

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

July 17, 1996

The City Council of the City of Grand Junction, Colorado, convened into regular session the 17th day of July, 1996, at 7:34 p.m. in the City/County Auditorium at City Hall. Those present were Jim Baughman, David Graham, Ron Maupin, Janet Terry, Reford Theobald, and President of the Council Linda Afman. R.T. Mantlo was absent.

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 Terry led in the Pledge of Allegiance. The audience remained standing during the invocation by Rev. Gary Cake, More Than Words Fellowship.

SPECIAL RECOGNITION

Mayor Afman presented a Special Achievement Award to Tim Woodmansee, City Property Agent, for Fostering the Acquisition of the Matchett Property

APPOINTMENTS

It was moved by Councilmember Maupin that the appointments of the following persons to the Urban Trail Committee be ratified: Lenna Watson and Cindy Burke, terms to expire 6-30-99, and Mike Heaston, term to expire 6-30-98.

CONSENT ITEMS

Councilmember Graham requested Consent Item #7 be removed from the consent calendar for full discussion.

Upon motion by Councilmember Maupin, seconded by Councilmember Baughman and carried by roll call vote with Councilmember **GRAHAM** voting **NO** on Items 9 and 13, the following Consent Items #1-14 were approved:

1. **Minutes of Previous Meeting**

Action: Approve the minutes of the Regular Meeting July 3, 1996

2. **Purchase of a Tandem Axle Dump Truck for the Street Patching Division**

The following bids were received:

Hanson Equipment (International), Grand Junction	\$71,973*
Transwest Trucks (Freightliner), Grand Junction	\$81,902

* Recommended Award

Action: Award Contract for Tandem Axle Dump Truck to Hanson Equipment in the Amount of \$71,973

3. **Radio Frequency Use Survey**

Proposals were received on April 18, 1996 from the following firms:

Pacific Consulting Services, Hoodspport, WA
The Warner Group, Woodland Hills, CA
Swan & Associates, Peoria, IL

Action: Award Contract for Radio Frequency Use Survey to Pacific Consulting Services of Hoodspport, Wa. in the Amount of \$33,820

4. **Elm Avenue Reconstruction between 7th Street and Cannell Avenue**

The following bids were received on July 9, 1996

United Companies, Grand Junction	\$168,978.00
Elam Construction, Grand Junction	\$178,920.00
Engineer's Estimate	\$140,160.50

Action: Award Contract for Elm Avenue Reconstruction to United Companies of Mesa County, Inc., in the Amount of \$168,978.00_

5. **1996 Sewer Line Replacements - Various Locations**

The following bids were received on July 9, 1996:

M.A. Concrete Construction, Grand Junction	\$211,639.69
Sorter Construction, Grand Junction	\$280,939.35
Continental Pipeline, Mesa, Colorado	\$367,772.65
Engineer's Estimate	\$274,979.90

Action: Award Contract for 1996 Sewer Line Replacements to M.A. Concrete Construction in the Amount of \$211,639.69_

6. **1996 Interceptor Rehabilitations**

The following bids were received on July 9, 1996:

Guildner Construction, Denver	\$140,450.25
Martin Excavating, Pueblo	\$285,359.00
Insituform, Denver	\$291,169.00
Western Slope Utilities, Breckenridge	\$316,266.00
VSR Corporation, Denver	\$331,601.00
Engineer's Estimate	\$295,555.00

Action: Award Contract for 1996 Interceptor Rehabilitations to Guildner Construction in the Amount of \$140,450.25_

7. **Devil's Kitchen Trailhead Parking Area - Agreement for Improvements - REMOVED FOR FULL DISCUSSION**

8. **Metropolitan Planning Organization**

a. The Regional Transportation Planning Contract - This allows the Metropolitan Planning Organization to continue transportation planning responsibility for the Mesa County Transportation Planning Region. CDOT will make \$4,500 available to the Metropolitan Planning Organization for funding the effort.

Resolution No. 71-96 - A Joint Resolution of the County of Mesa and the City of Grand Junction Whereby the Board of County Commissioners and the City of Grand Junction Enter into an Agreement with the State Department of Transportation, Division of Transportation Development, for the Provision of Transportation Services

Action: Adopt Resolution No. 71-96

b. The Unified Planning Work Program and 1997-2002 Transportation Improvement Program - The proposed joint resolution would approve the 1997 fiscal year's work program (UPWP) as well as the FY1997-2002 Transportation Improvement Plan (TIP). The execution of this joint resolution will allow the operation of the MPO during federal fiscal year 1997 and the expenditure of federal funds for transportation projects through the year 2002.

Resolution No. 72-96 - A Joint Resolution of the County of Mesa and the City of Grand Junction Concerning Adoption of the Fiscal Year 1997 Unified Planning Work Program and the Fiscal Years 1997-2002 Transportation Improvement Program

Action: *Adopt Resolution No. 72-96*

c. The Transportation Improvement Plan (TIP) Amendments - The City of Grand Junction/Mesa County Metropolitan Planning Organization (MPO) includes federally funded projects for all entities within the MPO boundary, including the Colorado Department of Transportation (CDOT). The amendments proposed are for two CDOT projects; the 5th Street Viaduct and the widening of Highway 50, south of Grand Junction. Federal guidelines require joint approval from the City Council as well as the Mesa County Commissioners.

Resolution No. 73-96 - A Joint Resolution of the County of Mesa and the City of Grand Junction Concerning Adoption of Two Administrative Amendments to the Fiscal Years 1995-2000 Transportation Improvement Plan

Action: *Adopt Resolution No. 73-96*

9. **Contribution of \$1,250 to the Grand Junction/Mesa County Riverfront Commission**

The contribution is requested to assist in funding a Legacy Coordinator position for the Colorado Riverfront Greenway Legacy Project.

Action: *Approve Contribution of \$1,250 to the Grand Junction/Mesa County Riverfront Commission for a Legacy Coordinator Position*

10. **Setting a Hearing on Vacation of Easement and Drainage Ditch Right-of-Way for James Park at 28 1/4 Road and Gunnison Avenue** [File #VE-96-89]

The applicant requests to vacate two easements to accommodate the proposed James Park Mobile Home Park. The easements will be rededicated, as necessary, in an alternate location and drainage facilities relocated at the applicant's expense.

Final plans for the relocation of the drain are subject to approval of the Grand Junction Drainage District.

Proposed Ordinance Vacating a 15 Foot Utility and Irrigation Easement and a 50 Foot Drainage Ditch Right-of-Way to Accommodate Construction of a Mobile Home Park Located on Lot 2, Darwin Subdivision, at the Northeast Corner of 28 1/4 Road and Gunnison Avenue

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for August 7, 1996

11. **Revocable Permit for Landscaping in Public Right-of-Way at 2885 North Avenue** [File #SPR-96-121]

Resolution authorizing the issuance of a Revocable Permit to allow for proposed landscaping and irrigation system, decorative fencing, and a walkway in the North Avenue right-of-way north of a proposed retail building at 2885 North Avenue.

Resolution No. 74-96 - A Resolution Concerning the Issuance of a Revocable Permit to Scotty Investments, a Colorado Partnership

Action: Adopt Resolution No. 74-96

12. **Floral Annexation, 264 26 1/4 Road** [File #ANX-96-163]

Walter and Catherine Larsen signed a power of attorney on March 26, 1975 for annexation as part of a sewer service agreement. Staff requests that City Council approve the resolution for the referral of petition for the 2.9 acres, and set a hearing for August 21, 1996.

Resolution No. 75-96 - 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 Such Annexation - Floral Annexation Located at 264 26 1/4 Road

Action: Adopt Resolution No. 75-96

13. **City of Grand Junction Consolidated Plan - June, 1996**

Grand Junction needs to adopt the Consolidated Plan and submit it to the U.S. Department of Housing and Urban Development for their approval. This is necessary for the City to become eligible to receive its CDBG entitlement grant funds for program year 1996.

