

**GRAND JUNCTION PLANNING COMMISSION  
MARCH 10, 1998  
MINUTES**

The regularly scheduled Planning Commission hearing was called to order at 7:00 p.m. in the City/County Auditorium by Chairman John Elmer.

In attendance, representing the Planning Commission, were: John Elmer (Chairman), Mike Denner, Jeff Driscoll, Joe Grout, Mark Fenn, Robert Gordon and Paul Coleman.

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

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

Terri Troutner was present to record the minutes.

There were approximately 30 interested citizens present during the course of the hearing.

**I. APPROVAL OF MINUTES**

Available for consideration were the minutes of February 3 and 10, 1998.

**MOTION: (Commissioner Coleman) “Mr. Chairman, I make a motion that we accept the minutes of February 3.”**

Commissioner Grout seconded the motion. A vote was called and the motion passed unanimously by a vote of 7-0.

**MOTION: (Commissioner Coleman) “Mr. Chairman, I make a motion that we accept the minutes of the February 10 meeting.”**

Commissioner Grout seconded the motion. A vote was called and the motion passed unanimously by a vote of 7-0.

**II. ANNOUNCEMENTS AND/OR PRESENTATIONS**

Chairman Elmer noted that item FPA-1997-210 had been pulled from the evening's agenda. Item VE-1998-035 was moved so that it would be heard second.

Chairman Elmer said that Ron Halsey, long-time planning commissioner, passed away due to illness. Mr. Halsey made significant contributions to the betterment of the community and will be sorely missed by those who knew him.

### **III. PUBLIC HEARING ITEMS FOR RECOMMENDATION TO CITY COUNCIL**

#### **RZP-1998-033 REZONE/PRELIMINARY PLAN/SPECIAL USE PERMIT--FAIRCLOUD SUBDIVISION**

**A request to: 1) rezone from RSF-4 (Residential Single Family with a density not to exceed 4 units per acre) to PR-3.4 (Planned Residential with a density not to exceed 3.4 units per acre) consisting of 16.53 acres; 2) approve a Preliminary Plan for 55 dwelling units; and 3) approve a Special Use Permit for private open space and to allow RV storage in the Airport Critical Zone.**

**Petitioner: JP White Construction**

**Location: Southeast corner of F 3/4 and 30 Roads**

**Representative: Chris Darnell**

Prior to the petitioner's presentation, Scott Harrington provided a brief history of the proposal including reasons for its initial denial by both the Planning Commission and City Council. The petitioner's new proposal deleted six residential lots from the Airport Critical Zone (ACZ) area located in the northeast portion of the property but added another six lots to the remaining area. Density was the same for both the former and new proposals. The new plan proposed utilizing the ACZ area for RV storage and passive open space.

#### **PETITIONER'S PRESENTATION**

Chris Darnell, representing the petitioner, showed an overhead transparency of the Preliminary Plan. He noted the passive open space area, proposed RV storage area, accesses, detention area and other on-site amenities. A gravel path would be constructed in the passive open space area. Mr. Darnell mentioned that staff had recommended moving the RV storage area further to the north. The storage area would be fenced using solid white vinyl fencing materials. Mr. Darnell said that open space totaled approximately 28 percent of the parcel. The petitioner is in agreement with staff's conditions.

#### **STAFF'S PRESENTATION**

Michael Drollinger reviewed the proposal as outlined in the staff report dated March 1, 1998. Staff recommendations include the incorporation of traffic calming elements into the final street design for 30 Road. Improvements to 30 Road should be completed in Phase 1, with improvements to F 2 Road being completed in Phase 3. Moving the RV storage area further north would provide additional buffering between that use and residential lots. With no major outstanding issues, staff recommended approval of the rezone, approval of the Special Use Permit and approval of the Preliminary Plan subject to:

1. Bulk requirements for the subdivision as detailed in the staff report be adopted with the Preliminary Plan.
2. The phasing of infrastructure improvements be approved as detailed in the staff report.
3. The RV storage area be relocated further to the north with access taken from Faircloud Way rather than Starlight Drive.
4. Traffic calming elements be incorporated into the final street design for 30 Road.

### **QUESTIONS**

Commissioner Driscoll wondered why the applied bulk criteria was that of the RSF-5 zone. Mr. Drollinger answered that the RSF-5 bulk requirements were the most appropriate given the proposed lot size.

### **PUBLIC COMMENTS**

#### **FOR:**

There were no comments for the proposal.

#### **AGAINST:**

Jeb Russell (665 - 30 Road, Grand Junction) wondered if irrigation water would be provided to individual lots. If so, why had no irrigation plan been submitted? He commented that the proposal seemed too dense, and he was not altogether in favor of shared driveways.

### **PETITIONER'S REBUTTAL**

Chris Darnell said that irrigation water would only be available for the active open space area where grass would be planted. The passive open space area would include natural vegetation and individual lots would have to utilize potable water from Clifton Water for outside landscaping. Xeriscaping would be encouraged. There were only a total of eight shared driveways with corresponding shared garages proposed.

### **DISCUSSION**

Commissioner Coleman observed that the current proposal seemed to meet the directives given the petitioner.

Chairman Elmer did not especially like having the shared driveways access F 2 and 30 Roads; however, it would be acceptable provided that it met Engineering Department criteria.

Commissioner Denner agreed but noted the existence of other driveways in the area across F 2 and 30 Roads.

