

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

November 3, 1999

The City Council of the City of Grand Junction, Colorado, convened into regular session the 3rd day of November, 1999, at 7:35 p.m. at Two Rivers Convention Center. Those present were Cindy Enos-Martinez, Earl Payne, Jack Scott, Jim Spehar, Janet Terry, Reford Theobald, and President of the Council Gene Kinsey. 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 Enos-Martinez led in the Pledge of Allegiance. The audience remained standing during the invocation by Scott Hogue, First Baptist Church.

PROCLAMATION DECLARING NOVEMBER 8, 1999, AS “WORLD TOWN PLANNING DAY” IN THE CITY OF GRAND JUNCTION

RATIFICATION OF APPOINTMENTS TO THE URBAN TRAILS COMMITTEE

Upon motion by Councilmember Theobald, seconded by Councilmember Payne and carried, the appointments to the Urban Trails Committee of Diana Court for a three-year term, Robb Reece for a three-year term, Clark Rieves for a two-year term and John Halvorson for a one-year term were ratified.

CONSENT ITEMS

Upon motion by Councilmember Scott, seconded by Councilmember Enos-Martinez and carried by roll call vote, the following Consent Items 1 through 8 were approved:

1. **Minutes of Previous Meeting**

Action: Approve the Minutes of the Regular Meeting October 20, 1999

2. **Architectural and Design Services for the Expansion and Remodel of Two Rivers Convention Center**

Statements of qualifications were received from six firms interested in performing services for the reconstruction of Two Rivers Convention Center. Negotiations resulted in the recommended contract award to Sink Combs Dethlefs of Denver, in the amount of \$244,500 for architectural/engineering services to include pre-design services, site analysis services and schematic design services, including alternatives and probable construction costs. The services provided will also

include design development, site improvement master plan, construction documents, construction administration and assistance with the selection and management of a Construction Manager.

Action: Award Contract for Architectural and Design Services for the Expansion and Remodel of Two Rivers Convention Center to Sink Combs Dethlefs of Denver, in the amount of \$244,500

3. **Setting a Hearing on Hill Annexation Located at 323, 323 1/2 and 325 South Redlands Road** [File #ANX-1999-229]

The 14.41 acre Hill Annexation area consists of one parcel of land and portions of C ¼ Road, 25 ¾ Road, C ½ Road, Rosevale Road and South Redlands Road. Owner of the property has signed a petition for annexation.

a. **Referral of Petition for Annexation, Setting a Hearing and Exercising Land Use Control and Jurisdiction**

Resolution No. 125–99 – A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, Setting a Hearing on Such Annexation and Exercising Land Use Control – Hill Annexation Located at 323, 323 ½ and 325 South Redlands Road

Action: Adopt Resolution No. 125–99 and Set a Hearing for December 15, 1999

b. **Set a Hearing on Annexation Ordinance**

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Hill Annexation, Approximately 14.41 Acres, Located at 323, 323 1/2 and 325 South Redlands Road

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for December 15, 1999

4. **Setting a Hearing on Desert Hills Estates Annexation No. 1 and No. 2 Located at 2114 Desert Hills Road and South Broadway** [File #ANX-1999-204]

The 86.47 acre Desert Hills Estates No. 1 and No. 2 Annexation area consists of land owned solely by the applicants, Tierra Ventures LTD, Susan Rump Steinbach, Marilyn K. Schiveley and John Rump. The applicants have signed a petition for annexation.

a. Referral of Petition for Annexation, Setting a Hearing and Exercising Land Use Control and Jurisdiction

Resolution No. 126–99 – A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, Setting a Hearing on Such Annexation and Exercising Land Use Control – Desert Hills Estates No. 1 and No. 2 Annexation, A Serial Annexation, Located at 2114 Desert Hills Road, South Broadway and Including a Portion of South Broadway Right-of-Way

Action: Adopt Resolution No. 126–99 and Set a Hearing for December 15, 1999

b. Set a Hearing on Annexation Ordinances

(1) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Desert Hills Estates Annexation No. 1, Approximately 78.21 Acres, Located at 2114 Desert Hills Road and Including a Portion of South Broadway Right-of-Way

(2) Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Desert Hills Estates Annexation No. 2, Approximately 8.26 Acres, Located on South Broadway

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for December 15, 1999

5. Setting a Hearing on Zoning Davidson Annexation/Skyler Subdivision Located at 2871 D Road [File #ANX-1999-186] Attach 7

The petitioner is requesting zoning for the 9.7 acres from County zoning PR-8 to City PR-4 (Planned Residential with a maximum density of 4 units per acre). The proposal meets the requirements for the PR-4 zoning district and Staff recommends approval.

Proposed Ordinance Zoning Davidson Annexation PR-4

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for November 17, 1999

6. Setting a Hearing on Zoning Indian Village/The Vistas Enclave Annexation RSF-5, RSF-8 and PR-6.5, Located in the 28 ¾ Road and F Road Area, Including the Indian Village Subdivision [File #ANX-1999-221] Attach 8

The 109.03 acre Indian Village/The Vistas Enclave Annexation area consists of land completely surrounded by existing Grand Junction city limits. State law allows a municipality to annex enclave areas unilaterally after they have been enclaved for a period of three years. This annexation is currently in progress. The law also requires the City to zone newly annexed areas within 90 days of the annexation.

