

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

**WEDNESDAY, APRIL 7, 2004, 7:30 P.M.**

**CALL TO ORDER**

Pledge of Allegiance  
Invocation – Michael Torphy, Religious Science Church

**PROCLAMATIONS / RECOGNITIONS**

Proclaiming the Month of April as “Month of the Young Child” in the City of Grand Junction

Proclaiming the Month of April as “Child Abuse Prevention Month” in the City of Grand Junction

Proclaiming April 16, 2004 as “Arbor Day” in the City of Grand Junction

**PRESENTATION OF CERTIFICATES OF APPOINTMENT**

To the Airport Authority

**APPOINTMENTS**

To the Public Finance Corporation

To the Parks and Recreation Advisory Board

**CITIZEN COMMENTS**

Grand Junction Rural Fire District Board Member Steve Gsell will address the City Council

**\*\*\* CONSENT CALENDAR \*\*\*<sup>®</sup>**

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*

<sup>®</sup> *Requires Roll Call Vote*

1. **Minutes of Previous Meetings** [Attach 1](#)

*Action: Approve the Summary of the March 15, 2004 Noon Workshop, March 15, 2004 Workshop and the Minutes of the March 15, 2004 Special Meeting, March 17, 2004 Regular Meeting and the March 22, 2004 Special Meeting*

2. **Setting a Hearing on the Chipeta Glenn Annexation Located at 2975 and 2977 B ½ Road** [File #ANX-2004-032] [Attach 2](#)

Resolution referring a petition for annexation and introduction of proposed ordinances. The 13.641 acre Chipeta Glenn Annexation consists of 2 parcel(s). The Chipeta Glenn Annexation is a 2 part serial annexation and includes 92' of B ½ Road right-of-way.

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

Resolution No. 25-04 – A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, Setting a Hearing on Such Annexation, and Exercising Land Use Control, Chipeta Glenn Annexations #1 & #2 Located at 2975 and 2977 B ½ Road

*®Action: Adopt Resolution No. 25-04*

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

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado Chipeta Glenn Annexation #1, Approximately 7.055 Acres, Located at 2975 B ½ Road

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado Chipeta Glenn Annexation #2, Approximately 6.586 Acres, Located at 2977 B ½ Road

*Action: Introduction of Proposed Ordinances and Set a Hearing for May 19, 2004*

Staff presentation: Senta L. Costello, Associate Planner

3. **Setting a Hearing on Grand Valley Audubon Annexation Located at 605 and 608 Dike Road** [File #ANX-2004-052] [Attach 3](#)

Resolution referring a petition for annexation and introduction of proposed ordinances. The 55.272 acre Grand Valley Audubon Annexation consists of 2 parcel(s). The Grand Valley Audubon Annexation is a 2 part serial annexation.

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

Resolution No. 26-04 – A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, Setting a Hearing on Such Annexation, and Exercising Land Use Control, Grand Valley Audubon Annexation #1 & #2, Located at 605 and 608 Dike Road

®Action: *Adopt Resolution No. 26-04*

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

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, Grand Valley Audubon Annexation #1, Approximately 25.994 Acres, Located at 605 Dike Road

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado Grand Valley Audubon Annexation #2, Approximately 29.278 Acres, Located at 608 Dike Road

Action: *Introduction of Proposed Ordinances and Set a Hearing for May 19, 2004*

Staff presentation: Senta L. Costello, Associate Planner

4. **Setting a Hearing on Blue Heron Rezone Located on the South Side of Blue Heron Road, East of the Blue Heron River Trail** [File #RZ-2004-038] [Attach 4](#)

Request to rezone property located on the south side of Blue Heron Road, east of the Blue Heron River Trail, consisting of one parcel, from the CSR (Community Services and Recreation) zone district to I-2 (General Industrial) zone district. Planning Commission recommended approval at its March 23, 2004 meeting.

Proposed Ordinance Rezoning a Parcel of Land from CSR (Community Services and Recreation) to I-2 (General Industrial) Located on the South Side of Blue Heron Road, East of the Blue Heron River Trail

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

Staff presentation: Ronnie Edwards, Associate Planner

5. **Purchase of 3/8" Aggregate Rock Chips for Chip Seal Street Maintenance Program** [Attach 5](#)

Purchase of 5600 tons of 3/8" aggregate rock chips for the City's annual street maintenance program.

*Action: Authorize the Purchase of 5,600 Tons of 3/8" Chips from Whitewater Building Materials Corporation, for a Total Price of \$84,000.00, Delivered*

Staff presentation: Mark Relph, Public Works and Utilities Director

6. **Purchase of Street Sweeper** [Attach 6](#)

This is for the purchase of a 2004 Tymco 600 truck mounted Street Sweeper. It is currently scheduled for replacement in 2004 as identified by the annual review of the fleet replacement committee.

*Action: Authorize the City Purchasing Manager to Purchase One 2004 Tymco 600 Street Sweeper from Intermountain Sweeper Company for the Amount of \$134,395.00*

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

7. **Sole Source Purchase of Tasers** [Attach 7](#)

This purchase is being requested by the Police Department to purchase 26 each X26 Tasers. The X26 Taser is a less lethal weapon utilized by law enforcement agencies worldwide. It is only available through one Colorado authorized dealer, Davidson's Law Enforcement.

*Action: Authorize the City Purchasing Manager to Purchase 26 Each X26 Tasers with all Attachments for the Amount of \$28,069.40 from Davidson's Law Enforcement*

Staff presentation: Julie M. Hendricks, Buyer  
Greg Morrison, Police Chief

8. \*\*\* **Setting a Hearing on Creating the Horizon Drive Business Improvement District** [Attach 18](#)

The Horizon Drive group has turned in petitions which appear to represent more than 50% of the property owners in the proposed Business Improvement District. The next step in the process is for the City Council to schedule a public hearing within forty days. At the hearing, the City Council will determine if the petitions were signed in conformity with the law and if the district should be formed. The City Council may also exclude property from the district as allowed by Statute or if it deems it to be in the best interest of the district.

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

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

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

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

9. **Construction Contracts**

a. **Broadway Beautification Project** [Attach 8](#)

Award of a construction contract for the Broadway Beautification Project to Sorter Construction, Inc. in the amount of \$260,848.50. The project includes installation of curb & gutter, storm drains, irrigation system, earthwork, guardrail improvements and ground cover within the Highway 340 medians located between the Colorado River and East Mayfield Drive.

*Action: Authorize the City Manager to Sign a Contract for the Broadway Beautification Project with Sorter Construction, Inc. in the Amount of \$260,848.50*

Staff presentation: Mark Relph, Public Works and Utilities Director

**b. 2004 Alley Improvement District [Attach 9](#)**

Award of a construction contract for the 2004 Alley Improvement District to BPS Concrete, Inc. in the amount of \$369,058.10. This project includes construction of concrete pavement in six alleys and replacement of antiquated sewer lines in five of the six alleys. In conjunction with the sewer and concrete pavement construction, Xcel Energy will replace gas lines in five of the alleys.

*Action: Authorize the City Manager to Sign a Construction Contract for the 2004 Alley Improvement District with BPS Concrete, Inc. in the Amount of \$369,058.10*

Staff presentation: Mark Relph, Public Works and Utilities Director

10. **Public Hearing – Intent to Create Music Lane Area Sanitary Sewer Improvement District No. SS-46-04 and Award Construction Contract** [Attach 10](#)

**a. Hearing and Resolution Creating District**

A majority of the owners of real estate located west of 26 Road between Meander Drive and F 1/2 Road have submitted a petition requesting an improvement district be created to provide sanitary sewer service to their respective properties. The proposed Resolution and Award of Construction Contract in the amount of \$125,900.90 to the recommended low bidder, MA Concrete Construction of Grand Junction, are the final steps in the formal process required to create the proposed Improvement District.

Resolution No. 27-04 – A Resolution Creating and Establishing Sanitary Sewer Improvement District No. SS-46-04, within the Corporate Limits of the City of Grand Junction, Colorado, Authorizing the Installation of Sanitary Sewer Facilities and Adopting Details, Plans and Specifications for the Same

**b. Construction Contract**

Bids were received and opened January 20, 2004. MA Concrete Construction, Inc. submitted the low bid in the amount of \$125,900.90.

*®Action: (a) Hold a Public Hearing to Consider Adopting Resolution No. 27-04 and (b) Authorize the City Manager to Enter Into a Construction Contract with M.A. Concrete Construction of Grand Junction, Inc., in the Amount of \$125,900.90*

Staff presentation: Mark Relph, Public Works and Utilities Director

11. **Assistance to Firefighters Grant Program** [Attach 11](#)

The Fire Department requests the City Council approval to submit an Assistance to Firefighters Grant application for five 12-lead Cardiac Monitors.

*Action: Authorize the Fire Department to Apply for a 2004 Assistance to Firefighters Grant for Five 12-Lead Cardiac Monitors.*

Staff presentation: Rick Beaty, Fire Chief

12. **Public Hearing – Amending the Zoning and Development Code for Undergrounding Existing Overhead Utilities on Perimeter Streets for New Developments** [Attach 12](#)

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 front 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.

Ordinance No. 3610 – 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

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

Staff presentation: Tim Moore, Public Works Manager

13. **Public Hearing – Amend Chapter 38, Utilities, of the Code of Ordinances** [Attach 13](#)

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.

Ordinance No. 3615 – An Ordinance Amending Chapter 38, Utilities, of the Code of Ordinances by Implementing EPA's Recommended Changes to be Published in Pamphlet Form

*®Action: Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 3615*

Staff presentation: John Shaver, Acting City Attorney

14. **Public Hearing – Right-of-Way Vacation Adjacent to Kia Drive** [File #VR-2003-263] [Attach 14](#)

The City of Grand Junction proposes to vacate two pieces of right-of-way adjacent to Kia Drive between Brookwood and Brookside Subdivisions. 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.

Ordinance No. 3616 – An Ordinance Vacating Two Pieces of Right-of-Way Located Adjacent to Kia Drive, Brookside Subdivision

*®Action: Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 3616*

Staff presentation: Ronnie Edwards, Associate Planner

15. **Public Hearing – Landmark Baptist Church Annexation Located at 3015 D Road** [File # ANX-2004-016] [Attach 15](#)

Resolution for acceptance of petition to annex and to hold a public hearing and consider final passage of the annexation ordinance for the Landmark Baptist Church Annexation, located at 3015 D Road. The 4.779 acre annexation consists of 1 parcel of land.

a. **Accepting Petition**



Resolution No. 28-04 – A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Landmark Baptist Church Annexation Located at 3015 D Road is Eligible for Annexation

®Action: *Adopt Resolution No. 28-04*

**b. Annexation Ordinance**

Ordinance No. 3617 – An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Landmark Baptist Church Annexation, Approximately 4.779 Acres Located at 3015 D Road

®Action: *Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 3617*

Staff presentation: Senta L. Costello, Associate Planner

16. **Public Hearing – Zoning the Landmark Baptist Church Annexation, Located at 3015 D Road** [File #ANX-2004-016] [Attach 16](#)

Hold a public hearing and consider final passage of the ordinance to zone the Landmark Baptist Church Annexation to RSF-E (Residential Single Family – Estate 2 ac/du, located at 3015 D Road.

Ordinance No. 3618 – An Ordinance Zoning the Landmark Baptist Church Annexation to RSF-E Located at 3015 D Road

®Action: *Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 3618*

Staff presentation: Senta L. Costello, Associate Planner

17. **Public Hearing – Etter-Epstein Outline Development Plan (ODP) Request for Extension** [File #ODP-2000-058] [Attach 17](#)

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.

Ordinance No. 3619 – An Ordinance Zoning Land Located Near the Southeast Corner of the Horizon Drive and G Road Intersection to PD

*®Action: Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 3619*

Staff presentation: Kristen Ashbeck, Senior Planner

18. **NON-SCHEDULED CITIZENS & VISITORS**
19. **OTHER BUSINESS**
20. **ADJOURNMENT**

**Attach 1  
Minutes from Previous Meetings**

**GRAND JUNCTION  
CITY COUNCIL ADDITIONAL WORKSHOP  
SUMMARY**

**MARCH 15, 2004**

The City Council of the City of Grand Junction, Colorado met on Monday, March 15, 2004 at 11:41 a.m. in the Administration Conference Room on the 2<sup>nd</sup> Floor in City Hall to discuss workshop items. Those present were Councilmembers Harry Butler, Bruce Hill, Dennis Kirtland, Bill McCurry, Gregg Palmer and President of the Council Jim Spehar. Councilmember Cindy Enos-Martinez was absent.

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

- 1. TRANSPORTATION CAPACITY PAYMENT:** A discussion on the proposed modifications to the Transportation Capacity Payment (TCP) and half street policies.

City Manager Kelly Arnold introduced the topic. He stated that Staff is looking to receive direction on going forward with the proposal as well as providing Councilmember Dennis Kirtland with direction for his work with the Regional Transportation Committee which will be meeting on this topic next week. City Manager Arnold advised that each entity – Mesa County, Palisade and Fruita are proposing the same approach. Consistency valley-wide is being supported. The study of Duncan Associates is the basis for the proposal. Each entity's ordinance will be a little different since it is based on what is currently in place, which is different for each entity, however, the end result will be the same. The City of Fruita is moving forward and will have first reading on the ordinance at their next meeting.

Public Works & Utilities Director Mark Relph stated there has been a lot of discussion on this issue and there are really two parts to the proposal. The first is the fee to be assessed and its calculation. That is pretty straight forward. The second part is the implementation and that is where Staff is seeking direction. The question is what the developers will be responsible for constructing. The new approach imposes the fee and then has the local government take the responsibility for the construction of off-site and perimeter improvements. Public Works Manager Tim Moore noted that the new approach will make the developer's responsibilities very clear and will allow for a systematic approach to improvements in an area. Several examples of checkerboard results

under the existing system were described. The new method will allow the City to plan improvements in a larger area.

Councilmember Palmer inquired how much the new methodology will cost the City. Staff responded that it will be a balancing act. Although Staff has a pretty good idea of the cost of improvements, fees will be reviewed annually to keep them current. Council and Staff then discussed such things as whether a developer will object to the perimeter improvements not being constructed immediately, about the monies paid in not being used for improvements adjacent to the development, how some of the fees collected could go toward the capital needs of the larger network versus for specific improvements in the same proximity, and other issues on implementation. Public Works Director Mark Relph suggested that there should be flexibility in the policy so that the City could react to safety needs in the event of a specific development, could respond to opportunities to participate in projects with other entities, or possibly allow the developer to build the improvements if timing is an issue. The key to the new proposal is that the developer will know up front what his financial responsibility is in such improvements.

Acting City Attorney John Shaver advised that the fee and the method of calculating the fee will be the premise of the ordinance. The implementation will be laid out in a policy of the City Manager, as directed by City Council.

City Manager Kelly Arnold advised that due to the possibility of the new policy requiring the initial outlay for the improvements to be shouldered by the local government, the City of Fruita is going to require payment of the TCP at the time of platting (from the developer) whereas the other entities are considering collecting the fee at the time a building permit is issued. That way all fees are realized, otherwise there could be areas already platted where the fees would be missed. Council and Staff discussed a scenario whereby the policy allows collection at either opportunity.

Public Works Manager Tim Moore stated the next step is to bring together a focus group comprised of developers, engineers and contractors to discuss implementation details. City Manager Arnold advised that the anticipated timeline is to complete this along with the adoption of the landscape code and the infill/redevelopment policy by summer and to have a developers' handbook in place by July 1<sup>st</sup>.

**Action summary:** Mr. Moore said the focus group will have its first meeting the following week. City Manager Arnold expects to be bringing more information back to the City Council at another workshop in the next 60 days.

**The meeting adjourned at 12:40 p.m.**

**GRAND JUNCTION  
CITY COUNCIL WORKSHOP SUMMARY**

**MARCH 15, 2004**

The City Council of the City of Grand Junction, Colorado met on Monday, March 15, 2004 at 7:10 p.m. in the City Hall Auditorium to discuss workshop items. Those present were Harry Butler, Bruce Hill, Dennis Kirtland, Bill McCurry, Gregg Palmer and President of the Council Jim Spehar. Councilmember Cindy Enos-Martinez was absent.

City Manager Kelly Arnold introduced new city employees.

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

1. **WINGATE PARK MASTER PLAN:** Parks & Recreation Director Joe Stevens introduced the design team from ACC. He then reviewed the proposed Master Plan for Wingate Park via a Power Point presentation. The site is around 5 acres. Councilmember Hill confirmed that the property highlighted for the park site is owned by the City of Grand Junction. Mr. Stevens said it is and noted the topography will create a good program for the park. The Parks Department had a number of meetings with the neighborhood and received many comments. There was a series of three meetings. The January meeting had around 80 people in attendance. There were mailers and a website for comments. The biggest concern was lighting at the park. Mr. Stevens advised that minimal light for security purposes is planned. There are no restrooms, tennis courts or parking being planned but these amenities may be added if additional funds are identified. Size-wise this park is twice the size of the Paradise Hills Park.

The Parks Department would like to go forward with entering into an agreement with the School District to incorporate the property around the school into the park plan. In exchange, the City will maintain the entire site. That will increase the size of the park to seven acres. An additional play area for toddlers is planned. Mr. Stevens outlined the rest of the areas planned for the park site including the planting of native plants which can be used for outdoor lab work at the school. The school parking lot is currently closed during non-school hours but plans are being worked on to keep it open during park hours.

Wes Horner of ACC, the contractor, along with Tom Rolland of Rolland Engineering and Laura Kirk of DHM in Carbondale are members of the design team. This team has worked together before. Mr. Horner urged the Council to allow the planning to go forward soon so that the construction can begin as soon as school is out. Completion probably won't be until October.

Councilmember Kirtland asked if there will be a construction trailer on site so if neighbors have questions, they can find someone to talk to. Mr. Horner said yes.

Mr. Stevens advised that Staff is working on the intergovernmental agreement with the School District and plan to get it to Council in April or May.

Councilmember Hill asked if this plan will be presented to the neighborhood. Mr. Stevens said this plan was presented at the last meeting where there were 80 people present. The neighborhood is aware that tennis courts and restrooms will not happen without the GOCO funding. The soil testing has not been done yet and may affect the budget.

Councilmember Hill asked about the size of the new parking lot. Mr. Stevens said big enough for 12 to 15 cars. Councilmember Hill also asked about the proximity of the two play areas. Mr. Stevens said that the new play area had to be on city-owned property for the grant application but that could change.

Councilmember Kirtland inquired about buffering to the residential areas. Mr. Stevens said the neighborhood is divided on how much and what type of buffering it wants. Councilmember Kirtland asked about crosswalks for children coming from the subdivision across the street. Mr. Stevens said those are in place.

Council President Spehar confirmed that the intergovernmental agreement will proceed regardless of grant funding. Mr. Stevens said yes. Upon further questioning, Staff expressed confidence that the IGA will go forward with the School District.

**Action summary:** The Council thanked Mr. Stevens for the presentation and told him to go forward.

2. **Homeless Shelter Funding:** Council President Spehar expressed the Homeward Bound Board of Directors has indicated that their funding is deficient and they will not be able to stay open until April. They are looking for \$5,000 to \$10,000 in assistance. Although the City does not usually provide operating funds, there is a sense of urgency. The population is 80% to 90% families and community members and not a significant number of panhandlers using the shelter.

Councilmember Butler supported granting the request.

Councilmember Kirtland supported the Council making such a pledge and showing the community its support.

Councilmember Palmer resisted setting a precedent for funding operations, even on a one time basis.

Councilmember Hill asked if there is a mechanism to address these types of requests. Council President Spehar said three years ago the Council said it would entertain such requests from contingency. There have been times when Council will pay fees for facilities from their contingency funds.

Councilmember Hill suggested that at some point a policy should be discussed to address these types of requests.

Councilmember Hill asked if the shelter usually closes in April. Council President Spehar said not completely, they continue with the veterans program but fall through April is their "season".

**Action summary:** The City Council decided to participate in an amount of \$10,000 out of contingency funds.

**The meeting adjourned at 8:44 p.m.**



**GRAND JUNCTION CITY COUNCIL  
SPECIAL MEETING**

**MARCH 15, 2004**

The City Council of the City of Grand Junction, Colorado met on Monday, March 15, 2004 at 6:03 p.m. in the Administration Conference Room, 2<sup>nd</sup> Floor in City Hall for an executive session. Those present were Councilmembers Harry Butler, Bruce Hill, Dennis Kirtland, Bill McCurry, Gregg Palmer and President of the Council Jim Spehar. Councilmember Cindy Enos-Martinez was absent.

Councilmember Hill moved to go into executive session for the purpose of an exit interview under C.R.S. 24-6-402(4)(f)(i) with the former City Attorney Dan Wilson and for receiving legal advice concerning charter liabilities, responsibilities and relationships under C.R.S. section 24-6-402(4)(b) and the Council will not be returning to open session. Councilmember Palmer seconded. Motion carried.

Stephanie Tuin, MMC  
City Clerk

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

**March 17, 2004**

The City Council of the City of Grand Junction convened into regular session on the 17<sup>th</sup> day of March 2004, at 7:33 p.m. in the City Auditorium. Those present were Councilmembers Harry Butler, Bruce Hill, Dennis Kirtland, Bill McCurry, Gregg Palmer, and President of the Council Jim Spehar. Councilmember Cindy Enos-Martinez was absent. 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 Butler led the pledge of allegiance. The audience remained standing for the invocation by 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

Councilmember Hill moved to appoint Mike Anton, Dale Beede, and Larry Hall and to reappoint Mike Bussey to the Riverview Technology Corporation to three-year terms expiring May 2007. Councilmember Kirtland seconded the motion. Motion carried.

**SCHEDULED CITIZEN COMMENTS**

There were none.

**CONSENT CALENDAR**

It was moved by Councilmember Hill, seconded by Councilmember McCurry, and carried, to approve Consent Calendar Items #1 through #9 with an adjustment being made to Item #7. Item #7, the hearing on text amendments to the SSID Manual (Submittal Standards for Improvements and Development) will be held on April 21, 2004.

**1. Minutes of Previous Meetings**

*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 Campus**

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.

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*

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

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 necessitate 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 and Set a Hearing for April 7, 2004*

4. **Purchase of Automated Refuse Trucks**

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 Three (3), 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*

**5. Setting a Hearing on Amending the Zoning and Development Code for Undergrounding Existing Overhead Utilities on Perimeter Streets for New Developments**

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*

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

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*

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

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 – changed to April 21, 2004*

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

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*

9. **Setting a Hearing on Zoning the Landmark Baptist Church Annexation, Located at 3015 D Road** [File #ANX-2004-016]

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*

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

**Construction Contracts** (Items a and b may be awarded under one motion)

**a. Combined Sewer Elimination Project (CSEP) Basins 9, 13, and 14**

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.

Public Works and Utilities Director Mark Relph reviewed this item. Besides reviewing the information stated above, he discussed the funding and additional work that would be added under this contract via a change order.

**b. Concrete Repairs for Street Overlays 2004**

The Concrete Repair for the 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 during this construction season. The work also includes installation of new sidewalk and curb ramps on these streets if needed.

Public Works and Utilities Director Mark Relph reviewed this item. He noted that four bids were received for this program and that it is an annual maintenance program. He explained the work which is done prior to the overlays.

Councilmember Kirtland moved to authorize the City Manager to execute a contract with Mendez, Inc. for the Combined Sewer Elimination Project (CSEP) Basins 9, 13, and 14 for \$4,422,757.19, and to authorize the City Manager to execute a construction contract for the concrete repairs for street overlays 2004 with Reyes Construction, Inc., for \$160,515.50. Councilmember Palmer seconded the motion. Motion carried.

**Request to Apply for Energy Impact Assistance Grant for the El Poso Street I.D.**

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.

Public Works and Utilities Director Mark Relph reviewed this item. He explained Staff is looking for grant funding to subsidize the \$3.6 million project. He said currently no additional construction is planned, but if the grant is awarded, the funds will help offset the costs to be assessed to the property owners and reduce those assessed costs to be paid by them.

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

Councilmember Butler moved to adopt Resolution No. 21-04. Councilmember Hill seconded the motion. Motion carried by a roll call vote.

#### **Property Purchase for Riverside Parkway – 919 Kimball Avenue**

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.

Public Works and Utilities Director Mark Relph reviewed this item. He explained that a decision has not been made regarding the alignment of the Riverside Parkway. He said this property might be needed for the project because of its proximity to Los Colonias Park. He told Council that Staff believes it is prudent to purchase the property now because if the property is needed later, in addition to the purchase price, the City might also have to pay relocation costs. Mr. Relph said the purchase price is based on the current market value or below. He pointed out that if the property is not needed for the Riverside Parkway, the City could either sell the property later or perhaps use it for other purposes.

Councilmember Palmer asked for confirmation that there would be no restrictions on disposing of the property if the property was not needed. Acting City Attorney Shaver confirmed Councilmember Palmer's question.

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

Councilmember Kirtland moved to adopt Resolution No. 22-04. Councilmember McCurry seconded the motion. Motion carried by a roll call vote.

**Easement Deed and Agreement with Walker Field Airport Authority for Detention Facilities**

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.

Public Works and Utilities Director Mark Relph reviewed this item. He explained that Staff has been working on this agreement for some time. He said the purpose is to build detention facilities to capture storm drainage before it reaches the Independent Ranchman's Ditch. He pointed out that even with these facilities in place, the storm drainage issue will not be completely resolved, which is the reason for the "Big Pipe" project that will carry storm water away from the Mall.

Mr. Relph said the flood plain requirements being imposed upon the City by FEMA are that these easements for the detention facilities be maintained in perpetuity. He told Council the Walker Field Airport Authority and the FAA were concerned about not being in control over those easements and therefore included language in the agreement for a mediator if there is any dispute. Mr. Relph said the FAA's primary concern is that wildlife might be attracted to the detention facilities and then possibly interfere with air traffic. The FAA therefore maintains that the City must address any such concerns should they arise.

Councilmember Kirtland asked where the pipes would be installed. Mr. Relph advised Council the pipes would be installed underneath the ditch to capture the storm water.

Mr. Relph said the contract for the construction of the facilities would be presented later for Council's approval.

Councilmember Palmer moved to authorize the City Manager to sign and submit the Easement Deed and Agreement with the Walker Field Airport Authority for the construction and maintenance of the detention basins along the Independent Ranchman's Ditch and the Leach Creek drainage systems. Councilmember McCurry seconded the motion. Motion carried.

**Public Hearing – Rezoning the Geske Property Located at 2656 Patterson Road**  
[File #RZ-2003-233]

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.

The public hearing was opened at 8:04 p.m.

Acting City Attorney Shaver advised Council that because the Planning Commission recommends denial of this request, five affirmative votes are needed to approve the rezone request.

Mike Joyce, Development Concepts, 2764 Compass Drive, was representing the applicant. He identified the applicants as Grant, Eva, and Judith Geske. He explained that originally there were four lots in the application, but subsequently, Ms. Rutter and Gene Taylor withdrew their applications. He said the remaining properties are comprised of two lots totaling 2.07 acres. He explained one of the lots is vacant and a single-family home is on the other lot. He explained the Growth Plan designates the property's zoning as residential medium. Mr. Joyce described the surrounding land use designation and zonings. Mr. Joyce pointed out that the property is currently zoned as RSF-4. He described the RO zone district, what is permitted, the zoning requirement that the buildings must be complementary and in scale with the surrounding residential area, and the zoning designates non-retail use.

Councilmember Palmer asked if the applicant has a retail license. Mr. Joyce replied that they do have a retail license, which is needed for the accessory use of selling of glasses.

Mr. Joyce continued to describe the stringent design criteria. Regarding the rezone criteria, Mr. Joyce said there was no error on the existing zoning but the character of the neighborhood had changed, specifically when it came to medical uses. He felt the rezone request is consistent with the Growth Plan.

Councilmember Hill inquired about uses north of Patterson Road. Mr. Joyce said he would show slides later in his presentation regarding those uses. He displayed photos of surrounding properties. He stated the current zoning would allow eight dwelling units on the properties. Mr. Joyce next compared the trips that would be generated either by the eight dwellings or the proposed medical facility. He said the traffic impact of the proposal as presented by the applicant would only occur on Monday through Friday and the net impact for the rezone would be 28 ADT (Average Daily Trips). He said after the Planning Commission meeting and discussions with a City development engineer, access off of Patterson Road would be right in and right out only.

Councilmember Hill asked Mr. Joyce to limit his presentation to the rezone request and not to include the development plan. Mr. Joyce said he is only mentioning it because of the design consideration in the RO zone district but would return to discussing the rezone request. He rebuked the Planning Commission's finding that Patterson Road is a buffer

between this area and the hospital. Mr. Joyce next displayed a map showing a large area of the surrounding parcels and identified their zoning designations.

Continuing with the rezone criteria, Mr. Joyce said the proposal is compatible with the surrounding area and public facilities are available to serve the property. He said there is not an adequate supply of land available in the neighborhood and surrounding area to accommodate the zoning and community needs. Mr. Joyce stated the request meets rezone criteria #7, and that the rezone would benefit the neighborhood, in that it is a transition zone.

Councilmember Hill referred to the Patterson Road Corridor Guidelines. Mr. Joyce replied that those guidelines were not brought to their attention during their review, but they were brought forward later. He stated that if the applicant had known about the Patterson Corridor Guidelines, they would have requested a Planned Development zone designation.

Ronnie Edwards, Associate Planner, then reviewed this item. She noted that Mr. Joyce had covered the project. She listed the items included in the Staff report. She too reviewed the surrounding Growth Plan designations and the existing zoning designations.

Councilmember Hill asked about applying an RO zone district in residential areas. Ms. Edwards said yes, an RO zone district could be approved in a residential area if the Future Land Use Map designates the property zoned as residential medium.

Community Development Director Bob Blanchard added that an RO zoning could always be requested, but that this zoning designation is intended to be used for a transition zone, so approval of an RO zoning request in the middle of a residential area would be unlikely.

Councilmember Kirtland referred to an earlier statement that seven more units could be built on the two properties and questioned if the site could support that kind of development. Ms. Edwards said in theory yes, but with the access and other issues, it is unlikely.

Councilmember Kirtland then asked about St. Mary's Master Plan and its plan to reduce the traffic impacts by internalizing its traffic patterns. Ms. Edwards acknowledged St. Mary's Master Plan and said such detailed questions need to be answered by an engineer. There was not an engineer present to answer the deferred questions.

Council President Spehar then opened the public hearing.

Mary McPherson, 2712 N. 8<sup>th</sup> Court, said the photos shown did not show the homes in the neighborhood. She said they are concerned about a parking lot being brought into their neighborhood. She disparaged the Geske's stewardship of their property. She

noted the smell and the noise of the additional traffic. Delivery and UPS trucks would be a negative impact on the neighborhood. She reiterated the surrounding areas are special neighborhoods with beautiful lawns and well-maintained homes, with a mix of senior citizens, semi-retired people, and families.

Marilyn Hammar, 606 Viewpoint Drive, pointed out her house to the north of the Geske property. She said there are times when it takes five minutes to access Patterson Road, and with additional traffic, there will be a greater chance of accidents in an already congested area. She said she listed her house, and received an affirmative contract within a few days, but then when the potential buyers heard of the pending rezone request they withdrew the contract. She said the rezone request has affected other property values too. She said families like the neighborhood because kids can play on the street and they are safe.

Robert Lubinski, 2709 N. 8<sup>th</sup> Court, said his property is directly north of the Geske property and he is adamantly opposed to the request. He said many people have expressed their opposition in a variety of ways. He said in 2001, the Geske's applied for a realignment of property lines, it was then they found out that an eye clinic was planned for this location. When talking to Bill Nebeker, former City Planner, he told them access would not be allowed for non-residential use off of Patterson and other statements were also made. Mr. Lubinski addressed whether the request meets the rezone criteria. He pointed out the Planning Commission unanimously felt that not all the criteria were met. He reiterated that all seven criteria must be met for approval and felt the character of the neighborhood has not changed. He said the statement that the rezone is compatible with the neighborhood is not true and he then gave several examples. He said a 'right turn out only' restriction would cause cars to then turn onto N. 8<sup>th</sup> Court in order to make a left hand turn. He said the Future Land Use Map designates the area as Residential Medium, the Residential Office designation is for a transitional corridor, and he questioned how those lots could be considered a transitional corridor, and how the project can comply with existing plans and guidelines.

Mr. Lubinski then referred to the Patterson Road Corridor Guidelines and noted many times that neither those guidelines nor the rezone criteria were met. He felt adequate public facilities and services are available for single-family residential uses but will be inadequate for this proposed development. He said he is concerned about potential traffic impacts on the area if the rezone is approved and then commercial traffic would be forced through an established neighborhood. He also disagreed with the applicant's claim that there is not an adequate supply of land available in the neighborhood and surrounding area to accommodate the zoning and community needs. Lastly, he said no benefits are provided to the neighborhood by the proposal. In fact, the historic home of Walter Walker would likely be torn down in the future if the rezone request was approved. He concluded asking Council to deny the rezone request.

Karen Troester and her husband Richard, 2714 N. 8<sup>th</sup> Court, showed some photos of the area. Mrs. Troester noted the traffic situation with accessing Patterson Road. She said she could not imagine a business coming into the neighborhood. She said when she purchased her home, the Geske property was beautifully landscaped. She felt the existing deer population would be diminished by the proposal. Mr. Troester added that people on Viewpoint Drive have complained about the traffic the Wells Fargo ATM has generated. He said the lack of a deceleration lane to turn left on Patterson Road requires a right turn onto Patterson Road due to the heavy traffic. He said once the property is rezoned, a number of other businesses could go in there. He said he did not believe the proposal meets any of the rezone criteria.

Viki Bledsoe, 2719 N. 8<sup>th</sup> Court, said many years ago she received a ticket for turning left onto Patterson Road when using the center lane. She said an eye clinic would bring in more traffic and felt turning left onto Patterson Road is impossible. She said their cul-de-sac is unique and one of only a few left. She asked Council to deny the request.

The public hearing was closed at 9:10 p.m.

Mr. Joyce was allowed a rebuttal addressing property values and traffic issues. He said he had prepared a chart that compared property values in the area and the results did not show a decrease in property values adjacent to RO zone districts. He agreed traffic on Patterson Road is very busy and N. 8<sup>th</sup> Court is 300 plus feet from 7<sup>th</sup> Street, and not 100 feet as previously stated. He said access would have to be aligned with the new Advanced Pavilion access. He said the reason for the deteriorating landscape is the irrigation system, which is in disrepair. He said the Geskes lived there for a while but moved because of the proximity to Patterson Road. He said the house has 4,000 square feet and there are no plans to tear it down. He said other uses may be allowed on the property but due to the properties' sizes, it is unlikely something else would be built there.

Councilmember Hill asked Community Development Director Blanchard if someone wanted to establish a business or build apartments in an RO district, would a process be required. Mr. Blanchard said yes, a site plan review would be required.

Council President Spehar asked about the applicability of the Patterson Road Corridor Guidelines. Mr. Blanchard said the most recent adopted documents take precedence, however, these guidelines were not rescinded, and many of the guidelines within the document are in practice.

