

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

August 7, 2002

The City Council of the City of Grand Junction convened into regular session on the 7th day of August 2002, at 7:38 p.m. in the City Auditorium. Those present were Councilmembers Harry Butler, Dennis Kirtland, Jim Spehar, Janet Terry, Reford Theobold and President of the Council Cindy Enos-Martinez. Councilmember Bill McCurry was absent. Also present were City Manager Kelly Arnold, City Attorney Dan Wilson and City Clerk Stephanie Tuin.

President of the Council Cindy Enos-Martinez called the meeting to order. Councilmember Butler led in the pledge of allegiance. The audience remained standing for the invocation by Eldon Coffey, Retired Minister.

PROCLAMATIONS

PROCLAIMING AUGUST 17, 2002 AS "GRAND JUNCTION HIGH SCHOOL'S CLASS OF 1962 DAY" IN THE CITY OF GRAND JUNCTION

APPOINTMENTS

TO THE RIVERFRONT COMMISSION

Councilmember Theobold moved to reappoint Paul Jones to a three-year term, reappoint Bill Findlay to fill an unexpired term, to appoint John Gormley and Eric Marquez to three-year terms. Councilmember Spehar seconded. Motion carried.

PRESENTATION OF CERTIFICATE OF APPOINTMENT

TO BOARD MEMBERS FOR THE DOWNTOWN DEVELOPMENT AUTHORITY

The Mayor presented Certificates of Appointment to PJ McGovern and Larry Botkin.

SCHEDULED CITIZEN COMMENTS

There were none.

CONSENT CALENDAR

Item #6, Setting a Hearing on Amending the Zoning and Development Code Regarding Design Standards for the B-1 Zone District, was pulled and scheduled for the City Council workshop on September 16, 2002.

It was moved by Councilmember Kirtland, seconded by Councilmember Theobold, and carried by a roll call vote, to approve Consent Items #1 through #7.

1. **Minutes of Previous Meetings**

Action: Approve the Minutes of the Special Meeting of June 24, 2002, the Summary of the July 15, 2002 Workshop and the Minutes of the July 17, 2002 Regular Meeting

2. **Contract for Painting Stadium Stands**

Contract for painting of the metal stadium stands at Stocker Stadium and Suplezio Field. The project consists of steam cleaning stands, treating rust areas and painting all previously painted areas of the metal stands including handrail and area underneath. The Stadium was last painted in 1997.

The following bids were opened on July 18, 2002:

| Contractor | From | Bid Amount |
|-------------------|----------------|-------------|
| Westwind Painting | Grand Junction | \$58,419.00 |
| DeHaven Painting | Grand Junction | \$69,680.00 |

Action: Authorize the City Manager to Sign a Contract for Painting the Stadium Stands with Westwind Painting Contractors for \$58,419.00.

3. **Contract for Engineering Options for the Riverside Parkway Project**

This project consists of analyzing the Colorado River in the area of HWY 50 and the Union Pacific Railroad to determine if the proposed Riverside Parkway can be constructed under the existing bridges. The analysis will identify and address issues associated with various agencies including the U.S. Fish and Wildlife, U.S. Army Corps of Engineers, the Federal Emergency Management Agency and Colorado Division of Wildlife.

Action: Authorize the City Manager to Sign a Contract for the Hydraulic Analysis and Design for the Riverside Parkway with Owen Ayres and Associates, Inc. Not to Exceed the Amount of \$288,000.

4. **Contract for 2002 Street Pavement Overlays**

Bids were received and opened on July 30, 2002 for the 2002 Pavement Overlays construction project. The low bid was submitted by Old Castle SW Group dba United Companies of Mesa County in the amount of \$619,496.00.

The following bids were opened on July 30, 2002:

| | |
|------------------------|--------------|
| Old Castle SW Group | \$619,496.00 |
| Elam Construction Inc. | \$664,664.00 |
| Engineer's Estimate | \$730,911.75 |

Action: Authorize the City Manager to Execute a Construction Contract for 2002 Street Pavement Overlays with Old Castle SW Group in the Amount of \$619,496

5. **Setting a Hearing on the Gerick Annexation, Located at 324 Quail Drive** [File # ANX-2002-136]

The Gerick Annexation is an annexation comprised of 1 parcel of land on 4.5293 acres located at 324 Quail Drive. The owner is seeking annexation as part of their request for an administrative review of a simple subdivision for a proposed new single-family residence, pursuant to the 1998 Persigo Agreement with Mesa County.

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

Resolution No. 76-02 – 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, Gerick Annexation Located at 324 Quail Drive

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

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Gerick Annexation, Approximately 4.5293 Acres, Located at 324 Quail Drive

Action: Adopt Resolution No. 76-02 and Proposed Ordinance on First Reading Setting a Hearing for September 18, 2002

6. **Setting a Hearing on Amending the Zoning and Development Code Regarding Design Standards for the B-1 Zone District** [File # TAC-2002-131]

The following amendments to the Zoning and Development Code pertaining to the Neighborhood Business (B-1) zone district and the sign code are proposed 1) revise the application of the zone district to the Growth Plan Future Land Use Map; 2) refine and clarify the scale, scope and intensity of land uses intended in a neighborhood business center; and 3) expand performance standards to address neighborhood compatibility concerns.

Proposed Ordinance Amending the Zoning and Development Code Pertaining to Neighborhood Business (B-1) Zone District and Sign Code

Action: This item was pulled and will be scheduled for the City Council workshop on September 16, 2002.

7. **Revocable Permit for Boomer's Located 436 Main Street** [File # RVP-2002-147]

Boomer's Restaurant and Nightclub, to be located at 436 Main Street, is requesting approval of a Revocable Permit for a required grease trap in the alley right-of-way behind this location.

