

**GRAND JUNCTION PLANNING COMMISSION
NOVEMBER 16, 1999 MINUTES
7:06 p.m. to 11:50 p.m.**

The regularly scheduled Planning Commission hearing was called to order at 7:06 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, Nick Prinster and Mark Fenn.

In attendance, representing the Community Development Department, were Bill Nebeker (Sr. Planner), Kathy Portner (Planning Manager), Lisa Gerstenberger (Sr. Planner), Dave Thornton (Sr. Planner) and Pat Cecil (Development Services Supervisor).

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

Terri Troutner was present to record the minutes.

There were approximately 33 interested citizens present during the course of the hearing.

I. APPROVAL OF MINUTES

No minutes were available for consideration.

II. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

There were no announcements, presentations and/or visitors.

III. PUBLIC HEARING ON ITEMS FOR FINAL DECISION

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

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 .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/Petitioner: Dan Roberts

PETITIONER'S PRESENTATION

Dan Roberts presented an overhead transparency of the Preliminary Plan. He reviewed the proposal and noted the lot layout and location of the Bull residence. Commercial buildings on Lot 1 would be restricted in uses, he said, with the northernmost building limited to professional office uses, the two adjacent buildings and Bull residence limited to medical uses. Overhead transparencies of elevation drawings for both the commercial and residential uses were presented. Mr. Roberts said that the height issue involving the residential units would be addressed further by staff.

QUESTIONS

Chairman Elmer asked if the petitioner was in agreement with staff's conditions of approval, to which Mr. Roberts answered affirmatively.

STAFF'S PRESENTATION

Bill Nebeker acknowledged that the petitioner had generally met all of the Preliminary Plan conditions of approval. A height restriction of 32 feet had been required during Preliminary Plan approval for residential units. Underground parking had been provided for the R-1 residential unit, making portions of that unit 39 feet tall. However, since the residential dwelling unit had been eliminated and a 170-foot setback had been provided, staff supported the height variation for the R-1 unit. Building heights on the north, west and south sides of the property would still be limited to 32 feet. The petitioner had calculated parking based on the gross square footage of the interior office space rather than on exterior dimensions. Parking would be monitored, and if additional spaces were deemed necessary, they would be required prior to any remodeling or reconstruction of the Bull residence. Mr. Nebeker noted that the Bull residence could be later torn down and less office space constructed, negating the need for additional parking. A misunderstanding had occurred with the landscaping plan; thus, additional landscaping would be provided. The petitioner had agreed to construct an 8-foot trail out to 12th Street. Staff recommended approval of the Final Plat/Plan subject to the following conditions:

1. The Bull residence area is approved for 4,114 square feet of medical office space. The applicant shall demonstrate that sufficient parking within the commercial lot exists before the Bull residence may be converted or reconstructed to office space.
2. The freestanding monument sign on Brownstone Circle shall not exceed 36 square feet.
3. The landscape plan shall be revised to include the following: 1) four additional trees added to the parking lot for interior landscaping, and 2) trees and shrubs added along the eastern side of the parking lot to comply with section 5-5-1.F.2.b.
4. The revised Preliminary Site Development Plan (sheet 2) shall be changed to show professional offices only (non-medical) in building C-3.
5. The plat shall be modified to clarify the location of the pedestrian easement along the east property line.
6. The applicant shall submit the discharge agreement from the Grand Valley Water Users Association prior to construction or plat recordation.
7. Final corrections to construction plans per the Development Engineer's comments shall be made prior to construction.

QUESTIONS

Commissioner Prinster asked for clarification on how the parking area had been calculated, which was provided. Mr. Nebeker said that if square footages of all structures remained the same, the petitioner was within 6 spaces of compliance.

Commissioner Prinster wondered if/how staff would keep track of the parking requirement if renovation of the Bull property occurred years hence. Mr. Nebeker suggested that a plat note could be added; a note could also be added to the file, flagging the requirement.

PUBLIC COMMENTS

There were no comments either for or against the request.

PETITIONER'S REBUTTAL

The petitioner offered no further rebuttal testimony.

DISCUSSION

Commissioner Prinster emphasized the need for some type of internal "trigger" so that staff could adequately monitor the site's parking. Insufficient parking would create big problems in the future. Chairman Elmer thought that at some point, it was sure to be caught. Mr. Nebeker suggested placing a notation on the Site Plan as well.

Commissioner Binder asked for clarification on what appeared to be a street in front of proposed office buildings. Mr. Nebeker explained that the area noted was actually a parking lot. In the first phase, the area would serve as a turnaround.

Commissioner Binder commented that the petitioner had gone to great lengths to make the plan work. She agreed that parking would need continued monitoring.

Chairman Elmer said that the project met Preliminary Plan conditions. Commissioner Grout concurred.

Commissioner Prinster felt that the petitioner had sufficiently addressed height concerns, and he supported the 39-foot building height variation for the R-1 unit.

MOTION: (Commissioner Grout) "Mr. Chairman, on item FPP-1999-226, I move that we approve the Miller Homestead Final Plan and Plat, including the modification of the height of the R-1 residential structure, subject to staff's recommendation and conditions."

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

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

CUP-1996-180 CONDITIONAL USE PERMIT—RIMROCK MARKETPLACE

A request for a one-year extension to amend the Conditional Use Permit for Rimrock Marketplace for a 430,000 square-foot shopping center and pad sites on approximately 60.8 acres with zoning of C-1 (Light Commercial) and C-2 (Heavy Commercial).

