

**GRAND JUNCTION CITY COUNCIL
CITY HALL AUDITORIUM, 250 NORTH 5TH STREET
AGENDA**

WEDNESDAY, MARCH 17, 2004, 7:30 P.M.

CALL TO ORDER

Pledge of Allegiance
Invocation – Pastor Steve Koeppen, Central Orchard Mesa
Community Church

PROCLAMATIONS

***PROCLAIMING MARCH 29, 2004 AS “SALUTE OUR TROOPS-REMEMBRANCE
DAY” IN THE CITY OF GRAND JUNCTION

APPOINTMENTS

To the Riverview Technology Corporation

CITIZEN COMMENTS

***** CONSENT CALENDAR ***[®]**

1. **Minutes of Previous Meetings** [Attach 1](#)
*Action: Approve the Summary of the March 1, 2004 Workshop and the Minutes of
the March 3, 2004 Regular Meeting*
2. **Setting a Hearing on Reduction of Distance Restriction for Hotel and
Restaurant Liquor Licenses to College Campuses** [Attach 2](#)

State law requires five hundred feet, using direct pedestrian access, from the
property line of a school to the liquor-licensed premise; however, the law also
allows local jurisdictions to reduce that distance for a certain class of license for

This agenda is intended as a guideline for the City Council. Items on the agenda are subject to change as is the order of the
agenda.

*** Indicates New Item

[®] Requires Roll Call Vote

one or more types of schools. In 1987, the Grand Junction City Council reduced the distance for full service restaurant licenses from college campuses to 300 feet. A property owner near Mesa State College has requested that City Council consider further reducing or eliminating the distance restriction for hotel/restaurant liquor licenses for principal college campuses.

Proposed Ordinance Amending Section 4-52 of the Grand Junction Code of Ordinances Reducing the Distance a Hotel and Restaurant Liquor Licensed Premise Must Be from the Principal Campus of a College or University in the City of Grand Junction

Action: Introduction of Proposed Ordinance and Set a Hearing for April 21, 2004

Staff presentation: Stephanie Tuin, City Clerk
John Shaver, Acting City Attorney

3. **Setting a Hearing to Amend Chapter 38, Utilities, of the Code of Ordinances**

[Attach 3](#)

Amending Chapter 38 of the City's Code of Ordinances ("Code"). The Industrial Pretreatment Program is audited by the Environmental Protection Agency ("EPA") on an annual basis. The results of the 2003 audit necessitates changes to Chapter 38, Article II, of the Code. The proposed amendments mainly concern defining terms pursuant to definitions of the same or similar terms used within the United States Code and with the Code of Federal Regulations. Changes are made throughout Article II to coincide with the changes to the defined terms. The changes to the definitions do not change the program's operational procedures. Additional changes have been made to Chapter 38 for clarification purposes.

Proposed Ordinance Amending Chapter 38, Utilities, of the Code of Ordinances by Implementing EPA's Recommended Changes to be Published in Pamphlet Form

Action: Introduction of Proposed Ordinance a Set a Hearing for April 7, 2004

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

4. **Purchase of Automated Refuse Trucks**

[Attach 4](#)

This purchase is being requested by the Fleet Services Division, for the replacement of three 1996 Mack trucks with Heil Rapid Rail automated side load

refuse bodies. The trucks are currently scheduled for replacement in 2004 as identified by the annual review of the fleet replacement committee. Purchasing received five bids for the requested units. It was determined that two bids were responsive and responsible.

Action: Authorize the City Purchasing Manager to Purchase Three (3) Peterbilt Cab and Chassis, with (3) Three, Heil, Rapid Rail Automated Side Load Refuse Bodies with the CP 300 Python Arm from Peterbilt, Fruita, CO for a Net Purchase Amount of \$469,132.00

Staff presentation: Julie M. Hendricks, Buyer
Mark Relph, Public Works and Utilities Director

5. **Setting a Hearing on Amending the Zoning and Development Code for Undergrounding Existing Overhead Utilities on Perimeter Streets for New Developments** [Attach 6](#)

Council will consider modifications to the Zoning Development Code related to undergrounding of existing overhead utilities adjacent to new developments. The modification would allow proposed developments with less than 700 feet of frontage to pay a cash-in-lieu of construction fee for the undergrounding of existing overhead utilities. Additionally, if half street improvements are not required as part of the development project, a cash-in-lieu fee will also be collected for those projects.

Proposed Ordinance Amending Section 6.2.A.1.H. of the Grand Junction Zoning and Development Code by Addition of an Exception for Required Improvements Concerning the Placement of Utilities Underground

Action: Introduction of Proposed Ordinance and Set a Hearing for April 7, 2004

Staff presentation: Tim Moore, Public Works Manager

6. **Setting a Hearing on a Right-of-Way Vacation – Adjacent to Kia Drive** [File #VR-2003-263] [Attach 7](#)

The City of Grand Junction proposes to vacate two pieces of right-of-way adjacent to Kia Drive between Brookwood Drive and Brookside Subdivision. The right-of-way vacation would be contingent upon dedication of 30 Road right-of-way. The Planning Commission recommended approval of the right-of-way vacation on March 9, 2004, making the Findings of Fact/Conclusion identified in the staff report.

Proposed Ordinance Vacating Two Pieces of Right-of-Way Located Adjacent to Kia Drive, Brookside Subdivision

Action: Introduction of Proposed Ordinance and Set a Hearing for April 7, 2004

Staff presentation: Ronnie Edwards, Associate Planner

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

[Attach 8](#)

Staff recently completed needed changes to the SSID Manual that reflect changes in the Zoning and Development Code adopted in 2002. The manual pertains to all development activity as defined by the City of Grand Junction's Zoning and Development Code.

Proposed Ordinance Amending the City of Grand Junction's "Submittal Standards for Improvements and Development", SSID Manual, and Authorizing Publication of the Amendments by Pamphlet

Action: Introduction of Proposed Ordinance and Set a Hearing for April 7, 2004

Staff presentation: Lori V. Bowers, Senior Planner

8. **Setting a Hearing on Etter-Epstein Outline Development Plan (ODP) Request for Extension** [File #ODP-2000-058]

[Attach 9](#)

A mixed-use Outline Development Plan (ODP) and Planned Development (PD) zoning ordinance for the Etter-Epstein property on the southeast corner of Horizon Drive and G Road was approved by City Council on February 21, 2001. The ordinance stated that the ODP would expire three years from the date of approval. Due to development and market trends and the difficulty and expense to develop this property, the plan has not yet evolved to the next phase of development – submittal of a Preliminary Plan. Thus, the property owners are requesting an extension to the three-year expiration for another three-year period.

Proposed Ordinance Zoning Land Located Near the Southeast Corner of the Horizon Drive and G Road Intersection

Action: Introduction of Proposed Ordinance and Set a Hearing for April 7, 2004

- Staff presentation: Kristen Ashbeck, Senior Planner
9. **Setting a Hearing on Zoning the Landmark Baptist Church Annexation, Located at 3015 D Road** [File #ANX-2004-016] [Attach 10](#)

Introduction of a proposed zoning ordinance to zone the Landmark Baptist Church Annexation to RSF-E (Residential Single Family – Estate 2 ac/du), located at 3015 D Road.

Proposed Ordinance Zoning the Landmark Baptist Church Annexation to RSF-E Located at 3015 D Road

Action: Introduction of Proposed Ordinance and Set a Hearing for April 7, 2004

Staff presentation: Senta L. Costello, Associate Planner

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

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

10. **Construction Contracts** (Items a and b may be awarded under one motion)
- a. **Combined Sewer Elimination Project (CSEP) Basins 9, 13, and 14** [Attach 11](#)

This is the last of six contracts associated with the Combined Sewer Elimination Project (CSEP). It consists of the installation of 21,200 feet of storm drainage pipes, 1900 feet of sanitary sewer, 2000 feet of water lines, two water quality ponds and the disconnection of various storm drain inlets from sanitary sewer lines and their reconnection to storm drainage lines. The low bid for this work was submitted on February 24, 2004, by Mendez, Inc. in the amount of \$4,422,757.19.

Action: Authorize the City Manager to Execute a Contract with Mendez, Inc. for the Combined Sewer Elimination Project (CSEP) Basins 9, 13 and 14 in the Amount of \$4,422,757.19

Staff presentation: Mark Relph, Public Works and Utilities Director

- b. **Concrete Repairs for Street Overlays 2004** [Attach 12](#)

The Concrete Repair for Street Overlays project consists of the removal and replacement of off grade or broken sections of concrete curb, gutter, sidewalk, drainage pans and fillets on streets that will get asphalt overlays later this construction season. The work also includes installation of new sidewalk and curb ramps on these streets if needed.

Action: Authorize the City Manager to Execute a Construction Contract for the Concrete Repairs for Street Overlays 2004 with Reyes Construction, Inc., in the Amount of \$160,515.50

Staff presentation: Mark Relph, Public Works and Utilities Director

11. **Request to Apply for Energy Impact Assistance Grant for the El Poso Street I.D.** [Attach 5](#)

A City Council Resolution authorizing the submission of a grant application in the amount of \$500,000 to assist in the funding of the construction of a proposed street improvement district in the El Poso neighborhood.

Resolution No. 21-04 – A Resolution Authorizing the Submission of a Grant Application to Assist in the Funding of the Construction of Street and Drainage Improvements Within the El Poso Neighborhood Area

®Action: Adopt Resolution No. 21-04

Staff presentation: Mark Relph, Public Works and Utilities Director

12. **Property Purchase for Riverside Parkway – 919 Kimball Avenue** [Attach 13](#)

The City has entered into a contract to purchase the property at 919 Kimball Avenue for the Riverside Parkway Project. The City's obligation to purchase the property is contingent upon Council's ratification of the contract.

Resolution No. 22-04 – A Resolution Authorizing the Purchase of Real Property Located at 919 Kimball Avenue

®Action: Adopt Resolution No. 22-04

Staff presentation: Mark Relph, Public Works and Utilities Director

13. **Easement Deed and Agreement with Walker Field Airport Authority for Detention Facilities** [Attach 14](#)

A City Council approval to submit an Easement Deed and Agreement (Agreement) to Walker Field, Colorado, Public Airport Authority (WFAA). Submission by the City and approval by WFAA is required to allow the City to proceed with construction of dual detention basins on Ranchman's Ditch and a single detention basin on Leech Creek, all of which are to be constructed on land owned and operated by WFAA. Construction of the detention basins is necessary to provide flood control on lower portions of the two drainages in developed areas within the city limits.

Action: Authorize the City Manager to Sign and Submit the Easement Deed and Agreement with Walker Field Airport Authority for the Construction and Maintenance of Detention Basins Along the Independent Ranchman's Ditch and Leach Creek Drainage Systems

Staff presentation: Mark Relph, Public Works and Utilities Director

14. **Public Hearing – Rezoning the Geske Property Located at 2656 Patterson Road** [File #RZ-2003-233] [Attach 15](#)

Request to rezone 2656 Patterson Road, comprised of two lots containing a total of 2.068 acres, from RSF-4 (Residential Single Family with a density not to exceed 4 units per acre) to RO (Residential Office). Planning Commission recommended denial at its February 10, 2004 meeting.

Ordinance No. 3610 – An Ordinance Rezoning a Parcel of Land from Residential Single Family with a Density not to Exceed Four Units per Acre (RSF-4) to Residential Office (RO) Located at 2656 Patterson Road (Geske Property)

®Action: Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 3610

Staff presentation: Ronnie Edwards, Associate Planner

15. **Public Hearing – Summit View Estates Annexation Located at 649 29 ½ Road** [File #ANX-2003-271] [Attach 16](#)

Hold a public hearing and consider final passage of a Resolution for acceptance of petition to annex and an annexation ordinance for the Summit View Estates Annexation located at 649 29 ½ Road.

a. **Accepting Petition**

Resolution No. 23-04 – A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Summit View Estates Annexation Located at 649 29 ½ Road is Eligible for Annexation

®Action: *Adopt Resolution No. 23-04*

b. Annexation Ordinance

Ordinance No. 3611 – An Ordinance Annexing Territory to the City of Grand Junction Colorado, Summit View Estates Annexation, Approximately 10.495 Acres Located at 649 29 ½ Road

®Action: *Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 3611*

Staff presentation: Lisa E. Cox, Senior Planner

16. **Public Hearing - Zoning the Summit View Estates Annexation Located at 649 29 ½ Road** [File #ANX-2003-271] [Attach 17](#)

Hold a public hearing and consider final passage of the zoning ordinance to zone the Summit View Estates Annexation Residential Multi-Family-8 (RMF-8), located at 649 29 ½ Road.

Ordinance No. 3612 – An Ordinance Zoning the Summit View Estates Annexation to Residential Multi-Family-8 (RMF-8), Located at 649 29 1/2 Road

®Action: *Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 3612*

Staff presentation: Lisa E. Cox, Senior Planner

17. **Public Hearing – Pellam Annexation Located at 3136 E Road** [File #ANX-2004-011] [Attach 18](#)

Resolution for acceptance of petition to annex and to hold a public hearing and consider final passage of the annexation ordinance for the Pellam Annexation, located at 3136 E Road. The 4.808 acre annexation consists of 1 parcel of land and a portion of the E Road right-of-way.

a. Accepting Petition

Resolution No. 24-04 – A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Pellam Annexation Located at 3136 E Road is Eligible for Annexation

®Action: *Adopt Resolution No. 24-04*

b. Annexation Ordinance

Ordinance No. 3613 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Pellam Annexation, Approximately 4.808 Acres Located at 3136 E Road and Containing a Portion of E Road Right-of-Way

®Action: *Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 3613*

Staff presentation: Senta Costello, Associate Planner

18. **Public Hearing – Zoning the Pellam Annexation Located at 3136 E Road** [Attach 19](#)
[File #ANX-2004-011]

Hold a public hearing and consider final passage of the zoning ordinance to zone the 4.808 acre Pellam Annexation to RMF-8 (Residential Multi-Family 8 du/ac), located at 3136 E Road.

Ordinance No. 3614 – An Ordinance Zoning the Pellam Annexation to RMF-8 Located at 3136 E Road

®Action: *Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 3614*

Staff presentation: Senta Costello, Associate Planner

19. **NON-SCHEDULED CITIZENS & VISITORS**

20. **OTHER BUSINESS**

21. **EXECUTIVE SESSION**

FOR A CONFERENCE WITH LEGAL COUNSEL FOR THE PURPOSE OF RECEIVING LEGAL ADVICE CONCERNING THE CONTRACT WITH THE RURAL FIRE PROTECTION DISTRICT UNDER C.R.S. SECTION 24-6-402(4)(B)

22. **ADJOURNMENT**

**Attach 1
Minutes from Previous Meetings**

**GRAND JUNCTION
CITY COUNCIL WORKSHOP SUMMARY**

MARCH 1, 2004

The City Council of the City of Grand Junction, Colorado met on Monday, March 1, 2004 at 7:01 p.m. in the Mesa Mall Community Room at the Mesa Mall to discuss workshop items. Those present were Harry Butler, Cindy Enos-Martinez, Bruce Hill, Dennis Kirtland, Bill McCurry, Gregg Palmer and President of the Council Jim Spehar. City Youth Council members present were Council Chair Heather Ahuero, Parliamentarian Drew Creasman, Caitlin Donohue, Lisa Truong, Drew Bradley, Lacy Clayton, Brian Conklin, Cole Sheldon, and Mackenzie Johnston.

Summaries and action on the following topics:

1. **DISCUSSION WITH YOUTH COUNCIL:** The City Council and the City Youth Council discussed the following:
 - Update on Youth Council Activities – Chair Ahuero advised that the CYC met with the School Board recently and had a good dialogue. Seth Hoffman, Management Intern, noted that the School Board was impressed with the CYC so far.
 - Quarterly Meetings - The Youth Council was very receptive to City Council's suggestion that the two groups meet on a regular basis and discussed with Council the options for having regular meetings. The Council suggested 4 times per year, at times other than summer, and as long as the CYC was willing to sit through other business, regular meetings will be scheduled. It was left to Staff to get those scheduled.
 - City Council Representation - The Youth Council would like to discuss the possibility of having a City Councilmember attend each of their meetings. Councilmember Bill McCurry volunteered to attend as did Councilmember Butler. City Manager Arnold suggested that the CYC meetings be included on the Council's overall calendar so that any of them available can also attend.
 - Boys and Girls Club - Mark Messenbaugh, a representative from the Boys and Girls Club and the Attorney General's office, presented to the Youth Council at their February 12th meeting a proposal for creation of such a club. The Youth Council was generally supportive of the ideas presented but identified a couple of concerns. One was that some CYC members

felt that the target group for the Boys and Girls Club should be younger (elementary age perhaps) as a preventative measure and that the activities identified are not fitting for youth this day and age.

Council President Spehar suggested to CYC members that the Council wants to encourage the CYC to bring ideas to Council and cautioned them against focusing in on a single answer but rather address an identified need in a variety of ways. Councilmember Enos-Martinez suggested the CYC investigate how they could be involved in the renovation of the old Riverside School. City Manager Arnold suggested the CYC could serve in an advisory capacity for CDBG applications that are youth oriented and for them to look for grant opportunities/corporate sponsorships that could have affect on youth. Another opportunity for Youth Council participation is to meet the request for appointment of a representative to attend Parks and Recreation Advisory Board meetings.

Councilmember Hill commended the students noting that they are setting the foundation for future Youth Councils and although it may seem that they are spending time figuring out the direction they want to go, it is important that they do that for the future of the organization.

- Legislative Activities - The Youth Council has had several discussions about state legislation that affects teenagers, for example the driving age proposal and pledge of allegiance legislation. The CYC wanted to know if it was acceptable for them to publish their opinions on upcoming legislation. Council President Spehar responded that the CYC can certainly do that, making it clear that it is the opinion of the Youth Council and being aware that the City Council may well have a different opinion. Councilmember Butler noted that SB-94 should be a piece of legislation that the CYC looks at as it may affect funding to youth organizations such as Partners.

Council suggested that there may be an opportunity for the CYC to be heard by legislators on these issues in their off-session months of September through December.

Along those same lines, the Council would like to be kept up on CYC meetings and asked that their minutes be distributed to Council.

- Areas the City Can Better Serve Youth - The Youth Council would like to discuss this topic in light of the City Council's recent Strategic Plan

update. Council President Spehar suggested that the CYC represent the 400 to 500 students identified as homeless in the last Housing Summit.

- Recruitment Plan – CYC members advised that they will start recruitment for next year's Council in the spring and about one-half of the members will be replaced. That will create two year staggered terms. Council encouraged the members to keep diversity on the CYC and to possibly include a Councilmember in the interview process.
- Parks & Recreation Advisory Board Representative – Since the PRAB meets from 11:30 am until 1:00 pm, scheduling may be an issue. Council President Spehar suggested an appointee and an alternate.
- Youth Conference in Greeley – It was suggested that Council sponsor the Youth Council's attendance at the Youth Conference in Greeley. There was also a suggestion that the CYC be encouraged and assisted in attending a day of the CML Conference in Steamboat Springs that is dedicated to youth topics.
- Leadership Conference in Washington, D.C. – Drew Creasman advised that he is going to attend a 10-day leadership conference in D.C. this summer and he encouraged others to attend. He also said the Mike Miles is running for the Senate in 2004 and he will be at Borders in Grand Junction on Thursday. Drew encouraged anyone who will be of age to get registered to vote for the November election. Council suggested the CYC contact the Mesa County Elections Division for assistance in registering students to vote.

Action summary: The Council praised the CYC for their work and encouraged their efforts. Councilmembers McCurry and Butler will regularly attend the CYC meetings and their meetings will be included on the Council calendar. CYC efforts will be supported by Council in working with the organizers of the Boys & Girls Club, involvement in the Riverside School renovation and advisors on Youth Programs applying for CDBG funding. City Staff will work the Youth Council on selection of a representative for the Parks and Recreation Advisory Board. CYC is encouraged to be involved and express their opinion on legislative activities involving youth issues. The Council and City Staff will participate and assist in interviews for next year's CYC members. City Council will meet with the CYC regularly to keep lines of communication open.

The meeting adjourned at 8:37 p.m.

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

March 3, 2004

The City Council of the City of Grand Junction convened into regular session on the 3rd day of March 2004, at 7:30 p.m. in the City Auditorium. Those present were Councilmembers Harry Butler, Cindy Enos-Martinez, Bruce Hill, Dennis Kirtland, Bill McCurry, Gregg Palmer, and President of the Council Jim Spehar. Also present were City Manager Kelly Arnold, Acting City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Jim Spehar called the meeting to order. Councilmember Kirtland led in the pledge of allegiance. The audience remained standing for the invocation by Retired Pastor Eldon Coffey, Central Orchard Mesa Community Church.

PRESENTATION OF CERTIFICATES OF APPOINTMENT

To the Commission on Arts and Culture

APPOINTMENTS

To the Airport Authority

Councilmember Hill moved to appoint Dan Lacy to the Walker Field Airport Authority to complete a term until May, 2005. Councilmember McCurry seconded. Motion carried.

PROCLAMATION

Proclaiming March 7 through March 13, 2004 as "Women in Construction Week" in the City of Grand Junction

Proclaiming the Month of March 2004 as "Purchasing Month" in the City of Grand Junction

SCHEDULED CITIZEN COMMENTS

Dennis Dupont, Little Red Wagon Recyclers, regarding the Annual Christmas Tree Recycling Program addressed the City Council.

Council President Spehar presented Mr. Dupont with an appreciation plaque for all his years of service to the community with recycling Christmas trees.

Mr. Dupont said that when the City stopped recycling Christmas Trees ten years ago he took it upon himself to continue the program. The first year he recycled 150 trees and the program has grown significantly from there. He said the City and Partners have decided

to adopt the program to continue it as long as possible. It will help Partners with the restitution program and it is going to be a win situation for the whole community. He thanked Council for their support. He will now turn his efforts toward at-risk youth.

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 #6.

1. **Minutes of Previous Meetings**

Action: Approve the Minutes of the February 18, 2004 Noon Special Meeting, the February 18, 2004 Evening Special Meeting and the February 18, 2004 Regular Meeting

2. **Assignment of Agreement Regarding Transit Shelters and Benches from Outdoor Promotions to Colorado West Outdoor Advertising**

Outdoor Promotions, the current owner of the bus benches that provides all of the GVT bus shelters is selling their Grand Junction business. They are requesting that the existing contract between the City of Grand Junction and Outdoor Promotions be transferred to a local company, Colorado West Outdoor Advertising, who is purchasing the Grand Junction business.

Action: Authorize the City Manager to Sign the Consent to Assignment Transferring the Contract with Outdoor Promotions to Colorado West Outdoor Advertising

3. **Vacation of a Portion of a Utility and Irrigation Easement Located 3010 Cloverdale Court** [File # VE-2003-201]

The applicant proposes to vacate the north 6.2 feet of an existing 15 foot utility & irrigation easement for a length of 39.4 feet. This will rectify the existing encroachment that occurred in 1993 with a residential addition. The Planning Commission recommended approval of the easement vacation on February 24, 2004, making the Findings of Fact/Conclusion identified in the staff report.

Resolution No. 19-04 - A Resolution Vacating the North 6.2 Feet of a Fifteen Foot Utility and Irrigation Easement (for a Length of 39.4 Feet) Located at 3010 Cloverdale Court

Action: Adopt Resolution No. 19-04

4. **Setting a Hearing on Rezoning the Geske Property Located at 2656 Patterson Road** [File #RZ-2003-233]

Request to rezone 2656 Patterson Road, comprised of 2.068 acres, from RSF-4 (Residential Single Family with a density not to exceed 4 units per acre) to RO (Residential Office). Planning Commission recommended denial at its February 10, 2004 meeting.

Proposed Ordinance Rezoning a Parcel of Land from Residential Single Family with a Density not to Exceed Four Units per Acre (RSF-4) to Residential Office (RO) Located at 2656 Patterson Road (Geske Property)

Action: Introduction of Proposed Ordinance and Set a Hearing for March 17, 2004

5. **Setting a Hearing on Zoning the Summit View Estates Annexation Located at 649 29 ½ Road** [File #ANX-2003-271]

First reading of the zoning ordinance to zone the Summit View Estates Annexation Residential Multi-Family-8 (RMF-8), located at 649 29 ½ Road.

Proposed Ordinance Zoning the Summit View Estates Annexation to Residential Multi-Family-8 (RMF-8), Located at 649 29 1/2 Road

Action: Introduction of Proposed Ordinance and Set a Hearing for March 17, 2004

6. **Setting a Hearing on Zoning the Pellam Annexation Located at 3136 E Road** [File #ANX-2004-011]

Introduction of a proposed zoning ordinance to zone the Pellam Annexation to RMF-8 (Residential Multi-Family 8 du/ac), located at 3136 E Road.

Proposed Ordinance Zoning the Pellam Annexation to RMF-8 Located at 3136 E Road

Action: Introduction of Proposed Ordinance and Set a Hearing for March 17, 2004

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

Purchase of Asphaltic Road Material (Road Oil)

Utilize the State of Colorado contract to purchase road oil for the City chip seal projects for the year 2004. It is estimated that 135,000 gallons of Road Oil will be required. The State allows for cooperative use of this bid by local governments and political subdivisions in the state.

Mark Relph, Public Works and Utilities Director, reviewed this item. The road oil will be used for the City's chip seal projects throughout the year.

Councilmember Butler moved to authorize the Purchase of Asphaltic Road Materials on an As-needed Basis not to Exceed the Budgeted Amount of \$113,740.00 from Koch Performance Asphalt of Grand Junction Utilizing the CDOT Asphaltic Road Material Contract. Councilmember Hill seconded. Motion carried.

Funding Recommendations for Arts and Cultural Events and Projects

Recommendations to City Council to support cultural events, projects, and programs in Grand Junction as a means of improving both the quality and quantity of cultural activities and opportunities for local citizens.

Organizations & Events/Projects	Award
Mesa Co. Valley School District #51 Artists-In-Residence Program	\$8,000
KAFM Public Radio Arts & Entertainment Calendar/Radio Room	\$3,200
KRMJ-TV Rocky Mt. PBS "Western Bounty" programs	\$2,500
Western Colo. Center for the Arts Summer Art Camp	\$2,000
MESA Youth "Fiddler on the Roof" children's production	\$2,000
GJ Musical Arts Association/GJ Symphony music purchase	\$1,500
Downtown Association/DDA Art & Jazz Festival	\$1,500
St. Andrews Guild Grand Valley Renaissance Festival	\$1,000
Mesa State College Unity Fest Native American Day	\$1,000
Mesa State Foundation Music at Mesa Guest Artist Series concert	\$1,000
Mesa County Public Library "One Book One Community"	\$1,000
Western CO Botanical Gardens Friday Night Concert Series	\$1,000
Cinema at the Avalon Senior Matinee Film Series	\$1,000
JABOA (Just A Bunch Of Artists) Artists Studio Tour	\$300

Allison Sarmo, Cultural Arts Coordinator, introduced members of the Commission, Chair Doug Clary and Priscilla Mangnall. She then thanked the Council for their support and reviewed what their focus was in the recommendations this year. Mr. Clary and Ms. Mangnall read thank you letters from students who benefited last year from awards.

The list of recommendations was displayed and Ms. Sarmo noted that 53,000 people were touched by the program last year.

Councilmember Palmer moved to approve recommendations from the Commission on Arts and Culture for Funding of Arts and Cultural Events and Projects. Councilmember Kirtland seconded. Motion carried.

Public Hearing – Create Alley Improvement District No. ST-2004, Phase B

A successful petition has been submitted requesting the creation of an Alley Improvement District to reconstruct the East-West Alley from 8th to Cannell Avenue between Mesa Avenue and Hall Avenue.

The public hearing was opened at 7:51 p.m.

Mark Relph, Public Works and Utilities Director reviewed this item. He explained that this property was pulled from the first improvement district as there were some questions on the piece adjacent to the Seventh Day Adventist Church. Following discussions, the church asked that the alley improvement district be formed with the caveat that an appraiser will value the benefit after completion. Once the appraiser's value has been determined, the City Council will then decide what to assess the church.

Gi Moon, 885 Hall Ave, on the alley, said she is in favor of the alley improvement. She stated the alley needs improvements because it is full of potholes.

The public hearing was closed at 7:56 p.m.

Resolution No. 20-04 – A Resolution Creating and Establishing Alley Improvement District No. ST-04, Phase B 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 Payment Thereof

Councilmember Hill moved to adopt Resolution No. 20-04. Councilmember Enos-Martinez seconded. Motion carried by roll call vote.

Public Hearing – Vacation of 10' of the 100' Width Right-of-Way on Horizon Drive Located Adjacent to Lots 2 & 3, Foursquare Minor Subdivision at 638/640 Horizon Drive [File #VR-2003-182]

The petitioners, Ronald & Lee Ann Unfred, are requesting approval to vacate ten feet (10') of a 100' width right-of-way adjacent to Lots 2 & 3, Foursquare Minor Subdivision in order to improve the internal vehicular circulation on their lots for their proposed Bed & Breakfast Inn. A 20' Multi-Purpose Easement will be dedicated to cover the existing

underground utilities in the area. The Planning Commission recommended approval at its February 10th, 2004 meeting.

The public hearing was opened at 7:58 p.m.

Scott D. Peterson, Associate Planner, reviewed this item. He explained the request and the reason for the request. The owner of an existing single family home wishes to convert the property into a Bed and Breakfast. The vacation will allow better circulation on the property. There were no objections from the utility companies as long as the existing easement is maintained. Mr. Peterson noted that all criteria for approval of the request have been met. Staff recommended approval as did the Planning Commission.

Councilmember Palmer asked if the Bed and Breakfast will be in the existing structure. Mr. Peterson answered affirmatively.

Council President Spehar asked if a Bed and Breakfast is an allowed use for that property. Mr. Peterson said yes and advised that the applicant did have to go through the Conditional Use Permit process.

There were questions on the road width right-of-way. Public Works & Utilities Director Mark Relph stated that 80 feet for this classification of road is sufficient. There are no plans to build to that width but that right-of-way will be maintained. Currently roadway plans only require 60 feet of width. If bridges or structures are needed, then a wider width might be required but not at this location.

City Manager Arnold noted that it is common practice in other jurisdictions to put a value on the piece of property being vacated.

Mike Joyce, Development Concepts, representing the applicant, noted that the right-of-way was originally acquired during the subdivision process and not paid for by the City.

Council President Spehar asked for assurance that this additional right-of-way will not be needed, even for design purposes. Mr. Relph replied he could not see that it would be needed.

There were no additional public comments.

The public hearing was closed at 8:10 p.m.

Ordinance No. 3607 – An Ordinance Vacating 10' of the 100' Width Right-of-Way on Horizon Drive Located Adjacent to Lots 2 & 3, Foursquare Minor Subdivision Known as 638 & 640 Horizon Drive

Councilmember Palmer moved to adopt Ordinance No. 3607. Councilmember McCurry seconded. Motion carried by roll call vote.

Public Hearing – Rezoning the Proietti Property Located at 2558 & 2560 Patterson Road [File #RZ-2003-278]

The petitioners, Dave & Lisa Proietti, are requesting approval to rezone two (2) properties located at 2558 & 2560 Patterson Road from PD & RMF-8 to RO. The two (2) properties total 0.95 acres. The Planning Commission recommended approval at its February 10th, 2004 meeting.

The public hearing was opened at 8:10 p.m.

Scott D. Peterson, Associate Planner, reviewed this item. He explained the reason for the request and the future proposal for the property. The plans are for dental offices. The current zoning is Planned Development. The proposal meets the criteria and is consistent with the Growth Plan. There were no comments received in opposition. The Planning Commission recommends approval.

Councilmember Butler inquired about access to the apartments along side the property. Mr. Peterson responded that access to that property is off of Patterson Road.

Councilmember Hill asked about other property in that area that is zoned RO (Residential Office). Mr. Peterson said there was no other property zoned RO in the immediate area. However, RO was a new zone district created in 2000. Councilmember Hill asked if the same uses can be built in a B-1 zone district. Mr. Peterson said yes, however, an RO zone district requires any building to look residential.

Community Development Director Blanchard said that when this RO zone district was created, the change over was not done for that area when the Growth Plan was developed. The RO zone district has only been used very limitedly.

Councilmember Palmer inquired about the Patterson Road Corridor Guidelines and when they came out. Mr. Blanchard responded early 1980's, noting they are guidelines not regulations. They are also somewhat outdated.

Councilmember Palmer pointed out the conflict in the Guidelines that access on the north side of Patterson is supposed to be limited. Mr. Blanchard said some of those concerns will be addressed at development but again the Patterson Road Corridor Guidelines are only guidelines.

Councilmember Enos-Martinez noted that it is possible that one access will actually be eliminated.

Councilmember Hill asked if the parcels could be sold separately and developed separately. Mr. Blanchard said yes but that does not preclude a single access point.

John Benay, R. G. Consulting Engineers, Inc., representing the applicant, stated that the access issue has been discussed. The adjacent property is a Seventh Day Adventist Church service building and is next to a five unit townhome. There have been some access issues for the townhomes. There are agreements in process to combine access points and to share parking. The adjacent property owners are in favor of the proposal as it will improve the area. The engineers are proposing a single access for all four properties.

There were no public comments.

Councilmember Hill asked if a secondary access would be required onto Dewey Lane. Mr. Relph said typically if there is another possibility, it will connect to another roadway, and it would preclude access onto Patterson. That does not appear to be the case.

Councilmember Palmer asked if the zoning could be reverted back to the existing zoning. It was noted that could only occur with a rezone process.

The public hearing was closed at 8:25 p.m.

Ordinance No. 3608 – An Ordinance Rezoning the Property Known as the Proietti Rezone Located at 2558 & 2560 Patterson Road from Residential Multi-Family (RMF-8) to Residential Office (RO)

Councilmember Kirtland moved to adopt Ordinance No. 3608. Councilmember Enos-Martinez seconded. Motion carried by roll call vote.

Public Hearing – Amending the Ordinance on Activity Permits in the Downtown Shopping Park

Amending the Code in regards to activities in the Downtown Shopping Park relative to types of permits and fees charged. Some of the fees are being reduced to encourage more outdoor activity along Main Street during the summer months.

The public hearing was opened at 8:29 p.m.

Harold Stalf, Downtown Development Authority Executive Director, reviewed this item. He focused on sidewalk dining and how the proposal will make the downtown a better atmosphere for that activity. The ordinance will also allow a recurring activity permit to allow the Farmer's Market on one permit. The mobile vendor fee will be reduced. The pedestrian vendor permit fee is also proposed to be reduced.

Council President Spehar voiced concern about the five feet of space being along the rough cobbled portion of the sidewalk. He would rather see handicapped have their access along the smooth portion of the sidewalk. Mr. Stalf deferred the suitability of that surface for disabled to Public Works & Utilities Director Mark Relph. Councilmember Hill

inquired if the ordinance will allow the placement of tables on the cobbled portion. Mr. Stalf said that the ordinance will. Councilmember Enos-Martinez noted that separating the tables from the building will affect any request for modification of premises for serving of alcoholic beverages.

Councilmember Palmer advised that those coming out of the on-street parking area would be blocked from entering the sidewalk at that point if tables are located on the cobbled portion. Councilmember Hill said what is needed is flexibility; each location should be addressed individually.

Council President Spehar stated that the café is a secondary use of the sidewalk; the primary use is pedestrian access. Mr. Stalf suggested that the ordinance be amended to maintain a six foot pathway which would solve Council President Spehar's concerns.

Councilmember Kirtland asked why the fee was an option rather than a requirement in the ordinance. Acting City Attorney Shaver said the DDA wanted flexibility for waivers of fees.

Councilmember Kirtland asked if there will be a requirement for taking the tables inside. Acting City Attorney Shaver said each permit can address that situation individually.

Councilmember Kirtland asked if there will be control on the condition of the tables. Mr. Stalf said the permit is revocable and authority is given to the director to address those things.

Doug Clary, 2691 Kimberly Drive, believes that the proposal is an excellent use of the sidewalk area downtown. He noted that it won't be solid tables along the sidewalk and he feels that five feet is enough room.

There were no other comments.

The public hearing was closed at 8:55 p.m.

Councilmember Hill was in favor of the changes. He felt that the more opportunities for outdoor dining experiences in the downtown area, the better, and is comfortable with five feet clearance.

Ordinance No. 3609 – An Ordinance Amending Part of Chapter 32 of the City of Grand Junction Code of Ordinances Relating to Permits for Activities in the Downtown

Councilmember Hill moved to adopt Ordinance No. 3609. Councilmember McCurry seconded. Motion carried by roll call vote with Council President Spehar voting **NO** explaining the reason was due to the manner of implementation, not the concept.

NON-SCHEDULED CITIZENS & VISITORS

There was none.

OTHER BUSINESS

Final Report on Riverside Park Bond Issue

Ron Lappi, Administrative Services and Finance Director, advised that the City sold the bonds a week ago in about 3 ½ hours. \$58 million in bonds were sold at 22 basis points less than what was predicted two weeks ago. Also, upon comparison of the ratings, a savings of \$1.4 million occurred. The closing took place the day before and the funds were immediately transferred into an investment program, which the expected return is the cash flow for the construction project. The City will earn \$1.9 million on the funds invested over the next two years. The final interest rate was 4.29%. Local retailers were offered the bonds; three did receive the bonds – AG Edwards, Colby and Securities and Wells Fargo Trust Services.

The Council praised the staff for their work on the project.

EXECUTIVE SESSION

Councilmember Hill moved to go into executive session 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 and for a conference with legal counsel for the purpose of receiving legal advice concerning the contract with the Rural Fire Protection District under C.R.S. Section 24-6-402(4)(b) and will not be returning to public session. Councilmember Enos-Martinez seconded. Motion carried.

ADJOURNMENT

The City Council adjourned into executive session at 9:07 p.m.

Stephanie Tuin, MMC
City Clerk

Attach 2

**Reduction of Distance Restriction for Hotel and Restaurant Liquor Licenses
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA							
Subject	Reduction of Distance Restriction for Hotel and Restaurant Liquor Licenses to College Campuses						
Meeting Date	March 17, 2004						
Date Prepared	January 8, 2004				File # NA		
Author	Stephanie Tuin			City Clerk			
Presenter Name	Stephanie Tuin John Shaver			City Clerk Acting City Attorney			
Report results back to Council	X	No		Yes	When		
Citizen Presentation	X	Yes		No	Name	John Bellio	
	Workshop	X	Formal Agenda		X	Consent	Individual Consideration

Summary: State law requires five hundred feet, using direct pedestrian access, from the property line of a school to the liquor-licensed premise; however, the law also allows local jurisdictions to reduce that distance for a certain class of license for one or more types of schools. In 1987, the Grand Junction City Council reduced the distance for full service restaurant licenses from college campuses to 300 feet. A property owner near Mesa State College has requested that City Council consider further reducing or eliminating the distance restriction for hotel/restaurant liquor licenses for principal college campuses.

Budget: There is no cost other than that of processing an ordinance. A change to the ordinance may result in additional liquor licenses in the vicinity of Mesa State College.

Action Requested/Recommendation: Introduction of proposed ordinance and set a hearing for April 7, 2004

Attachments:

1. Map of the area affected
2. Proposed Ordinance

Background Information: Mr. John Bellio, a property owner on North Avenue, has contacted the City Clerk's office a number of times concerning the distance restriction. At present, due to the proximity of his property to Mesa State College, the business is only allowed a 3.2 percent beer license. His lessee would like to serve mixed drinks, in particular margaritas, and imported and domestic beer, which is greater than 3.2 percent.

State law, 12-47-313(1)(d)(II), C.R.S., provides that the distance is measured “by direct measurement from the nearest property line of the land used for school purposes to the nearest portion of the building in which liquor is to be sold, using a route of direct pedestrian access.” State Liquor Code Regulation 47-326 further clarifies that it is “measured as a person would walk safely and properly, without trespassing with right angles at crossings and with the observance of traffic regulations and lights.”

Using the City’s GIS system, other establishments in the area are removed from the college campus as approximated below. No requests have been made from these other businesses but if the distance restrictions were to be reduced or removed that may spark some interest. Also, if any of these businesses change hands, that too might generate a request for a hotel/restaurant liquor license.

Any change to the distance will affect all locations in the City where a principal campus of a college, university or seminary exist. At present, there are no other principal college campuses.

Existing food establishments currently within 300 feet are all listed. Those that would be restricted under the current law are bolded (remember measurement is how a pedestrian would legally walk, using crosswalks). The measurements are approximate using the GIS system; only an on ground survey could determine the exact distance.

1. Chopstix Chinese Restaurant, 1029 North Ave - 342 feet
2. Blackjack Pizza, 1059 North Ave – 468 feet
3. Steaming Bean Coffee House, 1059 North Ave – 468 feet
4. Kentucky Fried Chicken, 1111 North Ave – 535 feet
5. Diorios Pizza, 1125 North Ave – 457 feet
- 6. El Tapatio, 1145 North Ave – 281 feet**
- 7. Arby’s, 1155 North Ave – 226 feet**
8. McDonalds, 1212 North Ave – 343 feet
- 9. Taco John’s, 1122 N. 12 St - 241 feet**
10. Higher Grounds Coffee Shop, 1230 N. 12th St. – 332 feet
- 11. Papa Kelsey’s & Fred, 1234 N. 12th St - 133 feet**
- 12. Subway, 1840 N. 12th St – 200 feet**
- 13. Prime Cut, 1960 N. 12th St – 270 feet**
14. Chef’s, 936 North Ave – 297 feet (this restaurant was licensed prior to Mesa State buying the St. Matthews Episcopal Church property at 10th and North).

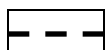
A map showing the locations of the bolded properties is attached.

Mesa State College and Vicinity

Prime Cut

 Mesa State

Subway

 300 foot boundary

Papa Kelsey's

Taco John's

Chef's

El Tapatio

Arby's

McDonald's



Ordinance No. _____

**An Ordinance Amending Section 4-52 of the Grand Junction Code of Ordinances
Reducing the Distance a Hotel and Restaurant
Liquor Licensed Premise Must Be from the Principal Campus of a
College or University in the City of Grand Junction**

Recitals.

12-47-313 (1)(d)(I) C.R.S. requires any building where the malt, vinous, or spirituous liquor is to be sold to be located at least five hundred feet from any public or parochial school or the principal campus of any college, university or seminary.

12-47-313 (1)(d)(III) C.R.S. provides that “The local licensing authority of any city and county, by rule or regulation, the governing body of any other municipality, by ordinance and the governing body of any other county, by resolution, may eliminate or reduce the distance restrictions imposed by this paragraph (d) for any class of license, or may eliminate one or more types of schools or campuses from the application of any distance restrictions established by or pursuant to this paragraph (d)”.

In 1987, the City Council of the City of Grand Junction, after a properly noticed public hearing, adopted Ordinance No. 2367 which reduced the distance a hotel and restaurant liquor licensed establishment must be from the principal campus of a college or university to 300 feet.

The City Council considered a further reduction of distance required between hotel and restaurant liquor licenses and the principal campus of colleges and universities and has established the required distance as provided with this ordinance.

NOW, THEREFORE, BE IT ORDAINED THAT:

Under the provisions of 12-47-313 (1)(d)(III) C.R.S., the distance that a hotel and restaurant liquor licensed premises must be separated from the principal campus of a college or university in the City of Grand Junction is reduced from 300 feet to _____ feet. The distance shall be determined in accordance with 12-47-313 (1)(d)(II) C.R.S. and Colorado Liquor Regulation 47-326.

Introduced on first reading and ordered published this _____ day of _____, 2004.

Passed on second reading and order published this _____ day of _____, 2004

ATTEST:

President of the Council

City Clerk

Attach 3
Amend Chapter 38, Utilities, of the Code of Ordinances
CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA						
Subject	Ordinance Amending Chapter 38, Utilities, of the Code of Ordinances					
Meeting Date	March 17, 2004					
Date Prepared	March 10, 2004				File #	
Author	Jamie B. Kreiling			Staff Attorney		
Presenter Name	John Shaver			Acting City Attorney		
Report results back to Council	X	No		Yes	When	
Citizen Presentation		Yes	X	No	Name	
	Workshop		Formal Agenda	X	Consent	Individual Consideration

Summary: Amending Chapter 38 of the City’s Code of Ordinances (“Code”). The Industrial Pretreatment Program is audited by the Environmental Protection Agency (“EPA”) on an annual basis. The results of the 2003 audit necessitates changes to Chapter 38, Article II, of the Code. The proposed amendments mainly concern defining terms pursuant to definitions of the same or similar terms used within the United States Code and with the Code of Federal Regulations. Changes are made throughout Article II to coincide with the changes to the defined terms. The changes to the definitions do not change the program's operational procedures. Additional changes have been made to Chapter 38 for clarification purposes.

Budget: Cost of preparation and adoption only; no direct budgetary impact.

Action Requested/Recommendation: Introduction of Proposed Ordinance amending Chapter 38 of the Code on first reading and set a hearing for April 7, 2004.

Attachments: Proposed Ordinance is attached with a copy of the amended Chapter 38 with the changes tracked for review.

Background Information: See summary.

ARTICLE I. IN GENERAL

Sec. 38-1. Liability for expense, loss, damage; jurisdiction of court.

Any person violating any of the provisions of this chapter shall become liable to the City for any expense, loss or damage occasioned by the City by reason of such violation. The municipal court shall have concurrent jurisdiction in all causes arising under this chapter.

Secs. 38-2--38-25. Reserved.

ARTICLE II. WASTEWATER SYSTEM

Sec. 38-26. Definitions.

Unless otherwise defined in this article, the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer.

Building sewer means the extension from the building drain to the public sewer.

City Manager means the City Manager or his designee.

Color means the true color due to the substances in solution expressed in milligrams per liter.

Combined sewer means a sewer receiving both surface runoff and sewage.

Easement means an acquired legal right for the specific use of land owned by others.

Equivalent residential unit (ERU) means a single unit providing living facilities for one or more persons including permanent provisions for sleeping and sanitation.

Garbage means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Industrial wastes means the liquid or water-carried wastes from industrial manufacturing processes, trade or business, as distinct from domestic or sanitary sewage.

Interference means the inhibition or disruption of the Wastewater Treatment Works ("WWTW") processes or operations which causes or materially contributes to a violation of any requirement of the WWTW's National Pollutant Discharge Elimination System ("NPDES") permit, or of the requirements of any agency with jurisdiction over discharges by the WWTW into the receiving waters. The term also includes contamination of WWTW sludge byproducts.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

Normal sewage means that waste having a biochemical oxygen demand of 200 milligrams per liter or less, and having total suspended solids of 250 milligrams per liter or less.

Pass Through means a discharge which exits the WWTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharge from other sources, is a cause of a violation of any requirement of the WWTW's NPDES permit (including an increase in the magnitude or duration of a violation).

pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, septic waste, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, dirt, sand, industrial, municipal and agricultural waste discharged into water.

Properly shredded garbage means the wastes from the preparation, cooking and dispensing of foods that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

Sanitary sewer means a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

Sewage means the spent water of a community. Also referred to as wastewater.

Sewer means a pipe or conduit for carrying sewage.

Sewer rental charges include all rates, charges, fees and costs of inspection connected with the WWTW.

Slug means any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen minutes more than five (in case of heavy metals, three) times the average twenty-four-hour concentration or flows during normal operation and may adversely affect the wastewater facilities.

Storm drain (sometimes termed "storm sewer") means a drain or sewer for conveying water, groundwater, drainage water, or unpolluted water from any source, excluding sewage and industrial wastes.

Storm water means the surface runoff from rainfall and other storm events.

Tap means an opening or connection between the service sewer and the sanitary sewer through which sewage is discharged.

Total suspended solids ("TSS") means total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater, also referred to as nonfilterable residue.

Unpolluted water means the water is of quality equal to or better than effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.

Wastewater means the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, institutions and industrial establishments, together with any incidental groundwater, surface water, and storm water that may be present.

Wastewater facilities means the structures, equipment and processes required to collect, convey and treat domestic and industrial wastes and dispose of the effluent.

Wastewater treatment plant (“WWTW”) means that portion of the WWTW designed to provide treatment to wastewater. The term includes the Persigo wastewater treatment plant which is owned by the County and the City and operated by the City..

Wastewater Treatment Works (“WWTW”) means wastewater treatment works as defined in the United States Code, 33 U.S.C. section 1292, which are owned by the County and the City and which are operated by the City. The term includes “any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature.” It further includes, “any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water run off, or industrial waste, including waste in combined storm water and sanitary sewer systems.” As used herein, it shall include wastewater facilities that form the WWTW and any sewers that convey wastewaters to the WWTW from persons or sources within the City and outside the City who are, by contract or agreement with the City or connecting sanitation districts, users of the City’s and County’s WWTW.

Watercourse means a natural or artificial channel for the passage of water, either continuously or intermittently.

Sec. 38-27. Jurisdiction.

The provisions of this article shall apply to all sewer users and facilities served by the wastewater facilities and WWTW.

Sec. 38-28. Damaging or tampering with structures or equipment prohibited.

No unauthorized person shall maliciously, willfully, or in a grossly negligent manner break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the WWTW. Any person violating this section shall be subject to immediate arrest under charge of disorderly conduct.

Sec. 38-29. Authority to enter premises for purposes of inspection, observation, measurement, sampling and testing.

The City Manager and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this article. The City Manager shall have no authority to inquire into any processes, including metallurgical, chemical, oil, refining,

ceramic, paper, or other industries, beyond inquiries having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

Sec. 38-30. Duty to observe safety rules.

While performing the necessary work on private properties referred to in section 38-29, the City Manager or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees, and the City shall indemnify the company against loss or damage to its property by the City employees and against liability claims and demands for personal injury or property damage asserted against the company growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in section 38-53.

Sec. 38-31. Authority to enter private properties through which City has easement.

The City Manager and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the WWTW lying within such easement. All entry and subsequent work, if any, on such easement shall be done in full accordance with the terms of a duly negotiated easement pertaining to the private property involved.

Sec. 38-32. Insanitary deposits prohibited.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any insanitary manner on public or private property within the City and County, or in any area under the jurisdiction of the City and County, any human or animal excrement, garbage, or other objectionable waste.

Sec. 38-33. Discharge to natural outlets.

It shall be unlawful to discharge to any natural outlet within the City and County, or in any area under the jurisdiction of the City and County, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article.

Sec. 38-34. Construction, maintenance of privies and septic tanks.

Except as provided in this article, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater when the site is within 400 feet of an existing public sewer with sufficient capacity.

Sec. 38-35. Connection mandatory where public sewer available.

The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the City or County and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City or County are hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within 120 days after date of official notice to do so, provided that such public sewer is within 400 feet (122 meters) of the property line.

Sec. 38-36. Private disposal systems.

(a) *Connection to private disposal system where public system is unavailable.* Where a public, sanitary or combined sewer is not available under the provisions of section 38-35, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

(b) *Type, capacities, location and layout.* The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the State's department of public health.

(c) *Connection to public sewer upon availability of public sewer; abandonment of private facilities.* At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 38-35, a direct connection shall be made to the public sewer in compliance with this article within 120 days after the date of official notice to do so, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(d) *Sanitary operation.* The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City and County.

(e) *Additional requirements of the County's health officer.* No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the County's health officer.

Sec. 38-37. Permit required to connect to, use or alter public sewer.

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City Manager.

Sec. 38-38. Building sewer--Cost of connection to public sewer to be borne by owner.

All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City and County from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Sec. 38-39. Same--Separate sewer required for each building; exception.

A separate and independent building sewer shall be provided for every building except where one building stands at the rear of another on an interior lot and no private sewer is available nor can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

Sec. 38-40. Same--Use of old building sewers.

Old building sewers may be used in connection with new buildings only when they are found, on examination by the City Manager, to meet all requirements of this article.

Sec. 38-41. Same--Size, slope, materials of construction, other specifications.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the City and County.

Sec. 38-42. Same--Elevation.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

Sec. 38-43. Same--Connection of roof downspouts, areaway drains.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sewer.

Sec. 38-44. Same--Connection to public sewer to conform to Code requirements, applicable rules; deviations from prescribed procedures and materials.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the City and County. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the City Manager before installation.

Sec. 38-45. Same--Guarding of excavations; restoration of streets.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City and County.

Sec. 38-46. Changes in direction of private sewers.

When the course of a private sewer is not the same as the junction piece, it must be connected such that no 90-degree turns are used.

Sec. 38-47. General construction of private sewers.

The inside of every private sewer connecting with a public or sanitary sewer must be smooth and perfectly clean throughout its entire length, and the ends of all pipes not to be immediately used must be securely guarded against the introduction of sand or earth by brick and cement or other watertight and impervious metal.

Sec. 38-48. Connection of property lying two miles outside City.

(a) It is the policy of the City and County to require connections to the WWTW for property lying within two miles of the City's limits by arranging for sewage treatment through the City, either by annexation or through powers of attorney to accomplish annexation in the future, as possible. As annexations occur, the ownership of public or sanitary sewers within the annexed area will be transferred to the City.

(b) No property outside the City shall be connected to the WWTW until and unless the owner thereof shall submit an application, together with a signed and sworn statement, showing the plan, size and type of connection desired and the number of persons who will use the property so connected. Such plans and statement shall be referred to and examined by the City Manager, who shall endorse with approval or disapproval of the same as complying or failing to comply with all of the ordinances, regulations and rules concerning connections with the WWTW .

Sec. 38-49. Use of public sewers--Limitations on discharging certain substances, materials, waters, wastes.

(a) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the City Manager that such wastes may harm the WWTW, including but not limited to, the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or otherwise endanger life, limb, public property or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the City Manager will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewage treatment process, capacity of the WWTP, degree of treatability of wastes at the WWTP and other pertinent factors.

(b) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public or sanitary sewer:

- (1) Any solid or viscous substances in quantities or amounts or of such size capable of causing obstructions to the flow in sewers, Pass Through, or other Interference with the proper operation of the sewerage system.
- (2) Sludge or other material from sewage or industrial waste treatment plants or from water treatment plants, unless agreed to by the City Manager.
- (3) Water accumulated in excavations or accumulated as the result of grading, water taken from the ground by well points, or any other drainage associated with construction without prior approval by the City.
- (4) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit or exceeding any lower limit fixed by the City to prevent odor nuisance where the volume of heated discharge represents a significant portion of the flow through a particular sewer.
- (5) Any waters, pollutants or wastes having a pH lower than 5.5.
- (6) Any waters or wastes containing grease or oil or other substances that will solidify or become discernible viscous at temperatures between 32 degrees and 150 degrees Fahrenheit, or any waters or wastes containing or possessing heat in amounts which will inhibit biological activity in the WWTW resulting in Interference. In no case shall heat be allowed in such quantities that the temperature at the WWTP exceeds 104 degrees Fahrenheit.
- (7) Any waters or wastes containing fats, wax, grease, or oils whether emulsified or not, in quantities or amounts capable of causing obstructions to flow, Pass Through, or other Interference with the proper operation of the WWTW. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through.
- (8) Any gasoline, benzene, naphtha, fuel oil, lubricating oil or other flammable or explosive liquid, solid, gas or pollutant which may create a fire or explosion hazard, including but not limited to waste streams with a closed cup flashpoint of less than 60 degrees Celsius or 140 degrees Fahrenheit using the test method specified in 40 CFR Section 261.21.
- (9) Any waters or wastes that contain concentrated dye waste or other waste that is either highly colored or could become highly colored by reacting with any other waste, and which is not removable in the WWTW.

(10) Any waters or wastes containing or which result in the presence of toxic or poisonous solids, liquids, vapors, fumes or gases in sufficient quantity, either singly or by interaction with other wastes, which contaminate the sludge of any municipal system or injure or interfere with any sewage treatment process or constitute a hazard to the health or safety of humans or animals, create a public nuisance or create any hazard in the receiving waters for the WWTW.

(11) Any waters or wastes that contain a corrosive, noxious or malodorous gas or substance which, either singly or by reaction with other wastes, is capable of causing damage to the system or to any part thereof, of creating a public nuisance or hazard, or of preventing entry into the sewers for maintenance and repair.

(12) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City Manager in compliance with applicable state or federal regulations.

(13) Quantities of flow, concentrations of flow, or both, which constitute a “slug” as defined in this article.

(14) Any storm water, surface water, groundwater, roof runoff, subsurface drainage, to any sanitary sewer, unless special permission is granted in writing by the City. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers.

(15) Any pollutant, waters or wastes, including oxygen demanding pollutants, discharged at a flow rate or pollutant concentration or in such volume which will exceed the hydraulic capacity of the wastewater facilities or which will cause Interference with the WWTW.

(16) Any waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the WWTP effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(17) Any trucked or hauled pollutants, except at discharge points designated by the WWTW personnel.

(18) Mass Based Local limits:

The following nondomestic discharge limitations are established to protect sludge quality and prevent Pass Through and Interference with the proper operation of the WWTW. These limits are shown in pounds per day. They reflect the total industrial contribution that can be discharged by permitted industrial users and received at the headwork's of the WWTP. These are called maximum allowable industrial loads (“mails”):

<u>POLLUTANT</u>	<u>*POUNDS PER DAY</u>
Arsenic	11.30
Cadmium	5.61
Chromium (T)	165.07
Chromium (VI)	21.76

Copper	110.48
Lead	40.13
Molybdenum	13.89
Mercury	0.098
Nickel	30.29
Selenium	22.82
Silver	37.04
Zinc	213.7

*Maximum daily industrial loadings shall be allocated through industrial user permits and the total loading to all permitted industrial users shall not exceed the limits shown.

(19) Ethylene glycol (antifreeze), small amounts are considered to be one-half gallon or less. Large amounts (over one-half gallon) must be held for a reclaimer, unless prior approval and instructions for discharge are obtained from the City.

(20) The following nondomestic discharge limitations are established to protect sludge quality and prevent Pass Through and Interference with the proper operation of the WWTW. These limits are shown in maximum allowable concentrations.

a.	Cyanide	1.2 mg/l
b.	Benzene	50.0 µg/l
c.	BTEX (aggregate parameter of benzene, ethyl benzene, toluene, and xylene),	750 µg/l
d.	Fats, Oil & Grease (animal/vegetable)	200 mg/l
e.	Total Recoverable Petroleum Hydrocarbons	50 mg/l

(c) Surcharge: Industrial users discharging a nontoxic or nonhazardous wastewater that exceeds the level set forth in this code for BOD and/or TSS, shall be surcharged in accordance with adopted surcharge rates. Based on the actual treatment costs, permitted industrial users shall be surcharged for BOD in excess of 200 mg/l and TSS in excess of 250 mg/l. In no case shall a surcharge be allowed that may cause Pass Through or Interference or otherwise cause a discharge of wastewater that violates any limit or prohibition specified in this section.

(d) Permitted industrial users discharging a nontoxic or nonhazardous wastewater, that is not otherwise identified in the Sewer Rate Schedule, and is in compliance with all pretreatment limits, shall be surcharged based on the actual cost to treat 1,000 gallons of industrial wastewater.

Sec. 38-50. Same--Action of City upon discharge of waters possessing characteristics enumerated in section 38-49.

(a) If any waters or wastes are discharged, or are proposed to be discharged, to the sanitary sewers, which waters contain the substances or possess the characteristics enumerated in section 38-49, and which, in the judgment of the City Manager, may have a deleterious effect upon the WWTW, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the City may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the sanitary sewers;
- (3) Require control over the quantities and rates of discharge; and/or
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of section 38-55.

(b) If pretreatment or equalization of waste flows is required, the design and installation of the plants and equipment shall be subject to the review and approval of the City Manager, and subject to the requirements of all applicable codes, ordinances and laws.

Sec. 38-51. Same--Grease, oil and sand interceptors.

Grease, oil and sand interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or EQU. All interceptors shall be of a type and capacity approved by the City, and shall be located so as to be readily and easily accessible for cleaning and inspection.

Sec. 38-52. Same--Maintenance of preliminary treatment or flow-equalizing facilities.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

Sec. 38-53. Same--Manholes.

When required by the City, the owner of any property serviced by a building sewer carrying industrial and/or commercial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be readily accessible and safely located, and shall be constructed in accordance with plans approved by the City. The manhole shall be installed by the owner at his expense, and shall be maintained by the owner so as to be safe and accessible at all times.

Sec. 38-54. Same--Measurements, tests and analyses.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this article shall be performed in accordance with the latest edition of 40 CFR Part 136 at a monitoring location specified in the permit or otherwise specified by the City.

Sec. 38-55. Service charges--Assessed.

(a) There shall be levied and assessed upon each lot, parcel of land, building or premises having any connection, or eligible for connection with the sewer system of the City, monthly sewer service charges or rentals computed by multiplying the EQU by the following factors, to wit:

- (1) Single-family dwelling, 1.00 EQU.
- (2) Multiple-family dwellings, 0.72 times number of single-family units.
- (3) Hotels and motels:
 - a. No restaurants or kitchen, 0.36 times number of rooms;
 - b. With kitchenette, 0.43 times number of rooms;
 - c. With restaurants, use (3)a then add rates from (4), below.
- (4) Restaurants:
 - a. Twenty-four-hour operation, 0.21 times number of seats;
 - b. Twelve-hour or less operation, 0.14 times number of seats;
 - c. Bar, no food, 0.04 times number of seats.
- (5) Schools:
 - a. No food or showers, 0.04 times number of student capacity;
 - b. For cafeterias, add to (5)a 0.02 times number of student capacity;
 - c. For showers, add to (5)a 0.02 times number of student capacity;
 - d. Boarding schools, 0.27 times number of student capacity.
- (6) Service stations:
 - a. Without wash rack, 1.00 EQU;
 - b. With wash rack, 2.3 times number of wash racks.
- (7) Shopping centers and stores, 0.35 times number of thousands of square feet of store space.
- (8) Travel trailer parks and courts, 0.25 times number of trailer parking spaces.
- (9) Churches, assembly halls, theaters and arenas, 0.01 times number of seating capacity.
- (10) Drive-in theater, 0.02 times number of car spaces.
- (11) Factory, warehouses, shops and offices (not including industrial waste), 0.05 times number of employees.

- (12) Hospitals, 0.89 times number of bed spaces.
- (13) Institutions, nursing homes, 0.36 times number of residences.
- (14) Laundry, coin-operated, 0.90 times number of washing machines.
- (15) Mobile home parks, 0.67 times number of lots or spaces.
- (16) Car wash, 2.3 times number of bays.
- (17) Fast food takeout (walk-up or drive-up):
 - a. Open 12 or more hours, 0.10 times number of employees;
 - b. Open less than 12 hours, 0.06 times number of employees.

(b) Where recycling of water is used or other conditions prevail which cause the above-listed nonresidential users to produce more or less average daily sewage flow than that computed by the above formula when the EQU is multiplied by 280 gallons per day, the City Manager may establish the EQU using the formula set forth in the following paragraph. Where the City Manager deems necessary, the sewer service charge may be charged according to the above formula. Then, after the first 12 months of full operation have passed, where actual water use is observed, the user may be remitted down to the sewer service charge computed based on actual water use.

(c) Sewer service charges shall be computed for nonresidential users that are not listed above by computing the hydraulic flow expected from the establishment. The EQU can be computed by dividing the expected flows by 280 gallons per day or by dividing the expected organic load in pounds of BOD₅ per day by 0.47 pound of BOD₅. The higher EQU obtained by the two methods shall be used in computing the sewer service charge.

(d) Industrial waste:

(1) Industries which discharge a nondomestic wastewater, that are not otherwise identified in this section, and are in compliance with federal, state and local limits shall be charged a rate that is equivalent to the actual cost to treat each 1,000 gallons of nondomestic wastewater discharged to the system, such charge to be in addition to the domestic user rate of 0.05 for each employee.

(2) Industries such as food, beverage and meat processing, dairies and feed lots which exceed the established limit for BOD and TSS shall be charged at a rate calculated to represent the actual cost to treat a pound of BOD and TSS; this charge shall be in addition to the rate of 0.05 for each employee.

(3) In those instances when an industry may discharge a wastewater which exceeds the limit for BOD and TSS allowed that industry by other sections of this article, its basic rate shall be calculated and an additional surcharge added to that calculated amount. Once the industry comes back into compliance, the surcharge shall be dropped.

(e) Beginning with the first billings sent out January 15, 1994, the total rate per EQU will be as established by resolution of the City Council and on file in the City Clerk's office for all users situated within or without the boundaries of the City.

(f) No connection shall be made to the WWTW until a permit has been obtained from the building department of the City and a fee as established by resolution of the City Council and on file in the City Clerk's office paid for such permit.

(g) The cost of connection to the WWTW shall be borne by the property owner.

(h) Tank truck operators disposing of wastewater will be assessed a treatment charge based on tank size. Loads are measured by tank size and not gallons. Acceptable water and waste for disposal shall exclude waste enumerated in section 38-49 or which is otherwise regulated by a valid permit or similar regulated guideline.

(i) Users of the WWTW within the City and County shall be charged the same where the services performed for the users are the same. Where services performed are not the same, the difference in the cost of providing the services shall be determined and the users shall be charged on the basis of the services provided.

(j) The City will determine average numeric criteria for the quality and quantity of sewage collected from residential users. The City will assess a surcharge rate for nonresidential users discharging waters and wastes with quality characteristics greater than the average residential user. Such users will be assessed a surcharge sufficient to cover the costs of treating the higher strength wastes. The surcharge rate structure is subject to revision, when necessary.

(k) The pro rata cost of connection shall constitute a sewer rental charge subject to lien under section 38-58.

Sec. 38-56. Same--New service fee.

Whenever a sewer service account is created or is changed, a new service fee in an amount as established by resolution of the City Council and on file in the City Clerk's office shall be charged, unless, at the same time, water service is being commenced or changed and a fee is being charged therefor.

Sec. 38-57. Same--Charge for reconnecting after disconnection for sewer service charge delinquency; penalty for unauthorized reconnections.

(a) If the sewer service is disconnected by shutting off the water supply, reconnection shall be made only upon the payment of all delinquencies plus a reconnecting charge as established by resolution of the City Council.

(b) It shall be unlawful, after sewer service has been disconnected by shutting off the water supply or in any other manner, for any person to reconnect such water supply without the consent of the City, and any person violating this provision shall be deemed guilty of a misdemeanor.

Sec. 38-58. Same--Declared lien; collection.

