

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

**September 18, 1996**

The City Council of the City of Grand Junction, Colorado, convened into regular session the 18th day of September, 1996, at 7:35 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 Baughman led in the Pledge of Allegiance. The audience remained standing during the invocation by Councilmember R.T. Mantlo.

PROCLAMATION DECLARING SEPTEMBER 21, 1996, AS "CELTIC DAY ON THE WESTERN SLOPE"

PROCLAMATION DECLARING SEPTEMBER 22, 1996, AS "AMERICAN BUSINESS WOMEN'S ASSOCIATION (ABWA) DAY" IN THE CITY OF GRAND JUNCTION

PROCLAMATION DECLARING SEPTEMBER 23-26, 1996, AS "UP WITH PEOPLE DAYS" IN THE CITY OF GRAND JUNCTION

**CONSENT ITEMS**

Mayor Afman announced that Consent Items 11 and 13 will be scheduled for hearing at the October 16 City Council Meeting.

Upon motion by Councilmember Maupin, seconded by Councilmember Mantlo and carried by roll call vote with Councilmember **GRAHAM ABSTAINING** on Item 1 and voting **NO** on Items 3 and 4, and Items 11 and 13 changed to schedule the hearings to the October 16, 1996, City Council Meeting, the following Consent Items 1-15 were approved:

1. **Minutes of Previous Meeting**

Action: *Approve the minutes of the Regular Meeting September 4, 1996*

2. Electric Lift-Truck for Two Rivers Convention Center

The following bids were received on September 4, 1996:

Colorado Clarklift, Denver	\$24,647.34*
Wagner Lift Truck, Corp., Grand Junction	\$27,139.00

\* Recommended Award

*Action: Award Contract for the Replacement Purchase of an Electric Lift-Truck for Two Rivers Convention Center to Colorado Clarklift of Denver in the Amount of \$24,647.34*

3. Trees and Shrubs for Canyon View Park

The following bids were received on September 5, 1996:

Valley Grown Nursery, Grand Junction	\$70,816.80*
Clarke & Company, Grand Junction	\$94,804.00

\* Recommended Award

*Action: Award Contract for Trees and Shrubs for Canyon View Park to Valley Grown Nursery of Grand Junction in the Amount of \$70,816.80*

4. Support of Mesa County Application for Enterprise Zone Re-certification

A resolution was prepared at the request of Mesa County and the Re-certification Task Force of which the City is a member. The State Legislature adopted a re-certification and review process during the last legislative session. The Task Force of affected non-profits and local governments in Mesa County reviewed the application, its area designations and goals and objectives of the zone.

Resolution No. 86-96 - A Resolution Recognizing and Supporting Mesa County's Application for Re-designation of the County-Wide Enterprise Zone

*Action: Adopt Resolution No. 86-96*

5. Appoint an Alternate Hearing Officer for Liquor and Beer Matters

Chapter 4 of the Code of Ordinances provides that the City Council shall appoint a hearing officer to hear and consider applications for licensure and other administrative matters concerning liquor and beer regulations. There have been occasions when the hearing officer has been unavailable and a scheduled meeting has been postponed. Although these times are infrequent, it is requested that Council appoint an alternate in case a situation arises when the cancellation of the meeting would cause a hardship or for those circumstances when the Hearing Officer may have a conflict. Staff recommends appointing Jim Majors.

Resolution No. 87-96 - A Resolution Regarding the Appointment of An Alternate Hearing Officer for Liquor and Beer Licensing

Action: Adopt Resolution No. 87-96

6. **Change Order to Contract with Mays Concrete, Inc., for the 1996 Alley Improvement District, Phase C**

On May 1, 1996, the City Council authorized the addition of Phase C to the 1996 Alley Improvement District. Phase C includes the alley from 14th to 17th Street between Rood Avenue and White Avenue, including sanitary sewer replacement, and the alley from 6th Street to 7th Street between South Avenue and Pitkin Avenue. Staff recommends that Phase C construction be added by change order to the contract with Mays Concrete, Inc., for construction of Phases A and B. This will assure the construction of Phase C at the same contract unit prices established for Phases A and B, and will allow the additional alleys to be completed this year.

Action: Approve Change Order to Contract with Mays Concrete, Inc., for the 1996 Alley Improvement District, Phase C, in the Amount of \$117,335

7. **Fifth Street Viaduct Waterline Relocation**

The following bid was received on September 10, 1996:

Mountain Valley Contracting, Inc., G.J.	\$74,830.50
Engineer's Estimate	\$70,502.50

Action: Award Contract for the Fifth Street Viaduct Waterline Relocation to Mountain Valley Contracting, Inc. in the Amount of \$74,830.50\_

8. **Lease Extension of 1222 South Fifth Street to the Grand Junction Housing Authority**

The Housing Authority has leased this property since September of 1995 as short-term transitional housing for families referred to them by social service agencies. The current lease is due to expire and the Housing Authority requests this lease be extended for an additional one-year term.

