

GRAND JUNCTION PLANNING COMMISSION
Public Hearing September 7, 1993
7:02 p.m - 10:40 p.m.

I. CALL TO ORDER

The public hearing was called to order by Chairman John Elmer at 7:02 p.m. in the City County Auditorium.

In attendance, representing the City Planning Commission, were Chairman John Elmer, Thomas Volkmann, Larry Seese, James Anderson and Stephen Laiche.

Commissioner Ron Halsey was absent.

In attendance, representing the City Community Development Department, were Larry Timm, Director; Kathy Portner, Planning Supervisor; Karl Metzner, Senior Planner, and Kristen Ashbeck, Associate Planner.

John Shaver, Assistant City Attorney, and Gerald Williams, City Development Engineer, were also present.

There were 83 interested citizens present during the course of the meeting.

II. APPROVAL OF MINUTES

MOTION: (Commissioner Anderson) "Mr. Chairman, I move that we approve the minutes of the previous meeting."

The motion was seconded by Commissioner Laiche.

A vote was called, and the motion passed unanimously by a vote of 5-0.

III. ANNOUNCEMENTS, PRESENTATIONS, AND/OR PRE-SCHEDULED VISITORS

Chairman Elmer announced that, per request of the petitioner, the following items would be tabled until the next meeting of the Planning Commission:

- Item 101-93 Resubdivision - S & J Subdivision
- Item 103-93 Replat - Lot 66, Block 13, The Ridges, Filing #6
- Item 82-93 Vacation of Easement - 487 28-1/2 Road

Chairman Elmer announced that Item 97-93, Preliminary Plan - Moses Subdivision, would be pulled from the agenda.

MOTION: (Commissioner Anderson) "Mr. Chairman, I move that we allow petitioners to table the following items previously set on our agenda: #82-93, #101-93 and #103-93; and allow item #97-93 to be pulled from tonight's agenda."

The motion was seconded by Commissioner Laiche.

A vote was called, and the motion passed unanimously by a vote of 5-0.

IV. GRAND JUNCTION PLANNING COMMISSION PUBLIC HEARING ITEMS FOR FINAL DECISION.

- 1. #83-93 FINAL PLAT/PLAN - NORTH CREST VILLAGE SUBDIVISION
Request for approval of the Final Plat/Plan for North Crest Village Subdivision, zoned PR-2 (Planned Residential, 2 units per acre).
PETITIONER: North Crest Development Company, Gregg Cranston
REPRESENTATIVE: Thomas Logue
LOCATION: NE corner of Hemlock Drive & 7th Street**

STAFF PRESENTATION

Karl Metzner reminded the Board that the actual public hearing on this item was held at the August Planning Commission meeting. At that time there were a number of unresolved technical issues relating to engineering concerns on the project. The Commission tabled the item until petitioner could resolve the engineering issues. Mr. Metzner said the City Development Engineer stated that the engineering issues have been resolved and all construction plans have been approved. Staff recommends approval of the project.

PETITIONER'S PRESENTATION

Tom Logue, representative for petitioner, said that he had nothing further to add to Staff's comments.

PUBLIC COMMENT

There was no public comment in favor of the proposal.

Irwin Stewart, 715 Galaxy Drive, came forward to speak against the proposal. He was concerned about the large amounts of dust that are being and will continue to be generated by the project.

PETITIONER'S REBUTTAL

Tom Logue, in his rebuttal, said that dust control had been discussed with Staff and that efforts were being made to control the dust. He said that 3,000 gallons per day of water were used over the last two days. He said a fire hydrant is being set next week which will give them another source of water.

QUESTIONS

John Elmer asked John Shaver, Assistant City Attorney, if there were any requirements to keep the dust down.

John Shaver replied that there was a City ordinance requirement dealing with the control of dust. Citizens could call Code Enforcement to request enforcement of the Code.

MOTION: (Commissioner Volkmann) "Mr. Chairman, on Item #83-93, Final Plat/Plan-North Crest Village Subdivision, I move that we approve this request, subject to Staff recommendations."

The motion was seconded by Commissioner Anderson

A vote was called, and the motion passed unanimously by a vote of 5-0.

