

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

March 26, 2003

The City Council of the City of Grand Junction convened into special session on the 26th day of March 2003, and President Pro Tem Dennis Kirtland called the meeting to order at 6:37 p.m. in the City Auditorium. Those present were Councilmembers Harry Butler, Bill McCurry, Dennis Kirtland, Jim Spehar and Janet Terry. Those absent were President of the Council Cindy Enos-Martinez, Councilmember Reford Theobald and City Manager Kelly Arnold. Also present were City Attorney Dan Wilson and City Clerk Stephanie Tuin.

UPDATE TO THE GRAND JUNCTION GROWTH PLAN [File #GPA-2003-018]

A request to adopt amendments to the Future Land Use Map and Goals, Policies and Action Items of the 1996 Grand Junction Growth Plan. Two meetings are scheduled for discussion of the update, the second one being April 9th at 6:00 p.m.

Proposed changes to the following maps were discussed at this special meeting:

1. Future Land Use Map – “Housekeeping”
2. Future Land Use Map Changes – Discussion Items
3. Future Land Use Map Changes – Pear Park Area

Mayor Pro Tem Kirtland explained to the audience that Council would only discuss the items located within the City and excluding properties located outside the City boundaries. Planning Manager Kathy Portner concurred. She noted that there over 60 Housekeeping Items, eight Discussion Items, and only one item for discussion in the Pear Park Area that the Council needs to consider.

1. Changes to the Future Land Use Map – “Housekeeping Items”

Kathy Portner, Planning Manager, explained that only the items appearing in bold on the revised handouts would be discussed. She then gave an overview of the Housekeeping Items of the proposed changes to the Future Land Use Map.

Mayor Pro Tem Kirtland asked if anyone from the audience wanted to comment on any of the items listed on the Housekeeping List.

Tom Volkmann, representing the W.D. Merkel Family Limited Partnership, asked Council about Item #22 on the Housekeeping Map and stated that it also refers to Item #18 on the Future Land Use Map, Discussion Items. Council requested he wait and comment on these map items when the Discussion Items were discussed.

Phillip Roskowski, 630 Sage Court, said he favors approval of Housekeeping Map Item #22 and agreed that it also relates to Item #18 on the Discussion List. He said a number of people are present to comment on these items. Ms. Portner recommended that this item be moved to the Future Land Use Map, Discussion Items.

Councilmember Spehar moved to accept all items in bold on the Housekeeping List that are located within the City limits, except for Item #22, and move Item #22 to the Discussion List and include it with Item #18. Councilmember McCurry seconded the motion. The motion passed by a vote of 5 - 0.

2. Changes to the Future Land Use Map – Discussion Items

Kathy Portner, Planning Manager, briefly described each discussion item.

ITEM # 13: Ms. Portner said the property falls within the Airport Critical Zone and uses within this area are limited to agriculture, mining, low-density residential and other low density uses. She said due to the potential danger from possible aircraft crashes, and with the limited use of the properties in the area, the Residential Rural designation is the most appropriate land use category for this property.

There were no public comments.

Councilmember Spehar moved to adopt Item #13. Councilmember McCurry seconded the motion. The motion passed by a vote of 5 - 0.

ITEM # 15: Ms. Portner explained that a mobile home park is located on this property and the current zoning is C-1, Light Commercial. She said approval of this item would make the Future Land Use Map consistent with the Zoning Map.

There were no public comments.

Councilmember Terry moved to adopt Item #15. Councilmember McCurry seconded the motion. The motion passed by a vote of 5 - 0.

ITEM # 16: Ms. Portner identified the property located between 28 Road and 28 $\frac{1}{4}$ Road on the map and said the developer requests a change from Residential Medium with four to eight units per acre to Residential Medium High with eight to twelve units per acre. She said the higher density residential area will provide a good buffer zone between the commercially designated properties to the west and the residential medium properties to the east.

There were no public comments.

Councilmember Terry moved to adopt Item #16. Councilmember Spehar seconded the motion. The motion passed by a vote of 5 - 0.

ITEM # 17: Ms. Portner pointed out the properties on the map located at 12th Street and Horizon Drive. She explained the proposed zone change of one property from Residential High with more than twelve units per acre to Residential Medium with four to eight units per acre, and the owner's request to change the designation from Residential High with more than twelve units per acre to a Mixed Use designation. She said the properties are known as the O'Nan Subdivision, that this property is adjacent to Residential Medium properties to the southeast and that a Residential Medium designation on these properties would finish out the neighborhood.

