

**GRAND JUNCTION CITY COUNCIL  
CITY HALL AUDITORIUM, 250 NORTH 5<sup>TH</sup> STREET  
AGENDA**

**WEDNESDAY, NOVEMBER 19, 2003, 7:30 P.M.**

**CALL TO ORDER**

Pledge of Allegiance

Invocation - Rocky Shrable, Sonrise Church of God

PRESENTATION OF CERTIFICATES OF APPOINTMENT

FORESTRY BOARD

GRAND JUNCTION HOUSING AUTHORITY

PLANNING COMMISSION BOARD OF APPEALS

PROCLAMATIONS / RECOGNITIONS

PROCLAIMING NOVEMBER 19, 2003 AS "COPD DAY"

SCHEDULED CITIZEN COMMENTS

\* \* \* CONSENT CALENDAR \* \* \*

1. **Minutes of Previous Meetings** [Attach 1](#)  
*Action: Approve the Summary of the November 3, 2003 Workshop, Minutes of the November 5, 2003 Regular Meeting and Minutes of the November 12, 2003 Special Meeting*
2. **Setting a Hearing on the 2004 Annual Appropriation Ordinance** [Attach 2](#)

The total appropriation for all thirty-four accounting funds budgeted by the City of Grand Junction (including the Ridges Metropolitan District, Grand Junction West Water and Sanitation District, and the Downtown Development Authority) for the fiscal year beginning January 1, 2004 is \$115,484,715. Although not a planned expenditure, an additional \$2,500,000 is appropriated as a emergency reserve in the General Fund pursuant to Article X, Section 20 of the Colorado Constitution.

Proposed Annual Appropriation Ordinance Appropriating Certain Sums of Money to Defray the Necessary Expenses and Liabilities of the City of Grand Junction, Colorado, the Ridges Metropolitan District, and the Grand Junction West Water and Sanitation District for the Year Beginning January 1, 2004 and Ending December 31, 2004

*Action: Introduction of Proposed Ordinance and Set a Hearing for December 3, 2003*

Staff presentation: Ron Lappi, Administrative Services Director

3. **Setting a Hearing on the Bond Ordinance for Community Hospital** [Attach 3](#)

This is an ordinance authorizing the issuance of \$3,420,000 of hospital revenue refunding bonds on behalf of Community Hospital.

Proposed Ordinance Authorizing the Issuance and Sale of \$3,420,000 Hospital Revenue Refunding Bond (Community Hospital Project) Series 2004 of the City of Grand Junction, Colorado for the Purpose of Refunding all of the Outstanding City of Grand Junction, Colorado Hospital Revenue Refunding and Improvement Bonds (Community Hospital Corporation Project) Series 1993; Approving and Authorizing Execution of a Financing Agreement and Escrow Agreement with Respect to the Bond; Making Findings and Determinations with Respect to the Refunding Project and the Bond; Authorizing the Execution and Delivery of Related Documents; and Repealing all Action Heretofore Taken in Conflict Herewith

*Action: Introduction of Proposed Ordinance and Set a Hearing for December 3, 2003*

Staff presentation: Ron Lappi, Administrative Services Director

4. **Setting a Hearing on Amending the Barking Dog Ordinance** [Attach 4](#)

Changes are made to the elements for the prosecution of an owner who has failed to prevent a dog from disturbing the peace of another, warning requirements have been eliminated, and penalties have been increased for a first and second offense for violating any section of Article III of Chapter 6 of the Code of Ordinances.

Proposed Ordinance Repealing and Reenacting Section 6-61 of the Code of Ordinances ("Code") Concerning an Owner's Failure to Prevent a Dog From Disturbing the Peace and Quiet of Another, Repealing and Reenacting Section 6-68 of the Code Establishing the Penalties for Violating any Article of Section 6 of

Chapter 6 of the Code, and Repealing Certain Ordinances in Conflict with the Amendments

*Action: Introduction of Proposed Ordinance and Set a Hearing for December 3, 2003*

Staff presentation: Jamie B. Kreiling, City Staff Attorney  
John P. Shaver, Assistant City Attorney

5. **City Participation in the I-70B Corridor Optimization Plan** [Attach 5](#)

This study is a collaborative effort between CDOT and our local agencies to establish conceptual ideas relating to the I-70B corridor.

*Action: Authorizing the City Manager to Execute a Contract to Participate in the Corridor Optimization Study for I-70B and Approve the Use of \$75,000 from Contingency.*

Staff presentation: Mark Relph, Public Works and Utilities Director

**\*\*\* END OF CONSENT CALENDAR \*\*\***

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

6. **Construction Contracts** (Items a - c may be awarded under one motion)

a. **Redlands Fire Station #5 Utility Improvements** [Attach 6](#)

Bids were received and opened on November 4, 2003. M.A. Concrete Construction submitted the low bid in the amount of \$204,847.52. The project is a joint project with Church on the Rock that will extend an 8 inch sanitary sewer main and an 8 inch Ute Water main to Church on the Rock and Redlands Fire Station #5.

*Action: Authorize City Manager to Execute a Construction Contract for the Redlands Fire Station #5 Utility Improvements with M.A. Concrete Construction in the Amount of \$204,847.52*

Staff presentation: Mark Relph, Public Works and Utilities Director

b. **Redlands Fire Station #5 Construction Contract** [Attach 7](#)

A request for qualifications process was used to select FCI Constructors, Inc. of Grand Junction as the Construction Manager/General Contractor for Redlands Fire Station #5. Eight proposals were submitted during February 2003. Three firms were short listed for interviews. FCI Constructors was selected over Shaw Construction of Grand Junction and TSP of Denver.

*Action: Authorize the City Manager to Execute a GMP (Guaranteed Maximum Price) Contract for the Redlands Fire Station #5 with FCI Constructors, Inc. in the Amount of \$1,446,345.51*

Staff presentation: Mark Relph, Public Works and Utilities Director

**c. 2003 Waterline Replacement Project Change Order #1 [Attach 8](#)**

Approve a change order to the 2003 Waterline Replacement Contract with MA Concrete Construction, Inc. to add the replacement of the 12" water line in 9<sup>th</sup> Street from Main Street to Grand Avenue in the amount of \$95,429.50. This work was originally scheduled to be done in 2004 but a change in the alignment of the storm sewer pipe at 9<sup>th</sup> Street necessitates the construction of the water line this year.

*Action: Authorize City Manager to Execute a Contract Change Order with M.A. Construction Inc., in the Amount of \$95,429.50 for the 2003 Waterline Replacement Project*

Staff presentation: Mark Relph, Public Works and Utilities Director

**7. Public Hearing - Authorizing the Issuance of the City of Grand Junction, Downtown Development Authority Subordinate Tax Increment Revenue Bonds in the Amount of \$3,000,000 [Attach 9](#)**

The ordinance authorizes the issuance of \$3,000,000 in subordinate Tax Increment Bonds for improvements in the Downtown Plan of Development area.

Ordinance No. 3585 – An Ordinance Authorizing the Issuance of the City of Grand Junction, Colorado, Downtown Development Authority Tax Increment Revenue Bonds, Series 2003; Pledging the Tax Increment Revenues of the City for the Payment of the Bonds; Providing for the Payment and Discharge of the City's Outstanding Tax Increment Revenue Bonds and Subordinate Tax Increment Revenue Bonds

*®Action: Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 3585*

Staff presentation: Ron Lappi, Administrative Services Director

8. **Police Department Edward Byrne Memorial Grant Program** [Attach 10](#)

The Colorado Department of Public Safety through the Division of Criminal Justice has opened the 2004 Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Program. The Grand Junction Police Department would like to apply for funding of the purchase of in-car video systems for all patrol cars in the fleet along with equipment to enhance video for evidentiary purposes.

*Action: Authorize the Application for Byrne Grant Funding*

Staff presentation: Greg Morrison, Chief of Police

9. **Public Hearing - Create Alley Improvement District 2004** [Attach 11](#)

Successful petitions have been submitted requesting an Alley Improvement District be created to reconstruct the following six alleys:

- East/West Alley from 14<sup>th</sup> to 15<sup>th</sup>, between Elm Avenue and Texas Avenue
- East/West Alley, from 2<sup>nd</sup> to 3<sup>rd</sup>, between Chipeta Avenue and Ouray Avenue
- East/West Alley from 8<sup>th</sup> to Cannell, between Mesa Avenue and Hall Avenue
- “T” shaped Alley from 13<sup>th</sup> to 15<sup>th</sup>, between Kennedy Avenue and Elm Avenue
- East/West Alley from 2<sup>nd</sup> to 3<sup>rd</sup>, between Teller Avenue and Belford Avenue
- “T” shaped Alley from 7<sup>th</sup> to Cannell, between Kennedy Avenue and Elm Avenue

Resolution No. 108-03 – A Resolution Creating and Establishing Alley Improvement District No. ST-04 within the Corporate Limits of the City of Grand Junction, Colorado, Authorizing the Reconstruction of Certain Alley, Adopting Details, Plans and Specifications for the Paving Thereon and Providing for Payment Thereof

*®Action: Hold a Public Hearing and Consider Passage of Resolution No. 108-03*

Staff presentation: Mark Relph, Public Works and Utilities Director

10. **Public Hearing - Vacating a 15' Alley Right-of-Way Located 722 Belford Avenue** [File # VR-2003-132] [Attach 12](#)

The petitioner, FMC Properties, LLC, wishes to vacate an existing 15' north/south alley right-of-way located northeast of the intersection of N. 7<sup>th</sup> Street and Belford Avenue in anticipation of future commercial office development. The only utilities that are located in the alley right-of-way are a sanitary sewer line which is to be

abandoned and an overhead utility line which is to be relocated. The existing eight (8) lots owned by the petitioner will be consolidated into one (1) 0.59 acre lot through a Simple Subdivision Plat upon the approval of the alley vacation. The Planning Commission recommended approval at its October 28<sup>th</sup>, 2003 meeting. The petitioners request approval of the Vacation Ordinance.

Ordinance No. 3586 – An Ordinance Vacating a 15’ Wide Alley Right-of-way Located Northeast of the Intersection of North 7<sup>th</sup> Street and Belford Avenue Known as 722 Belford Avenue

*®Action: Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 3586*

Staff presentation: Scott D. Peterson, Associate Planner

11. **Public Hearing - Gowhari Growth Plan Amendment Located at 563 & 573 20 ½ Road and 2026 S. Broadway** [File #GPA-2003-183] [Attach 13](#)

Request to amend the Growth Plan, changing the Future Land Use designation from “Rural” to “Residential Low” for three properties located at 2026 S. Broadway, 563 20 ½ Rd and 573 20 ½ Rd. Planning Commission recommends approval.

Resolution No. 109-03 – A Resolution Amending the City of Grand Junction Growth Plan Future Land Use Map to Re-designate 24.6 acres of the Gowhari Property Located at 2026 South Broadway, 563 20 ½ Road and 573 20 ½ Road from Rural, 5 to 35 acres per dwelling unit, to Residential Low, ½ -2 acres per dwelling unit

®Action: Adopt Resolution No. 109-03

Staff presentation: David Thornton, Principal Planner

12. **Public Hearing - Grand Bud Growth Plan Amendment Located at the NW Corner of 28 ½ Road and Highway 50** [File #GPA-2003-184] [Attach 14](#)

Request to amend the Growth Plan, changing the Future Land Use designation from Residential Medium (4-8 units per acre) to Commercial on a portion of the property located at the NW corner of 28 ½ Road and Highway 50. Staff and Planning Commission recommend denial.

Resolution No. 110-03 – A Resolution Amending the City of Grand Junction Growth Plan Future Land Use Map to Re-designate the Grand Bud Property, approximately 10 acres at the Northwest corner of 28 ½ Road and Highway 50, from Residential Medium (4 to 8 units per acre) to Commercial

®Action: Adopt Resolution No. 110-03

Staff presentation: Kathy Portner, Planning Manager

13. NON-SCHEDULED CITIZENS & VISITORS
14. OTHER BUSINESS
15. **EXECUTIVE SESSION** FOR DISCUSSION OF PERSONNEL MATTERS UNDER C.R.S. 24-6-402(4)(f)(I) RELATIVE TO CITY COUNCIL EMPLOYEES
16. **ADJOURNMENT**

**Attach 1**  
Minutes of Previous Meetings

**GRAND JUNCTION  
CITY COUNCIL WORKSHOP  
SUMMARY**

**November 3, 2003**

The City Council of the City of Grand Junction, Colorado met on Monday, November 3, 2003 at 7:05 p.m. in the City Hall Auditorium to discuss workshop items. Those present were Harry Butler, Cindy Enos-Martinez, Bruce Hill, Dennis Kirtland, Gregg Palmer and President of the Council Jim Spehar. Councilmember Bill McCurry was absent.

**Summaries and action on the following topics:**

1. **PURCHASE OF DEVELOPMENT RIGHTS COMMITTEE:** Tom Latousek of the Mesa County Land Trust updated the City Council on the activities and progress of this group. He listed eight completed projects, 6 are purchased easements. Many are along Hunter Wash in Fruita, five are in Palisade and East Orchard Mesa. There are two donated easements – one is a truck farm and one is an apple orchard. Mr. Latousek then explained how the properties are evaluated and “graded” for negotiations. Incentives for donated easements include the cost of transaction (\$6,000 to \$8,000). Regarding fund-raising, the Land Trust has received \$1.1 million in grants. There has been a lot of interest in the project. They plan to have ten more protected properties in the next few years. The Intergovernmental Agreements (IGAs) for the buffer zones between the City, the County, Fruita and Palisade signed five years ago are due for a review.

Mr. Latousek identified the challenges of the Land Trust, playing catch up and staying ahead of the increase in value of these lands. When asked, Mr. Latousek suggested that the boundaries may need to be revisited, some owners in East Orchard Mesa who were opposed to the buffer zones five years ago would now like to be included.

**Action summary:** The Council thanked Mr. Latousek for the update and agreed to be a party to the review of the existing IGAs.

2. **HORIZON DR. ASSOCIATION UPDATE ON BUSINESS IMPROVEMENT DISTRICT:** Representatives from Horizon Drive businesses presented their ideas and asked for City Council feedback on their proposal for forming a Business Improvement District. Richard



Talley, President of Horizon Drive Association (HDA), Lynn Sorlye, Daniel Sharpe, and other reps were present.

Mr. Talley explained that they have done their groundwork but now would like the Council's advice on how to go forward. There are 179.661 acres proposed for inclusion in the District, with a market value of \$77,647,900. They need support of property owners that represent both 50% of the market value and 50% of the acreage before an application can be made. Currently they have support representing over 100 acres and a market value of \$49,853,099.

The purposes of the Business Improvement District (BID) are 1 – a unified voice, 2 – beautification of the interstate exit, and 3 – other improvements to the Horizon Drive corridor including landscaping.

Councilmember Hill asked what amount they are trying to raise through the BID. Mr. Talley anticipates about \$100,000 per year. Ron Lappi, Administrative Services Director, explained what percentage is really up to the Council.

Dan Sharpe, manager Grand Vista Motel, addressed the vision that the HDA is looking for as a gateway theme. Councilmembers encouraged the representatives to go forward and shared some insights into methods for success. Council President Spehar asked the Association to let them know when the adoption for the ordinance will be brought to Council. Their legal counsel, Steve Briggs, detailed a little bit of the process.

**Action summary:** The City Council encouraged the HDA to go forward.

3. **LINCOLN PARK STADIUMS IMPROVEMENTS PLAN UPDATE FROM CONSULTANT:** Andy Barnard and Steve King of Sink Combs Dethlefs updated the City Council on the progress of the Master Plan project for the Lincoln Park Stadium Complex. Many user groups were approached for their input as far as their needs. JUCO wanted some improvements tailored to baseball. Concessionaires asked for updates to improve their ability for better service. An additional concession area across the football field was requested. The High Schools wanted better turf and sound system. Concerts and other events are unable to use the facilities without some sound system improvements. The College wanted better turf. Maintenance staff needs a better maintenance facility. The neighborhood did not raise parking as a big issue but sound/noise was an issue. Accommodations for the disabled are an issue the consultants saw. Two approaches are suggested: a phased corrections/improvements (\$4.9 to 7.4 million) and the second is a Major Improvements Plan (\$4.4 to 6.5

million), a combined total of \$6.6 to \$9.6 million. A brief discussion of the limitations of artificial turf took place and that there needs to be a planned replacement within ten years costing about \$700,000. Having the bulk of the structures built off-site was presented as an option to decrease the time period the stadium will have to be closed.

The ADA requirements were addressed by the City Attorney and the fact that the press box does need to be brought into compliance as soon as possible. City Manager Arnold noted that reasonable accommodations would be attempted first.

Council President Spehar noted that the City cannot even consider a \$5 to \$7 million project on this location in the near future but there may be some of the smaller improvements that can be addressed sooner. Councilmember Enos-Martinez added that some of it may depend on what the partners that use the facilities may want to contribute.

City Manager Arnold suggested that the announcement sign be placed on the wish list. Also, the left field stand expansion might be discussed at some point. Mr. Arnold asked the Council if they would like the consultants to make this same presentation to the governing boards of the other users – School District, Mesa State College and Mesa County. Council President Spehar wanted part of that presentation to be Council discussing with them what smaller pieces should be addressed in the near future.

**Action summary:** City Council wanted the consultants to make the presentation to those boards and then Council will follow up with these groups later.

4. **STRATEGIC PLAN UPDATE:** City Manager Kelly Arnold updated the City Council on Action Steps accomplished in the last month relative to Solutions contained in the Strategic Plan – 1) Balance of Character, Economy and Environment, 2) Efficient Transportation and 3) Open and Beautiful Spaces.

**Action summary:** City Council accepted the update. Mr. Arnold said the consultant will be available for the review and possible update of the Strategic Plan in January.

## **ADJOURN**

The meeting adjourned at 9:15 p.m.

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

**NOVEMBER 5, 2003**

The City Council of the City of Grand Junction convened into regular session on the 5<sup>th</sup> day of November 2003, at 7:30 p.m. in the City Auditorium. Those present were Councilmembers Harry Butler, Bruce Hill, Dennis Kirtland, Bill McCurry, Gregg Palmer, Cindy Enos-Martinez, and President of the Council Jim Spehar. Also present were City Manager Kelly Arnold, City Attorney Dan Wilson, and Deputy City Clerk Juanita Peterson.

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

**PROCLAMATIONS / RECOGNITIONS**

PROCLAIMING NOVEMBER 11, 2003 AS "A SALUTE TO ALL VETERANS 2003"

**APPOINTMENTS**

**APPOINTMENTS TO THE FORESTRY BOARD**

Councilmember Kirtland moved to reappoint Mike Heinz and Ian Gray to the Forestry Board for three-year terms expiring November 2006, and to appoint H.D. "Dutch" Afman for a three-year term expiring November 2006. Councilmember Enos-Martinez seconded the motion. Motion carried.

**APPOINTMENTS TO THE GRAND JUNCTION HOUSING AUTHORITY**

Councilmember Hill moved to reappoint Kathleen Belgard to the Grand Junction Housing Authority for a five-year term expiring October 2008. Councilmember Kirtland seconded the motion. Motion carried.

**APPOINTMENTS TO THE PLANNING COMMISSION BOARD OF APPEALS**

Councilmember Hill moved to reappoint Mark Williams to the Planning Commission Board of Appeals for a three-year term expiring October 2006, and to appoint Tom Lowrey for a three-year term expiring October 2006. Councilmember McCurry seconded the motion. Motion carried.

**SCHEDULED CITIZEN COMMENTS**

There were none.

## CONSENT CALENDAR

It was moved by Councilmember Enos-Martinez, seconded by Councilmember Palmer, and carried by a roll call vote, to approve Consent Calendar Items #1 through #4.

### 1. **Minutes of Previous Meetings**

*Action: Approve the Summary of the October 13, 2003 Noon Workshop, the October 13, 2003 Workshop, and the Minutes of the October 15, 2003 Regular Meeting*

### 2. **Setting a Hearing on Authorizing the Issuance of the City of Grand Junction, Downtown Development Authority Subordinate Tax Increment Revenue Bonds in the Amount of \$3,000,000**

The ordinance authorizes the issuance of \$3,000,000 in subordinate Tax Increment Bonds for improvements in the Downtown Plan of Development area.

Proposed Ordinance Authorizing the Issuance of the City of Grand Junction, Colorado, Downtown Development Authority Tax Increment Revenue Bonds, Series 2003; Pledging the Tax Increment Revenues of the City for the Payment of the Bonds; Providing for the Payment and Discharge of the City's Outstanding Tax Increment Revenue Bonds and Subordinate Tax Increment Revenue Bonds

*Action: Introduction of Proposed Ordinance and Set a Hearing for November 19, 2003*

### 3. **Setting a Hearing on the Washington Annexation Located at 287 Coulson Drive** [File #ANX-2003-200]

Resolution referring a petition for annexation and introduction of a proposed ordinance. The 1.317 acre Washington Annexation consists of one parcel and Unawep Avenue, Coulson Drive and Capitol Lane rights-of-way. It is in conjunction with a proposed two lot simple subdivision for single-family residential use.

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

Resolution No. 101-03 – 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, Washington Annexation Located at 287 Coulson Drive and Including a Portion of Unawep Avenue, Coulson Drive and Capitol Lane Rights-of-way

Action: Adopt Resolution No. 101-03

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

Proposed Ordinance Annexing Territory to the City of Grand Junction Colorado, Washington Annexation, Located at 287 Coulson Drive and Including a Portion of Unaweep Avenue, Coulson Drive and Capitol Lane Rights-of-way, Approximately 1.317 Acres

Action: Introduction of Proposed Ordinance and Set a Hearing for December 17, 2003

**4. Setting a Hearing on Vacating a 15' Alley Right-of-Way Located 722 Belford Avenue [File # VR-2003-132]**

The petitioner, FMC Properties, LLC, wishes to vacate an existing 15' north/south alley right-of-way located northeast of the intersection of N. 7<sup>th</sup> Street and Belford Avenue in anticipation of future commercial office development. The only utilities that are located in the alley right-of-way are a sanitary sewer line, which is to be abandoned and an overhead utility line, which is to be relocated. The existing eight (8) lots owned by the petitioner will be consolidated into one. The Planning Commission recommended approval at its October 28<sup>th</sup>, 2003 meeting.

Proposed Ordinance Vacating a 15' Wide Alley Right-of-way Located Northeast of the Intersection of North 7<sup>th</sup> Street and Belford Avenue Known as 722 Belford Avenue

Action: Introduction of Proposed Ordinance and Set a Hearing for November 19, 2003

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

**Other Business – Riverside Parkway**

Council President Spehar addressed the audience and gave a short review of the items approved by the voters affecting City and County residents. He noted that the voters' approval of the Riverside Parkway Project is a huge responsibility for the City and the City would do everything necessary to ensure the project would be completed as authorized by the voters. He asked Mr. Relph to give an overview of the project.

Mark Relph, Public Works and Utilities Director, gave a PowerPoint presentation outlining the project and the operational steps the City will be taking to complete the project. He explained the City would use a Design/Build Concept, which means the City will hire

one entity under one contract to design and build this project. He next listed some contractors and their projects as samples. Mr. Relph informed Council that the City would create a management team for the project.

Mr. Relph explained the estimated schedule for the 1601 Process and that it should be completed by the end of next year.

Councilmember Palmer asked Mr. Relph to confirm that the City would also be using local contractors and suppliers.

Mr. Relph confirmed Councilmember Palmer's statement and talked about the tradeoffs of additional staff verses using contractors.

Ron Lappi, Administrative Services and Finance Director, gave a short review of the bonding and election issue. He said the preliminary schedule was in place; and that the first wave of the bonds would be issued the 3<sup>rd</sup> week in February 2004. He noted that current bond rates are down again. He informed Council that the first reading of the Bond Ordinance is scheduled for the December 17<sup>th</sup>, 2003 City Council meeting.

### **2004 LEAF Grant for DUI Enforcement**

The Colorado Department of Transportation has awarded \$27,000 to the Grand Junction Police Department to fund DUI enforcement. The GJPD applied for \$35,000 with Council approval in August of this year.

Resolution No. 102-03 – A Resolution Accepting a Grant and Approving the Law Enforcement Assistance Fund (LEAF) Contract #L-28-04

Greg Morrison, Chief of Police, reviewed this item.

Councilmember Palmer moved to adopt Resolution No. 102-03. Councilmember Hill seconded the motion. Motion carried by a roll call vote.

### **Parks Classifications and Hours**

Adoption of resolution establishing park classifications and setting the hours in which public use and access to City parks is prohibited, for all City parks, open spaces and cemeteries, whether developed or not.

Joe Stevens, Parks and Recreation Director, reviewed this item. He gave an overview and explained the reason for the proposed changes.

When asked if the games usually end by 10:30 p.m. at Canyon View Park or at Lincoln Park, Mr. Stevens replied that they did, but if necessary an exception to the closing time could be made at that time.

No. 103 -03 - A Resolution Setting Hours of Usage for the City's Parks Based on a New Classification System

Councilmember Palmer moved to adopt Resolution No. 103-03. Councilmember Butler seconded the motion. Motion carried by a roll call vote.

**Public Hearing – Vacating a Portion of the Right-of-Way for Gary Drive and B <sup>3</sup>/<sub>4</sub> Road** [File #PP-2003-168]

The applicant has requested vacation of a portion of the rights-of-way for Gary Drive and B <sup>3</sup>/<sub>4</sub> Road in conjunction with a subdivision request that will ultimately be developed as affordable housing.

The public hearing was opened at 8:30 p.m.

Lisa Cox, Senior Planner, reviewed this item. She said after reviewing the application Staff concluded that the requested vacation of rights-of-way were consistent with the goals and policies of the Growth Plan and met the criteria in Section 2.11.C. of the Zoning and Development Code. Ms. Cox told Council the Planning Commission recommends the following: a) The approval of the requested right-of-way vacation for Gary Drive (by unanimous vote); and b) The denial of the requested right-of-way vacation for B <sup>3</sup>/<sub>4</sub> Road, because the vacation criteria had not been fully satisfied.

Council President Spehar asked Ms. Cox if the proposed vacation of rights-of way would have any effect on emergency services and/or access to businesses and residents for the general public. Ms. Cox displayed a PowerPoint presentation showing the new entrances to the surrounding areas.

Councilmember Hill asked who the owner of the park area to the north of the parcel is. Ms. Cox said the park is privately owned and currently leased by the City.

She explained to Council that the proposed ordinance is for both rights-of-way, but the ordinance could easily be split, if Council would prefer individual ordinances. She said under the current ordinance, the intersection of B <sup>3</sup>/<sub>4</sub> Road and Linden Avenue would be abandoned. She said the plan is to build 90 residential units of affordable housing on the three lots.

Tim Moore, Public Works Manager, and Rick Dorris, Development Engineer, gave an additional presentation of the vacation request to Council.

Council President Spehar asked about the accident history for that intersection. He was told that eight accidents had occurred since 2002, and that the Public Works Department had partnered with the Grand Junction Housing Authority and together they reviewed several designs with Staff.

Mike Smith, Transportation Manager with CDOT, Region 3, explained that this particular intersection is similar to the B ½ Road intersection, which has been re-designed, and he said the new design is working fine. He said a traffic study was not done at this intersection because CDOT decided five years ago that there was a problem with this intersection. He said CDOT looked at the proposal presented tonight and is very comfortable with this design.

Councilmember Palmer asked for a five-minute recess at 8:50 p.m.

The meeting was back in session and the public hearing was re-opened at 8:58 p.m.

Connie Cass, an Orchard Mesa Resident, representing the Southern Gateway Corridor Association handed out a copy of her letter (see attached Exhibit "A") to Council, asking Council to delay the vacation of right-of-way of B ¾ Road. She assured Council that her Association and the neighbors aren't opposed to the Housing Authority's project, but closing access to B ¾ Road not only has an impact on businesses and residents, but also raises safety concerns.

Ray Vollinder who operates the Wild Awakenings Coffee Shop on B ¾ Road, which is in close proximity to the Linden Avenue/Highway 50 intersection, told Council that if access to B ¾ Road is eliminated, and therefore denies public access to his shop, it would negatively affect his business.

William Earnheart, who owns C&D Shipping, said if B ¾ Road closes he would lose 60% of the access to his business. Mr. Earnheart said he recently hired someone to stand outside for two days to count cars. He said easy access in and out is what his customers want and what makes his business successful. He asked Council to reconsider the request.

Jim Fraser, 1931 Linden Avenue, discussed the access along Highway 50 and talked about deliveries made by commercial vehicles, which usually use the backside (B ¾ Road) of these businesses. He said the section between David Drive and Unawep Avenue is in very poor condition. He said there have been a dozen of accidents at that intersection since 1999, and he asked Council to reconsider before making a decision.

Robert A. Brown, 2686 B ¾ Road, agreed with Mr. Fraser's comments and reiterated that all freight comes into that shopping center from B ¾ Road. He said he too is opposed to closing B ¾ Road.



The public hearing was closed at 9:33 p.m.

Councilmember Enos-Martinez asked if any neighborhood meetings were held.

Greg Hancock with the Grand Junction Grand Junction Housing Authority replied that there was one neighborhood meeting in July. He said they went beyond the 500-foot required radius and invited neighbors living within 1500-feet. He said the Grand Junction Housing Authority wanted the public's involvement early on. He said so far they have gone through 25 to 30 different site plans to accommodate and mitigate the neighbors concerns. He stated that in none of the 25 to 30 site plans reviewed, did they ever consider B  $\frac{3}{4}$  Road staying open. He said he could not recall any neighbors in support of closing the road. He estimate that about 30 to 50 people attended the first meeting; at the second meeting, which was more formal, about 30 some people attended that meeting.

Councilmember Enos-Martinez asked Mr. Dorris why the Public Works Department is recommending closure of B  $\frac{3}{4}$  Road. Mr. Dorris replied that whenever there are five legs to an intersection, it is a bad idea to keep that intersection that way. He said City Staff looks to the future as well as the past when development is considered.

Mark Relph, Public Works and Utilities Director, said this type of design is no longer acceptable by today's standards.

Rick Dorris next displayed some slides, taken from his car from different locations at this intersection, showing accesses to Highway 50, pointing out all the safety concerns.

Councilmember McCurry said he appreciates Mr. Dorris's concerns, but he believes a traffic light would be the best solution for that intersection, and he would have to vote against closing B  $\frac{3}{4}$  Road.

Councilmember Kirtland stated that he believes that the five-legged intersection will be closed in the future, and he agrees that the Corridor Plan needs to be done.

Mike Smith, Transportation Manager with CDOT, said as far as CDOT is concerned, access to B  $\frac{3}{4}$  Road is already closed, and any development and/or any increase in traffic will automatically trigger the closure of B  $\frac{3}{4}$  Road.

Councilmember Hill asked City Attorney Wilson what the process would be for Council to deny this request. Mr. Wilson said if the City doesn't vacate the right-of-way tonight, the Grand Junction Housing Authority would have to go back to the drawing board. He pointed out to Council that it might receive additional vacation requests in the future.

Councilmember Palmer felt that by listening to the residents he believes that there is no reason to vacate the right-of-way for B ¾ Road.

Councilmember Hill said his real concern is the confusing intersection, but routing commercial traffic through residential areas is also a big concern and creates a safety issue.

Council President Spehar agreed with Councilmember Kirtland regarding the closure of access to B ¾ Road. He said the closure at this intersection is a “when” not “if” problem.

Ordinance No. 3579 – An Ordinance Vacating a Portion of Gary Drive and B ¾ Road Located at the Northeast Corner of Linden Avenue and B ¾ Road

Councilmember Kirtland moved to adopt Ordinance No. 3579 on Second Reading. Councilmember Enos-Martinez seconded the motion. Motion **failed** by a roll call vote 2 to 5. Councilmembers Spehar and Kirtland voted yes.

Councilmember Butler stated that he is a board member of the Grand Junction Housing Authority. He said it doesn't look like a safe situation and he felt that he couldn't support the vacation of right-of-way of B ¾ Road at this time.

Councilmember Enos-Martinez moved to adopt Ordinance No. 3579 on Second Reading and ordered it published only vacating a portion of Gary Drive. Councilmember Hill seconded the motion. Motion carried by roll call vote.

**Public Hearing - Church on the Rock Annexation and Zoning of the Church on the Rock Located at 2170 Broadway** [File #ANX-2003-197]

Resolution for acceptance of petition to annex and to hold a public hearing and consider final passage of the annexation ordinance for the Church on the Rock Annexation, located at 2170 Broadway. The 5.4946-acre annexation consists of one (1) parcel of unplatted land along with a portion of the Rio Hondo Road right-of-way. The petitioner's intent is to annex and then submit a Site Plan Review for a new church building (gymnasium) with a proposed zoning of Residential Single Family – 2 (RSF-2). The proposed annexation lies within the Persigo 201 sewer district.

The Church on the Rock Annexation consists of 5.4946 acres of land that is located at 2170 Broadway and consists of one (1) parcel of unplatted land that contains the church sanctuary, along with a portion of the Rio Hondo Road right-of-way. The petitioner's intent is to annex and then submit a Site Plan Review for a new church building (gymnasium) with a proposed zoning of Residential Single Family – 2 (RSF-2). The Planning Commission recommended approval at its October 14, 2003 meeting.

The public hearing was opened at 10:19 p.m.

Scott Peterson, Associate Planner, reviewed the annexation and zoning request in one presentation.

There were no public comments.

The public hearing was closed at 10:20 p.m.

**a. Accepting Petition**

Resolution No. 104-03 – A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Church on the Rock Annexation, Located at 2170 Broadway and Including a Portion of the Rio Hondo Road Right-of-Way is Eligible for Annexation

**b. Annexation Ordinance**

Ordinance No. 3580 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Church on the Rock Annexation, Approximately 5.4946 Acres, Located at 2170 Broadway and Including a Portion of the Rio Hondo Road Right-of-Way

**c. Zoning Ordinance**

Ordinance No. 3581 – An Ordinance Zoning the Church on the Rock Annexation to Residential Single Family – 2 (RSF-2), Located at 2170 Broadway

Councilmember Kirtland moved to adopt Resolution No. 104-03, Ordinances No. 3580 and No. 3581 on Second Reading and ordered them published. Councilmember McCurry seconded the motion. Motion carried by a roll call vote.

**Public Hearing - Gowhari Annexation Located at 563 20 ½ Road** [File #GPA-2003-183]

Resolution for acceptance of petition to annex and to hold a public hearing and consider final passage of the annexation ordinance for the Gowhari Annexation, located at 563 20 ½ Rd. The 25.103-acre Gowhari Annexation consists of 3 parcel(s). This annexation is part of a requested Growth Plan Amendment to change 24.503 acres on the Future Land Use Map from Rural 5-35 ac/du to Residential Low 1/2 – 2 ac/du. The Growth Plan Amendment request will be heard at a later date.

The public hearing was opened at 10:20 p.m.

Senta Costello, Associate Planner, reviewed this item.

There were no public comments.

The public hearing was closed at 10:21 p.m.

**a. Accepting Petition**

Resolution No. 105-03 – A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Gowhari Annexation, Located at 563 20 ½ Road, 573 20 ½ Road, 2026 S. Broadway and Including a Portion of the 20 ½ Road Right-of-Way is Eligible for Annexation

**b. Annexation Ordinance**

Ordinance No. 3582 - An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Gowhari Annexation, Approximately 25.103 Acres, Located at 563 20 ½ Road, 573 20 ½ Road, 2026 S. Broadway and Including a Portion of the 20 ½ Road Right-of-Way

Councilmember Hill moved to adopt Resolution No. 105-03 and Ordinance No. 3583 on Second Reading and ordered them published. Councilmember Kirtland seconded the motion. Motion carried by a roll call vote.

**Public Hearing - Grand Bud Annexation Located at 28 ½ Road at Hwy. 50** [File #GPA-2003-184]

Resolution for acceptance of petition to annex and to hold a public hearing and consider final passage of the annexation ordinance for the Grand Bud Annexation, located at 28 ½ Road at Highway 50. The 24.153 acre Grand Bud Annexation consists of 1 parcel. This project is part of a requested Growth Plan Amendment for the southwest 9.948 acres of the property to change the Future Land Use Map from Residential Medium 4-8 du/ac to Commercial. The Growth Plan Amendment request will be heard at a later date.

The public hearing was opened at 10:23 p.m.

Senta Costello, Associate Planner, reviewed this item.

There were no public comments.

The public hearing was closed at 10:24 p.m.

**a. Accepting Petition**

Resolution No. 106-03 – A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Grand Bud Annexation, Located at the Northwest Corner of 28 ½ Road and Highway 50 and Including a Portion of the 28 ½ Road Right-of-Way is Eligible for Annexation

**b. Annexation Ordinance**

Ordinance No. 3583 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Grand Bud Annexation, Approximately 24.153 Acres, Located at the Northwest Corner of 28 ½ Road and Hwy. 50 and Including a Portion of the 28 ½ Road Right-of-Way

Councilmember Hill moved to adopt Resolution No. 106-03 and Ordinance No. 3583 on Second Reading and ordered them published. Councilmember Palmer seconded the motion. Motion carried by a roll call vote.

**Public Hearing - 2<sup>nd</sup> Supplemental Appropriation Ordinance for 2003**

The request is to appropriate specific amounts for several of the City’s accounting funds as specified in the ordinance.

The public hearing was opened at 10:28 p.m.

Ron Lappi, Administrative Services and Financial Director, reviewed this item.

There were no public comments.

The public hearing was closed at 10:29 p.m.

Ordinance No. 3584 – An Ordinance Making Supplemental Appropriations to the 2003 Budget of the City of Grand Junction

Councilmember Kirtland moved to adopt Ordinance No. 3584 on Second Reading and ordered it published. Councilmember McCurry seconded the motion. Motion carried by a roll call vote.

**NON-SCHEDULED CITIZENS & VISITORS**

Milton “Tony” Long, 302 Pitkin, said he is homeless and has done research at the Mesa County Public Library regarding the Colorado Constitution, the Bill of Rights, and property rights. He said sleeping in cars may be sometimes appropriate.

Councilmember Hill asked if the shelters were over-loaded. Mr. Long replied that he didn't know, but said one of the shelters charges a daily fee and the other one wakes one up at 7:45 a.m.

Council moved on to the next agenda item.

### **OTHER BUSINESS**

Other business was discussed earlier as the first item under "Items Needing Individual Consideration".

### **EXECUTIVE SESSION**

It was moved by Councilmember Kirtland, seconded by Councilmember Hill, and the motion carried to go into executive session:

- a. For the purpose of an update on positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under C.R.S. Section 24-6-402(4)(e), relative to land easements for future storm water improvements,
- b. To discuss the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interest under C.R.S. Section 24-6-402(4)(a) relative to Riverside Parkway,
- c. For conference with the city attorney for the purposes of receiving legal advice on the pending GVIC lawsuit under C.R. 24-6-402 (4) (c), and
- d. For the discussion of personnel matters under C.R.S. Section 24-6-402(4)(f)(i) relative to city council employees.

It was stated that Council would not return to open session.

### **ADJOURNMENT**

City Council adjourned at 10:35 p.m. into executive session to the Administration Conference Room.

Juanita Peterson  
Deputy City Clerk

GRAND JUNCTION  
CITY COUNCIL SPECIAL MEETING

November 12, 2003

The City Council of the City of Grand Junction, Colorado met on Wednesday, November 12, 2003 at 5:03 p.m. in the City Hall Auditorium for a Special Council meeting. Those present were 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, City Attorney Dan Wilson and City Clerk Stephanie Tuin.

**DEPARTMENT OF ENERGY LAB CLOSURE**

The DOE is considering closing the analytical lab at its Grand Junction Office. This laboratory is recognized as an important economic driver for the community. The Riverview Technology Corporation (RTC) is asking the City to request the DOE to explore opportunities for privatizing the lab to preserve the jobs and revenues for the community before making a decision to close the lab.

Bernie Buescher, president of the RTC, was present and reviewed this item with Council. He referred to the resolution and corrected the date in the resolution presented. He said the purpose of the resolution is to stave off the closure of the lab. RTC has been approached by Teledyne and is interested in taking over the facility and operations. THE DOE has been encouraged to consider the proposal from Teledyne. DOE has refused the offer in writing and released a news release announcing the closure in January, 2004. Mr. Buescher asked that Council participate in pressuring the DOE into considering the proposal from Teledyne and thereby saving the 17 or so jobs at the facility. One customer, Rocky Flats, is livid over the decision. He quoted another customer as saying such services are not available anywhere. This same decision was made a few years ago and the pressure brought to bear overturned that decision before.

Councilmember Palmer inquired about DOE's thoughts on privatizing three years ago. Mr. Buescher said they went through a process and determined that none of the proposals met their criteria.

Council President Spehar asked why the lab could not be relocated. Mr. Buescher said the equipment could be moved to another location but the DOE owns the equipment so they must be part of the negotiations. That is the problem; the DOE won't even discuss the matter. If DOE is not brought to the

table, the lab would be demolished and the equipment would be abandoned. Keeping the lab at the current location would allow the lab to stay intact.

Keeping operations there under Teledyne might mean an increase in business over the next year. RTC is not supporting the Teledyne proposal specifically but rather negotiations with any such lab company.

Resolution No. 107-03 – A Resolution to Request the Department of Energy's Consideration of Privatization of the Grand Junction Office Laboratory

It was moved by Councilmember Palmer, seconded by Councilmember Hill and carried by roll call vote to adopt Resolution No. 107-03.

Council President Spehar explained that the closure would not only cause the loss of those jobs but the loss of those community members and their participation in community service and economics.

The meeting adjourned at 5:17 p.m.

Stephanie Tuin, MMC  
City Clerk



**Attach 2**

Setting a Hearing on the 2004 Annual Appropriation Ordinance

**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
<b>Subject</b>	Annual Appropriation Ordinance for 2004					
<b>Meeting Date</b>	November 19, 2003					
<b>Date Prepared</b>	11/13/03				<b>File #</b>	
<b>Author</b>	Lanny Paulson			<b>Budget &amp; Accounting Manager</b>		
<b>Presenter Name</b>	Ron Lappi			<b>Administrative Services Director</b>		
<b>Report results back to Council</b>	X	No		Yes	<b>When</b>	
<b>Citizen Presentation</b>		Yes	X	No	<b>Name</b>	
	<b>Workshop</b>		<b>Formal Agenda</b>	X	<b>Consent</b>	<b>Individual Consideration</b>

**Summary:** The total appropriation for all thirty-four accounting funds budgeted by the City of Grand Junction (including the Ridges Metropolitan District, Grand Junction West Water and Sanitation District, and the Downtown Development Authority) for the fiscal year beginning January 1, 2004 is \$115,484,715. Although not a planned expenditure, an additional \$2,500,000 is appropriated as a emergency reserve in the General Fund pursuant to Article X, Section 20 of the Colorado Constitution.

**Budget:** Pursuant to statutory requirements the total appropriation adjustments are at the fund level as specified in the ordinance.

**Action Requested/Recommendation:** Final passage on December 3rd, 2003.

**Attachments:** Proposed Ordinance

**Background Information:** With exception of the impacts of adding a 7.9% increase in health insurance costs, the budget, by fund, is as presented to, and modified by, the City Council at the Budget Workshop on Wednesday October 29, 2003. The decision to not add 8 hours of PTO does not change the appropriation level. The contribution changes in the Economic Development Fund were already covered in the budget level for that fund.



**Ordinance No. \_\_\_\_\_**

**THE ANNUAL APPROPRIATION ORDINANCE APPROPRIATING CERTAIN SUMS OF MONEY TO DEFRAY THE NECESSARY EXPENSES AND LIABILITIES OF THE CITY OF GRAND JUNCTION, COLORADO, THE RIDGES METROPOLITAN DISTRICT, AND THE GRAND JUNCTION WEST WATER AND SANITATION DISTRICT, FOR THE YEAR BEGINNING JANUARY 1, 2004, AND ENDING DECEMBER 31, 2004.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION:**

**SECTION 1.** That the following sums of money, or so much therefore as may be necessary, be and the same are hereby appropriated for the purpose of defraying the necessary expenses and liabilities, and for the purpose of establishing emergency reserves of the City of Grand Junction, for the fiscal year beginning January 1, 2004, and ending December 31, 2004, said sums to be derived from the various funds as indicated for the expenditures of:

<b>FUND NAME</b>	<b>FUND #</b>	<b>APPROPRIATION</b>	<b>Emergency Reserve</b>
General	100	\$ 44,005,820	\$ 2,500,000
Enhanced 911 Special Revenue	101	\$ 946,844	
Visitor & Convention Bureau	102	\$ 1,374,794	
DDA Operations	103	\$ 251,050	
CDBG Special Revenue	104	\$ 400,000	
Parkland Expansion	105	\$ 1,172,468	
Golf Course Expansion	107	\$ 243,000	
Economic Development	108	\$ 681,191	
DDA/TIF Special Revenue	109	\$ 1,151,000	
Sales Tax CIP	201	\$ 16,834,610	
Storm Drainage Improvement	202	\$ 3,997,000	
DDA/TIF/CIP	203	\$ 1,796,000	
Future Street Improvements	207	\$ 550,000	
Water	301	\$ 6,922,873	
Solid Waste	302	\$ 2,400,468	
Two Rivers Convention Center	303	\$ 1,860,301	
Swimming Pools	304	\$ 921,655	
Lincoln Park Golf Course	305	\$ 731,244	
Tiara Rado Golf Course	306	\$ 1,305,578	
Parking	308	\$ 238,027	
Irrigation	309	\$ 191,682	
Data Processing	401	\$ 2,076,093	
Equipment	402	\$ 5,968,790	
Stores	403	\$ 229,416	
Self Insurance	404	\$ 1,069,780	
Communications Center	405	\$ 3,062,394	
General Debt Service	610	\$ 42,000	
DDA Debt Service	611	\$ 1,122,000	
GJWWSD Debt Service	612	\$ 152,681	

Ridges Metro District Debt Service	613	\$	228,190	
Grand Junction Public Finance Corp.	614	\$	284,618	
Parks Improvement Advisory Board	703	\$	156,000	
Cemetery Perpetual Care	704	\$	33,000	
Joint Sewer System	900	\$	13,084,148	
<b>TOTAL ALL FUNDS</b>		<b>\$</b>	<b>115,484,715</b>	<b>\$ 2,500,000</b>

**SECTION 2.** The following amounts are hereby levied for collection in the year 2004 and for the specific purpose indicated:

	<u>Millage Rate</u>	<u>Amount Levied</u>
For General Fund	8.000	\$n/a
Temporary Credit	n/a	\$n/a
For Ridges Metropolitan District Fund		
District #1	n/a	\$n/a
District #2	0	\$0
For Grand Junction West Water & Sanitation District Fund	n/a	\$n/a
For Downtown Development Authority	5.000	\$n/a
Temporary Credit		

**SECTION 3.** n/a

**INTRODUCED AND ORDERED PUBLISHED** this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

Attest:

\_\_\_\_\_  
President of the Council

\_\_\_\_\_  
City Clerk

**Attach 3**

Setting a Hearing on the Bond Ordinance for Community Hospital

**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA							
<b>Subject</b>		Ordinance Authorizing Refunding Hospital Bonds					
<b>Meeting Date</b>		11/19/03					
<b>Date Prepared</b>		11/13/03			<b>File #</b>		
<b>Author</b>		Ron Lappi		Administrative Services Director			
<b>Presenter Name</b>		Ron Lappi		Administrative Services Director			
<b>Report results back to Council</b>		X	No		Yes	When	
<b>Citizen Presentation</b>			Yes	X	No	Name	
	<b>Workshop</b>	X	<b>Formal Agenda</b>		X	<b>Consent</b>	<b>Individual Consideration</b>

**Summary:** This is an ordinance authorizing the issuance of \$3,420,000 of hospital revenue refunding bonds on behalf of Community Hospital.

**Budget:** No impact on our budget. We are a pass thru for Community Hospital, a non-profit eligible as a 501(c)3.

**Action Requested/Recommendation:** Approve the ordinance introduced on this 19<sup>th</sup> day of November, 2003. Final passage scheduled for 3<sup>rd</sup> of December, 2003.

**Attachments:** Proposed bond ordinance

**Background Information:** The City of Grand Junction has previously facilitated the issuance of Hospital Revenue bonds for Community Hospital; which would now like to refund these bonds taking advantage of very favorable interest rates. Sherman & Howard is acting as bond counsel for these bonds and will be paid by Community Hospital from the refunding bond proceeds.

The bonds will be issued and closed in early January, 2004; and are being sold directly to a local bank, Alpine Bank.

These bonds do not have any pledge of City revenues and are not an obligation of the City in any way.

Insert Financing Agreement

**\$3,420,000**  
**CITY OF GRAND JUNCTION, COLORADO**  
**HOSPITAL REVENUE REFUNDING BONDS**  
**(COMMUNITY HOSPITAL PROJECT)**  
**SERIES 2004**

**ESCROW AGREEMENT**

**DATED** as of January 1, 2004, made by and among the City of Grand Junction, Colorado (the “City”), Colorado West HealthCare System (formerly known as Lincoln Park Osteopathic Hospital Association), d.b.a. Community Hospital (the “Corporation”), a Colorado nonprofit corporation, and U.S. Bank National Association, in Denver, Colorado (the “Escrow Agent”), a national banking association having and exercising full and complete trust powers, duly organized and existing under and by virtue of the laws of the United States of America, being a member of the Federal Deposit Insurance Corporation and the Federal Reserve System.

