

GRAND JUNCTION PLANNING COMMISSION
Public Hearing - May 6, 1997
7:03 p.m. to 9:10 p.m.

I. CALL TO ORDER

The regularly scheduled Planning Commission hearing was called to order at 7:03 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 Paul Coleman. Ron Halsey, Robert Gordon and Jeffrey Vogel were absent.

In attendance, representing Community Development staff, were: Kathy Portner (Acting Director), Dave Thornton (Senior Planner), Michael Drollinger (Acting Planning Supervisor), Kristen Ashbeck (Senior Planner) and Mike Pelletier (Associate Planner).

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

Terri Troutner was present to record the minutes.

There were approximately 20 interested citizens present.

II. CONSIDERATION OF MINUTES

Available for consideration were the minutes from the April 1 hearing.

MOTION: (Commissioner Driscoll) "Mr. Chairman, I move for approval of the April 1 minutes."

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

III. ANNOUNCEMENTS, PRESENTATIONS AND/OR PRESCHEDULED VISITORS

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

IV. PUBLIC HEARING ITEMS FOR FINAL DECISION UNLESS APPEALED

PDR-1997-030 PLANNED DEVELOPMENT REVIEW/PRELIMINARY PLAN--RETAIL MALL
A request to approve the planned development review and preliminary plan for lot 1 of Patterson Parkwest Subdivision to develop a small retail shopping center.

Petitioner: Earl Waskosky

Location: West of the northwest corner of F Road and 25 Road

Representative: Robert Gregg

PETITIONER'S PRESENTATION

Robert Gregg, representing the petitioner, briefly outlined the proposal and noted surrounding uses on the maps provided. Mr. Gregg stated that Lot 1 would be subdivided into two parcels: the larger of the lots would be used for the restaurant and retail space, the smaller one acre lot would be sold. Access would be via F Road and 25 Road. Mr. Gregg said that the plan

provided for more than adequate parking and a combination of detention/retention areas would be used to handle drainage.

STAFF'S PRESENTATION

Kristen Ashbeck referenced her revised project review dated May 6, 1997. The petitioner, she said, had proposed and submitted a list of acceptable uses, which were contained in her revised project review. Proposed uses correspond to similar uses found within a light commercial (C-1) zone. She outlined intended phasing and indicated that most development would occur on the east lot during the first phase. More specific traffic information regarding the adjacent and opposing driveways will be required at the final plat/plan stage. Also required at that time will be a cross-easement for the access and on-site circulation and parking. A drainage retention area is planned for the back of the property while a detention area is planned for the front of the property. An agreement between the developer and the Grand Valley Irrigation Company will be required to allow for discharge into the Ranchmen's Ditch. Landscaping and parking are acceptable. A separate sewer service line that connects directly to a public line is required for each of the buildings proposed and an additional fire hydrant is required to be located near the F Road entrance to the site. Staff recommended that the proposed freestanding Patterson Road sign be limited to a monument sign not to exceed 10 feet in height, which would be consistent with signs approved within other planned development zones along F Road. Additional detail on this and any other proposed signs will be required at the final plat/plan stage.

Staff recommended approval of the preliminary plan subject to the following conditions:

1. The allowed uses within the Planned Commercial (PC) zone be limited to those detailed in the staff report (dated May 6, 1997).
2. The requirements of the Fire Department be met with the final plan/plat.
3. The requirements of the Utilities Engineer be met with the final plan/plat.
4. More specific traffic information regarding the adjacent and opposing driveways be provided with the final plat/plan per comments from the City Development Engineer dated April 23, 1997.
5. The freestanding sign on Patterson Road be limited to a monument sign not to exceed 10 feet in height.

QUESTIONS

Commissioner Driscoll asked if locating the freestanding sign within the median would pose any sight distance problems with traffic exiting onto F Road. Ms. Ashbeck said that the site plan would be reviewed to ensure that the sign wasn't located within the sight distance triangle. She didn't foresee any problems. Mr. Gregg interjected that there was some flexibility in moving it back if sight distance was impeded.

PUBLIC COMMENTS

There were no comments either for or against the proposal.

DISCUSSION

Commissioner Coleman thought the plan looked good. As long as the petitioner agreed to comply with staff requirements, he could see no reason not to approve it.

