Chairman Justman called to order a scheduled hearing of the Mesa County Planning Commission at 6:04 p.m. Chairman Justman led the Pledge of Allegiance. The hearing was held in the Public Hearing Room, Mesa County Administration Building, and 544 Rood Avenue, Grand Junction, Colorado.

In attendance representing the Mesa County Planning Commission, were: John Justman, Thomas Kenyon, Christi Flynn, Phillip Jones, Michael Gardner, Sam Susuras, and Gregory Robson.

In attendance, representing the Mesa County Department of Planning and Economic Development, were: Kurt Larsen, Linda Dannenberger, Christie Barton, and Keith Leonard, Chy Arnett was present to record the minutes.

There were 10 citizens present throughout the hearing.

---

**APPROVAL OF MINUTES**

July 24, 2008

_Motion:_ Motion by Commissioner Kenyon  
_Second:_ Commissioner Jones  
_Motion Approved 7-0_

---

**CONTINUED ITEMS**

NONE

---

**CONSENT ITEMS**

Chairman Justman explained the consent agenda and then polled the board and the audience to see if anyone wanted an item from the consent agenda put on the hearing agenda.

_Discussion_

Commissioner Flynn had a question about 2008-286 CP1 Mud & Dust Concept Plan. She asked why the other homes in that subdivision were not changing their building envelopes as well. Ms. Dannenberger, Division Director of Mesa County Land Use & Development stated that some of the other parcels are owned by Alpine Building Company and Mesa County is currently in a lawsuit with them. No changes can be made on those lots until the lawsuit is settled. Commissioner Flynn stated that answered her question.

**2008-286 CP1 MUD & DUST CONCEPT PLAN**

Property Owner(s): Joe & Sandi Mahnke, Jim & LeAnn Fisher, Dennis & Debra Andrus
Representative(s): Keith Davis
Location: 1811, 1815, 1801 O Road, Fruita 81521 (18 & O Rds.)
Zoning: AFT
Planner: Linda Dannenberger, 244-1771, Linda.Dannenberger@mesacounty.us
Request: Remove building envelope restrictions from Lots 1, 9 and 10 in the Mud and Dust Subdivision. A property line adjustment between Lots 9 and 10 is being processed concurrently.

Staff Recommendation: Approval
Board of County Commissioners Hearing Date: 08/26/08

Motion Commissioner Flynn moved that item 2008-286 CP1 Mud & Dust Concept Plan be passed on to the Board of County Commissioners with the recommendation of approval pending all staff recommendations and review agency comments.
Second Commissioner Gardner
Motion Approved 7-0

2004-235 CP1 MOARK SUBDIVISION CONCEPT PLAN
Property Owner(s): Missouri Arkansas Hatcheries I
Representative(s): Hiram Reyez, Turnkey Consulting LLC
Location: 1070 21 RD, Grand Junction, 81505 (21 Rd & K RD)
Zoning: AFT
Planner: Christie Barton, 970-255-7191, Christie.Barton@mesacounty.us
Request: Six lot re-subdivision of Parcel A of the Hunter Wash Simple Land Division using the incentive based subdivision provisions.

Staff Recommendation: Approval with Conditions
Board of County Commissioners Hearing Date: 08/26/08

Motion Commissioner Gardner moved that item 2004-235 CP1 Moark Subdivision Concept Plan be passed on to the Board of County Commissioners with the recommendation of approval subject to staffs recommendations and conditions and all review agency comments.
Second Commissioner Jones
Motion Approved 7-0

2007-063 CP1 HARROGATE SUBDIVISION CONCEPT PLAN
Property Owner(s): 3P Development LLC
Representative(s): Tracy Moore, River City Consultants, Inc.
Location: 464 33 Road, Clifton 81520 (33 Rd & El Jardin Rd)
Zoning: RMF-8
Planner: Keith Leonard, 970-244-1814, keith.leonard@mesacounty.us
Request: To subdivide 5 acres into 25 single family lots.

Staff Recommendation: Approval with Conditions
Board of County Commissioners Hearing Date: 08/26/08

Motion Commissioner Kenyon moved that on item 2007-063 CP1 Harrogate Subdivision Concept Plan be passed on to the Board of County Commissioners with a
favorable recommendation subject to all staff recommendations and review agency comments as part of the consent agenda.