Resolution No. 88-96 - A Resolution Extending the Lease of the City-Owned Property at 1222 South Fifth Street to the Grand Junction Housing Authority

Action: Adopt Resolution No. 88-96

9. **Setting a Hearing on Rezoning Horizon Village, Located at the Southeast Corner of 7th Street and Horizon Drive, from PR-6.15 to PR-7.4 and RSF-4** [File #RZP-96-157] **Attach 10**

A request to rezone the property at the southeast corner of 7th Street and Horizon Drive from PR-6.15 to PR-7.4 and RSF-4. A request for a variance to the street standards to permit a private street will be heard at second reading.

Proposed Ordinance Rezoning Land Located at 7th Street and Horizon Drive from PR-6.15 to PR-7.4 and RSF-4

Action: Move for Adoption of Proposed Ordinance and Set a Hearing for October 2, 1996

10. **Setting Hearings on Vacating a Right-of-Way, Vacating an Easement and Issuing a Revocable Permit for Drainage Facilities in Pheasant Ridge Estates Located West of the Northwest Corner of 28 Road and Patterson Road**

[File #FPP-96-154]

A request for (1) vacation of right-of-way for existing alignment of Springside Court, (2) vacation of sewer

easement, and (3) revocable permit for drainage facilities in Spring Valley Park II.

a. Proposed Ordinance Vacating a Portion of the Springside Court Right-of-Way

Action: Move for Adoption of Proposed Ordinance and Set a Hearing for October 2, 1996

b. Proposed Ordinance Vacating a Sewer Easement in the Vicinity West of the Northwest Corner of 28 Road and Patterson Road Intersection

Action: Move for Adoption of Proposed Ordinance and Set a Hearing for October 2, 1996

c. Resolution No. 89-96 - A Resolution Concerning the Issuance of a Revocable Permit to JUST Companies, Inc., a Colorado Corporation

Action: Adopt Resolution No. 89-96

11. **Setting a Hearing on Vacating a Right-of-Way and Rezoning from PR-4.4 to PB for Wilson Ranch Townhomes**

[File #FP-96-160]

Staff recommends approval of this vacation and rezoning request to accommodate the development of 61 townhomes in the last phase of Wilson Ranch. G 1/2 Road adjacent to the site will be vacated and realigned to provide a straighter and wider road. All improvements will be at the applicant's expense. The road will not be vacated until the new road is dedicated and constructed. The realignment isolates a parcel in the northeast corner of the site from the remainder of the development. The rezoning of this parcel from PR-4.4 to Planned Business allows it to be swapped to Bookcliff Gardens Nursery for landscaping materials to be planted along G 1/2 Road and in the interior of this site.

a. Proposed Ordinance Vacating G 1/2 Road Adjacent to Wilson Ranch Townhomes, East of 25 1/2 Road

*Action: Move for Adoption of Proposed Ordinance and Set a Hearing for October 16, 1996*

b. Proposed Ordinance Rezoning Property to be Known as Lot 1, Block 1, Wilson Ranch Townhomes Filing One, Located on the North Side of G 1/2 Road, adjacent to Bookcliff Gardens Nursery from PR-4.4 to PB

*Action: Move for Adoption of Proposed Ordinance and Set a Hearing for October 16, 1996*

Staff presentation: Bill Nebeker, Community Dev. Dept.

12. **Setting a Hearing on Rezoning Canyon View Subdivision, Located at South Camp Road and Canyon View Drive, from RSF-4 to PR-2** [File #RZP-96-179]

Staff recommends approval of this rezone from RSF-4 to PR-2 to accommodate construction of planned phases 5 and 6 and a portion of phase 4 of Canyon View Subdivision. The zone change is consistent with the Growth Plan and the remainder of the Canyon View Subdivision to the east and northeast. The RSF-4 zoning on this property was zoned at the time of annexation to reflect approved densities of approximately 4 dwellings per acre on a County approved project.

Proposed Ordinance Rezoning Property to be Known as Canyon View Subdivision, Portion of Filings 4, 5 and 6, Located in Tract 37, Section 35 T.11.S., R 101 W., West of South Camp Road from RSF-4 to PR-2

*Action: Move for Adoption of Proposed Ordinance and Set a Hearing for October 2, 1996*

13. **Setting a Hearing on Vacating an Easement at 778 Jasmine Court** [File #VE-96-172]

Staff recommends approval of this request to vacate a utility and drainage easement where a retaining wall/fence is located. The utility easement vacation does not conflict with utilities in this subdivision. The fence does not impede drainage in the easement. The applicant has satisfied the criteria for the vacations. A conditional use permit for an over-height fence in these easements was denied by the

Planning Commission, requiring that the applicant reduce the height of the fence to 6 feet.

Proposed Ordinance Vacating a 15 Foot Utility and Irrigation Easement Located on Lot 7, Block 2, Alpine Meadows Subdivision, at 778 Jasmine Court, for the Construction of a Fence/Retaining Wall

Action: Move for Adoption of Proposed Ordinance and Set a Hearing for October 16, 1996

Staff presentation: Bill Nebeker, Community Dev. Dept.

14. **Setting Hearings on Zoning the Hetzel Annexation and the Rezoning of the Foraker Parcel Adjacent to the West, Both Parcels a Part of the Proposed Fall Valley Subdivision, to PR-3.5** [File #ANX-96-58 and #RZP-96-177]

The petitioner, John Davis, is requesting a rezone and initial zoning on approximately 38 acres south of F 1/2 Road and east of 25 1/2 Road (Fall Valley Subdivision) with a proposed density of PR-3.5. Part of the property (property owner Kenneth M. Hetzel and ETAL) is in the process of being annexed to the City as part of the Hetzel Annexation. An appeal has been filed on this application and will be heard at second reading.

