

**GRAND JUNCTION PLANNING COMMISSION  
NOVEMBER 4, 1997  
MINUTES  
7:00 p.m. - 10:00 p.m.**

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), Robert Gordon, Jeff Driscoll, Joe Grout, Ron Halsey and Paul Coleman. There is currently one vacancy on the Commission.

In attendance, representing the Community Development Department, were: Scott Harrington (Community Development Director), Kristen Ashbeck (Senior Planner), Kathy Portner (Planner Supervisor), Bill Nebeker (Senior Planner), and Dave Thornton (Senior Planner).

Also present were John Shaver (Assistant City Attorney) and Kerrie Ashbeck (City Development Engineer). Terri Troutner was present to record the minutes.

There were approximately 17 interested citizens present during the course of the hearing.

**I. APPROVAL OF MINUTES**

Available for consideration were the minutes of October 7, 1997.

**MOTION: (Commissioner Halsey) "Mr. Chairman, I move that we approve the minutes of the October 7 meeting as presented."**

Commissioner Driscoll seconded the motion. A vote was called and the motion passed unanimously by a vote of 4-0. Mr. Grout abstained from voting.

**II. ANNOUNCEMENTS AND/OR PRESENTATIONS**

Chairman Elmer noted the items which had been pulled from the evening's agenda. These items included CUP-1997-170, CUP-1997-173 and FPP-1997-126.

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

**CUP-1997-171 CONDITIONAL USE PERMIT (CUP)--RECYCLING CENTER  
A request for a Conditional Use Permit for a recycling center for the City of Grand Junction's curbside recycling program in a PZ (Public Zone) zone district.**

**Petitioner: City of Grand Junction**

**Location: 2549 River Road**

**Representative: Darren Starr**

**PETITIONER'S PRESENTATION**

Darren Starr, Public Works Superintendent for the City of Grand Junction, briefly reviewed the request. He noted the locations of the three buildings currently existing on site which would be used in the City's curbside recycling program. The facility would not be open to the general public for drop off. Gates would be installed at each of the two entrances and at the rear of the storage building. All gates would be screened. A 6-foot-high cedar fence was proposed for installation along the east side of the plastic and baling buildings to screen the area where trucks would be parked. Proposed screening would buffer the facility from general public view and from riverfront trail users.

### **QUESTIONS**

Commissioner Driscoll asked for confirmation that the facility would be closed to the general public, which was given.

Commissioner Driscoll asked if trees planted along the riverfront trail were between the trail and the river or the trail and the facility. Mr. Starr answered that the majority of the trees were located between the river and the trail; however, there were some trees located between the trail and the facility. Mr. Starr said that monies were available to increase natural, vegetative screening.

Chairman Elmer explained that the DOE had obtained an Army Corps of Engineers' 404 permit for the area between the trail and the river. Wetlands areas would be restored using plantings in this area. Chairman Elmer noted the existence of a temporary mill tailings storage facility located north of the proposed recycling site. He wondered if the tailings site should be included in the CUP for the recycling facility. John Shaver said that the tailing repository would be handled separately from the recycling center CUP.

### **STAFF'S PRESENTATION**

Kathy Portner said that the application met *Code* criteria for a CUP and was consistent with the intent of the City's *Growth Plan*. A 4-foot by 8-foot wall sign was proposed which would list, among other things, the type of items accepted by the facility. She recommended that the sign be considered part of the CUP. Staff recommended approval of the request as proposed.

### **QUESTIONS**

Commissioner Driscoll said that proposed sign verbiage might be misleading since the facility would not be open to the general public. Ms. Portner agreed and suggested posing the question to the petitioner. Mr. Starr answered that the sign was intended only to make the public aware of the program. If unclear, the verbiage could be changed to avoid potential confusion, i.e., "...for more information, please call..."

### **PUBLIC COMMENTS**

There were no comments either for or against the request.

**DISCUSSION**

Commissioner Halsey commented that the facility was a good use for the site. With proposed screening, the facility should prove to be an asset to the community.

Chairman Elmer expressed support for the recommended change in sign verbiage.

Commissioner Driscoll said that by listing the type of materials accepted the facility would sound like a drop-off spot.