**MOTION: (Commissioner Coleman) “Mr. Chairman, on item RZP-1998-033, a request for a Special Use Permit and Preliminary approval for Faircloud Subdivision, I move that we approve the request subject to the conditions in the staff report dated March 1, 1998.”**

Commissioner Gordon seconded the motion. A vote was called and the motion passed unanimously by a vote of 7-0.

**MOTION: (Commissioner Coleman) “Mr. Chairman, on item RZP-1998-033, a request for rezone for Faircloud Subdivision, I move that we forward this item to City Council with a recommendation of approval.”**

Commissioner Denner seconded the motion. A vote was called and the motion passed unanimously by a vote of 7-0.

**VE-1998-035 VACATION OF EASEMENT/FINAL PLAN AMENDMENT**

**A request to: 1) vacate a portion of a drainage easement along the western property line, and 2) amend the Canyon View filing #5 Final Plan to change the setback requirement for the west side of the property.**

**Petitioner: Darlena White  
Location: 2167 Redcliff Circle  
Representative: Tom Volkmann**

**PETITIONER’S PRESENTATION**

Tom Volkmann, representing the petitioner, acknowledged that the error which resulted in the subsequent easement encroachment was the fault of the petitioner. In an appeal of an administrative decision, the City’s Board of Appeals (BOA) determined that a single lot setback change in a planned zone could be heard by the Planning Commission as a minor plan amendment. Citing *Code* section 7-5-6.D, he contended that the request would not adversely impact adjacent uses. Citing 7-5-6.B, Mr. Volkmann felt the request actually represented a major plan amendment in context; however, in the scope of Canyon View Subdivision’s overall plan, he felt that any impacts would be negligible. The home, he emphasized, was completed, and denial of the request would, at the very least, force the removal of two of the three bedrooms and a bathroom, significantly devaluing the property. Staff’s recommended options such as building a second story were not economically feasible.

Mr. Volkmann said that staff was suggesting amending the subdivision’s plan to include a setback change for all lots bordering the same easement. He felt this was unnecessary as the encroachment affected only one house. He asserted that the technical error was unforeseen at the time of Final Plan approval. The Building Department had not discovered the error until the house neared completion and an Improvements Location Certificate survey was performed. The drainage line located in the easement does not run directly underneath the home. Vacating a portion of the easement would still leave 7.7 feet available for line maintenance.

## **QUESTIONS**

Commissioner Gordon wondered what the Board of Appeals had determined. John Shaver said that the BOA had heard and considered only the appeal of the administrative decision. By that determination, it defined a process only by which the petitioner could proceed. The BOA did not hear nor did it consider the specifics of the vacation/amendment request.

## **STAFF'S PRESENTATION**

Bill Nebeker provided a detailed review of the project report dated March 10, 1998. He referred to an overhead transparency of the individual lot's site plan and said that the original site plan submitted by the petitioner had been out of scale. This error was then compounded in the lot's staking. He said that the Building Department does check setbacks, but only based on lines shown by the applicant to the foundation.

Specific points recalled from the staff report included the following:

1. The Planning Clearance states that the responsibility for properly locating and identifying easements is the responsibility of the applicant. If the amendment were approved, professional builders would no longer be held responsible for the accuracy of their site plans. This would degrade setback enforcement and allow for other property owners to make similar claims.
2. Approval of the amendment would undermine the original intent of the developer to maintain maximum views between structures.
3. CC&R's also require 15-foot setbacks. Even if the amendment were approved, the applicant would still need to receive Homeowners Association (HOA) approval. The applicant has acquired consent from only 17 of the 124 lot owners to change the CC&R's. If the City were to approve the amendment prior to approval by the HOA, litigation may be necessary to resolve the issue.
4. Planned zones are not eligible for variances, however, even if the lot was not located within a planned zone, the request would not conform to variance criteria which required exceptional circumstances or undue hardship not created by the actions of the applicant.
5. Other options were available to the petitioner, as outlined in the staff report.
6. Approval of the easement vacation would leave too little easement for adequate maintenance of the existing drainage line and attempts to secure additional property or consent from the adjacent property owner have failed.

7. Approval of the major plan amendment for just one lot represented spot zoning.

Staff recommended denial of the vacation request as well as denial of the major plan amendment for the following reasons:

1. It distorts the objectives of the *Code*.
2. It creates spot zoning for only one affected property owner, not allowing the same flexibility for other property owners in the subdivision.
3. It does not provide long range neighborhood benefits to the Canyon View Subdivision.
4. It does not promote the integrity and general welfare of the Canyon View Subdivision and its owners.
5. It would not be a general benefit to the neighborhood.
6. It changes commonly held expectations for adjacent property owners that setbacks would be adhered to.
7. It sets a precedent for allowing other setback amendments or encroachments in this and other subdivisions.
8. The conditions creating the need for the amendment were created by actions of the applicant.
9. The applicant can derive a reasonable use of the property without the amendment.
10. As shown by letters and public comments, the amendment is injurious to adjacent properties.

### **QUESTIONS**

Commissioner Coleman asked for clarification on the location of the drainage line, which was provided.

Commissioner Driscoll said that the Planning Commission had recommended denial of the plan amendment for Kay Subdivision as well. He wondered what the basis had been for City Council to overturn the denial recommendation. Mr. Shaver said that the Planning Commission had been overturned by the City Council, the decision accommodated the existing structure. City Council's further position had been that if the amendment was to be approved for one lot, it should be applicable to all lots bounding the same right-of-way.

Mr. Harrington said that Kay Subdivision's circumstances were dissimilar in that, for the lots in question, their rear yards were treated the same as front yards due to the two street frontages. In that request, most all the property owners and HOA had been in agreement and the covenants were changed to reflect setback modifications.

