

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

May 3, 1995

The City Council of the City of Grand Junction, Colorado, convened into regular session the 3rd day of May, 1995, at 7:31 p.m. in the City/County Auditorium at City Hall. Those present were Linda Afman, Jim Baughman, David Graham, Ron Maupin, Janet Terry, Reford Theobold 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 Councilmember Graham led in the Pledge of Allegiance. The audience remained standing during the invocation by Rev. Richard Riddoch, First Congregational Church.

ELECTION OF MAYOR/PRESIDENT OF THE COUNCIL

Upon motion by Councilmember Theobold, seconded by Councilmember Baughman and carried, Ron Maupin was elected Mayor/President of the Council.

ELECTION OF MAYOR PRO TEM/PRESIDENT OF THE COUNCIL PRO TEM

Upon motion by Councilmember Maupin, seconded by Councilmember Baughman and carried, Linda Afman was elected Mayor Pro Tem/President of the Council Pro Tem.

RATIFICATION OF CITY COUNCIL ASSIGNMENTS FOR MAY, 1995 - MAY, 1996

Upon motion by Councilmember Baughman, seconded by Councilmember Maupin and carried, the City Council Assignments for May, 1995 through May, 1996 were ratified.

OATHS OF OFFICE

City Clerk Stephanie Nye administered the Oath of Office to Mayor/President of the Council Ron Maupin and Mayor Pro Tem/President of the Council Pro Tem Linda Afman. Mayor Maupin then took his seat on the Council and presided over the remainder of the meeting. Councilmember Mantlo was thanked for his service as Mayor.

PROCLAMATION DECLARING MAY 7-13, 1995, AS "MUNICIPAL CLERKS WEEK" IN THE CITY OF GRAND JUNCTION

PROCLAMATION DECLARING MAY 15-19, 1995, AS "WESTERN COLORADO PHILANTHROPY DAYS" IN THE CITY OF GRAND JUNCTION

INTRODUCTION OF URBAN TRAILS COMMITTEE BY CO-CHAIRMEN PAUL NELSON

AND PATRICK KENNEDY

Mr. Brian Mahoney introduced Paul Nelson and Pat Kennedy, co-chairmen of the Urban Trails Committee. Mr. Kennedy then introduced Robert Krohn, Cynthia Burke and Yeulin Willett, members of the Urban Trails Committee. Mr. Nelson said the committee plans to connect the riverfront trails with the rest of the urban community. They are hoping to use some of the canal systems, city streets, bridges, roads, pathways, and connect them to comprise walking and bicycle paths in the community. They will be working and cooperating with the Riverfront Commission. A survey has been conducted indicating a wide range of community support for these trails.

PRESENTATION OF \$177,117 CONTRIBUTION BY THE RIVERFRONT COMMISSION TO THE CITY COUNCIL

Mr. Brian Mahoney described Blue Heron II Trail as the last loop in an 8-mile loop of trail that begins at the Audubon Trail (Brach's Market) and goes into the Desert Ridge Subdivision and 24 Road, along the boat ramp and Blue Heron I and Blue Heron II. Mr. Bill Prakken, committee member, stated that the Blue Heron II project cost approximately \$360,000. The City paid \$18,540 to construct concrete paths instead of asphalt paths for durability. Other funds came from public grants from GOCO Colorado (Great Outdoors Colorado), Mesa County Lottery, the Land & Water Conservancy, Colorado Greenways, Colorado River Water Conservation District, as well as private grants such as the Boettcher Society, Gates Foundation, El Pomar Foundation, and the Colorado Riverfront Foundation, which, in turn, received funds from the Grand Junction Rotary, Grand Junction Kiwanis and individual donations totaling \$73,000. Mr. Mahoney presented a check to City Council in the amount of \$177,117 for the amount of funds that the City has paid out, but has not been repaid.

Mr. Bill Prakken commended City Parks Supervisor Don Hobbs and Parks & Recreation Director Joe Stevens for their help. He appreciated their efforts immensely. He also thanked Councilmembers R.T. Mantlo and Jim Baughman for their work on the committee.

Mr. Bill Ela, Riverfront Commission member, strongly supported dikes and levies and removal of waste products along the river so that the next big project can be accomplished, that project being connecting Watson Island to Riverside Park.

Mayor Maupin thanked all the gentlemen for their work on these

projects.

CONSENT ITEMS

A member of the audience requested that Consent Item 4 be removed from the agenda for full discussion.

Upon motion by Councilmember Afman, seconded by Councilmember Theobald and carried by roll call vote with Councilmembers **BAUGHMAN** and **GRAHAM** voting **NO** on Item 9, and Consent Item 4 being removed for individual discussion, the following Consent Items 1-3 and 5-12 were approved:

1. Approving the minutes of the Regular Meetings April 5, 1995 and April 19, 1995
2. Approving a Sole Source Purchase of a 1995 TORO Hydrojet 3000 Turf Aerator from L.L. Johnson Distributing in the Amount of \$23,100

The Golf Course Maintenance Division requests the sole source purchase of the new TORO Hydrojet 3000 turf aerator. The new aerator will be used at Lincoln Park and Tiara Rado golf courses.

4. Rescinding Resolution No. 43-95, A Resolution Amending the Width of an Easement for the Kannah Creek Flowline across the Proposed Cottonwood Heights Subdivision Property Located on East Orchard Mesa - **REMOVED FOR FULL DISCUSSION**

This is being rescinded because Mesa County Planning Commission denied Cottonwood Heights Subdivision.

3. * Resolution No. 50-95 - A Resolution Authorizing the Conveyance of a Drainage Easement to the Grand Junction Drainage District

The Grand Junction Drainage District has agreed to install drainage facilities to benefit City property located between Lorey Drive and West Orchard Avenue extended. The District requires an easement from the City prior to installing the proposed facilities.

5. Approving a Contract with Prime Sports Network to Sponsor the 1995 Broadcast of the National Junior College World Series Championship

For the fifth year in a row, the VCB has the opportunity to promote Grand Junction nationally during the broadcast of the JUCO world series championship. The game will be televised on Friday, June 2 at 9:30 p.m. EST and, if required, the second game will be broadcast on June 3. This media purchase guarantees that one-half of the commercials shown during the game will be Grand Junction promotional advertisements.

6. **Authorizing** a Transfer from General Fund Contingency to the Council Contributions in the Amount of \$8,725 to Sponsor the CML Conference in June, 1995

The CML organizing committee, comprised of host hotels, City staff and elected officials, has reviewed options for activities. After extensive meetings and planning, the committee has designed a series of events that will showcase the City of Grand Junction during this conference. City Department Heads reviewed the events and budget and concur with the recommendations of the committee.

7. *** Resolution No. 51-95** - A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, and Setting a Hearing on Such Annexation - Mays Subdivision Annexation Located on the North Side of Broadway at Mayfield Drive

The majority of the homeowners in the Mays Subdivision are requesting annexation. The Petition for Annexation is now being referred to City Council. Staff requests that City Council approve by resolution the Referral of Petition for the Mays Annexation.

8. *** Resolution No. 52-95** - A Resolution Declaring the Intention of the City Council of the City of Grand Junction, Colorado, to Create Within Said City Sanitary Sewer Improvement District No. SS-40-95; and Authorizing the City Engineer to Prepare Details and Specifications for the Same

A petition signed by 77% of the owners of the property to be assessed has been submitted requesting a sanitary sewer improvement district for Mays Subdivision. The proposed resolution will create an improvement district and give notice of a hearing to be held on June 21, 1995.

9. *** Resolution No. 53-95** - A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, and Setting a Hearing on Such Annexation - Monument Valley Annexation - Monument Valley

Filings 4 & 5, and Properties between 385 and 448 along S. Camp Road

The majority of the property owners in the Monument Valley Annexation signed POAs. The Petition for Annexation is now being referred to City Council. Staff requests that City Council approve by resolution the Referral of Petition for the Monument Valley Annexation.