Chairman Elmer concurred, adding that he appreciated the petitioner's willingness to respond to previous direction regarding the driveways.

MOTION: (Commissioner Coleman) "Mr. Chairman, on item PDR-1997-030, preliminary plan for the Patterson Park retail mall, I move that we approve the proposal with staff recommendations 1 through 5."

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

FPA-1997-073 FINAL PLAN AMENDMENT--NIAGARA VILLAGE FILINGS 1 AND 2

A request to amend the final plan approval for Niagara Village filings 1 and 2 to permit additional driveways and modify the off-street parking plan.

Petitioner: Parkerson Construction

Location: 2807, 2809, 2812, 2815, and 2818 Niagara Circle South; 479 and 482 Niagara Circle West; 2800, 2806, 2807, 2812, 2813, 2818 and 2819 Niagara Circle North

Representative: David Hartmann, dba Banner Associates

STAFF'S PRESENTATION

Michael Drollinger said that the request was very straightforward and would not have any detrimental impact on the overall site design and circulation. Exhibits A through E were referenced using an overhead projector. Staff cautioned against further modification to the circulation design due to cumulative impacts of additional changes on the on-street parking capacity but recommended approval of the proposed amendment.

QUESTIONS

Chairman Elmer asked if any additional curb cuts would be created, to which Mr. Drollinger replied negatively; the street is constructed with a roll-over curb.

Chairman Elmer wondered if there was any way to enforce the utilization of both configurations. Mr. Drollinger said that if the amendment were approved, staff could enforce the location of the curb cuts and the parking areas.

PETITIONER'S PRESENTATION

David Hartmann offered no further testimony but availed himself for questions.

QUESTIONS

Chairman Elmer asked if there would be covenants to enforce the new parking plan. Mr. Hartmann said that at the time of sale, buyers could be made aware that such covenants would cover those lots.

John Shaver noted that a master declaration had been filed for the subdivision. Each filing was annexed to the master declaration. He said that the only reference made with the current amendment was to the original covenants. If approval was given referencing the amended plan, staff could enforce its implementation. However, if planning commissioners so chose, they could opt to have the covenants specifically address parking.

Chairman Elmer expressed a preference to have the covenants reference the modified plan. Mr. Shaver said that this could be accomplished by filing an addendum to the previously recorded covenants.

PUBLIC COMMENTS

FOR: There were no comments for the proposal.

AGAINST:

John Hartlauer (2820 Niagara Circle North, Grand Junction) was not necessarily opposed to the amendment but wondered how or if it would affect his current parking situation. Mr. Shaver provided an elucidation.

PETITIONER'S REBUTTAL

The petitioner offered no rebuttal testimony.

DISCUSSION

Commissioner Coleman thought it a good idea to have the originally filed covenants reference the amended plan. Mr. Shaver agreed, saying that doing so would help clarify a private right of enforcement.

MOTION: (Commissioner Coleman) "Mr. Chairman, on item FPA-1997-073, request for a final plan amendment, I move that we approve this item subject to Planning Commission's recommendation that the homeowners covenants be amended to incorporate this final plan amendment (as amended)."

Commissioner Driscoll suggested that verbiage be reworded to say, "...the homeowners covenants be amended to incorporate this final plan amendment." Commissioner Coleman agreed to amend his motion accordingly.

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

FPA-1997-074 FINAL PLAN AMENDMENT--KAY SUBDIVISION

A request to amend the final plan approval of Kay Subdivision to modify the principal structure rear yard setback from 25 feet to 15 feet for all lots adjoining F 1/2 Road.

Petitioner: Richard and Elaine Garwood

Location: 2553, 2555, 2557, 2559, and 2561 Janece Drive and 652 Fenton Street

Representative: Richard Garwood

STAFF'S PRESENTATION

Mike Pelletier referenced the site plan and presented various photos of the site using an overhead projector. Mr. Pelletier stated that the petitioner had illegally constructed an enclosed structure within the 25-foot rear yard setback established for the development. Staff could not support the request to amend the plan since the *Zoning and Development Code* would not support the requested setback distance for this housing density. Even in the equivalent straight zone of RSF-4, the rear yard setback of 30 feet would still make the structure in question non-conforming. Also, F 1/2 Road is a collector street which requires a 20-foot front yard setback. If the setback was considered a front yard, the structure would still be non-conforming by 5 feet. No unusual circumstances were apparent with the site to justify deviating from the 25-foot setback. Thus, staff recommended denial of the request and requested that the petitioner be given 30 days to remove the non-conforming structure.