Chairman Elmer said that in the Kay Subdivision situation, the builder had created the problem and had left it for the property owner to deal with.

### **PUBLIC COMMENTS**

#### **FOR:**

There were no comments for the request.

#### **AGAINST:**

James Sidwell (2194 Canyon View, Grand Junction), president of the Canyon View Subdivision HOA, said that the situation had been given serious consideration, however, because so few homeowners supported the request, it was subsequently denied. Mr. Sidwell stated that the builder learned of the mistake when the home was two thirds complete but she continued with construction of the home anyway. He said that he'd received a letter from Mr. and Mrs. Thomas Lewis (2166 Redcliff Circle, Grand Junction). The Lewis's said that other lots in the subdivision were vacant. They were concerned that the same thing could happen on these lots as well.

Wayne Ash (2165 Redcliff Circle, Grand Junction), the adjacent property owner, said that he would be most affected by the amendment and vacation. He said that he'd never been given the chance to see the petition being circulated by the builder, Ms. White, until he requested one. If he'd sold her the eight feet requested, he would not have been able to build his own home to the scale desired and meet setbacks. Granting the amendment and vacation, he contended, would negatively affect property values in the neighborhood and weaken subdivision covenants. If approved against his will, he argued that he should be compensated for impacts to his property.

### **PETITIONER'S REBUTTAL**

Mr. Volkmann said that the home had not encroached into setbacks on the original site plan as indicated by staff. While he understood staff's concern over spot zoning, he did not feel the concern to be applicable. He reiterated that all the necessary building permits had been received. Impacts to adjacent or surrounding properties would be negligible since the reduction in separation would only amount to approximately 5 feet. He reiterated that it made no sense to halt construction on a home that was so near completion when the problem was discovered. It had never been the builder's intention to hide anything from the adjacent property owner, but she realized that he would never sign the petition being circulated. Mr. Volkmann said that had this been a straight zone, a variance would almost surely have been approved.

### **QUESTIONS**

Commissioner Driscoll asked if the petitioner's request was based primarily on *Code* section 7-5-6.D, to which Mr. Volkmann responded affirmatively.

General discussion ensued over whether all three criteria listed in 7-5-6 had to be addressed or just one of the three. Mr. Shaver clarified that with the inclusion of the word "or," only one of the three conditions need apply.

Commissioner Gordon asked why the HOA had refused to give its approval. Mr. Volkmann said that the HOA's position had been that approval must first be received from all property owners within 200 feet of the subject property before its own approval could be given.

Darlena White said that she spoke with Engineer Jim Langford about the drainage easement. He'd told her that the 7.7 feet remaining after the vacation would be sufficient for maintenance and that he would be willing to put this in writing.

Commissioner Coleman suggested creating a 10-foot easement along the western portion of the lot and moving a portion of the drainage line. Ms. White said that this option had not been discussed since Mr. Langford assured her that the remaining 7.7 feet would not be a problem where the line lay presently.

Chris Darnell, representing the petitioner as her engineer, said that with regard to the vacation, once the pipe is installed, the only reason to ever dig it up again was in the event of blockage or collapse. It would be rare that such an event would occur, however, in the event of blockage, "jetting" from a nearby manhole could solve the problem. He felt that in the event of collapse, the line could be accessed using the 7.7 feet remaining if done with care. There may be more hand digging, excavating and shoring involved in this event.

Commissioner Coleman wondered who would share the burden of hand digging in the latter scenario. He maintained that there would be insufficient room for a backhoe to maneuver. Mr. Darnell was unsure who would be involved in the hand digging and agreed that a backhoe would have a difficult time maneuvering.

Commissioner Coleman wondered how deep the pipe had been buried. Mr. Darnell understood that it was located 3 feet from the top from existing grade. He said that relocating the pipe and/or altering its grade were possibilities.

Kerrie Ashbeck said that when the vacation request was submitted to the City, engineering staff had requested a description of the pipe's exact location. A letter had been received by Jim Langford in September of 1997 which placed the pipe two feet from the home's foundation and one foot below the foundation. This proximity to the foundation created concern for engineering staff, and while Mr. Volkmann had suggested moving the pipe and its easement, no plans to do



so had been submitted for staff review. She added that it would be difficult to relocate the pipe without significant grade work to the street.

Commissioner Coleman asked if the line could be moved to the western boundary of the lot. Ms. Ashbeck replied that to do so would also require significant reconstruction of the street above and below the subject lot.

### **DISCUSSION**

Chairman Elmer acknowledged that guidance from the *Code* was not very clear; however, he noted that the request required approvals from other sources, none of which had been or would likely be given. Had the HOA and other property owners consented to the amendment, the request may have been viewed differently. As submitted, the request failed to meet the original intent of the plan.

Commissioner Gordon wondered if decreased setbacks would pose a fire hazard. Mr. Nebeker said that setbacks would have to be less than three feet to pose any fire hazard.

Commissioner Fenn wondered what type of situation would be created with the HOA if the amendment and vacation were approved by the City. Mr. Shaver said that the HOA and homeowners could potentially have cause for action, which could result in litigation.

Commissioner Grout concurred with statements made by Chairman Elmer. He was opposed to the request due to the lack of a sufficient drainage easement which would remain and the acknowledged opposition of the HOA and adjacent property owners.

Chairman Elmer added that approval would open the door to similar requests from other builders. People, he said, had to be held accountable for their own mistakes.