- 2. #91-93 PRELIMINARY PLAN - RIDGE HEIGHTS SUBDIVISION**
Request for approval of a Preliminary Plan for Ridge Heights Subdivision, an 11 lot subdivision on 51.62 acres with a zoning of PR (Planned Residential).
PETITIONER: Barry Tharaud
REPRESENTATIVE: Rolland Engineering
LOCATION: The Ridges; north of Bella Pago

STAFF PRESENTATION

Karl Metzner gave an overview of the request and said that eight of the proposed eleven lots would have access onto Bella Pago Drive and the other three lots would access onto High Ridge Drive in the Ridges. He said that the eight lots would have septic systems instead of using the Persigo sewer system because of the rugged topography of the area. He explained that this would require a variance by the City Council with a recommendation by the Planning Commission to that effect. He said that there were no internal roads planned for the development.

Staff recommends approval subject to the completion of items contained in the petitioner's response to review comments and the following items:

- 1) Covenants to specify minimum construction requirements for all driveways for all-weather access, asphalt not being specifically required.
- 2) Septic systems be permitted for Lots 4-11, subject to positive soils testing. (This would be a requirement of the final platting.)
- 3) Right-of-way from Bella Pago to the landlocked parcel to the west should be provided, if one does not already exist.
- 4) Staff is evaluating the feasibility of trails through this development to tie onto the existing trails system in the Ridges and reserves the right to make additional comments regarding those trails at the final plat stage.

Mr. Metzner said that regarding the concerns about access through Country Club Heights to Bella Pago Drive, Staff recognizes that the access is a narrow, winding, steep road. He said that typically this access would be discouraged, however, he felt that the addition of eight lots should not significantly increase traffic on the road. Staff is not in agreement with the review comment of County Engineering that Bella Pago be connected to High Ridge Drive as Staff feels this could result in significant traffic coming from The Ridges through Bella Pago Drive.

Commissioner Anderson pointed out that the County Building Department stated that all units should have sewer and building envelopes due to the poor soil.

Karl Metzner responded that petitioner is asking for a variance on the sewer system requirement and petitioner will identify building envelopes based on the geology reports at the final stage.

Chairman Elmer asked if there was any way to deliver sewer service to the lots.

Karl Metzner said that each lot would need an individual service line and would require one or more pumping stations.

Commissioner Laiche questioned the access to the subdivision, and Mr. Metzner reiterated that only three lots would access through High Ridge Drive in The Ridges and the rest would access through Bella Pago.

Commissioner Laiche asked what kind of condition the road coming off of the highway was in.

Karl Metzner said that the road was paved but that it was steep and winding, approximately 22 feet in width and that sight distances were "not particularly good" in some places. He said that County Engineering had no records of any accidents on the road although there have been complaints of near misses. He said that Country Club Heights and Bella Pago Road are both in the County but the subdivision is in the City.

PETITIONER'S PRESENTATION

Barry Tharaud, 202 North Avenue, #144, petitioner, said that he was not a professional developer. He became involved in the project when he was looking for a home site for himself. He said that the aesthetics of the area attracted him to the property. He said that he felt that a low density project would be ideal for the property and that such a project would have the least possible impact on the neighborhood.

Tom Rolland, 405 Ridges Blvd., Rolland Engineering, representative for petitioner, gave a brief history of the property. He explained that the proposed piece of property was part of the original third addition to The Ridges and had been submitted and approved by Mesa County approximately 10 years ago. Subsequently, the Community Hospital Foundation received the entire third addition to The Ridges as a donation. The Community Hospital Foundation then resubmitted a plan which divided off 6 lots on High Ridge Court and Lot 7. Lot 7 was considered to be a marketable piece of developable property which they sold to petitioner and which was then annexed into the City.

Tom Rolland said that he felt that the use of septic systems on these sizes of lots within the 201 boundary was consistent with what the County was doing. He said that petitioner was aware that building envelopes would need to be located where some type of individual disposal system would work.