Petitioner: The Belleville Development LP

Location: Southwest corner of 25 ½ Road and Highway 6 & 50

Representative: John L. Rubenstein

Tom Volkmann, legal counsel representing the petitioner, asked for a continuance of the item to a December public hearing date.

Pat Cecil, representing the City's Community Development Department, offered no objection to the continuance but reminded the petitioner and planning commissioners that the current CUP would expire on December 17, 1999.

MOTION: (Commissioner Grout) "Mr. Chairman, I move that we move this item to the agenda for December 14, 1999."

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

FPP-1999-225 FINAL PLAT/PLAN—CIMARRON EAST MAJOR SUBDIVISION

A request for approval of the Final Plat/Plan consisting of 34 single family lots on 10.63 acres in a PR-3.3 (Planned Residential with a density not to exceed 3.3 units per acre) zone district.

Petitioner: Ray Rickard
Location: D ½ and Morning Dove
Representative: Cecil Castor, Monument Surveying

PETITIONER'S PRESENTATION

Ray Rickard, representing the petitioner, presented an overhead transparency of the Preliminary Plan and said that adjustments had been made to the Plan per staff's requirements. While in agreement with all of staff's conditions for approval, he asked that consideration be given to the application of TCP credit towards Ouray Court improvements. He noted that Ouray Court currently fell within the County's jurisdiction. As such, he wasn't sure to what standards he was required to construct the cul-de-sac.

Rick Dorris said that since the property was slated for annexation into the City, City standards would apply. Mr. Rickard wondered why the requirement had been made since the cul-de-sac was both off-site and within the County's jurisdiction. Mr. Dorris said that he would contact County staff about their processes. He supported the petitioner's request for TCP credit towards Ouray Court improvements.

Mr. Rickard also noted staff's requirement for fencing along the southern drainage easement, to match up with existing fencing, and expressed concern over what the drainage district might construe as trespass. Lisa Gerstenberger clarified for Planning Commissioners that the easement in question was in an area where an open ditch section would be piped. Thus, no access road would be necessary and the easement would ultimately be abandoned. She noted that current fencing had been placed 10 feet from the property line to allow access. The petitioner, she said, was concerned that the area would be left without any provision for maintenance.

QUESTIONS

Commissioner Prinster asked who owns the existing fencing. Mr. Rickard responded that fences currently belonged to homeowners living east of the easement.

Mr. Kent Harbert, Development Engineer, acknowledged that he had not yet contacted the Grand Junction Drainage District regarding the easement.

Commissioner Fenn didn't think it practical for the petitioner to secure access permission from each property owner. Further, if no one was designated to maintain the resultant landscaping strip, likely it would become a weed patch. Chairman Elmer said that maintenance of the landscape strip would be left for the Drainage District to work out with property owners. Mr. Shaver agreed with Chairman Elmer's analysis.

Chairman Elmer asked staff if, given the circumstances, the fencing requirement should still be included as a condition of approval. Mr. Harbert suggested that a meeting take place between Drainage District representatives and property owners to discuss alternatives. He was unsure whether or not it would be appropriate to involve the petitioner in those discussions.

Chairman Elmer did not feel that the fencing requirement for the area along the drainage easement was an appropriate condition of approval. When he asked staff if they were in support of applying TCP payments towards Ouray Court improvements, Mr. Harbert replied affirmatively.

Commissioner Prinster asked if Morning Dove Court was currently constructed with sidewalks, to which Mr. Harbert replied affirmatively. The cul-de-sac had been constructed to County standards.

Commissioner Prinster asked for the name of the subdivision located directly southwest of the subject property. Mr. Harbert replied that Cherokee Village Subdivision lay directly west.

Commissioner Binder asked if a sidewalk had been previously constructed along Ouray Avenue cul-de-sac, to which Mr. Harbert responded negatively. It had been constructed within the County several years prior without sidewalk. However, the street was paved. Curb, gutter and sidewalk would be added.

Commissioner Binder asked what type of construction was slated for lots 1-3 in block 3. Mr. Rickard said that there will be three residential lots plus a tract which would be utilized as park open space. Access to the open space will be provided via both Outlot A and a multipurpose easement off of Ouray Avenue.

Commissioner Grout asked the petitioner if he still intended to construct fencing on lots with double frontages, to which Mr. Rickard replied affirmatively.

STAFF'S PRESENTATION

Lisa Gerstenberger offered a brief history of the development and agreed that the project generally complied with Preliminary Plan conditions. References on the landscaping plan, she said, must be made consistent with the Final Plat/Plan. Also, a slight encroachment from Tract B into Tract A must also be removed. Comments received from the City's engineering staff were read into the record. As part of those comments she said that while the Grand Junction Drainage District had agreed to be responsible for maintenance of the detention basin, the City recommended that the District be responsible for operational maintenance only. The Homeowners Association (HOA) would be responsible for aesthetic maintenance, with the developer providing a maintenance easement to the Drainage District. The developer must also meet with the District to ascertain the necessity for the current easement along the eastern property line.

With regard to Ouray Court improvements, curb, gutter and sidewalk would be required, to connect to an eastern pedestrian path. She reiterated that staff supported the application of TCP credit towards construction of the off-site improvement. Staff recommended approval subject to revised staff comments and the following conditions:

1. Revise Final Plat, Final Plan and Final Landscape and Site Plan as requested by staff and the development engineer as noted in comments dated November 16, 1999 (as amended).
2. All revisions as requested by the Clifton Water District and the Central Grand Valley Sanitation District to the Final Plan.
3. Curb, gutter and sidewalk will be required for Ouray Court, with TCP credit applied towards construction of the off-site improvement.