**WHEREAS**, The City has previously issued its City of Grand Junction, Colorado Hospital Revenue Refunding and Improvement Bonds (Community Hospital Corporation Project) Series 1993 (the “Refunded Bonds”) which are currently outstanding in the aggregate principal amount of \$3,420,000; and

**WHEREAS**, the Corporation has requested that the City refund, pay and discharge the Refunded Bonds and to redeem such Refunded Bonds on January \_\_, 2004 (the “Redemption Date”) upon (i) the payment of the interest due on the Refunded Bonds on the Redemption Date; and (ii) the payment of principal of the Refunded Bonds as the same becomes due upon prior redemption on the Redemption Date, with a redemption premium equal to 1% of the principal amount thereof (the “Refunded Bond Requirements”), all as permitted by the Indenture of Trust dated as of June 15, 1993 authorizing the issuance of the Refunded Bonds (the “1993 Indenture”); and

**WHEREAS**, the Corporation is not delinquent in the payment of any principal or interest on any of the Refunded Bonds; and

**WHEREAS**, the City has agreed to issue its City of Grand Junction Hospital Revenue Refunding Bonds (Community Hospital Project) Series 2004 (the “Bonds”) in the aggregate principal amount of \$3,420,000 for the purpose of paying a portion of the cost of refunding, paying and discharging the Refunded Bonds; and

**WHEREAS**, Alpine Bank (“Bank”) has offered to purchase the Bonds, the proceeds of which are to be used, together with other moneys deposited hereunder by the Corporation, to pay the Refunded Bond Requirements, as set forth in the certified public accountant’s certificate attached as Exhibit 1 to this Escrow Agreement (the “Agreement”) and paying costs incidental thereto; and

**WHEREAS**, the Bonds were authorized to be issued pursuant to the terms of a Financing Agreement dated as of January 1, 2004 (the “Financing Agreement”) among the City, the Corporation and the Bank and by an ordinance adopted by the City Council of the City on December \_\_, 2003 (the “Bond Ordinance”); and

**WHEREAS**, the City, by the Financing Agreement among other matters:

Authorized the creation of the Escrow Account created hereunder to be maintained in the Escrow Bank;

Provided for the deposit in the Escrow Account of the proceeds of the Bonds and other moneys, in an aggregate amount fully sufficient, together with the known minimum yield from the investment of such moneys, in (i) direct obligations of the United States of America for which its full faith and credit are pledged, (ii) obligations of person controlled or supervised by and acting as an agency or instrumentality of the United States the payment of which is unconditionally guaranteed as a full faith and credit obligation of the United States of America, or (iii) advance-refunded municipal obligations the principal of, premium, if any, and interest on which will be paid by obligations described in subparagraph (i) or (ii) (“Government Obligations”), to pay the Refunded Bond Requirements, as set forth therein and herein. (In no circumstances shall the term “Government Obligations” include money market investments even if the money market fund in which the investment is made invests only in Government Obligations.);

Authorized the completion and execution of this Agreement; and

**WHEREAS**, a copy of the Financing Agreement has been delivered to the Escrow Bank and the provisions therein set forth are herein incorporated by reference as if set forth herein verbatim in full; and

**WHEREAS**, the Government Obligations shown in Exhibit 1 to this Agreement have appropriate maturities and yields to insure the payment, together with the initial cash (as defined below), of the Refunded Bond Requirements, as the same become due; and



**WHEREAS**, a schedule of receipts from such Government Obligations and a schedule of payments and disbursements in the certified public accountant's certificate attached as Exhibit 1 to this Agreement, demonstrate the sufficiency of the Government Obligations and initial cash for such purpose; and

**WHEREAS**, the Escrow Bank is empowered to undertake the obligations and commitments on its part herein set forth; and

**WHEREAS**, the undersigned officer of the Escrow Bank is duly authorized to execute and deliver this Agreement in the Escrow Bank's name and on its behalf; and

**WHEREAS**, the Corporation is empowered to undertake the obligations and commitments on its part herein set forth; and

**WHEREAS**, the City by the authority granted in the Bond Ordinance is authorized to execute and deliver this Agreement in the City's name and on its behalf.

**NOW, THEREFORE, THIS ESCROW AGREEMENT WITNESSETH:**

That in consideration of the premises and the mutual agreements herein contained, in order to secure the payment of the Refunded Bond Requirements, as the same become due, the parties hereto mutually undertake, promise, and agree for themselves and their respective representatives, successors, and assigns, as follows:

**Creation of Escrow.**

Simultaneously with the delivery of the Bonds, and subject to their issuance, the City will deposit \$3,420,000 of Bond proceeds and the Corporation will deposit \$\_\_\_\_\_ of its moneys with the Escrow Bank, and the Escrow Bank shall purchase (to the extent not heretofore purchased) the Government Obligations described in Exhibit 1 to this Agreement (the "Initial Government Obligations") and shall cause the Initial Government Obligations and an initial cash balance of \$\_\_\_ (the "initial cash") to be credited to and accounted for in the City of Grand Junction, Colorado Hospital Revenue Refunding Bonds (Community Hospital Project) Series 2004 - Escrow Account which is hereby created. Receipt of \$\_\_\_\_\_ by the Escrow Bank to be applied as provided herein is hereby acknowledged.

Other Government Obligations may be substituted for any Initial Government Obligations if such Initial Government Obligations are unavailable for purchase at the time of issuance of the Bonds or if such substitution is required or permitted by Section 148 of the Internal Revenue Code of 1986, as amended (the "Tax Code"), and the applicable regulations

thereunder, subject in any case to sufficiency demonstrations and yield proofs in a certified public accountant's report, and subject to a favorable opinion of the City's bond counsel as to the legality of any such substitution, and the continued exemption of interest on the Bonds from federal income taxation (except certain alternative minimum taxes described in bond counsel's opinion), and in any event in such a manner so as not to increase the price which the Escrow Agent pays for the initial acquisition of Government Obligations for the Escrow Account. The certified public accountant's report must indicate that the receipts from the substitute securities are sufficient without any need for reinvestment so the Escrow Account will be able to fully pay the Refunded Bond Requirements. Any Government Obligations temporarily substituted may be withdrawn from the Escrow Account when the Initial Government Obligations are purchased and credited to the Escrow Account. Similarly, any temporary advancement of moneys to the Escrow Account to pay designated Refunded Bond Requirements because of a failure to receive promptly the principal of and interest on any Government Obligations at their respective fixed maturity dates, or otherwise, may be repaid to the person advancing such moneys upon the receipt by the Escrow Bank of such principal and interest payments on such Government Obligations.

The initial cash, the proceeds of the Initial Government Obligations (and of any other Government Obligations acquired as an investment or reinvestment of moneys accounted for in the Escrow Account), and any such Government Obligations themselves (other than Government Obligations, including the Initial Government Obligations, held as book-entries), shall be deposited with the Escrow Bank and credited to and accounted for in the Escrow Account. The securities and moneys accounted for therein shall be redeemed and paid out and otherwise administered by the Escrow Bank for the benefit of the City and the Corporation as provided in this Agreement and the 1993 Indenture.

**Purpose of Escrow.**

The Escrow Bank shall hold the initial cash, all Government Obligations accounted for in the Escrow Account (other than Government Obligations, including the Initial Government Obligations, held as book-entries), and all moneys received from time to time as interest on and principal of such Government Obligations, in trust to secure and for the payment of the Refunded Bond Requirements, as the same become due.

Except as provided in paragraph B of § 1 hereof, the Escrow Bank shall collect the principal of and interest on such Government Obligations promptly as such principal and interest become due and shall apply all money so collected to the payment of the Refunded Bond Requirements as aforesaid.

**Accounting for Escrow.**

The moneys and the Government Obligations accounted for in the Escrow Account shall not be subject to checks drawn by the City or the Corporation or otherwise subject to its order except as otherwise provided in paragraph B of § 1 and in § 8 hereof.

The Escrow Bank, however, shall transfer sufficient moneys to pay, without any default, the Refunded Bond Requirements, as the same become due on the Redemption Date, as provided herein.

Except as otherwise provided in paragraph B of § 1 of this Agreement, there shall be no sale of any Government Obligations held hereunder, and no Government Obligations held hereunder and callable for prior redemption at the City's option shall be called at any time for prior redemption, except if necessary to avoid a default in the payment of the Refunded Bond Requirements.

**Maturities of Government Obligations.**

Any Government Obligations shall be purchased in such manner:

So that such Government Obligations may be redeemed in due season at their respective maturities to meet such Refunded Bond Requirements as the same become due, and

So that any sale or prior redemption of such Government Obligations shall be unnecessary.

There shall be no substitution of any Government Obligations except as otherwise provided in paragraph B of § 1 of this Agreement.

**Reinvestments.**

The Escrow Bank may, and at the written direction of the City and the Corporation shall, reinvest in Government Obligations any moneys (except the initial cash) received in payment of the principal of and interest on any Government Obligations accounted for in the Escrow Account, subject to the limitations of §§ 1 and 4 hereof and of the following additional limitations:

Any such Government Obligations shall not be subject to redemption prior to their respective maturities at the option of their issuer.

Any such Government Obligations shall mature on or prior to the date or dates when the proceeds thereof must be available for the prompt payment of the Refunded Bond Requirements, as the same become due.

Under no circumstances shall any reinvestment be made under § 5 if such reinvestment, alone or in combination with any other investment or reinvestment, violates the applicable provisions of § 148 of the Tax Code, and the rules and regulations thereunder.

The Escrow Bank shall make no such reinvestment unless the City first obtains and furnishes to the Escrow Bank a written opinion of the City's bond counsel to the effect that such reinvestment, as described in the opinion, complies with subsection (3) of this § 5.

**Sufficiency of Escrow.**

The moneys and Government Obligations accounted for in the Escrow Account shall be in an amount (or have, appropriate maturities and yields to produce an amount) which at all times shall be sufficient to pay the Refunded Bond Requirements as they become due.

**Transfers and Notice of Refunding, Redemption and Defeasance for Refunded Bonds.**

The Escrow Bank shall make such transfers as will assure, to the extent of money in the Escrow Account properly allocable to and available therefor, the timely payment of the Refunded Bond Requirements.

The Escrow Bank shall cause, pursuant to the 1993 Indenture, notice of refunding, redemption and defeasance to be given in the manner required by the 1993 Indenture so that the Refunded Bonds may be redeemed on the Redemption Date.

**Termination of Escrow Account.**

When payment or provisions for payment shall have been made so that all Refunded Bond Requirements shall be or shall have been paid in full and discharged, the Escrow Bank shall immediately disburse the moneys, if any, then remaining in the Escrow Account in accordance with the terms of the 1993 Indenture.

**Fees and Costs.**

The Escrow Bank's total fees and costs for and in carrying out the provisions of this Agreement have been fixed at \$\_\_\_\_\_ which amount is to be paid at or prior to the time of the issuance of the Bonds by the Corporation directly to the Escrow Bank as payment in full of all charges of the Escrow Bank pertaining to this Agreement for services performed hereunder.

Such payment for services rendered and to be rendered by the Escrow Bank shall not be for deposit in the Escrow Account, and the fees of and the costs incurred by the Escrow Bank shall not be deducted from such account.

**Status Report and Rebate Notices.**

Promptly following the Redemption Date, the Escrow Bank shall submit to the City and the Corporation a report covering all money which the Escrow Bank shall have received and all payments which it shall have made or caused to be made hereunder.

Promptly following the Redemption Date, the Escrow Bank shall provide to the Corporation any records or other information which may be necessary in order for the Corporation to determine the amount, if any, of arbitrage rebate owed to the United States Treasury pursuant to § 148 the Tax Code.

**Character of Deposit.**

It is recognized that title to the Government Obligations and money accounted for in the Escrow Account from time to time shall remain vested in the Escrow Bank for the benefit of the City and the Corporation but subject always to the prior charge and lien thereon of this Agreement and the use thereof required to be made by the provisions of this Agreement and the Financing Agreement.

The Escrow Bank shall hold all such Government Obligations (except as they may be held as book-entries) and money in the Escrow Account as special trust funds and accounts separate and wholly segregated from all other securities and funds of the Escrow Bank

or deposited therein, and shall never commingle such securities or money with other securities or money.

**Securing Deposit.**

The Escrow Bank may cause the Government Obligations accounted for in the Escrow Account to be registered in the name of the Escrow Bank for payment, if they are registrable for payment.

The City, in connection with any Government Obligations accounted for in the Escrow Account and held as book-entries, shall cooperate with the Escrow Bank and shall forthwith make arrangements with an appropriate representative of the issuer of such Government Obligations, so that the interest on and the principal of the Government Obligations shall be promptly transmitted, as the same become due from time to time, to the Escrow Bank for the benefit of the City and the Corporation.

All uninvested money held at any time in the Escrow Account shall be continuously secured by the deposit of Government Obligations in a principal amount and value always not less than the total amount of uninvested money in the Escrow Account:

In any branch of the Federal Reserve Bank, or

In any commercial bank which:

Is a state or national bank or trust company, and

Is a member of the Federal Deposit Insurance Corporation, and

Is a member of the Federal Reserve System, and

Has a shareholder's equity of \$10,000,000.00 or more, and

Is exercising full and complete trust powers, and

Is located in the State or without the State ("trust bank"), or

In any branch of the Federal Reserve Bank and in one or more trust banks (or any combination thereof).

Such Government Obligations so held as a pledge shall be used whenever necessary to enable the trustee for the Refunded Bonds to pay the Refunded Bond Requirements as the same become due, to the extent other moneys are not transferred or caused to be transferred for such purpose by the Escrow Bank.

Any Government Obligations (except as they may be held as book-entries) and any uninvested moneys accounted for in the Escrow Account may from time to time be placed

by the Escrow Bank for safekeeping wholly or in part in any such trust bank, only if prior to any such transfer the City and the Corporation consent thereto in writing.

Each such trust bank holding any Government Obligations accounted for in the Escrow Account or any uninvested moneys accounted for therein, shall be furnished by the Escrow Bank with a copy of this Agreement prior to such deposit.

By the acceptance of such Government Obligations or such uninvested moneys each such trust bank shall be bound in the same manner as the Escrow Bank, as herein provided.

The Escrow Bank, however, shall remain solely responsible to the City and the Corporation:

For any investment or reinvestments of moneys pursuant to §§ 1 and 5 hereof,

For transfers of moneys and causing the redemption notice to be given pursuant to § 7 hereof,

For the termination of the Escrow Account pursuant to § 8 hereof,

For the periodic status reports pursuant to § 10 hereof, and

For defraying any charges of any branch of the Federal Reserve Bank or any trust bank for any deposits of Government Obligations as pledge to secure uninvested moneys, of Government Obligations in escrow, and of uninvested moneys in escrow (or any combination thereof) or for any other service relating to this Agreement or the Escrow Account.

Notwithstanding the liabilities of the Escrow Bank stated in paragraph H of this section, the Escrow Bank may cause any one, all, or any combination of the duties stated in paragraph H to be performed on its behalf by any trust bank.

If at any time the Escrow Bank fails to account for any moneys or Government Obligations held by it or by any such trust bank in the Escrow Account, such moneys and securities shall be and remain the property of the City.

No money paid into and accounted for in the Escrow Account shall ever be considered as a banking deposit or an asset of the Escrow Bank and neither the Escrow Bank nor any such trust bank shall have any right or title with respect thereto.

**Purchaser's Responsibility.**

The holders from time to time of the Bonds shall in no manner be responsible for the application or disposition of the proceeds thereof or any moneys or Government Obligations

accounted for in the Escrow Account. This clause shall not relieve the Escrow Bank (if it is a holder of the Bonds), in its capacity as Escrow Bank, from its duties under this Agreement.

**Amendment.**

The Bonds shall be issued in reliance upon this Agreement and except as herein provided this Agreement shall be irrevocable and not subject to amendment after any of the Bonds shall have been issued.

The provisions of this Agreement may be amended, waived or modified upon approval of the holders of all of the then outstanding Refunded Bonds. The provisions of this Agreement also may be amended, waived or modified without the approval of such holders for one or more of the following purposes:

to cure any ambiguity, or to cure, correct or supplement any formal defect or omission or inconsistent provision contained in this Agreement;

to pledge additional revenues, properties or collateral as security for the Refunded Bonds; or

to deposit additional monies or Government Obligations to the Escrow Account.

Notwithstanding any other provision hereof no amendment, modification or waiver shall be effective if it is materially prejudicial to the owners of the Refunded Bonds or affects the exclusion of the interest on the Refunded Bonds or the Bonds from gross income from federal income tax purposes, unless such amendment, waiver or modification is approved by the holders of all of the then outstanding Refunded Bonds and the Bonds affected thereby.

**Exculpatory Provisions.**

The duties and responsibilities of the Escrow Bank are limited to those expressly and specifically stated in this Agreement.

The Escrow Bank shall not be liable or responsible for any loss resulting from any investment or reinvestment made pursuant to this Escrow Agreement and made in compliance with the provisions hereof.

The Escrow Bank shall not be personally liable or responsible for any act which it may do or omit to do hereunder, while acting with reasonable care, except for duties expressly imposed upon the Escrow Bank hereunder or as otherwise expressly provided herein.



The Escrow Bank shall neither be under any obligation to inquire into or be in any way responsible for the performance or nonperformance by the City or the Corporation of any of its obligations, nor shall the Escrow Bank be responsible in any manner for the recitals or statements contained in this Agreement, in the Financing Agreement, the Bond Ordinance, in the Refunded Bonds or in any proceedings taken in connection therewith, such recitals and statements being made solely by the City and the Corporation.

Nothing in this Agreement creates any obligation or liabilities on the part of the Escrow Bank to anyone other than the City, the Corporation and the holders of the Refunded Bonds.

**Time of Essence.**

Time is of the essence in the performance of the obligations from time to time imposed upon the Escrow Bank by this Agreement.

**Successors.**

Whenever in this Agreement the City, the Corporation or the Escrow Bank is named or is referred to, such provision is deemed to include any successor of the City, the Corporation or the Escrow Bank, respectively, immediate or intermediate, whether so expressed or not. The rights and obligations under this Agreement may be transferred by the Escrow Bank to a successor. Any corporation or association into which the Escrow Bank may be merged or converted or with which the Escrow Bank may be consolidated or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which the Escrow Bank may be a party or any corporation or association to which the Escrow Bank may sell or transfer all or substantially all of its corporate trust business shall be the successor to the Escrow Bank without the execution or filing of any document or any further act, anything herein to the contrary notwithstanding.

All of the stipulations, obligations, and agreements by or on behalf of and other provisions for the benefit of the City, the Corporation or the Escrow Bank contained in this Agreement:

Shall bind and inure to the benefit of any such successor, and

Shall bind and inure to the benefit of any officer, board, authority, agent, or instrumentality to whom or to which there shall be transferred by or in accordance with law

any relevant right, power, or duty of the City, the Corporation or the Escrow Bank, respectively, or of their successors.

**Severability.**

If any section, paragraph, clause, or provision of this Escrow Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Agreement.

**Notices.**

Any notice to be given hereunder shall be delivered personally or mailed postage prepaid, return receipt requested, to the following addresses:

If to the City:	City of Grand Junction c/o Director of Finance 250 North 5 <sup>th</sup> Street Grand Junction, Colorado 81501
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If to the Corporation:	Community Hospital c/o Director of Finance 2021 N. 12 <sup>th</sup> Street Grand Junction, Colorado 81501
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If to the Escrow Bank:	U.S. Bank National Association Corporate Trust Services 950 17 <sup>th</sup> Street, Suite 300 Denver, CO 80202
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or such other address as either party may, by written notice to the other parties, hereafter specify.  
Any notice shall be deemed to be given upon mailing.

**IN WITNESS WHEREOF, CITY OF GRAND JUNCTION, COLORADO, COLORADO WEST HEALTHCARE SYSTEM AND U.S. BANK NATIONAL ASSOCIATION**, have caused this Escrow Agreement to be signed, all as of the day and year first above written.

**CITY OF GRAND, JUNCTION, COLORADO**

(SEAL)

By \_\_\_\_\_  
President of City Council

Attest:

\_\_\_\_\_  
City Clerk

**COLORADO WEST HEALTHCARE SYSTEM**

By \_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary

**U.S. BANK NATIONAL ASSOCIATION**

By \_\_\_\_\_  
Authorized Officer

**EXHIBIT 1**

(Attach Certified Public Accountant's Certificate)

**ORDINANCE NO: \_\_\_\_\_**

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF \$3,420,000 HOSPITAL REVENUE REFUNDING BOND (COMMUNITY HOSPITAL PROJECT) SERIES 2004 OF THE CITY OF GRAND JUNCTION, COLORADO FOR THE PURPOSE OF REFUNDING ALL OF THE OUTSTANDING CITY OF GRAND JUNCTION, COLORADO HOSPITAL REVENUE REFUNDING AND IMPROVEMENT BONDS (COMMUNITY HOSPITAL CORPORATION PROJECT) SERIES 1993; APPROVING AND AUTHORIZING EXECUTION OF A FINANCING AGREEMENT AND ESCROW AGREEMENT WITH RESPECT TO THE BOND; MAKING FINDINGS AND DETERMINATIONS WITH RESPECT TO THE REFUNDING PROJECT AND THE BOND; AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS; AND REPEALING ALL ACTION HERETOFORE TAKEN IN CONFLICT HEREWITH.

WHEREAS, the City of Grand Junction, Colorado (the “City”) is a municipal corporation duly organized and existing under the City’s home rule charter (the “Charter”) adopted pursuant to Article XX of the Constitution of the State of Colorado (the “State”); and

WHEREAS, the County and Municipality Development Revenue Bond Act, constituting Article 3 of Title 29, Colorado Revised Statutes, as amended (the “Act”), authorizes cities and counties in the State to issue revenue bonds to finance one or more projects, including any land, buildings or other improvements, and all real and personal properties, whether or not in existence, which shall be suitable or used in connection with a hospital or health care facility; and

WHEREAS, the City is further authorized by the Act to issue its revenue bonds for the purposes of defraying the costs of financing any such project, including all incidental expenses incurred in issuing such bonds, and to secure the payment of such bonds as provided in the Act; and

WHEREAS, representatives of Colorado West HealthCare System (formerly known as Lincoln Park Osteopathic Hospital Association), d.b.a Community Hospital (the “Corporation”) have requested that the City issue its hospital revenue refunding bond pursuant to terms of the

Act to refund all of the currently outstanding City of Grand Junction, Colorado Hospital Revenue Refunding and Improvement Bonds (Community Hospital Corporation Project) Series 1993 (the “Refunded Bonds” and the “Refunding Project”) the proceeds of which Refunded Bonds financed and refinanced improvements to the Corporation’s hospital facilities located within the boundaries of the City; and

WHEREAS, the City has considered the request of the Corporation and has concluded that the Refunding Project will assist the Corporation in providing more adequate healthcare facilities, promoting the public health, welfare, safety, convenience and prosperity, and that the City should issue its hospital revenue refunding bond under the Act to finance a portion of the cost of the Refunding Project, subject to the conditions set forth herein; and

WHEREAS, the City will issue, sell and deliver its City of Grand Junction, Colorado Hospital Revenue Refunding Bond (Community Hospital Project) Series 2004 (the “Bond”), in an aggregate principal amount not to exceed \$3,420,000 and loan the proceeds thereof to the Corporation, pursuant to the terms of a Financing Agreement dated as of January 1, 2004 (the “Financing Agreement”) among the City, the Corporation and Alpine Bank (the “Purchaser”) to pay a portion of the cost of financing the Refunding Project; and

WHEREAS, the City, the Corporation and U.S. Bank National Association will enter into an Escrow Agreement, dated as of January 1, 2004 (the “Escrow Agreement”) pursuant to which the proceeds of the Bond will be deposited to effect the Refunding Project; and

WHEREAS, the Bond shall be purchased by the Purchaser pursuant to the terms of the Financing Agreement; and

WHEREAS, the City is authorized by the Supplemental Public Securities Act, Article 57 of Title 11 of Colorado Revised Statutes, as amended (the “Public Securities Act”), to delegate to any of its members, chief executive officer, or chief financial officer the authority to sign a contract for the purchase of securities or to accept a binding bid for securities and, in addition, may delegate the following determinations to such member or officer without any requirement that the issuing authority approve such determinations: (a) the rate of interest on securities; (b) the conditions on which and the prices at which the applicable securities may be redeemed before maturity; (c) the existence and amount of any capitalized interest or reserve funds; (d) the

price at which the securities will be sold; (e) the principal amount and denominations of the securities; (f) the amount of principal maturing in any particular year; and (g) the dates on which principal and interest shall be paid; and

WHEREAS, the City hereby determines that it is in the City's best interest to delegate to its Finance Director (the "Finance Director") certain of the specific powers enumerated in the Public Securities Act as more specifically provided in this Ordinance; and

WHEREAS, there have been presented to the City Council at this meeting the following documents: (a) the proposed form of the Financing Agreement; and (b) the proposed form of the Escrow Agreement; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

**Legal Authorization.** The City is a municipal corporation duly organized and existing under the City's Charter adopted pursuant to Article XX of the Constitution of the State

**Findings.** The City Council has heretofore determined, and does hereby determine, based upon the representations of the Corporation, as follows:

The healthcare facilities being refinanced are an eligible "project," as defined in the Act.

The issuance of the Bond will effectuate the public purposes of the City and carry out the purposes of the Act by, among other things, providing hospital facilities within the City.

The Bond is a special, limited obligations of the City payable solely out of the income, revenues and receipts specifically pledged pursuant to the Financing Agreement. The Bond, the premium, if any, and the interest thereon shall never constitute the debt or indebtedness of the City within the meaning of any provision or limitation of the State Constitution, State statutes or the Charter, and shall not constitute nor give rise to a pecuniary liability of the City or a charge against its general credit or taxing power and shall not constitute a "multiple fiscal year direct or indirect debt or other financial obligation" of the City under Article X, Section 20 of the Colorado Constitution. Neither the State of Colorado nor any political subdivision thereof shall be obligated to pay the principal of, premium, if any, or interest on the Bond or other costs incident thereto. The Bond does not constitute a debt, loan,

credit or pledge of the faith and credit or taxing power of the State, the City or any political subdivision thereof.

**Authorization of Issuance of Bond.** To defray the cost of the Refunding Project (including incidental expenses incurred in issuing the Bond), there is hereby authorized and created a series of revenue refunding bonds designated “City of Grand Junction, Colorado, Hospital Revenue Refunding Bond (Community Hospital Project) Series 2004” in an aggregate principal amount of \$3,420,000. Subject to the determination of the Finance Director, the issuance of the Bond shall be in such principal amount, bearing such date and interest rate and such Bond shall mature as set forth in the Financing Agreement. The Bond shall be payable, shall be subject to redemption prior to maturity and shall be in substantially the form as provided in the Financing Agreement. Furthermore, the Bond shall be payable at such place and in such form, shall carry such registration privileges, shall be executed, and shall contain such terms and conditions, as set forth in the Financing Agreement. The maximum net effective interest rate on the Bond shall not exceed \_\_\_% per annum. Section 11-57-204 of the Public Securities Act provides that a public entity, including the City, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act. The City hereby elects to apply all of the Supplemental Act to the Bond.

**Sale of Bond.** The placement and purchase of the Bond pursuant to the terms of the Financing Agreement be and the same are in all respects hereby approved, authorized and confirmed, and the President of City Council is hereby authorized and directed to execute the Bond and the City Clerk is hereby authorized and directed to affix the seal of the City and to attest the Bond, and each is hereby authorized to deliver the Bond for and on behalf of the City to the Purchaser pursuant to the Financing Agreement. The Bond shall be sold to the Purchaser for the purchase price as set forth in the Financing Agreement (subject to the limitations set forth herein).

**Delegation.** Pursuant to the terms of the Public Securities Act, the City Finance Director is hereby delegated the authority to establish: (i) the interest rate of the Bond and the payment dates therefore, provided that the net effective interest rate for the Bond shall not exceed \_\_\_%; (ii) the prior redemption provisions for the Bond, provided, any redemption premium thereon



shall not exceed 3% of the principal amount to be redeemed; (iii) the original issue discount or premium thereon shall not exceed 1% of the aggregate principal amount of the Bond; and (iv) the date on which the Bond shall mature, provided that, the final maturity date for any Bond shall not be later than April 1, 2017.

**Approval and Authorization of Documents.** The Financing Agreement, and the Escrow Agreement be and the same are in all respects hereby approved, authorized and confirmed, and the President of City Council is hereby authorized and directed to execute and the City Clerk is hereby authorized and directed to affix the seal of the City and to attest the Financing Agreement and the Escrow Agreement in substantially the forms and content as presented to the City on this date, subject to the approval of bond counsel to the City, but with such changes, modifications, additions and deletions therein as shall to them seem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of their approval of any and all changes, modifications, additions and deletions from the forms thereof as before this date.

**All Actions Heretofore Taken.** All actions (not inconsistent with the provisions of this Ordinance) heretofore taken by the City Council and the officers of the City directed toward the issuance and sale of the Bond therefor are hereby ratified, approved and confirmed.

**Compliance with the Act.** The following determinations and findings are hereby made in accordance with Sections 29-3-113, 29-3-114 and 29-3-120 of the Act:

The maximum amount necessary in each year to pay the principal of and the interest on the Bond (based on the maximum net effective interest rates set forth herein, assuming that interest is paid monthly, and assuming no redemptions other than mandatory sinking fund redemptions prior to maturity) shall not exceed:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest</u>	<u>Total</u>
2004			
2005			
2006			
2007			
2008			
2009			
2010			
2011			
2012			
2013			
2014			
2015			
2016			
2017			

In the Financing Agreement, the Corporation has covenanted to maintain, or cause to be maintained, the Corporation's facilities and to carry, or cause to be carried, all proper insurance with respect thereto.

The revenues and other amounts payable under the Financing Agreement are sufficient to pay, in addition to all other requirements of the Financing Agreement and this

Ordinance, all sums referred to in paragraphs (a) and (b) of this Section, and all taxes or payments in lieu of taxes levied upon the Corporation's facilities refinanced with the Bond.

**Investments.** Proceeds from the sale of the Bond and the revenues from the Corporation's facilities used to repay the registered owner of the Bond shall be invested and reinvested in such securities and other investments specified in, and otherwise in accordance with, the Financing Agreement, the Escrow Agreement and Section 29-3-109 of the Act.

**Authority to Execute and Deliver Additional Documents.** The officers, employees and agents of the City shall take all action in conformity with the Act and the Charter necessary or reasonably required to effectuate the issuance of the Bond and shall take all action necessary or desirable in conformity with the Act and the Charter to finance the portion of the costs of the Refunding Project to be financed with proceeds of the Bond and for carrying out, giving effect to and consummating the transactions contemplated by this Ordinance, the Financing Agreement and the Escrow Agreement, including without limitation the execution, delivery and filing of any documents, statements or reports with the United States Internal Revenue Service or with the Secretary of the United States Treasury or his delegate necessary to maintain the exclusion of interest on the Bond from gross income for federal income tax purposes, the execution of any letter of representation or similar document required of any securities depository, and the execution and delivery of additional security documents and any closing documents to be delivered in connection with the sale and delivery of the Bond.

**Bond is Limited Obligation.** The Bond shall be a special, limited obligation of the City payable solely from the receipts and revenues of the City under the Financing Agreement that are specifically pledged therefor under the Financing Agreement; the Bond shall never constitute a debt or indebtedness of the City, the State or any county, municipality or political subdivision of the State within the meaning of any provision or limitation of the Constitution or statutes of the State or the Charter or of any political subdivision of the State; and the Bond shall never constitute nor give rise to any pecuniary liability of, or a charge against the general credit or taxing powers of, the City, the State or any county, municipality or political subdivision of the State. The Bond shall not constitute a "multiple fiscal year direct or indirect debt or other financial obligation" of the City under Article X, Section 20 of the Colorado Constitution.

**No Pecuniary Liability.** Nothing contained in this Ordinance or in the Bond, the Financing Agreement or the Escrow Agreement or any other instrument shall give rise to a pecuniary liability of, or a charge upon the general credit or taxing powers of, the City, the State or any county, municipality or political subdivision of the State. The breach by any party of any agreement contained in this Ordinance, the Bond, the Financing Agreement, the Escrow Agreement or any other instrument shall not impose any pecuniary liability upon, or any charge upon the general credit or taxing powers of, the City, the State or any county, municipality or political subdivision of the State, none of which has the power to pay out of its general fund, or otherwise contribute, any part of the cost of financing the Refunding Project, or power to operate the Corporation's facilities as a business or in any manner.

**No Condemnation by City.** The City shall not condemn any land or other property in connection with the Refunding Project.

**Supplemental Ordinances.** The City may, subject to the terms and conditions of the Financing Agreement, pass and execute ordinances supplemental to this Ordinance which shall not be inconsistent with the terms and provisions hereof.

**Limitation of Rights.** With the exception of any rights herein expressly conferred, nothing expressed or mentioned in or to be implied from the Ordinance or the Bond is intended or shall be construed to give to any person, other than the City, the Corporation or the Purchaser, any legal or equitable right, remedy or claim under or with respect to this Ordinance or any covenants, conditions and provisions herein contained; this Ordinance and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the City, the Corporation and the registered owner of the Bond as herein provided.

**Pledge of Revenues.** The creation, perfection, enforcement, and priority of the pledge of revenues to secure or pay the Bond as provided herein and in the Financing Agreement shall be governed by Section 11-57-208 of the Public Securities Act and this Ordinance. The pledged revenues for the payment of the Bond, as received by or otherwise credited to the City, shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge on the pledged revenues shall have priority over any or all other obligations and liabilities of the City. The lien of such pledge shall be valid, binding, and

enforceable as against all persons having claims of any kind in tort, contract, or otherwise against the City irrespective of whether such persons have notice of such liens.

**Immunity of Officers.** Pursuant to Section 11-57-209 of the Public Securities Act, if a member of the Council, or any officer or agent of the City acts in good faith, no civil recourse shall be available against such council member, officer, or agent for payment of the principal of or interest on the Bond. No recourse for the payment of any part of the principal of, premium, if any, or interest on the Bond for the satisfaction of any liability arising from, founded upon or existing by reason of the issue, purchase or ownership of the Bond shall be had against any official, officer, council member or agent of the City or the State, all such liability to be expressly released and waived as a condition of and as a part of the consideration for the issue, sale and purchase of the Bond.

**Designation as Qualified Tax Exempt Obligation.** For purposes of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended, the Bond is deemed designated a “qualified tax-exempt obligation.”

**Limitations on Actions.** In accordance with the Act, no action shall be brought questioning the legality of any contract, financing agreement, mortgage, trust indenture, proceeding relating to the Bond, the Refunded Bonds or the Refunding Project on and after thirty days from the effective date of this Ordinance.

**Counterparts.** This Ordinance may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Captions.** The captions or headings in this Ordinance are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Ordinance.

**Validity of Bond.** Each Bond shall contain a recital that such Bond is issued pursuant to the Act and the Public Securities Act, and such recital shall be conclusive evidence of its validity and of the regularity of its issuance.

**Irrepealability.** After the Bond is issued, this Ordinance shall be and remain irrepealable until the Bond and the interest thereon shall have been fully paid, canceled and discharged.

**Severability.** If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

**Repealer.** All bylaws, orders, resolutions and ordinances, or parts hereof, inconsistent herewith and with the documents hereby approved, are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance, or part thereof.

**Disposition of Ordinance.** This Ordinance, as adopted by the City Council, shall be numbered and recorded by the City Clerk in the official records of the City. The adoption and publication shall be authenticated by the signatures of the President of the City Council and City Clerk, and by the certificate of publication.

**Effective Date.** This Ordinance shall be in full force and effect 30 days after publication following final passage.

INTRODUCED, PASSED ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN PAMPHLET FORM this \_\_\_ day of November, 2003.

CITY OF GRAND  
JUNCTION, COLORADO

---

President of the City Council

Attest:

---

City Clerk

INTRODUCED, PASSED ON SECOND READING, APPROVED AND ORDERED PUBLISHED IN PAMPHLET FORM this \_\_ day of December, 2003.

CITY OF GRAND  
JUNCTION, COLORADO

---

President of the City Council

Attest:

---

City Clerk

STATE OF COLORADO            )  
   )  
 COUNTY OF MESA                ) SS.  
   )  
 CITY OF GRAND JUNCTION    )

I, Stephanie Tuin, the City Clerk of the City of Grand Junction, Colorado (the “City”) and Clerk to the City Council of the City (the “Council”), do hereby certify that:

The foregoing pages are a true, correct and complete copy of an ordinance (the “Ordinance”) which was introduced, passed on first reading and ordered published in full by the Council at a regular meeting thereof held on November \_\_, 2003 and was duly adopted and ordered published in full by the Council at a regular meeting thereof held on December \_\_, 2003 which Ordinance has not been revoked, rescinded or repealed and is in full force and effect on the date hereof.

The Ordinance was duly moved and seconded and the Ordinance was passed on first reading at the meeting of November \_\_, 2003, by an affirmative vote of a majority of the members of the Council as follows:

<u>Councilmember</u>	<u>Voting “Aye”</u>	<u>Voting “Nay”</u>	<u>Absent</u>	<u>Abstaining</u>
Cindy Enos-Martinez				
Bruce Hill				
Dennis Kirtland				
Jim Spehar				
Gregg Palmer				
William McCurry				
Harry Butler				

The Ordinance was duly moved and seconded and the Ordinance was finally passed on second reading at the meeting of December \_\_, 2003, by an affirmative vote of a majority of the members of the Council as follows:

<u>Councilmember</u>	<u>Voting “Aye”</u>	<u>Voting “Nay”</u>	<u>Absent</u>	<u>Abstaining</u>
Cindy Enos-Martinez				



Bruce Hill				
Dennis Kirtland				
Jim Spehar				
Gregg Palmer				
William McCurry				
Harry Butler				

The members of the Council were present at such meetings and voted on the passage of such Ordinance as set forth above.

The Ordinance was approved and authenticated by the signature of the President of the Council, sealed with the City seal, attested by the City Clerk and recorded in the minutes of the Council.

There are no bylaws, rules or regulations of the Council which might prohibit the adoption of said Ordinance.

Notices of the meetings of November \_\_, 2003 and December \_\_, 2003 in the forms attached hereto as Exhibit A were posted at City Hall in accordance with law.

The Ordinance was published in pamphlet form in The Daily Sentinel, a daily newspaper of general circulation in the City, on November \_\_, 2003 and December \_\_, 2003 as required by the City Charter. True and correct copies of the affidavits of publication are attached hereto as Exhibit B.

WITNESS my hand and the seal of the City affixed this \_\_\_\_ day of December, 2003.

\_\_\_\_\_  
City Clerk and Clerk to the  
Council

(SEAL)

EXHIBIT A

(Attach Notices of Meetings of November \_\_, 2003 and December \_\_, 2003)

**EXHIBIT B**  
**(Attach Affidavits of Publication)**

**Attach 4**

Setting a Hearing on Amending the Barking Dog Ordinance

**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
<b>Subject</b>	Ordinance repealing and reenacting Sections 6-61 and 6-68 of the Code of Ordinances					
<b>Meeting Date</b>	November 19, 2003					
<b>Date Prepared</b>	November 10, 2003				<b>File #</b>	
<b>Author</b>	Jamie B. Kreiling			<b>Staff Attorney</b>		
<b>Presenter Name</b>	Jamie B. Kreiling and/or John P. Shaver			<b>Staff Attorney Assistant City Attorney</b>		
<b>Report results back to Council</b>	x	<b>No</b>		<b>Yes</b>	<b>When</b>	
<b>Citizen Presentation</b>		<b>Yes</b>	x	<b>No</b>	<b>Name</b>	
	<b>Workshop</b>	<b>X</b>		<b>Formal Agenda</b>	<b>X</b>	<b>Consent</b>
						<b>Individual Consideration</b>

**Summary:** Changes are made to the elements for the prosecution of an owner who has failed to prevent a dog from disturbing the peace of another, warning requirements have been eliminated, and penalties have been increased for a first and second offense for violating any section of Article III of Chapter 6 of the Code of Ordinances.

**Budget:** No impact.

**Action Requested/Recommendation:** Consider Ordinance on first reading and set a hearing for December 3, 2003.

**Attachments:**

1. An explanation of the changes
2. Ordinance

**Background Information:** Difficulties arose with enforcing the barking dog ordinance as it was previously enacted. Residents were long suffering from the actions of owners who were not controlling the noise from their dogs. The necessity of two complaining witnesses made it nearly impossible for the one person in the neighborhood who was home during the day being disturbed to obtain peace while all others were working or away from home. The proposed ordinance allows for other reliable evidence to be used to convict. The warning process has been eliminated. The current warning system will remain the practice, but the officer will have discretion to act in extreme or unusual cases. The penalties for violating any section of Article III of Chapter 6 of the Code of Ordinances have been increased for the first and second offenses as a deterrence and to be in accord with the same penalties for violating the same or similar violations in the County of Mesa.

**Sec. 6-61. Barking dogs.**

(a) *Prohibition.* No owner of a dog shall fail to prevent it from disturbing the peace and quiet of any other person by loud and persistent barking, baying, howling, yipping, crying, yelping, or whining, whether the dog is on or off the owner's premises.

(b) *Provocation defense.* Provocation of a dog whose noise is complained of is an affirmative defense to any charge for violation of subsection (a) of this section.

(c) *Warning required.* No person shall be charged with a violation of subsection (a) of this section unless written warning as provided in subsection (d) of this section has been given at least seven days but not more than 37 days preceding the charge.

(d) *Warning process.* The warning process to be employed prior to a charge being instituted for notification of violation of subsection 6-61(a) shall be substantially as follows:

- (1) The warning must relate to a barking incident separate from the charged violation.
- (2) The animal control officer may issue a warning after receiving two complaints from two different persons who do not reside in the same household.
- (3) All complainants must clearly identify themselves by stating their name, address and telephone number. The complainant shall further state, if known, the name of the dog's owner, the owner's address and telephone number, a description of the dog, description of the offense, the date, time, place and duration of the offense.
- (4) A record or incident report shall be kept of any such complaint and investigation.
- (5) A warning to a dog owner shall fully cite section 6-61(a) and advise the owner of penalty for the violation of section 6-61(a). The warning shall also state that a complaint has been received, recite the date of the alleged offense, and conclude that the owner's dog may have disturbed the peace of another individual. The warning must be identified as being issued by any animal regulation officer empowered by the city council to enforce the provisions of this article.

(e) *Notice and evidence of warnings.* An owner shall be deemed to have been issued and received a warning under subsection (d) of this section if the warning is personally served upon the owner or keeper, posted on the owner's or keeper's premises, or placed in the U.S. mail, postage prepaid and addressed to the owner of the dog according to the last address given by the owner or keeper at the time such owner obtained a license certificate or license tag.

(f) *Complainant's rights and responsibilities.*

- (1) The identity of a complainant shall be kept confidential until a violation of this section is charged.
- (2) If a violation of this section is charged, the complainant shall sign an affidavit on the citation attesting to the violation, or shall verify in writing the allegations of a complaint prior to its service upon the owner.
- (3) No person or owner shall be convicted at trial for violation of this section unless testimony is presented by at least two complaining witnesses or by one complaining witness when there is only one occupied residence within three blocks or one-quarter mile in any direction.

**CHANGES:**

Delete (c), (d), and (e). Amend (f) by re-lettering as (c) and stating the following:

(c) *Complainant's rights and responsibilities.*

- (1) All complainants must clearly identify themselves by stating their name, address and telephone number. The complainant shall further state the description of the offense, the date, time, place and duration of the offense, and if known, the name of the dog's owner, the owner's address and telephone number, and a description of the dog. The identity of a complainant shall be kept confidential until a violation of this section is charged.
- (2) If a violation of this section is charged, the complainant shall sign an affidavit on the citation attesting to the violation, or shall verify in writing the allegations of a complaint prior to its service upon the owner.
- (3) No person or owner shall be convicted at trial for violation of this section unless oral testimony or other means of reliable evidence is presented proving the elements of subsection (a). Other reliable evidence, includes but is not limited to, videotape and digital video recordings.

**Sec. 6-68. Penalty assessment; fine schedule.**

If the penalty assessment procedure is used by the animal control officer or any arresting law enforcement officer, the following fine schedule shall be applied for violations of any section of this article which are committed or repeated by the same person within two years from the date of any prior offense:

First offense (up to) . . . . \$ 25.00  
 Second offense (up to) . . . . 50.00  
 Third offense (up to) . . . . 250.00  
 Fourth and subsequent offenses (up to) . . . . 500.00

**Changes:**

First offense (up to) . . . .	\$ 50.00
Second offense (up to) . . . .	\$100.00

CITY OF GRAND JUNCTION  
ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE REPEALING AND REENACTING SECTION 6-61 OF THE CODE OF ORDINANCES (“CODE”) CONCERNING AN OWNER’S FAILURE TO PREVENT A DOG FROM DISTURBING THE PEACE AND QUIET OF ANOTHER, REPEALING AND REENACTING SECTION 6-68 OF THE CODE ESTABLISHING THE PENALTIES FOR VIOLATING ANY ARTICLE OF SECTION 6 OF CHAPTER 6 OF THE CODE, AND REPEALING CERTAIN ORDINANCES IN CONFLICT WITH THE AMENDMENTS.

WHEREAS, the City of Grand Junction wishes to address changes to the elements in the prosecution of an owner who has failed to prevent a dog from disturbing the peace of another, to eliminate the requirement for previous warnings, and to increase the penalties for a first and second offense for violating any section of Article III of Chapter 6 of the Code to further deter violations and to have equivalent penalties for the same or similar violation as in the County of Mesa.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

That Sections 6-61 and 6-68 of the Code of Ordinances of the City of Grand Junction be repealed and reenacted as follows:

**Sec. 6-61. Barking dogs.**

(a) *Prohibition.* No owner of a dog shall fail to prevent it from disturbing the peace and quiet of any other person by loud and persistent barking, baying, howling, yipping, crying, yelping, or whining, whether the dog is on or off the owner's premises.

(b) *Provocation defense.* Provocation of a dog whose noise is complained of is an affirmative defense to any charge for violation of subsection (a) of this section.

(c) *Complainant's rights and responsibilities.*

(1) All complainants must clearly identify themselves by stating their name, address and telephone number. The complainant shall further state the description of the offense, the date, time, place and duration of the offense, and if known, the name of the dog's owner, the owner's address and telephone number, and a description of the dog. The identity of a complainant shall be kept confidential until a violation of this section is charged.

(2) If a violation of this section is charged, the complainant shall sign an affidavit on the citation attesting to the violation, or shall verify in writing the allegations of a complaint prior to its service upon the owner.

(3) No person or owner shall be convicted at trial for violation of this section unless oral testimony or other means of reliable evidence is presented proving the elements of subsection (a). Other reliable evidence, includes but is not limited to, videotape and digital video recordings.

And

**Sec. 6-68. Penalty assessment; fine schedule.**

If the penalty assessment procedure is used by the animal control officer or any arresting law enforcement officer, the following fine schedule shall be applied for violations of any section of this article which are committed or repeated by the same person within two years from the date of any prior offense:

First offense (up to) . . . . \$ 50.00

Second offense (up to) . . . . \$100.00

Third offense (up to) . . . . \$250.00

Fourth and subsequent offenses (up to) . . . . \$500.00

Introduction of first reading this \_\_\_\_ day of \_\_\_\_\_, 2003.

Passed and adopted this \_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
President of the Council

Attest:

\_\_\_\_\_  
City Clerk



**Attach 5**

City Participation in the I-70B Corridor

**CITY COUNCIL AGENDA  
CITY OF GRAND JUNCTION**

<i>CITY COUNCIL</i>								
<b>Subject:</b>	<b>Authorizing City Participation in the I-70B Corridor Optimization Plan</b>							
<b>Meeting Date:</b>	<b>November 19, 2003</b>							
<b>Date Prepared:</b>	<b>November 13, 2003</b>			<b>File #</b>				
<b>Author:</b>	<b>Mike McDill</b>			<b>City Engineer</b>				
<b>Presenter Name:</b>	<b>Mark Relph</b>			<b>Director of Public Works</b>				
<b>Report back to Council:</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>When</b>			
<b>Citizen Presentation:</b>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Name</b>			
	<b>Workshop</b>	<input checked="" type="checkbox"/>	<b>Formal Agenda</b>		<input checked="" type="checkbox"/>	<b>Consent</b>		<b>Individual Consideration</b>

**Summary:** This study is a collaborative effort between CDOT and our local agencies to establish conceptual ideas relating to the I-70B corridor.

**Budget:** We are also requesting that the General Fund Contingency Account cover the City's \$75,000 share of this study. The attached information from the Finance Department describes the state of this Contingency Account.

**Action Requested/Recommendation:** Authorize the City Manger to execute a contract to participate in the Corridor Optimization Study for I-70B and Approve the Use of \$75,000 from Contingency.

**Attachments:**

1. General fund Contingency Status Report.

**Background Information:** Staff from CDOT, Region 3, Mesa County and the City Public Works Department have been working to develop the scope of work for this study for some time. Under this arrangement CDOT will hire a consultant who is knowledgeable and experienced in this line of work and familiar with the City of Grand Junction and I-70B. This consultant will deliver a report that will define the vision and alternatives in terms of opportunities for potential modal expansion, future right-of-way needs, and permitted access along the corridor. The report should also suggest the

roles transit, parallel arterial streets and other alternatives could play in meeting future overall corridor demands.

This Plan will support and provide input to the Regional Transportation Plan and through that to the CDOT State Transportation Improvement Plan (STIP). The STIP will then be the framework from which specific project development will proceed. Any public involvement is reserved for the later steps in the overall process.

**GENERAL FUND CONTINGENCY ACCOUNT STATUS**

Original Appropriation                   \$ 600,000  
 Supplemental Appropriation                -  
   Total Available             \$ 600,000

**Less Approved Transfers:**

RFP for City Logo                            9,500  
 New Sales Tax System                    11,600  
 Hilltop Senior Center                    100,000

ACCOUNT NUMBER				
FUND	ORG	ACCT	PG	ACTV
100	902	89299	0	N/A
100	111	70410	11	114086
100	220	81200	12	B02400
100	111	70825	11	114895

Total Approved Transfers               121,100

**Current Balance                            478,900**

**Less Proposed Transfers:**

-

Total Proposed Transfers               -

**PROPOSED BALANCE                       \$ 478,900**

The Contingency Account contains funds that are appropriated but which are not committed to any particular purpose, or department, within the City. These funds can be requested by the various department directors with a written request to the City Manager. The City Manager can approve contingency amounts up to \$50,000 for any purpose. No direct expenditures are made from the Contingency Account. Approved requests are transferred to the requesting department's cost center in order to maintain accurate accounting.

**Attach 6**

Redlands Fire Station #5 Utility Improvements

**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
<b>Subject</b>	Redlands Fire Station #5 Utility Improvements					
<b>Meeting Date</b>	November 19, 2003					
<b>Date Prepared</b>	November 10, 2003				<b>File #</b>	
<b>Author</b>	Mike Curtis Trent Prall			<b>Project Engineer</b> <b>City Utility Engineer</b>		
<b>Presenter Name</b>	Mark Relph			<b>Public Works and Utilities Director</b>		
<b>Report results back to Council</b>	X	<b>No</b>		<b>Yes</b>	<b>When</b>	
<b>Citizen Presentation</b>		<b>Yes</b>	X	<b>No</b>	<b>Name</b>	
	<b>Workshop</b>	X		<b>Formal Agenda</b>		<b>Consent</b> X <b>Individual Consideration</b>

**Summary:** Bids were received and opened on November 4, 2003. M. A. Concrete Construction submitted the low bid in the amount of \$204,847.52. The project is a joint project with Church on the Rock that will extend an 8 inch sanitary sewer main and an 8 inch Ute water main to Church on the Rock and Redlands Fire Station #5.

