

**GRAND JUNCTION PLANNING COMMISSION  
AUGUST 13, 2013 MINUTES  
6:02 p.m. to 9:38 p.m.**

The regularly scheduled Planning Commission hearing was called to order at 6:02 p.m. by Chairman Reece. The public hearing was held in the City Hall Auditorium.

In attendance, representing the City Planning Commission, were Christian Reece (Chairman), Ebe Eslami (Vice-Chairman), Reginald Wall, Loren Couch, Jon Buschhorn, Steve Tolle and William Wade.

In attendance, representing the City's Public Works, Utilities and Planning Department – Planning Division, were Lisa Cox (Planning Manager), Lori Bowers (Senior Planner), Scott Peterson (Senior Planner), Senta Costello (Senior Planner), Eric Hahn (Development Engineer) and Jody Kliska (Transportation Engineer).

Also present was Jamie Beard (Assistant City Attorney).

Pat Dunlap was present to record the minutes.

There were 120 interested citizens present during the course of the hearing.

**ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS**

Lisa Cox, Planning Manager, advised that the second Planning Commission workshop and meeting in August would not be held. The next workshop would be on Thursday, September 5, 2013 and the next regular meeting would be on Tuesday, September 10, 2013.

**Consent Agenda**

1. **Minutes of Previous Meetings**  
Approve the minutes of the June 11, 2013 regular meeting.
  
2. **Cunningham Investment Company, Inc – Zone of Annexation**  
Forward a recommendation to City Council to zone 27.73 +/- acres to R-E (Residential Estate, 1 dwelling unit/acre) zone district.  
**FILE #:** GPA-2007-263  
**PETITIONER:** LL Crispell, LLC  
**LOCATION:** 2098 E ½ Road  
**STAFF:** Scott Peterson
  
3. **Custom Industries CUP – Conditional Use Permit**  
Consider a request for a Conditional Use Permit to store hazardous materials/explosives on 0.99 acres in an I-2 (General Industrial) zone district.

**FILE #:** CUP-2013-106  
**PETITIONER:** Deb Ghiloni - Ghiloni Properties LLC  
**LOCATION:** 2300 Logos Drive  
**STAFF:** Senta Costello

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

Lisa Cox, Planning Manager, stated that staff had not received any public comment in opposition to Item #4, the proposed Zoning Code amendment to revise the definition of Lot Coverage, and therefore requested that the item be moved to the Consent Agenda.

After discussion, there were no objections or further revisions received from the audience or Planning Commissioners on the Consent Agenda.

**MOTION: (Commissioner Wade) “I move that we approve the Consent Agenda as read, including Item #4.”**

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

**Public Hearing Items**

- 4. **Text amendment to Sec. 21.03.030(e); 21.10.020 - Zoning Code Amendment**  
Forward a recommendation to City Council to amend the Grand Junction Municipal Code, Section 21.03.030(e), Measurements, Lot Coverage and 21.10.020, Terms Defined, to amend the definition of Lot Coverage.

**FILE #:** ZCA-2013-313  
**APPLICANT:** City of Grand Junction  
**LOCATION:** Citywide  
**STAFF:** Lisa Cox

This item was moved to the Consent Agenda.

- 5. **Urban Trails Master Plan - Comprehensive Plan Amendment**  
Forward a recommendation to City Council of a Comprehensive Plan Amendment to update the Urban Trails Master Plan and to rename to the Grand Valley Trails Master Plan.

**FILE #:** CPA-2013-224  
**PETITIONER:** City of Grand Junction  
**LOCATION:** Grand Valley including the Comprehensive Plan area  
**STAFF:** Jody Kliska

**Staff's Presentation**

Julie Sabin, Dave Grossman and Elizabeth Collins from the Urban Trails Committee made a presentation on the proposed updates to the Urban Trails Master Plan and the request to rename the plan to the Grand Valley Trails Master Plan. Ms. Sabin stated that the Urban Trails Committee had been working on the Plan for over two years. The Committee had received several requests for trails, safer bike routes and safer routes to schools. She explained that the Master Plan was about safety, connectivity and a healthy community and that it had been a community driven process.

Mr. Grossman explained that the Urban Trails Committee requested that the Plan be renamed the Grand Valley Trails Master Plan and that it is an effort to achieve the City's goal to become the most livable City west of the Rockies. The Plan would help the City become a walkable and bike friendly community. Mr. Grossman stated that the Plan was focused on developing safe routes to schools, bike routes and sidewalks. He stated that the Plan was a planning document and not a user map.

A Walking and Biking Trails Summit was held on March 8, 2013 with 150 attendants. It focused on the Economic, Health, Recreation and Transportation benefits of bike trails. Mr. Grossman discussed the financial benefits to trails citing increased revenue that they can bring, especially when special biking events are held such as the Tour the Moon and the Ride the Rockies events. Health professionals were present at the Summit to discuss the health benefits. A Trail Pledge, which focuses on developing a healthy vibrant community, was signed by 117 people.

An Open House was held in June, 2013 where 72 people attended and provided a lot of feedback on the proposed updates to the Plan. Mr. Grossman stated that they are trying to build a healthy community and that people value a recreational outlet and businesses value a livable community. He showed a map of existing facilities and then showed the proposed updates to the Plan which would build connectivity with an emphasis on schools and provide opportunities for a healthier community.

Commissioner Wall asked if the Urban Trails Committee was proposing that the trails be concrete. Mr. Grossman responded that the Plan included trails of all types, including sidewalks, bike lanes, sharrows, dirt trails and paved trails depending on the location and need.

Commissioner Wade then asked in the planning that had been done so far, had there been any provision for how the trails would be signed, maintained and who would pay for that. Mr. Grossman responded that this was a planning document to provide for connectivity. How each trail is constructed, maintained and signed is part of the development process. Ms. Sabin added that when roads are redeveloped that bike lanes would be added at that time if they were designated.

