

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

**JULY 20, 1994**

The City Council of the City of Grand Junction, Colorado, convened into regular session the 20th day of July, 1994, at 7:35 p.m. in the City/County Auditorium at City Hall. Those present were Linda Afman, Jim Baughman, Bill Bessinger, Ron Maupin, Reford Theobald, John Tomlinson and President of the Council R.T. Mantlo. Also present were City Manager Mark Achen, City Attorney Dan Wilson, and City Clerk Stephanie Nye.

Council President Mantlo called the meeting to order and Council-member Afman led in the Pledge of Allegiance. The audience remained standing during the invocation by Rev. Karen Calderon, Koinonia Church.

**APPOINTMENTS AND RATIFICATION OF CURRENT BOARD MEMBER TERMS FOR THE DOWNTOWN DEVELOPMENT AUTHORITY - TABLED TO AUGUST 3, 1994**

It was determined that the six applicants will be interviewed by City Council with appointments and ratification of current board member terms for the Downtown Development Authority scheduled for the August 3, 1994, City Council meeting.

**APPOINTMENTS TO THE PLANNING COMMISSION - TABLED PENDING INTERVIEWS**

**BOYS AND GIRLS CLUB**

Mr. Dale Doelling, 2515 Pheasant Run Circle, Grand Junction, Chairman of the Executive Committee of the Boys and Girls Club of Mesa County, presented information on the establishment of a local "Boys and Girls Club". The Boys and Girls Clubs in America served over two million young people between the ages of 6 and 20 in over 1700 locations in 1993. The clubs provide a contribution to young people that is significant but distinguishable from what they get elsewhere, in school, at home, in their church and in other private agencies or in public education. The following makes a Boys and Girls Club unique:

1. It is for boys and girls. It has a boys and girls membership and satisfies the age old desire of boys and girls to have a club of their own.
2. It has a full-time professional leadership supplemented by part-time workers and volunteers.
3. It requires no proof of good character. It helps and guides boys and girls who may be in danger of acquiring, or who have

already acquired, unacceptable habits and attitudes, as well as boys and girls of good character.

4. It assures that all boys and girls can afford to belong. Membership dues are kept low so that all boys and girls can afford to belong, and even the least interested will not be deterred from joining.
5. It is building centered. Activities are carried on in the warm, friendly atmosphere of a building especially designed to conduct programs.
6. It is for all girls and boys. Girls and boys of all races, religions and ethnic cultures are eligible to become members.
7. It is non-sectarian. It has an open door policy. The club is open to all members at any time during its hours of operation.
8. It has a varied and diversified program that recognizes in response to the collective and individual needs of boys and girls.
9. It is guidance oriented, the most important facet of a boys and girls club.
10. A boys and girls club emphasizes values inherent in the relationship between the boys and girls and their peers, and boys and girls and adult leaders.
11. It helps boys and girls make appropriate and satisfying choices in their physical, educational, personal, social, emotional, vocational and spiritual lives.

The distinctiveness of a boys and girls club does not rest on any one of the above characteristics, but rather on a total combination of them. Mr. Doelling requested Council's input and support in this endeavor. They are trying to make Grand Junction and Mesa County a better place for those in this age group (an estimate of 15,000). A public forum on this subject will be held in the near future. Mr. Doelling would like to see the doors of a boys and girls club open within 90 days.

The City Council praised Mr. Doelling's efforts. Mr. Doelling thanked the Council for its time.

#### **INTRODUCTION OF PARENTS OF CITY ATTORNEY DAN WILSON**

City Attorney Dan Wilson introduced his parents, Roy and Esther Wilson, who are visiting from Arizona. He was pleased and proud to have them in the audience.

**CONSENT ITEMS**

Councilmember Baughman requested that the July 6, 1994, City Council Minutes be corrected to reflect that he voted **NO** on Consent Item #9, "**Authorization** for the City Manager to Sign a Pre-Annexation Agreement for Seasons at Tiara Rado."

City Manager Mark Achen stated that Consent Item #9 should be corrected to reflect the correct figure of \$15,044 expenditure from the Contingency Account, NOT \$10,000.