Acting City Attorney Shaver added that Council can look at the guidelines in the process, and they are admissible, the weight given to them is at Council's discretion.

Councilmember Hill noted he is very familiar with the neighborhood and it is obvious that the neighborhood with those homes on 8<sup>th</sup> Court and the adjacent area on Viewpoint

Drive and Rico Way also feel as a part of that same neighborhood. He referred to the disclaimer in the Patterson Road Corridor Guidelines that existing single-family housing and neighborhoods should be respected and protected. He stated the hospital development was there and has been an on-going project. He said he supports the Planning Commission's recommendation to deny the rezoning request.

Councilmember Palmer noted that the Planning Commission relied on the Patterson Road Guidelines, but they are clearly outdated. He felt an RO designation does not fit in this case; the rezone criteria are not being met, and therefore will not support the request.

Councilmember McCurry agreed with Councilmember Palmer's and the Planning Commission's recommendation to deny the rezoning request.

Councilmember Butler agreed with the Planning Commission's recommendation and noted the access difficulties.

Councilmember Kirtland noted access around St. Mary's is difficult and the City has tried to make sure that St. Mary's continues to be a good neighbor. He stated one objective of the City was to require the hospital to design internal traffic patterns to maintain the surrounding residential feel. He said this particular neighborhood is older and has high quality homes and he would like to keep the character of the neighborhood and its uniqueness. He felt other properties were available and could be used for an eye clinic. He felt it is important for Council to keep the vision of the surrounding neighborhoods to the north in mind. He said he supports the Planning Commission's recommendation to deny the rezoning request.

Council President Spehar said he also supports the Planning Commission's recommendation due to compatibility, and felt the rezone criteria were not met.

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)

Councilmember Palmer moved to adopt Ordinance No. 3610 on Second Reading and ordered it published. Councilmember McCurry seconded the motion. Motion failed by roll call vote with all Councilmembers voting **NO**.

Council President Spehar called a recess at 9:30 p.m. The meeting was back in session at 9:37 p.m.

**Public Hearing – Summit View Estates Annexation and Zoning Located at 649 29 ½ Road** [File ANX-2003-271]

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. Also 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.

The public hearing was opened at 9:38 p.m.

Lisa Cox, Senior Planner, reviewed this item combining the annexation and the zoning requests. She described the property, the surrounding uses and zoning designations. She explained that portions of the right-of-ways were included in the annexation. She said the total annexation acreage is 10.495-acres, that the proposal meets all annexation and rezone criteria. She said the Planning Commission recommends approval of the requests.

She noted that the Staff Report submitted to the Planning Commission reported the current zoning of the property as RSF-R, when in fact it actually is RSF-4. She said after discussion with counsel, the legal advice given was that the error is immaterial and does not require the matter to be remanded to the Planning Commission.

Councilmember Hill asked if the surrounding zoning was RMF-5. Ms. Cox responded affirmatively.

Councilmember Palmer asked why an RMF-8 zoning designation was requested rather than an RMF-5 designation. Ms. Cox replied the RMF-8 designation was requested because of right-of-way dedications and because an RMF-8 designation requires the developer to build a minimum of four units per acre.

Rebecca Wilmarth, representing Casa Tiara Development of Fruita, reviewed the request and explained the reason for the RMF-8 zone request versus the RMF-5 zone. She displayed photos of some of their other developments. She said the RMF-8 zone designation does not mean the parcel would be developed as multi-family. She addressed some of the constraints on the property, i.e. the right-of-way dedication and a thirty-foot drainage easement. She noted a right-of-way dedication is required on two borders of the property plus five feet of landscaping is required along the frontages. She said the requested zone would allow the subdivision to connect to the stub streets into adjacent subdivisions. She explained the setback constraints in RMF-5 would be very restrictive and additional setbacks would be required when building the garage. She said more options are available to the developer under the RMF-8 zone designation. She said, in addition, the drainage easement must be left vacant and the developer would like to include a walking path on the easement.

Ms. Wilmarth repeated some of Ms. Cox's earlier statements and reviewed their request and how it complied with the goals of the Growth Plan and the RMF-8 zone district by meeting the criteria in Section 2.6(A) of the Zoning and Development Code. She stated the following criteria as:

1. The existing zoning was in error at the time of adoption.
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.
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.
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.
5. Adequate public facilities and services are available or will be made available concurrent with the projected impacts of the proposed development.
6. There is not an adequate supply of land available in the neighborhood and surrounding area to accommodate the zoning and community needs.

Next Ms. Wilmarth read a statement from Mansel Zeck, President of Casa Tiara Development, into the record which reiterated the reasons for requesting an RMF-8 zoning. He advised that a developer is allowed more flexibility under that zoning when building 41 single-family homes on the site and can therefore easily meet all setback and right-of-way requirements.

Councilmember Hill asked for clarification of the options allowed, what could happen if the RMF-8 zone is approved, and if a development other than the one presented could be built on the property. Acting City Attorney Shaver said yes, but any development would still be subject to a development review.

Councilmember Hill next inquired about the Planned Development designation. Mr. Shaver said under the current code Planned Development is by contract, an allowed form of development, which must provide some benefit to the community.

Councilmember Kirtland expressed his opinion saying that to handle requests like this one in the future, an additional zone district should be created and added to the existing Code. Mr. Shaver said that possibility has been discussed at Staff level.

There were no public comments.

The public hearing was closed at 10:07 p.m.

**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

**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

**c. Zoning Ordinance**

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

Councilmember Hill moved to adopt Resolution No. 23-04, Ordinances No. 3611 and No. 3612 on Second Reading and ordered them published. Councilmember Palmer seconded the motion. Motion carried by a roll call vote.

**Public Hearing – Pellam Annexation and Zoning Located at 3136 E Road** [File #ANX-2004-011]

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 one parcel of land and a portion of the E Road right-of-way. Also 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.

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

Senta Costello, Associate Planner, reviewed this item and the zoning request in one presentation. She described the property and noted the parcel is barely within the 201 Persigo boundaries. She identified the surrounding zone districts. She stated that since the proposal meets all criteria for annexation and zoning the Planning Commission recommends approval of the requests.

Councilmember Palmer asked if the reason for the zoning request is to meet setback requirements. Ms. Costello said the petitioners currently have no development plans for the property.



The petitioner was present but had nothing to add.

There were no public comments.

The public hearing was closed at 10:12 p.m.

**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

**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

**c. Zoning Ordinance**

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

Councilmember Kirtland moved to adopt Resolution No. 24-04, Ordinances No. 3613 and No. 3614 on Second Reading and ordered them published. Councilmember McCurry seconded the motion. Motion carried by a roll call vote.

**NON-SCHEDULED CITIZENS & VISITORS**

There were none.

**OTHER BUSINESS**

There was none.

**EXECUTIVE SESSION**

Councilmember Kirtland moved to go into executive session for a conference with legal counsel to receive legal advice concerning the contract with the Rural Fire Protection District under C.R.S. Section 24-6-402(4)(B) and that Council would not return to open session. Councilmember Hill seconded the motion. Motion carried.

**ADJOURNMENT**

The meeting adjourned to executive session at 10:15 p.m.

Stephanie Tuin, MMC  
City Clerk

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

**March 22, 2004**

The City Council of the City of Grand Junction convened into regular session on the 22nd day of March 2004, at 5:34 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. He announced the purpose of the Special Meeting to be discussion of the Rural Fire District payment of contract.

Acting City Attorney John Shaver advised that that afternoon he received a voicemail message from the Fire District's attorney that the District intends to remit the balance of the money to the court registry. No additional details were provided including when or other particulars. Mr. Shaver said that he infers from the message that there will not be a payment or a creation of an independent third party escrow. He described the registry – under Colorado Rule of Civil Procedure 67, parties to an action may file with the court registry for purposes of safe-holding or securing, much like an escrow, but it would contemplate the filing of some sort of an action, either a declaratory judgment action, which is an action which construes the rights and responsibilities of parties to a contract, or under Rule 7d, an action on stipulated facts. He would suspect it would be in the form of a declaratory judgment, but doesn't know enough details to know that with certainty.

Councilmember Palmer asked who would ask for such action. Mr. Shaver replied it would likely be the District because the nature of depositing in the registry is that there would have to be something that the court would be determining so the District would have to allege facts as to why the money would be deposited in the registry. Councilmember Palmer inquired if the deposit would be in the full amount. Mr. Shaver said it would be his assumption that it would be the full payment less the \$160,000 already paid.

Councilmember Palmer inquired if the shortage from the first payment is included. Mr. Shaver said that this is the way the amount outstanding has been calculated. The total amount outstanding is \$433,334. Councilmember Palmer asked if Mr. Shaver can determine what amount is for the existing contract and what amount is due from the sub-district contract. Mr. Shaver deferred to Fire Chief Beaty or City Manager Arnold for that information. The agreement does call for payment in full for all monies that are owed. Councilmember Palmer explained the reason he is asking is that the District is raising an issue on monies collected for the sub-district based on the elected Assessor's opinion and that should not affect the monies due on the base contract. Councilmember Enos-Martinez stated that it is unknown what the District is basing their opinion on because they

are not offering an explanation. Mr. Shaver added that the City is advised from the County Treasurer the amount of monies collected and remitted to the District. The contract with the District says the District is obligated to remit all monies paid to them by the Treasurer to the City. That is why the City feels the terms of the contract have not been met. Regarding the question of authority of imposition of the tax as posed by the letter from the County Assessor is a different question. The question is the remittance of the payment under the contract and the question that the District is suggesting that the taxes should never have been collected, a statutory question, is a separate matter.

Council President Spehar said there is no purpose in debating that at this meeting but rather the Council should see what comes out of the action proposed by the District. Mr. Shaver concurred noting that some action will need to be filed for the District to file the funds with the court registry.

Council President Spehar asked Mr. Shaver about timing once the action is filed. Mr. Shaver said that if the District has a complaint ready to go, it could just be a matter of a few days that the court could receive the complaint, schedule a hearing and open the registry account.

Councilmember Hill asked about what action it would take from the City Council to get it to go forward. Mr. Shaver said he thinks the District will go forward with an action.

Councilmember Palmer inquired about the District not meeting one of the three demands posed by the City Council the previous Friday; does depositing the funds in a court registry meet the requirement of depositing funds in an escrow account. Mr. Shaver replied that he thinks it is progress but whether it satisfies the Council's demands would be their call.

Councilmember Palmer asked about a time frame on the Council's request under the Freedom of Information Act. Mr. Shaver replied the State Statute talks about a reasonable time, usually three business days, unless there are exceptional circumstances due to the extent of the request or special circumstances such as the records are being photocopied out of town for archival purposes or some other truly exceptional circumstances. Councilmember Palmer said then within 72 hours the City should have some information. Mr. Shaver said yes, both under State Law and under contract provisions that mirrors the State law. If the District responds that the records are too voluminous to produce, they must set a date and time when the records will be available, presumably within seven days.

Councilmember Palmer inquired if there would be any advantage to the City going forward with a court action. Mr. Shaver replied there is no advantage to who files first. The difficulty with any litigation such as this is that he would not have anyway to respond until he sees what the District files. Finally, Councilmember Palmer asked if the legal

costs incurred by the District would have any affect against the funds that are owed. Mr. Shaver replied the legal costs would be paid out of the District revenues, not necessarily these funds in question. The expectation is that the City would be paid in full, aside from the tax question.

Councilmember Hill asked if the District's attorney is present. Mr. Shaver stated Mr. Siddeek is not present. Councilmember Hill suggested that the board members present be allowed to address the City Council. Council President Spehar asked the two present if they would like to speak.

Jerry Clark, a Board member, said they have every intent of cooperating with the City. Again the question of the 2002 additional tax is in question. The Board is not clear on it and they cannot get a clear definitive answer at this time. Back in February, the Board put the funds in an escrow account through their counsel at that time. Since the City was not comfortable with that arrangement, they discussed over the week-end considering federal registry for the funds until they can get a clear definitive answer on that issue.

Councilmember Hill questioned the Board's position that besides providing fire protection they feel it is their job to determine the legality of tax collected. He felt it is out of their jurisdiction. He expressed concern about the citizens outside the boundaries of the City that the Council is responsible for fire protection. He questioned the City continuing to build the fire station and not being compensated for it. At some point those funds will be taken from the City's other capital projects and programs. He keeps hearing words like "intend" but it is not getting cleared up. It is not the job of the City Council to decide whether taxes are owed or paid, they were paid. If the Rural Fire District Board passes the monies collected on to the City, then if there is a question later and it is determined that the taxes should not have been collected, the City will make sure they get returned.

Councilmember Enos-Martinez stated that the money doesn't belong to the Rural Board, it belongs to the taxpayers. The money was collected and if the County Assessor doesn't think they should have been collected, he should have addressed it at that time. If that is what the Rural Board is basing their decision on, she is having a hard time giving them more time and then more time again. Councilmember Enos-Martinez said they can't stop delivering service to those people, yet they still aren't being paid even for that service being provided. She is running out of patience.

Councilmember Kirtland agreed with Councilmember Hill on the citizens that the Council is responsible to. The Council looks at the community as a whole, and many Councilmembers went to a number of community meetings on the formation of the sub-district, and they are committed to making sure a fire station gets built out there. The City has delivered, the station is under construction and firefighters have been hired and trained. The voters in the sub-district put their confidence in that. The decision on the legality of the collection of tax should be decided somewhere else. The monies should be

remitted so the City can continue the construction. People take the Council to task on many things, the Council needs to make some hard choices. He hoped that as elected officials, the Fire District Board and the City Council are working for the best interest of the citizens and the right choices will be made, and that is paying that money. If the taxes need to be remitted back, the City will take care of that.

Councilmember Butler encouraged the Board to ask themselves if they are working for the best interests of the citizens in the Redlands; that they need to work on integrity and be honest in this situation. They are not dealing with their own money but the money of the citizens.

Councilmember McCurry agreed.

Council President Spehar noted that the Council will know something in the next couple of days and he doesn't see any harm in seeing what develops this week. With the open records request, something should be known by Wednesday. Hopefully, the Acting City Attorney will be able to speak with the District's Attorney more directly in the next couple of days. He understands Council's concerns, especially with the funding of the construction. Mesa County has put money into the construction and grant funding has been received from the State. It would be difficult to go back to the State for additional funding when one of the main partners is not participating. However, he is not willing to halt construction, they have people and equipment in place. He advocated seeing how this shakes out and having another discussion once a clearer understanding as to where the money is now. He is willing to give the District this week to respond.

Jerry Clark, District Board member, appreciated the Council going forward with construction noting that this is no personal ploy by any member of the Board. They were moving forward with full payment when they received the letter from County Assessor questioning the legality of the collection of the taxes for the year 2002.

Councilmember Hill questioned Mr. Clark's position on the charge of the District, with tax collection being out of their jurisdiction, and said they should follow the contract, passing those monies along. Mr. Clark based his concern on TABOR limitations, that once the money was returned to the tax assessor, how could they recoup. Councilmember Hill said the Board can ask the question to the Assessor on the legality but still remit the monies to the City. Mr. Clark read a section of the contract about remitting the monies to the City "unless prohibited by law".

Mr. Clark stated the Board is not trying to sandbag the matter. The Board has previously asked the City for assistance but received no response. Council President Spehar said he appeared twice before the Board and advised them of the City and County Attorney's opinion that it is legal. Mr. Clark said the Board has confirmed with the County Assessor that his opinion as stated in his letter is still his opinion. Council encouraged Mr. Clark to

approach the County legal staff about the District Board's concerns. Mr. Clark said he has only served on the District Board for 6-7 months and agrees the communication between the two bodies has not been ideal and he hopes to resolve that.

Council President Spehar said he hopes things move forward. He asked that the Board facilitate further discussions between the Acting City Attorney and the District's Attorney. He referred to the Open Records request. Mr. Clark said those records are in the office of the auditor.

Acting City Attorney Shaver read a letter into the record, dated December 4, 2003 for the County Assessor (attached). The letter states two reasons for questioning the year the tax was to be collected. The only direct conversation Mr. Shaver has had with the District's Attorney referred specifically to the new law that went into effect in mid-2002 that related to inclusion of property into a district, that is a year must pass before tax can be collected on property added to a District.

Terri Dixon, District Board member, said she has had several conversations amongst board members, and read notes based on those discussions as follows: "In the spirit of cooperation, the Grand Junction Rural Fire Protection District comes before you to correct misinformation that has been disseminated by Mayor Spehar during Council's attendance at the regular scheduled board meeting of March 19<sup>th</sup>. Referencing the District Board's decision of December 12<sup>th</sup>, to calculate future payments to the City of Grand Junction according to the base agreement alone, President Gsell hand-delivered to the City on March 12 a letter of transmittal explaining the District's payments to date. This letter explained the escrow account, asked for cooperation in determining the legality of collecting the 4.904 sub-district mill levy revenue in 2003 and a joint meeting to resolve any differences. On February 24, the District wired transferred \$160,000 to the City to satisfy the base contract calculation as supplied by one of several worksheets from Chief Beaty. To date the District has not received a receipt, acknowledgement nor response to this communication. Paragraph 5 of the contract provides for the imposition of this sub-district taxes and payment to the city unless prohibited by law. The issues raised by the County Assessor regarding the propriety of the 2003 sub-district taxes are legally credible and having been raised, required proper consideration. Because the City has no responsibility to the taxpayers on this issue if it is wrong, it is easy for it to opine that the District should collect the taxes and pay the City. The District believes a more considered course of action is needed. The District has established a separate deposit account for all revenue derived from the sub-district 4.904 mill levy collected in 2003. Until the legality issue is determined, the District believes the disputed funds may belong to the taxpayers and it is most inappropriate for the City to bill for those funds and for the District to dispense them. The District would be happy to explore an interpleader action whereby the City, the County Assessor and any interested taxpayer can make their argument to a judge who can decide the issue. Regarding the City's request for financial data, the District will respond to the request as provided by the Public Records Law and the

contract. It should be noted that the District's finances have been audited annually without incident, a clean opinion rendered and the appropriate report filed with the Secretary of State in accordance with Section 29-1-603, C.R.S. Therefore for the City to infer that the District views its fiduciary responsibilities casually is disrespectful and unprofessional. For a period of approximately six months, the District has requested specific financial data to support the City's billing of the District for Station 5 operations during a period the station has not even existed. Although some data has been received as of January 24th, the specificity has not been offered. To fulfill our fiduciary responsibilities to our taxpayers, we must have a proper accounting of operation's costs associated with Station 5 to ensure that the County Assessor's concerns can be met that the payments are used only for purposes authorized by the taxpayers. The District expresses its disbelief that after rejecting and unreasonably conditioning the District's request to meet to discuss these matters, the City Council showed up unannounced and without requesting to be on the agenda for the District Board of Directors March 19<sup>th</sup> meeting. While a similar discourtesy would not be tolerated by the City Council, it is more disturbing that the City Council apparently chose to ignore the Open Meetings Law by failing to post its public meeting with the District Board. Counter to the new City logo of serving the community together, the District believes actions speak louder than words. However, the District is still willing to logically resolve outstanding issues with the City should the City be a willing participant. Towards these comments, I've listened to comments from all of the Councilmembers. Cindy, to address your concern that perhaps our issue should be with the County regarding the legality what we have endeavored to do was come as a joint interested grouping as suggested in this letter with the City, the County and the District to in fact get a legal judgment regarding this issue of collecting the taxes. It has nothing to do specifically with either the County Attorney's opinion, the City Attorney's opinion nor the District's Attorney opinion because they are all just that, opinions, they are not legally binding. There is no legal precedent for the issue that has been posed. I, today, spoke with County Assessor Curtis Belcher because at our Friday night meeting, Mayor Spehar said that once Mr. Belcher was presented with the findings by both the City and the County Attorney, he agreed with your opinion in that instance and it was perfectly alright to collect the taxes. When indeed Mr. Belcher does not feel that way, he feels it was still wrong to collect it, he is not an attorney, he said he was actually pressured by the City and the County Attorney to go ahead and put on the levy. His department was ill-prepared to not only set the boundaries but put the mill levy in effect and during this same time frame I would also like to call attention, in case the City didn't know it, that again Mesa County did this, it wasn't the City, but Mesa County disallowed a similar fire district to go in effect in Gateway within the same time frames that we are talking about. One of the differences is that they did have services being rendered but because the time frame for formation of the district was inappropriate to comply with the Statute and therefore the County Commissioners chose not to allow even to go to an election, whereby because maybe we were all just trying to be magnanimous, I'm not really sure, but when you visit with everyone in hindsight, the overall opinion is we shouldn't have been collecting the tax until 2003. As indicated by my fellow board



member Mr. Clark, we will be placing these funds into court jurisdiction to satisfy everybody's concern that perhaps the District might do something with it, I don't know what the District would do with them but we'd be more than happy to do that and we would truly like to move ahead as quickly as possible and invite the City and the County to join us in determining the legality of this issue. Its.. from the standpoint that there is no legal precedent, I guess it is very reminiscent to me of the fact that there was no legal precedent of the City's annexation policies ten...eleven years ago and the City kind of set their own methodology. I would hope that in this case that all parties concerned again, the City, the County and the District, can work together so that we can get this issue resolved and the payments can continue to flow in an expeditious manner to the City to provide for the services that the constituents are receiving. I would like to again point out, however, that by completing the payment for the base contract we are paying for the services that we currently get and that we did receive in 2003. I thank you for your time."

Councilmember Enos-Martinez asked how soon can the Council expect the matter to go before a judge and get this matter settled. Ms. Dixon said she would have no idea without asking, according to the State Statutes any tax matters are to be expedited. Councilmember Enos-Martinez clarified that she is asking if the District Board has directed their legal counsel to get the action to the court. Ms. Dixon said they are, they are asking for the City and the County to join them but they have not received any communication from anyone that they would be willing to do that.

Council President Spehar reiterated that getting the two Attorneys in discussion should be the first step and Ms. Dixon said she would call their attorney in the morning and give him those instructions. She added that there was additional legislation that went into effect after the sub-district was formed and there is question as to whether the new law applies to this district.

Councilmember Hill asked who made the decision to put the monies into the court registry rather than making payment to the City or setting up an escrow account. Ms. Dixon said the Board. Mr. Hill asked if that was at the March 19<sup>th</sup> meeting. Ms. Dixon said no, this was what the Board had decided after receipt of Mr. Belcher's letter, that they put the funds into escrow and the Board determined that until any other question came up, they would place it in a completely separate account so they could track it with Alpine Bank and they discussed the parameters for an escrow account and then discussed it with their counsel and were told at the time that until there is further question, as long as the funds were 100% trackable and not being co-mingled there would be no problem, but at this point since they are going to proceed ahead with a declaratory judgment, they will go ahead and place the funds with the court registry if that meets with everyone's satisfaction. Councilmember Hill asked if they made these decisions in a board meeting. Ms. Dixon said they decided it in increments. First to separate the funds, which they did, then to keep it there and if they reached a stalemate then they would go ahead and transfer if questions arose regarding that, so yes the Board has made those decisions. It

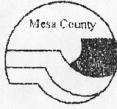
did not happen this last Friday. Councilmember Hill asked if it happened prior to Friday and Ms. Dixon said yes. Councilmember Hill asked if that would be reflected in the Board's minutes. Ms. Dixon said yes, which the minutes are all in draft form; they have not been formally approved by the Board.

Council President Spehar recommended that the Council wait for the two Attorneys to discuss the matter directly and it is his opinion that filing the funds with the court registry is as good as an escrow account. He would like the matter to move forward and get resolved.

Acting City Attorney Shaver stated for the record that he and Mr. John Siddeek, the District's counsel, have had a good working relationship. Councilmember Enos-Martinez urged expeditious resolution.

There being no further action, Council President Spehar adjourned the meeting at 6:33 p.m.

Stephanie Tuin, MMC  
City Clerk



cc: Don Gaggi  
Kelly Arnold  
sm 1/8/04



## Mesa County Assessor

Mesa County Courthouse Annex · P.O. Box 20,000-5003 · Grand Junction, CO 81502-5003 · PH: (970) 244-1610 FAX (970) 244-1790

December 4, 2003

### Memo of Understanding Redlands Sub Fire District

TO: Redlands Sub Fire District Board

FROM: Curtis Belcher  
Mesa County Assessor

The Assessor's Office interpreted the wording of the 2002 ballot creating the Sub District to read "imposition of an additional ad valorem property tax rate of 4.904 mills, commencing January 1 2003 and continuing thereafter" as implementing for 2003 and collectable 2004.

The City of Grand Junction insisted that the intent in the ballot language was for implementation in 2002 and revenue in 2003.

This office contacted the districts attorney in Denver and reaffirmed our stance and interpretation of the Ballot language. Mr. Cole sided with the City and stated the intent was for revenue to begin in 2003 and to certify a 2002 levy.

This office sought advice from the County Attorney on November 27, 2002. We were instructed to create the district and certify value to them and put it on for 2002. The decision was based on the language "to collect retain and spend all tax revenue collected from such property tax and all other revenue received from any source commencing January 1, 2003 and continuing thereafter". This language is in the text of the ballot for Referred Measure 5E November 2002.

Colorado Revised Statutes requires a May 1 dead line to allow for the creation of the district and the verification of taxpayers within the effected area. This statute would require a November ballot approval to go thru the statutory district creation time frame which starts with May 1 of the following year. Also the general understanding in taxation is that you cannot levy a tax for services that do not exist.

Sincerely

A handwritten signature in cursive script, appearing to read 'C. Belcher'.

Curtis Belcher

**Attach 2**  
**Setting a Hearing on the Chipeta Glenn Annexation**  
**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA							
<b>Subject</b>	Setting a hearing for the Chipeta Glenn Annexation located at 2975 and 2977 B ½ Road						
<b>Meeting Date</b>	April 7, 2004						
<b>Date Prepared</b>	March 29, 2004				File #ANX-2004-032		
<b>Author</b>	Senta L. Costello		Associate Planner				
<b>Presenter Name</b>	Senta L. Costello		Associate Planner				
<b>Report results back to Council</b>	X	No		Yes	<b>When</b>		
<b>Citizen Presentation</b>		Yes	X	No	<b>Name</b>		
	<b>Workshop</b>	X	<b>Formal Agenda</b>		X	<b>Consent</b>	<b>Individual Consideration</b>

**Summary:** Resolution referring a petition for annexation and introduction of proposed ordinances. The 13.641 acre Chipeta Glenn Annexation consists of 2 parcel(s). The Chipeta Glenn Annexation is a 2 part serial annexation and includes 92' of B ½ Road right-of-way.

**Budget:** N/A

**Action Requested/Recommendation:** Approval of the Resolution of Referral, accepting the Chipeta Glenn Annexation petition and introduce the proposed Chipeta Glenn Annexation Ordinance, exercise land use jurisdiction immediately and set a hearing for May 19, 2004.

**Background Information:** See attached Staff Report/Background Information

**Attachments:**

1. Staff report/Background information
2. General Location Map
3. Aerial Photo
4. Growth Plan Map
5. Zoning Map
6. Annexation map
7. Resolution Referring Petition
8. Annexation Ordinances

STAFF REPORT / BACKGROUND INFORMATION					
<b>Location:</b>		2975 and 2977 B ½ Road			
<b>Applicants:</b>		Owner: Chipeta Glenn LLC – Fred Fodrea, Scott Schultz Representative: Thompson-Langford – Jim Langford			
<b>Existing Land Use:</b>		Single Family Residential / Agricultural			
<b>Proposed Land Use:</b>		Single Family Residential			
<b>Surrounding Land Use:</b>	<b>North</b>	Single Family Residential / Agricultural			
	<b>South</b>	Single Family Residential			
	<b>East</b>	Single Family Residential / Agricultural			
	<b>West</b>	Single Family Residential / Golf Course			
<b>Existing Zoning:</b>		County RSF-R			
<b>Proposed Zoning:</b>		City RSF-4			
<b>Surrounding Zoning:</b>	<b>North</b>	County RSF-R (AFT)			
	<b>South</b>	City PD 3.9 du/ac			
	<b>East</b>	County RSF-R (AFT)			
	<b>West</b>	County PUD – Chipeta Pines Golf Course			
<b>Growth Plan Designation:</b>		Residential Medium Low 2-4 du/ac			
<b>Zoning within density range?</b>		<b>X</b>	<b>Yes</b>		<b>No</b>

**Staff Analysis:**

**ANNEXATION:**

This annexation area consists of 13.641 acres of land and is comprised of 2 parcels. The property owners have requested annexation into the City as the result of needing a rezone in the County to subdivide. Under the 1998 Persigo Agreement all rezones require annexation and processing in the City.

It is staff's 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 Chipeta Glenn 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.

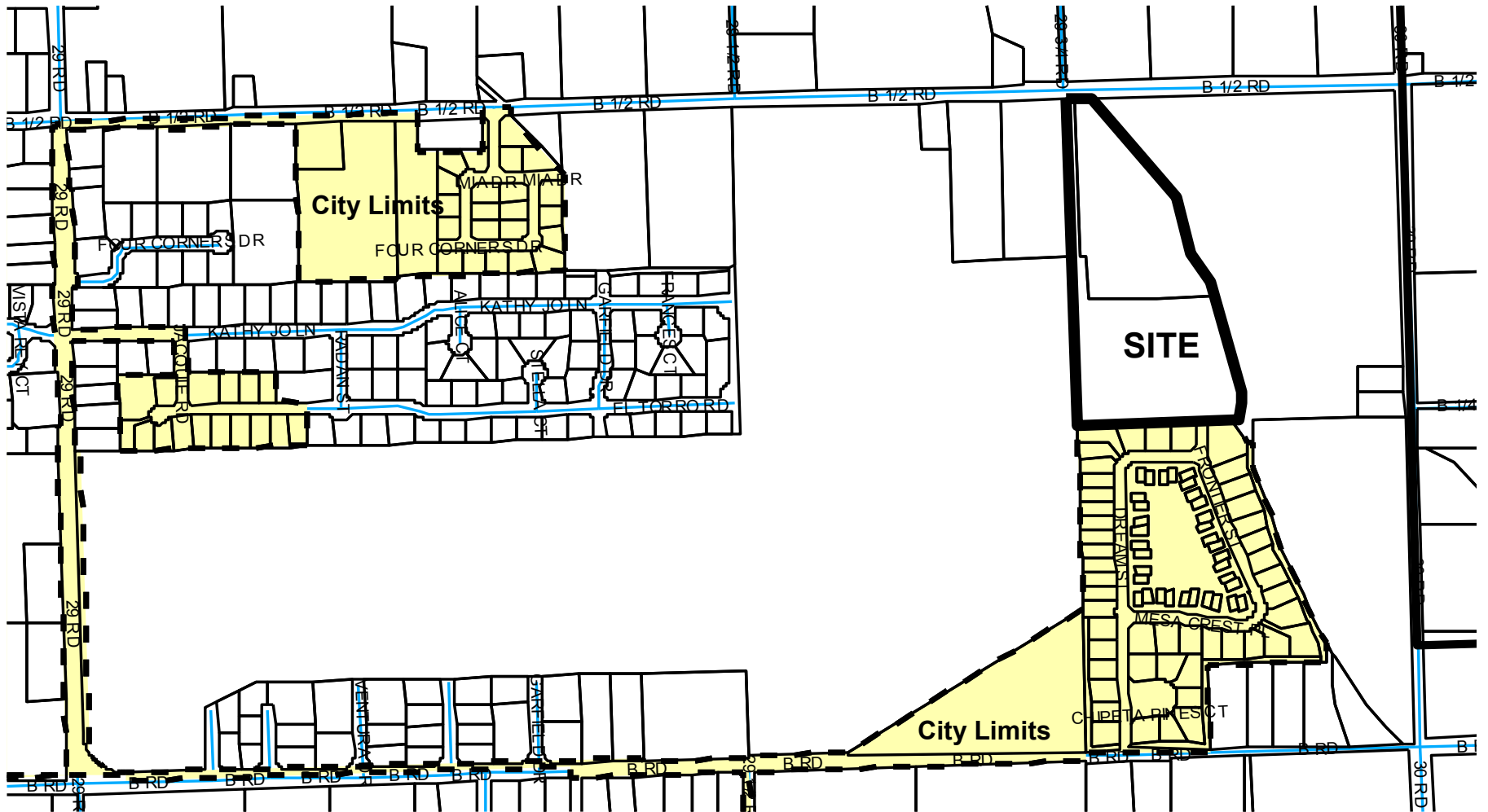
<b><u>ANNEXATION SCHEDULE</u></b>	
<b>April 7, 2004</b>	Referral of Petition (30 Day Notice), Introduction Of A Proposed Ordinance, Exercising Land Use
<b>April 20, 2004</b>	Planning Commission considers Zone of Annexation
<b>May 5, 2004</b>	Introduction Of A Proposed Ordinance on Zoning by City Council
<b>May 19, 2004</b>	Acceptance of Petition and Public Hearing on Annexation and Zoning by City Council
<b>June 20, 2004</b>	Effective date of Annexation and Zoning

**CHIPETA GLENN ANNEXATION SUMMARY**

<b>File Number:</b>		ANX-2004-032	
<b>Location:</b>		2975 and 2977 B ½ Road	
<b>Tax ID Number:</b>		2943-294-00-147, 2943-294-00-148	
<b>Parcels:</b>		2	
<b>Estimated Population:</b>		5	
<b># of Parcels (owner occupied):</b>		1	
<b># of Dwelling Units:</b>		2	
<b>Acres land annexed:</b>		13.641	
<b>Developable Acres Remaining:</b>		Approximately 13	
<b>Right-of-way in Annexation:</b>		92' the full width of B ½ Road	
<b>Previous County Zoning:</b>		RSF-R	
<b>Proposed City Zoning:</b>		RSF-4	
<b>Current Land Use:</b>		Single Family Residential / Agricultural	
<b>Future Land Use:</b>		Single Family Residential	
<b>Values:</b>	<b>#1</b>	<b>Assessed:</b>	= \$3450
		<b>Actual:</b>	= \$138,040
	<b>#2</b>	<b>Assessed:</b>	= \$2770
		<b>Actual:</b>	= \$59,600
<b>Address Ranges:</b>		2975 and 2977 B ½ Road	
<b>Special Districts:</b>		<b>Water:</b>	Ute Water
		<b>Sewer:</b>	Orchard Mesa Sanitation
		<b>Fire:</b>	Grand Junction Rural Fire District
		<b>Irrigation/Drainage:</b>	Orchard Mesa Irrigation
		<b>School:</b>	Mesa County School District #51
		<b>Pest:</b>	None

