

**GRAND JUNCTION PLANNING COMMISSION**  
**July 14, 2015 MINUTES**  
**6:00 p.m. to 8:20 p.m.**

The meeting of the Planning Commission was called to order at 6:00 p.m. by Vice-Chairman Ebe Eslami. The public hearing was held in the City Hall Auditorium located at 250 N. 5th Street, Grand Junction, Colorado.

In attendance representing the City Planning Commission were Ebe Eslami (Vice-Chairman), Jon Buschhorn, Kathy Deppe, Keith Ehlers, George Gatseos, Steve Tolle, and Bill Wade.

In attendance, representing the City's Administration Department - Community Development, were Greg Moberg, (Development Services Supervisor), Brian Rusche (Senior Planner) and Scott Peterson (Senior Planner).

Also present were Jamie Beard (Assistant City Attorney), and Ken Watkins (Grand Junction Fire Chief).

Lydia Reynolds was present to record the minutes.

There were 11 citizens in attendance during the hearing.

**Announcements, Presentations And/or Visitors**

There were no announcements, presentations and/or visitors.

**Consent Agenda**

**1. Minutes of Previous Meetings**

*Action: Approve the minutes from the June 9, 2015 and June 23, 2015 Planning Commission Meetings.*

**2. River Trail Subdivision Filing One Drainage Easement Vacation [VAC-2015-277]**

Request to vacate a public drainage easement within River Trail Subdivision Filing One.

*Action: Recommendation to City Council*

Applicant: River Trail Investments – Kevin Reimer

Location: D Road and Green River Drive

Staff presentation: Brian Rusche, Senior Planner

Vice-Chairman Eslami briefly explained the Consent Agenda and invited the public, Planning Commissioners and staff to speak if they wanted an item pulled for a full hearing.

With no amendments to the Consent Agenda, Vice-Chairman Eslami called for a motion.

**MOTION:** (Commissioner Wade) “I move that we approve the Consent Agenda as presented.”

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

**\*\*\*ITEMS NEEDING INDIVIDUAL CONSIDERATION\*\*\***

Vice-Chairman Eslami briefly explained the items needing individual consideration.

**3. OneWest, Outline Development Plan [PLD-2014-385]**

Request for an Outline Development Plan and a PD (Planned Development) Ordinance with default zone(s) of BP (Business Park Mixed Use) and C-2 (General Commercial).

*Action: Recommendation to City Council*

Applicant: CFP Estate, Ltd – Owner  
Gus R. and Chris R. Halandras – Owner  
Andy Peroulis – Owner  
George E. Pavlakis – Owner

Location: 2350 Highway 6 & 50

Staff presentation: Brian Rusche, Senior Planner

**STAFF PRESENTATION**

Brian Rusche explained that this request is for a recommendation for an Outline Development Plan (ODP) for a property known as OneWest and is located off of Highway 6 & 50 west of Mesa Mall. Mr. Rusche noted that he would not be reading through the entire staff report that has been made available to the Commissioners and General Public.

This property is 177 acres and has over one-half mile of frontage on Highway 6 & 50. It is one of the largest contiguous undeveloped tracks of land within this part of the community. Mr. Rusche displayed a photo of the property and noted it does not show the new Community Hospital that is under construction to the North. The property borders G Road to the north, Highway 6 & 50 to the south, 23 3/4 Road to the east, and to the west is the Mobile City RV Park. Mr. Rusche displayed a slide that illustrated the Grand Valley Circulation Plan as it bisects the property with proposed major roadways.

This ODP will effectively create four separate “pods” which the property owners would like to create via subdivision. The pod configuration allows for phased infrastructure development in the future. Mr. Rusche explained that it would be a benefit to the City as well as to the developer to work with the ODP as the City develops road connections in the area. Another benefit to the community is the possibility for private/public partnerships to address regional Stormwater Management in this area.

Mr. Rusche displayed a slide of the Comprehensive Plan’s Future Land Use Map of the proposed area that identifies future zoning as Commercial along the Highway, Commercial and Industrial to the North. Mr. Rusche explained that the new Community Hospital to the north is zoned Business Park (BP) and is the only parcel with this zoning in the City. The ODP calls for two of the four proposed pods to have the BP default zoning, and the other two to have General Commercial (C-2) default zoning. Mr. Rusche pointed out that the proposed area is within the 24 Road Design Standards Overlay, and the ODP will incorporate that into the plan.

Mr. Rusche displayed a slide depicting the four pods and corresponding default zoning. The next slide displayed the primary land uses for each pod. Mr. Rusche explained the possible uses and noted that the PD could be amended in the future to allow for a use that has not been anticipated at this time.

## **FINDINGS OF FACT/CONCLUSIONS**

After reviewing the OneWest application, PLD-2014-385, a request for approval of an Outline Development Plan (ODP) and Planned Development Ordinance, Mr. Rusche made the following findings of fact/conclusions and conditions of approval:

1. The requested Planned Development - Outline Development Plan is consistent with the goals and polices of the Comprehensive Plan.
2. The review criteria in Section 21.02.150 of the Grand Junction Zoning and Development Code have all been met or addressed.
3. A Development Agreement that will address the responsibilities relative to future infrastructure development must be finalized prior to or concurrent with any proposed Final Development Plan and/or Subdivision for any portion of the property.
4. A Final Development Plan and plat must be approved within 3 years of the PD Ordinance. If a Final Development Plan and plat is not approved within 3 years, the ODP will expire and the zoning will revert back to the original MU and C-2.
5. The area(s) required as determined by the City for the regional drainage facilities shall be dedicated to the City at the time the first plat is recorded for any land included within the ODP.

