

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

**June 5, 1996**

The City Council of the City of Grand Junction, Colorado, convened into regular session the 5th day of June, 1996, at 7:32 p.m. in the City/County Auditorium at City Hall. Those present were Jim Baughman, David Graham, R.T. Mantlo, Ron Maupin, Janet Terry, Reford Theobald and President of the Council Linda Afman. Also present were City Manager Mark Achen, City Attorney Dan Wilson, and City Clerk Stephanie Nye.

Council President Afman called the meeting to order and Councilmember Maupin led in the Pledge of Allegiance. The audience remained standing during the invocation by Rev. Eldon Coffey, Evangelical Free Church.

**PROCLAMATIONS / RECOGNITIONS**

PROCLAMATION RECOGNIZING GRAND JUNCTION HIGH SCHOOL'S TIGER GIRLS TENNIS TEAM, WINNERS OF THE STATE CLASS 5A TENNIS CHAMPIONSHIP

PROCLAMATION RECOGNIZING ORCHARD MESA MIDDLE SCHOOL STUDENTS, WINNERS OF THE STATE FUTURE PROBLEM SOLVING BOWL

PROCLAMATION RECOGNIZING COLUMBINE ELEMENTARY 5TH GRADE STUDENTS, WINNERS OF THE 1996 COLORADO ELEMENTARY SCHOOL NEWS BOWL

PROCLAMATION DECLARING JUNE, 1996 AS "RECYCLING MONTH" IN THE CITY OF GRAND JUNCTION

PROCLAMATION DECLARING JUNE 14-20, 1996 AS "WEED AWARENESS WEEK" IN THE CITY OF GRAND JUNCTION

PROCLAMATION DECLARING JUNE 9-15, 1996 AS "WESTERN WEAR WEEK" IN THE CITY OF GRAND JUNCTION

RECOGNITION OF STUDENT REPRESENTATIVES FROM CENTRAL HIGH AND PALISADE HIGH SCHOOLS FOR THEIR EL POMAR YOUTH IN COMMUNITY SERVICE GRANT AWARD FOR CANYON VIEW PARK CONSTRUCTION

**CONSENT ITEMS**

Upon motion by Councilmember Mantlo, seconded by Councilmember Maupin and carried by roll call vote with Councilmember **GRAHAM ABSTAINING** on Item 15, the following Consent Items 1-17 were approved:

1. **Minutes of Previous Meeting**

Action: Approve the minutes of the Regular Meeting May 17,

1996

2. **Ute Fireline Upgrade Addendum XII - River Road**

As per the 1993 agreement, Ute Water has supplied the City with design and cost information for a fireline upgrade along River Road. This project consists of approximately 5,236 feet of 12" water main and fire flow access to 13 properties south of River Road within the River Road Annexation. No new hydrants are proposed, rather the cost of the fire hydrants benefitting existing structures will be assessed to the property owners.

*Action: Approve Ute Fireline Upgrade Addendum XII*

3. **Changing Moses Subdivision to Paradise Corner**

The owners of all eleven lots which constitute Moses Subdivision have petitioned the City Council to officially change the name of Moses Subdivision to Paradise Corner.

Resolution No. 56-96 - A Resolution Changing the Name of Moses Subdivision to Paradise Corner

*Action: Adopt Resolution No. 56-96*

4. **Lease for Irrigation Water to Kannah Creek Area Ranchers**

The City of Grand Junction is expected to have 3,700 acre feet of excess irrigation water available for lease to area ranchers and farmers in the Kannah Creek area. City lessees are not charged for their water use as this is being placed upon City lands. Other users pay an annual lease rate. The proposed 1996 rate is to remain the same as 1995.

Resolution No. 57-96 - A Resolution Authorizing a Lease for 3,700 Acre Feet of Irrigation Water to Kannah Creek-area Ranchers for 1996 Irrigation Season at a Rate of \$50 for 1st Acre Foot, \$7.50 for Each Additional Acre Foot up to 25 Acre Feet, \$6.25 for each Additional Acre Foot From 26 Acre Feet through 100 Acre Feet and \$5.00 for Each Additional Acre Foot over 100 Acre Feet

*Action: Adopt Resolution No. 57-96*

5. **Changing the Name of the "Grand Junction Older American Center, Inc." to "Senior Recreation Center"**

It is recommended the City Council approve the name change with the Center responsible for legal costs incurred with the organization name change and replacement of the exterior building signage.

*Action: Approve the name change of the Grand Junction Older American Center, Inc. to Senior Recreation Center*

6. **Naming the Park Property Located at 324 South Camp Road to "Wingate Park"**

Based on the Wingate PTA's Park Committee and the Parks and Recreation Advisory Board's recommendation, it is requested that City Council adopt a resolution naming of park property located at 324 South Camp Road "Wingate Park".

Resolution No. 58-96 - A Resolution Naming "Wingate Park", the City Owned Property Located at 324 South Camp Road

*Action: Adopt Resolution No. 58-96*

7. **Amending Arts Commission Membership**

As per City Council direction at the May 13, 1996 workshop, a resolution amending the membership of the Arts Commission. The proposed resolution provides that a City Council representative may serve on the Commission at the discretion of the City Council.

Resolution No. 59-96 - A Resolution Amending Resolution No. 89-94 by Providing That a Councilmember May Be, But Need Not Be, A Voting Member of the Arts Commission

*Action: Adopt Resolution No. 59-96*

8. **City Council Meeting Schedule**

The Code of Ordinances, Section 2-26, provides "The meetings schedule for the City Council and the procedure for calling special meetings shall be established annually by resolution of the City Council."

Resolution No. 60-96 - A Resolution Establishing the City Council Meeting Schedule and the Procedure for Calling of Special Meetings for the City Council

*Action: Adopt Resolution No. 60-96*

9. **Authorizing a Supplement to the City's Code of Ordinances**

The Code of Ordinances, Section 1-10, provides "By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by motion of the city council." The last supplement was issued July, 1995. Five ordinances and one resolution affecting the Code have been adopted by the City Council since then.

*Action: Authorize the preparation and printing of the Code supplement.*

10. **Fees for Temporary Use and Home Occupation Permits**

Temporary Use Permit Applications have varying levels of impact. Larger temporary uses may have a greater impact on surrounding uses and require a higher level of review. Temporary uses that utilize smaller display areas do not necessarily require this higher review level. Due to the staff time involved it is proposed that the fee for Temporary Use applications under five hundred (500) square feet in display area be reduced from \$25.00 to \$10.00. The fee for Temporary Use applications in excess of five hundred (500) square feet in area will remain at \$25.00.

Home occupation permit applications have been issued by the Community Development Department at no charge since the inception of this requirement. Staff time is involved in processing and maintaining these files. It is proposed that a fee of \$5.00 per application be instituted to cover associated staff time and printing costs for these permit applications.

Resolution No. 61-96 - A Resolution Amending Temporary Use Permit and Home Occupation Permit Fee Schedule

*Action Adopt Resolution No. 61-96*

11. **Setting a Hearing on the Rezone of 1501 and 1507 White Avenue and 1506 and 1510 Rood Avenue from RMF-32 to RSF-8**

[File #RZ-96-86]

This request is being made in conjunction with a proposal to replat a parcel to create a vacant lot. The rezoning conforms with the existing land use and the preferred alternative of the Growth Plan. The benefit to the public as a result of this zone change will be greater stability of the

neighborhood by eliminating speculation for multi-family uses in this predominantly single family area.

Proposed Ordinance Rezoning Property Located at 1501 and 1507 White Avenue and 1506 and 1510 Rood Avenue in the East Main Street Addition from RMF-32 to RSF-8

*Action: Adopt Proposed Ordinance on first reading and Set a Hearing for June 19, 1996*

12. **Setting a Hearing on Zoning & Development Code Text Amendment Regarding Sand & Gravel Storage, Concrete and Asphalt Plants and Heavy Equipment Storage** [File #TAC-96-1.8]

Amend Section 4-3-4 (USE/ZONE MATRIX) of the Zoning and Development Code to allow Sand and Gravel Storage, Metal/Stone/Monument Works in I-1 with a Conditional Use Permit; Concrete and Asphalt plants in I-1 and I-2 with a Conditional Use Permit; and Heavy Equipment Storage In I-1, I-2 and PZ as an allowed use.

Proposed Ordinance Amending Section 4-3-4 Use/Zone Matrix of the Zoning and Development Code of the City of Grand Junction Sand and Gravel Storage in I-1; Metal/Stone/Monument Works in I-1; Concrete and Asphalt Plants in I-1 and I-2; Heavy Equipment Storage in I-1, I-2, and PZ

*Action: Adopt Proposed Ordinance on first reading and Set a Hearing for June 19, 1996*

13. **Setting a Hearing on Zoning Ordinance for River Road Annexation to I-1** [File #ANX-96-13]

The City recently annexed the 390 acre River Road Annexation located west of the Redlands Parkway and south of River Road to the Colorado River. These lands require a City zoning designation following the annexation. Staff is proposing Light Industrial (I-1) zoning for the River Road Annexation.

Proposed Ordinance Zoning the River Road Annexation to I-1

*Action: Adopt Proposed Ordinance on first reading and Set a Hearing for June 19, 1996*

14. **Setting a Hearing on Zoning Ordinance for Country Club Park West #2 Annexation to RSF-2** [File #ANX-96-68]

Staff recommends zoning the Country Club Park West #2 Annexation RSF-2. The general character and density of the area is RSF-2.

Proposed Ordinance Zoning the Country Club Park West #2 Annexation to RSF-2

*Action: Adopt Proposed Ordinance on first reading and Set a Hearing for November 20, 1996*

15. **Setting a Hearing on Zoning Ordinance for Edwards Annexation to PR-4.3 and RSF-4** [File #ANX-96-69]

Staff recommends zoning the Edwards Annexation RSF-4 and PR-4.3. The Planned Residential zone is necessary to accommodate an existing duplex which is not allowed in an RSF-4 zone.

Proposed Ordinance Zoning the Edwards Annexation to PR-4.3 and RSF-4

*Action: Adopt Proposed Ordinance on first reading and Set a Hearing for June 19, 1996*

16. **Setting a Hearing for Annexation of Bookcliff Technological Park** [File #ANX-96-128]

Colorado West Improvements, Inc., property owners, have requested to join the City and have signed a petition for annexation. Staff requests that City Council approve the resolution for the referral of petition for the 55 acres and set a hearing for July 17, 1996.