Proposed Ordinance Zoning Indian Village/The Vistas Enclave Annexation RSF-5, RSF-8 and PR-6.5

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for November 17, 1999

7. **Setting a Hearing on Zoning Uhaul Annexation C-1, Located at 2949 and 2951 North Avenue** **Attach 9**

The 5.05 acre Uhaul Annexation area consists of two parcels of land. Owners of the property have signed a petition for annexation as part of a proposed development for mini-storage units. State law requires the City to zone property that is annexed into the City of Grand Junction. The proposed zoning of Light Commercial is similar to the existing Mesa County zoning of Commercial.

Proposed Ordinance Zoning the Uhaul Annexation to a Light Commercial Zone District (C-1)

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for November 17, 1999

8. **Setting a Hearing on Zoning Keesee Annexation RSF-E, Located at 2070 S. Broadway** [File #ANX-1999-121] **Attach 18**

The City Council approved an amendment to the Future Land Use Map of the Growth Plan from Rural (5 to 35 acres per unit) to Estate (2 to 5 acres per unit) for the Keesee Annexation, located at 2070 S. Broadway. A zone of annexation to RSF-E (Residential Single Family, Estate, 2 acres per unit) is proposed for the property.

Proposed Ordinance Zoning Keesee Annexation RSF-E

Action: Adopt Proposed Ordinance on First Reading and Set a Hearing for November 17, 1999

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

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

POSITION ON CHARTER AMENDMENT PROPOSAL

A Charter Amendment regarding collective bargaining for Fire and Police employees will be submitted to the voters on February 1, 2000. The City Council will state their position on this proposed amendment.

Resolution No. 127-99 – A Resolution Opposing the Charter Amendment Proposal on Collective Bargaining

Councilmember Terry moved that the resolution be adopted. Councilmember Terry then read the resolution aloud. The motion was seconded by Councilmember Payne.

Discussion took place amongst the Councilmembers.

Councilmember Theobold said Council needs to focus on what the real issue is, that is the Charter Amendment. The vote on February 1, 2000 is not what employees get paid or where a new fire station should be built or any type of budgetary items. The question is if this amendment is in the best interest of the City, the employees and the voters. Issues will come and go and change, but the Charter Amendment stays essentially forever.

Councilmember Terry hoped people keep in mind if they want collective bargaining for the Fire and Police employees in the City. She supported the opposition because the amendment will restrict Council's ability to fulfill the duties they were elected to fulfill. It will restrict Council in many areas. It will place into the hands of others decisions Council should be making on behalf of the citizens. She felt the amendment forces Council to treat 40% of employees differently than the other 60%. The amendment would not allow fairness for all employees.

Councilmember Scott echoed Councilmember Theobold's comment. Council thinks it has a good Police and Fire Department. Council is voting on the collective bargaining proposal only, and he felt it is not to the best interest of anyone. It will probably hurt the Police and Fire Department down the road.

Councilmember Enos-Martinez could not support the amendment as written. She felt Council has its work cut out for them, regardless of the outcome of the vote.

Councilmember Spehar said he would vote against the resolution opposing the amendment because this is an issue between the proponents of the charter proposal and the citizens. He felt Council ought to leave it at that. He was also troubled by trying to create an illusion of leadership on this issue when he didn't feel Council has done anything to address the issues. He wanted to trust the judgement of the citizens of Grand Junction.

Councilmember Payne said he will not be supporting the amendment as written.

Councilmember Theobold said without disagreeing with everything Councilmember Spehar said, it's no more fair to blame the Council for this than to blame an individual or collective members of the Police and Fire Departments.

Mayor Kinsey echoed Councilmember Theobold's comment that the decision on the amendment is not about the issues of the present day or support of the Police and Fire Department. It's about changing the way the City does business. The City Charter is a document equivalent to the State or United States Constitution. It guides the City's management and should not be changed lightly.

Roll was called on the motion with the following result:

AYE: THEOBOLD, ENOS-MARTINEZ, PAYNE, SCOTT, TERRY, KINSEY

NO: SPEHAR

The motion carried.

PUBLIC HEARING - HIDDEN LAKE ANNEXATION LOCATED AT 422 ROSEVALE ROAD [FILE #ANX-1999-163] – CONTINUED FROM OCTOBER 20, 1999 MEETING

The Hidden Lake Annexation area consists of land owned solely by the petitioner of 4.86 acres, and an 11.5 acre portion of Hwy 340 right-of-way. The property owner has signed a petition for annexation.

A public hearing was opened at 7:50 p.m.

Lisa Gerstenberger, Senior Planner, reviewed this item. She noted that the annexation had been continued from the last meeting. She stated the petition meets the statutory requirements. Staff recommends acceptance of the annexation petition.