Chairman Elmer asked if there were any bins located in the front of the facility. Mr. Starr said that a drop-off location had been established by the City approximately 1/8 of a mile from the site. This publicly accessible drop-off location would be retained.

**MOTION: (Commissioner Coleman) "Mr. Chairman, on item CUP-1997-171, I move that we approve the Conditional Use Permit as proposed."**

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

**PP-1997-175 PRELIMINARY PLAN--FAIRCLOUD SUBDIVISION**

**A request for 1) approval of the Preliminary Plan for Faircloud Subdivision consisting of 49 single family lots on approximately 16.54 acres in an RSF-4 (Residential Single Family with a density not to exceed 4 units per acre) zone district, and 2) a Special Use Permit for residential use within the Airport Critical Zone.**

**Petitioner: J.P. White Construction**

**Location: Northeast corner of F 1/2 and 30 Roads**

**Representative: LanDesign**

Scott Harrington provided a brief status report on the item. He said that when the item was originally denied by the Planning Commission, the petitioner had filed an appeal. The Community Development Department (CDD) had allowed submission of a revised plan now under current consideration. Should the revised plan be approved, the appeal of the first proposal would be dropped. Mr. Harrington said that the CDD had conducted further research into developments located within Airport Critical Zones and, as a result, was changing its position and recommendation. The CDD now recommended zero development for Airport Critical Zones, whereas before it had recommended a density of no more than two units per acre. Additionally, the petitioner's lack of planned open space was inconsistent with the intent of both the *Code* and the *Growth Plan*.

Commissioner Driscoll wondered if the item should be tabled until a formal policy on development within Airport Critical Zones could be drafted. Mr. Harrington said that tabling was an option available to the Planning Commission.

### **PETITIONER'S PRESENTATION**

Tom Volkmann, attorney representing the petitioner, referenced an overhead transparency depicting the project's Preliminary Plan. He said that the direction given by the Planning Commission in the motion for denial of the original submittal had been to reduce the density of those lots located within the Airport Critical Zone to no more than two units per acre. The revised plan complied with this directive. Mr. Volkmann briefly introduced Darlena White, petitioner and Mike Best of LanDesign. He asked that he be allowed to reserve further testimony until the rebuttal portion of the hearing.

Commissioner Driscoll asked Mr. Volkmann to highlight the differences between the original and revised plans. Mr. Best elaborated on changes that had been made in Bentley Drive and said that the only other change had been in the reduction of lots located within the Airport Critical Zone.

Commissioner Driscoll asked to what extent had the number of lots been decreased. Mr. Best replied that the total number of lots had decreased from 57 to 49. Lot sizes within the critical zone were approximately double what they had been in the original plan.

### **STAFF'S PRESENTATION**

Kristen Ashbeck said that an airport representative was present in the audience. She said that when the property's original zoning had been designated, airport concerns had not been given sufficient consideration. Both Walker Field and the Federal Aviation Administration (FAA) oppose any residential development occurring within Airport Critical Zones. The *Airport Master Plan* was not completed prior to adoption of the *Growth Plan*, so airport issues had not been appropriately addressed. References to H.B. 1041 were given which further supported zero residential development within Airport Critical Zones. FAA Advisory Circular 150 further stated that residential development was inappropriate for 65+ Ldn contours. The latter noise level contour applied to all lots located within the Airport Critical Zone. The project's remaining lots were all located within the 60+ Ldn contour, triggering the need for sound suppression mitigation.

Due to the project's failure to demonstrate compatibility and taking into consideration airport concerns, staff recommended denial of the Special Use Permit. (Denial of the Special Use Permit would automatically prevent further consideration of the Revised Preliminary Plan.) Ms. Ashbeck said that the lack of open space and the shallow lot depths of some of the southern lots raised additional concerns. She elaborated that single family subdivisions approved over the last year had generally provided an average of 10 percent open space based on gross acreage. Citing *Code* section 6-1 and sections of the *Growth Plan*, she said that statements contained within those documents generally promoted the provision of open space.

### **QUESTIONS**

Commissioner Driscoll asked if H.B. 1041 had been enacted into law, to which Ms. Ashbeck responded affirmatively.