# Site Location Map

Figure 1





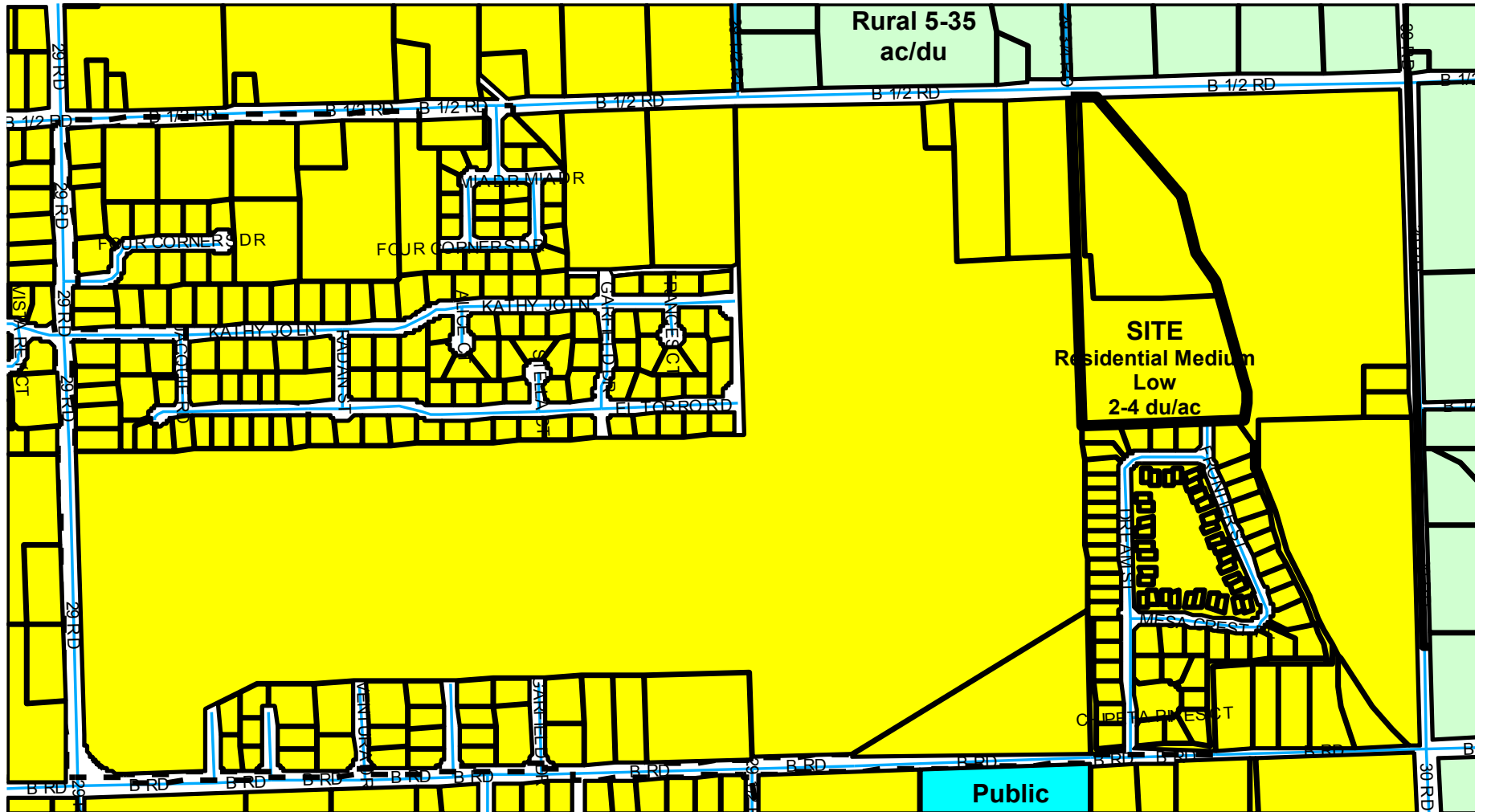
# Aerial Photo Map

Figure 2



# Future Land Use Map

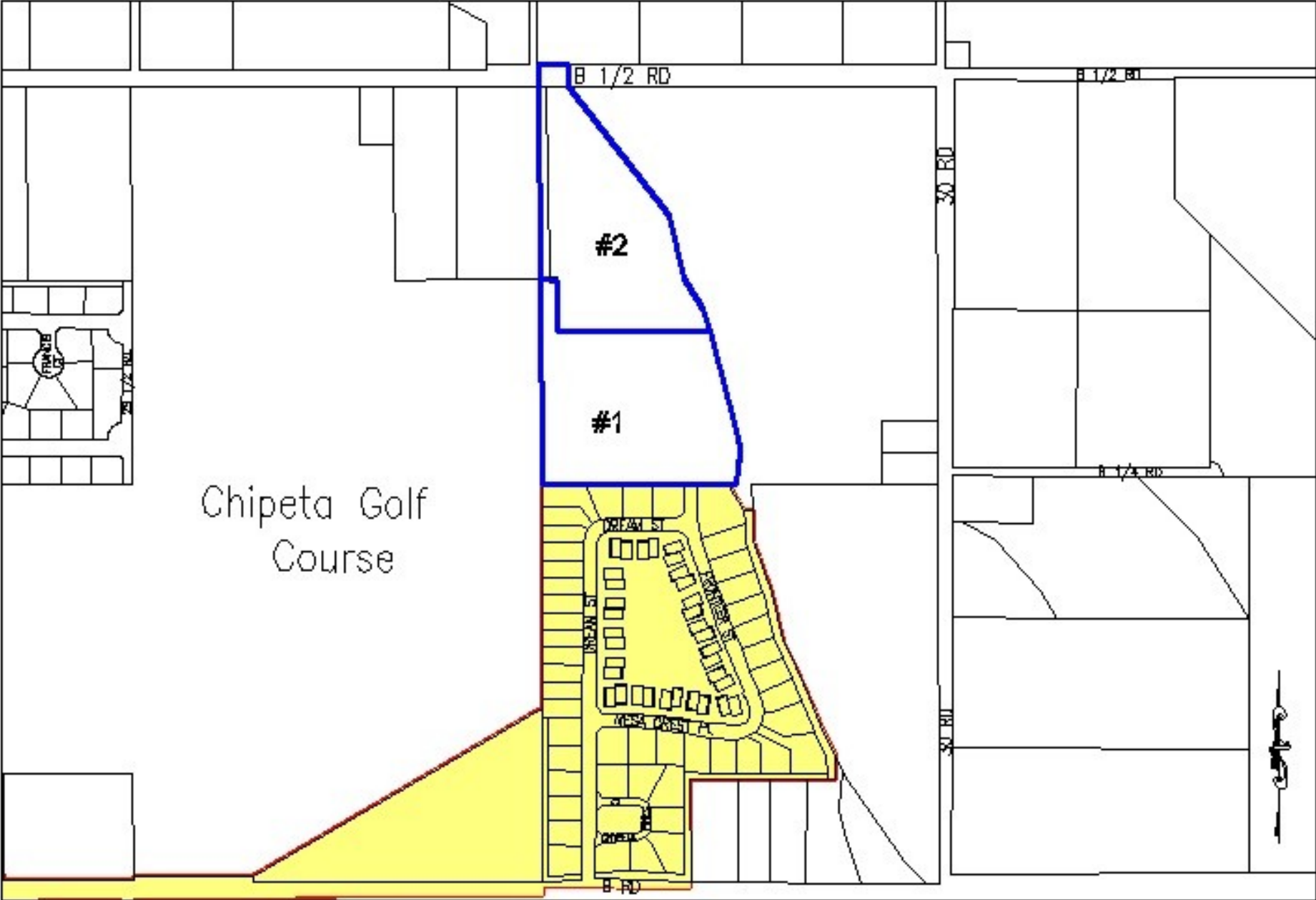
Figure 3





# Chipeta Glenn Annexations #1 & #2

Figure 5



City Limits      Annexation Boundary

**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 7<sup>th</sup> of April, 2004, the following Resolution was adopted:

**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION  
REFERRING A PETITION TO THE CITY COUNCIL  
FOR THE ANNEXATION OF LANDS  
TO THE CITY OF GRAND JUNCTION, COLORADO,  
SETTING A HEARING ON SUCH ANNEXATION,  
AND EXERCISING LAND USE CONTROL**

**CHIPETA GLENN ANNEXATIONS #1 & #2**

**LOCATED AT 2975 AND 2977 B ½ ROAD**

WHEREAS, on the 7<sup>th</sup> day of April, 2004, a petition was referred 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:

**CHIPETA GLENN ANNEXATION NO. 1**

A certain parcel of land lying in the Northwest Quarter of the Southeast Quarter (NW 1/4 SE 1/4) of Section 29, Township 1 South, Range 1 East of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

BEGINNING at the Southwest corner of the NW 1/4 SE 1/4 of said Section 29 and assuming the West line of the NW 1/4 SE 1/4 of said Section 29 bears N 00°06'50" W with all other bearings contained herein being relative thereto; thence from said Point of Beginning, N 00°06'50" W along the West line of the NW 1/4 SE 1/4 of said Section 29, a distance of 658.45 feet; thence N 89°51'44" E a distance of 52.00 feet; thence S 00°06'50" E a distance of 172.86 feet; thence N 89°51'44" E a distance of 504.51 feet; thence S 15°29'16" E a distance of 365.75 feet; thence S 38°17'44" W a distance of 23.00 feet; thence S 12°37'16" E a distance of 19.00 feet; thence S 05°28'44" W a distance of 96.46 feet, more or less, to a point on the South line of the NW 1/4 SE 1/4 of said Section 29; thence S 89°50'00" W along the South line of the NW 1/4 SE 1/4 of said Section 29, a distance of 633.90 feet, more or less, to the Point of Beginning.

CONTAINING 7.055 Acres (307,317.9 Sq. Ft.) more or less, as described.

**CHIPETA GLENN ANNEXATION NO. 2**

A certain parcel of land lying in the Northwest Quarter of the Southeast Quarter (NW 1/4 SE 1/4) and the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of Section 29, 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 the NW 1/4 SE 1/4 of said Section 29 and assuming the West line of the NW 1/4 SE 1/4 of said Section 29 bears N 00°06'50" W with all other bearings contained herein being relative thereto; thence from said Point of Commencement, N 00°06'50" W along the West line of the NW 1/4 SE 1/4 of said Section 29, a distance of 658.45 feet to the POINT OF BEGINNING; thence from said Point of Beginning, continue N 00°06'50" W along the West line of the NW 1/4 SE 1/4 of said Section 29, a distance of 658.43 feet, more or less, to a point being the Northwest corner of the NW 1/4 SE 1/4 of said Section 29; thence N 00°06'06" W along the West line of the SW 1/4 NE 1/4 of said Section 29, a distance of 40.00 feet to a point on the North right of way for B-1/2 Road, as same is recorded in Book 1425, Page 290, Public Records of Mesa County, Colorado; thence N 89°51'45" E along said North right of way, a distance of 91.99 feet; thence S 00°08'15" E a distance 70.00 feet; thence S 38°03'16"E a distance of 522.01 feet; thence S 13°38'16" E a distance of 214.00 feet; thence S36°00'16"E a distance of 120.00 feet; thence S 15°29'16" E a distance of 87.25 feet; thence S 89°51'44" W a distance of 504.51 feet; thence N 00°06'50" W a distance of 172.86 feet; thence S 89°51'44" W a distance of 52.00 feet, more or less, to the Point of Beginning.

CONTAINING 6.586 Acres (286,882.6 Sq. Ft.) more or less, as described.

WHEREAS, the Council has found and determined that the petition complies substantially with the provisions of the Municipal Annexation Act and a hearing should be held to determine whether or not the lands should be annexed to the City by Ordinance;

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

1. That a hearing will be held on the 19<sup>th</sup> day of May, 2004, in the City Hall auditorium, located at 250 North 5<sup>th</sup> Street, City of Grand Junction, Colorado, at 7:30 PM to determine whether one-sixth of the perimeter of the area proposed to be annexed is contiguous with the City; whether a community of interest exists between the territory and the city; whether the territory proposed to be annexed is urban or will be urbanized in the near future; whether the territory is integrated or is capable of being integrated with said City; whether any land in single ownership has been divided by the proposed annexation without the consent of the landowner; whether any 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; whether any of the land is now subject to other annexation proceedings; and whether an election is required under the Municipal Annexation Act of 1965.

2. Pursuant to the State's Annexation Act, the City Council determines that the City may now, and hereby does, exercise jurisdiction over land use issues in the said territory. Requests for building permits, subdivision approvals and zoning approvals shall, as of this date, be submitted to the Community Development Department of the City.

ADOPTED this 7<sup>th</sup> day of April, 2004.

Attest:

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President of the Council

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City Clerk



**NOTICE IS FURTHER GIVEN** that a hearing will be held in accordance with the Resolution on the date and at the time and place set forth in the Resolution.

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City Clerk

<i>DATES PUBLISHED</i>
<b>April 9, 2004</b>
<b>April 16, 2004</b>
<b>April 23, 2004</b>
<b>April 30, 2004</b>

**CITY OF GRAND JUNCTION, COLORADO**

**ORDINANCE NO.**

**AN ORDINANCE ANNEXING TERRITORY TO THE  
CITY OF GRAND JUNCTION, COLORADO**

**CHIPETA GLENN ANNEXATION #1**

**APPROXIMATELY 7.055 ACRES**

**LOCATED AT 2975 B 1/2 ROAD**

**WHEREAS**, on the 7<sup>th</sup> day of April, 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 19<sup>th</sup> day of April, 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:

**CHIPETA GLENN ANNEXATION NO. 1**

A certain parcel of land lying in the Northwest Quarter of the Southeast Quarter (NW 1/4 SE 1/4) of Section 29, Township 1 South, Range 1 East of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

BEGINNING at the Southwest corner of the NW 1/4 SE 1/4 of said Section 29 and assuming the West line of the NW 1/4 SE 1/4 of said Section 29 bears N 00°06'50" W with all other bearings contained herein being relative thereto; thence from said Point of Beginning, N 00°06'50" W along the West line of the NW 1/4 SE 1/4 of said Section 29, a distance of 658.45 feet; thence N 89°51'44" E a distance of 52.00 feet; thence S 00°06'50" E a distance of 172.86 feet; thence N 89°51'44" E a distance of 504.51 feet;

thence S 15°29'16" E a distance of 365.75 feet; thence S 38°17'44" W a distance of 23.00 feet; thence S 12°37'16" E a distance of 19.00 feet; thence S 05°28'44" W a distance of 96.46 feet, more or less, to a point on the South line of the NW 1/4 SE 1/4 of said Section 29; thence S 89°50'00" W along the South line of the NW 1/4 SE 1/4 of said Section 29, a distance of 633.90 feet, more or less, to the Point of Beginning.

CONTAINING 7.055 Acres (307,317.9 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 7<sup>th</sup> day of April, 2004 and ordered published.

**ADOPTED** on second reading this 19<sup>th</sup> day of May, 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**

**CHIPETA GLENN ANNEXATION #2**

**APPROXIMATELY 6.586 ACRES**

**LOCATED AT 2977 B 1/2 ROAD**

**WHEREAS**, on the 7<sup>th</sup> day of April, 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 19<sup>th</sup> day of April, 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:

**CHIPETA GLENN ANNEXATION NO. 2**

A certain parcel of land lying in the Northwest Quarter of the Southeast Quarter (NW 1/4 SE 1/4) and the Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) of Section 29, 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 the NW 1/4 SE 1/4 of said Section 29 and assuming the West line of the NW 1/4 SE 1/4 of said Section 29 bears N 00°06'50" W with all other bearings contained herein being relative thereto; thence from said Point of Commencement, N 00°06'50" W along the West line of the NW 1/4 SE 1/4 of said Section 29, a distance of 658.45 feet to the POINT OF BEGINNING; thence from said Point of Beginning, continue N 00°06'50" W along the West line of the NW 1/4 SE 1/4

of said Section 29, a distance of 658.43 feet, more or less, to a point being the Northwest corner of the NW 1/4 SE 1/4 of said Section 29; thence N 00°06'06" W along the West line of the SW 1/4 NE 1/4 of said Section 29, a distance of 40.00 feet to a point on the North right of way for B-1/2 Road, as same is recorded in Book 1425, Page 290, Public Records of Mesa County, Colorado; thence N 89°51'45" E along said North right of way, a distance of 91.99 feet; thence S 00°08'15" E a distance 70.00 feet; thence S 38°03'16"E a distance of 522.01 feet; thence S 13°38'16" E a distance of 214.00 feet; thence S36°00'16"E a distance of 120.00 feet; thence S 15°29'16" E a distance of 87.25 feet; thence S 89°51'44" W a distance of 504.51 feet; thence N 00°06'50" W a distance of 172.86 feet; thence S 89°51'44" W a distance of 52.00 feet, more or less, to the Point of Beginning.

CONTAINING 6.586 Acres (286,882.6 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 7<sup>th</sup> day of April, 2004 and ordered published.

**ADOPTED** on second reading this 19<sup>th</sup> day of May, 2004.

Attest:

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President of the Council

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City Clerk

**Attach 3**  
**Setting a Hearing on Grand Valley Audubon Annexation**  
**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA							
<b>Subject</b>	Setting a hearing for the Grand Valley Audubon Annexation located at 605 and 608 Dike Road						
<b>Meeting Date</b>	April 7, 2004						
<b>Date Prepared</b>	March 29, 2004				File #ANX-2004-052		
<b>Author</b>	Senta L. Costello		Associate Planner				
<b>Presenter Name</b>	Senta L. Costello		Associate Planner				
<b>Report results back to Council</b>	X	No		Yes	<b>When</b>		
<b>Citizen Presentation</b>		Yes	X	No	<b>Name</b>		
	<b>Workshop</b>	X	<b>Formal Agenda</b>		X	<b>Consent</b>	<b>Individual Consideration</b>

**Summary:** Resolution referring a petition for annexation and introduction of proposed ordinances. The 55.272 acre Grand Valley Audubon Annexation consists of 2 parcel(s). The Grand Valley Audubon Annexation is a 2 part serial annexation.

**Budget:** N/A

**Action Requested/Recommendation:** Approval of the Resolution of Referral, accepting the Grand Valley Audubon Annexation petition and introduce the proposed Grand Valley Audubon Annexation Ordinance, exercise land use jurisdiction immediately and set a hearing for May 19, 2004.

**Background Information:** See attached Staff Report/Background Information

**Attachments:**

9. Staff report/Background information
10. General Location Map
11. Aerial Photo
12. Growth Plan Map
13. Zoning Map
14. Annexation map
15. Resolution Referring Petition
16. Annexation Ordinance

**STAFF REPORT / BACKGROUND INFORMATION**

<b>Location:</b>	605 & 608 Dike Road		
<b>Applicants:</b>	Owner: Grand Valley Audubon Society – Steve Watson Representative: Bob Wilson		
<b>Existing Land Use:</b>	Vacant		
<b>Proposed Land Use:</b>	Audubon – Bird Watching		
<b>Surrounding Land Use:</b>	<b>North</b>	Colorado River	
	<b>South</b>	Single Family Residential / Whitewater Gravel Pit	
	<b>East</b>	Connected Lakes	
	<b>West</b>	Colorado River / Single Family Residential	
<b>Existing Zoning:</b>	County AFT		
<b>Proposed Zoning:</b>	City CSR		
<b>Surrounding Zoning:</b>	<b>North</b>	City CSR	
	<b>South</b>	County RSF-4	
	<b>East</b>	County AFT	
	<b>West</b>	County RSF-4	
<b>Growth Plan Designation:</b>	Conservation		
<b>Zoning within density range?</b>	<b>X</b>	<b>Yes</b>	<b>No</b>

**Staff Analysis:**

**ANNEXATION:**

This annexation area consists of 55.272 acres of land and is comprised of 2 parcels. The property owners have requested annexation into the City.

It is staff's 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 Grand Valley Audubon 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.

<b><i>ANNEXATION SCHEDULE</i></b>	
<b>April 7, 2004</b>	Referral of Petition (30 Day Notice), Introduction Of A Proposed Ordinance, Exercising Land Use
<b>April 20, 2004</b>	Planning Commission considers Zone of Annexation
<b>May 5, 2004</b>	Introduction Of A Proposed Ordinance on Zoning by City Council
<b>May 19, 2004</b>	Acceptance of Petition and Public Hearing on Annexation and Zoning by City Council
<b>June 20, 2004</b>	Effective date of Annexation and Zoning



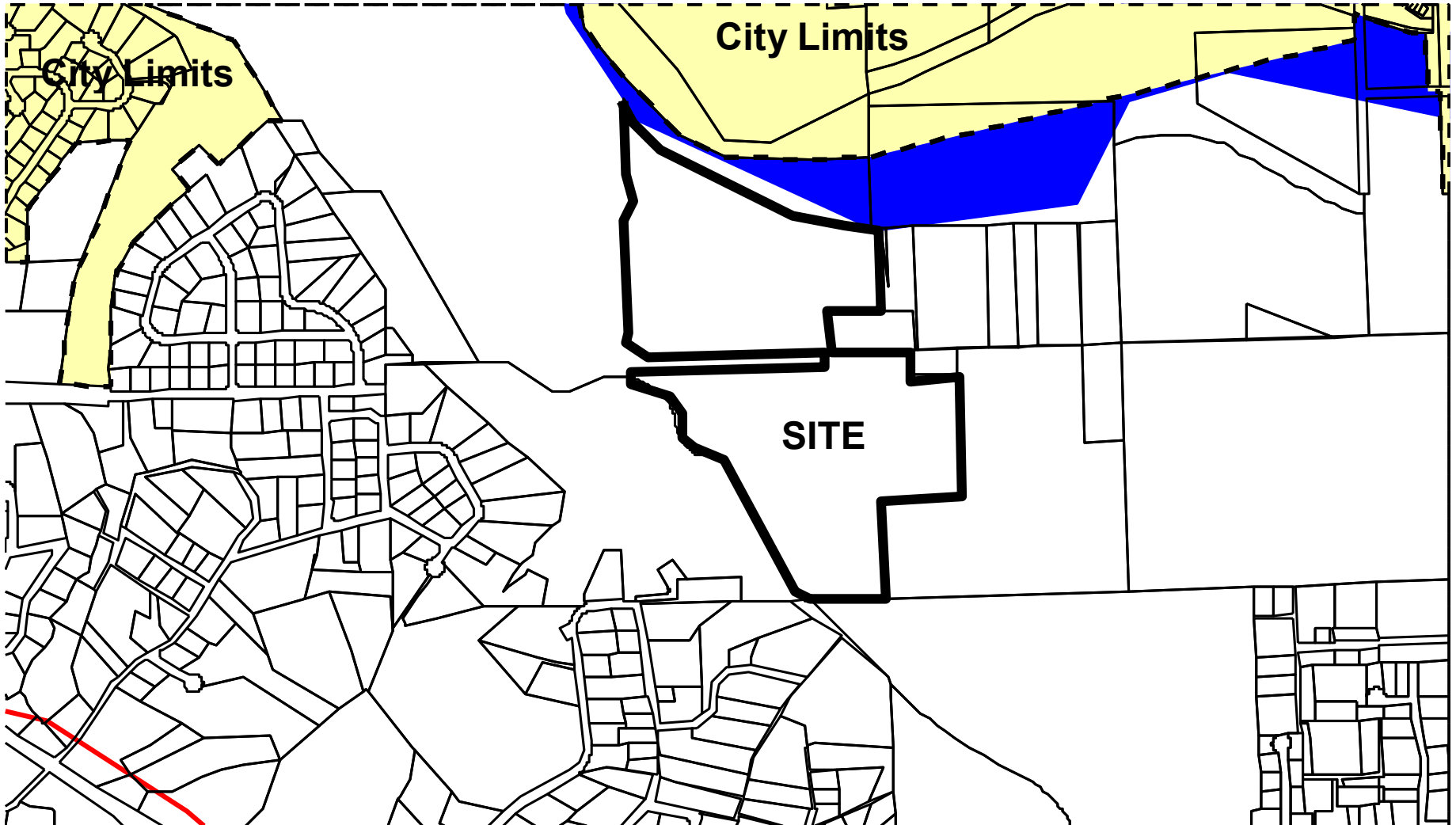
**GRAND VALLEY AUDUBON ANNEXATION SUMMARY**

<b>File Number:</b>		ANX-2004-052	
<b>Location:</b>		605 and 608 Dike Rd	
<b>Tax ID Number:</b>		2945-162-00-298 / 2945-093-00-172	
<b>Parcels:</b>		2	
<b>Estimated Population:</b>		0	
<b># of Parcels (owner occupied):</b>		0	
<b># of Dwelling Units:</b>		0	
<b>Acres land annexed:</b>		55.272	
<b>Developable Acres Remaining:</b>		Approximately 55	
<b>Right-of-way in Annexation:</b>		Approximately 460' of Dike Rd	
<b>Previous County Zoning:</b>		AFT	
<b>Proposed City Zoning:</b>		CSR	
<b>Current Land Use:</b>		Vacant	
<b>Future Land Use:</b>		Audubon – Bird Watching	
<b>Values:</b>	<b>#1</b>	<b>Assessed:</b>	= \$59,710
		<b>Actual:</b>	= \$205,900
<b>Values:</b>	<b>#2</b>	<b>Assessed:</b>	= \$70,920
		<b>Actual:</b>	= \$244,550
<b>Address Ranges:</b>		605, 607, 608, 610 Dike Rd	
<b>Special Districts:</b>		<b>Water:</b>	Ute Water
		<b>Sewer:</b>	City of Grand Junction
		<b>Fire:</b>	Grand Junction Rural Fire District
		<b>Irrigation/Drainage</b> :	Redlands Water
		<b>School:</b>	Mesa County School Dist #51
		<b>Pest:</b>	Redlands Mosquito Control District