All sewer rental charges, including but not limited to all rates (see definition), shall constitute a lien upon any lot, land, building or premises served, and if such amounts shall not be paid when due, such service, if within the City's water system, may be disconnected by the City without further notice, by shutting off the water supply therefrom, or, in other areas of the 201 sewer service area, the WWTW, the

City Manager may certify the charge to the County Treasurer to be placed upon the tax list for the current year to be collected in the manner other taxes are collected, with 10 percent added thereto to defray the cost of collection; plus interest at the rate of 1 percent per month or as established by resolution of the City Council, and all laws of the State for the assessment and collection of general taxes, including the laws for the sale of property for taxes and redemption of the same, shall apply.

Sec. 38-59. Billing procedure.

(a) All sewer charges shall be dated and sent out to the owner of the premises served or to whom the owner may direct at regular intervals. Such sewer service charges shall be added to and made a part of the water bill if customers receive water service from the City, or by separate billing if water service is from other than the City. Provisions of this Code relative to the payment of delinquent water bills shall also apply to delinquent sewer bills in all respects, including the discontinuance of water service for nonpayment of sewer charges as set forth in section 38-58.

(b) The owner of the premises, as well as the occupants thereof, shall have thirty days to notify the utility accounting department of any change of building structure and/or use to ensure correct monthly charges. The City will be under no obligation to credit or refund any account beyond expiration of the thirty-day notification period.

(c) In the event any user of the WWTW neglects, fails or refuses to pay the rates, fees or charges imposed or levied by this article for the connection or use of the WWTW or facilities, such rates, fees or charges shall constitute a lien upon the real property so served by such sewer connection. The amount due will be collected in the same manner as though it were part of the taxes. This is an additional remedy to others of the City.

Sec. 38-60. Same--Review.

The rates and charges for wastewater service are established so that each user class pays its proportionate share of the costs of wastewater treatment services, and the City Manager is hereby directed to annually review the charge structure to assure that proportionality between user classes is maintained and to recommend modifications as appropriate. Each user shall be notified annually by the City of the rate and that portion of the user charges which are attributable to wastewater treatment services.

Sec. 38-61. Disposition, use of sewer revenues.

The funds received from the collection of the charges or rentals authorized by this article shall be deposited with the City Manager and shall be deposited in a fund to be known as the "sewer fund" and, when appropriated by the City Council and County Commissioners, shall be used for the maintenance, operation, extension and improvement of the WWTW, and for interest on and discharging of principal of bonds and other obligations incurred in the acquisition, construction, improvement and extension of the WWTW.

Sec. 38-62. Pretreatment of industrial wastes--Purpose and policy.

(a) *Purpose.* Sections 38-62 through 38-70 of this article set forth uniform requirements for users of the WWTW and enables the City to comply with applicable state and federal laws, including the Clean Water Act of 1977, the federal General Pretreatment Regulations, 40 CFR Part 403, and the State Water Quality Control Act, as amended. The objectives of such sections are to:

- (1) Prevent the introduction of pollutants into the WWTW which will interfere with or upset the operation of the WWTP, or contaminate treatment plant sludge with toxic or hazardous materials;
- (2) Minimize the introduction of incompatible pollutants into the WWTW which may Pass Through the system without adequate treatment and into receiving waters or the atmosphere;
- (3) Prevent water quality violations resulting from direct discharges into waters of the State, or violations of the NPDES permit for the WWTW;
- (4) Improve the opportunity to recycle and reclaim wastewaters and sludges from the system;
- (5) Provide for equitable distribution of the costs of the WWTW;
- (6) Establish and maintain a database and inspection program sufficient to determine compliance with pretreatment requirements;
- (7) Enhance the efficiency and cost effective operation of the WWTW; and
- (8) Protect the health and safety of City and County residents and WWTW workers.

(b) *Policy.* Sections 38-62 through 38-70 provide for the regulation of contributors or users of the WWTW through the development of an industrial pretreatment program, including issuance of permits to certain nondomestic users, and through enforcement of general requirements for the other users. Such sections authorize monitoring and enforcement activities, require user reporting, protect the WWTW and hydraulic capacity, improve the ability to serve existing and new customers within the service area of the WWTW, set fees for the equitable distribution of costs resulting from the program established herein, and establish penalties and remedies for violations of pretreatment requirements.

(c) *Applicability.* Sections 38-62 through 38-70 apply within the City and to persons outside the City who are, by contract or agreement with the City, connector districts, or County, users of the WWTW. Except as otherwise provided herein, the City Manager shall implement, administer, and enforce the provisions of such sections.

Sec. 38-63. Same--Definitions.

The following words, terms and phrases, when used in sections 38-62 through 38-70, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accidental discharge means the unintentional and temporary discharge to the WWTW of the prohibited waters or wastes, including those described in section 38-49 or section 38-65.

Act or the act means the Federal Water Pollution Control Act, PL 92-500, also known as the Clean Water Act, and including amendments thereto by the Clean Water Act of 1977, PL 95-217, 33 U.S.C. section 466 *et seq.*, and as subsequently amended.

Approval Authority is the administrator of the Environmental Protection Agency ("EPA"), unless the State's industrial pretreatment program has been approved, in which case the approval authority shall be the City Manager or the State's department of health.

Authorized representative of an industrial user includes:

(1) A principal executive officer of at least the level of vice president having full actual authority to act on behalf of the corporation, if the industrial user is a corporation;

(2) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; or

(3) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of facilities from which any discharge originates.

Categorical industrial user means an industrial user discharging into the City's 201 area wastewater collection, treatment and disposal system, the WWTW, which is classified as a categorical industry and because of the nature of its discharge is governed by the national categorical pretreatment standards as specified in 40 CFR Chapter I, Subchapter N, Section 403.6.

Categorical standards mean national categorical pretreatment standards or pretreatment standard.

Cooling water means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

City Manager refers to the City Manager or his designee.

Discharge means the introduction of treated or untreated wastewater into the WWTW.

Domestic waste or sanitary wastes means liquid waste(s):

(1) From the noncommercial preparation, cooking or handling of food; or

(2) Containing human excrement or similar matter from the sanitary conveniences of a dwelling, commercial building, industrial facility or institution.

Environmental Protection Agency or *EPA* means the U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of such agency.

Grab sample means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

Harmful contribution means an actual or threatened discharge or introduction of industrial waste to the WWTW; which presents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment; or which inhibits or interferes with the physical or lawful operation of the WWTW; or which causes the City or the WWTW to be in violation of any condition of its NPDES permit.

Holding tank waste means any waste from a holding tank such as vessels, chemical toilets, campers or trailers.

Industrial means of or pertaining to industry, manufacturing, agriculture, commerce, trade or business, as distinguished from domestic or residential.

Industrial discharge permit means a document as set forth in section 38-67, which licenses and conditions the nature and amount of contribution of industrial waste into the WWTW.

Industrial user means any person or source that introduces or discharges wastewater from industrial processes into the WWTW, such as eating establishments, food processors or feed lots, and who may be subject to a user charge for excess strength or toxic waste.

Industrial user charge means an additional charge calculated either by the actual gallons of industrial or commercial wastewater discharged per 1,000 gallons or by calculating the pounds of BOD and TSS being discharged in the process wastewater. This charge is in addition to the charge determined under section 38-55(a)(11).

Industrial waste or wastewater means the liquid or water-carried waste(s) from industrial manufacturing or processing, as distinct from domestic or sanitary wastes.

Interference means the inhibition or disruption of the WWTW processes or operations which causes or materially contributes to a violation of any requirement of the WWTW's NPDES permit, or of the requirements of any agency with jurisdiction over discharges by the WWTW into the receiving waters. The term also includes contamination of WWTW sludge byproducts.

National categorical pretreatment standard(s) means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Clean Water Act (33 U.S.C. section 1317) and as specified in 40 CFR Chapter I, Subchapter N, which applies to a specific category of primary industrial users.

National pollutant discharge elimination system (NPDES) permit means a permit issued pursuant to section 402 of the act (33 U.S.C. 1342), allowing discharge of pollutants into navigable waters of the United States or waters of the State.

National pretreatment standard, pretreatment standard, or standard means any regulation containing pollutant discharge limits promulgated by EPA in accordance with 40 CFR Part 307 Section (b) and (c) which applies to industrial users. This term includes prohibitive discharge limits established pursuant to 40 CFR Part 403.5.

National prohibitive discharge standards or prohibitive discharge standard means any federal regulation developed under the authority of section 307(b) of the Clean Water Act, including the general pretreatment regulations (40 CFR 403.5).

New Source means any building, structure, facility or installation from which there is or may be a discharge of pollutants as defined in 40 CFR, Part 403.3, Section (k)(1) through (k)(3).

Pass Through means a discharge which exits the WWTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the WWTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Pollutant means any dredged soil, solid waste, incinerator residue, sewage, garbage, septic waste, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste discharged into water.

Pollution means the alteration of the chemical, physical, biological or radiological integrity of water by human activity.

Potential contributor means an industrial user of the WWTW which:

- (1) Discharges into the system more than 25,000 gallons of material per day on average;
- (2) Discharges into the system materials prohibited by section 38-49 of this article; or
- (3) Is found by the City, the State's department of health or EPA to have an adverse impact, separately or in combination with other industries, on the WWTW or the beneficial reuse of sludge, or to cause a toxic Pass Through, or to interfere with the treatment process, or to have the potential, because of an accumulative effect, to cause a violation of the WWTP's CDPS [NPDES] discharge permit. These may include users such as hospitals, laundries, auto repair shops and service stations.

Pretreatment or treatment means the reduction of the amount of pollutants, the elimination of pollutants, the alteration of the rate of their introduction into the WWTW, or the alteration of the nature of pollutant properties in wastewater to a less harmful state, prior to or in lieu of discharging or otherwise introducing such pollutants into the WWTW. The reduction or alteration can be achieved by physical, chemical or biological processes, process changes, or by other means, except as prohibited by 40 CFR Part 403.6(d).

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, including national categorical pretreatment standards, imposed on an industrial user.

Significant industrial user means a permitted industrial user discharging into the WWTW and which may be classified as one of the following: categorical user, potential contributor or an industrial user, or any other descriptive term necessary to readily identify any industrial waste discharge or permit classification. These include any industrial discharger subject to categorical pretreatment standards; or:

- (1) Any other industrial user that discharges an average of 25,000 gallons per day or more process wastewater to the WWTW, excluding sanitary, noncontact cooling water and boiler blowdown wastewater; or
- (2) Contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the WWTW, whichever is less; or
- (3) Is designated as such by the WWTW on the basis that the industrial user has a reasonable potential for adversely affecting the WWTW operation or for violating any pretreatment standard or requirement.

Significant noncompliance. An industrial user is in significant noncompliance if its violation meets one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all the measurements taken during a six-month period exceed (by any amount) the daily maximum limit for the same pollutant parameter; or
- (2) Technical review criteria ("TRC") violations, defined here as those in which 33 percent or more of all the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC equals 1.4 for BOD, TSS, fats, oil and grease and 1.2 for all other pollutants except pH.); or

- (3) Any other violation of a pretreatment effluent limit (daily maximum or longer term mean average) that the WWTW determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of WWTW personnel or the public; or
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWTW's exercise of its emergency authority to halt or prevent such a discharge; or
- (5) Failure to meet, within ninety days after the scheduled date, a compliance schedule milestone or a local control mechanism or enforcement order, for starting or completing construction or for attaining compliance; or
- (6) Failure to provide, within thirty days after the date due, a required report such as a baseline monitoring report (BMR), a ninety-day compliance report, a periodic self-monitoring report or a report on compliance with compliance schedules; or
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation or group of violations which the Program City Manager, also known as the WWTW industrial pretreatment coordinator, or the City Manager, determines will adversely affect the operation or implementation of the local pretreatment program.

Source means any building, structure, facility or installation from which there may be a discharge of pollutants.

Standard industrial classification ("SIC") means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, as amended.

Toxic pollutant includes, but is not limited to, any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the EPA under the provisions of section 307(a) of the act or other applicable laws.

User means any person who contributes, causes or permits the contribution or introduction of wastewater into the WWTW.

Wastewater or sewage means the spent water of a community that enters the WWTW. The term also refers to a combination of liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water or storm water that may be present.

Wastewater treatment plant ("WWTP") is that portion of the WWTW designed to provide treatment to wastewater. The term includes the Persigo wastewater treatment plant which is owned by the County and the City and operated by the City.

Wastewater treatment works ("WWTW") means wastewater treatment works as defined by section 212 of the act (33 U.S.C. section 1292) which are owned by the City and County, or which are managed and operated by the City. This term includes any sewers that convey wastewater to the WWTP from within the Persigo WWTP service area. . The term includes "any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature." It further includes, "any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of

municipal waste, including storm water run off, or industrial waste, including waste in combined storm water and sanitary sewer systems.” For the purposes of sections 38-62 through 38-70, “WWTW” shall also include waterworks facilities and any sewers that convey wastewaters to the WWTW from persons or sources outside the City who are, by contract or agreement with the City or connecting sanitation districts, users of the City’s and County’s WWTW.

Waters of the State means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

Sec. 38-64. Same--Abbreviations.

The following abbreviations when used in sections 38-62 through 38-70 shall have the meanings designated in this section:

CDPS: Colorado Discharge System

CFR: Code of Federal Regulations.

EPA: Environmental Protection Agency.

mg/l: Milligrams per liter.

NPDES: National pollutant discharge elimination system.

SIC: Standard industrial classification.

TSS: Total suspended solids.

U.S.C.: United States Code.

WWTP: Wastewater treatment plant.

WWTW: Wastewater treatment works.

Sec. 38-65. Same--Regulations.

(a) *General discharge prohibitions.*

(1) No person or user shall introduce, discharge, or cause to be discharged into the WWTW any pollutant or wastewater which may cause Interference with the operation or performance of the WWTW, or which constitutes a harmful contribution to the WWTW, or which may Pass Through the WWTW so as to cause the WWTW to violate a term of its NPDES permit or other applicable laws and regulations. These general prohibitions apply to all users of the WWTW, whether or not the user is subject to national pretreatment standards or any other national, state or local pretreatment standards or requirements, including specific pollutant limitations developed pursuant to subsection (j) of this section.

(2) In addition to the prohibited waters or wastes described above or in section 38-49, a user shall not introduce or discharge the following substances into the WWTW:

a. Any wastewater containing toxic pollutants in sufficient quantity to exceed the limitation set forth in a national categorical pretreatment standard; or

b. Any substance which may cause the WWTW's effluent or any other products such as residues, sludges, or scums to be unsuitable for reclamation or reuse.

(3) No person or user shall discharge a pollutant into the WWTW which may cause the WWTW or its management agency to be in noncompliance with any sludge use or disposal law or regulations, including section 405 of the Clean Water Act, the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or any State criteria applicable to sludge management.

(b) *Actions of City Manager.* Whenever the City Manager determines through an industrial waste survey or otherwise that a user is contributing to the WWTW any of the substances referred to in section 38-49, or in this section, in such amounts as to interfere with the operation of the WWTW, or to constitute a harmful contribution to the WWTW, the City Manager shall:

(1) Advise the user of the impact of the contribution on the WWTW; and

(2) Develop and apply specific effluent limitations and pretreatment requirements for the user to correct the Interference with or harm to the WWTW; and/or

(3) Perform the actions listed in section 38-50, as deemed necessary.

(4) Undertake an action, where appropriate, as specified in 38-68.

(c) *Preemption by national categorical pretreatment standards.* Upon the promulgation of the national categorical pretreatment standards for a particular industrial subcategory, the national standard, if more stringent than limitations imposed under this article for sources in that subcategory, shall immediately supersede the limitations imposed under this article. The City Manager shall notify all affected users of the applicable reporting requirements under 40 CFR Section 403.12. Failure to notify shall not relieve a user from any requirements under the law.

(d) *Modification of national categorical pretreatment standards.* When the WWTW has achieved consistent removal of pollutants limited by national pretreatment standards, the City may apply to the approval authority for modification of or exemption from specific limits in the national pretreatment standards.

(e) *State requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this article.

(f) *City's right of revision.* Notwithstanding the provisions of subsection (c) of this section the City reserves the right to establish by ordinance, resolution, or permit more stringent specific pollutant limitations or pretreatment requirements pursuant to subsection (j) of this section for discharges to the WWTW, if deemed necessary to comply with the objectives and intent of section 38-62.

(g) *Excessive discharge.* No industrial user shall increase the use of process water or dilute industrial wastewater with tap water, unpolluted water, sanitary sewage, or other liquid dilutants as a partial or complete substitute for adequate pretreatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, or with any other pollutant-specific limitation developed by the City or State.

(h) *Accidental discharges.* Each significant industrial user shall provide adequate protection against accidental discharge of the prohibited waters or wastes described in section 38-49 or in this section, or other substances regulated by sections 38-62 through 38-70. Facilities to prevent accidental discharge of prohibited waters or wastes shall be provided and maintained at the user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection, unless already provided, shall be submitted to the City for review and shall be approved by the City Manager before construction of the accidental discharge prevention facility. All significant industrial users shall submit such a plan within ninety days after being permitted as a significant industrial user. No industrial user who commences contribution to the WWTW after the effective date of the ordinance from which this section derives shall be permitted to introduce pollutants into the system until accidental discharge procedures and facilities have been approved by the City. Review and approval of such plans and operating procedures shall not relieve the industrial user from any responsibility to pretreat as necessary to meet the industrial pretreatment requirements of sections 38-62 through 38-70.

(i) *Notice of accidental discharge.* In the case of an accidental discharge, it is the responsibility of any industrial user to immediately telephone and notify the City Manager of the incident. The notification shall include the location of discharge, type of waste or wastes, concentration, volume, duration, time of episode, and corrective actions undertaken.

(1) Within fifteen days following an accidental discharge, the industrial user shall submit to the City Manager a detailed written report describing the cause of the discharge and the measures taken or planned by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the WWTW, fish kills, or any other damage to persons or property; nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by sections 38-62 through 38-70 or other applicable law.

(2) A sign shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of an accidental discharge. The industrial user shall ensure that all employees who may cause such an accidental discharge to occur are advised of the emergency notification procedure.

(j) *Specific pollutant limitations.* No person shall discharge into the WWTW any wastewater containing pollutants generally prohibited by section 38-49 of this Code, pollutants in excess of specific pollutant limitations as established by resolution of the City Council, specific limitations contained in any industrial discharge permit, or limitations imposed by national categorical pretreatment standards.

(k) *Methodology.* All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in sections 38-62 through 38-70 shall be conducted in accordance with 40 CFR Part 136.

(l) *Right of entry.*

(1) The City Manager and/or his authorized representative, upon the presentation of credentials, may:

a. Enter upon premises where an effluent or potential effluent source is located or in which any records are required to be kept under the terms and conditions of sections 38-62 through 38-70;

- b. At reasonable times, have access to and may copy any records required to be kept under the terms and conditions of this Code or a discharge permit and may inspect any monitoring or sampling methods being used;
 - c. Enter upon the premises to reasonably investigate any actual, suspected or potential source of uncommon water pollution, or any violation of this article.
- (2) The investigation may include, but is not limited to, the following: sampling of any discharge and/or process waters, the taking of photographs; interviewing of any person having any knowledge related to the discharge or alleged violation; and access to any and all facilities or areas within the premises that may have any effect on the discharge or alleged violation.

Sec. 38-66. Same--Fees.

(a) *Purpose.* The purpose of this section is to provide for the payment to the City sewer fund by industrial users of the WWTW for all costs incurred in the implementation and administration of the industrial pretreatment program. The applicable charges and fees shall be set forth in a schedule developed by the City Manager.

(b) *Charges and fees.* The City Manager may adopt separate charges and fees that relate solely to the matters covered by sections 38-62 through 38-70, including fees for:

- (1) Industrial discharge permit applications;
- (2) Reimbursement of costs of setting up and operating the Industrial Pretreatment Program;
- (3) Measuring, monitoring, inspection and surveillance procedures, sampling, testing, and analyzing user wastewater;
- (4) Reviewing and approving accidental discharge procedures and facilities;
- (5) Fees as the City may deem necessary to carry out the requirements contained herein; and
- (6) Fees to cover the added cost of handling or treating any wastes not covered by existing or regular monthly sewer service charges.

The charges and fees shall be established so that the permit application fee will cover the administrative costs of processing the permit. All other costs will be reviewed annually and established as part of the regular billing for each industrial user.

Sec. 38-67. Same--Pretreatment program administration.

(a) *Unlawful discharge.* It shall be unlawful to discharge any industrial wastewater or polluted waters into any natural outlet within the City or within any area under the jurisdiction of the City, except where suitable treatment has been provided, and except as authorized by the City Manager in accordance with the provisions of sections 38-62 through 38-70.

(b) *Industrial discharge permits.*

- (1) *Permit required.* No significant industrial user shall discharge wastewater to the WWTW without having a valid industrial discharge permit issued by the City Manager. Any discharge in violation of pretreatment standards or requirements contained therein is prohibited.
- (2) *Issuance.* After evaluation of the permit application, the City Manager may issue an industrial discharge permit subject to terms and conditions provided herein. In determining whether a permit shall be issued and/or what conditions shall be applied, the City Manager shall consider all applicable national categorical and local pretreatment standards as well as those factors listed in section 38-49.
- (3) *Permit application.* Users required to obtain an industrial discharge permit shall complete and file with the City Manager an application in the form prescribed by the City Manager and accompanied by the permit application fee. The user shall submit, in units and terms suitable for evaluation, all information required by the permit application, and any relevant supplemental information requested by the City Manager. All significant industrial users connected to or discharging to the WWTW and all other persons proposing to connect to the WWTW who are determined to be subject to industrial discharge permit requirements shall apply at least thirty days prior to commencing discharge. When a user becomes subject to a national categorical pretreatment standard and has not previously submitted an application for an industrial discharge permit, the user shall apply for an industrial discharge permit within ninety days after the promulgation of the applicable national categorical pretreatment standard.
- (4) *Categorical Pretreatment Standards.* Within six months after the promulgation of a national categorical pretreatment standard, the industrial discharge permit of users subject to such standards shall be revised to require compliance by the prescribed compliance date. In addition, any industrial user with an existing industrial discharge permit shall submit to the City Manager within 180 days after the promulgation of an applicable national categorical pretreatment standard a baseline report and any information required by 40 CFR Section 403.12 and by section (E)(2) of the industrial discharge permit application.
- (5) *Permit conditions.* Industrial discharge permits and significant industrial user permittees shall be subject to all the provisions of this chapter and all other applicable City laws, user charges and fees. Permits shall contain, but shall not be limited to, the following requirements or conditions:
 - a. Unit charge or schedule of industrial user charges and fees for the wastewater to be discharged to the WWTW;
 - b. Notice of the general and specific prohibitions required under sections 38-49 and 38-65 (j) of this chapter;
 - c. Prohibitions on discharge of any specific materials;
 - d. Notice of applicable national categorical standards; Pretreatment Standards;

- e. Limits equal to or more stringent than the specific pollutant limitations as established pursuant to section 38-65(j) concerning average and maximum wastewater constituents, and on characteristics of either the individual industrial process wastes or combined industrial wastewater discharge;
- f. Limits on average and maximum rate and time of discharge, or requirements for flow regulations and equalization;
- g. Monitoring facilities as described in subsection (d) of this section;
- h. Monitoring programs, which may include sampling locations, frequency of sampling, number, types and standards for tests, and reporting schedules;
- i. Installation, maintenance, and cleaning of any pretreatment technology necessary to achieve compliance with the requirements of this article, including filtration, chemical treatment, grease, oil and sand traps, and other necessary equipment;
- j. Compliance schedules and any periodic progress or compliance reports required by this article or by Federal Pretreatment Regulations, including 40 CFR Section 403.12;
- k. Submission of technical reports or discharge reports, as provided in subsection (c) of this section;
- l. Maintenance and retention of plant records relating to wastewater discharge, as specified by the City Manager;
- m. Notification of the City Manager of any discharge of new wastewater constituents, or of any substantial change in the volume or character of the wastewater constituents being introduced into the WWTW;
- n. Notification of any slug or accidental discharge as per section 38-65 (i)(1);
- o. Agreement to pay additional costs of handling or treating any industrial wastewater discharges not authorized by this article or by any permit issued hereunder. Nothing herein shall be interpreted to allow discharges which include harmful contributions to the WWTW, interfere with the WWTP facilities, equipment, or receiving waters, or which may otherwise create a hazard to life or which may constitute a public nuisance;
- p. Agreement by the industrial user: to allow access to the City Manager to ensure compliance with permit conditions; to agree to perform all permit conditions; to submit to the remedy of specific performance for breach of contract; and to pay liquidated damages for violation of pretreatment standards and/or requirements where damages are not readily ascertainable; and
- q. Other appropriate conditions, in the judgment of the City Manager, necessary to ensure compliance with this article.

(6) *Permit duration.* Industrial discharge permits are valid only for a specified time period, not to exceed five years from the date of issuance. Each significant industrial user shall apply for permit renewal at least ninety days prior to the expiration date of the existing permit.

(7) *Permit modifications.* The terms and conditions of any permit may be subject to modification by the City Manager during the term of the permit as limitations or requirements as identified in sections 38-65 and this section are modified, or as other just cause exists. The user shall be notified of any proposed changes in his permit at least thirty days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(8) *Permit transfer.* Industrial discharge permits are issued to a specific user for a specific operation. An industrial discharge permit is not transferable, and is voidable if reassigned, transferred, or sold to a new owner, new user, different premises, or a new or different operation without written approval by the City Manager.

(c) *Reporting requirements.*

(1) *Compliance date report.* Within ninety days following the date for final compliance with applicable pretreatment standards or requirements, or in the case of a new source, following commencement of the introduction of wastewater into WWTW, any industrial user subject to federal, state or city pretreatment standards and requirements shall submit to the City Manager a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by such standards and requirements. The report shall also indicate the average and maximum daily flow or predicted flow for the process units in the user facility subject to the federal, state or city standards and requirements, whether these standards are being met on a consistent basis and, if not, what additional operations, maintenance or pretreatment is or will be necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and shall be certified by a qualified professional engineer or a person with adequate wastewater discharge experience.

(2) *Mass limits.* The City Manager may impose mass limitations in addition to concentration limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or upon other users when deemed necessary. In such cases, the reports required by subsections (b)(5)l and (c)(1) of this section shall also indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow, nature, concentration, production, and mass of pollutants which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the industrial discharge permit.

(3) *Reporting violations.* Reporting violations include failure to submit self-monitoring reports, total toxic organics compliance certifications or compliance schedule progress reports within thirty days of deadlines and/or failure to complete milestones within ninety days of deadline.

(d) *Monitoring facilities.*

(1) Each significant industrial user shall provide, calibrate, and operate at its expense sufficient monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and internal drainage systems. The monitoring facilities, including control manholes and

continuous flow recorders, shall normally be situated on the user's premises. If such a location would be impractical or cause undue hardship on the industrial user, the City Manager may allow the facility to be constructed in a public right-of-way if the facility will not be obstructed by landscaping or parked vehicles.

- (2) A sampling manhole or facility shall have sufficient room for accurate sampling and preparation of samples for analysis. The facility shall be maintained at all times in a safe and proper operating condition at the expense of the industrial user.
- (3) Whether constructed on public or private property, any sampling and monitoring facilities shall be built in accordance with City requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety days following receipt of a written order by the City Manager to install the facility.

(e) *Inspection and sampling.* The City Manager may inspect the facilities of any user to determine whether the purpose of these industrial pretreatment regulations and all applicable requirements are being complied with. Owners, employees or occupants of premises where wastewater is discharged shall allow the City Manager and other City representatives or agents ready access at all reasonable times to all parts of the premises where wastewater is created or discharged, including industrial process areas, for the purposes of inspection, sampling, records examination, or performance evaluation. The City Manager may set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which require proper identification and clearance before entry into such user's premises, the user shall make necessary arrangements with the security guards so that, upon presentation of suitable identification, personnel authorized by the City or from the State or EPA will be permitted to enter without delay for the purpose of performing their specific responsibilities under this article.

(f) *Pretreatment.*

(1) Industrial users shall provide whatever wastewater pretreatment is required, in the opinion of the City Manager, to comply with this article and shall comply with all national categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations and this article. Any facilities required to pretreat wastewater to a level of quality acceptable to the City shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City Manager for review, and must be approved by the City Manager before construction of the facilities. The review or approval of such plans and operating procedures shall in no way relieve a user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this article. Any subsequent change in the pretreatment facilities or method of operation shall be reported to and approved by the City Manager prior to such change.

(2) The City Manager shall annually publish, in a newspaper of general circulation within the City, a list of any industrial users determined to be in significant noncompliance ("SNC") with this article. The notification shall summarize the types of violations and any enforcement action taken.

(3) All records relating to compliance with pretreatment standards or requirements shall be made available to officials of the EPA or the State's department of health upon request to the City Manager.

(g) *Confidential information.*

- (1) Information and data regarding a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or governmental agencies without restriction, unless the user specifically requests and is able to demonstrate to the satisfaction of the City Manager that the release of such information would divulge information entitled to protection as a trade secret of the user. In such case, restricted information shall not be made available to the public, but shall nevertheless be made available to other governmental agencies for limited purposes related to water pollution control, including judicial review or enforcement of the provisions of this article.
- (2) Wastewater constituents and characteristics will not be recognized as confidential information.
- (3) Information accepted by the City Manager as confidential shall be handled in compliance with applicable state law.

Sec. 38-68. Same--Enforcement.

The Persigo WWTW shall develop and implement an enforcement response plan. The plan shall be reviewed as required by and for conformance with federal law and shall at a minimum contain detailed procedures indicating how the Persigo WWTW will investigate and respond to instances of industrial noncompliance. The plan shall describe how the WWTW will investigate instances of noncompliance; describe the types of escalating enforcement the WWTW will take in response to all anticipated user violations and the time periods within which such responses will occur. The plan shall identify, by title, the official(s) responsible for various responses and reflect the Persigo WWTW's primary responsibility to enforce all applicable pretreatment requirements and standards as established in this article or by other applicable standards.

- (1) *Harmful contributions or Interference with the WWTW.*
 - a. The City Manager may cancel a user's permission to discharge wastewater into the WWTW, may reject such wastewater, may cease wastewater treatment service, and/or may suspend a user's industrial discharge permit when such suspension is necessary, in the opinion of the City Manager, in order to stop or preclude a harmful contribution to the WWTW, or a discharge which interferes with or has a deleterious effect upon the WWTW.
 - b. Any user notified of a suspension or cancellation of wastewater treatment service and/or the industrial discharge permit shall immediately stop or eliminate the contribution or discharge. In the event of a failure by such person to comply voluntarily with the suspension order, the City Manager shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the WWTW, danger to individuals, or harm to the receiving waters. The City Manager may reinstate the industrial discharge permit and/or the wastewater treatment service only upon proof of compliance with the order and all federal, state and local Pretreatment Standards and requirements, including payment of any fees or penalties. A detailed written statement submitted by the user describing the causes of the harmful contribution, and the measures actually taken to

prevent any future occurrence, shall be submitted to the City within five business days from the date of occurrence.

(2) *Revocation of permit.* Any significant industrial user who violates the following conditions of this section, any provision of this article, or applicable state and federal laws or regulations is subject to permit revocation in accordance with the procedures of this section:

- a. Failure to factually report wastewater constituents and characteristics;
- b. Failure to report significant changes in operations, or wastewater constituents and characteristics;
- c. Refusal or physical obstruction of reasonable access to the user's premises for the purposes of inspection, monitoring, review of records concerning wastewater, or any purpose listed under section 38-67(e);
or
- d. Violation of conditions of the industrial discharge permit.

(3) *Notification of violation.* Whenever the City finds that any user has violated or is violating this article, an industrial discharge permit, or any prohibition, limitation, condition or requirements contained therein, the City Manager shall serve upon such person a written notice stating the nature of the violation. Violation of any permit condition shall be considered to be a violation of this article. Unless required earlier by another provision of this article, within thirty days after the date of such notice the user shall submit to the City Manager evidence of the satisfactory correction of the violation, or a plan to correct the violation.

(4) *Administrative Orders.* Whenever the City Manager finds that any user has violated or is violating this article, or a permit or administrative order issued hereunder, the City Manager may have served upon said user an Administrative Order. Such order may be a Compliance Order, a Show Cause Order, a Cease and Desist Order, or an order assessing an administrative fine. Compliance with an administrative order shall not relieve the user of liability for any violations occurring before or after the issuance of the administrative order or prevent the City Manager from taking any other enforcement action authorized under this article.

(5) *Administrative Appeal Procedure.* Any permit applicant, permit holder or user affected by and dissatisfied with any decision, action, administrative order, assessment of administrative fine, or determination made and issued by the City Manager in interpreting, enforcing or implementing the provisions of this article, or the provision of any permit or administrative order issued under this article, shall file with the City Manager a written request for reconsideration within ten working days of such decision, action, administrative order or determination, setting forth in detail the facts supporting the request, whereupon the City Manager shall hold a hearing within ten working days of such request. All requests for reconsideration shall be heard by the City Manager within ten working days from the date of the hearing. The decision, action, administrative order or determination shall remain in effect during the reconsideration period.

(6) *Appeal of order of City Manager.*

a. Any person entitled to appeal an order of the City Manager pertaining to industrial wastewater discharge may do so by filing an appeal with the City Manager within ten days from the date of the City Manager's determination or order. The appeal shall contain the following items:

1. A heading in the words "Before the Utility Hearing Board of the City of Grand Junction, Colorado" or "Before the Utility Hearing Officer of the City of Grand Junction, Colorado";
2. A caption reading "Appeal of _____," giving the names of all participating appellants;
3. A statement of the legal interest of the appellants in the affected facility, together with the name of the authorized representative thereof;
4. A concise statement of the action protested, together with any material facts;
5. Verified signatures of all appellants, together with official mailing addresses and telephone numbers; and
6. Verification by declaration under perjury of at least one appellant as to the truth of the matters stated in the appeal.

b. Upon receipt of a properly filed appeal, the City Manager shall notify the City Council, who shall convene the utility hearing board or appoint a hearing officer. The hearing shall commence no sooner than ten days, but no later than sixty days, after the appeal is filed.

(7) *Show cause hearing.*

a. The City Manager is authorized to order any industrial user who causes, makes, or allows an unauthorized direct or indirect discharge or a harmful contribution to the WWTW to show cause why appropriate enforcement action should not be taken. In such case, a notice shall be served on the respondent user specifying the time and place of a hearing regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause why the proposed enforcement action should not be taken.

b. The notice of the hearing shall be served upon the user personally or by certified mail, return receipt requested, at least ten days before the hearing. Service may be made on any agent or authorized representative of a corporation or partnership.

(8) *Procedure for appeal or show cause hearing.*

a. The City Manager may appoint a hearing officer or may instead convene a utility hearing board to conduct the hearing or appeal. The board shall consist of a City Council member or designee, the City

Manager, a County Commissioner or designee, an employee of the department of public works or utilities, and a connector district representative if the appellant or respondent industrial user is located within the jurisdiction of that district.

b. The hearing officer or utility hearing board shall have the power to:

1. Issue in the name of the City Council notices of hearings requiring the attendance and testimony of witnesses and the production of evidence.

2. Hold a quasi-judicatory hearing, and receive relevant evidence relating to compliance with the requirements set forth in this chapter. Hearings shall be conducted informally. Rules of civil procedure and evidence shall not solely determine the conduct of the hearing or the admissibility of evidence. All testimony shall be given under oath, and a tape recording or other evidence of the verbatim content of the hearing shall be made. The burden of persuasion in either an appeal or show cause hearing shall be upon the appellant or respondent. The standard of proof to be utilized by the hearing officer or board in making its findings or recommendations shall be a preponderance of the evidence.

3. Determine and find whether just cause exists for not taking the proposed enforcement actions, or whether the order or action appealed is unwarranted.

4. Transmit a report of the evidence and hearing, including transcripts, tapes, and copies of other evidence if requested by any party, together with findings and recommendations to all parties to the hearing and to the City Council.

(9) *Effect of hearing.*

a. Findings and recommendations of the hearing board or officer shall be final and binding upon the City Manager and parties to the hearing, provided, however, that if the City Council disapproves the recommendations of the hearing board or officer within thirty days thereof, the Council may conduct its own hearing, make its own findings, and issue its own orders.

b. An order consistent with findings and recommendations of the hearing board or officer, or the City Council, as the case may be, shall be issued by the City Manager. The order may direct that sewer service to the user responsible for the violation be discontinued unless and until adequate treatment facilities or related devices have been installed and approved within a specified period of time. The order may provide for imposition of appropriate penalty charges, and for administrative fines designed to reimburse the City for the costs of the permit enforcement action. Further orders and directives, as are necessary and appropriate to enforce industrial wastewater permits and provisions of this article, may be issued by the City Manager.

Sec. 38-69. Same--Actions for violation.

(a) *Penalties.* The City shall have the authority to seek and assess civil and/or criminal penalties up to \$1,000.00 per day for each violation for noncompliance by industrial

wastewater dischargers who fail to comply with provisions of an industrial pretreatment permit, program condition or pretreatment standard and/or requirements issued thereunder.

(b) *Remedies.* If any person violates any order of the City Manager, a hearing board or officer or the council, or otherwise fails to comply with any provisions of this article or the orders, rules, regulations and permits issued hereunder, or discharges sewage, industrial wastes, or other wastes into the WWTW or into state waters contrary to the provisions of this article, federal or state pretreatment requirements, or contrary to any order of the City, the City may commence an action in a court of record for appropriate legal and equitable relief. In such action, the City may recover from the defendant reasonable attorney fees, court costs, deposition and discovery costs, expert witness fees, and other expenses of investigation, enforcement action, administrative hearings, and litigation, if the City prevails in the action or settles at the request of the defendant. Any person who violates any of the provisions of this article shall become liable to the City for any expense, loss, or damage to the City or to the WWTW occasioned by such violation. In addition, upon proof of willful or intentional meter bypassing, meter tampering, or unauthorized metering, the City shall be entitled to recover as damages three times the amount of actual damages.

(c) *Misdemeanor.* Any person who violates or fails to comply with any provision of sections 38-62 through 38-70 or with any orders, rules, regulations, permits and permit conditions issued hereunder shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$1,000.00 or imprisonment not to exceed one year or both. Each day in which any such violation occurs or persists shall be deemed a separate and distinct offense.

(d) *Penalty for false statement and tampering.* Any person who knowingly makes, authorizes, solicits, aids, or attempts to make any false statement, representation or certification in any hearing, or in any permit application, record, report, plan, or other document filed or required to be maintained pursuant to this article, or who falsifies, tampers with, bypasses, or knowingly renders inaccurate any monitoring device, testing method, or testing samples required under this article, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed \$1,000.00 or imprisonment not to exceed one year or both.

(e) *Remedies cumulative.* The remedies provided for in this article, including recovery of costs, administrative fines and treble damages, shall be cumulative and in addition to any other penalties, sanctions, fines and remedies that may be imposed. Each day in which any such violation occurs, whether civil and/or criminal, shall be deemed a separate and distinct offense.

Sec. 38-70. Same--Pretreatment authority outside of the City.

(a) In order to achieve and maintain compliance with the Clean Water Act, federal pretreatment standards and requirements, state regulations, sewage grant conditions, and WWTP discharge permit requirements, the City, as manager/operator of the Persigo WWTP, must possess and demonstrate a clear legal right to require compliance with pretreatment standards and requirements by any industrial user of the WWTW located outside of the City's territorial jurisdiction. To that end all governmental sewage connectors, including sanitation districts and the County, have been requested to adopt, and have adopted, by resolution, a regulatory pretreatment program either parallel to Ordinance No. 2169 or incorporating the provisions of Ordinance No. 2169, and requiring industrial users to comply with the City's pretreatment program.

(b) The connector districts and the County shall also be requested to approve necessary revisions to existing sewer service agreements or joint agreements granting the City the right to administer and physically enforce the connector's pretreatment program on behalf of and as agent for the connector district or County. Such supplemental or indirect regulatory authority accorded to the City shall only be used where

direct contractual relationships with industrial users through the industrial discharge permit program prove insufficient to ensure compliance with the pretreatment program.

Sec. 38-71. Plant investment fees and connection procedures--Purpose of fee.

The intent of the plant investment fee shall be to recover the cost of construction of main interceptor lines and sewage treatment works as determined by the City Manager in accordance with and pursuant to applicable law.

Sec. 38-72. Same--Payment of fee.

(a) Prior to connection of any building, premises or lot to any sewer system which utilizes the sewage treatment works or sewage transportation system of the City, the owner of that building, premises or lot shall pay a plant investment fee ("PIF") to the City.

(b) PIFs shall be paid within 150 days prior to actual connection of the building, premises or lot to the sewer system, and no prepayment shall be allowed except with the permission of the City Manager.

Sec. 38-73. Same--Amount of fee.

(a) The basic plant investment fee ("BPIF") shall be as adopted by resolution of the City Council.

(b) The PIF for any building, lot or premises other than a single-family residence shall be computed using the formula set out in this subsection; provided, that the minimum PIF for any building, lot or premises shall not be less than the BPIF.

Formula for PIF:

$$PIF = (BPIF) \times (EQU)$$

The EQU is determined by using the following values as applied for the type of use in which the building, premises or lot is to be used:

	<i>EQU</i>
(1) Any single-family above	1.00
(2) Multiple-family dwellings, 0.72 x number of single-family units .	EQU
(3) Hotels and motels:	
a. No restaurants or kitchens, 0.36 x number of rooms	EQU
b. With kitchenettes, 0.43 x number of rooms	EQU
c. With restaurants: Use above then add restaurants from below.	
(4) Restaurants:	
a. Twenty-four-hour operation, 0.21 x number of seats	EQU
b. Twelve-hour or less operation, 0.14 x number of seats . . .	EQU

	c.	Bar, no food, 0.04 x number of seats	EQU
(5)	Schools:		
	a.	No food or showers, 0.04 x number of student capacity. .	EQU
	b.	Add to (5)a for cafeterias, 0.02 x number of student capacity	EQU
	c.	Add to (5)a for showers, 0.02 x number of student capacity	EQU
	d.	Boarding schools, 0.27 x number of student capacity	EQU
(6)	Service stations:		
		Without wash rack, 1.00	EQU
		With wash rack, 2.3 per rack	EQU
(7)	Shopping centers and stores, 0.35 x number of thousand square feet of store space		EQU
(8)	Travel trailer park (KOA, etc.), 0.25 x number of trailer parking spaces		EQU
(9)	Churches and assembly halls, theaters and arenas, 0.01 x number of seating capacity		EQU
(10)	Drive-in theaters, 0.02 x number of car spaces		EQU
(11)	Factory, warehouses and offices (not including industrial waste), 0.05 x number of employees		EQU
(12)	Hospital, 0.89 x number of bed spaces		EQU
(13)	Institution--Nursing home, 0.36 x number of residences		EQU
(14)	Laundry, coin-operated, 0.90 x number of washing machines . . .		EQU
(15)	Mobile home parks, 0.67 x number of lots or spaces		EQU
(16)	Car wash, 2.3 x number of bays		EQU
(17)	Fast food takeout (walk up or drive up):		
		Open 12 hours or more each day, 0.10 x number of employees . .	EQU
		Open less than 12 hours per day, 0.06 x number of employees . .	EQU

(c) Where recycling of water is used or other conditions prevail which cause the above-listed nonresidential users to produce more or less average daily sewage flow than that computed by the above formula when the EQU is multiplied by 280 gallons per day, the City Manager may establish the EQU using the formula set forth in the following paragraph. Where the City Manager deems necessary, the PIF may be charged according to the above formula. Then, after the first 12 months of full operation have passed, where actual water use is observed, the PIF may be revised up or down based on actual water use.

(d) PIFs shall be computed for nonresidential users that are not listed above by computing the hydraulic flow expected from the establishment. The EQU can be computed by dividing the expected flows by 280 gallons per day or by dividing the expected organic load in pounds of BOD₅ per day by 0.47 pound of BOD₅. The higher EQU obtained by the two methods shall be used in computing the PIF.

(e) Sewer extension charges are as established by resolution of the City Council.

Secs. 38-74--38-95. Reserved.

ARTICLE III. WATER SYSTEM

Sec. 38-96. Kannah Creek--Territory covered.

(a) Sections 38-96 through 38-101 shall cover an area of all territory for five miles above the point on Kannah Creek, in Mesa County, where the water is diverted by the City from such creek, such point of diversion being located as follows: At a point whence the southwest corner of Section 34, Township 12 South, Range 97 West, sixth principal meridian bears south 20 degrees 47 minutes, west 2,670 feet.

(b) Sections 38-96 through 38-101 shall also cover the area within a radius of 500 feet of the settling basin or reservoir of the City on Kannah Creek located near such point of diversion.

Sec. 38-97. Same--Police power of caretaker.

The person employed by the City as caretaker to look after the water system of the City at Kannah Creek is hereby given, within the area covered by this article, the power and authority held and used by a police officer of the City within its corporate limits, and such caretaker shall have the right and power to arrest any person who may violate any provisions of sections 38-96 through 38-101.

Sec. 38-98. Same--Contamination prohibited.

(a) No person shall construct, keep or maintain a house, tent, barn, stable, cattle yard, chicken yard, feed lot, pigpen or any grounds or premises of whatever kind within the area covered by sections 38-96 through 38-101, the drainage from which is capable of contaminating or rendering the water injurious and unwholesome, upon Kannah Creek or upon the drainage district thereof.

(b) No person within the area covered by sections 38-96 through 38-101 shall allow any offensive or unwholesome or contaminating substance to remain upon the premises in such position that such substance or the drainage therefrom may be carried by natural causes into Kannah Creek.

Sec. 38-99. Same--Permit to live or camp near.

The utilities department may require that persons camping or living within the area covered by sections 38-96 through 38-101 first obtain a permit from it or from the caretaker to do so. Such permit shall designate the camping or living place and shall be revocable for cause by the utilities department or the caretaker.

Sec. 38-100. Same--Disposal of dead animals.

The carcasses of any animals dying within the area of sections 38-96 through 38-101 shall be immediately burned and buried in accordance with the regulations of the United States Forest Service.

Sec. 38-101. Same--Injuring trees.

No person shall cut or otherwise injure live trees in the area covered by sections 38-96 through 38-101, and no person shall tie horses or other animals to trees having a soft bark which are liable to be injured by such animals.

Sec. 38-102. Contractual nature of provisions.

The provisions of this article, so far as applicable, shall be considered as a part of the contract between the City and each property owner who is furnished with City water, and each property owner, by using City water and allowing City water to be used, shall be presumed to express his consent to be bound by all the provisions of this article, and such other regulations as the City may adopt.

Sec. 38-103. Application for service; liability of owners of premises; start of billing period.

(a) Application for water service to premises shall be in the name of the owner of the premises. Although the owner may direct that the water bill be sent to another for payment, the owner of property where water is used shall be liable for the payment of rent for all water used thereon in addition to the other utility charges appearing on the water bill. Where application is for new service, charges for water service shall begin when the City is advised that usage has commenced or 120 days after the issuance of the sewer or water permit, whichever is first, unless the applicant can show that no services are being received. Water rental charges include all rates, charges, fees and costs of inspection connected with the water system.

(b) The owner of the premises, as well as the occupant or occupants thereof, shall have thirty days to notify the utility accounting department of any change of building structure and/or use to ensure correct monthly charges. The City will be under no obligation to credit or refund any account beyond expiration of the thirty-day notification period.

Sec. 38-104. Water rent payable monthly; charges constitute lien.

All water rent shall be due and payable monthly. All water service and water service availability (see section 38-111) charges shall constitute a lien upon any lot, land, building or premises served and if such charges shall not be paid when due, such service may be disconnected by the City without further notice, by shutting off the water supply, and the City Manager may certify the charge to the County Treasurer to be placed upon the tax list for the current year to be collected in the manner other taxes are collected, with 10 percent added to defray the cost of collection and the value of attorney's fees and court costs plus interest at 1 percent per month or as amended by resolution of the City Council, and all laws of the State for the assessment and collection of general taxes, including the laws for the sale of property for taxes and redemption of the same, shall apply.

Sec. 38-105. New service fee.

Whenever a water service account is created or is changed, a new service fee in the amount established by resolution of the City Council shall be charged for the setting up of the new account.

Sec. 38-106. Payment of water rent; discontinuing service for nonpayment; delinquency charge.

All water rent shall be payable at the office of the City Treasurer within forty-five days following the date of billing, and if not paid within that time shall become delinquent, and the

water may be shut off without notice. An additional charge as established by resolution of the City Council shall be made for each notification of delinquency, accomplished by a door hanger or other notice of delinquency placed on the premises.

Sec. 38-107. Resumption of services after discontinuance.

Whenever the water shall have been shut off for nonpayment of water rent, or nonpayment of other utility services provided by the City, the water shall not be turned on again until the back water rentals or other utility service charges have been paid, together with an additional charge as established by resolution of the City Council and on file in the City Clerk's office for the trouble and expense of shutting off and turning on the water for each delinquency.

Sec. 38-108. Discontinuing water service at request of consumer.

(a) Any person desirous of discontinuing the use of water must give notice to the utilities department and the utilities department shall turn off the water. No credit will be given for nonusage of water unless the water service has been shut off by the utilities department.

(b) Whenever a water user notifies the utilities department of a desire to have the water shut off at his premises because of vacancy therein, the City shall cause the water to be shut off at such premises at the curb stopbox, and a credit shall be given on the books of the City to such water user for such premises for the period of time water is so shut off. No credit shall be given to any water user for vacancy on his premises unless the water shall be shut off as provided in this section.

Sec. 38-109. Charge for reading meters for customer turn-off and turn-on requests.

A charge as established by resolution of the City Council and on file in the City Clerk's office shall be made for the turning off or turning on of water at the request of the customer. If the City, at the request of a customer, turns such customer's water meter on or off during hours other than from 8:00 a.m. to 5:00 p.m. during a normal business day, such customer shall pay to the City, in addition to all other amounts owing to the City, a sum established by resolution of the City Council and on file in the City Clerk's office, which amount reflects the cost to the City of overtime wages and equipment costs. Such sum shall be paid in all instances except where the request for the turn-on or the turn-off is as a consequence of a leak in the domestic water service line between the water meter and the point at which the service line enters the dwelling or structure. If the request to turn on or turn off water is as a consequence of a leak or repair within the dwelling or on a sprinkler system, then the charge established by resolution of the City Council shall be imposed. Additionally, upon the third occasion when no one is present at a premises when an appointment has been made for such presence for the turning on or turning off of a water meter, a further charge as established by resolution of the City Council shall be made. The same charge shall be made for each trip to the premises after the third occasion if appointments are not kept.

Sec. 38-110. Discontinuing service for violation.

Whenever any provision of this article or any term of an agreement by which the City agrees to furnish water is violated by the consumer, the water shall be cut off from the building or place of such violation, although two or more parties may receive water through the same pipe, and shall not be turned on again except by order of the City Manager, and on payment of the expense of shutting it off and turning it on again, and such other terms as the City Council shall determine, and a satisfactory understanding with the party or parties that no further cause of complaint shall arise; and in case of a violation after such

understanding, the City Manager shall have the right to declare any payment made for the water by the person committing such violation to be forfeited.

Sec. 38-111. Meter rates.

Monthly rates as established by resolution of the City Council and on file in the City Clerk's office shall apply to all water used and measured by a water meter.

Sec. 38-112. Certificate of number of users required; additional connections.

It shall be the duty of all owners and/or operators of water service lines with more than one user to certify to the utilities department the location thereof and the number of units or users thereon. No additional connections shall be made without application and notice thereof to the utilities department.

Sec. 38-113. Charge when meter defective.

When a meter or indicator gets out of order and fails to register correctly, a charge shall be made according to the average quantity of water used in a similar period as shown by the meter when in order.

Sec. 38-114. Charge for water sold by the tank.

Water sold by the tank by the City shall be charged for at the rates established by resolution of the City Council and on file in the City Clerk's office.

Sec. 38-115. Meters required; installation, ownership, maintenance.

(a) All water users shall be required to have a meter. All meters shall be installed, owned and maintained by the City.

(b) Owners of water meters who under previous ordinances of the City were permitted to install and own water meters which were two inches in size or more are required to regularly inspect and maintain those meters. If inspection by the City reveals that the meters are not being properly maintained, the City may cause the meters to be repaired at the expense of the owner of the meter.

Sec. 38-116. Unlawfully using water, tampering with facilities.

No person shall use the water from any part of the waterworks without permission having been duly issued therefor, nor shall any person, without lawful authority, open any fire plug, stopcock or valve or other fixture appertaining to such works, nor shall any person shut off or turn on water for any service pipe without lawful authority therefor.

Sec. 38-117. Permitting others to use water.

No consumer shall permit the owner or occupant of other premises to use water from the consumer's service except by special permission from the utilities department.

Sec. 38-118. Permits to tap street mains.

For any of the uses specified in this article or in the schedule of water rates established by the City Council, an application shall be made to the utilities department for a permit to have tapped the street mains forming a part of the City waterworks. If granted, such permit shall set forth the name of the person for

whose benefit such permit shall be granted, the size of the stopcock for discharging the water from the main to the service pipes, and as near as may be the point at which the tapping is to be done, the place to which the water is to be conducted, the situation of the hydrants and the contemplated use of the waters thereby. The utilities department shall keep a record of all such permits in a book kept for that purpose in its office, which record shall set forth the substance of every such permit; provided, that by virtue of such permit no more water shall be used than shall be necessary at the time of placing the service pipes and their fixtures to test the tightness of such pipes and fixtures for the flow of water; provided further, that any other legitimate use than that specified in such permit may be made of such water, the proper permit being obtained therefor.

Sec. 38-119. Permits for new connections; work, materials supplied by City; stopcocks.

Persons wishing water in buildings and premises not connected with the water mains must get a special permit from the utilities department for each building, residence, business, etc. The utilities department shall, except as approved by the City Manager, in all cases tap the water main and put in the service pipe to a point on the inner side of the curbstone where there shall be a corporation cock and stop box. Provided, that if there shall be no sidewalks where such pipes shall be extended, such stopcocks shall be in some conspicuous and accessible place near the premises so supplied with water and on some public highway to be designated by the utilities department. Such stopcocks shall be kept in good condition, so that the utilities department shall be able to shut off the water from service pipes at any time.

Sec. 38-120. Requirements for service pipe.

All service pipes laid or constructed in the City for the distribution of water connected with the main in the street and extended to the stop box shall be Type K copper.

Sec. 38-121. Exclusive jurisdiction of water department over service pipe.

The repairing, laying or construction of service pipes for the distribution of water, connected with the main in the street and extended to the stop box inside the curblin of the street in front of property to be served, shall be performed only by the utilities department of the City, except as authorized by the City Manager.

Sec. 38-122. Application for service pipe; cost of installation.

Service pipes of suitable size will be furnished upon application to the City Manager and the prepayment of the charges therefor as provided in this article, and the utilities department shall furnish all labor and materials necessary for such construction, including tapping of mains, installation of brass corporation cocks, brass curbcocks and connections, stop box, and such K copper pipe as may be necessary.

Sec. 38-123. Calculating charges for service pipe and connections.

All charges for furnishing and laying service pipe and connections shall be calculated as if the water main were laid in the center of the street in order that a uniform charge may be made to the property abutting on the opposite side.

Sec. 38-124. Rates for service pipes.

The rates to be charged for furnishing, constructing and laying service pipes by the utilities department shall be fixed and established by the City Council by resolution. Such rates shall be subject to change by resolution of the Council as it may determine. "Time and materials" may be charged if expenses exceed the normal charge.

Sec. 38-125. Stop boxes.

(a) All stop boxes shall be placed at a point 1 1/2 feet back from the face of the pavement curb, or if no permanent curb is in place, then at a point 1 1/2 feet back from proposed location of the face of the curb, which shall be standard for all streets according to the width of such streets, as follows:

Width of street	Width of roadway between curbs
60 feet	30 feet
80 feet	36 feet
100 feet	56 feet

(b) When a street is paved a greater width than the above standard, all stop boxes shall be moved and the pipe extended to conform to the extra width of roadway, and such work shall be performed by and charged to the utilities department.

Sec. 38-126. Cost of cutting streets, sidewalks.

Where it becomes necessary to cut a pavement or cement sidewalk in order to install the service pipe and connections, the cost of such cut may be charged to the property owner at cost plus 20 percent for overhead expense.

Sec. 38-127. Repair, maintenance of service pipes.

The owner, lessee or agent shall maintain the service pipes from the curb stop if the meter is at the curb, or from the meter if the meter is located between the property line and the curb. It shall be the owner's duty to keep such pipes in good repair and protected from freezing, and the owner shall be responsible for all damages resulting from leaks or breaks in such service pipes.

Sec. 38-128. Defective service pipe to be replaced or repaired.

When the service pipe shall become defective and leak, it shall be reported to the utilities department, which shall make inspection of such pipe, and if the pipe is worn out, the utilities department shall order the service pipe replaced with new pipe. If the pipe is in a generally good condition, the department may permit a licensed plumber to repair the leak.

Sec. 38-129. Maintenance and repairs to service pipe.

After service pipe has been laid and constructed, the utilities department shall thereafter maintain and keep in repair all such service pipes between the main and the curbcock, and shall repair or cause to be repaired any cuts or excavations in paved or unpaved streets in laying or repairing such service connections, to the satisfaction of the City Manager.

Sec. 38-130. Filling trench after laying service pipe.

After service pipes are laid, in refilling the opening, the earth must be laid in layers of not more than nine inches in depth, and each layer thoroughly tamped or puddled to prevent settlement, and this work, together with the replacing of sidewalks, ballast and paving, must be done so as to leave the street and sidewalk in as good condition as before it was disturbed, and to the satisfaction of the utilities department, which is required to see that such work is done as stated in this section.

Sec. 38-131. Time for sprinkling, irrigating.

No person shall use water from the City waterworks system for sprinkling or irrigating except between the hours and at the times which may be from time to time designated by the City Manager, and any person who shall use or cause to be used or permit to be used on their premises, or premises occupied by them, any water as provided in this section, or who shall use or cause to be used or permit to be used any water on their premises occupied by them when prohibited so to do under this section or by the City Manager shall be guilty of a misdemeanor.

Sec. 38-132. Wasting water.

The owner or lessee of any premises to which any water shall be conducted from the water mains shall keep all pipes and their fixtures from the curblin to his premises and on such premises in good repair and protected from the frost, and tight, so as to prevent waste of water. Upon any waste resulting from a breakage of such pipes or fixtures, or any imperfection of such pipes or fixtures, the owner or lessee shall forthwith stop such waste of water by repairing the old work or by laying new work. It shall be unlawful to use water so that it is wasted by flowing off lawns and gardens into the street gutters.

Sec. 38-133. City's right of entry; notice; correction of defects.

The employees of the utilities department shall be authorized to enter and have free access at all reasonable hours to premises to ascertain the location or condition of all hydrants, pipes or other fixtures attached to the waterworks, and in case they find that water is wasted on account of negligence or for want of repairs, and if such waste is not immediately remedied, the water leading to such premises shall be turned off. It shall be the duty of such employees in case they discover any defect in a private pipe between the meter pit and the structure to give notice in writing to be left at the premises, if occupied, and if not occupied, with the owner or his agent, and if the necessary repairs are not made within twenty-four hours thereafter the water shall be turned off, and shall not be turned on again until the repairs are made and a sum as established by resolution of the City Council and on file in the City Clerk's office has been paid to the utilities department to cover the expense of turning the water off and on. The City is responsible for repairs of services between the main pipe and the meter pit.

Sec. 38-134. Using water for fire protection.

If the proprietors of manufactories, lumberyards, halls, stores, elevators, warehouses, hotels or public buildings, being regular consumers of water from the waterworks, wish to lay large pipes with hydrant and hose couplings to be used only in the case of fire, they will be permitted to connect with the street mains at their own expense, upon application to the utilities department and under its direction, and will be allowed the use of water for fire purposes only, free of charge, but all such pipes must be provided with a suitable valve which must be sealed by the utilities department, and a stop and waste cock attached at the bottom or inside the building; in case the seal is broken for the extinguishment of fire, the party shall immediately give notice to the utilities department, and in case such seal shall have been broken for any other purpose or use, the party so offending shall be guilty of a misdemeanor. No standpipe will be allowed on premises where the water is taken for other than fire purposes.

Sec. 38-135. Unlawfully using water; tampering with facilities.

(a) It shall be unlawful for any person to use the water from any part of the waterworks system, to open any fire hydrant, stopcock or valve or other fixture appertaining to such waterworks, or to shut off or turn on water for any service pipe without lawful authority or permission having been issued therefor.

(b) No water shall be used from fire hydrants except by the fire department or public works department for the purpose of extinguishing fires, street sprinkling, cleaning, washing or testing fire hose or

other fire apparatus, or practice and experimental drill and exercise; provided, that the utilities department may let water therefrom whenever necessary for testing the condition of the waterworks, for purifying the water, or for repairing such works. The City will provide specialized fill hydrants separate from the fire systems for public works purposes.

Sec. 38-136. Tampering with, obstructing fire plugs, water facilities.

No person shall, without lawful authority, molest or in any manner tamper with any fire plug, valve or stopcock in any of the streets, alleys or avenues of this City nor in any manner obstruct the same, nor shall any person hitch a horse or other animal thereto at any time.

Sec. 38-137. City may shut off water from mains.

The City Council reserves the right to cause the water to be shut off from the street mains when it deems it necessary for repairing the mains or waterworks, making connections or extensions to the mains or waterworks, or for the purpose of cleaning the mains or waterworks.

Sec. 38-138. City not liable for interruption of water supply.

No claim shall be made against the City by reason of the breaking of any pipe or service cock, or for any other interruption of the water supply, or by reason of the breaking of any machinery, reservoir, ditch, flume, dam or any other appliances of and to the waterworks or stoppage for necessary repairs.

Secs. 38-139--38-160. Reserved.

ARTICLE IV. WATER AND WASTEWATER POLICY

Sec. 38-161. Purpose and construction of article.

This article shall be liberally construed, so as to establish the policy of the City for the construction of waterworks and wastewater systems; to provide for the upgrading of water lines to provide adequate fire protection within the City; to provide for the relocation of water and sewer lines without compensation to their owners when required by the public health, safety and welfare; to protect and preserve the public ways of the City for the users thereof; to protect the people of the City and all the persons using or relying upon the public ways of the City; and to those ends, this article shall be applicable to all public ways and waterworks and wastewater systems and all pipelines connected therewith within the City.

Sec. 38-162. Unlawful activity.

It shall be unlawful for any person to make, construct, reconstruct, or alter any opening, excavation, tunnel, sidewalk, curb, gutter, driveway, street or to perform any other work of any kind within the public way which will result in physical alteration thereof unless such person shall have first obtained a permit for the performance of such work, and unless such work shall be performed in conformity with: the terms and provisions of this article; any permits or franchises issued under this article; and the engineering regulations, design standards and construction testing and inspection specifications adopted by the City.

Sec. 38-163. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City Manager means the City Manager or his authorized representative.

District means any metropolitan, water, and/or sanitation district formed under C.R.S. title 32, art. 1, as amended, and any conservancy district formed under C.R.S. title 37, art. 45, as amended.

Permittee means the holder of a valid permit.

Person means any person, firm, partnership, district, corporation, municipal department, company or organization of any kind.

Public way means any public street, way, place, alley, sidewalk, easement, park, square, plaza and any City-owned right-of-way or any other public property owned or controlled by the City and dedicated to public use, including without limitation, easements, dedicated solely for utility purposes.

Service provider means any person other than the City providing potable water or sewer services.

Specifications mean the engineering regulations, design standards, construction specifications and construction testing and inspection specifications adopted by the City by resolution.

Utility means waterworks, wastewater systems, pipelines, gas lines, electrical lines, telephone and telegraph lines, transportation systems, cable television and fiber optics systems, and any district or person providing the same for public use.

Work in the public way means, without limitation, construction, reconstruction, repair, alteration of openings, excavation, tunneling, or any other work within or under public ways, including construction, maintenance, and repair of all underground structures such as pipes, conduits, ducts, tunnels, manholes, vaults, buried cable, wire, or any other similar structure located below the surface of any public way, and installation of overhead poles used for any purpose.

Sec. 38-164. Types of permits to work in the public way.

There shall be required a permit to work in the public way.

Sec. 38-165. Application for permit.

A separate written application for the work to be done under a permit shall be submitted to the City Manager on a form available from the City. The application shall be submitted no later than five days prior to the planned start of work in the public way. Permittees may be required to increase this time up to fourteen days when the work consists of more than a single spot excavation. The City Manager may require submission of plans and specifications. No work shall be started until the City Manager has approved the plans and specifications and permit application. The application when approved shall constitute a permit.

Sec. 38-166. Permit, inspection, and testing fees.

(a) *Permit fee.* A fee, as established by resolution of the City Council and on file in the City Clerk's office, shall be required to obtain each permit.

(b) *Inspection and testing fees.* An hourly fee as established by resolution of the City Council and on file in the City Clerk's office shall be required for inspection and testing.

(c) *Amendment of fees.* The fees established by this section may be amended by City Council resolution.

(d) *Exemption.* A water conservancy district shall not be required to pay any permit fees under this section.

Sec. 38-167. Performance/warranty guarantee for permits.

Each permittee, before being issued a permit under this article, shall provide the City, at the permittee's expense, a performance warranty/guarantee in accordance with one of the following:

(a) The guarantee may be in the form of cash, a letter of credit or a license and permit bond, acceptable in form and content to the City, in an amount equal to one hundred (100) percent of the City Manager's estimate of the cost of restoration. The cost of restoration shall include the removal of defective material, recompaction of subgrade and base material and construction of surface improvements. The license and permit bond or letter of credit shall run for a period of time at least one year beyond the anticipated acceptance date of any work done under the right-of-way permit(s). Such guarantee(s) shall be extended if requested by the City Manager; or

(b) The guarantee may be in the form of cash, a letter of credit or a license and permit bond, acceptable to the City in form and content, in the principal sum of ten thousand dollars (\$10,000.00) Payable to the City of Grand Junction upon failure of the permittee to restore all of the right-of-way to a condition comparable to that which existed at any location at which work is performed by the permittee under one or more permits issued to the permittee. The cost of restoration shall include the removal of defective material, recompaction of subgrade and base material and construction of surface improvements.

