

**GRAND JUNCTION PLANNING COMMISSION
DECEMBER 8, 1998
MINUTES**

The regularly scheduled Planning Commission hearing was called to order at 7:01 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, Mark Fenn, Robert Gordon and Paul Coleman.

In attendance, representing the Community Development Department, were: Scott Harrington (Community Development Director), Dave Thornton (Sr. Planner), Kathy Portner (Planning Manager), Michael Drollinger (Development Services Supervisor), and Kristen Ashbeck (Sr. Planner).

Also present were John Shaver (Asst. City Attorney), Rick Dorris (Development Engineer) and Jody Kliska (Transportation Engineer).

Terri Troutner was present to record the minutes.

There were approximately 20 interested citizens present during the course of the hearing.

0 APPROVAL OF MINUTES

Available for consideration were the November 10 and November 17, 1998 Planning Commission public hearing minutes.

MOTION: (Commissioner Coleman) “Mr. Chairman, I move that we accept the minutes of November 10 and November 17, 1998 minutes as submitted.”

Commissioner Grout seconded the motion. A vote was called and the motion passed unanimously by a vote of 5-0, with Commissioner Gordon abstaining.

1 ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

Items pulled from the agenda included RZP-1998-182, PP-1998-173, ODP-1998-195, CUP-1996-180, CUP-1998-172 and RZP-1998-128.

2 PUBLIC HEARING ON ITEMS FOR FINAL DECISION

MS-1998-191 MINOR SUBDIVISION—WEST INDEPENDENT MINOR SUBDIVISION

A request to approve a three lot Minor Subdivision on approximately 5.11 acres in a C-2 (Heavy Commercial) zone district.

**Petitioner: TPI/Chris McCallum
Location: 1547 W. independent Avenue
Representative: David Smuin/Hydro Terra**

PETITIONER’S PRESENTATION

David Smuin, representing the petitioner, briefly outlined the project. Lot 3, he said, was currently under construction. Access would be provided off of W. Independent Avenue, and all utilities were available to the property. Stormwater would drain into the Ligrani drainage ditch, and a drainage easement would be

provided. He opposed changing the name of the subdivision as recommended by staff because he felt that local citizens all knew that portion of the street as W. Independent. The petitioner agreed to provide a Development Improvements Agreement (DIA) in lieu of actual street improvements.

STAFF'S PRESENTATION

Kathy Portner noted the site's location on available exhibits. The recommended name change, she said, was for purposes of subdivision platting and wasn't a significant issue. Staff recommended approval of the request conditioned upon half street improvements being paid prior to recordation of the Final Plat

Rick Dorris noted that due to the limited nature of DIA's, actual payment of improvements must be made to the City prior to the plat's recordation. This clarification was met with approval from Mr. Smuin.

PUBLIC COMMENTS

There were no comments either for or against the request.

DISCUSSION

Commissioner Coleman commented that the request seemed straightforward, with the petitioner agreeing to comply with staff's condition.

Chairman Elmer agreed that it made sense to retain the "West Independent Subdivision" name.

MOTION: (Commissioner Coleman) "Mr. Chairman, I recommend approval of West Independent Minor Subdivision consisting of three lots to be located along Independent Avenue on the condition that the half street improvements be paid prior to recording the Final Plat."

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

PLN-1998-189 MAJOR STREET PLAN

A request to approve the Major Street Plan which concerns the functional classification of streets. The Plan consists of an overall map as well as supporting goals, policies and principles.

Petitioner: City of Grand Junction

Representative: Jody Kliska

Chairman Elmer asked if the Planning Commission was expected to formally adopt the Major Street Plan including the standards, guidelines and strategies. Jody Kliska said that the only element of the Plan submitted for current consideration was the Functional Classification (FC) Map. It was the City's intention, she added, to present the Plan and Map before Mesa County's Planning Commission as well for its consideration.

PETITIONER'S PRESENTATION

Ms. Kliska reviewed the elements of the Major Street Plan as outlined in the December 8, 1998 Project Review. The Plan is the culmination of several years' work and included public input as well. She introduced Ken Simms, Mesa County's MPO Director, who presented transparencies of the Plan and its various elements. The Plan, he said, among other things attempts to minimize air pollution created by the ever increasing traffic volumes in the valley.

Problem areas were identified, with forecasting and mitigation estimates based on a 2 percent growth factor per year. Exhibits were introduced and entered into the record.

