JOINT HEARING OF THE
GRAND JUNCTION CITY COUNCIL
GRAND JUNCTION PLANNING COMMISSION
PROPOSED ZONING & DEVEOPMENT CODE

FEBRUARY 10, 2000

The specially scheduled joint meeting of the Grand Junction City Council and the Grand Junction Planning Commission was continued to February 10, 2000 and convened at 7:10 p.m. at Two Rivers Convention Center.

Representing the Grand Junction City Council were Gene Kinsey (Mayor/Council President) and Councilmembers Janet Terry, Jim Spehar and Earl Payne. Representing the Grand Junction Planning Commission were John Elmer (Chairman), Joe Grout, Terri Binder, Dr. Paul Dibble and Jerry Ainsworth (alternate). Deputy City Clerk Teddy Martinez was present to record the minutes.

Chapter 1 and Chapter 2 were reviewed during the February 1, 2000 meeting.

Council President Kinsey welcomed the audience and invited input on the draft Code. The hearing then continued.

CONTINUATION OF PUBLIC INPUT AND CONSIDERATION OF THE FINAL DRAFT OF THE ZONING AND DEVELOPMENT CODE

CHAPTER THREE-ZONING:

Planning Manager Kathy Portner highlighted some of the significant recommended changes to the following Tables:

- Table 3-2 – There are some changes in the bulk standards for the various zone districts from the existing Code. There are two changes in the proposed table as shown that the staff would like to propose. One is to change the minimum lot size for the RSF-2 district from 20,000 s.f. to 17,000 s.f. to allow for more flexibility in lot size within a subdivision. The other is to change the rear yard setback in the RSF-E district from 25' to 30' to be more consistent with similar zone districts.

- Table 3-2 – Note 7 was added since the last draft to allow for an increase in height of buildings along the Horizon Drive corridor, north of G Road. That note should be amended to include properties zoned IO within that defined area.

- Table 3-2 – Note 8 was added since the last draft to allow for a variation of the setbacks in the B-2 districts within the central business district, such as the 200 to 600 blocks of Main Street.

- Section 3-2-G – Floor Area Ratio (FAR) as a bulk standard is in the proposed Code, but not in the existing Code.

- Section 3-3-6 and 3-3-7 - The RMF-5 and RMF-8 zoning districts allow for a variety of housing types. However, both have a provision that the development of attached units on any lot originally platted and zoned for detached single family homes shall require approval of a conditional use permit.

- Section 3-3-8 – An RMF-12 zone district was added to offer more options.

- Section 3-4-1 – The Residential Office (RO) was added to this Code as a transitional zone district between residential and commercial uses. This district does include design standards.

- Section 3-4-2.C.3 – Staff recommends that the provision for a maximum district size be eliminated from the RO and all zone districts.

- Section 3-4-2.F.2 – Staff recommends the minimum separation provision be eliminated.

- Section 3-4-6 – The Industrial-Office (IO) zone district was added to provide for a mix of light manufacturing uses, office park and limited retail and service uses in an attractive business park setting.

- Section 3-4-9 – Two changes were made to the CSR district. One is to allow a FAR of 1.0 for public/industrial uses and the other is to increase the maximum building size to 80,000 s.f. without a CUP. Both of those changes were made to better reflect the type and scale of development on the Mesa State College campus.

- Table 3-5 – A major change to the Use/Zone Matrix from the existing Code is the elimination of Special Use Permits. There are several changes the staff is proposing to the draft matrix:

- Section 3-6-2 – This section defines how density is calculated, both minimum and maximum. The existing Code does not have minimum density requirements.

- Section 3-8-1 – This section has been changed to allow for the re-establishment of any non-conforming use if destroyed. This section also allows for the limited expansion of non-conforming residential uses, more than what is allowed under the current Code. It also allows for 20% expansion of non-conforming non-residential uses, which is less than the 50% currently allowed.

- Section 3-8-2 – Upgrade of sites that do not meet other requirements of the Code are required with the expansion or remodel of structures. The percentage upgrade is directly related to the percentage expansion or cost of upgrade as it relates to the value of the structure.

Ms. Portner discussed Table 3.2 - Bulk Standards (page 2). Some changes were made in the B-2 zone district (downtown district). There are required setbacks in that district but allows the administrator to vary those setbacks based on the character of the area. That was to take care of the concern that there is such a variety of land use types in the downtown area, specifically the 900 block of Main Street, that the B-2 district is being applied to, is much more residential in

character than the 600 block of Main Street. This would allow for that variation within that zone district.

She discussed the maximum district size that is proposed in all of the zone districts for the non-residential. Staff is recommending that provision be eliminated. There is no need to establish a maximum district size for a B-2, B-3, C-1 or C-2 district. It is being proposed on the zoning map and what's approved on the map will go forward. As rezones to those districts are considered, they will be considered on their own merit at that time.

Table 3.2 – In the non-residential zone district there is a section for maximum lot coverage, for all the districts as well. For the non-residential, staff proposes eliminating that also. With the Floor Area Ratio and the setback and height requirements, there is no need to also include that maximum lot coverage. Staff feels the FAR covers that - only the non-residential.

Table 3.5 – Use Zone Matrix – Chapter 3 (page 33) contains a description of the Use Zone Matrix and the Matrix follows. A major change is there will no longer be Special Use Permits. The existing Code allows for Special Use Permits for certain types of uses. In this matrix, staff has either made those allowed uses or conditional uses. That was to be consistent with Mesa County. The current Special Use Permit has not served that great a purpose. It has been treated as a site plan review, reviewed administratively, and that's how it's allowed to be treated. Staff thinks those that need extra scrutiny can better be served by being a Conditional Use Permit. That was in the last draft of the Code also, and is a major change.

Some errors found in this matrix are listed as numbers 1-17. None are substantial.