Mr. Rolland said that he had met with Ken Simms, County Traffic Engineer, and discussed his concerns. Mr. Rolland pointed out that the original approved Ridges plan for the property had called for 12 lots accessing onto Bella Pago. He said that Ken Simms' concerns were not with the proposed volume of traffic, but more with the poor design of the road as it does not meet current standards. Regarding the right-of-way issue of Bella Pago through to the west, Mr. Rolland said that the County is not in favor of that right-of-way going through.

QUESTIONS

Chairman Elmer asked how many lots were in the original proposal and Mr. Rolland responded that he thought 104 lots had been planned, including some multi-family units.

Chairman Elmer asked if access to Bella Pago had been granted on that original filing.

Tom Rolland responded that 11 lots of that plan would have accessed directly onto Bella Pago. He reiterated that in the current plan, only eight lots would access onto Bella Pago.

Commissioner Anderson asked Staff if there was any reason to feel that the County would not allow access to Bella Pago.

Karl Metzner said that he had heard some verbal concerns about the access, but if the proposal was approved, then they would be legally platted lots that would have to have access.

Tom Rolland said that Ken Simms felt the problem was an administrative one. He said that Ken Simms said the County could deny driveway permits. Therefore, petitioner planned on having the County make a decision on the matter before the final stage.

Commissioner Anderson asked for clarification of the number of trips per day that would be generated by the proposal.

Tom Rolland said that the County uses 10 trips per household. He said the road currently has 600-700 ADT existing at the bottom and there are 6 undeveloped lots already approved on Bella Pago and this proposal would add 8 more lots.

Chairman Elmer asked if any cost share to mitigate the problem had been discussed and Mr. Rolland said it had not.

Chairman Volkmann asked for more information about the right-of-way to the west of Bella Pago and Tom Rolland responded that there was a spur that could be tied into eventually but the County was opposed to that because it would generate even more traffic on Bella Pago.

Commissioner Seese asked if constructing a new local road between Bella Pago Drive and Hidden Valley Drive had been considered. Tom Rolland said that it would not be feasible at such a low density.

Chairman Elmer asked if initial soils test were favorable for septic systems. Mr. Rolland replied that some locations were and some were not and that building envelopes would have to be located.

PUBLIC COMMENT

There were no public comments in favor of the proposal.

The following area residents spoke in opposition to the proposal:

Bill Prakken, 215 Country Club Park; Donna Wakefield, 2429 Bella Pago Drive; Patti Schrader, 320 Country Club Park; Lori Thompson, 321 Country Club Park; Scot Houska, 312 Country Club Park, who presented a handout to the board regarding the original Ridges filing; Bill Smedley, 219 Country Club Park; Ann Houska, 312 Country Club Park, who also read a letter from David and Jackie Roberts; Margo Smedley, 219 Country Club Park; Muzz Ebright, 314 Country Club Park; Donna Roberts, 105 Country Club Park; Jay Wootten, 404 Country Club Park; and Louella Dumont, 327 Country Club Park.

They expressed their concerns over the hazardous driving conditions encountered on Bella Pago, Country Club Park and the intersection with Highway 340, especially in the winter. Several residents told of their own experiences with accidents and near-accidents on the roads in question.

Jim Golden, 207 Country Club Park, said that he was legal counsel for Laurie Hill, an adjacent property owner. He said Mrs. Hill owns property in the southeast corner of the proposal. He said that, for over 20 years, Mrs. Hill has had corrals, a horse arena and an access road on a section of property that is being claimed by petitioner. Mr. Golden said that there is a "possessory rights" problem concerning 0.65 acres of the proposal. He said that the Community Hospital Foundation knew about the problem since 1992 and that the problem has not been adequately resolved by Mr. Tharaud.

Chairman Elmer asked John Shaver, Assistant City Attorney, for his comments on the claim of adverse possession.

John Shaver said that individual claims are not relevant for purposes of defeating a planning action. Staff, when planning is initiated, asks from the petitioner some representation of ownership of the property and the City does not have a duty to inquire as to whether the title is "perfect." For purposes of a preliminary plan, such a claim would not effect the Commission's consideration since it is not a final action and the claim is between the individuals involved. The City can not settle the dispute nor take sides through the planning process.

