

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

August 2, 1995

The City Council of the City of Grand Junction, Colorado, convened into regular session the 2nd day of August, 1995, at 7:35 p.m. in the City/County Auditorium at City Hall. Those present were Linda Afman, Jim Baughman, David Graham, R.T. Mantlo, Janet Terry, Reford Theobald and President of the Council Ron Maupin. Also present were City Manager Mark Achen, City Attorney Dan Wilson, and City Clerk Stephanie Nye.

Council President Maupin called the meeting to order and Councilmember Terry led in the Pledge of Allegiance. The audience remained standing during the invocation by Rev. Gary Cake, More Than Words Church.

AWARD PRESENTATIONS - "NAME THE PARKS" CONTEST

The City Council announced the names for the three new parks and presented awards to the contest winners. Mayor Maupin announced one of the winners was a city employee, and not eligible for the contest; therefore, they wished to remain anonymous. The awards were a plaque and a beach party at the pool. Dennis King, Parks and Recreation Board member, announced there were 108 entries with 230 different names. Ryan Feild is nine years old and named the park behind Orchard Mesa Middle School "Eagle Rim Park". Lenna Watson named the park on 12th Street "Horizon Park". The name for the park at 24 and G Roads was "Canyon View Park."

Upon motion by Councilmember Mantlo, seconded by Councilmember Afman and carried, the names of the three parks were accepted.

APPOINTMENTS TO RIVERFRONT COMMISSION

Upon motion by Councilmember Afman, seconded by Councilmember Baughman and carried, Kirk Rider and Lenna Watson were appointed to 3-year terms on the Riverfront Commission, and Connie Bennett was appointed to fill a 1-year unexpired term on the Commission (expiration of July, 1996).

A RESOLUTION OF APPRECIATION FROM UNITED POWER, INCORPORATED TO THE GRAND JUNCTION CITY COUNCIL REGARDING THEIR OUTSTANDING EFFORT IN HOSTING THE COLORADO MUNICIPAL LEAGUE CONFERENCE

The Resolution was read by Councilmember Theobald. He noted the Resolution was adopted July 21, 1995.

CONSENT ITEMS

Upon motion by Councilmember Mantlo, seconded by Councilmember Afman and carried by roll call vote with Councilmember **BAUGHMAN** voting **NO** on Item 6, and Councilmember **GRAHAM** voting **NO** on Items 2, 6 and 7, and **ABSTAINING** on Item 5, the following Consent Items 1-7 were approved:

1. **Approving** the minutes of the Special Meeting/Workshop July 17, 1995, and the Regular Meeting July 19, 1995
2. **Award of Contract** - Foresight Park Drainage Improvements-1995
Recommended Award: Parkerson Construction - \$98,375

The following bids were received on July 12, 1995:

<u>Contractor</u>	<u>City</u>	<u>Bid</u>
Parkerson Constr., Inc. 98,375.00	Grand Junction	\$
Travis Jordan Trenching 99,670.00	Fruita	\$
M. A. Concrete Constr., Inc. \$103,500.00	Grand Junction	
Atkins & Associates \$111,185.75	Meeker	
Skyline Contracting \$116,187.10	Grand Junction	
Engineer's Estimate \$109,151.25		

3. **Award of Contract** - 1995 Fire Protection Upgrades
Recommended Award: M. A. Concrete Construction - \$117,320

The following bids were received on July 26, 1995:

<u>Contractor</u>	<u>From</u>	<u>Bid</u>
M. A. Concrete Constr.	Grand Junction	\$117,320.00
Skyline Contracting	Grand Junction	\$130,701.28
Parkerson Construction	Grand Junction	\$149,350.00
Atkins & Associates	Meeker	\$189,033.75
Engineer's Estimate		\$163,845.00

4. **Award of Contract** - Replacement Purchase of a Combination Sewer Cleaner Truck for the Persigo Wastewater Treatment Plant

Recommended Award: Boyle Equipment Company - \$174,193

One bid was received from Boyle Equipment Company of Denver for a Vactor 2112C sewer cleaner mounted on a 1996 International 2574 cab and chassis provided by Hansen Equipment Company of Grand Junction. The net bid includes a \$35,000 trade-in.

5. **Award of Contract** - Improvements and Repairs at the Orchard Mesa Pool

Recommended Award: High Country Pools - \$75,881

Request for authorization to bypass bid process to contract with High Country Pools of Ft. Collins to perform several improvements and repairs at the Orchard Mesa Pool. The contract work includes replastering the pool, new spa installation and replacement of the filtration system.

6. *** Resolution No. 71-95** - 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, Bluffs West #2 Annexation, Located South of E 1/2 Road, West of 23 Road, along Both Sides of Redlands Parkway to Riggs Hill [File #ANX-95-118]

Powers of Attorney for annexation have been signed for a majority of the properties included in the Bluffs West #2 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 Bluffs West #2 Annexation.

7. **Approving** the Transfer of \$12,645 from the General Fund Contingency Account to the Various Other Expense Accounts for Computer Access Charges Levied by Mesa County

The various expense accounts are as follows:

Public Works-Real Estate Div.	100-61232-70410-120025	\$5,600
Community Development	100- 311-70410-120025	\$3,000
Code Enforcement	100- 331-70410-120025	\$3,500
Public Works-Technical Serv.	100-61120-70410-120025	\$ 545

These funds are necessary to cover the estimated 1995 costs

associated with computer access charges levied by Mesa County to the City of Grand Junction for dial up access to the County Assessor's database.

* * * END OF CONSENT CALENDAR * * *

* * * ITEMS NEEDING INDIVIDUAL CONSIDERATION * * *

PUBLIC HEARING - APPEAL OF PLANNING COMMISSION DECISION REGARDING PARADISE HILLS FILING #4 - REPLAT [FILE #RP-95-93]

This is an appeal of a Planning Commission denial of a replat request. Applicants are seven property owners in Paradise Hills, Filing #4 who are requesting to replat a portion of private open space in Paradise Hills Filing #7 into their lots. Staff is concerned with ditch maintenance access and trail issues. Private open space area may be an opportunity for dedication of a future easement for public trail access as part of a regional trail network. Petitioners are opposed to providing an easement as part of this application for possible future trail access. Staff recommends denial of the application.

A hearing was held after proper notice. Michael Drollinger, Community Development Department, reviewed the following items:

1. Description of petitioner's request and location of property -The owners of Lots 1-7, Filing #4, are proposing to replat a portion of Tract A, Paradise Hills Filing #7, into their lots. Tract A is a linear tract and includes a large drainage ditch with an access road on the south side. The land was dedicated as private open-space in conjunction with Filing #7. He referred to the posted maps to describe the location.
2. Review of history of canal, easements and trail issues relative to this project - Paradise Hills Filing #7 was approved in Mesa County in 1992. There is specific language in the Mesa County Staff review regarding the use of Tract A, the subject private open-space, as a buffer and potential trail, construction of which was suggested to be made part of the approval. The City also recognizes the need for a trail easement. The City Staff recommended public access easements be provided in the area along the drainage ditch and along the highline canal. The County Commissioners approved Filing #7 with one of the conditions being subject to "all of the review agency comments with the exception of the City of

Grand Junction's recommendation for public access easements along the canal and drainage ditch." It was not pursued or made part of the filing which was platted in the County. Filing #7 was annexed into the City in 1994.

