

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

July 21, 1999

The City Council of the City of Grand Junction, Colorado, convened into regular session the 21st day of July, 1999, at 7:32 p.m. at Two Rivers Convention Center. Those present were Cindy Enos-Martinez, Jack Scott, Jim Spehar, Reford Theobald, and President of the Council Gene Kinsey. Earl Payne and Janet Terry were absent. Also present were City Manager Mark Achen, City Attorney Dan Wilson, and City Clerk Stephanie Nye.

Council President Kinsey called the meeting to order and Councilmember Scott led in the Pledge of Allegiance. The audience remained standing during the invocation by Dan Brown, Bookcliff Baptist Church.

PROCLAMATION DECLARING JULY 23, 1999, AS "COMMUNITY DISABILITY AWARENESS DAY" IN THE CITY OF GRAND JUNCTION

PRESENT APPOINTMENT CERTIFICATE TO BILL WHALEY, COMMISSION ON ARTS & CULTURE

CONSENT ITEMS

Upon motion by Councilmember Scott, seconded by Councilmember Spehar and carried by roll call vote, the following Consent Calendar items #1 through #12 were approved:

1. **Minutes of Previous Meeting**

Action: Approve the Minutes of the Special Meeting July 7, 1999

2. **VCB 1999 Special Event Funding, Second Cycle**

The VCB received seven applications for Special Event funding by the June 1 deadline. After review and discussion of the applications, the VCB Board recommends funding the following events:

Festival Italiano	\$2,000
21 st Annual Fruita Bluegrass Festival	\$2,750
Valley Pride Festival	\$3,000
Total Funding Recommendation	\$7,750

Action: Approve VCB 1999 Recommended Special Event Funding

3. **Amendments to the FY1999-2004 Transportation Improvement Program (TIP)**

TIP amendments are required to reflect the federally-funded transportation-related projects within the Federal Aid Urban Boundary for fiscal years 1999 through 2004.

Resolution No. 82–99 - A Joint Resolution of the County of Mesa and the City of Grand Junction Concerning Adoption of Administrative Amendments to the Fiscal Years 1999-2004 Transportation Improvement Program

Action: Adopt Resolution No. 82–99

4. **FY 2000 Unified Planning Work Program (UPWP) for the Grand Junction/ Mesa County Metropolitan Planning Organization**

The Metropolitan Planning Organization seeks approval of the FY 2000 Unified Planning Work Program to continue transportation planning activities on behalf of the City and the County under the previously approved multi-year contract with the Colorado Department of Transportation.

Resolution No. 83–99 – A Joint Resolution of the County of Mesa and the City of Grand Junction Concerning Adoption of the Fiscal Year 2000 Unified Planning Work Program

**Action: Adopt Resolution No. 83–99*

5. **South Avenue Reconstruction, Phase 2, 7th to 9th**

The following bids were received on July 13, 1999:

Mountain Valley Contracting, Inc.	Grand Junction	\$333,219.52
M.A. Concrete	Grand Junction	\$366,143.99
Skyline Construction	Grand Junction	\$387,567.70
Elam Construction	Grand Junction	\$399,442.00
Precision Paving	Grand Junction	\$408,253.65
Sorter Construction	Grand Junction	\$423,390.00
Engineer's Estimate		\$426,397.50

Action: Award Contract for South Avenue Reconstruction, Phase 2, 7th to 9th, to Mountain Valley Contracting, Inc. in the Amount of \$333,219.52

6. **CDOT Funding for the 5th Street Improvement Project**

The Colorado Department of Transportation has approved the City's request of \$50,000 for improvement of a 700' long section of Highway 50 (5th Street) from South Avenue to Pitkin Avenue.

Resolution No. 84-99 – A Resolution Accepting a Grant of State Funds for the Project Identified as the 5th Street Improvement Project, South Avenue to Main Street

Action: Adopt Resolution No. 84-99

7. **Authorizing the Conveyance of an Electric Utility Easement to Grand Valley Rural Power Lines across the Saccomanno Park Property**

Grand Valley Rural Power Lines is implementing a plan to upgrade electric service along the 26 ½ Road corridor between H Road and I Road. The schedule for implementing the upgrades has been advanced due to the Holy Family School and Church development at the southeast corner of 26 ½ Road and H Road.

Resolution No. 85-99 – A Resolution Concerning the Granting of a Non-Exclusive Electric Utility Easement to Grand Valley Rural Power Lines, Inc.

Action: Adopt Resolution No. 85-99

8. **Setting a Hearing on Rezoning for Camelot Gardens, Located at 2844 Kennedy Avenue, from RSF-8 to PR-6.9 [File #RZP-1999-138]**

The applicant proposes to rezone a 1.611 acre parcel located directly east of Compton Street at a point where Kennedy Avenue ends, from RSF-8 to PR 6.9 (Planned Residential with a density not to exceed 6.9 dwellings per acre) to accommodate an 11 lot single family residential development. The applicant is also requesting approval of a private street (Garden Court) that will run north from Kennedy Avenue.

Proposed Ordinance Zoning a Parcel of Land Located at 2844 Kennedy Avenue to PR-6.9

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for August 4, 1999

9. **Setting a Hearing on Zoning World Harvest Church Annexation Located at 2826 F Road** [File #ANX-1999-147]

Request for approval to zone the 17.26 acre World Harvest Church Annexation site to RSF-8 (Residential Single Family, 8 units per acre).

Proposed Ordinance Zoning World Harvest Church Annexation RSF-8

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for August 4, 1999

10. **Vacating an Easement at 559 Court Road** [File #VE-1999-137]

The application is to vacate 3' of an 8' wide utility easement located on the south property line of 559 Court Road. The easement contains a non-functioning sewer line that is owned by the Fruitvale Sanitation District. All relevant utility companies have agreed to the vacation and Staff recommends approval.

