

**GRAND JUNCTION PLANNING COMMISSION
DECEMBER 14, 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 and Nick Prinster. Mark Fenn was absent. Two positions are vacant.

In attendance, representing the Community Development Department, were Bill Nebeker (Sr. Planner), Tricia Parish (Assoc. Planner), Lori Bowers (Assoc. Planner), Kristen Ashbeck (Sr. 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 16 interested citizens present during the course of the hearing.

I. APPROVAL OF MINUTES

Available for consideration were the minutes of October 19, November 9 and November 16, 1999.

MOTION: (Commissioner Grout) "Mr. Chairman, I move that we approve the minutes as submitted for October 19."

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

MOTION: (Commissioner Grout) "Mr. Chairman, I move that we approve the minutes as submitted for November 9."

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

Commissioner Grout referenced the motion on page 10 of the November 16 minutes. He thought that the motion as reported was erroneous. After a brief discussion, the recorded motion was amended to delete the words "...and staff, subject to conversations, I guess, and that any phasing requirements and...", add a period at the end of the words "Fire Department," and capitalize the word "Resulting" following the aforementioned phrase.

MOTION: (Commissioner Grout) "Mr. Chairman, I move that we approve the minutes for November 16, as amended."

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

II. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

Pulled from the evening’s agenda was item ANX-1999-228.

III. CONSENT AGENDA

Offered for placement on the Consent Agenda was item SPR-1999-258.1. No public opposition was expressed.

MOTION: (Commissioner Grout) “Mr. Chairman, on item SPR-1999-258.1, I move that we grant the applicant’s request for a 25% height increase for the motel subject to staff’s recommendation and conditions.”

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

IV. PUBLIC HEARING ITEMS ON ITEMS RECOMMENDED FOR FINAL DECISION

CUP-1996-180 CONDITIONAL USE PERMIT—RIMROCK MARKETPLACE

A request for a third 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 LLP
Location: Southwest corner of 25 ½ Road and Highway 6 & 50
Representative: John L. Rubenstein**

PETITIONER’S PRESENTATION

John Rubenstein, representing the petitioner, read into the record a prepared statement from the petitioner. The letter indicated that the delay in development had been as a result of previous inability to secure a major tenant for the shopping center. Since last year, Wal-Mart had signed a letter of intent for the site, with construction of the shopping center planned for the spring of 2000. Final drawings would be submitted to the City by April 30, 2000 for staff review. The extension request would allow the project to proceed.

QUESTIONS

Commissioner Prinster offered to recuse himself if there were any concerns over possible conflict of interest. As a competitor to Wal-Mart, he was unsure how his participation would be perceived. After a brief discussion with legal counsel and no expressed objections, he continued with the hearing.

Chairman Elmer asked about the specific progress effected over the last year. Mr. Rubenstein said that plans had been more finely tuned, meetings with engineers and planning staff had taken place and an agreement with Wal-Mart had been secured.

Mr. Rubenstein noted that in the revised plan the frontage road extension had been eliminated, with the overall size of the development decreased. Mr. Rubenstein said that the original CUP required extension of the frontage road to a point near Gene Taylor’s Sporting Goods. While the right-of-way was there to effect the extension, other lands had to be purchased to complete all of CDOT’s required intersection improvements. Since no off-site properties were available for purchase to complete required improvements, the development was subsequently downsized. Mr. Rubenstein expected that the frontage road extension and intersection improvements issue would be later revisited.

Chairman Elmer said that if the extension requirement was originally part of the approval process and had been conditioned in the original CUP, he wondered if it still applied, even if the revised plan proposed downsizing. Kristen Ashbeck said that the traffic study didn't necessarily have anything to do with the CUP extension request. Even if granted, approval of the CUP extension did not guarantee approval of the new Site Plan. Ms. Ashbeck said that the traffic engineers were still not convinced that the frontage extension was unnecessary, even with the development's downsizing. John Shaver agreed and said that the only issue presently being considered was the establishment of a development schedule.

When asked by Chairman Elmer if extension to April 30, 2000 would be acceptable, Mr. Rubenstein thought that the typical extension period was for a year. While he could commit to submission of drawings by April 15, he was unsure how much time would be needed subsequent to that for staff review. The biggest achievement, he reiterated, was securing Wal-Mart's commitment to the site.

Commissioner Prinster wondered what would happen to the project if the CUP extension were not granted. Mr. Shaver said that a new CUP would be required. The petitioner, he said, would have the option of submitting another plan and could begin the process anew or if a new proposal was for less than 250,000 square feet, no CUP would be required. Mr. Rubenstein noted the L-shaped building envelope and said that while minor changes were possible, no major changes were expected. The basic plan would remain the same.

STAFF'S PRESENTATION

Kristen Ashbeck restated the development's history and said that last year's extension request had been conditioned on the petitioner securing a planning clearance for Phase I by no later than December 17, 1999, and that "very substantial progress on the development must be made." The petitioner's latest proposal to downsize the project from 430,000 square feet to 339,000 square feet (plus additional pad site development) did not automatically negate the need for the frontage road extension. Additional analysis would be undertaken before any conclusion of that question could be made. Due to the petitioner's failure to meet approval conditions of the last extension request, staff recommended denial of the current request. If planning commissioners chose to approve the request, Ms. Ashbeck recommended that the motion reference the project's downsizing and indicate that approval of the extension did not represent approval of the Site Plan. In the event of denial, the reapplication would still include a request for a Minor Subdivision which had been discussed with the applicant. A CUP request could come before planning commissioners with the Minor Subdivision request and be heard concurrently.

QUESTIONS

Chairman Elmer asked how long it typically took to secure a planning clearance, to which Ms. Ashbeck responded that it generally took 90 days. With this project, she added, there were other issues to be addressed, which could extend that timeframe.

Chairman Elmer wondered if the project would be subject to new Code or other requirements. Rick Dorris said that transportation design standards were currently under revision, but its approval was several months away. Ms. Ashbeck did not think new Code requirements would affect the project. Mr. Shaver said that if the CUP extension were approved, regulations from the current Code would apply.