Resolution No. 62-96 - 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 the Annexation - Bookcliff Technological Park Located at the Northeast Corner of H Road and 27 1/4 Road

*Action: Adopt Resolution No. 62-96 and Set a Hearing for July 17, 1996*

17. **Acceptance of GOCO Grant**

The City of Grand Junction was awarded a grant from Great Outdoors Colorado (GOCO) as partial funding for the project to construct a bicycle/pedestrian footbridge across the Colorado River. The Great Outdoors Colorado requires

adoption of this resolution to meet the contract requirements and thereby enter into an agreement to construct the facilities.

Resolution No. 63-96 - A Resolution Supporting the Agreement Between the City of Grand Junction and the State Board of the Great Outdoors Colorado Trust Fund

Action: Adopt Resolution No. 63-96

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

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

**VARIANCE TO STREET STANDARDS FOR ENTRADA TOWNHOMES [FILE #PP-96-54]**

A request to vary City Street Standards to allow private streets in the proposed Entrada Townhome development in the Ridges.

Mayor Afman excused herself from the presentation and Mayor Pro Tem R.T. Mantlo conducted the proceedings. Mayor Afman mailed a letter to the Secretary of State registering a conflict of interest (see attachment #1).

Mayor Pro Tem Mantlo opened the hearing on the variance to Street Standards for Entrada Townhomes. This item was reviewed by Kathy Portner, Community Development Department. The request for variance is to allow for different width in streets and to allow for private drives. The proposed development is located in The Ridges, Ridge Circle Drive and Rana Road. The property is currently platted into 30 townhome lots which have not been developed. The 30 lots are accessed by a private drive that was platted with the original townhome lots. The proposal is to revise the plat to allow for 23 townhome units with much better access. The property is 3.6 acres with the access off of two private drives which would align with the streets on the other side of Ridge Circle Drive. It is a big improvement over the way the property is currently platted. Current City Street Standards do not allow for private drives. The proposal will require a variance to those Standards. The drives would be 20 feet wide and would provide for additional parking pods for the units. Each unit would have a double car garage, plus space in the driveways for parking of two additional vehicles. The City would expect the drives to be built, as far as quality of construction, equal or greater than the current Standard requirements, and the street

sections would have curb and gutter. Consistent with development in The Ridges, the applicant is proposing an alternative to sidewalks along the curb and gutter sections. Currently there is a path in place on the north side of the property. Two access points are being proposed from each of the clusters of townhomes to the existing pathway system. Staff proposed that a pathway system be provided to connect the townhome unit pods on the south side of the drainage way, and suggested it could be accomplished by either eliminating the drainage crossing close to Rana Road, or having a parallel path south of the ditch accessing the other crossing further to the east. Perhaps the connection could occur along Ridge Circle Drive between the pods.

Ms. Portner said the Planning Commission approved the preliminary plan with the condition that the final plan incorporate a trail connection between the pods that would also extend further along Ridge Circle Drive. The Planning Commission felt the existence of the path on the north side of the development was not sufficient.

There needed to be alternative pedestrian access directly on Ridge Circle Drive because of the amount of pedestrian use. The bus stop is currently located on the corner of Ridge Circle Drive and Ridges Boulevard. The developer proposes to talk to the School District about the possibility of moving the bus stop closer to the existing trail to the north which would encourage the children to get onto the trail system immediately after getting off the bus. The Planning Commission felt it is important there be a trail system along Ridge Circle Drive, so they required there be a six-foot wide, hard surface trail adjacent to Ridge Circle Drive along the entire frontage of the property. Ms. Portner said Council will need to consider the following:

1. Variance to the Street Standards to allow the private streets as proposed (20 feet wide with parking pods);
2. Whether the parallel path system along Ridge Circle Drive is needed and whether the six-foot width is appropriate.

Ms. Portner said eight-foot wide trails have been previously required in The Ridges. Planning Commission's six-foot wide requirement is an alternative to an existing eight-foot wide trail system, and felt the additional two feet unnecessary. In this case, Staff feels the exception is appropriate. The developer has incorporated all of the requirements of quality construction into the design. The construction will be of equal or greater quality than the requirement of the City Standards. Adequate parking is being provided. The plan includes a strong mechanism for continued maintenance of private roads.

City Attorney Dan Wilson discussed Section 5-4-16 of the Zoning & Development Code, Variances, with standards that are difficult to meet. Each of the following standards must be met:

1. The Council may authorize variances from the provisions of Section 5-4 where there are exceptional topographic soils or other sub-surface conditions or other conditions peculiar to the site such as viaducts, bridges and bluffs; and
2. An undue hardship would be created by the strict application of the provisions of this Section; and
3. The hardship is not created by the action of the applicant; and
4. The variance would not be detrimental to the public welfare or impair the intent or purpose of the Section.

Councilmember Graham asked the City Attorney if he was more concerned with the use of the pods for parking or the width of the street? Mr. Wilson said the width.

Councilmember Terry asked how the City can be assured of proper maintenance of the roads in the future? Ms. Portner said an assessment mechanism could be used whereby the homeowners association would have the power to assess themselves for maintenance. If the association refused to maintain the roads, the City could step in and do the work, then implement assessments with property taxes.

Councilmember Baughman asked how trash service would be provided in this development when trash service cannot be provided via a private drive? Ms. Portner said the final design would have to accommodate trash service. There may be a possibility of a private trash hauler.

Public Works Manager Mark Relph said the City would expect the developer to design the pick-up site and pavement sections to accommodate any type of trash truck. City Attorney Dan Wilson said there are a total of 23 units and would not qualify as multi-family in the context of the trash service. Eight units or more within one structure constitute a multi-family structure. The units would be treated as a single-family residential unit.

Public Works Manager Mark Relph said a draft has been prepared of the Trails Plan for The Ridges. The intent will help address such issues as being discussed tonight. This development has no trail connecting points on either side.

Councilmember Baughman asked how the development would handle emergency access if illegal on-street parking occurred in the area? Public Works Manager Mark Relph said adequate signage would be required to prohibit on-street parking. He did not see how the City could enforce parking on private property. City Manager Mark Achen said in case of an emergency, the City has authority to remove the vehicles.

City Attorney Dan Wilson said the Model Traffic Code would not apply for parking on a private street. This question must be addressed as a matter of private covenant enforcement. The Homeowners Association would have to enforce because the City would not have the ability to make it a misdemeanor or petty offense in the sense of writing a citation. It will not affect fire fighting.

Mr. Chris Caruso, representing the developer, Fleischer Company, said the developer bought the property in the late 70's. The main reason for going to a private street request is to create as much open space as possible, which could be accomplished with this design. Adhering to City Street Standards would make the streets much wider, the island would be lost, etc. The developer's engineers feel the plan is safe and works in a small neighborhood. He said the Planning Commission suggested a trail along the south side of the property because of the concern about pedestrian traffic (children walking to and from the bus stop). Moving the bus stop north would redirect the children off the road. However, children might use the street even if a trail were available.

Councilmember Graham asked Mr. Caruso if there were a way to reconfigure or reduce the number of units to accommodate a wider drive to comply with City Standards? Mr. Caruso said the terrain (slopes and ravine) prohibits the possibility of pushing the units any wider apart.

Public Works Manager Mark Relph said if the developer was required to build to City Standards, he would probably be losing some of the units. There would be less open space, and more pavement. The City's Street Standard is 28 feet wide.

Mr. Trevor Brown, Rolland Engineering, said a 44-foot right-of-way is required for the wider width rather than the proposed 20 foot. It may be possible, but all the interior parking pod and the landscaping would be lost. The result would be three full cul-de-sacs in the area.

City Attorney Dan Wilson asked if it is possible to allow for a 28-foot mat for road, with the separate pedestrian access provided for each unit to a trail or pedestrian system? He also inquired if the utilities are located in the 20-foot right-of-way? Mr. Brown said the slope is very steep (6% to 8% grade). To the north it falls off into the main drainage ditch for the Ridges Subdivision. The plan proposes to run sewer the entire length from the west end. The Fire Department feels the property will be accessible for fire service. Mr. Brown said the 28-foot mat would be possible at the entrances, but internally would affect the parking pod areas as there is a required width, length and back-out distance for parking.

Public Works Manager Mark Relph said the 28 foot typical road section allows for on-street parking. Since the proposal prohibits on-street parking, the additional street width is not necessary. Staff is satisfied with the proposal.

Councilmember Baughman recalled in the past the possibility of deleting curb, gutter and sidewalk in The Ridges when the topography warrants it. Public Works Manager Mark Relph said not curb and gutter. Curb and gutter channels traffic and handles drainage. The Ridges is an example of where drainage was previously ignored and it is causing heavy maintenance problems. Curb and gutter is a very important aspect of any design in The Ridges. The sidewalks or pedestrian access could be varied to match the character of the area.

Councilmember Maupin described the current condition of The Ridges drainage systems and infrastructure, and felt future developers should be required to address utilities in a manner satisfactory to the City.

Public Works Manager Mark Relph said there are other ways to handle drainage other than curb and gutter, but additional right-of-way width is needed. A swale is needed that has enough volume to carry the flow. The development community is not keen on giving up more right-of-way because it loses the opportunity to develop it into homes. The City standards allow a street section without curb and gutter only where there is 1 unit per 2 acres. Mr. Relph has not seen such a standard used recently.

City Attorney Dan Wilson said the developer has met the intent of the Street Standards. However, the developer must come to Council because it is not 28 feet. Public Works Manager Mark Relph said Staff felt there was enough checks and balances to build a quality improvement that will satisfy the future property owners, plus an agreement for maintenance. Staff has no problem giving the

property owners the responsibility and the City not accepting any of the maintenance as long as it is built properly and meets all the requirements for public safety and welfare.

Councilmember Graham said the reason the private drive was being considered was because the street was not as wide as required by City Standards. The applicant must show undue hardship which is not a result of their own actions. He felt the unusual topography and relatively cramped and irregular size of the lot is a contributing factor as well as the design itself.

City Manager Mark Achen said the original plat did not meet the City's Standards. That plat was approved prior to annexation, while they were still under County Standards. The issue of precedence would probably be the grounds for legal challenge.

