

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

**June 16, 2008**

The City Council of the City of Grand Junction convened into regular session on the 16<sup>th</sup> day of June 2008 at 7:03 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Teresa Coons, Jim Doody, Bruce Hill, Doug Thomason, Linda Romer Todd, and Council President Gregg Palmer. Also present were City Manager Laurie Kadrich, City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Palmer called the meeting to order. Councilmember Doody led in the Pledge of Allegiance. Invocation was given by Chaplain Abe Phiefer, New Horizons Foursquare Church.

**Council Comments**

There were none.

**Citizen Comments**

There were none.

**CONSENT CALENDAR**

Councilmember Hill read the items on the Consent Calendar, and then moved to approve the Consent Calendar. It was seconded by Councilmember Beckstein, and carried by roll call vote to approve Consent Items #1 through 8.

1. **Minutes of Previous Meetings**

*Action: Approve the Minutes of the June 2, 2008 and the June 4, 2008 Regular Meetings*

2. **Setting a Hearing on Zoning the Sienna Creek Annexation, Located at 2052 Broadway** [File #ANX-2008-107]

Request to zone the 5.16 acre Sienna Creek Annexation, located at 2052 Broadway, to R-4 (Residential 4 du/ac).

*Revised December 6, 2011*

*\*\*\* Indicates New Item*

*® Requires Roll Call Vote*

Proposed Ordinance Zoning the Sienna Creek Annexation to R-4 (Residential 4 du/ac), Located at 2052 Broadway

*Action: Introduction of Proposed Ordinance and Set a Hearing for June 30, 2008*

3. **Setting a Hearing on Zoning the Sunshine-Moir Annexation, Located at 2899 D Road and 383 29 Road** [File #ANX-2008-080]

Request to zone the 5.54 acre Sunshine-Moir Annexation, located at 2899 D Road and 383 29 Road, to C-1 (Light Commercial).

Proposed Ordinance Zoning the Sunshine-Moir Annexation to C-1 (Light Commercial), Located at 2899 D Road and 383 29 Road

*Action: Introduction of Proposed Ordinance and Set a Hearing for June 30, 2008*

4. **Setting a Hearing on Zoning the Shores Annexation, Located at 166 Edlun Road** [File #ANX-2008-104]

Request to zone the 17.97 acre Shores Annexation, located at 166 Edlun Road, to R-4 (Residential 4 du/ac).

Proposed Ordinance Zoning the Shores Annexation to R-4 (Residential 4 du/ac), Located at 166 Edlun Road

*Action: Introduction of Proposed Ordinance and Set a Hearing for June 30, 2008*

5. **Setting a Hearing on the Level III Annexation, Located at 2922 B ½ Road** [File #ANX-2008-147]

Request to annex 19.68 acres, located at 2922 B ½ Road. The Level III Annexation consists of 1 parcel and includes a portion of the B ½ Road right-of-way.

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

Resolution No. 77-08— A Resolution Referring a Petition to the City Council for the Annexation of Lands, to the City of Grand Junction, Colorado, Setting a Hearing on Such Annexation, and Exercising Land Use Control, Level III Annexation, Located at 2922 B ½ Road Including a Portion of the B ½ Road Right-of-Way

*Action: Adopt Resolution No. 77-08*

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

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Level III Annexation, Approximately 19.68 Acres, Located at 2922 B ½ Road Including a Portion of the B ½ Road Right-of-Way

*Action: Introduction of Proposed Ordinance and Set a Hearing for August 4, 2008*

**6. Setting a Hearing on the Fournier Annexation, Located at 2132 Rainbow Ranch Drive [File #ANX-2008-111]**

Request to annex 6.48 acres, located at 2132 Rainbow Ranch Drive. The Fournier Annexation consists of 1 parcel and includes a portion of the Broadway right-of-way and all of the Rainbow Ranch Drive right-of-way.

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

Resolution No. 78-08—A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, Setting a Hearing on Such Annexation, and Exercising Land Use Control, Fournier Annexation, Located at 2132 Rainbow Ranch Road Including a Portion of the Highway 340 (Broadway) Right-of-Way and all of the Rainbow Ranch Road Right-of-Way

*Action: Adopt Resolution No. 78-08*

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

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Fournier Annexation, Approximately 6.48 Acres, Located at 2132 Rainbow Ranch Road Including a Portion of the Highway 340 (Broadway) Right-of-Way and all of the Rainbow Ranch Road Right-of-Way

*Action: Introduction of Proposed Ordinance and Set a Hearing for August 4, 2008*

**7. Address Change for the Sale of Property at 3<sup>rd</sup> and Main Streets**

City Council ratified the sale contract to Western Hospitality, LLC for property at 3<sup>rd</sup> and Main Streets by Resolution No. 53-08 at its May 19, 2008 meeting. City Staff then became aware of discrepancies in legal property descriptions in the contract documents. In order to proceed and close on the property, the sale contract and Resolution 53-08 need to be amended to accurately describe the

property being sold to Western Hospitality and match the understanding and representations made by both parties throughout this transaction.