6. All subsequent plans and/or plats must be reviewed under the code in effect at the time of submittal, including the standards of this ODP and the PD Ordinance and/or any subsequent amendments thereto.

Mr. Rusche clarified that the three year timeframe in condition number four refers to getting the first plat approved and does not require that the property be fully developed, or platted to its ultimate condition in three years.

Mr. Rusche also clarified that the properties will still be subject to the current Zoning and Development Codes that are in place at the time of property development.

### **QUESTIONS FOR STAFF**

Vice-Chair Eslami asked, with regards to condition number four, if the applicant would be able to ask for an extension of the three year requirement. Mr. Rusche explained that the recommendation states that the Final Development Plan and plat be approved in three years, however, approval means that staff has completed the review and generally there is a two year timeframe for projects that have been approved to be recorded. Mr. Rusche stated that the objective of the three year time frame is to encourage the process to move forward and if the Commission chooses, they can amend that.

Mr. Rusche noted that at the Planning Commissioner workshop, they had discussed the idea of removing number three as a condition of the approval. Mr. Rusche stated that staff will still be working on the Development Agreement, which is the next step of this process.

Commissioner Ehlers asked if the removal of that item will be reflected in the motion or does the Commission need to make a motion to specifically remove that item from the motion.

Jamie Beard, Assistant City Attorney, suggested that the Commission could make a motion based on the conditions, facts and conclusions listed in the report, and just indicate that number three is not part of the conditions of approval.

Commissioner Ehlers stated that the discussion at the workshop revolved around the idea that by making number three a condition of the approval, it may tie the hands of the applicant with negotiations in moving forward. Commissioner Ehlers noted that the Development Agreement will be significant, considering the circulation patterns, nearby healthcare facilities, the power lines in that area, the regional detention and everything that goes along with it.

Commissioner Ehlers asked if the 24 Road Corridor Overlay intended for the Mixed Use they are considering there includes a requirement that 25 percent of the area needed to be residential. Not referring to the residential component, but the concept as a whole,

Commissioner Ehlers asked if the new uses that are identified for these pods take anything away from that original intent of the Corridor. Commissioner Ehlers also inquired if the ODP just has taken that core concept and now broken it into smaller pieces because this is such a large contiguous piece.

Mr. Rusche stated that the concepts of development that have emerged in this area, such as the 24 Road standards and the Mixed Use zoning applies to the property. In addition, the Business Park zoning, which is a fairly new creation, has been applied to Community Hospital. Mr. Rusche clarified that the 24 Road Corridor Overlay originally mandated residential, however that requirement has since been removed from the Corridor standards. There are still references that suggest how one might mix uses, be it vertical or horizontal, and how the uses can be organized. One of the key elements of the Corridor is the need for an organizing feature, like the kiosk in front of the Movie Theatre providing a place for people to gather. Most of the development standards in this proposal are for aesthetics and leaving them in place carries forward that vision. Mr. Rusche stated that he thought the mix of uses being proposed are viable and incorporates what might be anticipated to be the demand and eliminates a few things that appear to be of little value. Commissioner Ehlers asked if the allowed uses and what is being proposed is somewhat the same, from a community standpoint. Mr. Rusche noted it was about the same.

While recognizing that they will be voting on the ODP and not the site plan, Commissioner Gaseos asked for information regarding the storm drainage plan for the area. The staff report had mentioned Leach Creek and a flood plain. Mr. Rusche stated that at one time this area was considered the edge of town, and now it is effectively an infill parcel with a number of pre-existing constraints that affect the property. Mr. Rusche displayed a slide showing the flood plain areas and explained that it refers to a possible 100 year flood event that could impact the property due to constraints surrounding Leach Creek. Mr. Rusche stated that the same issue exists to the east of 24 Road and under the highway is a conveyance for storm water which is not big enough to move the amount of water a large storm could produce and all of the new run-off that could occur by developing the property. Mr. Rusche explained that typically when a building goes up, there is a detention pond on the property as part of the Development Agreement. Mr. Rusche showed the two parcels of land that will be set aside for a regional detention feature, and could serve as a nice open space entry feature into the area.

## **APPLICANTS PRESENTATION**

Mr. Tom Logue, speaking on behalf of the applicants, stated that Chris Halandas, one of the four partners, as well as Joe Coleman, legal counsel for the partnership, is present. Mr. Logue stated that, for the most part, they do not take exception to anything in the staff report and the recommendations; however Mr. Coleman would like to address a few items in the report. Mr. Logue stated that he and Mr. Coleman had prepared the submittal and he has worked hand-in-hand with Mr. Rusche and staff throughout the process.

Vice-Chair Eslami asked the Commission if anyone had a question for the applicant before Mr. Coleman makes his presentation. The Commissioners indicated they had no questions at this time.

