



**PLANNING COMMISSION AGENDA  
CITY HALL AUDITORIUM, 250 NORTH 5TH STREET**

**TUESDAY, OCTOBER 8, 2013, 6:00 PM**

**Call to Order**

***Welcome. Items listed on this agenda will be given consideration by the City of Grand Junction Planning Commission. Please turn off all cell phones during the meeting.***

***Copies of the agenda and staff reports are located at the back of the auditorium.***

**Announcements, Presentations and/or Prescheduled Visitors**

Recognition of Commissioner Wall's service.

**Consent Agenda**

***Items on the consent agenda are items perceived to be non-controversial in nature and meet all requirements of the Codes and regulations and/or the applicant has acknowledged complete agreement with the recommended conditions.***

***The consent agenda will be acted upon in one motion, unless the applicant, a member of the public, a Planning Commissioner or staff requests that the item be removed from the consent agenda. Items removed from the consent agenda will be reviewed as a part of the regular agenda. Consent agenda items must be removed from the consent agenda for a full hearing to be eligible for appeal or rehearing.***

**1. Minutes of Previous Meetings**

**[Attach 1](#)**

Approve the minutes from the September 10 regular meeting and September 26, 2013 special meeting.

**2. Elementary Enclave Annexation - Zone of Annexation**

**[Attach 2](#)**

Forward a recommendation to City Council to zone 1.0 acres from County RSF-R (Residential Single-Family Rural) to a City R-4 (Residential 4 du/ac) zone district.

**FILE #:** ANX-2013-316  
**APPLICANT:** City of Grand Junction  
**LOCATION:** 2977 B Road  
**STAFF:** Brian Rusche

**3. Twenty Nine Thirty Enclave Annexation - Zone of Annexation [Attach 3](#)**

Forward a recommendation to City Council to zone approximately 11.57 acres from County RSF-R (Residential Single-Family Rural) to a City R-4 (Residential 4 du/ac) zone district.

**FILE #:** ANX-2013-377  
**APPLICANT:** City of Grand Junction  
**LOCATION:** 2930 B 1/2 Road  
**STAFF:** Brian Rusche

**4. Ray Annexation - Zone of Annexation [Attach 4](#)**

Forward a recommendation to City Council to zone 0.996 acres from County RSF-R (Residential Single Family Rural) to a City C-1 (Light Commercial) zone district.

**FILE #:** ANX-2013-403  
**APPLICANT:** John Ray - Colorado Custom Elevator & Lift  
**LOCATION:** 416 29 Road  
**STAFF:** Brian Rusche

**\*\*\* END OF CONSENT CALENDAR \*\*\***

**\*\*\* ITEMS NEEDING INDIVIDUAL CONSIDERATION \*\*\***

**Public Hearing Items**

*On the following item(s) the Grand Junction Planning Commission will make the final decision or a recommendation to City Council. If you have an interest in one of these items or wish to appeal an action taken by the Planning Commission, please call the Planning Division (244-1430) after this hearing to inquire about City Council scheduling.*

**5. Bonito Alley Right-of-Way Vacation - Request to Vacate Public Right-of-Way [Attach 5](#)**

Forward a recommendation to City Council to vacate public right-of-way, located between 1220 and 1224 Bonito Avenue.

**FILE #:** VAC-2013-415  
**APPLICANT:** Michael Day  
**LOCATION:** between 1220 and 1224 Bonito Avenue  
**STAFF:** Lori Bowers

**General Discussion/Other Business**

**Nonscheduled Citizens and/or Visitors**

**Adjournment**

**Attach1**  
**Minutes of Previous meetings**

**GRAND JUNCTION PLANNING COMMISSION**  
**September 10, 2013 MINUTES**  
**6:02 p.m. to 8:58 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 located at 250 N. 5<sup>th</sup> Street, Grand Junction, Colorado.

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

In attendance representing the City's Public Works, Utilities and Planning Department - Planning Division, were Lisa Cox (Planning Manager), Brian Rusche (Senior Planner) and Scott Peterson (Senior Planner). Greg Moberg was present from the Economic and Sustainability Division.

Also present was Jamie Beard (Assistant City Attorney).

Pat Dunlap was present to record the minutes.

There were ten citizens present during the course of the hearing.

**Announcements, Presentations And/or Visitors**

Lisa Cox, Planning Manager, noted that there were no announcements. Commissioner Couch wanted to recognize that September 11, 2013 was Patriot's Day.

**Consent Agenda**

**1. Minutes of Previous Meetings**

Approve the minutes from the June 25 and August 13, 2013 regular meetings.

**2. Wild Enclave Annexation – Zone of Annexation**

Forward a recommendation to City Council to zone 3.65 acres from County RSF-R (Residential Single Family Rural) to a City R-8 (Residential 8 du/ac) zone district.

**FILE #:** ANX-2013-334  
**APPLICANT:** City of Grand Junction  
**LOCATION:** 3122 and 3124 E Road  
**STAFF:** Brian Rusche

**3. Bibeau Enclave Annexation – Zone of Annexation**

Forward a recommendation to City Council to zone 15.84 acres from County RSF-R (Residential Single Family Rural), County RSF-E (Residential Single Family Estate) and I-2 (General Industrial) to a City R-8 (Residential 8 du/ac) zone district.

**FILE #:** ANX-2013-338  
**APPLICANT:** City of Grand Junction  
**LOCATION:** 2941, 2929, 2937, 2943, 2944, 2952 and 2952 ½ D ½ Road  
**STAFF:** Brian Rusche

Chairman Reece briefly explained the Consent Agenda and invited the public, Planning Commissioners and staff to speak if they wanted an item pulled for additional discussion or a full hearing. With no amendments to the Consent Agenda, Chairman Reece called for a motion.

**MOTION: (Commissioner Wall) “I move that we approve the Consent Agenda as read.”**

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

### **Public Hearing Items**

#### **4. TJ’s Billiards - Conditional Use Permit**

Consider a request for a Conditional Use Permit to serve alcoholic beverages in a pool hall on 0.84 acres in a C-1 (Light Commercial) zone district.

**FILE #:** CUP-2013-354  
**APPLICANT:** Alan Allen  
**LOCATION:** 509 28 ½ Road  
**STAFF:** Scott Peterson

### **Applicant’s Presentation**

Alan Allen, 3770 Blair Road, Whitewater, applicant for the Conditional Use Permit (CUP), stated that TJ’s Billiards was planning to have several pool tables, to provide a simple grill menu and to serve beer, wine and cocktails with the food. They also plan to develop billiards leagues and sponsored teams. They plan to stock billiard items and accessories for sale and to supply tables and repair services. They plan to provide leagues for younger players with instructional opportunities in a family oriented atmosphere, as well as provide jobs as the business grows.

He said he was requesting a CUP in case the sales of alcohol exceed 25% of total sales so the business would be in compliance with liquor license requirements. He stated that the business would have the strictest adherence to all liquor laws, and making sure that the patrons were never over served. They would also arrange for transportation home of patrons if needed as well as providing security to check the ID’s to make sure that anyone who was intoxicated was not admitted. Happy Hour drink specials would not be promoted as part of their business.

Mr. Allen stated that the goal was to provide a calm atmosphere and that they would not have live music or karaoke. He stated that they were not trying to be a nightclub or sports bar, but that there would be a few TV's available for customers to watch during sporting events.

Mr. Allen stated that they would limit occupancy to 99 persons to comply with Fire Department requests. They would do their best to be good neighbors and limiting the impacts that would result from the granting of the Conditional Use Permit.

### **Questions for the Applicant**

Commissioner Couch asked if TJ's Billiards existed elsewhere in the community. Mr. Allen responded that it was currently a home based business in existence for about 1 ½ years. No one plays pool at the current location, they just sell equipment.

Commissioner Buschhorn asked about the licensed and unlicensed areas. Mr. Allen stated that the building and patio area were all licensed areas, the parking lot area was not licensed.

Chairman Reece asked if there were any other questions from the Commission. Hearing none she then asked for the staff presentation.

### **Staff's Presentation**

Scott Peterson, Senior Planner, made a power point presentation regarding the request for a Conditional Use Permit for TJ's Billiards, to be located at 509 28 ½ Road, to serve alcoholic beverages. He noted the site contains an existing building that has been previously used as a restaurant and bar. The applicant was requesting a CUP in case sales of alcohol exceed 25% of total sales.

Mr. Peterson stated that the existing building was nonconforming due to not meeting parking, building rear setback and landscape requirements. He explained that the interior improvements would not trigger any site upgrades in accordance with the Zoning Code because they are less than 25% of the current fair market value of the building. There will be no expansion of outdoor operations with the proposed new use, therefore no buffering, screening or landscaping improvements would be required.

Mr. Peterson explained that the Future Land Use Map indicated this area as a Village Center and the zoning was C-1, Light Commercial. He stated that a CUP runs with the land unless the use has been abandoned for 12 consecutive months. He explained the proposed use of pool hall with alcoholic sales. He stated that the pool hall required fewer parking spaces than the previous use and would bring the site more into compliance with current Code requirements.

A neighborhood meeting held on July 15, 2013 by the applicant. Citizens in attendance expressed concerns about intoxicated drivers leaving the establishment, increased vehicle traffic, liquor being smuggled out of the establishment, noise and increased problems with homeless individuals in the area. The applicant responded to the

concerns by stating that there will be the strictest adherence to all liquor laws, making sure patrons are not over served, and arranging for and paying for the safe transportation of patrons to their homes if necessary. Since the neighborhood meeting, staff has received two phone calls and one email from individuals who are opposed to the proposed use.

Mr. Peterson explained the proposed signage plan being requested with the CUP. Several photographs were presented showing the proposed signage. Mr. Peterson then presented several photographs showing the exterior of the building, the fenced patio area and the natural vegetation between the site and the property to the north.

Mr. Peterson stated that the request supported goals three, six and twelve and the policies of the Comprehensive Plan and met the approval criteria of the Zoning Code. Mr. Peterson recommended approval of the request for a Conditional Use Permit, including the sign plan as presented.

### **Questions for Staff**

Commissioner Couch asked if the signage would be illuminated and if the signs would be turned off if it was to be illuminated. Mr. Peterson said he has not talked with the applicant about the signage and explained that in the C-1 zone district that there were no time limitations for lighting.

Commissioner Eslami asked what the hours of operation were. Mr. Peterson didn't know what the hours of operation were and referred Commissioner Eslami to the applicant for that information.

Commissioner Wade asked about the cost of the remodel and noted that it was 21% of the fair market value. He asked if the Planning Division did anything to ensure that the remodel costs stayed below the 25% value? Mr. Peterson explained that the applicant would have to obtain a Planning Clearance from the City and then work with the Mesa County Building Department to determine what work was needed and what the cost would be.

Chairman Reece asked if there were any other questions for staff. Hearing none, the hearing was open to the public for comments or questions. Chairman Reece asked for those in favor of the request to step forward to speak and then asked for those opposed to speak next.

### **Public Comment**

No one from the public spoke in favor of the request.

Lonnie Delancey, 523 28 ½ Road, stated that he did not receive a notice of the meeting and he lives one block from the site. He stated he was concerned about alcohol being served and that there was a problem in their community with it because there were already two bars there. He stated that he's had his mailbox knocked over by drivers and that even with license plate numbers the police have never been able to do

anything about it. He was concerned about people drinking alcohol and then having them turn down 28 ½ Road instead of North Avenue to avoid the police. He stated that drunk drivers use 28 ½ Road and Elm Avenue.

Mr. Delancey said he was fine with the billiards but not with the sale of alcohol. He was concerned with people wanting to drive in a community with children and a school down the street. He was concerned about people walking on the streets at 2 and 3 o'clock in the morning, kids and adults. He said he was concerned about having more people being drunk and running them over.

Marsheela Rabbit Tonlin, 519 28 ½ Road. She stated that there has already been one death in their neighborhood. They also have a problem with picking up beer and liquor bottles in their yard. There are eight houses in her area with five elderly retired people that live in the neighborhood. She stated that her younger sister was burned to death by a drunk driver before she was thirteen. Ms. Tonlin said that she has grandchildren that visit her home but that she doesn't let them cross the street to go to her brother's house because of the traffic. She was concerned about the added traffic that would come with the new billiard business.

She stated that she is for a billiard business that she could take her grandchildren to but that she did not support this business because they would serve alcohol.

Paul Liebe, 519 28 ½ Road, stated that he objected to the alcohol and that it was a big problem for the area. They have had problems with picking up trash and bottles and drunks sleeping in the bushes. He stated that a big problem was that they do not have sidewalks on the streets which means that everyone has to walk on the street. A street light went down a few years past that is about 200' from the bar that has never been replaced that creates a black area where you can't see people on the street.

Mr. Liebe was concerned about traffic and the number of people who attend pool tournaments and the number of people who leave after drinking. He was concerned about the people who would drive down his street to avoid the police. He stated that a motorcyclist was killed at a high speed about 35 feet from his house. He was concerned about children playing in the area with vehicles travelling at high speeds in their neighborhood. Mr. Liebe stated that when alcohol is served, that's not a family oriented business.

Robert Jester, 516 28 ½ Road, stated that he has lived there for 8 years and that traffic has increased in that time. He's a disabled Vietnam veteran and has to call the police when shot gun shells are shot off at night in his neighborhood. He wanted to go on record as being against the alcohol.

At the conclusion of public comments Chairman Reece closed the public hearing and asked the petitioner to return to the podium for questions.

Mr. Allen stated that the hours of operation would be 11:00 am to midnight, on weekends with pool tournaments it may run over.

Chairman Reece asked if alcohol would be served the entire time? Mr. Allen stated that the bar would not be open until 5:00 pm and would close with the business. She then asked what the maximum occupancy of the building was. Mr. Allen stated that the Fire Department requested that it be limited to 99 people until a sprinkler system has been installed.

Commissioner Couch asked what the applicant's plans for illuminating signage were, both street side and on top of the building? He also asked if this would be a package liquor store. Mr. Allen stated that it was not a package liquor store, just limited to use inside the building. He stated that the signs were both internally illuminated on the street and on top of building. Both signs would be turned off when the business closed.

Commissioner Buschhorn asked if the applicant already had a liquor license? Mr. Allen responded that he did not, that he was applying for a CUP in case the business needed it. Commissioner Buschhorn asked if the applicant could still serve alcohol without the CUP as long as it didn't exceed 25% of total sales? Mr. Allen responded that that was correct. A restaurant license allows alcohol to be served but it cannot exceed 25% of total sales.

### **Planning Commission Discussion**

Chairman Reece asked the Commission for their questions, comments and discussion.

Commissioner Wall stated that he had a question for staff. He noted that the report did not state that the bar would open at 5:00 pm, was that not a stipulation but just a choice of the owner? Mr. Peterson responded that that was correct.

Commissioner Couch stated that he appreciated the comments about the sidewalks, something that the Commission routinely discusses. He noted that many of the issues raised were separate from the CUP request. That was an observation he wanted to make.

Commissioner Wall stated that it did appear that there were activities beyond the establishment with historical activities associated with a bar. He stated that it was difficult with questions about alcohol because the question is who are you trying to control, the owner or the consumer? The applicant has put together a plan to prepare himself in case sales exceed 25% which he didn't have to do. Based on the code and the ability to do what he can there, he stated that he would approve this project.

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 request for a Conditional Use Permit for TJ's Billiards, file number CUP-2013-354 located at 509 28 1/2 Road, I move that the Planning Commission approve the Conditional Use Permit with the facts and conclusions stated in the staff report."**



Commissioner Wall seconded the motion. A vote was called and the motion passed by a vote of 6 - 1 with Commissioner Wade voting in opposition.

### **5. Variance – City Market Fueling Station Variance**

Consider a request for a Variance from Section 21.06.080(c)(7), Outdoor Lighting Standards, for a fueling station on 5.74 acres in a B-2 (Downtown Business) zone district.

**FILE #:** VAR-2013-368  
**APPLICANT:** Drew Warot, King Soopers  
**LOCATION:** 104 White Avenue  
**STAFF:** Greg Moberg

### **Staff's Presentation**

Greg Moberg with the Economic and Sustainability Division made a PowerPoint presentation regarding the requested variance. He described the site location, zoning, Comprehensive Plan land use designation and stated that the site was within the Greater Downtown Plan area. He cited the Zoning Code Section 21.06.080(c)(7) that requires canopy lighting to be from 10 footcandles not to exceed 15 footcandles. The applicant was requesting a variance to allow an increase of canopy lighting from an average of 10 footcandles and a maximum of 15 footcandles to an average of 22.97 footcandles and a maximum of 29.9 footcandles. He indicated the portion of the site that would be subject to the variance request and stated that the rest of the parking area would still have to meet the Code.

Mr. Moberg explained the seven criteria that the Commission shall use to consider a variance. His presentation was based on the applicant's initial submittal. Mr. Moberg stated that the applicant would rebut each of them. He then addressed the applicant's responses to each of the following criteria:

Hardship being unique to the site:

The Applicant stated that the proposed site is being held to a more restrictive lighting standard than the adjacent fueling stations a hardship is created. It is the Applicant's contention that the new standards create an unfair competitive advantage because the adjacent fueling stations are more visible and appealing to potential customers. This statement is problematic as it can be applied to other properties and therefore not unique to this site. The Applicant has not provided sufficient information that an exceptional condition exists, specific to this site, creating an undue hardship.

Special Privilege:

Since the adoption of the Zoning Code in 2010, the City has had four applications for fueling stations with canopies. Three of the applications have received approval and one is under review. All four have to meet the current canopy lighting standards. Approval of this request would confer a special privilege that has not been granted to the other proposals.

#### Literal Interpretation:

The Applicant stated that a literal interpretation of the lighting standards creates an unfair competitive advantage depriving the Applicant of the rights enjoyed by other the adjacent fueling stations. The Applicant further states that lighting levels drop over time due to degradation of bulbs and dirt and dust accumulation on fixtures. Whenever a standard is amended to be more restrictive, an argument could be made that the application of the new standard deprives new applicants of rights commonly enjoyed by existing properties and uses. Furthermore, the Applicant has stated that an unfair competitive advantage is created but not supplied any specific information or findings that support this statement. The Applicant has not shown that the literal interpretation of the current lighting standards deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district.

#### Reasonable Use:

The Applicant provides information contained within the submitted Photometric Evaluation (see attached) that the Illuminating Engineering Society of North America (IESNA) recommends an average luminance of twenty (20) to thirty (30) under a canopy and five (5) to ten (10) in parking and drive aisles. The Applicant further stated that higher lighting levels create a safer environment for handling flammable liquids and that without the requested lighting levels, City Market would be putting their customers and employees in danger. This is a broad statement that signifies a relationship between lighting and safety but leaves out specific information or findings relating to when the lack of lighting becomes unsafe for fueling stations. Furthermore, the statement refers to nighttime use only and does not address daytime use. The Applicant has not shown that a reasonable use of the property cannot be derived without the requested variance.

#### Minimum Necessary:

The Applicant has proposed an average luminance of 22.97 footcandles and a maximum luminance of 29.9 footcandles. It is the Applicant's assertion that the request is at the low end of the acceptable lighting levels as determined by the IESNA recommendation and well within the range of luminance of existing fuel sites. It is the Applicants contention that the request is the minimum required to maintain adequate luminance necessary to ensure safety and security where highly flammable fluids and vapors are present.

Again these statements are broad and refer to the minimum lighting necessary by IESNA recommendations but do not specifically address what level of lighting creates an unsafe and dangerous situation.

#### Conformance with Code:

The purpose of the lighting standards are: to minimize light pollution, light trespass and glare; to conserve energy and resources; to provide safe roadways for motorists, cyclists and pedestrians; to ensure sufficient lighting can be provided where needed to promote safety and security and to protect and reclaim the ability to view the night sky.

The Applicant indicated that granting the variance would provide better lighting promoting safety and security. However, the Applicant has not provided evidence that the increased lighting would not conflict with any of the other purposes listed above. Without any additional information it would be expected that increased lighting would create more light pollution, light trespass and glare; would use more energy and resources and make it more difficult to view the night sky.

Conformance with Comp Plan:

The Applicant did not address how approval of the requested variance would meet specific goals and policies of the Comprehensive Plan.

Based on the applicant's responses to the review criteria Mr. Moberg stated that he recommended denial of the variance.

### **Questions for Staff**

Commissioner Couch wondered if the variance request was premature, that it shouldn't be before the Commission yet and that perhaps the applicant should return at another time? Mr. Moberg responded that the applicant would show how they felt the criteria had been met during their presentation. He stated that the applicant needed to convince the Commission that there is a unique hardship and that the criteria has been met. Commissioner Couch then asked if alternative findings must be made, by whom? Mr. Moberg indicated that the Commission must make the alternative findings.

Commissioner Wade had a question about the national standards that had been presented in the report. He asked if there was a particular reason why our standards are different than what the national organization present? Mr. Moberg responded that the City was a Home Rule city and that they could adopt standards that they wanted. He went on to say that in 2010 City Council asked staff to present modifications to the lighting provisions, not a rewrite. Citizens were promoting dark sky regulations but Council didn't want to adopt a dark sky regulation at that time. Model dark sky regulations discuss different levels of lighting in communities. He stated that at the time Council was revising the lighting regulations they didn't see reason to modify to the dark sky regulations.

