

**GRAND JUNCTION PLANNING COMMISSION**  
**Public Hearing - July 1, 1997**  
**7:00 p.m. to 10:10 p.m.**

**I. CALL TO ORDER**

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

In attendance, representing the Planning Commission, were: John Elmer (Chairman), Jeff Vogel, Joe Grout, Robert Gordon, Ron Halsey, Paul Coleman and Jeff Driscoll.

In attendance, representing Community Development staff, were: Kathy Portner (Acting Director), Kristen Ashbeck (Sr. Planner), Bill Nebeker (Sr. Planner), Dave Thornton (Sr. 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 42 interested citizens present.

**II. CONSIDERATION OF MINUTES**

Available for consideration were the minutes of the May 6 and June 3 hearings.

**MOTION: (Commissioner Halsey) "Mr. Chairman, I move that we approve the May minutes as submitted."**

Commissioner Driscoll seconded the motion. A vote was called and the motion passed unanimously by a vote of 5-0. Commissioners Halsey and Vogel abstained from voting.

**MOTION: (Commissioner Halsey) "Mr. Chairman, I move that we approve the minutes of the June hearing."**

Commissioner Grout seconded the motion. A vote was called and the motion passed unanimously by a vote of 4-0. Commissioners Coleman, Driscoll and Chairman Elmer abstained from voting.

**III. ANNOUNCEMENTS, PRESENTATIONS AND/OR PRESCHEDULED VISITORS**

Chairman Elmer noted that items PDR-1997-109, FPP-1997-091, and VE-1997-110 had been pulled from the evening's agenda and would not be heard.

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

**CUP-1997-102 CONDITIONAL USE PERMIT--OVERHEIGHT FENCE**

**A request for approval to build a 7-foot privacy fence on the common property line between two lots where the maximum height limit per section 5-1-5.A.3 is 6 feet.**

**Petitioner: Payne/Paregien**

**Location: 410 Mesa Court/445 Hall Avenue**

**Representative: Joyce Payne**

**PETITIONER'S PRESENTATION**

Nancy Paregien, co-petitioner, began her presentation by showing slides depicting the area between the two properties where the proposed fence would be located. Depicted in the slides were 6-foot and 7-foot markers along the property line to provide a visual illustration of how the two fence heights would be perceived by her and the adjacent property owner. She plans to construct a 6-foot high solid, white PVC privacy fence with an additional one-foot trellis atop the privacy fence. The fence would be attractively designed and due to the two lot configurations, it would not be seen by other neighbors. Ms. Payne, the adjacent neighbor and co-petitioner, supported the proposal.

### **QUESTIONS**

Commissioner Driscoll asked if any comments had been received from any of the other neighbors, to which Ms. Paregien responded negatively.

Commissioner Halsey asked if the fence would be located exclusively between the two properties, to which Ms. Paregien responded affirmatively.

### **STAFF'S PRESENTATION**

Kathy Portner reviewed the request as outlined in staff report dated June 25, 1997. She said that the Code recognized instances where fences above 6 feet may be warranted and said that the request met the criteria of a Conditional Use Permit. She confirmed that the fence would only be visible to the two property owners and that vegetation bounded the property line to either side. The petitioner would have to secure a building permit for the 7-foot fence. Staff recommended approval of the request for the fence using the type of fencing materials described by Ms. Paregien.

### **QUESTIONS**

Chairman Elmer asked staff if the decision had been easier because of the one-foot trellis located atop the privacy fence. Ms. Portner replied that had been taken into consideration and suggested requiring the type of fencing proposed in any motion made.

### **PUBLIC COMMENTS**

There were no comments either for or against the proposal.

### **DISCUSSION**

Commissioner Halsey commented that the request met Code criteria and it seemed the fence would enhance both properties.

Chairman Elmer said that the one foot trellis would provide an attractive visual block without being imposing. He noted the absence of public opposition and could see no reason not to approve the request.

**MOTION: (Commissioner Vogel) "Mr. Chairman, on CUP-1997-102, I move we approve the Conditional Use Permit for the 7-foot fence as proposed."**

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

### **MS-1997-104 MINOR SUBDIVISION--M&W MINOR SUBDIVISION**

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

**Petitioner: William and Marie Irwin**

**Location: 2806 Orchard Avenue**

**Representative: Marie Shaffer**

### **PETITIONERS' PRESENTATION**

Marie Irwin, co-petitioner, was in agreement with the staff analysis and offered no further testimony.

### **STAFF'S PRESENTATION**

Mike Pelletier pointed out the site plan and briefly outlined the request, surrounding zoning and uses and stated the minimum lot size (4,000 square feet) for the RSF-8 zone. The request met Code criteria for a minor subdivision and was consistent with the intent of the Growth Plan. Staff therefore recommended approval, noting that any construction would have to meet setback requirements for the zone.

### **PUBLIC COMMENTS**

FOR: There were no comments for the proposal.

#### AGAINST:

Patricia Martinez (559 Cindy Ann, Grand Junction) wondered what size homes would be built on the property. She said that since the lots were smaller, constructed homes would most likely be smaller and incompatible with those surrounding the property.

Lori Archuleta (551 Cindy Ann, Grand Junction), speaking on behalf of herself and Dorothy Thomas (553 Cindy Anne, Grand Junction) expressed concern over the availability of ample parking areas for the two new lots.