Scott Harrington added that statutory authority from the state gave the Street Plan a measure of land use jurisdiction; however, much of that authority had already been negotiated locally. The Street Plan would remain in effect, he said, even if the Persigo Agreement should dissolve.

John Shaver offered a further legal opinion on the general statutory basis and empowerment of the Plan. He also briefly expounded upon the City's 3-mile jurisdictional boundary.

Mr. Simms continued by saying that p. 23 of the Major Street Plan exhibit contained applicable state statutes. He reiterated that only the FC Map was presented for approval, not the report itself.

QUESTIONS

Commissioner Fenn said that if the Plan contained jurisdictional authority over land uses, he wondered if the FC Map matched the proposed Zoning Map with regard to density classifications (e.g., if a street were to be designated as a "collector," densities along that street should coincide). He suggested implementing an overlay of the FC Map onto the proposed Zoning Map prior to any "blanket" approval of the FC Map as submitted. Mr. Simms answered that such an overlay could be easily accomplished. He clarified that although the FC Map may not affect densities, per se, it would directly affect the type of accesses proposed. Commissioner Fenn said that the FC Map could affect future densities as well.

Chairman Elmer asked that with regard to future use considerations and densities, wouldn't overlay of the Growth Plan Map be more applicable? Mr. Harrington said that the future Zoning Map tracked very closely to the Land Use Plan Map. It was probably best, he said, to overlay the Land Use Plan Map.

A brief dialog ensued over the implementation of an overlay and traffic volume projections.

Mr. Simms commented that the Plan was not so rigid that it could not be periodically adjusted. He said that an overlay map could be developed and distributed to planning commissioners prior to the week's end. This met with general planning commissioner approval.

PUBLIC COMMENTS

There were no public comments either for or against the proposal.

DISCUSSION

Mr. Harrington expressed gratitude to Mr. Simms et al. for their fine efforts in developing such a comprehensive Street Plan. He acknowledged that working closely with the County's MPO resulted in a quality end product.

Chairman Elmer felt that additional review time was necessary for planning commissioners to digest the volume of material presented with the FC Map.

Commissioner Driscoll asked if, besides the overlay, there would be any additional information submitted on the Plan, to which Mr. Simms replied negatively, unless the Planning Commission gave additional direction. He concurred that additional review time was warranted and suggested deferring a decision. If continued, discussion of the item could be limited to just planning commissioner deliberation and final decision. This suggestion met with general planning commissioner approval.

MOTION: (Commissioner Coleman) “Mr. Chairman, I make a motion that we forward the issue of a Major Street Plan and reopen it at the first scheduled meeting in January, 1999 for the purpose of deferring our decision only and discussing the map that Mr. Simms will be providing to us within the week.”

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

IV. PUBLIC HEARING ON ITEMS FOR RECOMMENDATION TO CITY COUNCIL

RZO-1998-192 REZONE/OUTLINE DEVELOPMENT PLAN—HALL PROPERTY

A request to: 1) rezone approximately 30.05 acres from RSF-R (Residential Single Family with a density not to exceed one unit per five acres) to PR-11.7 (Planned Residential with a density not to exceed 11.7 units per acre), and 2) approve the Outline Development Plan for the Hall property.

**Petitioner: Mac Cunningham
Location: 652 – 24 ½ Road
Representative: Thompson-Langford**

PETITIONER’S PRESENTATION

Mac Cunningham began his presentation by saying that the Growth Plan supported higher density multi-family development in the subject area. He briefly outlined the higher design levels incorporated into the proposed plan (overhead transparency presented), noting the buffer and open space areas, the use of a roundabout in the center of the boulevard adjacent to Area B, landscaping, etc. The proposed boulevard and circulation patterns would, he said, minimize traffic concerns. Parks would be incorporated into each of the plan areas.

Mr. Cunningham said that a specific density designation is appropriate for the project. The proposal, as submitted, met or exceeded all Code and Growth Plan criteria. Mr. Cunningham noted that the plan offered substantially more information than was required for an ODP, with further technical issues being addressed during the Preliminary Plan stage. A decision on the ODP, as well as the density, was necessary to provide direction on future design of the project.

Mark Nuszer, representing the petitioner, said that the plan provided for strong street imagery. A number of pedestrian features had been integrated. Tree-lined streets would provide “a front door to the community.” Structures would be low-profile, with a maximum of two stories. Similar projects, he said, were being constructed in other areas with great success; many of which had received critical acclaim. (Display boards depicting designs and photographs from similar projects were presented.) He said that the photographs were submitted to illustrate the quality built in to similar projects.