David Simone, representing the Clarks, owners of the property. He said the Clarks are not opposed to annexation or the rezone but asked Mr. Simone to tell their story. They purchased the property in November, 1997. In April, 1998 they applied to Mesa County for a business/residence with boat and recreational vehicle (RV) storage on the property. Most of the permitting took place in the County due to the floodplain issues. The County had built Rosevale Road outside the dedicated right-of-way and needed additional r-o-w from the Clarks which delayed their site plan approval over six months. The Clarks sold their home prematurely, not knowing how long the process would take. They applied for a permit to place a temporary trailer on the site while a new home was being constructed. Due to County floodplain requirements, the temporary trailer turned into a permanently anchored house. Because of the significant expense involved in meeting the County's requirements for the temporary trailer, they decided to keep it there, split the property (boundary line adjustment) and rezone the parcel with the trailer home to residential. During this time, the Persigo Agreement was signed, triggering annexation. The City has said the trailer is too close to the property line and does not meet setback requirements so the Clarks are being asked to move their trailer. They did meet the setback requirements in the County zone. Other issues of non-conformance involve an existing fence which the City has agreed to accept, and fire protection. The Fire Department has agreed to allow installation of a dry fire hydrant connected to Hidden Lake. The owners have gone to considerable expense to anchor the home on an engineered foundation and install utilities in compliance with the Mesa County Floodplain Permit requirements.

Councilmember Payne asked if the trailer is a singlewide trailer? Mr. Simone said yes, 16' X 76'.

Councilmember Terry asked when the Clarks began the process. Mr. Simone said spring of 1998.

Councilmember Scott asked if the applicant originally expected the trailer to be temporary. Mr. Simone said yes, but they did meet the County setback requirements.

Councilmember Theobald asked if the Clarks have to do something about the setback? Ms. Gerstenberger said the issues described fall under the Board of Appeals. Staff would have to recommend compliance with City regulations if the structure was to be allowed to be permanent in the City.

Councilmember Theobald said the structure exists on a foundation, and is not out of compliance in the County, but will be out of compliance once annexed to the City because of the City's setbacks. Ms. Gerstenberger said technically no. There needs to be a business on the same parcel to be in compliance. They can't leave it there in the County without a business on the same parcel.

Councilmember Spehar asked if this were a permanent residence, would setbacks be an issue. City Manager Achen said in annexations, the City has accepted the existing conditions if legal in the County.

Councilmember Theobald said the reason it's being held under a different standard upon annexation is because this is considered by County Planning to be an illegal structure as it was approved only as a temporary structure.

There were no public comments. The public hearing was closed at 8:05 p.m.

a. Resolution Accepting Petition

Resolution No. 128-99 - A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as Hidden Lake Annexation is Eligible for Annexation, Located at 422 Rosevale Road and Including Portions of Colorado State Hwy 340 Right-of-Way

b. Annexation Ordinance

Ordinance No. 3196 - An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Hidden Lake Annexation, Approximately 16.36 Acres, Located at 422 Rosevale Road and Including a Portion of Colorado State Hwy 340 Road Right-of-Way

Upon motion by Councilmember Enos-Martinez, seconded by Councilmember Terry and carried by roll call vote, Resolution No. 128-99 was adopted, Ordinance No. 3196 was adopted on second reading and ordered published.

PUBLIC HEARING - ZONING HIDDEN LAKE ANNEXATION RSF-2, LOCATED AT 422 ROSEVALE ROAD [FILE #ANX-1999-163]

The RSF-2 zone district is being proposed as the zone of annexation. The 4.86 acre Hidden Lake annexation area consists of land owned solely by the applicant and is currently in the annexation process.

The public hearing opened at 8:06 p.m.

Lisa Gerstenberger, Senior Planner, reviewed this item. She read the conditions of approval of the placement of the temporary manufactured home, and other conditions of the planning clearance. She stated the existing setbacks and what the requirements were. The fence is also non-conforming but since it was accepted by the County, City staff accepts the fence as legal though non-conforming. The fire protection requirements were reviewed and the options. The site is without fire protection. The Fire Department

has required, prior to the issuance of a planning clearance by the City for a permanent structure, a fire hydrant within 250 feet of the property on a minimum 6" main, capable of providing 500 gallons per minute. An alternative to the fire hydrant would be the installation of a sprinkler system in the manufactured home. Another possible alternative is a dry fire hydrant, capable of drawing water from Hidden Lake. Staff recommends that the manufactured home be brought into compliance with all City requirements. The applicant meets the criteria of Sections 4-4-4 and 4-11 of the Zoning and Development Code. It is clearly a temporary structure in the County and was clearly documented as such on all the permits issued by Mesa County. Staff's concern is that it should be considered a temporary residence, and when made permanent, it must comply with all City regulations.

Councilmember Theobold asked why the home was put on a foundation. Ms. Gerstenberger said it is a standard requirement of a floodplain permit. The temporary nature of the dwelling is not relevant for floodplain permits.

Councilmember Theobold said in order to conform it needs to meet setback requirements. Ms. Gerstenberger said the fire protection requirements would also need to be met.

