

To access the Agenda and Backup Materials electronically, go to www.gjcity.org



**CITY COUNCIL AGENDA
WEDNESDAY, SEPTEMBER 16, 2020
250 NORTH 5TH STREET
5:00 PM – DINNER
5:20 PM – PRE-MEETING – CITY HALL AUDITORIUM
5:30 PM – REGULAR MEETING – CITY HALL AUDITORIUM**

To become the most livable community west of the Rockies by 2025

Call to Order, Pledge of Allegiance, Moment of Silence

Citizen Comments

Individuals may comment regarding items scheduled on the Consent Agenda and items not specifically scheduled on the agenda. This time may be used to address City Council about items that were discussed at a previous City Council Workshop.

*Citizen Comments may also be submitted by phone message at 970-244-1504 **by Noon on September 16, 2020**; these will be played back at the City Council meeting.*

Proclamations

Proclaiming September 16 - October 15, 2020 as Hispanic Heritage Month in the City of Grand Junction

Proclaiming September 16 - October 31, 2020 as Random Acts of Kindness Days in the City of Grand Junction

Appointments

To the Planning Commission and the Zoning Board of Appeals

City Manager Report

Council Reports

CONSENT AGENDA

The Consent Agenda includes items that are considered routine and will be approved by a single motion. Items on the Consent Agenda will not be discussed by City Council, unless an item is removed for individual consideration.

1. Approval of Minutes

- a. Summary of the August 31, 2020 Workshop
- b. Minutes of the September 2, 2020 Regular Meeting

2. Contracts

- a. Construction Contract for the 2020 Sewer Line Replacement Project

REGULAR AGENDA

If any item is removed from the Consent Agenda by City Council, it will be considered here.

3. Public Hearings

- a. Quasi-judicial
 - i. An Ordinance for a Comprehensive Plan Amendment from Residential High Mixed Use (16 – 24 du/ac) to Residential Medium (4 – 8 du/ac) and Village Center and a Rezone from R-E (Residential – Estate) to R-8 (Residential – 8 du/ac) and C-1 (Light Commercial) on a Total of 17.84-Acres, Located at 785 24 Road

4. Contracts

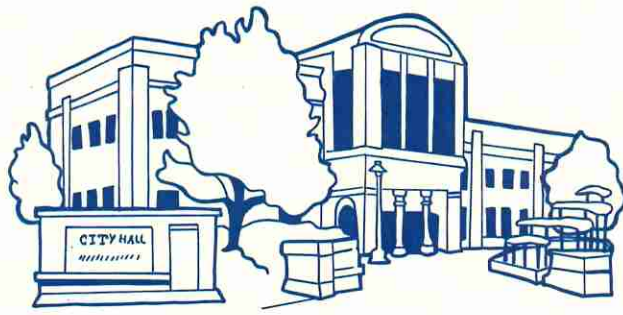
- a. Purchase And Sale Agreement For Dos Rios Development

5. Non-Scheduled Citizens & Visitors

This is the opportunity for individuals to speak to City Council about items on tonight's agenda and time may be used to address City Council about items that were discussed at a previous City Council Workshop.

6. Other Business

7. Adjournment



City of Grand Junction, State of Colorado

Proclamation

Whereas, from America's earliest days, Hispanics have played an important role in our national heritage, and continue to embody the pioneering spirit of America today, demonstrating a steadfast commitment to faith, family, hard work and patriotism through their countless contributions; and

Whereas, in keeping our historical roots, we celebrate more than 5,000 years of history and heritage of Native, Latino, and Hispanic in this land of the American continent. Hispanics are individuals from or descendants of North, Central, South America, Spain and the Caribbean's islands, and may speak Creole, Dutch, English, Italian, Spanish, Patois, Portuguese, French, and many regional indigenous languages such as Quechua, Aymara, Guarani, Mayan, Nahuatl, and more; and

Whereas, Hispanics have not hesitated to defend and show their allegiance to this nation in many ways, especially in all branches of the Armed Forces, continuing a strong legacy of dedication to our country; and

Whereas, Hispanics lift up our communities and our economy as entrepreneurs, executives, and small business owners, and make contributions in areas such as science, art, music, politics, academia, government, and sports. Hispanic-owned small businesses are the fastest growing businesses in America, growing at a pace 15 times the national average over the last decade. Hispanics own more than three million businesses and are a testament to the American promise that anyone can succeed in the United States through hard work; and

Whereas, in 1968 Congress passed Public Law 90-498, requesting the President to issue an annual proclamation for the week of Sept. 15 and 16 as National Hispanic Heritage Week; and

Whereas, September 15th marks the beginning of National Hispanic Heritage Month, which celebrates and honors the accomplishments of Hispanic Americans, who have enriched our culture and society and helped make America into the incredible country it is today.

NOW, THEREFORE, I, C.E. Duke Wortmann, by the power vested in me as Mayor of the City of Grand Junction, do hereby proclaim September 16 – October 15, 2020 as

"Hispanic Heritage Month"

in the City of Grand Junction and call upon public officials, educators and all Americans to observe this time with appropriate ceremonies, activities and programs.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official Seal of the City of Grand Junction this 16th day of September, 2020.

C.E. Duke Wortmann

Mayor



City of Grand Junction, State of Colorado

Proclamation

- Whereas,** the City of Grand Junction has many wonderful, caring, and loving residents that give of themselves and their resources; and
- Whereas,** their daily acts of kindness may go unrecognized and unacknowledged; we believe recognizing these acts will encourage others to also perform acts of kindness; and
- Whereas,** we know that our community is hurting now more than ever and we believe that initiating random acts of kindness, will be beneficial to the community; and
- Whereas,** recognizing kindness will encourage other community members to create their own acts of kindness;
- Whereas,** we know it takes a village to raise a village; and
- Whereas,** we believe by having both city and county governments support and participate with National Alliance on Mental Illness and its partners we will be able to reach the most people; and
- Whereas,** encouraging acts of kindness with the model of family, friends and neighbors will support better connections and strengthen our community.

NOW, THEREFORE, I, C.E. Duke Wortmann, by the power vested in me as Mayor of the City of Grand Junction, do hereby proclaim September 16 – October 31, 2020 as

“Random Acts of Kindness Days”

in the City of Grand Junction and ask that the City Council encourage friends, neighbors, colleagues, and fellow citizens to participate with daily acts of kindness.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official Seal of the City of Grand Junction this 16th of September 2020.

C.E. Duke Wortmann

Mayor





Grand Junction City Council

Regular Session

Item #

Meeting Date: September 16, 2020
Presented By: Wanda Winkelmann, City Clerk
Department: City Clerk
Submitted By: Selestina Sandoval

Information

SUBJECT:

To the Planning Commission and the Zoning Board of Appeals

RECOMMENDATION:

To appoint the interview committee's recommended members.

EXECUTIVE SUMMARY:

There are four vacancies on the Planning Commission.

BACKGROUND OR DETAILED INFORMATION:

There were two full term vacancies on the Planning Commission (PC). Incumbent William Wade was term limited and his term expires 10/31/2020. Incumbent Keith Ehlers' term also expires 10/31/2020; however, he reapplied because he is not term limited.

There are two partial term vacancies on the Planning Commission due to the resignations of Kathy Deppe-Spomer and Steve Tolle. As noted below, 1st Alternate Sam Susuras will move up to the position vacated by Steve Tolle's resignation and 2nd Alternate Ken Scissors will move up to the position vacated by Kathy Deppe-Spomer.

FISCAL IMPACT:

n/a

SUGGESTED MOTION:

I move to (appoint/not appoint) the interview committee's recommendations to the

Planning Commission and Zoning Board of Appeals.

Attachments

None

CITY COUNCIL WORKSHOP SUMMARY
August 31, 2020

Meeting Convened: 5:29 p.m. in the City Hall Auditorium

Meeting Adjourned: 6:56 p.m.

City Councilmembers present: Kraig Andrews, Chuck McDaniel, Phyllis Norris, Phil Pe'a, Anna Stout, Rick Taggart, and Mayor Duke Wortmann.

Staff present: City Manager Greg Caton, City Attorney John Shaver, Finance Director Jodi Welch, Senior Assistant to the City Manager Greg LeBlanc, Fire Chief Ken Watkins, Deputy Fire Chief Gus Hendricks, Deputy Fire Chief Chris Angermuller, Public Works Director Trent Prall, and Deputy City Clerk Selestina Sandoval.

Mayor Wortmann called the meeting to order.

Agenda Topic 1. Discussion Topics

a. Las Colonias Plaza Discussion

Robin Brown, Executive Director of Grand Junction Economic Partnership, presented on the Las Colonias Development Corporation (LCDC) board, funding sources and policy. The LCDC is positioned to become a sustainable funding source for economic development projects within the River District. Through public-private partnerships, the LCDC will tackle needs of the community that are not being filled by private developers, or that cannot be achieved through traditional avenues.

Ms. Brown gave an update on the Business Park; RockyMounts has moved into their building; Bonsai Design has broken ground with a completion date of December; the LCDC are finalizing a lease with an outdoor industry manufacturer and working with a fourth outdoor industry manufacturer on a potential relocation.

Ms. Brown spoke of plaza development and how LCDC became the developer working with a local architect and builder, Blythe & Co and Asset Engineering. She spoke of potential tenants and the plaza "village" concept and closed with next steps regarding costs and funding.

b. Consideration of Providing Fire and Emergency Medical Services to the Central Orchard Mesa Fire Protection District

Chief Ken Watkins gave an overview of the Grand Valley Fire Districts, and discussed current issues for the Orchard Mesa Fire Protection District (personnel, recruiting & retention, and emergency service

response). He shared the district response and financial analysis. Chief Watkins outlined the district's assets and provided district service options (East Valley Cooperative, Service Agreement with other fire/EMS agency, or continue as is). He closed with the proposed service agreement and next steps (due diligence on financials, closer evaluation of assets, research FPPA volunteer pension obligations and legal review of contract).

Conversation ensued regarding the difficulty of these smaller districts having the necessary resources to be effective and the likelihood of more of these requests moving forward to protect neighborhoods, capacity to provide services to this area, clarification on anticipated billing volume, ability to recruit and staff responders to meet the added need, revenue stream basis, possibility of raising the mil levy to meet expenses (via ballot question), termination of service requirements, and annual distributions from the County. Council agreed to move forward with these discussions and in acquiring more information.

Agenda Topic 2. City Council Communication

Councilmember McDaniel asked for feedback about Mr. Brian Masters' email which expressed concerns about the open meeting law. Councilmember Norris expressed concern that the timing was too late for a response. City Attorney Shaver recommended a response to Mr. Masters to address his concerns. Councilmember Stout stated that Mr. Masters felt the changes at the prior meeting had addressed his concerns. Councilmember Taggart felt compelled to respond. Council came to a consensus to respond via letter focusing on procedural changes that the City is making to improve City Council meetings.

Councilmember McDaniel said progress was made during a meeting with the County regarding the Persigo Agreement.

Councilmember McDaniel spoke of the need to educate the public of our boards and commissions. Councilmember Norris stated that the meetings are public and the possibility of encouraging volunteers to attend the meetings to educate themselves on the requirements. Councilmember Stout said the City should actively host sessions that give an insider view on the workings of the boards and commissions. Mayor Wortmann concurred that this would be beneficial. City Manager spoke of the potential of providing a Citizen Academy to address these needs. Councilmember Stout spoke of how periodic Boards and Commissions training may assist with spoken goals of the new Task Force to remove barriers of how citizens can be involved in their local government.

Agenda Topic 3. Next Workshop Topics

Councilmember Stout requested more information on the potential Marijuana Ballot item. City Manager Caton would like to add this to the September 14th workshop to listen to the public and get more information from staff and industry.

Agenda Topic 4. Other Business

There was none.

Adjournment

The Workshop adjourned at 6:56 p.m.

**GRAND JUNCTION CITY COUNCIL
MINUTES OF THE REGULAR MEETING**

September 2, 2020

Call to Order, Pledge of Allegiance, Moment of Silence

The City Council of the City of Grand Junction convened into regular session on the 2nd day of September 2020 at 5:30 p.m. Those present were Councilmembers Kraig Andrews, Chuck McDaniel, Phyllis Norris, Phillip Pe'a, Anna Stout, Rick Taggart and Council President Duke Wortmann.

Also present were City Manager Greg Caton, City Attorney John Shaver, Deputy City Clerk Janet Harrell and Deputy City Clerk Selestina Sandoval.

Council President Wortmann called the meeting to order and led the Pledge of Allegiance which was followed by a moment of silence.

Citizen Comments

Bruce Lohmiller spoke of the importance of veterans checking their medical records to ensure accuracy, 241-STOP, and comprehensive sex ed.

Ed Kowalski spoke of public safety.

Bruce Gregg invited Council to an event to promote pickleball.

Madeline Weickert asked about the City's financial reports, various positions and Grand Junction Police Department programs.

Matt Crowe spoke of discord in the community and his concern for the safety of local groups.

Dianne Allenger spoke of concerns with safety in areas surrounding the Homeless Shelter.

Brian Masters spoke of his displeasure with the changes in City Council meetings and citizen access to the meetings.

Council took a break at 5:56 p.m.

The meeting reconvened at 6:01 p.m.

Jeff Pacotti thanked Council for listening to citizens.

Casey Stewart spoke of the importance of the Pledge of Allegiance, the fragility of freedom in America and announced his candidacy for City Council.

Proclamations

Proclaiming September 17 - 23, 2020 as Constitution Week in the City of Grand Junction

Councilmember Andrews read the proclamation. Deanna Znamenacek, Regent of the Mount Garfield Chapter of the National Society Daughters of the American Revolution, was present to accept the proclamation.

Certificates of Appointment

To the One Riverfront Commission

Councilmember Taggart recognized the appointed members J. Fred Barbero, Rondo Beucheler, Jennifer Reyes and Joel Sholtes.

City Manager Report

City Manager Caton stated the new City Council meeting times were posted correctly. He addressed concerns expressed during citizens comments regarding the homeless shelter.

Council Reports

Councilmember Stout gave an update on the Downtown Development Authority Meeting, the Arts Commission and the Grand Valley Taskforce.

CONSENT AGENDA

Councilmember Andrews moved to adopt Consent Agenda items 1, 2, 3, 4b and 5, excluding item 4a to be moved to the Regular Agenda. Councilmember Norris seconded the motion. Motion carried by unanimous voice vote.

1. Approval of Minutes

- a. Summary of the August 6, 2020 Joint DDA Workshop
- b. Summary of the August 17, 2020 Workshop
- c. Minutes of the August 19, 2020 Regular Meeting

2. Set Public Hearings

- a. Quasi-judicial
 - i. Introduction of an Ordinance for a Comprehensive Plan Amendment from Residential High Mixed Use (16 – 24 du/ac) to Residential Medium (4 – 8 du/ac) and Village Center and a Rezone from R-E (Residential – Estate) to R-8 (Residential – 8 du/ac) and C-1 (Light Commercial) on a Total of 17.84-Acres, Located at 785 24 Road and Set a Public Hearing for September 16, 2020

3. Contracts

- a. Contract for 2020 Chipseal Thermoplastic Pavement Markings
- b. Memorandum of Understanding between the City of Grand Junction and Mesa County for the Construction of E Road Between 31 Road and 32 Road

4. Resolutions

- a. A Resolution Authorizing the City Manager to Sign and Submit a Grant Agreement and related Co-Sponsorship Agreement to the Federal Aviation Administration (FAA) for Improvements to the Grand Junction Regional Airport ****MOVED TO REGULAR AGENDA****
- b. Assignment of the City's 2020 Private Activity Bond Allocation to Colorado Housing and Finance Authority

5. Other Action Items

- a. 2020 Alley Improvement District No. ST-20 Proposed Resolution Approving and Accepting Improvements and the Introduction of an Ordinance Approving the Assessable Cost of the Improvements to the Real Property and Set a Public Hearing for October 7, 2020

REGULAR AGENDA

A Resolution Authorizing the City Manager to Sign and Submit a Grant Agreement and Related Co-Sponsorship Agreement to the Federal Aviation Administration (FAA) for Improvements to the Grand Junction Regional Airport **MOVED FROM CONSENT AGENDA******

Councilmember McDaniel made himself available to answer questions as the Council Representative on the Grand Junction Regional Airport Authority Board.

Councilmember Taggart addressed concerns over the potential liability to the City of this item should the airport not be able to fulfill their obligations.

Councilmember McDaniel spoke of protection of the City through a co-sponsorship agreement which has an indemnity clause for all claims except those related to zoning and land use.

The floor was opened to public comment at 6:26 p.m.

Brian Masters spoke of his concern of the financial viability of the airport due to the pandemic economic impacts.

The floor was closed to public comment at 6:29 p.m.

City Attorney Shaver clarified that this grant is for capital projects.

City Manager Caton added that this federal grant provides for one hundred percent of the funding, and does not require a match from the airport (which is typically ten percent).

Councilmember Norris moved to adopt Resolution 58-20, a resolution authorizing the City Manager to sign and submit a Grant Agreement and supplemental Co-Sponsorship agreement in support of the West Terminal Apron Construction and related improvement projects at Grand Junction Regional Airport. Councilmember Taggart seconded. Motion carried by unanimous roll call vote.

A Resolution Accepting the Petition for Annexation of 19.020 Acres of Land and Ordinances Annexing and Zoning the Fairview Glen Annexation to R-8 (Residential - 8 du/ac), Located at 2767 C Road and Vacant Properties Located North of B 1/2 Road between Allyce Avenue and Nashua Lane/Court

The applicants, Five Star Homes and Development Inc., requested annexation and a zone of annexation to R-8 (Residential – 8 du/ac) for the Fairview Glen Annexation. The approximately 19.020-acre parcels of land are located at 2767 C Road along with additional vacant properties located north of B ½ Road between Allyce Avenue and Nashua Lane and Court in Orchard Mesa. The properties have a Comprehensive Plan Future Land Use Map designation of Residential Medium (4 – 8 du/ac). The subject properties currently contain one single-family detached home along with various accessory structures. The applicant requested annexation into the City limits per the Persigo Agreement between Mesa County and the City of Grand Junction in anticipation of future residential subdivision development. The zone district of R-8 is consistent with the Comprehensive Plan.

Senior Planner Scott Peterson presented this item.

The public hearing opened at 6:37 p.m.

Edwin Havener, Charlayne Higginson, and Kim Willis spoke in opposition of this item.

The public hearing closed at 6:41 p.m.

Conversation ensued regarding annexation reasons (property owners right to request, Persigo Agreement, and contiguous boundaries of the City), and the current zoning.

Councilmember Andrews moved to adopt Resolution No. 56-20, a resolution accepting a petition for the annexation of lands to the City of Grand Junction, Colorado, making certain findings, and determining that property known as the Fairview Glen Annexation, located at 2767 C Road and vacant properties north of B ½ Road between Allyce Avenue and Nashua Lane/Court is eligible for annexation, to adopt Ordinance No. 4951, an ordinance annexing territory to the City of Grand Junction, Colorado, Fairview Glen Annexation, approximately 19.020-acres, located at 2767 C Road and vacant properties north of B ½ Road between Allyce Avenue and Nashua Lane/Court on final passage and ordered final publication in pamphlet form and to adopt Ordinance No. 4952, an ordinance zoning the Fairview Glen Annexation to R-8 (Residential - 8 du/ac) Zone District, located at 2767 C Road and vacant properties north of B ½ Road between Allyce Avenue and Nashua Lane/Court on final passage and ordered final publication in pamphlet form. Councilmember Pe'a seconded the motion. Motion carried by unanimous roll call vote.

A Resolution Accepting the Petition for Annexation and an Ordinance Annexing the Proposed Airport North Boundary Annexation of 187.69 Acres Located at 2828 Walker Field Drive and Including Parcels 2705-154-00-003 and 2701-113-00-002

The applicant, Grand Junction Regional Airport, requested to annex 187.69 acres located at 2828 Walker Field Drive and vacant Parcels 2705-154-00-003 and 2701-113-00-002. A portion of 27 ¼ Road runs through the southeastern corner of one parcel for approximately 875 feet. The Grand Junction Regional Airport requested annexation of these parcels of land that were recently deeded to them from the Bureau of Land Management in order to have the entire airport environs within the city limits and under the City's land use jurisdiction. Consideration for zoning of this annexation will be heard in a future action.

Principal Planner Dave Thornton presented this item.

Councilmember Taggart commented that this annexation has been in the works for three years and is needed for the new runway.

The public hearing opened at 6:52 p.m.

There were no public comments.

The public hearing closed at 6:52 p.m.

Councilmember Stout moved to adopt Resolution 57-20, a resolution accepting a petition for the annexation of lands to the City of Grand Junction, Colorado, making certain findings, and determining that property known as the Airport North Boundary Annexation, located at 2828 Walker Field Drive, along the north boundary of the airport properties that include parcels 2705-154-00-003 and 2701-113-00-002, is eligible for annexation; and to adopt Ordinance No. 4953, an ordinance annexing territory to the City of Grand Junction, Colorado, Airport North Boundary Annexation, approximately 187.69 acres, located along the north boundary of the airport properties that include parcels 2705-154-00-003 and 2701-113-00-002 on final passage and ordered final publication in pamphlet form. Councilmember Taggart seconded the motion. Motion carried by unanimous roll call vote.

An Ordinance to Amend Chapter 8.20 and Chapter 9.04 of the Grand Junction Municipal Code by Increasing the Distance Requirements for Smoking in Entryways from 15 Feet to 25 Feet, Prohibiting Smoking in Hotels and Motels and Changing the Regulation of Tobacco Products by Amending the Term "Minor" to "Minimum Legal Sale Age", Increasing the Minimum Age for Purchase/Sale of Tobacco from 18 to 21, and Removal of the Provision that Punishes the Purchase, Use, or Possession of Tobacco Products by Persons Under the Minimum Legal Sale Age

An ordinance to amend Chapter 8.20 of the Grand Junction Municipal Code in an effort to be consistent with House Bill 19-1076 and the amendments to the Colorado Clean Indoor Air Act by changing the definition of "entryway" from 15 feet to 25 feet and disallowing smoking in all hotel and motel rooms, Chapter 9.04 in an effort to be consistent with Public Law 116-94 and the amendments to the Federal Food, Drug, and Cosmetic Act by changing the term "minor" to "minimum legal sale age" and amending the minimum age for the sale/purchase of tobacco products from 18 to 21 and Chapter 9.04 in an effort to be consistent with HB 20-1001, HB 19-1076 and Public Law 116-94 and at the request of the Mesa County Health Department by striking Section 210(b) regarding the possession, consumption or use of tobacco products by persons under the minimum legal sale age.

City Attorney John Shaver presented this item.

Conversation ensued regarding implementing these measures to discourage underage smoking, applicability of this laws to Airbnb's, applicability locally without aligning to the State laws (the City has to follow this law because of declaration of statewide authority regardless if the Code aligns with State Law).

Brian Masters asked about Home Rule applicability in this instance. City Attorney Shaver clarified.

The public hearing opened at 7:03 p.m.

There were no public comments.

The public hearing closed at 7:03 p.m.

Councilmember Pe'a move to adopt Ordinance No. 4954, an ordinance to amend Chapter 8.20 regarding smoking in workplaces to increase the distance requirements for smoking near entryways and to prohibit smoking in hotels and motels and to amend Chapter 9.04 regarding the regulation of tobacco products by changing the term “minor” to “minimum legal sale age”, increasing the minimum legal sale age from 18 to 21 and removing terms relating to the possession, consumption and use of tobacco products by persons under the legal sale age on final passage and ordered final publication in pamphlet form. Councilmember Andrews seconded the motion. Motion carried by unanimous roll call vote.

An Ordinance Amending the Grand Junction Municipal Code Title 21, Zoning and Development Code, to Revise Sections Related to Mini-Warehouse Uses and Use Standards

Staff proposed amendments to various sections of the Zoning and Development Code (Title 21) to address mini-warehouse uses and use specific standards. The proposed standards will create new landscaping, architectural, and site design requirements that are intended to help mini-warehouses become more aesthetically attractive. In addition, the proposed amendments will modify the required parking for mini-warehouse uses and remove redundancies related to mini-warehouse and self-storage descriptions and standards. Staff and the Planning Commission have identified the proposed amendments as opportunities to modernize the code, provide clarity, and refine processes to provide regulations that foster compatible land uses while maintaining logical and orderly development.

Associate Planner Jace Hochwalt presented this item.

The public hearing opened at 7:08 p.m.

There were no public comments.

The public hearing closed at 7:08 p.m.

Councilmember Pe'a moved to adopt Ordinance No. 4955, an ordinance approving a Development Code amendment to revise sections related to mini-warehouse uses and use standards on final passage and ordered final publication in pamphlet form. Councilmember Andrews seconded the motion. Motion carried by unanimous roll call vote.

Non-Scheduled Citizens & Visitors

Caleb Ferganchick encouraged Council to research options to the homeless concerns addressed during citizen comments by discussing the concerns with professionals (caseworkers and/or Homeless Coalition) before moving forward.

Tonya Wren spoke of the time change and the communication to the public and concerns with comments made during the council meeting.

Brian Masters shared his experience with the Grand Valley Task Force.

Casey Stewart spoke of an incident in Portland.

Madeline Weickert asked Councilmember Stout how the general public can follow the Task Force's progress. Councilmember Stout responded that there is a Facebook Page, a mailing list and outlined the meeting times.

Sonia Gutierrez clarified that she was not against the Dos Rios project, but against how it was communicated to the residents. She also stated that communication is improving and thanked staff for the Riverside Neighborhood Meeting.

Other Business

There was none.

Adjournment

The meeting adjourned at 7:23 p.m.

Selestina Sandoval, Deputy City Clerk



Grand Junction City Council

Regular Session

Item #2.a.

Meeting Date: September 16, 2020

Presented By: Randi Kim, Utilities Director

Department: Utilities

Submitted By: Lee Cooper, Project Engineer

Information

SUBJECT:

Construction Contract for the 2020 Sewer Line Replacement Project

RECOMMENDATION:

Authorize the City Purchasing Division to Execute a Construction Contract with M.A. Concrete Construction, Inc. for the Construction of the 2020 Sewer Line Replacement Project in the Amount of \$718,447.20.

EXECUTIVE SUMMARY:

This request is to award a Construction Contract for the 2020 Sewer Line Replacement Project. This project will be replacing aging sewer lines and problematic sewer lines within the Persigo 201 Service Boundary. The annual sewer replacement fund was established to replace aging sewer lines that are in poor condition or past their useful life with new Polyvinyl Chloride (PVC) sewer pipe and new sewer manholes. This 2020 project will replace 2,810 lineal feet of sewer mainline pipe and install 18 new concrete sewer manholes.

BACKGROUND OR DETAILED INFORMATION:

The existing sewer pipes that are being replaced are made of either vitrified clay pipe (VCP) or PVC sewer pipe. VCP segments are about 100 years old and past their useful life. Segments of PVC pipe are being replaced because they are defective and causing operational problems.

This project will be replacing sewer lines in 1st Street between Grand Ave. and Pitkin Ave., in the vicinity of Shadow Lake near Redlands Mesa Golf Course, and near the

Lakeside apartments near Horizon Drive.

In 2021, the Colorado Department of Transportation (CDOT) will be reconstructing a section of 1st Street/I-70B near the intersection of Grand Ave. This will be a large roadway improvements project and the City Utilities Dept. wants to upgrade the 100-year old sewer pipe to new PVC sewer pipe prior to CDOT's project beginning.

Sewer pipes in the other two areas are being replaced due to large sags in the pipe which are preventing proper flow through the pipes and, as a result, requires more frequent maintenance to clean the pipes.

This sewer line project is scheduled to begin on September 28, 2020 with an expected completion date in December 2020. Construction will take place during the weekdays.

A formal Invitation for Bids was issued via BidNet (an online site for government agencies to post solicitations), posted on the City's Purchasing website, sent to the Grand Junction Chamber of Commerce and the Western Colorado Contractor's Association, and advertised in The Daily Sentinel. Five (5) companies submitted formal bids. All five (5) bids were found to be responsive and responsible. The bids received are shown below:

<u>CONTRACTOR</u>	<u>LOCATION</u>	<u>BID AMOUNT</u>
M.A. Concrete Construction, Inc.	Grand Jct.	\$718,447.20
Mountain Valley Contracting, Inc.	Grand Jct.	\$1,006,666.15
CW Construction LLC	Grand Jct.	\$1,128,496.50
United Companies	Grand Jct.	\$1,161,254.00
Scott Contracting, Inc.	Centennial, CO	\$1,345,841.65

FISCAL IMPACT:

The Sewer Fund (902-F0016-F001639) has \$3,690,000 budgeted for 2020 sewer replacement/rehabilitation projects. Actual expenditures are \$68,577.66 leaving \$3,621,422.34 available.

<u>Project Costs:</u>	
• Construction Contract – MA Concrete Construction, Inc.	\$718,447.20
• City Const. Inspection & Contract Admin. (Estimate)	\$20,000
• Quality Assurance Testing (Estimate)	\$10,000

Total Project Costs -	\$748,447.20
------------------------------	---------------------

SUGGESTED MOTION:

I move to (authorize/not authorize) the City Purchasing Division to enter into a contract with M.A. Concrete Construction, Inc. for the 2020 Sewer Line Replacement Project in the amount of \$718,447.20.

Attachments

None



Grand Junction City Council

Regular Session

Item #3.a.i.

Meeting Date: September 16, 2020

Presented By: Scott D. Peterson, Senior Planner

Department: Community Development

Submitted By: Scott D. Peterson, Senior Planner

Information

SUBJECT:

An Ordinance for a Comprehensive Plan Amendment from Residential High Mixed Use (16 – 24 du/ac) to Residential Medium (4 – 8 du/ac) and Village Center and a Rezone from R-E (Residential – Estate) to R-8 (Residential – 8 du/ac) and C-1 (Light Commercial) on a Total of 17.84-Acres, Located at 785 24 Road

RECOMMENDATION:

The Planning Commission heard this item at its August 11, 2020 meeting and recommended approval (5 - 0).

EXECUTIVE SUMMARY:

The Applicant, Mallard View LLC, is requesting a Comprehensive Plan Amendment from Residential High Mixed Use (16 – 24 du/ac) to Residential Medium (4 – 8 du/ac) and Village Center and a rezone from R-E (Residential – Estate) to R-8 (Residential – 8 du/ac – 14.90-acres) and C-1 (Light Commercial – 3.16-acres), in anticipation of future development. The requested R-8 and C-1 zone districts would be consistent with the Comprehensive Plan Future Land Use Map designations of Residential Medium (4 – 8 du/ac) and Village Center, if approved.

BACKGROUND OR DETAILED INFORMATION:

The subject property is situated west of 24 Road, north of I-70 and south of H Road. Fellowship Church is located further to the south. The property currently contains a single-family detached home along with various accessory structures and is 17.84-acres in size.

The Applicant previously requested a Comprehensive Plan Amendment from Residential High Mixed Use (16 – 24 du/ac) and Residential Medium (4 – 8 du/ac) to Village Center and a rezone from R-E (Residential – Estate) to C-1 (Light Commercial) for the entire 17.84-acres, however that request was denied by the Planning Commission at their May 12, 2020 meeting (City file #'s RZN-2020-100 & CPA-2020-101). The Applicant chose to withdraw their request prior to being heard by City Council. The Applicant is now requesting to rezone 3.16-acres as C-1 for the area adjacent to 24 Road with the remaining 14.90-acres requested to be rezoned as R-8, which is more in keeping with the residential densities as envisioned with the existing Comprehensive Plan Future Land Use Map designations of Residential High Mixed Use (16 – 24 du/ac), Residential Medium (4 – 8 du/ac) and Village Center.

Comprehensive Plan Future Land Use Map Amendment:

Presently, the property contains three (3) Comprehensive Plan Future Land Use designations including Residential High Mixed Use (16 – 24 du/ac) (approx. 12 acres), Residential Medium (4 – 8 du/ac) (approx. 3.5 acres) and Village Center (approx. 2 acres) and is zoned R-E (Residential Estate). The Applicant is requesting to change the Future Land Use Map to only have two (2) designations on the property, Residential Medium (4 – 8 du/ac) for 14.90-acres of the site and Village Center for the remaining 3.16-acres. In conjunction with the Comprehensive Plan Amendments, the Applicant is also requesting a corresponding rezone of the property to R-8 (Residential – 8 du/ac) for the property requested to become designated Residential Medium and C-1 (Light Commercial) for the property requested to become Village Center.