**Budget:**

	Redlands Fire Station #5 / Fund 2011 / E03800		
Budget	<b>2,013,000.00</b>		
Engineering/Administration	-20,000.00		
Construction Contract	-204,847.52		
Sewer Fund Contribution	15,580.00		
Septic System Elimination Contribution	31,371.60		
Church on the Rock Share	43,187.77		
<b>Remaining Fire Station Budget</b>	<b>1,878,291.85</b>		

**Attachments:** N/A**Action Requested/Recommendation:**

Authorize the City Manager to execute a construction contract for the Redlands Fire Station #5 Utility Improvements with M. A. Concrete Construction in the amount of \$204,847.52.

**Background Information:**

The following bids were received for this project:

<b>Contractor</b>	<b>From</b>	<b>Bid Amount</b>
M. A. Concrete Construction	Grand Junction	\$204,847.52
Skyline Contracting	Grand Junction	\$216,516.36
Engineer's Estimate		\$256,429.73

In addition, an 18 inch storm drain line will be installed from the detention pond on the fire station site across Hwy 340 to an existing storm drain inlet box. Church on the Rock will utilize this storm drain line.

A representative of Church on the Rock approached the City during design and asked the City to select a route for the sanitary sewer and water extensions that would benefit Church on the Rock and the new fire station. Alternatives were examined and costs determined and the least expensive option was also the option preferred by Church on the Rock. This project was designed to serve Church on the Rock (Church) and the new fire station enabling the City and Church on the Rock to share construction costs. Existing sanitary sewer and water will be extended from Monument Lane to serve both Church on the Rock and the new fire station. In addition, a new storm drain line will be installed from the fire station across Hwy 340 and across Rio Hondo and along Church on the Rock frontage to an existing storm drain inlet box on the north side of the Hwy 340. The storm drain line will benefit Church on the Rock and the new fire station. The new sanitary sewer line across the fire station frontage can also be extended to the east and west for future sewer improvement district connections. The new sanitary sewer

line was installed at a deeper depth than needed for the fire station for the future expansion.

A contract has been delivered to Church on the Rock for their signature.

**Attach 7**

Redlands Fire Station #5 Construction Contract

**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
<b>Subject</b>	Redlands Fire Station #5 Construction Contract					
<b>Meeting Date</b>	November 19, 2003					
<b>Date Prepared</b>	November 10, 2003				<b>File #</b>	
<b>Author</b>	Mike Curtis Rick Beaty			<b>Project Engineer Fire Chief</b>		
<b>Presenter Name</b>	Mark Relph			<b>Public Works and Utilities Director</b>		
<b>Report results back to Council</b>	X	<b>No</b>		<b>Yes</b>	<b>When</b>	
<b>Citizen Presentation</b>		<b>Yes</b>	X	<b>No</b>	<b>Name</b>	
	<b>Workshop</b>	X		<b>Formal Agenda</b>		<b>Consent</b> X <b>Individual Consideration</b>

**Summary:** A request for qualifications process was used to select FCI Constructors, Inc. of Grand Junction as the Construction Manager/General Contractor for Redlands Fire Station #5. Eight proposals were submitted during February 2003. Three firms were short listed for interviews. FCI Constructors was selected over Shaw Construction of Grand Junction and TSP of Denver.

**Budget:**

	Redlands Fire Station #5 / Fund 2011 / E03800
Budget	<b>2,013,000.00</b>
Engineering/Administration/Inspection/Testing/Audits/Survey/ROW est	-100,000.00
Utility (Water, Sanitary, Storm) Construction Net Cost (estimate)	-114,706.00
FCI GMP Contract Fire Station	-1,446,345.51
Ute Water and City Sewer tap fees and service laterals estimate	-26,000.00
Electric (3-phase), gas, telephone, cable service and laterals est	-20,000.00
Arts (one percent of building and site construction) estimate	-15,000.00
Telephone system and information services routing (cable/fiber) est	-24,000.00
Real Estate Land Purchase (including earnest monies)	-312,000.00
TSP Design Contract (Fire Station Architect) estimate	-147,600.00
Permitting Costs(Community Development, Building Department) est	-4,000.00
<b>Remaining Fire Station Budget</b>	<b>-196,651.51</b>

**Action Requested/Recommendation:**

Authorize the City Manager to execute a GMP (Guaranteed Maximum Price) contract for the Redlands Fire Station #5 with FCI Constructors, Inc. in the amount of \$1,446,345.51. The overall project costs including contingency will be monitored and at the end of the project adjustments will be made as needed in funding.

**Attachments:** N/A

**Background Information:**

A guaranteed maximum price (GMP) has been negotiated with FCI Constructors, Inc.

<b>Contractor &amp; Local Subcontractors</b>	<b>From</b>	<b>GMP</b>
FCI Constructors, Inc.	Grand Junction	\$1,446,345.51
Accurate Insulation, LLC	Grand Junction	
Cedaredge Interiors	Cedaredge	
Clarke & Co., Inc.	Grand Junction	
Curtis Engineering, Inc.	Fruita	
Delta Cabinet Company, Inc.	Delta	
Elam Construction, Inc.	Grand Junction	
Grand Mesa Mechanical, Inc.	Grand Junction	
Groves Masonry Construction, Inc.	Grand Junction	
Harding Glass	Grand Junction	
Independent Survey, Inc.	Grand Junction	
Magnum Electric	Grand Junction	
Mays Concrete, Inc.	Grand Junction	
Overhead Door Company	Grand Junction	
Skyline Contracting, Inc.	Grand Junction	
Timberwolf Welding, Inc.	Palisade	
TP Acoustics, Inc.	Grand Junction	
7,480 square foot building	Grand Junction	\$193/S.F.

On November 5, 2002 voters within the Redlands Rural Fire District approved funding the operations and maintenance costs of Redlands Fire Station #5. TSP Five of



Denver, Colorado was selected as the design architect for the fire station and their contract was approved by City Council on March 5, 2003. FCI Constructors, Inc. was selected by the City as the Construction Manager/General Contractor. On March 14, 2003 a \$10,000 contract was issued to FCI Constructors to assist in site selection. The Freewill Baptist Church site at 2155 Broadway was selected as the best site overall and land purchase was finalized in August 2003.

TSP completed the fire station design for submittal to Community Development on October 3, 2003. During the same time period FCI Constructors sent out plans to subcontractors for bidding purposes. FCI Constructors received bids from subcontractors on October 30, 2003. FCI Constructors met with the City on November 4, 2003 to present the bidding information and the guaranteed maximum price. A contract has been prepared for FCI Constructors to serve as the Construction Manager and General Contractor for Redlands Fire Station #5.

Amendment 1 to the contract, in the amount of \$49,209.30, was issued to FCI Constructors to allow clearing and grubbing and earthwork operations to begin on November 10, 2003 prior to City Council approval of the GMP contract on November 19, 2003. FCI Constructors estimates a 6 to 7 month time period to complete construction of the station.

**Attach 8**

2003 Waterline Replacement Project Change Order #1

**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA							
<b>Subject</b>	<b>2003 Waterline Replacement Project Change Order #1</b>						
<b>Meeting Date</b>	November 19, 2003						
<b>Date Prepared</b>	November 7, 2003						
<b>Author</b>	Jim Shanks		Project Engineer				
<b>Presenter Name</b>	Mark Relph		Public Works and Utilities Director				
<b>Report results back to Council</b>	X	No		Yes	<b>When</b>		
<b>Citizen Presentation</b>		Yes	X	No	<b>Name</b>		
	<b>Workshop</b>	X	<b>Formal Agenda</b>		X	<b>Consent</b>	<b>Individual Consideration</b>

**Summary:**

Approve a change order to the 2003 Waterline Replacement Contract with MA Concrete Construction, Inc to add the replacement of the 12" water line in 9<sup>th</sup> Street from Main Street to Grand Avenue in the amount of \$95,429.50 This work was originally scheduled to be done in 2004 but a change in the alignment of the storm sewer pipe at 9<sup>th</sup> Street necessitates the construction of the water line this year.

**Budget:** The Waterline Replacement portion of the Combined Sewer Elimination Project was budgeted as follows:

	<b>2003</b>	<b>2004</b>	<b>Total</b>
Budgeted Expenses - Water Line Repl	\$2,250,000	\$ 3,000,000	\$ 5,250,000
-Other non-CSEP work	\$ 194,233	\$ 460,000	\$ 654,233
-CSEP Anticipated design / inspect ex	\$ 302,000	\$ 150,000	\$ 452,000
-CSEP WLR Contract	\$1,534,747	\$ 2,350,000	\$ 3,884,747
-CSEP WLR Change Order*	\$ 95,430	\$ (95,430)	\$ -
Revised anticipated Expenses	\$2,126,410	\$ 2,864,571	\$ 4,990,980
Remaining Budget	\$ 123,591	\$ 135,430	

\* Change order covers work that would be completed in 2004 and accelerates its completion to 2003 to coincide with CSEP storm drain work.

**Background Information:** This action will increase the contract amount from \$1,534,747.70 to \$1,630,177.20. Also, 5 fire hydrants were added to the project at the City's direction.

**Action Requested/Recommendation:**

City Council motions to authorize the City Manager to execute a contract change order in the amount of \$95,429.50 with M.A. Concrete Construction, Inc. for the 2003 Waterline Replacement Project.

**Attach 9**

Public Hearing – Authorizing the Issuance of the City of Grand Junction

**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
<b>Subject</b>	Downtown Development Authority TIF Bonds					
<b>Meeting Date</b>	November 19, 2003					
<b>Date Prepared</b>	November 17, 2003			File #		
<b>Author</b>	Ron Lappi		Administrative Services Director			
<b>Presenter Name</b>	Ron Lappi		Administrative Services Director			
<b>Report results back to Council</b>		No	X	Yes	<b>When</b>	
<b>Citizen Presentation</b>		Yes	X	No	<b>Name</b>	
	<b>Workshop</b>	X	<b>Formal Agenda</b>		<b>Consent</b>	X <b>Individual Consideration</b>

**Summary:** AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF GRAND JUNCTION, COLORADO, DOWNTOWN DEVELOPMENT AUTHORITY TAX INCREMENT REVENUE BONDS, SERIES 2003; PLEDGING THE TAX INCREMENT REVENUES OF THE CITY FOR THE PAYMENT OF THE BONDS; PROVIDING FOR THE PAYMENT AND DISCHARGE OF THE CITY'S OUTSTANDING TAX INCREMENT REVENUE BONDS AND SUBORDINATE TAX INCREMENT REVENUE BONDS.

**Budget:** The T.I.F. Revenue Fund of the City has adequate funds on hand to defease the currently outstanding bonds. The projected revenues annually from the T.I.F. increments each year through 2007 will be adequate to pay the annual debt service on the new bonds.

**Action Requested/Recommendation:** Approve the ordinance introduced on the 5<sup>th</sup> day of November, 2003, and now presented for final passage on the 19<sup>th</sup> of November, 2003.

**Attachments:** Ordinance

**Background Information:** Proceeds of the bond issue will be used by the City and DDA to finance \$3.0 million in capital expenditures over the next two years. The funds will be used to build a parking garage, streetscape projects and downtown housing efforts.

The issue will consist of four (4) bonds of varying amounts to create equal annual debt service, with one bond maturing each December 22nd beginning December 22, 2004 through December 22, 2007. Interest on the bonds will be paid semi-annually on June 22 and December 22 of each year beginning June 22, 2004. The City of Grand Junction will act as its own paying agent and bond registrar for this small issue.

Sherman & Howard will issue an opinion regarding the tax exempt status of this bond issue.

Bids were opened on Monday, November 17, 2003 from four banks to purchase this bond issue. The lowest interest cost at 2.27% was proposed by Alpine Banks and the bonds will be sold to them at closing December 22, 2003.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF GRAND JUNCTION, COLORADO, DOWNTOWN DEVELOPMENT AUTHORITY TAX INCREMENT REVENUE BONDS, SERIES 2003; PLEDGING THE TAX INCREMENT REVENUES OF THE CITY FOR THE PAYMENT OF THE BONDS; PROVIDING FOR THE PAYMENT AND DISCHARGE OF THE CITY'S OUTSTANDING TAX INCREMENT REVENUE BONDS AND SUBORDINATE TAX INCREMENT REVENUE BONDS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

Definitions. Terms used in this Ordinance shall have the meanings specified in this section for all purposes of this Ordinance and of any ordinance amendatory hereof, supplemental hereto or relating hereto, and of any instrument or document appertaining hereto, except where the context by clear implication otherwise requires. All definitions include the singular and plural and include all genders. Certain terms are parenthetically defined elsewhere herein.

Act: Part 8 of Article 25 of Title 31, Colorado Revised Statutes, as amended.

Additional Bonds: the one or more series of bonds or other securities or obligations authorized to be issued by the City pursuant to Sections 16 and 17 hereof and having a lien on the Pledged Revenues on a parity with the lien of the 2003 Bonds.

Authority: the Grand Junction, Colorado Downtown Development Authority, created by the City by an ordinance adopted March 16, 1977.

Average Annual Debt Service: the sum of principal and interest requirements on the Bonds to be paid during each Fiscal Year for the period beginning with the Fiscal Year in which such computation is being made and ending with the last Fiscal Year in which any Bond becomes due, divided by the number of Fiscal Years (including portions thereof) during the period beginning with the Fiscal Year in which such computation is being made and ending with the last Fiscal Year in which any Bond becomes due.

Bond Account: the account by that name created by Section 14 hereof.

Bonds: the Outstanding 2003 Bonds and any Outstanding Additional Bonds.

Business Day: a day on which banks located in the cities in which the principal offices of each of the Paying Agent and the Registrar are not required or authorized to be closed and on which the New York Stock Exchange is not closed.

City: the City of Grand Junction, Colorado.

City Council: the City Council of the City or any successor in functions thereto.

Charter: the home rule Charter of the City, including all amendments thereto prior to the date hereof.

Commercial Bank: any depository for public funds permitted by the laws of the State for political subdivisions of the State which has a capital and surplus of \$10,000,000 or more, and which is located within the United States.

Fiscal Year: the twelve months commencing on the first day of January of any calendar year and ending on the thirty-first day of December of such calendar year or such other twelve-month period as may from time to time be designated by the City Council as the Fiscal Year of the City.

Governmental Obligations: any of the following which are noncallable and which at the time of investment are legal investments under the laws of the State for the moneys proposed to be invested therein:

direct general obligations of, or obligations the payment of principal of and interest on which are unconditionally guaranteed by, the United States of America;

bonds, debentures, notes, or other evidences of indebtedness issued by the Export-Import Bank of the United States, the Federal Financing Bank, the Farmers Home Administration, the General Services Administration, the U.S. Maritime Administration, or the U.S. Department of Housing and Urban Development; or

evidences of ownership interests in obligations described in paragraphs (a) or (b) above.

Maximum Annual Debt Service Requirement: the maximum amount of all required payments of principal and interest on the Outstanding Bonds which will become due in any Fiscal Year.

1996 Bonds: the City's Downtown Development Authority Tax Increment Revenue Bonds, Series 1996 issued pursuant to the 1996 Ordinance.

1996 Ordinance: Ordinance No. 2902 of the City authorizing the issuance of the 1996 Bonds.

1999 Bonds: the City's Downtown Development Authority Subordinate Tax Increment Revenue Bonds, Series 1999 issued pursuant to the 1999 Ordinance.

1999 Ordinance: Ordinance No. 3140 of the City authorizing the issuance of the 1999 Bonds.

2003 Bonds: the City's Downtown Development Authority Tax Increment Revenue Bonds, Series 2003 issued pursuant to this Ordinance.

Ordinance: this Ordinance of the City, which provides for the issuance and delivery of the 2003 Bonds.

Outstanding: as of any date of calculation, all Bonds theretofore executed, issued and delivered by the City except:

Bonds theretofore canceled by the City, Registrar or Paying Agent, or surrendered to the City, Registrar or Paying Agent for cancellation;

Bonds in lieu of or in substitution for which other Bonds shall have been executed, issued and delivered by the City and authenticated by the Registrar unless proof satisfactory to the Registrar is presented that any such Bonds are duly held by the lawful registered owners thereof; or

Bonds deemed to have been paid as provided in Section 19 hereof or any similar section of an ordinance authorizing Additional Bonds.

Owner or registered owner: the registered owner of any 2003 Bond as shown on the registration records kept by the Registrar.

Paying Agent: the Finance Director of the City, or his successors and assigns.

Permitted Investment: any investment or deposit permitted by the laws of the State.

Person: any individual, firm, partnership, corporation, company, association, joint-stock association or body politic; and the term includes any trustee, receiver, assignee or other similar representative thereof.

Plan: the Downtown Development Authority Plan of Development approved in the Resolution, including any amendments to the Plan subsequently approved by the City Council.

Plan of Development Area: the area subject to the Plan, including any additional property subsequently included therein.



Pledged Revenues: the Tax Increments (less 20% of the Tax Increments originating from sales tax revenues for a portion of the Plan of Development Area and 30% of such increments from another portion of the Plan of Development Area as provided in Grand Junction City Resolution No. 28-83), all funds deposited in the Tax Increment Fund and Bond Account, and investment income from the Bond Account and Tax Increment Fund, subject to Federal tax laws regarding arbitrage rebate.

Principal Operations Office: means the principal operations office of the Registrar and Paying Agent, currently located at the City of Grand Junction, Colorado.

Prior Tax Increment Bonds: the outstanding 1996 Bonds and 1999 Bonds.

Project: means the improvements in the Plan of Development Area acquired with proceeds of the 2003 Bonds, which improvements shall be described in the Plan.

Purchaser: means Alpine Banks of Colorado.

Rebate Account: the account by that name created by Section 14 hereof.

Registrar: the Finance Director of the City, or his successors and assigns.

Regular Record Date: the last business day of the calendar month next preceding each interest payment date for the 2003 Bonds (other than a special interest payment date hereafter fixed for the payment of defaulted interest).

Resolution: the City Council Resolution adopted December 16, 1981 approving the Plan and establishing the Tax Increment Fund, all as amended from time to time.

Special Record Date: a special date fixed to determine the names and addresses of registered owners for purposes of paying interest on a special interest payment date for the payment of defaulted interest, all as further provided in Section 6 hereof.

State: the State of Colorado.

Tax Code: the Internal Revenue Code of 1986, as amended to the date of delivery of the 2003 Bonds, and any regulations promulgated thereunder.

Tax Increments: those portions of the ad valorem and municipal sales tax revenue produced from the Plan of Development Area which are in excess of the amounts certified as base amounts by the Assessor of the County and the City Finance Director pursuant to Section 31-25-807(3) of the Act and are pledged herein for the repayment of and as security for the Bonds. "Tax Increments" also include specific ownership taxes, if and to the extent received by the City in connection with the property tax increment.

Tax Increment Fund: the special fund created by the Resolution into which the Tax Increments are to be deposited by the City.

Trust Bank: a Commercial Bank which is authorized to exercise and is exercising trust powers.

Recitals.

The City is a municipal corporation duly organized and existing under the City's Charter adopted pursuant to Article XX of the Constitution of the State of Colorado.

The Authority was organized by the City pursuant to the Act as a Colorado Downtown Development Authority for the purposes of the Act and subsequently improving the area of the City contained within the Plan of Development Area. The Authority proposed and submitted the Plan to City Council, and the Plan was approved by the City Council in the Resolution. The Plan has been modified from time to time by amendments to the Resolution for the purpose of including additional property within the Plan of Development Area and other relevant changes. The Plan provides for a division of taxes pursuant to Section 31-25-807(3) of the Act. The Resolution established the Tax Increment Fund for the deposit of the Tax Increments resulting from such division of taxes.

Pursuant to the Act, the City is permitted to issue securities made payable from the Tax Increments for the purposes of a project if the issuance of such bonds and the pledge of such revenues are first submitted for approval to the qualified electors of the Authority at a special election held for such purpose.

In addition, Article X, Section 20 of the Colorado Constitution requires voter approval in advance for the creation of any multiple-fiscal year direct or indirect debt or other financial obligation (except that refundings of existing debt at lower interest rates do not require an election).

At a special election held on August 3, 1982, a majority of the electors of the Plan of Development Area voting thereon authorized the City to issue bonds or other indebtedness not to exceed the aggregate net principal amount of \$10,000,000 and not to exceed a maximum aggregate net effective interest rate of 18% per annum for the purpose of improving traffic and pedestrian circulation within the Plan of Development Area and authorized the pledge of the Tax Increment Fund for payment of principal, interest and any premiums due in connection with such bonds or other indebtedness, said pledge of funds not to exceed 25 years in duration.

The City has previously utilized \$4,824,500 of the existing authorization, leaving authorization of \$5,175,500 before issuance of the 2003 Bonds.

The 2003 Bonds issued for the Project shall be issued with terms such that they meet the requirements of the 1982 authorization.

The City has heretofore issued the 1996 Bonds in the original aggregate principal amount of \$1,700,000, of which \$620,000 remains outstanding bearing interest at the rates designated below, payable semi-annually on May 15 and November 15 in each year, and maturing on November 15 in each of the years and amounts as follows:

<u>Maturity</u> <u>(November 15)</u>	<u>Principal Amount Outstanding</u>	<u>Interest Rate</u> <u>(Per annum)</u>
2004	190,000	5.55
2005	205,000	5.65
2006	225,000	5.75

The 1996 Bonds maturing on and after November 15, 2004 are subject to redemption prior to maturity, at the option of the City, in whole or in part, on May 15, 2004, or on any date thereafter at a redemption price equal to the principal amounts so redeemed plus accrued interest to the redemption date.

The City has heretofore issued the 1999 Bonds in the original aggregate principal amount of \$2,000,000, of which \$1,050,000 remains outstanding bearing interest at the rates designated below, payable semi-annually on May 15 and November 15 in each year, and maturing on November 15 in each of the years and amounts as follows:

<u>Maturity</u> <u>(November 15)</u>	<u>Principal Amount Outstanding</u>	<u>Interest Rate</u> <u>(Per annum)</u>
2004	325,000	3.80
2005	350,000	3.80
2006	375,000	3.80

The 1996 Bonds maturing on and after November 15, 2004 are subject to redemption prior to maturity, at the option of the City, in whole or in part, on May 15, 2004, or on any date thereafter at a redemption price equal to the principal amount so redeemed plus accrued interest to the redemption date.

The City Council desires to use moneys presently on hand to cause the Prior Tax Increment Bonds to be called for prior redemption and defeased in advance of or concurrently with the issuance of the 2003 Bonds, provided, however, that the proceeds of the 2003 Bonds will not be used to effect such redemption and defeasance.

The City is not delinquent in the payment of the principal of, premium, if any, or interest on any of the 1996 Bonds or the 1999 Bonds.

Assuming the defeasance of the Prior Tax Increment Bonds as set forth above, there are no other liens on the Pledged Revenues. The Pledged Revenues may now be pledged lawfully and irrevocably for the payment of the 2003 Bonds.

The City expects to receive an offer from the Purchaser for the purchase of the 2003 Bonds for the purpose of defraying in whole or in part the costs of the Project and costs of issuance of the 2003 Bonds.

The City Council desires to cause the 2003 Bonds to be issued, to authorize and direct the application of the proceeds thereof as set forth herein, and to provide security for the payment thereof, all in the manner hereinafter set forth.

Ratification. All actions heretofore taken (not inconsistent with the provisions of this Ordinance) by the City Council and other officers of the City in the creation of the Tax Increment Fund, the pledging of the Tax Increments (to the extent described herein) the implementation of the Project, and selling and issuing the 2003 Bonds for those purposes are ratified, approved and confirmed.

Authorization of Project. The Project hereby is authorized at a cost of not exceeding \$3,000,000 (excluding costs to be paid from sources other than the proceeds of the 2003 Bonds). The useful life of the Project is not less than 10 years.

Authorization of the 2003 Bonds. There hereby are authorized to be issued fully registered Tax Increment revenue securities of the City, to be designated "City of Grand Junction, Colorado, Downtown Development Authority Tax Increment Revenue Bonds, Series 2003" in the aggregate principal amount of \$3,000,000, to be payable and collectible, both as to principal and interest, from the Pledged Revenues.

2003 Bond Details. The 2003 Bonds shall be issued in fully registered form (*i.e.*, registered as to both principal and interest) initially registered in the name of the Purchaser, shall be dated as of the date of their delivery, shall be issued in denominations equal to the principal amount of the 2003 Bonds maturing on each maturity date set forth below; provided that if a 2003 Bond is redeemed in part, such 2003 Bond may be in the denomination equal to the unredeemed principal amount thereof and provided that no 2003 Bond may be in a denomination which exceeds the principal coming due on any maturity date, and no individual 2003 Bond will be issued for more than one maturity. The 2003 Bonds shall be numbered in such manner as the Registrar may determine. The 2003 Bonds shall bear interest from their dated date until maturity

or prior redemption payable semiannually on June 22 and December 22 in each year, commencing on June 22, 2004, except that any 2003 Bond which is reissued upon transfer or other replacement shall bear interest from the most recent interest payment date to which interest has been paid or duly provided for, or if no interest has been paid, from the date of the 2003 Bonds. The maximum net effective interest rate on the Bonds shall be 18%. The 2003 Bonds shall bear interest at the rates designated below (based on a 360-day year consisting of twelve 30-day months) and shall mature on December 22 in the following years and in the following amounts:

<u>Maturity (December 22)</u>	<u>Principal Amount</u>	<u>Interest Rate Per Annum</u>
2004	\$690,000	1.25%
2005	730,000	1.75%
2006	770,000	2.25%
2007	810,000	2.75%

The principal of and premium, if any, on any 2003 Bond shall be payable to the registered owner thereof as shown on the registration records kept by the Registrar at the Principal Operations Office, upon maturity thereof or prior redemption and upon presentation and surrender at the Principal Operations Office of the Paying Agent. If any 2003 Bond shall not be paid upon such presentation and surrender at or after maturity or prior redemption, it shall continue to draw interest at the same interest rate borne by said 2003 Bond until the principal thereof is paid in full. Payment of interest on any 2003 Bond shall be made by check or draft mailed by the Paying Agent from the Principal Operations Office, on or before each interest payment date (or, if such interest payment date is not a Business Day, on or before the next succeeding Business Day), to the registered owner thereof at the address shown on the registration records kept by the Registrar at the close of business on the Regular Record Date for such interest payment date; but any such interest not so timely paid or duly provided for shall cease to be payable to the Person who is the registered owner thereof at the close of business on the Regular Record Date and shall be payable to the Person who is the registered owner thereof at the close of business on a Special Record Date for the payment of any such defaulted interest. Such Special Record Date and the date fixed for payment of the defaulted interest shall be fixed

by the Registrar whenever moneys become available for payment of the defaulted interest. Notice of the Special Record Date and the date fixed for payment of the defaulted interest shall be given to the registered owners of the 2003 Bonds not less than ten days prior to the Special Record Date by first-class mail to each such registered owner as shown on the Registrar's registration records on a date selected by the Registrar, stating the date of the Special Record Date and the date fixed for the payment of such defaulted interest. The Paying Agent may make payments of interest on any 2003 Bond by such alternative means as may be mutually agreed to between the Owner of such 2003 Bond and the Paying Agent (provided, however, that if the Paying Agent is other than the City, the City shall not be required to make funds available to said Paying Agent prior to the dates provided in an agreement between the City and the successor paying agent. All such payments shall be made in lawful money of the United States of America without deduction for the services of the Paying Agent or Registrar, if other than the City.

Prior Redemption.

The 2003 Bonds maturing on or before December 22, 2006 are not subject to prior redemption. The 2003 Bonds maturing on December 22, 2007 are subject to redemption prior to their maturity, at the option of the City, on December 22, 2006 or on any date thereafter, in whole or in part, in integral multiples of \$5,000, and if less than all of the 2003 Bonds maturing on December 22, 2007 are to be redeemed, by lot within said maturity in such manner as the Registrar may determine, at a redemption price equal the principal amount so redeemed plus accrued interest to the redemption date.

In the case of redemption of less than the entire principal amount of a 2003 Bond, the Registrar shall, without charge to the registered owner of such 2003 Bond, authenticate and issue a replacement 2003 Bond or Bonds for the unredeemed portion thereof.

If the Registrar is other than the City, the City shall (unless waived by such Registrar) give written instructions concerning any prior redemption to the Registrar at least 60 days prior to such redemption date. Notice of redemption shall be given by the Registrar in the name of the City, by sending a copy of such notice by first-class postage prepaid mail, not more than 60 nor less than 30 days prior to the redemption date, to each registered owner of any 2003 Bond, all or a portion of which is called for prior redemption, at his address as it last appears on the registration records kept by the Registrar. Failure to give such notice by mailing to the registered owner of any 2003 Bond or any defect therein, shall not affect the validity of the proceedings for the redemption of any other 2003 Bonds.

Such notice shall identify the 2003 Bonds or portions thereof to be redeemed (if less than all are to be redeemed) and the date fixed for redemption, and shall further state that on such redemption date the principal amount thereof and the designated premium thereon, if any,

will become due and payable at the Paying Agent, and that from and after such date interest will cease to accrue. Accrued interest to the redemption date will be paid by check or draft mailed to the registered owner (or by alternative means if so agreed to by the Paying Agent and the registered owner). Notice having been given in the manner hereinabove provided, the 2003 Bond or Bonds so called for redemption shall become due and payable on the redemption date so designated; and upon presentation and surrender thereof at the Paying Agent, the City will pay the principal of and premium, if any, on the 2003 Bond or Bonds so called for redemption.

Lien on Pledged Revenues; Special Obligations. The 2003 Bonds constitute a pledge of, and an irrevocable first lien (but not an exclusive first lien) on all of the Pledged Revenues. The 2003 Bonds are equitably and ratably secured by a pledge of and lien on the Pledged Revenues. All of the 2003 Bonds, together with the interest accruing thereon shall be payable and collectible solely out of the Pledged Revenues, which are hereby irrevocably so pledged; the registered owner or owners of the 2003 Bonds may not look to any general or other fund of the City or the Authority for the payment of principal of and interest on the 2003 Bonds, except the designated special funds and accounts pledged therefor. The 2003 Bonds shall not constitute an indebtedness nor a debt within the meaning of any applicable Charter, constitutional or statutory provision or limitation; nor shall they be considered or held to be general obligations of the City or the Authority.

Form of 2003 Bonds and Registration Panel. The 2003 Bonds and the registration panel shall be substantially as follows (provided that any portion of the 2003 Bond text may, with appropriate references, be printed on the back of the 2003 Bonds), with such omissions, insertions, endorsements, and variations as to any recitals of fact or other provisions as may be required by the circumstances, be required or permitted by this Ordinance, or be consistent with this Ordinance and necessary or appropriate to conform to the rules and requirements of any governmental authority or any usage or requirement of law with respect thereto:

(Form of Bond)

UNITED STATES OF AMERICA

STATE OF COLORADO

COUNTY OF MESA

CITY OF GRAND JUNCTION, COLORADO  
DOWNTOWN DEVELOPMENT AUTHORITY  
TAX INCREMENT REVENUE BOND  
SERIES 2003

R- \_\_\_\_\_

\$ \_\_\_\_\_

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATED DATE</u>	<u>CUSIP</u>
_____ %	December 22, 20_____	_____, 2003	

REGISTERED OWNER: \_\_\_\_\_

PRINCIPAL AMOUNT:

DOLLARS

The City of Grand Junction, in the County of Mesa and State of Colorado (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, solely from the special funds provided therefor, the principal amount specified above, on the maturity date specified above (unless called for earlier redemption), and to pay from said sources interest thereon on June 22 and December 22 of each year, commencing on June 22, 2004, at the interest rate per annum specified above, until the principal sum is paid or payment has been provided therefor. This bond will bear interest from the most recent interest payment date to which interest has been paid or provided for, or, if no interest has been paid, from the date of this bond. The principal of this bond is payable upon presentation and surrender hereof to the Principal Operations Office of the City's registrar and paying agent (the "Registrar" or the "Paying Agent"), initially the Finance Director for the City, whose Principal Operations Office is currently located at the City of Grand Junction, Colorado. Interest on this bond will be paid on or before each interest payment date (or, if such interest payment date is not a business day, on or before the next succeeding business day), by check or draft mailed to the person in whose name this bond is registered (the "registered owner") in the registration records of the City maintained by the Registrar at the Principal Operations Office and at the address appearing thereon at the close of business on the last business day of the calendar month next preceding such interest payment date (the "Regular Record Date"). Any such interest not so timely paid or duly



provided for shall cease to be payable to the person who is the registered owner hereof at the close of business on the Regular Record Date and shall be payable to the person who is the registered owner hereof at the close of business on a Special Record Date for the payment of any defaulted interest. Such Special Record Date shall be fixed by the Registrar whenever moneys become available for payment of the defaulted interest, and notice of the Special Record Date shall be given to the registered owners of the bonds of the series of which this is one (the "2003 Bonds") not less than ten days prior to the Special Record Date. Alternative means of payment of interest may be used if mutually agreed to between the Owner of any Bond and the Paying Agent, as provided in the ordinance of the City authorizing the issuance of the 2003 Bonds (the "Bond Ordinance"). All such payments shall be made in lawful money of the United States of America without deduction for the services of the Paying Agent or Registrar.

The 2003 Bonds maturing on or before December 22, 2006 are not subject to prior redemption. The 2003 Bonds maturing on December 22, 2007 are subject to redemption prior to their maturity, at the option of the City, on December 22, 2006 or on any date thereafter, in whole or in part, in integral multiples of \$5,000, and if less than all of the 2003 Bonds maturing on December 22, 2007 are to be redeemed, by lot within said maturity in such manner as the Registrar may determine, at a redemption price equal the principal amount so redeemed plus accrued interest to the redemption date.

In the case of redemption of less than the entire principal amount of a Bond, the Registrar shall, without charge to the Owner of such Bond, authenticate and issue a replacement Bond for the unredeemed portion thereof. Redemption shall be made upon not more than 60 days' and not less than 30 days' mailed notice to each registered owner of Bonds to be redeemed as shown on the registration records kept by the Registrar, in the manner and upon the conditions provided in the Bond Ordinance.

The Bonds are issued in fully registered form, in denominations equal to the principal amount of the Bonds maturing on each maturity date; provided that if a Bond is redeemed in part, such Bond may be in the denomination equal to the unredeemed principal amount thereof. Subject to the aforementioned restriction, the 2003 Bonds are transferable only as set forth in the Bond Ordinance.

The City and the Registrar and Paying Agent may deem and treat the person in whose name this Bond is registered as the absolute Owner hereof for the purpose of making payment and for all other purposes, except to the extent otherwise provided hereinabove and in

the Bond Ordinance with respect to Regular and Special Record Dates for the payment of interest.

The 2003 Bonds are authorized for the purpose of defraying wholly or in part the costs of the Project (as defined in the Bond Ordinance), for the payment of costs and expenses incidental thereto and to the issuance of the 2003 Bonds, all under the authority of and in full conformity with the Constitution of the State of Colorado and the Act (as defined in the Bond Ordinance) and pursuant to the Bond Ordinance duly adopted, published and made a law of the City, all prior to the issuance of this bond. As provided in the Act, this bond and the interest thereon is exempt from taxation by the State of Colorado except inheritance, estate and transfer taxes.

The 2003 Bonds do not constitute a debt or an indebtedness of the City or the Authority within the meaning of any applicable charter, constitutional or statutory provision or limitation. This Bond shall not be considered or held to be a general obligation of the City, and is payable from, and constitutes a pledge of and an irrevocable first lien (but not an exclusive first lien) on all of the proceeds to be derived by the City from the Pledged Revenues (the "Pledged Revenues"), consisting of funds derived from the incremental increase in property tax revenues (including specific ownership taxes, if and to the extent received by the City in connection with the incremental property tax revenues) and a portion of the incremental increase in sales tax revenues (the "Tax Increments") calculated with reference to a base year within the area of the City subject to the Plan of Development for the Grand Junction Downtown Development Authority, and also consisting of the Bond Account, the Tax Increment Fund and investment income thereon, all as more specifically provided in the Bond Ordinance.

The 2003 Bonds constitute a pledge of, and an irrevocable first lien on all of the Pledged Revenues. The 2003 Bonds are equitably and ratably secured by a pledge of and first lien on the Pledged Revenues.

Payment of the principal of and interest on this bond shall be made from, and as security for such payment there are irrevocably pledged, pursuant to the Bond Ordinance, moneys deposited and to be deposited in a special account of the City (the "Bond Account") into which account the City has covenanted under the Bond Ordinance to pay from the Pledged Revenues a sum sufficient, together with other moneys available in the Bond Account therefor, to pay when due the principal of and interest on the 2003 Bonds and any Additional Bonds (as defined in the Bond Ordinance). Except as otherwise specified in the Bond Ordinance, this bond is entitled to the benefits of the Bond Ordinance equally and ratably both as to principal (and

redemption price) and interest with all other Bonds issued and to be issued under the Bond Ordinance, to which reference is made for a description of the rights of the Owners of the 2003 Bonds and the rights and obligations of the City. This bond is payable from the Pledged Revenues, and the Owner hereof may not look to any general or other fund of the City or the Authority for the payment of the principal of and interest on this bond except the Pledged Revenues. Reference is made to the Bond Ordinance for the provisions, among others, with respect to the custody and application of the proceeds of the 2003 Bonds, the receipt and disposition of the Pledged Revenues, the nature and extent of the security, the terms and conditions under which additional bonds payable from the Pledged Revenues may be issued, the rights, duties and obligations of the City, and the rights of the Owners of the 2003 Bonds; and by the acceptance of this bond the Owner hereof assents to all provisions of the Bond Ordinance. The principal of and the interest on this bond shall be paid, and this bond is transferable, free from and without regard to any equities between the City and the original or any intermediate Owner hereof or any setoffs or cross-claims.

FOR PURPOSES OF SECTION 265(b)(3)(B) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, THE CITY HAS DESIGNATED THE 2003 BONDS AS A QUALIFIED TAX-EXEMPT OBLIGATION.

This bond must be registered in the name of the Owner as to both principal and interest on the registration records kept by the Registrar at the Principal Operations Office in conformity with the provisions stated herein and endorsed herein and subject to the terms and conditions set forth in the Bond Ordinance. No transfer of this bond shall be valid unless made in accordance with the restrictions set forth herein and in the Bond Ordinance and on the registration records maintained at the Principal Operations Office of the Registrar by the registered owner or his attorney duly authorized in writing.

It is further certified and recited that all the requirements of law have been fully complied with by the proper City officers in the issuance of this bond.

This bond shall not be valid or obligatory for any purpose until the Registrar shall have manually signed the certificate of authentication herein.

IN TESTIMONY WHEREOF, the City Council of the City of Grand Junction has caused this bond to be signed and executed in its name with a manual or facsimile signature of the President of the City Council, and to be signed, executed and attested with a manual or facsimile signature of the City Clerk, with a manual or facsimile impression of the seal of the City affixed hereto, all as of the date specified above.

(Manual or Facsimile Signature)  
President of the City Council

(MANUAL OR FACSIMILE SEAL)

Attest:

(Manual or Facsimile Signature)  
City Clerk

(End of Form of Bond)

(Form of Registrar's Certificate of Authentication)

This is one of the 2003 Bonds described in the within-mentioned Bond Ordinance, and this Bond has been duly registered on the registration records kept by the undersigned as Registrar for such Bonds.

Date of Authentication  
and Registration: \_\_\_\_\_

CITY OF GRAND JUNCTION, COLORADO,  
as Registrar

By: \_\_\_\_\_  
Finance Director

(End of Form of Registrar's Certificate of Authentication)

(Form of Assignment)

For value received, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within bond and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney, to transfer the same on the registration records of the Registrar, with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_

Signature Guaranteed By:

\_\_\_\_\_  
(Firm or Bank)

Authorized Signature

Name and Address of transferee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Social Security or other tax  
identification number of transferee:

\_\_\_\_\_

NOTE: The signature to this Assignment must correspond with the name as written on the face of the within bond in every particular, without alteration or enlargement or any change whatsoever.

TRANSFER FEES MAY BE CHARGED

(End of Form of Assignment)

Negotiability. Subject to the registration provisions hereof, the 2003 Bonds shall be fully negotiable and shall have all the qualities of negotiable paper, and the Owner or Owners thereof shall possess all rights enjoyed by the holders or owners of negotiable instruments under the provisions of the Uniform Commercial Code-Investment Securities. The principal of and interest on the 2003 Bonds shall be paid, and the 2003 Bonds shall be transferable, free from and without regard to any equities between the City and the original or any intermediate owner of any 2003 Bonds or any setoffs or cross-claims.

Execution. The 2003 Bonds shall be executed in the name and on behalf of the City by the signature of the President of the City Council, shall be sealed with a manual or facsimile impression of the seal of the City and attested by the signature of the City Clerk. Each 2003 Bond shall be authenticated by the manual signature of an authorized officer or employee of the Registrar as hereinafter provided. The signatures of the President of the City Council and the City Clerk may be by manual or facsimile signature. The 2003 Bonds bearing the manual or facsimile signatures of the officers in office at the time of the authorization thereof shall be the valid and binding obligations of the City (subject to the requirement of authentication by the Registrar as hereinafter provided), notwithstanding that before the delivery thereof and payment therefor or before the issuance of the 2003 Bonds upon transfer, any or all of the persons whose manual or facsimile signatures appear thereon shall have ceased to fill their respective offices. The President of the City Council and the City Clerk shall, by the execution of a signature certificate pertaining to the 2003 Bonds, adopt as and for their respective signatures any facsimiles thereof appearing on the 2003 Bonds. At the time of the execution of the signature certificate, the President of the City Council and the City Clerk may each adopt as and for his or her facsimile signature the facsimile signature of his or her predecessor in office in the event that such facsimile signature appears upon any of the 2003 Bonds.

No 2003 Bond shall be valid or obligatory for any purpose unless the certificate of authentication, substantially in the form provided, has been duly manually executed by the Registrar. The Registrar's certificate of authentication shall be deemed to have been duly executed by the Registrar if manually signed by an authorized officer or employee of the Registrar, but it shall not be necessary that the same officer or employee sign the certificate of authentication on all of the 2003 Bonds issued hereunder. By authenticating any of the 2003 Bonds initially delivered pursuant to this Ordinance, the Registrar shall be deemed to have assented to the provisions of this Ordinance.

Registration and Transfer.

Records for the registration and transfer of the 2003 Bonds shall be kept by the Registrar, which is hereby appointed by the City as registrar (i.e., transfer agent) for the 2003 Bonds. Upon the surrender for transfer of any 2003 Bond at the Registrar, duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing, the Registrar shall enter such transfer on the registration records and shall authenticate and deliver in the name of the transferee or transferees a new 2003 Bond or Bonds of the same series, of a like aggregate principal amount and of the same maturity, bearing a number or numbers not previously assigned. The Registrar may impose reasonable charges in connection with such transfers of 2003 Bonds, which charges (as well as any tax or other governmental charge required to be paid with respect to such transfer) shall be paid by the registered owner requesting such transfer.

The Registrar shall not be required to transfer (1) any 2003 Bond during a period beginning at the opening of business 15 days before the day of the mailing of notice of prior redemption as herein provided and ending at the close of business on the day of such mailing, or (2) any 2003 Bond after the mailing of notice calling such 2003 Bond or any portion thereof for prior redemption, except for the unredeemed portion of the 2003 Bonds being redeemed in part.

The person in whose name any 2003 Bond shall be registered on the registration records kept by the Registrar shall be deemed and regarded as the absolute Owner thereof for the purpose of making payment thereof and for all other purposes; except as may be otherwise provided in Section 6 hereof with respect to payment of interest; and, subject to such exception, payment of or on account of either principal or interest on any 2003 Bond shall be made only to or upon the written order of the registered owner thereof or his legal representative, but such registration may be changed upon transfer of such 2003 Bond in the manner and subject to the conditions and limitations provided herein. All such payments shall be valid and effectual to discharge the liability upon such 2003 Bond to the extent of the sum or sums so paid.

If any 2003 Bond shall be lost, stolen, destroyed or mutilated, the Registrar shall, upon receipt of such evidence, information or indemnity relating thereto as it and the City may reasonably require, authenticate and deliver a replacement 2003 Bond or Bonds of a like aggregate principal amount and of the same maturity, bearing a number or numbers not previously assigned. If such lost, stolen, destroyed, or mutilated 2003 Bond shall have matured or is about to become due and payable, the Registrar may direct the Paying Agent to pay such 2003 Bond in lieu of replacement.



The officers of the City are authorized to deliver to the Registrar fully executed but unauthenticated 2003 Bonds in such quantities as may be convenient to be held in custody by the Registrar pending use as herein provided.

Whenever any 2003 Bond shall be surrendered to the Paying Agent upon payment thereof, or to the Registrar for transfer or replacement as provided herein, such 2003 Bond shall be promptly canceled by the Paying Agent or Registrar, and counterparts of a certificate of such cancellation shall be furnished by the Paying Agent or Registrar to the City.

Delivery of 2003 Bonds and Disposition of Proceeds. When the 2003 Bonds have been duly executed by appropriate City officers and authenticated by the Registrar, the City shall cause the 2003 Bonds to be delivered to the Purchaser on receipt of the agreed purchase price. The 2003 Bonds shall be delivered in such denominations as the Purchaser shall direct (but subject to the provisions of Section 12 hereof); and the Registrar shall initially register the 2003 Bonds in such name or names as the Purchaser shall direct.

The proceeds of the 2003 Bonds shall be deposited promptly by the City and shall be accounted for in the following manner and are hereby pledged therefor, but the Purchaser of the 2003 Bonds or any subsequent Owner in no manner shall be responsible for the application or disposal by the City or any of its officers of any of the funds derived from the sale:

All proceeds of the 2003 Bonds shall be credited to the Tax Increment Projects Fund, hereby created, to be used for the Project and for the costs of issuance of the 2003 Bonds. After payment of all costs of the Project and costs of issuance of the 2003 Bonds, or after adequate provision therefor is made, any unexpended balance of the proceeds of the 2003 Bonds shall be deposited in the Bond Account and applied to the payment of the principal of and interest on the 2003 Bonds.

Use of Pledged Revenues. So long as any Bonds shall be Outstanding, either as to principal or interest, all Pledged Revenues in the Tax Increment Fund shall be applied as described below:

Bond Account. A special account is hereby created and designated as the "City of Grand Junction, Colorado, Downtown Development Authority 2003 Tax Increment Revenue Bond Account" (the "Bond Account"). The Bond Account shall be held, administered and distributed by the City in accordance with the terms of this Ordinance. The Pledged Revenues remaining in the Tax Increment Fund shall be credited immediately to the Bond Account until the total amount accumulated therein is equal to the sum of the following:

Interest payments. The aggregate amount of the next maturing installment of interest on the Bonds, plus

Principal payments. The aggregate amount of the next maturing installment of principal of the Bonds.

Once there has been accumulated in the Bond Account the entire amount necessary for the payment of principal of and interest on the Bonds in the current Fiscal Year, no moneys need be deposited in the Bond Account until the following Fiscal Year. The moneys in the Bond Account shall be used only to pay the principal of, prior redemption premium, if any, and interest on the Bonds as the same becomes due.

Termination Upon Deposits to Maturity or Redemption Date. No payment need be made into the Bond Account if the amount in the Bond Account totals a sum at least equal to the entire amount of the Outstanding Bonds, both as to principal and interest to their respective maturities, or to any redemption date on which the City shall have exercised its option to redeem the Bonds then Outstanding and thereafter maturing, including any prior redemption premiums then due, and both accrued and not accrued, in which case moneys in the Bond Account in an amount at least equal to such principal and interest requirements shall be used solely to pay such as the same accrue, and any moneys in excess thereof in the Bond Account may be withdrawn and used for any lawful purpose.

Defraying Delinquencies in Bond Account. If on any required payment date the City shall for any reason not have in the Bond Account the full amount above stipulated, then the City shall deposit into the Bond Account from the first Pledged Revenues thereafter received and not required to be applied otherwise by this Section (but excluding any payments required for any obligations subordinate to the Bonds) an amount equal to the difference between the amount then on deposit in the Bond Account and the amount needed to make the payments due on said payment date.

In the event that said first moneys credited to the Tax Increment Fund have been insufficient during a given Fiscal Year to meet the principal and interest requirements on the Bonds to be paid during said Fiscal Year, then during the month of December of said Fiscal Year, the City may at its option and sole discretion, transfer to the Bond Account from surplus legally available funds a sum equal to the amount needed to meet said debt service requirements due and owing on the Bonds. The City intends to include the question of whether to so replenish the Bond Account on its agenda in December of any Fiscal Year for which the balance of the Bond Account is inadequate to meet said debt service requirements. If and to the extent the City

decides to replenish the Bond Account from surplus legally available funds, all such City moneys deposited into the Bond Account shall be deemed a loan to the Tax Increment Fund, to be paid back on an annually subordinate basis pursuant to Section 14E as a “subordinate obligation.”

The moneys in the Bond Account shall be used solely for the purpose of paying the principal of, redemption premium, if any, and the interest on the Bonds; provided, that any moneys in the Bond Account in excess of accrued and unaccrued principal and interest requirements to the respective maturities of the Outstanding Bonds, and not needed for rebate to the United States government, may be used as provided in paragraphs E and F of this Section.

Rebate Account. Next, there shall be deposited in a special account hereby created and to be known as the “City of Grand Junction, Colorado, Downtown Development Authority 2003 Tax Increment Revenue Bonds Rebate Account” (the “Rebate Account”) amounts required by Section 148(f) of the Tax Code to be held until such time as any required rebate payment is made. Amounts in the Rebate Account shall be used for the purpose of making the payments to the United States required by Section 148(f) of the Tax Code. Any amounts in excess of those required to be on deposit therein by Section 148(f) of the Tax Code shall be withdrawn therefrom and deposited into the Bond Account. Funds in the Rebate Account shall not be subject to the lien created by this Ordinance to the extent such amounts are required to be paid to the United States Treasury. A similar rebate account may be created for any series of Additional Bonds and payments into such account shall have the same priority as payments into the Rebate Account created hereunder.