Resolution No. 79-08—A Resolution Amending Resolution 53-08 Regarding the Sale of Real Property Located at 236 Main Street, 238 Main Street, and an Adjoining Unnumbered Parcel

*Action: Adopt Resolution No. 79-08*

8. **Sidewalk Dining Application for Blue Moon Bar and Grille**

WTB Enterprises Inc., dba Blue Moon Bar and Grille, is requesting an Outdoor Dining Lease for the property located at 120 N. Seventh Street. They have applied for and received a Sidewalk Café Permit to serve food outside at up to 10 tables with a maximum of 40 seats. The Outdoor Dining Lease would permit the business to have a revocable license from the City of Grand Junction to expand their licensed premise and allow alcohol sales in this area, as well.

Resolution No. 80-08—A Resolution Authorizing the Lease of Sidewalk Right-of-Way to WTB Enterprises, Inc. dba Blue Moon Bar and Grille, Located at 120 N. 7<sup>th</sup> Street

*Action: Adopt Resolution No. 80-08*

**ITEMS NEEDING INDIVIDUAL CONSIDERATION**

**Public Hearing—Simon Annexation and Zoning, Located at 3076 and 3080 F ½ Road** [File #ANX-2008-106]

Request to annex and zone 6.30 acres, located at 3076 and 3080 F ½ Road, to R-2 (Residential 2-du/ac). The Simon Annexation consists of two parcels, a portion of the F ½ Road right-of-way, and is a two part serial annexation.

The public hearing was opened at 7:09 p.m.

Brian Rusche, Senior Planner, reviewed this item. He described the site and the location. He identified the surrounding properties and Future Land Use Designation. The Planning Commission recommended approval of the annexation and zoning and the review criteria have been met.

The applicant was present but had nothing to add.

There were no public comments.

The public hearing was closed at 7:11 p.m.

**a. Accepting Petition**

Resolution No. 81-08—A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Simon Annexation, Located at 3076 and 3080 F ½ Road Including a Portion of the F ½ Road Right-of-Way is Eligible for Annexation

**b. Annexation Ordinances**

Ordinance No. 4244—An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Simon Annexation No. 1, Approximately 1.62 Acres, Located at 3076 F ½ Road Including a Portion of the F ½ Road Right-of-Way

Ordinance No. 4245—An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Simon Annexation No. 2, Approximately 4.68 Acres, Located at 3080 F ½ Road Including a Portion of the F ½ Road Right-of-Way

**c. Zoning Ordinance**

Ordinance No. 4246—An Ordinance Zoning the Simon Annexation to R-2 (Residential 2-Du/Ac), Located at 3076 and 3080 F ½ Road

Councilmember Thomason moved to adopt Resolution No. 81-08 and Ordinance Nos. 4244, 4245 and 4246 and ordered them published. Councilmember Hill seconded the motion. Motion carried by roll call vote.

**Public Hearing—Burnett Annexation and Zoning, Located at 2846 ½ C Road** [File #ANX-2008-099]

Request to annex and zone 1.09 acres, located at 2846 ½ C Road, to R-4 (Residential 4-du/ac). The Burnett Annexation consists of one parcel and includes a portion of the C Road (also known as Unawep Avenue) Right-of-Way.

The public hearing was opened at 7:14 p.m.

Brian Rusche, Senior Planner, reviewed this item. He described the site and the location. The property has one single family residence currently. The surrounding land use designation and zoning was described. The requested zoning is consistent with the Growth Plan.

The applicant was present but had nothing to add.

There were no public comments.

The public hearing was closed at 7:15 p.m.

**a. Accepting Petition**

Resolution No. 82-08—A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Burnett Annexation, Located at 2846 ½ C Road (AKA UnawEEP Avenue) and a Portion of the C Road Right-of-Way is Eligible for Annexation

**b. Annexation Ordinance**

Ordinance No. 4247—An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Burnett Annexation, Approximately 1.09 Acres, Located at 2846 ½ C Road (AKA UnawEEP Avenue) and Including a Portion of the C Road Right-of-Way

**c. Zoning Ordinance**

Ordinance No. 4248—An Ordinance Zoning the Burnett Annexation to R-4 (Residential 4-Du/Ac), Located at 2846 ½ C Road (AKA UnawEEP Avenue)

Councilmember Coons moved to adopt Resolution No. 82-08 and Ordinance Nos. 4247 and 4248 and ordered them published. Councilmember Todd seconded the motion. Motion carried by roll call vote.

**Public Hearing—South Downtown Neighborhood Plan** [File #PLN-2007-292]

The City Planning Commission met in a public hearing on November 13, 2007 to consider adoption of the South Downtown Neighborhood Plan. The City Planning Commission recommended approval of the South Downtown Plan, including a Growth Plan Amendment to adopt the Plan, amendments to the Zoning Map and amendments to the Zoning and Development Code to include a Zoning Overlay.

The public hearing was opened at 7:16 p.m.