A small portion of the Applicant's property is designated as Village Center on the Comprehensive Plan Future Land Use Map (approx. 2 acres) in the northeast corner of the property closest to intersection of 24 Road and H Road. The Applicant proposes to modify the Comprehensive Plan by designating the Village Center along the property's 24 Road frontage in a width of 228 feet, for a total of approximately 3.16 acres. This area would correspond to the request to zone the Village Center designated property to C-1. Currently all property flanking H Road between 24 Road and 23 7/10 is designated Village Center as well as all property on the east side of 24 Road between Interstate 70 and H Road. The property located directly across the road on the east side of 24 Road is presently zoned C-1 and contains a distillery and lavender farm.

Rezone Request:

The Applicant is interested in preparing the property for future development that would be consistent with the scope and type of development envisioned by the Comprehensive Plan with a Residential Medium (4 – 8 du/ac) density and Village Center as currently identified on portions of the property. The Applicant seeks the C-1 zone district for only 3.16-acres of the site; the frontage along 24 Road. Allowable land uses within the C-1 zone district could include medical clinics, hotels, office buildings and a variety of retail sales and services. Multi-Family residential development is also

allowed within the proposed C-1 district with a density range of 12 – 24 dwelling units an acre. The Applicant also seeks the R-8 zone district for the remainder of the property, 14.90-acres, in anticipation of future residential subdivision development with a density range between 5.5 – 8 dwelling units an acre.

The purpose of the R-8 (Residential – 8 du/ac) zone district is to provide for medium-high density attached and detached dwellings, two-family dwelling and multi-family. R-8 is a transitional district between lower density single-family districts and higher density multi-family or business development. A mix of dwelling types is allowed in this district.

In addition to the R-8 (Residential – 8 du/ac) and C-1 (Light Commercial) zoning requested by the petitioner, the following zone districts would also be consistent with the Comprehensive Plan designations of Residential Medium (4 – 8 du/ac) and Village Center for the subject property.

Residential Medium (4 – 8 du/ac)

R-4 (Residential – 4 du/ac)

R-5 (Residential – 5 du/ac)

Village Center

R-8 (Residential – 8 du/ac)

R-12 (Residential – 12 du/ac)

R-16 (Residential – 16 du/ac)

R-24 (Residential – 24 du/ac)

R-O (Residential Office)

B-1 (Neighborhood Business)

M-U (Mixed Use)

Should the Residential High Mixed Use (16 – 24 du/ac) designation be preserved (or for a means of comparison) the following zone districts work to implement this designation:

R-16 (Residential – 16 du/ac)

R-24 (Residential – 24 du/ac)

R-O (Residential Office)

B-1 (Neighborhood Business)

In reviewing the other zoning district options for the proposed Residential Medium (4 – 8 du/ac) category, all applicable zoning districts allow single-family detached and two-family development with the R-5 zone district allowing for additional multi-family

development. For the Village Center designations, all zoning districts allow multi-family residential as an allowed land use. The remaining commercial zones of R-O, B-1, and M-U would allow some type of general office and/or retail land use. The requested zone district of C-1 for 3.16-acres of the site provides for allowable uses, such as medical clinics, hotels, office buildings and a variety of retail sales and services.

The purpose of the C-1 (Light Commercial) zone district is to provide indoor retail, service and office uses requiring direct or indirect arterial street access, and business and commercial development along arterials. The C-1 district should accommodate well-designed development on sites that provide excellent transportation access, make the most efficient use of existing infrastructure and provide for orderly transitions and buffers between uses. 24 Road is currently classified as a Minor Arterial north of I-70.

Properties adjacent to the subject property to the east, across 24 Road are zoned C-1 (Light Commercial) and County RSF-R (Residential Single Family – Rural). Also, to the east, west and south is County RSF-R (Residential Single Family – Rural). Directly to the north is County residential Planned Unit Development (PUD) with a City B-1 (Neighborhood Business) to the northeast located at the intersection of 24 Road and H Road, which contains Beehive Homes, an assisted living facility. Further to the south is Fellowship Church that is zoned R-R (Residential - Rural).

NOTIFICATION REQUIREMENTS

A Neighborhood Meeting regarding the proposed Rezone and Comprehensive Plan Amendment requests were held on February 4, 2020 in accordance with Section 21.02.080 (e) of the Zoning and Development Code. The Applicant's Representative and City staff were in attendance along with over twelve citizens. Main comments and concerns expressed by the attendees centered on what was going to be developed on the property and what the impacts of the proposed zoning would have on the existing residential properties in the area. Since the February 2020 Neighborhood Meeting, the Applicant has modified their plan amendment and rezone request.

Notice was completed consistent with the provisions in Section 21.02.080 (g) of the Zoning and Development Code. The subject property was posted with a new application sign on June 12, 2020. Mailed notice of the public hearings before Planning Commission and City Council in the form of notification cards was sent to surrounding property owners within 500 feet of the subject property on July 31, 2020. The notice of the Planning Commission public hearing was published August 4, 2020 in the Grand Junction Daily Sentinel.

ANALYSIS

Comprehensive Plan Amendment

The criteria for review are set forth in Section 21.02.130 (c) (1). The criteria provide that

the City may amend the Comprehensive Plan, neighborhood plans, corridor plans and area plans if the proposed change is consistent with the vision (intent), goals and policies of the Comprehensive Plan and at least one of the criteria outlined below;

(1) Subsequent events have invalidated the original premises and findings; and/or

The 2010 Comprehensive Plan includes a Future Land Use Map which identifies this property as having three designations; Village Center, Residential High Mixed Use (16 – 24 du/ac) and Residential Medium (4 – 8 du/ac). With this request, the Applicant is requesting to remove any area designated as Residential High Mixed Use and to designate the majority of the site as Residential Medium (4 – 8 du/ac), an area proposed as 14.90-acres. The remaining 3.16 acres would become classified as Village Center. Land use designations do not always follow property lines and it is not unusual for a single parcel of land to have more than one land use classification, especially larger acreage such as this. The intent of the Future Land Use Map designations would suggest that the property would develop with more of an emphasis on higher density residential with a smaller percentage remaining for commercial development.

Staff has been unable to identify any event subsequent to the existing designation that would invalidate the current three designations, and therefore staff finds this criterion has not been met.

(2) The character and/or condition of the area has changed such that the amendment is consistent with the Plan; and/or

The condition of the surrounding area has changed within the area since the adoption of the 2010 Comprehensive Plan. This includes the area known as the Proietti Annexation (782 24 Road) which was zoned C-1 (Light Commercial) in 2014. In addition, the Taurus Park Plaza Annexation (789 23 Road) zoned PD (Planned Development – contemplates a mix of both residential and commercial land uses ranging in densities between 6 – 32 du/ac. The City reviewed and approved the South Twenty Annexation (2335 H Road) which was zoned R-4 (Residential – 4 du/ac) and R-8 (Residential – 8 du/ac) in 2019 and finally the Maverick Estates Annexation (2428 H Road) that was zoned R-1 (Residential – 1 du/ac) in 2019. Also, Beehive Homes Assisted Living facility located at 2395 H Road has recently expanded their facilities with the construction of a second building. These changes in existing conditions lend support to the request for the elimination of the Residential High Mixed Use (16 -24 du/ac) designation and realignment of the Village Center and Residential Medium designations in that a medium dense residential designation could be seen as more compatible with the new conditions and associated zone district designations.

The existing Residential High Mixed-Use (16 – 24 du/ac) land use category is not

conducive to the area to have a density range this high as the properties located on the west side of 24 Road remain single-family residential located on large lot/acreage and relatively rural in nature at this time. The recent annexations and zoning of properties from R-1 to R-8 in this area as provided are evidence of the increasing demand for single-family detached and attached residential markets rather than higher density attached single-family or multi-family as prescribed by the Residential High Mixed-Use category.

The requested Comprehensive Plan Amendments and Rezoning are consistent with the recent trend of annexation and developing properties in the Appleton Neighborhood area and therefore, Staff has found this criterion has been met.

(3) Public and community facilities are adequate to serve the type and scope of land use proposed; and/or

Adequate public and community facilities and services are available to the property and are sufficient to serve land uses associated with either the Residential Medium (4 – 8 du/ac) or the Village Center categories. Ute Water and City sanitary sewer are presently available within 24 Road. Property is also currently being served by Xcel Energy electric and natural gas. A short distance away to the south is Community Hospital located on G Road. Further to the south on 24 Road is the Mesa Mall area which includes restaurants, retail and service centers, banks and a grocery store, etc. Appleton Elementary School is located less than a mile from the property on H Road.

In general, staff has found public and community facilities are adequate to serve the type and scope of the Residential Medium (4 – 8 du/ac) and Village Center designations as proposed. As such, staff finds this criterion has been met.

(4) An inadequate supply of suitably designated land is available in the community, as defined by the presiding body, to accommodate the proposed land use; and/or

The property is currently comprised of three designations. The Applicant proposes eliminating the Residential High Mixed-Use designation and replacing it with mostly Residential Medium (4 – 8 du/ac) and a small portion of Village Center designations. Both the Residential Medium designation and the Village Center comprise large areas of largely undeveloped land in the proximate area (42-acres adjacent to the applicant's property) and thus, Staff finds that the criterion has not been met.

(5) The community or area, as defined by the presiding body, will derive benefits from the proposed amendment.

The property currently contains three Future Land Use categories, Village Center, Residential High Mixed Use (16 – 24 du/ac) and Residential Medium (4 – 8 du/ac).

With this request, the Applicant is requesting future land use designations of Residential Medium (4 – 8 du/ac), proposed as 14.90-acres and Village Center, proposed as 3.16-acres with proposed zoning designations of R-8 (Residential – 8 du/ac) and C-1 (Light Commercial) respectfully. The community and area can benefit from the proposed Comprehensive Plan Amendments as the applicant is requesting Future Land Use and Zoning designations in keeping with the current designations already identified on the property with the Village Center designation for only a small portion along the 24 Road Corridor, while keeping and modifying the Residential Medium (4 – 8 du/ac) category for the remaining portion of the property, which would allow the property to develop as a mixed use development of both light commercial and residential, thus meeting the general intent and proposed uses of the 2010 Comprehensive Plan Future Land Use Map for this area of the community. The proposed Future Land Use Map amendment would simplify the development of this property by eliminating one of the three Future Land Use categories identified on this property while still providing development opportunities for both residential and commercial, in keeping with the existing Future Land Use map.

The existing Residential High Mixed-Use (16 – 24 du/ac) land use category is not conducive to the area to have a density range this high as the properties located on the west side of 24 Road remain single-family residential located on large lot/acreage and relatively rural in nature at this time. The recent annexations and zoning of properties from R-1 to R-8 in this area are evidence of the increasing demand for single-family detached and attached residential markets rather than multi-family as prescribed by the Residential High Mixed-Use category. Therefore, Staff finds that the community or area will derive benefits from the proposed amendment.

Further, the proposed Future Land Use Map Amendment to Residential Medium (4 – 8 du/ac) and Village Center implement's the following guiding principles, goals and policies of the Comprehensive Plan:

Goal 1: To implement the Comprehensive Plan in a consistent manner between the City, Mesa County and other service providers.

Policy A: City and County land use decisions will be consistent with the Future Land Use Map.

Goal 3: The Comprehensive Plan will create ordered and balanced growth and spread future growth throughout the community.

Policy A: To create large and small “centers” throughout the community that provide services and commercial areas.

Goal 5: To provide a broader mix of housing types in the community to meet the

needs of a variety of incomes, family types and life stages.

Policy C: Increasing the capacity of housing developers to meet housing demand.

Rezone

The criteria for review are set forth in Section 21.02.140 (a). The criteria provides that the City may rezone property if the proposed changes are consistent with the vision, goals and policies of the Comprehensive Plan and must meet one or more of the following rezone criteria as identified:

(1) Subsequent events have invalidated the original premises and findings; and/or

The property is currently zoned R-E (Residential Estate) and was annexed into the City limits in 2006 (Arbogast Annexation # 1 & # 2). The Applicant is requesting a zoning change to R-8 (Residential – 8 du/ac – 14.90-acres) and C-1 (Light Commercial – 3.16-acres) in conjunction with a proposed Comprehensive Plan Future Land Use Map amendment to Residential Medium (4 – 8 du/ac) and Village Center. The existing zoning of R-E is currently not in conformance with any of the current Future Land Use Map designations on the property (Village Center, Residential High Mixed Use (16-24 du/ac) and Residential Medium (4-8 du/ac)). Any future development of the property would require a rezone to an appropriate zone district as allowed under the current Future Land Use Map categories as identified on the property.

The original 2010 Future Land Use Map premise for the existing three designations was that the property would follow a more residential medium to residential high overall density designation (R-8 to R-24) with a limited commercial portion. With the proposed request, the applicant is providing a mixture of both residential and commercial zonings which are still in conformance with the Comprehensive Plan's vision for this area of the community, just not to the overall density as allowed under the Residential High Mixed-Use category at 16 – 24 du/ac.

If the Comprehensive Plan Future Land Use Map requested changes are approved, the request to rezone the majority of the subject property to R-8 maintains the focus primarily on residential development which is consistent with the Comprehensive Plan. The Village Center land use classification is assigned to a smaller portion of the property, also consistent with the Future Land Use Map with a proposed zoning designation of C-1. With the adoption of the 2010 Comprehensive Plan as well as consideration of approval of the proposed amendments as included in this request, each action(s) have invalidated the R-E zone designation and therefore, this criterion has been met.

(2) The character and/or condition of the area has changed such that the amendment is consistent with the Plan; and/or

The character and/or condition of the surrounding area has changed within the last 10-years as defined by the Proietti Annexation (782 24 Road) which was zoned C-1 (Light Commercial) in 2014. South Twenty Annexation (2335 H Road) zoned R-4 (Residential – 4 du/ac) & R-8 (Residential – 8 du/ac) in 2019 and finally the Maverick Estates Annexation (2428 H Road) zoned R-1 (Residential – 1 du/ac) in 2019. Also, Beehive Homes Assisted Living facility located at 2395 H Road has recently expanded their facilities with the construction of a second building. Therefore, there is a market and interest in both residential and nonresidential uses in this area of 24 Road and H Road.

The properties located on the west side of 24 Road remain single-family residential located on large lot/acreage and relatively rural in nature at this time. The recent annexations and zoning of properties from R-1 to R-8 in this area as defined are evidence of the increasing demand for residential markets.

The requested rezoning's are consistent with the recent trend of annexation and developing properties in the Appleton Neighborhood area and is consistent with the growth envisioned by the Comprehensive Plan. Therefore, Staff has found this criterion has been met.

(3) Public and community facilities are adequate to serve the type and scope of land use proposed; and/or

Adequate public and community facilities and services are available to the property and are sufficient to serve land uses associated with both the R-8 and C-1 zone districts. Ute Water and City sanitary sewer are presently available within 24 Road. Property is also currently being served by Xcel Energy electric and natural gas. A short distance away to the south is Community Hospital located on G Road. Further to the south on 24 Road is the Mesa Mall area which includes restaurants, retail and service centers, banks and a grocery store, etc. Appleton Elementary School is also located less than a mile from the property on H Road.

In general, staff has found public and community facilities are adequate to serve the type and scope of the R-8 and C-1 zone districts as proposed. As such, staff finds this criterion has been met.

(4) An inadequate supply of suitably designated land is available in the community, as defined by the presiding body, to accommodate the proposed land use; and/or

The proposed R-8 and C-1 zone districts could allow for a mixture of both commercial and residential development. The property currently has a small amount of acreage designated as Village Center which would permit the proposed C-1 zone district. Also,

a portion of the property is also designated as Residential Medium (4 – 8 du/ac). The applicant is proposing to change the current zoning of R-E (Residential Estate) to allow the property to develop as a mixed use development of both light commercial and residential zoning, thus meeting the intent of the 2010 Comprehensive Plan Future Land Use Map for this area of the community. Therefore, staff has not found there is an inadequate supply of suitably designated commercial or R-8 zoned land available either in the community or the immediate surrounding area since nearby is already vacant C-1 zone properties near I-70 and the R-8 zone district comprises the largest amount of residential zoned properties within the City.

(5) The community or area, as defined by the presiding body, will derive benefits from the proposed amendment.

The property is currently zoned as R-E (Residential Estate). The purpose of the R-E zone district is to provide low density (1 du/ac), estate-type single-family residential development on lots of at least one acre in size. The proposed R-8 zone district would allow a density range of 5.5 to 8 dwelling units an acre with a minimum 3,000 sq. ft. lot size. With this request, the Applicant is requesting future land use designations of Residential Medium (4 – 8 du/ac), proposed as 14.90-acres and Village Center, proposed as 3.16-acres with proposed zoning designations of R-8 (Residential – 8 du/ac) and C-1 (Light Commercial) respectfully. The community and area can benefit from the proposed requests as the applicant is requesting zoning designations in keeping with the current designations already identified on the property with the Village Center designation for only a small portion along the 24 Road Corridor, while keeping and modifying the Residential Medium (4 – 8 du/ac) category for the remaining portion of the property, which would allow the property to develop as a mixed use development of both light commercial and residential, thus meeting the general intent of the 2010 Comprehensive Plan Future Land Use Map for this area of the community.

Recent annexations and zoning of properties from R-1 to R-8 in this area are evidence of the increasing demand for single-family detached and attached residential markets rather than multi-family as prescribed by the Residential High Mixed-Use category. Therefore, Staff finds that the community or area will derive benefits from the proposed rezones by providing development opportunities as allowed under the Future Land Use Map for the area.

Further, the proposed rezone to R-8 (Residential – 8 du/ac) and C-1 (Light Commercial) implement's the following guiding principles, goals and policies of the Comprehensive Plan:

Goal 1: To implement the Comprehensive Plan in a consistent manner between the City, Mesa County and other service providers.

Policy A: City and County land use decisions will be consistent with the Future Land Use Map.

Goal 3: The Comprehensive Plan will create ordered and balanced growth and spread future growth throughout the community.

Policy A: To create large and small “centers” throughout the community that provide services and commercial areas.

Goal 5: To provide a broader mix of housing types in the community to meet the needs of a variety of incomes, family types and life stages.

Policy C: Increasing the capacity of housing developers to meet housing demand.

RECOMMENDATION AND FINDINGS OF FACT

After reviewing the Mallard View Comprehensive Plan Amendment & Rezone requests, for a Comprehensive Plan Amendment from Residential High Mixed Use (16 – 24 du/ac) to Residential Medium (4 – 8 du/ac) and Village Center and a rezone from R-E (Residential – Estate) to R-8 (Residential – 8 du/ac) and C-1 (Light Commercial) for the property located at 785 24 Road, the following findings of facts and condition have been made:

On the request for an amendment to the Comprehensive Plan, the following findings of fact have been made:

- 1) The request has met one or more of the criteria in Section 21.02.130(c)(1) of the Zoning and Development Code.
- 2) The request is consistent with the vision, goals and policies of the Comprehensive Plan.

On the request for rezoning, the following findings of fact have been made:

- 1) The request has met one or more of the criteria in Section 21.02.140 of the Zoning and Development Code.
- 2) The request is consistent with the vision (intent), goals and policies of the Comprehensive Plan.

Therefore, the Planning Commission recommends approval of the requested Comprehensive Plan Amendment and Rezone requests.

FISCAL IMPACT:

This land use request does not have direct fiscal impact.

SUGGESTED MOTION:

I move to (adopt/deny) Ordinance No. 4956 for a Comprehensive Plan Amendment from Residential High Mixed Use (16 – 24 du/ac) to Residential Medium (4 – 8 du/ac) and Village Center and a rezone from R-E (Residential – Estate) to R-8 (Residential – 8 du/ac) and C-1 (Light Commercial) on a total of 17.84-acres, located at 785 24 Road on final passage and order final publication in pamphlet form.

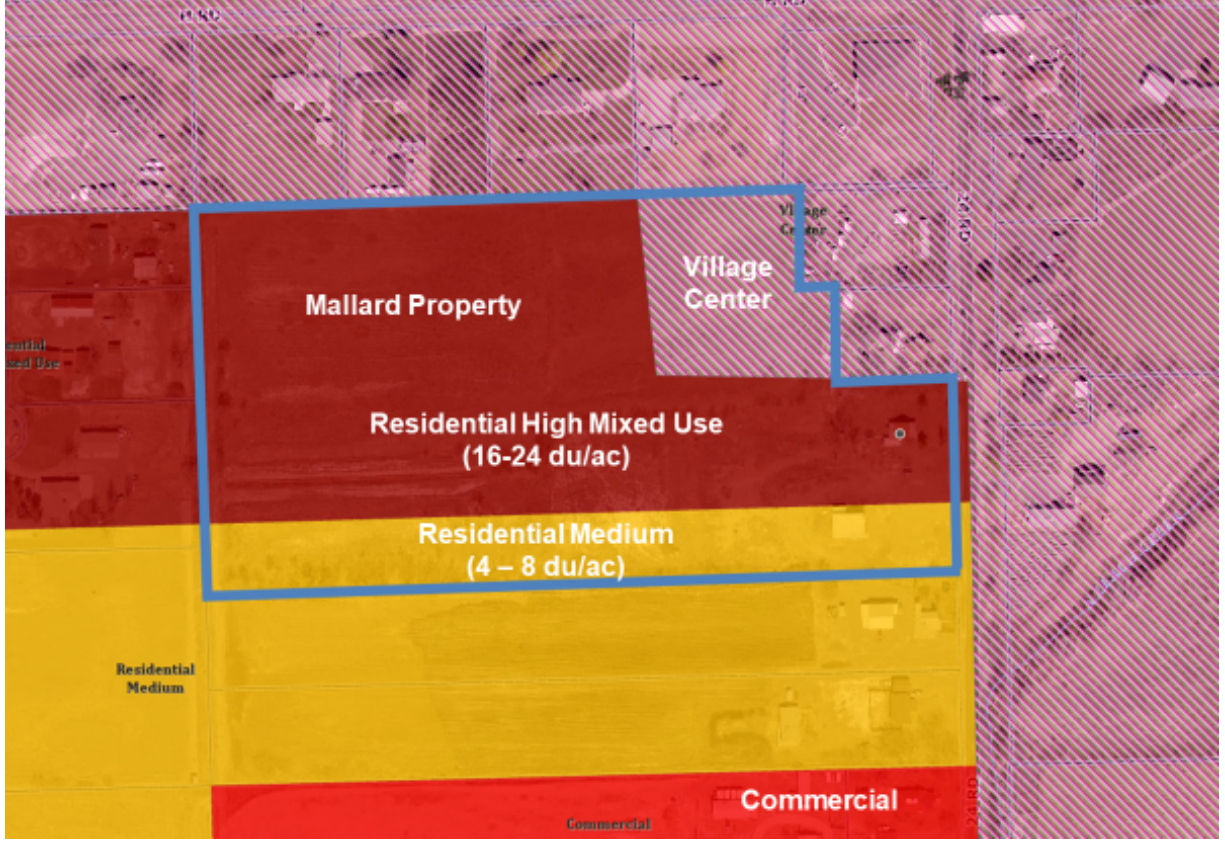
Attachments

1. Site Location, Aerial, Future Land Use & Zoning Maps, etc
2. Development Application Dated June 3, 2020
3. Public Correspondence Recieved
4. PC Minutes - DRAFT - August 11,2020
5. Combined CPA and Zoning Ordinance

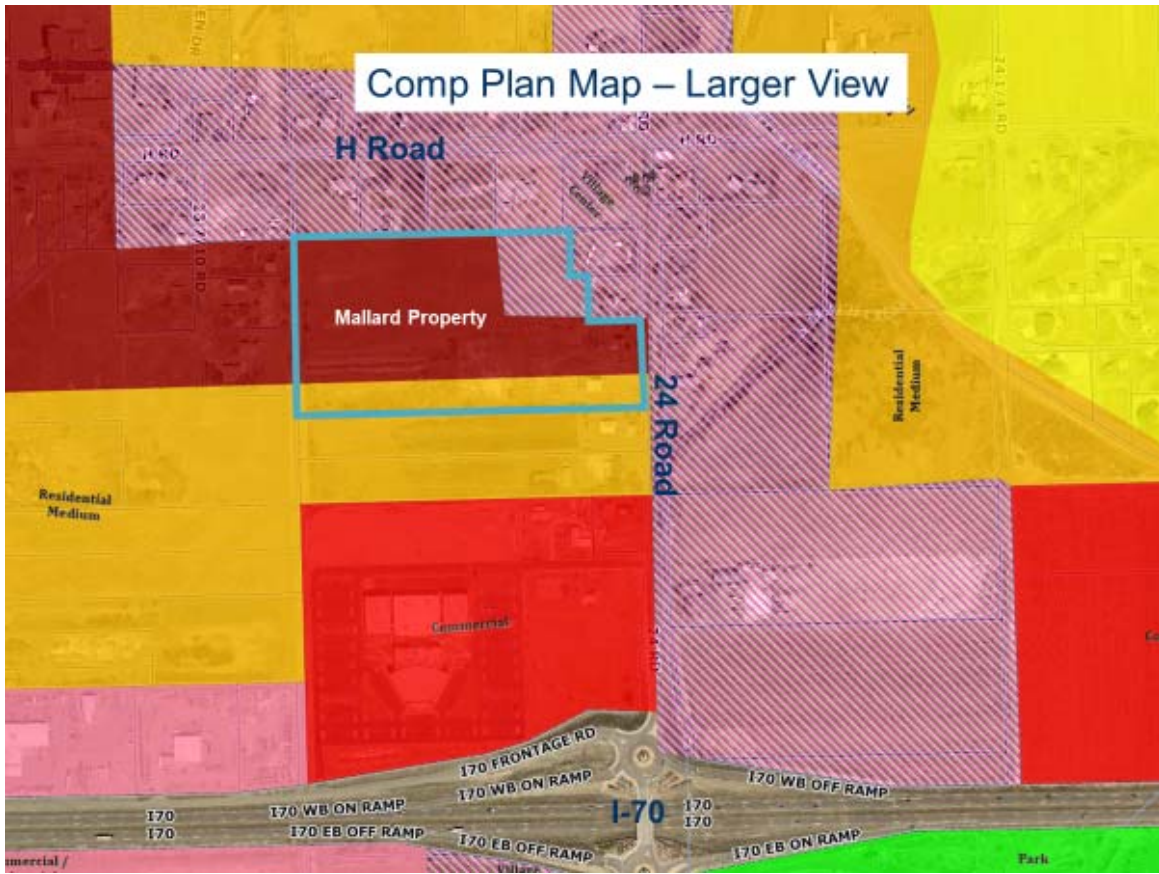


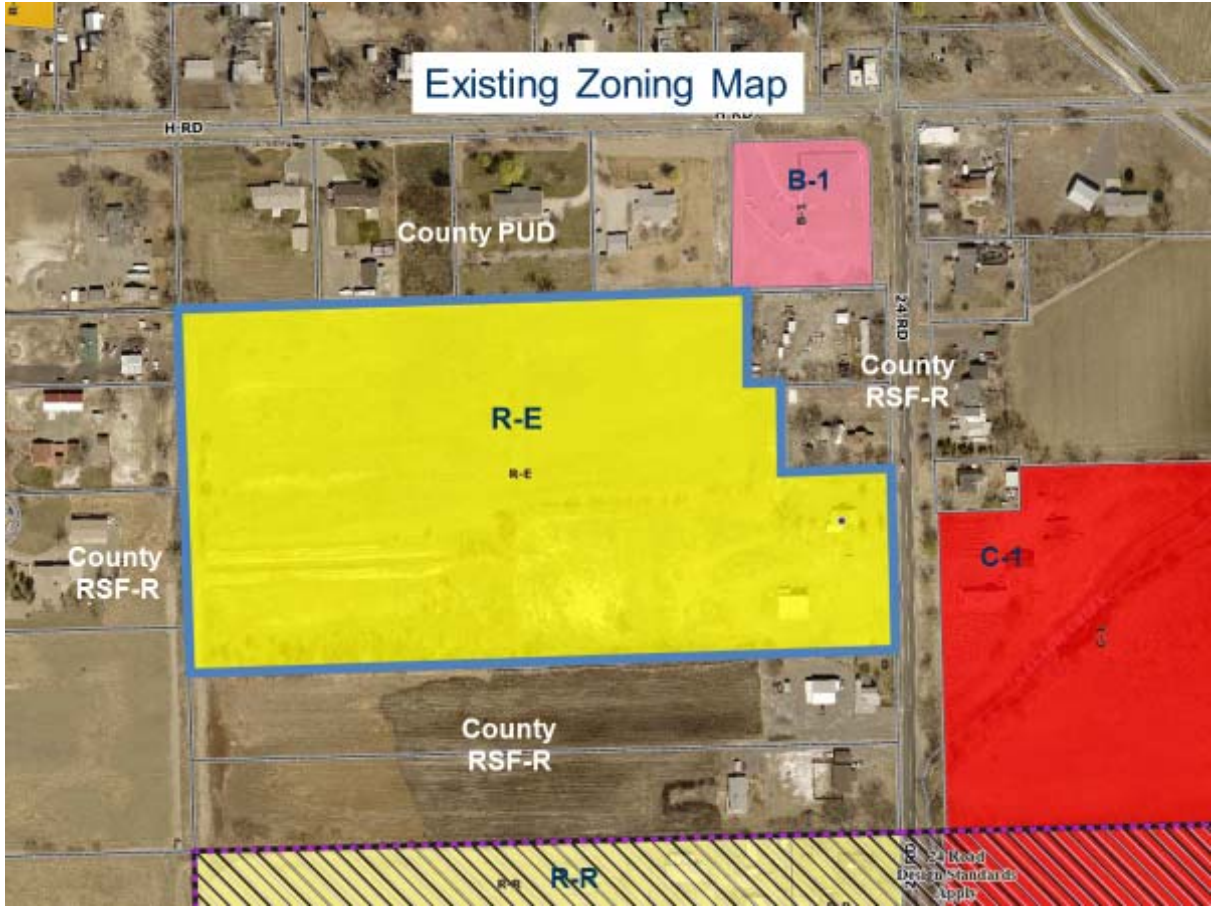


Comprehensive Plan Future Land Use Map



Comp Plan Map – Larger View







Google Maps Street view of property from 24 Road, looking northwest – July 2019

Development Application

We, the undersigned, being the owner's of the property adjacent to or situated in the City of Grand Junction, Mesa County, State of Colorado, as described herein do petition this:

Petition For:

Please fill in blanks below only for Zone of Annexation, Rezones, and Comprehensive Plan Amendments:

Existing Land Use Designation

Existing Zoning

Proposed Land Use Designation

Proposed Zoning

Property Information

Site Location:

Site Acreage:

Site Tax No(s):

Site Zoning:

Project Description:

Property Owner Information

Name:

Street Address:

City/State/Zip:

Business Phone #:

E-Mail:

Fax #:

Contact Person:

Contact Phone #:

Applicant Information

Name:

Street Address:

City/State/Zip:

Business Phone #:

E-Mail:

Fax #:

Contact Person:

Contact Phone #:

Representative Information

Name:

Street Address:

City/State/Zip:

Business Phone #:

E-Mail:

Fax #:

Contact Person:

Contact Phone #:

NOTE: Legal property owner is owner of record on date of submittal.

We hereby acknowledge that we have familiarized ourselves with the rules and regulations with respect to the preparation of this submittal, that the foregoing information is true and complete to the best of our knowledge, and that we assume the responsibility to monitor the status of the application and the review comments. We recognize that we or our representative(s) must be present at all required hearings. In the event that the petitioner is not represented, the item may be dropped from the agenda and an additional fee may be charged to cover rescheduling expenses before it can again be placed on the agenda.

Signature of Person Completing the Application

Date

Signature of Legal Property Owner

Date

OWNERSHIP STATEMENT - CORPORATION OR LIMITED LIABILITY COMPANY

(a) Mallard View, LLC ("Entity") is the owner of the following property:

(b) 785 24 Road, Grand Junction, CO 81505

A copy of the deed(s) evidencing the owner's interest in the property is attached. Any documents conveying any interest in the property to someone else by the owner are also attached.