- 10. **Award of Contract** - Construction of Elm Avenue Water Line Replacement
 Recommended Award: Lyle States Construction - \$89,997.44

The following bids were received on April 12, 1995:

Lyle States Construction	\$ 89,997.44
Skyline Contracting	\$ 90,084.68
Parkerson Construction	\$ 95,430.00
Downey Excavation	\$103,730.15
M.A. Concrete	\$145,991.50
 Engineer's Estimate	 \$ 96,878.00

- 11. *** Resolution No. 49-95** - A Resolution Endorsing Councilmember Reford C. Theobold as a Candidate for Director on the CML Executive Board and Directing that a Letter of Endorsement be sent to CML on the City Council's Behalf

A resolution endorsing Councilmember Reford Theobold's nomination as a candidate for the Colorado Municipal League Executive Board. The election for CML will be held in June, 1995 at the Annual Conference in Grand Junction.

- 12. *** Resolution No. 54-95** - A Resolution Endorsing Councilmember Reford C. Theobold as a Candidate for the NLC Board of Directors and Directing that a Letter of Endorsement be sent to NLC on the City Council's Behalf

A resolution endorsing Councilmember Reford Theobold's nomination as a candidate for the National League of Cities Board of Directors. The election for NLC will be held in December, 1995.

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

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

RESCINDING RESOLUTION NO. 43-95, A RESOLUTION AMENDING THE WIDTH OF AN EASEMENT FOR THE KANNAH CREEK FLOWLINE ACROSS THE PROPOSED COTTONWOOD HEIGHTS SUBDIVISION PROPERTY LOCATED ON EAST ORCHARD MESA

This is being rescinded because Mesa County Planning Commission denied Cottonwood Heights Subdivision.

Mr. James A. Hudson, Jr., 2344 Teller Court, #2, owner of Home Appliance on 28 1/4 Road, and owner of property at 174 Sunlight Drive, said he is attempting to develop the Sunlight Drive property. Mr. Hudson just learned of the City's plan to rescind Resolution No. 43-95. City Utilities Manager Greg Trainor was concerned that if there should be a break in that Kannah Creek flowline running through Mr. Hudson's property it might disturb some of the houses in that development. Mr. Hudson stipulated that the four lots would not be built on until the plan was approved. After a six-week delay he decided to amend his plan by constructing a bridge underneath the road in case of any break, the water would flow under the road to a holding pond which would be maintained by the homeowners association. It would be bermed on both sides from one end to the other. The pipeline runs 600 feet on Mr. Hudson's property. Mr. Hudson requested the current easement be amended to a 25' foot right-of-way (12 1/2 feet from the centerline of the pipeline to each side) for maintenance of the pipeline. The wall thickness of the pipeline is 3/4" and has a maximum pressure of 75-80 psi. If this line breaks, 4 million gallons per day, 3,000 gallons per minute will be flowing. A break in the pipeline will cause the water to run over his property to either Glory View or Sunlight Drive. Significant property damage will result. He asked Council not to rescind the easement so he will have some solid ground to work with when presenting his development plan. The County Planning Commission rejected several items on his original plan for development on Sunlight Drive. He will be taking his new design back to the County Commissioners on June 20, 1995.

President of the Council Maupin stated there is concern with several of the lots and the design of the houses and where they would sit on the lots in reference to the pipeline. Council is willing to consider the easement again, but has no development plan to review.

Councilmember Graham suggested that Mr. Hudson assume a 25' easement to develop his plan and bring it back to City Council for consideration and guidance. The easement cannot be granted without a development plan.

Councilmember Theobold noted the City Council's only input would regard the easement as the City is interested in protecting its water line.

Mr. Hudson stated there is no protection. If the line breaks underneath one of the houses, it will destroy it. If nothing is built on Cottonwood Heights, the residents in Alpine Acres will suffer. If the line is fragile, as some feel it is, there should be some City intervention to prevent such destruction. Currently, there are Orchard Mesa Irrigation District trucks transporting heavy loads of dirt and sand to that area.

The plan must address Council's concerns regarding the water line.

Mr. Hudson felt he could have a plan ready in approximately 10 days which would address Council's concerns. It was suggested Mr. Hudson bring the plan back to a City Council workshop for discussion.

City Attorney Wilson recommended this resolution be rescinded. When Staff has approval from the Planning Commission, a new resolution will be prepared with a new grant of easement.

Upon motion by Councilmember Theobold, seconded by Councilmember Baughman and carried by roll call vote, Resolution No. 43-95 was rescinded.

PUBLIC HEARING - ORDINANCE NO. 2832 - AN ORDINANCE AMENDING THE CHAPTER 16 OF THE CODE OF ORDINANCES, CITY OF GRAND JUNCTION, SECTION 26, DEFINITIONS, AND SECTION 27, DUTIES OF PROPERTY OWNER AND LESSEE; UNLAWFUL ACCUMULATIONS; INSPECTIONS AND WEED REMOVAL

This amendment would add the noxious weed "Purple Loosetrife" to the list of undesirable weeds in the City limits. It would create an exemption for areas actively being used for agricultural purposes from maintaining the area between fencelines and the centerline of rights-of-way free of only the designated noxious weeds.

A hearing was held after proper notice. Jan Koehn, Code Enforcement Supervisor, reviewed this item. City Manager Mark Achen pointed out the change accommodates agricultural uses as they front roadways. It does not accommodate them when located adjacent to other lands that are being kept weed-free. Councilmember Baughman felt the guidelines for agricultural or rural areas should be different than those for residential areas.

Councilmember Theobold stated Council needs to be aware that

occasionally there will be actually working agricultural land brought in with annexation, and to be aware of that distinction.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Mantlo, seconded by Councilmember Afman and carried by roll call vote, Ordinance No. 2832 was adopted on second reading, and ordered published.

**PUBLIC HEARING - ORDINANCE NO. 2833 - AN ORDINANCE REZONING
MICHAELA'S VILLAGE SUBDIVISION FROM PR-4.1 TO PR-4.7
[FILE #FPP 94-135]**

Michaela's Village was granted final plan/plat for a 38-lot subdivision on a parcel containing 8.24 acres at the April 4, 1995 Planning Commission meeting. This site is presently zoned PR 4.1.

Because the actual density proposed with this subdivision is nearly 4.7 units per acre, a rezone to PR 4.7 is requested. A rezone was considered by the Planning Commission and was recommended for approval in conjunction with the final plan/plat.

A hearing was held after proper notice. Tom Dixon, Community Development Department, reviewed this item. Michaela's Village is bounded by Unawep Avenue on the south and Olson Avenue on the north. The PR 4.7 zoning will simply reflect the density that the subdivision is being platted with the 38 units. The Planning Commission has approved the 38-lot subdivision contingent upon it getting the PR 4.7 zoning by the City Council. The petitioners have not provided a final drainage plan, although the alternatives reviewed by the City Engineers were acceptable.

The original plan was for manufactured housing development and the original PR 4.7 zone was applied. That project was dropped, although the zoning is retained under the Planned Residential zones.

Open space cannot be required under the City's current standards. Consideration can be given if an applicant is willing to dedicate open space, and can sometimes be required under residential zoning. This subdivision was too small and open space dedication was not an issue.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Baughman, seconded by Councilmember Afman and carried by roll call vote, Ordinance No. 2833 was adopted on second reading, and ordered published.

PUBLIC HEARING - BLACK-EYED PEA RESTAURANT LOCATED ON THE NORTHWEST CORNER OF 2ND STREET AND GRAND AVENUE - ORDINANCE NO. 2834 - AN ORDINANCE REZONING LAND LOCATED ON GRAND AVENUE FROM C-1 AND C-2 TO B-3 AND LAND LOCATED ON OURAY AVENUE FROM RMF-64 TO P - ORDINANCE NO. 2835 - AN ORDINANCE VACATING THE EAST 200 FEET OF AN ALLEY RIGHT-OF-WAY IN BLOCK 77 [RZV 95-28]

Request for a rezone from RMF-64, C-1 and C-2 to B-3 and P (Parking) and vacation of a portion of the east/west alley north of Grand Avenue between 1st and 2nd Streets.