Tom Volkmann, representing the W.D. Merkel Family Limited Partnership, asked to keep the current density of Residential High with more than twelve units per acre as opposed to the recommendation for Residential Medium with four to eight units per acre. He argued that the City is not meeting its own Growth Plan Amendment criteria for the change being proposed.

Leslie Shafer, 2707 Midway Avenue, said when she attended the meeting in 2000, it was then decided that this was a housekeeping error, and the zoning designation would stay at four to eight units per acre. She said that this subdivision is compatible with the surrounding area. She said former Mayor Linda Afman told her that the property was platted for 20 homes and that the advent of the Safeway store across Horizon Drive has not altered the area. She then read a section from her subdivision's covenants that allows owners to file a lawsuit against anyone if there are any changes to the zoning designation. Ms. Shafer said there was no reason to increase the density.

Mayor Pro Tem Kirtland asked about her use of the word platted and what she meant by it. Ms. Shafer said the development was zoned in 1958 and she held up a copy of the original plat to show it to Council.

Joyce Davis, 2703 Midway Avenue, said the neighbors told her that the area would be single-family homes. She said she and her family lived in their house for 18 months before they bought the house nine months ago. She said she does not want any high-rises or any other commercial development and she wants the area to stay residential.

Karen Steinbock-Fuerst, 2705 Midway Avenue, said she totally agrees with her neighbors and said before purchasing their home their realtor verified the residential zoning and she was told at that time about the commercial zoning designation across the street. She said they would have never bought their home if the neighborhood would not remain as single-family residential.

Brad Schafer, 2707 Midway Avenue, said he wanted to reiterate all the previous comments and said a lot of people present tonight agree with the zoning of Residential Medium with four to eight units per acre. He turned towards the audience and asked the group to stand up. About twelve people stood up.

J. D. Walker, 662 East Cliff Drive, referred to a letter (see attached *Exhibit "A"*) he mailed to Council and the City Attorney regarding the rezoning request from Residential Medium to Mixed Use. He said he received a call yesterday informing him that the owner would be withdrawing this request.

Larry Beckner, attorney for the landowner, said he called Mr. Walker and told him that his client would not ask for a Mixed Use zoning designation, but at the same time, his client doesn't want the density designation reduced.

Martha May "O'Nan" Ogleberg said she also remembers that meeting in 2000. She said it then was decided that this higher density zoning designation was due to an error made earlier and it was decided to return the zoning designation to the original single-family zoning.

Councilmember Terry asked Ms. Portner to explain the error. Ms. Portner said she didn't have an explanation for the original map designation of Residential High. She said it was flagged when the Zoning Map discussion came up because the Growth Plan designation did not match the platted neighborhood or the previous zoning. Ms. Portner said the Land Use Map changes are just now coming up.

City Attorney Dan Wilson displayed the Growth Plan amendment criteria. He said it has been the practice that the criteria can be considered, but not all criteria have to be met.

Tom Volkmann said he agrees but that his client is still bound by the existing zoning. He cautioned that just because the Growth Plan Map doesn't match the Land Use Map it doesn't make the zoning designation wrong.

Councilmember Terry advised that it has been Council's practice to change the Land Use Map to match the Zoning Map. She said the owner could request a rezoning through the regular re-zoning process. She said she saw no option but to change the map tonight.

Councilmember Spehar concurred and said he supported the recommendation to change the designation to Residential Medium with four to eight units per acre from Residential High with more than twelve units per acre.

Mayor Pro Tem Kirtland asked about the disparity and the procedure Council would have to follow to address an application.

City Attorney Dan Wilson replied that that would be the argument for a rezone and is based on the Growth Plan designation.

Councilmember Spehar moved to adopt the request of Item #17 to change the designation from Residential High with more than twelve units per acre to Residential Medium with four to eight units per acre. Councilmember Terry seconded the motion. The motion passed by a vote of 5 - 0.

ITEM #18 [COMIBNED WITH ITEM #22 FROM THE HOUSKEEPING LIST]:

Ms. Portner reviewed these two items. She explained that the property is north of the canal located between 1st and 7th Street in the Sage Court area. She said the purpose for changing the density is to make the Land Use Map consistent with the Zoning Map. She said the canal was the boundary between the higher and lower densities.

Tom Volkmann representing the W.D. Merkel Family Limited Partnership said his client would like to retain the current density designation of the property to preserve the viability of the purpose of his purchase. He said the owner is asking Council that the Residential Medium designation with four to eight units per acre be retained rather than to zone the property Residential Low with two units per acre.

Carol Bergman, 628 Sage Court, asked Council to approve the Residential Low designation with two units per acre. She said she felt that the current designation is in error. She asked that Council support Staff's recommendations for Item #18 and Item #22. She referred to criteria #4 of the Growth Plan and stated that there is no high density in the area. She said criteria #3 has not been met either, since no character change has occurred in the area.

