

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

January 21, 2004

The City Council of the City of Grand Junction convened into regular session on the 21st day of January 2004, at 7:30 p.m. in the City Auditorium. Those present were Councilmembers Harry Butler, Cindy Enos-Martinez, Bruce Hill, Dennis Kirtland, Bill McCurry, Gregg Palmer, and President of the Council Jim Spehar. Also present were City Manager Kelly Arnold, Acting City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Jim Spehar called the meeting to order. Councilmember Palmer led in the pledge of allegiance. The audience remained standing for the invocation by Pastor Jerry Boschen, First Assembly of God Church.

PRESENTATION OF CERTIFICATES OF APPOINTMENT

TO VISITORS & CONVENTION BUREAU BOARD OF DIRECTORS

Kevin Reimer was present and received his certificate.

TO HISTORICAL PRESERVATION BOARD

Bill Jones, David Sundal, and Zebulon Miracle were present and received their certificates.

SCHEDULED CITIZEN COMMENTS

There were none.

CONSENT CALENDAR

Councilmember Hill requested that because further clarifications are needed on the proposed amendments to the SSID Manual, Item No. 11 of the Consent Calendar be removed. He requested the review be postponed and rescheduled in about 45 to 60 days, and that the review of the document be made available to the public in electronic format.

It was moved by Councilmember Palmer, seconded by Councilmember Enos-Martinez, and carried by a roll call vote, to approve Consent Calendar Items #1 through #14, with the exception of Item #11.

1. Minutes of Previous Meetings

Action: Approve the Summary of the January 5, 2004 Noon Workshop, the January 5, 2004 Workshop, and the Minutes of the January 7, 2004 Regular Meeting

2. Annual Hazardous Materials Agreement with Mesa County

The Fire Department is requesting renewal of the City of Grand Junction/Mesa County Intergovernmental agreement for the Grand Junction Fire Department to provide Superfund Amendment Reauthorization Act (SARA) and Designated Emergency Response Authority (DERA) services to Mesa County outside the City of Grand Junction. The DERA services are for response to accidents involving the release of hazardous materials. The SARA program involves collection of information regarding storage, handling, and manufacturing of hazardous materials.

Action: Authorize the City Manager to Sign the Annual SARA/DERA Agreement

3. Arts Sculptures for Canyon View Park and Westlake Skate Park

The Commission on Arts and Culture recommends that the City Council approve the commission of two sculptures through the 1% for the Arts Program: "Love Song" by Denny Haskew for Canyon View Park and "Wave Parade" by Joe McGrane for Westlake Park.

Action: Authorize the City Manager, City Attorney, and the Commission on Arts and Culture to Negotiate Contracts with the Two Selected Artists to Create and Install Sculptures for Canyon View Park and Westlake Park

4. Setting a Hearing to Create Alley Improvement District No. ST-2004, Phase B

A resolution setting a hearing creating Alley Improvement District ST-04 excluded the East/West Alley running from 8th to Cannell Avenue between Mesa Avenue and Hall Avenue due to concerns expressed by representatives of the Seventh Day Adventist Church as to their special assessment.

Resolution No. 07-04 – A Resolution Declaring the Intention of the City Council of the City of Grand Junction, Colorado, to Create Within Said City Alley Improvement District No. ST-04, Phase B and Authorizing the City Engineer to Prepare Details and Specifications for the Same

Action: Adopt Resolution No. 07-04 and Set a Hearing for March 3, 2004

5. Setting a Hearing for Alley Improvement District No. ST-03 Assessments

Improvements to the following alleys have been completed as petitioned by a majority of the property owners to be assessed:

- “T” Shaped Alley from 2nd to 3rd, between E. Sherwood Avenue and North Avenue
- “Cross” Shaped Alley from 6th to 7th, between Rood Avenue and White Avenue
- East/West Alley from 11th to 12th, between Rood Avenue and White Avenue
- East/West Alley from 13th to 14th, between Main Street and Colorado Avenue
- East/West Alley from 13th to 14th, between Chipeta Avenue and Ouray Avenue
- East/West Alley from 13th to 14th, between Hall Avenue and Orchard Avenue

Proposed Ordinance Approving the Assessable Cost of the Improvements Made In and for Alley Improvement District No. ST-03 in the City of Grand Junction, Colorado, Pursuant to Ordinance No. 178, Adopted and Approved the 11th Day of June, 1910, as Amended; Approving the Apportionment of Said Cost to Each Lot or Tract of Land or Other Real Estate in Said District; Assessing the Share of Said Cost Against Each Lot or Tract of Land or Other Real Estate in Said District; Approving the Apportionment of Said Cost and Prescribing the Manner for the Collection and Payment of Said Assessment

Action: Introduction of Proposed Ordinance and Set a Hearing for February 4, 2004

6. 545 Noland Avenue Lease Extension

A resolution authorizing a one-year extension of the lease of City property at 545 Noland Avenue to Donald Fugate Jr., doing business as Don’s Automotive.

Resolution No. 08-04 – A Resolution Extending the Lease of City Property at 545 Noland Avenue to Donald Fugate, Jr., Doing Business as Don’s Automotive

Action: Adopt Resolution No. 08-04

7. Application for USEPA Grant

The City of Grand Junction is applying for an \$80,000 grant from the USEPA to be contracted to a qualified sub recipient. The grant proposal will provide a detailed characterization of the sources and loads of selenium in Persigo Wash, Adobe Creek and Lewis Wash. Selenium characterization of washes will aid selenium remediation planning and increase understanding to land use planners about the effect of land use on selenium concentrations and loadings in the

Grand Valley. Results of this study will also supplement City water quality study efforts for the Persigo Wash Temporary Modification work plan.

Action: Authorize the Application for a USEPA Grant

8. Setting a Hearing on Zoning the Grand Bud Annexation Located at the NW Corner of 28 ½ Road and Highway 50 [File #GPA-2003-184]

Introduction of a proposed ordinance zoning the Grand Bud Annexation, located at the NW corner of 28 ½ Road and Highway 50, RMF-8 (Residential Multi-family, 8 units per acre).

Proposed Ordinance Zoning the Grand Bud Annexation to RMF-8 Located at the NW Corner of 28 ½ Road and Highway 50

Action: Introduction of Proposed Ordinance and Set a Hearing for February 4, 2004

9. Historic Structure Survey Phase III Consultant Selection

The City was awarded a grant from the Colorado Historical Society State Historical Fund (SHF) to complete Phase III of a Historic Structures Survey. A competitive bid process was conducted and staff recommends awarding the project to Reid Architects, Inc. The total budget for the survey is \$100,000, \$60,000 from the SHF and \$40,000 match from the City.