Resolution No. 57-02 – A Resolution Concerning the Issuance of a Revocable Permit to Janet Gardner and Chester L. Allen dba as Boomers Located at 436 Main Street

Action: Adopt Resolution No. 57-02

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

Water Conservation

Councilmember Spehar detailed the work the Council has been doing this week to determine areas where the City might conserve water and therefore leave water in the canals to possibly extend the availability of irrigation water to be used by agriculture. The City is proposing to conserve about 1.5 million gallons of water per day. The City is also encouraging other efforts to conserve and to also ask citizens to report any broken sprinklers or other water waste.

Award of Grant for COPS in Schools Program

The U.S. Department of Justice awarded the Grand Junction Police Department a grant to provide funds toward salaries and benefits for a School Resource Officer who will be assigned to work in and around schools under the COPS in Schools grant program.

Greg Morrison, Chief of Police, reviewed this item.

Councilmember Butler inquired if the resource officers go to the elementary schools. Chief Morrison responded that yes, the officer assigned to each Middle School also visits the feeder elementary schools.

Upon motion made by Councilmember Kirtland, seconded by Councilmember Butler, and carried by a roll call vote, Council authorized the City Manager to accept the COPS in Schools Grant Award of \$125,000 to assist in the funding of one School Resource Officer over a three-year period.

Public Hearing - Transfer of the City's 2002 PAB Allotment to CHFA

The City of Grand Junction received a Private Activity Bond allocation from the State of Colorado Department of Local Affairs for the fifth time in 2002 as a result of the City reaching a 40,000-population level in 1997. The bond authority can be issued on a tax-exempt basis for various private purposes. The City can reserve this authority for future housing benefits by ceding the authority to CHFA at this time.

The public hearing was opened at 7:58 p.m.

Ron Lappi, Administration Services Director, reviewed the request and stated that there is a request to use the funds this year by a local business, Pyramid Printing, for their expansion. He and the City Manager therefore request that this item be pulled and that at the next meeting a resolution for inducement will be brought to Council. Mr. Lappi said September 15th is the deadline for ceding the allotment to CHFA.

Councilmember Terry asked for details on how the funding becomes available to local businesses. Mr. Lappi listed the ways the City advertises the availability of the funds.

Councilmember Spehar clarified how the bonds work by stating the bonds allow a business to get a lower interest rate but it does not obligate the City in any way. Mr. Lappi confirmed that.

Councilmember Spehar felt it was worth not adopting the ordinance in order to allow the opportunity for the bonds to be used.

Council President Enos-Martinez stated she would not be voting, as she is a member of the Governor's Housing Board.

There were no public comments.

The public hearing was closed at 8:04 p.m.

Ordinance No. 3453 – An Ordinance Authorizing Assignment to the Colorado Housing and Finance Authority of a Private Activity Bond Allocation of City Of Grand Junction Pursuant to the Colorado Private Activity Bond Ceiling Allocation Act

Councilmember Spehar moved to decline the Ordinance No. 3453, Councilmember Terry seconded. The adoption of Ordinance No. 3453 was declined by a roll call vote. Motion carried.

Public Hearing - Reconsidering the Rezone Request for Valley Meadows North Development [File #RZP-2002-019] CONTINUED FROM THE JULY 17, 2002 MEETING

Council President Enos-Martinez recused herself from this item. President Pro Tem Kirtland presided.

Reconsideration and second reading of the Rezoning Ordinance for the Valley Meadows North property Located at the North End of Kapota Street, from Residential Single Family Rural (RSF-R) to Residential Single Family - 4 (RSF-4).

The public hearing was opened at 8:05 p.m.

Lisa Gerstenberger, Senior Planner reviewed this item.

City Attorney Dan Wilson explained the specifics of this request and the reason the City Attorney is involved in this case. He explained what issues are addressed at the zoning consideration and what items are addressed at the subdivision/preliminary plat level. He said if the rezoning request is approved, then Council will be looking at the subdivision.

He also explained why a zoning of RSF-2 would be inappropriate in this case, since the maximum is 2 units per acre, but the minimum is also 2 units per acre. An amendment is probably needed for definition. Mr. Wilson said on a RSF-4 zoning the minimum is also 2 units per acre with a maximum of 4 units per acre. He said a RSF-4 zoning is a perfect fit for the property. He said and recommends procedurally, Council should solicit public input and listen to the neighbors, but also remind everybody that the level of detail comes at the next step in the review process.

Councilmember Terry asked if the strike-through areas in the revised staff report should not even be included. Mr. Wilson said yes, but the material had already been distributed and Council is therefore directed to disregard.

Councilmember Terry asked Mr. Wilson to clarify on how the rezone criteria should be used. Mr. Wilson said they should be considered altogether. If the issues listed under #3 can be reasonably solved prior to final plat, then the rezone meets the criteria. If the engineers can say these are normal engineering issues. As written, items #3 and #5 conflict, #3 needs rewording and cannot stand alone. He said these changes would be included in the current code amendment process.

Rich Krohn, 744 Horizon Court, attorney for the developer Ed Lenhart, supported the descriptions in the staff report as to how the rezone criteria is met with one exception, the conflict with Policy 24.2. He did not feel that this is really a rezone policy.

Another point is that RSF-4 is the only zone that is consistent with the Growth Plan (3.3.d). RSF-2 has a ceiling of 2 units per acre, and it is almost impossible for a RSF-2 to be built at the Growth Plan density.

The surrounding zones are Planned Developments. Planned Developments are required to provide open space. A straight zone requires a fee in lieu of open space. Mr. Krohn said in order for a development to be a Planned Development, at least 30 acres are required.

Mr. Krohn then identified the densities in the surrounding subdivisions.

President Pro Tem Kirtland asked for public comments.

Helen Dunn, 2557 McCook Avenue, read a statement into the record (see attached Exhibit A).

John Chapman, 667 Kapota Street, also read a statement into the record (see attached Exhibit B). He asked that his presentation from May 1, 2002 be included into the record. It was provided to the City Clerk (see attached Exhibit C).

Councilmember Spehar asked what the density in the blue area on his map is indicating. Mr. Chapman replied the density is two or less units per acre.