Resolution No. 86-99 – A Resolution Vacating a Utility Easement

Action: Adopt Resolution No. 86-99

11. **Setting a Hearing on Vacating a Right-of-Way at 377 S. Redlands Road** [File #VR-1999-150]

The petitioner is requesting the vacation of a 13' x 22' portion of the right-of-way adjacent to 377 S. Redlands Road. This vacation will straighten the right-of-way line adjacent to this lot and allow the existing home location to meet the front yard setback. The right-of-way will be retained as a utility easement.

Proposed Ordinance Vacating Right-of-Way at 337 S. Redlands Road

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for August 4, 1999

12. **Vacating the East-West Alley between 2nd and 3rd, between Main and Colorado to Accommodate New Construction of the Hawthorn Suites Hotel** [File #VR-1999-084]

The petitioner, Kevin Reimer, acting as representative of Reimer Development, for the proposed Hawthorn Suites Hotel, is requesting to vacate the east-west alley right-of-way from 2nd to 3rd Streets, between Main Street and Colorado Avenue.

This item was continued by City Council at their meeting of June 16, 1999, to July 21st. The applicant has requested an additional continuance to August 18, 1999. The issues that were brought up by the Council have not yet been resolved, but are being worked on.

Proposed Ordinance Vacating of the East-West Alley Located between 2nd to 3rd Streets, between Main Street and Colorado Avenue

Action: Continue Public Hearing to August 18, 1999

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

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

PUBLIC HEARING - JOHNSON ANNEXATION LOCATED AT 719 24 ½ ROAD

[FILE #ANX-1999-120]

The 20.14-acre Johnson Annexation area consists of one parcel of land. Owners of the property have signed a petition for annexation as part of their request for a rezone and Outline Development Plan on this parcel and an additional 9.67-acre parcel that is already within the City limits.

The hearing opened at 7:40 p.m. Mike Joyce, Development Concepts, 2764 Compass Drive, #217-1, asked for approval of the Johnson Annexation.

Councilmember Enos-Martinez excused herself from participation on this item as she has a financial interest in Development Concepts.

Kathy Portner, Community Development Department, stated that the petition for annexation meets the statutory requirements for annexation and an affidavit stating such has been filed with the City Clerk.

The Mayor asked for public comment. There was none. The hearing was closed at 7:43 p.m.

a. Resolution Accepting Petition

Resolution No. 88-99 - A Resolution Accepting Petitions for Annexation, Making Certain Findings, Determining that Property Known as Johnson Annexation is Eligible for Annexation, Located at 719 24 ½ Road

b. Annexation Ordinance

Ordinance No. 3165 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Johnson Annexation, Approximately 20.14 Acres, Located at 719 24 ½ Road

Upon motion by Councilmember Scott, seconded by Councilmember Theobald and carried by roll call vote with Councilmember **ENOS-MARTINEZ ABSTAINING**, Resolution No. 88-99 was adopted and Ordinance No. 3165 was adopted on second reading and ordered published.

PUBLIC HEARING – ZONING THE SPANISH TRAIL SUBDIVISION (INCLUDING THE JOHNSON ANNEXATION) LOCATED AT 719 24 ½ ROAD TO PR-7.2

[FILE #ANX-1999-120]

The 20.14-acre Johnson Annexation area consists of one parcel of land. Owners of the property have signed a petition for annexation as part of their request for a rezone and Outline Development Plan on this parcel and an additional 9.67 acre parcel that is already within the City limits. The requested zoning is PR-7.2 (Planned Residential, 7.2 units per acre) for the proposed Spanish Trail Subdivision.

The hearing was opened at 7:44 p.m.

Mike Joyce, Development Concepts, 2764 Compass Drive, #217-1, explained the request. They are requesting a rezone from County PR-20 to City PR-7.2 for a 20-acre parcel. There is another rezone being requested for a 9.76-acre parcel that is currently zoned RSF-2 by the City. In July, 1999 the rezone to PR-7.2 and the development plan were approved by the Planning Commission. They are planning a village neighborhood with small clusters of homes with green belts and walkways throughout. They plan 212 dwellings in five filings over the next five years. 176 of the units will be zero lot line homes and 36 will be attached homes. They will provide 27% open space in the development. Because the parcel is near Canyon View Park, they want to make it a park-like setting.

Councilmember Spehar asked if the maintenance of the open space will be the responsibility of the homeowners association. Mr. Joyce said yes.

Kathy Portner, Community Development Department, reviewed this item. Along with zoning to PR-7.2, the Planning Commission also approved the Outline Development Plan. The criteria in 4-4-4 and 4-11 of the Zoning & Development Code have been met.

1. There has been a change in character in the area with construction of Canyon View Park and the approval of several new subdivisions in the area;

2. The proposed rezone will eliminate an outdated planned zone with no current plan and provide a mixed density housing near a major park facility;
3. The proposed rezone for medium density residential is compatible with the surrounding park and church site;
4. The project will take advantage with existing infrastructure, including roads, utilities and a regional park;
5. The request is in conformance with many of the goals and policies of the Growth Plan;
6. Adequate facilities exist or can be extended to serve the development;
7. The project is within one mile of a major employment and shopping area (Mesa Mall).

Staff recommends approval. The Planning Commission recommended approval of the zoning and recommended the zoning ordinance include the maximum density and minimum density (6 to 7.2 units/acre).

The hearing was closed at 7:50 p.m. with no public comments.