Action: Authorize the City Manager to Sign a Contract with Reid Architects, Inc. to complete the Phase III Historic Structure Survey in the Amount of \$100,000.00

10. Setting a Hearing on Zoning the Bogart Annexation Located at 563 22 ½ Road [File #ANX-2003-254]

Introduction of a proposed ordinance zoning the Bogart Annexation consisting of 1.409 acres of land, located at 563 22 ½ Road.

Proposed Ordinance Zoning the Bogart Annexation to RSF-2 located at 563 22 ½ Road

Action: Introduction of Proposed Ordinance and Set a Hearing for February 4, 2004

11. **Setting a Hearing for Text Amendments to the SSID Manual (Submittal Standards for Improvements and Development)** [File #TAC-2003-01.04]

THIS ITEM WAS PULLED TO BE REINTRODUCED AT A LATER DATE

Introduction of a Proposed Ordinance to adopt the recent changes to the SSID Manual (Submittal Standards for Improvements and Development) as referenced in the Zoning and Development Code, Ordinance No. 3390, effective January 20, 2002.

12. **Setting a Hearing for Zoning the Tomkins Annexation Located at 2835 and 2837 D Road** [File #ANX-2003-235]

Introduction of a proposed ordinance zoning the Tomkins Annexation RMF-8, located at 2835 and 2837 D Road.

Proposed Ordinance Zoning the Tomkins Annexation to RMF-8 Located at 2835 and 2837 D Road

Action: Introduction of Proposed Ordinance and Set a Hearing for February 4, 2004

13. **Setting a Hearing to Rezone the Tom Foster Property Located at 515 and 517 Kansas Avenue, from PD to RSF-4** [File #RZ-2003-231]

Introduction of a proposed ordinance to rezone the Tom Foster property, located at 515 and 517 Kansas Avenue, from Planned Development (PD) to RSF-4, Residential Single Family-4.

Proposed Ordinance Rezoning the Tom Foster property, located at 515 and 517 Kansas Avenue, from Planned Development (PD) to Residential Single Family-4 (RSF-4)

Action: Introduction of Proposed Ordinance and Set a Hearing for February 4, 2004

14. **Setting a Hearing to Vacate a 10' Strip of Right-of-Way, Located Along the Eastern 10' of Lot 16, Bookcliff Heights Subdivision for St. Mary's Hospital** [File #VR-2002-121]

Introduction of a proposed ordinance to vacate a 10' strip of right-of-way located along the eastern 10' of Lot 16, Bookcliff Heights Subdivision.

Proposed Ordinance Vacating a 10' strip of Right-of-Way Located along the eastern 10' of Lot 16, Bookcliff Heights Subdivision

Action: Introduction of Proposed Ordinance and Set a Hearing for February 4, 2004

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

Engineering and Construction Contracts (Items a - d may be awarded under one motion)

a. Combined Sewer Elimination Project, Basins 7 & 11

This is the fourth of six contracts associated with the Combined Sewer Elimination Project (CSEP). It consists of the installation of 3600 feet of sanitary sewer and storm drainage pipes and the disconnection of various storm drain inlets from sanitary sewer lines and their reconnection to storm drainage lines. The low bid for this work was submitted on January 8, 2004, by Mendez, Inc. in the amount of \$495,522.00.

Public Works and Utilities Director Mark Relph reviewed this item. He identified the project, summarized the bids and addressed the budget for this project. He told Council all phases of the combined sewer elimination project would be complete by the end of the year; and the entire project is anticipated to be completed on time and to be \$388,000 under budget.

b. CSEP Waterline Replacements

This is the fifth of six contracts associated with the Combined Sewer Elimination Project (CSEP). It consists of the installation of 24,000 feet of water lines throughout the City. The low bid for this work was submitted on January 13, 2004, by MM Skyline Contracting, Inc. in the amount of \$1,777,408.60.

Public Works and Utilities Director Mark Relph reviewed this item and explained the area for the replacement is in the lower downtown area. Mr. Relph summarized the bids and referred Council to the diagram of the project. He told Council that the waterline CSEP project would also be completed on time and with a surplus.

c. 29 – E.6 Bridge Widening at the Grand Valley Canal

Award of a construction contract for the 29 - E.6 Bridge Widening to G.A. Western Construction Company in the amount of \$181,274.16.

Public Works and Utilities Director Mark Relph reviewed this item. He explained the project is part of the 29 Road Project widening a bridge over a canal. He said only one bid was received, which was slightly over the engineer's estimate. However, Staff is recommending awarding the contract to G.A. Western Construction Company. He told Council a balance of about \$125,000 would remain in this project's account.

Councilmember Hill asked about when the work on the bridge would be done. Mr. Relph said the timing was critical, since the canal would be filled with water in April and the project should be complete by then. He noted the final section of this phase of the 29 Road Corridor would be completed by October, but a lot of work still needs to be done on 29 Road.

d. Riverside Parkway Design

This proposed amendment to the existing engineering services contract with Carter & Burgess increases the scope of services to include the entire 1601 study area for Riverside Parkway at US-50. The scope of services also includes the preparation of preliminary plans for the entire Riverside Parkway project and right-of-way acquisition services for that portion of the project that is outside of the 1601 study area.

Public Works and Utilities Director Mark Relph reviewed this item. Mr. Relph stated that Carter & Burgess was hired to assist in the 1601 process and the connection at Highway 50. He explained this amendment was necessary because of an expansion in the scope of the engineering services.

Councilmember Hill asked about the staff on the project team, as he seemed to recall some of them had particular expertise with the 1601 process. Mr. Relph confirmed that, yes, there are several former CDOT employees on staff, and he clarified many of the subcontractors would be local contractors.

Councilmember Enos-Martinez noted that three of the four contracts being awarded were to local contractors.

Councilmember Kirtland moved to authorize the City Manager:

- a) To execute a construction contract for the Combined Sewer Elimination Project, Basins 7 & 11 with Mendez, Inc. in the amount of \$495,522.00;
- b) To execute a construction contract for the 2004 Waterline Replacements with MM Skyline Contracting, Inc. in the amount of \$1,777,408.60;

c) To execute a construction contract for the 29 - E.6 Bridge Widening at the Grand Valley Canal with G.A. Western Construction Company in the amount of \$181,274.16; and,

d) To amend the existing contract with Carter & Burgess for a total fee in the amount of \$4,001,612.00. Councilmember McCurry seconded the motion. Motion carried by a roll call vote.

Application for Federal Hazard Elimination Funding for 7th Street and Patterson Road Intersection

A Resolution authorizing the submission of the above grant application to assist in the funding of the construction of street improvements at the intersection of 7th Street and Patterson Road.

Public Works and Utilities Director Mark Relph reviewed this item. He told Council of other possible projects that would fit the application's criteria and said those might be brought back later. However, at this time Staff is proposing the City apply for the grant monies to be used for street improvements at the intersection of 7th Street and Patterson Road to construct a right-turn deceleration lane for east-bound traffic.