(c) If no written refund request of a cash deposit is received, the deposit shall be carried forward and applied as the performance/warranty guarantee (in whole or in part as the fee may be established by the City Council) for the following year.

(d) *Other guarantees.* In lieu of the requirements of (a) and (b) of this section, any public utility regulated by the State's public utilities commission, ANY person holding a franchise from the City, a mutual water district, any governmental agency or any metropolitan water and/or sanitation district or conservancy district may provide the City with an annual letter signed by an appropriate officer guaranteeing:

- (1) complete performance of the work acceptable to the City; and
- (2) the correction of any defect in the work which the City discovers and for which the City gives written notice to the permittee within one year after the date when the City initially accepts the work.

(e) If the City Manager determines that any permittee fails to perform promptly under the conditions of this subsection (d), that permittee shall be required to post a performance/warranty guarantee meeting the requirements of subsection (b) of this section. If the City Manager determines that the permittee then satisfactorily complies with this article for a one-year period while operating under the provisions of subsection (b) of this section, the permittee shall again be eligible to operate with the annual letter guarantee provided in this subsection (d). Notwithstanding anything to the contrary contained in this section, any contractor performing work pursuant to a contract with the City shall adhere to the performance and payment requirements set forth in the contract documents.

Sec. 38-168. Purpose of performance/warranty guarantee.

(a) Any guarantee made under this article shall serve as security for the performance of work necessary to repair the public way if the permittee fails to make the necessary repairs or to complete the work under the permit.

(b) The permittee, by acceptance of the permit, expressly guarantees complete performance of the work acceptable to the City under this article and guarantees all work done by him for a period of one year after the date of acceptance, and agrees upon demand to maintain and to make all necessary repairs during the one-year period. This guarantee shall include all repairs and actions needed as a result of:

- (1) Defects in workmanship;
- (2) Settling of fills or excavations;
- (3) Any unauthorized deviations from the approved plans and specifications;
- (4) Failure to barricade;
- (5) Failure to clean up during and after performance of the work;
- (6) Any other violation of this article.

(c) The requirement for a performance/warranty guarantee may be waived by the City Manager if, in his opinion, the cost of restoration on any single project is less than \$1,000.00 and the work is being performed by a contractor licensed by the City to perform work within the City. The waiver shall be made only on the requirement for a performance/warranty guarantee and does not relieve the contractor of any other requirement(s) stated in section 38-167 or other applicable sections of this article.

Sec. 38-169. Inspection and testing fees and procedures.

At the time of permit application and at such OTHER intervals as may be established by the City Manager, all permittees under this article shall pay for the costs of inspection and testing. Costs of inspection and testing shall be in accordance with this article and the schedule of charges adopted by City Council resolution.

- (1) *Process.* An initial site inspection may be conducted by the City following submittal of an application. Following issuance of a permit, inspection of the work shall be performed as determined necessary by the City to assure that the work is performed in accordance with and pursuant to the permit and any and all applicable standards and specifications.
- (2) *Permitted work.* The permittee shall notify the City immediately after completion of work and acceptance will be made if all work meets City and permit standards. Approximately thirty days prior to expiration of the one-year guarantee, the City may perform an inspection of the completed work. If the work is intact and otherwise satisfactory, the guarantee shall be returned and released less any amounts needed to complete work not performed by the permittee. A guarantee may be carried forward for future projects. At any time prior to completion of the one-year warranty, the City may notify the permittee of required repairs. The permittee shall complete such repairs within twenty-four hours or less if required by the City Manager, if the defects are determined by the City to be an imminent danger to public health, safety OR welfare. The permittee shall complete all other repairs within thirty days after notice to the permittee.
- (3) *Random Inspections.* The City may perform random inspections of the work described and/or permitted in or by this article and the permittee shall correct its work or procedures if ordered to do so as provided above. Failure to timely correct any work or procedure may result in revocation of the permit.

(4) *Testing.* Material(s) testing shall be performed as indicated on the permit or as otherwise required by the City Manager. All testing shall be performed by a certified, independent testing laboratory at the sole and absolute expense of permittee.

Sec. 38-170. Time for completion.

All work covered by the permit under this article shall be completed by the date stated on the application. Permits shall be void if work has not commenced six months after issuance. Letters of credit or cash deposited as a performance/warranty guarantee for individual permits will be returned after voiding of the permit.

Sec. 38-171. Insurance.

Before a public way permit is issued, the applicant shall submit to the City Manager a certificate of insurance in an amount set by City Council resolution. The certificate of insurance shall list the City and its officers and employees as additional named insureds. City departments, any public utility regulated by the State's public utilities commission, mutual water companies, persons holding a franchise in the City, any governmental agency, and any metropolitan, water and/or sanitation district, or conservancy district shall be relieved of the obligation of submitting a certificate of insurance if the applicant carries insurance equal to an amount set by City Council resolution. Upon request, the applicant shall submit a letter certifying such coverage or self-insurance. If a person other than those named above signs the permit, a certificate of insurance shall be provided.

Sec. 38-172. Traffic control.

(a) No permittee under this article shall interrupt access to and from private property, block emergency vehicles, block access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital equipment unless permission is obtained from the owner of that facility. If a street closing is required, the applicant shall submit a traffic control plan and obtain approval of the City Manager. It shall be the responsibility of the permittee to notify and coordinate all work in the public way with police, fire, ambulance, and transit departments.

(b) When necessary for public safety, the permittee under this article shall employ flag persons whose duties shall be to control traffic around or through the construction site. The use of flag persons may be required by the City Manager.

(c) Unless approved by the City Manager, the permittee under this article shall not impede rush hour traffic on arterial or collector streets during the morning or evening rush hours. No construction shall be performed nor shall any traffic lane be closed to traffic during the hours of 7:00 a.m. to 9:00 a.m. or 3:30 p.m. to 6:00 p.m. without the approval of the City Manager. When it is necessary to obstruct traffic during the rush hours, a detour plan shall be submitted to the City Manager prior to starting construction. No permit will be issued until the plan is approved by the City Manager.

(d) Unless provided otherwise by this section, the City Manager shall enforce the provisions of the American Traffic Safety Services Association (2nd ed. 1984) and the Federal Highway Administrator's Manual on Uniform Traffic Control Devices (1988), as they may be amended.

Sec. 38-173. Construction standards and responsibility for all public improvements.

The permittee under this article shall be fully responsible for the cost and actual performance of all work in the public way. The permittee shall do all work in conformance with the engineering regulations, construction specifications, and design standards adopted by the City. These standards shall apply to all work in the public way.

Sec. 38-174. Protection of paved surfaces from equipment damage.

Backhoe equipment outriggers shall be fitted with rubber pads whenever outriggers are placed on any paved surface. Tracked vehicles are not permitted on paved surface unless specific precautions are taken to protect the surface. The permittee will be responsible for any damage caused to existing pavement by the operation of such equipment and, upon order of the City Manager, shall repair such surfaces. Failure to do so will result in the use of the permittee's performance/warranty guarantee by the City to repair the damage.

Sec. 38-175. Protection of property.

The permittee under this article shall protect from injury any adjoining property by providing adequate support and taking other necessary measures. The permittee shall, at his own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the work, and shall be responsible for all damage to public or private property resulting from failure to properly protect and carry out work in the public way.

Sec. 38-176. Relocation and protection of utilities.

Before any permittee under this article begins excavation in any public way, he shall make inquiries of all irrigation companies, utility companies, districts, municipal departments and all other agencies which might have facilities in the area of work to determine possible conflicts. The permittee shall request field locations of all facilities in the area at least forty-eight hours in advance of work. The permittee shall support and protect all pipes, conduits, poles, wires, or other apparatus which may be affected by the work from damage during construction or settlement of trenches subsequent to construction.

Sec. 38-177. Noise, dust, debris, hours of work.

Each permittee under this article shall conduct work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In the performance of the work, the permittee shall take appropriate measures to reduce noise, dust, and unsightly debris. No work shall be done between the hours of 10:00 p.m. and 7:00 a.m., nor at any time on Sunday, except with the written permission of the City Manager, or in case of an emergency.

Sec. 38-178. Cleanup.

As the work under this article progresses, all public rights-of-way and private property shall be thoroughly cleaned of all rubbish, excess dirt, rock, and other debris. All cleanup operations shall be done at the expense of the permittee.

Sec. 38-179. Emergency work.

Any person maintaining facilities in the public way may proceed with repairs upon existing facilities without a permit when emergency circumstances demand that the work be done immediately. "Emergency work" is defined to mean any work necessary to restore water and sewer. The person doing the

work shall apply to the City Manager for a permit on the first working day after such work has commenced. All emergency work shall require prior telephone notification to the City Manager.

Sec. 38-180. Preservation of monuments.

The permittee under this article shall not disturb any surface monuments or survey hubs and points found on the line of work unless approval is obtained from the City Manager. Any points disturbed will be replaced at the permittee's expense.

Sec. 38-181. Boring.

Boring or other methods to prevent cutting of the pavement will be required upon request of the City Manager. It is the City's intent to require boring only when necessary on arterial and major and minor collector streets with high volumes of traffic and/or serious accident potential.

Sec. 38-182. Suspension or revocation of permits and stop work orders.

(a) Any permit issued under this article may be revoked or suspended by the City Manager, after notice to the permittee for:

- (1) Violation of any condition of the permit or of any provision of this article;
- (2) Violation of any provision of any other ordinance of the City or State law relating to the work;
- (3) Existence of any condition or the doing of any act which does constitute or cause a condition endangering life or serious damage to property.

(b) A suspension or revocation by the City Manager of the permit issued under this article, and a stop work order, shall take effect immediately upon notice to the person performing the work in the public way.

(c) A stop work order may be issued by the City Manager to any person doing or causing any work to be done in the public way without a permit, or in violation of any provision of this article, or any other ordinance of the City.

(d) Any suspension or revocation of permit or stop work order may be appealed by the permittee under this article to the City Manager by filing a written notice of appeal within ten days of the action.

Sec. 38-183. Appeals procedure.

Any decision rendered by the City Manager under this article may be appealed within ten days by the permittee to the utility hearing board in accordance with the rules and procedures established by section 38-69 of this Code.

Sec. 38-184. Penalty for violation of article.

If any person, officers and agents of a corporation or district responsible for its actions or inaction, and the partners or a partnership, firm or joint venture, shall violate or cause the violation of any of the provisions of this article, they shall be guilty of a separate offense for each and every day or portion thereof during which a violation is committed, continues or is permitted and, upon conviction of any such violation, such person, firm or corporation, including but not limited to its partners or officers or agents, shall be punished pursuant to section 1-9.

Sec. 38-185. Actions for violation of article.

If any person violates any order of the City Manager, or otherwise fails to comply with any provisions of this article or the orders, rules, regulations and permits issued under this article, the City may commence an action in a court of record for appropriate legal and equitable relief. In such action, the City may recover from the defendant reasonable attorney fees, court costs, deposition and discovery costs, expert witness fees and other expenses of investigation, enforcement action, administrative hearings and litigation, if the City prevails in the action or settles at the request of the defendant.

Sec. 38-186. Relocation of water and sewer facilities--Projects coordination.

All providers of water and sewer services and the City shall, as far in advance as possible when working in public streets and drainageways, coordinate through the City Manager all projects, each with the other, to minimize current and future anticipated conflicts between public ways and waterworks and wastewater facilities.

Sec. 38-187. Same--Future alteration minimization.

Project planning and engineering conducted by the City and providers of water and sewer services shall consider present and future plans in order to avoid or minimize future alterations in such improvements and facility locations. In cooperation with the provider of water and sewer service, the City Manager may indicate general location restrictions that would avoid future conflicts.

Sec. 38-188. Same--Relocation cost liabilities.

When waterworks, wastewater systems, pipelines connected therewith, and utilities require relocation due to improvement, changes, or alteration of streets or drainageways, redevelopment of urban areas, construction of mass transit systems, installation of City-owned waterworks and sewer protection of the public health, safety and welfare, all costs associated with waterworks and wastewater systems relocation and restoration to the equivalent of their preimprovement condition will be included and considered as part of the total public way improvement cost, and shall be paid by the service provider.

Sec. 38-189. Same--Adjustment cost liabilities.

The costs of adjusting manholes and valve boxes within the public right-of-way, when such work is necessitated by pavement repair or street resurfacing will be borne by the City's street division. The costs of adjusting manholes and valve boxes not within the public right-of-way, when such work is requested by the property owner or is necessitated by repair, reconstruction or re-design by the property owner or required by the service provider, shall be borne by the property owner. All adjustments, repairs and reconstruction of manholes and valve boxes shall be performed in accordance with City standards. The City shall provide billings for such work.

Sec. 38-190. Same--Permit application review.

To the extent that work in the public way is regulated by other City ordinances which require that such work be done under a permit from the City, the City Manager shall have the prerogative to review such permit applications for work in the public way for the purpose of requiring relocation of the proposed facility in the public way, and compliance with construction standards of the City for work in the public way.

Sec. 38-191. Same--Work resulting from permit noncompliance cost liability.

Should work be performed within the public right-of-way without coordinating the project with the City or work be performed without observing proper permit procedures and/or conditions any and all general penalties provided for in this Code shall apply. In addition, the person or entity performing the work shall be liable for the cost of any relocations, reconstruction or repair which would not have been required if coordination had occurred, including coordination attendant to securing a permit, or had permit conditions been observed. Penalties provided for in this section are not exclusive. The City expressly reserves the right to file an action in law or equity and/or otherwise utilize any and all remedies provided by law.

Sec. 38-192. Same--Permit grant or denial.

The City Manager shall timely respond to permit applications, approving or denying the application as submitted or conditioned upon specific requirements.

Sec. 38-193. Same--City Council determination.

The City Council may require the relocation, without compensation, of any waterworks, sewer system or pipelines connected therewith by ordinance declaring that the public health, safety and welfare requires such relocation.

Sec. 38-194. Development; upgrades of existing water lines and facilities.

(a) To ensure fire protection to users, owners, and the City, for new construction, replacements, and development which occurs after the effective date hereof, all development and water service providers in the City shall meet the following minimum standards:

- (1) Water shall be supplied at a residual hydrostatic pressure of not less than twenty pounds per square inch (20 psi), nor more than one hundred twenty five pounds per square inch (125 psi).
- (2) Hydrants shall be placed in the public right-of-way and shall not be spaced more than five hundred feet (500') from each other. In no case shall there be more than two hundred fifty feet (250') from the nearest hydrant to the closest portion of the property. See Appendix 3 B which has additional
- (3) Hydrants shall provide the required flow as specified in the adopted fire code;
- (4) Hydrants shall be directly supplied by a line at least six (6") in diameter. The Fire Chief may require a line or pipe larger than as described herein based on standards adopted in this section, regulations promulgated pursuant to this section or in accordance with law otherwise applicable to water service providers. Any decision of the City Manager or the Fire Chief which requires a line of greater than six inches (6") in diameter may be appealed if a written notice of appeal is delivered to the City Clerk within ten days. If timely filed, the appeal shall be heard by the utility hearing board in

accordance with the rules and procedures established by section 38-68. At an appeal hearing convened under that section, the appellant shall have the burden of proof by clear and convincing evidence.

(b) To ensure adequate fire protection to users, owners, and the City, all existing water facilities, hydrants and lines in the City, existing as of the effective date hereof, shall also meet the minimum standards set forth in subsections (1) through (4) immediately above.

(c) The City Manager may promulgate and enforce regulations which are more restrictive than the provisions of this section if the City Manager finds such regulations to be necessary to protect the health, safety and general welfare of the citizens of the City.

(d) To the extent permitted by law, the provisions of this section shall apply to areas outside of existing City limits. To the extent that applicable law does not permit such extraterritorial application, the provisions of this section shall be limited to the limits of the City.

(e) The provisions of the adopted fire code shall supersede any inconsistent provisions of this section.

(f) In order to bring existing water facilities, hydrants and lines that do not currently meet subsections (1) through (4) above into compliance with those sections, the following shall apply:

(1) When water service providers or water districts upgrade, repair or replace existing water transmission or water distribution lines or facilities, such provider or district shall, at that time, upgrade the existing facilities to meet the minimum line size standards outlined in paragraph (a), subparagraphs (1) through (5), above.

(2) When water service providers or water districts upgrade, repair or replace existing fire hydrants or facilities, such provider or district shall also, at that time, upgrade the existing hydrant and facilities to meet the standards in paragraph (a), subparagraphs (2) through (4), hereof.

(3) With respect to water line, hydrant and facilities which do not meet the standards outlined in paragraph (b) above, at least once each five years, each water provider and district shall provide written notice to each affected property owner and the City of such deficiency. Such water provider and district shall obtain the prior approval of the City of the form and content of such notice. Such water provider and district shall provide the City Manager with a detailed list of the water, hydrants and facilities which do not meet the standards hereof, along with a list of the property owners to which the written notice was provided.

(4) When a petition, signed by more than fifty percent (50%) of the property owners in an area supplied by or adjacent to water lines and/or hydrants which do not meet the standards outlined in paragraph (b) above, is submitted to a water provider or water district requesting the water provider or water district to upgrade existing facilities to meet the minimum standards in paragraph (a), such water provider or water district shall complete the requested improvements within three years of the delivery of such petition. The City may, pursuant to an agreement then negotiated with the water provider or district, agree to pay a portion of the costs of such improvements.

Sec. 38-195. Same--City Council determination.

To ensure adequate fire protection to users, owners and the City, the City Council shall be empowered to declare by ordinance the necessity that water lines shall be upgraded for the

health, safety and welfare of the parties to meet the requirements of section 38-194 and the specifications of the City. The cost of upgrading water lines to meet the requirements of this section shall be the obligation of the service provider.

Sec. 38-196. Franchises--Generally.

No franchise giving or granting to any person the right or privilege to erect, construct, operate or maintain or use any waterworks, wastewater system or pipelines connected therewith to provide water or wastewater service to any user or consumer within the City; or to use the public ways of the City for any purpose; or to interconnect any building, structure or facility of any kind to any waterworks, wastewater system or pipelines connected therewith other than to the waterworks and wastewater systems of the City shall be given or granted unless such franchise shall be given or granted by ordinance. No such ordinance shall be considered, except for waterworks and pipelines connected therewith, until after the question of the granting of any franchise necessary for such purpose and required by law shall be submitted to and approved by a majority of the qualified, taxpaying electors of the City at an election held for such purpose at the expense of the applicant for such franchise.

Sec. 38-197. Same--Unlawful acts.

Unless a franchise has been given or granted under the provisions of section 38-196, it shall be unlawful for any person to erect, construct, operate or maintain or use any waterworks or wastewater system or pipelines connected therewith within the City in order to provide water or wastewater service to any user or consumer within the City; or to use the public ways of the City for such purposes; or to interconnect any building, structure or facility of any kind to any waterworks or wastewater system or pipelines connected therewith other than to the waterworks and wastewater system of the City.

Sec. 38-198. Same--Exempted service providers.

Service providers who are providing service pursuant to agreements with the City shall not be subject to the provisions of sections 38-196 and 38-197.

Sec. 38-199. Same--Condemnation and appropriation of public and private waterworks and wastewater systems.

To provide municipal water and sewer services to its users and residents, the City shall have the right and power to condemn and appropriate as much public and private property as is necessary for the construction and operation of waterworks, wastewater systems and pipelines connected therewith in such manner as may be prescribed by law; and to condemn and appropriate any publicly or privately owned waterworks, wastewater systems and pipelines connected therewith not owned by the City in such manner as may be prescribed by law for the condemnation of real estate.

Sec. 38-200. Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this article or the Code provisions reenacted hereby should be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this article or Code provisions, which shall remain in full force and effect.

CITY OF GRAND JUNCTION, COLORADO

Ordinance No. _____

AN ORDINANCE AMENDING CHAPTER 38, UTILITIES,
OF THE
CODE OF ORDINANCES
BY IMPLEMENTING EPA'S RECOMMENDED CHANGES
TO BE PUBLISHED IN PAMPHLET FORM

Recitals:

The Industrial Pretreatment Program is audited by the Environmental Protection Agency (EPA) on an annual basis. The results of the 2003 audit necessitates changes to Chapter 38 of the City's Code of Ordinances. The proposed amendments do not change the program's operational procedures. The changes concern the definitions within the Code. Some terms have been redefined to more closely reflect the definitions for the same or similar terms found within the United States Code and the Code of Federal Regulations. Additional changes have been made to the Code for clarification.

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

1. Chapter 38 of the Code is amended as recommended by the EPA and for clarification. The amendments to Chapter 38, upon passage by the City Council, will not become effective until EPA approval; and

2. The full text of the amending ordinance attached hereto and incorporated by reference, in accordance with paragraph 51 of the Charter of the City of Grand Junction, is to be published in pamphlet form with notice published in accordance with the Charter.

Introduced on first reading this 17th day of March 2004.

PASSED and ADOPTED on second reading this _____ day of _____ 2004.

Mayor

Attest:

City Clerk

Attach 4

Purchase of Automated Refuse Trucks

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA							
Subject	Purchase of Automated Refuse Trucks						
Meeting Date	March 17, 2004						
Date Prepared	March 11, 2004						
Author	Julie M. Hendricks		Buyer				
Presenter Name	Julie M. Hendricks Mark Relph		Buyer Public Works and Utilities Director				
Report results back to Council	X	No		Yes	When		
Citizen Presentation		Yes	X	No	Name		
	Workshop	X	Formal Agenda		X	Consent	Individual Consideration

Summary: This purchase is being requested by the Fleet Services Division, for the replacement of three 1996 Mack trucks with Heil Rapid Rail automated side load refuse bodies. The trucks are currently scheduled for replacement in 2004 as identified by the annual review of the fleet replacement committee. Purchasing received five bids for the requested units. It was determined that two bids were responsive and responsible.

Budget: The Fleet Services Division has an approved FY 2004 budget of \$540,000 for replacement of these trucks.

Action Requested/Recommendation: Authorize the City Purchasing Manager to purchase three (3) Peterbilt cab and chassis, with (3) three, Heil, Rapid Rail automated side load refuse bodies with the CP 300 Python arm.

Background Information: Three (3) automated refuse trucks were solicited from the City's active bidder's list and advertised in the Daily Sentinel per City Purchasing Policy. The City solicited bids from 29 vendors and received 5 bids. After consulting with the acting City Attorney, Mr. John Shaver, only 2 bids were found responsive and responsible. The purchase price from Peterbilt will be \$178,920 for one single reduction truck and \$180,606 each for two double reduction trucks. The total for three trucks is \$540,132 (F.O.B. Grand Junction). The total trade in offer for three 1996 Mack trucks with Heil refuse bodies is \$71,000. The net purchase price is \$469,132.

Awarded Company	Location	Manuf/Model	Cost per Unit	Total Cost
Peterbilt Includes Kois-Heil body	Fruita, Co Denver, Co	Peterbilt 320/ Heil CY python, 1 each <i>Single reduction</i>	\$178,920.00	\$178,920.00
Peterbilt Includes Kois -Heil body	Fruita, Co Denver, Co	Peterbilt 320 2 each <i>Double reduction</i>	\$180,606.00	\$361,212.00
Total Cost				\$540,132.00
Company	Location	Manuf/Model	Cost	
Transwest Trucks	Commerce	Condor/Heil CY Python	\$179,349.00	

	City, Co	<i>Single reduction only</i>		
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The Fleet Department and Solid Waste Department have recommended that the City sole source the Heil Rapid Rail Automated Body with the CP 300 Arm for this purchase. The body sole source is recommended because of safety, reduced overhead wire damage (the Heil body is low profile) and uniformity of the current fleet. No additional training would be required and current parts inventory would be compatible. At this time, the City Fleet Manager and the City Purchasing Manager agree with this recommendation.

Attach 5**Request to Apply for Energy Impact Assistance Grant for the El Poso Street I.D.
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA							
Subject	Authorizing the Submittal of and Application for an Energy and Mineral Impact Assistance Grant						
Meeting Date	March 17, 2004						
Date Prepared	March 11, 2004				File #		
Author	Mike McDill			City Engineer			
Presenter Name	Mark Relph			Public Works and Utilities Director			
Report results back to Council		No	X	Yes	When	On Approval	
Citizen Presentation		Yes	X	No	Name		
	Workshop	X	Formal Agenda		X	Consent	Individual Consideration

Summary: A City Council Resolution authorizing the submission of a grant application in the amount of \$500,000 to assist in the funding of the construction of a proposed street improvement district in the El Poso neighborhood.

Budget: The City of Grand Junction has programmed funds in the Capital Improvement Plan (CIP) to construct the above Improvement district. These funds amount to \$55,000 in 2004 to begin development of the above district and \$1,828,000 in 2005 through 2007 for its construction. This grant would help cover a portion of the assessable cost of this district over the next three years.

Action Requested/Recommendation: Authorization to apply for an EIAF Grant by adopting the resolution.

Attachments:

1. Grant Data Sheet
2. Resolution

Background Information:

This project seems to meet the guidelines for funding from this grant source. This recommendation is based on our analysis and assumptions. If the Council wished to pursue this application, please adopt a resolution to authorize the submission of this grant application.

This Street Improvement District was approved in the CIP during the past budget development process based on requests from the neighborhood. This financial assistance could noticeably reduce individual assessments and increase the probability that the district will be able to proceed to construction.

**CITY OF GRAND JUNCTION
GRANT DATA SHEET**

Date: 3/10/2004 **Revision Number** _____
Department: Public Works **Contact:** Mike McDill **Phone:** 256-4047
Sub-Recipient: _____ **Contact:** _____ **Phone:** _____

CONTRACT REQUIRED FOR ALL SUB-RECIPIENTS!

Grant Name: Energy and Mineral Impact Assistance Grant **Grant #:** _____
Source of Funds: State (Federal, State, Other)
Grantor: DOLA **Contact:** _____ **Phone:** (303) 866-2771

Purpose/Product/Outcome:

Potential assistance for the El Poso property owners regarding the proposed Street Improvement District

IF FEDERAL /STATE FUNDS, CHECK COMPLIANCE REQUIREMENTS LIST ON BACK!

Requirements/Schedule:

Use to construct a street and drainage improvement district within the 2005, 2006 & 2007 Calendar Years

Will this require: **new employee(s)?** No **new equipment?** No

Financial Summary (Attach Detail):

Projected cost of project or program:	\$	<u>1,283,000</u>	
Estimated cost of administration:		<u>100,000</u>	
Grant in-eligible costs (application):		<u>500,000</u>	
Total costs of grant.....			\$ <u>1,883,000</u>
Amount of grant	\$	<u>500,000</u>	
Other revenues		<u>0</u>	
Total revenues.....			\$ <u>500,000</u>
Net cost of the project to the City.....:			\$ <u>1,383,000</u>
Amount to be appropriated:	\$	<u><u>0</u></u>	

Future Impacts:

Annual ongoing expenditures: \$ 10,000
 Onetime/periodic expenditures: \$ 0

Description

Extra street & drainage facilities to maintain
 Initial construction.

Revenue account number: Fund 2011 Org _____ Account _____ Pgm _____ Activity _____
 Expenditure account number: Fund 2011 Org 61340 Account _____ Pgm 30 Activity 59300

(If more than one account, attach a list.)

Are revenues/expenses included in the current budget?

No _____ Revised? No _____

Approvals: Department _____

Director: _____ Date: _____

Grant Coordinator: _____ Date: _____

Finance Director: _____ Date: _____

City Manager: _____ Date: _____

City Council: Approved _____ Acceptance _____ Contracts _____

: _____ : _____ : _____

Dates:

Application deadline: 8/1/2004 _____

Award of grant: _____ Extension deadline _____

Required completion date: _____ Closeout _____

Date of receipt: _____

Report(s) required: _____ (date, monthly, quarterly)

ATTACH NOTES AS NECESSARY – FINANCIAL ANALYSIS, METHOD/TIMING OF PAYMENTS, MULTIPLE REQUIREMENTS, SCHEDULE, OTHER EXPLANATIONS.

City of Grand Junction Compliance Check List

This check list is provided to help the Department Contact in identifying requirements of the grant for which the requestor is responsible. It does not move the responsibility for compliance or the monitoring of compliance of a department or sub-recipient to the Administrative Services Department

- Co-applicants
- Contract(s) Sub-recipient Source of funds Other
- Insurance/bonding

- Single Audit
- Environmental review
- Equal employment opportunity enforcement
- Davis Bacon
- Minority and/or other preference processes

- Matching funds Budgeted Unbudgeted Generate
- Program income

- Federal funds Advance Reimbursement or
- Payment requests, reports
- Debt issuance
- Cost allocation plan for indirect costs

- State checklist available
- Local determinations

- Hearings / public input / notices / signs
- Open competitive bids
- Plan for real property acquisition and replacement, relocation of people
- Inspections / grantee / grantor

- Subsequent maintenance and/or monitoring
- Subsequent restrictions of use
- Asset monitoring, inventions, patents, equipment (subsequent usage)
- Record retention
- System of documentation

Other (explain)

***ATTACH ANY ADDITIONAL COMMENTS.
ATTACH A COPY OF THE GRANT APPLICATION, AWARD, AND OTHER DOCUMENTATION.***

CITY OF GRAND JUNCTION, COLORADO

RESOLUTION NO.

A RESOLUTION AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO ASSIST IN THE FUNDING OF THE CONSTRUCTION OF STREET AND DRAINAGE IMPROVEMENTS WITHIN THE EI POSO NEIGHBORHOOD AREA

RECITALS:

WHEREAS, the City Council of the City of Grand Junction, hereby resolved in Resolution No. _____ to apply for an Energy and Mineral Impact Assistance Grant in the amount of \$500,000.

WHEREAS, State Mineral Severance Tax funds are allotted for such purposes.

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

That submittal of an application for Energy and Mineral Impact Assistance Grant funding for street and drainage improvements within the El Poso neighborhood are hereby approved in the amount of \$500,000.

ADOPTED AND APPROVED THIS _____ DAY OF March, 2004.

President of the Council

Attest:

City Clerk

Attach 6

**Amending the Zoning and Development Code for Undergrounding Utilities
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA							
Subject	Undergrounding Existing Overhead Utilities on Perimeter Streets for New Developments						
Meeting Date	March 17, 2004						
Date Prepared	March 11, 2004				File #		
Author	Tim Moore			Public Works Manager			
Presenter Name	Tim Moore			Public Works Manager			
Report results back to Council	X	No		Yes	When		
Citizen Presentation		Yes	X	No	Name		
	Workshop	X	Formal Agenda		X	Consent	Individual Consideration

Summary: Council will consider modifications to the Development Code related to undergrounding of existing overhead utilities adjacent to new developments. The modification would allow proposed developments with less than 700 feet of frontage to pay a cash-in-lieu of construction fee for the undergrounding of existing overhead utilities. Additionally, if half street improvements are not required as part of the development project, a cash-in-lieu fee will also be collected for those projects.

Budget: Any funds collected would be allocated to a fund specifically dedicated to future undergrounding projects.

Action Requested/Recommendation: A City Council motion approving the ordinance upon first reading, and setting a public hearing for the second reading of the ordinance for April 7, 2004.

Attachments:
Ordinance # -----

Background Information: Council discussed this issue last fall and directed staff to develop a policy allowing flexibility in the current Code. The City has been consistent in requiring all new utilities serving lots within new subdivisions to be placed underground. This issue only relates to existing overhead utilities along streets adjacent to new developments.

Placing existing overhead utilities underground along adjacent streets during the construction of development projects has been inconsistent due mostly to variations in

the size of projects. Larger projects, like Rimrock Marketplace, have been required to pay to underground the adjacent utilities as a part of their development. However, small lot development, including site plan approvals with only 100 or 200 feet of frontage, have very seldom been required to incorporate this work into their plans. The main reason for this discrepancy has been that the prices quoted by Xcel for undergrounding projects less than approximately 700 feet were always far beyond the proportional value to the project.

The City's Zoning and Development Code has required undergrounding to occur as part of any development approval. Section 6.2 (A)(1)(h) states, "Utilities, including telephone, cable, t.v., electric, and natural gas shall be installed by, and paid for, by the developer. All utilities shall be installed underground, prior to street or alley surfacing or construction."

The proposed code amendment would allow new developments with frontage along an existing overhead utility line of less than 700 feet to pay a fee, established annually, and currently equal to \$25 per front foot. This cost represents an average cost per foot, as provided by Xcel Energy.

Additionally, if half street improvements along the perimeter of the development are not required as part of the development, the fee would also be collected regardless of the front footage length. All other developments will place existing overhead utilities underground as currently required.

Staff suggests that the Director of Public Works & Utilities have the flexibility to require undergrounding of the overhead utilities in unique situations or when adjacent utilities are currently underground.

CITY OF GRAND JUNCTION, COLORADO

Ordinance No. _____

**AN ORDINANCE AMENDING SECTION 6.2.A.1.h. OF THE GRAND JUNCTION
ZONING AND DEVELOPMENT CODE BY ADDITION OF AN EXCEPTION FOR
REQUIRED IMPROVEMENTS CONCERNING THE PLACEMENT OF UTILITIES
UNDERGROUND**

Recitals:

The Zoning and Development Code appropriately establishes City policy and regulations regarding development in order to serve the public, so that improvement standards encourage consistency and quality of planning, design, and construction. The intent is that the citizens will benefit from well-developed projects to improve quality of life for all.

The Zoning and Development Code presently requires that all utilities for all development must be installed underground before street or alley surfacing or construction. It has been found that in some circumstances this requirement is too stringent. Where a development already has existing overhead utilities along streets adjacent to new developments and the frontage is less than 700 feet, the cost to underground such utilities may be disproportional to the value to the project and the public at-large. Also, in some instances when the perimeter of a development project is not required to complete half street improvements, it is rational to wait to place the utilities underground when the half street improvements are completed. This amendment allows for some discretion in approving developments by determining what is best for the community. In addition, further explanation has been added for necessary above-ground facilities.

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

Section 6.2.A.1.h. of Chapter Six of the Zoning and Development Code is amended as follows:

Utilities, including but not limited to, telephone, cable, television, electric, and natural gas shall be provided by, and paid for, by the developer. All utilities shall be installed underground, prior to street or alley surfacing or construction, except when the development has less than 700 feet of frontage and/or when half street improvements are not required to be completed along the perimeter of the development as part of the project, then in the discretion of the Public Works Director a payment of cash-in lieu of construction may be accepted. The payment amount shall be determined as set forth in the adopted fee schedule. Necessary above-ground facilities (e.g., pedestals, transformers, and transmission lines of 50 KV capacity or greater) and temporary overhead lines may be allowed if deemed necessary by the City Engineer;

Introduced on first reading this 17th day of March 2004.

PASSED and ADOPTED on second reading this _____ day of _____ 2004.

Mayor

Attest:

City Clerk

Attach 7
Right-of-Way Vacation – Adjacent to Kia Drive
CITY COUNCIL AGENDA
CITY OF GRAND JUNCTION

<i>CITY COUNCIL AGENDA</i>							
Subject	Right-of-Way Vacation – Adjacent to Kia Drive						
Meeting Date	March 17, 2004						
Date Prepared	March 1, 2004				File #VR-2003-263		
Author	Ronnie Edwards		Associate Planner				
Presenter Name	Ronnie Edwards		Associate Planner				
Report results back to Council	X	No		Yes	When		
Citizen Presentation		Yes	X	No	Name		
	Workshop	X	Formal Agenda		X	Consent	Individual Consideration

Summary: The City of Grand Junction proposes to vacate two pieces of right-of-way adjacent to Kia Drive between Brookwood Drive and Brookside Subdivision. The right-of-way vacation would be contingent upon dedication of 30 Road right-of-way. The Planning Commission recommended approval of the right-of-way vacation on March 9, 2004, making the Findings of Fact/Conclusion identified in the staff report.

Budget: N/A

Action Requested/Recommendation: It is recommended that the City Council conduct the first reading of the ordinance to vacate the right-of-way, and schedule a public hearing for formal action on the ordinance. The Planning Commission recommends that the City Council approve the ordinance vacating the requested right-of-way, contingent upon dedication of 30 Road right-of-way and reservation of easements.

Attachments:

1. Site Location Map
2. Aerial Photo Map
3. Future Land Use Map
4. Existing City and County Zoning Map
5. Exhibit maps

6. Ordinance

Background Information: See attached

BACKGROUND INFORMATION					
Location:		Adjacent to Kia Drive between Brookwood and Brookside Subdivisions			
Applicants:		City of Grand Junction			
Existing Land Use:		Right-of-way and multi-purpose/drainage easement			
Proposed Land Use:		Multi-purpose/drainage easement			
Surrounding Land Use:	North	Single family residential			
	South	Single family residential			
	East	Single family residential			
	West	Single family residential			
Existing Zoning:		PD (4.5 du/ac)			
Proposed Zoning:		PD (4.5 du/ac)			
Surrounding Zoning:	North	PD (4.4 du/ac)			
	South	County RMF-5			
	East	PD (3.4 du/ac)			
	West	RMF-5			
Growth Plan Designation:		Residential Medium (4 – 8 du/ac)			
Zoning within density range?		X	Yes		No

PROJECT DESCRIPTION: The applicant proposes to vacate two pieces of right-of-way adjacent to Kia Drive between Brookwood Subdivision and Brookside Subdivision with reservation of a multi-purpose and drainage easement in exchange for dedication of 30 Road right-of-way.

ANALYSIS:

1. Background:

Brookwood Subdivision is located just north of the Brookside Subdivision west of 30 Road north of Patterson Road. Brookwood Subdivision was developed in 1982 as part of the County. Cottonwood Resources, Inc. developed the subdivision. Cottonwood Resources, Inc. had obtained its

interest in the property from G.R. Construction, Inc. The conveyance document from G. R. Construction, Inc. to Cottonwood Resources, Inc. did not include a strip of land across the length of the southern portion of the property that was latter platted as the Brookwood Subdivision. G. R. Construction, Inc. retained ownership of the thin strip.

In March of 2001, during the review process for the development of Brookside Subdivision, the City noted this strip of land, because of the need for extension of Kia Drive between the subdivisions. G. R. Construction, Inc. granted a Public Roadway and Utilities Right-of-Way for the extension. The portion granted was approximately 14 to 15 feet wider on each side than necessary for the public road right-of-way.

The lot owners along the south side of Brookwood went together and incorporated as Brookwood Southside Association, Inc. and purchased the remainder of the strip from G. R. Construction, Inc. The portion of the strip that they purchased included part of 30 Road, extending from the edge of the road to the centerline of 30 Road.

The City is proposing to vacate the right-of-way of the extra portion on each side of Kia Drive while reserving this same area as a multi-purpose easement for utilities and drainage easement. In return, Brookwood Southside Association, Inc. is dedicating that portion of 30 Road that it owns to the City as a right-of-way.

2. Consistency with the Growth Plan:

Policy 10.2 states that the City will consider the needs of the community at large and the needs of the individual neighborhoods when making development decisions.

By allowing these two pieces to be vacated, Kia Drive right-of-way lines will align between Brookwood Subdivision and Brookside Subdivision and will not affect the individual neighborhood.

3. 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 right-of-way vacation does not conflict with applicable Sections of the Growth Plan, major street plan and other adopted plans and policies of the City.

b. No parcel shall be landlocked as a result of the vacation.

No parcel becomes landlocked with this vacation and the area is being retained as an easement.

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 to any parcel shall not restricted unreasonably, economically prohibitive or reduces or devalues any property affected by 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 are no adverse impacts to the general community. The quality of public facilities and services provided is not reduced due to this vacation.

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.

Provision of adequate public facilities and services will not be inhibited to any property as required in Chapter 6 of the Code.

f. The proposal shall provide benefits to the City such as reduced maintenance requirements, improved traffic circulation, etc.

Proposal provides a benefit to the City as the vacated area will be the responsibility of the Brookwood Southside Association, Inc. to maintain and keep the parcels clear of weeds, while the City retains the benefit of use of the property with the multi-purpose and drainage easement. In addition, the City receives a portion of 30 Road as a right-of-way for the use of the public forever.

FINDINGS OF FACT/CONCLUSIONS:

After reviewing the Right-of-Way Vacation application, VR-2003-263, for the vacation of two pieces of right-of-way adjacent to Kia Drive, City Council makes the following findings of fact and conclusions:

- The requested right-of-way vacation is consistent with the Growth Plan.
- The review criteria in Section 2.11.C of the Zoning and Development Code have been satisfied.

Site Location Map

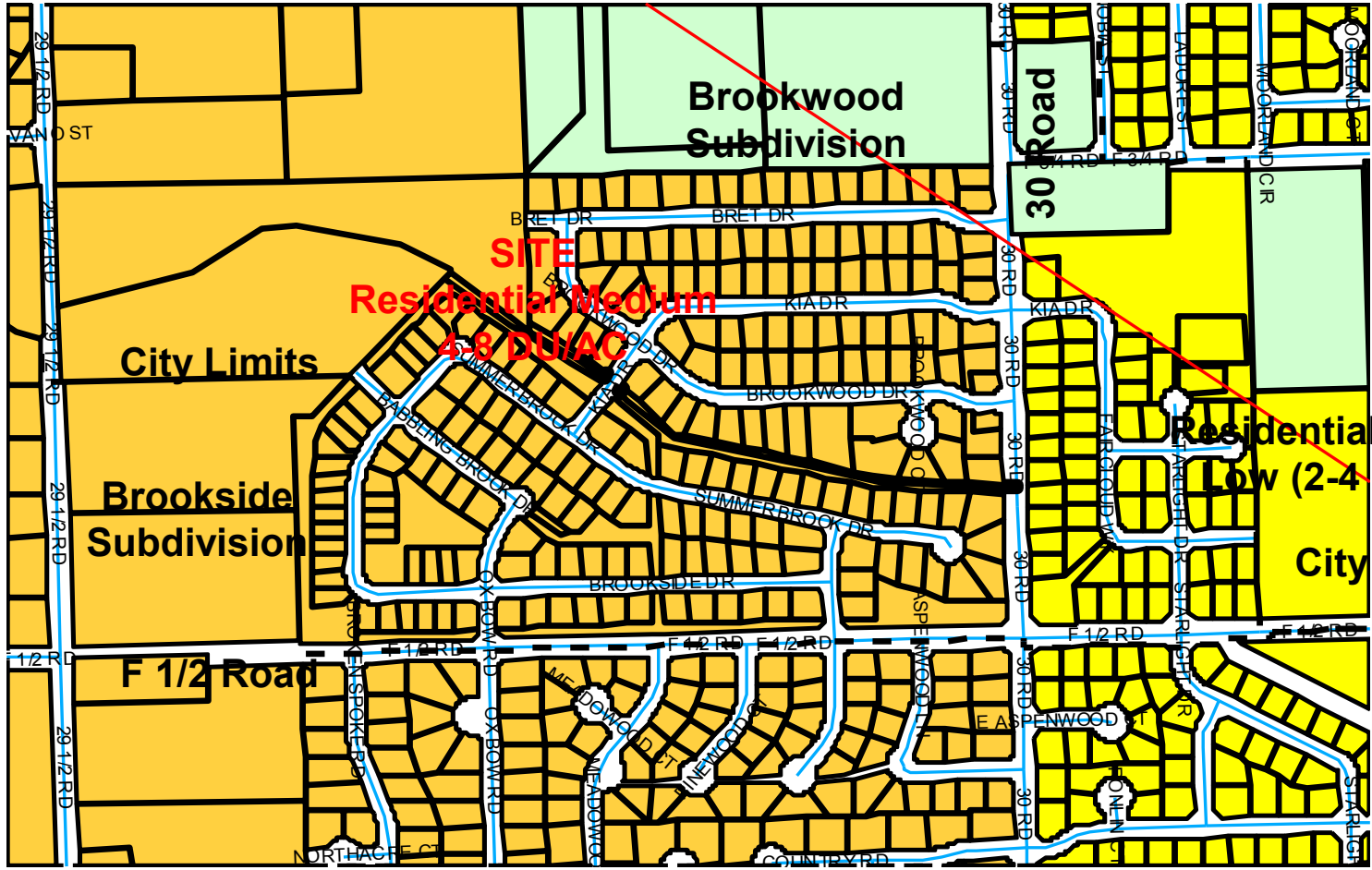
Figure 1

Aerial Photo Map

Figure 2

Future Land Use Map

Figure 3



SITE
Residential Medium
4-8 DU/AC

Residential Medium
Low (2-4 DU/AC)
City Limits

Brookwood
Subdivision

City Limits

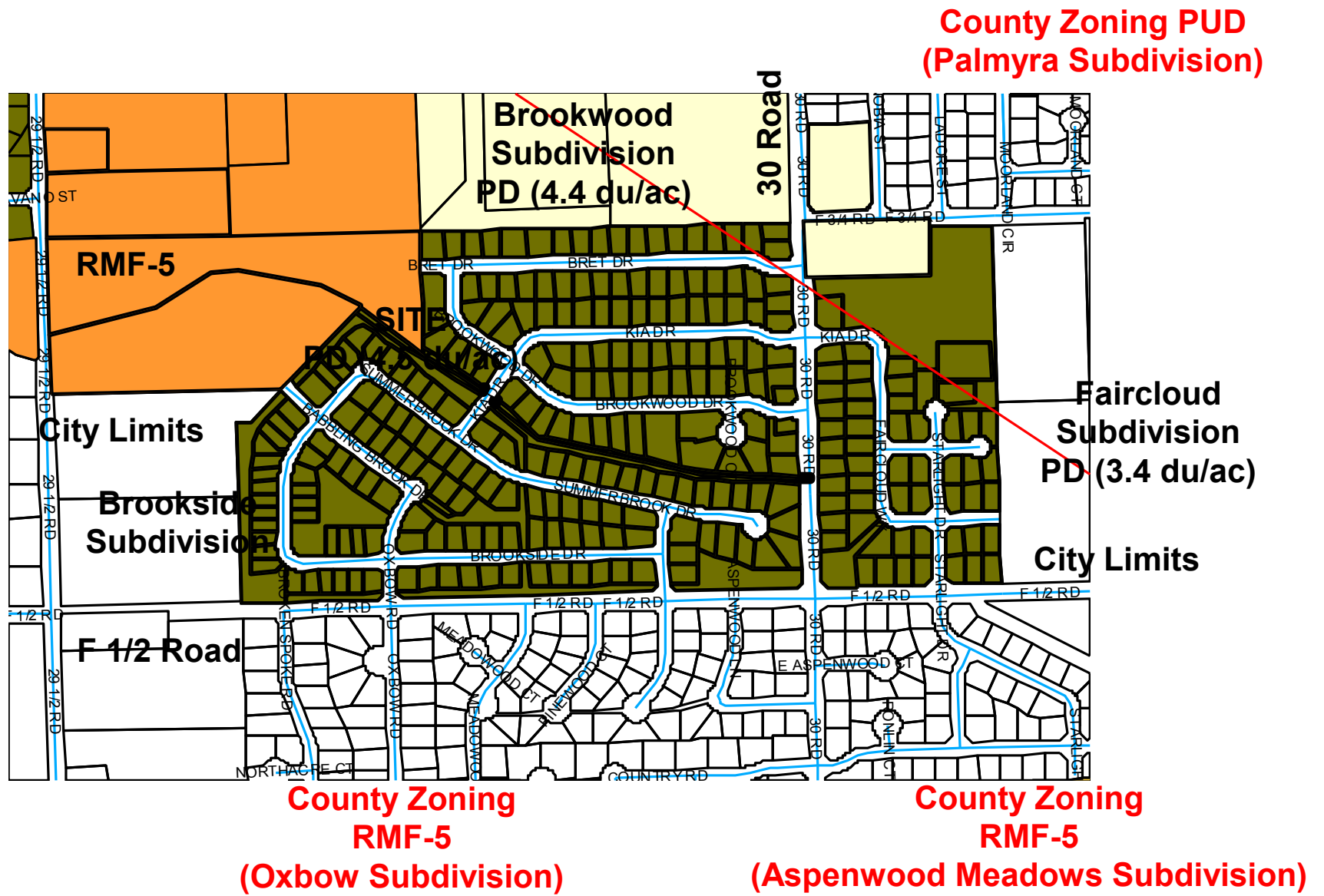
Brookside
Subdivision

F 1/2 Road

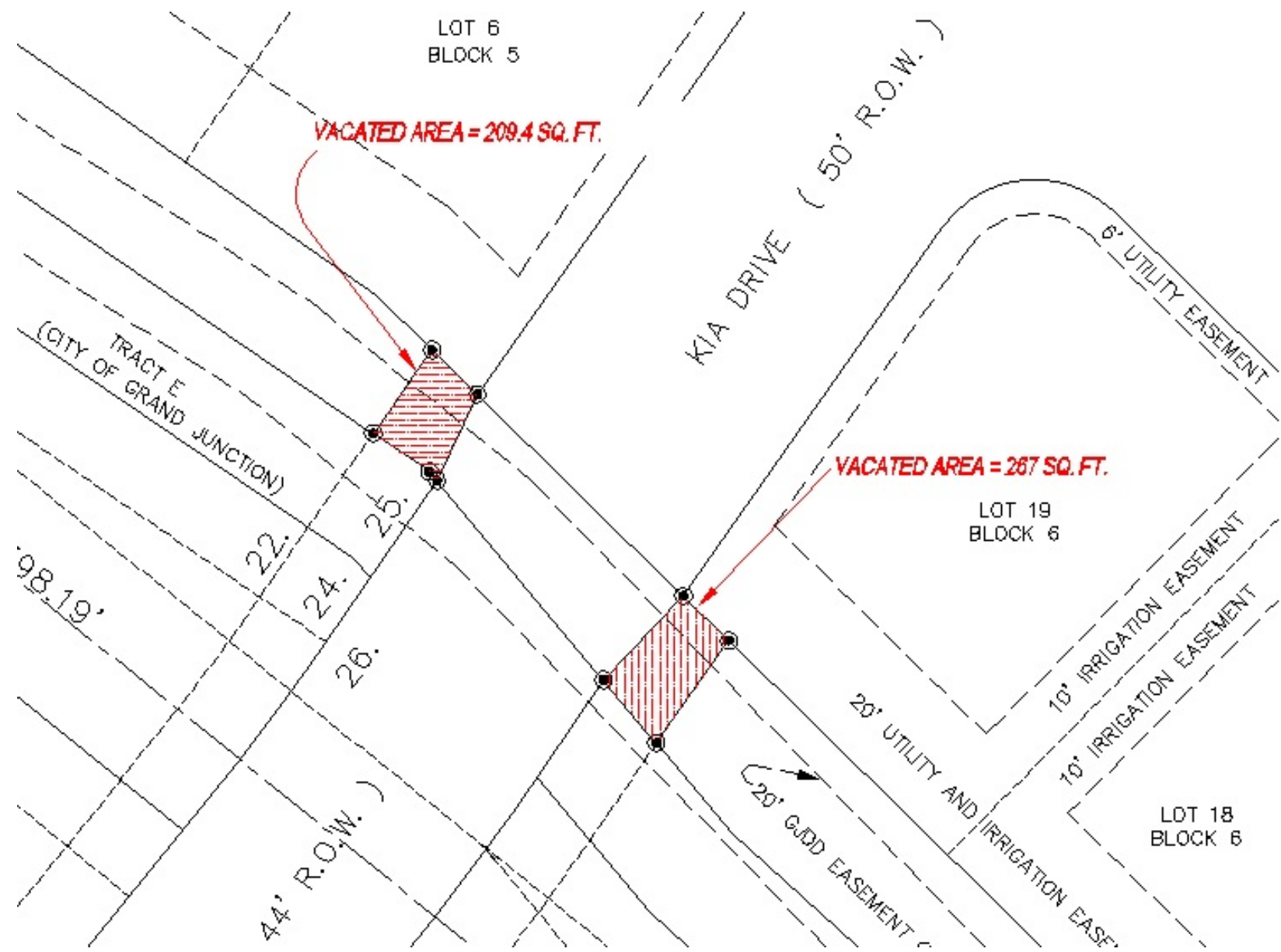
30 Road

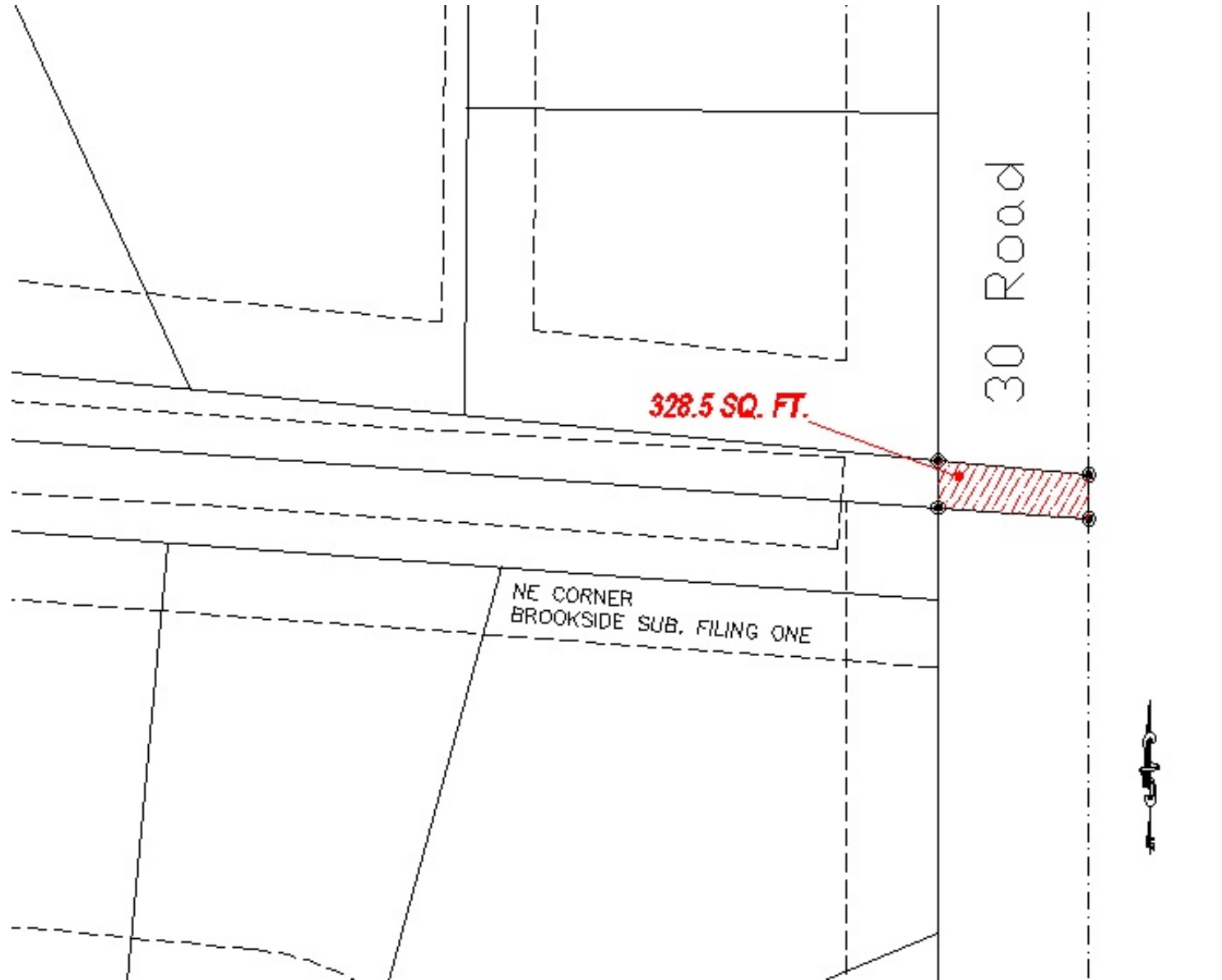
Existing City and County Zoning

City Limits 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."





CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

**An Ordinance Vacating two pieces of Right-of-Way
Located adjacent to Kia Drive, Brookside Subdivision**

RECITALS:

A request to vacate two pieces of right-of-way adjacent to Kia Drive between Brookwood and Brookside Subdivisions has been submitted by the City of Grand Junction.

The two pieces of right-of-way were granted for the extension of Kia Drive. The portion granted was approximately 14 to 15 feet wider on each side than necessary for the public road right-of-way. The City is reserving this same area as a multi-purpose easement for utilities. In return for the City vacating this area as a right-of-way, Brookwood Southside Association, Inc. is dedicating a portion of 30 Road to the City as a right-of-way.

The City Council finds that the request to vacate the two pieces of right-of-way is consistent with the Growth Plan and Section 2.11 of the Zoning and Development Code.

The Planning Commission, having heard and considered the request, found the criteria of the Zoning Code to have been met, and recommends that the vacation be approved as requested subject to the condition that the required right-of-way dedication occur concurrently with the recordation of the vacation ordinance.

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

The following described dedicated right-of-way is vacated upon Brookwood Southside Association, Inc.'s dedication of that portion of 30 Road owned by it:

The legal description of the parcels to be vacated with reservations for multi-purpose and drainage easements is attached as Exhibit A and incorporated herein.

Two (2) certain parcels of land lying in the Southeast Quarter of the Northeast Quarter (SE 1/4 NE 1/4) of Section 5, Township 1 South, Range 1 East of the Ute Principal Meridian, City of Grand Junction, County of Mesa, State of Colorado, said parcels lying South of Brookwood Subdivision, as same is recorded in Plat Book 13, Pages 65

and 66 and North of Brookside Subdivision Filing One, as same is recorded in Plat Book 18, Pages 2 through 4, inclusive, Public Records of Mesa County, Colorado, said parcels also being portions of that certain parcel of land for Public Roadway and Utilities Right of Way by Quit Claim Deed, as same is recorded in Book 2752, Pages 936 and 937, public Records of Mesa County, Colorado, being more particularly described as follows:

DESCRIPTION #1

BEGINNING at a point being the intersection of the South line of Lot 19, Block 6 with the Easterly right of way for Kia Drive, as same is shown on said Brookwood Subdivision, and assuming the South line of Kia Drive as shown on said Brookwood Subdivision bears S 45°32'26" E with all other bearings contained herein being relative thereto; thence from said Point of Beginning, S 45°32'26" E along said South line, a distance of 11.13 feet; thence S 35°12'58" W a distance of 22.08 feet to a point on the North line of said Brookside Subdivision Filing One; thence N 39°49'23" W along said North line, a distance of 14.42 feet to a point being the Northeast corner of Kia Drive, a 44.00 foot wide right of way as same is shown on said Brookside Subdivision Filing One; thence N 43°31'50" E a distance of 20.36 feet, more or less, to the Point of Beginning. CONTAINING 267 Square Feet, more or less, as described.

DESCRIPTION #2

BEGINNING at a point being the intersection of the South line of Lot 6, Block 5 with the Westerly right of way for Kia Drive, as same is shown on said Brookwood Subdivision, and assuming the South line of Kia Drive as shown on said Brookwood Subdivision bears S 45°32'26" E with all other bearings contained herein being relative thereto; thence from said Point of Beginning, S 25°06'03" W to a point on the North line of said Brookside Subdivision, being the Northwest corner of Kia Drive, a 44.00 foot wide right of way as same is shown on said Brookside Subdivision Filing One; thence N 39°49'23" W along said North line, a distance of 2.05 feet; thence continuing along said North line, N 55°40'23" W a distance of 11.94 feet; thence N 35°12'59" E a distance of 17.93 feet to a point on the South line of said Lot 6, Block 5; thence S 45°32'26" E along said South line, a distance of 11.13 feet, more or less, to the Point of

Beginning. CONTAINING 209 Square Feet, more or less, as described.

The legal description for the portion of 30 Road that is to be dedicated to the City is attached as Exhibit B and incorporated herein.

30 ROAD RIGHT OF WAY

A certain parcel of land lying in the Southeast Quarter of the Northeast Quarter (SE 1/4 NE 1/4) of Section 5, Township 1 South, Range 1 East of the Ute Principal Meridian, City of Grand Junction, County of Mesa, State of Colorado, being more particularly described as follows:

BEGINNING at the Southeast corner of Brookwood Subdivision, as same is recorded in Plat Book 13, Pages 65 and 66, Public Records of Mesa County, Colorado and assuming the East line of the SE 1/4 NE 1/4 of said Section 5 bears N 00°00'03" E with all other bearings contained herein being relative thereto; thence from said Point of Beginning, S 84°32'56" E along the Easterly extension of the South line of said Brookwood Subdivision, a distance of 33.15 feet to a point on the East line of the SE 1/4 NE 1/4 of said Section 5; thence S 00°00'03" W along the East line of the SE 1/4 NE 1/4 of said Section 5, a distance of 9.59 feet to a point on the Easterly extension of the North line of Brookside Subdivision Filing One, as same is recorded in Plat Book 18, Pages 2 through 4, inclusive, Public Records of Mesa County, Colorado; thence N 85°48'23" W along said line a distance of 33.09 feet to a point being the Northeast corner of said Brookside Subdivision Filing One; thence N 00°00'03" E, along a line 33.00 feet West of and parallel to, the East line of the SE 1/4 NE 1/4 of said Section 5, a distance of 10.32 feet, more or less, to the Point of Beginning. CONTAINING 328.5 Square Feet, more or less, as described

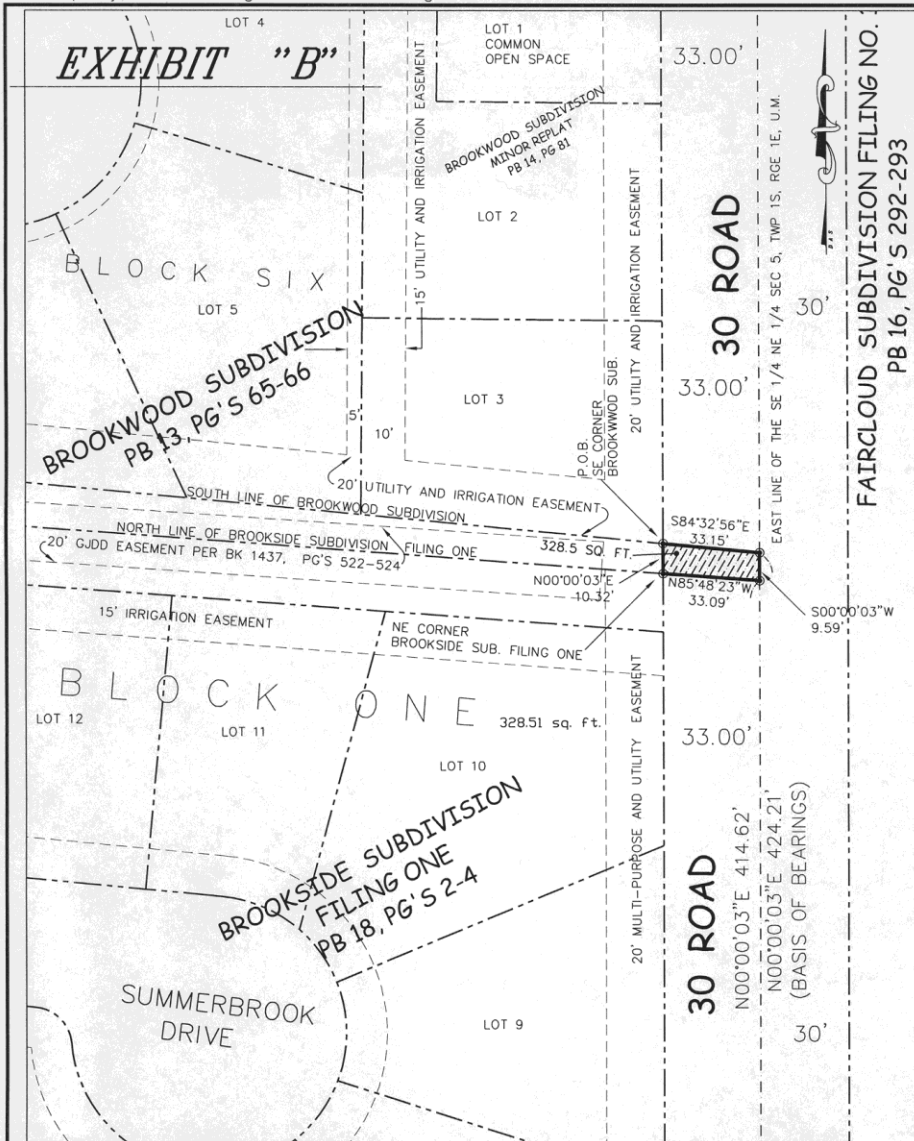
Introduced for first reading on this 17th day of March, 2004.

PASSED and ADOPTED this day of , 2004.

ATTEST:

President of City Council

City Clerk



The sketch and description shown hereon has been derived from subdivision plats and deed descriptions as they appear in the office of the Mesa County Clerk and Recorder. This sketch does not constitute a legal survey, and is not intended to be used as a means for establishing or verifying property boundary lines.

E 1/4 CORNER SECTION 5 T.1 S., R.1 E., U.M. MCSM NO. 34-2

DRAWN BY: P.I.K.
DATE: 09-12-2003
SCALE: 1" = 30'
APPR. BY: IW

BROOKWOOD/BROOKSIDE
VACATION DESCRIPTION MAP

DEPARTMENT OF PUBLIC WORKS
REAL ESTATE DIVISION
CITY OF GRAND JUNCTION

Attach 8
Text Amendments to the SSID Manual
CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA						
Subject	Introduce a proposed ordinance for text amendments to the SSID Manual (Submittal Standards for Improvements and Development).					
Meeting Date	March 17, 2004					
Date Prepared	March 11, 2004				File # TAC-2003-01.04	
Author	Lori V. Bowers		Senior Planner			
Presenter Name	Lori V. Bowers		Senior Planner			
Report results back to Council	X	No		Yes	When	
Citizen Presentation		Yes		No	Name	
	Workshop	X	Formal Agenda	X	Consent	Individual Consideration

Summary: Staff recently completed needed changes to the SSID Manual that reflect changes in the Zoning and Development Code adopted in 2002. The manual pertains to all development activity as defined by the City of Grand Junction's Zoning and Development Code.

Budget: N/A

Action Requested/Recommendation: Introduce a proposed ordinance for text amendments to the SSID Manual (Submittal Standards for Improvements and Development), and hold a public hearing to consider final passage on April 7, 2004.

