

**GRAND JUNCTION PLANNING COMMISSION
MAY 12, 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), Jeff Driscoll, Joe Grout and Mike Fenn.

In attendance, representing the Community Development Department, were: Scott Harrington (Community Development Director), Kristen Ashbeck (Sr. Planner), Bill Nebeker (Sr. Planner) 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 22 interested citizens present during the course of the hearing.

0 APPROVAL OF MINUTES

In consideration of the April 14, 1998 minutes, Chairman Elmer asked that the words "I guess" be removed from Commissioner Driscoll's motion on CUP-1998-047.

MOTION: (Commissioner Grout) "Mr. Chairman, I make a motion that we approve the minutes as amended."

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

1 ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

Chairman Elmer said that items RZ-1998-050, VR-1998-071 and RZP-1998-072 had been pulled from the evening's agenda and would not be heard.

2 PUBLIC HEARING ITEMS FOR FINAL DECISION UNLESS APPEALED

CUP-1998-066 CONDITIONAL USE PERMIT—THE ANGRY LEPRECHAUN

A request for a Conditional Use Permit for a bar in a B-3 (Retail Business) zone district.

Petitioner: Larvenz & Fitzpatrick, LLP

Location: 102 North 4th Street

Representative: Sam Starritt

PETITIONER'S PRESENTATION

Sam Starritt, attorney for the petitioner, indicated that the bar would attempt to attract the downtown clientele. Proposed hours of operation would be from 12 p.m. to 12 a.m. Monday through Thursday and 12 p.m. to 2 a.m. on Friday and Saturday. The applicant has not determined whether the business would be open on Sunday. No food service is anticipated. Mr. Starritt said that with the business located

directly across from the Rockslide, the use was compatible with other similar businesses in the downtown area. He did not expect that the business would attract more traffic than had been historically generated by past uses.

STAFF’S PRESENTATION

Mike Pelletier concurred with the petitioner’s presentation, adding that the use was consistent with *Growth Plan* recommendations and the *Downtown Development Strategy Plan*. Staff recommended approval with no conditions.

QUESTIONS

Commissioner Driscoll asked if any late-arriving comments had been received by the Downtown Development Authority (DDA) on the proposal. Mr. Pelletier replied affirmatively and said that the DDA had expressed its support.

PUBLIC COMMENTS

There were no comments either for or against the request.

DISCUSSION

Chairman Elmer noted that the proposal seemed straightforward and met Conditional Use Permit criteria.

MOTION: (Commissioner Driscoll) “Mr. Chairman, on item CUP-1998-066, I move that we approve the Conditional Use Permit for a bar/night club at 102 North 4th Street for the reasons stated in the staff report.”

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

CUP-1998-067 CONDITIONAL USE PERMIT—SCHLOTZSKY’S DELI

A request for a Conditional Use Permit to allow the construction of a restaurant/deli with a drive-through in a C-2 (Heavy Commercial) zone district.

Petitioner: Edward and Raechel Kolb
Location: 2463 F Road
Representative: Doug Thies

PETITIONERS’ PRESENTATION

Edward Kolb, petitioner, expected 20 percent of the deli’s patrons to use the drive-through window. He did not feel that the pick-up window would negatively impact traffic flow.

QUESTIONS

Chairman Elmer wondered if there would be longer wait times at the window due to the special order nature of the deli. Mr. Kolb said that average waits were 4 minutes for general deli items and 8 minutes for pizza orders. He said that there was ample stacking room on site for 10 cars. A reciprocal parking agreement had been reached with the adjacent Barnes & Noble bookstore.

Chairman Elmer asked if the drive-through window was a condition of the franchise, to which Mr. Kolb replied affirmatively.

STAFF’S PRESENTATION

Mike Pelletier concurred with the petitioner’s presentation and said that the proposal met Conditional Use Permit criteria. Access met current engineering design standards. Staff recommended approval with no conditions.

QUESTIONS

Commissioner Driscoll asked Development Engineer Kerrie Ashbeck if, based on the proposed parking plan, there was any concern over vehicles backing into the primary ingress/egress of both this business and Barnes & Noble. Ms. Ashbeck said that the site plan was currently being reviewed by the Engineering Department. Comments included shifting the parking layout to the east to allow for a 35-foot lane. This would then allow for backing as well as two-way travel. The current site plan was not final.

PUBLIC COMMENTS

There were no comments either for or against the proposal

PETITIONER'S REBUTTAL

Mr. Kolb agreed that the parking configuration was under continuing discussion with the Engineering Department. It was possible that several parking spaces to the west of the dumpster would be removed to avoid potential backing conflicts. It could be converted into parallel-only employee parking. He said that the configuration was a little complicated due to a legal dispute with the canal company over portions of the site.