Councilmember Graham said he was uncomfortable about moving towards private streets. It is a public entity and makes sense to keep it standardized and uniform. The hardship is there and an exception can be made in this instance. The subject of private streets was one of the purposes of this agenda item.

Mr. Trevor Brown said he would be happy to have the streets under the public domain. It alleviates the homeowners association from maintaining and policing private streets. The only reason it is being called private streets is because they are going by the strict interpretation of the Code regarding street width. If the 20-foot width meets the intention of the Code without the parking, he would be happy to make the streets public.

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

Councilmember Maupin could see no difference in this project from some of the adjoining projects in the area with private drives (streets and clusters). The homeowners are required to maintain the streets. Vintage 70 is also similar. There are private drives all over the City.

Councilmember Theobald was comfortable in approving the variance for a narrower street. He was not comfortable with taking on the responsibility of the private drive by the City. He agreed with the Staff and Planning Commission recommendations.

City Manager Mark Achen said he assumes Council wants Staff to pursue public streets wherever possible, but recognizes there are occasions where a development will need considerations because of the topographic features and the advantage of design. If conditions make it impossible to build to City Standards, and

would make it difficult to maintain, Staff would probably encourage private streets.

Councilmember Graham said the City would not be liable for any deficient design of any thoroughfare, but the question of maintenance is one of potential liability. If an exception to the City's Standards is approved by the City and a problem arises, a mechanism should be in place to prevent exposure of the City to liability. City Attorney Dan Wilson agreed.

It was moved by Councilmember Theobold and seconded by Councilmember Terry that the variance request from City Street Standards to allow private streets for Entrada Townhomes located at the Northeast Corner of Rana Road and Ridge Circle Drive be approved.

City Manager Mark Achen noted one of the other issues was the pedestrian way on the north side of Ridge Circle Drive. There may be other alternatives to accomplish the same thing Planning Commission hoped to accomplish this without the pedestrian way. He felt Council needs to decide whether to do what the Planning Commission requested or give Staff some general guidelines and let Staff and the developer, at final stage, accomplish the objectives without specifically requiring sidewalk.

Councilmember Theobold amended his motion to reflect a degree of Staff flexibility in providing either the trail or an alternative that is acceptable. Councilmember Terry seconded the amended motion. Roll was called on the amended motion with the following result:

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

Public Works Manager Mark Relph said Staff will work on some alternatives to bring back to Council at a later date, including future maintenance agreements.

Mayor Afman was called back into the auditorium and returned to her chair at 8:55 p.m. to resume conducting the meeting.

**RECESS**

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

**PUBLIC HEARING - ASSESSMENTS ON ALLEY IMPROVEMENT DISTRICT NO. ST-95 - PROPOSED ORDINANCE APPROVING THE ASSESSABLE COST OF THE**

**IMPROVE-MENTS MADE IN AND FOR ALLEY IMPROVEMENT DISTRICT NO. ST-95, IN THE CITY OF GRAND JUNCTION, COLORADO, PURSUANT TO ORDINANCE NO. 178, ADOPTED AND APPROVED THE 11TH DAY OF JUNE, 1910, AS AMENDED; APPROVING THE APPORTIONMENT OF SAID COST TO EACH LOT OR TRACT OF LAND OR OTHER REAL ESTATE IN SAID DISTRICT; ASSESSING THE SHARE OF SAID COST AGAINST EACH LOT OR TRACT OF LAND OR OTHER REAL ESTATE IN SAID DISTRICT; APPROVING THE APPORTIONMENT OF SAID COST AND PRESCRIBING THE MANNER FOR THE COLLECTION AND PAYMENT OF SAID ASSESSMENT**

Reconstruction of six alleys has been completed in accordance with the Resolution Creating Alley Improvement District ST-95. This ordinance assesses the property owners. On assessments, a public hearing is held at first and second readings.

A hearing was held after proper notice. This item was reviewed by Tim Woodmansee, City Property Agent. Tonight is the first reading of a proposed ordinance to levy special assessments against properties included in Alley Improvement District No. ST-95. Second reading is scheduled on June 19, 1996. The district was formed by the City Council at the request of the majority of the property owners in the district. The following alleys were included in the improvement district:

E/W Alley from 11th to 12th, between Chipeta and Gunnison;  
E/W Alley from 2nd to 3rd, between Grand and White;  
The Cross Alley between 7th and 8th, between Chipeta and Gunnison;  
E/W Alley from 8th and Cannell, between Orchard and Hall;  
The Cross Alley between 7th and 9th, between Ouray and Chipeta;  
E/W Alley from 8th to 9th, between Main and Colorado;  
E/W Alley from 9th to 10th, between Hill and Teller;  
E/W Alley from 8th to 9th, between Grand and White.

The total cost for the district, which includes engineering, administration, inspection and construction is slightly under \$280,000. The total cost to be borne by the property owners is \$81,316.01. The assessments to be levied against each property is determined by multiplying the abutting footage of each property by an applicable assessment rate. The rates are \$6/abutting foot for residential single-family properties occupied by the owner; \$12/foot for residential multi-family and rental properties; and \$22.50/abutting foot for all other properties. The property owners may pay their assessment any time between June 21, 1996 and July 22, 1996. After July 22, 1996, unpaid assessments will be turned over the Mesa County Treasurer for collection under a ten-year amortization schedule with simple interest at the rate of 8% being charged against the declining balance.

Mr. Woodmansee said two cases of unsatisfactory work related to this project have been brought to the attention of Staff:

1. Unsatisfactory grading of a driveway that is supposed to blend into the concrete alley. The City Engineer has looked at the situation, and tried to call the contractor back out to solve the situation;
2. Replacement of some sod in some adjoining yards. The Parks and Recreation Department will assist with the problem.

Mr. Woodmansee noted a letter received from Mr. Epton. When the district was created Mr. Epton's property was zoned non-residential, and was to be assessed \$22.50/foot. The zoning of the property has since changed to residential and it will now be assessed at \$6/foot.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Theobold, seconded by Councilmember Maupin and carried, the Proposed Ordinance was adopted on first reading and a hearing was set for June 19, 1996.

**PUBLIC HEARING - ASSESSMENTS ON HIGHWAY 6 & 50 SANITARY SEWER IMPROVEMENT DISTRICT NO. SS-37-94 - PROPOSED ORDINANCE APPROVING THE ASSESSABLE COST OF THE IMPROVEMENTS MADE IN AND FOR SANITARY SEWER IMPROVEMENT DISTRICT NO. SS-37-94, IN THE CITY OF GRAND JUNCTION, COLORADO, PURSUANT TO ORDINANCE NO. 178, ADOPTED AND APPROVED THE 11TH DAY OF JUNE, 1910, AS AMENDED; APPROVING THE APPORTIONMENT OF SAID COST TO EACH LOT OR TRACT OF LAND OR OTHER REAL ESTATE IN SAID DISTRICT; ASSESSING THE SHARE OF SAID COST AGAINST EACH LOT OR TRACT OF LAND OR OTHER REAL ESTATE IN SAID DISTRICT; APPROVING THE APPORTIONMENT OF SAID COST AND PRESCRIBING THE MANNER FOR THE COLLECTION AND PAYMENT OF SAID ASSESSMENT**

Construction of sanitary sewer lines in U.S. Highway 6 & 50 corridor between 24 1/2 Road and 25 1/4 Road has been completed in accordance with the Resolution Creating Sanitary Sewer Improvement District No. 37-94.

A hearing was held after proper notice. This item was reviewed by Tim Woodmansee, City Property Agent. Tonight is the first reading of a proposed ordinance to levy special assessments against properties included in Highway 6 & 50 Sanitary Sewer Improvement District No. SS-37-94. Second reading is scheduled on June 19, 1996.

This district was requested by a majority of the property owners

to bring sanitary sewer facilities to the Highway 6 & 50 corridor between 24 1/2 Road and 25 1/4 Road. When this district was created, Council agreed to allow the City's General Fund to pay for one third of the improvements. The total budget was \$267,000, with the City's participation in the amount of \$89,000. The project overruns came to \$23,000. The largest single item contributing to the overrun was a \$19,000 fee charged by the Railroad to install part of the sewer line within their right-of-way. That cost was not anticipated. The total cost to be borne by the property owners is \$178,000 (the stated maximum in the petition). Had the actual cost been lower, the assessments would have decreased accordingly. Now the property owners will be required to pay the maximum cost. The property owners may pay their assessment any time between June 21, 1996 and July 22, 1996.

After July 22, 1996, unpaid assessments will be turned over the Mesa County Treasurer for collection under a ten-year amortization schedule with simple interest at the rate of 8% being charged against the declining balance.

Mr. Woodmansee said the sewer line on the south side of Highway 6 & 50 actually runs in Independent Avenue. There are three lots with no frontage on Independent Avenue. In order to receive services, those properties will need an easement from adjoining land owners. Staff has agreed to help facilitate acquiring an easement.

Councilmember Graham asked City Attorney Dan Wilson if he concurs that the City must pick up any cost overruns. City Attorney Dan Wilson said the way the petition was crafted, he does concur.

Mr. Vic Raser, 3343 Northridge Drive, one of the owners of the parcels with no frontage, said he was told by a City Staff member during this evening's recess period, that he would receive a sewer line to his property.

There were no other comments. The hearing was closed.

Councilmember Theobald noted that one of the property owners in the district is also one of his business customers. The property owner has not contacted him regarding the project, and he did not see any conflict of interest, but wished to let the other Council members know about it.

Upon motion by Councilmember Baughman, seconded by Councilmember Maupin and carried by roll call vote, the proposed ordinance was adopted on first reading and a hearing was set for June 19, 1996.

**PUBLIC HEARING - ASSESSMENTS ON MAYS SANITARY SEWER IMPROVEMENT**

DISTRICT NO. SS-40-95 - PROPOSED ORDINANCE APPROVING THE ASSESSABLE COST OF THE IMPROVEMENTS MADE IN AND FOR SANITARY SEWER IMPROVEMENT DISTRICT NO. SS-40-95, IN THE CITY OF GRAND JUNCTION, COLORADO, PURSUANT TO ORDINANCE NO. 178, ADOPTED AND APPROVED THE 11TH DAY OF JUNE, 1910, AS AMENDED; APPROVING THE APPORTIONMENT OF SAID COST TO EACH LOT OR TRACT OF LAND OR OTHER REAL ESTATE IN SAID DISTRICT; ASSESSING THE SHARE OF SAID COST AGAINST EACH LOT OR TRACT OF LAND OR OTHER REAL ESTATE IN SAID DISTRICT; APPROVING THE APPORTIONMENT OF SAID COST AND PRESCRIBING THE MANNER FOR THE COLLECTION AND PAYMENT OF SAID ASSESSMENT

Construction of sanitary sewer lines in Mays Subdivision has been completed in accordance with the Resolution Creating Sanitary Sewer Improvement District No. 40-95.