3. Summary of Staff concerns and recommendations - City Staff has two concerns with incorporating a strip of the open-space into individual ownership:
 - a. Maintenance of the ditch - Drainage needs to be maintained and access may be needed south of the ditch which is proposed to be incorporated into the lots in Filing #4. If the replat was approved, the strip along the ditch would have to be maintained as an access easement for ditch maintenance. Fencing would be restricted. Based on Staff's experience, encroachment of fences, gardens, etc. into the easement may become a problem in the future.
 - b. Potential future trail access - City Staff believes it is important to maintain Tract A as private open-space in its entirety if, in the future, the City wishes to pursue dedication of a trail easement along the ditch. City Parks Staff has commented, "The Parks Department is opposed to this replat due to it possibly eliminating a very important trail connection between a possible future trail along the Government Highline Canal and the northern portion of the Paradise Hills Subdivision. This connection would also provide a northern off-road tie between the Highline Canal and the Grand Valley Highline Canal at I-70, and possibly further to G Road." The petitioners have indicated that they are opposed to the dedication of a trail easement in conjunction with this application.

Mr. Drollinger stated Staff recommends denial of the proposed replat. The Planning Commission recommended denial of the proposed replat by a vote of 7-0 at their July 11, 1995, meeting.

City Attorney Dan Wilson asked if Staff recommendation would change if there were an easement granted in favor of the City across the land owned by the homeowners association, which would deal with the eventual trail access. Mr. Drollinger stated this was the primary concern of Staff and the Planning Commission.

Sean Cooper, Park Planner, Parks & Recreation Department, gave a presentation regarding a possible trail through this area and how

it relates to the multi-modal plan. He distributed maps to Council. Some of the concerns of the Parks Department pertains to the potential for future trails in accordance with the adopted Multi-Modal Plan. The main objection is the possibility of eliminating access to the trail system for most of the Paradise Hills neighborhood. The ditch line is providing a good access to both sides of the trail for the subdivision up Lanai Drive. It provides access to the bulk of the neighborhood. If it were eliminated, most of the neighborhood would not have access to either the Government Highline Canal or back across the other side of the subdivision. Presently the City is working on a City-wide comprehensive plan to adjust land uses, zonings, etc. When the plan is completed, it is anticipated some changes will be requested in the Multi-Modal Plan. In addition, there are some possible linkages shown on the map that will be included in the Multi-Modal Plan, more minor linkages that were not in the original plan, but could be beneficial to the bulk of the trail system. Paradise Hills would tie the system together. The Urban Trails Committee supports this connection as an important linkage to the Government Highline Canal and the rest of the City-wide trail system. Although this trail is not ready to be installed, maintaining the possibility of this linkage across the northern part of the subdivision is desirable. Mr. Cooper stated the Multi-Modal Plan is to be used as a guideline to establish the future trails and create a network of trails throughout the City to help benefit the entire population. The Multi-Modal Plan is based on the presumption that the trails will be built and installed on the canals (valley-wide).

City Attorney Wilson reported, in response to an earlier question of Councilmember Graham, that Section 6-10-1 of the Zoning & Development Code does apply and would be the criteria for the easement. Mr. Drollinger stated that 6-10-1(a)(4) reads: "The plat shall not be altered unless the administrator determines that such alteration will not adversely affect the character of the previously recorded plat or the character of the area." When a public or private open space area is involved, Staff is inclined to take such items to hearing. There are a number of purposes in Chapter 6, Subdivision of Land, that could be used to evaluate this particular request. Mr. Drollinger said the most applicable are:

(b) to promote the health, safety and general welfare of the residents of the City;

(c) to insure the conformance of land subdivision plans with the public improvement plan for the City, County and State;

(g) to safeguard the interests of the public, the homeowner and the subdivider;

(i) to preserve the natural vegetation and cover, and to promote the natural beauty of the city; and

(n) to provide adequate space for future development of schools, parks and public facilities to serve the population.

Mr. Thomas Flynn, 2708 Del Mar Circle, Paradise Hills, said Filing #7 was approved by the County in 1992. The ditch was there long before that. It has two sides and both sides are available for a trail. For some reason the concentration has been on the side where the seven homeowners are located. He stated the subject property has been maintained by the landowners for approximately 6-7 years. It was given to the property owners by Mr. Bray approximately 7 months ago. He stated the subject property is private open-space. His definition of private open-space is that it is only for the people contiguous to it. It is not public. When he purchased his property, he wanted full enjoyment of it, which means he does not want people running back and forth at the edge of his property. He wants to keep it private. He requested City Council grant approval so the homeowners can have the property without the public abusing it. The ditch can be serviced. The proposal said the homeowners would give the City the easement for services. The homeowners are concerned about the trail system that will turn their private property into public property. The homeowners do not like it and don't want it. Mr. Flynn stated that if Council approves the requested replat, and submits a trails plan which obviously shows some engineering in it, the homeowners will include in their proposal a statement that at the time the City desires to have the land, the homeowners will sit down with the City and arbitrate any differences on it. Many people don't have fences that are contiguous to this land. If it is going to be made public land, fences will have to be built. The homeowners would like to be covered for that. Presently, the homeowners are enjoying the private open-space and don't want to lose it. That is the reason for the replat request. Mr. Flynn admitted the homeowners don't own the property at this point. They have it as a gift. Standing in their way is the Planning Commission and perhaps the City Council. If the land is taken away from the homeowners, in Mr. Flynn's mind, it is "taking." The Supreme Court says no government agency shall "take" without a government reason. Mr. Flynn questioned if actual plans exist for a trail in this area, or is it still in the idea stage.

Councilmember Afman stated she recently walked the area and found most of the property owners have fences to the rear of their property and cannot access the open-space area from the back yards.

Mr. Flynn countered that the property owners do have access.

Councilmember Afman referred to the letter from Mr. Bray dated July 21, 1994, where he indicates "The City may, in fact, have an interest in providing a trails system through the drainage system at some point in the future, as long as there is deemed to be enough area either within the drainage or on the northern side of said drainage for said trail system." She asked Mr. Flynn if he had any problems with Mr. Bray's gift to the homeowners at that particular time, stating there was a desire that the gift had the contingency on the trail system. Mr. Flynn responded that Mr. Bray relayed to him that Mr. Bray and an associate had walked the ditch on both sides. The associate's opinion was that she didn't care about the problem on the homeowners' side because there was sufficient land on the opposite side for a trailway. Mr. Flynn believed it gave the homeowners some assurance.