1. Delete the AF35 and RP zone categories from the matrix.
2. Multi-family housing – delete it as allows in RMF-5, add it as allowed in B-2 and delete it as a CUP in C-2.
3. Manufactured housing park – add it as a CUP in C-1.
4. Museums, Art Galleries, Opera Houses, Libraries – add it as a CUP in RSF-R through RMF-24.
5. Home-Based Day Care (1-12) – Add a footnote that it must be in compliance with all State licensing requirements.
6. Jails, Honor Camps, Reformatories – Add it as a CUP in B-2.
7. Medical and Dental Clinics – Add a footnote to the CUP in RMF-16 and RMF-24 stating a clinic can only be developed in conjunction with a multi-family development.
8. Hospital/Mental Hospital – Add it as a CUP in IO.
9. Riding Academy, Roping or Equestrian Area – Add it as a CUP in RSF-E.
10. Health Club – Add it as a CUP in RO.
11. Farm Implement/Equipment Sales/Service, Farmer's Market/Flea Market, Feed Store – Delete as allowed uses in the RSF-R.
12. Food Service, Restaurant – Add it as an allowed use in CSR.
13. Auto and Light Truck Mechanical Repair – Delete it as an allowed use in RSF-R.
14. Car Wash, Gasoline Service Station – Delete it as a CUP in RSF-R.
15. Manufacturing and Production – Indoor Operations and Storage – Delete as a CUP in RSF-R.
16. Add a line for "Impound Lots", to be allowed in C-2, I-1, I-2.

17. Recycling Collection Point and All other Waste – Related – Delete as a CUP in RSF-R.

CITIZEN COMMENTS

Mr. Tom Logue spoke on behalf of the Western Colorado Contractors Association. His organization focused on two areas, generally in Chapter 4 and Table 3.5. He said the Association is in total agreement with the position taken by the Home Builders, the Board of Realtors and the Chamber of Commerce. Their primary concern with the Use Zone Matrix evolves around the conditional use process that was established for sand and gravel operations. He referred to Chapter 7, Section 7-2-9 (page 13) Special Regulations, Natural Resources, which requires that any recoverable sand and gravel resource be removed prior to development of any property in the City of Grand Junction. Under mining uses, it's only permitted in 7 of the 21 land use zones by conditional use. There is a conflict in the Code that says in one part the resource must be removed and another part says it can't be removed. His organization felt it should be allowed under the conditional use process in all zones. Some of their members have acquired property in the County. There are very few mineral resources that have not been mined in the City limits. They were not aware that the City was also controlling lands that had resources on those that were within the 201 boundary. That is the reason their comments are late. They pleaded ignorance in the Persigo Agreement. Mr. Logue asked for modification of Table 3.5 to allow sand and gravel operations in all zones as exists in the current Code.

Councilmember Spehar didn't feel the Code reads as restrictively as Mr. Logue has interpreted it. He said the section does not say it must be mined. Mr. Logue agreed, saying only the State of Colorado requires that. He assumed since Grand Junction is a home rule city, that Statute can be ignored.

City Attorney Wilson said Mr. Logue is talking about the notion that if the State deliberately pre-empts a local regulation and specifically says this will apply to every piece of gravel in the State, and provides a rationale for why that is important for the public's welfare, then the courts will look to see if home rule cities can directly conflict with that. Grand Junction has never faced it because it has always shared the view of the State which is "we need gravel." They are not in the position of prohibiting gravel extraction, but making it compatible. Mr. Wilson said there was some earlier language that was not as clear. The purpose of this draft is to say the applicant is going to know better than the City and they will make that part of their application. The City was hoping this language would give some flexibility. He agreed the State Statute is clear that mining must take place first, then backfill, then go to the final development phase. The City is hoping this section will fit the property owners' needs.

Mr. Logue said the matrix is still a concern. Mr. Wilson said they are not allowed in the zone where they're not listed and that was intentional. It is the City's assumption there is no gravel there. He suggested making sure the mapping is consistent with the State direction. He was sure those decisions were made based on knowledge of where gravel deposits were located. If there's gravel in areas where residential development is desired, it needs to be made known. Mr. Logue said there are some substantial deposits in the Orchard Mesa area around 29 Road. His committee was concerned that there are some deposits right on the fringe of the City and those

properties could be annexed. Theoretically, if they're zoned RSF-4 or RSF-5, they would not be available even under a conditional use.

Councilmember Spehar asked Mr. Logue how quickly he could provide staff with where the resources are located and where the conflicts lie. Mr. Logue said they are available at any time.

Mike Stubbs, Dynamic Investments, said they have gravel deposits on their 350-acre property near the Ute Water tanks on the Redlands. The intent is to use that on-site. They are not considering a mining permit, only to use it for their infrastructure. They want to make sure the Code would not preclude their being able to do that. He understood, under State regulations, they can get an exemption and could use it on-site. He wanted to make sure there would be no conflict.

Planning Commissioner John Elmer said the only conflict would be if they moved a crusher onto the property. Merely extracting and backfilling would not create a conflict.

Assistant City Attorney John Shaver said the matrix specifically defines for off-site use.

Ms. Portner said this is consistent with the County's matrix. The City's Code currently allows it as a CUP in any zoning district. For the most part, the deposits are mapped as either industrial or CSR. A rezone to CSR would limit the type of activity on the property. Another option is they could go back to the CUP in all zones.

Ms. Portner continued by discussing Section 3-6-2, (page 42) defining how both minimum and maximum density is calculated. The existing Code has no minimum density requirements. On page 4, sub-paragraph d. discusses density conflicting with the Growth Plan. It's somewhat complex. She briefly explained that for each zone district below RSF-4 and above, it lists both maximum and minimum densities. Below RSF-4, there are no minimums. The Growth Plan likewise has mapped a density range of 2-4 and 4-8. Sub-paragraph d. discusses if there is a conflict between the two. If there is a property zoned RSF-4, the zoning would say there is a density range of 2-4 units/acre, however, if that property happens to have a Land Use designation of 4-8 on the Growth Plan, this would say one could only go a certain percentage below the 4. The reason being that they zoned at the low end of the Growth Plan. Had they zoned at the high end of the Growth Plan, there would be very few conflicts. So the Growth Plan range and the Zoning range would be the same. Because they zoned at the low end of the Growth Plan, they now have a much larger range. This provision was placed in the Code so additional density was not lost that was shown on the Growth Plan by zoning on the lower end.

Another comment on the Zoning Matrix was made by Mr. Dean Van Gundy, a property owner on the south end of 5th Street. He asked for clarification on Item 17, Recycling Collection Point. Ms. Portner said there are two separate categories in the Use Zone Matrix (page 40). Under "Waste Related Uses" there are a series of sub-categories. Separate from that is a category of "Junk Yard." The Recycling Collection Point would be where aluminum cans, bundled newspapers are deposited for crushing and bailing. A junkyard is defined generally as doing dismantling and salvaging of auto parts. The reason for Item 17 was simply that Staff does not think that type of use is appropriate in the RSF-R zone district. The County's AFT district traditionally has a lot more uses than the City's RSF-R.

Mr. Van Gundy was concerned about the restrictions in that category that might be hidden. Ms. Portner said there is another section that deals specifically with salvage. City Attorney Wilson also noted there is a definition for junk in the back section under Definitions in Chapter 9 (page 21).

