

GRAND JUNCTION PLANNING COMMISSION
Public Hearing -- March 5, 1991
7:43 p.m. - 8:52 p.m.

The public hearing was called to order by Chairman Steve Love at 7:43 p.m. in the City/County Auditorium.

In attendance, representing the City Planning Commission, were:

Steve Love, Chairman	Ron Halsey	Jim Bittel
Craig Roberts	John Elmer	Katie Worrall

Commissioner Sheilah Renberger was absent.

In attendance, representing the City Community Development Department, were Bennett Boeschstein, Director; David Thornton, Planner; and Kathy Portner, Senior Planner.

John Shaver, Assistant City Attorney, and Don Newton, City Engineer, were also present.

Bobbie Paulson was present to record the minutes.

There were 17 interested citizens present during the course of the meeting.

I. APPROVAL OF MINUTES

MOTION: (COMMISSIONER ELMER) "MR. CHAIRMAN, I MOVE THAT WE APPROVE THE MINUTES OF THE FEBRUARY 5, 1991 MEETING."

The motion was seconded by Commissioner Roberts.

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

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

Chairman Love welcomed Craig Roberts as the newest member of the Planning Commission.

III. PUBLIC HEARING

1. **#15-91 HORIZON GLEN PRELIMINARY PLAN & PLAT AND REZONE**
A request for a preliminary plan and plat for 33 residential housing units on 14.4 acres and a request for a rezone from Residential Single Family four units per acre (RSF-4) to Planned Residential two units per acre (PR).
PETITIONER: SL Ventures, Inc.
REPRESENTATIVE: Armstrong Consultants, Tom Logue
LOCATION: Northwest of 12th Street and Horizon Drive

Kathy Portner requested that the Planning Commission table this item until the April, 1991 meeting due to several outstanding deficiencies as noted in the review agency comments. This would allow Staff time to work out the deficiencies and technical concerns with the petitioner.

Chairman Love asked if the other Commissioners had the opportunity to review the letter that Ms. Portner had written to the petitioners?

Commissioner Bittel excused himself from participating in the hearing of this item as he felt there may be a conflict of interest.

Bennett Boeschstein expounded that Section 6-7-4 of the Grand Junction Zoning and Development Code provides that a submittal with insufficient information identified in the review process, which has not been addressed by the applicant, may be withdrawn from the agenda by the Administrator. Ms. Portner's letter explains the information that is lacking. In summary, the review comments were not addressed in a timely manner; therefore, staff recommends that the application be tabled.

Chairman Love asked Mr. Shaver if he had any comments to add.

Mr. Shaver stated that the Community Development Department Director, Bennett Boeschstein, and Senior Planner, Kathy Portner, have been in contact with the petitioners on numerous occasions regarding the technical deficiencies and have given them opportunity to respond. Based on this it would be appropriate for the Commission to entertain a motion without formal hearing or public comment.

Chairman Love asked Ms. Portner if the petitioner was aware that the item may be tabled?

Ms. Portner replied affirmatively.

MOTION: (COMMISSIONER HALSEY) "MR. CHAIRMAN, ON ITEM #15-91, A REQUEST FOR A PRELIMINARY PLAN AND PLAT FOR THE HORIZON GLEN SUBDIVISION, I MOVE THAT WE TABLE THIS ITEM UNTIL THE APRIL 2, 1991 PLANNING COMMISSION MEETING."

The motion was seconded by Commissioner Elmer.

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

Commissioner Bittel re-joined the Commissioners to hear the next item.

2. **#18-91 REVERSION OF ZONING FOR WOODSMOKE SUBDIVISION**
A request to revert the zoning for the Woodsmoke Subdivision from the present zoning of Planned Residential with a density of 19.4 units per acre (PR) on Lot 2 and from Residential Single Family with a maximum density of four units per acre (RSF-4) on Lot 1 to Residential Single Family Rural (RSF-R) on approximately 13.367 acres.
PETITIONER: William W. & Barbara Graff
LOCATION: 577 & 579 29 Road

PETITIONER'S PRESENTATION

William Graff stated that he is the owner of Graff Dairy. The cows that were previously at the Graff Dairy on 29 Road have been relocated to a dairy on 22 Road. Mr. Graff explained that he sold the property on 29 Road and subsequently re-acquired it when the deal fell through. The man who purchased the property changed the zone from agriculture to a zone accommodating the Woodsmoke project.

