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File 1984-0031

Project Name: Smith's Food & Drug - Rezone - RSF8 & PB to PB

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X		Option - Purchase Agreement	X		Elevation Map
X		Development Application - 10/30/84	X		Building Separation Illustration
X		Invitation letter to neighborhood meeting from John Ballagh to Property Owner 11/14/84 & 1/22/85 - 11/6/84 & 1/24/85	X		Enclosed Dock Illustration
X	X	Planning Commission Minutes - ** - 11/27/84, 1/29/85	X		Site Plan
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X	X	Revised Outline Development Plan	X	X	Opposition letter from Harlan Huskey, M.D. to Council Member- 12/11/84
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October 31, 1984

SMITH'S FOOD AND DRUG, a planned business development  
Common location: Southeast corner of 12th & Patterson

This ambitious project will result in the aggregation of 11 separate parcels into one tract with a single structure and a single owner. The rezoning to Planned Business (PB), for a supermarket (to include all the associated activities normally found in a supermarket) is necessary in order to proceed with final design, working drawings, and construction for occupancy in late 1985 or early 1986. Ten of the parcels are zoned residential, single family - 8 (RSF-8) and one parcel, presently zoned PB, is being used as an office. This prime site is located at the intersection of one of the major N-S arterial routes, 12th Street, and certainly one of the most direct E-W arterials, Patterson Road.

The present lot configuration looked very similar in November 1966 when the area was annexed as a part of the North Twelfth Street Annexation. Most of the present private improvements predate the Annexation. One unit is an owner occupied residence; one unit is owner occupied as an office; 9 units are residential rentals.

In addition to Mr. Larry Brown's Planned Business zoning there is an approved bulk development, Wellington Cove, in the old R-1-C zone, for parcels -021 and -141 (Mr. Head's parcels). In fact, the sewer is installed and a 6" water line has been stubbed to the property line at Wellington.

Original  
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#31 84

A single building is proposed to be sited to the easterly end of the combined parcels, leaving the full frontage on 12th Street open and the westerly 50% of the frontage on Patterson Road open. A single owner will allow for one voice concerning improvements, maintenance, and all of the other decisions at the project. There will be no need for an association of merchants or owners in order to maintain the landscaping, the lighting, the parking lot, or the building.

Presently access to the 11 parcels is gained via 5 driveways on 12th Street, 5 additional driveways on Patterson, and two accesses from Wellington Avenue. The proposal is to close 4 of the driveway cuts on 12th keeping one 30' entry/exit. There would be two entry/exits to Patterson, both of the 30' accesses will be east of the existing raised median in Patterson. The result would be to close 3 driveway cuts on Patterson. Both of the accesses to Wellington would — be improved with a paved surface, landscaping on each side and screen fencing. The latter two accesses are not expected — to be primary customer routes.

The building, 45,821 square feet, will house SMITH'S FOOD AND DRUG. The structure is planned to be 168 feet by approximately 282 feet, with two setbacks, one at each end of the front of the building. The construction will be split face concrete block painted a white or off-white. The building will have an overall height of approximately 21 feet.

The location is easily accessible from all cardinal points. There are no known hazard at this site. The land is not in any designated floodplain; it is outside the Walker Field Airport area of influence. There are no known geologic hazards which cannot be mitigated with a foundation designed be a qualified engineer.

Domestic water will be provided by the City of Grand Junction from either the 20" line in Patterson, the 6" line in 12th, or the 6" line stubbed to the Wellington property.

Similarly, fire protection will be provided by the City of Grand Junction. The identified water main sizes, adjacent to the property seem appropriate.

Sewer service will be via City of Grand Junction.

Irrigation water will be used as the property has approximately 5.3 water right acres under the Gov't Highline Project. Existing ditches would probably be relocated within the site, easements will be granted on the final plat, all the while providing the downstream users with water at their historic points of delivery.

Storm water detention will be on-site in accordance with the City of Grand Junction guidelines. Storage will probably be designed into the parking lot, that information and support material will be submitted for review at final plan stage.

The intersection of 12th and Patterson has changed. In the mid 70's 12th Street was widened at the same time as the new siphon for the Grand Valley Irrigation Company Canal was installed. The actual intersection has been improved in the last two years.