Councilmember Graham asked for a clarification for resolution of the legal description of the subject property. City Attorney Dan Wilson stated his intention was to address the question the City might want an easement north of the north line of Mr. Flynn's property within the tract. Upon review of a planning packet, one of Mr. Wilson's routine comments is to say there may be an opportunity for a trail easement here. It is merely alerting Staff. Mr. Wilson stated there was never any intention on his part to suggest the City had any interest in the pre-existing lots. His review comments were all directed to the open-space tract only. Mr. Wilson apologized for the confusion. He again stated he was referring to the owner, which, in his view, was the owner of the open-space that is being discussed tonight.

Councilmember Graham suggested alternatives to the replat that would preserve the use:

1. The property owners could continue using the property which is under someone else's name under title. The property owners have the practical benefit of it (no tax liability).
2. Mr. Bray's organization deed to, in joint tenancy, all of the named property holders. Staff has been concerned that this not be divided into different parcels. If there were to be a joint tenancy with right of survivorship to convey the property outright, there would be no question of grafting

each individual portion of this filing onto each respective lot. There would not be the problem of going through the procedure for a replat.

Mr. Flynn felt joint tenancy means there are several people joined together, any one of which has the full and complete interest in the land, themselves, and can do something with it. He stated he has the approved covenants for Filing #7. It addresses airport situations but does not address open space. He believes the area is private open space that has passed through from the County to the City as private open space. The homeowners are trying to maintain the property as private open space.

Councilmember Graham asked Mr. Flynn if an acceptable resolution would be a motion to allow the replat, subject to the condition that all of the appended portions to the respective lots would maintain their current open character in use. Mr. Flynn replied yes.

Councilmember Baughman asked Mr. Flynn who submitted this request. Mr. Flynn stated the request was made by Mr. Robert Bray and the Homeowners Association (7 homeowners in Filing #7).

Mr. Ron Halsey, 2641 Texas Avenue, spoke both as a private resident and representative of the Grand Junction Planning Commission. He gave two main reasons for the denial of this proposal:

1. Strong support of a trail system that has been developed and designed at this time. The homeowners and Mr. Flynn made it evident that if they became owners of this property, public access would not be allowed to the property. This evening Mr. Flynn indicated they would be willing to negotiate. That is not the position they made before the Planning Commission. This open-space is a major link between the east/west travel in the valley. This is made even more important due to the new park at 24 1/2 Road.
2. Access for the ditch maintenance. If land ownership were to be given to these parcels, there would be further encroachment with gardens, sheds, etc., which could lead to more permanent structures or fences in the future. These would cause difficulty legally between the ditch company and the homeowners.

Mr. Flynn stated that at the Planning Commission Hearing, the Commission was attempting to work out a solution to the problem.

All the solutions that were given were that the homeowners should accept, in some form, the trailway system. Mr. Flynn indicated to the Commission they would not accept the trailway system. He refuses to accept it tonight and refused to accept it at the Planning Commission hearing. He is willing to arbitrate with Council.

Councilmember Afman asked Mr. Drollinger to describe the actual terrain of the subject area. Mr. Drollinger stated there are walking areas on both sides of the bank. It varies from 10-15 feet wide. There has been no formal study done by Staff as to the feasibility of whether the north or the south sides of the trail are better. There are lots adjacent to the northern side of the ditch which will be developed in the future. There are no homes built currently.

Councilmember Terry asked what the City would have to do to access the private open space for a trail system. City Attorney Wilson stated the City would go to the Homeowners Association Filing #7 and ask them to give it to the City for an easement for good and valuable consideration. The City would then pay them. In the absence of that, and the homeowners would ask for compensation, the City would negotiate as for any other right-of-way. The City's right-of-way agent would attempt to reach an agreement with the Homeowners Association. If unsuccessful, the City would have the option of condemnation.

Councilmember Baughman stated the option of condemnation would have to be proven in court as bonafide "public good." City Attorney Wilson responded that Council would have to make a finding that the public interest would be served by acquiring this strip of land, whether it's on the north or south side. Condemnation would be the final step.

The President closed the hearing.

Councilmember Afman referred to Mr. Halsey's concern regarding structures being built within an easement. This is not the case where permanent structures are placed in an easement. She did not believe there would be the fear of the encroachment of a permanent structure if the terms "easement" were used.

Councilmember Graham requested Council's comment on his suggested motion earlier. Councilmember Afman responded that the trail system is the main question upon which the Planning Commission based its decision.

Councilmember Theobold did not feel the trail issue is the main issue. The request is to replat private open-space and give it to 7 homeowners. There are three options:

1. Give them what they're asking for - take the property from Filing #7 and give it to 7 homeowners in Filing #4;
2. Give the open space to the homeowners in Filing #4, but extract out of it a trail easement for future use.
3. Deny the request, meaning the property owners do not get Filing #7's land, and the trail situation is left to be debated at some future time.

Councilmember Theobold stated the trails issue is important and he is very supportive of trails. He does not like the idea of giving open space to private property owners. The open space is there for that purpose, and whatever deed restrictions are made are merely going around the issue of making open space private space, but telling them to keep it open space. This defeats the whole purpose of open space. Why give joint subdivision property to a homeowner, to then maintain on behalf of the subdivision. The private open space is there for the benefit of the entire filing.

Now the 7 homeowners in another filing are being asked to maintain it for the benefit of the rest of the subdivision. It defies logic. He is willing to deal with the trail at another time, in dealing with Filing #7 and who owns it, and vote tonight to deny, and do no more.

Councilmember Baughman stated the open space is presently owned by the homeowners of Filing #7. They propose to gift part of the open space (portion of the southern edge of the drainage ditch) to the homeowners in Filing #4. The open space would still be owned by homeowners.

Councilmember Theobold disagreed with Councilmember Baughman by stating there is one distinction. It will go from Filing #7 open space to private property for 7 homeowners. It won't be open space anymore. They can promise anything, change their mind, sell, and anything can happen.

Councilmember Terry stated the open space is private now and will continue to be private, whether it's owned by the Homeowners Association or 7 individual owners. She does not feel it is up to Council to say this transfer cannot take place. Council has no right to say it is going to go in and do trails at some future

time without offering a compensation for this transfer.

Councilmember Theobold said since the homeowners do not own the open space, the City is not taking anything from them. Since the City is not getting the open space, it does not owe anybody compensation. The City is refusing to give community property (property owned by the Homeowners Association) to 7 homeowners.

Councilmember Graham stated they are not bound to make the transfer. There are two things being discussed:

1. One is the actual "deed out" of the property from Paradise Hills Filing #7 to Paradise Hills Filing #4. That event cannot legally take place without City Council's approval of the replat. Upon approval, a private entity can give land to a private entity. The City gives nothing but its permission for this private transaction to take place.
2. The issue of a "taking" - Mr. Flynn has no expectancy of title or a gift. To be enforceable, any contract for the transfer of title of real property requires consideration and must be in writing.

Councilmember Graham agreed with Mr. Drollinger that Section 6-1-1(b), (c) and (n) is applicable under 6-10-1, subparagraph (c). He felt the conditions listed in 1-6 of subparagraph (a) are all necessary conditions which must be met in order for a replat to be allowed. Where these conditions are met, the grant of a replat is of a mandatory, ministerial nature. He feels that in order for Council to deny the replat, Staff would have to argue that one of the above sections (1-6) was not met. He feels that all sections (1-6) have been met. He feels the previous character will be maintained if things are allowed to stay the way they are. He feels they will remain the same if Council approves the replat.