Mr. Graff stated that he would not have any dairy cows on this property. However, he does want to have some of the property in pasture and would like to raise corn, watermelon, and other produce to sell at the dairy. He requested that the property be rezoned to agriculture.

QUESTIONS

Commissioner Worrall asked Mr. Graff for clarification; is the pasture for your cows?

Mr. Graff replied that the pasture would be for his horses. He reiterated that the milk cows are at the dairy on 22 Road.

Commissioner Worrall asked if the proposed zoning allowed cows?

Mr. Thornton replied affirmatively, and added that he would expand on this further in his presentation.

STAFF PRESENTATION

David Thornton stated that Mr. Graff is a joint petitioner along with the Community Development Department for the request to revert the zoning on this parcel. The Woodsmoke Subdivision, which consists of two lots, was approved with 252 units at the density of 19.4 units per acre. The development provided only one access onto 29 Road for all 252 units. The dairy which processes and sells the milk is located on Lot 1. Lot 2, which is the larger parcel, is where the Woodsmoke development was planned. The project was never developed and the property is now again owned by Mr. Graff.

The final plan for the Woodsmoke project was recorded at the Mesa County Clerk and Recorder's Office. At this point, it is questionable if someone would have the right to develop the Woodsmoke Subdivision as it was proposed. Staff would recommend that it be re-reviewed since it has been longer than the original time granted for completion. In mid year 1984, the Woodsmoke developers were granted an extension of one year. Since then, no extensions have been granted.

Mr. Graff has twice made written requests to the City asking that both these lots be reverted to the original zoning. In 1981, the Graff property was annexed into the City. At that time the zone of annexation was granted at 19.4 units per acre on Lot 2 and Residential Single Family four units per acre (RSF-4) on Lot 1. The RSF-4 zone does not allow dairies. The dairy operation has been in existence since 1966, long before it was annexed in 1981.

The current zoning allows two large agricultural animals per acre, i.e. cows, horses, sheep, burros, and mules. All zones within the City allow two such animals per acre so long as you have a minimum of one half acre. Both lots combined total 13 plus acres permitting Mr. Graff to have 26 large animals on this parcel. A RSF-R zone would allow a maximum of one large animal per quarter acre.

This property was zoned (AFT) Agriculture Forestry Transitional Zone in the County. The closest comparable zone in the City is (RSF-R) Residential Single Family-Rural which allows a maximum density of two single family units per acre. It is somewhat of a transitional zone since it is anticipated that at some time in the future the parcel will be rezoned and developed. The petitioner has no plans of subdividing or developing the land at this time; therefore, the RSF-R zone seems most appropriate.

Dairies are not allowed in any zone by right. They are only allowed in a few zones, i.e. RSF-R as a Special Use and C-2, I-1 and I-2 as a Conditional Use.

When the Woodsmoke Project was approved, a Power of Attorney was obtained for 29 Road improvements. This Power of Attorney will remain with the property until future development occurs. At that time, escrowed money or some other form of guarantee would be required for 29 Road improvements. A policy adopted by Mesa County encourages a medium density, between four and six units per acre interspersed with neighborhood commercial uses, for the area along 29 Road between North Avenue and F Road. 29 Road is classified as a major arterial but it has not been improved to that standard and is currently not on the ten year plan to be improved. The surrounding areas are zoned RSF-8, RSF-5, and PR-20. Staff's opinion is that the density of 19.4 units per acre is too high.

QUESTIONS

Chairman Love asked what was resolved in 1986 when Mr. Graff originally petitioned to have the zoning reverted?

Mr. Thornton stated that as far as he could determine, the request was made but not acted upon. He added that the project also went through a potential reversion in 1984; however, at that time the developer, Mr. Kilpatrick, was granted a one year extension so the reversion did not take place.

Commissioner Roberts asked if there was an improvements agreement obtained at that time or was it included as part of the Power of Attorney?