Background Information: See attached Staff Report/Background Information. **The draft version was previously distributed.**

Attachments:

1. Staff report/Background information
2. Synopsis of changes
3. Ordinance

Background Information:

The *Submittal Standards for Improvements and Development Manual*, referred to as SSID, pertains to all development activity as defined by the City of Grand Junction's Zoning and Development Code. The Departments of Community Development and Public Works have the responsibility to enforce the provisions of the SSID Manual and the Zoning and Development Code. Section 6.8 of the Zoning and Development Code, titled, Standards for Required Reports, Studies and Special Plans states: The applicant shall submit to the Administrator those materials as listed in the SSID Manual (under separate cover). The purpose of the SSID manual is to help eliminate uncertainties regarding what is expected by the various review agencies. The SSID manual is used as a guide for the level of detail and process that is involved in the design of projects and application submittal guidelines and requirements. The manual is highly technical in nature, with many cross-references throughout the document. It contains flow charts, abbreviations, drafting symbols, definitions and engineering terms for the benefit of consistent review and interaction between the City and the developer.

It was first released in 1993 as a concerted effort by the Community Development Department and the Public Works Department to help guide the development community in quality planning, design and construction. Over the years it has become the guidance manual for all City development applications, requiring consistency in all types of development. This was and still is the primary goal of the document.

Staff recently completed needed changes to the SSID Manual that reflect the changes in the Zoning and Development Code adopted in 2002. The last time the SSID Manual was formally updated was in 1995. There were other updates done in 1998. Over the past several years, Staff has made some minor changes to some of the checklists and has provided them to developers. The development community has had some exposure to the upcoming changes and they have already used the checklists that have previously been changed. In January, a memo was sent to 57 interested parties soliciting their input and comments for review of the document. One phone call was received as a result of that memo, regarding the possible changes. Peter Krick, City Surveyor, met with the surveyors in the area and explained changes in the SSID Manual to meet the state requirements for platting. Rick Dorris, City Development Engineer, has met with several engineers and developers to discuss their concerns regarding the requirements of the manual.

The changes to the manual are numerous, yet technically minor. There are still some grammatical corrections to be made, and a final check to see that all pages referenced

correspond to the page referred. Attached to this report is a brief synopsis of the changes.

The Planning Commission reviewed the proposed draft at their regularly scheduled meeting of January 13, 2004, and recommended approval of the draft document, finding it consistent with the Growth Plan and the Zoning and Development Code.

SYNOPSIS OF CHANGES TO SSID MANUAL / 2004

In the introduction to the manual, the 2nd Edition was revised and updated from May 1995, to the present date. This will be considered the 3rd Edition.

The Table of Contents was revised and expanded with more detail.

The Purpose and Scope section was updated and reworded.

The section titled, *City Development Standards*, which is a list of adopted plans and policies was updated.

In the section titled “General Terms”, the term “Qualified Person” was added. This section was also modified to allow a “Qualified Person” to inspect construction work instead of a Professional Engineer. It is important to note that we never enforced the requirement for a Professional Engineer to inspect the construction. Since we didn’t previously enforce our requirement, this will be viewed as an additional requirement.

Since the application process was revised, it was necessary to revise this section of the manual. Application sequence charts were reduced from eight, to two.

In the Preface, the term “Quality Review Team” is to be changed to “Development Review Team”, since that is what the review team is called.

There are 27 proposed submittal checklists in this draft. The original document contained only 16 checklists, they were:

1. Change of Use
2. Concept Plan
3. Conditional Use Permit
4. Major Subdivision: Final
5. Major Subdivision: Preliminary
6. Minor Subdivision
7. Outline Development Plan (ODP)
8. Planned Development
9. Resubdivision
10. Revocable Permit
11. Rezone
12. Site Plan Review
13. Special Use Permit
14. Temporary Use Permit
15. Vacation
16. Variance

The proposed draft contains the following 27 checklists.

1. Change of Use Review

2. Concept Plan
3. Conditional Use Permit
4. Conditional Use Permit – Gravel Pit
5. Conditional Use Permit – Site Plan Review
6. Conditional Use Permit – Telecommunications Tower
7. Condominium Plat
8. Floodplain Permit
9. Growth Plan Amendment
10. Historic Designation
11. Institutional & Civic Facility Master Plan
12. Outline Development Plan (ODP)
13. Planned Development – Preliminary
14. Planned Development – Final
15. Revocable Permit
16. Rezone
17. Rezone – Preliminary Plan
18. Site Plan Review, Major
19. Site Plan Review, Minor
20. Site Plan – Simple Subdivision
21. Subdivision, Major – Preliminary
22. Subdivision, Major – Final
23. Subdivision, Simple
24. Temporary Use Permit
25. Vacation of: Easement, ROW, Plat
26. Variance
27. Variance - Sign

In the old version of the Code we did not have criteria to address telecommunications towers, gravel pits, and master plans for large facilities. A variance for a sign is different from a variance from the bulk standards. Combined projects are more and more common, such as a site plan with a simple subdivision. The evolution of the Code has necessitated the need for additional checklists. Some revised forms have been out for 2 years.

In addition to new and needed checklists, changes to the existing checklists were needed to help facilitate the review process. The revised checklists in section IV, added review agencies to enhance reviews and deleted agencies and items that were not needed. Added submittal items where necessary to make the submittals more thorough.

These changes include:

1. A space for the Planners name was added.
2. An expiration date was added.
3. Resubdivision was deleted since it is considered a Simple Subdivision in the new Code.

4. A Minor Site Plan Review checklist was added.
5. A new Gravel Pit checklist provided.
6. Telecommunications Tower checklist provided.
7. Condominium Plat process was added.
8. Floodplain Permit was added.
9. Historic Designation was added.
10. Institutional & Civic Master Plan was added.
11. Variance checklist for “signs only” was added.
12. Combined checklist of CUP/Site Plan Review was added.
13. Combined checklist for Rezone and Preliminary Plans.
14. Combined checklist for Simple Subdivision/Site Plan review.
15. A new Growth Plan Amendment checklist was provided.
16. Urban Trails were added as a review agency to the checklists.
17. Application Fee no longer has a dot, but a \$ for the amount due.
18. Development Application form was moved in the sequence.
19. A reduction of the Assessor’s Map is no longer required.
20. “Sketch of proposed sign” was changed to “Sign Plan/sign package”.
21. The term “Lease Agreement” was added to the “Evidence of title” line.
22. Fire Flow Form was added to checklists where they may be required.
23. The site data table requirement was added to the checklists for the purpose of determining parking requirements where needed.
24. Geotechnical report is now a required document for Preliminary Plans/Plats.
25. The City, in cooperation with the State, requires a copy of the NPDES Construction Activity Permit, prior to approving construction plans and was added to the appropriate checklists.
26. “Phase 1 Environmental” was changed to “Transaction Screen Process”, which is a less costly review. Should the Transaction Screen Process indicate that a Phase 2 Environmental study needs to be done, or we are aware of contaminated soils to begin with, then the Phase 2 can be ordered up front, or after the Transaction Screen Process shows a need for further investigation.
27. A Drainage and Irrigation Checklist was added to SSID. This is the same form the County uses, to provide more consistency to developers.
28. The City Traffic Engineer was added to the checklists as a review agency.
29. Site Analysis checklist was added as per the new Code requirement.
30. Addition of Clifton Fire on all checklists next to City Fire Department for the purpose of expediting the review to the correct agency.
31. The landscape plan requirement was added to some checklists. Previously it had to be written in if it was required for some types of site plan review.
32. The RTPD was added to some checklists.
33. Fence and wall plans are required for major subdivisions at final review, per the new Code requirements.
34. Special Use Permit checklist was eliminated as there is no longer a “Special Use” in the Code.
35. On the Temporary Use checklist a line was added for Code Enforcement review.

Another change to the checklists was required due to the naming of the utility companies. As the utility companies buy and sell and change their names, the checklists were incorrect. For example, Public Service is no longer Public Service, they are Xcel Energy. Grand Valley Rural Power is now Grand Valley Power. AT&T, Qwest, TCI cable, etc. have all had name and service changes. Staff is proposing to change the franchise name to just what the service is that is provided.

Section VI, "Construction Phase Submittals" is used by the Development Engineers during construction of the development. This was revised to clarify and expand the requirements. The process for submitting and approving Quality Assurance data was greatly improved to identify problems before any hard surfacing is installed. Construction Phase Submittals also includes a format for submitting applications and the drawing standards. This section was revised to include electronic versions, email and GIS applications that pertain to submittals. There are progress and construction approval forms; submittal chart; an updated inspection form; these items make it clear up front what the developer will be expected to perform on a project and when the City will accept any public improvements on the project. The completion inspection checklist was revised to further improve Quality Assurance.

Lighting plans have been a requirement of the Code for some time but no checklist for a drawing standard was available. This edition of the manual has been expanded to include a better explanation of the lighting requirements and how they should be provided for review. The same is true for Site Analysis, a requirement of the Code for any parcel over 50 acres. A new drawing standards checklist was provided for clarification of what should be provided for the Site Analysis requirement.

ORDINANCE NO.

AN ORDINANCE AMENDING THE CITY OF GRAND JUNCTION'S "SUBMITTAL STANDARDS FOR IMPROVEMENTS AND DEVELOPMENT", SSID MANUAL, AND AUTHORIZING PUBLICATION OF THE AMENDMENTS BY PAMPHLET

Recitals:

Ordinance No. 3390 adopted the City of Grand Junction Zoning and Development Code, including Submittal Standards for Improvements and Development (SSID).

Since the adoption of the Zoning and Development Code certain corrections, deletions and amendments to the SSID Manual have been proposed. Many of the amendments proposed for adoption are corrections and additions necessitated by working with and through the "new" Zoning and Development Code.

The revised SSID manual is available for review in the Community Development Department and the City Clerk's office. Because of the number of pages constituting the amendments the Council has determined that publication in book or pamphlet, as authorized by the Charter, is appropriate.

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

1. The SSID *Submittal Standards for Improvements and Developments* is hereby amended to read as shown in the published book or pamphlet. Specific references to each section number of each amendment, as well as the specific changes to the text are shown therein.
2. On January 13, 2004, the Planning Commission considered the amendments to the SSID manual and recommended approval to the City Council of the text amendments to the SSID Manual
3. All amendments are necessary or required by law and the amendments are in accordance with law.
4. Because of the number of pages, (approximately 150) publication by book or pamphlet is authorized in accordance with the Charter Article VI, Paragraph 51.
5. The hearing prior to final passage shall be held on April 7, 2004 at 7:30 p.m. in the Council chambers located at 250 N. 5th Street Grand Junction Colorado. The purpose of such hearing being the consideration of the amendments to the SSID Manual, as stated in this ordinance.

6. The book or pamphlet containing the amendments shall be available for inspection in the City Community Development Department and the City Clerk's Office, 250 N.5th Street, Grand Junction CO. Hours for inspections shall be 8:00 a.m. to 5:00 p.m., Monday through Friday except legal holidays.

7. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed.

INTRODUCED ON FIRST READING this 17th day of March, 2004.

PASSED, ADOPTED AND APPROVED this ___ day of _____ 2004.

Attest:

President of the Council

City Clerk

Attach 9

**Etter-Epstein Outline Development Plan Request for Extension
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA							
Subject	Etter-Epstein Outline Development Plan (ODP) Request for Extension						
Meeting Date	March 17, 2004						
Date Prepared	March 9, 2004				File: ODP-2000-058		
Author	Kristen Ashbeck		Senior Planner				
Presenter Name	Kristen Ashbeck		Senior Planner				
Report results back to Council	X	No		Yes	When		
Citizen Presentation		Yes	X	No	Name		
	Workshop	X	Formal Agenda		X	Consent	Individual Consideration

Summary: A mixed-use Outline Development Plan (ODP) and Planned Development (PD) zoning ordinance for the Etter-Epstein property on the southeast corner of Horizon Drive and G Road was approved by City Council on February 21, 2001. The ordinance stated that the ODP would expire three years from the date of approval. Due to development and market trends and the difficulty and expense to develop this property, the plan has not yet evolved to the next phase of development – submittal of a Preliminary Plan. Thus, the property owners are requesting an extension to the three-year expiration for another three-year period.

Budget: NA

Action Requested/Recommendation: First reading of proposed revised ordinance extending the Etter-Epstein ODP for another three-year period and set a hearing for the April 7, 2004 City Council meeting. Planning Commission will hear this item at its March 9, 2004 meeting and make a recommendation to City Council.

Attachments:

- 1) Background Information / Analysis
- 2) Letters from Property Owners Requesting Extension of ODP
- 3) Proposed Planned Development Ordinance
- 4) Etter-Epstein Outline Development Plan

BACKGROUND INFORMATION					
Location:		Southeast Corner Horizon Drive and G Road			
Applicants:		The Estate of Jimmie Etter and Emanuel Epstein, Owners			
Existing Land Use:		1 Single Family Residence and Vacant			
Proposed Land Use:		Business/Commercial, Residential, Open Space			
Surrounding Land Use:	North	Vacant & Commercial (Hotel)			
	South	Single Family Residential (Ptarmigan Ridge, Ptarmigan Point & O’Nan)			
	East	Single Family Residential (Ptarmigan Ridge) and Church			
	West	Vacant			
Existing Zoning:		Planned Development (PD)			
Proposed Zoning:		No Change Proposed			
Surrounding Zoning:	North	Light Commercial (C-1)			
	South	PD (Residential)			
	East	PD (Residential) & Residential Single Family 4 units per acre (RSF-4)			
	West	C-1 & RSF-4			
Growth Plan Designation:		Mixed Use			
Zoning within density range?		X	Yes		No

ANALYSIS

1. Background: The 22.56-acre Etter-Epstein ODP property consists of three parcels of land. Approximately 1.4 acres of the property were transferred to the City as public right-of-way due to the realignment of 27-1/2 Road and the Horizon Drive/G Road intersection several years ago. The parcels were zoned

Planned Development (PD) when the new zoning map was adopted in 2000 but with the agreement that a plan would be established to maintain the PD zoning shortly thereafter.

The ODP approved by City Council in early 2001 is specifically described in the attached proposed zoning ordinance. Item 7 in the proposed ordinance reads exactly as specifically stated in the original ordinance - that the ODP and the zoning were only valid until the 3rd anniversary of the approval date of February 21, 2001. Otherwise, the only change proposed in the new ordinance is the addition of Item 6 which is highlighted in italics.

2. Consistency with the Growth Plan: The Growth Plan was updated to reflect the ODP and zoning of the Etter-Epstein property, designating it as a Mixed Use future land use category.

FINDINGS OF FACT/CONCLUSIONS:

After reviewing the Etter-Epstein ODP application, ODP-2000-058, for an extension request, staff makes the following findings of fact and conclusions:

1. The previously-approved Etter-Epstein Outline Development Plan is consistent with the Growth Plan.
2. The land development and market conditions in the Horizon Drive corridor area have not progressed as rapidly as may have been envisioned three years ago. While conditions have changed some with the start of development of the Safeway Center, conditions have not changed dramatically to warrant a re-review of the previously approved ODP for the Etter Epstein property. In addition, this property is difficult and likely costly to develop. Due to these factors, staff believes that the Etter-Epstein ODP as approved is still relevant to the future land use and development in this area. However, this does not represent a commitment to any future extensions beyond this 3-year period.
3. Staff supports the ODP that was originally approved. The plan proposes reasonable land uses for the area and for the specific property as well as providing an acceptable transition from the Horizon Drive corridor to the residential areas east and south of the property. If the extension request is not approved, the City would be required to revert the PD zoning to a straight zone. Staff believes that any other straight zone would not fit the unique

constraints and opportunities of this particular piece of property as well as the approved ODP does within a planned zone district.

4. The property owners have requested a 3-year extension for the Etter-Epstein ODP. Given the conditions described in 1 through 3 above, staff believes that this extension is a reasonable request.

RECEIVED

FEB 19 2004

COMMUNITY DEVELOPMENT
DEPT.

Manny Epstein
6201 2nd Street East, Apt. 82
St. Petersburg Beach, Florida 33706
(727) 360-1148
(727) 367-6226 (fax)

Ms. Kristen Ashbeck
City Community Development Department
250 N. 5th Street
Grand Junction, Colorado 81501

Re: Planned Development
SouthEast Corner of the Intersection of Horizon Drive and G Road

REQUEST FOR TIME EXTENSION OF OUTLINE DEVELOPMENT PLAN

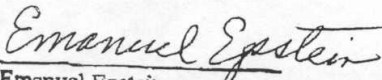
Dear Ms. Ashbeck,

This letter is a request to extend the ODP on the above-referenced Property for three (3) years. The Grand Junction City Council passed an Ordinance on second reading February 21, 2001, which established an Outline Development Plan for the planned development of vacant land located on the above reference Property by Ordinance #3328.


Paragraph 6 of the Ordinance states "This zoning, and the concomitant ODP, are only valid until the 3rd anniversary of approval." More time is necessary for the proper development of this relatively large area of vacant land.

Therefore, we, the undersigned, hereby request that the City of Grand Junction grant an extension of the zoning and ODP for an additional three year period.

Respectfully Submitted,


Emanuel Epstein

Estate of Jimmie Etter

By 
B.J. Jacquelin
Co-Parsonal Representative

02/13/2004 10:59 9/02835205
02/13/04 FRI 09:44 FAX 970 283 5758

TOWN OF DEBEQUE
JACQUELIN

PAGE 01
001

02/12/04 17:02 FAX 19702413760

H.F.A.K.

004

HOSKIN, FARINA, ALDRICH & KAMPF

Professional Corporation
ATTORNEYS AT LAW

209 Grand Avenue, Suite 400
Post Office Box 40
Grand Junction, Colorado 81502

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Matthew G. Weber
John A. Aldrich
Loren A. Cahill
Brandon May
Doris M. Dierke

Audrey F. Priester
Of Counsel

William H. Nelson
(1909-1992)

February 11, 2004

Ms. Kristen Ashbeck
City Community Development Department
250 N. 5th Street
Grand Junction, Colorado 81501

Re: Planned Development
SouthEast Corner of the Intersection of Horizon Drive and G Road

REQUEST FOR TIME EXTENSION OF OUTLINE DEVELOPMENT PLAN

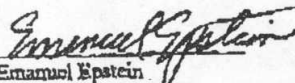
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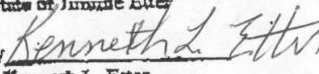
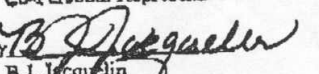
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Paragraph 6 of the Ordinance states "This zoning, and the concomitant ODP, are only valid until the 3rd anniversary of approval." More time is necessary for the proper development of this relatively large area of vacant land.

Therefore, we, the undersigned owners of this land, hereby request that the City of Grand Junction grant an extension of the zoning and ODP for an additional three year period.

Respectfully Submitted,


Emanuel Epstein

Estate of Jimmie Etter
By 
Kenneth L. Etter
Co-Personal Representative
By 
B.J. Jacquelin
Co-Personal Representative

RECEIVED

FEB 20 2004

COMMUNITY DEVELOPMENT
DEPT.

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO. _____

AN ORDINANCE ZONING LAND LOCATED NEAR
THE SOUTHEAST CORNER OF THE HORIZON DRIVE AND
G ROAD INTERSECTION

Recitals.

The owners of the property described below have applied for approval of an outline development plan and concomitant for a Planned Development (PD) for the owners' three tax parcels located near the southeast corner of the intersection of Horizon Drive and G Road. The property is locally known as the Etter-Epstein property. The City Council finds that the request meets the goals and policies set forth by the Growth Plan. City Council also finds that the requirements for a rezone as set forth in Section 2.6 of the Zoning and Development Code have been satisfied.

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

1. The property consisting of the following three tax parcel descriptions is hereby zoned Planned Development (PD) subject to the conditions and provisions of the Zoning and Development Code and the approved plan:

(a) Parcel 2945-012-00-008

Beginning at the NE corner NE4NW4 Section 1 1S 1W South 230 ft West 230 ft North 230 ft East to the Point of Beginning EXC road ROW as per Book 1426 Pages 244-245 Mesa County records; and also

(b) Parcel 2945-012-00-075/076

That part of NW4 NW4 Section 1 1S 1W S + East of County Highway EXC road ROW as per Book 1426 Pages 244-245 Mesa County records; and also

(c) Parcel 2945-012-00-073/074

Beginning Northeast corner NE4 NW4 Section 1 1S 1W S 782.5 ft West 408 ft South 82deg49' West 220 ft South 55deg57' W 596 ft West 190 ft to West LI NE4 NW4 North to County Highway Northeasterly along highway to North line 4 NW4 E to beginning EXC road on East + EXC North 230 ft of East 230 ft of NE4NW4 EXC Road ROW as per Book 1426 Pages 244-245 Mesa County Records.

2. The uses of the 20.94 acre property allowed by the zoning shall be as generally depicted on the Outline Development Plan (ODP) attached as Exhibit A:

- (a) Business/Commercial 11.36 acres less the eastern portion of Area 3*
(approximately 125,000-250,000 sf)
- (b) Residential, 4 du/ac 6.4 acres plus eastern portion of Area 3*
- (c) Open Space 3.18 acres

3. A list of the types of allowed uses are as follows corresponding to 2. (a), (b) and (c) as denominated on Exhibit A. The attached map classifies and designates the property into 5 acres.

(a) BUSINESS/COMMERCIAL USES (Area 2 and western portion of Area 3*):

- Business Residence
- Townhome
- General day care
- Parks
- Hotels and motels
- Miniature golf
- Retail Alcohol Sales
- Food Service, Catering
- Small appliance repair
- Car wash
- Quick lube
- Community Activity Building/Community Services
- Museums, art galleries, opera houses, single screen theater, libraries
- Counseling centers (nonresident)
- General retail sales with indoor operations, display and storage
- Multifamily Residential
- Assisted Living Facility
- Medical and Dental Clinics
- Religious Assembly
- General Offices
- Health club
- Bar, Nightclub
- Food Service, Restaurant
- Personal services
- Gasoline service station
- Limited vehicle service

(b) BUSINESS/COMMERCIAL USES (Area 1):

- Business Residence
- Townhome
- General day care
- Parks
- Hotels and motels
- Miniature golf
- Food Service, Catering
- Small appliance repair
- Community Activity Building/Community Services
- Museums, art galleries, opera houses, single screen theater, libraries
- Counseling centers (nonresident)
- General retail sales with indoor operations, display and storage
- Multifamily Residential
- Assisted Living Facility
- Medical and Dental Clinics
- Religious Assembly
- General Offices
- Health club
- Food Service, Restaurant
- Personal services

(c) RESIDENTIAL USES (Areas 4 and 5 and eastern portion of Area 3 - Etter Residence*):

Single family attached	Duplex
Single family detached	Multifamily
Townhome	Assisted Living Facility

(d) OPEN SPACE USES (No-build areas):

- Underground utilities
- Road right-of-way
- Pedestrian and recreational amenities

4) The bulk requirements for this property shall be as follows:

(a) Business/Commercial area: Same as Light Commercial (C-1) in section 3.4 of the Zoning and Development Code except that: the maximum building heights are as follows (refer to Exhibit A, attached):

Area 1: 35 feet above grade

Area 2:

- South of the southern boundary of the Airport Critical Zone: 40 feet measured from the nearest portion of Horizon Drive

- Remainder of Area 2 (north of the line formed by the southern boundary of the Airport Critical Zone): 55 feet measured from the nearest portion of Horizon Drive

Area 3 (Western Portion*): 65 feet measured from the nearest portion of Horizon Drive

(b) Residential areas (4 and 5 and eastern Portion of Area 3*): Same as Residential Multifamily 8 units per acre (RMF-8) in section 3.3 of the Zoning and Development Code, EXCEPT that:

1) the rear or side yard setback in the residential Area 5 shall be a minimum of 25 feet from the southern property line (common with Ptarmigan Ridge and Ptarmigan Point); and

2) Height in the eastern portion of Area 3* shall be 35 feet measured from the existing grade of the Old 27-1/2 Road Right-of-Way (elevation of 4736 feet).

(c) * Note: Per City Council motion, the eastern portion of Area 3 (generally noted as the Etter Residence on Exhibit A) is to be residential with the exact area defined at the next phase of development.

5) A Conditional Use Permit shall be required at the next phase of development in order to establish a residential density of up to 4 units per acre within the Airport Critical Zone, as required by Section 7.3 of the Zoning and Development Code.

6) *Subsequent applications to the City shall conform to the then-effective Zoning and Development Code.*

6) This zoning, and the concomitant ODP, are only valid until the 3rd anniversary of approval.

INTRODUCED for FIRST READING and PUBLICATION this 17th day of March, 2004.

PASSED on SECOND READING this 7th day of April, 2004.

ATTEST:

City Clerk

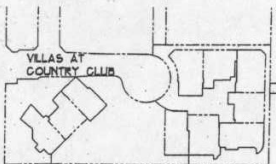
President of Council

LEGEND

- APPROXIMATE LOCATION OF FULL TURN 'X' INTERSECTION
- APPROXIMATE LOCATION OF FULL TURN 'T' INTERSECTION
- APPROXIMATE LOCATION OF RIGHT R, RIGHT OUT OR SECONDARY ACCESS
- OPEN SPACE
- PLANNED BUSINESS /COMMERCIAL
- RESIDENTIAL MEDIUM DENSITY
- POTENTIAL WETLAND
- EXISTING ROAD TO BE CLOSED OFF
- APPROXIMATE TREE GROUPINGS
- PROPOSED LAND USE BOUNDARY

LAND USE CHART N/A - Refer to Ordinance

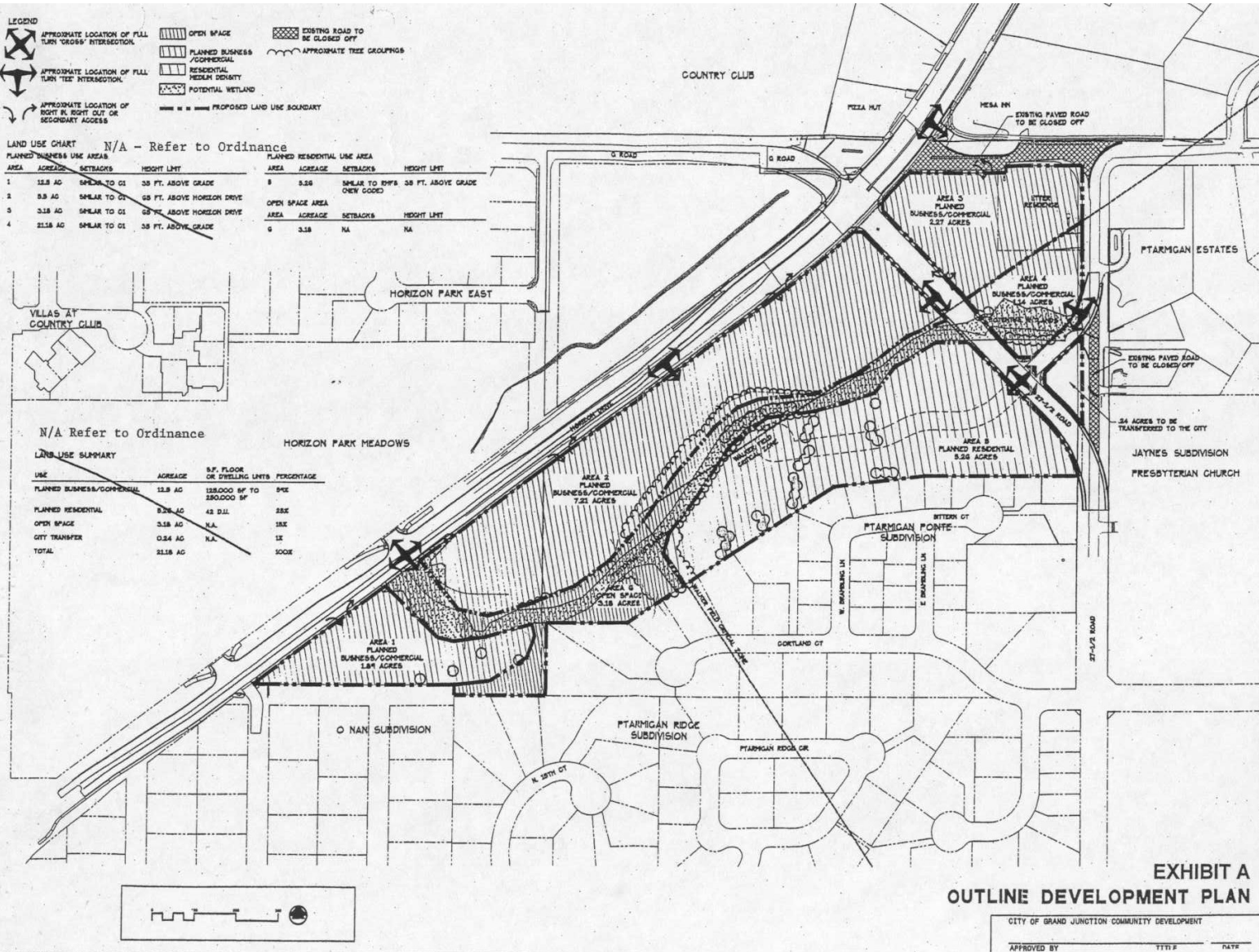
PLANNED BUSINESS USE AREAS				PLANNED RESIDENTIAL USE AREA			
AREA	ACREAGE	SETBACKS	HEIGHT LMT	AREA	ACREAGE	SETBACKS	HEIGHT LMT
1	12.8 AC	SIMILAR TO G1	38 FT. ABOVE GRADE	8	3.56	SIMILAR TO RPPR. 38 FT. ABOVE GRADE ONEV CODED	
2	8.8 AC	SIMILAR TO G1	38 FT. ABOVE HORIZON DRIVE	OPEN SPACE AREA			
3	3.8 AC	SIMILAR TO G1	38 FT. ABOVE HORIZON DRIVE	AREA	ACREAGE	SETBACKS	HEIGHT LMT
4	22.8 AC	SIMILAR TO G1	38 FT. ABOVE GRADE	6	3.18	NA	NA



N/A Refer to Ordinance

LAND USE SUMMARY

USE	ACREAGE	SF. FLOOR OR DWELLING UNITS	PERCENTAGE
PLANNED BUSINESS/COMMERCIAL	12.8 AC	158,000 SF TO 250,000 SF	50%
PLANNED RESIDENTIAL	3.56 AC	42 D.U.	10%
OPEN SPACE	3.18 AC	N/A	10%
CITY TRANSFER	0.34 AC	N/A	1%
TOTAL	22.8 AC		100%



SE CORNER HORIZON DRIVE AND G ROAD

DRAWN BY JEM, TD
 CHECKED BY TIC
 JOB NO. 5528
 DATE 3-28-00
 REVISIONS
 5-18-00

DRAWING NO.
 9928-05-18-00-02

SHEET NO. 02

STATUS
 DRAFT
 PRELIMINARY
 RSD
 CONSTRUCTION
 AS BUILT

CLAVONNE & ASSOCS., INC.
 LANDSCAPE AND PLANNING ARCHITECTS
 844 GRAND AVE.
 GRAND JCT. CO 81901
 PH: 970-241-0745
 FAX: 970-241-0765
 EMAIL: clevon@clavonne.com

**EXHIBIT A
 OUTLINE DEVELOPMENT PLAN**

CITY OF GRAND JUNCTION COMMUNITY DEVELOPMENT

APPROVED BY _____ DATE _____

Attach 10

**Zoning the Landmark Baptist Church Annexation, Located at 3015 D Road
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA							
Subject	Zoning the Landmark Baptist Church Annexation, located at 3015 D Road.						
Meeting Date	March 17, 2004						
Date Prepared	March 3, 2004				File #ANX-2004-016		
Author	Senta L. Costello		Associate Planner				
Presenter Name	Senta L. Costello		Associate Planner				
Report results back to Council	X	No		Yes	When		
Citizen Presentation		Yes	X	No	Name		
	Workshop	X	Formal Agenda		X	Consent	Individual Consideration

Summary: Introduction of a proposed zoning ordinance to zone the Landmark Baptist Church Annexation to RSF-E (Residential Single Family – Estate 2 ac/du), located at 3015 D Road.

Budget: N/A

Action Requested/Recommendation: Introduce a proposed zoning ordinance and set a public hearing for April 7, 2004.

Background Information: See attached Staff Report/Background Information

Attachments:

3. Staff report/Background information
4. Applicant's response to the Zoning Criteria
5. General Location Map
6. Aerial Photo
7. Growth Plan Map
8. Zoning Map
9. Annexation map
10. Zoning Ordinance

STAFF REPORT / BACKGROUND INFORMATION			
Location:		3015 D Road	
Applicants:		Landmark Baptist Church	
Existing Land Use:		Agricultural	
Proposed Land Use:		Agricultural / Future church site	
Surrounding Land Use:	North	Single Family Residential	
	South	Single Family Residential	
	East	Single Family Residential	
	West	Single Family Residential	
Existing Zoning:		RSF-R	
Proposed Zoning:		RSF-E	
Surrounding Zoning:	North	County AFT	
	South	County AFT	
	East	County AFT	
	West	County RSF-4	
Growth Plan Designation:		Estate 2-5 ac/du	
Zoning within density range?		X	Yes
			No

Staff Analysis:

Zone of Annexation: The requested zone of annexation to the RSF-E district is consistent with the Growth Plan density of Estate 2-5 ac/du. The existing County zoning is RSF-R. Section 2.14 of the Zoning and Development Code states that the zoning of an annexation area shall be consistent with either the Growth Plan or the existing County zoning.

In order for the rezoning to occur, the following questions must be answered and a finding of consistency with the Zoning and Development Code must be made per Section 2.6 as follows:

1. The existing zoning was in error at the time of adoption;

Response: The requested zoning is to place the property into an appropriate City zoning designation due to the annexation request. Therefore, this criteria is not applicable.

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.;

Response: The zoning request is in conjunction with an annexation request. Therefore this criteria is not applicable.

3. The proposed rezone is compatible with the neighborhood and will not create adverse impacts such as: capacity or safety of the street network, parking problems, storm water or drainage problems, water, air or noise pollution, excessive nighttime lighting, or nuisances;

Response: The zoning request is compatible with the neighborhood and adjacent zoning. Future improvements to facilities will occur if the preliminary plan goes forward.

4. The proposal conforms with and furthers the goals and policies of the Growth Plan, other adopted plans, and policies, the requirements of this Code, and other City regulations and guidelines;

Response: The proposed zoning is consistent with the Goals and polices of the Growth Plan, the requirements of the Zoning and Development Code and other City regulations and guidelines.

5. Adequate public facilities and services are available or will be made available concurrent with the projected impacts of the proposed development;

Response: Adequate public facilities are available or will be supplied at the time of further development of the property.

6. There is not an adequate supply of land available in the neighborhood and surrounding area to accommodate the zoning and community needs; and

Response: The zoning request is in conjunction with an annexation request. Therefore this criteria is not applicable.

7. The community or neighborhood will benefit from the proposed zone.

Response: The zoning request is in conjunction with an annexation request. Therefore this criteria is not applicable.

STAFF RECOMMENDATION

Staff recommends approval of the RSF-E zone district, with the finding that the proposed zone district is consistent with the Growth Plan and with Sections 2.6 and 2.14 of the Zoning and Development Code.

PLANNING COMMISSION RECOMMENDATION: The Planning Commission recommended approval of the requested zone of annexation to the City Council, finding

the zoning to the RSF-E district to be consistent with the Growth Plan, the existing County Zoning and Sections 2.6 and 2.14 of the Zoning and Development Code.

MDY CONSULTING ENGINEERS, INC.
743 HORIZON COURT, SUITE 311

GRAND JUNCTION, CO 81506

PHN: (970) 241-2122

FAX: (970) 241-2662

E-MAIL: MYoungMDY@Bresnan.net

~ LANDMARK BAPTIST CHURCH ~

PETITION FOR ANNEXATION INTO THE CITY OF GRAND JUNCTION

RE: ANNEXATION, ZONE OF ANNEXATION (ANX-2004-016)

GENERAL PROJECT REPORT

MARCH 11, 2004

TAX PARCEL I. D. NUMBER: 2943-212-00-043
3015 D ROAD
GRAND JUNCTION, CO 81504

ZONE OF ANNEXATION REVIEW CRITERIA

Land annexed into the City of Grand Junction from Mesa County are to be zoned in accordance with **Section 2.6: CODE AMENDMENT AND REZONING** of the *City of Grand Junction Zoning and Development Code per Ordinance No. 3390 Effective January 20, 2002*. The zone of annexation for this property will be consistent with that of the adopted *Growth Plan*, or consistent with existing Mesa County zoning. Therefore, under prescribe *Approval Criteria* as stated in Section 2.6.A., which reads as follows: ***“In order to maintain internal consistency between this Code and Zoning Maps, map amendments must only occur if:”***

- 1) The existing zoning was in error at the time of adoption;**

This criterion is NOT APPLICABLE, since this is an application for a Zone of Annexation to RSF-E (2 AC/UNIT Maximum), with the property consisting of approximately 4.779 acres (as per area information provided by the City of Grand Junction), from Mesa County Zoning of RSF-R (Residential Single Family Rural). This zone of annexation meets the Growth Plan

recommendation with respect to the proposed RSF-E (ESTATE 2-5 AC/UNIT), and is not a rezone from another City zone.

- 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. and such changes were not anticipated and are not consistent with the plan;**

Given the fact that this Zone of Annexation is not a rezone of another City zoning district, this criterion does apply. This request for Zone of Annexation for this property MEETS the Growth Plan recommendations, goals and polices.

Therefore, the proposed zone of annexation for this property MEETS this review criterion.

- 3) **The proposed rezone is compatible with the neighborhood and will not create adverse impacts such as: capacity or safety of the street network, parking problems, storm water or drainage problems, water, air or noise pollution, excessive nighttime lighting, or other nuisance;**

This proposed Zone of Annexation will be compatible with the surrounding area.

Submittal of several technical reports and plans will be presented to the City of Grand Junction and other local governing agencies in the near future to satisfy the Major Site Plan Review Process requirements.

The future development of this property will not create any adverse impacts such as parking problems, storm water or drainage problems, water, air or noise pollution, excessive nighttime lighting, or other nuisances. The proposed Zone of Annexation for this property MEETS this review criterion.

- 4) **The proposal conforms with and furthers the goals and policies of the Growth Plan, other adopted plans, and policies, the requirements of this Code, and other City regulations and guidelines;**

This proposed Zone of Annexation MEETS and is consistent with all of the various goals and policies of the Growth Plan.

- 5) **Adequate public facilities and services are available or will be made available concurrent with the projected impacts of the proposed development;**

All public urban facilities and services to this site are currently available and are accessible for connection. All existing utility services are of adequate capacity to accommodate this subject property. Note, the list of utility service providers will be provided with the MAJOR SITE PLAN Submittal.

The proposed zone of annexation MEETS this review criterion.

- 6) **There is not an adequate supply of land available in the neighborhood and surrounding area to accommodate the zoning and community needs; and**

The Growth Plan indicates that the application of this proposed zone of annexation is deemed appropriate in conjunction with the future land use zoning designations recommended for this general vicinity.

The proposed Zone of Annexation for this property MEETS this review criterion.

- 7) **The community or neighborhood will benefit from the proposed zone.**

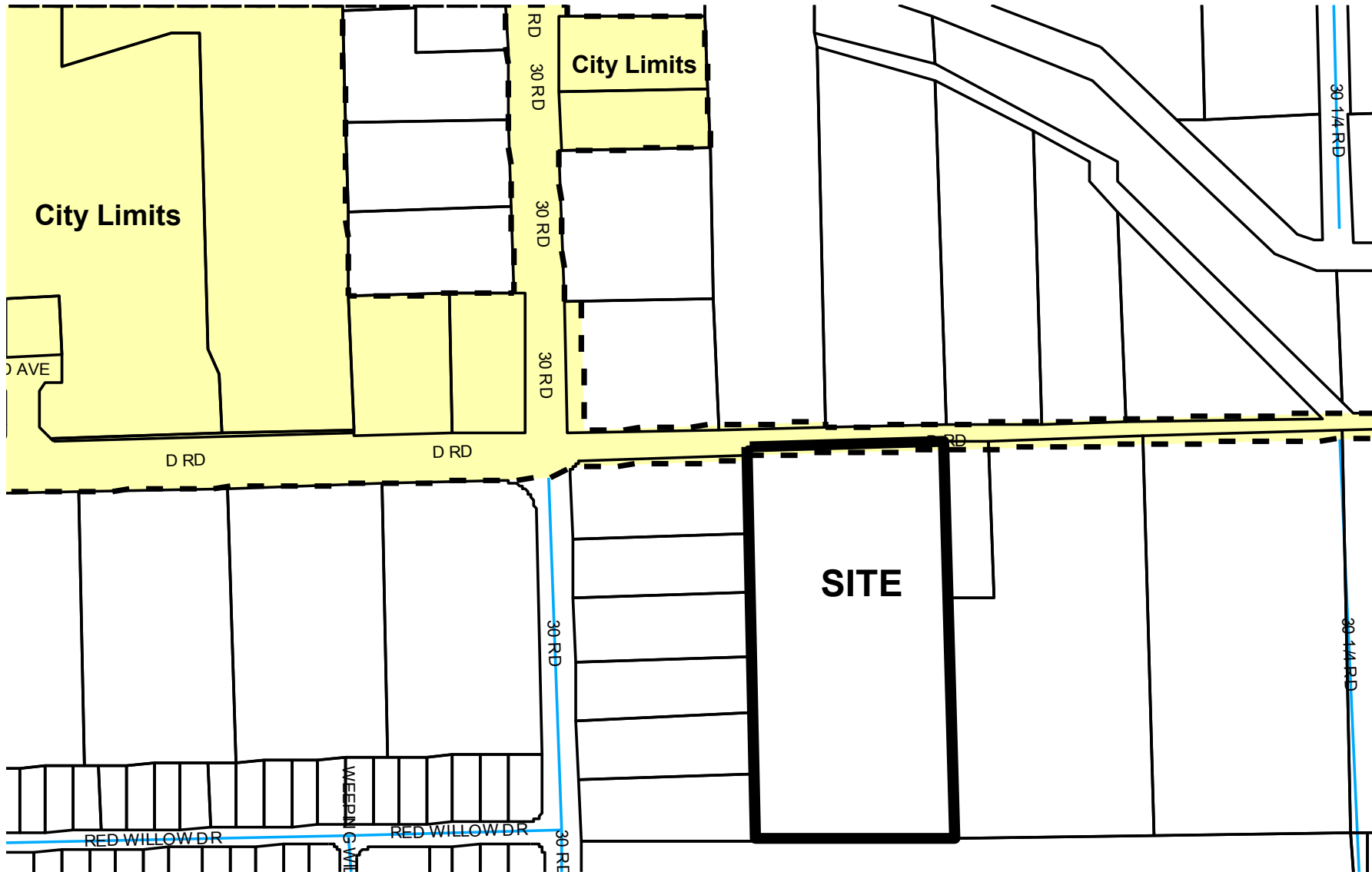
Contingent upon the granting of this proposed Zone of Annexation to RSF-E, the neighborhood as well as the community will benefit from the services and outreach the future church facilities and congregation will be able to provide.

This proposed Zone of Annexation to RSF-E will provide a myriad of community benefits, and thus, MEETS and is consistent with all of the goals and policies of the Growth Plan and this review criterion.

On behalf of Landmark Baptist Church, and our fellow consultants, we would like to express our appreciation for all of the assistance we received from City staff and Ms. Senta Costello, the City's associate planner assigned to this project file. We look forward to developing future relationships with our neighbors, community friends, and our fellow man. Thank you, for your time and consideration regarding the review and processing of this petition.

Site Location Map

Figure 1



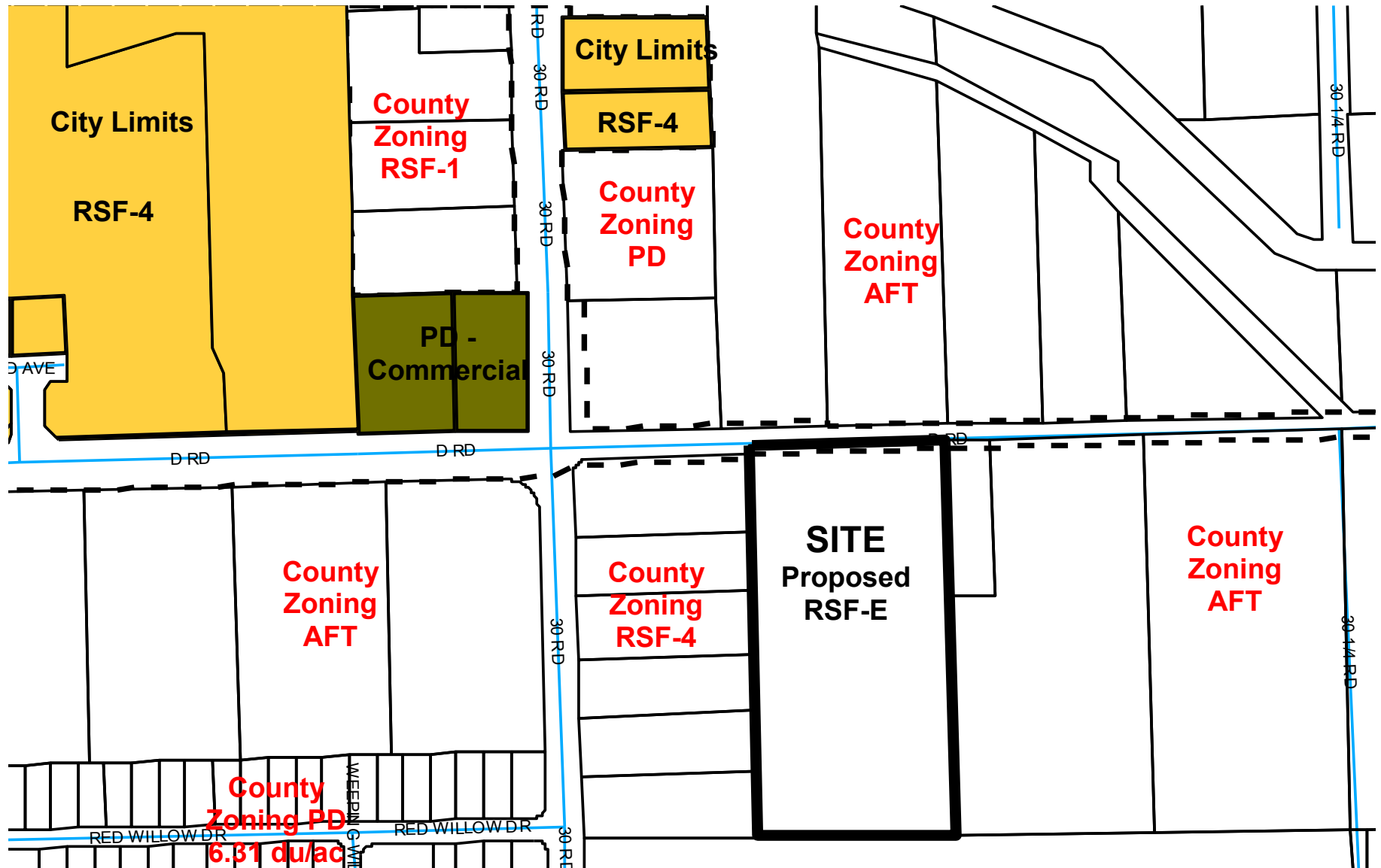
Aerial Photo Map

Figure 2



Existing City and County Zoning

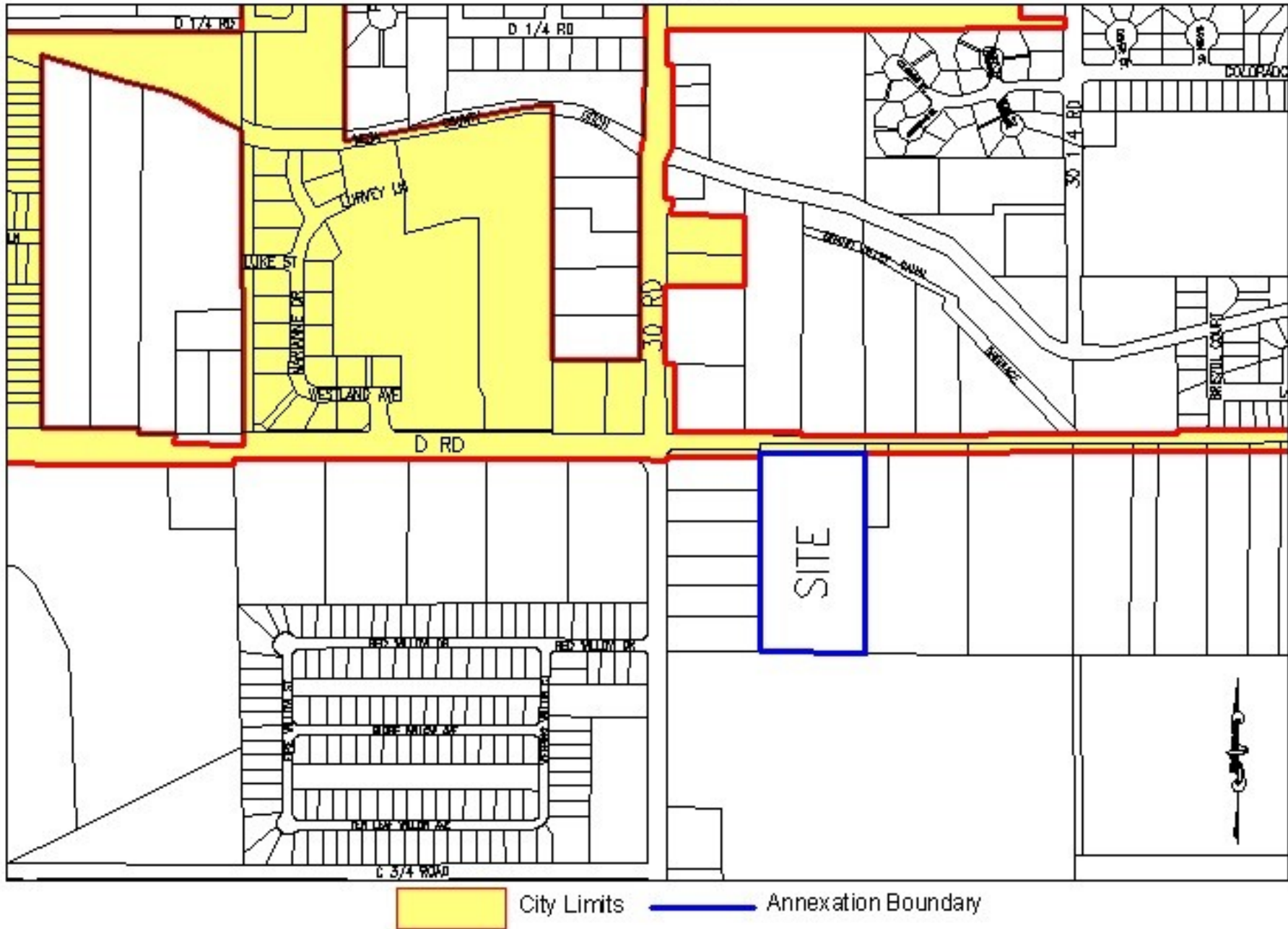
Figure 4



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."

Landmark Baptist Church Annexation

Figure 5



CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

**AN ORDINANCE ZONING THE LANDMARK BAPTIST CHURCH ANNEXATION TO
RSF-E**

LOCATED AT 3015 D ROAD

Recitals.

After public notice and public hearing as required by the Grand Junction Zoning and Development Code, the Grand Junction Planning Commission recommended approval of rezoning the Landmark Baptist Church Annexation to the RSF-E zone district for the following reasons:

The zone district meets the recommended land use category as shown on the future land use map of the Growth Plan and the Growth Plan's goals and policies and/or are generally compatible with appropriate land uses located in the surrounding area. The zone district meets the criteria found in Section 2.6 of the Zoning and Development Code.

After the public notice and public hearing before the Grand Junction City Council, City Council finds that the RSF-E zone district be established.

The Planning Commission and City Council find that the RSF-E zoning is in conformance with the stated criteria of Section 2.6 of the Grand Junction Zoning and Development Code.

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

The following property shall be rezoned RSF-E with a density not to exceed 2 acres per unit.

LANDMARK BAPTIST CHURCH ANNEXATION

A certain parcel of land lying in the Northwest Quarter of the Northwest Quarter of the Northwest Quarter (NW 1/4 NW 1/4 NW 1/4) of Section 21, Township 1 South, Range 1 East of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

COMMENCING at the Northeast corner of the NW 1/4 NW 1/4 NW 1/4 of said Section 21 and assuming the North line of the Northwest Quarter (NW 1/4) of said Section 21 bears N 89°54'55" E with all other bearings contained herein being relative thereto; thence from said Point of Commencement, S 00°03'41" E along the East line of the NW 1/4 NW 1/4 NW 1/4 of said Section 21 a distance of 30.00 feet to the POINT OF BEGINNING; thence from said Point of Beginning, continue S 00°03'41" E along the East line of the NW 1/4 NW 1/4 NW 1/4 of said Section 21 a distance of 631.18 feet, more or less, to a point on the North line of the Hitchcock Major Boundary Line

Adjustment, as recorded in Plat Book 16, Page 257, Public Records of Mesa County, Colorado and being the Southeast corner of the NW 1/4 NW 1/4 NW 1/4 of said Section 21; thence S 89°50'11" W along the South line of the NW 1/4 NW 1/4 NW 1/4 of said Section 21 and the North line of said Hitchcock Major Boundary Line Adjustment, a distance of 329.21 feet, more or less, to a point being the Southeast corner of La Veta Subdivision, as same is recorded in Plat Book 12, Page 227, Public Records of Mesa County, Colorado; thence N 00°08'47" W along the East line of said La Veta Subdivision, a distance of 631.63 feet, more or less, to a point on a line 30.00 feet South of and parallel to, the North line of the NW 1/4 of said Section 21; thence N 89°54'55" E along said parallel line, a distance of 330.14 feet, more or less, to the Point of Beginning.

CONTAINING 4.779 Acres (208,160 Sq. Ft.), more or less, as described.

Introduced on first reading this 17th day of March, 2004 and ordered published.

Adopted on second reading this _____ day of _____, 2004.

Mayor

ATTEST:

City Clerk

Attach 11

**Combined Sewer Elimination Project (CSEP) Basins 9, 13, and 14
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
Subject	Construction Contract for Combined Sewer Elimination Project, Basins 9, 13 & 14					
Meeting Date	March 17, 2004					
Date Prepared	March 11, 2004				File # - N/A	
Author	Bret Guillory, Utility Engineer					
Presenter Name	Mark Relph, Public Works & Utilities Director					
Report results back to Council	X	No		Yes	When	
Citizen Presentation		Yes	X	No	Name	
	Workshop	X	Formal Agenda			Consent X Individual Consideration

Summary: This is the last of six contracts associated with the Combined Sewer Elimination Project (CSEP). It consists of the installation of 21,200 feet of storm drainage pipes, 1900 feet of sanitary sewer, 2000 feet of water lines, two water quality ponds and the disconnection of various storm drain inlets from sanitary sewer lines and their reconnection to storm drainage lines. The low bid for this work was submitted on February 24, 2004, by Mendez, Inc. in the amount of \$4,422,757.19.

Budget: Funding for this project comes from two budgets; one for the storm drainage and sewer line components and the other for the waterline replacements. The project was included in both budgets for 2004 construction.

Funding for the storm drainage and sewer line improvements is provided through two sources. Originally, a low-interest loan for \$9,472,208 was secured for the Combined Sewer Elimination Project (Phase I – 2003 and Phase II – 2004) from the Colorado Water Pollution Control Revolving Fund Loan through the Colorado Water Resources and Power Development Authority. An additional \$1,007,742 was budgeted from Fund 904 – Sewer Backbone to cover higher than anticipated costs and changes in the project scope.

Project Funds (All CSEP Storm Drainage Projects):	
WRAPDA loan	\$9,472,208
Fund 904	<u>1,007,742</u>
Total Project Funds	\$10,479,950
Project Costs (All CSEP Storm Drainage Projects):	
Eng) Design both phases (contracted with Sear-Brown / Rolland	\$1,202,514
Construction Phase I Basin 10 (complete)	375,545

Construction Phase I Basin 8 (under construction)	4,430,000
Construction Phase II Basins 7 & 11 (Bid Amount)	495,522
Construction Phase II Basins 9, 13 & 14 (Bid Amount)	4,290,540
Inspection (contracted w/ Sear-Brown)	228,474
As-builts (contracted w/ Sear-Brown)	18,500
City Administration	30,000
Total Project Cost	\$11,071,095
<hr/>	
Available Funds (Shortfall)	\$-591,145
<hr/>	
<u>Funding to Cover Shortfall</u>	
Basin 8 to be completed under contract amount	\$310,000
Elimination of storm drain pipe encasements	12,000
Reduction in Force Account contingency	150,000
Fund reallocation from 905 – Collection System Capital	128,000
Total	\$600,000

Funds totaling \$5,250,000 were secured for waterline construction in 2003 and 2004, as a component of the Combined Sewer Elimination Project, partially from the Colorado Water Pollution Control Revolving Fund Loan through the Colorado Water Resources and Power Development Authority (\$3,497,200), and partially from Fund 3011 (\$1,752,800).

<u>Project Funds – 2003 and 2004 Waterline Replacement Projects</u>	
WRAPDA Loan	\$3,497,200
Fund 3011	1,752,800
Total Funds	\$5,250,000
<hr/>	
<u>Project Costs – 2003 and 2004 Waterline Replacement Projects</u>	
Design both phases (contracted with Sear-Brown / Rolland Eng)	\$321,775
2003 Waterline Replacement Project (complete)	1,691,936
CSEP Basin 8 Waterlines (complete)	55,934
2004 Waterline Replacement Project (Bid Amount)	1,777,409
CSEP Basin 9, 13 & 14 - Waterline (Bid Amount)	132,217
Inspection (contracted w/ Sear-Brown)	142,010
As-builts (contracted w/ Sear-Brown)	12,200
City Administration	15,000
Total Costs	\$4,148,481
<hr/>	
Available Funds Remaining 3011 - F04800	\$1,101,519

Action Requested/Recommendation: Authorize the City Manager to sign a Construction Contract for the **Combined Sewer Elimination Project, Basins 9, 13 & 14** with **Mendez, Inc.** in the amount of **\$4,422,757.19**.

Attachments: none

Background Information: This project consists of improvements to be made in three drainage basins within the city limits.

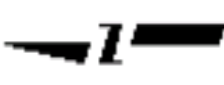
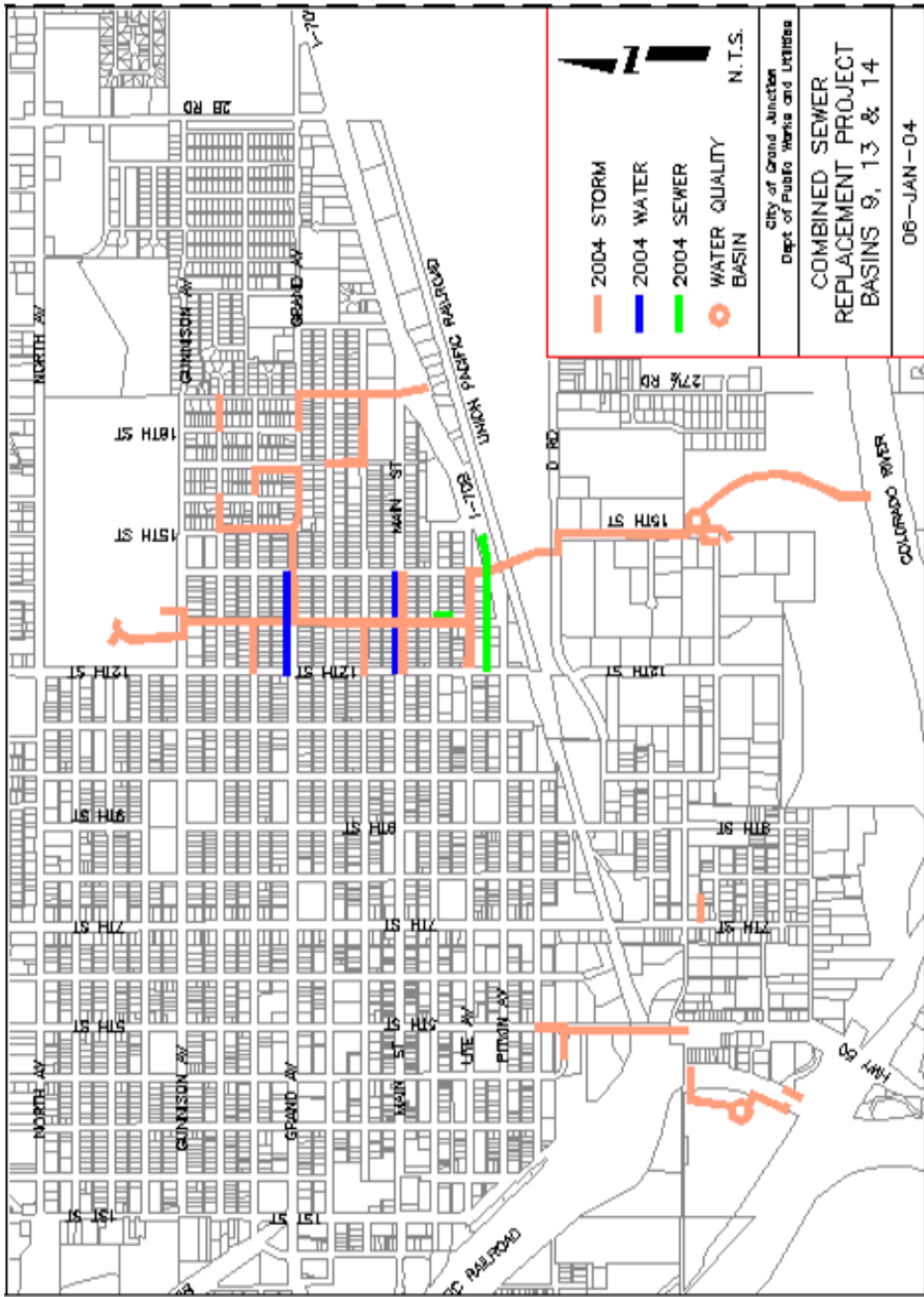
Basin 9 generally consists of the area between First Street and Eighth Street, south of Colorado Avenue to Fourth Avenue. Improvements will include upgrading the line along the west side of the 5th Street viaduct from an 18" line to a 36" line; a portion of which will be bored under the railroad tracks. Additional pipe will be installed to route the flows to a water quality pond to be constructed near the Williams House on what is referred to as the Jarvis Property. The pond is designed as a temporary facility which can be relocated or finalized depending upon the final alignment of the Riverside Parkway.

Basin 13 generally consists of the area between 12th Street and 17th Street from North Avenue to the railroad tracks, including the western part of Lincoln Park, and between 15th Street and 27^{3/8} Road from the railroad tracks to the river. This is the largest system in this project, beginning at the inlets in Lincoln Park, proceeding down 13th Street, crossing I-70B and the railroad and discharging into a water quality pond to be constructed near 15th and Winters, in the northwest corner of Las Colonias Park. The lower portion of the collection system, including the bores under the railroad will be 60" diameter pipes.

Basin 14 is fairly well served by the existing "Hump Yard" Drain belonging to the Grand Junction Drainage District. A line will be installed in 19th Street from Grand Avenue to the south side of I-70B, with a lateral in Rood Avenue from 17th Street to 19th Street, and discharge into the "Hump Yard" Drain. These lines will pick up inlets that are currently connected to sanitary sewer lines.

The following bids were opened on February 24, 2004:

<u>Bidder</u>	<u>From</u>	<u>Waterline</u>	<u>Storm Drain</u>	<u>Total Bid</u>
Mendez, Inc.	Grand Jct	\$ 132,217.04	\$ 4,290,540.15	\$ 4,422,757.19
M.A. Concrete Constr.	Grand Jct	\$ 142,667.95	\$ 4,324,969.39	\$ 4,467,637.34
Gould Construction	Glenwood Spr.	\$ 221,776.65	\$ 5,777,383.30	\$ 5,999,159.95
Engineer's Estimate (Sear-Brown)		\$ 142,065.65	\$ 4,694,694.63	\$ 4,836,760.28



N.T.S.

- 2004 STORM
- 2004 WATER
- 2004 SEWER
- WATER QUALITY BASIN

City of Grand Junction
 Dept of Public Works and Utilities

**COMBINED SEWER
 REPLACEMENT PROJECT
 BASINS 9, 13 & 14**

06-JAN-04

Attach 12

Concrete Repairs for Street Overlays 2004

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA							
Subject	Construction Contract for Concrete Repairs for Street Overlays 2004						
Meeting Date	March 17, 2004						
Date Prepared	March 11, 2004				File # -		
Author	D. Paul Jagim, Project Engineer						
Presenter Name	Mark Relph, Public Works and Utilities Director						
Report results back to Council	X	No		Yes	When		
Citizen Presentation		Yes	X	No	Name		
Workshop	X	Formal Agenda			Consent	X	Individual Consideration

Summary: The **Concrete Repair for Street Overlays** project consists of the removal and replacement of off grade or broken sections of concrete curb, gutter, sidewalk, drainage pans and fillets on streets that will get asphalt overlays later this construction season. The work also includes installation of new sidewalk and curb ramps on these streets if needed.

Balance remaining will be used to fund asphalt overlays, curb, gutter, and sidewalk improvements scheduled for construction later this year under separate contracts.

Budget:

<u>Capital Fund</u>	<u>2004 Budget</u>	<u>Costs for this Contract</u>	<u>Remaining Budget after Contract</u>
Fund 2011 / F00400 Contract Street Maint.	\$1,750,000.00	\$ 113,138.40	\$1,636,861.60
Fund 2011 / F00900 Curb, Gutter, & Walk	\$ 300,000.00	\$ 28,971.71	\$ 271,028.29
Fund 2011 / F01300 Accessibility Improv.	\$ 50,000.00	\$ 18,405.39	\$ 31,594.61
Sub-Totals:		\$ 160,515.50	\$1,939,484.50
City Inspection & Administration (Estimate)		24,000.00	(24,000.00)
Totals:	\$2,100,000.00	\$ 184,515.50	\$1,915,484.50

Action Requested/Recommendation: Authorize the City Manager to sign a Construction Contract for the **Concrete Repair for Street Overlays** with Reyes Construction, Incorporated in the amount of \$ 160,515.50.