Mr. Van Gundy said he has extremely large equipment which he is planning to sell soon. The equipment is higher than the current surrounding fencing, and is quite visible. They don't want to be in violation should this Code go into effect. Mr. Wilson said Mr. Van Gundy voiced a concern earlier with the Amortization or Sunset Law (paragraph 7, page 28) which talks about a compliance date of the end of December, 2004. Mr. Wilson referred to an amortization ordinance adopted in Denver which gave businesses six months to recoup their investment. People felt that was a taking as it was not enough time and they were losing their money. The Supreme Court determined it was just under the line, but would not say it was unconstitutional. Mr. Van Gundy said if a citizen were to use the same tactic, he would end up in jail.

Mr. Wilson said they used the five-year term to give something to measure against. It was a judgement call and they feel five years is a reasonable amount of time.

Councilmember Spehar said fencing was going to be sufficient and the elevation issue would not be considered. Mr. Wilson concurred. The screening would be required from the street at the same grade; otherwise nothing could be screened in a multiple block or from a viaduct.

Mr. Van Gundy said the amortization provision is his main complaint. Councilmember Terry asked Mr. Van Gundy if the time period is too short. Mr. Van Gundy said he would rather see the provision removed from the Code. He suggested a resolution that would be acceptable rather than a mandatory provision in the Code.

City Attorney Wilson said he would visit with Mr. Van Gundy and report back to Council.

Councilmember Spehar asked for a definition of a Type B Buffer Yard which is one of the requirements under Section 4-3-4 (page 28), discussing screening and fencing. Ms. Portner said it is defined in Chapter 7, Buffering and Landscaping (page 27). A Type B buffer area is a 20' wide landscaping strip with trees and shrubs. It is landscaping plus space.

Ms. Portner continued by reviewing Chapter 3 for densities for discussion on the minimum density concepts and the idea of the density conflicts with the Growth Plan.

Councilmember Terry asked if that section could be simplified. Ms. Portner said the simplest thing to have done would have been to zone at the high end of the Growth Plan. In most cases, Staff did not feel comfortable doing that. Councilmember Terry said she didn't feel Council has indicated that direction either.

Ms. Portner said to go with zone density and the minimum there, some opportunities for some density will be lost. She could not say how significant that would be. It may not be enough to leave the complexity of it in the Code.

Planning Commission Chairman John Elmer said it's going to control, versus going through the formula, if at the lower end of the land use range. Eighty percent (80%) will control the minimum density.

Mayor Kinsey said an example would be if someone had an RSF-4 zone and the Growth Plan was 4-8, the minimum density they could have would be 80% of 4 which would be 3.2. Even though their zoning is RSF-4, they cannot go any lower than 3.2.

Larry Rasmussen, representing the Home Builders and the Board of Realtors, said the concept can become quite complicated. If something is zoned 4 units/acre, it avails everyone the opportunity to deal with that. He felt they should deal with each individual property instead of being locked into the minimum density philosophy. He felt it could cause a lot of problems.

Mike Joyce, 2764 Compass Drive, representing the Chamber of Commerce, said he was pleased seeing there is a way a canyon can meet the other property especially if open space or trails is dedicated. The concern has been what happens to the bulk standards of that zone. Do they also change to allow for a smaller lot? He felt there needs to be discussion on bulk standards of a zone once the extra density goes through.

Ms. Portner said it is not clear in the Code how they would deal with the bulk standards. She suggested using the clustering provision which says if there is an RSF-4 zone district and the clustering provision is being utilized, the size of the lot would go to the zone district that is closest to having those size of lots for the bulk standards. She suggested incorporating that into the density development provision also.

Councilmember Spehar said that needs to be done if higher density is to be encouraged.

Planning Commission Chairman John Elmer said if the minimum for an RSF-8 zone is 4, and unusable land is subtracted to calculate it, the allowable density is less than 4. No matter which zoning is used, the minimum allowable density is 3.2.

Councilmember Terry asked if that wouldn't vary by how much is needed for open space/trails. Mr. Elmer said yes, but it actually allows a lower number. If there is no useable land, it allows a lower minimum density.

Councilmember Terry said higher density and open space are goals in the Growth Plan and sometimes they are going to conflict. It must be decided if one is more important than the other.

Mr. Elmer felt more of a restriction is being placed on the 4 and 5 units/acre zone than on the RSF-8. He wondered if the minimum density philosophy was what is to be achieved.

Mr. Elmer said it's 80% of the land use category, so 3.2 for any zone in the RMF-4 and RMF-8 category. It's no longer going to be restrictive of the higher density zone in that category such as RMF-8. In the high range, the 80% means nothing.

Planning Commissioner Joe Grout said it appears it needs to be closed up (possibly RMF-6 to RMF-8) so there's not such a wide variation between the two.

Ms. Portner said the Growth Plan has those same categories.

Councilmember Spehar said the chapter is very consistent; although the numbers work differently.

Councilmember Terry suggested watching this to see the outcome when various projects come in.

Ms. Portner pointed out a major change in Chapter 3, Non-Conforming Uses (page 47). A non-conforming use, whether it's residential or non-residential, can be rebuilt if it's destroyed at greater than 50% of its value. It would have to meet all current building and fire codes and attempt to meet the site design features required, or come back and request relief from those. It is a major change.

Ms. Portner said in the last draft of the Code there are provisions of the non-conforming site section to talk about upgraded sites. That has not changed since the last draft.

Councilmember Terry asked Ms. Portner to address the issue regarding creation of a non-conforming use preventing property owners from obtaining financing. Ms. Portner said there is a provision in the current Code that non-conforming residential structures that are destroyed can be rebuilt. The lenders that come to the City ask for a letter stating that, and seem to be satisfied. She has never had a request to confirm setbacks on a sale.

Katy Steele, 629 Rushmore Drive, speaking for local lending agencies, confirmed that if a residential or business structure can be rebuilt after a 50% destruction, the lending agencies will finance.

Planning Commission Chairman John Elmer asked about the registration requirement on the property owner to register as a non-conforming use within twelve months. Ms. Portner said if the property is registered, at least staff has something to fall back on. If it is destroyed, the property owner and staff know what they can rebuild to.

Mr. Elmer said it would place some of the burden on staff because typically when property is annexed, they know they're creating some non-conforming uses.

Assistant City Attorney John Shaver said over time, non-conforming uses should be eliminated and the burden should properly be placed on the person who is benefiting from the non-conforming use.