Harry K. Webster, also known as Kenneth, at 629 Sage Court, agreed with Ms. Bergman and reiterated that the residents of that area wanted to retain the two units per acre designation.

Phillip Roskowski also agreed with Ms. Bergman and said he fully supports Staff's recommendation.

Thea Chase Gilman, 627 Sage Court, said she wants to reiterate what her neighbors have said.

Tom Volkmann addressed Council and said he wanted to clarify that his client was neither involved in the setting of the Growth Plan designation nor was he involved in the Zoning hearings.

Councilmember Terry moved to approve and accept Item #22 from the Housekeeping List and Item #18 from the Discussion List. Councilmember McCurry seconded the motion. The motion passed by a vote of 5 – 0.

ITEM # 19: Tom Volkmann representing the W.D. Merkel Family Limited Partnership stated that he is withdrawing this item per his client's request.

ITEM # 20: Ms. Portner reviewed this item. She identified the property's location as the southwest corner of Patterson Road and 1st Street. She said the Planning Commission recommends approval of a split use designation with a 300-foot depth along Patterson Road to be zoned for Commercial and to designate the remainder of the property as Residential Medium High with eight to twelve units per acre.

Pat Gormley, 2433 North 1st Street, said his family owns the property and has had lengthy discussions with the Planning staff. He said he is satisfied with their recommendation and requests Council's approval.

Councilmember Spehar asked Mr. Gormley if other designations like Residential Office or Planned Unit Development would also be acceptable. Mr. Gormley replied that those options are open for consideration. He told Council that this intersection handles 30,000 cars daily and the noise level on Patterson Road is not conducive to living there. He said there are more appropriate uses along Patterson Road.

Councilmember Spehar said he trusts the Gormleys to develop the property so it is compatible with the neighborhood, but that he would be more comfortable if other options were applied. Mr. Gormley disagreed with Councilmember Spehar and said that residential development facing Patterson Road would not be appealing to the majority of people but some of the mentioned zones are possibilities.

Mayor Pro Tem Kirtland noted that once Council designates the parcel as Commercial then there would be a process requesting a rezone for a more appropriate use later on. Ms. Portner agreed and noted there is a range of commercial options available.

Councilmember Spehar said he was satisfied that the rezone process will address his concerns.

Councilmember Spehar moved to adopt Item #20 with a split land use designation for this parcel. Councilmember Butler seconded the motion. The motion passed by a vote of 5 – 0.

ITEM # 21: Ms. Portner reviewed this item and identified the property's location on Crossroads Boulevard and the Interstate. She said that this request is a two-part proposal. She said the appropriate zone designation for this property is Residential

Single Family with two units per acre and the approval of the proposed change would make the Future Land Use Map consistent with the Zoning Map.

Ms. Portner explained that in the second proposal the owner requests a change from Commercial to Residential High with more than twelve units per acre. She said the Planning Commission recommended to the owner a designation of Residential Medium with four to eight units per acre, which would be the same designation as the adjacent property to the west. She said the owner concurred with Staff's recommendation.

Tom Volkmann representing the W. D. Merkel Family Limited Partnership reiterated that it is his client's desire to have this property designated Residential Medium with four to eight units per acre.

Councilmember Spehar moved to approve Item #21 as presented. Councilmember McCurry seconded the motion. The motion passed by a vote of 5 – 0.

ITEM # 26: Ms. Portner reviewed this item and identified the property's location on Highway 6 & 50 and 23 Road on the map. She said the property was originally platted as a subdivision. She explained that the owner requests a change from Industrial to Commercial so they can submit a rezoning request.

Kirk Rider, 872 Quail Run Drive, an attorney with Younge & Hockensmith, representing the property owner Prime Investments, Ltd., referred to a letter he sent to the Growth Plan Update Steering Committee addressing this item. He told Council that there are good reasons to adopt the Planning Commission's recommendation and that the surrounding property owners have no objections to the rezone request. He said currently there is no need for more industrial property, and that even the better industrial properties in town, located near the railroad and other transport facilities, aren't selling. He reiterated the need for commercially zoned properties.

Tom Nowak, partner of Mike Farris, an operator with Chrysler Jeep Dodge said they would like to buy the property and build a dealership on that property similar to their current facility.

Mr. Rider explained that the dealership is too big to fit on the little parcel and this is why they want to purchase this property.