City Attorney Dan Wilson stated that Consent Item #6.a. should reflect that the Subgrantee Contract between the City and the DDA will include language suggested by the DDA attorney that makes it clear that this contract is for this particular transaction only.

Upon motion by Councilmember Maupin, seconded by Councilmember Theobald and carried by roll call vote with Councilmember **BESSINGER** voting **NO** on Item #6, with the amendment of Item #9 from \$10,000 to \$15,044, and the correction to the July 6, 1994 minutes, the following Consent Items 1-9 were approved:

1. **Approval** of the minutes of the Regular Meeting July 6, 1994.
2. **Award of Bid** for the Installation of the Scenic School Interceptor

The following bids were received on July 14, 1994:

Lyle States Construction	\$396,934.30
Parkerson Construction	\$446,433.75
Palisade Constructors	\$489,378.95
M.A. Concrete Construction	\$554,770.10
Engineer's Estimate	\$335,465.95

3. **Award of Bid** for the Texas Avenue Reconstruction, 12th Street to 15th Street - Recommended Award: United Companies - \$154,439.55

The following bids were received on July 13, 1994:

United Companies	\$154,439.55
Parkerson Construction	\$160,129.25
Tierra Construction, Inc.	\$163,323.62

Elam Construction	\$164,898.80
Sorter Construction	\$172,747.35
M.A. Concrete	\$198,555.57
Engineer's Estimate	\$176,073.56

4. **Approval** of Final Change Order for Monument Road Bridge in the amount of \$14,814.79

The Monument Road Bridge Replacement Project is complete. Change Order No. 2 includes the final adjustment of the contract quantities to those actually installed and the payment for extra work items needed to complete the project.

5. **Approval** of Expenditure of \$22,000.00 to Winston Associates, Inc. for Phase 1 Pre-Design Services of Seven Parks Encompassing 190 Acres

The following firms were interviewed:

Winston Associates, Inc., Boulder  
 Ciavonne & Associates, Grand Junction  
 Scott Associates, Steamboat Springs  
 Design Concepts, Boulder

Winston Associates, Inc. was selected by the evaluation team for a lump sum fee, including reimbursables, of \$22,000.00.

6. **Approval** of Two Contracts Concerning the Avalon Theater
- a. **Authorization** for the City Manager to Sign a Subgrantee Contract between the City of Grand Junction and the Downtown Development Authority for the Avalon Theater

City Attorney Wilson stated that the Subgrantee Contract between the City and the DDA will include language suggested by the DDA attorney that makes it clear that this contract is for this particular transaction only.

- b. **Authorization** for the City Manager to Sign a Contract to Buy and Sell Real Estate between the City of Grand Junction and the Aircadia Investment Corporation
7. **Proposed Ordinance** - An Ordinance Rezoning Lands at 1002, 1010, 1014, 1020 and 1024 Ute Avenue from C-2 to B-1 [File #99-94]

A proposed rezone of Lots 26-32, Block 131, from C-2 (Heavy Commercial) to B-1 (Limited Business). Residential uses on

block are presently not a permitted use in the C-2 zone whereas residential uses are permitted in the B-1 district.

a. First reading of proposed ordinance

8. **\* Resolution No. 60-94** - A Resolution Issuing a Revocable Permit for Rockslide Brew Pub [File #25-94]

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This Resolution will authorize the issuance of a Revocable Permit to allow installation of an underground grease trap within the east-west alley of the 400 block of Main Street adjacent to the property located at 401/405 Main Street.

9. **Approval** of Expenditure for Watson Island Clean-up in the amount of \$15,044 from the Contingency Account

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

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

**PUBLIC HEARING - NORTH VALLEY ANNEXATION**

A hearing was held after proper notice.

