

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

The City Council of the City of Grand Junction convened into regular session on the 17th day of September 2008 at 7:00 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 Coons led in the Pledge of Allegiance.

Citizen Comments

There were none

CONSENT CALENDAR

There were no items on the Consent Calendar.

President of the Council Palmer recognized Boy Scout Troop 358 in attendance.

ITEMS NEEDING INDIVIDUAL CONSIDERATION

Public Hearing—Zoning the Sunshine of Delta Annexation, Located at 377 and 379 29 Road [File #GPA-2008-074]

Request to zone 4.30 acres, located at 377 and 379 29 Road to R-12 (Residential 12 du/ac).

The public hearing was opened at 7:03 p.m.

Greg Moberg, Planning Services Supervisor, presented this item. He described the request and asked that the Staff Report and attachments be entered into the record. The request meets the criteria of the Growth Plan and the Zoning and Development Code. The Planning Commission recommended approval.

The applicant was present and available for questions.

There were no public comments.

The public hearing was closed at 7:04 p.m.

Ordinance No. 4293—An Ordinance Zoning the Sunshine of Delta Annexation to R-12 (Residential 12 DU/Ac), Located at 377 and 379 29 Road

Councilmember Hill moved to adopt Ordinance No. 4293 and ordered it published. Councilmember Beckstein seconded the motion. Motion carried by roll call vote.

Public Hearing—Zoning the Park Mesa Annexation, Located at the Northwest Corner of Rosevale Road and Little Park Road [File #ANX-2008-065]

Request to zone the 13.58 acre Park Mesa Annexation located at the northwest corner of Rosevale Road and Little Park Road in the Redlands to R-1, Residential – 1 unit/acre Zone District.

The public hearing was opened at 7:05 p.m.

Scott D. Peterson, Senior Planner, presented this item. He described the request, the site, and the location. He asked that the Staff Report and the attachments be entered into the record. The request meets the criteria of the Zoning and Development Code. The Planning Commission recommended approval. The City annexed this property earlier this year.

The applicant was present and could answer questions.

The applicant (Colleen Scissors) stated she had nothing to add.

There were no public comments.

The public hearing was closed at 7:06 p.m.

Ordinance No. 4294—An Ordinance Zoning the Park Mesa Annexation to R-1 (Residential - 1 unit/acre), Located at the Northwest Corner of Rosevale Road and Little Park Road

Councilmember Thomason moved to adopt Ordinance No. 4294 and ordered it published. Councilmember Todd seconded the motion. Motion carried by roll call vote.

Public Hearing—Reconsideration of Zoning for the Brady South Annexation, Located at 347 and 348 27 ½ Road and 2757 C ½ Road [File #GPA-2007-051]

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 7:07 p.m.

Councilmember Bruce Hill recused himself and left the dais due to a perceived conflict of interest.

Robert Jones, II of Vortex Engineering, 255 Valle Vista Drive, Fruita, was representing the applicant. He reviewed the discussions that have been ongoing over the last few months to bring this request back for reconsideration. He thanked the City Staff for all their work on this.

He then presented his request and the conditions including a trail easement dedication fifty feet wide. Another request is related to security of the property. With the trail dedication, the owner is concerned about trespassing. Therefore, the applicant is asking for a six foot chain link fence and is asking for the City to participate in the construction cost of that fence in an amount of \$30,000. Mr. Jones stated the request is consistent with the Growth Plan and the Zoning and Development Code.

Kathy Portner, Neighborhood Services, presented this item. She reviewed the location and the site. She noted the land use designations for the three parcels and the appropriate zone designations for those land use designations. The Staff has been working with the applicant to meet the goals that are important to the community. In considering the adjacent Las Colonias Park site and the river's edge, certain conditions are being put forward. First, a six foot wall and landscape buffer running twenty-five feet along the west and north boundaries is being suggested. Along the east boundary, a fifty-foot trail easement and eight-foot landscape buffer outside the wall, an eight-foot landscape buffer and wall within the fifty-foot trail easement, the exact placement subject to review of the Riverfront Commission is proposed. Along the river the following conditions are proposed:

- No fence or wall required
- 50-foot easement from property line along entire length (all 3 parcels) assuming property line is at the top of the bank
- Minimum 50-foot building setback (in lieu of 100-foot requirement) subject to provision of landscape buffer as below
- 25-foot landscape buffer (no wall or fence) between trail and site development along entire length (all 3 parcels)
- 25-foot landscape buffer may overlap with 50-foot trail easement subject to approval by City and Riverfront
- Plantings within required 25-foot landscape buffer shall meet Code requirements for number of plant materials (e.g. trees/shrubs per square footage) and groundcover

The City would not require trail construction and the agreement would allow buildings to have any orientation on site, provided they meet setbacks of the zone district.