Councilmember Terry suggested eliminating this registration requirement as it is too restrictive.

Ms. Portner said staff still tries to document non-conforming uses as the City annexes properties. It is not a requirement, but it helps the property owner. If the property owners do not register, and their property is destroyed, they will try to show that they fall under that provision.

Mayor Kinsey suggested leaving the requirement in, but change all the "shalls" to "should" which would result in at least some people registering.

Larry Rasmussen said there are many properties in the downtown area that will become a non-conforming use as a result of this Code. He gave an example of a house that has been divided into two units in an area where it was not allowed under the existing Code. The density has been reduced from 64 units/acre to 8 units/acre. A converted house on a 50' lot can only be used as a single-family residence in this zoning where it's non-conforming. Katy Steele said the appraisal will come back showing the property is non-conforming.

Mr. Rasmussen said inasmuch as it is non-conforming, does it not create a financing dilemma for a person who wants to resell or refinance. Ms. Steele said any time an appraisal shows a non-conformance, it creates an appraisal dilemma. What the lending agencies require to make the property more sellable is a letter from the municipality stating it can be rebuilt exactly as the property stands. It's the same as placing a lien against the property.

Councilmember Terry said the City has always provided such letters under the current Code, and now the City has made it easier to rebuild aside from the financing. She felt all the bases have been covered on the non-conforming concerns.

Councilmember Spehar asked if Mr. Rasmussen could be provided such a letter in the hypothetical situation he has stated. Ms. Portner said a letter would say it could be rebuilt at the same density, but that it would be subject to the other provisions of the Code unless they got approval under a conditional use permit. The density is not an issue. They can rebuild. If they can't meet the setbacks, they would come before the Planning Commission to ask for removal from that. There are also Fire and Building Codes, parking and landscaping requirements. If they are encroaching on other property, that would not be allowed when rebuilding.

The Council and Commission decided to leave the registration requirement in the new Code, but leave it as an option, and encourage people to register property.

Ron Abeloe, 764 Continental Court, spoke on non-conforming uses. He said this will create hardships on property owners that don't currently have a problem. A hypothetical example would be a two-unit property, the zoning density is lowered, and now only one unit is allowed. The property owner is now restricted in expanding those units if desired. He just wanted City Council and the Planning Commission to be aware they may be creating hardships for some people.

Councilmember Terry said if something like this happens, it will be looked at on an individual basis. Mr. Abeloe said this ordinance is a better non-conforming ordinance than some he has seen.

Mr. Abeloe also had a problem with existing approved projects becoming non-conforming in their use after five years. He asked what would happen if they were still in the developing process over a five-year period. Mr. Elmer said if he recorded and followed the existing development schedule, there would be no problem. Regarding neighborhood meetings, Mr. Abeloe felt such meetings have had variable results. He felt it is unreasonable to make it mandatory on the part of a developer. At least 90% of the time, nothing is accomplished through the time, energy and cost of such meetings.

Mr. Dean Van Gundy said he had been in business for many years and was never informed of its non-conformance. He has been given the option of complying or relocating his business. He would like some show of good faith on negotiations. Mr. Elmer said this hearing is being conducted on provisions of the Zoning Code, not Mr. Van Gundy's specific case. He said this Code won't change the provision that Mr. Van Gundy will be allowed to continue operating his business at that location. The amortization schedule would place him under other requirements but it would not put him out of business. Mr. Van Gundy said the amortization schedule gives him until 2004 to comply or he will be fined $1,000/day.

Councilmember Spehar said the Code provides that Mr. Van Gundy can operate his business on his property as long as he wants to, and in five years he must build a fence. Mr. Van Gundy said he will discuss the requirement with City Attorney Dan Wilson to possibly work it out. He then distributed a pamphlet to the Council and Commissioners.

Mayor Kinsey said the pamphlet concerns issues that do not deal directly with the Zoning Code, and asked Mr. Van Gundy to present these issues at another time or discuss them with City Attorney Dan Wilson.

Councilmember Spehar noted that Council has instructed City Attorney Wilson to work with Mr. Van Gundy's attorney in resolving the right-of-way issues and the other issues covered in Mr. Van Gundy's pamphlet. If Mr. Van Gundy is unable to resolve the issues satisfactorily, he should then come back to City Council.

Mr. Van Gundy said he would concede to that if there is a showing of good faith.

Mr. John Viera understood that amortization is a relatively new vehicle being used for a taking pursuant to the 5th Amendment. The Neon Sign Case in Denver didn't deal with a timeframe for giving notice for compliance. The actual question of that case had more to do with a taking – it definitely was a taking. It was a costly taking because it was not just compensation. In the past, just compensation meant that the property must be paid for with only one exception, and that is when the owner would gift the property. The Court found there was just compensation by way of allowing the signs to remain after the six-month period after which they should have been taken down. That six-month period is actually just compensation found by the Court because it actually paid for those signs. There is a good distinction here. Mr. Viera said it is not talking about a timeframe for compliance, but a vehicle for paying for a piece of property under the 5th Amendment as just compensation by way of once that use is found to be unlawful, that a certain timeframe after that period of time you choose to pay for that property. That is the amortization. If that is correct, some communities have actually found that amortization as he has described it, is something they don't want to be involved with. Some communities have found that it is unjust. If the community is to accept the amortization as a just vehicle, some owners may be concerned that once they have found the illegal use, that after a certain period from that day, that their property can actually be taken without them realizing any money whatsoever. That's the way the courts have found that to be okay. If that approach is going to be used, Mr. Viera could not see how having a five-year timeframe applies equitably. It cannot. Once a piece of property is found to be illegal, if just compensation for that property is to be paid, the just compensation must be based on a fair market value. Each business use is going to have a fair market value according to the business type and the extent of that business. Therefore, it is only reasonable, if that property

is going to be amortized by this method, that each property must have a different timeframe depending on its value. Otherwise the property will be overvalued. In that case, the Court wouldn't mind. But if it was being undervalued by a tremendous amount, that would not be just compensation. Mr. Viera said that is his understanding of the law. He hoped that is not this Board's understanding. He asked that the language in Chapter 4, Section 28-7, be cleared up so the average citizen might be able to understand amortization.

Mayor Kinsey said there is a considerable distinction between non-conforming and illegal. The Code is not making anything illegal.

Mr. Viera said a taking doesn't have to be illegal. It's a prop. If the community wants to take a piece of property, it has the right to do so. The only thing is, it must be a just compensation. Even a conforming use can be taken through amortization.