- A. **RESOLUTION NO. 61-94 ACCEPTING A PETITION FOR ANNEXATION, MAKING CERTAIN FINDINGS, DETERMINING THAT PROPERTY KNOWN AS NORTH VALLEY ANNEXATION IS ELIGIBLE FOR ANNEXATION AND EXERCISING LAND USE CONTROL AND JURIS-DICTION**

Chris Carnes has signed a Power of Attorney for annexation in behalf of G Road LLC, A Colorado Limited Liability Company, to allow for the development of their property. They have requested that they be allowed to develop to City standards and through the City review process. Staff requests that City Council accept the petition for annexation and approve on first reading the annexation ordinance for the North Valley Annexation.

- B. **PROPOSED ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO, NORTH VALLEY ANNEXATION, APPROXIMATELY 9.31 ACRES, LOCATED AT 24-3/4 ROAD, NORTH OF G ROAD**

Community Development Director Larry Timm reviewed this item. He stated that in his professional opinion and pursuant to C.R.S. 31-12-104 the North Valley Annexation is eligible to be annexed and complies with the following:

1. A proper petition has been signed by 100% of the owners

and 100% of the property described;

2. Not less than one-sixth of the perimeter of the area to be annexed is contiguous with the existing city limits;
3. A community of interest exists between the area to be annexed and the City;
4. The area will be urbanized in the near future;

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5. The area is capable of being integrated with the City;
6. Consent has been given by the land owner to divide this property by the proposed annexation;
7. No land held in identical ownership comprising 20 acres, or more, with an evaluation of \$200,000.00, or more, for tax purposes, is included without the owners' consent.

He noted that the Planning Commission has reviewed the zoning on this property which is proposed to be PR-4.1, and recommended approval. The property is proposed for single-family residential development. The previous County zoning of this property was PR-12, so there is a two-thirds reduction.

In many developments the previous zoning is not being utilized and they are being developed at lower densities. He feels the market has changed over the past ten years and the developers are adjusting to the market.

C. **PROPOSED ORDINANCE ZONING NORTH VALLEY SUBDIVISION TO PR-4.1**

A City shall establish an appropriate zone for all annexations within 90 days of the effective date of an annexation. The properties within the North Valley Annexation have received preliminary plan approval and final plan/plat approval by the City Planning Commission. The approved Planned Residential single family final plat for filings 1 and 2 consisting of 38 lots on 9.31 acres complies with the approved preliminary plan. The density is 4.1 units per acre. Staff is proposing that the North Valley Annexation be zoned Planned Residential with a maximum of 4.1 units per acre (PR-4.1) to conform with the approved development plan.

There were no opponents, letters, or counterpetitions. The hearing was closed. Upon motion by Councilmember Baughman, seconded by Councilmember Bessinger and carried by roll call vote, Resolution No. 61-94 was adopted, and the proposed ordinances

annexing North Valley Annexation, and zoning North Valley Subdivision PR-4.1 were approved on first reading, and ordered published.

**PUBLIC HEARING - ORDINANCE NO. 2759 ANNEXING TERRITORIES IN A SERIES TO THE CITY OF GRAND JUNCTION, COLORADO, SOUTH CAMP #1 ANNEXATION LOCATED WEST OF SOUTH CAMP ROAD, AND NORTH AND WEST OF BUFFALO ROAD, AND SOUTH CAMP #2 ANNEXATION LOCATED WEST OF SOUTH CAMP ROAD, AND NORTH AND WEST OF BUFFALO ROAD, AND SOUTH CAMP #3 ANNEXATION LOCATED ALONG SOUTH CAMP ROAD, SOUTH BROADWAY TO SEASONS SUBDIVISION [FILE #98-94]**

A hearing was held after proper notice. The South Camp #1, #2, #3 Annexation stretches along South Broadway and South Camp Roads and includes The Seasons at Tiara Rado 1, 3, 4 and future filings, Canyon View Subdivision and Wingate School.

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This is a hearing on the annexation only. The land use hearing will be conducted in approximately 90 days. Larry Timm, Community Development Director, reviewed this item. The area contains approximately 115 acres. He stated that the City has 56 powers of attorney on this property, taken from Canyon View Subdivision, Seasons #1 and #2, and Wingate School. There are only two non-POA properties that are being involved in the annexation. Those are the Seasons #4 and future filings.

