

GRAND JUNCTION PLANNING COMMISSION

Public Hearing

December 7, 1993

7:02 p.m. - 8:35 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, Ron Halsey, Stephen Laiche, James Anderson, Bob Withers, Jeff Vogel and Thomas Volkmann.

In attendance, representing the City Community Development Department, were Larry Timm, Director; Kathy Portner, Planning Supervisor; and Dave Thornton, Senior Planner.

John Shaver, Assistant City Attorney; Don Newton, City Engineer; and Jody Kliska, City Development Engineer, were also present.

There were no private citizens present at the hearing except the petitioners and their representatives.

II. APPROVAL OF MINUTES

Chairman Elmer asked that a point be clarified in the November minutes regarding the Sundance Marine variance for a sewer line. At the November hearing, the discussion was that the petitioner had to pay now for improvements and sign the power of attorney later. Chairman Elmer wanted to be sure that it was clear in the minutes that the petitioner wouldn't also be required to pay anything later.

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

The motion was seconded by Commissioner Halsey.

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

III. ANNOUNCEMENTS, PRESENTATIONS, AND/OR PRESCHEDULED VISITORS

Chairman Elmer announced that the Commission had two new members, Jeff Vogel and Bob Withers and that Ron Halsey was re-appointed for another term. He congratulated and welcomed them.

Chairman Elmer also announced that the City had a new City Development Engineer, Jody Kliska.

Chairman Elmer announced that an item would be added to the agenda under "General Discussion" regarding the policy for tabled items. He also announced that the following items, at the petitioners' request, would be pulled from the agenda: #103-93 Replat-Lot 66, Block 13, The Ridges, Filing #6; and #82-93 Vacation of Easement - 487 28-1/2 Road.

Chairman Elmer said that both the petitioner and staff were requesting that item #101-93 Resubdivision - S&J Subdivision be tabled pending the negotiation of an easement.

MOTION: (Commissioner Anderson) "Mr. Chairman, on item #101-93, request for a resubdivision of S&J Subdivision, I move that we table this item until the next meeting."

The motion was seconded by Commissioner Volkmann.

The vote was called, and the motion passed unanimously by a vote of 7-0.

IV. PUBLIC HEARING ITEMS FOR FINAL DECISION

- 1. #119-93 FINAL PLAT/PLAN - PTARMIGAN RIDGE NORTH**
Request for approval of the Final Plat/Plan for Ptarmigan Ridge North for 34 residential lots on approximately 10 acres with Planned Residential zoning located at the Southwest corner of 27-1/2 Road and Cortland Avenue.
PETITIONER: Sumrall Corporation
REPRESENTATIVE: Tom Logue
LOCATION: 27-1/2 Road and Cortland Avenue

STAFF PRESENTATION

Dave Thornton gave an overview of the request. He said that the preliminary proposal that was approved in February, 1993 was for 39 single-family detached homes. The current proposal was for 34 units made up of 28 single-family detached homes and 3 duplexes. The duplexes would be along 27-1/2 Road. Mr. Thornton said that the majority of the review agency comments had been adequately addressed by the petitioner and the few outstanding items would be resolved prior to recording the plat.

Mr. Thornton said that staff recommended approval as submitted with revisions dated November 25, 1993, received December 1, 1993, with the following changes:

1. That the north 8' of Tract A be dedicated to the City of Grand Junction for the use of the public as a pedestrian easement;
2. That all technical issues on the plat be resolved with the County Surveyor; and
3. That all review comments made by City Development Engineer Jody Kliska, dated

December 2, 1993, be adequately addressed.

Chairman Elmer asked if the drainage facility would be maintained by the homeowners? Dave Thornton responded that it would, and would be so noted in the covenants and on the plat.

Commissioner Vogel questioned why the traffic impact study was not required. Mr. Thornton responded that the initial requirement of a traffic analysis was "a mistake" and staff hadn't meant to require it. Traffic circulation for the entire area had been looked at previously and it was determined that the density was appropriate and traffic was not a problem.

PETITIONER'S PRESENTATION

Tom Logue, representative for the petitioner, said that he felt staff had done a good presentation. He said that he, Bob Sumrall and Terry Nichols, the project engineer, were available if there were any technical questions or points that needed clarification.

