

GRAND JUNCTION PLANNING COMMISSION
Public Hearing - January 9, 1996
7:05 p.m. to 11:00 p.m.

I. CALL TO ORDER

The regularly scheduled Planning Commission hearing was called to order at 7:05 p.m. in the City/County Auditorium by Vice-Chairman Jeff Vogel.

In attendance, representing the Planning Commission, were: Jeff Vogel (Vice-Chairman), Ron Halsey, Tom Whitaker, Jeff Driscoll, Bob Withers, and Paul Coleman. John Elmer was absent.

In attendance, representing Planning Department staff, were Kathy Portner (Planning Supervisor), Kristen Ashbeck (Associate Planner), and Bill Nebeker (Senior Planner).

Also present were John Shaver (Asst. City Attorney), Larry Timm (Community Development Director), and Jody Kliska (City Development Engineer).

Terri Troutner was present to record the minutes.

There were approximately 30 citizens present.

II. CONSIDERATION OF MINUTES

MOTION: (Commissioner Halsey) "Mr. Chairman, I move that we accept the minutes (of December 5) as submitted."

Commissioner Whitaker seconded the motion. A vote was called and the motion passed unanimously by a vote of 4-0, with Commissioner Driscoll abstaining. Commissioner Coleman arrived after the vote had been taken.

III. ANNOUNCEMENTS, PRESENTATIONS AND/OR PRESCHEDULED VISITORS

There were no announcements, presentations and/ or prescheduled visitors.

IV. PUBLIC HEARING ITEMS FOR FINAL CONSIDERATION

SUP-95-165 SPECIAL USE PERMIT--BALANCED ROCK OSTRICH KENNEL

Request for a Special Use Permit to operate an ostrich kennel in a C-2 (Heavy Commercial) zone district on approximately 40 acres.

Petitioner: William Merkel, WDM Corporation

Location: Northeast corner of 23 ½ and G Roads

STAFF PRESENTATION

Kristen Ashbeck indicated that this item was actually an appeal of an administrative decision. She outlined the petitioner's request and noted the positioning of breeding and other pens on the site plan provided. While the *Code* did not specifically define or address the raising of ostriches, staff felt the use best fit the definition of "kennel." The petitioner was seeking to breed and raise more than the 80 birds allowed. Staff felt that the intended agricultural use would be incompatible with surrounding land uses under the City's

proposed growth plan and expressed concerns over potential adverse impacts such as dust, odor and drainage. Written objections to the project had been received from two of the surrounding property owners who expressed similar concerns.

QUESTIONS

Commissioner Withers asked about the zoning of the property prior to the City's annexation. Ms. Ashbeck said that County zoning had also been commercial, that the City's zoning closely aligned to that of the County, and that no ostriches had been present on the property prior to the City's annexation.

Commissioner Withers asked if restrictions and a periodic review criterion could be imposed upon the petitioner if the project were approved, to which Ms. Ashbeck said that this was possible.

PETITIONER'S PRESENTATION

Dr. William Merkel supplied staff and Commissioners with background information on ostriches and their raising. He said that he'd already had a contractual agreement to purchase his current 22 birds prior to the City's annexation. Dr. Merkel disagreed that the use was incompatible with surrounding uses and cited the existence of cattle, horses and sheep on adjacent properties. He stated that the birds emitted very little noise and produced little odor (smell tests were performed and odor was confined to the 50 feet nearest the pens).

He felt that staff was trying to portray his operation as a feedlot instead of a kennel and stressed there was a difference.

Dr. Merkel said that he'd spoken with the two persons who had expressed objection and felt that their concerns had been addressed. He acknowledged that the property was located in an area undergoing transition and indicated that the property would be used for the ostriches only until it became more viable for other commercial uses, approximately 3-5 years, at which time he would move the operation to a more suitable location. He said that dust concerns would be mitigated by his planting of grasses near pen areas and that no problems were foreseen in mitigating drainage issues. He did not feel his use of the property should be governed by a growth plan that had yet to be adopted. Additionally, Dr. Merkel thought that only adult birds should count in total numbers, that hatchlings and immature birds should not be factored into these totals.