Within the last ten years Centennial Plaza and Village Fair were thought of, designed, approved, and constructed as Planned Business projects. Hilltop House has been expanded since they located at 1100 Patterson. Expansion is planned between this proposal (SMITH'S) and 15th Street on the north side of Patterson by Hilltop House. Bookcliff Baptist Church has made a significant decision and constructed a large facility on property adjoining the Church to the north. Immediately east of the subject property is Patterson Gardens, a successful Townhome development completed in the late 70's. To the south, across Wellington, at 1305, is the partially complete Wellington Gardens. Designed at 16.5 units per acre (PD16.5) there are seven units constructed, but all the water, sewer, and pavement are in place.

Widening of Patterson Road between 12th and 28½ Road is in the design stage and expected to be constructed in the next 18 months.

The City should be proud of the quality and success of the existing, larger PDB developments. In addition to Centennial Plaza and Village Fair, there are College Square, Cedar Square, and the Orchard Mesa Safeway.

The proposed use is not in conflict with existing plans of other public agencies, such as Mesa College. The proposed retail use is not a professional office project, the preference for this corner as stated in the 12th Street policies. However, more professional office development seems to be somewhat to the south of this site. Medical offices are being constructed along Wellington between 7th and 12th. General office development has occurred near Horizon Drive, principally north of I-70, and in the downtown area. The Bookcliff Baptist Church facility is attractive, apparently in good repair, and hopefully of adequate size to function for a long time. The Northwest and the Southwest corners of 12th and Patterson are presently zoned Planned Business and have mixed tenants using space as both offices and retail outlets.

The fact that there are existing residences on some of the parcels requires a choice between policies. The parcels cannot be developed alone or together without some loss of residential units. Thus, protection of an existing residential area is not the most valid policy in this instance.

The policies addressing aggregating parcels into one tract, reducing curb cuts along major arterials, and the willingness of the developer to go with a PB development should be considered favorably.

The development schedule for the project follows:

Winter 1984/85	Final Development Plan Soils Testing - Foundation Design Building Design
Spring 1985	Site preparation
Spring - Fall 1985	Construction
Fall - Winter 1985/86	Opening Complete Landscaping