A hearing was held after proper notice. Michael Drollinger, Community Development Department, reviewed this item. Staff recommends approval of rezoning the B-3 zone along Grand Avenue and a P zone (off-street parking zone) on the south side of Ouray Avenue and 2nd Street. The petitioner is also requesting the vacation of the east 200 feet of the east/west alley between Grand Avenue and Ouray Avenue. A restaurant is to be constructed on the south side of the property along Grand Avenue with associated parking on the side and rear along Ouray Avenue. The site access would be from 2nd Street, no access from Grand Avenue or Ouray Avenue. There are residences on the north side of Ouray Avenue. A new north/south alley is proposed to maintain a continuous alley for the remaining businesses on that block and for City services. Presently, the Grand Avenue frontage is vacant. There are three residential structures on the Ouray Avenue side.

It is Staff's opinion that this rezoning request provides an opportunity to establish zoning which protects both the adjacent residential area and Grand Avenue Corridor. The proposal for B-3 zoning along Grand Avenue allows uses that are significantly less intense than those permitted in the Commercial C-1 and C-2 zoning which exists now. The protection of the downtown neighborhood to the north of this site is also a City goal and policy. This proposal does call for the removal of three residences and the rezoning of approximately .5 acres from residential to non-residential uses. Staff feels the most appropriate zoning on the south side of Ouray is the P (off-street parking) zone. The P zone requires a significant amount of screening, while not permitting development of non-residential structures. The P zone will not adversely impact the residential neighborhoods to the north and will serve as an appropriate transition between business uses along Grand Avenue and the downtown residential neighborhood. The non-residential zoning is consistent with the Downtown Development Strategy Plan and the Grand Avenue Corridor Guidelines.

Staff feels the vacation is appropriate and will not negatively

impact the area. There will be no direct access from this proposed restaurant development into the alley to prevent cut-through traffic which might want to access 1st Street. Staff feels the one condition that needs to be met by the petition is that a replat of the lots and the dedication of the right-of-way should be done prior to the effective date of the zoning.

Staff recommends approval of this rezone request and right-of-way vacation. Planning Commission also recommended approval at the April 4, 1995 meeting.

Councilmember Afman questioned Mr. Drollinger about the vacated alley. Mr. Drollinger said the alley improvements (gravel) will be removed, but would be retained as a utility easement. The sewer line and utilities would still be accessible to the different entities. The north/south alley would then become the primary means for vehicles. The vacated alley would be maintained by the property owner.

In response to Councilmember Terry's questions, Mr. Drollinger said that Staff feels terminating the alley and having a dead-end would be of no service to the residents. There will a berm around the perimeter of the lot and would be up to three feet high.

The petitioner will be required to construct and pave the north/south alley to City standards. The utilities will be undergrounded. The petitioner will be required to remove the current curb cut and restore the sidewalk to match existing sidewalks.

The property for the new north/south alley will be donated by the petitioner, and the title for the alleyway will be held by the City. The preliminary design indicates a type of raised curb with small landscaping which will effectively delineate the difference between the parking lot and the alley, so there is no access. There is also a lighting requirement in the parking area.

Jim Shanks, Public Works Director, stated that alleys are not designed under the same automotive standard as streets. The site distance around the corner will be limited for clear vision. Alleys are used primarily for service vehicles at slow speeds. There will be signage in the alley noting potential hazards. If problems occur in the alley, it could be solved by making it a one-way alley. Councilmember Graham felt a sign posting a 10 mph speed limit for the alley instead of the normal 15 mph could help.

There were no other comments. The hearing was closed. Upon

motion by Councilmember Theobold, seconded by Councilmember Mantlo and carried by roll call vote, Ordinance No. 2834 and Ordinance No. 2835 were adopted on final reading, and ordered published.

RECESS

The President of the Council declared a ten-minute recess at 9:06 p.m.. Upon reconvening at 9:19 p.m., all members of Council were present.

PUBLIC HEARING - ORDINANCE NO. 2836 - AN ORDINANCE ZONING COUNTRY CLUB PARK WEST ANNEXATION RSF-2 [FILE #ANX 95-31]

City Council has already approved the Country Club Park West Annexation. The City is required by State Statute to establish zoning for the Country Club Park West Annexation.

A hearing was held after proper notice. Kathy Portner, Community Development Department reviewed this item. The County zone was R-2. The RSF-2 setback most closely aligned with the County R-2 set-backs, a concern of one of the subdivision residents. There are four lots less than a half acre in size, however all the lots are developed. Another item on this agenda will clarify undersized lots that meet all other requirements can still be built on. Any of these properties would be able to construct additions to their homes as long as they meet the setback requirements.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Mantlo, seconded by Councilmember Baughman and carried by roll call vote, Ordinance No. 2836 was adopted on second reading, and ordered published.

PUBLIC HEARING - ORDINANCE NO. 2837 - AN ORDINANCE ZONING INTERSTATE ADDITION ENCLAVE ANNEXATION C-2 [FILE #ANX 95-12]

The Interstate Addition Enclave is located along the east side of 23 Road at a point where G 1/4 Road would be. This area is currently being annexed into the City. The City is required by State Statute to establish zoning for the annexation.

A hearing was held after proper notice. Kathy Portner, Community Development Department, reviewed this item. The previous County zoning on this area was C (Commercial). A zoning of C-2 is proposed by the City. The parcel is undeveloped, and surrounded by commercial and industrial zonings and uses.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Theobold, seconded by Councilmember Baughman and carried by roll call vote, Ordinance No. 2837 was adopted on second reading and ordered published.

PUBLIC HEARING - ORDINANCE NO. 2838 - AN ORDINANCE ZONING A PORTION OF THE POMONA PARK ANNEXATION, MOONRIDGE FALLS SUBDIVISION, TO PR-2.3 [FILE #ANX 95-49]

Zoning property recently annexed to the City of Grand Junction, Moonridge Falls, Planned Residential (PR) with a density not to exceed 2.3 units per acre.

A hearing was held after proper notice. Kathy Portner, Community Development Department, reviewed this item. The proposal is west of 25 1/2 Road, north of F 1/2 Road. It was originally approved by Mesa County prior to annexation and given a zoning of PUD (Planned Unit Development). The City is proposing a Planned Residential zone of 2.3 units per acre which corresponds with the approved plan. The Planning Commission recommended approval of that zoning and accepted the prior approvals by Mesa County.

City Council received a letter approximately two months ago concerning access to driveways and garages on two lots. Filing #1 of this subdivision was recorded and built prior to annexation. Filing #2 is currently under construction and will provide access to the two lots which were referred to in the letter. Ms. Portner has received a telephone call from one of the owners this week saying they are pleased with the progress of the work. City Manager Achen commended Staff for getting both parties together resulting in both parties being reasonably satisfied with the solution. It was a difficult issue.

Ms. Portner continued that under the Planned Residential zoning, all of the requirements evolve with the plan and approved with the plan. Whatever the developer proposes, the Planning Commission and the City Council review the parameters being requested with the zoning for approval, and decide whether or not to approve. Heights are a part of the review, as well as building setbacks.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Theobold, seconded by Councilmember Graham and carried by roll call vote, Ordinance No. 2838 was adopted on second reading and ordered published.

PUBLIC HEARING - ORDINANCE NO. 2839 - AN ORDINANCE ZONING A

PORTION OF POMONA PARK ANNEXATION, VALLEY MEADOWS SUBDIVISION, TO PR-2.8 [FILE #ANX 95-50]

Zoning property recently annexed to the City of Grand Junction, Valley Meadows Subdivision, Planned Residential (PR) with a density not to exceed 2.8 units per acre.