Jim Grisier, 690 25 ½ Road, refuted Mr. Krohn's statement as to the size needed for a PUD. He reiterated that he is willing to make a trail contribution. He referred to rezone criteria #3 and #5 and said this is the way it is written and has an impact on the people who live in the area. He said once the zoning has been assigned, the neighborhood has no more say in the matter. He asked that the property be zoned either RSF-2 or PUD.

Russ Wiseman, 660 Kapota Street, addressed the street system and the bottlenecks created. He opposed the rezone.

There were no other public comments.

Councilmember Theobald asked Mr. Wilson that if the rezoning is approved, if the next step is the preliminary plan?

Mr. Wilson explained the next step will be to lay out the details and that plan will go to the Planning Commission for preliminary plat approval. If it meets the code, the Planning Commission is obligated to approve the plan. If the approval is then appealed, then Council asks the Planning Commission if it adequately looked at the criteria. Now the appeal is based solely on what was said at the Planning Commission meeting, i.e. the record.

Councilmember Theobald asked Mr. Wilson if the issues of drainage and their impacts are subjective issues, and if the Planning Commission addresses them, can Council only review those items if appealed and take no new testimony. Mr. Wilson replied that this is true but the final technical detailed work has not been done; that this is done at the staff level recommending the final engineering solutions.

Councilmember Theobald asked Mr. Wilson how to choose between adopting the code as written rather than as intended, as in the rezone criteria. Mr. Wilson said he disagreed with Mr. Grisier's characterization as to what he had said and one must read the seven criteria all together to form a judgment. However, Mr. Wilson agreed that the language could be better.

Councilmember Theobold said if he understands correctly then all of the criteria doesn't have to be met but that Council should look and judge on the big picture.

Councilmember Spehar said he voted in favor of the rezone last time. He felt those issues were considered and saw that those issues were solvable if there is a rezone. The plan has 3.4 units per acre and in order to solve this issue, the Planning Commission can require a lower density at Preliminary Plan.

Mr. Wilson said a RSF-4 zoning has 2 to 4 units per acre and takes into account the streets and all the infrastructure and facilities.

Councilmember Terry asked Mr. Wilson to explain the public input process for Preliminary Plan review.

Mr. Wilson said formal notice is given at the Planning Commission, and then is posted, published and on the agenda and that this is the key time for public input.

Councilmember Terry asked if irrigation is one of the considerations at Preliminary Plan. Mr. Wilson replied that the City doesn't mandate irrigation, but if the property will be irrigated, standards are in place and that issue is addressed at the Preliminary Plat.

Councilmember Terry asked about the open space requirement for a PUD. Mr. Wilson said the open space requirement is 10%. He explained that under the new code, the City can choose open space dedication, if it makes sense, or a fee in lieu if the space is insufficient or not needed in that area.

Councilmember Terry wanted to know if that does preclude open space in a development of less than 30 acres. Mr. Wilson said the City's 3-acre minimum will usually control that decision.

Mr. Wilson clarified that under the new code, Planned Zones are the exception and therefore must provide some additional benefit to the community.

Councilmember Terry wanted a definition of RSF-2. Mr. Wilson compared the RSF-4 to the RSF-2 zoning. Councilmember Terry said then a RSF-2 would be out of compliance with the Growth Plan. Mr. Wilson said it would be barely compliant.

Councilmember Theobold requested more information on the surrounding density. Ms. Gerstenberger provided that information.

Councilmember Theobold noted that the property could then actually be zoned with the PUD designation and not be build out or it could be built out at a slightly lesser density.

Mr. Krohn, attorney for the developer Ed Lenhart, said he stands corrected on the open space requirement and asked that the notice be made a part of the record. He said the

request is for a zoning of RSF-4, so Council can approve or deny the request, not decide on RSF-2. He then reviewed the surrounding zones, including the Planned Developments, and said they would all require RSF-4, none would fit RSF-2.

The public hearing was closed at 9:49 p.m.

Councilmember Terry said it was a good discussion and she felt that RSF-4 is a good fit, however, compatibility with the neighborhood is important. RSF-2 is also compatible so RSF-4 is not the best fit.

Councilmember Theobald said a RSF-4 zoning is the only real choice. He said his issues are more appropriate for another hearing and the critical question right now is whether Council is obligated under the implied criteria or obligated by its intent, and for Council to accept the attorney's advice and accept the other issues are topics for the next step.

Councilmember Spehar agreed with Councilmember Theobald and said the issues of concern are for the next phase and that RSF-4 is an appropriate zone, noting Council must be true to the Growth Plan. He said the neighbors need to know that a solution to be proposed for the problems might be to reduce the density. The opportunity to address those issues will be before the Planning Commission and under the current code there is no such zoning as RSF-3. He said a PUD is not a fit and therefore supports a RSF-4 zoning.

Councilmember Kirtland expressed his disappointment that a PUD could not work because there is no community benefit. Approving the zoning will only add an opportunity for a problem, therefore, he cannot support a RSF-4 zoning.

Ordinance No. 3452 – An Ordinance Rezoning the Valley Meadows North Property, Located at the North End of Kapota Street, from Residential Single Family Rural (RSF-R) to Residential Single Family-4 (RSF-4)

Upon motion made by Councilmember Spehar, seconded by Councilmember Theobald, to approve Ordinance No. 3452 on Second Reading, the motion failed with a roll call vote of 3 to 2. Councilmembers Butler, Kirtland and Terry voted no. Councilmembers Spehar and Theobald voted yes.

Council took a recess at 10:00 p.m.

Council reconvened at 10:10 p.m.

Council President Cindy Enos-Martinez returned and presided over the rest of the meeting.

Discussion of Ethical Standards for Members Serving on City Boards and Commissions

Council discussed standards for advisory boards and City groups, as well as for the members of City Boards and Commissions that have final administrative decision-making duties.

City Attorney Dan Wilson reviewed this item. He distributed a new draft that would allow the members of unrelated boards to still contract with the City as long as their relationship was disclosed. Mr. Wilson said the term "close business associate" still needs to be defined.