**MOTION: (Commissioner Coleman) “Mr. Chairman, on item VE-1998-035, I move that we deny the Final Plan amendment and the easement vacation for the reasons stated by staff and others.”**

Commissioner Grout seconded the motion.

Mr. Shaver suggested the motion specifically address section 7-5-6. Commissioner Driscoll offered the following verbiage. “The conditions that existed at the time the home was constructed was that this was a platted subdivision with platted setback requirements and a platted easement. The petitioner had notice of the setbacks and the easement prior to the placement of property corner pins. The petitioner had the ability to determine what the setbacks were so that encroachment could be avoided. Given this, those conditions would have been foreseen at the time of Final Plan approval.”

Commissioner Coleman agreed to include this in the motion, which was seconded by Commissioner Grout.

The amended motion is as follows:

**MOTION: (Commissioner Coleman) “Mr. Chairman, on item VE-1998-035, I move that we deny the Final Plan amendment and the easement vacation for the reasons stated by staff and others. The conditions that existed at the time the home was constructed was that this was a platted subdivision with platted setback requirements and a platted easement. The petitioner had notice of the setbacks and the easement prior to the placement of property corner pins. The petitioner had the ability to determine what the setbacks were so that encroachment could be avoided. Given this, those conditions would have been foreseen at the time of Final Plan approval.”**

A vote was called and the motion passed unanimously by a vote of 7-0.

A brief recess was called at 8:45 p.m. The hearing reconvened at 8:50 p.m.

**RZF-1998-032 REZONE AND FINAL PLAT/PLAN--VOSTATEK MINOR SUBDIVISION**

**A request to: 1) rezone from RSF-8 (Residential Single Family with a density not to exceed 8 units per acre) to PR-9.1 (Planned Residential with a density not to exceed 9.1 units per acre); 2) subdivide 0.77 acre into two lots; and 3) construct an additional unit on lot 1 and a 5-plex on lot 2.**

**Petitioner: Carl Vostatek**

**Location: 2558 F Road**

**PETITIONER’S PRESENTATION**

Carl Vostatek said that when his original submittal was denied, he had been told that his proposal failed to meet *Growth Plan* density guidelines. The current proposal included multi-family development which more closely met that intent. He said that the location of an existing sewer line made the subdivision a practical choice. He agreed to comply with staff requirements.

**QUESTIONS**

Commissioner Gordon asked for confirmation that the petitioner was also in agreement with rezone conditions 1 and 2, to which Mr. Vostatek replied affirmatively.

Chairman Elmer asked if there were any plans for privacy fencing along the northern property boundary to separate the multi-family/single family uses. Kristen Ashbeck said that this was not normally required unless there was a parking lot adjacent to either of the uses. Mr. Vostatek said that he’d intended to construct a fence between lots 1 and 2 along the north property line of lot 1.

Chairman Elmer asked if the petitioner would object to constructing a fence on the north end of lot 2 as well. Mr. Vostatek thought that this was a good idea and agreed to comply.

Commissioner Grout noted the drainage easement in the southwest corner and asked if this had been acceptable to staff. Mr. Vostatek said that two alternatives had been presented. The one on the plan was the one preferred by staff.

### **STAFF'S PRESENTATION**

Kristen Ashbeck noted the bulk requirements outlined in the March 5, 1998 project review. There would be one access onto F Road. Parking criteria could be met and drainage would be retained in a landscaped area along F Road. The plan must be revised so that none of the retention volume is not located in the right-of-way. This will involve some reconfiguration of the driveway. The landscape plan must be revised to show actual specific plantings. Staff recommended approval of the rezone subject to the following conditions:

1. Bulk requirements for the proposed PR-9.1 zone shall be as listed in the staff report.
2. The architectural style shall be similar to that shown on the applicant's proposed conceptual drawings in terms of roof shape, exterior materials, fenestration and other building details.

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

3. All comments from staff on the revised documents shall be addressed prior to approving Final Plans and/or recording the Final Plat.
4. The drainage plan and easement on the plat shall be revised so that none of the retention volume is located within the public right-of-way for F Road.
5. The landscape plan shall be revised as stated in the staff report to include detailed plantings in all areas shown as "existing vegetation" and to indicate screening of the parking area on proposed lot 2.
6. A Transportation Capacity Payment (TCP) shall be payable to the City at the time of Planning Clearance in the amount of \$400 for the new unit on lot 1 (new duplex unit) and \$300 per unit for the 5-plex on lot 2 (\$1,500).
7. School impact fees in the amount of \$292 per unit shall be payable to the City at the time of Planning Clearance.
8. Open space fees in the amount of \$225 per new unit (\$1,350) shall be payable to the City at the time the Final Plat is recorded.

**PUBLIC COMMENTS**

There were no comments either for or against the proposal.

**PETITIONER'S REBUTTAL**

Mr. Vostatek said that he had no problem with inventorying existing vegetation. He felt that drainage issues could be satisfactorily addressed.

**DISCUSSION**

Commissioner Coleman commended the petitioner on coming back with a nice proposal. Since the petitioner was in agreement with staff conditions, he supported a recommendation for approval.

Chairman Elmer agreed, adding that the new proposal met both rezone and *Growth Plan* criteria. He suggested adding another approval condition to require 6-foot privacy fencing on the northern property line of lot 2.

**MOTION: (Commissioner Coleman) "Mr. Chairman, on item RZP-1998-032, I move that we forward the rezone of the parcel at 2558 F Road from RSF-8 to PR-9.1 to City Council with a recommendation of approval subject to staff conditions 1 and 2 regarding bulk requirements and architectural style."**

Commissioner Fenn seconded the motion. A vote was called and the motion passed unanimously by a vote of 7-0.