Ms. Gerstenberger said that Clifton Water had expressed its satisfaction with the Plat's changes to date; however, she hadn't heard from the Sanitation District.

QUESTIONS

Commissioner Binder referenced the street layout and asked if Morning Dove Court would be constructed to access the adjoining vacant land. Ms. Gerstenberger answered that the petitioner would only be responsible for providing a stub to the adjacent property. The adjacent property owner had not expressed any interest in developing his property.

Commissioner Binder expressed continued concern that with the extension of streets from new developments into existing developments, current residents would be subject to increased traffic in front of their homes. An additional 340 trips/day, she said, was a significant impact to existing neighborhoods.

Chairman Elmer asked for the current designation of Morning Dove Drive, to which Mr. Harbert replied that it was classified residential.

PUBLIC COMMENTS

FOR:

Claudette Konala (460 Morning Dove Drive, Grand Junction) asked planning commissioners to consider the impact of so much additional traffic being funneled through her subdivision. Photos of her subdivision's streets were distributed to planning commissioners and staff, which depicted a narrow, congested access. While generally in favor of the proposal, she said that construction traffic through her neighborhood would be disruptive.

AGAINST:

Greg Reece (454 ½ Morning Dove Drive, Grand Junction), president of the Topaz Subdivision HOA, submitted a copy of a section of an Assessor's Map denoting the location of Topaz Subdivision. He asked for clarification on how the City had come to annex the subject property. Chairman Elmer briefly elaborated on the City's annexation policy. Mr. Reece said that he wanted some assurances that constructed homes would be compatible with surrounding neighborhoods and that no mobile homes would be allowed. With regard to fencing along the drainage easement, he said that fences had been constructed to keep kids away from the area and a number of people had gates. Chairman Elmer reiterated that the fencing requirement along the drainage easement should not be made a condition of approval.

PETITIONER'S REBUTTAL

Mr. Rickard offered no rebuttal testimony.

DISCUSSION

Commissioner Binder asked if there were any access alternatives available other than Morning Dove Court, to which Ms. Gerstenberger replied negatively. Commissioner Binder agreed with Ms. Konala's testimony concerning the narrowness of, and congestion on, Morning Dove Court.

Commissioner Binder asked if lot sizes in the new development were compatible with the surrounding area, to which Ms. Gerstenberger replied affirmatively.

Commissioner Binder asked for clarification on the pedestrian easement located adjacent to block 3, which was provided.

Commissioner Binder asked about plans for Tract A. Ms. Gerstenberger said that Tract A would be developed as active open space, with landscaping maintained by the subdivision's HOA.

Chairman Elmer asked if mobile homes would be permitted in the subdivision. Mr. Shaver clarified the law's position on mobile homes; however, he noted that CC&R's could be drafted to designate a certain housing type. Mr. Rickard said that CC&R's had been drafted to conform to the surrounding neighborhoods, with provisions for formation of an Architectural Control Committee. Minimum square footages for homes were also specified.

Commissioner Prinster agreed that construction traffic would cause problems for residents living along Morning Dove Court. He wondered if construction traffic could be routed instead along the easement near Block 3 from D ½ Road. Chairman Elmer said that some form of road improvement would be required for that. Commissioner Binder suggested graveling the easement. Chairman Elmer said that typical practice had been to ask developers to monitor traffic and provide whatever mitigation was necessary to minimize impacts to adjacent neighborhoods. Mr. Shaver explained how a second access may have been utilized as an alternative for routing construction traffic, however, in the current proposal, no alternative access was available, and enforcement would be difficult.

Commissioner Fenn cited the Summer Hill Subdivision; however, Mr. Shaver said that in the Summer Hill proposal an alternative access option had been proposed with the plan.

Commissioner Prinster recognized that there would probably be problems along Morning Dove Court, but it appeared there were no other viable options.

Chairman Elmer noted the petitioner's conformance to the Preliminary Plan and said that most of the major issues had been addressed. He added that CC&R's could include on-street parking restrictions, which could help alleviate some of the expected traffic congestion.

MOTION: (Commissioner Grout) "Mr. Chairman, on item FPP-1999-225, Final Plat and Plan for Cimarron East, I move that we approve the request subject to the revisions of the staff conditions, with the addition of #3."

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

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

FPP-1999-227 FINAL PLAT/PLAN—SEASONS FILING #5

A request for approval of the Final Plat/Plan for 18 single family lots on 6.5 acres in a PR-4.4 (Planned Residential with a density not to exceed 4.4 units per acre) zone district.

Petitioner: The Seasons at Tiara Rado
Location: Seasons Drive in the Redlands
Representative: Jack Acuff

PETITIONER'S PRESENTATION

Jack Acuff, representing the petitioner, presented overhead transparencies of both the Preliminary Plan and Overall Development Plan. Although he didn't take issue with any of staff's comments, the Fire Department had submitted a last-minute requirement for a looped water system. He asked that additional discussion ensue on this item. A brief history of the development and previous filings was given by Mr. Acuff. In the current filing, as in previous filings, no street lighting had been proposed, however, house lighting was provisioned in the CC&R's, including two house lights designed to illuminate house numbers. Any kind of street lighting, he said, would be detrimental to night views.

QUESTIONS

Chairman Elmer asked for clarification on the floor elevations of Lots 14 and 18 located along the wash. Mr. Acuff said that floor elevations were 1 foot above the natural grade, adding that those particular lots lay outside the drainage area.