Joe Coleman, 2454 Patterson Road, stated that this ownership group has owned this property nearly forty years. Mr. Coleman stated that the partnership feels it is time to get it developed, move on and sell parts of it. Mr. Coleman explained that they began to work with City staff about a year ago. Mr. Coleman stated that one issue he would like to address is the three year reversion number that was in the report. Mr. Coleman explained that a regional stormwater detention facility takes the cooperation of the land owners, and in return they would benefit from the City providing engineering design assistance as part of a Development Agreement. Mr. Coleman expressed concern that it took a year to get to this point, adding that this was a result of working in a cooperative state. Mr. Coleman noted that the underlying zoning is not bad, but it is not as good as what is being proposed in the ODP. Mr. Coleman noted that the future land use has a dotted line through the property, showing two zoning districts on one parcel with no correlation to the circulation plan for the area. This proposed project divides the parcel into pods that will take the circulation plan into consideration. Mr. Coleman stated that the detention facility would be a benefit to the community and it would not make sense to let the plan expire and revert to the original zoning because three years went by. Mr. Coleman noted that even with paring the parcel down to forty acre pods, there are not a lot of developers out there that want to spec 40 acres and are able to take on a project of this size. The partnership is putting together a proposal that will make the property attractive to both the developer and the City and allow both entities adequate time to consider what the actual usage will be. Mr. Coleman stated that although he would like to see seven years in the recommendation for final plat, he hopes that the Commission will allow five years for the deadline. Mr. Coleman requested the Commission approve the ODP with the exception of the three year deadline for final plat, and would like to see the Commission consider five to seven years. Mr. Coleman stated that the partners would hope to have the potential developers as a participant in the process. Additionally, Mr. Coleman noted that St. Mary's on 7th and Patterson is a whole community in itself and is a driving force in the Valley. Mr. Coleman stated that there is the possibility, with proper planning, to duplicate that with respect to Community Hospital. With an aging population, Mr. Coleman anticipated that there is room for both healthcare facilities to grow and the City should not depend on Mesa Mall retail alone to generate sales tax. Mr. Coleman gave examples of other Big Box stores that are now in surrounding cities. Mr. Coleman stated that the region could not only be the current medical center for the region, but for the next fifty years as well. Mr. Coleman added that the three year deadline serves no purpose other than to hold their feet to the fire and they feel the three years may be too optimistic.

## **QUESTIONS FOR THE APPLICANT**

Commissioner Wade asked Mr. Coleman if they were to approve the three year time period, and added that a three year extension could be granted if the applicant requested, would that fit within their requirements? Mr. Coleman stated that it would. Vice-Chair Eslami noted that was his concern as well.

### **STAFF RESPONSE**

Vice-Chair Eslami asked Mr. Rusche if he had a rebuttal for Mr. Coleman. Mr. Rusche stated that staff has no objection to the Planning Commission considering a longer time frame. The five years seems reasonable and Mr. Rusche offered an explanation on how they got to the original number. Many of the Planned Developments that some of the Commissioners have had the opportunity to review in the past contained ten and twenty year windows for the development of the entire property. Mr. Rusche stated that staff acknowledges that it will take some time for the development to be absorbed into the marketplace and a time limit for complete development didn't seem to make sense, but leaving it wide open didn't seem to achieve the objectives either.

Commissioner Wade asked Mr. Rusche what he thought of his suggestion of a three year time frame with a three year extension. Mr. Rusche asked for clarification if the three year extension would be done administratively or go back for review by the Commission. Commissioner Wade stated that he had thought that the extension could be done administratively if that was legal to do so and asked Ms. Beard for her counsel.

Ms. Beard explained that when it is a Planned Development, the Commission can set what the terms are in the ordinance with regards to any type of phasing. The Commission could phase the project with the three year time frame and allow for three year extension. The Commission could also include the terms of how that would occur.

### **PUBLIC COMMENT**

Vice-Chair Eslami opened the meeting for the public comment portion and asked anyone in favor of the project to line up at the podium. Having no one respond, Vice-Chair Eslami asked for those against the proposal to sign in and speak. With no one present wishing to speak against the proposal, Vice-Chair Eslami closed the Public Comment portion of the hearing for this item.

### **COMMISSIONER DISCUSSION**

Commissioner Ehlers commented that over the last 16 years, the City has had scenarios where the idea of an event center and/or arena has been brought up. Discussions by property owners and others have identified areas near the fairgrounds, downtown and the 24 Road Corridor as three possible sites for an event center. Commissioner Ehlers stated that he was looking at this 24 Road Corridor, from a community standpoint, as well as fully understanding property rights, and asked if there was a reason why an event center may have been excluded from the list of allowed uses in the ODP.

Mr. Rusche responded that an event center was not brought up in discussions with the applicant and that this ODP was the most tangible plan that has been brought up for the property in a while. Mr. Rusche noted that if an event center became a serious proposal, including necessary right-of-way dedication and transportation network considerations, it is possible for the ODP to be amended. Mr. Rusche explained that construction of the new Community Hospital has been the catalyst for development in the area.

Commissioner Ehlers stated that he is aware that there have not been any formal studies for locations of an event center and was curious if it had been considered or overlooked. Commissioner Ehlers noted that he was in favor of the ODP as a good use of the property.

Commissioner Ehlers asked the fellow Commissioners why they would consider a three extension instead of just moving the final plat deadline to six years out, in light of staff support for the extension. Commissioner Ehlers stated that the six year deadline would give developers a sense of predictability.

Vice-Chair Eslami stated that six years seems adequate considering the size of the parcel and he is in favor of the project.

Commissioner Wade stated that his initial inquiry was to see if an extension was possible, however, he is in favor of changing the three years to six.

Commissioner Gaseos stated that he is in favor of this ODP and of ODPs in general. He felt the six year deadline would allow a better chance for development to be done in a correct fashion.

Vice-Chair Eslami asked for a motion.

**MOTION: (Commissioner Wade)** “Mister Chairman, on item PLD-2014-385, I move that the Planning Commission forward a recommendation of conditional approval to the City Council on the requested Outline Development Plan as a Planned Development Ordinance for OneWest with the findings of fact, conclusions, and conditions identified in the staff report with the following two exceptions:

1. Condition number three to be omitted and,
2. The term in condition number four to be changed to six years.”

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

#### **4. Colorado Mesa University Rights-of-Way Vacation [VAC-2015-182]**



Request to vacate portions of public rights-of-way (adjacent to CMU owned properties) of Cannell, Hall, Texas, Elm, Kennedy, Bunting Avenues and associated alleys as part of Colorado Mesa University expansion projects.