Payment for Subordinate Obligations. After the payments required by paragraphs A, C and D of this Section, the Pledged Revenues shall be used by the City for the payment of interest on and principal of any obligations secured by Pledged Revenues subordinate to the lien of the 2003 Bonds (including the repayment of any City loan to replenish the Bond Account), hereafter authorized to be issued, including reasonable reserves therefor.

Use of Remaining Revenues. After making the payments required to be made by this Section, any remaining Pledged Revenues may be used for any lawful purpose. Without limiting the foregoing, to the extent permitted by law, the City is hereby authorized to transfer any and all remaining Pledged Revenues which constitute investment income on moneys in the Tax Increment Fund to the Authority to be used for administrative expenses.

General Administration of Accounts. The accounts designated in Sections 13 and 14 hereof and the Tax Increment Fund shall be administered as follows subject to the limitations stated in Section 18K hereof:

Budget and Appropriation of Accounts. The sums provided to make the payments specified in Section 14 hereof are hereby appropriated for said purposes, and said amounts for each year shall be included in the annual budget and the appropriation ordinance or measures to be adopted or passed by the City Council in each year respectively while any of the 2003 Bonds, either as to principal or interest, are Outstanding and unpaid.

Places and Times of Deposits. Each of the special accounts created in Section 14 hereof and the Tax Increment Fund shall be maintained as a book account kept separate and apart from all other accounts or funds of the City as trust accounts solely for the purposes herein designated therefor. For purposes of investment of moneys, nothing herein prevents the commingling of moneys accounted for in any two or more such book accounts pertaining to the Pledged Revenues or to such accounts and any other funds of the City to be established under this Ordinance. Moneys in any such book account shall be continuously secured to the fullest extent required by the laws of the State for the securing of public accounts. Each periodic payment shall be credited to the proper book account not later than the date therefor herein designated, except that when any such date shall be a Saturday, a Sunday or a legal holiday, then such payment shall be made on or before the next preceding Business Day.

Investment of Accounts. Any moneys in any account established by Section 14 of this Ordinance and the Tax Increment Fund may be invested or reinvested in any Permitted Investment. Securities or obligations purchased as such an investment shall either be subject to redemption at any time at face value by the holder thereof at the option of such holder, or shall mature at such time or times as shall most nearly coincide with the expected need for moneys from the account in question. Securities or obligations so purchased as an investment of moneys in any such account shall be deemed at all times to be a part of the applicable account. The City shall present for redemption or sale on the prevailing market any securities or obligations so purchased as an investment of moneys in a given account whenever it shall be necessary to do so in order to provide moneys to meet any required payment or transfer from such account. The City shall have no obligation to make any investment or reinvestment hereunder, unless any moneys on hand and accounted for in any one account exceed \$5,000 and at least \$5,000 therein will not be needed for a period of not less than 60 days. In such event the City shall invest or reinvest not less than substantially all of the amount which will not be needed during such 60-

day period, except for any moneys on deposit in an interest bearing account in a Commercial Bank, without regard to whether such moneys are evidenced by a certificate of deposit or otherwise, pursuant to this Section 15C and Section 15E hereof; but the City is not required to invest, or so to invest in such a manner, any moneys accounted for hereunder if any such investment would contravene the covenant concerning arbitrage in Section 18K hereof.

No Liability for Losses Incurred in Performing Terms of Ordinance. Neither the City nor any officer of the City shall be liable or responsible for any loss resulting from any investment or reinvestment made in accordance with this Ordinance.

Character of Funds. The moneys in any fund or account herein authorized shall consist of lawful money of the United States or investments permitted by Section 15C hereof or both such money and such investments. Moneys deposited in a demand or time deposit account in or evidenced by a certificate of deposit of a Commercial Bank pursuant to Section 15C hereof, appropriately secured according to the laws of the State, shall be deemed lawful money of the United States.

Additional Bonds.

Limitations Upon Issuance of Additional Bonds. Nothing in this Ordinance shall be construed in such a manner as to prevent the issuance by the City of Additional Bonds payable from and constituting a lien upon the Pledged Revenues on a parity with the lien of the 2003 Bonds; but before any such Additional Bonds are authorized or actually issued (excluding any parity refunding securities refunding the Bonds or a part thereof, as provided in Section 17 hereof), the following provisions B through F must all first be satisfied.

Absence of Default. At the time of the adoption of the supplemental ordinance or other instrument authorizing the issuance of the Additional Bonds, the City shall not be in default in making any payments required by Section 14 hereof.

Historic Revenues Test. The Tax Increments constituting Pledged Revenues, as certified by the City Council, received in the last complete Fiscal Year immediately preceding the date of the issuance of such Additional Bonds, shall have been sufficient to pay an amount at least equal to 100% of the sum derived by adding the following: (i) the Average Annual Debt Service for the Outstanding Bonds and (ii) the Average Annual Debt Service for the Additional Bonds proposed to be issued.

Adjustment of Historic Revenues. In the computation of the historic revenues test in Section 16 hereof, the amount of the Tax Increments constituting Pledged Revenues for such Fiscal Year may be increased by the amount of gain which will result from any increase in the

amount of the assessed valuation of taxable property within the Plan of Development Area, or the mill levy or percentage of sales tax which will be applied in the City during that Fiscal Year as provided in final ordinances, certifications, or resolutions of the City or county or other taxing authority, approved if required by the electors, providing for such increase.

Adequate Reserves. The City may, at its option, provide for the creation and maintenance of a reserve fund in connection with the issuance of any Additional Bonds.

Reduction of Annual Requirements. The respective annual debt service requirements set forth in Section 16 hereof (including as such a requirement, the amount of any prior redemption premiums due on any redemption date as of which the City shall have exercised or shall have obligated itself to exercise its prior redemption option by a call of bonds or securities for redemption) shall be reduced to the extent such debt service requirements are scheduled to be paid in each of the respective Fiscal Years with moneys held in trust or in escrow for that purpose by any Trust Bank located within or without the State, including the known minimum yield from any investment of such moneys in Governmental Obligations and bank deposits, including any certificate of deposit.

Certification of Revenues. In the case of the computation of the revenue tests provided in Section 16C and when adjusted in the manner provided in Section 16D, the specified and required written certification by the City Council that such annual revenues are sufficient to pay such amounts as provided in Section 16C hereof shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell and deliver Additional Bonds on a parity with the then Outstanding Bonds.

Subordinate Securities Permitted. Nothing herein prevents the City from issuing additional bonds or other additional securities for any lawful purpose payable from the Pledged Revenues having a lien thereon subordinate, inferior and junior to the lien thereon of the Bonds.

Superior Securities Prohibited. Nothing herein permits the City to issue bonds or other securities payable from the Pledged Revenues and having a lien thereon prior and superior to the lien thereon of the 2003 Bonds.

Refunding Obligations.

Generally. If at any time after the 2003 Bonds, or any part thereof, shall have been issued and remain Outstanding, the City shall find it desirable to refund any Outstanding obligations payable from the Pledged Revenues, said obligations, or any part thereof, may be refunded, subject to the provisions of paragraph B of this Section, if (1) the obligations to be refunded, at the time of their required surrender for payment, shall then mature or shall then be

callable for prior redemption at the City's option upon proper call, or (2) the owners of the obligations to be refunded consent to such surrender and payment.

Protection of Obligations Not Refunded. Any refunding obligations payable from the Pledged Revenues shall be issued with such details as the City Council may provide, so long as there is no impairment of any contractual obligation imposed upon the City by any proceedings authorizing the issuance of any unrefunded portion of obligations payable from the Pledged Revenues; but so long as any 2003 Bonds are Outstanding, refunding obligations payable from the Pledged Revenues may be issued on a parity with the unrefunded Bonds only if:

Prior Consent. The City first receives the consent of the Owner or Owners of the unrefunded Bonds; or

Requirements. The refunding obligations do not increase by more than \$25,000, for any Fiscal Year prior to and including the last maturity date of any unrefunded Bonds, the aggregate principal and interest requirements evidenced by such refunding obligations and by any Outstanding Bonds not refunded, and the lien of any refunding parity obligations on the Pledged Revenues is not raised to a higher priority than the lien thereon of any obligations thereby refunded; or

Earnings Tests. The refunding obligations are issued in compliance with Section 16 hereof.

Protective Covenants. The City hereby additionally covenants and agrees with each and every Owner of the 2003 Bonds that:

Use of 2003 Bond Proceeds. The City will proceed with the Project without delay and with due diligence.

Payment of 2003 Bonds. The City will promptly pay the principal of and interest on every 2003 Bond issued hereunder and secured hereby on the dates and in the manner specified herein and in said 2003 Bonds according to the true intent and meaning hereof. Such principal and interest is payable solely from the Pledged Revenues.

Amendment of the Resolution; Continuance and Collection of Taxes. The Resolution is now in full force and effect and has not been repealed or amended.

Unless required by law, the City shall not make any further modification of the Resolution or the Plan which would reduce the Tax Increments deposited or to be deposited in the Tax Increment Fund or otherwise materially impair the pledged security for the 2003 Bonds unless the required consent is obtained, all as provided in Section 27 of this Ordinance.

The City shall maintain the Tax Increment Fund as a fund of the City separate and distinct from all other funds of the City and immediately upon receipt or collection of the Tax Increments shall deposit the Tax Increments (less 20% of the Tax Increments originating from sales tax revenues for a portion of the Plan of Development Area and 30% of such increments from another portion of the Plan of Development Area as provided in Grand Junction City Resolution No. 28-83) into said fund.

The City shall take all reasonable action necessary to collect delinquent payments of the ad valorem and sales taxes owing from the Plan of Development Area or to cause such delinquent payments to be collected.

The foregoing covenants are subject to compliance by the City with its Charter, any legislation of the United States or the State or any regulation or other action taken by the federal government or any State agency or any political subdivision of the State pursuant to such legislation, in the exercise of the police power thereof or the public welfare, which legislation, regulation or action applies to the City as a Colorado municipality and limits or otherwise inhibits the amount of such tax revenues due to the City. All of the Tax Increments (less 20% of the Tax Increments originating from sales tax revenues for a portion of the Plan of Development Area and 30% of such increments from another portion of the Plan of Development Area as provided in Grand Junction City Resolution No. 28-83) shall be subject to the payment of the debt service requirements of all Bonds payable from the Pledged Revenues and the Tax Increment Fund, including reserves therefor if any, as provided herein or in any instrument supplemental or amendatory hereto.

Defense of Legality of Application and Use of Tax Increments. There is not pending or threatened any suit, action or proceeding against or affecting the City before or by any court, arbitrator, administrative agency or other governmental authority which affects the validity or legality of this Ordinance, the Resolution, or the imposition and collection of the Tax Increments, any of the City's obligations under this Ordinance or any of the transactions contemplated by this Ordinance or the Resolution.

The City shall, to the extent permitted by law, defend the validity and legality of the collection of the Tax Increments and any taxes contributing thereto, this Ordinance and the Resolution, and all amendments thereto against all claims, suits and proceedings which would diminish or impair the Pledged Revenues or Tax Increment Fund as security for the Bonds.



Except as specified in this Ordinance, the City has not assigned or pledged the Pledged Revenues or Tax Increment Fund in any manner which would diminish the security for the payment of the Bonds.

Further Assurances. At any and all times the City shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge, deliver and file or record all and every such further instruments, acts, deeds, conveyances, assignments, transfers, other documents and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights, the Pledged Revenues and other funds and accounts hereby pledged or assigned, or intended so to be, or which the City may hereafter become bound to pledge or to assign, or as may be reasonable and required to carry out the purposes of this Ordinance. The City, acting by and through its officers, or otherwise, shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of said Pledged Revenues and other funds and accounts pledged hereunder and all the rights of every Owner of any of the Bonds against all claims and demands of all Persons whomsoever.

Conditions Precedent. Upon the issuance of any of the 2003 Bonds, all conditions, acts and things required by the Constitution or laws of the United States, the Constitution or laws of the State, the Charter or this Ordinance to exist, to have happened, and to have been performed precedent to or in the issuance of the 2003 Bonds shall exist, have happened and have been performed, and the 2003 Bonds, together with all other obligations of the City, shall not contravene any debt or other limitation prescribed by the Constitution or laws of the United States, the Constitution or laws of the State or the Charter.

Records. So long as any of the 2003 Bonds remain Outstanding, proper books of record and account will be kept by the City, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the Pledged Revenues and the accounts created or continued by this Ordinance.

Audits. The City further agrees that it will cause an audit of such books and accounts to be made by a certified public accountant, who is not an employee of the City, showing the Pledged Revenues. The City agrees to allow the Owner of any of the 2003 Bonds to review and copy such audits and reports, at the City's offices, at his request. Copies of such audits and reports will be furnished to the Purchaser.

Performing Duties. The City will faithfully and punctually perform or cause to be performed all duties with respect to the Pledged Revenues required by the Charter and the Constitution and laws of the State and the ordinances and resolutions of the City, including but

not limited to the segregation of the Pledged Revenues as set forth in Section 14 hereof and their application to the respective accounts herein designated.

Other Liens. As of the date of issuance of the 2003 Bonds, there are no liens or encumbrances of any nature whatsoever on or against any of the Pledged Revenues.

Tax Covenant. The City covenants for the benefit of the Registered Owners of the 2003 Bonds that it will not take any action or omit to take any action with respect to the 2003 Bonds, the proceeds thereof, any other funds of the City or any facilities financed or refinanced with the proceeds of the 2003 Bonds if such action or omission (i) would cause the interest on the 2003 Bonds to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Tax Code, (ii) would cause interest on the 2003 Bonds to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Tax Code except to the extent such interest is required to be included in adjusted current earnings adjustment applicable to corporations under Section 56 of the Tax Code in calculating corporate alternative minimum taxable income, or (iii) would cause interest on the 2003 Bonds to lose its exclusion from Colorado taxable income or Colorado alternative minimum taxable income under present Colorado law. The foregoing covenant shall remain in full force and effect notwithstanding the payment in full or defeasance of the 2003 Bonds until the date on which all obligations of the City in fulfilling the above covenant under the Tax Code and Colorado law have been met.

The City hereby designates the 2003 Bonds as a qualified tax-exempt obligation for purposes of Section 265(b)(3)(B) of the Tax Code.

City's Existence. The City will maintain its corporate identity and existence so long as any of the 2003 Bonds remain Outstanding, unless another political subdivision by operation of law succeeds to the duties, privileges, powers, liabilities, disabilities, immunities and rights of the City and is obligated by law to receive and distribute the Pledged Revenues in place of the City, without materially adversely affecting the privileges and rights of any Owner of any Outstanding 2003 Bonds.

Prompt Collections. The City will cause the Pledged Revenues to be collected promptly and accounted for in the accounts as herein provided.

Surety Bonds. Each official of the City having custody of the Pledged Revenues, or responsible for their handling, shall be fully bonded at all times, which bond shall be conditioned upon the proper application of such money.

Prejudicial Contracts and Action Prohibited. No contract will be entered into, nor will any action be taken, by the City by which the rights and privileges of any Owner are impaired or diminished.

Defeasance. When the 2003 Bonds have been fully paid both as to principal and interest, all obligations hereunder shall be discharged and the 2003 Bonds shall no longer be deemed to be Outstanding for any purpose of this Ordinance, except as set forth in Section 18K hereof. Payment of any 2003 Bonds shall be deemed made when the City has placed in escrow with a Trust Bank an amount sufficient (including the known minimum yield from Governmental Obligations) to meet all requirements of principal, interest, and any prior redemption premiums on such 2003 Bonds as the same become due to maturity or a designated prior redemption date; and, if 2003 Bonds are to be redeemed prior to maturity pursuant to Section 7A hereof, when the City has given to the Registrar irrevocable written instructions to give notice of prior redemption in accordance with Section 7C hereof. The Governmental Obligations shall become due at or prior to the respective times on which the proceeds thereof shall be needed, in accordance with a schedule agreed upon between the City and such Trust Bank at the time of creation of the escrow and shall not be callable by the issuer thereof prior to their scheduled maturities.

In the event that there is a defeasance of only part of the 2003 Bonds of any maturity, the Registrar shall, if requested by the City, institute a system to preserve the identity of the individual 2003 Bonds or portions thereof so defeased, regardless of changes in bond numbers attributable to transfers of 2003 Bonds; and the Registrar shall be entitled to reasonable compensation and reimbursement of expenses from the City in connection with such system.

Delegated Powers. The officers of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance, including, without limiting the generality of the foregoing; the printing of the 2003 Bonds and the execution of such certificates as may be required by the Purchaser, including, but not necessarily limited to, the absence and existence of factors affecting the exclusion of interest on the 2003 Bonds from gross income for federal income tax purposes.

Events of Default. Each of the following events is hereby declared an “event of default:”

Nonpayment of Principal. If payment of the principal of any of the 2003 Bonds shall not be made when the same shall become due and payable at maturity or by proceedings for prior redemption; or

Nonpayment of Interest. If payment of any installment of interest on the 2003 Bonds shall not be made when the same becomes due and payable; or

Incapable to Perform. If the City shall for any reason be rendered incapable of fulfilling its obligations hereunder; or

Default of Any Provision. If the City shall default in the due and punctual performance of its covenants or conditions, agreements and provisions contained in the 2003 Bonds or in this Ordinance on its part to be performed, other than those delineated in paragraphs A and B of this Section, and if such default shall continue for 60 days after written notice specifying such default and requiring the same to be remedied shall have been given to the City by the Owners of not less than 25% in aggregate principal amount of the 2003 Bonds then Outstanding.

Remedies. Upon the happening and continuance of any event of default as provided in Section 21 hereof, the Owner or Owners of not less than 25% in aggregate principal amount of the Outstanding Bonds, or a trustee therefor, may protect and enforce their rights hereunder by proper legal or equitable remedy deemed most effectual including mandamus, specific performance of any covenants, the appointment of a receiver (the consent of such appointment being hereby granted), injunctive relief, or requiring the City Council to act as if it were the trustee of an express trust, or any combination of such remedies. All proceedings shall be maintained for the equal benefit of all Owners of Bonds. The failure of any Owner to proceed does not relieve the City or any Person of any liability for failure to perform any duty hereunder. The foregoing rights are in addition to any other right available to the Owners of Bonds and the exercise of any right by any Owner shall not be deemed a waiver of any other right.

Duties Upon Default. Upon the happening of any of the events of default as provided in Section 21 of this Ordinance, the City, in addition, will do and perform all proper acts on behalf of and for the Owners of the Bonds to protect and preserve the security created for the payment of the Bonds and to insure the payment of the principal of and interest on said Bonds promptly as the same become due. Proceeds derived from the Pledged Revenues, so long as any of the Bonds herein authorized, either as to principal or interest, are Outstanding and unpaid, shall be paid into the Bond Account, pursuant to the terms hereof and to the extent provided herein, and used for the purposes herein provided. In the event the City fails or refuses to proceed as in this Section provided, the Owner or Owners of not less than 25% in aggregate principal amount of the Bonds then Outstanding, after demand in writing, may proceed to protect and enforce the rights of such Owners as hereinabove provided.

Replacement of Registrar or Paying Agent. If the City shall determine that it wishes to appoint a Registrar or Paying Agent other than the Finance Director of the City, the City may, upon notice mailed to each Owner of any 2003 Bond at his address last shown on the registration records, appoint a successor Registrar or Paying Agent, or both. No subsequent resignation or dismissal of the Registrar or Paying Agent may take effect until a successor is appointed. Every such successor Registrar or Paying Agent shall be the City or a bank or trust company having a shareowner's equity (e.g., capital, surplus, and undivided profits), however denominated, of not less than \$10,000,000. It shall not be required that the same institution serve as both Registrar and Paying Agent hereunder, but the City shall have the right to have the same institution serve as both Registrar and Paying Agent hereunder.

Amendment. After any of the 2003 Bonds have been issued, this Ordinance shall constitute a contract between the City and the Owners of the 2003 Bonds and shall be and remain irrevocable until the 2003 Bonds and the interest thereon have been fully paid, satisfied and discharged.

The City may, without the consent of, or notice to the Owners of the 2003 Bonds, adopt such ordinances supplemental hereto (which supplemental amendments shall thereafter form a part hereof) for any one or more or all of the following purposes:

to cure any ambiguity, or to cure, correct or supplement any defect or omission or inconsistent provision contained in this Ordinance, or to make any provisions with respect to matters arising under this Ordinance or for any other purpose if such provisions are necessary or desirable and do not materially adversely affect the interests of the Owners of the 2003 Bonds;

to subject to the lien of this Ordinance additional revenues, properties or collateral;

to grant or confer upon the Registrar for the benefit of the registered owners of the 2003 Bonds any additional rights, remedies, powers, or authority that may lawfully be granted to or conferred upon the registered owners of the 2003 Bonds; or

to qualify this Ordinance under the Trust Indenture Act of 1939.

Exclusive of the amendatory ordinances permitted by paragraph A of this Section, this Ordinance may be amended or supplemented by ordinance adopted by the City Council in accordance with the law, without receipt by the City of any additional consideration but with the written consent of the Owners of at least 66% in aggregate principal amount of the 2003 Bonds Outstanding at the time of the adoption of such amendatory or supplemental ordinance; provided,

however, that, without the written consent of the Owners of all of the 2003 Bonds adversely affected thereby, no such ordinance shall have the effect of permitting:

An extension of the maturity of any 2003 Bond authorized by this Ordinance; or

A reduction in the principal amount of any 2003 Bond, the rate of interest thereon, or the prior redemption premium, if any, thereon; or

The creation of a lien upon or pledge of Pledged Revenues ranking prior to the lien or pledge created by this Ordinance; or

A reduction of the principal amount of 2003 Bonds required for consent to such amendatory or supplemental ordinance; or

The establishment of priorities as between 2003 Bonds issued and Outstanding under the provisions of this Ordinance; or

The modification of or otherwise affecting the rights of the Owners of less than all of the 2003 Bonds then Outstanding.

Redemption and Defeasance of 1996 and 1999 Bonds.

Exercise of Option. The City Council has elected and does hereby declare its intent to exercise on behalf and in the name of the City its option to redeem on May 15, 2004, all of the outstanding 1996 Bonds and the outstanding 1999 Bonds maturing on and after November 15, 2004. The City Council is hereby obligated so to exercise such option, which option shall be deemed to have been exercised when notice is duly given and completed forthwith prior to or upon the issuance of the 2003 Bonds as herein provided.

Authorization to Undertake Defeasance. The Finance Director of the City is hereby authorized and directed to take all action necessary or appropriate to effectuate the prior redemption and defeasance of the Prior Tax Increment Bonds, including but not limited to the execution of an escrow agreement pertaining thereto, the creation of an escrow account and the deposit therein of certain moneys of the City legally available therefor, and the giving of notices of prior redemption and defeasance of the Prior Tax Increment Bonds in the form and manner set forth in the 1996 Ordinance and 1999 Ordinance, respectively.

Severability. If any one or more sections, sentences, clauses or parts of this Ordinance shall for any reason be held invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, but shall be confined in its operation to the specific sections, sentences, clauses or parts of this Ordinance so held unconstitutional or invalid, and the inapplicability and invalidity of any section, sentence, clause or part of this Ordinance in

any one or more instances shall not affect or prejudice in any way the applicability and validity of this Ordinance in any other instances.

Repealer. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Ordinance Irrepealable. After any of the 2003 Bonds herein authorized are issued, this Ordinance shall constitute a contract between the City and the Owners of the 2003 Bonds, and shall be and remain irrepealable until the 2003 Bonds and interest thereon shall be fully paid, canceled and discharged as herein provided.

Disposition of Ordinance. This Ordinance, as adopted by the City Council, shall be numbered and recorded by the City Clerk in the official records of the City. The adoption and publication shall be authenticated by the signatures of the President of the City Council and City Clerk, and by the certificate of publication.

Effective Date. This Ordinance shall be in full force and effect 30 days after publication following final passage.

INTRODUCED, PASSED ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN PAMPHLET FORM this 5th day of November, 2003.

CITY OF GRAND JUNCTION, COLORADO

---

President of the City Council

Attest:

---

City Clerk

INTRODUCED, PASSED ON SECOND READING, APPROVED AND ORDERED PUBLISHED IN PAMPHLET FORM this 19th day of November, 2003.

CITY OF GRAND JUNCTION, COLORADO

---

President of the City Council

Attest:

---

City Clerk



STATE OF COLORADO            )  
   )  
 COUNTY OF MESA                ) SS.  
   )  
 CITY OF GRAND JUNCTION    )

I, Stephanie Tuin, the City Clerk of the City of Grand Junction, Colorado (the “City”) and Clerk to the City Council of the City (the “Council”), do hereby certify that:

The foregoing pages are a true, correct and complete copy of an ordinance (the “Ordinance”) which was introduced, passed on first reading and ordered published in full by the Council at a regular meeting thereof held on November 5, 2003 and was duly adopted and ordered published in full by the Council at a regular meeting thereof held on November 19, 2003 which Ordinance has not been revoked, rescinded or repealed and is in full force and effect on the date hereof.

The Ordinance was duly moved and seconded and the Ordinance was passed on first reading at the meeting of November 5, 2003, by an affirmative vote of a majority of the members of the Council as follows:

<u>Councilmember</u>	<u>Voting “Aye”</u>	<u>Voting “Nay”</u>	<u>Absent</u>	<u>Abstaining</u>
Cindy Enos-Martinez				
Bruce Hill				
Dennis Kirtland				
Jim Spehar				
Gregg Palmer				
William McCurry				
Harry Butler				

The Ordinance was duly moved and seconded and the Ordinance was finally passed on second reading at the meeting of November 19, 2003, by an affirmative vote of a majority of the members of the Council as follows:

<u>Councilmember</u>	<u>Voting “Aye”</u>	<u>Voting “Nay”</u>	<u>Absent</u>	<u>Abstaining</u>
Cindy Enos-Martinez				
Bruce Hill				
Dennis Kirtland				
Jim Spehar				

Gregg Palmer				
William McCurry				
Harry Butler				

The members of the Council were present at such meetings and voted on the passage of such Ordinance as set forth above.

The Ordinance was approved and authenticated by the signature of the President of the Council, sealed with the City seal, attested by the City Clerk and recorded in the minutes of the Council.

There are no bylaws, rules or regulations of the Council which might prohibit the adoption of said Ordinance.

Notices of the meetings of November 5, 2003 and November 19, 2003 in the forms attached hereto as Exhibit A were posted at City Hall in accordance with law.

The Ordinance was published in pamphlet form in The Daily Sentinel, a daily newspaper of general circulation in the City, on November \_\_, 2003 and November \_\_, 2003 as required by the City Charter. True and correct copies of the affidavits of publication are attached hereto as Exhibit B.

WITNESS my hand and the seal of the City affixed this \_\_\_\_ day of November, 2003.

---

City Clerk and Clerk to the Council

(SEAL)

EXHIBIT A

(Attach Notices of Meetings of November 5, 2003 and November 19, 2003)

EXHIBIT B

(Attach Affidavits of Publication)

**Attach 10**

Police Department Edward Byrne Memorial Grant Program  
**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
<b>Subject</b>	Edward Byrne Memorial Grant Program					
<b>Meeting Date</b>	19 November 2003					
<b>Date Prepared</b>	7 November 2003				<b>File #</b>	
<b>Author</b>	Michael A. Nordine			<b>Administrative Lieutenant</b>		
<b>Presenter Name</b>	Greg Morrison			<b>Chief of Police</b>		
<b>Report results back to Council</b>	X	<b>No</b>		<b>Yes</b>	<b>When</b>	
<b>Citizen Presentation</b>		<b>Yes</b>	X	<b>No</b>	<b>Name</b>	
	<b>Workshop</b>		<b>Formal Agenda</b>	X	<b>Consent</b>	<b>Individual Consideration</b>

**Summary:**

The Colorado Department of Public Safety through the Division of Criminal Justice has opened the 2004 Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Program. The Grand Junction Police Department would like to apply for funding of the purchase of in-car video systems for all patrol cars in our fleet along with equipment to enhance video for evidentiary purposes.

**Budget:**

This project will have a total cost of \$140,000 with \$105,000 sought from grant sources and \$35,000 in matching funds from the Police Department Budget.

**Action Requested/Recommendation:**

The Police Department is requesting Council authorize the application for Byrne Grant funding.

**Attachments:**

Grant Data Sheet

**Background Information:**

Presently the Police Department does not have this capability in any of the patrol vehicles. These units will allow recording of both video in front of the vehicle and audio both in and out of the vehicle. The AVID video system allows us to work with video from crime scenes, in-car systems and security systems to enhance poor quality recordings.

**Attach 11**

Public Hearing – Create Alley Improvement District 2004

**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
<b>Subject</b>	<b>Public Hearing of a Resolution to Create Alley Improvement District ST-04, 2004</b>					
<b>Meeting Date</b>	<b>November 19<sup>th</sup>, 2003</b>					
<b>Date Prepared</b>	<b>November 7<sup>th</sup>, 2003</b>				<b>File #</b>	
<b>Author</b>	<b>Michael Grizenko</b>		<b>Real Estate Technician</b>			
<b>Presenter Name</b>	<b>Mark Relph</b>		<b>Public Works and Utilities Director</b>			
<b>Report results back to Council</b>	<b>X</b>	<b>No</b>		<b>Yes</b>	<b>When</b>	
<b>Citizen Presentation</b>	<b>X</b>	<b>Yes</b>		<b>No</b>	<b>Name</b>	<b>Any Interested Citizen</b>
	<b>Workshop</b>	<b>X</b>	<b>Formal Agenda</b>		<b>Consent</b>	<b>X</b> <b>Individual Consideration</b>

**Summary:** Successful petitions have been submitted requesting an Alley Improvement District be created to reconstruct the following six alleys:

- East/West Alley from 14<sup>th</sup> to 15<sup>th</sup>, between Elm Avenue and Texas Avenue
- East/West Alley from 2<sup>nd</sup> to 3<sup>rd</sup>, between Chipeta Avenue and Ouray Avenue
- East/West Alley from 8<sup>th</sup> to Cannell, between Mesa Avenue and Hall Avenue
- “T” shaped Alley from 13<sup>th</sup> to 15<sup>th</sup>, between Kennedy Avenue and Elm Avenue
- East/West Alley from 2<sup>nd</sup> to 3<sup>rd</sup>, between Teller Avenue and Belford Avenue
- “T” shaped Alley from 7<sup>th</sup> to Cannell, between Kennedy Avenue and Elm Avenue

**Budget:**

2004 Alley Budget	\$350,000
Carry in from 2003 Budget	\$ 62,666
Estimated Cost to construct 2004 Alleys	\$388,075
Estimated Balance	\$ 24,591

**Action Requested/Recommendation:** Conduct public hearing and review and adopt proposed resolution.

**Attachments:** 1)Summary Sheets 2) Maps 3) Written comments 4)Resolution

**Background Information:** People’s Ordinance No. 33 authorizes the City Council to create improvement districts and levy assessments when requested by a majority of the property owners to be assessed. Council may also establish assessment rates by resolution. The present rates for alleys are \$8.00 per abutting foot for residential single-family uses, \$15.00 per abutting foot for residential multi-family uses, and \$31.50 per abutting foot for non-residential uses.

A written comment has been submitted regarding the "T" alley from 13<sup>th</sup>-15<sup>th</sup> Street, Kennedy Ave. to Elm Ave. whereby the owner expresses her desire to be excluded from the alley improvement district as proposed.

The north/south portion of the aforementioned alley (see attached photo-map) had been part of Street Improvement District St-78, Phase B, which was completed accepted and assessed in 1979.

Current City policy in regard to creating improvement districts in previously improved alleys was adopted by City Council on February 19<sup>th</sup>, 1986. Alleys paved with asphalt and part of previous improvement districts may again be subject to assessment if they meet two criteria, an age surpassing twenty (20) years and that are no longer serviceable (can be effectively maintained by the City).

The north/south portion of the aforementioned alley has been in service 24 years based on City policy. Of the five owners abutting the north/south portion of the alley only one signed the circulated petition. The one signing owner, Lynn C. Taylor, owns property that abuts both the north/south and east/west portions of the alley (see the map). The City contacted Mr. Taylor and he indicated he signed the petition thinking it was circulating only to construct the east/west, unimproved portion of the alley. He is not in favor of rebuilding the north/south, paved portion that he abuts.

The City examined the condition of the pavement along the north/south portion of the aforementioned alley. Though the pavement is showing signs of age it is the opinion of the City Engineering Division staff that this portion of the alley is still serviceable under City policy. No opinion was rendered as to what the remaining serviceable life of the paved alley in question would be.

Therefore, the staff of the City Engineering Division recommends that the north/south portion of the alley from 13<sup>th</sup> St. to 15<sup>th</sup> St., Kennedy Ave. to Elm Ave. be removed from the proposed district and that only the owners abutting the east/west unimproved portion of said alley be included in the District. Said adjustment would create a greater percentage of property owners in favor of the improvements and still a majority.





## SUMMARY SHEET

### PROPOSED ALLEY IMPROVEMENT DISTRICT 14<sup>TH</sup> STREET TO 15<sup>TH</sup> STREET ELM AVENUE TO TEXAS AVENUE

OWNER	FOOTAGE	COST/FOOT	ASSESSMENT
• Tom & Sara Burchell, et.al.	45.00	\$ 8.00	\$ 360.00
• Viola Crone	75.00	\$ 8.00	\$ 600.00
• Nicklas Beightel	50.00	\$ 8.00	\$ 400.00
Craig & Anne Bowman	50.00	\$ 8.00	\$ 400.00
Sunbelt Environmental Corp	95.75	\$ 8.00	\$ 766.00
• Connie Badini	90.00	\$15.00	\$1,350.00
• David Hall	70.00	\$ 8.00	\$ 560.00
• Kendra Kleeman	50.00	\$ 8.00	\$ 400.00
Katherine Zeck & Elizabeth Zollner	50.00	\$ 8.00	\$ 400.00
George Ziegler	55.75	\$ 8.00	\$ 446.00
TOTAL			\$5,682.00
ASSESSABLE FOOTAGE	631.50		

Estimated Cost to Construct	\$ 35,625.00
Absolute Cost to Owners	<u>\$ 5,682.00</u>
Estimated Cost to City	\$ 29,943.00

Assessments may be paid in full upon completion of project or may be paid over a ten-year period, in which event, a one-time charge of 6% will be added to the principal balance to which simple interest will accrue at the rate of 8% per annum on the declining balance.

- Indicates property owners signing petition = 6/10 or 60% of owners & 60% of abutting footage.

# SUMMARY SHEET

## PROPOSED ALLEY IMPROVEMENT DISTRICT 2<sup>nd</sup> STREET TO 3<sup>rd</sup> STREET CHIPETA AVENUE TO OURAY AVENUE

OWNER	FOOTAGE	COST/FOOT	ASSESSMENT
• Carolyn Queal	50.00	\$ 8.00	\$ 400.00
Jason A. Keesler	50.00	\$ 8.00	\$ 400.00
Martin & Ulrike Magdalenski	50.00	\$ 8.00	\$ 400.00
• Chuck Buderus	50.00	\$ 8.00	\$ 400.00
• James & Allison Blevins	50.00	\$ 8.00	\$ 400.00
• David Hall	25.00	\$ 8.00	\$ 200.00
• David Hall	25.00	\$ 8.00	\$ 200.00
Thomas Watson	50.00	\$15.00	\$ 750.00
• Jason Whitesides & Natalie Clark	50.00	\$ 8.00	\$ 400.00
• Lee Ann Blaney	50.00	\$ 8.00	\$ 400.00
Gordon & Gayle Zimmerman	50.00	\$ 8.00	\$ 400.00
• Lee Ann Blaney	50.00	\$ 8.00	\$ 400.00
David J. & Mandy Vindiola	50.00	\$ 8.00	\$ 400.00
Carman Herrick	50.00	\$ 8.00	\$ 400.00
• Richard Owens	25.00	\$ 8.00	\$ 200.00
• Richard Owens	25.00	\$ 8.00	\$ 200.00
Shay Reeves & Barbara Hunt	50.00	\$15.00	\$ 750.00
Brian & Tammy Mattfield	40.00	\$ 8.00	\$ 320.00
Brian & Tammy Mattfield	<u>10.00</u>	\$ 8.00	<u>\$ 80.00</u>
TOTAL			\$7,100.00
ASSESSABLE FOOTAGE	800.00		

Estimated Cost to Construct	\$ 42,750.00
Absolute Cost to Owners	<u>\$ 7,100.00</u>
Estimated Cost to City	\$ 35,650.00

Assessments may be paid in full upon completion of project or may be paid over a ten-year period, in which event, a one-time charge of 6% will be added to the principal balance to which simple interest will accrue at the rate of 8% per annum on the declining balance.

- Indicates property owners signing petition = 10/19 or 53% of owners & 50% of abutting footage.

# SUMMARY SHEET

## PROPOSED ALLEY IMPROVEMENT DISTRICT 8<sup>th</sup> STREET TO CANNELL MESA AVENUE TO HALL AVENUE

OWNER	FOOTAGE	COST/FOOT	ASSESSMENT
• Marvin Svaldi	74.54	\$15.00	\$1,118.10
• Duane & Janet Polk	52.63	\$ 8.00	\$ 421.04
• Dennis Cannon	50.00	\$ 8.00	\$ 400.00
• Daniela Shultz	50.00	\$ 8.00	\$ 400.00
• Terry & Julie Brown	53.00	\$ 8.00	\$ 424.00
• Cynthia Rose & Timothy Jackson	61.00	\$ 8.00	\$ 488.00
Larry Lampshire	61.00	\$ 8.00	\$ 488.00
• Mark & Gi Moon	61.00	\$ 8.00	\$ 488.00
Randy Gallegos & Natalie Clark	122.00	\$ 8.00	\$ 976.00
Susan Lazo	61.54	\$ 8.00	\$ 492.32
Robert Jordan	63.54	\$ 8.00	\$ 508.32
• Marvin Svaldi	88.37	\$15.00	\$1,325.55
Seventh Day Adventist Assoc.	<u>551.30</u>	\$31.50	<u>\$17,365.95</u>
TOTAL			\$24,895.28
ASSESSABLE FOOTAGE	1,349.92		

Estimated Cost to Construct	\$ 68,875.00
Absolute Cost to Owners	<u>\$ 24,895.28</u>
Estimated Cost to City	\$ 43,979.72

Assessments may be paid in full upon completion of project or may be paid over a ten-year period, in which event, a one-time charge of 6% will be added to the principal balance to which simple interest will accrue at the rate of 8% per annum on the declining balance.

- Indicates property owners signing petition = 8/13 or 62% of owners & 36% of abutting footage.

# SUMMARY SHEET

## PROPOSED ALLEY IMPROVEMENT DISTRICT 2<sup>nd</sup> STREET TO 3<sup>rd</sup> STREET TELLER AVENUE TO BELFORD AVENUE

OWNER	FOOTAGE	COST/FOOT	ASSESSMENT
• Michael Ferguson & Alex Duran	50.00	\$ 8.00	\$ 400.00
• William & Sue Petty	50.00	\$15.00	\$ 750.00
Edwin & Vickie Buttery	50.00	\$ 8.00	\$ 400.00
Greg & Scott Ashby	50.00	\$ 8.00	\$ 400.00
• Rose Rozmiarek	50.00	\$ 8.00	\$ 400.00
Larry & Marguerite Dowd (Trustees)	50.00	\$ 8.00	\$ 400.00
• Charles Brown & Pattie Pagel	50.00	\$ 8.00	\$ 400.00
Thomas Dailey & Rhonda Jeffreys	50.00	\$ 8.00	\$ 400.00
• Ryan & Daysha Snow	50.00	\$ 8.00	\$ 400.00
• Richard Watson	50.00	\$ 8.00	\$ 400.00
Linda Takagi	50.00	\$ 8.00	\$ 400.00
Margaret Rodriguez	50.00	\$ 8.00	\$ 400.00
• Carl Strippel	50.00	\$ 8.00	\$ 400.00
• John Manfro	50.00	\$ 8.00	\$ 400.00
• Reymundo & Adelina Medina	50.00	\$ 8.00	\$ 400.00
• George Lloyd	<u>50.00</u>	\$ 8.00	<u>\$ 400.00</u>
TOTAL			\$6,750.00
ASSESSABLE FOOTAGE	800.00		

Estimated Cost to Construct	\$ 42,750.00
Absolute Cost to Owners	<u>\$ 6,750.00</u>
Estimated Cost to City	\$ 36,000.00

Assessments may be paid in full upon completion of project or may be paid over a ten-year period, in which event, a one-time charge of 6% will be added to the principal balance to which simple interest will accrue at the rate of 8% per annum on the declining balance.

- Indicates property owners signing petition = 10/16 or 63% of owners & 63% of abutting footage.

**SUMMARY SHEET**  
**PROPOSED ALLEY IMPROVEMENT DISTRICT**  
**7<sup>TH</sup> STREET TO CANNELL AVENUE**  
**KENNEDY AVENUE TO ELM AVENUE**

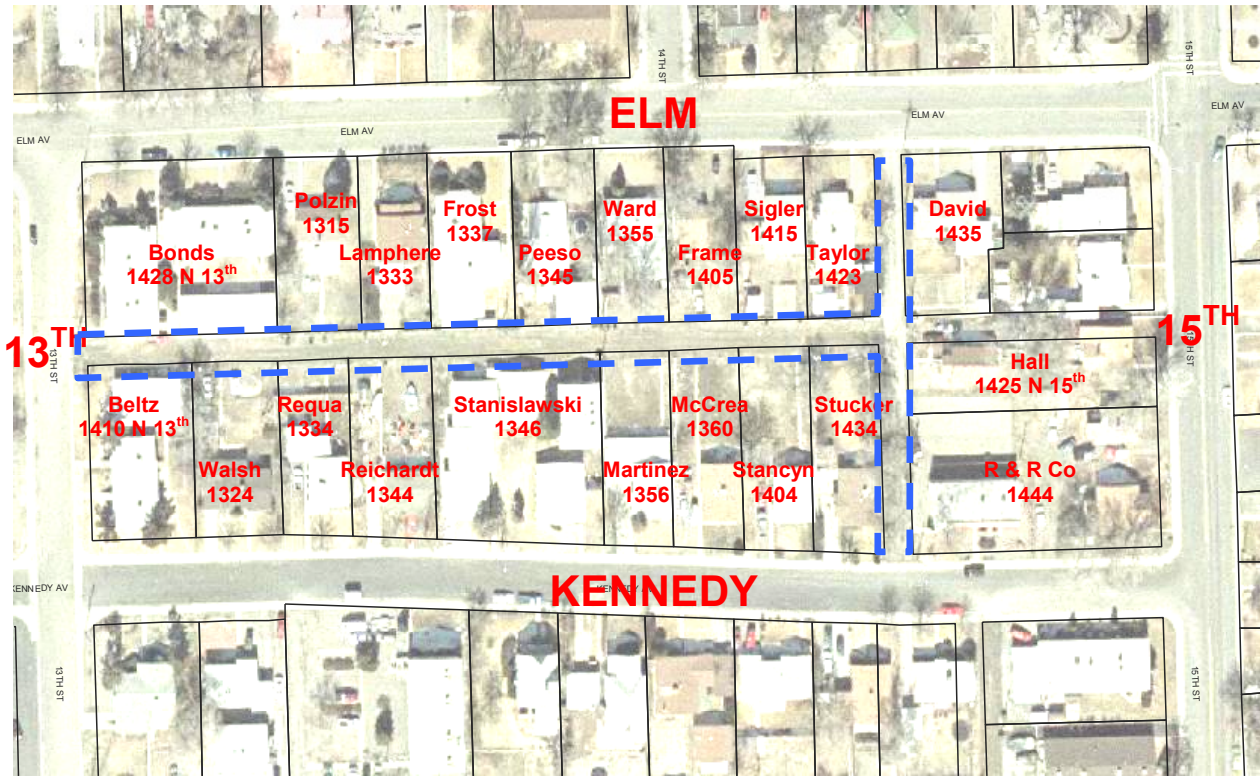
OWNER	FOOTAGE	COST/FOOT	ASSESSMENT
•MARK & KAREN PETERSON	51.53	\$ 8.00	\$ 412.24
MARK & KATE HUSTER	50.00	\$ 8.00	\$ 400.00
•NATHAN & STACY KEEVER	52.00	\$ 8.00	\$ 416.00
PETER ELLINWOOD	58.00	\$ 8.00	\$ 464.00
•CARL STRIPPEL	65.00	\$ 8.00	\$ 520.00
•CALVIN & BRENDA BROWN	75.00	\$ 8.00	\$ 600.00
LENORE BRYANT	50.00	\$ 8.00	\$ 400.00
DOUGLAS & JENNIFER CLARY	50.00	\$ 8.00	\$ 400.00
JEROME GARDNER, ET.AL.	50.00	\$ 8.00	\$ 400.00
•JOSEPH & KIM MALECKI	75.00	\$ 8.00	\$ 600.00
•THEODORE & LINDA KOEMAN	75.00	\$ 8.00	\$ 600.00
•TONY & M. L. KOVACIC	75.00	\$ 8.00	\$ 600.00
PATRICIA HARRIS	75.00	\$ 8.00	\$ 600.00
MICHAEL & BARBARA HOLLINGSWORTH	125.00	\$ 8.00	\$1,000.00
•EDWARD & SOPHIE DONATELLI (TRUST)	87.00	\$15.00	\$1,305.00
•CINDY KIERSTEAD	25.00	\$ 8.00	\$ 200.00
•DENNIS O'DWYER	50.00	\$ 8.00	\$ 400.00
ROBERT SAMMONS	50.00	\$31.50	\$1,575.00
PAUL & J. M. QUAM (by CYNTHIA QUAM-PATTERSON)	70.00	\$15.00	\$1,050.00
PAUL & JOHANNA QUAM	75.00	\$ 8.00	\$ 600.00
•BILL & LINDA CLEVINGER	75.00	\$ 8.00	\$ 600.00
EINAR & JUSTINA NELSON	75.00	\$ 8.00	\$ 600.00
•JOE & KAREN MALBERG	75.00	\$ 8.00	\$ 600.00
•JOHN, JANET, & ALTA NOLAND	72.00	\$ 8.00	\$ 576.00
PATRICK & REBECCA MORRICK	72.00	\$ 8.00	\$ 576.00
•GREGORY, ANITA, & CHARLES REICKS	72.00	\$ 8.00	\$ 576.00
MARIE & CARL SANTY	72.00	\$ 8.00	\$ 576.00
SUSIE WHITLOCK	72.00	\$ 8.00	\$ 576.00
•GILES & LORRAINE POULSON	72.00	\$ 8.00	\$ 576.00
•MARK & KAREN PETERSON	69.61	\$ 8.00	\$ 556.88
			\$18,355.12
ASSESSABLE FOOTAGE	2,010.14		

Estimated Cost to Construct	\$ 110,200.00
Absolute Cost to Owner	\$ <u>18,355.12</u>
Estimated Cost to City	\$ 91,844.88

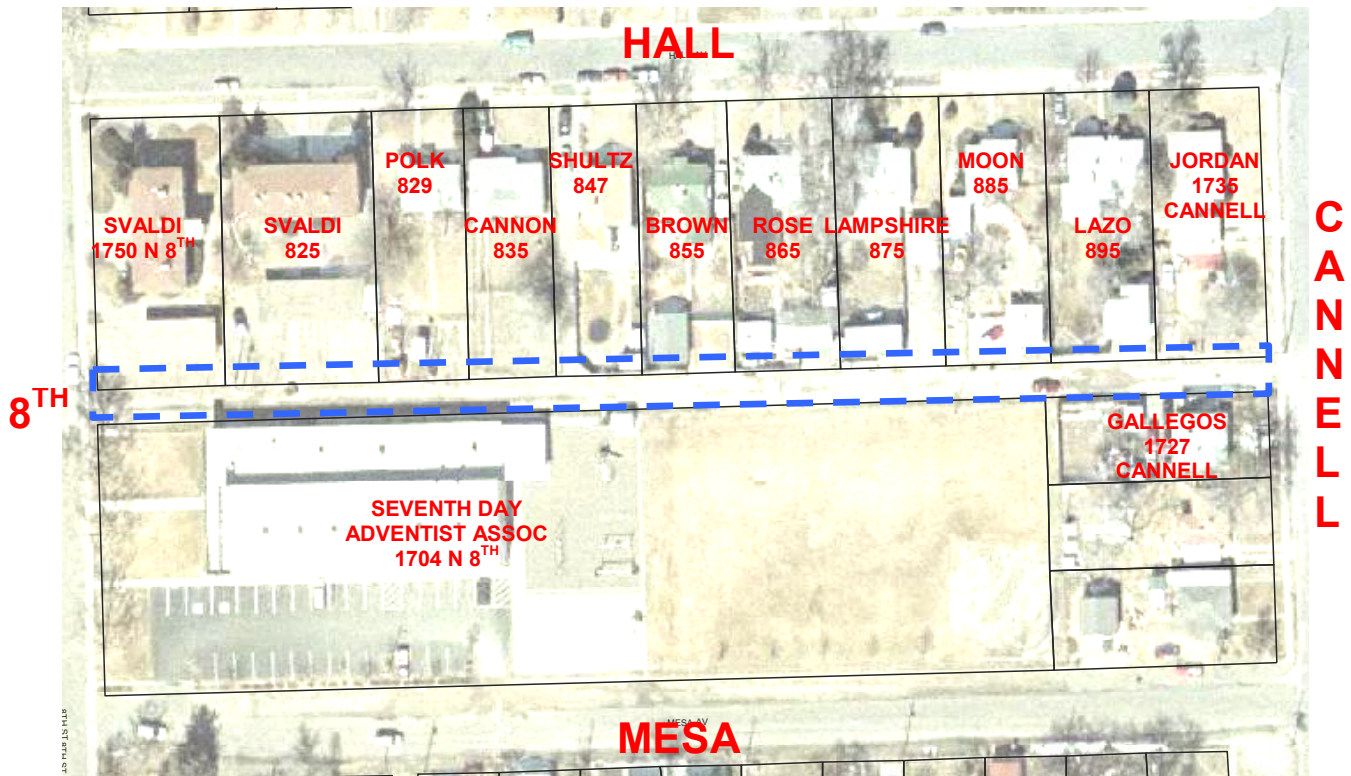
Assessments may be paid in full upon completion of project or may be paid over a ten-year period, in which event, a one-time charge of 6% will be added to the principal balance to which simple interest will accrue at the rate of 8% per annum on the declining balance.