Commissioner Driscoll asked if the 10 percent open space provision had included developments within straight zones. Ms. Ashbeck said that this had primarily included planned zones.

Commissioner Driscoll said that given present concerns over lot depth, he wondered if the 8,500 square-foot minimum lot size for the RSF-4 zone was too small. Ms. Ashbeck said that for this entirely detached single family residential development, it was possible that the lot size minimum was inadequate. She said that a planned development option had been discussed with the petitioner, however, no interest in such an option had been expressed by the developer.

Commissioner Driscoll asked if there were any federal or state laws prohibiting development within Airport Critical Zones. Mr. Shaver was unaware of any laws specifically addressing this issue; however, the aforementioned 1041 regulations and FAA regulation did address generalities which indicated that residential development was inappropriate. Mr. Shaver said that the City was a co-sponsor of FAA airport grants, and continued financial viability of the Walker Field Airport was potentially at issue. Airport funding could be jeopardized if FAA guidelines are not followed. Of additional concern was the possible risk in financing homes constructed within an Airport Critical Zone.

Commissioner Driscoll asked if the City would be subject to liability in a worst-case scenario, e.g., aircraft crash, if such a development were allowed to occur. Mr. Shaver said that aviation easements generally release municipalities from liabilities, title policies and plat verbiage also put homeowners on notice that the risk of accidents is increased in such zones.

Commissioner Coleman wondered if Airport Critical Zones were specifically mentioned in title policies. Mr. Shaver said that aviation easements were recorded; however, he was unsure whether the easements delineated specific airport zones.

Chairman Elmer said that one of the FAA grant conditions was that the City would take appropriate measures to restrict uses adjacent to the airport. While this would seem to represent a binding condition, he observed that it had never been directly included in the *Zoning and Development Code, Growth Plan* nor any associated policies. Chairman Elmer asked if the grant condition would provide adequate direction, given the City's participation in grant applications. Mr. Shaver replied affirmatively.

Commissioner Halsey asked if there had been any discussion with the petitioner concerning possible density increases in the buildable portion of property if property within the Airport Critical Zone were left open. Ms. Ashbeck said that while this was a possibility, the petitioner did not want to discuss it. She added that since the density was still based on gross acreage, the overall density still could not exceed 4 units per acre.

Chairman Elmer asked whether the City had formulated a policy or made a determination on the type(s) of use(s) appropriate for Airport Critical Zones. Ms. Ashbeck said that the City would defer in part to the uses outlined in H.B. 1041.

Commissioner Driscoll asked if H.B. 1041 was binding on the City and County governments. Mr. Shaver said that while generally binding through the County Powers/Landuse Act, it allowed for some local jurisdictional options. When asked if local governments could adopt more stringent regulations than those within the house bill, Mr. Shaver responded that this was an option available to the City.

Dennis Wiss, Director of Operations for the Airport Authority, said that safety was of paramount concern. He said that the concerns were also corroborated in H.B. 1041, FAA Advisory Circular 150 and in a recently received letter from Denver's FAA district office (copies included with planning commissioner packets). The FAA letter requested that no development whatsoever be allowed within the Airport Critical Zone. With regard to H.B. 1041, he said that when the state passed its mandates, it presumed that local agencies would handle the enforcement. Mr. Wiss said that the subject property was located within 1 1/2 miles of the primary runway. He recalled an incident where an aircraft had made an emergency landing in a cornfield at 29 1/4 and F 1/2 Road, 3/4 of a mile from the subject property. The Airport had information from the National Transportation Safety Board (NTSB) documenting the number of aircraft accidents occurring within one mile of an airport.

Mr. Wiss further stated that grant applications contained a number of conditions and grant approval was always subject to the airport's compliance with those conditions. The Airport must attest to its active involvement in ensuring compatible land development around the Airport. Failure to comply with this criteria would jeopardize future grants. Loss of grant monies would force the Airport to seek funding from the City/County governments. While not opposed to growth per se, the Airport must oppose inappropriate development to ensure its continued viability.

Chairman Elmer asked if the recently adopted Airport Master Plan addressed the extension of the main runway (1129). Mr. Wiss said that a 1,500 extension of runway 1129 was planned to the east. The extension would not further encroach upon the subject property. Chairman Elmer asked if the extension would impact the existing Thunder Mountain Elementary School. Mr. Wiss said that existing structures would be grandfathered.