QUESTIONS

Commissioner Driscoll asked what the rear yard setbacks were for the adjacent Cimmarron North Subdivision. Kathy Portner replied that the Cimmarron North Subdivision had not yet been recorded but she surmised that it would be at least 20 feet. Commissioner Driscoll asked

what the rear yard setbacks were for Valley Meadows East Subdivision. Ms. Portner offered to look these up for planning commissioners.

Commissioner Coleman asked if any other properties within the subdivision were non-conforming. Mr. Pelletier replied that this one was the only one he is aware of.

Commissioner Coleman asked if a 30-day timeframe was standard for removal of a structure, to which Mr. Shaver responded affirmatively.

PETITIONER'S PRESENTATION

Richard Garwood, petitioner, submitted photos of his property. The addition was constructed in April 1996 by the same contractor that built his home. He assumed the contractor had obtained all the necessary permits prior to construction, and he didn't know the encroachment existed until he'd been reported. The addition, he said, enhanced his property's value and didn't obstruct views. He said the loss of the addition would also be a significant financial loss.

QUESTIONS

Commissioner Coleman asked when the addition was constructed, to which Mr. Garwood answered April 1996.

Commissioner Driscoll asked if the majority of property owners abutting F 1/2 Road supported the request. Mr. Garwood replied affirmatively, adding that 4 of the 6 expressed approval. The remaining two properties were rentals. He said that he'd submitted to staff a petition substantiating this.

Commissioner Driscoll asked if he had considered filing an application for a variance with the Board of Appeals, to which Mr. Garwood responded negatively. Mr. Pelletier clarified that in a planned zone, changes in setbacks were considered a change in the overall plan and would not be heard by the Board of Appeals.

Mr. Shaver added that the request would not generally meet the legal standard by which a variance would be considered.

Mr. Pelletier answered Commissioner Driscoll's earlier questions regarding the rear yard setbacks of adjacent and nearby subdivisions. The rear yard setback for Cimmarron North was 30 feet along F 1/2 Road; Valley Meadows East had a 20-foot rear yard setback off of 25 1/2 Road.

Commissioner Coleman wondered if the contractor in question had been licensed with the City of Grand Junction, to which Mr. Garwood replied affirmatively. The petitioner added that the contractor had since moved from the Grand Junction area and was presently residing in California.

Chairman Elmer asked the petitioner if he had tried contacting the contractor. Mr. Garwood said that he wasn't sure how to contact him. He thought it strange that the contractor wouldn't know what the setbacks were when he had been responsible for building the initial home.

PUBLIC COMMENTS

There were no comments either for or against the request.

DISCUSSION

Mr. Shaver asked planning commissioners if they had received copies of the petition referenced previously by the applicant. Chairman Elmer said that what was received was the development application which had been signed by four different people. No petition had been received.

Commissioner Coleman observed that this was a "catch-22" situation. Neighborhood integrity had to be maintained but he understood the petitioner's reliance upon a city-licensed contractor to do the right thing.

Chairman Elmer said that the 25-foot setbacks were well-intentioned and were put into place to try and avoid some of the visual clutter arising from too dense a development. He didn't believe changing the setbacks for all the subject properties along F 1/2 Road was justified since the contractor was clearly at fault.

MOTION: (Commissioner Coleman) "Mr. Chairman, on item FPA-1997-074, I move that we deny the changes in the final site plan."

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

Chairman Elmer explained the appeals process to the petitioner.

V. PUBLIC HEARING ON ITEMS FOR RECOMMENDATION TO CITY COUNCIL

ANX-1997-078 ZONE OF ANNEXATION--APPLEWOOD HEIGHTS

A request for approval to zone a parcel of land of approximately 6.03 acres currently being annexed to the City to RSF-4 (Residential Single Family with a density not to exceed 4 units per acre) and PR-4.4 (Planned Residential with a density not to exceed 4.4 units per acre) (as amended).