Commissioner Couch asked if the facilities were accessible to people with mobility issues such as people who use wheelchairs, walkers or canes. Mr. Grossman stated that the system was not simply for walkers and bikers, it provides opportunities for people of all modal opportunities to get around the community. Commissioner Couch then asked

about the connectivity and if that would assist people being able to get to health care facilities, City Hall and other facilities in addition to schools. Julie Sabin responded that the trails would assist with that across the Valley, particularly in the north-south and east-west corridors.

Jody Kliska, Transportation Engineer, provided a power point presentation. She stated that the Urban Trails Master Plan, which is part of the Comprehensive Plan, was requested to be renamed the Grand Valley Trails Master Plan and updated to better reflect that it is a valley wide plan. Ms. Kliska provided definitions of common elements of the plan: bike lane, bike route, detached path and a sharrow. Ms. Kliska then provided the planning history of the current plan from 1992 when the Plan was part of the 2015 Transportation Plan through 2011 when the RTPO began work to plan updates.

In 2010, there were two major planning efforts going on in the community, the Comprehensive Plan and the 2035 Regional Transportation Plan by the RTPO. Trails were an important element in both planning efforts.

Updates to the Plan support Goal 9 and Goal 10 of the Comprehensive Plan which seek to develop a well-balanced transportation system and a system of regional, neighborhood and community parks that protect open spaces corridors for recreation, transportation and environmental purposes.

The 2035 Regional Transportation Plan reflected public desire for increased on-street bicycle lanes and off-street trails and additional bicycle connections to activity centers such as schools, parks, downtown and shopping areas.

Proposed changes to the Plan included eliminating facilities that had been already been constructed and new facilities with a focus on collector streets and above, not residential streets.

The proposed 2013 Plan is a much larger area than current Plan. It included area from 22 Road to 32 Road; from the airport to Whitewater. Ms. Kliska noted that both Fruita and Palisade have adopted trails plans. She stated that it made sense to have one plan that included trail connections and would give a broader view of how trails tie together across the Valley. Ms. Kliska stated that the Plan was being updated to reflect the future land use designations of the Comprehensive Plan and that the updates complement the transit system in the Valley. There are currently 405 miles of existing facilities and 287 miles proposed with 333 miles of additional proposed facilities in the updated Plan.

Ms. Kliska stated that the proposed updates meet the approval criteria of the Zoning and Development Code and the Comprehensive Plan and reviewed each of the criteria. She closed by stating that the proposed updates to the Plan were consistent with the goals and policies of the Comprehensive Plan, the approval criteria of the Zoning Code and that City and RTPO staff find that amending the Plan will provide a better circulation plan for the community and promote alternative means of active transportation for the

enhancement of health, safety and environment of the community. Staff recommended adoption of the proposed updates.

Commissioner Couch stated that Ms. Kliska had provided a great presentation with a lot of good information. He asked about the six criteria and noted that Ms. Kliska said they had all been met, but that he had not heard that in her presentation. Commissioner Couch asked if all six criteria had to be met or if some combination could be met to allow an amendment to be made? Ms. Beard responded that the Commission would have to find that at least one of the criteria had been met. The Commission could find that more than more had been met, but at least one had to be met.

Commissioner Couch noted the grid in Ms. Kliska's presentation that showed the various kinds of trails that when completed, there would be approximately 1,000 miles of trails. He asked if that included the Fruita and Palisade trails. Ms. Kliska confirmed that it did. Commissioner Couch then asked if the 1,000 miles of trails included the links to schools. Ms. Kliska confirmed that the Plan updates have tried to link schools with trails.

Chairman Reece then opened the public hearing for comments from those who were in favor of the updates to the Plan.

**Public Comment in Favor**

Brad Taylor, 647 Oxbow, the current Co-Chair of the Colorado Riverfront Commission, stated he was there to lend his support to the Grand Valley Trails Master Plan changes as it had been presented.

Dean Bressler, 486 Spoon Court, stated that he and his wife had submitted a letter in support. The letter was included in the staff report and made several points in favor of proposed plan amendments. He urged the Commission to read his letter and stated that he and his wife were very much in favor of the Grand Valley Trails Master Plan. He noted that the Plan would be implemented over time and that not all aspects of the Plan would be implemented, particularly those that were more difficult to implement. If the Plan is funded, there were a number of projects that would do remarkable things for the Grand Valley and asked that the Commission support the Plan.

Ms. Beard then noted a correction to her earlier comments regarding the approval criteria and that she had been thinking of the Comprehensive Plan approval criteria. Although the Urban Trails Master Plan is part of the Comprehensive Plan, the Code stated that the Commission must find that either there was an error, or the Commission must find the following five criteria had been met. Technically, if the Commission found that there was an error, that's the only criterion that they must find; otherwise they must find that all five criteria had been met. She apologized for the confusion.

Commissioner Wall confirmed that all five criteria, numbers two through six, would have to be met if they did not find an error. Ms. Beard confirmed that to be the case.

Lesley McWhirter, 486 Spoon Court, expressed her support for the Grand Valley Trails Master Plan. She felt that it would improve the quality of life in the Valley as well as the safety.

Robert Traylor, 535 Bookcliff Drive, stated that he was a commuter and rode his bike to work every day for more than ten years. He encouraged the Planning Commission to approve plan. He was very much in favor of more bike lanes which provide a buffer between bikes and cars. When there is not a bike lane, cars feel like bikes don't belong on the road. He encouraged the Commission to base their decision on facts and not on conjecture.

James Hodge, 1047 Bookcliff Avenue, stated that one thing that had been overlooked was the positive effect on property values that has been enormous. Proximity to green space and bike lanes increases property values and the benefits are widespread.