I am the (c) Manager for the Entity. I have the legal authority to bind the Entity regarding obligations and this property. I have attached the most recent recorded Statement of Authority of the Entity.

- My legal authority to bind the Entity both financially and concerning this property is unlimited.
- My legal authority to bind the Entity financially and/or concerning this property is limited as follows:

- The Entity is the sole owner of the property.
- The Entity owns the property with other(s). The other owners of the property are:

On behalf of Entity, I have reviewed the application for the (d) Rezone

I have the following knowledge or evidence of a possible boundary conflict affecting the property:

(e) N/A

I understand the continuing duty of the Entity to inform the City planner of any changes regarding my authority to bind the Entity and/or regarding ownership, easement, right-of-way, encroachment, lienholder and any other interest in the land.

I swear under penalty of perjury that the information in this Ownership Statement is true, complete and correct.

Signature of Entity representative: _____

Printed name of person signing: John Davis

State of Colorado)

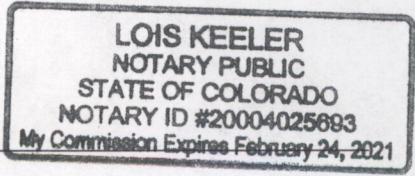
County of Mesa) ss.

Subscribed and sworn to before me on this 11 day of February, 2020
by John Davis

Witness my hand and seal.

My Notary Commission expires on 2-24-21

Lois Keeler
Notary Public Signature



Instructions

An ownership statement must be provided for each and every owner of the property.

- (a) Insert complete name of owner as it appears on deed by which it took title. If true name differs from that on the deed, please provide explanation by separate document
- (b) Insert legally sufficient description of land for which application has been made to the City for development. Include the Reception number or Book and Page for recorded information. Assessor's records and tax parcel numbers are not legally sufficient description. Attach additional sheet(s) as necessary, and reference attachment(s) here. If the legal description or boundaries do not match those on the plat, provide an explanation.
- (c) Insert title/capacity within the Entity of person who is signing.
- (d) Insert the type of development application request that has been made. Include all pending applications affecting the property.
- (e) Insert name of all other owners, if applicable.
- (f) Insert the type of development application request(s) that has/have been made. Include all pending development applications affecting the property.
- (g) Explain the conflict and/or possible conflict and describe the information and/or evidence available concerning the conflict and/or possible conflict. Attach copies of written evidence.

2/3

WARRANTY DEED

Grantor(s):
Steve V. Arbogast

2321584 BK 4176 PG 93
06/08/2006 01:42 PM
Janice Ward CLK&REC Mesa County, CO
RecFee \$5.00 SurChgs \$1.00
DocFee \$79.99

whose address is , , and State of
*County of

SEVEN HUNDRED NINETY NINE THOUSAND NINE HUNDRED AND NO/100-
-----dollars, in hand paid, hereby sell(s)

and convey(s) to:
Mallard View, LLC

whose address is P.O. Box 2867, Grand Junction, Colorado 81505

*County of Mesa , and State of Colorado , the following real
property, in the *County of Mesa , and State of Colorado, to wit:

TAX SCHEDULE NUMBER: 2701-321-00-027

A parcel of land situate in the Northeast Quarter of the Northeast Quarter of Section 32, Township 1 North, Range 1 West of the Ute Meridian, Mesa County, Colorado, as described in Book 2990 at Page 652 of the records of said Mesa County, being more particularly described as follows:

The North Half of the South Half of the Northeast Quarter of the Northeast Quarter and the South Half of the North Half of the Northeast Quarter of the Northeast Quarter of said Section 32;

EXCEPT:

Commencing at the Northeast Corner of said Section 32, being a found Mesa County survey marker, the basis of bearing being S00°02'59"W to the North 1/16 corner of said Section 32, being another found Mesa County survey marker;

thence S00°02'59"W a distance of 330.22 feet to the Point of Beginning;
thence S00°02'59"W a distance of 330.22 feet;
thence N89°58'07"W a distance of 222.75 feet;
thence N00°02'59"E a distance of 160.21 feet;
thence N89°58'17"W a distance of 61.00 feet;
thence N00°02'29"E a distance of 170.00 feet;
thence S89°58'17"E a distance of 283.75 feet to the Point of Beginning.

also known by the street and number as 785 24 Road, Grand Junction, Colorado 81505

with all its appurtenances, and warrant(s) the title to the same, subject to:

general taxes for the year and those specific Exceptions described by reference to recorded documents as reflected in the Title Documents accepted by Grantee(s) in accordance with Section 8a (Title Review) of the Contract to Buy & Sell Real Estate relating to the above described property; distribution utility easements (including cable TV); those specifically described rights of third parties not shown by the public records of which Grantee(s) has actual knowledge and which were accepted by Grantee(s) in accordance with Section 8b (Matters Not Shown by the Public Records) and Section 8c (Survey Review) of the Contract to Buy & Sell Real Estate relating to the above described real property; inclusion of the Property within any special tax district; and, the benefit and burdens of any declaration and party wall agreements, if any.

Signed this 26 th day of May , 2006

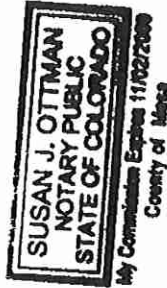
Steve V. Arbogast

Steve V. Arbogast

STATE OF COLORADO }
*County of MESA ss.

The foregoing instrument was acknowledged before me this 26 th day of May 2006

BY: Steve V. Arbogast



My Commission expires

Witness my hand and official seal.

[Signature]
Notary Public

*If in Denver, insert "City and"

79.99

**Project Report
for
Mallard Rezone Request -
RE (Residential Estate) to
R8 (Residential 4-8 du/ac) and C1 (Light Commercial)**

Date: June 1, 2020

Prepared by: Robert W. Jones II, P.E.
Vortex Engineering and Architecture, Inc.
861 Rood Avenue
Grand Junction, CO 81501
(970) 245-9051
VEI# F10-050

Submitted to: City of Grand Junction
250 N. 5th Street
Grand Junction, CO 81501

Type of Design: Rezone Request from RE to C1 and R8

Property Owner: Mallard View, LLC
637 25 Road
Grand Junction, CO 81505

Property Address: 785 24 Road
Grand Junction, CO 81505

Tax Parcel No: 2701-321-00-027

1. Project Intent

This application is made to request a rezone from RE (Residential Estate) zone district to the R8 (Residential, 5.5-8 du/ac) zone district and to the C1 (Light Commercial) zone district which supports the Comprehensive Plan's goal for residential development and a Village Center in the Appleton Neighborhood area of the community. The owner's intent is to prepare the subject property for future development that will be consistent with development as envisioned by the Comprehensive Plan.

2. Project Description

The subject property is located at 785 24 Road and is approximately 18.06 acres. The property is located in an area of the City that has seen recent annexations and development of properties with residential and non-residential development. As the City moves forward with their efforts to update the existing Comprehensive Plan, the Appleton Neighborhood has been identified as an area likely to see increased interest in development. The applicant would like to prepare the subject property for future development that is consistent with the type of development envisioned by the Comprehensive Plan which includes residential development and a Village Center.

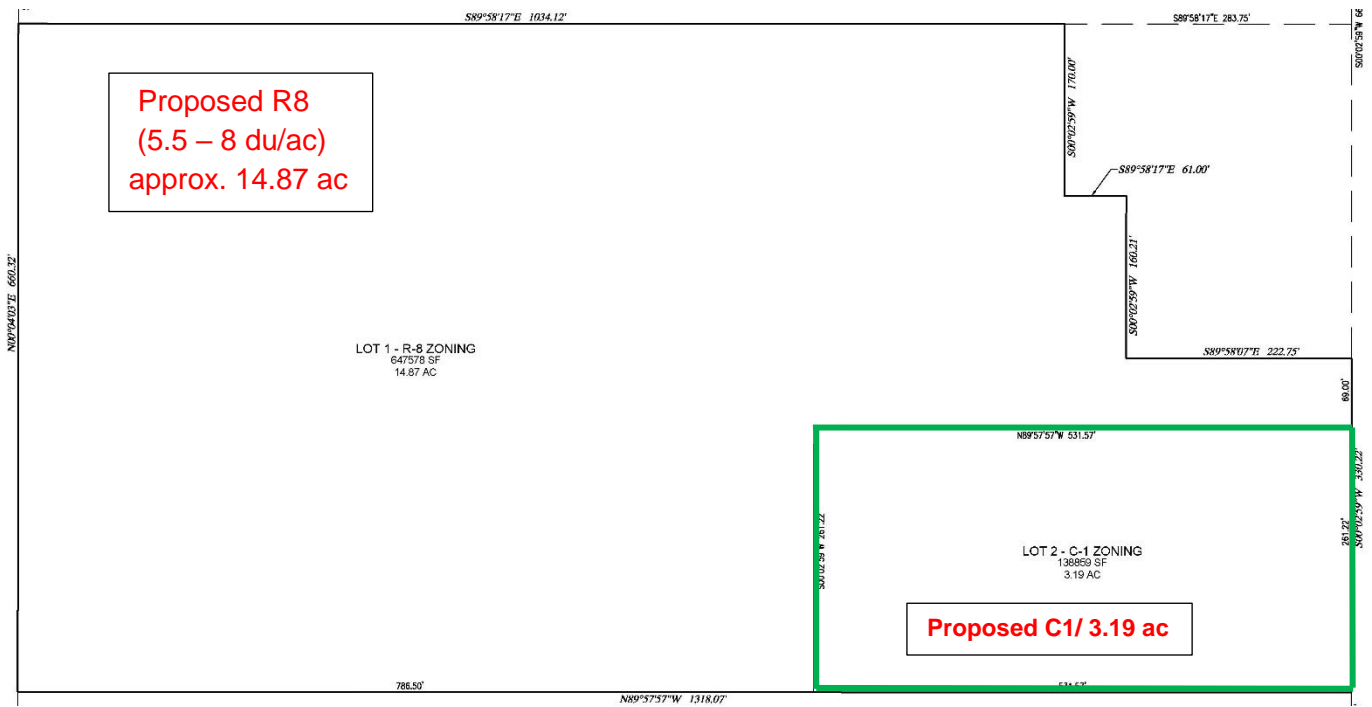
The property is ideally located to provide residential and commercial development that will support the Appleton Neighborhood. There is a demonstrated demand for housing in the Appleton Neighborhood as well as commercial. The R8 zone district provides an opportunity for a variety of housing types through the bulk standards of the zone district while the C1 zone district allows uses that include high density multi-family housing such as apartments, medical clinics, hotels, office buildings, health club and a variety of retail sales and services, as well as indoor and outdoor recreational and entertainment uses.

The applicant is requesting a rezone from the RE (Residential Estate) zone district to the R8 zone district (Residential 4-8 du/ac with a minimum density of 5.5 du/ac) for approximately 14.87 acres of the property and to the C1 zone district (Light Commercial) for approximately 3.19 acres for the small area on 24 Road. The residential area will allow the provision of a variety of housing of types to serve the community utilizing the majority of the subject property. The proposed split zoning will also allow a small commercial site sufficient in size to develop for services as allowed by the C1 zone district that takes advantage of the I-70 exit ramp and the Appleton Neighborhood community.

The current zoning of the subject property is Residential Estate which is not consistent with the Comprehensive Plan. The property must be rezoned to enable development to occur in accordance with the Comprehensive Plan.



Rezone Request



Legal Description

The legal description of this site is:

N2S2NE4NE4 + S2N2NE4NE4 SEC 32 1N 1W EXC BEG 322.5FT S OF NE COR SEC 32 W
258.75FT S 170FT E 36FT S 160FT E 222.75FT N TO BEG

3. Neighborhood Meeting

A Neighborhood Meeting was held on Tuesday, February 4, 2020, from 5:30 to 6:30 pm at the Canyon View Vineyard Church, located at 736 24 ½ Road, Grand Junction. The owner's representative provided an overview of the applicant's rezone request and answered questions from area residents. Scott Peterson, Senior Planner with the City of Grand Junction Community Development Department, also attended the meeting to answer questions about the review and approval process.

The meeting was well attended by approximately eighteen citizens, although not all citizens signed the attendance sheet. A list of all those attending the meeting has been included with this application, as well as the primary issues of concern that were discussed during the meeting. Most comments raised during the meeting concerned what the proposed use will be, the maximum height and possible uses allowed in the C1 district, truck traffic on 24 Road and availability of utilities such as sewer and water.

Public notice for this application will be provided in accordance with Sec. 21.02.080(g) of the Grand Junction Municipal Code, including posting the subject property on the public right-of-way.

4. Comprehensive Plan

The Comprehensive Plan's Future Land Use Map shows the subject property with three different land use classifications: Village Center Mixed Use (VCMU, 7 du/ac), Residential High Mixed Use (RMH, 16-24 du/ac) and Residential Medium (RM, 4-8 du/ac).

Because land use classifications do not always follow property lines, it's not unusual for a single parcel of land to have more than one land use classification. When a parcel has more than one land use classification, it allows greater flexibility for the specific zoning of the property and the future development.

The proposed rezone meets a number of the goals and policies of the Comprehensive Plan:

Goal 1, Policy C: The City and Mesa County will make land use and infrastructure decisions consistent with the goal of supporting and encouraging the development of centers.

Goal 3: The Comprehensive Plan will create ordered and balanced growth and spread future growth throughout the community.

Goal 3, Policy A: To create large and small “centers” throughout the community that provide services and commercial areas.

Goal 5: To provide a broader mix of housing types in the community to meet the needs of a variety of incomes, family types and life stages.

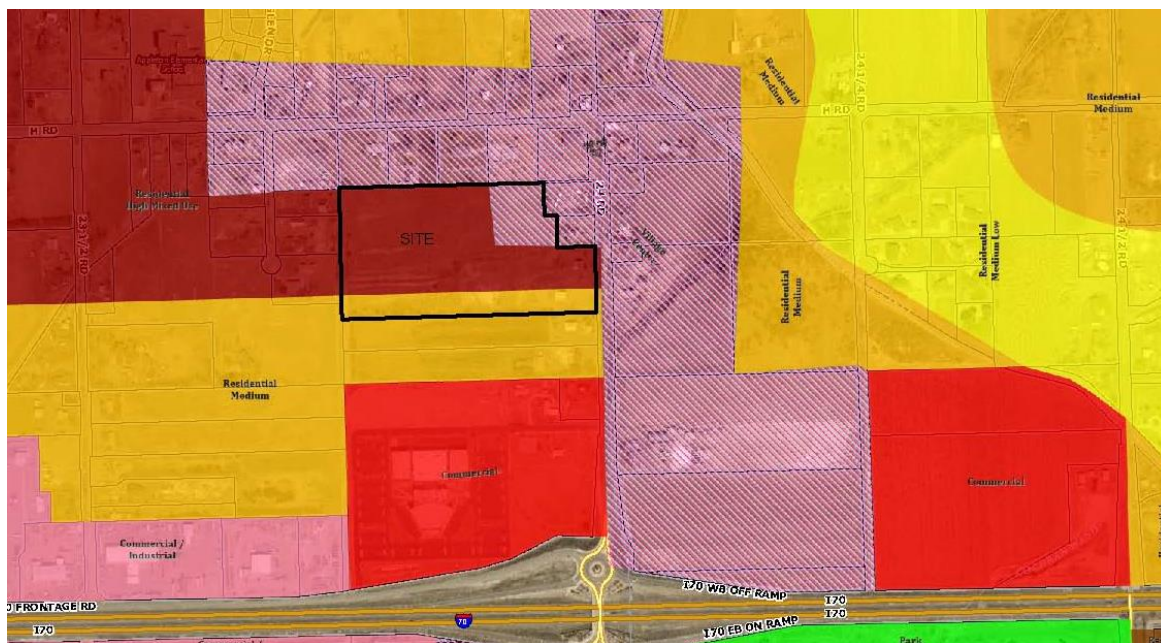
Goal 5, Policy C: Increasing the capacity of housing developers to meet housing demand.

In addition to the goals and policies, the proposed development also meets the following Guiding Principles of the Comprehensive Plan:

Guiding Principle 1: Concentrated Centers – The Plan calls for three types of centers: The City Center, Village Centers and Neighborhood Centers. The Plan establishes “Mixed Use Opportunity Corridors” along some major corridors.

Guiding Principle 2: Sustainable Growth Patterns – Fiscal sustainability where we grow efficiently and cost-effectively. Encourage infill and redevelopment and discourage growth patterns that cause disproportionate increases in cost of services.

Guiding Principle 3: Allow, encourage more variety in housing types (more than just large lot single family homes) that will better meet the needs of our diverse population – singles, couples, families, those just starting out, children who have left home, retirees, etc.



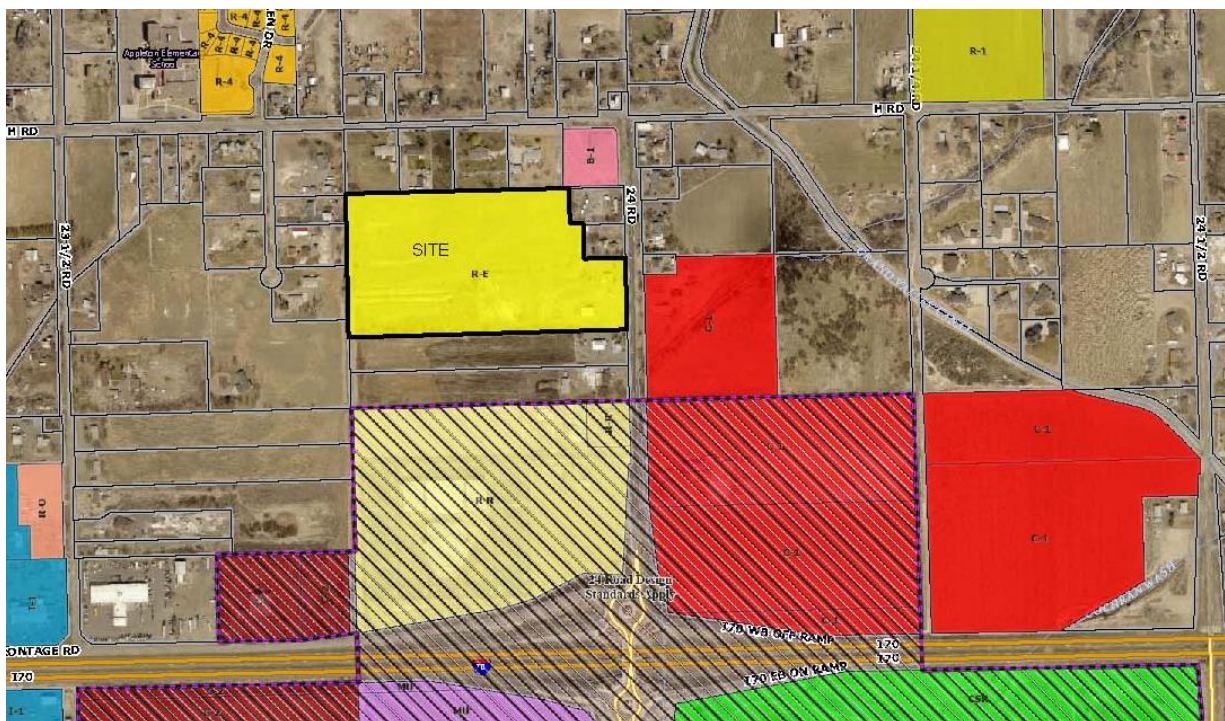
5. Zoning and Surrounding Areas

The applicant is requesting a rezone from the existing Residential Estate (RE, 1 du/ac) zone district to the R8 (Residential, 5.5-8 du/ac) zone district and C1 (Light Commercial) zone district to better prepare the subject property for future residential and limited commercial development.

The Residential Estate zone district does not implement any of the assigned land use classifications of the Comprehensive Plan and is therefore not consistent with the Plan. The request to rezone approximately 14.87 acres to the R8 zone district will preserve the City's desire for residential housing on the majority of the subject property. Only a small portion of the southeast corner of the property (approximately 3.19 acres) is requested to be rezoned to C1. Both the R8 and C1 zone districts are consistent with the Future Land Use Map of the Comprehensive Plan.

Surrounding area zoning and land uses include:

- North – Mesa County Planned Unit Development (PUD) with single family land uses
- South – Mesa County RSF-R with single family and agricultural land uses
- West – Mesa County RSF-R with single family land uses
- East – Mesa County RSF-R with single family land uses



The subject property is not located within any Neighborhood Area plans; the Appleton Area plan was sunset with adoption of the 2010 Grand Junction Comprehensive Plan and the 24 Road Corridor Plan does not extend north to include this property.

6. Utility Providers

All required and necessary utilities shall be provided concurrent with development of the subject property. Utility providers for the development have the capacity and willingness to serve the development. Public facilities such as medical, schools, parks and public safety are available to serve development on this site.

Utility providers for the site are as follows:

Sewer: City of Grand Junction/Persigo Wastewater Treatment Plant

Water: Ute Water Conservation District

Gas/Electric: Xcel Energy and Grand Valley Power

Drainage: Grand Valley Drainage District

Irrigation: Grand Valley Irrigation Company

All utilities shall be constructed to the design specifications and standards of the utility providers.

7. Drainage

The subject property has a gentle slope from east to west with an elevation of 4590 feet sloping to 4576 on the western side of the site. Stormwater and water quality for the site will be addressed at the time of actual development. It is anticipated that drainage will be detained onsite and discharged to an appropriate facility off-site at the time of development.

8. Wetlands and Floodplain

The subject property is located in Zone X – outside the 0.2% annual chance floodplain on FEMA Panel #0801G. There are no wetlands on the subject property that are identified on the City and Mesa County's GIS website maps.



9. Approval Criteria

The approval criteria for Plan Amendments and Rezone requests are the same in Chapter 21 of the Grand Junction Municipal Code and have therefore been addressed concurrently.

Section 21.02.130(c), Criteria for Plan Amendments, states that the City may amend the Comprehensive Plan, neighborhood plans, corridor plans and area plans if the proposed change is consistent with the vision (intent), goals and policies of the Comprehensive Plan the following criteria are met; Section 21.02.140(a), Approval Criteria, states that “In order to maintain internal consistency between this code and the zoning maps, map amendments must only occur if”:

(1) Subsequent events have invalidated the original premises and findings; and/or
Response: There are three land use classifications assigned to the subject property as shown on the 2010 Comprehensive Plan Future Land Use Map: Village Center Mixed Use (approximately 2.1 acres); Residential High Mixed Use (16 – 24 du/ac) approximately (12.1 acres); and Residential Medium (4 – 8 du/ac) for approximately 3.5 acres. The intent of the Future Land Use Map designations would suggest that the property would develop with an emphasis on residential rather than commercial development.

The request to rezone the majority of the subject property to R8 maintains the focus primarily on residential development which is consistent with the Comprehensive Plan. The Village Center land use classification is assigned to a smaller portion of the property. The request to rezone only 3.19 acres to Commercial is also consistent with the land use classification and intent of the Comprehensive Plan.

This criterion has been MET.

(2) The character and/or condition of the area has changed such that the amendment is consistent with the Plan; and/or

Response: The character of the area has changed with the Proietti Annexation (2014), Taurus Park Plaza Annexation (2018), South Twenty Annexation (2019) and the Maverick Estates Annexation (2019) as well as the recently developed Apple Glen Subdivision (2018), a new subdivision under review for 73 lots located at 2335 H Road and the Phase II expansion of the Beehive Homes Assisted Living facility. Clearly there is a market and interest in both residential and nonresidential uses in this area.

The properties located on the west side of 24 Road remain single-family residential located on large lot/acreage and relatively rural in nature at this time. The recent annexation and zoning of properties from R1 to R8 in this area are evidence of the residential market. The South Twenty Annexation was annexed in 2019 and zoned R4 and R8 with the same land use classifications as the subject property.

The requested rezone to R8 and C1 is consistent with the recent trend of annexation and developing properties in the Appleton Neighborhood area and is consistent with the growth envisioned by the 2010 Comprehensive Plan.

This criterion has been MET.

(3) Public and community facilities are adequate to serve the type and scope of land use proposed; and/or

Response: Public and community facilities providing services in medical, education, recreational, retail, sales and personal services are available within 2 miles of the subject property. Ute Water and City sanitary sewer are presently available within 24 Road; Xcel Energy provides electric and natural gas to this community. Community Hospital located on G Road to the south and further south on 24 Road is the Mesa Mall area which includes restaurants, retail and service centers, banks and a grocery store, etc. All utilities have the willingness and capacity to serve the site when it develops.

This criterion has been MET.

(4) An inadequate supply of suitably designated land is available in the community, as defined by the presiding body, to accommodate the proposed land use; and/or

Response: The request to rezone approximately 14.87 acres to R8 is consistent with the Comprehensive Plan's goal of providing more varied housing in this area of the community found in **Goal 5, Goal 5, Policy C** and **Guiding Principle 3** of the Comprehensive Plan. The small portion of the property requested for C1 zoning will also support the Appleton Neighborhood and is consistent with the Village Center land use classification. The applicant feels that the rezone request is consistent with the proportion of residential to commercial zoning and development as envisioned by the 2010 Comprehensive Plan.

This criterion has been MET.

(5) The community or area, as defined by the presiding body, will derive benefits from the proposed amendment.

Response: Future development of the subject property will provide jobs during the construction phase of development and services with new businesses to the area. Development of the site will also encourage infill development in the Appleton Neighborhood area, resulting in more compact development and less urban sprawl. The provision of housing, services and potential employment within the commercial area (3.19 acres) will provide benefit to the local community and overall City. Development of approximately 14.87 acres in new housing will help achieve the goals of the Comprehensive Plan for a variety of housing in this area of the community as noted earlier in this report by meeting a number of the goals, policies and Guiding Principles of the 2010 Comprehensive Plan.

This criterion has been MET.

10. Conclusion

After demonstrating how the proposed rezone request meets the goals and policies of the Comprehensive Plan and the approval criteria from Sections 21.02.130(c) and 21.02.140(a) of the Grand Junction Municipal Code, the applicant respectfully requests approval of the request to

rezone from Residential Estate zone district to the R8 (Residential, 5.5-8 du/ac) zone district and the C1, Light Commercial zone district.

11. Limitations/Restrictions

This report is a site-specific report and is applicable only for the client for whom our work was performed. The review and use of this report by City of Grand Junction, affiliates, and review agencies is fully permitted and requires no other form of authorization. Use of this report under other circumstances is not an appropriate application of this document. This report is a product of Vortex Engineering, Inc. and is to be taken in its entirety. Excerpts from this report when taken out of context may not convey the true intent of the report. It is the owner's and owner's agent's responsibility to read this report and become familiar with recommendations and findings contained herein. Should any discrepancies be found, they must be reported to the preparing engineer within 5 days.

The recommendations and findings outlined in this report are based on: 1) The site visit and discussion with the owner, 2) the site conditions disclosed at the specific time of the site investigation of reference, 3) various conversations with planners and utility companies, and 4) a general review of the zoning and transportation manuals. Vortex Engineering, Inc. assumes no liability for the accuracy or completeness of information furnished by the client or municipality/agency personnel. Site conditions are subject to external environmental effects and may change over time. Use of this report under different site conditions is inappropriate. If it becomes apparent that current site conditions vary from those reported, the design engineering should be contacted to develop any required report modifications. Vortex Engineering, Inc. is not responsible and accepts no liability for any variation of assumed information.

Vortex Engineering, Inc. represents this report has been prepared within the limits prescribed by the owner and in accordance with the current accepted practice of the civil engineering profession in the area. No warranty or representation either expressed or implied is included or intended in this report or in any of our contracts.

February 10, 2020

City of Grand Junction
Community Development Department
Attn: Scott Peterson, Senior Planner
250 N. 5th Street
Grand Junction, CO 81501

RE: Mallard Rezone Neighborhood Meeting
Date: Tuesday, February 4, 2020
Time: 5:30 – 6:30 PM
Location: Canyon View Vineyard Church

Dear Mr. Peterson:

On Tuesday, February 4, 2020, a Neighborhood Meeting was held from 5:30 – 6:30 pm at the Canyon View Vineyard Church for the proposed Mallard Rezone. An overview of the proposed rezone request from the RE, Residential Estate zone, to the C1, Light Commercial zone was presented by Lisa Cox of Vortex Engineering, Inc., followed by questions from the neighborhood residents.

The meeting was well attended with approximately eighteen citizens, Scott Peterson from the City of Grand Junction, and Lisa Cox, Robert Jones and Jennifer Christensen from Vortex Engineering, Inc. Comments, questions and concerns were voiced during the meeting.

Lisa Cox, with Vortex Engineering, Inc., provided an overview of the requested rezone from RE, Residential Estate, to the C1, Light Commercial zone district, as well as a list of allowed uses in the C1 zone. Ms. Cox stated that the C1 zone district supports the Comprehensive Plan's goal of creating a Village Center in the Appleton area of 24 Road and H Road. The current zoning of property in the Appleton area was also reviewed, including the six parcels to the east that are currently zoned C1.

Ms. Cox stated that the current zoning does not implement the Future Land Use Map of the Comprehensive Plan and that the property will have to be rezoned to be developed. Ms. Cox reviewed the other possible zone districts that implement the City's Future Land Use Map for the property that support the Village Center concept.

The following is a synopsis of the questions posed by the neighborhood residents:

- What was the maximum height allowed in the C1 zone district?
- What was going to be developed on the property?
- Does C1 support warehousing like FedEx and UPS?
- Will citizens get a handout from the City of allowed uses in the C1?

- Where are utilities coming from?
- Why isn't the church zoned C1?

Ms. Cox reviewed the ways that citizens will receive notice of the application when it has been received by the City and that the application will be processed with two public hearings through the Planning Commission and City Council. There would be multiple opportunities for public input during the review process.

At 6:25 p.m. Lisa Cox thanked those who attended the neighborhood meeting and shared their concerns. The meeting was then closed.

Upon review of the meeting notes, please do not hesitate to contact me by phone at 970-245-9051 or by email at rjones@vortexeng.us should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Robert W. Jones II". The signature is written in a cursive style with a large, stylized "R" at the end.

Robert W. Jones II, P.E.
Vortex Engineering & Architecture, Inc.

Cc: File

**Mallard Rezone
Neighborhood Meeting Sign-In Sheet
Tuesday, February 4, 2020**

	Full Name (Printed)	Address	City	Zip
1	Jennifer Christensen	8161 Road Ave.	GJ	81501
2	LISA Cox	8161 Road Ave.	GJ	81501
3	Alan Pruitt	782-23 1/10 Rd	GJ	81505
4	Deek Pennington	780-23 1/10 Rd	GJ	81505
5	Wendell Gates	2395 H Road	GJ	81505
6	Janet Abraham	2387 H Road	GJ	81505
7	James Abraham	"	"	"
8	Kimberly V Cloud	2391 H Rd	GJ	81505
9	Allen Etcheverry	777 24 rd	GJ	81505
10	Shellie Etcheverry	1779 24 Rd	GJ	81505
11	SCOTT PETERSON	CITY PLANNERS		81501
12	Scott Love	786 24 rd	CO	81505
13	Ron Gray	2364 H Rd	GJ	81605
14	Barbara Justice + Scott Ryden	792 237/10 Rd	GJ	81505
15	Robert W. Jones, II	8161 Road Avenue	GJ	81501
16				

City of Grand Junction Review Comments

Date: June 26, 2020 **Comment Round No.** 1 **Page No.** 1 of 4
Mallard View Rezone & Comp Plan RZN-2020-288
Project Name: Amendment **File No:** CPA-2020-289
Project Location: 785 24 Road

Check appropriate if comments were mailed, emailed, and/or picked up.