Proposed Ordinance Zoning Hetzel Annexation and a Parcel of Land Directly to the West (Foraker Property #2945-034-00-050) PR-3.5

Action: Move for Adoption of Proposed Ordinance and Set a Hearing for October 2, 1996

15. **Setting a Hearing on Zoning the Floral Annexation to RSF-4** [File #ANX-96-163]

Staff recommends RSF-4 zoning for the Floral Annexation which is the most equivalent City zone to the current R2 Mesa County zone.

Proposed Ordinance Zoning Floral Annexation RSF-4

*Action: Move for Adoption of Proposed Ordinance and Set a Hearing for October 2, 1996*

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

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

**PUBLIC HEARING - REZONING REDLANDS WATER AND POWER PROPERTY LOCATED AT SOUTH CAMP ROAD AND SOUTH BROADWAY FROM RSF-4 TO PR-2 ORDINANCE NO. 2949 REZONING LAND LOCATED SOUTHEAST OF SOUTH CAMP ROAD AND SOUTH BROADWAY FROM RSF-4 TO PR-2 [FILE #RZF-96-116]**

A request for a rezone of approximately 40 acres from RSF-4 to PR-2 to allow for the development of a new office building and associated facilities for Redlands Water and Power, on 5 acres. A hearing was held after proper notice. Dave Thornton, Community Development Department, reviewed this item. Redlands Water and Power is proposing a 3 lot minor subdivision of 40 acres owned by the company along South Broadway and South Camp Road. The property is currently zoned RSF-4. The applicant proposes to rezone the property to PR-2 to bring it more into conformance with the proposed Growth Plan density. Proposed Lot 1 is being proposed for the Redlands Water and Power offices, while there are no plans for Lot 2, consisting of 21 acres, or Lot 3 consisting of 7.7 acres.

On June 5, 1996, the Planning Commission recommended approval of the rezone to PR-2 with Staff recommending allowed uses and approving the minor subdivision and preliminary plan subject to various conditions. On July 3, 1996, the City Council delayed a decision on the rezone and directed the request be sent back to Planning Commission for review and approval of the architectural design of the proposed structures. The design was to be compatible with the surrounding uses. The petitioner then took the architectural plans back to the Planning Commission and on September 3, 1996 the Planning Commission approved the architectural design with the condition that earthtone colors be required. Staff and the Planning Commission recommend the rezone be approved with the conditions.

Councilmember Graham asked what building materials will be used? Mr. Thornton said the buildings will all have the same composition and color. The architectural siding is defined as, for the purpose of this project, to mean "any siding material found in



residential construction or in the existing structures in the neighborhoods adjoining South Broadway or South Camp Road. The use of galvanized and/or corrugated steel as a siding and/or trim material is specifically prohibited. Roofing may be of any material other than galvanized and/or corrugated steel as customarily found in residential construction, provided it is a color that is compatible with the surroundings."

Mr. Thornton said the equipment/storage shed is 100 feet long. Screening and planting will need to be provided to make sure it is screened from South Broadway.

It is unknown whether Lot 3 is developable. Until further engineering is completed, a note will be required on the plat that approval through the development review process is required. City Attorney Dan Wilson said the plat note is sufficient legal notice. A memorandum giving a specific reference on a title commitment could also be recorded. Council concurred with the recording of a memorandum.

Mr. Trevor Brown, Rolland Engineering, 405 Ridges Boulevard, representing the petitioner, addressed the suggestions from the Planning Commission and City Council. He felt they have met all suggestions and requirements. The 16-foot eave height will be shielded as the plants grow. The buildings will be earthtone, wood lap siding, and asphalt shingles for the roof. The taller trees will shield the storage building. Mr. Brown agreed with the plat note for Lot 3.

Councilmember Baughman asked if the seven conditions, as stated in the Staff report, were agreeable with the petitioner? Mr. Brown said yes.

Councilmember Theobald asked if the bays of the storage shed will be on the side away from the street? Mr. Brown said yes.

Mr. Larry Rattan, 657 26 Road, said he understands a PR-2 zone is Planned Residential for development of residential housing. He purchased property across the street from this property. He has approximately \$300,000 of real estate that he has personally built next to this property. He felt the proposal will appear as a commercial building, not a housing project.

Councilmember Graham asked Mr. Rattan if he was concerned about the appearance of the buildings as well as the proposed use? Mr.

Rattan said he was opposed to the principle of it. He said there is going to be storage tanks and a 100-foot building which will look like a commercial business. He is concerned with the proposed use and what will happen in the future. Councilmember Baughman said public uses can be implemented within a Planned Residential zone, and Council considers this proposal a public use because it provides water to the Redlands area. Mr. Rattan said the definition of Planned Residential is specific to that Planned Residential unit. Councilmember Theobald said this facility is an allowed use under a Planned Residential Zone. He felt Mr. Rattan's objection is to the Code that allows this.