**MOTION: (Commissioner Coleman) "Mr. Chairman, on item RZP-1998-032, I move that we approve the Final Plat and Plan for the Vostatek Minor Subdivision subject to staff recommendations with the addition of recommendation 9, which is to provide a 6-foot privacy fence on the north property line of lot 2."**

Commissioner Denner seconded the motion. A vote was called and the motion passed unanimously by a vote of 7-0.

**IV. PUBLIC HEARING ITEMS FOR FINAL DECISION**

**PP-1998-016 PRELIMINARY PLAN--DAUGHTER'S COVE II SUBDIVISION**

**A request for approval of the Preliminary Plan for Daughter's Cove II consisting of 7 single family lots on 1.42 acres in an RSF-8 (Residential Single Family with a density not to exceed 8 units per acre) zone district.**

**Petitioner: Ken Heitt  
Location: 2711 B 3/4 Road  
Representative: Mike Joyce**

### **PETITIONER'S PRESENTATION**

Mike Joyce, representing the petitioner, said that the proposed density was slightly under the 8 units allowed by the zone. An overhead transparency of the Preliminary Plan was shown. Water and sewer are already provided to lot 3, with a fire hydrant located adjacent to the proposed detention area and a manhole located in the flag access of proposed lot 2. The petitioner was requesting that lots 4 through 7 be served via a single shared driveway. Benefits of this proposal would include lessening the number of driveways accessing the cul-de-sac and increasing the setback between the garage and the lot lines. Enforcement of the shared driveway would be through a plat restriction and inclusion in the covenants. With staff's recommendation to create another shared driveway for lots 5 and 6, there would be very little front yard left for residents to enjoy.

Mr. Joyce stated that engineering conditions 4 and 5 had been addressed. Mr. Joyce didn't feel that condition 3 should be applicable since the petitioner had no control over off-site improvements. This condition, he said, was something that should have been addressed during the minor subdivision process. He agreed to include some type of handicap ramp and curb returns etc. as long as it was within the existing right-of-way.

### **QUESTIONS**

Commissioner Driscoll wondered who would be responsible for constructing the shared driveway and who would maintain it. Mr. Joyce responded that the builder would construct it, and it would be maintained by the Homeowners Association.

Chairman Elmer asked if the building footprint shown on the Preliminary Plan was a realistic representation of the intended design. Mr. Joyce responded negatively, adding that only 45 percent of the lot area could contain structures.

### **STAFF'S PRESENTATION**

Mike Pelletier entered into the record a project review dated March 10, 1998. He indicated that the proposal met the intent of the *Growth Plan*, the *Orchard Mesa Neighborhood Plan* and *Code* criteria. In the petitioner's proposed shared driveway option, staff would have difficulty in enforcing the setback. If a house were constructed with a 5-foot side yard setback and a garage facing the common driveway, vehicles would have only 10 feet for parking between the driveway and the garage. That would create an overlap in use resulting in blockage of the driveway. That was the rationale behind prohibiting lots 4 and 7 from accessing the shared driveway.

The petitioner had requested designation of the western lot line for lot 7 as a side yard setback. That request would have to be determined coincidentally with the shared driveway request.

Staff recommended approval subject to the following conditions:

1. Lots 4 and 7 cannot access the common driveway designated for both lots 5 and 6 with the current RSF-8 zone district.
2. The westerly setback for lot 7 is designated as a rear yard, which is 15 feet in the current RSF-8 zone district.

Engineering Department conditions of approval included:

3. The applicant must design the intersection of B 3/4 Road and Pinon Court to meet City standards. This includes providing radii, curb returns, access ramps and a crosspan in accordance with Exhibits "E" and "G" of the City's standard details.
4. The petitioner shall submit executed deeds of dedication for the right-of-way necessary to construct the intersection improvements at B 3/4 Road and Pinon Court in accordance with City standards.
5. At the time of final submittal, the applicant must provide executed deeds of dedication for multi-purpose easements along lots 1 and 2 of Daughter's Cove Minor Subdivision. Prior to submittal of the Final Plan, the petitioner shall receive written approval of the width of said easements from the Utility Coordinating Committee.

Kerrie Ashbeck said that no final design had been submitted by the petitioner, so it was unclear whether or not additional right-of-way was needed. She was under the impression that the petitioner owned both lots 1 and 2. Mr. Joyce said there were two different owners for the lots. He reiterated that he'd tried including the standard section on the end of Pinon Court but it wouldn't fit within the existing 44 feet without encroaching into both lots 1 and 2. He reaffirmed his willingness to work with engineering staff to come up with a plan that would work.

### **PUBLIC COMMENTS**

#### **FOR:**

There were no comments for the proposal.

#### **AGAINST:**

Rudy Fontinari (3316 E 3/4 Road, Grand Junction) referenced an existing irrigation lateral and wondered if an easement had been provided to allow for periodic maintenance. He felt there was insufficient irrigation water available for new subdivision residents, and he wondered if water would be provided to the new proposed lots. He asked that fencing be provided on the south side to screen the subdivision.

### **PETITIONER'S REBUTTAL**

Mr. Joyce said that the proposed shared driveway would be 20 feet wide, sufficient width for fire department vehicles. He reiterated that maintenance stipulations needed to be included on the

plat. A 10-foot irrigation easement was proposed between lots 2 and 5. No irrigation shares were available, so homeowners would have to use potable water for landscaping. No fencing was proposed as it was not a requirement in the RSF-8 zone.