Pauline Lyttle  
1441 Patterson Rd. #104  
Grand Junction, CO 81501

#31 84

Ruth Cronk  
570 Bentwood  
Grand Junction, CO 81504

#31 84

Bess Jean Russel  
1441 Patterson Rd. # 302  
Grand Junction, CO 81501

#31 84

Peter Tooker  
1441 Patterson Rd. #401  
Grand Junction, CO 81501

#31 84

Patricia Cpates  
1441 Patterson Rd. #802  
Grand Junction, CO 81501

#31 84

Betty Chapel  
1441 Patterson Rd. # 901  
Grand Junction, CO 81501

#31 84

Gertrud Friehs  
1441 Patterson Rd. # 904  
Grand Junction, CO 81501

#31 84

Larry Lasby  
1305 Wellington Ave. # 102  
Grand Junction, CO 81501

#31 84

Mary Ann Donnelly  
1305 Wellington Ave. # 105  
Grand Junction, CO 81501

#31 84

Fairmount Community Club  
2511 N 12th St. #31 84  
Grand Junction, CO 81501

Ruth Waldref  
1441 Patterson Rd. # 201  
Grand Junction, CO 81501

#31 84

Margaret Sears  
1441 Patterson Rd. #204  
Grand Junction, CO 81501

#31 84

Harlan Huskey  
1441 Patterson Rd. # 303  
Grand Junction, CO 81501

#31 84

Ronald Mays  
1441 Patterson Rd. # 402  
Grand Junction, CO 81501

#31 84

Don Whitney  
30182 Rainbow Hill  
Golden, CO 80401

#31 84

Chester Kessler  
1441 Patterson Rd. #902  
Grand Junction, CO 81501

#31 84

Patterson Gardens Townhomes  
P. O. Box 3833  
Grand Junction, CO 81502

#31 84

Earl Wilcox  
1884 W 1415 N  
St. George Utah 84770

#31 84

Mark Nusskern  
1305 Wellington Ave. # 107  
Grand Junction, CO 81501

#31 84

Lawrence Aubert #31 84  
211 Country Club Park  
Grand Junction, CO 81503

John Phillipe  
880 S. Race  
Denver, CO 80209

#31 84

John Baghott  
1441 Patterson Rd. #301  
Grand Junction, CO 81501

#31 84

Maxine Nelson  
1441 Patterson Rd. #304  
Grand Junction, CO 81501

#31 84

Stella Rector  
1441 Patterson Rd. #801  
Grand Junction, CO 81501

#31 84

Rose Kramer  
2846 Mesa Ave.  
Grand Junction, CO \*1501

#31 84

Alma Melton  
1441 Patterson Rd. # 903  
Grand Junction, CO 81501

#31 84

Michael Pocius  
1305 Wellington Ave. # 101  
Grand Junction, CO 81501

#31 84

Andrew Fox  
114 Manty Heights Drive  
Grand Junction, CO 81501

#31 84

Wellington Ct TH Ptship  
629 26½ Road  
Grand Junction, CO 81501

#31 84

Mesa County Soc. for  
Crippled Children & Adults  
1100 Patterson Rd.  
Grand Junction, CO 81501

#31 84



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Glen Green  
2708 Patterson Rd  
Grand Junction, CO 81501

#31 84

Otis Testerman  
2710 Patterson Rd.  
Grand Junction, CO 81501

#31 84

Mesa Federal Savings  
P. O. Box 1508  
Grand Junction, CO 81502

#31 84

Nora Peterson  
2540 N 12th. St  
Grand Junction, CO 81501

#31 84

Florence Shirk  
1314 Wellington Ave.  
Grand Junction, CO 81501

#31 84

Clayton Lafferty  
1401 Wellington Ave.  
Grand Junction, CO 81501

#31 84

Bernard Coulson  
2510 N 12th St.  
Grand Junction, CO 81501

#31 84

May Kanavel  
1313 Wellington Ave.  
Grand Junction, CO 81501

#31 84

Florence Collins  
1321 Wellington Ave.  
Grand Junction, CO 81501

#31 84

Larry Don Cornell  
1441 Patterson Rd. # 101  
Grand Junction, CO 81501

#31 84

John Bray  
2714 Patterson Rd.  
Grand Junction, CO 81501

#31 84

Bookcliff Baptist Church  
2700 Patterson Rd.  
Grand Junction, CO 81501

#31 84

B & G Investments  
P. O. Box 1536  
Grand Junction, CO 81502

#31 84

Ed Clements  
2528 N 12th. St  
Grand Junction, CO 81501

#31 84

E. Fay Carpenter  
1340 Wellington Ave.  
Grand Junction, CO 81501

#31 84

Mrs. Leona Kochevar  
1238 Wellington Ave.  
Grand Junction, CO 81501

#31 84

Donald Carns  
2424 N 12th. St  
Grand Junction, CO 81501

#31 84

Edna Mae Williams  
1418 Wellington Ave.  
Grand Junction, CO 81501

#31 84

Walter K. Waymeyer  
P. O. Box 2206  
Grand Junction, CO 81502

#31 84

Beverley Heitt  
664 39 Road  
Palisade, CO 81526

#31 84

Dale Dumont  
1354 E. Sherwood #5  
Grand Junction, CO 81501

#31 84

Dan Kubby etal  
1515 Arapahoe St S 1600  
Denver, CO 80202

#31 84

Village Fair  
P. O. Box 518  
Grand Junction, CO 81502

#31 84

David McKinley  
1308 Wellington Ave.  
Grand Junction, CO 81501

#31 84

Velma Ashurst  
1350 Wellington Ave.  
Grand Junction, CO 81501

#31 84

Joseph Abell  
1212 Wellington Ave.  
Grand Junction, CO 81501

#31 84

W.L. Reeves  
1225 Wellington Ave.  
Grand Junction, CO 81501

#31 84

Tony Whittle  
1434 Wellington Ave.  
Grand Junction, CO 81501

#31 84

Constance Joufflas  
319 Belaire Drive  
Grand Junction, CO 81501

#31 84

Harold Ball  
646 Karen Court  
Grand Junction, CO 81504

#31 84





#78

November 26, 1984

To: Grand Junction City Council  
Grand Junction Planning Commission  
Grand Junction Planning Commission Staff

From: John L. Ballagh

*John L. Ballagh*

Subject: Report on the Neighborhood Meeting, re: #31-84

The meeting was held at Orchard Avenue School, November 14, 1984 at 7:30 in the evening.