Martin Stafford, 1915 Parkland Ct, is a bicycle commuter. He stated that Grand Junction is a very friendly bike community and that most people that don't ride are afraid of traffic. If there were more trails, there would be more riders and that he supported the plan.

Jennifer Fox-Caldwell, 570 Hall Avenue, stated that she was a mother and teacher for safe routes to schools. They teach kids how to be safe on bikes. She was surprised at how many kids tell her that it's not safe. She urged the Commission as a mother and teacher of young kids to adopt the plan.

Dan Fitzgerald, 2676 Continental Drive, was in favor of the plan. He noted that safe transportation routes that are not dependent on the automobile are important right now for people who don't have access to automobiles. Also, the cost of fuel in the future will be an important factor to consider.

Keith Dickerson, 4446 Tuscan Court, a physician who teaches at St. Mary's Hospital, stated that we are in the middle of an obesity epidemic nationwide which is particularly bad on children in Colorado. Having good infrastructure available for reasonable exercise is crucial. We don't have a good integrated system here and need a safe place to exercise and recreate. This has been done all over United States and we should support this as much as we can.

Ann Landman, 671 Moonridge Circle, is a daily walker of about 3 miles per day and a bicycler. Right now, she must get in her car to drive to facilities where it's safe to walk in order to avoid streets with no shoulders or sidewalks, which seems unfortunate and silly. On websites like Zillow and Trulia, homes are assigned a walk ability score and that a high walk ability score can add to home values. She believes that we have a readymade, world class trails system along existing canals that could facilitate transportation east to west and north to south. She believes that people are basically good. Accidents happen along canals without trails. She has observed accidents along the canal and been able to respond quickly and call 911 and get help. If no one is using the canals, people would

have waited longer for help if there were an accident. She supports the plan hopes the Planning Commission will too.

Paul Darr, 593 Catskill Court, is an avid hiker, walker. He stated that he was in full support of the plan and name change, the breadth of changes. We have to show that we're looking into future, open up a much larger area of valley. Plan ahead and think accordingly. Think about what Jim Robb did with trails 20 years ago. These things take a lot of time – energy. We all live in beautiful place. He asked the Commission to please support the amendment to plan.

Craig Robillard, 848 Summer Sage Court. Mr. Robillard stated that he was a 7 year resident, rides often, also volunteers as a trail host. People who worked on the plan are dedicated, looking toward the future and trying to connect a disjointed system. They should all be commended for working hours with very little resources to put the plan together. He supported the plan.

Kristin Henmann, 664 Bradford Court, is a professor at Colorado Mesa University doing research in fitness and wellness promotion. She lived in Chandler, AZ where they made a point of paving trails and having connection points which has been a point of economic growth for that community. Intel has expanded in the city and EBay moved there because of the amenities. She stated that she supports the plan for health reasons.

Chairman Reece asked for those in opposition to speak. She asked if they would state specifically what they oppose in the plan which would be very helpful to the Planning Commission.

### **Public Comment Opposed**

Fred Aldridge, 601A 28 ¼ Rd, attorney in Grand Junction for 40 years and was there to represent the Grand Valley Irrigation Company as well as the Grand Valley Water Users and other providers in the valley. Mr. Aldridge was asked to consolidate and present the comments of all of the canal companies and water user groups rather than have them make their comments individually. He then presented a power point and showed map of the service area of the water users, irrigation companies, drainage district. He stated that there are hundreds of miles in the service area with thousands of people within the service area, Palisade to Mack. Mr. Aldridge showed a Google map of the area and noted that it was a verdant nature compared to the desert surrounding. That was due to the water provider's efforts to provide the indispensable resource of water. There wouldn't be the water resources if not for their efforts. Representatives of the agencies were asked by Mr. Aldridge to stand for the Planning Commission so they could be seen. Mr. Aldridge stated that he appreciated the comments of the Urban Trails committee members and Jody Kliska, but thought that there was another side of the story to tell. The companies that he represents are not opposed to trails, they oppose trails on canals and irrigation facilities.

In 1992 there was multi-modal study that targeted canals for trails. That study was opposed by the water providers, their comments were ignored. The citizen's advisory committee did not include one representative from the water companies. There are 189 miles of trails along canals shown on plan. The companies were excluded, not consulted, in development of the plan. The June 2013 public meeting that was held, some water representatives were there and a letter was sent from water user groups after that meeting that outlined the reasons they oppose trails on canals.

Mr. Aldridge then referenced a letter from Mark Achen dated 12-11-1996 saying the City will require developers to provide legal access to canal ways if they own the underlying land. Mr. Aldridge again stated that trails on canals are bad idea.

Mr. Aldridge then addressed several problems and showed pictures for each. The 12th Street siphon demonstrates safety concerns for the public: steep sides with swift moving water, it would be difficult if not impossible to get out.

The 1<sup>st</sup> Street drop has very steep sides and is a hazard along the canal. Overhanging vegetation along the canal is not safe, especially for kids. There have been several drownings and injuries in the canals. Mr. Aldridge asked the Commission to imagine if thousands of people were using trails on canals. He then showed slides of people using canals, No Trespassing signs, people disregarding signs and trespassing and animals in a canal. Other problems include the public that obstructs equipment, won't move out of way, speak abusively to workers, throw trash in canal, and vandalize facilities.

Mr. Aldridge stated that the public used to think it was trespassing to use the canals but that today the public think it's an entitlement. Tickets handed out as fast as they can. He then cited a letter from attorney John Williams stating that GVIC had no right to keep him off trails on canals.

Mr. Aldridge went on to discuss several myths. The first myth was that this was just a plan, just a wish list. That was not true, he stated that trails are forced on anyone developing land. He cited City Zoning Code and model trail dedication language.