Councilmember Spehar said it would be a fair statement to say "will comply with the law in taking," and the City will happily do that. That law has been established by the Court.

Mr. Viera said the way City Council decides to enact its ordinance will determine how it will be able to enforce and deal with amortization. He hoped the citizenry, as well as City Council, would have a clear understanding of what the amortization means, to what extent Grand Junction is going to implement an amortization for the takings of properties.

Councilmember Terry felt Mr. Viera was using the word "takings" rather liberally. She said this Board has heard from the citizens and one of the standards they have asked to be looked at is screening. They are trying to make that standard reasonable for those impacted. If there are more reasonable solutions, the Board would be willing to listen to those.

Mr. Viera said he was not speaking to screenings. Councilmember Terry said that's what this Board is talking about in terms of amortization. Mr. Viera said he was talking about takings through the vehicle of amortization because the Supreme Court did determine in the Denver Neon Sign Case that it was a taking. But rather than being a taking without just compensation, the just compensation was the amount of time that the signs remained in place after they were determined to be taken down by the City. It was the length of time that actually paid for the sign and made it a legal taking. He personally felt it was very wrong. He said there are many ways to deal with someone that will not comply. He just wanted City Council to understand that amortization, in the true sense, is much different than most people would think it is. Amortization is not a giving of a timeframe for compliance. The Supreme Court said otherwise. It is payment by just compensation by allowing a use that has been deemed to be illegal, or even a taking to be paid for by other means than giving them money.

Councilmember Terry felt two different definitions of amortization are being discussed.

Planning Commissioner Elmer suggested Mr. Viera talk to City Attorney Wilson for an explanation of terminology and how it applies to the City's Zoning Code. Mr. Viera reiterated it behooves Council to make sure they understand the true meaning of amortization and the way it was used in the Neon Sign Case. He suggested the Board read the Denver Neon Sign Case before implementing an amortization schedule.

Mr. Ted Ciavonne, 474 N. Sherwood Drive, said the Focus Group was previously concerned with the protection of the existing lots in the downtown area. He felt the new revisions have gone a long way in protecting the character of these areas.

Mr. Creighton Bricker, 3615 Ridge Drive, commented on Mr. Van Gundy's situation, saying Mr. Van Gundy must also take 25' along the perimeter of his property to put in a buffer zone.

Mr. Bricker discussed the following chapters:

Chapter 3, paragraph 3-2.e.2.b. - Mr. Bricker suggested limiting the intrusion in setbacks to front or rear, or something comparable.

Chapter 3, pages 7-32 – Mr. Bricker said each of those paragraphs requires conformance to the standard of Chapters 5 and 6 of this Code, and suggested adding Chapter 4 to the Performance Standards.

Chapter 3, pages 17-31 – 4-1-9 Outdoor Storage - Include meeting all of b.2 and c.1 in screening of solid and liquid waste performance criteria.

He also wondered why the I-1 and I-2 zones are exempt from screening of dumpsters. He felt screening of dumpsters should be required no matter where they're located.

Chapter 3 – Several of the allowable floor area ratios have changed from the January, 1998 draft. C-1 went from 30% to 100%, C-2 from 30% to 200%, I-O from 25% to 75% and I-2 from 100% to 200%. Mr. Bricker said they are all sizeable increases, and asked if there is some purpose behind that. There is also a jump in maximum building sizes. C- 2 went from 80,000 to 150,000 s.f., I-O went from 100,000 to 250,000 s.f. He said I-2 has no maximum stated. He asked if the City is expecting some huge businesses to come into the area. Mayor Kinsey said some of the focus groups dealt with these issues and made a determination on a more realistic approach rather than just an arbitrary number picked out by a planner.

Mr. Bricker continued by reviewing Chapter 3, pages 26 and 27 – paragraphs 3, 4, 5.f.1 and 3, 4, 6.f.1 – The original draft said rezoning the C-2 and I-O next to residential was prohibited with a "shall not." Now it can apparently be done because it says "should not." He wondered why.

Councilmember Terry said Mr. Bricker was going over some items they had discussed for a long time, and they were trying to recall some of the reasons why the changes were made. She wondered if it might be helpful for Mr. Bricker to sit down with some of the staff and go through the details he is concerned with. She frankly could not remember all the details herself. She appreciated Mr. Bricker's questions and suggestions.

Councilmember Payne explained many hours have gone into each section of the 1998 original draft by different focus groups as well as the City Council and the Planning Commission. These changes were made as a result of those meetings. Changes are still being made to the document.

Mr. Bricker said he has brought up these questions saying they could possibly be mistakes and would like them considered before the final draft is approved.

Mayor Kinsey said there are already situations existing where C-2 is adjacent to Residential. So the City has resorted to increased buffering between such zones to mitigate the impacts of the adjacent facilities.

Chapter 3, page 29 – Mr. Bricker assumed I-1 being zoned next to Residential is still in the "should not" category. It also applies to I-2. Mayor Kinsey asked Ms. Portner to look at that and make sure it's clear.

Planning Commissioner Paul Dibble commended Mr. Bricker for his time in developing his list of comments. He said staff will appreciate his list when they review it because the City wants the text to be technically correct from the English language perspective as well as from the technical points of view of the usage of the land. He thanked Mr. Bricker and felt staff sitting down with Mr. Bricker will be very helpful to the City.

Mike Joyce discussed the zoning matrix on page 39, Vehicle Service Limited. He asked if a conditional use in the B-1 zone could be allowed for a car wash in that setting. Ms. Portner said staff has already noted that and has agreed to the addition.

RECESS

Mayor Kinsey declared a brief recess at 9:00 p.m. Upon reconvening, all of the previous board members were present.

Chapter 3, pages 20 and 21, B-1 Neighborhood Commercial – Planning Commissioner John Elmer said staff has recommended striking a provision that was restricting B-1 districts to be .8 of a mile from another business or commercial zone district. He said the Planning Commission has historically looked for guidance on main arterials such as Patterson Road when spot zone requests are received. If they are spaced out, it is appropriate, versus every corner, or start some of the infill that's possible with all the vacant lands that exist. He would like to see it apply to new rezones, and not apply to the existing zone map, and not try to create non-conforming uses, but give criteria for new rezones.

Mayor Kinsey said Staff has recommended that be eliminated from the draft because it's not currently being met in all cases by the existing map.

Ms. Portner said the reason for recommending elimination is there are existing intersections where B-1 zoning is being proposed for more than one quadrant which would not comply with this section. They are existing situations. Using it as a criteria for future rezones to the neighborhood business would be acceptable.