Chairman Elmer clarified that any structures built on the new lots would have to meet setbacks and other bulk requirements contained in the Code, including parking standards.

Mr. Pelletier elaborated briefly on the RSF-8 zone's setback requirements and stated that two on-site parking spaces were required for any single family residence.

John Shaver emphasized that the request included only consideration of the three lot minor subdivision. He explained that the Planning Commission's responsibility was to ensure that the request met the legal requirements imposed by the zone.

When questioned by Mr. Shaver, Mr. Pelletier stated that the surrounding neighborhood had been built to a lesser density than what the RSF-8 zone would have allowed. He reiterated that the application meets the density requirements of the zone even though the two new lots were smaller. When asked, he stated that no duplexes could be built on the lots.

### **PETITIONERS' REBUTTAL**

The petitioners offered no rebuttal.

### **DISCUSSION**

Commissioner Halsey commented that the request was a logical move for the property and would serve to clean up what was now an eyesore.

Commissioner Vogel asked the petitioners what their plans were for the property. Doreen Brandstoetter (929 Main Street, Grand Junction), representing the petitioners, said that the payment of back taxes and clean up efforts had been quite costly. The two new lots would be sold to help recoup incurred expenses.

Commissioner Driscoll asked staff if the project represented infill on existing city lots, to which Mr. Pelletier replied affirmatively.

Commissioner Vogel wondered how much conditioning could be placed on approval. He voiced his opposition to the placement of older HUD-approved manufactured housing on either of the two lots in

order to ensure some compatibility with adjacent properties and home types. Mr. Shaver said that federal law preempted regulation of placement of certain manufactured homes.

Commissioner Vogel reiterated his concern that because of their smaller size, the two new lots might be used for the placement of older manufactured homes which may not contribute to the neighborhood aesthetically.

**MOTION: (Commissioner Halsey) "Mr. Chairman, on item MS-1997-104, I move that we approve the minor subdivision."**

Commissioner Coleman seconded the motion. A vote was called and the motion passed by a vote of 6-1, with Commissioner Vogel opposing.

### **MS-1997-105 MINOR SUBDIVISION--HARUTUN WESTGATE MINOR SUBDIVISION**

**A request for a five lot minor subdivision in an I-1 (Light Industrial) zone district.**

**Petitioner: Edward Slater**

**Location: 712 Scarlet Avenue**

**Representative: David Smuin/Hydro Terra, Inc.**

### **PETITIONER'S PRESENTATION**

David Smuin, representing the petitioner, referenced the plat and noted the site's location. He briefly outlined his request as detailed in his narrative dated May 28, 1997. Mr. Smuin noted the surrounding uses and said that lots 1 through 4 would be marketed for office/warehouse uses, compatible uses for the Light Industrial zone. The request proposed to combine The Trade Center auto salvage lot with lot 2 of the SWD First Subdivision, then split the subject property into five lots. The purpose of combining the auto salvage lot with the property was to allow conveyance of a 30-foot flag strip along the east side of the auto salvage yard to the owner of the auto salvage business. The business had been using the 30-foot strip for many years and expressed an interest in owning it. Access to lots 1 through 4 would be via Scarlet Street. Mr. Smuin anticipated that development would occur on lots 1 and 3 first. The petitioner planned to pave only the portion of the ingress/egress easement needed for access to lots 1 and 3 when those two lots were developed. The remainder of the cul-de-sac would be constructed when lots 2 and 4 were developed but would be guaranteed to be improved within one year of recording the plat. All utilities are present and are located within the Scarlet Street right-of-way, utilities will be extended into the subject lots before the street is improved.

Drainage will be retained on site and a preliminary drainage plan and report had been submitted to staff for review. Drainage easements will be recorded on the final plat to accommodate on-site retention basins. Stormwater is expected to discharge from lots 1 through 4 into an SWD regional retention basin (location noted on the plat), discharging at less than historic rates. No signage is currently requested; sign permits will be obtained during development of the lots.

Mr. Smuin said that the petitioner was in agreement with staff comments and conditions for approval.

### **STAFF'S PRESENTATION**

Bill Nebeker thanked Mr. Smuin for his thorough presentation and added only that staff recommended approval subject to the following conditions:

1. An association must be formed prior to plat recordation. CC&R's must be filed with the plat that specify how the maintenance will be administered. The CC&R's are to be reviewed and approved by the City Attorney prior to recording.
2. A utility easement shall be dedicated within the entire ingress/egress easement.

3. A street plan and profile must be reviewed and approved by the City Engineer for the private ingress/egress easement, which must be improved or guaranteed to be improved prior to plat recordation.
4. All city utilities shall be extended to lots 2 and 4 prior to paving the ingress/egress easement.
5. The final plat shall include dedication of a drainage and stormwater retention easement on each lot. The boundaries of the easement on each lot shall encompass the area necessary for on-site retention as determined in the drainage report and shall be shown, labeled and defined on the plat with bearings and distances.

### **QUESTIONS**

Commissioner Vogel asked staff if any study had been conducted on expected traffic flows from larger vehicles when only lots 1 and 3 were planned for immediate development. Kerrie Ashbeck said that this had not been specifically reviewed. She expected that a gravel turnaround would be required prior to the development of lots 2 and 4.

### **PUBLIC COMMENTS**

There were no comments either for or against the proposal.