Myth #2: That there are similar trails in other communities. Their canals don't look the same, and aren't operated the same. Mr. Aldridge stated that they wished they hadn't approved them.

Myth #3: The canals aren't open to public. Dedication language to public vest the City with access.

Myth #4: The lawsuit with GVIC and the City was dismissed at the request of the City. The court found that the case was premature, wasn't ripe for consideration. They did not make further findings, they put the decision off to a future date. There was no ruling in favor of the City.



Myth #5: The trail agreements between canal companies and municipal entities will protect canal companies against liability. He stated that the current recreational statutes provides that canal companies were exposed to liability for up to \$150,000 per injury for any one person and \$600,000 for injury for two or more persons. Colorado State Statutes state the limitations and gives exceptions.

Mr. Aldridge went on to state what the water users expect. They don't expect trail advocates to agree with them. They do expect to be heard. They deserve to be heard and included, and that not one study has ever included the water users. He stated that they were completely disregarded with most recent plan and that they expected to be heard for their knowledge and expertise. They have 130 years of experience and should not be convincing the Planning Commission that there are hazards. They have allowed the City to make uncounted changes to the canal systems and rights-of-way for transportation improvements and public works projects and have taken the high road. The message to the Planning Commission was that the era of cooperation may change. He stated that the plan should exclude, categorically, every canal and drainage system where they are affected in any way whatsoever. Mr. Aldridge stated that he had two documents that he wanted to hand out to the Planning Commission, one was an email from the President of the Redlands Water and Power and the other was from Ed Currier, a long time water engineer.

The Planning Commission took a short break at 7:28 pm. The meeting resumed at 7:39 pm.

### **Planning Commission Questions for Mr. Aldridge**

Commissioner Wade: Mr. Aldridge mentioned in his presentation where there were discussion with other municipalities that had trails on canals and that a lot of them were opposed to their canals being used in the trails system. Do you have any statistics that you can make available to the Commission that would show that the incidence of liability has gone up in those cities over where they were before the canals were turned into a trail system? Mr. Aldridge responded that they had only given a few instances but they had not done comprehensive research, they had no statistics on it. They only knew the stats on the few systems.

Commissioner Buschhorn asked if Mr. Aldridge had the state statute that Mr. Aldridge had cited in his presentation concerning liability. Mr. Aldridge responded that it was the Recreational Trails statute and in his power point but that he could send it to Lori Bowers so that everyone could see the breakdown of the liability and how it was set forth. Commissioner Buschhorn then asked if that was the current state of the law to which Mr. Aldridge confirmed that it was the current state of the law.

Commissioner Eslami then asked if trails were done on canals, don't they need canal company's consent? Mr. Aldridge responded that he understood the City's position was that they don't need the canal company's consent, that they can take the dedications.

Commissioner Couch stated that they have heard comments that there's economic advantage to canal trails. He asked Mr. Aldridge to talk about the long standing contributions since the 1880's and the economic advantages of the canals as they exist now. Mr. Aldridge stated that economic advantage that they provide to the Grand Valley as a whole was all around, everything in the Valley is dependent one way or another on the provision of irrigation water. Commissioner Couch asked if Mr. Aldridge had a dollar amount? Mr. Aldridge responded that his client was an irrigation company and their annual budget was just under \$1 million which has been going up over the years. If you combine that with the other entities you would probably be looking at about \$6-7 million per year in revenue generated off system maintenance and with salaries and benefits. Grand Valley Irrigation is engaged in a lot of government contracting to line the canals and they bring in hundreds of thousands of dollars a year simply by doing the government contracting which is outside money coming into the Valley.

Commissioner Wall then asked staff if they could view the letter (on page 94 of the staff report) from the United States Department of Interior that contained several conditions to be considered. He wanted to view the letter because there were many points which were bulleted that he wanted to view. Commissioner Wall said that it appeared from Mr. Aldridge's presentation that there wasn't any consideration for the irrigation and ditch companies involved. This particular letter seemed to have a lot of consideration for those companies and the way he was interpreting things, especially the plan and how it's written, what the rights are and what the concerns are, the letter put to light some of the conditions that could possibly be agreed upon by the ditch companies because it essentially gave the companies the power to say yes or no.

Mr. Aldridge stated that he was not familiar with the letter. Mark Harris, General Manager with the Grand Valley Water Users addressed the Commission. Commissioner Wall read a portion of the letter from the Department of the Interior out loud including the provision that an entity requesting access would have to address several conditions. He asked Mr. Aldridge if the water companies were agreeable with the conditions.

Commissioner Wall stated that the plan as presented appeared to be a plan and that there wasn't anything in the literature that he had read that made it look like the City was going to move forward no matter what. There seemed to be a lot of protections in place to ensure that all entities involved would agree to trails before they are constructed.

Mr. Harris stated that that was part of the point. That if any of the requirements that the Dept. of Reclamation had were met, those don't matter if the ditch companies themselves don't consent. Commissioner Wall then stated that that was one of the conditions in the letter that the ditch companies have to consent. Mr. Harris stated that they are not consenting. Commissioner Wall stated that he understood that, but his point was that he was hearing throughout the testimony that the ditch companies haven't been considered, but the letter in the staff report is part of the plan and would that be an acceptable thing to the ditch companies. Mr. Harris stated that he didn't think that you could make the leap that the letter was part of the plan. Commissioner Wall asked if it was part of the plan, would it be acceptable? Mr. Harris said that they would need to see the plan because it's

been 40 years and there's been no plan. Commissioner Wall stated that he and Mr. Harris had different ideas of what a plan is and he respected that. Mr. Harris stated that the time to discuss what was a plan was at the front instead of at this meeting. Mr. Harris stated that they have had zero response to the unified voice of the providers to their concerns and constituency. They have not had any response so they came tonight but it's not because the plan was worked out with them.