A hearing was held after proper notice. Kathy Portner, Community Development Department, reviewed this item. This subdivision was also approved prior to the City annexing. It is located to the south of Moonridge Falls. Filing #1 has been platted and built. The Planning Commission will be reviewing the final plat on the remainder of the subdivision in the near future. Staff is proposing a Planned Residential Zone, 2.8 units per acre. This zoning is slightly higher than the original plan that was approved by Mesa County. The Planning Commission recommended approval of the .2 additional units based on the testimony by the developer that in their revised preliminary for the remainder of the property, they had requested that they be given some latitude to add one or two additional lots. Planning Commission recommended approval of that. Staff also recommends approval.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Mantlo, seconded by Councilmember Baughman and carried by roll call vote, Ordinance No. 2839 was adopted on second reading, and ordered published.

PUBLIC HEARING - ORDINANCE NO. 2840 - AN ORDINANCE ZONING A PORTION OF POMONA PARK ANNEXATION, CIMARRON NORTH SUBDIVISION, TO PR-3.7 [FILE #ANX 95-52]

Zoning property recently annexed to the City of Grand Junction, Cimarron North Subdivision, Planned Residential (PR) with a density not to exceed 3.7 units per acre.

A hearing was held after proper notice. This item was reviewed by Kathy Portner, Community Development Department. The subdivision is north of F 1/2 Road and east of the Kay Subdivision. The County approved the official development plan and a zoning of PUD (Planned Unit Development). The Planning Commission recommended a City zoning of Planned Residential, 3.7 units per acre. The County ODP was accepted as a City preliminary. The Planning Commission will review the final plat for the subdivision at its June meeting.

It is Ms. Portner's understanding the County PUD zoning is specific to the plan and the number of units. The County allows

developers to deviate by 10%. City Staff is recommending approval of the number of lots shown on the approved plan. Ms. Portner clarified the plan presented tonight has been approved by the County.

If the property owners own to the center of the canal, City Staff would like to work with them regarding obtaining an easement. Kay Subdivision was previously platted before annexation and the City has lost the opportunity to negotiate. A strip of land between Valley Meadows Subdivision and the canal is not owned by the property owners.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Theobald, seconded by Councilmember Graham and carried by roll call vote with Councilmember **BAUGHMAN** voting **NO**, Ordinance No. 2840 was adopted on second reading, and ordered published.

PUBLIC HEARING - ORDINANCE NO. 2841 - AN ORDINANCE ZONING A PORTION OF THE POMONA PARK ANNEXATION, KAY SUBDIVISION, TO PR-3.8 [FILE #ANX 95-51]

Zoning property recently annexed to the City of Grand Junction, Kay Subdivision, Planned Residential (PR) with a density not to exceed 3.8 units per acre.

A hearing was held after proper notice. Kathy Portner, Community Development Department, reviewed this item. This subdivision completes the area that is developing at F 1/2 and 25 1/2 Roads. The County approved the plan for Kay Subdivision which was entirely platted prior to the City annexing. City Staff is proposing a zone of Planned Residential 3.8 units per acre which reflects the number of lots that are actually platted.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Mantlo, seconded by Councilmember Baughman and carried by roll call vote, Ordinance No. 2841 was adopted on second reading, and ordered published.

RATIFICATION OF GRANT OF AN EASEMENT FOR THE PROPOSED FISH PASSAGEWAY AT THE REDLANDS DIVERSION DAM

The Bureau of Reclamation is proposing to construct a fish passageway structure at the right abutment of the Redlands diversion dam. This fish ladder is part of the recovery program for endangered fish. The Bureau, the City and the Redlands

Company have been negotiating a grant of easement upon which the ladder would be constructed. The property is owned by the Redlands Company and the City has a lease from Redlands for the City's Gunnison River pump station. The Grant of Easement recognizes the City's lease, its present and future use of the pump station, and its access to the pump station.

The Grant of Easement, with amendments, has been signed by Mayor Mantlo, contingent upon City Council's approval. The City amendments have not been reviewed by Redlands or the Bureau of Reclamation.

Councilmember Theobald suggested City Council consider postponing this item to explore other solutions to this problem. It may be that a City easement will not be involved.

City Attorney Dan Wilson stated postponing this item would have no affect on the County's conditional use permit process.

Councilmember Mantlo was concerned about the safety of the boaters that are using the river and need a safe access out of the river before approaching the fish ladder.

Councilmember Afman noted the City must be aware of the liability it is being placed in.

Councilmember Terry requested Greg Trainor, Utility Manager, address the agreement that has been drafted to date in order to record the history established as to why it is being discussed further.

Mr. Greg Trainor, City Utility Manager, reviewed this item and presented some background. The grant of easement came before the City Council two weeks ago with concerns regarding the boating safety upstream of the Redlands Diversion; the opportunity the City might have in playing a role, or an opportunity the community might have with the City playing a role, and holding off on a grant of easement until there was an agreement reached to develop a boating takeout. There is a considerable amount of suspicion among the agencies involved in this project, particularly the federal agencies, specifically the Bureau of Reclamation and the Fish and Wildlife Service. Their point of view was the construction of the fish ladder did not require them to mitigate any type of damages that were not already occurring, such as people taking out upstream of the diversion dam. As a result, for the past year, they have been reluctant to be involved in any type of activity that would result in a takeout being established somewhere upstream. They are concerned about their financial

responsibility and felt the project monies for the fish ladder should not be dedicated to a takeout. A meeting was held on April 24, 1995, chaired by Brian Mahoney, attended by Redlands Water & Power, the Bureau of Reclamation, the Bureau of Land Management, the Fish & Wildlife Service, Colorado Division of Wildlife, Colorado Parks & Recreation Department, City of Grand Junction, the Riverfront Commission, and Southern Pacific Railroad. Mr. Harold Elam, a major property owner in the vicinity, was not there, but was later consulted. The group agreed it was an important opportunity and a good conscious effort to create a way that a takeout could be established above the Redlands diversion. They agreed to work together to implement a program that would result in:

1. a permanent takeout about one-half mile upstream from the Redlands diversion; and
2. an emergency takeout to be created at the Redlands Diversion Dam adjacent to the fish ladder, to the City's pump station and other structures on the right abutment of the dam.

It was impossible to reach detailed agreement on every single issue. Mr. Trainor expects the process to be long and involved. Every entity will be concerned about their own interest, including the City of Grand Junction. He does not think postponing this matter will delay the effort, but could give the opportunity for people that are involved to examine the details of the agreement, and result in the general concept falling apart.

City Attorney Dan Wilson stated current law gives no permission for a boater to come to the area, exit the boat, and remove the boat. Therefore, if a dangerous condition exists on the property that is leased from Redlands Power, the City could then be liable. If the status of the boaters were changed to be an invitee or guest of the City by building a takeout, the City has a higher duty of care. Presently, it is not a concern, although it could become a liability in the future. The City would like to see the fish ladder built, although the City would like to take a step back as far as direct involvement is concerned. A suggestion would be to provide a takeout that does not involve City leased property.

Councilmember Terry stated City Council's part in making this happen is important for recreational purposes and for safety of boaters.

Mayor Maupin was hesitant to grant the easement since two weeks

ago the various entities met and came up with an agreement. New information was provided on May 1, 1995, and now the commitment is being questioned.

Councilmember Theobold felt the new information regarding Mesa County's new position to become involved again, and the increased liability for the City along with a possible way to accomplish what it wants without a legal liability to the taxpayers, is now a matter of concern.

City Manager Mark Achen stated Redlands Water and Power was reluctant to become involved in the boating issue for liability reasons as well. He felt the City must be cautious in its communications and not give the impression that the City is trying to avoid liability and therefore indirectly stating that Redlands Water and Power must assume it. Originally, Redlands Water and Power felt the boating was total trespass, and questioned why they should get involved at all.