Action: Adopt City of Grand Junction Consolidated Plan - June, 1996

14. **Funding for Two VCB Special Events for the Second Funding Cycle of 1996**

This is the second year applications have been accepted for a second funding cycle. Applications for three events were received by the June 4 deadline. Upon review of the applications, the VCB Board recommends the following awards:

Grand Junction Air Show	\$4,800
Rim Rock Run	\$2,000

Action: Approve Funding for Two VCB Special Events for the Second Funding Cycle of 1996 in the Amount of \$6,800

* * * END OF CONSENT CALENDAR * * *

* * * ITEMS NEEDING INDIVIDUAL CONSIDERATION * * *

DEVIL'S KITCHEN TRAILHEAD PARKING AREA - AGREEMENT FOR IMPROVEMENTS

The proposed agreement between the City and the National Park Service provides that the National Park Service will include the Devil's Kitchen Trailhead Parking Area in their resurface contract for Rim Rock Drive and oversee the work while the City will contribute funds in the amount of \$15,000.

Councilmember Graham was concerned that the City is agreeing to contribute \$15,000 toward parking area expansion. He asked what consideration the City is receiving for the \$15,000? City Attorney Dan Wilson said it was characterized as an agreement (the form). It is not an agreement. It is a grant, a gift. The purpose of drafting it as an agreement is the National Park Service's planned to recite Article VII which is required by federal law. Mr. Wilson was sure the National Park Service would accept the funds without the agreement. Councilmember Graham asked if the City will subject itself to Executive Order 11-2-46 (nondiscrimination) by adopting this agreement. City Attorney Dan Wilson said no.

Upon motion by Councilmember Maupin, seconded by Councilmember Theobold and carried by roll call vote with Councilmembers **BAUGHMAN AND GRAHAM** voting **NO**, the City Manager was authorized to Sign the Agreement No. MA 1378-6-002 between the City and the National Park Service.

SETTING A HEARING ON FRUITVALE TO PEACHTREE ANNEXATION PETITION FOR ELECTION - RESOLUTION NO. 77-96 REFERRING A PETITION TO THE CITY COUNCIL TO COMMENCE PROCEEDINGS FOR THE HOLDING OF AN ANNEXATION ELECTION AND SETTING A HEARING ON SUCH ANNEXATION FRUITVALE TO PEACHTREE ANNEXATION LOCATED EAST OF GRAND JUNCTION, SOUTH OF I-70, NORTH OF THE I-70 BUSINESS LOOP, PLUS THE FRUITWOOD NEIGHBORHOOD AND THE PEACHTREE SHOPPING CENTER

The City Clerk received petitions requesting an annexation election for the Fruitvale to Peachtree area. There were sufficient signatures to refer the petition to City Council. Council is being asked to set a hearing for August 21, 1996.

This item was reviewed by Dave Thornton, Community Development Department. Several election petitions have been submitted to the City Clerk for the Fruitvale to Peachtree Annexation.

City Clerk Stephanie Nye stated she had received eight petitions requesting an annexation election. The petitions contained 148 valid signatures that were both registered voters and landowners in the affected area. The minimum required for Council to consider setting a hearing and perhaps later finding for an annexation election is 75 signatures.

Councilmember Baughman asked how many of the 148 signatures were powers of attorney versus voluntary requests from the City for annexation. Mr. Thornton stated none were powers of attorney.

The petitions were circulated and signed by members of the community.

Councilmember Terry asked for clarification of the process and how it comes to the fruition of an election. She also asked how the issue will appear on the ballot. City Attorney Dan Wilson said the process up until tonight was different because it was an election petition. But this petition is similar to a property owner signing a petition, bringing it to Dave Thornton, who would present it to the City Clerk. At this point where the City Clerk refers it to Council, the next step is the same as the regular process. If Council sets a hearing on this annexation, Council is making the finding that the petition meets the statutory requirements. It looks like a petition for an election, and describes that property. Council will set the date of August 21, 1996 for the hearing. On that date, it will be handled the same as a regular annexation hearing. Council will have to make certain statutorily required findings (contiguity, urbanizing, capable of being integrated into the City). Once those findings are made, Council is saying this area can be annexed legally. The next step would be the City Attorney will file, at Council's direction, a petition in the local District Court requesting the judge to follow the statutory process. The judge will look at the petition. The City will submit some names of which the judge will pick three commissioners who will then officially "call" for the election. With the assistance of the City Clerk and the County Clerk, the commissioners will go through the steps to prepare for the November 5, 1996 General Election. This item would be one ballot issue of several. This is different from a standard city election as it is being done under the Consolidated Election Law. The County Clerk will run the election and the City will coordinate through her to put it on the ballot. The ballot question, itself, will be worked up by the City for the Court's review in the petition. The Statute says the question must be phrased "FOR THE ANNEXATION" and "AGAINST THE ANNEXATION". The petition gives a general description of the area from Fruitvale to Peachtree, and the commission will try to use that language as the descriptor. Once the judge approves the title, the City Clerk will certify the ballot question in conjunction with the election commissioners to the County Clerk who will actually place it on the ballot. After November 5, 1996, there is a final step. At that point, it will come back to the City Council if the vote is favorable. If it is not favorable, Council will receive the results from the City Clerk, and it will be ended. If it is favorable, the first and second reading of an annexation ordinance

will be required. Then the final step would be the zoning of the annexation. The annexation must be zoned within 90 days of the effective date of the annexation ordinance. The process could continue through early 1997 if the vote were favorable.

Councilmember Graham asked if the procedure for the court review of the petition allows for amending incorrect descriptions? Mr. Wilson said the court would have that discretion. Councilmember Graham invited the surveyor to certify the description in light of its length. Jim Shanks, City Public Works Director, certified to the best of his knowledge that the legal description is accurate.

Mr. Shanks is a registered land surveyor for the State of Colorado. The description was prepared under his direction and checked by him. Mr. Shanks believes it to be fully accurate.

It was moved by Councilmember Theobold and seconded by Councilmember Maupin that Resolution No. 77-96 be adopted.

Ms. Mary Huber, 580 1/2 Melrose Court, asked how the circulators of the petitions were selected and how long the petitions have been out. She asked if it were possible for the public to review the signed petitions. The City Clerk said Ms. Huber could get copies of the petitions although the maps would be difficult to duplicate. Ms. Huber was interested only in the signatures on the petitions.

Roll was called on the motion with the following result:

AYE: BAUGHMAN, GRAHAM, MAUPIN, TERRY, THEOBOLD, AFMAN.

Motion carried.

DECISION ON PTARMIGAN RIDGE DETENTION POND REPAIR

Three property owners (Tom Clink, Dan Wieseler and Mark Beebe) live immediately adjacent to a storm water and irrigation pond maintained by the Ptarmigan Ridge Homeowners Association. These individuals, with the support of the Association, are requesting the City to fund part of an improvement that would allow the property owners to more easily maintain the facility. The improvement includes the importing of fill and topsoil, a small concrete headwall, 8" pipe and miscellaneous construction at an estimated cost of \$4,397. The request of the property owners is for the City to contribute \$3,297.

Public Works Manager Mark Relph said this item is a continuation of an issue that was discussed at a workshop approximately one month ago. Councilmember Baughman requested some history on this item. Mr. Relph said the area was developed under one developer, John Siegfried. Part of the requirement of subdividing land requires that the developer address stormwater detention. The City is concerned that if stormwater, if not managed properly, may cause harm to individuals and properties downstream. In response to that concern, at the time when this property was developed, the City had an interim manual on stormwater management. The developer followed that manual. The requirements at that time were specific about the quantity of water that had to be stored in relation to what kind of storm, and requirements about the configuration of the pond. Staff purposely decided it did not want to dictate what kind of facility. Staff felt it should be left up to the developer to decide what level he wanted to improve the facility. Now the City has been approached by the property owners raising the issue of whether the City went far enough about what it required of the developer. The property owners feel their current problems do not allow them to actually manage the weeds and grass in a reasonable fashion. They feel the City should help fund an improvement that puts more slope in the bottom of the pond and does a better job of channeling the water away, and eliminating some low spots.

Councilmember Baughman asked Mr. Relph what was the condition of the property prior to development. Mr. Relph said years ago this area was a waste ditch for irrigation water. Historically, it has been a ditch with cattails. Now the detention pond in this location has widened out the ditch to create a basin to detain water.