Councilmember Graham said Section 7-2-1.c. of the Zoning & Development Code defines the various permissible uses under a PR Zone as "public facilities such as, but not limited to, schools, recreational facilities, hospitals, churches, cultural buildings or structures essential to providing the public with electric power, gas, water, sanitation, etc."

Mr. Ed Wolf, 2225 Redlands Parkway, owns property adjacent to the subject property. He asked how far from the property line the storage building will be located? City Manager Mark Achen answered saying it will be 100 feet from Mr. Wolf's building line. Mr. Wolf was concerned if it would devalue his property. He was concerned about noise while working on equipment, and asked if there will be a sound and visual barrier between his property and the proposed project. He is not currently impacted by activity in the area, but if the 100 foot building is erected, he could be impacted.

Ms. Linda Rattan, 657 26 Road, said in most Planned Residential developments, the office building services the immediate development. It does not service a large area. She felt Planned Residential really does not apply for a private water company. If it were a public utility, it would be different. She was concerned about the size and location of the fuel storage tank. Will the 100 foot building have composition shingles on it? She believed the petitioner stated they would have composition shingles on all the buildings. She was opposed to rezoning anything in a residential area even with PR-2. This building has nothing to do with a Planned Residential community. It is simply an office building for Redlands Power and Water Company. She could not understand why they would be allowed to build in this zone.

Councilmember Graham asked if Council were to approved a Planned Business as opposed to Planned Residential, would that be inappropriate under the notion of what is a residence and what is a Planned Residential Zone? Ms. Rattan said the first attempt by Redlands Water and Power Company with five acres zoned Commercial and the balance left as RMF-4 was the most honest method. The request was denied by the Planning Commission and City Council. She was also opposed to the Commercial Zone which was proposed by Redlands Water and Power the first time. Councilmember Theobold said the Liberty Baptist Church which is located on South Camp Road is also a non-residential use in a residential zone. Ms. Rattan said she had no objection to the church.

Councilmember Maupin asked Ms. Rattan if she felt this proposal would devalue her property? She said yes.

Mr. Steve McKinney, 449 South Camp Road, a concerned neighbor residing across from the Liberty Baptist Church, opposed the proposed rezone.

Mr. Bob Withers, 2682 Del Mar Drive, said the Redlands Water and Power Company is not a commercial operation. It is a public facility and serving the area. The office building is strictly residential construction. There is very little traffic. The facilities are strictly to house a couple of pieces of equipment needed to work on the water lines in that area. There is no day-to-day equipment traffic. All of the bulk storage and heavy equipment repairs will be accomplished at the existing yard over at the dam. He felt the impact on the neighboring properties is miniscule. There is planting material available that will grow fast and screen the building. All the colors are earthtones. There are other Planned Residential subdivisions in the area which have very few of the same restrictions imposed on them. The petitioner is doing everything possible to make the proposal aesthetically, environmentally and socially compatible with the surrounding area. Mr. Withers said the roof is limited to 16 feet on a single slope roof, and it would be difficult to construct anything other than a metal type roof similar to those on many homes in the area. They are not galvanized, but are colored metal. A certain pitch is required to be able to use composition shingles. Mr. Withers said no pipes, cases or pallets of fittings, nothing used in the replacement of water lines, would be stored at this location.

Councilmember Baughman said he recalled six persons being employed by Redlands Water and Power. Mr. Withers said the superintendent and one secretary would be using the building. Other workers (ditch riders and maintenance workers) would be working from the storage area.

Mr. Trevor Brown answered various questions. The fuel tank (4 feet long and 3 1/2 feet in diameter) is a 300 gallon above ground tank similar to what is used by farmers in the area. It would stand approximately 6 1/2 to 7 feet. It will meet all fire code regulations. He said Mr. Wolf could be involved in the choice of trees or fencing along his boundary. Redlands Water and Power Company is a non-profit organization and provides irrigation water to the public. They do not wish to do anything with the other two lots at this time. In the future, if someone wants to do something with Lot 2 and 3, they will need to go back through the City's process to change the non-use area.

Mr. Greg Strong, 160 Gunnison Dam Road, superintendent of Redlands Water and Power Company, said the office hours are 8:00 a.m. to 4:30 p.m., five days a week. One worker (ditch rider) comes in on Saturdays and Sundays at 6:00 a.m. and comes back about 8:00 a.m., then again from 3:00 to 4:00 in the afternoon. That is all the traffic that takes place on weekends. It is difficult to say how often the equipment is used. Equipment going in and out will be very minimal. He said he and the secretary come in in the morning along with two maintenance workers and one ditch rider.

Mr. Strong said this location is central to the customers in the area. He could not estimate any cost savings to the company. They are currently renting office space. He felt there would be a savings in response time to customers.

Mr. Strong felt there would be no additional noise after the construction of the buildings, because they currently come in there all the time now. Only equipment will be stored in the shed and only general maintenance (changing oil and spark plugs) will take place. Major maintenance is sent out for repair. The on-site storage tank is for the fueling of equipment. Mr. Strong reconfirmed the company has no plans for Lot 2, and the present Board has no plans to sell Lot 2. He also discussed the current impact of the operation on the neighborhood. The pumps have electric motors which run 24 hours a day, seven days a week, six months of the year.