Commissioner Wade stated that he assumed that there had not been an upswing in accidents with the City's reduced standards? Mr. Moberg noted that there had not. He stated that there had been four new fueling facilities approved under new lighting regulations, one with adjustments but that the others all meet the current standards.

### **Applicant's Presentation**

Mr. Drew Warot represented King Soopers/City Market and Mr. Carl Schmidlein was with Galloway and Company. Mr. Warot stated that he hoped to open up a discussion about potential development and consideration of variance request. The variance request was an important part of their development plan and was critical to the long term viability. Mr. Schmidlein explained that he had a lengthy presentation and that he

wanted to make it interactive because there was so much information in it. He invited the Commission to ask questions as they moved through the presentation.

Mr. Schmidtlein stated that the intent was to provide lighting for the safety of the operations that take place at the proposed fueling facility. He explained how the proposed lighting under the canopy was fully recessed and shielded and that glare is what causes light pollution from light bulbs hanging down below the canopy. Mr. Schmidtlein wasn't sure how the lighting levels in the City's code were derived. He stated that whoever wrote that portion of the code may not have had the best information available to them.

Mr. Schmidtlein then explained that a footcandle (fc) is a measurement of light on a flat surface. The IESNA is a nationally recognized organization and what engineers refer to. The 2000 IESNA Ninth Edition of lighting standards did not address canopy standards, however the 2001 version did address the canopy standards. The Tenth Edition was released in 2012 and contains information about lighting zones that wasn't available in 2010 when the Grand Junction Code was amended.

Speaking to the applicant, Commissioner Couch asked if it was their contention that safety concerns were not provided by the City Council's decision to use the 10-15 footcandle standard? Mr. Warot responded affirmatively. He noted that Kroger manages with best management standards. They find from the safety of transactional process with credit cards that Kroger said these are minimum safety conditions for their facilities. He noted that the fuel center was operated 24 hours, staffed from 6:00 am to 10:00 pm.

Mr. Schmidtlein stated that oil companies were using 50 fc which were too bright for many years. Kroger tried to come in with a target fc to save energy and provide safety that can be accepted everywhere. He felt that it meets all intents of the standards. He then continued explaining the IESNA Lighting Handbook standards, 10<sup>th</sup> ed. and then explained the Model Lighting Ordinance (MLO), 2011 edition. The MLO was developed as a standard for communities to use when writing their lighting codes, copyrighted in 2011. Mr. Schmidtlein discussed several of the purposes of the MLO such as reduced sky glow from the canopy, to protect natural environment and reduced energy costs.

Mr. Schmidtlein then provided a summary of the survey that was conducted on July 23, 2013 at night. Eight sites were surveyed. He showed samples of site surveys that showed how measurements were made and then showed a slide with the survey results. Mr. Schmidtlein showed a slide that compared survey results with what City Market was proposing: targeted maintained minimum averages recommended by the IESNA.

Commissioner Wall asked about the policy of how often bulbs are changed or were they changed just when burned out? Mr. Schmidtlein replied that generally when bulbs burn out they are changed quickly. Fixtures/lenses need to be cleaned out as they become darker. If not cleaned out they can cause 50% loss of lighting levels. Mr. Warot stated that management inspects sites and checks equipment with regular inspections.

Mr. Schmidtlein then addressed the light loss factor when older lights have reduced lighting. City Market on 24 Road has reduced light levels due to older lights. Chairman Reece asked if they were constructed with LED lights? Mr. Schmidtlein responded that they were not. Commissioner Buschhorn asked about lighting levels over time. Mr. Schmidtlein stated that the Loco station may have been 30 fc and the Shell up at 26 fc. He noted that you can easily have light loss factors of 40%, but the older stations have drop down fixtures that cause glare.

Commissioner Wall asked if loss of light could be attributed to maintenance or to the age of the light? Mr. Schmidtlein stated that you may be able to attribute it to that but that they did not have that information this evening. He said that the proposed luminance at the site was the minimum level of lighting based on the IESNA and what they recommend. He then went on to address the City's approval criteria. He stated that the City's Code was updated in City in 2010 before the model code was available. He felt the variance request was consistent with the Comp Plan, and felt that they met goals 4, 6 and 12. There was no special privilege conveyed because there have been no fuel stations constructed under the new code at this time. He further stated that the IESNA established reasonable use standards for hazardous materials or dangerous conditions which they felt they met. He noted that the City Market on 24 Road was approved before new 2010 City Code and is not built to current code. He felt the request conformed with purpose of the Code with minimum light pollution and glare; conserving energy resources, and creating safe roadways. He felt they achieved that with cutoff fixtures and safer conditions for pedestrians. Their proposal protected the ability to view the night sky by covering lights and because the canopy doesn't have up-lighting. Mr. Schmidtlein felt that the request conformed with the Comprehensive Plan by meeting three of the goals as noted earlier.

Mr. Schmidtlein noted that they had received comments during the planning process from the Police Department. The Police use CPTED standards which City Market is trying to achieve those same goals in their lighting plans: Identify potential trespassers and criminals and to achieve minimal lighting levels. He stated they need lighting to prevent drive-offs (people who don't pay for gas). He continued to review several components of CPTED that they felt they met.

Mr. Schmidtlein stated that they feel they will have minimal impact on neighboring property. He then showed slides of several sites that were taken at night that showed the brightness and glare from each fuel site in the survey that have drop down fixtures. He noted again by stating that they will have cutoff fixtures for their canopy. He showed the City Market site on 24 Road and how there wasn't glare occurring there. Mr. Schmidtlein said that directional focused lighting was used at that site which is much more efficient.

Commissioner Wall had a question about lumens and wanted to know if it is the measurement of all lights or just one light? Mr. Schmidtlein noted that lumens is the amount from one light, fc is what is on surface/ground. Lumens and footcandles measure differently.

Commissioner Wade said he wished there were two slides and that he would like to see one slide with light levels required by the City's Code and the other slide with the City Market site. He noted that the representatives had made a point of safety. He asked if they were saying that the City Code levels weren't sufficient for use of their cameras at the station? Commissioner Eslami asked if the cameras work under 14.9 light levels? Mr. Schmidlein responded that they did work under that light level. Mr. Warot stated that they don't want to be in a dimly lit environment at such as an ATM.

Commissioner Wade asked how much difference would it make if the burned out light was operating? Mr. Schmidlein said that they didn't measure that. It may be 15.9 at one site and 17.9 at the other site if the light wasn't burnt out.

Commissioner Buschhorn asked what the expense was to replace light fixtures? Mr. Schmidlein noted a difference in diodes and light bulbs with different fixtures. Mr. Warot said they try to standardize all bulbs at stations.

Commissioner Eslami stated that you can go from 25 watt to 2500 watt without additional expense. Logic and common sense told him that if the code changes they can change light bulbs without much expense. Mr. Schmidlein stated that there's a range in fixtures for a range of light bulbs and bulbs versus diodes. Commissioner Eslami noted that breakers had to be specified which clarified Commissioner Buschhorn's question.

Commissioner Wall compared footcandles on the City Market site on 24 Road in the photo metric plan. Was each number shown on the plan under the canopy a light? Mr. Schmidlein explained the lighting plan and how lights are measured. Commissioner Wall was counting lights under the canopy. Mr. Schmidlein also stated that LED lighting is much more efficient. Commissioner Wall asked if a light is in a directional fixture with 14.6 level, how is the lighting more secure? He noted that the picture on 24 Road looked pretty lit up. How would brighter light make him feel more secure as a customer? Mr. Warot said there were different kinds of safety, it could be being safe from a slip or fall, or the ability to perform transactions. He stated that Kroger finds that whether is its 15 or 20 lights, its' the safety level that they want to have to make this a viable project. Commissioner Wall asked how was the current lighting level standards causing a hardship? Mr. Warot stated that it was not an option at this location for their project. Commissioner Wall then asked what was it about the lighting that creates the hardship? Mr. Warot replied that no other facilities were built to this level and that they cannot invest in this site and take the chance that the Code would change in future. He stated that Kroger would not build at this site. Commissioner Wall stated that that would be the result not the hardship. He was trying to determine hardship. Mr. Warot stated that safety was big. With customers driving down the street with brighter options, which one would you choose?

Chairman Reece asked what time of day had the highest customer rate? Mr. Warot asked if she meant the capture rate? He said that customers already shopping at store will go to the fuel station. Fueling customers in general typically are in a half mile radius but that they are capturing what is existing in front of the store. Chairman Reece

asked if they could say specifically if there's more in the morning or the afternoon or evening? Mr. Warot responded that he could say there's more in the morning.

Commissioner Eslami asked if they were going to build if Chevron and Conoco changed their lights too? Mr. Warot responded that the City's Code is too restrictive for them to meet. Chairman Reece asked if Kroger had ever looked at a dimmer or light sensor system that the lights would get brighter when there's activity under them? Mr. Warot was not sure that they had although he stated that they do that on their freezer isles in stores.

Commissioner Wade wanted to go back to the 24 Road slide with 14.6 light levels. Mr. Schmidlein explained how lighting loss occurs over time.

Commissioner Couch noted that the applicant had spoken a great deal about the IESNA and that Galloway believed that the City standards are not adequate for safety, security and convenience. Was the IESNA the most expert organization or one that they simply belonged to? He noted that the City Council made a decision and it may or may not have been based on the IESNA information. Mr. Schmidlein stated that the IESNA was what they reference as engineers. The MLO was based on the dark sky regulations. He noted that Longmont codes were written on older information and that they are currently amending their codes. Boulder also uses the same standards and that many codes are being rewritten.

Commissioner Couch noted that the Dark Skies Initiative was relatively new when City Council made their decisions. Mr. Schmidlein noted the code references to dark skies. He believed in those and was in agreement with them. But the MLO suggests using both of the IESNA standards and dark skies regulations to create standards.

Commissioner Couch asked the applicant if they believed that a gas station is an attractive part of a community or a necessary part? Mr. Warot responded that it is if you were out of gas. He said that this site would allow them to open up the view corridors that would allow a view of downtown Main Street. He noted that he had presented an upgraded canopy and station with nice elevations and upgraded landscaping. The proposal contained many nice amenities and maintained a lot of open space and views through the canopy.

Commissioner Buschhorn asked with respect to safety and the IESNA standards, was the City Market facility on 24 Road operating an unsafe station? Mr. Warot responded that they continually fight to maintain the average of 20 fc levels. If you start out at 10 you constantly fight to keep it up. So you're right, it's questionable. Commissioner Buschhorn then asked if the 20-30 fc was the "design to," or the operating level? Mr. Warot stated that it was the "design to" level.

Chairman Reece noted that according to Zoning Code 21.02.200(c), under approval the criteria for a variance, a variance is not a right. It may be granted to an applicant only if the applicant establishes that strict adherence to the code will result in practical difficulties or unnecessary hardships because of site characteristics that are not applicable to most properties in the same zoning district. She went on to state that in the

downtown zone district, you would find that there's many businesses that would like their footcandles increased to 20 or 30. Chairman Reece stated that she did not think that the applicant was a special case or unique. She stated that variances are for special, unique circumstances that are not likely to occur in the same zoning district and did not feel that the applicant met that qualification. She felt that the applicant did not meet the criteria for a variance, however, she thought that the applicant could propose amending the Code such as the other cities in the front range, to change the footcandles. This issue was something that is of concern to other businesses in downtown. Chairman Reece went on to state that the variance runs with the land, so it remains with the property. If the fueling station wasn't there in five years, the variance doesn't go away just because the business is no longer there, it remains with the property. She didn't think there's been a clear and obvious example of how the land or the zoning of the land makes it unreasonable to produce a reasonable return. She stated that she thought the applicant could produce a reasonable return, but that it was the Kroger standards that don't allow for that because they would not build. That was not a problem with the development code, it was an issue that has been created by the applicant. She did not feel that the parcel was not unique in that aspect. She stated that a Zoning Code amendment with the new IESNA standards would be applicable, but that a variance and code amendment were two very different things. The variance was for a unique circumstance and the code amendment would be applicable throughout the zone district.

Commissioner Wall asked the applicant if they could show the bar chart that showed the amount of light given off after years of use. He asked if they were looking at 20-25% reduced lighting after 3 years for the 24 Road site? Mr. Schmidlein indicated that that was correct, that is was a reduction of 25% for a 3 year period. Commissioner Wall asked if that was due to maintenance and the bulb getting older or degrading. He asked if there was a maintenance schedule that showed when Kroger changed the bulbs to maintain the lighting. Mr. Schmidlein stated that they realized that lights need to be cleaned regularly from an operational maintenance standpoint. Chairman Reece asked if any of the fuel stations in the graph were lit with LED lights? Mr. Schmidlein responded that they were not.

Commissioner Buschhorn stated that the 25% reduction did not relate to LED lights, that it only related to the older style lights. He stated that they shouldn't consider the 25% reduction for this site because the applicant wouldn't be using the older style of lighting. Mr. Schmidlein stated that that was correct. Commissioner Buschhorn asked if the newer lights that would be used were expected to stay lighter longer as compared to the lights on the 24 Road site and other stations? Mr. Schmidlein said that was correct.

Commissioner Wade asked if the 24 Road site had LED lights. Mr. Schmidlein responded that they had metal halite lights under the canopy.

### **Questions for the Applicant**

Chairman Reece asked if there were any other questions for the applicant from the Planning Commission.



Commissioner Buschhorn then asked if Kroger had already purchased this property? Mr. Warot stated that they had not, the property was under contract.

Hearing no further questions, she thanked the applicant for their presentation. The hearing was then opened to the public for comments or questions. Chairman Reece asked for those in favor of the request to step forward to speak.

### **Public Comment**

Comments from the public in favor:

Harry Weiss, Executive Director of the Downtown Development Authority with offices located at 248 S. 4<sup>th</sup> Street. Mr. Weiss stated that he was not speaking in support or opposition to the variance. He brought a letter from the DDA Board and would briefly summarize it's content for the record.

Mr. Weiss noted that the DDA is a review agency when developments are proposed in the Greater Downtown Area, providing advisory comments. Kroger was considering the Wachovia site and the DDA asked them to consider the current site. The DDA considers the proposed development as a positive contribution to the downtown. The Value Lodge site is a blighted site and needs to be redeveloped. Mr. Weiss also noted that the proposed development is on an automobile corridor and that siting the fuel station some distance from Main Street is a balanced approach.

Mr. Weiss stated that the DDA Board believed it is not unreasonable to consider variable standards with a more flexible approach to development within this area. Sometimes a one size fits all standard does not fit all situations.

Commissioner Couch asked if generally the lighting standards were different for downtowns for pedestrians and would lighting at this site impact lighting downtown? Mr. Weiss responded that where the pedestrian grid and the auto grid intersect, they did not feel there was a problem.

### **Planning Commission Discussion**

Chairman Reece closed the public hearing asked the Commission for their questions, comments and discussion.

Chairman Reece asked if staff had additional comments? Mr. Moberg stated that he had talked with the code consultant who had revised the City's code in 2010 and that the 10-15 fc was a compromise between the dark sky advocates and others in the community.

Commissioner Eslami thanked the applicant for their presentation. He stated that if the Code has a deficiency, then they have to address that later. He stated that they have to stick with the Code, if you start deviating then he didn't feel comfortable. Commissioner Eslami stated that the project was a good project and can survive with 15

fc and that they could change the lighting later if the Code changes. He was not in favor of the variance.

Commissioner Wall stated that the presentation was very informative. He was looking at approval criteria number six, conformance with the purpose of the Code. The Code says that canopy lighting can't exceed a maximum of 15 fc which makes sense, except that he was not sure that when the Code was written that the maximum of 15 fc would be how long the light bulb would run for its life. He did not feel that light bulbs losing power over time had been considered. He felt that maintenance and keeping a fixture clean was the responsibility of who owned the light. He stated that he was involved when the Code was rewritten and lot of it was written with dark sky regulations. In this instance, he was convinced that the Code implies that we did not want more than 15 fc but that the Code didn't make exceptions for how things work. He thought that 20 fc was perfectly ok and still conforms with the purposes of the Code. The way he came to 20 fc is that 24 Road project is at 14.9 fc after three years, that would be roughly a 25%. The 24 Road project does not have the kind of lighting that this project would use so he thought that a 25% loss was on the high side of how much light would be lost over three or four years. He thought that the footcandles would actually be greater than 15 fc after that time. He proposed to approve a variance to 20 fc candles based approval criteria number six where the variance would not conflict with the purposes of the Code.

Commissioner Buschhorn stated that for the most part he agreed with Commissioner Wall and that the presentation was hugely informative. He felt that you do have to stick to the Code, and that the IESNA information was not available at the time of 2010 Code. He went on to say that looking at the two closest stations which are close to 20 fc, the Code didn't consider different parts of town. The other projects that were recently approved were not in the downtown, they were in rural locations. The 10-15 fc may be ok for those areas but not in a highly lit downtown. He said that he would prefer to see the Code changed to account for that, but that a variance to 20 fc maximum would be appropriate.

Commissioner Couch asked Assistant City Attorney Beard if the change that could be made, could be made through a motion and then forwarded on to Council for approval. Chairman Reece asked if Commissioner Couch was talking about a Zoning Code amendment and he responded that he was in regard to the footcandles. Ms. Beard responded that the Commission didn't have an amendment to change to the Code before them and that staff had not reviewed it for that purpose. What was before the Commission was a request for a variance and that the Commission should be dealing with the variance request as requested.

Commissioner Wade noted that he had a difficult time considering variances because if you do it all the time, you negate the purpose of the Code. On other hand, he agreed with his fellow Commissioners that in this particular case, due to the kinds of lights and the structure that is proposed, and that the competitors close to them have higher footcandles than the Code provides for, but that he felt they should grant the variance in this instance because it would provide some discussion about how the Code should be altered. He stated that he didn't like variances except in special cases.

Chairman Reece noted that this was a conflicting issue because they had a variance versus a Code amendment. Everyone would agree that it looked like the Code should be reevaluated to bring it up to recommended standards. She stated that if a variance was granted and then a car dealership locates two blocks away with a canopy that they will want a variance too. She felt that this sets a precedent. She would like to see a fueling station downtown but as far as the request fitting the criteria for a variance she was not convinced.

Commissioner Tolle stated that he would like to concur. He had problems with anything that we wouldn't adopt or look at to increase safety across the board. He supported the Chairman and everyone's position, however, he didn't think the variance was the right way to do it. He thought that there was a better solution that could be worked out, but his main intent was that City and staff don't lose the emphasis on safety and how they will review this sort of a process.

Commissioner Wall asked if a motion could be made changing the variance request? Ms. Beard responded no, that the Commission had a request before it and that's what the motion should concern. Chairman Reece noted that it would be helpful to remind the Commission just what the applicant was requesting. Mr. Moberg repeated the applicant's request.

Ms. Beard then reminded the Commission that the motion before them in the staff report was in the form of denial. She stated that if you make motion in the affirmative you wouldn't approve it if you don't want to grant the variance. She noted that it's clearer if you ask for the motion in the affirmative.

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 variance request VAR-2013-368, I move that the Planning Commission approve the request with the findings and conclusions listed in the staff report."**

Commissioner Couch seconded the motion. A vote was called and the motion failed by a vote of 1 - 6 with Commissioner Wall voting in favor.

### **General Discussion/Other Business**

Recommendation to City Council to adopt proposed revisions to the Grand Junction Planning Commission Bylaws.

Jamie Beard, Assistant City Attorney, stated that she had prepared revised wording as requested by the Planning Commission concerning meeting attendance by Commissioners at regular meetings and workshops. The final draft revisions were handed out to the Planning Commission for their review and comments. Changes requested by Commissioner Wall were included on page two under paragraph two. Commissioner Buschhorn noted that on paragraph three there was a missing word. Ms. Beard responded that the word "in" was missing and would be replaced.

Ms. Beard noted that the Commissioners were to consider the hard copy in front of them and changes that were noted at the last workshop.

Commissioner Wade had a question about Item #1 in the bylaws. He wondered if there had been any discussion of what that sentence means because he felt that determining whether or not an absence was excused left the decision totally to the discretion of those two people (Chair and the Vice-Chair). Ms. Beard explained that the process was to notify staff (in this case it was the Planning Manager) and then that staff person would notify the Chair. The Chair was informed of the absence. She noted that she did not believe that there had been a problem with excused or unexcused absences, but instead with a large number of excused absences which had prevented a Commissioner from being able to perform their duties.

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

**MOTION:(Commissioner Wade) “Madam Chairman, I move that we forward a recommendation to adopt the proposed revisions to the Grand Junction Planning Commission Bylaws, including the provisions regarding meeting attendance, to the City Council.”**

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

**Nonscheduled Citizens and/or Visitors**

None.

**Adjournment**

With no objection and no further business, the Planning Commission meeting was adjourned at 8:58 p.m.