Commissioner Buschhorn had a question about liability and the limits to liability and the recreational use statute for Mr. Aldridge. He asked if that only applied if the land owner leases or charges for admission or if access is free of charge for recreational use. Mr. Aldridge responded that it only applies if there's a contract or lease between the land owner and the municipal entity and no charge for public access. Commissioner Buschhorn asked if there was any liability if there was no charge for public access. Mr. Aldridge stated that the statute simply limits the scope of liability, it caps it. It carves out some of the greatest risks which are the attractive nuisance. Commissioner Buschhorn said that he felt like that was presented as a fact and he wasn't real clear on that factual aspect of it. For the record it was Section 33-41-103, subsection 1 and it states that if an owner of land either directly or indirectly invites or permits without charge any person to use such property for recreational use that person is not an invitee. So if they come on and get hurt and you've opened it up for use and you haven't charged, they cannot become an invitee at that point. Mr. Aldridge responded that that was wrong, anytime you invite people onto the premises they're deemed an invitee whether there's a charge or not. If you walk into Walmart you're an invitee whether you buy anything or not. The reason he knew that was because he did defense work for super markets. He felt that Commissioner Buschhorn's reading of the statute was incorrect, the statute puts caps on liability but it doesn't eliminate the liability.

### **Public Comment Opposed (continued)**

Benita Phillips, 3563 Grand Valley Canal Road, Palisade, stated that she has a conservation Mesa Land Trust easement on her land. Her neighbors have easements on their land. It states that there would be no intrusion along the river in their contract with Mesa Land Trust. They have nesting red tail hawks on their property. Others have limited walkways along the river allowed in their contracts, others do not allow it. She stated that she would rather not see the walkway along the river, but would rather see it along the Grand Valley canal. She doesn't invite people to use the walkway, but they use it. Ms. Phillips stated that she was not against the plan, but not for it. She felt that we have a problem that needs to be solved, but that we need more conversation. She stated that she had informal contact with neighbors, some are reticent because of animals and cows and possible damage. She stated that we need to find a way to bridge the gap that's here tonight.

Michael Melgares, 514 31 Road, stated that in 25 years he and his neighbor have about 1 mile of property and that they have had to police their property because of theft and damage over the years. They have private access along canal and don't want to give access from their driveway or front yard. He stated that he was in favor of bike trails, but

when they come through the front yard on property that he pays taxes on, that he was not in favor. He doesn't want the liability or injury to livestock and irrigation system. He asked who takes care of that and the maintenance of the trail? He stated that the City doesn't take care of streets that they have, that they have lots of weeds on them.

Roger Krunk, 1159 19 Road, Fruita, stated that the canal splits his property. He asked what entity was going to assume liability for trails and accidents that will happen? He has an electric fence on his property and asked if a kid gets shocked by that fence, where will that leave him? If someone comes on his property from the canal without his permission, will it be his liability? He stated that he doesn't think it's right for that liability to be placed on him. His main question was who will accept liability? Are his taxes going to be raised to buy liability insurance? If not, he'll have to buy more liability insurance and that will cost him more money. He has a bull on his property, if someone gets hurt on his property, he's going to be liable. If his bull gets out on the canal, who will be responsible for that? Are there going to be fences along the canal to protect property owners? That will cost untold millions of dollars. He stated that he is not opposed to bike trails, but the canals and drainage ditches are the wrong place for it.

Janice Bristol Krunk, 1159 19 Road, has been a longtime Grand Valley member for three generations and farmed in the Fruita area. A drainage ditch crosses their property. She stated that she grew up on the land and her parents taught her to stay out of canal which are dangerous but inviting. She stated she was very concerned about safety. She said to mothers with kids who need to get to school: the canal is not the place. She has to cross canal to get to their property but that she doesn't allow her kids and grandkids anywhere near the canal. Pipes for irrigation gets plugged up with trash and she has to clean the head gates from weeds. She stated that she understands that we need trails, especially in the city. She ask the Planning Commission to fence the trails in so they can't get to the canals.

Patty Chamberlain, 2073 South Broadway, has been there since 1946. She is the secretary for Redlands Water and Power which has a budget of about \$1million. In the Redlands area, the ditch company doesn't own canals, they're privately owned. Even though it's not a trail, they still have to call police when people use their property. They have horses that get chased. People call into the ditch company and ask how to make the water cleaner. She stated that she loves trails and believes in bike lanes but doesn't believe in canal trails.

Tom Groves, 1049 20 Road, Fruita, stated that they don't want his property because it's a dead end. He used to hide the map from the public because they would think the public could use the trails. He asked if you make a path, who is it for? Mountain bikes, four wheelers? People aren't going to look both ways when they cross the canals. He used to live in Monument Village where they deeded all the trails back to the home owners. Someone has to take care of the trails. The City doesn't take care of bike paths that they have now. This is a long way from becoming a plan.

Michelle Phillips, 2480 East Piazza Court, showed pictures of highline canal behind her house. She stated that people drive sand dune buggies, bikes and cars on the canal. Mothers with their kids use the canal. The only reason she bought her home was because it said no trespassing on the canal. She stated that she doesn't have any privacy now. There are kids running up and down canal without parents, teenagers on the canal smoking pot. A neighbor shot himself on canal. She stated that she didn't want trails on canals and ditches, they are intrusive to privacy. She has looked at cost of trails on canals and ditches, and it would involve many leases. She has 300 feet of white vinyl fence and the neighbors have graffiti on their fence. She stated that she doesn't want intruders invading her privacy. (Submitted pictures for the record.)