Mr. Thornton stated that an improvements agreement was set up but as far as he could determine, there were no guarantees recorded.

Commissioner Roberts asked if there was a bond or escrow to secure the agreement?

Mr. Thornton replied that there was possibly a bank guarantee from Mr. Kilpatrick. The Power of Attorney was for 29 Road. There is an improvements agreement that was recorded which includes the sewer, fire hydrants, etc.

Mr. Boeschenstein pointed out that the expiration date of the improvements agreement was 1984; consequently, the agreement is null and void.

Commissioner Bittel asked why the RSF-R zone is being proposed as opposed to a RSF-4 zone which seems to be more compatible with the surrounding properties.

Mr. Thornton replied that the appropriate zone for the existing use is RSF-R. Until further development, the RSF-R zone can function as a holding zone. It is anticipated that eventually development will occur and a suitable rezone will take place at that time.

Commissioner Roberts asked if the outlet portion of the dairy is part of the Special Use, or if it should be considered separately?

Mr. Thornton stated that by definition a dairy is a commercial establishment that processes or sells milk and milk products. He added that the dairy is grandfathered in the RSF-4 zone. In order to expand the dairy operation, it would have to comply with the nonconforming expansion policy within the Code.

Commissioner Elmer asked if in order to make this dairy a conforming use, will the petitioner have to apply for a Special Use Permit?

Mr. Thornton replied no; there are no zones that allow dairies by right. If there was a zone that allowed dairies, then that particular argument would be valid because we would be putting conditions on the type of zoning designation being requested. The dairy is grandfathered but any further development of the dairy would require a Special Use Permit.

Commissioner Elmer stated that since the petitioner has indicated he does not have any intentions of having cows on this property, can a motion be made restricting cows altogether?

Mr. Shaver replied affirmatively. The Commission can make this a condition or a recommendation. Mr. Graff's representation is that he will not be using the property as a cattle or dairy operation and the Commission may so limit his use of the property.

PUBLIC COMMENTS

Emery Bradberry, 566 Normandy Drive, stated that he did not receive a notification card regarding this hearing. His neighbor called the Planning Department to inquire about the zone change. His neighbor was told that the request for the zone change was because Mr. Graff wanted to have animals. Mr. Bradberry said that Mr. Thornton told him that the dairy is grandfathered and that Mr. Graff could have up to 48 head of livestock and that he could also farm the land if so desired.

Mr. Thornton stated that 53 large agricultural animals would be allowed if the parcel is zoned RSF-R. The current zoning allows 26 agricultural animals. The existing dairy is nonconforming but is grandfathered. The dairy processing and outlet has been there since 1966. So long as the dairy is not discontinued for more than one year, it can remain grandfathered.

Mr. Bradberry asked for clarification; why is the reversion being requested if the dairy is grandfathered?

Mr. Thornton replied that Staff did not feel that the 19.4 units per acre was an appropriate zone at this time.

Mr. Bradberry stated that his concern was that Mr. Graff not bring his cows back.

Mr. Thornton reiterated Mr. Graff's statement that he does not intend to bring the cows back.

Mr. Bradberry pointed out that the zone would still allow them.

Sam Wickoff, 568 Normandy Drive, stated that he had no objection to the proposed zoning so long as there is not a concentration of animals on the property. Mr. Graff has raised chickens and has had quarter horses there for quite some time; there is no problem with that. Mr. Wickoff was concerned that with several animals on the property it would create an odor and fly problem which is not compatible with residential property.

Commissioner Elmer clarified that the existing zone allows one large animal per half acre. The change in zone is doubling the amount that is currently allowed.

Mr. Graff stated that he currently has six horses, and that is all he will ever have on this property. He added that he is not in the cow business at this dairy nor does he intend to have a lot of horses.

Chairman Love asked if the zoning can be reverted with the condition that only the number of animals currently permitted be allowed with the new zone. There are approximately 24 animals permitted now. Can it be restricted to 24?

Mr. Shaver responded that the Commission may entertain any conditions it sees fit for purposes of recommendation to the Council. Whether or not the Council decides that it is appropriate is within their sole discretion. Based on the representation Mr. Graff has made tonight, this would be reasonable.