Kathy Portner, Neighborhood Services Manager, reviewed this item. The adoption of the plan includes an overlay plan and a new zoning map for the area. She described the history of the development of this plan and the number of times the presentation of this plan has been postponed. A letter, which was also a notice, was sent out to all of the affected property owners and all that participated in the planning process. In addition, emails were sent to those that had provided an email address.

Ms. Portner then described the area affected and the boundaries of the plan. The planning process has taken place over the last fourteen months with a number of meetings and open houses. That process was described in detail and the goals of the plan identified.

The basic strategies of the plan include a Future Land Use Plan for the area, the zoning which would implement those designations, and a circulation plan.

Ms. Portner described each of the zone districts in the area and the types of uses for those zone designations. She mentioned some of the rationale for the identified zone designations and the amenities that will be enhanced.

Another element of the plan is the overlay plan for the area. The overlay establishes a new C-1 zone district which allows a larger variety and mix of uses. The overlay plan also includes standards for landscaping, parking and other architectural elements. The standards are intended to create a more pedestrian friendly environment.

The character adjacent to the Parkway is of a much larger scale than the commercial core area. Overlay standards are also proposed for the industrial areas that front Riverside Parkway. The intent of the standard is to maintain industrial uses in that area but create a higher quality visual character.

Ms. Portner then stated how the Plan is consistent with the Growth Plan and how the changes in the area have invalidated the original premises and findings. With the construction of the Riverside Parkway, the area has changed significantly. She addressed the other Growth Plan criteria.

The need for industrial land will increase as the City grows and it is expected that the preferred alternative for the Comprehensive Plan will include that premise.

Ms. Portner identified the parcels that will be affected by a zone change in the affected area. Most of them are smaller parcels and would be difficult to develop as industrial unless combined with other parcels. The zone district will not prohibit manufacturing; it just prohibits outdoor storage, but manufacturing with no outdoor storage could be located in those areas. Existing uses could remain as non-conforming.

A concern for mixing industrial with residential was raised. Residential in the Corridor Commercial zone would require a Conditional Use Permit. There would also be specific criteria for residential uses.

Building heights were also addressed; it will be the first time that a minimum building height is proposed within the Zoning and Development Code. The height is needed to create the scale for the buildings and to be consistent with the Riverside Parkway.

Councilmember Hill asked about the new Future Land Use Designations. Ms. Portner displayed the map which indicated the changes proposed. She noted that those properties currently zoned I-2 in the County, if they are subsequently annexed into the City, the Council would have the option to honor the I-2 zoning.

Councilmember Hill said that is an option but the Council has always used the zoning that is supported by the Future Land Use Map.

Councilmember Todd asked, about a change in tenancy, would they need to meet the new Code. Ms Portner advised that they would not as long as the same use is continued. If there is a change in use then that is true.

Councilmember Todd said the changes on the use matrix are very different from the industrial zoning. Ms. Portner said if it is all indoors, it would still be allowed. If the building is to be upgraded substantially, it could trigger a site plan review.

Councilmember Todd asked if the manufacturing needs to be changed and the building must be changed, then what happens. Ms. Portner said that the Code requirement in that case would not be specific to the South Downtown Plan, it would be city-wide as identified in the Code. To clarify the differences between Corridor Commercial and Industrial relates to outdoor storage with the exception of automotive repair (which is not allowed).

Councilmember Hill asked about the statement that the Plan proposes a reduction of thirty acres of industrial; is all of that heavy industrial (I-2)? Ms. Portner stated that it only includes properties going from Industrial designation to Corridor Commercial designation, not from I-2 to I-1.

Council President Palmer opened the floor for public comments and asked that there be five in favor alternating with five opposed. He asked for concise comments and for those to agree and disagree but not repeat comments already made.

Five in favor:

Mark Eddings, 1068 Hwy 240, is looking to buy in the proposed South Downtown Plan area. The parcel they are considering is on 7<sup>th</sup> Street. He likes the proposal and hopes it will re-inspire more development. He looked at the minimum lot sizes and had some concerns. He suggested the minimum lot sizes be decreased. He said the pictures in the concept and the numbers don't quite match. He believes the current Zoning and Development Code will require a lot of upgrades under the new proposed Plan.

Dick Scariano, 710 Washington Court, is against the neighborhood concept on the Jarvis Property. He said any development in that floodplain should be looked at with scrutiny. He recommended the Jarvis property be traded or made a low tech park as the best use.



He believed that developing the floodplain is inappropriate, seeing the consequences now with the high water. The City shouldn't spend money to develop the Jarvis property. The Planning Staff does an admirable job; he is not against the Plan but just that property being developed.

Bennett Boeschstein, 1255 Ouray Avenue, attended a number of meetings. He was pleased to recommend that it be approved as it is a difficult area with all the mixed uses. He hopes that Council will enact the zoning and allocate funding to make it happen. He serves on a number of other boards in that area and they are in favor of the green waterfront. He supported only those commercial activities that support the green riverfront.

David Brown, 17 Locust Way, Battlement Mesa, Director at the Botanical Gardens, supports the Plan.

Ted Ciavonne, Ciavonne, Roberts, and Associates, 474 North Sherwood Drive, believes it is a mishmash right now. The Plan pulls it together and creates transitions between uses.