Attachments: none

Background Information: Construction will take place on 13 streets throughout the City. The locations are:

Bids were opened on March 9, 2004. Reyes Construction, Inc. submitted the low bid in the amount of \$ 160,515.50.

The following bids were received for this project:

Bidder	From	Bid Amount
Reyes Construction, Inc.	Grand Junction	\$ 160,515.50
BPS Concrete, Inc.	Grand Junction	\$ 173,777.48
Vista Paving Corporation	Grand Junction	\$ 213,152.75
G&G Paving Construction, Inc.	Grand Junction	\$ 256,009.00
Engineer's Estimate		\$ 213,992.00

The sections of street where the concrete is to be repaired and then overlaid include:

Main Street – 7th Street to 12th Street

F ½ Road – 25 Road to 25 ½ Road

26 ½ Road and Hemlock Court – North of G Road

Mariposa Drive – Plateau Drive to end of pavement

Crossroads Boulevard – 27 Road to west entrance of Compass Drive

W. Indian Creek Drive – Patterson Road to E. Indian Creek Drive

E. Indian Creek Drive – Patterson Road to W. Indian Creek Drive

26th Street – Orchard Avenue to Bookcliff Avenue

Bookcliff Avenue – Manor Avenue to east of Linda Lane

19th Street – Orchard Avenue to Walnut Avenue

Texas Avenue – 28 ¾ Road to 29 Road

27 Road – at Safeway entrance

B ¾ Road – 27 Road to Highway 50

Attach 13

**Property Purchase for Riverside Parkway – 919 Kimball Avenue
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
Subject	A Resolution Authorizing the Purchase of Real Property Located at 919 Kimball Avenue.					
Meeting Date	March 17, 2004					
Date Prepared	March 11, 2004				File #	
Author	Tim Woodmansee			Real Estate Manager		
Presenter Name	Mark Relph			Public Works and Utilities Director		
Report results back to Council	X	No		Yes	When	
Citizen Presentation		Yes	X	No	Name	
	Workshop	X	Formal Agenda		Consent	X Individual Consideration

Summary: The City has entered into a contract to purchase the property at 919 Kimball Avenue for the Riverside Parkway Project. The City’s obligation to purchase the property is contingent upon Council’s ratification of the contract.

Budget: Sufficient funds exist in the 2004 Riverside Parkway budget to complete the City’s due diligence investigations and purchase of the property, as follows:

Purchase Price	\$ 44,000.00
Environmental Audit	\$ 3,300.00
Closing Costs	\$ <u>200.00</u>
Total Estimated Costs:	\$ 47,500.00

Riverside Parkway Budget: \$75,000,000.00

Action Requested/Recommendation: Adopt Resolution authorizing the purchase of real property located at 919 Kimball Avenue.

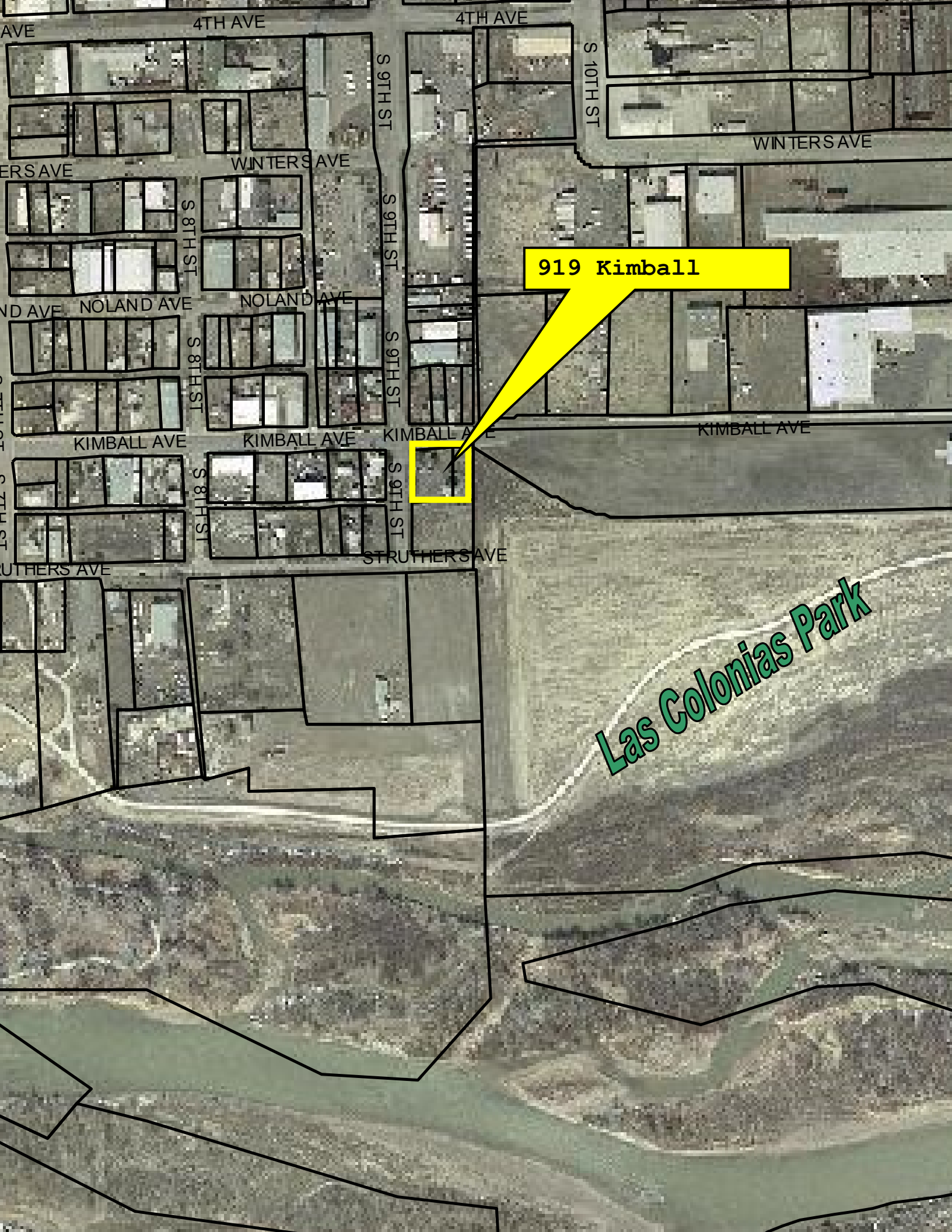
Attachments: 1) Vicinity Map; 2) Proposed Resolution.

Background Information: On November 4, 2003, a majority of the City electorate voted to authorize the City to issue \$80 million in bonds to fund the Riverside Parkway. The authorized funding will expedite the design, property acquisition and construction of this transportation corridor.

This subject property is located adjacent to Las Colonias Park and within the range of potential alignments currently being considered for the Riverside Parkway. The owners approached the City and offered to sell the property at a reasonable price. The property includes a single-family residence build in 1915 and a detached garage. The residence is currently vacant. Because of its small size and low cost, purchasing this property will not prejudice the 1601 Review process or the selection of a final route. If it is

determined the property is needed for the parkway, purchasing it now will avoid negotiating with a less willing new owner and possible relocating a new occupant in the near future. If it is not needed for this, or any other project, the City should be able to dispose of the property at a competitive price after the new parkway is in operation.

Staff recommends this purchase to avoid potential relocation expenses in the event the property was sold to, and/or occupied by, another party.



919 Kimball

Las Colonias Park

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE PURCHASE
OF REAL PROPERTY LOCATED AT 919 KIMBALL AVENUE**

Recitals.

A. The City of Grand Junction has entered into a contract with Veronica A. Chavez and David P. Cisneros for the purchase by the City of certain real property located within the preferred alignment of the Riverside Parkway. The street address of the property is 919 Kimball Avenue and the Mesa County Assessor parcel numbers are 2945-231-17-015 and 2945-231-17-026.

B. The purchase agreement provides that on or before March 17, 2004, the City Council must ratify the purchase and the allocation of funds for all expenses required to effectuate the purchase said property.

C. Based on the advice and information provided by the City staff, the City Council finds that it is necessary and proper that the City purchase said property.

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

1. The above described property shall be purchased for a price of \$44,000.00. All actions heretofore taken by the officers, employees and agents of the City relating to the purchase of said property which are consistent with the provisions of the negotiated Contract to Buy and Sell Real Estate and this Resolution are hereby ratified, approved and confirmed.

2. Said \$44,000.00 is authorized to be paid at closing, in exchange for conveyance of the fee simple title to the described parcel.

3. The officers, employees and agents of the City are hereby authorized and directed to take all actions necessary or appropriate to complete the purchase of the described property. Specifically, City staff are directed to effectuate this Resolution and the existing Contract to Buy and Sell Real Estate, including the execution and delivery of such certificates and documents as may be necessary or desirable to complete the purchase for the stated price.

PASSED and ADOPTED this ____ day of March, 2004.

Attest:

President of the Council

City Clerk

Attach 14
Easement Deed and Agreement with Walker Field Airport Authority
CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA						
Subject	Authorizing the Approval of the Easement Deed and Agreement with Walker Field, Colorado, Public Airport Authority for Detention Facilities					
Meeting Date	March 17, 2004					
Date Prepared	March 11, 2004				File #	
Author	Dave Donohue		Project Engineer			
Presenter Name	Mark Relph		Public Works & Utilities Director			
Report results back to Council		No	X	Yes	When	On Signature by City and WFAA
Citizen Presentation		Yes	X	No	Name	
	Workshop	X	Formal Agenda		Consent	X Individual Consideration

Summary: A City Council approval to submit an Easement Deed and Agreement (Agreement) to Walker Field, Colorado, Public Airport Authority (WFAA). Submission by the City and approval by WFAA is required to allow the City to proceed with construction of dual detention basins on Ranchman's Ditch and a single detention basin on Leech Creek, all of which are to be constructed on land owned and operated by WFAA. Construction of the detention basins is necessary to provide flood control on lower portions of the two drainages in developed areas within the city limits.

Budget: The City of Grand Junction has programmed funds in the Capital Improvement Plan (CIP) to construct the above detention basins. The cost for the two Ranchman's Ditch basins and the Leech Creek Basin is estimated to be \$292,237. Approval and submittal of the Agreement requires no expenditure of funds.

Action Requested/Recommendation: Authorize the City Manager to sign and submit the Easement Deed and Agreement with Walker Field Airport Authority for the construction and maintenance of detention basins along the Independent Ranchman's Ditch and Leach Creek drainage systems.

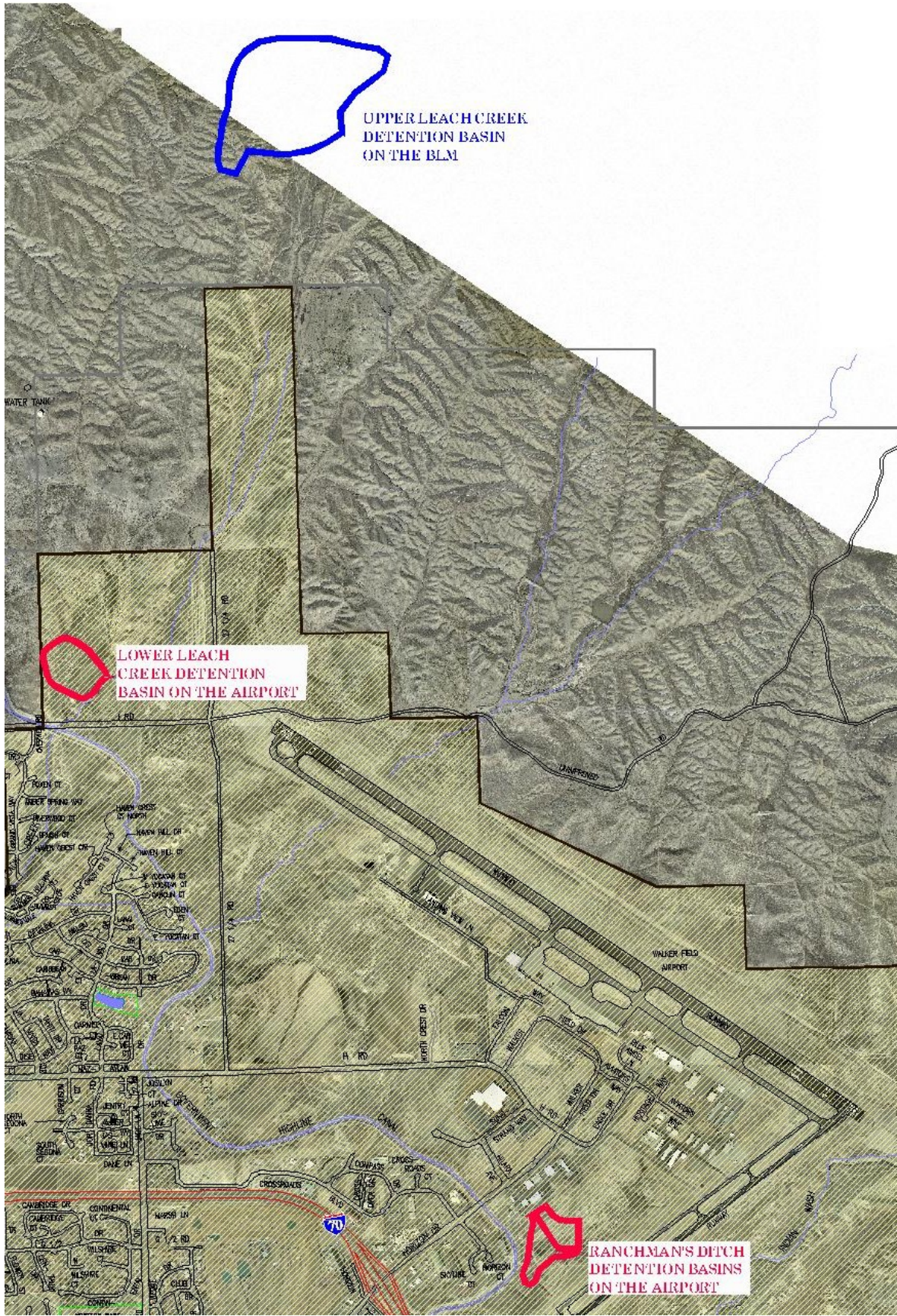
Attachments:

3. Aerial photo depicting the basin locations
4. Easement Deed and Agreement

Background Information:

Within the city limits, the 100-year flood plains of Leech Creek and Ranchman's Ditch encompass considerable areas of developed property, including large areas in the vicinity of Patterson Rd to I-70B between 1st St. and 24 Rd. To be in compliance with the Federal Emergency Management Agency's National Flood Insurance Program, several flood control measures are planned. These measures include the above-

mentioned detention basins, as well as an additional detention basin on BLM property along Leech Creek upstream of the basin mentioned above. Additionally, a drainage-improvement project on lower Ranchman's Ditch (referred to as "The Big Pipe Project") is also under design. All of these improvements are required to achieve the flood control needed to prevent the type of property damage that occurred along 25 ½ Road several years ago when heavy rains resulted in extensive flooding. The Walker Field Agreement must be submitted and approved to allow construction of the first three detention basins.



UPPER LEACH CREEK
DETENTION BASIN
ON THE BLM

LOWER LEACH
CREEK DETENTION
BASIN ON THE AIRPORT

RANCHMAN'S DITCH
DETENTION BASINS
ON THE AIRPORT

EASEMENT DEED AND AGREEMENT

WALKER FIELD, COLORADO, PUBLIC AIRPORT AUTHORITY, a body corporate and politic and constituting a political subdivision of the State of Colorado ("Grantor") for good and valuable consideration, the receipt of and sufficiency of which are hereby acknowledged, hereby conveys and quitclaims to the **CITY OF GRAND JUNCTION, COLORADO**, its heirs, successors, assigns and personal representatives (hereinafter collectively referred to as "Grantee"), a **NON-EXCLUSIVE EASEMENT** (the "Easement") over the Facilities as defined herein. This Easement is subject to the following terms and conditions (including Exhibits A, B1, B2, B3, B4 and Attachment 1, each attached hereto and incorporated herein by reference) by which Grantee agrees to abide and be bound, pursuant to its execution of this Easement Deed and Agreement in the space provided below:

1) **LIMITED PURPOSE.** Grantee's use of the Easement shall be strictly limited to the purpose set forth in the attached Exhibit A. The Easement shall not be used by Grantee for unrelated activities.

2) **LIMITED AREA.** The Easement shall not be extended for any purposes outside the Facilities boundaries set forth in the attached Exhibits B1 - B4.

3) **LIABILITIES AND COSTS.** All costs associated with the Easement and any liability for personal injury to Grantee, its employees, agents and invitees, or any third persons, as a result of or arising out of or relating to the use of the Easement shall be borne by Grantee.

4) **TITLE.** This Easement is granted without any warranty of title and is subject to all prior liens, encumbrances, easements, restrictions, reservations and rights of way affecting Grantor's property.

5) **EASEMENT NON-EXCLUSIVE.** This Easement shall be non-exclusive. Grantor reserves the right to utilize the Facilities for its own purposes, and to authorize other third parties to utilize the Facilities, upon such terms and conditions as the Grantor deems appropriate, provided that the use of the Facilities by Grantor, or such other third parties, shall not unreasonably interfere with the Grantee's use of said Easement and the Facilities, and further provided, that any damage to the Facilities caused by the Grantor or a third party shall be the responsibility of the Grantor or third party, respectively, to repair.

6) **TERM.** The Easement granted hereby shall be possessed and enjoyed by Grantee for so long as Grantee abides by the terms and conditions stated in this instrument. Should Grantee breach any of the terms and conditions of this instrument, the Grantor shall have the right to terminate the easement rights granted to Grantee hereunder, as described in more detail in Section 17, hereof. Should this Easement be terminated, either voluntarily by Grantee's and Grantor's written agreement or at Grantor's election following Grantee's default hereunder, title to all improvements that may have been installed by Grantee on, along or surrounding the Easement shall pass to Grantor, and Grantor shall be the sole and exclusive owner of said property, without paying any consideration to Grantee therefor, and free and clear of all liens and encumbrances of any kind or nature whatsoever. Should any liens or encumbrances burden these improvements at said time, Grantee shall be responsible for discharging, and shall hold Grantor harmless from, said liens and encumbrances.

7) **CONSIDERATION.** Grantee shall pay all expenses connected with the cost of construction and maintenance of the Independent Ranchman's Detention Basin and the Leach Creek Detention Basin. Also as consideration for entering this Agreement, Grantor shall have the right to impound up to 30.5 acre feet of storm water in the Independent Ranchman's

Detention Basin for the duration of this Agreement. Grantor will not be responsible for payment to Grantee for any expenses in connection with construction or maintenance of the Facilities. The Facilities shall be constructed by Grantee at Grantee's sole cost. The real estate on which the Facilities are located shall remain the sole property of Grantor, subject to Grantee's rights as set forth in this Agreement. Full and faithful performance of the various promises, conditions, terms and covenants of this Agreement are acknowledged by the parties to be due and adequate consideration. Grantee shall not impose or exact any fees (including a drainage impact fee) or charges on or from Grantor as a result of any activity contemplated by this agreement.

8) **JURISDICTION.** The Facilities are within the Aircraft Operations Area (AOA) of Grantor. The Facilities shall be under the jurisdiction of Grantee for the purposes of constructing, operating, maintaining, altering or otherwise changing a Facility, and the Facilities shall be under the sole jurisdiction of Grantor for the purpose of administering aircraft overflight, and airport operations and the management of same.

9) **AUTHORITY'S RIGHT TO IMPOUND WATER.** Grantor reserves the right to impound up to 30.5 acre feet of water in the Independent Ranchman's Detention Basin, as needed, for the control of storm water drainage generated on or passing through Grantor property for the duration of this Agreement.

10) **USER SAFETY.** Grantee recognizes that Grantor's primary concern is the safety of users of the Airport; thus, consistent with FAA Advisory Circular AC150/5200-33, as it may be amended from time to time, Grantee will, at Grantee's expense, ensure that the Facilities shall NOT be allowed to become a bird and wildlife attractant beyond the quantity and type of birds and wildlife present prior to the construction of the detention basins ("Wildlife Attractant") as determined by the FAA and described in more detail in Section 16.f. hereof.

11) **ACCESS.** Because the Facilities are in the AOA, Grantee shall (other than during an emergency) coordinate its access to and from the Facilities with Grantor, and observe Grantor's rules and regulations concerning vehicle and equipment operation in the AOA. Other specific responsibilities of Grantee and Grantor shall be stated in the Operation and Maintenance Manual attached hereto as Exhibit C, which describes the Facilities and the routine and emergency operation and maintenance of the same.

12) **RELOCATION.** The Grantor reserves the right to relocate any part or all of the Facilities and related equipment and facilities and the Easement granted by this Easement and Agreement in its sole discretion. Any relocation of part or all of the Facilities or related equipment or facilities pursuant to this Section 12 will be at the Grantor's expense and after such relocation, the total capacity and functionality of the Facilities will be, in all material respects, the same as prior to such relocation.

13) **AGREEMENT.** This Agreement shall commence on _____. The rights, obligations and benefits provided hereunder shall accrue to the parties and their successors in interest as provided herein until the Agreement is amended, if ever, in writing by the parties or terminated as provided herein.

14) **DEFINITION OF "FACILITY" AND "FACILITIES".** For the purposes of this Agreement, the terms "Facility" and "Facilities" mean the Leach Creek Detention Basin, the

Independent Ranchman's Detention Basin, and any pipe, inlet, grate, manhole, box, dam, spillway, drainage way or other physical improvement associated with, constructed or connected to such detention basins. A Facility does not mean any future storm water ponds, basins or improvements now contemplated, designed or later constructed by Grantor as depicted or described in Grantor's 2003 Airport Master Plan Update. The legal description of the Facilities appears at Exhibit B1 and B2 attached hereto.

15) **DESIGN.** As limited by Section 22 hereof, the Facilities are expressly designed and constructed for the benefit of areas that are downstream of the Airport in the Leach Creek and Independent Ranchman's drainages and the future storm water drainage needs of Grantor. Grantor acknowledges that it has or may have independent duties under federal and or state law to control, monitor and discharge storm water from other improvements. Each Facility is intended to improve 100-year storm event flood protection. The Leach Creek Detention Basin shall impound no less than 32.70 acre feet of water. The Independent Ranchman' s Detention Basin shall impound no less than 51.50 acre feet of water, 30.5 acre feet of which is for the direct use and benefit of Grantor. The design for each Facility is shown on Exhibits B1 (Leach Creek) and B2 (Independent Ranchman's). Before construction may begin on the Facilities, Grantee shall have received approval of the relevant design plans from the FAA, the City of Grand Junction and any other governmental authority with jurisdiction over the Facilities, including state and federal entities.

16) **OPERATION AND MAINTENANCE.** Grantee will operate and maintain the Facilities in accordance with an Operations and Maintenance Manual which is incorporated by this reference as if fully set forth. The essential principles of that manual, which is Exhibit C to this Agreement, are:

a) **Security and Safety.** Grantee recognizes that security for the Airport is important as well as overall knowledge of operations within or near the Airport. Except in an emergency, Grantee shall notify Grantor by telephone, email or mail at least one day prior to visiting the sites and at least three days prior to any minor maintenance activities and twenty-one (21) days prior to any major earth moving activities. Grantor shall have the right to impose any other safety or security measures it deems appropriate.

b) **Silt and Sediment.** Grantee shall not permit silt/sediment to accumulate such that it impairs the operational capability or integrity of the Facilities. Grantee shall generally maintain the Facilities so that the soil is not regularly wet, thereby creating habitat for birds or other animals.

c) **Outlets.** Grantee shall maintain the Facilities' outlet structures to allow for them to function as designed.

d) **Trash and Debris.** Grantee shall regularly remove trash and other debris that accumulates on or around the Facilities.

e) **Vegetation.** Grantee shall cut and otherwise take all necessary action to inhibit the growth of vegetation in and near the Facilities. Grantee shall use best management practices to inhibit vegetation that may grow and/or accumulate as a food supply for birds or other animals.

f) **Wildlife.** The FAA may, in its sole discretion, determine that the Facilities have become a Wildlife Attractant. In the event of such determination, Grantor or the FAA shall provide Grantee written notice of such determination. Upon receiving such notice, Grantee and Grantor shall work cooperatively to evaluate available options and technologies and cooperatively develop and implement a Wildlife Hazard Management Plan which is in compliance with the FAA's standards and requirements (including timing of required mitigation) at the sole expense of Grantee. The cost of mitigation shall be borne by Grantee in accordance with this Agreement and shall be in compliance with all FAA rules, regulations and directives, including any written communications received by the Grantor or Grantee regarding the Facilities.

g) **Frequency of Maintenance Activities.**

i) **Bi-annual Inspections.** Grantee and Grantor shall meet at least bi-annually during the term of this Agreement to conduct inspections of the Facilities. Such inspections shall be conducted at times which are mutually convenient for both parties. The purposes of the bi-annual inspections are to: (1) determine whether the Facilities are functional and operational; (2) assess the condition of the Facilities to ensure Grantee has complied with its duties and obligations under the terms of this Agreement; and, (3) to develop a documented plan and scope of any work Grantee may be required to perform to comply with Grantee's duties and obligations under this Agreement.

ii) **Inspections after Rain Events.** After each rain that exceeds a 5-year event interval measured by Grantee at the outlet of each basin, Grantee shall inspect the Facilities to evaluate silt/sediment/debris buildup within five (5) working days of the event and ensure that the basins detain and drain water as designed. Grantee will install monitoring devices, such as staging rods, to measure the depth, volume, and frequency of each rain event.

h) **Requested Maintenance.** Grantor may request in writing at any time that Grantee perform scheduled or unscheduled maintenance to the Facilities. Any problem identified in Grantor's request will be corrected within five (5) working days unless an extended schedule is mutually agreed to.

i) **Hazardous Materials, Spill Prevention and Cleanup.** Grantor shall be solely responsible for the management, cleanup and remediation of any spills, releases or contamination of the Facilities that result from or as a direct or proximate cause of any of Grantor's operations. Grantee shall be solely responsible for the management, cleanup and remediation of any spills, releases or contamination of the Facilities that result from or as a direct or proximate cause of any of Grantee's operations.

j) **Governmental Immunity.** Notwithstanding any other provision of this Agreement to the contrary, no term or condition of this Agreement shall be construed or interpreted as a waiver of any provision of the Colorado Governmental Immunity Act 24-10-101, *et. seq.*, C.R.S., as now or hereafter amended. The parties hereto understand and agree that liability for claims for injuries to persons or property and other injuries which lie in tort or could lie in tort that arise out of the negligence of Grantee, Grantor,

and/or their respective officers, agents and employees may be controlled and limited by the provisions of 24-10-101, *et. seq.*, C.R.S., as now or hereafter amended.

To the extent that the provisions of this Agreement conflict with the Operations and Maintenance Manual, attached as Exhibit C hereto, the provisions of this Agreement shall control.

17) TERMINATION.

Grantor reserves the right to terminate this Easement, at its discretion, if Grantee breaches any of the terms or conditions of this Easement or otherwise fails to perform its obligations hereunder, however, the following termination procedures shall be followed to completion before the termination becomes operative.

a. General: If Grantor determines that Grantee is in default under this Easement for any reason other than creating a Wildlife Attractant, Grantor shall send notice of such determination to Grantee ("Breach Notice"). The Breach Notice shall state with reasonable specificity the particular breach(es) and the required curative actions. Unless Grantee disputes the existence of the relevant breach(es) and implements the procedure identified in paragraph b. below, Grantee shall have thirty (30) days from the receipt of the Breach Notice to begin taking the curative actions specified in the Breach Notice and ninety (90) days from the receipt of the Breach Notice ("Standard Cure Period") to complete all curative actions identified in the Breach Notice.

b. Disputed Breach: If after receiving a Breach Notice, Grantee does not agree with Grantor that Grantee is in default under this Easement, then the parties shall submit their dispute to the Judicial Arbiter Group, Inc. or a similar non-judicial entity ("Arbiter") for resolution. The parties agree that if a dispute regarding breach of this Easement is submitted to an Arbiter, such Arbiter's determination of whether there was in fact a breach of this Easement will be final and non-appealable.

c. Timing: If at the conclusion of the Standard Cure Period, ninety (90) days after an Arbiter has determined Grantee has breached this Agreement or at a date determined by the Arbiter ("Arbiter Cure Period"), breach(es) identified in the Breach Notice or by the Arbiter, as appropriate, have not been cured, the Grantor may send a notice of termination ("Termination Notice") to Grantee. The Termination Notice shall state the date on which this Easement is terminated ("Termination Date"). This Easement shall not in fact terminate until such time after the Termination Date that Grantor has fully drawn down all funds available pursuant to the Performance Bond and applied the same to cure the relevant breach(es) ("Final Termination Date").

d. Wildlife Attractant: Irrespective of any other provision herein, if the FAA determines any aspect of the Facilities has become a Wildlife Attractant and provides notice of such to the Grantor and/or Grantee, and Grantee does not mitigate the problem to the FAA's satisfaction in all respects, including timing of the mitigation, then this Easement shall immediately terminate.

e. **Mutual Termination:** The parties may also mutually agree to terminate this Easement.

18. **PERFORMANCE BOND.** Grantee shall post for the benefit of the Grantor a 50 year \$100,000 performance bond ("Performance Bond") as a source of funds for Grantee to draw upon if a Termination Date is reached. If a Termination Date is reached, Grantor shall draw upon the Performance Bond as an initial source of funds for all of its costs (including attorney and other professional fees) in providing cover, mitigation, remediation and enforcement of this Agreement in connection with the relevant breach(es) before and after any Standard Cure Period or Arbiter Cure Period. If Grantor draws upon the Performance Bond, Grantor shall provide Grantee with reasonable notice of the Final Termination Date. If the Performance Bond is insufficient to satisfy the obligations running from Grantee to Grantor, the remaining obligations after the Performance Bond is fully drawn remain valid obligations of the Grantee.

19. **PROJECTS.** From time to time there may be projects related to the Facilities which Grantee and Grantor agree to install cooperatively. Separate agreements for such projects may include this Agreement by reference.

20. **INDEMNIFICATION.** Grantee shall protect, defend, indemnify and hold Grantor, its officers, employees, boards, agents (including Grantor's agents performing maintenance on the Facilities or related acts after the Grantee breaches this Easement), and commissions, harmless from and against any and all liabilities, demands, suits, claims, losses, fines, judgments or other legal proceedings arising by reason of injury of any type including claims related to water rights violations or water damages, a violation of rights or death of any person or damage to any property, including all reasonable costs from investigation and defense thereof (including but not limited to attorney fees, court costs, and expert fees), of any nature whatsoever in any way arising out of or connection with or resulting from the exercise by Grantee of any of the rights granted hereunder, or failure to perform any obligations hereunder regardless of where injury, death or damage may occur. This indemnity provision shall not create any third party rights and shall not be interpreted as a waiver by Grantor of any immunities or limitations on damages available to Grantor pursuant to federal or state law.

21. **NOTICES.** Notices concerning this Agreement shall be made in writing by Grantee to Grantor at 2828 Walker Field Drive, Suite 301, Grand Junction, CO 81506 and by Grantor to Grantee at 250 North 5th Street, Grand Junction, Colorado 81501 with a copy to the Office of the City Attorney at 250 North 5th Street, Grand Junction, Colorado 81501, by prepaid United States mail, return receipt requested. Mailed notices shall be deemed effective upon deposit with the U.S. Postal Service.

22. **NO THIRD PARTY BENEFICIARIES.** The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to Grantee and Grantor and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of Grantee and Grantor that any other person or entity other than Grantor or Grantee receiving any benefits from this Agreement shall be deemed to be incidental beneficiaries only.

23. **CHOICE OF LAW/CHOICE OF VENUE.** This Agreement shall be deemed to have been made in, and shall be construed and interpreted in accordance with the laws of the State of Colorado. Any action brought under or arising out of this Agreement shall be brought in the Mesa County District Court or in the United States District Court for the District of Colorado, except as provided in Section 17, hereof.

24. **AUTHORITY.** The persons signing this Agreement are authorized to sign and bind the entity for which they sign. The provisions of this Agreement are not mere recitals but are contractual in nature.

DATED: _____.

**WALKER FIELD, COLORADO, PUBLIC
AIRPORT AUTHORITY**

Date: _____

By _____

Its _____

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

Acknowledged before me this _____ day of _____, 2004, by _____ on behalf of Walker Field, Colorado, Public Airport Authority, a body corporate and politic and constituting a political subdivision of the State of Colorado.

Witness my hand and official seal.
My commission expires: _____

Notary Public

SIGNATURES CONTINUED ON NEXT PAGE.

CITY OF GRAND JUNCTION, COLORADO

Date: _____

By _____

Its _____

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

Acknowledged before me this _____ day of _____, 2004, by
_____ on behalf of the City of Grand Junction, Colorado.

Witness my hand and official seal.

My commission expires: _____

Notary Public

EXHIBIT A
PURPOSE, BOUNDARY AND DESIGN

The Easement being granted will encumber the Facilities for the purpose of allowing Grantee to enter onto the Facilities to: (a) construct a new detention basin for the purposes of detaining storm water within a natural tributary known as Leach Creek ("Leach Creek Detention Basin") with a design detaining capacity of 32.7 acre feet of storm water as depicted on the attached Exhibit B1; (b) enlarge the storm water detaining capacity of an existing detention basin which has been previously constructed and maintained by Grantor ("Independent Ranchman's Detention Basin") from its current detaining capacity of 5.3 acre feet of storm water to a design detaining capacity of 51.50 acre feet of storm water as depicted on the attached Exhibit B2; (c) install and maintain inlets, outlets, piping, grates, manholes, dams, spillways and other physical improvements necessary or appropriate for the prudent and proper operation of the Facilities and (d) to perform both scheduled and unscheduled maintenance of the Facilities.

All of these activities will be undertaken by Grantee at Grantee's sole expense. The Leach Creek Detention Basin is located approximately 2500 feet northwest of the west end of Runway 11/29 as shown on Exhibit B3. The Independent Ranchman's Detention Basin is located approximately 900 feet northwest of Runway 4/22 as shown on Exhibit B4. The Independent Ranchman's Detention Basin and the Leach Creek Detention Basin consist of a total of 28.367 acres (14.10 acres located in the Leach Creek Detention Basin and 14.267 acres located in the Independent Ranchman's Detention Basin). The Facilities are outlined in black on the attached Exhibits B1 - B4.

EXHIBIT B1
LEACH CREEK DETENTION BASIN

EXHIBIT B1
LEACH CREEK DETENTION BASIN
Description of Easement

The following described Easement is situate in and a part of the Southeast ¼ of the Southeast ¼ (“SE¼ SE¼”) and the Northeast ¼ of the Southeast ¼ (“NE¼ SE¼”) of Section 23, Township 1 North, Range 1 West of the Ute Meridian, County of Mesa, State of Colorado. The Basis of Bearings is S 89°56’08” W a distance of 1,317.60 feet between the found Mesa County Brass Cap Survey Marker set for the Southeast corner of said Section 23 and the found BLM Brass Cap Survey Marker set for the East 1/16th corner common to said Section 23 and Section 26, all in Township 1 North, Range 1 West of the Ute Meridian, County of Mesa, State of Colorado.

Commencing at the found Mesa County Survey Marker set for the Southeast corner of Section 23, Township 1 North, Range 1 West of the Ute Meridian, County of Mesa, State of Colorado; thence S 89°56’08” W along the South line of the SE¼ SE¼ of said Section 23 a distance of 50.82 feet; thence leaving the South line of the SE¼ SE¼ of said Section 23, N 11°03’36” W a distance of 717.78 feet to the Point of Beginning;

1. thence N 54°39’20” W a distance of 160.31 feet;
2. thence S 51°11’55” W a distance of 89.21 feet;
3. thence S 35°23’57” W a distance of 219.15 feet;
4. thence S 00°00’00” W a distance of 89.17 feet;
5. thence N 86°41’59” W a distance of 266.16 feet;
6. thence N 59°18’46” W a distance of 178.51 feet;
7. thence N 64°22’12” W a distance of 298.13 feet;
8. thence N 13°15’21” W a distance of 498.03 feet to a point on the West line of the SE¼ SE¼ of said Section 23 from whence the found BLM Monument set for the SE 1/16th corner of said Section 23 bears N 00°01’06” W a distance of 122.06 feet;
9. thence leaving the West line of the SE¼ SE¼ of said Section 23, N 42°20’16” E a distance of 128.83 feet;
10. thence N 73°23’18” E a distance of 94.12 feet to a point on the South line of the NE¼ SE¼ of said Section 23 from whence the found BLM Monument set for the SE 1/16th corner of said Section 23 bears S 89°58’24” W a distance of 177.00 feet;
11. thence leaving the South line of the NE¼ SE¼ of said Section 23, N 49°52’54” E a distance of 188.92 feet;
12. thence S 67°40’43” E a distance of 319.98 feet to a point on the South line of the NE¼ SE¼ of said Section 23;
13. thence leaving the South line of the NE¼ SE¼ of said Section 23, S 39°27’44” E a distance of 583.24 feet;
14. thence N 63°52’26” E a distance of 72.43 feet;
15. thence N 19°18’45” E a distance of 46.95 feet;
16. thence N 78°39’18” E a distance of 11.14 feet;

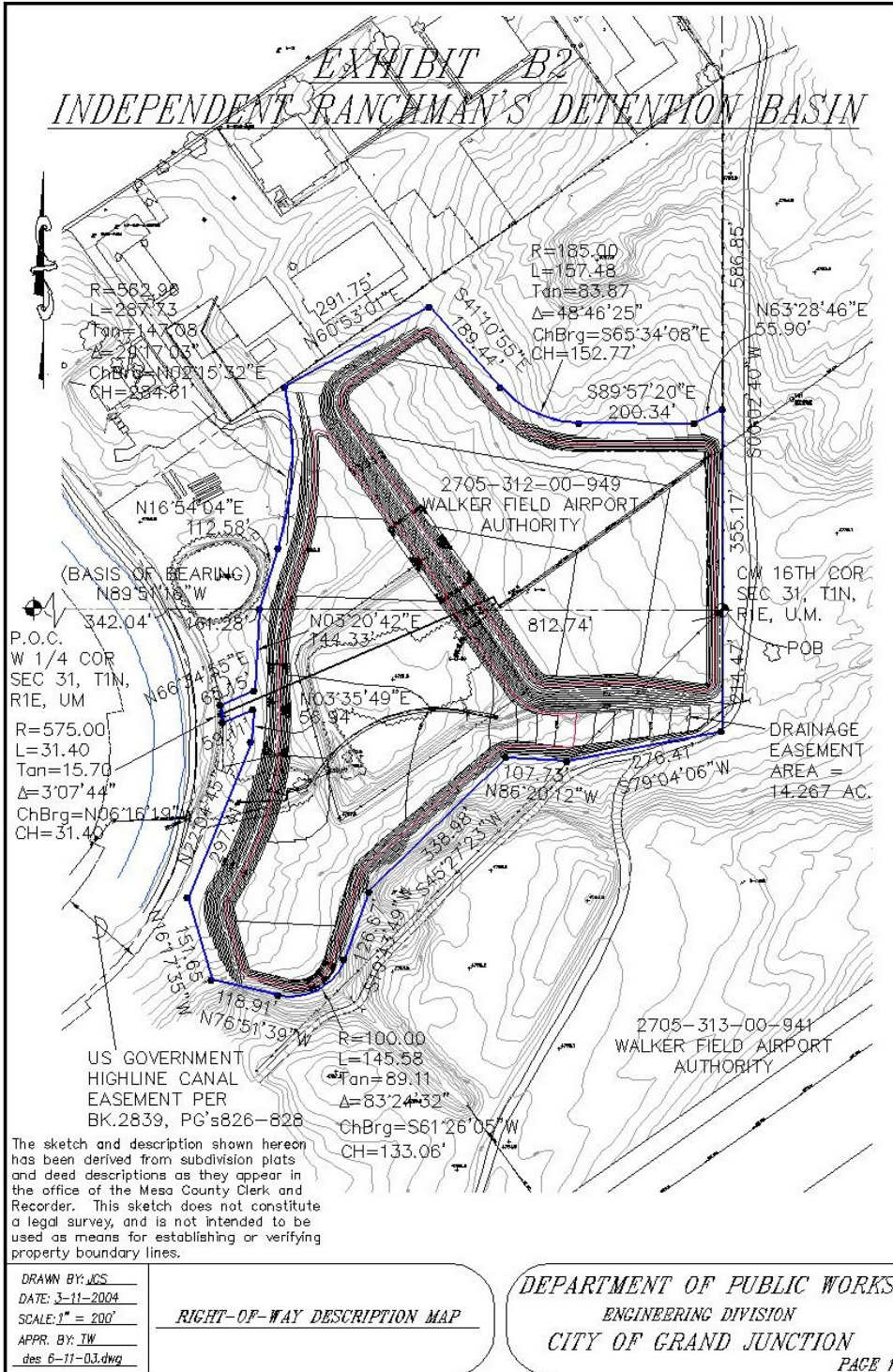
17. thence S 37°30'23" E a distance of 155.89 feet;
18. thence S 21°13'59" W a distance of 124.41 feet to the Point of Beginning,
containing 14.72 acres, more or less, as described, TOGETHER WITH the following
described Easement for Ingress, Egress and maintenance purposes, to wit:

Commencing at the found Mesa County Survey Marker set for the Southeast corner of
Section 23, Township 1 North, Range 1 West of the Ute Meridian, County of Mesa,
State of Colorado; thence S 89°56'08" W along the South line of the SE¼ SE¼ of said
Section 23 a distance of 61.01 feet to the Point of Beginning;

1. thence leaving the South line of the SE¼ SE¼ of said Section 23, N 11°03'36" W a
distance of 726.34 feet;
2. thence S 54°39'20" E a distance of 14.50 feet;
3. thence S 11°03'36" E a distance of 717.78 feet to a point on the South line of the
SE¼ SE¼ of said Section 23;
4. thence S 89°56'08" W along the South line of the SE¼ SE¼ of said Section 23 a
distance of 10.19 feet to the Point of Beginning,

containing 7,220.62 square feet, more or less (0.166 acres, more or less), as described.

EXHIBIT B2 INDEPENDENT RANCHMAN'S DETENTION BASIN



P.O.C.
W 1/4 COR
SEC 31, T1N,
R1E, UM

R=575.00'
L=31.40'
Tan=15.70'
Δ=3°07'44\"
ChBrg=N06°16'19\"
CH=31.40'

US GOVERNMENT
HIGHLINE CANAL
EASEMENT PER
BK.2839, PG's826-828

R=100.00'
L=145.58'
Tan=89.11'
Δ=83°24'32\"
ChBrg=S61°26'05\"
CH=133.06'

DRAINAGE
EASEMENT
AREA =
14.267 AC.

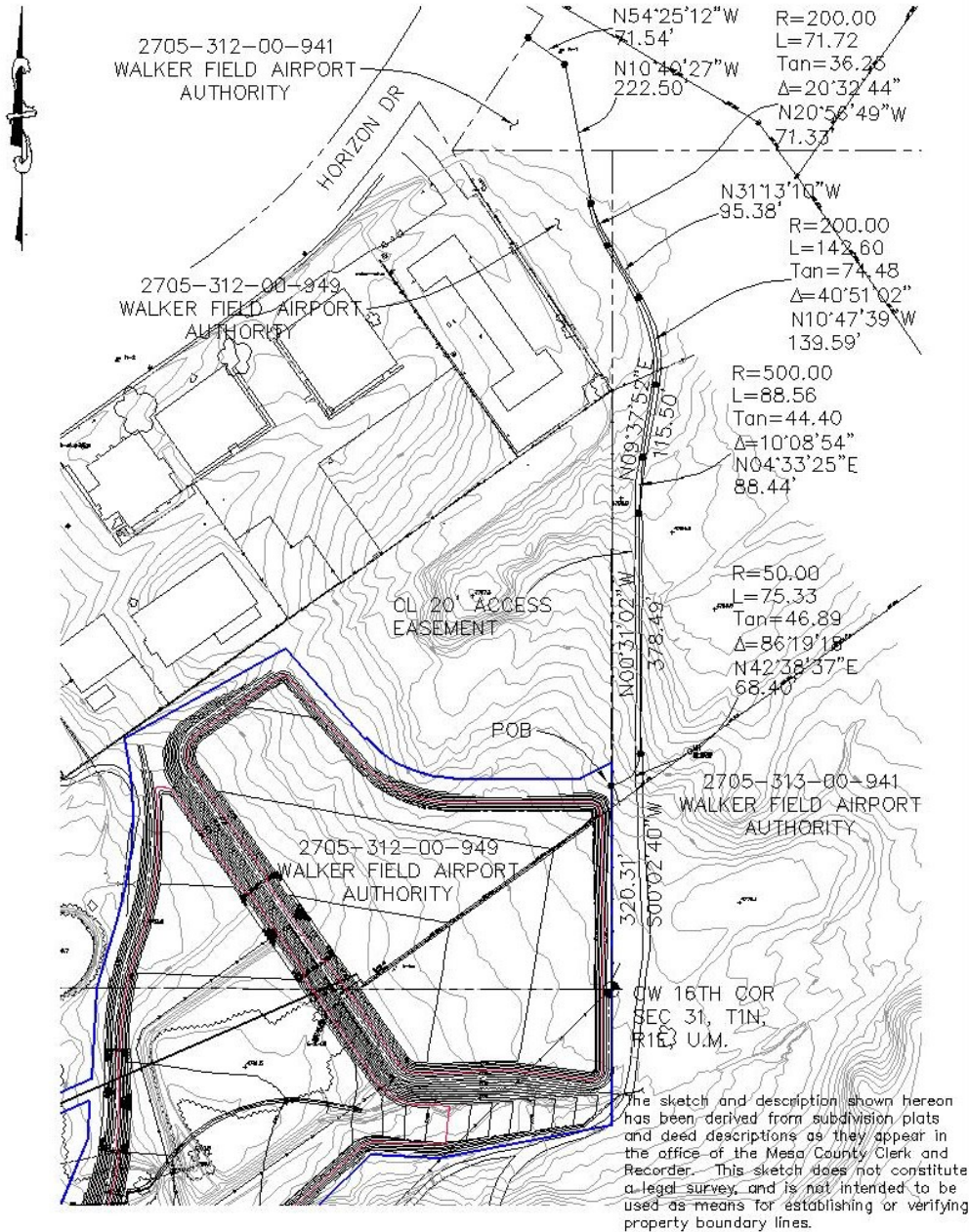
The sketch and description shown hereon
has been derived from subdivision plots
and deed descriptions as they appear in
the office of the Mesa County Clerk and
Recorder. This sketch does not constitute
a legal survey, and is not intended to be
used as means for establishing or verifying
property boundary lines.

DRAWN BY: JCS
DATE: 3-11-2004
SCALE: 1" = 200'
APPR. BY: JW
des 6-11-DJ.dwg

RIGHT-OF-WAY DESCRIPTION MAP

DEPARTMENT OF PUBLIC WORKS
ENGINEERING DIVISION
CITY OF GRAND JUNCTION
PAGE 1

EXHIBIT B2 INDEPENDENT RANCHMAN'S DETENTION BASIN



DRAWN BY: JCS
DATE: 3-11-2004
SCALE: 1" = 200'
APPR. BY: JW
des 6-11-03.dwg

RIGHT-OF-WAY DESCRIPTION MAP

DEPARTMENT OF PUBLIC WORKS
ENGINEERING DIVISION
CITY OF GRAND JUNCTION
PAGE 2

EXHIBIT B2
INDEPENDENT RANCHMAN'S DETENTION BASIN
Description of Easement

The following described Easement is situate in and a part of the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ ("NW $\frac{1}{4}$ SW $\frac{1}{4}$ ") and the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ ("SW $\frac{1}{4}$ NW $\frac{1}{4}$ ") of Section 31, Township 1 North, Range 1 East of the Ute Meridian, County of Mesa, State of Colorado. The Basis of Bearings is N 89°51'16" W a distance of 1,316.06 feet between the found Mesa County Brass Cap Survey Marker set for the C-W 1/16th corner of said Section 31 and the found Mesa County Brass Cap Survey Marker set for the West $\frac{1}{4}$ corner of said Section 31, all in Township 1 North, Range 1 East of the Ute Meridian, County of Mesa, State of Colorado.

Beginning at the found Mesa County Survey Marker set for the C-W 1/16th corner of Section 31, Township 1 North, Range 1 East of the Ute Meridian, County of Mesa, State of Colorado;

1. thence S 00°02'40" W along the East line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 31 a distance of said Section 31 a distance of 214.47 feet;
2. thence leaving the East line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 31, S 79°04'06" W a distance of 276.41 feet;
3. thence N 86°20'12" W a distance of 107.73 feet;
4. thence S 45°27'23" W a distance of 338.98 feet;
5. thence S 19°43'49" W a distance of 126.67 feet;
6. thence 145.58 feet along the arc of a curve concave to the Northwest, having a radius of 100.00 feet, a central angle of 83°24'32", and a long chord bearing S 61°26'05" W a distance of 133.06 feet;
7. thence N 76°51'39" W a distance of 118.91 feet;
8. thence N 16°17'35" W a distance of 151.65 feet;
9. thence N 22°04'45" E a distance of 297.41 feet;
10. thence N 03°35'49" E a distance of 56.94 feet;
11. thence S 66°34'55" W a distance of 59.11 feet;
12. thence 31.40 feet along the arc of a non-tangent curve concave to the Southwest, having a radius of 575.00 feet, a central angle of 03°07'44", and a long chord bearing N 06°16'19" W a distance of 31.40 feet;
13. thence N 66°34'55" E a distance of 65.15 feet;
14. thence N 03°20'42" E a distance of 144.33 feet to a point on the South line of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 31 from whence the West $\frac{1}{4}$ corner of said Section 31 bears N 89°51'16" W a distance of 503.32 feet;
15. thence leaving the South line of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 31, N 16°54'04" E a distance of 112.58 feet;

16. thence 287.73 feet along the arc of a non-tangent curve concave to the Northwest, having a radius of 562.96 feet, a central angle of $29^{\circ}17'03''$, and a long chord bearing $N 02^{\circ}15'32'' E$ a distance of 284.61 feet;
17. thence $N 60^{\circ}53'01'' E$ a distance of 291.75 feet;
18. thence $S 41^{\circ}10'55'' E$ a distance of 189.44 feet;
19. thence 157.48 feet along the arc of a curve concave to the Northeast, having a radius of 185.00 feet, a central angle of $48^{\circ}46'25''$, and a long chord bearing $S 65^{\circ}34'08'' E$ a distance of 152.77 feet;
20. thence $S 89^{\circ}57'20'' E$ a distance of 200.34 feet;
21. thence $N 63^{\circ}28'46'' E$ a distance of 55.90 feet to a point on the East line of the $SW\frac{1}{4}$ $NW\frac{1}{4}$ of said Section 31;
22. thence $S 00^{\circ}02'40'' W$ along the East line of the $SW \frac{1}{4}$ $NW \frac{1}{4}$ of said Section 31 a distance of 355.17 feet to the Point of Beginning,

containing 14.267 acres, more or less, as described, TOGETHER WITH the following described Easement for Ingress, Egress and maintenance purposes, to wit:

Commencing at the found Mesa County Survey Marker set for the Southwest corner of the $SE\frac{1}{4}$ $NW \frac{1}{4}$ Section 23, Township 1 North, Range 1 West of the Ute Meridian, County of Mesa, State of Colorado; thence $N 00^{\circ}02'40'' E$ along the West line of the $SE\frac{1}{4}$ $NW\frac{1}{4}$ of said Section 31 a distance of 320.31 feet to the Point of Beginning of the following described centerline;

19. thence leaving the West line of the $SE\frac{1}{4}$ $NW\frac{1}{4}$ of said Section 31 75.33 feet along the arc of a non-tangent curve concave to the Northwest, having a radius of 50.00 feet, a central angle of $86^{\circ}19'18''$, and a long chord bearing $N 42^{\circ}38'37'' E$ a distance of 68.40 feet;
20. thence $N 00^{\circ}31'02'' W$ a distance of 378.49 feet;
21. thence 88.56 feet along the arc of a curve concave to the East, having a radius of 500.00 feet, a central angle of $10^{\circ}08'54''$, and a long chord bearing $N 04^{\circ}33'25'' E$ a distance of 88.44 feet;
22. thence $N 09^{\circ}37'52'' E$ a distance of 115.50 feet;
23. thence 142.60 feet along the arc of a non-tangent curve concave to the Southwest, having a radius of 200.00 feet, a central angle of $40^{\circ}51'02''$, and a long chord bearing of $N 10^{\circ}47'39'' W$ a distance of 139.59 feet;
24. thence $N 31^{\circ}13'10'' W$ a distance of 95.38 feet;
25. thence 71.72 feet along the arc of a curve concave to the Northeast, having a radius of 200.00 feet, a central angle of $20^{\circ}32'44''$, and a long chord bearing $N 20^{\circ}56'49'' W$ a distance of 71.33 feet;

26. thence N 10°40'27" W a distance of 222.50 feet;
27. thence N 54°25'12" W a distance of 71.54 feet to the Easterly right of way for Horizon Drive, as laid out and now in use, the terminus of said centerline description,

containing 0.58 acres, more or less, as described.

**EXHIBIT B3
LEACH CREEK DETENTION BASIN AND RUNWAY 11/24**

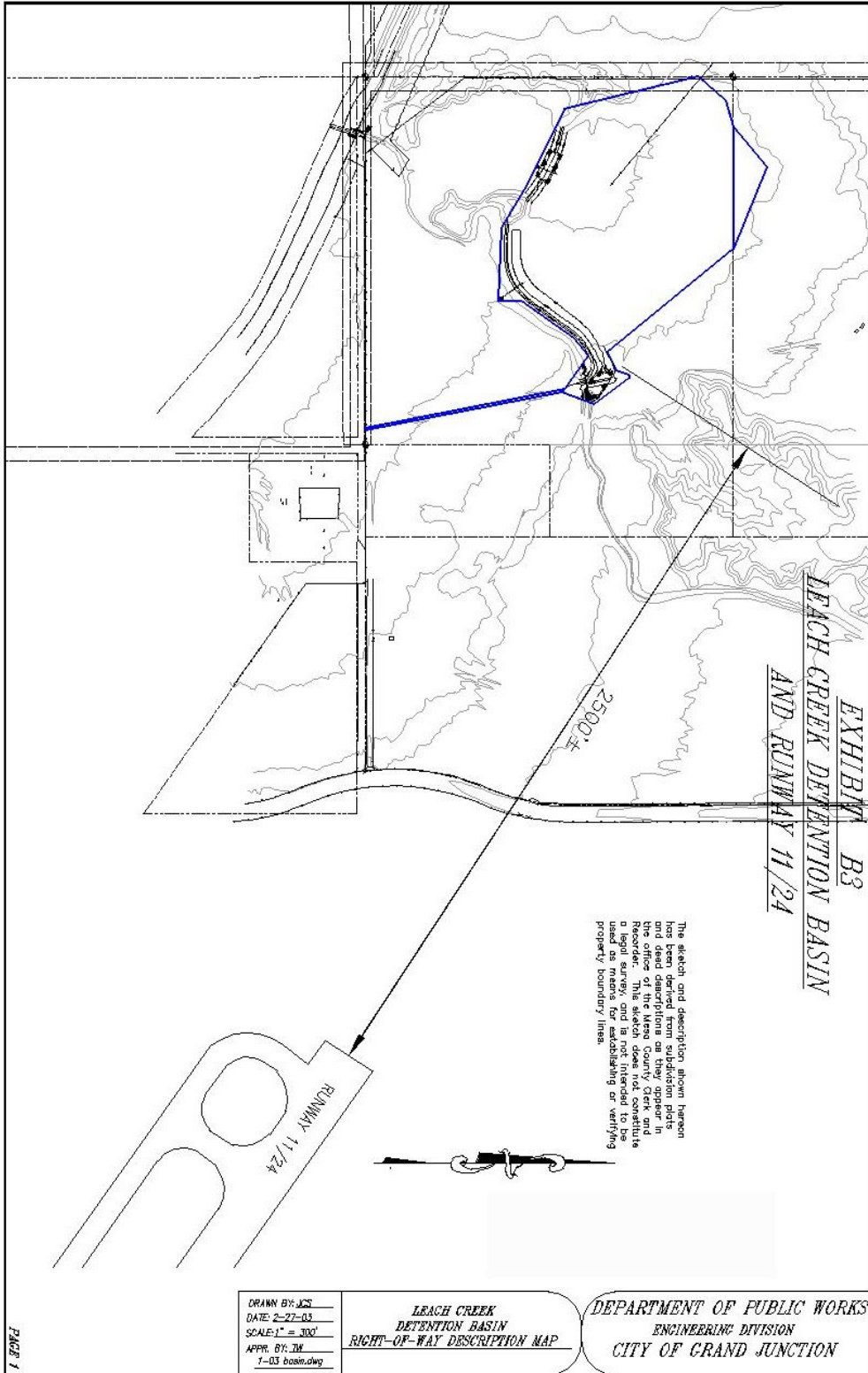


EXHIBIT B4
INDEPENDENT RANCHMAN'S DETENTION BASIN AND RUNWAY 4/22

EXHIBIT C
OPERATIONS AND MAINTENANCE MANUAL

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF GRAND JUNCTION AND WALKER FIELD, COLORADO, PUBLIC AIRPORT AUTHORITY

This Agreement is entered into on the date(s) set forth below by and between the City of Grand Junction ("CITY"), a Colorado home rule municipality and the Walker Field, Colorado, Public Airport Authority ("AUTHORITY"), a body corporate and politic and constituting a subdivision of the State of Colorado pursuant to C.R.S 41-3-101 *et. seq.* The CITY and the AUTHORITY may be referred to collectively in this Agreement as the Parties. The Parties rely on C.R.S. 29-1-201, *et. seq.* to enter into this intergovernmental agreement ("Agreement").

RECITALS

This Agreement between the CITY and the AUTHORITY sets forth the Parties' understandings concerning the construction, operation and maintenance of certain storm water Facilities (as that term is defined below) on the AUTHORITY'S property. By and through this Agreement and the actions that will follow after it, the Parties address storm water concerns that have not been adequately addressed heretofore, specifically improvements in the Leach Creek and Independent Ranchman's drainages.

The CITY has identified two locations at Walker Field, Colorado, Public Airport (the "Airport") for the construction of Detention Basins that will have a substantial impact on reducing the risk of flooding for CITY residents and property owners, including the AUTHORITY. The AUTHORITY, in its 2001 Airport Layout Plan Update, has identified the need for at least 34-acre feet of storm water capacity. **A portion of the improvements that are to be constructed under this Agreement will provide at least 30.5-acre feet for the AUTHORITY's use.** By this Agreement the AUTHORITY consents to the construction of the improvements, the operation and maintenance of the same, subject to the conditions stated or implied in this Agreement and the Deed of Easement from the Airport to the City.

The CITY acknowledges that the AUTHORITY's primary concern is for the safety of users of the Airport. For this reason, consistent with FAA Advisory Circular AC150/5200-33, as amended, or such similar directive as may be issued in the future, the CITY shall not allow the improvements to become a bird or wildlife attractant.

NOW, THEREFORE, the Parties agree as follows:

1. PERMITTED USES: The AUTHORITY hereby permits the CITY to enter onto Airport property owned by the AUTHORITY to: (a) construct a new detention basin for the purposes of detaining storm water within a natural tributary known as Leach Creek ("Leach Creek Detention Basin") with a design

detaining capacity of 32.7 acre feet of storm water as depicted on the attached Exhibit A; (b) enlarge the storm water detaining capacity of an existing detention basin which has been previously constructed and maintained by the AUTHORITY ("Independent Ranchman's Detention Basin") from its current detaining capacity of 5.3 acre feet of storm water to a design detaining capacity of 51.50 acre feet of storm water as depicted on the attached Exhibit B; (c) install and maintain inlets, outlets, piping, grates, manholes, dams, spillways and other physical improvements necessary or appropriate for the prudent and proper operation of

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the Detention Basins and (d) to perform both schedule and unscheduled maintenance of the Facilities.

Each of these activities will be undertaken by the CITY at the CITY's sole expense. The Leach Creek Detention Basin is located approximately 1800 feet west of the west end of Runway 11/29 as shown on Exhibit C. The Independent Ranchman's Detention Basin is located approximately 1200 feet southwest of Runway 4/22 as shown on Exhibit D. The Independent Ranchman's Detention Basin and the Leach Creek Detention Basin (the Detention Basins) consist of a total of 28.367 acres (14.10 acres located in the Leach Creek Detention Basin and 14.267 acres located in the Independent Ranchman's Detention Basin).

2. CONSIDERATION. The AUTHORITY has obtained an independent MAI appraisal to establish the current fair market value of the real estate upon which the Facilities will be located. That value is as follows: \$671.30 per year for the 14.10 acres described on attached Exhibit C and located in the Leach Creek detention basin plus \$864.19 per year for the 14.267 acres described on attached Exhibit D and located in the Independent Ranchman's detention basin for a yearly total of \$1,535.49 paid at the beginning of each year. The CITY will be granted a credit of 100% of the total yearly rent in return for the cost of construction and maintenance of the Independent Ranchman's detention basin and the AUTHORITY's right to impound up to 30.5 acre feet of storm water in the Independent Ranchman's detention basin for the duration of this Agreement. The value of the construction cost and the future maintenance of the Independent Ranchman's detention basin attributable to AUTHORITY use is \$4,145.63 per year based on a _____ perpetual agreement. Therefore, the adjusted initial annual ground rent will be \$0.00 per year. The AUTHORITY will not be responsible for payment to the CITY for any expenses or overages above and beyond the appraised yearly rental value. The Facilities shall be constructed by the CITY at the CITY's sole cost. The real estate on which the Facilities are located shall remain the sole property of the AUTHORITY, subject to the CITY's rights as set forth in this Agreement. Full and faithful performance of the various

promises, conditions, terms and covenants of this Agreement are acknowledged by the Parties to be due and adequate consideration. The CITY shall not impose any fee (including a drainage impact fee) on the AUTHORITY as a result of any activity contemplated by this agreement.

3. JURISDICTION. This Agreement addresses real property and improvements thereon which are within the Aircraft Operations Area (AOA) of the AUTHORITY. The Parties agree that the Facilities shall be under the sole jurisdiction of the CITY for the purposes of constructing, operating, maintaining, altering or otherwise changing a Facility or the Facilities and that the Facilities shall be under the sole jurisdiction of the AUTHORITY for the purpose of administering aircraft overflight, and air operations and the management of same.

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Detention Basin Agreement
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4. INSURANCE: The CITY is currently self-insured up to \$150,000 per claim with excess coverage through Lloyd's of London pursuant to its membership in the CIRSA pool. The CITY avails itself of the protection of the Governmental Immunity Act (C.R.S. 24-10-101, et.seq.) So long as CITY obtains insurance through CIRSA or an equivalent organization, CITY shall have no obligation to purchase public liability insurance and other coverage for protection against liability for damage claims arising out of accidents occurring as a result of this Agreement. CITY's insurance coverage as set forth above shall provide coverage for the contingent liability of the AUTHORITY on any claims or losses and shall designate the AUTHORITY as an additional insured under the terms of CITY's insurance. In the event the Governmental Immunity Act is no longer in effect, and/or coverage through CIRSA or equivalent coverage is not maintained, then CITY shall procure and maintain in force, at its expense, during the term of this Agreement and any extension thereof, public liability insurance with an insurer and through a broker approved by the AUTHORITY. Such coverage shall be adequate to protect against liability for damage claims arising out of accidents occurring as a result of this Agreement, for a minimum amount of one million dollars (\$1,000,000) combined single limit. Such insurance policy shall designate the AUTHORITY as an additional insured under the terms of the policy and shall not be cancelable without thirty (30) days prior written notice to the AUTHORITY.

5. AUTHORITY'S RIGHT TO IMPOUND WATER. CITY grants the AUTHORITY the right to impound up to 30.5 acre feet of water in the Independent Ranchman's detention basin, as needed, for the control of storm

water drainage generated on or passing through the AUTHORITY property for the duration of this Agreement.

6. USER SAFETY. CITY recognizes that the AUTHORITY's primary concern is the safety of users of the Airport; thus, consistent with FAA Advisory Circular AC150/5200-33, as it may be amended from time to time, CITY will, at CITY's expense, ensure that the Detention Basins shall NOT be allowed to become a bird and wildlife attractant beyond the quantity of birds and wildlife present prior to the construction of the Detention Basins. Cedar Creek Associates, Inc. has prepared a report for CITY entitled *Wildlife Baseline Report for the City of Grand Junction's Proposed Leach Creek and Ranchman's Ditch Stormwater Detention Basins* (the "Baseline Report"). The Baseline Report, which is hereby incorporated into this Agreement, establishes a baseline for the quantity of birds, wildlife, and plant life present prior to the construction of the Detention Basins.

7. ACCESS. Because the Facilities are in the AOA, the CITY shall (other than during an emergency) coordinate its access to and from the Facilities with the AUTHORITY. Other specific responsibilities of the CITY and the AUTHORITY shall be stated in an operation and maintenance document, which describes the Facilities and the routine and emergency operation and maintenance of the same.

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Detention Basin Agreement
Page 4 of

8. PERPETUAL AGREEMENT. This Agreement shall commence on March 31, 2004 and shall be perpetual. The rights, obligations and benefits provided hereunder shall accrue to the Parties and their successors in interest as provided herein until the Agreement is amended, if ever, in writing by the Parties. The rights, obligations and benefits of or accruing to each party are contingent upon funds being annually budgeted, appropriated and otherwise made available. In the event funds are not appropriated, budgeted or otherwise made available any resulting contract will become null and void without penalty, however any indemnification and hold harmless duties and obligations shall survive and be fully enforceable.

9. AMENDMENTS TO AGREEMENT. This Agreement may be amended from time to time by concurrence of the governing bodies of both the CITY and the AUTHORITY. Changes to the Agreement shall require a duly passed resolution mutually agreed to by the CITY and the AUTHORITY. Such resolutions may be passed at any regularly scheduled meeting of the respective governing body. Additions to or modifications of drainage systems, Facilities or

improvements may be made by reference to this Agreement with appropriate identification of the system being added using property legal description and common location identifiers. Additions to or modifications of drainage systems or the management of birds and wildlife do not constitute an amendment.

