

GRAND JUNCTION PLANNING COMMISSION
March 28, 2017 MINUTES
6:00 p.m. to 10:17 p.m.

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

Also in attendance representing the City Planning Commission were Jon Buschhorn, Kathy Deppe, Keith Ehlers, Ebe Eslami, Aaron Miller and Bill Wade.

In attendance, representing the City's Administration Department - Community Development, was Kathy Portner, (Planning Manager) and Dave Thornton (Principal Planner) Lori Bowers (Senior Planner), Scott Peterson, (Senior Planner) and Rick Dorris (Development Engineer).

Also present was Jamie Beard (Assistant City Attorney).

Lydia Reynolds was present to record the minutes.

There were 29 citizens in attendance during the hearing.

*****CONSENT CALENDAR*****

1. Minutes of Previous Meetings

Action: Approve the minutes from the February 28, 2017 Meeting.

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

With no amendments to the Consent Agenda, Chairman Reece called for a motion to approve the Consent Agenda.

MOTION: (Commissioner Wade) "Madam Chairman, I move approve the consent agenda."

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

*****INDIVIDUAL CONSIDERATION*****

2. Amending the Zoning and Development Code [File# ZCA-2016-384]

Request to amend the Zoning and Development Code to Amend the Sign Code regarding nonconforming signs.

Action: Recommendation to City Council

Applicant: City of Grand Junction
Location: Citywide
Staff Presentation: Dave Thornton, Principal Planner

STAFF PRESENTATION

David Thornton (Principal Planner) explained that during the past 6 months, city staff, Planning Commission, City Council, the sign industry and business community have worked together to seek changes to the City's sign code. Mr. Thornton noted that changes have been approved by City Council to the Sign Code that include addressing content neutrality and digital and electronic signage.

As part of those discussions a third area of concern was raised by the outdoor advertising sign industry that relates to nonconforming billboards located within zoning overlay districts and upgrading them to digital/ electronic signage. Council directed staff to review the upgrade limitations imposed on outdoor advertising/ billboards.

Mr. Thornton explained that it was expressed by the sign industry that the Sign Code did not treat Outdoor Advertising signage the same as on-premise business signage.

Mr. Thornton explained that currently there are limitations on nonconforming billboards. Presently, owners of on-premise signs may change the face of their existing signs whether they are conforming or nonconforming, going from a static sign face to an electronic sign face, however, the outdoor industry may not make a sign face change for billboards without obtaining a permit to change it from a static billboard to a digital/electronic billboard. Mr. Thornton stated that this regulation prohibits nonconforming billboards from upgrading to a digital/electronic face.

Mr. Thornton displayed a slide of a typical sign cabinet and structure and explained that the procedure required by the sign industry to change a static sign face to another static sign face is the same procedure required to change it to a digital/ electronic sign face when the sign structure is not altered to provide for a larger or smaller sign.

Mr. Thornton referred to the slide displayed and noted that in this case, the cabinet area between the support structure of the sign would not be altered in a way that changes the size of the sign.

After holding meetings with the affected interests the proposed changes to the City's Sign Code will include allowing face changes to all signage for all sign types, conforming and nonconforming including upgrading the sign to digital or electronic.

Proposed changes will level the playing field between on-premise advertising and off-premise advertising. Mr. Thornton displayed a slide with the following **proposed**

language to the Sign Code:

“Face changes to any sign including making the sign digital or electronic that do not increase the size of the sign is allowed. Digital and Electronic signs must comply with regulations governing such.”

Mr. Thornton displayed a slide and noted that this language is being proposed to be **deleted** from the current sign code:

“Any outdoor advertising sign on or near the Riverside Parkway that becomes nonconforming due to the adoption of this section may continue only in the manner and to the extent that it existed at the time of the adoption of the ordinance codified in this title. The sign must not be re-erected, relocated or replaced unless it is brought into conformance. If a sign is nonconforming, other than because of the adoption of the ordinance codified in this title, then the sign shall be discontinued and removed on or before the expiration of three years from the effective date of the ordinance codified in this title.”

With the proposed change in allowing an outdoor advertising sign face to change to a digital sign face, this section is no longer valid. The City has never enforced the last part of this which states “the sign shall be discontinued and removed on or before the expiration of three years from the effective date of the ordinance”.

QUESTIONS FOR STAFF

Recognizing budget considerations, Commissioner Wade inquired how enforcement of the sign code is being handled. Mr. Thornton stated that the sign code is currently enforced on a complaint basis with regards to changes to a previously approved sign.

Commissioner Buschhorn asked how many signs are affected by the proposed changes in the code. Mr. Thornton estimated that there currently about eight billboards/signs that were not conforming due to overlays. Mr. Thornton believed that not all of the eight billboard/signs are in spots that the billboard industry would consider converting to digital due to the high cost of doing that.

Commissioner Buschhorn asked in what way are the signs non-conforming. His understanding is that presently, a non-conforming sign can only have maintenance and repairs done. Mr. Thornton replied that as of right now, the sign industry can do maintenance and repair and also do a static face change.

Commissioner Buschhorn expressed concern that although the industry may not be ready to invest the extra money to convert to digital at the present time, the code change will allow for it in the future. He felt that the possibility of the non-conforming sign converting to digital is significant. Commissioner Buschhorn asked if a non-conforming billboard/sign would be allowed to become digital even if it was in a residential zoning. Mr. Thornton explained that the change would be allowed regardless

of current zoning, however with the exception of a few signs, the majority are non-conforming due to the overlay they fall in.

Commissioner Ehlers inquired if there had been any neighborhood complaints about the non-conforming billboard/signs that are currently in residential zoning. Mr. Thornton replied that since they have been drafting the language, he has received one call that was concerned about a sign changing to digital, however, it was in regards to a legal and not a non-conforming sign. The citizen had stated they didn't want to see any digital signs allowed in the city.

Commissioner Buschhorn asked why in the code, non-conforming signs are not allowed to have anything other than maintenance/repairs and face changes done. Ms. Portner explained that the purpose of addressing the non-conforming signs in the code is that eventually the need will go away and that it is a use or structure that will eventually become obsolete and will be removed. Therefore, there are provisions in the code that state how much repair can be done to those. The limit in the code currently is that if a non-conforming sign is damaged, only 50% of the value of the sign can be replaced. Ms. Portner added that most of the wooden structures that support the signs have been replaced over time. The code change is only addressing the sign face itself and not the structure.

Commissioner Buschhorn expressed concern that if the intent of the proposed changes to the code is to eliminate the non-conforming signs over time, the new wording will somewhat legitimize the sign and help it become more permanent which would go against the policy decision to not have the non-conforming signs in the future. Mr. Thornton stated that the sign is still held to the 50% rule.

PUBLIC COMMENTS

Mark Gamble, 2475 Commerce Blvd. stated that he represents the Sign Industry. Mr. Gamble stated that the changes to the sign code come after seven months of meetings and discussions. Mr. Gamble stated that most of the non-conforming signs are due to overlays, such as the Riverside Parkway, Greater Downtown Plan and others that the City has approved over time. He feels the new language will allow him to convert a static sign face to digital and that he only foresees about 10% of his signs having the potential for that.

C.J. Rhyne, Grand Junction Area Chamber of Commerce, stated that in discussions with local businesses, they have expressed the desire to have the option of digital sign faces as they are more economical.

COMMISSIONER DISCUSSION

Commissioner Ehlers stated that he feels the overlays in the code are appropriate and the intent is to give the corridor a certain look or appeal and prevent future clutter. Commissioner Ehlers felt that the current non-conforming signs should be allowed to

continue, but they should have a natural sunset as they fail over time. He agreed with Commissioner Buschhorn's concerns that the changes may be sidestepping the non-conforming nature of the intent. Commissioner Ehlers stated that he is comfortable with the code changes as they are addressing the content of the sign and whether it is static or digital.

Commissioner Buschhorn stated that he feels the purpose of the overlays is to not have billboards in those areas and to allow digital signs where static is presently a non-conforming use, goes against the intent of the policy, therefore he is not in favor of the language change to the sign code.

MOTION: (Commissioner Wade) "Madam Chairman, on the Sign Code Amendment, ZCA-2016-384, I move that the Planning Commission forward a recommendation of the approval for the Sign Code Amendment with the findings of fact, conclusions, and conditions listed in the staff report."

Commissioner Deppe seconded the motion. A vote was called and the motion passed by a vote of 6-1.

3. Amend the Final Development Plan for the Ridges Planned Development, Filing Two [File# PLD-2016-560]

Request approval to amend Filing Two of the Ridges Planned Development.