There were no opponents, letters, or counterpetitions. The hearing was closed. Upon motion by Councilmember Bessinger, seconded by Councilmember Tomlinson and carried by roll call vote with Council-member **BAUGHMAN** voting **NO**, Ordinance No. 2759 was adopted and ordered published.

**ORDINANCE NO. 2760 ZONING DISCOVERY 76 ANNEXATION RSF-5 [FILE #77-941]**

A hearing was held after proper notice. Larry Timm, Community Development Director, reviewed this item. The requested zone is RSF-5 consistent with the zoning of the property across 28 Road to the west. Spring Valley is also zoned RSF-5. Both Staff and the Planning Commission recommend the RSF-5 zoning. He stated that the actual density is approximately 3.1 dwelling units per acre.

There were no opponents, letters, or counterpetitions. The hearing was closed. Upon motion by Councilmember Bessinger, seconded by Councilmember Afman and carried by roll call vote, Ordinance No. 2760 was adopted and ordered published.

**RESOLUTION NO. 62-94 AMENDING THE SEWER RULES AND REGULATIONS GOVERNING THE MANAGEMENT AND OPERATION OF THE JOINT CITY-COUNTY SEWER SYSTEM**

City Attorney Dan Wilson reviewed this item. The County Commissioners demanded, by letter, on July 6, 1994, that the City not approve any amendments to Section 4.9.1 and 4.9.2 of the Sewer Rules and Regulations Governing the Management and Operation of the Joint City-County Sewer System. The amendments would have removed the exception of the special districts and would have required the City infrastructure throughout the 201 sewer planning area. After discussions with County Attorney Lyle DeChant and City Manager Mark Achen, Mr. Wilson is recommending that Council go further than the Commissioners have asked, and remove all reference to the City Development Standards in areas that the City does not have land use jurisdiction under the annexation statutes. Tonight's resolution removes all reference to infrastructure standards, other than sewer infrastructure. It will retain the power of attorney requirement as it was adopted on June 1, 1994. As of June 1, 1994, these regulations said that the Manager of the system would require powers of attorney anytime there is a connection to the sewer

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system. Those were the regulations that Council approved on June 1, 1994. Mr. Wilson spoke with Mr. DeChant on July 19, 1994 and read him the changes so that he knew precisely what language is being used. Mr. Wilson asked Mr. DeChant if the changes were acceptable. Mr. DeChant responded, "I'll report to the Board." Mr. Wilson did not get a clear statement from Mr. DeChant. He presumed that since the City has gone farther than what was requested, it would be acceptable.

Councilmember Theobold clarified that the City's interest is not in who sets the standards, but rather what those standards are, whether it be enforced by the City or the County, that the quality of the development standards be attached. He also stated that just because the sewer regulations are now silent on development standards does not mean that is a topic that is behind Council. He feels that the City and County and any other interested party needs to discuss it because the consistent urban standards served by an urban sewer are going to have a tremendous impact on the community, and it needs to be discussed and resolved. Councilmember Afman and President of the Council Mantlo concurred with Councilmember Theobold's comment.

Councilmember Tomlinson discussed this subject with some citizens, and they were quite pleased with the direction that the City is taking and emphasized once again the need to see that these standards are maintained regardless of whose standards they are.

Upon motion by Councilmember Theobold, seconded by Councilmember Bessinger and carried by roll call vote with Councilmember **BAUGHMAN** voting **NO**, Resolution No. 62-94 was adopted.



**PUBLIC HEARING - AN APPEAL OF A PLANNING COMMISSION DENIAL OF A REQUEST TO REVISE THE FINAL PLAN FOR 844 GRAND AVENUE TO ALLOW VEHICULAR ACCESS TO THE ALLEY [FILE #105-94] - APPEAL DENIED**

Ciavonne and Associates recently purchased the building at 844 Grand Avenue and removed a section of the alley fence to provide ingress and egress to the alley. They were not aware of the required restricted access to the alley. Code Enforcement received a complaint from a nearby resident that the fence had been removed and the alley was being used for the business. Ciavonne and Associates have blocked off the access temporarily pending the outcome of their request to delete the restriction of the alley access.