Upon motion by Councilmember Afman, seconded by Councilmember Mantlo and carried by roll call vote with Councilmembers **BAUGHMAN, GRAHAM,** and **TERRY** voting **NO**, the Planning Commission decision of denial of the replat of Tract A was upheld.

RECESS

The President of the Council declared a recess at 9:05 p.m. Upon reconvening at 9:13 p.m., all members of Council were present.

PUBLIC HEARING - APPEAL OF A PLANNING COMMISSION DECISION
REQUIRING HALF-STREET IMPROVEMENTS FOR CIMARRON NORTH [FILE #FPP-
95-85]

Appeal of a Planning Commission condition of approval to require half street improvements on F 1/2 Road.

Kathy Portner, Community Development Department, reviewed this item by referring to the plat maps. The proposed Cimarron North Subdivision is located to the east of 25 1/2 Road, north of F 1/2 Road, east of Kay Subdivision which was recently developed. This area was recently annexed into the City. These properties went through the planning process to apply City zones to them that were similar to what the County had already approved. Cimarron North had preliminary approval by Mesa County at the time it was annexed into the City, also a final approval for a portion of the subdivision. The Planning Commission approved the preliminary plan for Cimarron North with the zone of annexation. Recently, the petitioner submitted the final plat for the entire Cimarron North Subdivision. The subdivision is for 19 lots on 5.19 acres. The Planning Commission approved the final plat with the requirement of half-street improvements to F 1/2 Road along their frontage.

Staff requested the half-street improvements rather than collecting the Transportation Capacity Payment because they felt the improvements were needed in this area which is developing. When Moonridge Falls developed along 25 1/2 Road, the County required some widening of 25 1/2 Road. Valley Meadows Subdivision is south of Moonridge Falls and was required to do full half-street improvements by Mesa County which included curb, gutter and sidewalk. Kay Subdivision on the corner of 25 1/2 and F 1/2 Roads was also approved in the County. Mesa County required half-street improvements along 25 1/2 Road, including curb, gutter and sidewalk. They delayed the improvements until Filing #2. When the City annexed, it entered into an Improvements Agreement with the developer of Kay Subdivision to get the full half-street improvements on 25 1/2 Road. One of the conditions listed for Filing #1, Kay Subdivision, was half-street improvements for F 1/2 Road. What got built was a sidewalk. The curb and gutter was not built, or any additional pavement width. There is no explanation as to how that happened. The County Commissioner's resolution of approval for preliminary plan for Cimarron North Subdivision and final plat for half of Cimarron North Subdivision included the following staff recommendation:

The developer contribute to road improvements, including sidewalks, for a half section urban collector for F 1/2 Road.

That seemed to mean half-street improvements to City staff. Staff commented on this subdivision when it was still outside the city limits by stating it also felt half-street improvements were important along F 1/2 Road. The County felt it was important with the development that was taking place in the area.

Ms. Portner stated Mark Relph, Public Works Manager, will address the reasons why the half-street improvements are needed as opposed to collecting the Transportation Capacity Payment. The TCP for this subdivision would be collected at the time a building permit is issued, at \$500 per lot. Any monies put into the half-street improvements along F 1/2 Road would be credited to that TCP. She felt it would probably exceed that amount and they would not have a TCP for any of the lots.

Mr. Relph stated the character of the neighborhood is changing. A considerable amount of development has taken place on 25 1/2 and F 1/2 Roads. The new development is now constructing curb, gutter and sidewalk. Regarding Kay Subdivision, Mr. Relph stated only sidewalk was installed on F 1/2 Road. Public Works feels it is important in future developments for the City to go in, if the County did not see it necessary to complete the improvement, to remove some of the pavement and install curb and gutter to complete the street section. The City sees F 1/2 Road as being rural and with all the recent development, it is a real concern. Recently County Staff has approached City Staff regarding the possible joint venture in the construction of 25 1/2 Road, south of F 1/2 Road, to Patterson Road and G Road. That adds to the importance of needing half-street improvements by adjacent subdivisions to complete that joint venture. Cimmaron North Subdivision is immediately adjacent to Kay Subdivision. City Staff feels it is appropriate in this instance that half-street improvements be constructed. The development is occurring, and it is simply necessary. Kay Filing #2 has complete half-street improvements on 25 1/2 Road, and does not touch F 1/2 Road.

Mayor Maupin announced a letter from Mr. John Williams was received today along with photographs. Council members were provided copies of the letter prior to the meeting. The photographs were submitted to the City Clerk for the record.

Mr. John Williams, with the law firm of Coleman, Jouflas &

Williams, spoke on behalf of Clint Sparks and John Nelson. Mr. Nelson recently purchased this subdivision. Mr. Williams gave some history regarding the subdivision. He clarified that he did not want to jeopardize the final plat that has been approved by the Planning Commission. He is appealing the half-street improvements issue only. Under the County approval, he was able to figure out which 8 lots were approved, but not the 9th lot, and the 10 lots that were not. It was mixed up. When the City annexed the property, it was decided the best route would be to take the entire subdivision through the City planning process. It is in the same form as it was when it was in the County with the exception of half-street improvements. They have assumed from the beginning that a 6-foot sidewalk and fence would be built much like Kay Subdivision. Mr. Sparks attended a number of meetings when Kay Subdivision was going through the planning process before he decided to subdivide his property. The County wanted to divert traffic away from F 1/2 Road going east from 25 1/2 Road to 26 Road. The County wanted to get traffic going to G Road on F 1/2 Road, to 25 Road, and at some point 25 1/2 Road would be connected to Patterson Road (F Road). Part of that road is in now.

Mr. Williams reviewed some of the photos of the area and the current improvements. The country setting of the area is quite attractive. He felt its character would not change much, and, in fact, it is a bad road to try to attract additional traffic. On a new road to Patterson Road, the traffic should go west to 25 Road and north to G Road. It is a bad place to put a lot of traffic unless the City is prepared to construct drastic improvements on F 1/2 Road as it approaches 26 Road. Half-street improvements in that area will act as a magnet for more traffic. If more subdivisions in the area are required to do half-street improvements, it will create problems unless there is an ultimate solution. If money is to be spent now, 25 1/2 Road should be connected all the way to Patterson Road. Utility poles all along Kay Subdivision and Cimmaron North are another concern. They are in the road right-of-way. They will have to be pulled for approximately a half mile. Mr. Williams feels half-street improvements should be constructed at the same time water and sewer lines are placed. There is no assurance that the utility poles will be pulled in the near future. A representative from the utility department talked about the drainage at the City Planning Commission meeting. The representative stated part of the reason for the half-street improvements would be as a place to collect waste water and runoff. Cimmaron North is not going to drain toward Kay Subdivision. The plans call for a retention area at the east end of Cimmaron North property. Not only is there no place to drain in Kay Subdivision, they don't have half-street

improvements, and the water is going to flow east, not west.