Chairman Elmer noted that several different plans had been brought before the Planning Commission in recent years.

PUBLIC COMMENT

There were no comments either for or against the request.

PETITIONER'S REBUTTAL

Tom Volkmann, legal counsel for the petitioner, felt it was important to note that the project's predecessor had been the one to submit changes referenced by Chairman Elmer. Since the project now had a viable tenant, the CUP extension would allow the project to move forward. Site Plan specifics and outstanding issues would be addressed prior to planning clearance issuance.

QUESTIONS

Chairman Elmer noted that deletion of the frontage road and downsizing of the project were major changes, which could so drastically alter the conditions of the CUP and may require a new review. Mr. Volkmann asked for the latitude to address specific CUP issues at a later date. The only issue was the extension request. The petitioner, he said, was willing to adhere to a April 30 deadline for submission of final drawings.

DISCUSSION

Mr. Shaver cited the Code, noting that a one-year extension was not mandated. He said that a shorter or longer extension period could be imposed if planning commissioners so chose.

Commissioner Binder wondered what would happen to the project if the extension were not granted. Chairman Elmer said that the CUP would expire. Mr. Rubenstein committed to the submission of construction drawings by April 30, 2000.

Commissioner Prinster read the approval condition from last year's minutes and expressed concern that no appreciable effort had been made to secure a planning clearance for Phase I of the project. He wondered when would the Planning Commission say "enough is enough"?

Chairman Elmer saw no benefit in disallowing the extension request. Commissioner Grout agreed. Chairman Elmer felt that April 30, 2000 could be used as a progress "milestone."

Chairman Elmer asked for a legal opinion on the term "final drawings." Mr. Shaver said that the legal basis could be as defined in the SSID manual. He noted that since that may not be "final" in terms of review, he advised that the term "final" mean meeting the minimum submittal requirements based on the development manual. Chairman Elmer said that drawings should present sufficient detail as to answer the questions raised by the manual. Mr. Dorris said that when drawings are submitted, they are expected to be final construction drawings. While they may still be subject to change following review, they are to be drawn to a degree of detail and professionalism that a contractor could use them for construction. He noted that given the scope of the current project, the review process would probably take longer than 90 days.

Chairman Elmer agreed that drawings must meet the minimum standards of the SSID manual as determined by staff. If the petitioners made the April 30 drawing submission deadline, would the project still be bound by a predetermined development schedule? Mr. Shaver said that once drawings were submitted, the development schedule would proceed according to review timelines. A development schedule would then be implied as the Code determines or allows.

Commissioner Prinster wondered how planning commissioners would know that progress was being made. Mr. Shaver said that if an April 30 deadline was imposed and not met, the CUP would expire. Both Commissioners Binder and Prinster favored imposing an April 30 deadline versus a standard one-year extension period. There was discussion over whether to give the petitioner the entire year, provided that drawings were submitted to staff by April 30.

Chairman Elmer proposed giving the petitioner an extension to April 30, 2000 for submission of final drawings. If that condition was met, the CUP would continue automatically. Commissioner Prinster noted that since April 30 was a Sunday, he suggested revising the date to reflect April 28.

MOTION: (Commissioner Grout) “Mr. Chairman, on item CUP-1996-180, I move that we extend the Conditional Use Permit to April 28, 2000 so that a set of working drawings can be submitted to the Community Development Department for review at that time.”

Commissioner Binder suggested referencing the SSID manual. Chairman Elmer also suggested changing the words “working drawings” to the phrase “...final design drawings that meet the minimum requirements of the SSID’s manual...” Commissioner Grout agreed to amend his motion accordingly. The revised motion is as follows:

MOTION: (Commissioner Grout) “Mr. Chairman, on item CUP-1996-180, I move that we extend the Conditional Use Permit to April 28, 2000 so that a set of final design drawings that meet the minimum requirements of the SSID’s manual can be submitted to the Community Development Department for review at that time (as amended).”

Chairman Elmer clarified that the petitioner must submit final design drawings that meet the minimum SSID standards by April 28. The CUP would continue if the petitioners met that milestone. Mr. Shaver added that continuance of the CUP would also be in accordance with the petitioner’s compliance with Code criteria.

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

PP-1999-253 PRELIMINARY PLAN—THE VISTAS

A request for Preliminary Plan approval for the Vistas Subdivision consisting of 152 lots, to be developed with a mixture of four-plex townhouse lots located within a common open space lot, zero setback/common wall single family lots, and standard detached single family lots on approximately 23.5 acres.

Petitioner: Ron Abeloe, Abell Partners LLC
Location: 28 ½ and Patterson Roads
Representative: Mark Austin

PETITIONER’S PRESENTATION

Mark Austin, representing the petitioner, corrected the agenda to reflect a total of 20 four-plex units, not 80 as noted. An overhead transparency of the Preliminary Plan was presented, and an overview of the request was given. He noted the location of higher density units near F Road, with those units serving to buffer single family residential units. Single family units along 28 ½ Road would front along that road. None of the proposed units would gain access from Grand Falls Drive. Four-plexes would be clustered together to discourage parking in front of those units. Double-car garages would be constructed, and an additional parking space per two four-plex units would be provided.

Garages on the attached and detached single family units would be set back 20 feet from the street. Size of the detention pond would be determined later, with stormwater ultimately discharged into the Grand Valley Irrigation canal. A discharge agreement from the canal company would be secured prior to Final.

QUESTIONS

Chairman Elmer wondered how much active open space had been provided. Mr. Austin noted the open space area designated as block 6 and said that picnic tables and BBQ pits would be provided. Other active recreational amenities could be provided later by the subdivision’s Homeowners Association

(HOA). Mr. Austin noted another park location at the end of 28 ½ Road. The road would be closed off due to limited sight distance. He said that closure of the road had been supported by City staff.