Councilmember Spehar questioned if the new draft was for convenience of the board members, and if so, he felt that inconvenience was not a good reason to lower the ethical standards for members serving on City boards. He said there is no shortage of applicants wanting to serve on the boards and if the original draft of the resolution is within the statutes to let Council stay with that draft.

Mr. Wilson replied that he would not recommend the new draft if it was not within the limits of the law.

Councilmember Spehar said it sounds like it still leaves Council and their appointees exposed to liability and/or a perception of impropriety.

Mr. Wilson noted that, although the courts support the stricter guidelines, he is comfortable with the new alternative, and that, if challenged in court, the City will prevail and there is no exposure with disclosure.

Councilmember Terry asked when the disclosure must be given. Mr. Wilson said when the contract is awarded.

Mr. Wilson said he would take the draft and circulate it for consideration to the other boards. Councilmember Terry said she thinks the education of other boards and circulation of the policy should come after Council has made their decision.

Councilmember Spehar added that Mr. Wilson should meet with the boards already scheduled. Mr. Wilson said the only meeting he has scheduled is with the VCB.

City Manager Kelly Arnold asked if monetary thresholds were included in the proposal as an option. Councilmember Terry said she certainly would consider changes from the City Manager. Mr. Wilson said monetary thresholds might complicate the issue, but he will draft a third alternative with that included.

Bruce Hill, 1648 Crestview Drive, DDA Board Member, wanted Council to know that he supports the elements of the second alternative.

Doug Simons, 653 Roundhill Drive, who also is a DDA Board Member and a local business owner, also supported the second proposal.

Greg Palmer, 2827 Texas Avenue, who also serves on the DDA Board and is a local business owner, said he hasn't read the second proposal but he encourages Council to remember that they are trying to serve the community and too high standards will start to eliminate folks that are active in the community if they have to meet the same standards as City Council members.

The final draft of the proposed resolution will be presented at the September 4th City Council meeting.

NON-SCHEDULED CITIZENS & VISITORS

There were none.

OTHER BUSINESS

It was agreed upon that interview dates for the Planning Commission Board of Appeals and VCB would be set-up via e-mail.

ADJOURNMENT

The City Council meeting adjourned at 10:45 p.m.

Stephanie Tuin, CMC
City Clerk

Exhibit A

City Council Presentation by Helen Dunn

GRAND JUNCTION CITY COUNCIL PRESENTATION

August 7, 2002

Mayor —Members of the City Council

My name is Helen Dunn. I have lived in Valley Meadows East at 2557 McCook Avenue since November 1999. I am a member of the Valley Meadows East Homeowners Committee to study the Valley Meadows North proposal. As such, I represent the views of the majority of the residents of Valley Meadows East.

As you are aware, I have been very concerned about the potential damage to the Valley Meadows East property and the effect on the area neighborhoods, if the Valley Meadows North Subdivision is allowed to develop at a higher density than the surrounding area. I have many pictures of Grand Junction neighborhoods and they clearly show that the neighborhoods with lower densities take more pride in the aesthetics of the area and appearance of their property than neighborhoods with higher densities. Knowing your pride in the Grand Junction community, I know you must be gratified that the residents around the area of 25 1/2 and F 1/2 Road care enough for their subdivisions and individual properties to take an interest in the development around them and make every effort to maintain the beauty of the area. I also have heard you discuss Homeowner's Associations and the difference it makes when an Association monitors its own area and maintains the designated Commons Area. It relieves the City from that responsibility. The Valley Meadows East residents take pride in their neighborhood and enjoy the shared park-like green space which extends the backyards of many of our homes and is easily accessible for the homeowners on the other side of the street who are not adjacent to the area.

In reviewing minutes, and driving through area subdivisions, it soon becomes obvious that it is difficult to compare lot sizes in straight zone developments with that in planned communities. The open spaces make

the lots in the area appear larger than the boundaries would indicate. The opportunity to walk out the door and have access to a park-like area gives one the feeling of privacy not afforded when your neighbor's house is close to the side of your house and there is very little room between the houses.

In quoting from the City Council Minutes of May 1, 1996, when reviewing the zoning request for Valley Meadows East, Teresa Bou Matar, 677 25 1/2 Road, co-owner and co-developer of Moonridge Falls stated "the smaller the lot, the cheaper the house being built on it. The price of the lot is 20% of the value of the house." In another section of the same minutes the same resident requested "a consistent density as it could affect the resale value of properties in the area."

Zoning is the gateway to development. Once the zoning is established then the developer will build within those zoning guidelines. The only time the neighbors have any opportunity for input into the proposed development is during the public hearing on zoning. There is no public hearing when the development plan is reviewed and there is no opportunity for neighborly input.

The neighborhood meetings with the developer are for the sole purpose of informing the neighbors what is being planned. Input from the meetings do not influence the plan in any way. They just keep the neighbors from being surprised or curious when they see the trucks and construction workers in their neighborhood.

In the City Council minutes of December 18, 1996 on page 25 for APPEAL OF FINAL PLAT/PLAN FOR SUNSET VILLAGE (now known as Moonrise East) SUBDIVISION, LOCATION AT 25 1/2 ROAD AND F 3/4 ROAD.(File #FPP-96-246)

Bill Nebeker, from the Community Development Department, stated "One of the appeals is on the density issue. Sunset Village will be the most dense parcel in the surrounding area, however, the applicant is not proposing a change in zoning at this time." Later the same minutes state "Councilmember Terry asked about the appeal of the zoning. The density was established when the zoning was set. How can the density be in question at this point. City Attorney Wilson said if the zoning is in place, that answers the density question. A plan is how it is configured. He said to change the density, Council would have to have a first and second reading of a new ordinance.

The density question has passed, and now Council must decide how to apply the density.” Further in the same minutes, the developer stated “he agreed with Councilmember Terry that this is not a matter regarding density or zoning that can be heard at this time. Hearings were held in January and February, 1996 and the annexation and zoning was approved by City Council. Thirty days from the hearings are afforded the public to appeal decisions. The density was established on February 7, 1996 and this is a moot point that cannot be considered.”