Action: Recommendation to City Council

Applicant: Dynamic Investment, Inc. c/o Mike Stubbs
Location: Ridge Circle Drive at Ridges Blvd.
Staff Presentation: Lori Bowers, Sr. Planner

STAFF PRESENTATION

Lori Bowers, Senior Planner, explained that this item is a request to amend the final development plan for The Ridges, Filing Two. Ms. Bowers displayed a slide with the site location map and aerial photo. Ms. Bowers noted there are two parcels totaling 1.12 acres, currently designated as "commercial sites". Ridge Circle Dr. runs East/West between the two parcels. Ridges Blvd, the main entrance to the Ridges, runs North/South on the east side of the parcels. The requested amendment is to include residential uses as well as allowable business uses, in a PD (Planned Development) zone district.

Ms. Bowers displayed the Future Land Use Map and explained that requests for an Outline Development Plan need to conform with the criteria found in Section 21.02.150 of the Zoning and Development Code. The Future Land Use Map of the Comprehensive Plan shows this area to develop in the Residential Medium category. Residential Medium density is supported by the R-O (Residential Office) zone district, proposed as

the default zone for these two properties. Uses and bulk standards of the R-O zone district are proposed, with a deviation to the building height. Building heights have been reduced to a maximum height of 35 feet. The types of screening or buffering will be dependent upon the type of development proposed, whether residential, business or mixed use.

The following slide illustrated the existing planned development zoning. The existing zoning is PD (Planned Development). Throughout the City, 14% of the land is zoned PD for residential purposes, 3% is zoned PD for non-residential purposes. The request broadens the possible uses for the subject parcels. This amendment to the PD will allow for the possibility of mixed uses as well as different types of residential uses. The request by the applicant is market driven since they have seen little to no interest in the 30 years they have been for sale.

Ms. Bowers explained that this ordinance will create a default zoning designation of R-O (Residential office).

Ms. Bowers displayed a slide with a site plan of the area and explained that the following setbacks are requested: 10 ft. from Ridges Blvd; 15 ft. from Ridge Circle Drive; a Rear setback of 5 ft. and Side set back of 10 ft.. Ms. Bowers noted that the setbacks within the parcels shall be consistent with that of the R-O zoning requirements, and those distance requirements imposed by the Building Code.

Ms. Bowers explained that the building heights will be limited to 35 feet, or 3 stories which is a reduction from the standard 40 feet. The maximum building size will be 10,000 square feet. Ms. Bowers explained that access shall be obtained from Ridge Circle Drive unless through the site plan review process for a commercial/business application, interconnectivity from Parcel 2, to the office complex to the north may be considered.

Ms. Bowers stated that this amendment further provides a maximum and a minimum density for each parcel. For Parcel 1, the maximum density will be six (6) dwelling units; the minimum number of units will be three (3). The maximum number of dwelling units for Parcel 2, will be ten (10) units; the minimum number of 3 units. Other household living uses that may be allowed are a Business Residence, a Rooming/Boarding House, Two-Family Dwelling, Single-Family Detached, Multi-Family, and Accessory Dwelling Units. Home Occupations, Small or Large Group Living Facilities are also allowed. Other possible uses, that pertain to the existing commercial aspects of the parcels are a Community Activity Building, a Museum, Art Galleries, Libraries. Day Care, which would include Home-Based Day Care, General Day Care; a small Hospital/Clinic, Medical and/or Dental Clinics, and a Counseling Center may be allowed. In addition, Ms. Bowers noted that Religious Assembly, Safety Services, Recreation and Indoor Entertainment, would be allowed. Other possible uses might include a small Health Club, Movie Theater, Skating Rink, an Arcade, Produce Stands, Personal Services. Lodging may be a possibility such as a Bed and Breakfast, General Offices, and Offices with a Drive-Through may be allowed. Ms. Bowers explained that any proposed use

would have to meet all development standards that dictate an allowed use, such as adequate parking, adequate drainage and landscaping requirements must also be met.

FINDINGS OF FACT AND CONCLUSIONS

Ms. Bowers stated that after reviewing The Ridges Filing Two ODP Amendment application, file number PLD-2016-580 for a major amendment to the Planned Development, Outline Development Plan, staff makes the following findings of fact and conclusions:

1. The requested amendment to the Planned Development, Outline Development Plan is consistent with the Comprehensive Plan.
2. The review criteria in Section 21.05.150 of the Grand Junction Municipal Code have all been met.
3. The review criteria in Section 21.02.140 of the Grand Junction Municipal Code (rezoning) will be met.

PUBLIC COMMENTS

Mike Stubbs, 205 Little Park Rd. explained that he is President of Dynamic Investment, Inc., the applicant for this project. Mr. Stubbs noted that these lots were originally platted in the late 1970s. Mr. Stubbs explained that they are not the original developers, but are the successors to Ridges Development Corporation. Mr. Stubbs stated that they have had the properties listed on the market off and on over the years. Mr. Stubbs explained that he has had the property actively listed for the past four years with zero interest for commercial/business uses, but has had several inquiries for residential.

Mr. Stubbs stated that he has had conversations with city staff regarding the underlying zoning which was R-O when it was originally developed in the County. In the amended final plan for the Ridges, it did not specifically call out residential as a use. Mr. Stubbs noted that these are infill properties and there was no opposition expressed from the neighbors at the neighborhood meeting.

Mr. Stubbs noted that this amendment would allow for residential uses and establish the required bulk standards. In speaking with city staff, Mr. Stubbs noted that the concern was that there would be too little development, therefore a minimum and maximum density would be established.

Jeffery Fleming, 305 Main St. stated that he lives in the Ridges and is a member of their Architectural Control Committee. Mr. Fleming stated that he would like to express support for new development in the Ridges. Mr. Fleming noted that the streets are already there and this development would be an asset for the City.

Tom Rolland, stated that he owns the property at 405 Ridges Blvd. which is a small office building directly North of the property. Mr. Rolland stated he is opposed to the project as presented. Mr. Rolland noted that is ok with the residential component,

however opposition is to the density, setbacks and heights. Mr. Rolland noted that the neighborhood meeting was held in his office. He stated that as a result of those discussions Mr. Stubbs did adjust the maximum heights from 40 feet to 35 feet.

Mr. Rolland stated that he does not see how reduced density has affected the marketability of the properties. Mr. Rolland questioned how it is possible that the City staff knows what is “adequate” regarding the ratio of residential vs. commercial in PDs and does not feel there is proof to back up the claims made in the staff report. Mr. Rolland pointed out other nearby properties and noted the open space incorporated. He is concerned there is not enough open space between his property and this project. Mr. Rolland has concerns about the proposed density and how the access will affect his property. Mr. Rolland stated that he would like to see the height limit at 28 feet so there would only be two stories and a setback of 15 feet.

Referring to the photo of the area, Commissioner Ehlers noted that Commercial properties typically have a zero setback and asked Mr. Rolland if his building was at a zero setback. Mr. Rolland replied that although he has never measured it, he believes his building is setback about 12-15 feet from the property line.

QUESTIONS FOR STAFF

Commissioner Ehlers asked if a residential component was existing first and a commercial development was being proposed, would there be buffering and screening required. Ms. Bowers replied that it is something that is always considered, but without a proposal to review, she is unsure what would be required.

Commissioner Ehlers noted that the proposed front setback is 15 feet as opposed to the standard 20 or 25 feet, and asked Ms. Bowers if that is to allow for parking in the rear of property which would create a buffer. Ms. Bowers stated that the discussions during the review process led to that scenario. Ms. Bowers referred to the illustration and noted that the required access points for the driveways will dictate where the parking is and that will be incorporated into the PD. Ms. Portner clarified that the 15-foot setback is a limitation but they are not required to build to that line. The way it is written now, they could set the building back farther if they chose to.

Commissioner Eslami pointed out that the common 20-foot front setback is typically for single family homes and does not apply to this type of multifamily development.

COMMISSIONER DISCUSSION

Commissioner Eslami does not feel a 5-foot setback to the neighboring property is enough and he is in favor of a 15-foot setback there. In addition, Commissioner Eslami stated he thinks that a 28-foot height limitation is more appropriate for this area.

Commissioner Wade noted that one of the jobs of the Planning Commission is to look at infill development such as this and make sure it is compatible with the area around it.

Commissioner Wade was in favor of the PD changes to allow for the residential component, but agreed with Commissioner Eslami that a 5-foot side setback is not enough and the proposed height is too high in this case. Commissioner Wade believed that there is not a demand for that high of density in area.