Lisa Pflanzgraff, 3127 D ½ Road, President of water users of Lateral Ditch 110. Ms. Pflanzgraff wanted to note that irrigation water is not water on demand. It is tap water that is used and then paid for a month later. The shareholders pay in January so the water is prepaid. Irrigation water is considered by the state of Colorado to be a utility. She stated that she wanted the public to understand that irrigation is not just water. She keeps hearing about what the entities want. The shareholders pay an assessment every year and that's what runs the water and cleans trash out of the canal. Wanted to talk about liability...speaking for all of her members (100 families). They said the same as Mr. Krunk. Specifically about insurance. The carrier called and said they will not continue to cover them if the plan is passed. Members clean the ditches. What does irrigation water bring to the valley? In 2011, Mesa County brought to the state \$600,000 in beef, and roughly \$400,000 in corn. She stated that she is concerned about the privacy of the members.

Alice Bumgarner, 925 25 Road, stated that people use canal to get to the desert and are drunk at night. She stated that the canals are dangerous. She lives near where the canal broke last year which was a major cost. There are farmers waiting for water for one week or two. She was not against bike paths and not against safe routes to schools, but you have to think about the canals that are dangerous. She stated that people are confrontational and many are young kids on four wheelers. She was opposed to trails on canals and worried about liability.

Tom Burrows, 242 East Fallen Rock Road, stated he had written a paper that can be seen at [thomasaburrows.com](http://thomasaburrows.com). He stated that bikers don't use bike lanes because it fills up with gravel. When there isn't a bike lane, the entire surface is clean and available for use. The key to bike ability is to get rid of the lanes and ride in the entire lane. He stated the problem with most bike lanes is that they drive cyclists into the path of cars. He gave three suggestions for the Grand Valley Trails Master Plan: 1. Scrape it and reverse past mistakes. Wherever possible, provide a wide lane for vehicles of all types to use. Don't paint bike lanes, they just ruin the road for cars and bikes alike. The bikes need the cars to keep the surface clean. 2. Distribute copies of book called Effective Cycling by John Forrester. The kinds of roads he recommends is wide lanes with no markings. 3. Encourage cyclists who don't know how to ride safely in traffic to read his book. (Submitted copies of information.)

Chuck Lurvey, 2926 D Road, stated he was in a unique situation where he lived in the County but that the City does all the planning for him. The Urban Trail Committee stated in 2004 that the revenue went up 51%, but that was during the boom so anything you invested in would go up. If you invested in 2009 the revenue would have gone down. He also thought about obesity and their chart. He stated that he thought several of the economic and health issues used were utterly bogus. He stated that most of the plan comes from Agenda 21 and sustainable development. He has a drainage ditch that runs across his property and thinks that it's going to be taken away. Mr. Lurvey stated that it's negligent to not have a sidewalk for Nisley School. Income from canals is somewhere in neighborhood of \$1,000-\$2,000 per acre. He stated that neighbors were happy when he fenced off his property. He stated that he thought you should do whatever you want within the 50 right-of-way, but don't steal private property.

Bill Fiegal, was a lifelong resident. Ms. Pat Biddle, who lives in Loma, had asked him to tell the Planning Commission that she collected over 500 signatures of people who don't want bike trails. She submitted the petition and asked they their voices be heard. She wanted this removed from the master plan.

Kenny Pike, 450 33 ½ and D ½ Roads, Clifton, noticed that this plan was proposed. He stated that if the plan goes through that if they develop their land that they would be told they have to do trails. He stated that he doesn't think that's right.

Richard Innis, 2108 Desert Hills Road, stated that he has 97 acres in middle of the City over by Tiara Rado golf course. Vehicles go up and down the remote access of the canal and they slide off and go into the canal and he has to call the police. He stated that he knows that it's not eminent domain, but it smells like it is to people along the canal asking for them to give access. He stated that he doesn't think that they should be asked to provide necessary controls to watch for trash and illicit activities and that he was concerned about kids playing on the back of their property because the banks are not that strong. Its wake up time for government to think about how much they're going to intrude on private property rights. He stated that there was no excuse for this kind of mentality for all the things we want to take care of.

Trevor Taylor, 3583 Grand Valley Canal Road, Palisade. He asked that we could be educated in this matter more. He stated that he never received any notice on this before. We have thousands of BLM acres that run north of town that could be a better solution to connect to Moab. He asked to see if there's a better plan before you go through with it.

Dick Pennington, 780 23 7/10 Road, stated that he has lived on a ranch his entire life and gets water out of a canal. The Grand Junction Drainage District ditches border most of his property and he didn't want any people on his property. He stated that you can't have animals with people on your property. If trails are expanded, all the wildlife would leave. If you wanted to split your house off, you'll be named a developer. When you're a developer you have to give the right-of-way to get to the canal or drainage ditch. He stated that we already have Colorado National Monument and BLM land. He stated that

he never heard anything from the trails group that will help the land owner or wildlife. He hoped that no one would vote for the plan.

Dan Palmer, 1324 17 ½ Road, Fruita. Stated that he understood that the canal was built to deliver water, not for recreation or tourism. It can't handle that.

Jack Fry, 2175 K ½ Road, stated that he had lived here all his life. He was amazed that people wanted to make trails through private property without compensation to anyone. If he visits a state park, he has to pay a fee. He asked a person who was on their property if she would like it if they walked on her property.

Allen Gobbo, 1151 23 Road, said that he has lived in the same house since he was 4 years old. He grew up in the livestock business, sheep and cattle. Everything had to be fenced to keep them in and at home so they didn't bother the neighbors. After a while they moved into crops and then fences started to disappear. He and his wife own 100 acres that's all fenced even though they don't have livestock. They're called people fences to keep people out. He stated that no one had mentioned tonight about what's involved in agriculture with chemicals. Farmers spray everything when they spray; the roads, everything. With reentry interval (REI) chemicals you can't be in area for 24-48 hours after they spray. Farming isn't compatible with people, it just won't work. What authority does the City have outside the City limits to plan?