Councilmember Graham stated the City was given a very short time frame in which to give a decision on the fish ladder project. Now the project will go through the County for a conditional use permit, which will allow the City more time for consideration. He feels there are a number of remedies already available to the federal government which would allow it to accomplish the objectives with no opposition on the part of the City. He feels City Council is free to grant this easement and equally free to deny it at this time, subject to a better understanding of what other remedies may be available to the federal government. He urged City Council to rescind the former Mayor's authorization for the easement with the understanding that City Council is in favor of governmental cooperation.

Councilmember Terry does not want City Council to be perceived as backing out of support of recreational use. Councilmember Afman concurred with Councilmember Terry.

Councilmember Afman questioned City Attorney Wilson about the legality of rescinding or tabling this item. City Attorney Dan Wilson responded that the legal affect is the same whether the easement is rescinded or tabled. His concern is the perception of either.

Mr. Wilson feels two weeks is not sufficient time to meet with the Bureau of Reclamation on other options.

Councilmember Graham would rather see the easement rescinded than

tabled. He believes the federal government will find a way to put this through if it is clear that the City isn't offering any kind of effective opposition to it. The City is not merely a willing participant. He would like to see the offer of easement rescinded since, in his judgement, it would make it that much more difficult for the City to become an active participant. So long as the matter is pending, the decision could be conceivably ratified. Mayor Maupin felt if the City is not an active participant in the easement, it also is not an active participant in the boat situation and in providing recreation on the river.

Councilmember Graham felt that the City did not initiate the entire project, either the fish ladder or the use on the Gunnison River or the takeouts. The City was confronted with a short time frame on a request for the grant of easement for the fish ladder program. The City expressed its concerns. The City has been placed in the position of having to react to the proposals of others with little time to perform the careful deliberation required.

It was suggested by Councilmember Terry that an endorsement be prepared for support of this project to continue the City's participation in discussions, with the reservation that the City will defer granting the easement until such time as its legal concerns have been satisfied; said endorsement to be presented at the May 17, 1995 City Council meeting, and authorizing the Mayor to write a letter stating the above.

Upon motion by Councilmember Terry, seconded by Councilmember Theobald and carried, the Mayor was authorized to prepare an endorsement of the Memorandum of Understanding that indicates the City's continued interest in the project, with the reservation that the City will defer a decision on the easement until May 17, 1995 for legal reasons.

Councilmember Terry requested that the Mayor contact personally the Bureau of Reclamation to make them aware of the City's concerns.

PUBLIC HEARING - ORDINANCE NO. 2842 - AN ORDINANCE ZONING POMONA PARK ANNEXATION RSF-R, RSF-2, PZ, PB, PR 4.1, PR 7.8 AND PR 9.9 [FILE #ANX 95-17]

The City has recently approved the annexation of lands north of the City limits known as the Pomona Park Annexation. The City is required by State Statute to establish zoning for the Pomona Park Annexation located generally between 24 3/4 Road and 26 1/2 Road and F 1/4 Road and H 3/4 Road.

- a. 24 Road to 24 1/2 Road and I-70 Area
9 Parcels
- 25 Road to 25 1/2 Road and F 1/2 to G 3/8 Road Area
11 Parcels
- 26 Road to 26 1/2 Road and I-70 to H 3/4 Road Area
13 Parcels
- b. Approximately 151 acres Saccomanno Property
1 Parcel
- c. Proposed North Valley Subdivision
1 Parcel

City Attorney Dan Wilson announced that if certain members of the audience are not interested in Items b. or c., they will definitely be interested in Item a. These are very broad descriptions.

Item a.

A hearing was held after proper notice. This item was reviewed by Larry Timm, Community Development Director. This annexation has to do with the remainder of the Pomona Park Annexation. The other portions were dealt with by Kathy Portner previously in the meeting. The proposed zonings are most similar to the districts that the property was zoned in the County with four exceptions:

- 1. The North Valley Subdivision
- 2. The Saccomanno Property
- 3. A .96 acre parcel at 726 24 Road, a single family home which is surrounded by the property the City has purchased for the future park at the intersection of 24 Road and I-70. That property was zoned Planned Business in the County and the proposed zoning for that in the City is RSF-2.
- 4. The property that is owned by the City for the park near 24 Road and I-70. It is 72.6 acres and was zoned Planned Business and AFT in the County. The City is proposing PZ Public Zone in the City for that parcel.

President of the Council Maupin opened the floor for questions and comments regarding the above Item a. Those speaking were as follows:

- 1. Chris Cameron, 2605 Kelley Drive, was concerned with increased traffic, schools, public transportation, air

traffic, drainage, density versus agricultural land, and lack of planned development.

Councilmember Graham felt these comments should have been made at the annexation hearing held on May 3, 1995.

Councilmember Terry stated that currently the Planning Commission and the City Council have hired consultants to develop master land use plans consecutively and jointly. This process is going on now. Hopefully, Mr. Cameron's issues have been brought up at meetings and when the plan is finalized will be addressed.

There were no other comments. President of the Council Maupin closed the hearing.

Comments from Councilmembers were as follows:

Councilmember Terry asked if Bookcliff Gardens required any change in business by going from Business in the County to Planned Business in the City. Mr. Timm responded that a Planned Zone is intended to have a specific use with it. In this case going with the planned zone is status quo. They can continue using the property as they have been. If they want to change from a nursery to some other type of business, they would be required to come in for a hearing. If a substantial change is made in the size of the business, a plan amendment must be filed.

Councilmember Baughman asked if the rezone from Planned Business to RSF-2 was acceptable to Mr. Long. Mr. Timm responded that he understands it is.

Item b.

Mr. Timm reviewed Item b. This property was zoned AFT in the County. The Planning Commission recommended that the Saccomanno property be zoned RSF-R in the City. Mr. Timm referred to comments in a letter from the Airport Authority pertaining to the area. The letter states that all the noise contours will be expanded around the airport when the Master Plan is completed later this year.

Councilmember Terry asked why the Planning Commission recommended the RSF-R zone and not RSF-2. Mr. Timm replied that given the intensity of development in Paradise Hills which is zoned RSF-4 and RSF-5, and looking at the areas outside this annexation to the west, which are zoned primarily AFT, the Saccomanno property is being seen as a transition area from 4 and 5 units per acre, to the areas outside the City that are 2-acre, 4-acre and 5-acre

lots. The half acre lot in between is a good and reasonable transition zone.

Councilmember Afman stated that the 201 Boundary runs along the southern and eastern portions of the Saccomanno property. Mr. Timm stated a good portion of this property would drain into the area that the City serves with sewer to the south and east.

Mr. Timm stated that the RSF-R zone in the City is the closest to the AFT. The RSF-R has a minimum 5-acre lot zone. The AFT zone is an average of 5-acre lots.

Mr. Timm stated the fact that because the property is not currently in the 201 Boundary, it does not mean it could not be in the 201 Boundary in the future. Mr. Jim Shanks, Public Works Director, stated the 201 Boundary is a planning area which was established when the City first started sewer planning required by the Clean Water Act in the middle 70s. The boundary does not follow the natural drainage lines. There is quite a bit of area that naturally drains into the area that is sewered which is not in the 201 boundary, the Saccomanno property being one of those. Mr. Shanks did not believe the location of the current 201 boundary should drive Council's land use decisions. The 201 boundary has been amended several times since it was established in 1976. The current sewer plant was originally outside the 201 boundary. The County has made a change on Orchard Mesa all the way to 32 Road. The City is concerned about the length of it. It is a point of contention as to whether it is a joint City/County decision on the amendment of the boundary or whether it is at the sole discretion of either entity.