Councilmember Graham asked for clarification of the potential harmful effects on neighboring property owners. Mr. Relph said this is not part of the issue tonight. The improvement proposed by the property owners is to bring in some fill and decrease the volume of detention. It still meets today's criteria for the necessary volume. The volume is the amount of water that might occur during a 100-year storm event. The City wants to make sure the properties are protected from such a storm. Mr. Relph doubted if the proposed improvements would completely solve the problem.

Mr. Dan Wieseler, 1601 Ptarmigan Ridge Court, understood this is a storm detention. However, two weeks after a storm there is water sitting in the bottom of the detention pond leaving the bottom

mushy with no way to maintain it. He requested fill dirt be placed and hopefully remedy the problem of sitting water. They want to keep the weeds down and keep it looking decent. He does not feel the pond functions as it was designed. It is strictly for stormwater. He said there is water in the pond all year long now, other than during the winter. It also stays wet during the winter. There is no way to maintain it. A professional landscaper has estimated \$13,000 to remedy the problem.

Councilmember Maupin asked Mr. Wieseler what he wanted to accomplish with the improvement? Mr. Wieseler said the water needs to be channeled. The bottom of the pond is flat.

Councilmember Baughman understood that the channel is acting as a drain ditch as well as an expanded part being used as a stormwater retention facility. Before homes were built in Ptarmigan Ridge there was water, at different degrees, flowing down through this channel as a drainage to the river. Mr. Wieseler agreed with Councilmember Baughman's interpretation, but said the water is going outside the channel and creating a muck hole. There is no way the homeowners can walk down there.

Mr. Wieseler said the facility was there when he purchased his home. He questioned the use of the pond at that time. His proposal will channel the water during the irrigation season.

Councilmember Graham asked if the contribution by the City of fill dirt would help? Mr. Wieseler said yes, but there are other costs involved in getting the dirt back to the pond. The dirt would have to be dumped on the street, and the property owners would have to get the dirt to the pond.

Councilmember Theobald who asked who owns the pond? Mr. Wieseler said the pond is located on his and Tom Clink's property. Public Works Manager Mark Relph read from the covenants of the Homeowners Association for Filing #5 which stated the Homeowners Association shall be responsible for the maintenance of the drainage facility. The addresses are 1601 through 1631 Ptarmigan Ridge Court. Ms. Kathy Portner checked and reported there are five properties in Filing #5.

Mr. Mark Beebe, 1520 Ptarmigan, felt the City is somewhat responsible because when the pond was designed it was a City requirement. The City specified what was to be done. He felt it was obvious that what the City signed off on was too flat and not

maintainable. The City requires the homeowners to maintain it. He said it cannot be maintained even though it is a City requirement.

Mr. Relph said when the City Engineer inspected the facility in 1993, it was his impression that enough work had been done to create transverse and longitudinal slopes so it would drain. Prior to 1993 the City had notified the developer that it was not sufficient. The developer then came out with some fill and placed it by hand. Mr. Relph said the neighbors believe that even after the City Engineer's inspection, there was never sufficient slope for drainage. Some work has occurred since the City Engineer's inspection in 1993. A retaining wall was placed and the pipe installed. It is visibly very different from what it was inspected by the City Engineer. Councilmember Baughman asked why the water does not drain? Mr. Relph said there was never enough transverse slope to adequately drain it even though at the time it was inspected, the City felt it was sufficient. The irrigation water runs fluently down the ditch. The problem is the mucky soil.

Upon motion by Councilmember Terry, seconded by Councilmember Theobald, City Council adopted Staff's suggestion that the City supply fill dirt to the property owners at the cost of the material when it becomes available in an approximate amount of \$1,020, with no acceptance of responsibility by the City for maintenance.

Councilmember Baughman asked if the fill dirt could be placed closer to the pond site rather than on the street. Public Works Manager Mark Relph said one of the City's bobcats could be used to help place some of the material, although it will be a lot of hand work.

Councilmember Graham was concerned that the more the City is involved in the mechanics of the reconstruction, as opposed to simply dropping off the material, the construction standards and City's insurance would need to be addressed. He would rather not address that.

Councilmember Theobald reminded Council the pond met the standards in place at the time. The developer cut corners to save money. Whether that was reflected in a higher profit for the developer or a lower price of the home for the home buyers, someone has

benefited. He was uncomfortable with the City spending public funds to accomplish the improvement.

Roll was called on the motion with the following result:

AYE: GRAHAM, MAUPIN, TERRY, THEOBOLD, BAUGHMAN, AFMAN.

The motion carried.

SOUTH AVENUE RECONSTRUCTION BETWEEN 5TH AND 7TH STREETS

The following bids were received on June 25, 1996:

	Option 1	Option 2	Option 3
	Street	Street	Street
	Reconstruc	Reconstruc	Reconstruc
	Total Bid	Total Bid	Total Bid
	PWM*	PWM*	PWM*
	<u>Total + PWM</u>	<u>Total + PWM</u>	<u>Total + PWM</u>
M.A. Concrete	\$270,207.35	\$297,384.70	\$308,884.70
Grand Junction	39,707.89	12,044.38	12,044.38
	309,915.24	309,429.08	320,929.08
United Companies	\$291,670.00	\$421,486.70	\$387,561.70
Grand Junction	39,707.89	12,044.38	12,044.38
	331,377.89	433,531.08	399,606.08
Engineer's Estimate	\$251,292.00	\$258,082.00	\$275,332.00
	39,707.89	12,044.38	12,044.38
	290,999.89	270,126.38	287,376.38

* PWM = present worth of maintenance cost

Public Works & Utilities Director Jim Shanks said Staff had originally considered reconstructing this section of South Avenue from 5th to 7th Street as part of the annual street reconstruction program. Council questioned the priority of this project and postponement for a couple of years. The project can be postponed although curbs need to be repaired in order to make sure it lasts for a few more years. The repairs would not amount to a large enough amount to bid out the work.

Upon motion by Councilmember Maupin, seconded by Councilmember Theobold and carried by roll call vote, the above bids were rejected for the South Avenue Reconstruction between 5th Street and 7th Street.

PUBLIC HEARING - APPEAL OF PLANNING COMMISSION DENIAL OF A PRELIMINARY PLAN AND A REZONE FOR A PORTION OF FALL VALLEY SUBDIVISION AND ZONING OF HETZEL ANNEXATION AT 25 1/2 ROAD AND F 1/2 ROAD [FILE #ANX-95-58 & #RZP-96-045]

Mayor Afman explained that one member of Council will be abstaining from voting on this item. This will leave only five councilmembers to make a decision. She requested comments from the petitioner and possibly members of the audience to address the Council. She would like to determine if Council is to go forward with this item, or postpone it until the August 7, 1996 meeting.

Councilmember Theobald explained that when the hearing was set two weeks ago he was told that members of his wife's family no longer owned any of this property. Since that time he has discovered his wife's aunt and uncle still own the property, and the property sale is based solely on the successful rezone of the property which is to be considered tonight. Councilmember Theobald has talked to the City Attorney who says that is not a legal conflict of interest. Although there is no direct financial tie, he felt he should abstain from this issue. He then excused himself from the meeting at 8:32 p.m.

Councilmember Terry clarified that because this is an appeal of a Planning Commission decision, there must be five Councilmembers to overturn the Planning Commission decision regarding zoning issues.

Ms. Margery Bain, 660 Fenton in the Double Tree Subdivision (the subdivision immediately north of the proposed Fall Valley Subdivision). Ms. Bain preferred Council delay its decision.

Ms. Camille Swenson, 2570 Galley Lane, would like to go ahead with the hearing.

Mr. Alan Sherman, 2570 M Court, was in favor of conducting the hearing tonight.

Ward Scott, 253 W. Fallen Rock Road, representing the petitioner, said he knew Council would be short members this evening. He requested Council conduct the hearing tonight. He asked Council that if the appeal is denied then at least give him some simple criteria for density and any other parameters Council feels is essential.

Upon motion by Councilmember Graham, seconded by Councilmember Maupin and carried, Council proceeded to hear this matter and opened the hearing.