Chairman Elmer asked if the 4,000-foot-wide zone was based on some scientific calculation. Mr. Wiss explained how the zone's measurement was determined.

### **PUBLIC COMMENTS**

There were no comments either for or against the proposal.

### **PETITIONER'S REBUTTAL**

Mr. Volkmann read into the record and submitted to staff a letter received from the branch manager of Pacific American Mortgage Company. The letter stated that B & B Appraisal and Meridian Land Title Company had been contacted concerning the Airport Critical Zone designation. Neither of these companies nor Pacific American Mortgage expected lendability problems for homes constructed within the airport zone. Mr. Volkmann noted the existence and proximity of the nearby Palmyra and Highline Estates subdivisions which had a density of approximately 3.75 units/acre. Directly south was Lauradale subdivision at approximately 4.1 units/acre. To the west lay Brookwood subdivision at approximately 4.43 units/acre. He asserted that all of the Palmyra and Highline Estates subdivisions and the northern portion of the Brookwood subdivision were contained within the Airport Critical Zone. Mr. Volkmann reiterated the petitioner's compliance with previous Planning Commission recommendations to reduce the density within this zone to 2 units/acre. To prohibit development altogether when so much other development existed within the Airport Critical Zone was unfair and didn't make sense. Mr. Volkmann pointed out the lack of accidents occurring since any of these other

subdivisions had been approved. He added that the planned zone option had been discussed; however, neither a rezone nor a revision of the plan was desired by the petitioner.

Mr. Volkmann was unaware of any policy being formulated by City Council on development within Airport Critical Zones. He presumed that future policy would be determined, at least in part, by the outcome of the current request. He said that the primary concern seemed to revolve around the mitigation of noise impacts. To address those concerns, the petitioner was willing to provide whatever soundproofing measures were required by airport officials. Mr. Volkmann read a statement from FAA Advisory 150 which indicated that the tables provided therein did not represent a determination of acceptable or unacceptable land uses. That determination was left up to local jurisdictions which suggested a level of flexibility. Since neither the *Code* nor the *Growth Plan* prohibited residential development within this zone, that level of flexibility should still be intact. Mr. Volkmann said that the letter received from the FAA and included with planning commissioner packets never specifically stated that funding would be cut off if residential development occurred within the Airport Critical Zone.

### **QUESTIONS**

Commissioner Driscoll asked for the current status of the application to the sanitation district. Mr. Volkmann said that the developer had received a petition for annexation from the sanitation district. The developer, however, was hesitant to submit the petition due to the expense as well as the uncertainty of the current development proposal. The petitioner would have no problem making this a condition of development approval.

Commissioner Driscoll asked if the sanitation district had given any indication that the proposal met the district's criteria for annexation. Mr. Volkmann replied that while nothing had been received in writing, conversations and the forwarding of the petition from the sanitation district seemed to imply that annexation criteria had been met.

Mr. Best said that he had met with the district's engineer and no problems had been expressed at that time.

Commissioner Driscoll asked how noise would be mitigated since specific details had not been included in the petitioner's narrative. Darlena White said that whatever soundproofing measures were deemed necessary by the airport would be incorporated into the project.

Commissioner Driscoll reminded Mr. Volkmann that it was up to the petitioner to prove compliance with Special Use Permit criteria. Mr. Volkmann said that the project's compatibility should already be demonstrated via the number and type of homes already constructed within the Airport Critical Zone. It did not appear to him that H.B. 1041 nor any other regulation specifically prohibited construction within this zone as evidenced again by the number of homes already there.

Commissioner Halsey said that the airport's primary concern was safety, not noise mitigation. Mr. Shaver expounded upon this and read excerpts from *Code* section 5-11-1. He said that local governments recognized and accepted H.B. 1041 as a standard.

### **DISCUSSION**

Commissioner Coleman remarked that while some of the surrounding subdivisions were wholly contained within the Airport Critical Zone, only a portion of the petitioner's property was affected. Since the petitioner demonstrated compliance with original Planning Commission directives, to alter that position now seemed to punish the developer.

Commissioner Halsey noted that approval would only add to an existing problem.