Dr. Merkel said other breeders existed in the area and emphasized that the industry was new. He said that the State Agriculture Department had undertaken a feasibility study for a slaughter facility in the Grand Valley, and he felt that the raising of ostriches for consumption could be a new growth industry for the area.

QUESTIONS

General questions were asked concerning the location of the birds currently in the petitioner's possession, the ages and weights of the birds, and further elaboration was given on the number and type of agricultural animals existing on surrounding properties.

Commissioner Withers asked if the petitioner would object to a limitation of 340 birds and whether he would object to an annual review to ensure continued compatibility. Dr. Merkel felt that the maximum number of birds was fair but felt that the rate and type of growth in the area would dictate compatibility.

Commissioner Withers expressed concern over the muddy barn area and felt that a graveled surface should be required for the driveway. He felt that the planting of grasses as Dr. Merkel proposed was a good idea but suggested that it might also extend to areas within the pens. He agreed with the petitioner that upon inspection of the property, there was very little odor associated with the present operation.

Commissioner Coleman suggested limiting the operation to no more than five years.

Commissioner Halsey said that the petitioner would have been bound by the same restrictions under the County's Code and that the City's annexation did not create a new situation nor hardship for the petitioner. He asked if the raising of 80 ostriches made the operation viable, to which Dr. Merkel replied that it did not.

Commissioner Driscoll asked if the petitioner intended to house birds for others, to which Dr. Merkel said that until he reached the maximum number allowed, he would consider that option as well.

PUBLIC COMMENT

FOR:

Jack Muller (2327 H Road, Grand Junction), ostrich breeder, said that his 7 birds are kept within 25 feet of his kitchen window and that there were no problems with odor or flies. He agreed with the petitioner and felt that the chicks should be viewed differently from the adults.

Ted Hartman (919 - 28 Road, Grand Junction), breeder of ostriches and emus, said that he'd never received any complaints regarding odor or noise. He felt that the facts presented by the petitioner were accurate.

Mike Smith (538 - 28 Road, Grand Junction), partner in Mr. Hartman's ostrich/emu breeding operation, elaborated that he and Mr. Hartman had 80 birds and reiterated that no complaints or problems had arisen.

Reddie Hablutzel (1073 - 23 Road, Grand Junction) felt that the birds should be considered as poultry. He agreed with previous statements regarding noise and odor, adding that ostrich manure is desired for gardens and farms, so that the petitioner may be able to eliminate it from his property by selling it as a commodity. He, too, was a breeder with 176 birds, and that there were homes located on both sides of his property.

AGAINST:

There were no comments against the proposal.

PETITIONER'S REBUTTAL

Dr. Merkel added only that the Commission's decision would affect many people as well as the future of a potentially expanding industry.

DISCUSSION

John Shaver said that since Grand Junction was home-rule, Colorado State Statutes did not pertain to this industry. He read definitions from the Code on agricultural v. small animals to demonstrate that the project did not fit precisely into either category. He suggested that a more precise definition could be discussed by the Commission.

Commissioner Halsey clarified that any Commission decision would be based on whether the use was appropriate for the property in question, that the industry as a whole was not under scrutiny.

Commissioner Withers agreed with statements made by the petitioner and public and suggested approving the proposal with the following conditions:

1. An annual administrative review to review neighboring uses and complaints.
2. The driveway and area where the vehicles would travel in front of the existing buildings should be improved with a material that would not transfer mud onto G Road.
3. The grounds within and around the existing building areas shall be planted with fescue, and the pen areas shall be maintained in a dust-free condition.
4. The total number of birds (including chicks and adults) should be limited to 340.
5. This permit should expire January 1, 2001 and be subject to renewal at that time pending another administrative review.
6. The facility must meet Water Quality Control Commission requirements concerning runoff from the property into adjacent irrigation/drainage ditches.

The petitioner clarified that while he would agree to plant the grasses required, the soils study results he received did not offer any guarantees that those grasses would thrive in the soils present. Also, he added that water from his property percolated into the ground and did not run off into the existing drainage ditches.