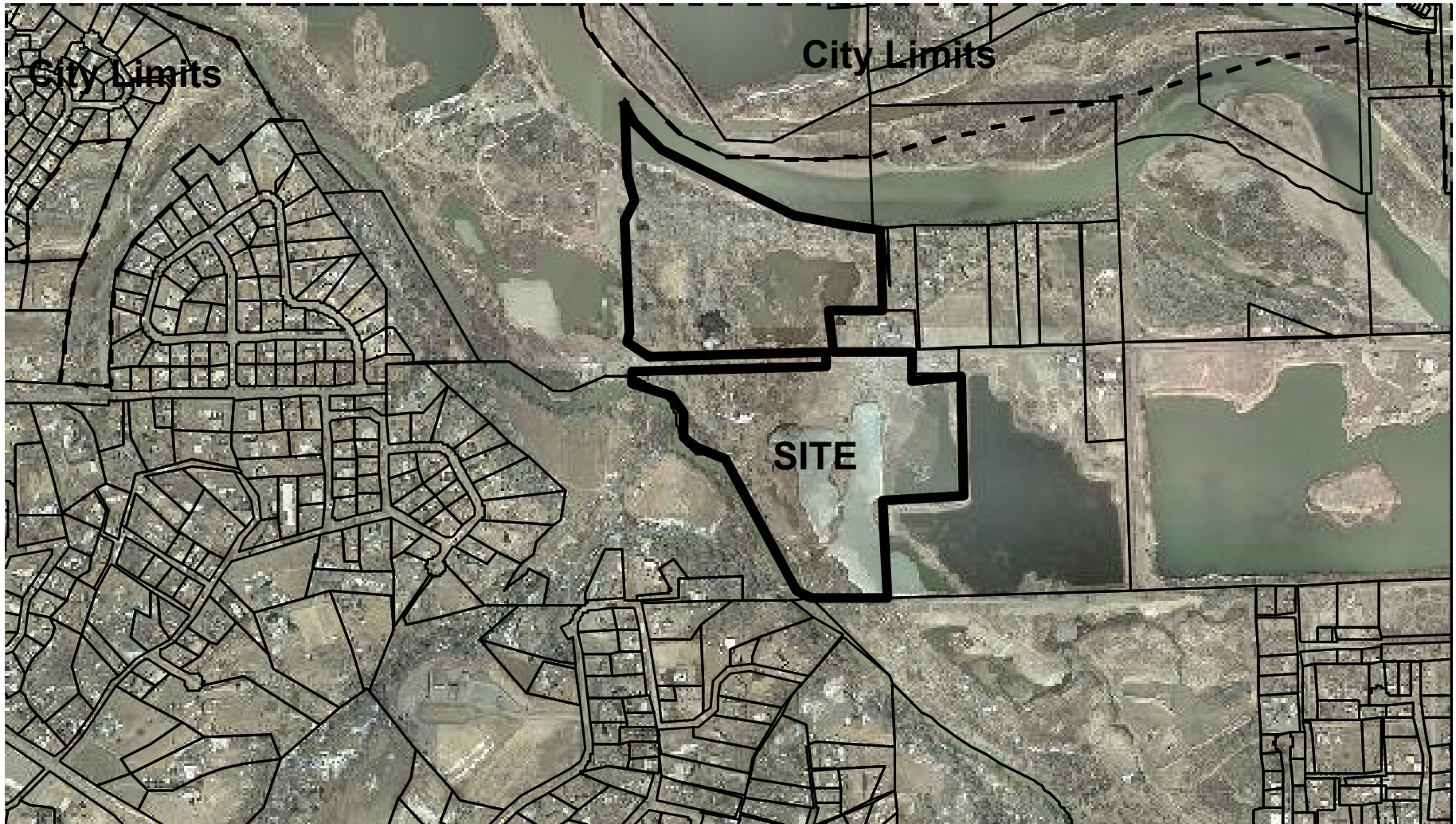
# Site Location Map

Figure 1



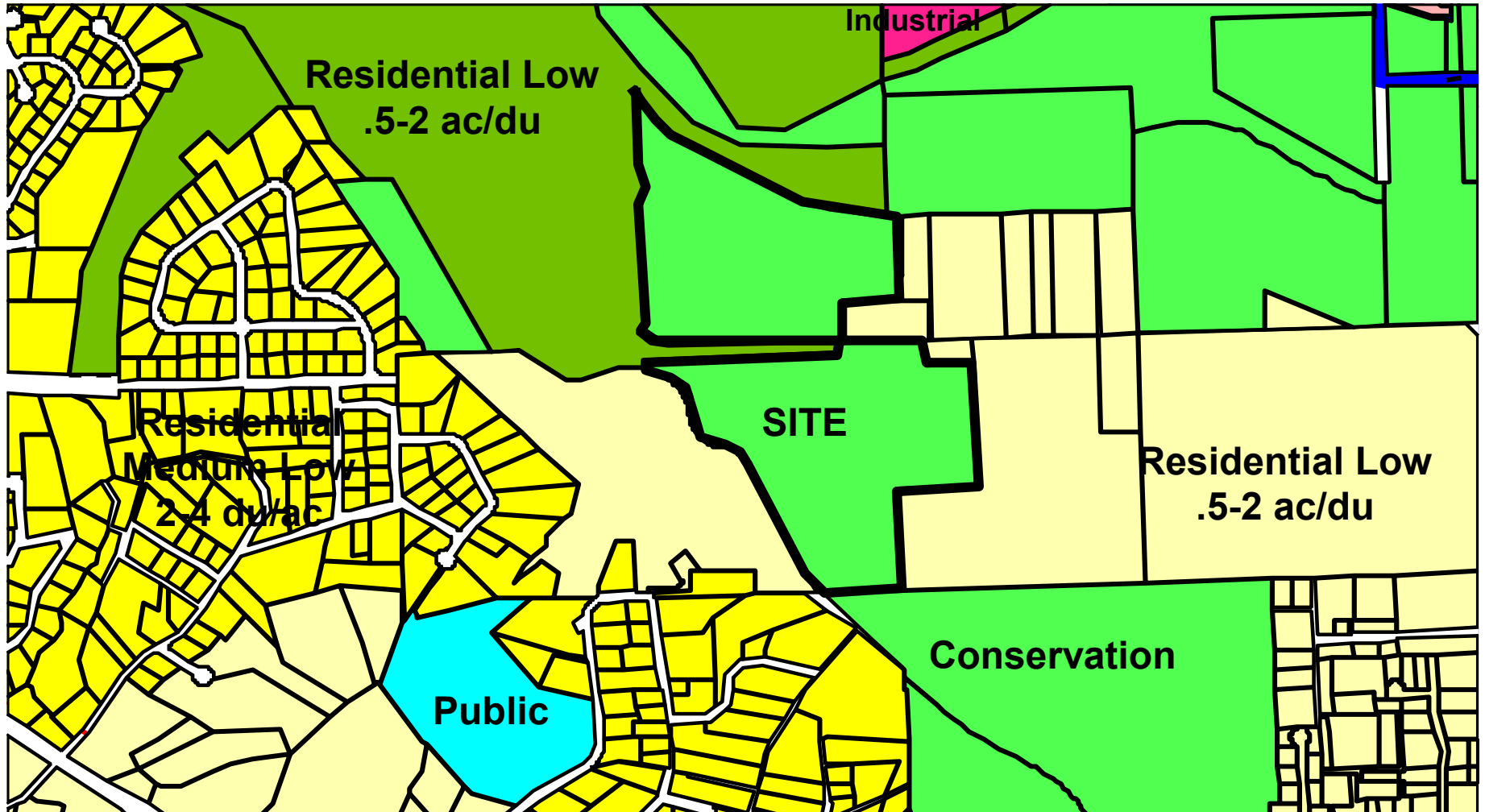
# Aerial Photo Map

Figure 2



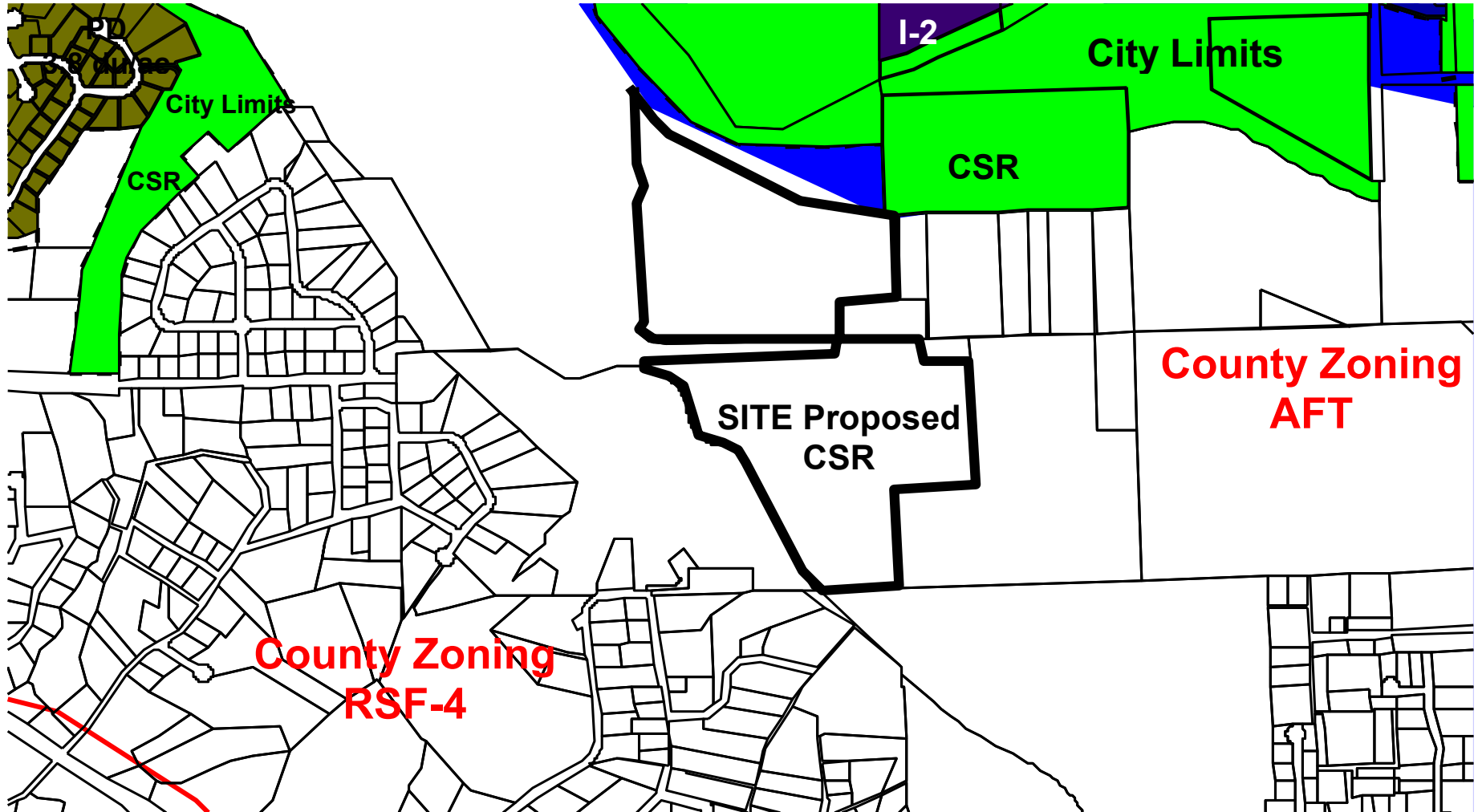
# Future Land Use Map

Figure 3



# Existing City and County Zoning

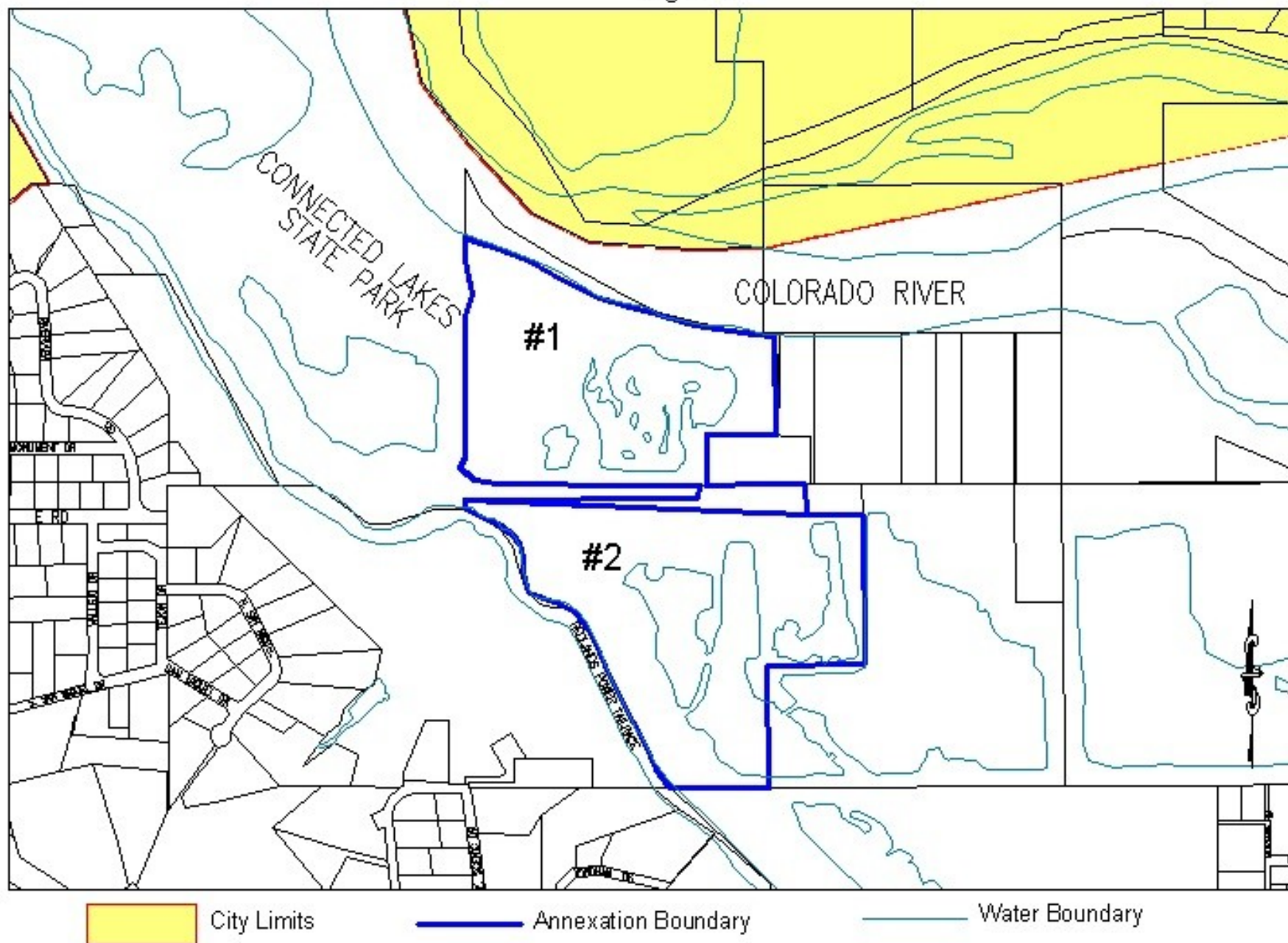
Figure 4



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."

# Grand Valley Audubon Annexations #1 and #2

Figure 5



**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 7<sup>th</sup> of April, 2004, the following Resolution was adopted:



**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION  
REFERRING A PETITION TO THE CITY COUNCIL  
FOR THE ANNEXATION OF LANDS  
TO THE CITY OF GRAND JUNCTION, COLORADO,  
SETTING A HEARING ON SUCH ANNEXATION,  
AND EXERCISING LAND USE CONTROL**

**GRAND VALLEY AUDUBON ANNEXATION #1 & #2**

**LOCATED AT 605 AND 608 DIKE ROAD**

WHEREAS, on the 7<sup>th</sup> day of April, 2004, a petition was referred 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:

**GRAND VALLEY AUDUBON ANNEXATION NO. 1**

A certain parcel of land lying in the Southwest Quarter (SW 1/4) of Section 9, the Northwest Quarter (NW 1/4) of Section 16, the Southeast Quarter (SE 1/4) of Section 8 and any portion thereof of any Government Lots within said Sections, all in Township 1 South, Range 1 West of the Ute Principal Meridian, County of Mesa, State of Colorado, lying Southerly of the South bank of the Colorado River and being more particularly described as follows:

BEGINNING at the Northwest corner of the Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4) of said Section 16, and assuming the South line of the Southwest Quarter of the Southwest Quarter (SW 1/4 SW 1/4) of said Section 9 bears S 89°49'21" W with all other bearings contained herein being relative thereto; thence from said Point of Beginning, N 89°50'12" E along the North line of the Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4) of said Section 16, a distance of 181.11 feet; thence S 02°14'04" E a distance of 131.87 feet; thence N 87°25'29" W a distance of 1495.65 feet to a point on the West line of the Northwest Quarter of the Northwest Quarter (NW 1/4 NW 1/4) of said Section 16, said point lying 60.00 feet South of, as measured along said line, the Northwest corner of said Section 16; thence N 89°49'21" E a distance of 1021.39 feet; thence N 03°32'39" E a distance of 60.13 feet to a point on the South line of the SW 1/4 SW 1/4 of said Section 9; thence S 89°49'21" W along the South line of the SW 1/4 SW 1/4 of said Section 9, a distance of 263.79 feet; thence N 89°11'58" W a distance of 630.69 feet; thence N 79°55'33" W a distance of 95.00 feet; thence N 49°11'37" W a distance of 81.01 feet; thence N 31°28'14" E a

distance of 44.45 feet to a point on the West line of said Section 9; thence N 00°09'30" W along the West line of said Section 9, a distance of 508.66 feet; thence N 02°03'27" E a distance of 101.69 feet; thence N 11°19'09" W a distance of 113.47 feet; thence N 19°43'26" W a distance of 39.35 feet to a point on the West line of said Section 9; thence N 00°09'30" W a distance of 220.07 feet, more or less, to a point on the South bank of the Colorado River, as depicted on a Boundary Survey prepared by Mr. Steven L. Hagedorn of DH Surveys, Inc.; thence Southeasterly meandering the South bank of the Colorado River the following numbered courses:

- 1.) S 62°07'13" E a distance of 45.74 feet, thence...
- 2.) S 72°50'28" E a distance of 82.68 feet; thence...
- 3.) S 70°13'55" E a distance of 162.69 feet; thence...
- 4.) S 59°42'24" E a distance of 193.13 feet; thence...
- 5.) S 65°10'07" E a distance of 163.07 feet; thence...
- 6.) S 72°27'38" E a distance of 170.70 feet; thence...
- 7.) S 76°08'23" E a distance of 98.50 feet; thence...
- 8.) S 73°31'59" E a distance of 170.71 feet; thence...
- 9.) S 80°58'25" E a distance of 263.68 feet; thence ...
- 10.) S 87°58'03" E a distance of 108.96 feet; thence leaving said South bank;

S 01°20'54" W a distance of 434.40 feet; thence N 89°45'26" W a distance of 306.71 feet; thence S 00°03'25" W a distance of 219.58 feet, more or less, to a point on the South line of the SW 1/4 SW 1/4 of said Section 9; thence N 89°49'21" E along the South line of the SW 1/4 SW 1/4 of said Section 9, a distance of 250.00 feet, more or less, to the Point of Beginning.

CONTAINING 25.994 Acres (1,132,282 Sq. Ft.), more or less, as described.

#### GRAND VALLEY AUDUBON ANNEXATION NO. 2

A certain parcel of land lying in the Northwest Quarter (NW 1/4) of Section 16 and any portion thereof of any Government Lot within said NW 1/4, Township 1 South, Range 1 West of the Ute Principal Meridian, County of Mesa, State of Colorado being more particularly described as follows:

COMMENCING at the Northwest Corner of the Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4) of said Section 16, and assuming the North line of the Northwest Quarter of the Northwest Quarter (NW 1/4 NW 1/4) of said Section 16 bears S 89°49'21" W with all other bearings contained herein being relative thereto; thence from said Point of Commencement, S 89°50'12" W along the North line of the NE 1/4 NW 1/4 of said Section 16, a distance of 181.11 feet; thence S 02°14'04" E a distance of 131.87 feet to the POINT OF BEGINNING; thence from said Point of Beginning, N 89°51'50" E a distance of 247.63 feet; thence S 00°49'10" E a distance of 662.09 feet;

thence S 89°50'12" W a distance of 431.95 feet, more or less, to a point on the East line of the NW 1/4 NW 1/4 of said Section 16; thence S 00°49'22" E along the East line of the NW 1/4 NW 1/4 of said Section 16, a distance of 530.85 feet, more or less, to the Southeast corner of the NW 1/4 NW 1/4 of said Section 16; thence S 89°50'04" W along the South line of the NW 1/4 NW 1/4 of said Section 16 a distance of 433.17 feet to its intersection with the Easterly and Northeasterly bank of the Redlands Power Plant Tailrace; thence Northwesterly and Westerly along the Easterly and Northeasterly bank of the Redlands Power Plant Tailrace the following numbered courses; thence...

- 1.) N 47°31'23" W a distance of 22.12 feet; thence...
- 2.) N 32°53'29" W a distance of 80.04 feet; thence...
- 3.) N 25°43'13" W a distance of 135.11 feet; thence...
- 4.) N 27°47'14" W a distance of 183.95 feet; thence...
- 5.) N 27°18'14" W a distance of 120.14 feet; thence...
- 6.) N 23°04'57" W a distance of 190.63 feet; thence...
- 7.) N 27°25'01" W a distance of 62.45 feet; thence...
- 8.) N 38°07'47" W a distance of 73.39 feet; thence...
- 9.) N 61°37'17" W a distance of 112.70 feet; thence...
- 10.) N 69°13'06" W a distance of 115.86 feet; thence...
- 11.) N 15°08'00" W a distance of 91.22 feet; thence...
- 12.) N 03°52'00" W a distance of 61.88 feet; thence...
- 13.) N 09°03'16" W a distance of 64.81 feet; thence...
- 14.) N 40°18'49" W a distance of 50.23 feet; thence...
- 15.) N 53°06'00" W a distance of 80.43 feet; thence...
- 16.) N 68°47'55" W a distance of 87.98 feet; thence...
- 17.) N 66°10'28" W a distance of 66.29 feet to its intersection with the West line of the NW 1/4 NW 1/4 of said Section 16; thence N 00°36'14" W along the West line of the NW 1/4 NW 1/4 of said Section 16, a distance of 46.34 feet to a point 60.00 feet South of as measured along said line; thence S 87°25'29" E a distance of 1495.65 feet, more or less, to the Point of Beginning.

CONTAINING 29.278 Acres (1,275,352 Sq. Ft.), more or less, as described.

WHEREAS, the Council has found and determined that the petition complies substantially with the provisions of the Municipal Annexation Act and a hearing should be held to determine whether or not the lands should be annexed to the City by Ordinance;

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

3. That a hearing will be held on the 19<sup>th</sup> day of May, 2004, in the City Hall auditorium, located at 250 North 5<sup>th</sup> Street, City of Grand Junction, Colorado, at 7:30 PM to determine whether one-sixth of the perimeter of the area proposed to be annexed is contiguous with the City; whether a community of interest exists between the territory and the city; whether the territory proposed to be annexed is urban or will be urbanized in the near future; whether the territory is integrated or is capable of being integrated with said City; whether any land in single ownership has been divided by the proposed annexation without the consent of the landowner; whether any 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; whether any of the land is now subject to other annexation proceedings; and whether an election is required under the Municipal Annexation Act of 1965.
  
4. Pursuant to the State's Annexation Act, the City Council determines that the City may now, and hereby does, exercise jurisdiction over land use issues in the said territory. Requests for building permits, subdivision approvals and zoning approvals shall, as of this date, be submitted to the Community Development Department of the City.

ADOPTED this 7<sup>th</sup> day of April, 2004.

Attest:

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President of the Council

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City Clerk

**NOTICE IS FURTHER GIVEN** that a hearing will be held in accordance with the Resolution on the date and at the time and place set forth in the Resolution.

---

City Clerk

<i>DATES PUBLISHED</i>
<b>April 9, 2004</b>
<b>April 16, 2004</b>
<b>April 23, 2004</b>
<b>April 30, 2004</b>

**CITY OF GRAND JUNCTION, COLORADO**

**ORDINANCE NO.**

**AN ORDINANCE ANNEXING TERRITORY TO THE  
CITY OF GRAND JUNCTION, COLORADO**

**GRAND VALLEY AUDUBON ANNEXATION #1**

**APPROXIMATELY 25.994 ACRES**

**LOCATED AT 605 DIKE ROAD**

**WHEREAS**, on the 7<sup>th</sup> day of April, 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 19<sup>th</sup> day of May, 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:

**GRAND VALLEY AUDUBON ANNEXATION NO. 1**

A certain parcel of land lying in the Southwest Quarter (SW 1/4) of Section 9, the Northwest Quarter (NW 1/4) of Section 16, the Southeast Quarter (SE 1/4) of Section 8 and any portion thereof of any Government Lots within said Sections, all in Township 1 South, Range 1 West of the Ute Principal Meridian, County of Mesa, State of Colorado, lying Southerly of the South bank of the Colorado River and being more particularly described as follows:

BEGINNING at the Northwest corner of the Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4) of said Section 16, and assuming the South line of the Southwest

Quarter of the Southwest Quarter (SW 1/4 SW1/4) of said Section 9 bears S 89°49'21" W with all other bearings contained herein being relative thereto; thence from said Point of Beginning, N 89°50'12" E along the North line of the Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4) of said Section 16, a distance of 181.11 feet; thence S 02°14'04" E a distance of 131.87 feet; thence N 87°25'29" W a distance of 1495.65 feet to a point on the West line of the Northwest Quarter of the Northwest Quarter (NW 1/4 NW 1/4) of said Section 16, said point lying 60.00 feet South of, as measured along said line, the Northwest corner of said Section 16; thence N 89°49'21" E a distance of 1021.39 feet; thence N 03°32'39" E a distance of 60.13 feet to a point on the South line of the SW 1/4 SW 1/4 of said Section 9; thence S 89°49'21" W along the South line of the SW 1/4 SW 1/4 of said Section 9, a distance of 263.79 feet; thence N 89°11'58" W a distance of 630.69 feet; thence N 79°55'33" W a distance of 95.00 feet; thence N 49°11'37" W a distance of 81.01 feet; thence N 31°28'14" E a distance of 44.45 feet to a point on the West line of said Section 9; thence N 00°09'30" W along the West line of said Section 9, a distance of 508.66 feet; thence N 02°03'27" E a distance of 101.69 feet; thence N 11°19'09" W a distance of 113.47 feet; thence N 19°43'26" W a distance of 39.35 feet to a point on the West line of said Section 9; thence N 00°09'30" W a distance of 220.07 feet, more or less, to a point on the South bank of the Colorado River, as depicted on a Boundary Survey prepared by Mr. Steven L. Hagedorn of DH Surveys, Inc.; thence Southeasterly meandering the South bank of the Colorado River the following numbered courses:

- 1.) S 62°07'13" E a distance of 45.74 feet, thence...
- 2.) S 72°50'28" E a distance of 82.68 feet; thence...
- 3.) S 70°13'55" E a distance of 162.69 feet; thence...
- 4.) S 59°42'24" E a distance of 193.13 feet; thence...
- 5.) S 65°10'07" E a distance of 163.07 feet; thence...
- 6.) S 72°27'38" E a distance of 170.70 feet; thence...
- 7.) S 76°08'23" E a distance of 98.50 feet; thence...
- 8.) S 73°31'59" E a distance of 170.71 feet; thence...
- 9.) S 80°58'25" E a distance of 263.68 feet; thence ...
- 10.) S 87°58'03" E a distance of 108.96 feet; thence leaving said South bank;

S 01°20'54" W a distance of 434.40 feet; thence N 89°45'26" W a distance of 306.71 feet; thence S 00°03'25" W a distance of 219.58 feet, more or less, to a point on the South line of the SW 1/4 SW 1/4 of said Section 9; thence N 89°49'21" E along the South line of the SW 1/4 SW 1/4 of said Section 9, a distance of 250.00 feet, more or less, to the Point of Beginning.

CONTAINING 25.994 Acres (1,132,282 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 7<sup>th</sup> day of April, 2004 and ordered published.

**ADOPTED** on second reading this 19<sup>th</sup> day of May, 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**

**GRAND VALLEY AUDUBON ANNEXATION #2**

**APPROXIMATELY 29.278 ACRES**

**LOCATED AT 608 DIKE ROAD**

**WHEREAS**, on the 7<sup>th</sup> day of April, 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 19<sup>th</sup> day of May, 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:

**GRAND VALLEY AUDUBON ANNEXATION NO. 2**

A certain parcel of land lying in the Northwest Quarter (NW 1/4) of Section 16 and any portion thereof of any Government Lot within said NW 1/4, Township 1 South, Range 1 West of the Ute Principal Meridian, County of Mesa, State of Colorado being more particularly described as follows:

COMMENCING at the Northwest Corner of the Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4) of said Section 16, and assuming the North line of the Northwest Quarter of the Northwest Quarter (NW 1/4 NW 1/4) of said Section 16 bears S 89°49'21" W with all other bearings contained herein being relative thereto; thence

from said Point of Commencement, S 89°50'12" W along the North line of the NE 1/4 NW 1/4 of said Section 16, a distance of 181.11 feet; thence S 02°14'04" E a distance of 131.87 feet to the POINT OF BEGINNING; thence from said Point of Beginning, N 89°51'50" E a distance of 247.63 feet; thence S 00°49'10" E a distance of 662.09 feet; thence S 89°50'12" W a distance of 431.95 feet, more or less, to a point on the East line of the NW 1/4 NW 1/4 of said Section 16; thence S 00°49'22" E along the East line of the NW 1/4 NW 1/4 of said Section 16, a distance of 530.85 feet, more or less, to the Southeast corner of the NW 1/4 NW 1/4 of said Section 16; thence S 89°50'04" W along the South line of the NW 1/4 NW 1/4 of said Section 16 a distance of 433.17 feet to its intersection with the Easterly and Northeasterly bank of the Redlands Power Plant Tailrace; thence Northwesterly and Westerly along the Easterly and Northeasterly bank of the Redlands Power Plant Tailrace the following numbered courses; thence...

- 1.) N 47°31'23" W a distance of 22.12 feet; thence...
- 2.) N 32°53'29" W a distance of 80.04 feet; thence...
- 3.) N 25°43'13" W a distance of 135.11 feet; thence...
- 4.) N 27°47'14" W a distance of 183.95 feet; thence...
- 5.) N 27°18'14" W a distance of 120.14 feet; thence...
- 6.) N 23°04'57" W a distance of 190.63 feet; thence...
- 7.) N 27°25'01" W a distance of 62.45 feet; thence...
- 8.) N 38°07'47" W a distance of 73.39 feet; thence...
- 9.) N 61°37'17" W a distance of 112.70 feet; thence...
- 10.) N 69°13'06" W a distance of 115.86 feet; thence...
- 11.) N 15°08'00" W a distance of 91.22 feet; thence...
- 12.) N 03°52'00" W a distance of 61.88 feet; thence...
- 13.) N 09°03'16" W a distance of 64.81 feet; thence...
- 14.) N 40°18'49" W a distance of 50.23 feet; thence...
- 15.) N 53°06'00" W a distance of 80.43 feet; thence...
- 16.) N 68°47'55" W a distance of 87.98 feet; thence...
- 17.) N 66°10'28" W a distance of 66.29 feet to its intersection with the West line of the NW 1/4 NW 1/4 of said Section 16; thence N 00°36'14" W along the West line of the NW 1/4 NW 1/4 of said Section 16, a distance of 46.34 feet to a point 60.00 feet South of as measured along said line; thence S 87°25'29" E a distance of 1495.65 feet, more or less, to the Point of Beginning.

CONTAINING 29.278 Acres (1,275,352 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 7<sup>th</sup> day of April, 2004 and ordered published.

**ADOPTED** on second reading this 19<sup>th</sup> day of May, 2004.

Attest:

---

President of the Council

---

City Clerk

**Attach 4**  
**Setting a Hearing on Blue Heron Rezone**  
**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA							
<b>Subject</b>	Blue Heron Rezone located on the south side of Blue Heron Road, east of the Blue Heron River Trail						
<b>Meeting Date</b>	April 7, 2004						
<b>Date Prepared</b>	March 15, 2004			File #RZ-2004-038			
<b>Author</b>	Ronnie Edwards		<b>Associate Planner</b>				
<b>Presenter Name</b>	Ronnie Edwards		<b>Associate Planner</b>				
<b>Report results back to Council</b>	X	No		Yes	When		
<b>Citizen Presentation</b>		Yes	X	No	Name		
	<b>Workshop</b>	X	<b>Formal Agenda</b>		X	<b>Consent</b>	<b>Individual Consideration</b>

**Summary:** Request to rezone property located on the south side of Blue Heron Road, east of the Blue Heron River Trail, consisting of one parcel, from the CSR (Community Services and Recreation) zone district to I-2 (General Industrial) zone district. Planning Commission recommended approval at its March 23, 2004 meeting.

**Budget:** N/A

**Action Requested/Recommendation:** Conduct the first reading of the ordinance and schedule a public hearing for the second reading of the ordinance for April 21, 2004.

**Attachments:**

1. Vicinity Map
2. Aerial Map
3. Growth Plan Map
4. Zoning Map
5. Detail map
6. Zoning Ordinance

<b>BACKGROUND INFORMATION</b>				
<b>Location:</b>		<b>South side of Blue Heron Road, East of the Blue Heron River Trail</b>		
<b>Applicants:</b>		<b>City of Grand Junction</b>		
<b>Existing Land Use:</b>		<b>Undeveloped property</b>		
<b>Proposed Land Use:</b>		<b>Industrial development</b>		
<b>Surrounding Land Use:</b>	<b>North</b>	<b>Industrial uses</b>		
	<b>South</b>	<b>City Park property (Blue Heron pond)</b>		
	<b>East</b>	<b>Industrial property/warehouses</b>		
	<b>West</b>	<b>City Park property &amp; undeveloped industrial property (owned by Coors Ceramics)</b>		
<b>Existing Zoning:</b>		<b>CSR and Floodplain</b>		
<b>Proposed Zoning:</b>		<b>I-2 and Floodplain</b>		
<b>Surrounding Zoning:</b>	<b>North</b>	<b>I-2 and Floodplain</b>		
	<b>South</b>	<b>CSR and Floodplain</b>		
	<b>East</b>	<b>I-2 and Floodplain</b>		
	<b>West</b>	<b>CSR, I-2 and Floodplain</b>		
<b>Growth Plan Designation:</b>		<b>Industrial</b>		
<b>Zoning within density range?</b>		<b>N/A</b>	<b>Yes</b>	<b>No</b>

**BACKGROUND:**

Innovative Textiles has approached the City with a request to purchase a piece of City property that is located between Blue Heron Road and Lot 2 of the City Market Subdivision, which consist of approximately .03 acres. This purchase would allow the establishment of a second route of access that would not require an additional crossing of a rail spur that is located just north of the existing warehouse building. The adjacent 8.561 acre parcel was deeded to the City, with the expressed desire that the City use this parcel for economic development. Action Bindery has approached the City expressing interest in purchasing the remainder of the City parcel in order to construct a manufacturing plant for their needs. The sales amount for these parcels would be determined by an independent appraisal. The City Council has indicated support for the sale of the property for economic development.

In order to allow any industrial development to occur, the subject property must be rezoned from the Community Services and Recreation (CSR) zone district to the General Industrial (I-2) zone district, which is consistent with the surrounding parcels.

A. Consistency with the Growth Plan:

Policy 1.7 states that City will use zoning to establish the appropriate scale, type, location and intensity for development. Development standards

should ensure that proposed development is compatible with the planned development of adjacent property.

The General Industrial (I-2) zone district is consistent with the Future Land Use Map and the Growth Plan. Surrounding properties are zoned I-2 and have existing industrial uses.

B. Section 2.6.A of the Zoning and Development Code:

In order to maintain internal consistency between this Code and the Zoning Maps, map amendments and rezones must demonstrate conformance with 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 use and ownership and was not in error at the time annexation occurred in 1992. The request to change to an I-2 zone district is due to the change in ownership and consequent proposed uses.

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 was developed as industrial uses during the mid-1970's, with this subject property being retained as park property. With the change of ownership, proposed uses will be changing on this parcel.

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 are industrial zones and uses. Further to the north are heavy commercial uses and zones, and includes Mesa Mall. This particular parcel is vacant and undeveloped. Any anticipated changes that will create impacts will be addressed during the Site Plan Review process when development occurs.

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 I-2 is consistent with the goals and policies of the Growth Plan and the requirements of the Zoning and Development Code.

- 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 available for industrial uses. The proposed rezone and the subsequent lot line adjustment will provide a secondary point of access for emergency vehicles for adjacent subdivision lots and a point of access for the remainder large lot that will be created.

- 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 I-2 zone district, as it is enclaved with industrial zoning and is supported by the Future Land Use Map.

- 7) The community or neighborhood will benefit from the proposed zone.

The community will benefit with the proposed rezone as the property will be maintained by new owners in lieu of the City Parks Department. The community will also benefit with the proposed pedestrian access from Blue Heron Road to the River Trails. The City also will be maintaining the necessary land for future dike construction as this is a major floodplain area.

#### STAFF FINDINGS OF FACT/CONCLUSIONS:

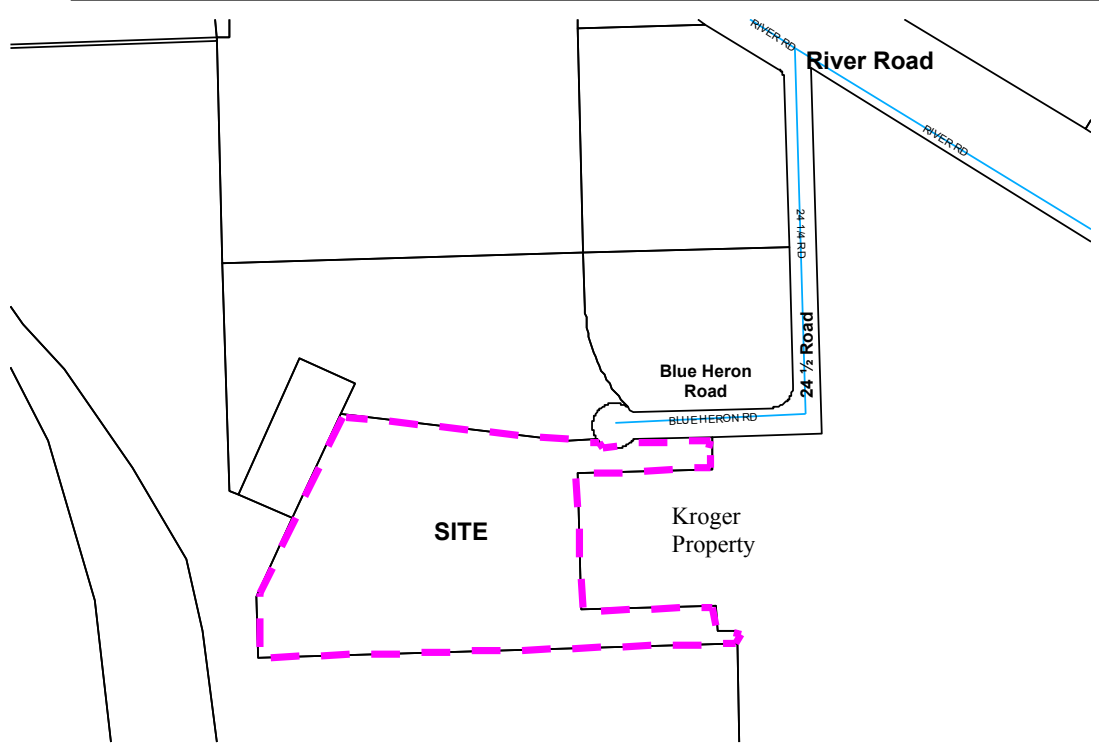
1. The requested rezone is consistent with the Growth Plan.
2. The review criteria in Section 2.6.A of the Zoning and Development Code have been met.

#### STAFF RECOMMENDATION:

Staff recommended that the Planning Commission forward a recommendation of approval of the requested rezone to I-2 to the City Council with the findings and conclusions listed above.