STAFF'S PRESENTATION

Pat Cecil reviewed the request as outlined in the November 16, 1999 Staff Report and expressed support for the petitioner's lighting program. The current filing was consistent in design with previous filings. For lots abutting the wash, property owners would be limited to minor landscaping. Retaining walls could only shore up existing banks. Mr. Cecil said that stormwater from this filing would be directed to the detention facility in Filing 4. Detention for Filing 6 would be provided on-site.

A letter from the Fire Department was entered into the record. Fire Department officials had indicated that while fire flows were adequate, there was a concern over the existing water line exceeding the 1,000-foot length that standards permitted. As such, a looped system would be required unless the petitioner could demonstrate to the Fire Department that looping was not practical or feasible. Mr. Cecil passed out copies of letters received from John Bonela (P.O. Box 2068, Grand Junction) and Carol Kissinger (477 Seasons Drive, Grand Junction) (2 letters) supporting the project. Staff recommended approval of the Final Plat with no conditions. Mr. Cecil introduced Hank Masterson, who represented the City's Fire Department.

Mr. Masterson said that a separate looped system would give the site a second water source should there be a break in the existing water line. No evidence to date had been submitted by the petitioner to support the argument for impracticality or unfeasibility. While not originally required until Filing 6, a looped system would provide back-up fire protection for both Filings 5 and 6. If deemed impractical, alternative fire protection measures would be required, which could include residential sprinklers for all homes built.

QUESTIONS

Mr. Shaver inquired of Mr. Masterson. His questions and the answers revealed that the condition for a looped system was not new. Rather, it had been initially included in Fire Department comments dated May 19, 1999 and October 8, 1999. The requirement was standard as outlined by the Fire Code.

Chairman Elmer asked if alternative measures would be required in lieu of a looped system. Mr. Masterson said that looping was a requirement of the Fire Code; however, other options could be considered by the Fire Department if evidence submitted supported other alternatives.

Commissioner Prinster understood that additional fire protection measures could be required in addition to the looped system. Mr. Shaver said that his interpretation was correct. Chairman Elmer noted that only City Council had the power to actually amend the condition; Planning Commission could only make a recommendation. Mr. Shaver added that actually City Council had delegated their authority to the Fire Chief given the wording of the Code.

Commissioner Binder asked for clarification on the street designation for Seasons Drive. Mr. Dorris said that while Seasons Drive was classified a local residential street, it had been constructed using a wider mat. Steve LaBonde, an engineer representing the petitioner, said that the street had been built to collector standards. When asked, Mr. LaBonde said that on-street parking was permitted.

Commissioner Binder wondered how many homes were planned for construction in Filing 6. Mr. Acuff answered that there would be 34 homes built in that filing.

PUBLIC COMMENTS

There were no comments either for or against the request.

PETITIONER'S REBUTTAL

Mr. Acuff recalled the history behind the question. In 1991 a looped system had been proposed with Filing 2, and an easement had been provided between Lots 9 and 10 in that filing. Ute Water had returned comments indicating that the District had not wanted to put its lines in easements. Thus, the looped system had been deemed by the developer to be unnecessary. Using an overhead transparency of the Water System Plan, he noted various locations within the project which were not looped. He said that a looped system would have been more economical than upsizing the lines; however, the system should have been installed during Filing 2. He suggested that in lieu of providing a looped system, lines could be upsized to allow for additional fire flow. With current fire flows having been deemed adequate, to require additional fire protection measures such as home sprinkler systems would be a disservice to homeowners. In the event of a water line break, no water would be available for sprinkler operation anyway.

If a looped system was required, Mr. Acuff agreed to provide the system but asked that he be granted a two-year time period for tie-in to High Tiara. He said that fire flow figures of 500 gallons/minute, in place at the time of application, be applicable to line sizing for both Filings 5 and 6. The Fire Department, he said, had expressed initial agreement with this stipulation. In the meantime, lines would be upsized for Filing 5. Mr. Masterson, he said, had agreed to accept a cost associated with construction of the line through Lot 9 of High Tiara as part of the DIA for Filing 5. This would involve demolition and reconstruction of a cul-de-sac located within the County's jurisdiction. Dollars would be provided with Filing 5 but not through Filing 6.

QUESTIONS

Chairman Elmer asked if the petitioner intended to install a larger, dead-end line with the current filing and then guarantee that within two years the line would be looped up to High Tiara. Mr. Acuff concurred, adding that costs would also be included for the portion of line to be installed through Filing 2 to the boundary of that filing. The DIA would include a fire flow standard of 500 gallons/minute for both Filings 5 and 6. Mr. Shaver provided a brief history on the 500 gallons/minute standard and how the standard had since been raised to 1,000 gallons/minute.

Chairman Elmer asked if amendments to the condition had been discussed with the Fire Department, to which Mr. Acuff replied affirmatively. The Fire Department took no issue, he said, with either the timeline proposal or the fire flow provision.

Chairman Elmer noted that Filing 5 would benefit from the line's upsizing prior to development of Filing 6. Mr. LaBondi indicated that water lines for Filing 5 were currently sized to accommodate 2,000 gallons/minute, well in excess of current standards. Mr. Masterson confirmed that the petitioner's amendment to the looped system condition was acceptable to the Fire Department; however, he said that if development of Filing 6 was delayed, completion of the looped system must still occur within that 2-year timeframe. The 500 gallon/minute flow rate was acceptable, given that the standard had been changed after the petitioner had made application. A brief discussion ensued over changes in the fire flow standard.

DISCUSSION

Mr. Shaver suggested that planning commissioners provide general direction only, leaving details of the condition up to staff. He cautioned against making or applying time commitments to any filing other than the one being considered. This comment drew general agreement from planning commissioners.