Resolution No. 09-04 – A Resolution Authorizing the Submission of a Grant Application to Assist in the Funding of the Construction of Intersection Improvements at North 7th Street and Patterson Road

Councilmember Enos-Martinez moved to adopt Resolution No. 09-04. Councilmember Hill seconded the motion. Motion carried by a roll call vote.

Public Hearing – Issuing Bonds for the Riverside Parkway

The City voters overwhelmingly approved the issuance of bonds up to \$80 million at the November 4, 2003 election. This debt is specifically approved for the construction of the Riverside Parkway from 24 Road to 29 Road, together with appropriate connections where needed and the completion of the 29 Road Corridor and new Interchange at 29 Road and I-70.

The public hearing was opened at 7:55 p.m.

Ron Lappi, Administrative Services and Finance Director, reviewed this item. He described the project and noted a couple minor changes to the ordinance, which included the purchase of bond insurance and thus the rating.

Councilmember Kirtland asked Mr. Lappi to explain why two bond issues are being done. Mr. Lappi replied that according to IRS rules, 85% of the bond funds must be used within six years, so for that reason two issues will be done.

Council President Spehar asked if the bonds would be available to purchase locally. Mr. Lappi said all the local bond retailers, including banks with trust departments, would be able to purchase the bonds.

There were no public comments.

The public hearing was closed at 8:00 p.m.

Ordinance No. 3595 – An Ordinance Authorizing the Issuance of City of Grand Junction, Colorado, General Fund Revenue Bonds, Series 2004, and Pledging Certain Revenues of the City for the Payment of the Bonds

Councilmember Butler moved to adopt Ordinance No. 3595 on Second Reading and ordered it published. Councilmember McCurry seconded the motion. Motion carried by a roll call vote.

Council President Spehar thanked Ron Lappi and City Manager Kelly Arnold for all their hard work on this effort. Councilmember Hill echoed those sentiments and praised the Finance Department for placing the City in its great financial position.

Public Hearing – CDBG Action Plan 2003 Amendment [File #CDGB-2003-01]

Amending the City's 2003 Action Plan for the Community Development Block Grant (CDBG) Program Year 2003 to utilize a portion of the funds earmarked for neighborhood program administration for a Historic Structure Assessment of the Riverside School and roof repairs for the Riverside School.

The public hearing was opened at 8:02 p.m.

Kristen Ashbeck, Senior Planner, reviewed this request. She explained that the Riverside School project was identified for this amendment and that the grant had been approved. She said the City's match would be \$19,000 (corrected from \$15,000 as stated in the staff report). She told Council the funds would be used for a structure assessment study and roof repairs at the Riverside School.

There were no public comments.

The public hearing was closed at 8:06 p.m.

Councilmember Palmer noted that the Grand Junction Lions Club is making this project their premier project and is donating substantial funds to it.

Councilmember Kirtland moved to approve the amendment to the CDBG Action Plan 2003. Councilmember Hill seconded the motion. Motion carried.

Senior Planner Ashbeck advised that the amendment will be available for review in the City Clerk's office and there will be a thirty day period for public comments.

Public Hearing – Amending Ordinance No. 3582 Gowhari Annexation and Zoning the Gowhari Annexation Located at 563 20 ½ Road, 573 20 ½ Road, 2026 S. Broadway [File # GPA-2003-183]

Amending Ordinance No. 3582 for the Gowhari Annexation. The legal description in Ordinance No. 3582 is incorrect; the annexation should have been a serial annexation. When amended, the annexation will be known as the Gowhari Annexations No. 1 & No. 2. The 24.473-acre Gowhari annexation consists of 3 parcels of land and 0.63 acres of 20 ½ Road right-of-way.

Hold a public hearing and consider final passage of an ordinance zoning the Gowhari Annexation consisting of 25.103 acres and 3 parcels, located at 563 20 ½ Road, 573 20 ½ Road and 2026 S. Broadway

The public hearing was opened at 8:08 p.m.

Senta Costello, Associate Planner, reviewed both the correction to the annexation and the zoning request. She noted that the annexation had an error in the legal description and it should have been a serial annexation. She told Council a growth plan amendment has already been granted for the property. She described the surrounding areas, Zoning and Growth Plan designations.

Councilmember Palmer asked Ms. Costello to explain a serial annexation. Ms. Costello explained about the 1/6 contiguity that was needed.

Karen Gookin with Development Construction Services represented the applicants, the Gowharis. She reviewed the zoning criteria including compatibility with the surrounding area. She then addressed the request and its relation to the Growth Plan Goals and Policies. She told Council access and utilities are available to serve the development, and the zoning request is compatible with the previous Mesa County zoning designation. She expressed that RSF-2 would allow the most flexibility for developing the parcel.

Councilmember Hill asked for clarification on the number of units. Ms. Gookin said though the parcel size could allow 48 units, it is unlikely that amount would be built since roads, etc. are included in the total acreage.

Council President Spehar acknowledged Mr. Ralph Hamblin's five-page testimony and requested to have it added into the record. *See attached Exhibit "A"*.

Mark Luff, a local attorney, said he was representing the Preserve Subdivision Home-owners Association and the residents are objecting to the development due to the lot sizes. He told Council the average lot size in the Preserve Subdivision is five-acres. They felt, since the surrounding lots adjacent to the proposed development are larger, a more appropriate zoning would be RSF-E or RSF-1. He said the church property is about 8.8 acres. The residents are concerned for the wildlife and their quality of life in the area. He told Council the property owners purchased there for privacy. He said, although the zoning is RSF-2 on the Preserve, the covenants of the subdivision would prohibit any further subdividing of the lots in the Preserve. He stated that RSF-E would be a better zone designation as a transition between the Preserve and the higher density Saddleback Subdivision.

Mr. Luff argued that although the Preserve property and many of the surrounding properties are zoned RSF-2, Council should look at the density of the existing developments. He then identified the zoning criteria that he felt was not being met and stated that RSF-E or RSF-1 would better meet that criteria. He then addressed access and the streets serving the area and said his clients are concerned about the traffic impacts.

When asked when the Preserve Subdivision was developed, Mr. Luff responded that the subdivision was developed in 1998.

Duane Weenig, 1987 S. Broadway, said he owns a lot in the Preserve but presently lives further south. He noted the same concerns about the wildlife, and said the Gowhari's live in California. He pointed out a bad curve in the road and stated the traffic impact this number of homes would have on the streets.

Harold "Barney" Barnett said he is a 38-year resident and lives in the Redlands at 586 Preserve Lane in a modest home on two acres. He expressed he was concerned with the density and the increased water usage, and he urged Council to make sure the developer is aware of the groundwater and wetlands situation. He felt the infrastructure needed to be upgraded for the requested additional density.

Council President Spehar assured him that any development would not affect their water rights.