Ordinance No. 3166 – An Ordinance Zoning the Spanish Trail Subdivision (Johnson Annexation) Located at the Northwest Corner of 24 ½ Road and G Road from County PR-20 and City RSF-2 to PR 7.2

Upon motion by Councilmember Spehar, seconded by Councilmember Theobald and carried by roll call vote with Councilmember **ENOS-MARTINEZ ABSTAINING**, Ordinance No. 3166 was adopted on second reading and ordered published.

PUBLIC HEARING - KEESEE ANNEXATION LOCATED AT 2070 SOUTH BROADWAY
[FILE #GPA-1999-121]

The 20.70-acre Keesee Annexation area consists of one parcel of land and a portion of the South Broadway and Desert Hills Road rights-of-way. Owners of the property have signed a petition for annexation as a part of their request for a Growth Plan amendment.

The hearing was opened at 7:50 p.m.

Tom Volkman, 422 White Avenue, Suite 323, represented the petitioner. He stated the petitioner submits the annexation standards apply here and is subject to annexation.

Kathy Portner, Community Development Department, stated the petition meets annexation requirements and is eligible for annexation. Staff recommends approval.

Dawn Maiella, 2112 Desert Hills Road, said it is the responsibility for the City to provide the same type of roads and walks that are provided to other City residents.

The hearing was closed at 7:54 p.m.

a. Resolution Accepting Petition

Resolution No. 87-99 - A Resolution Accepting Petitions for Annexation, Making Certain Findings, Determining that Property Known as Keesee Annexation is Eligible for Annexation, Located at 2070 South Broadway and Including Portions of the South Broadway and Desert Hills Road Rights-of-Way

b. Annexation Ordinance

Ordinance No. 3163 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Keesee Annexation, Approximately 20.70 Acres, Located at 2070 South Broadway and Including a Portion of the South Broadway and Desert Hills Road Rights-of-Way

Upon motion by Councilmember Theobold, seconded by Councilmember Enos-Martinez and carried by roll call vote, Resolution No. 87-99 was adopted and Ordinance No. 3163 was adopted on second reading and ordered published.

PUBLIC HEARING – GROWTH PLAN AMENDMENT AND ZONING THE KEESEE ANNEXATION LOCATED AT 2070 SOUTH BROADWAY TO RSF-2

[FILE #GPA-1999-121]

Request for 1) an amendment to the Growth Plan to redesignate approximately 20 acres from Rural (5-35 acres per unit) to Residential Medium Low (2-3.9 units per acre) and 2) a zone of annexation for approximately 20 acres from County R1B to City RSF-4.

The hearing was opened at 7:54 p.m.

Tom Volkman, 422 White Avenue, Suite 323, displayed a site plan while making opening remarks on the request for a Growth Plan amendment and located the area for Council's reference. He identified the areas surrounding the property, and the plans in surrounding areas. To the west is a portion of The Seasons development with a Planned Residential 4.4 designation for the entire area, surrounding Tiara Rado Golf Course. There are large

residential parcels to the east, with smaller lots to the south. The property was zoned R-1-B in the County with a minimum lot size of one-half acre. They requested a Growth Plan amendment to medium low density and a zone of RSF-4. The Planning Commission adopted a recommendation to the residential low density, with lots of one-half to two acres and a zoning of RSF-2 instead of RSF-4. Mr. Volkman introduced Carol Keesee, Trustee for the Kenneth and Carol Keesee Trust, owner of the property. They are not currently submitting a plan to Council for consideration, but need some clarification relative to the corresponding designations in both zoning and the Growth Plan.

Carol Keesee, 2070 S. Broadway, said her husband Ken suffered a severe and debilitating stroke in December. They purchased the property in July, 1997, to live closer to relatives. It was also purchased as an investment. Six months after the Mr. Keesee's stroke they put the property on the market. The property was marketed as a horse farm and development potential. A buyer negotiated to develop under R-1-B, but discovered it couldn't be sold that way. She asked for approval of the RSF-2 zoning which has been recommended by the Planning Commission. She thanked Council for its consideration.

Mr. Volkman said the Growth Plan amendment is submitted in accordance with the City's Administrative Regulation 2-99 which was adopted in March, 1999 in contemplation of people being able to come in on a site-by-site basis to apply for a Growth Plan amendment. They need to zone the property within 90 days of annexation. They will accept RSF-2 as the zoning. There are ample facilities to allow the development of this property. There are no topographic issues. It is fully developable. It has been historically zoned to allow two units per acre in the County. There is an inherent conflict between the Growth Plan as it contemplates the 5 to 35-acre parcels and the current R-1-B zoning which contemplates as small as half-acre parcels. He believed the appropriate zoning in the City would be RSF-2 or RSF-4. He wanted to make certain there are no difficulties in terms of representations relative to the use of the property in connection with the sale or development of it. The Persigo Agreement requires annexation. It is within the urban growth area, with a transitional density.

Kathy Portner, Community Development Department, reviewed this item. She stated one request is to amend the Growth Plan to the residential category to allow 2 to 4 units per acre, and a zoning of RSF-4.

The Growth Plan Amendment can be requested on an individual basis as per the administrative regulation. She outlined the surrounding densities listed on the Future Land Use Map. Some areas show a Rural designation of 5 to 35 acres/unit, the Seasons (Tiara Rado) is a much different designation reflecting the existing land use, residential medium high (8 to 12 units/acre), residential medium low (2 to 4 units/acre), a small commercial area and a park designation. There are also some conservation designations within the Rural designation. There are estate designations to the north of the City-owned

park land (the expansion of the Tiara Rado Golf Course). The estate designation allows for 2 to 5 units/acre. Staff finds the request does not meet the criteria for a Growth Plan amendment. Staff recommended denial of the request for a Growth Plan amendment and Staff waits to make an additional recommendation until a joint meeting is held between the City and County Planning Commissions. Such a meeting is scheduled for Thursday, July 29, 7:00 p.m. for consideration of a number of Staff initiated Growth Plan amendments to the Future Land Use Map. This area is one of the amendments. The Staff proposal is that the area north and east of S. Broadway be redesignated to the Estate designation, 2 to 5 acres per unit, and that the Rural designation remain on the area south of S. Broadway. Much of that area borders the Colorado National Monument.