Approximately 40 people were in attendance. Sixty letters were mailed to the list of people submitted with the application. One letter was returned, undeliverable.

The site plan, two perspective sketches, a front and side elevation, a sign plan, and color Polaroid photographs of an existing store and an existing sign were displayed.

The first question had to do with notes on the plan, particularly about the fencing and screening. It was explained that the full east and south sides would be screen fenced and landscaped, including along the accesses to Wellington.

The neighbors asked why there were two accesses to Wellington, which was answered that the purchasers desired to fully use the land that they intend to purchase, and for the convenience of the shopper and the delivery trucks. Major concerns were voiced about the two accesses to Wellington Avenue. The question was asked if Smith's would be willing to make full improvement to Wellington. Later, the neighbors were asked "if full improvement was made to Wellington by Smith's, how would that be?" The residents on Wellington, in attendance, did not favor that solution. Pedestrian walkways to Wellington from the store were mentioned, the neighborhood response was that there is a pedestrian access in the form of sidewalks on 12th Street.

The location of the raised median on Patterson Road was discussed. Smith's plan proposes a driveway clear of the east end of the raised median.

Potential of a raised median on 12th St, was brought up by a businessman from the Village Fair development. He prefers that the 12th Street entry-exit be moved to the south to line up with the existing entry-exit into Village Fair. The Smith's engineers are looking at that request. A decision has not yet been made.

There was a question concerning hours of operation. Would this be a 24 hour store? One neighbor mentioned that other Smith's Food and Drug Stores are 24 hour. There was discussion that even if the store operated from 7 A.M. to 10 P.M., as I stated, that there would be employees at the store 24 hours, stocking and cleaning even if the store was not open for sales.

There was discussion of the trash container location and noise. The proposal is to use one of the fully enclosed, hydraulically operated compressor type containers. Such a container is available through one of the two commercial trash haulers operating in the City. The neighbors were told that the frequency and timing of pick-up is unknown at this time. Residents along 12th stated that they had convinced the trash haulers to change the time of pick-up at Gladstones, to reduce the early morning noise.

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A question concerning the residential neighborhood policy as referenced in the project narrative was explained. The sentence reads "... protection of an existing residential area is not the most valid policy in this instance." The reference is to the residential units on 8 of the 11 separate parcels being requested for rezoning. The fact that there are only a few units on the total 5.5 acres makes it difficult to develop or re-develop the land even at RSF - 8 without some or all of the existing units being moved or razed, resulting in something other than protection of that existing residential area, on the corner of 12th and Patterson.

The location (site) was questioned repeatedly. The location of the proposed (?) Shoppin Bag, at Mesa Mall was suggested as a substitute location. It was explained that this store serves people who live around it. The departments within the store, national brands, store brands, pharmacy, bakery, fresh meats, deli, and housewares are to serve retail customers. It was stressed that here would be a single building a single occupant, hence, a single entity to talk with concerning maintenance, operations, and upkeep.

Several specific subjects of fence height and lighting plan and irrigation and drainage were discussed. It was explained that a six (6) foot screen fence would be built on the rear and south sides, that it could be concrete block construction. The lighting, irrigation, and drainage plans would be provided at final plan time, however, the style of light would be the square, pole-mounted down-casting light. The question of "open space" was answered that the City Parks and Rec Department had requested the in-lieu payment based on an appraised value.

The schedule of construction aiming for Spring and Summer 1985 with an opening date of late 1985 was explained.

The meeting was over by 9:00 P.M.

# REVIEW SHEET SUMMARY

FILE NO. #31-84 TITLE HEADING Rezoning RSF-8 & PB to PB DUE DATE 11/9/84

ACTIVITY - PETITIONER - LOCATION - PHASE - ACRES Phase: Outline Development Plan

Location: Southeast corner 12th and Patterson Road Petitioner: Jack & Betty Bray et al.