A hearing was held after proper notice. This item was reviewed by Tim Woodmansee, City Property Agent. Tonight is the first reading of a proposed ordinance to levy special assessments against properties included in Mays Sanitary Sewer Improvement District No. SS-40-95. Second reading is scheduled on June 19, 1996.

This district was formed by petition by the property owners. Council created this district to provide sewer service to 26 lots in Mays Subdivision. The total budget and estimated cost of the project was slightly over \$181,000. The petition stated each of the 26 lots would be assessed on an equal basis of just under \$7,000/lot. The total cost came in under budget. Consequently the assessments have been reduced and the original estimate of \$6,977/lot has been reduced to \$6,792.92/lot. The property owners may pay their assessment any time between June 21, 1996 and July 22, 1996. After July 22, 1996, unpaid assessments will be turned over the Mesa County Treasurer for collection under a ten-year amortization schedule with simple interest at the rate of 8% being charged against the declining balance.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Mantlo, seconded by Councilmember Baughman and carried by roll call vote, the proposed ordinance was adopted on first reading and a hearing was set for June 19, 1996.

PUBLIC HEARING - ZONING & DEVELOPMENT CODE TEXT AMENDMENT - CHURCHES - ORDINANCE NO. 2923 AMENDING THE ZONING & DEVELOPMENT CODE OF THE CITY OF GRAND JUNCTION INCLUDING SECTIONS 4-3-4 USE/ZONE MATRIX, 4-8-2 SPECIFIC CRITERIA MATRIX, 5-1-4 VEHICULAR TRAFFIC AREAS, 5-4-15 LANDSCAPE STANDARDS, AND 5-5-1 OFF-STREET PARKING, AS THEY RELATE TO CHURCHES AND OTHER NONRESIDENTIAL USES, AND ADDING SECTION 5-4-17 CHURCHES IN RESIDENTIAL ZONES [FILE

At their May 14, 1996 hearing, the Planning Commission recommended approval of only a portion of the proposed text amendment for churches. At their June 4, 1996 hearing, the Commission recommended approval of the remainder of the ordinance, as revised, allowing churches to locate in residential zones with Special Use Permits or Conditional Use Permits, depending upon the size.

A hearing was held after proper notice. This item was reviewed by Bill Nebeker, Community Development Department. The Planning Commission generally agreed on most of the proposed ordinance except for those churches locating in residential zones. The Planning Commission was uncomfortable in allowing churches in residential zones as allowed uses without notice to the public. Planning Commission agreed with Staff that rather than having a level of review, whether a special use permit or conditional use permit, based on zones, they felt it was appropriate to have a level of review based upon the size of the church and where it is to be located. There are greater impacts for larger churches than smaller churches. Originally, a proposed matrix stated that churches were uses allowed by right, meaning they were not required to give notice to the public. They still had to go through site plan review. This applied to churches up to 300 seats (equivalent to approximately 100 space parking lot) located anywhere, or churches from 301 to 600, if they were located on a minor or principal arterial or a collector street. The Planning Commission changed that to require a special use permit in those circumstances. It also eliminated the collector streets because they are considered more of a residential street.

Councilmember Terry asked Mr. Nebeker to define the difference between a special use permit and a conditional use permit. Mr. Nebeker explained a special use permit is a site plan review by Staff where additional criteria of the Code is considered. Public notice is mailed to all property owners within 200 feet of the adjacent property boundaries. A conditional use permit includes the mailed notice and requires posting of the property with a sign and legal advertising in the newspaper. It must go before the Planning Commission for hearing.

Mr. Nebeker continued that the second portion of the proposed matrix was to allow churches that were not on principal or minor arterials or collectors, and between 301 and 600, or 600 and more, regardless of where they were located, would be special use permits. Planning Commission recommended those be conditional use permits. These changes were not unanimous by the Planning

Commission.

Other changes noted reflect the change in the matrix from uses by right to special use permits, and special use permit to conditional use permits. One change was in the policy of how any use is treated when it is annexed into the City, that is if it would become non-conforming. Previously, when a use that requires a conditional use permit or special use permit was annexed into the City, it was made non-conforming. Then when they wanted to expand, they had to apply for the permit. Now a special or conditional use permit will be processed for the use as it exists when it comes into the City. It automatically is conforming and preserves those rights. Then if they want to expand in the future, they would have to apply for a modification of that special or conditional use permit. The proposed ordinance will eliminate the statement "Is there a need for this facility on a community-wide basis?" in the criteria. Planning Commission was unanimous on allowing churches as uses by right in six commercial and business zones, and a conditional use in the I-1 zones. Formerly churches were allowed only with a special use permit in three commercial and business zones. This gives churches the flexibility to locate in these zones where the impacts are absorbed because there are similar types of land uses in the area that also generate traffic. The minimum standards have been set for churches in residential zones such as no parking in the front yard setback, landscaping of the front yard setback, and landscaping buffer for parking lots, screened trash containers, etc. The same flexibility is being allowed for accessory uses to churches. A few sections of the ordinance are being modified that set standards for non-residential uses in residential areas that were previously excluded such paving of parking areas and landscaping.

Mr. Nebeker received several calls from the public with concerns and comments. By allowing churches (by permit) in all the residential zones, it preserves churches flexibility to locate near their congregations while also allowing for neighborhood input. The notice provisions are critical for neighborhoods since "churches" are so broadly defined and they have numerous accessory uses which can create unforeseen impacts. He noted a special use permit or conditional use permit has never been denied for a church in Grand Junction. Planning Commission's recommendation is a slight modification of Staff's original recommendation to the Council after meeting the first time.

Councilmember Terry asked for clarification of Item 2 in Section 5-14-17 of the Zoning & Development Code. Mr. Nebeker said 5-14-17 is only for churches and residential zones. The accessory uses

will follow the same process.

Councilmember Graham asked Mr. Nebeker if he agreed, regarding the proposed changes to the use/zone matrix for residential zones, that if Council were to adopt the threshold seating capacity of 300 as an allowed use, that Council would have to determine the impact, in terms of parking, traffic and any additional noise or other distractions, for a church of 300 seats or less is negligible?

Mr. Nebeker said by adopting the proposed changes Council would be saying that, and he did not think they are negligible for a congregation of 300. Councilmember Graham said if it is implicit that Council is determining that the impacts are negligible, yet it is purporting to amend the Code, what would be the basis for establishing the figure of 300, and how could it be supported on an independent rational basis? Mr. Nebeker said the numbers are not scientific, but more of a judgement call. There is a provision in the Code that when there is a church with more than 150 seats and more than a 50 space parking lot, there are increased landscaping requirements. The number 300 was derived by looking at the average church size in the community (approximately half under 300, the rest over 300).

Mayor Afman asked Mr. Nebeker to recap some of the dialogue that took place with planning. Mr. Nebeker felt the 300 as a cutoff is a lot more serious, if everything below 300 were going to be uses by right. The recommendation is that those still would be a special use permit so there is still notice being given. If it is adopted as proposed, the neighborhood will have an opportunity to comment.

Councilmember Graham asked at what numerical point does Council say the activities of a church has no impact, or has a negligible impact on those things that will immediately affect the neighbors?

Council had several versions of the proposed ordinance. Mr. Nebeker clarified that Council should be considering the one with the strike-outs and bold areas where text has been added. Council should also be using the June 5 summary sheet.

Landscaping requirements were also discussed by Council. It has not changed from what was originally proposed.

Mr. Jeff Vogel, 725 Hemlock Drive, representing the Grand Junction Planning Commission, said the majority point of view by the Planning Commission was to forward to Council an ordinance which would allow churches in residential zones only with special use permits or conditional use permits, churches of any size. The Code has recently been changed to allow churches in most

commercial and business zones. Churches in some of the zones are not allowed with any permit. The Planning Commission struggled with the residential zone criteria that allowed churches a use by right in those zone districts. They felt the neighbors should have some input on the potential impact. No Commission member felt comfortable in allowing churches without any permitting process. They do feel churches belong in residential zoning areas, but the neighbors need an opportunity to express their concerns. This gives an arena where the developers and neighbors can come to a middle ground in certain aspects. They also feel the permit process gives the holder of the permit, the church, additional rights that would secure it from claims. For example, a church has a secured and valid conditional use permit and approved plan and begins building. Once it is approved, the building cannot be stopped by a protesting groups or by the residents. The church has secured its rights to build the church building. All annexed churches will be issued automatic conditional use permits or special use permits to conform to the City Code. The Planning Commission was not too concerned with the sizes of churches and felt every size would require some sort of permitting process. They felt the cutoff points of 300, 600, etc. were a workable matrix and would give guidelines to Staff to work out landscaping requirements, etc. Four of the Planning Commission members were in favor of the special use permits combined with conditional use permits. The other three members felt the conditional use permits should be required across the board. They felt even a stronger notice requirement than with a special use permit should be used on all churches in any area.

Mayor Afman asked Mr. Vogel to explain to Council his comment that "Upon annexation, the churches would receive an automatic special use permit or conditional permit." Mr. Vogel said there is a process and paperwork required. The mechanism will be the same, the fee structure is waived, but there is still the requirement for review of the operation by Staff. City Manager Mark Achen said this gives the applicant the permit so they are not left as a non-conforming use.

Mr. Dan Wilkenson, 1240 Grand Avenue, representing the Ministerial Alliance, filed a letter for the record (attachment #2) from Vice President Roger Ferguson opposing the proposed Code amendment. He mentioned the Ministerial Alliance also had the support of the COSMICOS on this issue. He read into the record a statement on behalf of the Liberty Baptist Church (attachment #3).

Mr. Lynn Miller, 385 Ridgeview Drive, a member of Liberty Baptist Church, submitted for the record a statement (attachment #4). He thanked Council for its consideration of these churches today.