MOTION: (Commissioner Withers) "Mr. Chairman on item SUP-95-165, a request for a Special Use Permit for an ostrich kennel at 2372 G Road, I move that we approve the petitioner's request to appeal the administrative decision of denial subject to six conditions just stated."

The motion failed for lack of a second.

MOTION: (Commissioner Halsey) "Mr. Chairman, on item SUP-95-165, I move that we deny the request to appeal the administrative decision."

Commissioner Coleman seconded the motion. A vote was called and the motion passed by a vote of 4-2, with Commissioner Withers and Vice-Chairman Vogel opposing.

IV. PUBLIC HEARING ITEMS FOR FINAL CONSIDERATION (UNLESS APPEALED)

R.-95-213 REPLAT--PORTION OF THE FALLS, FILING #1

Request to replat lots 17 and 18, Block 1, and a portion of open space tract, all in the Falls Subdivision, Filing #I.

Petitioner: Harry and Dorothy Jones

Location: West side of 28 ½ Road, south of F Road

Representative: Dan Brown, QED Surveying

STAFF PRESENTATION

Bill Nebeker presented a brief overview of the proposal, saying that the lot line adjustment would rectify an encroachment of a shed into a portion of lot 17 and provide a standard side yard setback for the home on lot 18. A 20-foot utility easement would be retained on a portion of Tract A deeded to lot 17. Staff recommended approval subject to the following conditions:

1. Minor technical revisions to plat, including the following are required:
 - a) Change note under building setback requirements to read as follows: "If no common wall is used, a 10-foot setback between units is required."
 - b) Remove from plat dedication statement for streets and rights-of-way not being dedicated and common areas not be created and dedicated with this plat.
 - c) Remove statement regarding expenses for street paving or improvements.
 - d) Checking spelling on "Dorothy" Jones.
2. Review comments from Steve Pace, City Property Agent, must be resolved regarding description discrepancies.

PETITIONER'S PRESENTATION

Dan Brown, representing the petitioner, offered no additional comment.

PUBLIC

There were no comments either for or against the proposal.

MOTION: (Commissioner Halsey) "Mr. Chairman, on item R.-95-213, I move that we approve the replat of the two residential lots on North Grandeur Court subject to the conditions outlined in staff's recommendations."

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

**CUP-95-211 CONDITIONAL USE PERMIT--RIVER OF LIFE ALLIANCE CHURCH
Request for a Conditional Use Permit for a church in an RSF-2 (Residential Single Family with a density not to exceed 2 units per acre) zone district.**

**Petitioner: River of Life Alliance Church
Location: Northwest corner of 24 ½ and G Roads
Representative: William Frey**

STAFF PRESENTATION

Bill Nebeker briefly outlined the proposal. With no outstanding issues, staff recommended approval subject to the following conditions:

1. This Conditional Use Permit is valid for the construction of phase I of the church and accessory uses only. Phase I may be expanded to include a larger facility and/or parking lot up to 50 percent greater than that shown on the submitted site plan. Phase II requires an additional Conditional Use Permit.
2. Proposed construction and site design must comply with applicable codes and ordinances in effect at the time of site plan review. The first driveway entrance must be 200 feet or greater from G Road. The exact distance will be determined at site plan review.
3. Additional right-of-way and off-site street improvements for 24 ½ and/or G Road may be required at the time of site plan review.

4. Landscaping of the parking lot shall comply with the provisions of the *Code* for lots with greater than 50 spaces.
5. No parking shall be permitted in a required setback.
6. No vehicular access shall be permitted to G Road.
7. Use of the gazebo and other accessory uses shall be permitted prior to site plan review of the main facility. Off-street, paved parking may be required if usage of the gazebo is significantly greater than that described in the applicant's narrative (12 people, 3 cars, two times per week).

PETITIONER'S PRESENTATION

William Frey, representing the petitioners, said that they would comply with staff requirements.

PUBLIC COMMENTS

There were no comments either for or against the proposal.