Ms. Portner then spoke regarding the zoning request. Under the Persigo Agreement, the City can consider a zoning that is either consistent with County zoning (RSF-2) or a zoning consistent with the Growth Plan. The original request was for an RSF-4 zone. Staff recommends denial of the request for a Growth Plan amendment for the 2 to 4 units per acre, and the request for the RSF-4 zoning. They recommend a zoning of RSF-R (Residential Single Family Rural, 1 unit per 5 acres). The Planning Commission recommended approval of a zoning of RSF-2, the most similar zone to the County R-1-B, and a Growth Plan amendment to a designation of Residential Low (2 acre to ½-acre lots).

Councilmember Theobold asked what the County R-2 zone means. Ms. Portner said it is most similar to the City's RSF-4, with sewered lots.

Councilmember Theobold asked what type of road improvements on Desert Hills Road would be required if a development plan of this density were submitted. Ms. Portner said such a development would require that Desert Hills Road be with curb, gutter and sidewalk. The developer would be required to pay for their half plus enough additional pavement for two-way traffic.

Councilmember Theobold asked if there is density which would not have such a requirement. Ms. Portner said a development proposal of 2-acre lots or greater, a rural density, would not require road improvements.

Councilmember Theobold asked if there is a future zone that would establish a 2-acre lot size. Ms. Portner said yes, an Estate Zone district would be the 2-acre lot size. Such a zone could be adopted by the end of this fall, when the new Code is in effect.

Councilmember Theobold asked what can they do now with R-1-B zoning. He pointed out that they cannot develop at the R-1-B zoning because any development triggers annexation and annexation triggers a zone of annexation requirement. They are in limbo until they are zoned.

Councilmember Theobald asked Public Works Director Mark Relph what is the foreseeable solution to the S. Broadway 90 degree turns. Mark Relph said it used to be a high priority with Mesa County to straighten out some of those curves and improve the road. The County faced some opposition particularly against condemnation proceedings, so it is not such a priority.

Councilmember Theobald asked if the opposition was a reluctance to sell right-of-way, or the desire to keep the 90 degree curves because of how it affects traffic. Mr. Relph said it was more that the road moved closer to the existing dwelling units. He noted the City will be adding pavement to that section to create a walkway or add a gravel shoulder. He will have a cost estimate for Council's consideration.

Councilmember Spehar asked for the maximum number of units allowed on this property under the County R-1-B zone. Ms. Portner said 40 units. Under RSF-4, 80 units would be allowed, and 10 units would be allowed under estate zoning.

Councilmember Scott asked if there is currently a residence on the property. Ms. Portner said yes, with access from Desert Hills Road. Steve Voytilla, 3736 Christensen Court, a real estate agent, said the house sits on approximately one-half acre. The house is 2200 square feet, including the grass around the house, it's about ½ acre. There are no current plans for the house.

Mayor Kinsey asked for public comment.

Steve Voytilla, 3736 Christensen Court, a realtor with Hill & Holmes Real Estate, said he helped Mr. and Mrs. Keesee purchase their property. The property is in limbo. The Keesee family is merely asking for what they had when they purchased the property, which allows for a half-acre subdivision. When the property was purchased they checked with Mesa County on the zoning and was told R-1-B which allows a half-acre lot minimum size and would allow for a horse ranch. The Keesees felt it was a good investment. They have been marketing the property as both a horse ranch and a subdivision. It is hard to market property when the zoning is unknown. The Persigo Agreement became effective after the Keesees bought the property requiring any development to go through the City. They had no knowledge of the Persigo Agreement when they bought the property. The Keesee family is just wanting to sell the property for the highest and best use. He felt they shouldn't be penalized by changing the zoning to something that was never an issue when they purchased the property.

Councilmember Theobald asked for the date of purchase by Mr. and Mrs. Keesee. Mr. Voytilla said July, 1997.

Mike Anton, 2111 Desert Hills Road, said he lives at the furthest east corner of Desert Hills Road. His access is from Desert Hills Road. The road is all gravel and dirt. He

bought the property in November 1997 because of the rural designation. All of the lots in the area are five-acre lots or larger. He said the subject property is designated Rural and should remain Rural, although an Estate designation would be acceptable. The area itself is all five-acre lots and he wants to keep it that way. There has been no character change in the area. The driving range and golf course is a large park and is not a high density location. The Seasons was already there and adopted into the Growth Plan. He said the Keesees bought this property in 1997 after the Growth Plan was adopted. He agreed with the planner's recommendation. The roads are narrow, winding and bumpy. There is no sidewalk and no good access into the property. He wanted the road left with gravel and dirt which is why he bought in this area. The Estate designation would not require a paved road. He could live with that.

Councilmember Theobold asked if Mr. Anton was aware that the Estate designation could mean as little as 2 acres per unit. Mr. Anton said yes, 2 to 5 acres, and he could live with that. He thought the designation on his own property was R-1-B.

Dick Ennis, 2108 Desert Hills Road, said there is a current 24 foot right-of-way for the road. There is a 90 degree turn with a fence causing a blind corner. The turn would need to be corrected. It seems inconsistent with the decision made by Council on the Tiara Investments development a few weeks ago.

Ed Arnos, 2102 S. Broadway, spoke to the Growth Plan, its intent and purpose. Large amounts of money have been expended on development of the Growth Plan and competent people made an assessment on the best use of land for the future. He felt the Growth Plan has significance, and to change it so one person can increase the value of their property is to deny its purpose. The existing use of the land is rural in nature. The change will dissatisfy all property owners bordering the change. Property owners will sell off to developers if the rural character goes away. He felt a Growth Plan amendment would impact many properties.