Commissioner Binder wondered where passive open space areas would be located. Using the overhead transparency, Mr. Austin noted various areas around the subdivision and detention area. Passive areas would be landscaped with the same grass and vegetation used in the active open space area.

When asked, Mr. Austin outlined planned phasing of the project. Chairman Elmer wondered how grading would effect final lot layout. Mr. Austin said that grading would have to accommodate retaining walls (locations shown). A final grading plan would be submitted at Final. Lots would “step down,” and retaining walls would be constructed. Kent Marsh said that elevation drawings and a preliminary grading plan had been submitted to engineering staff demonstrating how grading could be accomplished to accommodate building envelopes.

Chairman Elmer asked if any preliminary geotechnical investigation had been undertaken, to which Mr. Austin replied affirmatively. Fill location recommendations would also be submitted during Final.

Commissioner Binder asked if homes in block 2 along 28 ½ Road would be facing 28 ½ Road, to which Mr. Austin replied affirmatively. When asked about the street’s classification, Mr. Marsh said that 28 ½ Road was a standard urban residential street. Grand Falls Drive, he added, would be constructed to collector street standards.

Commissioner Binder wondered how 28 ½ Road would be closed off to create a park. She wondered if turn lanes would be provided at the intersection of Summer Vista Road and Patterson Road. Mr. Austin said that a turn lane would be provided for westbound traffic on Patterson, but no turn lane had been deemed necessary for eastbound Patterson Road traffic. He briefly explained plans for closing 28 ½ Road.

Chairman Elmer asked if the petitioner had assessed the feasibility of drainage through large fills and cuts on the property. Mr. Austin said that challenges were understood, but few options were available. He noted that the current grade along 28 ½ Road was at 8 ½ %. Across Grand Falls Drive, grades would be kept at approximately 2%. The overall site would average an approximate 4% grade.

Chairman Elmer asked if fencing had been contemplated for double-frontaged lots. Mr. Austin said that a meandering sidewalk was proposed along Grand Falls Drive and potentially along Patterson Drive (locations noted), with landscaping and berms constructed to meet the City’s requirement for fenceline offset.

Chairman Elmer asked Mr. Austin to point out lots having shared lot lines. Mr. Austin said that lots weren’t specifically identified; rather, development of zero lot line homes would be market-driven. Thus, the Preliminary Plan wasn’t completely accurate in its representation of shared lot lines.

Commissioner Binder asked if the detention pond would be sodded with parklike grasses, to which Mr. Austin replied affirmatively. When asked if a traffic study had been completed, Mr. Austin responded that one had been undertaken and submitted to staff for review.

Commissioner Grout asked for additional clarification on plans for berming and fencing along F Road. Ron Abeloe, petitioner, said that he hadn’t precisely defined what would occur there. Alternatives had been discussed with staff, and a formal proposal would be submitted at Final. He noted that plans would probably include berming and landscaping with evergreen trees and shrubs. A low masonry wall may be erected to achieve desired buffering. He understood that anything submitted would have to gain staff’s approval.

STAFF'S PRESENTATION

Pat Cecil said that the project's proposed density was consistent with zoning but was less than the 8-12 units/acre recommended by the Growth Plan. The project's density had been approved originally by the County. A change in setbacks had been proposed by the developer and was supported by staff. Those included front yard setbacks of 15 feet for both single-family detached and single-family attached units, with garage setbacks of 20 feet. Accesses were noted, and he confirmed that no direct access from individual lots would be available along Grand Falls Drive. Staff concurred with sight distance concerns at the end of 28 ½ Road and supported closure of the road at that point. While the internal street pattern was adequate and Grand Falls Drive would be built to a higher standard, there were still concerns over the Patterson Road/Summer Vista Street intersection. Planning commissioners, he said, should determine whether a restriction on construction traffic should be imposed. Staff recommended approval of the request subject to the following conditions:

1. The Final Plan for the project shall provide either a landscaped berm 20 feet wide and a minimum of 4 feet high and/or a 6-foot-high block or masonry wall with a minimum of a 5-foot landscape strip behind the sidewalk adjacent to F Road (Patterson Road). As an alternative, a combination of landscaped berms and walls (meeting the above-mentioned height requirements) along the entire F Road (Patterson Road) frontage would also be acceptable.
2. A final landscape plan showing tree plantings 40 feet on center will be required at the time of submittal of the Final Plan.
3. The Final Plan for the phase of development along 28 ½ Road shall restrict development of these lots to detached single family dwellings.
4. At the time of Final Plan submittal for any phase, a fully executed drainage agreement with the Grand Valley Irrigation Company shall be submitted for recording with the Final Plat.
5. At the time of Final Plan submittal for any phase, the applicant shall submit a request for vacation of right-of-way for the "T" intersection at 28 ½ Road and Patterson Road. Upon vacation of the right-of-way by City Council, the applicant shall remove existing paving, curb, gutter and sidewalk and fully landscape the area of vacated right-of-way, with new curb, gutter and sidewalk being constructed at the new stub area of 28 ½ Road.
6. Prior to recording the Final Plat for any phase of the development, the applicant shall complete improvements to 28 ½ and F (Patterson) Roads or file a Development Improvements Agreement (DIA) with the City to guarantee construction of required improvements.

QUESTIONS

Commissioner Binder asked why the City had not recommended an eastbound turn lane for the Summer Vista/F Road intersection. Mr. Marsh could find no indication in the traffic study where the City's traffic engineer had reviewed the intersection for a right-turn eastbound decel lane. He agreed that there seemed to be a need for one. Commissioner Binder said that for so large a development, one should be required. Mr. Marsh suggested that the petitioner's review of an eastbound decel lane into the subdivision be included as an approval condition.