# Site Location Map

Figure 1





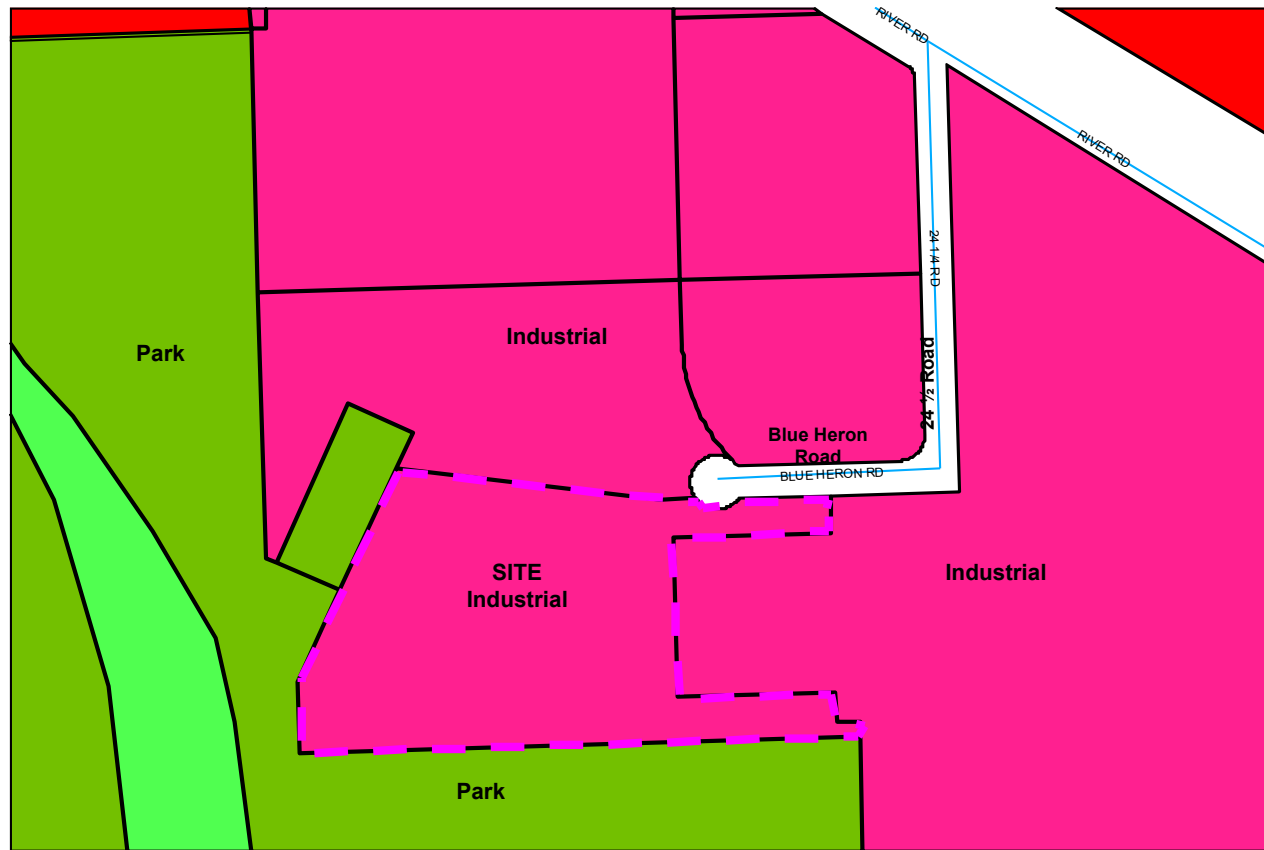
# Aerial Photo Map

Figure 2



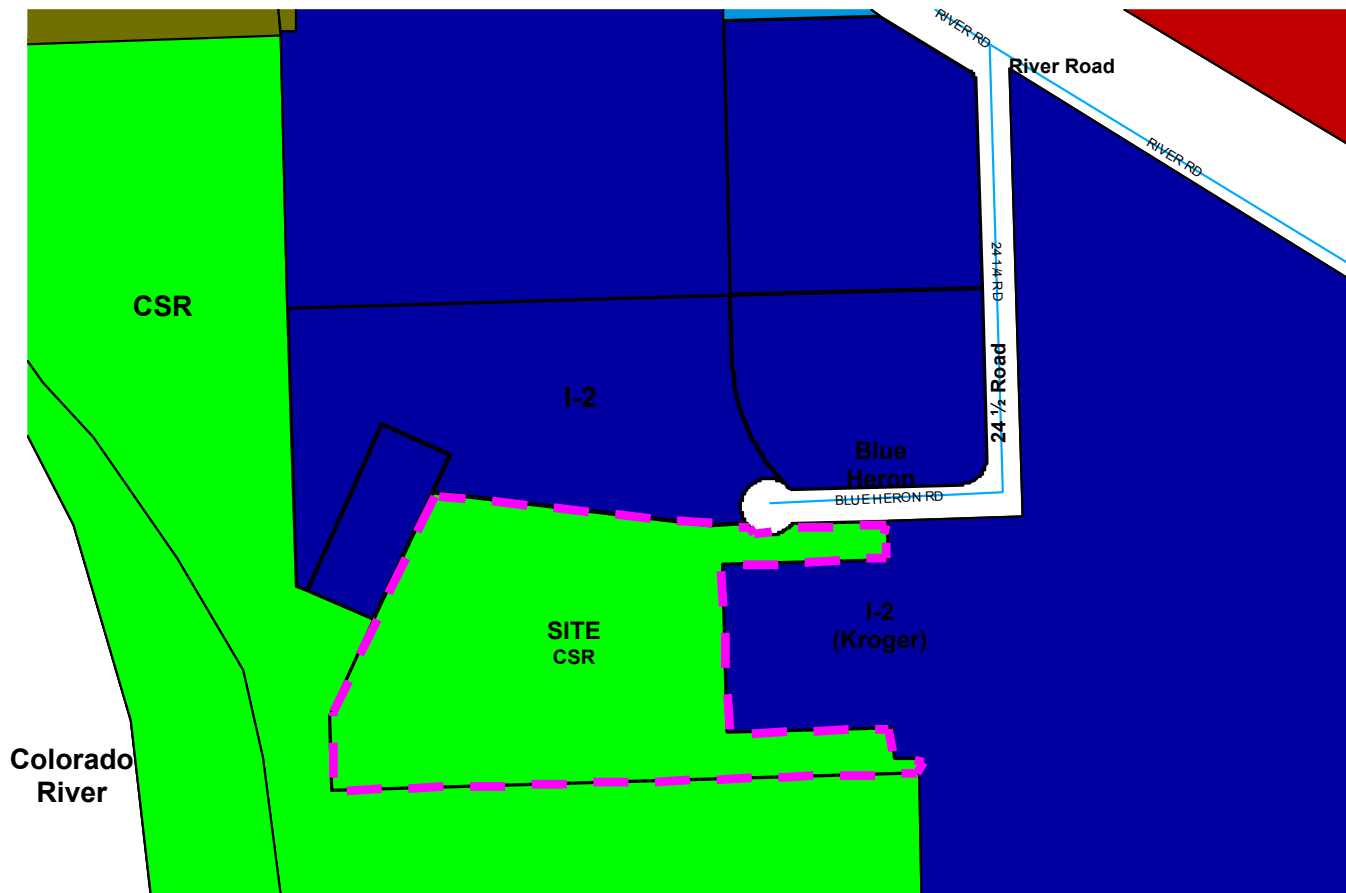
# Future Land Use Map

Figure 3

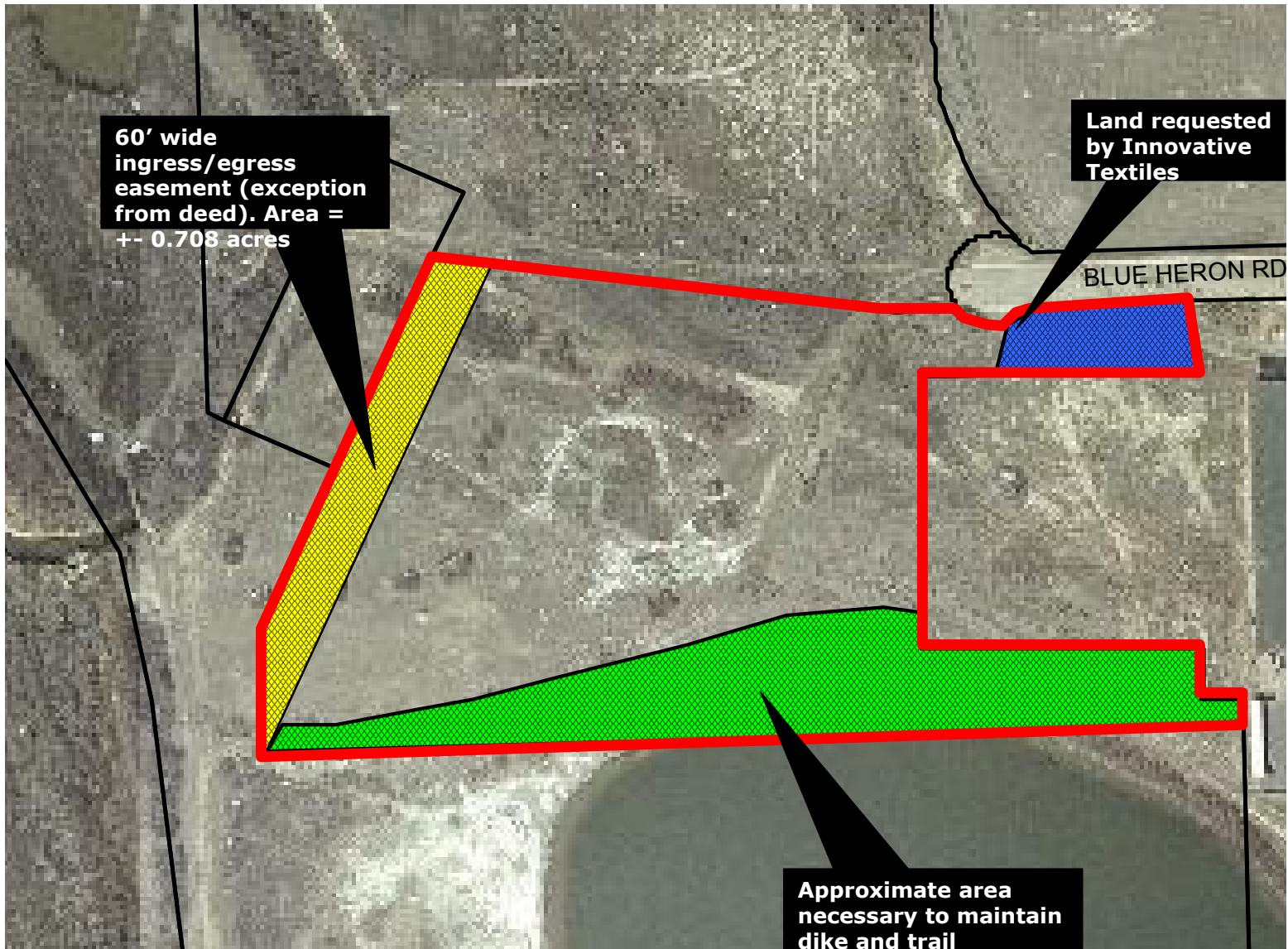


# Existing City and County Zoning

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."



**CITY OF GRAND JUNCTION, COLORADO**

**ORDINANCE NO.**

**AN ORDINANCE REZONING A PARCEL OF LAND FROM CSR  
(COMMUNITY SERVICES AND RECREATION) TO I-2 (GENERAL INDUSTRIAL)**

**LOCATED ON THE SOUTH SIDE OF BLUE HERON ROAD,  
EAST OF THE BLUE HERON RIVER TRAIL**

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 the rezone request from CSR zone district to the I-2 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 forth by the Growth Plan, Industrial. 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 I-2 ZONE DISTRICT:**

A certain parcel of land lying in the Southwest Quarter of the Northwest Quarter (SW 1/4 NW 1/4) and the Northwest Quarter of the Southwest Quarter (NW 1/4 SW 1/4) of Section 9, Township 1 South, Range 1 West of the Ute Principal Meridian, City of Grand Junction, County of Mesa, State of Colorado and being more particularly described as follows:

COMMENCING at the Southeast corner of Blue Heron Industrial Park, as same is recorded in Plat Book 12, Page 10, Public Records of Mesa County, Colorado, and as depicted on the City Market Subdivision, as same is recorded in Book 3602, Page 397, Public Records of Mesa County, Colorado, and assuming the South right of way line for Blue Heron Road, as depicted on said Blue Heron Industrial Park and City Market Subdivision, bears S 89°58'39" W with all other bearings contained herein being relative thereto; thence from said Point of Commencement, S 89°58'39" W along the South line of said Blue Heron Road and the North line of Lot 2 of said City Market Subdivision, a distance of 242.59 feet to the POINT OF BEGINNING; thence from said Point of Beginning, S 00°03'37" E a distance of 73.29 feet; thence N 89°58'08" W along the North line of said Lot 2, a distance of 300.00 feet; thence S 00°03'37" E along the West line of said Lot 2, a distance of 268.91 feet; thence N 74°43'37" W a distance of 44.26

feet to a point being the beginning of a 225.00 foot radius curve, concave South, whose long chord bears S 89°40'28" W with a long chord length of 121.00 feet; thence 122.51 feet Westerly along the arc of said curve, through a central angle of 31°11'50"; thence S 74°04'34" W a distance of 185.14 feet; thence S 79°33'20" W a distance of 156.08 feet; thence S 82°45'43" W a distance of 122.39 feet; thence S 88°16'46" W a distance of 46.96 feet; thence N 84°34'25" W a distance of 54.20 feet; thence N 00°09'48" W a distance of 95.11 feet; thence N 26°09'09" E a distance of 443.79 feet, more or less, to a point on the South line of Lot 3, Blue Heron Industrial Park Filing No. Two, as same is recorded in Plat Book 12, Page 359, Public Records of Mesa County, Colorado; thence S 81°50'45" E along the South line of said Lot 3, a distance of 505.77 feet; thence N 89°58'39" E along the South line of said Lot 3, a distance of 67.11 feet to a point on the right of way for said Blue Heron Road, being the beginning of a 50.00 foot radius curve, concave North, whose long chord bears N 89°58'39" E with a long chord length of 80.00 feet; thence Easterly 92.73 feet along the arc of said curve, through a central angle of 106°15'37"; thence N 89°58'39" E along the South right of way for Blue Heron Road, a distance of 174.09 feet, more or less, to the Point of Beginning.

CONTAINING 6.552 Acres, more or less, as described.

Introduced on first reading on the 7th day of April, 2004.

PASSES and ADOPTED on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

Attest:

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

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

**Attach 5**  
**Purchase Rock Chips for Chip Seal**  
**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA							
<b>Subject</b>		3/8" Aggregate Rock Chips					
<b>Meeting Date</b>		April 7, 2004					
<b>Date Prepared</b>		March 30, 2004				<b>File #</b>	
<b>Author</b>		Rex Sellers David VanWagoner		<b>Senior Buyer</b> <b>Street Maintenance Supervisor</b>			
<b>Presenter Name</b>		Mark Relph		<b>Public Works &amp; Utilities Director</b>			
<b>Report results back to Council</b>		X	No		Yes	When	
<b>Citizen Presentation</b>			Yes		No	Name	
	<b>Workshop</b>			<b>Formal Agenda</b>	X	<b>Consent</b>	<b>Individual Consideration</b>

**Summary:** Purchase of 5600 tons of 3/8" aggregate rock chips for the City's annual street maintenance program.

**Budget:** There are sufficient funds currently to purchase 5,600 tons at the low bid unit price of \$15.00 per ton for a total contract price of \$84,000 (acct. #100-6164-61380-30-130080).

**Action Requested/Recommendation:** Authorize the Purchase of 5,600 tons of 3/8" chips from Whitewater Building Materials Corporation, for a total price of \$84,000.00 delivered.

**Attachments:** N/A

**Background Information:**

It was estimated by the Street Division of Public Works that 5600 tons of 3/8" aggregate rock chips would be needed for the 2004 City chip seal program. The 2004 specifications require that rock chips have 100% fractured face for better interlocking and gradation specifications to improve job quality by providing a finished product that:

- Reduces the time necessary to leave the chips on the street from 4 days to 2 days or less.
- Reduces public's concerns with loose chips, vehicle damage, dust, etc.
- Higher chip retention on the street.
- Greater skid resistance for increased vehicle safety.
- Improved materials match between the chips and today's asphalt products.

The City is divided into 10 areas with each area roughly containing an equal amount of lane miles. The seal coating program, along with Street Overlays, allows the City to properly apply maintenance to every street within the City at least once every 10 years. This year's seal coating program will be done on streets in the Orchard Mesa area.

The solicitation package was advertised in the Daily Sentinel. There were 36 solicitation notices sent to suppliers. The following responses were received and opened on March 25, 2004.

Contractor	Location	Units	Unit Bid Price	Lump Sum Price
Whitewater	Grand Junction	5600 tons	\$15.00 ton	\$84,000.00
M.A. Concrete	Grand Junction		\$15.55 ton	\$87,080.00
Bogue Const	Fruita		\$16.10 ton	\$90,160.00
GJ Pipe	Grand Junction			No Bid
Upland Gravel	Clifton			No Bid
United Companies	Grand Junction			No Bid



**Attach 6  
Purchase of Street Sweeper**

**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA							
<b>Subject</b>	Purchase of Street Sweeper						
<b>Meeting Date</b>	April 7, 2004						
<b>Date Prepared</b>	March 30, 2004						
<b>Author</b>	Julie M. Hendricks			<b>Buyer</b>			
<b>Presenter Name</b>	Julie M. Hendricks Mark Relph			<b>Buyer Public Works &amp; Utilities Director</b>			
<b>Report results back to Council</b>	X	<b>No</b>		<b>Yes</b>	<b>When</b>		
<b>Citizen Presentation</b>		<b>Yes</b>	X	<b>No</b>	<b>Name</b>		
	<b>Workshop</b>	X	<b>Formal Agenda</b>		X	<b>Consent</b>	<b>Individual Consideration</b>

**Summary:** This is for the purchase of a 2004 Tymco 600 truck mounted Street Sweeper. It is currently scheduled for replacement in 2004 as identified by the annual review of the fleet replacement committee.

**Budget:** The Fleet Division has \$130,000.00 budgeted for replacement of this vehicle in 2004. Sufficient funds are budgeted in the overall 2004 annual Fleet Replacement Budget to support the additional \$4,395.00 required for this purchase. The replacement sweeper will be offered at auction or sealed bid. Funds received from the sale will be applied to the replacement accrual.

**Action Requested/Recommendation:** Authorize the City Purchasing Manager to purchase one 2004 Tymco 600 Street Sweeper from Intermountain Sweeper Company for the amount of \$134,395.00.

**Background Information:** The State of Colorado award has provisions for local government to purchase off of this contract. The Colorado Department of Transportation competitively bid and awarded the Tymco 600 Street Sweeper for 2004. The award number is HAA 03-033 MM. The cost will be \$134,395.00. The City Fleet Manager and the City Purchasing Manager agree with this recommendation.

**Attach 7**  
**Sole Source Purchase of Tasers**  
**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA							
<b>Subject</b>	Sole Source Purchase of Tasers						
<b>Meeting Date</b>	April 7, 2004						
<b>Date Prepared</b>	March 30, 2004						
<b>Author</b>	Julie M. Hendricks			<b>Buyer</b>			
<b>Presenter Name</b>	Julie M. Hendricks Greg Morrison			<b>Buyer</b> <b>Police Chief</b>			
<b>Report results back to Council</b>	X	<b>No</b>		<b>Yes</b>	<b>When</b>		
<b>Citizen Presentation</b>		<b>Yes</b>	X	<b>No</b>	<b>Name</b>		
	<b>Workshop</b>	X	<b>Formal Agenda</b>		X	<b>Consent</b>	<b>Individual Consideration</b>

**Summary:** This purchase being requested by the Police Department to purchase 26 each X26 Tasers. The X26 Taser is a less lethal weapon utilized by law enforcement agencies world wide. It is only available through one Colorado authorized dealer, Davidson's Law Enforcement.

**Budget:** The Police Department has budgeted \$28,069.40 for this purchase in 2004.

**Action Requested/Recommendation:** Authorize the City Purchasing Manager to purchase 26 each X26 Tasers with all attachments for the amount of \$28,069.40 from Davidson's Law Enforcement.

**Background Information:** It has been verified by the Purchasing Department that no other equipment is available that meets the specialized needs of the Police Department. The X26 Taser is a hand held devise which deploys by use of compressed air, two probes transmitting pulsed energy through two wires into the central nervous system of the target causing immediate incapacitation.

**Attach 8  
Broadway Beautification Project  
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA									
<b>Subject</b>		Broadway Beautification Project							
<b>Meeting Date</b>		April 7, 2004							
<b>Date Prepared</b>		March 23, 2004					File #		
<b>Author</b>		George Miller			E.I.T. (Transportation)				
<b>Presenter Name</b>		Mark Relph			Public Works and Utilities Director				
<b>Report results back to Council</b>		X	No		Yes	<b>When</b>			
<b>Citizen Presentation</b>			Yes	X	No	<b>Name</b>			
<b>Workshop</b>		X	<b>Formal Agenda</b>			<b>Consent</b>		X	<b>Individual Consideration</b>

**Summary:** Award of a construction contract for the Broadway Beautification Project to Sorter Construction, Inc. in the amount of \$260,848.50. The project includes installation of curb & gutter, storm drains, irrigation system, earthwork, guardrail improvements and ground cover within the Highway 340 medians located between the Colorado River and East Mayfield Drive.

**Budget:** The 2004 budget for the project (Activity F50200) is \$341,988.00.

**Project Funding:**

\$275,396.00	Federal Enhancement Funds
\$ 38,592.00	City CIP
\$ 28,000.00	Broadway Beautification Committee Contribution
<u>\$341,988.00</u>	

**Anticipated Project Costs:**

\$260,848.50	Construction Contract (Sorter Construction, Inc.)
\$ 48,737.00	Engineering and Administration Costs
\$ 12,441.00	Xcel Energy Power Feed for Irrigation Pump
<u>\$322,016.00</u>	Total
\$ 19,972.00	Remaining balance

**Action Requested/Recommendation:** Authorize the City Manager to sign a Construction Contract for the Broadway Beautification Project with Sorter Construction, Inc. in the amount of \$260,848.50

**Attachments:** Project location map and landscaping details

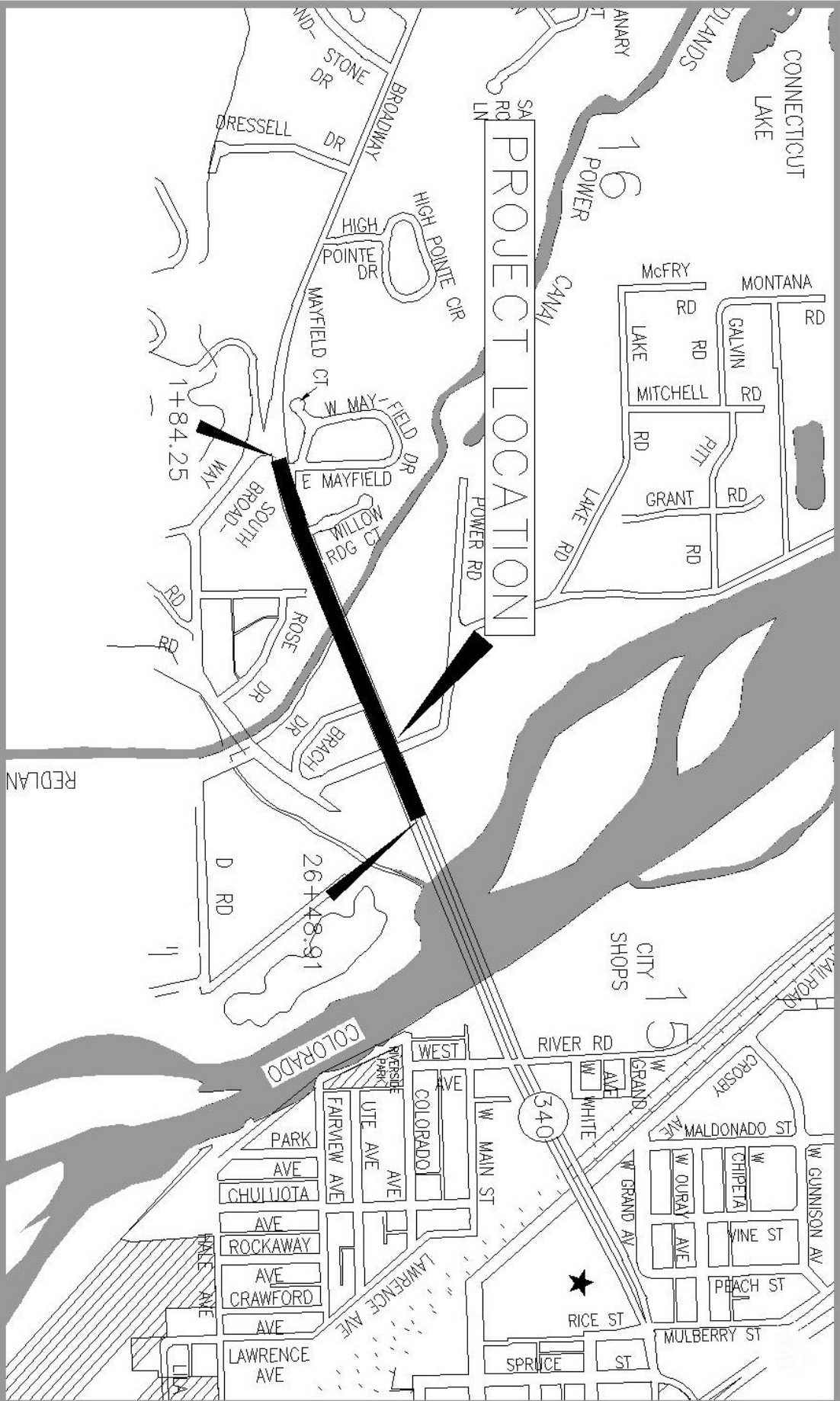
**Background Information:** The following bids were received on March 23, 2004. The low bid was submitted by Sorter Construction, Inc.

Bidder	From	Bid Amount
Sorter Construction, Inc	Grand Junction	\$260,848.50
Mays Concrete, Inc.	Grand Junction	\$280,385.05
M.A. Concrete Construction, Inc.	Grand Junction	\$315,755.50
Engineer's Estimate		\$277,815.00

The Colorado Department of Transportation has reviewed the bids and authorized the City to award the construction contract to Sorter Construction, Inc.

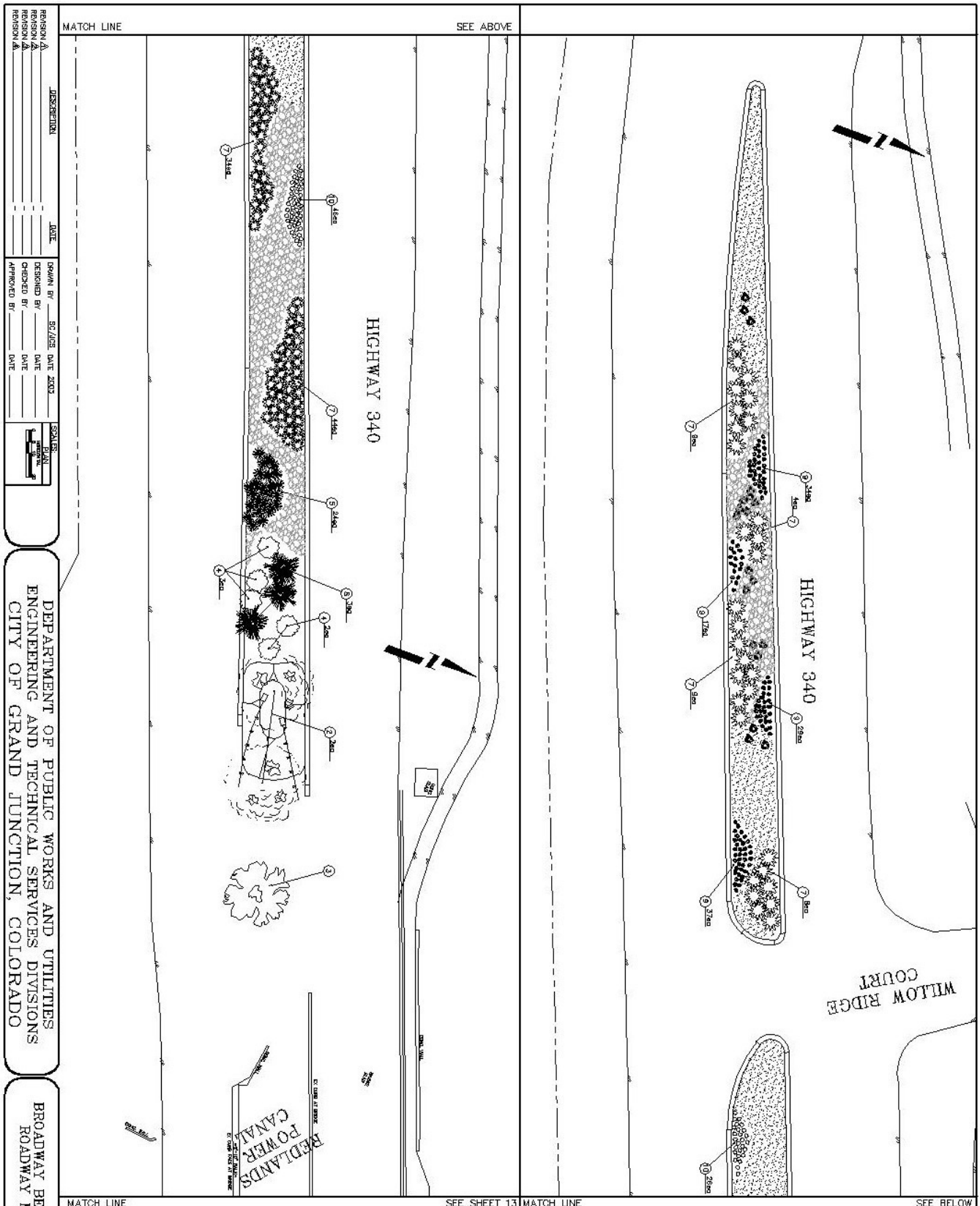
Trees and plants to be installed within the improved medians were excluded from the construction contract in order to assure that the contract amount did not exceed the budget designated in the CDOT funding agreement. Staff proposes to negotiate a Change Order with Sorter Construction, Inc. for installation of the trees and plants. This Change Order would be approved by the Public Works Director or the City Manager in accordance with City purchasing regulations.

Construction is scheduled to begin on April 19 and will be completed by mid-July of this year.



VICINITY MAP

N.T.S.

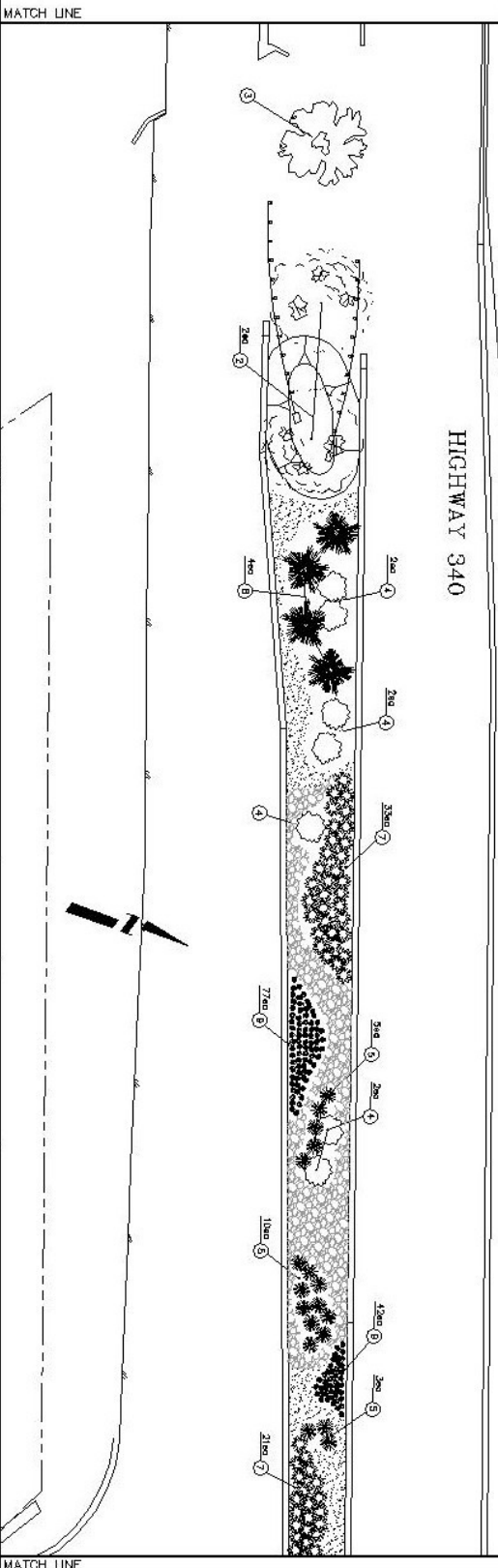


PROJECT NO. 2011-FS0200		C.D.D.I.		REV. NO.		SHEET NO.		TOTAL SHEETS	
PROJECT CODE		14042		REVISED		13		18	
PLANTING NOTES									
Broadleaf Deciduous									
1	Scientific Name	<i>Celtis occidentalis</i>							
	Common Name	Common Hackberry							
	Planting Size	2'-0x1'							
2	Scientific Name	<i>Quercus macrocarpa</i>							
	Common Name	Codewalker Hawthorn							
	Planting Size	1'-0" - 0x1'							
3	Scientific Name	<i>Baccharis myrsinites</i>							
	Common Name	Beach Nettle							
	Planting Size	3'-0x1'							
4	Scientific Name	<i>Rhus typhina</i>							
	Common Name	Staghorn Sumac							
	Planting Size	3'-0x1'							
5	Scientific Name	<i>Sorbus domestica</i>							
	Common Name	Domestic Sorbus							
	Planting Size	2'-0x1'							
6	Scientific Name	<i>Salix purpurea</i>							
	Common Name	Common Willow							
	Planting Size	3'-0x1'							
7	Scientific Name	<i>Juniperus horizontalis</i>							
	Common Name	Horizontal Juniper							
	Planting Size	1'-0x1'							
8	Scientific Name	<i>Pinus strobus</i>							
	Common Name	Pinus strobus							
	Planting Size	4' - 6'							
Shrub									
9	Scientific Name	<i>Berberis thunbergii</i>							
	Common Name	Japanese Barberry							
	Planting Size	1'-0x1'							
10	Scientific Name	<i>Berberis thunbergii</i>							
	Common Name	Japanese Barberry							
	Planting Size	1'-0x1'							
	Scientific Name	<i>Celastrus scandens</i>							
	Common Name	Wax Myrtle							
	Planting Size	1'-0x1'							
	Scientific Name	<i>Quercus macrocarpa</i>							
	Common Name	Codewalker Hawthorn							
	Planting Size	1'-0" - 0x1'							
	Scientific Name	<i>Rhus typhina</i>							
	Common Name	Staghorn Sumac							
	Planting Size	3'-0x1'							
	Scientific Name	<i>Sorbus domestica</i>							
	Common Name	Domestic Sorbus							
	Planting Size	2'-0x1'							
	Scientific Name	<i>Salix purpurea</i>							
	Common Name	Common Willow							
	Planting Size	3'-0x1'							
	Scientific Name	<i>Juniperus horizontalis</i>							
	Common Name	Horizontal Juniper							
	Planting Size	1'-0x1'							
	Scientific Name	<i>Pinus strobus</i>							
	Common Name	Pinus strobus							
	Planting Size	4' - 6'							
	Scientific Name	<i>Berberis thunbergii</i>							
	Common Name	Japanese Barberry							
	Planting Size	1'-0x1'							
	Scientific Name	<i>Celastrus scandens</i>							
	Common Name	Wax Myrtle							
	Planting Size	1'-0x1'							
	Scientific Name	<i>Quercus macrocarpa</i>							
	Common Name	Codewalker Hawthorn							
	Planting Size	1'-0" - 0x1'							
	Scientific Name	<i>Rhus typhina</i>							
	Common Name	Staghorn Sumac							
	Planting Size	3'-0x1'							
	Scientific Name	<i>Sorbus domestica</i>							
	Common Name	Domestic Sorbus							
	Planting Size	2'-0x1'							
	Scientific Name	<i>Salix purpurea</i>							
	Common Name	Common Willow							
	Planting Size	3'-0x1'							
	Scientific Name	<i>Juniperus horizontalis</i>							
	Common Name	Horizontal Juniper							
	Planting Size	1'-0x1'							
	Scientific Name	<i>Pinus strobus</i>							
	Common Name	Pinus strobus							
	Planting Size	4' - 6'							
	Scientific Name	<i>Berberis thunbergii</i>							
	Common Name	Japanese Barberry							
	Planting Size	1'-0x1'							
	Scientific Name	<i>Celastrus scandens</i>							
	Common Name	Wax Myrtle							
	Planting Size	1'-0x1'							
	Scientific Name	<i>Quercus macrocarpa</i>							
	Common Name	Codewalker Hawthorn							
	Planting Size	1'-0" - 0x1'							
	Scientific Name	<i>Rhus typhina</i>							
	Common Name	Staghorn Sumac							
	Planting Size	3'-0x1'							
	Scientific Name	<i>Sorbus domestica</i>							
	Common Name	Domestic Sorbus							
	Planting Size	2'-0x1'							
	Scientific Name	<i>Salix purpurea</i>							
	Common Name	Common Willow							
	Planting Size	3'-0x1'							
	Scientific Name	<i>Juniperus horizontalis</i>							
	Common Name	Horizontal Juniper							
	Planting Size	1'-0x1'							
	Scientific Name	<i>Pinus strobus</i>							
	Common Name	Pinus strobus							
	Planting Size	4' - 6'							
	Scientific Name	<i>Berberis thunbergii</i>							
	Common Name	Japanese Barberry							
	Planting Size	1'-0x1'							
	Scientific Name	<i>Celastrus scandens</i>							
	Common Name	Wax Myrtle							
	Planting Size	1'-0x1'							
	Scientific Name	<i>Quercus macrocarpa</i>							
	Common Name	Codewalker Hawthorn							
	Planting Size	1'-0" - 0x1'							
	Scientific Name	<i>Rhus typhina</i>							
	Common Name	Staghorn Sumac							
	Planting Size	3'-0x1'							
	Scientific Name	<i>Sorbus domestica</i>							
	Common Name	Domestic Sorbus							
	Planting Size	2'-0x1'							
	Scientific Name	<i>Salix purpurea</i>							
	Common Name	Common Willow							
	Planting Size	3'-0x1'							
	Scientific Name	<i>Juniperus horizontalis</i>							
	Common Name	Horizontal Juniper							
	Planting Size	1'-0x1'							
	Scientific Name	<i>Pinus strobus</i>							
	Common Name	Pinus strobus							
	Planting Size	4' - 6'							
	Scientific Name	<i>Berberis thunbergii</i>							
	Common Name	Japanese Barberry							
	Planting Size	1'-0x1'							
	Scientific Name	<i>Celastrus scandens</i>							
	Common Name	Wax Myrtle							
	Planting Size	1'-0x1'							
	Scientific Name	<i>Quercus macrocarpa</i>							
	Common Name	Codewalker Hawthorn							
	Planting Size	1'-0" - 0x1'							
	Scientific Name	<i>Rhus typhina</i>							
	Common Name	Staghorn Sumac							
	Planting Size	3'-0x1'							
	Scientific Name	<i>Sorbus domestica</i>							
	Common Name	Domestic Sorbus							
	Planting Size	2'-0x1'							
	Scientific Name	<i>Salix purpurea</i>							
	Common Name	Common Willow							
	Planting Size	3'-0x1'							
	Scientific Name	<i>Juniperus horizontalis</i>							
	Common Name	Horizontal Juniper							
	Planting Size	1'-0x1'							
	Scientific Name	<i>Pinus strobus</i>							
	Common Name	Pinus strobus							
	Planting Size	4' - 6'							
	Scientific Name	<i>Berberis thunbergii</i>							
	Common Name	Japanese Barberry							
	Planting Size	1'-0x1'							
	Scientific Name	<i>Celastrus scandens</i>							
	Common Name	Wax Myrtle							
	Planting Size	1'-0x1'							
	Scientific Name	<i>Quercus macrocarpa</i>							
	Common Name	Codewalker Hawthorn							
	Planting Size	1'-0" - 0x1'							
	Scientific Name	<i>Rhus typhina</i>							
	Common Name	Staghorn Sumac							
	Planting Size	3'-0x1'							
	Scientific Name	<i>Sorbus domestica</i>							
	Common Name	Domestic Sorbus							
	Planting Size	2'-0x1'							
	Scientific Name	<i>Salix purpurea</i>							
	Common Name	Common Willow							
	Planting Size	3'-0x1'							
	Scientific Name	<i>Juniperus horizontalis</i>							
	Common Name	Horizontal Juniper							
	Planting Size	1'-0x1'							
	Scientific Name	<i>Pinus strobus</i>							
	Common Name	Pinus strobus							
	Planting Size	4' - 6'							
	Scientific Name	<i>Berberis thunbergii</i>							
	Common Name	Japanese Barberry							
	Planting Size	1'-0x1'							
	Scientific Name	<i>Celastrus scandens</i>							
	Common Name	Wax Myrtle							