MOTION: (Commissioner Halsey) "Mr. Chairman, on item CUP-95-21 1, I move that we approve the Conditional Use Permit to allow Phase I of the Church at the northwest corner of G and 24 ½ Road, subject to the conditions and staff recommendations."

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

MS-95-215 MINOR SUBDIVISION--IBX SUBDIVISION

Request to re-subdivide lot 13 of the Valley West Subdivision, consisting of approximately 9.3 acres in an 1-1 (Light Industrial) zone district, into four (4) lots.

Petitioner: IBX, Inc.

Location: 756 Valley Court

Representative: Harry Mavrakis

STAFF PRESENTATION

Kristen Ashbeck pointed out the site location on the map provided. She said that the petitioner was intending to create smaller, more marketable lots through the subdivision. With no outstanding issues, staff recommended approval.

PETITIONER'S PRESENTATION

Harry Mavrakis, representing the petitioner, offered no additional comment.

QUESTIONS

Commissioner Withers asked if the petitioner had any specific plans for the lots, to which Mr. Mavrakis replied that he did not. When asked about access, Mr. Mavrakis answered that all lots accessed Valley Court and that Valley Court was already constructed.

PUBLIC COMMENT

There were no comments either for or against the proposal.

MOTION: (Commissioner Halsey) "Mr. Chairman, on item MS-95-215, I move that we approve the IBX Minor Subdivision."

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

PP-95-179 PRELIMINARY PLAN--HELENA SUBDIVISION

Preliminary Plan for 20 single family residential lots on approximately 4.6 acres with zoning of RSF-8 (Residential Single Family with a density not to exceed 8 units per acre).

Petitioner: Michael Queally and Ben Hill

Location: 2776/2780 Unawep Avenue

Representative: Wayne Lizer, Lizer and Associates

STAFF PRESENTATION

Bill Nebeker presented a brief overview of the proposal and pointed out the site on the map provided. He clarified that the total number of units was to be 20, rather than the 16 indicated in the project description. Mr. Nebeker added that some realignment of Acoma Drive may be necessary but that this could be addressed during the Final Plat stage. He added that condition 1. may be deleted from the staff recommendation, and recommended approval with the following two conditions, (as renumbered):

1. A minimum 10-foot wide pedestrian access easement, dedicated for public use, shall be required and improved. The easement must be shown on the Final Plat.
2. A \$3,600 open space fee, plus all other applicable fees, will be required.

PETITIONER'S PRESENTATION

Mike Queally, petitioner, clarified that while there were a total of 20 lots, only 16 new homes were to be built. He agreed to comply with staff recommendations.

PUBLIC COMMENTS

FOR:

Paul Nelson (333 Acoma Court, Grand Junction), while in favor of the proposal, offered an alternative design plan to include a cul-de-sac at the north end of Acoma Drive. He submitted a petition containing 20 signatures of surrounding residents who favored the alternate design. Advantages of the dead-end street, he noted, included reduction of traffic and noise. He pointed out several additional access points to the subdivision which would still be available, and suggested that real estate values would improve with the alternate design. He added that cul-de-sac placement would make the two affected lots more uniform in size and more marketable.

Dan O'Connor (317 Acoma Drive, Grand Junction) expressed support for the cul-de-sac option, saying that it would provide a safer street for children.

AGAINST:

There were no comments against the proposal.

QUESTIONS

Vice-Chairman Vogel asked for legal clarification on consideration by the Commission of newly submitted materials, which was provided by Mr. Shaver.

DISCUSSION

There was significant discussion over the newly submitted design plan. The petitioner indicated that the plan had not been submitted to him for consideration so he could not form an opinion on whether the option would work for his subdivision. He expressed concern that if the cul-de-sac were constructed, he might be required to include a stub street to the west, which he could not afford. He requested additional time to consider the merits and financial viability of the cul-de-sac. Mr. Nebeker indicated that Acoma was intended to be a through street.

Robert Conway (315 Acoma Drive, Grand Junction) said that Acoma Drive in the adjacent Reservation Subdivision dead-ended at his property. Commissioner Halsey felt that consideration of a new design plan, without the petitioner having had a chance to review it, was unfair and such material should not be considered.