Property Owner(s): Mallard View LLC – Attn: John Davis
 Mailing Address: 637 25 Road, Grand Junction, CO 81505
 Email: jdavis@bluestarindustries.com **Telephone:** (970) 640-4320
 Date Picked Up: _____ **Signature:** _____

Representative(s): Vortex Engineering Inc. – Attn: Robert Jones II
 Mailing Address: 861 Rood Avenue, Grand Junction, CO 81501
 Email: rjones@vortexeng.us **Telephone:** (970) 245-9051
 Date Picked Up: _____ **Signature:** _____

Developer(s):
 Mailing Address:
 Email: _____ **Telephone:** _____
 Date Picked Up: _____ **Signature:** _____

CITY CONTACTS

Project Manager: Scott D. Peterson, Senior Planner
Email: scottp@gjcity.org **Telephone:** (970) 244-1447
Dev. Engineer: Jarrod Whelan
Email: jarrodw@gjcity.org **Telephone:** (970) 244-1443

City of Grand Junction REQUIREMENTS (with appropriate Code citations)

CITY PLANNING

1. Application is to request a Rezone from R-E (Residential Estate) to C-1 (Light Commercial – (3.19 +/- acres)) and R-8 (Residential – 8 du/ac – (14.87 +/- acres)) along with a Comprehensive Plan Future Land Use Map Amendment from Residential High Mixed Use (16 - 24 du/ac) to Residential Medium (4 - 8 du/ac) and Village Center, in anticipation of future commercial and residential development. Existing property is 17.84 +/- acres in size. The proposed R-8 (Residential – 8 du/ac) and C-1 (Light Commercial) Zone Districts are applicable zone districts within the Residential Medium and Village Center categories respectfully.

Applicant's Response:

Document Reference:

2. Legal Description of Areas:

- a. According to the applicant's submitted map exhibit for the proposed zoning areas, there is a 69' foot wide gap adjacent to 24 Road in anticipation of a future right-of-way that would serve the anticipated residential and commercial developments. FYI. A standard commercial street section would be a 52' wide right-of-way. Does applicant still want to provide a 69' wide frontage adjacent to 24 Road? If that is the case, it would be assumed that the remaining 17' of land area would be utilized as an HOA landscaping strip entrance feature for the future residential development along with a screen and buffer for the property located at 789 24 Road. Please address further.
- b. City Project Manager is supportive of the applicant's requests to change the Comprehensive Plan Future Land Use Map and Rezone the property as identified within this application to R-8 (14.87 +/- acres) and C-1 (3.19 +/- acres). Therefore, please submit a metes/bounds legal description and map exhibit prepared by a Licensed Land Surveyor for the requested R-8 and C-1 zone districts in preparation for City Ordinance.

Applicant's Response:

Document Reference:

3. Planning Commission and City Council Public Hearings:

Once proposed legal descriptions and map exhibits have been reviewed and approved by City Surveyor, City Project Manager will schedule applications for the next available Planning Commission and City Council meetings.

Code Reference: Sections 21.02.140 of the Zoning and Development Code.

Applicant's Response:

Document Reference:

CITY DEVELOPMENT ENGINEER

No Exceptions Taken.

Applicant's Response:

Document Reference:

CITY FIRE DEPARTMENT – Matt Sewalson – mattse@gjcity.org (970) 549-5855

The Grand Junction Fire Department's Fire Prevention Bureau has no comments or objections.

Applicant's Response:

Document Reference:

CITY ADDRESSING – Pat Dunlap – patd@gjcity.org (970) 256-4030

No comments.

Applicant's Response:

Document Reference:

OUTSIDE REVIEW AGENCY COMMENTS

(Non-City Agencies)

Review Agency: Mesa County Building Department

Contact Name: Darrell Bay

Email / Telephone Number: Darrell.bay@mesacounty.us (970) 244-1651

MCBD has no objections to this project.

Applicant's Response:

Review Agency: Ute Water Conservancy District

Contact Name: Jim Daugherty

Email / Telephone Number: jdaugherty@utewater.org (970) 242-7491

No objections to CPA & re-zone only.

Applicant's Response:

Review Agency: Grand Valley Drainage District

Contact Name: Tim Ryan

Email / Telephone Number: tim.admin@gvdd.org (970) 242-4343

GVDD has no comment or objection to the rezoning, but the District requests that our easement, R#2552880, be shown on the plat and other maps.

Applicant's Response:

Review Agency: Grand Valley Power

Contact Name: Perry Rupp

Email / Telephone Number: prupp@gvp.org (970) 242-0040

1. The project is not in the Grand Valley Power (GVP) service area.
2. Thanks for the opportunity to review the project.

Applicant's Response:

REVIEW AGENCIES

(Responding with "No Comment" or have not responded as of the due date)

The following Review Agencies have not responded as of the comment due date.

1. Xcel Energy
2. Grand Valley Irrigation Company

The Petitioner is required to submit electronic responses, labeled as "Response to Comments" for the following agencies:

1. **Please follow-up with City Planning as necessary.**

Date due: **September 26, 2020**

Please provide a written response for each comment and, for any changes made to other plans or documents indicate specifically where the change was made.

I certify that all of the changes noted above have been made to the appropriate documents and plans and there are no other changes other than those noted in the response.

Applicant's Signature

Date

July 6, 2020

TO: City of Grand Junction – Planning Department
Attn: Scott Peterson, Senior Planner
250 North 5th Street
Grand Junction, CO 81501

RE: Mallard Rezone R8-C1
Response to Comments – Round 1
785 24 Road
Grand Junction, CO 81505

FILE #: RZ-2020-288 and CPA-2020-289

VEAI #: F10-050

The following Response to Comments is provided in response to Round 1 Review Comments dated June 26, 2020, from various City Departments and outside agencies.

CITY PLANNING

Comments:

1. Application is to request a Rezone from R-E (Residential Estate) to C-1 (Light Commercial – (3.19 +/- acres)) and R-8 (Residential – 8 du/ac – (14.87 +/- acres)) along with a Comprehensive Plan Future Land Use Map Amendment from Residential High Mixed Use (16 - 24 du/ac) to Residential Medium (4 - 8 du/ac) and Village Center, in anticipation of future commercial and residential development. Existing property is 17.84 +/- acres in size. The proposed R-8 (Residential – 8 du/ac) and C-1 (Light Commercial) Zone Districts are applicable zone districts within the Residential Medium and Village Center categories respectfully.

Response: Comment acknowledged.

2. Legal Description of Areas:

a. According to the applicant's submitted map exhibit for the proposed zoning areas, there is a 69' foot wide gap adjacent to 24 Road in anticipation of a future right-of-way that would serve the anticipated residential and commercial developments. FYI. A standard commercial street section would be a 52' wide right-of-way. Does applicant still want to provide a 69' wide frontage adjacent to 24 Road? If that is the case, it would be assumed that the remaining 17' of land area would be utilized as an HOA landscaping strip entrance feature for the future residential development along with a screen and buffer for the property located at 789 24 Road. Please address further.

Response: Comment acknowledged. The applicant's intent is to construct the 52' (right-of-way) commercial street at the entrance to 24 Road and will utilize the extra right-of-way as additional buffer and screening for the property to the north located at 789 24 Road. The area located between the entrance street (with 52' ROW) is a result of the required chamfer at 24 Road and results in a strip that will be used for landscaping and buffering that exceeds the City's standard requirements between the C1 property and 789 24 Road which is currently zoned RSF-R in unincorporated Mesa County.

b. City Project Manager is supportive of the applicant's requests to change the Comprehensive Plan Future Land Use Map and Rezone the property as identified within this application to R-8 (14.87 +/- acres) and C-1 (3.19 +/- acres). Therefore, please submit a metes/bounds legal description and map

exhibit prepared by a Licensed Land Surveyor for the requested R-8 and C-1 zone districts in preparation for City Ordinance.

Response: Comment acknowledged. See the metes/bounds legal description for each portion to be rezoned R8 and C1 included with this Response to Comments.

3. Planning Commission and City Council Public Hearings:

Once proposed legal descriptions and map exhibits have been reviewed and approved by City Surveyor, City Project Manager will schedule applications for the next available Planning Commission and City Council meetings. Code Reference: Sections 21.02.140 of the Zoning and Development Code.

Response: Comment acknowledged.

CITY DEVELOPMENT ENGINEER

No exceptions taken.

Response: Comment acknowledged.

CITY FIRE DEPARTMENT – Matt Sewalson – mattse@gjcity.org (970) 256-4030

The Grand Junction Fire Department's Fire Prevention Bureau has no comments or objections.

Response: Comment acknowledged.

CITY ADDRESSING– Pat Dunlap – patd@gjcity.org (970) 256-4030

No comments.

Response: Comment acknowledged.

OUTSIDE REVIEW AGENCY COMMENTS
(Non-City Agencies)

Review Agency: Mesa County Building Department

Contact Name: Darrell Bay

Email / Telephone Number: Darrell.bay@mesacounty.us (970) 244-1651

MCBD has no objections to this project.

Response: Comment acknowledged.

Review Agency: Ute Water Conservancy District

Contact Name: Jim Daugherty

Email / Telephone Number: jdaugherty@utewater.org (970) 242-7491

No objections to CPA & re-zone only.

Response: Comment acknowledged.

Review Agency: Grand Valley Drainage District

Contact Name: Tim Ryan

Email / Telephone Number: tim.admin@gvdd.org (970) 242-4343

GVDD has no comment or objection to the rezoning, but the District requests that our easement, R#2552880, be shown on the plat and other maps.

Response: Comment acknowledged. The easement will be shown on the plat with the future application for a Simple Subdivision to formally subdivide the property.

Review Agency: Grand Valley Power

Contact Name: Perry Rupp

Email / Telephone Number: prupp@gvp.org (970) 242-0040

1. The project is not in the Grand Valley Power (GVP) service area.

Response: Comment acknowledged.

2. Thanks for the opportunity to review the project.

Response: Comment acknowledged.

REVIEW AGENCIES

(Responding with “No Comment” or have not responded as of the due date)

The following Review Agencies have not responded as of the comment due date.

1. Xcel Energy
2. Grand Valley Irrigation Company

Upon your review of this information, should you have any questions or require additional information, please do not hesitate to contact me at 970-245-9051 or by email at rjones@vortexeng.us. Thank you.

Sincerely,




Vortex Engineering, Inc.



Robert W. Jones, II, P.E.

cc: File

LEGEND

-  PROPERTY BOUNDARY
-  LOT LINE
-  SECTION LINE

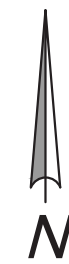
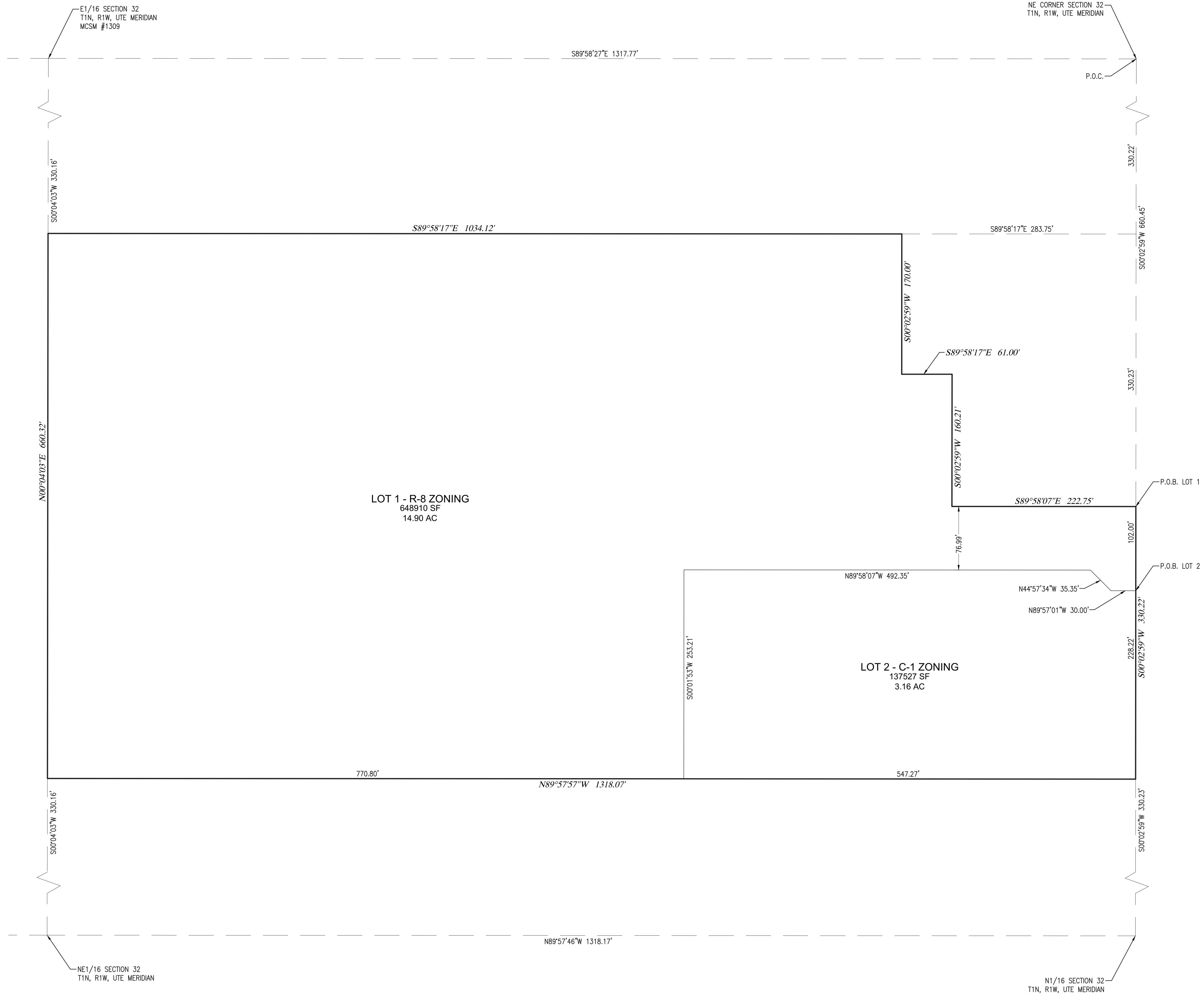
AREA SUMMARY:

PROPOSED R-8 ZONING:	14.90 AC.	82.5%
PROPOSED C-1 ZONING:	3.16 AC.	17.5%
TOTAL:	18.05 AC.	100%

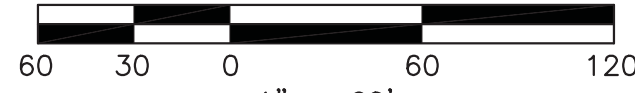
TOTAL AREA IS BASED ON THE SUM OF SQUARE FOOTAGE OF THE INDIVIDUAL LOTS.

TABLE OF ABBREVIATIONS

- MCSM - MESA COUNTY SURVEY MONUMENT
- N - NORTH
- S - SOUTH
- E - EAST
- W - WEST
- T - TOWNSHIP
- R - RANGE
- SF - SQUARE FEET
- AC - ACRES
- P.O.B - POINT OF BEGINNING
- P.O.C - POINT OF COMMENCEMENT.



SCALE IN FEET



1" = 60'
LINEAL UNITS = U.S. SURVEY FEET

THIS EXHIBIT IS FOR THE PURPOSE OF GRAPHICALLY REPRESENTING A WRITTEN DESCRIPTION - IT DOES NOT REPRESENT A MONUMENTED BOUNDARY SURVEY

VORTEX ENGINEERING, INC.
 CONSTRUCTION MANAGERS & SITE PLANNERS
 PROJECT MANAGERS
 CIVIL & CONSULTING ENGINEERS
 861 Rood Avenue
 Grand Junction, CO 81501
 Phone: (970) 245-9051
 Fax: (970) 245-7639

ALEXANDRE B. LHERITIER
 PROFESSIONAL LAND SURVEYOR
 COLORADO LICENSE No. 38464



Copyright ©2020 by Vortex Engineering, Inc. All rights reserved. The site design and content of this drawing is copyrighted under the design of Vortex Engineering, Inc. who retain the exclusive right to the design or other reproduction or other publication of this drawing without the written consent of Vortex Engineering, Inc. is prohibited.

REV.	DATE	COMMENT
1	07/21/20	
2		
3		
4		
5		
6		
7		
8		
9		
10		

BOUNDARY DESCRIPTIONS EXHIBIT
MALLARD REZONE
 785 24 ROAD
 GRAND JUNCTION, CO

PROJECT NO: F10-050
 DATE: 07-06-2020
 SCALE: 1"=60'
 mallard rezone boundary.dwg

Lot 1 for R-8 Zoning

A parcel of land located in the NE1/4NE1/4 Section 32, Township 1 North, Range 1 West, Ute Meridian, City of Grand Junction, Mesa County, Colorado, more particularly described as:

Commencing at the NE corner of Section 32, from which the N1/16 corner on the east line of Section 32 bears S00°02'59"W 1320.90 feet, running thence along said east line S00°02'59"W 660.45 feet to the Point of Beginning.

Running thence along said east line S00°02'59"W 102.00 feet; thence N89°57'01"W 30.00 feet; thence N44°57'34"W 35.35 feet; thence N89°58'07"W 492.35 feet; thence S00°01'53"W 253.21 feet; thence N89°57'57"W 770.80 feet to the E1/16 line of Section 32; thence along said E1/16 line N00°04'03"E 660.32 feet; thence S89°58'17"E 1034.12 feet; thence S00°02'59"W 170.00 feet; thence S89°58'17"E 61.00 feet; thence S00°02'59"W 160.21 feet; thence S89°58'07"E 222.75 feet to the east line of Section 32 and the Point of Beginning.

Parcel contains 14.90 acres.

Lot 2 for C-1 Zoning

A parcel of land located in the NE1/4NE1/4 Section 32, Township 1 North, Range 1 West, Ute Meridian, City of Grand Junction, Mesa County, Colorado, more particularly described as:

Commencing at the NE corner of Section 32, from which the N1/16 corner on the east line of Section 32 bears S00°02'59"W 1320.90 feet, running thence along said east line S00°02'59"W 762.45 feet to the Point of Beginning.

Running thence along said east line S00°02'59"W 228.22 feet; thence N89°57'57"W 547.27 feet; thence N00°01'53"E 253.21 feet; thence S89°58'07"E 492.35 feet; thence S44°57'34"E 35.35 feet; thence S89°57'01"E 30.00 feet to the east line of Section 32 and the Point of Beginning.

Parcel contains 3.16 acres.

Boundary description written by:

Alex Lheritier, PLS 38464

Vortex Engineering

861 Rood Ave.

Grand Junction, CO 81501

TO: Scott Peterson and the entire Planning Commission

RE: Mallard View Rezoning Hearing

We wish to oppose the proposed zoning change of approximately 14.9 acres at 785 24 Road to an R-8 Designation for the following reasons:

- 1) **Traffic Issues:** Both 24 Road and H Road in that area remain 2-lane country roads. Traffic is already heavy at times, and additional vehicles (possibly as many as 240+ more) would overwhelm the already crowded roads. In addition, there are no sidewalks or bike lanes on either road, making it even more dangerous for walkers and bikers (including, and especially, Appleton School pupils).
- 2) **Loss of Animal and Bird Habitat:** If trees and grasses are replaced by homes and sidewalks, their habitat is lost forever. In the past (and to a lesser extent today), there have been numerous species of both animals and birds (including game birds).
- 3) **Existing Neighborhood:** The surrounding neighborhood is made up of mostly single-family homes on 1-2+ acres and small farms and ranches. Many of us moved here (some from large cities) because of the rural atmosphere. An adjacent area with houses (and apparently rental dwellings such as apartment buildings) closely-spaced would be totally out of keeping a rural setting. Just because a request meets the *requirement* for the Comprehensive Plan, doesn't mean that it is *appropriate* for the area.
- 4) **Strain on Schools and Existing Infrastructure:** This includes not only Appleton School, but police, fire, gas, electric, sewer, water (including irrigation water) and internet.
- 5) **Property Values:** It has been seen in some other neighborhoods that as more property is developed, taxes increase on existing properties, but property values on these decrease.

Please let us keep our agricultural and low-density residential neighborhood just that --- agricultural and low-density residential.

Thank you.

Sarah S. Abraham
James H. Abraham
2387 H Road
Grand Junction, CO 81505

Scott Peterson

From: Don Fry <donfry@bresnan.net>
Sent: Monday, August 10, 2020 9:21 PM
To: Scott Peterson
Subject: Mallard View Subdivision....

**** - EXTERNAL SENDER. Only open links and attachments from known senders. DO NOT provide sensitive information. Check email for threats per risk training. - ****

I live on the north boundary of the proposed subdivision , been here for 25 years. The traffic here is a mess, at school times the people that bring their children here the traffic is non stop, sometimes I can hardly get out of my driveway. Sense the new Apple Glen Subdivision started , the crime has gone way up, I have had the sheriffs officers spend the night in my driveway watching for thieves. Until lately I rarely locked my garage, but not anymore. I don't know where this my all lead. I am opposed to the R8 platform, 1 per acre sounds fairly dense to me , as for commercial there is lots of empty buildings available all over town, no need for more just sitting empty Don Fry

Sent from [Mail](#) for Windows 10

To: Scott Peterson and the Grand Junction Planning Commission

From: David Lacy, 2379 H Road

Re: Proposed Mallard View Development

Dear Sirs/Madam:

I wish to express a few concerns about the above Development.

First is the impact this would have on traffic. With 24 Road being only 2 lane without curbs, sidewalks, or gutters, or turn lanes, and with the recent development (Apple Glen) on H Road, it is a very dangerous road. The intersection at 24 and H has had multiple accidents even before Apple Glen. If Mallard View is approved with 4 to 8 homes per acre, the impact could reach up to 128 homes on 14 acres (not counting the 3 acres for businesses). This is unacceptable.

Next, the roundabout at I-70 and 24 Road is already a dangerous intersection with the church traffic and traffic to and from the North area. Cars can be seen backed up for a mile or two at times. And remember: no turn lanes on 24 Road which is where the traffic from Mallard View would be solely from.

School impact is next. Appleton Elementary here on H Road is built for 14 kids per room. It is already at 17 now and will undoubtedly see another increase when Apple Glen is fully completed. It is only half finished. The traffic on H Road has increased (as has the total disregard for the speed limit) and I would not walk a dog or ride a bike here now, unlike just a year ago for fear of being run over.

I must also add that the very name, "Mallard View" will soon be a misnomer since there will no longer be a view of a duck of any kind, let alone a Mallard. This also goes for any kind of wildlife that we currently enjoy. Too many people crammed into a tiny space.

May I please appeal to all of you? This is a development that will strangle this area in every way. Maybe 1 house per acre, but not 8!

Thank you very much.

8/10/20

Dear Scott Peterson,

My husband and I purchased our home in Appleton in 1980, right across from Appleton school. We liked the semi-rural feel of Appleton and still do even though it has grown. I know many of my neighbors also enjoy that feeling of space and many of them have their long-term permanent homes here in Appleton. Appleton is still predominately larger single home properties. I am writing to express my concerns about the proposed Mallard View subdivision on 24 Road that could include multi-story condos/apartments along with some commercial area.

Please do not think that Appleton opposes all development, but please consider doing that in a more gradual manner. Dropping up to 120 homes, with the plan for some to be multistory, and a number of commercial businesses into the middle of Appleton is not a reasonable way to develop this property so that it will fit in with the current character of our community. The 2010 comprehensive plan favors gradual growth. Examples of positive gradual growth are the Graystone Estates(RSF-E), Apple Glen(R-4) subdivision, and the current proposed plan for Valley Grown Nursery to move to 24 ½ and H Rd. All of these had community input; we want to be involved!

My first area of concern is in relation to Mallard View plan is that the 2020 Comprehensive Plan, which is still not available to the public, is referenced in reports saying that this development plan meets the guidelines set forth in the 2020 Comprehensive Plan. Uninformed citizens cannot contribute to a plan that is not available.

I would like to express my concerns about infrastructure in this area.

- Yes, we have 3 commercial properties on 24 road.
 - a CBD farm business with 2 greenhouses and a family home
 - a small distillery/lavender farm and a family home (See photos 1 and 2)
 - Beehive Homes which is a small assisted living facility for elderly residents.
- There are no sidewalks in Appleton except for Apple Glen subdivision, not even in front of Appleton School.
- There is currently no sewer line to the subject property; sewer lines are in place around Appleton school area from 24 Road to 23 ½ Road. If this new Mallard View development goes in the sewer will be required to subject property and will likely become available to additional residents on 24 Road, but at what cost to those private homes?
- See photos (3, 4, 5 and 6) In the 2010 comprehensive plan 24 & H Road was labeled as a village center. Today this corner, with the exception of Beehive Home, looks as it did for the last 30 years, family residences, with narrow roads with no sidewalks at all at this corner. On 24 Road, north of I-70 and on H Road,

the streets are narrow and without turn lanes and have rough shoulders with no designated parking areas. 24 & H Road is very busy on school days. There is sidewalk on the 1-70 roundabout, but no safe and easy way to cross the roundabout to get to Canyon View park on foot or bicycle.

- It seems as though the City Council and Planners have their minds set on getting high density housing in Appleton. I find it disconcerting to listen to the City Council discuss what “we” (the City Council) have planned for Appleton area. I feel like the City Council wants to plop down a high-density development right in the middle of our semi-rural environment. A plan for very high residential development was defeated just last year after similar concerns were raised. (Reference Maverick subdivision plan at 24 ¼ and H Road 2019.)
- Consider how large of a change this is for central Appleton.
 - In a 1 square mile area of 24 & H Rd there are
 - 154 residential properties
 - Approximately 354 residents (based on 2.3 people/household national average)
 - This includes the remaining lots in Apple Glen which is only about 50% completed.
 - If Mallard View proceeds
 - 120 residences could be added
 - 276 people could be added
 - **A 78% increase in homes**
 - **A 74% increase in residents**

This kind of dramatic increase in population and density is not in tune with a plan for reasonable growth. It is like plopping down a small dense neighborhood within a surrounding neighborhood of large, long term family properties. I urge you to consider a 1-2 units/acre as a more reasonable way to maintain neighborhood cohesion and character of the Appleton area.

**Scott I have included some photos of the central Appleton area to add a visual my comments. Photos 1-3 show current commercial businesses on 24 road. Photos 4-7 show the 4 corners of 24 & H Rd which is “central Appleton.” I would appreciate your comments on the photos. thanks



Photo #1 Desert Hemp business



Photo #2 Desert Hemp business



Photo #3 Highlands Distillery/Lavender Farm



Photo #4 N.W corner 24 & H



Photo #5 N. E corner 24 & H



Photo #6. S.E corner 24 & H



Photo #7. S.W corner 24 & H. Beehive Homes

Grand Junction Speaks

Published Comments for August 11, 2020 Planning Commission Meeting

Mallard View Rezone and Comprehensive Plan Amendment

CPA-2020-289; RZN-2020-288 Mallard Rezone and Comprehensive Plan Amendment

Everyone is entitled to their personal opinion. The NGJN initial goal was to help save the rural character of the North area. We also discussed discouraging urban sprawl. On the link provided above, you'll hear and see Mallard View, LLC's proposed re-zone map, including the proposed Village Center on 24 & H Road.

- Did you know the applicant's request for C-1 zoning can allow for hotels North of I-70? That would create too much traffic for roads provided.

- Is it premature to amend the NEW Grand Junction Comprehensive Plan (gj.org) before the city has released the Plan to the public yet?

- How can the public make an informed decision to "amend" the GJ Comprehensive Plan when we have not had an opportunity to review the Comprehensive Plan?

In addition Covid19 is still active, is expanding C-1 (hotels, retail, businesses) North of I-70 premature while established local businesses are struggling and going out of business in town and on Main Street? How many established businesses will go out of business through this difficult time? Again, is Mallard View, LLC's requests premature?

08/06/2020 10:20 am

Robert W Carlson
776 24 1/4 RD
GRAND JUNCTION, 815051365

I agree with Mr. Carlson in everything he said about this proposed "plan". It's very obvious that the city of Grand Junction only has dollar signs in their eyes when it comes to planning what's to be done with the Grand Valley for our future.

How come the 24 Road Corridor that is south of I-70 isn't being developed first before slapping up a hotel and/or retail stores here in our rural area? If the "need" for C1 zoning is so critical you would think 24 Road would now be buzzing with construction. Once again it's all about the money, the greed of the city is horribly amazing.

People who live here in the Appleton area have bought property around here in order to live in a rural setting, not downtown or next to the mall.

08/06/2020 4:57 pm

Sandra Holloway
813 24 1/4 Road
Grand Junction, 81505

Yet again our rural way of living is coming under attack under the guise of "development".

Those of us that live in the Appleton community chose this setting due to the rural lifestyle that it affords. We understand that development is necessary but some of us object to the type of development being proposed. Your site states part of the objective is to maintain the rural feel of the area....this proposed plan does not promote that objective. I understood that 24 Road was primarily going to be developed commercially...imagine my surprise when I found out that commercial 1 zoning actually allows for high density housing which judging from the last City Council meeting I watched online the city is strongly pushing for. I have a feeling none of your City Council members live in this area. Looking at the surrounding neighborhood you will be hard pressed to find a residential property that sits on under one acre..this is the appeal of this area for most of us that live here. We would not object to housing development that would put no more than 2 houses per acre but putting anywhere from 4-24 units on an acre completely decimates any rural feel. This developer keeps asking for a rezone yet not submitting any firm plan for us to consider..so a rezone gives them a blank slate to do as they please. High density housing will put a massive strain on the local roads that are already heavily congested at times..especially during church services and then before and after school at Appleton Elementary. The roundabouts at 24 and I-70 are backed up before and after church services. The school will only provide bus transportation to students living 2 miles or more from the school. None of these students in this subdivision would qualify therefore more private cars would be clogging the roads OR those parents that are unable to drive their children would have to trust their children to walk along H Road...heavily trafficked with NO sidewalks. I used to ride my bike along this road and no longer do due to feeling unsafe with so many cars on a narrow road not to mention the dangerous intersection of 24 and H Road. We have watched 24 Road develop commercially....the church, lavender farm and the assisted living facility... except for the appearance of the church they are small and not massive commercial developments therefor they actually do fit in with the rural setting of this neighborhood. This is what I believe most of us were hoping for in terms of future development..not some massive subdivision to further strain our resources and ruin our country way of life. 24 Road corridor south of I-70 is open and available for development with no surrounding homes on acreage...where is your urgency to develop that area? You could put thousands of homes out there without bothering ANY homeowners as there are hardly any residential sites along the vast majority of that stretch of 24 Road and residents would have easier access to Canyon View Park. Now lets discuss transparency.I feel like the city does not promote their true intentions in a transparent manner . The city mails out cards to property owners within 500 ft but given that most homes are on acreage that really minimizes how many people get notified. No definition of zoning uses is provided. We are required to dig thru the internet hoping to get a clearly defined definition...I have researched and am still unaware of what all some of these zones actually allow. I have been unable to find out what Village Center allows for. Almost all of our surrounding neighbors and ourselves are over 60 years old..some are not computer literate and cannot decipher your zones. Your notice of public hearing cards indicate that the only way to submit comments is via online..requiring people to be computer literate and have access to online OR attend a meeting during Covid-19 which many of us are unwilling to risk our health for! Also the developer MUST have a plan as to what they actually want to construct here but none has been provided. How can we be expected to okay a plan when there really is no plan? The developer obviously wants to build something....build what??? Again...we are not opposed to future development as we recognize that it is a necessity. What we are opposed to is development that shows

absolutely no regard to preserving our way of life and the feel of our neighborhood.