Commissioner Prinster suggested approving the proposal subject to the petitioner and Fire Department staff coming to an agreement on the details.

When asked by Chairman Elmer if the Planning Commission had any authority on waiving the flow standard, Mr. Shaver said that only the Fire Department had that authority.

Commissioner Binder expressed strong opposition to more traffic being added to South Broadway without road improvements first being undertaken. Here was yet another subdivision, she said, with only one access. She asked if she was bound to approve the request if she felt that safety issues were being compromised. Mr. Shaver replied negatively and elaborated on why.

Chairman Elmer noted that the Final Plat seemed to conform with the Preliminary Plan. He suggested adding a condition to state that the looped line and the phasing of the looped line were subject to the satisfaction of staff and the Fire Department. He recommended that the fire flow standard of 500 gallons/ minute be used for both Filings 5 and 6 since Preliminary Plan approval had included both filings.

Tom Volkmann, legal counsel for the petitioner, asked for clarification of the recommendation, which was provided.

Commissioner Prinster asked if Filing 6 should be specifically mentioned in any condition imposed. Mr. Shaver said that, technically, the Planning Commission had no jurisdiction over Filing 6 since that filing wasn't currently being considered; however, he said that if the commission wanted to make a recommendation to staff, that would be fine.

MOTION: (Commissioner Grout) "Mr. Chairman, on item FPP-1999-227, I move that we approve the Seasons at Tiara Rado, Final Plat and Plan for Filing 5, with the additional condition that the water line would be looped subject to the satisfaction of the City's Fire Department and staff, subject to conversations, I guess."

Chairman Elmer suggested amending the motion to include that any phasing requirements and resulting improvements agreements would also be subject to staff's satisfaction. Commissioner Grout agreed to include the amendment to his motion.

The revised motion is as follows:

MOTION: (Commissioner Grout) "Mr. Chairman, on item FPP-1999-227, I move that we approve the Seasons at Tiara Rado, Final Plat and Plan for Filing 5, with the additional condition that the water line would be looped subject to the satisfaction of the City's Fire Department and staff, subject to conversations, I guess, and that any phasing requirements and resulting improvements agreements would also be subject to staff's satisfaction (as amended)."

A brief discussion ensued between Mr. Acuff and planning commissioners over what "staff's satisfaction" meant. Commissioner Prinster said that it was probably a moot point anyway, since both Mr. Acuff and the Fire Department appeared already to be in agreement.

Commissioner Binder asked for clarification on the trail easement through Filing 6 to High Tiara. If lots along High Tiara developed and homeowners installed landscaping, would planning commissioners be later told by homeowners that landscaping could not be torn out to construct a trail. Mr. Shaver explained that the petitioner or any other beneficiary of an easement had a legal right to construct/use the

easement for lawful purposes; if homeowners chose to install landscaping within the easement, they would be doing so at their own risk.

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

A brief recess was called at 9:40 p.m. The hearing reconvened at 9:48 p.m.

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

PP-1999-230 PRELIMINARY PLAN—NORTH STAR II

A request for approval of Preliminary Plan for North Star II Subdivision consisting of 17 single family lots on 3.59 acres in an RSF-5 (Residential Single Family with a density not to exceed 5 units per acre) zone district.

Location: 668 – 28 Road

Petitioner: Milo Johnson, Peak Construction

PETITIONER’S PRESENTATION

Milo Johnson said that he was in agreement with staff’s conditions.

QUESTIONS

Chairman Elmer asked the petitioner if he was in agreement with the split-rail fencing requirement along 28 Road. Mr. Johnson replied affirmatively. The 5-foot landscaping strip would, he said, be included with the project’s landscaping plan submitted during Final. Chairman Elmer wondered why 6-foot privacy fencing had not been proposed. Mr. Johnson said that if lot owners wanted a privacy fence, it could be constructed within the setback off of 28 Road. The existing subdivision had a split-rail fence along 28 Road, so the proposed fence would be compatible with what was already there.

STAFF’S PRESENTATION

Mr. Cecil reviewed the request and noted the project’s conformance to Code criteria and Growth Plan recommendations. With no outstanding issues, staff recommended approval subject to the following conditions:

1. A 5-foot-wide landscape strip shall be provided in an easement along 28 Road (rear of lots 6, 7, and 8) dedicated to the Homeowners Association. A split-rail fence shall be placed 5 feet from the property line behind the landscape strip. The landscaping and fencing shall be the responsibility of the developer. A landscape plan shall be provided with the application for the Final Plat.
2. Relocate the Grand Valley Water Users lateral to a point within the 20-foot easement along 28 Road.
3. The Final Plat shall include dedication of the 20-foot easement along 28 Road to the Homeowners Association as described above (5 feet) multipurpose (entire 20 feet) and the Grand Valley Water Users Association (entire 20 feet).

QUESTIONS

Chairman Elmer said that if property owners erected privacy fencing 20 feet from 28 Road, he wondered if the extra area would be landscaped. Mr. Cecil said that the HOA would only be responsible for maintenance of the 5-foot strip.

Chairman Elmer noted that if the property to the north ever developed, Windstar Drive would be extended to Courtland Avenue.

Commissioner Prinster asked if sidewalk had already been constructed along 28 Road, to which Mr. Marsh responded affirmatively.

Commissioner Prinster asked if street lighting would be provided. Mr. Marsh said that a light was planned every 400 feet.

PUBLIC COMMENTS

There were no comments either for or against the request.

PETITIONER'S REBUTTAL

Mr. Johnson clarified that the entire subdivision fell within the HOA's jurisdiction, including yard maintenance; therefore, there would not be a "no man's land" created as a result of privacy fencing being erected 20 feet from 28 Road.