City Attorney Wilson said the use of the word "should" does not create a non-conforming use. It's clearly a policy direction as opposed to a mandate. He felt putting it in the general criteria made sense. Councilmember Terry agreed.

CHAPTER FOUR – ACCESSORY USES AND USE SPECIFIC STANDARDS

- Section 4-1-7 – Residential Sub-units and Accessory Dwelling Units are proposed to be allowed in any residential zone district. The existing Code allows for residential sub-units with a Special Use Permit. The proposed Code establishes standards for the units. Section 4-1-7.A.5 should be revised to read, "One of the units must be owner occupied." Section 4-1-7.C.2 was revised since the last draft to require multiple story accessory structures to meet the principal structure setbacks.

- Section 4-1-8 – The Home Occupation Regulations have not been revised since the last draft.

- Section 4-1-10 – The fence regulations clarify that subdivision perimeter fencing must have landscaping in front of the fence. The section has also been revised since the last draft allowing the Director to approve an increase in height of a fence located on a retaining wall of up to one foot where there are unique features.

- Section 4-3-4.A.7 – The amortization provision for salvage yards in the existing Code has been revised for compliance with the proposed standards by December 31, 2004. Section 4-3-10 – Performance standards for Medical and Hazardous Waste Transfer Facilities are not in the existing Code.

- Section 4-3-14 – The Superstore/Big Box Development standards were revised since the last draft to increase the threshold building size from 40,000 s.f. to 50,000 s.f. It was also clarified that it would be applied to any stand-alone retail building exceeding 50,000 s.f., or any center in which any one building exceeds 50,000 s.f.

- Section 4-3-18 – Group living facilities have been categorized into two types, small group living facilities of 8 or fewer residents and large group living facilities of greater than 8 residents. Small group living facilities are proposed to be allowed uses in the residential zone districts. Large group living facilities require a Conditional Use Permit in the medium to high density residential districts, as well as the business and commercial districts.

- Section 4-3-19 – the Telecommunication Facilities/Towers section was inserted since the last draft of the Code. It is the same ordinance previously adopted by the City Council.

Ms. Portner discussed Section 4-1-7 Residential Sub-Units and Accessory Units (page 3). There is criteria for the allowance of an accessory unit that says the principal unit must be owner-occupied. She said that is incorrect. It was decided that one of the units should be owner-occupied. It does not have to necessarily be the principal unit. Staff is recommending that change.

Another revision in this section is for the accessory dwelling units that are actually detached from the house. It might be a detached garage that has been converted and may not meet the principal structure setbacks – it only meets the accessory structure setbacks. That could only be a single level accessory unit. In order to have a loft unit or second story, it would have to meet principal

structure setbacks. A second floor that's much closer to the property line certainly intrudes in the privacy of the adjoining properties.

Planning Commissioner Terri Binder asked about the storage of large vehicles. She asked if "commercial vehicles" is talking about the large tractor/trailers. Ivy Williams, Code Enforcement, said the definition of commercial vehicles (Chapter 9, page 7) is rather broad. If there was a commercial vehicle that was able to meet the criteria in the storage of large vehicles section, there was no size limitation. The term large vehicles could include a semi truck. She felt there are subdivisions that have covenants in place that would provide beneficial restrictions.

Ms. Binder said she was concerned about some tractor/trailers being higher than the houses. Ms. Williams said there have been occasional complaints on that type of vehicle (two in the past two years). Ms. Williams said if the vehicle is parked more than 48 hours, it must meet the criteria in this section. Mayor Kinsey felt it isn't a problem that needs to be defined too closely right now. He suggested leaving it as written.

Planning Commissioner Joe Grout asked Ms. Williams to address Residential Storage. Ms. Williams referred to Chapter 4 – Outdoor Storage and Display (page 9). She suggested changing the language to the following wording: "For purposes of this section, permissible outdoor storage shall be screened and shall include the following materials that are stored for a period longer than 48 consecutive hours and occupy a volume of more than 150 cubic feet." The descriptions would be left as they are and take out (c) (Inoperable Automobiles) because it is covered further down. Mr. Grout said as long as the word "screened" is included it will help immensely.

Planning Chairman John Elmer asked if these are allowed more than 48 hours if screened. Ms. Williams said if there are items such as appliances that don't fall within the definition of "junk" in the Municipal Code, and they are to be kept on the property, they need to be screened in the manner prescribed. A Section in 4-1-10 will be added to accommodate this change.

Ms. Portner then discussed Section 4-1-10 – Fencing Regulations (page 12). Language has been added to allow the administrator to approve a fence on top of a retaining wall, with a total exceeding 6'. In this draft the administrator could approve additional height of up to 1'. Staff is now recommending eliminating the 1', and saying "Under these circumstances, the Director can approve an increase in height." There have been a few that have been 18" retaining walls, and given the topography, that is not an issue.

Ms. Portner discussed Section 4-3-14 – Superstore/Big Box Developments (page 44). Since the last draft, the building threshold size has been increased from 40,000 s.f. to 50,000 s.f. It is also clarified that it will be applied to any stand-alone retail building exceeding 50,000 s.f. or any center in which any one building exceeds 50,000 s.f. The last draft only talked about centers exceeding 50,000 s.f. The discussion was that if one of the buildings exceeds the limit, then it applies to the whole center rather than a series of 20,000 s.f. buildings in a center.

CITIZEN COMMENTS

Mr. Creighton Bricker discussed Section 4-1-9.a. (page 9) - Two vehicles intended for repair and restoration are permissible residential storage. The draft seems to say that if it's in enclosed

storage it must also be under an opaque cover. He thought the draft meant to say it must be garaged or under an opaque cover. He felt if there are two vehicles on the property, they should be in an enclosed storage.

Section 4-1-10 – Mr. Bricker said this paragraph is repeated identically in content in Chapter 6, pages 23 and 24. He felt that section should be checked.

Chapter 4, Section 4–2 (pages 13-23) – Mr. Bricker said this section does not address inflatable signs (balloons), political signs or neon signs, either allowed or not allowed.

Councilmember Terry said there is a section in the Code which deals with temporary signs. Mr. Bricker said political signs are not included in temporary signs. It is not specified.

Planning Commissioner Joe Grout said he didn't think the Sign Code had been amended. Ms. Portner said that is correct. Staff intentionally did not consider amendment of the Sign Code. She said inflatable signs fall under Temporary Signs where a Special Events Permit must be obtained. Mr. Bricker asked if neon signs fall under that same category. Ms. Portner said permanent neon signs are allowed.