Commissioner Coleman said that development in the area hadn't yet proven to be a problem. Forcing the petitioner to completely give up a portion of her land seemed unfair.

Commissioner Driscoll said that while he agreed in part, the issue was more whether residential versus other types of development were appropriate for lands contained within Airport Critical Zones. Using *Code* section 6-1-1 as a guide, it was unclear whether the goals of this section were being adequately met.

Commissioner Coleman suggested tabling the item until City Council could formulate a policy or provide more clear-cut direction on this issue.

Chairman Elmer discouraged tabling the item since it was unclear how long such a policy would take to develop.

Mr. Shaver remarked that City Council policy may not necessarily address Planning Commission concerns. He also suggested that City Council may be looking for direction from the Planning Commission as its advisory body. He suggested that a final decision by the Planning Commission was appropriate. Advisory comments could be added to the decision if the Planning Commission so chose.

Chairman Elmer said that with the existence of so much surrounding higher density development, he could see no practical reason to deny the project as proposed. He felt that Special Use Permit criteria had been met and leaving a gap between existing development did not seem to promote the safety and welfare of anyone. Chairman Elmer expressed support for continued research into the larger remaining land areas to determine the type of development appropriate for the critical zone.

**MOTION: (Commissioner Coleman) "Mr. Chairman, on item PP-1997-175, I move we approve the Special Use Permit for Faircloud Subdivision for residential use within the Airport Critical Zone."**

The motion failed for lack of a second.

**MOTION: (Commissioner Halsey) "Mr. Chairman, on item PP-1997-175, I move that we deny the Special Use Permit for the Faircloud Subdivision for residential use within the Airport Critical Zone."**

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



Chairman Elmer explained that the petitioner still had the right to appeal.

A brief recess was called at 8:27 p.m.. The hearing reconvened at 8:33 p.m.

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

### **VE-1997-172 VACATION OF EASEMENT--CANYON VIEW SUBDIVISION**

**A request to vacate various drainage, utility and irrigation easements in Canyon View Subdivision, Filings 4 and 5.**

**Petitioner: Thomas & Sun**

**Location: Canyon View Subdivision Filings 4 and 5**

**Representative: Larry Beckner**

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

John Thomas, representing the petitioner, noted locations of the subject easements on the map provided. The vacation, according to Mr. Thomas, would clear up a number of temporary and other easements no longer required by the development. Utilities and access serving the McCallum property to the north would be provided by easements located within Outlot A.

#### **QUESTIONS**

Chairman Elmer asked if the petitioner was in agreement with staff's conditions, to which Mr. Thomas replied affirmatively.

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

Bill Nebeker clarified that condition #2 should reflect "potable" rather than "irrigation" water. The ordinance, he said, would be recorded concurrently with the plat so that no lapse in easements would occur. With no outstanding issues, staff recommended approval subject to the following three conditions:

1. The new irrigation easement to be dedicated by separate instrument on Lot 18, Block 2, Filing 5, must be recorded concurrently with the plat and vacation ordinance.
2. There shall be no interruption of service as a result of the reconstruction of the potable water pipeline.
3. Outlot A in Filing 6 must be dedicated as an easement for public utilities.

#### **QUESTIONS**

Chairman Elmer asked if there would be any interruption in the reconnection of the water service line. Mr. Thomas answered that when this had happened in the past, property owners had been notified and the total amount of interruption time had been less than two hours.

#### **PUBLIC COMMENTS**

There were no comments either for or against the request.

#### **DISCUSSION**

Commissioner Halsey commented that the request represented a practical housekeeping measure.