DISCUSSION

John Shaver clarified that the site plan review was separate from the Conditional Use Permit process. Site plan issues would be worked out with staff prior to final design approval. The CUP addressed only the overall compatibility of the use.

Commissioner Driscoll questioned whether general design criteria could still be discussed during a public hearing, to which Mr. Shaver responded affirmatively.

Chairman Elmer asked staff to consider the wait times for vehicles at the drive-through window. Long waits would negatively impact air quality.

Commissioner Fenn felt that if persons knew they had long waits (e.g., pizza orders), it was likely they would order in advance and park in the parking lot.

MOTION: (Commissioner Driscoll) "Mr. Chairman, on item CUP-1998-067, I move that we approve the Conditional Use Permit for a drive-through restaurant at 2463 F Road incorporating the reasons stated in the staff report."

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

MS-1998-068 MINOR SUBDIVISION—OLFORD MINOR SUBDIVISION

A request to approve a three lot minor subdivision in an RSF-8 (Residential Single Family with a density not to exceed 8 units per acre) zone district.

Petitioner: Ned and Sharon Olford
Location: 304 and 306 – 27 3/8 Road
Representative: Applied Earth Science

PETITIONERS' PRESENTATION

Sharon Olford, petitioner, said that currently the single parcel had two existing homes on it. The minor subdivision would allow for the two homes to have separate lots. The third lot created would remain vacant.

QUESTIONS

Chairman Elmer asked the petitioner if she understood her home would be grandfathered as far as its non-conforming proximity to the street. Ms. Olford replied affirmatively. She also pointed out that an existing building on the site would be removed.

STAFF'S PRESENTATION

Kristen Ashbeck concurred with the petitioner's presentation. The request was consistent with the *Orchard Mesa Neighborhood Plan*. Ms. Kristen Ashbeck reported that the City's Public Works Director agreed to allow a Transportation Capacity Payment (TCP) in lieu of improvements to 27 3/8 Road and Olsen Avenue. The outbuilding mentioned by the petitioner will be situated over a common property line and would have to be removed prior to recording the plat. Staff recommended approval subject to the removal of the outbuilding.

QUESTIONS

Commissioner Driscoll asked if the request met RSF-8 zone district bulk requirements, to which Ms. Ashbeck answered affirmatively.

PUBLIC COMMENTS

There were no comments either for or against the request.

DISCUSSION

Commissioner Driscoll commented that the request represented good infill. It was also consistent with both the *Growth Plan* and *Orchard Mesa Neighborhood Plan*.

MOTION: (Commissioner Driscoll) "Mr. Chairman, on MS-1998-068, I move that we approve the Olford Minor Subdivision subject to the staff recommendation."

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

FPP-1998-069 FINAL PLAT/PLAN—THE KNOLLS FILING #3

A request to approve the Final Plat/Plan for the Knolls Subdivision Filing #3 consisting of 29 single family attached and detached dwellings on 9.78 acres in a PR-2.7 (Planned Residential with a density not to exceed 2.7 units per acre) zone district.

**Petitioner: O.P. Development Company
Location: Southeast corner of 27 1/2 Road and Cortland Avenue
Representative: Banner Associates**

PETITIONER'S PRESENTATION

David Chase, representing the petitioner, presented an overhead transparency of the Final Plan and noted locations of proposed single family and patio homes. Mr. Chase said that all Preliminary Plan conditions of approval had been met. The petitioner was in agreement with staff's conditions of approval for the Final Plan/Plat.

STAFF'S PRESENTATION

Bill Nebeker clarified that filings 3 and 4 were combined in this proposal. He concurred that Preliminary Plan conditions of approval had been satisfied. Issues surrounding proposed private streets had been mitigated during Phase II, and a recommendation for final approval was being sought with the current filing. Staff recommended approval of the Final Plat and Plan and approval of the request to construct private streets in lieu of public streets in the patio portion of the development subject to the following conditions:

1. Prior to plat recordation, the applicant shall pay the pro rata share of City Engineering's estimate of half-street improvements for 27 ½ Road which has been estimated at \$28,021.76.
2. No on-street parking shall be allowed on the private streets. Appropriate signs shall be posted by the applicant that notify owners of the restriction. The developer shall execute and record an irrevocable covenant running with the land granting the City the right and power to enter the street for the purpose of enforcing the parking restriction.
3. A single homeowners association for all phases of the development shall be formed and filed with the County Clerk and Recorder's Office prior to the recordation of the Final Plat. CC&R's for the plat shall be reviewed and approved by the City Attorney and must assure continued maintenance of the street.
4. The Final Plat and Plan shall be revised to incorporate the following:
 - a. One additional off-site space must be added, to be no more than 200 feet from the northernmost units.
 - b. Revise plans to show a maximum lot coverage of 85 percent for patio homes. (This computes to a 35 percent overall coverage for the patio homes.) Please revise note "d" on the plat to read: "d) Lot Coverage: 85 percent for patio homes in Block 3; 35 percent for single family homes in Blocks 1 and 2."
 - c. Eave overhang is not allowed into Tract B, common open space.
 - d. Revise the plat lot boundaries to maintain a minimum 10-foot separation between the lot lines of each patio home and the 8-foot pedestrian path. If the pedestrian path is relocated outside the easement shown on the plat, a new easement shall be dedicated on this plat or by separate instrument if within Filing 2.
 - e. Revise the site plan to show that the roof overhang does not project past the property line.
 - f. Reduce the height of the fence and/or berm along 27 ½ Road to no more than 8 feet above the proposed sidewalk.

Mr. Nebeker clarified that the proposed 6-foot-high fence would be lowered to no more than 4 feet. This on top of a 4-foot berm would equal the maximum 8-foot fencing height restriction.

QUESTIONS

Commissioner Driscoll wondered if the 250 trips/day outlined in the staff report was consistent with traffic estimates for a public street. Mr. Nebeker said that the figure was based on 10 trips/day from single family homes, regardless of whether the street was public or private.

Chairman Elmer asked if the berm and grading would be consistent with the City’s plans for 27 ½ Road, to which Mr. Nebeker replied affirmatively.

Commissioner Grout wondered why the 2-foot deviation in maximum fencing/berm height was being allowed when the standard was 6 feet. Mr. Nebeker said that it reflected new fencing regulations. Scott Harrington added that given the slope of the berm and the fence’s location on the crest of it, the fence was “pushed” further away from the actual property line, thus avoiding a “canyon” effect.

PUBLIC COMMENTS

There were no comments either for or against the request.

PETITIONER’S REBUTTAL

Mr. Chase said that the petitioner concurred with staff condition 4a. He anticipated a “zig zag” fencing configuration which he felt would provide visual aesthetics to the 27 ½ Road corridor.

DISCUSSION

Chairman Elmer felt the proposal to be straightforward and conformed to the Preliminary Plan.

Commissioner Driscoll acknowledged the thought that went into addressing the private street issue.

MOTION: (Commissioner Driscoll) “Mr. Chairman, on item FPP-1998-069, I move that we forward a recommendation of approval to the City Council for the inclusion of private streets into the patio home portion of Filing #3.”

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

MOTION: (Commissioner Driscoll) “Mr. Chairman, on the same item, I move that we approve the Final Plat and Plan for the Knolls Filing #3 subject to staff’s recommendations.”

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

IV. PUBLIC HEARING ON ITEMS FOR RECOMMENDATION TO CITY COUNCIL

RZ-1998-031 REZONE—STICKS AND STONES

A request to rezone from RSF-R (Residential Single Family-Rural with a density not to exceed one dwelling unit per 5 acres) to H.O. (Highway Oriented) to allow for expansion of the landscape supply business located at the site consisting of 4.12 acres.

**Petitioner: Warren Dettmer
Location: 631 – 24 ½ Road
Representative: David Smuin**

PETITIONER’S PRESENTATION

David Smuin, representing the petitioner, presented an overhead transparency of the site and surrounding zoning. The rezone would allow expansion of the existing business. The request, he said, was consistent with *Growth Plan* recommendations and complied with rezone criteria.

QUESTIONS

Chairman Elmer said that if the entire parcel were rezoned there would be fewer buffering requirements than having the H.O. zone bordering a residential zone. Mr. Smuin noted the portion of the site which did not belong to the petitioner and said that the owner of that parcel did not want to rezone.

STAFF’S PRESENTATION

Bill Nebeker briefly overviewed the request and acknowledged that a change in character for the area had occurred. He agreed that the proposal met rezone criteria. Most traffic was expected to move south on 24 ½ Road. Staff recommended approval with no conditions.

QUESTIONS

Chairman Elmer asked if bathrooms for the business would be on septic as suggested in the petitioner’s narrative. Mr. Nebeker said that connection to sewer was required.

PUBLIC COMMENTS

There were no comments either for or against the proposal.

DISCUSSION

Commissioner Driscoll remarked that the proposal made sense.

Commissioner Fenn felt that the site would provide a good buffer between the new Home Depot and nearby residential uses.

MOTION: (Commissioner Driscoll) “Mr. Chairman, on item RZ-1998-031, I move that we forward a recommendation of approval to the City Council for the rezone of 631 – 24 ½ Road from RSF-R to H.O.”