There is one ingress/egress to Grand Avenue which appears to be sufficient for circulation through the parking lots for the two businesses at 838 and 844 Grand Avenue. Staff recommends against allowing alley access.

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A hearing was held after proper notice. Kathy Portner, Community Development Department, reviewed this item. In 1982 the properties located at 838 and 844 Grand Avenue were approved for rezoning to PB. The original proposal was only for the rezone of 838 Grand to PB in 1982. They were proposing a driveway access off of Grand, and then egress into the alley. There was some opposition at that time to using the alley and the petitioners at that time were advised to go back and see if they could negotiate some agreement with the property at 844 Grand so that both properties were coming in for the rezone and they could have the shared access off of Grand for two-way traffic so there would not be access onto the alley. They came back with a proposal for the rezone of both properties showing shared access onto Grand Avenue and no access onto the alley. The final site plan showed a solid 6' privacy fence across the backs of the properties, not allowing any vehicular access to the alley. There was a walk-through access. Ciavonne and Associates was not aware of the restriction when they purchased the property. They removed a portion of the fence to allow vehicular access to the alley. Code Enforcement responded to the complaint from neighbors and they have since blocked off that access pending the outcome of this proposal to revise the plan to allow that alley access. Ms. Portner continued that this property does fall within the planning boundaries of the Grand Avenue corridor guidelines and the downtown neighborhood residential guidelines which both encourage the protection of the existing residential neighborhoods. The Grand Avenue Corridor Guidelines further state that "the use of alleyways as access to private parking lots is discouraged." Along this block of Grand

on the north side there are no business accesses to the alley. There are two multi-family structures that have direct access to the alley. There is a business on the corner of 8th and Grand that has one driveway access to the alley that is mainly for one car. It is not a parking lot access. Staff feels that the one ingress/ egress access to Grand Avenue is sufficient. The Engineering Staff did comment that the alley access might be preferable to alleviate some of the problems with accessing onto Grand and the amount of traffic on Grand. Planning Staff, however, feels that keeping the solid fence along the back property line is important to maintaining the residential neighborhood to the north. Staff and Planning Commission is recommending against the proposed vehicular access to the alley. The petitioner is appealing that decision to City Council.

Ms. Portner reported that currently any site plan with restrictions is recorded. She does not know what the policy was in 1982. City Attorney Dan Wilson stated the law is that the developer/owner is required to look at the planning files. If there are restrictions in the files, that becomes constructive notice, and does not require that the City record every approval, plat/plan change, or other condition. He stated that all title policies will state on Schedule B "and subject to building and zoning restrictions."

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Mr. Ted Ciavonne, Ciavonne and Associates, Inc., land planners/landscape architects, stated that although it has been stated that this is a proposed opening, this is an after-the-fact opening. The building was purchased in September, 1993, moved into in November after some minor remodeling. By winter, the back parking lot was an ice skating rink so it was paved. Asphalt plants were closing down that same week, so they decided to put the access to their alley, tear up the other asphalt so landscape planting could be accomplished along the edge, and re-stripe and remodel the parking lot. Lights and irrigation systems were adjusted, and it was built. He had no notification of the alley restriction. It was not on a plat note. It was not in any sort of title search record. There was no information passed on from the previous owner. When he was first notified of a violation by the Code Enforcement Office, he was certain they were wrong. He then checked with his title company. The title company told him he was wrong. He was extremely frustrated by the fact that it had gotten to this point, primarily because of the lack of notification. He knew that a permit is required when building a fence. He did not know a permit is required to take a fence down. He knew a permit is required for access onto a street. He did not know a permit may be required for access onto an alley.