Mr. Williams discussed the economics of the half-street improvements. The cost will be \$50-\$60 per linear foot. There is 660 feet, and could cost as much as \$39,600. This will add approximately \$2,000 to the cost of each lot (19 lots). There is a desire to sell these lots at an affordable price, construct a 1600 square foot house on the lot, and be able to sell the house for approximately \$105,000 to \$110,000. It has become an impossibility, not only because of the half-street improvements, but because of a lot of other costs. Half of the cost of building this subdivision is going to be in F Road, with the water line looping and the sewer line, sidewalk, fencing, landscaping, etc. He was not sure the benefit of the improvements is worth the cost. Mr. Williams stated that Mr. Nelson and Mr. Sparks plan to split the cost of the half-street improvements. He requested City Council relax the normal standard and approve a 6-foot walk. He felt a \$500 impact fee would be a better way to collect money at this point, particularly if there is going to be a joint project to extend 25 1/2 Road to Patterson Road.

Mr. Clint Sparks, until recently, resided at 2574 F 1/2 Road. He stated Realtor John Nelson has purchased the property at that address for development. This is the first development venture for Mr. Sparks in the valley. Mr. Sparks is moving to Meeker, Colorado, and the development will be left in the hands of Mr. Nelson. Mr. Sparks felt he could live with the \$500 TCP fee and the 6-foot sidewalk, but it is not practical to do all the water and sewer lines. When the utility poles are pulled, he would have to go back in to complete the improvements. The half-street improvements will be quite a burden to him. He felt Kay, Moonridge and Valley Meadows subdivision did their half-street improvements on 25 1/2 Road to direct the traffic to F Road.

Councilmember Baughman stated one of the conditions for approval of Cimmaron North by the County was that "the developer contribute to road improvements, including sidewalks for a half section urban collector for F 1/2 Road. Road plans must be approved by the County Development Engineer." Mr. Sparks stated the County is not as sophisticated as the City in their development process. The County records are difficult to interpret. If he had developed while still in the County, he would have been given the same requirements as Kay Subdivision. The County's records do not read "full half-street improvements." Councilmember Baughman read aloud the resolution regarding improvements requirements. Mr. Sparks interpreted the resolution to say he is required to construct sidewalks.

Ms. Portner clarified that the Code allows the City to collect the \$500 Transportation Capacity Payment for single-family homes and other development. The Code also allows the Public Works Director to require half-street improvement in lieu of the fee in areas where he feels it's necessary, which is the case here.

Public Works Manager Mark Relph explained that the half-street improvements depend on what physically exists at a subject location, also the functional classification of the road. In this case, F 1/2 is classified as a collector, so it should have curb, gutter and sidewalk, reflective of a half section of a collector street. A residential street is typically a 44-foot right-of-way section, 28 feet of pavement, whereas a collector is 36 feet of pavement and 52 feet of right-of-way. The City would notify Public Service Company that the utilities had to be moved in preparation for a public improvement. The City's franchise agreement requires such work from Public Service.

Mr. Relph stated when the County proposed to the City the extension of 25 1/2 Road to F 1/2 Road, it interested the City. It was obvious this area was becoming more urban. Traffic was becoming an issue. Without the extension of 25 1/2 Road, it could be argued that traffic is being forced onto F 1/2 Road, both east and west. This concerns the City in long term.

Councilmember Afman stated there really is a country feel about the area along F 1/2 Road. She wondered how it was determined to be a collector street.

Mr. Relph stated F 1/2 Road is functioning as a collector street. When the City defines its streets, the typical amount of traffic expected, both current and future, is considered. Regardless of F 1/2 Road's condition today, it will function as a collector. The next phase of Kay Subdivision is complete and they will have a major use of 25 1/2 Road.

City Manager Mark Achen felt this is an issue of urban development trying to retain the rural infrastructure. Now there is urban development taking place. There is a large tract of land to the south on which the City has received inquiries regarding development. If the country lane were to be preserved, a different approach should have been taken to subdividing, in allowing urban development to go in there, and requiring the higher urban densities to be accessed off of 25 1/2 Road, then more rural densities to be located where they would access off of F 1/2 Road. If it becomes urbanized, how is a road going to go in

there? It is going to be very expensive and difficult to force a collector road through there. It is still in the County's jurisdiction, although since it is inside an enclave that will soon be in the City, it is the City's problem.

Mr. Relph stated the Public Works Department sees the area immediately adjacent to 25 1/2 Road as being urban, and probably accommodating the urban collector street section. However, off to the east of this area, in the grade up to the flume, perhaps that's not appropriate. Perhaps some other method of conveying traffic is necessary through there instead of the standard 52-foot of right-of-way and 36 feet of pavement. There is flexibility when those types of projects are designed. In this particular area, being so close to all the other urban development that is occurring, it seems a collector street is appropriate.

Councilmember Graham asked Mr. Relph if the requested improvement is necessary for the safe ingress/egress into the Cimmaron development. Mayor Maupin also asked how many trips are assigned to each of the 19 houses. Mr. Relph replied in combination with all the other existing development in the area, it is necessary for the safe ingress/egress. When Councilmember Graham asked whether any unsafe conditions were exclusively attributable to the Cimmaron Court development, Mr. Relph replied no. He answered Mayor Maupin's question by stating 10 trips per day times 19 houses results in 190 trips per day from this one subdivision. Mayor Maupin stated the subdivision next to Cimmaron has 16 houses which adds 160 more trips, all going to 25 1/2 Road.

Mr. Relph explained the TCP pays for the additional capacity that is taken from the City's street system by the development. It pays for future public transportation improvements.

Mr. Williams discussed the utility poles, and the two-step process required if water and sewer lines are installed first, then Public Service Company comes in later to remove the utility poles, and patchwork is required. The two-step process is much more expensive.

City Attorney Wilson explained Public Service is only required to remove utility poles when the City is doing the work. He referred to the applicable standards cited in Section 5-4-16 of the Zoning & Development Code:

- a. Council may authorize variances from Section 5-4 when there are exceptional topographic or other subsurface conditions or

other conditions peculiar to the site, e.g. viaducts, bridges and bluffs;

- b. An undue hardship would be created by the strict application of the provision of this section;
- c. Such hardship is not created by the action of the applicant;
- d. Such variance would not be detrimental to the public welfare or impair the intent and purpose of this section.

The hearing was closed.

Councilmember Theobold did not like the idea of funneling a lot of traffic onto F 1/2 Road. When the 3 large parcels to the south are developed, traffic needs to be diverted to F 1/4 Road or some other road so the impact of F 1/2 Road can be minimized. He likes the TCP because it gives the City great flexibility in what is improved, where and when. He stated the situation inherited from the County is the requirement of half-street improvements at a cost of approximately \$39,000 (one step process versus two-step). Councilmember Theobold felt the TCP balances the cost to the developer of \$39,000 versus the TCP payment of \$9500. He does not feel it is Council's obligation to make sure that a development is profitable nor is it Council's role to provide a \$30,000 windfall from a County approved requirement. He favors the TCP. He suggested making a compromise in dollars between the \$9500 and the \$39,000 and make it a lump sum TCP figure specified by Council. Council would choose a number between the two figures which would solve the problem of who is going to build the road or where is it going to go so there is no delay, and would partially solve the developer's concern about the impact of \$39,000 on the cost of the development.