### **DISCUSSION**

Chairman Elmer wondered if the *Code* allowed shared driveways in straight zones. Mr. Shaver said that the *Code* didn't necessarily disallow them; Mr. Pelletier added that the *Code* just didn't address them in straight zones. Chairman Elmer said that the lot layout and shared driveway proposal represented more of a planned zone configuration than one for a straight zone. The lots looked very constricted and he predicted they would be difficult to build on.

Commissioner Grout asked Mr. Pelletier if he'd spoken with the petitioner about planned zones, to which Mr. Pelletier replied affirmatively.

Chairman Elmer noted that the subdivision was proposed in an area slated for downzoning pending adoption of the new *Code*. Mr. Harrington clarified that the current proposal met the intent of both the neighborhood and *Growth Plan*. The new *Code* would only seek to eliminate non-conforming situations; the area would not be rezoned.

General discussion ensued over the requirement for right-of-way dedication. Mr. Shaver clarified that dedication could only be required for land owned by the petitioner. It was appropriate to require improvements for the right-of-way which could be secured. Mr. Joyce on behalf of the Petitioner has consented to dedicate from the parcel the Petitioner still owns. Chairman Elmer expressed concern over whether or not the petitioner was able to meet City standards.

Commissioner Driscoll asked if a privacy fencing requirement was appropriate. Mr. Pelletier said that this was not required by the *Code*.

Commissioner Fenn said that because it was a straight zone, the petitioner's request for planned zone flexibility seemed inappropriate. The garage on lot 7 would not be set far enough back from the side yard setback.

**MOTION: (Commissioner Coleman) "Mr. Chairman, on item PP-1998-016, I move that we approve the Preliminary Plan for this major subdivision with conditions as set forth in the staff report except in regards to issue 3, not holding the applicant responsible for buying right-of-way from a third party."**

Commissioner Fenn seconded the motion.

Mr. Shaver suggested that with regard to condition 4, change this to reference a single executed deed of dedication, specifically for that parcel owned by the petitioner.

Commissioner Coleman agreed to include this in his motion. The amendment was seconded by Commissioner Denner.

Chairman Elmer wondered if another condition should be added requiring a demonstrated effort by the petitioner to obtain the necessary right-of-way. Mr. Shaver said that, legally, it would be difficult to define when sufficient effort had been expended and advised against such.

The amended motion is as follows:

**MOTION: (Commissioner Coleman) “Mr. Chairman, on item PP-1998-016, I move that we approve the Preliminary Plan for this major subdivision with conditions as set forth in the staff report except in regards to issue 3, not holding the applicant responsible for buying right-of-way from a third party, and that with regard to condition 4, change this to reference a single executed deed of dedication, specifically for that parcel owned by the petitioner.”**

A vote was called and the motion passed by a vote of 5-2, with Chairman Elmer and Commissioner Grout opposing.

**FP-1998-014 FINAL PLAT--APPLE BLOSSOM HEIGHTS**

**A request for approval of the Final Plat for Apple Blossom Heights for 17 single family lots on approximately 5.09 acres with existing zoning of RSF-4 (Residential Single Family with a density not to exceed 4 units per acre).**

**Petitioner: Leo H. Warren**  
**Location: 28 Road north of Cortland Avenue**  
**Representative: Walter Eldridge**

**PETITIONER’S PRESENTATION**

Walter Eldridge, representing the petitioner, said that the property lay within an infill area. He felt the proposal to be straightforward. The only issues remaining were technical and he felt those could be easily addressed with staff.

**QUESTIONS**

Chairman Elmer asked for clarification on plans for an irrigation retention pond. Mr. Eldridge said that that portion of the plan had been eliminated. Verbiage would be included on the plat to show that no irrigation water would be provided.

**STAFF’S PRESENTATION**

Kristen Ashbeck said that the fencing proposed as a condition of Preliminary Plan approval would be constructed within the one foot behind the sidewalk, between the sidewalk and the property. Because approval from the Bureau of Reclamation or the Grand Valley Water Users



Assn. for the fence was no longer needed, staff conditions 1 and 2 from the staff report could be deleted; however, a curb return will be required for the north side of Applewood Place where it attaches to 28 Road. Since it cannot be done on the subject property, an easement must be obtained for it. A letter was received from the canal company asking that the plan be redesigned to show the sidewalk accessible ramp on private versus canal property. Regarding the ditch located between lot 1 of the REA Minor Subdivision and the proposed subdivision along the eastern boundary, the petitioner will provide a 5-foot easement, which will not be fenced, to allow the canal company access to the ditch.

The initial proposal had been heard and approved prior to adoption of the Walker Field Airport comprehensive plan. A special use permit for lots located within the Airport Critical Zone had been approved. The subdivision would not be impacted by the 60 or 65 decibel contours that would require special mitigation measures. Staff recommended approval subject to the following conditions:

1. An easement be obtained, if needed, for the curb return or revise the plans acceptable to staff so that the accessible ramp and sidewalk can be provided without encroaching on the property.
2. Payment of open space fees in the amount of \$3,825 will be required prior to recording the Final Plat.
3. Proof of formation of a Homeowners Association and water company, along with articles of incorporation, are required prior to recording the Final Plat.
4. An avigation easement is required to be executed and recorded with the Final Plat.
5. All comments, except #2, from the City Development Engineer dated March 4, 1998 shall be addressed prior to approval of the Final Plan and/or recording of the Final Plat.
6. A curb return will be required for the north side of Applewood Place where it attaches to 28 Road. Since it cannot be done on the subject property, an easement must be obtained for it.
7. Regarding the ditch located between lot 1 of the REA Minor Subdivision and the proposed subdivision along the eastern boundary, the petitioner must provide a 5-foot easement, which will not be fenced, to allow the canal company access to the ditch.