Kathy Falconer, 2449 Bella Pago Drive, was concerned with the poor topography of the area. She said that in 1992 she attended a hearing in which Lot 7 was dismissed as being unsuitable for development. Ms. Falconer said she was an engineer with 15 years experience. She said that the area had "tremendous potential" for erosion, the drainage was poor and that her own home has needed four different septic systems because they have all failed.

Chairman Elmer asked for a show of hands from the audience of those against the proposal. The majority of the people present raised their hands.

PETITIONER'S REBUTTAL

Tom Rolland, in his rebuttal, agreed that the road was in poor condition, but he stressed that the poor conditions exist today regardless of whether the proposal is done or not. He said the proposal was for only 8 lots and that had to be kept in perspective. He said "if the road is slippery when it snows, it'll be slippery whether we build one house or 200 up there." He said that road improvements could worsen the situation because that would increase speed on the road.

Regarding the encroachment issue with Mrs. Hill, Tom Rolland said that the issue was being addressed and that a settlement offer had been made. He pointed out that the pins marking the corners of Mrs. Hill's property had been in place and documented for 20 years. He felt the issue could be resolved.

Barry Tharaud stressed that the land had been on the market and if neighbors had wanted to keep the area open and undeveloped for their use, then they could have purchased the property. He pointed out that even though the road was dangerous in the winter, the people in the audience still chose to live there. He said that the area was zoned PR4, which would allow 208 units. If access was forced through The Ridges, requiring capital outlay for infrastructure, then more units would be necessary to make it financially feasible.

QUESTIONS/DISCUSSION

Commissioner Volkmann asked what "possibilities were within the realm of reason" to correct the traffic problem.

Tom Rolland said that petitioner will ask the County if they feel a problem does exist and if mitigation is necessary. He was not proposing any mitigation at this time.

Chairman Elmer entered into the record letters from Terry Ireland, Charles and Joan Schneider, and Rex and June Taylor, that expressed their concerns with the unsuitability of using Bella Pago and Country Club Park for access to the proposal.

Commissioner Volkmann asked for comment from the City Development Engineer regarding the traffic situation.

Gerald Williams said that his department had felt the traffic increase would be so low that comment was not necessary. He said he felt that 11 lots on 52 acres was the best possible development that could be hoped for on the property. He agreed that the road was bad but he didn't feel the request was unreasonable. He said that Ken Simms' recommendation for denial was made after the City had made its comments and that they would be looked at and considered. Mr. Williams said that there either needed to be a moratorium to development put on the road or else major capital

improvements, which would require a large number of units being built. He said "you can't rebuild all the streets within the City limits and start anew with the current City standards."

Commissioner Seese asked how expensive it would be to build a road from the cul-de-sac at the end of Bella Pago to the end of the southwest corner of Lot 5. Tom Rolland said that neither the County, the City, nor area residents wanted a road there.

Commissioner Anderson asked since the County was involved, didn't they share an obligation for the development of that road? Gerald Williams replied that the County had limited funds.

Commissioner Anderson said it seemed that the County was saying "we can't afford development, therefore we don't want to see any development."

Gerald Williams agreed that was the approach the County seemed to be taking. He said if a new proposal would take a road "over the brink" into an unacceptable situation, then the City would prohibit a development from going in. In this case, the situation was already "over the brink" and he questioned whether the proposed development would really make it that much worse.

Commissioner Laiche said he would like to hear from Ken Simms before a decision was made and that he would like to table the item. Commissioner Volkmann said he felt Ken Simms had made his views clear already and that Mr. Simms would not support the proposal. John Shaver said that tabling an item was reserved for technical difficulties and he didn't feel it was appropriate in this case.

Chairman Elmer said that the motion could require that County approval be gotten before final plat.

Chairman Volkmann said that he didn't feel the neighbors were objecting to development of the area, but were only objecting to the traffic situation.

Chairman Elmer explained to the audience that this was only a preliminary hearing and that the proposal would be re-reviewed. He said there were specific procedures to follow to appeal the Commission's decision.

John Shaver explained to the audience how an aggrieved party could be granted "standing" as a basis for appeal.