Mr. Shanks continued by describing the Paradise Interceptor which was originally constructed to take out of service an old package plant that had been constructed along with Paradise Hills Subdivision. The sewage flows to the south and west. The line size increases further south and west in anticipation of development that will occur along the line and the accumulation of sewage. It starts off as a 12" line, increases in size from 15" up to 18" before it goes across the highway east of Mesa Mall on 24 1/2 Road. Then it crosses and ties into the River Road Interceptor which runs west along River Road to the sewer plant. The current capacity of the line where it discharges the River Road Interceptor is a little over 4 million gallons per day. It is currently running at approximately six tenths of a million gallons per day. Mr. Shanks would not recommend serving this area by septic on half-acre sites. There are a number of such septic systems that are not working after 20 or 30 years of having

problems. It is now costly to bring those properties onto the sewer. He used Redlands Village as an example. Current County Health Rules allow septic on half-acre sites.

City Manager Mark Achen felt this property is on the cusp of the issue of City and County philosophies toward growth and development. If it were in the City, he believed the City Council has the power to refuse development at half-acre developments without sewer. If, however, the property were in the County, it is debatable. The County has demonstrated their ability to authorize it to be either septic or authorize it to be sewerred regardless of the 201 Boundary. The City cannot control the destiny of this property.

President of the Council Maupin opened the floor for questions and comments regarding the above Item b. Those speaking in favor of the rezone were as follows:

1. Kirk Rider, 1050 Gunnison Avenue, representing the Saccomanno property owners. Mr. Rider made three corrections to his letter to City Council dated May 1, 1995. The City approached the Saccomanno family in mid-1994 regarding annexation. The Saccomanno family realizing they were in the path of development, felt annexation made sense and RSF-4 density was appropriate. At that time the City expressed concern about the neighboring density and proposed RSF-2, which the Saccomannos accepted. The annexation agreement provides that if RSF-2 zoning is not granted, the Saccomanno's can request disconnection from the annexation. The Planning Commission voted 3-0 to maintain an RSF-R zoning density. Mr. Rider referred to definitions in the Zoning and Development Code for RSF-R, RSF-2 and RSF-4. Mr. Rider discussed infrastructure, schools, growth, farmland preservation. He felt it is unfair to want to preserve farmland when you don't own that farmland. If this zoning is not approved, the Saccomanno family will have no choice but to disconnect so an appropriate use can be made of this property. Mr. Rider stated 71% of the property is currently under cultivation. All the property has been classified by the Soil Conservation Services as highly erodible. Only 31 acres are considered good farmland. There are no present plans to develop this property. His clients have become concerned recently about leaving this property in such a low density zoning, creating expectations that are not reasonable, being that it is always going to stay that way. That is why the Saccomanno's felt it necessary to obtain a zoning that is more reasonable for this property.

City Attorney Dan Wilson stated that the RSF-2 zoning could be rezoned at a later date in response to the Saccomanno Trust coming back with a particular plan in the future.

2. Joe Steinkirchner, Paradise Hills resident for 26 years, felt it is appropriate to take an out to a lesser density than what seems to be constantly coming to these developments. He feels relationships and friendships are as valuable as the open space. He was also concerned with overcrowded schools, sewer problems and traffic. Yet he feels this property is the least impacted. Since Paradise Hills has been annexed, there are now jogging trails and bike paths on 26 1/2 Road. He sees a real benefit in being in the City.

3. Geno Saccomanno, 778 26 1/2 Road, felt that Grand Junction needs places where people of modest income can live. That is the objective of extending that development to the farm. Approximately 15 years ago he received approval from the County Commissioners of a sewer line going up First Street to the Highline Canal. He reiterated that his daughters have no immediate plans for development of this property. He feels they have compromised in agreeing to go to RSF-2 instead of RSF-4 and felt it is reasonable. He encouraged approval of this zone. Dr. Saccomanno stated he has worked with the City for approximately 1 and 1/2 years on this property.

Councilmember Graham stated, on behalf of the Council, that Dr. Saccomanno is to be esteemed and honored for his remarkable contributions to the community.

Councilmember Baughman echoed Councilmember Graham's comments regarding Dr. Saccomanno. He asked if Dr. Saccomanno would consider a higher density on the east side and a lower density on the west, just within the 152 acres, where the benefit to Dr. Saccomanno and his family would remain the same for a development potential and yet create a buffer within his property instead of having it all one zone. Dr. Saccomanno felt an ideal situation for that piece of property would be to have a 9-hole golf course in the low areas, and homes on the elevated portions of the property. He would like to see this property become a part of the City of Grand Junction.

4. Carol Murphy, 2679 Paradise Way (Dr. Saccomanno's daughter). Ms. Murphy and her husband feel it is a great suburban neighborhood. It is close to everything and reasonably affordable for them. They feel it would be a shame if only

30 families could enjoy these advantages on 150 acres, and to limit them to people who can pay \$80,000 a lot. They have made a commitment to the annexation agreement and will abide by it.

5. Lenna Watson, 720 Wedge Drive, (Dr. Saccomanno's daughter). She reiterated that there are no current plans for development of this property. She would like to have the zoning issue resolved. She does not want to be surrounded by 5-acre ranchettes. She feels the RSF-2 zone is reasonable.
6. Steve Watson, 720 Wedge Drive, husband to Lenna Watson, noted the MPO map shows properties near the airport will develop with a high employment population. To develop this property is a large risk. He felt it would take five to ten years to develop at a cost in excess of \$4 million. He encouraged the RSF-2 zoning.

Mr. Rider noted neither the zoning nor an approved subdivision affects the property tax classification. It is the use that determines the classification.

RECESS

President of the Council Maupin declared a five-minute recess at 11:45 p.m.. Upon reconvening at 11:51 p.m., all members of Council were present.

Those speaking in opposition to the zoning were as follows:

1. Kay West, 2627 H 3/4 Road. For the record Ms. West stated she was offended and insulted by Mr. Rider's comments when he started this process. She submitted aerial photos of 25 Road to 27 Road and Interstate 70 to I Road, showing what is currently located in that area. She stated 26 1/2 Road is a good natural barrier between the high density to the east and the lower density to the west, as is the Interstate on the south.

President of the Council Maupin stated for the record that the photos being reviewed by Council are aerial photos of the City's recent GSI mapping system.

Ms. West continued by stating the property owners insist they have no plans to develop, yet they want the higher density zoning. She felt the owners can keep the RSF-R zoning, and rezone later when they are ready to develop. She cannot

- understand the hurry. She requested the lower zoning. She felt it would keep the area west of 26 1/2 Road in a more compatible state and would blend in with the existing zones.
2. Wallace McCarther, 877 26 Road. He stated that shale goes down 7 feet on some properties and definitely affects leech fields. He referred to the previous discussion regarding septic systems.
 3. Ron Rucker, 770 26 Road. He stated every phase of his business will be governed by the City. Yet on this particular property, the City is being asked to change something from a plan that is in place as part of the Appleton Plan. It has been comparable to the RSF-R zone. Approval of this rezone will adversely impact the surrounding area. Mr. Rucker referred to written City policy regarding zonings, and felt this rezone does not meet the City's policy. Mr. Rucker is not opposing the current zoning of RSF-R which is the zoning for his 2.7 acres.
 4. Jay Jefferson, 2599 H Road, the corner of 26 and H Roads. He was concerned with the high density. He was also concerned with traffic. In 28 years, 16 accidents have occurred at his corner. His fences and gates have been damaged by uninsured motorists. Increased traffic with no plan to handle it concerns him greatly. Mr. Jefferson reiterated the honor bestowed upon Dr. Saccomanno. He requested a compromise to the zoning that is on the table. Mr. Jefferson is not in the annexation and is happy with his zoning.
 5. Bill Pitts, 2626 H Road. He has lived in this area since 1967 and is not opposed to growth. He requested that the RSF-R zoning be analyzed by the City Council for consideration. His approximately 5.8 acre parcel is inside the City limits.
 6. Rags (Richard) Gauley, 827 26 Road. Mr. Gauley encouraged the preservation of open space and cast his vote for no density at all on this property. He suggested it be used for a public park. Mr. Gauley's property is one-half acre in size.
 7. Dave Zollner, 2545 Canaan Way. He stated there has been some speculation that this zoning recommendation has been pre-approved without attention to public comment. After seeing the agreement between the City and the landowner, which states how the landowner can sue the City for specific

performance, he sees it is not a rumor. The pressure is now great on the City Council to cover the inappropriate actions of the City. He was concerned with traffic and schools. He stated the City has estimated 2700 extra cars per day would come from this parcel alone. He feels this rezone will force the rural heritage further out of the Grand Valley. He felt the Planning Commission's decision to reject this zoning was correct.