Against the proposal:

Bill Wagner, 300 Cedar Court, was neither for or against. He said there are some wonderful elements. He is a very involved individual, but he is overwhelmed with the entire Plan and information. He urged the Council to take more time to adopt the Plan. He asked they wait until the Downtown Master Plan is presented.

David Berry, 530 Hall Ave, felt the City planners act as though they are insulated from the public need. He used a number of questions in the surveys and categorized the intent behind the questions. He then gave a historic example. Then he referred to his struggles to make a living in Grand Junction. He proposed the entire area be zoned mixed use. He concluded by stating three rights: life, liberty and right to property.

Lauralee Kerr, 559 Shoshone, was concerned about building in the floodplain. She cited the mistakes in Minnesota and Iowa.

Joe Loffreda, 2520 Arroyo Drive, owns 739 3<sup>rd</sup> Ave., an industrial warehouse, sold his business to his children who subsequently closed the business. He is trying to sell the building and this change will affect him, the value and reduce the number of potential buyers. He thinks this portion should stay as is.

In favor:

Jim Jeffryes, 859 and 905 Struthers, is planning to build a restaurant and brewery in the subject area. There is a vision for riverfront, and he is happy about the trail and the

Gardens. He owns a business on 12<sup>th</sup> Street and is planning to open another one; people want to be by the river. The industrial owners have made a good living; they have had access to rail and transportation. Industrial users don't necessarily want to be by the river. It is time for Grand Junction to be part of the beautiful place called Colorado.

Duke Cox, owns property next to Jeffryes, has the same vision as Mr. Jeffryes, a beautiful downtown riverfront has long been a vision; he wants to accentuate the recreational use along the river. His property is currently being used industrially but he is ready to change.

Robert Jones, II, Vortex Engineering, 255 Valley Vista Dr, Fruita, was present on behalf of Carter-Page properties which was granted I-2 zoning a couple of weeks ago. His client has moved forward with site planning. If the South Downtown Plan is adopted then would the I-1 standards apply?

City Attorney Shaver advised the I-2 zoning will remain.

Mr. Jones voiced concern that any downzone does affect property owners. He is not against the Plan; just expressing a caution.

Bruce Bauerly, 225 15<sup>th</sup>, is a professor and has taken hundreds of students on the trails along the river and rides the trails nearly every day. He was in favor of the plan.

Maggie Robb, 2481 Canvasback Place, stated it is a good plan except for the floodplain issue on the Jarvis property. She encouraged keeping it green.

Against:

Sam Suplizio, 3210 Primrose Court, advised that smaller properties may get hurt by the change; the smaller buildings allow for smaller businesses that have been displaced by the oil and gas businesses. He felt the Plan is the wrong thing at the wrong time.

Glenn Hertel, 957 O Road, questioned who is going to pay for it.

Russ Justice, 601 Silverplum Drive, Fruita, states that industry is the core of the City; without industry there won't be a lot of people to use the parks and amenities. There is not very much industrial property available. He is not against the South Downtown as it has some great things going. He doesn't agree with downzoning the industrial properties.

Larry Licker, who lives in the Riverside area, referred to three story structures, R-2 and R-3 zoning, with parking underneath, as suiting the floodplain.

Mark Bonella, 973 21 ½ Road, and owns Castings at 860 4<sup>th</sup> Ave., said there are two points of view; both with good issues. He suggested the Plan could do both. The

riverfront is being protected but the protection goes too far out; there doesn't need a buffer; the Parkway can be the buffer. There is a need for industrial property; every piece that is no longer I-2 or I-1 will have to go someplace else. His suggestion was leave the property north of the Parkway as I-2.

In favor:

Wes Harpole 295 Concord Lane, said he has been active in South Downtown for a long time. With cleaning up mill tailings and auto salvage, the City now has a gem worth protecting. He said he is an employee of an industrial user and there is a necessity for having that property down there. Property owners want to see some consistency for the future in that area.

Jeffrey Plummer, 2419 Hidden Valley Drive, is a planner and represents some of the owners in the area. There is available industrial land; industrial is not a dirty thing, some industrial areas are very clean and very nice. Along the riverfront, there should be parks, greenways and paths which will change land use. He represents a developer who is being affected. Staff has listened and the new designation will work well and make for good transition.

Denny Winn, Woodstove Warehouse on 7<sup>th</sup> and Winters, said he has always felt separated from Grand Junction due to his location being on the other side of the tracks. He has been there 20 years and is elated at the vision to develop the area. A project of this scope should require a lot of time and thought so he advises to go slow and get the input.

There were no other public comments.

The public hearing was closed at 8:47 p.m.

Council President Palmer called a recess at 8:47 p.m.

The meeting reconvened at 8:56 p.m.