Janet Weenig, 1987 S. Broadway, submitted a petition from some of the surrounding property owners. She read a statement from the petition requesting a RSF-R zoning. She too expressed her concerns regarding traffic, density and stated that others in the area felt the same.

Robert Gergely, 579 Preserve Lane, said he's lived there for three years and during that time he has helped people involved in two car wrecks at the 90-degree turn at this corner. He told Council there is no drainage when the street floods. He stated the internal road to the Preserve was approved by Council as a private road and is not built to standards, and the homeowners would like to dedicate the road to the City. He said the people living in the area feel the road needs to be improved before further development should be allowed.

Councilmember Hill asked for clarification on his statement on the private road. Mr. Gergely corrected his statement and clarified that the County had approved the private road. Councilmember Hill asked about follow-up on the culvert. Mr. Gergely said during a heavy rain the area is always flooded.

The public hearing was closed at 8:59 p.m.

Ms. Karen Gookin, the developer's representative, restated that the property has been zoned at this density for a long time. She said, according to the City's traffic engineer, the roadways are being used at half-capacity.

Councilmember Palmer asked for clarification on the zoning of annexed properties. Acting City Attorney John Shaver said that the Persigo Agreement requires the zoning to be compatible with the County Zoning or to be in conformance with the Growth Plan, and RSF-2 meets both those criteria.

Councilmember Kirtland noted that the Preserve is also zoned RSF-2, and it was the developer's decision to develop larger lots. He felt all owners knew what the surrounding area zoning is, besides during site plan review, such things as additional infrastructure improvements would be reviewed.

Councilmember Palmer stated that he visited the site and saw the infrastructure, and he agrees that the roadway is a problem, and the church also will have an impact. However, he said, those things can be addressed during platting and he supports the request.

Councilmember Hill noted the road situation and admonished CDOT for the problem with the Highway 340 connection. He suggested a reasonable development would be of some blending of density to provide the best of both worlds. He said he supports a RSF-2 zoning.

Council President Spehar said he has lived out there and knows the area, and he too agrees the roadway needs improvement. He said he would have a hard time denying the request when all the surrounding zoning is RSF-2, and he agrees with an RSF-2 zoning.

Councilmember Butler agreed.

Ordinance No. 3596 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Gowhari Annexations No. 1 & No. 2, Approximately 25.103 Acres Located at 563 20 ½ Rd, 573 20 ½ Rd, 2026 S. Broadway and Including a Portion of the 20 ½ Road Right-of-Way

Ordinance No. 3597 – An Ordinance Zoning the Gowhari Annexation to RSF-2 Located at 563 20 ½ Rd; 573 20 ½ Rd; 2026 S. Broadway

Councilmember Kirtland moved to adopt Ordinances No. 3596 and No. 3597 on Second Reading and ordered them published. Councilmember Enos-Martinez seconded the motion. Motion carried by a roll call vote.

Council President Spehar called a recess at 9:11 p.m.

The meeting reconvened at 9:20 p.m.

Public Hearing – Valley Meadows North Rezone Located at the North End of Kapota Street [File # RZP-2003-153]

Hold a public hearing and consider final passage of a proposed ordinance to rezone the Valley Meadows North property, located at the north end of Kapota Street, from the RSF-R, Residential Single Family Rural to RSF-4, Residential Single Family-4.

Acting City Attorney John Shaver explained what Council should consider when considering this rezoning request. He referred to previous case law and stated in summary that a rule of reciprocity, which means compatibility are uses that are similar, but not necessarily the same. He explained the criteria in the Zoning Code and spoke of impacts and the mitigation of those impacts. He felt this explanation was important because this request had been before Council at least twice before.

The public hearing was opened at 9:24 p.m.

Lisa Cox, Senior Planner, reviewed this request. She noted that the current zoning is RSF-R and the land use designation is 2 to 4 units per acre. She explained that the property was annexed into the City in 2000, and then was zoned consistent with the County zoning with the understanding that it would be rezoned at time of development

in conformance with the Growth Plan designation. She noted that previously the request was recommended for approval by the Planning Commission but was denied by Council and then reheard and appealed and upheld each time.

Ms. Cox noted although her report addresses all the criteria, she specifically wanted to address Criteria #3 and point out that the request for RSF-4 was compatible with the neighborhood and the impacts listed would be addressed during the site plan review.

Rich Livingston, the attorney representing the applicant, illustrated the changes that have occurred in that neighborhood as well as the rest of Grand Junction and the Valley with a historical tale of his history in Grand Junction. He pointed out the discrepancy between the adopted Growth Plan and the Zoning and Development Code. He said there is no zoning designation for three units per acre, which would satisfy the neighborhood. He noted the lawsuit that was filed because of the previous results had not been dismissed. He explained, since the lawsuit is still open, a stipulation could be drafted saying that the applicant agrees to a density not in excess of 2.82 units per acre. That stipulation is then converted to an order by the Court and is then recorded as part of the Deed of Trust. He said Mr. Lenhart, the developer, was willing to do that even though the property's zoning is RSF-4.

Mr. Livingston said the criteria are clear even though there are neighbors, who suffered from the canal breach. He said he wanted to make clear he was not issuing a threat — he doesn't do that. However, because the lawsuit was still in the court, it gave everyone a unique opportunity to resolve the differences.

Acting City Attorney John Shaver concurred with Mr. Livingston that there hadn't been an order, and that motions had been filed. He clarified that the zoning will be RSF-4 and the stipulation would ensure the property would not be developed at a higher density than 2.82 units per acre. He advised that testimony be heard but the stipulation as explained could be done.

Mr. Livingston said he was just told that the previous number of 2.82 units per acre was wrong and it should be 2.87 units per acre. He explained that if Mr. Lenhart didn't develop the site and another developer wanted to develop the site differently he would have to come back through the rezoning and development process. He said a lot of thought and investigation on how to solve this problem had been done, and he felt this is the best solution.

Mrs. Helen Dunn, 2557 McCook Avenue, summarized and stated that once rezoning was approved the neighbors would be out of the picture and had no further input. She read excerpts from a statement. *See attached Exhibit "B"*. Her concerns centered on the approval criteria and access to the proposed subdivision.

Councilmember Hill asked for clarification about her statement on “no public input when the property is platted”. Community Development Director Bob Blanchard said there is a public hearing before the Planning Commission for a preliminary plat, but the Final Plat was an administrative process. He said property owners within 500 feet receive a notice of the hearing by mail plus a notice is posted and is also published in the newspaper so people living outside the 500 feet area have an opportunity to comment.

Mr. John Chapman, 667 Kapota Street, and Carol Bergman, his daughter, addressed Council. She conceded that the 22 units proposed would be of the same density as the density of the adjoining subdivision, but that they are concerned that the criteria is not being met. She read the attached statement. See *Exhibit "C"*. The crux of her argument was the street network and perceived drainage problem and she felt the irrigation water should be Council’s main concern now that development has occurred.