Second Commissioner Susuras
Motion Approved 7-0

HEARING ITEMS

2006-019 CP2 WILSON ACRES CONCEPT PLAN
Property Owner(s): Robert Wilson
Representative(s): Scott Sorenson, Austin Civil Group
Location: 1595 17 Rd, Loma 81524 (P & 17 Rds.)
Zoning: AFT
Planner: Christie Barton, 255-7191, Christie.Barton@mesacounty.us
Request: 5 lots on approximately 25.1 acres

Staff Recommendation: Denial
Board of County Commissioners Hearing Date: 08/26/08

Staff Presentation
Christie Barton Mesa County Planning and Economic Development Department entered into record the Mesa County Master Plan, the Mesa County Land Development Code, file number 2006-019 CP2 Wilson Acres Concept Plan, the Project Review and PowerPoint presentation labeled Exhibit A. Ms. Barton stated that they are proposing 5 lots on approximately 25.1 acres using a 5 acre average density. She reminded the commission that this project has come before the boards before as a CP1. It is now titled as a CP2 and they have redesigned it. When it came through before, the Mesa County Planning Commission recommended denial, it then went before the Board of County Commissioners, and was denied. In the redesign they have removed the section where they requested using the rural cluster density bonus but they will still be doing a conservation easement. Ms. Barton presented Exhibit A pointing out where the property is located and what the zoning is for that area. She also pointed out that this property is unique because it does not have irrigation water but it has a drainage ditch that supports a high volume of wildlife. For this reason the owners are proposing the conservation easement on a good bit of the land. Ms. Barton stated that Ms. Dannenberger was at the property this afternoon and saw a buck that ran in front of her car, she was happy to report that the car, driver and buck were all ok. The owners want to divide the property into 5 lots with the average density of 5 acres per lot. She stated that the property is platted and access will be from two shared driveways on the northern part from 17 Road and the existing house has an existing driveway. This project was proposed in early 2006 and at that time Mesa County adopted the Rural Master Plan so the property owners proposed using the interim density calculation that the Planning Commission come up with in 2005, which when calculated came up with 1 dwelling per 18 acres. That was done because Mesa County had the 5 to 35 acre recommended density which caused so many problems for so many people. Now Mesa County has the Rural Planning Area and the Rural Master Plan and it states that in the 17/9 area, they could get possibly 3 lots if they use the density by design chart.
However they are proposing a 5 acre average density. Ms. Barton showed the redesigned concept plan in Exhibit A. She showed the Future Land Use Map. Ms. Barton then stated that the Mesa County Planning & Development Department recommends denial for this concept plan. The basis for this recommendation is that the petition does not demonstrate compliance with section 3.6.3.H.4 or section 3.1.17A of the Land Development Code. Specifically the proposed density does not demonstrate compliance with the Rural Planning Area section of the Mesa Countywide Plan adopted on February 2, 2006 or the density of the area, and does not demonstrate compliance with the Interim Density Policy that was in effect at the time of the submittal of the original project.

Question
Commissioner Gardner asked if the Rural Plan calls for 5 acres per lot. Ms. Barton clarified that it would be a 9 acre average density if they used the Density by Design tool box, otherwise its 17 acres per dwelling unit average density. Ms. Dannenberger made the comment that the incentive based subdivisions in that part of the Master Plan have been codified. So in the 17/9 areas and the 10/5 areas to achieve the higher densities you have to follow The Land Development Code, it is not just the Master Plan. Mesa County has carried the Master Plan forward into the Land Development Code with guidelines for how to achieve the higher density in the two classifications. Because of this, their Concept Plan does not meet the Land Development Code chapter 6.
Chairman Justman asked if this project was first submitted before the Master Plan was adopted. Ms. Dannenberger stated that if that was the case then they would still have to have followed the interim density guidelines, and Ms. Barton pointed out that they still did not meet either. Ms. Barton explained what the interim density policy had been. Ms. Dannenberger pointed out that the interim density policy calculation was adopted by the Planning Commission as an interim measure prior to the Rural Master Plan being updated.

Representative Mike Russell, Attorney for the Wilson’s, 200 Grand Avenue, Grand Junction, CO. Mr. Russell wanted to correct the record slightly, stating that in Ms. Barton’s presentation she referred to the County Commissioners as having denied the application. He stated that he did not feel that was correct. He stated that they were in front of the County Commissioners and scheduled to go forward but they stopped that process. He wanted it known that they had listened to the Commission the last time they were in front of them and what he understood that the Commission liked the project and they liked the idea of placing more density in to non irrigated properties preserving the area for the wildlife under deed restrictions but they were not comfortable with the proposal because they were suggesting 7 lots and the Commission just was not comfortable with that kind of density. So they went back to the drawing board and made changes and then decided mutually that before they present the changes to the Board of County Commissioners they wanted to come back in front of the Mesa County Planning Commission again, rather then just going straight to the Board of County Commissioners. He wanted it put on the record that the Board of County Commissioners never denied this proposal. Mr. Russell stated that the reason they are back in front of the Mesa County Planning Commission was because they listened to
what the commission had said and they cut the project back to 5 lots as opposed to the 7 and he feels that it is in fact it is compatible with the neighborhood. He stated that the only issue he felt was whether or not it was compatible with the neighborhood and he feels that it is. He stated that he knows there is an argument that if you apply a technical formula then you can not meet that formula because there is not enough acreage, but he feels that reality is that in that area over time has developed naturally and the non irrigated properties have developed into smaller parcels and the larger parcels have remained large because they are conducive to farming. So if you look in the area you can see that there are a number of 5 acre parcels. He stated that in fact there is a subdivision that has begun development (The Cattle Drive Property) that has 10 lots and is a big piece of ground and they are requesting another 15 lots. Mr. Russell stated that the only reason that they can do that is because they have a large amount of property so the formulas will work for them. It has nothing to do with the non irrigated property being used for what it should be, which in his option is smaller lots and preserving the large parcel that are irrigated for farming, which he feels, is exactly what the petitioner is trying to do by taking some non irrigated property and putting a little more density still within the zoning in his opinion with 5 lots and only 4 lots to be developed the 5th lot with deed restrictions to preserve the wildlife and protect the wash.