08/09/2020 9:09 am

Melanie Jane Jackson

782 23 7/10 Rd
Grand Junction, 81505

Once again we have received a rezone request for Mallard View. There has yet to be a plan presented to the public as to the specific intentions of the developer. We are losing our rural way of life if high density housing and/or large commercial projects are approved here. I believe the Appleton Elementary school cannot handle the additional influx of children if the land is developed at the rate of 24 units per acre over the 17 acre parcel. I do believe the developer has stated that only 3 acres would be commercially used with the remaining 14 being developed for housing? 14 acres with density of 24 units would be 336 homes or even at low end of 4 homes per acre would be 56 homes...this in a rural setting where the vast majority of homes are on at least one acre. We strongly believe this area's rural integrity should be maintained with homes limited to no more than 1 or 2 per acre. We have purchased our properties in Appleton due to the rural feel that we feel now is under attack with the city having absolutely no regard for the current residents that have worked hard for our lifestyle here. As for commercial development we would like to see the development fall in line with what has already been developed on this stretch commercially. Beehive Assisted Living and the Lavender Farm are excellent commercial ventures for this location as they do not destroy the still rural feel of this area nor do they contribute greatly to noise and/or light pollution. The city states that it's objective is to maintain the rural feel yet how is that possible with large commercial development allowed or massive home subdivisions going up? The intersection at 24 and H is already a dangerous one and H Road leading to/from Appleton Elementary has no sidewalks for the children to walk to or from school from homes on 24 road. Seeing as how the city foresees 24 Road as a main arterial road for future development surely they can see that having elementary age children walking to school does not fit into this scenario. Also I feel the city and developer should have some moral obligation to actually present a firm plan to the residents before asking us to approve something unknown. Sort of like me presenting you with a blank piece of paper asking for your signature but stating I will write the letter later. Regardless of what gets developed here I would like to propose my feelings in regard to the irrigation ditch that runs along this property. We have had a small grassroots group of volunteers that have spent many years and much of our own money to make improvements and maintain the ditches for piping irrigation water to our properties. We would like the developer to pipe the exposed section of the irrigation ditch South along 24 Road and West to the drainage ditch. We would also like the developer to be held to xeriscaping as we feel there is insufficient water to support a lush landscape that is not consistent with our natural habitat. If these developed properties are gaining access to the Grand Valley Irrigation canal we ask that the developer upgrade the pipe from the headgate to all properties currently on the canal to ensure adequate water access. This is imperative as some of these properties are agricultural and rely on the availability of water for their livelihood. Please take these matters into consideration as you approve developments....many people have worked all their lives to enjoy this rural area of town and it would be devastating to suddenly be surrounded by urban sprawl. I would also like to note that due to the aging population that lives in this area we feel that during the

Covid 19 pandemic this was not the time to insist that replies to the public hearing be allowed only by internet or attendance of the meeting. Many elderly are not computer savvy and struggle with communicating in this manner and the pandemic has many of us not wishing to congregate regardless if masks are required. More information on your hearing notices would be greatly appreciated and would make more people feel knowledgeable in regard to the zoning requests. What exactly does C-1 include? What is the city's definition of Village Center? Again we are left having to do a lot of research in the hopes of finding out what these zonings require and permit...this burden should be on the city to provide all necessary information to residents in a manner that is easily and readily understood by all involved,,,not just the city and the developers.

08/09/2020 12:33 pm

RICHARD A PENNINGTON

782 23 7/10 ROAD
Grand Junction, 81505

CPA-2020-289; RZN-2020-288 Mallard Rezone and Comprehensive Plan Amendment

I am opposed to the above proposed rezone and amendment for a C1 Village Center on 24 Rd. &

H Road. I am against urban sprawl, high density housing, and strip malls North of I-70 on 24 and H Road when there is land available to infill South of I-70. Grand Junction is known for Nature's beauty. Appleton is known for its rural character. Grand Junction will grow, however, with Covid19 affecting us all, we have yet to see how many housing foreclosures there will be and how many businesses will close, for example Mesa Street Cafe Downtown on Main St., Dillard's at Mesa Mall halted production, and many other businesses are struggling. This proposal is premature in this current economy. We are still wearing masks due to Covid19. Can we please slow this process down until we see the damage?

H Rd. and 24 Rd. are narrow two-lane rural roads with no sidewalks or bicycle lanes for adults walking dogs or children walking to school. Accidents will likely increase. Even with the 4-way blinking stop signs, Safety at the 24 & H Rd. Intersection continues to be a grave concern.

According to Saen Yates, P.E., Mesa County Traffic Engineer, analysis software program collects data for safety analysis to compare 24 & H Rd. intersection and 24 ½ Rd. and H Rd. intersection safety concerns. These intersections are also referred to as "rural 4-legged intersections" and were given a grade of a "D" and "F" (prior to the 4-way blinking stop signs) because they have more crash incidences than any other 4-legged rural intersection "ACROSS THE COUNTRY".

Again prior to the blinking 4-way stop signs, Mesa County's analytical data reported between 2007-2017 that 24 Road & H Road had 28 crashes; 20 occurred at the intersection of 24 & H Road; 21 were broadsided; 11 people were injured and needed medical treatment; 19 crashes involved 2 vehicles; 22 occurred during daylight hours; 23 accidents occurred during dry road conditions; alcohol was suspected for one driver out of the 28 accidents (Mesa County Public Works Department DIExSys Roadway Safety Systems Detailed Summary of Crashes Report Job# 20190320111854).

In addition, between 2007-2017, further down on 24 ½ Road & H Rd., Mesa County's

analytical data reported 18 accidents occurred, 15 of these accidents were at 24 ½ & H Road intersection, 14 of those were in daylight, 14 involved 2 vehicles, 14 were broadsided, 22 people were injured and needed medical treatment, 16 accidents occurred during dry road conditions, none involved alcohol

(Mesa County Public Works Department DIExSys Roadway Safety Systems Detailed Summary of Crashes Report Job# 20190318094533). I, personally, am one of these statistics, when my Taxi was broadsided at the intersection sending me to the hospital. I am visually impaired and cannot drive.

What is the data now with the 4-way blinking stop signs? I see people running these 4-way stop signs. It's scary.

I spoke with CDOT who said there is talk with the City of Grand Junction about possibly building a pedestrian-only bridge on 24 Rd. going over I-70. Fantastic! Does the city have the money for this? Have you ever tried to navigate the 24 Rd. double round-a-bout by foot or bicycle heading to the Mall? It's terrifying. The proposed high density housing and Village Center will most likely increase this safety and economic problem.

High density housing would likely push Appleton Elementary into overcrowding. Families and children are currently struggling with Covid19 and school re-opening or closures, sports, and they are unable to resume normal daily activities, I feel this proposal is premature. Even after Covid19 is behind us all- How will Appleton be funded? How will you get enough teachers? How will you pay the teachers? Will families be allowed to participate in school of choice? Do you have the funding for sidewalks and bike lanes so children can get to school safely.

It is presently a difficult time in our valley and in the world emotionally and economically. I do feel this proposed project is premature until we know the harm our neighbors in the Grand Valley have endured and Covid19 is behind us. This is not the time to race forward because maybe the city can say "yes" to developers. What is public input from the Appleton area telling the city? Our voice counts too. Sadly many people do not use the internet. Can there be more design public collaboration with Appleton citizens? Does the 2020 Comprehensive Plan focus strongly on Appleton? Again, can a compromise be established with ordinances to keep the rural character and history of Appleton?

Can you put this proposed project on hold until we see the 2020 Grand Junction Comprehensive Plan and have the opportunity to see the greater design and respond to that? This seems reasonable.

The Lavender farm and the Beehive Home are subtle changes. A proposed three story apartment building and Village Center is not.

Thank you for your kind considerations.

Sincerely,
Cynthia Komlo

08/10/2020 5:21 pm

Cynthia W. Komlo
852 24 1/2 Road
Grand Junction, 81505

Mr. Mayor and City Council Members:

I wish to add additional comments to my husband's and my letter to the Planning Commission for their August 11, 2020 meeting:

The property owners have had ten years to develop the property as they had initially proposed in 2010 (4 single-family lots). This would not have been unwelcome (approximately 1 home on a 4-acre lot). This shows that at one time they cared about the impact on our neighborhood. Instead, they recently chose to involve a development company, whose only interest is financial.

As I understand it, the developer is asking for 4-8 dwelling units per acre, which according to their presentation, would include apartment buildings in addition to single-family homes.

Speaking from experience as a 30-year apartment dweller/renter, I know that renters do not have that "pride of ownership" that owners have. I have lived in both lower-end and high-end/gated rental communities, and I found that a number of my neighbors had little respect for their own property, not to mention lack of respect for their neighbors and existing neighborhoods.

If this 14+ acres *must* be developed, please consider the existing neighborhood and keep the density low (maximum of one home per acre) and NO apartments, please!

Thank you.

Sarah S. Abraham
2387 H Road
Grand Junction, CO 81505

Mallard View Rezone and Comprehensive Plan Amendment

File # RZN-2020-288; CPA-2020-289 | [Agenda item can be viewed at 29:25](#)

Consider a request by Mallard View LLC, for a Comprehensive Plan Amendment from Residential High Mixed Use (16 – 24 du/ac) to Residential Medium (4 – 8 du/ac) and Village Center and a rezone from R-E (Residential – Estate) to R-8 (Residential – 8 du/ac) and C-1 (Light Commercial) on a total of 17.84-acres, located at 785 24 Road.

Staff Presentation

Scott Peterson, Senior Planner, introduced exhibits into the record and provided a presentation regarding the request.

Questions for Staff

None.

Applicant's Presentation

The Applicant's representative, Stephen Swindell, Vortex Engineering, was present and was available for questions.

Questions for Applicant

Commissioner Wade asked a question regarding the request.

Commissioner Teske asked a question regarding the dimension of the proposed C-1 zone.

Public Hearing

The public hearing was opened at 5 p.m. on Tuesday, August 4, 2020 via www.GJSpeaks.org.

Robert W Carlson, Sandra Holloway, Melanie Jane Jackson, Richard A Pennington, and Cynthia W. Komlo made comments in opposition of the request via GJSpeaks.

Additional comments were received from Sarah S. Abraham and James H. Abraham, Don Fry, David Lacy, and Nancy Miller in opposition of the request.

Dick Pennington, 780 27 7/10 Road, and Nancy Miller, 2363 H Road, made comments in opposition of the request.

The public hearing was closed at 6:42 p.m. on August 11, 2020.

Applicant's Response

Mr. Swindell did not provide a response to public comment.

Questions for Applicant or Staff

Commissioner Wade made a comment clarifying the status of the 2020 Comprehensive Plan.

Discussion

Commissioners Ehlers and Wade made comments in support of the request

Motion and Vote

Commissioner Susuras made the following motion, “Mr. Chairman, on the Comprehensive Plan Amendment request for the property located at 785 24 Road, City file number CPA-2020-289, I move the Planning Commission forward a recommendation of approval to City Council with the findings of fact as listed in the staff report.”

Commissioner Wade seconded the motion. The motion carried 5-0.

Commissioner Scissors made the following motion, “Mr. Chairman, on the Rezone request for the property located at 785 24 Road, City file number RZN-2020-288, I move the Planning Commission forward a recommendation of approval to City Council with the findings of fact as listed in the staff report.”

Commissioner Susuras seconded the motion. The motion carried 5-0.

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN FUTURE LAND USE MAP OF THE CITY OF GRAND JUNCTION FROM RESIDENTIAL HIGH MIXED USE (16-24 DU/ACRE) TO RESIDENTIAL MEDIUM (4-8 DU/ACRE) AND VILLAGE CENTER AND REZONING FROM R-E (RESIDENTIAL ESTATE) TO R-8 (RESIDENTIAL – 8 DU/AC) AND C-1 (LIGHT COMMERCIAL) ZONE DISTRICT

LOCATED AT 785 24 ROAD

Recitals:

The property owner, Mallard View LLC, proposes an amendment to the Comprehensive Plan Future Land Use Map from Residential High Mixed Use (16 – 24 du/ac) to Residential Medium (4 – 8 du/ac) and Village Center and a rezone from R-E (Residential – Estate) to R-8 (Residential – 8 du/ac) and C-1 (Light Commercial) on a total of 17.84-acres, located at 785 24 Road.

After public notice and public hearing as required by the Grand Junction Zoning and Development Code, the Grand Junction Planning Commission recommended approval of amending the Comprehensive Plan Future Land Use designation for the Property from Residential High Mixed Use (16 – 24 du/ac) to Residential Medium (4 – 8 du/ac) and Village Center and recommended subsequent approval of changing the zoning from R-E (Residential – Estate) to R-8 (Residential – 8 du/ac) and C-1 (Light Commercial) for the property, finding that it conforms to and is consistent with the Future Land Use Map designation of Residential Medium (4 – 8 du/ac) and Village Center of the Comprehensive Plan and the Comprehensive Plan's goals and policies and is generally compatible with land uses located in the surrounding area.

After public notice and public hearing, the Grand Junction City Council finds that amending the Comprehensive Plan Future Land Use Map from Residential High Mixed Use (16 – 24 du/ac) to Residential Medium (4 – 8 du/ac) and Village Center and rezoning from R-E (Residential – Estate) to R-8 (Residential – 8 du/ac) and C-1 (Light Commercial) for the property, is consistent with the vision, intent, goals and policies of the Comprehensive Plan and has met one or more criteria for a Comprehensive Plan amendment, the City Council also finds that the R-8 (Residential – 8 du/ac) and C-1 (Light Commercial) zone district, are consistent and is in conformance with the Comprehensive Plan and at least one of the stated criteria of Section 21.02.140 of the Grand Junction Zoning and Development Code.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:

The following property shall be re-designated as Residential Medium (4 – 8 du/ac) on the Future Land Use Map of the Comprehensive Plan and shall be zoned R-8 (Residential – 8 du/ac):

A parcel of land located in the NE1/4NE1/4 Section 32, Township 1 North, Range 1 West, Ute Meridian, City of Grand Junction, Mesa County, Colorado, more particularly described as:

Commencing at the NE corner of Section 32, from which the N1/16 corner on the east line of Section 32 bears S00°02'59"W 1320.90 feet, running thence along said east line S00°02'59"W 660.45 feet to the Point of Beginning.

Running thence along said east line S00°02'59"W 102.00 feet; thence N89°57'01"W 30.00 feet; thence N44°57'34"W 35.35 feet; thence N89°58'07"W 492.35 feet; thence S00°01'53"W 253.21 feet; thence N89°57'57"W 770.80 feet to the E1/16 line of Section 32; thence along said E1/16 line N00°04'03"E 660.32 feet; thence S89°58'17"E 1034.12 feet; thence S00°02'59"W 170.00 feet; thence S89°58'17"E 61.00 feet; thence S00°02'59"W 160.21 feet; thence S89°58'07"E 222.75 feet to the east line of Section 32 and the Point of Beginning.

Parcel contains 14.90 acres.

Boundary description written by:

Alex Lheritier, PLS 38464

Vortex Engineering

861 Rood Ave.

Grand Junction, CO 81501

The following property shall be re-designated as Village Center on the Future Land Use Map of the Comprehensive Plan and shall be zoned C-1 (Light Commercial):

A parcel of land located in the NE1/4NE1/4 Section 32, Township 1 North, Range 1 West, Ute Meridian, City of Grand Junction, Mesa County, Colorado, more particularly described as:

Commencing at the NE corner of Section 32, from which the N1/16 corner on the east line of Section 32 bears S00°02'59"W 1320.90 feet, running thence along said east line S00°02'59"W 762.45 feet to the Point of Beginning.

Running thence along said east line S00°02'59"W 228.22 feet; thence N89°57'57"W 547.27 feet; thence N00°01'53"E 253.21 feet; thence S89°58'07"E 492.35 feet; thence S44°57'34"E 35.35 feet; thence S89°57'01"E 30.00 feet to the east line of Section 32 and the Point of Beginning.

Parcel contains 3.16 acres.

Boundary description written by:

Alex Lheritier, PLS 38464

Vortex Engineering

861 Rood Ave.

Grand Junction, CO 81501

Introduced on first reading this ____ day of _____, 2020 and ordered published in pamphlet form.

Adopted on second reading this ____ day of _____, 2020 and ordered published in pamphlet form.

ATTEST:

City Clerk

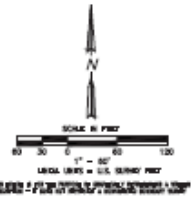
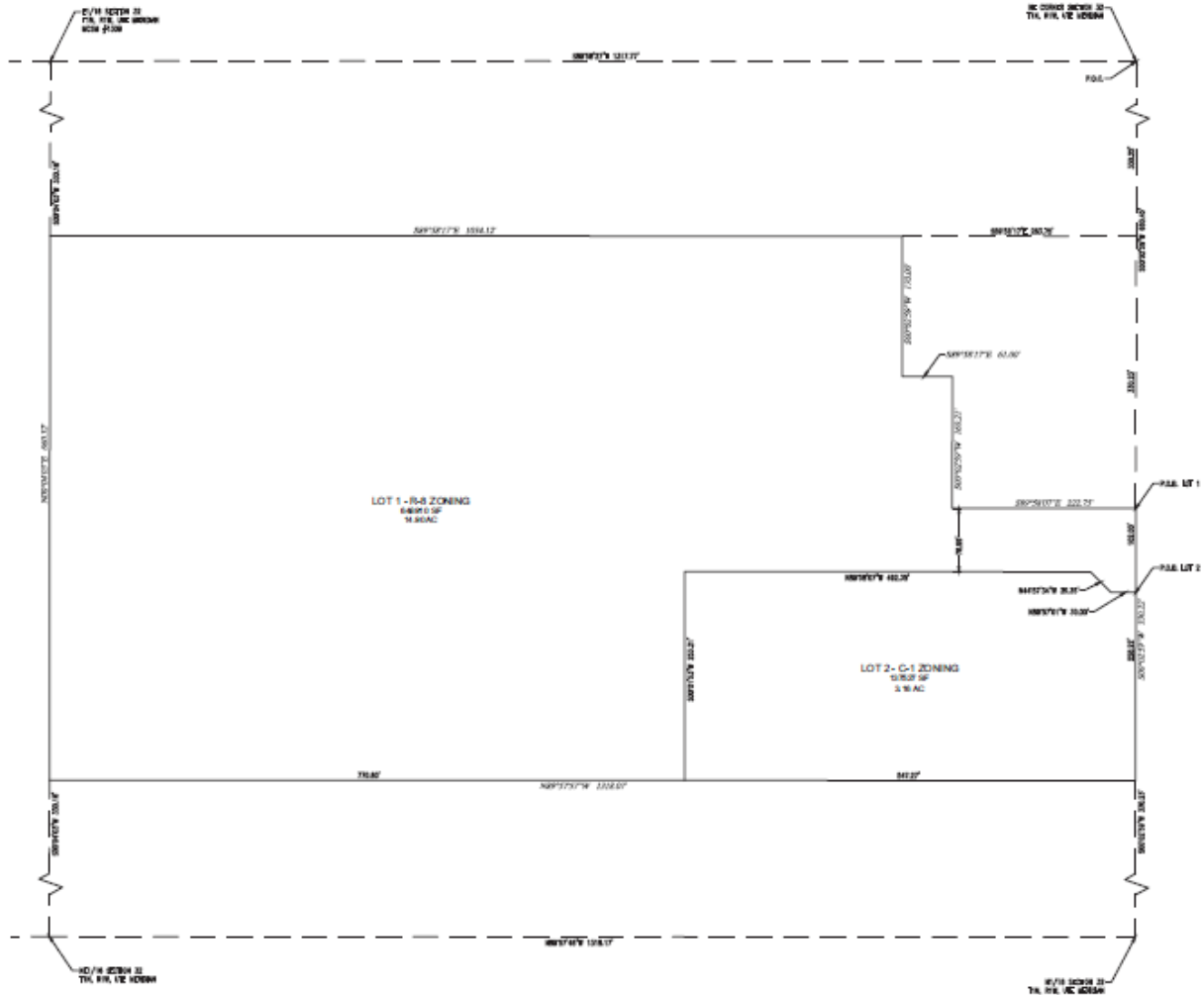
Mayor

LEGEND	
---	PROPERTY BOUNDARY
---	LOT LINE
---	SECTION LINE

ACRES SUMMARY:
 PROPOSED R-3 ZONING 14.88 AC. 62.5%
 EXISTING R-1 ZONING 1.12 AC. 4.7%
 TOTAL 16.00 AC. 100%

TOTAL ACRES BASED ON THE SUM OF SQUARE FEETAGE OF THE NEIGHBORLY LOTS.

TABLE OF ABBREVIATIONS	
NSR -	NORTH SOUTHERLY
S -	SOUTH
E -	EAST
W -	WEST
T -	TOWNSHIP
R -	RANGE
SP -	SQUARE FOOT
AC -	ACRES
POB -	POINT OF BEGINNING
POC -	POINT OF COMMENCEMENT



ALEXANDRE B. LHERITIER
 PROFESSIONAL LAND SURVEYOR



STATE OF COLORADO
 PROFESSIONAL LAND SURVEYORS
 ALEXANDRE B. LHERITIER
 No. 10000
 EXPIRES 12/31/2024

NO.	DESCRIPTION	ACRES
1	LOT 1 - R-3 ZONING	6.68
2	LOT 2 - C-1 ZONING	3.30
TOTAL	TOTAL ACRES	16.00

BOUNDARY DESCRIPTIONS EXHIBIT
MALLARD REZONE
 785 24 ROAD
 GRAND JUNCTION, CO

PROJECT NO: P1000
 DATE: 07-20-2023
 SCALE: 1" = 40'

1 OF 1

Exhibit "A"



Grand Junction City Council

Regular Session

Item #4.a.

Meeting Date: September 16, 2020

Presented By: John Shaver, City Attorney

Department: City Attorney

Submitted By: Jay Valentine

Information

SUBJECT:

Purchase And Sale Agreement For Dos Rios Development

RECOMMENDATION:

City Council review and approval of the Purchase and Sale Agreement with DR Devco LLC.

EXECUTIVE SUMMARY:

DR Devco is offering to purchase approximately 23 acres of vacant land within the Riverfront at Dos Rios General Improvement District. The proposed Purchase and Sale Agreement (PSA) is the document that states the final sale price and terms and conditions of purchase.

BACKGROUND OR DETAILED INFORMATION:

The City acquired the approximately 60-acre area now known as the Riverfront at Dos Rios from the Jarvis family in 1990. The property is located on the northeast bank of the Colorado River between the Highway 50/railroad bridge and the Riverside neighborhood. The City acquired this property with the intent of future redevelopment and this PSA directly relates to ensuring that redevelopment vision comes to fruition.

The property within the development, excluding the open space, has been for sale since 2019 and one parcel has already transferred to a private party. There is also .9 acres of leasable space along the riverfront. The remainder of the 55 acres includes the public elements such as street rights-of-way and common parking areas as well as approximately 23 acres of vacant land that is being considered in this PSA. DR Devco

is offering to purchase this 23 acres and the PSA is the document that states the final sale price and terms and conditions of purchase.

FISCAL IMPACT:

The total purchase price for the Property is \$3,783,713 payable as follows; the first payment is at initial closing when Purchaser will pay \$1,842,436. At this time the initial closing is expected to be in late 2020. At final closing the Purchaser will pay \$1,941,277. The final closing will be within two years of the initial closing.

SUGGESTED MOTION:

I move to (approve/not approve) the Purchase and Sale Agreement between the City of Grand Junction and Dr Devco LLC.

Attachments

1. AGR-DosRios-contract draft 091620jps
2. EXHIBIT F SDJPS091620clean
3. Declaration of Covenants

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (together with the Exhibits, this “PSA”) is made as of the ___ day of September 2020 (the “**Effective Date**”), by and between the CITY OF GRAND JUNCTION, a Colorado home-rule municipal corporation (together with its successors and assigns, “**Seller**”), and DR DEVCO LLC, a Colorado Limited Liability Company (together with its successors and permitted assigns, “**Purchaser**”).

Recitals

This PSA is made with reference to the following facts:

A. Seller is the Owner of approximately 23 acres of vacant land located in the City of Grand Junction, State of Colorado (the “**City**”), as legally described on Exhibit A-1 attached hereto and incorporated herein by this reference (the “**Phase 1 Land**”) and Exhibit A-2 attached hereto and incorporated herein by this reference (the “**Phase 2 Land**”) and collectively with the Phase 1 Land, the “**Land**”), which is intended for development of a mixed-use project known as Riverfront at Dos Rios (“**Dos Rios**”).

B. Subject to the terms and conditions of this PSA, Seller desires to sell, and Purchaser desires to purchase, the following described property (collectively, the “**Property**”):

(1) The following real property (collectively, the “**Real Property**”):

(a) The Land; and

(b) To the extent appurtenant to or historically used in connection with the Land, any and all improvements and fixtures that Seller owns and which are located in, upon and under the Land (the “**Improvements**”).

(2) To the extent the same relates to the Real Property and may be lawfully assigned to Purchaser, and only to the extent of Seller’s interest in the same as a property owner, and not as a governmental entity, which rights will be reserved solely to Seller, a partial, nonexclusive interest in the following intangible personal property (collectively, the “**Intangible Property**”); provided, however, that Seller makes and will be required to make no express or implied warranty as to the accuracy, completeness, validity or reliability of any information contained therein:

(a) All right, title and interest of Seller in and to any agreements affecting the Real Property, including without limitation, contracts for the repair or maintenance of, or provision of services to, the Real Property (collectively, the “**Agreements**”);

(b) All right, title and interest of Seller in and to all governmental permits, licenses, certificates and authorizations, including, without limitation, certificates of occupancy, relating to the construction, use or operation of the Real Property (collectively, the “**Permits**”);

(c) All right, title and interest of Seller in and to all unexpired warranties, guarantees and bonds, including, without limitation, contractors' and manufacturers' warranties or guarantees, relating to the Real Property (the "**Warranties**"); and

(d) All surveys, plans, specifications, reports and studies that relate to the Real Property (the "**Plans**").

(3) Provided, however, that the following will be excluded from the Property, will not be conveyed to Purchaser, and Purchaser will acquire no right, title and interest in and to such exclusions:

(a) Any and all right, title and interest in and to subsurface estates and mineral rights located in, upon and/or under the Land, including, without limitation, any rights to explore for and/or extract, or to be paid royalties in connection therewith, oil, natural gas, hydrocarbon products, gravel, sand, coal, and/or hard rock minerals; provided however, the surface of the Land to a depth of 500 feet below the surface of the Land may not be used or accessed in connection with the exercise of any rights related to the foregoing reserved mineral rights, including without limitation, exploration, drilling and extraction activities; and

(b) To the extent appurtenant to or historically used in connection with the Land, any and all right, title and interest in and to tributary, nontributary and not-nontributary water rights that Seller owns or may own, whether decreed or undecreed, including, without limitation, all groundwater underlying the Land, all surface water located within or used in connection with the Land, and/or ditch shares or ditch rights used in connection with the Land.

C. Upon and subject to the terms and conditions set forth in this PSA, Seller desires to sell the Property to Purchaser and Purchaser desires to acquire the Property from Seller and, in furtherance thereof, Seller and Purchaser (individually, a "**Party**," and, collectively, the "**Parties**") desire to enter into this PSA with respect to the Property.

Agreement

NOW, THEREFORE, for the mutual covenants and agreements set forth in this PSA, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I **Purchase and Sale; Purchase Price**

1.1 **Purchase and Sale**. Subject to the terms and conditions set forth in this PSA, Seller agrees to sell, assign and convey to Purchaser, and Purchaser agrees to purchase from Seller, the Property.

1.2 Purchase Price. The total purchase price for the Property (the “**Purchase Price**”) is Three Million Seven Hundred Eighty-three Thousand Seven Hundred Thirteen Dollars and Eight Cents (\$3,783,713.08), and is payable as follows:

1.2.1 Deposit. Not later than three (3) business days after the Effective Date, Purchaser will deposit One Hundred Eighty-nine Thousand One Hundred Eighty-seven Dollars and Eighty-three Cents (\$189,187.83) (together with all interest earned thereon, the “**Deposit**”), with Colorado Land Title Company (the “**Title Company**”) by wire transfer of immediately available funds. Title Company will place the Deposit in an interest-bearing account with any and all interest payable to the Seller. If Purchaser terminates this PSA for any reason prior to expiration of the Feasibility Period (defined in Section 2.8), the Title Company will refund the Deposit to Purchaser. If either Party terminates this PSA after expiration of the Feasibility Period pursuant to any express right of termination pursuant to a provision of this PSA, the Title Company will disburse the Deposit to the Party(ies) entitled to receive the Deposit, or applicable portion thereof, upon a termination pursuant to such provision of this PSA.

1.2.2 Balance. At the Initial Closing (defined in Section 8.1.1), Purchaser will pay One Million Eight Hundred Forty-Two Thousand Four Hundred Thirty-five Dollars and Fifty-four Cents (\$1,842,435.54) of the Purchase Price to Title Company, for disbursement to Seller at the Initial Closing, by wire transfer of immediately available funds, subject to the prorations and adjustments set forth in Article IX. The Deposit will not be applied to the Purchase Price at the Initial Closing and will continue to be held by the Title Company in accordance with this PSA. At the Final Closing (defined in Section 8.1.2), Purchaser will pay One Million Nine Hundred Forty-one Thousand Two Hundred Seventy-seven Dollars and Fifty-four Cents (\$1,941,277.54) of the Purchase Price to Title Company, for disbursement to Seller at the Final Closing, by wire transfer of immediately available funds, less the Deposit and subject to the prorations and adjustments set forth in Article IX.

1.2.3 Application and Disbursement of Deposit. Except in the event of a default by Seller hereunder or as otherwise provided in this PSA, the Deposit will become non-refundable to Purchaser upon the expiration of the Feasibility Period; provided, however, the Deposit will be applied against the portion of the Purchase Price to be paid at the Final Closing pursuant to Section 1.2.1, or, if the Initial Closing and/or the Final Closing do not occur, the Deposit will be delivered to Seller or Purchaser as expressly set forth in this PSA.

ARTICLE II

Purchaser’s Investigations of the Property; Feasibility Period

2.1 Seller’s Deliveries. Not later than ten (10) business days after the Effective Date, Seller will make available to Purchaser for Purchaser’s review and, if desired, copying, all pertinent materials currently in Seller’s possession relative to the Property as set forth in Exhibit B attached hereto and incorporated herein by this reference (collectively, the “**Seller’s Document Deliveries**”) in order to facilitate Purchaser’s due diligence of the Property. Delivery of copies of

the Seller's Document Deliveries to Purchaser may be accomplished by making them available for Purchaser's inspection and review in electronic form or at a location to be designated by Seller.

2.2 Title Commitment. Not later than ten (10) business days after the Effective Date (subject to the Title Company's ability to provide such commitment in a timely fashion), Seller will cause delivery to Purchaser of a current title insurance commitment issued by the Title Company, together with legible copies of all recorded exceptions to title referred to therein (collectively, as may be updated or revised from time to time, the "**Title Commitment**"), committing to insure such title to the Land in Purchaser by the issuance of an ALTA policy of owner's title insurance in the amount of the Purchase Price. Purchaser will review the Title Commitment as part of its investigations pursuant to this PSA and will have the right to negotiate with Title Company in order to cause Title Company to modify the Title Commitment to reflect only those exceptions to title that are acceptable to Purchaser. Notwithstanding anything set forth herein to the contrary, Seller will satisfy all Schedule B-1 requirements set forth in the Title Commitment applicable to Seller, including, without limitation, causing all liens arising by, through or under Seller to be released at each Closing (defined in Section 8.1), as applicable, providing all transaction authorization documentation of Seller required by the Title Company, providing the Existing Survey (defined in Section 2.4), and providing an owner's affidavit in form to delete or insure over the standard printed exceptions contemplated in Section 2.5.3(c); provided, however, that in no event will Seller be obligated to deliver any so-called "survey affidavit."

2.3 Subsequent Title Defects. After the Effective Date, Seller will not consent to any encumbrance, encroachment or other matter to be recorded against the Real Property that *materially and adversely* affects the Real Property (collectively, "**New Matters**"), except for (a) any New Matter that will be released at or before the Initial Closing as to the Phase 1 Land, or at or before the Final Closing as to the Phase 2 Land; (b) New Matters of which Purchaser has approved in writing; and (c) New Matters described in Article IV (collectively, "**Permitted New Matters**"). Seller or Purchaser may cause the Title Commitment to be updated from time to time. If, subsequent to expiration of the Feasibility Period and prior to each Closing, Purchaser notifies Seller of the existence of any New Matters affecting any portion of the Real Property not yet conveyed to Purchaser that are not Permitted New Matters or Permitted Exceptions, other than any delinquent taxes or assessments or any monetary liens or encumbrances created by, through or under Seller which Seller is obligated to remove at or prior to the applicable Closing, pursuant to Section 9.2 (a "**Subsequent Defect**"), Seller may use such efforts and may expend such amount as, in its sole judgment, Seller deems appropriate to remove or cure such Subsequent Defect prior to the applicable Closing. Seller will have no obligation, however, to cure any Subsequent Defect. If Seller does not or is unable to so remove or cure all or any such Subsequent Defects prior to the applicable Closing, Purchaser may (i) waive all such uncured Subsequent Defects, which matters will be deemed Permitted Exceptions, and accept such title as Seller is able to convey as of the applicable Closing, without an abatement of the Purchase Price; or (ii) terminate this PSA as to the portion of the Property not yet conveyed by providing written notice thereof to Seller, in which event the Deposit will be returned to Purchaser by the Title Company, and the Parties will be relieved of any further obligations hereunder, except for those obligations which expressly survive any termination of this PSA.