Mayor Afman opened the hearing. This item was reviewed by Michael Drollinger, Community Development Department.

a. Appeal of a Planning Commission Denial of Preliminary Plan for Fall Valley

The petitioner is requesting a rezone and preliminary plan approval for 288 units located on approximately 39 acres south of F 1/2 Road and east of 25 1/2 Road. The development proposal includes a mix of single family, duplex, fourplex and patio home units with an overall density of 7.6 units/acre. Part of the property is in the process of being annexed to the City as part of the Hetzel annexation. Staff recommends approval with conditions.

b. Rezoning a Portion of Fall Valley Subdivision and Zoning of Hetzel Annexation

Fall Valley Subdivision, consisting of 10 acres currently zoned RSF-R and the Hetzel Annexation, is proposed at a density of 7.6 units per acre. Planning Commission denied the proposed zoning of PR 7.6 and instead approved Residential Single Family - Rural (RSF-R), not to exceed 1 unit per 5 acres for the Hetzel Annexation.

Michael Drollinger, Community Development Department, stated that to the north and east there are residential subdivisions of varying densities from R-1-A (a County zone) and PR-3.7 and PR-3.8 for two of the subdivisions. To the south on the southwest corner is PR-18 for part of the Foresight Village Apartments. There are two vacant properties zoned PI and AFT (a County zone). Immediately to the west there is Foresight Park, a Planned Industrial Zone. The number of units in the proposal is 288 of which 49 are single-family detached located primarily in the eastern portion of the property. The remaining attached units are in the west and southern portion of the property. In addition to the residential lots proposed, the petitioner proposes to dedicate approximately 2.6 acres of open space and detention area. Access to the project is primarily from F 1/4 Road and 25 1/2 Road. There is also a stub street proposed in the southeastern portion of the subdivision which abuts the vacant residentially zoned parcel. The developer is proposing this development be

constructed in four phases. Additional right-of-way for F 1/2 Road would be dedicated with the development. The petitioner would also be required to construct half-street improvements along 25 1/2 Road with a minimum of 22 feet of pavement. Staff asked the petitioner to prepare a traffic study. The conclusion of the study was that no improvements would be required to adjoining street network to accommodate this development. Staff concurs with the conclusions of the traffic study, other than the recommendation of completion of 25 1/2 Road which was acknowledged as a need. The Growth Plan identifies this property in the residential medium high density land use category. That category calls for densities of 8 to just below 12 units/acre. The developer's proposed density is 7.6.

Mr. Drollinger summarized Staff's conclusion based on the rezone criteria listed in Section 4-4-4 of the Zoning & Development Code:

Staff believes the subject parcel is in close proximity to services and major roadways and other existing infrastructure and the proposal represents an attempt to concentrate growth close to existing infrastructure. Staff feels the petitioner has made an attempt to locate the higher density portion of the development toward the center and western portions of the site with a single-family development along the site perimeter to minimize conflicts with the adjoining lower density residential development to the east. Regarding benefits to the community, Staff feels the completion of 25 1/2 Road will provide a needed north/south link in the project vicinity earlier than those improvements are presently scheduled in the City's Capital Improvement Program. The 25 1/2 Road improvement is presently scheduled for the year 2002. Regarding the proposal's conformance with policies and master plans, the primary guidance document is the Draft Grand Junction Growth Plan, and the proposal is in general conformance with the Plan. In the Patterson Road Guidelines there are general statements regarding the need to concentrate higher density residential closer to Patterson Road. This proposal also conforms with that Guideline. Staff feels there is adequate utility and roadway infrastructure in the surrounding vicinity to accommodate this proposed development. Staff feels the rezone request is supported by the rezone criteria.

Should Council approve this application, Staff recommends at a minimum conditions 1-5 be part of that approval:

1. The completion of 25 1/2 Road improvements shall occur concurrent with the development of Filing #2, not Filing #4 as proposed by the petitioner. Staff feels the 25 1/2 Road improvement is needed earlier rather than later;

2. The proposed open space in the northeast corner of the project shall be reconfigured in a manner which makes the space more visible and accessible from adjoining streets. The petitioner shall incorporate in to the covenants a provision which limits the fence height in the rear of the lots abutting the open space to three feet. Staff was concerned the open space was not as accessible as it could be from the adjoining street network, and Staff was concerned with a "wall" affect if each property owner were to put six-foot high privacy fences around the open space area.

3. Based on discussions with Staff, the petitioner shall redesign the duplex and fourplex designs to Staff's satisfaction to reduce the amount of pavement area by providing for a more efficient parking configuration.

4. The four-way intersection proposed at the southwest corner of the site shall be reconfigured to eliminate the stub to the south because of awkward geometry.

5. The petitioner shall be required to detail the amenities proposed for the open space areas at the time of final plat/plan submittal.

Staff is recommending approval of the rezone and the preliminary plan for Fall Valley subject to the above conditions. The Planning Commission denied the preliminary plan for the Fall Valley Subdivision by a vote of 3-0 at its June 11, 1996 meeting. Mr. Drollinger stated there were four members present at the Planning Commission meeting, but one member excused himself from voting on this item.

Mr. Drollinger said the 25 1/2 Road improvements would be required from F 1/4 Road which is the southwestern corner of this project where it now ends, all the way north to F 1/2 Road which is the northwest corner of the property. Half-street improvements means there would be curb, gutter and sidewalk constructed on half the street (the eastern side). In order to have a useable travel way, the petitioner would be required to pave at least 22 feet to provide two travel lanes.

Mr. Drollinger clarified review comments made by Jody Kliska, City Development Engineer, on the first traffic study that was submitted by the developer regarding signalization and traffic count. A revised traffic study was reviewed by the Development Engineer and found to be acceptable. Public Works Manager Mark Relph referred to the traffic study which gave the estimated volumes of traffic on Patterson Road on the north side at 178 vehicles/day in the present year and forecasted 1300 vehicles/day for 20 years into the future. Mr. Relph gave the following examples:

Mr. Relph felt once this corridor is completed from F 1/2 Road to Patterson Road it is going to pull a lot of the traffic from the north, and long term will probably reduce the traffic at 1st Street and F 1/2 Road.

Mr. Drollinger said he has spoken with Shawn Cooper, Parks Department, who will have more comments with the final design than at the preliminary. Some of the location of the open space was dictated by where the detention facilities would be located. He and Mr. Cooper looked at making sure there were linkages between the subdivision and the adjoining street network regarding trails. There are connections between the subdivision and F 1/2 Road for non-vehicular uses (pedestrians and bicycles).

Mr. Ward Scott, 253 West Fallen Rock Road, representing the Petitioner, agreed with the conditions and recommendations of Staff with some exceptions, Condition #4 regarding changing the intersection in the southwest corner. He said the Petitioner must provide access to the parcel where the planned industrial/ radio tower is located. This is the reason for the access going off to the southeast. Regarding Condition #1, improvements to 25 1/2 Road, the developer plans to do full width improvements on 25 1/2 Road with participation from the City using TCP funds. Upon completion of Filing #2, 58% of the units will have been completed. Most of the traffic flow is projected to go to the south and will come out of the far south exit of the subdivision which will be constructed immediately. He felt it was appropriate to put in the 25 1/2 Road full improvements up to F 1/2 Road with Phase 3 rather than Phase 2. Otherwise, they agree to the conditions. Mr. Scott reviewed the plan in detail regarding types of buildings, building materials, fencing, etc. He said Planning Commission's recommendation was for a density of 1 unit/5 acres. He felt 1 unit/5 acres (0.2 density) is not in line with the Development Draft Growth Plan which is to be adopted in

approximately one month. He felt his plan allows a transition from the very unique zoning surrounding this site.

Mr. Scott answered questions of Council. He said the builders will be landscaping the patio homes and fourplexes. The single family homes will do their own landscaping. Three retention areas are planned for the development. The pond would be an irrigation pond and would serve for a certain amount of drainage control. The single family homes will be approximately 1250 to 1400 square feet, single-story. The ratio for the single family attached patio homes is 10/acre for the patio homes and 14/acre for the multi-family units.

Mr. Scott said letters were mailed to the neighboring properties inviting them to a meeting of which no one attended. One neighbor who owns a large home immediately to the east came to Mr. Scott's office, and said he thought the plan was reasonable and would not object to the plan. After the Planning Commission meeting, Mr. Scott contacted two people in the neighborhood and asked them to meet with him. He was unsuccessful. He received his list of property owners from the Mesa County Assessor's Office, which lists properties within 200 feet of the subject property.