Councilmember Todd noted the amount of effort that has gone into the development of the Plan. Her concern was that working on a Comprehensive Plan, the time will be ill spent if there are a number of individual plans already adopted. A rezoning of industrial property to commercial is essentially a taking. She is very concerned for the small property owners; a change of use may not be able to meet the new regulations and there are fifteen different uses that will no longer be allowed. She thought they should look at changes that come forward on a case by case basis until the Comprehensive Plan is in place. It is not just about making it pretty; it is about changing lives and uses without asking.

Councilmember Hill had concerns originally when saw the preliminary Plan. He sees some conflicts. They adopted the Las Colonias Park Plan which sets the stage, and then purchased property to be assembled for riverfront-type activities. Then there was the Jarvis study. That property was not included in this Plan originally. Most of the river is somewhat protected and the City has invested in that. He noted nine of the eleven railheads are in this area. The Plan is trying to give best of both worlds; buffer the river area and industrial. He liked the mixed use zoning concept; and the push for high density housing, but creating an area when conflict is created concerns him. He asked if the intent is to start to move forward in eliminating industrial use in this area. The Plan would be the starting point, but so where will Industrial go? I-2 zoning is hard to replace. He is not ready yet for this Plan; the commercial core down 7<sup>th</sup> Street is too much of a stretch to adjust this plan. He agreed with Bill Wagner; it is too early to adopt this Plan. I-2 property as a replacement must come from the Comprehensive Plan, then the South Downtown Plan can go forward. Amenities for the workers in that area will move jobs out then the need diminishes. Part of what is happening is that areas in the community don't change because the Code is so restrictive. A change in use triggers other requirements. He believes the river corridor is protected and the City won't lose that vision.

Councilmember Coons asked about the residential use being discouraged. Ms. Portner stated the Plan was changed after they received comments; it is no longer an allowed use. There is a minimum density of 8 units per acre and there is no cap. Any residential would require a Conditional Use Permit, whereas a business use would be a use by right.

Councilmember Coons thanked all who attended, noting it is always good to hear comments on both sides. Uses in place for a number of years should not stop cities from making those changes; cities reinvent themselves all the time. As economic conditions change, communities reinvent themselves. However, it is not easy. She questioned if the Plan would be more acceptable if part of the Comprehensive Plan; she doubted it. She said there is no reason not to consider this Plan at this time. As far as the concept of property rights versus public rights, they should do the best thing for the community. There were lots of comments about exciting new opportunities versus those that will lose their existing business. She felt the Plan struck a balance; it has a lot of commercial plus industrial opportunity. Rights have been preserved, as have the use of rail spurs. She was concerned about having no transition, as it might make people not use the area. She supports allowing public access to the river and the Plan, even though it may need some tweaking.

Councilmember Beckstein was concerned about existing businesses and long time owners who expressed concerns about loss of industrial area. 7<sup>th</sup> and 9<sup>th</sup> Streets are the only truck accesses. No one will feel the full impact of the Parkway until it is in operation. There are several generations that have businesses in that area, who need to be valued and respected. The riverfront is already separated, so there is no need for a buffer. She was not comfortable with this decision at this time. She wanted to see

the Comprehensive Plan come forward first. She will not support the adoption at this time.

Councilmember Thomason had reservations regarding the Plan. A 45% reduction in I-1, where would that go? He disagreed with the Comprehensive Plan being the end all, solve all Plan. It may not fit those ideals. He won't be supporting this Plan.

Councilmember Doody asked Public Works and Planning Director Tim Moore about the Comprehensive Plan and the industrial components, specifically, will there be other areas designated as industrial?

Public Works and Planning Director Moore advised the Comprehensive Plan has four different scenarios. In talking with the consultants, the City will need an additional 2,000 acres of industrial property within the next 20 years. The areas generally identified in the conceptual plan will be presented the next day at the roundtable session. The role of the Council is to develop the Plan with the public input to support the Plan.

Councilmember Doody said there has been good dialogue, having the meetings, having the Plan and putting it together and adjusting it with Staff. There is a great opportunity for the private sector to help put their mark on it. Councilmember Doody will support the Plan.

Council President Palmer complimented Staff for doing a good job on reaching out and getting input. He noted no Plan is set in stone at this time and no one will be forced out of business. Industrial use around railroad spurs will continue. With all the work that has been done along the river, it is clear the area is changing with great deliberation and community support. This Plan is to move those changes along. He challenged Council to be visionary saying it is time to take that step. He will support the Plan.

Resolution No. 83-08—A Resolution Adopting the South Downtown Neighborhood Plan as a Part of the Grand Junction Growth Plan

Ordinance No. 4249—An Ordinance Adopting a New Zoning Map for the South Downtown Neighborhood Generally Located Between the Riverside Neighborhood to the Northwest, to 28 Road on the East and from the Railroad Tracks on the North, to the Colorado River on the South

Ordinance No. 4250—An Ordinance Amending the Zoning and Development Code to Add Section 7.7 South Downtown Neighborhood Plan Zoning Overlay

Councilmember Hill moved to adopt Resolution No. 83-08. Councilmember Coons seconded the motion. Motion failed by roll call vote. Hill, Thomason, Todd and Beckstein voted NO.

The City Attorney advised there is no need to take action on zoning ordinances, they are moot since the Plan was not adopted.