**GRAND JUNCTION PLANNING COMMISSION  
SPECIAL MEETING  
September 26, 2013 MINUTES  
5:59 p.m. to 6:03 p.m.**

The special meeting of the Planning Commission was called to order at 5:59 p.m. by Vice-Chairman Eslami. The public hearing was held in the City Hall Auditorium located at 250 N. 5<sup>th</sup> Street, Grand Junction, Colorado.

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

In attendance, representing the City's Administration Department – Planning Division, was Dave Thornton (Planning and Development Supervisor). Greg Moberg was present from the Economic Development and Sustainability Division.

Also present was Jamie Beard (Assistant City Attorney).

Darcy Austin was present to record the minutes.

There were three citizens present during the course of the hearing.

**Announcements, Presentations And/or Visitors**

Dave Thornton, Planning and Development Supervisor, introduced Darcy Austin who will be present during Planning Commission meetings to record the minutes.

**Consent Agenda**

**1. Minutes of Previous Meetings**

None available at this time.

Vice-Chairman Eslami asked if there was a motion to move the public hearing item to the Consent Agenda.

**MOTION:(Commissioner Couch) “Mr. Chairman, I make a motion that we move the CUP scheduled for this evening to the consent agenda.”**

Commissioner Wall seconded the motion. A vote was called and the motion passed unanimously by a vote of 5 - 0.

Vice-Chairman Eslami asked staff why Community Hospital needed to have their request heard at a special Planning Commission meeting rather than waiting for the next regular meeting in ten days.

Greg Moberg stated that Community Hospital needed to get this (approval) taken care of so there was no question that they could build to the square footage that they proposed and wanted to make sure everything was taken care of before their bonds were sold. He noted that the hospital's bonds were for sale, or would be shortly, and that they wanted to ensure that they had approval before the bonds went on sale.

Vice-Chairman Eslami asked if there was any other business. Commissioner Couch mentioned the minutes, but then noted that none were available.

Vice-Chairman Eslami asked if there were any other business, questions or comments. Jamie Beard, Assistant City Attorney, noted that the public hearing item had been moved to the Consent Agenda but asked if the Commission had voted for purposes of approving the requested CUP. Vice-Chairman Eslami then asked for a motion to approve.

**MOTION:(Commissioner Couch) “Mr. Chairman, I make a motion that we approve the Conditional Use request made by the applicant.”**

Commissioner Tolle seconded the motion. A vote was called and the motion passed unanimously by a vote of 5 - 0.

### **Public Hearing Items**

#### **2. Community Hospital CUP – Conditional Use Permit**

Consider a request for a Conditional Use Permit to allow a building greater than 200,000 square feet on 29.9 acres in a BP (Business Park Mixed Use) zone district.

**FILE #:** CUP-2013-404  
**APPLICANT:** Bob Owens - Boulder Associates, Inc.  
**LOCATION:** 2351 G Road  
**STAFF:** Greg Moberg

**MOTION: Moved to the Consent Agenda**

### **General Discussion/Other Business**

None.

### **Nonscheduled Citizens and/or Visitors**

None.

### **Adjournment**

With no objection and no further business, the special Planning Commission meeting was adjourned at 6:03 p.m.

**Attach 2**

**Elementary Enclave Annexation - Zone of Annexation - ANX-2013-316**

**CITY OF GRAND JUNCTION  
PLANNING COMMISSION**

**MEETING DATE:** October 8, 2013  
**PRESENTER:** Brian Rusche, Senior Planner

**AGENDA TOPIC:** Elementary Enclave - Zone of Annexation - ANX-2013-316

**ACTION REQUESTED:** Forward a recommendation to City Council on a Zone of Annexation.

| <i>STAFF REPORT / BACKGROUND INFORMATION</i> |              |   |            |  |           |
|--|--------------|---|------------|--|-----------|
| <b>Location:</b>                             |              | 2977 B Road   |            |  |           |
| <b>Applicant:</b>                            |              | City of Grand Junction  |            |  |           |
| <b>Existing Land Use:</b>                    |              | Agricultural  |            |  |           |
| <b>Proposed Land Use:</b>                    |              | Residential   |            |  |           |
| <b>Surrounding Land Uses:</b>                | <b>North</b> | Single Family Residential   |            |  |           |
|  | <b>South</b> | Agricultural  |            |  |           |
|  | <b>East</b>  | Agricultural  |            |  |           |
|  | <b>West</b>  | Mesa View Elementary School   |            |  |           |
| <b>Existing Zoning:</b>                      |              | County RSF-R (Residential Single-Family Rural)                        |            |  |           |
| <b>Proposed Zoning:</b>                      |              | R-4 (Residential 4 du/ac)   |            |  |           |
| <b>Surrounding Zoning:</b>                   | <b>North</b> | PD (Planned Development – Chipeta Pines)<br>R-4 (Residential 4 du/ac) |            |  |           |
|  | <b>South</b> | R-4 (Residential 4 du/ac)   |            |  |           |
|  | <b>East</b>  | R-4 (Residential 4 du/ac)   |            |  |           |
|  | <b>West</b>  | R-4 (Residential 4 du/ac)   |            |  |           |
| <b>Future Land Use Designation:</b>          |              | Residential Medium (4-8 du/ac)  |            |  |           |
| <b>Zoning within density range?</b>          |              | X   | <b>Yes</b> |  | <b>No</b> |

**PROJECT DESCRIPTION:** A request to zone the Elementary Enclave Annexation, located at 2977 B Road, which consists of one (1) parcel, to an R-4 (Residential 4 du/ac).

**RECOMMENDATION:** Recommend approval to the City Council of the R-4 (Residential 4 du/ac) zone district.

## **ANALYSIS:**

### **Background:**

The 1.0 acre Elementary Enclave Annexation consists of one (1) parcel, located at 2977 B Road. The Elementary Enclave was created by the Mesa View Elementary Annexation on October 17, 2008. Under the 1998 Persigo Agreement with Mesa County, the City is required to annex all enclaved areas within five (5) years.

There is only property included in this annexation. The property owner has been contacted via letter about the annexation. There is no listed phone number for the property owner. Answers to common questions about this annexation are addressed in the attached FAQ, which was sent to the property owner.

The parcel is assessed as agricultural and includes a single-family residence. It is currently zoned County RSF-R (Residential Single-Family Rural). Refer to the Zoning Map included in this report.

Land annexed to the City shall be zoned in accordance with Grand Junction Municipal Code (GJMC) Section 21.02.140 to a district that is consistent with the adopted Comprehensive Plan and the criteria set forth.

The Comprehensive Plan Future Land Use designation of the property is Residential Medium (4-8 du/ac). The proposed zoning of R-4 (Residential 4 du/ac) will implement this land use designation.

### **Existing conditions:**

The existing residence was built in 1967. The property is assessed as agricultural. There appear to be cultivated fields that extend onto the adjacent property at 2981 B Road, as well as livestock enclosures built for sheep.

It is noted that upon annexation existing land use(s) which are otherwise lawful may continue to the extent they qualify as a legal nonconformity. It is unknown how many sheep are present upon the property. Section 21.04.030(a) addresses the keeping of livestock within the City, permitting one (1) large animal (including sheep) for every one-half (1/2) acre of property. Therefore, the property is of sufficient size for the keeping of up to two sheep upon annexation.

### **Development pattern:**





1954



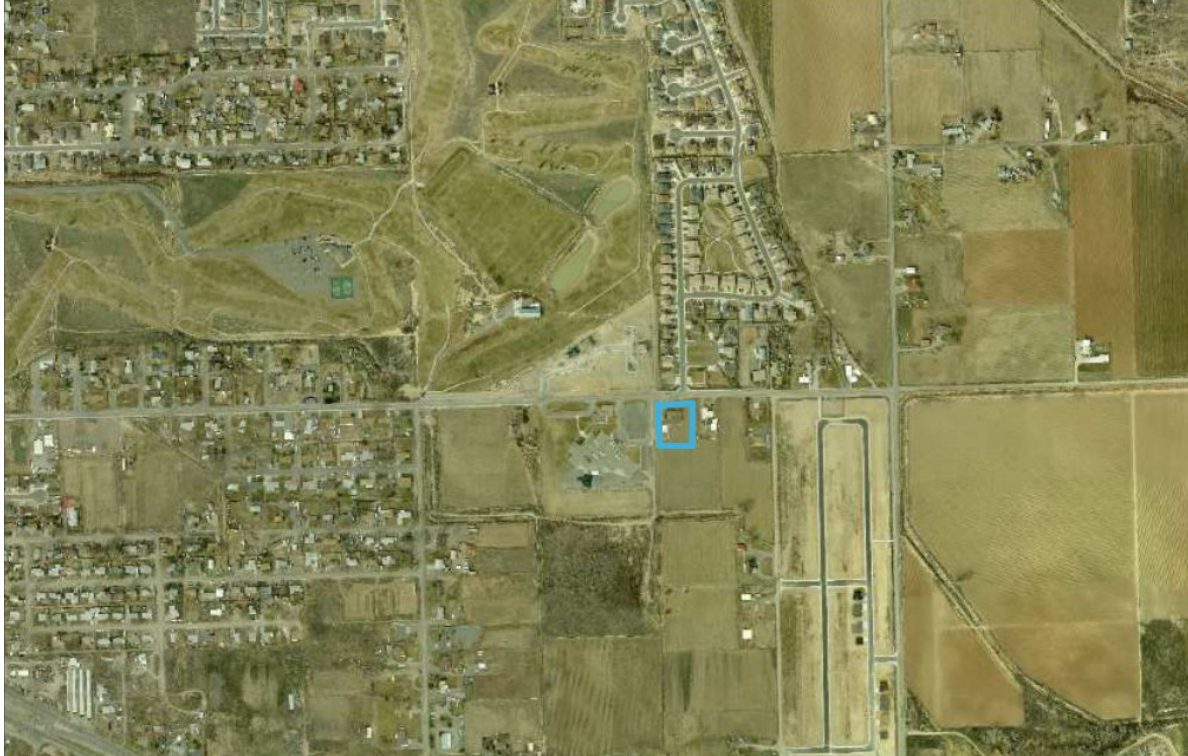
1977



1994



2002



2008

Based on aerial photographs, this part of the community has undergone a transition from large farms and orchards, to the first subdivisions encroaching from the west in the mid-1970s, the construction of the school in 1982 but little additional development until the early 2000s. Growth fueled additional subdivisions in 2008 with more planned, but not constructed.

The first neighborhood was constructed on the north side of B Road beginning in 1999. Known as Chipeta Pines (ANX-1999-195) it was developed as a PD (Planned Development) that includes 46 single-family homes and 34 townhomes on 20.717 acres, for a total density of 3.86 du/ac.

Fairway Pines Subdivision (PFP-2006-186) is located on the north side of B Road just west of Chipeta Pines. It was developed at a density of 3.07 du/ac and has 13 vacant lots remaining.

Mesa View Elementary School was built in 1982 and annexed to the City in 2008, creating the enclave. The annexation (GPA-2008-206) was in anticipation of residential development of approximately 10 acres south of the school. School District #51 subdivided this land from the school site, but the residential development did not occur.

The adjacent properties to the south and east were part of the Dyer/Green/Ottenberg Annexation of four (4) parcels. These parcels received Preliminary Plan approval (PP-2007-124) in 2007 as the Osprey Subdivision. Osprey was proposed with 67

single-family lots at a density of 3.6 du/ac. The subdivision was not constructed and the plan has expired.

While development has not occurred as originally anticipated, zoning established at the time of annexation would allow for previous plans to be “restarted” when the economics warrant.

Further east within the same neighborhood is Hawk’s Nest Subdivision (FP-2006-196) located at 30 and B Roads. Approved at a density of 3.56 du/ac, the third and final phase of 22 lots has not been constructed or platted.

### **Consistency with the Comprehensive Plan**

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

Zoning this enclave will create consistent land use jurisdiction and allow for efficient provision of municipal services. The proposed R-4 (Residential 4 du/ac) implements the Comprehensive Plan Future Land Use Map, which has designated the property as Residential Medium (4-8 du/ac). The proposed zone will provide consistency with the adjacent properties.

### **Section 21.02.160 and 21.02.140 of the Grand Junction Municipal Code:**

Section 21.02.160 of the Grand Junction Municipal Code states: Land annexed to the City shall be zoned in accordance with GJMC Section 21.02.140 to a district that is consistent with the adopted Comprehensive Plan and the criteria set forth.

The requested zone of annexation to an R-4 (Residential 4 du/ac) zone district is consistent with the Comprehensive Plan Future Land Use Map designation of Residential Medium (4-8 du/ac).

Section 21.02.140(a) states: *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*

In 1998, Mesa County and the City of Grand Junction adopted the Persigo Agreement. Under this agreement, the City is required to annex all enclaved areas within five (5) years. The property has been enclaved since October 17, 2008 by the Mesa View Elementary Annexation.

The Comprehensive Plan Future Land Use designation of the property is Residential Medium (4-8 du/ac). The proposed zoning of R-4 (Residential 4 du/ac) will implement this land use designation.

The Comprehensive Plan and the annexation of the property into the City of Grand Junction invalidate the original premises of the existing unincorporated

Mesa County RSF-R (Residential Single Family Rural) zoning. 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 existing residence was built in 1967. The property is assessed as agricultural. The maximum density in the County RSF-R zone is one (1) dwelling unit per five (5) acres. The existing residence is on only one (1) acre.

Based on aerial photographs, this part of the community has undergone a transition away from large farms and orchards, beginning with the construction of Mesa View Elementary School in 1982.

The first neighborhood on the north side of B Road is Chipeta Heights, began in 1999 and fully developed at a density of 3.86 du/ac. Also on the north side of B Road is Fairway Pines, developed at a density of 3.07 du/ac. Further east on the south side of B Road is Hawk's Nest, which has a density of 3.56 du/ac.

Other developments were proposed on adjacent properties but not constructed as originally anticipated; however, those properties have zoning that would allow for previous plans to be "restarted" when the economics warrant.

This criterion has been met.

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

B Road is a major collector providing east/west access through the Orchard Mesa neighborhood from 28 ½ Road at US Highway 50 to 32 Road.

A 12" Ute Water line and a 10" Persigo sanitary sewer line exist in B Road. Electricity is provided by Grand Valley Power (a franchise utility). Adequate infrastructure exists to accommodate, with upgrades as necessary, additional development on this parcel.

The property is adjacent to Mesa View Elementary.

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*

Several large parcels of land on Orchard Mesa east of 29 Road and north of US Highway 50 were annexed and zoned R-4 between 2000 and 2010. Some of the proposed new developments did not materialize, including Osprey Subdivision (east of Mesa View Elementary), Mesa Crest South Subdivision (now owned by the Bureau of Reclamation), Mountain View Estates (2922 B ½ Road),

Orchard Park Subdivision (Jon Hall Road at 29 ½ Road) and Orchard Estates (south of Jon Hall Road).

Those subdivisions that were constructed have seen their inventories of platted lots slowly absorbed by the market. Fairway Pines Subdivision on the north side of B Road has 13 vacant platted lots remaining.

There is approximately 100 acres of undeveloped land between the Colorado River and US Highway 50, from 29 to 30 Road, within the city limits currently zoned R-4. If built at maximum density (4 du/ac), this acreage would accommodate only 920 persons (at 2.3 persons per unit), which is a small portion of the anticipated overall population growth in the Grand Valley.

This criterion has been met.

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

The annexation of enclaved unincorporated areas adjacent to the City is critical to providing efficient urban services and infrastructure, minimizing costs to the City and therefore the community.

The proposed R-4 zone district will provide the opportunity, when the market is ripe, for additional residential development along an established corridor in an urbanizing area of the valley. Additional residential density allows for more efficient use of City services and infrastructure, minimizing costs to the City and therefore the community.

This criterion has been met.

After reviewing the criteria for a zoning amendment, I find that the above criteria have been met. Therefore, I recommend approval of the R-4 zone district.

Alternatives: The following zone districts would also implement the Comprehensive Plan Future Land Use Map designation of Residential Medium for the property:

1. R-5 (Residential 5 du/ac)
2. R-8 (Residential 8 du/ac)
3. R-12 (Residential 12 du/ac)
4. R-16 (Residential 16 du/ac)
5. R-O (Residential Office)

An R-O zone would not be appropriate, since the enclave is not located at a roadway intersection or along a transitioning commercial corridor.

The R-8, R-12 and R-16 zone districts would allow density that exceeds that of the surrounding neighborhoods and are therefore not appropriate zone districts for this property.

The intent of the R-4 zone is to provide for medium-low density single-family uses where adequate public facilities and services are available. This zone is consistent with the subdivisions to the north and east. In contrast, the R-5 zone district would allow density that exceeds that of the surrounding neighborhoods.

It is my professional opinion that the R-4 (Residential 4 du/ac) zone is the best choice for this property.

If the Planning Commission chooses an alternative zone designation, specific alternative findings must be made.

### **FINDINGS OF FACT/CONCLUSIONS:**

After reviewing the Elementary Enclave Zone of Annexation, ANX-2013-316, a request to zone the Elementary Enclave Annexation to R-4 (Residential 4 du/ac), the following Findings of Fact and Conclusions have been determined:

1. The requested R-4 (Residential 4 du/ac) zone district is consistent with the goals and policies of the Comprehensive Plan.
2. The review criteria in Section 21.02.140 of the Grand Junction Municipal Code have all been met.

### **STAFF RECOMMENDATION:**

Staff recommends that the Planning Commission forward a recommendation of approval of the requested zone, ANX-2013-316, to the City Council with the findings and conclusions listed above.

### **RECOMMENDED PLANNING COMMISSION MOTION:**

Madam Chairman, on the Elementary Enclave Zone of Annexation, ANX-2013-316, I move that the Planning Commission forward to the City Council a recommendation of approval of the R-4 (Residential 4 du/ac) zone district with the findings of fact and conclusions listed in the staff report.

Attachments:

Frequently Asked Questions (FAQ)  
Annexation Map  
Aerial Photo  
Future Land Use Map  
Existing City and County Zoning Map  
Zoning Ordinance



## **Elementary Enclave Annexation** **FREQUENTLY ASKED QUESTIONS**

### **WHY ARE WE BEING ANNEXED?**

The City and County signed the Persigo Agreement in 1998 to ensure that all development within the 201 Sewer Service area is eventually incorporated into the City. As property is annexed and developed, existing development can become "enclaved". These gaps are to be incorporated into the City within five (5) years, according to the agreement.

### **WHAT SERVICES CAN THE CITY PROVIDE?**

The City offers Police, Street Maintenance, and Planning Services to all its citizens, including programs such as Spring Cleanup and Fall Leaf Collection. You may sign up for garbage service from the City or maintain your current hauler.

### **WHAT WILL HAPPEN TO MY TAXES?**

The City will assess a mill levy (currently 8 mills or \$8 per \$1000 of assessed valuation) on all taxable real property within the enclaved area. Fire Protection is provided by the City as one of its services, so the existing levy (currently 5.938 mills) which goes to the Rural Fire Protection District will be discontinued after annexation. Therefore, the total increase in levy is only 2.062 mills. Purchases within the enclaved area and/or for delivery to a City address will be subject to the 2.75% City Sales Tax. In addition, certain franchise utilities, such as cable and electric, will include a franchise fee on future statements.

### **WHAT IF I WANT TO BUILD SOMETHING ON MY PROPERTY?**

The City Planning Division can assist you in obtaining the proper permits for new construction, building additions, change of use, or other development on your property.

### **CAN WE OPPOSE THIS ANNEXATION?**

State Law permits unilateral annexations (meaning without consent of property owners) and the Persigo Agreement requires annexation of enclaved properties, to provide for orderly development and provision of services.