*Action: Recommendation to City Council*

Applicant: Colorado Mesa University

Location: Portions of Cannell, Bunting, Kennedy, Elm, Texas, Hall Avenues and part of alleys

Staff presentation: Scott Peterson, Senior Planner

### **STAFF PRESENTATION**

Scott Peterson, Senior Planner explained that Colorado Mesa University (CMU), requests approval to vacate portions of Cannell, Bunting, Kennedy, Elm, Texas, Hall Avenues and parts of alleys adjacent to CMU owned properties. This application was remanded back to City Staff and CMU for further review on June 23, 2015 to address various issues raised during the public hearing. Issues of concern brought up by the public and Commissioners included lack of dust control, lack of on-going maintenance, lack of cooperation in dealing with Fire Department requirements in a timely manner and failure to update Planning Commission on the University's plans for future development.

Mr. Peterson showed a slide of the site location map that illustrated the five locations where CMU has requested to vacate the rights-of-way. Mr. Peterson explained that the properties abutting the sections of right-of-way for which vacation is sought are owned or controlled by Colorado Mesa University. The next slide Mr. Peterson presented showed the latest proposal for the fire access lanes and the proposed parking lot areas between Bunting and Mesa Avenue. Mr. Peterson pointed out that the location of a future dorm is identified as a result of discussions at the last meeting.

Mr. Peterson stated that CMU has agreed that the new fire access lanes will be provided and constructed to be a minimum of 20 feet wide, including asphalt paved to City standards which will hopefully address the Planning Commissioners and the neighborhood concerns expressed regarding dust control and maintenance at the last meeting. Mr. Peterson pointed out the fire access lane and noted that it runs to the west of the CMU controlled properties. Mr. Peterson said the traveling public could technically drive from North Avenue to Orchard Avenue in a serpentine manner through the proposed parking lots via the fire access lane. A fire access lane will be constructed at the end of each vacated street and alley right-of-way and will provide adequate turning radiuses for fire, emergency and City trash trucks.

CMU is also proposing to asphalt a new parking lot located north of Bunting Avenue and south of Kennedy Avenue as part of this phase of rights-of-way vacation. To the east is an existing parking lot that is paved. CMU has agreed to maintain the proposed parking lots to reduce dust. If constructed with anything other than asphalt paving, then

magnesium chloride shall be applied as needed to the proposed recycled asphalt parking lots.

### **FINDINGS OF FACT/CONCLUSIONS**

After reviewing the Colorado Mesa University ROW Vacations, VAC-2015-182 a request to vacate portions of public rights-of-way, Mr. Peterson presented the following findings of fact, conclusions and conditions that have been determined:

1. The requested right-of-way vacation is consistent with the goals and polices of the Comprehensive Plan specifically, Goals 1 and 12.
2. The review criteria in Section 21.02.100 of the Grand Junction Zoning and Development Code have been met or addressed.
3. As a condition of vacation, the City shall retain a utility easement over all of the right-of-way areas to be vacated for maintenance, operation and repair of existing utility infrastructure.
4. With the vacation, CMU has agreed to construct a minimum 20' wide asphalt paved fire access lanes with adequate turning radius and allow usage of the circulation drives by the public, trash collection trucks and emergency service vehicles.
5. CMU has agreed to meet all Grand Junction Fire Department requirements as identified within this application.
6. CMU has tentatively scheduled to come to speak to the Planning Commission at the September 17th workshop.
7. CMU has agreed to maintain the proposed parking lots to reduce dust. If constructed with anything other than asphalt paving, then magnesium chloride shall be applied as needed.
8. CMU agreed that all entrance/exit ways of parking lots onto City right-of-way shall have a minimum 5' deep hard surface apron.

Mr. Peterson stated that he wished to amend the staff report as part of the Fire Department's review of the conditions. Item number two, currently states "final engineered construction drawings shall be provided to the Fire Department" and Mr. Peterson requested that the words "final engineered" be struck from the statement. Mr. Peterson stated that this revision is acceptable to both CMU and the City Fire Department.

Mr. Peterson noted that he received two letters after the last Planning Commission meeting, and has handed them to Commissioners prior to the beginning of the meeting.

Mr. Peterson stated one letter is from Mr. Ford, 860 Kennedy Ave., who spoke at the last meeting. Mr. Ford's main concern expressed at that meeting was dust control. Mr. Ford, who was unable to make this meeting, has reviewed the proposed plan and has found that the proposed minimum 20' asphalt fire access lane is acceptable to him. The second letter received was from Mr. Harris who spoke at the last meeting as well.

### **QUESTIONS FOR STAFF**

Commissioner Gaseos asked Mr. Peterson if he feels that all the concerns the Planning Commissioners had brought up at the last meeting have been addressed satisfactory. Mr. Peterson stated that CMU has been working with staff to address the issues that were expressed by Commissioners and neighbors at the last meeting. CMU has also held meetings with the City Fire Department and now will provide a paved access way that both CMU and the public can utilize.

Commissioner Deppe asked if the condition that entrance/exit ways of parking lots onto City right-of-way shall have a minimum 5' deep hard surface apron applied to existing CMU parking lots. Mr. Peterson stated that this condition would apply from this point forward. In addition, these conditions would be brought forward to any future parking lots created as part of future right-of-way vacations.

Commissioner Wade stated that although CMU has agreed to the fire access lane, he does not see the requirement for the access to be paved in the staff report. Mr. Peterson responded that it is condition number four. Commissioner Wade stated that the wording does not include asphalt paving. Mr. Peterson stated that it must have been an oversight and the words "asphalt paving" should be in condition four and he will need to amend the staff report to include that wording.