Commissioner Deppe stated that she also feels that the 5-foot side setback is not enough and the 35-foot height limit is too high for that location.

Commissioner Ehlers noted that if this property stayed commercial, the rear setback would be 10 feet and that is a fair expectation that all the property owners would have had. Commissioner Ehlers stated that other than the rear setback, he is in favor of the changes to allow R-O uses.

MOTION: (Commissioner Wade) “Madam Chairman, on item PLD-2016-580, I move that the Planning Commission forward a recommendation of approval of the requested amendment to the Outline Development Plan for The Ridges Filing Two, with the findings of fact and conclusions as listed in the staff report.

Commissioner Eslami seconded the motion. A vote was called and the motion failed by a vote of 6-1.

4. Comprehensive Plan Future Land Use Map Amendment and Rezone

[File# CPA-2017-46 and RZN-2017-47]

Request a Comprehensive Plan Amendment and Rezone to change the Future Land Use Map designation from “Residential Medium High (8-16 du/ac)” to “Commercial/Industrial” and Rezone from R-8 (Residential – 8 du/ac to I-O (Industrial/Office Park) zone district on 0.95 +/- acres.

Action: Recommendation to City Council

Applicant: Heritage Estates LLC, Owner
Location: 637 25 Road
Staff Presentation: Scott Peterson, Sr. Planner

STAFF PRESENTATION

Scott Peterson, Senior Planner stated that the applicant for these requests is the property owner, Heritage Estates, LLC. Mr. Peterson informed the Commission that a neighborhood meeting was held on December 29, 2016, no one from the public attended the meeting. However, Mr. Peterson stated that he has received letters of support for the applicant’s requests after the neighborhood meeting and are provided within the Staff Report.

Mr. Peterson displayed a slide of the Site Location Map and noted that the property located at 637 25 Road (0.95 acres) is part of the Heritage Heights residential

subdivision and contains a modular office building that was moved to the site in 2014 to serve as a temporary office/construction trailer in conjunction with the development of Heritage Heights subdivision located to the Southwest.

Mr. Peterson explained that the temporary office/construction trailer has an expiration date tied to the approved Preliminary Plan's phasing schedule. Therefore, on or before April 10, 2019, the temporary office/construction trailer would be required to be removed from the site or the property would need to be brought up to current Zoning Codes standards that would require Major Site Plan Review and Comp Plan Future Land Use Map Amendment and Rezone applications.

Mr. Peterson explained that the standards would include but are not limited to off-street parking, landscaping, screening and buffering, etc. The applicant now desires to operate the temporary office/construction trailer as a general office and legitimize the existing land use on the property, and therefore requests a change in the Comprehensive Plan Future Land Use Map designation from "Residential Medium High (8 – 16 du/ac)" to "Commercial/Industrial" and rezone the property from R-8 (Residential – 8 du/ac) to I-O (Industrial/Office Park) zone district.

The next slide Mr. Peterson displayed showed the existing zoning in the area. The subject property is surrounded on three sides by residentially zoned property to the north, south and west. To the east, across 25 Road, is the Foresight Industrial Park which is currently zoned I-O, (Industrial/Office Park) with a Comprehensive Plan Future Land Use Map designation of Commercial/Industrial.

Mr. Peterson stated that the proposed I-O zone district is the most appropriate zone district for the applicant's property since it is an adjacent zone district and also the applicant's proposed land use of a general office is an allowed land use within the I-O zone district. The I-O zone district also provides for performance standards to help mitigate the impacts of potential development regarding noise, lighting glare, and outdoor storage and display, to help protect adjacent residential and industrial office properties.

The next slide depicted the Comprehensive Plan Future Land Use Map, and Mr. Peterson noted that it identifies the area as Residential Medium High (8 – 16 du/ac), however the adjacent Future Land Use designation is Commercial/Industrial.

Mr. Peterson displayed an aerial photo of the property and explained that to make optimum use of the property, the owner wishes to rezone the property, convert the existing temporary office/construction trailer to a permanent land use and develop the property for general office.

Mr. Peterson went on to explain that changing the land use designation to Commercial/Industrial and rezoning the property to I-O, will allow the applicant to use the property for general office serving the growing residential and commercial developments within the area of 25 Road, thereby supporting Goals 3 and 12 of the

Comprehensive Plan by the creation of large and small “centers” throughout the community that provide services and commercial areas.

Mr. Peterson added that the proposed applications also support the creation of commercial and industrial development opportunities to reduce the amount of trips generated for shopping and commuting and decrease vehicle miles traveled thus increasing air quality.

Mr. Peterson showed the approved Preliminary Plan and Filing Plan for the Heritage Heights subdivision and pointed out the subject property. Per the adopted Grand Valley Circulation Plan, the future F 1/2 Road corridor will be constructed along the west and south property lines with the right-of-way being officially dedicated during the final platting of Filing Five as identified on this approved Preliminary Plan.

With the dedication of the F 1/2 Road corridor that is 160’ wide, Mr. Peterson explained that this right-of-way now physically separates the subject property from the Heritage Heights residential subdivision and in essence creates a remnant parcel that will align itself more towards the Foresight Industrial Park with its proximity, rather than leaving as a residentially zoned property.

The next slide Mr. Peterson displayed was of an aerial photo of the area that included the Grand Valley Circulation Plan. The Grand Valley Circulation Plan indicates that F 1/2 and 25 Roads will be realigned physically separating this parcel from the residential developments to the north, west and south and in essence create remnant parcels that will align more with the Foresight Industrial Park to the east.

In looking at the review criteria for a Comprehensive Plan Future Land Use Map Amendment and Rezone, subsequent events, the City requiring the dedication of right-of-way for F 1/2 Road parkway have invalidated the original premise for the future land use and zoning designations.

Mr. Peterson indicated that the community will derive benefits from the proposed amendment and rezoning by the development and utilization of a previously vacant parcel. The proposed I-O zone district is an allowed zone under the Commercial/Industrial designation, its purpose is to provide a mix of light manufacturing uses, office park, limited retail and service uses in a business park setting with proper screening and buffering.

Mr. Peterson added that the character of the area has changed with the recently dedication of the F 1/2 Road right-of-way, per the designation on the Grand Valley Circulation Plan. Therefore, the character and/or condition of the area has changed such that the amendments are consistent with the Comprehensive Plan.

FINDINGS OF FACT AND CONCLUTIONS

Mr. Peterson stated that after reviewing the Lot 241, Heritage Heights, Filing 1

application, CPA-2017-46 & RZN-2017-47, a request for a Comprehensive Plan Future Land Use Map Amendment and Rezone, the following findings of fact and conclusions have been determined:

- 1.) The requested Comprehensive Plan Future Land Use Map Amendment and Rezone is consistent with the goals and policies of the Comprehensive Plan, specifically, Goals 3 and 12.
- 2.) The review criteria, items 1 through 5 in Sections 21.02.130 and 140 of the Grand Junction Zoning and Development Code have all been met or addressed.

QUESTIONS FOR STAFF

Commissioner Wade inquired about the right-of-way dedication and whether the applicant was compensated by the City for it. Mr. Peterson stated that it was his understanding that there was some required right-of-way dedication and the City compensated the applicant for the additional amount above what was required. Commissioner Wade asked if that had been finalized in writing already.

Ms. Portner added that she is not sure if there has been a final agreement but there have been discussions regarding compensating the developer for right-of-way dedication in excess of what is required of the adjacent Heritage Heights Subdivision, which would be for a standard collector road. Ms. Portner added that the right-of-way needed was for a principal arterial and this particular one needs extra right-of-way.

Commissioner Reece asked for clarification, as it was her understanding that the dedication of that right-of-way was a condition of this project. Mr. Peterson stated that the right-of-way has been dedicated, on the plat and recorded. Ms. Portner added that the Heritage Heights property is much bigger than just this corner, and the requirement was that the F ½ Rd. principal arterial be dedicated upon the platting of each of those filings as the project moved along.

Commissioner Wade inquired about a gap in the right-of-way. Ms. Portner stated that the applicant did not own the property where the gap was. Commissioner Wade asked if there was right-of-way dedicated as part of this filing, then what was the compensation for. Ms. Portner stated that it was for future filings, 8, 10 and 11. Ms. Portner clarified that a typical collector street is 60 feet wide, a typical principal arterial is 110 feet, and this right-of-way dedication was 160 feet wide.