Mr. Robert Leachman, 627 Braemer Circle, provided written comments to the City Clerk. Mr. Braemer stated he did not receive a letter in the mail or an invitation to participate in any review of the proposal. He was opposed to the rezone and annexation for the following reasons:

1. Refute of comments made at the Planning Commission hearing by Mr. Drollinger "in conformance with draft plan". The Draft Growth Plan is a draft although it may have been entertained for the past few years. The Fall Valley neighborhood is designated for a higher level of growth. That could change before the Draft Growth Plan is finalized. If the Plan is changed, the proposal would not be in conformance with the Draft Growth Plan. He also refuted Mr. Scott's comments that the Hetzel property does not accommodate the development of large homes on large lots. One-half mile to the north there is Moonridge Falls Subdivision which is large homes on large lots.

2. Since 1993 there has been 7 parcels in this area that have been rezoned for a higher density of development. The area is changing rapidly and dramatically. During all the

development he has seen no consideration by the City or the County to upgrade the facilities to the benefit of the current residents. There is a need to put in sidewalks and streets for the subdivisions only, however the area is very popular with walkers, joggers, bicyclists, etc. The rezoning of the area is taking place rapidly with no consideration of the current residents.

3. A few years ago Mr. Leachman commented that 25 1/2 Road should be extended, as was discussed tonight. He has received no guarantee that such improvement will take place. He commented that F 1/2 Road is too narrow to accommodate more traffic. Near the intersection of 26 Road and F 1/2 Road, the road is only 18 feet wide. The intersection is very dangerous and more development is going to put more strain on it.

4. Mr. Leachman has lived on Braemer Circle for 15 1/2 years. Braemer Circle is a gravel road running between F 1/2 Road and Music Lane, west of 1st Street. Since 1993 he has watched seven rezones occur in the area to increase the density in the neighborhood. In that time neither the County or the City has made an effort or volunteered assistance to pave Braemer Circle. With more traffic he will have to tolerate more dust and noise.

5. If 25 1/2 Road is completed to F 1/2 Road it would help with traffic on F 1/2 Road. He has seen no commitment to do that.

6. He felt the proposal, along with all the development in the area, will reduce the quality of living environment in his neighborhood. If this rezone is approved by Council, Mr. Leachman has no recourse as he is a County resident.

Mr. Leachman reviewed the zoning criteria, Section 4-4-4 of the Zoning & Development Code, and disagreed with all the criteria. He said he is not anti-growth, yet he does not believe this proposal complements the character of his neighborhood.

Mr. Gene Taylor, 633 Fletcher Lane, said there is not enough green space in the development, no buffers. The single family homes are going to be left up to themselves to provide landscaping (unplanned). There is not enough parking space (only one parking

space per unit). Schools in the area are currently overcrowded. He felt this proposal is putting too much density in a small area.

Ms. Connie Kelly, 629 Fletcher Lane, did not feel development should take place before infrastructure is in place. She was also concerned with the design and small amount of green space, and the impact on the schools. She said a Daily Sentinel article talked about the average median home in the valley sells for \$125,000. The proposal for these homes are \$70,000. She wondered what kind of homes are going to be built. She wished to promote responsible growth.

Mr. Kenneth Hetzel, 514 Riverview Drive on the Redlands, said he has owned the east half of this land since 1931, and farmed it until 1958. He spoke in favor of the proposal. He has had difficulty in the past few years leasing the property for agricultural purposes. He felt there is a need in the valley for \$70,000 homes which is considered affordable housing. Access to local services is ideal and he felt this is a good location for the development. The traffic going onto 25 1/2 Road will alleviate the traffic off of F 1/2 Road. He noted some opposition by others regarding the view of the rooftops. Only a few can see the rooftops as there will be trees and shrubbery. Mr. Hetzel felt this housing development is needed.

Mr. Gordon Hetzel, 239 Nancy Street, a realtor and developer, said there is a need for affordable homes. He attended a recent meeting with consultants from Boulder who stated there is a need for this type of development (7-8 units/acre) in this community. He felt it was a good development, and should be approved.

Ms. Sharon Bond, Coldwell Bankers, representing Frank and Jo Foraker. The current zone of 1 unit/5 acres for this property makes it almost impossible to sell. She said there is a need for this type of housing at this price. Many retirees are moving into the area and interested in this type of housing. She felt it is a good plan and will be a quality subdivision.

Mr. Wayne Bain, residing in the Kay Subdivision, discussed eventual costs to the City or County in the area. F 1/2 Road to 1st Street is an old canal bank that has been paved. When turning right going to the intersection of Patterson Road and 1st Street, it is difficult to see traffic coming from the other side. An invert is going to have to be built for the canal to shave the hill down where traffic is visible. A high priced signalization

system at Patterson Road will need to be installed as Mesa County has other development proposals being considered that will eventually increase the traffic.

Mr. Roger Bassinger, 2555 Brenna, Kay Subdivision, was concerned with overcrowding of the school system. He opposed this development.

Mr. Alan Sherman, 2570 Young Court, was concerned that many points will not be addressed until the final plan. He felt preliminary approval was inappropriate. He was concerned with F 1/2 Road and traffic. The reason there are no accidents at 26 1/2 Road is because the residents cautiously approach the intersection. He felt Public Service Company should help open 26 1/2 Road. He also noted he did not receive a letter regarding any meetings on this item.

Mr. Chris Clark, 615 Meander Drive (adjacent to southeast corner of the development), was concerned with discrepancies in estimates that have been made in the past and those given tonight regarding traffic volume. He noted that densities in the surrounding areas are changing from zero units per acre on a lot of surrounding properties to 3.7, 3.8, 7.6 and 10.0. The patio homes are the highest density in the proposal and set behind his home and horse pasture. Mr. Clark was concerned with the school issue. There are no bike lanes on Patterson Road and no promotion of non-motorized traffic. Crime is an issue with higher densities.

Mr. Pat Ralston, 652 Young Street, said Mr. Ward Scott made a comment at the end of the Planning Commission meeting saying "We are willing to work with the area homeowners." Mr. Ralston felt Mr. Ward was asking for Council's assistance in rezoning the property. Mr. Ralston was opposed to the high density.

Ms. Robin Madison, 2586 Galley Lane (north of the proposed subdivision), checked recently with the school district on school enrollments. Pomona Elementary is just about at capacity, Appleton Elementary is over capacity, West Middle School is over capacity and Tope Elementary is at capacity. Traffic on F 1/2 Road was also a concern. She felt the density was too high.

Mr. Walid Boumatar, 677 25 1/2 Road, developer of Moonridge Falls Subdivision, urged the developer to be sensible and consider the people who are going to live there. Quality building takes time.

It does not matter if the homes are large or small as long as a nice development takes place.

There were no other public comments.

Mr. Ward Scott said the traffic study says the 25 1/2 Road improvement, which will be made and guaranteed, will alleviate the current traffic at F 1/2 Road and 1st Street. All units have two off-street parking spaces per unit. The covenants will require the single family homes to be landscaped within one year. The patio homes will be 900 square foot, two bedroom, two bath units constructed of stucco and brick, and will not be trashy. The school issue is a big problem. All builders in Fall Valley will be required to pay the School Impact Fee. If residents don't overcrowd the schools in this area, they will overcrowd some other schools. He said the current owners have eloquently stated their legitimate property rights. He felt it is a good plan given the existing uses. He felt the plans for landscaping, parks, building height restrictions, etc. are responsible. They plan to provide quality, affordable housing to middle income residents. Affordable housing is a legitimate need that must be met by the City and developers. The reason for the appeal is because he thinks they have a good plan. There were members of the audience tonight that disagreed. The Planning Commission says 0.2 is their recommendation. The only guide other than that set an average of 10 units/acre. He thought the 7.6 density is responsible. If it is not, he asked Council to give him some basic guidance. He requested Council pass a motion that directs the Planning Commission to rehear a new plan that he will provide that has at least some basic density, and any other major guidelines so that he will know what to do. There is a wide discrepancy in what the Planning Commission would like to see and what the petitioner feels is reasonable.