### **HOW DO I GET MORE INFORMATION?**

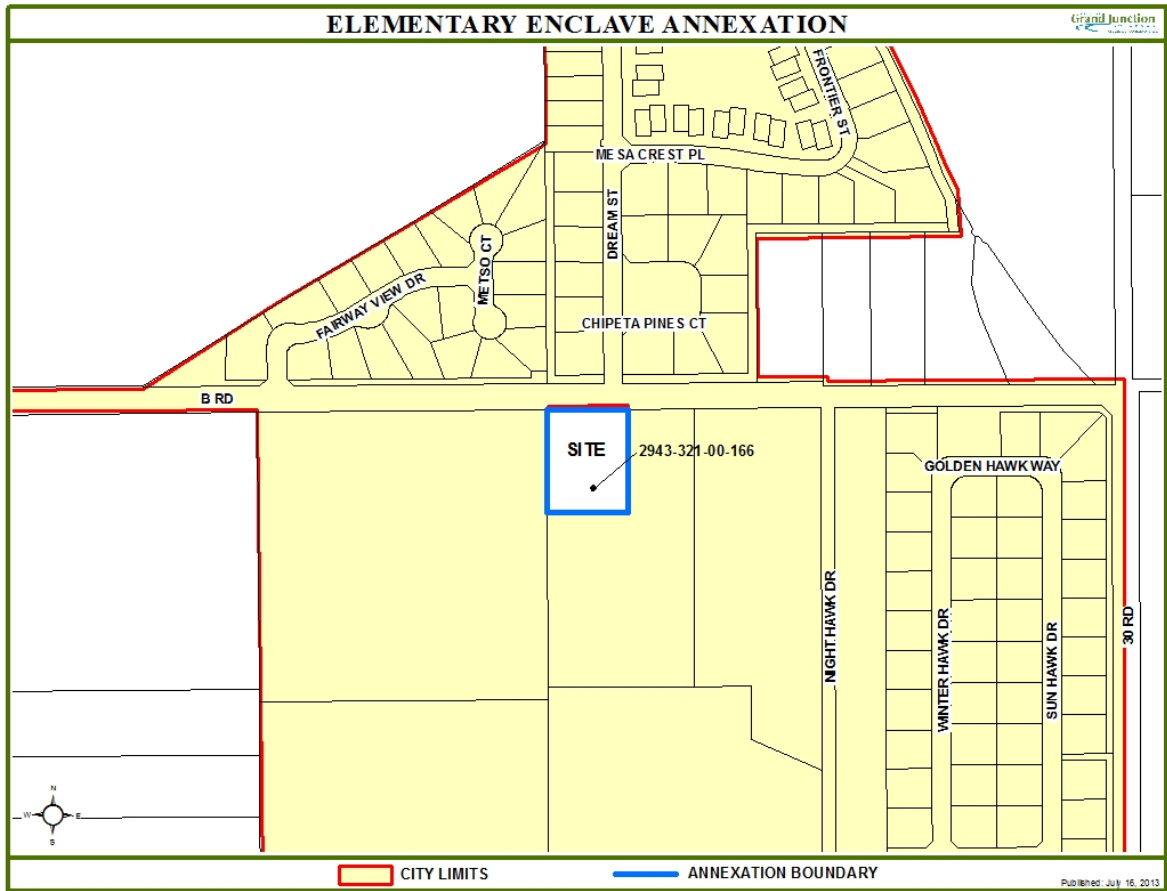
Contact Brian Rusche (970-256-4058).

For information about the City, go to [www.gjcity.org](http://www.gjcity.org)



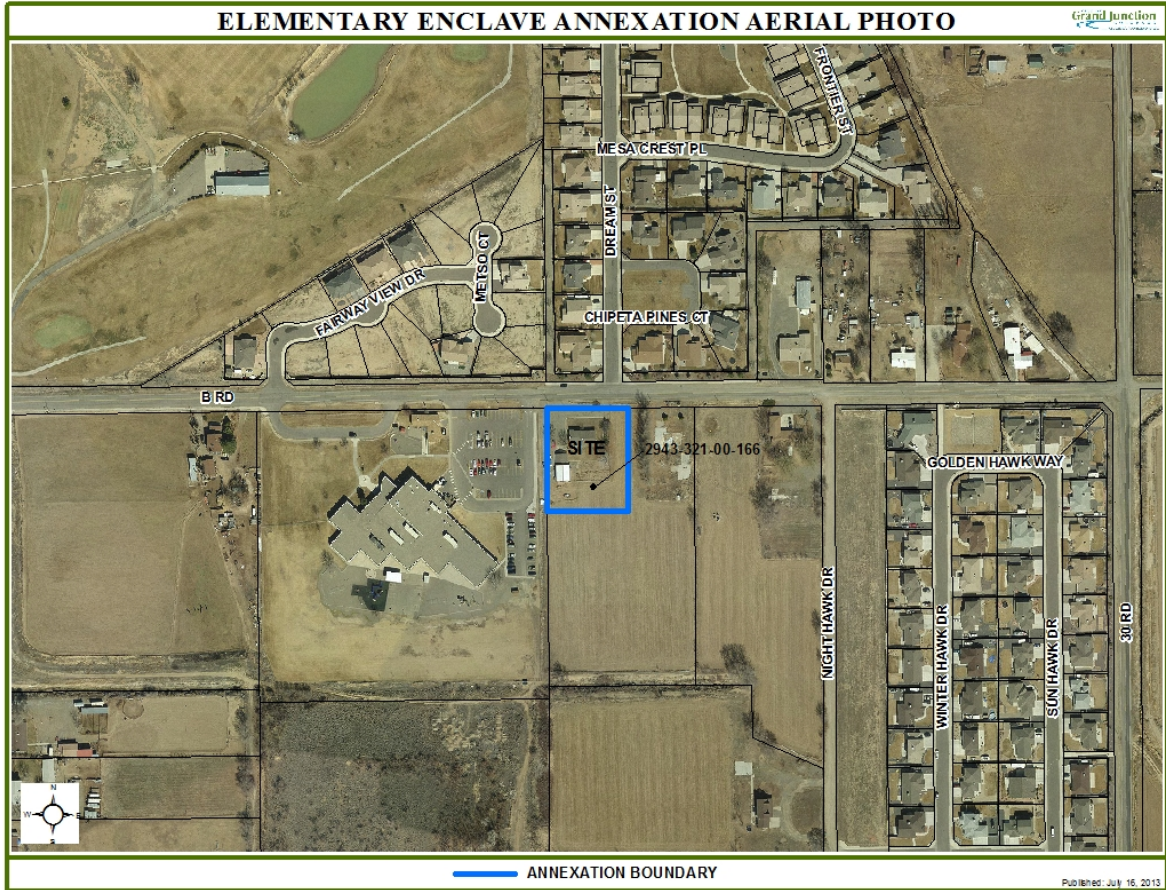
# Annexation Map

## Figure 1



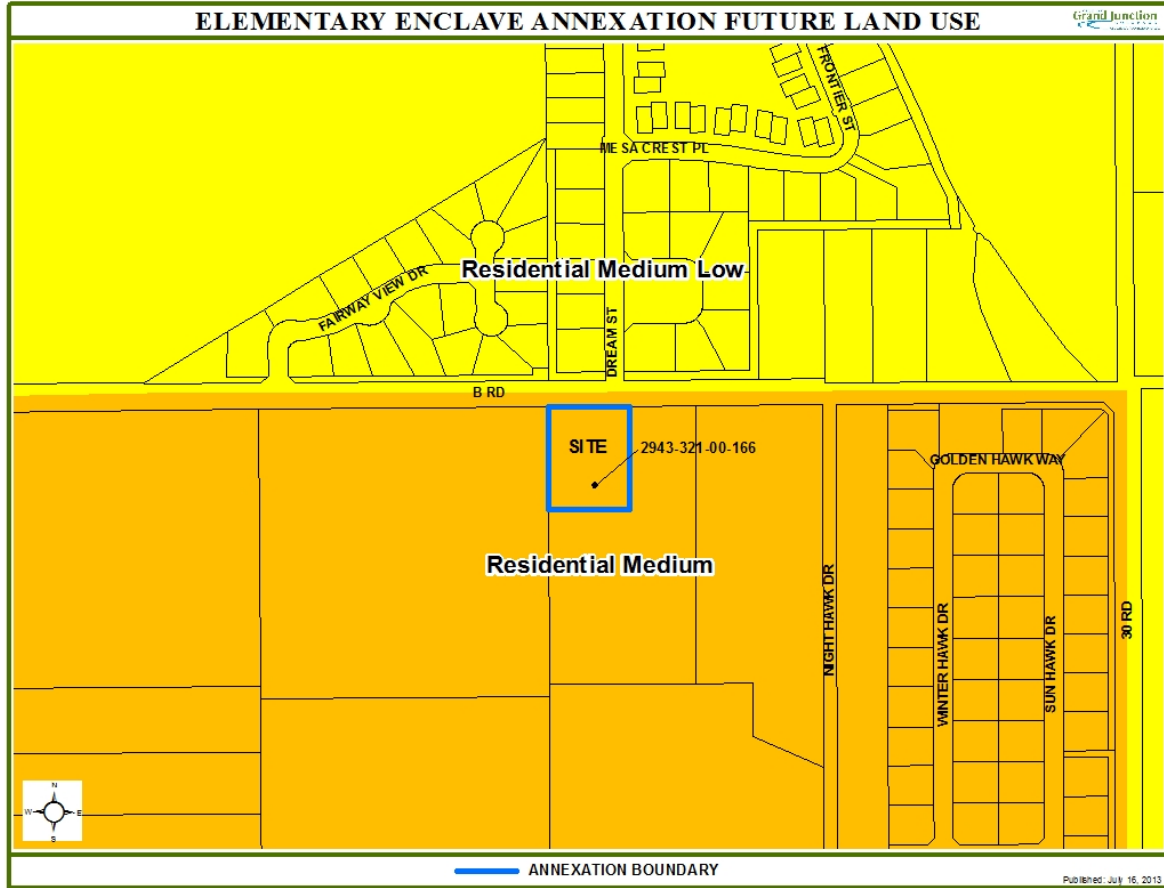
# Aerial Photo

## Figure 2



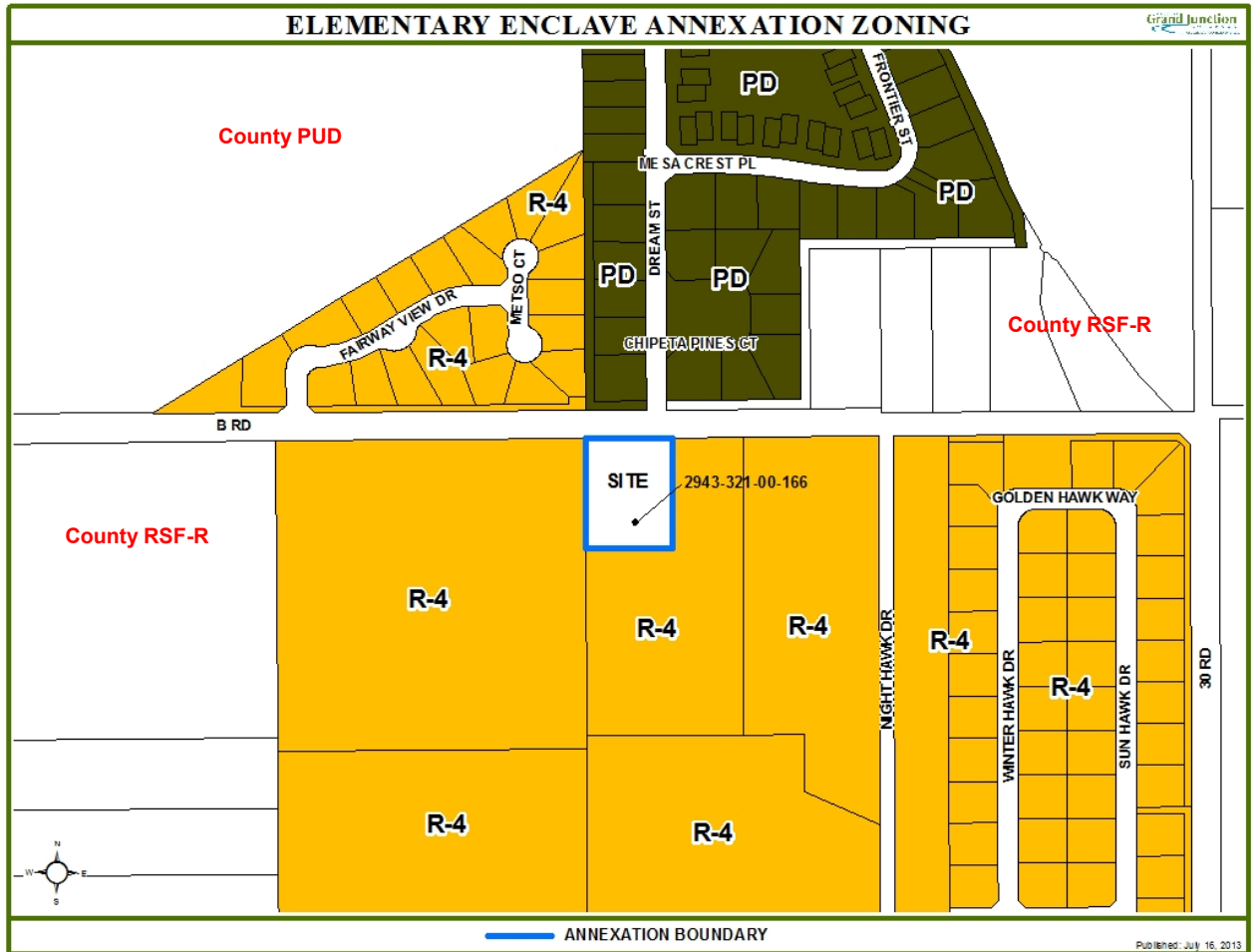
# Comprehensive Plan – Future Land Use Map

Figure 3



# Existing City and County Zoning Map

Figure 4



**CITY OF GRAND JUNCTION, COLORADO**

**ORDINANCE NO.**

**AN ORDINANCE ZONING THE ELEMENTARY ENCLAVE ANNEXATION  
TO R-4 (RESIDENTIAL 4 DU/AC)**

**LOCATED AT 2977 B ROAD**

Recitals

The Elementary Enclave Annexation has been initiated by the City of Grand Junction ("City") pursuant to the 1998 Persigo Agreement with Mesa County ("Agreement"). With the annexation of the property included in the Mesa View Elementary Annexation on October 17, 2008, the area is enclaved. The terms of the Agreement state that an "enclaved" area shall be annexed into the City. ("Enclaved" means that an unincorporated area is completely surrounded by the City.)

The City has also agreed to zone newly annexed areas using a zone district that implements the Comprehensive Plan. The proposed zoning of R-4 (Residential 4 du/ac) implements the Comprehensive Plan Future Land Use Map, which has designated the enclaved area as Residential Medium (4-8 du/ac).

After public notice and public hearing as required by the Grand Junction Municipal Code, the Grand Junction Planning Commission recommended approval of zoning the Elementary Enclave Annexation to the R-4 (Residential 4 du/ac) zone district, finding conformance with the recommended land use category as shown on the Future Land Use Map of the Comprehensive Plan and the Comprehensive Plan's goals and policies and is compatible with land uses located in the surrounding area. The zone district meets criteria found in Section 21.02.140 of the Grand Junction Municipal Code.

After public notice and public hearing before the Grand Junction City Council, City Council finds that the R-4 (Residential 4 du/ac) zone district is in conformance with criteria found in Section 21.02.140 of the Grand Junction Municipal Code.

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

The following property be zoned R-4 (Residential 4 du/ac):

**ELEMENTARY ENCLAVE ANNEXATION**

A certain enclaved parcel of land lying in the Northeast Quarter of the Northeast Quarter (NE 1/4 NE 1/4) of Section 32, Township 1 South, Range 1 East of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

ALL the lands bounded on the East and South by Dyer/Green/Ottenberg Annexation No. 1, City of Grand Junction Ordinance 4056, as same is recorded in Book 4402, Page 970; bounded on the North by Chipeta Pines Annexation No. 2, City of Grand Junction Ordinance 3191, as same is recorded in Book 2646, Page 301, and, bounded on the West by Mesa View Elementary School Annexation, City of Grand Junction Ordinance 4290, as same is recorded in Book 4731, Page 815, all in the Public Records of Mesa County, Colorado.

CONTAINING 43,527 Square Feet or 1.00 Acres, more or less, as described.

**INTRODUCED** on first reading the \_\_\_\_ day of \_\_\_\_\_, 2013 and ordered published in pamphlet form.

**PASSED and ADOPTED** on second reading the \_\_\_\_ day of \_\_\_\_\_, 2013 and ordered published in pamphlet form.

ATTEST:

\_\_\_\_\_  
President of the Council

\_\_\_\_\_  
City Clerk

**Attach 3**

**Twenty Nine Thirty Enclave - Zone of Annexation - ANX-2013-377**

**CITY OF GRAND JUNCTION  
PLANNING COMMISSION**

**MEETING DATE:** October 8, 2013  
**PRESENTER:** Brian Rusche, Senior Planner

**AGENDA TOPIC:** Twenty Nine Thirty Enclave - Zone of Annexation - ANX-2013-377

**ACTION REQUESTED:** Forward a recommendation to City Council on a Zone of Annexation.

| <i>STAFF REPORT / BACKGROUND INFORMATION</i> |              |  |  |           |
|--|--------------|--|--|-----------|
| <b>Location:</b>                             |              | North and south side of B ½ Road at Crista Lee Way |  |           |
| <b>Applicant:</b>                            |              | City of Grand Junction                             |  |           |
| <b>Existing Land Use:</b>                    |              | Single Family Residential / Agricultural           |  |           |
| <b>Proposed Land Use:</b>                    |              | Residential  |  |           |
| <b>Surrounding Land Uses:</b>                | <b>North</b> | Single Family Residential / Agricultural           |  |           |
|  | <b>South</b> | Single Family Residential                          |  |           |
|  | <b>East</b>  | Single Family Residential / Agricultural           |  |           |
|  | <b>West</b>  | Agricultural / Vacant                              |  |           |
| <b>Existing Zoning:</b>                      |              | County RSF-R (Residential Single-Family Rural)     |  |           |
| <b>Proposed Zoning:</b>                      |              | R-4 (Residential 4 du/ac)                          |  |           |
| <b>Surrounding Zoning:</b>                   | <b>North</b> | R-4 (Residential 4 du/ac)                          |  |           |
|  | <b>South</b> | R-4 (Residential 4 du/ac)                          |  |           |
|  | <b>East</b>  | R-4 (Residential 4 du/ac)                          |  |           |
|  | <b>West</b>  | R-4 (Residential 4 du/ac)                          |  |           |
| <b>Future Land Use Designation:</b>          |              | Residential Medium Low (2-4 du/ac)                 |  |           |
| <b>Zoning within density range?</b>          | X            | <b>Yes</b>   |  | <b>No</b> |

**PROJECT DESCRIPTION:** A request to zone the Twenty Nine Thirty Enclave Annexation, which consists of six (6) parcels located on the north and south side of B ½ Road at Crista Lee Way, to an R-4 (Residential 4 du/ac).

**RECOMMENDATION:** Recommend approval to the City Council of the R-4 (Residential 4 du/ac) zone district.

## **ANALYSIS:**

### **Background:**

The 12.08 acre Twenty Nine Thirty Enclave Annexation encompasses six (6) parcels and 0.51 acres of public right-of-way, located on the north and south side of B ½ Road at Crista Lee Way. The Twenty Nine Thirty Enclave was created by the Level III Annexation on September 5, 2008. Under the 1998 Persigo Agreement with Mesa County, the City is required to annex all enclaved areas within five (5) years.

All of the property owners have been contacted via letter about the annexation. Three of the property owners were contacted by phone and three were unlisted. Answers to common questions about this annexation are addressed in the attached FAQ, which was sent to the property owners.

All of the properties are presently zoned County RSF-R (Residential Single-Family Rural).

Land annexed to the City shall be zoned in accordance with Grand Junction Municipal Code (GJMC) Section 21.02.140 to a district that is consistent with the adopted Comprehensive Plan and the criteria set forth.

The Comprehensive Plan Future Land Use designation of the property is Residential Medium Low (2-4 du/ac). The proposed zoning of R-4 (Residential 4 du/ac) will implement this land use designation.

### **Existing conditions:**

The existing land uses are as follows (from west to east):

- Single Family residence at 2930 B ½ Road, built in 1951
- Single Family residence at 2931 B ½ Road, built in 1908
- Vacant, unaddressed property owned by Krogh
- Single Family residence at 2934 B ½ Road, built in 1938
- Single Family residence at 2935 B ½ Road, built in 2005
- Agricultural land at 2936 B ½ Road, with a Single Family residence built in 1968

It is noted that upon annexation existing land use(s) which are otherwise lawful may continue to the extent they qualify as a legal nonconformity. Specifically, agricultural operations at 2936 B ½ Road may continue.

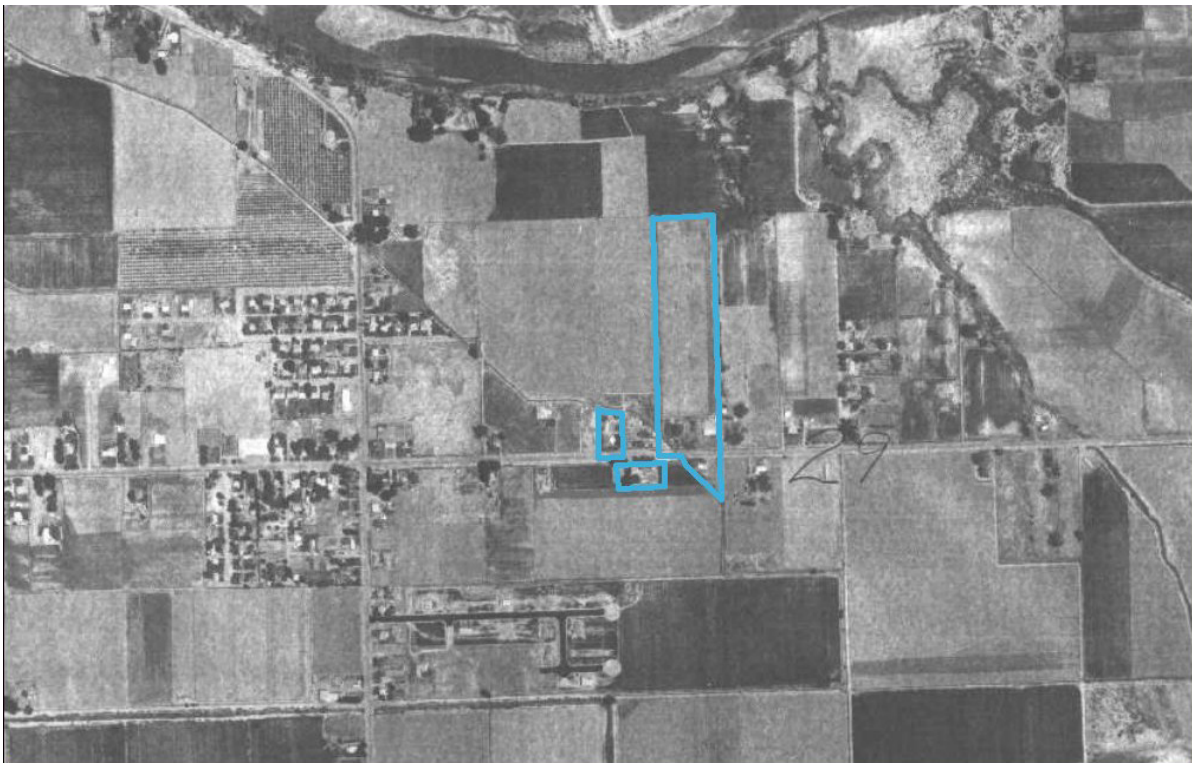
The enclaved area is generally bounded by developed subdivisions on the north and south and undeveloped or agricultural land on the east and west.