**MOTION: (Commissioner Driscoll) “Mr. Chairman, on item VE-1997-172, I move that we forward a recommendation of approval to the City Council for the vacation of various easements within Canyon View Subdivision filings 4 and 5, subject to the three staff recommendations as modified this evening.”**

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

**RZ-1997-176 REZONE--PLANNED COMMERCIAL TO RETAIL BUSINESS**

**A request to: 1) rezone from PC (Planned Commercial) to B-3 (Retail Business) or 2) to revert to the original zoning of RSF-8 (Residential Single Family with a density not to exceed 8 units per acre) zone district.**

**Petitioner: Clark Enterprises**

**Location: 514 - 28 1/4 Road**

**Representative: John Clark**

**PETITIONERS' PRESENTATION**

Tim Foster, representing the petitioners, noted the site's location on the map provided. He briefly recalled how the Ernst retail outlet had secured approval for expansion of its outdoor storage area. The lot had been rezoned and subsequently paved with 8-inch-thick asphalt. A detention pond was located in the rear of the property. Ernst then filed for bankruptcy leaving the lot unused and leaving the petitioners to bear the \$160K expense of improvements. The new tenant of the Ernst building was not interested in the lot. Mr. Foster agreed that neither the current zone nor the property's former RSF-8 zone was appropriate for the site, given the direction of the *Growth Plan*. If reverted, he felt the site would have a negative value since no residential construction could occur without first removing the asphalt.

**QUESTIONS**

Commissioner Driscoll asked if the petitioners had any specific uses in mind for the site. Mr. Foster said that a less intense commercial use would be preferred.

Chairman Elmer asked why a commercial use was viewed as more appropriate than a residential use since, either way, some portion of the asphalt would have to be removed. Mr. Foster said that commercial uses could take advantage of the available parking area. A small commercial retail center would better allow the petitioners to recover their investment and expenses. The relatively small size of the site would serve to limit the scale of what could be placed there.

**STAFF'S PRESENTATION**

Kathy Portner provided a brief history of the approval. She said that while Planning Commission had originally recommended denial of the initial rezone request, City Council had overturned this decision but qualified it as to applying only to the Ernst Store. The ordinance stated that if the retailer terminated, abandoned or otherwise ended its operation, the site would

revert to its original zoning. Ms. Portner outlined the rezone criteria and said that the current request did not meet this criteria. The B-3 zone would encourage additional business development along the 28 1/4 Road corridor, development which would be incompatible with adjacent residential uses. Staff recommended denial of the rezone request and recommended reversion to the site's previous RSF-8 zone.

### **QUESTIONS**

Commissioner Coleman thought that a fence and substantial landscaping had also been approved with the original request. Ms. Portner said that the required screening and landscaping had never been installed.

Chairman Elmer felt that a B-1 zone would provide a more compatible transition between existing retail and residential uses. Ms. Portner said that while allowing both the less intense commercial and residential uses, the B-1 zone did not allow retail uses. A planned business zone would further restrict the site to specific business use; however, no plan had been submitted with the request.

Chairman Elmer remarked that the original zoning proposal had been an attempt to help mitigate Ernst's outdoor storage and blowing debris problems.

Commissioner Coleman seemed to recall that there had been significant neighborhood opposition to the original rezone request.

### **PUBLIC COMMENTS**

There were no comments either for or against the proposal.

### **PETITIONERS' REBUTTAL**

Mr. Foster said that the fence issue had been over whether to require a block wall or a hurricane fence. One resident spoke in favor of the block wall, another resident spoke in favor of a hurricane fence.

### **QUESTIONS**

Commissioner Coleman asked whether the petitioners had borne the entire cost of improvements, to which Mr. Foster replied affirmatively.

Commissioner Driscoll wondered if the petitioners had given any thought to the B-1 zone. Olga Clark, co-petitioner, asked for clarification on the difference between the two zones, which was explained by Chairman Elmer. Mr. Foster discussed differences in the two zones in greater detail with Ms. Clark and a use/zone matrix was supplied for further clarification.

Ms. Portner clarified that legal advertising had included staff's request for zone reversion. Mr. Shaver said that City Council ordinance verbiage could be interpreted to mean that the reversion was self-executing.

Chairman Elmer asked legal counsel if an alternate zone recommendation would be appropriate coming from the Planning Commission. Mr. Shaver answered affirmatively, provided that the recommended zone was for less intensive uses.

Commissioner Gordon remarked that City Council's original condition of approval meant that the property was already reverted to its previous zoning. Mr. Shaver said that staff had taken a more conservative approach by bringing the request before the Planning Commission and allowing for public comment.

Commissioner Halsey said that during Ernst's initial rezone request, neighbor concerns over noise, blowing debris and the degradation of the neighborhood had prompted the Planning Commission to require fencing and landscaping.