MOTION: (Commissioner Volkmann) "Mr. Chairman, on Item #91-93, Request for Preliminary Plans for Ridge Heights Subdivision, I move that we forward this request on to City Council with a recommendation for approval subject to staff recommendations."

The motion was seconded by Commissioner Seese.

Karl Metzner pointed out that this was not a matter for recommendation.

AMENDED MOTION: (Commissioner Volkmann) "On this same item, I move that we approve this request subject to staff recommendations."

Amended Motion was seconded by Commissioner Laiche.

Commissioner Volkmann said he didn't feel this proposal was "tipping the scales" on the road issue. He felt that the new property owners would be just as interested in the safety of the area as current residents. Commissioner Anderson said he felt the proposal was "exacerbating an already impossible situation," but that petitioner had a right to develop the property. Chairman Elmer felt that some mitigation of the situation should be provided by the County such as guard rails, improved curves, etc.

Commissioner Anderson called the question.

The motion passed by a vote of 3-2, with Commissioner Anderson and Commissioner Elmer voting against the proposal.

MOTION: (Commissioner Anderson) "Mr. Chairman, on Item #91-93, the request for a variance on stipulated lots on Ridge Heights Subdivision allowing the use of septic system, I move that we forward this request to City Council with a recommendation of approval."

The motion was seconded by Commissioner Seese.

The motion carried by a vote of 5-0.

3) #93-93 FINAL PLAT MINOR SUBDIVISION & FINAL PLAN - LARCHWOOD INNS

Request for approval of the Final Plat of a 4 lot Minor Subdivision on 7.5 acres and approval of the Final Plan for Larchwood Inns, an 80 bed skilled nursing facility proposed for Lot 2 (3.24 acres). The property is located at the NW corner of 15th and Patterson with a zoning of Planned Business.

PETITIONER: Fredric Schumann

REPRESENTATIVE: Pat Edwards

LOCATION: NW corner of 15th Street & Patterson Road

STAFF PRESENTATION

Kathy Portner gave an overview of the proposal. She said that the property was zoned Planned Business and was originally planned for Hilltop Rehabilitation Hospital. Currently Lot 1 contains Hilltop File Center. The proposed final plan is for Lot 2. Petitioner would also like to have two expansion wings approved that would add an additional 40 beds to the facility. She said that petitioner had agreed to provide outdoor sitting areas and that the proposed landscaping was adequate. The Open Space fee was to be 2.5% for Lot 2 and 5% for Lots 3 and 4, for a total fee of \$16,725.

Kathy Portner said that approval of the Planned Business zone did not include a list of approved uses for the zone. Staff felt that a list of approved uses for Lots 3 and 4 should be required by the Commission.

Kathy Portner said that 13 additional parking places would be needed for the future expansion wings and that petitioner had proposed a location for the additional parking that could be reviewed and approved at the staff level.

Staff recommended that the approved uses for Lots 3 and 4 be those uses that are allowed or allowed by a Conditional Use Permit or Special Use Permit in the B-1 zone as listed in the Use/Zone Matrix of the Zoning and Development Code. This would need to be a recommendation to City Council.

Staff recommended approval of the final plat for 4 lots with the following conditions:

1. A notation on the plat must be included indicating access for Lots 3 and 4 must be a shared access point at the designated ingress/egress easement.
2. The ingress/egress easement on Lot 1 must be reconfigured to meet minimum turning radius standards.

3. Open Space fees of \$16,725 must be paid prior to recording the plat.
4. Require a 14' front lot line utility easement along Hermosa Avenue and along Patterson Road. Also require a 14' utility easement west of the "Exception as described in Book 1694, page 163 and 164 of Mesa County Records."