### **Development pattern:**





1937



1977



1997



2007



2012

Based on aerial photographs, this part of the community has undergone a transition from large farms and orchards, with only a few small groups of houses into the late-1970s. Development increased to the south in the late 1990s, including the creation of the Chipeta Golf Course. Growth fueled additional subdivisions in the mid 2000s; these subdivisions are now largely completed.

The property at 2922 B  $\frac{1}{2}$  Road was annexed on September 5, 2008 as the Level III Annexation, which created the enclave. The nearly 20 acres was approved as Mountain View Estates (PP-2008-212) consisting of 61 single-family lots, for a density of 3.18 du/ac. This subdivision retains approval until May 25, 2014.

To the north is Riverview Estates, which was platted in 2007 with 81 single-family lots on 26.95 acres, for a density of 3 du/ac. This subdivision includes stub streets on its southern boundary for future extension into the enclaved area. There are 6 vacant lots remaining.

Two 10-acre properties to the east were annexed in 2006 (Colvin Annexation) and 2007 (Krabacher Annexation). The former was known as Chipeta Estates (FP-2007-348) with 31 lots and the later was known as Solstice Meadows (PP-2007-364) with 38 lots. Both plans have expired.

On the south side of B  $\frac{1}{2}$  Road is Crista Lee Subdivision, a completed development of 21 single-family residences with a density of 3.5 du/ac. Adjacent to Crista Lee is Crystal Brooke. The first phase has public improvements which have not been completed, so no new residences can be constructed. The second phase has expired.

The entire subdivision, including the existing residence at 2919 B ½ Road was anticipated to be developed at a density of 3.35 du/ac.

While development has not occurred as originally anticipated, zoning established at the time of annexation would allow for previous plans to be “restarted” when the economics warrant.

Further east adjacent to the golf course is the Chipeta West Subdivision, which includes 25 single-family residences and one vacant lot, for a build-out density of 3.45 du/ac.

### **Consistency with the Comprehensive Plan**

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

Zoning this enclave will create consistent land use jurisdiction and allow for efficient provision of municipal services. The proposed R-4 (Residential 4 du/ac) implements the Comprehensive Plan Future Land Use Map, which has designated the property as Residential Medium Low (2-4 du/ac). The proposed zone will provide consistency with the adjacent properties.

### **Section 21.02.160 and 21.02.140 of the Grand Junction Municipal Code:**

Section 21.02.160 of the Grand Junction Municipal Code states: Land annexed to the City shall be zoned in accordance with GJMC Section 21.02.140 to a district that is consistent with the adopted Comprehensive Plan and the criteria set forth.

The requested zone of annexation to an R-4 (Residential 4 du/ac) zone district is consistent with the Comprehensive Plan Future Land Use Map designation of Residential Medium Low (2-4 du/ac).

Section 21.02.140(a) states: *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*

In 1998, Mesa County and the City of Grand Junction adopted the Persigo Agreement. Under this agreement, the City is required to annex all enclaved areas within five (5) years. The property has been enclaved since September 5, 2008 by the Level III Annexation.

The Comprehensive Plan Future Land Use designation of the property is Residential Medium Low (2-4 du/ac). The proposed zoning of R-4 (Residential 4 du/ac) will implement this land use designation.

The Comprehensive Plan and the annexation of the property into the City of Grand Junction invalidate the original premises of the existing unincorporated

Mesa County RSF-R (Residential Single Family Rural) zoning. 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*

Based on aerial photographs, this part of the community has undergone a transition from large farms and orchards, with only a few small groups of houses into the late-1970s. Development increased to the south in the late 1990s, including the creation of the Chipeta Golf Course. Growth fueled additional subdivisions in the mid 2000s; these subdivisions are now largely completed.

While other proposed residential subdivisions were not developed as originally anticipated, zoning established at the time of annexation would allow for previous plans to be “restarted” when the economics warrant.

This criterion has been met.

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

B ½ Road is a Minor Arterial providing east/west access through the Orchard Mesa neighborhood from the US Highway 50 overpass to 32 Road.

A 24” and an 8” Ute Water line and a 12” Persigo sanitary sewer line exist in B Road. Electricity is provided by Xcel Energy (a franchise utility). Adequate infrastructure exists to accommodate, with upgrades as necessary, additional development on this parcel.

Lincoln Orchard Mesa Elementary School, built in 1901 with three expansions from 1953 to 1963, is less than one-half (1/2) mile from the enclave property.

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*

Several large parcels of land on Orchard Mesa east of 29 Road and north of US Highway 50 were annexed and zoned R-4 between 2000 and 2010. Clustered along B ½ Road are some of these developments that did not materialize, including Mountain View Estates (2922 B ½ Road), Chipeta Estates (2940 B ½ Road), Solstice Meadows (2946 B ½ Road), and Crystal Brooke (2919 B ½ Road).

Those subdivisions that were constructed have seen their inventories of platted lots slowly absorbed by the market. Riverview Estates to the north has six (6) vacant lots remaining and Chipeta West further to the east has one vacant lot.

There is approximately 100 acres of undeveloped land between the Colorado River and US Highway 50, from 29 to 30 Road, within the city limits currently zoned R-4. If built at maximum density (4 du/ac), this acreage would accommodate only 920 persons (at 2.3 persons per unit), which is a small portion of the anticipated overall population growth in the Grand Valley.

This criterion has been met.

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

The annexation of enclaved unincorporated areas adjacent to the City is critical to providing efficient urban services and infrastructure, minimizing costs to the City and therefore the community.

The proposed R-4 zone district will provide the opportunity, when the market is ripe, for additional residential development along an established corridor in an urbanizing area of the valley. Additional residential density allows for more efficient use of City services and infrastructure, minimizing costs to the City and therefore the community.

This criterion has been met.

After reviewing the criteria for a zoning amendment, I find that the above criteria have been met. Therefore, I recommend approval of the R-4 zone district.

Alternatives: The following zone districts would also implement the Comprehensive Plan Future Land Use Map designation of Residential Medium for the property:

1. R-5 (Residential 5 du/ac)
2. R-8 (Residential 8 du/ac)
3. R-12 (Residential 12 du/ac)
4. R-16 (Residential 16 du/ac)
5. R-O (Residential Office)

An R-O zone would not be appropriate, since the enclave is not located along a transitioning commercial corridor.

The R-8, R-12 and R-16 zone districts would allow density that exceeds that of the surrounding neighborhoods and are therefore not appropriate zone districts for this property.

The intent of the R-4 zone is to provide for medium-low density single-family uses where adequate public facilities and services are available. This zone is consistent with the subdivisions to the north and east. In contrast, the R-5 zone district would allow density that exceeds that of the surrounding neighborhoods.

It is my professional opinion that the R-4 (Residential 4 du/ac) zone is the best choice for this property.

If the Planning Commission chooses an alternative zone designation, specific alternative findings must be made.

**FINDINGS OF FACT/CONCLUSIONS:**

After reviewing the Twenty Nine Thirty Enclave Zone of Annexation, ANX-2013-377, a request to zone the Twenty Nine Thirty Enclave Annexation to R-4 (Residential 4 du/ac), the following Findings of Fact and Conclusions have been determined:

1. The proposed R-4 (Residential 4 du/ac) zone district is consistent with the goals and policies of the Comprehensive Plan.
2. The review criteria in Section 21.02.140 of the Grand Junction Municipal Code have all been met.

**STAFF RECOMMENDATION:**

Staff recommends that the Planning Commission forward a recommendation of approval of the requested zone, ANX-2013-377, to the City Council with the findings and conclusions listed above.

**RECOMMENDED PLANNING COMMISSION MOTION:**

Madam Chairman, on the Twenty Nine Thirty Enclave Zone of Annexation, ANX-2013-377, I move that the Planning Commission forward to the City Council a recommendation of approval of the R-4 (Residential 4 du/ac) zone district with the findings and conclusions listed in the staff report.

Attachments:

Frequently Asked Questions (FAQ)  
Annexation Map  
Aerial Photo  
Future Land Use Map  
Existing City and County Zoning Map  
Zoning Ordinance



## **Twenty Nine Thirty Enclave Annexation** **FREQUENTLY ASKED QUESTIONS**

### **WHY ARE WE BEING ANNEXED?**

The City and County signed the Persigo Agreement in 1998 to ensure that all development within the 201 Sewer Service area is eventually incorporated into the City. As property is annexed and developed, existing development can become "enclaved". These gaps are to be incorporated into the City within five (5) years, according to the agreement.

### **WHAT SERVICES CAN THE CITY PROVIDE?**

The City offers Police, Street Maintenance, and Planning Services to all its citizens, including programs such as Spring Cleanup and Fall Leaf Collection. You may sign up for garbage service from the City or maintain your current hauler.

### **WHAT WILL HAPPEN TO MY TAXES?**

The City will assess a mill levy (currently 8 mills or \$8 per \$1000 of assessed valuation) on all taxable real property within the enclaved area. Fire Protection is provided by the City as one of its services, so the existing levy (currently 5.938 mills) which goes to the Rural Fire Protection District will be discontinued after annexation. Therefore, the total increase in levy is only 2.062 mills. Purchases within the enclaved area and/or for delivery to a City address will be subject to the 2.75% City Sales Tax. In addition, certain franchise utilities, such as cable and electric, will include a franchise fee on future statements.

### **WHAT IF I WANT TO BUILD SOMETHING ON MY PROPERTY?**

The City Planning Division can assist you in obtaining the proper permits for new construction, building additions, change of use, or other development on your property.

### **CAN WE OPPOSE THIS ANNEXATION?**

State Law permits unilateral annexations (meaning without consent of property owners) and the Persigo Agreement requires annexation of enclaved properties, to provide for orderly development and provision of services.

### **HOW DO I GET MORE INFORMATION?**

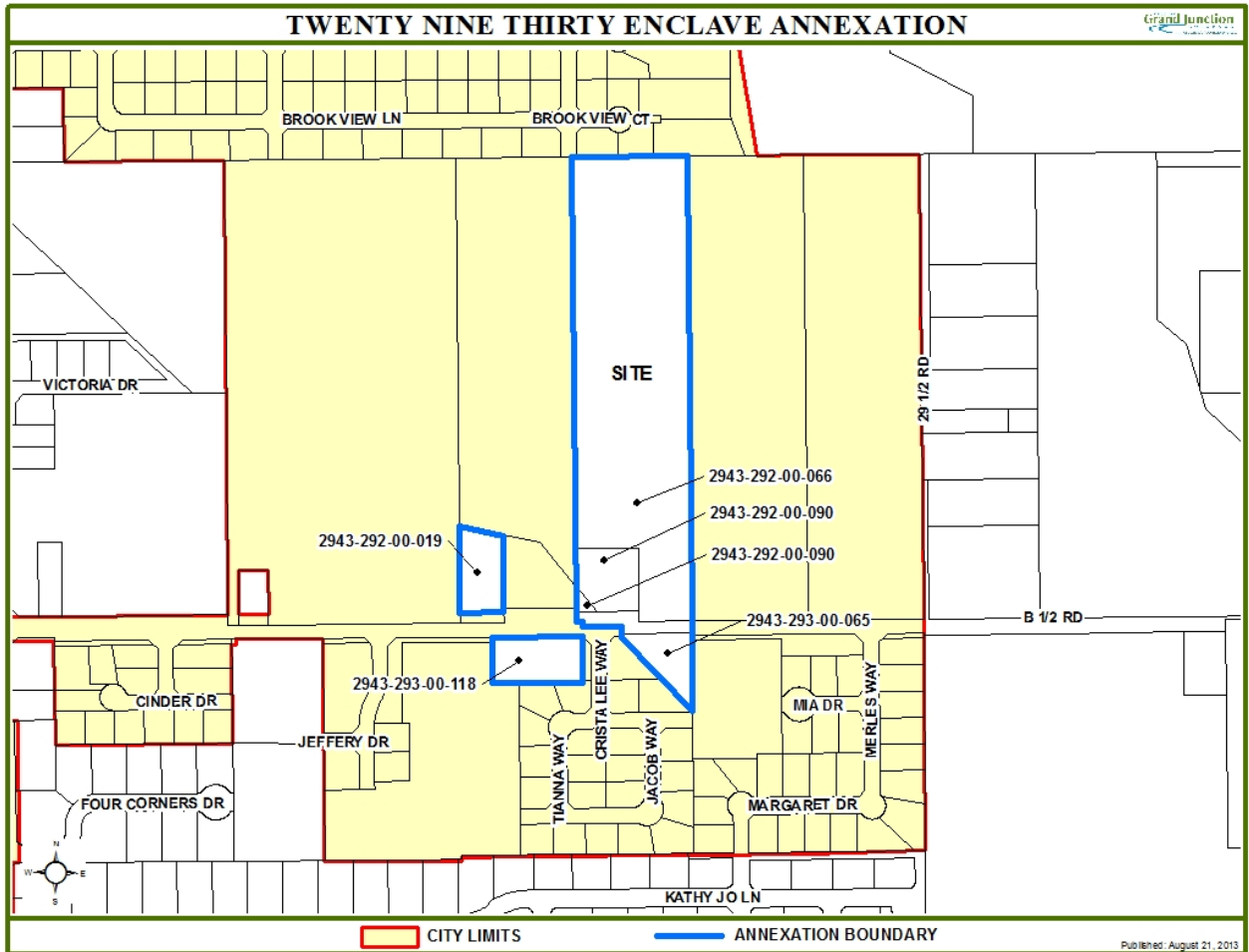
Contact Brian Rusche (970-256-4058).

For information about the City, go to [www.gjcity.org](http://www.gjcity.org)



# Annexation Map

## Figure 1



# Aerial Photo

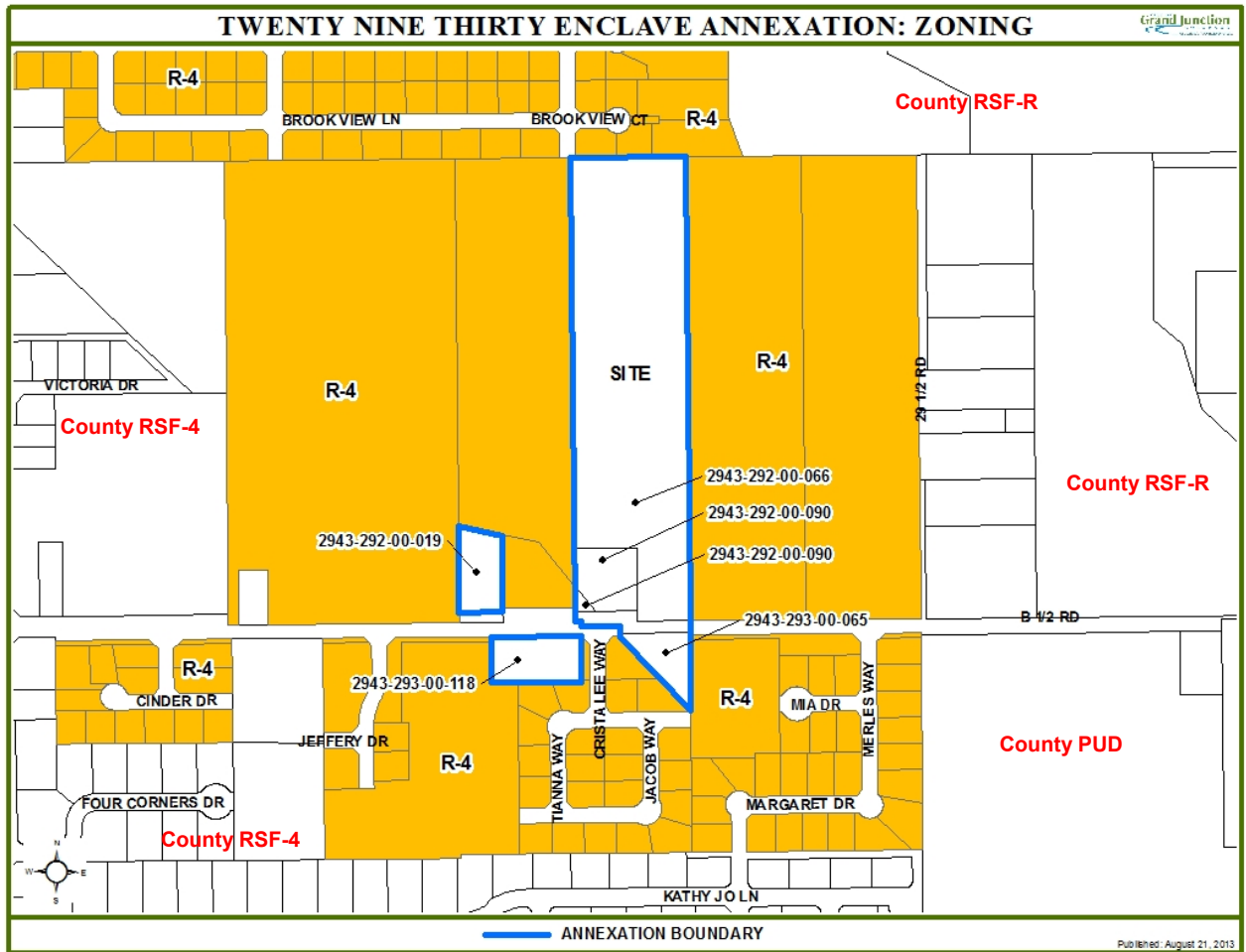
## Figure 2





# Existing City and County Zoning Map

Figure 4



**CITY OF GRAND JUNCTION, COLORADO**

**ORDINANCE NO.**

**AN ORDINANCE ZONING THE TWENTY NINE THIRTY ENCLAVE ANNEXATION  
TO R-4 (RESIDENTIAL 4 DU/AC)**

**LOCATED ON BOTH SIDES OF B ½ ROAD  
AT CRISTA LEE WAY**

Recitals

The Twenty Nine Thirty Enclave Annexation has been initiated by the City of Grand Junction (“City”) pursuant to the 1998 Persigo Agreement with Mesa County (“Agreement”). With the annexation of the property included in the Level III Annexation on September 5, 2008, the area is enclaved. The terms of the Agreement state that an “enclaved” area shall be annexed into the City. (“Enclaved” means that an unincorporated area is completely surrounded by the City.)

The City has also agreed to zone newly annexed areas using a zone district that implements the Comprehensive Plan. The proposed zoning of R-4 (Residential 4 du/ac) implements the Comprehensive Plan Future Land Use Map, which has designated the enclaved area as Residential Medium Low (2-4 du/ac).

After public notice and public hearing as required by the Grand Junction Municipal Code, the Grand Junction Planning Commission recommended approval of zoning the Twenty Nine Thirty Enclave Annexation to the R-4 (Residential 4 du/ac) zone district, finding conformance with the recommended land use category as shown on the Future Land Use Map of the Comprehensive Plan and the Comprehensive Plan’s goals and policies and is compatible with land uses located in the surrounding area. The zone district meets criteria found in Section 21.02.140 of the Grand Junction Municipal Code.

After public notice and public hearing before the Grand Junction City Council, City Council finds that the R-4 (Residential 4 du/ac) zone district is in conformance with criteria found in Section 21.02.140 of the Grand Junction Municipal Code.

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

The following property be zoned R-4 (Residential 4 du/ac):

**TWENTY NINE THIRTY ENCLAVE ANNEXATION**

**PARCEL ONE**

A certain parcel of land lying in the Southeast Quarter of the Northwest Quarter (SE 1/4 NW 1/4) of Section 29, Township 1 South, Range 1 East of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

ALL of the lands bounded on the North, East and South by Krogh Annexation, City of Grand Junction Ordinance 4286, as same is recorded in Book 4731, Page 823 and bounded on the West by Level III Annexation, City of Grand Junction Ordinance 4271, as same is recorded in Book 4715, Page 612, all in the Public Records of Mesa County, Colorado.