Commissioner Bittel agreed with Mr. Wickoff's statement that a density of four large agriculture animals per acre could create problems with manure disposal, feeding, and dusty conditions.

MOTION: (COMMISSIONER ELMER) "MR. CHAIRMAN, ON ITEM #18-91, A REQUEST TO REVERT THE ZONING OF RESIDENTIAL SINGLE FAMILY - MAXIMUM DENSITY OF FOUR UNITS PER ACRE TO RESIDENTIAL SINGLE FAMILY - RURAL WITH A MAXIMUM DENSITY OF TWO UNITS PER ACRE ON LOT 1, I RECOMMEND WE FORWARD THIS ON TO CITY COUNCIL WITH THE RECOMMENDATION OF APPROVAL FOR THE REASON THAT THE ZONE IS MORE APPROPRIATE FOR THE USE OF THE LOT."

The motion was seconded by Commissioner Halsey.

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

MOTION: (COMMISSIONER ELMER) "MR. CHAIRMAN, ON ITEM #18-91, A REQUEST TO REVERT THE ZONING OF PLANNED RESIDENTIAL WITH A DENSITY OF 19.4 UNITS PER ACRE TO RESIDENTIAL SINGLE FAMILY - RURAL WITH A MAXIMUM DENSITY OF TWO UNITS PER ACRE ON LOT 2 WITH THE RESTRICTION OF NO LARGE ANIMALS PERMITTED ON THE LOT EXCEPT FOR A MAXIMUM OF 13 HORSES, I RECOMMEND WE FORWARD THIS ON TO CITY COUNCIL WITH THE RECOMMENDATION OF APPROVAL FOR THE FOLLOWING REASONS: 19 UNITS PER ACRE IS TOO HIGH OF DENSITY CONSIDERING TODAY'S ECONOMY AND ENVIRONMENT AND THAT 29 ROAD IS NOT DESIGNED TO A STANDARD TO HANDLE THAT VOLUME OF TRAFFIC FROM A CONCENTRATED DEVELOPMENT."

The motion was seconded by Commissioner Worrall.

Commissioner Bittel pointed out that this motion would preclude someone from having one cow on the twelve acres.

Commissioner Elmer stated that it would preclude all large agriculture animals which the Code defines as cattle, sheep, etc.

Commissioner Bittel asked for clarification; why would horses be allowed and not cows or sheep?

Commissioner Elmer explained that his motion would allow one horse per acre and felt that they would be less obnoxious than sheep or cows.

Commissioner Bittel stated that if Mr. Graff sold the property, the new owner would not be allowed to have ten sheep if he wanted. He suggested that the limited use include all large agriculture animals.

Commissioner Halsey pointed out that other residential zones within the City allow large agricultural animals on lots one half acre and larger. He stated that he would feel uncomfortable restricting the use to just horses. He added that there should be a restriction based on the number of animals but not the type.

Commissioner Worrall agreed with Commissioner Elmer that horses would be less obnoxious.

AMENDMENT: (COMMISSIONER HALSEY) "I WOULD LIKE TO RECOMMEND AN AMENDMENT TO ALLOW 13 LARGE AGRICULTURAL ANIMALS, ONE PER ACRE."

The amendment was seconded by Commissioner Bittel.

A vote was called, and the amendment passed by a vote of 4-2, with Commissioner Roberts and Elmer opposing.

A vote was called, and the amended motion passed by a vote of 6-0.

GENERAL DISCUSSION

Commissioner Roberts suggested restricting the number of animals allowed in residentially zoned properties. In addition, irrigated pasture should be required to eliminate potential dust problems. He felt that is was kind of overwhelming to think that the Graffs could have fifty head of cattle in a middle of a residential neighborhood and be completely conforming.

Mr. Boeschenstein stated that Staff would be working on several text amendments and that this would be another one to consider. He felt that it would not be appropriate to completely eliminate farm animals from all properties in the City. He agreed that there should be a requirement to provide pasture specifically for the animal, and not base the number of animals allowed on the total acreage which may include a lawn, swimming pools, etc.

The meeting was adjourned at 8:52 p.m.