10. DEFINITION OF "FACILITY" AND "FACILITIES". For the purposes of this Agreement, the terms "Facility" and "Facilities" mean any pipe, inlet, grate, manhole, box, dam, spillway, drainage way or other physical improvement associated with, constructed or connected to a surface or subsurface detention basin system. A Facility does not mean any future storm water ponds, basins or improvements now contemplated, designed or later constructed by the AUTHORITY as depicted or described in the AUTHORITY's 2003 Airport Master Plan Update. Facility shall also have the meaning provided in the Easement.

11. DESIGN. The Facilities are expressly designed and constructed for the benefit of areas that are downstream of the Airport in the Leach Creek and Independent Ranchman's drainages and the future storm water drainage needs of the AUTHORITY. The AUTHORITY acknowledges that it has or may have independent duties under federal and or state law to control, monitor and discharge storm water from other improvements. Each Facility is intended to improve 100-year storm event flood protection. The Leach Creek detention basin is proposed to impound 32.70 acre feet of water. The Independent Ranchman's detention basin is proposed to impound 51.50 acre feet of water, 30.5 acre feet of which is for the direct use and benefit of the AUTHORITY. The design for each Facility is shown on Exhibits A (Leach Creek) and B (Independent Ranchman's).

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12. OPERATION AND MAINTENANCE. The CITY will operate and maintain the Facilities associated with the Detention Basins in accordance with an operations and maintenance manual which is incorporated by this reference as if fully set forth. The essential principles of that manual, which is Exhibit E to this Agreement, are:

- (a) Security and Safety. CITY recognizes that security for the Walker Field is important as well as overall knowledge of operations within or near the Airport. Except in an emergency, CITY shall notify the AUTHORITY by telephone, email or mail at least one day prior to visiting the sites and at least three days prior to any minor

maintenance activities and 21 days prior to any major, earth moving activities. The AUTHORITY shall have the right to impose any other security measures it deems appropriate

(b) Silt and Sediment. The CITY shall not permit silt /sediment to accumulate such that it impairs the operational capability or integrity of the Facilities. The CITY shall generally maintain the Facilities so that the soil is not regularly wet, therefore creating habitat for birds or other animals.

(c) Outlets. The CITY shall maintain the Facilities outlet structures to allow for them to function as designed.

(d) Trash and Debris. The CITY shall regularly remove trash and other debris that accumulates in the Detention Basins.

(e) Vegetation. The CITY shall cut and otherwise take all necessary action to inhibit the growth of vegetation in and near the Facilities. The CITY shall use best management practices to inhibit vegetation that may grow and/or accumulate as a food supply for birds or other animals.

(f) Wildlife. The AUTHORITY may, at its sole but reasonable discretion, assert that the Detention Basin(s) have become a bird and/or wildlife attractant. In the event of such assertion the AUTHORITY shall provide the CITY and the FAA written notice of such assertion. The matter shall be determined by the FAA. The City shall reasonably comply with/implement techniques, methods or practices as necessary for the Detention Basin(s) to be in compliance with FAA requirements. The cost of mitigation shall be borne by the CITY in accordance with this agreement and the terms of paragraph 9.

(g) Frequency of maintenance activities:

i. Bi-annual Inspections: The CITY and the AUTHORITY shall meet bi-annually during the term of this Agreement to conduct inspections of the Detention Basins and the Facilities. Such inspections shall be conducted at times which

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Detention Basin Agreement
Page 6 of

are mutually convenient for both parties. The purposes of the bi-annual inspections are to: (1) determine whether the Facilities are

functional and operational; (2) assess the condition of the Premises to ensure CITY has complied with its duties and obligations under the terms of this Agreement, and; (3) to develop a documented plan and scope of any work CITY may be required to perform to comply with CITY's duties and obligations under this Agreement.

ii. Inspections after Rain Events: After each rain that exceeds a 5-year event interval measured by CITY at the outlet of each basin, CITY shall inspect the Facilities to evaluate silt/sediment/debris build up within five (5) working days of the event and ensure that the basins drain as designed. CITY will install monitoring devices, such as staging rods, to measure the depth, volume, and frequency of each rain event.

- (h) Requested maintenance. The AUTHORITY may request in writing that CITY perform scheduled or unscheduled maintenance to the Premises or the facilities situated therein. Any problem identified in the AUTHORITY's request will be corrected within five working days or on a mutually agreed to schedule.
- (i) Hazardous materials, spill prevention and cleanup. The AUTHORITY shall be solely responsible for the management, cleanup and remediation of any spills, releases or contamination of a Facility or the Facilities that result from or as a direct or proximate cause of any of its operations. The CITY shall be solely responsible for the management, cleanup and remediation of any spills, releases or contamination of a Facility or the Facilities that result from or as a direct or proximate cause of any of its operations.
- (j) Governmental Immunity. Notwithstanding any other provision of this Agreement to the contrary, no term or condition of this Agreement shall be construed or interpreted as a waiver of any provision of the Colorado Governmental Immunity Act 24-10-101 *et. seq.*, C.R.S., as now or hereafter amended. The Parties hereto understand and agree that liability for claims for injuries to persons or property and other injuries which lie in tort or could lie in tort that arise out of the negligence of the CITY, the AUTHORITY, and/or their respective officers, agents and employees may be controlled and limited by the provisions of 24-10-101 *et. seq.*, C.R.S., as now or hereafter amended.

To the extent that the provisions of this Agreement conflict with the operations and maintenance manual, the provisions of this Agreement shall control.

13. ACCESS. The AUTHORITY hereby grants authority to the CITY to use the surface and to the extent necessary or required the subsurface of 28.367 acres of the AUTHORITY'S property to construct, operate and maintain the

Facilities. This authority shall continue until, the AUTHORITY provides written notice to the CITY that the CITY has breached this Agreement. Upon notice or declaration of a breach the CITY shall have 30 working days to remedy the breach.

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14. PROJECTS: From time to time there may be projects related to the Detention Basins and Facilities which CITY and the AUTHORITY agree to install cooperatively. Separate agreements for such projects may include this Agreement by reference.

15. OPTION TO PURCHASE: If the Premises become available for purchase, CITY will have the option to purchase the Premises at the then market value. Final determination of availability for purchase and market value will be at the AUTHORITY's sole discretion.

16. NOTICES. Notices concerning this Agreement shall be made in writing by the CITY to the AUTHORITY at 2828 Walker Field Drive, Suite 301, Grand Junction, CO 81506 and by the AUTHORITY to the CITY at 250 North 5th Street, Grand Junction, Colorado 81501 with a copy to the Office of the CITY Attorney at 250 North 5th Street, Grand Junction, Colorado 81501, by prepaid United States mail, return receipt requested. Mailed notices shall be deemed effective upon deposit with the U.S. Postal Service.

17. ENTIRE AGREEMENT/AMENDMENT. The parties acknowledge and agree that the provisions contained herein constitute the entire agreement and that all representations made by any officer, agent or employee of the respective parties, unless included herein, are null and void and of no effect. Alterations, amendments, changes or modifications to this Agreement may be made but the same shall be valid only if they are contained in an instrument, which is executed by the Parties with the same formality as this Agreement.

18. CHOICE OF LAW/CHOICE OF VENUE. This Agreement shall be deemed to have been made in, and shall be construed and interpreted in accordance with the laws of the City of Grand Junction, Mesa County and Colorado. Any action brought under or arising out of this Agreement shall be brought in the Mesa County District Court or in the United States District Court for the District of Colorado unless otherwise provided for in the Easement.

19. AUTHORITY. The persons signing this Agreement are authorized to sign and bind the entity for which they sign. The provisions of this Agreement are not mere recitals but are contractual in nature.

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be executed as of the day and year first written above.

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Detention Basin Agreement
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WALKER FIELD, COLORADO, PUBLIC AIRPORT AUTHORITY:

_____ Date _____

ATTEST: _____ Date _____

CITY OF GRAND JUNCTION:

_____ Date _____

ATTEST: _____ Date _____

ATTACHMENT 1

DEFINITIONS

In addition to the words and terms elsewhere defined in this Agreement, the following words and terms as used in this Agreement shall have the following meanings unless the context or use indicates another or different meaning or intent and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

"Airport" shall mean the Walker Field Airport and all areas under the jurisdiction of the Grantor.

"AOA" shall mean Aircraft Operations Area.

"Arbiter" shall have the meaning set forth in Section 17 hereof.

"Arbiter Cure Period" shall have the meaning set forth in Section 17 hereof.

"Breach Notice" shall have the meaning set forth in Section 17 hereof.

"FAA" shall mean the Federal Aviation Administration.

"Facility" or **"Facilities"** shall have the meaning set forth in Section 14 hereof.

"Final Termination Date" shall have the meaning set forth in Section 17 hereof.

"Grantee" shall mean the City of Grand Junction, Colorado.

"Grantor" shall mean the Walker Field, Colorado, Public Airport Authority, a political subdivision of the State of Colorado.

"Independent Ranchman's Detention Basin" shall have the meaning set forth in Exhibit A attached hereto.

"Leach Creek Detention Basin" shall have the meaning set forth in Exhibit A attached hereto.

"Performance Bond" shall have the meaning set forth in Section 18 hereof.

"Standard Cure Period" shall have the meaning set forth in Section 17 hereof.

"Termination Date" shall have the meaning set forth in Section 17 hereof.

"Termination Notice" shall have the meaning set forth in Section 17 hereof.

"Wildlife Attractant" shall have the meaning set forth in Section 10 hereof.

Attach 15
Rezoning the Geske Property Located at 2656 Patterson Road
CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA						
Subject	Geske Rezone located at 2656 Patterson Road					
Meeting Date	March 17, 2004					
Date Prepared	March 1, 2004				File #RZ-2003-233	
Author	Ronnie Edwards		Associate Planner			
Presenter Name	Ronnie Edwards		Associate Planner			
Report results back to Council	X	No		Yes	When	
Citizen Presentation	X	Yes		No	Name	
	Workshop	X	Formal Agenda			Consent X Individual Consideration

Summary: Request to rezone 2656 Patterson Road, comprised of two lots containing a total of 2.068 acres, from RSF-4 (Residential Single Family with a density not to exceed 4 units per acre) to RO (Residential Office). Planning Commission recommended denial at its February 10, 2004 meeting.

Budget: N/A

Action Requested/Recommendation: That City Council conduct a public hearing and adopt the zoning ordinance on second reading.

Attachments:

1. Vicinity Map
2. Aerial Map
3. Growth Plan Map
4. Zoning Map
5. Patterson Road Corridor Guidelines
6. Section 3.4 and Table 3.5
7. Planning Commission Minutes of February 10, 2004
8. Neighborhood Letters and Petition
9. Zoning Ordinance

BACKGROUND INFORMATION				
Location:		2656 Patterson Road		
Applicants:		Grant, Eva and Judith Geske		
Existing Land Use:		Residential Single Family and Vacant		
Proposed Land Use:		Optometrist Office		
Surrounding Land Use:	North	Residential Single Family		
	South	Medical facility and parking lot		
	East	Residential Single Family		
	West	Residential Single Family		
Existing Zoning:		RSF-4		
Proposed Zoning:		RO		
Surrounding Zoning:	North	RSF-4		
	South	PD (Planned Development)		
	East	RSF-4		
	West	RSF-4		
Growth Plan Designation:		Residential Medium (4 – 8 ac/du)		
Zoning within density range?		N/A	Yes	No

BACKGROUND:

Property consists of two parcels, one of which is vacant, and is currently zoned RSF-4 (Residential Single Family with a density not to exceed 4 units per acre). The property was annexed in August of 1970 and was zoned R1A (One-Family Residence), which was equivalent to the current County zoning and agreed with the existing conditions at that time.

The RO zone district, see attached Section 3.4 Residential Office zone district standards, was established to provide low intensity, non-retail, neighborhood service and office uses that are compatible with adjacent residential neighborhoods. The minimum lot size is 5,000 square feet and also allows residential uses with a maximum density of up to 16 units per acre, which in this case would be limited to 8 units per acre based on the Growth Plan. The RO zone district would give the property owners more flexibility as to the type of uses allowed on these two properties.

The original application contained two additional properties that were eventually removed from the rezone consideration (See letters from Gene Taylor and Terrill Ann Rutter). Their removal limited the scope of this application to the two properties east of 8th Court.

On Tuesday, February 10, 2004, the Planning Commission held a public hearing on this rezone request. The request was forwarded to City Council with a recommendation of denial by a 6 – 0 vote. The Planning Commission disagreed with the staff's analysis and found that six of the seven review criteria had not been met. In addition, Planning Commission relied on the Patterson Road Corridor Guidelines, which were adopted January 29, 1991 and never rescinded. (See attachment).

NEIGHBORHOOD CONCERNS:

There are eleven letters, one email and one two-page petition in opposition from adjacent property owners in your packets, which are concerned with other implications that could come with this rezone. A variety of uses are allowed within the RO zone district, as shown in the attached Use/Zone Matrix. Summarizing their concerns, the main issues are excessive traffic congestion, uncontrolled access on Patterson Road and the creation of adverse impacts on the capacity and safety of the overall street network that could result from some of the uses that are allowed in this particular zone district. Most area home owners felt this was a benefit for the applicants only and not for the neighborhood and community.

PUBLIC WORKS ISSUES:

The development engineer on this project stated that the current accesses would be allowed to remain as-is while the uses remain residential. Any existing access may be required to be closed, relocated, or combined when new uses are proposed. Any impacts of potential uses to the road network must be mitigated and would be one of the issues to be resolved during the Site Plan Review process.

1. STAFF PROJECT ANALYSIS: The following analysis represents staff's interpretation of the criteria as presented to the Planning Commission. At their February 10, 2004 hearing, they disagreed with staff and found that criteria two through seven had not been met.

A. Consistency with the Growth Plan:

Policy 1.3 states that City decisions about the type and intensity of land uses will be consistent with the Future Land Use Map and Plan policies. The RO zone district could be implemented with the residential medium density land use classifications of the Growth Plan in transitional corridors between single-family residential and more intensive uses.

B. Section 2.6.A of the Zoning and Development Code:

Rezone requests must meet all of the following criteria for approval:

- 1) The existing zoning was in error at the time of adoption

The existing zone district supported the existing uses and was not in error at the time of annexation occurred in 1970. However, the RO zone district was developed in the year 2000 and was not available when this property was originally zoned.

- 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 character of the neighborhood on the west across 7th Street and south across Patterson Road has changed to Medical uses and B-1 (Neighborhood Business). This started occurring in 1975 through the 1980's. The St. Mary's Medical Center to the south, has continued its expansion through a Master Plan that was first reviewed in 1995 and is continuing today. Directly south of the site across Patterson Road, a surgical center and associated parking lot expansions have occurred. While the neighborhood has changed, these changes have all been consistent with the Growth Plan.

- 3) The proposed rezone is compatible with the neighborhood and will not create adverse impacts such as: capacity or safety of the street network, parking problems, storm water or drainage problems, water, air or noise pollution, excessive nighttime lighting, or other nuisances

Adjoining properties to the north, west and east are single family residential uses. The petitioner has not provided Staff with any definite proposal of anticipated changes except the possibility of the east parcel being utilized for an optometrist office with low customer volume. The proposed rezone could allow future developments that could create impacts concerning access and street network, but these issues could be resolved at the time of the Site Plan Review process. (See attached copy of Table 3.5 Use/Zone Matrix and the following discussion of Public Works Issues). Development within the RO zone district has specific performance standards, as architectural considerations, site design and layout, restricted signage and hours of business operations that could mitigate some compatibility issues.

- 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

The proposed zoning district of RO implements the Residential Medium land use classifications of the Growth Plan. The RO zone is considered compatible with surrounding properties as part of the transitional corridor between residential and more intensive uses.

- 5) Adequate public facilities and services are available or will be made available concurrent with the projected impacts of the proposed development

Adequate facilities and services are existing for the single family residential uses. Any proposed development would address projected impacts during a site plan review process. However, concerns exist regarding the ability of the street network to address potential impacts.

- 6) There is not an adequate supply of land available in the neighborhood and surrounding area to accommodate the zoning and community needs

The land available in the neighborhood and surrounding area could accommodate the RO zone district, as it is a new designation adopted in 2000. The remaining RO districts are east of this area approximately 8th Street to 15th Street on the north side of Patterson Road, west side of 7th Street from Orchard Avenue to Bunting Avenue and a concentrated amount in the downtown area being the buffer zone between business and residential zones.

- 7) The community or neighborhood will benefit from the proposed zone.

Potential benefits may accrue to the neighborhood, if this application is considered as a transitional opportunity where limited intensity non-residential uses may better buffer the remaining residences from the roadways, as Patterson Road, and development to the south and west.

STAFF FINDINGS OF FACT/CONCLUSIONS:

1. The requested rezone is consistent with the Growth Plan.
2. The review criteria in Section 2.6.A of the Zoning and Development Code have been met.

STAFF RECOMMENDATION:

Staff recommended that the Planning Commission forward a recommendation of approval of the requested rezone to RO to the City Council with the findings and conclusions listed above.

PLANNING COMMISSION RECOMMENDATION:

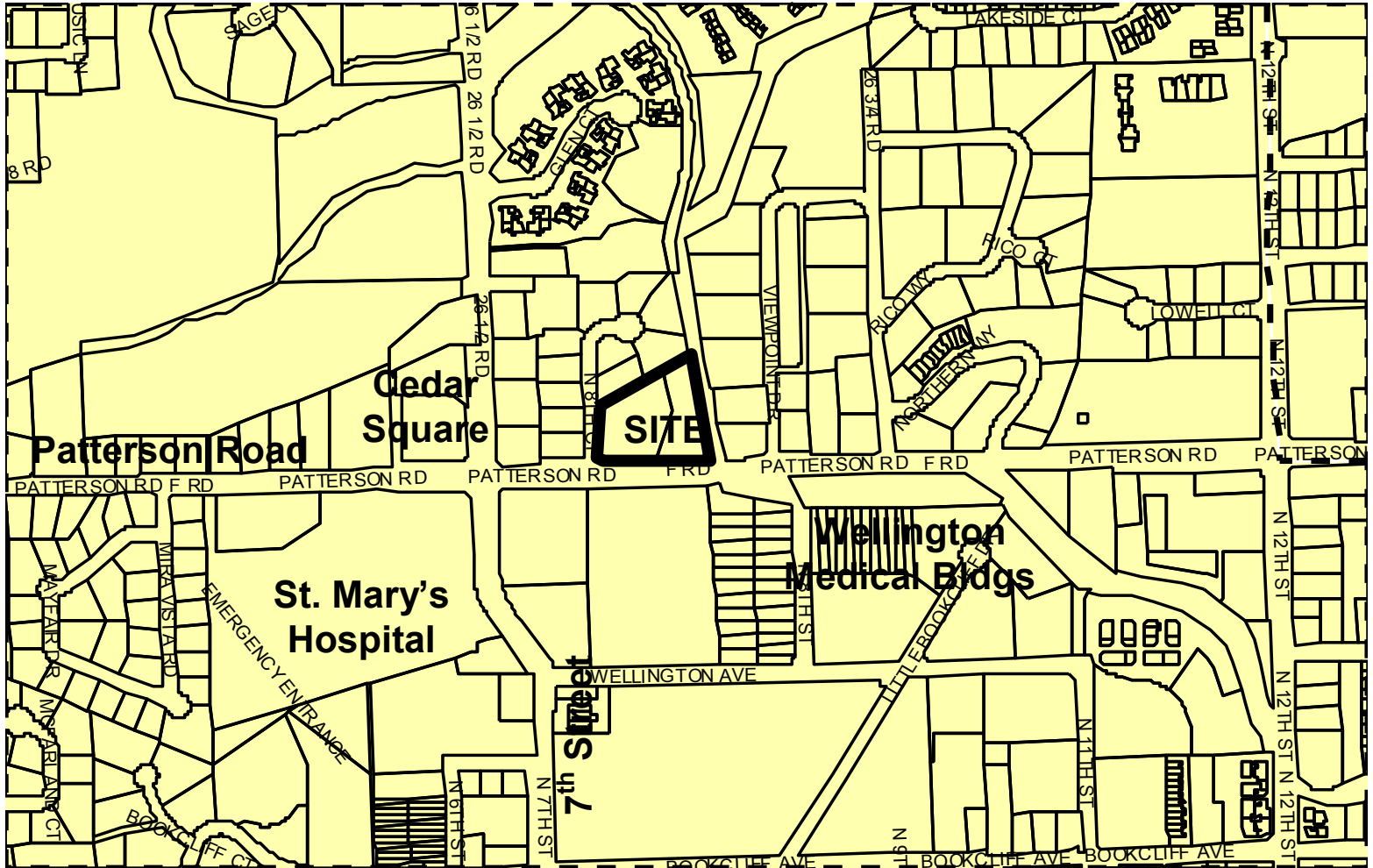
After hearing testimony from the neighborhood regarding the proposed rezone to RO, the Planning Commission concluded that criteria items 2 through 7 of the Zoning and Development Code had not been met and recommended denial with a vote of 6 – 0. In addition, Planning Commission relied on the Patterson Road Corridor Guidelines, which were adopted January 29, 1991 and never rescinded. (See attachment).

The Planning Commission Minutes of February 10, 2004 have been attached for your review

Site Location Map

Figure 1

Glen at Horizon



Aerial Photo Map

Figure 2

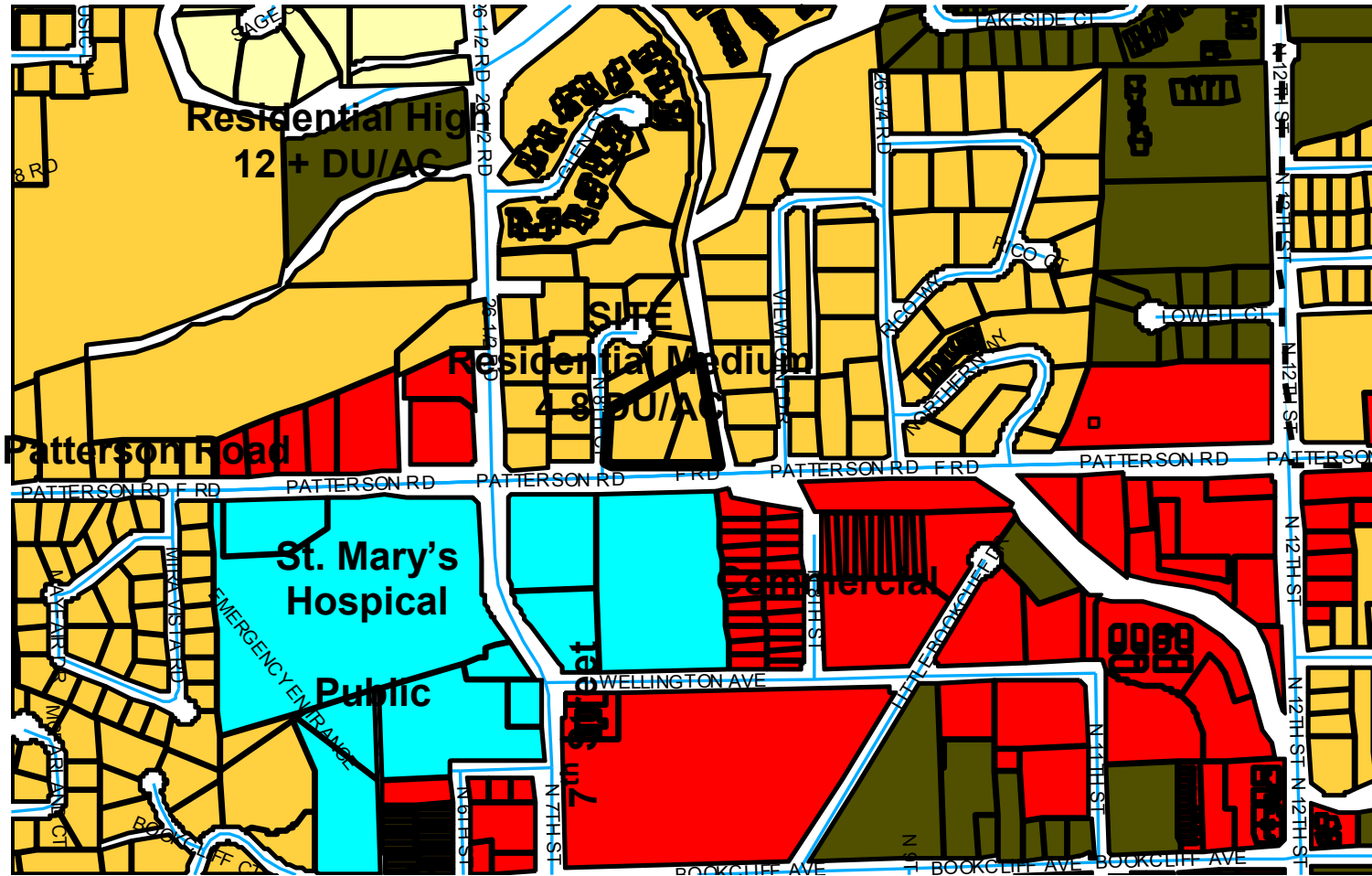
Glen at Horizon



Future Land Use Map

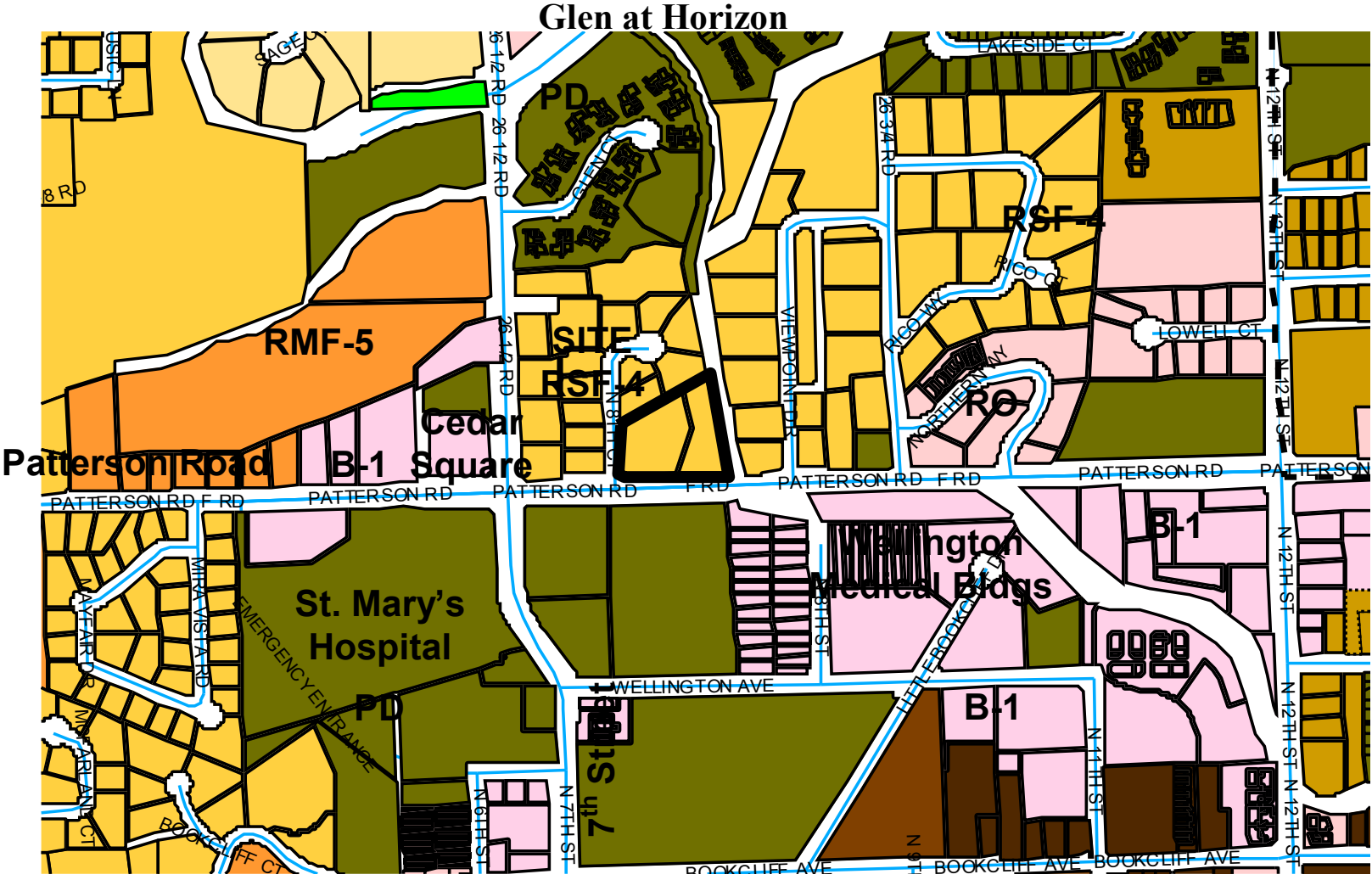
Figure 3

Glen at Horizon



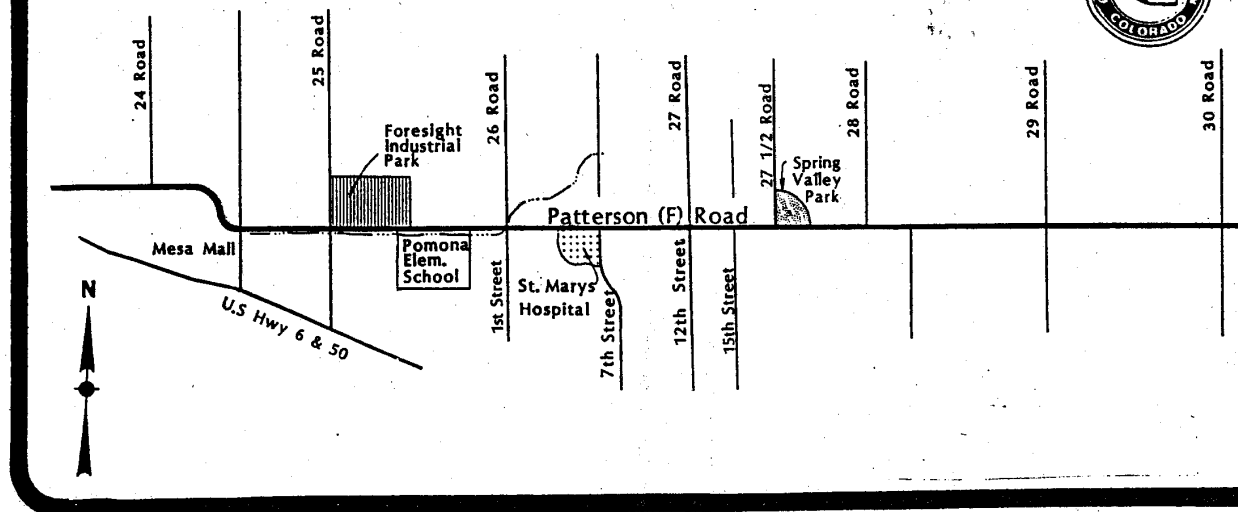
Existing City and County Zoning

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."

Patterson (F) Road Corridor Guideline



BOOK 1718 PAGE 319

Patterson (F) Road Status

According to the Functional Urban Classification System, Patterson (F) Road is classified as a major arterial from Highway 6 & 50 to I-70 Business Loop.

This means:

- It requires 100 feet of right of way (maximum).
- It will have continuity of several miles.
- It will be posted with speed limits greater than or equal to 35 mph.
- It will have limited access.
- It serves as a major east-west traffic carrier.
- It will not have on-street parking.

For this corridor guideline, Patterson (F) Road is split into three sections:

- 1) Highway 6 & 50 east to 1st Street.
- 2) 1st Street east to 15th Street.
- 3) 15th Street east to 30 Road.

General Guidelines

Anywhere along Patterson (F) Road, regardless of the type or scale of development, any development should accommodate the following:

- 1) Development should be done in a planned development (PD) context to help ensure good site planning.
- 2) Developers must provide the necessary right-of-way and improvements guarantees to assist the City in their capital improvements.
- 3) Existing single family housing and neighborhoods should be respected and protected whenever possible.

Patterson (F) Road Corridor Guideline

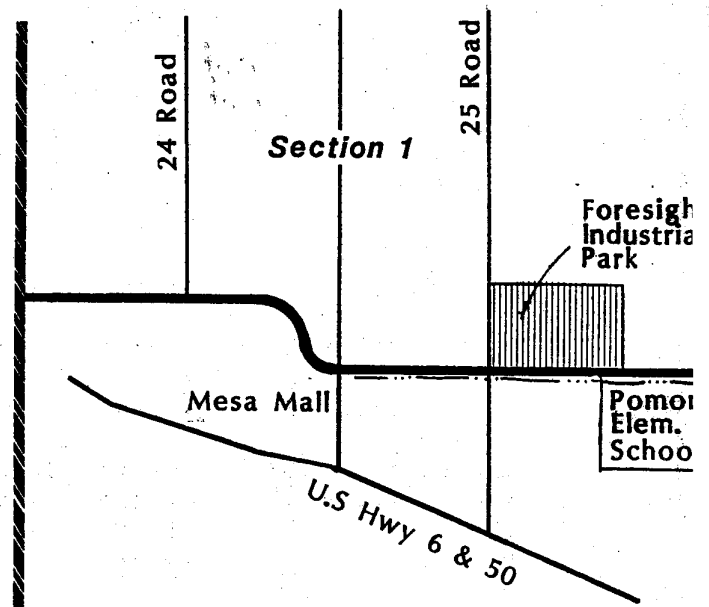
Intent: The intent of this corridor guideline is to address the existing and future land uses along Patterson (F) Road. As a primary transportation route transgressing the city, consideration for the existing residential, business and commercial uses in terms of future uses is necessary.

Goal: The goal is to carry traffic in the most efficient manner possible, minimizing access, traffic hazards and encroachment into established residential neighborhoods.

Policy: The policy is to establish guidelines for land use of new development or redevelopment, to help ensure consistent decisions and direction along Patterson (F) Road.

General Guidelines (continued)

- 4) New commercial and business development and redevelopment should not adversely affect the existing neighborhoods with traffic, parking, lighting or noise. Good site planning can help mitigate these concerns.
- 5) In cases where parcels have frontages on roads in addition to F Road, those frontages will be considered preferred access points, unless it is shown that such access points would have an undesirable impact on the neighborhood or area.
- 6) Curb cuts and access points on Patterson (F) Road should be limited and consolidated to encourage the concept of shared access for proposed and future development. Wherever possible, accesses should align with any existing accesses on the opposite side of the roadway to minimize traffic hazards and help the flow of traffic entering the roadway.
- 7) When development which may create a traffic hazard is proposed near an intersection, turning movements will be controlled to allow for the best traffic flow.
- 8) Access points must be designed to maintain a clear site distance for vehicular, bike and pedestrian traffic safety.
- 9) Adequate walkways should be provided to encourage and accommodate pedestrian use along F Road.
- 10) Development should provide adequate setbacks for structures from the public right of way, to be used in part for landscaping. The intent is to provide attractive surroundings for the tenants, residents, motorists and pedestrians throughout the corridor. Within the setbacks landscaping amenities such as berming, buffering and streetscapes should be included.
- 11) Drainage considerations to adequately accommodate run-off should be addressed with all new developments or redevelopments.
- 12) Neighborhood discussion is encouraged with the petitioner throughout the development process.
- 13) The undergrounding of utilities should occur wherever feasible along this corridor.



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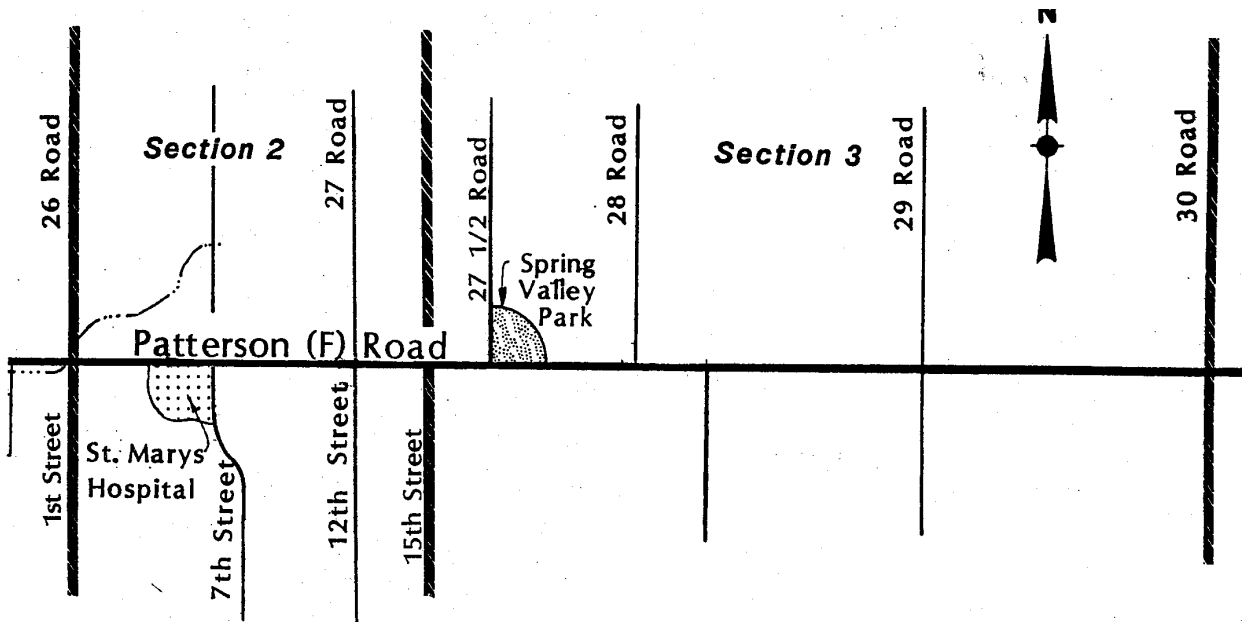
- 14) Other corridor guidelines may also be applicable and should be considered in the review of new development.

Highway 6 & 50 to First Street

The intent of this section of the corridor guideline is to provide a parkway atmosphere and also accommodate pedestrian access. Because of the existing mixed uses, landscaping, berming and buffering are encouraged along Patterson (F) Road to help minimize the adverse effects of the high traffic volume associated with this corridor.

In keeping with the existing uses and zoning:

- New commercial development is appropriate on the south side of Patterson (F) Road from Highway 6 & 50 to 25 1/4 Road.
- Commercial and mixed-use development is appropriate on the north side of Patterson (F) Road from 24 1/2 to 25 1/2 Road.
- Residential development is appropriate on the north and south sides of Patterson (F) Road from 25 1/2 Road to 1st Street.



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First Street to Fifteenth Street

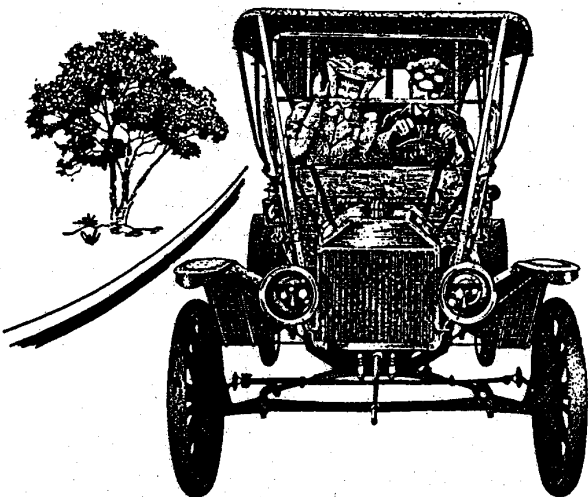
- 1) Access points should be designed to serve more than one lot - if possible. Shared ingress/egress can be accommodated for adjacent parcels by accessing at joint property lines.
- 2) Meandering pedestrian walks can be considered as an alternative to standard City sidewalk requirements. This can be designed in conjunction with the landscape plan.

The intent of this section of the corridor guideline is to protect existing residential development, and to consider low-volume business and medical oriented development. Aggregating parcels for larger scale development is encouraged.

In keeping with the natural constraints and existing uses:

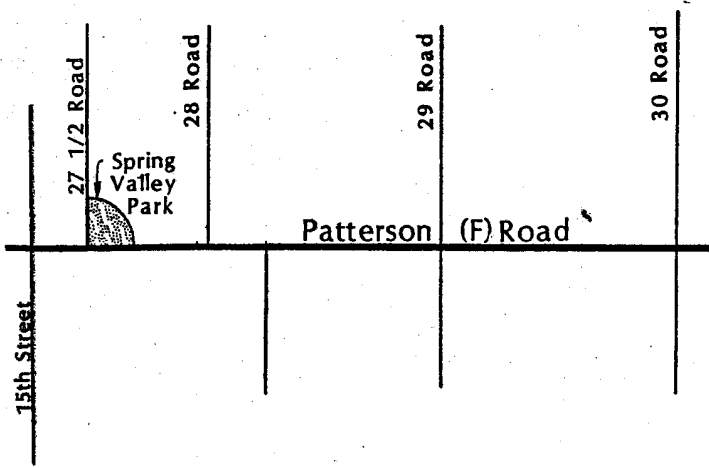
- Low volume business and medical offices are appropriate on the north side of Patterson (F) Road between 26 1/4 Road and 7th Street, and also on the south side of Patterson (F) Road from 7th Street to 12th Street, including the southeast corner of 12th and Patterson.

- 1) Aggregating parcels is encouraged where smaller lot configurations exist. This will help provide more flexibility of site design with new developments.
- 2) Based on neighborhood input, encroachment into the established residential areas is discouraged. Therefore, when a request to change the use or zone may impact the adjacent properties, a neighborhood meeting is recommended to help address those individual concerns.



Patterson (F) Road Corridor Guideline





15th Street to 30 Road

The intent of this section of the corridor guideline is to encourage residential development only. Encroachment of new business is discouraged.

In keeping with existing residential zoning and uses:

- New residential development with 10 units per acre is the most compatible and appropriate density.

- 1) This density will help minimize the need for further commercial development. The existing commercial uses are adequate to serve 10 units per acre without the need for additional commercial development in this section of the corridor.
- 2) Existing developments should be protected. New residential development is encouraged to be planned with a designed density compatible with adjacent uses.
- 3) All new developments should be compatible with the County Patterson (F) Road Corridor Policy east of 30 Road.



NOTE:

It is important to note that goals, objectives, policies and guidelines are informational in nature and represent only one of the many factors which must be considered in the decision making process. The Planning Commission and City Council shall determine the applicability of any goal, objective, policy or guideline to any specific development situation.

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3.4 NON-RESIDENTIAL ZONING DISTRICTS

A. RO: Residential Office

1. **Purpose.** To provide low intensity, non-retail, neighborhood service and office uses that are compatible with adjacent residential neighborhoods. Development regulations and performance standards are intended to make buildings compatible and complementary in scale and appearance to a residential environment. RO implements the medium, medium-high and high residential density and *Commercial* future land use classifications of the GROWTH PLAN in transitional corridors between single-family residential and more intensive uses.

RO Summary	
Primary Uses	Professional Offices, Attached and Detached Single Family, Duplex, Townhouse, Multifamily, Civic
Max. Intensity	0.4 FAR, 16 units/acre
Max. Bldg. Size	10,000 sq. ft.
Min. Density	4 units/acre

2. **Authorized Uses.** Table 3.5 lists the authorized uses in the RO District.
3. **Intensity/Density.** Subject to the density bonus provisions of this Code, and other development standards in this Code, the following density provisions shall apply:
 - a. Maximum gross density shall not exceed 16 dwellings per acre;
 - b. Minimum lot size shall be 5,000 square feet for all non-residential uses and for an initial dwelling unit plus 1,500 square feet for each additional dwelling on the same lot;
 - c. Non-residential intensity shall not exceed a floor area ratio (FAR) of 0.4;
 - d. Maximum building size shall not exceed 10,000 square feet, unless a conditional use permit is issued.
 - e. Minimum net density shall not be less than four dwellings per acre if the property is developed exclusively for residential use. Minimum density does not apply to mixed use properties.
4. **Performance Standards.** New construction, including additions and rehabilitation's, in the RO district shall be designed to look residential and shall be consistent with existing buildings along a street. "Consistent" means the operational, site design and layout, and architectural considerations described in the next subsections.

5. **Site Design, Layout and Operational Considerations.**
 - a. **Parking.** Business uses in the RO District shall be designed and operated not to increase on-street parking in front of dwellings in the neighborhood. On-site parking shall be provided pursuant to the parking rules. On-site parking spaces shall only be located in the side and rear yards; and screened from adjacent dwellings by a solid wall, fence or vegetation having a height of not less than four (4) feet nor more than six (6) feet (vegetation may exceed six (6) feet in height).
 - b. **Service Entrances.** Service entrances, loading areas and dumpster areas shall be located only in the rear or side yard. Each loading area shall be screened from each adjacent residential use or zone.
 - c. **Use of Front Yard.** Front yards shall be reserved for landscaping, sidewalks, driveway access to parking areas and signage.
 - d. **Hours of Business.** No uses in this district shall open earlier than 7:30 a.m. and shall close no later than 8:00 p.m.
 - e. **Outdoor Storage and Display.** Outdoor storage and display areas associated with non-residential uses are prohibited.
 - f. **Mixed Use.** Any mix of residential and non-residential uses on the same lot shall be located in the same structure.
 - g. **Outdoor Lighting.** Outdoor lighting shall comply with the lighting provisions in this Code.
6. **Architectural Considerations.**
 - a. **Building Alignment along Streets.** Every new building and addition shall be located so that it aligns with existing neighborhood buildings. "Aligns" means elevation (*e.g.*, horizontal lines of peaks of roofs, cornices, window sills) and plan (*e.g.*, setbacks from the street and rear property lines and spacing between structures/setbacks from side property lines).
 - b. **Building Orientation/Style.** Main entrances shall open onto a street and shall align with those of adjacent residential buildings. For example, in many RO areas, raised foundations and steps that define the main entrance are prevailing residential characteristics. Door styles shall be similar to those found on residential dwellings.

**GRAND JUNCTION PLANNING COMMISSION
FEBRUARY 10, 2004 MINUTES
7:00 P.M. to 9:05 P.M.**

The regularly scheduled Planning Commission hearing was called to order at 7:00 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), Roland Cole, John Evans, William Putnam, Bill Pitts, Travis Cox (alternate) and Thomas Lowry (alternate). Commissioner Lowry arrived following consideration of the minutes.

In attendance, representing the City's Community Development Department, were Bob Blanchard (Community Development Director), Pat Cecil (Development Services Supervisor), Ronnie Edwards (Associate Planner), and Scott Peterson (Associate Planner).

Also present were John Shaver (Acting City Attorney), and Eric Hahn, Rick Dorris, and Laura Lamberty (Development Engineers).

Terri Troutner was present to record the minutes.

There were approximately 46 interested citizens present during the course of the hearing.

I. APPROVAL OF MINUTES

Available for consideration were the minutes from the December 16, 2003 and January 13, 2004 public hearings.

MOTION: (Commissioner Cole) "Mr. Chairman, I move for approval of the December 16th minutes as presented."

Commissioner Evans seconded the motion. A vote was called and the motion passed by a vote of 5-0, with Commissioner Cox abstaining.

MOTION: (Commissioner Cole) "Mr. Chairman, I move we approve the January 13th minutes as presented."

Commissioner Evans seconded the motion. A vote was called and the motion passed by a vote of 5-0, with Commissioner Cox abstaining.

II. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS

There were no announcements, presentations and/or visitors.

III. CONSENT AGENDA

Items RZ-2003-278 (Rezone--Proietti Rezone), VR-2003-182 (Vacation of Right-of-Way/Horizon Drive ROW Vacation), CUP-2003-053 (Conditional Use Permit--Castle Creek B&B), and PP-2003-163 (Preliminary Plan--Garden Grove Townhomes, Phase III) were placed on the consent agenda. No objections were expressed by the citizenry, planning commissioners or staff.

MOTION: (Commissioner Pitts) "Mr. Chairman, I move for the approval of the Consent Agenda as presented."

Commissioner Putnam seconded the motion. A vote was called and the motion passed unanimously by a vote of 6-0.

IV. FULL HEARING

RZ-2003-233 REZONE--GESKE REZONE

A request for approval to rezone two adjoining properties consisting of 2.068 acres from an RSF-4 (Residential Single-Family, 4 units/acre) zone district to an RO (Residential Office) zone district.

Petitioner: Grant, Eva & Judith Geske

Location: 2656 F Road

PETITIONER'S PRESENTATION

Mike Joyce, representing the petitioner, offered a Powerpoint presentation containing the following slides: 1) project description; 2) outline/description of the RO zone district; 3) Growth Plan map; 4) surrounding zoning map; 5) surrounding land uses outline; 6) photos of the property and surrounding area; 7) outline of Code rezone criteria 2.6.A; 8) drawing of the St. Mary's Hospital property in relation to the petitioner's property; and 9) conclusions and recommendations.

Mr. Joyce noted the presence of a single-family home on one of the lots; the other lot is presently vacant. Mr. Joyce said that the RO zone provided for low intensity, non-retail, neighborhood services and offices uses. He felt that an eye care center represented an appropriate transition between adjacent residential and nearby medical uses. St. Mary's Hospital and the Wellington Street medical buildings are located directly across Patterson Road and at the 7th Street/Patterson Road intersection. The rezone request, he said, is supported by both the Code's rezone criteria and Growth Plan recommendations. The Growth Plan's designation of 4-8 units/acre would allow construction of up to another 7 homes on the 2-acre site, resulting in an expected increase in traffic of 200 ADT (average daily trips). Mr. Joyce pointed out that even with an additional 200 ADT, the carrying capacity for North 8th Court would still not be exceeded. Any traffic impacts arising from development of the site would be mitigated during site plan review. He noted in one particular area photograph the departure of a St. Mary's air life helicopter. This, he said, demonstrated nearby activity and existing noise levels.

Mr. Joyce said that the screening requirements of the RO zone would adequately buffer residential uses from the eye center's parking lot and the business itself; onsite lighting would be downcast; hours of operation would not extend past 8 p.m. (with 8 a.m. to 5 p.m. the norm); and the building's size would be limited to not more than 10,000 square feet. Infrastructure and utilities were present. Staff, he said, had recommended approval of the request. He, on behalf of the petitioner, expressed agreement with staff's recommendations and conditions.

QUESTIONS

Commissioner Cole asked for the distance between the North 8th Court entrance and the 7th Street/Patterson Road intersection. Mr. Joyce thought the distance to be approximately 250-300 feet.

STAFF'S PRESENTATION

Ronnie Edwards 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) findings and conclusions; and 6) photos of the site and nearby vicinity. She confirmed that the request met both Code requirements and Growth Plan recommendations, and staff recommended approval.

QUESTIONS

Commissioner Cole asked staff how far the North 8th Court entrance was from the 7th Street/Patterson Road intersection. When Ms. Edwards replied that it was approximately 360 feet, Commissioner Cole then asked how far apart intersections must be according to the TEDS manual. Ms. Edwards said that the TEDS manual required a separation of at least 300 feet on principal arterials.

Commissioner Putnam asked what uses the eye center was transitioning. Ms. Edwards clarified that the RO zone district represented a "transitional opportunity" to provide buffering between adjacent residential uses and the more intense business uses represented by St. Mary's and the medical buildings located south of Patterson Road.

Chairman Dibble asked what the expected community benefit of the RO zone would be. Ms. Edwards reiterated that its benefit would be in providing a possible transition between residential and business uses. She added that site and access constraints would limit the type and scale of uses that could be placed on the site.

Chairman Dibble asked about the problems that could potentially arise if an RO zone were approved for the site. Ms. Edwards responded that impacts were dependent upon the use. She said that it was difficult to ascertain impacts without an actual plan.

Chairman Dibble referenced Mr. Joyce's comment regarding the possibility of another 7 homes on the property. He asked "How many curb cuts were present there now?" Eric Hahn, City Development Engineer, said that locations of existing accesses were somewhat irrelevant at this point. When asked if access to the site would be derived from Patterson Road or via North 8th Court, Mr. Hahn reiterated that without knowing the intended use, the primary access point could not be determined. Mr. Hahn added that the petitioner could find that mitigating traffic and other impacts would be quite difficult. He reiterated that site constraints may limit the actual number of appropriate uses to only one or two.

Commissioner Pitts observed that Patterson Road itself already served as a buffer between neighborhood residential and business uses. Ms. Edwards concurred with his observation.

Chairman Dibble noted in his review packet copies of two previous rezone requests for a larger property located directly adjacent to the petitioner's. He asked "Why would staff support approval for the current rezone request when they had recommended denial of the former rezone requests?" Mr. Hahn said that the former commercial rezone request would allow uses which could not meet the City's access standards. Chairman Dibble asked if the additional property could ever be rezoned for anything other than residential given access constraints. Mr. Hahn replied that the likelihood of it ever being developed as anything other than residential was remote, unless it was part of a group of properties that were combined and redeveloped.

Ms. Edwards said that she'd spoken at length with some of the residents objecting to the current rezone request. She'd explained to them that site constraints could prevent the location of an eye center on the petitioner's property.

When Commissioner Cox asked where parking for the eye center would be located, Ms. Edwards referenced an aerial photo of the site and pointed to the northernmost portion of the property.

Commissioner Cole asked what would happen to the existing home if a commercial use were constructed. Ms. Edwards said that her understanding from the petitioner was that the existing home would remain and be used as a rental. The eye center would be constructed on the lot presently vacant. When asked why staff hadn't recommended a PD zone for the site, Ms. Edwards said that a PD designation required a minimum lot size of 5 acres.

Commissioner Cox remarked that the current rezone request and expected use failed to show due consideration to the existing adjacent neighborhood. Ms. Edwards said that it was up to the Planning Commission to determine the appropriateness of the request.

PUBLIC COMMENTS

FOR:

George Dunham (608 and 610 26 1/2 Road, Grand Junction) said that redevelopment of the site would greatly improve its current appearance. The property's frontage is currently very unsightly. Commercial development of the property would likely enhance the area's property values.

Robert Rigg (843 19 Road, Fruita) said that the sisters of St. Mary's Hospital had originally purchased the subject property as a place for them to live, plans which had not come to fruition. He felt a medical use would be appropriate for the site given the presence of so many other medical uses in the area.

AGAINST:

Mary McPherson (2712 North 8th Court, Grand Junction) said that during the neighborhood meeting held by the petitioner, all of the North 8th Court residents had come out in opposition to the request. Her concerns included adverse impacts to the quality of life currently enjoyed by she and her neighbors and negative impacts to their property values. Hers is a special neighborhood, one where neighbors were also family and friends, where people took pride in the appearance of their properties and there is no crime. The only exception to that was the petitioner's property, where landscaping had been left to deteriorate because the Geskes hadn't wanted to invest any time or money in its upkeep. She said that a 6-foot shrub would inadequately buffer her property from the petitioner's parking lot. Referencing Mr. Joyce's photo of the St. Mary's air life helicopter, she said that comparing that noise with the ongoing noise of a commercial business was erroneous. She had no objection to noise made by the helicopter and she surmised that many, if not all, of her neighbors felt similarly.

Ms. McPherson said that she would soon be moving from the area but had been told by several realtors that even the possibility of the rezoning's approval had negatively affected the marketability of her home. They'd told her that her home's value would be approximately \$50K less than other comparable homes in the area. The most appropriate buffering of residential uses, she said, was another residential use. She urged planning commissioners not to reward the petitioner for allowing his property to deteriorate when he was attempting to use that deterioration as justification for his rezoning.

Robert Lubinski (2709 North 8th Court, Grand Junction) began by saying that he and his wife lived directly adjacent to the subject property. He said that the petitioner had in the year 2000 requested a property line adjustment on the two parcels in preparation for a rezoning and ultimate construction of an eye center. At that time, he, his wife and Steve Lambert (a resident of the Viewpoint Subdivision) met with City planner Bill Nebeker, who had told them unequivocally that no access would be allowed to the site from Patterson Road for any purpose other than residential. Mr. Nebeker had also said that the only access to the site from North 8th Court would be on the north end of the west parcel, and that that would be difficult and highly unlikely. The overriding concern of the planning agencies at that time had been that Patterson Road was not to become another North Avenue. Mr. Nebeker told them that the opinions of the residents of the local neighborhood were of the "utmost concern" and would be given great consideration in any rezoning request.

At the neighborhood meeting prior to the current rezoning request, staff became very aware of the neighborhood's strong opposition to the petitioner's rezoning and proposed use. Staff's assessment and recommendation on the current request, however, failed to give due consideration to the neighborhood's opinions. The only persons being adequately represented by the City's Community Development Department, he said, were the Geskes.

Referencing staff's analysis of the request as it pertained to rezoning criteria found in Code section 2.6.A., Mr. Lubinski said that the Code required compliance with all seven criteria before any approval could be given. He felt that the request failed to meet criteria subsections 2, 3, 4, 5, 6 and 7. With regard to subsection 2, change in character to the neighborhood, he pointed out that the St. Mary's development occurred concurrent with many if not most of the homes built north of Patterson Road. Thus, since the middle 70's, the north and south sides of Patterson Road have continued developing in very distinctly different ways. The north side of Patterson Road had remained residential in character while the south side of Patterson Road had accommodated an expanding medical community. Mr. Lubinski contended that the north and south sides of Patterson Road should not be compared similarly when determining changes in character to the neighborhood. Staff's conclusion that there has been an overall change in the area's character was untrue.

Referencing subsection 3, the rezoning's compatibility with the surrounding neighborhood and associated adverse impacts, Mr. Lubinski said that the rezoning would create significant impacts to the existing neighborhood and decrease the safety and capacity of the existing street network. Approval of the rezoning and subsequent commercial development would result in significant noise and air/light pollution problems, parking problems, access problems and other nuisances such as trash dumpsters and after-hours maintenance vehicles and noise. That particular Code subsection, he said, had been written in the future tense to imply that no adverse impacts "will be" created as a result of the rezoning. Staff's own conclusions indicated that such impacts could occur as a result of rezoning approval. Staff's assertion that mitigation of such impacts may be possible should be viewed as irrelevant, since the Code criterion clearly required that no adverse impacts could be created in the first place.

Referencing subsection 4, conformance with policies and goals of the Growth Plan, Mr. Lubinski said that the Growth Plan's Land Use Map, adopted in June 2003, designated both the Walker Heights and Viewpoint subdivisions as residential. Further, he felt that staff's assertion that the RO zone was appropriate for the site and that it would serve as a transition was erroneous. Given that the rezone would adversely affect the majority of residents living along North 8th Court and no one else, what was this rezone intended to transition them from?

Referencing subsection 5, available and adequate public facilities and services, Mr. Lubinski said that the adverse impacts referenced in subsection 3 also applied to this section. Significant impacts to the street network and infrastructure were expected. Thus, this criterion too had not been met.

In subsection 6, adequate supply of land availability to accommodate the zoning, the staff report asserted that RO zones existed from approximately 8th Street to 15th Street, north of Patterson Road. This was untrue, because the RO zone on Patterson Road didn't begin until approximately 11th Street and laid well to the east of both the Walker Heights and Viewpoint subdivisions. Mention was made of RO zones existing along North 7th Street and in downtown areas; however, none of those areas had any bearing on the North 8th Court community whatsoever. Mr. Lubinski felt that this was representative of staff researching a wide area in an attempt to justify an unjustifiable position.

With regard to subsection 7, community benefit, Mr. Lubinski read that criterion into the record. He noted that the proposed rezone criteria says "will" benefit the community or neighborhood, not "may." He maintained that the current rezone request would not benefit the community or neighborhood in any way. The only persons who would benefit from the rezone would be the Geskes and that their benefit would be strictly financial.

Mr. Lubinski said that the current rezone request was far from benign. Its approval would have long-term and far-reaching ramifications for the existing residents of North 8th Court. As an aside, he thought it a shame to lose one of Grand Junction's premier historical homes, the Walter Walker home currently located on the site. He strongly urged planning commissioners to deny the request because it failed to meet both Code and Growth Plan criteria.

Steve Lambert (609 Viewpoint Drive, Grand Junction) agreed that the historic value of the Walter Walker home and site should be considered and preserved. Referencing the City's published Strategic Plan drafted by City Council regarding the preservation of the City's historic places, the City's stated goal was to "facilitate efforts that sustained the historic character of the community." The document, he said, further stated that "both the City Council and administrative staff would value the City's small-town character, promote vital neighborhoods in a well-planned high-quality environment, and enhance the attractiveness and character of the community." The current rezone and subsequent commercial development would not only be inconsistent with this goal but would also be contradictory to City's Council's position. He urged planning commissioners not to recommend to City Council that it take a position which would be seen by the public as a violation and mockery of its own stated goals. The City's February 2004 newsletter said that the City recently received a grant from the Colorado Historical Society, to be used for continued inventorying of the community's historic resources. City Council had subsequently approved a \$100K contract in pursuit of that goal, \$40K of which were from the City's revenues.

Mr. Lambert agreed that he and his neighbors' quality of life would not be preserved nor enhanced by the rezone's approval and would likely represent the first step of continued commercial encroachment into an established residential neighborhood.

Norman Craig (no address given) urged planning commissioners to consider the human element and the impacts approval of the rezone request would have on existing residents. Unfurling a banner with the acronym R.A.G.E. (Residents Against the Geskes' Encroachment), he said that he and other residents would be installing similar banners on their properties as a means of protesting the rezone request. He also intended to coordinate a video and leaflet campaign apprising the community of the current issue. He urged denial of the request, saying that resultant impacts would greatly and adversely affect the existing neighborhood.

Ray Meacham (611 Viewpoint Drive, Grand Junction) said that as a long-time resident in his neighborhood, he and others had learned to successfully access Patterson Road from North 8th Court. Left turns were especially tricky, he said, and not something that patrons of the eye center were likely to figure out easily. Existing problems would surely be exacerbated as a result of added traffic originating from commercial development. The concerns of residents, he said, should be both heard and respected. The only benefit to the rezone would be financial gain to the petitioner. It wasn't worth the diminished quality of life that would affect an entire neighborhood.

Georgia Meacham (615 Viewpoint Drive, Grand Junction) said that existing residents had been there a long time. Relationships had been formed. If the rezone were approved, it was likely that the north side of Patterson Road would begin developing as had the south side.

Karen and Richard Troester (2714 North 8th Court, Grand Junction) said that both made their livings in commercial lending. Referencing a photo of the Walter Walker home, Ms. Troester said that it wasn't the home that was deteriorating; rather, the site's landscaping was being neglected. She'd understood that the petitioner had not wanted to invest any time or money in upkeep of the irrigation system or the site's vegetation.

She said that Mr. Joyce's presentation indicated that the petitioner had served over 7,000 clientele in 2003. Since the rezone was being requested to accommodate a business expansion, she couldn't fathom the magnitude of traffic impacts resulting from that many and more people accessing the business via North 8th Court. Already there was limited sight distance at the end of the street near the cul-de-sac. Ms. Troester presented photos of her and neighboring properties. She said that she and other residents are raising children. The safety of those children would be at risk with so many additional vehicles using their residential street for commercial access. Homes in the neighborhood were custom-built and well-kept. Residents were justified in their concerns over impacts to property values.

Ms. Troester said that one of those speaking for the request was a realtor who'd sold the property to the petitioner. It was likely that he had some personal and/or financial interest in the success of the rezone request.

Mark Madison (1010 Rico and 2525 North 8th Court, Grand Junction) said that as an owner of two properties in the area, he walked there every day. He agreed with all previous comments in opposition and felt that there was no need to place a commercial development in a historically residential community.

Amelia Danbury (620 Viewpoint Drive, Grand Junction) also concurred with previous comments in opposition and expressed concern for the safety of her children. The development, she said, would not only exacerbate existing traffic and access problems, it would result in a variety of new impacts. Commercial development in their neighborhood wasn't wanted nor was it needed.

PETITIONER'S REBUTTAL

Mr. Joyce reiterated his assertion, supported by staff, that the request did in fact meet both Code criteria and Growth Plan recommendations. Those documents considered overall benefits to an entire community, not just the preferences of a single neighborhood. He pointed out that the petitioner had already invested between \$40K and \$50K in renovating the home. No money had been spent on site landscaping because the irrigation system was damaged. Construction of an additional 7 homes would result in additional children. The presence of the canal already represented an unsafe situation.

Mr. Joyce stood by his presentation's facts and figures and said that the site's constraints would limit the use. It was unfair to deny a justifiable rezone based on a use that had yet to be established.

DISCUSSION

Commissioner Cole said that anyone owning property had a right to come before staff or the Planning Commission to request a change, just as anyone wanting to support or oppose that requested change had a similar right to do so. He noted the close proximity of the North 8th Court entrance to the 7th Street/Patterson Road intersection and felt that added commercial traffic from the petitioner's property would only exacerbate existing traffic and access problems. Left turns from North 8th Court onto Patterson Road would be virtually impossible and could ultimately result in a restriction of left turns from that street altogether. Such a restriction would only force both residential and commercial traffic to travel

through an established neighborhood. He agreed with neighbor comments that the request would create a number of adverse impacts if approved and that Code criteria 2.6.A. subsections 2, 3, 4, and 7 had not been met.

Commissioner Putnam cited Code section 3.1.E., which stated that the purpose of establishing zones was to "protect and maintain the integrity and character of established neighborhoods." The City's charge was very clear, one which was also supported by the Colorado State Supreme Court. Since the request failed to meet Code and Growth Plan requirements, he could not support it.

Bob Blanchard asked planning commissioners to be clear on their findings, since they disagreed with those of staff. John Shaver agreed that specific findings were important, but they need not be reiterated in a motion.

Commissioner Putnam agreed with the content of Mr. Lubinski's presentation which asserted that 6 of the 7 established criteria had not been met.

Commissioner Pitts said that Patterson Road itself served as an adequate buffer between the residential uses to the north and the medical uses to the south. The presence of an irrigation canal served as an additional buffer to the residents of Viewpoint Drive. He agreed with neighbor input that undue adverse impacts would be created if the rezone were approved, and agreed too that the integrity and character of existing neighborhoods should be preserved. He felt that denial of the request was warranted.