Council President Spehar advised that Council is not ignoring the criteria, they must determine if those concerns can be reasonably addressed prior to development.

Councilmember Hill said if there is no way for the developer to address the problems then the plan would not go through.

Ms. Bergmann argued that is it unfair to rezone a piece of property that is ripe with problems. Council President Spehar replied that it was no more unreasonable than to respond opposite. He said approving the rezoning request does not guarantee any construction on the site.

Mr. John Chapman asked if approved zonings could be reversed. Acting City Attorney John Shaver said they could be reversed, but the request for reversal would have to go through the same process.

Ms. Bergman displayed a photo of the proposed emergency access, concluded her report, and asked Council to deny the request.

Robert Knight, Co-President of the Valley Meadows East Homeowners Association, referred to a previous hearing where then City Attorney Dan Wilson stated that access was a possible reason for denial. He said the residents are concerned by the lack of a second access to Valley Meadows North. He noted the neighborhood is not against development but is concerned about safety.

Patricia Cleary, 662 Kapota, asked for clarification on the request, and how would it be less per Mr. Livingston’s suggestion.

Ron Sechrist, 2685 Delmar Drive, a resident since 1956, said he supports the project and the process. He pointed out the development is infill development and fits the Growth Plan and other questions would be resolved as the process continues.

Sam Suplizio Jr., 3210 Primrose Court, admonished those that move to the valley and then don't want more development to occur. He supports the project.

Tess Carpenter, Highland Home Improvement Company, 660 Starlight Drive, said she supported the developer and the project.

Greg Kuhn, 1950 Hawthorne Avenue, a realtor, attested to the quality of construction projects and developments done by Mr. Lenhart. He said he has had no complaints on any of Mr. Lenhart's projects from his clients.

Russ Wiseman, 660 Kapota Street, referred to the court case and called it legal blackmail since the real reasons this property is not developable cannot be mentioned. He reiterated the neighborhood has no problems with Mr. Lenhart or his developments. He requested the matter be remanded back to the Planning Commission and to require an additional access to the property.

Robert Hackney, 2845 North Avenue, construction trades, said he has worked with Mr. Lenhart and can attest to Mr. Lenhart conscientiousness.

Larry Bullard, 2551 Westwood Drive, said Mr. Lenhart's character is not the issue, but to stick with the issue of zoning.

Linda Nishimoto, 2552 Westwood Drive, urged for the City to put in adequate roads. She said if the right thing had been done to begin with, they wouldn't have this problem now.

Councilmember Enos-Martinez asked if other parcels in the area are landlocked. Acting City Attorney John Shaver said their access is off of G Road.

Chris Carter, 671 Chama Lane, felt the current zoning designation is adequate and questioned the need for it to be changed. He said he is opposing the request.

The public hearing was closed at 10:47 p.m.

Mr. Livingston said the existing zone is not consistent with the Growth Plan and the parcel has to be rezoned for any development to occur. He pointed out that the technical testimony indicates that Staff has determined that public infrastructure can address the issues.

Councilmember Hill asked if a development goes in, must the drainage stay on the property, and does the current landowner have to keep the water on his property. Mr. Blanchard said there is a historical runoff, which sets the baseline for the historical runoff and that figure would be used in the future. Acting City Attorney John Shaver explained that a discharge cannot be any greater than historical runoff but the discharge can be less.

Councilmember Hill asked about the berm and whose property it is on and why is it there. Community Development Director Bob Blanchard said it is on the applicant's property. Public Works Manager Tim Moore said he is not sure why the berm is there or how it got there. Councilmember Hill asked if the berm was a factor in the development of Valley Meadow East. Tim Moore did not know.

Councilmember Palmer thought the developer's offer to develop at 2.87 units per acre was a good offer, but questioned if Council could be assured that the issues brought up would be addressed. Councilmember Palmer thought they would be. He thanked those present and felt this was a solution.

Councilmember Enos-Martinez reiterated that rezoning a property does not guarantee the site would be developed. She said approval of a development is granted at the preliminary plan review.

Councilmember Kirtland explained that tonight's public hearing process allowed people and neighbors to express their concerns and get them on record. He felt a conclusion with the lower density and that the speakers had presented the issues of concern and made them very clear. He said it is time to move this to the next process level. He said the challenges are there for the developer and the time is ripe to move on.

Councilmember Hill spoke of the high development standards in the community, which were developed by the community, said he believes there will be safety nets, and the developer will have to meet high bars and will bear the risk of meeting the high standards. He said if the bar is so high it would price housing too high, and he urged those present to participate in other standards discussions.

Councilmember Butler asked if access is a reason for denial. Acting City Attorney John Shaver responded yes, if the engineering solution cannot be reasonably mitigated.

Councilmember McCurry noted a rezone is not the end, the developer still has a lot of obstacles to face.

Council President Spehar stressed the rezone request must be approved before the development process can begin. He pointed out that it is not all black and white, which is why there are attorneys, council, etc., and he rejects the notion that this is blackmail,

but instead an opportunity to end this request with a compromise. He said he supports the rezoning request.

Councilmember Kirtland asked about the inclusion of the 22-lot stipulation. Acting City Attorney John Shaver responded Council has the option of conditional zoning, conditioned on the stipulation to be approved and recorded not to exceed 2.87 units per acre.

Ordinance No. 3598 – 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)

Councilmember Hill moved to adopt Ordinance No. 3598 on Second Reading and ordered it published. Councilmember Kirtland seconded the motion. A discussion followed.

Councilmember Kirtland moved to add an amendment to the motion to include that the rezone be conditioned on a stipulation from the court that the development could not exceed 2.87 units per acre. Councilmember McCurry seconded the motion to amend. Motion carried by a roll call vote.

A vote was then taken on the amended motion. Motion carried by a roll call vote with Councilmember Butler voting **NO**.

NON-SCHEDULED CITIZENS & VISITORS

There were none.

OTHER BUSINESS

There was none.

ADJOURNMENT

The meeting adjourned at 11:12 p.m.

Stephanie Tuin, MMC
City Clerk

Exhibit "A"

From: "Ralph Hamblin" <rjrr4@bresnan.net>
To: <stepht@gjcity.org>
Date: 1/19/04 12:09:20 PM
Subject: Comments for City Council Members

Ms. Tuin - Please find my attachment for presentation to the members of the City Council. My comments are regarding the Powhari Annexation. I would very much like to have them read aloud and put into the public record. It is my misfortune that I will be in Salt Lake City on 1/21 rather than at the City Council meeting and have to ask you to do this.