Staff recommended approval of the final plan for Lot 2 with the following conditions:

1. All entries, drives and turning radii be redesigned to meet standards.
2. All construction drawings incorporate the changes as noted in the response to review comments dated August 24, 1993.
3. The drainage report be reconciled with all associated drawings.
4. Eight additional parking spaces be provided on-site for Phase I (80 bed facility), the location of which to be reviewed and approved by Staff.
5. The revised plan include outdoor sitting areas accessible from the building and on-site sidewalks be provided for access around the site and access to the public sidewalks along the street.
6. The future expansion wings be revised to be the north and south wings with outdoor sitting areas to be provided off of the proposed "day rooms" in each of those wings. The approval of the expansion wings is contingent on 13 additional parking spaces being provided on-site, the location of which to be reviewed and approved by Staff.
7. The Plant Investment Fee for sewer service as calculated by the City Utility Engineer must be paid prior to issuance of a sewer clearance for construction. The PIF based on the information provided in the petitioner's response to comments is \$21,600.
8. The final construction drawings as they pertain to the existing irrigation line along Hermosa must be reviewed and approved by Grand Valley Water Users.

PETITIONER'S PRESENTATION

Pat Edwards, representative for petitioner, said the project will utilize shared access with the curb cuts that service the File Center Building. He discussed the proposed future expansion wings and

outdoor seating areas. He said petitioner was in concurrence with staff recommendations and comments except for the recommendation concerning specific uses for Lots 3 and 4.

Pat Edwards said that the property was zoned in 1983 for the Hilltop Rehabilitation Hospital. That plan for the hospital lapsed but the zoning remained in place. He said that the property "was zoned Planned Business without a plan." He said that Staff acknowledges that there are "no specific corridor guidelines or no comprehensive plan that effects this particular area of the property." He said that petitioner felt it was unreasonable for staff to limit uses for Lots 3 and 4 to B1. Petitioner felt that a compromise would be to agree that whatever use is eventually proposed for Lots 3 and 4 would be subject to Planning Commission review and public hearing. Pat Edwards said that he didn't feel there was any provision in the Zoning and Development Code that allowed staff to make a recommendation to limit usage to a B1 zone.

PUBLIC COMMENT

Dennis Stahl, 676 26-1/2 Road, spoke in favor of the proposal. He said that Hilltop acquired the property over 10 years ago for future development of a new facility, but only a File Center was built. Hilltop supported the idea of maintaining the Planned Business zoning and coming before the Commission when and if Lots 3 and 4 were developed. He said that "times change" and he did not wish the zoning to be limited.

No one came forward to speak in opposition to the proposal.

QUESTIONS/DISCUSSION

Chairman Elmer asked Pat Edwards what was discussed in the neighborhood meeting that petitioner held. Mr. Edwards said that an architectural rendering was presented showing the height of the building, there was discussion concerning the continued use of the File Center, and discussion concerning possible uses of Lots 3 and 4.

Commissioner Anderson said that, concerning Lots 3 and 4, it bothered him to give a final plat on something "that I know nothing about." He asked John Shaver if approving Lot 2 would have any bearing on Lots 3 and 4.

John Shaver said that they would remain Planned Business. He said that the platting process itself had no bearing on the zoning. He said the problem is "that you have a planned zone without a plan." That problem has been "subject to debate by legal scholars for decades as to whether or not that is appropriate. Can a planned zone exist without a plan?" He said it could be argued that such a situation violates the nature of what a planned zone is. The plan exists because the zone exists and vice-versa. When the plan lapses and the zoning is not reverted, then there is an expectation

that the zoning will continue. Mr. Shaver said that either Staff's recommendation for a listing of uses or petitioner's idea to come back for review at a later date would probably both be legally acceptable.

Chairman Elmer said that the main difference between B1 and B2 zoning was the allowance of service/retail uses.

Commissioner Volkmann asked if there was any type of "automatic reversion" of zoning.

John Shaver responded "unfortunately not." He said it would have to go through a reversionary process because once the zone is in place then there are legitimate expectations and "detrimental reliance." He said that there is not an automatic default zone.

Chairman Elmer said that there was no way of knowing what petitioner would propose in the future. John Shaver pointed out that if nothing was done in terms of recommended uses, the situation would not get worse. He said that it was simply deferring the problem until a later date.

Chairman Elmer asked if the landscaping plan had been approved and Kathy Portner replied that it had been.

Commissioner Anderson asked if the percentage amount of landscaping would change with the addition of the extra parking spaces. Kathy Portner said that there would be less turf area.

Chairman Elmer asked if petitioner had shown the expansion wings at the neighborhood meeting and Pat Edwards replied that he had.