### **PUBLIC COMMENTS**

There were no comments for or against the proposal.

### **PETITIONER'S REBUTTAL**

The petitioner offered no rebuttal testimony.

**DISCUSSION**

Commissioner Coleman noted that the Final Plan/Plat conformed to the requirements of Preliminary Plan approval.

Chairman Elmer concurred.

**MOTION: (Commissioner Coleman) “Mr. Chairman, on item FP-1998-014, I move that we approve the Final Plat for the Apple Blossom Heights Subdivision subject to staff recommendations 3, 4, 6 and 8, and disregard number 2 of the Engineering report.”**

Commissioner Denner seconded the motion. A vote was called and the motion passed unanimously by a vote of 7-0.

**MS-1998-030 MINOR SUBDIVISION--PDA MINOR SUBDIVISION**

**A request for a two lot minor subdivision consisting of .68 acre in a C-1 (Light Commercial) zone district to be developed as a dental lab and professional office building.**

**Petitioner: Chris McCallum**

**Location: 2805 Bunting Avenue**

**Representative: David Smuin**

**PETITIONER’S PRESENTATION**

David Smuin, representing the petitioner, said that the use was consistent with the zone. Both lots would be sufficiently sized to construct buildings on them, but only one 3,000 square foot building was proposed for lot 1, which would be used for dental lab operations. No new infrastructure nor services were necessary.

**STAFF’S PRESENTATION**

With no outstanding issues, Kristen Ashbeck recommended approval with no conditions.

**QUESTIONS**

Chairman Elmer asked if lot 2 was buildable. Ms. Ashbeck said since the lot was smaller, there was the potential for requiring shared parking. Uses allowed in the zone were fairly “wide open,” but the specific plan would be reviewed when submitted.

**PUBLIC COMMENTS**

There were no comments either for or against the proposal.

**DISCUSSION**

Commissioner Coleman expressed support for the proposal.

**MOTION: (Commissioner Coleman) “Mr. Chairman, on item MS-1998-030, I move that we approve the Final Plat for the PDA Minor Subdivision.”**

Commissioner Grout seconded the motion. A vote was called and the motion passed unanimously by a vote of 7-0.

**FPP-1998-034 FINAL PLAT/PLAN--INDEPENDENCE RANCH FILING #3**

**A request for approval of the Final Plat/Plan for Independence Ranch Filing #3 for 25 single family lots consisting of 10.27 acres with an existing zoning of PR-2.4 (Planned Residential with a density not to exceed 2.4 units per acre).**

**Petitioner: Hans Brutsche**

**Location: F 3/4 Road and 20 2 Road**

**Representative: Craig Roberts**

**PETITIONER’S PRESENTATION**

Craig Roberts, representing the petitioner, said that this was the third of ten filings. The Final Plan conformed to the Preliminary Plan approval and he was in agreement with staff’s condition of approval.

**STAFF’S PRESENTATION**

With no outstanding issues, Bill Nebeker recommended approval of the request subject to the following condition:

1. Lot coverage shall be changed so that it does not exceed 45 percent.

**PUBLIC COMMENTS**

There were no comments either for or against the request.

**DISCUSSION**

Commissioner Coleman commented that the request seemed straightforward, with the petitioner and staff in agreement.

Chairman Elmer wondered if there would be any enforcement difficulties associated with the change in lot coverage. Mr. Nebeker did not expect any problems. He added that Final Plats for filings 4 through 10 would reflect percentages similar to the RSF-2 zone.

**MOTION: (Commissioner Coleman) “Mr. Chairman, on item 1998-034, I move that we approve Independence Ranch Filing 3 subject to staff’s recommendation.”**

Commissioner Grout seconded the motion. A vote was called and the motion passed unanimously by a vote of 7-0.

**MS-1998-036 MINOR SUBDIVISION--CIMARRON MINOR SUBDIVISION II**

**A request for a three lot minor subdivision consisting of 3.67 acres of vacant land in an H.O. (Highway Oriented) zone district.**

**Petitioner: Wayne Fisher**

**Location: 24 2 Road and north of F Road**

**Representative: David Smuin**

**PETITIONER'S PRESENTATION**

David Smuin, representing the petitioner, corrected that the proposal included a three lot minor subdivision. He noted the uses proposed for two of the three lots. Lots would share access to 24 2 and F Roads. Utilities were present but sewer service would have to be extended along 24 2 Road. Improvements would be required along both roads, with additional right-of-way required along F Road. The petitioner was in agreement with staff recommendations.

**STAFF'S PRESENTATION**

With no outstanding issues, Mike Pelletier recommended approval of the request subject to the following conditions:

1. Since the intended plan for the subdivision is to share access and parking areas, the plat should contain a blanket ingress/egress easement. The easement should cover all vehicle circulation areas and parking areas throughout the entire subdivision.
2. The petitioner is required to submit roadway plans for improvements to 24 2 Road and Patterson Road for City review and approval. These roadway improvements must be approved and guaranteed (or constructed) prior to recording the subdivision. These improvements include a northbound left turn lane on 24 2 Road as well as half-street improvements for 24 2 and Patterson Roads. Typically, the design for these improvements would be required with approval of the subdivision plat. However, because of the need to coordinate the design with the proposed Home Depot site, it is acceptable to staff to review the design after subdivision approval but prior to recording.