Martha Haven, 463 Seasons Drive, said she used to live there. Ms. Haven checked with the Mesa County Traffic Department and found that in the past two years there have been ten accidents in a quarter of a mile. The Grand Junction Parks Department reported that last year 60,000 people used Tiara Rado Golf Course, averaging 250 people per day. With the Learning Center and the other nine holes, the traffic will increase considerably.

Floyd Unfred, 2107 Desert Hills Road, said the 80-acre property north of this 20 acres was purchased by the City in 1993 for \$648,000. The City was able to purchase the property because it was not developable and there was no sewer. The Keesees purchased the 20-acre parcel in 1997 for \$615,000 which is considerably more per acre. He agreed with Planning Staff that estate zoning would be more appropriate for the property. He did not feel it is a dire financial problem for the Keesees as they own several

other ranches. When the Keesees bought the property they gave no consideration of the neighbors when they planned to develop or sell the property for a subdivision. The current prices are high because the area is designated rural. He felt a designation of 2 units per acre will have a negative effect on the value of his property.

Karen Anton, 2111 Desert Hills Road, talked about the last phase of The Seasons for an additional 50 homes. It will add more traffic on S. Broadway with the already dangerous curves. The addition of 40 homes on this site will also increase traffic. She agreed with planners on the estate zoning. She said the adjacent proposed subdivision was denied because of the rural character of the area.

Steve Odell, 2084 S. Broadway, displayed a brief video tape showing the beauty and ruralness of the area.

Dan Ennis, 2110 ½ Desert Hills Road, wished to go on record saying he is against the proposal. The current traffic is bad and there has been a lot of damage to fences in the area. The wildlife is also impacted. He agreed with the 2 to 5 acre lots. He also felt Council should consider the current residents in the area because they want to live in a rural environment.

Carl Spoke, lives in The Seasons and enjoys the rural area in their neighborhood. It is a valuable asset to the community. He disagreed with the statement that the site cries for development. The infrastructure, particularly the roadway, is insufficient. He said the voters elected City Council to be responsible for the welfare of the community, not the investors.

Maggie Unfred, 2107 Desert Hills Road, has lived in the area for 19 years. She felt a subdivision of 4 units per acre is ludicrous. She bought there to be in a rural setting. She asked for the preservation of it.

Dawn Maiella, 2112 Desert Hills Road, pointed out that the Growth Plan was in place when the Keesees purchased the property. She felt the Growth Plan is correct in zoning the area rural. She also asked Council to consider the wildlife in the area.

Rebuttal was made by Tom Volkman. He said the Keesees bought the property on July 3, 1997. The Growth Plan was in affect at that time, although the Persigo Agreement was not in effect. It was passed in October, 1998 and changed the circumstances. Mesa County honored existing zoning. The Persigo Agreement was a meaningful deviation from the circumstances at the time it was adopted. The Agreement requires annexation to the City where the City has a different theory relative to the application of the Growth Plan. He felt the pre-existence of the Growth Plan is not the complete basis for the analysis. Reference was made that some of the opponents can live with two-acre parcels on this property. He said the petitioner cannot live with two-acre parcels. They believe it

is an inappropriate density for this property. Regarding the use of S. Broadway and the 90 degree turns, that is a factual situation. To have the 40 units in half-acre parcels on this 20 acres with the corresponding 400 ADT's (Average Daily Trips) will be negligible on S. Broadway. Yet, it should not prohibit additional development. The additional 60,000 users generated by the Tiara Rado Golf Course indicates that the additional 400 ADT's is not a meaningful event. A sewer system is now available under the Persigo Agreement. He felt it is imprudent to develop it at 2 to 5-acres per unit when sewer is available on S. Broadway. The logic of this property being developable is that it is a flat, rectangular parcel, and is abutted on two sides with public streets. The other parcel that was denied had access issues, but not this parcel. He was convinced this property should be developed, and developed at a density higher than 2 to 5 acres per unit. For the record, Mr. Volkman stated the Keesees have no other ranches, and felt that is irrelevant to this discussion. He agreed the area is beautiful and there are many attractive homes on attractive parcels. He believes this 20-acre site is an attractive parcel and does not negate its developability. He was not asking for a guaranteed return on any investment. They will accept the Planning Commission's recommendation of residential low density, RSF-2, one-half acre parcels. He felt this was an appropriate interim and transition designation. He requested approval of the Growth Plan amendment and a zone of RSF-4 which was originally requested, or RSF-2 which was recommended by the Planning Commission.

There were no other public comments. The hearing was closed at 9:10 p.m.

Councilmember Theobold said the Growth Plan amendment request is very specific to the 3.9 units per acre, and asked if Council can choose any number of acres per unit it feels is appropriate. City Attorney Wilson said as it relates to the Growth Plan, Council can choose any number. The Growth Plan is broad ranges, ceilings and basements, and does not intend to make decisions on that number, but rather to refer back to the developer and Planning Staff to refine with a plan.

Councilmember Theobold said the zoning must comport to the Growth Plan or simply becomes moot and can be deferred for up to 90 days. City Attorney Wilson asked why wouldn't there be an alternative which would be the Planning Commission's recommendation for the zone. Councilmember Theobold said the Planning Commission's recommendation does not fit the Growth Plan. City Attorney Wilson said he thought it did.

City Manager Mark Achen said there are several Growth Plan categories designated around the proposed zoning. Does Council have a choice to consider the other Growth Plan categories or only the one proposed. City Attorney Wilson said Council can choose an appropriate range of density for the property. He thought the question was once the range is picked that Council can pick a specific density within the range. He thought he may have answered the wrong question.