Vice-Chair Eslami asked to hear from the City Fire Department. Ken Watkins, Grand Junction Fire Chief stated that they have been in negotiations with CMU regarding the items specific to the Fire Department and have come to an agreement with the items as far as the Fire Department was concerned.

### **APPLICANTS PRESENTATION**

Derek Wagner, CMU Vice President for Intergovernmental and Community Affairs, stated that he had a few slides he could walk through or he could wait until a future meeting in the fall. Mr. Wagner stated that CMU had heard the concerns from the last meeting and they have been working hard with staff to address the concerns. Mr. Wagner offered to answer any questions the Commission may have.

### **QUESTIONS FOR APPLICANT**

Commissioner Deppe asked Mr. Wagner what CMU's plans are for the existing parking lots regarding the maintenance concerns surrounding the 5 foot aprons. Commissioner

Deppe stated that she has driven that area several times and she can see where the mud, water and rocks have been drug out to the streets and sidewalks.

Mr. Wagner stated that CMU would be happy to look at that. Mr. Wagner explained that all their efforts have been focused on the right-of-way application and how to make the conditions workable. Mr. Wagner stated that as of today, CMU is in the process of applying recycled asphalt pavement to all the parking lots across the campus. Mr. Wagner added that depending on the parking lots, there are a lot of different access points. CMU Facilities and Parking Department is working on trying to control the access for certain parking lots in some areas because there are existing curb cuts where homes were that have to be addressed on a parking lot by parking lot basis.

Commissioner Tolle stated that his primary concern has been safety and the rights and privileges of all concerned. Commissioner Tolle stated that he sees almost all his concerns have been addressed, but one issue that is important to him is the current problem that he sees as ongoing, which is the relationship with the residents and to make sure they are not imposed upon. He has heard from CMU in the past that they will work with them, however, he is not hearing that anymore. Commissioner Tolle asked Mr. Wagner if CMU has any new programs or meetings that may improve the current situation and prevent ill will in the future with the residents.

Mr. Wagner responded that in addition to the at least two meetings that CMU has with the residents each year, they also have a meeting when a particular project is scheduled. Mr. Wagner stated that when issues come to CMU, whether through the Facilities Department or the President's Office etc. they work quickly to try and address them. Mr. Wagner stated the plan is to continue having the regular meetings, not because they are required to do so, but that they do it proactively. Mr. Wagner pointed to Mr. Ford's example where CMU heard his concerns about dust on his property and they changed the plan to address it. As problems and concerns come to their attention, their plan is to take them seriously and address them as quickly as they can on a proactive basis.

### **QUESTIONS FOR STAFF**

Commissioner Tolle noted that he had a question for staff. Commissioner Tolle stated that he feels staff does a great job, but one of the documents staff provided was not an area where he had walked and observed, and now there seems to be some new concerns. Commissioner Tolle wanted to know if staff, CMU, the Commissioners and the public are aware of the concerns and are communicating among each other.

Mr. Peterson explained that if a call/concern comes to him or the development engineer, he will follow up to see what the issue is and how it can be addressed. Commissioner Tolle asked if we are addressing the citizen's concerns and not just one side of the issues. Mr. Peterson stated that through the Commissioners actions and review this last month for this application, CMU is aware that they will be coming back to the Planning Commission periodically as they request more right-of-way vacations. CMU

has indicated that they plan to keep the Commission informed as to their future plans for expansion. Mr. Peterson reiterated that CMU will be coming to the Planning Commission in the near and distant future with proposals. Commissioner Tolle stated that he has no doubt CMU will be coming before the Commission, but he wants to make sure the current system of communication is adequate. Commissioner Tolle wants to make sure the Commission and staff, who work for the citizens, are at a minimum, expediting the communication lines across the board.

Commissioner Ehlers stated that regarding the right-of-way vacations in the past and that of those proposed, the approval indicates maintenance will be done by CMU. Commissioner Ehlers asked who enforces that, now that it is no longer a public right-of-way. Mr. Peterson stated that the vacation makes the right-of-way become private property and reverts back to the owner, which in this case is CMU. Mr. Peterson added that the City Fire Inspector, Mr. Kollar is on the campus at least once a week to make sure fire lanes are maintained. In addition, the City Engineering/Public Works department will be making sure that they are maintained.

Commissioner Gaseos stated that he welcomes CMU to sit down with the Planning Commissioners on a regular basis, over the next years of expansion. Commissioner Gaseos requested of Mr. Peterson that before they meet with CMU in September, he would like to see what has happened with enforcement regarding maintenance issues.

After reading the document from Mr. Harris, Commissioner Wade asked Mr. Peterson if Mr. Harris was aware of CMU's offer to pave the access. Mr. Peterson responded that Mr. Harris had come to the Planning office last week and was shown the improvements drawing proposed and he is aware of the paving that will be done.

## **PUBLIC COMMENT**

Vice-Chair Eslami opened the meeting for the public comment portion and asked anyone in favor of the project to line up at the podium.

(A short break was taken at the request of a citizen wishing to speak.)

Vice-Chair Eslami declared the meeting back in session and stated that Mr. Watkins, City Fire Chief would like to make a comment. Mr. Watkins stated that he was referring to a question that Mr. Tolle had asked regarding future communications with CMU. Mr. Watkins stated that better communications with CMU is a goal that they are currently moving toward. As more vacations are anticipated to happen in the future, Mr. Watkins stated that they are working with CMU on creating a process to address some of the Fire Departments concerns rather than on an individual basis only, as the concerns are the same throughout the expansions.