Petitioner: Leo Warren

Location: Northwest corner of 28 Road and Cortland Avenue

STAFF'S PRESENTATION

Dave Thornton noted a correction to the agenda to reflect that the zone of annexation would include both an RSF-4 zone classification and a classification of PR-4.4. The location of the property was noted on maps provided. Mr. Thornton reviewed the request as outlined in staff report dated May 6, 1997. The proposed RSF-4 zone most closely aligned to the County's R2 zone; the PR-4.4 which was approved by the County would remain with all pertinent conditions and those contained within the staff report dated May 6, 1997. Staff recommended approval of the zoning.

PUBLIC COMMENTS

FOR: There were no comments for the request.

AGAINST:

Charles Roberts (681 - 28 Road, Grand Junction) said that he'd sold the property to Mr. Warren. While not opposed to the development, he expressed concern that a road which was to have been built to link the property to 28 Road still hadn't been constructed. Chairman Elmer said that the development plan had not yet been submitted. Mr. Thornton clarified that an initial plan had been submitted but the item had been delayed a month. The plan, he said, did include a connection to 28 Road.

Commissioner Driscoll indicated the location of the proposed road on the map. Chairman Elmer suggested that Mr. Roberts meet with staff during regular business hours to discuss the specifics of the plan.

DISCUSSION

Commissioner Driscoll said that the request made sense, that it took into consideration the general character of the area and that it conformed with the direction of the newly adopted *Growth Plan*.

MOTION: (Commissioner Coleman) “Mr. Chairman, on item ANX-1997-078, I recommend that we forward this to City Council with recommendation of approval of zoning lot 2, REA Minor Subdivision as RSF-4 and lots 1 through 4, Leslee Minor Subdivision as PR-4.4 with those plan requirements as outlined in the May 6, 1997 staff report.”

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

ANX-1996-267 ZONE OF ANNEXATION--WESTWOOD RANCH

A request for approval to zone a parcel of land of approximately 22.55 acres currently being annexed to the City to RSF-R (Residential Single Family with a density not to exceed 1 unit per 5 acres).

Petitioner: Robert Wilson

Location: Northwest corner of 25 1/2 Road and F 1/2 Road

STAFF'S PRESENTATION

Dave Thornton said that the parcel had been annexed into the City on April 6, 1997. The original development plan for the property, submitted by Castle Homes, had been denied by the Planning Commission and no new plan had been submitted. Without a plan, the City recommended that the property be zoned RSF-R, which was the closest equivalent City zone to the County's AFT zoning. Mr. Thornton said that the *Growth Plan* recommended a density of between 4 and 7.9 units per acre. Staff realized that the RSF-R zone would likely be an interim "holding" zone until the developer submitted a development plan. At that time, the developer would request a rezone to a density consistent with the plan.

Mr. Thornton reiterated that without benefit of a development plan, the City's policy has been to zone as closely as possible to the County's zoning. Mr. Thornton also mentioned that the City is required to zone a property within 90 days of annexation. Staff recommended approval of the RSF-R zone.

QUESTIONS

Commissioner Driscoll asked if there was anything in the RSF-R zone which specifically made it a holding zone. Mr. Thornton replied negatively, adding that it was viewed that way by staff since the *Growth Plan* recognized the area as being appropriate for densities of between 4 and 7.9 units per acre. He said that without a development plan, staff would be hard pressed to decide which density within that range was the most appropriate.

Mr. Thornton said that the previous development proposal had been for 3.3 units per acre, which had been denied because of its density. Having the developer go through the rezone process would allow the Planning Commission to review the plan and allow neighbors the chance to comment at a public hearing. The current RSF-R zone request had been advertised as such.

Commissioner Driscoll wondered if there was enough information provided by other subdivisions in the area to make a more accurate recommendation. He expressed concern that by approving an RSF-R zone designation, the Planning Commission would be knowingly recommending a rezone that was in error.

Commissioner Driscoll surmised that staff didn't have the necessary information to make a more solid recommendation. Mr. Thornton agreed with this assessment.