SEE SHEET 12

SEE BELOW

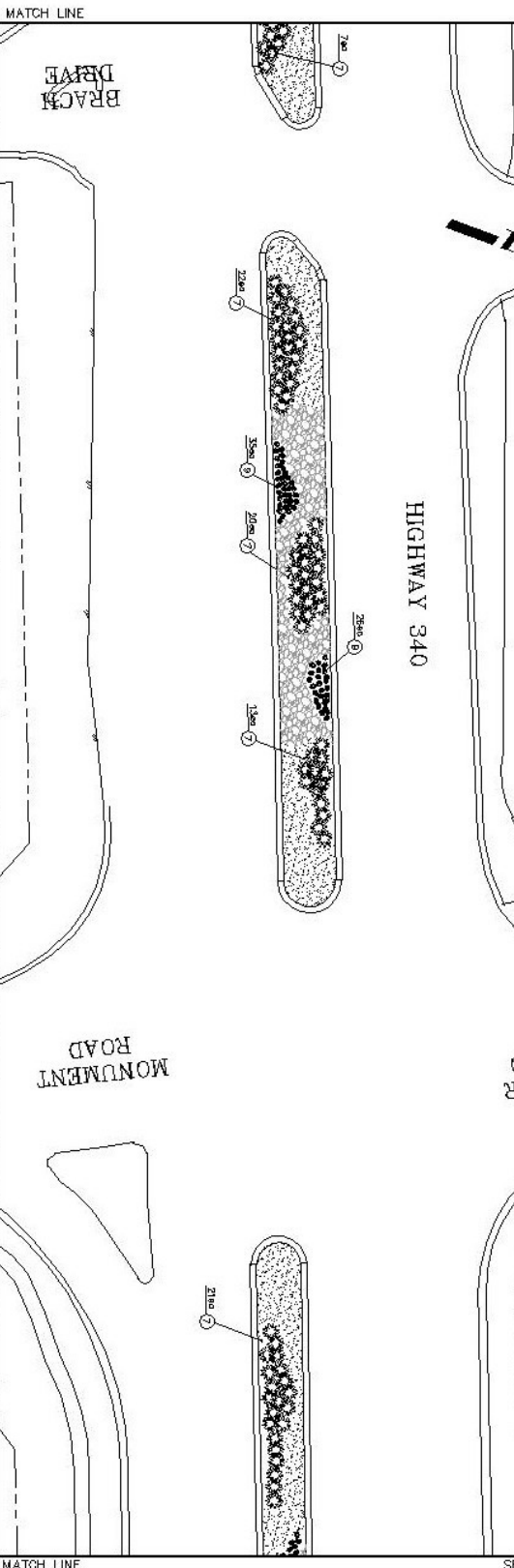
PROJECT NO. 2011-FS0200	
C.D.D.T.	REV. NO.
PROJECT CODE	DATE
14/42	13
NO REVISIONS	REVISION
CONSTRUCTION NOTES	VOID



- 1 Broadleaf' deciduous  
Scientific Name: Celtis occidentalis  
Common Name: Common Hackberry  
Planting Size: 3"-6"  
Scientific Name: Quercus crue-galli  
Common Name: Cockspur Hawthorn  
Planting Size: 1 1/2"-6"  
Scientific Name: Pinus strobus  
Common Name: Pinus strobus  
Planting Size: 3"-6"
- 2 Scientific Name: Quercus macrocarpa  
Common Name: Bur oak  
Planting Size: 3"-6"
- 3 Scientific Name: Pinus edulis  
Common Name: Pinus edulis  
Planting Size: 4"-6"
- 4 Scientific Name: Pinus strobus  
Common Name: Pinus strobus  
Planting Size: 3"-6"
- 5 Scientific Name: Pinus strobus  
Common Name: Pinus strobus  
Planting Size: 3"-6"
- 6 Scientific Name: Pinus strobus  
Common Name: Pinus strobus  
Planting Size: 3"-6"
- 7 Scientific Name: Juniperus horizontalis  
Common Name: Horizontal Juniper  
Planting Size: 1'-6"
- 8 Scientific Name: Pinus edulis  
Common Name: Pinus edulis  
Planting Size: 4"-6"
- 9 Scientific Name: Berberis thunbergii  
Common Name: Common Pinyon Berry  
Planting Size: 1'-6"
- 10 Scientific Name: Berberis thunbergii  
Common Name: Common Pinyon Berry  
Planting Size: 1'-6"

SEE ABOVE

SEE SHEET 14



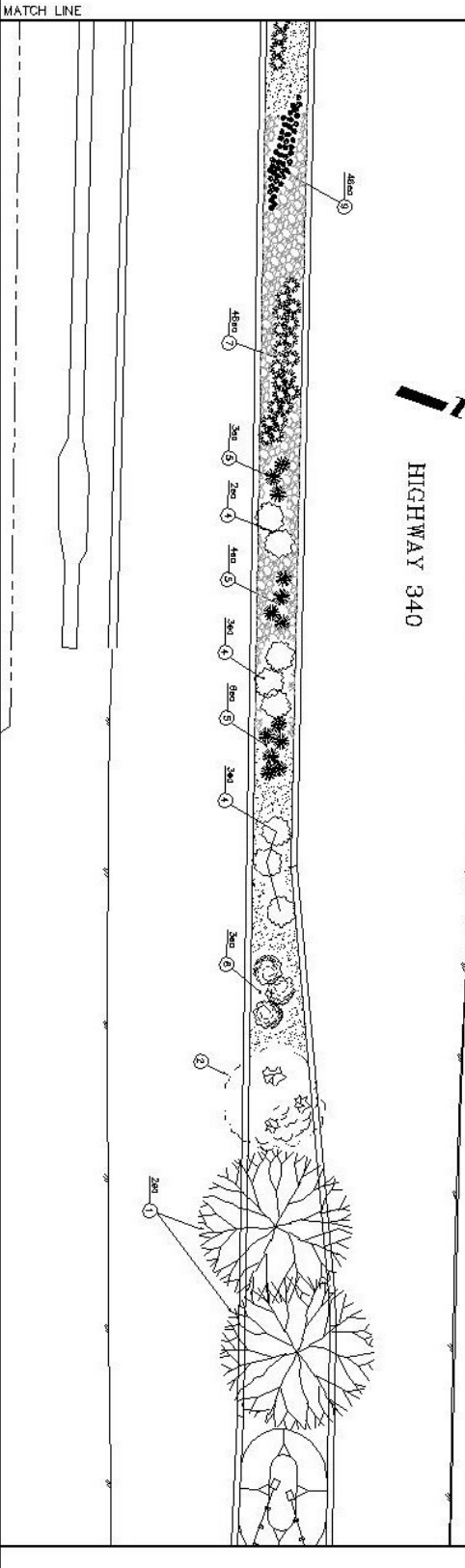
- 1 Scientific Name: Celtis occidentalis  
Common Name: Common Hackberry  
Planting Size: 3"-6"
- 2 Scientific Name: Quercus crue-galli  
Common Name: Cockspur Hawthorn  
Planting Size: 1 1/2"-6"
- 3 Scientific Name: Pinus strobus  
Common Name: Pinus strobus  
Planting Size: 3"-6"
- 4 Scientific Name: Pinus strobus  
Common Name: Pinus strobus  
Planting Size: 3"-6"
- 5 Scientific Name: Pinus strobus  
Common Name: Pinus strobus  
Planting Size: 3"-6"
- 6 Scientific Name: Pinus strobus  
Common Name: Pinus strobus  
Planting Size: 3"-6"
- 7 Scientific Name: Pinus strobus  
Common Name: Pinus strobus  
Planting Size: 3"-6"
- 8 Scientific Name: Pinus strobus  
Common Name: Pinus strobus  
Planting Size: 3"-6"
- 9 Scientific Name: Pinus strobus  
Common Name: Pinus strobus  
Planting Size: 3"-6"
- 10 Scientific Name: Pinus strobus  
Common Name: Pinus strobus  
Planting Size: 3"-6"

DEPARTMENT OF PUBLIC WORKS AND UTILITIES  
ENGINEERING AND TECHNICAL SERVICES DIVISIONS  
CITY OF GRAND JUNCTION, COLORADO

BROADWAY BEAUTIFICATION (HIGHWAY 340)  
ROADWAY MEDIAN LANDSCAPE PLANS

2

REVISION A	DATE	DESIGNED BY	DATE	SCALE
REVISION A		CHECKED BY	DATE	
REVISION A		APPROVED BY	DATE	



HIGHWAY 340

MATCH LINE

PROJECT NO. 2011-F50200

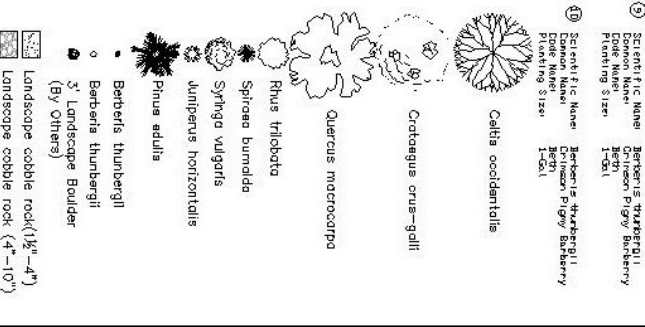
C.D.T.	REVISION	FILE NO.	SHEET	TOTAL SHEETS
		1442	14	18

PROJECT CODE: 1442

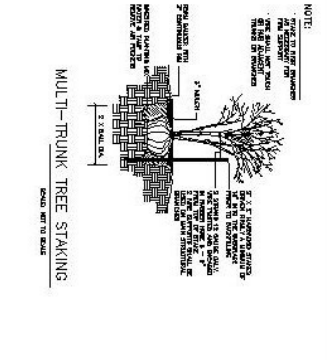
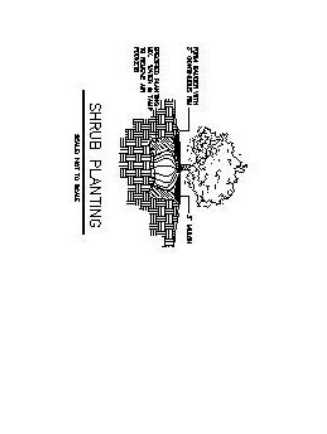
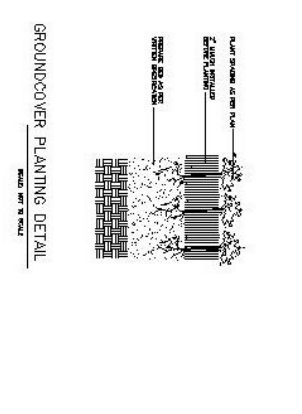
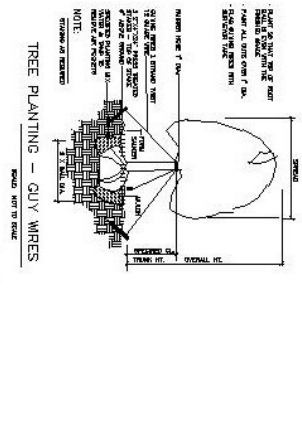
NO. REVISIONS:  REVISION:  VOID:

CONSTRUCTION NOTES

- ① **Breakleaf hickories**  
Scientific Name: *Celtis occidentalis*  
Code Name: *COCEL*  
Planting Size: 2'-0x1'
- ② **Common Name:** Hackberry  
Scientific Name: *Celtis occidentalis*  
Code Name: *COCEL*  
Planting Size: 1 1/2'-0x1'
- ③ **Scientific Name:** *Quercus macrocarpa*  
Code Name: *QUMAC*  
Planting Size: 3'-0x1'
- ④ **Scientific Name:** *Rhus trilobata*  
Code Name: *RHTRI*  
Planting Size: 3'-0x1'
- ⑤ **Scientific Name:** *Quercus macrocarpa*  
Code Name: *QUMAC*  
Planting Size: 2'-0x1'
- ⑥ **Scientific Name:** *Juniperus horizontalis*  
Code Name: *JUNHOR*  
Planting Size: 1'-0x1'
- ⑦ **Scientific Name:** *Pinus edulis*  
Code Name: *PIEEDU*  
Planting Size: 4'-0x4'
- ⑧ **Scientific Name:** *Berberis thunbergii*  
Code Name: *BERTHU*  
Planting Size: 1'-0x1'
- ⑨ **Scientific Name:** *Pinus strobus*  
Code Name: *PIESTR*  
Planting Size: 1'-0x1'
- ⑩ **Scientific Name:** *Pinus strobus*  
Code Name: *PIESTR*  
Planting Size: 1'-0x1'



Quantity	Scientific Name	Common Name	Code Name	Planting Size
2	<i>Celtis occidentalis</i>	Common Hackberry	COCEL	2'-0x1'
5	<i>Quercus macrocarpa</i>	Common White Oak	QUMAC	1 1/2'-0x1'
2	<i>Rhus trilobata</i>	Flame Tree	RHTRI	3'-0x1'
20	<i>Pinus strobus</i>	White Pine	PIESTR	5'-0x1'
3	<i>Syringa vilgaris</i>	Common Lilac	SYVILG	5'-0x1'



DEPARTMENT OF PUBLIC WORKS AND UTILITIES  
ENGINEERING AND TECHNICAL SERVICES DIVISIONS  
CITY OF GRAND JUNCTION, COLORADO

BROADWAY BEAUTIFICATION (HIGHWAY 340)  
ROADWAY MEDIAN LANDSCAPE PLANS

3



**Attach 9**  
**2004 Alley Improvement District**  
**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
<b>Subject</b>	Construction Contract for 2004 Alley Improvement District					
<b>Meeting Date</b>	April 7, 2004					
<b>Date Prepared</b>	March 31, 2004				File # - N/A	
<b>Author</b>	Mike Curtis		Project Engineer			
<b>Presenter Name</b>	Mark Relph		Public Works and Utilities Director			
<b>Report results back to Council</b>	X	No		Yes	When	
<b>Citizen Presentation</b>		Yes	X	No	Name	
	<b>Workshop</b>	X	<b>Formal Agenda</b>		<b>Consent</b>	X <b>Individual Consideration</b>

**Summary:** Award of a construction contract for the **2004 Alley Improvement District** to BPS Concrete, Inc. in the amount of **\$369,058.10**. This project includes construction of concrete pavement in six alleys and replacement of antiquated sewer lines in five of the six alleys. In conjunction with the sewer and concrete pavement construction, Xcel Energy will replace gas lines in five of the alleys.

**Budget:** This project is funded under Funds 2011 and 905 for Program Year 2004.

The estimated project costs are:

	Sanitary Sewer	Alley
Construction Contract	\$165,847.00	\$203,201.10
Design - MDY Consulting Engineers	\$2,662.30	\$7,986.91
Construction Inspection and Administration	\$12,500.00	\$13,500.00
<b>Total Project Costs</b>	<b>\$181,009.30</b>	<b>\$224,688.01</b>

Funding:

	Sewer Line Replacements in Alleys 2004 (905-F00707)	2004 Alley Improvement District (2011-F00707)
Budgeted in Fund 905	\$127,500.00	
Additional from Fund 905	\$53,510.00	
Remaining Balance of Fund 905 after 2004		

Alley ID Project	\$606,097.00	
Budgeted in Fund 2011		\$350,000.00
Remaining Balance Fund 2011		\$125,311.99

An additional \$53,510 will be reallocated in Fund 905 to make up the balance required in the Sewer Replacement Account.

**Action Requested/Recommendation:** Authorize the City Manager to sign a Construction Contract for the **2004 Alley Improvement District** with BPS Concrete, Inc. in the amount of \$369,058.10.

**Attachments:** None

**Background Information:** The work will take place in six alleys throughout the City. The locations are tabulated below:

2 <sup>nd</sup> to 3 <sup>rd</sup> Street between Ouray Ave. and Chipeta Ave; sewer and pavement.
2 <sup>nd</sup> to 3 <sup>rd</sup> Street between Teller Ave. and Belford Ave.; sewer and pavement.
7 <sup>th</sup> Street to Cannell Ave. between Elm Ave. and Kennedy Ave.; pavement only.
8 <sup>th</sup> Street to Cannell Ave. between Mesa Ave. and Hall Ave.; sewer and pavement.
14 <sup>th</sup> to 15 <sup>th</sup> Street between Elm Ave. and Texas Ave.; sewer and pavement.
13 <sup>th</sup> to 15 <sup>th</sup> Street between Elm Ave. and Kennedy Ave; sewer and pavement.

This project was designed by MDY Consulting Engineers of Grand Junction. Bids for the project were opened on March 23, 2004. The low bid was submitted by BPS Concrete, Inc. in the amount of \$369,058.10. The following bids were received:

Bidder	From	Bid Amount
BPS Concrete, Inc.	Grand Junction	\$369,058.10
Reyes Construction Inc.	Grand Junction	\$373,124.25
Vista Paving Corporation	Grand Junction	\$455,453.55
Mays Concrete Contractors	Grand Junction	\$457,315.00
Engineers Estimate		\$494,580.00

Construction Schedule:

Xcel Energy Gas Relocation Start.....April 5, 2004  
 Alley Construction Start.....April 19, 2004  
 Alley Construction Completion .....August 20, 2004

**Attach 10**  
**Sanitary Sewer Improvement District No. SS-46-04**  
**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
<b>Subject</b>	(a) Create Sanitary Sewer Improvement District No. SS-46-04, and (b) Award Construction Contract.					
<b>Meeting Date</b>	April 7, 2004					
<b>Date Prepared</b>	March 31, 2004				<b>File #</b>	
<b>Author</b>	Michael Grizenko		Real Estate Technician			
<b>Presenter Name</b>	Mark Relph		Public Works and Utilities Director			
<b>Report results back to Council</b>	X	<b>No</b>		<b>Yes</b>	<b>When</b>	
<b>Citizen Presentation</b>	X	<b>Yes</b>		<b>No</b>	<b>Name</b>	Any interested person
	<b>Workshop</b>	X		<b>Formal Agenda</b>		<b>Consent</b> X <b>Individual Consideration</b>

**Summary:** A majority of the owners of real estate located west of 26 Road between Meander Drive and F 1/2 Road have submitted a petition requesting an improvement district be created to provide sanitary sewer service to their respective properties. The proposed Resolution and Award of Construction Contract in the amount of \$125,900.90 to the recommended low bidder, MA Concrete Construction of Grand Junction, are the final steps in the formal process required to create the proposed Improvement District.

**Budget:** Costs to be incurred within the limits of the proposed District boundaries are estimated to be \$173,015. Sufficient funds have been transferred from Fund 902, the sewer system "general fund", to pay for these costs. Except for the 30% Septic System Elimination contribution, this fund will be reimbursed by assessments to be levied against the 21 benefiting properties, as follows:

Estimated Project Costs*	\$173,015	\$8,239 / lot
-30% Septic System Elimination Contribution by City	<u>(\$ 51,905)</u>	<u>(\$2,472) / lot</u>
Total Estimated Assessments	\$121,110	\$5,767 / lot

\*Estimated Project Costs include design, construction, inspection and administration.

The following bids for this project were opened on January 20, 2004:

MA Concrete Construction, Inc. (Grand Junction)	\$ 125,900.90
Mountain Region Corporation (Grand Junction)	\$ 149,198.00
Cole & Company Builders LLC (Grand Junction)	\$ 151,346.50
Sorter Construction, Inc. (Grand Junction)	\$ 169,000.00

Engineer's Estimate

\$186,156.00

The proposed improvement district is one of several scheduled for design and/or construction in 2004. The 2004 budget for Septic System Elimination (906-F48200) and scheduled projects are as follows:

2004 Sewer I.D. Budget	\$1,500,000
Estimated Carry Forward from 2003	\$ <u>100,000</u>
<b>Total Available Funds</b>	<b>\$1,600,000</b>
Music Lane Area SID	\$ 173,015
Galley Lane SID (Design)	\$ 20,000
Hodesha Way SID	\$ 894,244
Rio Vista/Mesa Grande SID (Design)	\$ 20,000
S/O Broadway SID	\$ <u>80,000</u>
<b>Total Estimated Expenditures</b>	<b>\$1,187,259</b>
Estimated Remaining Funds:	\$ 412,741

**Background Information:** In 2001 the City Council and Mesa County Commissioners adopted a joint policy to promote the elimination of septic systems in the Persigo sewer service area. The two agencies have agreed to budget \$1.5 million for 2004 and \$1.8 million for 2005 to fund improvement districts that will extend sanitary sewer service to various neighborhoods. Additionally, a Septic System Elimination Program has been created that provides financial assistance for property owners who wish to participate in improvement districts. This program authorizes the City and Mesa County to pay 30% of the improvement district costs.

The proposed improvement district consists of 21 single-family properties which are connected to septic systems. Ninety-five percent of the property owners have signed a petition requesting that this improvement district be created. People's Ordinance No. 33 authorizes the City Council to create improvement districts when requested by a majority of the property owners to be assessed.

Creation of this proposed improvement district will require 7 main line easements, 2 private service line easements and 7 temporary construction easements across properties included in this district.

The proposed Improvement District is located entirely within the Grand Junction city limits.

**Action Requested/Recommendation:** (a) Hold a Public Hearing to consider a Resolution Creating and Establishing Sanitary Sewer Improvement District No. SS-46-

04 and (b) Authorize the City Manager to enter into a construction contract with M.A. Concrete Construction of Grand Junction, Inc., in the amount of \$125,900.90.

**Attachments:** Ownership summary, vicinity map, proposed resolution.

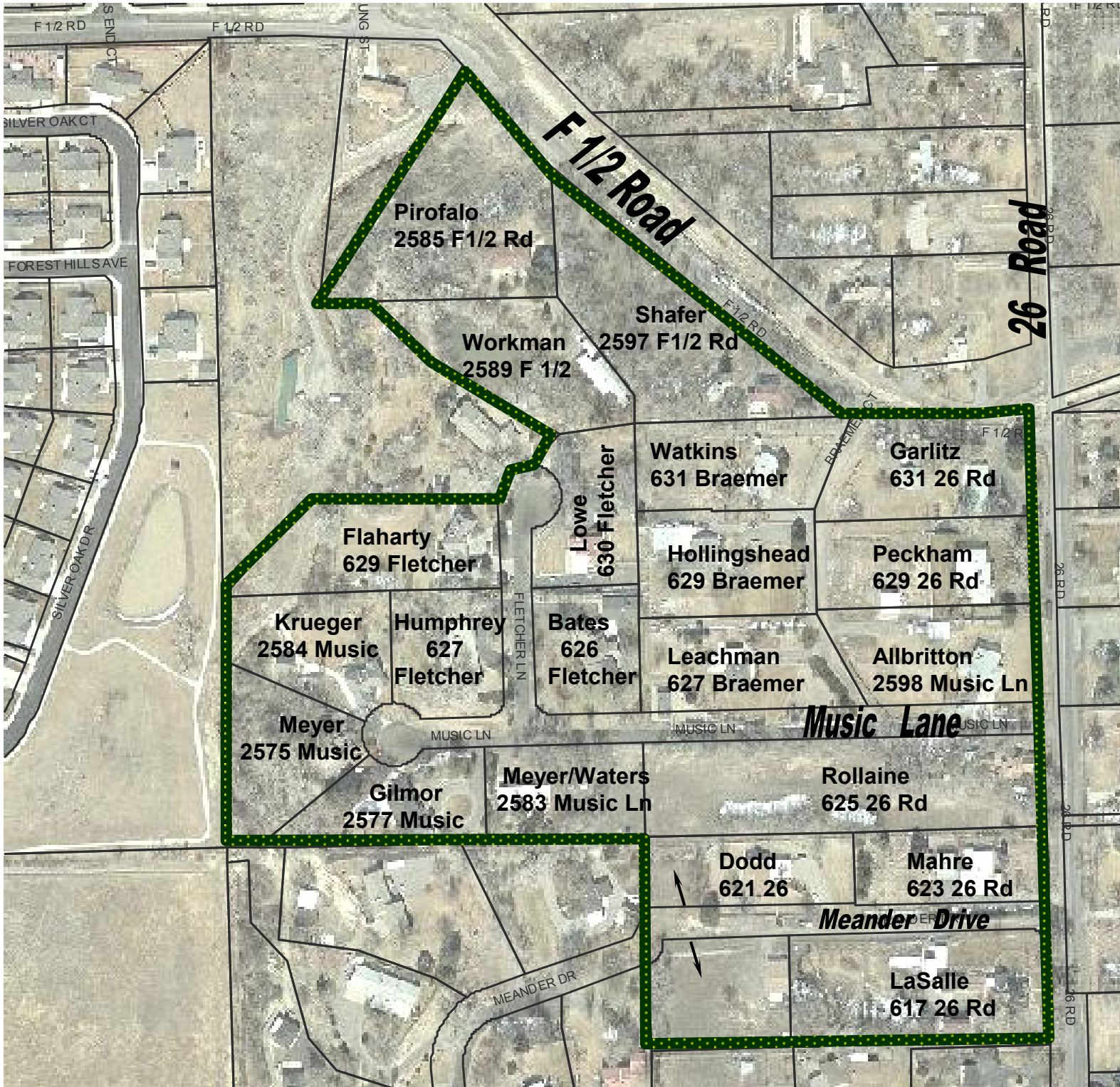
## OWNERSHIP SUMMARY

### PROPOSED MUSIC LANE AREA SANITARY SEWER IMPROVEMENT DISTRICT No. SS-46-04

SCHEDULE NO.	OWNERSHIP	PROPERTY ADDRESS	ESMT REQ.?
2945-034-00-071	• Braden & Pamela Shafer	2597 F ½ Road	Yes
2945-034-00-072	Matthew & Emma Pirofalo (Trustees)	2585 F ½ Road	
2945-034-00-079	• Georgia Watkins	631 Braemer Court	Yes
2945-034-00-080	• Dalton & Patsy Garlitz	631 26 Road	Yes
2945-034-00-081	• Robin & Miriam Peckham	629 26 Road	Yes
2945-034-00-083	• Robert & Margaret Leachman	627 Braemer Court	
2945-034-00-084	• John & Donna Allbritton	2598 Music Ln.	Yes
2945-034-00-085	• Jack & Frances Rollaine	625 26 Road	Yes
2945-034-00-172	• Raymond & Judy Workman	2589 F ½ Road	
2945-034-00-189	• Dale & Susan Hollingshead	629 Braemer Court	
2945-034-02-001	• Stephen Meyer & Elizabeth Waters	2583 Music Ln.	
2945-034-02-002	• Christine Gilmor	2577 Music Ln.	
2945-034-02-003	• Mary Meyer (Trust)	2575 Music Ln.	
2945-034-02-004	• Arlo & Phyllis Krueger	2584 Music Ln.	
2945-034-02-005	• Brad & Joan Humphrey	627 Fletcher Ln.	
2945-034-02-006	• James Bates	626 Fletcher Ln.	
2945-034-02-007	• Wesley & Joan Lowe	630 Fletcher Ln.	
2945-034-02-009	• Grant & Heidi Flaharty	629 Fletcher Ln.	
2945-034-04-002	• Patricia & Chris Mahre	623 26 Rd	
2945-034-04-004	• Albert & Terry LaSalle (POA)	617 26 Rd	
2945-034-04-005	• Jesse & Anne Marie Dodd	621 26 Rd	Yes

- Indicates property owners who signed the petition = 20 of 21 or 95%.

# BOUNDARY OF THE PROPOSED MUSIC LANE AREA SANITARY SEWER IMPROVEMENT DISTRICT



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION CREATING AND ESTABLISHING  
SANITARY SEWER IMPROVEMENT DISTRICT NO. SS-46-04 ,  
WITHIN THE CORPORATE LIMITS OF THE CITY OF GRAND JUNCTION, COLORADO,  
AUTHORIZING THE INSTALLATION OF SANITARY SEWER FACILITIES AND  
ADOPTING DETAILS, PLANS AND SPECIFICATIONS FOR THE SAME**

WHEREAS, on the 18<sup>th</sup> day of February, 2004, the City Council passed Resolution No. 16-04 declaring its intention to create Sanitary Sewer Improvement District No. SS-46-04, authorizing the City Engineer to prepare full details, plans and specifications for the installation of sanitary sewer improvements together with a map of the district lands to be assessed, and authorizing a Notice of Intention to Create said district; and

WHEREAS, the City Engineer has fully and strictly complied with the directions so given and has filed such specifications and map, all in accordance with said Resolution No. 16-04 and the requirements of Chapter 28 of the City of Grand Junction Code of Ordinances, as amended, City Ordinance No. 178, as amended, and People's Ordinance No. 33; and

WHEREAS, the Notice of Intention to Create Sanitary Sewer Improvement District No. SS-46-04 was duly published as authorized by said Resolution No. 16-04.

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

1. That the details, plans and specifications and the map of the district lands prepared by the City Engineer are hereby approved and adopted.
2. That said Sanitary Sewer Improvement District No. SS-46-04 be, and the same is hereby, created and established; that the installation of certain sanitary sewer improvements therein be, and the same are hereby, authorized and directed in accordance with Chapter 28 of the Code of Ordinances, as amended, City Ordinance No. 178, as amended, and People's Ordinance No. 33.
3. That the installation of improvements for Sanitary Sewer Improvement District No. SS-46-04 shall be made by contract let to the lowest reliable and responsible bidder after public advertisement; except, that if it is determined by the City Council that the bids are too high, and that the authorized improvements can be efficiently made by the City, the City may provide that the construction shall be made under the direction and control of the City Manager by hiring labor by the day or otherwise, and by purchasing all necessary materials, supplies and equipment.
4. That the improvements in said Sanitary Sewer Improvement District No. SS-46-04 were duly ordered, after notice duly given, and that all conditions precedent and all



requirements of the laws of the State of Colorado, the Charter of said City, Ordinance No. 178, as amended, and People's Ordinance No. 33, being Chapter 28 of the Code of Ordinances of the City of Grand Junction, Colorado, have been strictly complied with.

5. That the description of the improvements to be constructed, the boundaries of said Sanitary Sewer Improvement District No. SS-46-04, the amounts estimated to be assessed, the number of installments and assessments, the time in which the costs shall be payable, the rate of interest on unpaid installments, and the manner of apportioning and assessing such costs, shall be as prescribed in Resolution No. 16-04 adopted for said District on the 18<sup>th</sup> day of February, 2004, and in accordance with the published Notice of Intention to Create said District.

PASSED and ADOPTED this \_\_\_\_\_ day of April, 2004.

Attest:

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

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

**Attach 11**  
**Assistance to Firefighters Grant Program**  
**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA							
<b>Subject</b>		Assistance to Firefighters Grant Program					
<b>Meeting Date</b>		April, 7 <sup>th</sup> 2004					
<b>Date Prepared</b>		March, 22 <sup>nd</sup> 2004				<b>File #</b>	
<b>Author</b>		John Howard			<b>EMS Coordinator</b>		
<b>Presenter Name</b>		Rick Beaty			<b>Fire Chief</b>		
<b>Report results back to Council</b>		<input type="checkbox"/> No		<input type="checkbox"/> Yes		<b>When</b>	
<b>Citizen Presentation</b>		<input type="checkbox"/> Yes		<input checked="" type="checkbox"/> No		<b>Name</b>	
<input type="checkbox"/> <b>Workshop</b>		<input checked="" type="checkbox"/>		<input type="checkbox"/> <b>Formal Agenda</b>		<input type="checkbox"/> <b>Consent</b>	
						<input checked="" type="checkbox"/> <b>Individual Consideration</b>	

**Subject:** The Fire Department requests the City Council approval to submit an Assistance to Firefighters Grant application for five 12-lead Cardiac Monitors.

**Summary:** Currently the Fire Department has five 9 to 13 year old LifePak 10 cardiac monitors, which are obsolete and due for replacement. With new Mesa County Protocols which are in accordance with National Standards it has become imperative that we update our equipment to twelve lead monitors at least on our primary ALS response units. These monitors allow the EMS personnel to more accurately determine if a patient is having an Acute Cardiac Event. This determination affects the decision as to which facility is the most appropriate for the patient to be transported to. Currently St. Mary's Hospital is the only local facility with Cardiac Catherization capabilities. In the event of an Acute Cardiac Event time is of the up most importance and the use of these monitors will allow EMS personnel to make the decision to transport to St. Mary's verses one of the other hospitals which will hopefully improve the chances of survival for the patient.

**Background Information:** In 2004 Congress appropriated \$750,000,000 to the Assistance to Firefighters Grant Program. Two years ago the GJFD was awarded funds for three thermal imaging cameras through this fund. Last year a request for support to purchase an ambulance was not funded. A fire department can apply for emergency medical services support provided the EMS falls organizationally under the auspices of the fire department.

**Budget:** The Federal Assistance to Firefighters Grant Program is a 70%/30% split. The total budget for the program would be \$109,665. The Federal match would be \$76,766. The City's match would be \$32,899, which would be available using monitor replacement accruals.

As a federal grant program, there is no TABOR impact.