PUBLIC COMMENT

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

QUESTIONS/DISCUSSION

Chairman Elmer said he felt the proposal met the intent of the preliminary plan and felt that the duplexes were a minor change. Dave Thornton said that it was typical to see multi-family uses along collector roadways.

Chairman Elmer asked about fencing requirements. Dave Thornton said the petitioner was proposing a 6' privacy fence along 27-1/2 Road; the fence will be lowered to 30" at corners for sight distance.

Chairman Elmer said that the pond appeared to be both an irrigation supply and to provide stormwater detention. Dave Thornton added that the pond was located on an open space tract owned by the homeowners which was "much better" than being located on a private lot owned by a single property owner.

MOTION: (Commissioner Anderson) "Mr. Chairman, on item #119-93 Final Plat/Plan for Ptarmigan Ridge North subdivision, as submitted with revisions dated November 25, 1993, received December 1, 1993, and with the following changes:

- 1. The north 8' of Tract A be dedicated to the City of Grand Junction for use of the public as a pedestrian easement";**
- 2. All technical issues be resolved on the plat; and**
- 3. That all review comments made by Jody Kliska, City Development Engineer, dated December 2, 1993, be adequately addressed;**

I move that we approve this item."

Commissioner Withers seconded the motion.

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

V. PUBLIC HEARING ON ITEMS FOR RECOMMENDATION TO CITY COUNCIL

- 1. #134-93 VARIANCE - MCDONALD'S HARLEY-DAVIDSON - 2571 HIGHWAY 6 & 50**
Request for a variance from Section 5-4-5.B of the Zoning and Development Code, requiring a public sanitary sewer collection system and treatment facility for all developments, to allow for an addition to the existing building.
PETITIONER: David McDonald
REPRESENTATIVE: Steve McCallum
LOCATION: 2571 Highway 6 & 50

STAFF PRESENTATION

Dave Thornton gave an overview of the petitioner's request to build a 4,800 square foot addition to the existing facility. He said that the Zoning and Development Code required that all development hook into a public sanitary sewer system. The existing facility is on septic and it would require a service extension line for approximately 800 feet to the west to hook into the existing sewer line on 25-1/2 Road. The petitioner wished to hook onto sewer eventually, but requested a temporary waiver allowing the addition to be constructed now while the petitioner worked on securing an easement for the service line. Mr. Thornton quoted from the Code as to the four criteria that needed to be considered for variances.

Mr. Thornton said staff felt that there was not an undue hardship and the petitioner should be required to hook onto the sewer immediately. Staff recommended denial of the variance request.

Commissioner Laiche asked for clarification of what a "1939 Silk City Diner" was. Mr. Thornton said his understanding was that the petitioner wanted to restore an old railroad diner car currently on the property.

Chairman Elmer said he felt this request was similar to the Sundance Marine request that was approved last month. He asked if the Mesa County Health Department had made any comments regarding the current septic system. Mr. Thornton said the County had made no comments as to the septic system but if the diner was to be restored to provide food service, then it would impact the septic system. Mr. Thornton also pointed out that staff's recommendation for Sundance Marine was to have the sewer line in the road in order to provide service for other businesses. He said that Mike's Auto, the property to the west, was hooking into the sewer on 25-1/2 Road, and that Bill Cheney, City Utility Engineer, felt the best alternative for this proposal was to hook into the 25-1/2 line in order to use gravity feed.

PETITIONER'S PRESENTATION

Steve McCallum, representative for the petitioner, 379 South Camp Road, said that the petitioner's plans for the diner were to create a restaurant within the next 18 to 24 months. He said the land to the west of the subject property was owned by Mike's Auto and he didn't feel the gravity feed sewer system would work for Mike's Auto and wouldn't work for the petitioner, either. Mr. McCallum said a lift station would be needed.

Mr. McCallum said acquiring the easement would cost "exactly the same as buying the ground." He felt the petitioner's situation was the same as Sundance Marine's. He felt that eventually all of the frontage along the highway would be served by sewer and the petitioner was willing to hook onto the system at that time.

Mr. McCallum said the petitioner's septic system was functioning properly at the current time. The proposed addition would not have an immediate effect on the septic system. The restaurant would not become functional until such time as sewer was available. The petitioner wanted to build the addition to place the diner inside.