Commissioner Binder wondered if the HOA would be responsible for private street maintenance, to which Chairman Elmer answered affirmatively. Private street maintenance, he added, was generally addressed in the subdivision's covenants. Mr. Shaver said that if maintenance were not undertaken by the HOA, the City could lien properties and perform the maintenance. When asked why private streets had been allowed, Chairman Elmer noted that private streets were generally narrower with no on-street parking allowed. They afforded additional design flexibility. Commissioner Binder asked if private streets would allow for fire truck turnaround, to which Mr. Marsh responded affirmatively. He added that streets met the conditions of the TEDs manual.

Commissioner Binder noted the small size of lot 27 in block 3. Why have a lot so much smaller than those surrounding it? Mr. Cecil said that a smaller housing unit could be placed on the lot. A portion of the larger lot referenced was unusable for a building envelope, he said, because of its proximity to the cul-de-sac.

PUBLIC COMMENTS

FOR:

There were no comments for the proposal.

AGAINST:

Fred Pittenger (608 28 ¾ Road, Grand Junction) expressed concern over the project's proposed density. He said that getting onto F Road from the Indian Creek Subdivision was already very difficult. He felt that stacking at the F Road/Summer Vista Street intersection would create a dangerous situation. He also complained that insufficient notice was given to surrounding homeowners.

Loren Gunderson (592 Grand Cascade Way, Grand Junction) felt that construction and other traffic would be diverted down Grand Cascade Way from Grand Falls Drive. With sight distance concerns at the western end of Grand Cascade Way being similar to those of 28 ½ Road, she wondered why Grand Cascade Way hadn't been closed off. She referenced a petition submitted to staff signed by homeowners opposing the project, and wondered why Grand Cascade Way not been factored into the traffic study? Block 6, she felt, was a poor location for a park site. She noted that surrounding homes were in the \$150K to \$200K price range. Would proposed homes be compatible? She objected to the use of fourplexes as buffers from Patterson Road for single family homes.

PETITIONER'S REBUTTAL

Mr. Abeloe noted that the project had already gone through the County's approval process. Many changes in the plan had been made after lengthy discussion with City staff and utility providers. He noted that other nearby developments contained mixed housing types with densities higher than the current project. He noted that the subdivision's street design facilitated cross-trafficking. Summer Vista Street provided a better street alignment and access into the subdivision than did 28 ½ Road. Grand Cascade Way had not been addressed because there were no busy roads in the Falls Subdivision. He didn't feel that the road would be used as a short cut from Grand Falls Drive to 28 ¼ Road.

While no discussions with The Falls Subdivision HOA had occurred, he thought that they might be receptive to landscaping their open space areas along F Road to match the current project's plan. The open space areas would provide visual buffers only, with trees, park benches, etc. provided. Mr. Abeloe reiterated his request to provide homes with zero lot lines along the east side of 28 ½ Road. Homes would be nice, with prices ranging well over \$100K. Private streets were expected to transport low traffic volumes, so wider streets seemed unnecessary. Smaller lot areas, he said, were an amenity to those who didn't want to care for large yards. Full maintenance of yards could be provided by the HOA upon request. A comprehensive soils evaluation had been undertaken, and foundations would be engineered. With regard to the active open space area, he reiterated that BBQ pits and picnic tables would be provided. A volleyball court or horseshoe pits could also be installed. Since it was unclear what homeowners would want, additional play equipment could be provided by the HOA.

Mr. Abeloe said that the site's detention pond could be moved to a recently purchased piece of property to the south. If that occurred, he asked that flexibility be given to allow for creation of 2-3 more lots. He agreed to work with staff on berming along F Road, but said that he found the "walled" look of 6-foot perimeter fencing unattractive. While contractors/subcontractors could be instructed to route construction traffic a certain way, he wasn't sure there was a legal way to enforce such a restriction. He noted that the Summer Vista Street/F Road intersection would not be constructed with the first filing. He wanted to

employ common wall construction for the western portion of the project, a concept he said had been successfully used in the past.

QUESTIONS

Commissioner Binder wondered if common wall homes would be constructed on lots 6 and 7 in block 3. Mr. Abeloe said that detached units would fit on those two lots. The buyer, he said, would be given a list of building options for each lot and given the final decision on the type of home constructed.

Commissioner Binder wondered if any home constructed on lot 27 would face the private drive, to which Mr. Abeloe responded affirmatively. When asked about yard maintenance on request, Mr. Abeloe confirmed that this could be easily achieved, given that a maintenance agreement would already be in place for common areas.

Commissioner Prinster wondered how Tract C would be utilized. Mr. Abeloe said that it was to be used strictly to accommodate utilities access. It would be left as open space, with an all-weather surface constructed and grass planted. An easement to the south of the property was noted.

Commissioner Prinster asked for clarification on the meandering sidewalk along Grand Falls Drive, which was given. Commissioner Prinster thought that most people would want rear yard privacy fencing installed along that roadway.

Commissioner Binder asked if fencing for Grand Falls Drive would be different than other fencing in the subdivision, to which Mr. Abeloe responded negatively. An approved standard would be included in the subdivision's covenants.

Commissioner Binder thought that it a good idea to include pedestrian paths. Mr. Abeloe agreed and noted several locations where pedestrian paths might be provided.

Chairman Elmer asked for clarification on the County's prior approval. Mr. Abeloe said that the project's ODP had received County approval.

Commissioner Grout said that if the detention facility were located off-site, he wondered who would be responsible for maintenance. Mr. Abeloe said that it would be deeded to the HOA, which would then be responsible for upkeep. He thought that a Minor Subdivision or other procedural steps may be required.

Commissioner Binder asked if irrigation water would be provided to homeowners. Mr. Abeloe said that 39 shares of water had been purchased for the subdivision.

Mr. Abeloe asked planning commissioners if they'd received copies of his request regarding staff's conditions. They included: 1) setbacks as noted by Mr. Cecil (different from the staff report); 2) flexibility in the off-site detention option, and 3) the allowance of single family attached units along 28 ½ Road.

DISCUSSION

Commissioner Binder remarked that she had not received copies of previously referenced property owner letters and petition. She reiterated the need for an eastbound turn lane into the subdivision off of Patterson Road, and wanted assurance that no home would be so located as to face another homeowner's back yard. She agreed that traffic would utilize Grand Cascade Way as a short-cut and thought this issue merited further review.