Chapter 4, Section 4-3-1.c.1 (page 24) – Mr. Bricker said it seems to suggest this following scenario is possible: Assuming RSF-2 on a 25-acre parcel, with clustering of 59 units, this section would allow that development to have at one per ¼-acre of land, 100 cattle or horses or mules or burros or sheep as long as they are penned, and the pen is set back from the overall property lines. He wondered if the Code meant to allow that. If it can happen, it should be looked at.

Councilmember Terry explained Council tries to make sure it doesn't superimpose some restrictive regulations on properties that currently have agricultural animals when and if they might be annexed into the City. They don't want to place unnecessary regulations on property owners that would require them to change their current practices. Ms. Portner said this section has been in place a long time and is consistent with Mesa County's animal regulations. Mr. Bricker said the same situation is in Section 4-1-3.c. allowing 600 adult chickens, and is also possible.

Chapter 4, Section 4-3-5.a.17, Campgrounds (page 29) – Mr. Bricker quoted "One tree shall be located in close proximity to two separate camping spaces." When there is an odd number of spaces, somebody doesn't get close to anything. He suggested one tree per space, and it would look better and provide more shade to the camping space.

Chapter 4, Section 4-3-19.c. (page 59) – Mr. Bricker said it appears a ham operator may have, without City regulation, a tower or antenna up to 10' above the highest point of the roof measured from grade. If this is true, it is the only limitation he has found on ham operators. They seem to be studiously unregulated, possibly for good reason. He wondered if 10' is the right antenna height limitation. City Attorney Wilson said there are number around the Valley that have either been around for a long time or were erected before being annexed to the City.

Tom Logue commented on Section 4-3-11 (page 38-43). Throughout this section there are a lot of procedures and requirements, with approximately four sections and seven paragraphs already regulated by other agencies. His group feels their authority (State and Federal) would supersede

the City's authority. It means more paperwork on his part and the additional cost would be passed onto the consumer. In paragraph 8 of that same section a traffic analysis for road and safety conditions is addressed. It talks about the "vicinity" of the area. He asked for a definition of how far "vicinity" is, anywhere within 10 feet, ten miles, etc. He is hoping there will be a definition of "vicinity" in the final draft.

Mr. Logue discussed paragraph 9 which is another one which is regulated by the State and EPA. They would be willing to withdraw it in light of the fact that phase 2 of the stormwater plans the City's going to be working on. The City is going to be responsible for a lot of the community-wide discharges and it should have an opportunity to review those upon the adoption of phase 2.

Mr. Logue had a question on paragraph 10, asking at what point in time that information can be required. Can it happen two days before a hearing, asking a developer to do a mammoth engineering study, or is it disclosed to the applicant during the pre-application conference.

Mr. Logue discussed page 40 saying there are several paragraphs which are redundant in terms of duplication of other agencies. He said his people are the ones exposing themselves to a liability issue by operating without a permit from the Mine Land Reclamation Board. He also referred to paragraph m. – If they operate without an Air Quality Control permit, there is a $15,000/day fine. He felt it is redundant. It would shorten the Code substantially by removing those paragraphs. Paragraph p. is also redundant as pits are inspected on a two-year cycle.

Mr. Logue discussed paragraph d. – A true definition of a water course could be an irrigation ditch, a dry stream bed, the Colorado or Gunnison rivers, or Plateau Creek. He was concerned that someone has named a 12" irrigation ditch a water course. Councilmember Spehar asked how the County defines a water course. Mr. Logue said Mesa County's definition includes major streams in the County, Colorado River, Gunnison River, Plateau Creek or a dry stream bed. Councilmember Spehar could see a need for the definition. He suggested City staff track the County's definitions for consistency.

Mr. Logue had three burning concerns:

(1) Paragraph e. (page 40) – The gravel pit industry is the only industry that must meet this requirement which is submitting a plan receiving permission to use a public right-of-way. If it's going to be included here, he asked that it be included in all other residential applications such as City and County shop buildings, road maintenance departments, mail delivery postal handling facilities, grocery stores and other large retail outlets that depend on trucking of their commodity. Councilmember Terry asked Mr. Logue if there are regulated numbers of trips for his type of operation. Mr. Logue said the State identifies the number of vehicle trips used per hour in order to design the access point (driveway entrance) to the highway to determine the length of acceleration/deceleration lanes. They also have certain safety restrictions in terms of sight distances, etc. His concern is an operation could become landlocked if you can't get permission to use the adjoining or nearby roadways. Mr. Logue said the last sentence is the real concern which reads "Being responsible for upgrading and maintenance of the haul routes." He said there are other sources of revenue that accomplish that. All their trucks pay tremendous fees to the State which are returned to the various cities and counties. He encouraged leveling the playing field by levying these requirements on other operations as well.

(2) Paragraphs s. and t. – Allowing three years of inactivity. Extensions can be requested up to five years. The delivery of sand and gravel products normally occur by trucks. Most of the operators will have several facilities in primary growth areas. The trucks can sit idle for a period of time particularly if growth patterns change. He could not see what harm there could be in leaving a facility set. He suggested broadening, during the review process, in allowing negotiated time on a case by case basis as opposed to a hard, fast three-year period. He also questioned the ability of the City to enforce and track such a requirement. During the application, it ought to be a key element of the conditional use request as it relates to periods of inactivity.

(3) Paragraph x. – Requirement of landscaping for a sand and gravel facility utilizing, in his opinion, urbanized standards. Mr. Logue said most of the sand and gravel operations are going to be in the rural (outlying) areas. In many cases any landscaping that's done will be destroyed as part of the reclamation efforts. He thinks the landscaping should be done in a fashion in screening and buffering that's indicative of the area that it's in. There are a lot of sites that have no domestic or irrigation water available. Water for dust control is hauled in. He felt, given the temporary nature of a sand and gravel operation, the expenditure and maintenance of an urbanized landscape setting will be a true waste of money. Obviously, if the operation is located in an area closer to the City then perhaps the standards should change. He suggested the plan should be prepared in a fashion that is indicative of the area that it's in.

He offered to provide additional information on these three items if necessary.

Councilmember Terry asked how this issue is dealt with in the current Code. Planning Commission Chairman John Elmer said this is almost identical to the existing Code. He said there have been two new gravel pits in the past six months. He could not remember any until the City began annexing the pits on River Road.