Mr. McCallum said it presented a hardship to "pick out one business to create the infrastructure" for the area.

QUESTIONS

Commissioner Laiche asked for clarification on what the addition would be used for. Mr. McCallum said the major portion of the 4,800 square foot addition would be for the antique diner, approximately 2,000 square feet would be additional service area and the balance would be showroom display area.

Commissioner Withers questioned when the easement could be purchased and Mr. McCallum replied that it was available now, but was simply too expensive. Mike Gregg was asking \$33,000 for the easement, the same price as for the property.

Commissioner Laiche asked if the petitioner was willing to buy the easement if it became necessary. Dave McDonald, petitioner, said he didn't know. He said that the City of Glenwood had made him an offer to put the diner in Glenwood Springs. He said that the diner would be a "great addition to the city" and was "a showpiece", but in order to restore it properly, the diner needed to be inside. It weighs 60,000 pounds and needed a crane to move it so he did not want to begin restoring it until it was moved to its permanent location.

Commissioner Withers asked how many employees the petitioner had. Mr. McDonald replied six plus himself.

Commissioner Anderson commented that the price of the easement was high, but Dave Thornton said that a hardship could not be looked at from a financial perspective according to the criteria. John Shaver, Assistant City Attorney, said that the law has revolved around the fact that economic or financial hardship is not germane. "It may be a greater hardship for someone where there's actually smaller dollars involved."

Commissioner Vogel pointed out that in two years, when the diner is ready to open, there might still not be sewer available and the easement might cost even more. Mr. McCallum responded that if that were the case, then the petitioner would have no choice but to hook into the system, regardless of the cost.

Dave Thornton said that the question was whether to require them to put the line in now or allow them to wait and still end up having them put the line in later. Commissioner Laiche said the petitioner "was going into this with open eyes" and felt the choice should be his.

Mr. McDonald said he wanted to stub in the plumbing at the time the concrete floor was poured. He said he still needed an addition for storage space, even if the diner was not considered.

Commissioner Withers suggested that a bond for the sewer could be required to be posted and a rider could be put on the building permit that no plumbing fixtures could be installed, or even electrical energization of the diner, until sewer service was obtained.

Mr. McCallum expressed his objections to the "stumbling blocks" that were being put in the way of developers and said that private industry was being "crippled." Commissioner Anderson responded that the Commission is bound by the Code and that it must abide by the Code in its recommendations.

Chairman Elmer asked why the City was not looking at the area for future sewer service. Dave Thornton said that if the Mike Gregg property was developed by a corporation such as K-Mart, then a sewer utility easement would be required as part of the development process. But since the petitioner is developing first, they must provide sewer service, regardless of future development.

Mr. McDonald felt that at some time in the future he would be able to negotiate for the easement at a reasonable price.

PUBLIC COMMENT

There was no public comment, either in favor or opposition to the request.

DISCUSSION

Chairman Elmer said he would be in favor of the variance if the addition was used for storage and a lounge area and didn't increase the load on the septic system, and it was understood that when the diner was ready, the petitioner must hook onto sewer. He didn't feel a bond would be necessary.

John Shaver said that a bond was a fiscal issue that was up to the City Council.

Chairman Elmer said he felt there was a hardship having to cross another property to reach sewer, especially in a "quasi-developed part of the City" where one would expect service to be closer. Commissioner Withers concurred.

Commissioner Anderson felt a "reasonable man" should have expected to have to expend a large sum of money to hook up sewer when the property was purchased. Mr. McDonald pointed out he had been on the site for 10 years.

Commissioner Vogel questioned the fire protection on the site, and Mr. McCallum said it was a "looped 8."

Chairman Elmer said the intent of the Code was clear and it was in the City's benefit to eliminate septic systems, but he felt that special circumstances had to be considered.

MOTION: (Commissioner Laiche) "Mr. Chairman, on item #134-93, I recommend that we forward this matter on to City Council with a recommendation of approval for variance of the sewer requirement due to a hardship to Mr. McDonald, provided that if and when Mr. McDonald opens the restaurant, that he provides sewer and easement at his own cost."