Frank Fry, 1164 21 Road, stated he lives in a green space. He stated that there had been an influx of bicyclers on K Road. He stated that they can't get to where they need to go to sell their things, corn and hay. The bicyclers don't buy corn or hay. He stated that people were not allowed on canals when they were built.

Gerald Smith, 2191 Overland Rd, stated that it's often helpful to look at what other places have done when they struggle with problems. He suggested the Cache Valley-Logan, Utah area which is similar in size and the canal systems are similar. He said the Planning Commission might look at what they've done.

Public hearing closed at 9:17 pm.

### **Applicant's Response**

Julie Sabin stated that nothing had changed on this plan for canal trails, only proposed bike lanes, sidewalks and connectivity. The canal trails have been on the plan since 1997 so there weren't any new changes with that. She stated that they did contact the canal companies. Ken Simms from the RTPO said they needed to contact them and share the proposed plan about a year ago. At that time they were told that the canal companies didn't want to be contacted and not to contact them again. She had a legal statement from the Colorado Supreme Court ruling that was passed out to the Planning Commission. Ms. Sabin also passed out a statement from the Governor stating that he wants to make Colorado a bike friendly state.

Mr. Grossman wanted to reiterate that the Urban Trails Committee members are parents, irrigation users, they are business people in the community and have all the exact same concerns as the people in the meeting. He stated that he was the President of the Redlands Village Acres ditch company and they purchase their water from the Redlands Water and Power Company.

Mr. Grossman stated that they have held repeated meetings since the 1992 process with representatives from all the ditch companies. They continually engaged them despite being told that they wanted nothing to do with the process and are excited that the companies want to work on the plan and welcome continued engagement. The plan was announced with the Trails Summit in the newspaper, with radio, TV and online. They have reached out and will continue to reach out, they want feedback and ideas from property owners. The plan has been out there for several years and the public has been involved.

In regards to takings, they are not advocating taking anything from anyone. They are looking at lines on a map that allow future planning and want to work with property owners. The preference is to use bike lanes, sharrows, anything else other than trails. Trails are the last resort. He stated that liability has been clearly addressed that the City stepped forward to assume all liability. He stated that canal bank trails are being used. It sounds like a bad situation but just like in Detroit where homes are neglected and are vandalized. The only way that Detroit has managed it is by getting people involved, by shining a bright light on it. That's how you keep the vandals away, that's how you keep the nuisance away...shine a light on it, don't hide it in the dark.

We've had some great precedents in the Valley, one is the Audubon Trail on the Redlands which is a wonderful trail and used. There have been no accidents or problems with it because its' being used.

He stated that he hoped that the entire community can come together in this process and give their feedback. He said they don't have a solution but what they propose is a planning document and that they welcome everyone's input.

### **Planning Commission Questions**

Commissioner Couch asked if staff could you clarify the question of liability? Insurance is impossible to understand. Is the City saying that if a bull knocks a kid and knocks him off the truck, they will take charge if the bike path was built on a canal?

Ms. Beard responded to say that the difficulty with liability is that if people get injured chances are that a lot of people are going to get sued. To be able to say that today the City will take on all liability, Ms. Beard couldn't speak to that today because what the Commission was looking at is a plan which doesn't get to the details of when the trails are opened up whether they are on canals or on other locations. In the past there have been discussions about liability. Ms. Beard stated that it was her understanding that the City had offered to take on that liability; however the City was not currently in discussions



because the canal companies were not interested in discussing it. She stated that she was not certain though because some of the people in charge of canal companies today are not the same people that were in charge of them some time ago. Ms. Beard state that the City has said all along, and what is still the policy of the City, that where the trails are concerned on the canals, the City wouldn't open any trails unless the City got an agreement with the canal companies that are associated with the canals where the City would want the trails opened.

Commissioner Couch asked if this update of the plan changed that. Ms. Beard responded that it does not change that policy.

Commissioner Buschhorn asked Ms. Beard that if there would be no trails opened up unless there was agreement with the canal companies, would that also include the private land owner who owns the land that the easement runs across? Could the land owner state that they want to be excluded and not allow the trail to be constructed in that section? Ms. Beard stated that it was her understanding that it was the canal companies that the City was dealing with but before the City would open up any trails, the City takes into consideration everyone's concerns. She couldn't say that if there was one land owner that was opposed to it that it would shut it all down but she expected that discussions would include taking care of concerns that everyone has an interest in.

Commissioner Wade commented that one of the documents that the Planning Commission was given was some Bureau of Reclamation statements about the plan as it exists and one of those paragraphs talks about its lines on a map that don't exist so they couldn't address the issues without it being turned into a real plan and suggesting how those issues would be addressed. Commissioner Wade stated that they heard comments from people who care about their rights that evening, heard about how important irrigation is to the Valley and it seemed to him that they should have addressed some of those issues and he asked if any more planning had been done that's not yet a part of the plan?

Ms. Kliska responded that the plan they saw was the extent of it, the Urban Trails Master Plan. Commissioner Wade asked if any of the issues from the Bureau of Reclamation's comments had been addressed and that stated that we hadn't done anything but lay things out on a map. Ms. Kliska confirmed that that was correct. Ms. Beard responded that by example, it's like when the City plans streets, we show the general location of the proposed streets on the map. But when it comes down to actually finalizing where the street is going to go, it's generally in the area where the lines were on the map but it doesn't mean that that's the exact location.

Commissioner Buschhorn stated that the point had been raised a couple of times, that once this is in the Comprehensive Plan, that when a land owner wants to subdivide, are they required in order to subdivide or develop their land, are they required to deed or grant to the City the land for these trails along the canals?