### **DISCUSSION**

Chairman Elmer and Commissioner Halsey commented that the request seemed straightforward. Commissioner Halsey suggested including Kerrie Ashbeck's comments as an additional condition of approval.

Chairman Elmer suggested verbiage for condition 6 to read, "A gravel cul-de-sac/turnaround area be provided when access to lots 1 and 3 is paved."

**MOTION: (Commissioner Halsey) "Mr. Chairman, on item MS-1997-105, I move that we approve the Harutun Westgate Minor Subdivision subject to the staff recommendations 1 through 6."**

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

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

### **FPP-1997-106 FINAL PLAN/PLAT--FALL VALLEY FILING #1**

**A request for approval of Fall Valley Filing #1, consisting of 35 residential lots on approximately 14.6 acres with a zoning of PR-2.9 (Planned Residential with a density not to exceed 2.9 units per acre).**

**Petitioner: Sonshine Construction/John Davis**

**Location: Southeast corner of 25 1/2 and F 1/2 Roads**

**Representative: David Chase, dba Banner Associates**

### **PETITIONER'S PRESENTATION**

David Chase, representing the petitioner, said that the final plan/plat for filing #1 followed the design and conditions of the preliminary plan. He briefly outlined the plan and location of the 35 single family lots, streets and open space. Two open space areas were planned for the subdivision. Entrance signage and landscaping will be placed in the open space area nearest the entrance; the larger 4.32 acre park will contain the subdivision's stormwater and irrigation ponds. Park amenities will include 3 picnic tables and a 6-foot-wide pedestrian path. Seven exercise stations will be placed at intervals

along the path. He noted that a tot lot will be constructed with filing #2. The first phase will include construction and full street improvements of 25 1/2 Road to the intersection of Fall Valley Avenue. The remainder of the road will be constructed to F 1/2 Road during the second phase of development. Mr. Chase said that the petitioner was in agreement with all staff requirements, including the condition to construct a detached sidewalk along 25 1/2 Road from the subdivision to F 1/2 Road.

### **QUESTIONS**

Commissioner Gordon asked for confirmation, which was provided, that the 16,000 square foot open space area nearest the entrance was to be used for entrance landscaping, signage and stormwater detention. Mr. Chase added that the area will detain water only during storms, with water ultimately flowing from this area to other discharge points.

Commissioner Gordon asked if the same thing was planned for the larger 4.3 acre parcel. Mr. Chase said that both the irrigation and detention areas in the larger parcel were designed to work together. In consideration of topographic elevations, they were separated into two distinct areas, with the irrigation storage located below the detention pond. The detention pond area, he said, would be landscaped with grass and be suitable as a playground.

### **STAFF'S PRESENTATION**

Bill Nebeker said that the petitioner's plans were complete and complied with the conditions of preliminary plan approval. With no outstanding issues, staff recommended approval of the final plan/plat subject to the following conditions:

1. Minor corrections are needed to the plat to provide appropriate dedicatory language for open space areas.
2. Change landscape plan to meet SSID standards. Show hydroseeding for sod areas and picnic tables uncovered and not located on pads.
3. All open space amenities shall be installed within one year of plat recordation.
4. Standard open space and school impact fees apply to this subdivision.
5. A 34 2-foot half-street shall be dedicated along 25 1/2 Road to provide sufficient right-of-way for a detached sidewalk.

### **PUBLIC COMMENTS**

FOR: There were no comments for the proposal.

#### AGAINST:

Chris Clark (615 Meander Drive, Grand Junction) said that the neighborhood located off Meander Drive was being "landlocked" by newly approved subdivisions. With Meander Drive being the only access out of his neighborhood, he wondered why no improvements had been planned for F 1/2 Road. Had consideration been given to F 1/2 Road impacts arising from all the new subdivision development? What would be allowed in the detention area nearest the entrance and who would maintain the landscaping? What type of street lighting was proposed, and how far apart would fixtures be placed? Could there be some type of restriction placed on open space lighting to keep it from disturbing the neighbors at night? Was there any provision for off-street parking? Mr. Clark also wondered what type of mitigation the petitioner planned for construction impacts such as dust and noise. Could the hours of construction be limited to minimize impacts to the existing neighborhood?

Kerrie Ashbeck said it was her understanding that F 1/2 improvements would be completed in conjunction with development of those filings abutting F 1/2 Road.

Mr. Nebeker stated that since the subdivision did not access F 1/2 Road and the traffic study determined that most vehicle trips were expected to travel south on 25 1/2 Road, no F 1/2 improvements were required of the developer.

Dr. Clark reiterated his concern that due to the substantial increases in traffic expected, it would become more difficult to exit onto Patterson Road via Meander Drive. Mr. Nebeker said that the subdivision had been designed to direct traffic away from F 1/2 Road. Even with improvements to F 1/2 Road, traffic along Patterson Road was expected to increase. He added that Patterson Road was still not even close to reaching its carrying capacity.

Chairman Elmer reminded Dr. Clark that the responsibility of the Planning Commission was to ensure compliance of the final plan/plat with the preliminary plan only.

Mr. Nebeker said that maintenance of the open space areas would be the responsibility of the subdivision's homeowners association.