Discussion continued regarding the agreement of the purchase of excess right-of-way for future filings. Ms. Portner pointed out that this filing has secured the right-of-way, and discussions of compensation for future filings will be addressed as the project moves along. Ms. Portner noted that this road is not ready to be built and there is still an intervening parcel that does not belong to the applicant.

Commissioner Eslami asked if filing 10 and 11 are approved. Mr. Peterson explained that filing 7 has been submitted and is under review at this time. Mr. Peterson added that the Preliminary Plan will expire by 2019 and the rest of the filings will be coming in before then.

Commissioner Ehlers noted that the original intent of the structure on this site was temporary and asked if the property was rezoned I-O, would that structure remain temporary and required to be removed. Mr. Peterson stated that they have put the modular structure on a permanent foundation and the building department has approved it as a permanent structure on that site. Mr. Peterson clarified that if for some reason the rezone does not get approved, then in 2019 the temporary use permit would expire and the applicant would have to remove the structure.

Commissioner Ehlers inquired that if the City is creating this principal arterial to basically be a Parkway on the north portion of the community, is the orientation of that structure, being so close to the future road, appropriate. Mr. Peterson stated that the structure is being used as an office, and that use is allowed in the I-O zoning. If someone wanted a different use, they could always remove the building and put something else up. Mr. Peterson stated that it is staff's feeling that this parcel is not really a residential property anymore because of the rights-of-way that will be dedicated for the Grand Valley Circulation Plan.

Commissioner Ehlers inquired if this structure would become a non-conforming structure even when the use is allowed in I-O. Mr. Peterson stated that he does not know the measurement, but there would be a 15-foot setback requirement and if it does not meet that, then it would be a non-conforming structure.

Noting that the three adjacent properties are residential and the Posse Grounds are across the road, Commissioner Buschhorn asked Mr. Peterson why he feels I-O is appropriate. Mr. Peterson stated that the development of the Parkway and the future alignment of 25 Rd. are reasons that they could see I-O as an appropriate zone in the future. Mr. Peterson added that they have had two neighborhood meetings in the past two years with no one attending. In addition, he has heard from 3 property owners that they are in support of the project. Commissioner Buschhorn stated he was uncomfortable with an assumption so far in the future and as it stands now, it appears more residential in nature.

Commissioner Buschhorn asked if there was a minimum lot size in I-O. Mr. Peterson stated that it is one acre and this property is 0.95.

QUESTIONS FOR APPLICANT

Kim Kerk, 637 25 Rd. stated that she is the project representative for Blue Star Construction. Ms. Kerk stated that this was originally a 46-acre property and there are 240 single family homes to be built upon completion. Ms. Kerk noted that as people purchase their homes in this new area, the office was already in the vicinity.

Commissioner Wade asked Ms. Kerk to address the right-of-way dedication that was discussed earlier and the monetary discussions that are concluded or ongoing. Ms. Kerk explained that the right-of-way dedication was a part of the Preliminary Plan and that each filing would dedicate the associated right-of-way as they went along the process. Ms. Kerk added that the completed agreement that would address filing 8, 10 and 11 should be done in the next couple weeks as the paperwork is completed.

Chairman Reece asked if the agreement has been completed and Ms. Kerk responded that just filing 5 and 7 have been agreed upon and the other filings are what are being finished up.

Commissioner Eslami noted that Ms. Portner had stated that the check had been sent. Ms. Kerk clarified that the check was only for filing 5 that has already been recorded.

Ms. Kerk explained that when they originally came in for the temporary structure, their intent was to have it become permanent and rezoned I-O. Ms. Kerk stated that as part of the temporary permit, they will be required to do upgrades such as paved parking, landscaping, and buffering when the five-year permit is up.

Chairman Reece stated that she hopes that the business is there for a long time, however, she asked Ms. Kerk if she is aware of the other uses that could be allowed in an I-O zone district such as an oil and gas storage facility, heavy equipment storage, and pipe storage. Ms. Kerk responded that they put the structure on a permanent foundation because their intent was to stay there. Chairman Reece stated that her concern is that the property gets sold and a more intense use that is allowed in I-O comes in that is not appropriate so close to residential. Ms. Kerk replied that although there may be some uses that would not be appropriate, there are many allowable uses that are, especially given the wall buffer requirements.

Commissioner Buschhorn asked Ms. Kerk if she can guarantee that the building would always be there, noting that a 5 story 65-foot building could be allowed in an I-O. Commissioner Buschhorn explained that although Ms. Kerk stated that the new residential neighbors are ok with what is there now, he did not feel that was a sound argument for rezoning to I-O given the other uses that may be allowed.

Commissioner Ehlers noted that the project report requires a section on alternatives and asked Ms. Kerk if they had considered a less intense zoning such as R-O or C-1 that would allow their office to be there. Ms. Kerk stated that they had considered those zones and it was through discussions with the City, and looking farther in the future, the I-O was the recommendation.

Jamie Beard, City Staff Attorney, stated that Ms. Portner has asked her to clarify the status of the right-of-way discussions. Ms. Beard stated that the negotiations have been agreed upon by both parties, which include all of the filings, including what has already been dedicated. Ms. Beard stated that they don't have a final and signed agreement

and deed, but it is expected to be finalized in the next couple of weeks.

Chairman Reece asked Ms. Kerk why this filing is coming forward now and not in a couple weeks after the agreement and deed is signed. Ms. Kerk stated that the intention was that it would have been completed by now, but the holidays and other things just slowed it down a bit.

Commissioner Ehlers asked Ms. Beard if it was possible that one of the parties back out and the agreement is then not secured. Ms. Beard responded that it is a possibility until the agreement is actually signed. Ms. Kerk added that the agreement is part of the Preliminary Plan approval and if the agreement was not to be signed, the development would fall apart.

Commissioner Wade asked if the upgrades would still have to be done if the zoning is changed to I-O. Ms. Kerk stated that they have known all along that the upgrades would have to be made if they want to remain there after the temporary use permit expires in 2019.

PUBLIC COMMENTS

Robert Jones II, Vortex Engineering, 2394 Patterson Rd. STE 201, stated that his firm had completed the design work of the Heritage Heights subdivision. Mr. Jones explained when this project was redesigned as part of an overall project, with Heritage Estates to the North, they had to take into consideration the Transportation Plan. Mr. Jones referred to the Riverside Parkway and noted that you don't see residential homes along that. Given that this property is surrounded by the transportation network, he feels that the office use of the subject property is more suited for the area than residential. Mr. Jones stated that he was in support of the project as it reserves the future right-of-way for the Corridor.

Commissioner Buschhorn agreed with Mr. Jones that long range planning is necessary, however his concern is that there is no foreseeable timeframe. Commissioner Buschhorn added that this is not the same as Riverside Parkway as there are already approximately 80 homes that will be along the corridor in this area. Mr. Jones replied that unlike other rezones where adjacent property owners have objected, there have been several residents in support of this and he is not aware of any opposition to it.

COMMISSIONER DISCUSSION

Commissioner Miller stated that he can appreciate the long range planning aspects of this development. Commissioner Miller noted that the Posse Grounds across the street could always be sold and become pipe storage as well. Given the comments made by the applicant and City staff, as well as the right-of-way dedication discussions, Commissioner Miller stated that he feels this project/rezone makes sense.

Commissioner Buschhorn stated that due to the minimum lot size requirements for I-O,

he doesn't feel this is even allowed by code. Mr. Peterson stated that if the Future Land Use Map is changed to a Commercial/Industrial designation, the only zone district that would be compatible is a C-2 which only requires a lot to be at least 20,000 square feet.

Commissioner Miller asked if there has ever been an exception like this. Mr. Peterson stated that it would be creating a non-conforming lot however, land uses would still need to follow code standards for setbacks, landscaping etc.

Commissioner Eslami stated that he has two concerns which include the non-conforming lot size, and the alternate uses allowed in an I-O zone should the property be sold. For the reasons given, Commissioner Eslami stated that he is not in favor of approval.

Commissioner Wade express concern that given the local economy and lack of funding for capital projects that large, the Parkway could be 25 or more years out. Commissioner Wade noted that the applicant has until April, 2019 to have the property rezoned and does not see the urgency to rezone it at this time. Commissioner Wade expressed concern that if they rezone it and Blue Star sells the parcel in the future, then a use not compatible with the residential to the north may be allowed.

Commissioner Ehlers stated that his concern is the orientation of the building, as it faces a future parkway corridor. Commissioner Ehlers is also concerned on how far planning goes one way or the other, when looking so far into the future, as things change. Commissioner Ehlers noted that some of the issues and concerns will get resolved naturally through time. For example, if 25 Rd. becomes a dead end as a result of the Parkway, that right-of-way may go back to the original parcel which in this case, would make the subject parcel over an acre.