Mr. Strong said the current height of the storage building is 16 feet. He said they would like the roof on the storage building to match that of the main building. Mr. Withers said in order to store equipment the opening must be large enough to drive the equipment through, which dictates about a 15' wall. The office building side walls are standard residential 8'. Councilmember Maupin favored raising the height of the roof, so the roofing materials would match the other building and possibly look like a residential structure. Mr. Withers felt it would be more aesthetically pleasing.

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

Councilmember Graham asked if there were any limitations upon Council's discretion on a decision, and is there any claim that the rezone can be asserted as a matter of right? City Attorney Dan Wilson said it is not a matter of right. Until Council finally approves the request, it still has the exercise of discretion when dealing with planned zones. Council must still determine if the rezone criteria have been met.

Mayor Afman asked for clarification of the term "service area" and are there perimeters within the Code that define the service area of a utility? City Attorney Dan Wilson said not to the level of specificity discussed tonight. Generally, the service area is left to Staff to determine based on the applicant's proposed uses.

Councilmember Baughman asked about possible expansion of the facility after approval. City Attorney Wilson said an expansion would require revisiting the plan and would have to go back through the process. The Code discusses "substantial" expansion. Specifics such as hours of operation, number of staff members, types and sizes of equipment can be made in Council's motion. Otherwise, there would be no such restriction on Redlands Water and Power. Such specifics are unusual and difficult to enforce. Dave Thornton recalled one of the concerns of the roof was making it more single-story. He did not know why 16 feet was determined. Increasing the height by five feet in order to allow both roofs to be the same makes good planning and aesthetic sense for this project. It can be done. Mayor Afman asked if increasing the roof height would be acceptable? Public Works & Utilities Director Jim Shanks who is the Chief Building Official of the City of Grand Junction, said he would have to refer to the Building Code.

Councilmember Terry asked what would happen to the property if Redlands Water and Power decided to sell the five acres? City Attorney Wilson said there is a specific site plan, so a cautious purchaser would have to come back through the process and propose a site plan, make a contract to purchase contingent upon site plan approval to some change. City Manager Achen clarified that the limitations would only be those identified tonight which are only physical, so an operation could be conducted on the property with a lot more activity than Redlands Water and Power intends. A normal retail or for profit organization would not be allowed.

Councilmember Terry asked about the remaining 21 acres that will be PR-2. There is no plan in place. Could Redlands Water and Power sell that property to another developer who could present a plan that would also bring in another public utility or another church or school? City Attorney Wilson said it is possible. He said Council can say this is the allowed use for Lot 1, and the balance shall be only Residential.

Councilmember Theobald asked if that condition would preclude the lot from being used for a non-residential facility such as a fire station? City Attorney Wilson said it would preclude it until the process were followed, and Council were to change it.

Mayor Afman, as a realtor, said she looks at properties on an individual basis. Commercial entities can affect a property value adversely, but Council is attempting, throughout the Land Use Plan, to blend low profile commercial uses amongst the residential areas, and enforce the landscape and screening. She felt it depends on the individual properties as to whether it affects the value or not.

Councilmember Maupin urged Council to deny the request as he did not think it met any of the rezone criteria, and gave several examples for his opinion.

Councilmember Graham felt the current proposal meets the zoning criteria c. and e. He felt the proposed plan was consistent with the goals of the planned development as layed out in Section 7-1-2, a., c. and f. which relate to mixing of desirable and various uses. He felt Council's intention is to make the proposal fit into the neighborhood.

Councilmember Mantlo said the petitioner has made the recommended changes which were given by Council at the July 3, 1996, meeting.

He felt a decision to deny should have taken place in the beginning, not after the petitioner has gone to the time and expense to come up with plans to satisfy Council and Staff. He was in favor of the rezone.

Councilmember Baughman concurred with Councilmember Mantlo. He felt Redlands Water & Power has done an excellent job at trying to blend the buildings into the neighborhood.

Upon motion by Councilmember Theobald, seconded by Councilmember Terry and carried by roll call vote with Councilmember **MAUPIN** voting **NO**, based on the criteria d., e., and g., and possibly b. and c. Sections a. and f. do not apply because there is no plan for the area and it is a downzone from a 1961 zoning, Ordinance No. 2949 was approved with the following conditions:

1. Items 1 and 2 in Staff recommendation as the applicant has already heard and accepted;
2. Items 1-7 of the preliminary plan of the Staff recommendations which the applicant has already heard and accepted;
3. Plus the five more conditions.
  - a. Item 8 - the plan will be limited to a single 300 gallon fuel tank, which is what is planned, but Council would want to alleviate concerns that it might be more than 300 gallons;
  - b. Item 9 - Council accept the offer by Redlands Water and Power to screen for sight and sound to accommodate the neighbor Ed Wolf;
  - c. Item 10 - the storage shed height be increased to accommodate non-metal roof which will match the office building, no more than the pitch for asphalt shingles (reflecting Building Code and manufacturer's recommendations);
  - d. Item 11 - let the plan reflect that this is intended to be used by Redlands Water & Power Company as a water and electricity utility for Lot 1;
  - e. Item 12 - that Lots 2 and 3 would be for residential use only.