Mr. Shaver said that no lighting of the open space areas had been proposed during the preliminary plan. If the developer decided to include lighting, the plan would have to first be amended and approved. With regard to noise and construction impacts, he said that local ordinances and state law limited the amount of noise that could reasonably be produced. Violations would be subject to criminal prosecution and civil remedy. Mr. Shaver said that the law also requires dust control measures be provided with construction activities.

Mr. Nebeker clarified that at least two off-street parking spaces were required for each single family dwelling. Street lighting would be installed at the intersections and spaced at 400-foot intervals along subdivision streets. Ms. Kliska added that street lighting is installed by Public Service Company and two style choices are offered. Fixtures are shielded on top. Mr. Shaver said that a style choice could be made a condition of approval. He suggested the petitioner be allowed to comment on this issue.

Mr. Clark said that he understood that there had been dumping on the subject property. He wondered if a geologic report had been submitted and, if so, did it address the possible existence of mill tailings on the property? Who would be responsible for remediation? Mr. Shaver said that if the developer sells the lots knowing that a problem exists, he would be strictly liable for subsurface conditions that he knew of. If more generalized conditions exist, responsibility and liability would fall to the individual homeowners.

Mr. Nebeker said that a geotechnical report had been sent to the Colorado Geological Survey. It was unclear whether a response had been received but he said that it was the general practice of the Colorado Geological Survey to follow the recommendations of the geotechnical report. Mr. Shaver said that a developer protects himself against liability by investigating soil conditions. That information is available to buyers of the lots.

Gene Taylor (633 Fletcher Lane, Grand Junction) noticed that the development had changed hands and wondered if such a transfer of ownership was legal, to which Mr. Nebeker replied affirmatively. Mr. Taylor said that he owned the property directly to the east of the subject parcel and wondered why no buffering/fencing had been provided to separate the project from his property. He had thought 25 1/2 Road was going to be completed halfway between Patterson and F 1/2 Road. Mr. Nebeker responded that during the preliminary plan review, it had been determined that 25 1/2 would not be paved all the way through until the second filing.

Mr. Taylor said that a survey discrepancy arose when surveying east to west versus west to east. This discrepancy resulted in a difference of 12 feet if surveyed east to west. He thought there could be a conflict between his survey and the one performed by the petitioner. He asked that the developer or his representatives meet with him to discuss buffering alternatives and the possible conflict which could arise from the two surveys.

### **PETITIONER'S REBUTTAL**

Mr. Chase responded: ***F 1/2 Road improvements***--early design layouts proposed access onto F 1/2 Road. Staff had felt that access onto an unimproved F 1/2 Road would be dangerous and asked that this access be eliminated. Since all subsequently proposed subdivision accesses originated from 25 1/2 Road, only 25 1/2 Road improvements were required. Mr. Chase felt that the 25 1/2 Road improvements would greatly improve circulation in the subject area. He reiterated that the traffic study had shown Patterson Road to be well below its carrying capacity. He noted the existence of a traffic signal at the 25 1/2 Road/Patterson Road intersection which provides for gaps in traffic and generalized traffic control. He felt that Meander Drive was more greatly impacted by traffic at the 26 Road/Patterson Road intersection.

***Park noise/lighting***--more passive open space had been planned and the construction of the tot lot has been deferred to the next filing in an effort to mitigate neighbor concerns over noise. To discourage evening activities, no park lighting was planned. The homeowners association would maintain park and open space areas.

***Street lighting***--street lighting was designed per Code requirements. The Police Department preferred as much lighting as possible. Fixtures generally directed light down and out and are shielded against upward luminescence.

***Parking***--provided per Code requirements.

***Construction impacts***--addressed previously by Mr. Shaver.

***Soils investigation***--reiterated that a soils report had been completed and submitted to staff and the Colorado Geological Survey. No identifiable hazards had been found.

***Buffering***--included in the open space provided in filing 1, and the 3 larger lots and ditch areas provided in filings 2 and 3 to the east. He agreed to meet with Mr. Taylor to discuss fencing of the three large easternmost lots adjacent to his property.

***Survey question***--the surveyor for Fall Valley was DH Surveys. Mr. Chase presumed that deeds referenced specific corner locations used in survey measurements. If Mr. Taylor felt that a discrepancy existed, Mr. Chase offered to have DH Surveys contact him. Mr. Chase was confident that the plat followed the recorded deeds of the property and was accurately represented.

Chairman Elmer asked if there would be trees provided in the detention areas, to which Mr. Chase replied affirmatively.

### **DISCUSSION**

Commissioner Halsey commended neighbors on their diligence in bringing concerns and issues to the attention of the Planning Commission. The petitioner had satisfactorily addressed neighbor concerns, and the final plan/plat seemed to conform to the preliminary plan. Commissioner Halsey commented that it appeared to be a clean project.

Chairman Elmer again noted that due process was available to neighbors on issues such as dust, noise and construction impacts via the Code and state laws. The buffer between the petitioner's and



Mr. Taylor's property was addressed via the provision of the 3 large lots along the eastern boundary of the Fall Valley property.

Commissioner Gordon wondered if the Planning Commission should address additional buffering of Mr. Taylor's property to the east. Mr. Nebeker said that the submitted plan/plat did not include that phase of development. He didn't think fencing the 3 larger lots would serve any purpose since Mr. Taylor's property was elevated and a fence would do little to obstruct views. Fencing along that property line may even prove to be an eyesore.