PETITIONER ADDRESS 2707 Patterson Road Grand Junction, CO 81501

ENGINEER n/a

<u>DATE REC.</u>	<u>AGENCY</u>	<u>COMMENTS</u>
11/5/84	Parks & Rec.	We will need landscaping plans based upon soils tests as the project progresses. If this particular action falls under the 5% open space requirement, then we will need an appraisal to determine the fee owed.
11/9/84	Building Dept.	No negative comments. Building permit required. State law requires a state of Colorado licensed architect to design and stamp the drawings. Drawings should be submitted for preliminary review prior to construction documents.
11/9/84	City Engineer	Parking lot drainage detention facility will need to be worked out with this office for final plan approval (as stated by petitioner). All existing driveways closed by the final plan must be removed and the sidewalk and curb and gutter replaced by a licensed City concrete contractor. Access locations on Wellington and 12th Street may need some additional considerations as per City Transportation Engineer comments.
11/9/84	Mtn. Bell	None.
11/9/84	Development Dept.	<p>Project Narrative:</p> <p>This is a request for a rezone to Planned Business on 5.5 acres at the southeast corner of 12th and Patterson. The City currently has an adopted 12th Street Policy and the Planning Commission recommended approval for a Patterson Road Corridor Policy. (The City Council has yet to take official action on it.)</p> <p>While this request is in compliance with the proposed Patterson Road Corridor Policy, there is some question regarding the 12th Street Policy. As this department has stated to previous interested parties regarding this corner, it is not the intent of any project to encroach into residential areas without due consideration. That was the intent of both the Patterson and 12th Street policies.</p> <p>This project is showing two accesses onto Wellington, an unimproved local street. We feel as we have stated before, any access for business onto Wellington should be discouraged or denied. The reasons are, in part, the existing residents who have, in the past, been very vocal and have strongly objected to any increased traffic on Wellington. Because of Wellington's unimproved status, additional commercial traffic could become more hazardous and require upgrades to Wellington.</p> <p>This department does not object to the uses, but we do object to access onto Wellington. The rezone criteria (sec. 4-4-4) of the Grand Junction Zoning and Development Code states an evaluation of the following is required:</p> <p>Is the proposed rezone compatible with the surrounding area or will there be adverse impacts?</p> <p>The area fronting 12th and Patterson do not. However, the encroachment south to Wellington may have adverse impacts. Screening and</p>

November 26, 1984

Grand Junction Planning Commission  
via Grand Junction Planning Staff

Re: #31-84 Smith's Food And Drug

*John Bullough*

Dear Commissioners,

This letter is formal response to the review agency comments.

- Parks & Rec. Soluble salts tests will be performed prior to selecting landscaping plant species. The requirement of the open space fee based upon an appraisal will be met at the platting stage.
- Building Plans will be done under the direction and supervision of a Colorado licensed architect. The plans will have the appropriate stamps. Preliminary review of drawings sounds like a good idea.
- City Eng. Existing driveways will be closed in accordance with existing City policy.
- Police The upgrading (widening) of the roads adjacent to the project are partially completed. The site plan has been prepared with existing and designed improvements taken into account.
- Fire Dept. Plans will be submitted in order to compute the required fire flow. It is assumed that the 20" line in Patterson Road has sufficient flow to meet the requirements of this project. Fire codes will be met. The building will have inside sprinklers installed. The system will be "supervised" that is, tied into one of the local monitoring agencies to let them know if the sprinklers go off.
- Dev. Dept. The results of the Neighborhood Meeting were requested and have been sent to the Staff.

The developer, Smith's Management Corp., would prefer to have both of the accesses to Wellington. However, the three (3) accesses to 12th and Patterson would be considered limiting, but acceptable. The residents of Wellington, who attended the Neighborhood Meeting stated that the accesses to Wellington would make an "island" of the parcels owned by Mrs. Peterson, Mr. Clements, Mr. Abell, and Mr. & Mrs. Coulson. Those parcels just mentioned plus the southern portion of Mr. Head's property do fall within the 12th Street Policy and might be aggregated in the future.

If the two southerly "legs" of this request are not to be approved as part of the site plan then the landscaping and screen fencing along the south side would be pretty much a straight line. The plan would be altered to show perpendicular parking - facing into a 10 foot deep landscaped perimeter with a 6 foot screen fence along the south property line. A vertical curb would limit cars from running into the landscaping as well as directing surface runoff.

(10/11)

4

The meeting was held at Orchard Avenue School, November 14, 1984 at 7:30 in the evening.