Councilmember Todd asked for clarification that the landscaping and the buffer around the west parcel is being proposed to be I-1 zoning. Ms. Portner said that is correct. Councilmember Todd asked if the landscaping requirement is in the easement area of the 50-foot buffer along the river on the east side of the property. Ms. Portner stated that only an 8-foot landscape buffer is required and would be under consideration that it could be within the 50 feet. Councilmember Todd asked about the landscaping and the fencing along that property. Ms. Portner said that the fence could be placed at that 50-foot line and then it would be a question of whether the landscaping would be inside or outside of the fence.

Councilmember Beckstein asked about maintenance of the buffer and easement. Ms. Portner advised that it will either be dedicated to the City or the Riverfront Foundation, but that has yet to be determined. City Attorney Shaver advised that the easement may be separated into its own tract; then it will be conveyed and the maintenance responsibility will be clear.

Councilmember Doody asked for Ms. Portner to delineate between the I-1 and the I-O. Ms. Portner said that the I-O (Industrial Office) zone district is meant to be more of an office park type setting. It allows many of the same uses as I-1 but requires a Conditional Use Permit (CUP) for some of the more intensive industrial uses and limits types of outdoor storage and activity.

Councilmember Coons asked about building size in the two zone districts. Ms. Portner said, in the I-1 zone district, 150,000 square feet is the maximum building size without a CUP; I-O allows 250,000 square feet before a CUP is required.

Councilmember Coons asked for why the building footprint is smaller in the I-1 zone district than in the I-O zone district. Ms. Portner said that the maximum building size in both zone districts is without a CUP. She explained that in I-O, there are so many different uses within the zone district that do require a CUP and it is thought the CUP process would likely be required anyway. On the other hand, in the I-1 zone district, most of the uses are uses by right and by limiting the building size, there is another level of review through the Conditional Use Permit process for expansions.

City Attorney Shaver added that another thought behind the Code provisions is that the I-1 lends itself more to outdoor uses.

Council President Palmer asked for verification that only Planning Commission reviews CUP's. Ms. Portner confirmed that to be true.

Councilmember Todd asked what kind of restrictions are there for the parking of equipment. Ms. Portner explained that the parking of equipment is not as big of an issue as storage and uses. Vehicles that are parked but used most of the time are just

considered parked vehicles, but larger equipment that isn't generally seen out on the road is considered storage. In I-O, such equipment would have to be in the rear half of the lot beside or behind the principal structure, and in I-1, it just cannot be in the front yard setback.

Councilmember Todd inquired about trailers being parked on the property. Ms. Portner said yes they would be considered equipment. City Attorney Shaver noted that there are visible corridors on all three sides of the property.

Councilmember Thomason asked about the differences between the City's I-2 and the County's I-2. Ms. Portner was not able to answer as they used to align but have changed over the years.

Council President Palmer asked the City Attorney to speak to the guidelines for limiting testimony since this is a rehearing.

City Attorney Shaver agreed this is unusual, mostly due to the deadlock the last time this was heard. A deadlock on this item is not an acceptable result; the property must be zoned. That is the reason for the rehearing. As per Council's direction, Staff has provided more information that may be sufficient to break the deadlock. Since the issue is whether the Council agrees with the Planning Commission recommendation of I-O or grants the applicant's request of I-O and I-1, the Staff has discussed conditions with the applicant that may mitigate some of the community concerns. The applicant has agreed to those conditions. The acceptance of those conditions is entirely up to the City Council.

Council President Palmer then stated for the audience that any public comment should be directly specific to the proximity to the park and the conditions proposed. City Attorney Shaver concurred adding that it is Council's determination as to how much weight the plan for the adjacent park site is appropriate.

Councilmember Thomason asked if it was discussed about what happens if this applicant sells the property. City Attorney Shaver stated the zoning and the conditions would stay with the land as long as that zoning stays in place.

Councilmember Doody asked which property is the western most parcel. The answer was 347 27 1/2 Road.

Councilmember Beckstein asked if the applicant contacted the City when they proposed to buy the property. City Attorney Shaver responded yes. There was a period of time when the property was vacant and it was available for sale on the open market.

Councilmember Todd asked Robert Jones, II, the applicant's representative, if his client is comfortable with the I-1 on the western parcel and I-O on the other two parcels with the

conditions. Mr. Jones answered yes. Regarding the trail easement, the applicant would request that the easement be a tract dedicated to the City or Riverfront for liability and maintenance purposes. City Attorney Shaver concurred that was discussed. President of the Council Palmer outlined the process for the public hearing. He asked for five in favor speak first.

Lois Dunn, no address given, was in favor of what she heard and is more comfortable with industrial buildings instead of places where people camp. When using the river trail, she is concerned about safety.

Jim Garber, 485 Meadow Road, an appraiser and a realtor, said he is favor from a broad spectrum and asked Council to return to fundamentals. The property has historically been industrial/commercial.