Mr. Foster concluded his brief conference with the petitioner and said that she was receptive to the B-1 zone alternative.

### **DISCUSSION**

Commissioner Driscoll felt that either a B-1 or planned zone would provide a more suitable transition zone. He expressed support for the B-1 zone alternative.

Chairman Elmer concurred. He elaborated that without a plan, no planned zone could be approved. If the petitioners chose to do so at a later date, they could come back before the Planning Commission with a more detailed plan.

Commissioner Gordon asked if sufficient legal advertising had taken place to allow for an alternative zone recommendation. Mr. Shaver replied affirmatively.

Commissioner Halsey empathized with the petitioners but maintained as he had in the original hearing that commercial zoning was inappropriate for the site. He expressed support for staff's reversion request.

Commissioner Coleman agreed with Commissioner Halsey's statements. He said that it had always been understood that rezone approval applied to Ernst only, that approval had been granted only to mitigate existing problems.

Commissioner Driscoll did not see any precedent being set by allowing a less intensive use on the property as a transition.

Mr. Shaver clarified that adequate public notice had been given and that advertising verbiage did allow for an alternate recommendation to a less intensive zone designation. He asked that any motion made should include references to the request meeting the criteria set forth in *Code* section 4-4-4.

Chairman Elmer noted that a more intensive use for the property had been condoned when Ernst was given approval to expand its outdoor storage area. Not to grant the owners approval for a less intense use would be inconsistent.

Commissioner Coleman commented that the problem had arisen from City Council's approval of the original request, not from any recommendation made by the Planning Commission.

Commissioner Halsey agreed that the inconsistency had been on the part of the City Council.

**MOTION: (Commissioner Driscoll) "Mr. Chairman, on item RZ-1997-176, I move that we recommend approval of the rezone from PC to B-3."**

Commissioner Halsey seconded the motion. Commissioner Driscoll clarified that the motion was being made solely to place it in the affirmative. A vote was called and the motion failed unanimously by a vote of 6-0.

**MOTION: (Commissioner Driscoll) "Mr. Chairman, on item RZ-1997-176, I move that we recommend reversion of the PC zone to B-1 in compliance with section 4-4-4 of the rezone criteria; the PC zone having, through the testimony presented tonight, having been in error at the time of adoption; the installation of facilities, changes and transitions in the area support that this property is in transition between a residential and heavily intensive commercial use; there is a need in the community for business and commercial property; the use would be compatible with surrounding areas and the neighborhood and would offer a good buffer between heavy commercial areas; the community would derive a benefit by having a transition area; and that it conforms with policy, the Code and the Master Plan."**

Commissioner Gordon seconded the motion. A vote was called and the motion passed by a vote of 5-1, with Commissioner Halsey opposing.

**ANX-1997-150 ZONE OF ANNEXATION--NORTHFIELD ESTATES ENCLAVE ANNEXATION**

**A request for a recommendation of approval to zone lands consisting of approx. 19.94 acres which is currently being annexed to the City to RSF-2 (Residential Single Family with a density not to exceed 2 units per acre) north of F 1/2 Rd & RSF-4 (Residential Single Family with a density not to exceed 4 units per acre) south of F 1/2 Rd.**

**Petitioner: City of Grand Junction**

**Location: 651 to 671 Larkspur Lane, 2648 Hollyhock Lane, and 2645 F 1/2 Road**

### **PETITIONER'S PRESENTATION**

Dave Thornton said that the recommended RSF-2 zone district was most closely aligned to its previous County R-1-B zoning. The RSF-4 designation, while a higher designation than its County R-1-B zone counterpart, was consistent with the density recommendation of the City's *Growth Plan*. Both zone districts met *Code* and *Growth Plan* criteria. Staff recommended approval of the zones of annexation.

### **QUESTIONS**

Commissioner Driscoll asked if any comments had been received from surrounding landowners. Mr. Thornton said that one call had been received concerning the actual annexation of the property but no comments had been received on the recommended zonings.