Mr. Nuszer said that an extensive list of design standards had been submitted to staff. A looped water line would also be incorporated if deemed necessary. A second access to 24 ½ Road could be provided if the City’s Fire Chief determined that one was necessary. He noted the stub out street to the east which would provide for future circulation to that adjacent property.

QUESTIONS

Commissioner Gordon commended the petitioner and his representative on the design and submitted responses. He wondered, however, why no comments had been received from the school district on anticipated impacts. Did the petitioner have any idea what impact there would be on area schools? Mr. Nuszer said that typically this type of project did not generate a lot of children. Generally, only two persons per dwelling unit were expected as an average, with this type of development appealing to young childless couples and retirees in particular. He drew comparisons between this project and occupancies

of other projects. Mr. Nuszer anticipated receipt of comments from the school district during the Preliminary Plan stage.

Kristen Ashbeck said that the school district had been listed as a review agency but no response had been received.

Mr. Cunningham concurred with Mr. Nuszer's responses on typical occupancies. He reiterated that specific design issues would be addressed in the Preliminary Plan development stage.

Commissioner Driscoll acknowledged the time spent on detailing the ODP; however, he noted that no time had been spent by staff or the petitioner explaining how the Code's rezone criteria had been met. Mr. Shaver said that staff's difficulty lay in that the rezone section of the code required specific information in order to determine a specific design density; the current ODP proposal staff determined did not provide sufficient information to make a recommendation. Commissioner Driscoll remarked that at some point the petitioner needed to address and demonstrate how the proposal met specific rezone criteria.

STAFF'S PRESENTATION

Kristen Ashbeck referenced various handouts containing petitioner responses, review agency comments, additional public input and additional conditions of approval. She briefly explained how staff regarded ODP's and rezone requests in conjunction with an ODP submittal (contained in the December 8, 1998 Project Review). Section 7-5-3 includes specific ODP criteria. Rezone criteria were not addressed in the Project Review because it was felt there was insufficient detail to consider the submittal as a specific density ODP.

Chairman Elmer asked if, at this juncture, the petitioner was required to meet both the ODP and rezone criteria before approval could be granted. Mr. Shaver responded affirmatively. He suggested that the Planning Commission could determine: 1) that the proposal should be viewed as an ODP with a specific density (rezone request considered), or 2) that it would be more appropriate to ascribe a design density to the project (not enough information to consider rezone).

Ms. Ashbeck said that there weren't any issues with the overall plan, the plan meets general ODP (design density) criteria. Rather, at issue is whether sufficient detail had been presented by the petitioner to assign a specific density to the project. It is staff's position that such detail is lacking. In order to make a specific density determination, additional design standard information would be needed (e.g., setback encroachments into multi-purpose easements). Also, the incorporation of a looped water system would be a requirement "no matter what" to satisfy Fire Department requirements. With regard to the boulevard entrance, the petitioner must agree to provide a second access at the time of platting the 100th unit or when the internal street extends beyond 1,000 feet in length. The boulevard must be extended all the way to the east property line and be constructed to a residential collector standard. The plan, she said, should also show street connections to the north and south.

Staff recommended denial of the rezone request but approval of the ODP subject to the following conditions of approval:

1. The Hall property shall not be developed less than 8 dwelling units per acre.
2. A second access point to the development, which connects to an existing public street, shall be provided at the time the 100th lot is platted or when the internal street exceeds 1,000 feet in length, whichever comes first.

3. The primary street shown as the boulevard shall provide a continuous public access to a residential collector standard from the western property line to the eastern property line.
4. The vehicular connections to adjoining properties on the north and south sides of the Hall property shall be provided and shall be standard public streets.

QUESTIONS

Commissioner Gordon asked if all of these conditions had been discussed previously with the petitioner. Ms. Ashbeck said that the staff report had been made available to the petitioner; the conditions of approval were probably new. However, while the petitioner had already addressed most of the conditions, responses were not to staff's satisfaction.

Commissioner Gordon asked for clarification on section 7.1.5, A-H criteria which was given.

Commissioner Fenn remarked that it appeared staff was looking for the same information in the proposed ODP as was typically considered with a Preliminary Plan. Ms. Ashbeck said that in this case the information was necessary. Commissioner Fenn felt that that was asking a lot of the petitioner, including a substantial financial commitment. He agreed that some direction from the Planning Commission was warranted.

General discussion ensued on the level of detail required for an ODP.