CONTAINING 28,876 Square Feet or 0.66 Acres, more or less, as described.

### **PARCEL TWO**

A certain parcel of land lying in the Northeast Quarter of the Southwest Quarter (NE 1/4 SW 1/4) of Section 29, Township 1 South, Range 1 East of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

ALL of the lands bounded on the North by Krogh Annexation, City of Grand Junction Ordinance 4286, as same is recorded in Book 4731, Page 823; bounded on the West and a portion of the South by Larson Annexation No. 3, City of Grand Junction Ordinance 3425, as same is recorded in Book 3084, Page 980 and bounded on the East and a portion of the South by Crista Lee Annexation, City of Grand Junction Ordinance 3471, as same is recorded in Book 3214, Page 293, all in the Public Records of Mesa County, Colorado.

CONTAINING 32,668 Square Feet or 0.75 Acres, more or less, as described.

### **PARCEL THREE**

A certain parcel of land lying in the Southeast Quarter of the Northwest Quarter (SE 1/4 NW 1/4) of Section 29, Township 1 South, Range 1 East of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

ALL of the lands bounded on the West by Krogh Annexation, City of Grand Junction Ordinance 4286, as same is recorded in Book 4731, Page 823; bounded on the North by Summit Annexation No. 2, City of Grand Junction Ordinance 3713, as same is recorded in Book 3819, Page 694; bounded on the East by the following: Colvin Annexation No. 2, City of Grand Junction Ordinance 3971, as same is recorded in Book 4253, Page 716, Colvin Annexation No. 1, City of Grand Junction Ordinance 3970, as same is recorded in Book 4253, Page 712 and by Whaley Annexation No. 1, City of Grand Junction Ordinance 3748, as same is recorded in Book 3881, Page 450 and bounded on the South by Crista Lee Annexation, City of Grand Junction Ordinance 3471, as same is recorded in Book 3214, Page 293, all in the Public Records of Mesa County, Colorado.

CONTAINING 464,769 Square Feet or 10.67 Acres, more or less, as described.

LESS 22,402 Square Feet of B ½ Road Right Of Way.

**INTRODUCED** on first reading the \_\_\_\_ day of \_\_\_\_\_, 2013 and ordered published in pamphlet form.

**PASSED and ADOPTED** on second reading the \_\_\_\_ day of \_\_\_\_\_, 2013 and ordered published in pamphlet form.

ATTEST:

\_\_\_\_\_  
President of the Council

\_\_\_\_\_  
City Clerk

**Attach 4**

Ray Annexation – Zone of Annexation ANX-2013-403

**CITY OF GRAND JUNCTION  
PLANNING COMMISSION**

**MEETING DATE:** October 8, 2013  
**PRESENTER:** Brian Rusche, Senior Planner

**AGENDA TOPIC:** Ray Zone of Annexation – ANX-2013-403

**ACTION REQUESTED:** Recommendation to City Council on a Zone of Annexation

| STAFF REPORT / BACKGROUND INFORMATION |              |  |            |  |           |
|---------------------------------------|--------------|--|------------|--|-----------|
| <b>Location:</b>                      |              | 416 29 Road  |            |  |           |
| <b>Applicants:</b>                    |              | John W. Ray II and Tiffany A. Ray  |            |  |           |
| <b>Existing Land Use:</b>             |              | Commercial (subject of current Mesa County code enforcement action)        |            |  |           |
| <b>Proposed Land Use:</b>             |              | Commercial   |            |  |           |
| <b>Surrounding Land Use:</b>          | <b>North</b> | Agricultural   |            |  |           |
|                                       | <b>South</b> | Agricultural   |            |  |           |
|                                       | <b>East</b>  | Agricultural   |            |  |           |
|                                       | <b>West</b>  | Public (Colorado Mesa University property)                                 |            |  |           |
| <b>Existing Zoning:</b>               |              | County RSF-R, (Residential Single-Family Rural)                            |            |  |           |
| <b>Proposed Zoning:</b>               |              | C-1 (Light Commercial)   |            |  |           |
| <b>Surrounding Zoning:</b>            | <b>North</b> | County RSF-R, (Residential Single-Family Rural)                            |            |  |           |
|                                       | <b>South</b> | County RSF-R, (Residential Single-Family Rural)                            |            |  |           |
|                                       | <b>East</b>  | County RSF-R, (Residential Single-Family Rural)                            |            |  |           |
|                                       | <b>West</b>  | PD (Planned Development)   |            |  |           |
| <b>Future Land Use Designation:</b>   |              | Village Center Mixed Use<br>Mixed Use Opportunity Corridor (along 29 Road) |            |  |           |
| <b>Zoning within density range?</b>   |              | X  | <b>Yes</b> |  | <b>No</b> |

**PROJECT DESCRIPTION:** A request to zone the Ray Annexation, consisting of one (1) parcel of 0.996 acres, located at 416 29 Road, to a C-1 (Light Commercial) zone district.

**RECOMMENDATION:** Recommend approval to the City Council of the C-1 (Light Commercial) zone district.



## **ANALYSIS:**

### **Background:**

The property is home to Colorado Custom Elevator and Lift Inc, which provides design, installation, service and maintenance for both residential and commercial elevators, stair lifts, wheelchair platform lifts, dumbwaiters and freight lifts, according to the business website. The property owners have requested annexation into the City and a zoning of C-1 (Light Commercial) to facilitate a proposed expansion of the facility.

Under the 1998 Persigo Agreement with Mesa County proposed development within the Persigo Wastewater Treatment Facility boundary requires annexation and processing in the City. Land annexed to the City shall be zoned in accordance with Grand Junction Municipal Code (GJMC) Section 21.02.140 to a district that is consistent with the adopted Comprehensive Plan and the criteria set forth. The proposed zoning of C-1 (Light Commercial) implements the Comprehensive Plan Future Land Use Map designation of the property as Village Center Mixed Use.

The property is currently subject to a code enforcement action by Mesa County related to the operation of the business in a residential zone and the permitting of the existing buildings. The proposed commercial zoning would allow a business operation, subject to approval by the City. The permitting of the buildings will be addressed by the Mesa County Building Department. The petitioner, who owns the business, has submitted an application for a proposed expansion and site improvements, which is currently in review.

A Neighborhood Meeting was held on June 3, 2013. A copy of those in attendance is attached. No objections were raised about Mr. Ray being able to pursue a proposed business expansion at this location.

### **Consistency with the Comprehensive Plan**

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

The property is located within a Village Center, so its annexation and concurrent commercial zoning will implement the “centers” concept within the Comprehensive Plan.

**Goal 12:** Being a regional provider of goods and services the City and County will sustain, develop, and enhance a healthy, diverse economy.

The City will provide appropriate commercial and industrial development opportunities in order to implement this goal. The annexation, proposed zoning and subsequent expansion of an existing business qualifies as one of those opportunities.

**Section 21.02.160 and 21.02.140 of the Grand Junction Municipal Code:**

Section 21.02.160 of the Grand Junction Municipal Code states: Land annexed to the City shall be zoned in accordance with GJMC Section 21.02.140 to a district that is consistent with the adopted Comprehensive Plan and the criteria set forth.

The requested zone of annexation to an R-4 (Residential 4 du/ac) zone district is consistent with the Comprehensive Plan Future Land Use Map designation of Residential Medium Low (2-4 du/ac).

Section 21.02.140(a) states: *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*

The Comprehensive Plan, adopted in 2010, designated the property as Village Center Mixed Use. The Village Center land use designation was new to this plan and superseded the previous designation of Residential Medium derived from the 2005 Pear Park Neighborhood 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*

The applicant is requesting a zone district that will implement the Comprehensive Plan Future Land Use Map designation of Village Center, a concept that was introduced in 2010. The Village Center anticipates a mix of uses to provide a broad range of commercial uses and higher density residential uses.

This request is only the second to occur after the creation of the Village Center. The northeast corner of the intersection of 29 Road and D Road is now approved for a Maverik convenience store. The character near the intersection will continue to change in the future as more properties annex and develop with a mix of commercial and high density residential uses that are anticipated by the Comprehensive Plan Village Center.

After the recent completion of the 29 Road viaduct over the Union Pacific Railroad and I-70 Business Loop, 29 Road now provides one of the few north/south access routes across the valley. Traffic has already increased along this portion of the 29 Road, thereby making the adjacent properties attractive for commercial development.

This criterion has been met.

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

29 Road is a principal arterial providing one of the few north/south access routes across the valley after the recent completion of the viaduct over the Union Pacific Railroad and the I-70 Business Loop.

There are public utilities already connected to the existing building(s), including potable water provided by the Ute Water Conservancy District, sanitary sewer service maintained by the City, and electricity from Xcel Energy (a franchise utility). Utility mains are adjacent to the subject parcel that can be utilized to facilitate new use(s) or construction that may occur as a result of the proposed zoning.

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 requested annexation and proposed zoning is only the second to occur within this Village Center land use designation since the 2010 Comprehensive Plan. The Feuerborn Annexation at the northeast corner of the intersection of 29 Road and D Road is now approved for a Maverik convenience store and one commercial outlot on 2.694 acres.

The only other C-1 zoning on Pear Park is at the southwest corner of the same intersection. The property, totaling 8.18 acres, has remained vacant since it was annexed in 2008.

This criterion has been met.

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

The requested zoning supports the following goals of the Comprehensive Plan:

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

The property is located within a Village Center, so its commercial zoning will implement the “centers” concept within the Comprehensive Plan.

**Goal 12:** Being a regional provider of goods and services the City and County will sustain, develop, and enhance a healthy, diverse economy.

The City will provide appropriate commercial and industrial development opportunities in order to implement this goal. The proposed zoning and subsequent expansion of an existing business qualifies as one of those opportunities.

This criterion has been met.

Alternatives: In addition to the C-1 zone district, the following zone districts would also implement the Comprehensive Plan designation of Village Center:

- a. R-8 (Residential – 8 du/ac)
- b. R -12 (Residential – 12 du/ac)
- c. R-16 (Residential – 16 du/ac)
- d. R-24 (Residential – 24 du/ac)
- e. R-O (Residential Office)
- f. B-1 (Neighborhood Business)
- g. MXR – (Mixed Use Residential – 3, 5)
- h. MXG – (Mixed Use General – 3, 5)
- i. MXS – (Mixed Use Shop – 3, 5)
- j. M-U (Mixed Use)

The property has an existing business that seeks to become conforming as well as expand. The business incorporates office and manufacturing functions, with some outdoor storage. None of the zone district alternatives incorporate all of the functions of the existing business and would result in further nonconformity.

The proposed C-1 zone district allows the greatest variety of uses and will therefore facilitate bringing the business into compliance and its expansion, while providing the greatest flexibility should the property redevelop. It is my professional opinion that the C-1 (Light Commercial) zone district is the best choice for this property.

If the Planning Commission chooses an alternative zone designation, specific alternative findings must be made.

#### **FINDINGS OF FACT/CONCLUSIONS:**

After reviewing the Ray Zone of Annexation, ANX-2013-403, a request to zone the Ray Annexation to C-1 (Light Commercial), the following findings of fact and conclusions have been determined:

1. The requested zone district of C-1 (Light Commercial) is consistent with the goals and policies of the Comprehensive Plan and implements the Village Center Mixed Use Future Land Use designation.
2. The review criteria in Section 21.02.140 (a) of the Grand Junction Zoning and Development Code have all been met.

#### **STAFF RECOMMENDATION:**

Staff recommends that the Planning Commission forward a recommendation of approval of the requested zone, ANX-2013-403, to the City Council with the findings and conclusions listed above.

#### **RECOMMENDED PLANNING COMMISSION MOTION:**

Madam Chairman, on the Ray Zone of Annexation, ANX-2013-403, I move that the Planning Commission forward to the City Council a recommendation of approval of the C-1 (Light Commercial) zone district for the Ray Annexation with the facts and conclusions listed in the staff report.

Attachments:

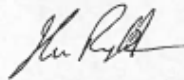
1. Neighborhood Meeting sign-in sheet
2. Annexation Map
3. Aerial Photo
4. Comprehensive Plan Future Land Use Map
5. Existing City and County Zoning Map
6. Zoning Ordinance

**Neighborhood Meeting**  
Proposed Annexation and Business Expansion  
Located at 416 29 Road

Existing Zoning is County RSF-R (Residential Single-Family Rural)  
Future land Use Designation is Village Center

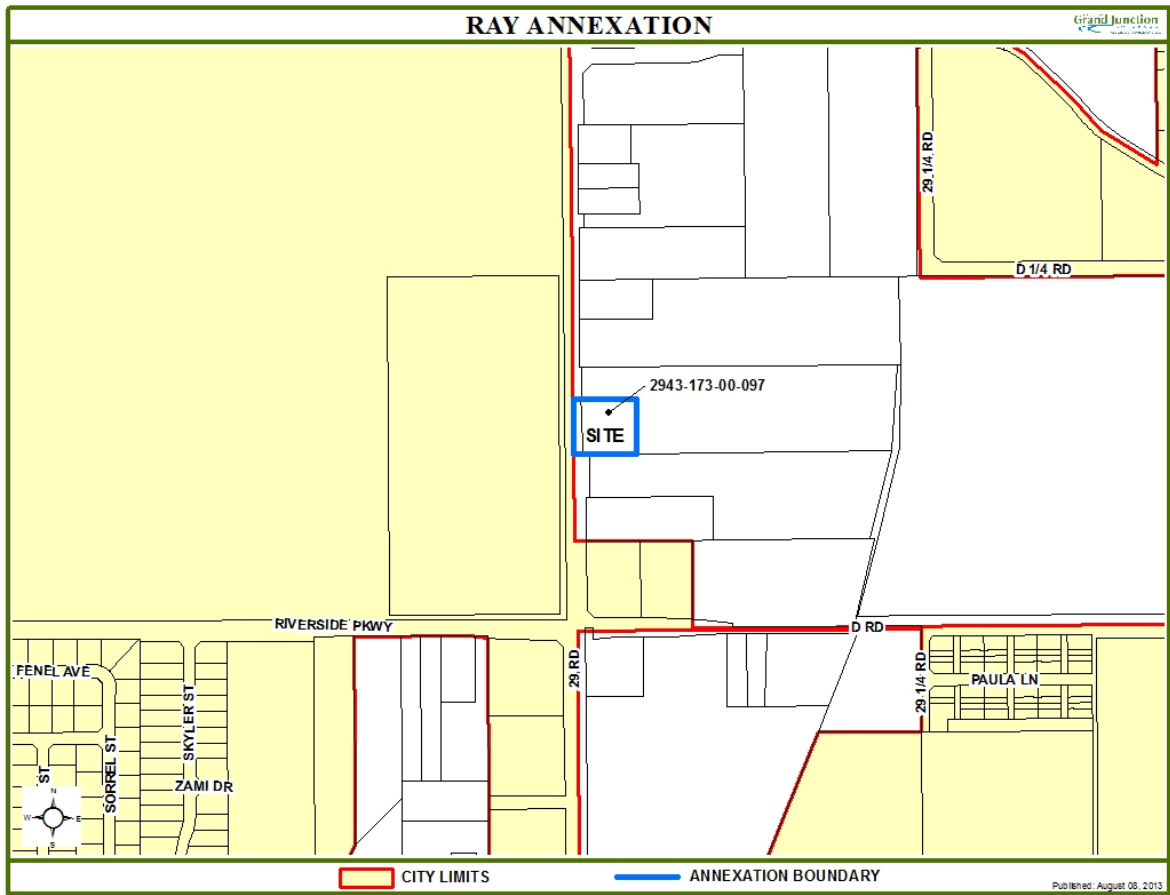
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**Please Sign In**

| Name   | Address        | Contact info |
|--|----------------|--------------|
| DORIS A STEPHENS   | 410 29 RD      | GJ CO 81504  |
| Kim Wright   | 408 29 Rd      | GJ CO 81504  |
| Mark Wright  | 408 29 Rd      | GJ CO 81504  |
|  | 420-29R        | GJ. CO 81504 |
| Brian Rusche   | 250 N. 5TH ST. | GJ, 81501    |

# Annexation Map

## Figure 1



# Aerial Photo

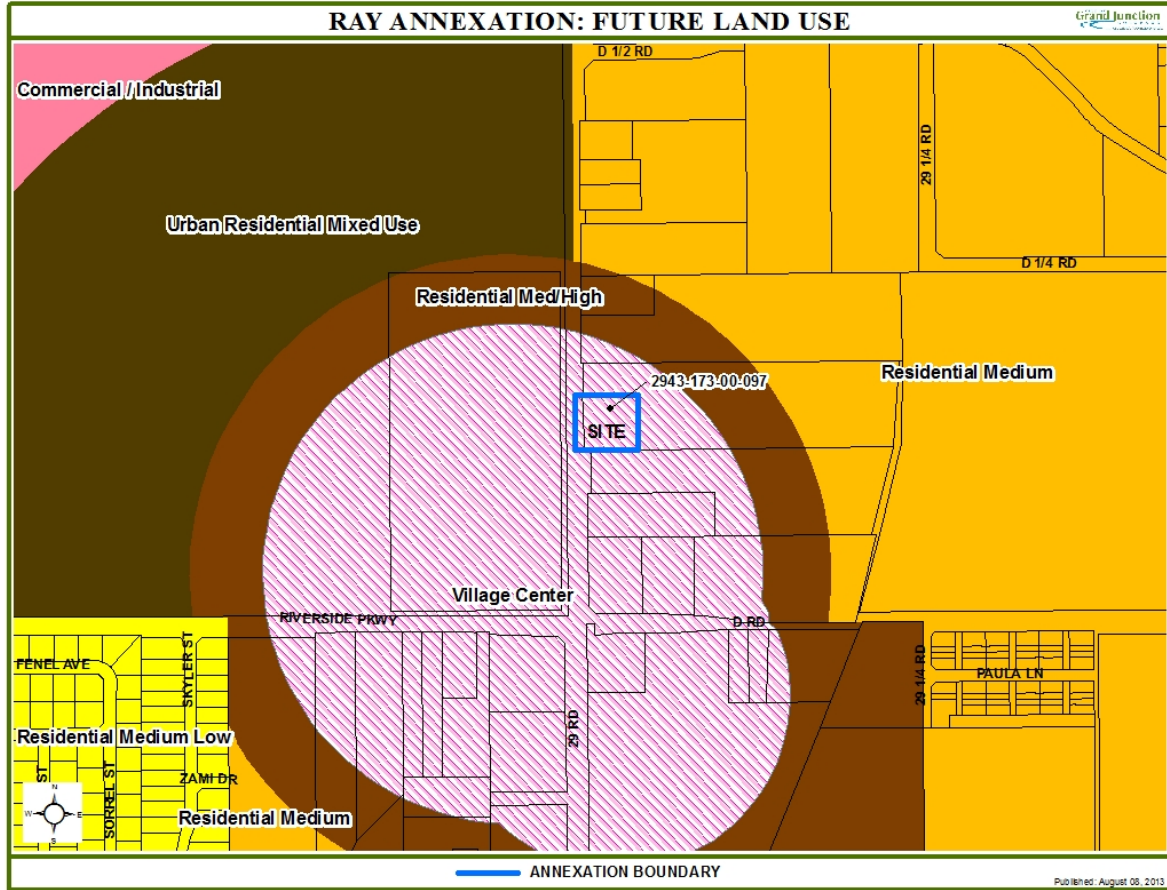
## Figure 2





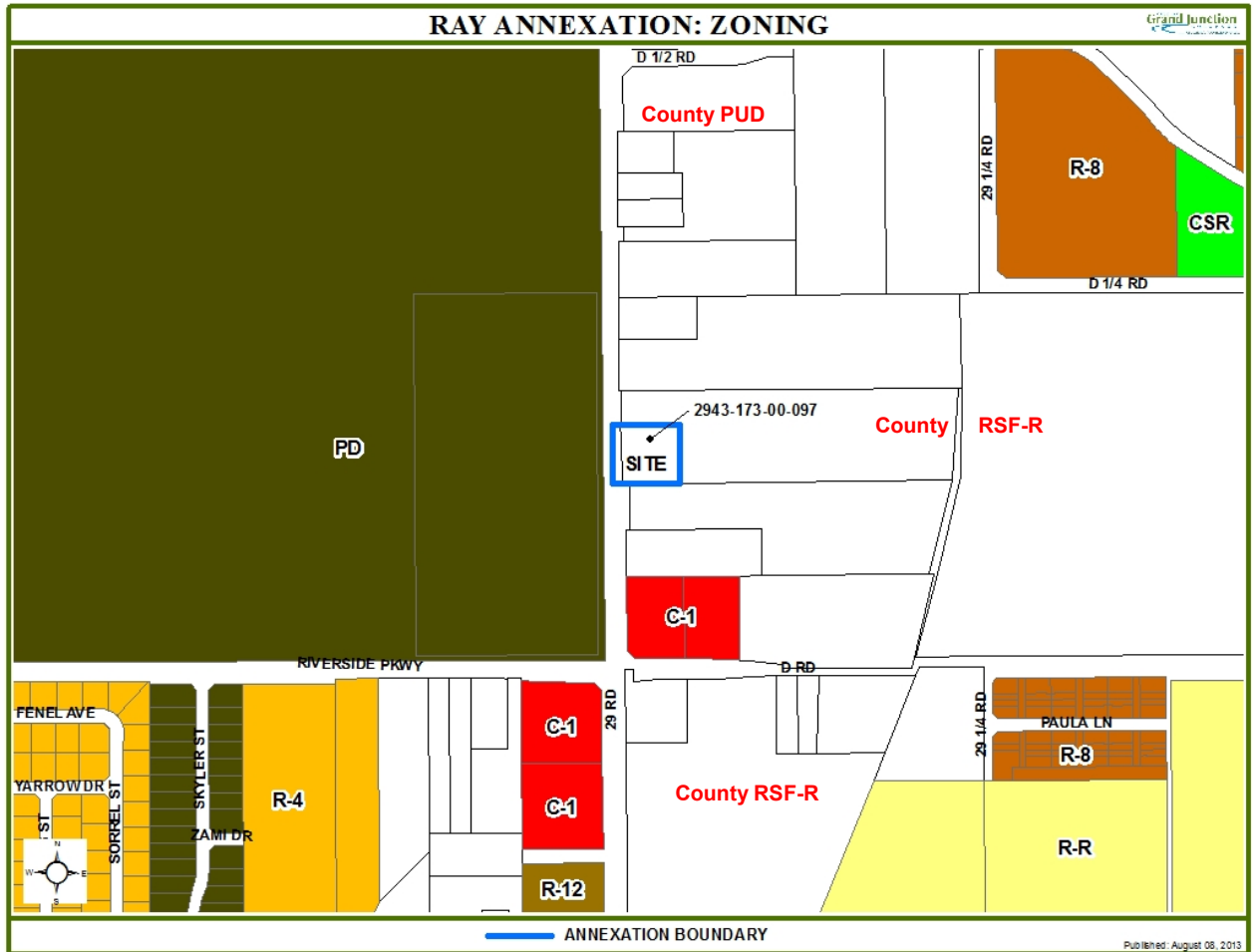
# Comprehensive Plan – Future Land Use Map

## Figure 3



# Existing City and County Zoning Map

Figure 4



**CITY OF GRAND JUNCTION, COLORADO**

**ORDINANCE NO.**

**AN ORDINANCE ZONING THE RAY ANNEXATION  
TO C-1 (LIGHT COMMERCIAL)**

**LOCATED AT 416 29 ROAD**

Recitals

The 1.14 acre Ray Annexation consists of one (1) parcel located at 416 29 Road and approximately 0.144 acres (6,261 square feet) of the 29 Road right-of-way. The property owners have requested annexation into the City and a zoning of C-1 (Light Commercial). Under the 1998 Persigo Agreement between the City and Mesa County, all proposed development within the Persigo Wastewater Treatment Facility boundary requires annexation and processing in the City.