Thank you.
Ralph Hamblin
594 Preserve Lane
Grand Junction 81503
245-3801

My name is Ralph Hamblin. I live at 594 Preserve Lane. I am in Salt Lake City tonight, yet I feel it vital that my views should be voiced regarding the Powhari Annexation and I have therefore asked that your clerk present them to you for inclusion in the public record. If possible and with your concurrence, I'd also like to have them read aloud.

Last month, the County Planning Commission heard from two Preserve representatives - an appeal from one of my neighbors describing the beauty of the area and the wildlife in our neighborhood, and our attorney presented dispassionate but factual comments about the proposed zoning. I'd like to share some things with you that are somewhere in the middle of those two sentiments.

One of the comments made last month by a member of the County Board suggested that the Preserve is one of Grand Junction's jewels. I believe he captured it precisely. The Preserve is a 140 acre conservation zone, divided among 26 lot owners, each with approximately 5 acres of stewardship. When you buy an interest in the Preserve, you buy into an ideal. The covenants are ironclad and building envelopes are pre-determined. These stipulations allow all of us to continue to enjoy the wildlife area surrounding us. We are fortunate to see more than one hundred different species of birds including falcons, owls and heron; we

have a herd of deer with four strong bucks; we have resident bobcat, skunk, raccoon, a coyote pack often heard barking in the night; and even though I haven't yet sighted them, I understand we've been visited by both bear and mountain lion. In short, the Preserve is a gem for Grand Junction and each of us owning a piece of the area feels very fortunate indeed.

The Powhari annexation may or may not change that, but the proposal to build two homes per acre will certainly encroach on open area available to all the wildlife as they forage outside the Preserve. We see this repeatedly across the country - more and more development racing across open areas, enclosing and eliminating land where the wildlife lives. It's anathema to think this is somehow permissible under the guise of progress. Somehow there should be an accommodation which permits progression, while simultaneously protects and oversees the few areas of the county where wildlife continue to live safeguarded from harm. I believe we have a solution. The idea would be to continue with your annexation of the area, but with a stipulation that would regulate the homes per acre, mirroring the number to that of the Preserve which the Powhari annex will border.

Granted, this flies in the face of the American Dream. Buy a piece of property, fix it up or wait for it to appreciate, and then sell it for a profit. My proposal will limit the amount of

homes and people occupying the Powhari annexation, but still permit development. Last month, a comment was made in open forum that there were no plans to develop the area. I think it's naïve of everyone here tonight and all present then, to assume that no housing development is planned. Were it not so, none of us would be here.

Last month, members of the Planning Commission suggested that the infrastructure was sufficient to accommodate 48 more homes, the people in those homes and the traffic they would produce. I don't mean to disparage the folks who did the work, but I'm skeptical that the existing roads can accommodate the traffic.

As I said earlier, most of the people who live in that part of the county bought their homes and property for the bucolic nature of the area. Some of it remains wide open, with cattle feeding in the shadows of the Monument. The roads are narrow county roads - two-lane blacktop winding off 340 to 20 $\frac{3}{4}$ to E $\frac{3}{4}$ over to 20 $\frac{1}{2}$ to South Broadway to the intersection of Broadway and Redlands Parkway - a three-plus mile drive in the shadow of the Colorado Monument. It's a romantic and picturesque setting - and I can attest that we already have many, many folks from the rest of Mesa County who come to visit and look. The roads are already overwhelmed and incapable of providing for even more

traffic. A new housing development with 48 homes on 24 acres would certainly destroy not only the atmosphere of that part of the county; it will likely overwhelm the current infrastructure.

In closing, I don't dispute the Powhari's right to turn a profit. I don't dispute the City's right to annex the property.

And I don't dispute the idea of homes being constructed on the land. What I do, however, have considerable difficulty with is the decision to put 48 homes in an area where 5 should be constructed, a decision which will reduce the enjoyment of every existing home-and-property owner in the area who came before this idea was proposed and which so radically changes the neighborhood that rather than enriching all of us, it will become a blight on the community.

I urge you to consider this as you debate the merits of the proposal. Five homes on lots approximately five acres in size will still result in new homes and a neighborhood added to the city. Five homes on 24 acres will not destroy the bucolic setting. Five homes on 24 acres will not so totally disrupt wildlife patterns as to see them leave the area. Five homes on 24 acres will not tax an already burdened infrastructure. And, five homes on 24 acres will be consistent with the existing community.

I believe you have the ability to caveat the annexation with just such a limitation. I would urge you to do so. If you feel

any hesitation regarding the infrastructure or how destructive 48 home sites will be on those select 24 acres, I would urge you to table the motion for annexation until you've all had an opportunity to drive on those roads, see the building site in question and visit the neighborhoods, including the Preserve, which now surround the proposed annexation. Only then will your decision be an informed one.

Thank you.

Ralph Hamblin

Exhibit "B"**GRAND JUNCTION
CITY COUNCIL PRESENTATION
JANUARY 21, 2004****Mayor ---Members of the City Council**

Good evening. My name is Helen Dunn and I live in Valley Meadows East at 2557 McCook Avenue. I am a member of the Valley Meadows East Committee to monitor the development of Valley Meadows North. .

The Moran property (now known as Valley Meadows North) was annexed into the City on September 17, 2000 as part of the G Road South enclave annexation with the existing County zoning designation of RSF-R with the understanding that a rezone would be necessary at the time of development. The only reason to rezone is to approve for development. Once property is rezoned construction plans require Community Development Department approval only and the neighbors no longer have input in what will be built in their neighborhood or how it will affect them. Rezoning gets the neighbors out of the picture.

To assist in making rezoning decisions the City Council has approved and published criteria in a manual titled City of Grand Junction Zoning and Development Code. When the City rezones property it gives permission to develop within the approved guidelines. We are now being advised that rezoning requests do not require the developer to consider the criteria but only to determine compatibility with neighborhoods. It is inconceivable that property would be rezoned without meeting the approved and adopted zoning criteria.

The revised design for Valley Meadows North still does not meet the Subdivision Standards as stated in the City of Grand Junction Zoning and Development Code (effective January 20, 2002). The following are four (4) of the codes that are not being met.

2.6 CODE AMENDMENT AND REZONING (Chapter Two, Page 29)

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.

Safety of the street network when constructing 22 homes by going through a neighborhood of 44 homes is a hazardous situation. As proposed, all construction equipment and materials would be forced to drive through Valley Meadows East. This involves four (4) right angle turns in 1200 feet to access the proposed Valley Meadows North subdivision. Having 66 homes with only one access from a major roadway would definitely create an adverse impact on an existing neighborhood. Additionally, reducing the berm at the end of Kapota Street to extend Kapota Street for the only access to Valley Meadows North and, in the future, the development of the Burnell and Jones parcels, would definitely create an adverse impact on this neighborhood.