Chairman Elmer asked if any fencing was proposed with the subdivision, to which Mr. Nebeker responded negatively. Chairman Elmer noted that fencing often became controversial if not adequately maintained.

**MOTION: (Commissioner Halsey) "Mr. Chairman, on item FPP-1997-106, I move that we approve the final plat and plan for the Fall Valley Filing #1 subject to the staff recommendations, as revised, 1 through 5."**

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

Commissioner Driscoll rejoined the Planning Commission and was present for consideration of remaining items.

#### **PP-1997-075 PRELIMINARY PLAN--APPLE BLOSSOM HEIGHTS SUBDIVISION**

**A request for approval of 1) a Special Use Permit for low density housing in the Airport Critical Zone; and 2) a Preliminary Plan of Apple Blossom Heights Subdivision consisting of 17 single family lots on approximately 5.09 acres with a zoning of RSF-4 (Residential Single Family with a density not to exceed 4 units per acre).**

**Petitioner: Leo Warren**

**Location: Northwest corner of 28 Road and Cortland Avenue**

**Representative: Walter Eldridge**

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

Walt Eldridge, representing the petitioner, referenced the preliminary plan and provided a brief history of the site. The subject property, a 5.09 acre parcel, is located southwest of the Highline Canal. The parcel is buffered from 28 Road by lot 1 in the REA Minor Subdivision. He noted the location of a proposed irrigation pond which would also be used as a stormwater retention basin. Mr. Eldridge disagreed with the Airport Board's recommendation that the petitioner provide additional sound buffering to homes constructed on the 8 lots located within the Airport Critical Zone. He didn't feel that soundproofing homes on one side of the zone boundary would significantly benefit those homes.

He said that the zone did not seem to follow the runway path; if it had, he said the zone would completely miss the proposed subdivision. While soundproofing may be a good suggestion, he said, making it a requirement seemed unfair. Otherwise, Mr. Eldridge felt that the project was essentially straightforward and he was in agreement with staff conditions of approval.

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

Kristen Ashbeck said that the proposed density of 3.34 units per acre fell within the RSF-4 zone classification and was slightly less than the 4 to 7.9 units per acre advised by the Growth Plan. The subdivision would be accessed by Applewood Place eastward to 28 Road. Construction of curb returns and pedestrian ramps would be required for the Applewood Place extension, and the widening and/or improving of 28 Road may be required. She said that the proposed irrigation pond seemed to be sufficient both for irrigation purposes and stormwater retention. An additional drainage and soils report will be required to typify conditions during an irrigation season. Kristen Ashbeck said

that the proposed 10-foot pedestrian easement along the western property boundary must be widened to the City's standard of 12 feet.

With regard to the Airport's Critical Zone, she emphasized that the zone represented the airport's concern for safety as well as for noise mitigation. Since the airport was currently refining safety criteria for its Critical Zone, Kristen Ashbeck recommended that staff defer final determination of this noise issue. She said that similar language had been approved for filing #1 of the Knolls Subdivision. With this modification, staff recommended approval of the Special Use Permit to allow low density residential development within the Airport Critical Zone and approval of the preliminary plan subject to the following conditions:

1. Street plans must include extension of Applewood Place to the east property line and construction of the curb returns and pedestrian ramps as determined necessary by City Engineering, an analysis of the adequacy for the existing 28 Road pavement, widening of 28 Road as determined necessary by the analysis and City Engineering and grading and/or slope easements for construction of Applewood Place as necessary.
2. The required final drainage and soils reports must include additional soils borings or borings at the previous locations to establish groundwater conditions across the site and during irrigation season.
3. The final plat shall include a 12-foot pedestrian easement along the western property line north from Maureen Court to the northern property line.

### **QUESTIONS**

Commissioner Driscoll asked for clarification of street naming in the preliminary plan; Maureen Court and Maureen Street appear to be one and the same. Kristen Ashbeck agreed to double-check this and clarify street naming prior to final plan submittal.

Chairman Elmer referenced the wide Colorado-Ute/Public Service easement along the northern property line and asked if building envelopes for those lots had been checked to ensure they are buildable. Kristen Ashbeck said that both staff and the petitioner felt the lots to be buildable. Chairman Elmer expressed his concern over creating flagpole accesses.

### **PUBLIC COMMENTS**

FOR: There were no comments for the proposal.

### **AGAINST:**

John Ellis (676 - 28 Road, Grand Junction) said that he is currently experiencing problems with persons trespassing onto his property from the canal road and wondered how this might be remedied.

He felt that the proposed road was located too near the canal. Kristen Ashbeck said that the ditch company had requested fencing along the north boundary for that section of road located directly below the canal road grade.

Dick Proctor (500 South 10th Street, Grand Junction), manager of the Grand Valley Water Users Association (GVWUA), reiterated the ditch company's request for a fence be placed along the east side of the proposed subdivision near the ditch and lateral 2. The fence would in Mr. Proctor's estimation help protect children and pets from getting too close to the open water. He expressed concern over the width of the easement for lateral 2, adding that there may not have been enough easement provided to ensure adequate access for maintenance of the lateral. He asked that additional easement be provided along the west side of the lateral. He also stated that GVWUA's comments had included asking the petitioner to provide a "dead-end" sign at the entrance to the canal to help keep traffic off of the canal road.