4. The Planning Commission recommendation of earthtone colors.

RECESS

The Mayor declared a ten-minute recess at 9:25 p.m. Upon reconvening, all members of Council were present.

TESTIMONY REGARDING PREVIOUS ITEM

Councilmember Theobold noted one piece of testimony was missing from the previous council item. One 300 gallon tank was diesel although some equipment runs on diesel and some on unleaded fuel, so there are actually two 300 gallon tanks. Councilmember Theobold suggested three actions:

City Attorney Wilson said the concerned neighbors have left the hearing room. He said Council has the power to revisit the issue tonight, but would be awkward since the neighbors have left the meeting.

Councilmember Terry said the opposing neighbors were opposed to the entire project for general purposes, and the impact of another 300 gallon tank would not change their opinion.

Councilmember Theobold felt the proliferation of more and bigger tanks was their concern rather than one or two tanks.

City Attorney Dan Wilson said the penalty imposed would require the superintendent of Redlands Water & Power to notify the neighbors about the additional tank. He felt the record reflecting Councilmember Theobold's discussion would be sufficient for reconsideration of the motion.

Upon motion to reconsider by Councilmember Graham, seconded by Councilmember Mantlo and carried with Councilmember **MAUPIN** voting **NO**, Ordinance No. 2949 was amended to include a provision for one 300 gallon, unleaded fuel tank to be limited to 300 gallons maximum, and one 300 gallon, diesel fuel tank to be limited to 300 gallons, in place of one 300 gallon tank as previously approved in Item 8 of the recommendations for approval.

City Attorney Dan Wilson said the ordinance will be amended for publication showing the two fuel tanks.



City Manager Mark Achen said the City will notify the neighbors who spoke at this hearing, Mr. Wolf, Mr. McKenney and Mr. and Mrs. Rattan, in writing, with the explanation of the original and amended motion to include the additional tank.

**REZONING 1301 AND 1305 N. 7TH STREET PROFESSIONAL OFFICES TO PB -**  
**APPEAL OF PLANNING COMMISSION DENIED - ORDINANCE FAILED TO PASS**  
[FILE #PDR-96-159]

A request to rezone the property at 1301 and 1305 N. 7th Street from RMF-32 to PB and final plan for an office building. The request was denied by Planning Commission and the applicant has appealed.

A hearing was held after proper notice. Dave Thornton, Community Development Department, reviewed this item. There are currently two older single-family homes on the properties. Between this property and the Bank One property to the south is a vacant lot and one single-family home. The adjacent zoning to the north and south is RMF-32 and the zoning to the west is PZ (Grand Junction High School). Staff recommends denial of the rezone and final plan. When this went to Planning Commission on August 6, 1996, the Commission denied the request for the rezone and the final plan.

Mr. Thornton said Section 4-4-4 of the Zoning & Development Code was considered by the Planning Commission and Staff:

a. Was the existing zone an error at the time of adoption? There is no evidence that the existing zone was in error. The zoning to the north and south is also multi-family, RMF-32;

b. Has there been a change of character in the area due to installation of public facilities, other zone changes, new growth trends, deterioration, development transition, etc.? The applicant thinks there has been a change in character due to the increased traffic on 7th Street, the deterioration of some of the homes and other zone changes along 7th Street. However, there are still a substantial number of dwelling units along this section of the Corridor and very few zone changes on this side of 7th Street north of Bank One;

c. Is there an area of community need for the proposed rezone? Neither Staff nor Planning Commission concur that there is a need for this rezone in this location;

d. Is the proposed rezone compatible with the surrounding area or will there be adverse impacts? The proposed rezone is not compatible with the surrounding residential uses;

e. Will there be benefits derived by the community area by granting the proposed rezone? Staff does not believe there is any real benefit derived by those residential uses that are adjacent;

f. Is the proposal in conformance with the policies, intents and requirements of this Code with the City Master Plan and other adopted plans and policies? The 7th Street Corridor Guidelines do suggest professional offices might be appropriate along this portion of 7th Street, but only if it is compatible with the surrounding residential uses. Staff does not feel this plan is compatible. The City's Growth Plan shows this area remaining residential, suggesting a residential density of 4 to 7.9 units per acre.

g. Are adequate facilities available to serve the development? Adequate facilities do exist or could easily be extended.

Staff does not feel the rezone request meets the rezone criteria. Planning Commission concurred. The design of the site and the building is not in keeping with the residential character of the corridor. The few rezonings that have occurred in the last ten years along 7th Street were for businesses to occupy the existing residential structures. The proposed building design is not residential in character.

Mr. Thornton said the general consensus of Staff is the existing zone, RMF-32, is in error, but an appropriate zone would not be Commercial.

Councilmember Maupin said the character of the area is changing and no longer suitable for single-family. It is difficult to get out of the driveways. Mr. Thornton said discussion has taken place regarding review of the Corridor Guidelines as part of the implementation of the Growth Plan.

Mayor Afman asked for clarification of criteria b. which requires the design maintain a residential character. Mr. Thornton said the principle use is residential along the Corridor with some scattered commercial establishments, mostly within previously

residential structures. They have not been allowed to remove landscaping and install parking lots.