2.8 SUBDIVISIONS (Chapter Two, Page 31)

17. Ensure the proposal will not impose hardship or substantial inconvenience to nearby landowners or residents.

Trucks and equipment for the construction of 22 homes traveling through an established neighborhood of 44 homes, which itself has only a single access, will impose a great deal of inconvenience and hardship for the residents of Valley Meadows East.

CHAPTER THREE ZONING

3.1 PURPOSE (Chapter Three, page 1)

- K. Secure safety from fire, panic, and other dangers:

To rezone and allow 22 homes to be built with the only access through Valley Meadows East, which consists of 44 homes, would be hazardous to both

subdivisions in any emergency situation.

**CHAPTER SIX
DESIGN & IMPROVEMENT STANDARDS**

6.7 E. Circulation

9. Fire Lanes. Fire lanes shall be provided in accordance with the adopted code.

The adopted code is stated in the TEDS Manual:

TRANSPORTATION ENGINEERING DESIGN STANDARDS

(Known as the TEDS Manual)

Passed and adopted by the City Council on
7th day of November 2001

As

City of Grand Junction
Resolution No. 111-01

Fire Access Code (in Chapter 5)

B. Access Guidelines

2. Two Points of Access, Providing two points of fire apparatus access has the following benefits:
 - a. If one access is blocked, emergency responders have a second route to the property.
 - b. If an emergency requires evacuation of an area, the public will have an alternative exit route should one route be blocked by the emergency incident.

The Grand Junction Fire Department does not allow the second access point limited to use by emergency responders only. The second access must be available for public use in case the other access is blocked.

5. One or two Family Residential Developments.

- a. Developments where the number of dwelling units exceeds thirty (30), shall be provided with separate and approved fire apparatus access roads.

- b. Developments where the number of dwelling units is sixty (60) or less may be serviced by a single fire apparatus access road, provided all dwelling units are provided with approved residential fire sprinkler systems.

Standards adopted by the Grand Junction City Council in November 2001 and published in the TEDS Manuel parallel the Fire Access Code adopted by the Grand Junction Fire Department and published in their guidelines for developers and designers. These are:

FIRE DEPARTMENT ACCESS

Based on the 2000 edition of the International Fire Code

Two Points of Access

The Grand Junction Fire Department does not allow the second access point limited to use by emergency responders only. The second access must always be available for public use in case the other access is blocked.

One or Two Family Residential Developments:

- * Developments where the number of dwelling units exceeds 30, shall be provided with separate and approved fire apparatus access roads.
- * Developments where the number of dwelling units is 60 or less may be served by a single fire apparatus access road, provided all dwelling units are provided with approved residential fire sprinkler systems.

To rezone the property known as Valley Meadows North and allow the construction of 22 homes with the access through Valley Meadows East which already consists of 44 homes would result in the combined subdivisions having 66 homes with only one access. This would be in violation of both the TEDS MANUEL and the published FIRE CODE and would be a hazardous situation for both subdivisions. When the two adjoining properties to the east of the Valley Meadows North subdivision are ready to be rezoned and developed, the situation will be compounded.

In the **City Council minutes** of January 15, 1997 on page 12 when the proposed development of Sunset Village (now known as Moonrise East

subdivision) and the anticipated F 3/4 road which would have provided access to the Moran property (now known as Valley Meadows North) were being discussed Councilmember Terry speaking to Bill Nebeker, from the Community Development Department, stated "I'm looking for how many parcels to the east of Morans might be affected by this access on F 3/4 that we're talking about". Mr. Nebeker responded "The Moran parcel is 7.5 acres...the Burnell parcel is right behind that...those other two parcels are owned separately from the Burnell parcel. Now we also came across this parcel that says 'the Veale parcel'." At this point Councilmember Terry asked "Okay. So those are the three that will need access on this particular road?" Nebeker answered, "Correct". (The rest of the dialogue is included in the addendum.)

As you are aware F 3/4 road was never built. Now it is being proposed to rezone Valley Meadows North and allow development with the only access through Valley Meadows East. It would be unfortunate if this happens and these future problems were ignored. I do not look forward to standing before you in a year or so explaining how the Burnell parcel and the Jones parcel should not be rezoned because their only access is through Valley Meadows North by way of Valley Meadows East in order to access 25 1/2 Road.

We hope we are never again forced to evacuate as we were on the night of the April 5, 2002 flood. I can tell you from personal experience that it was difficult to get 44 cars out of the Subdivision at 2 AM through the one lane of traffic caused by emergency vehicles parked down each side of Westwood Drive at 25 1/2 Road. The exiting cars were sitting in water waiting their turn to have names checked off on a clip board before being allowed to drive through the very narrow one lane to exit onto 25 1/2 Road. Another 22 cars would have made for an impossible situation.

When previous City Council members allowed the rezoning and development of Moonrise East subdivision with a design that blocked access to the undeveloped properties to the east, they took the easy way out and ignored the future problems that this would create. I hope you do not make the same mistake this time. It is time for the undeveloped properties to the north of Valley Meadows East to have an approved and safe access so they can be developed in a manner that provides for the quality of life for which Grand Junction takes pride. We are not against development but we are against rezoning and developing this property in the manner being proposed.

When purchasing a home, buyers frequently do not realize some of the disadvantages of the location until after they have settled in and began their day to day activities. We are very grateful to the neighbors who in 1996 testified before the City Council at a rezoning hearing and persuaded the developer of Valley Meadows East to build 44 homes instead of the proposed 52 homes and convert the remaining lots into green space. Neighbors caring for neighbors and working together to protect the quality of life in this area has been the pattern of behavior that this neighborhood has grown to expect.

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

Exhibit "C"**VALLEY MEADOWS NORTH
REZONE HEARING**

Presented by John Chapman and Carol Bergman
1-21-04

Good evening. My name is John Chapman. I live at 667 Kapota. My daughter, Carol Bergman, and I usually make separate presentations on the subject of Valley Meadows North. This time we have joined to make a single presentation which may save time. Carol will make the presentation and I, or both of us, will take any question you may have.

To start with, it is not the proposed 22 dwellings in Valley Meadows North, *if that is what it turns out to be*, that we are opposed to. More houses than that would be completely incompatible with surrounding properties. But 22 is essentially the same as that of the adjoining Valley Meadows East subdivision. That is fair. Let us explain our concerns.

As we consider the proposal to rezone to RSF-4, we would like to talk about Section 2.6A-3 of the Zoning and Development Code which, reads in part, as follows: (See on screen)

A. Approval Criteria. In order to maintain internal consistency between this code and the Zoning Maps, map amendments must **ONLY** occur if:

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, excess night time lighting, or other nuisances.