As far as the haul route, Mr. Elmer said the pits located next to Persigo were very minor types of improvements. The other pit is located on 23 Road, north of Highway 6 & 50, and 23 Road is not sufficient to handle that type of truck traffic, so they are going to be required to do some overlay to bring it up to a minimum standard to withstand that level of truck traffic. Without that, the road would fail within a year's time. A level of 75 loaded trucks at 50 round trips per day, is a large impact on any County road, and most of the pits are located on County roads. He said the petitioner was willing to pave the stretch that was the direct route out.

Mr. Logue said they have a pending application that is analyzing intersections as far as two miles away to a half mile from the facility. That gets back to the definition of "vicinity." How far do the upgrades go? Councilmember Spehar said only one application has been turned down and that was over a safety issue, and the inability to increase right-of-way on Rosevale Road in order to create an access to the pit. He was trying to be sensitive to the needs of Mr. Logue's industry. He felt it is ludicrous to require landscaping which requires water in an area where no water is available. He also felt Mr. Logue deserves a reasonable definition of "vicinity."

Mr. Logue said his current concern is they go out and do a detailed engineering analysis of the roadway and submit it. The Public Works Department disagrees with the analysis, but still want him to do this. There are two professionals that won't agree on what needs to be done and in the

meantime the project is delayed. Councilmember Spehar said some standard needs to be set that the applicant and Public Works Department can rely on. Mr. Logue said if the City wants to conduct a test and come up with a standard, that would be fine. There are other factors that come into play. They project 15 loads per hour, assuming a relatively short haul distance. If they're overlaying a road in front of a gravel pit within their plant, they could probably get upwards to 40 trips per hour because it's so close. If they're hauling to Collbran, they would be lucky to get five trips in an hour.

Councilmember Terry asked Mr. Logue if tonight is the first time he has seen this wording in the Code. Mr. Logue said they met in December, 1999 and reviewed the draft at that time.

Councilmember Terry did not recall discussions on Mr. Logue's concern at all. Ms. Portner said this section has not been discussed. Councilmember Terry asked if this section could be set aside for a short time to allow City staff to review some of Mr. Logue's comments and give some responses.

Mayor Kinsey agreed with Councilmember Spehar that perhaps landscaping is not appropriate in this case. Councilmember Spehar said he needs some standard by which to mitigate the situation. Council has an obligation both to the public and Mr. Logue's industry.

Mr. Logue said the performance standards are already incorporated in that section. He recommended expanding paragraph x. A lot of sites sit on top of a hill and there's no way to screen an operation that's 80' or 90' above the surrounding area. Others set low with large equipment and it's difficult to screen.

City Attorney Dan Wilson said Staff had already determined the landscaping makes no sense under these circumstances, generally, whether or not there's water. Staff has intended to recommend that change. Planning Commission Chairman John Elmer said if an operation is in an Industrial Zone and up against Industrial Zone, buffering is not needed between properties. The only place it will apply is along the roadway.

Mr. Wilson said regarding the three-year limit, an alternative schedule should be written into the Code. The reason for the clause is that if the community grows up around an inactive gravel pit, they forget. It's for the protection of the operator as well as the adjoining property owners.

Regarding the route haul plan, Mr. Wilson felt some discretion should be left to the Public Works Director to define the "vicinity". It should be negotiated. If no agreement is reached, it should go to the Planning Commission or City Council for a final decision on what is safe.

Mr. Logue said the landscaping requirements in an Industrial Zone is 1 tree/5,000 s.f. Most sand and gravel operations today are marginal at 10 acres. Forty acres is a good size. Their current site is 104 acres. One tree per 5,000 s.f. of area is a lot of trees.

Mayor Kinsey said Council is agreeable on the recommendation to eliminate landscaping, providing for a development plan that may exceed the time. In terms of the haul road, he agreed leaving it to the discretion of the Public Works Department at the time, but Council is willing to look at standards. He suggested Mr. Logue and his group get together and make some specific

suggestions for a starting point for discussions with Public Works, and for later discussion by Council.

Councilmember Spehar didn't want to start from the standpoint of eliminating landscaping completely. He would consider minimizing landscaping or reasonable landscaping, but that is another tool he can use to let businesses operate.

Ms. Portner said Mr. Logue wanted the opportunity to operate a gravel pit operation in any of the zones. There may be instances where it's different than the typical industrial or agricultural areas where they could be closer to residential areas. Councilmember Spehar said if it's in residential areas or fronting on a major street, he would certainly like to leave landscaping requirements.

Planning Commission Chairman John Elmer felt an operation, when located next to a residential zone, must demonstrate the same noise standard listed earlier in the Code. Councilmember Terry asked if there is always an on-site crusher or is it variable. Mr. Logue said not necessarily. There are dry pits where they are only extracting materials.
Mike Joyce, representing the Chamber of Commerce, discussed page 3, Accessory Dwelling Unit. In a larger commercial or industrial operation, there may be a need for a caretaker to reside on the property, or employee housing. He felt there should be a way to allow such dwellings. He has clients that need on-site housing because they may have to leave suddenly. He felt the standards set forth in this section are very good.

Councilmember Terry asked if there is a section that allows an exception in a commercial area. Ms. Portner said it allows for a business residence although the residence must be in a principal business structure. The Code does not allow a free-standing residence on a commercial or industrial site for any purpose.

Mr. Joyce also discussed Section 4-3-14 – Superstore/Big Box (page 44). He said the County came up with a good compromise. They require 50,000 to be the trigger on these regulations when it is next to a residential subdivision. If it's not adjacent to a residential area, there's not the possibility of as much of an impact, and at that time they looked at using 100,000 s.f. as the threshold when it's adjacent to commercial or industrial sites. The Chamber of Commerce understands this is becoming a community focal point, but they want it to give flexibility to the development community while also protecting the adjoining residential uses.

Larry Rasmussen referred to Section 5.a. and b. (page 46). With the simplicity of a few words, the Code has taken away any opportunity for an architect to come up with a creative design as a result of complying with these criteria. The ability to regulate exists in many other sections of the Code. He felt these requirements are excessive. Councilmember Terry said she has viewed big box stores in other municipalities that have had design standards applied to them. It can be done and she would like to see how it works.

Mr. Bricker said the big box stores requirements are great. He said such requirements in the city in which he lived previously has had these requirements for many years. As a result, it's a pleasant environment even in the middle of huge industrial areas. It can be done.

There being no other comments, the hearing was closed.

The meeting is to be continued at 7:00 p.m. on Tuesday, February 22, 2000, in the Columbine Room at Two Rivers Convention Center.

ADJOURNMENT

The meeting was adjourned at 10:20 p.m.