MOTION: (Commissioner Anderson) "Mr. Chairman, on Item #93-93, Final Plat for Hilltop Subdivision, I move that we approve this subject to Staff recommendations and, further, that before any development of Lots 3 and 4 occurs, that development will be contingent upon acceptance by the Planning Commission of that plan; and that a list of uses not be specified at this time."

Kathy Portner felt that there was perhaps too much information in the motion and she said that the recommendation to City Council would only be on the list of uses for Lots 3 and 4.

AMENDED MOTION: (Commissioner Anderson) "Mr. Chairman, on Item #93-93, Final Plat for Hilltop Subdivision #2, I move that we approve the request for the final development plan for Lot 2 subject to staff recommendations."

The motion was seconded by Commissioner Seese.

A vote was called, and the motion passed unanimously by a vote of 5-0.

MOTION: (Commissioner Volkmann) "Mr. Chairman, on Item #93-93, Final Plat for Hilltop Minor Subdivision #2, I move that we approve this request subject to staff recommendations."

The motion was seconded by Commissioner Laiche.

A vote was called, and the motion passed unanimously by a vote of 5-0.

MOTION: (Commissioner Anderson) "Mr. Chairman, on Item #93-93, I move that we forward this to City Council with a recommendation for approval, and that a list of uses not be specified for Lots 3 and 4 at this point."

The motion was seconded by Commissioner Volkmann.

A vote was called, and the motion passed unanimously by a vote of 5-0.

Chairman Elmer said that he wanted it noted in the record that Staff had recommended limiting uses on Lots 3 and 4.

V. PUBLIC HEARING ON ITEMS FOR RECOMMENDATION TO CITY COUNCIL

1. **#25-93 REZONE AND FINAL PLAN/PLAT - V.O.A. ELDERLY HOUSING**
A request to change the zoning of a property from B-2 & P (Neighborhood Business and Parking) to PR-43.8 (Planned Residential with a density of 43.8 units per acres) and approval of a final plan/plat.
PETITIONER: Volunteers of America, Inc.
REPRESENTATIVE: Lantz-Boggio Architects, Inc.
LOCATION: NW corner of 1st Street and Independent Avenue

STAFF PRESENTATION

Karl Metzner gave an overview of the proposal and said that the request was for 60 elderly apartment units on 2.53 acres. The structure would be a three story building of approximately 41 feet. The submittal was originally made in March, 1993, but during the review process, the parking was determined to be inadequate and petitioner asked that the proposal be tabled pending the acquisition of additional lands for parking. Petitioner has since acquired additional land and petitioner has submitted revised plans. Mr. Metzner said that 63 parking spaces would be constructed and that land would be set aside for 84 additional spaces, should they be required. He said that the building could be converted to regular apartment units and still meet Code requirements for parking.

Karl Metzner said that the landscaping plan was inappropriate for the scale of the building and Staff had forwarded to petitioner a recommendation for more appropriate landscaping. He said that a traffic signal is currently warranted at the First Street and Independent intersection and will be installed by the City, with an installation schedule of the Spring of 1994. He said that petitioner was responsible for half-street improvements on Independent Avenue and sidewalk replacement on First Street. He said that the funds for those improvements would be escrowed with the City.

Staff recommendation is for approval subject to the following:

- 1) Revision of final plat to include requested easements and rights-of-way.
- 2) Payment of \$13,500 Open Space fee prior to plat recording.
- 3) Payment of the required Planned Investment fee.
- 4) Recorded commitment to construct additional parking if required, subject to review by the City Attorney's Office.
- 5) Revised landscape plan in accordance with Staff recommendations.
- 6) Final construction plan is to be approved by the City Engineer.
- 7) Maintenance of irrigation water delivery to downstream users.
- 8) Location of fire hydrants as required by City Fire Department.

Chairman Elmer asked if the use of the apartments by the elderly was tied to the plan. Karl Metzner said that a lesser parking requirement was allowed for elderly housing. He said that the

proposal was a H.U.D. funded project and that there was a time limit that the project had to stay elderly.