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

VE-1998-073 REZONE/MINOR SUBDIVISION/VACATION OF EASEMENTS—GRAFF MINOR SUBDIVISION

A request to: 1) approve Graff Minor Subdivision consisting of four lots on 13.64 acres; 2) rezone the proposed lots 3 and 4 from RSF-2 (Residential Single Family with a density not to exceed 2 units per acre) to RSF-4 (Residential Single Family with a density not to exceed 4 units per acre); and 3) vacate existing easements, except the sanitary sewer easement, within the Woodsmoke Subdivision.

**Petitioner: Barbara Graff
Location: 575, 577, and 581 – 29 Road
Representative: LanDesign, Pat Green**

PETITIONER’S PRESENTATION

Pat Green, representing the petitioner, said that the reconfiguration would provide better lots for existing houses on the property. Lot 2 would remain undeveloped. The petitioner was in agreement with staff’s

conditions of approval. Future access to lot 3 would be off of the road which would be constructed if and when lot 2 ever developed.

STAFF'S PRESENTATION

Bill Nebeker said that the request represented the replatting of an existing subdivision only. No new development was proposed at this time. No improvements to 29 Road would be required. Lot 2 contained a 52-foot-wide flag access from 29 Road, which would allow for future development of an urban collector street. He noted the canal area which would have to be dedicated to the City and Grand Valley Irrigation Company with lot 2. Mr. Nebeker reiterated that the rezone to RSF-4 would affect only lots 3 and 4. Lots 1 and 2 would remain in RSF-2 zoning. Staff recommended approval subject to the following conditions:

1. The area delineated on the plat as Grand Valley Canal right-of-way shall be included in lot 2 and dedicated to the City and the Grand Valley Irrigation Company per standard dedicatory language unless it is shown by the applicant that the canal has been previously conveyed to Grand Valley.
2. The ordinance for the rezone and vacation of easements must be adopted by Council prior to the recordation of the plat.
3. Place the following note on the plat: "If and when lot 2 develops and a street is established within it, lot 3 shall be required to use this street for access to 29 Road. No separate vehicular access shall be allowed from lot 2 to 29 Road after that time."

QUESTIONS

Commissioner Driscoll wondered why all four lots couldn't be rezoned at the same time. Mr. Nebeker said that this had been suggested but the petitioners wanted to retain the RSF-2 zoning on lots 1 and 2. He added that if the new zoning map was adopted in the next year or two, lots 1 and 2 would probably be rezoned at that time to RSF-4 for consistency.

Chairman Elmer asked for clarification on the previous lapse of plan for the site, which was provided by Mr. Nebeker.

Chairman Elmer asked if comments had been received from the canal company. Mr. Nebeker said that the request for comments may have been sent to an agency not responsible for canal maintenance. It would be further reviewed by the Utility Coordinating Committee; Grand Valley Irrigation would then have a chance to comment.

Commissioner Driscoll asked Mr. Shaver if the proposed dedication would infringe upon any prescriptive easement owned by the canal company. Mr. Shaver said that based on research performed, there was no evidence of perfected rights. Prescriptive rights, he added, were only good if they were perfected.

Commissioner Driscoll asked Mr. Green why the petitioner didn't want to rezone the entire parcel at this time. Mr. Green said that while acknowledging that the higher zone may be more favorable, his client preferred to leave the RSF-2 zone on the first two lots. He felt that the rezoning of the first two lots would make more sense at the time lot 2 was developed.

PUBLIC COMMENTS

There were no comments either for or against the proposal.

DISCUSSION

Commissioner Driscoll expressed a preference to rezone all four lots at the present rather than zoning two now and two later.

Chairman Elmer agreed that while it made more sense to do it that way, the wishes of the petitioner should be considered. To defer the zoning of the remaining two lots would not be injurious.

Commissioner Fenn commented that if rezoning the other two lots was expected to take place with the *Growth Plan* review, why not do it now?

Commissioner Grout said that even if not done now, the property owners are on notice that it would probably happen at some point.

MOTION: (Commissioner Grout) “Mr. Chairman, on item VE-1998-073, I move that we approve the Graff Minor Subdivision subject to staff recommendations and 2) forward a recommendation of approval to the City Council for the vacation of the easements in the Woodsmoke Subdivision and rezone of proposed lot 3 to RSF-4.”

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

3 GENERAL DISCUSSION

Mr. Harrington reminded planning commissioners of upcoming meetings to discuss various sections of the *Development Code*. These included: 1) May 19 at 6:30 p.m., Two Rivers Plaza, hillside/ridgeline development; 2) May 21 at 6:30 p.m., White Hall, landscaping; 3) June 15 at 6:30 p.m., Two Rivers Plaza, open space/parks; and July 8 at 6-6:30 p.m., Two Rivers Plaza, meeting to discuss results of the previous meetings.

With no further business, the hearing was adjourned at 8:05 p.m.