Councilmember Terry stated she agrees with most of Councilmember Theobold's statements, but the City has no long-range plan for F 1/2 Road. The two subdivisions on F 1/2 Road are currently handled well. The City does not know what's going to take place to the south. There are alternatives for that.

Mayor Maupin reiterated that it is not up to the City to save the developer.

Councilmember Baughman felt the City inherited the agreement between the County and the developer requiring half-street improvements, and should stick by it.

Councilmember Graham believed the conditions in Section 5-4-15, (a) through (d), are all met, and all would justify a variance from all previous plans and agreements, even the ones with the County. He noted Mr. Williams and Mr. Sparks have been very accommodating and cooperative, and met every reasonable requirement imposed. He feels it is not fair to saddle Mr. Sparks with the cost of solving a problem that was not one of his own making.

It was moved by Councilmember Theobold and seconded by Councilmember Mantlo that the Planning Commission decision on Cimmaron North be approved with the following amendment:

In lieu of half-street improvements, the City accept a payment of \$20,000 that will be pro-rated to each lot and review with each permit from each lot as though it were a TCP.

City Manager Mark Achen mentioned Council might decide whether it wants this road improved, or wants to retain the rural character. One dilemma is the County required, in case of the subdivision, sufficient right-of-way. He assumes this development is also providing sufficient right-of-way for future widening which, in essence, is a statement to everyone buying a lot from those homes, that it's the City's responsibility to assure a collector road be built. The City is taking on the responsibility of maintaining the road. There is a current maintenance problem in Kay Subdivision and it appears to be the City's problem because the sidewalk is set so far back from the roadway, and all the weeds are growing between the paved surface and the sidewalk. No one is going to accept responsibility for that except the City. Council may want to make the right-of-way back where Council wants it to be a road, or Council may decide it is unfair to require half-street improvements under those conditions, and the general taxpayer should pay for the ultimate widening whenever it happens. The amount Council is requesting is the taxpayers' fair contribution to the ultimate road that the City is committing to building.

Councilmember Theobold does not feel the intent of his motion is to commit the City to anything on F 1/2 Road. The intent is to defer decision on whether to improve F 1/2 or 25 1/2, or both, until there is more information on what is going to be happening and where the traffic impacts are going to be. He does not want to give away right-of-way, nor does he want to insure that it gets built by asking that the street be made wider today. He is assuming they will be putting in sidewalks to match up with Kay

Subdivision with the same design.

Roll was called on the motion with the following result:

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

The motion carried.

**PUBLIC HEARING - NAZARENE ANNEXATION - RESOLUTION NO. 72-95
ACCEPTING PETITIONS FOR ANNEXATION, MAKING CERTAIN FINDINGS,
DETERMINING THAT PROPERTY KNOWN AS THE NAZARENE ANNEXATION IS
ELIGIBLE FOR ANNEXATION AND EXERCISING LAND USE CONTROL AND
JURISDICTION - PROPOSED ORDINANCE ANNEXING TERRITORY TO THE CITY
OF GRAND JUNCTION, COLORADO, NAZARENE ANNEXATION, APPROXIMATELY
20.68 ACRES LOCATED AT THE NORTHEAST CORNER OF 28 AND PATTERSON
ROADS PROPOSED ORDINANCE ZONING NAZARENE ANNEXATION RSF-4
[File #ANX-95-109]**

The First Church of the Nazarene has signed a Power of Attorney for annexation 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 annexation petition and approve on First Reading the Annexation Ordinance for the Nazarene Annexation.

The Annexation process is before City Council. The zone district requested for the Nazarene Annexation is RSF-4.

A hearing was held after proper notice. Larry Timm, Community Development Director, reviewed this item. The property is located at the northwest corner of 28 Road and Patterson Road. This is a 100% petition by the First Church of the Nazarene. It contains a total 20.68 acres. He submitted an affidavit to the City Clerk declaring this property meets the Statutory requirements for annexation.

Councilmember Baughman asked if there was a stipulation that the parking lot not be paved for approximately three years. Planning Supervisor Kathy Portner said there is an improvements agreement stating they won't pave for three years, but the City will have a security agreement to ensure it gets done.

Councilmember Terry asked how a hearing on a conditional use permit could have taken place when Council is just now setting the hearing on the zoning. Mr. Timm responded it was approved on a

cooperative basis. City Manager Achen stated it all stands or falls based upon action tonight on the resolution and two proposed ordinances. The conditional use permit has no value as long as it remains in the County. Mr. Timm stated the church will need to submit a site plan to be reviewed by other city entities and utility companies as well.

The hearing was closed.

Upon motion by Councilmember Theobald, seconded by Councilmember Afman and carried by roll call vote with Councilmember **TERRY** voting **NO** on the proposed zoning ordinance, Resolution No. 72-95 was adopted, and the proposed ordinances annexing territory (20.68 acres) to the City, and zoning the Nazarene Annexation RSF-4 were approved on first reading, and ordered published.

PUBLIC HEARING - ORDINANCE NO. 2854 - AN ORDINANCE ZONING THE MONUMENT VALLEY ANNEXATION RSF-2, RSF-4 AND PR-1.6
[FILE #ANX-95-71]

The annexation received a conditional approval on second reading July 19, 1995 from City Council. Approval is contingent upon the improvements agreement and security for Monument Valley being transferred from the County to the City. Each of the three zones recommended are the most equivalent City zone available.

A hearing was held after proper notice. Mike Pelletier, Community Development Department, was present to answer questions of Council. City Attorney Wilson stated the County Attorney has asked if the City is going to change the access for this subdivision. Mr. Wilson told the County Attorney no, that the subdivision would be brought into the City under the same configuration. The County Attorney said he would schedule the approval of the transfer of the security before the Commissioners. Mr. Wilson expects the paperwork to be completed within one week. He stated the payment is a condition of the annexation.

There were no public comments. Upon motion by Councilmember Mantlo, seconded by Councilmember Baughman and carried by roll call vote, Ordinance No. 2854 was adopted on final reading, and ordered published.

PUBLIC HEARING - ORDINANCE NO. 2855 - AN ORDINANCE VACATING A PORTION OF A UTILITY EASEMENT LOCATED ON THE NORTH SIDE OF LOT 6, BLOCK ONE, PTARMIGAN RIDGE NORTH SUBDIVISION [FILE #VE-95-106]

The applicant proposes to reduce a 20-foot utility easement by 5

feet at 3725 Christensen Court. There were no objections from utility companies and both the Planning Commission and staff recommend approval.

A hearing was held after proper notice. Mike Pelletier, Community Development Department, reviewed this item.

There were no public comments. Upon motion by Councilmember Baughman, seconded by Councilmember Afman and carried by roll call vote, Ordinance No. 2855 was adopted on final reading, and ordered published.