Vice-Chair Eslami asked for public comment.

Mr. Clark Carroll, 1240 Cannell Ave. stated that he was a CMU alumni and resident of the community for 53 years. Mr. Carroll noted that his education is in the area of social and behavioral science. Mr. Carroll added that his family has been on Cannell Ave. for over 60 years. Mr. Carroll stated that being raised on campus, he has experienced many changes that the campus has gone through during its expansion, both good and bad. Mr. Carroll explained that his motivation is for the most part, to protect public process, health safety and welfare. Mr. Carroll stated that he would like to speak to a partial list of issues and the impact surrounding street vacations requested by CMU. After reading an extensive list of concerns in a variety of areas, Mr. Carroll stated that two things were most important to him. One was his respect for Mr. Harris to speak out on the proposal and the other concern was fire issues.

Mr. Carroll continued to speak, addressing issues unrelated to the right-of-way vacation request. Vice-Chair Eslami asked for clarity, if Mr. Carroll is for or against the proposal. Mr. Carroll stated that he was in favor of the vacation and had no problem with it. Mr. Carroll stated that he was trying to tie in his concerns with other safety issues. Vice-Chair Eslami stated that he was out of order in doing so, and asked Mr. Carroll again if he was for or against the vacation proposal. Mr. Carroll said he was in favor and asked if he should continue. Vice-Chair Eslami stated no, that he was done. Commissioner Ehlers added that the intent is to keep the comments focused toward the right-of-way vacation request. Commissioner Ehlers stated that Mr. Carroll's comments are appreciated and it's not that the Commission does not want to hear public comments, however, they need to stay focused on the right-of-way vacation that is proposed.

Vice-Chair Eslami asked if anyone else would like to speak at this time.

John Martin stated that he was against the proposal. Mr. Martin owns a property at 845 Orchard. Mr. Martin stated that he was on vacation for the previous public hearing in June when he had received notification in the mail of the proposed right-of-way vacation. Mr. Martin referred to the location map and noted that on Cannell, between Hall and Orchard, they want to take out a section of the alley. Mr. Martin stated that before the approval of the expansion of CMU, he developed his property on Orchard. As part of his development, Mr. Martin was granted access from the alley and not Orchard Ave. and as a result, he has to approach his property through CMU property. Mr. Martin stated that the alternate route, which would be from 7th street, is a considerable ways away. Mr. Martin expressed disappointment that by converting the public property to CMU ownership, he would lose access resulting in an inconvenience as well as decreased property value. Mr. Martin acknowledged that the expansion in general is a double edged sword in that he rents his property to students. Mr. Martin pointed out that the other properties nearby on Orchard Ave. all have access off of Orchard and he is the only one that has the alley access which was encouraged by the city when he developed his property.

Commissioner Gaseos told Mr. Martin that he appreciates his comments and wanted to make sure he understood that Mr. Martin does have access off of Orchard. Mr. Martin

clarified that he does not have access off of Orchard. He stated that Orchard is a very busy street and access seemed dangerous.

Commissioner Ehlers asked Mr. Martin how long ago he developed the property. Mr. Martin replied it was about seven years ago. Commissioner Ehlers asked Mr. Peterson if it was determined that since Orchard Avenue is classified as a collector, it was deemed more appropriate to have the access off of the alley. Mr. Peterson explained that this property was developed with three multi-family homes. Mr. Peterson confirmed that Mr. Martins required parking spaces are in the rear of the property and that is where his access is as well. Commissioner Ehlers asked Mr. Martin if he has a solution that he thought would work for him given the fact that he would like to see both CMU grow and need the alley access for his property. Mr. Martin questioned why the City needs to give up the right-of-way which is owned by the public, to CMU. Mr. Martin suggested that maybe they could drop the right-of-way vacation request to the area south, allowing his access, as a possible solution. Commissioner Ehlers stated that he would like to address a representative from CMU regarding this issue. Commissioner Ehlers stated that he was not aware of this issue before.

Kent Marsh, Facilities Services Director, CMU, stated that when CMU plans for future development, they try to leverage the amount of real estate available to them to build on. One of the ways they accomplish that is when they acquire the real estate on both sides of the right-of-way, and it makes sense for them to vacate the right-of-way for future building opportunities. Mr. Marsh does not feel this situation is unique in that although the property could access the alley from both the east and west presently, the west access is still available and for that matter he could still access it from the east. Commissioner Wade acknowledged that he could still access from the east on the vacated property that will be asphalt, but based on the staff report, CMU could eventually restrict access when they get ready to build. Mr. Marsh stated that when that happens they can reroute a property. One example is a similar case in the south campus where a homeowner has the opposite issue where he does have an access to the main street, but does not have access to his property from the alley. CMU is presently working with that property owner to grant an easement to get to the back of his property.

Commissioner Wade asked Mr. Peterson if Mr. Martin's property is the only one that does not have access off of Orchard Ave. Mr. Peterson could not verify from the photo. Commissioner Wade then asked Mr. Martin the same question and Mr. Martin stated to his knowledge, the answer is yes.

Commissioner Wade addressed Mr. Marsh and stated that this situation is unique in that this is Mr. Martin's only access to his property. Mr. Marsh confirmed that it does appear that way. Mr. Marsh stated that it is his understanding that when a subdivision is done in the City, or development of a property, that the requirement is that there is an access and not necessarily multiple accesses. Mr. Marsh indicated that as they expand, they understand that they are required to maintain an access for properties, but not necessarily multiple access points. Mr. Marsh asked for confirmation from Mr.