Councilmember Terry asked if a plan had been submitted to meet the suggestions of the Staff comments where there was no parking in front and more residential in character, would Staff had been more inclined to concur with the proposal? Mr. Thornton said Staff's recommendation would still be to deny until the Corridor Guidelines could be reviewed and updated.

City Manager Mark Achen said as each parcel changes to a commercial use it increases the potential for other commercial users to consider it a cheaper location to find commercial property than other existing commercially zoned properties in the City. That would be an economic incentive. If the intent is uncertain, each step taken in making that conversion adds additional market pressure because one developer was successful in persuading City Council, and others will think about the same thing. Staff is suggesting that the ideal way is to discuss this as a comprehensive issue. Otherwise, the market place will gradually force it one way or the other. Councilmember Maupin felt the residents should be asked what they would like to do with their houses. Councilmember Theobold said it must first be determined which houses are owner-occupied versus rentals, which is also a sign of transition.

City Manager Mark Achen noted there are some site restraints that would make it difficult to develop 32 units per acre, as currently zoned.

Mr. Joe Coleman, 2452 Patterson Road, attorney representing the applicant, PC Management, referred to a letter sent to Council in August, 1996, regarding the character of the neighborhood. He said the applicant read the 7th Street Corridor Policy, checked with Community Development and worked with Community Development, but did not come forward immediately with a plan. When he did submit a plan, he was told the 7th Street Corridor Guidelines suggests that professional office buildings was appropriate for the property. He said the reason this was denied was because they are not complying with some unadopted Growth Plan. They are only complying with the existing Growth Plan. In 1986, this area was identified as being appropriate for professional office buildings through a Planned Business approach.

Mr. Coleman said the neighborhood, being 1/4 mile radius, has three times more non-residential than residential. He felt that

putting a residential proposal in the area would be a minority. The Grand Junction High School is the dominant neighbor and there is a lot of traffic impact this neighborhood. The School District feels a high-density residential zone definitely impacts the High School. The immediate neighbor to the north is in favor of the rezone. The neighbor on the south opposes the rezone. The Grand Junction Police Department has been contacted regarding patrol of the high school. The Police Department is against multi-family use because of the possible increase of high school students driving in the alley to the rear of the property.

Mr. Coleman submitted photos of other properties in the immediate area, noting many paved parking areas. He reviewed the criteria comments of Staff:

a. He asked how Staff can say this zoning was correct when put into place, and there has been no changes, but it is now incorrect.

b. The character of the neighborhood has changed in many ways, such as the alleyway behind the high school, backing out of driveways, etc.

c. There is a need in the community for a lesser priced, professional office building in a central area. There is a benefit.

d. The proposal is 100% consistent with the City Master Plan. The Corridor Policy says this property is appropriate for professional office buildings.

e. Site plan - Planning says "put the parking to the rear." If the parking is put to the rear, access is taken off the alley or an entire, useless driveway is put all the way through the property. If you go off the alley, the 7th Street Corridor Policy is being violated (no parking accessed off the alley). The petitioner complied with the 7th Street Corridor Guidelines and Staff has never explained why the Guidelines should have been violated. They would have had to violate the Guidelines to follow Staff's suggestion of putting the parking in the rear.

f. Residential nature - A single-story office complex fits very well compared to what already exists in the neighborhood. The landscaping plan has three times the required landscaping rather than ten times. He wished to make that correction. Landscaping

makes a single-story structure appear compatible with the neighborhood.

He felt every criteria of Section 4-4-4 of the Zoning & Development Code has been satisfied.

Mr. Paul Coleman, 1901 N. 7th Street, owner of PC Management, and a builder in Grand Junction, distributed photos of what he has built. He does not own multiples in town. He likes to lease commercial buildings. He has been a builder for 15-20 years. Mr. Paul Coleman answered questions of Council about the property regarding trips per day for medical buildings, turning in and out, setbacks, high school students using the alleyway, vandalism problems, etc.

Ms. Teresa McKenney, 1307 N. 7th Street, spoke in favor of the office building versus multi-family. Her property is directly north of the subject property. Her main concern is the alleyway. The students come into the alleyway and her driveway between classes, lean on her fence and litter her yard. She could not picture young families with small children being on 7th Street with a busy alleyway in the rear. She did not feel a parking lot facing the alley would be a solution. She felt a professional office building would be appropriate.

Mr. Richard Dewey, 2236 Tiffany Court, owner of the property to the south since 1972, said he has remodeled the home on the property and it is now a rental unit housing four college students. He also had problems with high school students because he did not install a suitable guard or fence. Once he fenced the lot, he no longer had problems with the high school students. He was concerned the petitioner had not contacted him regarding the proposal prior to the Planning Commission meeting. He felt the proposal does not retain the residential character of the area. He also does not approve of parking in the front with very little landscaping, and large wooden fences installed on either side of the project. Mr. Dewey was not objecting to the zoning for a well-planned office building, but was uncomfortable with the design and parking.

Ms. Pamela Perry, 1337 N. 7th Street, objected to the zoning and design. She cannot access the alley driveway behind her home. She did not believe the design of the building matches that of the existing residences in the area. She questioned the 3 to 1 ratio

of residential versus non-residential in the area. She said most of her neighboring homes are owner-occupied.