Ms. Beard stated that there is a requirement in the Code that an easement be granted for purposes of a trail for certain circumstances and in many instances that includes canal trails if the canal trails have been identified on the Urban Trails Master Plan when they come in to develop. It's one of many other requirements that we look at. That's just one of the requirements, for instance we also require them to grant right-of-way for roads. Commissioner stated that then the city was potentially dealing with two land owners, the surrounding property owner and the canal company. Ms. Beard confirmed that the City would still be in the situation where the easement has been granted, then one day when an agreement gets worked out a trail could be opened. Commissioner Buschhorn confirmed that it just because property was divided that a trail would happen and that a lot more had to happen before the trail would open. Ms. Beard stated that technically the City has been getting the easements since 2001, but she was not aware of any of the trails along canals being open because we don't have an agreement yet.

### **Planning Commission Discussion**

Commissioner Buschhorn then stated that there had been a lot of comments made about problems along the canals and that the Commission understood that. He suggested that citizens contact the irrigation districts to tell them to put up their fences to keep the vehicles out because it seemed to be a recurring problem. It's different with pedestrians and almost impossible to control, but with vehicles it seems like it wasn't being addressed by the people who control the access. He stated that he could be wrong but that was the impression he had from the meeting tonight.

Commissioner Wall stated that he had not had a long meeting like this for a long time so he thanked everyone for coming out. He stated that he could appreciate what everyone put up with on the canals. As the City grows we have to look for alternatives and that's the way Grand Junction developed. We've grown from 100 years ago to today. We always have to look for ways to develop and do things a little better. He said that the canals and ditches, were wonderful opportunities. He drove many, many miles looking at the canals and ditches and looked at the possibilities which were exciting and endless. He stated that he thought they would make a wonderful system. It was concerning to Commissioner Wall that although this was just a plan, it appeared that not everyone was at the table to create the plan; especially the important people were not at the table. That was the difference when this plan was compared with the Comprehensive Plan. The Comprehensive Plan had the majority of the players at the table trying to create that plan. There is language in the Comprehensive Plan that makes it more specific and clear.

He further stated that with this plan, he believed it needed more details. He stated that people needed to be more educated and that property owners needed to understand how the plan would affect them, if it would affect them, and what their rights are. He said that the drainage and irrigation companies need to explain what the safety concerns are. He wanted to know specifically how we can address safety concerns on the canals and irrigation ditches and whether it is all canals and ditches, or just some?

He stated that it is important that everyone gets to the table, especially the important ones and if you don't want to get to the table, you need to get to the table because we have to educate each other in order to make good decisions. We can't make decisions off what a person feels or sees without explaining how it actually works. He stated that he had no idea what the canal and ditch companies have to deal with, but what he did know that it was pretty clear was that not all parties want to get to the table. He said that everyone needs to get to the table to help educate people: city planners, urban trails committee, the ditch people all need to get to the table and need to understand what parts make sense and what parts don't make sense, and why. That's not being done, we're relying on something that was written twenty years ago. It seemed clear that there were a lot of generalizations made over the years and not any specifics.

Commissioner Wall went on to state that he did not believe this plan met Criterion 4, which is that the community or area will derive benefits from the proposed amendment. In some cases he felt it would but in other cases there were more negatives than positives. Some of that may be due to education, but because the education wasn't there he did not feel that Criterion 4 had been met. He stated that he also didn't believe that Criterion 1 had been met. The staff report stated that it had not been met. He repeated that it was critical that everyone get to the table and either the ditches work or they don't, but we need to come to a consensus so we can move on and figure out what else we can do to make this work.

Chairman Reece stated that she couldn't agree more. She stated that she had a lot of concerns regarding safety along the ditches and would love to see more trails developed. It was a point of frustration that there were not more safe trails to run on, but that the canals may not be the place where she would want to run. She stated that she would like to see a plan with more alternatives built into it so that different options could be looked at as opposed to just formulating trails along the canals. She reiterated that she had concerns with trails on canals and that she echoed Commissioner Wall's comments.

Commissioner Eslami stated that he agreed with her and Commissioner Wall.

Commissioner Wade agreed as well. He stated that the plan needed pieces before it was approved as an amendment and that he believed that like many people had stated that when you put something on a map it has a way of happening. He further stated that he did not believe that the plan was at the point where the whole thing could be on the map, there were parts that he would love to put on the map today, but not every single piece.

Commissioner Couch stated the he also agreed that all of the criteria for making the amendment were either unmet or unclear. It would be his position to vote in the negative on this amendment.

Commissioner Tolle expressed two concerns: economic growth in the community and the other overriding concern was safety. He thanked everyone who was in the room

because this was exactly the way that good planning, good communities, good environments and safety happen. In this case he wanted to take some of the burden back off of the land owners and staff when someone says that all of the first responders do not support this plan. He had not seen a document that told him that the Fire Department, the Sheriff's Department, the Police Department met that criteria. He stated that he had very strong reservations.

Commissioner Buschhorn stated that when he saw the map of trails he was excited and thought it would be great and that it's wonderful to jump on the canals and cross the whole Valley. He further stated that after hearing land owner's concerns and with his own concerns about impacts on the land owners that may not have known that this was going on that he was not real comfortable with that. Safety is always a concern for everyone, but as much as he would have liked for it to happen, he did not think the details had been ironed out enough to put it into a plan where it will have future impacts.

Chairman Reece asked if there were any other questions or comments. As there was no further comment, she asked for a motion.

**MOTION: (Commissioner Eslami) "Madam Chairman, on the proposed update to the Urban Trails Master Plan, CPA-2013-224, I move that the Planning Commission forward a recommendation of approval to the City Council with the facts and conclusions listed in the staff report."**

Commissioner Wall seconded the motion. A vote was called and the motion failed by a vote of 0 – 7.

**General Discussion/Other Business**

None.

**Nonscheduled Citizens and/or Visitors**

None.

**Adjournment**

With no objection and no further business, the Planning Commission meeting was adjourned at 9:38 p.m.