- Indicates property owners signing petition = 18/30 or 60% of owners & 60% of abutting footage.

# 13<sup>th</sup> to 15<sup>th</sup>, Kennedy to Elm



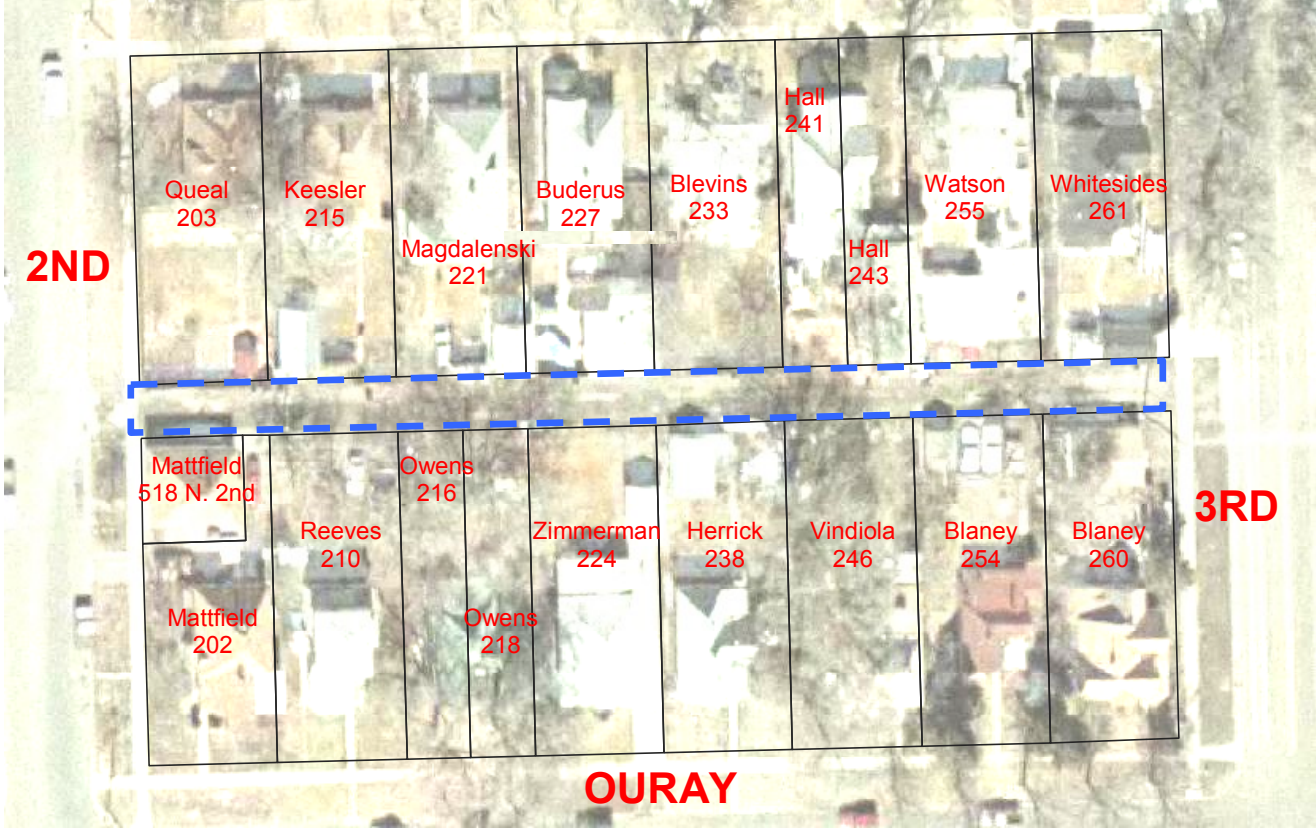
# 8<sup>th</sup> to Cannell, Mesa to Hall



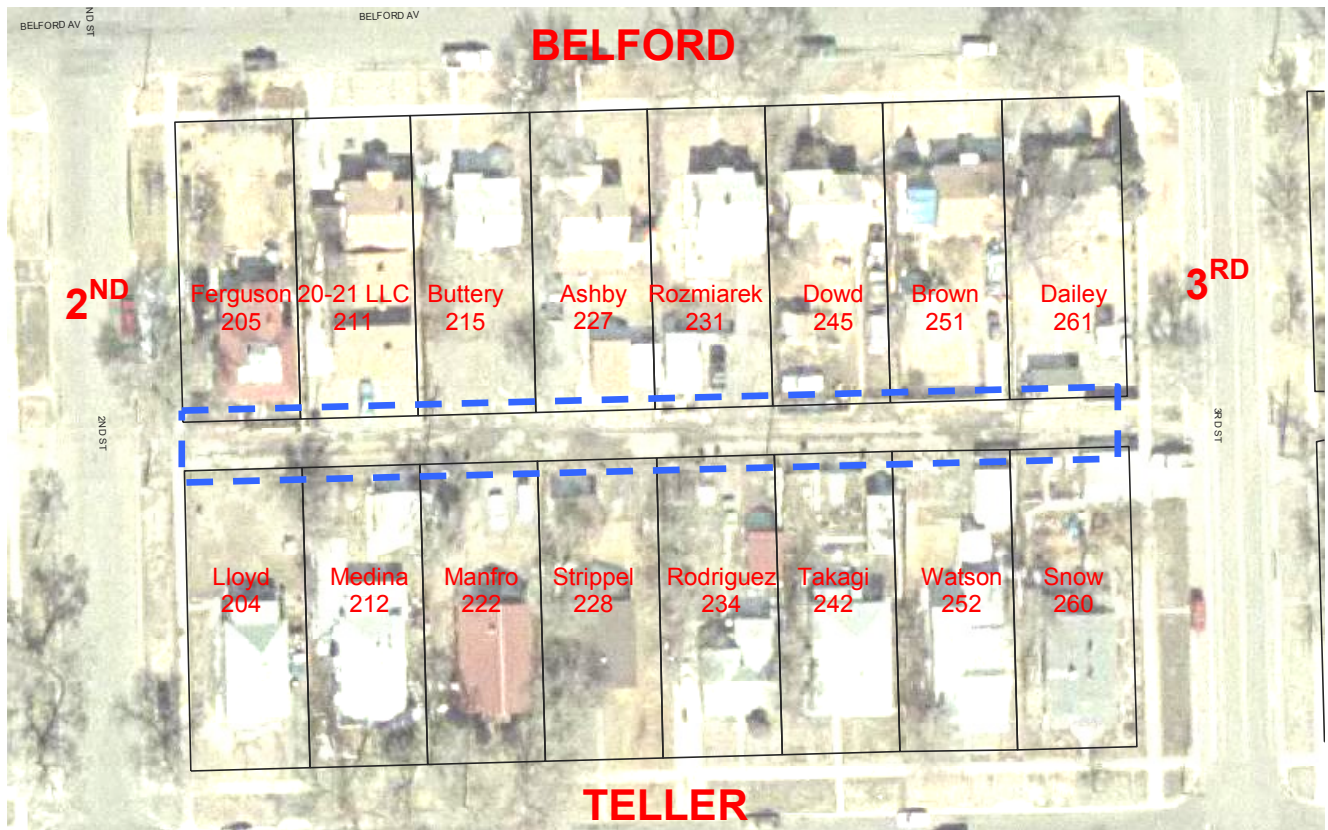


# 2<sup>nd</sup> to 3<sup>rd</sup>, Chipeta to Ouray

## CHIPETA



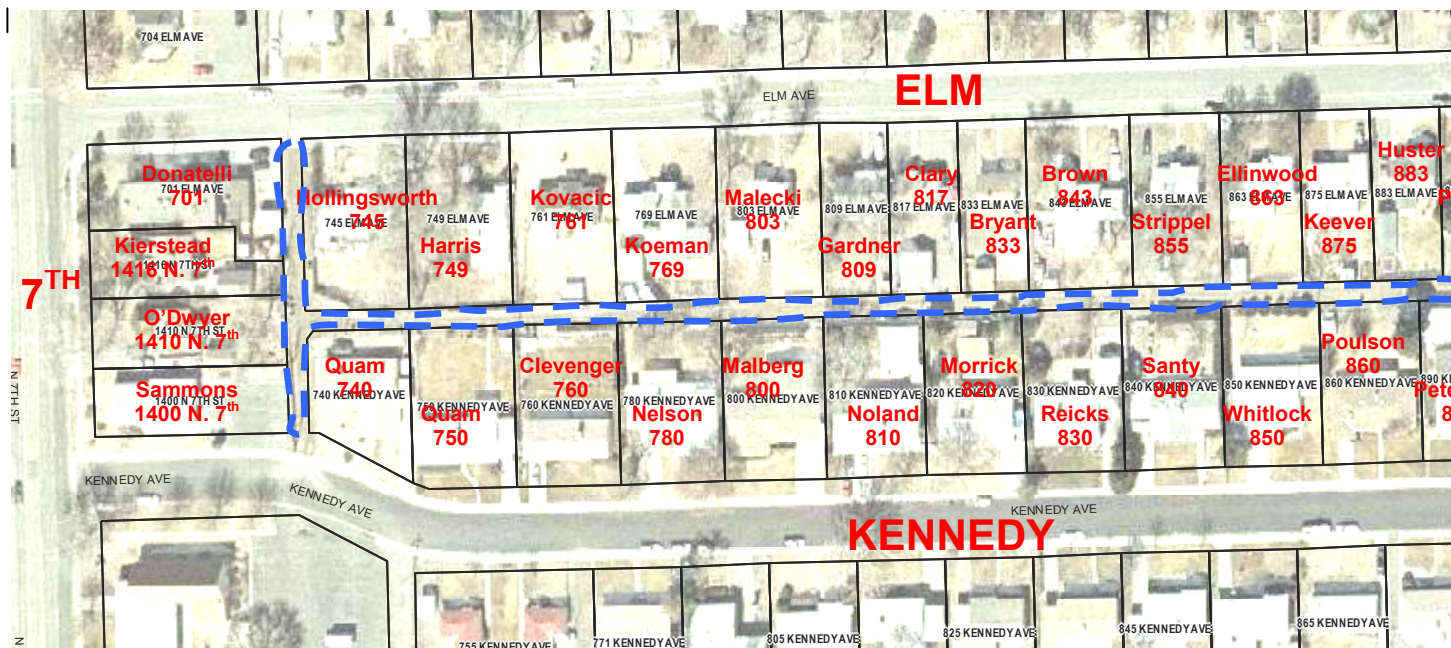
# 2<sup>nd</sup> to 3<sup>rd</sup>, Teller to Belford



# 14<sup>th</sup> to 15<sup>th</sup>, Texas to Elm



# 7<sup>th</sup> to Cannell, Kennedy to Elm



November 8 - 2003

Dear Sirs,

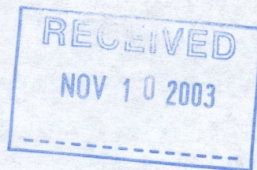
The alley next to our building (1444 Kennedy) is paved.

I don't think I am responsible for someone's property!

So, I vote no.

Sincerely,

Rae O. Marasco for  
R & R Company



**Resolution No.**

**A RESOLUTION CREATING AND ESTABLISHING  
ALLEY IMPROVEMENT DISTRICT NO. ST-04  
WITHIN THE CORPORATE LIMITS OF THE CITY OF GRAND JUNCTION,  
COLORADO, AUTHORIZING THE RECONSTRUCTION OF CERTAIN ALLEYS,  
ADOPTING DETAILS, PLANS AND SPECIFICATIONS FOR THE PAVING  
THEREON AND PROVIDING FOR THE PAYMENT THEREOF**

**WHEREAS**, a majority of the owners of the property to be assessed have petitioned the City Council, under the provisions of Chapter 28 of the City of Grand Junction Code of Ordinances, as amended, and People's Ordinance No. 33, that an Alley Improvement District be created, for the special benefit of the real property hereinafter described, to construct and install improvements to the following described alleys:

- East/West Alley from 14<sup>th</sup> to 15<sup>th</sup>, between Elm Avenue and Texas Avenue
- East/West Alley from 2<sup>nd</sup> to 3<sup>rd</sup>, between Chipeta Avenue and Ouray Avenue
- East/West Alley from 8<sup>th</sup> to Cannell, between Mesa Avenue and Hall Avenue
- "T" shaped Alley from 13<sup>th</sup> to 15<sup>th</sup>, between Kennedy Avenue and Elm Avenue
- East/West Alley from 2<sup>nd</sup> to 3<sup>rd</sup>, between Teller Avenue and Belford Avenue
- "T" shaped Alley from 7<sup>th</sup> to Cannell, between Kennedy Avenue and Elm Avenue

**WHEREAS**, the City Council has found and determined, and does hereby find and determine, that the construction of alley improvements as petitioned for is necessary for the health, safety and welfare of the residents of the territory to be served and would be of special benefit to the property included within said District; and

**WHEREAS**, on the 15<sup>th</sup> day of October, 2003, the City Council of the City of Grand Junction, Colorado, passed a Resolution Stating its Intent to Create Alley Improvement District No. ST-04 Authorizing the City Engineer to prepare full details, plans and specifications for the paving thereon together with a map of the District to be assessed, and Authorizing Notice of Intention to Create said District; and

**WHEREAS**, the City Engineer has fully and strictly complied with the directions so given, and has filed such specifications and map, all in accordance with said Resolution and the requirements of Ordinance No. 178, as amended, of said City; and

**WHEREAS**, Notice of Intention to create said District was duly published.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:**

1. That the real property (also known as the “District Lands”) to be assessed with a portion of the costs of the proposed services, labor, materials and improvements which the City may deem appropriate, is described as follows:

Lots 1 through 4, inclusive; Lots 9 through 12, inclusive; and the south 59.1 ft. of Lot 6 and the north 10.9 ft. of Lot 7; and the south 44.1 ft. of Lot 7, Block 3, Prospect Park Subdivision; and also,  
Lots 1 through 32, inclusive, Block 57, City of Grand Junction; and also,  
Lots 1 through 11, inclusive, Block 3, Mesa Subdivision; and also  
Lots 14 through 22, inclusive, Block 3, Mesa Subdivision; and also  
The north 50 ft. of Lots 12 and 13, Block 3, Mesa Subdivision; and also,  
Lots 1 through 12, inclusive, Block 1, Henderson Heights Subdivision; and also  
BEG NW COR LOT 7 GRAND VIEW SUB E 60FT S 130FT W 60FT N TO BEG EXC ALY ON S; and also  
BEG 60FT E OF NW COR LOT 7 GRAND VIEW SUB S 145.2FT E50FT N 145.2FT W TO BEG EXC ALY ON S; and also  
BEG 110FT E OF NW COR LOT 7 GRAND VIEW SUB SEC 12 1S 1W E 60FT S 125.2FT W 60FT N TO BEG; and also  
E 60FT OF BEG 110FT E OF NW COR LOT 7 GRAND VIEW SUB E 120FT S 145.2FT W 120FT N TO BEG EXC ALY ON S; and also  
BEG 230 FT E OF NW COR LOT 7 GRAND VIEW SUB E 50FT S 145.2FT W 50FT N TO BEG EXC ALY ON S; and also  
BEG 280 FT E OF NW COR N2 LOT 7 GRAND VIEW SUB E 50 FT S 135.2FT W 50FT N TO BEG EXC ALY ON S; and also  
BEG 330 FT E OF NW COR LOT 7 GRAND VIEW SUB E 50FT S 135.2FT W 50FT N TO BEG EXC ALY ON S; and also  
BEG 380 FT E+10 FT S OF NW COR LOT 7 GRAND VIEW SUB E 50FT S 115.2FT W 50FT N TO BEG EXC ALY ON S; and also  
BEG 30 FT S & 137.37FT W OF C-L ELM AV & N 15TH ST SEC 12 1S 1W W 71FT S 118.85FT E 60FT N 49.25FT E 11FT N 69.6FT TO BEG; and also  
BEG 135.2FT S OF NW COR LOT 7 GRAND VIEW SUB E 50FT S TO S LI N2 LOT 7 W 50FT N TO BEG EXC KENNEDY AVE + EXC ALY ON N + LOT 7 EXC W 5FT BLK 1 HENDERSON HEIGHTS SUB; and also  
BEG 110FT E+155.2FT S OF NW COR LOT 7 GRAND VIEW SUB W 60FT S TO S LI N2 LOT 7 E 60FT N TO BEG EXC ALY ON N; and also  
BEG 145.2FT S+110FT E OF NW COR LOT 7 GRAND VIEW SUB E 120FT S 138.12FT N86DEG47MINW 120.18FT N 131.38FT TO BEG EXC ALY ON N; and also  
BEG 230 FT E+145.2FT S OF NW COR LOT 7 GRAND VIEW SUB E 50FT S TO S LI N2 LOT 7 W 50FT N TO BEG EXC ALY ON N; and also  
BEG 330FT E+135.2FT S OF NW COR LOT 7 GRAND VIEW SUB W 50FT S TO S LI N2 LOT 7 E 50FT N TO BEG EXC ALY ON N; and also  
BEG 330FT E+135.2FT S OF NW COR LOT 7 GRAND VIEW SUB E 50FT S TO S LI N2 LOT 7 W 50FT N TO BEG EXC ALY ON N; and also

BEG 380FT E+135.2FT S OF NW COR LOT 7 GRAND VIEW SUB E 50FT S TO S LI N2 LOT 7 W 50FT N TO BEG EXC ALY ON N; and also  
N 50FT OF S 180FT OF E 231.6FT OF NE4 LOT 7 GRAND VIEW SUB EXC ALY ON N + EXC 20FT ALY ON W; and also  
N 50FT OF S 130FT OF E 231.6FT OF NE4 LOT 7 GRAND VIEW SUB + S 80FT OF E 231.6FT OF N2 LOT 7 GRAND VIEW SUB EXC KENNEDY AVE + EXC 20FT ALLEY ON W; and also,  
Lots 1 through 32, inclusive, Block 13, City of Grand Junction; and also,  
Lots 14 through 32, inclusive, Elm Avenue Subdivision, City of Grand Junction; and also  
Lots 1 through 12, Amended Kennedy Subdivision, City of Grand Junction. All in the City of Grand Junction, and Mesa County, Colorado.

2. That the proposed services, labor, materials and improvements necessary to accommodate the request of the owners of the District Lands shall include, but may not be limited to, the design, construction, installation, placement and inspection of base course material and concrete paving, together with any other services or facilities required to accomplish this request as deemed necessary by the City Engineer ("District Improvements"), all of which shall be installed in accordance with the General Conditions, Specifications and Details for Public Works and Utility Projects of the City of Grand Junction.

3. That the assessments to be levied against and upon each respective property which is part of the District Lands shall be determined by multiplying the linear footage that each respective property abuts the alley right-of-way by the appropriate Residential Single-Family, Residential Multi-Family or Non-Residential assessment rate as defined by City Resolution No. 16-97, passed and adopted on the 17<sup>th</sup> day of February, 1997, and as established by City Resolution No. 57-99, passed and adopted on the 21<sup>st</sup> day of April, 1999, as follows:

(a) The Residential Single-Family assessment rate shall be \$8.00 per each linear foot of property abutting the alley right-of-way. The Residential Single-Family assessment rate shall apply to all properties having only one residential housing unit which is arranged, designed and intended to be occupied as a single housekeeping unit, and all vacant properties located within a residential single-family residential zone;

(b) The Residential Multi-Family assessment rate shall be \$15.00 per each linear foot of property abutting the alley right-of-way. The Residential Multi-Family assessment rate shall apply to all properties having a structure or structures which are arranged, designed and intended to be the residence of more than one housekeeping unit independent of other housekeeping units, and properties which are necessary for and appurtenant to the use and occupancy of multi-family residential uses, such as parking lots, clubhouses and recreation facilities, and all vacant properties located within a multi-family residential zone;



(c) The Non-Residential assessment rate shall be \$31.50 per each linear foot of property abutting the alley right-of-way. Except as provided in Section 2(d) below, the Non-Residential assessment rate shall apply to all properties which are used and occupied for any purpose other than single-family or multi-family residential purposes, and all vacant properties located within any zone other than residential;

(d) Properties from which a business or commercial use is conducted (“home occupation”) which also serve as a single-family or multi-family residence may be assessed the applicable single-family or multi-family assessment rate if such home occupation conforms with or has been authorized by the Zoning and Development Code of the City;

(e) Pursuant to City Resolution No. 61-90, passed and adopted on 19<sup>th</sup> day of September, 1990, properties having alley frontage on more than one side shall be assessed the applicable assessment rate for the frontage on the longest side only.

(f) The assessment rates described above shall be applicable as of the date of the final reading of the assessing ordinance.

4. That the assessments to be levied against the District Lands to pay a portion of the costs of the District Improvements shall be due and payable, without demand, within thirty (30) days after the ordinance assessing such costs against and upon the District Lands becomes final. The failure by any owner(s) to pay the whole assessment within said thirty (30) day period shall be conclusively considered as an election on the part of said owner(s) to pay such owner’s assessment in ten (10) annual installments, in which event an additional six percent (6%) one-time charge for costs of collection and other incidentals shall be added to the principal amount of such owner’s assessment. Assessments to be paid in installments shall accrue simple interest at the rate of eight percent (8%) per annum on the unpaid balance and shall be payable at the time the next installment of general taxes, by the laws of the State of Colorado, is payable, and each annual installment shall be paid on or before the same date each year thereafter until paid in full.

5. That the City Engineer is hereby authorized and directed to prepare full details, plans and specifications for the District Improvements, together with a map of the District depicting the District Lands to be assessed from which the amount of the assessments to be levied against each individual property may be readily ascertained, all as required by Ordinance No. 178, as amended, City of Grand Junction, Colorado.

Dated at Grand Junction, Colorado, this 19<sup>th</sup> day of November, 2003.

**PASSED** and **ADOPTED** this \_\_\_\_ day of November, 2003.

\_\_\_\_\_  
President of the Council

**Attest:**

\_\_\_\_\_  
City Clerk

**Attach 12**

Public Hearing Vacating 15' Alley ROW Located at 722 Belford

**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
<b>Subject</b>	Vacation of a 15' north/south alley right-of-way located northeast of the intersection of N. 7 <sup>th</sup> Street and Belford Avenue – 722 Belford Avenue					
<b>Meeting Date</b>	November 19, 2003					
<b>Date Prepared</b>	November 10, 2003			<b>File #VR-2003-132</b>		
<b>Author</b>	Scott D. Peterson		<b>Associate Planner</b>			
<b>Presenter Name</b>	Scott D. Peterson		<b>Associate Planner</b>			
<b>Report results back to Council</b>	X	<b>No</b>		<b>Yes</b>	<b>When</b>	
<b>Citizen Presentation</b>		<b>Yes</b>	X	<b>No</b>	<b>Name</b>	
	<b>Workshop</b>	X	<b>Formal Agenda</b>		<b>Consent</b>	X <b>Individual Consideration</b>

**Summary:** The petitioner, FMC Properties, LLC, wishes to vacate an existing 15' north/south alley right-of-way located northeast of the intersection of N. 7<sup>th</sup> Street and Belford Avenue in anticipation of future commercial office development. The only utilities that are located in the alley right-of-way are a sanitary sewer line which is to be abandoned and an overhead utility line which is to be relocated. The existing eight (8) lots owned by the petitioner will be consolidated into one (1) 0.59 acre lot through a Simple Subdivision Plat upon the approval of the alley vacation. The Planning Commission recommended approval at its October 28<sup>th</sup>, 2003 meeting. The petitioners request approval of the Vacation Ordinance.

**Budget:** N/A

**Action Requested/Recommendation:** Conduct the Public Hearing and approve the Vacation Ordinance.

**Attachments:**

1. Background Information/Staff Analysis
2. Site Location Map
3. Aerial Photo Map
4. Growth Plan Future Land Use Map
5. Existing City Zoning Map
6. Ordinance & Exhibit A

BACKGROUND INFORMATION				
<b>Location:</b>		<b>722 Belford Avenue</b>		
<b>Applicant:</b>		<b>FMC Properties, LLC</b>		
<b>Existing Land Use:</b>		<b>Vacant lots</b>		
<b>Proposed Land Use:</b>		<b>Future commercial office development</b>		
<b>Surrounding Land Use:</b>	<b>North</b>	<b>Commercial restaurants</b>		
	<b>South</b>	<b>Residential</b>		
	<b>East</b>	<b>Commercial warehouse</b>		
	<b>West</b>	<b>Commercial office</b>		
<b>Existing Zoning:</b>		<b>C-1, Light Commercial</b>		
<b>Proposed Zoning:</b>		<b>N/A</b>		
<b>Surrounding Zoning:</b>	<b>North</b>	<b>C-1, Light Commercial</b>		
	<b>South</b>	<b>B-1, Neighborhood Business &amp; Residential Multi-Family – 8 (RMF-8)</b>		
	<b>East</b>	<b>C-1, Light Commercial</b>		
	<b>West</b>	<b>B-1, Neighborhood Business</b>		
<b>Growth Plan Designation:</b>		<b>Commercial</b>		
<b>Zoning within density range?</b>	<b>N/A</b>	<b>Yes</b>	<input type="checkbox"/>	<b>No</b>

**Staff Analysis:**

The petitioner, FMC Properties, LLC, wishes to vacate the existing 15' north/south alley right-of-way that presently divides their property located at 722 Belford Avenue. The alley has never been fully constructed but does contain a sanitary sewer line which is to be abandoned and an overhead utility line which is to be relocated to the east/west alley right-of-way located to the north of the property. No Utility Easement will be dedicated as all utilities will be removed prior to construction of the commercial office building. A Simple Subdivision Plat will be filed that will combine all eight (8) lots in anticipation of future commercial office development.

**Consistency with the Growth Plan:**

The site is currently zoned C-1, Light Commercial with the Growth Plan Future Land Use Map indicating this area as Commercial.

**Section 2.11 C. of the Zoning and Development Code:**

Requests to vacate any public right-of-way or easement must conform to all of the following:

- a. The Growth Plan, major street plan and other adopted plans and policies of the City.

Granting the request to vacate the existing 15' alley right-of-way does not conflict with the Growth Plan, major street plan and other adopted plans and policies of the City of Grand Junction.

- b. No parcel shall be landlocked as a result of the vacation.

No parcel will be landlocked as a result of this alley vacation.

- c. Access to any parcel shall not be restricted to the point where access is unreasonable, economically prohibitive or reduces or devalues any property affected by the proposed vacation.

Access will not be restricted. The petitioner has submitted letters to the City from the property owners to the north agreeing to the proposed vacation.

- d. There shall be no adverse impacts on the health, safety, and/or welfare of the general community and the quality of public facilities and services provided to any parcel of land shall not be reduced (e.g. police/fire protection and utility services).

There will be no adverse impacts to the general community and the quality of public facilities and services provided will not be reduced due to the vacation request.

- e. The provision of adequate public facilities and services shall not be inhibited to any property as required in Chapter Six of the Zoning and Development Code.

The provision of adequate public facilities and services will not be inhibited to any property as required in Chapter Six of the Zoning & Development Code as the existing sanitary sewer line will be abandoned and the overhead utility line will be relocated to the east/west alley right-of-way located to the north of the property. No adverse comments were received from the utility review agencies during the staff review process.

- f. The proposal shall provide benefits to the City such as reduced maintenance requirements, improved traffic circulation, etc.

Maintenance requirements to the City will not change as a result of the proposed vacation.

**FINDINGS OF FACT/CONCLUSIONS:**

After reviewing the alley vacation application located at 722 Belford Avenue, VR-2003-132 for the vacation of a 15' alley right-of-way, the Planning Commission at their October 28<sup>th</sup>, 2003 meeting made the following findings of fact and conclusions:

1. The requested 15' alley right-of-way vacation is consistent with the Growth Plan.
2. The review criteria in Section 2.11 C. of the Zoning and Development Code have all been met.
3. Approval of the alley vacation request is contingent upon the approval and filing of the Simple Subdivision Plat and the review and approval of the Site Plan Review for the commercial office building and abandonment and/or relocation of utilities.

**Recommendation:** The Planning Commission recommends that the City Council approve the Ordinance vacating a 15' alley right-of-way located northeast of the intersection of N. 7<sup>th</sup> Street and Belford Avenue – 722 Belford Avenue, making the findings of fact and conclusions listed above and subject to the recommended condition of approval.

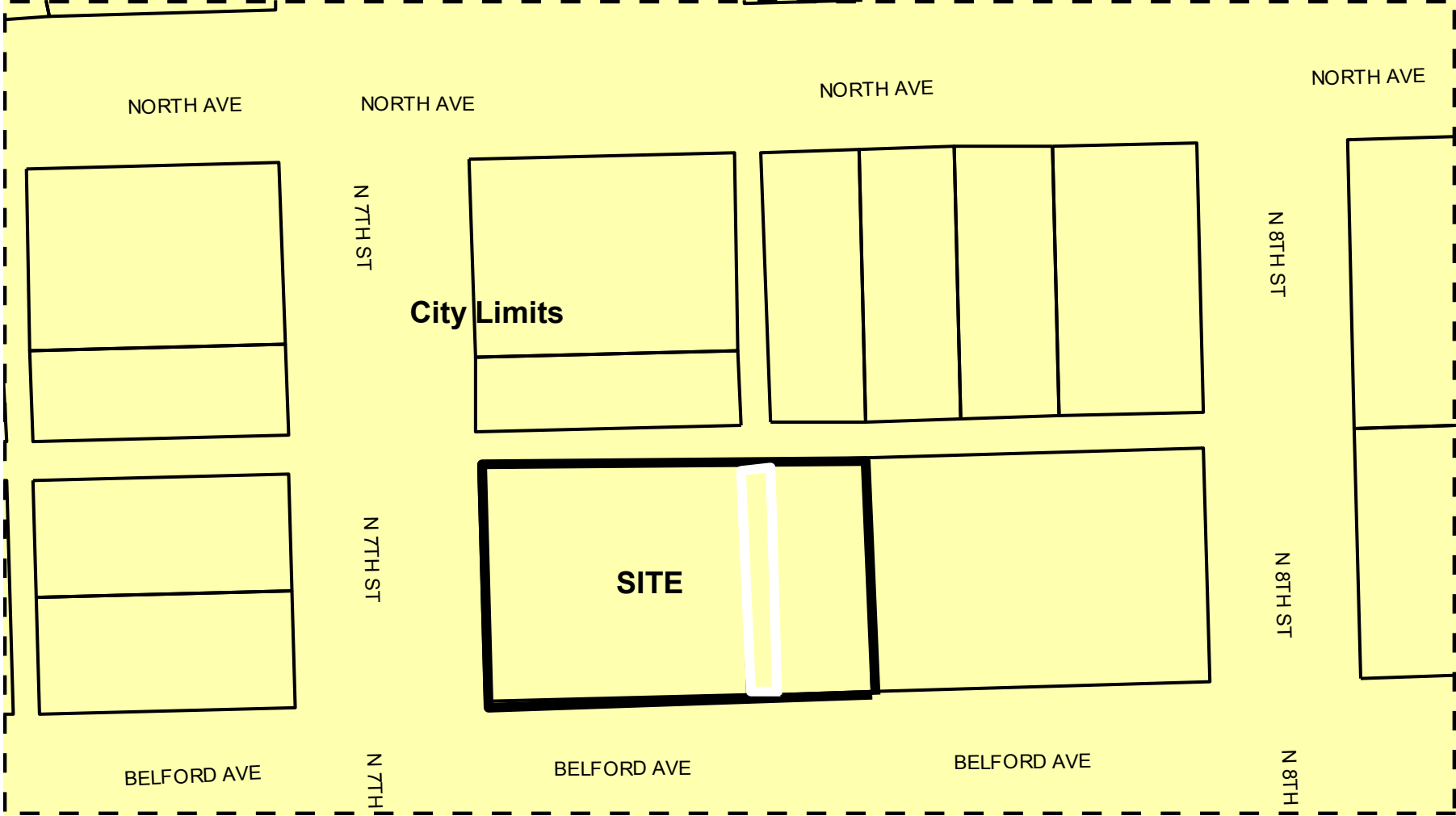
**Attachments:**

1. Site Location Map
2. Aerial Photo Map
3. Growth Plan Future Land Use Map
4. Existing City Zoning Map
5. Ordinance & Exhibit A



# Site Location Map – 15' Alley Vacation

Figure 1





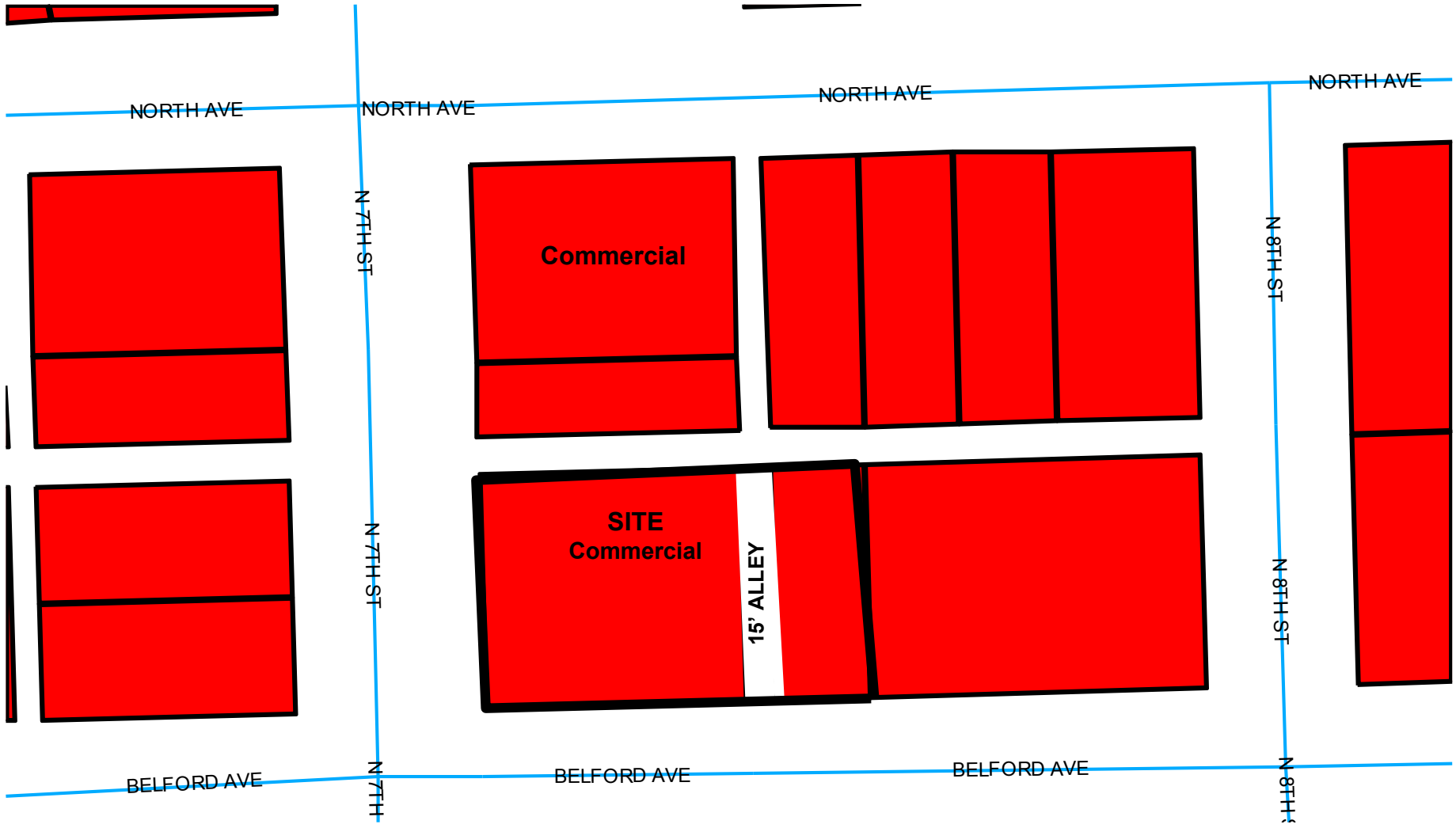
# Aerial Photo Map – 15' Alley Vacation

Figure 2



# Future Land Use Map – 15' Alley Vacation

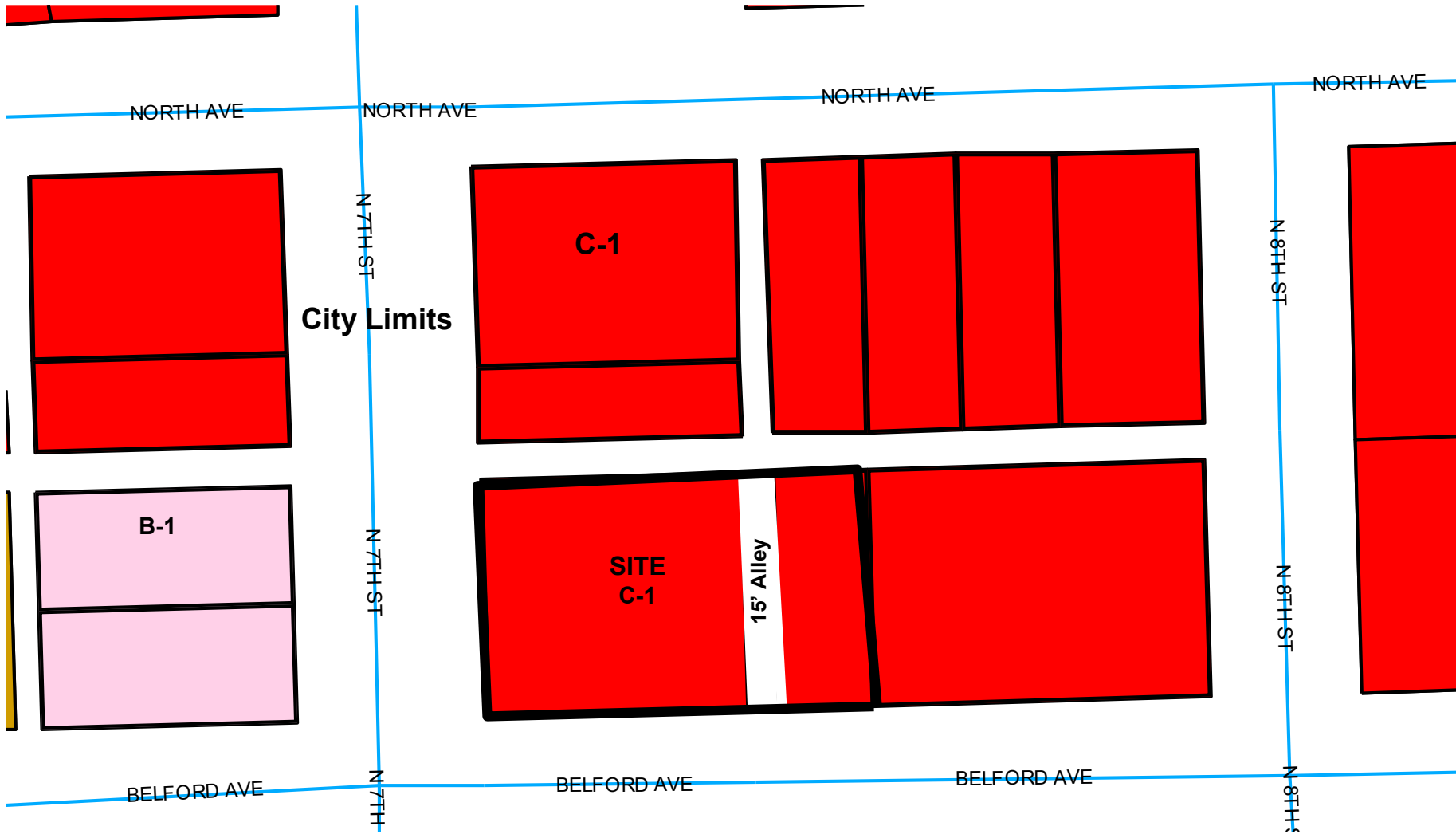
Figure 3





# Existing City Zoning – 15' Alley Vacation

Figure 4



**CITY OF GRAND JUNCTION**

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE VACATING A 15' WIDE ALLEY RIGHT-OF-WAY LOCATED  
NORTHEAST OF THE INTERSECTION OF NORTH 7<sup>th</sup> STREET AND  
BELFORD AVENUE  
KNOWN AS: 722 BELFORD AVENUE

RECITALS:

In conjunction with the filing of a Simple Subdivision Plat and in anticipation of future commercial development, the applicant proposes to vacate a 15' wide north/south alley right-of-way located northeast of the intersection of N. 7<sup>th</sup> Street and Belford Avenue.

The Planning Commission, having heard and considered the request and found the criteria of the Code to have been met, recommend that the vacation be approved.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:

1. The following described 15' alley right-of-way is hereby conditionally vacated:

That certain 15.00 foot wide Alley lying in the Northwest Quarter of the Northeast Quarter (NW 1/4 NE 1/4) of Section 14, Township 1 South, Range 1 East of the Ute Meridian, lying within Block 5 of the Resurvey of Second Addition City of Grand Junction, as same is recorded in Plat Book 2 Page 37, Public Records of Mesa County, Colorado; bounded on the South by the North right of way for Belford Avenue; bounded on the North by the South line of that certain 20.00 foot wide East-West Alley within said Block 5; bounded on the East by the West line of Lot 30, Block 5; bounded on the West by the East line of Lots 1 through 6, inclusive, Block 5, all within said Resurvey of Second Addition City of Grand Junction.

This 15' alley right-of-way vacation is conditioned and contingent upon the approval and filing of the Simple Subdivision Plat and the review and approval of the Site Plan Review for the commercial office building and abandonment and/or relocation of utilities.

INTRODUCED on First Reading on the 5<sup>th</sup> day of November, 2003 and ordered published.

ADOPTED on Second Reading this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

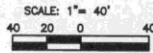
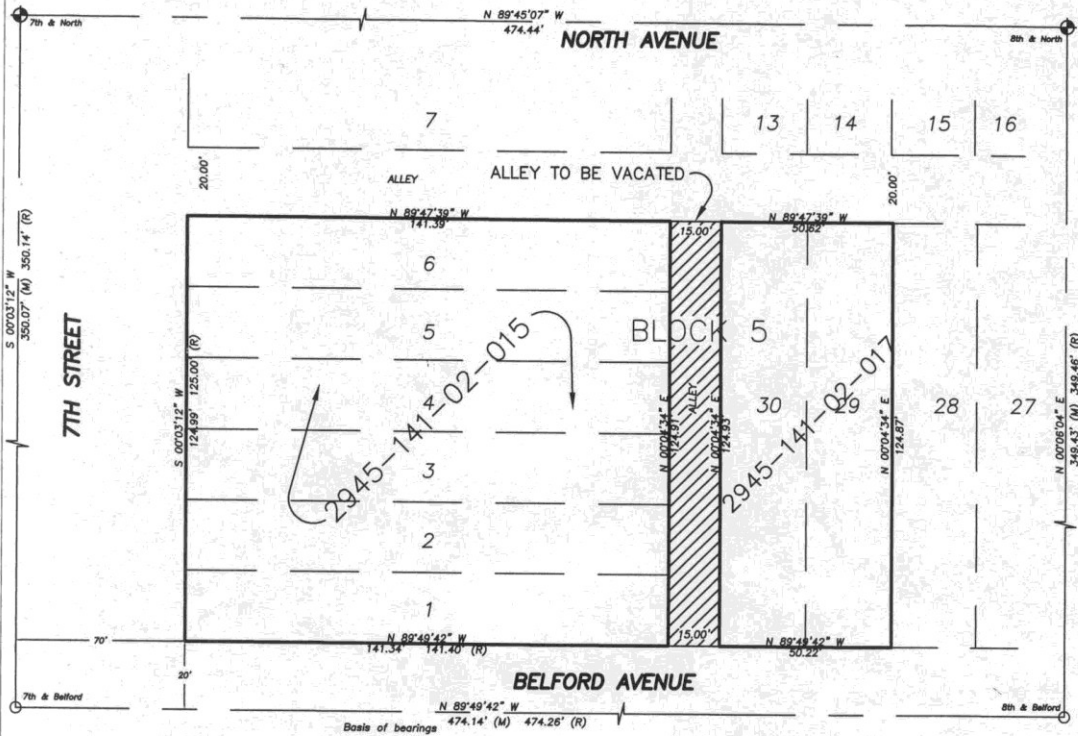
ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
President of City Council

# ALLEY VACATION EXHIBIT

GRAND, JUNCTION  
MESA COUNTY, COLORADO



LEGEND

- ⊙ CITY OF GRAND JUNCTION MONUMENTS
- CITY OF GRAND JUNCTION REFERENCE POSITION

NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN SIX YEARS FROM THE DATE OF COMPLETION OF THIS SURVEY.

<b>ALLEY VACATION EXHIBIT</b> CITY OF GRAND JUNCTION MESA COUNTY, COLORADO	
<b>HIGH DESERT SURVEYING</b> 2591 B 3/4 Road, Grand Jct., CO 81503 970-254-8949 Fax: 970-255-7047	
SUR. BY:	DRAWN BY: SKW
JOB NO. 03-23	SHEET 1 OF 1

**Attach 13**

Public Hearing – Gowhari Growth Plan Located at 563 & 573 20 ½ Rd and 2026 S Broadway

**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
<b>Subject</b>	Gowhari Growth Plan Amendment, located at 563 & 573 20 ½ Road and 2026 S. Broadway					
<b>Meeting Date</b>	November 19, 2003					
<b>Date Prepared</b>	November 12, 2003			File #GPA-2003-183		
<b>Author</b>	David Thornton		Principal Planner			
<b>Presenter Name</b>	David Thornton		Principal Planner			
<b>Report results back to Council</b>	X	No		Yes	When	
<b>Citizen Presentation</b>	X	Yes		No	Name	
	<b>Workshop</b>	X	<b>Formal Agenda</b>		<b>Consent</b>	X <b>Individual Consideration</b>

**Summary:** Request to amend the Growth Plan, changing the Future Land Use designation from “Rural” to “Residential Low” for three properties located at 2026 S. Broadway, 563 20 ½ Rd and 573 20 ½ Rd. Planning Commission recommends approval.

**Budget:** N/A

**Action Requested/Recommendation:** Hold a Public Hearing and consider a resolution amending the Growth Plan.

**Background Information:** See attached Staff Report/Background Information

**Attachments:**

1. Staff report/Background information
2. General Location Map



3. Aerial Photo
4. Growth Plan Map
5. Zoning Map
6. Applicant's Project Report – August 28, 2003
7. Addendum to Applicant's Project Report – October 14, 2003
8. Neighborhood Meeting Notes – August 14, 2003
9. Planning Commission Minutes – October 28, 2003
10. Resolution

STAFF REPORT / BACKGROUND INFORMATION				
Location:		563 20 ½ Rd; 573 20 ½ Rd; 2026 S. Broadway		
Applicants:		Owner: Elizabeth Gowhari; Representatives: Thompson-Langford – Doug Thies Development Construction Services, Inc. – Karin Gookin		
Existing Land Use:		Irrigated pasture and Single Family Homes		
Proposed Land Use:		Future residential uses		
Surrounding Land Use:	North	Single Family Residential average 5 acre lots		
	South	Single Family Residential .25 to 1 acre lots		
	East	Single Family Residential .5 to 1+ acre lots		
	West	New church site and residential		
Existing Zoning:		RSF-2 (Mesa County): 2 du/ac		
Proposed Zoning:		Applicant request is for RSF-2 (2 du/ac); Final zoning to be determined after GPA is reviewed.		
Surrounding Zoning:	North	RSF-R		
	South	PD/RSF-4		
	East	RSF-2 (Mesa County)		
	West	RSF-R (City) & RSF-2 (Mesa County)		
Growth Plan Designation:		Rural (5 to 35 acres)		
Zoning within density range?		<input type="checkbox"/>	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

## ANALYSIS

### 1. Background

The Gowhari property consists of approximately 25 acres on 3 parcels located at 2026 South Broadway, 563 20 ½ Road and 573 20 ½ Road. The 3 lots each have an existing house and are 4.4 acres, 19.6 acres and 0.6 acre in size respectively. A portion of the Gowhari property's eastern and southern boundary borders the Saddleback Subdivision, a residential development with an average existing density at approximately one half acre per dwelling unit and designated as "Residential Medium Low", 2 to 3.9 units per acre. The property to the north is the Preserve Subdivision with an average existing density of five acres per dwelling unit and designated as "Rural". To the west is the recently annexed Monument Presbyterian Church property which will soon house a new church facility and designated as "Rural". Located south of South

Broadway road is the Tiara Rado neighborhood with lots ranging from ¼ acre to over 1 acre in size and shown on the Future land Use map as “Residential Medium Low”, 2 to 3.9 units per acre.

The Growth Plan Future Land Use Map currently designates the Gowhari property, as well as the properties to the west and north, as “Rural” 5 to 35 acres per unit. The properties to the east and south are shown as “Residential Medium Low” with densities 2 to 3.9 units per acre. Two of the three Gowhari parcels are less than 5 acres in size. There is no minimum lot size for the “Rural” land Use designation, rather overall density is looked at. However the RSF-R zone district which implements the Rural” land use classification has a 5 acre minimum lot size. The owner is requesting a Growth Plan Amendment to “Residential Low”, ½ acre to 2 acres per dwelling unit.

For properties within the City limits, the City Planning Commission makes a recommendation to the City Council for Growth Plan Amendments, with Council making the final decision. On October 28<sup>th</sup>, the Planning Commission voted to forward a recommendation of approval to the City Council. The Gowhari property was approved for annexation by Council on November 5<sup>th</sup> and the annexation will become effective on December 7, 2003.

## 2. Section 2.5.C of the Zoning and Development Code

### *STAFF ANALYSIS*

The Growth Plan can be amended if the City finds that the proposed amendment is consistent with the purpose and intent of the Plan and it meets the following criteria:

- a. **There was an error such that then existing facts, projects or trends (that were reasonably foreseeable) were not accounted for.**

#### Response:

It could be argued that there was an error in the original designation because approximately 1200 feet of sewer line existed along the east and south property line of the Gowhari property at the time of the 1996 Growth Plan adoption. Since during the formation of the Growth Plan larger geographical areas (i.e. the Redlands) and their existing lot sizes were analyzed rather than individual properties, one might conclude that the existing infrastructure was not considered when the “Rural” designation was adopted for this area especially since the County zoning for the properties in 1996 was R1B and now RSF-2, both urban residential zone districts with densities allowing 2 units per acre. However, neither did a change from the “Rural” land use designation occur when the City and County adopted the Redlands Neighborhood Plan.