Mr. Joe Coleman commented on the neighboring opinions. The one woman to the north is in favor. Mr. Dewey agrees with professional offices, but would like to be able to design it. If the high school was not there, he would like to have back access and parking like the medical center.

Councilmember Baughman asked Mr. Coleman why Mr. Dewey was not contacted until such a late hour. Mr. Paul Coleman said he phoned Mr. Dewey regarding the hearing when he first began the process and Mr. Dewey said he had no problem whatsoever. When he saw him at the Planning Commission hearing, Mr. Dewey was totally irate concerning the proposal. Mr. Dewey was definitely contacted. Mr. Joe Coleman said his staff has made an effort to inform Mr. Dewey of what is going on, etc.

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

Mayor Afman questioned if Staff has looked at the stacking element, from the north, of ingress and egress from the site, and the bank site? Public Works & Utilities Director Jim Shanks said traffic turning right into a driveway would not create a need for much stacking. He did not see a problem. He felt an office building would create low volume traffic rather than high volume.

Councilmember Graham asked the City Attorney what constraints the Theobald case, which was cited this evening, would place on Council's decision tonight. City Attorney Dan Wilson said the case stands for master plans, growth plans, and he would include the 7th Street Corridor Guidelines, as guidelines. It was a case where people wanted to enforce a master plan as though it were zoning law. The Court said it is a guideline and there is no obligation to follow it.

Councilmember Graham asked if Council were to deny the rezone with the only reason being that the 7th Street Corridor Guidelines were being reworked, would that deny the petitioner due process? City Attorney Dan Wilson said not in his opinion. Council has discretion to deny. He would not want to say Council can deny without stating any grounds whatsoever, but it is the applicant's burden to prove to Council that the rezone is proper.

Councilmember Maupin said the current alleyway creates havoc and should be made a street useable by the residents of the area. He

felt a multi-family development would be more compatible than office buildings.

Councilmember Graham said the request for the rezone should be denied on the basis of Section 4-4-4.d. because it is not compatible with the residential character of the 7th Street Corridor Guidelines. The location and configuration of the parking lot is not compatible, the fencing, and the landscaping, although attractive, is not equivalent to a front or back yard. He felt it was important to note the high school was there first and the problems caused by the high school are incidental to the high school which is a prior use. He recommended denial of the request.

Councilmember Terry said she thought the development is compatible with the existing 7th Street Corridor Guidelines. She thought office buildings are appropriate in the area of South Orchard to Bunting as long as they are residential scale. The design of the building is acceptable, but placing it at the back of the lot with concrete in front, even though there are other businesses in the area with that characteristic, does not make it right. She favored the rezone, but not the plan.

Councilmember Baughman agreed with Councilmember Terry's comments. He did not favor the rezone because of incompatibility with the residential character.

Councilmember Mantlo concurred with Councilmember Baughman. He felt the design of putting the building on the alley and using the front for a parking lot does nothing but increase the traffic problems on 7th Street.

Councilmember Theobald commented that the infill project completed by Paul Coleman on Grand Avenue was a great improvement. He is comfortable with the rezone, but he opposed the design of the building. He felt the building could be positioned sideways with parking on the side. Also, much of the remaining residences in the area are owner occupied. He felt a different design would be more beneficial if it appeared more compatible with the neighborhood.

Councilmember Terry asked if the rezone could be approved without the plan? City Attorney Dan Wilson said he recommends against it because once the zoning decision has been made then the applicant has a right to have a plan that fits it. On behalf of the

Planning Department, he did not see that the applicant is at high risk if both the rezone and plan are denied.

Councilmember Graham asked if there would not be a benefit of granting the rezone if Council denies the plan from the standpoint of preventing a greater density in a residential zone? Mr. Wilson said the applicant could apply for a type of multi-family. Councilmember Graham felt the density is the issue, not the residential use of the current zone.

Councilmember Terry asked if Council could approve the rezone with restrictions on a plan to come back with specific requirements?

Mayor Afman said the action earlier with Redlands Water & Power Co. is similar, having the office building look more residential. She wished there were some way to use the alley in the rear, and deter the students from being nuisances in the area. She was also concerned with the position of the site.

Upon motion by Councilmember Maupin, seconded by Councilmember Graham Theobold and carried by roll call vote, the appeal of the Planning Commission denial was denied.

It was moved by Councilmember Theobold and seconded by Councilmember Terry that Ordinance No. 2944 be adopted. Roll was called on the motion with the following result:

AYE: GRAHAM

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

The motion did not pass.

Council requested the petitioner come back with an improved plan.

**OTHER BUSINESS**

Councilmember Baughman received a phone call from Matt Mattas about the intersection at 25 3/4 Road and Highway 6 & 50. Another accident occurred today at that location. When cars are turning north or south, there is room for only one car in the center lane which causes a stacking problem, and cars get rear ended. Mr. Mattas asked if the City could work with the Colorado Department of Transportation to install a turn lane at that location. Councilmember Theobold felt the traffic engineers in the public



utilities department could examine this problem and get back to Council with a plan of action.

**ADJOURNMENT**

Upon motion by Councilmember Maupin, seconded by Councilmember Mantlo and carried, the meeting was adjourned at 11:47 p.m.

Stephanie Nye, CMC/AAE  
City Clerk