PETITIONER'S PRESENTATION

Tom Dixon, representing Castle Homes, expressed opposition to the RSF-R zone. The surrounding land uses on three sides of the property are single family residential with the fourth side abutting the Public Service Company's substation. He suggested implementation of a medium residential density as recommended by the City's *Growth Plan*, preferably RSF-5. He said that the original plan had been denied with the key issue being that of design, not density, with the location of open space being of paramount concern. The *Growth Plan* envisioned the subject area as being able to accommodate a much higher density than what was there presently. He felt it important that the Planning Commission base its recommendations on the directions outlined within the *Growth Plan*. If not used as the tool it was meant to be, the *Growth Plan* may lose its credibility and usefulness as a guide for growth in the Grand Valley. Mr. Dixon suggested that the new City Council would be looking for direction from the Planning Commission on how the *Growth Plan* should be implemented and the zoning of Westwood Ranch would help provide that direction.

Mr. Dixon said that the RSF-5 designation was sought over the RSF-4 because three things would be expected from any plan for the property: 1) canal dedication; 2) preservation of the existing Cottonwood trees in the northwest corner of the property; and 3) a centralized open space area. The developer must obtain a density which will support the increased amount of open space which will be required in any resubmitted plan.

In consideration of an RSF-5 or RSF-4 designation, the developer would be willing to meet with the neighbors whose names were contained on the notification list prior to submission of any preliminary plan. In this way, they could evaluate how the development would fit into their neighborhood. Zoning to the higher density now would allow the developer to concentrate on design issues. An RSF-R designation would set the stage for a fight with the neighbors over density. The developer would also be willing to identify the phasing of the project.

Mr. Dixon summarized his presentation by again requesting the RSF-5 designation, or at a minimum, RSF-4. The property deserved this zoning, he said, by virtue of the direction contained within the *Growth Plan*.

QUESTIONS

Chairman Elmer asked if the developer still intended to submit a plan for the property. Mr. Dixon said that Westwood Ranch was on hold until 25 1/2 Road could be constructed. He expected that submission could be expected within the next 8 months; however, he wanted to avoid the expected battle with neighbors over a density which was justified for the area. He feared that the RSF-R designation would recreate the "Fall Valley battle" all over again.

PUBLIC COMMENTS

There were no comments either for or against the proposal.

DISCUSSION

Mr. Shaver's observations included references to *Code* sections 4-11 regarding the adverse impacts to the developed density of established neighborhoods and the relationship of the

property to the urban core area or established subcores. Mr. Shaver reminded the Planning Commission that it should make its determination in light of Section 4-11. Mr. Shaver was also concerned over Mr. Dixon's offers of concessions in the planning process: Mr. Shaver suggested that the Commission carefully consider what would happen if the petitioner didn't follow through with those concessions after being granted a higher zone. If those concessions factored into any Planning Commission decision, essentially the Commission would be granting a conditional zone. The Planning Commission must decide the issue, but he advised that any motion made for a higher zone should contain a clear rationale for whatever zone was recommended.

Chairman Elmer said that conditions could be tied to a planned zone; however, this was not possible with a straight zone.

Commissioner Driscoll asked if the item could be tabled and still comply with the 90 day zoning requirement. Mr. Shaver said that although the state statute required a zone be applied within the 90 days, the statute didn't address what would happen if it wasn't; the statute is for the benefit of the landowner.

Commissioner Driscoll said that if delayed a month, there would be enough time to get the item placed on the City Council's agenda. Mr. Shaver agreed, adding that it was possible to have the developer waive the 90 day requirement.

Chairman Elmer said that some recommendation should be offered to City Council for its consideration, even if the recommendation was for denial of the RSF-R zone designation.

Commissioner Driscoll said that while he did not want to necessarily deny the recommended zone classification, he did want to explore tabling the item until more information was available.

Chairman Elmer asked if more time could be given before a final decision was rendered. Mr. Shaver said the City typically held the 90 day requirement inviolate but only by practice not by law. He wasn't sure what, if anything, would occur if that timeframe was exceeded. Mr. Shaver added that it had thusfar gone unchallenged and there was no case law in Colorado dealing with the provision.