Mr. Marc Maurer, 539 N. 9th Street, Architect and Planning Consultant who works with churches and development, said he opposed the Planning Commission statement that public review for a conditional use permit would actually increase or protect the rights of adjacent landowners. He believed the authority for denial of any project is not based on public opinion or testimony, but strictly on zoning and development standards, and conformance to those standards.

Mr. Maurer said if there are nuisances such as loud music, codes, ordinances and civil law as well as private covenants cover those issues. The public hearing process would not necessarily dispense any greater protection against them. He said churches have been given some liberty in business and commercial zones, but as an allowed use in residential zones churches are equally as restricted. Mr. Maurer reviewed a page from the SSIDs Manual which listed the Site Plan Review checklist which has more restrictions than either the special use or conditional use and has an equal amount, if not more, review agencies. The threat of harm that comes with a conditional use permit is by anti-church groups.

Mr. Maurer felt the argument by the Planning Commission was discriminatory toward churches of unethical behavior. How is that defined and who is going to determine that? He noted there was no public opposition at any of the public hearings (two Council workshops and two Planning Commission hearings), with the exception of the recently advertised hearing where a few letters have been submitted. The Ministerial Alliance provides responsibility for 40 plus churches. He does not believe neighbors should be able to enter into a church to find middle ground in terms of architectural design. They could drive a church out by opposing the architectural materials. It is not a viable use of the public hearing process.

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

City Attorney Dan Wilson stated Staff uses public testimony to help make decisions on applications. Tonight's decision needs to be made on what level of public involvement of the neighborhood is appropriate for these uses.

Councilmember Terry said the important issue is not that fact that the site plan is very detailed and covers a lot of the project. The issue is that the public is not having an opportunity to comment on what's coming into their neighborhood. In terms of public opposition and the fact that the Ministerial Alliance

represents a good number of people in the community, she had to take exception to that comment. The Ministerial Alliance represents the ministers of many churches. The Ministerial Alliance does not speak for their particular membership of their parishes. She felt it would be erroneous to imply there is a large representation in favor of this. It seems the churches have a real concern over the fact that the use by right is not going to be implied by the special or conditional use permit. Mr. Miller cited an example and asked the City Attorney how this ordinance could preclude that type of an example taking place in this community. She asked how, by adopting this ordinance, the churches would be protected from that example happening. City Attorney Dan Wilson said the Church in the example obtained a building permit, having gone through the complete process. They relied on the permit and began spending money in construction. In Colorado, the rule of law is once a building permit has been issued there is reliance and the regulatory agency cannot later change its mind. The government is estopped from pulling the permit. Councilmember Terry was confident that the special and conditional use permits gives all the rights in accordance with what the churches would like to have as uses by right.

Councilmember Terry also took exception to Mr. Wilkenson's statement indicating that "Council would use zoning as a mask of unlawful principles...." Mr. Wilkenson clarified it was not Council. It was clearly stated by Commission members that "undesirable churches was their biggest concern." Councilmember Terry said she, along with the current City Council, would have to go a long way to make the statement that any other Council would equate churches to adverse situations in the community. She said that Mr. Wilkenson has said that "by adopting this ordinance requiring churches to go through a public process whereby residents have a chance to comment on what is going to be impacting their individual properties is discrimination of churches." She indicated that if the neighboring property owners are not allowed to comment, then Council is discriminating against them in terms of their constitutional private property rights.

Councilmember Graham asked for explanation between the special and the conditional use permits in terms of how the role of public comment enters into it? City Attorney Dan Wilson said special uses are nearly of right, but as a safeguard from Staff making a decision without anyone knowing it, the mailing of the notice is accomplished. It will be the exception where a formal hearing will be held before the Planning Commission. A "heightened" potential for review occurs with conditional uses. Every conditional use application will require a public hearing before the Planning Commission. That is not true in a special use permit

application unless something unusual arises and Staff forwards it to the Planning Commission for review.

Councilmember Theobold asked under what circumstances would a church be required to have a second hearing. City Manager Achen said any performance standard that is not satisfactorily met by Staff's judgement under the terms of the permit could be a basis for Staff proposing the permit be reconsidered. Councilmember Theobold asked what type of unsatisfactory things could the church undertake that would trigger a second hearing? City Manager Achen said any expansion of activity or facility could trigger a second hearing. Generally, it is a judgement of what is a substantial change and what is a minor change in activities, scope, size, etc. City Attorney Dan Wilson said in order to revoke an existing permit, there would have to be some nuisance activity or egregious behavior that would support stopping activity.

Councilmember Theobold said this issue came up partially because there was no zone that allowed for churches by right anywhere in the City. Both the original version and the Planning Commission approved version allow churches some uses by right. Protecting newly annexed churches is another concern. Still remaining is the concern that someone can lose their right to exist. He has no problem with public input for a church that is going into a neighborhood. He is concerned that public input for an existing church can shut the church down. He sees a trend in this country to be very "anti-church", and a lot of problems with trusting that everyone is going to do right because everybody gets along in this community. Society is changing. People are objecting to things today that 25 years ago it would never occur to them to say it is objectionable in the community. Councilmember Theobold had suggested earlier that there be a zone for churches so that once established they have zoning, and it is not a permit process. It seemed to him to be the best protection.

City Manager Mark Achen said the Staff is trained under professional direction that if there is a non-conforming use, every opportunity should be used to try to bring it into conformance, whether it is a rezone or merely a right-of-way vacation. A vacation has less legal basis for Council to try to remedy a non-conforming activity, but it does create an opportunity for that. It has been used in the past as an opportunity to try to bring properties into conformity. When a permit is issued and subsequently policies change that lead to the property becoming non-conforming, Staff will use every opportunity to attempt to promote changes in the property to make it conforming. In many circumstances it is not a major issue with the property owner, but with some it could be significant.

Councilmember Maupin's concern was a church in a residential zone. He sees it as a business in a residential zone. A day care center would be comparable and he felt adjoining neighbors should have some input into what happens next to their property.

Councilmember Mantlo was comfortable with the proposal from the Planning Commission.

Councilmember Graham said through "grandfathering" even those churches which have been annexed and turned into a non-conforming use remain legal so long as they remain constant. The proposed changes will end the non-conforming use problem so there will not be the stigma of an illegitimate use. Churches are also being allowed in a number of non-residential areas as a matter of right. The historical matter that no conditional use permit for a church has been denied in Grand Junction is very relevant. He is more comfortable with the revised version feeling that Council and Staff will listen to the public, but won't hinge their decisions on prejudice and bias.

City Attorney Dan Wilson read the criteria from the Code which is considered for both special use permits and conditional use permits.

Councilmember Baughman was concerned that a neighborhood in which a church would like to build might not be acceptable by the residents, and the review process would be used to make sure the church does not locate there, when in reality it is not the impact of a church, but the denomination the church represents.

Mayor Afman had difficulty in the long range issue. Section 4-8-1 of the Code, "Undesirable Impacts", listed in the criteria for special and conditional uses was also a concern. She was very uncomfortable with the permits being required.

Upon motion by Councilmember Theobald, seconded by Councilmember Mantlo and carried by roll call vote with Councilmembers **TERRY, GRAHAM** and **MAUPIN** voting **NO**, Ordinance No. 2923 (May 9, 1996 version) unamended, was adopted on second reading and ordered published.

(Clarification of Motion: No notification of neighbors for churches under 300 seats and no public process.)

**APPEAL OF PLANNING COMMISSION DENIAL OF CONDITIONAL USE PERMIT FOR CONOCO STORAGE FACILITY [FILE #VR 95-176] - HEARING CONTINUED TO JULY 17, 1996**

Conoco, Inc. is proposing to expand its bulk petroleum storage facility located at 631 S. 9th Street. Currently, Conoco has 12 tanks at the facility which have the holding capacity of approximately 1 million gallons of petroleum products. Conoco is proposing construction of two new storage tanks across 2nd Avenue, south of the existing facility. The combined capacity of the new tanks is 2.3 million gallons. Once the new tanks are constructed some of the older existing tanks will be demolished or removed from service.

Councilmember Maupin moved that Council hear this hearing. He believed enough information has been presented over the past three months. Conoco has had three months to submit the requirements of the Fire Department.

Councilmember Theobald felt because Staff has asked for additional information, Council should wait to collect it and hold as full a hearing as possible, and do it at one time, and grant the request for a continuance.

Councilmember Graham suggested directing a public hearing on the continuance. Councilmember Theobald asked what criteria would qualify for comment on the continuance? Councilmember Graham said comments that would show that continuance would be harmful, prejudicial or in any way detrimental to the party addressing Council.

Councilmember Maupin's motion died for lack of second.

Mayor Afman said the request for continuance and public response will be based on how a continuance will affect the presenter to the Council. A full public hearing is not being conducted on the issuance of the conditional use permit.

Councilmember Theobald said the discussion of the continuance is on the merits of the continuance and when Council wants to hold the hearing. No one should infer from the decision on the continuance one way or the other on the issue of the conditional use permit itself. A future hearing will be held in full on the conditional use permit.

The hearing was opened.

Mr. Tom Volkman, 655 N. 12th Street, representing Conoco, Inc., said there is a radiant heat study that has been requested by Fire Chief Rick Beaty of the Grand Junction Fire Department to study the impacts and affects of what was defined as a worst case scenario on this site. Chief Beaty requested it in order for his

Staff to be able to assess the application and make their recommendations based upon how they would react to the circumstances which serve as the premise for that study. Conoco has engaged two different contractors to perform the study and has remained in contact with representatives of the Fire Department. He shares the Fire Department's disappointment with the lack of promptness of the contractors, but is comfortable that the study is forthcoming within the next week. Conoco feels it is desirable for Council's decision to be based upon complete information which includes the position of the Fire Department. Conoco, Inc., is requesting a continuance until July 17, 1996, to allow ample time (two weeks) to produce the study to the Fire Department for review and comments. Mr. Volkman stated The Daily Sentinel and CCRA do not object to the continuance.

Councilmember Maupin asked Mr. Volkman if he plans to base most of his appeal of the Planning Commission's denial of the conditional use permit on the thermal study? Mr. Volkman said it depends on what the thermal study says. There will certainly be other topics.

Mayor Afman asked Mr. Volkman when the study was requested? Mr. Volkman said March 6, 1996. It was requested prior to the Planning Commission hearing. The contractors purported to Mr. Volkman the study would be completed in early April, but not in time for the Planning Commission hearing.