Councilmember Theobald stated he understands Mr. Zollner's concern with the annexation agreement. But to presume from the agreement that it is a done deal, is incorrect. To presume from the agreement that Council is going to do what the agreement says because if it doesn't, it is going to be sued, is also incorrect.

If the City fails to meet its commitment in the agreement, then it does not get the annexation. He stated that Council is not there for personal interest, but because they care about the community. Bringing 150 acres into the City for any reason does not override what is good for the community.

City Attorney Wilson clarified the terms of the annexation agreement in question. The City cannot be sued for damages, but the Saccomanno family has the right of specific performance. That means the Saccomanno family can force the City to its end of the bargain. The City's end of the bargain is not to zone it one way or the other, but that if it is not zoned 2 units per acre, the Saccomanno's have a right to get out. It was placed in the agreement as a safety valve for the Saccomannos in case the zoning didn't go the way they expected. They can then go to court and force the City to let them out of annexation. Annexation agreements are quite common across the State of Colorado.

Mr. Zollner withdrew his statements regarding the annexation agreement, but held to his other comments.

8. Bill Scott, 823 26 Road. He lives on 9 acres across from the Saccomanno property. He has lived there for 10 years. The Appleton Plan states that homes in that area should be on 5 and 10 acre parcels. The transition from the Appleton Plan to two houses per acre is quite a change. The eastern border of the Appleton Plan is 26 1/2 Road.
9. Chris Cameron, 2605 Kelley Drive, stated he does not have a vendetta against the Saccomanno family. He felt the request for high zoning is premature since there are no immediate plans for development by the Saccomannos.
10. Keith Mumby, 2703 Crossroads Blvd. His property is located

one-quarter mile east of the property. He spoke representing Dennie and Barb Hartshorn, owners of the property that immediately borders this property to the south. They are in the area being zoned RSF-R even though they are closer to the City. He felt there is no question this property will be developed. To zone this property to RSF-2, which equates to 300 houses on 150 acres, casts that zoning in concrete as far as the City Planning Department and control is concerned. When the traffic increases, he questioned who is going to build the road from H Road to Patterson Road. The taxpayers will pay for the road. The Appleton Plan zones the entire area to 26 1/2 Road AFT, one resident per 5 acres on average. The RSF-R zone says each resident must have 5 acres. The AFT zoning preserves the ultimate type of open space that is being requested. He requested that Council stay with the Appleton Plan and zone the property RSF-R. The time to rezone this property is when the Saccomannos file a plan for development.

11. Marjory Zollner, 2555 Canaan Way, stated that she is in opposition to the higher density.

Kirk Rider apologized for some of his earlier comments. He feels the Appleton Plan is an anti-annexation document. Mr. Rider supports the City's annexation policies. This property is close to the Horizon Drive business and employment center, and relatively close to the urban core, and the best suited piece of property for efficient residential development.

Steve Watson referred to Mr. Mumby's comment of 300 homes. Mr. Watson clarified that 20% to 25% is lost to roads, waste and the lot layouts when developing. He said out of the 235 lots, approxi-mately 7 to 8 acres is lost to leach creek which is unusable. That leaves 220 homes instead of 30 homes, resulting in an additional 190 homes.

Item c.

Tom Dixon, Community Development Department, reviewed this portion. North Valley Subdivision was reviewed and approved in a two-phase project allowing 38 lots to be platted under phases 1 and 2. It left out a parcel that contained 10 acres. That was also reviewed under an outline development plan before the Planning Commission that showed 36 lots. At that time the northern portion was not annexed into the City and the PR-12 zoning that has existed since 1979 or 1980 has remained. The petitioner has objected to Planning Commission's and Staff's insistence that a plan was being shown for 36 lots in the northern portion, and the plan and any corresponding zoning should

correspond with what was approved. That has driven the Planning Commission's recommendation of a PR-4.1 zone at this time. Staff is requesting that the ODP go through the review process. Currently there is no plan in place for PR-12. It does not exist. The zoning is there, but there is no plan that corresponds to the PR-12. There is a plan that corresponds to the PR-4.1 which is the Outline Development Plan that was approved by the City Planning Commission last fall. Staff is recommending a PR-4.1 zone for the northern portion of the North Valley Subdivision.

President of the Council Maupin opened the floor for questions and comments regarding the above Item c. Those speaking were as follows:

1. John Williams, with the firm of Coleman, Joufflas & Williams, representing Chris Carnes, one of the owners of North Valley Subdivision. Mr. Williams had previously submitted copies to Council of his letter and attachments listing the situation of Mr. Carnes and his problems. This property was purchased by Mr. Carnes and his company because of the location and the PR-12 zoning. The zoning was a real key to why this property was purchased. Mr. Carnes feels he has been treated unfairly tonight. He was given assurances during the planning process that the zoning of PR-12 would not be affected by anything he was doing. Written Staff review comments correlate with that. The Planning Commission approved the preliminary plat for the southern portion. In June, 1994, the Planning Commission recommended a 4.1 zoning of only the southern 10 acres of his property and no jurisdiction for anything in the northern 10 acres. Mr. Carnes was satisfied with a PR-4.1 zone on the southern 10 acres so long as there remained a PR-12 zoning on the northern 10 acres. Mr. Carnes was led to believe at the Planning Commission meeting that if he accepted the two zonings, the Commission would look favorably to the PR-12 zoning on the north 10 acres. Mr. Carnes is concerned with the downzoning from PR-12 to PR-4.1. He would like to keep the PR-12 zoning.

City Attorney Wilson asked Mr. Williams if there was a neighborhood consensus on what they thought the zoning should be. Mr. Williams responded that he did not know.

Councilmember Graham asked Mr. Williams if the City is estopped from zoning this property PR-4.1. Mr. Williams did not know. Mr. Williams stated that there were a number of times during the meetings where Mr. Carnes was given assurance that he was not jeopardizing his PR-12 zoning by submitting a plan that had only a 4.1 density on the northern 10 acres. Mr. Williams said that Mr.

Dixon said tonight that if it would have been a PR-12 plan, there would be no objection.

Mr. Dixon referred to a letter dated April 1, 1995, from Kathy Portner (Senior Planner with the Community Development Department) which refers to the Zoning and Development Code. When a parcel is being developed, the entire property or tract must have a plan showing how it is going to be developed or related to a development proposal even if only a portion of that development is actually coming forward. Mr. Carnes' property was being treated as one parcel.

Mr. Williams reiterated that the PR-12 zone gives Mr. Carnes the flexibility needed. The first Planning Commission meeting for the preliminary plat, after the submission of the ODP, he was still thinking all 20 acres were going to be annexed. The Staff recommendation was still no zone change of PR-12, based on the 38 lots to the south and the same development to the north.