**Public Hearing—Zoning the Brady South Annexation, Located at 347 and 348 27 ½ Road and 2757 C ½ Road** [File #GPA-2007-051] **Continued from June 4, 2008**

SLB Enterprises LLC, owners of the properties located at 347 and 348 27 ½ Road and 2757 C ½ Road are requesting zoning of the properties from County Heavy Industrial (I-2) to Light Industrial (I-1) and Industrial/Office Park (I-O).

The public hearing was opened at 9:30 p.m.

Councilmember Hill recused himself as he has before due to any appearance or perception of a conflict.

Kathy Portner, Neighborhood Services Manager, reviewed this item. She described the parcels, including their location and their current uses. The Growth Plan Future Land Use Designation shows the easterly parcel as commercial industrial and the westerly parcel as industrial. The options for zoning include staying consistent with the Land Use Designation or applying the County zoning for the areas recently annexed. She described the zone designation being proposed.

Robert Jones II, Vortex Engineering, 255 Vista Valley Drive, Fruita, was representing the applicant. The applicant is requesting a combination of zones, I-1 on one parcel and I/O on two parcels. The existing zoning on the one parcel has been industrial in the County for a long period of time. Proposed zoning is compatible with the neighborhood and meets the criteria of the Growth Plan. He reviewed the history of the properties. He advised that the request meets the rezone criteria and the proposal meets the criteria for infill development. He asked for favorable consideration.

Council President Palmer asked that five in favor speak first and then against and continue alternating until all have been able to speak.

Maggie Robb, 2481 Canvasback Place, asked if the owner has said he would grant any easements along the property.

Laurie Kadrich, City Manager, advised that in early discussions with the applicant, he indicated a willingness to grant easements where there will be access and agreed to buffer the property.

Russ Justice, 601 Silverplum Drive, Fruita, said he has a petition with over 600 signatures for the zoning. He is not against screening the bike path. He purchased this property in

2006 and it was zoned I-2. At that time he asked the City if there would be a problem with industrial uses. He was told there would be no problem. He bought the property and spent over \$250,000 cleaning it up and the area around it. He has asked for zoning several times, but he has been delayed and pushed back. He is not asking for heavy industrial; he will be a good neighbor and won't create any pollution. There is access to the area and he restricts the truck routes. There is less screening and buffering required in an with I/O zone. He intends to clean up area and be friendly to the area. People up on the hill don't want to look at it but they have been looking at it for 50 years. He believes I-1 would be better for screening and buffering. He has gone above and beyond to act as a good neighbor and displacing the criminal element. Industrial property is hard to find and he was willing to clean up the area.

Councilmember Todd asked about the zoning being requested. Mr. Justice said he would rather have I-1 on all of the parcels, but he was told he couldn't get I-1 on the two parcels.

Council President Palmer told Mr. Justice that Council received his copies of the petition.

Those in favor:

Wes Harpole, 295 Concord Lane, supported the request, noting the applicant is willing to provide an easement for a bike path, a buffer zone, and has cleaned up the property.

Those against:

Maggie Robb, 2481 Canvasback Place, asked about the property above, how is that zoned. Council President Palmer said I-1. Ms. Robb asked how easy is it to change from I-1 to I-2.

Councilmember Todd answered that it would have to come before the Council and have a public hearing.

City Attorney Shaver suggested Ms. Robb could call him and he could try to explain the Code criteria.

Ms. Robb then read a statement with a preference to the private property owner. She reviewed the history of the river, including astounding development in the last forty years. She compared the situation to the San Antonio Riverwalk which has attracted over 9 million tourists and she gave other examples. She referred to a pamphlet from 2004, noting the vision since 1967. She expressed that it is easier to find a place to put industrial operations rather than find another place by the river.

Lee Gelatt, 320 Country Club Park Road, said he is not a neighbor but lived here over 20 years. He applauded the planning efforts and urged the Council to continue the vision.

He is a long time member of Grand Valley Audubon Society. This is not just another parcel; it is right on the river. The applicant is a good guy and has done a good job cleaning that property up, but he asked Council to think about the future generations and make it mixed use. He urged denial.

Helen Traylor, a member of the original Riverfront Commission, has a very special interest. The objective is to enable the citizens of Mesa County as well as visitors to have access to the Colorado River and enjoy its beauty. The uses have increased each year. She warned them not to forget how the river banks looked twenty years ago. She wanted to protect this precious resource. The Colorado River is one of the major rivers of the west.

Carl Zimmerman, 666 Tamarron Drive, is familiar with this property as he owns property nearby. He served on the Riverfront Commission two terms and served as chair on the Old Mill Bridge Committee. He read an editorial from 1997 that reviews the prior ten years of river clean up when the Old Mill Bridge was opened. He commended Maggie Robb, her husband Jim, and Helen Traylor as visionaries. He lives above the river in Orchard Mesa and looked down on rendering plant. He did not envision diesel trucks warming up on a cold winter morning blanketing the trail with diesel fumes.