Mr. Bill Hyatt, representing CCRA, 140 Elm Avenue, was disappointed that the hearing could not proceed, but there was confusion at the workshop meeting and with witnesses who have to travel a considerable distance, and the uncertainty of whether it would be heard tonight, the witnesses were advised not to undertake the travel. CCRA would like to place three provisions on the continuance:

1. This is the last postponement;
2. Every item currently in the file will be addressed at the final hearing;
3. Any application for additional adjournments will be considered to be an abandonment of the petition.

Mayor Afman reminded the audience the guidelines are just how the continuance of the hearing may affect them.

Mr. Judd Perry, 2954 Beechwood Street, said he has spent a lot of time arranging his schedule to meet these various meetings. He

submitted a written statement (attachment #5). Mr. Perry contacted different sources (Mesa County Library, Thomas Register which is a list of industrial or commercial firms in the U.S.). He picked out a major fire protection company who supplies equipment, and was told that if they had their plans, product, the atmospheric conditions, etc., a good fire protection engineer could make the rough calculations for a thermal study in 2-3 hours. The company said he could furnish drawings and a design system for fire protection in about 2-3 days if he had all the information, and concentrated solely on this study. He wonders why it has taken three months to supply this study. He thinks it is wrong for Conoco, Inc., to keep the people of this community on the string.

Mr. Terry Farina, Attorney, 2673 Homestead Road, representing The Daily Sentinel, said in the interest of complete fairness to Conoco, Inc., The Daily Sentinel has no objection to the continuance.

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

Councilmember Baughman was disappointed in the delay of this decision, although he was in favor of the continuance because the Fire Chief needs the study as it is valuable to his presentation. Councilmembers Theobald and Mantlo concurred.

Upon motion by Councilmember Mantlo, seconded by Councilmember Terry and carried by roll call vote with Councilmembers **MAUPIN** and **AFMAN** voting **NO**, the Public Hearing for the Appeal of Planning Commission Denial for a Conditional Use Permit for Conoco, Inc. was continued to July 17, 1996.

**VACATION OF ALLEYWAYS - CONOCO [FILE #VR-95-176] - CONTINUED TO JULY 17, 1996**

Conoco is requesting vacation of four segments of alleyways within and adjacent to the existing tank terminal on South 9th Street.

In conjunction with the previous item, this item was continued to July 17, 1996.

**PUBLIC HEARING - COUNTRY CLUB PARK WEST #2 ANNEXATION, 327 AND 331 COUNTRY CLUB PARK ROAD [FILE #ANX-96-68] - CONTINUED TO NOVEMBER 20, 1996**

**AND**

**CREATION OF SANITARY SEWER IMPROVEMENT DISTRICT NO. 38-95 AMENDED**

Hearings were opened on these items after proper notice.

Upon motion by Councilmember Graham, seconded by Councilmember Terry and carried by roll call vote, both items were continued to November 20, 1996.

Councilmember Maupin requested the hearing on the HUD/CDBG Consolidated Plan be moved to the next item for consideration.

**PUBLIC HEARING - HUD/CDBG CONSOLIDATED PLAN**

This public hearing is part of the City's Citizen Participation Plan which is required by HUD as part of the CDBG Program requirements. In order to receive the City's allotment of CDBG funds, the City must prepare a Consolidated Plan, identify and prioritized City needs and receive public input concerning the proposed use of CDBG funds and the Consolidated Plan.

A hearing was held after proper notice. Assistant City Manager David Varley reviewed this item. The CDBG funds have been available for years for cities to do various projects and improve their communities. In the past year the City of Grand Junction has accessed this pool of federal funds. Last year the City of Grand Junction was designated as the "central city" of the Grand Junction Metropolitan Statistical Area. With that designation also came the designation of an "entitlement city". If the City wishes to continue accessing CDBG funds, it can no longer access through the Small Cities Program. It now must go through the "Entitlement City Process". Under this process, the City is entitled to receive a grant directly from the Federal government on an annual basis without competing with other cities as Grand Junction has done in the past. The annual funds can be received as long as the program is funded by Congress. The City will also be taking over some of the administration that has been handled by the State in the past.

The consolidated plan must be prepared for public review and comment by June 10, 1996. There is then a 30-day public review period. Afterwards, the City would adopt a plan and submit it to the U.S. Department of Housing & Urban Development for approval. The City can begin using these funds to start projects. Part of the plan is to prioritize needs of the City with specific projects. Seventy percent (70%) of the funds must be spent in either low and moderate income areas or on projects that would benefit low and moderate income persons which are people earning 50% or less of the median family income.

The City of Grand Junction expects to receive \$484,000 during the first year, and will continue receiving a similar allotment annually. Two specific projects are being proposed for funding for the first year of the program:

1. Street improvements project in the neighborhood known as El Poso;
2. Rental housing purchase project sponsored and proposed by the Grand Junction Housing Authority. The Energy Office is also working with the Housing Authority on this.

Other groups in the community have expressed an interest in access-ing these funds. The City can choose to use these funds as it sees fit as long as it meets the guidelines outlined by HUD. Consideration has been given for providing for other non-profit groups in the City to apply for these funds. It would be difficult to accomplish for the first program year because of this year's time frame. One of the purposes of this hearing is to consider some of the groups that have expressed interest in these funds.

Mr. Varley said the plan is good for 3-5 years. Amendments can be made to the plan. Each year a specific action plan is required detailing the specific projects to be funded and outlined. The plan can be amended at any time.

Ms. Jody Kole, 566 Pearwood Court, Housing Authority Director, said she advocates and tries to serve the needs of the low income, elderly and disabled in the way of affordable housing. Council was provided documentation of affordable housing needs in this community. There is a great need that is not being met. Her request is to help preserve existing affordable housing units. There are approximately 1600 units, only 500 to 600 of them are administered through the Housing Authority. The remainder are managed by private land owners under contracts with HUD. Those contracts are 20-year subsidy contracts which are now expiring. In FY1996, 340 existing affordable housing units are at risk of going to market rate rents, making them unaffordable to the families currently residing in those units. Because the existing affordable housing developments and programs have extensive waiting lists, those families will have few options and will be at great risk of becoming homeless. Even though there is a great need to add to the affordable housing, her proposal is to preserve some of the existing units. She asked Council to help protect those families.

The proposal is to use \$150,000 (30% of the CDBG funds) and

leveredge three times that amount from the State Division of Housing. The Housing Authority would also commit an additional \$25,000 which would be matched by the State Division of Housing under the "Home Program". The properties would be acquired from owners wishing to sell those properties, and try to maintain them within the affordable housing market. The rents received from the tenants would support a small mortgage, but not sufficient to acquire, rehabilitate and continue to maintain the properties.

Councilmember Theobald asked if there were restrictions on the sale of the properties? Ms. Kole said there are mechanisms to encourage the property owners to sell to non-profits, housing authorities or local governments. If negotiations do not work, they may sell them to anyone on the open market. She feels the Housing Authority can work with the Energy Office to rehabilitate the existing units it acquires so they can be maintained within a low market rent structure.

Councilmember Graham asked if property taxes are paid on real property that comes into ownership of the Housing Authority? Ms. Kole said property taxes are not paid. The Housing Authority makes a payment in lieu of taxes, the amount of which was negotiated when the properties were built.

Mr. Bill Rogers, 2412 Sandridge Court, representing Habitat for Humanity, asked to be included in this grant. They began building in 1991 and have completed their ninth home. They are in need of land on which to build, and requested \$80,000 to purchase 4 or 5 lots within the city limits.

Ms. Marilee Wood, representing Mesa Developmental Services, 950 Grand Avenue, said they are responsible for 160 people with developmental disabilities, all qualifying as low income. There is a waiting list which varies from 100 to 150 people. MDS's funding is not sufficient for ongoing upkeep and renovations of its existing housing. Affordable handicap housing is almost impossible to find in Grand Junction. Most of the housing is located in outlying areas. MDS is also responsible for the transportation of their clients. Transportation to their downtown location adds additional financial burdens and problems to their agency. MDS requested City Council set aside a portion of the CDBG funds for local non-profit agencies serving the housing needs of low income people with disabilities, and to consider a partnership with the County for projects which cross county lines. Their current needs include:

1. Renovation of their existing housing (12 group homes) which is in need of major repairs and upgrades which MDS does not

- have the funding to provide;
2. Retrofitting two of their homes for accessibility to meet the needs of the growing numbers of physically handicapped and elderly people;
  3. A house or apartment dedicated to supervised emergency respite care.
  4. Housing and partnership with Colorado West Mental Health for duly diagnosed consumers;
  5. Affordable and centrally located housing for the more independent individuals.
  6. Incentives for investment property owners to rent to people with disabilities and to offer barrier free environments.

Mr. Robert Kelsey, 2010 N. 8th Street, a volunteer at the Grand Valley Catholic Outreach and advocate for the homeless, voiced his support for Jody Kole's proposal. He requested Council postpone his request for CDBG funds until a later meeting. He received some new information this evening that needs to be integrated into his proposal.

Mr. Dan Whalen, Energy Office, 128 S. 5th Street, commented on the needs of Mesa Developmental Services. He said his office has housing rehabilitation activities that can be accessed. The needs for affordable housing must be addressed. As a non-profit organization, the Energy Office can also access additional home monies with which they can work with Mesa Developmental Services, at least on the problem of rehabilitation of their existing units.

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

Councilmember Maupin said he cannot support the El Poso street improvements project consisting of \$.5 million to provide 3300 running feet of curb, gutter and sidewalk. He feels there is a greater need in the Riverside Community for the expenditure of such funds at this time. There are so many needs other than street improvements.

Councilmember Theobold suggested Council find some other project close to the amount of money available so the cost of some other project is not driven higher. Assistant City Manager David Varley said the problem is naming specific projects in order to meet the deadline.

Councilmember Theobold said two issues must be resolved:

1. Determine what are Council's objectives and priorities;
2. The action plan for the immediate program year and what can be done within the limited time frame to select projects for this funding year.

Councilmember Terry asked if there were any other projects considered that would not create a shortfall? Mr. Varley said there are only estimates on cost for many of the projects.