Councilmember Theobold said if they meet both requirements it will be a permanent structure. Ms. Gerstenberger said yes.

Councilmember Terry asked if the City views a structure differently, permanent versus temporary. Ms. Gerstenberger said the City does not allow temporary structures.

City Attorney Dan Wilson said it was noted by the petitioner that the source of water is from Hidden Lake. Mr. Wilson said if the source is not a looped waterline that will produce the required amount of water, it does not comply with the City's requirements. He wondered about the option of a sprinkler system. Jim Bright, Fire Department, said in general terms, typically a looped system to provide water is required. A first alternative would be sprinklers for residential structures, but if a sizeable water supply were available to supply a hydrant, they would consider that. It appears that must have been an allowable alternative in this case.

Mayor Kinsey said if the County situation were ignored, would such a structure be allowed. If someone came to the City after annexation and asked to place that structure on the parcel, would it be a legal structure as long as it was located within the setbacks. Ms. Gerstenberger said a manufactured home is allowed in this zone district.

Councilmember Theobold said the structure, use and zone are not problems, only the setbacks and fire protection. Ms. Gerstenberger agreed.

Councilmember Terry asked why do the County conditions make a difference. Ms. Gerstenberger said it is significant because any structure being built on the parcel would need to be compliant. The concern is the structure was meant to be temporary from the very beginning. Acceptance would be condoning a non-conforming setback.

City Manager Mark Achen said legal (in the County) non-conforming uses at the time of annexation are accepted even though they become non-conforming. It is when something was not legal in the County it is an issue. That's the technical difference. The zoning for this parcel in the County was commercial. It is now being zoned residential.

Councilmember Spehar said staff looks at it as a technical issue. There is a common sense way of looking at this. He felt Council is spending too much time over three feet of non-conforming setback that doesn't merit this much discussion. The Land Use Map made the change from commercial to residential. The proposed use is compatible. The permanence was required by the floodplain permit.

Councilmember Terry said the purpose of the questions is to understand the issue and why the recommendation came forward.

Councilmember Enos-Martinez said the City needs to find out if the structure is acceptable in a floodplain as a permanent structure.

City Manager Achen asked why the City has to issue new planning clearances and flood plain permits. Kathy Portner, Planning Manager, said the County permits expire thirty days after the issuance of the Certificate of Occupancy for the other structure. New permits would have to be issued acknowledging it as a permanent structure.

Councilmember Theobald asked how the City could be asked to make the structure a legal permanent structure. Ms. Gerstenberger said there is a window of opportunity for this manufactured home to be legalized. Kathy Portner, Planning Manager, explained that once the certificate of occupancy for the building now being constructed on the other lot is issued, the temporary permit for the trailer (manufactured home) will expire in 30 days. The result is that the manufactured home will become illegal. If it were to be legalized in the City, new permits would need to be issued through the City (floodplain permit for example). She noted for the record that the adjacent lot owned by the Clarks, where the permanent stick-built house is being constructed, is not being annexed. Only the lot with the temporary structure is being considered for annexation. The large home, a business/residence, on the parcel adjacent to this site is almost complete.

Councilmember Theobald said the Clarks have changed their mind and they want to keep both structures. He was inclined to reconsider the annexation at this point since the only reason for the annexation is to be able to turn the temporary structure into a permanent

one. Ms. Portner said they could not have a residential use in a commercial zone. Because they are asking for a rezone after the Persigo Agreement was signed, they do have to annex.

Councilmember Theobald was inclined to go back and reconsider the foregoing annexation and leave the structure as is, and leave the City out of it.

City Manager Achen asked if that structure is allowed in the floodplain. Ms. Gerstenberger said yes. Mr. Achen said so the only deficiency is the setback requirement. He said the proper venue to decide is the Board of Appeals.

City Attorney Wilson said if the City brought in an existing and legal mobile home and the City were annexing, the City would accept it, but because it is not legal in the County that jurisdiction goes to the Board of Appeals. Council would not have that decision-making power.

City Manager Achen said if the parcel was annexed and rezoned, and the permits expired, it would need to go to the Board of Appeals for approval to keep the structure where it is. Mr. Wilson said yes because the City could not legally issue the permits without the variance.

Mayor Kinsey said if it is annexed as non-conforming and accepted, is it at Council's discretion. Mr. Wilson said Council cannot legally accept.

Mayor Kinsey said it is a legal temporary structure and the setbacks are not illegal in the County.

Councilmember Enos-Martinez said Council needs to view it as an empty parcel because it's a temporary structure and will be removed upon completion of the permanent residence.

Mayor Kinsey said staff has made a technically correct recommendation but it seems to be a minor issue.

Mr. Simone offered to answer questions.

Councilmember Terry asked what the applicants' alternatives would be with no annexation. Mr. Simone said the structure would have to be moved. Permanence requires a rezone which kicks in the annexation. The applicant either removes the structure, or they come into the City and appeal for a variance.