The City has also agreed to zone newly annexed areas using a zone district that implements the Comprehensive Plan. The proposed zoning of C-1 (Light Commercial) implements the Comprehensive Plan Future Land Use Map, which has designated the property as Village Center Mixed Use.

After public notice and public hearing as required by the Grand Junction Municipal Code, the Grand Junction Planning Commission recommended approval of zoning the Ray Annexation to the C-1 (Light Commercial) zone district finding that it conforms with the recommended land use category as shown on the future land use map of the Comprehensive Plan and the Comprehensive Plan's goals and policies. The zone district meets the criteria found in Section 21.02.140 of the Grand Junction Municipal Code.

After public notice and public hearing before the Grand Junction City Council, City Council finds that the C-1 (Light Commercial) zone district is in conformance with the stated criteria of Section 21.02.140 of the Grand Junction Municipal Code.

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

The following property be zoned C-1 (Light Commercial).

**RAY ANNEXATION**

A certain parcel of land lying in the Southwest Quarter of the Southwest Quarter (SW 1/4 SW 1/4) of Section 17, Township 1 South, Range 1 East of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

COMMENCING at the Southwest corner of said Section 17 and assuming the West line of the SW 1/4 SW 1/4 of said Section 17 bears N 00°13'10" W with all other bearings contained herein being relative thereto; thence from said Point of Commencement, N 00°13'10" W along the West line of the SW 1/4 SW 1/4 of said Section 17, a distance of 660.80 feet to the POINT OF BEGINNING; thence from said Point of Beginning, continue N 00°13'10" W along the West line of the SW 1/4 SW 1/4 of said Section 17, a distance of 208.70 feet; thence N 89°57'50" E, along the North line of that certain parcel of land described in Book 4136, Page 171, Public Records of Mesa County, Colorado, a distance of 238.70 feet; thence S 00°13'10" E, along the East line of that certain parcel of land described in Book 4136, Page 171, a distance of 208.70 feet; thence S 89°57'50" W, along the South line of that certain parcel of land described in Book 4136, Page 171, a distance of 238.70 feet, more or less, to the Point of Beginning.

CONTAINING 49,816 Square Feet or 1.14 Acres, more or less, as described.

LESS approximately 0.144 acres (6,261 square feet) of the 29 Road right-of-way

**INTRODUCED** on first reading the \_\_\_ day of \_\_\_, 2013 and ordered published in pamphlet form.

**ADOPTED** on second reading the \_\_\_ day of \_\_\_, 2013 and ordered published in pamphlet form.

ATTEST:

\_\_\_\_\_  
President of the Council

\_\_\_\_\_  
City Clerk

**Attach 5**  
**Bonito Avenue Alley Right-of-Way Vacation – VAC-2013-415**

CITY OF GRAND JUNCTION  
 PLANNING COMMISSION

MEETING DATE: October 8, 2013  
 PRESENTER: Lori V. Bowers

AGENDA TOPIC: Bonito Avenue Alley Right-of-Way Vacation – VAC-2013-415.

ACTION REQUESTED: Forward a recommendation to City Council for a request to vacate public Right-of-Way.

| BACKGROUND INFORMATION       |       |   |     |  |    |
|------------------------------|-------|---|-----|--|----|
| Location:                    |       | Between 1220 and 1224 Bonito Avenue                       |     |  |    |
| Applicant:                   |       | Michael C. Day, applicant and owner of 1224 Bonito Avenue |     |  |    |
| Existing Land Use:           |       | Dedicated Public Right-of-Way                             |     |  |    |
| Proposed Land Use:           |       | Residential   |     |  |    |
| Surrounding Land Use:        | North | Hospice and Palliative Care                               |     |  |    |
|                              | South | Residential single-family residences                      |     |  |    |
|                              | East  | Residential single-family residences                      |     |  |    |
|                              | West  | Residential single-family residences                      |     |  |    |
| Existing Zoning:             |       | R-8 (Residential – 8 units per acre)                      |     |  |    |
| Proposed Zoning:             |       | R-8 (Residential – 8 units per acre)                      |     |  |    |
| Surrounding Zoning:          | North | PD (Planned Development)                                  |     |  |    |
|                              | South | R-8 (Residential – 8 units per acre)                      |     |  |    |
|                              | East  | R-8 (Residential – 8 units per acre)                      |     |  |    |
|                              | West  | R-8 (Residential – 8 units per acre)                      |     |  |    |
| Future Land Use Designation: |       | Business Park Mixed Use                                   |     |  |    |
| Zoning within density range? |       | X   | Yes |  | No |

PROJECT DESCRIPTION: Forward a recommendation to City Council to vacate public right-of-way, located between 1220 Bonito Avenue and 1224 Bonito Avenue.

RECOMMENDATION: Denial

## ANALYSIS

### Background

The dedicated public right-of-way located between 1220 and 1224 Bonito Avenue is the subject of this report. The right-of-way is approximately 12-feet wide and 123.37 feet long. It runs in a north/south direction between 1220 and 1224 Bonito Avenue, and functions as an alley for these two properties.

This area was annexed into the City in 1966 as part of the North 12th Street Annexation. The annexation map shows the dedicated alley between Lots 3 and 4, Block 2, of the Eagleton Subdivision which was platted in 1955. Air photos from 1954 show the subject area connecting to a bridge that was placed over the large open drainage ditch, utilized by Grand Valley Water Users Association at the time. This was part of the old Miller Homestead.

The homes located at 1220 and 1224 Bonito Avenue were both constructed in 1955. The home located at 1220 Bonito Avenue has a detached garage set diagonally behind the house with a portion of the driveway encroaching into the alley. The house located at 1224 Bonito has a fence encroachment of a few inches into the alley. The use of the alley is important to both property owners. The owner of 1220 Bonito Avenue has parked her camper in her back yard, by accessing through the alley since she purchased the property in 2003. Air photos of this area support her claim. The garage at this address is detached and set at an angle to the driveway. The alley makes access to the garage much easier if the entire width of the alley is used. She also insists that if the access area is reduced by half, which would be the result if the right-of-way is vacated, she would not be able to adequately access the garage or a back yard storage area for a camper. The owner of 1224 Bonito Avenue stated the reason he purchased his property in 2011, was the ability to access his backyard through the alley.



Since 2011, parking and the general use of the alley has become a source of contention between the two neighbors. There is no need for the neighbors to use the alley for parking, as there is abundant street parking available on Bonito Avenue, including directly in front of their homes. Along with parking and blocking the access to the alley there have been verbal disturbances and arguments resulting in numerous calls to 911/dispatch. The City's Code Enforcement Division has tried to work with the feuding neighbors. It is worth noting that since the Applicant moved in (around July 2011) there have been 14 calls for service through 911/dispatch and several others to Code Enforcement and to the City Attorney's office. Prior to that, the neighbor at 1220 reports, the neighborhood was peaceful and there were no known issues over use of the right-of-way.

Due to the inconvenience of having to share the use of the alley with the neighbors, the Applicant wants the City to vacate it.

The application was sent to the applicable review agencies. Notice cards were sent to all properties located within 500 feet of the right-of-way requested to be vacated. Several phone calls were received from residents in the area asking about the alley vacation. None of them were concerned with the application as it had no direct effect on their property use or access, but one caller mentioned that the two neighbors do not get along.

During the review process, City staff tried to facilitate an agreement between the adjacent landowners that might allow the alley right-of-way to be vacated. After protracted efforts to achieve a compromise, Staff determined there were no workable solutions for vacating the alley that protected all of the interests involved, and that the only way to protect all the interests is to leave the alley in place as public right-of-way. The subject right-of-way serves as access to overhead electrical lines located along the north side of the lots along Block 2, of the Eagleton Subdivision and also as access to the covered drainage pipe located on the Hospice property. Ute Water Conservancy District and Xcel Energy reviewed the vacation request. Ute Water confirmed in March 2013 that they had no utilities within this area. Xcel Energy reviewed the proposal and stated that if the vacation took place, they would require at a minimum, a utility easement 10-feet in width which should be contained solely on one property. They also objected to the placement of fences or other structures within easement area. The facilities manager of the Hospice Campus objected to Xcel using access through their landscaped areas located on the N 12<sup>th</sup> and N 13<sup>th</sup> Streets. From the perspective of Hospice, the subject right-of-way serves as the best access to these facilities because of the landscaping improvements that have been made on the Hospice property at N 12th and N 13th Streets, the alternative access points.

In subsequent discussions with Greg Trainor, Xcel and Hospice indicated that it might be possible for their interests to be protected with vacation of the subject right-of-way. However, the property owners at 1220 and 1224 still could not agree to an equitable split of the area. If the right-of-way is vacated by the City Council, 6' will go to each property owner, and the owner of 1220 believes that would not provide her with enough space to access the garage and camper storage area. Even if the neighbor at 1220

would be afforded some minimal access with the (6' +/-), it is not readily apparent what reason the City would have to reduce the historic access by vacating the right-of-way.

Having explored all of the possibilities for vacating the right-of-way, City staff sees no viable alternative for vacating it.

### Legal Issues

State law dictates how title to vacated right-of-way vests. C.R.S. §43-2-302 provides in pertinent part:

"[W]hensoever any roadway has been designated on the plat of any tract of land . . . and thereafter is vacated, title to the lands included within such roadway . . . shall vest . . . as follows:

(c) In the event that a roadway bounded by straight lines is vacated, title to the vacated roadway shall vest in the owners of the abutting land, each abutting owner taking to the center of the roadway. . . "

"Roadway" includes any platted or designated public street, alley, lane, parkway, avenue, road, or other public way, whether or not it has been used as such. (C.R.S. §43-2-301.) Therefore the 12' right-of-way in question constitutes a roadway for purposes of the vacation statute.

Any request by the applicant or neighbors to split the right-of-way area other than as provided by the above-referenced statute (namely, from the center line) should be rejected as contrary to state law. The vacation statute does not allow title to vest in any other manner than half-and-half, under the facts presented with this application. Once the property is vacated, the property owners could themselves split the land in a different way by deeding part of it from one to the other.

City staff tried to work with the landowners toward this end, but those efforts were not fruitful.

### Consistency with the Comprehensive Plan

The request is not consistent with the 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.

In order to consistently implement the Comprehensive Plan between the City and service providers, such as Xcel Energy and Ute Water, City Staff seeks information and requests input from such agencies when those utilities may be impacted by a request to vacate public right-of-way. These utility providers may require access over or through such right-of-ways to access or maintain their utilities. This consistency in their input helps to enforce policies which are intended to bring predictability to the decision-making process of whether or not to vacate a public right-of-way.



In this case their input shows that the right-of-way is necessary as it may not be possible to vacate the ROW and replace it with a 10-foot wide easement, placed solely on one property, not encumbered by fences or structure.

Section 21.02.100 of the Grand Junction Municipal Code

The vacation of the right-of-way shall conform to the following:

- a. *The Comprehensive Plan, Grand Valley Circulation Plan, and other adopted plans and policies of the City.*

The Comprehensive Plan was addressed above. The Grand Valley Circulation Plan does not identify the subject alley right-of-way. Adopted City policies do not lend themselves to the vacation as this would be inconsistent with our working relationships with the utility companies and as expressed in the Comprehensive Plan.

This criterion has not been met.

- b. *No parcel shall be landlocked as a result of the vacation.*

No parcel would be landlocked by the vacation.

This criterion has been met.

- c. *Access to any parcel shall not be restricted to the point where access is unreasonable, economically prohibitive or reduces or devalues any property affected by the proposed vacation.*

The vacation of the alley right-of-way would restrict access from the alley by the property owners of both 1220 and 1224 Bonito Avenue. Both properties currently access their backyard areas through this existing public right-of-way. Vacating the alley would restrict both property owners' access to existing backyards and at least one garage. Restricting access to the garage (located at 1220 Bonito Avenue) would reduce the value, use and enjoyment of that property.

This criterion has not been met.

- d. *There shall be no adverse impacts on the health, safety, and/or welfare of the general community and the quality of public facilities and services provided to any parcel of land shall not be reduced (e.g. police/fire protection and utility services).*

Utility services provided by Xcel Energy may be impacted if Xcel needs ready access to the overhead power lines on the north side of the properties. If not accessed by the subject alley, the utility provider will have to use N 12<sup>th</sup> or N 13<sup>th</sup> Streets and cross over Hospice and Palliative Care property, through their established landscaped areas.

Hospice has contacted the City regarding this issue and they would rather not see Xcel using their landscape areas for access.

This criterion has not been met.

- e. The provision of adequate public facilities and services shall not be inhibited to any property as required in Chapter 21.06 of the Grand Junction Municipal Code.*

Xcel has stated that a 10-foot easement, dedicated to Xcel Energy, located solely on one parcel, unencumbered by any future fencing or structures that would not inhibit the public facilities of Xcel Energy would be adequate. However, it has not been demonstrated that vacation of the alley with this condition is not feasible because the adjacent property owners do not agree that a 10' / 2' split of the alley area between them is workable. Therefore, vacation of the alley will impact public facilities and services.

This criterion has not been met.

- f. The proposal shall provide benefits to the City such as reduced maintenance requirements, improved traffic circulation, etc.*

There is no benefit to the City by vacating the right-of-way. The right-of-way is unimproved and has been sufficiently maintained by the adjacent property owners, so there would be no benefit to the City in terms of reduced maintenance costs. Traffic circulation for the adjacent property owners would not be improved; it would be restricted for both properties.

This criterion has not been met.

## FINDINGS OF FACT/CONCLUSIONS

After reviewing the Bonito Avenue Alley Right-of-Way Vacation application, VAC-2013-415 for the vacation of a public right-of-way, Staff makes the following findings of fact and conclusions:

1. The requested right-of-way vacation is not consistent with the Comprehensive Plan.
2. The review criteria in Section 21.02.100 of the Grand Junction Municipal Code have not been met.

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission forward a recommendation of denial of the requested right-of-way vacation, VAC-2013-415, to the City Council with the findings and conclusions listed above.

RECOMMENDED PLANNING COMMISSION MOTION:

Madam Chairman, on item VAC-2013-415, I move we forward a recommendation of approval to the City Council on the request to vacate the Bonito Avenue Alley Right-of-Way, located between 1220 and 1224 Bonito Avenue with the findings of fact and conclusions in the staff report.

Attachments:

Site Location Map / Aerial Photo Map  
Comprehensive Plan Map / Existing City Zoning Map  
Site Photos  
Improvement Survey Block  
Improvement Survey Detail  
Letter to Planning Commission/City Council  
Ordinance (for ROW)