Commissioner Driscoll asked if a specific density for the ODP represented a "ceiling" or the exact density the project must reflect. Mr. Shaver said that a specific density on the ODP contemplated a rezone; thus, if proceeding with the rezone, the assigned density would apply to that particular parcel.

Mr. Shaver suggested that planning commission may want to structure public comment to address specific elements of the submittal only, i.e., ODP or rezone.

PUBLIC COMMENTS

FOR:

Ross Beede (311 Cottonwood Court, Fruita), realtor for the property, said that the project met a community need for the type of housing proposed. The project also met Growth Plan guidelines and the proposed density is consistent with current area densities.

Archie Hall (no address given), owner of property, noted the changing character of the subject area. The project, he said, is a good one and is appropriate for the site.

Ted Munkres (121 Chipeta Avenue, Grand Junction) felt that the plan as submitted did meet specific density ODP requirements and that planning commissioners had enough information available to render a decision. An ODP, he said, did not require exact lot or street layouts.

Warren Dettmer (639 – 24 ½ Road, Grand Junction) said that the Growth Plan had always slated the subject area for higher density residential uses. He felt that the type of plan submitted by the petitioner was long overdue for consideration in the area. He noted the close proximity of commercial uses and urged planning commissioners to "...put people where the commercial development is."

AGAINST:

Pam Schnurr (677 – 24 ½ Road, Grand Junction) referenced a petition she'd submitted containing signatures of residents who were opposed to the proposal. She felt that the proposed density was too high and that the project was incompatible with surrounding uses. The development, she said, would

have a negative impact on the area's character. A density of between 2 and 4 units per acre seemed more reasonable. Ms. Schnurr also expressed her dissatisfaction with the notification process, adding that she may have been able to secure additional signatures had more of the residents been aware of the submittal.

A brief recess was called at 9:15 p.m. The hearing reconvened at 9:23 p.m.

PETITIONER'S REBUTTAL

Mr. Cunningham addressed staff's conditions of approval and expressed a willingness to comply with each one. He reiterated that other projects similar to this one had been undertaken with great success. This was merely a concept plan; all technical issues would be resolved during the Preliminary Plan stage. He stated how he felt the project met rezone criteria and reiterated that the design standards submitted to staff provided the detail necessary to render a decision on the ODP. He noted the site's proximity to public facilities and retail outlets and the availability of all utilities and infrastructure necessary to support the project. He stressed his intent to proceed with the project in the right way and added that there was significant public need for the type of housing proposed.

Mr. Nuszer noted the substantial buffering, landscaping and open space built into the plan. The two accesses, he added, would be provided as the City required. He reiterated that the Growth Plan called for the type of density proposed and suggested that it was inconsistent to require lower densities in those areas where the Growth Plan called for higher density development. He again stated that the display boards given to planning commissioners accurately reflected the petitioner's intentions.

QUESTIONS

Chairman Elmer wondered if the petitioner still anticipated commencement of the project in the year 2002. Mr. Cunningham was unsure since there was as yet no commitment from the City. Development of Parcel A, he conjectured, would probably begin sooner than that date. He again stressed the need for Planning Commission guidance.

DISCUSSION

Commissioner Driscoll asked staff once again their views on the project's adherence to rezone criteria. Ms. Ashbeck said that not enough information had been received for staff to form a recommendation.

Mr. Dorris reiterated staff condition 3.

Commissioner Coleman wondered if City Council members were looking to keep all development proposals at the lower end of Growth Plan recommended density ranges. Ms. Ashbeck said that comments staff had received indicated that this reflected Council's position. Commissioner Coleman said that in doing so, the City missed opportunities of placing higher density developments near major commercial areas where they were most appropriate. Densities, he said, should be placed where infrastructure could best support it.

Chairman Elmer acknowledged the difficulty in assigning a density without having the detail to back up a recommendation.

Mr. Harrington clarified City Council's position and said that the question was "at what point do you have sufficient detail to assign a given density?" Staff was not opposed to the concept nor necessarily to the density. He suggested that the petitioner move forward with the request, suggesting that perhaps it was premature to assign a specific density to the ODP.

Chairman Elmer commented that approval of the ODP did not necessarily guarantee that the project would be built according to the plan nor with the same quality as had been represented by the display boards.

When asked by Commissioner Gordon what information staff would need to make a recommendation, Mr. Harrington said that the petitioner would have to satisfy the three conditions outlined in the Project Review: 1) design standards, 2) adequacy of infrastructure and 3) circulation.

Various motion options were discussed between staff and planning commissioners. The ODP received general support from planning commissioners.