PUBLIC HEARING - ORDINANCE NO. 2856 - AN ORDINANCE REZONING LAND LOCATED AT 1060 GRAND AVENUE FROM PB TO RMF-64 [FILE #REV-95-100]

Request for rezoning for 1060 Grand Avenue from PB to RMF-64. Staff finds that the conditions of approval of the PB zone have not been complied with and therefore the zone is subject to reversion.

A hearing was held after proper notice. Kathy Portner, Community Development Department, was present to answer questions of Council.

There were no public comments. Upon motion by Councilmember Afman, seconded by Councilmember Mantlo and carried by roll call vote, Ordinance No. 2856 was adopted on final reading, and ordered published.

PUBLIC HEARING - ORDINANCE NO. 2857 - AN ORDINANCE REZONING LAND LOCATED ON F ROAD FROM RSF-4 TO B-1 [FILE #RZ-95-103]

A request for rezone from RSF-4 to B-1 located at 2584 Patterson (F) Road and containing 1.6 acres. Surrounding land uses are residential, retail and vacant residentially-zoned properties. Development plans for the parcel call for construction of a funeral home. Rezoning is consistent with the Patterson Road Corridor Guidelines.

A hearing was held after proper notice. Michael Drollinger, Community Development Department, reviewed this item by referring to maps posted for Council. The development plans call for the construction of a funeral home and providing on-site parking in accordance with City standards. Staff's major concern is that accommodations be made to minimize access and traffic hazards in order to preserve the function of Patterson Road as a major arterial road. Staff comments require the petitioner to dedicate 24 feet of right-of-way along the west property line adjacent to

the 24 feet of right-of-way that was dedicated by the owners of the veterinary clinic. Forty-eight feet of right-of-way is also requested along the south property line adjacent to the veterinary clinic property for a future frontage road in the area. Staff believes the rezoning application is supported by the rezone criteria and is consistent with the Patterson Road Corridor Guidelines. Staff recommends approval with the subject conditions:

1. The right-of-way dedication for the frontage road should be made part of the approval;
2. Access to the property shall be from the dedicated right-of-way or by a shared driveway in the right-of-way until such time as the frontage road is developed.

The Planning Commission recommended approval at its meeting on July 11, 1995 of the rezone request without the right-of-way dedication described in condition number 1, but with a shared driveway with the adjoining veterinary clinic development. However, consideration must be given to allow for future connections regarding circulation.

Mark Relph, Public Works Manager, distributed copies of a drawing to Council for discussion. He talked about capacity on Patterson Road. The traffic projections are showing that within 20 years there will be capacity issues to deal with, based on the existing land uses in place, not taking into consideration any future rezones. This area is platted in narrow strips all accessing onto Patterson Road. The concern is if this area moves to a commercial use in the future, the driveway spacing needs to be positioned approximately 200 feet apart so it doesn't interfere with capacity issues and safety. The idea is to have a frontage road with maximized length from 25 1/2 Road to Hi-Fashion Fabric. The maximum frontage road would provide a larger area for subdividing and access. It is going to be difficult to incorporate into a major street plan due to the different shapes of parcels, etc. Public Works Department felt this piece was a good starting point to begin the frontage road. Public Works is recommending the right-of-way be dedicated for the frontage road based on the City's preliminary plan. Consideration was also given to approval of the rezone without the road dedication. Approximately 300 feet of the frontage road concept would be lost.

Councilmember Baughman asked why Mr. Relph felt it was necessary to have an access road directly west of the subject property. He felt it could be tied in to an existing road, Meander Drive. Mr.

Relph stated Meander Drive is more residential in character. Public Works is more concerned about the larger parcels that are in between Meander Drive and 25 1/2 Road, and future uses there. Rather than trying to funnel that kind of traffic over to Meander, which has some unique problems in itself, Public Works felt the frontage road was a higher priority as an alternative.

Councilmember Baughman stated when the rezone was approved for Hi-Fashion Fabrics, it was specified that the access to that property would be off of Meander Drive and would definitely not be off of Patterson Road.

Councilmember Afman asked if the petitioner is willing to dedicate the right-of-way for the frontage road. Mr. Relph stated no. The petitioner is prepared to show Council the impacts to his proposed development. By not granting this particular right-of-way, the City's ability to maximize the frontage road in the future is limited.

Councilmember Terry asked what are the proposed parking spaces for this development. Mr. Drollinger stated a particular site plan is not being evaluated at this time. The petitioner would need to go through a site plan review process, then, based on the specific design plans for the building the number of required parking stalls would be determined. However, based on some of the preliminary designs and numbers provided by the petitioner, the parking could meet the City standard for funeral home use.

Councilmember Graham referred to the July 11, 1995 Planning Commission meeting, regarding parking. Mr. Drollinger stated he has done some research on parking and the City's parking standard of 1 space per 5-person seating capacity is in line with a typical parking standard for this type of use. The seating capacity needs to be reviewed on the site plan review to determine the exact number of parking spaces. There may be parking that needs to be provided above and beyond the normal parking standard. He stated there is enough discretion in the Code for the Community Development Director to make that determination.

Mr. Drollinger explained that if this rezone is approved tonight, the zone would allow this use and also a menu of other types of uses. The next step for the petitioner is to present the City with a design that meets all the site plan and other Zoning & Development Code criteria. At that time Staff will make the administrative decision to determine whether the site plan can function according to the Code requirements.

Regarding traffic, Mark Relph stated the typical problems that could occur would be the left-turn movement trying to get out. Some modified island where you could not make that movement would be required.

The petitioner, Mr. Dale Bowen, 2187 Tobar Court, stated the building would be built on the northwest corner of the property with the parking in the lower area of the property which is adjacent to the Hi-Fashion Fabric property. He is concerned about dedicating a right-of-way. He has approximately 48 to 58 parking spaces available. The City may not require that many spaces, but he feels that number would be needed to accommodate the amount of traffic anticipated. Mr. Bowen stated all of the 24-foot right-of-way would be taken out of his property because of existing structures on the adjacent property. The right-of-way could take 17% to 27% of his property, and make it impossible to locate the building where planned. He also loses about 20 parking spaces with a new configuration. He feels that is not enough parking. Putting a right-of-way in makes an awkward peninsula of land for the veterinary clinic that is surrounded by major streets. He also thinks an intersection coming out onto Patterson is too close to the intersection at Meander Drive. If City Market goes in and this area is developed as anticipated, there will be two major outlets coming out onto Patterson Road in close proximity to each other. Mr. Bowen's proposal allows for some overflow, allowing a maximum of approximately 70 vehicles. His chapel would seat 150, so 70 spaces would provide ample parking. He added that funeral services are normally conducted at times which are not peak traffic times. The average funeral home has 100-120 cases per year (60% of which are cremations in Grand Junction). Mr. Bowen's goal is to get to 200 cases within the next three years. He estimates 40 funeral processions per year at off-peak hours. He feels Patterson Road will accommodate that number.

Councilmember Baughman lives in the immediate area and stated many times between the hours of 3:00 and 3:10 p.m. the traffic is really bad on that section of Patterson Road. Mr. Bowen responded that is why he would prefer to turn right than fight the traffic.