No one else came forward to speak in favor.

Those against:

Bennet Boeschstein, 1235 Ouray, former Planner and has worked in western Colorado for 30 years, thanked the City for trying to come to a solution. He stated that they requested to be notified of the meetings held over the last few months and were not included. He questioned if the City complied with the Open Meeting Law. He expressed that as a representative of various organizations, he believes I-O would be more compatible. The I-1 zone allows more outdoor storage. Trucks that are involved in the oil and gas industry could leak hazardous chemicals that could get into the nearby river. This property is in the flood zone and this entire site was underwater in 1983. He still urged I-O and suggested a vote of the people if the Council is still deadlocked.

Janet Magoon, 2752 Cheyenne Drive, asked for the definition of a buffer. She expressed that the property will have barbed wire and the property will be lit up. She and her neighbors have property rights too; they have the right to enjoy clean air, a quiet neighborhood, and enjoy the park when picnicking. The City is forgetting who was there first. No amount of buffering is going to stop them from looking down on that property.

Peggy Rawlins, 519 Liberty Cap Court, referred to the plan for the Las Colonias Park. She asked the industrial zoning be rejected completely. There are more appropriate places for those uses.

Harry Griff, 2636 Chestnut Drive, said Staff recommended I-O zoning originally and Planning Commission recommended I-O. The modifications have been discussed in private with the Staff. It is going down the wrong path. He disagreed with the assumption that I-1 will be compatible with Las Colonias Park. His contention was that there must be a reason Brady does not want I-O; they must be planning uses that will only be allowed

under I-1. There may someday be concerts at the amphitheatre proposed much like in Telluride. The noise will not be compatible with the concert venue; the noise will dwarf the amphitheatre. If Brady will not accept I-O, then he suggested the City buy the property to keep it consistent with Las Colonias. He suggested the community will step up and raise the money if need be.

Paul Didier, 2808 Laddie Way, asked how this evening's decision to narrow the scope was made. It favors Brady, not the public. He said building landscape and a buffer is nothing more than lipstick on a pig...it is still a pig.

Sandra Dorr, 2529 Overlook Drive, expressed shock about what is happening. She asked that the Council not make the mistake. She said to take this area and zone it industrial is a folly she cannot comprehend. There are trees and shrubs and vegetation needed on the site.

Candy Clark, 331 Acoma, addressed the noise and that I-1 and I-O do not address air quality relative to idling trucks. She does not think that I-1 even begins to represent what the property should be and she also thinks that I-O would be very bad for the piece of property. She recommended that Council does not go in that direction.

Penny Pauline Heuscher, 330 Mountain View Court, asked that the Council vote as the Planning Commission did without conditions. Brady can then move forward. She read a statement that she provided to Council.

Those in favor:

Duncan McArthur, 2837 Kelso Mesa Drive, agreed with the conditions but addressed some of the concerns. With the physical situation of that property and it being in a floodplain, he was questioning if people are thinking it would be possible to put residential development in that area. He believes this is a proper use of the property and urged approval.

Those against:

Hannah Holm, 1800 N. 3rd Street, supports I-O for the property. She stated there is very little that cannot be done under I-O, and with a CUP, a safety net is provided. A CUP would require the uses to be as low impact as possible. The Council has no obligation to Brady. The applicant knew the process and took the risk. There is no property rights issue at stake.

Enno Heuscher, 330 Mountain View Court, is against the proposal as he does not feel it provides the buffering. He is in favor of I-O. He is a park user and a resident. The current uses involve beeping in the middle of the night and unshielded bright lighting,

brighter than railroad lights. The proposed uses would interfere with an amphitheatre in the park. He asked for I-O.

Tom Acker, 2410 Sandridge Court, said he rides his bike to Mesa State every day. He recognizes the elements being proposed in the conditions; it is an unpleasant span of the trail. He asked Council to consider the river floaters and bikers. This is not what Grand Junction wants to have for the future. I-O is the choice if there has to be a decision.

There was no else wanting to speak.

The public hearing closed at 8:20 p.m.

Council President Palmer asked the City Attorney to explain the reason for the Staff discussion with the applicant. City Attorney Shaver advised the Open Meetings Law refers to Elected Officials. He stated Mr. Boecheinstein was told he would receive notice of public meetings. There were no violations of the Open Meetings Law. The direction was given to Staff in a public meeting. He advised that the possibility of a rehearing was discussed in public. City Council provided direction about the type of additional information they wanted to see. The proposal with conditions is totally subject to the City Council approval. There can be no screening for Orchard Mesa due to their elevation above the site. The information provided has been true to the request of the City Council.

Councilmember Coons inquired about the floodplain issues. City Attorney Shaver stated that once zoned, the site plan will come forward and that is when the Staff will ensure the regulations relative to the floodplain and other Code provisions are addressed.