Councilmember Theobold said the choice is to approve or disapprove the Growth Plan amendment, or choose another category that seems appropriate. Then the zoning has to fit the Growth Plan. City Attorney Wilson said that is correct. Mr. Wilson said the Growth Plan sets a broader range and the zoning sets a narrower development focus for the developer.

Councilmember Enos-Martinez asked what the current zoning is for the surrounding area. Kathy Portner said the surrounding area under current County zoning is either R-1-B (2 units per acre) or R-2 (4 units per acre).

Councilmember Enos-Martinez said without the Persigo Agreement, all the zoning would remain. Ms. Portner said yes, under the current County policy. Councilmember Spehar said even though they are on larger parcels, they are zoned for the higher density. Councilmember Enos-Martinez said before the Persigo Agreement, they could have chosen to subdivide into the quarter-acre or half-acre lots.

Councilmember Enos-Martinez asked for the zoning of The Seasons. Ms. Portner said The Seasons is a Planned Residential zone district with an overall density of 4.4 units per acre, but that is a gross density. There are areas of higher density.

Councilmember Scott asked what the joint City and County planning commissions will be doing at the joint meeting on July 29. Ms. Portner said they will consider several Growth Plan amendments, including this area. Staff will be recommending the area north and east of S. Broadway that is designated as the rural land use category be reconsidered to an estate designation (2 to 5 acres per unit).

Councilmember Spehar asked if the meeting is the end of a process or the beginning. Ms. Portner said a recommendation would be made at the meeting and would have to come to Council in August or September of this year.

Councilmember Theobold asked if a date has been set on a meeting between the City Council and County Commissioners on excluding property from the 201 Sewer System. Ms. Portner did not know.

Councilmember Theobold said the financial situation of the Kessees is not an issue. The previous action on the parcel to the east should not be considered. Where the owner resides is not an issue. A realtor's promise to a buyer or seller unfortunately is not binding and not an issue. Most of the area is zoned at medium density with rural use, and the use is not the issue. It doesn't negate the zoning. He felt 4 units to the acre is not high density. The wildlife is not an issue as this area is inside the 201 sewer boundary and in the urban growth boundary, and projected to be urban development. Some area near this site is projected for discussion to be eliminated from the 201 sewer

boundary. Other areas may want to come out of the 201 boundary in order to remain low-density and rural in nature. Property in the 201 sewer boundary is going to develop at an urban density. The golf course expansion to the north is the only change in the character of the neighborhood. Medium density is appropriate for around a golf course. This parcel could be a good buffering between The Seasons to the more rural surrounding, but a road is also a good buffer. He felt S. Broadway may be the most appropriate buffer for most of the transition. His first reaction is definitely no to one-quarter-acre lots. He was not comfortable with half-acre lots either. The petitioner won't accept 2-acre lots which is the limit within the urban growth boundary. The estate designation in the Growth Plan with 2 acres per unit zoning would be preferable.

Councilmember Spehar asked if the estate designation was available to Council tonight. City Attorney Wilson said yes.

Councilmember Scott said the joint meeting on the 29th is important. He agreed with the 2-acre lots.

Councilmember Spehar said he was somewhat troubled about the comment on the open space aspect of the site. He had an issue with considering other people's private property as public open space. The Growth Plan was in place at the time of purchase, and the zoning was also in place allowing half-acre lots. Another issue is whether inclusion in the 201 boundary mandates rather than allows higher density. He felt it is not appropriate to speculate on possible deletions in the 201 sewer system. He also saw S. Broadway as a logical break to the higher density of The Seasons and the rural nature of the other areas. Since the estate designation is available, he would like to see the estate designation of 2 to 5-acre lots.

City Attorney Wilson said his previous answer was to a Growth Plan question and there is clearly an estate designation. Given the zoning, the options are RSF-R which allows for 5 acres but there is no 2-acre lot zoning now. Council might have to wait till the amendment of the Zoning Code. The second option would be to override the new Code and come back with a first reading to change the City's zoning ordinance, and ask for a 2-acre lot size. The third option would be a planned zone without a plan. Mr. Wilson highly recommended against the third option.

Councilmember Spehar said there is no zoning to implement the estate designation. He couldn't see doing it in a convoluted manner so he had to support the RSF-2 zone.

Councilmember Theobald asked if Council approves the Growth Plan amendment at the estate designation, then is RSF-2 unavailable. City Attorney Wilson said the Persigo Agreement requires the City to either allow development consistent with the Growth Plan, and can be as amended, or consistent with the existing zoning. He didn't advise it. He

would rather have the Growth Plan be consistent. But there is room to split the difference as a technical matter. It is technical, and not advisable.

Councilmember Enos-Martinez said she didn't want to change the Code prematurely.

Councilmember Theobold asked if Staff comes back with something, will it be an accelerated Code revision or something that has been needed (2-acre designation) and would still be refined when the new Code is adopted. Mr. Wilson said a new section would be added to the current Code in the straight zones to allow 2-acre lots.

Kathy Portner said if Council were to adopt a planned zone with a proposed RSF-E, estate zoning which is currently in the draft Code, it could easily convert at the time that zone district was available, and would give some guidance in that planned zone as to what the expectations were. City Attorney Wilson recommended against it because it's still a planned zone without a plan.

Mayor Kinsey asked if the property was purchased prior to the Persigo Agreement and was zoned R-1-B. He said Council is not deciding on a development, only on a zoning. Many other factors may result in a lower density. Concerns of traffic, drainage and other issues are looked at when an application is filed for development. He supported a designation of RSF-2 (half-acre lots) and the Growth Plan amendment which would correspond to that zoning.