Commissioner Eslami stated that he feels strongly that the Planning Commission is to implement the code, and if they approve the rezone with a lot that does not conform to required minimum lot size, then they are going against what has been approved in the code.

Chairman Reece stated that she is in agreement with several of the Commissioners regarding the right-of-way and she had the same concerns when it came before them about a year ago. Chairman Reece also has apprehensions about the I-O use next to residential. She also stated that she wished the dedication agreement was done before this project came before them.

MOTION: (Commissioner Wade) "Madam Chairman, on Comprehensive Plan Future Land Use Map Amendment and Rezone, CPA-2017-46 and RZN-2017-47, I move that the Planning Commission forward a recommendation of approval for the Comprehensive Plan Future Land Use Map designation from "Residential Medium High (8 – 16 du/ac)" to "Commercial/Industrial" and a rezone from R-8 (Residential – 8 du/ac) to I-O (Industrial/Office Park) zone district, with the findings of fact and conclusions listed in the staff report."

Commissioner Ehlers seconded the motion. A vote was called and the motion failed by a vote of 6-1.

The Planning reconvened after a short break and Chairman Reece explained that two members of the Planning Commission, Aaron Miller and Ebe Eslami, have recused themselves from the last item on the agenda.

5. Pinnacle Ridge Subdivision

[SUB-2015-120]

Request approval for a review of private streets and also public streets and residential lots traversing greater than 30% slopes for the proposed Pinnacle Ridge Subdivision in an existing R-2 (Residential – 2 du/ac) zone district located east of Mariposa Drive.

Action: Recommendation to City Council

Applicant: Two R & D LLC, Owner
Location: NE of Mariposa Drive and Monument Road
Staff Presentation: Scott Peterson, Sr. Planner

STAFF PRESENTATION

Mr. Peterson (Senior Planner) stated that the applicant, Two R & D LLC, requests approval of certain items under City Codes and regulations that require either Planning Commission or City Council action regarding their proposed Preliminary Plan application. These actions include Council approval of; 1) proposed private streets and 2) subdivision lots and public streets traversing greater than 30% slopes.

The applicant has submitted for a Preliminary Plan subdivision review in order to develop 72 single-family detached lots to be developed in five phases/filings. Proposed residential density would be 1.59 dwelling units to the acre.

Mr. Peterson noted that the applicant held a Neighborhood Meeting on March 11, 2015 prior to submittal of the Preliminary Plan application. Over 24 citizens attended along with City Staff and the applicant. Neighborhood concerns expressed at the meeting were mainly in regards to additional traffic to the area, subdivision lot layout and design and drainage concerns.

Mr. Peterson displayed an aerial photo and site location of the property. The property is located east of Mariposa Drive, north of Monument Road in the Redlands and contains 45.11 +/- acres.

This is a closer aerial photo of the area. The property consists of both unplatted and platted properties. The platted properties are remnants of the old Energy Center Subdivision, Phase 1 that were platted in 1955. Today these lots still have no legal

access and are not developed. Nine of the 28 total platted lots from the Energy Center Subdivision, Phase 1 are currently not owned by the applicant and are not included within the proposed Preliminary Plan application. However, the applicant is providing access to the nine existing lots as part of their Filing Five for Pinnacle Ridge. At a later date and as a condition of approval of the Preliminary Plan, the applicant will need to request to vacate a portion of the Energy Center Subdivision Phase 1, that is owned by the applicant for existing right-of-way and utility easements located within Blocks 1 and 2.

Comprehensive Plan Future Land Use Map identifies the property as Residential Low which is .5-acre lot size to 2 dwelling units to the acre. Current zoning for the property is R-2 (Residential – 2 du/ac).

Mr. Peterson displayed a slide showing the southern half of the development. Under the Preliminary Plan application, the applicant has proposed to utilize the cluster provisions of the Zoning and Development Code to utilize and preserve existing open space in order to be able to have smaller lot sizes than what the Zoning Code requires for the R-2 zone district.

Mr. Peterson explained that the applicant is proposing 15.06 +/- acres (33% of the development) for open space within the development, which under the clustering provision would allow lot sizes of a minimum 7,125 sq. ft. and bulk standards found in the R-4 zone district. Without clustering, the minimum required lot size in the R-2 zone district is 15,000 sq. ft. Utilization of the cluster development provisions of the Code is to encourage the preservation of environmentally sensitive areas and open space lands.

Mr. Peterson displayed a slide showing the northern half of the development. In accordance with the Zoning and Development Code, only City Council may authorize a subdivision to be served by private streets. The applicant requests the use of private streets in two areas of the subdivision, Talus Court (proposed Tract C) and Hillock Court (proposed Tract J). Talus Court is proposed to be developed in Filing 3 and Hillock Court is proposed to be developed in Filing 5.

The reason that the applicant is proposing private streets in two areas are for the fact that they do not meet either the shared driveway standards or public street standards. Private streets may be considered as an alternative to residential public streets. Private streets have historically posed problems over time as they deteriorate and property owners do not realize the burden of maintenance is theirs.

In looking at the review criteria for a private street, Mr. Peterson explained that an HOA will be created for ownership and maintenance responsibilities. Average trips per day would be less than 250 trips. The end of each private street contains a hammerhead turnaround which has been reviewed and approved by the Grand Junction Fire Department.

Mr. Peterson noted that additional off-street parking spaces are provided at two separate locations to accommodate 7 additional parking spaces. Cross-section of the

private street would be a minimum of 20' wide. A pedestrian sidewalk within the private street would connect to the proposed public sidewalk located within the subdivision among meeting other requirements.

Mr. Peterson displayed a slide that identifies the slopes on the property. Under the Hillside Development Standards of the Zoning and Development Code, development on slopes of greater than 30% is not permitted unless, after review and recommendation by the Planning Commission and approval by the City Council, it is determined that, appropriate engineering measures will be taken to minimize the impact of cuts, fills, erosion and stormwater runoff and that the developer has taken reasonable steps to minimize the amount of hillside cuts and also has taken measures to mitigate the aesthetic impact of cuts through landscaping or other steps.

The applicant is proposing to minimize the amount of hillside cuts, fills, erosion and stormwater runoff, by proposing a ring-type road configuration, traversing only a few small areas of greater than 30% slope and leaving a majority of the subdivision of areas greater than 30% slope preserved and not adversely affected.

Engineering measures will be taken to minimize the impacts of cuts, fills, erosion and storm water runoff where 30% or greater slopes are proposed to be impacted. Exact measures that will be taken will be determined and approved at final plan stage. It should be noted that these Zoning Code requirements were established to limit and allow for development in a responsible manner on steep slopes, not to preclude development on steep slopes. Improvements have been proposed with the subdivision in the form of retaining walls. Retaining walls will also limit the amount of cut/fill to the minimum required.

The section of Elysium Drive that traverses slopes greater than 30% is relatively small, to be exact about 350' in length. In order to minimize hillside cuts in this area, retaining walls are planned, not to exceed 6' in height.

It should be noted, only about 12% of the subdivision proposal has slopes greater than 30%. These areas are predominantly located around the large plateau of the site. The actual impact to the slopes greater than 30% is minimal and has been mitigated by the use of retaining walls and other engineering measures.

Mr. Peterson explained that proposed Lots 20, 30, and 51 have the steepest slopes within the subdivision. On average, the applicant has stated that Lot 51 is around 10% slope at the lower end. Lot 30 is less than 10% across the length of the lot and Lot 20 has an average slope of 14%. The applicant believes that a future builder of the various lots can accommodate that kind of slope fairly easily with the design of the house and use of some retaining walls. As an example, a walk-out or reverse walk-out with the garage under the house can accommodate approximately 10'-12' of slope across the lot without much impact.

In addition, Mr. Peterson noted that the lots are large enough, providing surface area

along the side of the building pads to accommodate grade changes. Small 2' to 4' retaining walls at the rear of the lots can also mitigate slope issues so that a building pad can developed.

Mr. Peterson then introduced, Rick Dorris, Development Engineer, who stated that the applicant obtained Transportation Engineering Design Standards (TEDS) exceptions in 2007 when a previous Preliminary Plan was reviewed and approved. They are being honored with the current application regarding maximum block length, maximum street grade, maximum grades through an intersection and maximum cul-de-sac length.