In the written communication to the Grand Junction Planning Commission when responding to the appeal by Valley Meadows East residents of the zoning decision for Valley Meadows North, the attorney for the Valley Meadows North developer compared the Valley Meadows North subdivision to the Moonrise East subdivision. If you look at the last two pages of pictures in your handout you will understand why Valley Meadows East residents do not want this comparison. We would prefer a development that would compare with Moonridge Falls.

In the City Council minutes of April 18, 1997 during the public hearing on---
---zoning a part of the proposed Fall Valley subdivision to PR 2.9-- Mr. Tom Dixon, Planning and Design Consultant working with Banner & Associates stated “There is an emphasis on safety, livability and the quality of life with this project.” This was zoned as a planned Residential community with a maximum of 2.9 units per acre. The subdivision includes a park and open space on the southeast quadrant of the site which was expanded to a little over 4 acres in size.

Before you make a decision to rezone the property now known as Valley Meadows North you should take into consideration the many problems that have previously been identified. Any piece of property that has as many problems as this one has should not be rezoned until these problems are resolved. **Do not rezone prematurely and block out any opportunity for input into the design of the subdivision.** With some innovative and creative thinking these problems can be solved. Delaying rezoning until the solutions are implemented would result in a much more desirable subdivision. A subdivision in which the neighbors could establish a good rapport and the **houses would be more marketable.** The sale and resale of the houses in each of these subdivisions with a consistent market value should be the goal of all concerned. Working together we can make this happen.

We are aware of the Lawsuit filed in District Court where Just Companies, Inc sued the City of Grand Junction based on the decision at the May 1, 2002 public hearing to deny the request to rezone the property now known as Valley Meadows North from a RSF-R designation to the RSF-4 designation. We are also aware that the Planning Commission staff have stated that the proposal for Valley Meadows North meets the code in Section 2.6A of the City Zoning and Development Code. **This is not so.**

2.6 CODE AMENDMENT AND REZONING

A. Approval Criteria

- 3) The proposed rezone is compatible with the neighborhood and will not create adverse impacts such as: capacity or safety of the street network, parking problems, storm water or drainage problems, water, air or noise pollution, excessive nighttime lighting, or other nuisances.

This proposal will create many problems for the residents of Valley Meadows East in more than one of these categories.

In reviewing Minutes, it was noted that there have been other incidents where lawsuits have been filed and compromises made which created future problems which were much more difficult to resolve then if the situation had been handled differently at the appropriate time. **We hope you do not make the same mistake this time.**

If you look at the pictures on the back of your handout you can see the type of neighborhoods presently in this area and the type of neighborhoods the residents want to maintain. We take pride in this area and want others to do the same. The interest and concern of these residents is evidenced by the number of people who take time from their busy schedules to attend City Council meetings whenever a developer attempts to overbuild property in this area.

Thank you for the opportunity to speak on this issue. I will be happy to answer any questions you might have.

Moonridge Falls
Approved 1993 Density 2.3



Valley Meadows
Approved 1994 Density 2.8



Valley Meadows East
Approved May 1, 1996 Density 2.93



Fall Valley
Approved April 16, 1997 Density 2.9



Moonrise East
(Approved as Sunset Village)
Zoned February 7, 1996 Approved December 18, 1996
Density 3.82



Moonrise East
(continued)

Zoned February 7, 1996 Approved December 18, 1996



Exhibit B

City Council Presentation by John Chapman

Presentation To The City Council
Re: Zoning of Valley Meadows North
8-7-02

Good Evening. My name is John Chapman and I live at 667 Kapota in Valley Meadows East. I, too, am a Committee Member for our Homeowners Association trying to protect our interests in the development of Valley Meadows North.

I want to thank the Council for hearing our concerns on May 1, 2002, and for voting as you did on the proposed Valley Meadows North development. I had expected that the Just Company would develop and present a revised plan addressing some of the many problems with this development. I was wrong, it seems they chose to litigate instead.

You know how I feel about drainage problems on the proposed Valley Meadows North development and I won't go over that again here tonight, even though it is one of the criteria for Zoning. Instead I want to ask that my written presentation of the May 1, 2002 hearing be included in the record of this hearing.

With some help from the City's Community Development people, I have put together a colored map which shows the Specific Density of the single family developments on either side of 25 1/2 Road between Patterson Road and G Road.

(Explain map here)

This map shows that the Valley Meadows North parcel is surrounded on three sides by densities of less than 3 dwellings per acre. A small development, Moonrise East, with a density of 3.8 is on the fourth side.

Valley Meadows North, if rezoned RSF-4 and built out as proposed to a density of 3.4 dwellings per acre with no significant Common Area or other enhancing features, will be much like Moonrise East and very different from all of the other surrounding parcels.

Moonrise East Subdivision has not turned out well from the standpoint of the neighbors. It is considered a down-grade to all the surrounding neighborhoods. High density is just one reason. This is the highest density off 25 1/2 Road north of the Grand Valley Canal. Valley Meadows North at a density of 3.4 would be the second highest in the surrounding area.

(Show comparison photos)

Valley Meadows North, in my opinion, will be less desirable than Moonrise East and all the other surrounding subdivisions because of the Developers choice to have no irrigation water. I realize that irrigation water is not a zoning criteria but you should understand that this is to be the **only** residential subdivision on this map that does not have this utility. By making this choice, the developer is deviating from the established practice for this area and creating a lower quality development. This land has been under irrigation in the past and could be again. Why sacrifice good location to sub-standard development?

I hope you realize all the pain that is generated when a project like this is approved and it nullifies all the earlier

efforts of more than 150 surrounding homeowners to have a quality neighborhood.