Councilmember Payne asked what was the cause of this. Mr. Simone said when the applicant saw the requirements for a floodplain permit. Instead of six months to complete

the business residence on the property, it took a year and a half. They had sold their house and were renting a house. They got a temporary trailer to live in so they could live on the property while the residence was under construction. The County requirements because of floodplain were quite expensive (approximately \$20,000).

Councilmember Terry asked if all the requirements caused them to want it to be permanent. Mr. Simone said yes.

Councilmember Scott asked what it would cost to move the structure back 3 feet. Mr. Simone said approximately \$20,000 for relocating the foundation and flood proofing all utilities.

There were no public comments. The public hearing was closed at 8:40 p.m.

Councilmember Theobald said he could see no good solution. He was more inclined to accept all that this entails if both parcels were coming into the City. He would have to vote no on the zoning and reconsider the annexation.

Councilmember Spehar said in a technical sense that would be the correct thing to do, but it is not practical.

Councilmember Theobald said there was nothing to make him look past all the problems that are being created. He could see no incentive, no benefit to the City by this annexation.

Councilmember Enos-Martinez said she sees this daily where a temporary is granted and then the property owner decides they want it to be permanent. They bring the hardship upon themselves.

Councilmember Payne sympathized with the petitioner, but could see no reason to annex the property with all the baggage. He agreed with Councilmember Theobald.

Councilmember Terry asked if Council has the option to not annex? Mr. Wilson said he needed staff to tell him why it was triggered.

Lisa Gerstenberger said the applicant wanted to make the temporary use permanent.

Mr. Wilson said the issue in the County is what triggered the annexation, and is usually zoning.

City Manager Achen said if the County wanted that land to be residential then they would want it rezoned. He asked what is on the County's future land use map. If they intend it to be residential, it will have to be rezoned at some point.

Councilmember Spehar said the report says residential.

City Manager Achen said the City annexes known violations as a practice today, not because the law requires it to, but because Council set that as its practice. Does Council have the authority to accept this as a unique circumstance with the temporary uses and permits as permanent approval. Once annexed staff would be directed to issue the permanent approval, planning clearance and floodplain permit, with the setback deficiency. City Attorney Wilson said past practices were lawful in the County. This is not therefore a conceptual difficulty.

Councilmember Theobald said if Council refuses to annex and zone, then Council is in violation of the Persigo Agreement. Mr. Wilson said yes, unless the County consents. One legal method would be to annex it, zone it and tell them to appear before the Board of Appeals. He felt the Board would probably view it as a self-imposed hardship and it wouldn't be approved.

Ordinance No. 3197 – An Ordinance Zoning the Hidden Lake Annexation RSF-2

Upon motion by Councilmember Terry, seconded by Councilmember Scott and carried by roll call vote with Mayor **KINSEY** voting **NO**, Ordinance No. 3197, accepting staff recommendations as written, was adopted on second reading and ordered published on second reading.

PUBLIC HEARING – AMENDING REAR YARD SETBACKS AND APPEAL OF CONDITION OF APPROVAL IN CAMELOT GARDENS LOCATED AT 2844 KENNEDY AVENUE [FILE #FPP-1999-201]

The applicant received final plan and plat approval for Camelot Gardens from Planning Commission on October 12, 1999. The applicant is requesting the reduction of the rear yard setback for four lots in the Camelot Gardens Subdivision. They are also appealing condition #13 required by Planning Commission as a condition of approval. Planning Commission recommended approval for the request to reduce the rear yard setback.

The public hearing was opened at 8: 55 p.m.

Dave Woodward, Manager, Tierra Ventures, LLC, said Camelot Gardens is behind Eastgate Shopping Center. They are requesting a change in the bulk setback requirements, and appealing the fencing requirements placed on the project by the Planning Commission. The Planning Commission has requested a privacy fence be installed over the drainage easement. He felt it would make the area look like a prison. He would like to use landscaping on top of the berm as part of the detention pond.

Councilmember Theobald asked if there was a total of 11 lots. Mr. Woodward said 11 lots that are single family attached.

Councilmember Scott asked about the location of the detention pond. Mr. Woodward indicated the location on the map. A 6' high privacy fence would restrict the drainage to the detention area.

Councilmember Terry said it appears any height fence would be a problem. Mr. Woodward said yes, a solid privacy fence would create a problem with the drainage. They also have an agreement with the Grand Junction Drainage District that says they would not erect such a structure (fence) on top of the district's easement. That is the reason for requesting landscaping instead of a privacy fence.

Councilmember Theobald asked Mr. Woodward to point out the easement. Mr. Woodward said it is at the Eastgate boundary.

City Attorney Wilson understood the fence requirement to be on the north side of the easement. Mr. Woodward's understanding of the Planning Commission condition was that it would be on the easement itself.

Rob Katzson, LanDesign, said the Planning Commission wants a fence on the centerline of the easement.

Mr. Wilson asked why the agreement with the District was signed originally. Mr. Woodward said they gained the ability to have a detention pond in the easement area. City Attorney Wilson said the easement is non-exclusive, meaning it could have been done anyway.