Peterson. Mr. Peterson stated that there were two right-of-ways abutting Mr. Martin's parcel, Orchard Ave. to the north and the alley access to the south. When Mr. Martin designed the multifamily property, he chose to access off the alley and that met acceptable city standards to also meet his parking requirements. Commissioner Wade noted that the fact that he abuts Orchard Avenue doesn't give him any access to it. Mr. Peterson agreed with the statement.

Commissioner Deppe asked Mr. Peterson what would prohibit CMU from granting Mr. Martin perpetual access to his property such as a deeded or recorded driveway agreement. Mr. Peterson explained that what is before the Commission is the vacation of Cannell Ave. which will become a fire access lane. The public can utilize the fire access lane, therefore, the property can technically be accessed from the east. Mr. Peterson explained that Mr. Martin feels this is unacceptable and he wants full City right-of-way coming from the east and the west. Mr. Peterson stated that Mr. Martin has indicated that he doesn't feel that the vacation, and that CMU will control that portion of the alley, as acceptable under the conditions proposed.

Commissioner Buschhorn asked Mr. Martin if the trash collection is for the property was in the alley or on Orchard Ave. Mr. Martin responded it was in the alley. Commissioner Buschhorn asked if the other neighbors trash cans are also collection in the alley. Mr. Martin replied yes. Commissioner Buschhorn then pointed out that if everyone has their trash collection in the alley, then they would have access as well, given that the trash trucks have to have access. Commissioner Buschhorn stated that he understands that Mr. Martin may want the right-of-way to stay with the City, but he does not see how that could happen and CMU be able to expand. Commissioner Buschhorn asked a representative from CMU for confirmation about the trash truck access. Mr. Marsh responded that even if they did build a building there, they would provide plans for the individual to get around the building. Mr. Marsh elaborated that this is why they decided to obtain access to the west as they look ahead to future access. Mr. Marsh stated that there are no plan currently for a building there, but they are always preparing for future building sites.

Commissioner Buschhorn noted that CMU owns 901 and 905 Orchard Ave. which is directly east of Mr. Martin's property, and asked Mr. Marsh if they plan to leave those buildings standing after they obtain the right-of-way. Mr. Marsh stated that one of the buildings will come down due to the state of disrepair it is in. Commissioner Buschhorn pointed out that Mr. Marsh was referring to 1825 Cannell. Mr. Wagner stated that 901 and 905 Orchard Ave. are owned by CMU and are currently being maintained as rental properties and there are no plans to tear those down at this time.

Vice-Chair Eslami asked Mr. Peterson if the vacation will allow the public to still have access. Mr. Peterson stated that public access as well as access for emergency and trash trucks, is part of the conditions of approval for this vacation.

Mr. Martin asked who is going to maintain that access. Vice-Chair Eslami said CMU as the owner of the property, would maintain it. Mr. Martin questioned if CMU will properly



maintain the alley since they own 925 Orchard Ave., and weeds are a problem there. Vice-Chair Eslami responded that CMU has indicated that they are going to try and cooperate more with the neighborhood.

Commissioner Wade informed Mr. Martin that as a result of concerns brought up at the previous Planning Commission meeting, the Commission sent the proposal back to staff to work with CMU. As a result, it was agreed that CMU would asphalt the entire vacation and maintain the access. Mr. Martin asked if that included the weeds. Commissioner Wade stated that this proposal is regarding the right-of-way and paving with asphalt.

Ms. Beard advised Vice-Chair Eslami that if Mr. Martin (who at this time was sitting back in the audience) wishes to speak, he should go to the podium to make sure comments can be included into the record.

Mr. Martin asked how we can make sure things are going to be maintained correctly. Vice-Chair Eslami explained that maintenance is part of the agreement. Vice-Chair Eslami also noted that CMU will be returning to the Commission for approval of future vacations. Mr. Martin stated that for the most part, they do a good job.

Commissioner Gaseos added that the Planning Commission was responsible to the citizens when they remanded the original proposal back to the staff. Commissioner Gaseos indicated that CMU has made positive efforts to remedy the situation. Commissioner Gaseos noted that CMU plans to meet with the Commissioners in September, and if Mr. Martin still had concerns, he should let staff know.

Mr. Martin wished to clarify that it is his understanding, that if CMU decides to develop next to his property, that they will access to his property through their development. Vice-Chair Eslami explained that the proposal being considered doesn't involve future promises between Mr. Martin and CMU of that nature.

Commissioner Ehlers stated that based on CMUs requirement to provide trash truck and emergency access, if they were to develop the property nearby Mr. Martin's in such a fashion where he could not physically get his vehicle to the property, they would be required to provide an alternative access to Orchard Ave. or they would have to provide a turn-around for large emergency vehicles and trash trucks. Commissioner Ehlers noted that although it appears the loop access will remain for the time being, the Development Code does not guarantee that. What the Code does provide, is that there will be access to his property. Mr. Martin stated that his concern is that his parking lot will become the turn-around for other vehicles if the alley dead-ends there. Mr. Martin stated that he is not in favor of this part of the right-of-way vacation because he feels it effects his property value. Mr. Martin noted that when he bought the property and invested in improvements, it was based on the fact they had access to the east. Mr. Martin indicated that he did not feel it was reasonable to access his property from 7th street.

Commissioner Wade commented that he and other commissioners have spent a lot of time the past month driving up and down the alleys there, because of the issues raised at the last meeting. Commissioner Wade noted that CMU has agreed to pave the alley and allow him access. Commissioner Wade commented that at some point, they have to acknowledge that CMU has committed to the arrangement and that's where it stands. Mr. Martin questioned why one comment from the Commissioners is that his access is not guaranteed and another one states it is.