City of Grand Junction

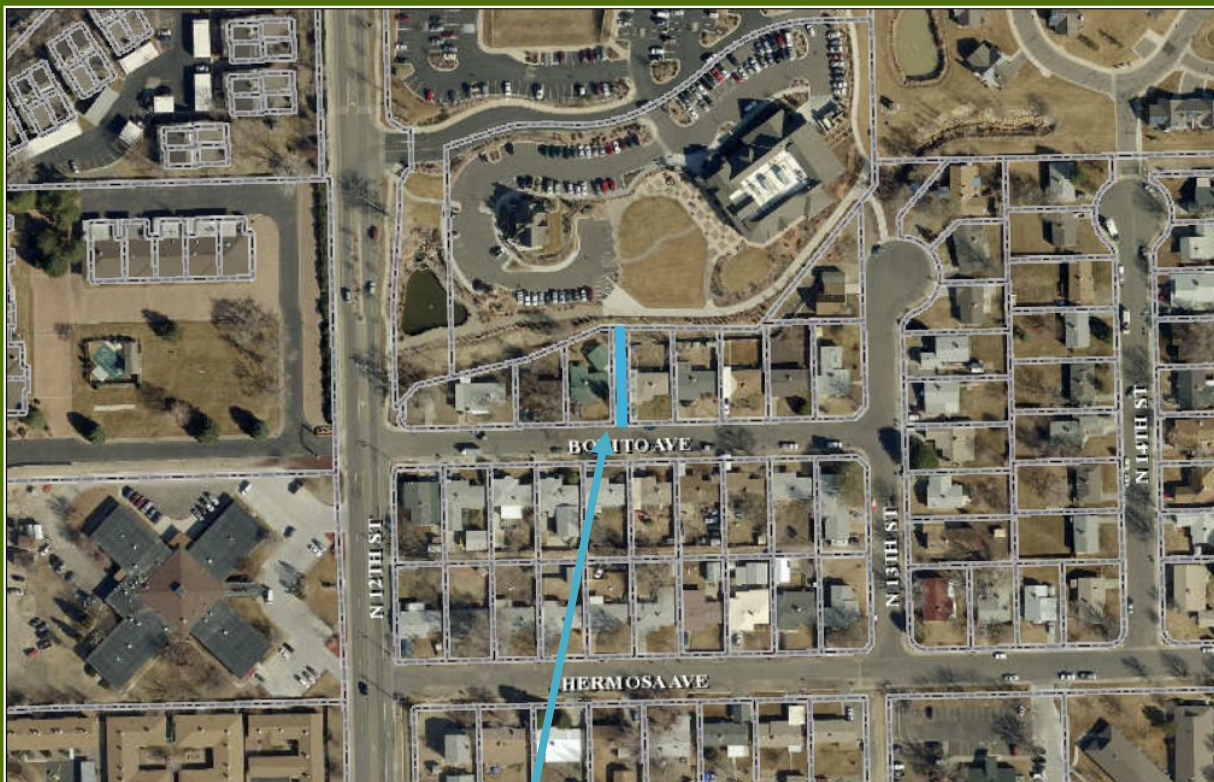


Location Map

Printed: 9/19/2013  
1 inch = 149 feet



City of Grand Junction

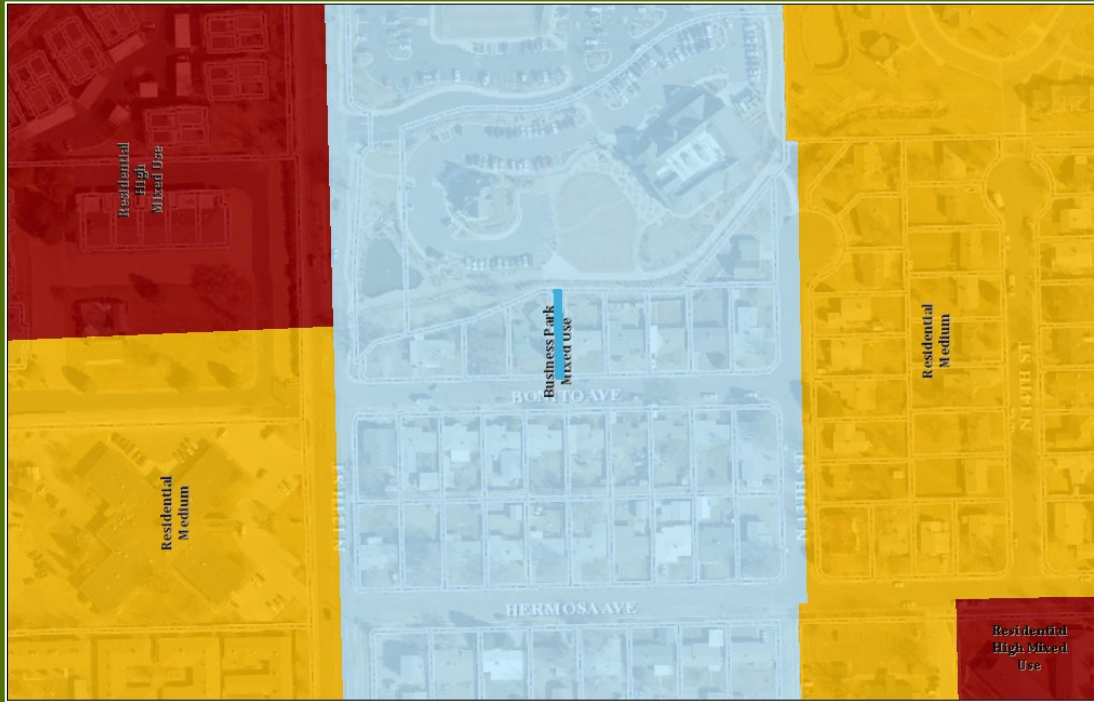


Site of 12' wide alley

Printed: 9/19/2013  
1 inch = 149 feet



### City of Grand Junction



0      0.0425      0.085      Miles      1 inch = 149 feet

Comprehensive Plan      Printed: 9/19/2013

### City of Grand Junction



0      0.0425      0.085      Miles      1 inch = 149 feet

Zoning Map      Printed: 9/19/2013

City of Grand Junction

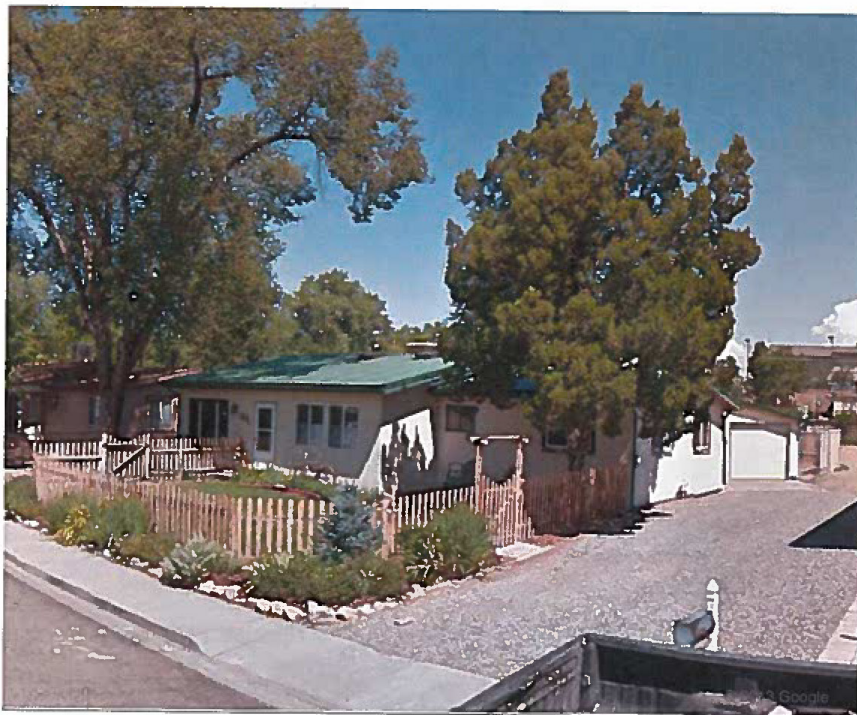


The 12-foot wide alley right-of-way is shown in blue. The right-of-way appears to be a 20-foot wide area, however lot lines are not depicted correctly on City GIS maps. The area that has been requested to vacate is only that area shown in blue.

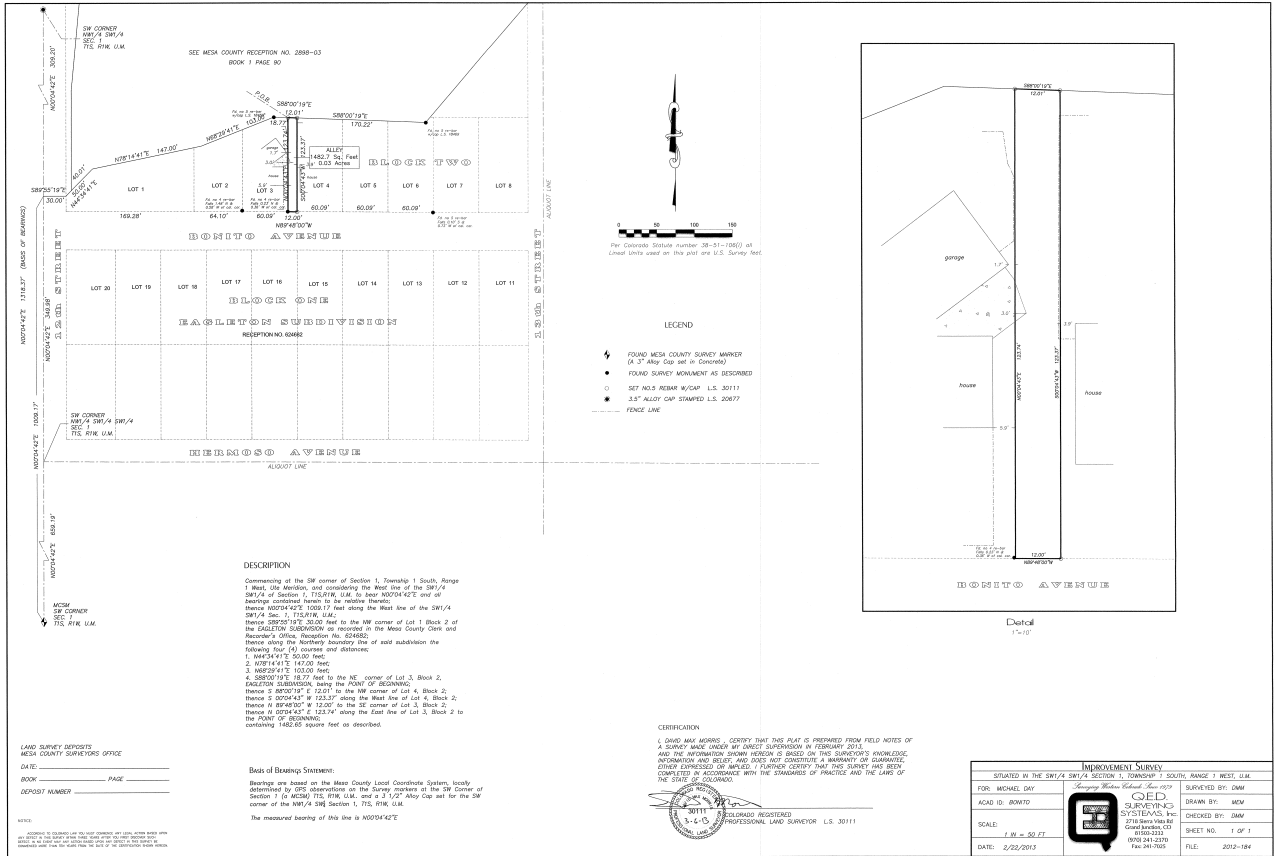
1224 Bonito Ave



1220 Bonito Ave.



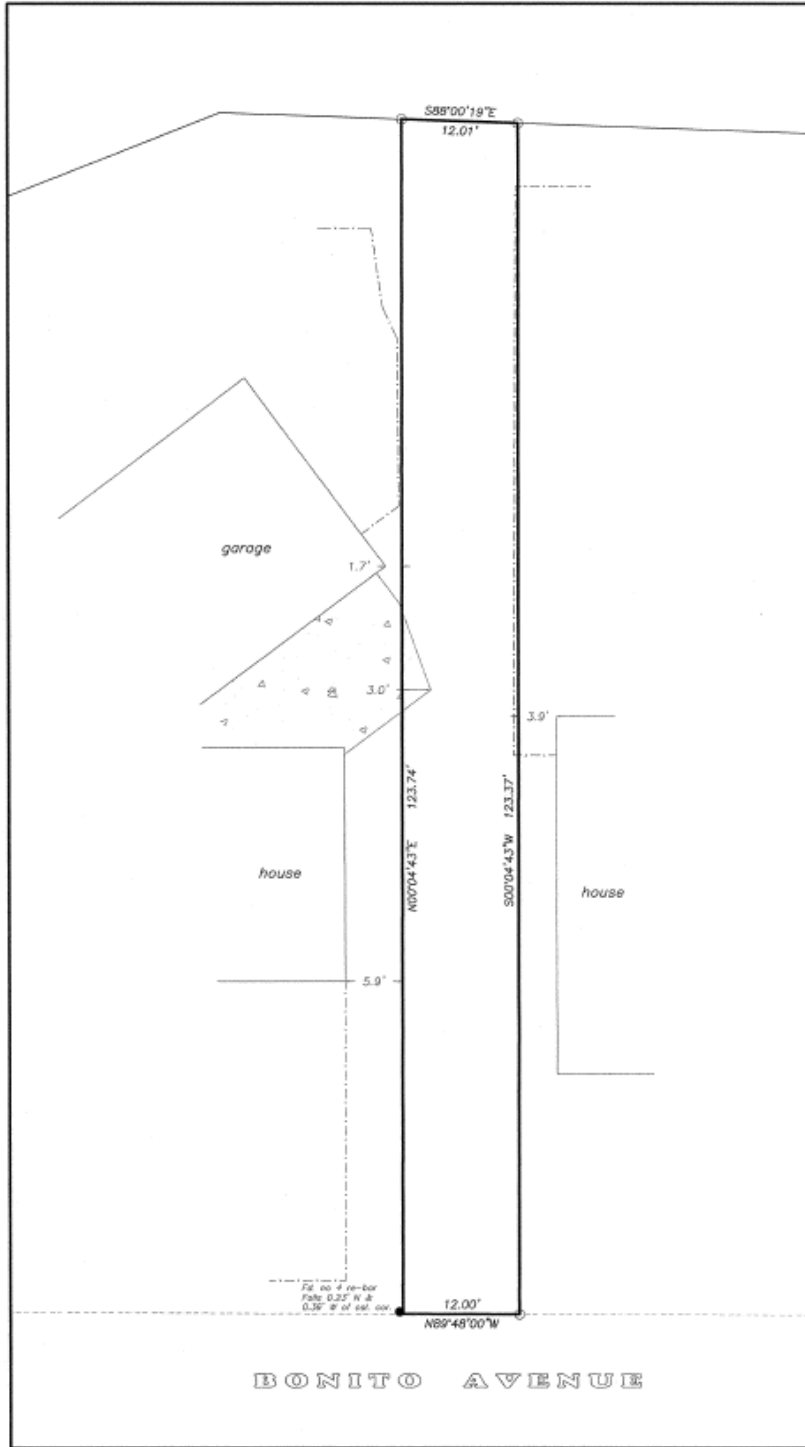
**Photos of subject alley-right-of way.**  
Dedicated alley ROW is 12-foot wide. The gravel area shown here is about 20 feet wide. The 12-foot area runs down the middle of this gravel area.



# Improvement Survey

| IMPROVEMENT SURVEY  |                 |  |                  |
|---|-----------------|--|------------------|
| FOR: MICHAEL DAY  | ACAD ID: B04070 | SCALE: 1" = 50 FT  | DATE: 2/22/2013  |
| SURVEYED BY: DMW  | DRAWN BY: MCM   | CHECKED BY: DMW  | SHEET NO. 1 OF 1 |
| SIGNED AND VERIFIED<br><br>ROLAND R. HESTON<br>PROFESSIONAL LAND SURVEYOR L.S. 3011 |                 | SURVEYED BY: DMW<br>DRAWN BY: MCM<br>CHECKED BY: DMW<br>SHEET NO. 1 OF 1<br>FILE: 2012-184 |                  |





Detail  
 1" = 10'

City of Grand Junction  
Planning Commission/ City Council  
250 N. 5<sup>th</sup> St.  
Grand Junction, CO 81501

RECEIVED  
SEP 25 2013  
COMMUNITY DEVELOPMENT  
DEPT.

Re: VAC-2013-415- Vacation of Bonito Alley ROW -Pg. 1 of 2

Planning Commission and City Council:

We continue to oppose vacation of the ROW adjacent to and East of our home at 1220 Bonito Ave. at this time due to the following reasons in accordance with section 21.02.100 of Zoning and development code:

This is not a surplus ROW; it is used daily by us and occasionally by our neighbors. Vacation, as proposed, would make access to our garage and yard unreasonable and unsafe. Additionally, the value of our property would be reduced due to loss of access to our garage and yard.

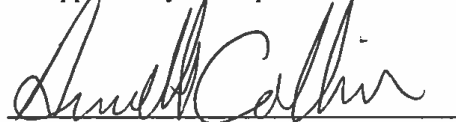
As the planning division is aware, we have made multiple attempts to resolve this matter with the new neighbor, Michael Day. He has been verbally abusive, has threatened to sue us if we didn't sign the papers to vacate and even squirted his hose at Annette while she was in the ROW (we have both written and video documentation of Day's inappropriate behavior).


There has been no proposed solution that does not have a negative impact on us and potential future property owners.

The current use of the ROW -which specifies no parking within it- is functional and provides reasonable access for both property owners. Historically, for decades, this space has been used for access to and parking for 1220 Bonito Ave. without issue or concern.

The homeowners and residents on Bonito Ave., who have lived here for five to fifty eight years, have signed below conveying their support for leaving the ROW as is, at this time.

We appreciate your respectful consideration of this matter,

  
Annette Collier

  
Joni Beckner

By signing below, I indicate my support for denial of ROW vacation at this time.

|                         |   |
|-------------------------|---|
| <u>Wanda L. Frislan</u> | <u>1243 Bonito Ave, SQ CO 81506</u>     |
| <u>Nami S. Fritzman</u> | <u>1243 Bonito Ave, SQ CO 81506</u>     |
| <u>Ruth E. Bogg</u>     | <u>1242 Bonito Ave</u>                  |
| <u>Shylo J. Mah</u>     | <u>2940 N. 13<sup>th</sup> St 81506</u> |
| <u>Valerie Packett</u>  | <u>1231 Bonito Ave 81506</u>            |
| <u>Terra Elise</u>      | <u>1207 Bonito Ave. 81506</u>           |
| <u>[Signature]</u>      | <u>1240 BONITO AVE 81506</u>            |
| <u>South Reef</u>       | <u>1241 Bonito Ave</u>                  |
| <u>Jon Patsantaras</u>  | <u>1235 Bonito Ave, GJ. 81506</u>       |
| <u>Kim Patsantaras</u>  | <u>1235 Bonito Ave, GJ. 81506</u>       |

**RECEIVED**

SEP 25 2013

COMMUNITY DEVELOPMENT  
DEPT.

**CITY OF GRAND JUNCTION**

**Ordinance No.**

**AN ORDINANCE VACATING RIGHT-OF-WAY FOR**

**BONITO AVENUE ALLEY**

**LOCATED BETWEEN 1220 AND 1224 BONITO AVENUE**

RECITALS:

A vacation of the dedicated right-of-way for the Bonito Avenue Alley has been requested by the property owner at 1224 Bonito Avenue which is adjacent to the right-of-way.

The City Council finds that the request is consistent with the Comprehensive Plan, the Grand Valley Circulation Plan and Section 21.02.100 of the Grand Junction Municipal Code.

The Planning Commission, having heard and considered the request, found the criteria of the Code to have been met, and recommends that the vacation be approved.

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

The following described dedicated right-of-way for Bonito Avenue Alley is hereby vacated subject to the listed conditions:

1. Applicants shall pay all recording/documentary fees for the Vacation Ordinance, any easement documents and dedication documents.

The following right-of-way is shown on "Exhibit A" as part of this vacation of description.

Dedicated right-of-way to be vacated:

A certain parcel of land lying in the Southwest Quarter of the Southwest Quarter (SW 1/4 SW 1/4) of Section 1, Township 1 South, Range 1 West of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

ALL of that certain 12.0 foot wide alley lying between Lots 3 and 4, Block 2 of Eagleton Subdivision, as same is recorded in Plat Book 8, Page 4, Public Records of Mesa County, Colorado

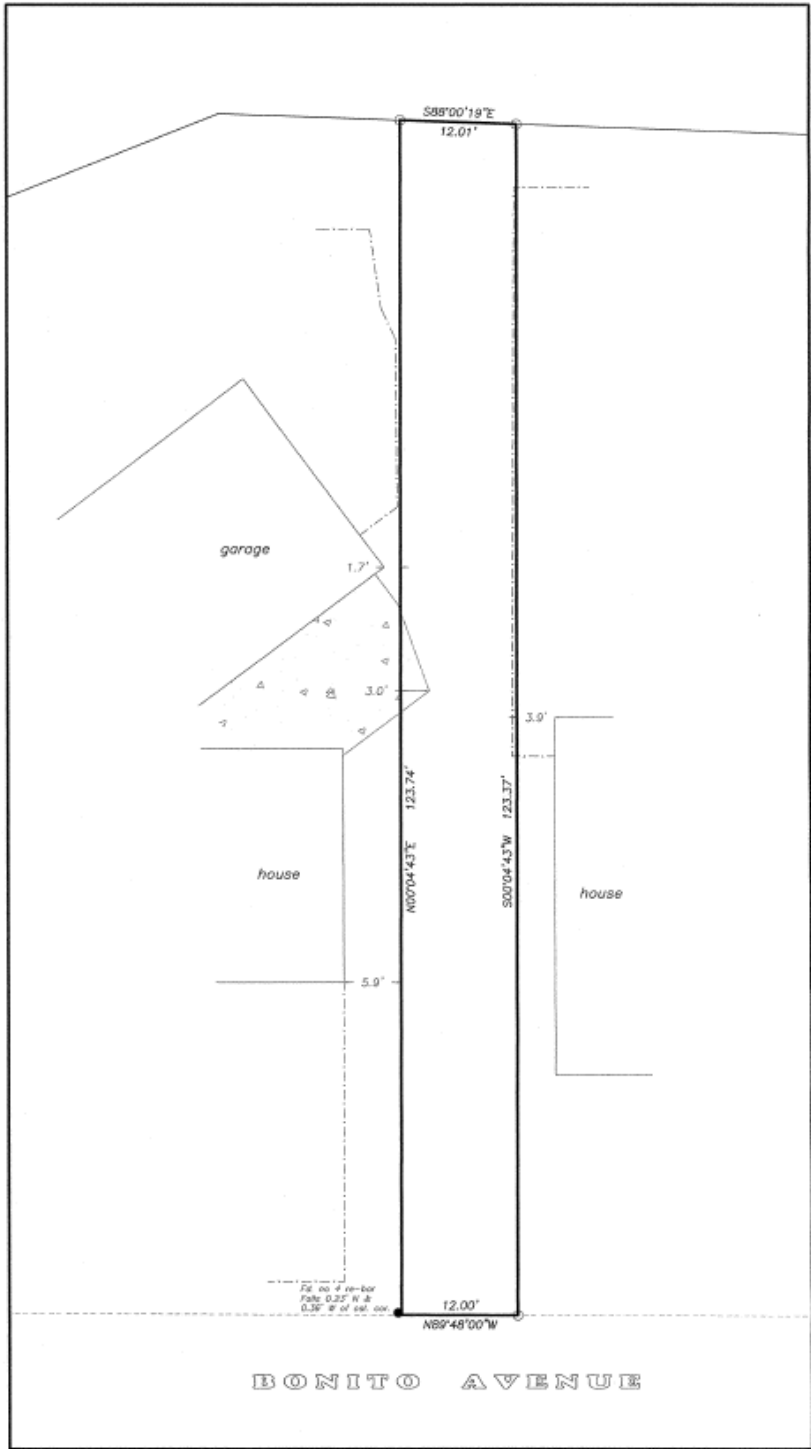
Introduced for first reading on this day of , 2013.

PASSED and ADOPTED this    day of    , 2013.

ATTEST:

\_\_\_\_\_  
President of City Council

\_\_\_\_\_  
City Clerk



Detail  
 1"=10'

Exhibit A