DISCUSSION

Commissioner Grout noted the compatibility of Filing 2 with former Filing 1 and said that the request seemed straightforward. Commissioner Binder agreed.

MOTION: (Commissioner Grout) "Mr. Chairman, on item PP-1999-230, I move we approve the Preliminary Plan for North Star II Subdivision subject to the staff recommendations."

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

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

IV. PUBLIC HEARING ON ITEMS FOR RECOMMENDATION TO CITY COUNCIL

ANX-1999-204 ZONE OF ANNEXATION/GROWTH PLAN AMENDMENT/PRELIMINARY PLAN, DESERT HILLS

A request for: 1) Growth Plan Amendment to redesignate from Rural to Estate, 2) approval of the Zone of Annexation for approximately 56 acres from County R-2 to City PR (Planned Residential with a density of one unit per 2.55 acres), and 3) approval of the Preliminary Plan for Desert Hills Subdivision, consisting of single family detached lots.

**Petitioner: Tierra Ventures
Location: 2114 Desert Hills Road
Representative: Robert Katzenson, LanDesign**

Chairman Elmer asked the applicant to present his petition for the Growth Plan Amendment first.

PETITIONER'S PRESENTATION

Rob Katzenson, representing the petitioner, presented an overhead transparency showing the site's and surrounding Growth Plan designations. The Estate Growth designation, he said, was compatible with the surrounding area.

Chairman Elmer asked Mr. Katzenson to compare the Rural and Estate Growth designations, which was provided.

GROWTH PLAN AMENDMENT

Chairman Elmer asked how specific Amendment criteria had been satisfied. Mr. Katzenson felt that the Rural Growth designation was in error as there were other Estate designations and developments of similar density located directly to the north, east and west. The designation, he said, had been applied to the area without parcel-specific review. The Persigo Agreement recognized the area as subject to growth in densities greater than one unit per 5 acres. He felt that the area was in transition, reflecting a more urban character. Many of the Growth Plan's goals supported the higher densities of an Estate zone. Public and community facilities and services were present to serve the property, and community-wide benefits would be recognized by the reclassification (e.g., sewer upgrade). Development of the property to higher densities would also allow for greater protection of the riparian and wetland areas.

ZONE OF ANNEXATION

Mr. Katzenson felt that the zone was in error at the time of application. The area was in transition, with recent developments of similar densities in the area supporting this assertion. The development would provide the community with high quality residential infill, thus conforming to Code criteria and Growth Plan recommendations. Mr. Katzenson noted that the Rump property had been excluded from the Zone of Annexation. He asked that the zoning designation for that particular property be delayed, pending submission of a development proposal by the Rumps.

PRELIMINARY PLAN

Mr. Katzenson said that the currently submitted plan requested approval of 22 units, whereas the former proposal requested only 19. An alternative access had been provided onto South Broadway, and access easements had been secured from all affected property owners. He briefly highlighted plans for road improvements and bike paths, which had all been accepted by the City's Public Works Department. Utilities would be provided to the Rump property. An overview of proposed outlots was given. A lift station would be provided for the property, with upsizing subsidized by the City to provide service to other developments in the area.

A conservation zone along the western portions of lots 1-6 was noted on an overhead transparency of the Preliminary Plan. The petitioner was in agreement with all staff conditions but i. and j. of condition 3, which he felt required verbiage revisions.

QUESTIONS

Chairman Elmer asked if the easement/lot where the forced main would be located would be graveled. Mr. Katzenson said that the entire lot, from the edge of the right-of-way to the property boundary, would be dedicated to the City. Its width was approximately 44-50 feet, and no vehicular access through the easement was anticipated. The City had not requested that improvements be made to the easement.

Chairman Elmer asked if the lift station was being oversized to serve other residents at some future point, to which Mr. Katzenson responded affirmatively.

Chairman Elmer wondered why the wetlands underlying the conservation easement hadn't been dedicated as a separate open space tract. Mr. Katzenson felt that the conservation easement could be

maintained via the subdivision's CC&R's and designation of building envelopes. Setback and bulk requirements further protected wetland areas.

Commissioner Binder asked if wetland areas and Tract B would be left in their natural state, to which Mr. Katzenson replied affirmatively. He added that an unimproved trail may be provided through Tract B.

Commissioner Binder asked the petitioner to elaborate on scheduled improvements for the intersection of Desert Hills Drive and South Broadway. Mr. Katzenson said that a study had been undertaken according to the TEDS manual. The level of service had been identified (Level C) and a 20-year growth projection (appx. 5,200 trips/day) had been calculated. Since only 75 feet of stacking distance was required, no turn lanes had been necessary.

Commissioner Binder said that she'd read where the report indicated a current traffic level of appx. 6,600 trips/day. Mr. Katzenson said that current figures were closer to 2,662 trips/day.

STAFF'S PRESENTATION

Lisa Gerstenberger acknowledged that the Rump property would not be included as part of the Growth Plan Amendment process but could be considered part of the Zone of Annexation process. Having found that the request met the requirements of the Growth Plan Amendment process, staff recommended approval of the Estate designation (2-5 acres per unit) for the Desert Hills Estates property. The proposed zone of annexation for the Desert Hills Estates property is PR, with a density not to exceed one dwelling unit per 2.55 acres. The Rump property was being annexed because it is part of the development proposal. An RSF-R designation was suggested for the Rump property, but she noted that the Rumps intended to submit a development proposal, thus zoning of the property could be delayed up to 90 days if planning commissioners so chose. Ms. Gerstenberger noted deviations proposed for internal streets, which were acceptable to staff. The petitioner must secure a general permit from the Corps of Engineers for wetland and riparian areas.