The hearing was closed._

Councilmember Terry said the Draft Growth Plan addresses infill requirements and needs. The Plan indicates those needs would have to be disbursed among the community. This proposal addresses infill, however, the Growth Plan also addresses concurrency standards which refer to concurrency of development relative to infrastructure, one of which is schools. It also addresses aesthetics, open space, and quality of life issues. She felt a compromise could be reached because some of the goals are not met

with this plan. She will offer a compromise solution at a later point after further discussion.

Councilmember Maupin was uncomfortable in having to judge the greed of the people that want to keep their view out their window, the greed of the Hetzels that need to sell their property because it can no longer be farmed, and the greed of the developer and realtors that want to sell the land. The schools are overcrowded. He felt the density is too high. Until the Growth Plan is adopted, he had difficulty changing any density. One unit per five acres is not going to work for this land. It is not reasonable to assume it is going to stay that way. He would lean toward a PR-3.8 density. Not everyone can afford a 1 and 2 acre lot and \$250,000 house. If housing were built around community services there wouldn't be so many people on the road (Patterson Road).

Councilmember Baughman agreed that Patterson Road is a conduit between a shopping center and the other end of the valley where affordable housing was created. He could not approve a density of 7.6 units/acre. He felt approximately 2 to 3.5 units/acre would fit in with the neighborhood. When a developer comes into a neighborhood, the development must be compatible with the existing neighbors. He felt the development must be built responsibly and compatible with the existing zones.

Councilmember Graham was not inclined to disapprove a lawful development which he felt was perceived as being incompatible with existing surrounding uses. He felt Council should provide a range for potential densities if it chooses to send the application back to the Planning Commission. He asked if it is appropriate for Council to make that type of advisory comment in relation to a specific appeal that is brought before Council after being denied by the Planning Commission? City Attorney Dan Wilson said it is appropriate for Council to give guidance. Both the neighborhood and the developer are looking for guidance. He wished to preface it by saying it is only guidance. Mr. Wilson felt Council needs to be clear in saying it will be basing it on new evidence when it comes back for hearing. It would be appropriate to let the community know where Council is headed. Councilmember Graham said he felt somewhere between 3.3 and 3.8 units/acre (half of what is being proposed) would be appropriate.

Mayor Linda Afman noted multi-family, condos and townhomes co-exist with single family homes. She asked if a PUD zoning could be designated and specify 4 or 3.8 units/acre in the single-

family, then specify 7 to 8 units/acre for the multi-family which would allow a better plan? City Attorney Dan Wilson said yes. Mayor Afman asked if it would create a better project as opposed to just a straight zone? Mr. Wilson said that could be discussed with Staff and the developer. She felt there is a need for this type of project and it will lessen the traffic on some of the major arterials by allowing people to walk and ride bicycles to various activities. She favored PUD's (Planned Unit Developments). Council is also interested in infill. Mayor Afman's major concern with this project was the lack of open space and parks. She felt the increase in traffic can be handled.

Councilmember Baughman felt the developer has tried to keep the high density to the west and south on this project which is good.

Councilmember Terry asked for clarification of a straight zone? City Attorney Wilson said this is a Planned Development with an average density. This is a mix of residential in a planned development context. It is not a straight zone.

Councilmember Maupin said the City and Mesa County have spent \$.5 million on the Growth Plan for the entire valley. He solicited participation from the community to work with the City and County on finalizing this Plan.

It was moved by Councilmember Terry to approve a plan with a density ranging from 3.3 to 3.8 units/acre overall.

City Attorney Dan Wilson was concerned that without sufficient data Council would get too close to approving a preliminary plan without it having been through the necessary Staff process. The developer now has enough direction from Council to go back and begin dealing with the technical aspects of it without Council having to give him a formal range. Mr. Wilson suggested that if Council does not want to approve 7.6 units/acre, it wants to have the effect of denying the preliminary plan that has been submitted.

Mr. Drollinger added that one of the fundamentals of a Planned Development Zone is the fact that the plan and the zone are very much linked. The difficulty for the developer in merely getting a zone (density range) is that they haven't been able to develop a plan on how to distribute those densities, and had no reaction from Staff and other affected agencies on that distribution. The developer would need to think about how the plan and density would

lay out. Staff would work through the review process to work out those issues.

Councilmember Terry withdrew her motion.

Upon motion by Councilmember Maupin, seconded by Councilmember Graham and carried by roll call vote, the appeal of the Planning Commission decision was denied, and the rezone to PR-7.6 was also denied.

RECESS

Mayor Afman declared a ten-minute recess at 10:30 p.m. Upon reconvening all six members of Council were present. Councilmember Theobald had resumed his seat on Council at this time.

PUBLIC HEARING - APPEAL OF PLANNING COMMISSION DENIAL OF A REZONE FOR 1001 PATTERSON ROAD FROM B-1 TO B-3 - ORDINANCE NO. 2938 REZONING LAND ON PATTERSON ROAD WEST OF 12TH STREET

[FILE #RZ-96-112]

This is an appeal of a Planning Commission denial of a rezone request. The petitioner is requesting a rezone from B-1 to B-3 to permit a liquor store to be located in an existing building at 1001 Patterson Road.

Councilmember Terry stated her name will be found on the petition submitted by the petitioner that supports the existence of a liquor store in this area. Having lived in the area a number of years, Councilmember Terry was willing to sign the petition, not realizing she would be hearing the proposal for a relocation and rezone. She stated she had no conflict of interest regarding this item.

A hearing was held after proper notice. Michael Drollinger, Community Development Department, reviewed the existing and surrounding land uses in the area. The existing building at 1001 Patterson Road contains an office, tanning salon, and residential apartments. The petitioner's request for the rezone is to accommodate the relocation of Centennial Liquors which, until recently, was located at the northwest corner of 12th and Patterson. The existing building contains approximately 6400 square feet and there is no expansion proposed. The liquor store would be located on the east end of the building. Staff's

concerns with the application are traffic related. The concern with on-site circulation is the proposed parking at the front of the store. The proposed angled spaces are designed such that there may be conflicts with vehicles backing out of the spaces, and conflicting with traffic headed eastbound on Patterson Road. The spaces do not allow area to be reserved for pedestrians. There are no sidewalks on the south side of Patterson Road. An area should be reserved as a pedestrian way that is free from vehicular encroachment. Staff recommends the parking spaces be reconfigured as parallel spaces with a 7-foot pedestrian way being dedicated as right-of-way.

Mr. Mark Relph, Public Works Manager, discussed the impacts of the rezone on Patterson Road by contrasting it with the Fall Valley project. This use is in the middle of the block away from the signalization, channelization (islands and medians). There is basically an unrestricted turning movement in the area. Public Works likes to focus on these types of impacts to make sure a safety hazard is not being created. The average daily traffic of this development versus Fall Valley is very different. Mr. Relph referred to a letter dated June 26, 1996 addressed to Councilmember Theobald from Attorney John Williams. The petitioner's engineer estimates an 8% increase in traffic versus the City's estimate of approximately 75% increase. Mr. Relph felt this proposal would definitely create an increase in traffic on Patterson Road. Over the past two years, two traffic accidents have occurred right in front of 1001 Patterson Road and a total of 18 accidents have occurred from 1001 Patterson Road to just short of the 12th and Patterson intersection. These numbers place the area in the top 40 locations prone to traffic accidents.

Regarding trip generation, Councilmember Graham asked if there should be some off-set to reflect that the previous place of business on the corner of 12th and Patterson will no longer be used by the applicant? Mr. Relph said there is no savings by moving from one location to another. In the year 2015 the number of vehicles traveling Patterson Road will be 30,000 which means the City will be looking at median control. To have those volumes without some protective devices such as medians will escalate the accident rate substantially. When moving a business to the middle of a block and increasing the potential for accidents in the middle of the block, the City may be looking at median control much sooner than the year 2015.

Councilmember Baughman asked if the City was concerned about the traffic when Quizno's went in recently just east of the location

on Patterson Road? Mr. Relph said yes. The difference here is that a rezone is being requested. Quizno's property was already zoned PB. In this case the City has the opportunity to decide whether it wants to allow a higher potential for accidents.