I do not understand why the City Staff is so willing, even anxious, to down-grade so many existing, attractive subdivisions, and so much other future attractive development property. Mr. Greiser, who is a neighbor of ours, testified on March 12th at the Planning Commission Hearing that the Staffs' advocacy for the Valley Meadows North Development was "a bit extreme". I agree and I am quite uneasy about the settlement, negotiated by Staff, of the Developers' Law Suit against the City. Was anyone looking after the interests of the surrounding tax-paying neighbors at these negotiations?

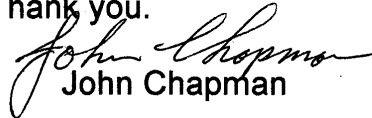
Mr. Krohn, for the Developer, likes to compare density, not by specific density, but by lot size. By his comparison Valley Meadows North, (specific density 3.4) is about the same as Valley Meadows East, (specific density 2.9). I can not let this stand. To make the comparison valid, Mr. Krohn needs to add to each Valley Meadows East lot 1,287 square feet, representing the undivided interest each homeowner has in 1.3 acres of landscaped Common Area. This deeded and taxable addition makes the Valley Meadows East land holdings per lot 16% larger than those in the proposed Valley Meadows North.

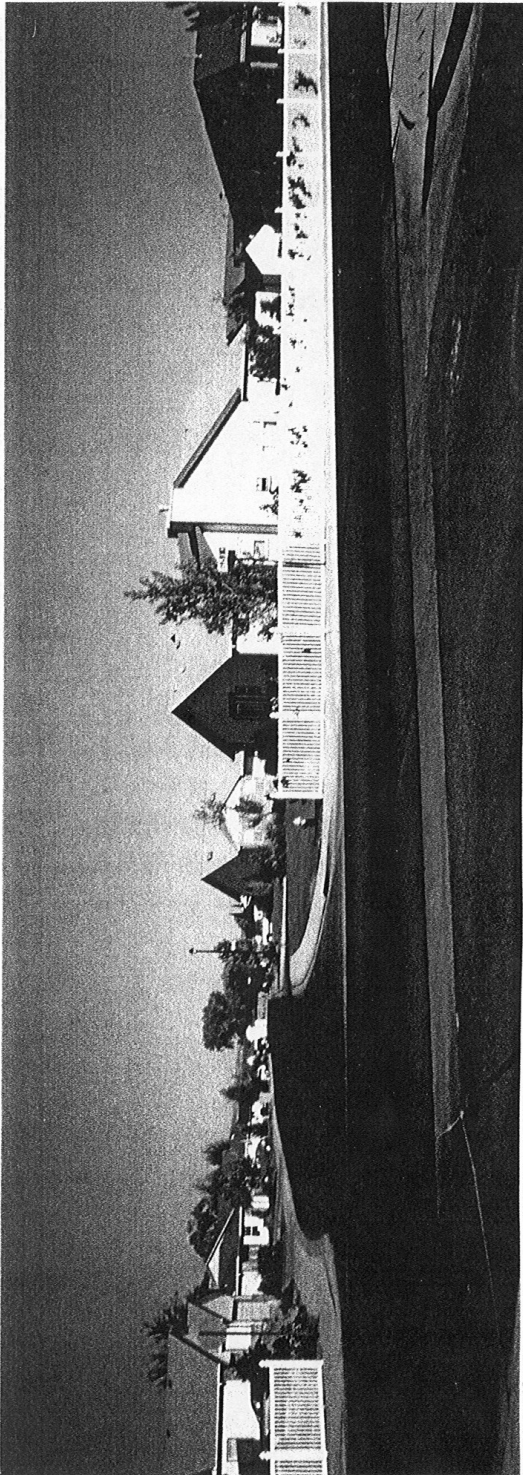
Our perception is that our neighborhood has been significantly down-graded by the Moonrise East Subdivision, by the canal break and resulting flood, and by the difficulties some of our people are having with the insurance. Some of our homes will never be **really** fixed and our subdivision now has a "flood prone" reputation. This area doesn't need another down-grade.

If the Valley Meadows North property is to be re-zoned at all, we would urge you to re-zone to RSF-2. This is a zoning that would blend in with the existing neighborhood to the North, East, and South much better than the higher density proposed. It could be developed into a subdivision that is not down-grading but instead is a credit to the City, the Developer and the neighborhood. We are not against development. But, again, why sacrifice good location to sub-standard development?

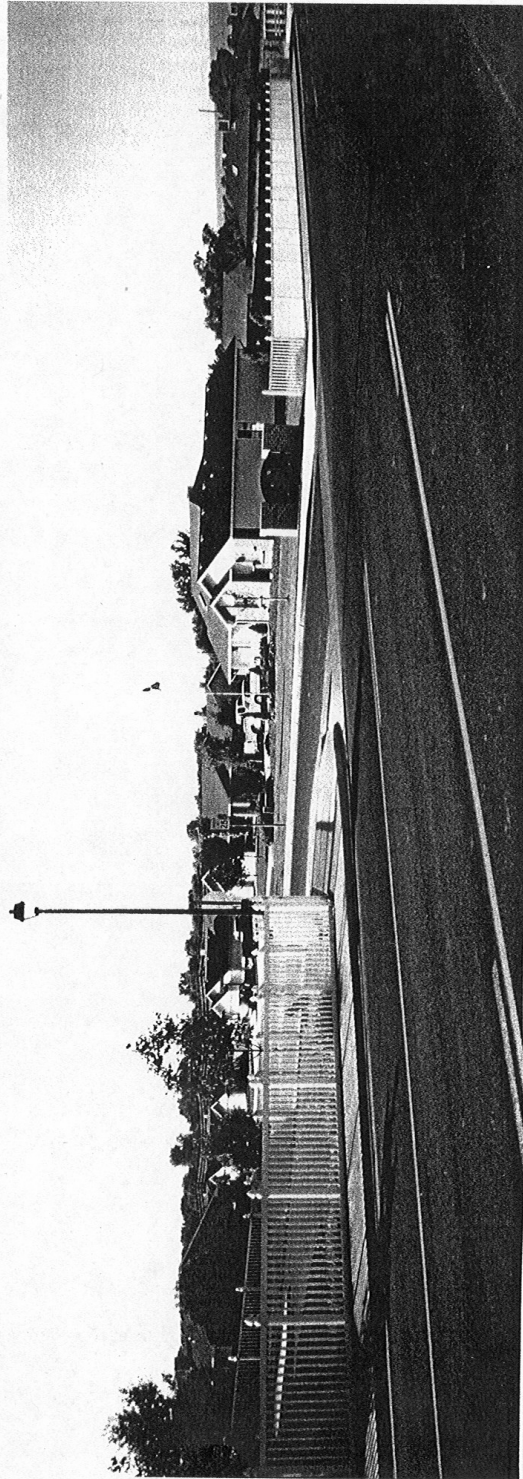
Are there any questions?