Ms. Gerstenberger concurred with the petitioner's request for verbiage changes to conditions 3.i. and 3.j. Proposed verbiage is as follows:

- i. Developer shall provide a quitclaim deed to the City for any property located on the west side of the canal, for a distance of up to 35 feet; and
- j. Property on the west side of Desert Hills Drive at the entrance must be deeded to the City as right-of-way.

Staff recommended approval of the Growth Plan Amendment to redesignate the Desert Hills property from Rural to Estate densities. Approval of a PR zone for the Desert Hills property and RSF-R for the Rump property was also recommended. Approval of the Preliminary Plan was recommended, subject to the following conditions:

1. Revise Preliminary Plan to remove reference to "approximate" location of floodplain areas.
2. Compliance with comments from the Development Engineer, City Utility Engineer, Fire Department, Ute Water and Public Service.
3. Provision of the following information with Final Plan/Plat submittal:

- a. Evidence that permission has been granted to cross both the Rump and Museum of Western Colorado properties to construct the entrance road. Deeds of conveyance must be obtained prior to submittal, with copies to the City.
- b. Restrictions for the wetland/riparian/floodplain areas must be included in the CC&R's as indicated by the applicant and submitted with the Final Plat/Plan. The Final Plat/Plan shall note these areas as "no disturbance" areas to prohibit any encroachment or modification to the area, including fences. Language placed in the CC&R's should be consistent with the September 14, 1999 letter from Randy Snyder, U.S. Army Corps of Engineers.
- c. Wetlands/riparian areas must be protected during construction. Indicate on the Final Plan what measures will be taken to protect the areas during construction.
- d. Permit from the U.S. Army Corps of Engineers is required with submittal of the Final Plan/Plat.
- e. Base flood elevation data for lots 1-6 shall be provided with the Final Plan/Plat.
- f. Fencing standards for the subdivision must be included in the CC&R's as indicated by the applicant and submitted with the Final Plan/Plat.
- g. Show front, side, and rear yards for lot 14 on Final Plan/Plat.
- h. Several water easements currently shown on the Preliminary Plan must be vacated and rededicated. This must be accomplished prior to, or concurrent with, Final Plan/Plat approval.
- i. Developer shall provide a quit claim deed to the City for any property located on the west side of the canal, for a distance of up to 35 feet (as amended).
- j. Property on the west side of Desert Hills Drive at the entrance must be deeded to the City as right-of-way (as amended).

QUESTIONS

Chairman Elmer noted that the width of Tract C could conceivably contain a road section. He wondered how the tract could be protected from any such possibility. Mr. Shaver suggested designating the area as "non-vehicular."

Chairman Elmer asked if a conservation easement was enough to protect wetland/riparian areas. Mr. Shaver answered that, legally, some protection would be afforded. He noted that "protection" is difficult to define. Chairman Elmer commented that wetland/riparian areas would also be protected and monitored by the Corps of Engineers.

Commissioner Binder wondered if Level C service had been deemed acceptable to the City. Mr. Harbert said that the City's Traffic Engineer, Jody Kliska, had reviewed the request and had not voiced any concern.

PUBLIC COMMENTS

FOR:

There were no comments for the request.

AGAINST:

Dawn Myela (2112 Desert Hills Road, Grand Junction) said that Tiara Rado Golf Course had been there a long time and should not be used in any argument for the petitioner's claim that the area was "transitioning." She expressed concerns over wildlife impacts, location of the subdivision's internal road through what she thought was a floodplain area, traffic impacts, and what she felt to be an inadequate intersection at Desert Hills Road and South Broadway.

Michael Myela (2112 Desert Hills Road, Grand Junction) thought that his property lay within an RSF-2 zone classification. He also wondered what improvements, if any, were planned for Desert Hills Road.

Dick Ennis (2108 Desert Hills Road, Grand Junction) expressed concern over impacts to wetland areas. He said that if the petitioner was allowed to construct a ditch in the wetlands to accommodate drainage, the existing ecosystem could be damaged, leaving a desert in its place. He strongly opposed the placement of a lift station in the middle of wetlands. He wondered what would happen to this fragile area in the event of a sewage spill? A power outage, he said, could cause the lift station to back up. There was no need, he said, to pipe sewage through Desert Hills.

Mac Cunningham (no address given) said that as a developer himself, he had a number of issues with the proposal. The proposed density exceeded Growth Plan recommendations and would start a chain reaction for similar development in the area. Soil conditions along the west side of the subject property were of concern, and he wondered if homes would be constructed on steep slopes. Why had no site-specific building envelopes been designated? Mr. Cunningham said that his biggest issues were with Lots 19-22, and he concurred with comments made by Mr. Ennis regarding lift station/sewage concerns.

PETITIONER'S REBUTTAL

Richard Livingston, legal counsel for the petitioner, said that remaining issues would be addressed during Final. He felt that the Growth Plan had anticipated change for the area, and staff had concurred. He said that development would be restricted to one unit per 2.5 acres. He reiterated that the Rumps intended to submit a separate development proposal within the 90-day annexation window, possibly to include another PR zone request. He said that there would be no open sewer pit and no open ditches as referenced by Mr. Ennis. Homes would not be situated on steep slopes nor would they be placed on "unacceptable" soils.

QUESTIONS

Chairman Elmer said that the petitioner should work on minimizing the size of building envelopes between now and Final.

DISCUSSION

Commissioner Binder asked staff where the lift station would be located. Ms. Gerstenberger noted the proposed site to the west of Tract C in the conservation area.