2.4 Surveys. In connection with the Seller's Document Deliveries, Seller will deliver the more current ALTA Land Title Survey(s) of the Property in Seller's possession (the "**Existing**

Survey”). Purchaser may, at its sole cost and expense, obtain an update to the Existing Survey (or obtain a new survey), as required by the Title Company to delete the standard printed “survey” exceptions, which updated survey shall be prepared by a surveyor licensed by the State of Colorado and certified to Seller, Purchaser and the Title Company as having been made in compliance with applicable law, land survey standards and ALTA requirements (the “**Updated Survey**”).

2.5 Permitted Exceptions. The “**Permitted Exceptions**” will consist of:

2.5.1 any state of facts which is revealed in the Existing Survey or, as applicable, the Updated Survey, or by an inspection of the Land;

2.5.2 taxes and assessments for the year of the applicable Closing, and subsequent years, a lien not yet due and payable;

2.5.3 the exceptions disclosed in Schedule B, Part II of the Title Commitment as of the expiration of the Feasibility Period and any Subsequent Defects that are deemed Permitted Exceptions pursuant to clause (i) of Section 2.3, excluding, however:

(a) any delinquent taxes or assessments,

(b) any monetary liens or monetary encumbrances created by, through or under Seller,

(c) any standard printed exceptions concerning parties in possession, unrecorded easements, encroachments or other matters of survey (subject to Purchaser’s obligation to obtain any Updated Survey, as applicable), mechanics’ liens or claims therefor to the extent arising by, through or under Seller, together with coverage for matters first appearing as recorded in the real property records of the clerk and recorder of Mesa County, Colorado (the “**Records**”) after the date of the final Title Commitment but before the applicable Closing, and

(d) any matters which Purchaser causes to be deleted or removed prior to the applicable Closing;

2.5.4 the PILOT Covenant (defined in Section 4.1);

2.5.5 the Declaration of Repurchase Right (defined in Section 4.2); and

2.5.6 any matter created by, or at the request or with the approval of, Purchaser or its employees, contractors, agents and representatives.

2.6 Seller’s Obligations Regarding Title and Survey Matters. Seller will have no obligation to cause the removal or otherwise cure any title matter or any matter disclosed by the Existing Survey or, as applicable, the Updated Survey, but will reasonably cooperate (at no cost or expense to Seller, other than removal of monetary liens and encumbrances arising by, through or under Seller) with Purchaser in such efforts as Purchaser may elect to pursue to obtain the removal of such matters and/or to obtain endorsements to the Title Policy (defined in Section 8.3.4) addressing such matters.

2.7 “As Is” Purchase. Purchaser (for itself and its successors and assigns) acknowledges and agrees that the Property will be conveyed in its **“AS IS, WHERE IS, AND WITH ALL FAULTS” condition** as of each Closing Date (defined in Section 8.1), and Purchaser accepts and agrees to bear all risks regarding all attributes and conditions, latent or otherwise, of the Property. Provided that Seller makes no express or implied warranty as to the accuracy, completeness, validity or reliability of any information contained therein, Seller has made available to Purchaser for inspection all documents comprising the Intangible Property, including, but not limited to, Seller’s Document Deliveries. Purchaser has or will prior to each Closing conduct its own review and evaluation of the information contained in such Intangible Property and Seller’s Document Deliveries, and will rely solely on such independent evaluation. Purchaser has made or will make prior to each Closing its own inspection and investigation of the Real Property, including, without limitation, the subsurface, soil, engineering, environmental and other conditions and requirements, whether there are any eminent domain or other public or quasi-public takings of the applicable Real Property contemplated, and all zoning and regulatory matters pertinent to the applicable Real Property. Purchaser will purchase the Property upon Purchaser’s own inspection and investigation and not in reliance on any statement, representation, inducement or agreement of Seller except as specifically provided in this PSA. Purchaser acknowledges that neither Seller nor anyone acting on behalf of Seller has made (or has an obligation to Purchaser to make) any representation, guarantee or warranty whatsoever, either written or oral, concerning the Property except as specifically set forth in this PSA. Except for conditions caused by, and only to the extent caused by, Seller or its employees, contractors, agents or representatives (Purchaser and its employees, contractors, agents or representatives being expressly excluded from any of the foregoing), Seller will have no responsibility, liability or obligation subsequent to each Closing with respect to any conditions, including, without limitation, environmental conditions, soils conditions, or as to any other matters whatsoever respecting in any way the Property, and Purchaser (for itself and its successors and assigns) hereby fully and forever releases and indemnifies Seller and its employees, contractors, agents and representatives (except in their respective capacities, if any, as employees, contractors, agents or representatives of Purchaser) with respect to such conditions, which release and indemnification obligations of Purchaser will survive each Closing pursuant to, or any termination of, this PSA. Accordingly:

2.7.1 Opportunity to Inspect. Purchaser acknowledges and agrees, for Purchaser and Purchaser’s successors and assigns, that: (i) Purchaser is being given a reasonable opportunity to inspect and investigate the Property and all aspects relating thereto, either independently or through agents, contractors, engineers or consultants of Purchaser’s choosing; (ii) Purchaser will inspect and investigate the Property and engage such qualified agents, contractors, engineers or consultants, including, without limitation, environmental consultants, as Purchaser deems necessary to make all appropriate inquiry regarding the condition of the Property and adjacent property, including, without limitation, the presence thereon, or the condition thereof with respect to, any Hazardous Materials (defined in Section 2.7.4); and (iii) if Purchaser does not terminate this PSA pursuant to a termination right of Purchaser under this PSA, then at the applicable Closing, Purchaser will acquire and accept the Property in its then-existing condition on an **“AS IS, WHERE IS, AND WITH ALL FAULTS”** basis, with no right of set-off or reduction in the Purchase Price.

2.7.2 No Implied Representations. Purchaser acknowledges and agrees that, except for Seller’s express representations and warranties set forth in Article V or in any

instrument of conveyance signed by Seller and delivered to Purchaser at each Closing (collectively, “**Seller’s Express Representations**”), NEITHER SELLER NOR ANY AGENT, EMPLOYEE, OFFICER, DIRECTOR, BROKER, CONTRACTOR OR REPRESENTATIVE OF SELLER HAS MADE, AND SELLER SPECIFICALLY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO THE PROPERTY, INCLUDING, WITHOUT LIMITATION: (A) THE NATURE, QUANTITY, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE AREA, OR THE CONDITION WITH RESPECT TO WATER, SOILS OR GEOLOGY, OF THE LAND OR OF ANY IMPROVEMENTS INCLUDED IN THE PROPERTY, OR THE FITNESS OF ANY IMPROVEMENTS INCLUDED IN THE PROPERTY; (B) THE COSTS OF OWNING, OPERATING, REPAIRING OR MAINTAINING THE PROPERTY; (C) THE MARKETABILITY OF THE PROPERTY, THE EXISTENCE OR AVAILABILITY OF ANY ENTITLEMENTS OR GOVERNMENTAL APPROVALS WITH RESPECT TO THE PROPERTY OR ANY POTENTIAL TO DEVELOP, SUBDIVIDE, ZONE, CONSTRUCT OR ALTER IMPROVEMENTS ON, OR LEASE OR SELL THE REAL PROPERTY; (E) THE HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE REAL PROPERTY; OR (F) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY, INCLUDING, WITHOUT LIMITATION, ANY ENVIRONMENTAL LAW; AND THAT, EXCEPT FOR SELLER’S EXPRESS REPRESENTATIONS, NEITHER SELLER NOR ANY AGENT, EMPLOYEE, OFFICER, DIRECTOR, BROKER, CONTRACTOR OR REPRESENTATIVE OF SELLER HAS MADE, AND SELLER SPECIFICALLY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES CONCERNING HAZARDOUS MATERIALS. PURCHASER ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR SELLER’S EXPRESS REPRESENTATIONS, PURCHASER IS RELYING SOLELY UPON ITS OWN INSPECTION OF THE PROPERTY AND NOT UPON ANY INFORMATION PROVIDED BY OR ON BEHALF OF, OR TO BE PROVIDED BY OR ON BEHALF OF, SELLER OR UPON ANY REPRESENTATIONS MADE TO IT BY SELLER OR ANY AGENT, EMPLOYEE, OFFICER, DIRECTOR, BROKER, CONTRACTOR OR REPRESENTATIVE OF SELLER. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED OR TO BE PROVIDED WITH RESPECT TO THE PROPERTY WAS OR MAY BE OBTAINED FROM A VARIETY OF SOURCES AND THAT SELLER HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION.

2.7.3 Waiver and Release. Except to the extent caused by a breach of any of Seller’s Express Representations, Purchaser, for Purchaser and Purchaser’s successors and assigns, releases Seller and Seller’s agents, employees, officers, directors, shareholders, partners, members, managers, brokers, contractors and representatives from, and waives any and all causes of action or claims against any of such persons for: (i) any and all

liability attributable to any physical condition of or at the Property, including, without limitation, the presence on, under or about the Real Property of any Hazardous Materials; (ii) any and all liability resulting from the failure of the Property to comply with any applicable laws, including, without limitation, any Environmental Law; and (iii) any liabilities, damages or injury arising from, connected with or otherwise caused by statements, opinions or information obtained from any of such persons with respect to the Property.

2.7.4 Definitions. As used in this PSA, “**Hazardous Materials**” means any hazardous or toxic substances, materials or wastes, defined or regulated as such in or under any Environmental Law, including, without limitation, asbestos, gasoline and any other petroleum products (including crude oil or any fraction thereof), polychlorinated biphenyls and ureaformaldehyde insulation. As used in this PSA, “**Environmental Law**” means any and all federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees or requirements of any governmental authority or requirements of law (including common law) relating to or imposing liability or standards of conduct concerning the protection of human health, the environment or natural resources, or to releases or threatened releases of Hazardous Materials into the environment, including, without limitation, ambient air, surface water, groundwater or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as now or may hereafter be in effect.

2.7.5 Survival. The provisions of this Section 2.7 will survive each Closing or any termination of this PSA.

2.8 Feasibility Period; Purchaser’s Investigations. Purchaser will have a period for physical inspection of the Property and evaluation of the Property’s suitability for Purchaser’s intended use which commences on the Effective Date and terminates at 5:00 p.m. Grand Junction (Mountain) time on the date which is ninety (90) days thereafter (the “**Feasibility Period**”). Prior to the expiration of the Feasibility Period, Purchaser will, at its sole cost, investigate the Property and all matters relevant to its acquisition, ownership and operation. Such right of investigation will include, without limitation, the right to have made, at Purchaser’s expense, any studies or inspections of the Property that Purchaser may deem necessary or appropriate. After expiration of the Feasibility Period, without Purchaser having terminated this PSA pursuant to Section 2.10, Purchaser will have no right to terminate this PSA on the basis of its dissatisfaction with the Property; provided, however, that Purchaser will have the right to terminate this PSA as otherwise expressly set forth herein.

2.9 Access to the Property. During the Term (defined in Section 11.1) (and thereafter to the extent required to perform any post-termination obligation required of Purchaser pursuant to this PSA) Purchaser (together with its employees, contractors, subcontractors, consultants and invitees, “**Licensee(s)**”) will have a license to access and enter upon the Real Property for purpose of ongoing investigation, which may include, without limitation, the right to have made, at Purchaser’s expense, any surveys, studies or inspections of the Real Property as Purchaser may deem necessary or appropriate (the “**License**”). Purchaser will provide to Seller not less than one (1) business days’ notice to Seller prior to any entry upon the Real Property, which notice may be given telephonically or via email, regardless of other notice delivery requirements set forth in

this PSA. Seller will cooperate reasonably with any such investigations, inspections, surveys or studies made by or at Purchaser's direction so long as such cooperation is at no expense to Seller. Seller will have the right to be present during any such entry upon or investigation of the Real Property. Following any such activities by Purchaser, Purchaser will restore the Real Property to its preexisting condition. Purchaser will have no right to terminate this PSA and receive a refund of the Deposit or any other amounts by reason of its investigation activities under this Section 2.9, except as other provisions of this PSA otherwise expressly provide.

2.10 Termination. If Purchaser is not satisfied with the results of Purchaser's analysis and/or investigation for any reason whatsoever, Purchaser may, on or before the expiration of the Feasibility Period (pursuant to Section 2.8), give Seller and Title Company written notice of Purchaser's unequivocal election to terminate this PSA. Upon receipt of Purchaser's termination notice pursuant to this Section 2.10: (i) the Title Company will return the Deposit to Purchaser; and (ii) Purchaser will, as consideration for the investigation privileges afforded to Purchaser by Seller hereunder, deliver to Seller copies of all non-confidential, nonproprietary, third party reports made for Purchaser by third parties engaged by Purchaser to do so during the Feasibility Period concerning the Property, whereupon this PSA will terminate and both Parties will be relieved of any further obligations hereunder, except for those obligations which expressly survive any termination of this PSA. If Purchaser does not give such termination notice prior to expiration of the Feasibility Period, this PSA will remain in full force and effect in accordance with its terms and the Deposit will become nonrefundable to Purchaser for any reason whatsoever, except to the extent expressly provided to the contrary in a provision of this PSA.

2.11 Indemnity. Purchaser will indemnify, defend, and hold harmless Seller from any and all claims, demands, liens, costs, expenses, damages and liabilities, including reasonable attorneys' fees and costs, that are asserted against Seller or the Property, or which Seller may suffer or incur, to the extent arising out of any claims for property damage or personal injury, or claims from materialmen or laborers, which in turn arise from Purchaser's investigations and other activities under this PSA; provided, however, that the foregoing indemnity will not apply to damages resulting from the discovery of adverse property conditions, including, without limitation, environmental contamination or "hot" soils to the extent not exacerbated by Purchaser or its agents. Purchaser will pay Seller all reasonable costs and expenses, including reasonable attorneys' fees, incurred in defending any such matter. Purchaser will promptly repair any damages resulting to the Real Property due to Purchaser's investigations and other activities pursuant to this PSA, and will reimburse Seller, within thirty (30) days after receipt of invoices therefor, for all reasonable out-of-pocket expenses Seller incurs in repairing such damages if Purchaser does not promptly repair such damages within thirty (30) days after receipt of written notice from Seller. Purchaser's obligations pursuant to this Section 2.11 will survive any termination of this PSA and/or each Closing under this PSA for a period of six (6) years.

ARTICLE III

Infrastructure Improvements

3.1 Improvements. The Parties acknowledge that certain public improvement and infrastructure construction obligations relating to the Real Property will be Seller's obligation to cause to be satisfied, at no expense to Purchaser (except as it relates to Purchaser's financial obligations set forth in Section 9.1 and Section 4.1), as more fully set forth in Section 3.2.

Purchaser acknowledges that the City of Grand Junction Dos Rios General Improvement District (the “GID”) may undertake construction and installation of all or any portion of Seller’s Improvements Work (as defined in Section 3.2). Purchaser will be responsible, at Purchaser’s sole expense, for any infrastructure and improvements obligations on or within the Land, except as expressly included in the Seller’s Improvements Work, including without limitation (a) sidewalks a minimum of 15 feet wide on all public rights-of-way, and (b) street lighting for the plaza area and across Lot 3 and Lot 4 (as such lots are defined on the *[name and reception information for final plat, the “Plat”]*) in the utility and pedestrian easement or equivalent space set forth on the Plat. Purchaser will be responsible for payment of any impact fees, fees-in-lieu and/or land dedications, including without limitation the transportation capacity fee, imposed by the City in connection with development of the Land. Purchaser will pay all water, raw water and sewer and tap fees required to obtain service to the Land.

3.2 Seller’s Improvement Work. Seller will complete, or cause to be completed, at no expense to Purchaser (except as it relates to Purchaser’s financial obligations set forth in Section 9.1 and Section 4.1), the following work (collectively, the “**Seller’s Improvements Work**”):

3.2.1 Placement of compacted fill on Lots 1, 5, 6, 7, 8 and 9 (as defined on the Plat) to establish an elevation one foot below the 100-year flood plain,

3.2.2 Placement of compacted fill on Lots 3 and 4 (as defined on the Plat) to establish an elevation equal to the 100-year flood plain,

3.2.3 Construction of sewer mains and services to the perimeter of each lot created by the Plat,

3.2.4 Construction of water mains and services to the perimeter of each lot created by the Plat,

3.2.5 Construction of raw water irrigation and services to the perimeter of each lot created by the Plat,

3.2.6 Construction of storm drainage conveyance infrastructure and stormwater quality facility; provided, however, that Purchaser will construct all surface collection and conveyances facilities for approved development,

3.2.7 Gas and electric power will be made available to each lot created by the Plat within the multi-purpose easement set forth on the Plat; provided, however, that Purchaser is responsible for extension of utilities to each and every building site,

3.2.8 For all public road rights-of-way dedicated by the Plat, infrastructure construction including asphalt, curb, gutter, sidewalk to City standards,

3.2.9 Street lighting adjacent to public road rights-of-way dedicated by the Plat and the Colorado Riverfront Trail to City standards,

3.2.10 City maintained park space to include restrooms, shelters and a bike playground on Lot 2 (as defined in the Plat);

3.2.11 Relocation of Xcel 230kv electrical facilities into Hale Avenue median,

3.2.12 Extension of Xcel gas service to the Project, and

3.2.13 Construction of left turn lane for westbound Riverside Parkway onto Dos Rios Way.

3.3 Completion. Seller will commence construction of the Seller's Improvement Work promptly following the later to occur of (a) issuance of the bonds described in Section 4.1 or (b) approval by applicable governing body of the City of construction contracts therefore. Seller will achieve completion the Seller's Improvement Work within 12 months of the applicable commencement date. For purposes of "completion" of the Seller's Improvements Work under this PSA, Seller's Improvements Work will be deemed complete and accepted by Purchaser upon the City's "preliminary acceptance" of such Seller's Improvements Work, or, if City acceptance is not applicable to such Seller's Improvements Work or any portion thereof, upon the City's written notice to Purchaser that such Seller's Improvements Work has been completed. Seller's obligations pursuant to this Article III will survive each Closing under this PSA.

ARTICLE IV **Additional Encumbrances**

4.1 PILOT Covenant. In connection with the GID's acquisition, construction, installation, operation and maintenance of certain public improvements and services within Dos Rios, and in connection with the GID's anticipated issuance of certain bonds to finance such improvements and services, in whole or in part, Purchaser acknowledges and agrees it is material part of the consideration for Seller entering into this PSA and conveying the Property to Purchaser that Purchaser execute and deliver for recording in the Records against the Real Property at the Initial Closing a so-called "payment-in-lieu-of-taxes" covenant materially consistent with the form attached as Exhibit C and incorporated herein by this reference (as may be modified by Seller prior to the Initial Closing, the "**PILOT Covenant**"). Purchaser acknowledges and agrees that the PILOT Covenant will encumber and be binding on the Real Property, will be a Permitted Exception and will be binding on Purchaser in accordance with its terms.

4.2 Repurchase Right. In connection with the GID's acquisition, construction, installation, operation and maintenance of certain public improvements and services within Dos Rios, and in connection with the GID's anticipated issuance of certain bonds to finance such improvements and services, in whole or in part, Purchaser acknowledges and agrees it is material part of the consideration for Seller entering into this PSA and conveying the Property to Purchaser that Purchaser commit to develop the Property as contemplated by the Planned Development (PD) and Outline Development Plan (ODP) for The Riverfront At Dos Rios, as approved by the City and amended from time to time. Accordingly, the parties have agreed to execute and deliver at the Initial Closing a declaration of repurchase right, together with a memorandum of the same for recording in the Records against the Real Property, materially consistent with Exhibit F and incorporated herein by this reference ("**Declaration of Repurchase Right**"). Purchaser

acknowledges and agrees that the Declaration of Repurchase Right will encumber and be binding on the Real Property, will be a Permitted Exception and will be binding on Purchaser in accordance with its terms.

4.3 Survival. Article IV will survive each Closing.

ARTICLE V

Seller's Representations and Warranties

5.1 Representations and Warranties. Except as disclosed in Seller's Document Deliveries, the Title Commitment, the Survey or as otherwise stated in or qualified by other provisions of this PSA, Seller represents and warrants to Purchaser as follows:

5.1.1 Authority. Seller has the full right and authority to enter into this PSA and consummate the transactions contemplated by this PSA. All requisite action has been taken by Seller in connection with the entering into of this PSA, the instruments referenced in this PSA, and the consummation of the transactions contemplated by this PSA. Each of the persons and entities signing this PSA on behalf of Seller is authorized to do so.

5.1.2 No Third-Party Interests. Seller has not granted to any third party and will not grant to any third party any option, contract or other agreement with respect to a purchase or sale of the Real Property or any portion thereof or any interest therein.

5.1.3 No Possessory Rights. Except for any rights of possession under the Permitted Exceptions and any rights contemplated by this PSA or any other agreement between the Parties, Seller has not granted or permitted and will not grant or permit any possessory rights in any of the Real Property.

5.1.4 Defaults. To Seller's knowledge, no default exists with respect to the Real Property under any of the Permits and Agreements.

5.1.5 Condemnation. To Seller's knowledge, there is no pending or threatened condemnation, expropriation, eminent domain or similar proceeding affecting all or any portion of the Real Property.

5.1.6 Violations. To Seller's knowledge, there is no existing material violation of any law, code, ordinance, rule or regulation of any governmental authority having jurisdiction over the Real Property with respect to the Real Property or its operation.

5.1.7 Special Assessments. To Seller's knowledge, the Real Property is not situated within any special assessment district other than the districts revealed by the most recent statement for real property taxes for the Real Property. Seller makes the following disclosure to Purchaser, which disclosure is required in certain circumstances by Colorado law: SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND EXCESSIVE TAX BURDENS TO

SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. PURCHASERS SHOULD INVESTIGATE THE DEBT FINANCING REQUIREMENTS OF THE AUTHORIZED GENERAL OBLIGATION INDEBTEDNESS OF SUCH DISTRICTS, EXISTING MILL LEVIES OF SUCH DISTRICT SERVICING SUCH INDEBTEDNESS, AND THE POTENTIAL FOR AN INCREASE IN SUCH MILL LEVIES.

5.1.8 Litigation. Seller has no knowledge, and Seller has not received notice, of any actions, suits, proceedings or claims pending or threatened with respect to or in any manner affecting Seller's interest in the Property or the ability of Seller to consummate the transaction contemplated by this PSA.

5.1.9 Consents; Binding Obligations; Violations. All consents and approvals which may be required in order for Seller to enter into this PSA or consummate the transaction contemplated hereby have been obtained. This PSA and all documents required hereby to be executed by Seller are and will be valid, legally binding obligations of and enforceable against Seller in accordance with their terms. Neither the execution of this PSA nor the consummation of the transaction contemplated hereby will be in violation of any judgment, order, permit, writ, injunction or decree of any court, commission, bureau or agency to which Seller is subject or by which Seller is bound, or constitute a breach or default under any agreement or other obligation to which Seller is a party or otherwise bound.

5.2 Seller's Knowledge. Whenever phrases such as "to Seller's knowledge" or "Seller has no knowledge" are used in the foregoing representations and warranties, they will be deemed to refer exclusively to matters within the current actual (as opposed to constructive) knowledge of John Shaver and Trent Prall, in their capacities as City Attorney and Public Works Director, respectively, of the Seller ("**Seller's Representative**"). No duty of inquiry or investigation on the part of Seller or Seller's Representative will be implied by the making of any representation or warranty which is so limited to matters within Seller's knowledge.

5.3 Omissions; Indemnity. All of Seller's representations and warranties made in Section 5.1 are free from any untrue statement of material fact and do not omit to state any material facts necessary to make the statements contained in Section 5.1 not misleading. Each of the representations and warranties contained in Section 5.1 are acknowledged by Seller to be material and to be relied upon by Purchaser in proceeding with this transaction. To the extent permitted by law, Seller will indemnify and hold Purchaser harmless and defend Purchaser from any loss, liability or expense, including reasonable attorneys' fees, incurred by Purchaser, and any claim made against Purchaser by reason of the breach of any of foregoing representations or warranties made in Section 5.1 (as may be made subject to subsequent changes pursuant to Section 5.4).

5.4 Effective Date and Changes. All of the representations and warranties made by Seller pursuant to Section 5.1 are made as of the Effective Date and will be deemed remade as of each Closing Date, provided that Seller may deliver to Purchaser a certificate to reflect any changes to such representations and warranties of which Seller has become aware prior to each Closing. In

the event that such certificate indicates any material changes to the foregoing representations and warranties, Seller will not be deemed in default hereunder, *so long as such representations and warranties were true and correct as of the Effective Date*, and Purchaser's sole remedy will be to terminate this PSA as to the portion of the Property not yet conveyed by providing written notice thereof to Seller, whereupon the Title Company will return the Deposit to Purchaser and both Parties will be relieved of any further obligations hereunder, except for those obligations which expressly survive any termination of this PSA. In the event any such certificate does indicate any such changes and Purchaser does not elect to terminate this PSA, the representations and warranties made by Seller to Purchaser pursuant to this PSA as of the date of each Closing will be deemed made subject to any such changes reflected in such certificate. Between the Effective Date and each Closing Date, (i) Purchaser will notify Seller of any breach or violation of the foregoing representations and warranties discovered by Purchaser; and (ii) Seller will have the right to deliver to Purchaser supplemental statements indicating any changes to the foregoing representations and warranties that Seller has discovered to date. Purchaser will have a period of seven (7) days from and after receipt of any such supplemental statement (or, if the applicable Closing Date is less than seven days from the day on which Purchaser receives any such supplemental statement, the period from Purchaser's receipt until the applicable Closing) to notify Seller in writing of Purchaser's election to terminate this PSA as to the portion of the Property not yet conveyed, whereupon the Title Company will return the Deposit to Purchaser and both Parties will be relieved of any further obligations hereunder, except for those obligations which expressly survive any termination of this PSA. In the event Purchaser does not so terminate this PSA within such period, Purchaser will be deemed to have accepted any changes to the foregoing representations and warranties set forth in the supplemental statement delivered by Seller and Purchaser will have no further right to object to such changes when the same are reflected in the above-described certificate.

5.5 Survival. All of the foregoing representations and warranties of Seller will survive the applicable Closing, and will not be deemed merged into any instrument of conveyance delivered at such Closing, for a period of twelve (12) months after the Closing Date of such Closing (the "**Warranty Survival Period**"). No claim for a breach of any representation or warranty of Seller will be actionable or payable if the breach in question results from or is based on a condition, state of facts or other matter which was known to Purchaser prior to the applicable Closing. Seller will have no liability to Purchaser for a breach of any representation or warranty unless written notice containing a description of the specific nature of such breach is given by Purchaser to Seller within the Warranty Survival Period, and any suit by Purchaser for any breach by Seller of any representation, warranty or covenant contained herein must be filed within the Warranty Survival Period or on or before the date that is sixty (60) days after expiration of the Warranty Survival Period, or will be forever barred.

ARTICLE VI

Purchaser's Representations and Warranties

6.1 Representations and Warranties. Purchaser represents and warrants to Seller as follows:

6.1.1 Authority. Purchaser is a Colorado Limited Liability Company duly organized, validly existing and in good standing under the laws of the State of Colorado.

Purchaser has the full right and authority to enter into this PSA and consummate the transactions contemplated by this PSA. All requisite corporate action has been taken by Purchaser in connection with the entering into of this PSA, the instruments referenced in this PSA, and the consummation of the transactions contemplated by this PSA. Each of the persons signing this PSA on behalf of Purchaser is authorized to do so. Purchaser will furnish to Seller any and all documents to evidence such authority as Seller will reasonably request.

6.1.2 Litigation. Purchaser has no knowledge, and Purchaser has not received notice, of any actions, suits, proceedings or claims pending or threatened with respect to or in any manner affecting the ability of Purchaser to consummate the transaction contemplated by this PSA.

6.1.3 Consents; Binding Obligations; Violations. All consents and approvals which may be required in order for Purchaser to enter into this PSA or consummate the transaction contemplated hereby have been obtained. This PSA and all documents required hereby to be executed by Purchaser are and will be valid, legally binding obligations of and enforceable against Purchaser in accordance with their terms. Neither the execution of this PSA nor the consummation of the transaction contemplated by this PSA will be in violation of any judgment, order, permit, writ, injunction or decree of any court, commission, bureau or agency to which Purchaser is subject or by which Purchaser is bound, or constitute a breach or default under any agreement or other obligation to which Purchaser is a party or otherwise bound.

6.2 Omissions; Indemnity. All representations and warranties made by Purchaser in Section 6.1 are free from any untrue statement of material fact and do not omit to state any material facts necessary to make the statements contained in this PSA not misleading. Each of the representations and warranties contained in Section 6.1 are acknowledged by Purchaser to be material and to be relied upon by Seller in proceeding with this transaction. Purchaser will indemnify and hold Seller harmless and defend Seller from any loss, liability or expense, including reasonable attorneys' fees, incurred by Seller or any claim made against Seller by reason of the breach of any of the representations or warranties made in Section 6.1.

6.3 Effective Date. The representations and warranties of Purchaser pursuant to Section 6.1 will be continuing and will be deemed remade by Purchaser as of each Closing Date with the same force and effect as if made at and as of that time.

6.4 Survival. All of the representations and warranties of Purchaser pursuant to Section 6.1 will survive each Closing, and will not be deemed merged into any instrument of conveyance delivered at each Closing, for the Warranty Survival Period. No claim for a breach of any representation or warranty of Purchaser will be actionable or payable if the breach in question results from or is based on a condition, state of facts or other matter which was known to Seller prior to each Closing. Purchaser will have no liability to Seller for a breach of any representation or warranty unless written notice containing a description of the specific nature of such breach is given by Seller to Purchaser within the Warranty Survival Period, and any suit by Seller for any breach by Purchaser of any representation, warranty or covenant contained herein must be filed

within the Warranty Survival Period or on or before the date that is sixty (60) days after expiration of the Warranty Survival Period, or will be forever barred.

ARTICLE VII

Purchaser's Obligations and Expenses

7.1 **Insurance.** During the Term (defined in Section 11.1), Purchaser will, at its sole expense, or will cause its consultants performing inspections on the Property to, procure and maintain commercial general liability insurance against claims for bodily injury, death or property damage, occurring in, on or about the Real Property, or resulting from the use or maintenance thereof, in an amount of at least \$1,000,000 for each occurrence and \$3,000,000 in the general aggregate. The liability policy will: (i) name Seller and any other parties designated by Seller as additional named insureds; (ii) be issued by an insurance company authorized to do business in the state in which the Real Property is located and otherwise approved by Seller, which approval will not be unreasonably withheld or conditioned; (iii) provide that no cancellation, alteration or non-renewal of said insurance will be effective unless the insurance company issuing such policy gives Seller at least 30 days prior written notice thereof; (iv) provide that it will be primary to any insurance policy otherwise purchased by Seller; and (v) provide for a waiver of subrogation of claims. During the Term, Purchaser will also, at its sole expense, or will cause its consultants performing inspections on the Property to, procure and maintain employer's liability insurance for worker's compensation in an amount not less than the statutory limits of coverage. Purchaser will deliver to Seller evidence of such insurance in a form reasonably satisfactory to Seller, on the date of this PSA and upon any modification, renewal or replacement of coverage.