Regarding the Alternative Street Standard, Mr. Dorris clarified that the City has agreed to an alternative street standard for this subdivision that uses roadside ditches instead of attached curb, gutter, and sidewalk over much of the subdivision. There is still some attached concrete in isolated areas for specific reasons where narrower roads were needed. This approach will hopefully reduce the differential movement problem (asphalt and concrete move in different ways). Mr. Dorris noted that the City is concerned about the streets moving vertically.

Mr. Dorris explained that the City's initial approach was for all streets to be private but Ute Water won't allow their water mains in private streets. The Developer objected to the private street requirement and to solve this, the City has agreed to accept the streets as public with conditions, including a seven-year warranty.

There are two areas of the project where private streets are requested by the Developer to optimize their project layout. Water can be provided by individual services. These two areas are the private street request presented herein.

Mr. Dorris noted that the City has agreed to accept public streets with a financially secured seven-year warranty due to soil conditions and the site grading design. The Developer objects to the condition and states it is unprecedented. Mr. Dorris agreed that it is indeed unprecedented and he will show slides and explain why it is needed.

The proposed Pinnacle Ridge Project would build approximately two miles of streets with significant lengths in cuts and fills up to 20' deep. Deep fills will settle over time and may continue to move as water is introduced by rainfall or urban development. Large cuts may actually heave.

The original geotechnical report, is a Preliminary Report from 2002 and identifies expansive claystone. The Applicant hired another geotechnical engineer to address review comments generated with this application. Their July 2, 2015 letter states:

“In general, it is difficult to define what is considered a “normal” amount of movement for a pavement over time. Particularly a period as long as 10-years. Given the geology at the site and experience in the vicinity of the site, pavement heave is possible in some areas of the site. However, the risk may be able to be reduced by the use of structural fill, impermeable membrane, etc.”

Mr. Dorris stated that, being a licensed engineer, he agrees with the statement and understands why it was made. It is difficult to predict what can happen in the future regarding soils. Mr. Dorris explained that one of his main responsibilities is to minimize costs to the City and the taxpayers. This project is different due to site soils, steep topography and extensive dirt work and presents the possibility of expensive repair to the street system.

City policy has always been for Development to pay its own way. When streets move, and the warranty is over, taxpayers spend thousands of dollars to fix problems. Multiple repairs over long time periods are often required. The City's standard warranty is only one year which isn't enough time for these problems to manifest, therefore the seven-year warranty is being required.

There are several ways to engineer and construct streets and utilities to "minimize" movement. Some of these measures were used on the Spyglass Ridge Subdivision on Orchard Mesa, but there has been substantial movement and expensive repair is needed.

Mr. Dorris displayed a slide with pictures of Lookout Lane in Spyglass Ridge Subdivision as a recent example since it has topography similar to Pinnacle Ridge, however they did not do the cuts and fill as deep as Pinnacle Ridge is proposing. Lookout Lane was paved in 2006 and has at least 4 inches of movement in places. The City rebuilt about 200 feet of it by 2014 and more is needed. In addition, Gunnison Ridge Ct. was paved in 2007 and by 2012 there was already substantial movement and repairs were needed.

The next slide showed Shadow Lake Circle in Redlands Mesa Subdivision (Filing 1) that connects to Mariposa Dr. Shadow Lake Circle and Shadow Lake Ct. were built in 2000. That intersection failed almost immediately and was rebuilt by the developer. The pictures in the slide showed significant movement between the concrete and asphalt at the lip of concrete gutter.

The next example was photos of Mariposa Dr. that connects to Monument Rd. and is a back-door access to The Ridges and Redlands Mesa and will be a primary access for Pinnacle Ridge. Mr. Dorris explained that Mariposa is an old gravel road from at least 1994, but probably late 70s to early 80s, which was improved with curb, gutter, sidewalk and paved in 2005 to 2006. It is located on the southern edge of Pinnacle Ridge. GIS aerial pictures show distress by 2010 and google street view shows substantial movement in 2012.

FINDINGS OF FACT/CONCLUSIONS & CONDITIONS

Mr. Peterson stated that after reviewing the Pinnacle Ridge Preliminary Subdivision Plan application, two proposals require Planning Commission and City Council review and action which are as follows:

1. Proposed Private Streets
2. Subdivision Lots and Public Rights-of-Way traversing greater than 30% slopes.

Mr. Peterson stated that the conditions are as follows:

1. At final design, perform an in depth geotechnical engineering investigation and report with proper slope stability, rock-fall, and earthwork analysis and requirements. This can be incremental to the phases where final design approval is being requested; however, if slope stability and/or rockfall analyses prove problematic, the Preliminary Plan could be nullified or may need to be redesigned and reapproved.
 - a. The geotechnical report must design the earthwork and streets to minimize vertical movement and construction must strictly adhere to the report and be documented by daily observations and proper testing during construction.
 - b. A secured seven-year warranty will be required.
 - c. Landscaping shall be limited to low water requirement plants and irrigation systems. The details will be defined in conjunction with the geotechnical engineer at final design.
 - d. A site specific slope and rock-fall analysis (based on field investigation) in the areas of concern will be required with each filing.
 - e. Lot specific grading and drainage plans will either be required with the final design for each filing or with each planning clearance.
2. Perfect an intermediate connection to Hidden Valley Drive, with Filing 4 according to the current phasing plan, as required by the January 2007 TEDS exception.
3. Perfect the ability to loop water lines, if needed, and provide sanitary sewer to portions of the project via the Hidden Valley Drive connection with Filing 4 according to the current phasing plan.
4. The HOA is required to remove snow along the north facing slope on Elysium Drive. Provide proper language and assessments in the CC & R's and signs must be conspicuously placed on the street stating such.
5. Approval of the request to use private streets in two areas of the subdivision, Talus Court and Hillock Court.

Mr. Peterson noted that he would like to amend the staff report to include another paragraph as follows:

The Developer is proposing appropriate engineering measures to minimize the impact of cuts, fills, erosion and stormwater by incorporating retaining walls, detention and water quality basins, and proper site grading in their design, based on Preliminary Geotechnical Investigation. If subsequent Geotechnical Investigation reveals significant slope instability issues, as determined by City staff based on input from the Colorado Geologic Survey, redesign of the Preliminary Plan will be required. If a minor revision is required, the review of the revised preliminary subdivision plan may, at the discretion of the Director, proceed concurrently with final plat review. Nullification/revocation of this

approval shall require review by the Planning Commission.

Mr. Peterson added that two letters were submitted that were not received in time to be included into the staff report. Mr. Peterson noted that they were handed out to the Planning Commissioners before the meeting.

QUESTIONS FOR STAFF

Noting that Mariposa was mentioned as a back-door entrance to Redlands Mesa, Commissioner Wade asked Mr. Dorris if any official traffic studies were done there. Mr. Dorris clarified that his mention of the back-door was the fact that Mariposa is the second entrance. Commissioner Wade asked if the only access to Filing 1,2, and 3 of this subdivisions is off of Mariposa Dr. Mr. Dorris confirmed that it is and that the City is not concerned about its ability to carry capacity. Although there was not a traffic study done, Mr. Dorris explained that the City has conducted daily counts. Mr. Dorris added that there are no driveways coming off Mariposa and it will need to be repaired in the near future.

Commissioner Ehlers asked what the classification was for Mariposa Dr. Mr. Dorris stated that it is classified as a local street. Commissioner Ehlers asked what the classification was for Monument Rd. that intersects with Mariposa Dr. Mr. Dorris said he believed it was a minor arterial.

Chairman Reece noted that she has concerns about the maintenance agreement between the builder and the City. Chairman Reece asked what actions will be taken if the HOA fails to perform winter maintenance adequately. Mr. Peterson replied that the CCRs will need to be reviewed and addressed to reflect that snow removal will be the responsibility of the HOA, specifically the area of Elysium Drive which will be developed with Filing 5. Mr. Dorris added that if there is a problem, the City will get phone calls about it and they will refer calls to the President of the HOA.

Mr. Dorris added that most HOAs have little responsibilities other than to maintain the detentions areas and landscape tracts along street frontage. Mr. Dorris explained that this subdivision will have a significant amount of responsibilities because of the two private street sections, a lot of open space and several water quality basins. Chairman Reece asked if there are other subdivisions with similar responsibilities. Mr. Dorris stated he was not aware of any others.

Commissioner Ehlers commented that he is familiar of situations where an HOA may have an irrigation or drainage or similar structures that go under roads and if they fail, the HOA is responsible to repair them and return the road surface to City standards. Commissioner Ehlers asked Ms. Beard if the City has the tools to enforce the obligations of the HOA if they are not able to meet their obligations. Ms. Beard stated that as far as snow removal, by the time the City would get involved, most likely the

snow would have melted. Regarding repairs, Ms. Beard stated it is possible that an HOA may be in a position that they are not able to financially handle a repair. The City may have to get involved, but it would depend on the situation.