Mr. Ciavonne stated that the Downtown Development Authority did not object to this proposal. The City Engineering Department has

no objection. The report is more focused on site lines. He felt he received support from Mark Relph, Public Works Manager, and Don Newton, City Engineer, because of the congestion and traffic that is now on Grand Avenue. The Police Department had the following comments recommending against access to the alley:

1. This is a convenience to the petitioner - Mr. Ciavonne stated that he is looking for safety, not convenience;
2. This conflicts with the operations of Day House - Mr. Ciavonne stated that he has talked with the Director of Day House located at 838 Grand Avenue. The Director said there was no association. In fact, they do not have a fence along their west property boundary, so as far as corralling kids, it is a non-issue;
3. One access deters crime - Mr. Ciavonne stated that this might be true if someone is driving up with a truck and loading it up and hauling equipment away, but he does not find it true when talking about day-in and day-out vandals. He wants this property to be visible from all directions and approached from all directions.

Community Development is recommending against the alley access for the following reasons:

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1. There is minimal existing access to businesses in this block -Mr. Ciavonne stated that it is true by the pure definition of "business." There are multi-family homes that abut this alley and use this alley. A multi-family unit of 4 units equals the same traffic volume that his business generates.
2. The existing 12 year old plan of record shows this fence is required. Mr. Ciavonne stated that had he gone to this file he would not have found the statement "this fence is required." He would not have found any clear indication that the fence around that property was that important to the plan. The original owner of 838 Grand Avenue came in with a plan in which there was an access to 838 Grand and an access to the alley. At that point in time, his plan was not denied. The owner bought the property next door, combined them into two, and came back with a plan that took the decision away. It did not have access to the alley. He could find notes in the file and still question is it or is it not part of the plan from his perspective.
3. There is sufficient on-site circulation - Mr. Ciavonne stated that he can negotiate in and out of the property and get around the parking lot sufficiently. He wished to stress that he is here because of a safety issue. He is looking for

an alternative.

Mr. Ciavonne stated that his business averages less than one customer per day. He has employees (5 or 6) that may show up one day, and then not have any of them come to the business for two or three weeks. They are not a walk-in business. The alley access was roped off at the time the Code violation was cited.

Those speaking in opposition to the proposal:

1. Mr. Charles Cole, 841 Ouray Avenue, stated that in 1982 the properties on the Grand Avenue side of his block became business, and were required to put a fence along the back of their property line. All the property owners complied at that time. The same fence was put in from the corner of 9th Street down to beyond the 838 Grand address. He is trying to preserve the integrity on the north half of the block for single family residences. Everyone on the north side of the alley is single family at this time. At any given time, this could turn into a very busy driveway. It may put additional traffic on Ouray Avenue, but at least it is a city street and has traffic signs. The alley has nothing. It is not in as good repair, it is very narrow, there is very little regulation for whatever traffic may be in that alley. Increasing the traffic flow on the alley does not contribute to safety. It contributes to a traffic hazard. He requested that the denial from the Planning Commission be sustained, and that the access for vehicle traffic continue to be denied.

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2. Alan and Janet Smith, owners of property at 821 Ouray Avenue since 1985, requested that Council sustain the denial by the Planning Commission to allow alley access on the basis that the increased volume of traffic does not contribute to safety. It is more of a hazard. There is a lot of traffic in the alley now. On some days there is as much traffic in the alley as there is on Ouray Avenue. People park in the alley. They have blocked the Smith's entrance to his garage from the alley. Granting access to Ciavonne & Associates will not preserve the single-family integrity of the north side of the alley. Janet Smith stated when going east on Grand Avenue you must cross over Grand Avenue whether you turn on 8th Street, 9th Street, or into the Ciavonne parking lot. You have to wait at any of those locations. There are no traffic signals and no stop signs there. She stated that Day House, 838 Grand Avenue, erected a fence around its property that day.

Councilmember Bessinger suggested that the area property

owners call 911 if there are vehicles blocking their alley access.

3. Bill McGuire, 829 Ouray, complained about the same problem as the Smiths. He cannot access his garage without going through the alley. He supported the denial by the Planning Commission of this alley access.