Chairman Elmer acknowledged the petitioner's intent but stressed the importance of implementation.

Commissioner Coleman stated that decisions should follow the direction of the Growth Plan. If approved, both staff and planning commissioners would see and address the development proposal twice more--during the Preliminary and Final stages.

Commissioner Fenn agreed, adding that the Preliminary Plan stage provided enough controls that specific issues could be dealt with at that time. It is, he added, important for the petitioner to receive some direction on density prior to the next development stage.

Chairman Elmer asked staff for clarification on how the Preliminary Plan would be reviewed, which was given.

Commissioner Driscoll expressed support for Growth Plan density recommendations for the subject area but felt that in this case the lower end of density recommendations were more appropriate.

MOTION: (Commissioner Fenn) "Mr. Chairman, on item RZO-1998-192, I move that we approve the Hall property ODP and forward a recommendation of approval for the rezone to City Council with a specific density of 11.7 units per acre subject to the three conditions in the supplement and the fourth condition from the staff report."

Commissioner Coleman seconded the motion.

Chairman Elmer referenced the information recently received from the developer. He asked "is that information and expectation of quality included with the submittal?" Mr. Shaver responded affirmatively.

Chairman Elmer asked if specific concerns such as setbacks would be addressed during the Preliminary Plan stage. Mr. Harrington said that attached to a rezone ordinance were both a density and any other pertinent information. This may include setback/bulk standards tables or even attachment of the plan itself. Attachment of any or all of those things would be appropriate to satisfy the question of "expectation." Mr. Harrington mentioned that a 45-foot height limit (four stories) had been proposed for Parcel C. If that needed to be addressed, it should be done prior to the item coming before City Council.

Chairman Elmer asked if the motion needed to address the expectation of quality as suggested by the petitioner. Commissioner Fenn said that given the petitioner's submission of exhibits and supporting testimony, such expectation was already sufficiently represented in the ODP.

An amended motion was offered as follows:

MOTION: (Commissioner Fenn) “Mr. Chairman, on item RZO-1998-192, I move that we approve the Hall property ODP and forward a recommendation of approval for the rezone to City Council with a specific density of 11.7 units per acre subject to the three conditions in the supplement and the fourth condition from the staff report, also based on the written and verbal comments received by and from the petitioner, and subject to the resolution of the height restriction and other bulk standards (as amended).”

Commissioner Coleman seconded the motion as amended. A vote was called and the motion passed by a vote of 4-2, with Chairman Elmer and Commissioner Grout opposing.

RZ-1998-194 REZONE—BOOKCLIFF SQUARE

A request to rezone the subject property from RMF-64 (Residential Multi-Family with a density not to exceed 64 units per acre) to B-1 (Limited Business) for a future professional office building.

**Petitioner: Scott Howard
Location: Northwest corner of 12th Street and Bookcliff Avenue
Representative: Keystone Builders**

PETITIONER’S PRESENTATION

Craig Helberg, representing the petitioner, felt that a B-1 zone designation was appropriate for the site. The request complied with both corridor guidelines and Growth Plan recommendations. A business use, he said, would be a better use of the property than high density residential. The site is bounded on three sides by other business uses.

QUESTIONS

Chairman Elmer asked for a clarification of the property’s layout, which was given.

Commissioner Coleman asked if any metal structures would be placed on the site, to which Mr. Helberg responded negatively.

STAFF’S PRESENTATION

Kathy Portner said that the B-1 zone allowed office uses, and the request met rezone criteria. The 12th Street Corridor Guidelines supported the request. Staff recommended approval.

PUBLIC COMMENTS

There were no comments either for or against the request.

DISCUSSION

Commissioner Coleman expressed support for the request.

Chairman Elmer agreed.

MOTION: (Commissioner Coleman) “Mr. Chairman, on item RZ-1998-194, I move that we forward this on to City Council with the recommendation of approval of the B-1 zoning.”

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

RZ-1998-193 REZONE—MAURICE ARMS APARTMENTS

A request to rezone approximately 3.87 acres from RMF-32 (Residential Multi-Family with a density not to exceed 32 units per acre) to RMF-64 (Residential Multi-Family with a density not to exceed 64 units per acre).