Mr. Drollinger said the 60% increase was determined by the development engineer when the traffic impacts of this development were identified. When the petitioner questioned that figure, Public Works Staff went back and refined the study and found the number was higher than that (75%). Retail uses are allowed in the B-3 and not in the B-1. This proposal falls in the Zoning & Development Code under a retail use. There are other types of uses (drive-thru banks and restaurants) that could be allowed for the parcel that could generate a significantly higher number of trips than would be permitted in the B-1 zone.

Mr. Drollinger reviewed the remainder of the rezone criteria and summarized Staff's recommendation. There have been no recent rezonings within this project vicinity to permit retail uses. The character of this area is such that retail uses tend to congregate at intersections while office and residential generally occupy the mid-block area. Staff feels the land use mix is appropriate and that the higher traffic generating uses should be concentrated at signalized intersections rather than mid-block. Staff is concerned with the impacts of the additional traffic from this rezone in the Patterson Road Corridor. Staff sees no obvious public benefit to permitting retail uses on the subject property.

Staff feels the proposal is not consistent with the Patterson Road Corridor Guidelines which calls for low volume business and medical offices along the south side of Patterson Road between 7th Street and 12th Street. Staff feels the rezone request is not supported by the rezone criteria.

Mr. Drollinger continued that should Council approve the subject application, Staff recommends that at a minimum the following conditions be part of the approval:

1. Removal of the 45 degree spaces on the north side of the parcel replaced by parallel spaces (resulting in a net loss of three spaces which also results in the parking requirement no longer being met). The net gain in aisle width will be partially offset by the requirement to provide for a six foot pedestrian way along the Patterson Road frontage (see next condition). The petitioner shall be required to seek additional spaces to meet the parking requirement.

2. The petitioner should be required to provide a six foot wide pedestrian way along the Patterson Road frontage which will require the relocation of proposed landscaping and dedication of adequate right-of-way;
3. Dedication of a pedestrian easement from the existing pedestrian bridge to Patterson Road is required in an alignment acceptable to City staff.
4. An easement shall be provided for the existing storm drain on the property;
5. All required parking and maneuvering areas shall be paved as required by the Zoning and Development Code;
6. The petitioner shall use turning templates to determine the required maneuvering areas around the building (especially the southeast corner). The circulation design shall be subject to approval by the Development Engineer;
7. The site plan must clearly indicate where painted arrows and other traffic control signs are proposed. Staff requires at a minimum that the site driveways be adequately signed and striped (not presently indicated on plans);
8. The proposal will require a "Change of Use" review prior to occupancy by the petitioner.

Staff recommends denial of the rezone for Centennial Liquors. The Planning Commission denied the request by a vote of 4-0 at its June 11, 1996 meeting.

Petitioner Patricia Tugman, owner and operator of Centennial Liquors, said she purchased the business in February, 1995. Centennial Liquors was located at 12th and Patterson and had been in the same location since 1976 (20 years at this location). She looked at many other listed properties for relocation of her business. She made offers to lease units in the Village Fair Shopping. She also made offers to buy other properties. All the prospective locations have either zoning opposition or conflict with needs of the community. When 1001 Patterson became available, Ms. Tugman met with City Staff and was told by Mr. Drollinger there were no major problems that could not be worked out. Therefore, she signed a contract with Banner Consulting

Engineers to do a site plan. She obtained ten pages of signatures of persons in favor of the relocation. There was no public opposition at the Liquor License relocation hearing, and no public opposition at the Planning Commission hearing on July 11, 1996. Ms. Tugman stated Item C of Staff's analysis is incorrect. She felt the "needs of the community" are definitely not being met. She felt there is a need for the store in this vicinity. If her request is denied, she will be out of business.

Councilmember Theobald asked Ms. Tugman why the business is closed. Ms. Tugman said the property was purchased by St. Mary's Hospital. The lease was up, but was extended for one month. The business closed on March 31, 1996.

Ms. Tugman answered other questions of Council by stating her liquor license has been approved for the new location if the rezone is approved. The purchase of the property at 1001 Patterson Road is contingent on the rezone. She has no other options for a location for her liquor store. The traffic that exited at the west entrance at the old location on 12th Street had the option to go east or west. Tanfastic and The Travel Broker will remain in the unit while an attorney's office will be leaving. She will be using the east side. The square footage of her original building was approximately 3200. This unit is comparable in size. Most of the trucks from Central Distributing and Colorado Beverage would access the store by going east on Patterson, making the left turn into the west entrance and coming in front of the store on Patterson and pulling into the side door on 12th Street. Ms. Tugman said she presented a new plan to the Planning Commission on June 11, 1995 showing parallel parking in front of the store. Deliveries can be accepted either in the front or the rear of the proposed new store.

Mr. John Williams, attorney, representing Ms. Tugman, stated it was a surprise when the petitioner received Staff comments from the Development Department recommending denial of the rezone. Staff's concerns were traffic and circulation on the property. The parking in front has been reconfigured and is going from 5 diagonal spaces to 3 parallel spaces. Mr. Williams felt the parking concerns have been alleviated. The pedestrian way is now drawn in the plan. With the absence of the diagonal parking there is more than enough room with the parallel parking for a six or seven foot pedestrian way to be replaced by a sidewalk at some future time. Central Distributing has assured the petitioner they can maneuver the trucks around this new site.

Mr. Williams said the traffic figures used were developed by Jody Kliska, Community Development Engineer. The 8% versus 60% is largely based on figures that were generated by Jody Kliska. Ms. Kliska's report estimates this site has 141 trips/day. He said Ms. Kliska did not take into account that there are four apartments on this site, not one apartment. One apartment generates 10 trips, four apartments generates 40 trips which results in 141 trips/day based the Manual. Ms. Kliska's report calculated 94 trips/day based upon 3200 square feet of space. There is no 3200 square feet of space, there is 2,000 square feet of retail space and 1200 square feet of storage space. Mr. Williams believes, based upon the 1200 square feet of storage which is proposed, there will be 48 less trips/day. The proposed used would increase it to 186. That is how they determined 8%. As a customer of Centennial Liquor, Mr. Williams said on the west entrance you could go right or left. You could go left or right on the 12th Street entrance as well. The petitioner proposes at the new location to configure a curb cut to direct traffic to the right only.

Mr. Williams emphasized the fact that this is not the creation of a new business. It is the creation of a rezone. He did not see this rezone as a brand new impact on Patterson Road. He felt this store fits in with the other businesses in Village Fair. He did not feel this is spot zoning because there is planned business both across the street and to the west. Mr. Williams addressed the criteria under Section 4-4-4 of the City's Zoning and Development Code, using the City Staff's response to each criteria:

1. Was the existing zone an error at the time of adoption? Mr. Williams agreed. There was no error.

2. Has there been a change of character in the area? The Development Department says there has been no recent rezone and that retail congregates at the intersection, and office and business in the middle of the block. Mr. Williams thinks the character of the neighborhood has changed. Village Fair Shopping Center has gone to a bustling place. Quizno's was not there a year and a half ago. There is a number of subdivisions that have been approved in the area that this retail area serves. Quizno's had to go through a site plan review. Upon reviewing Quizno's file, there was no discussion about traffic. He did not feel the Commission could deny the use, but could have governed the site

plan differently if there was a concern about traffic. The Development Department stated "Quizno's is consistent with the Patterson Road Corridor Guidelines." The petitioner is 150 feet away from Quizno's and does not seem to fit the same Guidelines.

3. Is there an area of community need for the proposed rezone? Mr. Williams said the only evidence of a need has to do with the liquor license. In order to get a liquor license in the State it must be proven that the inhabitants both desire and need the license to be issued. Mr. Williams distributed copies to Council of the survey that was conducted which reflected no opposition to the issuance of the liquor license.

4. Is the proposed rezone compatible to surrounding areas? Mr. Williams believes the area is retail.

5. Regarding benefits, the Development Department sees no benefits. Mr. Williams felt it was good planning to provide retail services to neighborhoods that are being built in the area. If this rezone is granted, the City will receive a right-of-way for a sidewalk. A curb cut will be eliminated on Patterson Road, as the plan changes from three curb cuts to two.