Thank you.

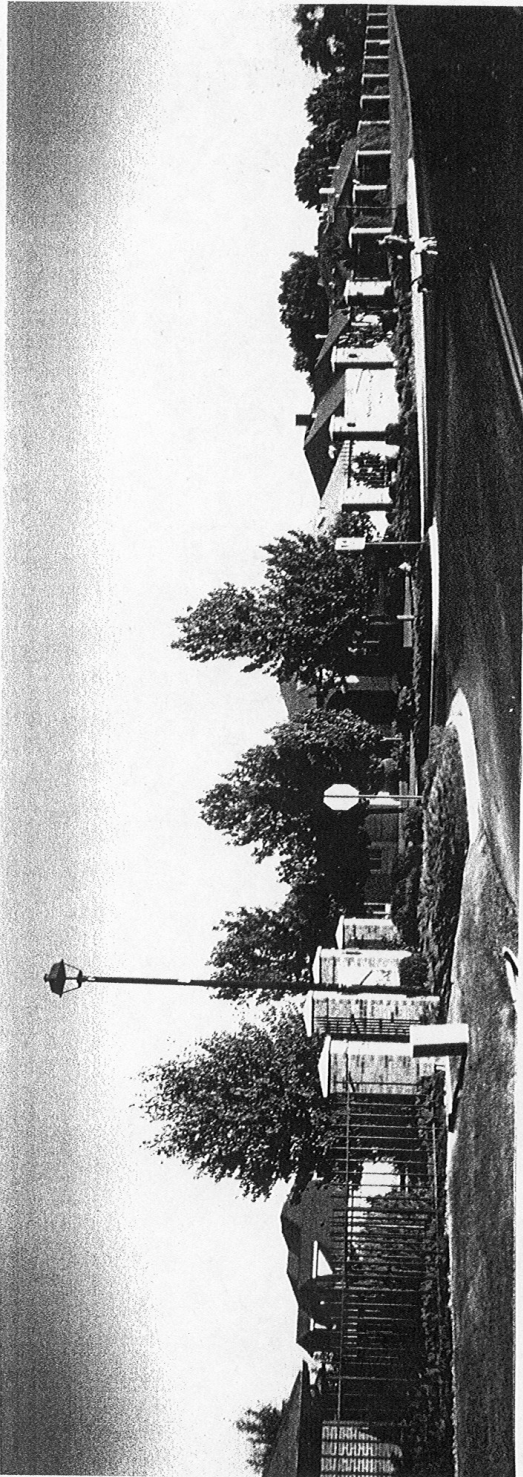

John Chapman



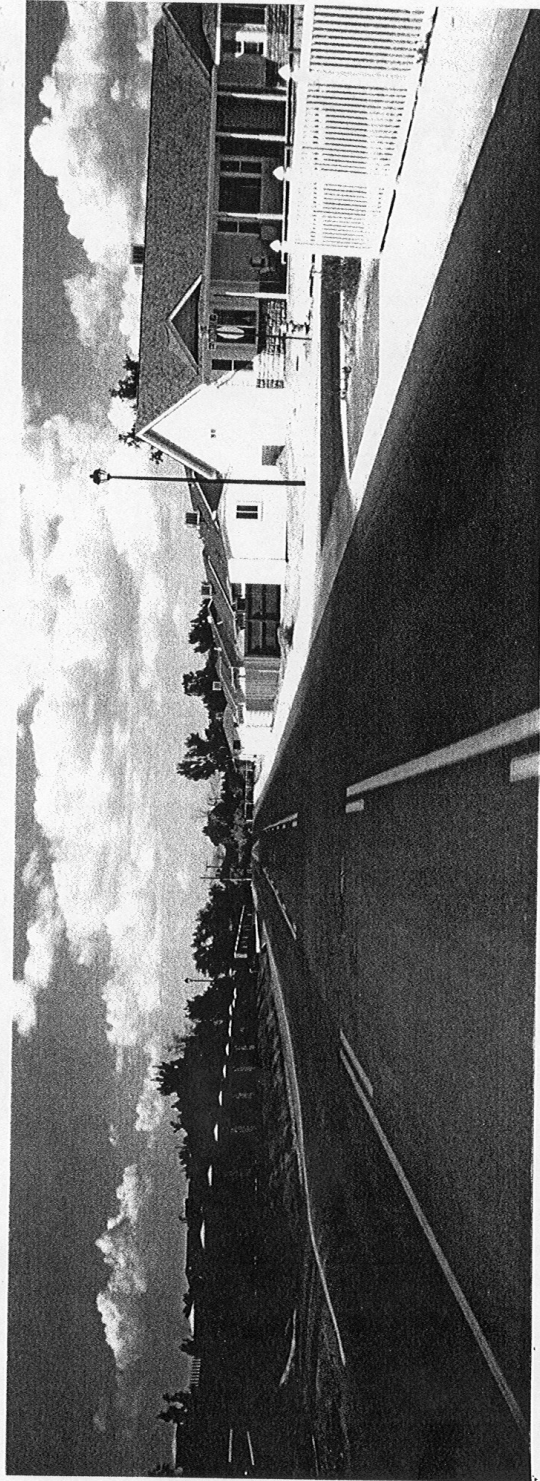
VALLEY MEADOWS ENTRANCE



VALLEY MEADOWS EAST ENTRANCE



MOONRIDGE FALLS ENTRANCE



MOONRISE EAST ENTRANCE

Exhibit C

City Council Presentation by John Chapman

May 1, 2002

PRESENTATION TO GRAND JUNCTION CITY COUNCIL
REGARDING VALLEY MEADOWS NORTH SUBDIVISION
By JOHN CHAPMAN
Presented Orally May 1, 2002

The Preliminary Drainage Plan for Valley Meadows North as was presented to the Planning Commission on March 12, 2002 contained a number of errors and omissions. These errors and omissions are not of the kind that are "worked out" with the City Staff. They are errors of fact and omissions of critical importance. They lead to unintended consequences.