The Growth Plan did establish a Plan amendment process to allow the City and County to look at individual properties on a case by case basis to determine

whether or not a property's future land use classification should be changed or not and the process to do an amendment is defined in the Zoning and Development Code.

**b. Subsequent events have invalidated the original premises and findings.**

Response:

No, subsequent events have not invalidated the original premises.

**c. The character and/or condition of the area have changed enough that the amendment is acceptable.**

Response:

The only change or condition, although minor, that has occurred in the area is that the sewer line has been approved for an extension (an additional 300 ft) along the south property line of 2026 South Broadway to connect with the recently approved 11,900 square feet (first phase) Monument Presbyterian Church facility at 2050 ½ South Broadway directly to the west of this property. Prior to the church approval, only 2 out of the 3 Gowhari parcels had direct connection to sanitary sewer. Now with the extension of the sewer line, all 3 parcels have direct connection.

**d. The change is consistent with the goals and policies of the plan, including applicable special area, neighborhood and corridor plans.**

Response:

Yes, there are several goals and policies in the plan that could support a change, including:

1. A key issue identified in the City/County Growth Plan is maintaining compact development patterns within the "Urban Area", thereby helping to preserve the extensive agricultural and open land surrounding the urban area. In preparing the Growth Plan, residents also wanted the benefits of more efficient utility services. More compact development patterns will support both of these objectives. (Growth Plan, Chapter Five)
2. The Urbanizing Area is that area that is anticipated to experience urban development as adequate public facilities are provided. "Urban development includes all projects of a sufficient intensity to require connection to an organized wastewater collection and treatment system or other urban services. Urban development includes residential development on lots smaller than 2 acres, and non residential development other than agricultural, mining or approved home occupations." (Growth Plan Chapter Five, footnotes under policy 4.1)
3. Growth Plan Policy 4.5 states, "The City and County will require adequate public services and facilities to be in place or assured so

they will be in place concurrently with urban development in the joint planning area.”

4. The preferred land use scenario adopted in the Growth Plan includes the principle of Concentrated Growth within the “Urban Growth Boundary”. In Chapter V, Section E.1.b of the Growth Plan it states “A key objective of this growth pattern is to use infrastructure (existing and planned) most efficiently and cost-effectively.” There is an existing main sewer line which is located adjacent to the Gowhari property. This sewer line runs a distance of approximately 1500 linear feet along the eastern and southern border of the Gowhari property making sanitary sewer immediately available. As defined in the Growth Plan the “Rural” land use classification states that parcels in the “Rural” category “will receive no urban services, though rural water supplies may be available.”
5. Growth Plan Policy 5.2 states, “The City and County will encourage development that uses existing facilities and is compatible with existing development.

**e. Public and community facilities are adequate to serve the type and scope of the land use proposed.**

Response:

See Criteria “a” above for an explanation of sewer availability. In addition roads, water, community facilities such as schools and recreation facilities are adequate to serve future residents of this area.

**f. An inadequate supply of suitably designated land is available in the proposed land use.**

Response:

Much of the “Residential Low” land use areas located throughout the urban area have already been subdivided and developed. In addition, the establishment of a “Residential Low” area in this proposed location will create a better transition between the “Residential Medium Low” area located to the south of the Gowhari property and the “Rural” area located to the north and west of the Gowhari property.

**g. The community or area, as defined by the presiding body, will derive benefits from the proposed amendment.**

Response:

See Criteria “a” & “d” above.

On October 28, 2003, this request was reviewed by the Planning Commission and recommended for approval. In making their recommendation, the Planning Commission found that all review criteria including criterion “b” had been met. Support for this request focused on finding that all urban facilities were in place, the site was an infill site for the Redlands area, the request would increase density within the Urban Growth Area and not create sprawl, additional density would help maximize the use and justify the costs of existing utility services, and that higher than rural densities would be a better use of the land.

#### FINDINGS OF FACT/CONCLUSIONS

After reviewing the Gowhari application, GPA-2003-183 for a Growth Plan Amendment, staff makes the following findings of fact and conclusions:

4. The proposed amendment is consistent with the purpose and intent of the Plan.
5. The proposed amendment is not consistent with all of the review criteria in Section 2.5.C of the Zoning and Development Code. Section 2.5.C requires all of the criteria must be met. Criteria “a”, “d”, “e”, and “g” have substantially been met. Criteria “c” and “f” have some argument supporting them. Clearly Criterion “b” has not been satisfied. Subsequent events have not invalidated the original premises and findings.

#### STAFF RECOMMENDATION:

Staff recommends denial of the Growth Plan Amendment.

#### PLANNING COMMISSION RECOMMENDATION:

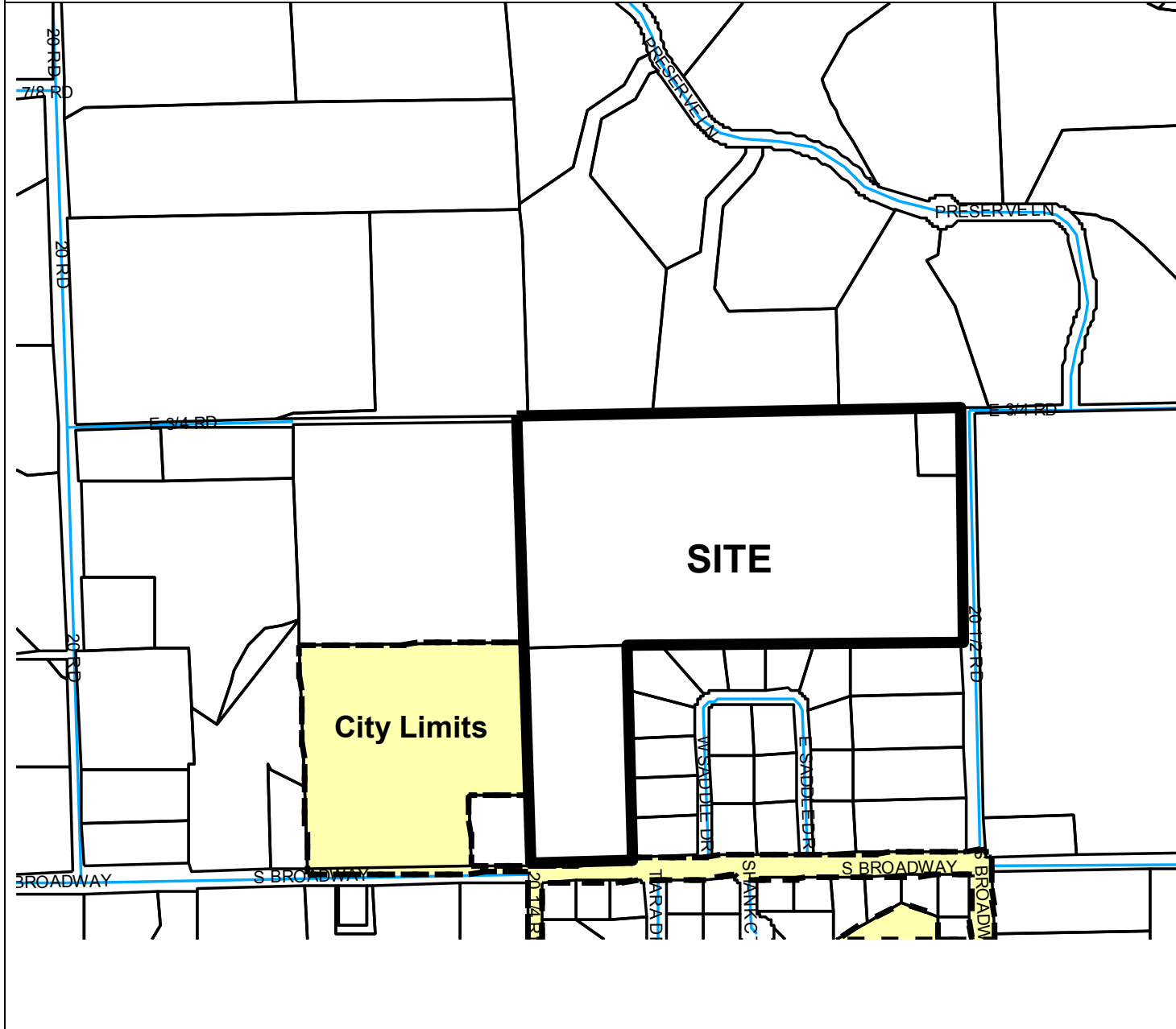
**Planning Commission recommends approval of the Growth Plan Amendment request for Residential Low with the following findings and conclusions:**

- 1. The proposed amendment is consistent with the purpose and intent of the Growth Plan.**
- 2. The proposed amendment is consistent with all of the review criteria in Section 2.5.C of the Zoning and Development Code including Criterion “b” finding that subsequent events have invalidated the original premises and findings.**



Site Location Map

Figure 1



Aerial Photo Map

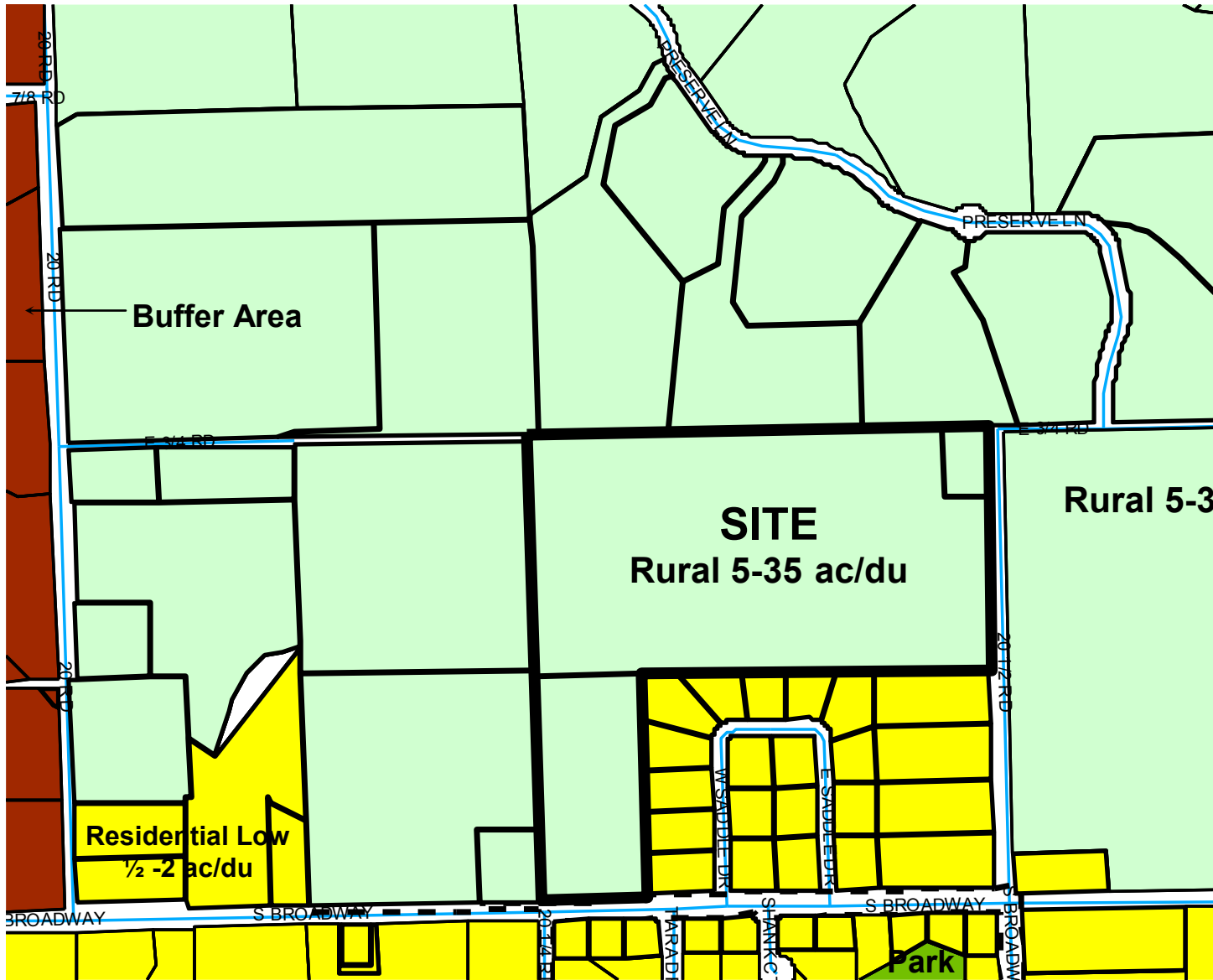


Figure 2



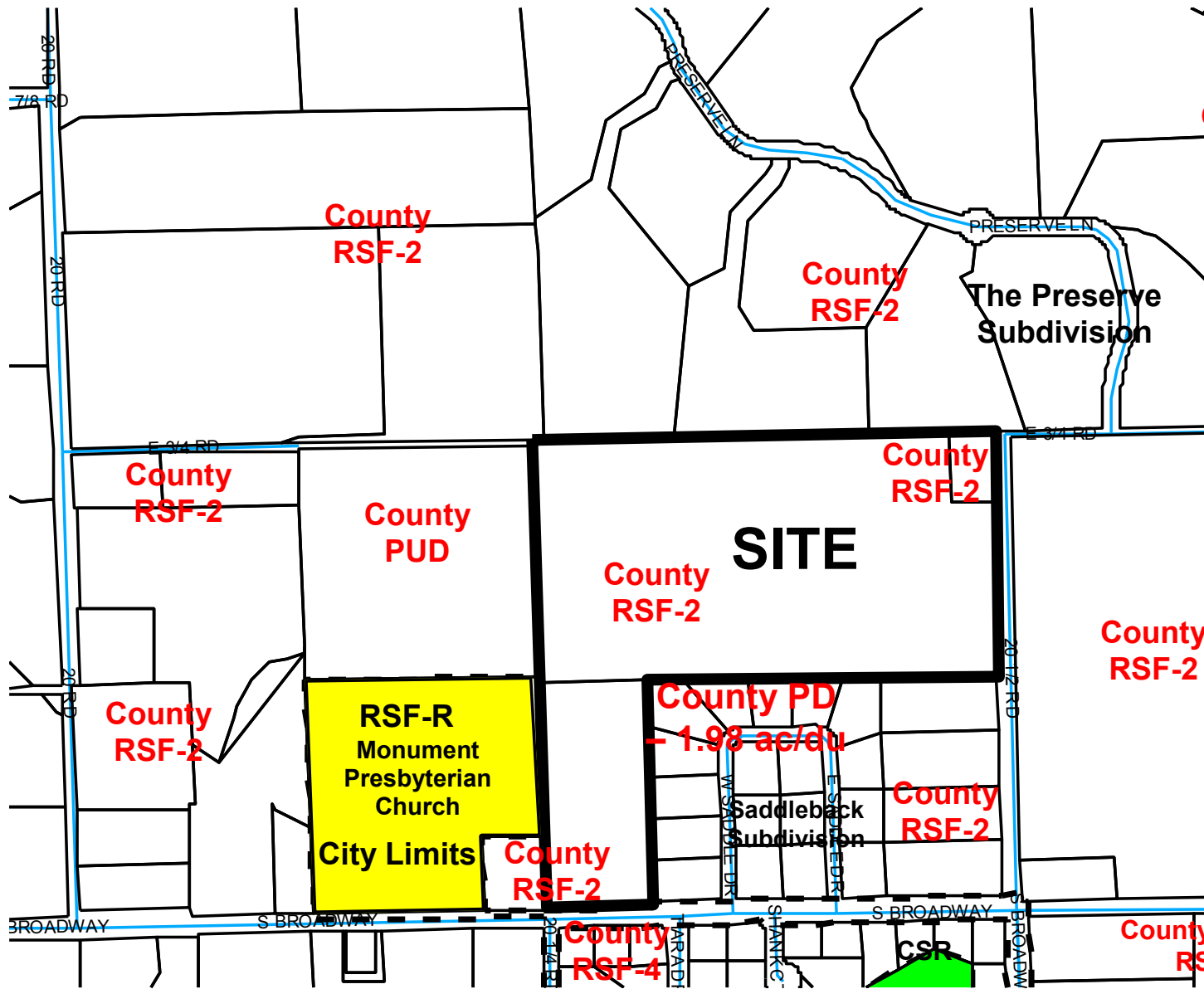
Future Land Use Map

Figure 3



Existing City and County Zoning

Figure 4



# **Gowhari Property – 20 ½ & South Broadway**

## **General Project Report**

### **Annexation/Growth Plan Amendment**

#### **Project Overview**

The applicant is requesting a Growth Plan Amendment in accordance with MCA 99-27, *Agreement between Mesa County and the City of Grand Junction Providing for an Interim Joint Plan Consistency Review and Plan Amendment Process for the Joint Urban Area Plan*. In Reference to section D.4., the Petitioner contends that the requested change is consistent with the overall purpose and intent of the adopted Plan. The subject property is currently zoned AFT and is designated on the Growth Plan as Rural – 5 to 35 acre parcels. The petitioner feels that a more appropriate Growth Plan designation would be Residential Low Density, described as typically 1/2-2 units per acre with full urban services. The primary justification for this request is based on adjacent densities and availability of public water and wastewater systems. A petition for annexation has been submitted.

The property, located west of 20 ½ Road and north of E ½ (South Broadway), consists of 3 parcels of 19.60 acres, 0.60 acres and 4.49 Acres for a total of 24.69 acres. The property is bordered on the west by a future church site (AFT Zoning/Rural Growth Plan Designation), on the east by 20 ½ Road, north by the Preserve Subdivision (AFT/Rural) and south by Saddle Back Subdivision (Residential Medium Low/RSF-4) and Tiara Rado Subdivision (Residential Medium Low/RSF-4).

#### **A. Project Description**

##### **Existing Land Use**

The property currently consists of irrigated pasture. There are existing home sites on each of the three subject parcels.

##### **Existing Site Conditions**

The site consists of pasture, most of which is currently irrigated. The property is currently leased and used for cattle grazing. The property fronts both 20 ½ Road and South Broadway allowing for access opportunities.

##### **The Existing Zoning**

The property is currently zoned as Mesa County – AFT.

## The Proposed Plan

It is the Petitioner's desire to amend the Growth Plan to allow for future development consistent with adjacent densities (Saddleback and Tiara Rado Subdivisions). As previously noted, one of the three subject parcels currently falls within this desired density (.60 acres). This density, ½ acre – 2 acre parcels, is supported by the existence of public infrastructure including paved roads, water and sewer systems.

### **B. Plan Amendment Criteria – Section D.4**

“The parties shall only amend the Plan if they find that the amendment is consistent with the overall purpose and intent of the adopted plan. Keeping in mind the broad legislative and other authorities of the parties to consider all relevant factors, the decision whether or not to amend the Plan shall consider, at a minimum if”:

- a) *There was an error in the original Plan such that then existing facts, projects, or trends (that were reasonably foreseeable) were not accounted for; there is no evidence of error at the time of adoption of the original plan.*
- b) *Events subsequent to the adoption of the Plan have invalidated the original premises and findings; the extension of sewer to this area in addition to the development of Saddleback Subdivision (which is recognized by the Growth Plan) warrants the consideration of densities consistent with the availability of public infrastructure.*
- c) *The character and/or condition of the area has changed enough that the amendment is acceptable; as is noted the surrounding developments and approved subdivisions would suggest that this amendment is consistent with the purpose and intent of the original plan.*
- d) *The change is consistent with the goals and policies of the Plan, including applicable special area, neighborhood and corridor plans; the petitioner feels that the goals and policies will not be compromised with the requested Plan amendment.*
- e) *Public and community facilities are adequate to serve the type and scope of land use proposed; preliminary findings have identified public and community facilities and it has been determined that they are adequate for the proposed plan.*
- f) *An inadequate supply of suitably designated land is available in the community, as defined by the presiding body, to accommodate the proposed land use; the proposed land use would allow for smaller lots, similar to those found in the adjacent subdivisions, that would allow for single family residences that are not subject to AFT zoning regulations, irrigation water management issues and accompanying “hobby” farm uses. These uses, typically reserved for 5-35 acre parcels would seem to be better suited in more rural areas which are commonly defined as not having public sewer systems.*
- g) *The community or area, as defined by the presiding body, will derive benefits from the proposed amendment; The benefits as derived by the area will primarily consist of the infill of a parcel within a developed area with City services which will offer desired lot sizes and amenities consistent with the surrounding area. The future development plans will be consistent with the existing street and utility circulation plans.*

## **C. Project Compliance, Compatibility, and Impact**

### Adopted Plans and Policies

This request addresses the following goals of the Growth Plan:

Policies 1.1-1.3, 1.7- The desired Growth Plan density falls within the guidelines of  $\frac{1}{2}$ -2 DU/A and does not differ significantly with the development of the surrounding area.

Policy 5.1, 5.2, 5.3 – This development will use existing facilities which have been extended to to serve a previously developed area.

Policies 7.1-7.4 Future development will pay its appropriate share of development fees to fund its fair share of capital costs for public facilities at adopted levels of service.

Policy 10.4 – Future development will provide single family lots and associated designs that will enhance the sense of neighborhood.

Policies 11.1, 11.3 – Future development will be compatible with adjacent land uses. There is no commercial development or multifamily associated with this plan.

**Addendum to Applicants Project Report  
Gowhari Annexation and GPA  
File #GPA-2003-183  
October 14, 2003**

**Additional justification supporting request for this GPA and how it meets the criteria.**

The three parcels included in this request are served by Ute Water, Redlands Water and Power Company and Xcel Energy. There is a 10" PVC sanitary sewer line that runs along the East side of the parcel on 20 ½ Road, and the storm sewer is located on South Broadway. This area is currently served by Grand Junction Rural Fire, until the Redlands Fire station is operational. The parcels are within the 201 Boundary. The schools serving these lots are Redlands Middle School, Wingate Elementary and Fruita/Monument High School.

The develop-ability of this parcel with an urban density is viable due to the following:

- Existing sanitary and storm sewer
- Electrical utilities in place to serve 13 – 45 housing units
- Existing paved roads (20 ½ Road and/or South Broadway) are immediately adjacent to all three parcels. The development of these parcels would most likely lead to the connection of E ¾ Road from 20 to 20 ¾ Road.
- At .6 acres, parcel #2947-222-40-002 already falls within the Residential/Low Density classification
- The three parcels included are most flat and clear. Many other Redlands properties are not suitable for urban development due to the physical properties of the site, i.e., hillsides, etc.
- Other Redlands parcels classified as Residential/Low Density are less suitable for urban density development due to the lack of adjacent paved streets and existing services (water and electrical).
- Since the Preserve (Rural 5 acre lots) is served by public utilities, the development of the parcels in this request would help to better utilize the services that are already in place, which will improve the operating efficiency.

Having been a property owner in the Redlands for the past fourteen years, the Petitioner understands and respects the City and County's joint desire to maintain open space, particularly in the Redlands area. However, this parcel

is surrounded by residential development, much of which is urban in nature (<2 acre lots). Since this parcel is open and the terrain is flat, it is easily accessed by existing paved streets, existing sanitary and storm sewer, and the electrical utilities are in place to support development of 2 du/acre, it makes it a prime candidate for development. The Growth Plan mentions the desire to avoid “leapfrog” development, yet that is what surrounds this parcel. To the North is the Preserve, which are 5 acre lots, served by public water and wastewater. To the South is the Saddle Back Subdivision, which is Residential/Medium Low, also served by public utilities. This project would serve to fill in the gap between those existing subdivisions. This project will not impede views from any surrounding homes, will not be visible from any main corridor, will not adversely affect the natural drainage or environment.

There is an abundance of property that is classified as Rural (5-35 acres/du) on the Future Land Use Map. However, most all of the properties designated as such fall outside the 201 Boundary, appropriately excluding them from public services.

### **Additional Information supporting the goals and policies of the Growth Plan**

***\*\* Note: Items in bold are exact quotes from the Growth Plan \*\****

**“The Urban Area Plan is intended to be a dynamic document – one that responds to changing needs and conditions. Periodic amendments to the future land use plan may be needed. These amendments should not be made lightly. Each proposed amendment should be considered carefully to determine whether or not it is consistent with the plan’s goals and policies.”**

The following are some excerpts from the Growth Plan which we feel address and justify this Growth Plan Amendment request.

**Goal 3 – Growth Management: To implement the plan through the coordinated and consistent actions of Grand Junction, Mesa County and other service providers.**

**Policy 3.5 – The City and County will coordinate with public and private service providers to develop and maintain public improvements which efficiently serve existing and new development.**

Since public improvements (water, sewer and electrical) are existing in the immediate area, the potential additional housing units provided by future development of these parcels would create more efficient use of the existing services.



**Goal 4 – Growth Management: To coordinate the timing, location and intensity of growth with the provision of adequate public facilities**

**Policy 4.1 – The City and County will place different priorities on growth, depending where the proposed growth is located within the Joint Planning Area, as shown in Exhibit V.3. The City and County will limit urban development\* in the Joint Planning Area to locations within the Urban Growth Boundary with adequate public facilities as defined in the City and County Codes.**

*\* Urban development includes all projects of a sufficient intensity to require connection to a central wastewater collection and treatment system or other urban services. Urban development includes residential development on lots smaller than two acres and non-residential development other than agricultural, mining, or approved home occupations.*

**Policy 4.5 – The City and County will require adequate public services and facilities to be in place or assured so they will be in place concurrently with urban development in the joint planning area. The City and County will adopt consistent urban level of service and concurrency standards for the following services: water, wastewater, streets, fire stations, schools, and stormwater management.**

Again, since urban growth is limited to areas with adequate public facilities, the Petitioner feels that because the public facilities are already available and adequate for their parcels, it makes sense for their parcels to be classified with an urban growth density.

**Goal 5 – Growth Management: To ensure that urban growth and development make efficient use of investments in streets, utilities and other public facilities.**

**Policy 5.2 – The City and County will encourage development that uses existing facilities and is compatible with existing development.**

This is the essence of the justification for this Growth Plan Amendment request. Urban development of these parcels with maximize utilization of the existing facilities, and with a Residential/Low Density classification, will also be compatible with existing development in the area.

**Policy 5.3 – The City and County may accommodate extensions of public facilities to serve development that is adjacent to existing facilities. Development in areas which have adequate public facilities in place or which provide needed connections of facilities between urban development areas will be encouraged. Development that is separate from existing urban services (“leap-frog” development) will be discouraged.**

Amendment of the Growth Plan to allow for Residential/Low Density development of these parcels would create a continuous flow of service provided between the Preserve and the Saddle Back subdivisions, thus eliminating the “leap-frog” situation that currently exists.

**Goal 6 – Growth Management: To promote the cost-effective provision of services for businesses and residents by all service providers.**

**Policy 6.2 - The City and County will coordinate with other service providers to identify opportunities for improving operating efficiencies. The City and County will encourage service providers to participate in joint service ventures that reduce service costs while maintaining adequate levels of service.**

**Goal 15 – To achieve a mix of compatible housing types and densities dispersed throughout the community.**

**Policy 15.3 – Prior to any future plan amendments, the City and County will ensure that the Future Land Use Map designates sufficient land in appropriate locations to accommodate anticipated demand for each residential land use category for the next ten years.**

- The reclassification of the 24 acres in question will provide a highly-desired density in an appropriate area. There is currently quite a bit of Residential/Low Density property shown on the Future Land Use Map, most of which is in the Redlands – indicating a high demand for this type of property in this area. There is an abundance of property that is classified as Rural (5-35 acres/du) on the Future Land Use Map, most of which falls outside the 201 Boundary.

Other appropriate references:

**Section IV. Page 15 – Utility Policies - Urban Services and Sanitary Sewer limited to Urban Growth Boundary area. Water suppliers evaluate options for improved efficiency by sharing of facilities and resources.**

**General Overview: (Section IV, Page 19)** New urban growth (lots smaller than 2 acres) is limited to areas within the urban growth boundary where water, wastewater and street improvements are in place. Non-urban (residential lots of 2 or more acres) parts of the community will receive rural service levels (e.g., no sidewalks, minimal fire protection, no sewer service). Higher density infill is located where it can be made compatible with existing development and natural resources.

**Land Use Patterns – Single Family: (Section IV, Page 20)** The preferred alternative will use minimum and maximum lot sizes to discourage large lot subdivisions in future urban areas. Agricultural and other open space lands will be protected by limiting utility extension and exercising clustering policies. The City and County will encourage mixed residential and commercial projects.

**Redlands Area: (Section IV, page 22)** This area is developed at a mix of residential densities, with some low intensity projects and conservation areas established. The commercial areas near Broadway and Monument Village expand to provide increased shopping and community service opportunities.

**Section V. C. Key Issues:** “As an increasing proportion of the County’s urban residents live in unincorporated areas, the costs of inefficient development patterns has become more evident. The sprawling development pattern has created fiscal burdens and is consuming large tracts of the agricultural and open space land that attracted so many of its residents.”

**Future Land Use Classes within the Urban Planning Area:**

**Rural (5-35 acre lots) – *This is the current classification***

Private land that will remain in parcels of 5 to 35 acres. The uses will vary among residential lots, low intensity agricultural operations, orchards and other small scale operations. The bulk of these parcels will received no urban level services, though rural water supplies may be available. Clustered or attached single family units may be developed in future urban areas through the planned development process.

**Estate (2-5 acre lots)**

Typical “estate” style single family homes on large lots of 2 to 5 acres. Centralized services might be needed depending on site conditions and

proximity to existing services. Zoning will regulate the intensity of agricultural operations permitted in Estate parcels.

**Residential/Low Density (1.9 du/acre – 1 du/2 acres) -This is the Petitioner's desired classification**

Single family detached residences on lots ranging from ½ - 2 acres. These homes are generally served by a public water and wastewater system. Clustered homes and attached single family units may be permitted in planned developments.

**Residential/Medium Low Density (2-3.9du/acre)**

Detached single family residences with typically 2 to 4 units per acre that receive full urban services. Alternative residential development types, including single family attached, townhomes, and multi-family units may be permitted in these areas through the planned development process, where gross densities do not exceed four units per acre and compatibility with adjacent developments can be assured.

Sec V., page 11 –

**E. Preferred Land Use Scenarios**

**1. Concentrate Urban Growth**

- a. Reflect the open space and lower densities in the Redlands
- b. A key objective of this growth pattern is to use infrastructure (existing and planned) most efficiently and cost-effectively.

To address the seven review criteria (please see the original submittal for additional comments on these criteria)

**a) There was an error such that then existing facts, projects, or trends (that were reasonably foreseeable) were not accounted for.**

The Petitioner feels that the existence of public facilities (water and sewer) was overlooked for these parcels when the Future Land Use Map was created. It was again missed when the Redlands plan was completed in 2002, mainly due to the focus on correcting discrepancies between the plans, or “housekeeping”.

**b) Subsequent events have invalidated the original premises and findings.**

Though the water and sewer was in place in 1996 when the original Growth Plan was completed, there was recently a project approved for the church property just to the West of the parcels, which will allow for even further extension of the already existing sewer and water lines.

**c) The character and/or condition of the area have changed enough that the amendment is acceptable**

Though this area has not changed greatly, except for the further investment by the City/County in public utilities in the roads that these parcels are on, due to the oversight of the existing utilities, we feel that the character and condition of this area is exactly what the Growth Plan identifies as the “desired” areas for growth and development to occur.

**d) The change is consistent with the goals and policies of the plan, including applicable special, neighborhood, and corridor plans.**

Based on the goals and policies mentioned in the paragraphs above, the development of these parcels to urban densities match exactly what the goals of the Growth Plan outline.

**e) Public and community facilities are adequate to serve the type and scope of the land use proposal.**

Sewer, water and electrical utilities are all in place and are sufficient to service the requested density of these parcels. Paved streets are in place as well.

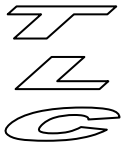
**f) An inadequate supply of suitably designated land is available in the community, as defined by the presiding body, to accommodate the proposed land use.**

There is much more Rural density property available than there is Residential/Low. Most of the land classified as Rural is outside of the Persigo 201 Boundary, which is appropriate based on the pure definition of Rural property.

**g) The community or area, as defined by the presiding body, will derive benefits from the proposed amendment.**

This Growth Plan Amendment request, if approved, will allow the public to benefit by better utilized utilities, thus lowering individual operating costs. In addition, it would keep the residential feel to the area, rather than having un-used rural parcels in the middle of residential developments.

\*\* We feel that the Review Criteria should be worded as a) OR b) OR c), AND d), e), f), g). We understand there has not been much physical change to the area in the past few years (which b & c address), but we do feel an oversight was made in the original Future Land Use Map (Item a), which could be made right with this amendment.



**THOMPSON - LANGFORD CORPORATION**  
**ENGINEERS AND LAND SURVEYORS**

tlc@tlcwest.com  
Facsimile (970) 241-2845  
Telephone: (970) 243-6067  
529 25 1/2 Rd, Grand Junction, CO 81505

**TRANSMITTAL**

**To:** *David Thornton, City of Grand Junction*

**From:** *Doug Thies, Thompson-Langford Corp.*

**Subject:** **Gowhari Growth Plan Amendment – Neighborhood Meeting Notes**

**Date:** *October 16, 2003*

Dave, following is a summary of notes that were taken from the neighborhood meeting for the above referenced project.

1. The majority of the participants were there to see a “development plan”. They wanted to know the street layout, number of lots etc. The procedure of the Growth Plan Amendment process and the sequence of events leading to development was explained.
2. People were interested in who the developer was and how much the land was sold for.
3. Concerns were expressed about traffic. Once again the development process and future requirements (traffic analysis) was discussed.
4. There was at least one person who desired this to remain open space so that they could enjoy the view of the cattle grazing.
5. There were a couple of comments concerning the round-a-bout at Sams Club and the property taxes due to annexation.

If you have questions, please do not hesitate to contact me.

Thanks,

Doug Thies

**GRAND JUNCTION PLANNING COMMISSION  
OCTOBER 28, 2003 MINUTES  
7:03 P.M. to 11:18 P.M.**

The regularly scheduled Planning Commission hearing was called to order at 7:03 P.M. by Chairman Paul Dibble. The public hearing was held in the City Hall Auditorium.

In attendance, representing the City Planning Commission, were Dr. Paul Dibble (Chairman), John Redifer, John Paulson, Richard Blosser, John Evans and Roland Cole. William Putnam and Bill Pitts were absent.

In attendance, representing the City's Community Development Department, were Bob Blanchard (Community Development Director), Kathy Portner (Planning Manager), Dave Thornton (Principle Planner), Scott Peterson (Associate Planner), Ronnie Edwards (Associate Planner), and Lori Bowers (Senior Planner).

Also present were John Shaver (Assistant City Attorney), Rick Dorris and Eric Hahn (Development Engineers).

Terri Troutner was present to record the minutes.

There were 41 interested citizens present during the course of the hearing.

#### **IV. FULL HEARING**

##### **GPA-2003-183 GOWHARI GROWTH PLAN AMENDMENT**

**A request for approval to change the Growth Plan Future Land Use Map from Rural (5 to 35 acres per dwelling unit) to Residential Low (1/2 to 2 acres per dwelling unit) for three parcels totaling 24.69 acres.**

**Petitioner: Elizabeth Gowhari**

**Location: 2026 South Broadway and 573 20 1/2 Road**

##### **PETITIONER'S PRESENTATION**

Karin Gookin, representing the petitioner, offered a PowerPoint presentation containing the following slides: 1) site location map; 2) project summary; 3) Tiara West Subdivision plat; 4) The Preserve Subdivision Plat; 5) Monument View Ranch Subdivision Plat; and 6) Future Land Use Map. Ms. Gookin felt that the request met all Growth Plan Amendment (GPA) criteria with the possible exception of criterion b.; however, given that their basis for the request was that the original land use classification had been changed in error, criterion b. should not even apply. The property, she said, already had a County zoning of RSF-2. The Growth Plan, however, indicated that those parcels should instead be Rural. Given the presence of so much nearby residential zoning and

uses, the site's present zoning of RSF-2, and the existence of sewer available on three sides of the property, she felt that the Growth Plan was in error. Utilities and other urban infrastructure were all present and available to each parcel. Referencing the nearby subdivisions of Tiara West, Monument View and The Preserve, all had been developed at higher than rural densities. The Preserve had the lowest density classification of R1B, but that had been as a result of site constraints. The directly adjacent Saddleback Subdivision was also zoned RSF-2.

Ms. Gookin said that approval of the Growth Plan Amendment would allow the petitioner to keep the RSF-2 zoning she currently had on her property. If the RSF-2 land use designation could not be retained, she asked that consideration be given to other Residential Low zoning options (RSF-1 and RSF-E).

### **STAFF'S PRESENTATION**

Dave Thornton offered a PowerPoint presentation containing the following slides: 1) project description; 2) site location map; 3) aerial photo map; 4) Future Land Use Map; 5) photos of the site from various angles; and 6) Growth Plan Amendment criteria.

He agreed that the adjacent Saddleback Subdivision had County RSF-2 zoning, which allowed densities of 2-4 units/acre. In fact, he said, most of the surrounding area was zoned RSF-2. Sewer was currently available to all three sides of the subject property. Growth Plan Amendment criteria a, d, e and g had been met. Staff did not feel that criteria b and c had been satisfied, although he acknowledged that criterion b was often difficult to define. Since approval of a GPA was based on the satisfaction of ALL listed criteria, and because not all criteria had been met, staff recommended denial of the request.

### **QUESTIONS**

Commissioner Cole asked if the extension of sewer to the parcels would satisfy criterion b. Mr. Thornton said that this was the petitioner's assertion. Staff considered the criterion more in area-wide terms.

Mr. Blanchard noted that all other parcels in the area had been developed in accordance with Growth Plan recommendations.

When asked by Commissioner Cox if there was anything in The Preserve development that would justify a Rural land use classification, Mr. Thornton responded negatively.

### **PUBLIC COMMENTS**

#### **FOR:**

There were no comments for the request.

#### **AGAINST:**



Leslie Marigold (546 Tiara Drive, Grand Junction) expressed concern over the wildlife impacts that would result from higher density development. She said taking away open space meant taking away habitat. Traffic from higher density residential development could jeopardize her safety and security and the safety of others in the area. Ms. Marigold also expressed concern over light pollution and the additional smog that came with higher density development and increases in traffic. She also did not want the City to annex her property.

Jeff Collins (557 20 1/2 Road, Grand Junction) also objected to higher density development and increased traffic. He said posted speed limits were often ignored. He also did not want his property to be annexed into the City.

### **PETITIONER'S REBUTTAL**

Ms. Gookin said that access into the parcels was available from both South Broadway and 20 1/2 Road. She pointed out that the new Redlands Fire Station would be located within a mile of the subject property. She insisted that if the Growth Plan Amendment were denied, it would result in an isolated pocket of Rural among a sea of surrounding Residential Low. She felt that all GPA criteria had been satisfied, and criterion b. should not even apply.

### **DISCUSSION**

Commissioner Blosser said that both the City and the County looked at individual properties during the Growth Plan Update process. He agreed with staff's findings that the character of the area had not changed nor had there been any subsequent events to substantiate satisfaction of sections b. and c. He did not feel he could support the request.

Chairman Dibble disagreed noting that all urban facilities were in place, and it represented logical infill for the Redlands. He expressed support.

Commissioner Cole agreed that the Residential Low land use classification was warranted. The parcels, he said, were already coming into the City with established RSF-2 zoning. All urban elements were present, and he thought that satisfaction of criterion b. was a "toss-up." He supported approval of the request.

Commissioner Cox also agreed that approval of the request was warranted, given that these properties were surrounded by Residential Low land uses. Approval of the request would not create sprawl, and higher than rural densities would be a better use of the land.

Commissioner Redifer agreed.

**MOTION: (Commissioner Cox) "Mr. Chairman, on item GPA-2003-183, I move that we forward this Growth Plan Amendment request for Residential Low to City**

**Council with a recommendation of approval with the findings and conclusions as listed in the staff report, except for criterion b, which I find to be satisfied."**

Commissioner Cole seconded the motion. A vote was called and the motion passed by a vote of 6-1, with Commissioner Blosser opposing.

**CITY OF GRAND JUNCTION, COLORADO**

**Resolution No.**

**A Resolution Amending the City of Grand Junction Growth Plan Future Land Use Map to Re-designate 24.6 acres of the Gowhari property located at 2026 South Broadway, 563 20 ½ Road and 573 20 ½ Road from Rural, 5 to 35 acres per dwelling unit to Residential Low, ½ -2 acres per dwelling unit.**

Recitals:

The Growth Plan contemplates and the Zoning and Development Code allows the opportunity for the City to look at individual properties on a case by case basis to determine whether or not a property's future land use classification should be changed or not.

A request for the Growth Plan amendment has been submitted in accordance with the Zoning and Development Code to the City of Grand Junction. Elizabeth Gowhari, as the applicant, has requested that 24.6 acres she owns be re-designated from Rural. 5 to 35 acres per dwelling unit to Residential Low, ½ - 2 acres per dwelling unit, for three parcels of land located at 2026 South Broadway, 563 20 ½ Road and 573 20 ½ Road.

In a public hearing, the City Council reviewed the request for the proposed Growth Plan amendment and determined that it satisfied the criteria as set forth and established in Section 2.5.C of the Zoning and Development Code and the proposed amendment is consistent with the purpose and intent of the Growth Plan.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT THE GRAND JUNCTION GROWTH PLAN IS AMENDED IN THE FOLLOWING WAY:**

Re-designate 24.6 acres from Rural. 5 to 35 acres per dwelling unit to Residential Low, ½ - 2 acres per dwelling unit, for three parcels of land (the perimeter of all three parcels combined is described below) and located at 2026 South Broadway, 563 20 ½ Road and 573 20 ½ Road. The boundary description of the area being more fully described as follows:

A certain parcel of land lying in the Southeast Quarter of the Northwest Quarter (SE 1/4 NW 1/4) and the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of Section 22, Township 11 South, Range 101 West of the 6<sup>th</sup> Principal Meridian, County of Mesa, State of Colorado, being more particularly described as follows:

COMMENCING at the Southwest corner of the SE 1/4 NW 1/4 of said Section 22, and assuming the South line of the SE 1/4 NW 1/4 of said Section 22 bears N 89°40'40" E

with all other bearings contained herein being relative thereto; thence from said Point of Commencement, N 00°56'27" W along the West line of the SE 1/4 NW 1/4 of said Section 22 a distance of 20.00 feet to a point on the North right of way for South Broadway and the POINT OF BEGINNING; thence from said Point of Beginning, continue N 00°56'27" W along the West line of the SE 1/4 NW 1/4 of said Section 22, a distance of 1310.96 feet, more or less, to a point being the Northwest corner of the SE 1/4 NW 1/4 of said Section 22 and being the Northwest corner of Gowhari Minor Subdivision, as same is recorded in Plat Book 18, Page 129 of the Public Records of Mesa County, Colorado; thence N 89°35'06" E along the North line of the SE 1/4 NW 1/4 of said Section 22, and the North line of said Gowhari Minor Subdivision, a distance of 1306.37 feet, more or less, to a point being the Northeast corner of the SE 1/4 NW 1/4 of said Section 22; thence N 89°35'28" E along the North line of the SW 1/4 NE 1/4 of said Section 22, a distance of 20.00 feet; thence S 00°53'16" E along a line 20.00 feet East of and parallel to the West line of the SW 1/4 NE 1/4 of said Section 22, being the East right of way for 20-1/2 Road, a distance of 686.71 feet, more or less, to a point on the Easterly extension of the North line of Saddleback Subdivision, as same is recorded in Plat Book 14, Page 140, Public Records of Mesa County, Colorado; thence S 89°59'40" W along the North line of said Saddleback Subdivision, a distance of 1026.57 feet, more or less, to a point being the Northwest corner of said Saddleback Subdivision; thence S 00°53'16" E along the West line of said Saddleback Subdivision, a distance of 632.08 feet, more or less, to a point on the North right of way for South Broadway; thence S 89°40'40" W along the said North right of way, being a line 20.00 feet North of and parallel to, the South line of the SE 1/4 NW 1/4 of said Section 22, a distance of 298.67 feet, more or less, to the Point of Beginning.

PASSED on this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

ATTEST:

\_\_\_\_\_  
President of Council

\_\_\_\_\_  
City Clerk

**Attach 14**

Public Hearing Grand Bud Growth Plan Located at the NW Corner of 28 ½ Rd and Highway 50

**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
<b>Subject</b>	Grand Bud Growth Plan Amendment, located at the NW corner of 28 ½ Road and Highway 50					
<b>Meeting Date</b>	November 19, 2003					
<b>Date Prepared</b>	November 6, 2003			File #GPA-2003-184		
<b>Author</b>	Kathy Portner		Planning Manager			
<b>Presenter Name</b>	Kathy Portner		Planning Manager			
<b>Report results back to Council</b>	X	No		Yes	When	
<b>Citizen Presentation</b>	X	Yes		No	Name	
	<b>Workshop</b>	X	<b>Formal Agenda</b>		<b>Consent</b>	X <b>Individual Consideration</b>

**Summary:** Request to amend the Growth Plan, changing the Future Land Use designation from Residential Medium (4-8 units per acre) to Commercial on a portion of the property located at the NW corner of 28 ½ Road and Highway 50.

**Budget:** N/A

**Action Requested/Recommendation:** Hold a public hearing and consider a resolution amending the Growth Plan. Staff and Planning Commission recommend denial.

**Background Information:** See attached Staff Report/Background Information

**Attachments:**

11. Staff report/Background information
12. General Location Map
13. Aerial Photo
14. Growth Plan Map
15. Zoning Map
16. Area proposed for Commercial Designation
17. Applicant’s Project Report
18. Applicant’s Response to Comments
19. Public Comment Letters
20. Planning Commission Minutes
21. Resolution

AGENDA TOPIC: GPA-2003-184 Grand Bud Growth Plan Amendment

ACTION REQUESTED: Hold a public hearing and consider a resolution amending the Growth Plan.

<b>BACKGROUND INFORMATION</b>					
Location:		<b>NW corner of 28 ½ Road and Highway 50</b>			
Applicants:		Grand Bud, LLC Mike Joyce, Development Concepts			
Existing Land Use:		Vacant			
Proposed Land Use:		Commercial and Residential			
<b>Surrounding Land Use:</b>	North	Residential Single Family			
	South	Residential Single Family			
	East	Residential Single Family			
	West	Undeveloped/Vacant			
Existing Zoning:		Mesa County RSF-4			
Proposed Zoning:		C-2 and RMF-5			
<b>Surrounding Zoning:</b>	North	RMF-5			
	South	County RSF-4			
	East	County RSF-4			
	West	County C and PC			
Growth Plan Designation:		Residential Medium, 4 to 8 units per acre			
Zoning within density range?		<input type="checkbox"/>	Yes	<input type="checkbox"/>	No

**PROJECT DESCRIPTION:**

Request to amend the Growth Plan, changing the Future Land Use designation from Residential Medium (4 – 8 units per acre) to Commercial on a portion of the property located at the NW corner of 28 ½ Road and Highway 50.

**RECOMMENDATION:**

Staff and Planning Commission recommend denial.

## ANALYSIS

### 1. Background

The 23.5 acre site, located at the NW corner of 28 ½ Road and Highway 50, is currently being annexed to the City of Grand Junction. The owners signed an annexation petition to enable them to request a Growth Plan Amendment, in accordance with the Persigo Agreement. The property had a Mesa County zoning of RSF-4. The Future Land Use Map of the Growth Plan designates the entire property as Residential Medium (4-8 units per acre). Prior to the 2003 update to the Growth Plan, the property was designated as Public because the site was originally identified through the Orchard Mesa Neighborhood Plan as a potential site for a new high school. The School District has since determined that the site is not needed for a future school.

In the project report the applicant indicates that the future use for the portion of the property proposed for commercial is a warehouse/distribution center. However, the specifics of that request cannot be considered for the Growth Plan Amendment. Instead, the Planning Commission and City Council must determine if the proposed change to a commercial designation is appropriate based on the broad range of uses that designation could include. It's also important to note that even if the land use designation is changed to commercial the Planning Commission and City Council will have several options for a zoning district.

### 2. Section 2.5.C of the Zoning and Development Code

The Growth Plan can be amended if the City finds that the proposed amendment is consistent with the purpose and intent of the Plan and it meets the following criteria:

- h. There was an error such that then existing facts, projects or trends (that were reasonably foreseeable) were not accounted for.

*There was not an error in the original designation for the property. The designation was changed with the 5 year update to the Growth Plan from Public to Residential Medium (4 to 8 units/acre) since the School District no longer anticipated the need for a school on the site.*

- i. Subsequent events have invalidated the original premises and findings.

*The applicant argues that when the School District decided there would not be a school on the site, that the land use designation should have gone to commercial rather than residential, since public uses are as intensive, or more intensive, than some commercial uses. However, the Growth Plan and the Zoning and Development Code make a distinction between public uses, such as schools, and general commercial uses. Most public uses are allowed in residential areas because of the nature of the services they are providing. Staff does not agree that public uses should be considered the same as general commercial uses.*

- j. The character and/or condition of the area have changed enough that the amendment is acceptable.

*The character and/or condition of the area has not changed significantly since the plan adoption. The various surrounding uses the applicant cites were in existence at the time of the original adoption of the Growth Plan, and the more recently adopted Orchard Mesa Neighborhood Plan (update adopted in 2000).*

In fact, the neighborhood to the north of the property that has developed in accordance with the Growth Plan has established a street network that will tie into this property.

- k. The change is consistent with the goals and policies of the plan, including applicable special area, neighborhood and corridor plans.

*The proposed change is not consistent with the goals and policies of the Growth Plan (update 2003) or the Orchard Mesa Neighborhood Plan (update 2000), specifically the following:*

- *Rezoning on Orchard Mesa should be allowed only in accordance with the Future Land Use Map.*
- *Business/commercial development should occur in appropriate areas where compatibility with other uses is ensured.*
- *Policy 1.9: The City and County will direct the location of heavy commercial and industrial uses with outdoor storage and operations in parts of the community that are screened from view from arterial streets.*
- *Policy 12.2: The City and County will limit the development of large scale retail and service centers to locations with direct access to arterial roads **within commercial nodes shown on the Future Land Use Map** (this area is not a designated commercial node).*
- *Policy 12.3: The City and County will protect stable residential neighborhoods from encroachment of incompatible residential and non-residential development.*
- *Policy 15.3: Prior to any future plan amendments, the City and County will ensure that the Future Land Use Map designates sufficient land in appropriate locations to accommodate anticipated demand for each residential land use category for the next ten years.*

- l. Public and community facilities are adequate to serve the type and scope of the land use proposed.