### **PUBLIC COMMENTS**

**FOR:** There were no comments for the proposal.

### **AGAINST:**

Paul Curlee (2645 F 1/2 Road, Grand Junction), who lives within the area designated for RSF-4 zoning, wondered how annexation of this area could occur without his consent. He submitted copies of a petition dated October 30, 1997 containing 11 signatures of residents opposed to the RSF-4 zone designation. Mr. Curlee felt that the increased density allowed in an RSF-4 zone would open the area up to higher density development and negatively impact the existing quality of life enjoyed by current residents.

### **PETITIONER'S REBUTTAL**

Mr. Thornton said that the annexation was in progress, that it had not yet been approved by City Council. He explained the requirement placed on the City to assign a zone designation and said that the RSF-4 zone had been selected for the southern property because it was consistent with *Growth Plan* density recommendations of between 4 and 7.9 units per acre. Staff felt the lower-end density within this range was more appropriate for the area. Mr. Thornton said that a petition for annexation had been circulated by a neighborhood representative who succeeded in garnering at least 51 percent of neighborhood approval. Annexation would allow extension of the sewer line to the Northfield Estates.

Mr. Shaver said that residents could still address City Council on the annexation question. He clarified that the current request would only designate a zone for consideration by the Council should the annexation be approved. Planning Commission is given jurisdiction over zones of annexation; City Council would make the final decision on the actual annexation and zoning.

Mr. Curlee expressed continued concern over what he felt was the incompatibility of the RSF-4 zone to the previous County zone. The southern lots, he maintained, were even less dense than lots located north of F 1/2 Road. Given this and the present topography, an RSF-2 zone designation would seem to be more appropriate.

Mr. Shaver explained that this was only the beginning of the process and explained the legal process. He also explained that zoning designations did not necessarily equate into development densities.

Commissioner Driscoll asked if the current County zone allowed for development of two units per acre, to which Mr. Thornton replied affirmatively.

### **DISCUSSION**

Chairman Elmer concurred with Mr. Shaver's comments. The RSF-4 zone designation would still be at the lower end of *Growth Plan* recommendations.

Commissioner Halsey did not believe the zone designation would alter the character of the area. Topography would further restrict the type and density of any development proposed for the area.

**MOTION: (Commissioner Halsey) "Mr. Chairman, on item ANX-1997-150, I move that we forward this on to the City Council with our recommendation of approval for zoning Northfield Estates Enclave Annexation to RSF-2 for that area north of F 1/2 Road and RSF-4 for the area south of F 1/2 Road."**

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

### **V. GENERAL DISCUSSION**

Mr. Shaver noted that normally elections for chairman and vice-chairman would take place in November. Due to the unofficial and temporary status of current Chairman Elmer and Commissioner Halsey, he suggested that the election be deferred until such time as the Planning Commission once again had a full complement of members.

Chairman Elmer indicated that no vice-chairman had been elected to serve in his absence since Mr. Vogel's term expired.

Commissioner Coleman nominated Commissioner Driscoll to serve as vice-chairman until an official election is held. Commissioner Driscoll agreed to serve if elected. Commissioner Grout seconded the nomination. A vote was called and the nomination was confirmed by a vote of 6-0.

Chairman Elmer asked if the new *Code* would address park standards in subdivision proposals. Mr. Harrington said that it would but specific wording had yet to be developed.

Chairman Elmer expressed concern over staff's recommendation to prohibit development within the Airport Critical Zone. While perhaps not applicable to the Faircloud proposal, prohibiting

development on properties which were wholly within this zone could be interpreted as a "taking." Mr. Shaver explained one of the misconception involved in takings issues. He said that a property's zoning did not allow carte blanche development to the zone's maximum density. He added that in the case of Faircloud subdivision, design alternatives had been available to the petitioner which possibly could have allowed the same density without impacting the Airport Critical Zone. Mr. Shaver also mentioned that in cases where the entire property was located within an Airport Critical Zone, developer options could include transfers of development rights (TDR's). He further described the law and Supreme Court Jurisprudence.

Mr. Harrington agreed that more attention needed to be given to this issue. The completion of the airport's Master Plan was a significant component in this effort, one which had not been available at the time the *Growth Plan* was developed. Airport issues and concerns along with associated land development issues would be addressed in the updated *Code*. The *Growth Plan* was expected to then be modified to reflect *Code* changes.

With no further business, the hearing was adjourned at 10:00 p.m.