Mr. Thornton said that if staff had been given a timeframe by the developer on when they might expect a plan submission, the plan could have been used to provide some type of direction. As it was, the developer was unsure when plan submission would occur, making staff's decision more difficult.

Mr. Shaver also agreed with Mr. Dixon's statement that density would become an issue in any rezone request and again reminded the Planning Commission of Section 4-11.

Commissioner Coleman felt the *Growth Plan* should be implemented and its direction taken into account. An RSF-5 zone would be compatible with the *Plan* and surrounding densities and provide direction to the developer.

Commissioner Driscoll commented that the *Growth Plan* process was never intended to be a zoning process. While RSF-R was not a correct zone, he wasn't convinced that RSF-5 was the answer either.

Chairman Elmer noted that the problem with assigning a higher density straight zone was that there would be less control over assessment of plan impacts and open space. He preferred assigning the lesser RSF-R zone and making the developer demonstrate in a rezone request how potential impacts would be mitigated. He added that although not in favor of the RSF-R

zone for its own sake, without benefit of a plan, it did represent the zone closest to that of the County.

Commissioner Driscoll felt that the Planning Commission should at least attempt to be more accurate in its zone assignment. He reiterated that if the RSF-R classification was viewed as a "holding zone," the Planning Commission would be sanctioning an acknowledged error.

Chairman Elmer said that if the public had thought the recommended zone classification would be higher, more people may have come to the hearing to comment. He restated that in assigning a straight zone, there would be less control over the amount of open space and other amenities that could be requested in a planned zone. The developer would only be bound to meet basic Code bulk requirements.

Commissioner Grout agreed with statements made from both sides but was adverse to excluding the public out of any rezone process. Rezoning to a higher density while advertising a lower density could be regarded as misleading. He was more inclined to go with the lesser RSF-R zone classification and acknowledge the error later.

Commissioner Driscoll wondered what the distinction was between this request and the last request for Applewood Heights.

Chairman Elmer said that the history of the area wherein the Westwood Ranch was located was one of controversy over density. Little, if any, negative impact had been seen with development in the Spring Valley/Applecrest area.

Ms. Portner clarified that the RSF-4 zoning proposed for Applewood Heights had been deemed appropriate for the area and represented the most closely aligned City zone to the County's R2 zone. Westwood Ranch discussions involved changing the City's zoning to a density higher than its County counterpart.

Chairman Elmer felt that both the RSF-4 or RSF-5 zones could be defended to City Council based upon the direction of the *Growth Plan*. It was rare that an "upzone" following an annexation was justified.

Mr. Thornton provided examples of similar situations in the subject area but said that they were zoned without the benefit of the *Growth Plan's* direction.

Commissioner Coleman said that he preferred going with an RSF-4 zone.

MOTION: (Commissioner Coleman) "Mr. Chairman, on item ANX-1996-267, I recommend that we forward this on to City Council with the recommendation of approval of the zone of RSF-4."

Commissioner Driscoll seconded the motion. A vote was called and the motion failed to pass with a 2-2 vote, Chairman Elmer and Commissioner Grout opposing.

MOTION: (Commissioner Grout) "Mr. Chairman, on item ANX-1996-267, I recommend that we forward this on to City Council with the recommendation of approval of zoning of RSF-R."

The motion died for lack of a second.

Commissioner Coleman wondered if there were some zone in the middle that would serve as a compromise. Mr. Shaver reminded the Planning Commission that it is making a recommendation only and as such a detailed explanation can be made in the motion. He said that whatever the recommendation, both sides will argue its merits.

Commissioner Coleman said that the lower zone density would make any rezone request by the developer an uphill fight.

Chairman Elmer said that it was typically the developer's responsibility to prove the merits of a rezone request. The RSF-R zone would be more administrative in nature since it was just the closest equivalent zone to what the County already had in place. If a higher density zone were granted, it would be akin to giving the petitioner a free rezone without any investment of time or resources to justify why the zone should be changed.

Commissioner Driscoll pointed out that in this case the petitioner was the City of Grand Junction.

Mr. Thornton noted that the *Growth Plan* recommended a density higher than the 3.3 units per acre that had been previously denied. He agreed that it should probably be left to the developer to justify whatever density was proposed.