PETITIONER'S PRESENTATION

Gary Prago, Lantz-Boggio Architects, representative for the petitioner, thanked the Commission for their patience on the matter. He said that the density on the project had gone from 43.8 units per acre to 23.7 units per acre and that 28,000 square feet had been dedicated for parking in order to meet the one space per unit that Staff requested. He said that the site to the west of the parking area would remain undeveloped for additional parking, if it becomes necessary.

PUBLIC COMMENT

Edith Grondorf, 244 Independent, said she felt it was essential that a traffic light be installed as soon as possible at the intersection of First Street and Independent as traffic had become "impossible."

There was no further public comment either in favor or opposition of the proposal.

QUESTIONS/DISCUSSION

Commissioner Seese asked if there was room for driving on the west side of the building, and Gary Prago said that the drive looped all the way around the building.

Commissioner Anderson asked how far the curb cut on First Street was from the intersection on Independent. Karl Metzner said it was approximately 180 feet.

Commissioner Seese asked if that was within the required limits.

Gerald Williams said that it "would be nice not to have it there," but it did allow for right turn storage and did fit alright. He said it was not too uncommon a situation. He said that the public did not want more access onto Independent, while Staff wanted less access onto First Street.

Karl Metzner said that two motions would be needed, one for recommendation of zoning to City Council and one for final action on the plat.

MOTION: (Commissioner Laiche) "Mr. Chairman, on case #25-93, on the request for rezoning by Volunteers of American from B-2 & P, I make a motion that we forward to City Council on the rezone of the property from B-2 & P to Planned Residential, that being on the corner of 1st Street and Independent Avenue, and recommend approval."

The motion was seconded by Commissioner Seese.

A vote was called, and the motion passed unanimously by a vote of 5-0.

MOTION: (Commissioner Anderson) "Mr. Chairman, on Item #25-93, Request for a Final Plan and Plat on the property on the northwest corner of First and Independent Avenue, I move that we approve this request subject to the Staff recommendations."

The motion was seconded by Commissioner Laiche.

A vote was called, and the motion passed unanimously by a vote of 5-0.

- 2. #92-93 ALLEY RIGHT-OF-WAY VACATION - 2651 & 2659 HIGHWAY 50**
Request for vacation of that portion of the alley that lies between Highway 50 and Dominguez Avenue at 2651 and 2659 Highway 50.
PETITIONER: William & Linda Weid
LOCATION: 2651 and 2659 Highway 50

STAFF PRESENTATION

Kristen Ashbeck said that Mr. William Weid owned both properties located at 2651 and 2659 Highway 50. She said that there was a north/south alley that runs through the middle of those properties. She said that the western building currently encroaches on the alley approximately 10 feet and there was a utility pole in the middle of the alley, so essentially the alley was not used. She said that the alley does not even align with the curb cut on Highway 50. She said that Staff recommends that the alley be retained as a utility easement except for that portion covered by his building.

Staff recommendation is approval subject to UCC approval.

PETITIONER'S PRESENTATION

Petitioner did not wish to add anything to Staff's presentation.

PUBLIC COMMENT

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

DISCUSSION

The commissioners verified the location of the properties and the alley right-of-way.

MOTION: (Commissioner Volkmann) "Mr. Chairman, on Item #92-93, a request for an alley right-of-way vacation, I move that we forward this request to City Council with a recommendation of approval subject to Staff recommendations."

The motion was seconded by Commissioner Laiche.

A vote was called, and the motion was passed unanimously by a vote of 5-0.

VI. GENERAL DISCUSSION

VIEW EASEMENTS

John Shaver said that he felt that view easements might become more of an issue as development progresses. He said that it was "not one you want to get involved in on a local level." He said that it was "a quagmire." John Shaver said the problem with a view easement is in the definition. "What is it? Is it a legally cognizable right? How do you protect it? Who should you protect?" He said there are competing property rights and competing interests that make it a difficult issue. He referred the commissioners to the memorandum which they received.

The Commissioners then discussed the replacing of Board members and Larry Seese said that he was not going to reapply although he would be happy to serve until he was replaced. The Commissioners discussed the proper way for Commissioner Seese to resign.

The meeting was adjourned at 10:40 p.m.