Rob Katzson said it may be non-exclusive, but the agreement with the District stipulates there would be no fence on top of the easement. City Attorney Wilson said once the agreement was signed, they must abide by the terms. Councilmember Enos-Martinez said it sounded as though staff required the agreement be signed. It was determined that was not the case.

Mr. Wilson said the situation would be making sure there is the ability to put the detention pond where they have to put it. Mr. Wilson wanted Council to know Mr. Woodward may have made a voluntary choice that wasn't required by the City.

Mr. Katzson said it was a stipulation placed as a term and condition of approval by the Planning Commission at final plan and plat. There is no mention of it prior to that. He clarified that the agreement was a private agreement between drainage district and the applicant.

Councilmember Theobold said the agreement was signed and must now be dealt with.

Councilmember Terry asked about the fence requirement and does it consist of screening between residential and commercial. Mr. Woodward said yes, and to limit access there.

Councilmember Theobold asked if there are restrictions on landscaping. Mr. Woodward said as far as he knew, there were none.

Dave Thornton, Principal Planner, clarified the request to reduce the setback is supported by the Planning Commission. He read from the Planning Commission minutes regarding Condition #13 which was a new condition: "A continuous 6' high privacy fence will be required along the entire southern property boundary located at least 5' south of the building envelope unless the petitioner can legally demonstrate that an exclusive right was owned by the drainage district which would prohibit its placement." A 5' requirement imposed allows enough room to put fence five feet from the building.

Councilmember Theobold asked about the map in the packet, and who wrote required fence on it? Dave Thornton said he did. Traditionally, the Planning Commission has required a fence or buffer between two uses. The developer is planning a 6' high perimeter fence on the east, west and north sides of the property. It goes down to 30" height at Kennedy Avenue.

Councilmember Terry asked if they are allowed to use natural landscaping for screening. Mr. Thornton said yes. The Code allows it as long as it is year-round landscaping. Councilmember Terry asked if the Planning Commission had considered such landscaping. Dave Thornton said it was discussed, and the fact the detention pond won't be easy access to cross through private drives because it will drop into a detention area. They were more concerned with neighborhood children playing in the back of the stores at Eastgate Shopping Center.

There were no public comments. The hearing was closed.

Councilmember Theobold said the petitioner's appeal was based on the objection to the fence being on the property line which would bisect the easement. He asked for the petitioner's reaction if the fence line is moved 10' to the north closer to the building. Mr. Woodward said if it's right along the building envelope, it is restricting with little separation from the building and seems like a prison.

Councilmember Theobold mentioned the Planning Commission's concern about it being a thoroughfare across the southern boundary if there were no fence, and asked Mr. Woodward how the problem would be solved. Mr. Woodward said the design for the area with the detention pond is designed with a four-foot swale and would not be easily driven

through. It drops off down into the parking lot behind Eastgate. Landscaping and a split rail fence could be on the setback line of the easement.

Councilmember Theobold thought the concern was for foot traffic. Mr. Woodward said the Planning Commission was concerned with trucks driving through the area.

Councilmember Payne asked when the agreement with Grand Valley Irrigation District was made and if it was a voluntary agreement. Rob Katzson said in the replatting they were allowed a reduction of part of the easement (from 30' to 20'). Part of the terms and conditions of vacating a 30' easement and the platting of a 20' easement would be to execute the drainage agreement.

The public hearing closed at 9:15 p.m.

City Manager Mark Achen said the Planning Commission's condition is excepted if the drainage district has exclusive right or a prohibition on the placement of a fence in the easement. City Attorney Dan Wilson said the agreement is clear that they do have the right.

City Manager Achen said the interpretation would be the City cannot expect them to build the fence in the easement. City Attorney Wilson said yes, it would violate the agreement. It could only be built on the edge of the easement. It then seems to violate the requirement that it be at least 5' south of the building envelope.

Councilmember Theobold said it appears the Planning Commission condition has been obviated by the agreement. He said this project is difficult to achieve because it is a tough infill area. He is willing to be quite lenient in trying to create such an infill project. He felt the use of landscaping for a buffer is a minor concession to create infill.

Councilmember Terry agreed with Councilmember Theobold and thought the buffering could be created by appropriate landscaping to prevent crossover traffic, as well as provide sound insulation.

City Manager Achen said the suggestion of a split rail fence has been offered by the applicant. Councilmember Terry said they need to consider screening between the two uses. She felt the noise screening will be important in this area.

- (1) Ordinance No. 3198 – An Ordinance Amending Ordinance No. 3170 which Zoned 2844 Kennedy Avenue to PR-6.9
- (2) Appeal of Condition of Approval #13 on Final Plan

It was moved by Councilmember Theobold and seconded by Councilmember Payne and that Ordinance No. 3198 be adopted on second reading as proposed with Staff recommendations #1-12 (2a amended), deleting Planning Commission recommendation #13, and in its place requiring landscaped buffering and a vehicle barrier, either by a split rail fence or some other topographical vehicle barrier to achieve the intent of Planning Commission #13, and the modified setbacks be approved.