Councilmember Terry asked if the current zoning of Industrial as shown on the Zoning Map is the same zoning as the designation on the Land Use Map. Ms. Portner said the surrounding areas are designated as C-1, Light Commercial. She said both designations C-2, Commercial –2, or I-1, Light Industrial could be adopted for the site, and to operate an auto dealership either designation would work.

Mr. Wilson asked Council that the item be tabled to give the parties a chance to discuss their request further.

Mr. Rider asked and received clarification on this item. He said he didn't think the C-1, Light Commercial zoning would be unreasonable.

Councilmember Spehar clarified that lighter commercial uses would not be allowed. Ms. Portner stated that actually almost all C-1, Light Commercial uses are allowed in a C-2, Commercial-2 zoning.

It was agreed upon that this new information would make a new recommendation come forward.

Councilmember Terry said she wanted the audience to know that this is only a discussion and not a negotiation between the parties.

Councilmember Spehar moved to adopt Item #26 of the Discussion Items and change the Land Use designation from Industrial to Industrial/Commercial. Councilmember McCurry seconded the motion. The motion passed by a vote of 5 – 0.

3. Changes to the Future Land Use Map – Pear Park Area

ITEM # 5: Ms. Portner explained this request. She identified the property's location and the surrounding parcels on the Land Use Map. She said the property is owned by the Railroad and the existing Land Use Map Designation is Residential Medium Low with two to four units per acre. She said the property is currently zoned in the County as Industrial and it is utilized for commercial/industrial use. She said the property is adjacent to properties zoned from Light Commercial to Industrial.

Councilmember Terry moved to adopt the proposed Land Use Designation to Commercial/ Industrial. Councilmember McCurry seconded the motion. The motion passed by a vote of 5 – 0.

NON-SCHEDULED CITIZENS & VISITORS

There were none.

OTHER BUSINESS

There was none.

ADJOURNMENT

City Council President Pro Tem Kirtland called for the meeting to be adjourned. The meeting was adjourned at 8:15 p.m.

Stephanie Tuin, CMC
City Clerk

*Discretion
#17*

"Exhibit A"

March 20, 2003

**To: Members of Grand Junction City Council
And Attorney for City Council**

**Re: Public Hearing Grand Junction Growth
Plan updated scheduled March 26, 2003
At 6:30 P. M. at City Auditorium**

We the undersigned Resident/Owners of lots in the Onan Subdivision understand that at above scheduled meeting there will be a request of a non-resident owner of lots now vacant of buildings or structures to change a provision of the Building and Use Restrictions (#1 Provision) from one single family dwelling to multi-family and or commercial buildings per lot.

We therefore now want to notify anyone and everyone involved with this above request that we are opposed and against any such change to this #1 Provision.

We also want to call attention to Provisions # 7 and # 9 which state that these covenants and conditions shall run with the land and shall be binding upon all parties and all persons claiming under them and also that if any parties hereto or their heirs and assignees shall violate or attempt to violate any of the covenants herein or provisions hereof it shall be lawful for any other person or persons owning real property situated in said development or subdivision to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any such covenants or provisions and either to prevent him or them from so doing or to recover damages or other dues for such violation.

We have made contact with a local attorney and if Provision # 9 is violated we will proceed with legal action. A copy of Building and Use Restrictions dated June 9, 1958 Filed June 10, 1958 # 720897 Book 734 Page 220 at Mesa County Clerk and Recorder office.

Signatures of Resident/owners of
ONAN Subdivision

Mr. + Mrs. James D. Walters
662 East Cliff Dr., G.J. 81506
242-3108

Mr. + Mrs. Brian M. Bohl
661 E. Cliff Dr.
Grand Junction, CO 81506
243-9016

Mr. + Mrs. Ken & Teelma
663 E. Cliff Dr
Grand Jct. CO 81506

Mr. + Mrs. Frank Cooper
257-0376
671 CLIFF GRAND JCT.

Thomas H. Hymel
673 E. Cliff Dr Grand Jct Co

Conrad & Jacqueline Pyle
674 East cliff, Grand Jct, CO 81506
242-2422

June E. Tallent
667 East cliff Dr
Grand Jct. Co
242-0260

Mr. + Mrs. Jim Robb
665 E. Cliff Dr
G.J. CO 81506 242-4615

Mr. + Mrs. Bob Walters
666 Eastcliff Dr.
G.J., CO 81506
243-8558

Signatures of Resident Owners of
ONAN Subdivision

Mr. & Mrs. Edgar W. Joy
664 Eastcliff Dr.

Grand Junction, Co. 81506
Phone 970 245 4750

Rodney H Wright
668 EASTCLIFF DR.