Noting that one of the conditions was for snow removal along the north face along Elysium Dr., Commissioner Wade asked why that section is being called out. Mr. Peterson stated because there is a 13% slope. Chairman Reece asked if these concerns have been worked out the builder and documented in a formal agreement. Mr. Peterson stated that what is before the Commission is the result of a two-year process. Staff has worked with the builder on the conditions and they are in agreement with all of them with the exception of the 7-year warranty period.

Commissioner Ehlers asked about the Transportation Engineering and Design Standards (TEDS) exceptions. Mr. Peterson stated that the TEDS exceptions were reviewed and approved in 2007 when the application came through at that time. City staff has honored those exceptions after recent review by the City Development Engineer, and Transportation Engineer and the Fire Department.

Commissioner Deppe asked how the timeline works for the warranty period. Mr. Dorris explained that each filing would have its own timeframe. As a plat gets recorded, the security is in place, typically for one year. After one year, the infrastructure is inspected and if it meets the standards, then the money is released. The City is asking for the builder to agree to a seven-year warranty period.

Commissioner Wade asked about the requirement that some of the houses have internal sprinkler systems. Mr. Dorris explained that the Fire Department made that a condition due to the elongated configuration of the cul-de-sac and access/turn-around limitations.

APPLICANTS PRESENTATION

Robert Jones II, Vortex Engineering, stated that he was the owner's representative. Mr. Jones displayed an aerial photo of the site and noted that the site was originally platted in 1955 as the Energy Center Subdivision but was never developed in accordance with the plat. This project was approved as a preliminary plan in 2008/2009 however, due to the economy downturn, it was tabled and the preliminary plan approvals expired after a lapse of five years.

The proposed subdivision has public and private streets and utilizes the Cluster and Hillside Development standards of the City Zoning Code.

Mr. Jones showed a slide with the applicant's request as follows:

- 1) Planning Commission recommendation of approval to City Council for use of private streets per 21.06.060 (g)(5)
- 2) Planning Commission recommendation of approval to City Council for development of small area with greater than 30% slope on Elysium Drive and

limited number of lots per 21.07.020 (f)(3)

Mr. Jones displayed a slide of the site design and explained that the road design utilized the natural contours to minimize the impacts of cuts and fill. Most of the streets are public, however two private streets will be used to provide access to lots and parking.

The next slide displayed was of the design profile for the private streets. Mr. Jones explained that CC&R provisions for maintenance of private streets shall be recorded with the final plat. In addition, signage will be posted on each private street to distinguish them from public streets.

Mr. Jones next slide showed the site plan with areas with greater than 30% slope in right-of-way highlighted. These areas account for 3778 sf or 0.19% of total site.

In the next slide, Mr. Jones had highlighted areas with greater than 30% slope in building envelope which accounted for 12,603 sf or 0.64% of total site. This slide also illustrated areas with greater than 30% slope within lots. 35,291 sf or 1.80% of total site. The total area of greater than 30% slope, including both right-of-way and lots is 2.6% of the total site.

Mr. Jones explained that all of the homes will be custom homes and will take advantage of the views and topography. All the homes will have engineered foundations and lot specific grading plans.

Mr. Jones displayed a slide with the Goals and Policies of the Comprehensive Plan that they have addressed in the project. In addition, the Hillside Development section of the code was displayed.

QUESTIONS FOR APPLICANT

Commissioner Wade asked if there was an anticipated timeframe for the development of each of the filings. Mr. Jones stated the initial filing would start this summer or fall. Subsequent filings would probably take 12 to 18 months depending on market conditions.

Commissioner Wade asked about the HOA maintenance of the private streets. Mr. Jones stated that typically a maintenance agreement would be signed and recorded by the homeowners along the private street as part of the title work.

Noting that the staff report states that the developer is not in agreement with the 7-year warranty period and plans to appeal to City Council, Commissioner Wade asked what Mr. Jones thought would be an acceptable timeframe for the warranty period. Mr. Jones stated that the code requires one year and they feel they should be able to get the same one-year warranty period that other developers in the area have. After discussions with staff, Mr. Jones stated that they would be willing to double that time to a two-year warranty.

PUBLIC COMMENTS

Janice Burtis, Remax 4000, 120 West Park Dr., STE 200, stated that two years ago, in the Redlands only, they sold 49 residential lots at approximately \$109,000 per lot. One year ago, they sold 46 lots with an average of \$138,000 per lot. Currently, Ms. Burtis stated that there are 111 lots available with the average price of \$246,000. Ms. Burtis explained that there is a need for lots in the price range of two years ago.

Ms. Burtis explained that she has personally developed three subdivisions in Mesa County and does not feel it is fair to hold the developer to a 7-year warranty period. Ms. Burtis stated that there is a private engineer, a City engineer and a geotechnical engineer all looking at the construction of the project. Ms. Burtis stated that if the developer is held to a 7-year warranty period, the lots would no longer be affordable to the buyers that need the lots.

Jeffery Fleming, 305 Main St., stated that he is an urban planner and thinks this proposal is a fabulous one. Mr. Fleming stated that anytime development can happen in the Redlands, it helps prevent urban sprawl. Less traffic, accidents, pollution were some of the reasons Mr. Fleming wanted to support an infill development.

Mr. Fleming suggested that the City take a wait and see approach and see how the first 1-4 filings perform. Mr. Fleming voiced his concern that additional requirements such as the 7-year warranty period may deter developers from developing in the community.

Richard Wihera, 2427 Bella Pago Dr., stated that he had a letter and a petition to enter into the record. Mr. Wihera handed the Commissioners the letter and noted that the petition contains 24 names of residents in the area that have concerns about the property.

Mr. Wihera stated the development does not meet code in several areas. Mr. Wihera noted that when the Colorado Geological Survey reviewed the plan in 2015, they noted concerns about the stability of the terrain and said they cannot recommend preliminary plans and plat approval unless the applicant demonstrates that the slopes and proposed cuts would be stable. In the second and third round of comments, none of the concerns were addressed by the developer. Mr. Wihera stated that he called the Colorado Geological Survey a week ago and asked if they have any new information about the project that would address the stability and they said no.

Mr. Wihera stated that although the proposed development meets the Cluster Development standards of the code, it does not meet the Hillside Development standards. Mr. Wihera stated that the developer's proposal does not meet the TEDS exception standards. Mr. Wihera noted that the City originally wanted a 10-year warranty and now they are settling for a 7-year.

Regarding Ridgeline Development standards, Mr. Wihera expressed concern about what would happen to the hillside when Filing 5 is developed. Mr. Wihera stated that the

equivalence of 16,000 dump trucks of soil will be disturbed.

In conclusion, Mr. Wihera feels the viability of the entire project should be looked at as a whole and not focus on snow removal or one street in particular.

Sarah Robinson, 385 Explorer Ct. #19, stated that she agrees with Mr. Wihera. Ms. Robinson felt that there is a particular onus placed on the HOA to protect the land underneath this development. Ms. Robinson stated that a dysfunctional or inefficient HOA happens more often than is recognized and that can pose a danger. Ms. Robinson expressed concern that the TEDS exception is over 10 years old. With the expansion of the lunch loop, there are significantly more bicyclists on the road especially since the access to the development is on a blind hill.

Ms. Robinson noted that she lives downhill and there have been runoff issues on Ridgeway Drive. More driveways and rooftops will create more runoff.

William Powers, 367 Plateau Dr., expressed concern about the issues that were listed in the staff report and stated that he agrees with many of the points Mr. Wihera brought up. Mr. Powers does not feel the density and clustering of this project is compatible with the adjacent developments. He noted concerns regarding the grade, slope, soil stability and safety of the proposed development and supports a longer warranty period.

Odis Schroeder, 2409 Hidden Valley, stated that he did not live in the area but his mother-in-law is 92 and has lived in the Ridges since 1987. He noted the poor condition of Mariposa Dr. and said Monument Rd. had to be rebuilt in parts because of unstable conditions. Mr. Schroeder stated that he thinks that 7-year warranty may not be long enough of a time period.

Mike Holland, 2398 Mariposa Dr., stated that he has lived in his home 20 years and he is concerned about the clay soil and runoff. Mr. Holland is in support of the 7-year warranty. He stated some of the roads are bad especially Mariposa. Mr. Holland understands they have a right to develop, but he has enjoyed the open space.