**PETITIONER'S REBUTTAL**

Mr. Eldridge said that he'd met with Mr. Proctor. He noted the existence of a maintenance berm along the lateral which paralleled the east property line. Additional easement had been added to this and to the rear yards of lots bounding the west side of the lateral. As a possible solution to the GVWUA's access concerns, he proposed placing the road along the east side of the lateral rather than on the west side. If that became an option, the petitioner would agree to provide a footbridge across the ditch to allow east-west access. He commented that a portion of the lateral traversing Applewood Place would have to be piped (location noted on the map). Mr. Eldridge thought that the proposed pedestrian path would help direct foot traffic away from the canal road. He made no commitment towards the provision of a "dead-end" sign.

Chairman Elmer asked if the petitioner was in agreement with the GVWUA's fencing requirement for the section of roadway bordering the canal to the north. Mr. Warren replied from the audience that this requirement would pose no problems.

**DISCUSSION**

Commissioner Driscoll asked for a legal opinion on the petitioner's proposed mitigation of the lateral access. Mr. Shaver said that as long as the petitioner agreed to satisfy the needs of the canal company, it might be more appropriate to defer the condition until the final plan stage. He said that without review of the title work, he could not ascertain whether there had been an easement dedicated in conjunction with a previously platted subdivision as had been suggested by Mr. Proctor.

Chairman Elmer strongly suggested deferral of the airport's conditions until the final plan stage as well, to give the airport a chance to complete its criteria refinement. Mr. Shaver said that much of the airport's refinement was in response to new FAA regulations. He pointed out that failure to comply with airport soundproofing requirements may jeopardize the petitioner's ability to secure financing and insurance for lots located within or along the Critical Zone.

Commissioner Driscoll wondered if fencing was a standard requirement for subdivisions located along the canal. Kristen Ashbeck said that it was not a standard city requirement; the decision was generally left up to the developers. Chairman Elmer noted that on most properties the lots abutted the canal itself, not the road.

Kristen Ashbeck said that there may not be enough room on the subject property to construct the fence without an additional easement. She suggested that the fence might have to be placed within the canal easement. Mr. Shaver said that this question could be worked out between the petitioner and the canal company prior to final plan submittal.

Chairman Elmer wondered if a condition should be included which addressed the lateral ditch access question. Mr. Shaver responded that while it makes sense to impose a condition, a condition may not be necessary if the parties recognize and agree on what already exists as a legal right.

Commissioner Halsey said he would feel more comfortable if an agreement could be worked out between the petitioner and the canal company prior to the final plan stage.

Commissioner Driscoll stated that the petitioner was being put on notice that issues pertaining to the fencing, access and soundproofing would have to be resolved prior to any final plan approval.

A brief discussion ensued over whether to include specific conditions of approval addressing remaining unresolved issues. Mr. Shaver commented that if resolution of outstanding issues were conditioned as part of the preliminary plan approval, final plan approval criteria need only ensure compliance to the conditions of the preliminary plan approval.

**MOTION: (Commissioner Halsey) “Mr. Chairman, on item PP-1997-075, I move that we approve the Special Use Permit for the location of a low density residential development within the Airport Critical Zone in the proposed Apple Blossom Heights Subdivision subject to staff recommendation 1 as revised this evening.”**

Commissioner Coleman seconded the motion.

Chairman Elmer asked whether the Special Use Permit should be approved when approval was based upon ambiguous information. Mr. Shaver suggested deferring approval of the Special Use Permit until the final plan stage. He noted that the preliminary plan as submitted could not stand alone without the Special Use Permit. Kristen Ashbeck agreed but cautioned that if the Special Use Permit were denied during the final stage, the preliminary plan would have to be revised.

Commissioner Halsey agreed to amend his motion to read as follows:

**MOTION: (Commissioner Halsey) “Mr. Chairman, on item PP-1997-075, I move that we approve the Special Use Permit for the location of a low density residential development within the Airport Critical Zone in the proposed Apple Blossom Heights Subdivision, and that we will not be considering the soundproofing as part of the Special Use Permit.”**

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

**MOTION: (Commissioner Vogel) “Mr. Chairman, on item PP-1997-075, I move that we approve the preliminary plan for the Applewood Heights Subdivision subject to staff’s amended recommendations, to add a number 4 (to read) ‘Access to the east lateral ditch be properly addressed and an agreement with the ditch company be obtained.’ (Add) item 5, ‘We will address the soundproofing of residences within the Airport Critical Zone at the time of final plat.’”**

Commissioner Halsey seconded the motion.

Commissioner Gordon asked if the fencing issue needed to be addressed in the motion. Chairman Elmer said that the petitioner had agreed to provide fencing. Mr. Shaver said that the only outstanding issue relative to the fence seemed to be the availability of space, since the applicant has agreed to provide a fence and that could be resolved via an agreement between the petitioner and canal company.

Chairman Elmer asked if a revokable permit would be required if the fence were placed within a city-owned right-of-way. Mr. Shaver said yes but it would depend on where the fence was actually placed.