7.2 **Indemnity.** To the fullest extent permitted by law, Purchaser does and will indemnify, defend and hold harmless, and hereby releases and discharges, Seller and its managers, members, employees, agents, affiliates, successors and assigns, except to the extent caused by the gross negligence or willful misconduct of any such indemnified parties, for, from and against all claims, demands, liabilities, losses, damages, costs and expenses, including but not limited to court costs and reasonable attorneys' fees and costs, arising out of or in connection with: (i) Purchaser's use or occupancy of the Real Property, or any portion thereof; (ii) any work, occurrence, conduct, act or omission maintained, performed, permitted or suffered by Purchaser or any representative, subcontractor or supplier of Purchaser, or any employee, agent, invitee or licensee of any of the foregoing, on or about or pertaining to the Real Property or any portion thereof; (iii) any claim pertaining or relating to the Real Property, specifically including, without limitation, any claims arising as a result of the condition of the surface and sub-surface of the Real Property or any portion thereof existing, created or arising prior to or during the Term, and/or the failure of the Real Property or any portion thereof to be properly graded and compacted as necessary to minimize all risks of subsidence and any other settlement or movement of the soils; (iv) any condition of or on the Real Property, or any portion thereof, or of or on any street, curb or sidewalk thereon or adjacent thereto or any improvement constructed or to be constructed thereon existing, created or arising prior to or during the Term; (v) Purchaser's failure to perform Purchaser's obligations, or Purchaser's breach of Purchaser's obligations, representations or warranties, under this PSA; (vi) any act, omission, negligence or misconduct of Purchaser or its representatives, subcontractors, suppliers, employees, agents, invitees or licensees; (vii) any accident, injury or damage whatsoever caused to any person, firm or corporation in or about the Real Property or any sidewalk, street or land adjacent thereto arising as a result of any act or omission during the Term;

(viii) the physical condition of the Real Property or any portion thereof existing, created or arising prior to or during the Term, and the impact of any federal, state or local law, common law, statute, ordinance, regulation, administrative rule, policy or order, now in effect or at any time hereafter enacted which pertains or is applicable to or governs: hazardous materials or substances, or the use, permitting and/or environmental condition of the Real Property (including the subsurface thereof) existing, created or arising prior to or during the Term; and (ix) any claim made against Seller relating to impact fees or other fees or charges and/or real property taxes arising for any time periods during and before the Term. The covenants contained in this Section 7.2 will survive any Closing or the termination of this PSA.

7.3 Fee Payments.

7.3.1 Timing and Prorations. Purchaser acknowledges and agrees it is material part of the consideration for Seller entering into this PSA and conveying the Property to Purchaser that commencing with Initial Closing, Purchaser will pay, or cause to be paid, to Seller a monthly fee calculated in accordance with Section 7.3.3 (each a “**Fee Payment**” and collectively the “**Fee Payments**”). Purchaser and Seller acknowledge that the amount of the Fee Payment is intended to be generally equivalent to the taxes that would be assessed against the Property if Purchaser had owned the Property as of the Effective Date, payable on a monthly basis. For the avoidance of doubt, the Fee Payments are not a part of the Deposit, are immediately earned by Seller on the applicable Due Date (defined below), will be paid or disbursed to Seller on or before the applicable Due Date and, except as expressly provided in this Section 7.3, will be immediately non-refundable to Purchaser upon payment or disbursement to Seller. Each Fee Payment will be due to Seller not later than the fifth day of each calendar month (the “**Due Date**”) during the pendency of this Agreement. Notwithstanding the foregoing, the Due Date of the first Fee Payment will be not later than five business days after the Effective Date and, if the Effective Date is not the first day of the subject calendar month, the Fee Payment will be prorated for such partial calendar month accordingly. If a partial calendar month applies to the last Fee Payment applicable to either the Phase 1 Land or the Phase 2 Land (if the Initial Closing Date or the Final Closing Date, as applicable, does not occur on the last day of the subject calendar month), such Fee Payment will initially be paid or disbursed in its entirety; provided however, (i) at the Initial Closing, the Fee Payment applicable to the Phase 1 Land will be prorated as of the Initial Closing Date for the partial calendar month and Purchaser will receive a corresponding credit against the portion of the Purchase Price to be paid at such Initial Closing pursuant to Section 1.2.2; and (ii) at the Final Closing, the Fee Payment applicable to the Phase 2 Land will be prorated as of the Final Closing Date for the partial calendar month and Purchaser will receive a corresponding credit against the portion of the Purchase Price to be paid at such Final Closing pursuant to Section 1.2.2.

7.3.2 Deposit; Termination. Purchaser will deposit with the Title Company by check, subject to collection, or by wire transfer of immediately available funds, each Fee Payment on or before the applicable Due Date and the Title Company will deliver by check, subject to collection, or by wire transfer of immediately available funds such Fee Payment to Seller on or before the applicable Due Date. Not later than two business days after the Effective Date, Seller will deliver wire instructions to the Title Company to facilitate such payments, and, notwithstanding any contrary provision of this Section 7.3, Seller

acknowledges and agrees that delivery of such wire instructions to the Title Company will be a condition precedent to Purchaser's obligation to pay, or cause to be paid, any Fee Payments. If Purchaser fails to pay, or cause to be paid, any Fee Payment on or before applicable Due Date, subject to the notice and cure period set forth in Section 10.1, Seller may terminate this Agreement in accordance with Section 10.4 by the giving of termination notice to Purchaser any time prior to such Fee Payment being paid to Seller, in which event this Agreement will terminate and the parties have no further obligations under this Agreement except those that expressly survive termination of this Agreement. If Purchaser does not pay, or cause to be paid, a Fee Payment on or before the applicable Due Date but thereafter cures such failure prior to Seller terminating this Agreement in accordance with the preceding sentence, this Agreement will remain in full force and effect and Seller will not have a termination right with respect to such failure.

7.3.3 Calculation of Fee Payments. For purposes of this Agreement, the Fee Payment for the Property or any portion thereof will be a monthly payment in an amount equal to most current (as of the Due Date for the subject Fee Payment) aggregate ad valorem property tax mill levies imposed by the governing bodies of the various taxing jurisdictions within or overlapping the Property, or any portion thereof (as adjusted from time to time, the "**Mill Levy**"), that would be imposed on and apply to the Property, or applicable portion thereof, if it were not exempt from ad valorem property taxation as disclosed by the records of the Mesa County Assessor (the "**Assessor**"), multiplied by the Purchaser Price divided by 12 and rounded to the nearest dollar. [For illustrative purposes only, if the Mill Levy for the applicable tax year is 100 mills and the Purchaser Price is \$3,783,756.60, each Fee Payment would be \$31,531: $\$3,783,756.60 \times (100 \text{ mills} \times .001 \text{ mill levy multiplier}) \div 12 = \$31,531$]. Following the Initial Closing, the Fee Payment will be calculated by applying the assessment ratio to the Purchase Price for the entirety of the Property, and prorated based on the ratio of the acreage of the Phase 2 Land and any other portion of the Property not previously acquired by Purchaser at the Initial Closing to the entirety of the Property.

ARTICLE VIII

Closing

8.1 Closing; Closing Date. Purchaser will acquire the applicable portion of the Property contemplated by this PSA in accordance with the following schedule (each, a "**Closing**", and the date of each such Closing, a "**Closing Date**"):

8.1.1 Initial Closing. Purchaser will acquire the Phase 1 Land and the portion of the Property associated with the Phase 1 Land (the "**Initial Closing**") on the date that is ninety (90) days after the expiration of the Feasibility Period, or such earlier date as may be mutually agreed upon by the Parties (the "**Initial Closing Date**").

8.1.2 Final Closing. Purchaser will acquire the Phase 2 Land and all Property not previously acquired by Purchaser at the Initial Closing (the "**Final Closing**") on the date that is seven hundred thirty (730) days after the Initial Closing Date, or such earlier date as may be mutually agreed upon by the Parties (the "**Final Closing Date**").

8.2 Time of Closing. Each Closing will take place in escrow at the offices of the Title Company, or at such other place as may be mutually agreed upon by the Parties.

8.3 Deliveries; Closing Documents. Seller and Purchaser will deliver or cause to be delivered to each other at each Closing, as appropriate, the following items (all documents will be duly executed and acknowledged where required):

8.3.1 Payment. Purchaser will pay to Seller the applicable portion of the Purchase Price as provided in Section 1.2, subject to the adjustments and prorations described in Article IX, which payments will be made in the form of cash or other immediately available funds.

8.3.2 Land Deed. Seller will deliver to Purchaser a special warranty deed, in form and substance materially consistent with the form of deed attached as Exhibit D and incorporated herein by this reference (“**Land Deed**”), conveying to Purchaser all of Seller’s right, title and interest in and to the applicable portion of the Real Property, subject to the Permitted Exceptions.

8.3.3 Assignment; Intangible Property. Seller and Purchaser will execute and deliver a partial, nonexclusive assignment of the Intangible Property associated with the Phase 1 Land or the Phase 2 Land, as applicable, in form and substance materially consistent with that attached as Exhibit E and incorporated herein by this reference. To the extent not previously delivered with Seller’s Document Deliveries, Seller will deliver to Purchaser the originals or copies of all Plans, Warranties, Permits and Agreements in Seller’s possession relating to the development, improvement and ownership of such Real Property.

8.3.4 PILOT Covenant. Seller and Purchaser will execute and deliver the PILOT Covenant at the Initial Closing.

8.3.5 Declaration of Repurchase Right. Seller and Purchaser will execute and deliver the Declaration of Repurchase Right at the Initial Closing.

8.3.6 Issuance of Title Policy. The Title Company will issue to Purchaser, or unconditionally commit to issue to Purchaser after each Closing, at the Title Company’s normal and customary rates, an extended coverage ALTA owner’s policy of title insurance conforming to the then-current Title Commitment and insuring title to the Phase 1 Land or the Phase 2 Land, as applicable, subject to the Closing in Purchaser in the amount of the applicable portion of the Purchase Price, subject only to the Permitted Exceptions (the “**Title Policy**”). At or before each Closing, Seller will satisfy all reasonable and customary requirements contained in Schedule B, Part I of the Title Commitment, including any requirements for Seller to execute mechanics lien/final affidavits to the Title Company, except those which by their nature can only be satisfied by Purchaser. Any title insurance endorsement premium for extended coverage will be paid by Purchaser, and all premium charges for any other endorsement(s) that Purchaser elects to obtain pursuant to Section 2.2, will be paid by Purchaser.

8.3.7 Non-Foreign Certificate. Seller will execute and deliver to Purchaser and the Title Company an affidavit that Seller is exempt from the withholding requirements of Section 1445 of the Internal Revenue Code.

8.3.8 Conveyance Information. A Colorado Form DR-1083, in form required by law and signed by Seller, concerning information with respect to a conveyance of a Colorado real property interest.

8.3.9 Transfer Declaration. A real property transfer declaration, in form required by law and signed by Purchaser, concerning the transaction contemplated by this PSA.

8.3.10 Settlement Sheets and Funds. Settlement statements reflecting the applicable portion of the Purchase Price and all adjustments and prorations to be made thereto pursuant to this PSA including, without limitation, Article IX, together with any amounts, in immediately available funds, required to be paid by either Party thereunder.

8.3.11 Possession. Possession of the applicable portion of the Real Property will be delivered to Purchaser.

8.3.12 Miscellaneous Documents. Seller will, whenever and as often as it will be reasonably requested so to do by Purchaser or Title Company, and Purchaser will, whenever and as often as it will be reasonably requested so to do by Seller or Title Company, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, any and all conveyances, assignments and all other instruments and documents as may be reasonably necessary in order to complete each Closing and to otherwise carry out the intent and purposes of this PSA.

ARTICLE IX

Prorations and Closing Expenses

9.1 Taxes and Assessments. At each Closing, all *ad valorem* real estate taxes and assessments, metropolitan and special improvement district fees and charges (if any), owners association assessments and fees (if any) and personal property taxes (if any) attributable to the applicable portion of the Property for the year of each Closing (or other applicable period) will be prorated at each Closing, effective as of each Closing Date (with Purchaser being responsible for such costs as of, and Seller being responsible for such costs prior to, the Effective Date, subject to Purchaser's obligation to pay the Fee Payments pursuant to Section 7.3), irrespective of when the same are payable. If the applicable tax rate and assessments for the applicable portion of the Property have not been established for the year in which each Closing occurs, the proration of real estate and/or personal property taxes, as the case may be, will be based upon the rate and assessments for the preceding year. If the Phase 1 Land and the Phase 2 Land are not separate tax parcels at the time of the Initial Closing, *ad valorem* real estate taxes and assessments for the Phase 1 Land will be apportioned based on the acreage of the Phase 1 Land as the percentage of the acreage of the overall tax parcel of which it is a part. All taxes imposed as of each Closing Date and subsequent to each Closing Date will be paid by Purchaser.

9.2 Liens and Encumbrances. At each Closing, the amount of any lien, deed of trust or other monetary encumbrance securing and/or otherwise then affecting the Real Property, including

all prepayment penalties, will be paid from the applicable portion of the Purchase Price to which Seller is otherwise entitled. If such funds are insufficient to pay all such encumbrances, Seller will pay the deficiency.

9.3 Closing Costs. The costs of each Closing will be allocated between the Parties as follows:

9.3.1 Seller's Costs. Seller will pay for: (i) the base premium for the Title Policy, excluding the cost, if any, of "extended coverage" or deleting the "standard printed exceptions," and excluding the cost of any endorsements Purchaser elects to obtain; (ii) any recording fees necessary to remove of record any monetary liens or encumbrances required to be paid by Seller; (iii) one-half of any closing or escrow fees charged by the Title Company; (iv) Seller's attorney's fees; (v) one-half the cost of the Existing Survey, if not previously paid by Seller; and (vi) any other closing costs customarily paid by a seller in Mesa County, Colorado.

9.3.2 Purchaser's Costs. Purchaser will pay for: (i) all costs of conducting its investigation of the Property; (ii) the additional premium, if any, charged by the Title Company to make Purchaser's title policy "extended coverage" or to delete the "standard printed exceptions" therefrom and the additional premium for any endorsements requested by Purchaser; (iv) any recording fees not required to be paid by Seller pursuant to Section 9.3.1; (v) one-half of any closing or escrow fees charged by the Title Company; (vi) Purchaser's attorney's fees; (vi) any local or state transfer or sales taxes; (vii) the premium for the lender's policy of title insurance, if any, and any endorsements thereto; (viii) \$7,500, which amount represents approximately one-half the cost of the Existing Survey, together with one-half of Seller's costs and expenses incurred in connection with the approval of the Plat and any approvals related thereto, including without limitation any easement vacations; (ix) the cost of any Updated Survey; and (x) any other closing costs customarily paid by a purchaser in Mesa County, Colorado.

9.4 Settlement Statement. At each Closing, Seller and Purchaser will execute a closing settlement statement to reflect the credits, prorations, and adjustments contemplated by or specifically provided for in this PSA.

9.5 Date of Prorations; Prorations Final. The prorations and adjustments provided for in this Article IX will be made so that Purchaser will receive the income of the Property for each Closing Date, and will be charged with the expense of the operation of the Property for, and following, the Effective Date. All apportionment and allocation of taxes, assessments and other fees and costs as between Seller and Purchaser pursuant to this Article IX will be final as of each Closing Date. The provisions of this Article IX will survive each Closing and the payment of any consideration and the delivery of all Closing instruments, for a period of one (1) year only.

ARTICLE X

Remedies

10.1 Defaults. A non-performing Party will be deemed to be in default under this PSA if such Party fails to: (i) pay any sum of money when due as provided in this PSA and such failure

continues for a period of at least fourteen (14) business days after the delivery of Notice (defined in Section 11.8) thereof by the other Party; or (ii) perform any other covenant, agreement or condition as provided in this PSA and such failure continues for a period of at least thirty five (35) days after the delivery of Notice thereof by the other Party. Notwithstanding the foregoing, in no event will Notice be required with respect to or will there be a cure period applicable to an Acquisition Default.

10.2 Remedies for Seller Default. Subject to the applicable cure provision set forth in Section 10.1, if Seller defaults in the performance of its obligations under this PSA, Purchaser will have the following remedies: (i) if Seller defaults in its obligation to close after Purchaser has tendered full performance of its obligation to close, Purchaser will be entitled to: (a) terminate this PSA as to the portion of the Property not yet conveyed by providing written notice thereof to Seller, in which event the Deposit will be returned to Purchaser by the Title Company, and the Parties will be relieved of any further obligations hereunder, except for those obligations which expressly survive any termination of this PSA; or (b) treat this PSA as being in full force and effect and to seek specific performance; and (ii) with respect to any Seller default other than a default of the nature described in the foregoing clause (i), this PSA will remain in full force and effect and Purchaser will be entitled to seek specific performance of Seller's unperformed obligation.

10.3 Remedy for Acquisition Default by Purchaser. If Purchaser defaults in its obligation to close after Seller has tendered full performance of its obligation to close (an "**Acquisition Default**"), Seller may terminate this PSA as to the portion of the Property not yet conveyed by providing written notice thereof to Purchaser and, as its sole and exclusive remedy, will be entitled to retain the Deposit as liquidated damages and the Parties will be relieved of any further obligations hereunder, except for those obligations which expressly survive any termination of this PSA. Upon any termination under this Section 10.3, Purchaser will promptly assign to Seller Purchaser's interest in any plans, drawings, studies and similar work product which relates to the Real Property not yet conveyed, excluding Purchaser's architectural plans, elevations and drawings for vertical improvements, marketing and financial studies, analyses and information, and other proprietary information of Purchaser.

10.4 Remedies for Other Purchaser Defaults. With respect to any Purchaser default other than an Acquisition Default, and subject to the applicable cure provision set forth in Section 10.1, Seller will be entitled to: (i) terminate this PSA as to the portion of the Property not yet conveyed by providing written notice thereof to Purchaser, and retain the Deposit as liquidated damages, and the Parties will be relieved of any further obligations hereunder, except for those obligations which expressly survive any termination of this PSA or (ii) treat this PSA as being in full force and effect and seek specific performance of and/or damages with respect to any of Purchaser's representations, warranties, covenants or indemnification obligations contained in any provision of this PSA. Upon any termination under the foregoing clause (i), Purchaser will promptly assign to Seller Purchaser's interest in any plans, drawings, studies and similar work product which relates to the Real Property not yet conveyed, excluding Purchaser's architectural plans, elevations and drawings for vertical improvements, marketing and financial studies, analyses and information, and other proprietary information of Purchaser.

10.5 Basis of Liquidated Damages. The Parties hereby acknowledge that the amount of the Deposit, together with the remedies expressly granted to Seller pursuant to Sections 10.3 or

10.4, is a fair and reasonable estimate of the total detriment that Seller would suffer in the event of Purchaser's Acquisition Default or other default hereunder.

10.6 Attorneys' Fees. Notwithstanding any contrary provision contained in this PSA, in the event of any litigation or legal action arising out of this PSA, the court will award the prevailing Party its reasonable costs and expenses incurred in connection with such litigation or legal action, including, without limitation, its reasonable attorneys' fees and costs.

10.7 Indemnities; Defaults after Closing or Termination. The limitations on the Parties' remedies set forth in this Article X will not be deemed to prohibit either Party from: (i) seeking indemnification from the other Party for any matter with respect to which such other Party is obligated under this PSA to provide indemnification or from seeking damages from such other Party in the event such other Party fails or refuses to provide such indemnification; (ii) subject to Sections 5.5 and 6.4, seeking damages incurred during the period of time after each Closing that a representation or warranty given as of the applicable Closing Date by the other Party survives Closing, for the other Party's breach of such representation or warranty discovered after such Closing; (iii) seeking damages or such equitable relief as may be available for the other Party's failure to perform after each Closing any obligation under this PSA which expressly survives such Closing; or (iv) seeking damages or such equitable relief as may be available for the other Party's failure to perform after any termination of this PSA any obligation under this PSA which expressly survives such termination; provided, however, that in no event will either Party be entitled to recover from the other Party any punitive, consequential or speculative damages.

ARTICLE XI

General Provisions

11.1 Term. The "**Term**" means the period commencing on the Effective Date and ending on the earliest of: (i) the date on which this PSA is terminated for any reason; (ii) the Final Closing Date; or (iii) the date on which an Acquisition Default occurs.

11.2 Brokers. Seller represents that it has not authorized any broker or finder to act on its behalf in connection with the purchase and sale contemplated hereby. Purchaser represents that it has not authorized any broker or finder to act on its behalf in connection with the purchase and sale contemplated hereby. Seller and Purchaser agree to save and hold each other free, clear and harmless from any claim, cost or expense, including reasonable attorneys' fees, for or in connection with any claims for commissions or compensation claimed or asserted by or through each respective Party in connection with the transaction contemplated in this PSA.

11.3 Further Assurances. Each Party undertakes and agrees to execute and deliver such documents, writings and further assurances as may be requisite to carry out the intent and purpose of this PSA.

11.4 Entire Agreement. No change or modification of this PSA will be valid unless the same is in writing and signed by each Party. No waiver of any of the provisions of this PSA will be valid unless in writing and signed by the Party against whom it is sought to be enforced. This PSA contains the entire agreement between the Parties relating to the subject matter of this PSA. All prior negotiations between the Parties relating to the subject matter of this PSA are merged in

this PSA; and there are no promises, agreements, conditions, undertakings, warranties or representations, oral or written, express or implied, between the Parties other than as set forth in this PSA.

11.5 Survival. All of the Parties' representations, warranties, covenants and agreements hereunder, to the extent not fully performed or discharged by or through a termination or the applicable Closing pursuant to the PSA, will be deemed not merged into any instrument delivered at such Closing and will survive and remain fully enforceable thereafter, except as expressly limited in this PSA.

11.6 Time and Dates. Time is of the essence of this PSA and Seller's and Purchaser's obligations hereunder. If any date set forth in this PSA for the delivery of any document or the happening of any event (such as, for example, a Closing Date) should, under the terms of this PSA, fall on a weekend or holiday, then such date will be automatically extended to the next succeeding weekday that is not a holiday.

11.7 Governing Law; Venue. This PSA will be construed and enforced in accordance with the laws of the State of Colorado. Venue for any litigation pertaining to this PSA will be in the District Court for the County of Mesa, State of Colorado.

11.8 Notices. Any notice required or permitted to be sent pursuant to this PSA ("Notice(s)") will be in writing and will be deemed given, sent, delivered and received upon the earlier of: (i) when personally or actually delivered; or (ii) three (3) business days after having been deposited in a U.S. Postal Service depository and sent by registered or certified mail, return receipt requested, with all required postage prepaid; or (iii) upon confirmed email transmission; provided, however, that any email sent after 5:00 p.m. on a business day or sent on a non-business day will be deemed received on the next business day; or (iv) one (1) business day after being deposited with a commercial overnight courier and sent by overnight delivery with all required charges prepaid; and addressed:

If to Seller:

City of Grand Junction
250 N. 5th Street
Grand Junction, Colorado 81501
John Shaver, City Attorney
Telephone: 970.244.1508
Email: johns@gjcity.org

If to Purchaser:

DR Devco LLC
Attn: Jacques Machol III
Telephone No.: 303 (229)-1950
Email: jm@mjfirm.com

With a required copy to:

Davis & Ceriani, P.C.
Attn: John W. Baker, Esq.____
Telephone No.: (303) 534-9000
Email: jbaker@davisandceriani.com

Any address set forth above may be changed by the addressee by Notice given pursuant to this Section 11.8.

11.9 Severability. If any provision of this PSA is declared invalid, illegal or unenforceable by a court of competent jurisdiction, it will not affect or impair the validity or enforceability of any other provision of this PSA, and there will be substituted for the affected provision a valid and enforceable provision as similar as possible to the invalid provision.

11.10 Negotiated Provisions. This PSA will not be construed more strictly against one Party than against the other Party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, each Party expressly acknowledging that it has contributed substantially and materially to the preparation of this PSA.

11.11 No Recording. This PSA (or any memorandum thereof) will not be recorded in the Records by either Party and any violation of this provision by Purchaser will, at the option of Seller to be exercised by written notice from Seller to Purchaser, cause this PSA to be terminated, null and void except as to those obligations, representations, warranties and covenants of Purchaser which expressly survive termination of this PSA.

11.12 Headings. The paragraph headings which appear in some of the Sections of this PSA are for purposes of convenience and reference and are not in any sense to be construed as modifying the Sections in which they appear.

11.13 Condemnation. Immediately upon obtaining knowledge of a pending or threatened condemnation or similar proceeding (a "**Condemnation**") or any other proceedings arising out of injury or damage to the Property, or any portion thereof, Seller will notify Purchaser of the pendency of such proceedings. If any Condemnation proceedings affecting any portion of the Real Property are commenced or threatened prior to each Closing, Purchaser may, at its option: (i) terminate this PSA by Notice to Seller and receive back the Deposit, and the Parties will be released from any further obligation under this PSA, except such obligations as expressly survive termination of this PSA, or (ii) proceed to close this transaction and receive at each Closing all of the right, title and interest of Seller in and to any condemnation proceeds or awards or sales price in lieu of condemnation.

11.14 Assignment; Permitted Conveyances by Seller. Purchaser will have the right to assign or transfer its interests in and to the PSA, in whole or in part, to an affiliate without the consent of Seller. Such an assignment will not discharge any of the duties and obligations of Purchaser thereunder. Any other assignment by Purchaser will require Seller's prior written consent.

11.15 Successors and Assigns. This PSA will be binding upon and inure to the benefit of the Parties and their respective heirs, personal representatives, successors and permitted assigns.

11.16 Governmental Immunity. Seller, its officers, and its employees are relying on, and do not waive or intend to waive, by any provision of this PSA, any rights, protections, or privileges provided by the Colorado Governmental Immunity Act, C.R.S. §§ 24 10 101 *et seq.*, as it is from time to time amended.

11.17 Facsimile/pdf Signatures. The facsimile or .pdf signature of any Party on this PSA (and on any instrument required or permitted to be delivered to a Party pursuant to this PSA) will be deemed an original for all purposes.

11.18 Counterparts. This PSA may be executed in counterparts, each of which (or any combination of which) will be deemed a duplicate original.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties have caused this PSA to be executed effective as of the Effective Date.

SELLER:

CITY OF GRAND JUNCTION,
a Colorado home-rule municipal corporation

By: _____
Name: _____
Title: _____

ATTEST:

City Clerk

PURCHASER:

DR Devco LLC

By: _____

Jacques Macho

Title Company Acknowledgement and Agreement

By its execution of this PSA, Title Company agrees to receive, invest and apply the Deposit in accordance with the terms and provisions of the PSA. In the event of any dispute between Purchaser and Seller as to the proper application of the Deposit, Title Company may commence an action in the District Court in and for the County of Mesa, pay the Deposit to such Court and interplead Purchaser and Seller to such action, whereupon Title Company will be dismissed from such action and relieved of any further obligations with respect to the Deposit. Purchaser and Seller hereby agree to submit to the jurisdiction of such Court for the purpose of any such action.

TITLE COMPANY:

[insert Title Company name]

Date: _____, 2020

By: _____
Title: _____

DRAFT

**EXHIBIT A-1
to PSA
Legal Description of the Phase 1 Land**

[to be inserted prior to execution]

DRAFT

**EXHIBIT A-2
to PSA
Legal Description of the Phase 2 Land**

[to be inserted prior to execution]

DRAFT

EXHIBIT B
to PSA
Seller's Document Deliveries

[to be inserted prior to execution]

DRAFT

EXHIBIT C
to PSA
Form of PILOT Covenant

[to be inserted prior to execution]

DRAFT

Exhibit A
to Special Warranty Deed

Description of the Land

[insert legal description of the Phase 1 Land or the Phase 2 Land, as applicable]

DRAFT

Exhibit B
to Special Warranty Deed

Permitted Exceptions

Exclusions: Conveyance of the Land pursuant to the foregoing Special Warranty Deed is subject to the express exclusion of the following rights with respect to the Land:

1. Any and all right, title and interest in and to subsurface estates and mineral rights located in, upon and/or under the Land, including, without limitation, any rights to explore for and/or extract, or to be paid royalties in connection therewith, oil, natural gas, hydrocarbon products, gravel, sand, coal, and/or hard rock minerals; provided however, the surface of the Land to a depth of 500 feet below the surface of the Land may not be used or accessed in connection with the exercise of any rights related to the foregoing reserved mineral rights, including without limitation, exploration, drilling and extraction activities; and
2. To the extent appurtenant to or historically used in connection with the Land, any and all right, title and interest in and to tributary, nontributary and not-nontributary water rights that Grantor owns or may own, whether decreed or undeclared, including, without limitation, all groundwater underlying the Land, all surface water located within or used in connection with the Land, and/or ditch shares or ditch rights used in connection with the Land.

Exceptions: Conveyance of the Land pursuant to the foregoing Special Warranty Deed is subject to the following exceptions:

3. **[insert Permitted Exceptions pursuant to Section 2.4]**

EXHIBIT E
to
PSA
Form of General Assignment

GENERAL ASSIGNMENT

THIS GENERAL ASSIGNMENT (this “**Assignment**”) is made as of _____, 20____, by and between CITY OF THE GRAND JUNCTION, a Colorado home-rule municipal corporation (“**Assignor**”), and _____, a _____ (“**Assignee**”).

Recitals

This Assignment is made with respect to the following facts:

A. Assignee and Assignor are parties to that certain Purchase and Sale Agreement dated as of the ____ day of _____ 2020 (as amended, the “**PSA**”).

B. Pursuant to the PSA, Assignor has this date conveyed to Assignee the real property legally described in Exhibit A attached hereto (as defined in the PSA, the “**Real Property**” associated with the *[insert “Phase 1 Land” or “Phase 2 Land” as applicable]*).

C. In connection with its conveyance of the applicable portion of the Real Property to Assignee, Assignor has agreed to assign to Assignee all of Assignor’s right, title and interest in and to certain intangible personal property (as defined in the PSA, the “**Intangible Property**” associated with the *[insert “Phase 1 Land” or “Phase 2 Land” as applicable]*) as more fully described below.

Assignment

NOW, THEREFORE, for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged:

1. Assignment. To the extent the same are assignable and only to the extent they relate to the portion of the Real Property associated with the *[insert “Phase 1 Land” or “Phase 2 Land” as applicable]*, and only to the extent of Seller’s interest in the same as a property owner, and not as a governmental entity, which rights will be reserved solely to Seller, Assignor hereby transfers, grants, conveys and assigns to Assignee all of Assignor’s right, title and interest in and to the following Intangible Property:

- (a) The Agreements (as the PSA defines such term);
- (b) The Permits (as the PSA defines such term);
- (c) The Plans (as the PSA defines such term); and

(d) The Warranties (as the PSA defines such term), such Warranties comprising all unexpired warranties, guarantees and bonds, including, without limitation, contractors' and manufacturers' warranties or guarantees.

2. Assumption. Assignee hereby assumes all liability and obligations of Assignor under the Intangible Property which relate to the periods from and after the date hereof and agrees to perform all obligations of Assignor under the Agreements and the Permits which are to be performed or which become due on or after the date hereof.

3. Successors and Assigns. This Assignment will be binding upon and inure to the benefit of the parties' respective successors and assigns.

4. Counterparts. This Assignment may be executed in counterparts, each of which will be deemed a duplicate original.

IN WITNESS WHEREOF, the parties have executed this Assignment as of the date first set forth above.

ASSIGNOR:

CITY OF GRAND JUNCTION,
a Colorado home-rule municipal corporation

By: _____
Name: _____
Title: _____

ATTEST:

City Clerk

ASSIGNEE:

_____,
a _____
By: _____
Name: _____
Title: _____

Exhibit A
to General Assignment

Legal Description of the Real Property

[insert legal description of the Phase 1 Land or the Phase 2 Land, as applicable]

DRAFT

EXHIBIT F
to
PSA
Form of Declaration of Repurchase Right

[to be inserted prior to execution upon finalization of the following terms:]

DRAFT

EXHIBIT F
to
PSA
Form of Declaration of Repurchase Right

[to be inserted prior to execution upon finalization of the following terms:]

The Purchaser shall be required to submit an ODP/PD plan (“Development Plan”) to the City by December 31, 2020. The Development Plan shall include a minimum of the following elements:

- 210 residential dwelling units;
- 100,000 square feet of retail/office;
- 90,000 square feet of light industrial; and
- 96 hotel rooms.