Councilmember Theobold felt more could be accomplished with the 3 to 1 match proposal by the Grand Junction Housing Authority. Councilmember Maupin was in favor of funding the community shelter proposed by the Catholic Outreach Center.

Councilmember Graham stated spending 70% of these funds on low and moderate income needs implies that 30% may be used for other purposes, some of which will be administration. He wondered if Council should disregard the idea of using these funds for infrastructure and concentrate only on low and moderate income housing and other needs. Mr. Varley said CDBG monies used in the past have been for infrastructure in areas of low and moderate income persons. Tonight Council can make a conscious decision to continue the use of these funds solely for that purpose or it can choose to use the funds in other projects that have been requested tonight.

Councilmember Graham supported the proposal as drafted with the priorities discussed at Monday's workshop meeting.

Councilmember Baughman advocated less interference by government in the financial lives of the taxpayers. He voiced his opposition to the HUD program.

Upon motion by Councilmember Maupin, seconded by Councilmember Terry and carried by roll call vote with Councilmember **GRAHAM** voting **NO**, the public input on the HUD/CDBG Consolidated Plan was accepted, and the \$484,000 in CDBG Grant funds was authorized to be distributed as follows:

Housing	Authority	Rental	Purchase	Program:	
\$312,000					
Habitat		for		Humanity:	
\$80,000					
Catholic	Outreach	Day	Center	for	Homeless

1996

\$30,000

Administration:

\$62,000

\$484,000

**PUBLIC HEARING - VACATION OF RIGHT-OF-WAY IN DAWN SUBDIVISION - ORDINANCE NO. 2924 VACATING A PORTION OF THE EAST SIDE OF THE 28 ROAD RIGHT-OF-WAY NORTH OF THE 28 ROAD AND PATTERSON ROAD INTERSECTION [FILE #VR-96-88]**

John Davis, the developer of the proposed Dawn Subdivision, is requesting vacation of a portion of the east side of the 28 Road right-of-way north of the Patterson Road/28 Road intersection in order to incorporate the area into design of the adjacent proposed Dawn Subdivision.

A hearing was held after proper notice. Kristen Ashbeck, Community Development Department, was present to answer questions of Council. She said the issue of access has been resolved by the configuration of the streets. The drainage ditch issue has been mostly addressed. The vacation provides the developer more opportunity to work with Grand Valley Canal Co. in the right-of-way. Grand Valley Canal Co. is currently reviewing the designs for the underground pipe. They are proposing a 30-foot easement for maintenance.

Mr. Ward Scott, 253 W. Fallen Rock Road, representing the petitioner, was present to answer questions of Council. There were no questions of Mr. Scott.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Maupin, seconded by Councilmember Terry and carried by roll call vote, Ordinance No. 2924 was adopted on final reading and ordered published.

**PUBLIC HEARING - EDWARDS ANNEXATION, 381 AND 383 SOUTH REDLANDS ROAD ORDINANCE NO. 2925 ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO - EDWARDS ANNEXATION, APPROXIMATELY 1.3 ACRES, LOCATED BETWEEN MONUMENT ROAD AND S. REDLANDS ROAD [FILE #ANX-96-69]**

The property owner, Cynthia Edwards, is requesting to join her property to the City of Grand Junction. Staff requests that City Council approve on second reading the Edwards Annexation.

A hearing was held after proper notice. Dave Thornton, Community

Development Department, was present to answer questions of Council.

There were no comments. The hearing was closed.

Upon motion by Councilmember Baughman, seconded by Councilmember Mantlo and carried by roll call vote, Ordinance No. 2925 was adopted on final reading and ordered published.

**HETZEL ANNEXATION, SOUTHEAST CORNER OF 25 1/2 ROAD AND F 1/2 ROAD - RESOLUTION NO. 64-96 ACCEPTING PETITIONS FOR ANNEXATION, MAKING CERTAIN FINDINGS, DETERMINING THAT PROPERTY KNOWN AS THE HETZEL ANNEXATION IS ELIGIBLE FOR ANNEXATION AND EXERCISING LAND USE CONTROL AND JURISDICTION - PROPOSED ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO - HETZEL ANNEXATION, APPROXIMATELY 29 ACRES, LOCATED AT THE SOUTHEAST CORNER OF 25 1/2 ROAD AND F 1/2 ROAD [FILE #ANX-96-58]**

The property owner, Kenneth M. Hetzel, ETAL is requesting to join their property to the City as part of a residential development plan. Staff requests that City Council accept the annexation petition and approve on first reading the Hetzel Annexation.

A hearing was held after proper notice. Dave Thornton, Community Development Department, reviewed this item. It was his opinion as a professional planner for the City of Grand Junction that the statutory requirements for the petition itself have been met, and presented the written statement to the City Clerk for the record.

There were no comments. The hearing was closed.

Upon motion by Councilmember Mantlo, seconded by Councilmember Theobald and carried by roll call vote, Resolution No. 64-96 was adopted, and the proposed ordinance was adopted on first reading and a hearing was set for September 4, 1996.

**3 D SYSTEMS ANNEXATION, 805 FALCON WAY - RESOLUTION NO. 65-96 ACCEPTING PETITIONS FOR ANNEXATION, MAKING CERTAIN FINDINGS, DETERMINING THAT PROPERTY KNOWN AS THE 3 D SYSTEMS ANNEXATION IS ELIGIBLE FOR ANNEXATION AND EXERCISING LAND USE CONTROL AND JURISDICTION - PROPOSED ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO - 3 D SYSTEMS ANNEXATION, APPROXIMATELY 20.8 ACRES, LOCATED AT 805 FALCON WAY [File #ANX-96-104]**

3 D Systems Corporation, property owners have requested to join their property to the City of Grand Junction. Staff requests that

City Council accept the annexation petition and approve on first reading the 20.8 acre 3 D Systems Annexation.

A hearing was held after proper notice. Dave Thornton, Community Development Department, stated the petition meets all statutory requirements and presented a written statement to the City Clerk stating such.

There were no comments. The hearing was closed.

Upon motion by Councilmember Maupin, seconded by Councilmember Mantlo and carried by roll call vote, Resolution No. 65-96 was adopted, and the Proposed Ordinance was adopted on first reading and a hearing was set for June 19, 1996.

**PUBLIC HEARING - AMENDMENTS REGARDING PERMITS FOR WORK IN THE PUBLIC RIGHT-OF-WAY AND ESTABLISHING FEES THEREFOR - ORDINANCE NO. 2926 AMENDING CHAPTER 38, SECTIONS 162, 164, 165, 166, 167 AND 169 CONCERNING RIGHT OF WAY WORK PERMITS AND PERFORMANCE/WARRANTY GUARANTEE FOR PERMITS OF THE CODE OF ORDINANCES OF THE CITY OF GRAND JUNCTION**

The proposed ordinance (1) eliminates the annual permit; (2) allows the permittee to provide the City with the \$10,000 license and permit bond as a form of performance/warranty guarantee for one or more permits; (3) defines process for inspection and testing of work performed under a permit; and (4) clarifies activities, including the performance of work within public right-of-way, which are unlawful without a permit.

A hearing was held after proper notice. Jim Shanks, Public Works Director, was present to answer questions of Council.

There were no comments. The hearing was closed.

Upon motion by Councilmember Maupin, seconded by Councilmember Theobald and carried by roll call vote, Ordinance No. 2926 was adopted on final reading and ordered published.

**BASEBALL FIELDS AT CANYON VIEW PARK**

As per the discussion at the June 3 workshop, Winston Associates was contacted regarding an amendment to the Canyon View Park master plan to include a baseball stadium, tennis center and softball fields. The cost for the master planning services is \$14,900, with 50% being shared with JUCO.

Joe Stephens, Parks & Recreation Director, was present to answer

questions of Council.

Councilmember Graham asked if anyone has asked for an off-set based on the fact this project is well over budget to begin with due to the flaws in the original design? Mr. Stephens said he did not ask that question as the project is not over budget as far as construction costs are concerned. He said this phase is to do the master plan. It does not cover the actual plan specifications. That number would be much higher, approximately \$80,000 to \$100,000. Mr. Stephens says the plan specifications are more than a feasibility study.

Councilmember Graham felt if Mr. Suplizio and others are interested in lobbying for a baseball stadium at Canyon View Park that at least the initial stages of determining the feasibility of it and the impact on the project development as a whole is an expense that should be borne entirely by them, and not by the City. Council-member Theobald said if the majority of Council was reluctant to build the field, he would agree, but he thinks Council supports the idea.

Upon motion by Councilmember Mantlo, seconded by Councilmember Maupin and carried by roll call vote with Councilmembers **BAUGHMAN** and **GRAHAM** voting **NO**, the City Manager was authorized to sign an agreement with Winston Associates, Inc., to revise the Canyon View Park Master Plan at a cost of \$14,900 with 50% being shared with JUCO.

**ADJOURNMENT**

Upon motion by Councilmember Theobald, seconded by Councilmember Terry and carried, the meeting was adjourned at 12:47 a.m., June 6, 1996.