**Action Requested/Recommendation:** City Council approval for the Fire Department to submit an application for a 2004 Assistance to Firefighters Grant for the above mentioned monitors.

**Attachments:** None

**Attach 12**  
**Amending the Code for Undergrounding Existing Overhead Utilities**  
**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
<b>Subject</b>	Undergrounding Existing Overhead Utilities on Perimeter Streets for New Developments					
<b>Meeting Date</b>	April 7, 2004					
<b>Date Prepared</b>	March 31, 2004				<b>File #</b>	
<b>Author</b>	Tim Moore			Public Works Manager		
<b>Presenter Name</b>	Tim Moore			Public Works Manager		
<b>Report results back to Council</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Yes</b>	<b>When</b>	
<b>Citizen Presentation</b>	<input type="checkbox"/>	<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<b>Name</b>	
<b>Workshop</b>	<input checked="" type="checkbox"/>	<b>Formal Agenda</b>			<b>Consent</b>	<input checked="" type="checkbox"/> <b>Individual Consideration</b>

**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 front 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:** Hold a Public Hearing and consider final passage and final publication of proposed ordinance.

**Attachments:** Proposed 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 on the 17th day of March 2004.

PASSED and ADOPTED on second reading this \_\_\_\_ day of \_\_\_\_\_ 2004.

\_\_\_\_\_  
Mayor

Attest:

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

**Attach 13**  
**Amend Chapter 38, Utilities, of the Code of Ordinances**  
**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
<b>Subject</b>		Ordinance Amending Chapter 38, Utilities, of the Code of Ordinances				
<b>Meeting Date</b>		April 7, 2004				
<b>Date Prepared</b>		March 31, 2004			<b>File #</b>	
<b>Author</b>		Jamie B. Kreiling		<b>Staff Attorney</b>		
<b>Presenter Name</b>		John Shaver		<b>Acting City Attorney</b>		
<b>Report results back to Council</b>		X	No		Yes	<b>When</b>
<b>Citizen Presentation</b>			Yes	X	No	<b>Name</b>
	<b>Workshop</b>	X	<b>Formal Agenda</b>			<b>Consent</b> X <b>Individual Consideration</b>

**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:** Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance

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

**Background Information:** See summary.



**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, 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

## 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* (“WWTP”) 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 BOD<sub>5</sub> per day by 0.47 pound of BOD<sub>5</sub>. 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 request. All requests for reconsideration shall be heard by the City

of such  
Manager within

ten working days from the date of the hearing. The order or determination shall remain in effect

decision, action, administrative 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-judiciary 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:

*EQU*

- (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,  $0.21 \times$  number of seats . . . . EQU
  - b. Twelve-hour or less operation,  $0.14 \times$  number of seats . . . EQU
  - c. Bar, no food,  $0.04 \times$  number of seats . . . . . EQU
- (5) Schools:
- a. No food or showers,  $0.04 \times$  number of student capacity. . EQU
  - b. Add to (5)a for cafeterias,  $0.02 \times$  number of student capacity EQU
  - c. Add to (5)a for showers,  $0.02 \times$  number of student capacity EQU
  - d. Boarding schools,  $0.27 \times$  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,  $0.35 \times$  number of thousand square feet of store space . . . . . EQU
- (8) Travel trailer park (KOA, etc.),  $0.25 \times$  number of trailer parking spaces . . . . . EQU
- (9) Churches and assembly halls, theaters and arenas,  $0.01 \times$  number of seating capacity . . . . . EQU
- (10) Drive-in theaters,  $0.02 \times$  number of car spaces . . . . . EQU
- (11) Factory, warehouses and offices (not including industrial waste),  $0.05 \times$  number of employees . . . . . EQU
- (12) Hospital,  $0.89 \times$  number of bed spaces . . . . . EQU
- (13) Institution--Nursing home,  $0.36 \times$  number of residences . . . . . EQU
- (14) Laundry, coin-operated,  $0.90 \times$  number of washing machines . . . EQU
- (15) Mobile home parks,  $0.67 \times$  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 BOD<sub>5</sub> per day by 0.47 pound of BOD<sub>5</sub>. 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 curblineline 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.

**Attach 14**  
**Right-of-Way Vacation Adjacent to Kia Drive**  
**CITY COUNCIL AGENDA**  
**CITY OF GRAND JUNCTION**

<i>CITY COUNCIL AGENDA</i>						
<b>Subject</b>	Right-of-Way Vacation – Adjacent to Kia Drive					
<b>Meeting Date</b>	April 7, 2004					
<b>Date Prepared</b>	March 24, 2004				File #VR-2003-263	
<b>Author</b>	Ronnie Edwards		Associate Planner			
<b>Presenter Name</b>	Ronnie Edwards		Associate Planner			
<b>Report results back to Council</b>	X	No		Yes	<b>When</b>	
<b>Citizen Presentation</b>		Yes	X	No	<b>Name</b>	
	<b>Workshop</b>	X	<b>Formal Agenda</b>			<b>Consent</b> X <b>Individual Consideration</b>

**Summary:** The City of Grand Junction proposes to vacate two pieces of right-of-way adjacent to Kia Drive between Brookwood and Brookside Subdivisions. 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 second reading of the ordinance to vacate the right-of-way and take 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

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

**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.

Fiscal Information:

The Real Estate Department has determined the following information regarding the rights-of-way. The total area of Segments #1 and #2 is 476.4 square feet and is valued at 50% of their value, as these areas are being retained as multi-purpose easement for utilities and drainage easement. These areas equate to a monetary value of \$1,195.00.

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 be 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.

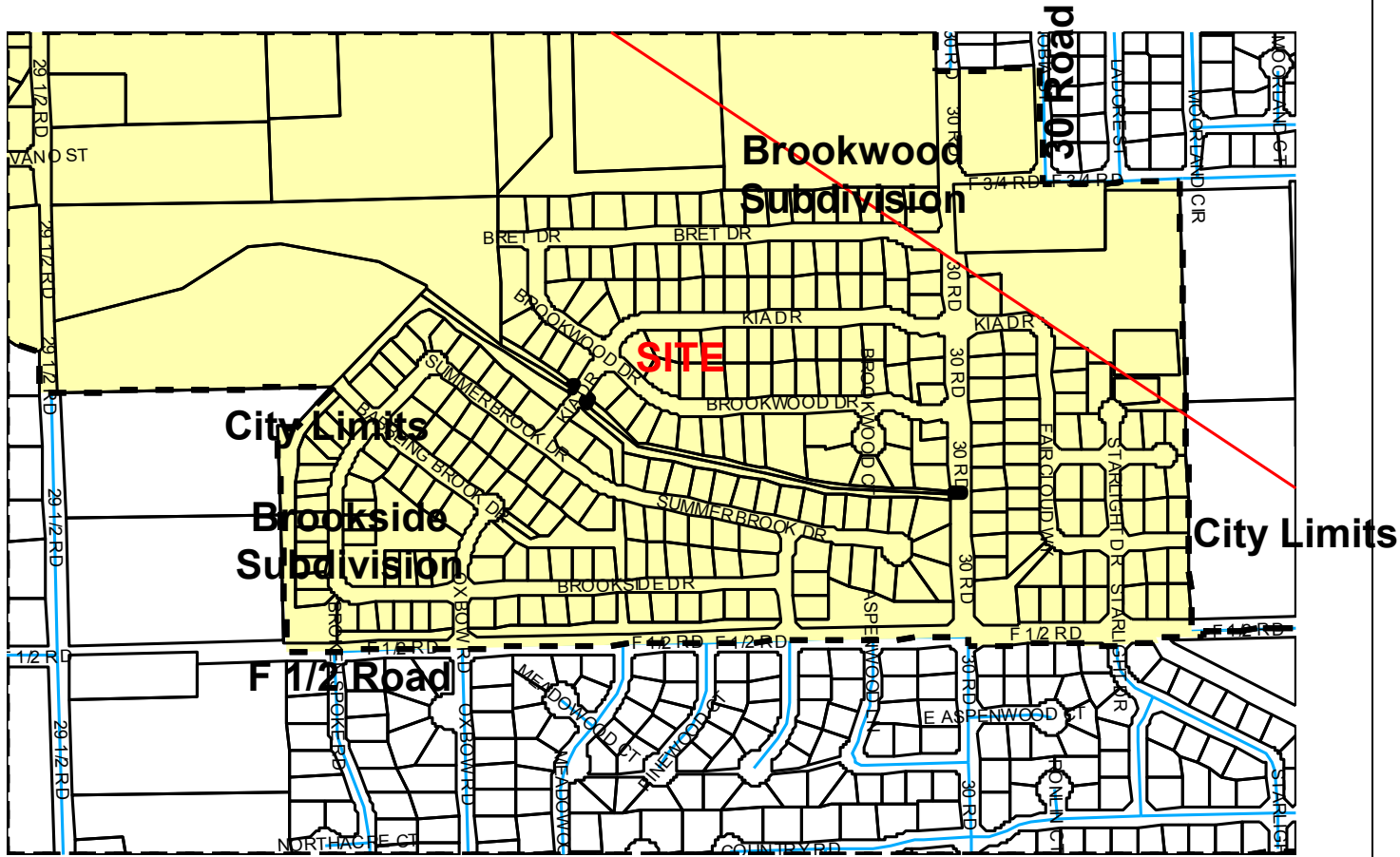
#### FINDINGS OF FACT/CONCLUSIONS:

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

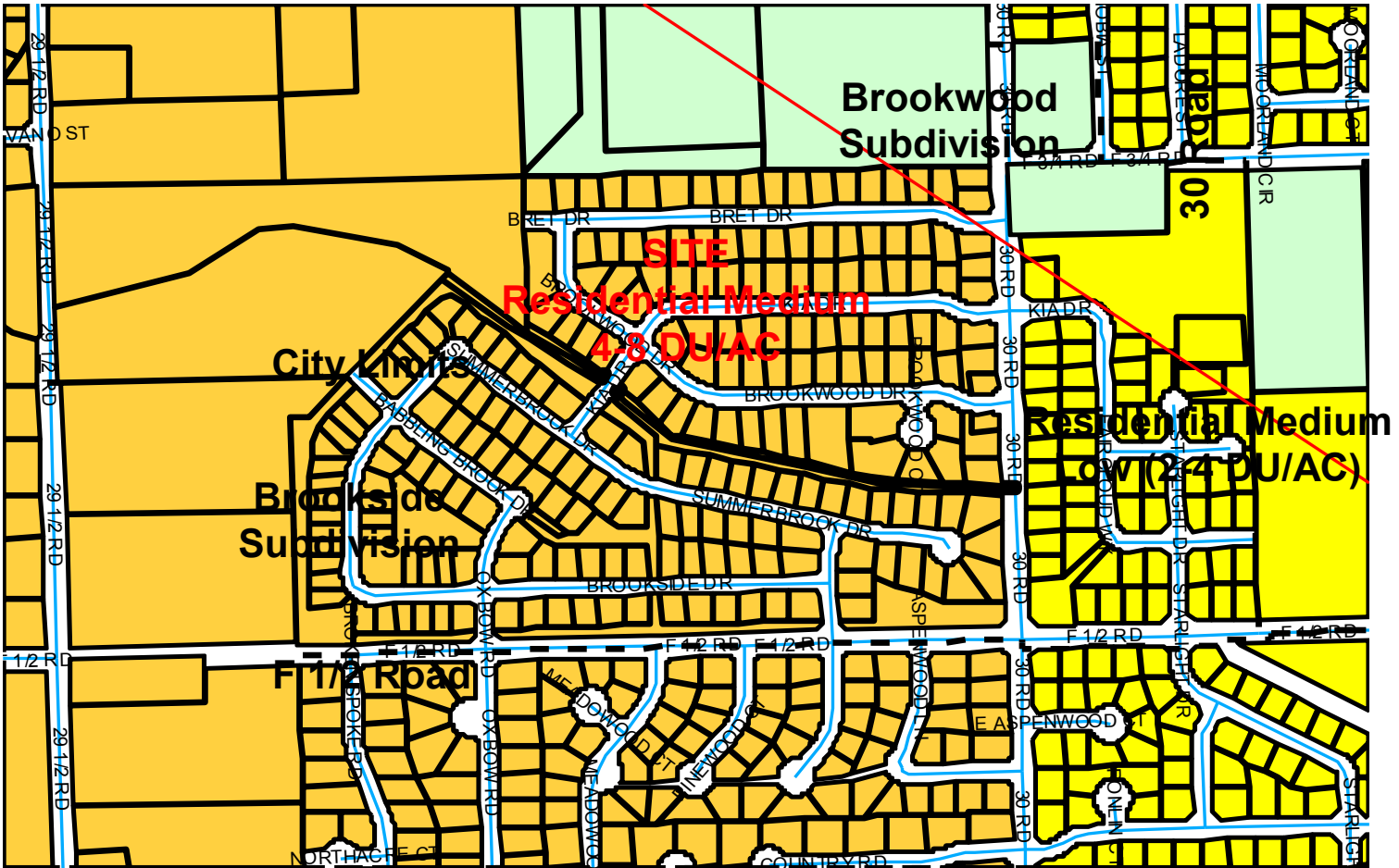
Figure 1





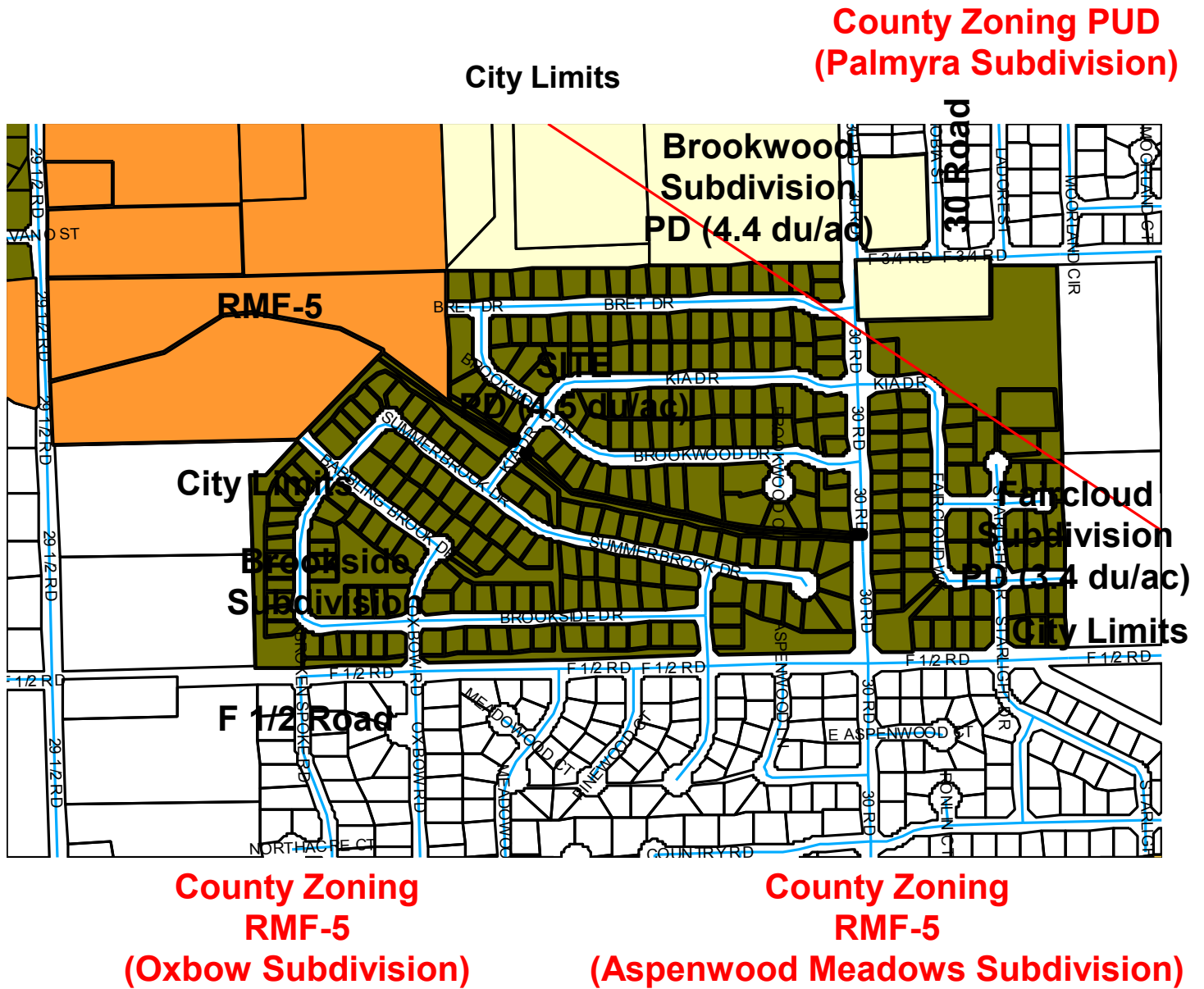
# Future Land Use Map

Figure 3

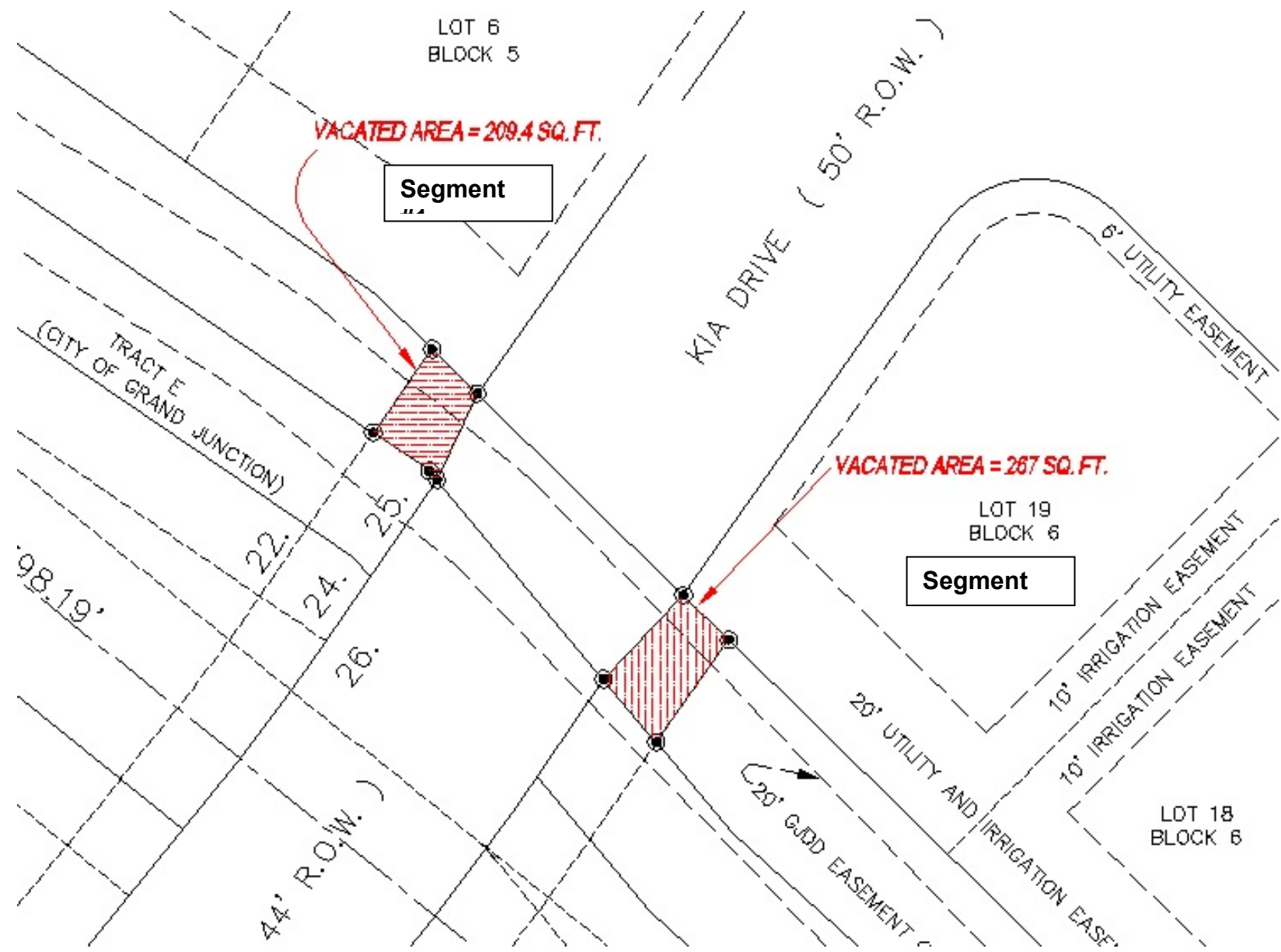


# Existing City and County Zoning

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."



LOT 6  
BLOCK 5

VACATED AREA = 209.4 SQ. FT.

Segment

KIA DRIVE ( 50' R.O.W. )

TRACT E  
(CITY OF GRAND JUNCTION)

VACATED AREA = 267 SQ. FT.

Segment

LOT 19  
BLOCK 6

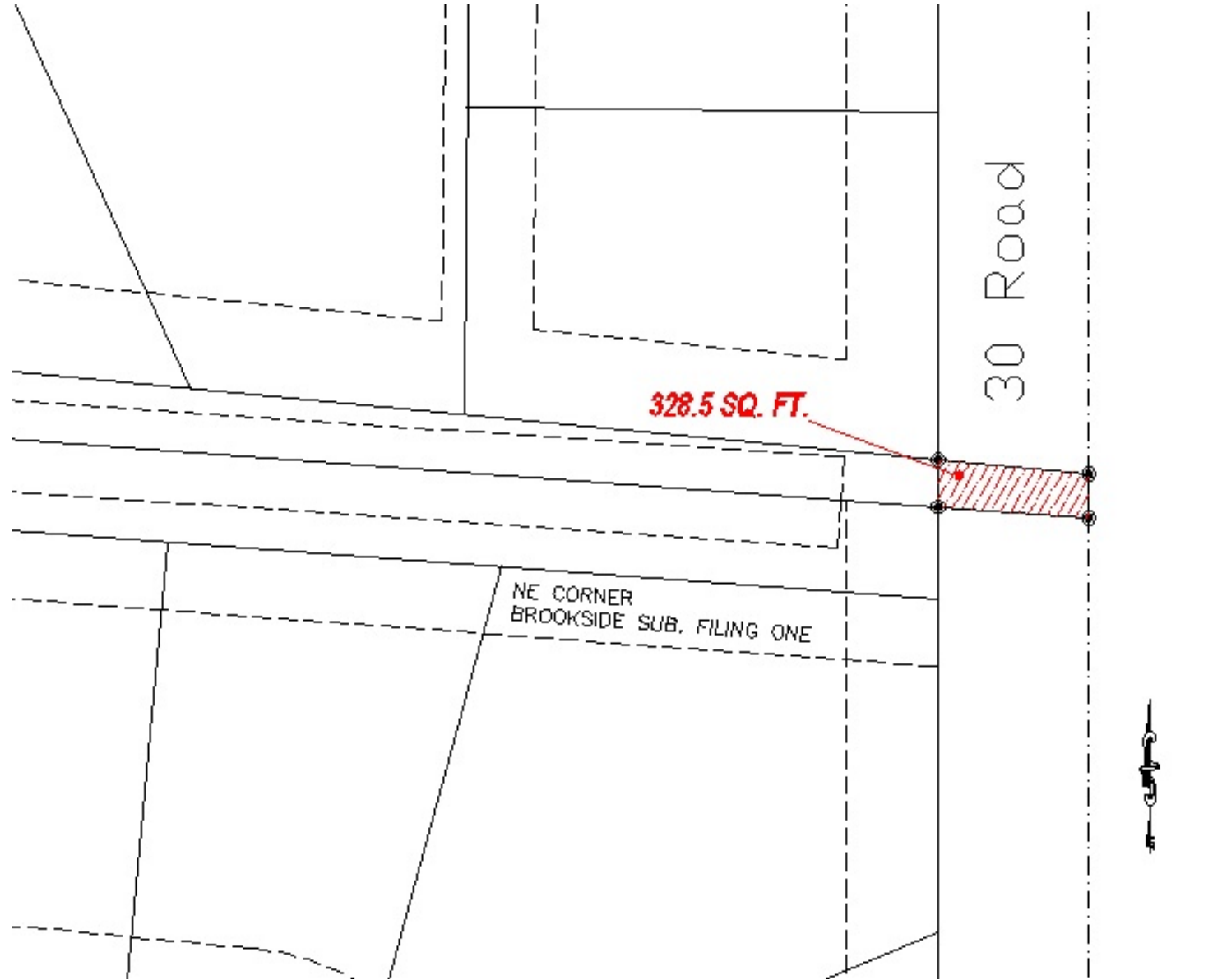
98.19'

22.  
24.  
25.  
26.  
44' R.O.W. )

LOT 18  
BLOCK 6

20' UTILITY AND IRRIGATION EASEMENT  
20' G.U.D.D. EASEMENT

6' UTILITY EASEMENT  
10' IRRIGATION EASEMENT  
10' IRRIGATION EASEMENT





**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.

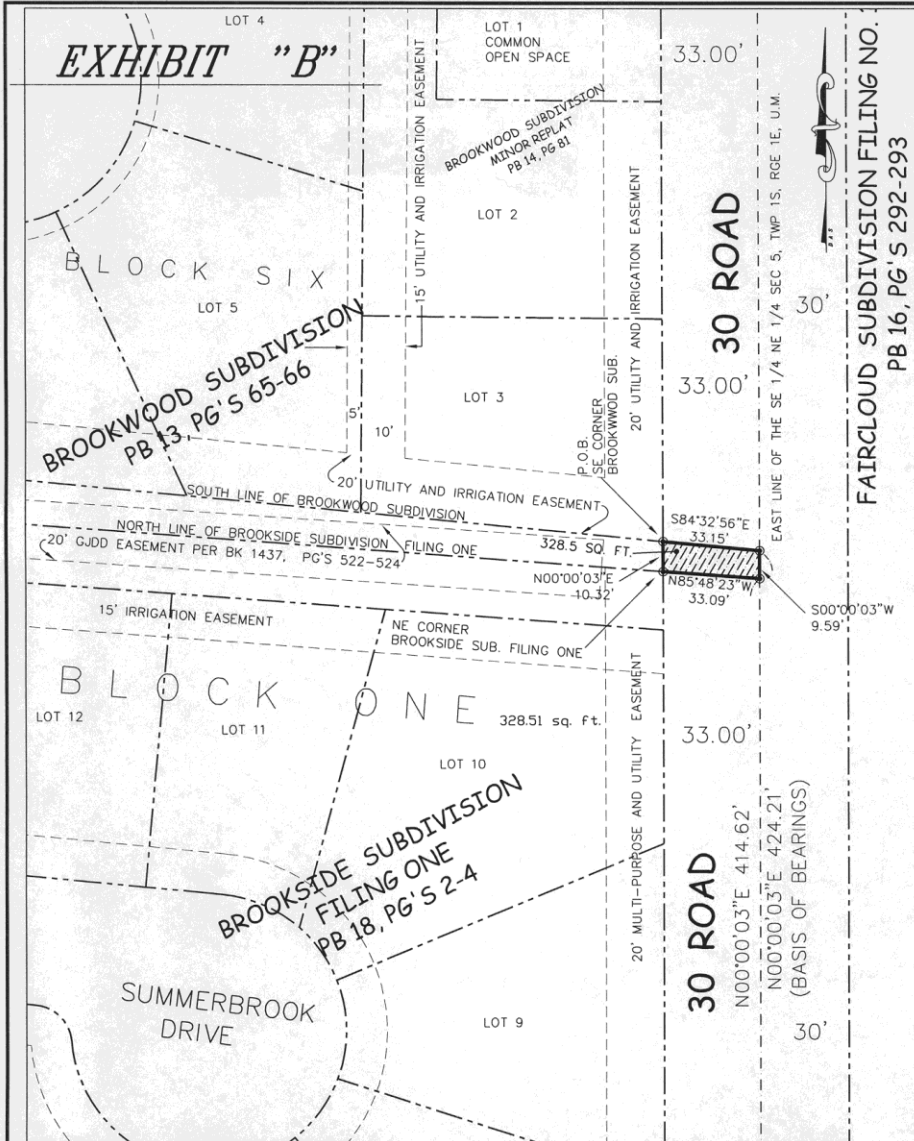
PASSED and ADOPTED this      day of      , 2004.

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.T.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**

FAIRCLOUD SUBDIVISION FILING NO. PB 16, PG 5 292-293

**Attach 15**  
**Landmark Baptist Church Annexation**  
**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA							
<b>Subject</b>		A hearing for the Landmark Baptist Church annexation located at 3015 D Road					
<b>Meeting Date</b>		April 7, 2004					
<b>Date Prepared</b>		March 29, 2004			<b>File #ANX-2004-016</b>		
<b>Author</b>		Senta L. Costello		Associate Planner			
<b>Presenter Name</b>		Senta L. Costello		Associate Planner			
<b>Report results back to Council</b>		<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Yes	When	
<b>Citizen Presentation</b>		<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	Name	
<input type="checkbox"/>	Workshop	<input checked="" type="checkbox"/>	<b>Formal Agenda</b>		<input type="checkbox"/>	Consent	<input checked="" type="checkbox"/> <b>Individual Consideration</b>

**Summary:** Resolution for acceptance of petition to annex and to hold a public hearing and consider final passage of the annexation ordinance for the Landmark Baptist Church Annexation, located at 3015 D Road. The 4.779 acre annexation consists of 1 parcel of land.

**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:**

17. Staff report/Background information
18. General Location Map
19. Aerial Photo
20. Growth Plan Map
21. Zoning Map
22. Annexation map
23. Acceptance Resolution
24. Annexation Ordinance

**STAFF REPORT / BACKGROUND INFORMATION**

<b>Location:</b>		<b>3015 D Road</b>	
<b>Applicants:</b>		Landmark Baptist Church	
<b>Existing Land Use:</b>		<b>Agricultural</b>	
<b>Proposed Land Use:</b>		<b>Agricultural / Future church site</b>	
<b>Surrounding Land Use:</b>	<b>North</b>	<b>Single Family Residential</b>	
	<b>South</b>	Single Family Residential	
	<b>East</b>	Single Family Residential	
	<b>West</b>	Single Family Residential	
<b>Existing Zoning:</b>		RSF-R	
<b>Proposed Zoning:</b>		RSF-E	
<b>Surrounding Zoning:</b>	<b>North</b>	<b>County AFT</b>	
	<b>South</b>	County AFT	
	<b>East</b>	County AFT	
	<b>West</b>	<b>County RSF-4</b>	
<b>Growth Plan Designation:</b>		Estate 2-5 ac/du	
<b>Zoning within density range?</b>		X	Yes
			No

**Staff Analysis:**

**ANNEXATION:**

This annexation area consists of 4.779 acres of land and is comprised of 1 parcel. The property owners have requested annexation into the City. At some point in the future they wish to construct a church on the property.

It is staff's 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



Landmark Baptist Church 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.