Chairman Elmer said that while available as a "short-cut," it would not be a convenient option. He expressed support for closure of Grand Cascade Way since it posed many of the same sight distance

concerns as 28 ½ Road. Mr. Marsh said that signatures supporting the street’s closure would be required from every homeowner along Grand Cascade Way.

Chairman Elmer said that to be consistent with other planned developments additional recreational equipment should be required for the active open space area. He felt that an eastbound decel lane should be required regardless of the traffic study’s outcome. He also expressed concern over proposed grading. The petitioner would have to demonstrate how building envelopes would work, given the presence of steep slopes. He took no issue with the amended setbacks as noted by staff, nor with the utilization of single-family attached units along 28 ½ Road.

Commissioner Prinster had no problem with the petitioner’s request to move the detention pond off site, but construction traffic was an issue. He wondered if the petitioner could specify in subcontractor agreements that construction traffic would be via Patterson Road, when available. Mr. Abeloe agreed to include such language in his contracts. If violations were brought to his attention, he would provide enforcement.

Chairman Elmer noted that the area was suitable for mixed-use development, and the proposal complied with density recommendations. He supported the use of four-plexes as buffers for single family units.

MOTION: (Commissioner Grout) “Mr. Chairman, on item PP-1999-253, Preliminary Plan for The Vistas 152-lot subdivision, I move that we approve the Preliminary Plan subject to conditions of staff with the additions and the following verbiage: on item #3 we add the words “and attached single family dwellings”; add a #7 which requires recreation equipment in the active open space similar to past planned developments [and subject to staff’s discretion]; add #8 which would allow flexibility to the developer as to the location of the detention facility in the southern portion of the property; #9 which is to require a deceleration lane from F Road onto Summer Vista Street that would be eastbound; #10 that setbacks will be shown for all lots that utilize shared driveways; #11 [approval of] setbacks as written in the staff report and agreed upon by the developer and staff; #12 in privy of contract with the developer’s subcontractors stipulate that Patterson be the primary access into the project.”

Commissioner Binder seconded the motion.

Mr. Shaver asked if planning commissioners still needed the developer to show the relationship of the building envelopes to grade. Chairman Elmer said that commentary was intended to provide staff with direction only.

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

A brief recess was called at 9:54 p.m. The hearing reconvened at 10:02 p.m.

CUP-1999-224 CONDITIONAL USE PERMIT—GRAVEL PIT

A request for a Conditional Use Permit to allow gravel pit operations in an I-1 (Light Industrial) zone district on an approximately 10.58 acre parcel.

**Petitioner: Martin Azcarraga
Location: East of Persigo Plant
Representative: David Smuin**

PETITIONER’S PRESENTATION

Greg Hoskin, legal counsel for the petitioner, said that the subject property was perhaps the least desirable in the City given its high alkali content. He chose to reserve commentary until after staff’s presentation.

STAFF'S PRESENTATION

Tricia Parish said that the petitioner would be required to secure the permits required for a gravel pit operation. A traffic study had been submitted, with haul routes identified in the December 14, 1999 Staff Report. No concerns from CDOT had been received over proposed traffic impacts. Two development engineer comments had been omitted from the petitioner's second round of responses; consequently, two additional approval conditions had been added. Having determined that the request met Code requirements, Ms. Parish recommended approval subject to the following conditions:

1. Provide proof of receiving a 112 Construction Materials Reclamation Permit from the State Division of Minerals and Geology prior to the start of the gravel mining operation.
2. The truck haul route provided by the petitioner shall be adhered to (see attachment B in the Staff Report).
3. All other applicable state and other jurisdictional permits shall be obtained prior to commencement of the gravel mining operation.
4. All landscaping shall be planted as per the approved landscaping plan and shall be in place prior to start of operation and maintained in a living condition by the owner of the property.
5. As long as the petitioner or current owner of the wet mining gravel operation follows the conditions of approval for this Conditional Use Permit, the mining and related uses may continue until March 2005.
6. The wet mining operation shall not result in a dewatering operation from the pond created on the property by the gravel mining that will substantially lower the level of the ground water. A plan for augmentation, if required by the State Division of Water Resources, shall be obtained prior to operation.
7. An operations plan shall be submitted for review to the Community Development Department that will show how washing of gravel, watering of roads, or any other water use will be accomplished. If groundwater is proposed for any uses, the petitioner shall conduct a groundwater study and demonstrate to the satisfaction of the City that no impairment will result to the Persigo Wastewater Treatment Plant as a result of those proposed operations.
8. Provide proof that an Air Pollution Emission Notice (APEN) form the Colorado Department of Public Health and Environment—Air Pollution Control Division, an application for a Construction Permit (Air Emission Permit), and all required permits for processing equipment such as gravel crushers and screeners, have been issued by the appropriate agencies.
9. The owner shall provide ongoing irrigation for the required landscaping and restoration of vegetation over the term of the permit. Irrigation shall be provided in order to maintain the plantings/landscaping in a healthy, viable condition as required by the landscaping plan, restoration plan, or other requirements of the City, State, or any entity having jurisdiction.
10. The petitioner shall, on a daily basis, remove any gravel/dirt tracked onto River Road that is reasonable and customary.
11. Haul roads within the site shall be kept reasonably dust-free by regular watering, as proposed by the petitioner (refer to #7).
12. The owner shall obtain a well permit for the proposed pond for sufficient acre feet through the State Division of Water Resources prior to operation.
13. The petitioner shall provide a poured concrete slab surrounded by a berm for any fuel storage area.
14. The petitioner shall provide port-a-johns for on-site workers, located out of the right-of-way.
15. Provide proof that all other permits and licenses applicable to this gravel mining operation and accessory uses (asphalt plant, crushing, etc.) have been issued by the appropriate agencies.
16. All operations shall comply with the noise, vibration, and other applicable standards required in section 5-15 of the Zoning and Development Code and by the City of Grand Junction, and with the proposed project report submitted by the petitioner.
17. A 14-foot utility easement shall be granted to the appropriate agencies by the City Property Agent, recorded in the Mesa County Recorder's office and a recorded copy shall be submitted for the project file.