Commissioner Cox said that resident presentations were very comprehensive. He agreed that rezone criterion 2.6.A.2 had not been met since North 8th Court and Viewpoint Drive neighborhoods were not part of the St. Mary's development. No change to the neighborhood had occurred as a result of the St. Mary's expansion. Referencing the Patterson Road Corridor Guidelines, he read an excerpt which stated that "low volume business and medical offices are appropriate on the north side of Patterson between 26 1/4 Road and 7th Street and also on the south side of Patterson from 7th Street to 12th Street, including the southeast corner of 12th and Patterson." That reference did not specify those uses as appropriate for the area north of Patterson between 7th and 12th Streets; thus, the request failed to comply with criterion 2.6.A.4. Criterion 2.6.A.7 clearly had not been met since the rezone would have no benefit to the existing neighborhood and may or may not benefit the community as a whole. Commissioner Cox felt that he could not support the rezone request.

Commissioner Evans concurred with previous planning commissioner and neighbor comments opposing the request. He said that the rezone failed to meet Code and Growth Plan requirements and would in no way benefit the existing neighborhood. It was just the wrong place for a commercial use.

Chairman Dibble said that in his mind there must be a compelling reason to change a property's existing zoning. Approval of the current rezone request would likely and adversely impact safety, traffic, lighting, etc. There was also no compelling evidence to support the rezone's community benefit. He did not believe that the area was in transition, so staff's assertion that the commercial use may provide a transitional opportunity was, in his opinion, not substantiated. The north side of Patterson Road in that area had historically and consistently been developed as residential. He agreed with the public's assertion that anything which appeared to be problematic now would probably continue to be so in the future. He agreed that 2.6.A. subsections 2, 4, and 7 definitely had not been satisfied.

MOTION: (Commissioner Cox) "Mr. Chairman, on the Geske Rezone, #RZ-2003-233, I move that the Planning Commission forward a recommendation of approval to City Council on the request to rezone from RSF-4 (Residential Single-Family with a density not to exceed 4 units per acre) zone district to RO (Residential Office) zone district, with the findings and conclusions listed in the staff report."

Commissioner Pitts seconded the motion.

A vote was called and the motion failed by a unanimous vote of 0-6.

With no further business to discuss, the public hearing was adjourned at 9:05 P.M.

Terrill Ann Rutter
2705 N. 8th Court
Grand Junction, CO 81506
970-241-2694

Ronnie Edwards Planner
Community Development
250 N. 5th St
Grand Junction, CO 81501

December 17, 2003

Dear Ms Edwards:

I wish to withdraw my property at 2705 North 8th Court from consideration for a reclassification/rezone. At this time I do not feel that it is in the best interest of the neighborhood.

Thank you,



Terrill Ann Rutter
2705 N. 8th Court

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DEC 1 5 2003
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To: Ronnie Edwards
Community Development Office

From: Stephen P. Lambert
609 Viewpoint Drive
Grand Junction, Colorado 81506

Re: Geske Rezone request

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JAN 14 2004
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Dear Ms. Edwards,

As a resident of the Viewpoint Drive area, I would like to represent my concerns as well as those of my wife in relation to the proposed "Geske rezone" of several properties bordering Patterson Road east of 7th Street.

Primarily, our objections to this proposal are: (a) the encroachment of commercial enterprises into an established and substantial residential area would be detrimental to the character of a neighborhood of homes that residents have spent years and great amounts of money in maintaining; property values can do nothing but fall as a result of a rezone and subsequent business use. and (b) the enormous impact on traffic flow would exacerbate an already critical problem along Patterson; ingress and egress from N. 8th Ct, Viewpoint Drive and 26 3/4 Road would be even more difficult and dangerous.

Zoning exists for the purposes of separating incompatible uses from one another and to promote the welfare of the community. I believe a denial of this request would further both of those purposes.

Sincerely,

STEVE LAMBERT

*Planning Commission Presentation
on 2/10/04*

My name is Steve Lambert. I live at 609 Viewpoint Drive, Grand Jct. in a home adjacent to the property in question tonight.

I would like to comment on the rezone as it relates to the historical aspects of the former Walter Walker property. There can be no question as to the historic value of a property that was the home of a man whose name is attached to so many things in the valley (airport, wildlife preserve, subdivision, Mesa State building). There can also be no question regarding its prominent location and wide recognition. This is one of Grand Junction's most important historic sites.

Now, I would like to remind this commission of the published position of the city council with regard to local historic entities.

The city's "Strategic Plan" (2002-2012) states that a goal of the city shall be to "FACILITATE EFFORTS THAT SUSTAIN THE HISTORIC CHARACTER OF THE COMMUNITY". The plan further states that the Council and Administrative Staff will value our "small town character", promote "vital neighborhoods" in a "well planned, high quality environment" and "enhance the attractiveness and CHARACTER of the community".

I feel that a rezone and subsequent commercial development of the Geske property would be unsupportive of if not a contradiction of these stated positions.

In the "City Mission and Values" statement I find the promise (posed as "we WILL") to "PRESERVE AND PROMOTE QUALITY OF LIFE". The quality of my life and those of my neighbors will NOT be preserved OR promoted if this commercial intrusion is allowed to go through. It doesn't take much imagination to see this as a first step toward the further expansion of business in this well established neighborhood.

The Council also promises an "adherence to adopted plans". Looking at the Future Land Use map one sees no intentions for the property being discussed here other than residential (RSF-4). Aren't published land uses to be considered "adopted plans"? If so, where is the promised "adherence" if a rezone is allowed?

The City of Grand Junction newsletter for February claims that the city has received a grant from the Colorado Historical Society to continue to inventory the "historic resources in our community" Council has approved a \$100,000 contract for this in pursuit of its goal to "sustain the historic character of the community" --- expending \$40,000 in city revenues to do so. The newsletter goes on to state that the Council will be involved in "ongoing neighborhood enhancement and improvement efforts.

Please don't recommend to the Council that they take a position that would appear to the public to be a violation and a mockery of its own stated goals

Also, please don't allow us to get swept up in the headlong rush to put Grand Junction on the economic map at the expense of our quality of life. IT IS NOT NOR SHOULD IT BE, ALL ABOUT MONEY.

THANK YOU.

November 12, 2003

Grand Junction Community Development Department
250 N 5th Street
Grand Junction Colorado 81501

Re: Geske Rezone-2656 F Road, 2705 N 8th Court, 602 26 ½ Road

This letter is to oppose the above-mentioned rezone for the above properties. This rezone will primarily benefit the Geske property located at 2705 N 8th Court and 2656 F Road, which lie on the residential cul-de-sac where we presently own a home. Both of these properties hold access through the 8th Court cul-de-sac only. (8th Court is a cul-de-sac, with only Residential Custom Homes.)

We have a very nice residential subdivision on what is now a quiet cul-de-sac as it should be. The obvious upset of rezoning these properties so the Getke's and the Rutter property on the opposite corner of the cul-de-sac, can be developed as a clinic or clinics with uncontrolled access to Patterson is frightening to most of the property owners in this development as well as the adjoining development. The result of UNCONTROLLED ACCESS TO PATTERSON would create a potential life-threatening hazard to our children and families. Cul-de-sacs are not intended for excessive traffic and this is just one of the problems that will arise from a possible rezone of these property's.

The potential rezone would not only add increased traffic to 8th Court it would also add a increased hazard to what is already a difficult process; accessing Patterson from **both 8th Court and Viewpoint subdivisions**. This potential rezone would negatively affect our property values. In 8th Court many of the property owners have done costly maintenance and upgrades to our homes to keep and increase our values, and make the area an exclusive neighborhood to live in. The potential rezone would grossly devalue our properties regardless of alternative use other than residential to the proposed properties. Residential Office designation provides for professional offices, among other uses. One of the criteria for consideration of a rezone is a change in the character of a neighborhood do to deterioration. The only property allowed to deteriorate has been the Geske property, which at a recent meeting it was stated by the owner this has been intentional due to not knowing what they wanted to do. As we know they have recently purchased a nice home on the Redlands and now want to commercialize this home they have on 8th Court.

At a recent meeting the owner asked all those opposing the rezone "who would buy this property in its present condition?" indicating that it was not marketable as a residence with its present non-maintained yard. When we purchased our home 1-year ago on 8th Court just two houses down from this property, I stated, "If that home would be up for sale I would purchase it." I know the historical background of this beautiful home and would love to see the yard restored to its original state. I have no doubt this is a marketable residence. Of course the cost of not maintaining your home will prevent you from getting top dollar in selling but still it is a very marketable residential property. All three of these properties are nice homes.

I appeal to this Community Development Committee to oppose the rezone application requests of the above properties. Because of the traffic hazard that rezoning will create, due to the uncontrolled access to Patterson, the hazard within the cul-de-sac and the decrease in property value's that will affect both the 8th Court subdivision (The Walker Heights Subdivision) and Viewpoint. My husband and I both are in commercial and residential finance and I know it is unnecessary to rezone these three residential properties for RO uses. There is plenty of medical and office space available and open to purchase on the market without rezoning these three residential properties, as well as vacant property already zoned for businesses such as these.

Sincerely,

Richard and Karen Troester
2714 8th Court
Grand Junction Co. 81506

Cc:
City Council
Viewpoint Residents
8th Court Residents

Members of the planning Commission;

Subject; RZ-2003-233 GESKE REZONE

In regard to the proposal of a zoning of property along Patterson Road, we would like to make it known that we are dead set against this zoning change for the following reasons; The idea of the proposed rezoning this area for the purposes stated is primarily for the benefit of the Geske property at 2705 N 8th Court and 2656 F road, which is the residential cul-de-sac where we presently own our home. The access to Patterson from 8th. Ct. is at times very difficult and should this zoning change take place it would be a mad house situation and become an even more dangerous intersection. We would have triple the traffic on 8th, Ct. making a u-turn at the end of the cul-de-sac where you often find children playing.

This potential rezone would put all the home owners well on the way for a property de-valuation and the deterioration of a very nice, well kept residential area.

We hope that the Planning Commission will consider the concerns of all the residents that want to keep this area intact as a quiet residential neighborhood.

Thanks,

Walt And Viki Bledsoe
2719 8th Ct.
Grand Junction, Co.81506

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NOV 17 2003
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DEPT.

November 15th, 2003

Grand Junction Community Development Department
250 North 5th Street
Grand Junction, CO 81501

Re: RZ-2003-233-Geske Rezone

This letter is to oppose the rezone of 2656 F Road, 2705 N 8th Court and 602 26 1/2 Road.

We are one of the families with small children in the 8th Court cul-de-sac.

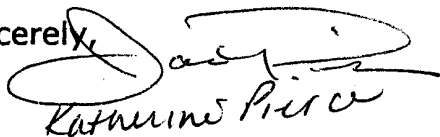
We have enjoyed a quiet neighborhood for 8 years. The neighborhood kids enjoy playing basketball in our driveway, catch on our front lawn, and riding their bikes up and down 8th Court. The thought of excessive traffic volume due to business traffic is saddening and frightening. As you can see, our greatest concern is the UNCONTROLLED ACCESS TO PATTERSON, which could be potentially life threatening.

With the traffic on Patterson already so busy, it is difficult for the property owners to access Patterson. Increasing the traffic on 8th Court would make this neighborhood an undesirable place to live and no longer safe for our children.

We, like many others, have invested much time and money into our homes. We have taken care of our property, and love this neighborhood.

Please hear our plea to keep this neighborhood residential.

Sincerely,

A handwritten signature in cursive script, appearing to read "Katherine Pierce". The signature is written in black ink and is positioned above the typed name.

James and Katherine Pierce
2720 N 8th Court
Grand Junction, CO 81506

Mark D. Madison

1010 Rico Court
Grand Junction, Colorado 81506

Phone 970-256-9500

December 07, 2003

Ronnie Edwards
Community Development Dept.
City of Grand Junction

Dear Ms. Edwards,

This letter is to express my opposition to the rezoning of the properties near my house and my business. Specifically I am opposed to RZ-2003-233-GESKE REZONE. The area has been an upscale residential neighborhood and in my opinion the rezone would degrade property values of the adjoining homes. It would also add to the traffic that is already a problem on Patterson Road. The minibank on 26&3/4 Road had a detrimental effect on the traffic flow and new businesses would only add to the problem. I hope that the Planning Commission will decline the proposed rezone and maintain the integrity of the neighborhood.

Sincerely,

Mark D. Madison DDS
Mark D. Madison DDS

January 11, 2004
2712 N. 8th Court
Grand Junction, CO 81506

Community Development Center

RE: Geske Rezone: RZ-2003-233

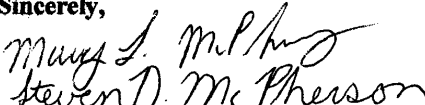
Dear Zoning Commission:

As the residents and property owners immediately adjacent to the Geske property, we are among those most highly impacted by this proposed rezoning. We are opposed to their request and would never have purchased our home had we known of their intentions with regard to their property and their obvious lack of stewardship over it. What was once an historic landmark known as the "Walker Mansion" has now become an eyesore to those that need and don't need eye surgery alike. This intentional destruction of a formerly showcase historic property is a disgrace and will impact the values of all adjacent properties regardless of future use, particularly ours. I have included a few images of what the Geskes have killed to gain your approval of their request since we bought our home in early 2001.

Given the denial of constructing a new grocery store at 12th and Patterson during 2003 due to traffic concerns, we would view approval of the Geske's rezoning request to be duplicitous at best on the part of the City. While the view of a parking lot next to our deck may actually be an improvement over what the Geskes have already rendered of their property, the idea of piling business related traffic on to North 8th Court's entrance to Patterson is exasperating. It is already incredibly difficult to enter (left -turn) and exit (right or left-turn) 8th Court. The cul-de-sac simply can't take it and this neighborhood will be ruined if you allow it. Your consideration of our property interests is requested.

Our taxes are current and our voter registrations are valid.

Sincerely,


Steven & Mary McPherson

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JAN 12 2004

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DEPT.

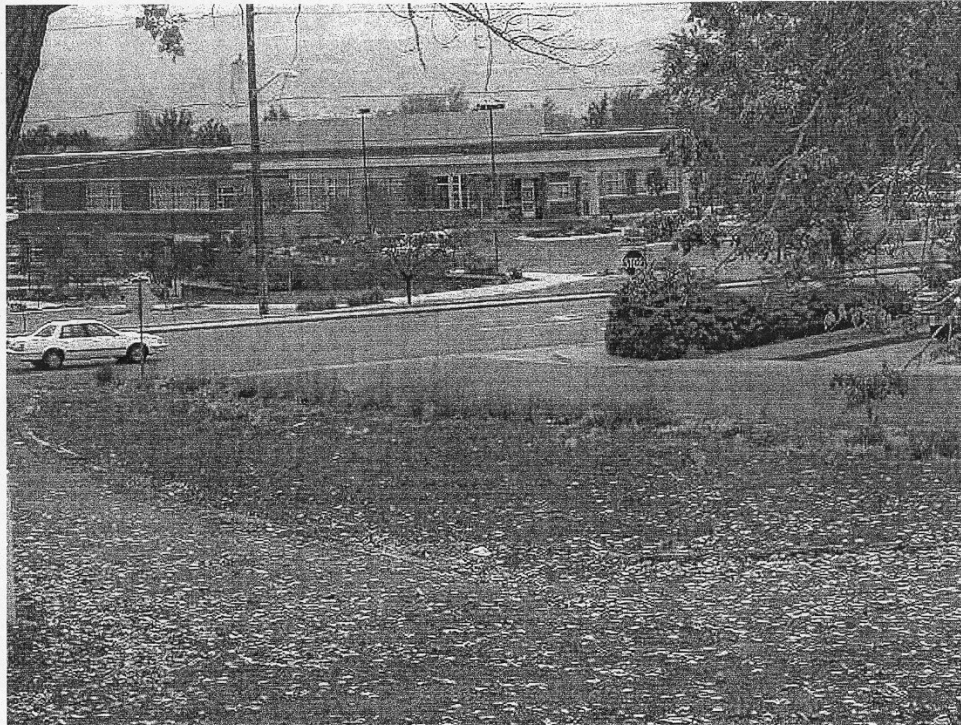


Figure 2. View from our kitchen.

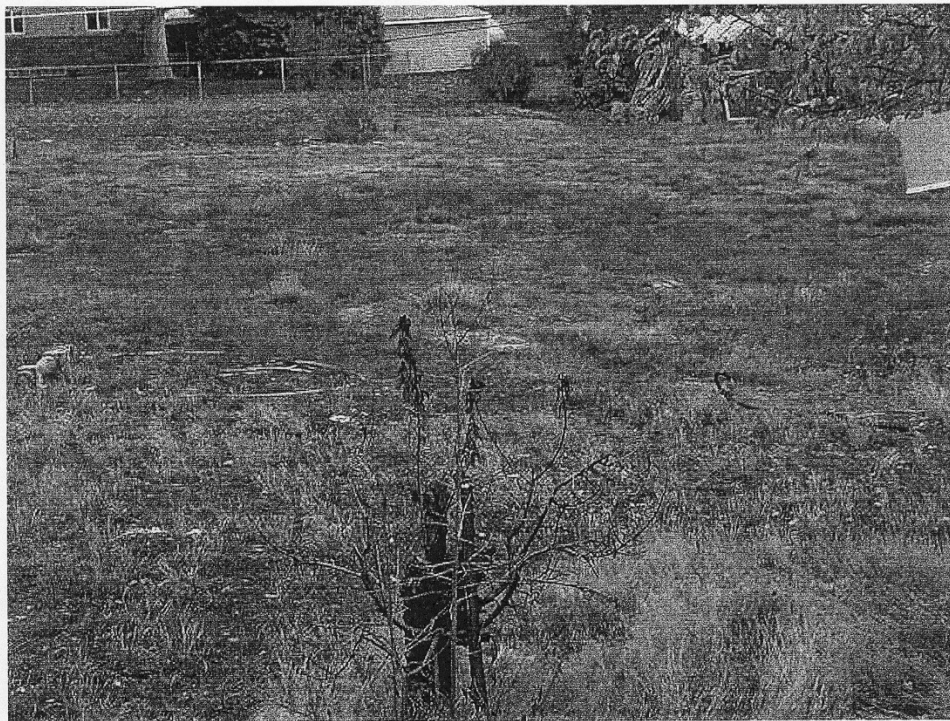


Figure 3. View from our deck.

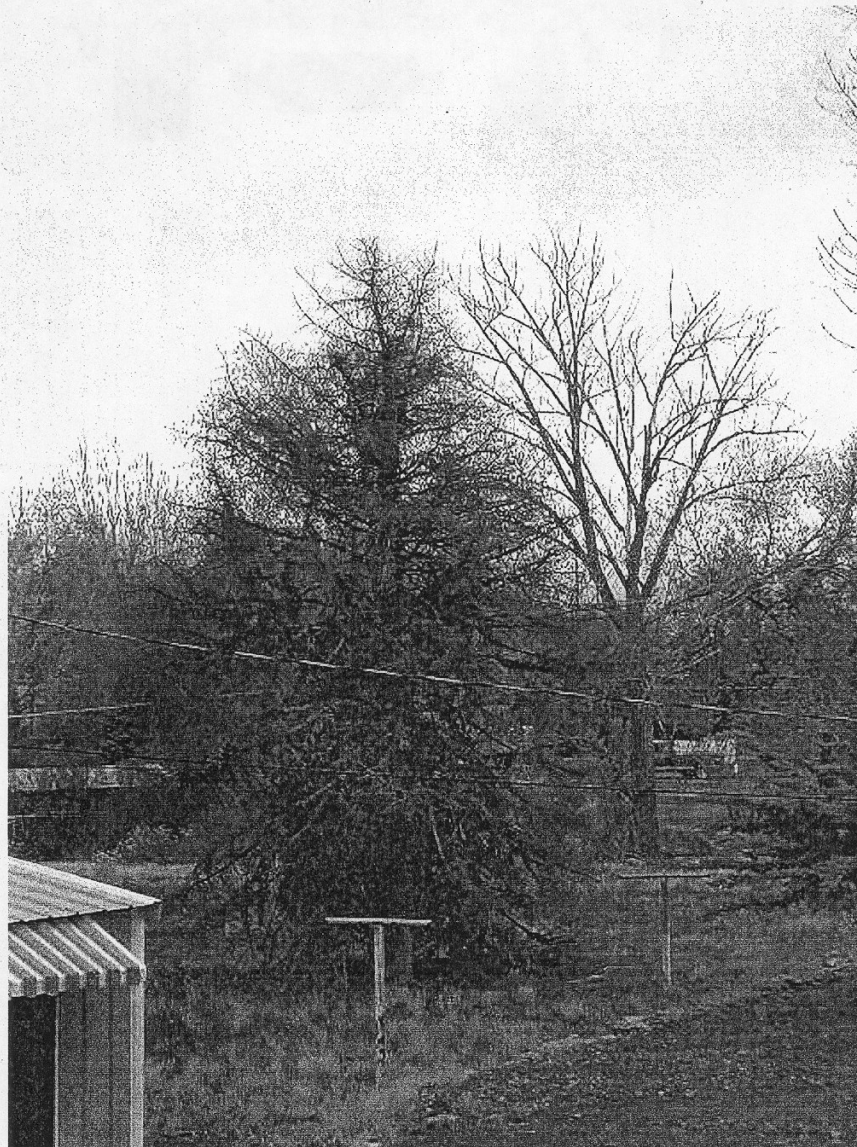


Figure 1. View from our breakfast room.

We the residents in the areas north of Patterson Road and East of 7th Street do hereby state our opposition to any rezone concerning properties in our neighborhoods. Our present zoning is for single family residences, RS 4, and we strongly oppose any other designation.

Our opposition is based on the fact that we feel our residential areas are long-standing and well maintained and that there is a need to preserve the residential areas in this location.

We believe that under Section 2.6.A.2 of the Zoning and Development Code, there has been no change in the character of the neighborhood due to any of the items listed other than the deterioration of the properties being considered for rezoning. Such deterioration has only taken place at the hands of those requesting the rezone themselves. Also under Section 2.6.A.3, the proposed rezone is not compatible with the neighborhood and will create adverse impacts on the capacity and safety of the street network. We are concerned that given the already congested nature of the 7th Street, 8th Court, and Viewpoint intersections on Patterson, any rezoning to other than single family residence would create a nightmare of traffic patterns. We also believe that under section 2.6.A.7 that the neighborhood will most certainly not benefit from the proposed rezone, as property values will decline and selling a residential property in the area will become next to impossible.

For the above reasons we the undersigned petition the Planning Commission to deny the proposed rezone request on the properties at 626 Patterson Road, 2705 N. 8th Court, and 602 26 1/2 Road.

2656
 Sherry-Jubinski
 12/8/03

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NAME	ADDRESS
Robert & Gretchen Lubinski	2709 N. 8 th Ct.
John M. Akers	2711 N 8 th Ct.
Mary A. Robinson	2715 N 8 th Ct.
Harrnett Craig	2721 N-8 th Ct.
Norman Craig	" " "
Mary J. McManis	2712 N. 8 th Ct.
John and Karissa Perce	2720 N. 8 th Ct.
Baron Spradley	2714 8 th Ct
Richard Stoczkiv	2714 8 th Court
Willy Bedloe	2719 8 th Ct
W.D. Blidore	2719 8 th Ct
Mark Madison and Madison	1010 Rice Ct and 2525 N 8 th St. #109
Scott Hayden - Scott Hayden	2078 Capra Way BS 81506
Robert C. Bishop	612 Viewpoint Drive
LORI FERGUSON Lori Ferguson	608 VIEW POINT DR 81506
Ruth C. Edger	604 26 1/2 Rd 81506
Gretchen John Lubinski	2709 8 th Ct.
Roger C. Head	2713 8 th Ct

January 12, 2004

Grand Junction Planning Commission
City Hall
250 North 5th Street
Grand Junction, Colorado

Dear Commission Members,

We are writing this letter with regard to the Geske rezone RZ-2003-233 application on the property located at 2656 F Road. My wife and I own a residence at 2709 North 8th Court, directly across 8th Court from one of the proposed properties and adjoining the other property. We would like to express our adamant opposition to the proposed rezone.

Our opposition is based primarily on the issue of the uncontrolled access to Patterson Road. Exiting 8th Court now is difficult particularly when trying to go East on Patterson. It is our opinion that if the properties in question were developed, even under a residential office zone, that the increase in traffic at the 8th Court and Patterson intersection would be a nightmare. The 8th Court intersection is much too close to the 7th and Patterson intersection to accommodate business traffic and would most certainly make entering or exiting 8th Court impossible. A traffic light on 8th Court and Patterson would not be feasible either. We therefore believe that the proposed rezone is definitely not compatible with the neighborhood and will create an adverse impact on the capacity and safety of 8th Court.

In view of all the commercial development in this area of town, it is important that the residential integrity of the Walker Heights and Viewpoint Subdivisions be maintained.

It is our belief that several properties are available in the 7th and Patterson vicinity appropriate for the building of an eye clinic as alternatives to invading a well established, long standing residential area.

Sincerely,

Robert Lubinski
Gretchen Davis Lubinski

Robert and Gretchen Lubinski

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JAN 12 2004

**COMMUNITY DEVELOPMENT
DEPT.**

January 11, 2004

Community Development Office
250 N. 5th Street
Grand Jct, CO 81501
ATTN: Ronnie Edwards

RE: Zoning for property at 2656 F Road

To Whom It May Concern:

We have lived at 606 Rico Way for almost 28 years. We oppose the rezoning request by the Geskes to establish a medical facility of any sort in the area of 8th Court and Patterson Road..

Those of us who live on 8th Court, Viewpoint Drive, Capra Way and Rico Way have tried hard to maintain the residential status for all the years my husband and I have lived in this area, and this request would add to the problems we see in keeping our quality of life.

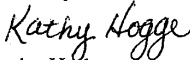
I have to drive from my home to work at least 3 times a day, accessing Patterson Road from 26-3/4 Road and traveling west to N. 7th Street. It is difficult at the times of day I leave my house to get onto Patterson, and then the left turn lane westbound to go south on 7th Street is regularly a mess. I do not leave at high traffic times for regular business hours, but I often have had to sit at the left turn signal on Patterson for almost 2 complete traffic light changes to get onto N. 7th Street. The traffic in that turn lane backs up beyond 8th Court and often almost to Viewpoint Drive around 9:00-9:15 a.m. and again 12:45-1:00 p.m. as the left turn arrow sometimes lets only 3 cars through. The people trying to leave 8th Court going east or turning left into 8th Court from Patterson can sit for a long time. Someone trying to turn into 8th Court from 7th Street direction cannot always get into their turn lane, because we are backed up into it. To leave my car at a standstill in the main traffic area of Patterson because I have not been able to get into the left turn lane is also a hazzard. Occasionally as I approach that intersection I see evidence of glass on the road where someone has rear-ended a car stopped and waiting to get to the turn lane.

My concern is the amount of traffic a medical facility of any sort would add to an already messy intersection. The fact that clients would be trying to make a left turn onto 8th Court immediately after the traffic light on 7th Street and/or leaving the facility to get onto Patterson Road would add to traffic congestion. I also feel that a rezoning that increases any non-resident traffic to come and go from our quiet neighborhoods would compromise the quality of our neighborhoods and our lifestyle.

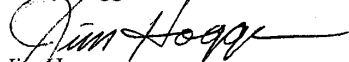
My last concern is about the Walker/Hatmaker house and what the Geskes' plans for that would be. It has been a landmark in this area my entire life. I think if anything should happen on that property it should be to designate it as a historical landmark, not turn the area into another medical facility.

Please add our names again to the list of people who oppose any rezoning away from residential for that property.

Sincerely,



Kathy Hogge



Jim Hogge
606 Rico Way
Grand Jct., CO 81506

FROM THE DESK OF RAY MEACHAM

611 Viewpoint Drive • Grand Junction, Colo. 81506 • 970-242-2115

To: Grand Junction Planning Commission
Re: Your notice of Public Hearing
RZ 2003-233--Geske

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FEB 06 2004
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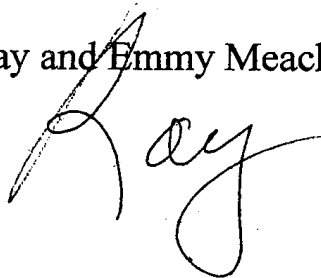
Please take note that as a resident of the Area in question living at 611 Viewpoint Drive I should like to go on record along with ALL other residents of this neighborhood as being **STRONGLY OPPOSED** to the Geske Rezone designed to accommodate a Residential Office District. As you are no doubt aware, area meetings have been held in the past with objections to this proposal being almost one hundred percent.

Among these objections would certainly include the amount of traffic already on Patterson Road with left turns almost an impossibility at certain hours of the day...the ingress and egress to this proposal available only on 8th St. Court,. and, last but not least the commercialization of more and more of our area which is bound to follow. We who live here feel strongly compelled to protect the neighborhood (ours), the park, which we own and take care of by ourselves, and the ambience that living in an older, upscale area affords.

We ask you therefore respectfully to decline **THIS** request for what amounts to a less restrictive zoning and all future applications for commercialism.

Kindest Regards

Ray and Emmy Meacham



#####

Feb. 4 2004

Ronnie Edwards
Community Development Council
250 North 5th Dt.
Grand Junction CO 81502

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FEB 06 2004

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Dear Ms. Edwards"

My wife and I are residents of North 8th
Court. We are one of the four senior citizens among the residents.

We oppose the proposed re-zoning of this area proposed
by Dr. and Mrs Geske for the following reasons"

1. We believe conversion of the area as commercial
residential will lower the possible sale price of our home. As is
the case with most senior citizens we view our home as a part of the legacy to
our children and grandchildren/ Our estate has already
suffered a severe loss as a result of the catastrophic
losses in the stock market. I am sure you will understand why we wish
to avoid further blows;

2. You must have had opportunity to witness the high-speed
flow of Patterson Road traffic past the entrance to
north 8th Court. At present any attempt to get out or
into our Court between 7:00 a.m. and 6:00 p.m.
is a hazardous undertaking for any skilled driver and much more so for
seniors who tend to be hesitant in any traffic.
I understand that under present rules entry to the proposed clinic
would have to be from 8th Court. This would
add more stress to an already intolerable traffic situation.

We therefore plea that the Geske petition be denied.

Norman and Harriett Craig
2921 North 8th Court

Grand Junction CO 81506

Sorry about the typo errors. I have impaired vision and don't see
the keys very well. No, I don't drive I leave that to
my wife!

Harriett Craig

From: "ROGER C HEAD" <rogerhead@msn.com>
To: <rhondae@ci.grandjct.co.us>
Date: Tuesday, February 10, 2004 1:30PM
Subject: RZ-2003-233-GESKE REZONE

Community Development Department:

Attn: Ronnie Edwards

My name is Roger Head and I live at 2713 N. 8th Court and am opposed to any form of business which will put more traffic and more parking on N. 8th Court which is a short dead-end cul-de-sac serving 13 residences. The proposed rezone is not compatible with the with the present family status now enjoyed by the present owners.

If the access to the rezoned property is intended to come off 8th court it would also increase the congestion of ingress and egress off of Patterson.

The zoning change to any of the various businesses is not compatible and I am in strong opposition to the rezoning..

Sincerely, Roger C. Head

To: Bob Blanchard

Individual ltrs. to each CC member

cc: Kelly A.
Johns

pm 2/25/04

Dear Members of the City Council,

We were notified at the Planning Commission meeting that the final decision regarding the rezoning of the Geske property on Patterson will be decided at your meeting on March 17th. Because of a conflict on the evening, we will be unable to attend, and for this reason decided to send a letter listing some of our objections to the approval of RZ 2003-233-Geske for rezoning

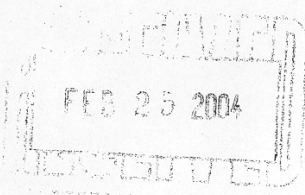
We have resided at 619 Viewpoint Drive for thirty five years. During this time we have seen the traffic increase to the degree that it is almost impossible to turn off Viewpoint on to Patterson Road many times during the day. The heavy traffic pattern is a direct result of people going to work or shopping at Mesa Mall, the employees and visitors arriving and leaving St. Mary's Hospital and Rehabilitation facilities, the shopping malls at 7th and Patterson and 12th and Patterson, plus the business activities at the smaller stores along Patterson.

We know that your job is not an easy one, and that you cannot please everyone. But, please, take into consideration our request for denial of the Geske property change.

We wish to express our appreciation ^{for considering} of our request.

Respectfully yours,

*William G. Bush
Colleen Bush*
William G. and Colleen Bush



Jim Spehar 3/1/04 10:02:35 AM

Bob:

Thanks for your comments, which we will make part of the record. I am very familiar with the neighborhood, but will make time to drive through again prior to the hearing and look forward to your comments at that time.

Jim

"Bob Lubinski" <bolubi@bresnan.net> 03/01/04 07:44AM

Dear Mr Spehar,

My wife Gretchen and I reside at 2709 N. 8th Ct. We would like to let you know of our concern regarding an item you will be considering at your March 17th meeting, the proposed Geske rezone of the property located at 2656 Patterson Road.

We will certainly be present at the meeting on the 17th to speak to all of our concerns, but we would like to ask you to consider visiting the Walker Heights and Viewpoint Subdivisions prior to the meeting to observe first hand the impacts that a rezone would have on our neighborhoods. Some of the issues we are highly concerned about are as follows:

- * Uncontrolled access to Patterson Road and the resulting impacts on traffic in an already congested area, particularly being so close to the 7th and Patterson intersection.
- * Increased traffic to the 8th Court cul-de-sac posing safety concerns especially for the children and elderly residents.
- * Increased air and noise pollution, nighttime lighting, and other nuisances.
- * Lack of adherence to the Future Land Use Map and the Patterson Road Corridor Guideline.
- * Encroachment of a business into the heart of the neighborhood (rather than providing a buffer as alleged by the petitioners)
- * Decline in property values of the existing homes in the neighborhoods.
- * Potential loss of a highly valuable historic landmark, the Walter Walker Estate.

We also would encourage you to review the minutes of the February 10, 2004 Planning Commission meeting which denote the Commissioners' unanimous recommendation for denial of this rezone request and their justifications for their decision.

The residents of these neighborhoods believe that this rezone would harm our quality of life and have voiced overwhelming opposition through petitions, letters, personal contacts, and presentations at the Planning Commission meeting.

We know that you will give this matter the serious consideration it is due, and we appreciate your time and effort to this end.

Bob Lubinski

>>> Jim Spehar 3/8/04 11:07:07 PM >>>

Mary and Steve:

I am very familiar with your neighborhood and have several friends living in the area. I will refresh myself by driving through prior to the hearing.

As you know, the Planning Commission's decision will come to Council as a recommendation for our consideration. There'll be the opportunity for discussion prior to any Council decision. I will ask that the comments you have forwarded to me be placed in the material given to Council in preparation for the hearing.

It is not the job of the Community Development staff to decide whether or not a petition advances to the Planning Commission or Council, only to make certain it is reviewed in accordance with city plans, codes and regulations. The Planning Commission has done it's review and made a recommendation. Our job on the 17th will be to make a final decision and we will take into account all comments written and verbal when we do that.

I'm assuming you will be at the Council hearing and look forward to seeing you there.

Jim

>>> "Steven D. McPherson" <mcph@gvii.net> 03/08/04 08:47AM >>>

Dear Mayor Spehar,

On March 17th, you will be hearing the Geske's request to rezone their property at the corner of Patterson and 8th Court from RSF-4 to RO. In the past, my husband and I have attempted to explain our views with humor and logic. This time, we will attempt an emotional appeal.

Our home, featured as a "Prestigious Home" in the real estate section of the Sentinel, is adjacent to the Geske property. We invite you to take a drive through our neighborhood prior to the council meeting. You will view well-kept custom homes. You will experience a quiet, safe neighborhood with very rare traffic on the cul-de-sac street. The neighbors actually know each other. Ask yourself if you would want to live in our home if a parking lot abutted it?

If you come between the hours of 7am-8:30 am; 11:00 am-1:00 pm or 3:30 pm -6:00 pm, be sure to attempt a left turn on to Patterson. Actually, a right turn may be a bit difficult too. Then ask yourself, how many accidents will occur on Patterson from Geske

clinic customers who are in a hurry to get to where ever? Those of us who live here have learned to be very patient and to turn left or right safely.

Our home has been on the market for one week, with only two visitors. We were in the process of completing a contract on the second day that the house was on the market until co-workers of the wife insisted that a large medical clinic was going to go up on the Geske property. Although we had supplied copies of documents associated with the re-zone from the start, we found ourselves in a situation where the potential buyers relied on untrue perceptions rather than official city documents.

We had planned on living in our home for many years and had invested much in an upgrade of our beautiful home. However, an outstanding job offer is taking us away. No matter what, we will lose money on our home. But right now, few will even look at our home because of the Geske specter. How can this proposed re-zone be good for our neighborhood if no one wants to live here if a re-zone goes through? Form the public perspective, the proposed re-zone is an encroachment and not a buffer.

We are truly at a loss as to how this petition got so far. It is as if Ronnie Edwards and crew of the City Community Development Department never drove through 8th Court. They certainly never listened to neighborhood concerns. Please follow the recommendations of the Planning and Zoning board and deny this re-zoning request.

Sincerely,

Mary and Steven McPherson
2712 N. 8th Court
Grand Junction, CO

Dear Grand Junction City Council members,

My name is Steve Lambert. I live at 609 Viewpoint Drive, Grand Junction in a residence adjacent to the Geske property at 2656 Patterson Road which is under consideration for a change in zoning classification to residential office.

I am adamantly opposed to this rezone. My neighbors and I have been very active in fighting this issue and our efforts are detailed in the files which I hope you have diligently reviewed. The planning commission unanimously rejected the rezone request at its meeting on February 10th. This action was taken for the many reasons stated by the commission members who voted against it that night. Their comments of course are also available in the files. I would like to underscore the fact that in rejecting this request, the entire planning commission correctly found that various criteria had not been met for this rezone. Comments that I made at that meeting are also included in the information available and I invite you to peruse them.

If allowed, this rezone would have a very detrimental effect on our neighborhood. It would also be a violation of stated council goals and policies as found in the city's Strategic Plan and City Mission and Values statement. I additionally believe that a rezone here would go against the accords of the Patterson Corridor plan and is not consistent with the Future Land Use map designations.

Thank you,
Steve Lambert

Attach 15

Robert & Norma Bishop
612 Viewpoint Dr.
Grand Junction, Colo. 81506
970-242-2010

March 10, 2004

Grand Junction City Council
250 North 5th St.
Grand Junction, Colo. 81501

Dear City Council Members:

This letter is in reference to RZ-2003-233-Geske Rezone. We live at 612 Viewpoint Dr. and would be affected by the rezone in an extremely adverse way. The traffic congestion on Patterson Road already makes it difficult to get onto the road from our neighborhood. Adding a medical building would make it impossible. There is certainly enough office space nearby without ruining a neighborhood. The rezone would mean property values would plummet and the city would have to add at least two traffic lights to Patterson Road between 12th Street and 7th Street.

Please follow the Grand Junction Planning Council and deny the rezone request. We don't see any way the eye clinic would be built without tearing down a historic home. Patterson Road is the buffer. An eye clinic in that location would not be logical.

Please do not add to the traffic congestion and please maintain the integrity of the residential nature of the neighborhoods. There is enough medical office space near St. Mary's Hospital already. There are other areas of Grand Junction that could use additional medical office space. It doesn't all need to be within walking distance of the hospital.

A good community is maintained when nice neighborhoods aren't ruined. The homes in the nearby neighborhoods pay above average property taxes. Please do not let this project go forward.

Sincerely,

Robert & Norma Bishop

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

**AN ORDINANCE REZONING A PARCEL OF LAND FROM
RESIDENTIAL SINGLE FAMILY WITH A DENSITY NOT TO EXCEED
FOUR UNITS PER ACRE (RSF-4) TO RESIDENTIAL OFFICE (RO)**

LOCATED AT 2656 PATTERSON ROAD (GESKE PROPERTY)

Recitals.

After public notice and public hearing as required by the Grand Junction Zoning and Development Code, the Grand Junction Planning Commission recommended denial of the rezone request from RSF-4 district to the RO zone district.

After public notice and public hearing before the Grand Junction City Council, City Council finds the rezone request meets the goals and policies and future land use as set forth by the Growth Plan, Residential Medium (4 – 8 du/ac). City Council also finds that the requirements for a rezone as set forth in Section 2.6 of the Zoning and Development Code have been satisfied for the following reasons:

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT THE PARCEL DESCRIBED BELOW IS HEREBY ZONED TO THE RO (RESIDENTIAL OFFICE) ZONE DISTRICT:

Parcel 1, Lot 12 of Walker Heights, and; Parcel 2, Lot 13 of Walker Heights Subdivision.

CONTAINING 2.068 Acres more or less, as described.

Introduced on first reading on the _____ day of March, 2004.

PASSED and ADOPTED on second reading this _____ day of _____, 2004.

Attest:

City Clerk

President of the Council

Attach 16

**Summit View Estates Annexation Located at 649 29 1/2 Road
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
Subject	Public hearing for acceptance of petition and annexation ordinance for the Summit View Estates Annexation, located at 649 29 1/2 Road					
Meeting Date	March 17, 2004					
Date Prepared	March 10, 2004				File # ANX-2003-271	
Author	Lisa E. Cox, AICP			Senior Planner		
Presenter Name	As above			As above		
Report results back to Council	X	No		Yes	When	
Citizen Presentation		Yes	X	No	Name	
	Workshop	X	Formal Agenda		Consent	X Individual Consideration

Summary: Hold a public hearing and consider final passage of a Resolution for Acceptance of Petition to Annex and Annexation Ordinance for the Summit View Estates Annexation, located at 649 29 1/2 Road.

Budget: N/A

Action Requested/Recommendation: Recommend City Council accept the petition for annexation and adopt the Annexation Ordinance.

Background Information: See attached staff report

Attachments:

- 10. Staff Report
- 11. Site Location Map (Figure 1)
- 12. Aerial Photo Map (Figure 2)
- 13. Future Land Use Map (Figure 3)
- 14. Existing City and County Zoning Map (Figure 4)
- 15. Annexation Map (Figure 5)
- 16. Resolution of Acceptance
- 17. Annexation Ordinance

STAFF REPORT / BACKGROUND INFORMATION			
Location:		649 29 1/2 Road	
Applicant:		Carl Marchun, Executor of the John Marchun Estate; Joseph W. Marchun; H.E. Marchun; Raymond Marchun; Brian Marchun	
Existing Land Use:		Residential/Agricultural	
Proposed Land Use:		Residential	
Surrounding Land Use:	North	Residential/Agricultural	
	South	Residential/Agricultural	
	East	Residential/Agricultural	
	West	Agricultural	
Existing Zoning:		RSF-4 (Mesa County)	
Proposed Zoning:		RMF-8 (Residential Multi-Family, not to exceed 8 units/acre)	
Surrounding Zoning:	North	RSF-4 (Mesa County)	
	South	RMF-5 (City)	
	East	RSF-4 (Mesa County)	
	West	RMF-5 (City)	
Growth Plan Designation:		Residential Medium, 4-8 units/acre	
Zoning within density range?		X	Yes
			No

STAFF ANALYSIS

Annexation

It is staff's professional opinion, based on review of the petition and knowledge of applicable state law, including the Municipal Annexation Act Pursuant to C.R.S. 31-12-104, that the subject property is eligible to be annexed because of compliance with the following:

- a) A proper petition has been signed by more than 50% of the owners and more than 50% of the property described;

- b) Not less than one-sixth of the perimeter of the area to be annexed is contiguous with the existing City limits;
- c) A community of interest exists between the area to be annexed and the City. This is so in part because the Central Grand Valley is essentially a single demographic and economic unit and occupants of the area can be expected to, and regularly do, use City streets, parks and other urban facilities;
- d) The area is or will be urbanized in the near future;
- e) The area is capable of being integrated with the City;
- f) No land held in identical ownership is being divided by the proposed annexation;
- g) No land held in identical ownership comprising 20 contiguous acres or more with an assessed valuation of \$200,000 or more for tax purposes is included without the owners consent.

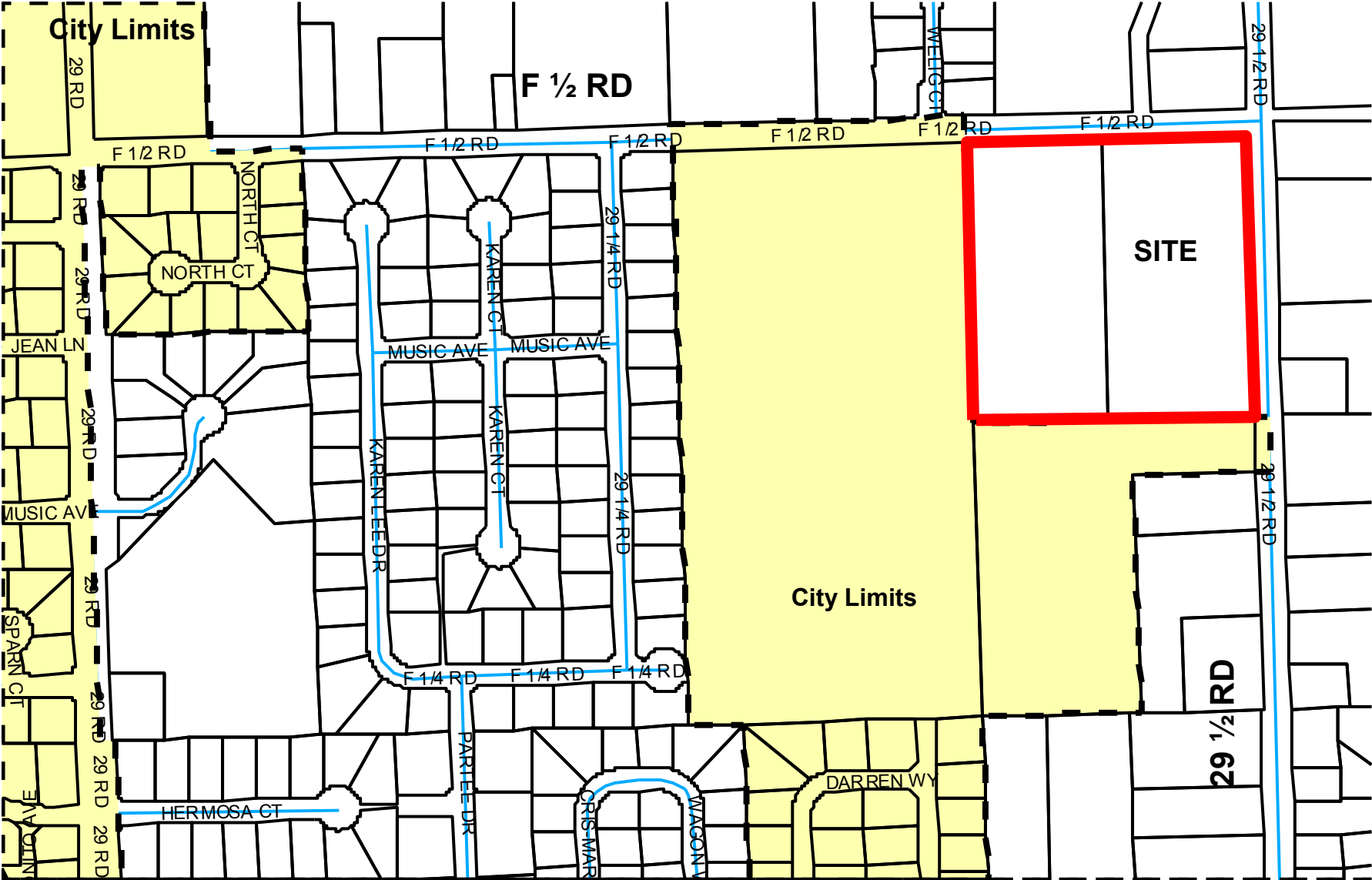
The following annexation and zoning schedule is being proposed.

ANNEXATION SCHEDULE	
2-04-04	Referral of Petition (30 Day Notice), First Reading, Exercising Land Use
2-24-04	Planning Commission recommendation for City zone district
3-03-04	First Reading of Zoning Ordinance by City Council
3-17-04	Acceptance of Petition and Public hearing on Annexation and Second Reading of Zoning Ordinance by City Council
4-18-04	Effective date of Annexation and City Zoning

SUMMARY		
File Number:		ANX-2003-271
Location:		649 29 ½ Road
Tax ID Number:		2943-053-00-033 and 034
Parcels:		2
Estimated Population:		2
# of Parcels (owner occupied):		0
# of Dwelling Units:		1
Acres land annexed:		10.495 acres for annexation area
Developable Acres Remaining:		9.135 acres
Right-of-way in Annexation:		1.36 acres
Previous County Zoning:		RSF-4 (Mesa County)
Proposed City Zoning:		RMF-8, Residential Multi-Family not to exceed 8 units/acre
Current Land Use:		Residential/Agricultural
Future Land Use:		Residential
Values:	Assessed:	\$ 4,560
	Actual:	\$ 49,830
Census Tract:		N/A
Address Ranges:		West to East: 2938 to 2949 North to South: 641 to 649
Special Districts:	Water:	Ute Water
	Sewer:	Central Grand Valley Sanitation
	Fire:	GJ Rural Fire Dept.
	Drainage:	Grand Junction Drainage
	School:	District 51
	Pest:	N/A

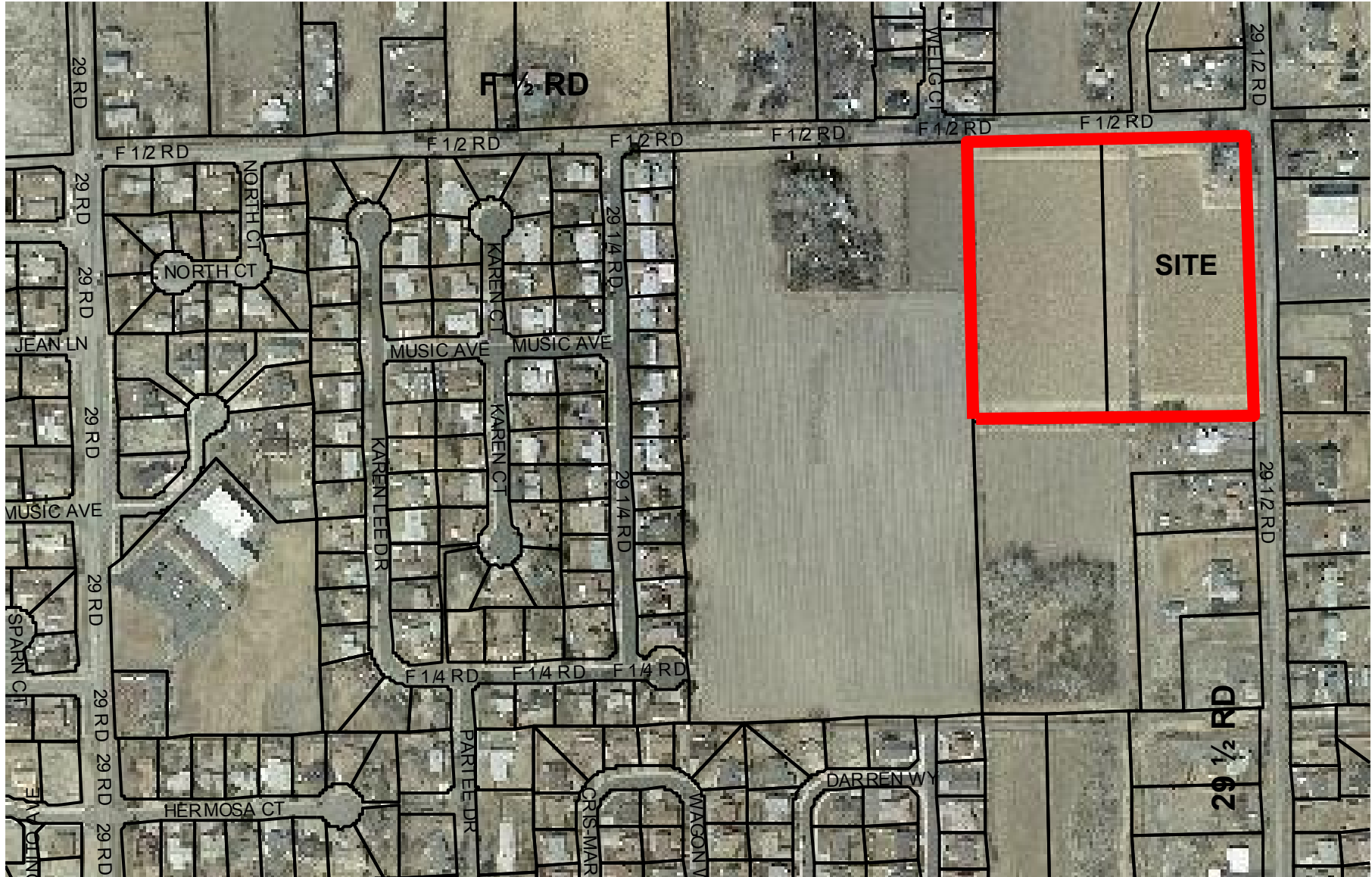
Site Location Map

Figure 1



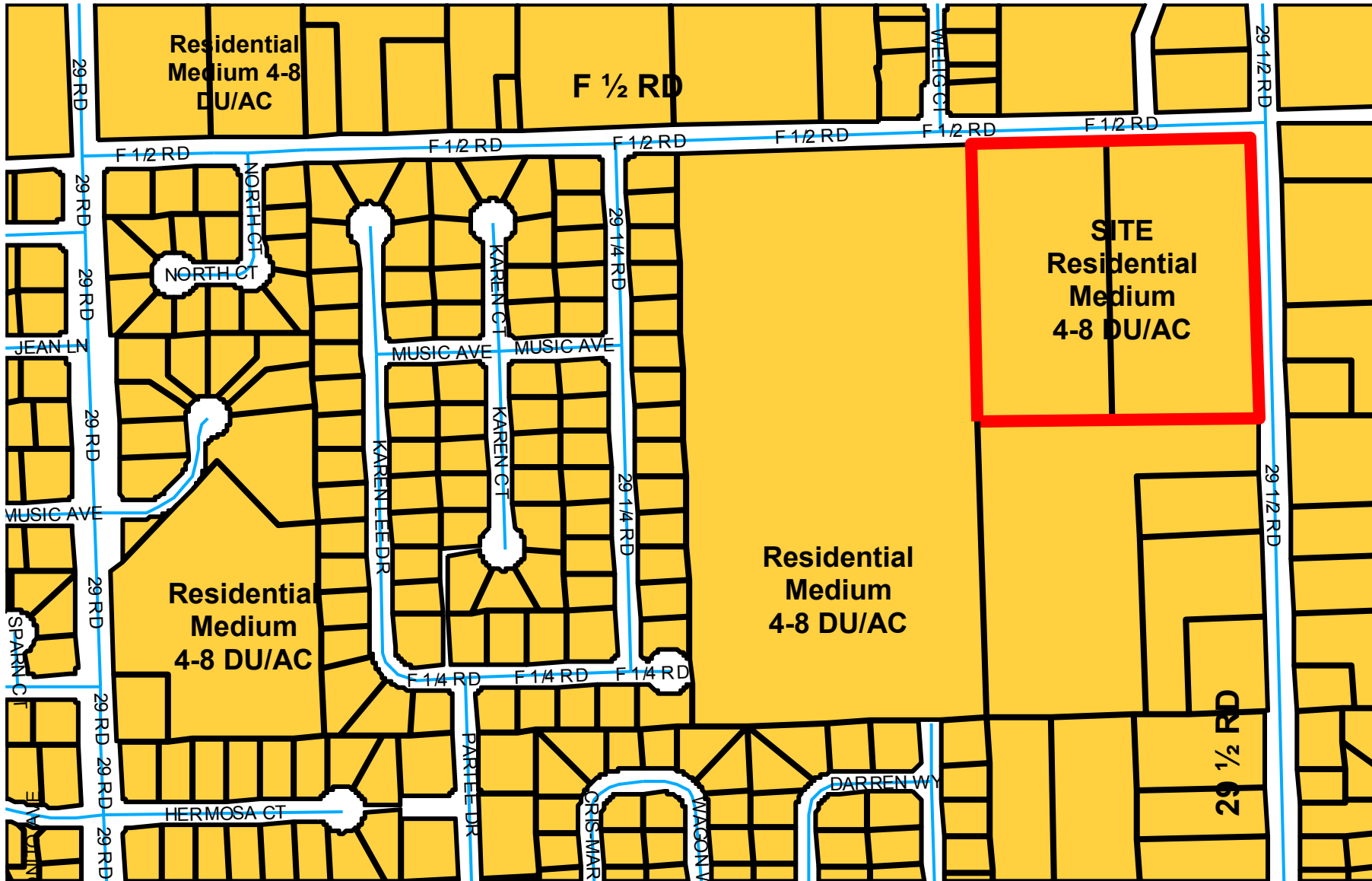
Aerial Photo Map

Figure 2



Future Land Use Map

Figure 3



**NOTICE OF HEARING
ON PROPOSED ANNEXATION OF LANDS
TO THE CITY OF GRAND JUNCTION, COLORADO**

NOTICE IS HEREBY GIVEN that at a regular meeting of the City Council of the City of Grand Junction, Colorado, held on the 4th day of February, 2004, the following Resolution was adopted:

CITY OF GRAND JUNCTION, COLORADO

RESOLUTION NO. -04

**A RESOLUTION ACCEPTING A PETITION FOR ANNEXATION,
MAKING CERTAIN FINDINGS, DETERMINING THAT PROPERTY
KNOWN AS THE SUMMIT VIEW ESTATES ANNEXATION
IS ELIGIBLE FOR ANNEXATION**

LOCATED AT 649 29 1/2 ROAD

WHEREAS, on the day of 4th day of February, 2004, a petition was submitted to the City Council of the City of Grand Junction, Colorado, for annexation to said City of the following property situate in Mesa County, Colorado, and described as follows:

SUMMIT VIEW ESTATES ANNEXATION

A certain parcel of land lying in the Northeast Quarter of the Southwest Quarter (NE 1/4 SW 1/4) of Section 5, Township 1 South, Range 1 East of the Ute Principal Meridian, County of Mesa, State of Florida, being more particularly described as follows:

BEGINNING at the Northwest corner of the Northeast Quarter of the Northeast Quarter of the Southwest Quarter (NE 1/4 NE 1/4 SW 1/4) of said Section 5 and assuming the North line of the NE 1/4 NE 1/4 SW 1/4 of said Section 5 bears S 89°47'43" E with all other bearings contained herein being relative thereto; thence from said Point of Beginning, N 00°01'41" E a distance of 33.00 feet to a point on the North right of way for F-1/2 Road, as shown on the Replat of Willow Glen, as same is recorded in Plat Book 13, Page 518, Public Records of Mesa County, Colorado; thence S 89°47'43" E along said North right of way, a distance of 66.78 feet, more or less, to a point being the Southeast corner of said Replat of Willow Glen; thence S 01°23'17" W along the Southerly projection of the East line of said Replat of Willow Glen, a distance of 33.01 feet to a point on the North line of the NE 1/4 NE 1/4 SW 1/4 of said Section 5; thence S 89°47'43" E along the North line of the NE 1/4 NE 1/4 SW 1/4 of said Section 5, a distance of 593.52 feet, more or less, to a point being the Northeast corner of the NE 1/4 SW 1/4 of said Section 5; thence S 00°00'01" W, along the East line of the NE 1/4 SW 1/4 of said Section 5, a distance of 130.01 feet; thence S 89°32'19" E along the Westerly projection of the North line of Lot 1, Barslund Subdivision, as same is recorded in Plat Book 12, Page 114, Public Records of Mesa County, Colorado, a distance of 30.00 feet to a point being the Northwest corner of said Barslund Subdivision; thence S 00°00'01" W along the West line of said Barslund Subdivision, being the East right of way for 29-1/2 Road, a distance of 657.61 feet; thence N 89°48'04" W along the Easterly projection of the North line of Lot 2, Taylor Place Minor Subdivision, as same is recorded in Plat Book 14, Page 98, Public Records of Mesa County, Colorado, a distance of 30.00 feet to a point on the East line of the NE 1/4 SW

1/4 of said Section 5; thence N 00°00'01" E along said East line, a distance of 128.01 feet; thence N 89°48'04" W along the North line and its Easterly projection, of Holtons Haciendas, as same is recorded in Plat Book 13, Page 485, Public Records of Mesa County, Colorado, a distance of 659.84 feet, more or less, to a point being the Northwest corner of said Holtons Haciendas; thence N 00°01'41" E along the East line of the NE 1/4 NE 1/4 SW 1/4 of said Section 5, a distance of 659.81 feet, more or less, to the Point of Beginning.

CONTAINING 10.495 Acres (457,157.43 Sq. Ft), more or less, as described

WHEREAS, a hearing on the petition was duly held after proper notice on the 17th day of March, 2004; and

WHEREAS, the Council has found and determined and does hereby find and determine that said petition is in substantial compliance with statutory requirements therefore; that one-sixth of the perimeter of the area proposed to be annexed is contiguous with the City; that a community of interest exists between the territory and the City; that the territory proposed to be annexed is urban or will be urbanized in the near future; that the said territory is integrated or is capable of being integrated with said City; that no land held in identical ownership has been divided without the consent of the landowner; that no land held in identical ownership comprising more than twenty acres which, together with the buildings and improvements thereon, has an assessed valuation in excess of two hundred thousand dollars is included without the landowner's consent; and that no election is required under the Municipal Annexation Act of 1965.

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

The said territory is eligible for annexation to the City of Grand Junction, Colorado, and should be so annexed by Ordinance.

ADOPTED this ____ day of _____, 2004.

Attest:

President of the Council

City Clerk

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

**AN ORDINANCE ANNEXING TERRITORY TO THE
CITY OF GRAND JUNCTION, COLORADO
SUMMIT VIEW ESTATES ANNEXATION
APPROXIMATELY 10.495 ACRES**

LOCATED AT 649 29 1/2 Road

WHEREAS, on the 4th day of February, 2004, the City Council of the City of Grand Junction considered a petition for the annexation of the following described territory to the City of Grand Junction; and

WHEREAS, a hearing on the petition was duly held after proper notice on the 17th day of March, 2004; and

WHEREAS, the City Council determined that said territory was eligible for annexation and that no election was necessary to determine whether such territory should be annexed;

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

That the property situate in Mesa County, Colorado, and described to wit:

SUMMIT VIEW ESTATES ANNEXATION

A certain parcel of land lying in the Northeast Quarter of the Southwest Quarter (NE 1/4 SW 1/4) of Section 5, Township 1 South, Range 1 East of the Ute Principal Meridian, County of Mesa, State of Florida, being more particularly described as follows:

BEGINNING at the Northwest corner of the Northeast Quarter of the Northeast Quarter of the Southwest Quarter (NE 1/4 NE 1/4 SW 1/4) of said Section 5 and assuming the North line of the NE 1/4 NE 1/4 SW 1/4 of said Section 5 bears S 89°47'43" E with all other bearings contained herein being relative thereto; thence from said Point of Beginning, N 00°01'41" E a distance of 33.00 feet to a point on the North right of way for F-1/2 Road, as shown on the Replat of Willow Glen, as same is recorded in Plat Book 13, Page 518, Public Records of Mesa County, Colorado; thence S 89°47'43" E along said North right of way, a distance of 66.78 feet, more or less, to a point being the Southeast corner of said Replat of Willow Glen; thence S 01°23'17" W along the Southerly projection of the East line of said Replat of Willow Glen, a distance of 33.01

feet to a point on the North line of the NE 1/4 NE 1/4 SW 1/4 of said Section 5; thence S 89°47'43" E along the North line of the NE 1/4 NE 1/4 SW 1/4 of said Section 5, a distance of 593.52 feet, more or less, to a point being the Northeast corner of the NE 1/4 SW 1/4 of said Section 5; thence S 00°00'01" W, along the East line of the NE 1/4 SW 1/4 of said Section 5, a distance of 130.01 feet; thence S 89°32'19" E along the Westerly projection of the North line of Lot 1, Barslund Subdivision, as same is recorded in Plat Book 12, Page 114, Public Records of Mesa County, Colorado, a distance of 30.00 feet to a point being the Northwest corner of said Barslund Subdivision; thence S 00°00'01" W along the West line of said Barslund Subdivision, being the East right of way for 29-1/2 Road, a distance of 657.61 feet; thence N 89°48'04" W along the Easterly projection of the North line of Lot 2, Taylor Place Minor Subdivision, as same is recorded in Plat Book 14, Page 98, Public Records of Mesa County, Colorado, a distance of 30.00 feet to a point on the East line of the NE 1/4 SW 1/4 of said Section 5; thence N 00°00'01" E along said East line, a distance of 128.01 feet; thence N 89°48'04" W along the North line and its Easterly projection, of Holtons Haciendas, as same is recorded in Plat Book 13, Page 485, Public Records of Mesa County, Colorado, a distance of 659.84 feet, more or less, to a point being the Northwest corner of said Holtons Haciendas; thence N 00°01'41" E along the East line of the NE 1/4 NE 1/4 SW 1/4 of said Section 5, a distance of 659.81 feet, more or less, to the Point of Beginning.

CONTAINING 10.495 Acres (457,157.43 Sq. Ft), more or less, as described

be and is hereby annexed to the City of Grand Junction, Colorado.

INTRODUCED on first reading on the 4th day of February, 2004.

ADOPTED and ordered published this ____ day of _____, 2004.

Attest:

President of the Council

City Clerk

Attach 17

Zoning the Summit View Estates Annexation Located at 649 29 ½ Road

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA						
Subject	Zoning the Summit View Estates Annexation, located at 649 29 ½ Road					
Meeting Date	March 17, 2004					
Date Prepared	March 10, 2004				File # ANX-2003-271	
Author	Lisa E. Cox, AICP			Senior Planner		
Presenter Name	As above			As above		
Report results back to Council	X	No		Yes	When	
Citizen Presentation		Yes	X	No	Name	
	Workshop	X		Formal Agenda		Consent X Individual Consideration

Summary: Hold a public hearing and consider final passage of the zoning ordinance to zone the Summit View Estates Annexation Residential Multi-Family-8 (RMF-8), located at 649 29 ½ Road.

Budget: N/A

Action Requested/Recommendation: Approve second reading of the zoning ordinance and hold public hearing.