Approximately 40 people were in attendance. Sixty letters were mailed to the list of people submitted with the application. One letter was returned, undeliverable.

The site plan, two perspective sketches, a front and side elevation, a sign plan, and color Polaroid photographs of an existing store and an existing sign were displayed.

The first question had to do with notes on the plan, particularly about the fencing and screening. It was explained that the full east and south sides would be screen fenced and landscaped, including along the accesses to Wellington.

The neighbors asked why there were two accesses to Wellington, which was answered that the purchasers desired to fully use the land that they intend to purchase, and for the convenience of the shopper and the delivery trucks. Major concerns were voiced about the two accesses to Wellington Avenue. The question was asked if Smith's would be willing to make full improvement to Wellington. Later, the neighbors were asked "if full improvement was made to Wellington by Smith's, how would that be?" The residents on Wellington, in attendance, did not favor that solution. Pedestrian walkways to Wellington from the store were mentioned, the neighborhood response was that there is a pedestrian access in the form of sidewalks on 12th Street.

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Potential of a raised median on 12th St. was brought up by a businessman from the Village Fair development. He prefers that the 12th Street entry-exit be moved to the south to line up with the existing entry-exit into Village Fair. The Smith's engineers are looking at that request. A decision has not yet been made.

There was a question concerning hours of operation. Would this be a 24 hour store? One neighbor mentioned that other Smith's Food and Drug Stores are 24 hour. There was discussion that even if the store operated from 7 A.M. to 10 P.M., as I stated, that there would be employees at the store 24 hours, stocking and cleaning even if the store was not open for sales.

There was discussion of the trash container location and noise. The proposal is to use one of the fully enclosed, hydraulically operated compressor type containers. Such a container is available through one of the two commercial trash haulers operating in the City. The neighbors were told that the frequency and timing of pick-up is unknown at this time. Residents along 12th stated that they had convinced the trash haulers to change the time of pick-up at Gladstones, to reduce the early morning noise.



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The location (site) was questioned repeatedly. The location of the proposed (?) Shoppin Bag, at Mesa Mall was suggested as a substitute location. It was explained that this store serves people who live around it. The departments within the store, national brands, store brands, pharmacy, bakery, fresh meats, deli, and housewares are to serve retail customers. It was stressed that here would be a single building a single occupant, hence, a single entity to talk with concerning maintenance, operations, and upkeep.

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The schedule of construction aiming for Spring and Summer 1985 with an opening date of late 1985 was explained.

The meeting was over by 9:00 P.M.

Impartiality? ask about this was ok or not

Dev. Dept.  
Con't

Concerning that area which might be approved with a slightly altered site plan, the staff limit of 376.5 feet from Patterson Road is based only on the easterly property dimension. The southerly property line is not straight, nor does the request include Mrs. Peterson's property.

The access onto 12th Street would be moved to line up with the Village Fair entry-exit as much as possible.

Detail landscaping, lighting, irrigation, and drainage plans will be submitted with future application.

Bell OK

Transportation Engineer See response to Dev. Dept.

low volume traffic? safety legal issues

Additional information & display: Two perspective sketches (blue lines)  
One sign plan for the corner of 12th & Patterson  
One color photograph of an existing Smith's store

Since Petrone is in question the petitioner chose an ODP approach we had a neighborhood meeting prior to GJPC  
3 major concerns of those opposed  
- use itself  
- Access on to Wellington (resolved)  
- buffering & screening ~~that concerns a access resolved~~  
technical issues could be adequately addressed  
GJPC felt this ~~prop~~ use proposed was appropriate for this corner  
subject to  
no access to Wellington  
meeting w/ neighborhood

What about the moving of the structure further west?

2/23  
2/20  
2/29  
4/13  
10  
125



Smith's Food Store  
file 31-84

DEC 03 1984

1308 Wellington  
Grand Junction, CO 81521

December 1, 1984

Gerald Ashby  
City Attorney  
City of Grand Junction  
250 North Fifth Street  
Grand Junction, CO. 81501

Re: Rezone of southeast corner of 12th and Patterson; Planning  
Department file #31 84

Dear Gerald,

In discussing the above noted matter with you by phone earlier this week, I made certain references to deeded irrigation lateral rights and restrictive covenants which significantly affect the parcel of land in question. I thought it would be appropriate for me to provide you the necessary information concerning these items so you may more thoroughly analyze their effect on a rezone.