Growth Plan Amendment and Zoning Ordinance

Ordinance No. 3164 – An Ordinance Zoning the Keesee Annexation Located at 2070 South Broadway to RSF-2

It was moved by Councilmember Theobold that the Growth Plan amendment be approved to the estate designation (2 to 5-acre) density. The motion was seconded by Councilmember Scott.

Roll was called on the motion with the following result:

AYE: THEOBOLD, SCOTT.

NO: SPEHAR, ENOS-MARTINEZ, KINSEY.

The motion failed to pass.

It was moved by Mayor Kinsey that the Growth Plan amendment of residential low and a corresponding zone of RSF-2 be approved in accordance with the Planning Commission recommendation. The motion was seconded by Councilmember Spehar.

More discussion took place at this time.

Councilmember Theobold asked if Council is saying it wants something in between one-half acre to 1.99 acre. Ms. Portner said there is an RSF-1 (one-acre lots) zoning option within the land use category.

Mayor Kinsey said there will be something less than forty homes on the site.

Kathy Portner said RSF-2 has a minimum lot size of one-half acre.

City Manager Achen said less ten percent of the 20 acres for roads and drainage is 18 acres and would result in 36 units.

Councilmember Enos-Martinez asked if the way Council votes tonight does not exclude the City from having estate zoning out there in general. Mr. Wilson said certainly not. The testimony indicates this property is a transition.

Councilmember Enos-Martinez asked if Council has the option to not zone tonight. Mr. Wilson said Council has up to 90 days to zone the property.

City Manager Achen said Council could act on the Growth Plan amendment only, or defer all of it. Councilmember Theobold preferred doing nothing and waiting for the estate designation to come.

Mayor Kinsey said Council is dealing with a specific parcel that carried with it a County zone and an owner that wants to make use of that zone. He felt Council is being arbitrary by changing the zoning too far, or deferring it. Without a zone, the property is essentially valueless.

Roll was called on the motion with the following result:

AYE: SPEHAR, KINSEY.

NO: THEOBOLD, ENOS-MARTINEZ, SCOTT.

The motion failed.

It was moved by Councilmember Theobold to designate the Growth Plan amendment to the estate designation with the range of 2 acres to 5 acres. The motion was seconded by Councilmember Scott.

Councilmember Spehar said he thought the estate zone was not available at this time. City Attorney Wilson said when it comes to the zoning portion, that is correct. Council doesn't have the option for the 2-acre lot size, but if Council is only focusing on the Growth Plan, the estate is one option and the lower one is the other option. He clarified that for the Growth Plan, Council can either go with 2 acres to 5 acres or half-acre to less than 2 acres being the residential low.

Roll was called on the motion with the following result:

AYE: ENOS-MARTINEZ, SCOTT, THEOBOLD.

NO: SPEHAR, KINSEY.

It was moved by Councilmember Theobold that Ordinance No. 3164 be deferred until such time as Staff comes back with an amendment to the current Zoning Code allowing a designation of two acres. The motion was seconded by Councilmember Scott.

Councilmember Spehar asked what would happen if the foregoing motion were to fail, what would the alternative be given the Growth Plan amendment that has been approved. City Attorney Wilson said the zoning does not have to be decided tonight. Councilmember Theobold explained that essentially his motion is for no action because there is a 90-day period in which to zone.

City Manager Achen said Staff would be directed to come back to Council with a proposed amendment to the Zoning Code to create a 2-acre lot size zoning district.

Roll was called on the motion with the following result:

AYE: SCOTT, THEOBOLD, ENOS-MARTINEZ.

NO: SPEHAR, KINSEY.

The motion carried. Councilmembers Spehar and Kinsey explained their NO vote was in protest against doing code and zoning items in a convoluted fashion in the absence of completing a new Code and Zoning Map.

RECESS

Mayor Kinsey declared a five-minute break. Upon reconvening, all members of Council were present.

PUBLIC HEARING – CONSISTENCY REVIEW, APPEAL OF PRELIMINARY PLAN AND REZONING MILLER HOMESTEAD FROM RSF-4 TO PB (PLANNED BUSINESS) AND PR 18 (PLANNED RESIDENTIAL, 18 UNITS PER ACRE) LOCATED AT 3090/3150 NORTH 12TH STREET [FILE #GPA-1999-093]

Residents of Bonita Avenue have appealed the Planning Commission's approval of the Preliminary Plan for Miller Homestead consisting of 192 dwellings and 24,300 square feet of professional and medical office. These residents are concerned with the impacts of the development on their single story dwellings along Bonita Avenue. The applicant has made concessions based upon Planning Commission's decision on the preliminary plan. Ongoing discussions are being held with the neighborhood. Additional items of conflict, if any, will be presented by the Bonita Avenue residents at the hearing. At its June 15, 1999 hearing, the Planning Commission found the proposed development consistent with the Growth Plan and recommended approval of it and the rezone from RSF-4 to PB and PR-18. The preliminary plan was approved with conditions. Staff recommends that the Planning Commission decision be upheld.

The hearing was opened 10:02 p.m.