GRAND JUNCT. CO. 81506
243-1934

Mr + Mrs. Tom +
Maggie Dennis
669 East Cliff Dr.
Grand Junction Co
81506

243-4227

Sarat and Graham
Stephenson
2711 Midway Ave
Gr. Jct. Co 81506
242-5236

• Selma and Andrew Wilhelm
652 Eastcliff Dr.
Grand Jct., Co. 81506
241-1506

Rex Barbre
654 E. CLIFF DR.
241-5122

• Charles and Sue Bray
656 Eastcliff Drive
256-0533

• Mike & Libby McCain
2716 ~~Par~~ ~~Cam~~ Midway
241-7497

• Christina Cornelison-Travis
2715 MIDWAY AVE
GRAND JCT. CO 81506
255-7638

• Tom E. Darden
2712 Midway Ave
Grand Junction, Co. 81506
245-6744

• Signatures of Resident/owners of
ONAN Subdivision

- Karen Steinbeck-Jeunt - 2705 Midway Ave
243-3613



2705 Midway Ave
243-3613

- Joyce Davis

2703 Midway Ave
255-9701

- Edward W. Andrews
Dannell J. Andrews
Renee & Janice Rees

656 Deerview Ln
Grand Jet CO
243-4335 81506

2714 Fh Rd.
Grand Jet, CO
81506
247-7451

- Linda Whitt
Kevin Whitt

653 Eastcliff Dr
Grand Jet, CO
245-3885 81506

BUILDING AND USE
RESTRICTIONS
Dated June 9, 1958
Filed June 10, 1958
At 2:55 o'clock P.M.

#720897
Book 734
Page 220

We, the undersigned, all of the owners of the following described property situate in Mesa County, Colorado, to-wit: Beginning at the W $\frac{1}{4}$ corner of Sec. 1, Twp. 1S, R. 1W, U.M., thence N 1,318.1 feet, thence N 89°49' E 1,107 feet; thence S 1,318.9 feet; thence S 89°49' W 1,107 feet to the point of beginning (Said property being formerly Onan Subdivision as it appears in Plat Book 8 at pages 62 and 63 in the records of the County Clerk and Recorder of Mesa County, Colorado, a part of such plat and subdivision having been vacated by Instrument Number 689106, recorded in Book 704 at page 277 of said Clerk and Recorder's records) Being desirous of amending and altering those Building and Use Restrictions placed on said property by Instrument Number 661876, recorded in Book 677 at page 500 in the records of the Mesa County, Colorado, Clerk and Recorder, to provide for the orderly development of the area, do hereby revoke and cancel the Building and Use Restrictions imposed by the above-described Instrument and do impose Building and Use Restrictions on the described property as follows:

1. The property in said blocks shall be known and described as residential lots. No structures shall be erected, altered, placed or permitted to remain on any residential building plot other than one single family dwelling, and a private garage for not more than two cars, and other buildings incidental to residential use of the plot.
 2. No building shall be located on any residential lot nearer than 25 feet to the front lot line nor nearer than 15 feet to any side street line. No building except a detached garage or other outbuilding shall be located more than 75 feet or more from the front lot line. No building shall be located nearer than 10 feet to any side lot line.
 3. No noxious or offensive trade or activity shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.
 4. No animals except domesticated house hold pets such as dogs, cats, etc, shall be maintained, kept or permitted to remain upon the premises.
 5. No trailer, basement, tent, shack, garage, barn or other outbuilding erected on any lot shall at any time be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence.
 6. The ground floor area of the main structure, exclusive of one-story open porches and garages, shall not be less than 950 square feet.
 7. The restrictive covenants and conditions contained herein shall be covenants running with the land and shall be binding upon all parties and all persons claiming under them.
 8. The restrictive covenants and conditions herein established shall apply to that portion of the Onan Subdivision still existing and to any future subdividing done within the area described hereinabove.
 9. If the parties hereto, or any of them, or their heirs and assigns shall violate or attempt to violate any of the covenants herein or provisions hereof it shall be lawful for any other person or persons owning real property situated in said development or subdivision to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any such covenants or provisions and either to prevent him or them from so doing or to recover damages or other dues for such violation.
 10. Invalidation of any one of these covenants or provisions by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect. /s/ L.S. Onan, Lucy N. Onan, Gail T. Hutchinson, Elfreda M. Hutchinson, C.E. Livran, Howard Stewart.
- Ack. June 9, 1958 by L.S. Onan, Lucy N. Onan, Gail T. Hutchinson, Elfreda M. Hutchinson, C.E. Livran and Howard Stewart before Gerald J. Ashby, Notary Public, Mesa County, Colorado.
(N.P. Seal)

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Commission expires July 26, 1959.

THE TITLE GUARANTY COMPANY