**QUESTIONS**

Chairman Elmer asked staff if parking and access details were acceptable. Mr. Pelletier said that the plan was conceptual so that no in-depth review had been undertaken. Kerrie Ashbeck added that access plans appeared to be consistent with shared access requirements.

Commissioner Coleman asked if landscaping had been reviewed. Mr. Pelletier said that this would be reviewed more closely after submittal of individual site plans.

**PUBLIC COMMENTS**

There were no comments either for or against the proposal.

**DISCUSSION**

Commissioner Denner remarked that the proposal made good use of the land.

**MOTION: (Commissioner Coleman) “Mr. Chairman, on item MS-1998-036, I move that we approve the minor subdivision with conditions as set forth in the staff report.”**

Commissioner Denner seconded the motion. A vote was called and the motion passed unanimously by a vote of 7-0.

**V. PUBLIC HEARING ON ITEMS FOR RECOMMENDATION TO CITY COUNCIL**

Due to a conflict of interest, Commissioner Coleman excused himself from consideration of the following item.

**RZ-1998-010 REZONE AND VACATION OF RIGHT-OF-WAY--WEST GRAND**

**A request to: 1) rezone from I-1 (Light Industrial) to RSF-8 (Residential Single Family with a density not to exceed 8 units per acre); and 2) to vacate an alley easement to the south of the parcel; and 3) vacate part of the right-of-way for Grand Avenue.**

**Petitioner: Laurel Coleman**

**Location: 407 West Grand**

**Representative: David Smuin**

**PETITIONER’S PRESENTATION**

David Smuin, representing the petitioner, said that the rezone request was consistent with neighborhood development and *Growth Plan* recommendations. Surrounding uses were residential except for the parcel to the south. A single family residence will be placed on the property.

**STAFF’S PRESENTATION**

Michael Drollinger said that the request met both the rezone and vacation criteria. With no outstanding issues, staff recommended approval of both the rezone and vacation.

**PUBLIC COMMENTS**

**GENERAL:**

John Trujillo (323 W. Ouray, Grand Junction) expressed concern over any vacation of right-of-way on the property to the west.

Mr. Drollinger clarified that no West Grand Avenue right-of-way would be vacated with the current request.

**DISCUSSION**

Commissioner Driscoll noted that the request made sense, especially since residents in the area had expressed a preference for residential development over commercial development.

Chairman Elmer added that the request met both rezone and vacation criteria.

**MOTION: (Commissioner Driscoll) “Mr. Chairman, on item #RZ-1998-010, a request for rezone and vacation of a portion of an alley right-of-way, I move that we forward this item to City Council with a recommendation of approval.”**

Commissioner Gordon seconded the motion. A vote was called and the motion passed unanimously by a vote of 6-0.

Commissioner Coleman returned to participate in the remainder of the hearing.

**VR-1998-037 VACATION OF RIGHT-OF-WAY**

**A request to vacate the north/south alley located between Palisade Street and Linden Avenue north of Highway 50 and south of the Orchard Mesa Irrigation waste ditch.**

**Petitioner: Thomas Melzer**

**Location: Northeast corner of Palisade Street and Highway 50**

**Representative: Pat Edwards**

**PETITIONER’S PRESENTATION**

Tom Melzer, petitioner, said that deeds, surveys, etc. showed that a previous vacation of the alley had occurred prior to 1939; however, since nothing could be found to substantiate the vacation, a “second” vacation was being requested.

**QUESTIONS**

Chairman Elmer asked if the petitioner was in agreement with the way the land would be divided. Mr. Melzer said that he had already paid for the land and had assumed he owned it. He realized that state statute required that in the absence of proof, half the vacated land would go to an adjacent property owner. Mr. Melzer felt this to be unfair but could not find the necessary documentation to prove the initial vacation.

Pat Edwards, representing the petitioner, said that the adjacent property owner just wanted to receive something for nothing. Unfortunately for the petitioner, the burden of proof fell to him.

**STAFF’S PRESENTATION**

Mike Pelletier noted the subject area on an available map. A portion of the alley (noted in blue) had already been vacated. He agreed that without proof of prior vacation, state statute, not the City, dictated how the land should be divided.

Mr. Shaver suggested that the petitioner check his title insurance to see if this type of error was covered. It is possible, he said, that other remedies were possible too.

**PUBLIC COMMENTS**

There were no comments either for or against the proposal.

**PETITIONER'S REBUTTAL**

Mr. Melzer said that even though he would realize a loss, the vacation was necessary before proceeding with the next development stage.

**MOTION: (Commissioner Coleman) "Mr. Chairman, on item VR-1998-037, a vacation of alley right-of way between Palisade Street and Linden Avenue and between Highway 50 and the Orchard Mesa Irrigation Waste Ditch, I move that we forward this item to City Council with an recommendation of approval."**

Commissioner Denner seconded the motion. A vote was called and the motion passed unanimously by a vote of 7-0.

**VI. GENERAL DISCUSSION**

Mr. Harrington reminded planning commissioners of an upcoming joint GJPC/CIC *Code* focus group meeting to be held on March 30 at Two Rivers Plaza. The meeting is slated for 7:30 p.m.

Mr. Harrington also updated planning commissioners on the City Council outcome of Westwood Subdivision. Planning Commission's recommendation of denial had been upheld. The petitioner subsequently reapplied with a revised plan which would be heard in April.

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