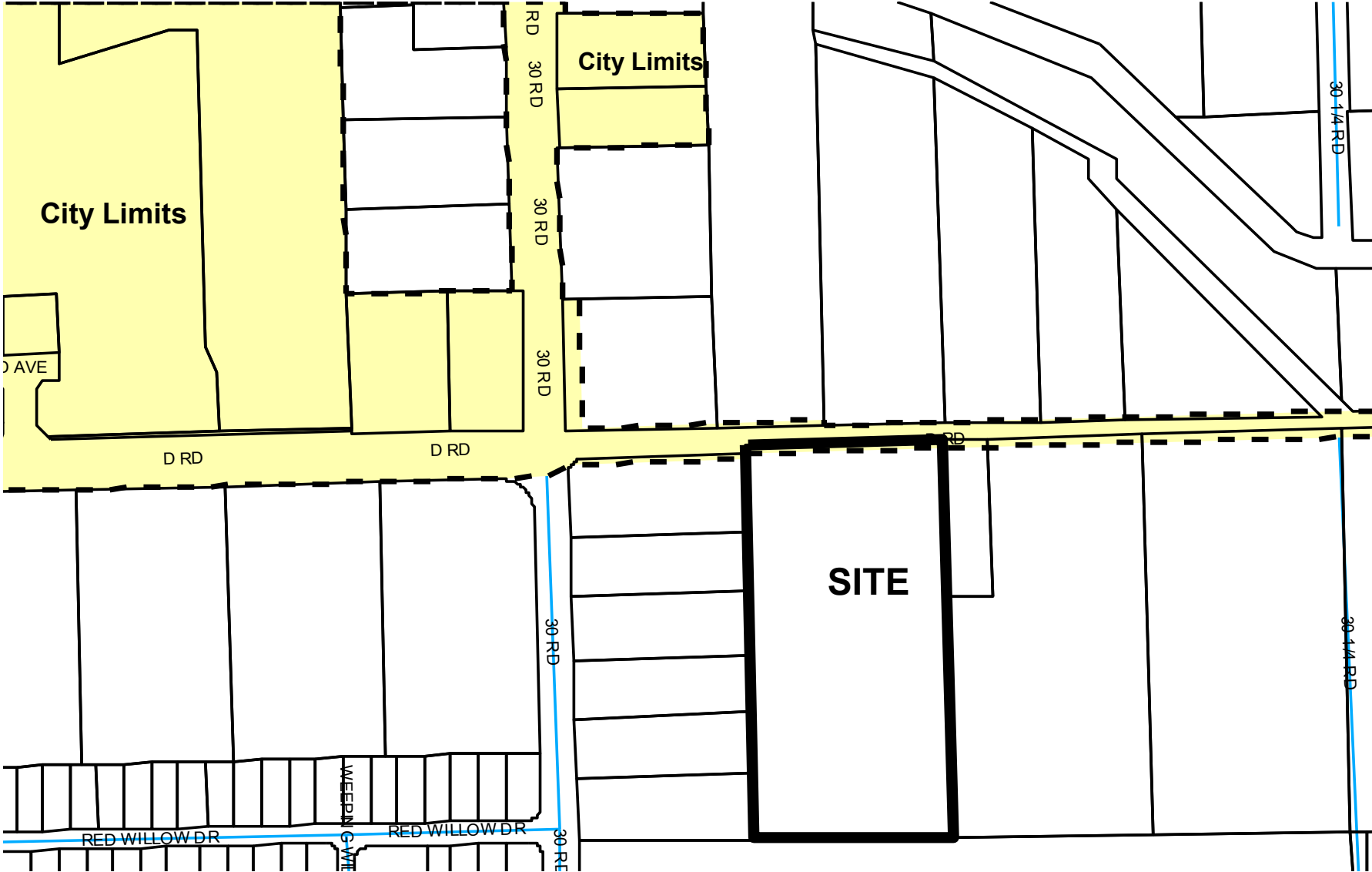
<i>ANNEXATION SCHEDULE</i>	
<b>February 18, 2004</b>	Referral of Petition (30 Day Notice), Introduction Of A Proposed Ordinance, Exercising Land Use
<b>March 9, 2004</b>	Planning Commission considers Zone of Annexation
<b>March 17, 2004</b>	Introduction Of A Proposed Ordinance on Zoning by City Council
<b>April 7, 2004</b>	Acceptance of Petition and Public Hearing on Annexation and Zoning by City Council
<b>May 9, 2004</b>	Effective date of Annexation and Zoning

**LANDMARK BAPTIST CHURCH ANNEXATION SUMMARY**

<b>File Number:</b>		ANX-2004-016
<b>Location:</b>		3015 D Road
<b>Tax ID Number:</b>		2943-212-00-043
<b>Parcels:</b>		1
<b>Estimated Population:</b>		0
<b># of Parcels (owner occupied):</b>		0
<b># of Dwelling Units:</b>		0
<b>Acres land annexed:</b>		4.779
<b>Developable Acres Remaining:</b>		4.779
<b>Right-of-way in Annexation:</b>		0.0 ac
<b>Previous County Zoning:</b>		RSF-R
<b>Proposed City Zoning:</b>		RSF-E
<b>Current Land Use:</b>		Agricultural
<b>Future Land Use:</b>		Church site
<b>Values:</b>	<b>Assessed:</b>	= \$670
	<b>Actual:</b>	= \$2310
<b>Address Ranges:</b>		3015 D Road
<b>Special Districts:</b>	<b>Water:</b>	Clifton Water
	<b>Sewer:</b>	Central Grand Valley Sanitation
	<b>Fire:</b>	Grand Junction Rural Fire
	<b>Irrigation/Drainage:</b>	Grand Valley Irrigation / Grand Jct Drainage District
	<b>School:</b>	Mesa County School District #51
	<b>Pest:</b>	Upper Grand Valley Pest District

# Site Location Map

Figure 1



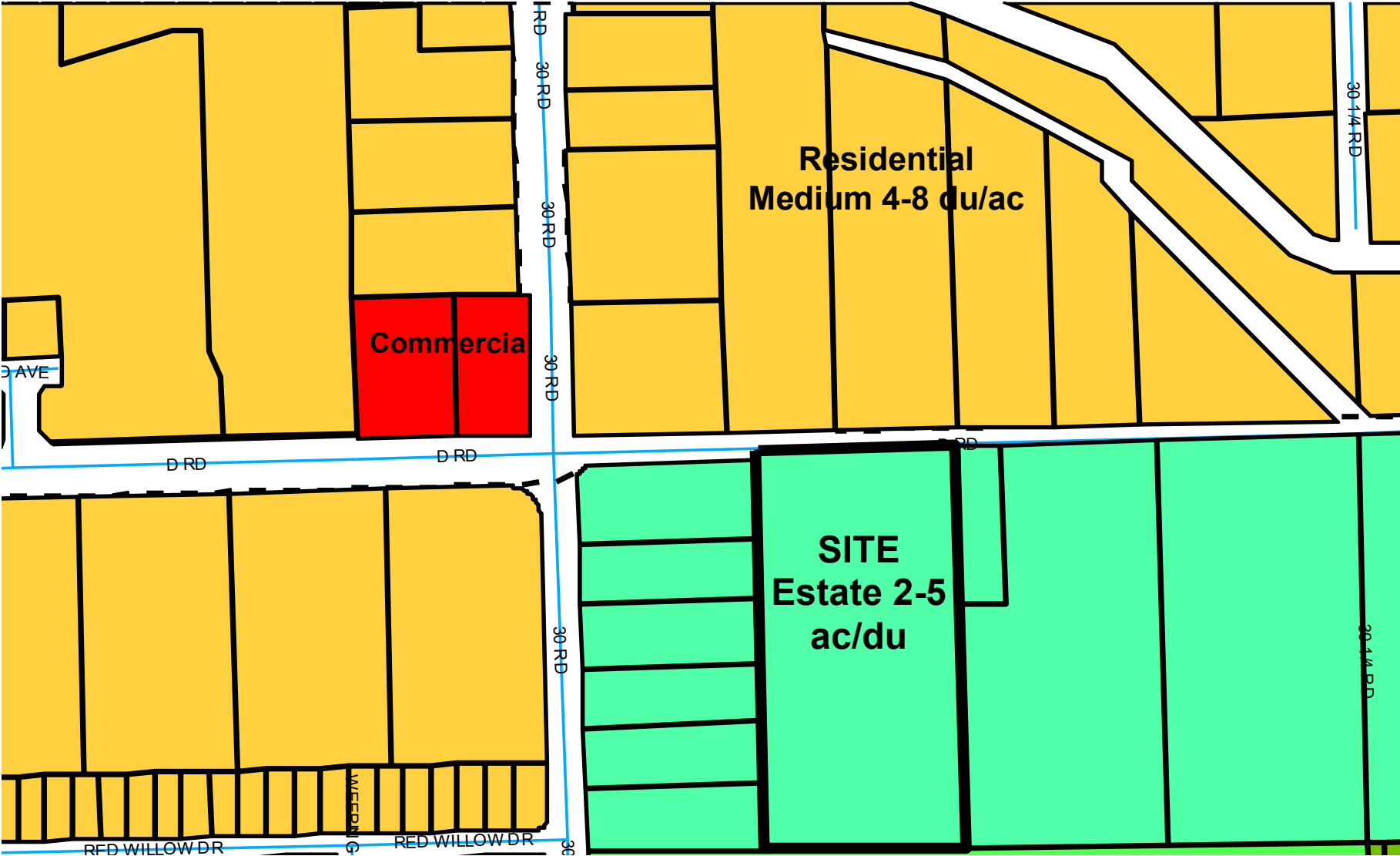
# Aerial Photo Map

Figure 2



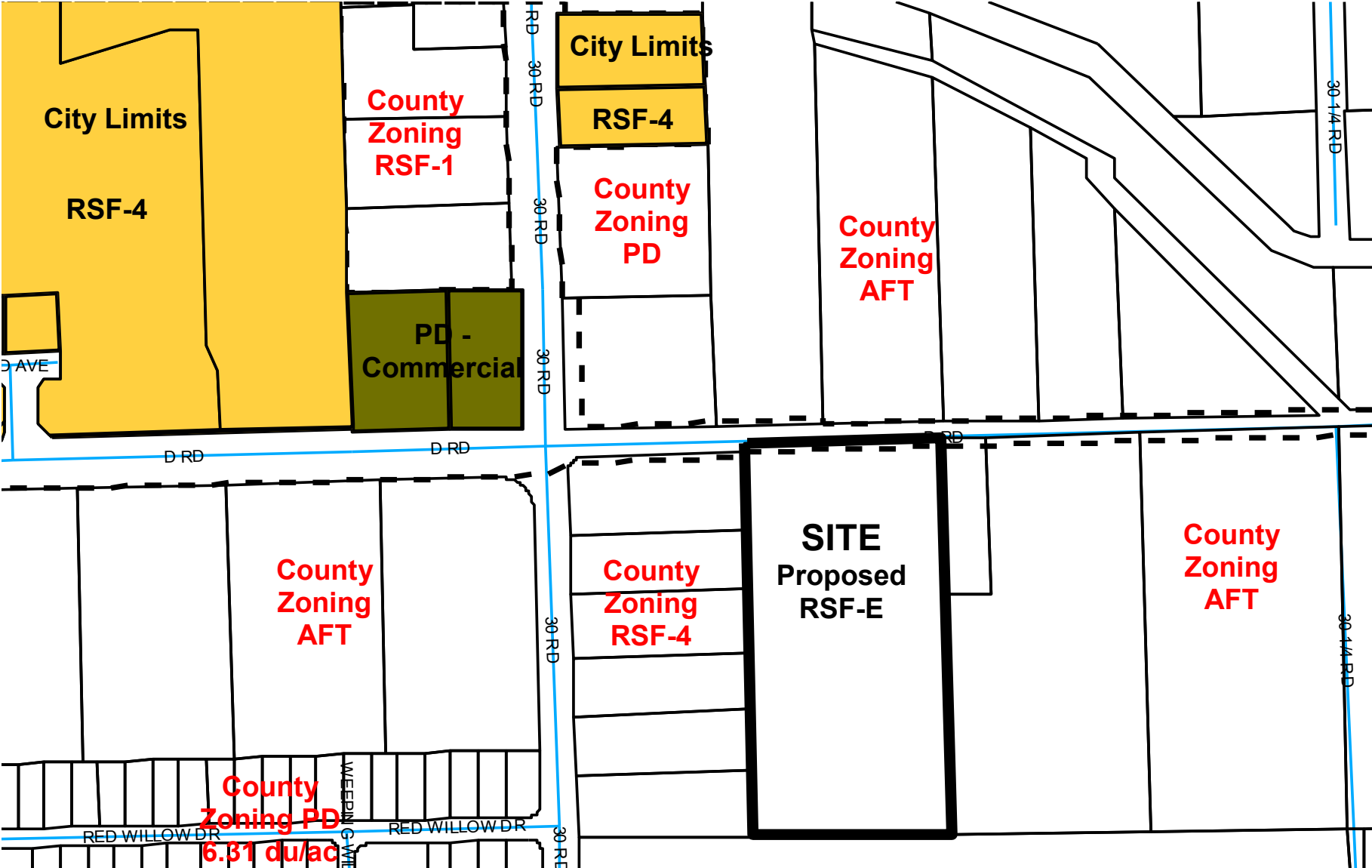
# Future Land Use Map

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."



**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION ACCEPTING A  
PETITION FOR ANNEXATION, MAKING CERTAIN  
FINDINGS, DETERMINING THAT PROPERTY KNOWN AS THE**

**LANDMARK BAPTIST CHURCH ANNEXATION**

**LOCATED at 3015 D ROAD**

**IS ELIGIBLE FOR ANNEXATION**

WHEREAS, on the 18<sup>th</sup> 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:

**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.

WHEREAS, a hearing on the petition was duly held after proper notice on the 7<sup>th</sup> day of April, 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 7<sup>th</sup> day of April, 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**

**LANDMARK BAPTIST CHURCH ANNEXATION**

**APPROXIMATELY 4.779 ACRES**

**LOCATED AT 3015 D ROAD**

**WHEREAS**, on the 18<sup>th</sup> 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 7<sup>th</sup> day of April, 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:

**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.

Be and is hereby annexed to the City of Grand Junction, Colorado.

**INTRODUCED** on first reading on the 18<sup>th</sup> day of February, 2004 and ordered published.

**ADOPTED** on second reading this 7<sup>th</sup> day of April, 2004.

Attest:

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

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

**Attach 16**  
**Zoning the Landmark Baptist Church Annexation**  
**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
<b>Subject</b>	Zoning the Landmark Baptist Church Annexation, located at 3015 D Road.					
<b>Meeting Date</b>	April 7, 2004					
<b>Date Prepared</b>	March 29, 2004				File #ANX-2004-016	
<b>Author</b>	Senta L. Costello		Associate Planner			
<b>Presenter Name</b>	Senta L. Costello		Associate Planner			
<b>Report results back to Council</b>	X	No		Yes	When	
<b>Citizen Presentation</b>		Yes	X	No	Name	
	<b>Workshop</b>	X	<b>Formal Agenda</b>			<b>Consent</b> X <b>Individual Consideration</b>

**Summary:** Hold a public hearing and consider final passage of the 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:** Hold a public hearing and consider final passage of the zoning ordinance.

**Background Information:** See attached Staff Report/Background Information

**Attachments:**

- 25. Staff report/Background information
- 26. General Location Map
- 27. Aerial Photo
- 28. Growth Plan Map
- 29. Zoning Map
- 30. Annexation map
- 31. Zoning Ordinance

STAFF REPORT / BACKGROUND INFORMATION			
<b>Location:</b>		3015 D Road	
<b>Applicants:</b>		Landmark Baptist Church	
<b>Existing Land Use:</b>		Agricultural	
<b>Proposed Land Use:</b>		Agricultural / Future church site	
<b>Surrounding Land Use:</b>	<b>North</b>	Single Family Residential	
	<b>South</b>	Single Family Residential	
	<b>East</b>	Single Family Residential	
	<b>West</b>	Single Family Residential	
<b>Existing Zoning:</b>		RSF-R	
<b>Proposed Zoning:</b>		RSF-E	
<b>Surrounding Zoning:</b>	<b>North</b>	County AFT	
	<b>South</b>	County AFT	
	<b>East</b>	County AFT	
	<b>West</b>	County RSF-4	
<b>Growth Plan Designation:</b>		Estate 2-5 ac/du	
<b>Zoning within density range?</b>		<b>X</b>	<b>Yes</b>
			<b>No</b>

**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 criterion 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 criterion 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 criterion 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 criterion 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 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.







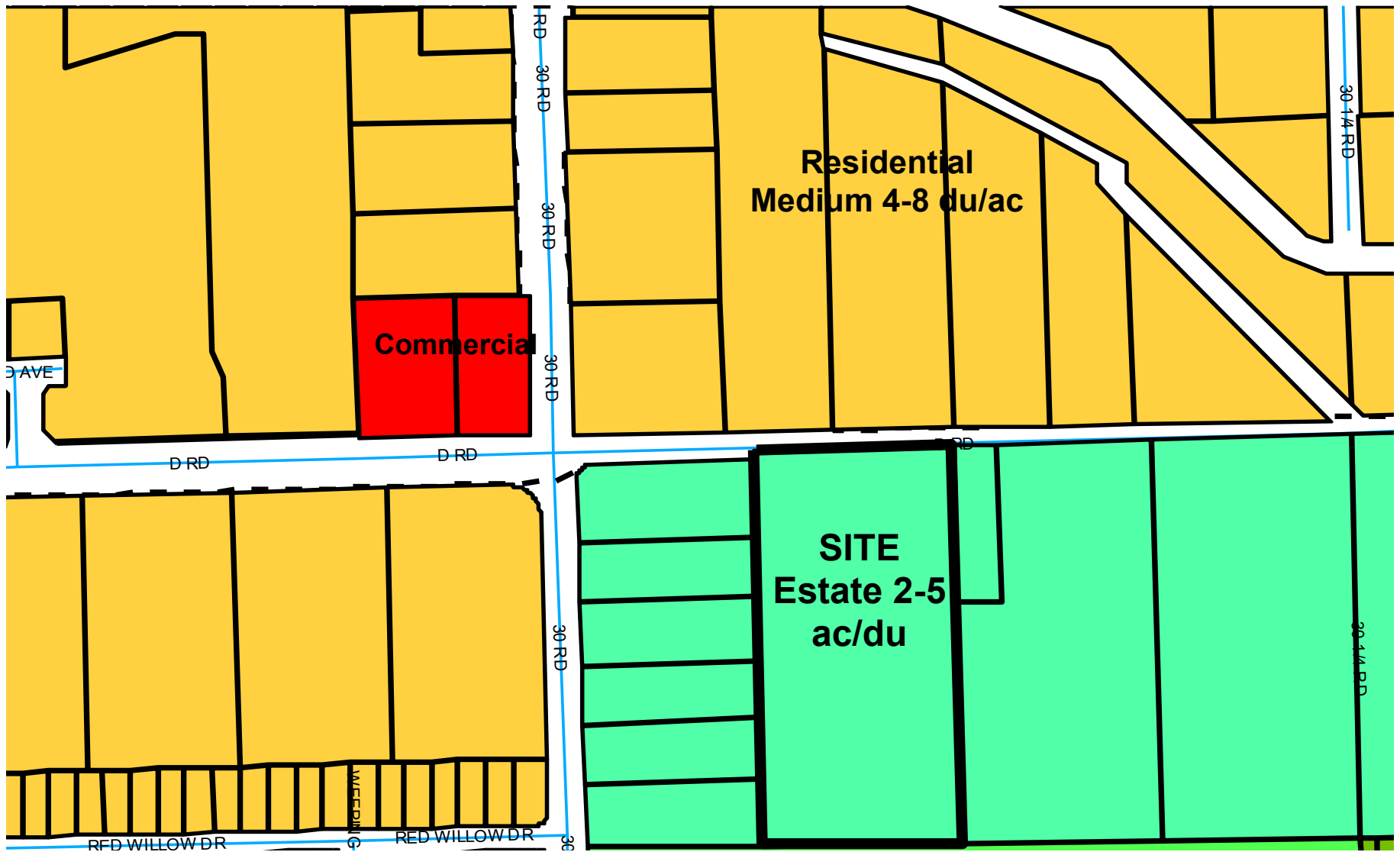
# Aerial Photo Map

Figure 2



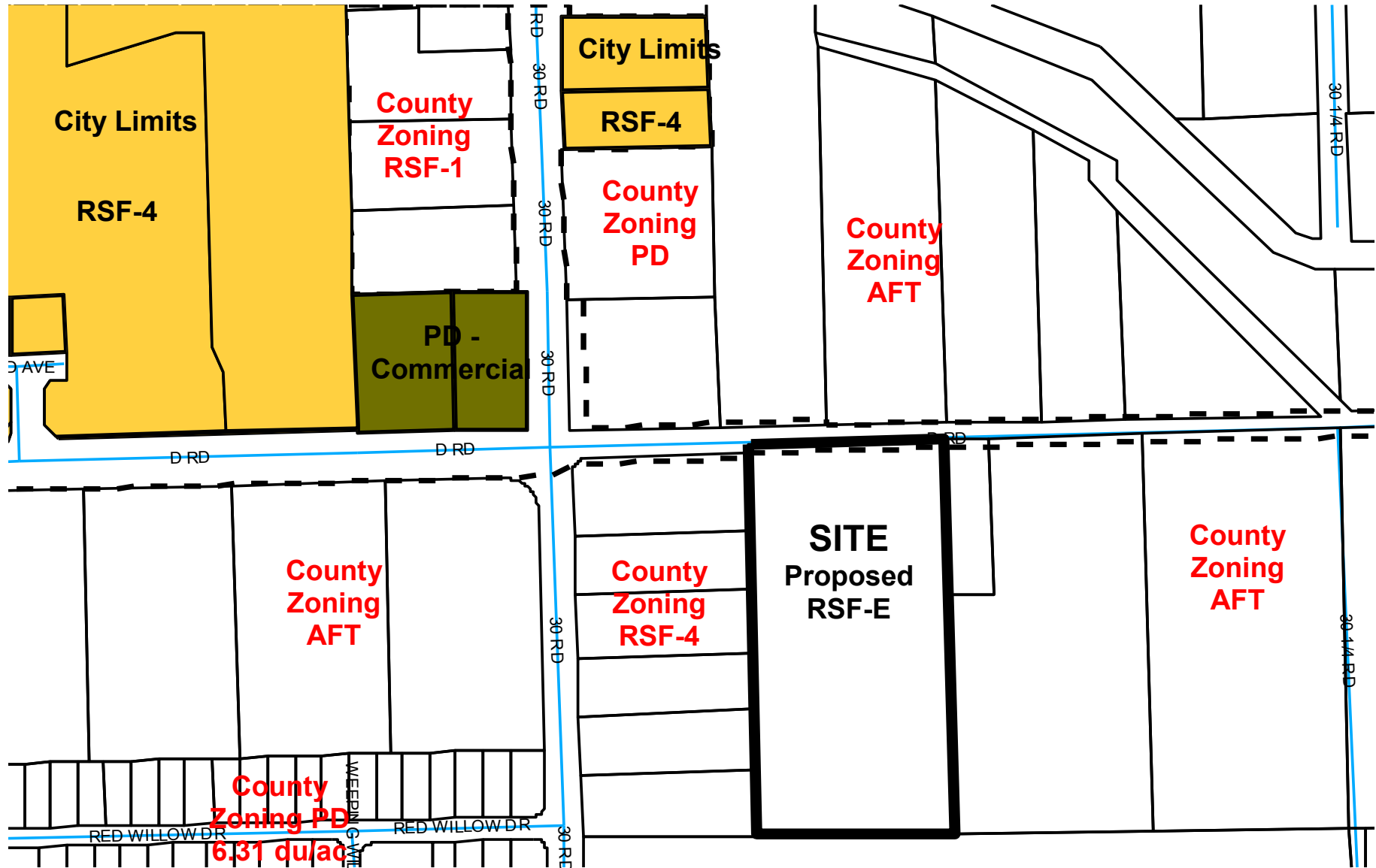
# Future Land Use Map

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."



**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 17<sup>th</sup> day of March, 2004 and ordered published.

Adopted on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Mayor

ATTEST:

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

**Attach 17**

**Etter-Epstein Outline Development Plan Request for Extension  
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
<b>Subject</b>	Etter-Epstein Outline Development Plan (ODP) Request for Extension					
<b>Meeting Date</b>	April 7, 2004					
<b>Date Prepared</b>	March 31, 2004				<b>File:</b> ODP-2000-058	
<b>Author</b>	Kristen Ashbeck		Senior Planner			
<b>Presenter Name</b>	Kristen Ashbeck		Senior Planner			
<b>Report results back to Council</b>	X	No		Yes	<b>When</b>	
<b>Citizen Presentation</b>		Yes	X	No	<b>Name</b>	
	<b>Workshop</b>	X	<b>Formal Agenda</b>		<b>Consent</b>	X <b>Individual Consideration</b>

**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:** Adopt revised ordinance extending the Etter-Epstein ODP for another three-year period. Planning Commission recommended approval of the revised ODP/zoning ordinance at its March 9, 2004 meeting.

**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 (Exhibit A)

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 3<sup>rd</sup> 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 2<sup>nd</sup> 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. 5<sup>th</sup> 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**

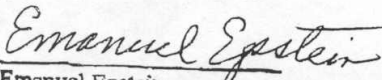
Dear Ms. Ashbeck,

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.

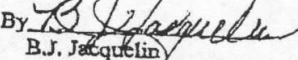
Paragraph 6 of the Ordinance states "This zoning, and the concomitant ODP, are only valid until the 3<sup>rd</sup> anniversary of approval." More time is necessary for the proper development of this relatively large area of vacant land.

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

# HOSKIN, FARINA, ALDRICH & KAMPF

Professional Corporation  
ATTORNEYS AT LAW

209 Grand Avenue, Suite 400  
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Grand Junction, Colorado 81502

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John T. Howe  
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. 5<sup>th</sup> 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

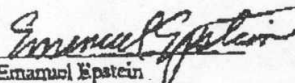
Dear Ms. Ashbeck,

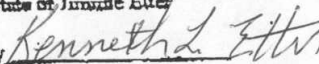
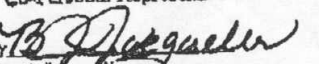
This letter is a request to extend the ODP on the above-referenced Property for three (3) years. The Grand Junction City Council passed an Ordinance on second reading February 21, 2001, which established an Outline Development Plan for the planned development of vacant land located on the above reference Property by Ordinance #3328.

Paragraph 6 of the Ordinance states "This zoning, and the concomitant ODP, are only valid until the 3<sup>rd</sup> 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 TO PD

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
- Multifamily Residential
- Assisted Living Facility
- Medical and Dental Clinics
- Religious Assembly
- General Offices
- Health club
- Food Service, Restaurant
- Personal services

Counseling centers (nonresident)

General retail sales with indoor operations, display and storage

(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.*

7. 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 \_\_\_\_ day of \_\_\_\_\_, 2004.

ATTEST:

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

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



**Attach 18**  
**Horizon Drive Business Improvement District**

**CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA						
<b>Subject</b>	Formation of Horizon Drive Business Improvement District					
<b>Meeting Date</b>	April 7, 2004					
<b>Date Prepared</b>	April 1, 2004				<b>File #</b>	
<b>Author</b>	Stephanie Tuin			<b>City Clerk</b>		
<b>Presenter Name</b>	Stephanie Tuin John Shaver			<b>City Clerk</b> <b>Acting City Attorney</b>		
<b>Report results back to Council</b>		<b>No</b>		<b>Yes</b>	<b>When</b>	
<b>Citizen Presentation</b>		<b>Yes</b>	X	<b>No</b>	<b>Name</b>	
	<b>Workshop</b>	X	<b>Formal Agenda</b>	X	<b>Consent</b>	<b>Individual Consideration</b>

**Summary:** The Horizon Drive group has turned in petitions which appear to represent more than 50% of the property owners in the proposed Business Improvement District. The next step in the process is for the City Council to schedule a public hearing within forty days. At the hearing, the City Council will determine if the petitions were signed in conformity with the law and if the district should be formed. The City Council may also exclude property from the district as allowed by Statute or if it deems it to be in the best interest of the district.

**Budget:** The district representatives have remitted a check to cover the costs. By Statute, the group is required to cover all expenses connected with the proceedings.

**Action Requested/Recommendation:** Introduce the proposed ordinance on first reading and schedule a public hearing for April 21, 2004.

**Attachments:**

1. Map of the proposed district
2. Proposed ordinance

**Background Information:** On March 30, 2004, the City received additional documentation from Richard Talley, representing the Horizon Drive Business Improvement District group. In all, the City received 29 petition sections.

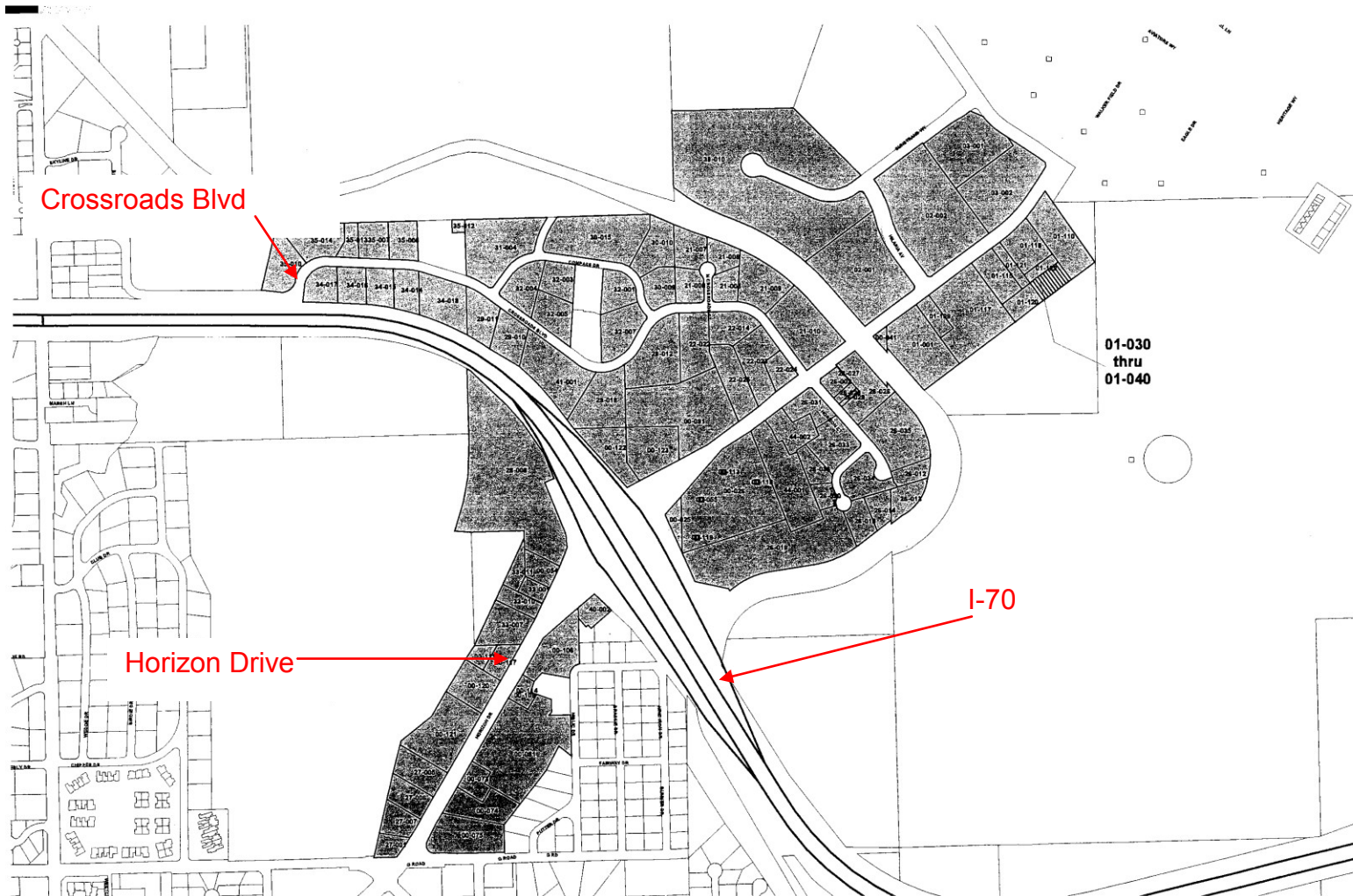
The total acreage being proposed for the district is 178.43 acres, with a valuation of \$76,983,410. Petitions were submitted to the City that represent 98.36 acres, valued at

\$46,754,780. The law requires that the petitions must represent more than 50 percent of both the property and of the valuation. The petitions appear to represent 55.2% of the property and 60.8% of the valuation.

The proposed ordinance will form the district and adopt the proposed operating plan and budget (to be provided at second reading). The ordinance also sets forth the structure for the initial board of directors and authorizes a 5 mill levy upon the taxable property of the district.

The City Clerk will publish a notice and mail to all affected property owners a notice of the hearing. Upon passage at second reading the City Clerk will file the ordinance with the County Assessor prior to May 1, 2004.

# PROPOSED HORIZON DRIVE BUSINESS IMPROVEMENT DISTRICT



Crossroads Blvd

01-030  
thru  
01-040

Horizon Drive

I-70

ORDINANCE NO.

AN ORDINANCE CREATING AND ESTABLISHING  
THE HORIZON DRIVE BUSINESS IMPROVEMENT DISTRICT  
AND APPROVING AN OPERATING PLAN AND BUDGET THEREFOR

**Recitals:**

On March 30, 2004, the Horizon Drive business improvement district organizing committee filed a petition with the City Council of the City of Grand Junction requesting formation of a business improvement district.

Upon review of the petition and signatures thereon, it appears that the petition meets the requirements of the *Business Improvement District Act*, Part 12 of Article 25 of Title 31, of the Colorado Revised Statutes.

The formation of the district will provide continuing, dedicated resources to promote business activity in the area.

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

Section 1. Upon consideration of the petition requesting the formation of the Horizon Drive Business Improvement District, the Council finds:

- (a) That the proposed district was initiated by petition filed with the City Clerk, that the petition was duly signed and presented in conformity with the Business Improvement District Act, Part 12 of Article 25 of Title 31 of the Colorado Revised Statutes and that the allegations of the petition are true;
- (b) That the City Council has fixed a place and time for a hearing on the petition;
- (c) That notice of such hearing has been duly published and mailed in accordance with the *Business Improvement District Act*;
- (d) That an operating plan and budget for 2004, together with an ongoing district service plan, has been filed with the City Clerk of the City of Grand Junction;
- (e) That the Horizon Drive Business Improvement District is lawful and necessary, should be created and established and should include the area described and set forth herein.

Section 2. The Horizon Drive Business Improvement District is hereby created and established for the purposes and with the powers set forth in the service plan and the 2004 operating plan.

Section 3. The District is located within the boundaries of the City of Grand Junction and a general description of the boundaries of its area is: all commercial property bounded on the south by G Road, north on Horizon Drive through and including H Road, bounded on the west by 27 Road/15<sup>th</sup> Street, and on the east by 27 ½ Road northeast to Walker Field Airport Authority. The boundaries shall include, but are not limited to Horizon Court, compass Drive, Crossroads Boulevard, crossroads Court, Skyline Court, Sundstrand Way and Hilara Avenue. The District will include the following parcels:

Parcel #	Parcel #	Parcel #	Parcel #	Parcel #
2701-361-00-091	2701-361-29-018	2701-362-35-013	2701-364-00-120	2705-312-01-032
2701-361-00-941	2701-361-30-009	2701-362-35-014	2701-364-00-122	2705-312-01-033
2701-361-21-005	2701-361-30-010	2701-363-00-121	2701-364-00-123	2705-312-01-034
2701-361-21-006	2701-361-30-015	2701-363-27-001	2701-364-26-012	2705-312-01-035
2701-361-21-007	2701-361-31-004	2701-363-27-005	2701-364-26-013	2705-312-01-036
2701-361-21-008	2701-361-32-001	2701-363-27-006	2701-364-26-014	2705-312-01-037
2701-361-21-009	2701-361-32-003	2701-363-27-007	2701-364-26-018	2705-312-01-038
2701-361-21-010	2701-361-32-004	2701-364-00-025	2701-364-26-019	2705-312-01-039
2701-361-22-014	2701-361-32-005	2701-364-00-026	2701-364-26-020	2705-312-01-040
2701-361-22-022	2701-361-32-007	2701-364-00-054	2701-364-26-033	2705-312-01-109
2701-361-22-023	2701-361-35-007*	2701-364-00-055	2701-364-26-034	2705-312-01-110
2701-361-22-024	2701-361-35-013*	2701-364-00-073	2701-364-26-036	2705-312-01-115
2701-361-22-025	2701-361-39-010	2701-364-00-074	2701-364-28-008	2705-312-01-117
2701-361-26-002	2701-361-41-001	2701-364-00-075	2701-364-33-001	2705-312-01-118
2701-361-26-026	2701-362-34-014	2701-364-00-081	2701-364-33-007	2705-312-01-120
2701-361-26-027	2701-362-34-015	2701-364-00-106	2701-364-33-010	2705-312-01-121
2701-361-26-028	2701-362-34-016	2701-364-00-109	2701-364-33-011	2705-312-01-122
2701-361-26-029	2701-362-34-017	2701-364-00-111	2701-364-40-002	2705-312-02-001
2701-361-26-031	2701-362-34-018	2701-364-00-113	2701-364-44-001	2705-312-02-002
2701-361-26-035	2701-362-35-006	2701-364-00-114	2701-364-44-002	2705-312-03-001
2701-361-29-010	2701-362-35-007	2701-364-00-117	2705-312-01-001	2705-312-03-002
2701-361-29-011	2701-362-35-010	2701-364-00-118	2705-312-01-030	
2701-361-29-012	2701-362-35-012	2701-364-00-119	2705-312-01-031	

\*these two parcels do not exist on the assessor's records

The Horizon Drive Business Improvement District shall consist only of taxable real property located within the service area which is not classified for property tax purposes as either residential or agricultural together with any taxable personal property located on such taxable real property. Any residential or agricultural property located within the boundaries of the service area is not subject to the District's revenue-raising powers until such time as the property changes classification for property tax purposes.

Section 4. The Horizon Drive Business Improvement District shall be governed by a five member board of directors elected as provided in the *Business Improvement District Act* and the District's service plan except that until the initial board is elected, the Grand Junction City Council shall govern the District. The terms of office of the elected board of directors shall be four years except that, of the directors first elected, three shall be elected for a two-year term and two shall be elected for a four-year term.

Section 5. The service plan and 2004 operating plan and budget, as filed with the City Clerk of the City of Grand Junction, are hereby approved. The District will levy a tax of no more than 5.0 mills upon every dollar of the valuation for assessment of taxable property within the District.

Section 6. This ordinance shall be in full force and effect from and after its passage and publication as provided by the Charter.

Introduced on first reading this 7<sup>th</sup> day of April, 2004.

Passed and adopted on second reading, after a duly noticed public hearing, this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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

ATTEST:

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