Commissioner Vogel agreed to amend his motion as follows:

**MOTION: (Commissioner Vogel) “Mr. Chairman, on item PP-1997-075, I move that we approve the preliminary plan for the Applewood Heights Subdivision subject to staff’s amended recommendations, to add a number 4 (to read) ‘Access to the east lateral ditch be properly addressed and an agreement with the ditch company be obtained.’ (Add) item 5, ‘We will address the soundproofing of residences within the Airport Critical Zone at the time of final plat.’ (And add 6 to read,) ‘That fencing east of lot 5 (block 2) along the northern boundary of Applewood Place, adjacent to the canal, to 28 Road be provided by the petitioner.’”**

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

A brief recess was called at 9:15 p.m. The hearing reconvened at 9:22 p.m.

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

### **VE-1997-107 EASEMENT VACATION--HERTZ SELL-A-CAR**

**A request to vacate an existing abandoned easement to clear up the owner's property title.**

**Petitioner: Reed Miller, Inc.**

**Location: 2455 Highway 6 & 50**

**Representative: Don Paris**

### **STAFF'S PRESENTATION**

Kristen Ashbeck noted the property location on maps provided and said that the easement vacations would clear the property title. The two easements mentioned in the staff review dated June 25, 1997 included one for access to a railroad switch and another for a ditch right-of-way. A third easement requested for vacation by the petitioner and included in the legal ad, provided a rail spur. Staff later found out that this easement was not located on the subject property. Kristen Ashbeck asked that this easement be specifically exempted in the Planning Commission motion. With no outstanding issues, staff recommended approval.

### **QUESTIONS**

Commissioner Driscoll wondered why the City had been named successor of interest in the vacation.

Mr. Shaver explained that the City may not actually be a successor but no other mechanism existed to publicly advertise and process the vacation.

Commissioner Driscoll asked if a quiet title action might have been more appropriate. Mr. Shaver replied that because there was no competing claim, a quiet title may not have been as appropriate an action. He felt that the vacation process in a public forum was more inclusive.

Commissioner Driscoll asked if the City was creating liability for itself, to which Mr. Shaver replied that since there were no competing claims and because there had been no utilization or activity on the easements for decades, the City need not be concerned about incurring any liability for the vacations.

Chairman Elmer asked if the railroad switch easement was to allow access to the railroad. Mr. Shaver explained the various entities which may have been involved but said that it was unclear since so much time had elapsed since the easement's creation.

### **PETITIONER'S PRESENTATION**

Don Paris, representing the petitioner, concurred with legal and planning staff comments. Since it was doubtful the easements had ever been utilized, vacating them would not affect activities occurring on the property. He predicted the current use would change and he said the prospective buyer didn't want anything clouding the title.

### **QUESTIONS**

Commissioner Vogel asked for clarification on leaving the rail spur easement out of the vacation consideration. Kristen Ashbeck reiterated that since the easement was located outside the property's boundaries, there was no need to include it in the vacation.

### **PUBLIC COMMENTS**

There were no comments either for or against the proposal.

**DISCUSSION**

Commissioner Halsey commented that the easements were arcane, unnecessary and probably of interest only to local historians.

**MOTION: (Commissioner Halsey) "Mr. Chairman, on item VE-1997-107, I move that we forward the vacation of the easements on the property located at 2455 Highway 6 & 50 to City Council with a recommendation of approval, with the exception of the Rio Grande rail spur easement because it is not located on this property.:"**

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

**VR-1997-108 RIGHT-OF-WAY VACATION--PALACE VERDES DRIVE**  
**A request to vacate the cul-de-sac at the end of Palace Verdes Drive.**  
**Petitioner: Harry Knapton II**  
**Location: 2320 Palace Verdes Drive**  
**Representative: David Younger**

**STAFF'S PRESENTATION**

Mike Pelletier pointed out the affected property on maps provided. While a 25-foot utility easement must be retained in the area of the right-of-way, the actual right-of-way was not needed because only one home currently used it for access. The three adjacent landowners had come to an agreement on the reapportionment of vacated lands (ownerships noted). With no outstanding issues, staff recommended approval of the request.

**PETITIONER'S PRESENTATION**

The petitioner offered no additional testimony.

**PUBLIC COMMENTS**

There were no comments either for or against the request.

**DISCUSSION**

Commissioner Halsey felt the request to be clean cut since all of the affected property owners were in agreement.

Commissioner Driscoll asked if there would be a conveyance of ownership of vacated lands to the affected property owners, to which Mr. Shaver replied affirmatively.

Mr. Pelletier said that legal descriptions for the three vacated sections were obtained along with a signed document detailing how those sections were to be conveyed. Mr. Shaver said that specific conveyance wording could be worked out by staff.

**MOTION: (Commissioner Halsey) "Mr. Chairman, on item VR-1997-108, I move that we forward this on to City Council with recommendation of approval subject to the dedication of the 25-foot utility easement."**

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

**VE-1997-112 EASEMENT VACATION--PROPOSED PHEASANT RIDGE SUBDIVISION**  
**A request for approval to vacate the southern 5 feet of an existing 30-foot utility, drainage and irrigation easement.**  
**Petitioner: Ed Lenhart/Just Companies**

**Location: Northwest of the F Road and 28 Road intersection**

**Representative: Jim Langford/Thompson-Langford**

### **STAFF'S PRESENTATION**

Kristen Ashbeck passed out copies of the developer's new subdivision plat containing revised easement dedication language. She recommended that the Planning Commission vacate not only the original 5 feet of the 25-foot easement but the remaining 25 feet as well, since recordation of the new plat would effect new dedicatory language for the filing. She indicated that the developer had met with the Spring Valley Homeowners Association and had resolved any outstanding issues. With the submission of the new plat, Kristen Ashbeck recommended approval of the request without any of the four conditions originally stated in the staff review.