Mr. Ciavonne pointed out that there was a letter submitted from Dillon Hunt in support of the alley access. He displayed a diagram that shows several other businesses in the area that have alley access. He reiterated that if the traffic is not in the alley, it is going to be on the side streets. He stated that he and most of his employees are heading northeast, north, or northwest, so by getting on the alley they can get on 8th or 9th and head north. So the alley access does provide a great level of safety for those who have to turn on and off of Grand Avenue. If alley access is denied tonight, Mr. Ciavonne requested that he be waived from any future alley improvement requirement. If he cannot use the alley, he would not benefit from any alley improvement.

There were no others speaking for or against this item. The hearing was closed.

Public Works Director Jim Shanks stated that Grand Avenue has been re-stripped and left turn lanes have been provided at the intersections. He understood Mr. Ciavonne's concern about turning left across traffic before the left-turn lanes were installed because it was more difficult than going down to the intersection, turning and entering through the alley. The site distance could be improved by eliminating parking or certain turning movements on the alley. There could be a continuous left-turn lane on Grand Avenue if all parking was eliminated.

Councilmember Afman stated that in the past she has had no trouble with the ingress/egress on Grand Avenue in that same location.

Ms. Portner stated that the record is not real clear, although her impression is that the reason the Council in 1982 told the applicants to go back and negotiate for the other property so they had two-way traffic, was to eliminate the access onto the alley. It was her impression when reading the minutes that when this property was rezoned to PB, one of the trade-offs that was given by the neighborhood is that fence would be in position. The minutes are not clear. When the plan came back to that Council with both properties showed no access to the alley and showed a solid fence across the back of the property. That is what was approved.

Councilmember Maupin commented that he feels the neighborhood could find no better business to locate there than Ciavonne & Associates. He feels it is unfortunate that the City cannot figure out a solution where Mr. Ciavonne can have access and the City can have a nicer looking alley.

Councilmember Theobold concurred, and stated that in these changing times one must look at so much paperwork every time a piece of property is purchased. It is no longer just a deed. Now it's more than a title search, more than planning files, radon tests, etc. The neighborhood concerns of wanting to avoid a heavy impact of an area that is becoming commercial is understandable.

City Manager Mark Achen suggested getting information on assessing the costs of alley improvements where access is not available to a property. City Attorney Dan Wilson noted that the State Statute requires the City to find that there is benefit to the property owner in order to make the assessment legally enforceable.

Upon motion by Councilmember Theobold, seconded by Councilmember Bessinger and carried, the appeal was denied.

**PUBLIC HEARING - ORDINANCE NO. 2761 AMENDING SECTIONS 5-4, 5-5 AND CHAPTER 12 OF THE ZONING AND DEVELOPMENT CODE, PARKING LOT LANDSCAPING AND LIGHTING [FILE #1-94(H)] - CONTINUED TO AUGUST 3, 1994**

Upon motion by Councilmember Maupin, seconded by Councilmember Bessinger and carried, the public hearing on Ordinance No. 2761 was continued to August 3, 1994.

**TED CIAVONNE RECOMMENDATION OF PLAT NOTES**

Mr. Ted Ciavonne approached Council recommending that on all planned zones, whether residential or business, make all conditions a plat note so that it does show up on the title search.

City Attorney Wilson stated that he appreciates the recommendation from the liability perspective. Once the City begins doing that as a policy, he was certain there will be a time that it will be missed, it will not be on the plat note. The City will have divested itself of the benefit of existing law which says "the City cannot be the shepherd for every single purchaser and property owner in the City. It is impossible." Therefore, Mr. Wilson feels the law should be left as it is, and make the landowner or prospective purchaser responsible.

Councilmember Theobold suggested that there at least be notification somewhere that indicates there is a file on this particular property. The notification would not guarantee what is in the file or what it says, but would alert a prospective buyer to do more checking.

#### **CLIFTON WATER DISTRICT SITUATION**

Councilmember Afman requested Staff to provide more information at a subsequent meeting on the Clifton Water District situation. She wondered if there is some way the City can assist.

#### **ADJOURNMENT**

Upon motion by Councilmember Theobold, seconded by Councilmember Baughman and carried, the meeting was adjourned at 9:20 p.m.

Stephanie Nye, CMC  
City Clerk