*It's difficult to assess the adequacy of community facilities to serve the type and scope of land use proposed since the applicant has chosen not to do the analysis based on the broader range of uses the commercial designation could allow. The applicant argues that their analysis based on a proposed warehouse use is adequate since that is the intent of the applicant and they are willing to commit to it. However, a change to the Future Land Use Map must be reviewed in a much broader context. If the designation is changed, there is a wide range of potential uses for the site, probably the most intensive being a large scale retail center. The change could not be made specific to this applicant and their proposal for a warehouse facility.*

m. An inadequate supply of suitably designated land is available in the proposed land use. *The applicant has not shown that there is an inadequate supply of suitably designated land available in the proposed land use. In fact, prior studies have shown a more than adequate supply of land designated for commercial and industrial uses to serve the community. The applicant's argument that available land is too expensive because it would require combining platted lots should not be a consideration in determining an adequate supply.*

- n. The community or area, as defined by the presiding body, will derive benefits from the proposed amendment.

*Staff does not believe that the area or community would benefit from changing the land use designation to commercial.*



## FINDINGS OF FACT/CONCLUSIONS

After reviewing the Grand Bud application, GPA-2003-184, for a Growth Plan Amendment, staff makes the following findings of fact and conclusions:

6. The proposed amendment is not consistent with the purpose and intent of the Plan.
7. The review criteria in Section 2.5.C of the Zoning and Development Code have not been met.

## STAFF RECOMMENDATION:

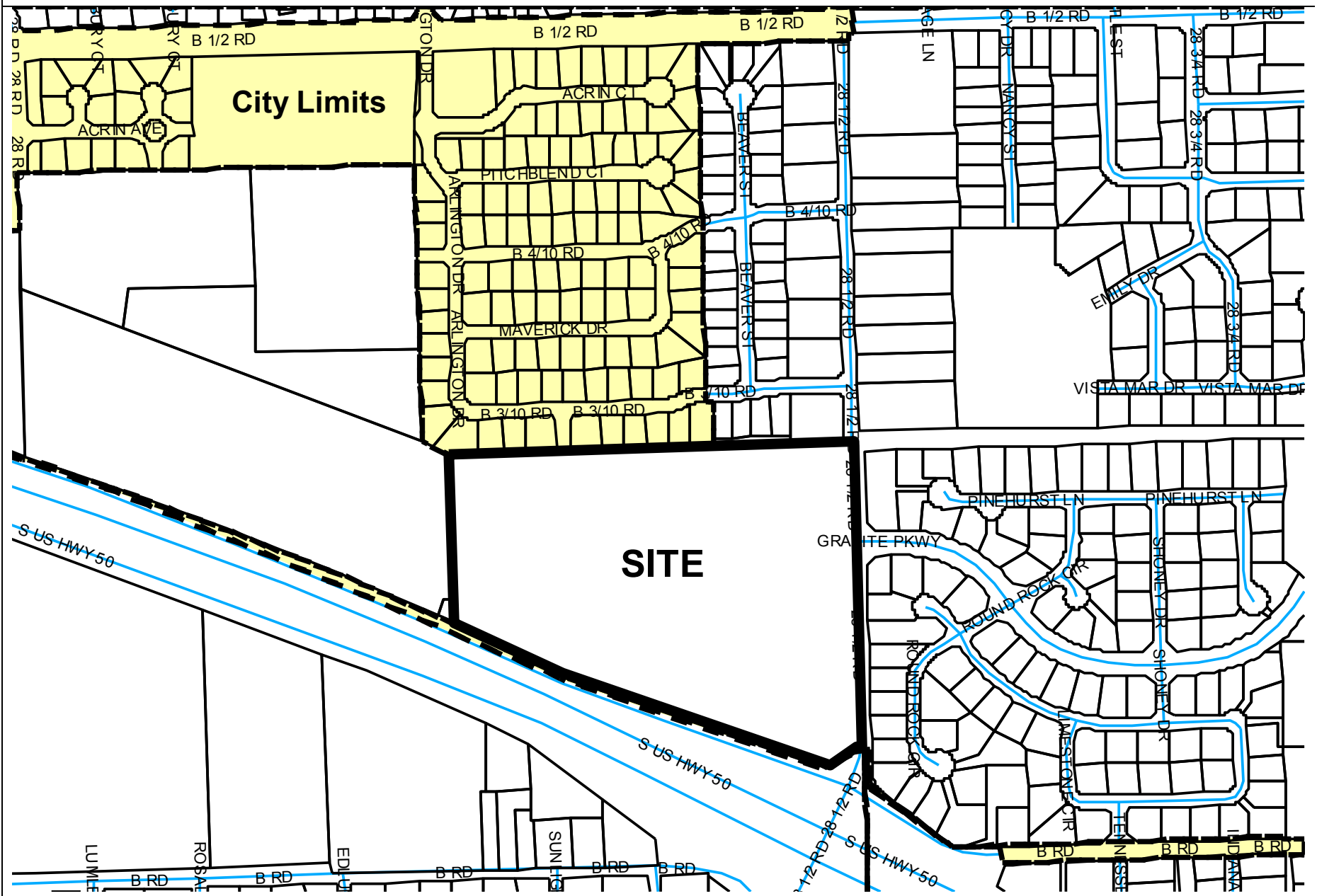
Staff recommends denial.

## PLANNING COMMISSION RECOMMENDATION:

At the October 28<sup>th</sup> hearing, the Planning Commission recommended denial of the Growth Plan Amendment with a 3-3 vote. As per sections 2.18.E.3 and 2.18.F of the Zoning and Development Code, an affirmative vote of five members of the City Council shall be required to approve the requested Growth Plan Amendment.

# Site Location Map

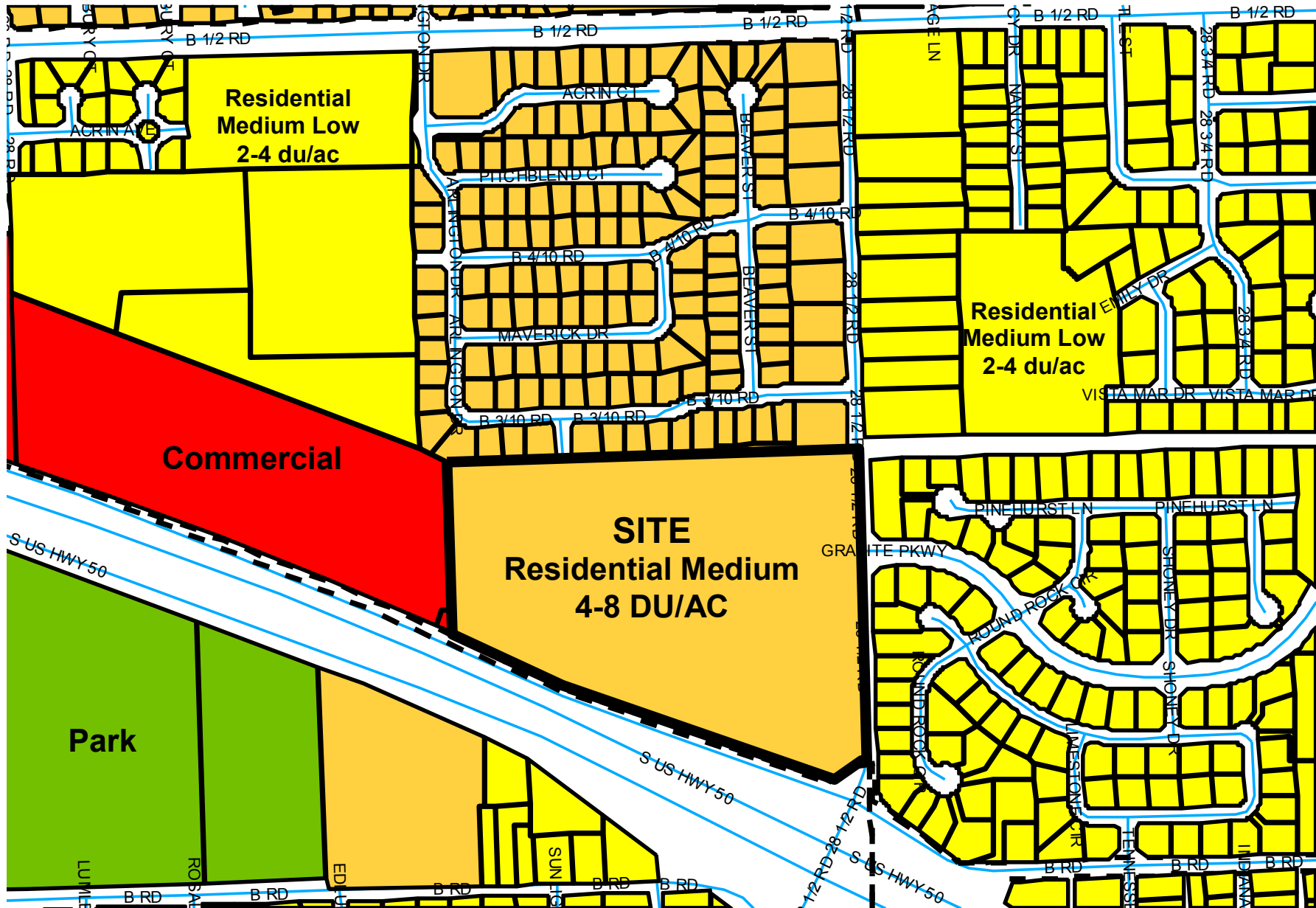
Figure 1





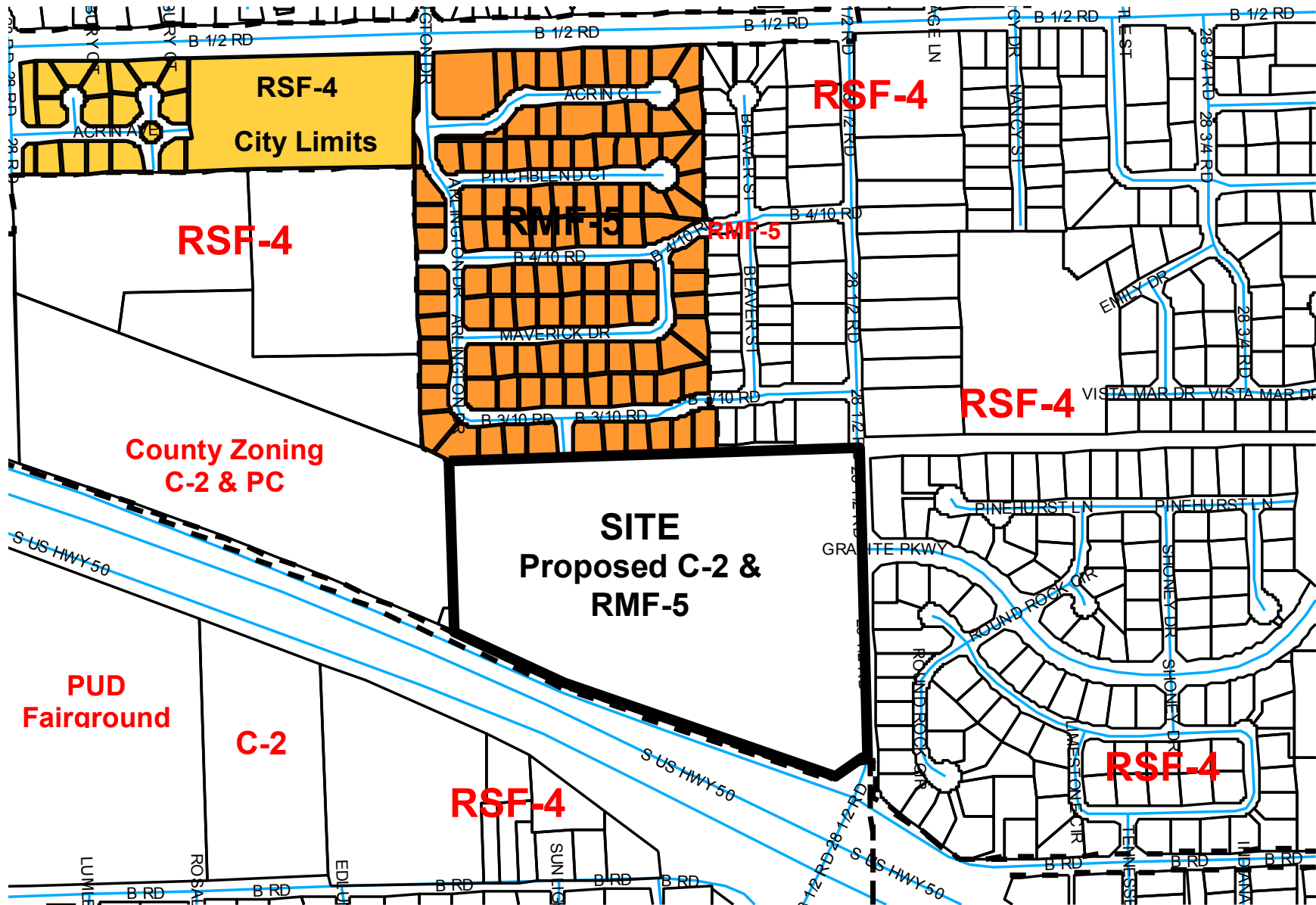
# Future Land Use Map

Figure 3



# Existing City and County Zoning

Figure 4



NOTE: Mesa County is currently in the process of updating their zoning map. Please contact Mesa County directly to determine parcels and the zoning thereof."





## Development Concepts, Inc.

Planning and Development Services

2764 Compass Drive  
Suite 201  
Grand Junction, CO 81506

Office - 970 - 255-1131  
Fax - 970 - 255-1159  
e-mail - dcigj@bresnan.net

**Growth Plan Amendment to  
Commercial for a 9.948-acre portion of the 23.486-acre property  
from Residential-Medium (4 to 8 du/a)  
and  
Zone of Annexation  
to General Commercial (C-2) and RMF-5  
from County RSF-4**

General Project Report

Parcel #: 2943-303-00-045  
NW Corner of 28½ Road and U.S. Highway 50

Petitioner: Grand Bud, LLC c/o Mike and Marc Cadez

Submittal Date: August 28, 2003

### Application Description

Mike and Marc Cadez through their company, Grand Bud, LLC, proposes a *Growth Plan* Amendment to Commercial from Residential - Medium for the 9.948-acre portion of their property at the northwest corner of 28½ Road and U.S. Highway 50 in Orchard Mesa. Also requested with this application is a Zone of Annexation to General Commercial (C-2), and Residential Multiple Family 5 dwelling units per acre (RMF-5). In addition to the subject property being located within the boundaries of the *Growth Plan*, the property is also located within the boundaries of the *Orchard Mesa Neighborhood Plan* area.

### Proposed Land Use of the Subject Property

The subject property is currently undeveloped. The configuration of the property, as indicated in figure 1, is for two specific purposes. First, the 9.948-acre portion of the subject property is proposed for the *Growth Plan* Amendment to Commercial and proposed to be zoned General Commercial (C-2). The parcel is proposed to be developed for the relocation of the Central Distributing Company, Inc., beverage company. The proposed distributing company structures will allow a majority of its operation to occur indoors. The 9.948-acre portion of the subject property abuts other property to the west which also has a *Growth Plan* land use designation of Commercial, which is zoned General Commercial (C-2) by Mesa County. The abutting property is currently developed with a construction company.

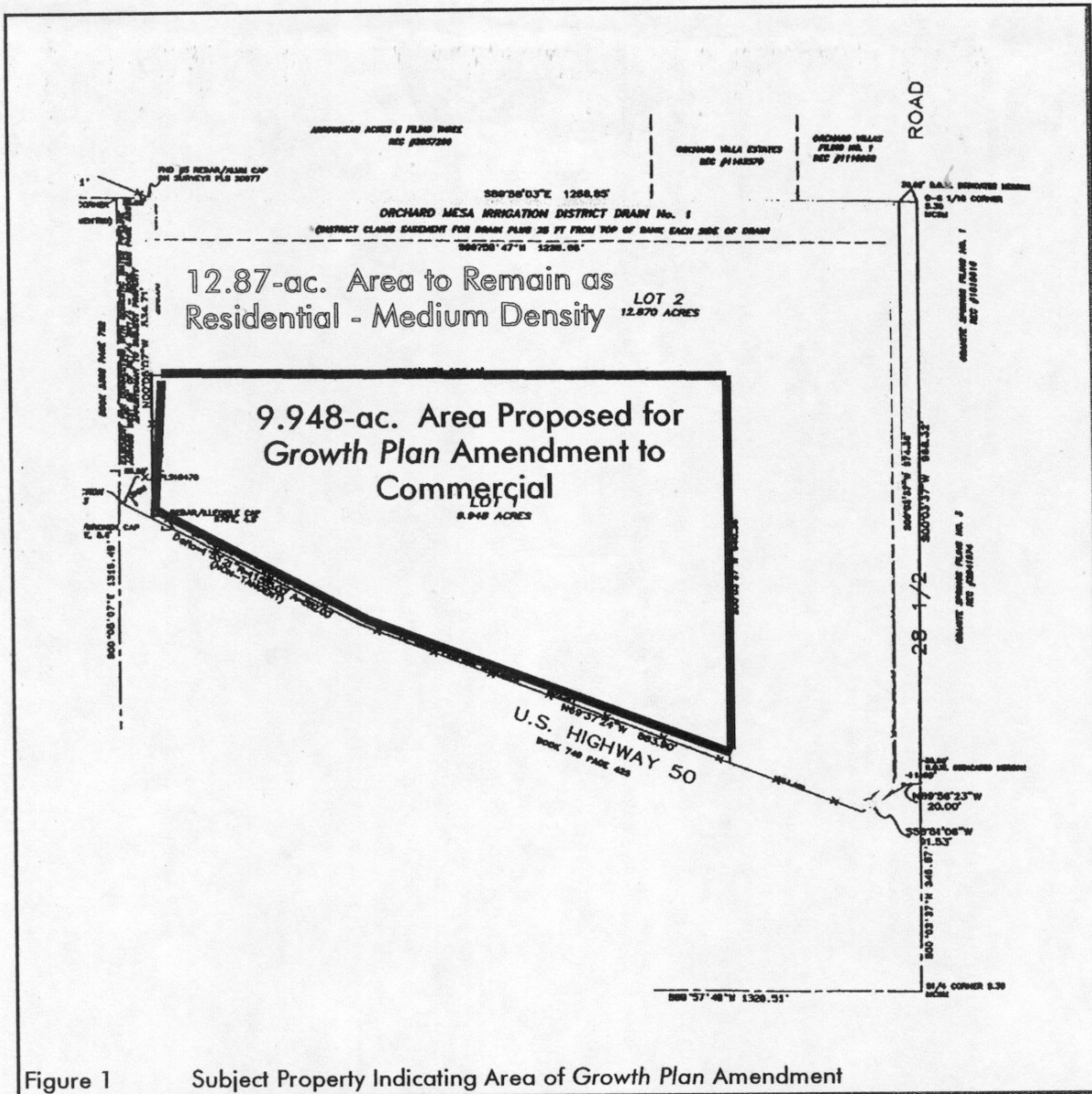


Figure 1 Subject Property Indicating Area of Growth Plan Amendment

Secondly, the remaining 12.87-acres of the property is proposed to be developed as a RMF-5 residential subdivision. The remaining 12.87-acres is L-shaped to wrap around the proposed commercial development, which provides a buffer for other existing residential developments to the north and east of the subject property. Right-of-way of 0.668-acre will be dedicated along 28½ Road.

### Surrounding Land Use/Zoning

**LAND USE** - The following Land-uses surround the subject property and are shown in Figure 2:



- ❖ North - Arrowhead Acres Subdivision, Orchard Villa Estates
- ❖ South - Mesa County Fairgrounds, Big J RV park and single family homes
- ❖ East - Granite Springs Subdivision family homes on large lots, buffered from the subject property by a large natural vegetation buffer
- ❖ West - Undeveloped/Vacant property with drainage facilities



Figure 2 2002 City of Grand Junction Aerial Photo of Subject Property & Surrounding Area

**ZONING** - The subject property is zoned Residential (RSF-4) by the Mesa County. Within a 1/2 mile radius of the subject property, properties are zoned by Mesa County and the City of Grand Junction as:

- ❖ North - City RMF-5 & County RMF-5
- ❖ South - County RSF-4, C-1, PUD & City RSF-4
- ❖ East - County RSF-4, PUD
- ❖ West - County C-2 & PUD

## Neighborhood Meeting

As required in Table 2.1 of Section 2.1, Review and Approval Required, of Chapter 2, Procedures, of the City of Grand Junction *Zoning and Development Code* (2000), a Neighborhood Meeting was held. This meeting took place on Tuesday, August 5, 2003, from 7:00 p.m. to 8:30 p.m. at the Mesa County Fairgrounds, Community Building #C, Grand Junction, CO (Figure 3). One hundred- four (104) notices were mailed out, with fifteen (15) neighbors attending the meeting. Development Concepts also received two telephone calls from residents in the Granite Springs Subdivision who could not attend the meeting, which handouts were mailed.

Representatives of Development Concepts, Inc. and Sun King, Inc. were present to answer any questions from the neighborhood concerning the proposed annexation, *Growth Plan Amendment*, and Zone of Annexation to C-2 and RMF-5. No representatives from the City of Grand Junction were present at the meeting. The meeting's content and conduct were held in accordance with Section 2.3.B.4.f of the *Code*.

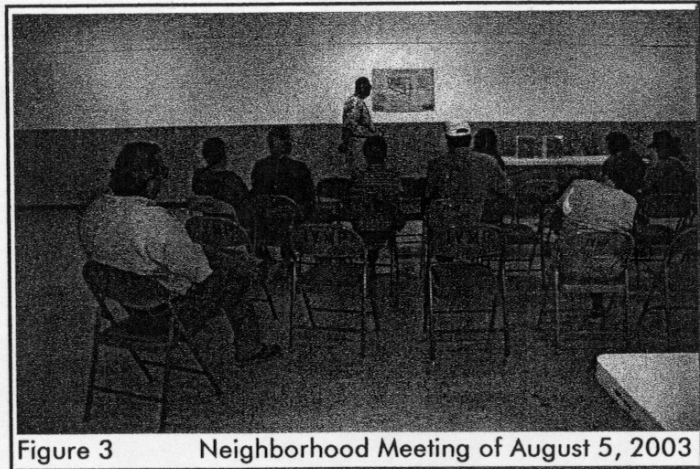


Figure 3 Neighborhood Meeting of August 5, 2003

The following comments and concerns were raised by the neighbors in attendance:

1. What will be the hours of operation for the Central Distributing Facility?

The typical hours of operation are generally from 7:00 am to 6:00 pm, with the drivers leaving the facility around 9:00 am and returning at 4:00 pm. A statement was made that one area resident has seen activity at Central Distributing South Street location as early as 5:00 am. Mr. Motz noted that he believed that was probably the janitorial service supply business loading their delivery truck, although three employees load the delivery trucks during the night time and early morning hours. The janitorial supply company is not relocating to this proposed location for the beverage distribution center.

2. How many employees does Central Distributing have?

Central Distributing has fourteen (14) employees. Five (5) of the employees stay on site, while nine (9) of the employees are delivery drivers. Three (3) of the five (5) on-site employees load the delivery trucks daily inside their building. One employee begins work at 11:00 pm, one additional employee starts work at 3:00 am, with the last loading employee arriving at 6:00 am.

3. There are a number of people who use 28 ½ Road and the Frontage Road for walking or jogging. With more "big trucks" proposed to be using these roads, how do you accommodate both the trucks and pedestrians? Will 28½ Road be widened?

With only 14 employee at Central Distributing, traffic generation from this portion of the development proposed on the subject property is considered very minimal. The development of the property will require the provision of curb, gutter and sidewalk on both 28½ Road and the Frontage Road meeting the requirements of the City of Grand Junction. 28½ Road will be widen, since it is classified as an Urban Collector by the City of Grand Junction. This road is also designated for an on-street bicycle lane in the Urban Trails Plan. Sixty feet of total right-of-way for 28 ½ Road is required for this type of street classification, with 30 feet to be dedicated for road right-of-way with the development of

the subject property. We believe by meeting the City's requirements, conflicts between pedestrians and vehicular traffic can be minimized.

4. How many homes will be built on the portion not to be developed by the Central Distributing facility?

Initial design indicates 66 detached single family homes could be built on the remaining 12.87-acre portion of the subject property.

5. Where will the access points be located for the Central Distributing facility and the residential subdivision?

Two (2) access points for the residential subdivision are proposed. One will use the existing street stub from Arrowhead Acres Subdivision and one access point to 28½ Road directly opposing Granite Springs access to 28½ Road.

6. Can't Central Distributing have their own separate access directly to U.S. 50 instead of impacting the busy and dangerous 28 ½ Road and U.S. 50 intersection?

CDOT will not allow a direct access point to U.S. 50 for Central Distributing, since they want to limit the access to the highway to make for safer driving conditions.

7. Why this location? Did Central distributing look at other locations in the Grand Junction area?

Central Distributing Company's management worked with 3 different Realtors for nearly 6 months in attempting to find a location to move its beverage distribution facility. Locations throughout the Grand Valley were reviewed. Ultimately, this location was chosen as the best location available.

8. If the warehouse is built now, what assurances do we have that the residential development will not be built for the next 10 to 15 years?

There are no guarantees, but due to the cost of land, the owners will either develop the land themselves, joint venture it with a builder, or sell it to a developer.

9. Can the developers change their mind on developing a residential subdivision, and build a strip center instead?

Yes, but a change in plans would be required to go through the City planning process to revise the *Growth Plan* and rezone the property, just as this process the petitioner is now undergoing. Public/Institutional hearing are required, with the opportunity for testimony to be given in favor or opposition.

10. Who is going to be the developer of the residential subdivision?

The petitioner has someone in mind to be the developer, but has asked that the possible developer not be revealed at this time.

11. What is going to be stored in the warehouse? Are there going to be any hazardous materials stored here as was in the recent Okagawa Farms fire?

Central Distributing Company is proposing to only move their beverage distributing facility to this location. A meeting attendee asked if dynamite, ammonium nitrate, plastic, or whiskey were to be stored in this facility? He also indicated that our timing for this meeting was bad, since Okagawa Farms warehouse had just burned, which had numerous hazardous materials located in it. He did not want to see the same thing happen here. Mr. Motz explained that comparison between the two facilities is not a fair one. Central Distributing will be built under the IBC building code, which requires sprinklers and other safety improvements, while the Okagawa warehouse was not.

12. Why change from single family zoning to multiple family zoning?

There really is not a change from single family to multiple family zoning, using the RMF-5 zone. It was explained that attached housing can be built in the RSF-4 zone. Most developers use the RMF-5 zone for single family detached housing due to the minimum lot size allowed, and the building setbacks. Arrowhead Acres, built to the north of the subject property is zoned RMF-5, and is developed with single family detached homes. We believe that our residential subdivision will be similar to Arrowhead Acres.

13. What impact will the development have on irrigation water rights?

We believe none. We are required by law to deliver allotted water to surrounding properties. The existing ditch on the north property line will, if allowed by OM Irrigation District, be piped.

14. How many stories can one build if the maximum height for a home is 35 feet?

All City residential zoning districts, except the RMF-12, 16 and 24, allow 35 feet maximum height. These other districts allow a 40 foot maximum height. A 2½ story home could be built within a 35 foot maximum height.

15. Why is the property being annexed into the City of Grand Junction?

Due to the 1998 Persigo Agreement between Mesa County and the City of Grand Junction. Mr. Joyce explained what the Persigo Agreement is and how it affects property proposed for development to the audience.

16. Why can't Central Distributing just expand their existing facility on South Street?

The South Street location has run out of room for expansion. Ownership has determined that both their beverage distributing and janitorial supply businesses are increasing in sales with both needing of expansion to meet sales growth. Their business decision is to move the beverage distribution facility to a new location, and expand the janitorial supply at the existing South Street location.

17. How do we know what you are saying is the truth and the City won't pass a bunch of variances to allow you to build a multiple family slum?

We are required to follow City Codes in developing land. Developers are in the business of selling their product, just as other business people. Why develop a slum, it won't sell. Variances are nearly impossible to obtain, and require Public/Institutional hearings.

## Traffic Study & Analysis

As a part of the application requirements, Michael Baker, Jr. Inc. (Baker) of Salt Lake City, Utah was contacted to perform a Traffic Impact Study for the proposed *Growth Plan* Amendment and Zone of Annexation to C-2 and RMF-5. The proposed development of the subject property includes a maximum of 66 dwelling units on the remaining 13.538-acres, which equates to 4.87 dwelling units per acre, and the Central Distributing facility. According to the owners of Central Distributing, the following information about the existing facility is noted:

- ▶ 14 total employees – 9 truck drivers, and 5 on-site employees. The 9 truck drivers leave in the morning to make deliveries and then return in the afternoon.
- ▶ Deliveries to the site are only accepted between the hours of 9:00 am to 4:00 pm. The maximum number of deliveries in a given day are six (6).

Table 1, Residential Phase One Trip Generation, prepared by Baker, indicates the trip distribution for the proposed 66 dwelling unit residential subdivision.

Table 1  
Residential Phase One Trip Generation

Land Use – Single Family Detached Housing (ITE Code #210)					
Period	Trip Gen Rate (per unit) <sup>1</sup>	# of Trips (66 units)	Total New Trips	IN	OUT
Weekday	9.57	632	632	316	316
AM Peak (7-9 am)	0.75	50	50	13	37
PM Peak (4-6 pm)	1.01	67	67	43	24

Notes:

<sup>1</sup> – Source: ITE Trip Generation, 6<sup>th</sup> Edition  
Data in Table Prepared by Michael Baker, Jr. Inc.

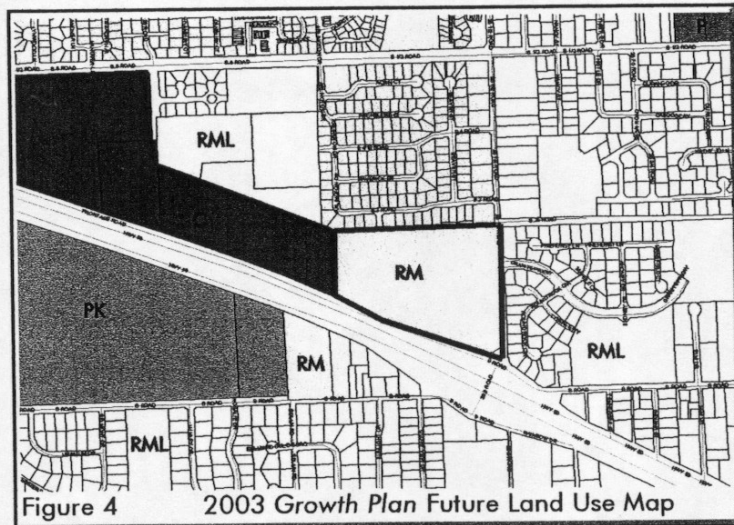
In a letter dated, June 23, 2003 from Mark Bunnell, PE of Baker, Mr. Bunnell states that in reviewing the proposed nearly 10-acre commercial portion of the subject property that  
 "... the AM and PM peak hour trip generation is less than 25 trips. When combined with the residential portion, the worst-case peak hour (PM) trip generation is less than 100 trips. Since the peak hour trip generation is less than the 100 trip threshold, Baker asks that the City waive the traffic impact study requirement for this development."

Hence, traffic estimated to be generated by the combined proposed uses allowed under the Commercial and Residential – Medium land use classifications are minimal and do not reach the threshold required for a formal traffic study. Hence, a Traffic Impact Study is not needed and has not been provided with this application.

## Growth Plan Amendment

The subject property is located in the urbanizing area of the *Mesa Countywide Land Use Plan*, also known as the *City of Grand Junction Urban Growth Plan (Growth Plan)*. No new *Growth Plan* defined Activity Centers are proposed to be developed with the subject property. The subject property is also located within the City of Grand Junction/Mesa County jointly adopted *Orchard Mesa Neighborhood Plan* area. The 1996 adopted *Growth Plan* had a land use designation for the subject property as "Public/Institutional." The subject property was designated as a future high school land use in the 1995 adopted *Orchard Mesa Neighborhood Plan*. The *Orchard Mesa Neighborhood Plan* was revised and updated jointly by Mesa County and the City of Grand Junction on July 13 and September 16, 2000 respectively. The May 8, 2003 updated *Growth Plan* revised numerous "Public/Institutional" land use designations. The subject property is one of those locations that the land use designation was revised from "Public/Institutional" to Residential-Medium Density (4.0 - 7.9 du/a), as shown in Figure 4.

Table 2 indicates the Land-use, Intensity and Typical Uses found in Future Land Use Categories of Exhibit V.2 of the *Growth Plan* for the general area of the proposed *Growth Plan* amendment. The petitioners' are requesting a *Growth Plan* amendment for a 9.948-acre portion of the subject property to Commercial from Residential-Medium Density land-use, while leaving the remainder of the subject property (13.538-acres) in the Residential-Medium Density land-use category .



The following criteria from Section 2.5.C, *Growth Plan* Amendment, of the City of Grand Junction *Zoning and Development Code* (2000) is to be used to determine if the *Growth Plan* amendment should be approved:

1. There was an error in the original Plan such that then existing facts, projects, or trends (that were reasonably foreseeable) were not accounted for;

The petitioner does not believe that a conscience error in the *Growth Plan* was made. The land use designation was revised in May 2003 to Residential – Medium Density, from Public/Institutional. As is stated in detail in the review of Criterion 3, the petitioner believes that a change in philosophy of how the City allows possible higher intensity land uses, such as schools, hospitals, churches, etc. to operate on residential designated land has occurred.

Table 2  
Growth Plan Future Land-use Categories  
U.S. 50 & 28½ Road Area

Land Use		Intensity	Typical Uses
Urban	Residential-Medium Low (RML)	Urban – 2.0 to 3.9 du/ac	Detached Single Family detached residences with typically 2 to 4 units per acre that receive full urban services. Alternate residential development types, include single family attached, townhomes, and multi-family units which may be permitted in these areas through the planned development process, where gross densities do not exceed four units per acre and compatibility with adjacent development can be assured.
Urban	Residential-Medium (RM)	Urban – 4.0 to 7.9 du/ac	A mix of residential development types with gross densities less than 8 dwelling units per acre are anticipated in areas with this designation. Single family development will be integrated with other dwelling types, including duplexes, and low intensity attached residential development. Some low intensity multi-family units may be permitted through the planned development process where compatibility with adjacent development can be assured.
Urban	Commercial (C)	Urban – intensity based on location/ services	Wide range of commercial development - offices, retail, service, lodging, entertainment - with no outside storage or operations. Mixed commercial and residential developments will be encouraged in some areas.
Urban	Park (PK)	Urban or Rural	Active park and recreation sites with significant Public/Institutional access, whether Public/Institutionally or privately owned.

Source: City of Grand Junction Growth Plan (1996)

Please review to Criterion 3 to determine if a *Growth Plan* amendment should be approved, and if this criterion is met.

2. Subsequent events have invalidated the original premises and findings;

Please review to Criterion 3 to determine if a *Growth Plan* amendment should be approved to determine if subsequent events have invalidated the original premise and findings of the *Growth Plan* and the *Orchard Mesa Neighborhood Plan*. The proposed *Growth Plan* Amendment **MEETS** this review criterion.

3. The character and/or condition of the area has changed enough that the amendment is acceptable;

The 1996 adopted *Growth Plan* had a land use designation for the subject property as “Public/Institutional.” The subject property was designated as a future high school land use in the 1995 adopted *Orchard Mesa Neighborhood Plan*. The May 8, 2003 updated *Growth Plan* revised numerous “Public/Institutional” land use designations. The subject property is one of those locations that the land use designation was revised from “Public/Institutional” to Residential-Medium Density (4.0 - 7.9 du/a). The subject property is located in a

transitional area. As shown in Figure 3, land use in the surrounding area includes Mesa County Fairgrounds, Sorter Construction, the Big J RV Park, as well as single family developments. The design of the property into the proposed configuration provides for additional buffer of the residential areas, while allowing a Commercial land use to operate adjacent to other existing development with similar intensity of use.

The 1995 *Orchard Mesa Neighborhood Plan* and the 1996 *Growth Plan* indicated that the subject property was also located in an area of transition, with the *Orchard Mesa Neighborhood Plan* land use designation as a high school site, and the *Growth Plan* designation of a "Public/Institutional" land use. The *Growth Plan* defines the "Public/Institutional" land use as follows:

"Public and quasi-public uses, such as schools, government facilities, cemeteries, hospitals, and churches. Prior to conversion of these areas to private, non-institutional uses, a land use amendment will be required pursuant to the process established in the development code. These uses may be permitted in other categories if developed consistently with zoning regulations and compatibly with adjacent development."

Although the land use proposed, which is the relocation of Central Distributing, Inc.'s beverage distribution facility, is not a "Public or Institutional land use, the proposed "Commercial" land use intensity will be actually less intensive than a church, school or hospital allowed in the "Public/ Institutional" land use classification.

There has not been a change of character of this land or the neighborhood. As was previously recognized by the *Orchard Mesa Plan* and the *Growth Plan*, the subject property is in an transitional land use area between Commercial land uses and Residential land uses. U.S. Highway 50 and its frontage road abut all of the southern boundary of the subject property. This gives the subject property enhanced and safe access for not only the existing higher intensity land uses, but for the subject property as well.

The *Growth Plan* Amendment and zone of annexation to General Commercial (C-2) and Residential Multiple Family 5 dwelling units per acre (RMF-5) **MEETS** this review criterion.

4. The change is consistent with the goals and policies of the Plan, including applicable special area, neighborhood and corridor plans;

#### Growth Plan, City of Grand Junction

The proposed *Growth Plan* amendment also **MEETS** various goals and policies of the *Plan*, which are as follows:

Goal 4 - To coordinate the timing, location and intensity of growth with the provision of adequate Public/Institutional facilities

Policy 4.4 - The city and county will ensure that water and sanitary sewer systems are designed and constructed with adequate capacity to serve the proposed development. All utility providers have indicated that adequate capacity is available for water and other utilities.



Goal 5 - Efficient Use of Investments in Streets, Utilities and other Public/Institutional Facilities

Policy 5.2 - Encourage development that uses existing facilities and is compatible with surrounding development - *All urban services are available to the property.*

Goal 9 - To recognize and preserve valued distinctions between different areas within the community.

Policy 9.2 - The city and county will encourage neighborhood designs which promote neighborhood stability and security. *Please see review of Goal 11.*

Goal 11 - Promote stable neighborhoods and land use compatibility throughout the neighborhood

Policy 11.1 - Promote compatibility between adjacent land uses, addressing traffic, noise, lighting, height/bulk ... *The proposed Growth Plan Amendment is compatible with the surrounding area due to design of the proposed land uses on the subject property. The Commercial land use proposed is located adjacent to other existing Commercial land uses. The existing residential areas surrounding the subject property will be provided additional buffering by the petitioner proposing to develop a similar residential subdivision on the remaining property. These factors will mitigate the impact of the proposed Commercial land use to the surrounding residential neighborhoods.*

Goal 22 - To preserve agricultural land

*The Growth Plan amendment is taking place in the Urbanizing Area of Mesa County designated for urban development. No prime farm ground outside the urbanizing area is proposed to be taken out of production.*

Goal 24 - To develop and maintain a street system which effectively moves traffic throughout the community

*With only 14 employee at Central Distributing, traffic generation from this portion of the development proposed on the subject property is considered very minimal. The development of the property will require the provision of curb, gutter and sidewalk on both 28½ Road and the Frontage Road meeting the requirements of the City of Grand Junction. 28½ Road will be widened, since it is classified as an Urban Collector by the City of Grand Junction. This road is also designated for an on-street bicycle lane in the Urban Trails Plan. Sixty feet of total right-of-way for 28½ Road is required for this type of street classification, with 30 feet to be dedicated for road right-of-way with the development of the subject property. U.S. Highway 50 and it's frontage road abut all of the southern boundary of the subject property. This gives the subject property enhanced and safe access for not only the existing higher intensity land uses, but for the subject property as well. We believe by meeting the City's requirements, conflicts between pedestrians and vehicular traffic can be minimized. The proposed Growth Plan Amendment to Commercial and rezone to C-1 **MEETS** Goal 24 by providing a street system which effectively moves traffic.*

## Orchard Mesa Neighborhood Plan

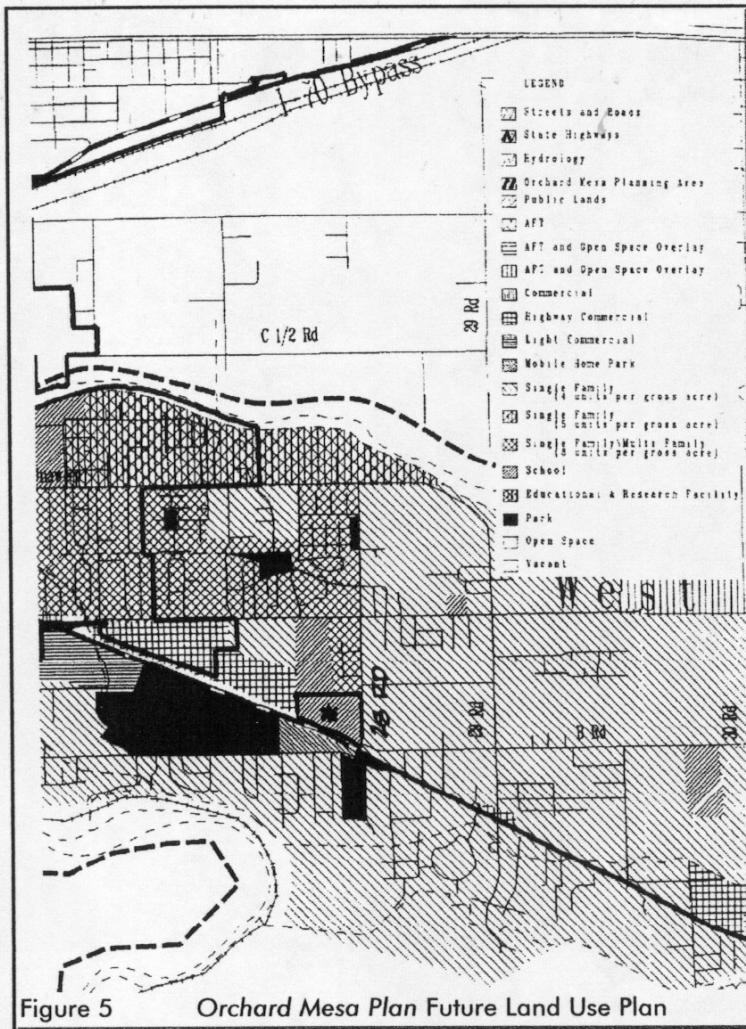
The subject property was designated as a future high school land use in the 1995 adopted *Orchard Mesa Neighborhood Plan*. The *Orchard Mesa Neighborhood Plan* was revised and updated jointly by Mesa County and the City of Grand Junction on July 13 and September 16, 2000 respectively. Figure 5 is a copy of the Future Land Use Map from the *Orchard Mesa Neighborhood Plan* for the subject property and the surrounding area.

The following goals/objectives for zoning in the Land Use/Zoning Action Plan of the *Orchard Mesa Neighborhood Plan* are found to be applicable for this application:

1. Zoning should be compatible with existing development densities on Orchard Mesa.
2. Zoning standards should require buffering between differing uses to ensure new commercial/business development is compatible with residential and other adjacent uses.
7. Business/commercial development should occur in appropriate areas where compatibility with other uses is ensured.

These and other goals/objectives have not been address in detail since they are very similar to the Goal and Objectives found in the *Growth Plan*, and the review criteria found in the *Code*.

Overall, the *Growth Plan* amendment to Commercial for a 9.48-acre portion of the subject property, and the zone of annexation to C-2 and RSF-5 **MEETS** the numerous goals, but not the Land-Use Plan map of the *Growth Plan* and the *Orchard Mesa Neighborhood Plan*.



5. Public/Institutional and community facilities are adequate to serve the type and scope of land use proposed;

All urban services are available to the site, and have sufficient capacity for the proposed commercial and residential development proposed. The subject property is currently served by:

Xcel Energy – Electric and Natural Gas  
Qwest – Telephone  
Orchard Mesa Irrigation District – Irrigation Water  
Bresnan Communications – Cable Television  
Orchard Mesa Sanitation District – Sanitary Sewer  
Ute Water District – Potable Water  
Grand Junction Fire Department – Fire Protection  
Grand Junction Police – Police Protection

This application **MEETS** this criterion by being provided with Public/Institutional and community facilities that are adequate to serve the type and scope of the land use proposed.

6. An inadequate supply of suitably designated land is available in the community, as defined by the presiding body, to accommodate the proposed land use; and,

During the petitioners search for suitable land for their beverage distribution business, numerous parcels of land were reviewed against the petitioner's location criteria. Foremost in their site selection criteria were parcels between 8 to 10-acres in size, which had convenient and safe access to a major transportation corridor. The petitioners worked with several Realtors. After reviewing nearly 50 possible locations, nine (9) sites were reviewed in detail, which possibly could meet the petitioners' criteria. Three (3) of the sites, including the subject property, were located in Orchard Mesa. Property on the west end of the valley by I-70 were reviewed, including two (2) properties at Railhead Industrial Park, the City Market Distribution Center on River Road, two (2) additional River Road properties, and property adjacent to Western Slope Ford at 2380 G Road.

Ultimately, the subject property was chosen as having met the most of the petitioners' criteria. Ultimately, what the petitioners found was that there are not many 8 to 10- acre sites available. Many of the review sites would have required the petitioner to combine previously platted industrial park lots, which cause the selling price to escalate to a level which did not make the relocation feasible.

The potential development recommendations of the subject property is one of the reasons, the petitioners acquired the subject property. The use proposed by Central Distributing Company, Inc. is a much lower intensity land use than had previously been proposed, a high school or church.

The petitioners believe that they have completed due diligence to determine if an adequate supply of land exists for their beverage distribution business. There answer is NO. Hence, due to an inadequate supply of suitably designated land being available in the community, the proposed *Growth Plan* Amendment **MEETS** this review criterion.

7. The community or area, as defined by the presiding body, will derive benefits from the proposed amendment.

**This is an infill / redevelopment project** in a transitional area of Orchard Mesa. The site location at the intersection of the U.S. Highway 50 and its frontage road and 28½ Road, makes this intersection have safe convenient access for both Commercial and residential derived traffic. Currently, much commercial oriented traffic uses the frontage road. Central Distributing Company's proposed use of the 9.948-acre tract for a beverage distribution center, will not add many trips to the frontage road as indicated in the Traffic Impact section of the General Project Report. If a single family residential development was built on the whole 23-acre site, much more traffic would be place on the frontage road than is what is proposed.

Central Distributing Company's relocation to this site will act as a buffer between much higher intensity commercial uses along Highway 50 and the existing residential subdivisions. The Commercial land use proposed is located adjacent to other existing Commercial land uses. The existing residential areas surrounding the subject property will be provided additional buffering by the petitioner proposing to develop a similar residential subdivision on the remaining property. These factors will mitigate the impact of the proposed Commercial land use to the surrounding residential neighborhoods.

The approval of this *Growth Plan* Amendment will also enhance and increase the use of the City's, County's and Federal investment in the utility infrastructure and transportation facilities. The proposed *Growth Plan* Amendment **MEETS** this review criterion.

## Rezone/Zone of Annexation Criteria

The following questions/criteria, found in Section 2.6 of the 2000 *Grand Junction Zoning and Development Code (Code)*, must be answered in reviewing rezone and/or zone of annexation applications. The requested Zone of Annexation is to General Commercial (C-2) for the 9.948-acre portion of the subject property, and Residential Multiple Family 5 dwelling units per acre (RMF-5) for the remainder of the subject property (13.538-acres).

In Section 3.4.E, of the 2000 *City of Grand Junction Zoning and Development Code* states that the General Commercial (C-2) purpose is:

"To provide for commercial activities such as repair shops, wholesale businesses, warehousing and retail sales with limited outdoor display of goods and even more limited outdoor operations."

The proposed land use for the 9.948-acre portion of the subject property is for Central Distributing, Inc.'s beverage distribution business, which is a warehousing and wholesale business.

The Zoning Dimensional Standards for the C-2 zone from the 2000 *Zoning and Development Code* are found in Table 3. Any development of the subject property will be required to submit a Site Plan for review by the City of Grand Junction to determine compliance with the C-2 zoning bulk requirements found in the *Zoning and Development Code*.

Table 3  
BULK REQUIREMENTS FOR THE C-2 ZONE

Minimum Lot Size	0.5-acre, except where a continuous commercial is subdivided
Minimum Lot Width	50-feet
Maximum Height of Structures	40 feet
Minimum Front Yard Setback	15 feet - Principal Structure 25 feet - Accessory Structure
Side Yard Setback	0 feet 10 feet/ 5 feet if abutting a residential zone or use
Rear Yard Setback	10-feet for Principal & Accessory Buildings
Maximum Floor Area Ration (FAR)	2.00

Source: 2000 City of Grand Junction *Zoning and Development Code*

In Section 3.3.F, of the 2000 *City of Grand Junction Zoning and Development Code* states that the Residential Multiple Family 5 dwelling units per acre (RMF-5) purpose is

"To provide for medium density, detached and attached dwellings, duplexes, townhomes in areas where large-lot development is discouraged and adequate Public/Institutional facilities are available. RMF-5 supports the *GROWTH PLAN'S* principals of concentrating urban growth and reinforcing existing community centers. A mix of dwelling units is allowed in this district. This district implements the *Residential Medium* future land use classification of the *GROWTH PLAN*."

The Zoning Dimensional Standards for the RMF-5 zone from the 2000 *Zoning and Development Code* are found in Table 4. The residential development which will take place on the remaining 12.87-acre portion of the subject property will be required to use the dimensional standards for the RMF-5 zone district.