Council-member Baughman asked Mr. Bowen why he could not purchase additional property and access his property from Meander Drive. Mr. Bowen replied there are three parcels, one of which has a home on it, and the other is zoned for a duplex lot. He thought an additional parcel would be more land than is needed for his operation. His preference would be a frontage road a few hundred feet over to the west, with a stem over to the back of his property for future access. He could then exit out of the back of

the property with a procession and come down to a traffic signal.

Mr. Bowen introduced Richard Fryer. Mr. Fryer, 812 24 Road, is currently employed at Callahan-Edfast Mortuary. He stated cremation occurs 63% of the time at Callahan-Edfast. Martin Mortuary is comparable. He feels it will peak at approximately 70%, then drop back and level off.

There were no others speaking in favor of the proposal.

There was no one speaking in opposition to the proposal.

Mr. Bowen stated Site Plan No. 1 is his preference, which will work with the Access Road Plan in pink.

Mark Relph stated the plan (pink line) limits the City's options in the future but it is a viable option. He feels there is more flexibility with the alternative plan (lime line). It is more conceptual. Mr. Relph felt that the preliminary access road plan submitted is too onerous on the part of this current development to ask for the right-of-way at this point. He stated that he is not adamantly opposed to another alternative other than the lime line.

City Manager Achen felt the difficulty is having a conceptual plan for a street which is primarily oriented toward dealing with 13 or 14 existing driveways on the north side of Patterson Road in this area. Its usefulness for the property to the north is equally important, yet it's going to be a major investment in order to serve a small area. Mr. Relph stated that if the City is going to continue to allow commercial rezoning in this area, then developers are going to look more at Patterson Road as the frontage or access as opposed to F 1/4 Road.

Mayor Maupin reminded Council that the road is not a frontage road but a rear access road. No one will build a business facing the rear access road because those traveling Patterson Road will not see it.

Mr. Relph stated the veterinary clinic was required to dedicate 24 feet of right-of-way (half of the frontage road) on the east property line. They will share with the north/south leg. The burden of sharing the road on the diagonal leg was not imposed on the veterinary clinic, reducing the requirement of this project to half of what is now needed. Mr. Drollinger stated the veterinary clinic was required to dedicate the right-of-way and at such time as the road would be developed, reorient their access from their

existing driveway to the frontage road. If a shared driveway concept is the option pursued with this development, they will be designing and constructing their site to share an access point on Patterson Road.

Mr. Bowen said he thought he would be sharing the driveway with the veterinary clinic. He has no problem with that. If he is required to dedicate an access road he won't be able to go through with the project because it does not leave enough room for parking.

Mayor Maupin explained the City has a major road that is developing. There is not another east/west thoroughfare across Grand Junction. If Patterson becomes a 30-35 mph road, there will be very little movement across town. That is why Council continues to deliberate on every request for this section of road.

Mr. Bowen stated he is sympathetic to Council's dilemma. He feels the pink option addresses the problem better than the option of taking a piece out of his property. If right-of-way is taken from his property he thinks it makes an intersection that is too close to Meander Drive. There is going to be a driveway there because it has already been approved for the veterinary clinic. He is not asking for an additional driveway.

The hearing was closed.

Councilmember Terry commented that the north side of Patterson Road is moving toward commercial, but it is Council's decision whether that happens or not. Council does not have to continue that trend. She feels Council does not want to see another North Avenue in this area. She is opposed to a rezone for the purposes presented this evening. She feels it is totally inappropriate because of the traffic.

Councilmember Mantlo agreed with Councilmember Terry.

Councilmember Baughman stated Councilmember Terry's concern is valid. He feels there is a good chance that additional development will be taking place in the area in the very near future.

Councilmember Theobald felt that neither of the two access road plans will come about because there are so many existing little driveways that cannot be taken away.

Councilmember Graham suggested Council entertain a motion with a clean approval of the rezone from RSF-4 to B-1, and then depending

upon whether that passes, or not, graft on that whatever additional rights-of-way and/or driveway conditions may be considered desirable.

It was moved by Councilmember Theobold and seconded by Councilmember Afman that the Planning Commission recommendation be approved which is to approve the rezone request without the right-of-way dedication, but with the shared driveway with the adjoining veterinary clinic, and also allowing for a future connection with a frontage road at the western property boundary.

City Attorney Wilson advised the word "allowing" should be "requiring", giving Staff some direction at site plan review.

Roll was called on the motion with the following result:

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

The motion failed.

It was moved by Councilmember Graham that a rezone of the affected property at 2584 Patterson Road from RSF-4 to B-1 be adopted.

The motion failed for lack of a second.

It was moved by Councilmember Baughman and seconded by Councilmember Terry that the rezone from RSF-4 to B-1 be denied.

Roll was called on the motion with the following result:

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

The motion failed.

It was moved by Councilmember Graham and seconded by Councilmember Terry that the recommendation of the Planning Commission to rezone the property from RSF-4 to B-1 be approved, but with a shared driveway with the adjoining veterinary clinic development, and also allowing for a future connection with a frontage road at the western property boundary.

Councilmember Graham amended his motion to replace "allowing" with the word "requiring".

Roll was called on the motion with the following result:

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

The motion failed.

City Manager Achen noted a motion has failed to approve the rezone, and a motion has failed to disapprove the rezone.

It was moved by Councilmember Mantlo and seconded by Councilmember Graham that the rezone from RSF-4 to B-1 be approved with no restrictions.

Roll was called on the motion with the following result:

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

The motion failed.

Councilmember Terry stated that since there was no approval or denial of the zoning, it stays the same. She thought Council has given the petitioner an answer. The existing zoning is in effect.

Upon motion by Councilmember Graham, seconded by Councilmember Theobold and carried by roll call vote, reconsideration of this item was continued to the next regularly scheduled City Council meeting on August 16, 1995, at which time the hearing will be reopened to consider additional information from the public and staff.

City Manager Achen asked Public Works to present some alternative approaches (consideration of Patterson Road Guidelines) at the August 16 meeting.

PUBLIC HEARING - ORDINANCE NO. 2858 - AN ORDINANCE VACATING RIGHT-OF-WAY FOR PORTIONS OF 24 1/4 ROAD [FILE #VR-95-108]

A request to vacate a portion of right-of-way for 24 1/4 Road south of I-70.

A hearing was held after proper notice. Kathy Portner, Community Development Department, reviewed this item, stating the request is to vacate a portion of 24 1/4 Road north of G 1/4 Road to G 1/2 Road. The purpose is to limit the access to the property that

faces on 24 Road. The recommendation was not to vacate the southern portion at this time as it would landlock the parcel.

There were no public comments. Upon motion by Councilmember Baughman, seconded by Councilmember Afman and carried by roll call vote with Councilmember **GRAHAM** voting **NO**, Ordinance No. 2858 was adopted on final reading, and ordered published.

ADJOURNMENT

The President of the Council adjourned the meeting into executive session at 11:53 p.m. to discuss pending litigation (Ute v. City).

Stephanie Nye, CMC
City Clerk