**Question**
Chairman Justman wanted to know what size the parcels are on O & 17. Mr. Russell went to his papers and pulled out a map and put it on the overhead projector. Ms. Barton stated that the map was to be named petitioners Exhibit 1. The map was too small to see from the overhead and was passed to each member of the Commission.

**Discussion** Commissioner Kenyon wanted clarification as to the density allowances for that zoning area and what was the zoning for that area. He wanted to make sure that any decision made by the commission was not going to supersede with new rules for an old standard. He then wanted to know if the Wilson’s would have been in compliance before the change in zoning took place in that area. Mr. Larsen stated that there are two issues that needed to be look at: 1.The adopted Rural Master Plan. 2. The Land Development Code requirements as relative to AFT minimum lot size. He stated that there is no minimum lot size in the AFT it allows for a compared density between 1 unit per 5 acres and 1 unit per 35 acre and that was based on a number of different criteria one of which was compatibility. The originally submitted plan was denied partly based on the planning staff going to area and then out a certain distance and identifying what the average density of the area was and the recommendation was based on something that was within that general range of the existing density that was the determination of compatibility at that time. The formula used to determine density at that time was a formula that the Mesa County Planning Commission had been using while waiting for the Rural Master Plan to be adopted and it was 1 unit per 18 acres. When the Rural Master Plan was adopted at a public hearing it included the formula for Rural Density for this area in question which was 1 unit per 17 and you can get 1 unit per 9 acres if you use the Density by Design tool box. This is the current application that the Planning Department uses to determine approval. When this concept plan first came through it was before the adoption of the Master Plan and the interim density formula did calculate
a higher density then the current density. Commissioner Kenyon stated that he thought he understood and he questioned then that under the current density they would get two lots. Ms Barton stated that it might be possible to get to 3 lots if they had 27 acres but they only have 25 acres. Ms. Dannenberger pointed out that in the applicants sketch plan they discuss the fact that the Rural Master plan was recently updated and they are advised that their property is in a 17/9 area. Ms Dannenberger went on to state that in the Master Plan that was adopted they Board of County Commissioners allowed themselves some ability to vary from the Master Plan except in the 17/9 and the 10/5 areas. She then went on to quote the Master Plan where it states this. Mr. Larsen wanted to remind them that the recommendations of the Master Plan are tied to density. It is also structured to allow averaging of lot sizes to create that density so you may in fact find lots sized from 1½, 2, 3, 5, acres and even though over history a number of smaller lots are in those areas it’s a matter of them leaving a residual parcel that is much larger.

**Comment** Mike Russell Attorney for the Wilson stated that with all due respect to trying to keep things consistent and following formulas it sometimes doesn’t match up with reality and what the formula does not take into account is that fact that you have non irrigated properties and irrigated properties, and the formula doesn’t make any sense when you apply it to non irrigated properties which all logic would say “please put more density on those so that people can live in those properties and use them for what they should be used for as opposed to non usable for any purpose”. What the petitioner has done makes a heck of a lot of sense even in light of a formula that sometimes can be misapplied.

**Public Comment**

Bob Wilson 1909 Monument Canyon Drive owner of the property just wanted to make a couple of comments. He referred to his attorneys’ comments about the property being non irrigated ground. He asked that they bring up a slide that was shown in Ms. Barton’s presentation, and commented that where the wash goes through there are houses both up stream and down stream from the property and they average approximately 4 ½ acres a piece and they all share in common that they have no water, and he believes that of those all but one have houses on them. He also stated that they plan to put either a permanent deed restriction on lot 5 or perhaps they can get a conservation easement with Mesa Land Trust but in talking with them they stated that the property is too small for that. The Division of Wildlife has designated that wash as a wildlife corridor and he would like to maintain that as well as the 4 lots that are on P Road they will designate as building lots, and try to maintain as much of that natural cover as possible. He stated that there is no irrigation water with this property and anyone purchasing will have to go through Ute Water for any water.