Stephanie Marsicovetere, 382 Ridgeway Dr., stated she is concerned about the water and soil stability. Ms. Marsicovetere explained she walks in that area 4 or 5 times a week and has noticed that rocks come down on the road all the time. Ms. Marsicovetere is concerned about the maintenance of the roads when they start to build, and noted that she agrees with the previous comments.

QUESTIONS FOR STAFF

Noting that there is an out-lot in the middle of the project area that is zoned for residential, Commissioner Ehlers asked if this proposal would impact that lot requiring future homes to internally sprinkle as well. Mr. Peterson explained that since there is no second access to the south, he would assume the fire department would treat that area the same.

Commissioner Ehlers asked if this project would be considered infill. Mr. Peterson stated that it would be considered infill due to its close proximity to the center of Grand Junction.

Commissioner Buschhorn asked if the Fire Department agreed to the 13% grade. Mr. Peterson stated that the Fire Department did agree as it was part of the TEDS exception committee.

Commissioner Wade asked if the layout looked the same when the TEDS exception was granted in 2007. Mr. Peterson noted that it was the same concept and that 79 lots had been proposed at that time and the current proposal is for 72 lots. Commissioner Wade asked if TEDS exceptions that are approved previously would be allowed to move forward without additional review. Mr. Peterson responded that it was re-reviewed as part of this proposal because they had lost their entitlements of the previously approved preliminary plan.

Commissioner Wade asked Mr. Peterson if he has seen the report that Mr. Wihera had provided to the Commissioners that evening. Mr. Peterson stated that he had not seen the report prior to the meeting, however, he has had discussions with Mr. Wihera in the past two years. Mr. Peterson stated that he has kept Mr. Wihera apprised of the proposal and comments via email as it worked through the review process.

Regarding the Colorado Geological Survey's (CGS) responses, Commissioner Ehlers asked if they will have the opportunity to have their concerns addressed at the time of the final plan. Commissioner Ehlers noted that significant Geotechnical reporting will need to be done regarding the earthwork and asked Mr. Dorris if CGS will have the opportunity to comment after the reports are done. Mr. Dorris stated that they will have the opportunity to comment during the final plan process and they welcome their input. Mr. Dorris added that City staff had put a long condition on the project requiring extensive geotechnical study at final design.

Discussion continued regarding references to overall slope noted in Mr. Wihera's letter and Mr. Peterson clarified that the slope percentage is based on each lot and not an average over the whole project.

Commissioner Ehlers noted that the City has identified specific ridgelines and view corridors that need to be protected and asked if this development falls into that requirement. Mr. Peterson stated that the Ridgeline Development Standards apply to this project because it can be seen from Monument Rd. which is one of the criteria. Mr. Peterson explained that the applicant will limit the homes to one story in the view corridor and little of the house can be seen. Commissioner Ehlers noted that South Camp Rd. and areas of Spyglass had similar restrictions as well.

Commissioner Ehlers stated that several concerns will be addressed by the design standards and he relies on experts such as the review of the TEDS exception

committee to help make his decision. Commissioner Ehlers noted that he supports the infill development aspect of the project. He stated that he is concerned with the financial burden that a failed road can place on the City and at the same time he does not want to negatively impact the property values of the existing homes in the area.

Mr. Ehlers asked if options other than the 7-year warranty had been considered. Mr. Dorris said there were other alternatives, but then noted that in his research of the requirements placed on Spyglass, there are parts that failed even with extensive earthwork done. The costs of those repairs could be five to six figures. Mr. Dorris noted that he has worked on many projects and looked at many geotechnical reports and this particular subdivision has him concerned enough that he feels the 7-warranty period is needed.

APPLICANTS REBUTTAL

Mr. Jones felt that the concept of the 7-year warranty was an extraordinary step taken by the City out of an abundance of caution. Mr. Jones feels there is no empirical evidence to support the need. Mr. Jones stated his staff conducted a survey of other communities in Colorado and cannot find such an extraordinary warranty ever being required. Mr. Jones stated that the City requires a one-year warranty but he did not find anything in the development code that allows a 7-year warranty. Mr. Jones noted that they have offered a 2-year warranty period. Mr. Jones objects to the warranty period and considers it a substantial burden and hardship that is being placed on the developer.

Mr. Jones explained that the City does not implement the warranty period until almost one year after construction is completed, therefore with a 2-year warranty period, there will actually be a 3-year timeframe. Mr. Jones feels that there is extensive oversight with the geotechnical engineers during the construction process.

Mr. Jones feels imposing a 7-year warranty is arbitrary, premature and not warranted. Mr. Jones stated that if the City feels a 7-year warranty is justified, they should amend the development code so developers know what is required. Mr. Jones speculated that if the City imposes this type of warranty on owners, they will stop development in Grand Junction.

Mr. Jones presented slides with photos of the three areas of street failure that had been mentioned by staff. In Spyglass subdivision, there are a few areas of road failing, however there are several miles of road in the subdivision. Shadow Lake Road in Redlands Mesa Subdivision was constructed 17 years ago. The next slide was Mariposa Drive, just west and south of the proposed site. Mr. Jones stated that he could not find evidence of a geotechnical report that had been completed or of any borings done for Mariposa Drive.

Mike Berry, 640 White Avenue, Unit B, stated he is representing Huddleston-Berry Engineering and Testing, LLC, and is part of the design team on the project. Mr. Berry

gave a brief overview of his education and extensive experience in the field of geotechnical engineering.

Mr. Berry displayed typical pavement cross sections of Spyglass Hill Subdivision and the Ledges as well as a cross section for Pinnacle Ridge for comparison. Mr. Berry explained the mitigation measures that will be used. Mr. Berry displayed several slides that illustrated the level of detail regarding compaction, fills, grading, and lab test results.

Mr. Berry noted that the CGS base their review on geologic borings reports, geologic maps and topographic maps and are not experts in the geology and engineering properties of materials in the Grand Valley and therefore make conservative assessments based on a limited set of data.

In conclusion, Mr. Berry stated that he feels that a 7-year warranty is excessive and not reasonable and appropriate for this project.

COMMISSIONER DISCUSSION

Commissioner Ehlers noted that he had asked about alternatives because to go beyond the code and apply a 7-year warranty is concerning. Commissioner Ehlers explained that he depends on the professional opinions of experts in the field. Commissioner Ehlers stated that he would like to support the project and have it move forward.

Chairman Reece asked Ms. Beard if Commissioner Ehlers chose to, could he make a motion that would modify the warranty period. Ms. Beard stated that if he would like to make a motion that would modify what is currently before him, then he would need to be clear as to what he is suggesting to be included.

Commissioner Deppe stated that over the years she has witnessed HOAs in the Valley become defunct. Commissioner Deppe asked what would happen if the HOA failed. Commissioner Deppe struggles with the building of homes on unstable soils and on ridges.

Commissioner Wade noted that as he reviews a project for compliance with the development codes, he relies on the subject matter expert of the staff and review agencies. Commissioner Wade stated that he feels the City should be able to add conditions that protect the City and make specific requirements such as an extended warranty. Commissioner Wade noted that the conditions placed on this development is as good as they can get and still give the developer an opportunity to develop a property with those challenges. Commissioner Wade urged citizens to stay on top of the project. Commissioner Wade stated that he is concerned about the traffic, but is in support of the project in general.

Commissioner Buschhorn agreed with Commissioner Wade and thought the one-year warranty is probably not enough and he does not believe the code says it is required to

only be a one-year period and it does not negate the ability to go beyond that. Given the topography, Commissioner Buschhorn feels that a longer warranty period makes sense. Commissioner Buschhorn feels that this proposal with the conditions, strikes a balance that allows a developer to develop the project while also protecting the City.

Chairman Reece voiced her concern regarding what would happen if the HOA is disbanded or does not do an adequate job. Chairman Reece noted the fact that this is an infill project and would like to see those types of projects be encouraged. In addition, Chairman Reece was concerned that all the conditions of approval had not been agreed upon in writing with the developer.

MOTION: (Commissioner Wade) “Madam Chairman, on item SUB-2015-120, I move that the Planning Commission forward a recommendation of conditional approval of the requested review of private streets and also public streets and residential lots traversing greater than 30% slopes for the proposed Pinnacle Ridge Subdivision, SUB-2015-120, to the City Council with findings of fact/conclusions and 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 5-0.

Other Business

None

Adjournment

The Planning Commission meeting was adjourned at 10:17 p.m.