18. The Petitioner shall provide proof that a stormwater management plan was submitted to the State of Colorado Department of Health.

QUESTIONS

Commissioner Grout asked for clarification of condition 12, which was provided. When asked if the well permit would continue to function as a pond after completion of reclamation, Ms. Parish replied affirmatively. Chairman Elmer said that the State had always mandated a well permit, even for the storage of water. Mr. Shaver clarified that the well permit requirement is separate from the gravel pit permit and was solely for the storage of water in the pit.

Chairman Elmer asked if hours of operation had been addressed. Ms. Parish said that they were included in the petitioner's narrative and in the Code requirements and reflected the hours of 6 a.m. to 7 p.m., Monday through Saturday. Chairman Elmer suggested that this be included as a condition of approval.

Chairman Elmer asked for clarification on the wording in condition 6. Ms. Parish said that the intent of the condition was that the use of the water as well as the water's discharge will not be allowed if used from the pond created by the mining operation. Mr. Shaver proposed changing the verbiage of the first sentence in condition 6 to read: "The wet mining operation shall not result in watering or dewatering of the pond created on the property by the gravel mining." The intent, he said, was to prevent the water from being removed.

Commissioner Grout asked if the petitioner would be allowed to extend the CUP beyond the year 2005. Ms. Parish said that in that event, the petitioner would be required to amend its CUP to include an extension.

Commissioner Prinster questioned the wording of condition 11, which required that haul roads be kept dust-free via watering; yet, if condition 7 prohibited taking water from the pond, where would the water come from? Ms. Parish said that a water tap for irrigation was required; water could be obtained from that tap. Water trucks could also be brought in for dust control. Mr. Shaver said that if there was unappropriated water from the Colorado River may be an option or the petitioner could also purchase a decreed river right.

PUBLIC COMMENTS

There were no comments either for or against the request.

PETITIONER'S REBUTTAL

Mr. Hoskin distributed documents to the planning commissioners. Photos of the site and other surrounding properties were shown demonstrating, according to Mr. Hoskin, the inability of vegetation to survive in such poor soil. Referencing condition 17, he noted on an overhead transparency of the Site Plan where a 14-foot utility easement had been provided. Ms. Parish said that Mr. Marsh had just wanted clarification on when the easement's recordation would occur.

Mr. Hoskin said that in the proposed wet mining operation, stormwater runoff would be captured in the pit and retained onsite. No stormwater discharging would occur, thus no discharge permit should be required (condition 18). Mr. Marsh said that in the proposed operation, digging would occur in a counter-clockwise fashion. As mining occurred, the petitioner would have to ensure that soil did not leave the site in the form of runoff. Hence, the requirement for a stormwater management plan. Chairman Elmer recalled a similar instance where a permit had been required. Mr. Hoskin felt that state requirements should not be made City conditions for approval. Conditions 1, 3, 8, 12, and 15, he said, referenced State requirements and thus were redundant.

Mr. Hoskin referenced a fax regarding the use of the Railroad Avenue/River Road intersection by truck traffic. CDOT had requested that the issue be addressed prior to the Planning Commission hearing; yet, notification of the requirement had only just been received. Resolving the issue prior to construction, he said, would seem to be a more reasonable requirement. Mr. Marsh said that the fax had initially been sent to David Smuin. Mr. Smuin responded by providing staff with a haul route from the site. The route did not show any trucks utilizing that intersection. If truck traffic would not use the intersection, CDOT would not be involved, thus the issue had been resolved. Mr. Hoskin said that if the United Gravel Pit operation were moved to the currently proposed location, he asked that they be allowed to run 10 trucks/day from the site through the River Road/Railroad Avenue intersection if necessary. While he didn't have any problem with the requirement to secure a CDOT permit, the timeframe in which to do so, he said, should be more realistic.

Ms. Parish said that concern had been expressed by Persigo Plant staff and another citizen over truck traffic volumes. She thought that the issue had already been resolved by Mr. Smuin. Mr. Shaver didn't think it an issue because the permit would issue or not from CDOT; he noted that the Code required submission of a haul route by the owner/operation of a proposed gravel pit and permission by the proper authority to use the right-of-way. Mr. Hoskin contended that what staff referenced as a haul route was different from what had been proposed. The haul route proposed included directing trucks west to 20 Road and accessing Highway 6 & 50 or haul past the railroad intersection further east to the Redlands Parkway. Mr. Hoskin stated that never had the proposal included just one haul route to the Redlands Parkway. Ms. Parish referenced page 3 of the petitioner's project report, which referenced only the Redlands Parkway as a haul route if traveling East. She said that staff had gone by what the petitioner had included in his report.

Chairman Elmer advised Mr. Hoskin to limit comments to concerns with stated staff conditions. Mr. Hoskin was concerned that all of the staff report would be adopted if the Commission acted on the proposed motion. Mr. Shaver suggested that reference to staff's recommendation should be made by using a capital 'R' in place of a lower case 'r.' In that way, the term 'Recommendation' would apply ONLY to the approval recommendation and stated conditions as contained on pages 5-6 of the Staff Report, and not the entire Staff Report.

Mr. Hoskin reiterated that soil on the site was very poor and alkali-laden. He said that the Tri-River Extension Service and others had tested it and found that virtually nothing would grow in such soil. Curtis Swift of the Extension Service suggested excavation, placing a pad underneath, and replacing bad soil with good. Plantings would then take water and there were questions over where water could be obtained. Pit water would be too salty. Ute Water, he said, would not sell a tap for the use of maintaining vegetation, and the only other source of water nearby was Persigo's chlorified effluent. If the City could intercede with Ute on the petitioner's behalf and secure a water tap, the petitioner could then comply with the City's irrigation requirement. Mr. Hoskin asked for intercession by the City with Ute or waiver of the irrigation and landscaping requirement.