As required by the City Zoning and Development Code (“Code”) each component of the Development Plan includes City approval (and satisfaction of any approval conditions) of a Major Site Plan or Preliminary/Final Subdivision Plan as necessary to satisfy the Code. Purchaser shall complete development in accordance with the Development Plan by the following deadlines:

- Phase 1: Submit and receive City approval of Certificate(s) of Occupancy for a minimum of 20 dwelling units and 10,000 square feet of retail, office and/or light industrial by December 31, 2022. Initial assessment value of such development must be greater than or equal to \$5,720,000.00.
- Phase 2: Submit and receive City approval of Certificate(s) of Occupancy for a minimum of 20 additional dwelling units and 10,000 additional square feet of retail, office and/or light industrial by December 31, 2023. Initial assessment value of such development must be greater than or equal to \$5,720,000.00.
- Phase 3: Submit and receive City approval of Certificate(s) of Occupancy for a minimum of 20 additional dwelling units and 25,000 additional square feet of retail, office and/or light industrial by December 31, 2024. Initial assessment value of such development must be greater than or equal to \$8,300,000.00.
- Phase 4: Submit and receive City approval of Certificate(s) of Occupancy for a minimum of 40 additional dwelling units and 25,000 additional square feet of retail, office and/or light industrial by December 31, 2025. Initial assessment value of such development must be greater than or equal to \$8,300,000.00.
- Phase 5: Submit and receive City approval of Certificate(s) of Occupancy for a minimum of 40 additional dwelling units, 35,000 additional square feet of retail, office and/or light industrial by December 31, 2026. Initial assessment value of such development must be greater than or equal to \$14,020,000.00.

Phase 6: Submit and receive City approval of Certificate(s) of Occupancy for a minimum of 40 additional dwelling units and 35,000 additional square feet of retail, office and/or light industrial by December 31, 2027. Initial assessment value of such development must be greater than or equal to \$14,020,000.00.

Phase 7: Submit and receive City approval of Certificate(s) of Occupancy for a minimum of 50 additional dwelling units and 50,000 additional square feet of retail, office and/or light industrial and a 96 rooms of hotel space by December 31, 2028. Initial assessment value of such development must be greater than or equal to \$18,870,000.00.

[Note: Total assessed value of the Property upon completion of development must be at least \$42.2 million for residential and \$32.75 million for commercial development.]

If Purchaser fails to meet any of the foregoing deadlines, or otherwise fails to develop the Property in accordance with the Development Plan, Seller may elect to repurchase any portion of the Property remaining undeveloped at the time of such failure in accordance with the following terms and conditions:

- Notwithstanding anything else contained herein, “Property remaining undeveloped” for the purposes of this repurchase provision shall exclude any Property for which an active building permit has been issued and substantial construction work is ongoing. Further, should the approval process for the design and permit application for any Lot exceed ninety (90) days from initial Planning and Zoning application to final approval, such that a Building Permit may be obtained, such additional approval process time period beyond ninety (90) days shall be added to each of the foregoing dates.
- In addition and, notwithstanding anything else contained herein, in order to facilitate construction lending for each and any Phase(s) of the project, Seller agrees to release the Repurchase Right for each Phase of the property subject to the Initial Closing at the time the Purchaser closes and the construction loan is funded for that Phase or if the Purchaser’s lender requests that the Seller agree in writing to subordinate the Repurchase Right to all the rights and remedies of the construction lender, which do not cause or create a claim against the Seller, Seller agrees it will do so. The Purchaser shall endeavor to secure construction financing for each Phase of the property subject to the Final Closing that does not require the Seller to release or subordinate the Repurchase Right, but in the event such is necessary to secure financing the Seller reasonably agrees to consider in good faith the release or subordination as provided for the Initial Closing to facilitate the Buyer’s ability to obtain construction financing for each Phase of the project to be constructed on the property named for the Final Closing. In the event the Seller determines in good faith, based on Purchaser’s failure to meet milestones as set forth above, not to release or subordinate the Repurchase Right on the property subject to the Final Closing, the Purchaser shall have no claim or cause of action against the Seller; however, that notwithstanding, Seller agrees that it will not exercise or use the Repurchase Right to frustrate the Purchaser’s ability to obtain financing for construction or to reclaim and resell

the property for a higher price, acknowledging Purchaser's contribution to the increase in value of the property.

- Seller will deliver to Purchaser written notice of such failure, whereupon Purchaser will have 30 days to propose corrective measures (e.g., new timeline, unit count, square footage, etc.) to Seller;
- Seller will have 90 days to accept or reject the proposed corrective measures;
- If Seller does not accept the proposed corrective measures, Seller may elect to repurchase the applicable portion(s) of the Property on the same general terms as Purchaser's acquisition from Seller, including the Purchase Price allocated to such portion of the Property based on the acreage of the repurchase property to the total acreage of the Property.
- Any square footage or value minimum that is exceeded in any phase shall be banked and able to use in any future phase requirement.

The Declaration of Repurchase Right will run with the land. The foregoing repurchase right will apply as a right of first offer to any sale or proposed sale of the Property or any portion thereof.

When Recorded Return To:
Otten Johnson Robinson
Neff and Ragonetti, P.C.
Attn: Kimberly Martin
950 17th Street, Suite 1600
Denver, Colorado 80202

DECLARATION OF COVENANTS CONCERNING PAYMENT IN LIEU OF TAXES

THIS DECLARATION OF COVENANTS CONCERNING PAYMENT IN LIEU OF TAXES (this “**Declaration**”) is made as of the “**Effective Date**” (as defined in Section 1(k)), by _____, a _____ (together with its successors and assigns, “**Declarant**”), for the benefit of the THE CITY OF GRAND JUNCTION DOS RIOS GENERAL IMPROVEMENT DISTRICT, a public or quasi-municipal subdivision of the State of Colorado and a body corporate (together with its successors and assigns, the “**District**”), with the consent of the City of Grand Junction, a Colorado home-rule municipal corporation (the “**City**”), as indicated by execution of this Declaration below.

RECITALS

A. Capitalized terms used in this Declaration have the meanings given them in Section 1 unless otherwise dictated by the context.

B. Declarant is the owner of that certain real property located in the City, as referred to and more particularly described in Attachment 1 attached hereto and incorporated herein by this reference as the “Declarant Property” (the “**Declarant Property**”).

C. The City is the owner of that certain real property located in the City adjacent to the Declarant Property, as referred to and more particularly described in Attachment 1 as the “City Property” (the “**City Property**,” and collectively with the Declarant Property, the “**Property**”).

D. The District has been organized pursuant to Colorado law to acquire, construct, install, operate and/or to provide public improvements and services within and without its boundaries, including, without limitation, all utilities to include gas, electric, water, storm sewer and sanitary sewer, drainage, all communications facilities such as cable, fiber and broadband, roadways and alleyways, trails and sidewalks, environmental remediation, fill, street lights, landscaping, irrigation, public parking areas, signage, parks and open space, together with land, easements and extensions of, and improvements to, such facilities, and services serving and benefiting the Property (collectively, the “**Public Improvements and Services**”).

E. As of the Effective Date, the Property is within the District’s boundaries. *[NOTE: Please confirm this is accurate.]*

F. Pursuant to Section 31-25-611, C.R.S., it is contemplated that the District may borrow money and incur general obligation indebtedness, as evidenced by bonds, and may enter

into agreements with other governmental entities affecting the affairs of the District, to include the repayment of such bonds.

G. For purposes of financing the Public Improvements and Services, or any portion thereof, the District intends to (i) issue its Special Revenue Bonds, Series 2020 (together with any refundings thereof, the “**Series 2020 Bonds**”) pursuant to an Indenture of Trust to be dated _____, 2020 and entered into between Zions Bancorporation, National Association, as trustee for the Series 2020 Bonds (“**Trustee**”) and the District (the “**Trust Indenture**”); and (ii) enter into a Public Financing Agreement with the City dated as of _____, 2020 (as may be amended or supplemented from time to time, the “**Public Financing Agreement**”).

H. Pursuant to the Trust Indenture and the Public Financing Agreement, as applicable, (i) the District will issue the Series 2020 Bonds and, in order to provide security for the payment of the Series 2020 Bonds, the District will undertake certain obligations to repay the Series 2020 Bonds, and will pledge, *inter alia*, to impose an *ad valorem* mill levy upon all taxable property within the District, and (ii) to assist in repayment of the Series 2020 Bonds, the City has agreed to pay to or share with the District certain revenues of the City, as more particularly set forth in the Public Financing Agreement.

I. Declarant and the City acknowledge, and each Owner acquiring an Interest in any portion of the Property will be deemed to have acknowledged, that the Property and improvements thereon will benefit directly from the construction, installation, operation, maintenance, repair, replacement and provision of the Public Improvements and Services and other improvements and services provided by the District; however, the Property, or portions thereof, may in the future be exempt from property taxation, as may be disclosed by the records of the Mesa County Assessor (the “**County Assessor**”), and not subject to the *ad valorem* property tax mill levies imposed by the Taxing Entities.

J. Subject to and in accordance with the provisions of this Declaration, Declarant desires to impose this Declaration (and the City desires to consent to the imposition of this Declaration) to provide that if the Property, or any portion thereof, is not subject to the requirement to pay the Mill Levy because such Property, or applicable portion thereof, for any period of time, is not subject to, or is exempt from, the imposition of the Mill Levy, the Owner of the Property, or applicable portion thereof, will be required to pay to the District (or its designee, as applicable) certain amounts as set forth herein.

DECLARATION

NOW THEREFORE, in consideration of the facts set forth in the Recitals and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Declarant, Declarant hereby declares and agrees as follows:

1. Defined Terms. Except as otherwise expressly provided herein, defined terms used in this Declaration will have the following meanings:

(a) “**Act**” means the Colorado Common Interest Ownership Act, Sections 38-33.3-101, *et seq.*, C.R.S.

(b) **“Annual Fee”** means, with respect to any Exempt Property, an annual payment in lieu of taxes in an amount equal to the Mill Levy for the applicable calendar year that would be imposed on and apply to the Property, or applicable portion thereof, if it were not Exempt Property, multiplied by the County Assessor’s most recent certified assessed valuation of such Exempt Property *[for illustrative purposes only, if the Mill Levy for the applicable tax year is 100 mills and the County Assessor’s most recent assessed valuation of such Exempt Property is \$1,000,000, the Annual Fee would be \$100,000: $\$1,000,000$ assessed value \times (100 mills \times .001 mill levy multiplier) = \$100,000]*. If there is no recent certified assessed valuation for any Exempt Property, then the Annual Fee will be calculated by applying the applicable assessment ratio to the County Assessor’s most recent certified actual valuation. If neither a recent certified assessed valuation or a recent certified actual valuation is available, the District may retain an appraiser to calculate an assessed valuation using the same standards as set forth in the County Assessor’s Reference Library, and such determination of assessed valuation shall be binding on the Owners until thereafter modified or revised in accordance with this Section 1(b). For purposes of this Section 1(b), “recent,” with respect to any certified assessed valuation or certified actual valuation, means any such valuation certified within the two years of January 1 of the calendar year in which the Annual Fee would be payable pursuant to Section 3.

(c) **“Bond Documents”** means, collectively, the Public Financing Agreement, the ordinances, resolutions, indentures (including without limitation, the Trust Indenture), reimbursement agreements, loan agreements and other contracts and instruments under which the District issues the Bonds for the purpose of financing or refinancing the Public Improvements and Services, in whole or in part.

(d) **“Bonds”** means the Series 2020 Bonds, together with any future bonds, notes, loans, contracts, intergovernmental agreements, reimbursement agreements, acquisition agreements, advances or other obligations, including the refunding thereof, issued from time to time by the District or an assignee of the District pursuant to Section 10, the proceeds of which are used for the purpose of financing or refinancing the Public Improvements and Services, in whole or in part.

(e) **“City”** is defined in the introductory paragraph.

(f) **“City Property”** is defined in Recital C.

(g) **“County Assessor”** is defined in Recital I.

(h) **“Declarant”** is defined in the introductory paragraph.

(i) **“Declarant Property”** is defined in Recital A.

(j) **“District”** is defined in the introductory paragraph.

(k) **“Effective Date”** means the date on which this Declaration is recorded in the Records.

(l) **“Exempt Property”** means any portion of the Property that would be subject to imposition and/or payment of the Mill Levy, but is exempt from *ad valorem* property

taxation as disclosed by the County Assessor's records, and therefore such property is not subject to, or is exempt from, the imposition and/or payment of the Mill Levy; provided however, "Exempt Property" expressly excludes any portion of the Property owned by (i) the City to the extent such real property is only held by the City and is not developed, improved, used or enjoyed for any use whatsoever; or (ii) the District.

(m) **"Interest"** means a fee simple ownership interest, subject to matters recorded in the Records.

(n) **"Mill Levy"** means the aggregate *ad valorem* property tax mill levies imposed by the Taxing Entities from time to time.

(o) **"Owner(s)"** means a Person that owns an Interest in the Property, or any portion thereof, including without limitation, the Declarant, as applicable. If more than one Person owns an Interest in the applicable portion of the Property as joint tenants, tenants in common or otherwise, such Persons will be jointly and severally liable for the obligations imposed under this Declaration with respect to such portion of the Property, including without limitation, the obligation to pay the Annual Fee.

(p) **"Person(s)"** means any individual, partnership, corporation, limited liability company, association, trust or other type of entity or organization.

(q) **"Property"** is defined in Recital C.

(r) **"Public Financing Agreement"** is defined in Recital F.

(s) **"Public Improvements and Services"** is defined in Recital D.

(t) **"Records"** means the real property records of the Clerk and Recorder of Mesa County, Colorado.

(u) **"Series 2020 Bonds"** is defined in Recital G.

(v) **"Taxing Entities"** are the governing bodies of the various taxing jurisdictions within or overlapping the Property, or any portion thereof, as applicable, including without limitation, the City and the District.

(w) **"Term"** is defined in Section 7.

(x) **"Termination Date"** is defined in Section 3(a).

(y) **"Trustee"** is defined in Recital G.

(z) **"Trust Indenture"** is defined in Recital G.

2. Colorado Common Interest Ownership Act Not Applicable. Notwithstanding any provision of this Declaration to the contrary, including without limitation, Attachment 1, the Property does not include any real property described in Attachment 1 to the extent developed,

improved, used or enjoyed for “residential use” (as such term is defined in the Act) from time to time, and any such real property will be wholly exempt from, and not subject to any of, the covenants, conditions and restrictions created by this Declaration.

3. Annual Fee.

(a) Declarant and the City acknowledge and agree, and each Owner acquiring an Interest in any portion of the Property will be deemed to have acknowledged and agreed, that the District may and will calculate and collect, and the Owners from time to time of Exempt Property will pay to the District, the Annual Fee in arrears as set forth below until the latest to occur of the following, upon which the Annual Fee will expire, terminate and be of no further force or effect (the “**Termination Date**”): (i) the date the Bonds are fully repaid; (ii) the date the District dissolves; or (iii) the date the District executes and records a termination of this Declaration in the Records.

(b) On or about January 15 of any calendar year following a calendar year in which the Property, or any portion thereof, is Exempt Property, the District will deliver written notice to the Owner of such Exempt Property of the Annual Fee due for the calendar year in which such Property, or the applicable portion thereof, is Exempt Property, together with instructions for payment of the Annual Fee to the District or the District’s designee, as applicable, including without limitation, any trustee under any Bond Documents; provided however, delinquencies or failures in providing such notice will not affect the validity or collectability of such Annual Fee. The amount of such Annual Fee will be pro-rated, based on that portion of the calendar year during which such Property, or the applicable portion thereof, is Exempt Property.

(c) Each Annual Fee due for a calendar year will be due and payable in arrears on April 15 of the following calendar year.

(d) If an Owner fails to pay any amount due under this Declaration to the District on or prior to the date such amount becomes due, such Owner will (i) pay to the District interest on such unpaid amount from the due date thereof until paid at the rate of % annum simple interest; provided however, if such rate exceeds the maximum permitted by applicable law, such rate will be the maximum permitted by applicable law; and (ii) reimburse the District for any and all attorneys’ fees and costs and expenses incurred by the District to collect such unpaid amounts. *[NOTE: Please confirm the applicable interest rate percentage.]*

4. Transfers of Interests.

(a) ANY OWNER TRANSFERRING AN INTEREST IN THE PROPERTY, OR ANY PORTION THEREOF, WILL PROVIDE WRITTEN NOTICE TO THE DISTRICT OF SUCH TRANSFER, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 5, NOT LATER THAN THE DATE SUCH TRANSFER OF INTEREST IS EFFECTIVE. SUCH NOTICE WILL IDENTIFY THE PROPERTY OR PORTION THEREOF SUBJECT TO THE INTEREST BEING TRANSFERRED, THE NAME OF SUCH TRANSFEROR AND THE NAME OF THE TRANSFEREE.

(b) An Owner’s failure to give any such notice of transfer will in no way affect or eliminate the obligation of a subsequent Owner to pay the Annual Fee, as applicable.

5. Notices.

(a) Notices given with respect to this Declaration will be in writing and will be delivered by hand-delivery, or by certified mail, return receipt requested, or overnight delivery service by a nationally-recognized overnight courier service such as Federal Express or UPS. Notice will be deemed given (i) when received if hand-delivered, (ii) on the third business day after mailed if given by certified mail, postage pre-paid, or (iii) the next business day following delivery by overnight courier service. Notice will be sent to the following addresses:

To Owners:	To the Owners at their addresses at the Property as set forth in the Records
To the District:	The City of Grand Junction Dos Rios General Improvement District c/o City of Grand Junction 250 N. 5th Street Grand Junction, Colorado 81501 Attn: City Attorney
with a copy to:	Collins Cockrel & Cole 390 Union Blvd. Suite 400 Denver, Colorado 80228 Attn: Bob Cole
To the City:	City of Grand Junction 250 N. 5 th Street Grand Junction, Colorado 81501 Attn: City Attorney
with a copy to:	Otten, Johnson, Robinson, Neff & Ragonetti, P.C. 950 Seventeenth Street, Suite 1600 Denver, Colorado 80202 Attention: Kimberly Martin

(b) The District and the City may change its respective address for purposes of this Section 5, at any time and from time to time, by delivering to the then-current Owners a notice of such change in accordance with the terms of this Section 5. An Owner may change its address for purposes of this Section 6, at any time and from time to time, by delivering to the District and the City a notice of such change in accordance with the terms of this Section 5.

6. Remedies; Attorneys' Fees. The District will have all rights and remedies available to it under this Declaration, at law and/or in equity, including without limitation, specific enforcement, to enforce this Declaration against any Person in breach of its obligations hereunder. In the event of litigation in connection with the enforcement or interpretation of the terms of this Declaration, the prevailing party in such litigation will be entitled to its costs and reasonable attorneys' fees.

7. Term. The term of this Declaration will commence on the Effective Date and will continue through and including the Termination Date (the “**Term**”); provided, however, the obligations and liabilities of any Owners accruing during the Term, and the District’s enforcement rights in connection therewith, will survive the expiration of the Term.

8. Binding Effect. During the Term, this Declaration will run with the land, and will be binding upon all Owners and Persons having an Interest in the Property, or any portion thereof, and their respective successors and assigns; provided, however, if and to the extent that any of the restrictions or covenants herein would otherwise be unlawful or void for violation of the rule against perpetuities, such restrictions and covenants will continue and endure only until the expiration of a period of ninety (90) years after the Effective Date. The Owners, by taking title to the Property, or any portion thereof, thereby acknowledge and agree that the covenants set forth herein are reasonable and necessary to facilitate the construction, financing, operation, maintenance, repair, replacement and provision of the Public Improvements and Services benefitting the Property, the Owners and Persons having an Interest in the Property.

9. Severability. Invalidation of any of the provisions contained in this Declaration, or of the application thereof to any Person, by judgment or court order, will in no way affect any of the other provisions of this Declaration or the application thereof to any other Person or circumstance, and the remainder of this Declaration will remain in effect and full force; provided, however, that in the event such invalidation would render the remaining portions of this Declaration ineffective to carry out the intentions of the Declarant or the City, as applicable, as expressed or implied by this Declaration, then the objectionable provision(s) hereof will be construed, and this Declaration will be presumed amended, as if such provision was replaced with an enforceable provision which effectuates, as nearly as possible, the intent of the Declarant or the City, as applicable, as expressed or implied herein.

10. Third-party Beneficiaries; Assignment. The District and trustees under any Bond Documents, including without limitation, the Trustee, are expressly hereby made third-party beneficiaries of the Owners’ obligations under this Declaration, including without limitation, the payment of the Annual Fee. Declarant acknowledges, and each Owner, by acquiring an Interest in the Property or any portion thereof, will be deemed to have acknowledged, that the District and such trustees will have a direct cause of action and full right and authority to enforce each Owner’s obligation under this Declaration. Except as provided in this Section 10, nothing contained in this Declaration will be construed to give any right of action by any other Person with respect to this Declaration. Notwithstanding the foregoing, any and all of the rights and powers of the District herein may be assigned (in whole or in part) by the District to any successor of the District with respect to its obligations under the Trust Indenture or other Bond Documents from time to time by an instrument executed by both the assignor and the assignee and recorded in the Records; upon any such assignment, the assignee, to the extent of such assignment, will have the same rights and powers of the District as provided for in this Declaration.

11. Amendment. This Declaration may be amended with the written consent of (a) the City, if the City is an Owner of any portion of the Property; (b) the Owners who hold a fee interest in more than 50% of the total acreage of the Property, but excluding any portion of the Property owned by the City, the District or any other governmental or quasi-governmental entity; (c) the District, and (d) such other consents as may be required pursuant to any Bond Documents.

Any such amendment will (i) be executed by the City, if the City is an Owner of any portion of the Property; (ii) be executed by the District; (iii) include a certification of the District that the requisite consenting parties have given their written consent thereto; and (iv) be recorded in the Records by the District.

12. Exclusion of Property. With such consents as may be required pursuant to any Bond Documents, the District may exclude any real property from the Property by recording in the Records a notice of such exclusion describing the property to be excluded from the Property, and upon the recording of any such notice (or upon the effective date specified in the notice if different from the date of recording), the real property described in the notice will be excluded from the Property and will no longer be subject to the terms, obligations, covenants and requirements of this Declaration, except with respect to obligations arising prior to the effectiveness of such exclusion.

13. Inclusion of Property. With such consents as may be required pursuant to any Bond Documents, the District may include any additional real property in the Property by executing and recording in the Records a notice of such inclusion describing the real property to be included in the Property; provided, however, if such real property to be included in the Property is owned by a Person other than the District, any such inclusion will require the written consent of the Person owning such property as evidenced by such Person's execution of such notice. Upon the recording of any such notice (or upon the effective date specified in the notice if different from the date of recording), the real property described in the notice will be included in the Property and will be subject to the terms, obligations, covenants and requirements of this Declaration, except with respect to obligations arising prior to the effectiveness of such inclusion.

14. Merger. Notwithstanding that the Declarant and the City own all property subject to this Declaration, such ownership (or any future ownership of all of the Property by a single Person) will not act to merge the covenants, burdens and benefits created by this Declaration with the underlying real property. Any amendment or termination of this Declaration or the covenants, burdens and benefits created herein may only be effected pursuant to Section 11.

15. Governing Law. This Declaration will be governed by, and enforced in accordance with, the laws of the State of Colorado.

[Signature pages follow]

ATTACHMENT 1
LEGAL DESCRIPTION OF THE PROPERTY

Declarant Property:

[to be inserted]


City Property:

[to be inserted]

CITY COUNCIL MEETING CITIZEN PRESENTATION		Date
Citizen's Name	Bruce Hummelts	
Subject	School Board Minutes	
Phone Number (optional)	Including your phone number is helpful if we would like to contact you in response to your questions, comments, or concerns. Thank you!	

CITY COUNCIL MEETING CITIZEN PRESENTATION		Date 9/16/20
Citizen's Name	Richard Puter	
Subject	Law & Order	
Phone Number (optional)	970-234-9954	Including your phone number is helpful if we would like to contact you in response to your questions, comments, or concerns. Thank you!

CITY COUNCIL MEETING CITIZEN PRESENTATION		Date 9/16/20
Citizen's Name	ERIC NIEDERKRUGER	
Subject	SISTER CITY SOS	
Phone Number (optional)	970 361-4386	Including your phone number is helpful if we would like to contact you in response to your questions, comments, or concerns. Thank you!

 PLEDGE OF ALLEGIANCE	Meeting Date 9/16/2020
	Organization Fruita 8-9 Fruita Youth Action Council
Guest Margaret Thode	

- A - Doug Levinson
- B - Paul Pitton
- C - Trish Mahre
- D - Tom Parrish
- E - Amy Davis

Board of Education
Mesa County Valley School District 51
Business Meeting Minutes: August 18, 2020
Adopted: September 15, 2020

	A	B	C	D	E	AGENDA ITEMS	ACTION
						<p>F. LEGISLATIVE REPORT</p> <ul style="list-style-type: none"> ➤ Mr. Pitton noted there are three tax measure he has been watching. One measure, the Fair Tax, fell through but two other measures were moving forward. He recommended people research the Mill Levy Override and the Gallagher Amendment Appeal. <p>G. AUDIENCE COMMENTS</p> <ul style="list-style-type: none"> ➤ Mr. Bruce Lohmiller, Grand Junction, CO 81506 Mr. Lohmiller reminded the Board of the need to: <ul style="list-style-type: none"> • Listen to a Fox News Report by Major Garrett • Have staff and students call 241-STOP for help with issues at the schools • Offer comprehensive sex education classes in the schools Mr. Lohmiller shared a photo of a taxi cab in India and advised the District to look into changing District fleet vehicles over to the same type of vehicle. <p>H. SUPERINTENDENT'S REPORT</p> <p>H-1. School Opening Update, Superintendent Sirko</p> <ul style="list-style-type: none"> ➤ Superintendent Sirko thanked the building principals and teachers for making the reopening of school for in-person learning a success. She reported: <ul style="list-style-type: none"> • Some students who initially signed up for the online program have switched to in-person learning. • The majority of parents and students are completing the symptoms tracking. Health assistants are able to quickly check on students whose symptoms tracking was not completed. • Steps are being taken to check on former students who did not show up for in-person learning and are not enrolled in the online program. • Mesa County Health Department has established an air quality spectrum due to the fires in the area and the District will be checking daily to see if students need to stay indoors. • Personal Protection Equipment supplies are arriving steadily at the warehouse and schools will be able to add supplies on a regular basis. • A process is in place should the District have to pivot to remote learning. Teachers are working with students to be able to pivot to remote learning seamlessly. Administrative leadership teams are working on a system to ensure students receive the support needed from teachers, if having to move to remote learning. • Some staff from other departments, such as Teachers on Special Assignment and Instructional Coaches have been temporarily placed into some classrooms to cover until permanent staff can be hired. ➤ Mr. Dan Burke, Executive Director of Technology, reported there were no problems with the software for the symptoms tracking. Managers (principal, directors, etc.) can access a daily list of staff members who have not completed their tracking and can quickly reach out to them to complete. ➤ Superintendent Sirko introduced Mr. Paul Jebe, Site Director, and the assistant principals for the D51 Online Program, Mrs. Linnea Watson and Mr. 	

- A - Doug Levinson
- B - Paul Pitton
- C - Trish Mahre
- D - Tom Parrish
- E - Amy Davis

Board of Education
Mesa County Valley School District 51
Business Meeting Minutes: August 18, 2020
Adopted: September 15, 2020

A	B	C	D	E
---	---	---	---	---

AGENDA ITEMS	ACTION
---------------------	---------------

David Edwards. Mr. Jebe, Ms. Watson and Mr. Edwards acknowledged and thanked the staff members at the Emerson Building who have been assisting in getting the program ready. They shared information and answered questions regarding the D51Online Program:

- The program is scheduled to begin on Monday, August 24.
- Approximately 2700 students have signed up for the program, and sixty teachers have been assigned to the program.
- The current ratio of students to teachers is 200 students per teacher. Odysseyware, the curriculum program being used, recommends 150 students per teacher.
- Attendance and academic data will be collected for online students and Colorado High School Athletics Association (CHSAA) eligibility requirements will be monitored.
- Students will be assigned a Chromebook if needed, but approximately, 275 students have technology devices at home and indicated they would not need a Chromebook.

[Recess 7:45 p.m. Resume Meeting 8:00 p.m.]

H-2. Safety Protocols, Assistant Superintendent Hill

- Dr. Brian Hill, Assistant Superintendent, expressed he is proud of the way students and staff have been wearing masks and how impressed he is with the way principals and teachers have been working to make in-person learning a success. He reported the warehouse has been making adjustments to ensure schools have adequate supplies and the District is looking at supplying gloves to some secondary schools so students can assist in wiping down desks.

H-3. Policy AC, Nondiscrimination Regulations and Exhibits Update, Mr. John Williams

- Mr. Williams, General Counsel, reported regulation AC-R, Nondiscrimination (Compliance and Complaint Procedures) was relabeled to AC-R-1 so a new regulation AC-R-2, Sexual Harassment Complaint, Investigation and Hearing Procedures could be added. AC-R-2 address language needed to comply with Title IX Regulations. One significant difference between the two regulations is AC-R-1 allows for a hearing whereas AC-R-2 names the assistant superintendent as the decision maker without a hearing. Mr. Williams reviewed changes made to exhibit AC-E, Nondiscrimination, a notification document. Clarifying language was added and the exhibit was relabeled AC-E-1 so a second exhibit AC-E-2 could be added. AC-E-2, Sexual Harassment Complaint, Investigation and Hearing Form is a form to be completed for a discrimination complaint. Discussion pursued concerning the possible need to revise language in the regulation. Mr. Williams reminded the Board of the need to have a policy and regulations in place prior to August 14 to be in compliance with the law, and the current policy, regulations and exhibits meet the requirement of law. The policy, regulations and exhibits can be reviewed and revised at a later date, if needed.

- A - Doug Levinson
- B - Paul Pitton
- C - Trish Mahre
- D - Tom Parrish
- E - Amy Davis

Board of Education
Mesa County Valley School District 51
Business Meeting Minutes: August 18, 2020
Adopted: September 15, 2020

	A	B	C	D	E	AGENDA ITEMS	ACTION
						<p>H-4. Communication/District Initiatives</p> <ul style="list-style-type: none"> ➤ Superintendent Sirko thanked Catherine Foster-Gruber, Communications Specialist, for all her work in getting the back to school information disseminated to parents and staff. Dr. Sirko noted Mrs. Foster-Gruber is working solo since her coworker is currently on a leave of absence. 	
Motion					x	I. CONSENT AGENDA	Adopted
Second	x					I-1. Personnel Actions [Resolution 20/21: 12]	
Aye	x	x	x	x	x	I-2. Gifts [Resolution: 20/21: 13]	
No						I-3. Grants [Resolution: 20/21: 14]	
Motion			x			J. BUSINESS ITEMS	Adopted
Second	x					J-1. Policy AC, Nondiscrimination Second Reading/Final Adoption	
Aye	x	x	x	x	x	<ul style="list-style-type: none"> ➤ Policy AC, Nondiscrimination was temporarily adopted on August 4, following a first reading. A temporary adoption was necessary to be in compliance with the new Title IX Regulations. Council recommended the Board move forward with final adoption to remain in compliance with law. Counsel will continue to work with the Board to address any concerns regarding policy language. 	
No						<p>K. BOARD OPEN DISCUSSION</p> <p>K-1. Board Retreat Discussion/Scheduling</p> <ul style="list-style-type: none"> ➤ Mr. Parrish recommended Board members work to schedule a Board Retreat. The Retreat would allow members to discuss items needing to be addressed by the Board such as allocating any remaining bond funding. Board members will submit agenda ideas to Mr. Parrish and a date and time will be scheduled. <p>L. FUTURE MEETINGS</p> <p>L-1. September 1, 2020, HBBR, 6:00 p.m., Board Work Session</p> <p>L-2. September 15, 2020, HBBR, 6:00 p.m., Board Business Meeting</p> <p>M. EXECUTIVE SESSION</p> <ul style="list-style-type: none"> ➤ None at this time. 	
Motion	x				x	N. ADJOURNMENT	8:41 p.m.
Second							
Aye	x	x	x	x	x		
No						<hr style="width: 200px; margin-left: auto; margin-right: 0;"/> Bridget Story, Secretary Board of Education	