Becky Zamora Van Sice, 2782 Laguna Drive, lives in Orchard Mesa, and lived through the smells of the rendering plant. Her ten year old son wanted to speak; he has asthma and received relief when the rendering plant closed. Now she is horrified to hear there will be a trucking firm there. She is looking for some positive change.

John McCarty, 234 Elberta Drive, said the community doesn't understand this company. They do a fantastic job; making sure things are done right.

Bennett Boeschenstein, 1255 Ouray Ave., knows there has been an excellent effort on behalf of the City to try to relocate Brady Trucking. He would rather see Mixed Use zoning because it has specific performance standards. The property is within the 100 year floodplain so flooding should be mitigated.

Candi Clark, 331 Acoma Court, gave a three minute powerpoint presentation depicting the orientation and proximity of Brady Trucking with the park property. She referred to air quality and she also had photos of Brady Trucking. She listed all the different birds that inhabit that area and noted the river has endangered fish (pike minnow) in that area. She supported Mixed Use zoning.

Hannah Holmes, 1800 N. 3<sup>rd</sup> St., said she is the water organizer for Western Colorado Water Congress. She focused on the differences in the zoning choices and the riverfront vision. The Mixed Use zoning provides the most opportunity. She had a zoning matrix to



demonstrate the differences. She was concerned about flooding, especially residential except for flood proof structures and she encouraged a look forward with this decision.

Joseph Hayes, 185 Rainbow Drive, spoke about Jim Robb's vision for the riverfront reclamation. He supported that vision and gave several examples throughout the nation; he said the work is not yet done. He hopes the City Council will refuse to go back in time and hopes it honors Mr. Robb's vision.

Paul Didier, 2808 Laddie Way represented the Grand Valley Audubon Society as well as himself. He said he is not opposed to trucking and knows trucking is needed. He questioned how it can be considered to grant this zoning to a new company that is new to the area. The rights of the people need to be upheld. It is the desire of one company versus hundreds or thousands of citizens. The general public wants the waterfront to remain pristine so that the future picture will provide revenue for the City. The Riverfront Commission has worked diligently to transform the riverfront and he urged the Council to consider what the majority wants and zone it Mixed Use.

In Favor:

Mike Russell, 200 Grand Ave., is an attorney representing Brady Trucking. He really doesn't disagree that there were all valid points and everyone respects the work the Riverfront Commission has done. However, never before has the public asked private property owners to give up their use; that is different than purchasing property and redeveloping it. This is a huge shift in the way the City looks at it; taking their rights by downzoning. The use was available when the owner purchased it. This is a fundamental shift from the community and putting the burden on the private property owners. A case in Durango went to the Supreme Court and the court agreed it was a taking, sending it back to District Court. He believes it is the same situation here.

Against:

Katie Steele, 629 Rushmore Drive, noted there evidently has been some miscommunication with Mr. Justice and the City. However, the issue of the vision should be separate. City Council should look out to future for this community.

Harry Griff, 2636 Chestnut Drive, questioned how Mr. Justice could be surprised at the level of outcry. He has known of the level of opposition since day one. He knew he had to come before City Council to accomplish what he wanted to do. There were some eloquent comments in the South Downtown Plan hearing about having the Riverside Parkway be the buffer. This property is between the River and the Parkway. The City spent money on the Master Plan for Las Colonias Park just adjacent to the subject property. In the Plan, at the far east end, is a 2500 person amphitheatre and then next to that a community/recreation center. There was a previous Comprehensive Plan that

identified different areas to strengthen Grand Junction's position as the hub of western Colorado and eastern Utah. The Plan called for support of a number of things including the preservation of the riverfront. Grand Junction has nothing on the riverfront for an event. Approval of Brady Transportation tonight will set back development of the riverfront.

Vicki Femlee, 678 Glory View Drive, president of Orchard Mesa Neighbors in Action Group, was chair of the group that developed Orchard Mesa Neighborhood Plan. At that time, the riverfront had a river back. She knew Jim Robb back in the late 1980's. Private property owners do have rights. Jim Robb was absolutely against mixing commercial industrial in the riverfront areas. If approved, it will be too late.

Terry Lindauer, 2207 Dakota Drive, representing the kids from the Bookcliff Middle School who have bought into the vision of the riverfront and maintained that vision for over twenty years.

Steve Thoms, 627 Rushmore, and DDA Board member, agreed with Mr. Griff's statements. There has to be another way; it might not even be on the table this evening. This cannot be a trucking company; they need to figure out another way. He urged the Council not to give up on trying.

There were no other public comments.

The public hearing was closed at 10:58 p.m.

Robert Jones II, Vortex Engineering 255 Valley Vista Fruita, representing the applicant. 2000 acres of industrial zoned property will be needed as per the Comprehensive Plan. Subsequent to the adoption of the Growth Plan, the Riverside Parkway had not been planned, and it is an arterial for trucks. They believe the community will derive some benefits from the proposed zoning. He showed what portions of the property are in and out of the floodplain. There is site specific review for development in the floodplain and this site will be required to go through that review. The Mixed Use was considered and discussed with Staff, primarily because it allows multifamily residential. The Mixed Use zone does not provide specific buffering requirements; I-1 requires the largest buffer. I/O requires an 8 foot buffer; Mixed Use was designed for the 24 Road corridor and may not be appropriate for this parcel so Staff recommended I-1 and I/O combination as requested. He asked what about the property owner's vision? There have been discussions with the Riverfront Commission specifically about it and having the riverfront trail go along this area. They are in support of continuing the trail along the property. There will need to be some sort of buffering along the river and they support Staff's recommendation. He requested approval.