Consider the following:

1. This plan destroys the backbone of the existing drainage system of the adjoining Valley Meadows East Subdivision.
2. This plan is contrary to basic drainage law.
3. Discharge of collected storm water to the gutter on 25 1/2 Road would result in water flowing into Valley Meadows East by way of 25 1/2 Road and Westwood Drive.
4. The existing storm sewer system in Valley Meadows East is not capable of handling the inflow of storm water from other areas as proposed.

Now, let me explain. The regional drainage is to the southwest. Across most of the southern boundary of Valley Meadows North (which is the north boundary of Valley Meadows East), there is a berm which varies in height from 1foot to 4feet and is about 700 feet long. The west end of this berm was damaged during the recent canal failure and needs to be repaired.

This berm was originally built to carry an irrigation ditch (now pipe) to deliver water to farm land on the west side of 25 1/2 Road. It has been there at least 50 years that I know of, and probably has been there since the mid -1880's, when irrigation came to Grand Junction. This berm also acts as a detention dam. Irrigation tail water and storm water from the east flow onto the

Valley Meadows North property near its southeast corner. The berm prevents this water from entering Valley Meadows East. Instead this water spreads along the Valley Meadows North side of the berm. Evidence of this is seen today where flood water and tail water have enriched the plant growth on the north side of the berm.

If the berm had not been there, the drainage plan for Valley Meadows East would have been quite different. It is strange that the developers' drainage plan never mentions the existence of this berm.

Now the developer plans to breach the berm at the extension of Kapota Street and use it to drain water on to Valley Meadows East. This alteration of the historic drainage pattern to cause water to drain onto the property of others in a different manner and greater quantity than before is contrary to basic drainage law. But the developer testified at the Planning Commission that:

"The developer only has an obligation to deal with water which falls onto their property, and not from other sources." The fact is, without change in the developer's plan, the berm removal **will** cause inflow and flooding in VME. Again, the fact is that the developer may not legally alter the drainage such that floodwaters may damage others.

The developer also states that "we are not required to provide for excessive gully washers". Excessive gully washer is not defined in the developer's testimony, but elsewhere he proclaims that he is designing for a 100 year flood. How can he design for a 100 year flood and not be responsible for an undefined gully washer?

Now let us go to the planning at the southwest corner of the proposed new development. Here the developer plans to accumulate storm water in a detention pond which will empty into a 12 inch buried sewer line which is increased to 15 inches on its way to the Grand Valley Canal, where it discharges about 4 feet below the water level. This sewer line carries irrigation tailwater, gutter drain, and Moonrise Subdivision detention discharge. No one can predict whether or not there will be capacity to also take care of pond discharge from the proposed new development.

The developer's stated solution is to discharge water into the gutter on 25 1/2 Road using up to one half of the street. This water would then flow south on 25 1/2 Road to the corner of Westwood Drive. There the flow would split - part going to the Canal and part would go down Westwood Drive to the Valley Meadows East already overloaded storm sewers. The storm sewer system in place in Valley Meadows East is not capable of handling this anticipated inflow from 25 1/2 Road and Kapota Street.

The Preliminary Drainage report furnished by the developer ignores the existence of the berm across its southern boundary, and ignores its importance to neighbors to the east and south.

This report also contains incorrect statements such as:

Page 4 - "There are no changes to the historical drainage patterns planned for this project." This is not true. They always planned on breaching the berm and diverting water on to Valley Meadows East.

Page 6 - "An existing ditch seems to convey both irrigation water and storm water to the south." This is only partly true - there are two irrigation tailwater ditches which deliver water to a point near the southeast corner of the project property where they join. Some water then flows into the irrigation headwater pipe and the rest flows on to the project property along the north side of the berm as is indicated by rich plant growth in this area. Storm water also follows the same course.

In a letter to the City Council, dated April 5, 2002, Mr. Krohn, representing the Just Company, indicates that we in Valley Meadows East should rely on the legal process to remedy injury by drainage from Valley Meadows North. Litigation after injury has occurred is NO substitute for proper engineering beginning at the preliminary stage.

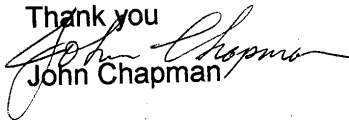
At this point, the preliminary engineering should be considered very unsatisfactory.

In summary, I urge you to reject this plan as presented to the Planning Commission on March 12, 2002 because of:

1. The destruction of the existing drainage plan of Valley Meadows East by extra storm water entering the subdivision by way of 25 1/2 Road and Kapota Street.
2. The probable legal involvement caused by the dumping of diverted water on to the property of others in contradiction of basic water law.
3. The probable flooding ~~again~~ of homes on the south side of Westwood Drive.
4. And because the Valley Meadows North Preliminary Drainage Report on which judgments will be based is faulty to an extreme and should be considered unacceptable.
5. In the interest of good planning, the City Council should first determine that the problems outlined above can be solved economically before consideration is given to zoning and specific density. Additional space may be required to accommodate additional detention or retention ponds, and other drainage structures such as piping, drainage ditches, etc.

Are there any questions?

Thank you


John Chapman