Mr. Shaver and Kathy Portner suggested that if the petitioner wanted additional time to consider the option, the item could be tabled until the January 16 meeting.

MOTION: (Commissioner Halsey) "Mr. Chairman, on item PP-95-179, I move that we approve the Preliminary Plat for 20 residential lots in Helena Subdivision subject to the conditions outlined in staff's recommendations as being 2. and 3. (renumbered as 1. and 2.)."

Commissioner Coleman seconded the motion. A vote was called and the motion passed by a vote of 4-2, with Commissioner Withers and Vice-Chairman Vogel opposing.

PP-95-157 PRELIMINARY PLAN--TRAILS WEST VILLAGE
Preliminary Plan for 66 single family residential lots on approximately 40 acres with zoning of RSF-4 (Residential Single Family with a density not to exceed 4 units per acre).
Petitioner: Camelot Investments
Location: East of South Camp Road, south of South Broadway
Representative: Paul W. Stowell, P.E.

STAFF PRESENTATION

Kathy Portner outlined the proposal and indicated the revised plan and site on the maps provided. Topography for the site is a concern, since steep slopes exist adjacent to building envelopes. She noted the proposed detention area and further elaborated on geotechnical concerns. Ms. Portner pointed out that while the proposed road would provide access to several landlocked parcels, it would be located across a steep embankment. She cited concerns over road cutting through potential rock slide areas and related scarring of the hillside, the stability of soils, potential problems with sewer construction and blasting which may occur with site preparation. She noted that Ute Water's line was located in the area and any break made in the line would also affect lots. Ms. Portner read several of the City's policies in Section 6-1-1 of the Code. She felt that the proposal conflicted with those policies and felt that any building should be limited to the lower portion of the property, leaving the steep slopes undeveloped.

Staff recommended denial of the Preliminary Plan as submitted. If approved by the Planning Commission, staff recommended that approval be limited to only lots 1 through 39 and that the following conditions apply:

1. The petitioner satisfactorily address the impact a break in the 24-inch Ute Water line would have on the lots and how it could be mitigated.
2. The land or easements be dedicated along the active and inactive Redlands Canal for public trail use.
3. The proposed street stub to the adjacent property must be constructed.
4. The final submittal must show that all lots are buildable under the RSF-4 zoning required setbacks.
5. The required improvements along South Camp Road shall include widening to include a center turn lane and a detached bicycle/pedestrian path.
6. The intersection of Mescalero and Montero should be as close to 90 degrees as possible.
7. All required drainage improvements will be determined with the final submittal, including the enlargement of the culvert under South Camp Road, if necessary.
8. The detention area(s) and other common areas must be platted as common tracts and dedicated to the homeowners.
9. The remainder of the parcel would be platted as one out-lot. A Preliminary Plan would be considered for lots 40 through 53 at a future time when it was redesigned with Trails End Road not continuing up the escarpment and all engineering and design concerns were addressed. Lots 54 through 66 on top of the mesa would not be platted until access could be provided from the top of the mesa.

QUESTIONS

Commissioner Withers felt that soils stabilization should be performed and infrastructure be constructed all at once under controlled conditions. He opposed phasing.

PETITIONER'S PRESENTATION

Paul Stowell, representing the petitioner, expressed a desire to integrate views into a uniquely designed project. He concurred that the property offered unique challenges but felt that these challenges were being addressed. Technical and geotechnical expertise, he continued, had been retained from two qualified firms and a computer modeling expert had also been hired. He disagreed with statements that the plan conflicted with established policies and cited findings in the Lincoln-Devore report which were offered to corroborate his position.

Mr. Stowell added that roads would be hidden by vegetation, that color choices of homes would be restricted, that hillside development would be restricted, and that construction of engineered retaining walls could be considered. He pointed out that if the plan were denied, no access to the upper property or adjacent landlocked parcels would be available.

PUBLIC COMMENTS

FOR:

Shawn Dixon (551 Grand Avenue, Grand Junction) spoke in favor of the proposal.