**Comments**

Commissioner Thomas Kenyon stated that he was struck by the common sense of using the non irrigated ground in this particular parcel. It appealed to him in the common sense of it all, however he was still wrestling with the fact that it would be in
total conflict with the Land Development Code and the Master Plan. He felt that the Mesa County Planning Commission does not usually make recommendations to the Board of County Commissioners to move forward when they know that it will not meet County Requirements especially since they just passed these requirements not long ago.

Secretary Christi Flynn stated that she has a problem with it because she feels that people who have desert ground feel that they should be able to develop if they don’t have irrigation. Meanwhile the people who do have irrigation have to follow the Land Development Code and the Master Plan. She also wanted it known that they just did the Master Plan and this project doesn’t meet their own plan and she felt that if the commission approves this plan then they need to completely re-do the Master Plan.

Commissioner Phillip Jones stated that he kind of agrees with Commissioner Kenyon in the common sense aspect of it. This kind of problem is run into whenever an adoption of new rules and regulations comes in. Sometimes they just don’t fit every scenario. Commissioner Greg Robson stated that he is sitting on the same fence as Commissioner Kenyon.

Commissioner Michael Garner stated that he agrees with what the majority of the commission is saying he just thinks that this little piece of property does not meet the Density by Design Tool box and the formulas that comprise that. To him it makes sense that they came in originally looking for 7 lots and by the Density by Design we are recommending 2 possibly 3 and it looks like from a compatibility stand point 5 acre parcels would not be out of line for this area. He felt that it was a good compromise.

Chairman John Justman stated that he has been by that property several times and he knows that in that area some of the small parcels that have been there for over 20 years. He stated that he knows this property has never been farmed in his lifetime and he knows it is because of no irrigation water. He also agrees with Secretary Flynn that it is not right to give special treatment to non irrigated parcels, but he still feels that he would support this project.

Kurt Larsen stated that from staffs prospective they do encourage development on land that can’t be farmed, but the issue is not to develop or not develop it is how many lots to approve. He asked that the Commission consider that in their decision.

Commissioner Sam Susuras stated that he agrees with Commissioner Flynn that if they continue to approve for dry land and not wet land then the Commissions should go back and re-do the Master Plan.

Commissioner Kenyon stated that rules are rules and fact are facts and we have Codes, but we can’t envision every piece of property and you do sweep up a lot of existing situations when you set those. He feels that sometimes you have to look on a case by case basis and sometimes the formulas do work and sometimes they don’t. He does not feel that the Code needs to be looked at again. He just wants them to look at this particular application and the process that they have gone through the changes they have made and does this project make sense on its face value to them as planning commissioners. It is not what staff recommends and it is not what are in the guidelines of what would normally be approved but common sense of this particular application is very attractive to him.

**Motion** Commissioner Kenyon moved that they pass on this item to the Board of County Commissioners with a favorable recommendation for Project 2006-019CP2
Wilson Acres Concept Plan, subject to staff recommendations, comments, and Review Agency Comments.

**Second:** Commissioner Susuras

**Clarification of Motion**
Commissioner Gardner requested clarification of the motion, he asked if the motion was to approve the lots, but not to support the recommendation. Commissioner Kenyon stated that this was to approve the lots as submitted, and to go in opposition of staff recommendation of denial. Commissioner Flynn asked Commissioner Kenyon if that meant he was against it. Commissioner Kenyon stated that it meant that he was for it. Motion Approved 4-3

**Comments**
Commissioner Gardner wanted to explain the reason that he voted against this motion. He stated that he agrees with both Christi and Tom he feels that yes this project has a lot of common sense to it but at the same time we are stuck with the fact that we have approved and adopted this Master Plan and he still has issues and difficulties with the density by design and he is not sure it fits every situation that comes down the path and he would like more flexibility but we don’t and so in keeping with the spirit of what the plans says he does not feel that they have any choice in the matter. Commissioner Susuras stated that his vote to support the motion was not in any way against the planning staff. He feels they did a great job in presenting this and he feels that they are right as far as logic and looking at the rules and regulations and the codes. Kurt Larsen stated that the decision is based on the fact that this is a unique situation and the Board of County Commissioners gave themselves the option of looking at unique situations. Staff has made their recommendation, you have made your recommendation and the Board of County Commissioners will make theirs. Commissioner Robson wanted to clarify why he voted against the motion stating it was in order for him to be consistent. This project is not in compliance with our Master Plan or the Land Development Code which the Mesa County Planning Commission is suppose to uphold, and because of this he wanted to be consistent but other then that he felt that the project had merit.

**Motion to adjourn** Commissioner Kenyon moved to adjourn the meeting.

**Second** Secretary Flynn

**Motion Approved 7-0**

Hearing adjourned at 7:01 p.m.

Respectfully Submitted,

______________________________

Christi Flynn, Secretary