6. Is the proposal in conformance with the policies, intents and requirements of the Code, Master Plan and policies? Mr. Williams said, except for the general statement that low impact business or office space is needed, the proposal does conform to the guidelines. They are not adversely affecting neighborhoods and they are lessening curb cuts. They will encourage pedestrian way across the property. He said this is not a high volume business.

Mr. Williams solicited questions of Council, and said Mr. Pat Edwards, the petitioner's real estate agent, was also present to answer questions.

Councilmember Baughman asked about the new road in the rear parking lot. Mr. Williams said there is an alleyway on the east side of the building that starts up 20-30 feet, then there is a fence and some landscaping. The site plan is configured to remove the fence and landscape, and there would be a driveway to exit the traffic on the east side of the building.

Mayor Afman was concerned with signage. Ms. Tugman said they are considering a sign similar to the Sutton Printing (lighted awnings over the building). It would not interfere with sight distances.

City Attorney Dan Wilson asked the petitioner if she would be comfortable with a future limitation constructed by the City from exiting westbound onto Patterson Road. He asked if she would waive any rights to a claim for a taking due to that lack of access as a condition to approval of the rezone, when and if it was required. Mr. Williams responded that Ms. Tugman would waive that claim.

Councilmember Theobald questioned Mr. Williams' characterization of a 3000 square foot liquor store as being only half that size for traffic generation. Mr. Williams felt the 1200 square feet of storage is so large it should take away from the traffic count. Mr. Williams felt the most important point as far as traffic is concerned is that Centennial Liquors existed until March 31, 1996 a few hundred feet away with a driveway very close to where this curb cut is going to be.

Mr. Leachman, 627 Braemer Circle, noted that he had given Council a letter favoring this proposal on Monday, July 15, 1996. Council acknowledged receipt of the letter with his comments.

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

Councilmember Baughman asked why a liquor store is in B-3 and the surrounding businesses are in B-1? Mr. Drollinger said the use that is presently occupying that space is an office use which is permitted in a B-1 zone. The liquor store falls into the retail sales category and is not permitted in a B-1 zone. The thrust of their request is to change the zone to permit the liquor store. The existing zoning for Quizno's and Village Fair is a Planned Business Zone.

Councilmember Maupin viewed a liquor store as a "come and go" type of business as opposed to a lot of customers patronizing a business at the same time. He did not feel this proposal would generate additional traffic, and was pleased to hear there will be one less curb cut on Patterson Road. Councilmember Terry concurred with Councilmember Maupin's comments.

Councilmember Theobald felt the lack of public opposition and amount of sales taxes paid by the business are not measurements of a rezone. He felt the proposal does not match the rezone criteria. He felt there may be a need for more retail space judging from the difficulty Ms. Tugman had in obtaining this

location. He was also concerned about at what point will Patterson Road be turned into another North Avenue.

Councilmember Graham said if one or more of the rezone criteria are applicable, there is a basis upon which Council can make a decision to allow a rezone.

Mayor Afman asked the City Attorney if the applicant could go back through the application process and apply for a conditional use permit? City Attorney Dan Wilson referred to the Zoning Matrix and said the only option is the one offered tonight. The alternative would be to have the petitioner wait until Council fixes the zoning ordinance first, then the petitioner could apply for a conditional use permit under a modified zone. City Manager Mark Achen clarified that the proposed use is not allowable with a special or conditional use permit in B-1. If it were allowed, the petitioner would have applied for the permit rather than a rezone.

It was moved by Councilmember Graham and seconded by Councilmember Terry that the rezone from B-1 to B-3 be approved, and the appeal of the Planning Commission's denial of the rezone be granted subject to conditions 1 through 5 and conditions 7 and 8 as specified by Staff, and subject to the petitioner/appellant waiving any claim against the City for any future accessions, improvements, fixtures and/or constructions which may impair or limit access to the affected premises in any way, and that the petitioner sign and record said waiver.

Councilmember Theobold added to the motion for clarification purposes that the decision of Council is based on the applicant fitting criteria C and G of the rezone criteria, and that further the Council views the canal as a buffer beyond which it does not want to expand B-3 and retail.

Councilmember Graham had no objection to the inclusion of the amendment to his motion. Councilmember Terry had no objection to the addition to the motion.

Roll was called on the amended motion with the following result:

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

The motion carried.

PUBLIC HEARING - BOOKCLIFF TECHNOLOGICAL PARK ANNEXATION LOCATED AT H ROAD AND 27 1/4 ROAD - RESOLUTION NO. 76-96 ACCEPTING PETITIONS FOR ANNEXATION, MAKING CERTAIN FINDINGS, DETERMINING THAT PROPERTY KNOWN AS BOOKCLIFF TECHNOLOGICAL PARK ANNEXATION IS ELIGIBLE FOR ANNEXATION AND EXERCISING LAND USE CONTROL AND JURISDICTION - PROPOSED ORDINANCE ANNEXING TERRITORY TO THE CITY OF GRAND JUNCTION, COLORADO - BOOKCLIFF TECHNOLOGICAL PARK ANNEXATION, APPROXIMATELY 55 ACRES, LOCATED AT THE NORTHEAST CORNER OF H ROAD AND 27 1/4 ROAD [FILE #ANX-96-128]

Colorado West Improvements, Inc. (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 55 acre Bookcliff Technological Park Annexation.

A hearing was held after proper notice. This item was reviewed by Dave Thornton, Community Development Department. He stated, as a professional planner, he finds the petition in compliance with State Statute 31-12-104. He submitted a written statement to the City Clerk for the record. This property was formerly Benson Ranch.

There were no comments. The hearing was closed.

Upon motion by Councilmember Maupin, seconded by Councilmember Baughman and carried by roll call vote, Resolution No. 76-96 was adopted and the proposed ordinance annexing the territory was adopted on first reading and a hearing was set for August 7, 1996.

PUBLIC HEARING - VACATION OF ALLEYWAYS AT S. 9TH STREET AND SECOND AVENUE - CONOCO ORDINANCE NO. 2939 VACATING ALLEYWAYS EAST OF SOUTH 9TH STREET AND SOUTH OF THE RAILROAD TRACKS
FILE #VR-95-176]

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

A hearing was held after proper notice. This item was reviewed by Kristen Ashbeck, Community Development Department. The segments have never been developed as alleys and have been used for private development. It is not likely the City would need them for alleys unless Conoco, Inc., were to move. The Planning Commission found

the proposal to meet the vacation criteria listed in Section 8-3 of the Zoning and Development Code and recommended approval of the alley vacations. By ordinance, the alley on the west would be split in half. It is Conoco's intent to deed their half of the alley to Denning Lumber.

Councilmember Baughman asked if Conoco should relocate, is the City in a better position to retain the alleys for other types of development? Ms. Ashbeck said two of the alleys deadend at the railroad tracks. She did not see a need for the alleys by future developments.

There were no other comments. The hearing was closed.

Upon motion by Councilmember Maupin, seconded by Councilmember Theobald and carried by roll call vote, Ordinance No. 2939 was adopted on final reading and ordered published.

CITIZEN COMMENT REGARDING PETITIONS FOR UPCOMING ANNEXATION ELECTION

Ms. Mary Huber, 580 1/2 Melrose Court, requested for the record that the City Clerk state how the circulators of the petitions were selected. City Clerk Stephanie Nye said she did not know how the circulators were chosen. She assumed they volunteered. The petitions went out on Saturday, July 13, 1996 and were returned on July 16 and 17, 1996. City Manager Mark Achen explained the circulators were people who had previously, after City Council rescinded the annexation of the area, expressed an interest in being notified and made aware when the petitions were available. They were volunteers.

OTHER BUSINESS

Councilmember Graham said he and Councilmember Maupin received calls from Tom LaValley of the JAYCEES. There is some confusion with the construction of the skateboard park. Councilmember Maupin explained that initially the JAYCEES had made promises to contribute financially toward the park, but have raised no funds toward the construction. Joe Stevens, Parks and Recreation Director had assured Council the construction of the park will proceed.

ADJOURNMENT

Upon motion by Councilmember Baughman, seconded by Councilmember Graham and carried, the meeting was adjourned at 12:12 a.m. on Thursday, July 18, 1996.

Stephanie Nye, CMC/AAE
City Clerk

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