Stephanie Nye, CMC/AAE  
City Clerk

ATTACHMENT #1

City of Grand Junction, Colorado  
250 North Fifth Street  
81601-2668 FAX: (970)244-1599

June 3, 1996

**Grand Junction City Council  
c/o R.T. Mantlo, Mayor Pro Tem**

**Dear Fellow Council Members,**

**The purpose of this letter is to memorialize a potential conflict of interest pertaining to item number PP 96-54 concerning Entrada Townhomes.**

**In my capacity as a real estate broker I may be marketing the project if fully and finally approved. Currently there is no contractual relationship between the Petitioner and me, however, I stand to gain monetarily should a marketing contract be consummated. If a listing is made I will have a financial interest in the success of the development.**

**To avoid the appearance of impropriety I have not and will not be participating in any public discussion or consideration of the project or any aspect of the proposal coming before the City Council in item PP 96-54.**

**My business relationship with the project may create a predisposition in my consideration of the development and therefore I respectfully defer my mayoral duties to Mayor Pro Tem R.T. Mantlo for purposes of conducting the hearing considering item PP 96-54.**

**Thank you for your consideration should you have additional questions that are unanswered by this letter please ask.**

**Linda Afman  
Mayor**

**Grand Junction City Council**

**pc: Stephanie Nye, City Clerk  
Vikki Buckley, Colorado Secretary of State**

**ATTACHMENT #2**

**June 5, 1996**

**To:**

**City of Grand Junction**  
**250 North 5th Street**  
**Grand Junction, Colorado**  
**81501**

**From:**

**Roger Ferguson**  
**Vice President - Ministerial Alliance**  
**Grand Junction, Colorado**

**Dear Members of the Council:**

**I reviewed a copy of the proposed amended ordinance (June 4, 1996) which I received last night during the Grand Junction Planning commission hearing and have found it to be not at all in keeping with the intent of the options previously presented to the City Council at their workshops by the church community.**

**I strongly urge you keep the original language of the ordinance, providing for churches in residential zones to be "Allowed Uses" and to strike the amended language requiring a "Special or conditional Use" permit for churches in those zones. I found the arguments put forth by the Planning commission to be arbitrary and prejudicial toward church entities. Their belief that public testimony "safeguards" other property owners is erroneous. Those safeguards are found in the Codes, Ordinances, and Civil Laws which bind our society.**

**It is the firm belief of those represented by the Ministerial Alliance that the special and Conditional Use Permit process, because of it's inherent public hearing procedure, opens the 40 plus ministries that we represent to detrimental outside influences of groups hostile to the intents of our churches. It is my understanding that any impacts created by a church development is considered during a "Pre-App" meeting with City Planning Staff and mitigation is implemented through the "Site Plan Review" process. The Special and Conditional Use Permit process is therefore redundant and harmful to church growth.**

**thank you for your leadership in this matter. Your attention to the wording of this ordinance is of the utmost concern to the futures of Grand Valley churches and to the segment of your constituency that they comprise.**

**Respectfully,**

**/s/ Pastor Roger Ferguson**  
**Vice President - Ministerial Alliance**

**Copy File**

**ATTACHMENT #3**

**Members of the Grand Junction City Council  
and Concerned Friends**

**I pastor Liberty Baptist Church here in Grand Junction. Our church was recently annexed into the City of Grand Junction. When our church was built more than 15 years ago, there was very little development in our area on South Camp Road. And until annexation, we enjoyed the use of our church property by right.**

**There are some in our community who say they are concerned about community fairness. I would ask "What about the fairness of our losing our important rights in this matter?" When I think of our church, I would ask you "Is the proposed change fair to our church and fair to the churches in this valley?" The conditional use permit especially is objectionable and some churches will most likely be continued under this very restrictive permit process.**

**This is a permit process so restrictive that it is the same permit process required of mining and gravel pit type operations in the City limits. This means you as a Council believe churches are as adverse of a use in residential areas as gravel pits and petroleum storage facilities. I don't believe anyone really believes that. If so, there should be some factual documentation. When was it ever determined by the people of this City that churches are such an adverse use in residential areas, and on what factual basis was such a determination made. I would like to see the determination. I would suggest tonight that the people in the City do not really consider churches perse to be this adverse. Many of you have said so yourself. On the contrary, many of you believe they are desirable in residential areas. I agree. In some residential areas of our City churches are the only such building where a polling place can be set up.**

**This decision tonight will probably not affect most of you much, but it may prove to be a real burden to some of our area churches in the years to come. If this happens, is the City willing to assume this responsibility for those churches that are annexed? If not, they will have lost important property rights without proper compensation. This is not right or lawful. But most important about last night's meeting, was that I detected a problem of discrimination. One of the most distressing things about the Planning Commission's meeting last night represented by the majority was brought out in their discussion. In much of the discussion there was an expressed desire to allow for people to discriminate against undesirable churches. You see, in spite of all the protests to the contrary, it is a problem of discrimination. I believe this is really the driving force behind the conditional use permit. I don't believe it's some hypothetical church that might come to town that is generating the concern. The example given at the meeting was so narrow and so extreme that in my 41 years experience here in Grand Junction I have never known or heard of such a church. At one point the group even pursued the idea of defining a church. At this point the City's own attorney said "That amounted to an unconstitutional establishment of religion." It would seem obvious that there is not a great knowledge or concern for the constitutional principles involved.**

**The City's original agreement is satisfactory. Any church in this City that obtains a building permit must go through some 20 or more government agency reviews during their site plan development. Is it possible that all these professionals would really overlook legitimate community concerns. I don't think so. What seems more reasonable is some desire to unlawfully discriminate. This discussion is a part of public record and done by the Planning Commission members themselves. By using zoning laws, those who would do this, have the ability to mask their unlawful purpose with the respectability of law. Therefore, the more honest, reasonable and fair approach for City Council is the one the majority already supported. That is, allow all churches of comparable impact to residential development, as far as traffic, noise, etc., be allowed in residential zones. When it comes to churches and other classes protected from discrimination I really don't believe there can be a respectable use for the conditional use permit.**

**Thank you.**

**Rev. Dan Wilkenson**

**ATTACHMENT #4**

**Submitted by  
Win Miller  
385 Ridge View Drive  
Grand Junction, Colo. 81503 245-2915**

**I was a member of Faith Baptist Church of Parker, Colorado, in Douglas County. Our group met for Sunday Services in an elementary school until they had raised enough money to build on a 5 acre site located in a residential area that had been sub-divided into 5 and 10 acre plots.**

**At the time of the purchase of the property, in the late 50's and early 60's, Douglas County did not have any rules that excluded churches from building in residential areas. Because churches had, since the founding of our country, been built in residential areas and were an integral part of our communities and our culture in this country, and since there were no covenants that excluded churches, we foresaw no problems in building on this site.**

**In the 10 year period that elapsed until the church had raised enough money to begin construction - Douglas County had added a Planning Committee. We gave a presentation of our plans to this planning group, and then, we were required to go before the three County Commissioners to get permission to build by their granting a "Use by Special Review" waiver.**

**Our plan was approved by the County Commissioners and we were granted a Building Permit.**

**We excavated, poured the foundation, and drilled the well. It was at this point that we were told that two residents in the area had protested the building of the church in their neighborhood.**

**The two residents started legal action and we were taken to court to review the legality of building this church on residential property. One of the unresolved questions addressed: - was a church commercial or was it in some other category?**

**Though in our view we had followed all of the procedures in obtaining a Building Permit, the Judge felt there might be some question as to whether proper steps were followed, and remanded the disposition of the case back to the County Commissioners for a re-hearing.**

**At the second hearing before the County Commissioners, the outcome hinged on a traffic report by the County Highway Superintendent.**

**Page 2**

**His report stated, after his investigation of the intersection which would serve our building, that traffic would cause too much dust and noise, and he recommended that the permit to build be denied.**

**By a vote of 2 to 1 by the commissioners, our permit was revoked.**

**Needless to say this created a hardship on our church and a number of members gave up and started commuting to a Denver church some 30 miles away.**

**Even after this loss of time and members, we still felt that a local church was important and even necessary for a spiritually healthy community. The church had other real benefits to offer our neighborhood other than those of a**

religious nature, such as a meeting place and shared recreational facilities.

After a number of sites were considered and presented to the planning people, we found that we were excluded from the traditional church locations, and since churches didn't seem to fit into any use category, the bottom line seemed to be churches have become a commercial activity.

So without any firm guidelines for what we now felt was an unclassified activity, we began searching for commercial property. We could have built on a very expensive piece of commercial property in the Pinery development, but their planned community covenants" would require that a church built on this pre-planned site would only be allowed if it were non-denominational. Something that was incompatible with our church constitution, - and maybe even the U. S. constitution.

We found that there were very few commercial sites in this rural setting, and the ones that we did find were way off budget.

After nearly a year's delay in our building effort, we were told of a property in an area that a farmer had sub-divided. He had thought that he might put in a small shopping center someday. He had divided out an 8 acre site and had it zoned commercial. His plan never materialized, but even though it was in the midst of five and ten acre tracts with existing homes around it, it was still zoned commercial. We were able to buy this property and though it was surrounded by residential homes, much as the other site had been, it met all of the qualifications for a building site.

Page 3

We were finally successful in building a church that today serves a large area, and people from the Pinery, Parker, Franktown and the rural area of Douglas County attend this church. If we had not been able to find this unique piece of property - this church would never have been built.

It's our belief that a church still has an important role in teaching family values and responsible behavior, even from a secular point of view.

Family values and responsible behavior seems to be high on the agenda of all political parties.

As a demonstration of how curious things can develop in the decision making process of government officials; - at the site that we were evicted from, a high density housing development was built and all that traffic spilled out onto the intersection that we were denied.

Thank you for your consideration of our churches needs in today's planning.

signed  
Winfield L. Miller

**ATTACHMENT #5**

**2954 Beechwood Street  
Grand Junction, CO 81506  
June 5, 1996**

**The Honorable Mayor and City Council  
City of Grand Junction  
250 N. 5th Street  
Grand Junction, Colorado 81501**

**Subject: (a) Appeal to the City Council of the Planning Commission's ruling denying Conoco's request to site two large VOC storage tanks at their facility on South Ninth Street.**

**(b) Request for a continuance of Conoco's application request because they have not completed a radiant heat study.**

**SUMMARY**

**(a) It is my opinion that the opinion of the Planning Commission should be upheld, as stated in my written presentation of April 5, 1996. Attached to that letter were my written comments of March 11, 1996 to the Planning Commission and my "POSSIBLE SPECIFICATIONS FOR STORAGE TANKS" that I discussed with the Grand Junction Fire Department in December 1995.**

**(b) I do not understand the problem that Conoco has with the radiant and conducted heat calculations, but I suspect that it is with the result of those calculations. After the article in *The Daily Sentinel* appeared I contacted a major supplier of fire suppression equipment. I was told by them that a good fire protection engineer could do the calculations in two to three hours. He could then design the system and complete the drawings in two to three days if he weren't working on anything else. This is a little faster than the companies where I used to work, but now there is CAD with a proprietary menu and icon system to generate the design drawings.**

**CONCLUSION**

***JUST SAY NO TO CONOCO!!***

**These tanks could be our "ValuJet" or "Three Mile Island." We are told they are safe, but no one can guarantee against human error. If there should be an accident, which is certainly possible, the disruption to Downtown Grand Junction and the East-West rail arterial could be calamitous.**

**We do not have to worry about running out of gasoline if we don't have storage tanks downtown. With the premium profit margins charged here on the Western Slope, there will always be companies willing and able to invest in fuel distribution.**

**Very truly yours.**

**/s/ Judd L. Perry, P. E.**