Most of the parcel of land in this proposed rezone known as the "Roger Head property" is subject to a restrictive covenant running with the land which allows its use for residential purposes only. The deed reflecting this covenant is found at Book 451 Page 262 of the records of the Mesa County Clerk and Recorder. The covenant was placed on the property on February 19, 1946 and runs for a forty year period. Thus, that parcel will not be eligible for even a consideration of business use until February 20, 1986. If the City is to rezone this land to planned business with knowledge of the covenant, then it would seem to be in complicity with Mr. Head in his attempt to violate it. Such an action may well add countervailing power to the appropriateness of a rezone if a legal dispute were to arise concerning it.

At Book 940 Page 53 and Book 1146 Page 215 are the deeds which reflect the ownership interest that I have with my property in the irrigation lateral located on a Bray owned parcel to the north and east. I have previously informed you, and both the Planning Department Staff and Planning Commission (at a public hearing), that this irrigation lateral was a property right belonging to me and others served by it, and that it was wholly

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unwise for the Planning Commission, based on the recommendation of the planning staff, to approve a rezone based on an outline development plan that places a 45,000 square foot supermarket building directly on top of this irrigation lateral. To have employees of the Planning Department blithely suggest that this lateral (and others) may be moved by the developer without the permission of those who have rights it in reflects a knowledge which does not comport with the law. Having spent over a year in doing a considerable amount of legal research on the City of Fruita municipally owned irrigation system, I can assure you that, while irrigation laterals on public right of way may be readily moved, those on private property with a long and historic use may only be moved by agreement of the involved parties. The residents on Wellington served by this lateral do not and will not agree to a movement of it for the so-called "privilege" of having a twenty-four hour supermarket adjacent to their properties. I think the Planning Commission has made error by recommending approval of the rezone based on an outline development plan that encourages a violation of the law. I hope, based on your advice, that the City Council will correct this error, as well as honor the covenant noted above, by denying the rezone.

Thanks for taking the time to read this letter. I would appreciate knowing the position of the City on the above noted matters at your earliest convenience.

Very truly yours,

*David McKinley*  
David McKinley

cc. Mark Achen, City Manager  
Bob Goldin, Planning Department ✓

HARLAN B. HUSKEY, M.D.

206 EAST ASPEN

FRUITA, COLORADO 81521

PHONE 858-3927

December 11, 1984

Betsy Clark,  
1316 Juniper Street,  
Grand Junction, Colorado 81501

Dear Council Member:-

As President of Patterson Gardens Townhomes Association, and as a homeowner therein, and in the larger role of citizen of Grand Junction, I ask you to please consider the following items:

Rezoning of the southeast corner of 12th Ave. and Patterson Road will result in exposure to the charge of "Arbitrary and Capricious" for the following reasons:

1. There is a 40 year deed restriction on the Roger Head property.
2. The Highline Canal ditch is tied to deeded properties (this ditch will be directly under the proposed building).
3. Rezoning violates the provisions of the previously established 12th Street corridor.

A large facility will destroy the peace, comfort, privacy, tranquility and property values of a \$3 million residential community adjacent to the proposed development. The noise, dust, odor, insect population, in addition to 24-hour lighting, would intolerably affect the adjacent residences. In addition, the traffic off Patterson Road, and the misdirected traffic through the Patterson Gardens community represent a substantial hazard.

Two Safeway Stores and one City Market Store in this area are closing, and the Shoppin' Bag store will not open.

HARLAN B. HUSKEY, M.D.

103 EAST ASPEN

FRUITA, COLORADO 81521

PHONE 858-3927

December 11, 1984

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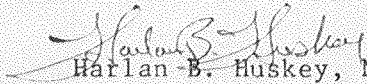
Smith Enterprises is non-union. Their contribution to the community will, at best, be minimum wage salaries.

There is deep concern regarding the relationship of Council Members to Bray & Company, the real estate firm offering the property considered for rezoning.

Please empathize with these concerns, as you approach the decision of rezoning 12th & Patterson, southeast corner.

Very truly yours,

HBH/lis

  
Harlan B. Huskey, M.D.