Council President Palmer stated that the Council has had no discussions with the applicant and no discussions among themselves. The Council previously directed Staff to try to find a resolution.

Robert Jones, II, the applicant's representative, stated that these properties have been I-2 since the 1880's when the slaughterhouse began operations. The amount of funds to purchase and clean up of the property has been phenomenal. The removal of the criminal element has improved safety along the Riverfront Trail. He said he fails to see the impact on the proposed amphitheatre. The use will have to go through site plan review and meet all regulations. The applicant respectfully asked for approval.

Council President Palmer called a recess at 8:30 p.m.

The meeting was back in session 8:39 p.m.

Council President Palmer stated his appreciation to those for coming down to speak and paying attention to this issue. By law, the property must be zoned. These are difficult

decisions and Council takes them very seriously. This is not about Brady, this is about land. Whatever zone is placed on the land, it's on there. He listed a number of the possible uses for I-1. Planning Commission recommended unanimously that it be zoned I-O. He believes the majority of the community does not want to see this property zoned industrial. The community has spent millions of dollars cleaning up the river front. He does not believe this is compatible zoning with the neighborhood. The community has indicated they want something besides industrial. The screening and buffering is not going to make any difference on future uses. He will support I-O on all three of the properties.

Councilmember Todd noted that the Staff recommended I-1 on one parcel and I-O on the two east parcels.

President of the Council Palmer stood corrected but stayed with his support for I-O.

Councilmember Todd recalled another similar case and thought it to be a takings for people's property rights. There is industrial zoning all around in this area. Other communities have industrial mixed with other uses. I-1 requires a larger buffer. Industrial has been all along the river trail and they have been good stewards. She supports Staff's time in trying to bring forward a solution. She supports I-1 on the west parcel and I-O on the other two.

Councilmember Beckstein said she will support I-1 on the west parcel and I-O on the other two. Rather than lack of vision this is the best way to do business. The applicant checked with the City on the zoning before purchasing and has followed procedure. She appreciates the conditions developed, but the applicant moved forward in good faith.

Councilmember Doody lauded Staff's work in coming up with a compromise. He noted Mr. Griff's comment that they should have gone out to the community, pointing out that the community has come to the Council. The vision for the river front was set 25 years ago by Jim Robb and this section is part of the "string of pearls". Just because it has been industrial since the 1880's doesn't make it right. The decision includes the Botanical Gardens and the plan for the park. They know that the Comprehensive Plan will cause a look at other industrial parcels. He will support the Mayor's comments.

Councilmember Thomason said he will stay with his original stance; I-1 on the west and I-O on the other two parcels and agrees with the conditions. He is a frequent user of the trails and agrees there is a safety factor in some areas.

Councilmember Coons said this is the classic conflict of a citizen's property rights and the rights of the community. Mr. Justice (the applicant) has done a service to the community by cleaning up the site; that saved taxpayer money. She agrees with river front development and honors the concerns of the citizens in the neighborhoods nearby. She

is torn not only by this conflict but also what is the role of the elected official to deal with the two sides. This project has resulted in many sleepless nights for her and she noted the Council's options are severely limited. She felt it would be irresponsible to decide not to decide. She is reluctantly opting to lose the battle. She will support the option brought forward by Staff that will provide the highest degree of buffering and keep the footprint the smallest. The key issue is the trail access. In the long term she thinks the property will be developed differently.

Council President Palmer asked if the \$30,000 contribution is included in the conditions. City Attorney Shaver said the ordinance is correct in the zoning but if Council wants to add the conditions then that must be added into the motion. The financial contribution can be included or that can be a second motion. The title of the ordinance can be corrected.

Ordinance No. 4295—An Ordinance Zoning the Brady South Annexation to Industrial/Office Park (I-O) Zone District, Located at 347 and 348 27 ½ Road and 2757 C ½ Road

Councilmember Todd moved to adopt Ordinance No. 4295 with I-1 zoning on 347 27 ½ Road and I-O zoning on 348 27 ½ Road and 2757 C ½ Road with the conditions as discussed and approve the participation in the cost of the fencing in the amount of \$30,000 and ordered it published. Councilmember Beckstein seconded the motion. Motion carried by roll call vote with Councilmember Doody and Council President Palmer voting NO.

Non-Scheduled Citizens & Visitors

Milton "Tony" Long, 237 White Ave, Apt B, appreciated the Council taking public input, especially with the Comprehensive Plan. He told a story about how homeless people need to be somewhere.

Councilmember Hill returned to the dais

Other Business

President of the Council Palmer thanked Council President Pro Tem Coons for filling in on Monday.

Adjournment

The meeting was adjourned at 9:05 p.m.

Stephanie Tuin, MMC
City Clerk