Petitioner: Clarence Anderson
Location: 1800 Main Street
Representative: Monument Surveying

PETITIONER’S PRESENTATION

Jim Lampman, Associate Director of the HUD Services Group representing the petitioner, said that the request would only serve to correct a current non-conforming situation. No additional structures would be placed on the site, and he is willing to give the City written assurance of this and/or record and incorporate such a document as a covenant. Mr. Lampman briefly elaborated on HUD’s criteria and said that a former agreement held between the petitioner and HUD was due to expire soon. The petitioner wished to sell or refinance the property but could not do so without first addressing the non-conformance. Once rezoned, buildings could be reconstructed if they incurred damages affecting more than 50 percent of the structure. Mr. Lampman said that this would be a temporary solution, just until the new Zoning Map was adopted, at which time, the property would reflect an RMF-24 zone designation.

QUESTIONS

Commissioner Gordon wondered if the non-conformance had been brought to the petitioner’s attention by HUD. Mr. Lampman said that it had actually been brought to his attention by CHFA representatives. CHFA had not been willing to assume the added liability of a non-conformity.

Commissioner Fenn wondered what time constraints had been imposed by HUD on bringing the property into compliance. Mr. Lampman answered that in order to avoid the Wellstone Act, the property must be in compliance by March 20, 1999.

Commissioner Gordon asked staff why the petitioner could not apply for a variance. Mr. Shaver explained that in this instance, there was really nothing to vary, since the property is lawful in its operation. He further explained the difference between use and structure variances. Mr. Shaver reiterated that there is nothing to vary because the Section of the Code (RMF-32) is not currently a problem.

Mr. Harrington inquired as to what would happen if “nothing happened” with the new HUD program. Mr. Lampman provided a detailed explanation of the new HUD program and its affect on the property and the petitioner.

Mr. Harrington wondered how long the obligation would extend, to which Mr. Lampman answered 15 years. It was an unusual situation, he said, and a legal opinion on the zoning would be required at closing.

Mr. Harrington said that if the impaired collateral issue were to be cleared up at a later date, would the petitioner be able to enter the new program? Mr. Lampman said that he was dealing with this situation in several states and in each instance, HUD was very unclear on its interpretation and requirements.

STAFF'S PRESENTATION

Dave Thornton said that not all of the financial evidence had been received by staff. The request was not supported by the Code's rezone criteria nor by the goals and policies of the Growth Plan. A request for variance was seen as a more suitable alternative. As such, staff recommended denial of the rezone request for the following reasons: 1) rezoning to RMF-64 would not comply with the Growth Plan's Future Land Use designation and the Plan's goals and policies; 2) rezoning to RMF-64 would not comply with the rezone criteria found in section 4-4-4 of the Grand Junction Zoning and Development Code; 3) rezones should not be based on individual economic situations; and 4) there was an existing variance process available to request relief from the bulk standards. Mr. Thornton added that upon adoption of the new Zoning Map, the property's zoning would be altered to reflect an RMF-24 designation.

PUBLIC COMMENTS

FOR:

There were no comments for the request.

AGAINST:

Ed Brown (1326 Sherwood Drive, Montrose), representing his aunt, was not happy with the project's being there at all. He felt that to approve a density higher than what was already in place was inappropriate. If the petitioner could guarantee that no additional structures would be placed on the site, he would withdraw his opposition.

Craig Terry (1708 Rood Avenue, Grand Junction) expressed comments similar to those of Mr. Brown.

Daniel Wimple (1716 Rood Avenue, Grand Junction) agreed with previous comments made by other neighbors and said that traffic increases from any additional structures would be unwelcome by the neighbors.

PETITIONER'S REBUTTAL

Eric Robinson, also representing the petitioner, reiterated that there was no intention of placing any additional structure on the site. Neither would the existing units be altered in any way to increase the current density.

DISCUSSION

Commissioner Coleman remarked that there should be some legal remedy available to the petitioner without having to secure a rezone.

Commissioner Fenn commented that, if approved, it didn't seem that the approval would pose a risk to the City. It seemed to be a short-term situation necessitating a short-term solution.

A brief discussion ensued over whether a recorded covenant would be legally effective and whether or not that was the best option. A detailed legal opinion was offered by Mr. Shaver.

MOTION: (Commissioner Fenn) "Mr. Chairman, on item RZ-1998-193, I move that we forward it on to City Council with the recommendation of approval of the rezone to RMF-64 with the inclusion of a condition of a draft deed restriction that is acceptable to the City, HUD and the petitioner, with the understanding that the covenant would be recorded; in the chain of title, it would be presumed to run with the land, and also that within that restriction, upon the subsequent approval of the Growth Plan and zoning change to RMF-24, that that restriction be removed."

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

With no further business, the hearing was adjourned at 11:30 p.m.