Chairman Elmer questioned how Ute could regulate the use of water once the tap was installed. Mr. Hoskin said that he wanted to be straightforward with Ute in his dealings with the water company.

Commissioner Grout referenced the petitioner's report, which stated that utilities were available and located along River Road. What were the other source(s) of water? Mr. Hoskin answered that Ute provided domestic water. Other sources included water from the pit or water from the Persigo Plant. Only Ute Water or the chlorified water could be used for plantings. Ms. Parish said that she'd spoken with the Colorado Division of Water Resources regarding the use of Persigo's discharge water. Since the plant's water does not meet drinking water quality, it was subject to the State scrutiny for its provision of water for irrigation purposes. She didn't feel that Persigo should be considered a viable irrigation water source. She noted that the petitioner had already provided the City with a plan for landscaping/irrigation,

so the problems expressed by Mr. Hoskin came as a new development. She had also spoken with Ute Water representatives, who said that special requests could be made at one of their board meetings. Mr. Hoskin referenced paragraph 9, page 4 of the second response letter and disputed that any such plan was ever submitted by Mr. Smuin. Ms. Parish said that this was specifically addressed in response #1.

Mr. Hoskin asked for clarification on the intent of revised verbiage for condition 6. Ms. Parish said that “watering” would constitute the irrigation use or road watering; “dewatering” referred to discharge of the pond’s water in other aspects as outlined in a discharge permit. Mr. Shaver said that the intent was that the pond water remain “status quo,” given the mining operations that would occur. Mr. Hoskin said that a well permit was used primarily for consumptive uses, to include evaporation, irrigation, and onsite watering. Surface water would recharge the pond naturally. As long as the well permit could be conditioned to include those three elements, there would be no problem.

Chairman Elmer suggested that verbiage be changed to state that the wet mining operation won’t utilize dewatering for the operation of its gravel mining and that a plan for augmentation, if required for any consumptive use, will be obtained prior. That way, if a threshold is triggered because too much water is used, an augmentation plan would be required. Mr. Shaver noted that an augmentation plan would not be required and further said that the condition should also define “substantial uses.” Chairman Elmer said that verbiage could be amended to state that the wet mining operation won’t use dewatering for the operation or substantially lower the level of the ground water.

Mr. Hoskin felt that conditions 9 and 4 were essentially the same. Chairman Elmer said that the landscaping plan also addressed the buffers. Condition 9 seemed to address restoration requirements. Mr. Hoskin said that both requirements presumed availability of water, which was currently at issue. Condition 10, he said, was too broad in its requirement for removal of “any” dirt on the road. After a brief discussion, Mr. Shaver suggested using verbiage similar to the condition for United’s gravel pit operation. He said that it could be as simple as stating “If a hazard or problem is created by the gravel/dirt tracked onto River Road, the applicant shall remedy the situation.”

Mr. Hoskin felt that condition 13 could be very restrictive. Ms. Parish said that the suggestion was made by the Division of Water Resources. She added that water discharged for dust control uses must be up to EPA’s standards, thus requiring a discharge permit. This was the first time, she said, that the applicant proposed using water from the pond for dust control. Mr. Hoskin asked that the State’s requirements for a concrete slab and berm be directed to him, in writing. Mr. Shaver said that subject to staff’s approval, he suggested that condition 13 be modified to insert the word “onsite” after the word “storage” and delete the words “and pumping/disbursement area.”

Referencing condition 7, Mr. Hoskin said that he could find nothing in the Code requiring an operations plan. He thought that any requirement for such a plan should be left to the discretion of the Mined Land Reclamation Board. Mr. Shaver cited section 5-15-2 from the Code, which allowed for detailed description of extraction methods, accessory uses and reclamation. Mr. Hoskin objected to the level of detail required by the City. Ms. Parish said that the City mainly wanted to see how groundwater would be used. Chairman Elmer suggested amending condition 7 to require the applicant to submit a report detailing how much groundwater the operation plans to consume for onsite operations. If the actual use exceeds the allowed use of the well permit, then the applicant’s must demonstrate that no impact will occur. Ms. Parish said that the operation plan would become a part of the applicant’s 112 Construction Materials Reclamation Permit with the State Division of Minerals and Geology.

QUESTIONS

Commissioner Grout asked if water from the pit would be used for screening and dust control, to which Mr. Hoskin replied affirmatively. Mr. Hoskin did not expect the water level in the pit to change substantially.

DISCUSSION

Commissioner Prinster referenced conditions 1, 3, 8, 12 and 15 where Mr. Hoskin felt there was duplication. Since they were State requirements, was it really necessary for the City to reference them? Ms. Parish said that they were included more as a “check list” for the applicant. Mr. Shaver said that the Code also referenced many of the conditions mentioned in the staff report. Since the petitioner had to comply with the permitting requirements anyway, there should be no objection. Mr. Hoskin suggested combining all of the duplicated requirements into one paragraph.

Chairman Elmer asked for input on the City’s position with regard to obtaining a tap from Ute Water. Mr. Shaver was unsure what could be done to ensure procurement of a tap since the final decision ultimately belonged to Ute Water. Chairman Elmer said that if the applicant could demonstrate that water was unobtainable and produce a written denial from Ute Water, a request for waiver of the landscaping requirement could be directed to City Council for consideration. Commissioner Prinster felt that given the site’s soil conditions, waiver of the requirement seemed reasonable. Ms. Parish said that the State would require reclamation of the site at some point, which would require irrigation water. Even if the requirement was waived by the City, it would remain a State requirement for reclamation purposes. Mr. Hoskin felt that the State would only require return of the site to its former condition, and its current condition was not very good. Chairman Elmer said that even natural grasses required water to grow.