Councilmember Theobold amended the motion to reflect Condition #2a was modified (deleted) by the Planning Commission. Councilmember Payne seconded the amendment. Roll was called on the motion with the following vote:

AYE: SCOTT, SPEHAR, TERRY, THEOBOLD, ENOS-MARTINEZ, PAYNE, KINSEY.

The motion passed and the ordinance was ordered published.

RECESS

The Mayor declared a recess at 9:25 p.m. Upon reconvening at 9:32 p.m., all members of Council were present.

PUBLIC HEARING – ANNEXATION OF NORTH GLENN/MATCHETT ENCLAVE LOCATED GENERALLY BETWEEN 29 ROAD AND 29 ½ ROAD, NORTH OF F ¾ ROAD [FILE #ANX-1999-210]

The 555.44 acre North Glenn/Matchett Enclave Annexation area consists of land completely surrounded by existing Grand Junction city limits. State law allows a municipality to annex enclave areas unilaterally after they have been enclaved for a period of three years.

A public hearing was opened at 9:32 p.m.

Dave Thornton, Principal Planner, reviewed this item. He stated this enclave is the second of three enclaves Staff is working on. He described the area. Staff has met with the residents and tried to address their issues.

There were no public comments. The public hearing was closed at 9:34 p.m.

Ordinance No. 3199 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, the North Glenn/Matchett Enclave, Consisting of Approximately 555.44 Acres Located Generally on Both Sides and between the 29 Road and 29 ½ Road Area North of F ¾ Road and Including 29 Road, G Road, 29 ½ Road and the Streets in the North Glenn Subdivision.

Upon motion by Councilmember Payne, seconded by Councilmember Terry and carried by roll call vote, Ordinance No. 3199 was adopted on second reading and ordered published.

PUBLIC HEARING - ZONING NORTH GLENN/MATCHETT ENCLAVE RSF-R, RSF-5, PR-3.6 AND PC, LOCATED BETWEEN 29 ROAD AND 29 1/2 ROAD, NORTH OF F 3/4 ROAD [FILE #ANX-1999-210]

The 555.44 acre North Glenn/Matchett Enclave Annexation area consists of land completely surrounded by existing Grand Junction city limits. State law allows a municipality to annex enclave areas unilaterally after they have been enclaved for a period of three years. This annexation is currently in progress. The law also requires the City to zone newly annexed areas within 90 days of the annexation.

The public hearing was opened at 9:35 p.m.

Dave Thornton, Principal Planner, reviewed this item. He used a map to indicate the proposed zone for each of parcels. He said the list of uses for the planned commercial zone has been worded differently so it will match up better in the future. The outdoor storage use is being deleted. The property owner had no problem with the elimination of this use. The airport critical zone bisects a large part of the area. The RSF-5 is in line with what has been done in the past. The North Glenn Subdivision is zoned PR-3.6 in the County and Staff recommends keeping the same zone and requirements. He said the area is pretty much built out.

Councilmember Terry asked for the current zoning in the airport critical zone. Mr. Thornton said mostly AFT, equivalent to RSF-R.

Councilmember Terry asked if there had been any comments from property owners relative to the zoning. Mr. Thornton said no.

City Attorney Wilson asked if this is a planned zone without a plan. Mr. Thornton said yes in the case of the planned commercial zone.

Mr. Wilson asked if there was a straight commercial zone that would fit better, and where is the access for the area south of the freeway. His concern was most of the access would be down 29 Road. Mr. Thornton said any development would require a new plan and the hearing process. The Horizon View property owners understand that and also that an interchange will likely be needed at 29 Road. A smaller parcel could come forward but it will be up to the Planning Commission to determine if it's appropriate based on traffic counts, etc.

Councilmember Theobald asked if the planned commercial property south of I-70 is the same owner as the northern property. Mr. Thornton said all except for a parcel owned by Mr. Matchett.

City Manager Achen asked if there is any reason not to pick a straight zone as opposed to the planned commercial zone. Dave Thornton said there is more protection for the City with a planned zone because additional review would be required. A straight commercial zone would allow uses by right.

Mayor Kinsey asked if this had been discussed with the owners. Dave Thornton said yes, they wanted the same as in the County which was a planned zone without a plan.

There were no public comments. The public hearing was closed at 9:40 p.m.

Ordinance No. 3200 – An Ordinance Zoning North Glenn/Matchett Enclave Annexation RSF-R, RSF-5, PR-3.6 and PC

Upon motion by Councilmember Spehar, seconded by Councilmember Enos-Martinez and carried by roll call vote, Ordinance No. 3200 was passed on second reading and ordered published.

PUBLIC HEARING - REVISIONS TO THE CITY CODE OF ORDINANCES CONCERNING DISORDERLY HOUSE, INDECENT EXPOSURE AND EXCESSIVE NOISE

Three current City ordinances have been revised for clarification: namely, Disorderly House, Indecent Exposure and Excessive Noise

The public hearing opened at 9:40 p.m.