Scott Hayduk (323 Mayfair Drive, Grand Junction), speaking on behalf of the owner of one of the landlocked parcels, urged the Commission to consider the project favorably.

AGAINST:

John Thomas (321 Quail Drive, Grand Junction), developer of Canyon View Subdivision, said that while he was not necessarily against the proposal, he wanted Commissioners to oppose any street lighting proposal to protect night views. He also expressed concern over available water pressures to upper lots and foundation stability.

Commissioner Withers asked if a horse path would also be provided. Mr. Stowell said that he hadn't considered one but could, if so directed.

Ms. Portner said a letter of opposition had been received by Shawn and Robert Cooney (owners of tax parcel #2945-183-00-009, no address given).

PETITIONER'S REBUTTAL

Mr. Stowell pointed out that if a horse path were wanted, there would be maintenance issues. He said that if the market did not dictate, the top lots may not be built, adding that the market would dictate phasing of the project.

DISCUSSION

Ed Morris, engineer for Lincoln-Devore (1104 Main Street, Grand Junction) said that he'd performed tests to determine the extent of landslide threat. His findings concluded that the three to four feet of slide present on the site were considered prehistoric and colluvial in nature. He said that such slide conditions were not now present and would pose no new threat. When asked if there were any reason why the road could not be put in, Mr. Morris said that he knew of no reason and felt that there were no insurmountable engineering problems associated with the project. At the request of the Commission, Mr. Morris provided his credentials.

Commissioner Withers asked if blasting were practical for phasing. Mr. Morris said that it was unclear just how much blasting would be necessary. He concurred that if the road were completed at once, advantages would include soils stabilization and reduction of noise, dust and traffic but added that financial considerations had to be considered also.

The Commission asked Jody Kliska to provide her perspective on the problems she may have perceived with the project. After providing her own credentials, she agreed that the Lincoln-Devore report had been very thorough. She felt that staff comments had served to put the petitioner on notice that some very real concerns had to be addressed. While cuts and fills were a concern, she felt that the City could rely on the geotechnical expertise of Lincoln-Devore and similar agencies to submit accurate and thorough information on which the City could base its decisions. She added that the aesthetic impact of roads would depend on the treatment of those slopes.

Paul Stowell said that the Ridges included streets on similar soils and under similar conditions as that which he proposed.

Commissioner Withers said that he's seen similar projects undertaken and knew they could be done. He felt that any project approval should include the combination of staff recommendations, natural vegetation to mitigate aesthetics, the construction of infrastructure at one time (disallowing the blasting of individual home sites) and the inclusion of horse trails.

Vice-Chairman Vogel felt that there should be no development of the upper lots at all.

MOTION: (Commissioner Halsey) "Mr. Chairman, on item PP-95-157, Preliminary Plan for the Trails West Village, I move that we approve the request (for lots 1 through 39) with conditions 1. through 9. in the staff report."

Commissioner Coleman seconded the motion. A vote was called and the motion failed with a tie vote, with Commissioners Withers and Whitaker and Vice-Chairman Vogel opposing.

MOTION: (Commissioner Withers) "Mr. Chairman, on item PP-95-157, a Preliminary Plan for Trails West Village, I move we approve the request subject to staff recommendations 1. through 8., recommending that 9. be deleted and a new 9. to be inserted (to read) 'All blasting will be required during the development stage.' Add an item 10. (to read) 'The construction of trails and the road shall result in a sound and stable design which meets all City standards.'"

Commissioner Whitaker seconded the motion. A vote was called and the motion failed by a vote of 2-4, with Commissioners Halsey, Coleman, Driscoll, and Vice-Chairman Vogel opposing.

A brief discussion ensued between Commissioners, with the major point of dissension being the development of the upper lots. When asked for clarification on whether another motion could be made, Mr. Shaver indicated that since the last motion included consideration of the entire proposal, the Commission could treat the motion as a final action or could entertain another motion at the Chairman's discretion. The ruling from the Commission was that the application was denied by the resultant vote.

The hearing was adjourned at 11:00 p.m.