Background Information: See attached staff report

Attachments:

1. Staff Report
2. Site Location Map (Figure 1)
3. Aerial Photo Map (Figure 2)
4. Future Land Use Map (Figure 3)
5. Existing City and County Zoning (Figure 4)
6. Annexation Map (Figure 5)
7. Zoning Ordinance

STAFF REPORT / BACKGROUND INFORMATION			
Location:		649 29 1/2 Road	
Applicant:		Carl Marchun, Executor of the John Marchun Estate; Joseph W. Marchun; H.E. Marchun; Raymond Marchun; Brian Marchun	
Existing Land Use:		Residential/Agricultural	
Proposed Land Use:		Residential	
Surrounding Land Use:	North	Residential/Agricultural	
	South	Residential/Agricultural	
	East	Residential/Agricultural	
	West	Agricultural	
Existing Zoning:		RSF-4 (Mesa County)	
Proposed Zoning:		RMF-8 (Residential Multi-Family, not to exceed 8 units/acre)	
Surrounding Zoning:	North	RSF-4 (Mesa County)	
	South	RMF-5 (City)	
	East	RSF-4 (Mesa County)	
	West	RMF-5 (City)	
Growth Plan Designation:		Residential Medium, 4-8 units/acre	
Zoning within density range?		<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Yes	No

Staff Analysis:

ZONING OF ANNEXATION:

The proposed zoning for the Summit View Estates Annexation is the Residential Multi-family, 8 dwelling units per acre (RMF-8) zone district. The proposed use of the site is to be residential, which is in keeping with the goals of the Growth Plan and the RMF-8 zone district. Section 2.14(F), Zoning of Annexed Properties, of the Zoning and Development Code, states that land annexed into the City shall be zoned in accordance with Section 2.6 to a district that is consistent with the adopted Growth Plan or consistent with existing County zoning.

REZONING CRITERIA:

The annexed property or rezone must be evaluated using the criteria noted in Section 2.6(A) of the Zoning and Development Code. The criteria are as follows:

1. The existing zoning was in error at the time of adoption. This property is being annexed into the City and has not been previously considered for zoning, therefore, there has not been an error in zoning.

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 property is located in an area with developing residential uses. The request for Residential Multi-family, 8 units/acre (RMF-8) zoning is in keeping with the Growth Plan and Section 2.14, Annexations, of the Zoning and Development Code.

3. The proposed rezone is compatible with the neighborhood and will not create adverse impacts such as: capacity or safety of the street network, parking problems, storm water or drainage problems, water, air or noise pollution, excessive nighttime lighting, or other nuisances. The requested rezone to RMF-8 is within the allowable density range recommended by the Growth Plan. This criterion must be considered in conjunction with criterion 5 which requires that public facilities and services are available when the impacts of any proposed development are realized. Staff has determined that public infrastructure can address the impacts of any development consistent with the proposed zone district, therefore this criterion is met.

4. The proposal conforms with and furthers the goals and policies of the Growth Plan, other adopted plans, and the policies, the requirements of the Code and other City regulations and guidelines. The proposal is in conformance with the Growth Plan, and the policies and requirements of the Zoning and Development Code and other City regulations and guidelines.

5. Adequate public facilities and services are available or will be made available concurrent with the projected impacts of the proposed development. Adequate public facilities and services are currently available and can address the impacts consistent with the RMF-8 zone district.

6. There is not an adequate supply of land available in the neighborhood and surrounding area to accommodate the zoning and community needs. An adequate supply of land is available in the community, however, it is located in the County and has not yet developed. This area is designated as Residential Medium, 4-8 units/acre on the Future Land Use Map of the Growth Plan. In accordance with Section 2.14, Annexations, of the Zoning and Development Code, the Residential Multi-family, 8 units/acre (RMF-8) zone district is appropriate for this property when it develops.

7. The community or neighborhood will benefit from the proposed zone. The surrounding neighborhood and community would benefit from the proposed

rezone by providing a development which meets the goals and policies of the Growth Plan.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission made a recommendation of approval of the Residential Multi-Family-8 (RMF-8) zone district for the following reasons:

- RMF-8 zone district meets the recommended land use categories as shown through the Growth Plan, as well as the Growth Plan's goals and policies.

RMF-8 zone district meets the criteria found in Section 2.6(A) of the Zoning and Development Code.

Note to correct the record: The staff report submitted to the Planning Commission reported that the current zoning of this property is RSF-R, in fact it is actually RSF-4. The majority of testimony during the Planning Commission meeting concerned the constraints on the property rather than the proposed zoning's compliance with the Growth Plan. Because the Planning Commission made a recommendation and did not take final action, the City Attorney has advised that the error is immaterial and does not require the matter to be remanded to the Planning Commission.

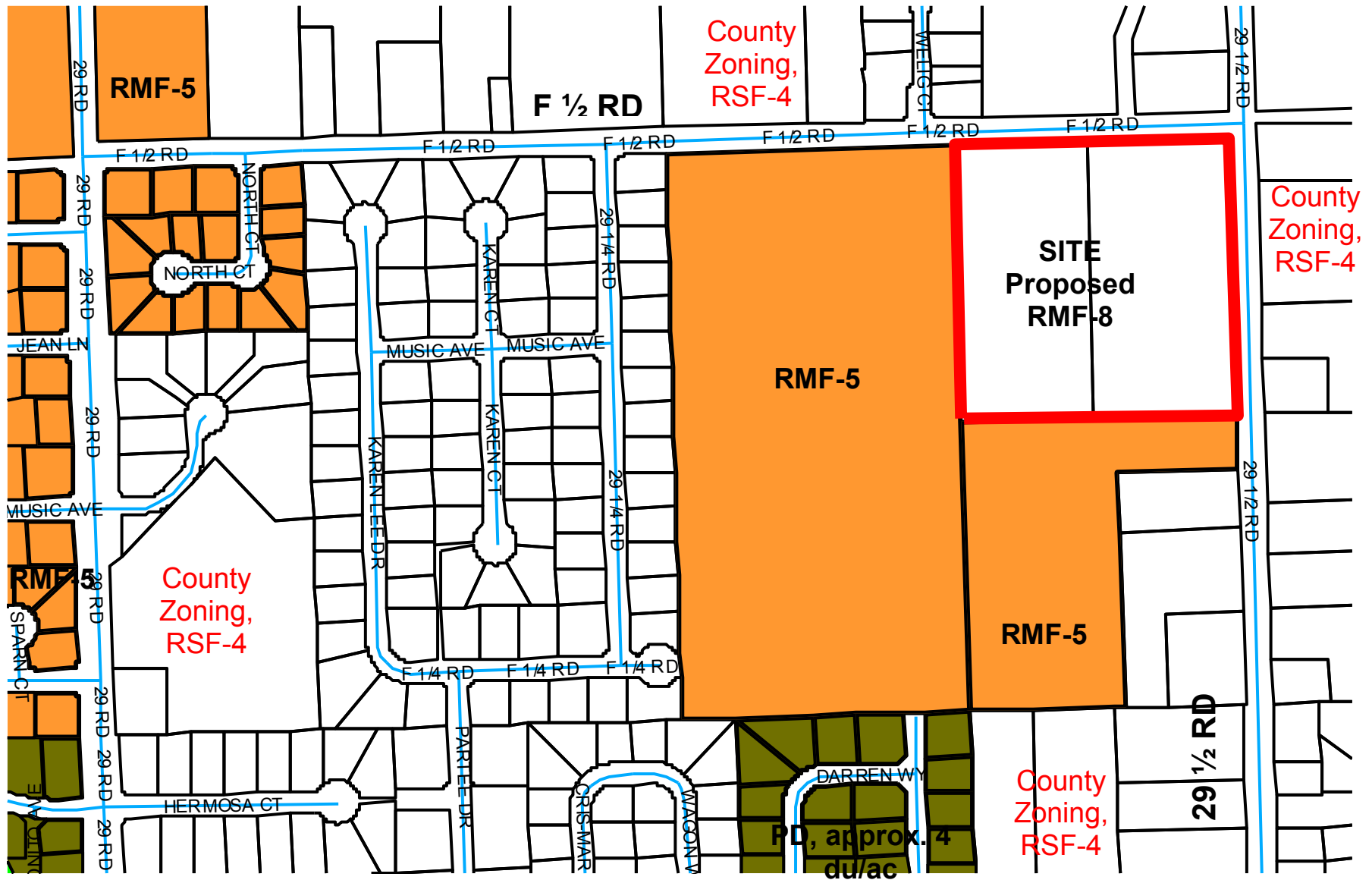
Attachments:

1. Site Location Map (Figure 1)
2. Aerial Photo Map (Figure 2)
3. Future Land Use Map (Figure 3)
4. Existing City and County Zoning Map (Figure 4)
5. Annexation Map (Figure 5)
6. Zoning Ordinance

H:Projects2003/ANX-2003-271/SVECityZord2

Existing City and County Zoning

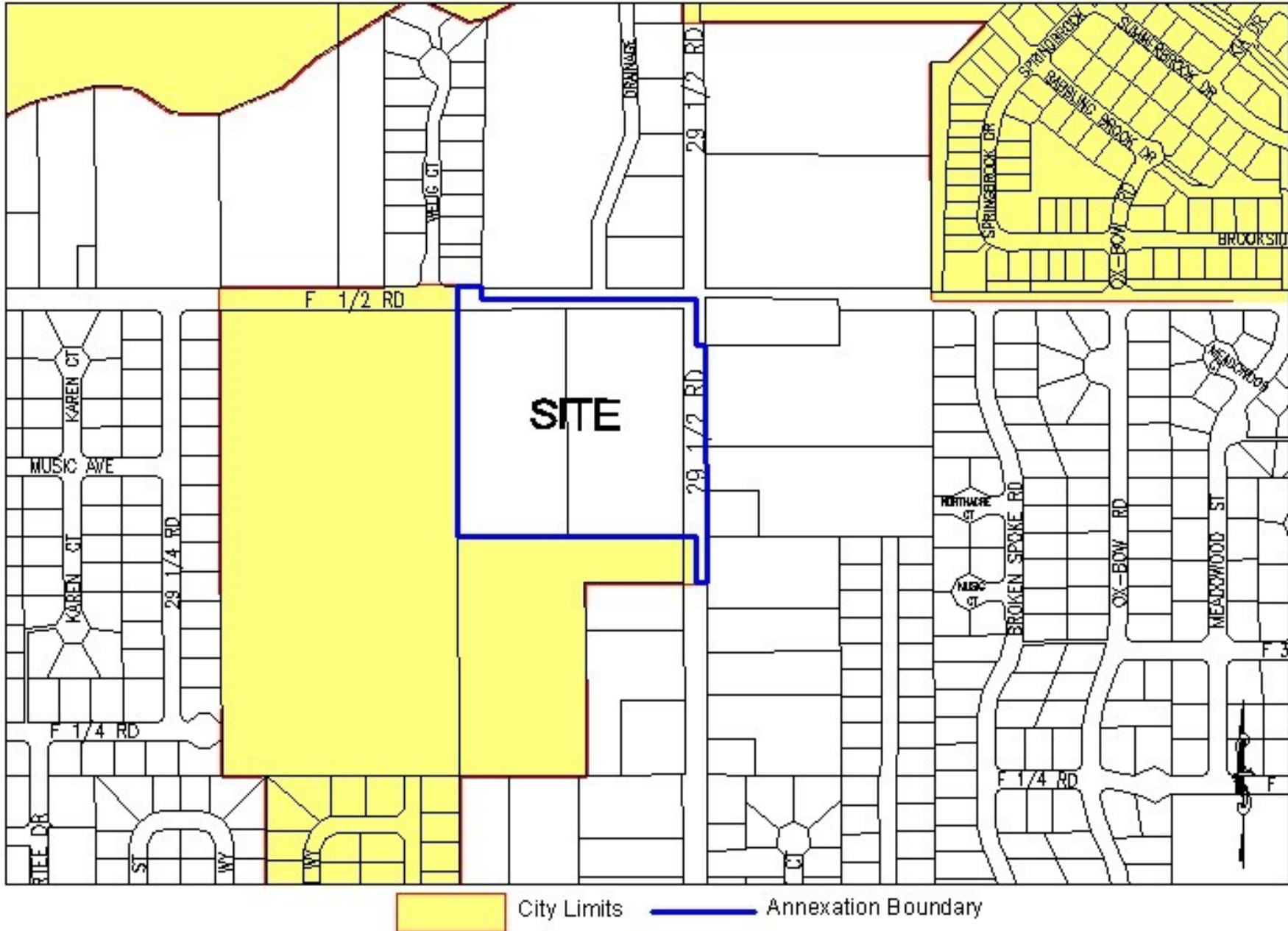
Figure 4



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."

Summit View Estates Annexation

Figure 5



CITY OF GRAND JUNCTION, COLORADO

ORDINANCE No. _____

**An Ordinance Zoning the Summit View Estates Annexation to
Residential Multi-Family-8 (RMF-8),
Located at 649 29 1/2 Road**

Recitals.

After public notice and public hearing as required by the Grand Junction Zoning and Development Code, the Grand Junction Planning Commission recommended approval of rezoning the Summit View Estates Annexation to the RMF-8 zone district for the following reasons:

The zone district meets the recommended land use category as shown on the future land use map of the Growth Plan and the Growth Plan's goals and policies and/or are generally compatible with appropriate lands uses located in the surrounding area.

The zone district meets the criteria found in Section 2.6 of the Zoning and Development Code.

After public notice and public hearing before the Grand Junction City Council, City Council finds that the RMF-8 zone district be established.

The Planning Commission and City Council find that the RMF-8 zoning is in conformance with the stated criteria of Section 2.6 of the Grand Junction Zoning and Development Code.

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

The following property shall be rezoned RMF-8, Residential Single Family with a density not to exceed 8 units per acre, zone district:

SUMMIT VIEW ESTATES ANNEXATION

W 302FT OF NE4NE4SW4 SEC 5 1S 1E EXC 30FT RD ON N, and NE4NE4SW4 SEC 5 1S 1E EXC W 302FT + LESS DN + EXC N +E 30FT FOR RDS

Housing type, density and bulk standards shall be for the RMF-8 zone district.

Introduced on first reading this 3rd day of March, 2004.

PASSED and ADOPTED on second reading this ____ day of March, 2004.

Mayor

ATTEST:

City Clerk

Attach 18
Pellam Annexation Located at 3136 E Road
CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA						
Subject	Public Hearing for Pellam Annexation located at 3136 E Rd					
Meeting Date	March 17, 2004					
Date Prepared	March 3, 2004				File #ANX-2004-011	
Author	Senta L. Costello		Associate Planner			
Presenter Name	Senta L. Costello		Associate Planner			
Report results back to Council	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	When	
Citizen Presentation		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Name	
	Workshop	<input checked="" type="checkbox"/>	Formal Agenda		<input type="checkbox"/>	Consent
					<input checked="" type="checkbox"/>	Individual Consideration

Summary: Resolution for acceptance of petition to annex and to hold a public hearing and consider final passage of the annexation ordinance for the Pellam Annexation, located at 3136 E Road. The 4.808 acre annexation consists of 1 parcel of land and a portion of the E Road right-of-way.

Budget: N/A

Action Requested/Recommendation: Public hearing on the annexation and acceptance of the petition. Approve resolution accepting a petition for annexation and approve second reading of the annexation ordinance.

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. Annexation map
17. Acceptance Resolution
18. Annexation Ordinance

STAFF REPORT/BACKGROUND INFORMATION

Location:		3136 E Road	
Applicants:		Carl & Sharon Pellam	
Existing Land Use:		Single Family Residential / Agricultural	
Proposed Land Use:		Single Family Residential / Agricultural	
Surrounding Land Use:	North	Manufactured Housing Park	
	South	Single Family Residential	
	East	Single Family Residential	
	West	Single Family Residential / Agricultural	
Existing Zoning:		RSF-R	
Proposed Zoning:		RMF-8	
Surrounding Zoning:	North	PC – Planned Commercial (County)	
	South	PD – Planned Development 4.84 du/ac (County)	
	East	RMF-8 (County)	
	West	RSF-R (County)	
Growth Plan Designation:		Residential Medium 4-8 du/ac	
Zoning within density range?		X	Yes
			No

Staff Analysis:

ANNEXATION:

This annexation area consists of 4.808 acres of land and is comprised of 1 parcel. The property owners have requested annexation into the City as the result of wishing to rezone the property. Under the 1998 Persigo Agreement all rezones require annexation and processing in the City.

It is staff's professional opinion, based on review of the petition and knowledge of applicable state law, including the Municipal Annexation Act Pursuant to C.R.S. 31-12-104, that the Pellam Annexation is eligible to be annexed because of compliance with the following:

- a) A proper petition has been signed by more than 50% of the owners and more than 50% of the property described;
- b) Not less than one-sixth of the perimeter of the area to be annexed is contiguous with the existing City limits;

- c) A community of interest exists between the area to be annexed and the City. This is so in part because the Central Grand Valley is essentially a single demographic and economic unit and occupants of the area can be expected to, and regularly do, use City streets, parks and other urban facilities;
- d) The area is or will be urbanized in the near future;
- e) The area is capable of being integrated with the City;
- f) No land held in identical ownership is being divided by the proposed annexation;
- g) No land held in identical ownership comprising 20 contiguous acres or more with an assessed valuation of \$200,000 or more for tax purposes is included without the owners consent.

The following annexation and zoning schedule is being proposed.

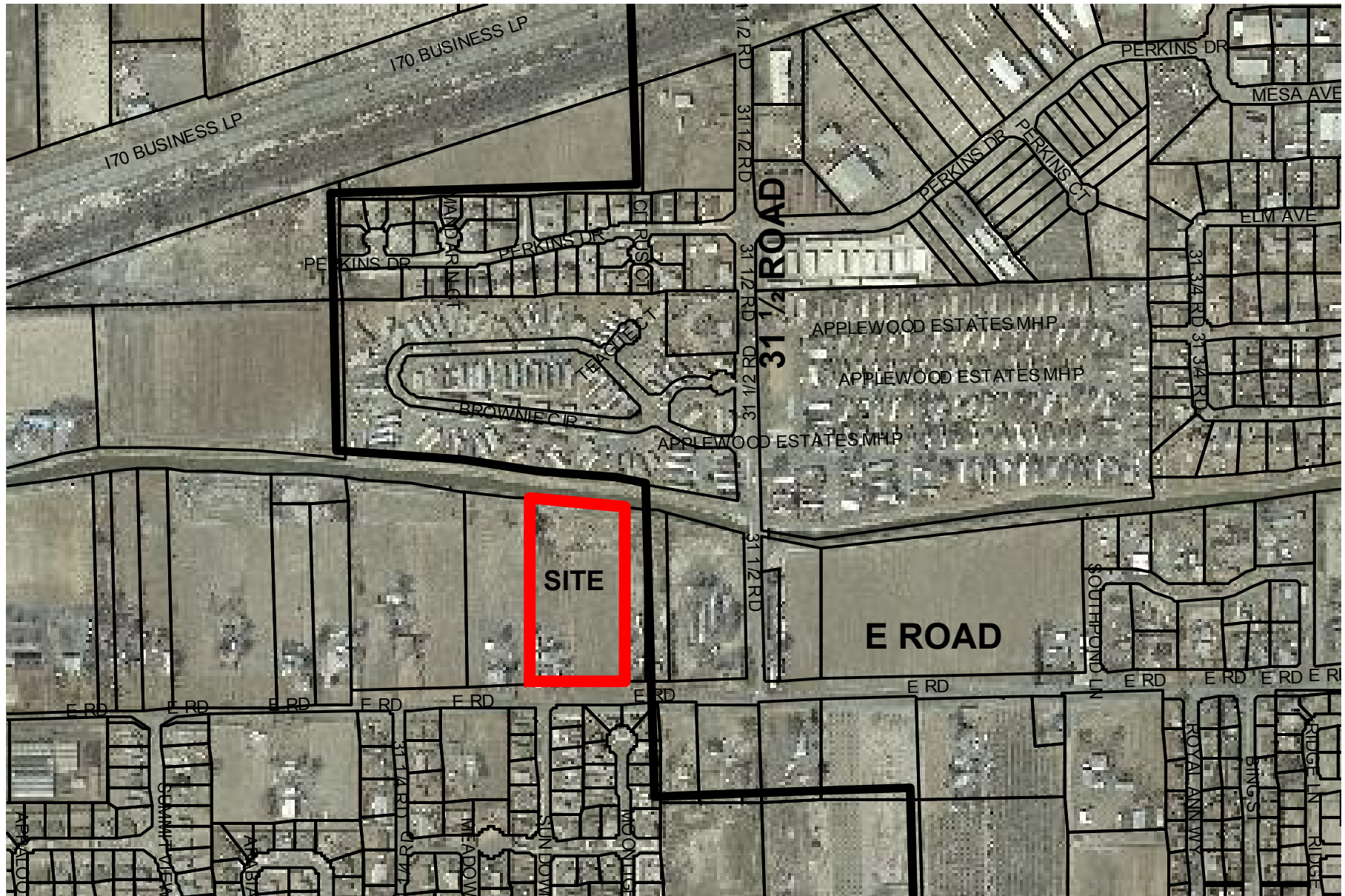
<u>ANNEXATION SCHEDULE</u>	
February 4, 2004	Referral of Petition (30 Day Notice), Introduction Of A Proposed Ordinance, Exercising Land Use
February 24, 2004	Planning Commission considers Zone of Annexation
March 3, 2004	Introduction Of A Proposed Ordinance on Zoning by City Council and Acceptance of Petition and Public Hearing on Annexation
March 17, 2004	Zoning by City Council
April 18, 2004	Effective date of Annexation and Zoning

PELLAM ANNEXATION SUMMARY

File Number:	ANX-2004-011	
Location:	3136 E Road	
Tax ID Number:	2943-103-00-056	
Parcels:	1	
Estimated Population:	2	
# of Parcels (owner occupied):	1	
# of Dwelling Units:	1	
Acres land annexed:	4.184 ac	
Developable Acres Remaining:	Approximately 4 acres	
Right-of-way in Annexation:	0.624	
Previous County Zoning:	RSF-R	
Proposed City Zoning:	RMF-8	
Current Land Use:	Single Family Residence	
Future Land Use:	Single Family Residential	
Values:	Assessed:	= \$12,470
	Actual:	= \$156,560
Address Ranges:	3136 E Road	
Special Districts:	Water:	Clifton Water District
	Sewer:	Central Grand Valley
	Fire:	Clifton Fire District
	Irrigation/Drainage:	Grand Valley Irrigation / Grand Jct Drainage District
	School:	Mesa County School District #51
	Pest	Upper Grand Valley Pest District

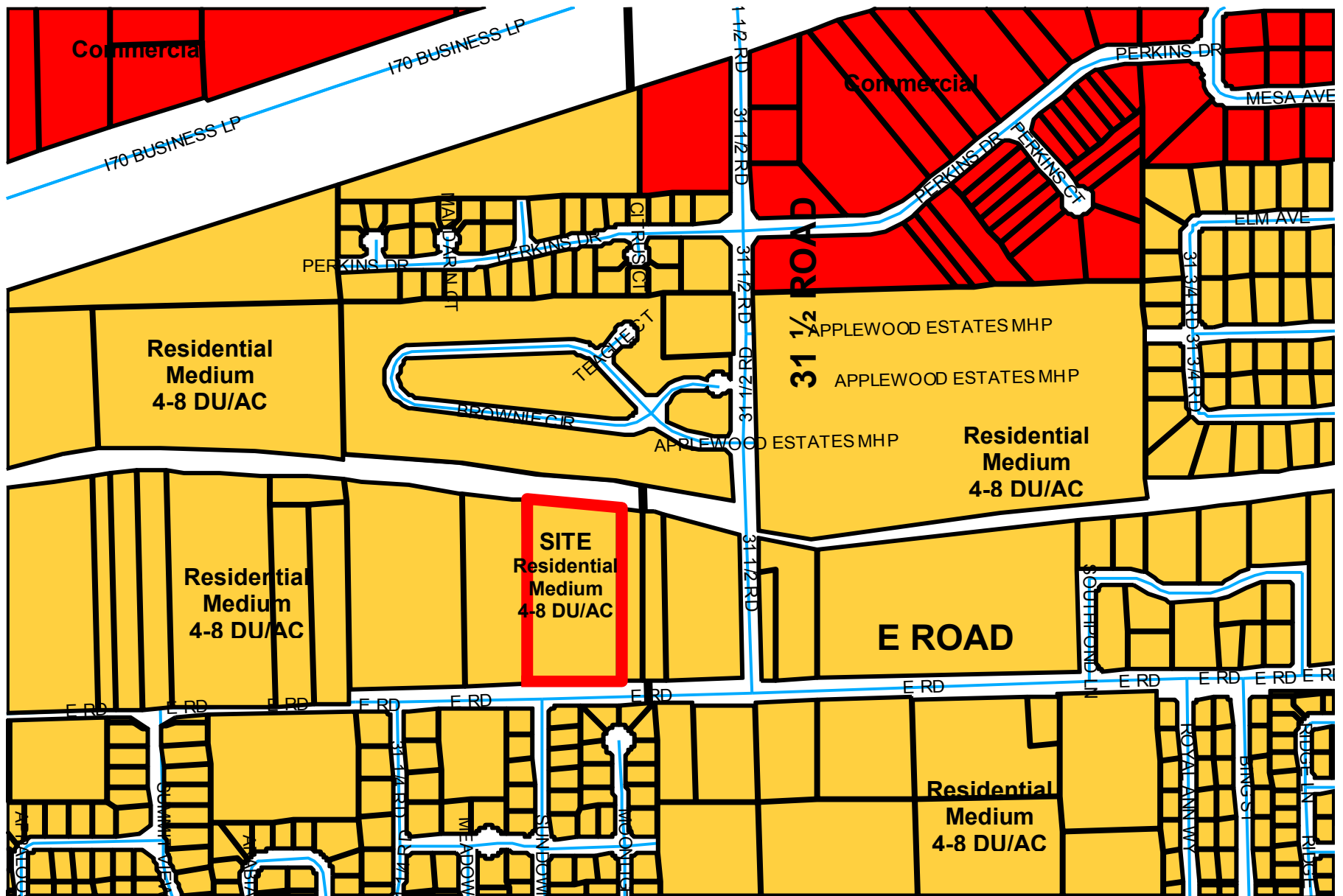
Aerial Photo Map

Figure 2



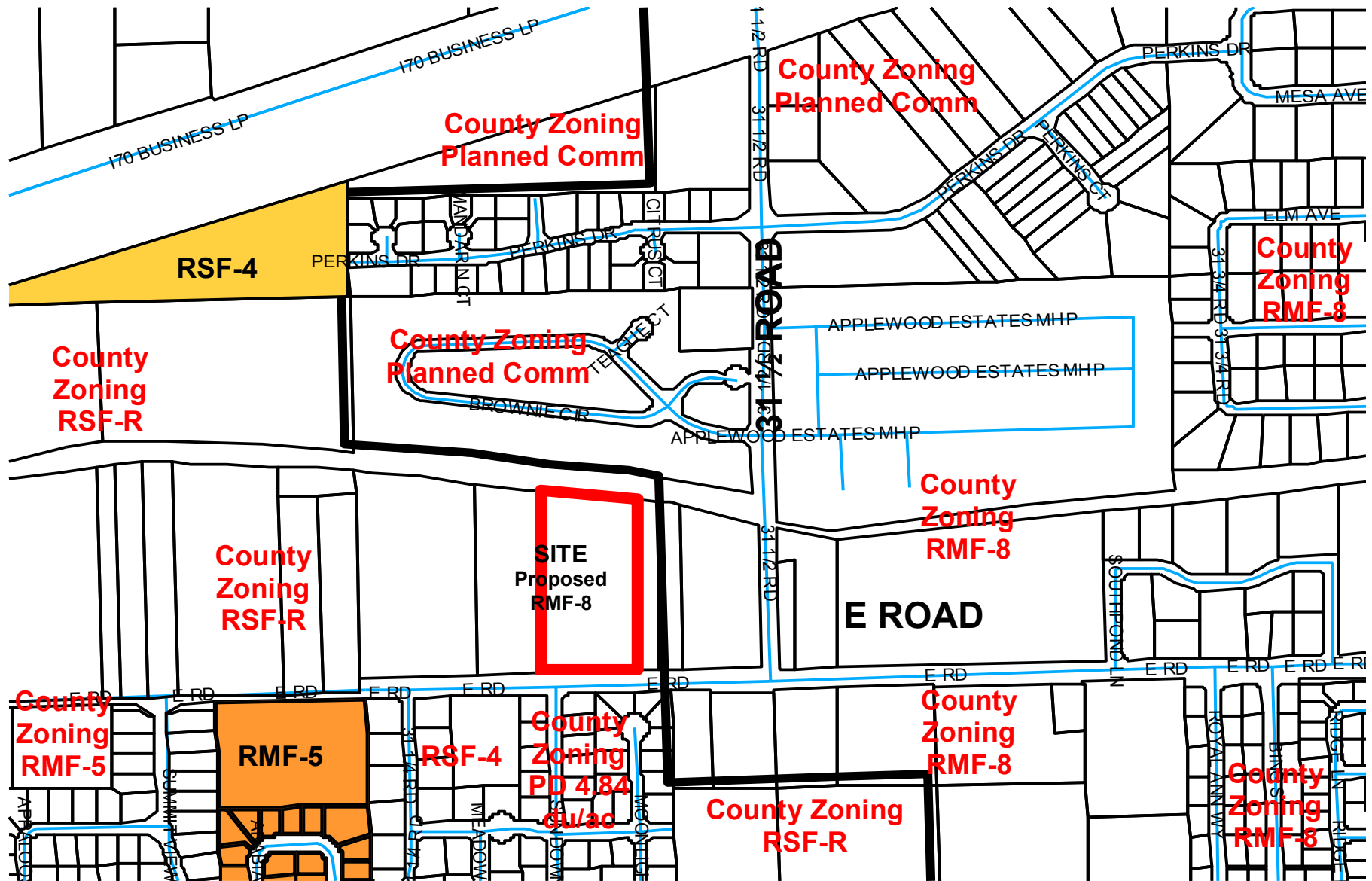
Future Land Use Map

Figure 3



Existing City and County Zoning

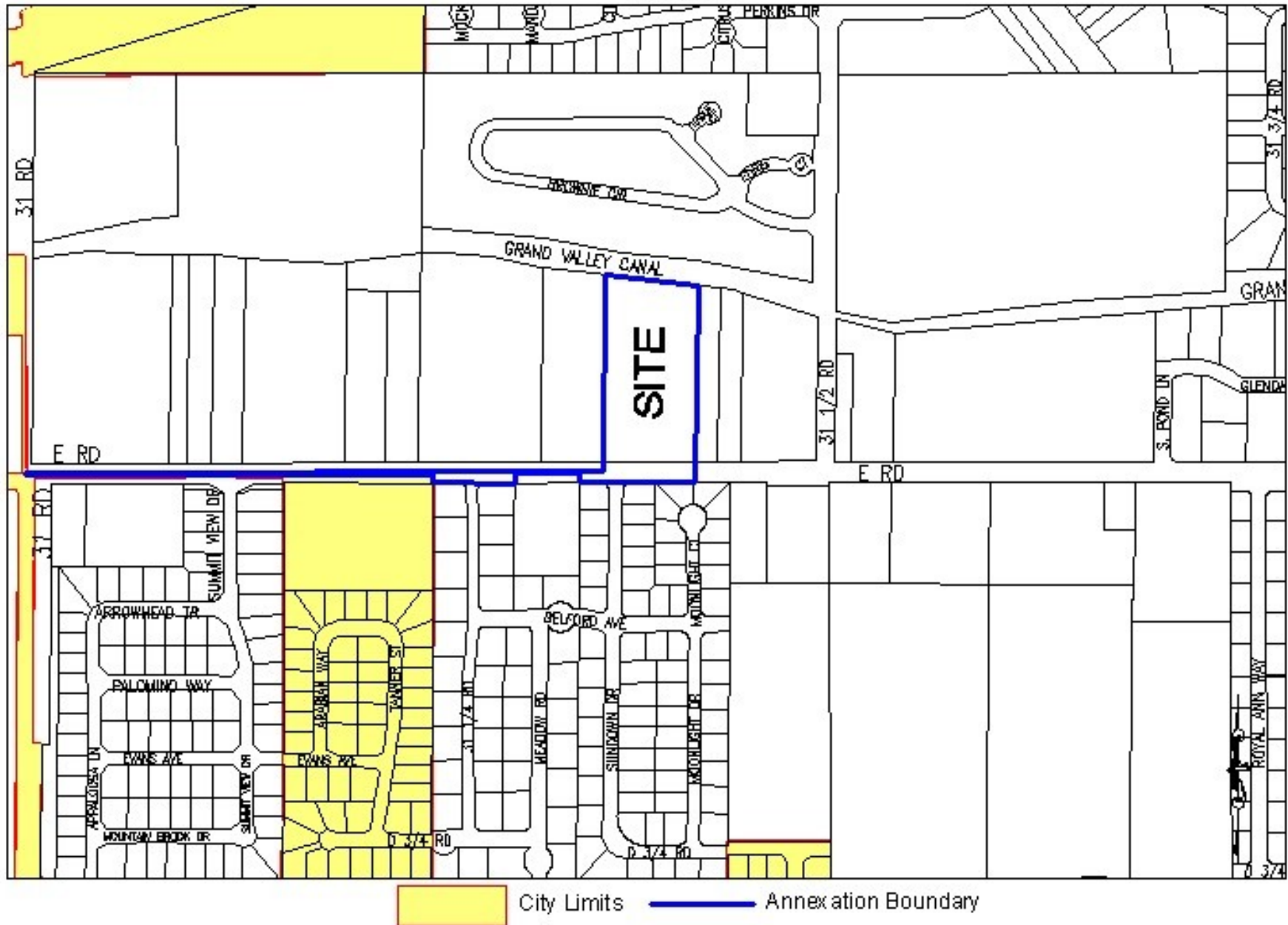
Figure 4



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."

Pellam Annexation

Figure 5



RESOLUTION NO. ____

**A RESOLUTION ACCEPTING A
PETITION FOR ANNEXATION, MAKING CERTAIN
FINDINGS, DETERMINING THAT PROPERTY KNOWN AS THE**

PELLAM ANNEXATION

LOCATED at 3136 E ROAD

IS ELIGIBLE FOR ANNEXATION

WHEREAS, on the 4th day of February, 2004, a petition was submitted to the City Council of the City of Grand Junction, Colorado, for annexation to said City of the following property situate in Mesa County, Colorado, and described as follows:

PELLAM ANNEXATION

A certain parcel of land lying in the South half (S 1/2) of the Southwest Quarter (SW 1/4) of Section 10, Township 1 South, Range 1 East of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

COMMENCING at the Southwest corner of said Section 10 and assuming the South line of the SW 1/4 of said Section 10 bears N 90°00'00" E with all other bearings contained herein being relative thereto; thence from said Point of Commencement, N 00°18'17" W along the West line of the SW 1/4 of said Section 10, a distance of 6.00 feet; thence N 90°00'00" E along a line 6.00 feet North of and parallel to, the South line of the SW 1/4 of said Section 10, a distance of 2.00 feet to the POINT OF BEGINNING; thence from said Point of Beginning, continue N 90°00'00" E along said parallel line, a distance of 1886.09 feet, more or less, to a point on the West line of that certain parcel of land as described in Book 2538, Page 871, Public Records of Mesa County, Colorado; thence N 00°00'00" E, along the West line of said parcel of land, a distance of 647.00 feet, more or less, to a point being the Northwest corner of said parcel; thence S 82°15'00" E, along the North line of said parcel, a distance of 290.40 feet, more or less, to a point being the Northeast corner of said parcel; thence S 00°00'00" E, along the East line of said parcel, a distance of 643.84 feet, more or less, to a point on the South right of way for E Road, and being a point on the North line of Sundown Village No. 2, as same is recorded in Plat Book 15, Pages 35 and 36, Public Records of Mesa County, Colorado; thence S 90°00'00" W along the South right of way for E Road, being a line 30.00 feet South of and parallel to, the South line of the SW 1/4 of said Section 10, a distance of 377.19 feet, more or less, to a point being the Northwest corner of Sundown Village, as same is recorded in Plat Book 14, Pages 17 and 18, Public Records of Mesa County, Colorado; thence N 00°07'00" W along the Northerly

projection of the West line of said Sundown Village, a distance of 30.00 feet to a point on the South line of the SW 1/4 of said Section 10; thence S 90°00'00" W along the South line of the SW 1/4 of said Section 10, a distance of 218.55 feet; thence S 00°07'00" E along a line being the Northerly projection of the East line of Meadowood Subdivision, as same is recorded in Plat Book 11, Page 165, Public Records of Mesa County, Colorado, a distance of 30.00 feet to a point being the Northeast corner of said Meadowood Subdivision; thence S 90°00'00" W along the North line of said Meadowood Subdivision, a distance of 272.01 feet, more or less, to a point being the Northwest corner of said Meadowood Subdivision; thence N 00°07'33" W, along the Northerly projection of the East line of said Meadowood Subdivision, a distance of 32.00 feet; thence S 90°00'00" W along a line 2.00 feet North of and parallel to, the South line of the SW 1/4 of said Section 10, a distance of 806.01 feet; thence N 00°00'00" E a distance of 2.00 feet; thence S 90°00'00" W, along a line 4.00 feet North of and parallel to, the South line of the SW 1/4 of said Section 10, a distance of 500.00 feet; thence N 00°18'17" W, along a line 2.00 feet East of and parallel to, the West line of the SW 1/4 of said Section 10, a distance of 2.00 feet, more or less, to the Point of Beginning.

CONTAINING 4.808 Acres (209,447.8 Sq. Ft.), more or less, as described

WHEREAS, a hearing on the petition was duly held after proper notice on the 17th day of March, 2004; and

WHEREAS, the Council has found and determined and does hereby find and determine that said petition is in substantial compliance with statutory requirements therefore, that one-sixth of the perimeter of the area proposed to be annexed is contiguous with the City; that a community of interest exists between the territory and the City; that the territory proposed to be annexed is urban or will be urbanized in the near future; that the said territory is integrated or is capable of being integrated with said City; that no land held in identical ownership has been divided without the consent of the landowner; that no land held in identical ownership comprising more than twenty acres which, together with the buildings and improvements thereon, has an assessed valuation in excess of two hundred thousand dollars is included without the landowner's consent; and that no election is required under the Municipal Annexation Act of 1965.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT;

The said territory is eligible for annexation to the City of Grand Junction, Colorado, and should be so annexed by Ordinance.

ADOPTED this 17th day of March, 2004.

Attest:

President of the Council

City Clerk

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

**AN ORDINANCE ANNEXING TERRITORY TO THE
CITY OF GRAND JUNCTION, COLORADO**

PELLAM ANNEXATION

APPROXIMATELY 4.808 ACRES

**LOCATED AT 3136 E ROAD AND CONTAINING A PORTION OF E ROAD RIGHT-
OF-WAY**

WHEREAS, on the 4th day of February, 2004, the City Council of the City of Grand Junction considered a petition for the annexation of the following described territory to the City of Grand Junction; and

WHEREAS, a hearing on the petition was duly held after proper notice on the 17th day of March, 2004; and

WHEREAS, the City Council determined that said territory was eligible for annexation and that no election was necessary to determine whether such territory should be annexed;

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

That the property situate in Mesa County, Colorado, and described to wit:

PELLAM ANNEXATION

A certain parcel of land lying in the South half (S 1/2) of the Southwest Quarter (SW 1/4) of Section 10, Township 1 South, Range 1 East of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

COMMENCING at the Southwest corner of said Section 10 and assuming the South line of the SW 1/4 of said Section 10 bears N 90°00'00" E with all other bearings contained herein being relative thereto; thence from said Point of Commencement, N 00°18'17" W along the West line of the SW 1/4 of said Section 10, a distance of 6.00 feet; thence N 90°00'00" E along a line 6.00 feet North of and parallel to, the South line of the SW 1/4 of said Section 10, a distance of 2.00 feet to the POINT OF BEGINNING; thence from said Point of Beginning, continue N 90°00'00" E along said parallel line, a

distance of 1886.09 feet, more or less, to a point on the West line of that certain parcel of land as described in Book 2538, Page 871, Public Records of Mesa County, Colorado; thence N 00°00'00" E, along the West line of said parcel of land, a distance of 647.00 feet, more or less, to a point being the Northwest corner of said parcel; thence S 82°15'00" E, along the North line of said parcel, a distance of 290.40 feet, more or less, to a point being the Northeast corner of said parcel; thence S 00°00'00" E, along the East line of said parcel, a distance of 643.84 feet, more or less, to a point on the South right of way for E Road, and being a point on the North line of Sundown Village No. 2, as same is recorded in Plat Book 15, Pages 35 and 36, Public Records of Mesa County, Colorado; thence S 90°00'00" W along the South right of way for E Road, being a line 30.00 feet South of and parallel to, the South line of the SW 1/4 of said Section 10, a distance of 377.19 feet, more or less, to a point being the Northwest corner of Sundown Village, as same is recorded in Plat Book 14, Pages 17 and 18, Public Records of Mesa County, Colorado; thence N 00°07'00" W along the Northerly projection of the West line of said Sundown Village, a distance of 30.00 feet to a point on the South line of the SW 1/4 of said Section 10; thence S 90°00'00" W along the South line of the SW 1/4 of said Section 10, a distance of 218.55 feet; thence S 00°07'00" E along a line being the Northerly projection of the East line of Meadowood Subdivision, as same is recorded in Plat Book 11, Page 165, Public Records of Mesa County, Colorado, a distance of 30.00 feet to a point being the Northeast corner of said Meadowood Subdivision; thence S 90°00'00" W along the North line of said Meadowood Subdivision, a distance of 272.01 feet, more or less, to a point being the Northwest corner of said Meadowood Subdivision; thence N 00°07'33" W, along the Northerly projection of the East line of said Meadowood Subdivision, a distance of 32.00 feet; thence S 90°00'00" W along a line 2.00 feet North of and parallel to, the South line of the SW 1/4 of said Section 10, a distance of 806.01 feet; thence N 00°00'00" E a distance of 2.00 feet; thence S 90°00'00" W, along a line 4.00 feet North of and parallel to, the South line of the SW 1/4 of said Section 10, a distance of 500.00 feet; thence N 00°18'17" W, along a line 2.00 feet East of and parallel to, the West line of the SW 1/4 of said Section 10, a distance of 2.00 feet, more or less, to the Point of Beginning.

CONTAINING 4.808 Acres (209,447.8 Sq. Ft.), more or less, as described

Be and is hereby annexed to the City of Grand Junction, Colorado.

INTRODUCED on first reading on the 4th day of February, 2004 and ordered published.

ADOPTED on second reading this 17th day of March, 2004.

Attest:

President of the Council

City Clerk

Attach 19
Zoning the Pellam Annexation Located at 3136 E Road
CITY OF GRAND JUNCTION

<i>CITY COUNCIL AGENDA</i>						
Subject	Zoning the Pellam Annexation, located at 3136 E Road.					
Meeting Date	March 17, 2004					
Date Prepared	March 3, 2004				File #ANX-2004-011	
Author	Senta L. Costello		Associate Planner			
Presenter Name	Senta L. Costello		Associate Planner			
Report results back to Council	X	No		Yes	When	
Citizen Presentation		Yes	X	No	Name	
	Workshop	X	Formal Agenda		Consent	X Individual Consideration

Summary: Hold a public hearing and consider final passage of the Zoning ordinance to zone the 4.808 acre Pellam Annexation to RMF-8 (Residential Multi-Family 8 du/ac), located at 3136 E Road.

Budget: N/A

Action Requested/Recommendation: Hold a public hearing and consider final passage of the zoning ordinance.

Background Information: See attached Staff Report/Background Information

Attachments:

- 19. Staff report/Background information
- 20. General Location Map
- 21. Aerial Photo
- 22. Growth Plan Map
- 23. Zoning Map
- 24. Annexation map
- 25. Zoning Ordinance

Staff Report/ Background Information

<i>BACKGROUND INFORMATION</i>			
Location:		3136 E Road	
Applicants:		Carl & Sharon Pellam	
Existing Land Use:		Single Family Residential / Agricultural	
Proposed Land Use:		Single Family Residential / Agricultural	
Surrounding Land Use:	North	Manufactured Housing Park	
	South	Single Family Residential	
	East	Single Family Residential	
	West	Single Family Residential / Agricultural	
Existing Zoning:		RSF-R	
Proposed Zoning:		RMF-8	
Surrounding Zoning:	North	PC – Planned Commercial (County)	
	South	PD – Planned Development 4.84 du/ac (County)	
	East	RMF-8 (County)	
	West	RSF-R (County)	
Growth Plan Designation:		Residential Medium 4-8 du/ac	
Zoning within density range?		X	Yes
			No

Staff Analysis:

Zone of Annexation: The requested zone of annexation to the RMF-8 district is consistent with the Growth Plan density of Residential Medium 4-8 du/ac. The existing County zoning is RSF-R. Section 2.14 of the Zoning and Development Code states that the zoning of an annexation area shall be consistent with either the Growth Plan or the existing County zoning.

In order for the rezoning to occur, the following questions must be answered and a finding of consistency with the Zoning and Development Code must be made per Section 2.6 as follows:

2. The existing zoning was in error at the time of adoption;

Response: The requested zoning is to place the property into an appropriate City zoning designation due to the annexation request. Therefore, this criteria is not applicable.

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.;

Response: The zoning request is in conjunction with an annexation request. Therefore this criteria is not applicable.

6. The proposed rezone is compatible with the neighborhood and will not create adverse impacts such as: capacity or safety of the street network, parking problems, storm water or drainage problems, water, air or noise pollution, excessive nighttime lighting, or nuisances;

Response: The zoning request is compatible with the neighborhood and adjacent zoning. Future improvements to facilities will occur if the preliminary plan goes forward.

7. The proposal conforms with and furthers the goals and policies of the Growth Plan, other adopted plans, and policies, the requirements of this Code, and other City regulations and guidelines;

Response: The proposed zoning is consistent with the Goals and polices of the Growth Plan, the requirements of the Zoning and Development Code and other City regulations and guidelines.

8. Adequate public facilities and services are available or will be made available concurrent with the projected impacts of the proposed development;

Response: Adequate public facilities are available or will be supplied at the time of further development of the property.

6. There is not an adequate supply of land available in the neighborhood and surrounding area to accommodate the zoning and community needs; and

Response: The zoning request is in conjunction with an annexation request. Therefore this criteria is not applicable.

8. The community or neighborhood will benefit from the proposed zone.

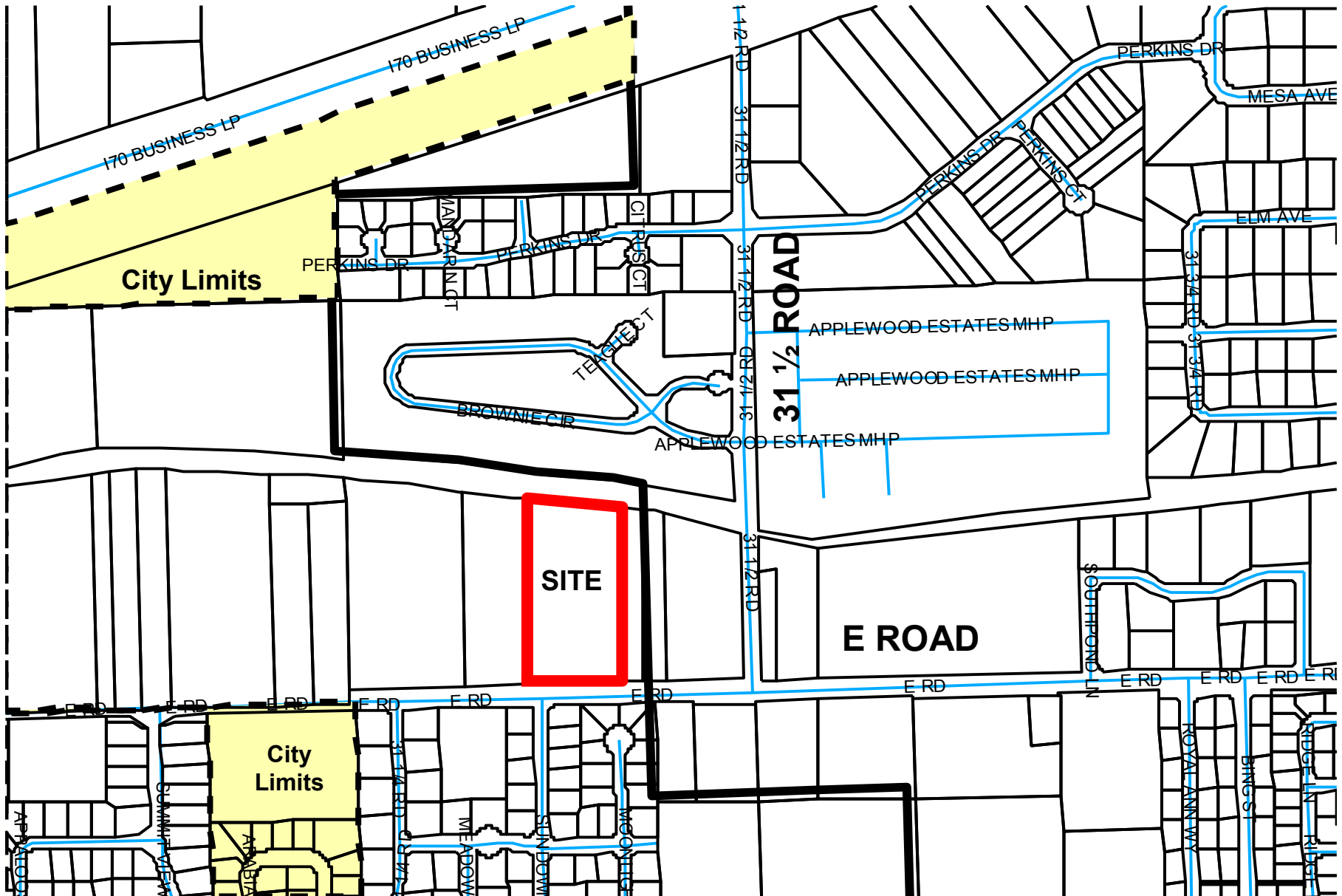
Response: The zoning request is in conjunction with an annexation request. Therefore this criteria is not applicable.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission recommended approval of the requested zone of annexation to the City Council, finding the zoning to the RMF-8 district to be consistent with the Growth Plan, the existing County Zoning and Sections 2.6 and 2.14 of the Zoning and Development Code.

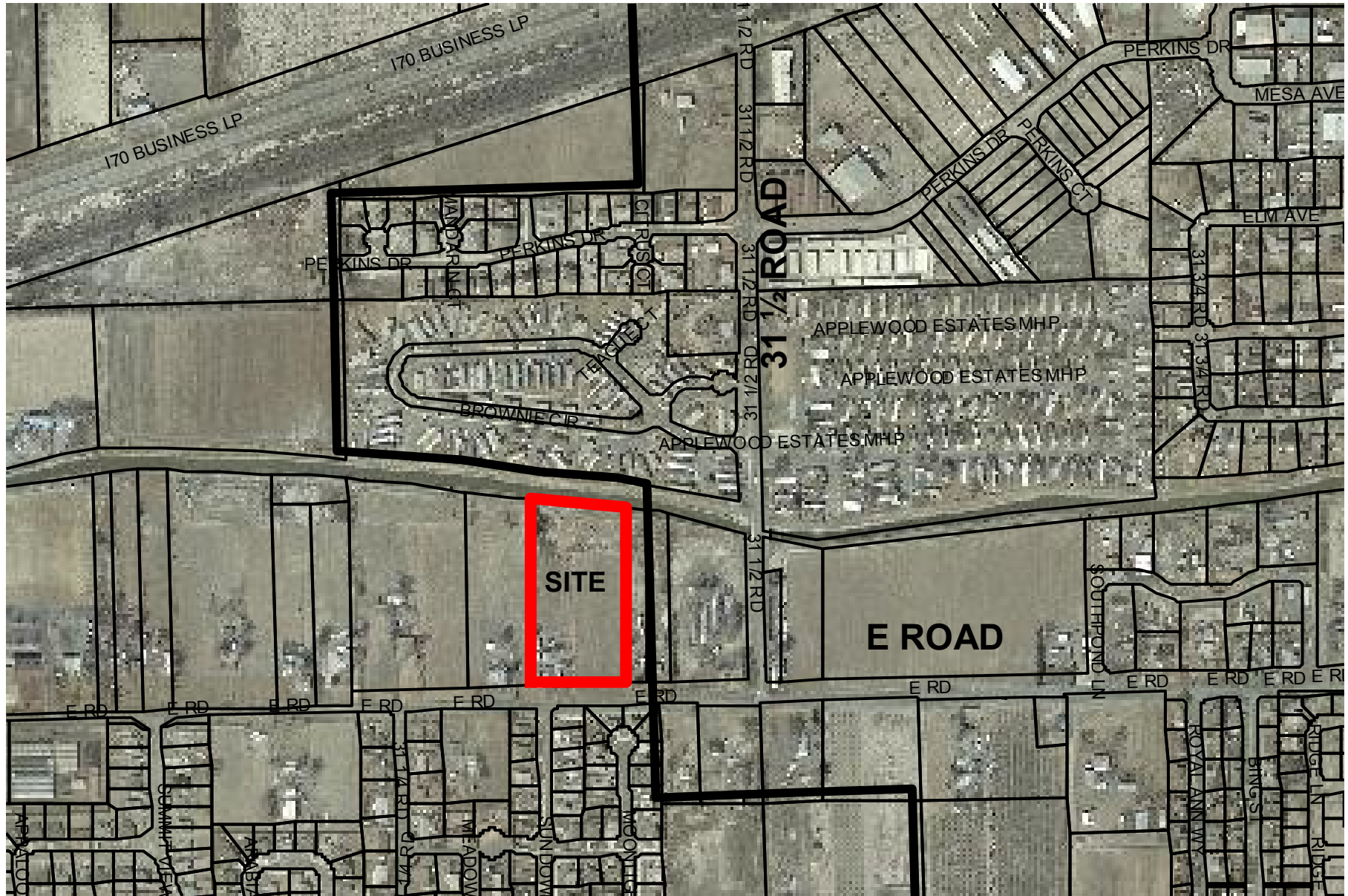
Site Location Map

Figure 1



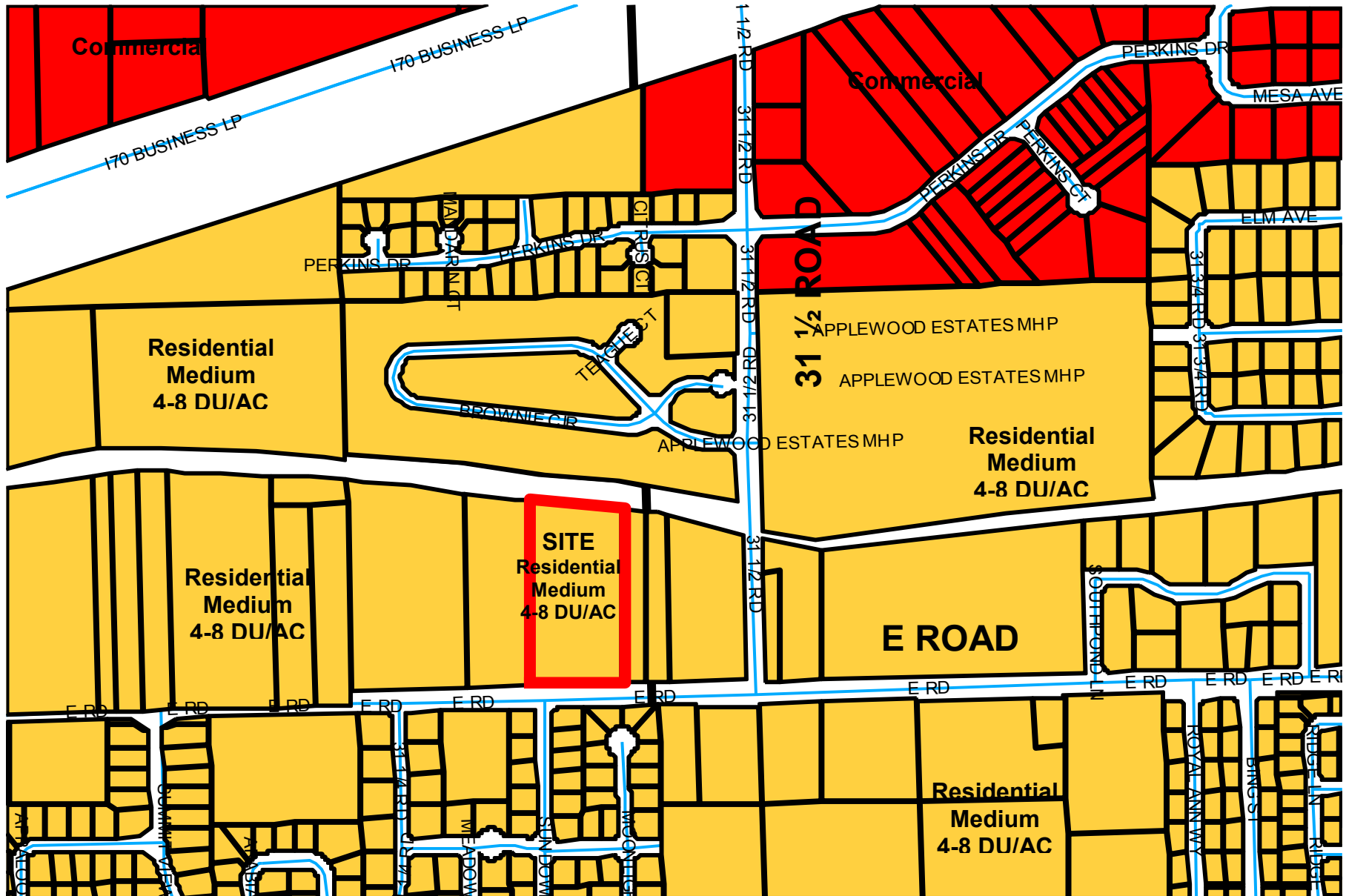
Aerial Photo Map

Figure 2



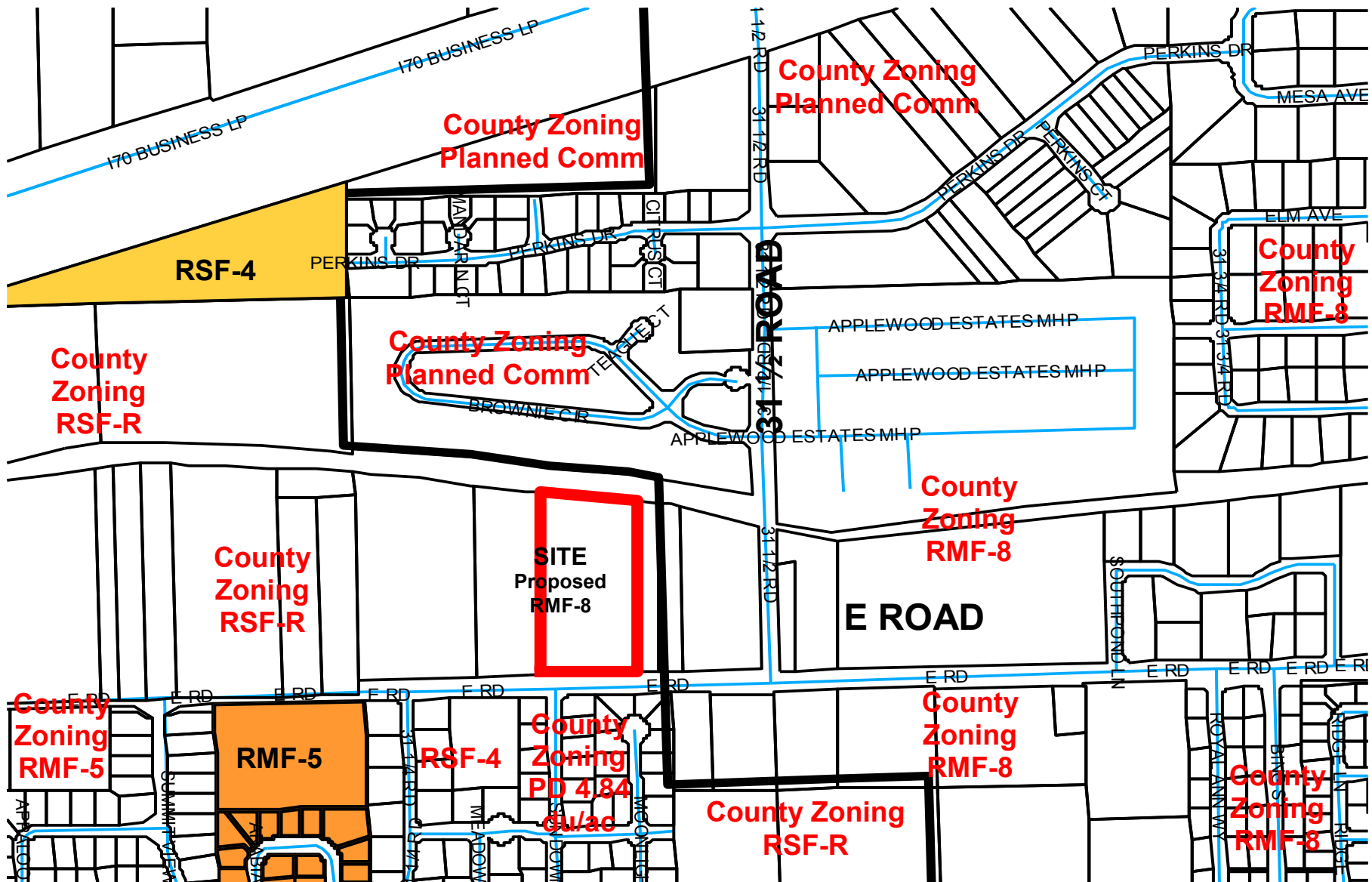
Future Land Use Map

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."

Pellam Annexation

Figure 5



 City Limits  Annexation Boundary

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

**AN ORDINANCE ZONING THE PELLAM ANNEXATION TO
RMF-8**

LOCATED AT 3136 E ROAD

Recitals.

After public notice and public hearing as required by the Grand Junction Zoning and Development Code, the Grand Junction Planning Commission recommended approval of rezoning the Pellam Annexation to the RMF-8 zone district for the following reasons:

The zone district meets the recommended land use category as shown on the future land use map of the Growth Plan and the Growth Plan's goals and policies and/or are generally compatible with appropriate land uses located in the surrounding area. The zone district meets the criteria found in Section 2.6 of the Zoning and Development Code.

After the public notice and public hearing before the Grand Junction City Council, City Council finds that the RMF-8 zone district be established.

The Planning Commission and City Council find that the RMF-8 zoning is in conformance with the stated criteria of Section 2.6 of the Grand Junction Zoning and Development Code.

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

The following property shall be rezoned RMF-8 with a density not to exceed 8 units per acre.

PELLAM ANNEXATION

A certain parcel of land lying in the South half (S 1/2) of the Southwest Quarter (SW 1/4) of Section 10, Township 1 South, Range 1 East of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

COMMENCING at the Southwest corner of said Section 10 and assuming the South line of the SW 1/4 of said Section 10 bears N 90°00'00" E with all other bearings contained herein being relative thereto; thence from said Point of Commencement, N 00°18'17" W along the West line of the SW 1/4 of said Section 10, a distance of 6.00

feet; thence N 90°00'00" E along a line 6.00 feet North of and parallel to, the South line of the SW 1/4 of said Section 10, a distance of 2.00 feet to the POINT OF BEGINNING; thence from said Point of Beginning, continue N 90°00'00" E along said parallel line, a distance of 1886.09 feet, more or less, to a point on the West line of that certain parcel of land as described in Book 2538, Page 871, Public Records of Mesa County, Colorado; thence N 00°00'00" E, along the West line of said parcel of land, a distance of 647.00 feet, more or less, to a point being the Northwest corner of said parcel; thence S 82°15'00" E, along the North line of said parcel, a distance of 290.40 feet, more or less, to a point being the Northeast corner of said parcel; thence S 00°00'00" E, along the East line of said parcel, a distance of 643.84 feet, more or less, to a point on the South right of way for E Road, and being a point on the North line of Sundown Village No. 2, as same is recorded in Plat Book 15, Pages 35 and 36, Public Records of Mesa County, Colorado; thence S 90°00'00" W along the South right of way for E Road, being a line 30.00 feet South of and parallel to, the South line of the SW 1/4 of said Section 10, a distance of 377.19 feet, more or less, to a point being the Northwest corner of Sundown Village, as same is recorded in Plat Book 14, Pages 17 and 18, Public Records of Mesa County, Colorado; thence N 00°07'00" W along the Northerly projection of the West line of said Sundown Village, a distance of 30.00 feet to a point on the South line of the SW 1/4 of said Section 10; thence S 90°00'00" W along the South line of the SW 1/4 of said Section 10, a distance of 218.55 feet; thence S 00°07'00" E along a line being the Northerly projection of the East line of Meadowood Subdivision, as same is recorded in Plat Book 11, Page 165, Public Records of Mesa County, Colorado, a distance of 30.00 feet to a point being the Northeast corner of said Meadowood Subdivision; thence S 90°00'00" W along the North line of said Meadowood Subdivision, a distance of 272.01 feet, more or less, to a point being the Northwest corner of said Meadowood Subdivision; thence N 00°07'33" W, along the Northerly projection of the East line of said Meadowood Subdivision, a distance of 32.00 feet; thence S 90°00'00" W along a line 2.00 feet North of and parallel to, the South line of the SW 1/4 of said Section 10, a distance of 806.01 feet; thence N 00°00'00" E a distance of 2.00 feet; thence S 90°00'00" W, along a line 4.00 feet North of and parallel to, the South line of the SW 1/4 of said Section 10, a distance of 500.00 feet; thence N 00°18'17" W, along a line 2.00 feet East of and parallel to, the West line of the SW 1/4 of said Section 10, a distance of 2.00 feet, more or less, to the Point of Beginning.

CONTAINING 4.808 Acres (209,447.8 Sq. Ft.), more or less, as described

Introduced on first reading this 4th day of February, 2004 and ordered published.

Adopted on second reading this _____ day of _____, 2004.

Mayor

ATTEST:

City Clerk