Chairman Elmer said that the Corps permit would require its placement outside of wetland boundaries. He asked if sewer lines would be encased in concrete or steel, with anodic protection. Mr. Harbert said that lines would be both encased and protected. The only disturbance from lines would be from their initial installation; however, disturbed areas would be reclaimed and returned to preexisting conditions.

Commissioner Binder wondered how many lift stations were in operation and how many of them had failed. Mr. Harbert said that he wasn't absolutely sure, but perhaps about 30 thus far. Blockages did occur, but alarms went off at the first sign of trouble so that remedy was timely. When asked if any of the existing lift stations had actually discharged sewage, Mr. Harbert answered that one or two had over the last five years during power outages. In those instances, a Vactor truck or generator had been used. The proposed lift station would have a back-up generator eventually, although not initially.

Commissioner Binder wondered if there was any reason why sewage could not be piped to South Broadway. Mr. Harbert said that while other alternatives were available, the current option enabled lines to extend into the Seasons Subdivision.

Commissioner Binder wondered if there would be any problems with drainage, given that the subdivision was located within a basin. Mr. Harbert felt that concerns could be addressed through proper engineering.

Commissioner Binder asked if drainage or soils problems could be expected for homes built on hillsides. Mr. Harbert said that homeowners would need to exercise caution if placing their homes on hillsides.

Commissioner Binder concurred with previous concerns that approval of the request would initiate a “domino effect” for new development in the area.

Chairman Elmer said that while there were justifiable reasons for keeping the area Rural, the petitioner had gone to great lengths to preserve wetlands and riparian areas. He expressed support for the Growth Plan Amendment, Zone of Annexation and Preliminary Plan. He suggested retaining Tract C as a utility easement only and designating it as non-accessible to vehicles except for maintenance. Building envelopes for lots 19-22 should be minimized, with minimal disturbance to existing hillsides.

Commissioner Binder wondered if the lift station could be placed in a location other than within the conservation easement. Mr. Harbert said that other areas could be investigated. He didn’t think the Corps would allow its placement within designated wetlands areas anyway.

Chairman Elmer didn’t think that a discharge of sewage would eradicate the wetlands or damage it beyond repair.

Commissioner Fenn asked for clarification on how building envelopes should be addressed in the motion. Chairman Elmer said that he wanted to see at Final where disturbance to existing hillsides had been minimized, see an accurate slope map, and have the petitioner designate smaller building envelopes based on that guidance for Lots 19-22. The potential was there, he said, to disturb huge areas, which would be contrary to the direction desired by the petitioner.

Commissioner Binder wondered if Tract A would be maintained by the subdivision’s HOA, to which Mr. Harbert replied affirmatively. When asked about fencing of the tract, Ms. Gerstenberger said that no fencing had been proposed to date. Chairman Elmer said that fencing could be imposed at Final if deemed necessary.

MOTION: (Commissioner Grout) “Mr. Chairman, on item ANX-1999-204, Growth Plan Amendment to redesignate the Desert Hills property from Rural to Estate, I move that we forward this to City Council with a recommendation of approval for the Estate designation.”

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

A brief discussion ensued over whether or not to include the Rump property in the next Zone of Annexation motion.

MOTION: (Commissioner Grout) “Mr. Chairman, on item ANX-1999-204, Zone of Annexation for the Desert Hills Estates property only of PR, with a density not to exceed one dwelling unit per 2.55 acres, I move that we forward this to City Council with a recommendation of approval.”

Mr. Katzenon asked for a 2.5 acre designation. Commissioner Grout agreed to amend his motion accordingly. The revised motion is as follows:

MOTION: (Commissioner Grout) “Mr. Chairman, on item ANX-1999-204, Zone of Annexation for the Desert Hills Estates property of PR, with a density not to exceed one dwelling unit per 2.5

acres, I move that we forward this to City Council with a recommendation of approval (as amended).”

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

MOTION: (Commissioner Grout) “Mr. Chairman, on item ANX-1999-204, Preliminary Plan approval for Desert Hills Estates, a 22-lot single-family residential subdivision, I move that we approve subject to staff conditions with the additions of item k., which would designate that Tract C would be only for utility easements with normal vehicle access for maintenance only, and item l., which would be that at Final, the petitioner would look at smaller building envelopes for lots 21 and 22 to minimize impacts on steep slopes and slope areas.”

Commissioner Prinster suggested amending the motion to include changes in i. and j. as noted previously.

Commissioner Fenn asked that the motion be amended to reflect lots 19 through 22, as discussed previously.

Commissioner Grout agreed to amend his motion accordingly.

The revised motion is as follows:

MOTION: (Commissioner Grout) “Mr. Chairman, on item ANX-1999-204, Preliminary Plan approval for Desert Hills Estates, a 22-lot single-family residential subdivision, I move that we approve subject to staff conditions with the additions of item k., which would designate that Tract C would be only for utility easements with normal vehicle access for maintenance only, and item l., which would be that at Final, the petitioner would look at smaller building envelopes for lots 19 through 22 to minimize impacts on steep slopes and slope areas, with the amendments to i. and j. as amended by staff (as amended).”

Commissioner Fenn seconded the motion.

Mr. Shaver clarified that the 35-foot measurement mentioned in item 3.i would include any property outside of the Lots up to the canal that the petitioner may have an interest in.

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

V. GENERAL DISCUSSION

Mr. Shaver said that the Consent Agenda item would go before City Council for consideration on November 17.

With no further business, the hearing was adjourned at 11:50 p.m.