Stephanie Rubenstein, Staff Attorney, reviewed these items saying the proposals are mostly to clarify and clean up the municipal ordinances. She highlighted the specific changes in each provision. The first revision is an addition to the disorderly house ordinance to include “underage drinking of alcohol” as an element of the offense. The second revision is to the indecent exposure ordinance removing a provision relative to the exposure of a person’s body. The third is a revision to the excessive noise ordinance adding a section referring specifically to car stereos.

Councilmember Terry asked Ms. Rubenstein to elaborate on the revision to the noise ordinance. Ms. Rubenstein said it adds specifics concerning car stereos. The

requirement consists of an officer or complainant hearing sound coming from a car stereo from 50' away. Then it is a violation of the ordinance.

Councilmember Terry asked for the time period the ordinance would be imposed. Ms. Rubenstein said between the hours of 8:00 p.m. to 6:00 a.m. The time frames do not apply to the car stereo section. City Attorney Wilson said sub-section d refers to different crimes for charging purposes, so the new provisions would be applicable any time of day.

There were no public comments. The public hearing was closed at 9:46 p.m.

- (1) Ordinance No. 3201 – An Ordinance Amending Chapter 24, Section 12 of the Code of the City of Grand Junction, Colorado (Disorderly House)
- (2) Ordinance No. 3202 – An Ordinance Amending Chapter 24, Section 18 of the Code of the City of Grand Junction, Colorado (Indecent Exposure)
- (3) Ordinance No. 3203 - An Ordinance Amending Chapter 16, Article V, of the Code of Ordinances of the City of Grand Junction, Colorado (Excessive Noise)

Upon motion by Councilmember Terry, seconded by Councilmember Spehar and carried by roll call vote, Ordinances No. 3201, No. 3202 and No. 3203 were adopted on second reading with Councilmember **ENOS-MARTINEZ** voting **NO** on Ordinance No. 3203, and ordered published.

PUBLIC HEARING - AMEND THE ZONING & DEVELOPMENT CODE TO ALLOW ALTERNATE PLANNING COMMISSION MEMBERS [FILE #TAC-1999-01.03]

It has been difficult to have a full complement of Planning Commissioners at Commission meetings. This proposal will provide alternate members that will be available to the Planning Commission when needed.

The public hearing was opened at 9:47 p.m.

John Shaver, Assistant City Attorney, reviewed this item. He explained that the alternates will serve as Board of Appeals members to give them some experience. The ordinance provides for a first and second alternate so there will be some progression and an opportunity for training experience. The Board of Appeals hearings are often times less complicated and have a lower degree of frequency than Planning Commission hearings.

Councilmember Enos-Martinez asked if any conflict of interest would occur when serving on both boards. Mr. Shaver said the City has that situation now and there is no conflict because the factual issues and legal standards are different. He in fact felt it works well.

Councilmember Spehar presumed the alternates move into the vacancies on the Planning Commission when vacancies arise. Mr. Shaver said that is correct. They want to have some continuity of experience and training and to reward the alternates that have dedicated their time on the Board of Appeals by progressing them to the Planning Commission.

Councilmember Terry confirmed that they have an option on moving onto Planning Commission. Mr. Shaver said yes, it is not an automatic progression.

There were no public comments. The public hearing was closed at 9:50 p.m.

Ordinance No. 3204 – An Ordinance Amending the Zoning & Development Code to Provide for Planning Commission Alternates and Duties of Members of the Board of Appeals

Upon motion by Councilmember Theobold, seconded by Councilmember Payne and carried by roll call vote, Ordinance No. 3204 was adopted on second reading and ordered published.

OTHER BUSINESS

Public Transportation

Councilmember Payne noted the location of the unveiling of the new public transportation buses the following day has changed to Two Rivers Convention Center, at 10:00 a.m.

Sister City Relationship

Councilmember Theobold said a citizen approached him about a sister city relationship with a foreign city. The citizen said the funds for such a relationship would be raised privately, with no cost to the City. The citizen was interested in the former Soviet Union which is struggling with the growing pains of becoming a democracy and a big city. They have friends and family in the city and asked if the City of Grand Junction would like to be a part of such a relationship.

Councilmember Terry asked if the relationship means exchanging ideas, etc. Councilmember Theobold said ideas and personnel for brief periods of time. The other city would benefit more from the exchange. He felt if it doesn't cost Grand Junction, Council should consider a sister city. The rest of Council concurred.

Buffer Zones

City Manager Achen said they were unable to get the issue of buffer zones on the agenda for Thursday night's dinner meeting, November 4, 1999, but there will be another growth meeting sometime in November or December.

Councilmember Spehar said the only issue would be any funding or budgeting items. City Manager Achen said there will be sufficient funds in contingency.

Councilmember Payne said this could be discussed briefly and informally at the 201 meeting with the Mesa County Commissioners at noon tomorrow. Councilmember Theobald thought it was a staff meeting and did not include elected officials. City Manager Achen said this is the Persigo Agreement annual policy meeting and elected officials are asked to attend if they can.

ADJOURNMENT

The meeting adjourned at 9:55 p.m.

Stephanie Nye, CMC/AAE
City Clerk