Commissioner Driscoll restated his concern that the Planning Commission was asked to approve a zone that was obviously in error.

Chairman Elmer commented that an RSF-4 or RSF-5 could also be in error, depending on the plan that would eventually come before them.

MOTION: (Commissioner Driscoll) "Mr. Chairman, on item ANX-1996-267, I recommend that we forward this on to City Council with recommendation of approval for the zoning of RSF-2."

Commissioner Coleman seconded the motion.

Commissioner Driscoll clarified that the recommendation would be more in keeping with actual and expected development and could also be viewed as a holding zone until such time as an actual plan was submitted.

Chairman Elmer said that if that rationale were used, he would be more inclined to vote for the RSF-4, using the *Growth Plan* as guidance.

A vote was called and the motion failed with a 2-2 vote, Chairman Elmer and Commissioner Grout opposing.

Both Chairman Elmer and Commissioner Grout suggested going back to the RSF-4 designation, using the *Growth Plan* as justification.

MOTION: (Commissioner Coleman) "Mr. Chairman, on item ANX-1996-267, I recommend we forward this on to City Council with the recommendation of approval of a zoning of RSF-4."

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

VE-1997-076 EASEMENT VACATION--TOMKINS SUBDIVISION

A request to vacate a 20-foot ingress and egress easement located in lot 2 of Tomkins Subdivision.

Petitioner: Kathleen Tomkins
Location: 605 Meander Drive
Representative: Randy Christensen

PETITIONER'S PRESENTATION

Randy Christensen, representing the petitioner, indicated that the 20-foot ingress/egress had been used as a temporary access into the subdivision over lot 1 from Meander Drive. Lot 3 had since been resubdivided into two lots, with a common ingress/egress provided for both lots onto Patterson Road. With dedication of the latter access easement, there was no longer a need for the temporary access over lot 1. No utilities were located in the temporary easement.

STAFF'S PRESENTATION

Kathy Portner concurred that the access was no longer needed, adding that since the future use of the property would be commercial, it was inappropriate to have access onto Meander Drive. *Development Code* criteria for a vacation request had been met and staff recommended approval.

PUBLIC COMMENTS

There were no comments either for or against the request.

DISCUSSION

Commissioner Driscoll commented that the vacation made sense. Chairman Elmer and Commissioner Coleman agreed.

MOTION: (Commissioner Coleman) "Mr. Chairman, on item VE-1997-076, a request for an ingress/egress easement vacation, I move that we forward this item on to City Council with a recommendation of approval."

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

VI. GENERAL DISCUSSION

Commissioner Driscoll asked for the status on the proposals to the appeals process. Ms. Portner explained that it had been brought up for second reading at the last City Council hearing. They chose to table the item until the new Council was in place. The item would be reheard on May 21. She understood that there would probably be opposition to the appeals process by the development community.

Ms. Portner suggested the Planning Commission select a liaison to represent them on the Westwood Ranch item as well as on the appeals proposal. Commissioner Grout volunteered as liaison for Westwood Ranch, but due to his brief tenure on the Commission, he felt that someone else should speak on behalf of the appeals proposal. Ms. Portner suggested that Commissioner Halsey or Vogel may be available to represent the Commission on this item.

Commissioner Coleman wondered if a breakfast or lunch meeting would be planned to allow planning commissioners the opportunity to meet with new Council members.

Ms. Portner said that Fall Valley had been approved by City Council in a 4-3 vote.

Chairman Elmer referenced the memo announcing the reception for Community Development Director candidates.

A brief discussion ensued on the impending live broadcasting of the Planning Commission hearings on channel 12.

Ms. Portner introduced Kerrie Ashbeck as the City's newest Development Engineer.

Chairman Elmer asked if the petitioner in item FPA-1997-074 could pursue legal remedy against his contractor, to which Mr. Shaver replied affirmatively. Chairman Elmer asked if the licensing board could pull the contractor's license. Mr. Shaver said that they could if the contractor was still in the area. The licensing board had no powers of extradition to bring him back.

Ms. Portner suggested that having the variance process available for planned zones will be reviewed during the *Code's* rewrite.

The hearing was adjourned at 9:10 p.m.