Commissioner Halsey seconded the motion.

The Commission briefly discussed the "checks and balances" that would keep the petitioner from circumventing the sewer requirement. Kathy Portner felt the Mesa County Health Department might not approve any plumbing in the new addition, even if the restaurant were excluded. Commissioner Laiche expressed his faith in City inspectors and the inspection process to prevent unauthorized use of the current septic system.

Commissioner Anderson reminded the Planning Commission that the request did not meet Code.

AMENDMENT: (Commissioner Withers) "Mr. Chairman, I recommend that we add a rider to the previous motion that would show up on any permits that are issued by the Planning Department and/or the Building Department, stating: `Do not allow the installation and hook up of plumbing fixtures to any rough-in piping in the new area.'"

Commissioner Laiche seconded the amendment.

A vote was called, and the amended motion passed by a vote of 6-1, with Commissioner Anderson opposed.

Commissioner Withers expressed his personal appreciation to the petitioner for the "Toys for Tots" program Harley-Davidson sponsors.

VI. GENERAL DISCUSSION

1. Monthly Liaison: Chairman Elmer said he attended the last City Council meeting and informed the Commission of the Council's decision regarding the Orchard Mesa rezoning. The Commission briefly discussed the issue of "spot zoning" with John Shaver describing the paradox created when an area develops differently than it is zoned. The difficult question is "is the development correct and the zoning wrong; or is the zoning right and the development wrong?" The Commission felt that it wasn't necessary to have a liaison attend the next Council meeting.
2. Don Newton introduced Jody Kliska, the new City Development Engineer, to the

Commission. He said she had a traffic engineer background and that he felt that transportation issues would become more important as the valley grew.

Chairman Elmer said he felt the new development manual had helped to standardize submittals and Don Newton agreed it made staff's review easier.

Commissioner Anderson asked if there had been a revision on the population growth estimate for the Valley. Dave Thornton said it was still quoted as 2%. Jody Kliska said traffic counts had increased 2.2%.

Chairman Elmer asked if there was a new policy yet concerning funding road improvements. Larry Timm said that a formula was forthcoming for a transportation impact fee. Don Newton said such a formula would create a fairer system than the current reliance on frontage.

Chairman Elmer asked if the drainage fee was in place. Don Newton said it was and explained that if adequate facilities existed downstream it was now alright to release the runoff without detention and pay a fee instead, although larger developments would still require detention. He said that the restricted funds were expected to be \$150,000/year and would be used to separate the major drainways within the City.

3. Larry Timm presented a handout regarding the Commission's policy on tabling items. He said that the public tended to "lose track" of an item when it was tabled for a long time and that staff also lost continuity. At the Planning Commission Workshop it was felt that a proposal should not be tabled more than twice nor longer than 90 days from the first time it appeared on the agenda. After review with City legal staff, it was felt that the Commission might not want to adopt a specific policy on tabling, but instead give staff direction on how to handle the petitioners' requests to table proposals. Mr. Timm said legal staff advised that tabling should be reserved for proposals where new information was presented at the hearing; other problems identified through the review process should result in an item being pulled. He said the applicant should pay additional fees to re-advertise when an item was pulled or tabled for longer than one month.

The Commission discussed the appropriate time frame and Chairman Elmer said that it was often hard to get an issue resolved, reviewed and rescheduled in less than 90 days.

Commissioner Anderson asked if there was any "legal test" required. John Shaver said that there was not and that the matter should be treated more like a "judicial process" where good cause must be demonstrated for tabling or continuing an item. He said perhaps a text amendment was necessary, or if the Commission is comfortable just "give us direction and we'll run with it."

Commissioner Halsey asked if the applicant would be notified of the additional cost that they

could incur if their request was tabled and John Shaver suggested that the planning staff tell people about it in the interim while staff looked at the issue. Kathy Portner felt it could be included on the application form.

The Commission discussed whether or not a petitioner who requested an item to be tabled must be present. Chairman Elmer felt a letter request would be sufficient. The Commission then discussed when it would be appropriate to pull an item rather than table it.

The consensus among the Commissioners was to start with language in the application then work toward a text amendment if necessary and that the applicant not be required to appear.

MEETING ADJOURNED at 8:35 p.m.