Commissioner Ehlers commented that the role of the Planning Commission is not enforcement or punitive. Commissioner Ehlers noted that many of the comments brought up by Mr. Martin and others were valid concerns about maintenance and CMU has appeared to have addressed them. Commissioner Ehlers stated that issues such as weeds and Mr. Martin's concern that his parking lot will become a turn-around, are enforcement issues. Commissioner Ehlers stated that the right-of-way vacation proposal review is very different from enforcement issues. There are laws and regulations already on the books to address those issues. Commissioner Ehlers stated that as a Planning Commissioner, he listens to citizens' concerns and works with staff on how enforcement can be better in the future. Commissioner Ehlers stated that the Commissions decisions are not based on promises and trust, but on an agreement where there are conditions such as maintenance.

Mr. Martin asked at what point does the alley property becomes CMUs property. Commissioner Wade stated that it will become CMUs property when the alley is vacated. Vice-Chair Eslami stated that the City will keep the utility easement as well as require a 20 foot emergency access lane. Vice-Chair Eslami explained to Mr. Martin that he will keep his access and if CMU decides to develop the nearby property, Mr. Martin will have an alternative access or some kind of accommodation. Mr. Martin said based on that, he is ok with the proposal. Commissioner Ehlers stated, for clarification, enforcement is done via the Zoning and Development Code regulations.

Vice-Chair Eslami asked if there was anyone else from the public who wishes to speak. With no responses, Vice-Chair Eslami closed the Public Comment portion of the hearing for this item.

### **COMMISSIONERS DISCUSSION**

Commissioner Wade commented that at the last meeting, he felt CMU had not taken care of their responsibilities. He now feels that CMU has come forward and offered a solution that will satisfy the vast majority of the concerns. In addition, CMU has offered to increase communications with the Planning Commission and the nearby neighbors. For these reasons, Commissioner Wade stated that he is now in favor of the vacation request.

Commissioner Deppe stated that she is still not convinced that CMU is going to be the good neighbor that they say they are. Commissioner Deppe stated that she believes it is too early for this vacation. Commissioner Deppe commented that she would like to

have CMU come to the Planning Commission with more information regarding what they are planning to do and answer questions. For these reasons, Commissioner Deppe is not in favor of the vacation request at this time.

Commissioner Tolle stated that he did not hear CMU mention any new efforts for communications with the citizens in the area and it appears everything is the same and for this reason, he cannot support the request. Commissioner Tolle commented that the fire chief had told the Commissioners that he had had conversations at great length with CMU, however, there was no new information brought up about it. Commissioner Tolle stated he basis his decision on the rights of the citizens, and he does not feel they have been appropriately addressed.

Commissioner Gaseos stated that he agreed with Commissioner Wade's comments. He too, had concerns about the maintenance issue surrounding last year's right-of-way vacations. Commissioner Gaseos commented that in his opinion, CMU has made a great effort with this proposal. Commissioner Gaseos stated that he too, is primarily concerned with the needs of the citizens, but recognizes that CMU needs to grow. Commissioner Gaseos noted that CMU has a pretty substantial investment to do things right, from a monetary standpoint, and hopes they continue to communicate with the citizens. Therefore, he is in favor of the vacation with the conditions that were presented by staff and the changes that were made since the last meeting.

Commissioner Ehlers stated that he feels it is important to define the Commissioners' role and make sure the planning standards are set as well as the conditions in which they are done. Commissioner Ehlers stated that basing a decision on trust and being good neighbors etc. would not be applied to a retail development and it is not correct to deny a request based on speculation that they would do something different than what they present. Commissioner Ehlers stated that when the Commission approves a right-of-way vacation request with a maintenance agreement, the enforcement of that agreement belongs to other entities within City government. Commissioner Ehlers stated that he is cautious of being punitive or leveraging approval based on something that they don't have the power to enforce and therefore feels that doing so, would not be appropriate in his role as a Planning Commissioner. Commissioner Ehlers noted that with this proposal everyone maintains access although there are inconveniences and CMU is trying to mitigate as they create an infill development and don't add to urban sprawl.

Commissioner Buschhorn thanked CMU for addressing the issues so quickly. Based on a vacation request from last year where it took almost a year to address Fire Department concerns, to see a turn-around in a month was impressive. Commissioner Buschhorn stated that he feels this is a step in the right direction and a step that needs to be taken. He stated he was in favor of the vacation request with the caveat that they will be observing how the agreement is honored and it could have an effect on how smoothly future vacation requests go.

Vice-Chair Eslami noted that staff and CMU had done a great job in creating a better understanding. Vice-Chair Eslami stated that the fact that the alleys have to remain open to the public as a condition of approval was why he was in favor of the vacation request.

Vice-Chair Eslami asked for a motion.

**MOTION: (Commissioner Wade)** “Mr. Chairman, on item VAC-2015-182, I move we forward a recommendation of conditional approval to the City Council on the request to vacate portions of rights-of-way of Cannell, Bunting, Kennedy, Elm, Texas, Hall Avenues and parts of adjacent alley rights-of-way with the findings, facts and conclusions and the amended conditions as stated in the staff report.”

Commissioner Buschhorn seconded the motion. A vote was called and the motion passed unanimously by a vote of 5-2 with Commissioners Tolle and Deppe voting against.

### **General Discussion/Other Business**

Greg Moberg, Development Services Supervisor, reminded the Commission that there will not be a second meeting of the Planning Commission this month, however, they will be holding the regular second workshop on July 23<sup>rd</sup>.

### **Nonscheduled Citizens and/or Visitors**

None

### **Adjournment**

The Planning Commission meeting was adjourned at 8:20 p.m.