This, to us, is clear cut, reasonable and logical as written. These criteria **must** be considered when zoning a property. The City Legal people don't agree, saying that paragraph 3 does not mean what it says and cannot stand alone. At the August 7, 2002 Council meeting, when dealing with the same property, Mr. Wilson, City Attorney, was asked to clarify how the Rezone Criteria should be

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used. Mr. Wilson stated that if the issues under #3 can be reasonably solved prior to the final plat, and if the engineers can say these are normal engineering issues, then the rezone meets criteria. Mr. Wilson also stated that paragraphs within the Code were in conflict and paragraph #3 would need to be reworded. He said the changes would be made in the upcoming code amendment process.

It is now 17 months later. What has happened? The updating of the Code has occurred. Strangely, no changes in paragraph #3, dealing with the Rezoning Criteria have been made, while changes have been made elsewhere.

Mr. Shaver, Acting City Attorney, also tells us that it is difficult to amend the Code to include abstract concepts. We agree, but isn't the object of the code to set down concrete standards to eliminate as far as possible, abstract interpretation?

We are not attorneys, but we have abundant and good reason to believe that any court case, involving Section 2.6A-3 would likely favor a strict and literal reading of the Code as written. This is especially so, since no change has occurred in this section of the Code as Mr. Wilson said there would be 17 months earlier. We hope the City will not continue using different interpretations of the 2.6A-3 criteria.

The Code is very important and the Criteria for the Code is its' key. As now written, it is unambiguous when it says Rezoning **must NOT occur** if: among other things, there are problems with the safety of the Street Network or with Drainage. In this case, there **ARE** problems with both the Safety of the Street Network and with Drainage. They both represent difficult engineering problems and cannot be considered normal or routine.

Drainage is a continuing concern. We are repeatedly asked, "If you are flooded as a result of an irrigation accident upstream, why don't you sue?" The answer is we are currently protected by a 100 year old berm 700 feet long and up to 4 feet high. If the City approves the breaking of the berm at Kapota Street for access, as the Developer has proposed, the risk of flooding into VME is increased. If the Canal Break Flood of 2002 had occurred when the berm was

breached at Kapota, the damage would have been much worse. As it was, the berm was in place and acted to form a very large Detention Pond on the VMN land. If we are, in the future, flooded by way of the broken berm, the City would be responsible by reason of their prior approval to break the berm. In the case of Docheff vs. the City of Broomfield, in a similar situation, the court ruled that the proper remedy for this kind of occurrence is injunction. For two years, we have been trying to take prudent and preventative measures so legal action would not be necessary.

On drainage, you need to understand that the problem involves two major sources of inflow from the east - stormwater and errant or accidental irrigation water. Of the two the irrigation water is **by far** the greater quantity and greater challenge even if you disregard the canal break flood of 2002.

Normally, drainage design is entirely based on stormwater as the only source, and that's what, until recently, the Developers' engineer on the VMN job has done. This design is usually sound and employs rainfall data over the past 100 years. The design is supposed to handle a 100 year flood. But while the errant irrigation water has probably been a problem to farmers for over the last 100 years, it has not been serious. Now that the area is being developed, errant irrigation water should be recognized as **the main** drainage concern. The trouble is that there isn't any recorded account, of measurements, of past irrigation flooding - no 100 year history to complement the rainfall data. We do have some anecdotal information which tells us that this type of flooding occurs every year. Unfortunately, without a good recorded history, the best engineering that we can expect will be arrived at through the use of assumptions instead of concrete information. The City Engineers recognize this and I believe are a bit uneasy about it.

We are pleased that the City has recognized this problem and has proposed a change in design criteria, which **if implemented** would seem to provide some protection for VME from flood water from VMN. This position recognizes the very limited capacity of the Valley Meadows East stormwater system, which the developer had been planning to use. It will be necessary for the City to require VMN to

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take measures accounting for both rainfall and upstream irrigation. The engineering of this will be difficult and unusual.

The other thing that is particularly bothersome is the capacity or safety of the street network which is the first criteria in Rezoning under Section 2.6A-3. Valley Meadows North does not have a second access and neither does Valley Meadows East. At the May 1, 2002 City Council meeting on rezoning this property, Council member Janet Terry asked Mr. Wilson if access could be a reason for denial. His response was that it would be a legitimate basis. The developer is considering an emergency access 12 feet wide and 240 feet long from 25 1/2 Road to the body of the Valley Meadows North development. We have been unable to find a standard for such an access.

Our safety concerns are as follows:

1. This narrow emergency access will only handle one way traffic at any given time and will create a hazard with emergency vehicles trying to enter while panicked residents are trying to exit. A minor accident in this narrow access could easily render the whole access unusable.
2. Pedestrians trying to enter or exit VMN will be crowded between vehicular traffic and a barbed wire fence on the south or vehicular traffic and a detention pond on the north. This is not conducive to safely moving both vehicles and pedestrians at the same time in the same or opposite directions.
3. Emergency vehicles moving north on 25 1/2 Road will have to pull over to the left lane in order to enter the 12 foot emergency access straight on, thus risking collision with south-bound traffic.
4. This emergency access needs to be available to pedestrian traffic at all times, but closed to vehicular traffic except in an emergency. This raises a host of problems including such things as:
 - a. How do you quickly open and close this access to vehicular traffic?

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- b. How does one know which direction traffic may proceed through the access at any given time?
- c. How cumbersome or time-consuming will it be to remove the traffic barrier?
- d. Who will have the tools, keys, responsibility and right to open the access?

This emergency access is expected to serve as a second access for both VME and VMN, a total of up to 74 homes. It is supposed to be a safety measure, but we believe it creates more hazard than it is supposed to mitigate. It is also contrary to the TEDS Manual and the Fire Code which require a minimum width of 20 feet for an access. This sets a bad precedent for the future. Will this kind of emergency access show up in other places around town? We in VME find this unacceptable!

IN SUMMARY

The Zoning or Rezoning of VMN to RSF-4 should not be granted because:

This property's' history looks like a mistake on top of a mistake on top of a mistake with a problem.

The first mistake was made when the former owner of this property, the Morans, at the last minute, withdrew their decision to dedicate their 15 foot strip (the flagpole) for a street. (See memo in the addendum from Bill Nebeker of 1-20-97 "To whom it may concern")

The second mistake was when the City, under pressure of a law suit, approved the Sunset Village (now called Moonrise East) subdivision with a sub-standard entrance and no stub to the east.

The third mistake would be to approve re-zoning without an second access as required by Code, as this would create an

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unsafe street network. It would appear to be an approval under threat of lawsuit and this would set a very bad precedent. The surrounding neighborhood would be forced to pay the price for the three big mistakes made by others. They would live with substandard access daily under a cloud of uncertainty regarding drainage issues.

It would be an approval in violation of the Zoning and Development Code Section 2.6A as written, which in essence says that a Zoning Map Amendment must **ONLY** occur if there are no Safety of Street Network problems or Drainage problems that create adverse impacts.

Please DO NOT reverse your previously held position and place us at risk. DO NOT APPROVE THIS ZONING CHANGE.

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