Councilmember Thomason asked about the outdoor storage on the rear of the property, will that be the river side or the road frontage? Mr. Jones said the rear half will be towards the river side, but outdoor storage will have to be approved under a Conditional Use Permit.

Councilmember Thomason noted that, unlike other tough decisions they have made, in this case both sides are right. The landowner purchased in good faith and spent money improving site. Alternatives have been tried. This business doesn't have to be dirty, unsightly and a bad neighbor. Councilmember Thomason said he will support the request.

Councilmember Beckstein spoke of two extreme valid points, riverfront and nature and the right of the property owner to fulfill his vision. Mr. Justice didn't go into it blind; he checked with City, bought an eyesore and went through process. He compromised his desires in order to work with the City and is willing to work with City for the river trail. His intent is to be a good neighbor. Councilmember Beckstein will support the request.

Councilmember Coons appreciated Mr. Justice's efforts as the property was truly an eyesore and public hazard. However, community perspectives can change and perhaps is in a mode to remove industrial uses from the river. She is concerned about delaying as it will be more difficult when more money has been invested. Many people want industrial in that area but want that area south of the Parkway to be green to the river. She looked at the petitions submitted by Mr. Justice and read names and addresses. Many of the names on Mr. Justice's petitions were from out of the area. Future tenants may not be as good of citizens as Mr. Justice, so she is not in support of the zoning at this time.

Councilmember Todd pointed out Mr. Justice will put buffering there. He asked the questions, he followed process correctly, and the delays have been unfortunate. He is willing to give up heavy industrial zoning and is obviously a good neighbor. He is willing to be a partner for trails. Industrial is not a dirty word. She will be supporting the request.

Councilmember Doody said they have worked hard to work something out with the Land Trust, yet this fell through. There has been a huge investment in Las Colonias and the Botanical Gardens, and he supports the Planning Commission's recommendation for I/O.

Council President Palmer said to render a decision one must take the people and the emotion out of it and figure what the appropriate use is going forward. They need to look at the zoning. Industrial use is a giant step backward and Mixed Use is not a good use either along the river. He will honor the community's collective mindset and support Planning Commission's recommendation of I/O for both parcels.

Ordinance No. 4251—An Ordinance Zoning the Brady South Annexation to Industrial/Office Park (I-O) Zone District for the Properties Located at 348 27 ½ Road and 2757 C ½ Road and Light Industrial (I-1) for the Property Located at 347 27 ½ Road

Councilmember Thomason moved to adopt Ordinance No. 4251 and ordered it published. Councilmember Todd seconded the motion. Motion failed by roll call vote. Councilmembers Coons, Doody and Palmer voted NO.

Councilmember Coons moved to accept the Planning Commission's recommendation for zoning. Councilmember Doody seconded the motion. Motion failed by roll call vote. Councilmembers Todd, Beckstein and Thomason voted NO.

City Manager Kadrach presented some options for Council.

Council President Palmer said it is unlikely to resolve with a six member Council. City Attorney Shaver said they could go forward on the parcel they do agree on, or continue the hearing for further information or deliberation. He noted the number of Council members available to participate will not change.

Council President Palmer asked to hear from the applicants.

City Attorney Shaver cautioned that the hearing was closed so to simply ask if he would like the Council to proceed.

The Attorney for the applicant asked for a break so they could confer.

Council President Palmer called a recess at 11:31 p.m.

The meeting reconvened at 11:37 p.m.

Robert Jones II, Vortex Engineering, stated the applicant would like to defer and zone all three parcels at once.

Council President Palmer would defer to applicant and make no decision or consider them individually.

Councilmember Todd agreed they should listen to the applicant and let him hold all three parcels for zoning.

Councilmember Beckstein agreed.

Councilmember Coons would also agree; her only interest in separate consideration was to let the applicant move forward. However, she heeded to their wishes.

Councilmembers Doody and Thomason both agreed.

Council President Palmer stated there is some wisdom to that and would move to next item.

City Attorney Shaver stated they could set a schedule or have consultation with the applicant and then schedule the matter before Council.

Council President Palmer would like to wait to schedule, not make a date certain at this time.

### **Non-Scheduled Citizens & Visitors**

There were none.

### **Other Business**

Councilmember Todd attended the Oil and Gas Commission meeting and there was standing room only at Two Rivers Convention Center. It was an outstanding showing but there were parking issues.

Council President Palmer thanked Councilmember Todd for attending that meeting.

### **Adjournment**

The meeting was adjourned at 11:42 p.m.

Stephanie Tuin, MMC  
City Clerk