Section 2.6.A, Approval Criteria, is used in order to maintain internal consistency between the *Code* and the Zoning Maps, map amendments. The criteria is as follows:

1. The existing zoning was in error at the time of adoption;

No information exists at the City of Grand Junction, nor Mesa County, to indicate that the existing RSF-4 zoning is in error.

Table 4  
Zoning Dimensional Standards  
RMF-5 Zone District

Minimum Lot Size	6,500 square feet
Minimum Lot Width	60 feet
Minimum Street Frontage	20 feet
Maximum Height of Structures	35 feet
Minimum Front Yard Setback (Principal/Accessory)	20 feet/25 feet
Side Yard Setback (Principal/Accessory)	5 feet/3 feet
Rear Yard Setback (Principal/Accessory)	25 feet/5 feet
Maximum Lot Coverage (%)	60
Floor Area Ratio (FAR)	0.40 for non-residential uses

Source: Table 3.2 of the 2000 City of Grand Junction Zoning and Development Code

2. There has been a change of character in the neighborhood due to installation of Public facilities, other zone changes, new growth trends, deterioration, development transitions, etc.;
- The 1996 adopted *Growth Plan* had a land use designation for the subject property as "Public/Institutional." The subject property was designated as a future high school land use in the 1995 adopted *Orchard Mesa Neighborhood Plan*. The May 8, 2003 updated *Growth Plan* revised numerous "Public/Institutional" land use designations. The subject property is one of those locations that the land use designation was revised from "Public/Institutional" to Residential-Medium Density (4.0 - 7.9 du/a). The subject property is located in a transitional area. As shown in Figure 3, land use in the surrounding area includes Mesa County Fairgrounds, Sorter Construction, the Big J RV Park, as well as single family developments. The design of the property into the proposed configuration provides for an additional buffer of the residential areas, while allowing a Commercial land use to operate adjacent to other existing development with similar intensity of use.

The 1995 *Orchard Mesa Neighborhood Plan* and the 1996 *Growth Plan* indicated that the subject property was also located in an area of transition, with the *Orchard Mesa Neighborhood Plan* land use designation as a high school site, and the *Growth Plan* designation of a "Public/Institutional" land use. The *Growth Plan* defines the "Public/Institutional" land use as follows:

"Public and quasi-public uses, such as schools, government facilities, cemeteries, hospitals, and churches. Prior to conversion of these areas to private, non-institutional uses, a land use amendment will be required pursuant to the process established in the development code. These uses may be permitted in other categories if developed consistently with zoning regulations and compatibly with adjacent development."

Although the land use proposed, which is the relocation of Central Distributing, Inc.'s beverage distribution facility, is not a "Public or Institutional land use, the proposed "Commercial" land use intensity will be actually less intensive than a church, school or hospital allowed in the "Public/ Institutional" land use classification.

These has not been a change of character of this land. As was previously recognized by the *Orchard Mesa Plan* and the *Growth Plan*, the subject property is in an transitional land use area between Commercial land uses and Residential land uses. U.S. Highway 50 and it's frontage road abut all of the southern boundary of the subject property. This gives the subject property enhanced and safe access for not only the existing higher intensity land uses, but for the subject property as well.

The zone of annexation to General Commercial (C-2) and Residential Multiple Family 5 dwelling units per acre (RMF-5) Zone of Annexation **MEETS** this review criterion.

3. The proposed rezone is compatible with the neighborhood and will not create adverse impacts such as: reduced 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;

Please review Criterion 3 of Section 2.5.C, *Growth Plan* Amendment (page 9), to determine if the rezone to General Commercial (C-2) and Residential Multiple Family 5 dwelling units per acre (RMF-5) is compatible with the surrounding area.

4. The proposal conforms with and furthers the goals and policies of the *Growth Plan*, other adopted plans, and the policies, the requirements of this Code, and other City regulations and guidelines;

Overall, the *Growth Plan* amendment and the Zone of Annexation to General Commercial (C-2) and Residential Multiple Family 5 dwelling units per acre (RMF-5) **MEETS** the numerous goals, but not with the Land-Use Plan maps of the *Growth Plan*. The information submitted with this application, indicates that the 2003 *Growth Plan* designation of the subject property for Residential-Medium development is probably in error. As was stated previously, the 1996 adopted *Growth Plan* had a land use designation for the subject property as "Public/Institutional." The subject property was designated as a future high school land use in the 1995 adopted *Orchard Mesa Neighborhood Plan*. The May 8, 2003 updated *Growth Plan* revised numerous "Public/Institutional" land use designations. The subject property is one of those locations that the land use designation was revised from "Public/Institutional" to Residential-Medium Density (4.0 - 7.9 du/a).

A detailed review of both *Plan*'s are found in Criterion D of Section 2.5, *Growth Plan* Amendment (pages 9-10), to determine if a *Growth Plan* amendment should be approved is found in this General Project Report.

5. Adequate Public facilities and services are available or will be made available concurrent with the projected impacts of the proposed development;

All urban services are available to the site, and have sufficient capacity for the urban density allowed by the proposed C-2 and RMF-5 zone. The subject property is currently served by:

Xcel Energy – Electric and Natural Gas  
Orchard Mesa Irrigation District – Irrigation Water  
Orchard Mesa Sanitation District – Sanitary Sewer  
Grand Junction Fire Department – Fire Protection

Qwest – Telephone  
Bresnan Communications – Cable Television  
Ute Water District – Potable Water  
Grand Junction Police – Police Protection

This application **MEETS** this criterion by being provided with Public and community facilities that are adequate to serve the type and scope of the land uses proposed.

6. There is not an adequate supply of land available in the neighborhood and surrounding area to accommodate the zoning and community needs; and,

Please review Criterion 6 of Section 2.5.C, *Growth Plan* Amendment (page 9), to determine if a *Growth Plan* amendment should be approved for community need of the proposed General Commercial (C-2) and Residential Multiple Family 5 dwelling units per acre (RMF-5) Zone of Annexation. This application **MEETS** this criterion.

7. The community or neighborhood will benefit from the proposed zone.

The proposed *Growth Plan* amendment and General Commercial (C-2) and Residential Multiple Family 5 dwelling units per acre (RMF-5) Zone of Annexation are consistent with many of the goals and policies of the *Growth Plan*. By meeting these goals and policies the implementation of the *Growth Plan* occurs, which benefits the community as a whole. This application **MEETS** this criterion.

## Conclusion

This *Growth Plan* Amendment application is for a 9.948-acre portion of the subject property from Residential-Medium to Commercial; and, a zone of annexation to General Commercial (C-2) and Residential Multiple Family 5 dwelling units per acre (RMF-5) for the subject property. The proposed land uses for the property is the relocation of Central distributing, Inc.'s beverage distribution center and an residential subdivision. The *Growth Plan* Amendment, and zone of annexation C-2 and RMF-5 **MEETS** Section 2.5, *Growth Plan* Amendment, and Section 2.6, Rezone found in the 2000 *City of Grand Junction Zoning and Development Code*. This application also meets numerous goals and policies of the *City of Grand Junction Growth Plan* and the *Orchard Mesa Neighborhood Plan*. We respectfully request your approval of the *Growth Plan* Amendment to Commercial, and rezone to C-2 and RMF-5.



Kathy

Community Development Department

# RESPONSE TO REVIEW COMMENTS

RECEIVED

OCT 14 2003

Grand Bud, LLC Annexation & GPA  
FILE #GPA-2003-184

COMMUNITY DEVELOPMENT DEPT.

COMMENTS DATED:	September 25, 2003
LOCATION:	28½ Road @ Hwy 50
PETITIONER:	Grand Bud, LLC – Mike or Marc Cadez
PETITIONER'S ADDRESS/TELEPHONE:	P.O. Box 489, 243-0024
PETITIONER'S REPRESENTATIVE:	Development Concepts Inc – Mike Joyce, AICP, 255-1131
STAFF REPRESENTATIVE:	Senta Costello

**NOTE: The Petitioner Is Required To SUBMIT And LABEL A Response To Comment For Each Agency Or Individual Who Has Requested Additional Information Or Revised Plans, Including The City, On Or Before 5:00 P.M., December 30, 2003.**

CITY COMMUNITY DEVELOPMENT  
Kathy Portner

9/24/03  
244-1446

- As was noted on the submittal checklist, the traffic impact analysis must consider the most intensive uses allowed with a Commercial land use designation. It cannot be specific to Central Distributings facility since there are no guarantees of that use now or in the future.

Response: The petitioners have offered to provide a guarantee that if the *Growth Plan* Amendment is approved, only the relocation of Central Distributing will occur on the Commercial designated land use property. The petitioner's believe that the most intense commercial use of the property is the relocation of Central Distributing. To complete a Traffic Impact Study (TIS) for a possible land use of the property, which is not intended just does not make any sense to the petitioner's. No review comments from either the City Development Engineer, or the City Transportation Engineer concerning traffic issues were noted. The analysis by Baker indicates that the impact of the proposed development of the subject property does not reach the threshold for a TIS. The petitioner's consulting team believes that existing data and projections made through our traffic review indicates that traffic issues will be minimal with this development.

- The analysis for the Growth Plan Amendment and zoning must also be general to the commercial designation and the proposed C-2 and RMF-5 zoning. The analysis cannot be based on Central Distributings proposed specific use of the property.

Response: For the most part in the General Project Report, the analysis for this application is general in nature for the reasons for a *Growth Plan* Amendment and rezoning to C-2 and RMF-5. The petitioner has demonstrated in the General Project

Report that the *Orchard Mesa Plan* (1995) designated the subject property for a higher intensity land use, a future high school. The General Project Report also has demonstrated that the western abutting Commercial designated land use property has a high intensity construction company land use.

The references to Central Distributing Company's proposed use of the property cannot be left out of the analysis. Planners talk about property in general terms... "We have no guarantee that this property will develop as proposed by the petitioner." In this case, Central Distributing bought this land, and completed much land planning and other due diligence to propose to develop a portion of the subject property for the relocation of Central Distributing. The petitioners have also offered to provide a guarantee that if the *Growth Plan* Amendment is approved, only the relocation of Central Distributing will occur on the Commercial designated land use property.

3. Cost of land is not justification for showing an inadequate supply of land with the Commercial designation.

Response: Cost of land was **not** the **major** justification for an inadequate supply of land with the commercial designation, although was a factor in making a sound business decision. It was noted in the General Project Report that during the petitioners search for suitable land for their beverage distribution business, numerous parcels of land were reviewed against the petitioner's location criteria. Foremost in their site selection criteria were parcels between 8 to 10-acres in size, which had convenient and safe access to a major transportation corridor. The petitioners worked with several Realtors. After reviewing nearly 50 possible locations, nine (9) sites were reviewed in detail, which possibly could meet the petitioners' criteria.

Ultimately, the subject property was chosen as having met the most of the petitioners' criteria. Where cost became a factor is that not many 8 to 10- acre sites available. Many of the review sites would have required the petitioner to combine previously platted industrial park lots, which cause the selling price to escalate to a level, which did not make the relocation feasible. As with any private enterprise, economic decisions such as cost of land, cost of development, etc. are factors in making feasible business decisions. Hence, an inadequate supply of land with the Commercial land use designation meeting Central Distributing, Inc.'s needs exists.

**CITY DEVELOPMENT ENGINEER**  
**Rick Dorris**

**9/24/03**  
**256-4034**

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1. No comment on the GPA.

Response: No response required.

2. The requirements for the preliminary and final plans will be extensive. Please refer to my general meeting notes from April 3, 2003.

Response: No response required.

**CITY ATTORNEY**  
**Jamie Krieling**

**9/24/03**  
**256-4032**

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No comments.

Response: No response required.

**CITY FIRE DEPARTMENT**  
**Hank Masterson**

**9/15/03**  
**244-1414**

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- 1). Complete a fire flow form for the commercial warehouse. Section A is completed by the petitioner, section B by the public water system provider. Return the completed form to the Community Development Department. Call the Fire Department at 244-1414 if you have questions.

Response: A fire flow form for the commercial warehouse has been submitted to Ute Water for their completion. In visiting with Ed Tolan, PE of Ute Water, he indicates that Ute Water is currently installing an 8-inch line in 28½ Road. Mr. Tolan indicated that no fire flow information on this new line can be provided for at least 2-weeks until completion of this line. At that time, a completed Fire flow Form will be submitted to the Fire Department.

- 2). The Fire Department has no objections to the Growth Plan Amendment, Annexation, and proposed zoning, provided the required fire flow is available for the warehouse building.

Response: No response required.

**MESA COUNTY PLANNING DEPARTMENT**  
**Christie Barton**

**9/11/03**  
**244-1867**

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Comments are from the Development Review staff meeting, including Planning, Public Works and RTPO.

The proposal is inconsistent with the Future Land Use Map. It should continue as residential as commercial uses do not blend in well with the proposed commercial development.

Response: The request is being made to amend the *Growth Plan* Future Land Use Map. The 23.486-acre subject property is designated for Residential-Medium land use on the *Growth Plan*. The subject property is located adjacent to a Commercial land use designation. The current land use of the Commercial designated property is a construction company (Sorter Construction), which is high intensity and noisy land use. The proposed *Growth Plan* amendment to Commercial for 9.948-acres of the 23.486-acre property, and development of th indoor warehousing facility, actually provides a better buffer for the remaining property, which remains as a Residential-Medium density land use, and is proposed to be developed as a residential subdivision. The *Zoning and Development Code* also requires buffer areas between residential and commercial uses to insure compatibility.

Grand Bud, LLC, through the relocation of Central Distributing, Inc. to this location will actually have less traffic being generated, and will have indoor operations which makes the location of a commercial land use and a residential land use more compatible. The petitioners have offered to provide the City a guarantee that the relocation of Central Distributing warehousing operation will be the only commercial development which will take place on the 9.948-acre portion of the property.

**Comments not available as of 9/25/03:**

City Transportation Engineer.

City Utility Engineer

11.11.03

Dear Cathy,

I have recently heard of the Grand Bud LHC proposal and would like to register my opposition as my neighborhood will be greatly impacted by the presence of a business so close by. Please do not rezone this area.

Thank you.

Harriet Wolford

**W** Harriet Wolford  
2863 Pinehurst Ln.  
Grand Junction, Co. 81503

11/03/03

**Gerrie Babion**  
221 Round Rock Cir  
Grand Jct CO 81503

Kathy Portner  
Planning Office  
Mesa County

Re: Grand Bud, LLC  
Proposal  
28 1/2 Rd. + Hw 50

Dear Kathy:

I want to voice my objection to the above referenced proposal as it would adversely affect our neighborhood. We are a relatively new subdivision with lots of families with children.

The added traffic that a commercial zoning would bring would be dangerous to our children and we "old" folks as well. It would also affect our property values. The existing business "sorter construction" is a good buffer between residential & the new existing commercial zoning.

I thank you,

Gerrie Babion

AKA Sheila H. Babion

RECEIVED

NOV 12 2003

COMMUNITY DEVELOPMENT  
DEPT.

204 Round Rock Circle  
Grand Junction, CO 81503  
November 7, 2003

Kathy Portner  
250 N 5<sup>th</sup> Street  
Grand Junction, CO 81503

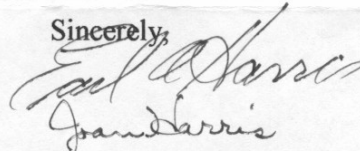
RE: Proposed Zone Change of Property on NW Corner of 28 ½ Road and Hwy. 50

Dear Ms. Portner:

We would like to register our opposition to the proposed zone change of the property on the Northwest corner of 28 ½ Road and Highway 50. We purchased a new home in the Granite Springs subdivision last November. We accepted the commercial businesses farther west in the area, because we felt we had a nice buffer with the residential zoning of this location. Our home was a huge investment for us, and we feel a warehouse on this property will greatly reduce our property values. The increased truck traffic to and from the warehouse will cause a tremendous amount of noise and congestion, day and night.

With so many residences all around this property, the negative impact would be enormous. Please remember all of us when considering the zone change that would benefit one family.

Sincerely,



Earl and Joan Harris

November 6, 2003

Kathy Portner  
250 N 5<sup>th</sup> Street  
Grand Junction CO 81501

REF: Grand Bud LLC proposal *GPA-2003-184*

This proposal is bogus. How can this county & city allow purchase of property under fraudulent pretences?

These people are not stupid, they bought this property knowing it was zoned as residential. They bought it cheaper & with residential tax base thinking that once it's a done deal, they would have no one to tell them how to use the property. Little did they realize the neighborhood would rise up in horror.

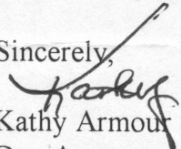
There are other parcels of land in this valley designated for businesses, some on either side of the City Market store & on Orchard Mesa further west. I'm not sure they are available for sale, but these individuals should have done more research before they obtained this property.

The type of business being proposed is way larger than any current businesses in the area. It would create major traffic hazards for a "young family" oriented neighborhood as well as creating noise & light pollution that most of our "retired" would have a problem with. The quiet country atmospheres that we now enjoy would be gone forever. We definitely do not need this type of business this close to residential neighborhoods.

My concerns are like those of the planning commission & I am totally against this proposal.

However, I do feel that if this is allowed to proceed, these people need to be severely fined for noncompliant use of property.

Sincerely,

  
Kathy Armour  
Dan Armour  
2682 1/2 Pinehurst Ln



November 3, 2003

Ms. Kathy Portner  
Grand Junction Planning Commission  
250 North 5<sup>th</sup> Street  
Grand Junction, CO 81501

RECEIVED

NOV 05 2003

COMMUNITY DEVELOPMENT  
DEPT.

regarding: Grand Bud, LLC proposal

Dear Ms. Portner:

I'm writing to oppose the proposed zoning change of property on the northwest corner of Highway 50 and 28 ½ Road on Orchard Mesa.

My wife and I recently moved to the area from New York. When we bought our house in Granite Springs last year, we checked into the zoning of the open land adjacent to our subdivision. Based on the residential zoning we found, we decided to buy in Granite Springs.

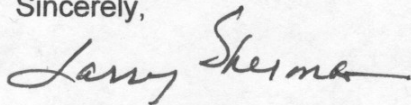
I would like to ask what specifically has changed to cause the city council to agree to change the zoning.

Living just east of 28 ½ Road, our environment will be negatively affected by the presence of a large warehouse on that land. The negative impact will result in reduced property values from increased traffic. These roads are not wide and large trucks will make them very hard to travel.

I am now retired and the investment in my home represents a large part of my savings.

There are certainly areas that are already zoned heavy commercial that could be used rather than change the zoning here. We are a residential community and not only do we derive no benefit from the change, we are adversely affected.

Sincerely,



Larry Sherman  
2856 Pinehurst Lane  
Grand Junction, CO 81503  
(970) 241-2997

November 4, 2003

Ms. Kathy Portner  
250 N. 5<sup>th</sup> Street  
Grand Junction, CO 81503

RECEIVED

NOV 05 2003

COMMUNITY DEVELOPMENT  
DEPT.

Dear Ms. Portner,

I am writing with concern over the proposal to construct a warehouse at the location of 28 ½ Road and Highway 50 on the NW corner. I understand the proposal to do this is termed the Grand Bud, LLC GPA-2003-184. I am against this action for the following reasons:

**Property values** in the proximity of the project would drop. As this is a residential area, this commercial venture would be unattractive to future homeowners and would make the value of my home investment much less desirable.

**Traffic problems** would undoubtedly result from the resulting volume in truck traffic. I understand business hours at this warehouse would be 7:00 a.m. to 6:00 p.m. Monday through Friday, which basically means unwanted traffic 24/7. The frontage road serving the proposed warehouse is only two lanes with no shoulders for walkers, joggers or cyclists. Children attending Lincoln Orchard Mesa Elementary School on B ½ Road will encounter increased commercial truck traffic, posing a safety issue. We already have congestion on the frontage road that runs parallel to Highway 50 from 28 ½ Road to the City Market area. We certainly don't need any more.

**Encroachment of commercial into residential areas** is always a lose/lose proposition for homeowners expecting to enjoy their neighborhood and feel their families benefit from being in a safe environment. The location of this proposed warehouse defeats this expectation.

**Increase in lighting, noise, and pollution** are detrimental to our standard and quality of lifestyle. I feel sure there are other suitable locations for this warehouse in the Grand Junction area that would be far less disruptive to our residential community. Theirs does not fit in with the plan laid out by the Growth Plan Future Land Use in the Orchard Mesa Area.

Please convey my concerns and objections to the city council.

Sincerely,

Richard J. Trigg / Ann E. Trigg

Richard J. and Ann E. Trigg, Homeowners  
2876 Pinehurst Lane, Grand Junction, CO 81503 970-255-7004

KATHY PORTNER  
CITY OF GRAND JCT.  
250 N 5<sup>TH</sup> ST.  
GRAND JCT., CO. 81503

RECEIVED

NOV 05 2003

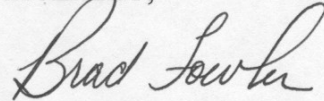
COMMUNITY DEVELOPMENT  
DEPT.

DEAR KATHY,

I AM WRITING THIS NOTE BECAUSE OF THE CONCERN FOR THE PROPOSED ZONE CHANGE ON THE NW CORNER OF 28 1/2 RD AND HWY 50. MY NAME IS BRAD FOWLER AND I LIVE ON 28 1/2 RD IN GRANITE SPRINGS SUB DIVISION. THE TRAFFIC ON 28 1/2 RD IS ALREADY BAD ENOUGH WITHOUT 18 WHEELERS TRAVELING UP AND DOWN THE STREET 24-7. ALSO I AM CONCERNED OF NOISE AND FLOOD LIGHTS SECURING THE AREA. PLEASE NOTIFY ME OF THE NEXT PLANNING NOTICE WHEN THE GRAND BUD, LLC PROPOSAL WILL BE DISCUSSED. THANKYOU

BRAD FOWLER  
2853 TYNDALE CT  
GRAND JCT, CO 81503  
970-242-5838  
555-242-5838

SINCERELY,



BRAD FOWLER

2832 ½ B 3/10 Road  
Grand Junction, CO 81503  
November 7, 2003

Kathy Portner  
Planning Office  
250 N. 5<sup>th</sup> Street  
Grand Junction, CO 81503

Re: Grand Bud, LLC Proposal

Dear Ms. Portner:

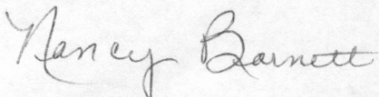
We wish to express our opposition to the above proposal. This parcel of land is zoned residential. Most of us in this development would not have purchased homes here if there had been any mention of rezoning the parcel on 50 highway for heavy business usage.

A building of this sort creates a lot of heavy traffic at all hours of the day and night. This would create a noise problem in the neighborhood. Also all the lighting required in the evening and night hours would not be beneficial to our area.

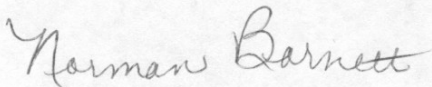
Frontage road is a narrow road. It would not withstand heavy traffic. If trucks were to cut through on 28 ½ Road and B ½ Road this would create a traffic hazard. As you know this would create traffic by Orchard Mesa Elementary School.

The increased noise and traffic would make less than ideal living conditions. In addition, our property values will be affected. The homes in Arrowhead Acres are all fairly new. No one would have purchased these homes if there had been a prospect of industrial zoning nearby.

Sincerely,



Nancy Barnett



Norman Barnett

November 9, 2003

To Whom It May Concern:

We are writing this letter to voice our opposition to the Grand Bud, LLC GPA-2003-184 proposal. We live in the Granite Springs subdivision, at the corner of 28 ½ and B Road. The impact of building a warehouse on the 10 acres at the west side of this parcel would negatively affect property values in the area, and the increased truck traffic would be a safety hazard. There have already been numerous accidents at the intersection of Highway 50 and 28 ½ Road in the past year we have lived here.

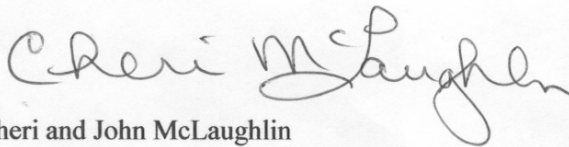
We have lived on Orchard Mesa for the past 22 years. We prefer this area of town because of its agricultural influence and 'country' feel. We were involved in the development of the Orchard Mesa Growth Plan. The growth plan was developed in part to prevent commercial use in areas that have been developed or zoned as residential. This parcel of land was zoned RSF-4 to prevent over crowding and over building, and this parcel of land was purchased as RSF-4. If the Cadez family had tried to buy land zoned for commercial use, they would have had to pay more money than they did for this parcel. It seems very unfair to devalue so many others' property so that a few may prosper. The warehouse proposed by the Cadez' should be considered heavy commercial, and that does not fit in the middle of residentially zoned areas.

Please look at the traffic problems this warehouse could cause. Would these trucks drive on the frontage road, 28 ½ Road, B Road, B ½ Road, or 29 Road? The majority of these roads are too narrow and do not have intersections that are easy to negotiate with large trucks. It would help you to realize the potential dangers if you took a drive on the Highway out to 28 ½ Road, then turned left on to the frontage road and drive back past the land under consideration down to the intersection by City Market.

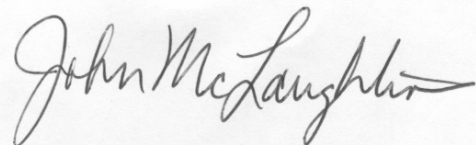
Please deny this request to change the property from Residential Medium RSF-4 to Heavy Commercial C-2 and RMF-5. There are many suitable areas already zoned commercial that are available for this warehouse in the Grand Junction area. It does not fit with the overall plan laid out by the Growth Plan Future Land Use in the Orchard Mesa area.

Thank you for your attention to this matter,

Sincerely,



Cheri and John McLaughlin



RE - Grand Bud, LLC GPA 2003-184  
25 1/2 Rd + Hwy 50

Planning Commission  
250 Nth 5th  
GTT, CO 81501

To the commission and the City Council,  
Please add our objections to  
what I hope is a cacophonous  
symphony of complaints.

The proposed zoning change  
will affect both the quiet enjoyment  
of my home and my lifestyle.  
We have been subjected to back-up  
hours, heavy equip, loud music ect  
for 4 years. As a result, higher  
taxes, and you do not represent  
me, although your actions have  
been the cause of the my dilemma.

Now, you want to add heavy traffic and noise to that.

The small area between the frontage road and Hwy 50 at 28½ Rd will hardly accommodate the truck traffic you plan to add. Vision is very restricted from the frontage Rd, North on 28½. This is a residential area, please keep it that way.

Mrs. Ruth Beauchamp  
230 28½ Rd  
GJT CO 81503

# Northeast Christian Church

Northeast  
Christian  
Church  
exists to  
WIN people  
to a  
relationship  
with Jesus  
Christ and  
His Church,  
BUILD  
them up into  
mature  
Christian  
servants,  
and SEND  
them to  
reach others  
for Christ.

Date: November 12, 2003  
To: Kathy Portner  
From: Richard & Laurie Godsil  
Subject: Grand Bud, LLC proposal

Ms. Portner,

I live at 2829 B 3/10 Road and I received an announcement of a proposed change to the zoning area directly behind my house.

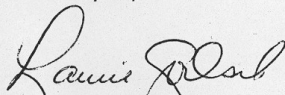
Currently, the land behind my house is designated residential RSF-4 and I saw no problem with the zoning when I had my house built, as it would help the property value of my house. With the cost of housing going up each year I figured my property value would continue to rise with the building of more houses behind my property.

As my husband and I are independent ministers, changing the property to Heavy Commercial C-2, would hinder our investment and retirement plans. We give many hours to the community as well as working with teens and children in the valley. We do not want to have to reconsider staying in the area due to a change in the zoning. We also feel that this zoning change would cause more traffic problems, provide an unsafe area for our children and the elderly and would not provide for a positive growth plan for Orchard Mesa.

I believe there are other parcels of land further south or near City Market where this warehouse could be built without affecting residential areas.

My husband will be attending the meeting on November 19th so he can speak up for us, as well as the residents in our area.

Thank you,



Laurie Godsil  
970-243-6672 office  
970-523-7298 home  
970-261-3773 cell

2001 Patterson Road • Grand Junction, CO 81506 • (970) 243-6672



# Northeast Christian Church

Date: November 12, 2003  
To: Kathy Portner  
From: Richard & Laurie Godsil  
Subject: Grand Bud, LLC proposal

Ms. Portner,

I live at 2829 B 3/10 Road and I received an announcement of a proposed change to the zoning area directly behind my house.

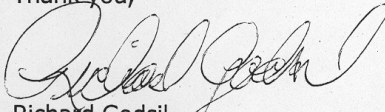
Currently, the land behind my house is designated residential RSF-4 and I saw no problem with the zoning when I had my house built, as it would help the property value of my house. With the cost of housing going up each year I figured my property value would continue to rise with the building of more houses behind my property.

As an independent minister, changing the property to Heavy Commercial C-2, would hinder my investment and retirement plans. I do give many hours to the community as well as working with teens in the valley. I do not want to have to reconsider staying in the area due to a change in the zoning. I also feel that this zoning change would cause more traffic problems, provide an unsafe area for our children and the elderly and would not provide for a positive growth plan for Orchard Mesa.

I believe there are other parcels of land further south or near City Market where this warehouse could be built without affecting residential areas.

I will be attending the meeting on November 19th so I can speak up for my wife and I, as well as the residents in our area.

Thank you,



Richard Godsil  
Pastor to Students  
970-243-6672 office  
970-523-7298 home  
970-261-3773 cell

Northeast  
Christian  
Church  
exists to  
WIN people  
to a  
relationship  
with Jesus  
Christ and  
His Church,  
BUILD  
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mature  
Christian  
servants,  
and SEND  
them to  
reach others  
for Christ.

2001 Patterson Road • Grand Junction, CO 81506 • (970) 243-6672

Weldon & Jan Allen  
206 Round Rock Circle  
Grand Junction, CO 81503

November 18, 2003

Kathy Portner  
Grand Junction City Planning Office  
250 N 5<sup>th</sup>  
Grand Junction, CO 81501

Dear Ms. Portner;

This letter is being submitted to you expressing opposition to the proposed Grand Bud, LLC warehouse at 28 ½ Road and Highway 50 for the following reasons:

- There are numerous commercial sites available in the valley. The need to change the use of this property from residential to commercial is unwarranted.
- If approved we are very concerned about our property values being effected. When we built our home in Granite Springs Sub Division we ask the planning department what the parcel in question was zoned as. The fact that it was zoned residential was one of the major determining factors why we chose to build where we did. Had the parcel in question been zoned commercial we would **not** have built in Granite Springs.
- The light pollution from this site would be unacceptable. Orchard Mesa has great views and the night viewing is wonderful. This complex would affect this quality of life.
- There will be increased noise pollution from the ingress and egress of large delivery trucks.
- Traffic conflicts will increase. The mixing of delivery trucks with residential traffic and delivery trucks with children very much concerns us.
- There will be an increase in air pollution. One of the greatest quality of life benefits of living on Orchard Mesa is the fact that we are above the inversion that sets in the valley. I have been around diesel equipment all of my life and I know intuitively that delivery trucks will effect the air quality with their diesel engines.

We ask that the City Council not allow this change in use of this property. It is the best interest of the public to leave this parcel as a residential parcel.

Your consideration in our concerns is greatly appreciated.

Respectfully Submitted;

Weldon and Jan Allen  
Caring citizens of the Grand Valley

November 14, 2003

Ms. Kathy Portner  
Department of Planning  
250 N 5th. Street  
Grand Junction, CO 81503

Dear Ms. Portner:

This letter is in reference to the proposed zoning change on the corner of 28.5 Road and Hwy 50, referenced as the: Grand Bud, LLC Proposal. We would appreciate your making our views known to the Grand Junction City Council at their November 19, 2003, meeting. It is our view that following issues make the proposed change inadvisable.

The proposed development is not compatible with the way the area is currently developing as a prime major residential community. Also it is not consistent with the Orchard Mesa Land Use Plan that was developed in the past and currently in place. When one considers the other possible uses, the proposed zoning change could have some very significant neighborhood impacts would be possible.

There are certainly several other locations in the area that are better suited to the proposed development that would meet the developers needs and not impact on residential neighborhoods.

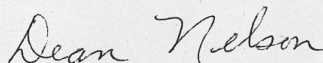
We have lived in the Granite Springs Subdivision for over 4 years and the housing growth in this general area has been extensive. The amount of traffic on 28.5 road, B Road and the north side service road along Hwy 50 has increased very significantly. Since our subdivision alone will have over 60 new homes constructed in the next couple of years traffic and pedestrian use of the roads will significantly increase. This will make the intersection of B Road, 28.5 Road, Hwy 50 and the Service Road congested and difficult to navigate. Heavy vehicle traffic, that would be added from the proposed land use change, and the fact that the intersection is not designed to accommodate large vehicles would make for significant problems. Heavy vehicle traffic on the Service Road would also create potential safety problems for the many people that walk and bike on this road.

As, we are sure, you are aware there is a proposed development planned for the West end of the Service Road just across the road adjacent to the City Market. This will certainly increase the traffic and hazards on the Service Road which would be exasperated by traffic using a warehouse facility.

When one considers the problems that would be produced from extra traffic, truck movements on the property, loading noises and night lighting next to residential areas on a 24/7 basis, this proposed change is not a benefit to the neighborhood. Add to this, the change would not be consistent with the long range land use plan and there are other areas available, there is no need to modify the Land Use Plan.

We thank you for your time.

Cordially,



Dean & Diane Nelson  
2864 Pinehurst Lane  
Grand Junction, CO 81503

November 13, 2003

From:  
Mike & Bambi Johnson  
2831 B 3/10 Rd.  
Grand Junction, CO 81503

To:  
Kathy Portner  
250 N. 5<sup>th</sup> Street  
Grand Junction, CO 81503

Concerning: Grand Bud LLC Proposal

Kathy,

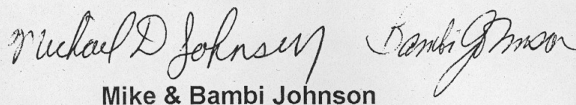
We are residents of Arrowhead subdivision. Our house in fact is next to the access road "Tenderfoot Rd" which we understand will be accessible to whatever is developed on the property located at 28 1/2 Road and Highway 50.

Listed below are our main concerns:

- Encroachment of commercial into residential. At this point Sorter Construction provides a good buffer between commercial and residential. They keep their buildings at the West End of the property and the rest near the residential area is left vacant or utilized for stockpiling of materials. The vacant land has been planted in grass hay (a nice buffer). The Cadez family says they are not interested in subdividing the remaining residential property and would leave it as a buffer. Possibly this could change if they want to sell it to a developer. Then what would happen to the buffer?
- Increased Light Pollution – Lighting at the warehouse will be a large impact. Even if the warehouse doesn't run 24 – 7 it will have outdoor lights on all night.
- Property values – Due to the close proximity of the warehouse, property values will drop.

We relocated here from Cincinnati a year ago. We were told at that time their would probably be some type of development of the land behind our home. That's why the access road was built (again next to our home). Our thoughts were that it would be residential building. Thus the 3 points listed above would not apply. Now this could change if this proposal is approved.

Please take our concerns into consideration.  
Thanks for your time and support,

  
Mike & Bambi Johnson

228 – 28 ½ Road  
Grand Junction, Colorado 81503

November 14, 2003

Kathy Portner, Planning Department  
City Councilmen  
250 N. 5<sup>th</sup> Street  
Grand Junction, Colorado 81501

RE: Grand Bud, LLC Proposal

Dear Ms. Portner and City Councilmen:

We are very concerned about the proposed zone change of the property on the corner of 28 ½ Road and Highway 50 on Orchard Mesa. This property was changed from Public to Residential with the update to the Growth Plan, which is consistent with the surrounding area. Sorter Construction provides a good buffer between Commercial and Residential. They have no plans to extend their operations beyond what they are already using the land for according to Mr. Ogle. Several acres on the East side of their property have been planted to pasture making a wonderful buffer for any residential development of the property in question.

Commercial use of this area would increase traffic on the Frontage Road, 28 ½ Road, B Road and B ½ Road. There is very little commercial traffic on 28 ½ Road at the present time. The large delivery trucks used by Central Distributing would probably use this road to access the North and North East areas. 18-wheelers would use B ½ Road, 28 ½ Road, 29 Road and B Road to make deliveries to the warehouse. These roads are narrow. Many children live and play along these roads. Lincoln Orchard Mesa Elementary School is on a narrow section of B ½ Road. There are no sidewalks from B ¼ Road to B Road on 28 ½ Road although there are houses lining both sides of this street. Access to Highway 50 is very tricky at both intersections with the Frontage Road. Trucks cannot make these turns without going into the wrong lane and completely blocking the intersections. Many accidents have already occurred at the intersection at the City Market Store (27 ¾ Road) and Highway 50. Other intersections where trucks cannot make turns without going into the wrong lane are 28 ½ Road at B ½ Road, B Road at 29 Road and 29 Road at B ½ Road.

Major residential subdivisions border the property - Granite Springs on 28 ½ Road and Arrowhead on the north. The value of hundreds of homes in the area will be considerably decreased if the commercial development is allowed. People that have bought homes in the area expected that the lands surrounding their properties including the subject property would be developed as residential. If a warehouse is built on this

property values will decrease greatly. The investment in a home is the most major investment of most people's lives. It would take years of real estate inflation for them to break even with their purchase price.

Policy 12.2 of the Growth Plan or the Orchard Mesa Neighborhood Plan states that "The City and County will limit the development of large scale retail and service centers to locations with direct access to arterial roads **within commercial nodes shown on the Future Land Use Map.**" This area is not a designated commercial node according to the planning department. Other policies that need to be considered are stated in the staff report including Policy 1.9, Policy 12.3, and Policy 15.3.

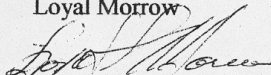
There are other lands available that are already zoned commercial. As laymen we know of two such 8-10 acre pieces. One is at 28 ¼ Road and Chipeta and one on Industrial between 24 ½ Road and 25 Road.

Commercial land is generally more expensive than residential. Central Distributing can save a lot of money by buying residential land and pushing thru rezoning of the land to commercial. In essence the property owners for a large radius around the proposed warehouse would be donating from the equity in their home to the Cadez family for their commercial operation.

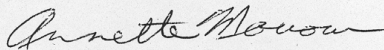
The encroachment of this commercial property into residential would increase the length of the boundary between commercial and residential. All of the North and East side of the property would be common with residential. The remaining 13.5 acres would be very undesirable residential property. A developer would probably try to change the zoning to multi family dwellings in order to sell the lots. This would not fit in with the Growth Plan either and would further decrease property values in the area as well as increase traffic exponentially.

The residents in the area of the proposed change and within a large radius of this area would not be benefited by this change in any way. It would increase commercial traffic, decrease property values and cause safety hazards to children in the area.

Sincerely yours,  
Loyal Morrow



Annette Morrow



**From:** <RFTTT@aol.com>  
**To:** <Kathyp@ci.grandjct.co.us>  
**Date:** 11/19/03 1:39PM  
**Subject:** Re-zoning of property at 28 1/2 rd. and Hwy 50

Good Afternoon,

Just wanted to add my voice to those of my friends and neighbors on Orchard Mesa who strongly oppose this section of property being re-zoned as commercial thus allowing a warehouse facility to be built there. I certainly did not purchase my home on orchard mesa to become part of the "warehouse district". Having a warehouse on the property would cause property values to drop for homes in a several mile radius of the operation. The additional traffic, besides being just plain unwelcome, would cause strain and congestion on both current and future planned roadways, noise pollution, and safety hazards. We have a generally active community on Orchard Mesa that likes to bike, walk and run. These activities would be heavily impacted by the increased traffic. Over the years the Orchard Mesa area had been allowed to become a hodgepodge, finally with the last 10 years or so of neighborhood planning the area is shaping up wonderfully. Having a warehouse come into the area would be a huge blow to the area.

Thank You for your time.

Rhonda Toland

**CC:** <Harryb@ci.grandjct.co.us>

## SORTER CONSTRUCTION INC.

EARTHWORK - STRUCTURES  
2802 HWY 50  
GRAND JUNCTION, CO 81503  
970-242-1436



November 19, 2003

City of Grand Junction  
Community Development Dept.  
250 North 5<sup>th</sup> Street  
Grand Junction, CO 81501

RE: GPA-2003-184-Grand Bud, LLC  
Growth Plan Amendment - 28-1/2 Rd @ Hwy 50

To Whom It May Concern:

With regards to the above mentioned item. I am in support of this proposal. The Cadez family owns Central Distributing and their operation is one of the best kept in town. Their cleanliness is very admirable and could provide a very attractive facility as you enter the city. This land is highway frontage and should be utilized accordingly.

Sincerely,

A handwritten signature in cursive script that reads "William R. Ogle".

William R. Ogle  
President

WRO/deh

RECEIVED

NOV 19 2003

COMMUNITY DEVELOPMENT  
DEPT



**GRAND JUNCTION PLANNING COMMISSION  
OCTOBER 28, 2003 MINUTES  
7:03 P.M. to 11:18 P.M.**

The regularly scheduled Planning Commission hearing was called to order at 7:03 P.M. by Chairman Paul Dibble. The public hearing was held in the City Hall Auditorium.

**In attendance, representing the City Planning Commission, were Dr. Paul Dibble (Chairman), John Redifer, John Paulson, Richard Blosser, John Evans and Roland Cole. William Putnam and Bill Pitts were absent.**

**In attendance, representing the City's Community Development Department, were Bob Blanchard (Community Development Director), Kathy Portner (Planning Manager), Dave Thornton (Principle Planner), Scott Peterson (Associate Planner), Ronnie Edwards (Associate Planner), and Lori Bowers (Senior Planner).**

Also present were John Shaver (Assistant City Attorney), Rick Dorris and Eric Hahn (Development Engineers).

Terri Troutner was present to record the minutes.

There were 41 interested citizens present during the course of the hearing.

**GPA-2003-184 GRAND BUD, LLC GROWTH PLAN AMENDMENT**

**A request for approval to change the Growth Plan Future Land Use Map from Residential Medium (4-8 units/acre) to Commercial for approximately 10 acres of the 23.5-acre site.**

**Petitioner: Mike or Marc Cadez**

**Location: Northwest corner of 28 1/2 Road and Highway 50**

**PETITIONER'S PRESENTATION**

Mike Joyce, representing the petitioner, offered a PowerPoint presentation containing the following slides: 1) introduction; 2) proposed land uses; 3) surrounding land uses and zoning; 4) photos of the site; 5) aerial photo map; 6) Growth Plan/Orchard Mesa (OM) Plan land use designations; 7) Growth Plan Amendment criteria; 8) findings and conclusions; and 8) photos providing an example of the building that would be constructed on the site if the Amendment (GPA) were approved. A hard copy of Mr. Joyce's presentation was submitted for the record.

Mr. Joyce felt that because the site directly abutted property owned by Sorter Construction along Highway 50, a commercial land use designation was logical for the petitioner's property. Because residential development lay directly north of the parcel, 10 acres along the northern and eastern property lines would remain residential. The petitioner would not be the one to develop the residential property. Mr. Joyce asserted that GPA criteria had been satisfied. He noted that the property had previously been classified as Public/Institutional, and that the classification had later been changed to Residential-

Medium. He believed that commercial uses were closely akin to public/institutional uses (e.g., schools and hospitals) as far as the intensity of use. Examples were given of other higher intensity uses present in the area. The petitioner's request would allow him to relocate his business, Central Distributing, from its present location. This use, he contended, would be less intense than a public or institutional use would have been, and representative of a less intense commercial use.

The 1995 Orchard Mesa Plan had designated the subject property as being within an area of transition. The petitioner believed that an error in the Growth Plan may have occurred by redesignating a portion of the subject property located in a transition area, which previous area plans designated a higher intensity land use, to a lower intensity land use (residential), which are adjacent to commercial land uses. Mr. Joyce contended that no significant events had occurred to invalidate the original findings and premises of the 1995 OM Plan. It was felt that traffic issues would be minimal in conjunction with the development. The petitioner also felt, based on his working with local realtors, that there were limited numbers of suitable 8-10 acre sites on which to relocate his business. Other reviewed sites would have required the petitioner to combine previously platted industrial park lots, rendering the relocation financially unfeasible.

#### **STAFF'S PRESENTATION**

Kathy Portner offered a PowerPoint presentation containing the following slides: 1) site location map; 2) aerial photo map; 3) Future Land Use Map; 4) Existing City and County Zoning Map; 5) site plan; and 6) findings and conclusions. Staff reviewed Growth Plan Amendments in a much broader sense. If the current request were approved, there was no guarantee what the zoning or uses would be, nor was there any guarantee that the current property owner would continue to own the property. A Commercial land use designation paved the way for commercial zoning, which would permit any number of commercial uses to locate on the site. The Zoning Code and Growth Plan both recognized the differences between public and commercial uses. She referenced a stub street from Arrowhead Acres, which was intended to provide access and interconnectivity to the subject parcel based on residential development of the site. Ms. Portner read from the Growth Plan's goals and policies section. Staff did not feel that the petitioner satisfied any of the GPA criteria nor was the request consistent with the intent of the Growth Plan. Denial of the request was recommended.

#### **PUBLIC COMMENTS**

##### **FOR:**

There were no comments for the request.

##### **AGAINST:**

Ann Mouer (228 28 1/2 Road, Grand Junction) said that the actual storage location of Sorter Construction's heavy equipment and business materials was located much farther from the subject parcel, so the comparison of a proposed commercial use to that of Sorter Construction was irrelevant. The petitioner's assertion that the request provided a 10-acre residential "buffer" was erroneous because, when the residential portion was built out, it would still mean that residential uses would directly abut commercial uses. She felt that access would be difficult via the 28 Road/Highway 50 frontage road, and it would only be exacerbated by expected increases in traffic along 28 Road. The parcel was designated residential for a good reason, she said, and it should remain residential. Ms. Mouer said that she was representing the opinions of several of her neighbors as well.

#### **PETITIONER'S REBUTTAL**

Mr. Joyce said that the petitioner's development plan had intended to incorporate the Arrowhead Acres street stub to ensure interconnectivity. The site's primary access would be via 28 Road. He felt that Sorter Construction's use represented a far more intense use than that of the petitioner. While their equipment location was currently further west of the site, Sorter did own the vacant parcel directly abutting the petitioner's property, and future expansion of Sorter's business into that currently vacant parcel was always a possibility. Use of the frontage road, he said, met CDOT requirements. The current request would be compatible with surrounding uses, and he reiterated that the request met OM Plan requirements and GPA criteria.

### **QUESTIONS**

Commissioner Evans asked if the petitioner's building would be single story. Mr. Joyce presented photos of a building in Ft. Collins, one similar in design to the one constructed by the petitioner.

### **DISCUSSION**

Commissioner Evans asked if staff had received any calls or letters from the public, to which Ms. Portner replied negatively.

Commissioner Cole felt that with the proposed residential buffer, he would have no difficulty approving the GPA if the use situated there was the one actually proposed. The proposed use could be an asset to the City.

Commissioner Evans agreed but expressed concern that if the request were approved, there was no guarantee that the entire parcel wouldn't be used for commercial development. Mr. Joyce explained that the approval was only applicable to the commercial portion of the property. The portion of property currently zoned and classified residential would remain residential.

Chairman Dibble did not feel that the residential land use designation had been applied in error. The Orchard Mesa Plan allowed for mixed uses within transition areas; however, those areas were usually identified in area plans as commercial nodes.

Commissioner Paulson agreed. He'd participated in the meetings that had designated the subject parcel Residential Medium, and it had been determined that the residential land use classification was the one most appropriate for the site. He agreed with staff's findings that the GPA criteria had not been met and expressed support for the recommendation of denial.

**MOTION: (Commissioner Cole) "Mr. Chairman, on item GPA-2003-184, a request to amend the Growth Plan, I move we forward a recommendation of approval to the City Council with the following findings."**

Commissioner Blosser seconded the motion. A vote was called and the motion failed by a tie vote of 3-3, with Chairman Dibble and Commissioners Redifer and Paulson opposing.

With no further business to discuss, the public hearing was adjourned at 11:18 P.M.

**CITY OF GRAND JUNCTION, COLORADO**

**Resolution No.**

**A Resolution Amending the City of Grand Junction Growth Plan Future Land Use Map to Re-designate the Grand Bud Property, approximately 10 acres at the northwest corner of 28 ½ Road and Highway 50 from Residential Medium (4 to 8 units per acre) to Commercial**

Recitals:

A request for the Growth Plan amendment has been submitted in accordance with the Zoning and Development Code to the City of Grand Junction. The applicant has requested that approximately 10 acres of the property at the northwest corner of 28 ½ Road and Highway 50 be designated as Commercial on the Future Land Use Map.

In a public hearing, the City Council reviewed the request for the proposed Growth Plan amendment and determined that it satisfied the criteria as set forth and established in Section 2.5.C of the Zoning and Development Code and the proposed amendment is consistent with the purpose and intent of the Growth Plan.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT THE GRAND JUNCTION GROWTH PLAN IS AMENDED IN THE FOLLOWING WAY:**

That approximately 10 acres of the property, located at the northwest corner of 28 ½ Road and Highway 50, is designated as Commercial on the Future Land Use Map. The boundary description of the area being more fully described as follows:

A parcel of land situated in the SE ¼ SW1/4 of Section 30 Township 1 South, Range 1 East of the Ute Meridian, County of Mesa, State of Colorado, being more particularly described as follows:

Beginning at a point on the East line of the West fifty-five feet of the SE1/4SW1/4 of said Section 30, whence the Northeast corner of said West fifty-five feet bears North 00°05'07" West, a distance of 295.00 feet;

Thence South 89°58'03" East, a distance of 953.10 feet

Thence South 00°03'37" West, a distance of 640.36 feet to the North right-of-way line of Highway 50

Thence along said right-of-way line, North 69°37'24" West, a distance of 652.81 feet;

Thence along said right-of-way line, 382.00 feet along the arc of a 11585.00 foot radius non-tangent curve to the left, through a central angle of 01°53'21", with a chord bearing North 62°55'13" West, a distance of 381.99 feet to the East line of said West fifty-five feet;

Thence along said East line, North 00°05'07" West, a distance of 239.71 feet to the Point of Beginning.

Containing 9.948 acres, more or less.

PASSED on this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

ATTEST:

\_\_\_\_\_  
President of Council

\_\_\_\_\_  
City Clerk