Dan Roberts, developer of the Miller Homestead project, said the project is owned by 3090 12th Street LLC, of which he is a member. The project is located at 12th and Horizon and they were able to incorporate into the 12th Street reconstruction some of the attributes for their development. He thanked the Engineering and Planning Department employees for allowing him to have input and provide design. It actually complemented and facilitated their project. The project is made up of two parcels. The northern parcel is 9 acres in size and was previously owned by Dr. Bull. The southern parcel is 3.88 acres owned by the Hetland family. The project will combine the two properties under a PUD. Dr. Bull is currently living in the residence on his former property. He has a life estate on the property and can live there as long as he chooses. When he chooses to vacate the house, it will be incorporated into the development. His house was built in 1950, the Hetland house was built in 1889. They intend to use the Hetland house as a clubhouse for the project. The current zoning is RSF-4. The proposed zone is for a mixed use planned community with both residential (PR-18) and commercial (PB). The Growth Plan identifies the site as high density and allows up to 24 units per acre. The commercial acreage will be 1.85 acres, the residential acreage will be 10.67 acres. The commercial area will be centered around the residents and will be mainly medical offices. The remainder of the property is residential with luxury condos. The professional offices will encompass approximately 24,300 square feet. The number of residential condos is approximately 192. They intend to develop as a country estate, carrying the Victorian

theme to fall in line with the architecture and flavor of the Hetland home. They will have underground parking to allow for as much open space as possible. They expect to maintain as much of the existing vegetation on the site as possible and even add more vegetation. They will also incorporate the wildlife (deer) habitat and are cooperating with other entities surrounding the property. They plan to incorporate open space between The Atrium and The Fountains project. They are seeking approval of a Growth Plan amendment, Preliminary Plan and rezoning. The Planning Commission denied the Growth Plan amendment but the project was found to be consistent with the intent of the Growth Plan. The Preliminary Plan and rezone were both approved with conditions. The approval of the Preliminary Plan was appealed by Bonita Avenue residents, the single family subdivision to the south.

Councilmember Theobald asked if the Hetland residence is staying residential. Mr. Roberts said it is to be used as a clubhouse. It will be used as the sales office initially. It will then be remodeled and upgraded to add some recreational facilities (swimming pool). They feel it is an asset to the property and want to keep it as an amenity. The Bull residence will be retained and remodeled for medical offices.

Mr. Roberts said based on recommendations at the Planning Commission and neighborhood meeting, some modifications have been made of the original plan. The buildings on the Hetland property were all three-story buildings. They have been reduced to two story. The Planning Commission also recommended they provide a landscape buffer which they intended to do anyway. When they bought the property there was already a screen of trees between this property and Bonita Avenue, but they have since been cleaned out. They will put screening in place for the project and for the Bonita neighborhood. Everything on the property is two-story and 32' high. They eliminated one building. They plan to pipe the Buthorn Drain and then plant a dense, evergreen hedge along the back yards of the residents that will grow to approximately 25 feet. Arbovidas grow quickly and will create a wall between the two properties. They are somewhat limited on what can be used in the buffer area given they must bury pipeline there. They are proposing to put 120 arbovidas in the buffer that should grow 3' each year. Inside the hedge will be a walking trail. They will also use some deciduous trees in that area for screening. They will also use the large existing trees on the site for screening.

City Attorney Wilson asked if the Buthorn Drain was on Mr. Roberts' property or on the property to the south. Mr. Roberts said the property line goes to the center of the ditch, although the metes and bounds description reads differently so he didn't know. They will provide for a tree buffer on the Bonita residents' side and a tree buffer on his side as well.

He had no problem with dedicating the entire strip as open space for a walking path. He would like to keep the path private for the neighborhood, although he may not be able to because there is a connecting trail that goes through The Fountain project. As a result of the reconfiguration, they will lose 18 units (from 190 units to 180). By dropping those units, they have dropped down to PR-16. The reconfiguration of that area was a positive

move. Mr. Roberts described some of their plans for landscaping on 12th Street in conjunction with the City's Forestry Department. One other issue is adequate parking for the doctor's offices. They are willing to add up to 12 or 13 parking spaces if needed.

Councilmember Scott asked if the Bonita residents now have no problem with the project. Mr. Roberts said their concern was the buffer and exterior lighting. In response to the light concern, they will use down directed lights. He wants it to work for both the residents and the development. The project is up on a hill. Mr. Roberts felt if the residents still had concerns, they would have showed up tonight to speak. There was no one speaking against the project.

Bill Nebeker, Community Development Department, reviewed this item. He said Staff and the Planning Commission found that the Growth Plan amendment was not supported but found it consistent with the Growth Plan which allows professional offices in higher residential areas. The plan conforms with Section 4-4-4 of the Zoning & Development Code and recommends approval. Even though the applicant has reduced the density to approximately 17 units per acre, the Ordinance is written for PR-18 but is guided by the plan. He said Mr. Roberts went beyond what the Planning Commission wanted him to do and satisfied the residents. The original Preliminary Plan was approved with conditions. The items proposed tonight will be incorporated by Mr. Roberts into a Final Plan. Staff recommends approval of all three items.

City Attorney Wilson asked Mr. Nebeker if Council approved the Preliminary Plan as presented tonight, would it be consistent. Mr. Nebeker answered yes.

There were no public comments. The hearing was closed at 10:39 p.m.

Consistency Review, Appeal of Preliminary Plan and Rezoning Ordinance

Ordinance No. 3167 – An Ordinance Rezoning Property to be Known as Miller Homestead Planned Development Located on the East Side of 12th Street at Lakeside Drive from RSF-4 to PB and PR 18

Upon motion by Councilmember Theobold, seconded by Councilmember Scott and carried by roll call vote, the consistency review was approved, the appeal of the Preliminary Plan as presented tonight was denied, and Ordinance No. 3167 was adopted on second reading and ordered published.

OTHER BUSINESS

Arts Commission Recommendation

City Manager Mark Achen announced that Allison Sarmo, Arts & Culture Director, has provided a photo of what the Round-about would look like with the proposed art sculpture.

She has also provided some sample ideas of mobiles for the new City Hall building. He said Ms. Sarmo is hopeful Council will consider the concept as being worth proceeding because they would like to commission the piece of art so it can be installed and displayed at the time the building is opened.

ADJOURNMENT

The meeting was adjourned at 10:40 p.m.

Stephanie Nye, CMC/AAE
City Clerk