mr. Shaver concurred with that suggestion.

Chairman Elmer said that the petitioner would have to demonstrate to staff how a driveway could be constructed to lot 3 outside the "no disturbance zone." Otherwise, the lot would be unbuildable.

PUBLIC COMMENTS

FOR:

There were no comments for the proposal.

AGAINST:

Mary Doyle (3385 Redlands Road, Grand Junction) opposed the property's annexation into the City and expressed her preference that it remain within County jurisdiction. She was concerned over impacts to the site's aesthetics.

PETITIONER'S REBUTTAL

Mr. Thompson said that homesites for Lots 1 and 2 had been prepared in years prior. All three homesites would be located above wetlands. Road right-of-way would be increased per staff's requirement.

DISCUSSION

Commissioner Binder asked if the Tabogauche Trail was located close by, to which Commissioner Grout responded negatively. Ms. Bowers said that the area had not been considered as a trail connection point.

Commissioner Fenn asked Mr. Shaver to explain the reason for the site's annexation, which was given.

Chairman Elmer noted that the request met Code criteria; a three lot subdivision seemed reasonable. Commissioner Grout concurred.

MOTION: (Commissioner Grout) “Mr. Chairman, on item ANX-1999-229, a recommendation on the Zone of Annexation for the Hill Annexation, I move that we recommend the zone of RSF-E to the City Council on the Hill property located at 323, 323 ½, and 325 South Redlands Road.”

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

MOTION: (Commissioner Grout) “Mr. Chairman, on item ANX-1999-229, a request for Final Plat approval for Leah Marie’s Minor Subdivision, I move that we approve the request subject to the conditions as stated in the staff report dated November 4, 1999 with the modification to 3, that the number ‘2’ be deleted and it just be stated that ‘the number of fire hydrants will be provided per the Fire Department’s requirements.’”

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

MOTION: (Commissioner Grout) “Mr. Chairman, on item ANX-1999-229, a request for a variance from the sewer requirements of the Development Code, I move that we recommend to the City Council to authorize a variance to section 5-4-5 with the condition that a plat note is provided regarding installation of the sewer when it becomes available.”

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

ANX-1999-236 ZONE OF ANNEXATION—MENDEZ ANNEXATION

A request for approval of the Zone of Annexation for approximately 6.566 acres from County C to City C-2 (Heavy Commercial) and approval to allow construction of a 3,900-square-foot office/shop building and a 7,200-square-foot storage building.

Petitioner: Muller and Mendez

Location: 2765 Highway 50

Representative: David Smuin, Hydro Terra Environmental

PETITIONER’S PRESENTATION

David Smuin, representing the petitioner, presented an overhead transparency denoting the site’s location. He disagreed with staff’s recommendation of a C-1 zone, saying that existing surrounding uses were more consistent with those found in C-2 zones. He asked why should the petitioner be penalized? When the property was purchased, the proposed use would have been allowed by the County. The proposed use is inconsistent only with the Orchard Mesa Neighborhood Plan; however, the Plan was advisory only. Mr. Smuin also presented overhead transparencies of the location map, photos of the site and surrounding uses and the screening concept plan. Copies of three letters of support were submitted to planning commissioners and staff. The letters were from persons that served on the Orchard Mesa Plan committee.

STAFF’S PRESENTATION

Lori Bowers said that both the C-1 and C-2 zones complied with Growth Plan guidelines and Code criteria; however, only the C-1 zone complied with Orchard Mesa Neighborhood Plan recommendations. Staff recommended the C-1 zone classification.

QUESTIONS

Commissioner Binder observed that the only difference in the two zones was basically that in the C-1 zone, the petitioner would be required to construct a storage facility to house his heavy equipment. Outdoor storage would be allowed in the C-2 zone. Ms. Bowers concurred with the commissioner’s conclusion.

PUBLIC COMMENTS

There were no comments either for or against the request.

PETITIONER'S REBUTTAL

Terry Farina, legal counsel representing the petitioner, reiterated that if the property were still situated within the County jurisdiction that the use as proposed would have been allowed. He noted the many improvements that the petitioner intended for the property, stressing that the site's development would be an asset to the community. A storage building that large was not practical for the site. Surrounding uses were more consistent with those found in C-2 zones and reiterated that the proposed use would be more compatible with existing uses in the area.

DISCUSSION

Commissioner Fenn felt that the petitioner's request was reasonable. He agreed that C-2 was a more appropriate zone for the area and that development of the site would be an asset to the community.

Chairman Elmer agreed but said that the three letters received were not necessarily representative of the entire Orchard Mesa Plan planning committee. A C-2 zone would be more consistent with previous County zoning. He acknowledged that the only conflict seemed to be with the Orchard Mesa Plan which, he concurred, was only advisory.

Commissioners Grout and Binder also agreed.

MOTION: (Commissioner Grout) "Mr. Chairman, on item ANX-1999-236, a recommendation on the Zone of Annexation for the Mendez Annexation, I move that we recommend the zone of C-2 to the City Council for the Mendez Annexation located at 2765 U.S. Highway 50."

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

V. GENERAL DISCUSSION

Elections were held for the recently vacated Vice-Chairman's position. Commissioner Grout was nominated overwhelmingly. Commissioner Binder seconded the nomination. A vote was called and the nomination was confirmed by a vote of 4-0.

With no further business, the hearing was adjourned at 11:45 p.m.