### **QUESTIONS**

Chairman Elmer asked if the corner tract in the northwest corner was for stormwater detention, to which Kristen Ashbeck responded affirmatively.

Mr. Shaver elaborated that for many years the 30-foot easement had been treated as a 25-easement. He explained the legal ramifications involved in this misconception.

### **PETITIONER'S PRESENTATION**

Jim Langford, project engineer representing the petitioner, said that the problem was discovered during the installation of a manhole. He said that Mr. Proctor of the Grand Valley Water Users Association (GVWUA) had asked that they be mentioned in the new plat language, which they were.

### **QUESTIONS**

Chairman Elmer asked if it was known, with some assurance, where the utilities were currently located. Mr. Langford replied affirmatively.

### **PUBLIC COMMENTS**

FOR: There were no comments for the proposal.

AGAINST:

Judd Perry (2954 Beechwood Street, Grand Junction), a member of the Spring Valley Homeowners Association (HOA), said that the HOA had worked out a series of agreements between itself and the developer to protect access to the subdivision's irrigation line. The HOA's only outstanding concern was that its lawyer had not yet had a chance to review the dedication language.

Chairman Elmer suggested leaving staff condition 1 as a requirement for the developer pending final resolution with the HOA. Mr. Shaver said that there was ample time available to "massage" wording in any of the agreements prior to the City Council hearing.

Dick Proctor (500 South 10th Street, Grand Junction), manager of the Grand Valley Water Users Association (GVWUA), said that he had not yet seen the new plat. He just wanted to go on record as having requested that dedicatory language include the GVWUA.

Mr. Shaver provided a photocopy of the proposed dedication to both Mr. Perry and Mr. Proctor.

### **DISCUSSION**

Commissioner Driscoll felt the request to be an appropriate housekeeping measure.

Commissioner Vogel asked if the Planning Commission needed to make two motions, to which Mr. Shaver responded affirmatively.

**MOTION: (Commissioner Driscoll) “Mr. Chairman, on item VE-1997-112, I move that we forward the easement vacation on property in the vicinity of the northwest corner of 28 Road and Patterson Road with a recommendation of approval subject to staff’s conditions as to the 5-foot easement.”**

Commissioner Gordon seconded the motion.

Chairman Elmer asked if any of the staff conditions should be referenced in the motion. Mr. Shaver said that this was at the Planning Commission’s discretion.

Chairman Elmer suggested leaving in staff condition 1 but revising it as follows: “The dedication language of the irrigation easement on the final plat shall be acceptable to the Spring Valley Homeowners Association.” Commissioner Driscoll commented that conditions 1, 3 and 4 would be deleted in their entirety.

Commissioner Driscoll amended his motion as follows:

**MOTION: (Commissioner Driscoll) “Mr. Chairman, on item VE-1997-112, I move that we forward the easement vacation on property in the vicinity of the northwest corner of 28 Road and Patterson Road (to City Council) with a recommendation of approval subject to staff’s conditions as to the 5-foot easement. (Also,) the dedication language of the irrigation easement on the final plat shall be acceptable to the Spring Valley Homeowners Association.”**

Chairman Elmer asked if the revised language needed to be included in both motions. While Kristen Ashbeck replied that it wasn’t necessary, Mr. Shaver added that it wouldn’t hurt to do so.

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

**MOTION: (Commissioner Driscoll) “Mr. Chairman, on the same item and on the same property, I would like to include the same motion (to read, I move that we forward the easement vacation on property in the vicinity of the northwest corner of 28 Road and Patterson Road [to City Council] with a recommendation of approval subject to staff’s conditions as to the 25-foot easement. [Also,] the dedication language of the irrigation easement on the final plat shall be acceptable to the Spring Valley Homeowners Association.)”**

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

**ANX-1997-098 ZONE OF ANNEXATION--CLIMAX MILL #2 ENCLAVE**

**A request for approval to zone a parcel of land of approximately 92.84 acres currently being annexed to the City to PZ (Public Zone).**

**Petitioner: City of Grand Junction**

**Location: Between 9th and 15th Streets and Kimball Avenue to the Colorado River**

**STAFF’S PRESENTATION**

Dave Thornton said that the property had been an old mill tailings site for which clean-up was recently completed and the ownership transferred to the City from the State of Colorado. He said that the property was the site of a future park. While some “overhauling” of the Public Zone was expected, the zone classification was currently the most practical. Staff recommended approval.

**PUBLIC COMMENTS**

There were no comments either for or against the proposal.



**DISCUSSION**

Chairman Elmer said that the Nuclear Regulatory Commission reported that the site was officially clean.

**MOTION: (Commissioner Driscoll) "Mr. Chairman, on item ANX-1997-098, I move that we forward this on to the City Council with a recommendation of approval to zone the Climax Mill #2 Enclave as PZ."**

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

**VI. GENERAL DISCUSSION**

Kathy Portner said that a new Community Development Director had been chosen and would begin on August 11. She also noted a delay in scheduled televising of Planning Commission hearings pending repairs on a broken cable. Ms. Portner described City Council actions on recent Planning Commission items.

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