Mr. Hoskin suggested that he and Mr. Shaver approach Ute Water together with the tap request. If unsuccessful, the City would know at that time. If the answer was “no,” then the answer could be forwarded to City Council directly without the request having to be brought back before the Planning Commission.

Chairman Elmer reiterated that hours of operation would be from 6 a.m. to 7 p.m., Monday through Saturday, and should be included in the motion as condition 19.

General discussion ensued over the motion’s framing.

Condition 6 was amended to state that the wet mining operation shall not substantially result in the dewatering or lowering of the level of the water of the pond created on the property for gravel mining; delete the second sentence in condition 6; condition 7 would be amended to state that an operation plan would be submitted that will demonstrate how any groundwater is utilized for the site, and if utilized groundwater exceeds allowable limits by the well permit, the applicants shall conduct a groundwater study and demonstrate to the satisfaction of the City that no impairment will result to the Persigo Wastewater Treatment Plant as a result of the proposed operation; condition 10 would be revised to state that the petitioner shall, on a daily basis, remove gravel, mud and dirt tracked onto River Road. Removal shall generally be as would be customary in the industry, with the expectation of elimination and removal of hazards; condition 13 would be amended to state that the petitioner shall provide spill containment as required by the State Oil Inspector for any onsite fuel storage; condition 17 would be amended to state that a 14-foot utility easement shall be granted along River Road; condition 18 would remain as stated and amended during staff testimony; delete condition 19.

Chairman Elmer suggested inclusion of a recommendation that conditions 4 and 9 would be waived if, through the City’s assistance, the petitioner could demonstrate that Ute Water had formally denied issuance of a water tap for the site. The petitioner must demonstrate sufficiently that criteria for the variance had been met.

MOTION: (Commissioner Grout) “Mr. Chairman, on item CUP-1999-224, I move that we approve the Conditional Use Permit for a gravel mining operation subject to staff Recommendation, items 1-18, as amended tonight, also on items 4 and item 9, the petitioner and the City will approach Ute Water, and if the petitioner and the City cannot secure a water tap, a recommendation to City Council [would be made to waive] those two items, subject to our previous discussion about the applicant paying for and doing everything else that would be required.”

Commissioner Grout also referenced the amendment to the staff report by making the approval subject to the staff Recommendation, using the capital ‘R’ to signify the verbiage included on pages 5 and 6 of the Staff Report.

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

V. PUBLIC HEARING ON ITEMS FOR RECOMMENDATION TO CITY COUNCIL

MS-1999-247 ZONE OF ANNEXATION/MINOR SUBDIVISION—COVENTRY CLUB MINOR SUBDIVISION

A request to create a lot for the existing clubhouse and convert the clubhouse into a townhome, and approval of a Zone of Annexation on approximately 2.86 acres.

Petitioner: Coventry Club Homeowner Association

Location: Arlington Drive, north of Quincy Lane

Representative: Pat Green, LanDesign

PETITIONER’S PRESENTATION

Patrick Green, representing the petitioner, said that the HOA no longer used the clubhouse. If converted to a townhome, money from its sale could be used for general area improvements. The minor subdivision of one lot would allow independent sale of the building. The petitioner was in agreement with staff’s recommended Zone of Annexation.

STAFF’S PRESENTATION

Lori Bowers said that there were no issues associated with the request. She clarified that approval of the Minor Subdivision would result in an actual density of 17.83 units/acre. Staff recommended that, contrary to the Staff Report’s initial recommendation, a PR-17.83 zone should be applied until such time as the remainder of the development is annexed. When the latter occurred, a PR-8 zone could be applied.

PUBLIC COMMENTS

There were no comments either for or against the request.

DISCUSSION

Chairman Elmer and Commissioner Grout remarked that the request seemed straightforward.

MOTION: (Commissioner Grout) “Mr. Chairman, on item MS-1999-247, a recommendation on the Zone of Annexation for the Coventry Club Minor Subdivision Annexation, I move that we recommend the zone of PR-17.83 to the City Council for the Coventry Club Annexation located along Arlington Drive, north of Quincy.”

Commissioner Prinster 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 MS-1999-247, I recommend approval of the Coventry Club Minor Subdivision and the creation of lot 51 for the conversion of the existing clubhouse into a new residential unit.”

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

ANX-1999-263 ZONE OF ANNEXATION—DALE BROOME RV SALES

A request to zone a 1.81 acre parcel being annexed to C-1 (Light Commercial) zone district.

Petitioner: Chris McCallum, TPI Industrial, Inc.

Location: 3090 I-70B

Representative: David Smuin, HydroTerra

STAFF’S PRESENTATION

Lori Bowers overviewed the proposal and said that a C-1 zone would allow expansion of the existing business. Staff supported the zone request and it met Code requirements.

PUBLIC COMMENTS

There were no comments either for or against the request.

DISCUSSION

Both Commissioners Grout and Prinster remarked that the request seemed straightforward.

MOTION: (Commissioner Grout) “Mr. Chairman, on item ANX-1999-263, a recommendation on the Zone of Annexation for the Dale Broome RV Annexation, I move that we recommend a zone of C-1 to the City Council.”

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

RZP-1999-252 REZONE/PRELIMINARY PLAN—GARRETT ESTATES

A request to rezone approximately 12.16 acres from PR-21 (Planned Residential with a density not to exceed 21 units to the acre) to RSF-8 (Residential Single Family with a density not to exceed 8 units to the acre) and 2) the Preliminary Plan for 55 single family lots.

Petitioner: Sonshine Construction

Location: Northeast corner of 25 and F ½ Roads

Representative: Pat O’Conner, Banner Associates

Staff requested that this item be continued to the December 21, 1999 public hearing since the petitioner was away on business. If a quorum could not be reached, the item could be further postponed.

MOTION: (Commissioner Grout) “Mr. Chairman, on RZP-1999-252, I move that we continue the meeting to December 21.”

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

VI. GENERAL DISCUSSION

In recognition and appreciation of planning commissioner participation and service, Dave Varley presented each commissioner with a Christmas gift.

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