Kathy Portner, Community Development Department, stated the City originally received either an annexation petition or power of attorney for annexation for the entire 20 acre tract. That was to allow this development to go through the City review process. The plan was submitted for the south 10 acres. Based on the provisions of the Zoning Code, City Staff requested the entire property under one ownership be planned. The City did not have jurisdiction to zone when the preliminary plan went to the Planning Commission hearing. Staff was looking for a preliminary plan for the entire 20 acres. At that time Staff could not issue any kind of zoning because the annexation process had not started. That is why there was the "no change" in the zoning. There was no explanation as to why only 10 acres of the 20 acres was annexed.

City Attorney Wilson stated that Staff may have been thinking of bringing in the 10 acres later as part of a different annexation.

Had the north half been developed first, the infrastructure would have been extended further, and been more expensive.

2. Chris Carnes, 2682 Paradise Way. He stated if he has a piece of property zoned PR-12 and is submitting a plan that shows 4 units per acre, with full neighborhood support, why would he feel a need to show something on the north 10 acres to try to assure himself that he gets the south piece put together. He is doing a density one third of what was allowed. He feels he was forced to file the preliminary plat on the north 10 acres, to be on record with it. At that point, the City reversed itself and said it would not annex that piece. The City saw that through annexation it could get the density on

the preliminary plat.

Mayor Maupin said the City can use the extra 10 acres for the rest of the other annexation.

Kathy Portner stated the PR-12 zone can accommodate a combination of single family and multi family.

3. Tom Rolland, Rolland Engineering, 405 Ridges Drive. He was present in every meeting with the City Staff and Planning Commission meeting involving this zoning. He summarized his association with Mr. Carnes. They believed they would be able to retain the PR-12 zoning on the property. He requested the PR-12 zone be retained.

City Manager Mark Achen felt the only thing the developer did to contribute to this problem was to submit the mirror image plan on the top 10 acres. The rest of the confusion was on the City's part - the issue of the annexation, zoning or planning trying to occur prior to annexation, then zoning occurring subsequent to annexation.

Councilmember Graham asked Mr. Carnes if there would be a zoning somewhere between PR-4.1 and PR-12 that would be acceptable. Mr. Carnes said he can live with either zone.

City Manager Achen apologized to Mr. Carnes for the City's part in the confusion of the situation.

After lengthy discussion, President of the Council Maupin closed the hearing.

Upon motion by Councilmember Mantlo, seconded by Councilmember Graham and carried by roll call vote, Item c. of Ordinance No. 2842 was zoned PR-12, with the resolution that when the PR-4.1 zone is requested, Council will give consideration at that time.

President of the Council Maupin reopened the hearing for discussion on Item b.

Item b.

Councilmember Baughman felt the Saccomanno family would like an average density of 2 units per acre instead of two units per each acre.

Councilmember Afman felt Council needs to consider the Appleton Plan in its decision on this item.

Councilmember Mantlo felt a decision should be made that is best for the overall community.

Councilmember Terry referred to the plan that was brought into by Council last fall. She preferred to see no change in the plan presently. If the plan dictates that the zoning be changed, she would consider that.

Councilmember Graham concurred with the statements of Councilmembers Terry and Mantlo.

President of the Council Maupin felt the Grand Valley will realize that the Appleton Plan may not be correct. Perhaps it is lopsided to one side of the valley. He felt rural lifestyle is diminishing.

Councilmember Afman was concerned with the cost of infrastructure. She felt future development is very important.

Councilmember Baughman encouraged rural lifestyle when possible. He cannot support the RSF-2 zone on the entire parcel of 150 acres. If the zone densities could be variable, he would support it. He was concerned with the 201 sewer boundaries. He feels any de-annexation from an annexation is a farce.

Councilmember Theobald stated that going to a PR-2 zone could allow more homes than an RSF-2 zone. The RSF-2 discounts the unbuildable, so the net will be in the 220 range. In the PR-2 zone the density can fluctuate widely, but goes back up to 300. It is not a matter of if this area will develop, but a matter of when. Even though the Appleton Plan is five years old, Councilmember Theobald was uncomfortable crossing an imaginary boundary that exists. He is most uncomfortable with the lack of a plan of development on a piece of property this size.

Mr. Rider stated that the Saccomannos would be willing to accept a Planned Residential zone density that is numerically equivalent in units to the RSF-2 zone.

It was moved by Councilmember Mantlo that Item b. of Ordinance No. 2842 be zoned Planned Residence (PR) that is the numerical equivalent to the straight RSF-2 zone. Councilmember Afman seconded Councilmember Mantlo's motion.

City Attorney Dan Wilson explained a plan will come back for review. The Plan must be approved by the Planning Commission at a

public hearing. The Planning Commission or City Council can determine how the zoning will be distributed. The decision will be made at the time the plan is reviewed. The decision cannot be made today because there is no development plan. When the plan is brought before Council it must address the entire 152 acres.

Councilmember Mantlo amended his motion to reflect the plan would indicate high density to the eastern part of the property toward Paradise Hills, and the lesser density would be toward the west. The amendment failed for lack of a second.

Roll call vote was taken on the original motion with the following results:

AYE: MANTLO, AFMAN, MAUPIN.
NO: BAUGHMAN, GRAHAM, TERRY, THEOBOLD.

The motion failed.

It was moved by Councilmember Graham that Item b. of Ordinance No. 2842 be zoned RSF-R. The motion was seconded by Councilmember Terry.

Roll call vote was taken with the following result:

AYE: GRAHAM, TERRY, BAUGHMAN.
NO: MANTLO, THEOBOLD, AFMAN, MAUPIN.

The motion failed.

It was moved by Councilmember Graham that the recommended zoning for Item b., as provided by Staff in Ordinance No. 2842 which is RSF-2, be approved. It was seconded by Councilmember Mantlo.

Roll call vote was taken with the following result:

AYE: MANTLO, AFMAN, MAUPIN.
NO: TERRY, THEOBOLD, BAUGHMAN, GRAHAM.

The motion failed.

It was moved by Councilmember Mantlo that Item b. of Ordinance No. 2842 be zoned PR with the same number of units that RSF-2 would allow with the largest density being on the east side and the lower density being on the west side. The motion was seconded by Councilmember Baughman.

AYE: THEOBOLD, BAUGHMAN, MANTLO, MAUPIN.

NO: TERRY, AFMAN, GRAHAM.

The motion carried.

PUBLIC HEARING - ORDINANCE NO. 2843 - AN ORDINANCE AMENDING SECTION 4-9-1.A OF THE ZONING AND DEVELOPMENT CODE OF THE CITY OF GRAND JUNCTION, MINIMUM LOT SIZE [FILE #TAC 95-1.411.41]

Amending the Zoning and Development Code to clarify the non-conforming status of lots not meeting the minimum lot size of the zone.

A hearing was held after proper notice. There were no comments. Upon motion by Councilmember Afman, seconded by Councilmember Baughman and carried by roll call vote, Ordinance No. 2843 was adopted on second reading and ordered published in pamphlet form.

PUBLIC HEARING - ORDINANCE NO. 2844 - AN ORDINANCE AMENDING SECTIONS 4-2-1 THROUGH 4-2-19 OF THE GRAND JUNCTION ZONING AND DEVELOPMENT CODE REGARDING ORGANIZATION OF BULK REQUIREMENTS WITHIN ZONE DISTRICTS AND AUTHORIZING THAT IT BE PUBLISHED IN PAMPHLET FORM [FILE #TAC 95-1.1]

A request to amend Sections 4-2-1 through 4-2-19 of the Zoning and Development Code to remove minimum lot area, maximum dwelling units per acre, landscape requirements, and use limitations from the category of "Bulk Requirements" and list these items as separate standards within each zone district.

A hearing was held after proper notice. There were no comments. Upon motion by Councilmember Baughman, seconded by Councilmember Mantlo and carried by roll call vote, Ordinance No. 2844 was adopted on second reading and ordered published.

ADJOURNMENT

Upon motion by Councilmember Mantlo, seconded by Councilmember Baughman and carried, the meeting was adjourned at 3:05 a.m.

Stephanie Nye, CMC
City Clerk